Women in The *Fuero Real* of Alfonso X El Sabio: Thirteenth-Century Law and Society

Martin de Figueroa

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WOMEN IN THE FUERO REAL OF ALFONSO X EL SABIO: THIRTEENTH-CENTURY LAW AND SOCIETY

by

Michelle Martin de Figueroa

A Thesis
Submitted to the Faculty of The Graduate College in partial fulfillment of the requirements for the Degree of Master of Arts Department of History

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1997
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Finding the necessary words to thank all the individuals who have made my education possible is difficult at best. The first order of thanks must go to my parents, Dale and Susan Martin, for supporting me throughout the educational process. The fine example of academic excellence set by my father, himself a teacher, has made an indelible impression upon me. To my grandparents and other family members I owe a special debt of gratitude for other forms of support during my years at WMU. To this end, I dedicate my thesis to the memory of my late grandfather, Francis William Martin (July 27, 1911- December 20, 1996). My grandfather wanted to pursue his college education and become a teacher. The Great Depression forced him to forego his dream for the sake of his family. I only regret that I was not able to finish this work and graduate before his passing. Through his grandchildren, my grandfather has seen the world when we have traveled, has attended college with us, and has shared in our setbacks and accomplishments.

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Michelle Martin de Figueroa
The history of Iberia, unlike her European counterparts, was formed through the interaction of Christians, Jews and Muslims. Thirteenth-century life, influenced by the Reconquest and friction between these groups, adapted to the turbulent nature of Castilian frontier society. With each military contest, Castilian society evolved to meet the demand placed upon her strained resources and citizenry. Women played a paramount role in this process. Through the use of legal codes as historical sources, the roles, rights and responsibilities of women can be established and assessed. This provides historians with an opportunity to view this period of time and the social standing of women, their roles as wives, mothers and daughters, heads of households, and, in some cases, property and business owners. This thesis combines an analysis of the third book of the *Fuero Real*, promulgated under the auspices of the monarch Alfonso X el Sabio (1252-1284), and a new translation of relevant passages in the aforementioned book as they pertain to women’s lives.
TABLE OF CONTENTS

ACKNOWLEDGMENTS........................................................................................................ ii

CHAPTER

I. THE IBERIAN LANDSCAPE AND WOMEN IN THE 13TH CENTURY......................................................... 1

   The Alfonsine Era (1252-1284) and the Reconquest................. 2

   The *Fuero Real* (1255/1256)...................................................... 4

   Women and the Alfonsine Legal Tradition........................... 7

   Women and Alfonsine Studies....................................................... 12

II. WOMEN, MARRIAGE AND THIRTEENTH-CENTURY SOCIETY IN THE *FUERO REAL*........................................ 16

   Marriage in the *Fuero Real*.......................................................... 18

   Dowers and Dowries in the *Fuero Real*................................. 27

   Marital Earnings in the *Fuero Real*........................................ 33

   Wills and Inheritances in the *Fuero Real*.............................. 37

   Women, Orphans, and Guardianship in the *Fuero Real*........ 44

   Women, Children, and Governing Powers in the *Fuero Real*............................... 47

   Disinheritance and Women in the *Fuero Real*.......................... 52

   Women, Selling, and Purchasing in the *Fuero Real*................. 57

   Women and Donations in the *Fuero Real*............................... 57

   Women, Guarantees, and Guarantors in the *Fuero Real*............. 60

   Women, Debts, and Payments in the *Fuero Real*...................... 61
## Table of Contents—Continued

### CHAPTER

#### III. THIRTEENTH-CENTURY CASTILIAN WOMEN AND THEIR EUROPEAN COUNTERPARTS: A FINAL ASSESSMENT ................................. 64

- Castilian Women and Their Status as Reflected in the *Fuero Real* ................................................................. 64
- The *Fuero Real*, Women, and the Alfonsine Social Program ............................................................................. 70

#### IV. SELECT TRANSLATIONS FROM THE THIRD BOOK OF ALFONSO X'S *FUERO REAL* .................................................. 76

- Title One: On Marriages................................................................. 76
- Title Two: On Dowers................................................................. 80
- Title Three: About the Earnings of the Husband and Wife ................................................................................... 82
- Title Four: About the Partitions.................................................. 83
- Title Five: On Wills .................................................................... 84
- Title Six: On Inheritances.......................................................... 88
- Title Seven: On the Guardianship of Orphans and Their Property ................................................................. 94
- Title Eight: Of How Children/Relatives Can Be Given Governing Powers ......................................................... 95
- Title Nine: On Disinheritance........................................................ 97
- Title Ten: On Selling and Purchasing ....................................... 99
- Title Twelve: On the Donations...................................................... 100
- Title Eighteen: On the Guarantor and the Guarantees ......... 101
- Title Twenty: On the Debts and the Payments ....................... 102
CHAPTER I

THE IBERIAN LANDSCAPE AND WOMEN IN THE THIRTEENTH CENTURY

The history of Spain, unlike her northern European counterparts, was fashioned through the interaction of Christians, Jews and Muslims. Thirteenth-century life, molded by the Reconquest, adapted to the turbulent nature of the Castilian frontier. With each battle won or lost, Castilian society evolved to meet the demands placed upon her strained citizenry and resources. Women played a vital role in this process. Through legal codes, women's rights and responsibilities can be established and studied. These documents give historians a vantage point from which to view this period of time in relation to women's social standing and their roles as wives, mothers and daughters, heads of households, property owners, and in some cases business owners. From an apparent lack of sources about women's lives, legal codes have become an important weapon in the arsenal of social history.

