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MARRIED WOMEN IN LEGAL PRACTICE

AGENCY AND NORMS IN THE SWEDISH REALM, 1350–1450

Charlotte Cederbom

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Charlotte Cederbom is currently a postdoctoral researcher at the University of Helsinki.

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Preface

This book is a reworked version of my doctoral thesis from 2017, and it has been long in the making. What is now a book, started as a young girl's love of shining knights and fancy dresses that made a swooshing sound when you walked slowly. A yearning to know more, to find out what it *was really like*, drove me to read and read and read. But the more I read, the more it seemed as if something were lacking, and that too many things rooted in modern, contemporary gendered structures were presumed to have shaped medieval thinking too. At the same time, several amazing women scholars voiced similar concerns, dressing my thoughts in researched words, encouraging me to pursue my dream to add to this knowledge. Sometimes, I think of it as a way of reclaiming a past, a history needed in order to move forward.

This project started out as an overambitious, straggly plan to do everything at once. Saving me from spending the next fifty or so years with this project were my excellent supervisors and mentors, Björn Forsén and Anu Lahtinen, who helped me transform this into a manageable whole. Reading more than six thousand original charters has been, to say the least, time-consuming, and I am forever indebted to the staff at Riksarkivet (the National Archives of Sweden, in Stockholm), not only for digitizing and thereby making the charters available to anyone but also replying quickly to my endless questions. Sara Risberg, Associate Professor and Editor at the Riksarkivet, is a treasure. Maria Sjöberg, my opponent for my doctoral thesis defense, provided comments that have vastly improved this manuscript, and Cara Hjelt and Daniel Roth are heroes for reading and commenting on the manuscript in its entirety. In unpredictable and challenging times, the calm encouragement of my editor, Max Novick, has been invaluable. Through seminars and conferences, more colleagues and friends than I can possibly name have given their views on my research through the years, and for this, I am incredibly grateful. Research grows only in company. In working on this manuscript, Ylva Grufstedt has provided me with the most formidable, coffee-infused, chocolate-driven company.

Though one might think that children, because of their tender age, would not be able to contribute much to a manuscript such as this, it may never have seen the light of day were it not for my children—Vilho, Tilda, and baby Gabriel. They are the light of my life, my source of inspiration, and the reason for everything I do. The way they ask questions, never tire of learning, and always keep an open mind, even to the most extraordinary ideas, is truly inspirational. They are, in the best sense of the word, researchers.

Abbreviations

DF	*Diplomatarium Fennicum*, a database containing information on Finnish medieval charters, digitized from the charter collection *Finlands Medeltidsurkunder* (1910–1935)
DW	Database of Women, a database created for this study, containing all charters between 1350 and 1450 pertaining to women
KLNM	*Kulturhistoriskt lexikon för nordisk medeltid*
KLR	*King Kristofer's Law of the Realm*, an updated version of MEL, issued in 1442
MEL	*Magnus Eriksson's Law of the Realm*, issued in 1350
MET	*Magnus Eriksson's Town Law*, issued around 1350
OM	Only Men Database, a database created for this study, containing all charters between 1350 and 1450 that do not mention any women
SAOB	*Svenska Akademiens ordbok*, a historical wordbook
SBL	*Svenskt biografiskt lexikon*
SDHK	*Svenskt Diplomatariums Huvudkartotek*, a database created and maintained by the Swedish National Archives, containing more than 40,000 posts with information on Swedish medieval charters
ÄSF	*Äldre svenska frälseätter*


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Introduction

> Say to yourself as a good wife says to herself: "As long as my husband loves me, why should I worry? If he is at peace with me, whom should I fear? Therefore, so that he does not grow angry with me, I will show him every honor and always be ready to carry out his will."
>
> St. Birgitta of Sweden

The Silence of Married Women

Medieval women are often described as hidden, or silent. They exist in the margins, in the miscellanea, and only occasionally do they emerge from behind fathers and husbands. Wives have been described as nodes in the networks of men, transferring power, which they themselves had very limited access to, from one man to the next. It was a patriarchal society, in which men were the norm, and women, the subordinate other. Yet, decades of research into women's lives have given voice to the silent, and shown how, even though the gendered structures undoubtedly were patriarchal, women could, and did, actively participate in all aspects of life – from warfare to politics to literature to law. This study is rooted in, and has grown from, this tradition of describing women's agency within gendered structures.

The aim of this study is to describe the ways in which married women appeared in legal practice, both through the agency of women and the norms that surrounded their actions. Though several previous studies on either limited geographical areas or later centuries have shown significant discrepancies between norms and practice, there is still a great need for more studies on medieval legal practice—especially from a gender perspective—as the full scope of the discrepancies, as well as the societal implications, remains unknown.

There are two distinctive features of the Swedish realm that shape this study, as they determine which sources may be used and which questions are relevant to ask from these sources. The first distinctive feature is the intermarital hierarchies. As in many other European countries during the Middle Ages—and well into modern times—women were required to

have a guardian. However, the privileges and duties of the guardian varied between countries and over time, as did the agency of women within the guardian system. Though the Swedish version of guardian—referred to by contemporaries as *malsman*—was far from the encompassing *mundualdus* of Italy, or even the English coverture, it was used by legislators to define the relationship between husband and wife. A husband as the *malsman* of his wife was the formative norm, and hence, one can hardly describe the agency of married women without constantly returning to the *malsman* system.

The second distinctive feature of the Swedish realm is the strong focus on landed property in the extant sources. As there were no court records kept at this time, legal practice can be traced only through charters, and almost all of them relate to transactions of landed property, such as someone selling a farm or donating land to a convent. Aspects that, based on evidence from other countries and later centuries, ought to have been a part of the life of a married Swedish woman too remain hidden. For example, there is not enough evidence to suggest married women's agency in legal practice in matters concerning domestic violence, or even in disputes.

As a consequence, this study of married women in legal practice will have the *malsman* system as the normative frame, and women's involvement in landed property transactions as the focal point.

Nonetheless, marriage and property were intertwined in the discourse of contemporaries, not merely as an effect of the state of the extant sources. Marriage was, in Sweden as in the rest of Europe, one of the most important economical transactions in a person's life, as a wedding often required an economic arrangement, such as morning gifts, dowries, and the financial responsibilities for a new household. The purpose of marriage was to bring legitimate heirs, which is exemplified by *Ärvdabalken*, the section on inheritance in the old provincial law of Uppland. It opens by declaring that "inheritance starts with the wedding," and continues by describing how a man should marry a woman, and what this union did to the order of inheritance.[1] The main objective was to distinguish between legitimate and illegitimate children, as well as correct and incorrect ways of transferring property from one generation to the next. Though it is well known that women inherited under Swedish medieval law, inheriting is commonly depicted as a way of transferring property between men. Even when a woman inherited, her function was that of a silent intermediary.

Swedish women did have a strong, well-documented right to ownership, as opposed to women under coverture in England, who could not own any property. It is equally well documented that property generated power, but only for someone who had the legal authority to administer his or her property. This has led Swedish scholars to differentiate between owning property and managing property. Managing landed property has

been described as one of the prerogatives of the husband as *malsman*, and married women are depicted as being granted agency only if the husband was unavailable. Some researchers have described this process as women becoming men by assuming the male obligations of property management.[2] In light of this, one would expect married women to be silent in the legal records, as they would have been represented in legal matters by their husbands.

Agency, Authority, and Power

Studying women's actions is often referred to as researching female agency or women's agency. As Mary C. Erler and Maryanne Kowaleski point out, female agency can take many shapes and is therefore challenging to define, but in its essence, it should—as an effect of patriarchal structures forming men's and women's perceptions—be considered different from male agency.[3] Agency as a concept is also intricately connected to the concepts of authority and power. In this study, authority and power will be used according to the definitions given by Judith Bennett in her famous work on public power and authority, where she defines power as an ability to act and authority as "recognized and legitimized power"—power was individual, and authority officially sanctioned power.[4] Erler and Kowaleski note that agency as a term in historical writing has replaced 'power' in the latest few decades, but in this study the two terms will not be used synonymously.[5]

Quite like power, agency stems from the individual and not from social structures. In the words of the archeologist John C Barrett, "Agency is constituted through knowledgeability and action, operating in practices which occupy time/space."[6] In this sense, power differs from agency in that the first is a more general prerequisite for actions, while in the latter it is the combination of power, knowledge, and some form of authority generating an action.

This definition of agency leads us to three crucial facets of agency that need to be addressed: The first concerns the concept's dependency upon time and space. Agency as a term may be defined as suggested earlier, but incorporated in the concept is a historical causality; the concept is continually changing with time and with space and cannot be treated as a constant.

The second has remained a focus of debates concerning agency. The issue lies in the complexity of agency versus structure. Some perceive structures as the rigid driving force in society, and the agents acting within these structures as defined and limited by them. Others have pointed to the multifariousness of an agent—structure relationship, accentuating how agents certainly are affected by structures, and vice versa. Female agency has in feminist theory often been coined in terms of resistance toward patriarchal structures.[7] However, female agency might just as

well be exerted within patriarchal structures, without any underlying intentions of bringing about change.[8] In this study, I will presume that the actions reflected in the sources are performed by agents knowingly and for reasons correlating with the prevailing structures and norms.

The third facet of agency that needs attention is, in the words of Andrew Gardner, "whether this term refers to an essential property of individuals."[9] For the sake of this study, the question of agency as a characteristic set within the individual is of key importance. Acknowledging that it has been argued that even modern individualism is a myth and that no man is an island, the medieval individual was decidedly interdependent on his or her immediate relations. When it comes to female agency, the dependence on especially male relatives is consistently raised as a factor, while the greater male-dominated narrative has not received attention in a similar fashion. Barrett notes that the consequence of disconnecting agency from its historical context and its historical embodiment is that "histories will be haunted by a normative and androcentric image of agency; the so called 'great men' of history who act on the world to make history."[10] That networks and relatives were important to both men and women during the Middle Ages can hardly be refuted. In fact, not even something as seemingly individual as ownership was a private affair. As Anthony Musson concludes, "Even at the lowest levels of society it was understood that property was held in relation to the property of others."[11] The same could be said about agency—it was performed in relation to the agency of others.

The Swedish Realm, 1350–1450

The first problem that arises when attempting to describe Sweden from 1350 to 1450 is to define what Sweden was. It is because of this predicament that I have chosen to denote the area as a Swedish realm in the title. The medieval Sweden featured in this study differed largely geographically from modern Sweden. Though the exact boundaries may well be disputed, I have chosen to include modern Finland, and exclude the modern Swedish regions Skåne, Halland, Blekinge, Gotland, Jämtland, and Härjedalen, as they for the most part belonged to Denmark or Norway.[12] One important aim with such a choice is to overbridge the nationalistic tendencies to study either Finland or Sweden in previous research—Finland was a well-integrated and integral part of the Swedish realm.[13]

The Master Narrative

In 1350, Sweden was ruled by King Magnus Eriksson (1316–74).[14] It was his name that was put on the law of 1350—the *Magnus Eriksson Law of the Realm* (MEL)—that marks the starting point of this study. In 1335, King Magnus married Blanche of Namur (1320–63), and together

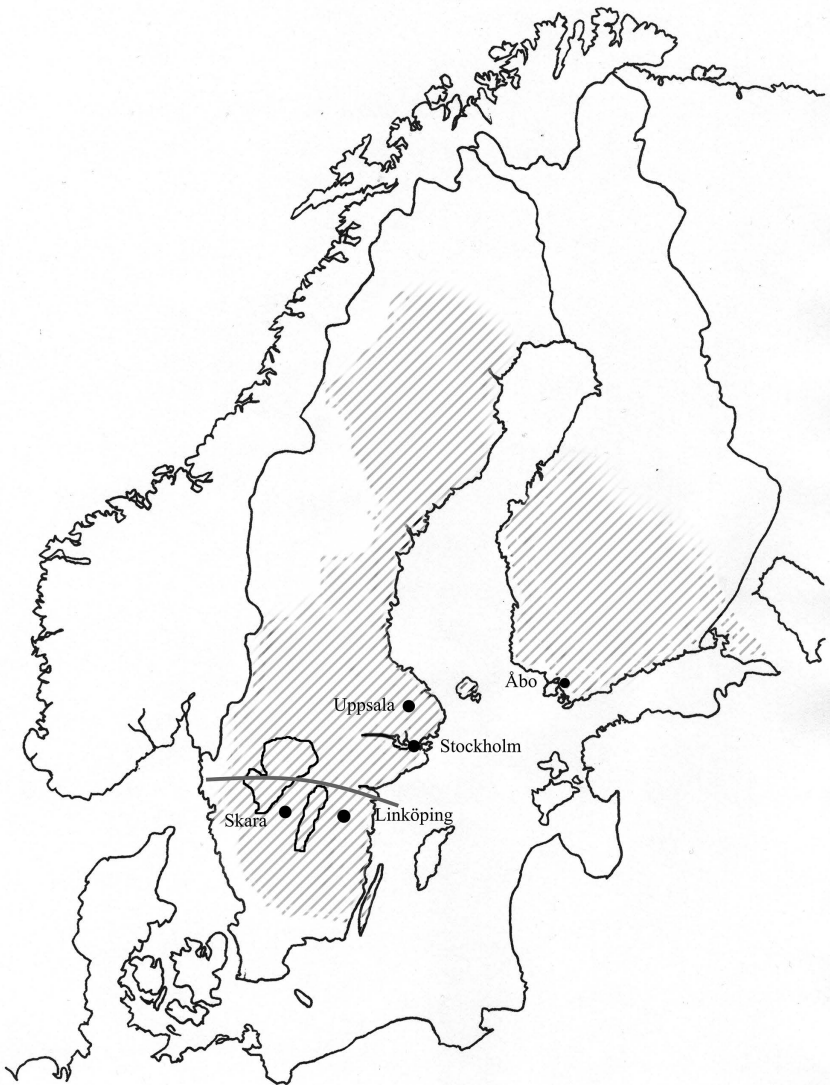

Figure I.1 Map of modern Scandinavia, with outlines of the medieval Swedish realm highlighted. The gray line marks an approximate border between the Göta and the Svea regions.

Map by author.

they had five children. Their son Håkan Magnusson (1340–80) became king of Norway in 1355, and in an attempt to reconcile with the Danish king Valdemar Atterdag (ca. 1320–75), Håkan married the Danish princess Margareta Valdemarsdotter (1353–1412) in 1363. Magnus and

Blanche's other son, Erik Magnusson, rebelled against his father and co-reigned more or less forcibly with him from 1357 to 1359, after which Erik died, presumably from the plague.[15]

Through marriage and economic affairs, the Swedish royal family was connected to the dukes of Mecklenburg. When parts of the nobility rebelled against King Magnus, Duke Albrekt of Mecklenburg (ca. 1340–1412) was subsequently made king of Sweden in 1364.[16] The reign of King Albrekt was largely orchestrated by the Swedish royal council, but constant power struggles—involving the old king, Magnus; his son Håkan of Norway (supported by his father-in-law, Valdemar of Denmark); and several Hanseatic towns—made for difficult times. Council member Marshal Bo Jonsson (Grip) (1330–86) became one of the most important leaders in the realm, and through landed property transactions and clever marriages he owned most of Finland.[17]

After the deaths of King Håkan (d. 1380) and his young son, his wife, Margareta, who had inherited the crown of Denmark, could now add the crown of Norway and lay claim to that of Sweden.[18] In 1389, King Albrekt was dethroned. In the years that followed, Queen Margareta, now the regent in all three countries, laid the foundation for the Kalmar Union (1397–1523).[19] Her heir and adopted son, Erik of Pomerania (1381–1459), was elected king of Sweden in 1396, having already been made king of Denmark.[20] The union was by no means a time of peace. The 1430s was a time of inner disputes and disturbances, as well as conflicts with the Hanseatic League. It was also a time of several land retractions, in which the Crown retracted land from the nobility and distributed to farmers in order to gain more taxes.

Because of heavier taxes levied on the peasants, there were several uprisings.[21] One of the more famous during this time was named after its leader, Engelbrekt Engelbrektsson (d. 1436).[22] The rebellion started in the north but spread; it "culminated in 1434–1436 with the whole of Sweden in full rebellion."[23] However, taxes were not the only reason for the uprisings. The independence of the church and a deep desire to expel 'foreign' forces played important roles.[24]

Erik of Pomerania was expelled in the late 1430s, following the murder of Engelbrekt, and though the Kalmar Union persisted more than a century longer, the order of succession was constantly challenged.[25] Kristofer of Bayern (1416–48) was celebrated as king in Sweden in 1441, and it was he who gave name to the revision of the MEL—the *King Kristofer Law of the Realm* (KLR)—which was in force until 1734.[26] However, the Swedish nobleman Karl Knutsson (Bonde) (1408–70) had already during the time of King Erik been a contender for the throne, and when King Kristofer died in 1448, he was announced king.[27]

This brief outline might seem like a list of important men carrying history forward, and though it is conforming to the traditional, gendered master narrative, I want to emphasize that women were active in the

political culture of the time.[28] In the words of Merry Wiesner-Hanks, "Queens regnant governed states and noblewomen administered territories; marriage and property-holding had political implications."[29] Around these men, together with them, instead of them, and sometimes irrespective of them, women played their own part.[30] That is what this study is about.

At the Edge of the World

As a sparsely inhabited realm in the far north of the known world, Sweden differed from other European countries on some accounts. For example, feudalism, with its inheritable fiefs, never fully developed in the realm. The very large estates with inheritable titles that existed in, for example, France and England did not exist in the Swedish realm. The lack of fully developed feudalism created a society in which key factors to the formation of gendered structures differed. For example, adherence to the ideology of primogeniture gained footing only in the sixteenth century. During the time in question here, all children stood to inherit—albeit not equally, as sons inherited two-thirds; daughters, one-third. It is also of great importance that descent was traced through both parents—what has been termed bilateral kinship, contrasted with patrilineal kinship, in which the paternal lineage takes precedence.

What is sometimes referred to as the European marriage pattern—though it developed originally in northwestern Europe, and never really reached the eastern parts—had a major impact on the gendered systems in the Swedish realm. The most well-known facets of the European marriage pattern are the high average marriage age, the high proportion of people remaining unmarried, the stress on mutual consent, and the relative freedom to enter wedlock.[31] Canon law set the legal age to marry at 12, which was the common age in Italy. In major cities, such as London and Ghent, girls married in their early teens, and especially wealthy girls married around the age of 15.[32] In Sweden, however, as in Denmark and Norway, the general age when girls entered wedlock was high compared with southern European standards and the practices of wealthy townspeople in major cities. Though the extant sources are scarce, women seemed to have been in their early twenties when they married. This is generally thought to have provided women with a financial base, earned through wages, which in turn would give them certain power stemming from capital.

The basic unit for anything ranging from taxation through production and consumption was the household, which in the medieval Swedish realm was centered on the nuclear family, and more rarely an extended family. The household was, in the words of Tine de Moor and Jan Luiten van Zanden, "A cooperative economic unit aimed at the fulfilment of the physical and emotional needs of its members, and characterized by

certain inequalities (that is, power imbalances) between the household members."[33]

Sweden had an unusually high proportion of freehold farmers, as well as tenants with a comparably high level of freedom.[34] From the beginning of the sixteenth century, there are enough records to determine that roughly sixty percent of farms were held by freeholders, farming their own lands and paying taxes by household. The Crown owned a mere three to four percent of the farms; the nobility and Church, around seventeen percent. Such land was exempt from taxes, and usually farmed by tenants. This means that, even though the people that meet us in the charters are landowners, they might not have been nobility. In the northern parts of the realm, especially, there were few noble families.[35]

Other aspects affected Sweden just as any other medieval realm. The first large wave of the plague swept over Sweden in the 1350s, wreaking havoc as it had all across Europe.[36] The devastation caused by it, and the late medieval agrarian crisis that followed, might have been, in some ways, beneficial for people in more densely populated areas, such as France; but it left farms abandoned and villages desolate in Sweden.[37] The loss of workers was primarily a crisis for the landowners, as access to land increased, forcing wages to rise. Another effect was that the nobility became increasingly stratified. There were growing differences between lower and higher nobility, as the lower nobility did not have the ability to sustain the required service to the Crown.[38] As in the rest of Europe, many of the larger estates were split into several smaller holdings, and the lower classes were reduced. Tine de Moor and Jan Luiten van Zanden have concluded that the decreased work force in the wake of the Black Death benefited women, as it created better possibilities to work and earn wages, hence making an alternative to marriage.[39]

What the Records Can Tell Us

Finding married women in the medieval sources of Sweden is by no means an easy task. With the exception of the revelations and devotional texts of St. Birgitta—and even those were put in writing by a man—written records in all forms were created predominantly by men in surroundings traditionally considered male dominated.[40] Personal letters were practically nonexistent before the middle of the fifteenth century—or at least letter collections have not survived. Law, an area traditionally associated with men, is the only source type consistently produced from 1350 to 1450. Given the circumstances, it might seem impossible to approach married women through legal sources: Any female appearance in a legal source would indicate some form of exception. However, both married women and widows appear in the legal sources on at least formally equal terms with men.[41] This means that, even though the legal records per definition are the result of actions in one way or another deferring from

a perceived normality, women acting in legal matters do not appear to have constituted a greater divergence.

The legal records from late medieval Sweden are notoriously scattered, and comprehensive collections of court records were first compiled in the late fifteenth century. It follows that the extant records are not found in any larger compilations and only few and random cases can be followed through a longer period. The documents are in abundance, but more or less self-contained. Penny Tucker describes the issues with researching medieval law as

> an understandable reluctance to tackle the records *en masse*, partly because of the enormous amount of work involved, and partly because of doubts about whether, given the nature of the medieval records themselves and their survival rates, they can be used to provide answers even to quite basic questions.[42]

Audur Magnusdottir touches on a similar condition when she attributes the decline of Swedish medieval research partly to source criticism, rendering, for example, the Icelandic Sagas void as sources for the Swedish Middle Ages.[43] As Magnusdottir herself suggests, and as Birgitta Fritz concludes in her response to Magnusdottir's text, source criticism and medieval history can be successfully merged and questions answered: Medievalists have done so for decades.[44]

Nonetheless, Tucker raises an important point concerning the study of legal history when she writes that "historians have tended to use legal records either in an unsystematic way, or systematically but selectively; and yet, in order to have a correct understanding of what was happening [. . .] we have no alternative but to consider [. . .] law as a whole."[45] According to Tucker, "We need to be clear about what we can expect the medieval legal records to tell us," and not presume we already know the answer. In this study, I am using the legal sources systematically and inclusively. This means that, though the focus lies on the agency of married women, there will be no selection made concerning which extant legal records will be examined; all of them will be considered. It is a disadvantage that the records are self-contained and knowledge of specific cases very rarely goes beyond the rudimentary. However, this is an issue that can be averted by having a large number of self-contained cases pointing in the same direction. The results will show trends and tendencies, as well as indicate change and continuity, and thereby provide a longitudinal rendering of married women in legal practice.

Presumably, medieval women in Sweden were faced with quite diverse realities depending on socioeconomic class, and it would be precipitous to over-generalize. Most of the women—and all the women who can be identified in the legal records—are from the upper strata of society, and thus from a quite limited socioeconomic spectrum. Though it would

have been interesting contrasting, for example, noblewomen with peasant women, there are certain definite benefits in the focus on the upper strata.[46] First, the upper strata was the legislative force and, as such, the preferred subject for studying the development of norms and the formation of legislation.[47] Second, focusing on one strata will facilitate finding other diversities in factors such as regional variation and development over time. Nonetheless, if and how the focus on the upper strata affects the results will be taken into consideration throughout the analysis, and broader generalizations will be made with great care.

Terminology and Definitions

By the middle of the fourteenth century, the legal records were written in the vernacular rather than Latin. It was stated in the law that "all charters, the king's, the lawman's and the district judge's, in such cases [as have been sentenced at the *ting*] and others, shall be written in Swedish."[48] For the sake of the subject at hand, the translation to English poses a problem. The word *malsman* is usually translated into 'legal guardian'—although the literal translation is 'spokesman'—and is still used in modern Swedish to signify a legal guardian of a minor child.[49] As the agency of women was intertwined with that of the *malsman*, it must be considered a central concept. Translating the word into 'legal guardian' would imply an array of legal obligations and privileges inconsistent with the Swedish concept. I will therefore use the word *malsman* (plural *malsmän*) in its original form to both denote the specific concept at hand, as opposed to a generic medieval legal guardian, and avoid confusion with the modern term, which differs in spelling. In referring to the larger framework, I will use the term '*malsman* system.' However, the term '*malsman* system' does not imply that there was one cohesive system, as there were significant regional variations.

In modern legislation, a minor is a person lacking full legal capacity. *Garner's Dictionary of Legal Usage* connects capacity with "mental faculties in the sense 'the power to take in knowledge,' "[50] which, judging from the law codes, was a familiar concept of medieval thinking, as those who were insane were considered minors under medieval Swedish law. Someone who has legal capacity is legally capable or able, but exactly what that entails may vary.[51] According to the *Oxford Dictionary of Law*, a minor does not have full capacity to contract, which is a "competence to enter into a legally binding agreement."[52] A minor who has entered into an agreement may under certain terms repudiate it once he or she comes of age. This idea resonates in medieval law and is therefore a useful indication of what a legally capable person should indeed be capable of. Other aspects of legal capacity, such as witnessing and consenting, will be dealt with further on. I will use the term 'minor' to denote anyone lacking full legal capacity regardless of the reason. A person having full

legal capacity is referred to as being legally capable or legally able. Such a person has a legal persona.

A legal guardian is responsible for a ward, yet in the word 'ward' a certain lack of legal capacity is implied. For example, the *Oxford Dictionary of Law* mentions two kinds of wards, both of which are minors.[53] At the core of this study stands the peculiarities of the Swedish *malsman* system—one of them being that a *malsman* did not per definition have a ward as a legal guardian would. To allow for this distinction to be made, I will use the word 'ward' only to denote a person who is himself, or whose assets are, under a legal guardian. There is no suitable equivalent for a person who has a *malsman*, as will be further discussed throughout.

The Legislation and the People Creating It

One of the fundamentals of the medieval juridical life was legal pluralism, meaning there were several interacting and sometimes overlapping legal systems.[54] In Sweden, at least three different systems applied at the same time. One system was the canon law, upheld by and practiced within the Catholic Church. The Church enjoyed *libertas ecclesiae*, granting the Church the right to judge its own, irrespective of geographical borders.[55] A second system was town law, earliest preserved as *Bjärköarätten* from the late thirteenth century.[56] Town law had an emphasis on trade but also regulated everything from crimes and inheritance to where and how buildings were to be erected. A third system was the rural law, regulating juridical life within a certain geographical area.

Rural law underwent considerable change during the fourteenth century. Until 1350, Sweden had regional laws (*landskapslagar*) for the different jurisdictional districts (*lagsagor*).[57] Most of these laws were codified in the beginning of the fourteenth century, but in all likelihood founded on significantly older oral traditions. As Göran Inger has pointed out, the regional laws bear witness to a considerable jurisdictional organization in Sweden at the time.[58] The text itself is divided into sections (*balkar*) that are further divided into paragraphs (*flockar*). On stylistic grounds based on liaison between codices, the regional laws are often seen as two groups, referred to as the *Svealagarna* and the *Götalagarna*. The first group contains laws from medieval northern and eastern Sweden—*Upplandslagen* (UL), *Västmannalagen* (VL), *Hälsingelagen* (HL),[59] *Dalalagen*[60] (DL), and *Södermannalagen* (SL). These laws show a strong royal influence and are due to internal similarities and presumed production dates thought to be based on *Upplandslagen*.[61]

The second group is formed by the southern laws: *Västgötalagen*, *Östgötalagen* (ÖL), *Gutalagen* (GL), and *Tiohäradslagen* (TL)[62]. The regional law of Västergötland, *Västgötalagen*, exists in two versions, of which the older, ÄVgL (the younger being YVgL), is dated to around 1220,[63] thus being the oldest of the regional laws. *Gutalagen* was the regional law of

Gotland, and is strictly speaking not one of the Swedish medieval laws, because of the unique position of Gotland, and neither the law nor the area itself will be included in this study. Of *Tiohäradslagen*—the law of present day Småland—only one section has been preserved.[64]

In 1350, a law code for the whole kingdom was issued—the *Magnus Eriksson Law of the Realm* (henceforth MEL). MEL was primarily based on the regional laws of Östergötland and Uppland but had—especially in the section on royal law—also incorporated newer statutes.[65] MEL, however, regulated only the rural areas previously subject to the regional laws. Towns were under a law issued shortly after—the *Magnus Eriksson Town Law* (henceforth MET). In 1442, MEL and MET were slightly updated and reissued. The new versions were named after the presiding king—*King Kristoffer's Law of the Realm* (henceforth KLR) and *King Kristoffer's Town Law* (henceforth KrT).

One more legal system—a possible fourth one—that has not as of yet been subject to any larger studies is that of the ecclesiastic laws of Sweden. While canon law regulated life within the Catholic Church, the local ecclesiastic laws regulated the overlapping contacts between the Church and secular society. The regional laws each had a section on ecclesiastic matters called the *Kyrkobalk*. MEL, however, came to lack such a section because of a conflict between the king and the Church.[66] It follows that MEL did not have regulations concerning some sexual offenses, such as adultery and fornication—since these were crimes under ecclesiastical law—other than strictly economic consequences.[67]

Most copies of MEL had the *Kyrkobalk* from the regional law of Uppland, *Upplandslagen*. When KLR was introduced, the *Kyrkobalk* of *Upplandslagen* seems to have gained a permanent place as the source of ecclesiastic law alongside canon law, even though several codices had the *Kyrkobalk* from *Södermannalagen* instead. An idea of uniformity of ecclesiastic law, as of secular law, within the realm is reflected in a charter issued in connection with a provincial meeting of the clergy held in Arboga, January 18, 1423. At the meeting, the archbishop and clergy raised the issue of revising the ecclesiastic section of the law to make it more in accordance with the will of the people.[68] When KLR was printed in 1608, it was with the *Kyrkobalk* of *Upplandslagen*. Since the jurisdiction of the ecclesiastic laws of Sweden included aspects of secular life, these laws will be included in the study.

Much has been written on the medieval laws as sources.[69] Most of this pertains to whether the codes drew upon older native traditions or on foreign influence, and surprisingly little has been written on how the law codes as objects were used.[70] The relationship between law as physical object and law in practice is therefore largely unknown to us, and we do not know how the text in the law codes came to be known—if at all—to the people engaging in legal affairs. The lawmen were supposedly knowledgeable about the law text, and MEL was developed by primarily

the lawmen of Uppland and Östergötland, but the lawmen were elected from the local inhabitants, and juridical education was not a prerequisite. In fact, most lawmen had no legal training at all, compared with the well-educated judiciaries of England or France. In Sweden, the common people had a strong position, and the local laity has been depicted as a legal authority.[71]

I am not intending to enter the decades-long debate concerning what in the laws has been influenced by, so to say, foreign law, and what draws on older 'national' laws and customs, as it is not crucial to the subject. Christine Ekholst summarizes the issue by stating that "whether laws are seen as tools for change or true representations of existing customs, of course, affects how they can be used as sources."[72] My starting point is that MEL shows signs of both of these aspects, as it was a composite of two regional laws, which in turn contained both local customs and statutes issued from above and differed greatly from each other. The most important part of MEL for the subject at hand, the chapter on marriage, drew heavily on the regional law of Östergötland, which is a fact we have all the reason to return to.

The primary issue with the laws as sources is not their accuracy or credibility, or even their influences, but the many question marks concerning their historical context. Very little is known about the Swedish medieval legal culture and this poses a predicament with regard to the laws as reliable sources. For example, the codes have stipulations on legal practice but due to the fact that there were no proper court records kept during the time in question, it is precarious to determine even such a fundamental aspect as to what extent the stipulations on procedural law actually reflects procedure. Hence, there is a great need for studies comparing norms with practice, where this study is just covering one very small piece in an enormous puzzle.

Some scholars who have compared norms with practice have used the law text to interpret the charters, which is to assume that the law guided action.[73] Since we know too little of procedural law and the legal culture to say with any level of certainty how the laws were used, I find such an approach problematic. Therefore, in this study, I will not try to fit the evidence in the charters into a legal frame stipulated by the law codes. Instead, I will interpret the charters as expressing a specific social context that can be compared to the law but is not necessarily a direct effect thereof. By doing so, I open up for a wider set of interpretations in which other factors than the law text can be more readily assessed.

All the medieval laws have been printed, both as transcriptions and as translations. In this study, I have used the older editions of the laws, compiled by Carl Johan Schlyter between 1827 and 1877[74], rather than the newer editions, published around a century later by Åke Holmbäck and Elias Wessén. This is because Holmbäck and Wessén made translations, while Schlyter created transcriptions. Though the translations are

very well researched and documented, they add a layer of interpretation to the text. Schlyter's transcriptions are equally well researched and equipped with comprehensive footnotes, and they have the benefit of not being subject to much interpretation. Hence, the transcriptions are considerably better suited to the purpose of comparing text to praxis, as they are closer to the originals. The oldest extant codices of MEL have been dated to the middle of the fifteenth century.[75] Though it is no longer possible to determine what could be considered an 'original' codex, it is reasonable to say that the extant copies are original law texts from the time in question.

The Charters

The charters are juridical documents written on parchment or, very rarely, on paper, and were sealed by one or more persons. Charters were drawn as proof of legal actions and reflect oral traditions.[76] In his study of literacy and textual communication in the Baltic Sea area, especially Reval, Tapio Salminen emphasizes that the written word in the area, including the medieval Swedish realm, had a long-standing tradition. He traces it back to the earliest evidences of written documents in Scandinavia from the eleventh century. In his own words, there can be no doubt that

> the archiepiscopal and suffragan chanceries of Hamburg-Bremen, the kings of Denmark and the dukes of Saxony took the leading role in the textualization of charters and written ecclesiastic and secular documents in the Baltic Sea area in the 11th and the first half of the 12th century, the secular rulers being assisted by officials of the church in their service.[77]

By the mid-fourteenth century, the vernacular has almost completely replaced Latin. However, the charter formula clearly followed a Latin model. As Salminen has pointed out, there was a phase in all the Scandinavian countries when vernacular permeated the Latin, which in practice meant that the corpus of the charters was the first to gain a vernacular format.[78] In most of the charters in this study, protocol, eschatocol, and address were in Swedish. Finnish found its written forms only in the sixteenth century, and though specifics such as personal names might be written in a Finnish format, the medieval charters are never written in Finnish. One such example is a charter issued in the parish of Pikis (Fi. Piikkiö) in 1378. Nils Timmerman and his wife, Elin, pawned three meadows to the Kettil Olofsson, acting judge in Finland at the time.[79] Witnessing the transaction were, among others, Sunno Hidenalta, Martin Kydronpoika, Peter Teyto, Erik Puranpoika, and Martin Enkkiä—all of whom have Finnish surnames.

Even though some charters, at least still in the 1350s, were written entirely in Latin, it is clear that there was a well-developed legal terminology in Swedish already in use. A 1350 charter issued without a date may serve as example.[80] In the charter, Karl Gismundsson acknowledges that he had previously granted Martin Svensson a power of attorney to perform a special confirmation at the *ting* that certain farms have indeed been given to Karl's relative. The charter is in Latin, but the confirmation was an integral part of Swedish property transactions and referred to what "in the vernacular is called *fastæ*."[81] This charter also bears witness to how the written language functioned as attestation of actions within an oral and performative legal tradition.

The preservation of charters into our time is heavily dependent on both who were involved and what legal action the charter bore witness to, as both of these aspects affected the possibilities and the need to keep the charter safe. For example, comparatively few charters concerned crime compared to landed property transactions, and both nobility and the church are overrepresented.[82] To what extent such matters correlate with actual *ting* proceedings is difficult to ascertain. Maybe the nobility was overrepresented at the *ting*, and the charters thus reflect this. The charters are written in formula, but during the time in question there can still be significant diversity in the text. Estimates say that between ten and thirty percent of the transaction charters have been preserved.[83]

Previous research has shown that the recurring plague epidemics affected the production of charters.[84] The general trend, in Sweden as in other countries, is that the number of produced charters decreased after 1350, as well as during specific years of outbreaks. However, there is no evidence suggesting that this, in turn, would have a connection to gender or gendered structures.

In modern times, the charters have been archived first and foremost in the National Archives of Sweden and of Finland. Though Finland was a part of Sweden during the Middle Ages, there is a quite strong nationalistic, inspired division, which has made an imprint on research on the charters as well as on their preservation. Researchers in Finland are traditionally occupied with the study of charters produced and preserved in modern Finland, and vice versa. This means that, even though there have been excellent studies made on both sides of the Baltic Sea, collaboration is rare, and studies on the entire medieval realm are nonexistent.

I have read almost all the preserved charters issued in medieval Sweden from 1350 to 1450. That this is even possible has everything to do with present-day technology; the medieval charters are nowadays indexed and freely available in online databases: *Svenskt Diplomatariums huvudkartotek över medeltidsbreven* (hereafter SDHK) for present day Sweden and *Diplomatarium Fennicum* (hereafter DF) for modern Finland.[85] The charters are marked with information such as date and place of issuing,

issuer and other people involved, and a short regest—a summary—of the content. Each indication of a charter—no matter if it is an actual extant charter, a contemporary or later copy, or merely a note—has a post in SDHK and DF, and this makes for a total of around twenty-two thousand posts from the time in question in SDHK alone.

Though SDHK and DF are comprehensive databases, they are not always coherent, as the work with reviewing the posts according to modern standards has not yet been completed. In practice, this means that the available metadata in each post may vary drastically, which, in turn, constitutes a dimension of uncertainty. However, I have used the metadata primarily as a tool for organizing in which order to read the charters and not as a basis for the analysis. Instead, I have used the text in the charters. Most of the charters in SDHK and DF have been transcribed, and I have used the transcriptions for the content.[86] From 1379 on, with some exceptions between the years 1401 and 1420, there are no available transcriptions, and because of the immense number of charters I have had no possibility to locate and read the originals in every case. These charters have primarily been sorted only based on the metadata in SDHK and DF—especially the regests. For reasons related to time use I have not been able to clarify that all regests are completely accurate. When the original charter is in the Linköping Stiftsbibliotek or either of the National Archives in Stockholm or Helsinki, I have consulted the original. All the extant charters preserved in the National Archive in Sweden have been photographed in very high quality, and I have used these photocopies.

For the most part, the regests give a good account of the content, and in comparing them with the charters I can confirm the correctness of the regests and other information provided by SDHK and DF in general. However, there are rare instances when women are mentioned in the original but omitted in the regest. This is the case, for example, in SDHK 11972, kept in original in Linköping. The regest mentions only a trade between Henneka and Bo Jonsson Grip; it does not mention that Henneka had acquired the land together with his wife, Katrin. Another example is SDHK 12838, in which only Nils Skata is listed as issuer. Regarding the contents, the regest merely states that Nils Skata admitted to owing Bo Jonsson Grip money and that he therefore pawned some farms. However, in the original it clearly says that the charter was issued by "us, Nils Skata and Widüs his wife."[87] They together admitted to owing Bo Jonsson Grip 400 mark *penningar* and pawned their common property. Similarly, the regest of SDHK 12925 states that Atgor Djäken had sold property, although the charter was issued by him and his wife.[88] It follows that there is a slight risk of a very limited number of charters that have now been omitted from the analysis but did in fact concern women. However, it should be considered highly unlikely that there are many or that they are of such individual importance that they would distort the results.

Medieval Law Codices

Two new laws from the middle of the fourteenth century, MEL and MET, marked no significant break in legal practice, and very little is known about when and under what circumstances the new laws were introduced into the local community. The regional laws were still in at least occasional use during the rest of the century.

In the introduction to their translation of MEL into modern Swedish published in 1962, Åke Holmbäck and Elias Wessén have a quite extensive discussion concerning the earliest datable traces of MEL in practice. Two prerequisites determining whether MEL was applied are brought forward. The first one is that it is stated in MEL that all transactions with landed property were to be announced at the local ting and there witnessed by the lawman and a special kind of witness called *faste* (*fastar* in plural), after which a charter confirming the legality of the transaction was issued.[89] These charters, commonly referred to as *fastebrev*, are thus, according to Holmbäck and Wessén, proof of MEL having been applied within a certain jurisdictional district.[90] The second novelty with MEL was the position granted judges in the primary courts, emphasizing that the king was the one to choose a judge from among the ones suggested by the local community.[91] The term for these judges, *häradshövdingar*, was previously used only in the southern regions, but it was introduced with MEL across the realm, and by that Holmbäck and Wessén conclude that the occurrence of such a judge in the northern regions speak strongly for MEL being used.[92]

Using these two criteria, the earliest known case when MEL was applied is June 13, 1352 in Västmanland[93] and shortly after in several other regions. However, concerning Västergötland, Holmbäck and Wessén mention MEL as clearly applied only in the 1390s.[94] Based on the conclusions made by Holmbäck and Wessén regarding when MEL was first applied in the different districts, it is difficult to find any patterns. For example, even though Östergötland and Västergötland seem fairly comparable when it comes to the regional laws and composition of population, MEL seems to have been commonly accepted in the areas with an almost 40 years' difference.

I think that what appears to be the defining factor is to what extent the new law conformed to the old law. As has already been mentioned, MEL bore significant resemblance to both *Östgötalagen* and *Upplandslagen*, and both of these regions were among the first to embrace the new law.[95] Furthermore, it must be mentioned that nothing speaks against the regional laws being used alongside MEL even after it had been firmly established. In fact, several factors confirm simultaneous use. As Schlyter points out, several codices written for use in a certain region were embellished with paragraphs from the regional laws and clearly did not conform to an intended standard version of MEL.[96] It is also clear that some

regional laws were still being produced even after the supposed official affirmation of MEL—fragments of *Östgötalagen* have been dated to the second half of the fourteenth century.[97] Some state that MEL became valid in the whole kingdom as late as during the reign of Queen Margareta, somewhere between 1389 and 1412.[98]

Certainly, particular distinctively local traditions in connection with legal actions remained well after the new laws were established. In Västergötland, one of these traditions was the *omfärd*, a procedure of inspecting landed property that was about to change ownership by walking around the property together.[99] Though it is not mentioned in MEL, or even seems to have been a custom outside Västergötland, Olof Lassason still demanded *omfärd* upon selling his farm in 1482—more than a hundred years after MEL.[100]

King Kristoffer's Law of the Realm of 1442 has probably been given a more prominent place in modern research than it had at that time. Though KLR was officially ratified in 1442,[101] there was a significant delay between the ratification and when KLR was taken into active use. According to the linguistic research of Patrik Åström, the production of KLR was sufficient to cover the needs of the realm only in the beginning of the sixteenth century, indicating that MEL was the dominating version for significantly longer than has previously been assumed. Åström further shows that KLR completely replaced MEL only in 1608, when it came out in print.[102] Schlyter concluded that MEL and KLR did not differ enough from each other to make it obvious to even the medieval and early modern lawmen which law they were using.[103] If contemporaries found it challenging to tell one law from the other, it is fair to assume that this will be possible only in very particular cases now—some 600 years later.

Which edition was in force in a certain *lagsaga* at a given time can no longer be determined, but for the sake of the subject at hand, this predicament is compensated for by the long timeframe and MEL's position as standard during this time. Furthermore, there are no known discrepancies regarding the section of the law concerning guardianship over married women, neither between the different editions of the *Law of the Realm* nor between extant manuscripts.[104]

KLR was in force until 1734—which is a remarkably long time. During the seventeenth century, contemporary lawyers complained that the law was outdated and in desperate need of modernizing.[105] Several different committees were involved in the creation of the new law code approved by the parliament in 1734 and ratified by the king in 1736 (referred to as the 'Law of 1734'), but KLR had for centuries—and especially during the more intense periods of writing the new law—been frequently supplemented by statutes. The first statute immediately relating to guardians was the *Förmyndarordning* of 1669.[106] Though it has been concluded that the *Förmyndarordning* applied to women as well as children, focus lies on the latter. That the *Förmyndarordning* had an impact on the legal

guardian system is self-evident, but the relevance for how the system might have been interpreted more than a century earlier is little to none.[107]

A Database of Women

For this study, I have combed through more than twenty-two thousand posts in SDHK and read more than six thousand originals. Based on the regests, and—where applicable—the contents, all charters in any way pertaining to women have been collected in a database created to facilitate comparisons and increase searchability. I refer to this database as Database of Women (henceforth DW). However, merely knowing how many women were active is not enough as it must be compared to the legal activities of men—a subject that unfortunately is still wanting of scholarly attention from a gender perspective. Hence, I have also created a database with charters containing only men (hereafter OM).

Selections and Classifications

The selection for my database has been made based on SDHK. This is because SDHK contains the charters in DF, too, and was—by the time I started going through the charters—significantly better developed than DF.[108] Instead of searching for certain words—a method most unsuited for finding documents written before the introduction of standardized spelling—I have gone through SDHK by year. The possible problem with this method is that figures in the summations are approximate given the risk of some posts having been counted twice. On the other hand, processing the charters by year makes it highly unlikely that any charters have been overlooked.

The method for discerning female agency in the charters draws upon Jennifer Smith's classifications. Women acting on their own are primary agents, women acting through their men or other representatives are secondary agents, and women whose connection "is negligible or indiscernible" are non-agents.[109] For example, if a man is selling land that has belonged to his deceased mother to another man, I have indexed the charter in DW and marked her as a non-agent. If the mother is mentioned as alive, and the man is acting on her behalf, she is a secondary agent, but if she has given explicit consent or is acting together with him, she is a primary agent.

I have also marked year and place of issuing, as well as constructed a cross-referenced collection of persons who are either actively participating or mentioned. When I have not been able to identify any women at all, the charter has been placed in the OM database, for which I have collected substantially less information.

Since this method results in 3,698 charters in some way pertaining to women collected in DW, it is, needless to say, necessary to make

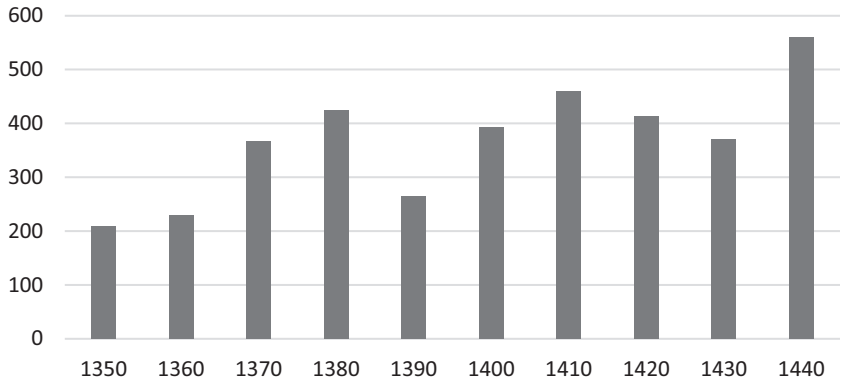

Figure I.2 Total number of charters in DW, by decade of issuing.

further categorizations. Charters concerning land transactions are divided according to the objective of the charter (as opposed to, for instance, female agency) into categories as follows: sales and purchases, trades, donations, pawning, and inheritance.[110] These categories reflect the five ways through which a person could acquire land described in the law and mirror the categorization in previous research.[111]

Previous research has shown that the nature of the transaction has a bearing on women's activities. In her monograph *Laga fång* (*Legal Acquisitions*) from 2010, Gabriela Bjarne Larsson aimed at describing the different forms of transactions prevalent in Sweden 1300–1500. She focused her study on two different geographic areas—Finnveden in the south and Jämtland/Härjedalen in the north. As only Finnveden was actually a part of medieval Sweden—Jämtland/Härjedalen belonged to Norway—her results from that area are of greater interest for the subject at hand.

Though the categories are reflected in the division of chapters, they are primarily a research tool—a consequence of the great number of posts—and are by no means indisputable. Neither the categories nor the charters themselves are easily defined. For example, Lasse Laurensson donated a farm to his daughter Ingrid for her to enjoy during her lifetime.[112] In this sense, this charter should be categorized as a donation. But at the same time, Lasse explains that Ingrid is given this farm only because her half siblings will not admit her right to inherit, rendering the charter one of inheritance. This specific charter is sorted under 'others' and clearly displays the complexity of categorizing medieval charters.

In order to determine what a *malsman* actually was, all charters referring to a *malsman* have also been collected in the database in a subcategory, irrespective of female agency. The same applies to the few but enlightening charters touching on a husband's authority, gendered

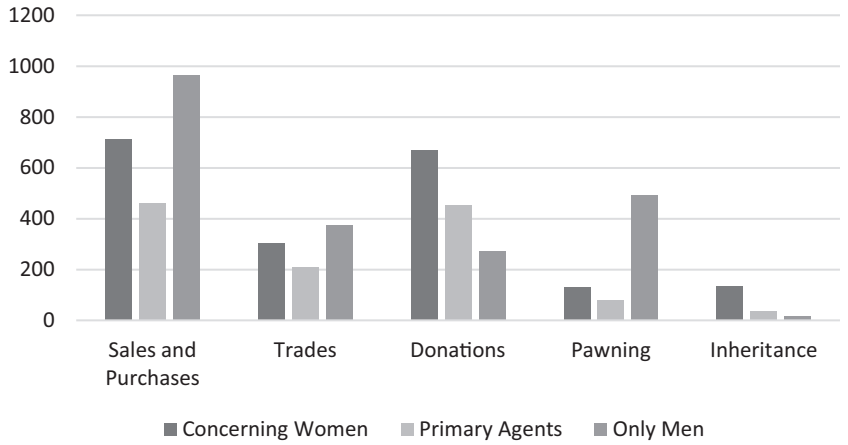

Figure I.3 An overview of the total number of charters in any of the categories of the five legal transactions, divided by DW, women as primary agents, and OM.

roles, or landed property management. The evidence from the charters will answer questions of how the *malsman* system functioned in practice and shed light on how it related to legal representation and property management.

There has been a debate among Swedish researchers regarding whether SDHK is suitable for quantitative studies. Bo Franzén used SDHK to study trends toward a "more free and movable feudal society" in medieval Sweden.[113] In his study, he used SDHK to conduct a quantitative analysis of urbanization and the emancipation of women by calculating the number of women who appeared as first issuers and whether a charter was issued in a town. In reviewing his work, Birgitta Fritz heavily criticized his method and his starting points.[114] Her argument that it is unreasonable to classify thirteenth-century Sweden as a society with peaking urbanization—an estimated ninety-five percent of inhabitants lived in the rural areas—and to not differentiate between trade in land and in other kinds of property is very valid. As she points out, the fact that the urban areas in Östergötland are overrepresented might not be due to urbanization as much as the fact that the towns had important churches and convents.[115] The main town in Östergötland—Linköping—had a cathedral, Skänninge had several convents and monasteries, and one of the most influential convents in Sweden—that of St. Birgitta—was built in the town of Vadstena. All of these institutions had the means to store and keep charters, and the archives from, for example, Vadstena and Linköping are among the best-preserved.[116]

However, I do agree with Franzén when he answers Fritz and concludes that SDHK indeed is a fully adequate source for quantitative studies.[117] One merely needs to be careful with the method used and conscious of the limitations. One of the most important measures I have taken to ascertain that the numbers are correct is that I have used SDHK for locating the originals rather than as the base for my statistics. The statistics in this study are thus built on the originals—not on SDHK—though most of the information correlates.

