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Sabean, D

**Publication Date**

1976

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# *Family and Inheritance*

*Rural Society in Western Europe,  
1200–1800*

*Edited by*

JACK GOODY

JOAN THIRSK

E. P. THOMPSON

CAMBRIDGE UNIVERSITY PRESS

*Cambridge*

*London · New York · Melbourne*

Published by the Syndies of the Cambridge University Press  
 The Pitt Building, Trumpington Street, Cambridge CB2 1RP  
 Bentley House, 200 Euston Road, London NW1 2DB  
 32 East 57th Street, New York, NY 10022, USA  
 296 Beaconsfield Parade, Middle Park, Melbourne 3206, Australia

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First published 1976

Printed in Great Britain by  
 Western Printing Services Ltd, Bristol

*Library of Congress Cataloguing in Publication Data*

Main entry under title:

Family and inheritance.

(Past and present publications)

Includes index.

CONTENTS: Goody, J. Inheritance, property and women: some comparative considerations. – Ladurie, E. L. Family structures and inheritance customs in sixteenth-century France. – Berkner, L. K. Inheritance, land tenure and peasant family structure: a German regional comparison. [etc.]

1. Land tenure – Europe – History – Congresses.
2. Inheritance and succession – Europe – History – Congresses.
3. Peasantry – Europe – History – Congresses.
4. Family – Europe – History – Congresses.
- I. Goody, John Rankine.
- II. Thirsk, Joan.
- III. Thompson, Edward Palmer, 1924–

HD584.F33 333.3'234'094 76-10402

ISBN 0 521 21246 4

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## Introduction

JACK GOODY

TO MANY READERS THE IDEA OF EXAMINING SYSTEMS OF INHERITANCE will smack of dull legal records, of outdated practices such as gavel-kind and tanistry, of customals and codes formalized by hair-splitting lawyers. Such a picture is not altogether incorrect. Yet transmission *mortis causa* is not only the means by which the reproduction of the social system is carried out (in so far as that system is linked to property, including the ownership of the means by which man obtains his livelihood); it is also the way in which interpersonal relationships are structured. I mean by this that since inheritance normally takes place between close kin and affines, the emotional tone and reciprocal rights characterizing such critical relationships are often influenced by the possibility of pooling or dividing the farm or by the anticipation of future gains; the plots of many plays and novels make the point in a more dramatic way than is available to the historian and the social scientist. Consequently a different quality of relationships, varying family structures, and alternative social arrangements (e.g. greater or lesser migration, age of marriage, rates of illegitimacy) will be linked to differing modes of transmission, whether transmission is primarily lateral or lineal, whether agnatic or uterine, whether to females as well as males, whether equal or unequal. All these and other factors will be related, in complex, subtle and sometimes contradictory ways to the social and cultural patterns, to the institutions and *mentalités*, to the formal and informal structures of the people who practise (or are forced to practise) particular ways of passing down rights over material objects.

The inheritance system of any society (and it clearly may be more or less 'systematic') is the way by which property is transmitted between the living and the dead, and especially between generations. It is part of the wider process whereby property relations are reproduced over time (and sometimes changed in so doing), a process that I speak of as devolution. That is to say, devolution describes the inclusive transactions that take place between the holder of rights in property and those who have continuing interests in such rights. To put the matter in a less guarded way, whether the transfer of property between father and son, or

## 4. Aspects of kinship behaviour and property in rural Western Europe before 1800

DAVID SABEAN

In this chapter I would like to raise a few problems associated with the structure of kinship relations and the holding of property in Western Europe, primarily in the period from the late Middle Ages to the eighteenth century. To some degree the chapter is aimed at investigating the rather widely held assumption that pre-industrial rural Europe was a society with many stranded kinship relations where interaction among kin formed the primary focus of an individual's life.<sup>1</sup> A second aspect of the argument will involve a rather loose discussion of some of the variables relating property to systems of kin relations. It must be kept in mind throughout that while there are often ties that bind kin together for certain purposes there are often significant conflicts that drive them apart. It is one of the tasks of the social historian to analyse the basis for such conflicts in so far as they occur systematically.

