Property and Power: Women and The Holding and Transmission of Assets

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ABSTRACT: *History provides us with ample examples of patriarchal societies. The essence of pure patriarchal ideology would be the retaining of the power over property and individuals in the hands of men. While the patrilineal ideology contains certain patriarchal elements it is mainly preoccupied with the transfer of property within the male line. Lineage is in essence a vertical system, but it has been understood differently depending on historical and geographical context.*

The object of this analysis is to examine the property rights of women and their role in the holding, maintaining and transmitting economic assets in the Nordic countryside in the preindustrial period. The intention is to show the important economic role played by women at a time when, if examined from a modern perspective of individual property holding, these women during a lifetime hardly ever owned more than a cow or two, some bedding and two sets of clothes.

THE DILEMMA OF PATRIARCHY

History provides us with ample examples of patriarchal societies. The essence of pure patriarchal ideology would be the retaining of the power over property and individuals in the hands of men. While the patrilineal ideology contains certain patriarchal elements it is mainly preoccupied with the transfer of property within the male line. Lineage is in essence a vertical system, but it has been understood differently depending on historical and geographical context. Jack Goody argues convincingly in his comprehensive analysis in *The Development of the Family and Marriage in Europe*, that no pure patrilineal descent groups existed in Europe in the post-Roman period. Even in cases where landed property and title was passed to men only as within the English aristocracy, and in the absence of sons there are no limits as to the distance of the relationship if a common ancestry can be shown, females are endowed with other kinds of property. While a patrilineal bias is obvious, in many instances the system was, according to Goody, bilateral in essence. Allocating a dowry or dower or indeed inheritance rights to the property are all means of allocating a share of the patrimonial property to women. The bilateral relationship of an individual was also underlined in legislation or practice of communal action for revenge purposes with both paternal and maternal kin, in areas as distant as the Germanic lands and the mountains of Corsica (Goody 1983 p.20-22, 230, 234, 237-239).

Land has been of great importance for ordinary farmers in Europe in the past. The line, however, has not like among the aristocracy been viewed as the descent from some mythical ancestor, or even a god or demigod. The meaningful kinship group was the immediate family of close relations, including parents, children, siblings and their offspring and/or relations with whom there have been reasons to communicate (Goody 1983 p 268-269).

The line and the ancestry were in many parts of northern and central Europe used to promote or explain a particular preference or conduct, however, a closer examination of individual cases have shown that personal security was by far more important than lineage. Relationship was also seen as a system calculated on the female as well as the male line (Schlumbohm 1994 p.468-475; Johansen 1988 p370; Frostatingslova Fyrste arvebolk, andre arvebolk; Moring 2002).
The insistence of the Christian Church on monogamy in addition with simple biological facts made it necessary for a number of men to accept that they were not going to have any male offspring. In such a situation it was necessary to choose between patriarchal ideology and choose a male successor, brother, uncle, brothers' son, or give priority to vertical property transmission and hand the land over to a daughter and her husband.

Humans like other animals are biologically programmed to favour their own offspring in the competition for survival on Earth. Co-operation between parents and children can also build on a foundation of common economic interest and knowledge of personalities.

While the Romans developed systems of adoption to get around the problems of no male offspring, the ordinary people in northern Europe transmitted property to females and via females within the male line. The strategies that were used depended on the economic and legal setting. The Nordic farmers, accepted the fact that some men have only daughters, but seeing the farm prosper in the hands of a son-in-law and the birth of your grandson, was a means of securing the land and the line. Where the control of the farmers over the land was firm the transmission could take the form of a sale of the land to the successor or as a gift in exchange for received and expected services. In other areas the transfer included negotiations with a landlord.

While the ideology of the eldest male as the ideal successor retained its position for many centuries, practical considerations overruled it in the short term and the long term on many occasions. The reliance of a considerable number of people on the farm as a means of support made competence a more important issue for headship than patrilineality, sex and birth order.

THE PROBLEM AND THE EVIDENCE

The question of the role of females in strategies and practices of succession and property transfer in the Nordic countries will be approached from several angles. The legislation will be examined to find the general framework within which individuals and families had to operate. It should perhaps be pointed out that as Finland and Sweden were part of the same political unit until 1809 any similarities or differences in inheritance practices are the result of local conditions rather than legal dissimilarity. Instances of headship transfer in specific localities in Finland are going to be scrutinised using taxation records and parish communion books containing information about the composition of individual households. Court records addressing the question of land transfer, retirement and property rights will be used to clarify strategies adopted by the farming class to secure the viability of the holding and individual well being of farmers and their wives.

While the bulk of the discussion concentrates on the 17th and early 18th century Finland with some references to the situation in the 16th century, the implications of demographic and socio-economic change on land transfer and the position of women in the following century will be commented upon briefly.

THE LAWS

The Iron Age society with influence from the recently established Christian Church generated the early Scandinavian laws, to day known as 'Landskapslagar' because they covered specific regions. These laws were transformed into national law codes in the 14th and 15th century and remained as the backbone of legislation and jurisprudence for about half a millennium. Upplandslagen was one of the oldest laws from which the property clauses in a more or less unchanged form were incorporated into the code of King Kristoffer of 1442. Not surprisingly sexism was an essential ingredient, one could hardly imagine that nations after taking a few steps out of 'Viking society' would structure itself on the principles of 20th century equality.

The society that had generated these laws was one with a strong position of the farming class in the lawmaking process. The system that had developed was aimed at preserving the holding as a viable unit in the hands of the family. The law guaranteed the right of the family to the land, and the right of the old to have a safe old age and the young to grow up without want. All members of the family had "birth right" to the family land (King Kristoffer's Law 1442, regulations about land).

Table 1.
The Structure of the Property of Husband and Wife
The Law of King Kristoffer 1442

1. Communal property aqcuired during the marriage both land and movables Husband 2/3 wife 1/3(JB 29).

2. Private property of the wife. Inherited movables or movables and/or land bought with money earned in working before marriage. Husband 2/3, wife 1/3(GB 5).