Notes

1. UL, *Ärvdabalken* Introduction. "*Erffþæ balkær byriæs at giptæ malum*."
2. Larsson 2003.
3. Erler and Kowaleski 2003, 1–3.
4. Bennett 1988. See also, for example, Andersson 1994; Erler and Kowaleski 1988, 2.
5. Erler and Kowaleski 2003, 2–3.
6. Barrett 2000, 62.
7. See, for example, Butler 1990.
8. Kandiyoti 1988; Andersson and Ågren 1996.
9. Gardner 2004, 3.
10. Barrett 2000, 62.
11. Musson 2001, 88.
12. This is a relative truth. King Magnus Eriksson (r. 1319–1364), retrieved Skåne and Blekinge as a pawn in the 1330s and after armed conflict with the Danish king Valdemar Atterdag in 1342, purchased Skåne, Blekinge, and Halland in 1343. These were lost again when Valdemar Atterdag conquered Skåne in 1360.
13. Edgren and Törnblom 1993, 275–276; Lindkvist and Sjöberg 2009, 150–153.
14. SBL, 'Magnus Eriksson,' urn:sbl:10153.
15. Edgren and Törnblom 1993, 324.
16. SBL, 'Albrekt,' urn:sbl:5648; Edgren and Törnblom 1993, 325–327.
17. SBL, 'Bo Jonsson (Grip),' urn:sbl:17833; Edgren and Törnblom 1993, 326, 332–335.
18. Edgren and Törnblom 1993, 326–327; Lindkvist and Sjöberg 2009, 169–172.
19. Edgren and Törnblom 1993, 382–385.
20. SBL, 'Erik av Pommern,' urn:sbl:15392.
21. Cederholm 2007; Larsson 1984.
22. SBL, 'Engelbrekt Engelbrektsson,' urn:sbl:16127; Lindkvist and Sjöberg 2009, 179–184.
23. Myrdal 2011, 98.
24. Myrdal 2011, 98–99.
25. Cederholm 2007, 321; Lindkvist and Sjöberg 2009, 185–186.
26. SBL, 'Kristofer,' urn:sbl:11775.
27. SBL, 'Karl Knutsson (Bonde),' urn:sbl:12366. Karl Knutsson was subsequently expelled from Sweden in 1457 but returned and was proclaimed king again in 1464 until the beginning of 1465. He was king a third time, in 1467, until his death in 1470. See also Lindkvist and Sjöberg 2009, 186–191.
28. Compare with Erler and Kowaleski (2003) for the master narrative of men.
29. Wiesner-Hanks 2017, 217.

30. For an excellent study on such women from slightly later centuries, see Norrhem 2007.
31. The central work on the European marriage pattern is still John Hajnal's monumental article "European Marriage Patterns in Perspective" from 1965.
32. Hanawalt 2007, 51–52.
33. de Moor and Luiten van Zanden 2010, 3.
34. Janken Myrdal (2011, 77) argues that Sweden "took on a social structure that in its basic contours would have been recognizable across much of Europe." The special features of Sweden should not be overemphasized. See also Lindkvist and Sjöberg 2009, 156–158.
35. Lindkvist and Sjöberg 2009, 155–156.
36. Harrison 2003; Myrdal 2003, 17–20.
37. For the plague in Sweden, see Myrdal 2003.
38. Småberg 2003, 83–84.
39. de Moor and Luiten van Zanden 2010.
40. As Jacqueline Murray points out, the production and use of texts in the Middle Ages were dependent not only on gender but also equally—or possibly more so—on class. Murray 1995, 1–2.
41. That there is no formal difference in the textual format has previously been pointed out by Gabriela Larsson (2003, 104, 118). See also Pylkkänen 1990. For the format of the charters, see Larsson, 2010.
42. Tucker 2001, 191.
43. Magnusdottir 2005.
44. Fritz 2005.
45. Tucker 2001, 191.
46. How to correctly name the upper strata of the medieval Swedish society is a difficult question. I have chosen to use the word "noble" for the sake of simplicity. Helle Vogt strongly suggests that nobility is an incorrect term as it "implies a limited group that had a special status due to inherited privileges," which is a very valid point. Vogt prefers the term 'lord,' but as I discuss gender, the term fails to encompass the non-gendered status of the upper strata of society as it refers to a male status. Hence, I will use the word 'noble.' See Vogt 2010, 54.
47. Even the *ting* sites have been shown to bear the marks of the upper strata of society and were "carefully designed and constantly rebuilt and remodelled by the elite to communicate their power to the population." Sanmark 2015, 80.
48. MEL, *Eghnobalken* "*Skulu ok all breff, kunungx, laghmanz ok hæræzhöfþonga, i þolikum malum ok aþrum, a suensko skriuas*."
49. Melin 2000, 256; Andersson 1996, 19; Pylkkänen 1991.
50. Garners 2011, 132.
51. In Swedish research, the subject of which terms are the most useful has been thoroughly discussed, but since the discussions are based on a Swedish vocabulary, they are not as such particularly relevant here. See Andersson 1996, 19–20.
52. *Oxford Dictionary of Law*, online edition (2013). Accessed 6 Sept. 2013. Keyword: 'minor.'
53. *Oxford Dictionary of Law*, online edition (2013). Accessed 6 Sept. 2013. Keyword: 'ward of court.'
54. For an introduction to legal pluralism as a concept, see Griffiths 1986.
55. Lindkvist and Sjöberg 2009, 128.
56. The oldest complete manuscript has been dated to the mid-fourteenth century (B 58, Kungliga Biblioteket, Stockholm), a dating that rather reflects an increased production in written law than the actual age of the contents.

57. Lindkvist and Sjöberg 2009, 124–128.
58. Inger 2011, 12.
59. This law also applied in Finland.
60. This law has been under much discussion and it remains unclear where it was actually used and thus what the correct name would be. For this discussion, see, for example, Sjöholm 1988; Inger 2011, 15.
61. See, for example, Holmbäck and Wessén 1962, XV.
62. Hafström 1984b.
63. The oldest surviving manuscript is from around 1280 (B 59, Kungliga Biblioteket, Stockholm).
64. For a more comprehensive description of the different laws, see the introduction to the translation into modern Swedish made by Holmbäck and Wessén of each law. For an exhaustive commentary in English, see Line 2007, 154–159.
65. Inger 2011, 17. For a comprehensive discussion on the medieval statutes, see Larsson 1994.
66. The essence of this conflict has been preserved in an original charter from 1347 (SDHK 5399), when five canons presented an official complaint in writing regarding the significance of not in any way deterring from canon law and thus undermining the privileges of the Church.
67. Compare with Holmbäck and Wessén 1962, XXIX–XXX.
68. "*Item quod prelati instent aput dominum regem ut aliquibus committat, qui assumptis deputandis per ecclesiam reforment partem legisterii qui kirkiobalken dicitur, quod per hoc controversie inter clerum et populum sopirentur.*" SDHK 20006. Quote from Reuterdahl, *Statuta synodalia* (1841), 118. See also Holmbäck and Wessén 1962, XLIV.
69. See, for example, Lindkvist 1989.
70. The printed editions of the laws contain comprehensive discussions on their respective origins. See also Åström 2003; Sjöholm 1988. For the debate on Germanic versus native Swedish influences, see primarily Sjöholm 1988; Lindkvist 1989; Sjöholm 1990; Lindkvist 1990.
71. Korpiola 2014.
72. Ekholst 2014, 7.
73. See, for example, Larsson 2003.
74. The full title is *Corpus iuris sueo-gotorum antiqui. Samling af Sweriges gamla lagar, på kongl. maj:ts nådigste befallning utgifven af d. H.S. Collin och d. C.J. Schlyter*.
75. Schlyter 1862.
76. Larsson 2010, 40–41.
77. Salminen 2016, 114.
78. Salminen 2016, 123.
79. SDHK 11187.
80. SDHK 5892.
81. "*wlgaliter dictos fastæ.*"
82. Other charters that tended to be destroyed were pawns once they had been requited. See Fritz 2009 and the literature suggestions provided.
83. Larsson 2010, 126.
84. Myrdal 2003, 23–24.
85. The charters have also been published in print, partly with transcriptions in *Diplomatarium Suecanum*, *Finlands medeltidsurkunder*, and *Åbo domkyrkas svartebok*. Though these editions have occasionally been used for cross-references, all citations in this study are based on each charter's index number in the appropriate database.

86. The translations of quotes and other references to the original Swedish of the charters are from the transcriptions provided in the SDHK or DF. In some cases, I have made the transcriptions myself. The transcriptions are meant to give an overview of the original text and some specific letters that have been difficult to interpret might be questioned. Furthermore, the abbreviations have been opened without my specifying which letters are concerned. However, that there are minor transcriptional choices that potentially could be questioned is not affecting the content.
87. SDHK 12838. "*wi nisse skata oc widüs hans husf(ru)*." The letters in the wife's name are clear, but the name as such is unknown.
88. This is the case also with SDHK 12986 and SDHK 13042.
89. MEL, *Jordabalken XX–XXI*.
90. Holmbäck and Wessén 1962, LVI.
91. MEL, *Tingsmålabalken* I–II.
92. Holmbäck and Wessén 1962, LVI–LVII.
93. SDHK 6389. Holmbäck and Wessén 1962, LVII.
94. SDHK 13958. Holmbäck and Wessén 1962, LIX.
95. According to Holmbäck and Wessén (1962, LVII–LVIII), MEL was introduced in the jurisdictional area of Uppland between 1351 and 1353.
96. Schlyter, *Corpus iuris X* (1862), LXXIII–LXXVIII.
97. For the dating of the Liedgren fragments, see Carl Ivar Ståhle's addendum to *Östgötalagen* in Collin, Schlyter and Holm (eds.), *Östgöta-lagen* (1980).
98. Vogt 2010, 53.
99. The procedure is further discussed in for example KLMN under the entry *omfärd*. It was mentioned in the older version of *Västgötalagen*, *Jordabalken* II, and in the younger version of *Västgötalagen*, *Jordabalken* III and XV.
100. SDHK 31046. This is as far as I know the latest example in a charter preserved in original. Compare with SDHK 28147 from 1463 and SDHK 15495 from 1400, both of which are preserved as post-medieval accounts.
101. SDHK 24111. The original is lost. See also Jan Liedgren's commentary on the ratification charter in Holmbäck and Wessén 1962, LXIII–LXIX, and Almquist 1959, 308.
102. Åström 2003, 177–178. The same was concluded earlier by Åke Holmbäck in the introduction to *Magnus Erikssons landslag i nusvensk tolkning* (1962).
103. Schlyter 1862, LXXII–LXXIII.
104. Minor differences in spelling excluded. Andersson 1996, 35.
105. Inger 87–91, Andersson Lennström 1994.
106. Ighe 2007, 59–75.
107. A very fruitful study of the committees and discussions in relation to gender can be found in Andersson Lennström 1994.
108. There might be some exceptions, but I have not found any charters only in DF and not listed in SDHK when I have done cross-references. The National Archive in Finland launched an updated and much-improved version of DF as a beta version in 2016.
109. Smith 2000, 35.
110. These groups correspond with the divisions made by Larsson 2010. In these five groups, there is a total of 1,949 charters.
111. MEL, *Egnobalken* I. "*Fæm æru laghæ fang iorþ i suerikis laghum, eet ær arf æn laghlika ærft ær, annat ær skipte æn laghlika skipt ær, þriþia ær köp æn laghlika köpt ær, fiarþa ær gæf æn laghlika giuit ær, femta ær væsþsat iorþ æn laghlika veþsat ær ok forstandin ær.*" Gabriela Bjarne Larsson (2010) used the same categories.
112. SDHK 6314. The date is unclear.

113. Franzén 2009. My translation of the subtitle.
114. Fritz 2010.
115. Fritz 2010, 534. In Franzén's study, it is a concious choice to include charters issued in convents and churches as issued in a specific town. Franzén 2011, 29–30.
116. Fritz 2010, 534.
117. Franzén 2011.

1 Defining Women's Legal Status

In medieval Sweden, the man was undoubtedly the norm. The legal persona is usually a peasant (Sw. *bonde*), and the paragraphs are firmly placed within a rural setting.[1] Though this did not automatically exclude women from the laws or from being legal subjects, it did mean that a woman's legal status all through her life was relative to that of a man. Research on medieval laws, in general, and female agency in the laws, in particular, has taken a slightly different direction among researchers in Finland compared with that in Sweden—even though they are examining the same realm. This is largely because of Anu Pylkkänen's influential studies, which were published primarily in Finnish and therefore never fully reached a Swedish-speaking audience.[2] Pylkkänen was Professor of Legal History at the University of Helsinki and gained her doctorate in 1990 with the thesis *Puoli vuodetta, lukot ja avaimet: Nainen ja maalaistalous oikeuskäytännon valossa 1660–1710*. Studying early modern Finland, Pylkkänen drew the consequential conclusions that legal practice was not necessarily determined by the law texts and that there were significant local variations in legal culture still in the seventeenth century. Pylkkänen also concluded that the individualization of the legal system in the early modern era did not give women more agency as legal subjects (rather the opposite); she successfully argued that law never is and never has been neutral.[3]

This, I would argue, has given Finnish researchers a different starting point for further studies on these subjects. First of all, Finnish researchers tend to show a certain skepticism toward using the laws as sources, a stance that Swedish researchers do not share to the same extent. In Sweden, there are still plenty of studies conducted on the medieval laws as norms,[4] while it seems to be generally agreed upon in Finland that such studies are problematic given how little we know about legal practice. Of course, by no means is this to say that such studies do not fill a function—quite the opposite; they are merely a part of a different tradition relying more heavily on the laws.

If one is examining women's agency based merely on the law texts, it may seem as if women were almost excluded. For example, several

researchers have concluded that, according to the laws, women were to be represented at the *ting*[5]—where law was continuously created and upheld—by their *malsman*.[6] The structure of these gatherings is regulated in the *Tingmalabalken* (for the rural areas) and the *Rådstugubalken* (for the towns). In these sections, the legal persona is always a man. Judging by pronouns, women were not the intended subjects. If women were not the intended subjects, all women in the charters—or, later on, in court records—were by definition aberrations. How one opts to interpret the law texts therefore also heavily colors how one interprets the charters and women's agency.

That the paragraphs only mention men is not the same as the laws excluding women but might in most cases merely be a stylistic choice—or a lack thereof—from the scribe codifying the laws. Many of the paragraphs are formulated as case law. An example of a case is given and the consequences discussed; for example, "Now a man makes a purchase at the square."[7] In other paragraphs, the stipulations concern situations in which we know that women in practice could be active agents. For example, in the section of the law dealing with property issues—such as building and sowing (Sw. *byggningabalken*)—which is written with a strictly male subject, the farmer is the agent. Only when hiring paid help was concerned were women mentioned but in the position as the ones being hired. The person hiring was still the farmer.[8] Presumably, the same law applied whenever, for example, a widow employed extra help at her farm.

As has already been concluded, the *malsman* system constituted a general framework surrounding the agency of women. Hence, in order to understand and correctly interpret women's actions in practice, we must first consider the *malsman* system from a normative perspective.

In the *Magnus Eriksson Law of the Realm* from 1350, the hierarchy between husband and wife is described as follows:

> Now the bride has been brought home whole and healthy, then she will go to bed with her husband, [and] when they have laid one night together, then he is her rightful *malsman*, and owns to seek and answer for her; then he shall give her her morning gift.[9]

This paragraph is at the very core of interpretations regarding female agency, as the word '*malsman*' is most commonly translated into 'legal guardian.' Gendered guardianship would not be out of the ordinary, as various European countries had developed their own versions, such as the coverture of English common law or the *mundualdus* of Italy. Even though the law itself gives no further indications on the privileges and duties of the *malsman*, the *malsman* system does not appear to have been controversial, nor do the implications of the system seem to have caused confusion to contemporaries as no further extrapolations on the

ramifications were needed. However, given the various contexts within which the *malsman* can be found in the law, the concept is not as straightforward as one might assume.[10] Understanding the power and authority vested in the *malsman* is consequential in determining the power and authority of the person who had a *malsman*. As long as a husband through marriage became his wife's *malsman* and that arrangement had legal implications, a married woman's agency was intertwined with the *malsman* system.

Though the most common translation of *malsman* is 'legal guardian'; the literal translation is 'spokesman.' The concept of a guardian is multifaceted, and the term itself indicates not only certain privileges and responsibilities bestowed on the guardian but also the involvement of another party—the ward—who is someone lacking full legal capacity. In *Barron's Law Dictionary*, it is stated that some

> essential features of the relationship of guardian and ward include the fact that a fiduciary relationship exists between them, that the ward has a duty to live where the guardian tells him to live, and that the guardian does not hold legal title to the ward's property but may prevent the ward from entering into a contract respecting his property.[11]

There is a hierarchal relationship between a guardian and a ward that would not exist between a spokesman and whomever he is speaking on behalf of. A person who has a spokesman does not necessarily lack legal capacity. The difference in legal capacity between the guardian and the ward renders the latter heavily dependent on the former. A ward needed a guardian because the ward was not legally capable of handling his or her own juridical affairs. Medieval women in Sweden, however, did participate in legal affairs in a way that one would not expect from wards. Hence, it is presumptuous to equate the position of a wife with that of a ward, and the relationship between husband and wife cannot be immediately compared with that between guardian and ward.

The Exclusion of Women in the *Edsöre*

Even though women could be hidden behind the male subject, there are paragraphs that explicitly concerned men. Though the subject would require further linguistic research in order to be ascertained, the paragraphs aimed at men are characteristic of the *Edsöresbalken*—the section of the law dealing with heinous crime. While the rest of MEL is firmly set in an agrarian culture, the *edsöre* is generally believed to be an agreement between the king and the aristocracy.[12] The *edsöre* is sometimes referred to as the peace laws and is commonly (albeit not indisputably so) accredited to the famous Swedish regent Birger Jarl in the middle of the

thirteenth century.[13] The peace laws were intended to secure the peace in the realm and included peace for the home, women, the *ting*, and the church.[14]

Women were explicitly mentioned in some of the paragraphs concerning the *edsöre*—the most important case being *kvinnofrid* (peace for women).[15] However, women were not active agents in the peace laws but merely the potential victims in need of extra protection. The *edsöre* quite clearly distinguishes women as essentially different from men and ascribes them distinctive characteristics. When discussing the male subject of the laws, Maria Sjöberg has concluded that gender on a hierarchical scale was a prerequisite.[16] There is no indication in the *edsöre* that women could become performing males or that they were in any way allowed to move along a gendered scale—women could not fill the position of a man. Quite on the contrary, men and women were seen as disparate entities and put opposite one another.

Regarding the characteristics, they can be interpreted in quite different ways. On the one hand, one might argue that these paragraphs show that women were held in very high esteem.[17] A crime against a woman was more serious than a crime against a man, as the former was treated as a violation against the peace of the realm. Women, hence, were worthier of protection and had a higher value. Jussi Pajuoja writes that

> with the king's peace, there was a wish to especially protect the home, the church and the *ting*; their extraordinary position and authority were highlighted by the regulations.[18]

Pajuoja makes no mention of the peace including women—in fact, the gendered aspects are completely lacking in his recount as he mentions only the home, the church, and the *ting*. If these three were worthy of the king's peace because of their authoritative position, how did women fit in? Karin Hassan Jansson argues that the *kvinnofrid* was meant to protect marriage as a societal institution, which could fit into Pajuoja's thought.[19] From such a reasoning follows that the extraordinary position and authority that qualified women for the *edsöre* was not in fact their gender but their position within families. Hence, the peace for women did not grant women any authority or agency.

I would, however, not go as far as to say that women generally were perceived as passive objects or incapable of acting; rather, they were efficiently stripped of their agency in the *Edsöresbalken*. Women could potentially have had the power but decidedly not the authority to act, and it was a conscious decision from the men making and upholding law to keep that authority from women.[20] The punishment shows this.

The punishment for breaking the peace was outlawing (Sw. *biltog*),[21] and the only way to reconcile was to pay hefty fines and have the offended party plead on your behalf.[22] However, a woman could

not be outlawed, and therefore, the law stated, she could not break the peace.[23] That the paragraph is written with this cause-effect explanation is, I think, important. The reason women could not break that *edsöre* was that they could not be outlawed—not that they could not commit the deed. This means that women could, theoretically, commit the crimes but that the women culprits were treated with a leniency not shown men.[24]

This stands in contrast to, for example, England:

> Although a woman by appeal could cause a man to be outlawed, a woman could not herself be outlawed, not because of any special leniency towards women but simply because in law she did not exist.[25]

Though a woman in England could not be outlawed, she could be waived if she ran away after committing a felony.[26] In practice, a woman waived was almost the same as an outlawed man—she stood without protection; but the important difference between this and the Swedish context lies in the woman as a legal subject. In Sweden, women were denied agency at the same time as they were protected from the harshest punishment, but they were still included in the legislation at large.

I hardly think it worth disputing that the *Edsöresbalken* was more or less in its entirety aimed at men, but I would want to point out two aspects that I find important in this context. First, the timeframe: In MEL, the *edsöre* decidedly represents older legislation, and, as we shall see, the *malsman* system changed over time, and women gained more authority.[27] Second, even though the *Edsöresbalken* presumably was a very well-known aspect of the legal culture if we accept that it dates back to at least 100 years before MEL, the peace laws are almost never referred to in practice between 1350 and 1450.[28]

In any case, the stipulations mirror a man's world, in which women are not acting but remain on the receiving end of actions. In such a world, women are most likely in need of guardianship. Such a conclusion is supported by the fact that, should the peace for women be breached, the injured party was the guardian of the woman—not the woman herself.[29]

The Origins of the *Malsman*

In her dissertation, Ann Ighe discusses guardianship in the stead of the father from 1700 to 1860, based on the statute on guardianship from 1669, and by then legal guardianship was an integral part of the husband-and-wife dynamics in the whole kingdom.[30] In nineteenth-century Sweden, married women were automatically proclaimed minors, while unmarried women (maidens) from 1858 on could apply for emancipation at the age of 25. In 1884, unmarried women gained a general age of legal majority, which was set to 21 years of age. Not until 1921 was this extended to also include married women in Sweden, and legal

majority was thus no longer gendered.[31] Gendered guardianship and the legal incapacity of wives may thus seem like historical constants. This, however, is not the case.

To follow the history of the *malsman*, one has to go back to the regional laws predating MEL. There is no obvious equivalent to the paragraph in MEL putting a husband as his wife's *malsman* in any of the regional laws. However, there is a clear difference in how the concept is presented in the *Svealagar* compared with the *Götalagar* and the pattern repeats in practice.

In HL and UL—the former is based on the latter—the word "*malsman*" is not included anywhere in the text. In the section on marriage, there is no description of the hierarchy between husband and wife beyond the unequal ownership—wives owning one-third and husbands two-thirds of common property—stipulated in all rural laws. In UL, it reads as follows:

> Now a man [. . .] is asking marriage from the closest of kin, then the one who is the closest may decide on the marriage. He will marry the woman to the man, for honor and as wife, to half the bed, to locks and keys and to the legal third in all chattel and acquired property they may get, except gold and servants, and to all the law that is Uppland law, that Saint Erik the King gave.[32]

The passage in MEL placing the husband as his wife's *malsman* does not exist. Instead, this paragraph is followed by a description of inheritance, stipulating that if a husband and wife inherit their kin in both chattel and land, only the chattel should be counted as their common property. "Land is owned by the person who inherited it." When the law stipulated that the closest of kin should be the marriage guardian, both genders were taken into consideration. The father was the first and then the mother. If both parents were indisposed, the brother was next in line. After the brother, it was a sister as long as she had gotten married because "a maiden may not marry off a maiden."[33]

In SL, *malsman* can be found in one place—the chapter on manslaughter and the paragraph on manslaughter committed by minors or madmen. "If a minor slays a man [. . .], that slaying is fined with a manslaughter fine. If the minor's *malsman* tries to hide that slaying, he is to be prosecuted."[34]

This is the only occasion in which the *malsman* is mentioned in either of the *Svealagar*—a similar paragraph cannot be found in UL or HL.[35] The absence of the word in the law texts suggests that it was not a familiar concept in those regions and that the *malsman* system neither originated from nor was a part of the legal culture in the regions of northern Sweden. However, that the word was used with such readiness and without any further explanations in SL might suggest that the system was obvious to contemporaries at least in the Södermanland region—but only in

relation to minors. It should also be noted that SL belonged to the southernmost regions of the *Svealagar*, neighboring Östergötland. According to SL, only the father and the relatives on the father's side could act as marriage guardians.[36]

There is nothing in these paragraphs or elsewhere in the law suggesting that a husband filled the function of a guardian or was legally responsible for his wife. In the chapter on legal procedure in UL, however, there is one paragraph defining when women should testify. Most of these circumstances pertain to childbirth, children in general, or animals, but a woman should also be called to testify if her husband accused her of, for example, sorcery. After these stipulations, the responsibilities for women of different status were laid out.

> If a maiden stands accused, her father or next of kin shall fend for her. [. . .] Is a widow accused, she shall fend for herself for all things. So shall a farmer fend for his wife for all things that she is accused of except if there are witnesses and she is with witnesses tied.[37]

A wife who stood a trial with witnesses was to be prosecuted like "other men" and fined accordingly.[38] The responsibilities placed on a husband as the representative of his wife in UL are thus far from all-encompassing. Married women were quite literally positioned between maidens and widows.

Regardless of whether these stipulations were followed to the letter, they do show a drastically different view on married women from that found in the *Götalagar*. In the *Götalagar*, the wife was clearly perceived as lacking legal capacity. The most straightforward formulation is in the ÄVgL on thievery: "A woman is a minor; she can not be cut or hung for other than sorcery."[39]

The same paragraph specifies that the husband was responsible for his wife if she had been found to have stolen anything. The older version of *Västgötalagen*, dated to around 1220, does not contain the word *malsman* in any variation, though it is the only law that explicitly places the woman as *overmagha*—a minor. In the younger version of the law, from around 1290, the word occurs in one place—at the end of the chapter on thievery. In that paragraph, it is made clear that if a man has committed fornication, he is to be prosecuted by the *malsman* of the woman, and the *malsman* was her closest relative.[40] The paragraph is interesting in the sense that it introduces the word as denoting a legal guardian that was not the husband. Moreover, it is specified that the *malsman* should take two-thirds of the fines levied on the husband and that the wife was entitled to one-third. Though it may be seen as significant that she was entitled to anything at all—this does put her as a legal subject—her family was clearly considered the wounded party in such a case. YVgL also specifies that the woman is *overmagha*.[41]

ÖL does not put the wife as a minor quite as literally—it does so by stressing the position of the husband. According to ÖL, as soon as the woman was married, her husband was responsible for her.

> Now all the things that a woman does while she is unmarried, her marriage guardian should answer and pay the fines for. [. . .] Now that she has been wed by the church door and is married, then her husband is to seek and answer for her.[42]

This formulation in ÖL on the intermarital juridical hierarchy is the one most resembling the paragraph in MEL, though it was not in the chapter on marriage but in that on crimes. However, while many other paragraphs in MEL grant women capacity and cause an ambiguity in the view of married women's legal capacity, that is not the case in ÖL. On several occasions it is explicitly mentioned that a woman should always be represented by her *malsman*. In the chapter on legal procedure, for example, women were equaled to male minors and prohibited from participating in any legal actions. The paragraphs restricting women's participation are actually quite elaborate and leave very little doubt that women were not considered legally able.

> Now a woman may not take any oaths, nor a minor, for they shall have a *malsman* who will seek and answer for them—the next of kin on the father's side. [. . .] Further, a woman may not prosecute to the *ting* as that is for her *malsman* if he is within the country and the region. Is he not, then her next of kin within the country and region shall prosecute. Is she foreign, and has no next of kin, [. . .] then she shall have a *malsman* appointed.[43]

From ÖL we also get the notion that a woman should have a *malsman* in order to be respectable.[44] In the chapter on, among other things, theft, there are special provisions for a "loose woman" (Sw. *löska kona*), and she is defined as one lacking a *malsman* within the country or region. A loose woman had to testify for herself at the *ting*, and, interestingly enough, the legislators saw it as perfectly possible that such a woman had landed property. This means that her social status was not necessarily a defining factor. Once the woman had testified, the farmer was provided with a chance to pay her fines and take her as his own. If he chose not to, she had to take the punishment on her own hands.[45] Being a woman of ill repute seems to have been the only circumstance in which a woman could testify in Östergötland.

Given the frequency with which the word *malsman* is used in its various forms in ÖL, it is safe to say that it was in Östergötland that the system originated and was by far the most developed. The word can be found in more than twenty occasions in ÖL, compared with one in SL

and zero in the other *Svealagar*.[46] One issue that arises when trying to determine the provenance of the system is that one of the *Götalagar*, the *Tiohäradslagen*, is lost to us. Knowing if and how the system was portrayed in that law would have given an even better picture. Furthermore, the *malsman* system in ÖL is specifically aimed at women. If the *malsman* in SL was responsible for a minor of either gender, the guardian system described in ÖL was clearly gendered.

As previously mentioned, the word itself is not used in YVgL more than once and not at all in ÄVgL, and therefore the term as such cannot be said to have been a part of the legal culture in Västergötland. ÄVgL stands out in the sense that it stems from an older legal tradition than that of the other regional laws. Concerning women, the most significant aspect is that a daughter inherited only if there was no son.[47] In YVgL, a daughter is entitled to the third that daughters in other rural regions inherited. There are important updates made to YVgL, and the younger version of the law is hence more readily compared with the other regional laws.

What puts both ÄVgL and YVgL with ÖL, rather than with SL, is that, even though the word is not used, a gendered legal guardian system was clearly in place in the legislation, as women were minors. If a woman killed a man, her next of kin should be persecuted. The closest was the father—and after him a son or a brother. A potential husband is not mentioned at all, though presumably she could be married as her son was mentioned.[48] This paragraph gives the impression that a woman who committed a crime reversed to her native family—which would in that case be in clear opposition to the regulations in, for example, ÖL, in which the liability transferred from father to husband at marriage. It might also be that a father, brother, or son stepped in only if the husband was indisposed, indicating that the responsibility for the woman reversed to her native family when she became a widow.

In either case, the woman did not answer for her own crimes, and the person who was persecuted in her stead also had to take the punishment. The word for this in Västergötland was to act not as *malsman* but as *male mælæ*.[49] An exception seems to be if the husband accused the wife of fornication. There is nothing in the formulation indicating that someone else should answer in her stead to such an accusation—she should defend herself with seven lay assessors.[50]

A husband during the Middle Ages also had the legal right, or perhaps obligation, to physically correct his wife. Albeit it was punishable by law should he do it excessively, such provisions clearly communicate the hierarchy within marriage. In ÖL, excessive correction was if the woman would die: "Now he is advising her so harshly that she dies against his will, then he should be prosecuted as for manslaughter."[51]

In the regional laws, a husband also had the possibility to choose between paying fines, thus sparing his wife's life, or letting her take full

punishment if she was found guilty of a crime. This authority to condemn or acquit, effectively making the husband a judge over his wife, has been removed in MEL.

Anu Pylkkänen writes that the most central aspect concerning women's place in medieval legislation is that the regulations primarily pertained not to the rights of women but to the wants and needs of the collective, the kin group, and the household. She concludes that the *malsman* system was connected to control over the assets of the household vis-à-vis other families. In order to uphold such control, the authority to act had to be centralized and embodied by one person.[52] In one way, I agree with her: The laws clearly put collective, kin group, and household before the need of individuals. I would, however, want to add that this holds true regardless of gender.[53] Concerning the rest of her conclusions, I think they need certain amendment.

First and foremost, there was no cohesive *malsman* system in the time of the regional laws as it did not exist in the legislation north of Stockholm. Rather, we see great variation in the norms framing the hierarchy within a marriage, with some laws being significantly more approving of women as active agents. The idea that one man should represent the whole household was decidedly the rule in the southern laws but not at all as evident—if it even existed—in the northern. Instead, some of the *Svealagar* clearly held married women as competent to manage their own property and emphasized the separation of property.

Furthermore, the *malsman* in the regional laws has little to do with property management. He is primarily a legal representative, acting in the stead of a person not capable of partaking in legal actions (i.e., minor men or women of any status). As such, he was a legal guardian fulfilling what was also stated in MEL—seeking and answering for the woman. However, this was only the case in the *Götalagar* and not in the other regional laws.

The Husband as *Malsman* in Previous Research

Being a compromise between primarily ÖL and UL—regional laws with a completely disparate view on women's legal capacity—MEL came to be permeated by ambiguities. As if that was not enough, there were significant differences between law as text and law in practice. This has lead modern researchers to come up with several different views on coming of age for girls, the impact of marital status, and the connection to the *malsman* system.

Christine Ekholst writes that the idea that married women were minors is "misguiding" but does not further develop the repercussions.[54] Gabriella Bjarne Larsson concludes that married women could act independently under certain circumstances, and Johanna Andersson Reader writes that women were no longer minors once married but that "women's legal

majority did not mean the same as men's majority."[55] Though neither the scope of the *malsman*'s authority nor its impact on female agency has been thoroughly considered, previous research has raised little doubt that there is a connection between female subordination and the *malsman* system. This connection I will challenge.

Anu Pylkkänen has concluded, based on seventeenth-century Finnish sources and the law codes, that a *malsman* had only the right to speak for others who did not have that possibility themselves. He was, as such, not a legal guardian but a spokesman or representative. Girls, just as boys, gained legal majority at the age of 15, but husbands had the right to manage all the property belonging to the household.[56] Pylkkänen also argues that the economic responsibilities were vested in the head of household—the *bonde*—but that this position was disconnected from the husband.[57] Hence, should the husband be unable to fulfill his duties, they were transferred to the wife.

Johanna Andersson Raeder concludes that women were no longer minors once married but that legal majority did not entail the same for a woman as it did for a man, as married women were still under '*målsmansskap*.' With the term *målsmansskap*, Andersson Raeder argues that the husband gained the right to manage the wife's property—a right that was by marriage transferred from the father to the husband. Andersson Raeder then explains female legal capacity as the possibility to shoulder the juridical and economical responsibility for the household in case the husband was unavailable.[58] Without referencing Pylkkänen, Andersson Raeder still comes to a very similar conclusion.[59]

Apart from that, Andersson Raeder considers marital status to be the decisive factor concerning women's legal capacity, and her analysis of what being a *malsman* entailed is closely related to that of Gabriela Bjarne Larsson. Both describe the position of *malsman* as merged with the position of head of household—contrary to Pylkkänen's stance.[60] According to Larsson, most women—albeit not all—had a *malsman*. In the words of Larsson, "Regardless of marital status, women in the medieval society seem in most cases to have had a *malsman* or a protector."[61] Mia Korpiola, on the other hand, writes that women were "only free of guardianship" as widows, indicating marital status as factor.[62]

These scholars all have slightly disparate views on what the relationship between a husband and wife entailed, but Pylkkänen is the only one who does not consider the defining frame as constituted by the *malsman* system. The complexity of this question stems from the fact that the answer is dependent on what a *malsman* actually was, which has thus far not been ascertained.[63] As long as the husband is always portrayed by scholars as the *malsman*, all married women were quite naturally under constant *malsman*ship since they all had husbands. This is presuming, of course, that being a *malsman* was something that all husbands

internalized and reenacted at all times rather than a position they filled only under certain circumstances.

In the Need of a Guardian

Though the prevailing view is that women's legal capacity was heavily curtailed by the *malsman* system, married women are generally not considered minors in modern research. So when did a child no longer need a guardian? What was the defining factor regarding the need of a guardian? And what was a minor? Medieval childhood is a steadily growing area of research with numerous works describing childhood from a large range of perspectives but geographically with a strong bias for England and France.[64]

From a Swedish perspective, childhood has been primarily researched based on hagiographic material, which of course can provide glimpses of contemporary views on childhood but fairly little on the juridical requirements for coming of age.[65] Mia Korpiola described marriage formation in her comprehensive thesis but from a juridical standpoint regarding the arrangements, rather than age or maturity, as a factor.[66] Judging by what others have written on the subject, there is no reason to assume that there existed only one all-encompassing age after which one went from child to adult—even for men. The same is true in Sweden today, where officially everyone under the age of 18 is a child, but, for example, procedural capacity is gained at age 15. There is also a constant yet indiscernible dimension of social maturity, which could be connected to both physical and mental maturity. This might include factors such as the right to bear arms for men or menstruation for women, but the connection to legal majority and maturity is very difficult to determine.[67] In the following, I will focus on the law.

In the laws, two types of children are mentioned—the maiden (Sw. *iumfrw*) and the minor (Sw. *overmagha*). According to *Kulturhistoriskt Lexikon för Nordisk Medeltid* (henceforth KLNM), the term *overmagha* was a word combining *formagha*—'to have power or authority to act'—and the privative prefix *o-*.[68] The meaning of the word would thus be a person who lacked the power or authority to act—for example, a legal minor. Göran Inger defines their minority as lacking procedural capacity and the right to appear in court.[69] In MEL, the *overmagha* is contrasted with the *iumfru*, indicating that the *overmagha* was a male minor. For the sake of linguistic simplicity, I will in the following refer to both of these as being minors, the opposite as 'having majority' and the process of gaining majority as coming of age—though, as we shall soon see, age was not always the determinant.

In the laws, legal minors and majority are primarily referenced alongside the *bördsrätt*. The *bördsrätt* was a preemptive right for the closest heirs to purchase property before it could be offered to someone outside

the kin group.[70] Since only heirs who had already gained majority had the legal capacity to speak regarding their preemptive rights, minor heirs posed a problem. This problem was solved by minor heirs containing the preemptive right until they came of age and could legally invoke it. In the chapter on ownership (*Eghnobalken*) in MEL it was stated that, should the heir—a minor or a maiden—be abroad, the heir had "day, night and year" to either repurchase the property or confirm the validity of the transaction that had already been made. This "day, night, and year" commenced once the heir returned, an *overmagha* turned 15 or a *iumfru* married.[71] According to the law, a married woman was thus given the same legal authority as a man.[72] "If the *bördaman* is a *iumfru*, she has the same day after getting married."[73]

However, many scholars suggest that the right to speak connected to marriage was transferred to the woman's *malsman*—the husband—and not internalized by the woman herself.[74] If this was the case, marriage meant no practical change to a woman's legal capacity—she would still be a minor with a legal capacity equaling that of an *overmagha*. The next section of that paragraph is a description of how the heir was supposed to claim the preemptive right, and this paragraph was written with only a male subject: "If he does not mind these days that our now said, he is parted from that land, and the one who has taken it, keeps it."[75]

However, the law code in general was written with a male subject that did not automatically exclude a female agent—it was merely based on a normative man. Therefore, the male subject of this paragraph does not serve to prove anything concerning the gender of the agent. Instead, the paragraph merely states that the ownership of the person who purchased was juridically secured after the time respite had been forfeited. This interpretation is confirmed by a subsequent paragraph in the same chapter regarding the disposing of someone else's property:

> No one has the power to sell a minor's land, a maiden's land, or a lunatic's land, or to trade it unless he trades for the better, and then so that once a minor comes of mature age, and a maiden when she is married, they have the power to keep that trade or not.[76]

If the previous paragraph was ambiguously written with a male subject and thus possibly indicating that only men—either in their own right as older than 15 or as husbands—gained a right to speak, this paragraph gives no such indications. Instead, it seems quite clear that, from a juridical standpoint, marriage gave women legal majority.

In the latter paragraph, the person abroad had been traded for the lunatic, implying that this paragraph is not about physical possibilities to attend to one's business but rather about mental capacities. As such, it connects legal capacity to sanity, and mental capacity as the lunatic is mentioned and compared to the minor and the maiden. Mental capacity

was integral to the medieval (and later) legal thinking, and confirming that one was indeed of sound mind when drawing charters belonged to formula.[77] As can be seen from the paragraph in MEL, a lunatic was always a lunatic and did not gain the right to speak.[78] The minor and the maiden, however, gained that right—the boy by turning 15 as stated earlier in the law and the girl by getting married—as they reached points of maturity.[79]

At this point, the child did no longer require a legal guardian.

Did Girls Gain Legal Majority?

The most important question in this context is whether or not girls actually gained legal majority. In the southern regional laws, they did not, while a grown woman was held equal to a man in the northern regional laws. In several paragraphs in the *Götalagar*, a woman is compared to an *overmagha*. While the male *overmagha* in MEL was usually paired with a maiden, the word used in the *Götalagar* is *kona*, meaning only 'woman.' For example, in the chapter dealing with wounds, thefts, and infidelity, it is stated that the same applies if the culprit is *overmagha* or a woman. Neither is responsible for his or her own crimes—the *malsman* is to take the oath.[80]

Such tendencies cannot be found in the *Svealagar*. In *Upplandslagen*, for example, there was a distinction made between grownups and minors in the following way: "Now a grown man or a woman puts their hand on the baptismal font, the fine is six *öre*. [. . .] If an *overmagha* does so, then [he or she][81] is not accountable."[82]

In the chapter on homicide, there is no equivalent in the *Svealagar* to the stipulations in the *Götalagar* regarding women. In the paragraphs were the deeds of an *overmagha* are treated, there is no mentioning of women at all.[83] Instead, women are mentioned in the other paragraphs as possible perpetrators or victims, liable for crimes in similar ways as men.[84] In the *Svealagar*, a grown woman is generally not portrayed as the female counterpart of an *overmagha*.[85] An *overmagha* is specified only as a person under the age of 15, which could theoretically be a gender-neutral specification.[86]

That being able to marry could have a dimension of maturity and skill is indicated in a letter from Stig Hansson to the regent Svante Nilsson, from the early sixteenth century, in which Stig answered a request for his daughter's hand.[87] He recounted how he had spoken to relatives on both sides, as well as to friends, and that they all agree that the daughter is still too "young and injudicious" to make a good wife. Therefore, the daughter should remain with her mother and be taught her chores and obligations for yet some time. The actual age of the daughter is not mentioned and cannot be determined, but it nonetheless is clear that being a good wife required certain mental maturity.[88]

A significantly earlier example of a girl's age and maturity influencing her capacity can be found in *Upplandslagen*. In the chapter on inheritance it is stated that, as long as the woman herself was present at her betrothal, only the bishop had the right to break the agreement.

> If a man betroths a woman [. . .] and is the woman not herself present at the betrothal, or has not come to sound mind or of age, she has the right with her next of kin to say no.[89]

Here, a woman has the authority to speak on her own behalf, albeit with her kin, even as a maiden.[90] However, it should be noted that marriage arrangements and the theoretically mandatory consent of the bride-to-be was an area of conflict between the local customs and canon law.[91] This paragraph should hence not be used to argue that medieval maidens had legal capacity. Instead, it reflects canon law's emphasis on consent in the marriage process and, more importantly to my topic, shows that both age and mental maturity could have bearing on the legal capacity of a girl.

The question of age can be traced also in practice even if there was not a general age of majority, as was the case for men.[92] In the charters, age is very rarely an issue for either gender, but it does occur. In a case of a maiden donating to the monastery in Alvastra, the district judge, Bengt, proclaimed that Ingegerd was more than 13 years of age and she donated "with her *malsman*'s will."[93] The legal implications of her age—which was specified not to exact years but only to more than 13—are uncertain. That her age in fact mattered is highly likely since it had been carefully noted, but since it is an isolated case, it might be a local tradition.

In canon law, the ages 12 for girls and 15 for boys marked the legal age to marry, and since marriage was integral to legal capacity, and 15 meant coming of age under MEL, it is possible that Ingegerd's being at least 13 had some bearing on the legality of the charter. A donation to a convent would also have been contracted under canon law or, at least, ecclesiastic law. However, Ingegerd does not seem to have been present at the *ting*, nor did she sign or seal any documents. This was all cared for by her *malsman*, who also approved her donation. Judging by this charter, Ingegerd might have had a certain fundamental right to donate based on age but not without her *malsman*. Alvastra is in Östergötland, from where the *malsman* system originated.

Based on this, there must not have been one generic way of coming of age as a girl in medieval Sweden by the mid-1300s. Even though MEL had marriage as the defining factor, it is very likely that a variety of factors—such as age and mental maturity—in reality were in play and that geography played a crucial role. Drawing upon the law texts, I suggest that women gained legal capacity by marrying and that the paragraphs in MEL did not ascertain that the right to speak transferred from the father

to the husband rather than to the wife. There were regional differences between the south (the *Götalagar*) and the north (the *Svealagar*), and the *Svealagar* represented newer legislation.[94] By 1350, and the construction of kingdom-wide legislation, the prevailing view of the legislators was that grown women had legal capacity. Hence, women acting in legal matters in the charters ought to be considered not as mere exceptions but in accordance with legislation.

However, since there was no age when women gained a legal persona, female legal capacity stemmed from the relationship between husband and wife and not from the woman herself. All the various female categorizations in the law—widows, wives, and maidens—placed women in a position relative to a man. This was also the case with respect to class.[95] For example, the grading of the morning gift that a newlywed wife received was based on the social class of the husband—not the wife.[96] That the status of a woman followed that of her husband and that this must have created a dependency are obvious. Even if girls became legally able when married, their agency drew upon that of their husbands.

Different Forms of Guardians

For medieval and early modern Sweden, Mia Korpiola distinguishes between two types of guardians—the marriage guardian and the legal guardian.[97] The marriage guardian (Sw. *giftoman*) was responsible for marrying off the daughters and the sons. Usually, the marriage guardian was the father—and according to the law "with mother's consent"—or a close male relative.[98] As discussed earlier, there was a difference between the *Svealagar* and the *Götalagar* concerning who was to be the *giftoman*; in the northern regions, women were allowed if a man was not available (wife after husband, sister after brother), but in the southern regions, only men were accepted.

Concerning the legal guardian (the *målsman* in Korpiola's text), Korpiola writes that it was a person who acted on the behalf of minors—"men under fifteen, women of all ages, and the insane [. . .] in most legal matters."[99] She further writes that the position as marriage guardian and legal guardian most commonly was held by the same person. The position as *giftoman* was an influential one as it entitled the person to choose the spouse of (primarily) daughters and thus to affect networks between families as well as how property connected to the formation of a marriage would be distributed.[100]

By the mid-fourteenth century, when this study begins, the influence of canon law, with its emphasis on free will and mutual consent of the couple, had eroded the importance of the *giftoman* but not dissolved it.[101] For the sake of this study, the position as *giftoman* will not be taken into consideration when it is not obviously merged with that of the *malsman*. That is to say, no deeper attempts will be made to untangle the complex

structures surrounding, for example, *morning gifts*, a procedure in which the *giftoman* would have played an important part as negotiator and representative of the girl's native family.

As Ann Ighe concludes in her discussion on the legal guardian in a general European historical context, legal guardian systems were based on a need for protection.[102] Though Ighe first and foremost focuses on the legal guardian as a replacement for the father, the protection aspect of guardianship is fundamental. Ighe separates this protection into two forms—protection of property and the protection of person, a commonplace distinction but nonetheless important.[103] This means that a person in need of protection can have two separate guardians with distinct functions or that—at least theoretically—a person can manage his own property but, for example, can be appointed a guardian *ad litem* (a guardian representing the ward in litigations).

Notes

1. See, for example, Ekholst 2009, 48–56, where there is a discussion on the problems with discerning medieval Swedish pronouns. Also Ekholst 2014, 12–15.
2. The exception is an article in *Historisk Tidskrift* in 1994, which is widely referenced in Swedish studies. However, the studies that are closest to the subject at hand, such as Larsson 2010 and Andersson Raeder 2011, do not reference the work of Pylkkänen on gender. Andersson Raeder references Pylkkänen (1996) on marriage and the kin group (2011, 56), but in Larsson it is missing.
3. See, for example, one of her few works in English, *Trapped in Equality—Women as Legal Persons in the Modernisation of Finnish Law* (2009), which examines the concept of equality in the time of modernization.
4. See, for example, Ekholst 2009; Larsson 2010; Charpentier Ljungqvist 2014.
5. The *ting* was not a regular court but an assembly. For stylistic purposes I use the word *ting* for instances inlcuding the *rådstuga*, unless otherwise mentioned.
6. See Ekholst 2009, 73; Inger 2011, 68.
7. MEL, *Köpmalabalken* III. "*Nu gör man köp a torghe.*"
8. MEL, *Byggningabalken* XIV. "*Leghe bonde man ællæ quinno* [. . .]."
9. MEL, *Giftobalken* IX. "*Nu ær bruþ heem kumin heel ok heelbrughþo, þa skal hon meþ bonda sinum i siæng ganga. þa þe naat haua saman lighat, þa ær han henna rætter malsman, ok agher sökia ok suara for hona; þa skal han henne morghongauo giua.*"
10. Pylkkänen 1991; Andersson 1996, 17–20.
11. Barron search term 'guardian.'
12. Ekholst 2014, 16–17; Vogt 2010; Hassan Jansson 2006.
13. Pajuoja 1991, 11; Vogt 2010, 51–52; Sjöholm 1988.
14. Inger 2011, 15–16.
15. On this, see Hassan Jansson 2006.
16. Sjöberg 1997, 48.
17. Andersson (1996, 25–26) points to the paradox that women's increased criminal liability is perceived as an improvement of women's situation.
18. Pajuoja 1991, 11–12. My translation.

19. Hassan Jansson 2006 and especially Hassan Jansson 2002.
20. Compare with what Andersson (1996, 35–36) has concluded regarding the view on women's capabilities based on the deliberations preceding the *Law of 1734*.
21. There is some indication that the Swedish *biltog* is not completely interchangable with the Swedish *fredlös*, to which 'outlaw' is the correct translation. In SDHK 9412 (1369), one man is sentenced *fredlös* and another *biltog* and there is decidedly a crucial difference.
22. MEL, *Edsöresbalken* XXVII.
23. MEL, *Edsöresbalken* XXXII. "*Nu ma ei kona eþzöre ebryta, þy æt hon ma ei biltogh vara*." The same applied to an underaged man. A similar stipulation remained in the updated law. KLR, *Edsöresbalken* XXXVI.
24. In the new law of 1734, women are included as potential perpertrators: "All who break the *edsöre*, man or woman, in the town or in the country side, will be fined one hundred *daler* and lose their honor." (*Hwar som edsöre bryter, man eller qwinna, i staden eller å landet, böte hundrade daler, och miste äran*.) *Missgärningsbalken* XXIII. Note also that the punishment no longer was outlawing.
25. Dalton and Appleby 2009, 46.
26. Dalton and Appleby 2009, 46.
27. This having been said, peace for women still exists today in modern Swedish legislation. Today, the main purpose of the law is to end men's violence against women, while the medieval version had a bigger focus on abduction and assault. See *Rapport från Sveriges domstolar*, 2001.
28. It is mentioned for example in 1364, when King Albrekt of Mecklenburg grants Hemming, Bishop of Åbo, the right to collect all fines adjudged the subjects in *Österland* ('eastern lands'—referring to Finland) on behalf of the king. This specifically included the *edsöre*: "*tamen racionem iuramenti nostri regii dicti edzøre*."
29. Korpiola 2009, 35.
30. Ighe 2007. See also Pylkkänen 1990, 66–76.
31. For other Nordic countries, see Dübeck 2003, 2005 (Denmark), Pylkkänen 1991, 2009 (Finland), and Sandvik 1992, 1999, 2005 (Norway).
32. UL, *Ärvdabalken* III. "*Nu [. . .] bebes giptæ mal aff skyldum mannum þa a þæn giptæ malum raþæ sum skyldæstær ær han a kono manni giptæ til heþær ok til husfru. ok til siæng halfræ. til lasæ ok nyklæ. ok til laghæ þriþiunx han a j lösörum ok han afflæ fa utæn gull ok hemæ hion ok til allæn þæn ræt ær uplænzk lagh æru. ok hin hælghi erikær kunungær gaff*." A similar paragraph can be found in VL, Ärvdabalken III. In UL, the section on marriage is merged with that on inheritance.
33. UL, "*Ärvdabalken* I. *ær æi faþir til. þa ær moþir. ær æi moþær til. þa ær broþir. ær æi broþir til. þa ær systir. æn hun gipt ær. æi ma mö. mö giptæ*." A similar paragraph can be found in VL, *Ärvdabalken* I.
34. SL, *Manhelgdsbalken* XVIII. "*Dræper owormaghi man* [. . .] *bötis þæt drap ater mæþ waþa botum. Will owormagha malsman þæt drap dyliæ söke þa hin in til hans*."
35. In UL, the person defending an *overmagha* is referred to as a defender. UL, *Manhelgdsbalken* XXI. "[. . .] *Nu vil wæriændi owermaghæns wæriæ han* [. . .]."
36. SL, *Giftobalken* I. "*Faþer wari giptarmaþer dotter sinnæ. Ær ei han til wari þa broþer. Ær ei broþer til. warin þa fæþernes frænder þe skylþastu með möþernes frændæ raþe þeræ næstu*."
37. UL, *Tingmålabalken* XI. "*giffs mö sak wæri hanæ faþir ællr frændær æ hwat sak hænni giffs hælzt. giffs ænkiu sak wæri sik. sialff fore allum sakum. wæri*

ok bonde husfru. sinnær wæriændi. fore allm sakum. hwat sak hænni giffs. utæn þæt se witnis mal. ok hun se mæþ witnum wiþ bundin."