At present it is difficult to offer a thorough synthesis on property and kinship since much of the material is scattered and does not lend itself to systematic treatment. From the available literature on the peasantry it is certain that there has been a wide variety of possible kinship arrangements. In some places kinship relationships outside the nuclear family are unimportant and as one generation succeeds another the members of the sibling group raised in a household cease to have any dealings at all with each other.<sup>2</sup> Sometimes relations inside the nuclear family are tenuous at best.<sup>3</sup> In other situations kin relations are important, and with patient investigation the historian can begin to understand the principles on which they are or can be built. Until now most of the historical spade-work for such an analysis has been lacking, yet it is here

<sup>1</sup> Peter Laslett (ed.), *The World We Have Lost* (New York, 1966), pp. 78-9.

<sup>2</sup> Sigrid Khera, 'An Austrian Peasant Village Under Rural Industrialization', *Behavior Science Notes*, vii (1972), pp. 29-36.

<sup>3</sup> Gerard Bouchard, *Le village immobile: Sennely-en-Sologne au XVIII<sup>e</sup> siècle* (Paris, 1972).

that some of the most rewarding research can be done (a case in point is the work of Segalen).<sup>4</sup> What strikes one immediately is that the variation in family and kinship structure over space and over time is often intimately linked to the way resources, particularly land, are held and passed from generation to generation.

At the moment there are several ways in which one can approach the question of kinship behaviour by asking a series of very simple questions: what ties generations together or causes conflict between them? What ties are found among siblings? What variations can one find in the way families regulate their behaviour? In providing answers the most immediately exploitable historical material deals with ritual co-parenthood (godparents), marriage strategy, care of the aged, child-rearing, and disputes among kin.

To start at the bottom of the scale in analysing the way property affects kinship, there are two suggestive cases where the people involved have very little property at all and what they have is mostly in the form of movable wealth. In such situations the important distinctions of status one associates with a peasant society are hardly existent. The households vary only in their demographic make-up and the range of variation is very small. Here the father does not have the function of passing his status along to his children. In those societies where there is a gradation of wealth and property-ownership the farm labourers and other poor people of a village can attach themselves to people of a higher social class through ties of fictive kinship. However, when a large mass of poor develops and the disjunction between them and the wealthy is great, such kinship ties break down.<sup>5</sup> Emmanuel Todd has examined a society of rural day-labourers in eighteenth-century northern France in terms of the choices they make in finding godparents for their children.<sup>6</sup> He can find no system at all. To begin with the people do not use grandparents or siblings, a practice that was widespread in much of Europe at the time. Apparently they do not choose people who could be associated with a system of patronage nor are there reinforced ties of the type that would be found if a series of factions developed. Godparents are simply chosen on a

<sup>4</sup> Martine Segalen, *Nuptialité et alliance: le choix du conjoint dans une commune de l'Eure* (Paris, 1972).

<sup>5</sup> Abbé Berthet, 'Un reactif social: le parrainage du XVI<sup>e</sup> siècle à la révolution', *Annales E.S.C.*, i (1946), pp. 43-50.

<sup>6</sup> Paper presented by Emmanuel Todd to the seminar of the Cambridge Group for the History of Population and Social Structure, 1973.

casual basis. A good deal should be made of this apparently negative example, for it is clear to anyone who has worked with family reconstitution in villages where there is a peasant landholding class that godparents are chosen on anything but a casual basis. Where there is no property there is no basis for emphasizing ties of kinship that already exist, that is in reinforcing ties of blood or affinity as social ties, nor for creating new ties that are expected to be of long duration.

Another recent study that is instructive here deals with the family in a village in Sologne where the peasants have very little, if any, land.<sup>7</sup> In this case of extreme poverty the ties within the nuclear family themselves become very weak. Children were raised in a slovenly manner with apparently little positive sentiment from their parents. In any event the children normally left the household at the age of seven or eight to become servants, shepherds, or apprentices elsewhere. Parents did little to arrange good marriages for their children, and marriages themselves seldom lasted longer than twelve years because of high mortality rates. Remarriage often took place in haste with the disparity in age between the two new spouses averaging over ten years. Widows often married the former apprentices of their husbands; widowers, their wives' former servants. The author of the study finds few three-generational families and only one example of a widow living with her son, she having to pay for her keep. When parents were forced in their old age to beg, they were generally afraid to do so from their own children. Family quarrels were standard, siblings often fought over their meagre inheritances, and there are examples of children beating their aged parents.