3. Inherited land of wife. Husband no claims(GB 5:1).

4. Private property of the husband
Inherited movables or movables and/or land bought with money earned in working before marriage. Husband 2/3, wife 1/3(GB 5:1).

5. Inherited land of the husband. Wife no claims(GB 5:1)

Property should not be understood as we see the word to day, different types of property was owned differently. Although headship was individual no individual could own family land in the sense that he could dispose of it at will. Family land or "odal" could not be bought and sold except with the permission of all family members (in the widest sense). The concept of the "birth right" was retained even after the compulsory conversion of a number of farms to crown land in the 17th century. The possession of the farm was linked to a number of privileges and duties within the village and the parish, constituting a share in a system of collective ownership and right of use of resources, some even outside the parish boundary.

Inheritance of family land gave the right to hold and the right to use. Disposable objects, cattle, grain and money could be owned outright by an individual or held jointly. In a situation of departure of an individual from the household, these items could be divided. Dowry and inheritance from another farm was individual property. Money earned when working outside the farm was also individual property. Family land could only be divided into two new units for two descendants of the family if the units were economically viable. "New land" taken up for cultivation from bog lands or woods could be used for augmenting the farm. Land could however, be temporarily alienated in the form of a retirement settlement or for settling of debts (Court records, 17th century: Ulvila 21.7 1550, Eura 28.10 1550, Huittinen 16.6 1552 p.34, 201; Johansen 1976 p.155-156; Helland-Hansen 1964-66).

The right to inheritance in Sweden and Finland was structured as a primarily vertical system. Children inherited their parents and if one child was dead his or her children shared with the uncles and aunts. If no children were alive then it passed to the grandchildren. If no grandchildren were alive it would go to the great grandchildren. Only if there were no descendants, siblings and parents if alive would inherit. (Upplandslagen Aerfde balkaer Xi-Xv). In Norway the structure was similar although brothers and sisters of the deceased were structured as the next in line after grandchildren (Frostatingslova, Fyrste arvebolk).

Just as the nature of property affected the nature of ownership it also affected inheritance. All children had a share in disposable goods but only one could be the heir to the farm. The role of the son as the one to take over the land was clearly stated in Norwegian legislation (ibid.), the successor could be any child in Sweden, Finland and Denmark, even though the eldest male was seen as the "natural" heir and generally given preferential treatment. The structure of the transmission was according to the laws tied to the retirement of the old farmer or his wife. "Now a man or wife might be struck by illness or old age, then he is to be fed and taken care of by his children with whatever they have. And if he has land that he has been living of he should give the land to those who care for him until he dies.... He is to offer his land to his children in court... First the oldest one and then in age order.... If one child does not want to do this and this is witnessed in court and another child takes care of him, then this one is to have full compensation before the others. If there is more then all take their share after he is dead. The same goes for relatives if there are no children.... The children are obliged to feed their father and mother who is ill or old irrespective of whether he has money or not, if they have the ability. If a son or a daughter throws out his father or mother he is to be fined three marks per year which is to be given to the rightful claimant... (Upplandslagen Iorde balker XXI).

The law states an age preference but not a sex preference, it also states care in old age as a requirement. It specifies children as the natural choice and only other relatives if there are no children. Even though the structure of the legislation in general shows a male preference, if there is a choice between two people, the importance of the transfer to children of the body is again underlined as in the case of inheritance of property.

While the Norwegian laws do not state the issue in the same unambiguous manner there are indirect references to a retirement system which can also be observed in some surviving retirement contracts from medieval and early modern times. The explicit right of a girl to inherit a farm in the absence of a brother or a brothers' son dates back to 1557 (Taranger p.330-331, Helland-Hansen 1964-1966, Frostatingslova, Bolk om ymse emne, Andre arvebolk).

TRANSFER FOR SECURITY AND THE INPUT-REWARD SYSTEM

As has been shown above the issue of the property transfer was secured to the issue of care. Care can only be given if a farm functions properly therefore the issue of succession was not only a matter of lineage but competence.

The number of people needed for the effective running of the farm varied depending on geography and the structure of the economic activity. The units functioned through a balancing of the work of family members and servants. All household members were expected to work for the farm according to their capacity and ability. If the reward for the work did not take to form of upkeep for life the departing individual had the right to compensation for the work input in addition to extracting his or her personal property. The transmissions of the farms between the generations were secured using retirement contracts, or adoption and wills with and underlying philosophy that those who stayed and worked received preferential treatment. The heir brought his or her partner into the parental household and the children generally married in age order. A study of age at marriage of farmers' children reveals that the heir presumptive often married at an earlier age than his siblings and girls who took over farms married particularly early (Moring 1994 p.52-55, 68; Moring 2001; Tegengren 1943 p.62-64). This created a longer period of co-residence and cooperation in the running of the farm before it was time for the transfer. Thereby the young couple was vetted for the important task and if the choice seemed a disaster changes could still be made before it was too late. Although primogeniture was the general practice an absent eldest son or a son with a disability could be bypassed in the transfer. Through the arranging of a retirement contract with a younger son or a son-in-law, sometimes even through adoption of the latter, his claim to the headship was secured (Court records: Kokemaki 1698 mm33: 58, Taivassalo 1688 mm17: 109, Eura 1693 mm23: 141, Virolahti 1653 ii1: 35, Acta Visitatoria; Moring 1998, Moring 2001; Pylkkänen 1990 p.370-424).

The transfer of the land and the headship was not always simultaneous but the continuous running of the farm and the property division was generally settled during the lifetime of the parents. From the introduction of the law code of 1734 the possibility of gradual retirement became more complicated. The need for written documents of ownership transfer and the insecurity of whether the law regarded any transfer valid but a sale brought about an increase in the number of retirement contracts. These documents were not only drawn up when the farmer actually owned the land, but sometimes also by crown farmers when they installed sons or sons-in-law as heads of the farm (Högnäs 1938 p.2-3: Jutikkala 1958 p.321; Lofgren 1974 p.47).