38. UL, *Tingmålabalken* XI. "*biti swa hanæ witni sum andræ mæn. ok böte sak sinæ husfrun. æptir wiþær bandumin.*"
39. ÄVgL, *Tjuvabalken* V. "*Konæ ær ovormaghi hvn a eigh hug ok eigh hangæ utæn firi trolskap.*"
40. YVgL, *Tjuvabalken* XVIII. "*Gör maþer lægher ok þör han vsotter þa ma þet sökia til þriþiæ aruæ oc eig længer þa þyliæ böte vt VI marker ok þet skal vt sökiæ ræter kono malsmaþer ok eig annar. ok haui han tua löte ok hun þriþiung af botom.*"
41. YVgL, *Tjuvabalken* XXXIII. This paragraph contains the same stipulations as the one in ÄVgL.
42. ÖL, *Vådamål, såramål, hor, rån och stöld* XXVI. "*Nu alla þa saki sum kona gær mæþan hon ær ogipt þa suari hænna gipta man ælla böte firi hana. [. . .] Nu siþan uight ær firi kirkiu durum ok gift þa skal hænna husbonde baþe sökia ok suara firi hana.*"
43. ÖL, *Räfstebalken* XII. "*Nu ma egh kona eþ ganga ælla sea ælla ughurmaghi: þy at þön skulu mals man haua: sum suara skal firi þöm ok sökia: þæt a þæn gæra sum næstær ær þöm a fæþrinit. [. . .] Nu ma egh kunu þing stæmna þa skal hænna mals manne stæmna æn han ær innan lndzs ok lagh saghu. ær han egh sua: þa skal stæmna andrum hænna skyldum frænda innan landzs ok laghsaghu: ær hon utländzsk. ok aghær egh frændær [. . .] þa skal hænne stæmna ok biþia hana fa sik mals man [. . .] .*"
44. Similar notions existed in, for example, Lollard Communities. See McSheffrey 1995, 65.
45. ÖL, *Vådamål, såramål, hor, rån och stöld* XXXVII. "*Nu stial löska kona sum egh hauær mals man innan lands ok laghsaghu uarþær griþin mæþ: þa ma hana til þingx föra ok uitna sum skilt ær [. . .] Nu siþan löska kona ær uitnaþ: will bondin lösa hana til sin siþan mæþ þrim markum sum skilt ær. þa giui mark kununginum. mark hæræþinu: will egh bondin lösa hana. þa gange fram a þing firi kunungx soknaran ok sæti hanum þær kununa i hændær.*"
46. Helle Vogt discusses the provenance of the marriage guardian and suggests a possible distinction between what she refers to as East Swedish legislation and West Swedish legislation. The former bore similarities to Danish law; the latter, to Norwegian. Vogt draws upon Elsa Sjöholm and sees the reason for the discrepancies in the rules of inheritance "in areas where female inheritance rights were new, the maternal relatives had a weaker position [. . .]." Vogt 2010, 242–243; Sjöholm 123–129.
47. ÄVgL, *Ärvdabalken* I.
48. YVgL, *Dråpamålsbalken* XI "*Dræper konæ man. þa skal mælæ a mannen þen skylþæster ær hænnir. han skal botom wærþæ æller friþ flyæ. ær eig faþer til son æller broþer. þa taki þen skilþæstæ.*"
49. Compare with YVgL, *Ärvdabalken* VI, regarding who has the right to speak for the children in case their father died. "*[F]aþur broþer skal barnz male mælæ.*"
50. YVgL; *Giftobalken* VI.
51. ÖL, *Edsöresbalken* XVIII. "*Nu fa han raþa hænne of harþlika sua at hon fa döþ af gen hans uilia: þa skal han sökia sum framleþes skils firi drap [. . .].*" The husband also lost all rights to her property.
52. Pylkkänen 1990, 91–92.
53. In her article from 1991, Pylkkänen deos not gender this system but rather explains that it was devised for protecting the rights of the kin, albeit primarily through monitoring women in marriage. Pylkkänen 1991, 98.

54. Ekholst 2009, 69–70. My translation from *missvisande*. Andersson (1996, 37) concludes that the question whether women were minors or not is impossible to answer with a simple yes or no.
55. Larsson 2003; Andersson Raeder 2011, 53–54, "*men kvinnors myndighet innebar inte detsamma som mäns myndighet*."
56. Pylkkänen 1990, 70; 1991, 98–99.
57. Pylkkänen 1990, 91.
58. Andersson Raeder 2011, 54.
59. See also Andersson 1996, 29.
60. Compare with Ighe 2004, 221.
61. Larsson 2003, 109. My translation.
62. Korpiola 2005, 3; Andersson 1996, 25.
63. Pylkkänen is the one who has researched the subject the most, resulting in an article titled "Holouksen historiaa—Edusmiehyydestä huoltoon" 1991 ("The History of Guardianship—From Legal Representation to Care," my translation).
64. See, for example, Hanawalt 1995; Orme 2003; Heywood 2001. Anthologies include, for example, Classen 2005.
65. Krötzl 1989; Katajala-Peltomaa 2013; Österberg 2016.
66. Korpiola 2009.
67. Fifteen was the age of majority for a man according to the law, but as Mia Korpiola notes, this was "under normal circumstances" (Korpiola 2009, 23).
68. KLNM, search term *umagi*. This can be compared to the modern Swedish word *oförmåga*, a noun meaning 'inability' or 'incapacity.'
69. Inger 2011, 23.
70. The order in which one was to claim *bördsrätt* was similar to that in which one was to claim inheritance, but the *bördsrätt* stemmed from a person who at some point had owned the property even though that person was not necessarily the current owner. Inheritance came from the current owner. See, for example, Winberg 1985; Inger 2011, 41.
71. MEL, *Eghnobalken* VIII. The same applied if somebody wanted to trade the property of a maiden or a minor. MEL, *Eghnobalken*. XVIII. Even though men gained legal majority at a certain age and women did not, the age of around 15 ought to have been fairly comparable.
72. Pylkkänen 1990, 88. Barbara Hanawalt cites an agreement from 1408 regarding wardship, in which the children are entitled to their money once "they come of age, or, being female, marry." Hanawalt also emphasizes marriage as a transition rite into adulthood. See Hanawalt 2007, 49–52. Kim M. Philips (2003, 23–24) concludes that girls transited into a new kind of socially constructed maturity in their early teens.
73. MEL, *Eghnobalken* VIII, "*Ær iumfru byrþaman, haui hon sama dagh æfter þet hon gift ær*."
74. See, for example, Sjöberg 1997, 173; Winberg 1985, 107; Inger 2011, 23.
75. MEL, *Eghnobalken* VIII. "*Huar ei vacta þessa dagha sum nu æru saghþe, vari han skilder viþ þe iorþ, ok haui þen sum fangit hauer*."
76. MEL, *Eghnobalken* XVIII. "*Haui ængin vald ouormagha iorþ, iumfru iorþ ællæ vituillinga iorþ bort æt sæliæ, ok ei skifta vtan han skipte til bætra, ok þo sua æt þaghar ouormaghi komber til moghande alder, ok mö þa hon gift ær, haui þa vald huat þe vilia þet skipte halda ællæ ei*." A similar formulation can be found in MET *Jordhabalken* X.
77. Andersson (1996, 36) partially cites Clas Rålamb, president of Göta Supreme Court in 1679, and writes that "narrow rules were needed to restrict the

woman's actions 'so that the females' simplicity will be helped and their wastefullness hindered." My translation.

78. According to KLR, a lunatic could recover. "*tha ofuermagi komber til mogande alder, oc mö tha hon gipt warder, oc wituillinge withande warder*." KLR, *Jordhabalken* XVI. See also Pylkkänen 1991, 100.
79. This was a trait also found in older Roman law, through which boys gained basic pecuniary rights at that specific age. This age can also be connected to a capacity to carry arms and to work. See Pylkkänen 2005, 79; Andersson Reader 2011, 53–54.
80. ÖL, *Vådamål, såramål, hor och stöld* III. "*Nu uarþær kona ælla ughurmaghi i uaþa dræpin ælla dræpa þön i uaþa bötin sum för uar skilt æn fræls man hafþe þæt giort. utan þerra mals man fulle eþin firi þem.*"
81. The Swedish original has a gender-neutral formulation.
82. UL, *Kyrkobalken* XIV. "*Nu takær moghændi man. ællr konæ. hand. i. fontkar böte sæx öræ. [. . .] giör owormaghi swa wæri saklöst.*"
83. See, for example, UL, *Manhelgdsbalken* II. "*Dræpær owormaghi man þæn minnæ ær æn fæmptæn aræ. hwariulund han dræpær han. wæri þæt waþæ bot. hwariu lund þæt til kom.*" HL, *Manhelgdsbalken* II. *Dræper owormaghi man. þæn minnæ ær æn XII. ara. æller sarghær. gialdi halwm gialdum.* [. . .] *Nu kan man galin warþa. þa sculu frænder hans þæt liusæ foræ sok* [. . .]." Also, HL, *Manhelgdsbalken* VIII. SmL, *Manhelgdsbalken* II.
84. UL, *Manhelgdsbalken* XLIX, "*hwar staþ þær konæ stiæl. fylghi swa þem þiuffnæþ sum allum andrum. ok konæ taki slik giæld sum man.*"
85. The exception is in *Edsöresbalken*, in which it is stated that neither women nor *overmagha* may be outlawed. HL *Edsöresbalken* V; SmL, *Edsöresbalken* VIII.
86. See, for example, UL, *Jordabalken* IV, 5. "*owormaghæ. þöm sum minnæ ær æn fæmptæn aræ.*" In HL, the *overmagha* is under 12. HL, *Manhelgdsbalken* II. SmL, *Manhelgdsbalken* XVIII.
87. SDHK 33930.
88. Among the high nobility in, for example, England and France, marriage was a way to secure political and economical interests and the brides could be very young. However, most marriages with young brides were consummated only once the bride was a bit older, and some young brides lived apart from their husbands and could have a tutor until they became adults rather than childern. In such cases, marriage did not mark a transition into adulthood, but in Scandinavia people tended to marry only in their late teens or early twenties. Furthermore, Sweden did not have a noble class of the same kind as in England and France during the Middle Ages. See, for example, Bardsley 2007, 96–99; Pylkkänen 2005.
89. UL, *Ärvdabalken* I. A similar paragraph can be found in HL, *Ärvdabalken* I. "*Fæstir man kono. ær wiþær faþir ællær frændær þer næstu. ær æi kona siælff a fæstningæ stæmpnu. ællr ær æi til wiz komin. ællr aldærs. aghi wald mæþ frændum sinum ne gen sighiæ.*" If the maiden had been present, only the bishop could dissolve the union.
90. Korpiola 2009, 186.
91. For more on this conflict, see Korpiola 2009. Also Korpiola 2005.
92. Gabriella Bjarne Larsson writes that women under Norwegian law gained legal majority at the age of 20, based on *Magnus Lagabøte's Law* from 1274, *Arvebolk* II. However, in that paragraph it is merely stated that the woman had the right to choose her spouse after turning 20. In the Norwegian regional laws, the general age of majority was 15.
93. SDHK 7855.

94. Letto-Vanamo 1991, 28.
95. Sjöberg 1997, 166–167.
96. MEL, *Giftobalken* X. According to MET, the morning gift should be "four marks and 20 Swedish *penningar* and not more" (*Morghongaffwo hwar som giffuer brwdh sinne, skal wara fyra marker ok tiughu swænska pæninga, mera eig*). MET, *Giftobalken* IX. For the morning gift, see Peterson 1973.
97. Korpiola 2005.
98. MEL, *Giftobalken* I. Compare Lahtinen 2011, 254–255. The question of whether a mother could act as *giftoman* was raised during the dicsussions preceding the law of 1734. The conclusion was that a father and a mother could not have equal rights in this matter, since the wife was under the guardianship (*förmyndarskapp*) of her husband. Karlsson Sjögren 1999, 118–119.
99. Korpiola 2005, 3.
100. See especially Korpiola 2009; Karlsson Sjögren 1999; Andersson Lennström 1994, 64–68; Pylkkänen 1991, 80–97; Ighe 2007, 76–77.
101. Korpiola 2005, 3. Also Korpiola 2009. The *giftoman* remained in Swedish legislation until 1870.
102. Ighe 2005.
103. Ighe 2005.

2 Married Women and Legal Representation

In this part, I will discuss the norms and agency of married women when it came to legal representation. Given the context, representation means to partake in a legal act and is twofold: First, it could be to act in someone else's stead regardless of the situation.[1] That means that representation could be, for example, speaking for someone else at the *ting*, acting in someone else's function, or anything in between. Second, representation could mean to represent yourself, for example, coming to the *ting* and speaking for yourself. Theoretically, representation could also entail appearing for gatherings at other important places, such as the royal court or a bishop's residence.[2]

Representation in criminal cases is a key aspect as some medieval laws held the husband fully liable for the crimes of his wife—even to the extent that he was to take the punishments on her behalf. Representation is generally considered one of the two main tasks of the *malsman*.[3] As with other aspects of the *malsman* system, representation based on the law must be considered from two different angles—representation as a general function and incidences of men representing women. That representation was indeed a part of the *malsman* system is undoubtedly supported by the law text and the use of the term *malsman* in both MEL and KLR.[4] Some of these have left marks in the charters, as the place of issuance was usually noted, but there are no regulations of such procedures in the law texts. Hence, in the following, the focus will be on the *ting*.

The Norms

In Sweden, matters concerning the *ting* were collected in the *Tingmålabalken* (the equivalent for the towns was the *Rådstugubalken*). The chapter is primarily one of procedural law, describing when and how *tings* were held, who had authority, and the manner in which cases were to be brought forth and heard. However, the *Tingmålabalken* in MEL is inadequate for the modern reader as it contains fairly little information on common procedure. This was something that the legislators themselves intended to rectify with the update of 1442. In KLR, more than

half of the paragraphs in the *Tingmålabalken* are new, and they contain significantly more details.[5] Whether the new paragraphs in KLR reflect older legal practice already in use or a desire from the legislators to counteract regional differences in practice remains unknown. The following is largely based on KLR.

Before moving on, it must be mentioned that the medieval *ting* was not only a place for litigation—though litigation procedures are the focal point of *Tingmålabalken*—but also a social forum where all kinds of matters, ranging from taxes to landed property transactions to announcements, were dealt with.[6] Therefore, it is, at least theoretically, possible that women were allowed at the *ting* but excluded from certain procedures, such as taking oaths.[7]

Representing Yourself

Any description of judicial proceedings based on the law text quickly becomes a matter of gender because of the male subject. Previous research has described the *ting* as a place where (adult) men came to decide upon communal issues.[8] The subject in the law text is almost exclusively male and does pervade the idea that women did not belong at the *ting*; but as has been established, a male subject did not necessarily exclude a female agent. In order to determine the agency of married women, it is therefore crucial to consider women's place at the *ting*. For this purpose, we must first and foremost turn to women's procedural capacity. However, there are certain aspects of women's procedural capacity that must be addressed here because procedural capacity is not the same as criminal liability—the latter is but a small part of the former.

In their study *Civil Procedure in Sweden*, Ruth Bader Ginsburg and Anders Bruzelius differentiate between party capacity and procedural capacity based on the modern law. Anyone recognized "as capable of acquiring rights and incurring obligations in its own name has party capacity."[9] This means that even minors have party capacity. In a medieval setting, women had party capacity as they could partake in, for example, landed property transactions and had criminal liability—this is well established. Procedural capacity, however, is the right to represent yourself in legal matters, and that is what will be discussed here.

> An action brought in the name of or directed against a person lacking procedural capacity must be presented or opposed by one or more representatives; [. . .] guardians, custodians, or other like fiduciaries.[10]

The first aspect of women's procedural capacity that must be considered is whether women were even allowed to attend the *ting*. MEL is by no means unambiguous or conclusive concerning women's rights at the *ting*, if they even had any. It is clear that these meetings were of great

importance to society and that access to them in all likelihood affected a person's possibilities to participate in society at large.[11] In other countries in western Europe, women were not supposed to attend court or assemblies—places that may be compared to a Swedish *ting*.

In medieval England, for example, husband and wife became the same legal person under the rules of coverture. For the sake of the procedural capacity of the wife, coverture meant that she was incorporated in her husband's legal persona and therefore represented by him in court.[12] In the Italian cities, the *mundualdus* of Lombard law required that women were represented by their guardians.[13] However, even in these places—where law was significantly better developed—the systems were not as rigid in practice as they appear in legislation. Widows could sometimes choose their *mundualdus*, there were substantial differences between different Italian city-states[14], and English women did in fact sometimes appear at court in practice.[15] What is striking with coverture is that the system did not disallow all females because of their gender—only wives (because of the nature of marriage). An unmarried woman could thus have legal capacities that married women were stripped of. These women were referred to as *femme sole*, and in practice, it was possible for a married woman to register as a *femme sole* in certain cases too.[16]

In KLR, there is a distinction made between litigation concerning landed property (Sw. *iorda gotz*) or something else (Sw. *annor sak*). If landed property was involved, the defendant had "night and year to win it back, if he is able," thus both signifying the importance of landed property and reconnecting to the year-long respite that was a recurring theme already in MEL.[17] However, there were no stipulations regarding whether the owner was a minor in this case—a person who entered into litigation could not be a minor.

A person who was sued had an obligation to appear at the *ting* and defend himself. If he failed to do so on the next three *tings*, he was found guilty of whatever charges were laid against him and had to pay fines.[18] Certain things constituted legal hindrance—judicially approved reasons to not appear at the *ting* when summoned. Such things could be, for example, poor physical or mental health, service to the king, imprisonment, or absence from the country. Furthermore, it was stated that legal hindrance could entail the defendant's being a maiden or a minor whose *malsman* was abroad or simply out of the jurisdictional district in question.[19] This strongly suggests that a man who was no longer a minor and a woman who was no longer a maiden could be sued and had a legal obligation to appear in court. In effect, this means that women had not only party capacity but also procedural capacity.

Nonetheless, there were regulations concerning the 'fiery cross' (Sw. *budkavle*) in which women were specifically excluded and must therefore be addressed. The regulations in question are found in *Tingmålabalken* XXVII, where it was stated that "a widow may not carry the fiery cross

unless she has a son who is older than 15 years of age."[20] As the fiery cross was used to call to the *ting*, this can hardly be interpreted in any other way than that widows were not to attend *tings* in their own right and that a man who had reached legal majority was the one who should represent the whole household.[21] It is interesting that the paragraph concerns widows, as widowhood is often perceived as a requirement for female emancipation.[22] This paragraph indicates that a widow did not have the authority to represent herself or her household, but it also indicates the importance of motherhood as a category. It was by being a mother—not a widow—that the woman gained the agency in this case.[23]

However, it is important not to generalize too widely based on this paragraph, as the fiery cross discussed in this paragraph concerned only *tings* convened under extraordinary circumstances in case of certain grave crimes (such as thefts, manslaughter, adultery, or rape) and not *tings* in general.[24] Normal *tings* were held at regular intervals, and there is nothing in MEL explicitly prohibiting women from attending these. Even more importantly, this is one of the paragraphs that underwent considerable editing for KLR. The paragraph has been divided into smaller parts, distributed in connection to the appropriate crime. For example, if a murderer escaped to a church or a convent and was therefore not apprehended the same day, the county bailiff should immediately send out a fiery cross and call to *ting*.[25] The restriction on widows is missing. Answering why is highly speculative. It might have been obvious to everyone involved that widows were not permitted, and it was therefore redundant to include the restriction. On the other hand, it is equally possible that the stipulation—first found in the *Alsnö stadgar* from 1280[26]—was obsolete by 1442. Though building an argument based on a lack of evidence is to say the least very risky, I want to emphasize that there is nothing in either MEL or KLR (or their urban counterparts) denying grown women procedural capacity.[27] This becomes important when taking older legislation, as well as legislation from other European countries, and practice in medieval Sweden into account. Women in the southern regional laws were effectively stripped of their agency, but the intentions of the legislators around 1350, and 1442, were that wives should have not only party capacity but procedural capacity and be able to represent themselves.

Representing Someone Else

To be represented by someone else must be considered fairly standard during the Middle Ages, as distances could be long and traveling arduous at a time when legal procedure was based on physical presence. District judges often had representatives hearing cases at the *ting* in their stead, for example.[28] This may seem like an otiose remark, but for the subject at hand it is crucial. Representation was commonplace, and being represented did not per se indicate the authority of the person

being represented. Being the person representing someone—for example, speaking in someone else's stead or to abet someone as a witness—was a position of trust and required legal capacity and authority.

To have the authority to hold such a position of trust at the *ting*, a certain wealth was required as the law called for men with domicile, which was a recurring theme throughout the law text. How many such men were needed varied greatly. In order to prosecute, the plaintiff was to bring two men with domicile,[29] but a man who wanted to propose marriage should bring twelve if there were uncertainties regarding the legality of the union.[30] The difference between a person with domicile and one without is a recurring issue in the law texts, and in all the cases where the importance of domicile for a person's credibility is emphasized, the person is a man (Sw. *bolfast man*).[31] This purveys the idea that the authority to hold a position of trust at a *ting* was gendered.

To a certain extent, that holds true. It was stated in the law that "in all testimonials, all juries and all oaths, there should be '*bolfaste maen*,' " which shows that the ideal was that men, firmly established within the local community, administered law.[32] If women could represent themselves, they could not represent the system or someone else. Still, positions of trust could be of different kinds. For example, some of the positions were official functions—such as *nämndeman* (basically, jurymen) or *faste* (official witnesses)—and women could not hold office.[33] This conclusion is partly based on the law text but even more so on the total lack of female jurymen or *fastar* in practice.

Another kind of position could be acting as a normal witness. Göran Inger concludes that it became legal for women to act as witnesses in court only in 1697, but this decidedly requires emendation.[34] Women could act as witnesses already according to some of the regional laws,[35] though many scholars underscore that female witnesses were restricted to areas connected to femininity, such as childbirth.[36] In practice, women witnessed in all kinds of cases well before 1697, though—as we shall see—female witnesses were very scarce during the time in question here.[37] Hence, women did not have the authority—regardless of wealth—to represent the system or hold a position of trust as a *bolfast man*. Nonetheless, women could act as witnesses to specific cases.

In some of the regional laws, women being represented by men are more readily distinguished as the representation is explicit. For example, in the *Östgötalagen* it is stated that if a woman causes wounds she "may not witness to the wounds" as "her *malsman* shall sue for her."[38] This, however is not the case in MEL. In fact, the only paragraph explicitly stating that women should have representation is paragraph IX in *Giftobalken*, where it is stated that the husband is his wife's *malsman*.

There are other stipulations regarding representation in the kingdomwide legislation but without a gendered aspect. In *Konungsbalken* (the King's Chapter) it is stated that whoever renounces his right as a plaintiff has forfeited his right to compensation and that no one has the right to

take another man's cause as his own except in the way accounted for in the law. First of all, if such a way is indeed accounted for in the law, it is not easily found. It might be referring to the standard procedure in *Tingmålabalken*, but that is not sure. The updated version of MEL, KLR, has an extended version of this paragraph, which also happens to be one of the paragraphs actually containing the word *malsman*.

In the rubric defining what the paragraph was about, here is the description: "Anyone who gives the plaintiff right to someone else, and if someone makes themselves *malsman* in another's cause, whoever wishes to seek for another, is also answering for him."[39]

In the paragraph proper, it is explained that whoever made himself *malsman* in someone else's cause, unless it is done "with law," was to be fined 3 marks and repay the "rightful plaintiff" what damage might have been ensued upon him. Here, as in MEL, it remains unclear what it meant to represent someone "with law" as it is not explained what proper procedure concerning becoming a *malsman* in this context would be. It seems as if being a *malsman* "with law" did not entail being appointed *malsman* in a fashion specifically described by the law but rather being *malsman* with approval from the person represented—to lawfully speak in someone else's stead. Having a *malsman* in this context did not define the procedural capacity of the person being represented.

Even though the information on the correct way of representing someone in the law text is inadequate for a modern reader, some important pointers are still provided. First and foremost, to be a *malsman* was indeed to speak for someone at the *ting* as indicated by the use of the term in KLR. Second, though the paragraph is written with the male subject, it is not consistently gendered. The charters clearly show that, even if it may not have been against the law for a woman to represent a man or other women, the person speaking in someone else's stead was nearly always a man. That the paragraph is not gendered is more important when taking into account the person being represented—this could be a man or a woman. The position as *malsman* was held by a man.

The question of representation based on the law texts is challenging to answer as there is simply not enough detailed information. The kind of gendered representation, with women being represented by a man, that is perspicuous in the regional laws of the *Göta* region is absent in the kingdom-level laws. What remains, however, are certain paragraphs that allude to representation. Why? My suggestion is that the paragraphs mentioning the husband as the one appearing at the *ting* is a merger of older and newer law and a reflection of legal practice in some regions. If women in (at least some of) the regional laws did not have procedural capacity, and a functioning representational system therefore was in active use—which decidedly seems to have been the case—new laws granting women procedural capacity can hardly be expected to have an immediate effect.

The *Malsman* as Representative in Practice

Reflecting the multifariousness of legal representation in practice, the following will be composed of several different components ranging from the *ting* as a gendered space to the function of networks and kin. This is also partly due to the state of the sources. As there were no court protocols, constructing a relevant and credible picture of legal procedures and litigation requires a diversity of angles.

In previous research, women are often described as being represented by their *malsman*, and able to represent themselves only as widows or under very special circumstances.[40] Still, the charters contain enough women as primary agents to warrant a closer description of the *ting* as a gendered space and during what kind of proceedings women acted. Since property transactions are the most common form of charter, understanding the mechanics of the transactions is crucial to placing women and their possible representatives into context. I have chosen to make a division between the parts of a property transaction that required physical presence at the *ting* and the parts that had more to do with property management.

Other scholars maintain that the man responsible for—and thus representing—the woman was a close relative—a husband, a father, a son, or another next of kin.[41] The prevailing idea is that a woman moved from one family to another upon marriage and went from being under her father's guardianship to under her husband's. This means that we must understand in what relationships and networks women—and to a certain extent their husbands—functioned in order to determine the influences and responsibilities of the counterparts.

Ting Proceedings and Procedural Law in Practice

It is a simple yet pivotal point that medieval law was centered on the *ting*. The *ting* has commonly been thought of as a place where free men gathered to administer justice. Still, very little is known about actual legal procedure in practice partly because the sources are scattered and scarce and partly because the laws have been interpreted as reflecting actual procedure.

The latest decade has seen an upsurge of research on *tings* in Scandinavia, but most of the focus lies on how to discover, date, and preserve *ting* sites from the perspective of the early Middle Ages rather than determining how law was administered at the sites.[42] It is beyond the scope of this study to further delve into this question, but certain aspects must be addressed.

The first aspect concerns the importance of the *ting* in the local community. The *tings* were not merely courts but places of power where decisions impacting the whole community—such as the boundaries of fields,

taxes, and dues—were made.[43] Access to the *ting* would have affected a person's possibilities of engaging in social life and be integral to a person's knowledge of law in an illiterate society.[44] The *ting* would be the primary place where people received information on the law and legal procedure. The second aspect, which requires further discussion, is the *ting* as a gendered space. Christine Ekholst, who has studied crime and gender in the medieval laws, writes that women were not allowed to represent themselves at the *ting* and that they should be represented by their guardian.[45] Given the importance of the *ting*, women's access to the space itself ought to have greatly impacted their legal capabilities and their knowledge of law.

The Ting as a Gendered Space

Concerning gender at the *ting*, regulations such as those prohibiting widows from carrying forth the fiery cross imply that the *ting* was indeed a gendered space; women and men were not considered equal participants. However, it is difficult to see any clear patterns in practice.

The *ting* was indisputably gendered in the sense that all officials were men. Women could not hold official positions such as bailiff or lawman or be in the panel of assessors. There are however some exceptions. Queens could, as they were married to the king, partake in the administration of justice. In 1425, Queen Philippa of Sweden together with the council settled a dispute between the dean in Strängnäs and the peasantry regarding payment of a tithe.[46] Such arrangements existed but were very unusual. They also say little about women's legal authority in general as queens per definition had an extraordinary position in society.

When it came to attending the *ting*, the gender-based exclusion was by no means as easily defined—if it at all existed. As was discussed previously, women had gained criminal liability by the time in question here, but most of the charters from this time pertain to landed property transactions. It is these transactions rather than the criminal cases that will demonstrate *ting* proceedings. To further develop the *ting* as a gendered space, we must first define what constituted a transaction and how that related to the *ting* and to women's actions.

Before moving on, it must be mentioned that even though the *ting* undoubtedly was an important place, law could be made in other places too. In towns, law was administered in the town hall (*rådstuga*), but the cases relating to town halls in the charters are very few.[47] Determining legal procedure in an urban setting from the charters is hence difficult. The earliest extant town court records (Sw. *tänkebok*) date from the latter half of the fifteenth century, and they are still waiting to be subjected to larger gender history studies.

Law could also be administered in the churchyard. For example, in 1431, Cecilia Filipsdotter, Nils Kurk's widow, stood by the church while

proclaiming that she had alienated property.[48] In a charter dated 1436, the vicar in Borgå proclaimed that he had on three occasions announced squire Jöns Danielsson's intention to sell at the *sockenstämma* during his time as priest in Halikko.[49] The *sockenstämm*a was a parish court supervised by the parish priest with roots dating back to the thirteenth century.[50] Significantly, later sources suggest a clear connection between *ting* proceedings and church services, and it is perfectly possible that churchyards could have been used as *ting* places or otherwise served as a form of legal administration space already during the Middle Ages. Such an interpretation is supported by, for instance, the fact that some corporal punishments were to be enforced in proximity to the church.

Given the number of charters issued at convents, monasteries, bishop residents, and castles, these places might also be considered spaces of legal administration. However, these were also places where scribes could generally be found, and it is difficult to determine if the places occur frequently for any other reason than access to scribes.[51]

Women's Procedural Capacity in Practice

Göran Inger describes the procedural law as consisting of two distinct forms of processes—oaths (*edgärdsmannaprocess*) and assessors (*nämndprocess*)—which indicates a focus on criminal law and litigation.[52] This definition of procedural law effectively denounces the possibility that women could partake as they were allowed neither as *edgärdsmän* nor as legal assessors. However, such a division does not reflect all the legal processes at the *ting* as most cases brought to the *ting* in practice concerned land rather than crimes. Medieval procedural law in Sweden must be understood as a significantly broader spectrum of processes that could incorporate, for example, a landed property transaction with its large variety of different oaths and rituals.[53] These oaths and rituals connected to landed property transactions were integral parts of legitimizing claims and had in practice a prominent place in procedural law.

This raises the major question of women's procedural capacity. To "seek and answer for"—the explicit task of a husband as *malsman*—implies a responsibility as litigator and representative at the *ting*, which excludes married women from taking part in litigation.[54] In combination with Inger's description of procedure, women would not have a place at the *ting*. I will first discuss women in relation to litigation and crime and thereafter proceed to other forms of *ting* procedures.

Women's Criminal Liability

It is generally acknowledged today that women were responsible for their own crimes, but the passage in the law regarding the subject is not easily interpreted.[55] Women were specifically mentioned in *Tingmålabalken*

concerning the payment of fines. Previous research on women and crime in medieval Sweden is primarily concerned with gendered differences drawn from the law text, and there are so far no studies on crime in the charters.[56] Women and men were not sentenced to the same punishments. For example, the capital punishment for women entailed being buried alive, while men were to be hanged.[57] Not only the punishments but also the crimes themselves were gendered. Women were perceived perpetrators in cases of minor thefts but not in robberies[58] and were the main subject when witchcraft was concerned.[59] Furthermore, the nature of violence was gendered. Violence as a way of discipline was a male prerogative in the sense that a husband could physically discipline his wife but not vice versa[60] (though women could discipline children and servants) and that socially endorsed violence was a male affair.[61] People were not equal before the law, but this was a disparity based not only on gender but also on social status.[62] Hence, it should be expected that women's crimes were not treated in the same way as those committed by men.

Criminal cases are very few in the charter material. The categories "Disputes" and "Verdicts" combined make up for less than one percent of the cases pertaining in any way to women. From the total (194), women were active parties in 127 cases. Most of these cases are somehow related to landed property disputes rather than actual crimes.[63] The reason for the very low rate of crimes should be sought in the nature of the material rather than in a medieval crime-free dream world. As soon as a crime had been settled, fines paid, and actions repented, there was no real incentive for preserving a charter. It was over and dealt with.[64]

Women, regardless of marital status, very rarely appear alone in criminal cases but are clearly intertwined in larger networks. In a later example, from 1504, Kristina Henriksdotter entered a settlement with the knight Nils Bosson, who was captain at Borgholm castle, after her husband and his brother had escaped from the castle.[65] As compensation she gave Nils her property in Örberga. Not only was she married, but she also acted on behalf of her husband and his brother and did so by using her property as payment. She acted on her own in the sense that her husband was not, for obvious reasons, available, but the liability was on her (conjugal) family and not on her personally.

In 1353, Bengt Agesson and his wife, Elisif, conveyed a property in Helgå to the crown as payment for a fine.[66] They needed a total of twelve *fastar* and explicitly chose three each, while the presiding sheriff chose six. An impressive list of crimes followed. The list starts with an explanation that the fines were imposed for "our full and obvious crime"[67] but then changes to first person.

> First, that I took from four farmers all their food [. . .], second that Magnus Jacobsson accused me, that I had collected from three farmers what was his father's belongings [. . .], third that [. . .] the king's

> open letter of sentence was not held. Then for many thefts and violations.[68]

What was first said to be their crimes were in reality Bengt's crimes, in which his wife seems to have had no part. Why was then was his wife involved? It is possible that they were her crimes, but they are described as his crimes as he was responsible for her, but based on the rest of the text in the charter—where his voice differs from hers—I find that highly unlikely. That she was present when the case was settled is shown by her appointing *fastar* herself. This also shows that she was present not merely as a silent audience but as an active agent in her own right. The most probable explanation for her involvement was that she was at least part owner of the property conveyed, which can be ascertained from the charter.

According to the law, both men and women should pay for their crimes with their own property, yet Elisif's involvement in her husband's trial suggests that this rule was not always followed, and Elisif was far from the only wife paying for her husband's crimes. In 1363, a woman called Margit conveyed her property for a homicide her husband had committed.[69] In 1367, Lars Lange and his wife, Kristin, paid for several imposed fines together.[70] In the case of Israel Birgersson's widow, who was not mentioned by name, she was sentenced to pay her husband's dues from a forfeited loan.[71]

On the other hand, Gregers Anundsson and his wife, Ingeborg Nilsdotter, received a fine jointly for a homicide committed against Karl Nilsson—her brother.[72] When paying fines or dues was concerned, it is difficult to see that the stipulation in the law regarding separate property was maintained in reality. Instead, fines and dues were paid on a household basis with women's property playing an important part. I interpret this as a sign of a view of the household as a unit and the couple as being in a companionship.[73] To this, we will return shortly, but first I want to extrapolate on women as active agents.

Cecilia Ulfsdotter (Ulvåsaätten) had for several years been involved in a conflict that had her, her husband, and their children on one side and Staffan Ulfsson, Harald Karlsson (Stubbe), Torkel Haraldsson (Gren), and Sten Haraldsson (Gren) on the other.[74] When she, after her husband's demise in 1377, entered into a settlement she did so with, among others, her brother Birger, the Jarl Erengisle Sunesson, and Sweden's Marshal Bo Jonsson (Grip)—all of them from the very top of society—by her side. The conflict concerned land that had unlawfully been withheld and shows not only how women—both as wives and as widows—could be deeply involved but also how they did not stand alone.[75] Cecilia was backed by both family and friends who had no immediate right to the land itself but who still supported her.

In this case, Cecilia was an active agent, taking part in the case in her own person. However, she was surrounded and supported by very

powerful men. It is impossible to say if there were, for example, any dimensions of coercion or pressure from the men, or if her word was as important as theirs. Such aspects are beyond what the sources reveal. Nonetheless, Cecilia's case shows how women could act, albeit within their network.[76] Women did not participate in disputes on their own, but neither did men. A case from 1427 is typical. It is a settlement between Hans Kröpelin and Finvid Jönsson witnessed and issued by a long row of prominent men.[77]

I have only found one case with a woman as perpetrator, and it is from outside the timeframe of this study. It is from a letter dated 1505, in which the vicar Nils complains that a woman called Elin had struck "a certain Ingrid" in the churchyard and other ways broken God's law.[78]

The lack of women perpetrators should in all likelihood be attributed to the nature of the sources. Once one moves into the times when proper court records were kept, women appear regularly.[79] Raisa Maria Toivo concludes that "women, like men, appeared in court actively and taking the initiative, not only as a result of having been accused of crimes."[80] Based on the charters, such a conclusion would be unfounded as there is simply not enough evidence to support it. In the database OM, ten percent of the charters are somehow related to crimes or disputes, which is significantly higher than the one percent in DW. Adding all charters concerning crimes and disputes from both databases gives active women a mere twenty-three percent, and as has already been discussed, most of these women acted alongside men. It is evident that men were significantly more involved in litigation, but why? How are these numbers to be explained?

One possible explanation is that women indeed lacked criminal liability and were not supposed to engage in litigation. The women who did so would then constitute exceptions to this rule. Two factors contradict such an interpretation. First and foremost, women did appear even in cases that could have been solved without their interaction. Elisif, Margit, Cecilia, and others apparently had men in their networks that potentially could have acted in their stead if the women lacked the legal ability on their own. I would therefore argue that these women acted because they were needed in the cases, not as a last resort when no men were available. Second, I have not found a record of a husband acting in his wife's stead. The low number of active women might be an effect of men acting in the stead of women without that being noted, but I find it highly unlikely.

Women Swearing Oaths and Partaking in Rituals

Oaths were an integral part of the medieval juridical system, and women were prohibited from taking oaths except in particular cases, such as witchcraft or childbirth.[81] But how should the concept of 'oath' be defined? Peter Habbe, drawing on Icelandic sagas, defines an oath as

"speech that holds the qualities of a ritual action."[82] Such a definition allows for including a number of procedures as oaths, and for the sake of determining women's procedural capacity, some of these must be further discussed.

The cases that specifically mention the swearing of oaths, or *edgärdsmän*, are few but do exist. One of them is a charter from 1363, in which a priest called Hemming and eight other men certified that they had been present at the *ting* and heard and seen when Lars Dansson and his *edgärdsmän* performed the oath adjudged Lars.[83]

Interestingly enough, there are several cases in which the legal assessors swore that their statement held true. It is written in formula, sometimes after the names of the twelve assessors: "They witnessed, tried and thereafter swore."[84] Though litigation by assessors was essentially different from litigation by *edgärdsmän*, both contained an element of oath swearing.[85] I have not found any women as either assessors or *edgärdsmän*. Such positions were clearly reserved for men only.

However, women could come to the *ting* in their own right and have the assessors try their case. In 1405, the knight Sten Bosson and lawman Klas Flemming held *räfsteting* and adjudged wife Ragnhild a brother's share in Hermansö.[86] The text reads: "Then Ragnhild pleaded with the court for a brother's share within Hermansö."[87]

The circumstances regarding her rights to Hermansö are obscure. A man called Abjörn had sold the share to Peter Röd and received payment in full, and it is possible that Peter was Ragnhild's husband and the "brother's share" referred to inheritance not on her side but on Abjörns side. It might be that Ragnhild was connected to Abjörn, but since he had lawfully sold the property and received payment, it seems more likely that the connection was through Peter. How (and if) they were related is unclear, but the case still shows a woman at the *ting*.

In 1413, Bishop Peter of Västerås and the subsidiary lawman Karl Störkersson passed a judgment in which a bathhouse (Sw. *badstuga*) was adjudged the widow Apollonia.[88] She had herself pleaded before the court, showing that the establishment was an inheritance passed to her from her late husband "with right and friendly transaction as the letter says, that the previously mentioned Apollonia carried forth and that was read in front of the presiding *ting*."[89]

The case was tried by the town council, council men, and mayors, who all confirmed Apollonia's testimony, after which the case was referred to the assessors who attested to Apollonias's "letter and proof," and the bathhouse was returned to her.

Women could be expected to come to the *ting*, at least when their own cases were concerned. In a charter from 1409 issued by Tord Petersson Bonde and Ture Bengtsson, they ruled that wife Kristin was to bring her proof with her to Stockholm to have it tried there.[90] In 1383, Påvel Gram declared that he would not confirm a transaction drawn by Birgitta

Tomasdotter (who was married at the time) until "she herself held on the handle at the ting."[91] Based on the text in the charters, women were indeed swearing the oaths and partaking in the rituals themselves, but the total number of cases is too small to make a stable statistic ground, and regardless of the formulation we cannot with certainty say that a man was not acting as representative.[92]

Nonetheless, women had procedural capacity, could bring evidence to court, and could have their case tried—even if they were married. Johannes Hellner has concluded that a wife

> was not incapable of the legal action in any other way than the husband was, should he want to alienate more property than what the laws allowed for with regards to his kin. She needed, in one word, no assistance for the legal action, merely consent to proceed with the same.[93]

Relationships and Networks

Older research has put a lot of effort into discerning different medieval families.[94] For the purpose of this study, several additional considerations must be made when determining relationships because even when a woman can be identified there are other factors affecting the interpretation, and these may pose problems. Her family network might certainly affect her ability to act, and knowledge of the family network can contextualize her actions, but factors such as age children and marital status could also play their part.

Determining Relations

First and foremost, it is very rare to know the age of the people involved. Although a woman's age was not relevant in the law text in the same way as a man's age was, it is quite possible that age had bearing on legal ability even for women.

Second, a married woman might have been married before and thus have linkage to other people mentioned in the charters. Under certain circumstances, her involvement in affairs might be primarily related to her position as a widow rather than to that of a wife. Johanna Andersson Raeder has shown that women of the nobility sought to remarry, and she has calculated remarriage at a frequency of sixty-six percent.[95] That a woman mentioned as married in the charters had been married before would hence not be exceptional.

Some charters were issued by a man alongside a woman identified in the charter as his wife. Other charters were issued by a man and a woman together without any explicit reference to their relation. Though it seems likely that these charters were indeed issued by a married couple, other reasons for them to act jointly cannot be excluded.

A charter from 1389 illustrates the problems. The document was issued by Sigmund Birgersson, Mikael Nilsson, Ingjelder Nilsson, and Astrid Jonsdotter.[96] They declare that they have given what they owned in certain crofts to the Church in Ingatorp for the soul of themselves as well as that of Lars Höök. Ingatorp is a small village in the south of Sweden with only a few hundred inhabitants today, and though it can be assumed that Sigmund, Mikael, Ingjelder, and Astrid had personal connections to the area and its church, neither them nor Lars Höök can be identified. They did not own any seals and were possibly what could be referred to as "common people."[97]

Nothing is mentioned in the charter concerning their mutual relationships. Judging by the patronymic, Mikael and Ingjelder were brothers, though Nils was such a common name that it is perfectly possible that they were not at all related. Judging by the order of the names, Ingjelder and Astrid were married, in which case she was part owner in property stemming from his side of the family if Mikael was in fact Ingjelder's brother. It is also perfectly possible they were all siblings but with different fathers or completely unrelated. This charter provides more questions than answers—none of which can be ascertained beyond vague guesses. The charter does, however, serve to prove two important points.

The first point is that name forms and orders are precarious tools in identifying people and especially their relationships. It should not be presumed that a woman issuing together with a man was married to him. The second point lies in this ambiguity. Astrid partook in the donation on equal terms with the others. Her participation is not circumscribed in any way, and gender cannot be concluded from the charter other than from the fact that Astrid is a female name.

Parenthood has been raised as a factor strongly affecting agency and will be discussed more thoroughly in the chapter on inheritance. For now, it should be noted that parenthood indeed was important but that establishing parenthood is very difficult. Johanna Andersson Raeder concludes that noble families had on average just above two children (high nobility, 2.3; lower nobility, 2.0) and that as many as one out of five marriages did not result in children at all.[98] As Andersson Raeder suggests, there was likely a substantial number of unrecorded children. For the sake of determining the effect of parenthood on women's agency, this complicates matters. Circumstances such as how many children were alive at a specific time, their relative age, and whether they all had the same father/mother cannot be ascertained. The only factor that can be taken into account is parenthood in general.[99]

If the sparse information on relations complicates determining women's marital status, the situation for determining men's marital status and mutual relationship is even worse. A man's agency was not strictly dependent on marital status; therefore, there was no inducement to note upon marital status. Furthermore, men and women outside the nobility

are practically impossible to place. Generally, if a relationship is not mentioned in the charter, it cannot be established. It follows that the only women who can have more factors than marriage included in the interpretations on their agency are from the higher strata.

Conjugal and Natal Families

The ninth paragraph in the *Giftermålsbalken* is generally considered to indicate a transfer of the responsibility of the woman from her father to her husband. Mia Korpiola writes:

> After this speech the cavalcade or procession from the bride's father's to her husband's house took place. This tradition was a public rite of passage, publicizing her transfer from her father's to her husband's authority.[100]

Marriage was a rite of passage both physically through patrilocality and ideologically through the creation of a new family. Based on the previously discussed different entities in which women were defined in the law, marriage also constituted a transfer from one legal entity to another—from maiden to wife.[101] In the following chapter, the focus will be on discussing the relationship between conjugal and native families and the position of a married woman as the bond between them.[102]

First of all, it must be noted that very little is known about the marriage patterns, even in the higher strata of society, and even less from the perspective of common people. Though certain aspects of marriage formation such as the age of both bride and groom remain unknown because of the sparse source material, it is nonetheless clear that marriage had both social and economic impact on everyone involved. Mia Korpiola has very thoroughly described the process of marriage formation and how local customs competed with canon law. She has highlighted the persistence of local customs and emphasized the importance of controlling marriage formation.[103] Johanna Andersson Raeder's extensive study of the demography of the Swedish late medieval nobility is based on a database she has developed from information in ÄSF and reconstructs more than 900 families. She has concluded that there was potential economic gain for widows in remarrying and that matrimony was the preferred state.[104]

Concerning the transfer of authority over the woman, the law text seems to support the idea of authority being transferred from father to husband upon marriage, and marriage undoubtedly established a new order. However, the patterns discerned in the charters strongly suggest that the ties between conjugal and natal family were very complex and that the new order by no means was self-evident. In fact, conjugal and native family recurrently interacted.

The word used in Swedish is *magh*, which could mean either brother-in-law or son-in-law. In the following, I will use the word 'in-law' as synonymous with *magh*. I have not found any cases where the natal family would have dealt exclusively with any other in-laws.

In-Laws

There are at least twelve charters in which the husband participated in transactions made by the native family of his wife. This was the case in 1419, when the brothers Knut, Sigge, and Bengt Uddsöner (Vinstorpaätten) donated to the cathedral in Skara. Their brother-in-law, Johan Laurensson (married to Ragnhild Uddsdotter), sealed the charter together with them.[105] When Peter Svensson and Bengt Petersson in 1354 sold their common property, they did so together with Peter Grön, "who owns our sister."[106] In 1423, the bailiff Jon Dansson attested to a transaction made by the priest Birger Magnusson and affirmed by Birger's brothers-in-law and heirs.[107]

In neither of these cases did the wife partake in any way. She was the person through whom the connection between the families was made and through whom the husband gained access to authority over the property, but the husband could clearly act in her stead when the natal family was concerned without her explicit involvement. Instances of the brother- or son-in-law acting on behalf of his wife increase significantly in the early fifteenth century. It was also more common that the husband acted together with her brother(s) than with any other member of her natal family when she did not participate herself.

In the previously mentioned cases, gender seem to have had prime importance, but that was decidedly not a rule. In 1366, Cecilia Olofsdotter came to the *ting* in Stigtomta to announce that she had partly sold and partly traded her property with her son-in-law.[108] It is not evident from the charter whether he was present or not, but she was. Though the wife, Cecilia's daughter, was not mentioned, and gender therefore could have influenced the actions, there were no obvious obstacles to Cecilia's agency. In a similar case, from 1369, the knight Magnus Gislesson (Sparre av Aspnäs) and his wife, Birgitta Knutsdotter, donated to the convent in Vreta.[109] The donation was made with the explicit consent of the lawman Karl Ulfsson (Sparre av Tofta) and their sons-in-law. The daughters were not mentioned.[110] Hence, one married woman participated and sealed the charter alongside prominent men, yet two other married women were represented by their husbands.[111] Gender was a factor, but not always the decisive one. Age and maturity could overcome gender.

The connection between conjugal and natal family was created by the woman but upheld in practice by the couple. She was not just a link between the families, because she was transferred from one to the other, but through her the families became and remained intertwined, especially

if the couple had children. The in-law became a part of the wife's natal family and seems to have taken a position reminiscent to that of a child to his parents-in-law or a sibling to his brothers-in-law. For example, in 1414, Jöns Petersson in Stenstad affirmed his daughter's husband Olof as heir—Olof was to inherit a "brother's share."[112] Jöns and Olof had previously joined their properties, and Jöns wanted Olof to inherit as much as his son, Nils. In 1415, Lars Ingemarsson gave his daughter Agnes and her husband, Nisse Gjordsson, land.[113] The same year, Anund Hemmingsson and his wife, Katerina Ebbadotter, were accepted into the convent in Nydala together with their daughter and son-in-law.[114] When Katerina, in conjunction with their acceptance, made a donation for their souls, the charter was sealed by her, her husband, and her son-in-law—but not by her daughter.[115]

The husband of a daughter or sister could have extensive knowledge of the affairs of his wife's natal family.[116] This is exemplified by a charter issued in 1409, in which Sigrid Magnusdotter together with her son and son-in-law issued a confirmation regarding how her late husband had acquired certain land.[117] Sometimes, the son-in-law was the representative not only of the conjugal family but also of the natal family. For example, Fikke Grupendal was authorized by his mother-in-law to help her regain lost property.[118] In 1405, Bengta Bengtsdotter sold land to the archbishop Henrik in Uppsala with the consent of her children and her sons-in-law—but only the latter sealed the charter alongside her.[119]

The relationship between a woman's natal family and her husband was sometimes problematic. In a letter of judgment from 1409, Ingeborg Magnusdotter was requited for land that her son-in-law had unlawfully traded.[120] Exactly wherein the fault lay was not specified. In 1364, a dispute was settled between Peter Porse and his son-in-law Bo Jonsson (Grip).[121] Bo Jonsson was married to Margareta Petersdotter Porse, who had died in one of the earliest known caesareans while giving birth to Bo's child,[122] but the settlement concerned inheritance after Peter's mother, his siblings, and other relatives. The daughter was not specifically mentioned.

In most of the cases of husband and wife acting together concerning her natal family, the purpose was to consent to transactions. More rarely, they issued charters together with her family. A charter from Arboga, 1402, concerning the alienation of property opens with "I, Nils Gustavsson, knight, and I, Birger Karlsson, who owns the aforementioned Nils' sister Ingrid, and I, the aforementioned Ingrid, and I, Kristina, the aforementioned Nils' sister [. . .]."[123] The charter was thus issued by a brother, his two sisters, and one brother-in-law, and they all attached their seals to it.