The upshot of these two examples is that, in the absence of property there is little tendency to develop extended kin ties. It introduces a note of caution about speaking of a single European family structure, for the variation from place to place and from class to class is significant. A good example of a society which forms the opposite pole comes from Austria in the 1950s.<sup>8</sup> Here there was significant peasant property which descended from father to son by primogeniture. Those who received no land found few options available to them. As a result the sibling group raised in a single household faced radical differentiation in economic and

<sup>7</sup> Bouchard, *op. cit.*, pp. 230ff.

<sup>8</sup> Khera, *op. cit.*

social status when the members reached maturity. One son got the farm and presumably one daughter married into a situation similar to the one in which she had been brought up. The rest received movable property not commensurate with what the eldest received and not enough to buy into a farm. From one family then came a single peasant proprietor with the rest of the children declining in status often to that of a day-labourer. This fact drove the sibling group apart; brothers did not play cards with each other in the inn, and the labourers did not sit with their peasant brothers at the *Stammtisch*. Siblings tended to avoid each other and apart from a formal bow at the church door on Sunday morning seldom if ever met or exchanged words. In this case the siblings were driven apart while in the two former examples there was nothing to hold them together. The situation in Austria is, of course, only one possible response to primogeniture, and a radically disproportionate system of land holding. However, such a situation must often have characterized areas of unigeniture in Western Europe.<sup>9</sup>

To some extent there is a natural isolation of the household in European peasant society, as indeed in peasant societies in Eurasia as a whole. Goody in particular has stressed the social differentiation that comes with plough culture.<sup>10</sup> In Western European peasant society there is always a careful gradation of status within the village. Agriculture is carried on by the labour of a single household or at least the organization of labour and the holding of land as well as consumption is based on the household. Each household has its own status configuration based on the amount of land that it controls, its size and demographic structure, and its 'moral reputation'. Since the nature of the peasant economy detaches each household from all of the others, the household becomes the primary unit of the society; taxation and military conscription were levied by household; crimes directed against the house were considered more serious than crimes against the individual.<sup>11</sup> In

<sup>9</sup> David Sabeau, 'Famille et tenure paysanne: aux origines de la guerre des paysans en Allemagne (1525)', *Annales E.S.C.*, xxvii (1972), pp. 903-22.

<sup>10</sup> Jack Goody, 'Marriage Prestations, Inheritance and Descent in Pre-Industrial Societies', *Jnl of Comparative Family Studies*, i (1970), pp. 37-54; 'Inheritance, Property and Marriage in Africa and Eurasia', *Sociology*, iii (1969), pp. 55-76; 'Class and Marriage in Africa and Eurasia', *Amer. Jnl of Sociology*, xxvi (1971).

<sup>11</sup> K. S. Kramer, *Volksleben im Fürstentum Ansbach und seinen Nachbargebieten (1500-1800)* (Würzburg, 1961), pp. 191-237.

analysing the nature of the wider kinship network the primary focus should be on the ties that connected certain households, or the way individuals were connected to this or that household.

There are a number of ways in which links can be made between individuals and households. Simple exchange relationships involving work, honour, or political allegiance can follow kin lines. Kinship ties can be reinforced by certain kinds of marriage arrangements. With the birth of a child, an opportunity is afforded for creating fictive kin relationships by selecting certain people to be godparents. One concrete example of the attachment to certain specific kin comes from the medieval epic literature.<sup>12</sup> In most of the German epics the crucial kinship link is between sister's son and mother's brother. Bell has gone through all of the epics in an exhaustive fashion to show this as the dominant theme of family relationships and argues that it demonstrates the survival of matriliney. In most of the epics the father hardly appears except to give the son proper genealogical status. Apart from this the son expects to find help, advice, and room for the play of his ambition from his maternal uncle. Parzifal, for example, finds the grail in the keeping of one of his mother's brothers while another reveals its secret.