Although co-residence between generations was common in 17th century Finland, and the heir to the farm generally married before succeeding to headship men did not retire particularly early. Many farmers relinquished headship very late in life

and seldom more than a couple of years before he died, in eastern Finland men did not retire at all, however coresidence with old mothers was common both in the east and the west (Pylkkänen 1990 p.370, 399-401; Tegengren 1943 p.64).

SUCCESSION PRACTICES AND RETIREMENT: THE RULE AND THE EXCEPTION

In parts of Finland and Northern Sweden inter-vivos transfers of the farm to an eldest son was seen so obvious that paperwork or court registration was seen as unnecessary until external pressures and legislative changes posed a threat to the smoothness of the system (Jutikkala 1958 p.320; Lofgren 1974 p.48; ModeeVII p. 5345-5346).

The taxation records could contain comments like: "Simon is over 60 years old and has given the farm to his son" (Eura Tax Records 1709). The care of the old was automatically bound up with the transfer. In some cases special (apparently oral) retirement agreements were made.

When no sons or no suitable sons were found for the care of the farm and the parents, the court could be approached to establish the legality of the transfer of the headship to a son-in-law. In 17th century Northern Finland the care of mothers did sometimes appear in settlements about property division after the death of the father. In cases when a farm was transferred to a son-in-law some specifications about the retirement of the head and his wife would occasionally be included (Pylkkänen 1990 p.176-179, 324-325). In eastern Finland where economic activity on contract basis was fairly common the division of the assets at the dissolution of the unit could involve a retirement settlement for the old head, thereby decreasing the share of the party (son, son-in-law, brother or non-relative) leaving the farm (Saloheimo 1976 p.298).

A study of 380 headship transfers on farms in three 17th and early 18th century parishes in south western Finland show not surprisingly that the single largest category of successors was that of the sons. In the parish of Inio no less than 45 per cent of the new heads registered in the tax records between 1634 and 1700 were sons of the previous head, 19 per cent were sons-in-law. In the neighbouring parish of Kumlinge 57 transfers took place between 1680 and 1700, in 37 per cent of the cases the heir was a son in 11 per cent a son-in-law. The situation was somewhat similar in Houtskar parish, 37 per cent of the new heads 1688-1700 were sons and 17 percent husbands of daughters. The farm remained in the care of the widow in 7 per cent of the transfers of Inio, 5 in Kumlinge, and 15 in Houtskar. Second husbands played an insignificant or non-existent role before 1690. However the catastrophic famine and epidemics of 1696-97 resulted in farms being headed by the second husbands of widows left with young children and a decimated work force. Brothers and brothers-in-law played a reasonably prominent role rising to headship in slightly more than 20 percent of the cases

in 17th century Inio and Kumlinge and 13 in Houtskar. Other relatives, mostly the children of brothers and sisters, stepped in 9, 7 and 4 percent of the transfers. In some cases strangers or persons whose relationship cannot be established took over the headship. While the study of transfers of 1634-1700 only registered 5 percent strangers those concentrated around the crisis years in the last decades of the 17th century show no less than 9 percent of non-related new heads in Kumilnge and in Houtskar. The early 18th century was still suffering from the adverse effects of warfare and epidemics. Of 83 headship transfers in Houtskar 1707-1727 23 percent went to sons and 17 percent to sons-in-law. The share of brothers and brothers in law had diminished to only 2 percent, other relatives became head in 7 percent of the transfers and non-relations in 6 percent of the cases. Widows on the other hand were no less than 18 percent of the new heads in the early 18th century and second husbands 5 per cent (Tax registers, communion books).

Table 2. Transfers of Headship in South-Western Finland

Relationship of new head to predecessor	Inio 1634-1700	Kumlinge 1680-1700	Houtskar 1688-1700	Houtskar 1707-1727	Korpo 1790-1801
	%	%	%	%	%
Son	45	37	37	23	61
Son-in-law	13	19	11	17	14
Widow	7	5	15	18	11
Second Husband	0	0	10	5	11
Brother[1]	21	23	13	2	2
Relative	9	7	4	7	0
Non-Relative	5	9	9	6	0
Total	100	100	100	100	100
N	151	57	89	83	55

1 Includes brother-in-law

Sources: Tax registers and communion books

These observations relate to all transfers, whether of short or long duration. It is important to observe that the transfers to brothers and brothers in law contains sequences when the heir apparent was to young and unmarried and the farm was therefore headed by his sister and her husband, however when reaching maturity and marriage the headship followed. There are also examples where a head died at a relatively early age and his brother or sister with husband ran the farm until the children grew up. In the first case a vertical transfer was followed by a horizontal. In the second case a horizontal transfer was followed by a horizontal-vertical while the impression that is created is of a horizontal system. However in actual fact the sequence of

transfers included a headship detour followed by a correction, whereby the headship was returned to the vertical line. The dominance of verticality is also evident in late 17th century Eura where a study of long-term transfers produces figures of a 68 per cent headship by sons and 17 by sons-in-law (Pylkkanen 1990 p 397-399).

The 17th century was still a time with a relatively high mortality regime and a number of children were lost at an early age. A considerable turnover among the heads can also be observed during the years of famine and epidemics in the 1690s. When a head had to be found at short notice brothers and sisters and their children were also chosen. The regulations against drafting a household head into the army probably acted as a selection against female headship, as can be seen in the figures for the period 1634-1700. The option of avoiding the head tax after 63 through retirement did probably also affect the rapidity of headship change. (Communion books, tax registers).