The kingdoms of Castile-León witnessed a cultural and intellectual renaissance in the thirteenth-century under the auspices of the monarch Alfonso X el Sabio (1252-1284). Alfonso X inherited a love of learning, literature, and jurisprudence from his father, Fernando III, and carried out his father's previous program of law codification. For historians of thirteenth-century Castile-León, Alfonso X's greatest legacy is found in the documents--literary and legal--produced at his court. Written in the vernacular, Alfonsine documents range in scope from histories of the world (Cronica
General) to epic poetry (Las Cantigas de Santa Maria) to the legal codes and commentaries that reshaped the nature of Castilian socio-political relations (El Fuero Real, Las Siete Partidas) and finally to an eclectic mixture of Arabic and Jewish scientific and astronomical texts. Among the varied and impressive projects undertaken by Alfonso X, the codification of law consumed most of his scholars' and scribes' time and left an indelible imprint upon the Spanish legal landscape.¹ With Alfonso documents as a source this thesis will illuminate women's positions in thirteenth-century Castile-León as viewed through Alfonso X's codification of Spanish law.

The Alfonso Era (1252-1285) and the Reconquest

To comprehend the importance of the Fuero Real a brief history of the code and its time period is warranted. With the death of his father, Fernando III el Santo, Alfonso X ascended to the dual throne of Castile-León in 1252. From the outset his reign was plagued with internal strife, rebellion, and external pressures from a resolute Muslim enemy that would not easily yield to his armies. Known as "el Sabio," for his wisdom and intellectual prowess, Alfonso X was less a politician and regal manager and more a philosopher-king in the Platonic tradition. While somewhat blind to the discontent in his own realm, Alfonso X embarked upon a program of arts patronage and cultural rebirth that awakened Catholic Castile-León from her intellectual

slumber. In his collection of essays dedicated to the Alfonsine era, Dr. Robert J. Burns, S.J. describes Alfonso X's personal role in the Castilian renaissance.

Alfonso did not merely preside over his Castilian renaissance but was both an instigator and personal participant in its multiple manifestations. Nor did he merely plunge into cultural activities as an aesthete, indulging a voracious appetite; he proposed by those activities to reshape society, to bring Castile itself into the mainstream of high civilization.2

However astute in cultural matters, Alfonso X’s nobles found his lack of political leadership most distressful. At several junctures in his reign, Alfonso X faced outright rebellion led by his most trusted friends and family members. After the promulgation of the Fuero Real in 1255/1256, the nobility reacted vehemently and demanded that Alfonso X call the cortes (governmental council) into session to address their concerns. While his nobles agitated and grew restless, Alfonso X continued a failed attempt to claim the title of Holy Roman Emperor. In the end, not only did Alfonso X lose in his attempt to become Holy Roman Emperor, but he lost his kingdom as well. While Alfonso X was distracted by his campaign to gain the title, Sancho IV, his son, rebelled with the nobility and forced the philosopher-king’s hand. At the heart of this rebellion was Alfonso's desire to centralize authority via legal means in the royal sector. The nobility, who stood to lose the most through this centralization of power, asserted their demands through the rebellion of Sancho IV which left Alfonso little choice but to surrender his plans.

Despite internal political difficulties, the process of the Reconquest continued under Alfonso X's administration and brought him limited

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2 Burns, Emperor of Culture, 5.
success. The establishment of new towns on the expanding Castilian frontier marched alongside Alfonso X's cultural and legal reforms. According to James Brodman, new towns and their citizens played a vital role in the formation of society due to their geographical location and political importance vis-a-vis the Muslim inhabitants of Iberia. Brodman maintains that:

The new towns, because of their location on this frontier, were forced to shape and adapt familiar institutions to suit the needs of a dangerous environment. The legal expression of this institutional innovation was the series of cartas pueblas and fueros that were granted as settlement charters and municipal law codes to the colonists.3

Within this framework of Christian Reconquest and resettlement, Alfonsine legal activities were vital to create the stability necessary for Christian permanence in the region. Under Alfonso X's administration more than 200 cartas pueblas and fueros were granted.4 For historians these documents provide valuable information about the demands of Castilian frontier life, including the various roles and expectations placed upon women in society.