I would suggest that the explanation for the dyad, mother's brother/sister's son, which is a crucial one for more than a small class of medieval knights, is the result of property relationships.<sup>13</sup> Within a military caste disputes among sons and between fathers and sons were apt to be too disruptive. Those sons without expectation of an inheritance (in the epics they are always looking for heiresses) were forced to leave home. In looking for aid, the closest consanguineal relation with sufficient property to offer a place would be the maternal uncle, since the father's brother would have been excluded from succession by the father. The mother's brother gets a loyal set of retainers with whom there are no conflicts over succession, while the nephews find their needs taken care of and their status as warriors maintained. Although this example involves the effects of primogeniture on a specific set of kin relations within

<sup>12</sup> C. H. Bell, 'The Sister's Son in the Medieval German Epic. A Study in the Survival of Matriliney', *University of California Publications in Modern Philology*, x (1920), pp. 67-182.

<sup>13</sup> G. Duby, 'In Northwestern France: the "Youth" in Twelfth Century Aristocratic Society', in F. L. Cheyette (ed.), *Lordship and Community in Medieval Europe* (New York, 1968), pp. 198-209.

the aristocratic class, I suspect that a similar weighting in favour of the uncle/nephew dyad was characteristic of many areas of peasant Europe where unigeniture prevailed.

Marriage, as a way of forming alliance between households, has been the subject of a recent study of a Normandy village since the eighteenth century where weavers and peasant proprietors form the two main groups of the society.<sup>14</sup> The former contract more consanguineal marriages, but for reasons that have nothing to do with the desire to reinforce a specific kin tie. Weavers seek out mates among weavers because of the nature of the artisan economy in which husband and wife form a team. Since the group among which selection can be made is small, marriage with blood-kin cannot be avoided. Peasant proprietors on the other hand quite systematically reinforce through marriage ties that already exist. Families which seek out partners in another village will often in the next generation send one back. One example is given where this alternate exchange was practised in one family for six generations. Often if a child marries into a certain village or family a sibling will follow. There are in addition many examples of reinforcement of kin ties by new marriages in successive generations. The whole system implies the circulation of goods and their control within a loosely knit extended kin group.

There is still a good deal of work left for the historian to do with this kind of material. In particular we have no analysis of the kind of uses to which kinship can be put. A combination of family reconstitution and village study modelled after the anthropological approach would expose a whole range of new material. In Germany, for example, the wealth of material at the village level is enormous. Parish registers going back to the middle of the sixteenth century allow for family reconstitution, the study of marriage alliances and fictive kin-relations. Post-mortem inventories give detail of every strip of land and every item of movable property down to individual pieces of cutlery. In these documents the web of debt relationships can be studied. Peasants seldom kept money around but rather loaned whatever they happened to have to someone who had need for cash. At death there might be as many as twenty small debts and loans outstanding. From this material the historian can reconstruct a complex set of social and economic ties. Village court and council records and church consistory

<sup>14</sup> Segalen, *op. cit.*

records reveal groups of people working together or in conflict. Many villages have complete records of land holding with details about sales and sub-leasing. From all of this material one can reconstruct the web of primary relations – who marries whom or who is chosen as godparent – as well as study the uses to which such relationships are put.

The nature of fictive kinship needs to be thoroughly investigated, for it too is intimately intertwined with property relationships. One concrete case comes from the Württemberg village of Neckarhausen. In the sixteenth century the population rose rapidly, as it did everywhere in Europe. The result was to put pressure on the fairly substantial peasant holdings tending to fractionalization. In general the breaking up of farms did not keep pace with the rise in population, so that at the end of the century a large group of day-labourers had emerged, and some farms had divided into two or three pieces, with many farms relatively unaffected by the fissioning process. In this situation, which lasted well into the first decade of the Thirty Years War, the selection of godparents reflected the pyramid of economic and social relationships. People at the top of the pyramid stood as godparents to anyone below them, while those lower in the social order did not reciprocate. In this system the village was tied in with the local administrative town as many well-to-do people appeared in the village as godparents. The system, which was destroyed by the Thirty Years War, was one of overlapping social relations of a patron/client type. During the early 1630s the population was decimated. With the quartering of troops, plague, foraging and army recruitment, the dislocation caused by the war left the remaining population, which was reduced to two-fifths of its previous level, in a difficult state. At the end of the war there were no grain stores, no seed, no domestic animals (with a consequent lack of fertilizer); many fields had been left uncultivated; the inventories reveal that many people had no movables worth speaking about. In this situation peasants took on only very small plots, and in the next generation land was available for those who needed it. A process of fission set in as the population slowly recovered from the effects of the war, so that by the end of the seventeenth century partible inheritance was firmly established, and Württemberg became a society of small peasant proprietors. In this situation the peasants no longer chose godparents from outside the range of near kin.