Table 3. Number of Transfers of Headship: Gender Aspects

Successor Head	Inio 1634-1700	Houtskar 1688-1700	Houtskar 1707-1727	Korpo 1790-1801
Woman Alone	10	13	18	6
Couple	24	19	17	14
Man via a Woman	3	8	3	5
All Transfers	151	89	83	55

Sources: Tax registers and communion books

In the 18th century the effect of the decrease in infant mortality already affected the survival rate of children and transfers to relatives became less frequent. The sons and daughters shared their position as claimants of headship mainly with the widows and their second husbands. The sons occasionally resided together with a brother; daughters who inherited the farm sometimes resided with an adult sister but with a brother only if he was a minor.

In the case of both centuries the transmission of land down the generations is detectable in a longitudinal follow up, even though temporary support structures were created using a wider kinship network. Brothers, sisters husbands etc i.e. adult couples who were able to bridge a gap could head the farm for a couple of years but after 1750 more often the widow and her new husband acted as heads when the children were growing up. Of 123 long term transfers in Houtskar (1750-1810) the headship ended up in the hands of sons in 58 per cent of the cases while 17 per cent of the heads were daughters and sons-in-law. 55 headship transfers in the neighbouring parish of Korpo between the years 1790 and 1801 show a similar pattern. In 61 percent of the cases the new heir was a son and in 14, 5 percent a son-in-law. The widow or the widow and her

new husband shouldered the responsibility in 1/5 of the transfers. Relatives stepped in only on rare occasions (Communion books, Moring 2001).

STRATEGIES, CONTRACTS, ADOPTION

While the transfer of a farm in Norway nearly invariably involved the writing of a sales contract between the old and the new head this was not the case in Sweden and Finland. The transfer could be announced publicly when the heir was a son but it did not necessarily take place. The law stated the right of children to be asked in age order and the court rulings show that land was "expected" to be transmitted to the eldest male (Court records; Eura 1681 mm12: 192, Eura 1688 mm16: 17, Loimaa 1689 mm18: 391, Huittinen 1693 nmm10: 560, Ayrapaa 1659 jj7: 585, Virolahti 1668 ii2: 138, Sakkijarvi 1679 jj22: 167). The common denominator of the retirement settlements found in the 17th century court records are that the land was freehold, that the retiree wished to give a child, step-child or in-law preferential treatment in the succession process and the property division. The farm was exchanged for care in old age. Absent older sons, departing younger sons and daughters were given their shares in grain, money, cattle, tools or textiles. The essence of these settlements was not the enumeration of goods that the old couple was to receive but the appointing of a successor and carer with whom the intention was to co-reside (Court records Kokemaki 1621 mm1: 123, 1622 mm1: 146, Ulvila 1625 mm2: 237, Huittinen 1636 mm4: 108, Taivassalo 1687mm15: 98).

While the majority of transfers were between parents and sons, retirement arrangements with persons who were not the apparent heir have left more information in the sources. The transfer could take the form of adoption: "Came in front of the court Henrik Sormon and stated, that he wanted to take Henrik Person Oijnon to be his son as he has no children of his own, and he shall serve and care for Henrik and his wife until their day of death, and after his death shall Henrik Oijnon be his heir and no one else," Rantasalmi court January 10, 1563(Letto-Vanamo 1995 p.157). In this case the old farmer was childless and in the need of an heir. In other cases the situation could be more complicated. However, when a distant or even non-relation shouldered the care, the children who had refused to do so could petition for their inheritance with little result (Saloheimo 1976 p.299).

A declaration in the local court was necessary to secure the right of possession of family land by a daughter and her husband if she had brothers. The issue was of some importance as society favoured transmission of land to male heirs. There were no guarantees that the children of the male offspring would not contest the transfer at a later date. Such concerns formed the background for entries in the court records of the following kind: "Jöran Sigfridson in Bodwijk stood up in front of the court and gave

over his farm to his son-in-law Hans Michilson, who is to take care of him in his old age like a rightful son does for his parents and run the farm, as none of his children would take up this offer, them all having found a livelihood on other farms through marriage" (Hammarland 20.11 1643, Stiernhöök/Roos 1946 p. 107).

Two regional samples of court cases from 17th century show that in the majority of cases when a declaration in court was made of the intent to retire and transfer the land in exchange for care the beneficiary was a son-in-law. In cases where the daughter had no brothers the situation was quite straightforward. Either a statement was made, that manpower was needed for the running of the farm and the payment of taxes, or that the old couple was old or unwell and desired to retire. For this reason the son in law was to take over the farm and the supporting of the old parents. In Eastern Finland the daughters' husband was often taken into "partnership" with inheritance rights, thereby securing his position (Lappee 1665 jj12: 156, Vehkalahti 1647 jj4: 212, Ruokolaht 1673 jj18: 272, Virolahti 1694 ii9: 253). Linking retirement and a transfer of land or assets with a partnership was not the only option. While it might seem reasonable for a person without children to adopt an heir, even persons with children found it necessary in some cases to secure the rights to the property of the successor by adoption. A "taken son" was a son with clearly defined legal rights that were laid down in court at the time of the adoption. At the same time his "filial duties" to his retiring parents were stipulated. In many cases the adoption established communal economy for the present and right to inheritance in the future. The most popular candidate for adoption in the 17th century was the son in law (Eura 1637 mm4: 223, Huittinen 1638 mm4: 310, Kokemaki 1641 mm5: 132, Loimaa 1689 mm18: 385, Huittinen 1693 mm10: 560).

The reason for using adoption as a link in a transmission-retirement strategy was to give practical considerations priority over ideology while paying lip service to the idea of the rights of the male child. A person could only head a farm if he was competent to do so. To show competence, indeed to run a farm, you had to be adult, healthy and present on the farm, other criteria were: to be male and married. An overview of 17th and 18th century headship indicates that the order of the criteria should be as stated. The three first would have to be fulfilled while the two latter could occasionally be disregarded, marriage however only in the sense that a widowed person could head a household, not somebody who was unmarried. A study of 17th century court cases where the inheritance or the accession rights of an eldest son were bypassed or curtailed, instituting a younger son or a son-in-law as the heir, the eldest son did not fulfil one or some of the criteria listed above (Court records; Eura 1688 mm16: 272, Eura 1693 mm23: 141, Loimaa 1688 mm16: 130, Taivassalo 1688 mm17: 109, Huittinen 1695 mm12: 227, Virolahti 1653 ii1: 35, Ayrapaa 1655 jj7: 217). When a son-in-law was adopted in connection with a retirement agreement it was generally

stated unambiguously that he was to have the inheritance right of a son and sometimes it was also stipulated that he was the one to have the farm and pay out the inheritance of the other children (Eura 1698 mm34: 100).