The Fuero Real (1255/1256)

Completed in 1255/1256 the Fuero Real is one of the most intricate and widely administered Spanish legal codes.5 The Fuero Real was commonly

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granted to new Christian settlements as their founding legal code. In the *Fuero Real* Alfonso X codified and unified not only royal legal practices but those of local tradition and custom into one major corpus. Its progenitors include the Visigothic Code (*Fuero Juzgo*) and Justinian’s voluminous *Corpus Juris Civilis*. The *Fuero Juzgo*, also known as the *Liber Judicorum*, established a precedent of relative equality between the sexes that was later followed in the *Fuero Real*. The *Fuero Real* is divided into four books with various subdivisions (*títulos*) that contain laws related to a host of topics. Each book centers around a theme or select group of social, economic, and political issues. The first, second, and fourth books of the code deal with issues such as religious life, political authority, the roles of the nobility in society, the criminal procedures of the period, and the powers of war and peace. The third book, however, concerns itself with issues related to commerce and trade. Within this topic laws associated with marriage, dowers, marital property, children, widows, and testaments can be found. The inclusion of such laws under the heading of commerce and trade itself gives the historian some idea or indication that marriage was at least partially regarded as a commercial rather than emotional venture. Further analysis of the laws of the third book will provide additional insight into the social status of women in thirteenth-century Castile-León.

Even though it lacks the literary finesse of *Las Siete Partidas*, the *Fuero Real* is a critical text to study if scholars are to gain a deeper understanding of women’s social history. The *Fuero Real*’s use in the process of the Reconquest and eventual repopulation of Muslim towns, by the Catholic armies and families of Castile-León, places it in a time frame of increased opportunity for
women. The *Fuero Real* also provides historical linguists the opportunity to assess the development of the vernacular in terms of formulaic language, spelling, grammar, punctuation, and the impact of various cultures (i.e. Muslim, Jewish and Christian) upon the terminologies used to express legal matters. The nature of social relations between the three cultures is also apparent in the production and content of the *Fuero Real*.\(^6\) This cultural interchange makes it a truly unique window to the past. However, some of the most important strides in scholarship to be made in the arena of Iberian studies deal with the roles of women as reflected in the documentary evidence produced at the Alfonsine court. Aside from the artistic and poetic references found in the richly illustrated *Cantigas de Santa María*, the *Fuero Real* provides an insightful view of women’s lives in Reconquest Castile-León. Through the legal process, women’s roles were shaped and defined vis-a-vis male society. How women were supposed to legally interact with one another, their families, and members of the opposite sex provides useful information for analyzing their relative freedoms in society with respect to women in other areas of Europe.

For the purposes of this thesis, the *Fuero Real* has been studied and translated into English when necessary. This primary source translation provides a wealth of information not readily available in standard assessments of medieval Spanish history. In particular, the *Fuero Real* affords scholars the opportunity to assess the position of women in society through

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\(^6\) A bibliographic survey of materials related to the Alfonsine era demonstrates the paucity of specific studies regarding the social history of women. Any combination of sources, however, can assist the growth of new scholarship related to women in thirteenth-century Castile-León.
their legislated rights, freedoms and obligations. The importance of this work stems from a gap in English language scholarship about not only Castilian women of the period but of the *Fuero Real* itself. To date, no systematic English translation of the *Fuero Real* has been produced. Numerous scholars have used individual laws or sections of the code but not its entire books. This translation provides the raw materials necessary to build a foundation from which to assess women’s roles in Castilian society. Relationships between men and women, husbands and wives, mothers and children, and between members of various cultural groups are present in its pages. From these relationships various questions can be asked and answered about women in Castilian society.

**Women and the Alfonsine Legal Tradition**

Some of the most important issues women faced in medieval society were those centered upon marriage and family. As the backbone of Catholic society, the marriage of a young woman and her life with her new family ensured the continuance of Spanish Catholic social norms and traditions. How women were viewed in Castilian society is a by-product of not only religious mores of the time period in question, but also of the manner in which society reacted to its needs. The *Fuero Real* provides the legal answers to numerous questions about women’s lives in Reconquest Castile-León. When could a woman marry and to whom? Who held authority over a woman’s dower before and after her marriage? If a woman married and became a widow, could she remarry and how would her subsequent remarriage affect her dower, the custody status of her children, and her last
will and testament? Could women engage in business transactions? What role did women play in the absence of their husbands while they were off in battle? How did gender play a role in the assignment of penalties for crimes such as adultery? Were men and women punished equitably under the law for identical crimes? From the Fuero Real a complex portrait of women's lives is outlined. When compared to their northern and western European counterparts Castilian women, as will be demonstrated, possessed some unique rights and were able to exercise their freedom to make critical decisions about their lives. This makes Castilian women a case study worthy of increased attention and scholarship. Currently, however, this is a component absent in numerous secondary works about Spanish society of the thirteenth-century.

The third book of the Fuero Real addresses issues of marriage, divorce, testamentary rights, disposition of property, the care and needs of minor children, dowers, marital property, and adultery. Women were, to an extent, protected but also chastised under the provisions of the Fuero Real. The examples that follow are but a few of those laws that deal with women, their relationships with their husbands, property, and society.