In a charter from 1422, Ingrid Magnusdotter and her daughter Katrin Mårtensdotter partly sold and partly donated property to the cathedral in Uppsala.[124] Since neither of them owned a seal, Katrin's husband sealed the charter in her stead, while a canon in Uppsala sealed instead of

Ingrid. Attached to the same charter is a power of attorney (Sw. *fullmakt*) granted by Katrin the same day for the bailiff to complete the transaction at the *ting*.[125] Her husband sealed this charter as well.

The Kin Group

In previous research, the separation of the family lines and the importance of blood relations are often emphasized. Göran Inger describes the evolution of family law as especially dependent on kin affiliation and concludes that "kin, consisting of the closest blood relations on both male and female lines, had its primary significance in the legal protection it provided its members."[126] Based on the law text, the emphasis on blood relations is quite understandable as the concept permeates the codes. For example, should a bride die before she reached the home of her groom, her body was to be returned to her family.[127] This is a very physical manifestation of the transfer from one family to another and how it could be terminated.

Another aspect of the law that denotes the importance of blood kin and the separation of lines was the *bördsrätt*—the preemptive right for the closest heir to purchase property offered for sale. The *bördsrätt* was decidedly upheld in practice as it was invoked in several charters. For example, when Peter Olofsson in 1374 sold his wife's property—with her consent—he did so after the land had been openly offered her kin for more than two years.[128] Jakob Fust in Skänninge stated that his lot had been "lawfully offered at Skänninge town hall for kin and next to purchase."[129] People also tended to specify through which line—mother's or father's—that they had inherited land since this had a bearing on whom the land was to be offered and who might invoke their *bördsrätt*. Since it is only possible to determine where the property came from, when it was in fact mentioned, it is impossible to estimate the frequency with which people specified the land. The times they potentially did not specify the lineage are hidden. However, it was noted often enough for it to be fair to assume it was common practice. Separation of property and blood relations was of great significance in both legal doctrine and practice.[130]

Considering what has already been discussed, explaining the actions of in-laws is precarious. The patterns discerned are few and irregular. What can be said is that, even though the woman had moved—physically and juridically—to a new family, she nonetheless retained a position in her natal family. The fact that kinship was counted bilaterally in medieval Sweden might at least partly explain this.[131] As is shown by the level of involvement from her husband, this position granted her conjugal family some authority in the business of her natal family. How is that authority to be interpreted?

The husband acted on behalf of his wife to a far larger extent when her natal family was concerned than if the couple had affairs with

other parties. This could indicate that, as long as her family was aware of what was going on, her explicit participation was unnecessary. It could also indicate that the authority previously vested in the father was indeed transferred to the husband and that he acted as guardian. This, again, is contradicted by the cases in which husband and wife acted together. If he was her guardian acting together with her family, her participation would be obsolete unless some authority in fact was her own.

A knowledgeable in-law assisting in the affairs of the natal family could very well be an asset, for example, in disputes. This is supported not only by the actions of in-laws but especially by the actions of the natal family—by, for example, bequests.

Drawing upon cultural anthropology and David Kertzer's conclusion that kinship must be studied in much broader terms, Lynne Bowdon emphasizes the "need to move away from the primacy of the biological and the affinal toward a notion of networks of relations that are informed by moral and affective concepts of reciprocity."[132] I suggest it is in such a context that the relationship between natal family and conjugal family should be understood. The in-law became a part of the kin group through his relationship with a daughter or a sister.[133] Kinship did not have to be based on blood.[134] This leads us to yet one more form of relationship—the professional.

Professional Relationships

Most of the women in the charters did not have professions in the way that men did. Men participated based on their professional positions as, for example, members of a council, craftsmen, traders, or assessors, and these were all professions that women were at least officially barred from. However, women still maintained professional relationships—relationships based on societal positions, service, and actions rather than kinship. For example, when Ramborg Karlsdotter (Oxhuvud) in 1369 drew up her last will, she did so in the presence of, among others, brother Nils from the convent in Linköping, the pious wives Botild and Katarina—nuns in Askeby—and the "women in her household that are by her daily."[135] One might very well argue that Botild and Katarina participated because of their professions as nuns and that this would be one more professional relationship.[136] In any case, the nuns as well as the women in the household were present as witnesses to legitimize the charter—Ramborg trusted them. Furthermore, the women were there based on their work rather than their blood relations to Ramborg.[137] However, none of these women (or even brother Nils) sealed the charter. The authority they might have had as trustworthy companions to Ramborg was not extended to sealing charters.[138] Ramborg was at the time married, and her husband, who was appointed executor, immediately commenced carrying out her will.[139]

More commonly, the professional relationships can be traced in gifts given to, for example, servants or other people who had been important to the benefactor. All the gifts given to servants are—for understandable reasons—from the higher strata of society. Though women burghers or farmers perhaps rewarded faithful servants with gifts, these gifts have not left traces in the charters. All the women on the giving side of a professional relationship were wealthy.

Women could also be on the receiving end of such gifts. It is likely that these women had a profession in the sense that they worked, but the details surrounding the arrangements were not mentioned, and none of the women can be identified. One such case was Johannes Westfal, who in 1368 gave a woman called Elin a farm for her faithful service.[140] The charter was sealed by Johannes and his brother, and nothing more is known about Elin, though it is tempting to think that Elin might have been much more than a servant to Johannes and that moving her to her own farm was a political strategy. Johannes was named bishop in Turku two years later.[141]

Another man of the cloth, Vicar Olof Botvidsson, bestowed a gift upon his housekeeper Valborg and her daughter Katarina,[142] and Lars Ulfsson in Sundby gave his servant Bengt Räv and Bengt's wife, Margareta Johansdotter, a farm. These two charters indicate that employment could involve a whole family (the term being used in its wider sense) rather than just one person and that women could benefit from these employments.[143] Valborg and her daughter Katarina benefited as the sole receivers, but Margareta benefited from her position as Bengt's wife. Valborg later sold her lot, called Fjärdingen in Uppsala, to the burgher Peter Nilsson, showing how her receiving a lot gave her the authority to also use it.[144]

Another category of charters in which professional relationships are portrayed is receipts. Receipts are in general quite uncommon, and it is a very small percentage of them that have been issued by women. However, when they do exist, they give valuable insight to how property was managed. For example, in 1368, Kristina Ivarsdotter gave her *syssloman* Nils full discharge since he had rendered an account for administration.[145] What exactly he had administered was not specified, but it was presumably landed property. A similar charter was issued in 1359 by Märta Sunesdotter, who gave Magnus Gunnarsson a receipt on his discharge for the time he had been in her service.[146] The most important point here is that women, both married and widowed, entered and entertained relationships based on other factors than blood. These relationships became part of greater networks that included women as not only nodes but also active agents.

Acting in Someone's Stead

Power of Attorney

The power of attorney is *fullmakt* in Swedish. The literal translation of the word is 'full power,' and the concept seems to have been quite broad during

the time in question. Most commonly, the power of attorney was incorporated into a transaction charter, and only rarely was a power of attorney issued separately. In both my database with women (DW) and that with only men (OM), there is a total of 472 charters explicitly giving power of attorney—either separately or incorporated in a transaction. In that number are also a few charters in which a person is specifically acting with a power of attorney. This means that from the total number of charters collected in both my databases, 5.8 percent contain a power of attorney.

There are certain clear trends in these charters. First and foremost, men are grossly overrepresented as receivers of these empowerments—almost all of the authorized agents are men. Partly, this can be explained by the fact that the person being authorized often was in an official position unavailable to women, such as that of bailiff. Partly too, being authorized to act on someone else's behalf was simply just a male prerogative.

Second, there are important variations over time. Even taking into consideration that there are more charters in total from the fifteenth century than from the fourteenth century, there is an increase in powers of attorney in the fifteenth century.[147] Toward the latter half of the period, giving the local bailiff a power of attorney incorporated in the transaction charter was becoming fairly standard.[148] Many times, the actual receiver of the authorization is not named—and perhaps not even known at the time of issuing—as it is clearly aimed at a function rather than an individual.[149]

Third, and further emphasizing the idea that an incorporated power of attorney was becoming standard, there is a slight increase in the number of active women over time. Though women issued power of attorney all through the period in question, they are more prone to doing so when the power of attorney is authorizing the bailiff to secure new ownership (*fastfara*) than in other matters. Women can be found as active agents in all positions in charters dealing with authorizing. Most commonly they issued the charter either alone[150] or together with their husband. The women issuing alone and whose marital status was mentioned were generally widows.

Women Authorizing Others

In many respects, these charters seem to accentuate what previous research has concluded on married women's legally abilities—married women were represented by their husbands and gained the authority to act on their own only as widows. However, the authorizing of someone to act on their behalf also shows some other interesting aspects. Some of the charters were commonplace, while other charters do not fit in the general pattern.

One commonplace aspect is that, when women issued a standardized power of attorney, they did so with the same formulation as a man. The bailiff—or whomever they authorized—was empowered to act as if the

woman was there herself. When Bengta Bengtsdotter (Oxenstierna)[151] sold her property to the archbishop in Uppsala, she authorized the bailiff in that county to act "as if I was myself present, to hold fast and with all the law of the land consign this estate for eternal ownership."[152] The power of attorney was thus issued so that the bailiff could act in the stead of Bengta—not in the stead of a male representative. At this point, it is worth pointing out that a person authorizing someone else must have certain authority in the first place.

More than attesting to women's authority however, this charter and many others like it attest to the complexity of the matter. Bengta was a widow at the time, which quite possibly gave her the authority to act, and the high rate of active widows indicates that marital status was a factor; widowhood, a trigger.

However, given that many women issued power of attorney without their marital status being further remarked upon, it seems unlikely that marital status was the defining factor for women's agency. Admittedly, the status might have been known to everyone involved and thus unnecessary to include, but for someone reading the charters many hundred years later, it is sometimes quite difficult to determine the status. One example of this is from 1412 when Katarina Johansdotter issued a power of attorney for Peter in Marma to act on her behalf. In the charter, Katarina refers to herself as the wife of Jöns Sigvidsson, and Jöns is not mentioned further. In this power of attorney, Peter was authorized to consign property to the cathedral in Uppsala and to ratify the charter at the *ting* "as my letter states."[153] Katarina issued the charter

> as I myself do not have the power to go to the *ting* and ratify it as is my wish. And what [Peter] so does with [the property] there, that I have authorized and empowered him on my behalf, as if I was present myself.[154]

Before returning to the husband, the Swedish word *mæktogh*—which is used twice in this charter—requires further discussion. First, Katarina states that she is not *mæktogh* to travel to the *ting*. Here, the word indicates ability or, as it is in the negative form, inability—the lack of power to act. The second time is when Katarina grants Peter the right to act and makes him *mæktogen oc mindhogan*. Here, the word implies that Peter is given authority—especially in combination with the word *mindhogan* from *myndig*, which signifies legal majority or potency.[155] It could be argued that Katarina is asking Peter to act in her stead because she, as a woman, does not have the authority to attend the *ting* in person. Speaking strongly against such an interpretation is that a person must have authority in order to authorize someone else. Power of attorney is issued between legally capable persons. Furthermore, the word *mæktogh* is used in other charters to denote either ability or authority.[156]

Returning to Katarina's husband, the first impression is that she was married as she refers to herself as someone's wife (instead of widow). Luckily, this specific transaction is preserved in three different charters from various stages. In the first one, from January 1412, Katarina donates the estate as a gift to the cathedral in Uppsala and refers to some other property donated for the establishment of a prebend together with her husband "when he was alive."[157] Thus, at the drawing of the next charter—the power of attorney—in September 1412, the husband was already deceased. That the husband was indeed deceased was not apparent to the editors of the printed *Diplomatarium Suecanum*, as they noted that the donation charter was attached to "an authorization issued by Katerina and her husband."[158]

In the last charter, from October 1412, the county bailiff gives Peter in Marma *fasta* on the land he transferred.[159] It is explicitly mentioned that Peter is acting on behalf of Katarina, "who was the wife of Jöns Sigvidsson." The wording is in past tense and thus alludes to the fact that she was no longer his wife, but not indubitably so. A more common formulation would be 'formerly the wife of' or 'the one who lives after.' Without the first charter, in which it was mentioned that the husband was deceased, we could not know. In the case of Katarina, her having been married to Jöns was of importance as it was consistently mentioned. In all likelihood, this was not a way for her to legitimize her actions, because the original donation was made as a benefit to them both. By acting as the representative of Katarina, Peter simultaneously acted as a representative for her deceased husband.

In other cases, the marital status remains unspecified.[160] There are, however, some women that were undoubtedly married. In 1405, Sigrid Bengtsdotter—who was at the time married to Nils Djäken—donated to the convent in Vadstena. As a part of the donation charter, she authorized the bailiff to give *fasta*. In this charter, the formulation that the bailiff may act as if she were there herself is missing. It is peculiar as it belonged to the general formula. As this is one of the few charters issued by a married woman without her husband (he gave consent and sealed the charter), it might at first seem as if there were certain restrictions in the power of attorney issued by married women. This can be compared to a charter from 1408 in which the abbess of Vadstena, Gerdeca, authorized the bailiff to give *fasta* but without assuming she would have been present.[161] However, Aremod Torkelsdotter—whose marital status is unknown—donated in 1409 with the same formulation,[162] and there are charters with men authorizing the bailiff in the same way.[163] Hence, the conclusion is that there were variations in the formula.[164]

Concerning married women, we must turn to the charters issued by husband and wife together. There are at least seventeen such charters, and only three of them[165] are from before 1406.[166] When husband and wife together authorized someone, it was to act on behalf of them both.

When Jösse Fogel and Margit Nilsdotter traded property with the cathedral in Strängnäs, they authorized the bailiff to give *fasta* to the cathedral, when the cathedral so wishes, "just as if we were ourselves present."[167] An almost identical formulation is found in the charter issued the same year by the knight Algot Magnusson (Sture) and his wife, Märta Bosdotter (Natt och dag).[168]

These formulations show that the bailiff was supposed to represent the wife and the husband as two separate individuals and that each had a legal persona of his or her own. If the husband was the only one with the authority, he would be the only one to authorize someone else. There are no such cases. This, of course, only shows that women had authority vested in their own person even when married, and there is no reason to interpret this as equality or as denoting that a woman's authority could match that of her husband. Wives having some form of legal authority does not mean that the relationship between husband and wife was not hierarchical and fundamentally unequal.

I want to give one more example of this from 1369.[169] It is primarily issued by Arvid Kettilsson, who states that he was suffering from a lengthy illness and therefore could not attend the *ting*. He wanted to add property to his previous morning gift to his wife, Ingegerd, and authorized the vicar to act in his stead. Ingegerd issued the latter half of the charter and authorized the same vicar to first receive the property in her stead and thereafter transfer it as a testamentary gift to the cathedral in Västerås. Both husband and wife sealed the charter. Husband and wife were clearly not the same juridical person, but each had a legal persona of his or her own. The legal authority to empower the vicar to act in her stead was with the wife and not with the husband.

Further emphasizing the authority women could have is a charter from 1420.[170] It is issued by Helena Jonsdotter. When donating property to the convent in Eskilstuna, she at the same time prohibited her brother[171] and other relatives, under the wrath of God, to deal with the property and underlined that she had never allowed them to do so.

> I make it known that I openly profess and affirm with this my open letter that I never made my brother [. . .], or any friends or heirs, that are mine, authorized on my behalf to alienate, sell or give my estate.[172]

This example shows that the authorizations women issued had important juridical implications. If a power of attorney from a woman had lesser value or was secondary because of her gender, it would not have been important for Helena to ensure that she had not authorized anyone. Likewise, acting without a power of attorney would not have any legal ramifications.[173] That women did in fact specifically authorize or deny authorization speaks to the legal importance of such actions. It must be

taken into account, however, that Helena Jonsdotter had an influential position. At the time, in 1420, she was a sister in the convent in Eskilstuna, and she was a widow. Both of these factors are already known to give women more power and authority.[174] Therefore, it is not possible to say whether women in the lower strata of society would have such legal authority based on this.

Women Being Authorized

Though they are very uncommon, there are preserved charters in which women are being authorized. The oldest one is from 1376.[175] It was issued by the lawman Bo Jonsson Grip as a part of a longer charter settling an inheritance dispute in which the children of Gunne Assarsson were given right to their inheritance.

> I grant the honorable woman wife Katarina Gerekedotter a power of attorney on behalf of her children to acquire this aforementioned estate. May it be so that this aforementioned estate is with law or other right withheld, then the aforementioned wife Katarina has the full authorization to take that estate in Altorp without repercussion.[176]

The other four cases I have found are from the fifteenth century. In all of them, the close relationship between the people involved is emphasized. In 1424, the council in Viborg wrote to the council in Reval confirming that the person carrying the letter—Katarina—had been authorized by her mother to receive the inheritance from Claus Rok, who had died in Reval.[177] The council assured that Katarina and her mother were not, as previously assumed, born out of wedlock and that the mother hence was the closest relative.

In 1429, Märta Knutsdotter gave her relative Botild Jönsdotter some property.[178] Within the same charter, Märta authorized Botild to do with the property as she wished and to govern it the way she saw fit. The authorization—which would strictly speaking not be needed if Botild was the new, irrefutable owner—was intended to assure that Botild had the necessary means to use the property for the sake of Märta's soul later. As such, Botild was not so much the owner as she was the curator.[179]

A charter issued by the squire Erik Petersson Puke in 1434 also contains a power of attorney.[180] Erik authorizes his sister, Bengta Petersdotter Puke, to collect compensation that Birgitta Magnusdotter Porse owed him for affairs with her late husband. The compensation was part of an inheritance that Erik was entitled to and was transferred to his sister Bengta after due procedure and payment. Both the women involved were widows at the time.

In 1442, the widow Birgitta Trottesdotter (Ekaätten) recalled a charter with a power of attorney previously issued for her daughter Ramborg

Kortsdotter.[181] Birgitta had given her seal to Ramborg in order for Ramborg to redeem an estate left by her late son, with the reservation that should Birgitta or any of her close family come into money, she would have the right to redeem the estate from Ramborg. However, to prevent any grudges between her children regarding the estate, she withdraws and 'kills' the power of attorney issued to Ramborg and takes the estate back. Birgitta had married Kort Görtz already before 1378 and must have been of significant age in 1442.[182]

It is interesting that in all the charters granting women power of attorney, there are other active women as well. Though it would be wrong to say that women were authorized to act only in women's affairs—all of these were juridical and economic affairs traditionally coded as male—it still implies that women had relationships with other women far beyond being nodes in men's networks. We don't know the age and marital status of most of the women, which means that two important factors remain unknown. Given the nature of the activity—being authorized to act on someone else's behalf—I am inclined to interpret these women as not very young and probably widows. There is, however, nothing to really support such an interpretation apart from the assumption that a respectable age and widowhood were prerequisites. That these factors were not marked upon in the charters suggests that they were in fact not prerequisites and that the personal relationships were more important.

The number of charters authorizing women is so low that drawing conclusions is difficult. It is significant that such charters even exist—that five of them have been preserved indicates that they were not unique. It is also safe to say that time had a bearing—four of the charters were issued during the last thirty years of my hundred-year timespan. Furthermore, none of the women were authorized to act at the *ting* or to represent someone they had only a casual relationship with. The authorizations were specific and kept in the family, and the women all had a personal interest in the case.

Dealing with Land That Is Not Your Own

As we have now seen examples of women authorizing others, and even of women being authorized, it may seem like women did indeed have legal authority on par with men. Some charters testify to that decisively not being the case.

One of them was issued in 1412 by a man called Lars Porse. In the charter, he authorized Holmsten Jonsson to act on his behalf regarding his wife's inherited estate.[183] Holmsten was chosen as the representative as he was related to the wife, but how they were related—or even the wife's name—is not mentioned. I have not been able to identify Lars Porse even though his seal has been preserved (his coat of arms were chevrons) and indicates he belonged to one of the Sparre families. At around the same

time, a Holmsten Jonsson was presiding county bailiff in Bråbo in north-eastern Östergötland,[184] but there is no way to ascertain that this was indeed the same person. Whatever actions Holmsten might have taken on behalf of Lars Porse have made no evident marks in the charters.[185]

There is a frustrating lack of information in this case, as neither of the people involved can be identified, and we have no knowledge on how the case proceeded. What it does show us is that a man could authorize someone to act on behalf of his wife, but we cannot ascertain that the wife was still alive—she might have been deceased already, and the husband was thus attempting to collect her property. It also signifies the importance of relatives in general and relatives on the right side of the family in particular. The woman's relatives did not lose contact with her and her affairs, because she got married—she was not assimilated into her marital family.

While this case shows how property transactions could be a male affair, I believe it mattered that this had to do with arranging inheritance. Lars Porse wrote that he had given Holmsten the full authority

> to speak upon and manage my wife's lawful [inheritance on both mother's and father's side] in Närke, whatever it may be, and hold that until the day that God wants me to come there and acquit the aforementioned Holmsten for his expenses.[186]

Lars also prohibited anyone else to deal with the case. I have only found three cases in which a husband authorized someone else to act on behalf of his wife.[187] That is not enough to make any decisive conclusions, though I think it is fair to say that a husband authorizing someone to deal with his wife's property was probably very unusual. There might also be factors connected to how the charters are preserved here. Dealing with the property of the family was usually kept between family members, and written authorization would therefore be abstruse. When such charters were drawn, they probably suffered the same fate as charters pertaining to crime—they filled a purpose for a significantly shorter time than charters bearing witness to a transaction, so the likelihood of their being preserved must thus have been much lower. Such argumentation, however, ought to have applied to power of attorney issued to women as well, and there are still more such cases preserved than cases with a husband's acting without the wife.

I cannot say with certainty that the wife was alive, so determining the scope of men's authority based on these charters is therefore precarious. If the wives were alive, these charters would be very clear cases of husbands willfully handling the property of the wife as that of his own. A deceased spouse and husbands acting on their own accord are issues we will return to in the next chapter. Here, it should be noted that it is possible to find an example of a wife authorizing an agent to act on her

behalf regarding the property of her husband. This happened in 1442, when Märta Bengtsdotter commissioned her son-in-law to prosecute regarding an estate that her husband had previously pawned.[188]

Judging by the number of power of attorney references, it was common to authorize someone else to act on your behalf in specific matters, such as giving *fasta* or receiving or delivering payment. It also becomes clear that you needed specific authorization to deal with land that was not your own and proof—preferably in writing—that you had received such authorization. The format of a power of attorney is always mentioned in the charters in written format—not oral.

Acting as Malsman

In the charters, there are two closely related words used to denote a legal guardian, *formyndare* and *malsman*, and I have sorted all of them into one category in the database.[189] In modern Swedish, they are synonyms mostly used about parents in relation to their underage children.[190] In medieval Swedish however, there are trends dependent on both geographical area and time. Of the ninety-three charters pertaining to either words for a legal representative or a function as legal guardian for a ward, fifty-eight are from the fourteenth century, and thirty-five are from the fifteenth century. Given that the total number of charters increased, this must be considered a significant decrease. While power of attorney and appointing someone to act on your behalf became more common with time, the legal guardians clearly declined.

Furthermore, there were geographical differences. It is difficult to determine where such borders would have run given the geographical mobility of especially the highest strata of society. Though noble families might have been centered on a certain area or estate, they frequently married all over the realm as well as into other adjoining kingdoms.[191] It is therefore reasonable to presume that the division between the *Götalagar*, in which women's position was based on the *malsman* system, and the *Svealagar*, which did not recognize a *malsman* system at all—in practice, it was dissolved with MEL. However, this does not seem to be the case. When sorting the charters according to the province in which they were issued, forty-one charters come from the Svea regions, and, of these, twelve were from Södermanland or Närke. Södermanland was the only province with a regional law mentioning the *malsman* beyond the Göta regions, and the regional law of Närke is now lost to us. That means that only twenty-nine charters were issued in what is now Finland, Hälsingland, the Stockholm area, Uppland, and so forth—areas that produced a lot of charters. There appears to have been some sort of border in legal practice above Strängnäs.

The word *malsman* was not in active use in the form of a legal guardian in the regions in which one of the *Svealagar* preceded MEL, except

under SL.[192] SL was, as has been discussed, the only one of the *Svealagar* that mentioned a *malsman*, but it was in relation to young children—not women. I will soon return to the charters mentioning the word *malsman*, but I will first give some older examples. Some of the oldest charters pertaining to legal guardians were written in Latin, which makes a linguistic comparison slightly challenging, but I still want to take one early example.

In 1351, several people relinquished the guardianship of the young boy Tideke to the sheriff in Dalarna.[193] The father, Guttorm Dagfindsson, had appointed them all guardians, and among them were (judging by patronymic) the boy's uncle, as well as two other men and their wives. At least one of the women was mentioned with patronymic, and it does not correspond with that of the father. What the relationships between the different people involved might have been remains unknown, but it is clear that married women could also be appointed guardians.

The few times that the word *malsman* was mentioned north of Strängnäs was in 1356, at the *ting* in Danderyd, and in 1375, by King Albrekt in Stockholm.[194] In both cases, the *malsman* was a guardian of a young girl. The first one was issued by the father in the family together with his son, his daughters, and the daughters' husbands as he was trading and buying land with Finvid Finvidsson (Frösviksätten). The father committed to reimbursing his two unmarried daughters or their *malsmän* in the future. The unmarried girls are clearly legally incapable and stand in contrast to the two married daughters, who both functioned as part issuers and sealed the charter. However, the married daughters do not seem to have the same legal authority as the son, as they were acting together with their husbands. This would be in concordance with previous studies describing the married woman as not a minor but as not legally able.[195]

The second charter, issued by King Albrekt, forbids Nils Gädda to act as the *malsman* of Olof Ingevaldsson's (unnamed) daughter or to in any way concern himself with either her or her assets, as someone else has been declared her lawful *malsman*.[196] These two charters show that the word itself was not unknown, at least not when it came to dealing with the property of children. If and how gender played a part is uncertain. It might be a coincidence that these children were girls.

One more charter, which stands out in the use of the word must be mentioned before moving on. It was issued at Tingvalla in the north of medieval Sweden in 1360.[197] In the charter, Jöns Algotsson proclaimed that he had been sent by the king (Magnus Eriksson) to settle some cases. He announced that he had adjudged Tore Birgersson and Elin Ulfsdotter the part of a stream that their parents had for ages used and owned as "attested to by all the *malsman* in the country and most of the folks that have knowledge thereof."[198] In this context, *malsman* does not have either of the two meanings we have seen before—spokesman or legal guardian. Instead, it seems to be a general word for people who might have a say in the case, as it would be in the later law, KLR.

South of Strängnäs and especially in the Göta regions, the word *malsman* was used frequently. With variations in spelling, the word can be found in twenty-six charters (three of which were issued in Södermanland and two in Närke). The *malsman* here is primarily the legal guardian that meets us in the regional laws from the area.

The *malsman* could be the legal guardian of a child of either gender. Olof Odstensson and his sister Ingeborg issued a charter in 1394 in which they confirmed a trade drawn by their now deceased *malsman*, Nils Botasson.[199] Several charters concern the Dansson brothers, Hemming, Jon, and Olof. Olof was the *malsman* of his two younger brothers when they were not yet of age.[200] A brother acting on behalf of a minor sibling is preserved in other charters too.[201] One of them was issued in Södermanland in 1379 when Karl Bengtsson arranged for parts of the siblings' inheritance to be divided even though they had not all come of age.

> For the sake of some of my sibling's inability—that are Nisse and Katrin—we could not divide our inherited property with such haste as the needs of some of our siblings demand, that have come to their right mind. For that, I hereby declare that I have given [my beloved brother-in-law and his wife, my beloved sister] all my part and all my aforementioned siblings' part—Nisse and Katrin for whom I am rightful *malsman*—in our estate in Simonsö.[202]

In 1406, Olof Bruddsson confirmed a gift made by Jöns Joarsson to the monastery in Alvastra.[203] He did so since the monastery did not have "a letter or proof" of the donation, and Olof was his children's rightful *malsman*. The children are not mentioned by name, and it is peculiar that Olof finds it necessary to clarify that he is his children's *malsman*—as a father he ought automatically to have such authority. In all likelihood, the answer lies in the (unknown) identity of Jöns Joarsson. Olof takes the chance to add benefactors as he confirmed the gift, thus including his mother-in-law, his wife, and her two maiden sisters, who were all deceased. Given the other benefactors, the gift came from the maternal side of the family. Jöns was perhaps a brother or father of the wife. It is also possible that Olof was not the biological father of the children and that he had married his wife as a widow. Both of these hypothetical scenarios would have required that Olof somehow justify his right to the property in question; through his children he would have legal rights to property on the maternal side.[204]

Sometimes, it is not possible to determine the age of the ward, and it is possible that the relationship between the *malsman* and the other person was not necessarily hierarchical but rather a matter of representation. For example, in 1368, Birger Jönsson traded property with two men acting as *malsman* for a Peter Botgersson.[205] Why Peter needed a *malsman*

remains unclear. His age is not given, and I have not managed to find him in any other cases.[206]

In other charters, it stands clear that the *malsman* did not represent a legal minor but that the function could be that of a representative. One example of this is when Bo Jonsson Grip together with the deputy lawman of Östergötland, Jon Upplänning, issued a charter after a *ting* in 1377.[207] In the charter, Svarte in Grindebo was found guilty of replacing a tenant from Bo Jonsson's estate and of desolating the farm and by that "making himself *malsman* where he was not."[208] Svarte had acted on somebody else's behalf without proper authorization. The following year, Svarte in Grindebo acted as *faste* at the *ting*, indicating that he was a trusted man at least in some circles.[209] In 1366, Anders in Hornby was found guilty of a similar offense.[210] Another example of the *malsman* as representative is from Skara, 1397, in which Lars Siggesson and Torsten Magga ratified a property transaction by the deceased Sigge Kambi. They did so expressively as the "rightful heirs and *malsmän*."[211]

I have not found any evidence of the *malsman* system being implemented north of Strängnäs. There is a possibility that this is simply an effect of the haphazardness of the preservation of the charters but given that the *malsman* is mentioned in twenty-six charters in the south, it seems unlikely that preservation is the explanation. Still, that the word *malsman* was not in active use does not mean that the concept of legal guardians did not exist. This becomes evident when other denominators for a guardian are taken into consideration.

A legal guardian system over children clearly existed throughout the realm, and there is evidence showing both married women as guardians[212] and children having an appointed legal guardian even when the mother was still alive.[213] When it comes to women acting as guardians, even for their own children, there are no obvious patterns in practice, and since there are so few charters with mothers as guardians, I do not have enough information to determine which factors might have played a part. Regional variations, as well as wealth and networks, are among the factors most likely to affect. Another factor is remarriage, which is often said to effectively end a mother's possibility to act as guardian.[214]

When taking the whole realm and the concept of guardianship rather than the specific word *malsman* into consideration, a very interesting distinction can be made. While the word *malsman* was in use in the Göta regions, the word used for a guardian in the Svea regions was more commonly *formyndare*—as implied by the regional laws.[215] This can be seen in, for example, a charter from Åbo, 1420, in which several knights and the lawman in Finland, Klas Fleming, passed judgment in an inheritance case.[216] Margareta Petersdotter was adjudged Ailo estate as substitute for her morning gift as there was no chattel. Her brother was the claimant on her behalf at the *ting* against Wigbrud, who was the *formyndare* of the heirs of her deceased husband.[217] In 1446, Gertrud Lydiksdotter, a

widow, sold property that her children had inherited from their father with "my and my children's *formyndare* advice and approval."[218] There are several other cases of this word being used for this capacity[219] spread over the whole period. Unlike a *malsman*, the word could also denote a representative of a convent or church.[220]

Margareta Petersdotter was represented in court by her brother, but there was no gendered vocabulary for his position as there was in the south of Sweden—the *formyndare* in that case was Wigbrud acting on behalf of heirs. Though one is tempted to say that this case shows that there was in fact a legal guardian system over women, albeit with a different vocabulary, even outside the Göta regions, such a position does not hold. There were plenty of women representing themselves, as has already been discussed, just as there were men representing male relatives. Hence, no such conclusions can be made from this particular case.

Women with Malsman

In the Göta regions, and especially in Östergötland, there was clearly a gendered guardianship embedded into the legal system. Apart from one case with a charter drawn in Närke, which stands out for other reasons too, the Göta region is the only one in which I have found grown women with a *malsman*.[221] We will, however, start with the exceptional case from Närke.

In 1410, Valborg Nilsdotter came to the *ting* in Sköllersta, close to Örebro, and asked to have a man named Holmsten Jonsson appointed *malsman* for her.[222] Holmsten was supposed to function as a procurator by managing Valborg's property and money, but in return he had also promised to make sure she had food and clothes. Holmsten received Valborg's farm, Gillberga, in Sköllersta parish.[223] Because of their arrangement and because she had given Holmsten a written confirmation sealed by her son, the county bailiff adjudged Holmsten to be her "*malsman* and defender" in accordance with her wishes.

The first thing Holmsten did as Valborg's *malsman* was to collect a debt. A man called Knut Nilsson owed Valborg money. In 1410, Knut was convicted to pay Holmsten the money or to swear himself free of such debts by twelve men's oath.[224] One year later, it became obvious that there was a serious dispute between Valborg and Knut as the deputy lawman in Närke, Harald Djäken, sentenced Knut Nilsson to repay Holmsten as the representative of Valborg.[225]

> Knut Nilsson had gone on horse to Holmsten Jonsson's farm Gillberga, that was lawfully and rightfully given to him, and had there with right larceny and full force taken out the things that wife Valborg Nilsdotter had given Holmsten Jonsson, her rightful *formyndare*, to keep and to hold.[226]

Since the law of the region is lost to us, it is impossible to say how the substance of it related to the surrounding regional laws—whether there was a *malsman* system in the law. Furthermore, by 1410, one would expect the regulations in MEL to be common knowledge to at least the lawmen and their substitutes. It is therefore possible that the *malsman* concept was received from MEL rather than already in existence in the area. That Valborg needed juridical assistance and protection was obvious given the trouble with Knut. We have no information on her age or her relations more than that she had a son old enough to have a seal of his own in 1410. She was probably not particularly young.[227]

Based on patronymic, it is possible that Knut was Valborg's brother—they were both children of a man called Nils—which could explain why they both had claims to the same property. On the other hand, Nils was such a common name that it is perfectly possible that they were not related at all.

I have chosen to put this case here with other cases of women with a *malsman* because of the indisputable fact that it concerns a woman with a *malsman*. However, since the regional law is lost and because of the special circumstances of the case, I am not convinced that it was a part of a general gendered guardianship system. This difference becomes even clearer when looking at the women who lived in the areas that actually had a strong gendered guardianship system in active use. Valborg chose her own *malsman*, and she did so by applying at the *ting*. The women discussed in the following had *malsmän* because it was a part of the juridical system—Valborg had one because she sorely needed a legal representative.

In the south, women needed a *malsman* because of their gender. For example, in Skänninge, in 1417, the widow Ingeborg traded with her son, Henrik Gudvastsson.[228] The trade was, according to Ingeborg, drawn "in the presence of the sheriff, the mayors and several good men with the approval of my *malsman* Anders Kanngjutare."[229] Her *malsman* also sealed the charter. In 1380, the sisters Ragnild and Sigrid Håkansdöttrar sold property to Bo Jonsson "with the approval from both our *malsmän*."[230] The *malsmän* of the sisters are not mentioned by name, and they did not seal the charter.

One more example is from Gertrud Bondedotter, who issued a charter in 1415.[231] Her husband had pawned (her) property, consisting of both chattels and land, to a Magnus Skräddare in order to buy a horse for 100 Swedish mark. Gertrud had herself received part of the value for at least some of the chattels. With her charter, she asked and encouraged first and foremost her *malsman* and then all other good men who hear her story to aid her and her heirs to recover some of the chattels—the farms she did not have money for.[232] Her *malsman* did not seal the charter.

Almost sixty years earlier, Sten Håkansson came to the *ting* in Kinnevalds härad in Värend.[233] He acted with "full authority" on behalf of

Kristina, previously married to Peter Bagge, with a wording identical to that of someone with power of attorney. However, it is also stated that in addition to this he was her *malsman*.[234] The charter is only preserved in a post-medieval transcript, which might explain the wording. In 1422, Kristin Klemetsdotter came together with her *malsman* Jöns Benasson to sell some of her property.[235]

All of these cases stem from the Göta region, in which the regional laws had a codified *malsman* system and women were not legally able. As has previously been discussed, the word itself was in active use in legal practice in the area and could denote both a legal representative acting on behalf of someone else and a legal guardian for a minor—a child.[236] In these examples, there is no other factor than gender that seems to matter. The two sisters mentioned might have been fairly young, and it is also theoretically possible that they were maidens—they were defined only as daughters and not as wives—but other women were widows. Hence, a respectable woman should have a *malsman*, regardless of marital status and age, also in practice.

Wealth might well be a factor, but there is not enough data to determine the impact. None of the women can be said to have been poor as they were property owners. However, Gertrud Bondedotter's situation was hardly enjoyable, and there is nothing suggesting that these women generally belonged to a certain strata within the group of landowners. Kristin Klemetsdotter's property was worth 40 mark *penningar*, but the widow Katarina, selling part of her inheritance and morning gift in 1402, had property worth 1,800 mark *penningar*—a substantial sum.[237]

Though widowhood as a form of golden age for women has been widely confuted, most studies still hold widows as the only women not under guardianship.[238] However, as this study shows, in the areas that had a *malsman* system as an integrated part of the legal culture even widows were included in the system. The *malsman* system pictured here is an all-encompassing gendered legal guardianship keeping women represented by a *malsman* in legal matters throughout their lifetime. As Gabriella Bjarne Larsson has concluded, "Regardless of marital status, women in the medieval society seem to in most cases have had a guardian or a protector."[239]

However, the geographical aspect is crucial, and the study by Larsson cited previously was limited to one jurisdictional district in the Göta region.[240] As I have shown, the *malsman* system derived from and belonged to the Göta region and can be traced to the regional laws. Hence, it will teach us more about the plurality of medieval Swedish law and the multiplicity of legal systems still in use in Sweden by 1450 than about women's legal capacity in general.

The two sisters Ragnild and Sigrid Håkansdöttrar in the previous example, for instance, did sell property without their *malsmän* being present or mentioned by name.[241] It is also obvious that MEL did not

introduce a *malsman* system on par with that of, for example, ÖL in the northern regions of Sweden, at least for the first one hundred years of MEL's existence.

So, what were the chores of the *malsman* vis-à-vis women in the Göta regions? It was primarily a formality—an intricate facet of the legal culture—that lingered on in some areas even well after women of a certain marital status according to MEL were supposedly legally capable.[242] Furthermore, the evidence in the charters clearly suggest that the *malsman* in fact had legal authority over the woman's actions. He was used as a way of legitimizing actions. The actions he had the right to legitimize seem to connect to both criminal liability and procedural capacity, as well as landed property transactions. However, the charter sample is too small to allow for any statistically verifiable conclusions.

Verifying women who came to the *ting* in Östergötland alone—without a *malsman*—is difficult, but one charter discusses the subject specifically. In 1440, the county bailiff[243] in Hanekind härad issued a charter regarding a property dispute in which wife Cecilia was one of the parties. "Then I asked the aforementioned wife Cecilia that she would come before me with her statements, or her representative."[244]

In the end, Cecilia sent a man called Smalse as her representative, and she lost the case because of lack of evidence. The case is interesting because of the use of a representative too, but Cecilia seems to have had representing herself as a valid option. This could be a sign of the disparity between MEL and older regional laws. As a person knowledgeable of the legal system allowing women to represent themselves, the bailiff suggested that wife Cecilia would come in person to the court, but in accordance with the traditions of her region, Cecilia sent a representative. Without more similar cases or contemporary discussions on legal practice, however, there is no way of telling with certainty.

Some researchers have discussed the difference between a *formyndare* and a *malsman*. Gudrun Andersson Lennström writes that these are two different concepts that must not be confused and that the *malsman*ship was a subordinate facet of the *formyndar* system. According to this, a married woman had a *malsman* representing her in, for example, court cases, while an unmarried woman had a *formyndare* who was a legal guardian.[245] Her main research area is the seventeenth and eighteenth centuries, and by then the meaning of the concepts had obviously changed.[246] In the mid-fifteenth century, the difference was primarily geographical. Still, her point regarding the effect on married women stands—married women did not have a *formyndare*.

Notes

1. *Oxford Dictionary of Law*, online edition, accessed March 2017, search term 'representation.'
2. This could be what later turned into political representation.

3. Pylkkänen 1991, 98; Ighe 2005, 2–3.
4. The task of the *malsman* in the law was to 'seek and answer,' which implies prosecuting and appearing as defendant for someone else. See also Schlyter 1877, search term '*målsman*.'
5. Compared to an overall twenty-five percent new material. Letto-Vanamo 1991, 30–31.
6. Småberg 2004, 48. In later centuries, the *ting* proceedings moved toward a professionalisation of the system and to dealing with disputes rather than with crime—athough both persisted. This is connected to the increased influence of the state. See Andersson 1998, 60–61.
7. Women were allowed at the *ting* even as audience at least in the early modern era, from which a significantly richer court material is available. Taussi Sjöberg 1996; Andersson 1998; Toivo 2008.
8. Letto-Vanamo 1991, 32.
9. Ginsburg and Bruzelius 1965, 193.
10. Ginsburg and Bruzelius 1965, 194.
11. "It could also be seen as an important step on the road to mature masculinity, a privilege which differentiated adult men from women and children." Jones 2006, 9; Småberg 2004, 48.
12. That this was in fact not always followed has been shown by Daniel Klerman, who argues that women themselves accounted for around a third of the cases prosecuted. Klerman 2002.
13. Kuehn 1994, 212–237.
14. Kuehn 1994, 237.
15. Müller 2013; Stevens 2013.
16. See, for example, Gastle 2004; Bennett 2006, 89–90. It was also possible to make a marriage settlement according to which a woman under couverture still regained the right to some of her property. See Erickson 1993, 103.
17. KLR, *Tingmålabalken* XIII. "*Ær thet iorda gotz the tretta om, tha nempne genast heredzhöffdinge tolff men aff tingeno som akæranden föra j gotzet, oc swaranden hawi sidan nath oc aar ath winna thet j geen om han kan meth ræt*."
18. KLR, *Tingmålabalken* XII. "*komber ey a tridhia tinge forfalla lös, wari tha feldhir ath howdsakine*." Letto-Vanamo 1991, 37.
19. KLR, *Tingmålabalken* XIV. "*om thet ær jomfru eller offuermagi och maalsman thera ey j landh eller laghsagu ær*."
20. MEL, *Tingmålabalken* XXVII. "*Ei skal ænkia buþkafla vp bæra, vtan hon haui son ældre æn femtan ara*."
21. As Mathias Cederholm states, the master's position as head of household was emphasized by this regulation. Cederholm 2007, 494–495.
22. Sjöberg sees widows as performing males, in accordance with the one-sex model, and Larsson builds on Sjöberg's theory adding that the widow had the right to represent her household. Sjöberg 1997, 168; Larsson 2003, 83–84.
23. Barbara J. Harris writes that "motherhood was a crucial dimension of aristocratic women's careers as wives." Harris 2002, 99. Also Lahtinen 2009, 93–104.
24. MEL, *Tingmålabalken* XXVII. "*Nu huru hæræzhöfþonge skal buþ kafla vp skæra mot kunungs breue ællæ buþi, vm stulit varþer i bygdinne, varþer drap giort, ællæ man inne takin meþ annars kunu, ællæ kona valde takin, ællæ varþer man takin af kirkio garþe þen sum friþ atte þer haua*."
25. KLR, *Drapamål med vilja* VI. "*Rymer draaparen til kirkio eller closter eller annar stadh, oc warder ey takin a sama dagh oc dygne, tha scal herezhöfdinge gensta budkafla vpsksæra oc ting stempna*." Similar stipulations are found in *Högmålabalken* IV (on witchcraft).
26. Rosén 1952.
27. Pylkkänen 1990, 69.

28. For the ways in which such representation created and upheld relationships within the nobility, see Småberg 2004.
29. MEL, *Tingmålabalken* IX. "*bolfastum mannum*."
30. MEL, *Giftobalken* II.
31. Compare with *Tingmålabalken* XXI and XXII. A *löskæmanz* crime did not have the same repurcussions as those of a *bolfast manz*.
32. The community was an important authority in the administration of law. See Korpiola 2014.
33. MEL, *Tingmålabalken* XXVI. "*J allum vitnum, næmdum ok eþum skulu bolfaste mæn varæ*." This is confirmed by the fact that there are no female officials at all mentioned in the charters. However, this paragraph in all likelyhood referred to positions as case specific witnesses, and that was a position a woman could have.
34. Inger 2011, 145.
35. Ekholst 2009, 73.
36. See, for example, Andersson Lennström 1994, 27–28. Ekholst 2009, 73–76. According to MEL, female witnesses were called, for example, to testify to if a woman was pregnant. See, for example, *Dråpamålsbalken med våda* XVI. Sjöberg (2001, 78) raises the very interesting idea that women were called as witnesses in cases where other women were involved, in a similar way as noble men had the right to be judged by their equals.
37. Andersson 1998, 121–123.
38. ÖL, *Vådamål, såramål, hor och stöld* XV. "*Nu ma egh kununa uitna firi sarit. hænna malsmanne skal stæmna*."
39. KLR, *Konungsbalken* rubric XXIX. "*Hwar som malsegande ræth giffuer androm, oc om nokor gör sik til maalsman j annars sak; huær som wil oc sökia for annan han swari oc for han*."
40. Larsson 2003; Andersson Raeder 2011; Sjöberg 1996, 1996.
41. Larsson 2003; Pylkkänen 1991; Korpiola 2009; Sjöberg 1996, 2003; Vogt 2010, 241–242.
42. The focus has been on archeology rather than history. See, for example, the international collaboration project "The Assembly Project (TAP)—Meeting-places in Northern Europe AD 400–1500," which was based in Oslo and completed in 2013.
43. There are also indications of drinking rituals, games, and other such activities in connection to *tings* and *ting* sites. See Sanmark 2015, 108–109. Småberg 2004, 48.
44. Semple and Sanmark 2013.
45. Ekholst 2009, 73.
46. SDHK 20474.
47. In SDHK 21584, a property transfer is explicitly said to have taken place at the *rådstuga*. In 1379, Ingeborg Byngersdotter, Olof Byngersson, and Lars Smed and his wife, Cecilia Ingesdotter, came to the town hall to ask the mayors to seal a charter as only Olof had a seal of his own (SDHK 11453).
48. SDHK 21586. "*The iac war om fastagangz sunnadagh widh mina hæradz kyrkio I valentuna sokn oc giordhe jac ther wittherlichit forer alla sokninne*."
49. DF 2165.
50. FHO, "*Sockenstämma*."
51. These are also places at which the charters could be better preserved.
52. Inger 2011.
53. Hafström 1984a, 45–54, 115–135.
54. Ekholst 2014, 25; Taussi Sjöberg 1996, 87.
55. Salonen 2009, 69.

56. The main work on gender and crime is Ekholst 2009, which is based solely on the law texts. An updated version of Ekholst's dissertation has been published in English (Ekholst 2014). Compare with Hassan Jansson 2006. However, when later centuries are concerned, there are plenty of studies on gender, crime, and court procedures. See, for example, Sjöberg 2001; Taussi Sjöberg 1996; Toivo 2008; Pylkkänen 1990; Andersson 1998.
57. Ekholst 2009.
58. Ekholst 2009, 124–126.
59. Ekholst 2009, 185–192. Compare with Toivo 2008.
60. Ericsson 2003, 190. A man who disciplined his wife to the extent that it leads to her death was to be charged with fines for accidently taking someone's life. A woman who killed her husband was charged with high treason.
61. Hassan Jansson 2006.
62. Ericsson 2003, 113–117.
63. Defining what constitutes a crime is difficult. Garner distinguishes between 'crime' and 'tort'—the former giving rise to a punishment; the latter, redress—but also emphasizes that these two might both be applicable to the same case and that they are a fairly modern invention. (Garner 235: entry *crime*). See also Salonen 2009, 41–65.
64. Salonen 2009, 33–34.
65. SDHK 34945. See also Lahtinen 2009, 57.
66. SDHK 6512.
67. "*waar ful ok openbarlik brut*."
68. "*først at iak took af fyrum bondum allen þerræ mat [. . .], annet þet mik Magnus Iacobsson skul gaf, at iak vp hafþe borit af þrim bondom suikkilikæ hans faþurs sakøre [. . .], þridiæ þet at [. . .] opit konunxsins dombreef eigh hallet war. siþen fore mang raan ok dombrut [. . .]* ."
69. SDHK 8281.
70. SDHK 9128.
71. SDHK 6488.
72. SDHK 12035.
73. For the theory of marriage as companionship applied on the Swedish material, see Andersson Raeder 2011, 110–111. The idea of marriage as companionship was developed by Howell 1998, and is also prominent in for example Harris 2002.
74. SDHK 10935.
75. Compare with 11760 (1380).
76. Later sources, such as letters, show that married women indeed were involved through networks of marriage and alliances. See, for example, Lahtinen 2009, esp. 39–61; Bjørshol Wærdahl 2017, 90–91, 100–101; Norrhem 2007.
77. SDHK 20861.
78. SDHK 35170.
79. Andersson 1998; Taussi Sjöberg 1996.
80. Toivo 2008, 198.
81. Inger 2011, 68.
82. Habbe 2005, 121. Translation by Friðriksdóttir 2013, 119.
83. SDHK 8267.
84. "*the witnadhe, ransakade och epter sworo*." FMU 3492, (1472). Compare SDHK 26251 (1453), FMU 2502 (1443), FMU 3506 (1472).
85. A shift toward a system with assessors occurred during the later Middle Ages, and the system with *edgärdsmän* was abolished in 1695. See Inger 2011, 60–65.

86. SDHK 16422/FMU 1207.
87. "*tha kærde hustru Raghnildh til en brodhers del jnnan Hemanz öö*."
88. SDHK 18057. A medieval bathhouse was rather what in modern times is referred to as a sauna. It could be an important establishment within a town, and the special position of a bathhouse if further emphasized by the fact that crimes committed in the bathhouse were deemed heinous. Carlsson 1947.
89. "*meth ræt ok winlico skipte, æpter thy som thet skiptis breff lywslica beuisar, som for:da husfrw Appollonia fram bar ok læsit war oppenbarlica fore sætto thinge*."
90. SDHK 17332.
91. SDHK 12325. "*hon siælf ii thingheno a fastenne hiolt*."
92. Hellner 1895, 41–44.
93. Hellner 1895, 45. My translation.
94. The primary work is *Äldre svenska frälseätter* (ÄSF). One important issue with ÄSF, and particularily the older editions, is that they are based on a patrilinear system, where affinity was traced only through male lines, while affinity in practice during the Swedish Middle Ages was counted bilaterally—through both the mother and the father. See Winberg 1985, as well as the discussion in Andersson Raeder 2011, 27–28.
95. Andersson Raeder 2011, 45–46.
96. SDHK 13480.
97. A similar charter is SDHK 16015, issued in 1403 jointly by Magnus Johansson, Johan Magnusson, Gjurd Svensson, Katarina Nilsdotter, Ingeborg Brudsdotter, Cristin Nilsdotter and Johan Folkesson.
98. Andersson Raeder 2011, 40–42.
99. In other kinds of sources, parenthood as a souce of authority is evident. See, for example, Lahtinen 2009, 93–104. Not only motherhood granted authority. Fatherhood was also a transition into a new form of authority. See Katajala-Peltomaa 2013.
100. Korpiola 2009, 50.
101. Andersson Lennström 1994, 13.
102. Previous studies on medieval family networks are for example Småberg 2004; Lahtinen 2009; Hockman 2006.
103. Korpiola 2009.
104. Andersson Raeder 2011.
105. SDHK 19376. Johan Laurensson sealed a charter together with Karl Uddsson already in 1415 (SDHK 18480), when the latter donated some property purchased from Krok Larsson in Gerum to the cathedral in Skara. Part of the donation made by the brothers in 1419 also involved property in Gerum, and the two charters have been joined.
106. SDHK 6810. "*sum vara sistur ægher*." The brothers clearly did not have the same father and the name of the sister is not mentioned.
107. SDHK 20112.
108. SDHK 8864. The property was later on sold by the son-in-law, Skäring Iliandsson to Bo Jonsson (Grip) (SDHK 10931). Compare with SDHK 9393 from 1369, when Kristina sold with the consent of her sons-in-law. See also SDHK 9754 from 1370, SDHK 10681 from 1375.
109. SDHK 9413.
110. The sons-in-law were the lawman Arvid Gustavsson and the knight Bengt Filipsson (Ulv). Arvid was married to Helena Magnusdotter, but her sister's name is unknown.
111. Compare with SDHK 18392 from 1414.