If the family had sons it seemed to be deemed prudent to make a clear statement as to the reasons for choosing another heir. The reasons were; that the son or sons were absent from the parish, settled on other farms in the parish, too young to take care of the farm and the parents or incapable to do so because of ill health, or present but unwilling or unfit. For example in 1625 a farmer adopted his son-in-law because one son was a soldier, and the son at home was an alcoholic who had pawned fields of the farm. As a proper manager was needed the sons were to have their maternal inheritance but the son in law was to have the farm (Kokemaki 1625 mm2: 205, Huittinen 1653 mm8: 110, Ulvila 1655 mm9: 188).

The custom of the heir bringing his or her spouse into the household gave the parties the option of testing whether life together would work out.

The issue of name would not cause any particular problems. All individuals carried a first name and a patronyme based on the first name of the father (for example Erich Johansson= Erich the son of Johan), to this could and was for household heads sometimes added the name of the farm (Erich Johansson Backas). A younger son could have the farm added as an explanation of residence. If a man married an eldest daughter and rose to the headship on her parental farm, the man would be known by the farm he headed (Suvanto 1995 p.260-262; Finne 1934 p.90-93).

WOMEN, MARRIAGE AND PROPERTY

To understand the role of the woman who in her person carried the access to headship of a farm within a community where this role by many was seen as the most desirable of all, it is necessary to examine the boundaries set on her field of action by legislation and society.

A woman as an actor on the social arena would have to be a married woman or a widow. Nowhere else in the laws do we find as clear a statement of women having a position of authority and how kinship was viewed in early medieval Nordic society as in regulations about responsibility for the marriage of a young woman.

“A man is to ask for a woman, not to take by force. He should find her father and kinsmen and seek their good will.

If there is no father, there is a **mother**. If there is no mother there is a brother. If there is no brother there is a **sister**, if she is married, because no maiden should marry a maiden. If there is no sister there is a father's father. If there is no fathers' father there is a **father's mother**. If there is no fathers'mother there is a mother's father. If there is no mothers'father there is a **mother's mother**. If there is no

mothers'mother there is a father's brother. If there is no fathers'brother there is a father's **sister**. If there is no fathers'sister there is a mother's brother. If there is no mothers'brother then there is a mother's sister. If there is no mothers'sister then turn to cousins and second cousins. If these stem from the fathers family and the mothers family then those of the fathers'family take priority. If those of the mothers' family are closer related then the cousins of the mothers'family take responsibility for betrothal." (Upplandslagen) Aerfde balkaer I.

The structure of a legal marriage was of considerable importance because of women's'right to inherit. The need for the family to choose or participate in the choice of partner was unambiguously established. As can bee seen the responsibility of seeing to the marriage of a woman alternated between persons of the two sexes with the males always taking priority over the females and the relatives on the fathers'side taking priority over those on the mothers'side. However, the closeness of the relationship was more important than the gender, if a woman was the mother, sister or grandmother; she was believed to see to the girl's interests better than a paternal uncle.

Marriage without the consent of the family was possible. However, if a woman decided to marry against the wishes of her kinsmen she lost her claims on the family property. The roots of this legislation are to be found in a society with considerable unrest. Although barring abduction as a road to legal marriage did protect the property more than the women it had an effect on those with social ambitions. The orderly road to marriage established the woman as the mistress of the house. "To honour and wife, to half the bed, to locks and keys and to one third of everything the man owns and will own of portable property and all that is set down in the law of Upland..." (Upplands lagen; Sawyer 1992 p.16-17; Wikman 1959 p.9-13).

This position of power gave women the right to act as partners with their husbands. It has been said that females in old Nordic society had very little share in the most valuable commodity of all, the land, if they had no brothers they held it for their sons, when they entered their husbands' farm it was passed on to their sons. But to some extent it was out of reach of everybody. In the Middle Ages most of the holdings in Sweden and Finland were family property, "odal," and from the end of the 17th century a large proportion was crown land. In the first case partitioning and sale was difficult in the second case impossible. Daughters with male siblings and younger sons had slim chances of claiming it and eldest sons could only hold it and pass it on. However as wives and widows women shared in the control of this valuable asset.

Nordic farms were not particularly large and wealthy in the early modern period. Women generally shared in the work tasks of the men in the fields. They carried the responsibilities for tasks connected with animals and their care, all production of food and clothes including brewing and making of alcohol. They were also active in the sale of household produce, lending and borrowing money and grain. The care of

children and the work of servants connected with the care of animals and running of the household were also part of the female domain (Olaus Magnus 1963 p.85, Court records, Acta Visitatoria, Sogner 1997 p.72-73).