Women in thirteenth-century Castile-León were protected from various forms of excessive demands. Excessive demands included marriages disagreeable to the young woman and forced sale into slavery. The parents of a young woman of marriageable age, no matter how noble their intentions, needed their daughter's consent before they promised her hand in marriage. A woman exercised the unrestricted right to call off a marriage if

7 For a discussion of women in canon law in the Middle Ages see generally James A. Brundage, Law, Sex and Christian Society in Medieval Europe (Chicago,
she so desired. If her parents were deceased and she reached the age of marriage, she controlled who she married and when, and could overrule the wishes of her elder brothers and other close relatives (i.e., uncles and aunts). Her actions could, however, render her dower and inheritance from her parents void under certain prescribed circumstances. Women in most northern European states had greater restrictions placed upon their options in regards to marriage and the choice of a spouse.

Where matters of property are concerned, women in Castile-León possessed some unique freedoms for the time. As will be demonstrated, they were born out of Spain’s Visigothic era, current social necessity and spawned by the absences of many men from their families during the Reconquest. Whether respect was a factor in these decisions is at best difficult, if not impossible, to ascertain. What is vital, however, is the fact that women were given control over properties normally owned by men. From the outset of marriage, women were challenged by their husband’s authority over marital property in the marriage. The Fuero Real provides for the equal distribution and control over joint marital assets by both parties. In this manner, women exercised limited authority over communal property. Communal property included homes, lands, and those items necessary for the maintenance of family life. When men were engaged in warfare, women exercised total control over these assets. This ensured that these properties did not fall into non-Christian hands. Upon the death of a husband, whether from natural causes or in battle, a wife was entitled to maintain her position of authority in

1987), and Sex, Law and Marriage in the Middle Ages (Brookfield, CT, 1993).

8 For a brief discussion of women’s responsibilities during their husband’s absence during captivity see Brodman, "Municipal Ransoming Law," 323.
the home with respect to all matters of property control. These rights could be passed to the eldest surviving son or the nearest living relative of the deceased, usually an older brother or the wife’s father. Some evidence, found in household inventories filled with wills, suggests that women gained ownership of their husband’s armor and horses and maintained them for defensive purposes and use as dowers.

The ability to dispose of property, alluded to above, was paramount for women in the thirteenth-century. This right signals that women did indeed own property of one form or another. Medieval Castilian women had the authority to leave goods, moneys, lands, and other belongings of varying value to their sons and daughters equally.9 In the case of dowers and dowries, the Fuero Real mandated that parents offer the same amount to their daughters and sons for marriage. Women had the right to use their dowry after their marriage for any purpose they wished, but husbands needed the express permission of their wives to use their dowries that they brought to the marital union. Through these provisions women were able to administer and pass on property to their heirs. This served to strengthen the family’s economic position and gave women the opportunity to participate more fully in society. The topics mentioned above are but a few of those contained in the pages of the Fuero Real.

The growth of Alfonsine civil/municipal law was in harmony with an overall trend that saw a marked difference emerge between canon and

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9 In Spain this aspect of property inheritance was first mandated in the Fuero Juzgo. This trend runs opposite that of Northern Europe, where primogeniture was preferred. See generally David Herlihy, Medieval Households (Cambridge, 1985), and Opera Muliebria: Women and Work in Medieval Europe (New York, 1990).
civil/municipal law between the years 1234-1348. While canon law had
dominated and flourished previously, civil/municipal law extended its reach
to incorporate matters of marriage and sexuality previously left to the
discretion of the Church. The Alfonsine legal tradition, as mandated in the
Fuero Real, encompassed issues of marriage, rape, incest, sexual relations
between Christians and non-Christians, and prostitution, which were
previously the domain of the Church. Civil/municipal law was, however,
promulgated under less than ideal socio-political situations and is a more
accurate indicator of the needs and changes in society during the late
thirteenth and early fourteenth centuries. This difference in focus created a
divide between canon and civil jurists, their spheres of influence, and their
treatment of women as well.  
This trend continued in northern and western Europe and can be seen as a main factor in the difference between the
treatment of women in the Castilian and Germanic legal traditions.

For women in thirteenth-century Castile-León, this shift in legal trends
coupled with the Reconquest and repopulation of former Muslim territories
provided a new avenue of personal and civic growth. This trend is not the
case in other areas of Europe, however, as women were treated as a by
product of their marriage or as the daughter of her father and not an
individual. An exception to this trend involves women and cases of rape,
incest, or murder in which they were the victims. Laws were formulated to
deal with women in specific social situations and attend to their protection
but very rarely their needs as mothers, wives, and heads of households.
Women in Castile-León had not only become beneficiaries of the law but

10 See Brundage, Law, Sex and Christian Society in Medieval Europe, 485-486.
equals and participants in the legal system along with their male relatives.