112. SDHK 18253. This was confirmed in 1419, SDHK 19216, and by the son again in 1422, SDHK 19814.
113. SDHK 18601.
114. SDHK 18654.
115. SDHK 18655.
116. See also Lahtinen 2000, 111.
117. SDHK 17199.
118. SDHK 16971, SDHK 17722.
119. SDHK 16442. "*medh ia ok goduilia minna barna, minna magha*."
120. SDHK 17268.
121. SDHK 8585. Peter Porse's son was also called Peter Porse, and it is possible that this charter was indeed issued by the son. In that case Margareta would have been mentioned, allbeit not by name, as one of the siblings. Peter Porse the son had business with Bo Jonsson Grip at least in the 1380s. See, for example, SDHK 12386 and 12239.
122. SBL, 'Bo Jonsson (Grip),' urn:sbl:17833. Margareta ought to have passed before the actual caesarean, but the case reflected very poorly upon the character of her husband, the unusually wealthy Bo Jonsson.
123. SDHK 15832.
124. SDHK 19821.
125. SDHK 19822.
126. Inger 2011, 22.
127. MEL, *Giftobalken* IV. "*kan hon dö för æn hon heem komber til hans ællæ i siæng meþ honum, þa skal henna liik ater til faþors ællæ æruingæ föras, ok alt þet meþ henne var giuit a faþors garþe ællæ frændæ*."
128. SDHK 10463.
129. SDHK 10834. "*laghleka war vpbudhin a Skæningis radhstuw frendom ok nestom til køpaskulande*."
130. The most important work on the *bördsrätt* to date is still Winberg 1985. He has concluded that the legal principal of the *bördsrätt* was a staple of legal doctrine, but by the middle of the seventeenth century, the strict separation of property inherited through the mother or through the father had been dissolved. Winberg 1985, 63–64, 104–105, 111–112.
131. Compare with Winberg 1985.
132. Bowdon 2004, 408.
133. To what extent this applied also to women is difficult to say. If a married woman was effectively included in her husband's family, it has not left traces in the charters, possibly because of the juridical nature of this kind of source. Research on other types of sources show close relationships between for example a mother and a daughter-in-law. See Lahtinen 2009, 125–129.
134. This could be compared with, for example, godchildren or adoptions—both of which were common practices during the Middle Ages, and that created kinship. It was also common that children from the nobility were sent to other families, primarily relatives, to create connections and gain education. Lahtinen 2009, 122–123. Another option was to send your child (primarily daughters) to a convent, (Andersson 2006, 243–262), which would also create networks.
135. SDHK 9427. "*Presentes autem erant, cum hanc vltimam voluntatem meam exprimerem frater Nicolaus de conuentu Lincopensi et religiose domine Botildis et Katerina sanctimoniales de Askabÿ et mulieres de familia mea que mecum cotidie versabantur*." The will is mentioned in Andersson Raeder 2011, 96.

136. The nuns in Askeby received one of the largest bequests in the will.
137. For a discussion on how extended kinship could look, see Bowdon 2004.
138. The charter was sealed by the noblemen Tomas Jonsson, Johan Magnusson, and Magnus Larbo, along with Ramborg herself. It is of course also possible that the charter as physical object was created at a later stage and only recapitulated the circumstances under which her (oral) testament was created. It is also perfectly possible that the women simply did not have seals.
139. It was her second marriage, to Håkan Algotsson (Algotssönernas ätt).
140. SDHK 9369.
141. SBL, band 20, 227.
142. SDHK 12621 (1384). One is tempted to suspect that Valborg and Elin might have been more than faithful servants to these godly men, as gifts in land were valuable assets. However, there is not evidence of that beyond these charters in these specific cases, but Swedish medieval priests often broke the celibate and lived in a family prior to the Reformation. See, for example, Magnúsdóttir 2001, 154–157.
143. From later tax and employment records it is evident that employment indeed could involve whole families. See Pihl 2012.
144. SDHK 15080.
145. SDHK 9327.
146. SDHK 7580.
147. From 1350 to 1399, 5 percent of the charters contained or consisted of a power of attorney. From 1400 to 1450, the figure is 6.5 percent.
148. Hellner 1895, 43–44.
149. Examples of such charters are SDHK 24080 (1442), SDHK 24131 (1442), SDHK 24641 (1444).
150. SDHK 9866 (1371), SDHK 11101 (1377), SDHK 15589 (1401), SDHK 15986 (1402).
151. I have identified her as the Bengta Bengtsdotter, who was the daughter of knight Bengt Nilsson (Oxenstierna) and Ingeborg Nilsdotter (sparre). The charter was sealed by whom she refers to as her sons-in-law Magnus Trottesson and Ragvald Petersson. At least the former is known to have married into the Oxenstierna family through Bengta's daughter, Märta Magnusdotter (Kase).
152. SDHK 16442 (1405). "*ok gifuer iak medh thesso mino opno brefue hæradzhøfdhingianum i for:do Habo hundare fulla maght ok alla, likerwiis iak ther sielff nær ware, at hauum fasta ok medh allum landzlaghum antwardha thetta godz til æuerdhelika ægho*." Compare with SDHK 17712 (1411).
153. SDHK 17894. "*æpther thet miin breff wthwisa*."
154. "*[T]hy iak siælff ey mæktogh ær aa tingh fara oc thet stadhfesta æpther thy min wili ær, oc hwadh han ther meth gør, tha gør iak han mæktogen oc mindhogan a myna wæghna, som iak siælff nær wore*."
155. Schlyter gives two possible meanings for the word *makt*: to have the ability to act or to have the power because of rights to such. The latter is what I refer to as authority. Schlyter 1877, term *makt*, 424–425. Compare with SAOB, term *mäktig*. A similar formulation can be found in for example SDHK 17350 (1409), SDHK 17548 (1410), SDHK 27400 (1459).
156. Fair to say that it was significantly more common that the word was used to denote what I call authority than ability. For an example of the latter, see SDHK 17778 (1412), in which the bailiff in Västmanland is donating for his soul to the cathedral in Västerås and hoping that he is able to establish a prebend. "*om Gudh vilde at iak swa mæktogher wrdhe at iak formatte fundera ena prowento i samw Væstraoris domkirkio*." Also SDHK 18010

(1413), in which Esbjörn Blåpanna made provisions for property he was pawning and hoping to be able to redeem at some point. "*naar iac mæktughir kan wardha thet for:da gooz aterløsæ*."

157. SDHK 17760. "[A]*nnath markland meth gardenom i Vpsalom gaf jak meth minom kæra fornempda husbonda til eenna prebendo i Vpsala kirkio, tha han liffdhe*."
158. My translation.
159. SDHK 17899.
160. See, for example, SDHK 11101 (1377), SDHK 16542 (1405, issued by Ramborg Staffansdotter, whom we know from secondary sources was a widow), SDHK 17013 (1408).
161. SDHK 17030.
162. SDHK 17153.
163. SDHK 16943 (1407), SDHK 16855 (1407).
164. I have made searches for correlation with time or geographic area but found nothing that holds. There seems to be significantly more charters issued including the phrase in the Svea regions than in the Göta regions, but it is not a decisive split.
165. SDHK 7147 (1357), SDHK 7151 (1357)—issued by the same couple. SDHK 9254 (1368).
166. SDHK 16652.
167. SDHK 16942 (1407). "*ok giffwom wi haradzhøffdhingianom [. . .] fulla makt ok alla the samw iordh fasta ok fastfara domkirkionne i Strengnes, tha som capitulum bedhis ther fasta oppa, likirwiis som wi siælwe nær warom*."
168. SDHK 16925 (1407). Compare with SDHK 19246 (1419).
169. SDHK 9392.
170. SDHK 19497.
171. Her brother's name was Ture Eskilsson. Judging by the patronymic, they did not have the same father.
172. "*Gør iac allom viterlikt at iac openbara bekænnes oc betyghir meth thæsso mino opno brefue thet iac aldrigh giordhe min brodher [. . .] ella nokan thæn frænda ælla erwingia, som mic tilhøra, mæktoghan ælla myndoghan a mina væghna at afhænda, sælia ella giwa mith iordhagoz [. . .].*"
173. Compare with SDHK 24026, issued in 1442 by Birgitta Trottesdotter. By that charter, she revoked previously given authorizations.
174. Compare with Andersson 2006.
175. SDHK 10802.
176. "*Gifwir iak ærlike quinno hustrv Katerine Geriko dottir fulla makt a sinna barna wæghna thet fornæmdha goz anama. Kan ok swa hændha at thetta forskrifna godz for them hindræs medh laghom ælla nakra handha ræt tha hawi fornæmdha hustrv Katerin fulla makt inganga til thet gozsit Alathorp vtæng gensængn*."
177. DF 1759. The original charter is preserved on paper in the City Archives in Tallinn, and I have not seen it.
178. SDHK 21208.
179. This charter is interesting also because it speaks of deep friendship between women and testifies to how women could use their own property for the immediate benefit of other women.
180. SDHK 22102.
181. SDHK 24026.
182. Kort Görtz is mentioned as married to a sister of Magnus and Johan Trottesöner (Ekaätten) when sealing a charter in 1378. SDHK 11347.
183. SDHK 17923.

184. SDHK 18430 (1414). This person ought to be the knight and King's Chancellor Holmsten Johansson Rosenstråle. There is also a Holmsten Jonsson who was county bailiff in Närke, further north, but I have not seen the original charter in which he is mentioned. It could be the same person. SDHK 21242 (1429).
185. As the identity of Holmsten in this charter is unknown, we cannot know if he is the same Holmsten Jonsson who around the same year was made *malsman* of Valborg Nilsdotter in one of the most interesting cases in the whole material. Valborg will be further discussed in "Acting as *Malsman*."
186. SDHK 17923 (1412). "*ok alla oppa tala ok atir løsa minna husfrw rætta fædherne ok mødherne i Næriche, hwar thet helz liggia ok finnas kan, ok stadhugth ok fast vidher bliwa til then dagh Gudh wil thet jak thith kommir ok førnemda Holmstene Jowansson licha wil gøra fore thet han wth giwit hawir*."
187. SDHK 8840 (1366), in which Jöns Larsson authorizes Ernils Eflirsson to *fastfara* all the property his wife, Katrin Knutsdotter, had inherited with regards to her brother and sister.
188. SDHK 24175.
189. This category is very difficult to define, especially considering that the concept varies with time and geographical area. At first, I had them in two different categories, with charters marked either as 'Word' (containing a word for guardian) or 'Legal Guardian' (containing the function), but as the collection grew the two categories merged.
190. The spelling differs slightly. The modern words are spelled *förmyndare* and *målsman*.
191. Andersson Raeder has fruitfully shown the marital patters of the Swedish medieval nobility. See, for example, Andersson Raeder 2011. Furthermore, the nobility was not a consolidated group.
192. I have also found cases from Närke, but that law has not been preserved.
193. SDHK 6123. The Latin word used is *tutor*.
194. SDHK 7025 (1356) and SDHK 10695 (1375).
195. See Andersson Raeder 2011, 63; Andersson Lennström 1994.
196. SDHK 10695 (1375).
197. SDHK 7735.
198. *"Thy kiænnis iæk medh thæssu breue æt iæk hauær a mins fornæmpdæ herræ væghnæ dømth ærlighum manni Thoren Byrghirson ok ærleghe husfru husfru Ælinu Vlfsdottor allæn halfdelen a Ylmu a huat han ær bygdhær ællær byghiæz skal sum the ok theræ forældri af aldær niytæth ok aath haua ok thæt vithnæ alli malsmænnænæ I landinu ok mæsthædelen af almughænom them sum thær ær kunnikth af*."
199. SDHK14276. "*Thet wi stadhikt gørum ok stadghinn thet laghlika jordhabyte som waar malsman niclis botasson gudh hans siæll hafwe giordhe*."
200. SDHK 16997 (1408), SDHK 39311 (1408), SDHK 17052 (1408), SDHK 17214 (1409). Olof had disposed of some property to the convent in Vadstena, which grew into a long dispute. See also SDHK 17051 (1408).
201. See, for example, SDHK 11319 (1378). The brother is said to be *ofuirmaghi*, but the word *malsman* is not used.
202. "[. . .] *fore somlika minna syzkina vmæghd skuld swa som æro Nisse ok Katrin tha kwnnoma wii eigh vart ærfdha godz swa bradhlika til skifte koma swa som somlika vara syzkina thorft kræwer ther til sinna ara ero komin for thy kænnis jak* [. . .] *allan min deel ok alla minna fornempdo syzkina dele Nissa ok Katrina for hwilkom som jak er rætter malsman ii waro goze Symons øø* [. . .]." This charter also contains interesting information on a husband's claims to the inherited property of his wife.

203. SDHK 16795.
204. Through *bakarv*. See, for example, Sjöberg 1997, 175.
205. SDHK 9296. "*Kænnis iak medh thesso næruarande brefue skifte haua giort medh skælikom mannom Suna Ingeualdsson ok Sigga Magnusson malsmannom for Petar Bodhgersson.*"
206. However, this trade has been preserved in two charters; the other one is SDHK 9295 from the same day. There is a slight difference in formulation, as it is written from the view of the two men representing Peter instead. The word *malsman* is not mentioned; instead they are said merely to act on behalf of.
207. SDHK 11068 and SDHK 11069.
208. "*[F]ore thet at han giordheb sik til malsman ther han ey war j thÿ at han Peter som Bos landbo war wt satte af Bo Jonssons godz oc thet ødhelaghdho.*" Compare with 11068, issued the day before, in which the same person stands accused of and is found guilty of the same crime.
209. SDHK 11339 (1378).
210. SDHK 8904. This was issued in Selebo hundred, in Södermanland.
211. SDHK 14715. "*Ther rætte ærwa oc maalsmæn ærom.*" They are not described as representatives of someone else. Judging by patronymic, Lars Siggesson might be the son of Sigge Kambi.
212. SDHK 6123 (1351).
213. DF 2654 (1446).
214. Andersson Lennström 1994, 61, 65–66; Sjöberg 1997, 173; Larsson 2003, 102.
215. See "The History of the Malsman."
216. SDHK 19509.
217. "*kærdhe Henric Swerdh oppa sinne systers wegna, husfrw Marghetæ Pedhersdotter, til Erik Jønissons ærfwingiæ som hennes husbonde til fornæ war, Gudh hans syæl nadhe [. . .] c Wighbrudder, ærfwingiænnæ formyndere, swaradhe* [. . .]."
218. DF 2654. "*met mynna oc mynna barna förmyndara radhe ok fulbordhan.*"
219. SDHK 13244 (1387), SDHK 16245 (1404, only preserved as a fragment), SDHK 16924 (1407), DF 1548 (1418).
220. See, for example, SDHK 21876 (Stockholm, 1432) and SDHK 25076 (Uppsala, 1447). One explanation that the word appears later in the period when church affairs was concerned is that Latin prevailed longer as the written language there.
221. In the regest of SDHK 6339 (1352), issued in Strängnäs, Nils Bengtsson is said to have acted as the *malsman* of his wife, but in the charter the word is not mentioned—he is said to act on her behalf.
222. SDHK 17416. There is one more similar case in the SDHK database, from 1412 (SDHK 17918). It is written in Swedish but all the places I can identify in the charter were in medieval Denmark. The case of Valborg Nilsdotter is also discussed briefly in Korpiola 2009, 26–27.
223. SDHK 17419. This transfer was arranged as what in Swedish is called a *sytningsgåva*—a gift specifically given for the purpose of receiving care in return.
224. SDHK 17416.
225. Valborg was not the only woman to seek help from the men around her in disputes over property, even if she is the only one known to have applied for a *malsman*. See Lahtinen 2004, 40–41.
226. SDHK 17681. "*Knwth Niclisson haffdhe ridhith i Holmstens Jonsons gardh Gilbergha, som hanom ær laghlika oc rættelika akummin oc andhwardhadher, oc haffdhe ther medh rætto raan oc fullo vælde wth takith the thingh ther hustrw Walborgh Niclissadotter haffdhe andhwardhath Holmsten Joonsson, sinom rætta formindara, i wærio oc til gømo.*"

227. If she had her son young and he had just come of age, that would still put her in her thirties.
228. SDHK 18904.
229. "*i foghuth oc borgamestara oc flere godha manna nærwarw meth miins malsmanz Andrisa Kannogiwtara jaa oc godhuilia*."
230. SDHK 11787. "*medh jaa ok godhwilia bæggiaa wara maalsmannd*."
231. SDHK 18494.
232. "*thy bidher jac Aruidh Jwnsson først, som myn maalsman ær, och sidhin alla dandæ mæn, som thetta høre, ath the mik bøhielpalikæ ware æller minom arwom, æn jac affgar, thet jac nakit igen matto fanga aff hans arwom fore the forma pænnia, effther jac gotz ey formaa igen ath løsa*."
233. SDHK 7272 (1357).
234. "*skälikan man Sten Haquonsson, som fult wåld hafde af Christinæ wägna, som Petter Bagge åtte, och henna målsman war*."
235. SDHK 19884.
236. Pylkkänen 1991.
237. SDHK 15947. Katarina's *malsman*, Johan Dume, sealed the charter after her and before several other prominent men. Why he was her *malsman* is not known. Larsson suggests it could be that she needed a *malsman* because of the unusually large sale, or that he simply was her new husband. Larsson 2010, 199. I find both of these explanations unlikely given the general patterns of *malsmän* and husbands.
238. See, for example, Matovic (1984, 43) who suggests that marriage was a way to the economical and juridical freedom and authority granted to widows, at least in nineteenth-century Stockholm. Compare with Andersson Lennström (1994, 24–25), who does not share this view. On widowhood as the emancipated legal status, see Sjöberg 2003, 168; Andersson Raeder 2011, 17–18, 135; Lahtinen 2004, 35–36.
239. Larsson 2003, 109. My translation.
240. Larsson 2003 as well as the full-length monograph Larsson 2010.
241. SDHK 11787 (1380). In her study of Finnveden, Larsson also concluded that some women could indeed act without a *malsman*. Larsson 2003, 99–101.
242. On women's legal capacity, see Pylkkänen 1990, 1991; Andersson-Lennström 1994; Ekholst 2014. For later centuries especially Taussi Sjöberg 1996.
243. The charter was issued in Slestad, in the near vicinity of modern Linköping. The county bailiff was Anders Andersson (tre rutor av Slestad). For the identification see Almquist 1954, 300.
244. "*ta tel bodh iak fornemnda fru sissilya ath hon skulle forer koma med sin skæl elle oc hene umbud men ta som henne umbudman smalse swa*."
245. Andersson Lennström 1996, 54–55. Melin also states that the wife's *malsman* in medieval law entitled him to speak for her in court. Melin 2000, 56.
246. Korpiola hints at the *malsman*ship linguistically turning into *formyndar*ship after the Middle Ages. See Korpiola 2009, 23.

3 Married Women and Property Management

In this part, I will discuss the effect that property ownership and management had on married women's legal abilities as well as women's involvement in landed property management. While women in England who married under common law ceased to own property (as they were absorbed by the legal persona of their husbands), women in Sweden not only retained property they owned when entering wedlock but also were entitled to one-third of everything the couple attained while married. In Swedish research, the important issue has therefore rather been who had the right to manage property owned by women.

In addition to representation, the other task commonly ascribed to the *malsman* is property management. Others have interpreted the several paragraphs concerning the circumstances under which a husband could sell his wife's property as regulating the duties of a *malsman*. Most scholars argue that property management was a male prerogative and that the right to manage property owned by women was transferred from the father to the husband as an integral part of the husband's duties as *malsman*.[1] Accordingly, the power-generating properties of land, discussed by Sjöberg, never reached women.[2] It is therefore of great importance to further analyze the law text regarding how someone could handle property that was not one's own before moving on to practice.

The Norms

Chattel and Goods

Though it would be very interesting indeed to include the handling of chattel[3] and usufruct in general and profit in particular, these are aspects that one rarely comes across in the law text or in the charters. However, the chapter in the law code concerning purchases of chattel (Sw. *Köpmålabalken*) does contain restrictions on women's actions and must be addressed. These restrictions are very difficult to contextualize, especially since there are no detailed descriptions of trade in chattels in practice from the time in question. Therefore, the law text cannot be compared to practice in this case.

The *Law of the Realm* was a rural law and intended for use only outside towns. Theoretically, that ought to mean that purchases treated in the *Köpmålabalken* were carried out not in an urban environment but in the countryside. This, however, seems an unreasonable interpretation given that trade in the countryside was not encouraged by the crown; in fact, it was a punishable crime.[4] It is also possible that the chapter was included for the simple reason that MEL predates MET by at least a few years, and the chapter might then have been a preliminary version that was kept. The length of *Köpmålabalken* in MEL compared with that in MET clearly shows that this specific chapter was significantly more relevant to people in the towns—in MEL the chapter contains merely nine paragraphs, while the chapter in MET has an additional twenty-five. Under which circumstances *Köpmålabalken* in MEL would be applicable is uncertain and requires further research—beyond the scope of this study. It is possible that the first nine paragraphs were the only ones considered relevant to people living in the countryside, though, for example, paragraph XXIII in MET specifically mentions the relations between men of the countryside (Sw. *landzman*) and men of the town (Sw. *köpstadzman*) and ought to as such be relevant also for MEL.

Be that as it may with the specific applicability of *Köpmålabalken* in MEL, the paragraph restricting married women is identical in MET. It is the third paragraph of the chapter and concerns purchases of wax, salt, and incense. In a subsection, it is stated that any deals made with the farmer's wife without the farmer's knowledge are void and that nobody was allowed to trade with his children or with people in his household. In KLR this regulation is a paragraph (IV) of its own rather than a subsection, indicating that the intention was to grant the man of a household the sole authority regarding the household consumption of at least luxury and specialist goods.[5] Here, it is important to note that the legislators wished to emphasize that a wife needed her husband's approval in the updated version of the law. If other sections of the law, such as those dealing with criminal liability, progressed toward an inclusion of women as active agents, the development in this section seems to be in the opposite direction.

The subsequent paragraph (IV in MEL and MET, V in KLR) concerns goods purchased at the square, presumably goods of a more everyday nature, and there are no restrictions made regarding women purchasing. Later on in KLR, women are included as potential customers and merchants when trading in the countryside (Sw. *landzköp*)—though this was illegal when done for the sake of profit and not survival.[6] I therefore find it to be most likely that the restriction on women in *Köpmålabalken* was not a specific limitation on married women but rather a general grant of authority to the head of household when certain goods were concerned.[7] As such, there was a constraint on married women's ability to act, but to what extent it actually affected their actions is impossible to say. There is nothing in the charters on these kinds of purchases.

Landed Property in Medieval Sweden

Without the intention to understate the importance of chattel and consumption as factors in creating and upholding gendered systems, the most important property during the Middle Ages was land.[8] That and the fact that the sources are heavily biased toward landed property mean that the property discussed in this study will be landed property—real estate—and property management discussed in the following based on that premise.

According to the law, there were five legal ways to acquire landed property: to buy, trade, inherit, keep a forfeited pawn, or receive as a donation.[9] Landed property transactions were associated with complicated procedures, clearly showing that land was not considered a trading good, but it gave the whole of society its livelihood. Several restrictions were imposed on any disposal of land, and nobody, man or woman, had complete freedom of action according to the law. A few basic principles, some of which have been touched upon earlier, should be recounted before proceeding, as they define landed property ownership and management.

First of all, land was never just simply land.[10] One distinction was made between inherited property (Sw. *arve*) and otherwise acquired property (Sw. *avlinge*), in which the latter was considerably freer of restrictions concerning disposal than the former—at least in theory.[11] Inherited property was always to be offered at a lower price to the next of kin before it could be disposed of—a principle referred to as the *bördsrätt*.[12] According to the law, kin had a year to acknowledge and exercise their right to purchase after the intent to dispose of property had been made official at the *ting*.[13] Another principal distinction was made between property from the father's side (Sw. *fäderne*) and property from the mother's side (Sw. *möderne*). Property from the father's side of the family was to be offered to his kin and was inherited within the kin group on the father's side. Furthermore, relatives on the mother's side had no right to that property. The same rule applied in the other direction—the kin on the father's side had no rights to property inherited through the mother's line of kin.[14]

This meant that spouses had no common right to property in their mutual household if that property was inherited—such property was separate.[15] However, property bought by either spouse after marriage belonged to them both jointly, with the wife owning one-third and the husband two-thirds.[16] This proportional relationship between what a woman owned and what a man owned is worth noting since it is a recurring theme.

Second, property was supposed to be inherited downward.[17] Children inherited their parents' property, but daughters inherited one-third and sons two-thirds.[18] If there were no children, the property went backward (Sw. *bakarv*),[19] making mother and father, rather than siblings,

beneficiaries.[20] Even in cases where the inheritance went to more distant kin along the female line, the share remained one-third regardless of the recipient's gender as long as there were beneficiaries along the male line co-inheriting.[21] Though the ideal was to pass property from parent to child, there ought to have been numerous exceptions from the norm in a society with such high child mortality. This is an integral aspect of how medieval inheritance must be interpreted. What appears to have been clearly favored as a norm was not necessarily as clearly reflected by practice.

Third, consent to disposal of landed property was consequential to property management. The juridical circumstances concerning consent were, from a modern perspective, quite ambiguous, and though previous research often touches upon the subject it is rarely treated in-depth.[22] For being such an important part of basically all landed property transactions, the regulations concerning consent were not very comprehensive, nor were they organized in any particular fashion in the law codes. Rather, consent was an underlying yet omnipresent feature throughout the codes. I would argue that this was connected to the strong standing of the local community in legal issues and to the importance of making decisions public and thus official. This was, in turn, connected to witnesses—the foremost form of evidence—and consent may well be interpreted as a facet of witnessing, though, as shall be discussed in the following, consent was multifaceted and could imply diverse forms of legitimization.

In summary, there were different kinds of landed property, depending on how the ownership was formed, and these various kinds of property were subject to disparate regulations. The most important way of acquiring land—inheritance—had ideal forms mirrored in the law code and actual forms as seen in the charter material. Through all landed property transactions, the issue of consent is a common thread. These three facets of medieval law on property management will be continuously addressed.

Property Management in General

In this study, I use 'property management' as a very wide term. In theory, the term indicates anything that is being done with landed property, including decisions such as where to farm, where to build, what to sow, and how to best make profit from the land. Property management would also include decisions on, for example, how to reinvest the profit. Unfortunately, these are all aspects of property management that do not show to a sufficient extent in the charters; hence, focus in the following will by necessity be on transactions. Women did own, for example, fishing rights and forests, which required active property management, but there is not enough evidence as to who made the decisions on the use of such property.[23] There are also charters dealing with, for instance, fishing rights and how best to farm communal land, but these are usually

not considering private property. Furthermore, they are created by the community—represented only by men.[24]

As the focus lies on transactions of landed property, there are distinct limitations regarding representativity. The people involved would be of a certain social status as they were per definition landowners. This, however, does not mean that they were exclusively nobility, as a significant number of farmers in medieval Sweden owned the land they farmed.[25] In fact, the only thing that (at least by the beginning of the period in question) separated nobility (Sw. *frälse*) from farmers was that the former group could provide the king with a knight[26] and a horse—controlled at yearly inspections—and thus was exempted from taxes.[27] It was not a hereditary position.[28] Tax exemption prompted the landed property issues of the nobility to be treated in a different chapter (*Kungabalken*—the King's Chapter) from that of ordinary landed property issues (*Eghnobalken*—the Ownership Chapter).[29] We will start with the landed property regulations on property belonging specifically to the nobility.

As tax exemption was not hereditary but rather a reciprocal relationship between king and subject, the question of what should happen once a subject was no longer able to fulfill his share of the bargain required attention. If a nobleman died, his family was to retain the position as nobility under certain conditions. If the nobleman left a son, the family held the right to tax exemption only until the son gained majority—that is, turned 15. After that, the son, or someone else on his behalf, was to enter service to the crown as a knight or else serve as a farmer if he was not capable to provide a knight.[30] For young women, the criterion was not age but marriage, repeating the pattern discussed with regards to legal majority earlier.[31]

A widow had a lifelong right to enjoy tax exemption as long as she did not remarry. Once remarried, the status of her husband defined her own status. If she married a nobleman, he was to do service for her property as well as for his own, but if she married a farmer, she was to pay taxes like a farmer. Though it might well be a matter of linguistics only—a symptom of medieval legal scribes' arbitrary use of pronouns—it is worth noting a distinction between who was to perform the duties connected to the land. Noble land was upheld by the husband, but taxes were paid by the wife herself.[32] Fornication committed by either widow or daughter rendered any claims to this special status void.[33]

The only other paragraph regarding noble property concerns the ramifications of nobility secretly or deceptively (these two concepts being intertwined in medieval law) purchasing property from or trading with those not exempted from taxes, so that taxable land became tax exempt, but with a secret agreement to pay the fee to the nobleman instead of to the king. If this was found to be the case, the nobleman was deemed a thief, and the person owing the taxes and fees was to repay all yearly costs. Interestingly enough, this paragraph specifically mentions

noblewomen as possible perpetrators and, as an effect, portrays noblewomen as managers of and responsible for their own property.[34]

Exactly how this paragraph is supposed to be interpreted is difficult to say. In their footnote, Holmbäck and Wessén conclude that this paragraph indicates that tax exemption was still at that time connected to the person and not to the property itself and that this led to income losses for the crown whenever nobility purchased land, but they make no note of the mentioning of women. It is perfectly possible that the intention behind this paragraph was to include women only as widows, but there are no such particular provisions made in the text. Instead, the formulation is surprisingly straightforward: "Now a noble man or woman trades or purchases."[35] That this would not apply to noblewomen while still married cannot be determined based only on the law text. Unfortunately, there are no charters preserved in which either noblemen or women are charged with deceiving the king through unlawful agreements with the peasantry. Therefore, this particular paragraph will not yield any certain interpretations of whether married noblewomen could manage their own property. The paragraph does, nonetheless, open for such an interpretation—and in any case, it does not reflect clear restrictions.

If one wanted to dispose of property, making one's intention public was the first step of the procedure. Any property up for sale was to be announced at three *tings*.[36] Once the property was cleared for legal disposal, twelve trustworthy men—the so-called *fastar*—from the region where the property was situated were to act as witnesses alongside the district judge. If there was a later dispute regarding the disposal, the *fastar* were to take an oath before God, swearing that everything had been done according to the law. Speaking for the importance of always acting in public, any trustworthy man living in the region who had been present at the *ting* in question could be called as witness should any of the original *fastar* be indisposed.[37] Though none of the *fastar* could, presumably, protest the disposal of the property unless they belonged to the kin group, their oaths still functioned as a form of consent to the activity as such—and legitimized it.

In previous research, it has often been pointed out that consent was needed when inherited property was concerned since relatives as future heirs might otherwise raise claims to the property later on.[38] However, that such consent was needed was not written into the law code. Instead, consent (Sw. *samtycke*) is mentioned in the law specifically in connection to disposing of someone else's property.[39] This leads us back to the *malsman* as property manager since the *malsman* would manage someone else's property. The predominant agent acting as property manager for someone else in the law text is undoubtedly the husband on behalf of the wife. It is integral, therefore—regardless that the husband is not actually referred to as *malsman* in that context—for the subject at hand to consider the circumstances under which the husband could manage his wife's

property. In previous research, this arrangement has been explained as the husband being the primary manager of her property—it needed no special circumstances. Instead, her managing her own property has been depicted as the exception.[40] Though this is not an unreasonable interpretation, it is not self-evident based on the law text.

Husbands as Property Managers

The husband as manager of his wife's property is discussed at length in the law and in both *Giftermålabalken* and *Eghnobalken*. It has been suggested that the exhaustive regulations regarding the husband as property manager reflect that property management was a male prerogative, yet, for example, as Maria Ågren has pointed out, the regulations are aimed at restricting the husband's authority rather than procuring it.[41] Hence, the law text portrays a legal culture in which a husband had extensive power over his wife's property and a legislation which sought to diminish it.

A husband could not, according to the law, arbitrarily dispose of his wife's property.[42] The first paragraph of *Eghnobalken* stated the five ways of legally acquiring property; the second, how to legally sell inherited property. The third paragraph dealt with how the next of kin was to claim the preemptive right to purchase in connection with the intent to sell having been announced at the *ting*, and the fourth concerned disputes regarding this procedure. In the fifth paragraph, we encounter the husband as property manager. In this paragraph, it is stated that if the husband wanted to sell his wife's property, it was to be offered to her kin "with the same law as his own." This paragraph should be read and understood in the context of the preceding paragraphs. It is part of an accretion of paragraphs defining how to dispose of inherited property and especially the relationship between inherited property and the kin group, followed by one more paragraph on disputes—this time regarding who was the next of kin.

The fifth paragraph of *Eghnobalken* is not granting the husband rights to manage the wife's property—that he has such a right is presumed; rather, it is giving them a juridical context and reinforcing the view of a married couple's property as separate. The same paragraph also contains restrictions regarding how much land he could sell, as it is stated that he had to sell of his own property as well; her share of the total amount could not exceed one-third. It may at first seem as if this passage forced the man to sell more of his own land than of hers, but the ratio is, as was noted earlier, a recurring theme. One-third of hers and two-thirds of his ought to mean that they, counted in relation to their entire respective possessions, invested equally if they came from similar economic backgrounds. If the man, on the other hand, entered the marriage with significantly more property than her, he could—in accordance with the same passage—sell everything she owned.[43]

Only in times of hardship could the husband fairly freely dispose of his wife's property. Paragraph XXXII (out of XXXIV) has the rubric "how a farmer can sell his wife's property." There it is stated that

> a farmer may not sell his wife's land unless by these cases forced, that are here mentioned. If foreign troops come to the country, heathen or Christian, take the farmer and his wife captive and take them away, comes a messenger home and pleads that the farmer or the wife is bailed out. Now there is nothing else than her land, then may the farmer sell her land and bail his wife out. And likewise, may the wife sell her land and bail her husband out if he is imprisoned.[44]

A clarification concerning the last sentence of the law text is due. In Schlyter's transcription of MEL, he wrote that the wife could sell her land if she needed to pay her husband's ransom since that was the formulation in the codex Schlyter used as original.[45] This might convey the picture that an imprisoned husband was the only circumstance under which a wife could sell her own property. As noted by Schlyter, but not discussed, several of the extant codices have the term "his" or "the farmer's" instead with regards to whose land was to be sold, and in KLR, all known codices have "the farmer's." Hence, the codex Schlyter used as original does not have a representative formulation, whether because of an error in the copying process or medieval scribes' incoherent use of pronouns. The most plausible interpretation is that a wife could sell her husband's property to pay his ransom. This means that in cases of war and imprisonment, the husband could sell his wife's property freely, but she was given equal rights to dispose of his property should he be the one imprisoned.

In the same paragraph, another circumstance classified as hardship was mentioned, namely famine. If they both owned land, the same restrictions regarding proportions as was discussed earlier—one-third hers and two-thirds his—applied. However, in case "the farmer owns neither land nor chattel, then he may sell of his wife's land for up to six marks per year and no more."[46] Whether a wife could do the same in case of famine is not mentioned. If hardship such as war or famine drove a family to dispose of land, it should still be administered at the *ting* "in accordance with law," and they should announce which hardship compelled them.[47]

In an earlier paragraph (XIX) in the same chapter, one more circumstance under which the husband could dispose of her property is stated. If she left him, and their children needed food, he had the right to sell what he wanted—but she was granted the same rights if her husband eloped or went on a pilgrimage: "What the wife does shall stand as full and firm as what the husband does, in this case, and two shares shall go from the husband's property, and one share from the wife's."[48]

The key issue in this paragraph is that the couple have children—the rubric is "if children require food"—and that the needs of the children

were considered to go beyond normal property law arrangements. It should also be mentioned that in Schlyter's transcription (and subsequently in the translation made by Holmbäck and Wessén), the paragraph refers only to chattel, as that is the formulation in the original transcribed by Schlyter. However, Schlyter suggests that the formulation in UL, which specifies that the spouse remaining at home could sell either chattel or land, is the correct one and that the difference in all likelihood should be accredited to a mistake. As Schlyter points out, if only chattel was concerned, the paragraph ought to belong in *Köpmålabalken* rather than *Eghnobalken*.[49]

What this paragraph indicates is a sense of practicality—a leeway in a seemingly rigid structure of property law. There were regulations but also exceptions, and both were incorporated in the law text.[50] Interesting for the subject at hand is how married women were considered capable of managing property when need be. This indicates that a wife was knowledgeable about landed property matters, probably in a similar way that the wives of artisans and tradesmen partook in crafts and trade in the towns—knowledgeable but primarily in the background.[51] Nonetheless, these paragraphs reflect exceptions and tell us very little about standard procedure.

I would argue that these paragraphs appertain not to intermarital authority—as wives and husbands are entitled to the same—but rather to household rights vis-à-vis the kin group. There is also an element of managing property that is not your own. In MEL, the paragraph on an eloped spouse is positioned after two other paragraphs relating how one could dispose of someone else's property. The first of the three (paragraph XVII) has the rubric "how one may sell another's land." There it is stated that "no *sysloman* has the authority to sell a master's land, without his master's letter for the one purchasing the land."[52] The second of the three (paragraph XVIII) concerns selling the land of the legally unable—minors, maidens, and those of little wit.

In KLR on the other hand, the paragraphs have changed order slightly. Though KLR was not in widespread use within the period concerned here, it was developed during the time and might thus be considered to, if not affect, then at least reflect legal thinking in the early 1440s. The paragraphs on abandoned spouses and hardships are in KLR found in sequence at the end, meaning that the eloped spouse paragraph has been moved to where only the paragraph on hardships was in MEL. It is also clarified from the addition of rubrics that these paragraphs give equal rights to both spouses as they specifically mention both husband and wife. The element of managing someone else's property is thus giving way to a household-based context; this is confirmed by the subsequent paragraph, which concerns property bought by the spouses while married. If this slight shift in context derived from legal practice, or if it seeped into legal practice from the law text—or for that matter made no difference at all—cannot be determined from only studying the law.

Before moving on to how the concept of consent related to these paragraphs, one more facet must be discussed—namely representativity. Paragraph V has the rubric "now a farmer wishes to sell his wife's land"; paragraph XXXII, the rubric "how a farmer may sell his wife's land." Based on how these paragraphs were positioned within the law text, I suggest that these paragraphs must be interpreted in different contexts. The first of them represents the standard procedure when a husband wanted to dispose of his wife's property and was restricted. Whether this paragraph also applied to women is almost impossible to say, but it can hardly be considered standard procedure for a medieval wife to dispose of her husband's property.[53] The second, on the other hand, applied to both spouses equally and represents procedure in times of trouble.

This leads us to the concept of consent, which I will suggest is the core difference between the two paragraphs mentioned earlier. Consent is not discussed in *Eghnobalken*, but it is in *Giftermålsbalken* under the rubric "how a farmer may trade [Sw. *skipta*] his wife's property."[54] To trade was one of the five legal ways of disposing of property, and though it could be argued that this paragraph indeed only applied in cases of trading land for other land, I suggest another reading. The Swedish word *skipta* refers to splitting or sharing—for example, siblings sharing an inheritance or a fine being divided between several plaintiffs.[55] In this paragraph, the wife and her relatives should be asked for consent before any of her property was traded no matter if she has children or not. Furthermore, the husband was only allowed to trade for the better.

That this paragraph is positioned in *Giftermålsbalken* strongly implies that it concerned intermarital relationships rather than landed property formalities—which belonged in *Eghnobalken*. Therefore, reading the word *skipta* in its broader meaning—to divide something or break one part from the others—provides a paragraph entitling the husband to manage his wife's property but also grants her the right to approve of his actions. The interpretation of the procedure described in *Eghnobalken* V would thus be that two things are presumed: that the husband is the primary manager of his wife's property and that she consents to his management. As we shall see, this reading is supported by the evidence from the charters. In times of hardship, consent was not necessary.

Property Management in Practice

Though this study is the first to include the entire Swedish realm, it is not the first to consider the gendered aspects of property management. One of the most recent examples is Gabriella Bjarne Larsson's study of the growing landed property market, monetization, and gender when acquiring and alienating land, 1300–1500.[56] Larsson's study is restricted to two specific areas, of which only one, Finnveden, was in medieval

Sweden. Finnveden belonged to the Tiohärad region, which was under the *Tiohäradslagen*—one of the regional laws not preserved. For interpreting the charters with regards to legislation, this poses a severe problem even for the time after 1350—especially considering our limited knowledge of how and when MEL was introduced. Furthermore, results from the Göta region are by no means applicable to other regions when gender was concerned, as it was in that region the *malsman* system originated. Though Larsson's study will be used as reference point, it is suffering from such impairing issues that relying on some of the conclusions as starting points is risky.[57]

Anu Lahtinen has studied approximately four hundred real estate contracts in Finland from 1300 to 1499 and concluded that these contracts confirm that the husband was responsible for managing all the property of the household.[58] According to her, the husband was the one who should represent the household in public, and she compares the legal status of a wife with coverture.[59] However, the English coverture meant that a woman's legal persona was absorbed into that of her husband when she married, and, as I have shown previously, Swedish wives did have a legal persona separate from that of their husbands.[60] Furthermore, Lahtinen has found around three thousand men and only two hundred women mentioned in these contracts, which at first comes across as a monumental difference. Looking only at these numbers, the difference is, of course, as Lahtinen points out, "too obvious to ignore," but she has included all men appearing in the charters on official positions too when reaching a total of three thousand.[61] As only men could be *faste* and every sales contract required twelve *fastar*, it quickly escalates. That only men could hold the official positions is an important point, but I have focused on the people acting within the legal structures rather than the people officially being a part of the system.

Others have thoroughly analyzed the connection between land and authority during later centuries based on other sources than the charters.[62] In an influential article from 1996, Maria Sjöberg concluded that land in itself was gendered. She wrote that "the subordinate position of a woman within the marriage lead to that she formally and officially had nothing to do with landed property transactions."[63] Mia Korpiola has described the legal guardianship a husband held over his wife as very closely connected to landed property management as it, according to her, gave the husband full right of disposal.[64]

Critical remarks on the charters as sources have already been made in the introduction. Before moving on, it is worth recalling that the charter material is unevenly and somewhat haphazardly preserved. It is therefore by examining the material as a whole that we can get a more comprehensive picture, as it provides a statistical ground to stand on. Some charters will be used to exemplify either typical or aberrant conditions and circumstances, but the biggest strength is in the numbers. Discerning

marital status of the women in these charters has been the most challenging aspect, and most of the women remain unidentified.

Different Stages of Transactions

Transferring land from one owner to another was complicated and time consuming, yet very little research has been done to reconstruct the process beyond what was stipulated in the law.[65] Property transactions were also connected to an array of rituals that were not codified or that belonged to significantly older law than MEL and MET, which is why studying the charters is indispensable in order to understand the process. According to the law, anyone who wanted to alienate property was to attend the *ting* and make public his (or her) intentions, after which his (or her) closest kin had one year and one day to use the preemptive right of purchase if the land was inherited (*arve*).[66] The minimum time for selling your land was thus theoretically a bit more than a year, but in reality, it could take significantly longer as we shall soon see.[67]

Analyzing the process behind landed property transactions is essential to describing the role women could play. Landed property was the most important source of power, and access to land directly influenced a person's power. Maria Sjöberg has concluded that only men—as husbands—could activate the power generating qualities of a woman's landed property since only men were the ones with the authority to manage it.[68] Anu Lahtinen writes, based on her study of the charters, that "the documents confirm that in practice women did not have the legal capacity of a man" and that "women were seen as links" with a passive role in the networks.[69]

Regarding the Middle Ages, property management is, because of the limited sources, primarily manifested in transactions. It follows that we must understand the transaction process to understand how property management worked in practice, as well as where women fit in and where they did not.

Deciding to Engage in a Transaction

The first official stage of the transaction was the publicizing of intentions, and the final stage was the publicizing of the completed transaction—to *fastfara*, or make it steady. Both of these stages occurred at the *ting* and were regulated in the law code, but it was generally only the last occasion that produced any charters. Luckily, some of the charters relate the process outside the *ting* too, thus providing us with information to reconstruct the (entire) process—albeit as a generalization. There is no evidence that married women appeared at the *ting* to announce the intent to sell, though there are very few mentions of the first official stage

anyway.[70] A cautious conclusion would be that nothing in either law or custom encouraged women to participate in this stage.

However, the transaction process was really initiated already before it was first made public as the people involved decided to engage in transaction. Since these deliberations were not made in public, we know very little of what they might have looked like. Still, we do know that the concept of consent was intrinsic and that consent from immediate family in all likelihood was obtained already before the first *ting*.

Once present and future owners had agreed on the terms, the transaction could be made, but this was by no means a straightforward stage. A landed property transaction included some sort of payment—in equal land or in money and goods.[71] It was not unusual that monetary payments were made in several installments, and whatever sum had been paid was mentioned in the charter. Sometimes it was noted in the same charter that contained the verification of the transaction, other times a separate receipt was issued. For the sake of women's legal ability, the question of who received the payment is very important.

Making the Deal and Payment

I have not found any cases in which a married woman received payment without her husband, but there are cases of women with unknown marital status receiving payment without a husband's being co-receiver. For example, in 1366, Cecilia Petersdotter issued a charter acknowledging that she had received payment for a field she had sold to the archdeacon Nils in Linköping.[72] In 1370, Margareta and her nephew received payment for property they had sold,[73] and in 1371 Katarina Nilsdotter received payment for property transferred to a father and son.[74] Neither of these women had seals of their own, which could indicate that they were at least not higher nobility. Obviously, they were landowners.

Another interesting case is that of Göbla's widow, Könna, who in April 1382 sold property in Åbo.[75] In the charter, she is the main character, and no other seller is mentioned, yet later the same year her son—Göbla Göblasson—issued a receipt in which he confirmed that he had received payment for what he and his mother had sold.[76] These charters indicate the importance of family relations (mother–son) and women's capacity (at least as widows), as well as different stages of a transaction and how more people than appear to be the case may be involved. In the same way as Könna's son had been involved in the early stages of the transaction without it being mentioned, it is possible that wives were actively participating when deciding to engage in a transaction without it being noted.

Women could be the recipients of payments, but there is not enough evidence to say that a married woman got to distribute her own income as she pleased. This, however, is at least partly due to the nature of the

source material, in which marital status is difficult to determine, and the cases in which payment can be tracked through several charters are practically nonexistent. There are cases in which women appear to have been active in the process and later benefit from the income. For example, in 1414, Ingrid Eriksdotter received the final payment for a property her husband had sold during his lifetime.[77] Ingrid was a widow, and it is likely she benefited from the payment and had the rights to administer it. There is nothing to suggest that women did not benefit from payments already as wives, regardless of whether they had administrative rights to the money or not.[78]

So, what does it signify that wives did not personally receive the payment? The payment, no matter the type, required some physical presence by the recipient or a representative. This specific stage of the transaction seems to have activated networks with representatives to a much higher degree than any other stage. If payment was not made in immediate connection to other parts of the transaction, as, for example, the verification, the most common arrangement was that a representative collected the payment—regardless of the gender of the actual recipient. There are several charters in which different people transferred (by selling or trading) property to Bo Jonsson Grip and it was stated that payment was to be handled by "Bo Jonsson or his property manager."[79]

When women specifically made the payments, it was usually as widows with the responsibility to arrange for the unfinished affairs of their late husbands. For example, unfinished affairs were the reason the widow Bengta paid Peter Tyske in 1415.[80] Exactly how the transactions had unfolded is, however, unclear. Bengta's late husband, Inge Brun, had ten years earlier been summoned to the *ting*, at which the lawman of Finland, Sten Bosson, among others, ruled that Peter Tyske should have his property back and repay Inge Brun all the money he had invested.[81] In the receipt issued in 1415 from Peter Tyske to Bengta, Peter acknowledged that he had "reconciled" with wife Bengta for what her husband owed him "for Liuskallio estate, so that she has paid me well to full satisfaction." Somewhere along the years, it seems that Peter Tyske indeed got to keep Liuskallio and that Inge Brun therefore should pay him, but if there once were charters testifying to this, they are now lost. The most important aspect here is that Bengta paid and got a receipt. She did so because of her position as widow, as did many other women too.

Receipts are an unusual charter type and make up for just under 2 percent in DW.[82] In OM, the corresponding percentage is 1.9, which indicates that there were no greater gendered patterns in frequency.

Transferring the Ownership

A property transaction also contained an actual transfer of the ownership of the property. In Swedish, this means that the former owner would

affhendha (literally, 'de-hand') or that he or she had *vnth oc vplathit* the property to the new owner. In the charters, this comes across as a category of its own, obviously connected to the transaction process but still distinctive. The transfer was a specific ritual—a stage of its own. The cases of women (and men) appearing at the *ting* "holding the handle" are also related to the transfer of property to new ownership,[83] as was the *skötning* (a ritual in which some soil was placed in the cape hem of the new owner)[84] and the *omfärd* (in which the former and the new owner together with witnesses walked around the property).[85]

The special status of the transfer is exemplified in a charter from 1366. It was issued by Erengisle Ebbesson (Sparre) as a power of attorney for Arvid Pik to transfer all the property Erengisle had pawned to Heine Snakenborg should the payment lapse.[86] This charter thus gave Arvid Pik the legal right to perform the transfer ritual, but merely the forfeit of the loan was not enough to have ownership change.[87] Though the prerequisite for a legal acquisition had been fulfilled, additional rituals were required.

A charter issued in 1412 by Ingeborg Jönsdotter for the benefit of the cathedral in Uppsala further illustrates the issue.[88] In the regest it says that she donated property, but the property had actually already been bequeathed to the cathedral by her son in his last will. In Ingeborg's charter, she had procured the consent of her children (who were not mentioned by name) and then completed the transaction by transferring the land under the ownership of Uppsala Cathedral. She did not have a seal of her own, and apart from this charter Ingeborg is unknown to us. In this case, it is perfectly possible that Ingeborg's son had died recently and that he had not managed to complete the transfer himself, which explains why it was left to his mother to do so.[89] However, other cases indicate that quite some time might pass before the new owner gained access, especially when donations were concerned.[90] Presumably, this was because the benefactor often kept the donation for life even after it had been made.

This seems to have been the case with a gift the knight Karl Jakobsson had made to the Birgittine Convent in Vadstena. Karl is mentioned as alive still in 1390[91] but was deceased no later than 1406, when his widow Elin Ingevaldsdotter (tre örnfötter) confirmed that her husband, when he was alive, had donated to the convent and that she by her charter now transferred the property under the ownership of the convent.[92] She states that she "gives to and puts at the disposal of the convent, on [her] part with all the right that [she] has" to the property "in the same way" as her husband had previously done and then authorizes the bailiff to *fastfara*.[93]

In another charter, dated 1398, the knight Klaus Doget stated that he had now transferred (*vndht oc uplathit*) the property that his wife, Heliana, had previously donated to the convent.[94] I have not found any further information on Heliana and her husband, but the charter still

clearly shows how the transfer was separate from her donation within the transaction process.[95]

When it comes to gender, the transferring of property doesn't contain any specific patterns. Women participated but to a lesser extent than men, which correlates with the gender division in the material as a whole. In the cases where marital status could be discerned, the women were either widows or wives acting together with their husbands, but there is also a fair number of women whose marital status is unknown. Quantifying this in statistics is especially difficult when these transfers are concerned. In the database DW, I have a category called 'Transfers,' but transfers hide within other categories too.