In particular, ties with the local town were ruptured. It is too early in the study to give a definitive analysis of the structure of fictive kinship in the village in the eighteenth century, but it would appear that peoples most often chose their siblings, emphasizing ties based on closely-knit kin groups.

Something needs to be said at this point about the ways in which households regulate their holding of property and the passing of property to the next generation. In this context establishing a new household is itself a fundamental aspect of the process. In passing wealth to the next generation the parents ensure continuity of social arrangements and provide for themselves in their old age. Passing wealth on to the next generation must always be seen in the light of setting up new households or the establishing of new conjugal funds. In this regard there is tremendous variation across Europe, and it is here that one must focus in order to understand how the form of property arrangements affects the very stuff of domestic arrangements and the ties between households. Until now the only means of getting at this problem has been through studies by legal historians on inheritance or family property law. It would be useful to examine some of this literature in order to begin to abstract some of the principles of family structure.

There are three basic ways that the literature focuses on the problem. The oldest sees the basic dichotomy of family systems as the result of two fundamental modes of inheritance; unigeniture (eldest, youngest, or single elected son) or partible inheritance.<sup>15</sup> On the partible side of the continuum the extreme case divides all wealth, movable and immovable, among all of the heirs, male and female. There are systems of partible inheritance that exclude daughters from inheriting land. On the unigeniture side, the extreme case would be one son getting everything, although to my knowledge this never happens. The most frequent practice is to pass all of the land to one son and it is also possible to give him a lion's share of the movable wealth as well. In many cases one son is simply favoured, receiving two-thirds, for example, of the land. In general historians have dealt with this continuum as a dichotomy and studied the results for mobility, household structure and

<sup>15</sup> M. F. Le Play, *La réforme sociale en France*, 3 vols, 5th edn (Tours, 1874); H. J. Habakkuk, 'La disparition du paysan anglais', *Annales, E.S.C.*, xx (1965), pp. 649–63; 'Family Structure and Economic Change in Nineteenth Century Europe', *Jnl Econ. Hist.*, xv (1955), pp. 1–12.



economic development. In any future history of the family, post-mortem inheritance systems would be better handled as a continuum, since each permutation introduces important variations.

A second way in which systems have been dichotomized is that of the popular and very stimulating work of the French scholar, Yver.<sup>16</sup> Yver's discussion comes from a highly abstract legal framework and is concerned fundamentally with the different ways pre-mortem inheritance is structured in France. The opposite poles of the system are 'forced recall', largely associated with the West, and the *préciput* (advantaging one or more children), associated with the East. In between these two is the compromise form of 'option'. Under the *précipitaire* system the parents can endow a child in such a fashion as to give him the lion's share of the patrimony, and is similar in effect to the testamentary system of the South. The opposite system in its pure form involves strict equality among the heirs; any endowment must be returned upon the parents' death, the latter being unable definitively to advantage any child. In the compromise system of the Paris-Orléans region the child who is endowed can choose to return to the inheritance or not, but cannot be at the same time both heir and the subject of an endowment. Yver's whole schema is constructed on an analysis of the law pertaining to the child who has left the household while the parents are still living and in doing so has received a portion. So far not a great deal has been done to assess the causes of the two systems or their effects. Yver himself argues that forced recall is associated with extreme egalitarianism and is fundamentally a system involving feudal classes, while the system of option is an urban institution. Le Roy Ladurie has considered the effects of the various systems on morcellization of peasant land, the isolation of the *ménage*, and the development of a strong lineage concept. In any event, to assess the implications of pre-mortem inheritance the historian will have to treat the phenomena once again along a continuum and get down to a less abstract level than that of provincial law codes. The variations in the timing of dowry payments, their size and nature will have important implications for family relationships.