Women and Alfonsine Studies

Alfonsine studies, in particular its assessment of women, cries out for increased scholarship and analysis. Two scholars in particular work toward this goal. Heath Dillard in her *Daughters of the Reconquest: Women in Castilian Town Life 1100-1300* (New York, 1984) and Marilyn Stone in *Marriage and Friendship in Medieval Spain: Social Relations According to the Fourth Partida of Alfonso X* (New York, 1990) address the issues of womanhood in Castile-León. Both women place particular emphasis upon the legal traditions of Alfonso X. It must be noted here, however, that various Spanish language studies of medieval women in Castile-León have been produced through the *Mujeres en Madrid* project, led by Christina Segura Grañño and Cristina Cuadra García.  

Segura Grañño has compiled the work of various Spanish scholars, mainly women, with respect to the nature of women's history in Spain. Particular emphasis is given to women as viewed through legal codes, their involvement in education, religion, and society, as well as male attitudes and views on women and their place in society. The scope of the work is not limited to the thirteenth-century and provides the Spanish woman's point of view of Spanish history. New avenues of inquiry are evident in these volumes as well. An excellent example of new scholarship is María Echániz's detailed analysis of the male manipulation of female physical space within the home and in society in general. She uses the concept of

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spatial spheres of influence and assesses the dominance of males in and out of
the home. Other scholars, such as María Rosa Ayerbe Iribar, Maria Asenjo
Gonzalez, Maria Isabel Perez de Tudela y Velaso, and Emilio Mitre
Fernandez, have contributed to the project in a volume that deals with
women and the Spanish legal system through various time periods. From
the laws of the Visigoths to social relations in the Fuero de Soria, to marriage
laws in Castile-León, the series provides valuable insight into the world of
medieval women in Castile-León and the antecedent legal traditions that
helped shape their legal status. English language assessments of women in
Castile-León have benefited from the Mujeres en Madrid series and serve to
widen the discipline of women's history in medieval Castile-León.

Published in 1984, Heath Dillard's Daughters of the Reconquest is by far
the most important work that outlines women's history in thirteenth-century
Castilian society. Dillard's work focuses upon the development of
women's lives in the Reconquest town setting from 1100-1300. Her thesis
revolves around the process of Reconquest and the eventual repopulation of
the Castilian frontier lands held and influenced by Muslim culture. Dillard
employed legal codes--town fueros, local tradition and custom, and the Fuero
Real--to assess the lives of women through their legislated rights and duties.
The lack of documentation left by Castilian town women necessitates the use

12 See Christina Segura Grañño, ed., Las Mujeres Medievales y su Ambito
Jurídico (Madrid, 1983), and the most recent volume in the series Arabes, Judías
y Christianas: Mujeres en la europa medieval (Madrid, 1992).

13 Heath Dillard, Daughters of the Reconquest: Women in Castilian Town Society,
1100-1300 (New York, 1984), and "Women in Reconquest Castile: The Fueros
of Sepúlveda and Cuenca." Women in Medieval Society, ed. Susan Mosher
of legal codes, despite their predominant male points of view. Due to the ever changing nature of Castilian frontier society, Dillard’s work centers around the premise of change and how it creates new social, economic, political, and religious realities for women in the town setting. Dillard integrates various primary and secondary materials and uses her sources to their utmost to produce a well written, researched, edited, and organized work. Her analysis and insight have expanded the field of knowledge and her citations provide excellent sources for further exploration. Heath Dillard’s integrative approach to the history of women in thirteenth-century Spain gives her work a place of prominence and permanence in the field. Her extensive use of legal codes provides a useful view of what activities women were engaged in and how they were viewed in society.

With a much sharper focus than Dillard’s expansive study, Marilyn Stone’s Marriage and Friendship in Medieval Spain: Social Relations According to the Fourth Partida of Alfonso X looks at social relations as promulgated via the Fourth Partida of Alfonso X’s Las Siete Partidas. Although useful and important for its topical scope and the potential to fill a gap in scholarship, Stone’s work fails to state or prove a thesis. Her use of primary materials is commendable and does offer for her reader some analysis on a linguistic level of the language of law. This work fails to analyze the impact and importance of the Fourth Partida upon the relations of the sexes. With the wealth of Alfonsine documents available, Stone has picked the one most contested by scholars in reference to its origins and composition. The Siete Partidas, while important as a legal digest, was never enforced as a legal code as was the Fuero Real. Therefore, the use of Siete Partidas as an indicator of women’s
social reality in the thirteenth-century is debatable. Current scholarship, including the work of Alfonso Garcia-Gallo, points toward the controversial nature of the *Siete Partidas* as a post-Alfonsine product.\textsuperscript{14} For a true assessment of social relations, Stone needed to expand her primary sources to include a brief summation of the importance of the *Fuero Juzgo* as a point of origin to launch the issue of social relations. As a bridge, a look at the *Fuero Real* would provide further material for analysis. With her extensive discussion of *Las Siete Partidas* she could have demonstrated the legal and social development of Castilian society and its importance upon social relations with respect to women. While ineffective in some areas, Stone’s work is of important value as one of the few studies of women in the Alfonsine legal tradition. The works of Dillard and Stone will be revisited in the final analysis of women and their role in thirteenth-century Castile-León later in this work. By utilizing primary and secondary sources the nature of women’s lives in thirteenth-century Castile-León can be elucidated and given the resonance and power of history they have lacked until recently.