The keys as the symbol of power connected with the sharing of property between husband and wife is to be found already in Icelandic Edda poems dated to the 8th century (Wikman 1959 p.12). The control over the inner economy of the farm was the married woman's privilege. The keys were carried with pride and men did in general not question this authority. Through an examination of 17th century visitation protocols from the southwest I have looked for evidence of disputes involving the right to carry the keys to illuminate their importance in the eyes of women. An examination of the protocols covering 10 parishes between 1637 and 1666 uncovered the keys as a problem between mother-in-law and daughter-in law in a couple of instances (Acta p.113). However, no disputes between husband and wife could be found within the farming class. On the other hand there was a spectacular case of strife between a clergyman and his wife. He withheld the key to the most important cabinet in the house. This breaking of the code and depriving a woman of power and the symbol of power resulted in decisive counteraction. The wife refused to sleep with him. While her action probably was the result of anger it carried a symbolic element. As the handing of the keys formed part of the ceremony of marriage depriving a wife of the key(s) would be to deny her position as a married woman. Therefore not sleeping with the man was logical. The high rank clergyman responsible for the visitation was clearly embarrassed by the public discussion of these matters in front of the parish. He told the wife to return to her marriage bed or present herself in front of the bishop. Faced with this choice she promised to behave. The husband tried to avoid his responsibility by stating that "my wife could have the key any time, if she asked. My father also used to keep this particular key to himself." He was told that the key had to be bound together with the others and that he was making a spectacle of himself becoming the laughing stock of the parish (Acta Visitatoria p.281).

While the law saw the man as the representative of the house out in society in practice this was not always the case. In the absence of the husband, the wife acted as his deputy. She appeared in court on his behalf and also as herself on behalf of the farm in matters relating to boundary disputes, taxation, debts, fines, taking up of farmland, inheritance issues and as responsible for problems caused by children and servants of the house. Even though the law did not require the permission of the wife to sell acquired land or land inherited by the man from his own relations, sales documents of the 16th and the 17th century carry the names of husband and wife or state that the wife is giving her permission to the transaction. When a farm was 'odal' of the wives' family the husband did not have the right to dispose of the land without the permission of his wife and offering it to her relatives, even though he was head (Court

records Ulvila 21.71550, (Roos) 1964, Pylkkanen 1990 p. 278-282, 351-352, Sandvik 1994 p.97).

THE WIDOW AND PROPERTY

As a widow a woman attained legal majority and absolute right over her property. She also became the guardian of her children (however after 1669 with advice from her husbands kin). While she as person had no right to the land of her husband, as the mother of the prospective heir her power could be considerable. If the land came from her own family her position was secure. In both cases the labour needs of the farm had to be secured and the ideal situation was one where she co-resided with a married child.

The court records of 16th and 17th century western Finland show considerable activity among widows to attend to economic transactions, land use, control of farm, disputes, inheritance, retirement, servants etc. Also in Sweden and Norway widows acted independently in the courts participating in disputes of the control of land and the handling of economic matters (Pylkkanen 1990 p.353; Makela 1989 p.38, 100;Suvanto p.424-426; Sandvik 1994 p.101-102)

The inheritance of daughters was 50 per cent smaller than that of their brothers; a large part of their paternal inheritance was handed out at the time of their marriage in the shape of a dowry generally consisting of cattle, textiles and money. At the time of the death of the father the value of the dowry was extracted from the daughters' share of the inheritance and sometimes there was nothing more to have. While the greater part of the land was still freehold women did inherit fields or pasture, possibly plots that had at some point been bought with money or taken up for cultivation. The 17th century court records show ample evidence of men sorting out bits of land inherited by their mothers or even grandmothers (Court records Aland; Makela 1989 p.98-99, Pylkkanen p. 253-254).

When the husband died and his property was inventoried for division between the widow and her children her dower was extracted before the division. She had the right to receive a bed complete with bedding and a set of clothes and other items promised at the wedding. Of the marriage "nest" her legal share was one third if she had children. The property she had inherited from her own family remained separate and was not amalgamated with that of her husbands.' The Nordic societies can be seen as upholding familistic values oriented towards prioritising the viability of land holdings and the claims of families to them. However, within this framework we can see time and time again how husbands made efforts to secure the economic wellbeing of their wives after they were gone.

In the 17th century the size of the dower on an ordinary farm was not

considerable, it could consist of a cow or some other animals, or a small sum of money. The two ways couples operated the system was by arranging a retirement contract with a suitable person and making mutual will if they were childless. Sometimes these wills were made early in marriage in case the marriage would be childless. Through these wills, as much as could be saved, was kept in store for the partner against claims from relatives.

The land could be put to good use in adopting a successor and making a retirement agreement. If the person did not attend to his filial duties after the death of the farmer he could be "unadopted" by the widow and changed for somebody more agreeable. When the couple had children the widow could be left to arrange about the retirement (Court records Ulvila 1625 mm2: 241, Huittinen 1696 mm13: 421; Suvanto p.411). The 16th and 17th century retirement agreements were usually structured in the following manner:

"Came in front of the court Valborg Larsdotter and declared that she was giving her beloved son Lasse Olsson her share of the movables of the farm as much as it might be in gratitude for the care he has given her and intends to give, clothe, feed and care for until she dies as will be wittnessed by 12 men" (Eurajoki court records July 23 1550).

Stepped in front of the court Karin Siffredsdotter of Leistla and made known in this court that she gave her 2 daughters called Biritt and Valbor, all her movable goods and particularly she gave Valbor 1 oxen more than to Biritt, for their true service to her that they have given her and will give hereafter until the day she dies, as will be examined by 12 men (Ulvila court April 2 1552).

If the situation did not turn out as desired she could take action:

"The farmer of Rafvals in Sandö has been repeatedly at court with his mother. They now made up and she promised to lend him 10 dollars to buy a horse. She states however that if they have a new argument he pays if she needs the money to keep herself as it comes from her third of the farm" (Acta Visitatoria p.112).