<sup>16</sup> J. Yver, *Égalité entre héritiers et exclusion des enfants dotés* (Paris, 1966); E. Le Roy Ladurie, 'Système de la coutume: structures familiales et coutume d'héritage en France au XVI<sup>e</sup> siècle', *Annales E.S.C.*, xxvii (1972), pp. 825-46.

There is a third moment in the process of family property devolution – the setting up of a new household with a conjugal fund.<sup>17</sup> Here too there is a basic dichotomy with various forms in between: the conjugal community or the lack of it. In the system of universal conjugal community, each spouse brings a portion to the marriage totally integrating the two to form a single property. Upon the death of one the property devolves upon the survivor, movable and immovable property alike. In some community systems only the movable property (and sometimes what is acquired during the marriage) are merged, each spouse keeping his own personal property (*propres*, *Eigentum*). In any event, community property implies a break with the collateral heirs of each spouse, sometimes at the birth of the first child, whether or not it survives. The opposite system simply means that neither spouse ever inherits from the other, for what each spouse brings to the marriage remains his own personal property however it is administered during the lifetime of the marriage. The property will be inherited either by the children issued from the marriage or, if there are no children, by the collateral heirs of each partner. There are various subsidiary rights, such as a jointure, that can be set up for the lifetime of either spouse. In some cases the survivor receives the right to use the deceased spouse's property for his lifetime if an heir has been produced. In this system, the property interests of the collateral heirs remain strongly involved in any couple's existence.

In trying to analyse the nature of the family and the effects of different forms of property holding, we must avoid treating the family as a static unit. For example, on broad abstract grounds Yver's analysis may provide a general schema for legal historians, but for the social historian its use is limited because it pinpoints only one moment in the cycle that the family goes through. The family by its very nature has a time-dimension. It begins with the personal union of a couple which in peasant Europe entails a property arrangement. With the birth of children the family takes on new responsibilities and functions, and property arrangements are adjusted accordingly, so that in some systems the wife's right to a jointure is contingent upon the birth of the first child. As the children grow up, the process of fission of the old household begins

<sup>17</sup> J. L. Gay, *Les effets pécuniaires au mariage en Nivernais du XIV<sup>e</sup> au XVIII<sup>e</sup> siècle* (Paris, 1953); R. D. Hess, *Familie und Erbrecht im Württembergischen Landrecht von 1555* (Stuttgart, 1968).

with dowries, portions and gifts of various sorts. Finally, with the death of one or both spouses, the fund is definitively partitioned for the heirs. In trying to understand the nature of the family it would be misleading to focus on any one of these moments, either the setting up of the conjugal fund, or the arrangements made for transmitting wealth before or after the decease of the senior generation.

In tracing-out these dichotomies it is immediately apparent that they do not correlate with each other in any simple way. For example, the universal conjugal community exists with both partible and impartible inheritance after the sixteenth century in the Paris-Orléans region and Bavaria respectively.<sup>18</sup> In Württemberg partible inheritance goes with community or movables and acquisitions (partial community); in Nivernais after the sixteenth century impartible inheritance is found with partial community. The complete lack of conjugal community goes with partible inheritance in Normandy and impartible inheritance in Bavaria and Nivernais before the sixteenth century.

Yver builds up a case to show that community property correlates with the *préciput* or the Paris-Orléans system of option while the complete lack of community goes with the total equality of the Normandy situation where forced recall prevailed. He further argues that the Normandy system is feudal, designed primarily for the aristocratic and bourgeois classes. He says little about the peasants, and without more detail on the actual practice, the argument remains unconvincing. In any event, as can be seen from the examples above, there is no European-wide correlation between conjugal community and systems where one son is advantaged, and between lack of community and forced recall.

In Bavaria forced recall was the early modern practice, yet here, unlike Normandy, unigeniture was the norm.<sup>19</sup> A book-keeping operation took place at the death of the parent or more often at his retirement. The land remained undivided and fell, together with the house and farm equipment, to one son, usually the eldest. The book-keeping made things appear as equal; the farm was valued at a certain amount, divided into equal shares, with the son who

<sup>18</sup> Le Roy Ladurie, *op. cit.*; Paul Hradil, *Untersuchungen zur spätmittelalterlichen Ehegüterrechtsbildung nach Bayrisch-Österreichischen Rechtsquellen* (Vienna, 1908); Pflaumer-Resenberger, *Die Anerbensitte in Altbayern* (Munich, 1939).