\textsuperscript{14} See Alfonso Garcia-Gallo, "Nuevas observaciones sobre la obra legislativa de Alfonso X," *Anuario de historia del derecho español*, 46 (1976), 609-70.
CHAPTER II

WOMEN, MARRIAGE AND THIRTEENTH-CENTURY SOCIETY IN THE FUERO REAL

In her seminal work *Women in Roman Law and Society*, Jane Gardner ponders the question whether or not women were treated equitably under law as compared to their male counterparts. She states unequivocally that "women were not necessarily so gravely disadvantaged in comparison with men."\(^{15}\) A similar statement can also be made about the legal status of medieval Castilian women with respect to their male counterparts in the thirteenth-century. In an assessment of Spanish women in the Reformation period, Milagros Ortega Costa refutes the commonly held view of the repressed Spanish woman. "From the early medieval times to the beginning of the modern age, Spanish women enjoyed an equality with men not found in other European countries in economic matters, jobs, and their sexual life."\(^{16}\) To the outsider, unfamiliar with Castilian legal studies, the *Fuero Real*, at first glance, appears to be a male-dominated document. However, a deeper reading of the source yields surprising results. Of the one hundred and sixty-eight laws contained in the third book of the *Fuero Real* seven percent are centered upon women’s issues while seventy-two percent deal with male issues. While the majority of laws in the third book deal with men and their

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lives and actions in society, a gray area exists in which an additional twenty-one percent of the third book's laws are gender neutral and can be interpreted in favor of both males and females. Therefore, women can be said to be present in twenty-eight percent of all laws in the third book. These statistics begin to demonstrate the importance of women's roles in Castilian society and the necessity of legislation specifically geared toward the various aspects of women's lives. Further analysis of women's rights and responsibilities as mandated by the Fuero Real will demonstrate their prominence in not only society but the efforts of Reconquest and repopulation.

Of the twenty titles (títulos) contained in the third book of the Fuero Real ten are concerned with issues related to marriage, dowers, testaments, divorce, children, widows and orphans, and the distribution of marital properties. The remainder touch upon issues such as debts and payments, weights and measures, the costs of trials, and the relationships between lords and their vassals. The inclusion of family and marital laws in this book, which is clearly focused upon economics, provides insight into the prevalent social view of marriage as an economic and social rather than emotional union. For all their freedoms, women were still viewed as commodities through their marriages and duties to family and Church. With the movement of the Reconquest from town to town, men and women were encouraged to marry and share goods and property via the new system of laws to ensure that Christian economic and physical properties would remain in Christian hands and not those of the Muslim enemy. A topical analysis of each title and its impact upon women will showcase their relative strength in society as compared to their northern European counterparts.
Marriage in the *Fuero Real*

For thirteenth-century Castile-León the strength of the Reconquest was found not only in her military but also in families and the repopulation effort. The basis of society in this time of geo-political and social transition was the nuclear family and its mobility upon the Castilian frontier. Less important for new towns was the family establishment of extended ties that dominated the social landscape of earlier eras. The extended family was still important but not as mobile and adaptable as the smaller nuclear family unit. With marriage as the basis of the family structure it is no surprise that the first topic treated in detail in the *Fuero Real* is marriage.

Various titles in the third book of the *Fuero Real* deal with marriage. The first title outlines the mandates established by the Church and the royal administration on marriage. The fourteen laws in this title cover a wide range of issues related to marriage, including religious and royal provisions for and restrictions upon marriage, the marriage of underage girls, the roles of parents and other immediate family members in the complex process of a daughter's betrothal, and the rights of widows who wish to remarry. From these laws a portrait of medieval Castilian marriage comes into sharper focus.

In the third book's opening statement, the *Fuero Real* defines marriage as a primary, sacred function of the Church and less an economic function as later passages indicate:

> We establish and order that all marriages be performed with those words mandated by the Holy Church and that those who wish to marry do so in public free of sin. All marriages are to be performed in public with witnesses present in the event the marriage is challenged
and requires verification.\textsuperscript{17}

This practice ensured that the future husband and wife entered their new life together in solemn service to God, Castile-León and their families. The public nature of marriages also relates to and promotes the idea of consent between the future husband and wife, which in turn ensures the smooth transition of property between households, the spouses, and the formation of the family unit. The concept of medieval honor, and its role in the formation of a marital union in thirteenth-century Castile-León, is prevalent in the \textit{Fuero Real}’s provisions that rely upon the honesty of the individuals involved.

\begin{quotation}
If some persons promise by word or oath that they will marry each other, they will be required to fulfill this promise; but, if before they are to marry one another one of them gives him or herself to another individual in such a manner that it is considered to be a marriage, this marriage will be valid and not the first since it had not been consummated.\textsuperscript{18}
\end{quotation}