1734 Sweden and Finland received a new law code. The powers behind the new legislation were representatives of the new administrative class differing ideologically from the old landed power groups. As the code needed the approval of the farmer's representatives large sections of the property and inheritance legislation was more or less lifted directly out of the old law code. In some parts, however, the more "individualistic" ideas are on the surface. As can be expected the changes promote the freedom of action of the male, circumscribing the power of the family and the kin. In the process married women were made more dependant on their husbands and their right to economic activity curtailed even though their signature was still necessary on any sale of land. The same phenomenon formed a part of The Law for Norway by Christian V 1687, women's'economic activity was frowned upon. In practice, however, these

clauses were disregarded both by women and local communities, including the representatives of the local legal system, when adhering to the law would have been inconvenient (Pylkkanen 1991 p. 93-94; Sandvik 1994 p. 101-102)

Even though headship often was transferred to men in the 16th and 17th century and widows only succeeded in 5-10 per cent of the cases, the 18th and 19th century saw the emergence of an increasing number of widows heading households. In some areas 20 per cent or more of the heads were widows (Pylkkanen p.369; Moring 1999, 2001, 2002). The reasons were connected with a larger number of proletarian households but also with the better survival of children. Where an adequate labour force could be maintained the possibility of successfully running the farm was not an issue. Therefore the mothers could care for the land while the children progressed towards adulthood and marriage. When the succession issue had been sorted out retirement became possible (Lofgren 1974). How life turned out is not easy to determine, it is however clear that being the mistress of a farm in her own right was an option for a widow and the recognition by the surrounding community could be noted down in the parish registers in the following manner;

Maria Blasidotter, Honsnas Gallas b.1732 d 1823. Widow of the farmer Johan Andersson +. Born on Gallas farm of farmer Blasius Ingevaldson (1684-1753) and Valborg Martensdotter. Married 1755. 3 children dead, surviving daughter Margreta Johandsdotter married in Nybondas farm, only son Anders Johans born 1766 who has cared for and nursed her in her high age. Together with her husband she headed the farm for 18 years. He died at the age of 42, after that she headed the farm for 19 years, the 1 of May 1792 she turned over the headship to her son (Extract of burial register, Houtskar 1823)

Saverkeit Abrams Farmers wife Margreta Martensd b 1763 d 1813. Her father the old farmer Marten Erickson Abrams still alive her mother Vaborg d 1788. Headed Abrams for 15 years married to Thomas Thomason Abrams 1796. The children Marten and Greta are alive. (Extract of burial register, Houtskar 1813)

CONCLUSION

If the ideology of the patriarchal system is to be understood as retaining control over assets and transmitting land, money and power within the male line of a family from one man to another the Nordic countries did not fulfil the requirements. While the titles and land of English noble families have been shunted to ever more distant male relatives in the absence of sons, the Nordic system has since the iron age relied on close relationship rather than sex as a guarantee for the well-being of the holding and the individuals. The main reason for this is of course an English nobleman has never had the need to be capable or productive, while skills as a farmer were essential for

maintaining the economic security of the Nordic farming family. The training of children in agricultural tasks and the co-operation between the head and the heir presumptive, during a period of many years, gave the opportunity of training and later observing the future head. The land had to be cultivated well for the farm to prosper. The prosperity of the farm was a matter of pride but also a matter of survival, both economic and social. While the daily bread of coming generations was at stake the wellbeing of the old couple was also at stake. Therefore the practical considerations were of greater importance than patriarchal ideology. If a farmer had an able son he would be the obvious heir but if there was no son a daughter and her husband could replace him. A daughter was closer and more reliable than distant male relatives. The legislation unambiguously gave priority to children or grandchildren before siblings irrespective of sex. A vertical transmission was the preferred transmission. The inability or unwillingness to run the farm by a male heir could also result in a transmission to the female side. Such cases were rare but not unheard of. A retirement contract would then be set up with the parents and the daughter and her husband would claim the land. In some instances the claim would be strengthened through a will or the adoption of the son in law.

Being the mistress of the house was no mean feature even on the husbands' farm. Formally the control was always in the hands of the man but the farming economy relied on the partnership between a man and a woman. The productive input of the woman was necessary for the well-being of the farm therefore the woman was necessary. Her ability to cross the border of gender related tasks made her presence imperative. The mistress of the house was responsible for an essential part of the production even on a farm she had married into. Her reward was a secure old age with her family. A woman on her parental farm bridged the generations, took care of her parents and supervised the transmission of the land to her children.

APPENDIX 1

The system of coresidence with the prospective heir between the marriage of the young generation and the retirement of the old created a kind of test period. The parties resided and worked together but if cordial relations could not be maintained separation was possible. As far as can be documented a satisfactory modus vivendi was achieved in most cases. If, however, the unit was dissolved the departing representatives of the young generation were entitled to everything that had been brought into the house and compensation for the time spent working for the farm (Court records). While peaceful

coexistence leaves few traces in the annals of history, conflict does.

The question of authority was sometimes the reason for problematical relations between fathers and sons-in-law. The visitation protocols of Aland 1637-1666 record details of some such cases: "It was witnessed after examination that Hindrich Jonson in Norrboda has anger in his household between him his daughter and son-in-law. The daughter Karin uses bad language and when in bad mood refuses to sleep with her husband, fights with other people outside the family... The son-in-law cannot stand the sight of his angry father-in-law, does whatever work he thinks should be done or the mother-in-law tells, never takes advice from the old man who is the rightful farmer, head and father in the house, of which the father complains. The old man reads badly his Pater noster and Credo and knows nothing else, he has never revealed the trouble between his daughter and husband to the clergy, he is angry, unpleasant and godless towards his wife and son-in-law. All excommunicated until peaceful coexistence... (later)...All have repented and promised to behave better..." (p.41, 95). "Simon in Toböle has twice lied to the clergy and claimed to have been hit by his son-in-law. The man is trying to take the life of his son-in-law by lying and has been fined for perjury at the court. The whole family is prone to fight and despite the complaints of the women will stay excommunicated until the have publicly made up their differences" (p.142-143).

The complaints of a son-in-law in Andersbole Jomala were structured in the following manner: The father-in-law does not give him work but walks away when asked, does not want to work with him, gives very little food but stops him from working outside farm to earn money, does not allow the use of farm axes or scythes in work outside farm, has not given more than 4 pairs of shoes in two years. Tells everybody that he never wanted the son-in-law on the farm (comment of clergyman: He did want him to join the farm and *he has treated two sons-in-law in a similar manner already*). The old mans complaints about son-in-law: He and his wife are unfriendly, sometimes they do not answer when addressed, the son-in-law does not want to sharpen his scythe when he sharpens his own, He would not have the son-in-law on the farm even if he asked for his friendship and promised to change for the better. Concluding comment: They have now separated themselves from him to another farm" (p.67).