For example, I have placed the charter issued by Cecilia Ödgersdotter in 1377 in the category 'Attestations.'[96] In the charter, Cecilia attests that the alienation of some estates made by her late husband had been performed in accordance with her wishes and that the couple had been properly reimbursed in both real money and butter. Hence, she transfers the estates to the new owner, Bo Jonsson (Grip), and gives the bailiff a power of attorney to complete the process at the *ting*.[97]

When counting only the charters in the category 'Transfers,' the numbers add up to 4.7 percent of the total with women as either primary or secondary agents in DW. If you add the attestations, the percentage rises to 8.2 percent. In OM, the percentage is 3.1 for transfers.[98] The transferring of ownership was thus a stage in which women were comparatively active.

Securing New Ownership

The next stage of the transaction—and the last official one—was the confirmation, in Swedish to *stadfästa* or to *ge fasta* (literally, to 'hold fast'). The most common way to do this was to issue a power of attorney—usually included in the alienation charter but sometimes drawn separately—to the bailiff in the county where the property was located. There are more than three hundred instances of power of attorney in the material—including those that only contain men—specifically authorizing an agent to *fastfara*. Suffice to say here that the act of confirming the transaction was highly ritualized and should be performed at the *ting*.[99] As such, it was an act primarily reserved for men in general and men in official positions in particular. The power of attorney, however, could well be issued by women—as has been discussed.[100]

It is worthwhile to linger a little longer at the confirmation, as it is a phase in which women were clearly less active. In the OM, twelve percent of the charters are confirmations (*fastebrev*), while the category makes up for only three percent of the charters with women as primary or secondary agents in DW.[101] Even taking into consideration that the person actually performing the ritual was a man, this must be deemed a substantial

difference. Seeking the official confirmation for a transaction was not a stage that activated women.

After the property had been transferred to the new owner, and the transaction had been officially confirmed, it was supposedly a done deal, but legal practice shows that ownership was far from secure. Even after the property had changed hands with all due procedure there were still occasionally charters issued reaffirming a new owner's legal right and at the same time pointing to the fact that these legal rights were not always clear. In Swedish, this reaffirmation is usually referred to as *hemula*, but it also comes across in the sources as variations of *stadfästa* or *upplåta*. Significant time might have passed between the original transfer and the reaffirmation, and it is common that the reason for the reaffirmation is unclear to modern readers, as the relationships are not mentioned.

For example, in 1362, Märta Turesdotter and her sons transferred "all their right" to the farm Boglösa.[102] Nothing indicates that they would have lived on the farm or even owned it, but they anyway had a right to it and went through the trouble of relinquishing their rights. It is possible that some of the cases of reaffirmation were issued once an heir with preemptive right (*bördsrätt*) had come of age, but if that was the case, it wasn't mentioned. It is very likely that Märta and her sons—as well as others like them—had some form of right to inherit, but through which lines is not mentioned.

Selling and Purchasing

The Swedish term *köpebrev* encompasses charters dealing with both selling and purchasing. Dividing the two is difficult, especially considering that even the charters written from the seller's point of view still had a buyer. Most of the preserved charters are, however, issued by the seller. Presumably, this was the charter that the buyer received, as there would have been significantly more incentive to preserve evidence of a transaction for the person on the receiving end, but that cannot be confirmed.

In the categories 'Sales' and 'Purchases' there are 712 charters in DW. Women were active agents in 593 cases and primary agents in 460 of these. In OM, there are 963 charters dealing with selling or purchasing.

That means that women were primary agents in 64.6 percent of the cases in DW and in 27.5 percent of the total number of cases collected in both databases. Given that women inherited one-third—and men inherited two-thirds—it is interesting that the percentage of women as primary agents is so close to one-third. Since there are so many factors unknown to us, it is still precarious to draw any far-reaching conclusions. For example, research has shown that women often received their inheritance in chattel rather than in land.[103] Even if women inherited one-third, it might not mean that women stood as owners to one-third of the land.[104]

Women as Active Agents

As mentioned, determining marital status of the women is very challenging, and in many cases it is impossible. One of the issues is the epithets used. Gabriela Bjarne Larsson concludes that epithet had a bearing on whose land was sold. A woman mentioned as someone's widow was, according to Larsson, selling property stemming from the late husband's family. According to Larsson, the epithet 'wife' denoted that the husband had agreed to the woman's actions even if it was not mentioned in the charter.[105] Other researchers have concluded that epithets rather specified hierarchies and the social status of the people involved.[106]

Since Larsson's conclusion that epithet was determined by the land has a tremendous impact on how to interpret the charters, I will start with testing it. Larsson states that "to confirm that the choice of epithet was dependent on which land was sold, we must seek examples where women who probably were widows, but not named as such" sold land to someone outside the family.[107] However, in the two cases that Larsson then herself uses, she draws the conclusion that the women were widows based on the fact that they were issuing together with their children.[108]

In order to disprove Larsson's hypothesis, I have searched for cases in which women mentioned as widows sold their own property. There would be no need to mention a deceased husband by referring to themselves as widows if they sold property they had inherited, as the husband would not be entitled to such property. In 1437, Margareta in Åbo, the widow of Hans van Hameln, sold property she had inherited from her father to Nils Olofsson—who, as far as I can see, was not related to her.[109]

There are also women whom we can follow and who were very active on the property market. One such woman was Birgitta Magnusdotter (Porse) of Fållnäs. She was widowed the first time in 1401 or 1402 after the death of the chancellor Arvid Bengtsson (Oxenstierna); and then a second time, in 1410, after the death of the prominent knight Erik Stensson (Bielke). She lived many years at her maternal estate, Fållnäs, and after that in the convent in Vadstena before she died in 1450.[110] This means that she spent more than forty years of her life as a widow. Most transactions that Birgitta engaged in were donations, especially to the convent in Vadstena. From the thirty-one extant charters issued by her, eleven are donations, and seven of these are issued in Vadstena. When following Birgitta, a documented widow, it becomes evident that her epithet choice was not dependent on which land she was dealing with. However, since she very rarely sold property, it is in other transactions we find this more clearly.

Birgitta almost always referred to herself as belonging to Fållnäs. That a woman was defined by her estate was very rare, but Birgitta still fairly consequently used this.[111] Additionally, she referred to herself as the

widow of her last husband—Erik Stensson. For example, in 1436, she referred to herself as the widow of Erik Stensson when issuing an attestation for her chaplain, Tord Eriksson, to use, move, or sell the house he had built with his own money on some property that the abbess in Vadstena had given her.[112] By that time, Erik had been dead for twenty-six years, and the charter concerned property given to Birgitta by the abbess. If Erik's relatives had any form of right to the property, it is not possible to say how.

In another example that is even more difficult to explain, she refers to herself as the widow of both Arvid Bengtsson and Erik Stensson.[113] In the charter, she relinquishes her rights to the estate Ullavi to the convent in Vadstena since it had been pawned by first Arvid and then Erik to Bengt Nilsson and then bequeathed by the same to the convent. That she mentions being the widow of Arvid—a connection she usually did not make—was probably dependent on the property involved as Arvid had previously pawned that property. However, Ullavi was Birgitta's own inherited estate. When she returned from a trip to the holy grave, she used the same estate as security for a money loan, four years after the previous charter. In that charter, she called herself only "Birgitta Magnusdotter av Fållnäs," and no husbands were mentioned at all, even though the pawning and Bengt Nilsson's gift were explained.[114]

Moreover, when it was time to divide the inheritance from Sten Bengtsson (Bielke), Erik Stensson's father, Birgitta was there on behalf of her children—Sten's grandchildren. In the short charter relating the division, she is defined only by her name and not with any epithets at all—even if it clearly concerned land from her late husband. If anything, she is described as a sister to Erik's brother Ture Stensson (Bielke), as they divide the inheritance after "our beloved father" and transfer property to "our beloved sister, wife Kristina Stensdotter."[115] As Erik's widow, she was sister-in-law to Ture and Kristina.

In some cases, it seems like land and epithet really did have a connection, while in other cases it did not. Hence, even if a woman could use the epithet of a widow to legitimize her claim to certain land, it is by no means a way to ascertain where land came from.[116] The use of epithets is far too inconsistent. Birgitta, as a general rule, defined herself as the widow of her last husband, but her use of epithet was highly situational. Additionally, there are women who were buying property who were referred to as widows, such as Kristina in Skänninge, who bought everything that Jakob Arnaldsson had inherited from wife, Elsebe, in the area.[117] Hence, being defined as a widow had more to do with social status (derived from marital status) and was more dependent on the situation than on the land involved.

In her material from Finnveden, Larsson sees a clear decrease in the number of women selling after the year 1429.[118] The drop in the 1430s is

evident in my material too, but the next decade still shows a significant increase. Another, significantly larger drop was in the 1390s.[119] I find it difficult to believe that the reason for these two drops can be found in gender structures—it is much more likely that the reason lay in general political or economic developments.[120] For example, Sweden experienced a civil war in the 1430s—the Engelbrekt Revolt.[121]

There are some general things that can be said about women and selling/purchasing property based on statistics. Of the charters in OM, selling or purchasing makes up for a total of 24 percent, while it is 15.6 percent in DW. Hence, women participated to a lesser extent in selling and purchasing land than men did. Studying only the Finnish charters, Lahtinen has concluded that "[i]n 56 % of the sales contracts, no women are mentioned."[122] If I add all charters pertaining to selling or purchasing in both OM and DW, I have a total of 1675 charters. In these, there were no women mentioned in 57.5 percent, which is slightly higher but still comparable to Lahtinen's result. Lahtinen further concludes that "there was no real change in this pattern from 1300 to 1500," which correlates with my findings from 1350 to 1450.[123]

Widowhood functioned as a trigger, at least when it is possible to follow a woman through a series of charters. Birgitta of Fållnäs started participating in transactions and arranging for her property to a much larger extent when she was widowed the second time, and previous research has seen similar patterns for other women.[124] Considering how many married women were active selling property together with their husbands, wealth was a key factor. Most women did not have the social and economic position Birgitta of Fållnäs had and thus no possibilities—or reasons—to sell or buy property more than once.

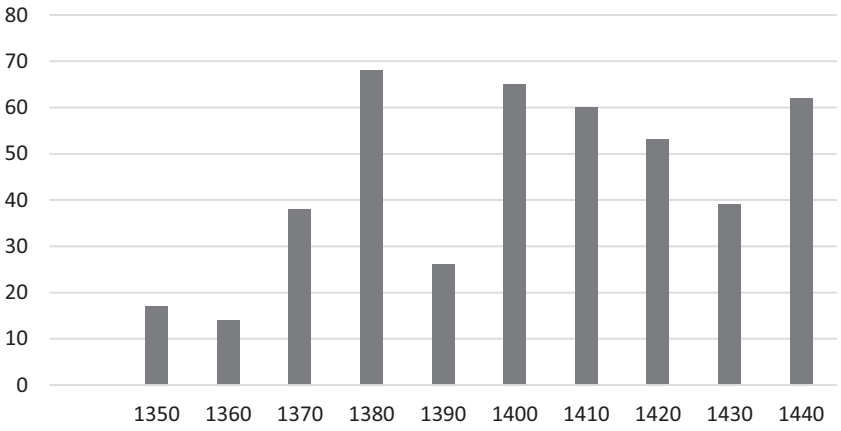

Figure 3.1 Women as primary agents in the category 'Sales,' based on DW.

Wives as Primary Agents

Before discussing wives selling property, we must further examine Larsson's arguments concerning the use of the epithet 'wife,' as she claims that a woman being referred to as 'wife' had procured the consent of her husband even if it was not explicitly mentioned.[125] Of the cases she mentions in the footnote, only one is from my period. It is from 1426, when Märta Arvidsdotter sold her share in a mill to Torbjörn Kärling.[126] Märta does not use an epithet per se but merely states that she is the daughter of Arvid Pik and the wife of Peter Håkansson. No consent from the husband is mentioned in the text, but he seals the charter next to her—a clear, physical sign that he was knowledgeable of and approved of her actions.[127]

It is unclear to me what Larsson bases her conclusion on as there are so many cases contradicting it. First and foremost, there is an abundance of cases in which women have the epithet 'wife' but were in fact widows and sold their own inherited property.[128] As widows selling inherited property, they did not need a silent consent from a deceased husband. Second, it was quite common to use 'wife' twice when issuing a charter. For example, in a jointly issued charter from 1384, Jöns Birgersson states the charter has been issued together with "my wife, wife Katrin."[129] The epithet was used as a way of establishing the social status of the women, which depended on marital status, rather than demarcate implicit consent from a husband.

Since determining if a woman was in fact married at the time of the charter being issued is so precarious, statistics are not as reliable as when widows are concerned. I have based the statistics not on likelihoods but solely on the information in the charters. To give an example of this, we can look at a charter from 1375. It was issued by Sune in Tjuvatorp and Elisabeth, who sold their property in Övre Långserum to a man called Peter Tomasson.[130] They are consistently referring to themselves as issuing together and the property as theirs mutually, but their relationship is never defined. It seems likely that they were married, that the property was actually hers, and that he acted as her *malsman*. It could also be that they were siblings, which would explain why they wrote everything from a joint perspective. Currently, there is not enough comprehensive data from previous research to give any other reason for a woman and a man selling together, as our explanatory models are so closely connected to gendered hierarchies and the idea of guardianship over women.

This charter was issued in Östergötland, so guardianship ought to have been a factor, but I cannot say for sure that this was the case and, if so, in what way. Moreover, it is not the only one of its kind.[131] It is important to not interpret these charters as expressions of women's subordinate position as it is possible that they were acting as co-owners of the property. We must also refrain from assuming that a man and a woman were married simply because they were selling property together.

Taking into consideration women whom I with certainty can define as wives at the time, I have found wives as primary agents in 119 cases. This means that 21.4 percent of the active women can be identified as wives. The high number is primarily due to the fact that husband and wife often sold property together. There is also a clear trend with time. A very relevant question to ask is whose property they sold.

Even though there are many uncertainties surrounding the origin of property, there can be no doubt that when a husband and wife issued jointly, it was most common that they sold her property.[132] Larsson has come to the same conclusion regarding whose property was sold but states that it was the husband who sold his wife's property. She writes that "it is not apparent from the charters that the husband has received his wife's consent, instead, the issuer formulated it as if he and the wife had carried it out together" as "me and my wife."[133] This formulation is relevant also when donations are concerned, but I will address it here as Larsson discusses it in the context of selling.

The formulation Larsson refers to is "me and my wife." Even if it continues with stating that they have sold "their property," it is often apparent that they are in fact selling her property. One charter that Larsson references was issued in 1442 by Jon Marsvin and his wife, Kristin Knutsdotter.[134] They write:

> All men who see or hear this charter, greetings from us, Jon Marsvin and my beloved wife Kristin Knutsdotter. [. . .] By this our present and open charter we acknowledge that we have sold [. . .] our farm in Fortatorp [. . .] and the aforementioned money has been given to us so that we are well satisfied with both our love and good will.[135]

Later in the charter, the voice is Kristin's when she states that Fortatorp had come "to me, Kristin Knutsdotter, rightfully and according to

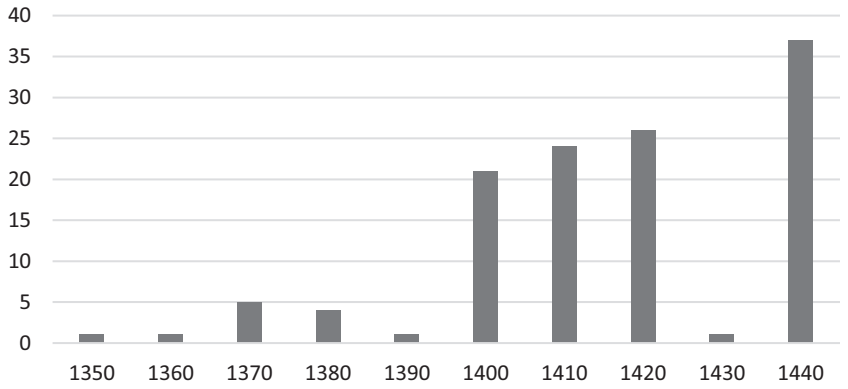

Figure 3.2 Wives as primary agents in the category 'Sales,' based on DW.

Sweden's law" as a morning gift. When transferring the ownership, it is still Kristin we hear, and at the end she asks him, "my beloved husband," to seal the charter. The formulation reflects female subordination and the hierarchy within marriage, but it does not strip the wife of agency. I disagree with Larsson's interpretation that it is the husband selling when the charter is issued jointly, and I have marked these wives as primary agents. In cases such as that of Kristin Knutsdotter, I find no reason to believe that it is her husband selling—she is clearly active as a seller—regardless of the fact that she was not independent.[136] In other cases, it is clear not only that the husband was selling his wife's property but also that she was compensated for it.[137]

This kind of jointly issued charters, or charters issued by the man with the wife's explicit consent, in which the couple sold her property, were by far the most common in which wives were active. There are, however, also charters in which the couple sell at least partly his property. When Törne Skytte and Ingeborg Jönsdotter sold property in 1412, they specified that they had "on both sides" consent and willfully sold both inherited property and such that had been purchased.[138] In other cases, the persons consenting or sealing were his relatives.[139] For example, in 1439, Anders Andersson and his wife, Elisiv Jönsdotter, sold what they refer to consistently as their mutual property, but his brother sealed the charter alongside them.[140] If the land in these charters indeed belonged to the wife, even though the husband's relatives participated in the sale, we must reevaluate our view on the marital family's authority over the woman's property. However, I see it as perfectly possible that the land was in fact his.

When constantly talking about which line of a family that property stemmed from and the importance of separating property, the fact that men and women could own property jointly is left out of the equation. Property that was bought during marriage belonged to both parties—albeit not equally. In some cases, it is impossible to determine whose property was being sold, such as in 1389, when Nils Slotte and his wife, Sigrid Nilsdotter, sold their share in a field,[141] or in 1401, when Bengt Kare and his wife, Kristina Sonadotter, sold land in Arboga, "south of the river, east of the pasture next to the river and the ditch."[142] Given how common it was that couples explicitly sold the wife's property, it is tempting to interpret these in the same way. However, we also know that being accurate and precise in describing the origin and ownership of property was key to a successful transaction, as the heirs could annul it otherwise.[143] Hence, I find it most likely that couples sold jointly held property when they claimed they did.

Then there are a few cases in which wives sold property independently without their husbands. As the epithet 'wife' does not reveal a woman's marital status at a given time, I have accepted only cases in which I know from a secondary source or from the same charter that the husband is alive but not participating. Still, with such hard criteria, it is possible to

find cases.[144] For example, Katarina Håkansdotter was widowed and had at least one son, Claes Bordendreng. Later on, she remarried with the burgher Hans Skapenberg. In 1401 she sold the morning gift from her first husband to the cathedral in Västerås.[145] Her son consented to the alienation, and since his mother did not have a seal of her own, he sealed the charter for her. Her new husband, however, played no evident part at all—not even by consenting.

As it was her morning gift, the new husband had no legal right to the property, but we have also seen cases in which the new husband still consented or issued the charter together with his wife. One year later, Katarina Håkansdotter stood in front of the *ting* in Siende hundred together with her son to get *fasta* for the sold property. Her new husband was not mentioned here either. It is very possible that geography mattered. The charter was issued in Västerås, which is one of the areas that did not recognize the *malsman* system. Another case is that of Ingrid Ingedotter. In 1426 she sold "all the right my beloved husband Björn Djäken and I have" in some property in Vårfru parish.[146] Though there are several Vårfru parishes, this is in all likelihood the one in Enköping, not far from Västerås and in the Svea region, which again indicates geography as a factor.[147] Lahtinen has concluded that "sometimes, when the husband was ill or the wife wanted to sell off her own property, the woman could act without having her husband present."[148] Though I have not found any cases in which the woman is explicitly stepping in because her husband is indisposed, I do agree with the idea that wives could sell off their own land.

Furthermore, there are charters that challenge much of what we think we know about marital authority and gendered hierarchies. For example, in 1366, the sheriff, mayors and council of Västerås made it known that Jöns Skörbytta; his wife, Kristina; and their son-in-law Heneka Nagel had come to the town hall to certify that they had sold the house in which they lived.[149] How the house had come into their possession is not stated, which leaves us with three possibilities: One, Jöns had inherited it; two, Kristina had inherited it; three, one or both of them had acquired it as *avlinge*. If it was Jöns's inherited property, he still took his wife with him to the town hall to attest to the transaction, which would strongly suggest that her presence was used to legitimize the sell.[150] If it was Kristina's inherited property, their whole family—including their daughter and her husband—lived in a house Kristina owned. This does not fit in with the patrilocal system that prevailed. If they had acquired the property together, this charter shows us how a wife could directly benefit from purchases and be perceived as owner.

A charter from 1412 issued in Uppsala also stands out. First of all, it concerned not land but rather a missal that Greger Magnusson and his wife, Ingeborg Magnusdotter,[151] sold to the canon in Uppsala and vicar in Näs, Bengt.[152] They both seal the charter and state that they are "asking

honorable women," Ingeborg's mother and sister, to seal the charter with them. Either they owned the book together, or it belonged to one of them only. If it was his book, three women from his wife's side of the family legitimized and witnessed the sell. If it was her book, we have a woman as early as 1412 who owned a missal. In either case, two women were asked to seal.

Cases like these might challenge preconceived notions, but they are so few that they are not challenging the general trends.[153] Instead of forcing us to rethink the bigger picture, they encourage us to be more cautious in our interpretations and to constantly be aware of the many divergences from the trends.

Husbands Selling Their Wives' Land

Sometimes, the wife could still be represented by her natal family. When Jösse Magnusson and his wife, Katarina Magnusdotter, sold property, it was her father and brother who sealed the charter.[154] It was also her father and brother who were at the *ting* to give *fasta*.[155] In other cases, it almost seems as if the husband were representing her natal family members. We know that the son-in-law could be a great asset and that he was often very active in the affairs of his wife's natal family.[156] For example, in 1350, Niklas Pekkilhuva sold everything that his wife and her sisters had inherited from his in-law Lyder Ruska to his other in-law, Nils Ruska.[157] This is very clearly a family affair drawn between the men of the family and over the heads of the women who owned the property.[158]

Though there can be no doubt that wives remained owners of their property even after marriage and that they could sometimes sell their land—without, or more likely together with, their husbands—it did happen that husbands sold the property of a wife seemingly without her involvement. When Hilde Harde sold property in 1435, he merely pointed out that it was his wife's inherited property.[159] The wife was not even mentioned by name. A similar case is when Jeppe Djäken in 1390 sold his wife's land, including a meadow,[160] or when Håkan Röd sold everything his wife had inherited to a man called Abraham.[161]

It is possible that the husbands in these cases, and others like them, were in fact widowers.[162] However, I think geography rather than marital status is the key factor here. All the cases of husbands selling their wives' property without consent or an agreement mentioned were issued in the Göta region, which, as has been previously discussed, was the region from which the *malsman* system originated. What can be traced through the laws becomes evident in practice too—married women in the Göta region were under guardianship. However, since there were also plenty of women acting independently in the Göta region—albeit not as wives—the guardianship did not mean that all women, or even wives, were minors. As we shall see, this is a pattern that remains.

One more form of gendered representation must be discussed. Though they are very rare, it is possible to find cases in which brothers seem to act as *malsman* for a sister, for example, when the siblings Jöns, Gunne, and Elin sold to the knight Abraham Brodersson.[163] The charter was formally issued by all three, but when it was time to seal the charter, they write that "I, Jöns Petersson, and Gunne Petersson have hung our seals on this open charter for us and for Elin, our sister."[164] This charter shows us that brothers could seal for sisters in a way that husbands could not seal for wives.[165] Brothers also sometimes sold their sister's property, seemingly without securing consent.[166] On the other hand, brothers sometimes sold the land of both brothers and sisters in a similar fashion.[167] As we have previously seen elder brothers acting as *malsman* for their siblings, age might well be more important than gender.

Women Purchasing Land

It was very rare, but it did occur, that women bought landed property.[168] Sometimes, it was together with their husbands, as when Katarina in 1406 bought a town house in Strängnäs, "by the bath house."[169] It could also be together with another male relative, such as when Margit Floriksdotter and her son bought estates from Margit's relative Elin Vilkinsdotter and her husband.[170]

More commonly, the buyer was a widow.[171] For example, Katarina, the widow of Lek, bought property from Brynjulf in Motala in 1377.[172] There seems to be a significant difference in social status between buyer and seller in this case. Katarina had the epithet *fru*, which suggests she was nobility, while Brynjulf did not even have his own seal.[173] A similar case was when the previously mentioned Birgitta Magnusdotter of Fållnäs bought a share in a house in Strängnäs from the prebend in the same town.[174] Also buying from a church official was noble-born Katarina Erengisledotter, who bought land from the clerk of Vadstena convent, Johan Esbjörnsson.[175] Kristina Anundsdotter, widow of Anund Sture, bought a house in Vadstena from a burgher and his wife in 1439.[176]

Sometimes, the marital status of the woman was unknown. Helga in Nordanö bought property from her son-in-law Karl Störkersson in 1415,[177] and Katrin Sixtensdotter bought from her brother in 1424.[178] Here, the seller and buyer had personal ties, even though we do not know if the woman was married or not at the time. It might be tempting to interpret these charters as indications that women primarily bought property from relatives, and to a certain extent that holds true. Even though there are not enough cases from which to draw any far-reaching conclusions, a relative or a church official clearly seemed to be the preferred seller when a woman bought property.

In a few charters, we are told what the women did with their purchased property. Margareta Bosdotter, a widow, donated property she

had bought to the convent in Nydala.[179] Lydeke Hansson and his wife, Ramborg, bequeathed a house and some land in Vadstena to the chapel there.[180] Katarina Nilsdotter first traded the property she and her husband had bought with a relative of hers and then donated it to the convent in Vadstena.[181] These are examples of how women, married or widowed, straightforwardly benefited from property they had purchased.[182]

As always, there are cases that defy all patterns and that cannot be explained with our usual theories of subordination, hierarchies, and networks. In 1438, Bengta Petersdotter—who is called 'wife,' but that might simply be an honorary epithet—bought an abandoned croft for the slight sum of four marks.[183] Why she would want an abandoned croft remains unknown.

There does not seem to be any regional variations, but given that there are so few cases, it is hardly surprising. Only one of the cases is from the fourteenth century. By the beginning of the fifteenth century, some areas in Sweden had a growing market economy.[184] However, the definition of a transaction made on such a market is, according to previous research, that land is being transferred between independent and equal parties.[185] The purchases women made can hardly be said to fill those criteria—Bengta and the croft perhaps being the exception.[186]

Trading

In the category 'Trades,' there are 303 charters in DW. In these, women were active in 267 charters and primary agents in 208 of those. In OM, there are 374 trades. Women were thus primary agents in 68.7 percent of all the cases with women and in 30.7 percent of the total number of cases in DW and OM combined. That is slightly higher than that for 'Sales' but still comparable. Previous research has concluded that trades were more common than sales during the Middle Ages, but my numbers do not support such a claim.[187] However, this could also be due to the way the charters have been preserved. If trades were, as has been suggested, rather a way of changing the place of your property than actually alienating it, there might have been less incentive to put it in writing.[188]

Churches and convents were popular trading partners. Partly, this was probably due to the fact that they received plenty of scattered donations, which meant that they had both the property available for trade and the incentive to centralize their holdings.[189] Partly, trading might be a way for relatives to retrieve certain donated property in exchange for other. In my database, 45.2 percent of the trades in which women were primary agents had the Church as trading partner.

The pattern in trades regarding women as primary agents over time follows the pattern in sales, with a significant drop in the 1390s. What stands out, however, is a remarkable rise in trades in the 1380s. Forty-seven charters (22.6 percent) were issued during this decade. My first

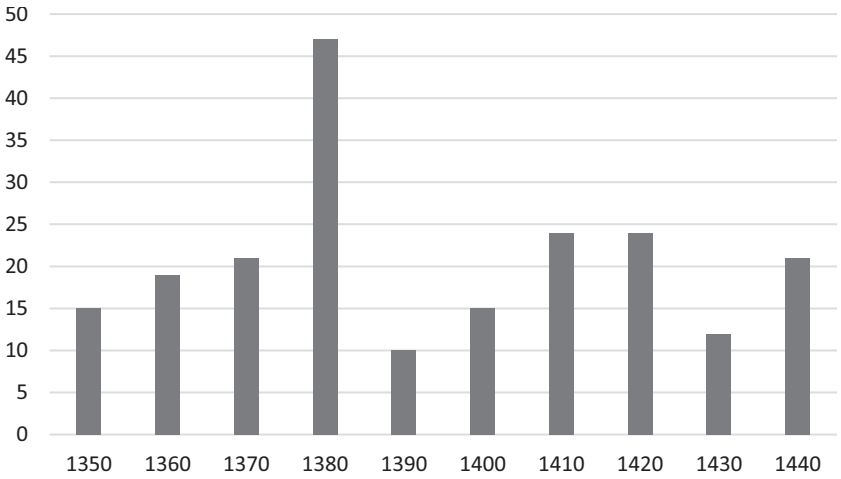

Figure 3.3 Women as primary agents in the category 'Trades,' based on DW.

thought was that this correlated with the newly founded convent in Vadstena, but only five of the charters concerned the convent. If anything, the 1380s was a decade of unusually few trades with the church as trading partner—it went down from a total of 45.2 percent to 34 percent. Bo Jonsson Grip was involved in many trades (five),[190] as was the abbess in Askeby convent, Märta Haraldsdotter (five), but I have found no satisfying explanation for the high number of charters.

Women as Active Agents Trading

When trading property is concerned, there is another kind of woman who is very active compared with sales or donations—the abbess. In many of the charters, the woman who is the primary agent is an abbess. In the beginning of the period, it is often Vreta, and in the end of the period, the convent in Vadstena emerges as an important trading partner, with powerful abbesses as the leaders. This means that the number of primary agents is, in a way, slightly inflated because the abbesses partook in the trades as representatives of their respective convents and not as ordinary women.[191] However, we do know that abbesses continued to play important roles as members of their families after they were appointed.[192] To determine when a medieval official—whether it was a bailiff, a sheriff, or an abbess—was promoting personal interests and when he or she was merely representing his or her respective institution is a guessing game.[193]

Gabriela Bjarne Larsson has concluded that trades were drawn by the heads of household and that the few women appearing as trading partners might then have been heads of household. As Larsson states, there

are no comprehensive statistics of how often women were indeed heads of household, and for the time relevant here, such numbers cannot be found. In Larsson's sources, she has found only 5 percent of women as solitary trading partners. In my material, the corresponding percentage is 7.2 percent if all women representing a church are deducted.[194]

Larsson further concludes that trades primarily were made with someone outside the kin group rather than between family members. She suggests that trades therefore were a way to avoid the claims relatives could put on the land in question. When trading land, it kept the qualities it had. For example, if inherited on the mother's side it remained bound by the regulations regarding such land even if traded for some other land.[195] Thus, the property did not leave the family or transform. In the words of Larsson, it merely changed place.[196]

Still, trading property ought to have required great knowledge of the properties of land and a genuine will to arrange one's possessions. When women as active agents are concerned, I can see a slight penchant for trading with family members rather than with people outside the kin group. A wife could, for example, trade with her own husband, as Ingeborg did in 1357.[197] That trades between spouses even existed is a clear sign not only that property was kept separate after marriage but also that women's ownership mattered.[198] If a husband gained anything more than a right to manage his wife's property through marriage, there would be very little incentive to trade. Of course, it is perfectly possible that trading with a wife could give the husband's natal family benefits if the wife was not knowledgeable enough to protect her own interests. However, I have found no evidence that this was an issue.

Independent women traded with both closer family members and more distant kin. Ingeborg Erlandsdotter traded in 1363 with Anund Hemmingsson.[199] She had received the property by a previous trade with her sister. In 1415, Elin Jönsdotter traded with Lucia Salomonsdotter, who was at the time married to Karl Störkersson.[200] Elin and Lucia were related, as Elin refers to Lucia as her *fränka*. This charter shows how women could decide to trade even with other women, but these are very rare. Furthermore, Lucia's husband was present when the charter was drawn, and Lucia was thus not acting alone.

The active wives acted together with a husband. In most of the cases, I have not been able to determine whose property was being traded.[201] Hence, an active wife could suggest either that it was her property being traded or that it was jointly owned property. The women who acted independently are either widows or of unknown marital status. Katarina Erengisladotter (Hammersta-ätten) was a widow when in 1411 she decided to trade away some of her property.[202] Her trading partners were a husband and wife, Nils and Ingrid in Lund, close to Uppsala. The only woman I have found who possible was married was Ingeborg. In 1412, she traded her own inherited property to a man called Tord Jonsson.[203]

Ingeborg refers to herself as "Sven's," which is a way of stating marriage, but I have not been able to ascertain whether Sven was in fact still alive.

The obvious trigger widowhood constituted when selling was concerned is not at all as obvious in trades. When women engaged in trades, it was together with a man, and instances of independent women trading was, as has already been stated, few. However, Larsson's conclusion that trades were to be drawn by the head of the household and that the low percentage of independent women correlates with women as heads of household is not convincing.[204] First of all, 12.9 percent of property sales were by independent women—as compared with 7.2 percent of trades, and there is no evidence that trading to a larger extent than selling would be the prerogative of the head of household.[205] Quite the opposite; if trading merely meant changing the place of your property rather than alienating it, one would expect it to be less important that the head of household or an authoritative figure engaged in the transaction.

The difference in percentages between independent women in trades and those in sales is large enough to suggest that the answer lies within the form of transaction rather than in authority. Trades were, generally speaking, not something that women engaged in particularly often. This indicates that women had a lesser interest in rearranging the property they owned, which, in turn, might suggest that women were not involved in property management in the same way that men were, even as widows. It could also be a sign that women took less economical risks.

Husbands Trading Their Wives' Land

Trading is a form of transaction in which there is a substantial number of men trading women's property—especially husbands trading the property of their wives. Most of the time, the wife gave her consent. However, sometimes the wife was not mentioned by name even if she was stated to have approved.[206] I have marked such women as secondary agents.

There are also charters in which husbands trade their wives' property seemingly without her involvement at all. For example, when Dag Martinsson traded his wife's maternal inheritance, her consent was not mentioned. Dag states only that he is acting on "behalf of" his wife.[207] In 1365, Ebbe Pik traded with Peter Knoppe, both of them stating that they had received the property with their wife. Often, this formulation indicated that the wife had inherited the property. Neither wife consented or participated in any way. Atte in Värnamo also traded his wife's inheritance,[208] as did Nils Kettilsson[209] and Henneka.[210] All of these cases in which husbands independently traded their wives' land originated in the Göta region, and the latest one was drawn in 1381. Except for the fact that there is clearly a time factor involved in trades, it follows the same pattern as that in sales—when the husband managed his wife's property without her consent, it was in the Göta region. As was concluded

regarding husbands selling their wives' land, such authority came from the *malsman* system.

However, according to MEL, a husband needed his wife's permission to trade her property. In the law, it was stated that "a husband may not trade his wife's property, whether they have children together or not, unless with her consent and that of her heirs, and to the better—not the worse."[211]

Hence, these husbands were not acting in accordance with the current law. Instead, these husbands acted based on the *malsman* system that was already in existence in the region and that gave them the right to manage all marital property regardless of who owned it. It is of great importance that this system flourished outside and independently from the text in MEL. The stipulation of the hierarchies between husband and wife in MEL bears traces of the regional laws of the Göta region, but by 1450 it had not changed practice on a kingdom level.

A charter from Vallby parish, in Södermanland, illustrates the difference. In 1375, Jöns Kärling and his wife, Margit Markusdotter, wanted to trade property with Vicar Folke.[212] As the property up for trade belonged to Margit, she had procured the consent of her closest relatives. The charter is primarily written in the voice of Jöns, as it is stated that "I, Jöns Kärling in Valbo parish, and my wife Margit Markusdotter made a land trade."[213] However, it was the wife herself, as the owner of the property in question, who had asked her next of kin.[214] Such conduct seems to be more in accordance with the law.

Furthermore, even though there are many examples of husbands fairly freely trading the property of their wives, men traded their own property first and foremost. When the focus is on women and women's property—as it is in this study—it is easy to forget that in 55.2 percent of the trades, men traded men's property with other men.

Donations

There are almost as many donations as there are sales. As donations, I have included gifts even though they—as we shall soon see—are of a slightly different character. Morning gifts, however, are not included.[215] In the category 'Donations' there are 670 charters in DW. Of these, women were active in 567 cases and primary agents in 455. In the OM, there are 271 donations.

Hence, women were primary agents in 67.9 percent of the cases pertaining to women and in 48.4 percent of the total.[216] These numbers in themselves reveal important information on women's actions as women were primary agents in nearly half of all the cases with donations and gifts. That is, in comparison, a spectacularly high number.

In this section, I will also discuss testaments. In OM, there is a total of 60 testaments, while there are 161 testaments in DW, of which 105 testaments have women as primary agents. That means that out of a total of

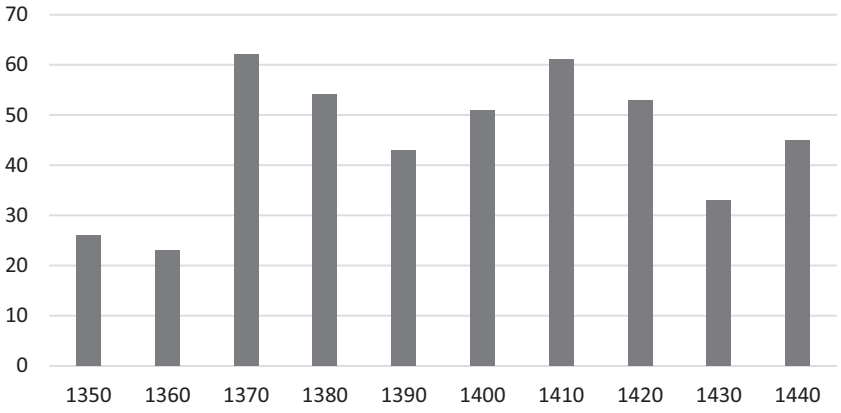

Figure 3.4 Women as primary agents in the category 'Donations,' based on DW.

221 testaments in OM and DW combined, women were primary agents in 47.5 percent of the charters.

The reason that I have calculated the testaments separately is that they risk distorting the statistics.[217] The definition of a primary agent is that the woman is acting on her own. In many of the testaments, women were on the receiving end, sometimes for very specific items such as pots or certain clothes. Defining the agency of these women was not easy, but I have marked them as primary agents as they are—in their own right—on one side of a property transaction. When land was concerned, it could be argued that the women themselves did not benefit from the gift or have the right to manage it, as it was a male prerogative. If that is the case, these women were of course not active agents at all but mere transmitters. This is something I will return to throughout this chapter.

Though women as primary agents in donations follow the general trends in sales and trades, with drops in the 1390s and 1430s, the drop in the 1390s was proportionately much smaller where donations were concerned. Janken Myrdal has studied the effect of the plague on donations and found that the number of donation charters correlates with years of pestilence epidemics.[218] Famine, war, or pestilence could very well explain why the statistical dip for other charter forms is so much larger as people were more prone to consider the well-being of their souls during such times[219]—and perhaps less prone to engage in other transactions. However, there were no documented larger pestilence epidemics during either the 1390s or the 1430s.[220] Myrdal suggests, based on the testaments and studies from other parts of Europe, that there might have been an outbreak in 1389, which would be supported by my findings, but these are at best indications.[221]

Testaments and donations were regulated not in the normal chapters in MEL but in the *Kyrkobalken* (Church chapter). Since MEL did not have a *Kyrkobalk*, the equivalent chapter from UL was used throughout the realm.[222] This means that donations and testaments were regulated—at least in theory—by the rules of an area in which the *malsman* system did not exist.[223]

Testaments and Last Wills

There have been several studies on medieval testaments. One of the most important issues that have been raised is the effect the Black Death had on people's willingness to draw testaments.[224] The number of testaments is said to increase with the waves of the plague, leaving spikes in the statistics for the 1350s through the 1370s, but previous research has also noted a significant decline after the year 1400.[225] When adding all the testaments with active women (albeit not women as primary agents), I can also see that the 1350s and 1360s had disproportionately many—especially taking into consideration that the total number of charters issued increased with time. However, the 1370s have less than half compared with that of the previous decade. Though the numbers never reach the top years during the first two decades, I can see no significant decline over the course of the fifteenth century. The deep drop in the 1390s that showed in the statistics on sales is evident also when testaments were concerned.

The most interesting pattern appears when a division between wives and widows is made, as the number of wives is comparatively large. If widowhood worked as a trigger in other forms of charters, wives were very active in drawing up wills. Only in one decade, the 1410s, were

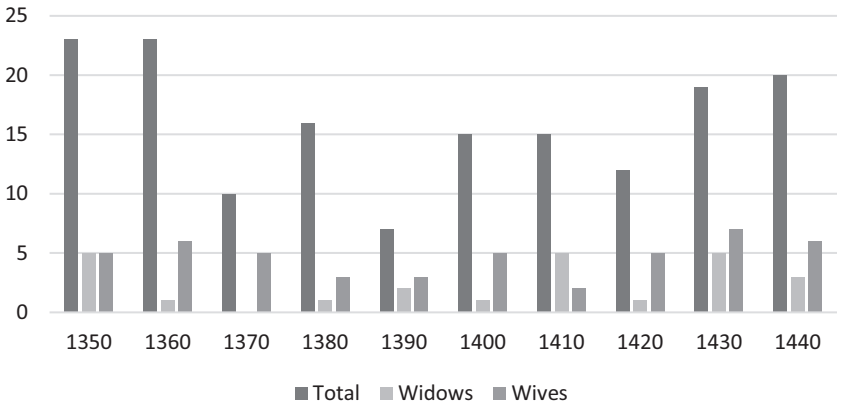

Figure 3.5 Women as primary agents in the category 'Testaments,' based on DW.

there more widows than married women. Many of the wives issued together with their husbands, but this category also has many wives issuing independently.

Where testaments are concerned, we also see more women involved as witnesses or otherwise partaking in a way that helped legitimize the document. For example, when the widow Katarina Knutsdotter drew up her last will in Linköping in 1369, she made bequests to several women.[226] Wife Ingeborg Bodotter received two pillowcases and a sheet, and Argun received a coat and a headdress. Kristina in Stång (in Linköping) got a spoon, which at the time was in the possession of Albrekt Skinnare. Ingeborg Bodotter's maid, Sigrid, received a headdress that Katarina's daughter had at the moment. The testament is long and detailed.

Though it may be debated how much use Kristina in Stång had of the bequeathed spoon—it is perfectly possible that it was a very valuable spoon—I find no reason to doubt that many women directly benefited from Katarina's will (the two maids, Ingeborg and Kristina, who got one cow each, for example).[227] Katarina Knutsdotter did not have a seal of her own, so she asked the noblewife Ingeborg Bodotter to seal in her stead. It was more common that women sealed testaments than any other kind of charter.[228]

As testaments and last wills per definition contained provisions on how the issuer wanted property arranged after his or her death, they tended to be family affairs. This means that married women participated in ways that they did not in, for example, sales. In 1359, Elena Ambjörnsdotter, her son Johan, and her daughter-in-law Gunhild made a joint testament benefiting the convent in Nydala, where they wanted to be buried.[229] That a daughter-in-law acted together with her marital family in this way was very rare, but, presumably, the three people had formed close bonds.

Testaments also reflect the bonds between husband and wife. Usually, a testament contained some form of provision for the spouse, manifesting how they cared for each other. In 1369, Ingegerd Anundsdotter drew up her last will in order to have the bishop in Linköping hold a yearly service in memory of her husband, herself, and both the spouses' parents and children.[230] In other cases, the husband and the wife issued together.[231] Where testaments are concerned, there is also an unusually high rate of wives issuing independently. Ingegerd Anundsdotter's husband was not mentioned as deceased, but I have marked Ingegerd as one of the women with unknown marital status. There are, however, women who can be identified as married and who still drew up testaments, which makes it perfectly possible that Ingegerd was in fact married.

Sigrid Magnusdotter of Vinäs drew up her last will in 1370.[232] She had previously been married to Thiegne Jonsson but was in 1370 already remarried to Sigge Birgersson. Among several other bequests, she declared that her husband should have her property in Slycke and

Rappestad. The husband was a beneficiary of the will, but he was not partaking in the drawing of it. Similarly bequeathing to her husband was Märta Siggesdotter, who in 1378 drew a will in which she stated that her husband should have her property in Åsby along with all tenants, fields, fishing waters, and such which belonged to the estate.[233] Her maid Ingeborg received her blue cloak made out of cloth from Ypern, her gray coat, and her brown bonnet. Elin the brewster got her green coat; Elin the bakester, her silver spoon.[234] Other wives also got small bequests. The testament of Iliana Ragvaldsdotter from 1378, drawn in the presence of her confessor, followed the same pattern.[235]

Of course, it is possible that the husbands pressured their wives or that they in some other way persuaded them to draw wills that included bequests to the husband, but I see nothing in the charters supporting such tendencies. Upon naming her husband one of the executers of her will, Märta Siggesdotter states that she "puts all the comfort of her soul on him"—an indication of the devotion between husband and wife.[236] Birgitta Filipsdotter went as far as proclaiming that should her husband live longer than she, he should have all her property for as long as he lives.[237] But it was not only women who made men their beneficiaries. Couples could also make mutual wills to provide for each other,[238] and husbands frequently remembered their wives in their wills too.[239]

I have not found any trends based on geography in these charters, which might be because the regulations on testaments and wills came from UL. However, even the *Kyrkobalk* of ÖL was significantly more lenient toward women's actions than the rest of the law. Even though I do not think there is enough basis to claim that the reason for women's active participation in testaments is the *Kyrkobalk* of UL, I do believe that the answer lies within the juncture of Church and kingdom law.

Women as Active Agents Donating

The patterns in donations follow the patterns in sale and purchases much more than those of testaments. We see both widows and wives as issuers, but they very rarely seal the charters.[240] Widows and women of unknown marital status appear often together with relatives, but the relatives are of both genders—in sales there are more men. Wives appear almost exclusively alongside their husbands. One reason that we see more women generally in the testaments is that people tended to bequeath to many different beneficiaries. As Larsson points out, gifts were aimed at one beneficiary.[241]

Larsson has made several categorizations on the donations in her sources that differ from mine. My purpose is to determine women's agency, and hers is far wider, as she intends to map out the economic strategies and market relations behind the gifts.[242] Therefore, our results

are not immediately overlapping. Nonetheless, some of her results are clearly relevant to my aims. For example, Larsson concludes that

> a woman is the sole issuer only when she herself owned the donated property, and she was in most cases a widow (but could also be remarried). She is always mentioned first as issuer, but sometimes it is said that she issued together with her son. I have come to the conclusion, that the son was a minor when the woman issued the charter together with him. If he had had legal capacity, he would have issued the charter together with her if it was her property that was donated.[243]

Hence, Larsson stresses the importance of the order in which the people are mentioned in the charters, which is a very relevant point. However, the presumption that a mother lacked agency vis-à-vis her son to the extent that the mother being mentioned first indicates his minority does not, in my opinion, reflect the patterns in the charters. Family, relationships, and networks were of great importance in donations—even more so than where sales were concerned, judging by the many charters issued jointly by family members in different constellations. I also find it likely that the order in which the people were mentioned indicated hierarchies between them, but mothers were not necessarily subordinate of their sons.

As an example of this, there is Katarina Sverkersdotter's donation to the convent in Skänninge in 1375.[244] Katarina was married to Lyder Svinakula. Though the date of his death is not known, it is likely that Katarina was a widow at the time. Together they had a son called Henrik Svinakula and at least one daughter. Katarina issued the charter herself but did so with the "consent, yes and good will" from "my dear son" and her "dear son-in-law."[245] By this time, Henrik was in some sort of financial trouble as he had to pawn a significant amount of property.[246] It is sure to say that he was not a minor by then if for no other reason than that he had issued his own first (preserved) charter sixteen years earlier.[247] The position of Katarina as mother was not that of a subordinate woman.[248] In that respect, this charter speaks of female agency. On the other hand, Katarina's daughter (if she was alive—I have not been able to ascertain that) was represented by her husband and not even mentioned by name. The daughter's position was thus clearly subordinate of mother, brother, and husband. This is an obvious pattern in other transactions.[249]

When donations are taken into account, the claim that epithets reflect through which line someone has received property can definitely be refuted. There are several women who referred to themselves as widows but nonetheless donated their own inherited property. For example, Ramborg Knutsdotter, who was a widow of Tuke Petersson, donated property that she had inherited from her mother to the convent in Alvastra.[250]

Previous research has suggested that there is a connection between the people involved in the charter and the origin of the property. In general, this is true, but there are certain donation charters that seem to break the trend and call for caution in using this method to discern where property came from. One of the most interesting charters in this respect was issued by Kristina Håkansdotter in Skänninge, 1375.[251] With the consent from her son-in-law Joar Jönsson, she donated to the sisters in Skänninge for the admission of her daughter, Radborg Ragvaldsdotter. Radborg was probably the sister of Joar's wife, and Joar consented in the stead of his wife. Joar also sealed the charter, but so did his father, Jöns in Alkarp.[252] I have no explanation as to what legal reasons there might be that Jöns sealed the charter. If the property came from Kristina's family, he had no right to it. If it came from Joar's side of the family, it is improbable that Kristina would issue the charter instead of Joar. It seems as if his appearance might have had more to do with personal relationships than anything else.[253]

Previous research has also found a connection between the origin of the land and whose soul the donation was made for.[254] As with the people involved, this connection seems to generally exist. However, I have found far too many cases in which I cannot see the connection for me to affirm the hypothesis, simply because there are several issuers and no mention of where the property stemmed from. When discussing joint donations made by husband and wife, this becomes all the more important. For example, in 1408, Elin Magnusdotter donated what she refers to as her "main estate," Askaryd, to the convent in Alvastra.[255] She did so with the explicit consent of her current husband, Knut Uddsson (Vinstorpaätten). However, the property came to her—according to her own statements in the charter—from her previous husband through her deceased children. She donated the property for the soul of her current husband, past husband, children, and past parents-in-law.[256] Within one year of the donation, Elin was dead.[257] The new husband had no right to the property, yet she still emphasized his consent. I interpret this as a reflection of the strength of the *malsman* system in Östergötland. In other cases, the couple donated what they refer to as joint property for the souls of both their parents.[258]

Wives as Primary Agents Donating

Donations have a very high number of wives as primary agents, but these wives issued together with their husbands and usually not independently, as when testaments were concerned.[259] Sometimes, it was the wife's inherited property that was being donated.[260] The reason for the husband participating in the issuing was probably at least partly connected to his legal position in the marriage, but it is also possible that the husband represented the couple's children—as it was their future inheritance that was

donated—and not so much his wife. Most of the time, however, I have not been able to determine whose land the couple donated.[261] Regularly, they refer to it as being their mutual property, and it is being donated for the souls of relatives on both sides. There are even examples of relatives from both sides sealing the charter.[262] Hence, neither the people involved in the donation nor the people benefiting from it are key to the origin of the property.[263]

Sometimes, there are even strong indications that it is the husband's land that is being donated. This was the case in 1384, when Jöns Birgersson and his wife, Katarina Elofsdotter, donated to the convent in Skänninge. The sisters in the convent had already for some time been supporting Katarina and Jöns, and the couple lived together on property close to the convent. Apart from some money, the couple donated property, and while other charters have shown us that a mutual voice can become that of the woman when her property is concerned, the voice in this charter becomes that of the man. Toward the end, he makes provisions for his relatives, if any would want to repurchase the properties.[264] In 1427, when Abraham Skräddare and his wife, Margit, donated with provisions for the pilgrimage Abraham had promised during his incarceration, the voice was solely Abraham's.[265] Since he, because of sickness, could not embark on the pilgrimage, the couple donated to the monastery in Eskilstuna instead. The right to repurchase the property was with his relatives, not hers, and his son sealed the charter.