<sup>19</sup> Pflaumer-Resenberger, *op. cit.*

got the farm obligated to pay the outstanding shares of his siblings in the form of marriage portions or dowries. The valuations took no account of the market value of the farm which indeed was usually much higher. It only took account of what was fair for the new farmer to pay. Since the arrangement was made by the retiring father, who would himself be supported by the farm for his remaining life, he did nothing to jeopardize the economic prosperity of the enterprise. The point is that forced recall in Bavaria went along with conjugal community, *de facto* inequality, and unigeniture.

Yver's argument regarding extreme equality in the Normandy case of forced recall is in itself misleading simply because the demography of the situation would create inequality. Marriage ages being what they were, there would often be cases in which the siblings were twelve to eighteen years in age apart. If elder children married early and young later, the temporal spread of dowry payments and portions would be even greater. In such a case the eldest child could have his portion to use for twenty to twenty-five years before the youngest received his and the former would not be obliged to return the increment that he had earned. If his portion had been partly in land and he had been impoverished and forced to sell, his father's patrimony would thereby have been reduced for the subsequent children. If his father's patrimony increased, he would share in the increment. Quite clearly this system favours the eldest, but in any event the siblings emerge as not quite so equal. With the book-keeping unclear we still do not know from Yver's account whether all sons got equal land or equal 'value'. In this regard the social values of the community are of crucial importance because legal arrangements were often by-passed by people set on doing so.<sup>20</sup>

There is also no reason why the conjugal community system and the systems of *préciput* or option should go together. All that Yver can demonstrate is that historically they do in some regions. Conjugal community appears to have appeared first in cities and spread out under the 'influence of the city'. What seems to be the case is that as peasants become more involved in market transactions, more funds are made available for the building up of movables or for making cash endowments. As brides begin to bring considerable endowments, their dowries are matched by those of their

<sup>20</sup> W. H. Riehl, *Die Familie* (Stuttgart, 1855).

husbands, often in exactly equal terms. This implies at least a community of movables and acquisitions. In Bavaria, where the universal conjugal community was the rule, the in-marrying spouse brought a considerable portion necessary to the economy of the enterprise. With that went the right to inherit the farm. Since conjugal community is the result of the growth of the urban market and the increasing participation of the peasant in it, it is not surprising that there are other changes wrought by the same forces. In the Paris-Orléans situation the system of *pre-mortem* inheritance, that is partible inheritance with limits, favoured the small peasant proprietor producing for a nearby urban market. In Bavaria the urban market was important but the city population not so large or dense as in the Paris basin. The large peasant enterprise remained dominant, but these developed the conjugal community based on large cash dowries.

It would be useful at this point to take a look at a concrete case of the establishment of a marital fund to see some of the ways in which family structure can be affected. For this we shall examine Nivernais in the period from the end of the Middle Ages to the eighteenth century.<sup>21</sup> In that region there were two basic systems of marital fund: the conjugal community and the *société domestique*. Basically the *société domestique* in Nivernais was a society of co-parceners including the parents of one of the newly married spouses, the siblings, and the in-marrying spouse. The latter was obligated to bring in a portion – usually of movable property – and this describes the totality of his or her fortune. It is in effect a compensation on the part of the new member for participation in the enterprise together with the enjoyment of its fruits. It bestows rights of enjoyment but no rights in property. There is no corresponding provision of a portion by the spouse already in the society and the property of the two spouses is in no way joined. If there are no heirs and the spouse already there dies, the in-marrying spouse must leave the society, taking her portion with her. She has no claims on the property of her husband. Similarly if she dies, her portion is returned to her heirs, that is, her family of origin. This type of arrangement was dominant in rural areas during the Middle Ages. Subsequently it disappeared, first in the cities, then in those rural regions close to the cities or where city influence penetrated, enjoying its longest life in the most rural

<sup>21</sup> Gay, *op. cit.*

parts of the region. The arrangement fits a situation where the market has little or no influence, for there is in fact little liquid wealth that the in-marrying spouse can provide. In Nivernais there are examples of the exchange of sons and daughters to obviate the difficulty of providing movables.