APPENDIX 2

Although the Nordic countries retained their basically agrarian and rural characteristics until a fairly late date, the last decades of the 18th and the 19th century saw the emergence of the urban bourgeoisie. Even though this group was small it was active and vocal and intent on creating structures to further its own economic wellbeing and raise the "moral standards" of others. The 19th century in Sweden and Finland represents

a time when a growing land-market and a burgeoning banking system heralded changes within society. While a land transfer between father and son in the 17th century could be based on an oral agreement the law code of 1734 requested verification in court and two witnesses. By the 1850s the courts had to sort out a number of oral retirement agreements entered upon in conjunction with the transfers. These were legally binding claims on the property needing clarification when the land was sold to a third party. In 1852 a new ordinance was passed in Finland stipulating agreements in written form submitted to the local court (Kivialho 1927 p.20-21). In some regions large proportions of the holdings were bought by the farmers from the crown, becoming particle inheritance, and increased mobility of daughters and younger sons created pressures on farmers to borrow money. Some farmers wanted to enlarge their holdings or invest in innovations, turn towards cattle and butter production etc. Others had to pay out the shares of their sisters and younger brothers who because of the increasing survival rates were around in ever greater numbers and needed capital. In Norway the clash between rural ideas of ownership and urban bankers triggered a debate that proceeded for years, about the right of farmers' wives to stop their husbands from using the whole farm as security for loans (Sandvik 1998p.27-30; Högnas 1938 p.52-54, 64-67). In this situation many old farmers and their heirs entered into early retirement agreements whereby the calculated costs of the young farmer for keeping his parents were estimated in such a manner that the share of the younger siblings was cut down to a minimum, if they could not be cut out by some other means. The contracts were also designed to make sure that if the young farmer lost the farm the new owner had to keep up the retirement payments to the parents (Högnas 1938 p.47-48, 62-63,219; Wohlin p.41; Kivialho ibid.). This "insurance policy" gave rise to a political debate and newspaper discussions where the bourgeois middle classes who had insisted on equal female inheritance of land, whereby they had managed to get hold of considerable assets through their wives, blamed the farmers for ruining the economy (Kivialho 1927 p.97-100; Högnas 1938 p.216-218). All protestantic arguments about idleness and its ruining influence were piled up by these urban specialists and their fellows among the clergy and nobility in advising the farmers about a suitable way of life. Retirement not only ruined the morals but caused conflict in the family sometimes leading to violence and death (Gaunt 1983 p.259-262). A careful examination of the debate reveals, however, that the concern of some of the participants was the plight of the creditors. The farmers were successfully manipulating in the borderland between traditional legislation and a modern monetary economy and in some cases the urban propertied classes did not manage to extract their dues. This was the root of the "moral problem" (Högnas 1938 p.217-219,221; Sandvik 1998 p.29-32).

Table 4. Adoptions[1] in Western Finland 1620-1700

Relationship of Adoptee[1] to Adoptor	%	N
Son-in-law	52.0	40
Younger Son[2]	5.2	4
Stepson	2.6	2
Nephew/Niece[3]	14.5	11
Sister's Spouse	3.9	3
Other Relative	10.5	8
Non-Relative	10.5	8
Total	100	76

1 Registration by the local court of the right of the person adopted to inherit as a son in exchange for taking on as a son the obligation to maintain the retired adopted parent. Such adoptions only involve adults.
2 Establishes his right to inherit as if he was the eldest son and heir.
3 Includes great nieces and nephews.

Sources: Sample of court cases from Western Finland 1620-1700

Table 5. Adoptions[1] in Eastern Finland 1620-1700

Relationship of Adoptee[1] to Adoptor	%	N
Son-in-law	43.7	21
Illegitimate Son	4.2	2
Stepson	6.2	3
Nephew/Niece[2]	4.2	2
Sister's Spouse	2.1	1
Other Relative	18.7	9
Non-Relative	16.6	8
Partner with Contract	4.2	2
Total	100	48

1 Registration by the local court of the right of the person adopted to inherit as a son in exchange for taking on as a son the obligation to maintain the retired adopted parent. Such adoptions only involve adults.
2 Includes great nieces and nephews.

Sources: Sample of court cases from Eastern Finland 1620-1700

Table 6. Retirement contracts in Western Finland 1620-1700

Relationship of Retiree to Provider of care	%	N
Child and or Spouse of these	76	49
Son in law	29	19
Stepson		
Nephew/Niece	6	4
Brother	3	2
Other Relative	3	2
Non-Relative	5	3
Total	100	64

1 Registration by the local court of the right of the person inherit in exchange for taking the obligation to maintain the retiring person.

Sources: Sample of court cases from Western Finland 1620-1700

NOTE

While adoption did exist in pre-Christian northern Europe in many countries it was wiped out by the arrival of the Catholic Church. The canonical law erected numerous obstacles for the purpose of regulating marriage and one of these was the impossibility of remaining married to the child of a person who adopted you. Luther however abolished this obstacle and after reformation it became possible to adopt a son-in-law in Lutheran countries. On the other hand in the mean time canonical law had found its way into secular legislation and therefore countries like Denmark and Norway of the 17th century experienced anti- adoption legislation.

It is not possible to state with absolute accuracy why the laws in Sweden and Finland on this point tended more to traditional regional views than dictates from Rome. The issue of adoption seems however to have been viewed as a mainly property issue intimately linked to the transmission of land and assets. Therefore adoption of an heir, relative, non-relative or relative by marriage was possible and indeed practiced but only in connection with agreements about retirement, inheritance and care in old age. (Goody 1983p.71-75; Knuuttila, 1990 p.201-202; Luther, M. Vom ehelichen Leben 1522)

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