Furthermore, a couple promised to one another could revoke their promise of marriage if one of them wished to enter a religious order, provided that the marriage had not been consummated. In this manner the needs of the Church and the prospective couple were protected. Unfortunately, few primary sources or legal codes provide statistical evidence to assess the

\begin{footnotesize}
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\item \textsuperscript{17} Gonzalo Martínez Diez, José Manuel Asencio, and César Hernández Alonso, eds., \textit{Leyes de Alfonso X: Fuero Real, Edicion y Analisis Crítico} (Avila, 1988). III.i.1: "Establecemos e mandamos que todos los casamientos se fagan por aquellas palabras que manda Sancta Eglesia e los que casaren sean tales que puedan casar sin pecado; e todo casamiento fágasse conegeramient e non furto, de guisa que si fuere mester, que se pueda prouar por muchos."
\item \textsuperscript{18} \textit{Fuero Real} III.i.10: "Si algunos prometieron por palabra o por iura que casarán uno con otro, sean tenidos de complirlo; pero si ante que ayan de ueer uno con otro, algún dellos se otorgare con otro en tal guisa que sea casamiento, este uala e non lo primero."
\end{enumerate}
\end{footnotesize}
numbers of individuals that broke marriage contracts to join a religious order. Later legislation in the *Fuero Real* addresses the issue of the division of property from a marriage and its disposition when a husband or wife leave the union to join an order. How this legislation should be interpreted is speculative. From the woman's point of view, the *Fuero Real* provides an escape mechanism from a loveless, abusive or unhappy marriage if she was willing to enter a religious order. Just how many times this occurred is difficult to calculate from the legal texts alone. A closer analysis of convent records would provide further documentation to assess the full impact of this piece of legislation. However, the fact that a woman had the right to leave a marriage on her own terms, dispose of her property as she saw fit, and suffer little, if any, consequences is remarkable.

With respect to marriage, the *Fuero Real* further maintains that after a law sanctioned by the Church has been enacted a couple may not marry if there are unresolved circumstances connected with their eventual union.

We strictly forbid that anyone, after the command of the Holy Church has been put into effect, should dare marry. Also, if two people file a claim regarding their marriage, we forbid either of them from marrying elsewhere until the claim is settled by a judgment of the Holy Church.19

As the *Fuero Real* continues to outline the provisions of marriage, safeguards against marriage fraud are outlined in more detail. To commit forgery or any other fraudulent act to ensure an otherwise illegal marriage was a basis for an

19 *Fuero Real* III.i.7: “Firmemientre defendemos que ninguno non sea osado de casar contra mandamiento de Sancta Eglesia pues que les fuere defendido. ortossí defendemos, que si pleyto de casamiento fuere comencado entre algunos en iudizio, ninguno dellos non sea osado de casar en otra parte fata que el pleyto sea terminado por iuyzio de Sancta Eglesia.”
annulment of the marriage and carried with it harsh economic penalties for both parties involved.

No man who has been lawfully married to another woman should dare to marry another women while his first wife is alive unless they have not taken the sacraments or lived together as one in marriage. We also forbid any person from knowingly marrying a person that is pledged or married to another. Anyone who disobey this order must pay 100 maravedis, one half to the person wronged and one half to the King.20

The law later states that the same order applies to a woman who has been betrothed to a man or is already married. She suffers the same penalty under law with the noted exception that if her future husband is married and she takes him from his wife under false pretenses, the wife of the man in question has the right to choose any punishment except death for the "other" woman.21 No provision of this nature is found in the Fuero Real about men in the same situation. Their sole punishment is economic and not physical. A clear distinction between the sexes is drawn with respect to punishment under the law. Men suffer the burden of economic rather than physical

20 Fuero Real III.i.8: “Ningún onme pues que fuere otorgado derechamente por marido con alguna mugier con sea osado de casar con otra miente que aquella uiuiere, maguer non ayan tomado benediciones nin moraren en uno; e esso mismo mandamos de la mugier que fuere otorgada con alguno. Otrossi defendemos que con atal onme e con atal mugier como sobredicho es ninguno otro non case con dellos sabiendo que tal pleyto ha con otro, e qui contra alguna daquestas cosas fизiere, peche C morabedis: la metat al rey e la metat a aquel que fizo el tuerto, e el pleyto que fizo en esta guisa non uala.

21 Fuero Real III.i.11: “Ninguna mugier, que ouiere marido fuera de la tierra, non sea osada de casar con otro fata que sea cierte de muerte de so marido. Ortossi aquel que con ella quisiere casar trabágese quanto pudiere de saber uerdat de la muerte o de la uida daquel so marido, e dotra guisa non sea osado de casar con ella e quiquier que contra esto fизiere,, si despues el marido primero uiniere, sean amos metidos en su poder e puédalos uender o fazer dellos lo que quisiere, de muerte en fuera.”
punishment except in cases of rape, incest or murder. Whether the compilers of the *Fuero Real* felt that physical punishment was or was not necessary or appropriate for men is difficult to ascertain. However, it is evident that women not only needed to be punished through economic means but physical as well. Does this trend mean, however, that women needed physical punishment due to a lack of economic resources? Only by analysis of a combination of public and private documents, such as wills, testaments, diaries, legal codes and family records, can this question be answered adequately.