The *société domestique* implies a number of things. To begin with, the links between the new spouse and the society into which she marries are fragile. By producing heirs the ties are strengthened because, having done so, she ensures her sustenance by the society for the rest of her life. At the same time the property she brought to the marriage now will fall to her children, thereby weakening the interests of her collateral heirs. A second characteristic of the arrangement is that the in-marrying spouse tends progressively to break her links with her family. At first the move is tentative, for her family continues to have an interest in her property. Unless she produces heirs, if she has been given a portion including immovables, she is recalled to the inheritance and movables are substituted. Producing an heir reduces the interest the family of origin has in her property, but increases her status within the domestic society. She will eventually supplant her mother-in-law as the dominant female; her portion becomes part of the property that will descend to the children. From this short discussion it can be seen that a marriage goes through a number of stages, and in this particular system the stages are quite gradual.

Along with the stages goes a progressive integration of property, in this case not of the couple but of the wider extended family. If, for example, the girl marrying in were a teenager, she would be making a break from her own family by being physically removed to a new location where different adults held authority over her. Her rights would be guaranteed by the fact that she brought a portion which also assured her status in the new unit; nevertheless she is a junior woman under the authority of her mother-in-law and perhaps her sisters-in-law. Her own family continues to have a direct interest in her, and that interest is guaranteed by the fact that they continue to have a claim on her property – a residual claim that will remain all her life, in however weakened a form. Bearing a child changes the girl's status to that of mother, with a consequent increase in duties and status within the family. The birth of a child signals the beginning of the change of generation (as does the coincidental marrying out of sisters-in-law) and ensures

the right of the girl to lifelong sustenance by the community. The more children she bears – the more surviving heirs – the more integrated and assured her place becomes. Finally she becomes the senior woman with direction of part of the enterprise and prepares to see her portion used to provide dowries for her daughters and portions for her sons.

In Nivernais the other form of marital fund was a partial community composed of movables and acquisitions (*conquêts*). Both spouses were obligated to bring a portion to the marriage, each receiving the right to survivorship of the other, irrespective of the birth of children. Here then the integration of the marital fund is immediate and begins with marriage, implying neo-local residence. The system developed wherever the market influence penetrated and fortunes became liquid enough for the establishment of considerable portions. It put primary stress on the break between households and whatever ties that remain, or were built up, were not based so strongly upon residual inheritance rights. The position of the wife is one of more independence and it would be interesting to discover if women tended to marry at a different age in areas where the conjugal community was the norm. Since the influence of the market is important for the creation of the conjugal community, and with market penetration comes the possibility of greater mobility, one would expect there to be an increasing differentiation of the sibling group making the ties that bind them more complex, often leading to total rupture.

Not much has been said about kinship-behaviour itself. Rather the attempt has been to try to clarify some of the variables that influence the way kin relate to each other. I have tried to emphasize that the family must be treated as a temporal unit and that the degree of integration of a household goes hand in hand with the integration of the marital fund. One of the primary links between households is formed by the residual rights in property stemming from the fact that a sibling group is provided for out of the same original marital fund. Where the establishment of new funds for a new generation emphasizes the new unit as primary, as in those areas where the conjugal community was the dominant form, primary ties between siblings are thereby reduced. Where radical differentiation between siblings takes place the ties may be broken altogether. On the other hand, children may seek ties that, while based on kinship, do not emphasize ties among siblings or between

father and sons. In areas where primogeniture predominates, peasant proprietors may stress cousin ties or the tie between father and eldest son. The landless may seek out kin outside the nuclear family for help. What ties already exist *in potentia* may be reinforced by marriage strategies or by the selection of godparents. Making any selection automatically excludes some other possibilities. It would be interesting to study the lines of fission in rural society – crime, conflict, village factions – in terms of family linkages, inheritance patterns, and the role of women and different forms of marital funds. What seems fundamental is the notion that different forms of property arrangements shape in an intimate fashion the total fabric of the family.