Though not as frequently as with testaments, married women did issue to a third party without their husbands. For example, Ingvar in Söderby; Hunger in Söderby; and Ingrid, wife of Halvard donated to the convent in Strängnäs.[266] The property—a plot in Örebro—had belonged to Gertrud in Söderby and the maiden Margareta Ingvarsdotter. Based on patronymic, Gertrud and Margareta might be the wife and daughter of Ingvar, but that is not mentioned in the charter. Instead, Ingvar, Hunger, and Ingrid are mentioned as joint heirs, and for the souls of Gertrud and Margareta they passed the property on to the convent. This charter was issued in Närke, in the Svea region, which might account for the actions of Ingrid.

Another independent wife was Elin. She is defined in the charter only as the wife of Henrik Nilsson—whom I have not identified—but he is not partaking in any way. Instead, Elin issued the charter together with Botild, who refers to herself as the widow of a man called Nisse Andersson.[267] The property in question was a hospice on the churchyard in Strängnäs.

These interactions between spouses show a slightly different pattern from those in sales and trades. I attribute this to the nature of the transactions. Selling and trading were transactions on a market, while donations and testaments were drawn with the purpose of securing the afterlife and caring for each other.[268] With the words of Andersson Raeder, the married couple "benefited the common household and each other's economic resources."[269]

Gifts to Others

Though not at all as common as donations to the church, there are some charters in which people are giving each other gifts. In some cases, they can be interpreted as an imprest on a future inheritance. Sometimes, the gifts were made out of gratitude, like the ones discussed regarding professional relationships.

Another case that fits here is that of Nils Kettilsson and his wife, Kristina Jonsdotter, transferring property to their son-in-law Tord Bonde and his wife, Ramborg—the daughter of Nils and Kristina.[270] They issue the charter together, and in the beginning of the text, they use plural, indicating that they are indeed working together.[271] However, this charter is partly reflecting the stage I have previously described as transferring ownership, and when the formulation for transferring from one owner to the other starts, the voice changes and becomes only that of Kristina. She herself states that this is because the property is her rightful paternal inheritance.[272] Kristina is clearly active and knowledgeable and has a special status as the de facto owner of the property. Her daughter Ramborg however, although she may well benefit from the gift at some point, is not in any way partaking in the legal procedures surrounding the transfer—all of that is being handled by her husband.

There were also gifts between spouses, quite similar to the testaments. In 1378, Bengta Gustavsdotter (Vingätten) gave her husband Heine Snakenborg her estate, Vädersholm—a castle—and almost all her maternal and paternal inheritance in Västergötland.[273] Bengta stipulated that should the couple die without children and Heine remarry, his children from the new marriage would inherit the estate. This property thus clearly went from one family to another by the actions of a woman. However, Bengta's decision raised a dispute between her husband and Algot Magnusson and Ingegerd Magnusdotter—her brother and sister. One year later, Bengta had already died, and the dispute was settled, whereupon Heine received the property.[274]

This gift from a wife to her husband was valuable not only because it contained a castle but also because it became a part of the power struggles of the 1390s, when Queen Margareta of the Kalmar Union consolidated her power in Sweden. Heine Snakenborg, with the consent of his brother Gerhard and other relatives, sold Vädersholm to the queen in 1397.[275] Such a property transfer quite naturally had important political implications. The queen later used Vädersholm as a donation for the powerful convent in Gudhem, and in 1465, the abbess Kristina Bengtsdotter let the castle to the knight and lawman Svarte Ture Jönsson, who belonged to the Danish nobility and through marriage had connections to the Snakenborg family.[276]

Another woman who made provisions for her husband was Ingeborg Nilsdotter.[277] In 1405, she issued a charter in which she proclaimed that

her "beloved husband Holvid" should have her share in an estate for his lifetime because "God has me so heavily tormented that I may not myself have children with my husband."[278] A couple without children had no right to each other's property, and by this charter, Ingeborg willingly and knowingly made sure to provide for her husband after her demise.[279]

Wives were also on the receiving end of gifts. In 1411, Bengt Magnusson gave his wife, Märta Birgersdotter, landed property but without giving any explicit reason as to why.[280] When the squire Jon Larsson in his old age gave his wife, Ragnhild Uddsdotter, two of his estates, he did so for the "love and kindness" that he had always been shown by his beloved wife.[281] Gifts between spouses testify that property was indeed kept separate after marriage—notwithstanding that the couple could acquire more property jointly—and that wives owned and benefited from property. Furthermore, these gifts testify to the mutual care between husband and wife.[282]

Most of the gifts were kept within the family, and we find women of all marital statuses both as benefactors and as receivers, as well as many women with unknown marital status. For example, Cecilia Larsson renewed her gift of land that she stood to inherit from her brother to her daughter Kristina. She did this for the "hardships and poverty" Kristina had endured when her mother had been sick for twelve years.[283] A similar gift was made when Elin Jönsdotter gave her nephew some of her property because he had been taking care of her for fourteen years,[284] or when Katarina Johansdotter in 1413 gave to her relative Erik Ingemarsson since "he has completely followed my will and for my comfort and love more than any else of my closest kin."[285] Gyrda Hungersdotter gave her stepson the farm she had received as a morning gift from his father because he had been like her own son.[286] The widow Ingeborg Bengtsdotter gave her daughter Märta and her son-in-law what she owned in the estate where she lived to compensate for what her and her husband had spent on Märta's siblings.[287] Most commonly, the women would give their inherited property, but at least Katarina Johansdotter explicitly gave property that she had bought, confirming how women indeed could benefit from and use acquired property.[288]

In other cases, these gifts show relationships and networks, although some of them are not so evident anymore. For example, in 1382, Johan Gregersson (Sandbro-ätten) and his wife, Katarina Sunesdotter, gave a woman called Katarina Olofsdotter land in Torkarby, in Uppland.[289] I have not found a reason for this gift and no explanation as to why they made it, but Katarina Olofsdotter is referred to as married to—not widowed of—a man called Mårten. In 1414, the widow Bengta Bosdotter (Natt och Dag) gave property to Ilian Torsson "for love and friendship."[290] Her two powerful brothers, Knut—a bishop in Linköping—and the knight Nils, sealed the charter next to her.

When considering if and how women benefited from land and could activate its power-generating properties, gifts like these are essential. They show us that women, even when they were still married, could use property that they owned to, for example, engage in politics, like Bengta, who gave her husband Vädersholm, or to reward people in their networks.[291] Women were not passive nodes.

Pawning

Though a forfeited pawn was one of the legal acquisitions, pawning was clearly not an activity for women. In DW, only 3.6 percent are pawns or other debts, while in OM the percentage is 12.9, which must be considered a substantial difference. From the charters pertaining to pawning and debts in DW, women were primary agents in 59.5 percent—in 78 of a total of 131 charters—which is lower than for all other transaction forms. In OM, there are 494 charters relating debts and pawning, which means that women were primary agents in a mere 12.5 percent of the total. Furthermore, women were non-agents in 21.4 percent, meaning that, in nearly one-fourth of the charters in which women and their property were referred to, women played no active part.

Women as Active Agents Pawning

Women can be found pawning property. For example, in 1386, Ramborg Eriksdotter pawned her estate in Kalfsbygd to the convent in Skänninge.[292] Convents or churches were common places for women to pawn their property.[293] Women also pawned property to other people. Katarina Ormsdotter pawned her paternal inheritance to her in-law Erik.[294] In 1391, Katarina Glysingsdotter announced that she, on behalf of her son, owed Sune Sture the substantial sum of 140 marks.[295] For this sum, she pawned farms in Berg parish. A similar charter comes from Elin Jönsdotter, who in 1392 pawned property on behalf of her mother.[296]

Wives pawned together with their husbands. So did Tymme Gutowe and his wife in Stockholm, in 1389,[297] and Peter Nilsson and his wife, Elina Deyia, in 1390.[298] Sometimes, it is clear that a couple was pawning because of financial hardship and that wives in such situations acted for the benefit of the household. For example, in 1372, the county bailiff in Dalarna, Magnus Enbjörnsson, announced that Ingeborg had come to the *ting*.[299] With the consent of her husband Peter, Ingeborg pawned everything the couple owned in Sörbo, explaining that this was indeed the wish of her husband.[300] Peter had previously received the payment and used some of it for paying the fines for crimes he had committed. There is nothing in the charter indicating that this was not, as stated, mutually owned property. Other times it is impossible to say what drove the couple to pawn, but the property still seems to belong to them both.[301]

I have found one example when the husband seems to partake at least partly to legitimize her actions. When Ingegerd Jonsdotter (oäkta Folkungätt) and her husband, Henrik Reventlow, admitted they were indebted and therefore pawned land until they could pay what they owed, her son from a previous marriage, Magnus Trottesson (Ekaätt), participated.[302] The charter had a provision that stipulated that should Magnus, whom they pawned to, be hindered in his use of the pawned property, he was to gain dispositional rights over Benhamra—Ingegerd's main estate. It is unclear whether the debt pertains to the actions of Ingegerd, her son, her late husband, or her current husband, but it is clear that it was Ingegerd's property that stood as security. If it was Ingegerd's debt, or that of her late husband or son, Henrik Reventlow ought to have no part in it, and she could have issued independently. If it was Henrik's debt, he used his wife's property. Henrik participated because he was her husband.

Women could also act as creditors. In 1361, Ingeborg Erengisladotter lent her brother Filip sixty mark, for which he pawned his estate, Kianäs, to her.[303] Filip had inherited Kianäs from their mother and father eleven years prior, and at that same time, Ingeborg had received a full brother's share.[304] In 1411, Magnus Sture pawned to lady Ermegard, widow of the knight Knut Bosson.[305] Hardly surprising, all the women I have been able to identify have been prominent widows, which ought to have constituted the only group of women financially able to act as creditors.

Women creditors, though outnumbered by their male counterparts, have been described as important for the developing economy, and they are usually pictured as a facet of urban life.[306] In my material, there is not enough substance for claiming that women played an important part, as the sources are few. Furthermore, I cannot see the way women handled their economy through networks of debt and credit as other researchers have shown women to do. Lijsbette Langheroc in Ghent in the 1350s "did not keep her wealth in ready money, but in possessions and in credit relationships that enabled her to secure what she needed."[307] It is perfectly possible that women, at least in the urban areas, had similar strategies in Sweden at that time, but if they did, it has not left any marks in the charters.

However, there is enough to conclude that not only women's assets, but also women's active participation played a part in Swedish medieval pawning and crediting. Interestingly, I see no connection to the urban areas for the period in question. Quite on the contrary, women in the countryside were the most active creditors. This might be at least partly due to how the sources have been preserved and was in all likelihood connected to the fact that Swedish towns still by the middle of the fifteenth century were very small.[308]

Studies on other areas, such as the Italian city states, Flanders, Scotland, and England, show that women tended to become creditors as an

effect of receiving inheritance and dowry in cash or movables rather than land.[309] Women in Sweden, at least from the higher strata of society visible in the charters, received their inheritance in land, and furthermore, they received a morning gift that was also land.[310] Hence, Swedish women ought not to have had the same capital and therefore not the same opportunities to act as creditors. However, based on the charters, Swedish women used their land as capital.

Husbands Using and Misusing Property

When previous research has pointed to pawning as a matter of trust, it refers to the fact that it was not certain that a debtor would be able to reclaim the property and pay what he or she owed the creditor.[311] When husbands used their wives' property as security for a debt, it was thus a very real risk that the wife would lose what she owned. Women's pawning shows no specific patterns, except that the church and convents were very common creditors to women. Women acted both as creditors and as debtors, and at first glance there are no obvious gendered patterns. However, the most important gendered factor is the frequency. When women acted it was on seemingly equal terms with men, but women generally did not participate at all during the time in question.[312]

Another important gendered factor is that husbands tended to pawn the property of their wives, while I have no indications of the opposite. Sometimes the charter was issued jointly, which might well suggest that the need for money was mutual. For example, in 1400, Märit Rödsdotter's brother Tyrgils gave her his farm, Uddarp, since he had already given away her farm.[313] Two years later, her husband and she issued a charter together in which Uddarp along with two other estates were pawned to the knight Abraham Brodersson. Both of them sealed the charter, and I have not managed to identify the origin of the two other estates.

Sometimes, there are women that seem to have had little say in what happened with their property. Nils Erlandsson pawned what property he had received together with his wife—who was not mentioned by name—without her consent or approval.[314] Another, or possibly the same, Nils Erlandsson pawned his wife's inherited paternal property twenty-five years later, in 1390.[315] When the knight Erik Karlsson (Örnfot) owed the nunnery in Kalmar the impressive sum of 200 mark for two children he had given to the convent, he pawned property he referred to specifically as being owned jointly by him and his wife.[316] She, however, did not partake in any way. The charter was issued in 1367, and thirty-nine years later, the debt was still not paid in full as his son kept the estate pawned to the convent with a promise to repay them.[317] His mother was not mentioned at all. A similar case is from 1397, in which Jon Godebonde pawned what his wife, Ragnhild, had inherited from her brother.[318] She played no part in the arrangement.

As in other cases when husbands acted arbitrarily regarding their wives' property, the charters were issued in the Göta regions, which follows the pattern in sales and trades. The main difference when pawning is concerned is the frequency with which husbands used the property of their wives and how rare it was that any other person of her family was involved. Of the total number of charters pertaining to debts and pawning in both DW and OM, men acted arbitrarily in at least 1.8 percent, as opposed to merely 0.8 percent of trades. Both numbers are of course very low, but the percentage for pawning is nonetheless substantially larger. If calculating based only on DW, the corresponding figures are 8.4 percent and 1.7 percent. This gives a better picture of the use of women's property as it compensates for the fact that women were much less active in general in pawning and debts; when women were mentioned, there was a larger proportion in which they played no active part. Pawning was a way for husbands to directly benefit from their wives' property, but pawning also included a serious risk that the property would be lost.

Husbands thus used their wives' property, but they sometimes also misused it. There are cases in which widows tried to regain what their previous husbands had pawned. Ingeborg Ulfsdotter went to court to win back property that her husband had pawned and was granted the right to redeem her land if she could pay one-third of the debt.[319] Such cases indicate that women were not always pleased with the way their husbands had handled their property.

Inheritance

As previous research has pointed out, inheritance was by far the most important way of acquiring property—the way in which land was supposed to be acquired.[320] It has also been established that women did inherit less than their male counterparts in the rural areas but that it was fairly common that daughters would be given "a brother's share," at least among the nobility.[321] In, for example, Värend, in the south of Sweden, there is said to have been a longstanding tradition that men and women inherited equally.[322]

Given the importance of inheritance, there is very little written about dividing inheritance in the charters. I have found a total of 133 cases.[323] Presumably, this is because people made the divisions in private and did not bother to have them put in writing. That is also why there is comparatively little to say about inheritance in the charters for this study. In DW, dividing the inheritance makes up for only 3.6 percent, while in OM the percentage is an astonishing 0.4 percent. This means that most of the cases of inheritance pertained to women in some way.

Nonetheless, the few cases that do exist tell a straightforward tale of a very male-dominated affair. We do not know how the division of most

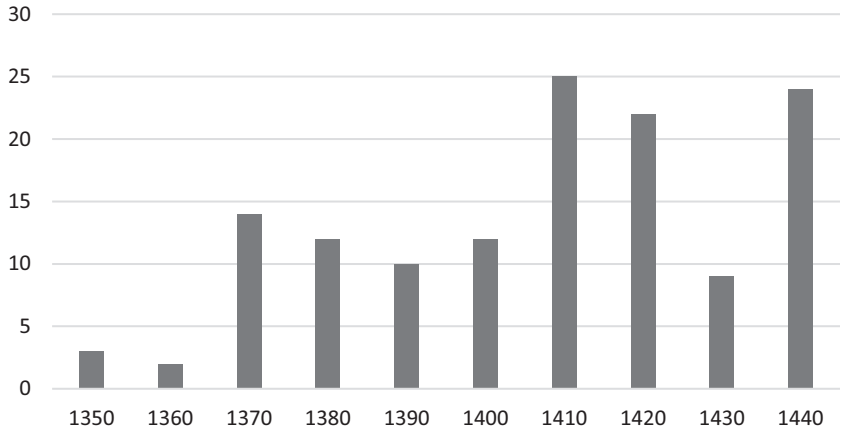

Figure 3.6 Total number of charters in the category 'Dividing Inheritance,' based on DW and OM.

inheritance proceeded, and it is perfectly possible that women participated to a much larger extent in all the cases that have not been written down. It might be that the fact that it was written down made it a male affair—an indication that it was out of the ordinary and therefore dealt with by men.

In the category 'Dividing Inheritance' from both databases, women were primary agents in 26.3 percent of case. This is a very low percentage compared to any other category, except pawning. Furthermore, there were no active women at all in 49.6 percent of the cases in which women were mentioned.[324] It follows that there was a significant number of cases in which men acted on the behalf of women but without specific authorization.

What Was Inheritance?

Medieval inheritance law was to say the least complex, and it is nearly impossible to render a comprehensive view of inheritance based on the written law. Some fundamental notions have been discussed previously, most importantly the *bördsrätt* and the ideal way to transfer land through inheritance——from parent to child. The importance of inheritance in older times can hardly be overestimated, and the array of possible scenarios following someone's demise depicted in the law text shows that the law compilers went through a great deal of trouble to minimize the risk of conflicts. It was primarily related to order of decent, which in turn was dependent on the specific order in which people died. An illustrative example is the paragraph regarding the distribution of the inheritance if "a

man or woman dies from an accident." It recounts no less than six different scenarios—if they are in the same sled falling into a hole in the ice, if they are in the same boat, and so on——to which the same law applied.[325]

Adding to the complexity of medieval law was the very concept of inheritance. First and foremost, inheritance during the Middle Ages was not a postmortem affair.[326] Gifts specifically connected to marriage, such as the morning gift and dowry, are generally considered inheritance given out in advance, though in practice it was not always clear.[327] Thomas Kuehn has convincingly argued that in quattrocento Florence, a daughter's dowry was not considered to be of the same nature as the *legitim* given sons and as such was not incorporated in the dividing of an estate.[328] Concerning the Swedish context, there are not enough cases to ascertain the connection between *legitim* and marital gifts, and there were in all likelihood regional variations to praxis.[329] We know that many women got morning gifts far exceeding the legal limitations and that many sisters were given a "brother's share" of the inheritance.[330] Either way, it is clear that encompassed in the term 'inheritance' are different ways of attaining property, but it is worth noting that we do not know the impact of *ante mortem* inheritance——such as gifts (including marital gifts), donations, and wills——on the dividing of estate *postmortem*; that is, were shares counted from the value of the estate at the time of death or from an earlier point (and in that case, which point)?

According to Pylkkänen, "Inheritance was agreed upon in each separate case when children got married."[331] Hence, inheritance would be a part of the other economical transactions arranged in connection to weddings, such as morning gifts and dowries. In the charters, there are 160 morning gifts, and though they are strictly speaking not a part of the inheritance as passed from parent to child, the morning gift was classified as inherited property. All of the morning gifts belong in DW, as women are referred to, but women are active agents in only six cases.[332] When women were active in morning gifts, it was as mothers consenting to the son's actions—either by verbal consent or by sealing the charter.[333] Sometimes, both parents consented.[334] There are hardly enough charters to make any far-reaching statistical conclusions, except that morning gifts became more common with time; alternatively, putting morning gifts in writing became more common. Furthermore, arranging morning gifts was clearly not something that women were involved in. However, couples did remember each other in their testaments and sometimes gave each other substantial gifts while married.[335]

Saying anything about the dowry in practice is even more challenging. Even reading through six thousand originals, there is basically no information about dowries. A search in SDHK gives a total of twenty-two hits, of which only four were issued in medieval Sweden.[336] Andersson Raeder attributes the lack of evidence for dowry in practice to the nature of the dowry. The dowry "demanded less careful documentation" as it

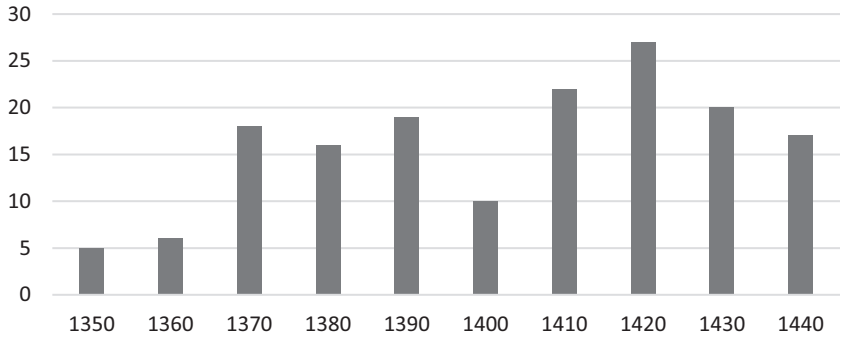

Figure 3.7 Total number of charters in the category 'Morning Gifts,' based on DW.

was property transferred within the same family, compared to morning gifts, which were property transferred from one family to another.[337]

I agree with Andersson Raeder that property transferred within the family probably did not warrant agreements in writing. The fact that dividing inheritance is referred to so seldomly testifies to that. However, inherited property as such is referred to regularly and was usually defined by how it had come into the possession of the current owner. Dowry, on the other hand, was not even referred to. Even if the dowry was not put in writing when it was given, one would expect to find traces of dowries in the sources if such gifts were at all common. For example, in 1390, Ingemar Abrahamsson issued a charter in which he confirmed the dowry his parents had given his sister when she got married.[338] This is the only confirmation from other heirs that I have found.[339] Not even when the dividing of inheritance was negotiated were there references to dowries.[340] Based on the lack of evidence in the charters, dowries must have been very uncommon in Sweden during the time in question. This is supported by the fact that dowries were mentioned in foreign charters in the SDHK to a comparatively large extent. Furthermore, dowry was not a mandatory gift from the parents to their daughter according to the law but a voluntary gift that could just as well be given to a son.[341]

A Male Affair

First of all, it must be mentioned that there is still much to be done regarding the studies of inheritance in practice during the Middle Ages. Most studies have focused on the legal framework, which is complicated enough to deserve a multitude of studies.[342] Winberg has concluded that "noble inheritance practice can be studied during the late Middle Ages" and that "no attempts to circumvent the chapter on inheritance were

made, and land was divided in accordance with the law."[343] I agree that the descriptions of how inheritance was supposed to be transferred from one person to another generally were followed in practice. There is nothing in my sources to overthrow this conclusion. However, the law is clear only on in which order people should inherit—not how the division was supposed to be done. In practice, this division and the negotiations that ought to have preceded it were strictly gendered. For the purpose of this study, it is less interesting to discuss who inherited—it is a well-known fact that inheritance by default was gendered in the sense that women in the rural areas inherited half compared with men—and much more relevant to discuss the negotiations and actual dividing.

The few cases in which women participated in dividing inheritance do not differ from the ones containing only men. Hence, the gendered difference lies not in the format but in the frequency. Inheritance was agreed upon within the family, but the husband represented the wife vis-à-vis her natal family. When it comes to inheritance, geography does not affect the pattern. While male representation over the heads of women usually belonged to the Göta regions, it was a kingdom-wide trend where inheritance was concerned. I see no patterns dependent on time either.

For example, in 1370, Torsten Gjurdsson issued a charter in which he recapitulated how the inheritance between himself (on behalf of his wife) and Nils Larsson (the wife's maternal uncle) had proceeded.[344] He also attested to the fact that all unsettled business regarding this inheritance had now been arranged between them. In a similar case, from 1376, Knut Halstensson (*halv lilja*) announced that he had reached a settlement with Archbishop Birger Gregersson and Kettil Johansson regarding the inheritance from, among others, his wife's mother.[345] The first case was issued in Eskilstuna; the second, in Uppsala. Neither of these is a place that knew the *malsman* system that permeated intermarital hierarchies in the Göta regions. Therefore, it would be incorrect to attribute the husband's actions in matters of inheritance to the *malsman* system at the time in question.

Dividing the inheritance required physical presence for the negotiations, as well as sufficient authority to stand your ground against relatives. From the rest of the charters, we have seen that women indeed traveled, negotiated, and had authority even when married. However, we have also seen that they did not do so with either the frequency or the readiness of a man. What happened to inherited property was still, in the middle of the fifteenth century, first and foremost a family matter. This is in concordance with what other researchers have suggested regarding a guardian, as they have pointed to protection of inherited property as an integral aspect.[346]

When it came to other forms of transactions, married women could authorize their husbands to act by, for example, consenting.[347] This consent guaranteed that her side of the family had approved, and the woman

could thus act as a representative of her family, at least in the areas that did not have a *malsman* system.[348] When it was time for inheritance negotiations, a married woman was simply not needed. Her native family and her husband were enough to make legally binding contracts. The authority she had as owner of the property was irrelevant as there were already representatives from her native and her conjugal family present.

Unfortunately, it is outside the scope of this study to delve deeper into the reasons why husbands represented their wives in these cases, as there are no obvious answers in either the charters or the laws. This issue would require going both backward and forward in time to determine what influenced procedure. It might be that the male representation stemmed from the dowry tradition. If a study of earlier charters would show that dowries indeed were granted daughters in older traditions, it is possible that the development after 1350 indicates that dowries were withheld and that women got their shares when their brothers did. If so, it might be reasonable to interpret the inheritance negotiations as part of the marital negotiations and therefore as a male affair. All of this is of course highly hypothetical and requires more research.

Where inheritance was concerned, women became more active only as widows, and it is after the demise of the husband that women enter the charters and deal with inheritance.

Arranging the Husband's Affairs

Several charters bear witness to how wives upon becoming widows stepped in and arranged the unfinished business of their deceased husbands.[349] Elin Gregersdotter, in 1381, took over the establishing of a prebend that her deceased husband had promised to arrange for his dead relative Ingegerd Larsdotter.[350] The most common unfinished business, however, was unpaid debts. In 1415, Ragnhild Ingevastsdotter, who referred to herself as the widow of the alderman Ingemund Nilsson, donated to the cathedral in Uppsala for the soul of "her beloved husband," as well as for both their parents and their children.[351] The property had been bought by Ingemund. Ragnhild continues by stating that she also repays the cathedral

> all the debt that are due with knights, squires, farmers, and tenants, with whomever it may be, after what my husband Andreas Morakarl, that I then had—God has his soul—confessed in is final hour with his sworn oath in Stockholm in front of four burghers as his testament show.[352]

Ragnhild does not appear to be particularly pleased with her second husband, as there is a blatant difference in the way she referred to Ingemund (with love) and to Andreas (factually stating their connection).

Furthermore, when Ragnhild the day before issued a donation charter for the convent in Sko, she referred to herself as the widow of Andreas Morakarl, but there were no provisions made for his soul at all.[353] Defining yourself by your latest husband was standard, but withholding provisions for his soul was not. Regardless what Ragnhild's feelings may have been, she—as the widow—was responsible for the debts. Such a responsibility required knowledge of both landed property transactions and the juridical system surrounding them.[354]

Widows could also deal with other aspects of the husband's affairs, even if these were theoretically finished. In 1414, Märta Gunnolfsdotter, previously married to Erlend Knutsson, gave a farm to the squire Anund Hemmingsson.[355] She did so "for the sake of my husband's soul, that she [the soul] shall not be tormented or suffer for the uneven trade he did with Anund Hemmingsson."[356] The original trade was made in 1389 and concerned an estate that Katrin Ebbedotter, wife of Anund, had inherited from her previous husband. It was issued only in the name of Erlend but with the consent of his wife and aimed at both Anund and Katrin. In the charter from 1389, we see men dealing with property that they had no legal right to. Since they did not have legal rights to the property by way of ownership, it becomes obvious that their actions stem from their position as married men. However, Märta Gunnolfsdotter's actions show us that wives were knowledgeable of their husband's actions and understood the norms surrounding them.[357] The year after, Katrin Ebbedotter donated the property to the convent in Nydala for the souls of her both husbands.[358]

Sometimes, it was the woman who was left with settling disputes that the husband had been involved in. In an example discussed earlier, Cecilia Ulfsdotter (Ulvåsaätten) issued a settlement regarding the quarrel between Staffan Ulfsson, Harald Karlsson (Stubbe), Torkel Haraldsson (Gren), and Sten Haraldsson (Gren), on the one hand, and her late husband, Lars Sunesson, on the other.[359] Cecilia acted on behalf of her children and with the support of her brother Birger, the jarl Erengisle Sunesson, and the marshal Bo Jonsson (Grip). Even if the men acting together with Cecilia were some of the most powerful men in the realm, her position is both central and essential. As the widow and the mother of the children, she was the key to solving the dispute.

Interestingly enough, at the same place as the settlement with Cecilia was drawn, the widow Märta Bosdotter agreed to a settlement regarding, among other issues, her morning gift.[360] Her counterpart was her son-in-law, Sven Lax, who, in the presence of the same prominent men who oversaw Cecilia's settlement, promised to transfer her morning gift to her.

These charters show that women's ownership was not a mere formality but that it had a bearing on who had authority to manage the property. During marriage, women learned the necessities about property management and were therefore able and ready to take over when need be.[361]

Regarding English aristocratic widows, Harris writes that "freed from the disabilities of coverture, widows continued to perform tasks they had first assumed as wives and mothers, but with a new degree of independence and authority."[362] Swedish women were not under coverture, but they are often described as entering a state unburdened by guardianship once widowed.[363] However, as these charters testify to, even though marital status was key to gaining legal majority for women, it was an intricate combination of authority and power that gave women agency and that women's agency was more conditioned than that of men. If widows had more far-reaching legal authority than married women, it does not show in the charters. Quite on the contrary, widows often required assistance from men—not to legitimize their actions but to add to the power.[364] In the words of Andersson Raeder, "the legal position widowhood entailed, and the possibilities it brought with it" were not "attractive to noble women."[365]

Consent From Heirs

The approval from heirs was integral to landed property transactions both in doctrine and in practice but has not received particular scholarly interest.[366] For the purpose of this study, the concept of consent is integral as there are many charters in which a husband acted and a wife consented—and vice versa. Referring to wives consenting to the actions of their husbands, Anu Pylkkänen claims that "as women had seldom inherited real property, and the land in question was mostly inherited by him, we may ask ourselves whether it was at all necessary to secure her consent."[367] Pylkkänen thus assumes that it was most commonly the husband's (inherited) property that was alienated when the husband issued the charter and the wife consented. I have found nothing to contradict this conclusion, and I agree with Pylkkänen when she interprets "that the spouses considered themselves as partners in a family farm, responsible 'administrative' leaders of the household" and that this also meant that husband and wife "took important decisions together."[368] The consent of wives should not be dismissed as a formality without juridical significance.

Men sought consent from heirs just as women did, and I have found no immediate link between gender and consent. Consent should be given by the closest heirs, irrespective of gender. Men were not less likely to seek consent and do not seem to have had more leeway to freely manage even their own property solely because of their gender. For example, when Eringisle Nilsson, in 1383, traded property with Bo Jonsson Grip, he did so with the "will, consent and fulfillment [of his] beloved brother Jöns Galla."[369] Commonly, consent was only noted as a general formula that a certain transaction had been performed with "will and premeditation"[370] of all relatives and friends.

Even if many used the standardized phrase to note the consent of heirs—for which it is difficult to say who had been asked—there were many who actually attained the consent from specific people. This is then presented as someone acting with the "yes, will and consent" from the people involved. To exemplify how consent worked, I will compare two charters representing two different—yet intertwined—ways of stating consent.

The first one is from 1419, when the prominent widow Birgitta Magnusdotter of Fållnäs donated to the cathedral in Vadstena.[371] In this charter, she referred to herself as the widow of Erik Stensson and stated that she was donating with "my beloved son, sir Gustav Algotsson's advice and his wife my beloved daughter Elin Arvidsdotter, and many of my friends' consent."[372] Gustav Algotsson Sture also sealed the charter together with her. Even though Birgitta refers to Gustav Algotsson as her son, he was actually her son-in-law, married to her daughter (by her first husband, Arvid Bengtsson [Oxenstierna]) Elin. Birgitta mentions in the charter that she has received the consent of Elin and other heirs, but it was clearly Gustav who was the active party representing the closest heir—her daughter.[373]

The other case is from 1407, when Peter Spanne donated a mill to the convent in Nydala.[374] Peter donated for

> the eternal care of my soul and of my parents, my siblings and children, who are Bo and Katrin, Jöns and Nils, Katrin, Håkan, Johan, Tord, Nils and Lucia, and for Håkan my son, who is still alive, and for my wives Ingeborg, Ingegerd and another Ingegerd.

As it seems, Peter Spanne had lost many relatives, and considering that he had survived three wives, he was probably not very young. His surviving son, Håkan, consented to the donation, but neither of them sealed, "because I do not have a seal of my own."[375] Peter Spanne is not known from any other charters.

Birgitta av Fållnäs and Peter Spanne came from quite different backgrounds. Birgitta belonged to the highest strata of society, and even though we do not exactly know the social status of Peter Spanne, it was in all likelihood at least below hers as he did not have a seal. Larsson has concluded that "the demand for consent appears the clearest based on the amount of property a specific woman sold in one specific transaction" and that if there were many farms, she definitely needed the *malsman*'s approval.[376] The connection to wealth that Larsson finds is, as displayed by the previous examples, not at all as clear in my material. A significant problem is that the extant charters in no way are representative of the population. Certain wealth was needed in order to have property to dispose of in the first place. As far as I can see, consent from heirs was desirable regardless of both social status and gender.

Consent, Marital Status, and Gender

If social status and gender generally did not affect the need for consent, marital status decidedly did, and gender, embedded in the marital status, returns as a decisive factor. It was very common that husbands consented to their wives' actions even when the wife was dealing with her own property. At the same time, it was very uncommon that a wife consented to her husband's actions if he was the owner of the property in question. However, if the husband was dealing with her property, the wife consented. In short, when spouses gave each other consent, and the origins of the property are known, the property used belonged almost without exception to the wife. In the source material as a whole, this is by far the most prominent gendered hierarchy in property transactions—apart from frequency. I have not specifically marked consent in the database, and therefore it is difficult to make any statistical conclusions. The reason why I have chosen not to mark consent is its multifariousness. There are so many different aspects that ought to be taken into consideration to fully understand the juridical and social function of consent, that these would make a book of their own.

There are, however, certain observations that can be made, some of them based on statistics. Since women were unusually active in donations, I want to take the charters in the category 'Sales' as an example. In this chart, I have taken into consideration only women who were primary agents in sales or purchases and divided them according to marital status.

In the later decades, the marital status of significantly more women is known to us, but there are only three decades during which the known marital status cases are in greater abundance than the unknown. Furthermore, when the status is known, as in the 1440s, most of the women

Figure 3.8 Women as primary agents in the category 'Sales,' according to marital status, based on DW.

are married.[377] In total, the marital status of the woman is unknown in 61.1 percent of the cases concerning sales in DW.[378] This must be considered a consequential factor of uncertainty when interpreting the material. Some of the women acted with the consent of a son or a brother, but husbands were—when taking all women primary agents into account—not overshadowing the actions of women as they have sometimes been portrayed as doing.[379] When discussing husbands consenting to the actions of their wives, it must be taken into consideration that these wives were a minority of all the active women and that women acting independently were the majority.

Another aspect that is rarely taken into consideration when discussing consent is that husbands and wives could and did own property jointly. This is very relevant where wives consenting to the actions of the husband are concerned. It was stated in the law that a husband needed the consent of his wife and her relatives should he want to alienate her property. In most cases however, it was only the wife who consented—not the relatives. This, in itself, indicates that a wife had authority as a representative of her kin vis-à-vis her husband. Sometimes, he alienated her inherited property, but often it was not specifically stated where the property stemmed from. Such property might well be *avlinge*, and the wife therefore consented as part owner. In the category 'Sales,' I have twenty-six charters that I have marked as concerning joint property. This number should be considered a minimum.

I have no intentions to argue that married women could freely deal with their own property or that the consent of husbands was irrelevant. The point is merely to problematize the view of consent from men as a general juridical requirement. There were simply too many women acting independently—albeit with unknown marital status—to say for sure. What can be said with certainty, however, is that consent within marriage was not equal. Husbands oversaw the actions of wives through consent in various forms and in a way that was by no means reciprocated.

For example, Magnus Tärning and his wife, Katarina Andersdotter, issued a charter in 1402, selling an estate to Abraham Brodersson.[380]

> Let it be known [. . .] that I have with the will of my wife Katarina and the advice of her kin, with yes and good will sold [. . .] all my property in Skägglösa, which is an estate in Skatelöv parish [. . .] which is my wife Katarina's rightful fatherly inheritance.[381]

Katarina is sealing the charter next to her husband, but the voice is his throughout, and he even describes the estate as "his." This charter was issued in Växjö, which was in one of the Göta regions. In another charter, from 1404, issued in Marieborg, outside Enköping, Knut Gislesson and his wife, Ingegerd Larsdotter, sold a share in a fishery to Sir Sten Bengtsson (Bielke).[382]

> Let it be known [. . .] that we Knut Gislesson and Ingegerd Larsdotter, his wife, [. . .] with will and premeditation have sold and transferred, as is said in the law, honest and well-born man sir Sten Bengtsson all our share in the fishery in Svedån [. . .] which said fishery, I, Ingegerd Larsdotter, have inherited after my mother.[383]

Both of these charters show different ways of husbands consenting to their wives' actions. There is a distinct difference in the way they are formulated. In the former, the husband is the main agent, and the wife is in the background, while the wife has a voice of her own in the latter. If this is an effect of regional variations—one was written in the Göta regions; one, in the Svea regions—is unfortunately beyond the scope of this study to determine as it would require a deeper linguistic analysis of the content. Be that as it may, with the linguistic differences and their possible reflection of women's agency, the readiness and ease with which these men consented is clearly connected to their position as husbands and signifies female subordination in managing landed property.

Nonetheless, at the same time as we accentuate the authority of a husband through his consenting to her actions, there is a risk of underestimating the juridical importance of the wife's consent. If we accept the thought that a man's consent had legal bearing, it is fair to assume the same of a woman's consent. This is strongly supported by the fact that it was only husbands in the Göta regions, where the *malsman* system originated, who could alienate their wives' property without consent. As such, consent was closely connected to the *malsman* system but only in the way that it allowed husbands to act without consent.

Another clear gendered pattern is that of sons-in-law. It was more common that a son-in-law consented to a transaction than that a married daughter did so. It is not always possible to determine whether the daughter was still alive or if the husband might have been acting on his deceased wife's behalf. However, given the number of cases, I find it more likely that it was simply a part of the gendered hierarchies.

The son-in-law's acting on behalf of his wife has a dimension of age and maturity to it. There are several cases in which a husband and wife issued a charter together, thus showing property management as a joint effort, but with the consent only of sons and sons-in-law, hence reproducing gender hierarchies. The primary agent woman is thus an older woman. This is the reason I find it hasty to conclude that the sons-in-law acted as an effect of the *malsman* system. They acted as husbands, but if the *malsman* system was key and marital status and gender the only contributing factors, these charters ought to have been issued by men also. More factors must have been at play—age was one.[384] In the words of Barbara Harris, the "women's careers evolved gradually as they moved through a uxorial cycle that transformed them from inexperienced brides into mature, capable wives."[385]

Sealing Charters

As has already been established, it was rare that women sealed other charters than their own, even if it did happen. However, they did seal their own charters when they had seals—and many women we meet in the charters did. When Birgitta Magnusdotter of Fållnäs donated to the cathedral in Strängnäs, three married couples sealed the charter—husbands and their wives.[386] Each wife sealed after her respective husband, which indicates an internal hierarchy within the marriage.

When the women did not have seals, they would ask someone who did. Most commonly, this person was someone from the church, but it could also be a relative. The one person who did not seal for a wife was the husband. Even if the wife did not have a seal of her own, and they were issuing the charter together, the husband would not seal in her stead. The only exception was a husband doing business together with her natal family, but these are comparatively rare.[387]

One example of how such situations could be arranged is the donation charter drawn in 1410 by Lars Sunesson and his wife, Ragnhild Haldorsdotter.[388]

> As acknowledgment, witness, and vindication, we ask the seals of honorable men Sune Trulle and Lars Skytte and fair man Henneke Stark, burgher in Linköping, along with mine, aforementioned Lars [Sunesson] own and Magnus Haldorsson, my, the aforementioned Ragnhild's brother, on my behalf, to seal this charter.[389]

Another example is from 1442, when Bengt Lydekesson (Djäken) and Valborg Jönsdotter donated to the convent in Nådendal.[390] They are not referred to as married, and I have found no evidence that they were husband and wife, but they stipulate that should the convent lose the intended property, it is to be substituted with other property they have bought jointly.[391] This, I find, at least indicates marriage. Bishop Magnus of Åbo; the captain of Åbo castle, Henrik Bitz; and the knight Henrik Klasson sealed on behalf of Valborg next to Bengt himself.[392]

There can be no doubt that who sealed and in what order did matter to the people involved. According to the same reasoning, there are women who were more powerful than the men involved. One such was Bengta Bosdotter (Natt och Dag), whose two brothers—one the bishop of Linköping and the other a prominent knight—sealed a charter after her. I interpret this as an indication that women's ownership of land mattered and that the power-producing qualities of land were not a male prerogative.[393] Bengta sealed the charter as owner.

Living on the Property

There is not enough information on whether wives had the right to enjoy the proceeds from their owned property or not, as we know too little

of both incomes and expenditure. There is, however, information in the charters on living arrangements and the immediate access to, as well as use of, property that is of relevance to the subject at hand.

The charters relating to living arrangements are from the convents, as the convents partook in arranging accommodation, primarily for the elderly.[394] However, confirming the age of the people involved is rarely possible, and I can therefore not confirm that these were indeed elderly people. There are, nonetheless, clear trends. First and foremost, renting estates (or at least making leases in writing) came in the fifteenth century. Of the forty cases I have marked as concerning leases, thirty-seven were written in the fifteenth century; the other three, in 1398 and 1399. Women were primary agents in thirty charters and secondary agents in six. That leaves only four charters in which women were not active.

I have found a total of seventeen cases in which husband and wife jointly held property on a lease. In 1430, the abbess and convent in Vadstena leased an estate to Axel Petersson and his wife, Ingeborg.[395] The lease was for their lifetime, after which the property was to be returned to the convent—a standard procedure. In 1444, Holmger Rasi and his wife rented a house in the town of Skänninge, and they are specifically referring to the house as the one they are currently living in.[396] When Jöns Mattsson in 1433 rented the estate Rackeby from Margareta, the abbess in Gudhem, he made provisions for his wife to be able to stay at the estate should he die before her.[397] In the same year, Olof Ragvaldsson, a burgher in Stockholm, rented a house "for the use and benefit" of him and his wife.[398]

Most commonly, rental agreements were drawn by husband and wife jointly, but even in the cases where they were drawn by only the husband, these houses were meant for the use of both spouses, and the arrangements benefited both equally. Usually, we have no information on who paid the fees, but we do know that women themselves could be responsible for paying the rent. In 1447, Margit Jakobsdotter admitted that she owed the convent in Gudhem a barrel of butter as rent for Rackeby—the same farm her husband had rented for them both in 1433.[399] Given that Margit's husband already had an agreement with Gudhem, it is likely that she was a widow at the time that she took over the responsibility. This charter hence indicates that men were responsible during their lifetimes but also that women were knowledgeable enough to assume that role when need be.[400]

There are some charters, though rare, in which accommodation is mentioned without a lease from the church. For example, couples sometimes donated estates that were specified as the one they were currently living on. Henneke Narve and his wife, Lucia, made a donation of their townhouse east of the cathedral to the cathedral in Åbo with the provision that they would get to stay on the property for as long as they lived.[401] Esger Esgersson; Agmund Amundsson; and the latter's wife, Åsa, donated to the convent in Vadstena a townhouse they all owned shares in.[402] Åsa and Agmund made the provision that whoever lived longest

would get to stay in the house for life. Johan Hård and his wife, Katrin Jönsdotter, had received a piece of land from the abbess in Vadstena and issued, in 1430, a charter by which they donated the buildings they had erected on the site.[403] In 1406, Olof Lang donated the estate that the family lived on to the convent in Nydala with the consent of his wife, his children, and his kin.[404]

As previous research has emphasized the important difference between owning and managing property, these charters clearly show that women were more than passive property owners. The question we need to ask is, thus, what was property management? When Sjöberg concluded that it is "an empirically established fact" that it was only men who "formally had the entire disposal of, and managed land," she bases it on the fact that more or less only men litigated trading in land.[405] Andersson Raeder examines noblewomen's economical agency and writes that "it is about being able to manage property (your own and others') and be able to donate, trade, sell and buy property."[406] Hence, we see a definition of property management that equals it to engaging in property transactions.

The rental agreements and donations of property the family lived on add another dimension to property management. Property management must be limited not only to transactions but also to deciding what happens to property you own, as well as using and benefiting from property. There can be no doubt that married women benefited from property. Apart from the obvious conclusion that property gave them a place to live, the women could also benefit from, for example, improvements made to rented property, as Katrin Jönsdotter did in the case discussed earlier,[407] and they could continue a lease and stay in their home, as Margit Jakobsdotter did.[408] The fact that rental agreements had such an extraordinary high female presence strongly suggests that this was indeed a joint venture between husband and wife.

In these charters, marriage as a companionship—a theoretical starting point used successfully by, for example, Andersson Raeder—comes to the fore.[409] Married women worked together with their husbands for the benefit of their household.[410] This is not to say that men and women were equal—women have been described as junior partners—but it is wrong to state that women were barred from managing property because of their gender.[411]

Notes

1. Gunneng 1987; Sjöberg 1997, 172–173; 2001, 11; Taussi Sjöberg 1996; Andersson Raeder 2011, 63.
2. Sjöberg 1997, 172. Andersson Raeder sees access to the economical manouvering space only vested in men as one major reason for the high frequency of remarriage. Andersson Raeder 2011, 137–138.
3. Chattel in this study does not refer to slaves—slavery was prohibited by the time in question.

4. Research has shown that the border between rural and urban areas in Sweden was still fluid as late as in the beginning of the nineteenth century. The sharp dicothomy between the two is thus based more on how scholars have interpreted the law texts than on actual pre-industrial society. Brismark and Lundqvist 2010, 138–139.
5. The preceding paragraph (that is, paragraph II in MEL and III in KLR) concerns purchasing gold and silver. According to Germanic law, women could buy normal household goods up to a certain amount, and laws in France, England, and Denmark gave wives the right to purchase necessities. See Dübeck 2003, 304–305, 307.
6. KLR, *Köpmålabalken* VI. "*Huilke köpmen, clærka, swena, hoffmen, bönder, landbo eller andre men eller quinnor j landeno fara meth köpmanna waro, som ær sild, salt, clæde, kryde, spetzeri oc annat tolkit, oc drifuer köpslagan til by oc fran by, sæl oc köper idelica, thet heter landzköp* [. . .]."
7. In KLR, the restriction includes anyone in the household of the farmer, such as children and servants. "*Engen maa widh bondans barn eller hion köp göra wtan withu hans*."
8. "In the eyes of the law, property equaled land [. . .]." Ågren 2009, 86.
9. MEL, *Eghnobalken* I. "*Fæm æru laghæ fang iorþ i suerikis laghum, eet ær arf æn laghlika ærft ær, annat ær skipte æn laghlika skipt ær, þriþia ær köp æn laghlika köpt ær, fiarþa ær gæf æn laghlika giuit ær, femta ær væþsat iorþ æn laghlika veþsat ær ok forstandin ær*." Sjöberg 2001, 105–112.
10. The importance of taking the nature of ownership and the property into consideration is discussed in Andersson and Ågren 1996, 29, 38–40. See also Sjöberg 1997.
11. MEL, *Eghnobalken* XI. Andersson Raeder 2011, 55–57; Sjöberg 2001, 102–105.
12. For the most exhaustive analysis of the *bördsrätt* and relationships, see Winberg 1985.
13. MEL, *Eghnobalken* II.
14. This principle is emphasized in Larsson 2003.
15. Pylkkänen 2005, 85.
16. MEL, *Giftermålsbalken* XIX. "*Alt þæt bondin ok husfrun köpa saman, baÞi i iorþ ok i lös örum, meþan þe i hionalaghi æru, haui husfru þriþiung ok bonde tua lyti af köpeno þy*." Pylkkänen 2005, 85; Sjöberg 1997, 175–176.
17. For a dated, but nonetheless very thorough, account of the inheritance laws, see Holmbäck 1929. See also Sjöholm 1968.
18. MEL, *Ärvdabalken* I. "*Dör bonde ællæ husfru ok liua barn æfte, son ok dotter, ærue son tua lyti ok dottor þriþiung*."
19. MEL, *Ärvdabalken* III. "*þæt hætir bryst arf af mannenum vt kom, ok bakarf ater i ætena*."
20. MEL, *Ärvdabalken* II. "*Nu æru ei þe til, þa ær faþer ok moþer, taki faþer tua lyti ok moþer þriþinug. Æru ei þe til, þa ær broþer ok syster, taki broþer tua lyti ok syster þriþiung* [. . .]."
21. Sjöberg 1997, 175.
22. Larsson 2003, 101–102. Sjöberg (1997, 173) writes that the law restricted how much of his wife's land the husband could alienate but concludes that "the man still had the right to dispose of his wife's land." Only in a footnote does she mention the required consent of the wife. My translation. Sjöberg uses the term "*handla med*."
23. In 1363, Rannvig inherited a legal share (a third) in fisheries and forests from her parents (SDHK 8252). Östen and his wife Gertrud owned and disposed of fishing waters and oak forests (SDHK 8534, 1364). The knight Magnus Gislesson and his wife Birgitta Knutsdotter donated fisheries to the convent in Vreta (SDHK 9413, 1396).

24. SDHK 9057 (1365); SDHK 10225 (1372); SDHK 23649 (1440).
25. Making accurate estimations based on statistics before the sixteenth century is difficult. In the beginning of the century, the crown owned roughly five to six percent, the church and nobility twenty-five percent each, and free farmers the rest. In the north of Sweden, farmers owned more than sixty percent of the land.
26. A knight in this sense is to be understood as a warrior on horseback, not per definition a nobleman himself.
27. MEL, *Kungabalken* XI. The archeologist Eva Svensson (2005) argues that the distinctions between social groups were not as rigid as was once thought, either from a material or from a power related point of view—at least until the fourteenth century.
28. According to *Kungabalken* XII, a son could be *frälse* together with his father and provide the knight and horse only if he had not yet received his inheritance. The *frälse*, in such a case, was upheld by the son but through the father. Compare with *Kungabalken* XIV.
29. In MET, this chapter was called *Jordabalken*, which is a name preserved in modern law, meaning roughly 'Landed Property Chapter.'
30. MEL, *Konungsbalken* XX. "*Hauer riddare ællæ suen son apter sik, een ællæ flere, han skal sit goz frælst haua til han fæmtan ara ær; siþan skal han ællæ annar a hans væghna i rikesins þianist ok þiæna for sit goz, ællæ göra skal ok skuld sum bonde æn han þianist for ma ei vppe halda*."
31. MEL, *Konungsbalken* XX. It is stated that if a knight has a daughter, she should have the same *frälse*. "*Hauer riddare ællæ suen dottor æpter sik, þa agher hon sama frælse niuta*." In MEL, this passage is put together with the regulations concerning the widow, but in KLR the passage is moved to the previous paragraph, putting regulations concerning children in one place. Furthermore, in the so called *Telgestadgan*, the passage is developed to specify that a daughter's *frälse* ends when she marries.
32. MEL, *Konungsbalken* XXI, "*Far hon frælsis man, þa frælse han hennæ goz meþ sino; fa hon bonda, þa giui hon skat ok skuld sum bonde*."
33. MEL, *Konungsbalken* XXI.
34. MEL, *Konungsbalken* XXVI, "*Nu æn frælsis man ællæ kona gör skipte ællæ köp meþ þem sum a skat gildum iorþum boande æru, opinbarlika sum lagh sighia, ællæ lönlika þera mællum meþ þem forskælum æt huar þera skal sit æghæ, draghande suiklika in til siin kunungx ingeld; huar þolikt gör, han ær kunungx fulder þiuuer, huar æpter þy sum þet ær vært til*."
35. MEL, *Konungsbalken* XXVI, "*Nu æn frælsis man ællæ kona gör skipte ællæ köp* [. . .]."
36. MEL, *Egnhobalken* II. "*Nu vil man sæliæ iorþ sina, þe han hauer meþ arf fangit, þa skal han a þrim hæræz þingum hona laghlika frendum sinum vp biuþa*."
37. MEL, *Egnhobalken* XII. "*Kan þön iorþ siþan klandas, þa skal þen sum iorþin klandas före sina fastæ næmna; þe tolf skulu þet suæria, huar i sin staþ, ok biþia sik sua guþ hullan sum han köpte þe iorþ laghbuþna. Æru nakare döþe af þem fastæmannum, ællæ vt lændis farne, ællæ i laghforfallum sum framleþis six, sua æt þe gita ei þer til kumit, þa næmne aþra bolfasta mæn i þera staþ, þe sum þa a þinge varo þa þet köpit giorþis; þe skulu samu leþ suæria sum fastæ skuldo æn þe til varo*."
38. Larsson 2010, 104; Andersson Raeder 2011, 57.
39. Larsson 2010, 104.
40. Phrases such as "in Finnveden, it seems as if men only dared to let women act independently when they were selling a small estate, or one of little value" indicate that even if women acted seemingly independently, it was merely because men allowed them to do so. Larsson 2003, 103 (my translation).

Other researchers also tend to put womens actions as exceptions. See Lahtinen 2004; Sjöberg 1997, 167–168, 173; Andersson Raeder 2011, 57–58.

41. Ågren 2009, 38–39.
42. It is of great importance that the wife continued to own property separate from that of her husband. In Danish legal theory from the beginning of the nineteenth century, it was argued that a wife's separate property ought to impact the husband's authority. Dübeck 2005, 308.
43. A very simple, and hypothetical, calculation may be as follows: Bengt's property is worth 15 mark, and his wife Karin's property is worth 5 marks. He may thus sell her entire property. Of the total value, his property remains two-thirds and hers one-third.
44. "*Ei man bonde husfru sinna iorþ sælia vtan þesse maal þrænge sum hær sighias. Kan vtlænzskær hær til lanz læggia, hæþin ællæ kristin, fanga bondan ællæ husfruna ok bort föra, koma ater buþ ok biþa bondan ællæ husfruna ater lösa, nu ær ei til vtan iorþ henna, þa man bondin henna iorþ sælia ok sina husfru ater lösa; ok sua ma husfrun sina iorþ sælia ok sin bonda ater lösa, æn han fangin ær.*"
45. This is a formulation preserved in Holmbäck and Wessén, but discrepancies are discussed in footnotes 107–108.
46. "*Nu agher bondin huarte iorþ ællæ lös öra, þa ma han sælia af sinne husfru iorþ til siæx marka vm arit ok ei meer.*"
47. "*þetta köp skal laghlika a þinge göras, ok þer konnoghas huat nöþ þem þer til driuer.*"
48. "*stande þet sua fult ok fast þet konan gör sum mannin gör i þesso male, ok gange tue lyti a bondans goz ok þriþiungin a husfrunna.*"
49. In KLR, land is expressly the property concerned, and both spouses are granted equal rights. KLR, *Jordhabalken* XXVIII.
50. Andersson Raeder 2011, 57–58.
51. Lahtinen 2009, 39–92. That widows took over their husbands' trade was commonplace. See Ojala 2012 and especially Ojala 2014; Hanawalt 2007, 35–44.
52. MEL, *Egnobalken* XVII. "*Haui ængin sysloman vald æt sælia herramanz iorþ, vtan han fa herrans bref þem sum iorþena köpir, æt þön iorþ ær honum hemol.*"
53. Previous research has shown significantly more men than women disposing of property in practice. See, for example, Lahtinen 2004, 38–39; Larsson 2003, 98.
54. MEL, *Giftermålsbalken* XX. "*Nu huru bonde ma husfru sinna goz bort skipta.*"
55. SAOB, entry: *skifta*.
56. Larsson 2010.
57. The work has been critized for the problem with *Tiohäradslagen* as well as several other issues. See Vainio 2011.
58. Lahtinen 2000.
59. Lahtinen 2000, 108, 110.
60. Lahtinen draws upon the very influential—if not groundbreaking—work of Amy Louise Erickson (1993) on women and property in England.
61. Lahtinen 2000 108–109.
62. See, for example, Taussi-Sjöberg 1996; Ågren 1992; Andersson and Ågren 1996; Pylkkänen 1990.
63. Sjöberg 1996, 381. My translation.
64. Korpiola 2009, 23–26.
65. Compare with Lahtinen 2004, an article based on Lahtinen's MA thesis in which she combed through some four hundred charters from Finland 1300–1500. Inger Larsson (2010, 126–145) reconstructs the selling process.

66. MEL, *Eghnobalken* II. "*Nu vil man sæliæ iorþ sina, þe han hauer meþ arf fangit, þa skal han a þrim hæræz þingum hona laghlika frendum sinum vp biuþa, fæþrinis frendum faþrene ok moþrinis frendum möþrene; siþan haui byrþamæn dagh nat ok aar þe iorþ köpa. Kopa þe ei innan nat ok aar, þa haui haui han val sæliæ huem han vil þe iorþ, ok aghe aldre byrþamæn a þe iorþena siþan tala.*"
67. Sjöberg claims that three years was the minimum. Sjöberg 2001, 103.
68. Sjöberg 1997, 173
69. Lahtinen 2004, 38, 40.
70. An exception could be SDHK 7155, which is a confirmation charter recapping how Germund Bruddsson and his wife had come to the *ting* to announce their intentions to sell her property (*Kunnugum thät at Germunde Bruddasson ok hans husfruga tingliussda Niclisse Vdsson alt henna godz*).
71. Donations are difficult to place as the 'payment' was often spiritual. Gabriella Bjarne Larsson draws up three categories—inheritance, private gifts, and donations to institutions. Hence, she is placing donations further toward inheritance than I am. See Larsson 2010, 76–82. Here, my intention is to describe the process of a transaction; therefore, the specific categorizations are of less importance.
72. SDHK 8907.
73. SDHK 9821.
74. SDHK 10093.
75. DF 909.
76. DF 910.
77. SDHK 18404.
78. Compare with Andersson Raeder (2011), who draws the same conclusion.
79. "*Bo Jonsson ællo hans syslæman.*" In SDHK 9420 (1396), the payment is a fine for a theft. See also SDHK 11327 (1378), SDHK 11337 (1378). Bo Jonsson Grip's administrator was Jöns Djäken, who was required to file accounts for the way he managed the property. See SDHK 9680 (1370).
80. SDHK 18557.
81. DF 1196 (1405).
82. Gabriella Bjarne Larsson suggests an interpretation, based on a lack of receipts in Finnveden after the middle of the fourteenth century, that the whole sum was paid at the same time or that charters were drawn only once the whole payment had been made. The latest receipt in my database is from 1449 (SDHK 25481), when Algot Erengislesson issued a receipt for chattel inherited from his mother. The latest receipt on a payment was issued in Vadstena, in 1446 (SDHK 24876), concerning a property transaction initiated no later than 1433 (see SDHK 22037 and SDHK 24686 (1445)) and resulting in a sale only in 1445 (SDHK 24832).
83. Hafström 1984a, 45–54.
84. SAOB, *sköta*. The two rituals could be performed together. See SDHK 10741. *Skötning* seem to have been much more common in Skåne than in Sweden, based on a word search in the SDHK database. Most of the charters in SDHK relating to the ritual come from Skåne, but these have not been taken into consideration here.
85. SAOB, *omfärd*. This was a practice distinctive of the regional law in Västergötland. Theoretically, it ought not to have been in force after the introduction of MEL, but in practice the *omfärd* was an important juridical ritual still in the end of the century. It could also be performed in connection to *skafthållning*. See SDHK 14536 (1396).
86. SDHK 8964.

87. Compare with SDHK 6829, in which Karl Jakobsson deputed Finvid to transfer property that had been sold.
88. SDHK 17902.
89. A similar case is SDHK 11298, where a mother confirms and completes her dying son's last wish. Mothers could be the heirs of their children if the children died before them and had inherited property from their fathers—so called *bakarv*.
90. The donation made by Anders Johansson and his wife Kristin Haraldsdotter in 1392 was held fast (*fastfara*) only in 1441. SDHK 14072.
91. SDHK 13776.
92. SDHK 16917. In 1414, Elin entered the convent in Julita. See SDHK 18215.
93. SDHK 16917 (1406). "[I] *samo matto, som han thet vnte oc gaff fornæmpdo klostreno Vazstenom for sina siæl oc alla cristna siæla, swa an iak thet oc gifwer ok vplater klostreno a mina vægna meth allom thøm ræt iak ther til hawer*."
94. SDHK 14959.
95. Compare with SDHK 21311 (1430), in which three brothers transferred property to the convent in Vadstena. The property had been donated by Bo Jonsson (Grip) who had aquired it from their father's uncle. By 1430, Bo Jonsson had been dead for forty-four years.
96. SDHK 11132.
97. SDHK 11132. "*lt thæt gotz som myn kære husbonde fornempde Bendict Symonsson Gudh hans siæl hafua salda wælborne manne Bo Jonsson* [. . .] *thæt war oc ær mỳn fulgodher vilie. Oc kænnis jac medh mynom arfwm at wi bathin hion vpbarom for the fornempda gotz ful wærþ j rethom pæningom oc smør* [. . .]."
98. Combining attestations and transfers in OM gives a total of 9.8 percent. This number is inflated, as it contains attestations in matters completely irrelevant to landed property transactions, such as bishop elections, procedures, and privileges.
99. Nedkvitne 2004, 99–100; Hellner 1895, 42–44.
100. See "Power of Attorney."
101. The *fastebrev* concerning women, but without women as active agents are only twenty in total.
102. SDHK 8123.
103. Taussi Sjöberg 1996, 95; Pylkkänen 2005, 84.
104. In the sixteenth century, however, thirty-six percent of the noble land in Västergötland was owned by women, primarily widows. Samuelsson 1993, 99.
105. Larsson 2010, 198–201.
106. Lahtinen 2009, 51–52; Pylkkänen 1990, 57.
107. Larsson 2010, 200. My translation.
108. Both of her cases are from outside my period. SDHK 30950 (1481) and SDHK 31969 (1487).
109. DF 2208.
110. SBL, *Porse*, urn:sbl:7348.
111. In 1444, Kristin Gudmundsdotter referred to herself as "of Repsala" in the parish of Kind, SDHK 24450 and SDHK 24449. Pylkkänen has discussed the tradition with using a farm or a homestead as an identifier. See Pylkkänen 1990.
112. SDHK 22547.
113. SDHK 21685 (1431).
114. SDHK 22351. The same seems to be the case in an affirmation dated 1438 (SDHK 23096), but I have not seen the original.

115. SDHK 18035 (1413). The third person issuing the charter was Laurens Ulfsson (Aspenäsätten), who was married to the second sister, Katarina Stensdotter (Bielke). Katarina died in 1409.
116. Epithets for determining the origin of certain property is used by Andersson Raeder 2011, 75.
117. SDHK 6387 (1353). It is possible that Kristina had the right to purchase the property because of her late husband's relations with Elsebe, but I have not been able to confirm that such relations even existed.
118. Larsson 2010, 195.
119. It should also be mentioned that Larsson has a total of eighteen charters from both centuries even though her period is a total of one hundred years longer than mine.
120. I do not have data enough to give a full account of the same statistics for OM. However, there were 103 charters from the 1420s and only 82 from the 1430s, which strongly indicates that OM would show a similar pattern. Franzén (2011, 37–38) explains the dip he sees in his charters from towns in the 1370s and 1380s with the effects of the plague.
121. By describing the Engelbrekt Revolt as a civil war, I do not intend to argue that civil war is the best term. The revolt is sometimes described as a farmer's upheaval, but to what extent this picture holds true is questionable. See Cederholm 2007, 21–22, 321. The 1430s had several armed conflicts. See Larsson 1984.
122. Lahtinen 2004, 39.
123. Lahtinen 2004, 39.
124. Andersson Raeder 2011, 71–74; Lahtinen 2000, 2004.
125. Larsson 2010, 200–201. Larsson uses the Swedish word *hustru*. In the charters, it is also sometimes written as *husfru*, which, in modern Swedish, has a slightly different connotation. In medieval Swedish they are interchangeable. Compare with Lahtinen 2000, 107.
126. SDHK 20738.
127. Hellner 1895, 41.
128. Compare with Taussi-Sjöberg 1996, 104; Pylkkänen 1990, 58–59.
129. SDHK 12574 (1384). "*min hwsfru, hwsfru Katerin*."
130. SDHK 10747.
131. SDHK 8960 (1366). Interestingly enough, the couple in this charter is also selling to a man named Peter Tomasson, but I am not sure if it is the same person. SDHK 10601 (1374). In SDHK 11453 (1379) Ingeborg Byngersdotter; Olof Byngersson; Lars Smed; and his wife, Cecilia Ingersdotter, sold property. The first two were in all likelihood siblings.
132. Examples of this are SDHK 16147 (1403), SDHK 16250 (1404), SDHK 16580 (1405), SDHK 17439 (1410). Compare with Larsson 2003; Sjöberg 2001.
133. Larsson 2003, 92. My translation. The quote is from a section on property in Jämtland and Härjedalen, which were in Norway, but she uses the same argument in the section on the Swedish circumstances.
134. SDHK 24228.
135. "*Alle mæn som tesse breff see ællæ høre helser wi jon mærswin och min ælskælika hustrw kristhin knuth dotthir kærlika meth gudh kennoms wi meth thesso woræ nærwaradhe oppnæ breue wi solth haffin* [. . .] *wor gardh I fortatorph* [. . .] *huilka fornemnde pænigha wth guffue ærw swo ath wi æl*[illegible] *wæl ath nøgir meth biægias woro kærlik och godh wilia*."
136. The voice in the charter becomes that of Kristin when it was time to relinquish the property. I will return to this in "Women as Active Agents Donating."

137. SDHK 8634 (1364).
138. SDHK 17867. "*a badha sidhor med samthykkio ok beradhno modhe salt hafwum* [. . .], *alt wart goz, køpegoz ok ærfdhagoz*."
139. SDHK 23262 (1439), SDHK 13705 (1390).
140. SDHK 23303 (1439). Harald Johansson was Anders Andersson's younger half-brother. See SDHK 19594 (1421).
141. SDHK 13588.
142. SDHK 15640. "*enne hele thompt liggiandis synnan ana, øster a haghanom næst vidher ana oc dikedh*."
143. Other examples of joint ownership are SDHK 16283 (1404), SDHK 16334 (1404), SDHK 16805 (1406), SDHK 17410 (1410).
144. Lahtinen 2000, 110.
145. SDHK 15605. Compare with 15765.
146. SDHK 20743.
147. The land was sold to Nils Magnusson in Kävra Brunna. Kävra is located just outside Enköping. The parish is now referred to as the Vårfrukyrka parish.
148. Lahtinen 2000, 110.
149. SDHK 8954. "*waare godhe borghara Jønis skørbytta. ok hans hustrv. hwsfrw cristina. ok thera maagher hennecha naghil vaaro j raadhstuwunne for oss. ok kændus thær fore sitiande raadheno sik hawa sælt thera gaardh j hvilikom the bygdho ok bodho*."
150. When this case is revisited by the town council in Västerås, only Jöns and Heneka are said to have come before the council, on behalf of their wives. SDHK 9673 (1370).
151. Daughter of Magnus Kase. She had a seal with a seven-point star.
152. SDHK 17777.
153. One more closely resembling this is SDHK 15816 (1402).
154. SDHK 16562 (1405).
155. SDHK 16563 (1405).
156. See "In-Laws."
157. SDHK 6077.
158. Compare with SDHK 20660 (1426), in which the knight Nils Bosson sold property to his son-in-law Svarte Jöns (married to Ingeborg Nilsdotter). Her brother sealed the charter. The property belonged to Nils, as far as I can tell.
159. SDHK 22389.
160. SDHK 13763.
161. SDHK 15721 (1401). Västergötland.
162. Other cases are 15916 (1402), 17115 (1408), SDHK 21131 (1429).
163. SDHK 16860 (1407). Värnamo.
164. "*hawa iac Jønis Petherson oc Gunnæ Petherson waræ incigel hengit pa thetta opna bref for oss ok Ælin waræ systir*."
165. See "Sealing Charters."
166. For example 17302 (1409).
167. SDHK 19958 (1422), SDHK 21475 (1430).
168. Compare with Larsson 2010; Lahtinen 2000, 109.
169. SDHK 16627. "*with badhstwgathwna*."
170. SDHK 20769 (1426). Also buying together with her son was Kristina Andersdotter in 1435 (SDHK 22389).
171. Lahtinen 2000, 109.
172. SDHK 10923.
173. For the epithet *fru*, see Lahtinen 2009, 39–43.
174. SDHK 21454 (1430).
175. SDHK 21830 (1432).

176. SDHK 23262.
177. SDHK 18553.
178. SDHK 20192.
179. SDHK 11645 (1380).
180. SDHK 23285 (1439).
181. SDHK 12723 (1384).
182. More examples are SDHK 13353 (1387).
183. SDHK 22922.
184. Larsson 2010.
185. Larsson 2010, 263–264, 289.
186. Larsson reaches the same conclusion and adds that women did not act on a market as much as they arranged for practical matters or relatives. Larsson 2010, 269.
187. Ågren 1992, 78–80. Compare with Sjöberg's result from one century later, according to which she had found 157 sales and only 22 trades (12.3 percent of the total). Sjöberg 2001, 104. The difference is significantly much larger than what I have found and might very well indicate that trades decreased in comparison to sales with time.
188. Sjöberg 2001, 105–106; Larsson 2010, 130, 2003, 86–87.
189. Larsson 2010, 141–142.
190. Bo Jonsson Grip died in 1386.
191. Larsson mentions that the Nydala convent was an important trading partner in her study but also that the person representing the convent was always a man. Larsson 2010, 151.
192. Lahtinen 2009, 137–143. Compare with Berglund 2014.
193. For example, the lawman and marshal Bo Jonsson (Grip) made an enormous fortune at least partly by using his prominent position.
194. This is a very rough calculation, based on names of the issuers. If one would go through all the people involved in the trades more carefully, it is perfectly possible that the number would be larger. This is the minimum.
195. Larsson 2010, 130, 2003, 86–87.
196. Larsson 2003, 103.
197. SDHK 7256.
198. Other wives who traded with their husbands can be found in SDHK 20835 (1427), SDHK 20646 (1426, issued by the husband).
199. SDHK 8297.
200. SDHK 20835.
201. For example, SDHK 11269 (1378), SDHK 13057 (1386), SDHK 18911 (1417).
202. SDHK 17709.
203. SDHK 17850.
204. Larsson 2010, 151–153.
205. Studying three different *ting* places a century later, Sjöberg reported women as sellers in 8.3 percent of the cases. Sjöberg 2001, 111. My percentage calculation, based on her table.
206. SDHK 5975 (1350).
207. SDHK 8296 (1363). "*a mina hustru vegna*."
208. SDHK 9532 (1369).
209. SDHK 9516 (1369).
210. SDHK 11972 (1381).
211. MEL. *Giftobalken* XX. "*Nu ma ei bonde husfru sinne iorþ bort skipta, huat hælder þe barn haua saman alla ei, vtan meþ husfrunna goþuilia ok arua henna, ok skipte til bætra ok ei til værra*."
212. SDHK 10653 (1375).

213. "*jak Jønis Kiærling j Valbo sokn ok min hustru Marghit Marcusa dottir giordhum et jordaschipte.*"
214. "*ok thær fore at thætta ær minna husfru jordh tha hauir hon hær til fangit sins brodhirsons godhuilia svm ær Andris Bændictson j Thorslundum ok andra sinna næst frænda.*"
215. For morning gifts, see Peterson 1973.
216. Compare with Larsson (2010, 104), who concludes that twenty-five percent of all donations for the soul were issued by a woman. I have not calculated only women issuing, and the numbers are therefore not immediately akin.
217. However, discerning what is a testament and what is a donation is sometimes difficult. I have counted only the charters in which it is specifically stated that it is someone's last will and testament in the group.
218. Myrdal 2003. Myrdal's sources are also charters—all of which are included in my statistics too—but his selection criterias are quite different. Hence, it is to be expected that our figures are not immediately comparable. For example, he has nineteen donations from the 1380s and eighteen from the 1390s. I have fifty-four and forty-three, respectively. Myrdal 2003, 132–138.
219. Fear of purgatory was one factor. Myrdal 2003, 123.
220. Myrdal 2003, 142–143, 243–244. Outbreaks within the time frame of this study were 1350, 1360, (possibly) 1368–1369, 1413, 1421–1422 and 1439–1440.
221. Myrdal 2003, 142.
222. Holmbäck and Wessén 1962.
223. To what extent this holds true can be questioned. For example, an extant copy of MEL, dated to about the 1430s and preserved in Uppsala Universitetsbibliotek, has the Church chapter from ÖL.
224. Myrdal 2003, 128; Larsson 2010, 87–92.
225. Myrdal 2003, 128; Larsson 2010, 89.
226. SDHK 9515.
227. All landed property mentioned in the will was bequeathed to churches and convents.
228. For other examples, see SDHK 12296 (1382), SDHK 16773 (1406), SDHK 21958 (1433), SDHK 25665 (1450).
229. SDHK 7594.
230. SDHK 9529. Compare with SDHK 9638 (1370), in which the bishop approves of her wishes. The state of the husband, and how the property came to Ingegerd remains unknown.
231. SDHK 8284 (1363), SDHK 13858 (1391).
232. SDHK 9642.
233. SDHK 11311. "*Framledhis giwir iak minom kæra husbonda herra Birghere ett gooz som Asby hetir liggiande vidh Arbogha medh allo thy ther tilliggir lanboom akrom ok ængiom skoghom fiskevatnom qwærnom ok qwærnastadhom vtan gardz ok innan ængo vndantakno som thy af alder tillighat hawir ok æn tilliggir.*" Compare with SDHK 13558 (1389) and SDHK 21792 (1432), in which part of the property transactions are confirmed.
234. "*Framledhis giuar iak Jngeborghe minne mø min bla ipærska mantill ok min gra kiortil ok mina bruna hætto.* [. . .] *Jtem giuar iak Eline bryggizsenne min grøna kiortill ok Eline bakkrizsenne mina silf skedh.*"
235. SDHK 11313. See also SDHK 12101 (1382), SDHK 13082 (1386), SDHK 17286 (1409).
236. SDHK 11311. "*min kæra husbonda herra Birgher Wlfson til hulkins all min siæla trøst ær.*"
237. SDHK 20060 (1423). Compare with 24679 (1445), SDHK 21924 (1433).

238. SDHK 20131 (1423), SDHK 22581 (1436).
239. SDHK 21759 (1432).
240. There are exceptions, such as SDHK 16236 (1404), SDHK 16944 (1407), SDHK 17080 (1408), SDHK 17559 (1410).
241. Larsson 2010, 101.
242. Larsson 2010, 76–80.
243. Larsson 2010, 103. My translation.
244. SDHK 10681. Another example is 10913 (1376).
245. "*medh mins kæra sons Henriks Swinakulo oc mins kæra maghs Ioon Haquonsons samthykkio iaa oc godhwilia*."
246. He had been indebted at least fifteen years already. See SDHK 7605 (1359), SDHK 9323 (1368), SDHK 9324 (1386), SDHK 11024 (1377)—all issued before Katarina's charter.
247. SDHK 7605 (1359).
248. On the authority and power of mothers, see Lahtinen 2009, 93–104.
249. Lahtinen 2009, 111.
250. SDHK 10568 (1374). The charter is in Latin, and she refers to herself as *relicta*. There was other property in the donation too, and I have not managed to completely exclude that it had not belonged to Tuke at some point.
251. SDHK 10697.
252. "*tha bedhes iak hæær foore ærlekra manna jnsighle swasom æær herra Pætars af Ørabærghe prowast j Skæninge herra Andresa af Hærezstadhum, Ioors mins maaghs forenæmpder medh sins fadhers Iønesa af Alicothorp*."
253. That some of the people sealing charters did so because of reasons connected to social networks rather than hereditary law is obvious. Andersson Raeder 2011, 76.
254. Larsson 2010, 104.
255. SDHK 17047.
256. "*iak hafuer walt min lægherstadh ther nær minom forældrom, for therra siæla røkt ok mina ok for mins kæra bonda siæl, for:da herra Knutz, som æn lifuer, swa ok for mins kæra bonda siæl Lafwrenz Wlfsons, som dødher ær, hwilkins siel Gudh miskunne, swa ok fore hans forældra siæl, efter huilkin miin barn erfdho thet sama godzet ok iak erfdhe thet meth rætto efter them*."
257. Her new husband was then married to Ingeborg Magnusdotter.
258. SDHK 17190 (1409).
259. There are however independent wives, such as in SDHK 12460 (1383), SDHK 20039 (1423).
260. SDHK 11950 (1381), SDHK 17112 (1408).
261. For example, 12086 (1382). SDHK 13175 (1386), SDHK 13679 (1390), SDHK 13796 (1390), SDHK 17098 (1408), SDHK 17939 (1413).
262. SDHK 17694 (1411). The maternal uncles of both husband and wife sealed the charter.
263. This is mainly due to the state of the sources and the lack of information. If we knew the origin of all the property involved, it is perfectly possible that it would show that it was practically always the wife's land if a husband and wife issued jointly.
264. "*Kan thet ok swa wara at nokre mine arwa wilia thet førnæmdha gotz aterløsæ*."
265. SDHK 20901 (1427).
266. SDHK 18589 (1415).
267. SDHK 20810 (1427).
268. This is not to say that medieval Sweden had a market economy, which is a subject of its own. See Larsson 2010; Franzén 2009.

269. Andersson Raeder 2011, 139. My translation.
270. SDHK 10888 (1376).
271. The pattern follows closely that of SDHK 24228 (1442), discussed in "Wives as Primary Agents."
272. "*Jtem jak Cristin Ionsdottir vplatir medh rættom godhwiliæ all thessom fornempdo godz minom kæra maagh Thordhe Bonda hans hwsfru Ramburghe minno kæro dottir ok theræ arfwm for thy thet ær mit rætta fedherne*."
273. SDHK 11326 (1378). For Bengta Gustavsdotter, see ÄSF I, 202. For Vädersholm, see Lovén 1996, 233.
274. SDHK 11521 (1379). Ingegerd was married to Heine's relative Klaus Snakenborg.
275. SDHK 14708.
276. See SDHK 13582 (1389), SDHK 14080 (1392), SDHK 26250 (1453) and SDHK 28486 (1465).
277. SDHK 16554.
278. "*Gudh hawer mich synderlika plaghat, swa at jach egh barn affla maa medh minom bonda*."
279. Children were key to the marital estate. Compare with Dübeck 2005, 133.
280. SDHK 17732.
281. SDHK 21691 (1431). "*Fore kærleks skyldh ok syndherlikin godhskap som jak altiid killegible haffuer*."
282. Andersson Raeder 2011, 89–114.
283. "*Føre the mødho oc arwodhe som hon hafghe for mic daghlica opa tolf aar medhan jac i sotasæng laa*."
284. SDHK 11494 (1379).
285. SDHK 18161. "*for then scul at han hafwer allaledhis minom wilia epter følgt oc mik thil hugnat ok kerlek ytermeer warit æn nokor annar aff minom nesta frendum eller arfwm*."
286. SDHK 13116 (1386). Other gifts to children include SDHK 14033 (1392), SHDK 16019 (1404).
287. SDHK 17748 (1411).
288. Other examples of gift within the kin network is SDHK 21208 (1429, to a second cousin), SDHK 21216 (1429, to sister and her husband), SDHK 24653 (1444, to niece), SDHK 21379 (1430), SDHK 21638 (1431, to a daughter).
289. SDHK 12133.
290. SDHK 18252.
291. On the poltical implications on women's landowning, see, for example, Wiesner-Hanks 2017; Lahtinen 2009, 78–92; Bjørshol Wærdahl 2017.
292. SDHK 13097.
293. See also SDHK 6388 (1352), SDHK 13162 (1386), SDHK 13914 (1391), SDHK 14249 (1394), SDHK 14591 (1396), SDHK 15853 (1402), SDHK 16301 (1404).
294. SDHK 13123 (1386).
295. SDHK 13928.
296. SDHK 14125.
297. SDHK 13536.
298. SDHk 13686.
299. SDHK 10134.
300. "*ok saghde hon at thetta war hennar bondha fullar vili*."
301. DF 868 (1378), SDHK 12838 (1385).
302. SDHK 9054 (1367).
303. SDHK 7950.

304. SDHK 5947 (1350).
305. SDHK 17596. Other example of female creditors are SDHK 6798 (1354), SDHK 13010 (1386), SDHK 18412 (1414), SDHK 19482 (1420).
306. Bardsley 2007, 77; See, for example, Spence (2016) on early modern Scotland, and Hutton (2011) on medieval Ghent. Spence, Cathryn. (2016). *Women, Credit and Debt in Early Modern Scotland*, Manchester University Press, Manchester.
307. Hutton 2011, 81.
308. Stockholm, the largest town, had around seven thousand inhabitants at the end of the Middle Ages, and most other towns had fewer than one thousand. See, for example, Sawyer and Sawyer 1993, 159.
309. Bardsley 2007, 77; Hutton 2011, 82.
310. The chancellor Axel Oxenstierna was complaining in 1638 that as long as daughters could inherit estates, the nobility could not prosper. Winberg 1985, 38.
311. Larsson 2010, 214–249.
312. The same has been found in England, where women in the fourteenth century appeared in credit litigation to a far lesser extent than during later centuries. See Briggs 2004.
313. SDHK 15440.
314. SDHK 8764 (1365).
315. SDHK 13819. Nothing except the name suggets that these two men are the same. It is not the same property, the same creditor, or the same place.
316. SDHK 9142 (1367).
317. SDHK 16771 (1406).
318. SDHK 14824.
319. SDHK 7702 (1360). This charter was issued in Arboga but concerned property in Skärstad parish in the Göta region.
320. Sjöberg 2001, 102–103, 105. Property was transferred between men of different generations through inheritance and marriage, according to Sjöberg (1997, 171).
321. Gunneng 1987; Andersson Raeder 2011, 59–60.
322. Korpiola 2009, 70; Holmbäck 1929, 105.
323. This is one of the most difficult categories to demarcate. I have collected the ones that pertain to inheritance negotiations or settlements or otherwise describe how inheritance had been divided.
324. This can be compared to the fact that sales had only 14 percent, trades 11.9 percent, and the whole of DW 22.8 percent.
325. MEL, *Ärvdabalken* VI. "*Sætias all saman i skip, man, kona ok barn þera meþ, veet ængin huar först dör ællæ senast, þer ærue mancins aruæ mannin, ok quinnunna arua kununa. 1. Sætias all i sliþa, aka i vak ena, vari lagh samu. 2. Brinder alt inne, bonde, husfru ok barn, vari lagh samu. 3. Ganger hær a land, dræper ællæ brenne, veet ængin huar længst liuer, vari lagh samu. 4. Döa mæn i striþ, veet ængin huan först dör, vari lagh samu. 5. Skilias mæn aat liuande ok spyrias döþe, veet ængin huilikin lenger lifþe, vari lagh samu. 6. Liggia tue siuka i eno huse, ok huar þera ær annars arue, dör baþe sænder, vari lagh samu.*"
326. Sjöberg 2001, 28–35; Winberg 1985.
327. Andersson Raeder 2011, 54–55; Pylkkänen 2005, 76–79.
328. Kuehn 2012, 248.
329. For a comprehensive discussion on marital gifts and their legal implications, see Korpiola 2009. Larsson maintains that since these gifts were considered inheritance in advance, they were to be deducted from a person's total share. Larsson 2010, 97.

330. See Peterson (1973) regarding the morning gift. According to Hedda Gunneng, the provisions concerning 'brother's shares' stemmed from the brothers and never from the parents. Gunneng 1987, 82. Compare with Andersson Raeder 2011, 59–60; Korpiola 2009, 70.
331. Pylkkänen 2005, 77–79.
332. Even though women were on the receiving end of a gift and would, at some point, benefit from the morning gift, the arrangements were made independent of the wife-to-be. I have therefore marked these women as non-agents.
333. See, for example, SDHK 10019 (1371), SDHK 20207 (1424).
334. SDHK 19562 (1420).
335. See "Gifts to Others." Compare with Andersson Raeder 2011, 138, who concludes that gifts between spouses increased in the fifteenth century.
336. Search terms: 1350–1450, *hemgift*. The most common place of issuing was Lübeck. A search for *hemfö** rendered one result.
337. Andersson Raeder 2011, 55.
338. SDHK 13752.
339. SDHK 25179 (1447) mentions the word *hemföljd*, which is synonymous with dowry and might be a confirmation. The charter is incomplete. Two charters were drawn when the gift was made. See SDHK 17811 (1412) and SDHK 21312 (1430).
340. Korpiola 2009, 70.
341. MEL, *Giftobalken* XII. "*Nu gifter man son sin ællæ dottor sina, ok giuer hemfölghþ meþ, iorþ ællæ lös öra, haui þæt mæþan þen liuer sum honum þæt gaf; þa han ær döþer, bæri ater þæt til skiptis, meþ suornum eeþe, meþ þem sum þer æru rætte aruæ til. 1. Giuer ænkia fölghþ mæþ barnum sinum, vari lagh samu.*" Compare with Korpiola 2009, 70–71.
342. See, for example, Holmbäck 1929; Sjöholm 1968; Winberg 1985; Sjöberg 1997.
343. Winberg 1985, 25.
344. SDHK 9830.
345. SDHK 10897.
346. See, for example, Ighe 2004, 220–222.
347. For a longer discussion on this, see "Consent from Heirs."
348. Pylkkänen 2005, 81.
349. Compare with Lahtinen 2009, 72–75. That this was the case in urban settings has been shown several times. See Ojala 2012, 2014, esp. 121–172, 186–188.
350. SDHK 11948.
351. SDHK 18593.
352. "*alla the pæningaschuld ok gæld, som wtestanda meth riddara, swena, bonda ok bokarla, meth hwem thet kan hælzt wara, epter thy min husbonde Andris Morakarl, som jak sidhan atte, Gudh hans siæl hafui, kændis i sin ythersta thima meth sinom sworna eedh i Stocholme før fyrom borgharom, som hans testamentz breff wtwisar.*"
353. SDHK 18592.
354. Lahtinen 2009, 47–50; Andersson Raeder 2011, 23–24.
355. SDHK 18268.
356. "*ok hafwer jak thetta giørt før mins husbonda siæl skuldh herra Erlendz Knutzson, ath hon skuli ei hafwa høghelikin wadha æller stora pino for thet olika skipte ther han giordhe meth Anund Hæmingxson.*"
357. Lahtinen 2009, 47–50.
358. SDHK 18655 (1415). Anund and her son-in-law consented.
359. SDHK 10935 (1377). See "Women's Criminal Liability."
360. SDHK 10936 (1377).
361. Andersson Raeder 2011, 23–24, 93–98; Lahtinen 2009, 42–43, 50–54.

362. Harris 2002, 127.
363. Sjöberg 1997, 168.
364. Andersson Raeder has concluded that women preferred to remarry rather than to stay widows and that marriage might well have meant greater agency. Andersson Raeder 2011, esp. 20. Lahtinen discusses, for example, how a husband could appeal to his friends to support his wife when she became a widow. Lahtinen 2009, 64–67. See also Lahtinen 2004, 40–41.
365. Andersson Raeder 2011, 18. My translation.
366. Consent is mentioned, usually based on the law text, in practically all studies concerning land, but there are no comprehensive studies. The closest is Larsson 2003, in which it is treated throughout, and Larsson 2010, 104–105. The *bördsrätt* is an important aspect of consent. The most important work is Winberg 1985. See also Sjöberg 1997.
367. Pylkkänen 2005, 85.
368. Pylkkänen 2005, 85.
369. SDHK 12432. "*medh wilia samthykt oc fulbordh mins aelskelika brodhers jons galla*."
370. SDHK 12481. "*vilia oc beradhno modhe*."
371. SDHK 19280.
372. "*meth myns ælskelixs sons, herra Godzstaffs Algotzsons radhe oc hans husfrw mynne kære dotther Ælin Arffwydhzdotther oc flere myna wina samtykkio*."
373. In 1432, Birgitta av Fållnäs transferred property that she had inherited from her daughter Elin to the convent in Vadstena. See SDHK 21817.
374. SDHK 16876.
375. "*mædhan jak ekke sielwer incigle hawer*."
376. Larsson 2003, 101–102. My translation.
377. See "Selling and Purchasing." In the 1440s, there were thirty-seven known wives and ten known widows. The 1430s is an exception, with only one known wife and eleven widows.
378. There is one factor I have not checked for that might very well have a bearing on the result—geography. As I have shown in previous chapters, geography played an important part in women's agency, as married women were under guardianship in the Göta regions. All the charters in which a husband acted on behalf of his wife without her consent were issued in the Göta regions, and most commonly in Östergötland. If one would take into consideration in which region the charters with women of unknown marital status were issued, it is quite possible that there would be a pattern.
379. Lahtinen has gone as far as describing the Finnish married woman as being under a form of coverture in the Middle Ages. Lahtinen 2000, 2004.
380. SDHK 15976.
381. "*Thet skal allæ men widerlikt waræ [. . .], thet jak meth miin hustrw Kathrinæ wiliæ oc hennæ frænders raath, meth ja oc gothwiliæ hawæ salt, [. . .] alt mit gotz liggændæ i Skeggæløsæ, som ær een gard i Skadæløf sogn [. . .], hwilket min hustrw Kathrinæ rættæ fæthernæ war*."
382. SDHK 16250.
383. "*Thet scal allom mannom witerliket wara, [. . .], thet wi Knwt Gislason oc Ingegerdh Laurenzsa dotter, hans husfru, [. . .] oss meth wilia oc beradhno modhe hafua salt oc ganzlika vplatet, epter thy lagh tilsighia, erlikom oc wælbornom manne herra Stene Beinctzson riddara allan wan æghodeel i the fiskerino, som ligger innan Swedh aa [. . .], huilket forscrepna fiskeri jak Ingegerdh Laurenzsa dotter ærft hafuer epter mina modher*."
384. Others have also discussed changes in agency over the lifecycle. See Andersson Raeder 2011, 87; Lahtinen 2009, 69–78; Pylkkänen 2005, 76.

385. Harris 2002, 62. The quote concerns specifically aristocratic women but is applicable also in this context.
386. SDHK 20564 (1425).
387. SDHK 17301 (1409).
388. SDHK 17544.
389. "*Til hwilkins mere wisso, witnisbyrdh ok stadhfestilse bedhoms wi hedherleka manna herra Suna Trulla oc herra Lawrinza Skytto oc skælix manz Henneko Starka, borghara i Lynkøpunge, insighle meth mino for:da Lawrinza eeghno oc wælborins manz Magnosa Haldorson, minna før:do Ragnilla brodhors, a mina wæghna, insighlom for thetta breff*."
390. SDHK 23969.
391. I have marked Valborg as being of uncertain marital status.
392. Other examples are SDHK 7139 (1357), SDHK 23742 (1441).
393. Sjöberg 1997.
394. Compare with Odén 1987; Andersson 2006, 394–396.
395. SDHK 21329.
396. SDHK 24514.
397. SDHK 21938. The estate had been leased already in 1399 to a Mikael Nilsson (SDHK 15111) and in 1403 to the knight Erik Erlandsson and his wife, Ingrid (SDHK 16053). The estate had been bequethed to the convent in Gudhem in 1334 by King Magnus Eriksson (SDHK 4058; SDHK 4059).
398. SDHK 21959. "*bruka och oss til nytta*."
399. SDHK 25123; SDHK 21938 (1433). I am reading this charter as a continuation of a lease already in existance and hence interpreting Margit as the wife of Jöns Mattsson. The name of the wife of Jöns is not mentioned in his charter.
400. Previous research has shown that widows took over as head of household upon the demise of their husband. See, for example, Ojala 2014.
401. SDHK 9712 (1370). A similar gift is SDHK 17408 (1410).
402. SDHK 22086 (1434). It is unclear to me how Esger was related to the other two. It might be that Esger and Åsa were siblings and that Agmund's claims on the property thus were through his wife.
403. SDHK 21390.
404. SDHK 16721. A similar charter is SDHK 17408 (1410).
405. Sjöberg 1997, 167. My translation.
406. Andersson Raeder 2011, 23. My translation. The term Andersson Raeder uses for 'economical agency' is *ekonomiskt handlingsutrymme*.
407. SDHK 21390 (1430).
408. SDHK 25123 (1447).
409. Andersson Raeder 2011. The idea of marriage as partnership is also used by, for example, Harris (2002) and Hanawalt (2007). Lahtinen decribes the wife as her husband's counselor. Lahtinen 2009, 50–61.
410. Pylkkänen 2005, 80–81.
411. For the term 'junior partner,' see, for example, Harris 2002, 127.

4 What Married Women Could and Did Do—A Summary and Some Conclusions

Married Women and the *Malsman*

Defining married women's legal status is just as much about defining the status of the *malsman*, and tracing the history of the *malsman* through the regional laws provides one of the most important findings of this study. The *malsman* system in the shape of legal guardianship over women originated in the Göta regions, specifically in Östergötland. The word *malsman* did not exist in the Svea regions (except for one occasion in SL) even in connection to children. Instead, the word used for guardianship over children in the Svea regions was *formyndare*, and the legal guardianship over grown women permeating ÖL did not exist. Hence, it was from ÖL that the *malsman* entered the kingdom-wide legislation created in 1350. Mapping out the origins of the word *malsman* and the concept of gendered guardianship helps to explain the ambiguities in the new law, as it merged two legal systems with disparate views on women's legal capacities.

In MEL, the *malsman* appears as a function the husband held vis-à-vis his wife, as he gained the right to speak and answer for her after the wedding, but women nonetheless gained legal majority once married and had both criminal liability and procedural capacity in the law. Furthermore, the *malsman* system in MEL was much larger than the relationship between husband and wife. A *malsman* in the law was a legal representative—a spokesman—who could also be a property manager, but being a *malsman* only affected the authority of the person holding the function and not the authority of the person being represented. The person who was represented was not a ward or a minor just because he or she had a *malsman*. This is an important distinction when considering the agency of married women. The paragraph naming the husband *malsman* did not determine the legal capacity of the wife.

The Norms Surrounding Married Women's Agency

There are three different categories of women that meet us in the laws—maidens, wives, and widows. Of these, only the latter two had legal

capacity. At the same time as marriage gave women legal authority and capacity, it upheld women's dependency on men. Women could not, based on their own innate properties, gain legal majority, as men did when they turned 15. Instead, their status was consistently related to that of the men around them—a father or a husband. Hence, there can be no doubt that women were subordinate to men in the law. In the law, marital status was the defining factor for the three categories in which women could be found, which underscores law as a male sphere and evinces the patriarchal structure of medieval Sweden. Yet all of these categories did not depend on a man's permission. Only the maiden, who was considered a child and thus underage, lacked authority.

When restrictions were put on women in the law text, it usually concerned married women. This gives the impression that the legal capacity of wives was especially circumscribed, considering that maidens and widows were so rarely mentioned. The same can be said about what was decreed concerning the husband as a property manager; it seems as if the husband were given rights that were thus taken from the wife.

However, when comparing the situation with, for example, that of England, where married women were expressly absorbed into their husbands' juridical identities, it is evident that wives under Swedish law had a legal persona of their own. The mere fact that wives were mentioned as active agents in MEL to such an extent testifies to this. The patriarchal structure of medieval society can hide women's agency unless we regard this patriarchal structure as the ever-changing, constantly renegotiated frame it was. Women were not excluded from the law texts even in the paragraphs written with a male subject only. Wives had a legal persona of their own and were held responsible for their own crimes. They could also represent themselves and sometimes their households.

The *malsman* system described in the law text and in previous research indicates that the *malsman* had two primary tasks—legal representation and property management. MEL contains very little information on procedural law and with the revision of the law in 1442, resulting in KLR, the paragraphs in the chapter on procedural law more than doubled. To what extent the paragraphs in KLR reflect older legal tradition and norms or the contemporary wishes of the legislators is difficult to say.

The law is written with a male subject and with a man as the main protagonist, but even though this linguistic choice obscures women's agency, it does not mean that women were generally excluded either in the law as doctrine or in practice. The oldest part of MEL, the *edsöre*, is the only part that specifically excluded women, which indicates a trajectory over time toward increased legal capacity for women, and it shows how women could be either deprived of or granted authority under certain circumstances. This is an important change with the kingdom-level law. In the regional laws of the Göta regions, for example, women were explicitly excluded in several different scenarios and should be represented by a man. When representation is described in KLR, however,

it is gender-neutral in the sense that the *malsman* mentioned in the law could represent either a man or a woman. In this respect, the *malsman* is a spokesman, not a guardian.

Married Women in Their Networks

Describing legal representation and the *malsman*'s role as a representative in practice is largely like building a puzzle. The first piece of this puzzle consists of the *ting* as a gendered space and women's access to this space. The charters contain little information on legal procedure, but from the sparse traces it is still possible to determine that women, both married and widowed, could attend the *ting* and have their cases tried. Women had criminal liability in practice—as in the law—and could partake in the rituals and oaths of the *ting*, at least to a certain extent.

There are many factors, such as age and parenthood, that affected the power—and perhaps even the authority—of women, but that is not mentioned in the charters to a sufficient extent to draw far-reaching conclusions.

Representation was intricately connected to networks and relationships that are sometimes hard to untangle. What can be ascertained is that who in Swedish is referred to as a *magh* (a brother- or son-in-law) could play a very important part in the affairs of his wife's natal family. Hence, though previous research has described the woman as leaving her natal family to be incorporated into her conjugal family—which is the case in the law—the pattern in the charters is different. Partly, this is probably because of the nature of the sources. The juridical affairs with her natal family left traces in the charters, while other forms of interaction between, for example, the wife and her mother-in-law has not. Furthermore, the bilateral way of counting kinship could create relationships in many directions. In dealing with his wife's natal family, the husband could represent his wife without restrictions.

Noblewomen created and upheld relationships with people outside the kin group too—for example, with servants and other trusted people, as shown in receipts and gifts. Where gifts were concerned, women could also be on the receiving end. Sometimes, women have been described as nodes in male relationships, but such a description undermines the agency of women and deprives them of the ability to actively form relationships of their own. Without being covered by a male representative, women could use property they owned to entertain relationships with people to whom they had no blood relation.

In the charters, there are two ways to act in someone else's stead—by a power of attorney or within a guardian system. By the end of the period, issuing a power of attorney for the bailiff to *fastfara* property in a transaction had become standard. It follows that there are more instances of power of attorney issued by women—also as wives—from the fifteenth century than from the fourteenth, but I attribute this to a change in

charter formula rather than in women's legal capacities. Women could also be authorized to act on someone else's behalf, but it was very rare. The authorized representative was generally a man, but the person being represented could be either.

I have found no crucial differences in practice between different regions when guardianship over children is concerned. The only difference seems to lie in vocabulary. However, when it comes to guardianship over women, the situation is different: The *formyndare* of the Svea regions was not the legal guardian of a woman. Furthermore, even in the parts of the Svea regions where the word *malsman* was used, the only case I have found in which a grown woman had a *malsman* is that of Valborg Nilsdotter—who chose her own representative. The *malsman* system that originated in Östergötland and found its way into MEL, causing women to need a *malsman* as a legal representative, was not implemented in practice outside the Göta region during at least the first hundred years of MEL.

Married Women and Their Property

Though men are often described as the main property managers, women did manage property regularly. Women partook in all stages of property transactions, but they were decidedly more active in certain stages than in others. For example, it was rare that women attended the *ting* to secure ownership, while they participated actively to a significantly larger extent in making the deal. As a general conclusion, women tended to be more active earlier in the transaction process, but women also transferred ownership—thus finalizing the transaction.

Dividing the five legal ways of acquiring property into separate categories reveals important information on the agency of married women. In selling and trading property, women were primary agents in nearly one-third of the charters in DW and OM combined. In sales, wives accounted for 21.4 percent of the active women. Although most of these wives issued together with their husbands, the amount is still high enough to conclude that women could sell property even when married. If the husband as *malsman* was the only one with authority to manage the marital property, one would expect to see significantly fewer wives as active agents. As a comparison, I have not found any unmarried women.

Where donations and testaments were concerned, women were even more active, as they appear as primary agents in nearly half the total number of donations and in more than two-thirds of the testaments in DW and OM combined. Caring for the soul of themselves and of their loved ones was obviously important to women, and they had both the authority and the power to engage in legal transactions.

Quite the opposite can be said about pawning property. Women were not very active in using property in that way in the first place, and when

all the cases in DW and OM are combined, women were primary agents 12.5 percent of the time. I find it difficult to see how the transaction form would affect the legal authority of a woman. If it did, it is not based on MEL, as selling, trading, donating, and pawning are treated equally in the law. Instead, I interpret the great variations as dependent on women's attitudes toward property. When they engaged in property transactions, they did so through donations and arrangements for themselves and the next generation—not by engaging in a property market. This is emphasized by the fact that women very rarely bought property. They did not have incentive to invest and reinvest, but they could nonetheless use their property according to their own wishes.

Married women's authority is shown through the multifaceted concept of consent. On the one hand, husbands tended to consent to the actions of the wife even when she was dealing with her own property, thus showing the hierarchies within marriage. On the other hand, wives often consented to the actions of their husbands when they were using property that was either theirs mutually or—sometimes—the husband's, testifying to how a husband should procure the consent of his wife. Married women's authority might have been second to that of their husbands, but they still had authority.

When comparing the laws with practice, it becomes obvious that there were great discrepancies but also that the regional differences meant that the discrepancies could pull in quite opposite directions. In the Göta regions, property management in practice deviated from MEL in the sense that husbands could act significantly more freely than what was stipulated in the law. Husbands could sell the property of their wives without acquiring consent, even if the property was their inheritance. The difference made between inherited and otherwise acquired property, as well as the restrictions on the husband as property manager, has not left traces in the charters from this region. In the Svea regions, on the other hand, I see no traces of a *malsman* system granting women more freedom of action than what MEL seems to imply. Only when it was time to negotiate the division of inheritance did husbands all over the realm represent their wives.

The Agency of Married Women

This study provides a new starting point for future research, by re-evaluating what has previously been seen as a fundamental aspect of intermarital hierarchies during the Middle Ages. There was no kingdom wide gendered guardianship during this time and women's agency, drawn from authority and power, was not regulated by the *malsman* system. There are many questions still to be asked and many aspects beyond the scope of this study to further explore. For example, the differences between a rural and an urban setting would be worth further study. As women's

right to inheritance is often brought to the fore as an important factor in giving women power, one would expect the equal inheritance rights of urban women compared with the unequal rights of their rural counterparts to make a difference. Wealth is another aspect that needs further research when the agency of married women is concerned.

I have shown geography to be crucial and that legal practice was still highly regional one hundred years after the introduction of a kingdom-wide legislation, but this is an aspect that clearly deserves more attention. A deeper comparison of Danish and Norwegian legal practice might provide an answer to the significant difference between northern and southern Sweden. It would also be of great importance to follow the legal guardian system forward in time to determine what factors rendered married women legal minors—which they decidedly were at a later stage. The professionalizing of the legal system, *primogenitur*, Lutheranism, and absolutism are all factors that most likely influenced the development.

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