For women, forms of physical and economic punishment are common in the provisions of the *Fuero Real*. However biased these laws may appear, many were designed to protect women from the actions of unscrupulous men. According to the *Fuero Real* young women who are not of marriageable age must select a mate who is appropriate for her social rank with the approval of her family. However, the selection of her future husband cannot lead to her disinheriting except in special circumstances.

If the parents of a woman that is of marriageable age dies and a man asks her brothers for her hand in marriage, if the brothers and the young woman agree upon her suitor, she may do so. However, if she were to marry against their will her brothers may not disinherit her for love or lack of avarice on their part, unless he is an enemy of her family or he has committed an affront to her family. Even if his social standing is equal to theirs, it is not right for her to marry him and she may be disinherited of her portion of her parent's estate.²²

²² *Fuero Real* III.i.2: “Si el padre o la madre dalguna mugier que sea en cabellos muriere, e alguno la pidiere pora casamiento a sus hermanos e fuere tal que la mugier e los hermanos sean entregados en él, y por malquerencia o por cobdicia de tener lo suyo o por deseredarla, si casase sin su mandado, non la quisieren casar e ella entendiendo este enganno e afrontándogelo casare con él o con otro que conuenga a ella o a sus parientes, los hermanos non la puedan deseresar por tal razón, fueras si aquel con qui casó era enemigo de
In this manner, a woman's right to choose her mate is protected as her brothers or guardians cannot refuse a perfectly legitimate candidate for their sister. Furthermore, they may not disinherit her or refuse her the portion set aside for her dower due to her choice, provided the intended spouse is not an enemy of the family. Similar provisions are found in this section of the *Fuero Real* with respect to widows who wish to remarry.

If a widowed woman or one who has a man or friend should marry after the death of her father or mother without the blessing of her brothers, she should not be disinherited because of this, for since they knew about that error and tolerated it, there is no reason for them to disinherit her because of her marriage.²³

Many Castilian women choose to remarry and continue the bonds of family life rather than live in widowhood and the destitution it brought with it in other parts of Europe. The intent of the law and its implied moral lessons are apparent. The woman in question should not be punished for a marriage that is legitimate if her brothers do not approve, especially if their sister is a widow, for she has gained a measure of respect due to her previous marriage. Her new marriage is, however, referred to as an "error" and is simply to be "tolerated" by her brothers. Whether this is a measure of freedom for women to exercise greater control over the selection of their

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²³ *Fuero Real* III.i.3: “Si alguna mugier bibda o que aya auído sennor o amigo casare después de muerte de su padre o de su madre sin uoluntat de sus hermanos, non sea deseredada por ello, ca pues quel sopieron aquel yerro e ge lo suffrieren non es razón por el casamiento la deuan deseredar.”
mates or is a form of legal parentage is debatable. The fact that the woman retains control over her inheritance is the key factor in this and the aforementioned law. Women in these circumstances are given the opportunity to make decisions and accept their resultant consequences. This in itself is a form of freedom of choice women in other parts of Europe did not possess at this juncture in time.

The legal concept of consent is also an integral part of the dynamic relationship between young women, their families and the process of marriage. Widows exercised greater control over their affairs. After the death of a husband, a widow gained the unrestricted right to remarry and choose her mate even if her parents are still alive. This points toward the social cohesion that is provided through marriage. By making it easier for widows to remarry, property and families remained intact and firmly entrenched in Castilian Christian society. However, a widow must observe a year of mourning before she may remarry. If a widow married within this year of mourning, she would forfeit her dower, all claims to her share of her husband’s marital property and in some cases the custody of any minor children produced during the marriage. Curiously absent in the pages of the Fuero Real is a provision of similar nature with regard to widowers and their wishes to remarry after the death of their wives. Whether this is an oversight or a commentary on the social freedom enjoyed by men in greater measure is open to debate. However, the implication is evident that women, given their assumed frailty during grief, needed increased legal protection and intervention to ensure their best interests.

24 Fuero Real III.i.4: "Toda mugier bibda maguer que aya padre o madre pueda casar sin su mandado dellos si quisiere[en non aya pena por ende]."
In many instances the best interests of a young woman ready to marry were determined by her parents, brothers or appointed guardians. In these circumstances the young woman in question was given certain freedoms that acted in her favor if her guardians were unable to help her make appropriate decisions about marriage. The *Fuero Real* mandates that if the parents, brothers or other relatives are guardians of a young woman they have an obligation to find her a suitable mate by her twenty fifth year. If they fail in this attempt, the young woman may exercise the right to choose her future husband or accept any offer of marriage made to her. As long as the intended husband is not an enemy of the family the young woman will suffer no monetary penalty.25 Underage women accrued monetary penalties associated with marriage in other circumstances with respect to her parents. If a minor woman, who is not a widow, were to marry without the consent of her parents she would forfeit her share of any inheritance to be received upon the death of her parents. The *Fuero Real* directs that:

> If a girl who is not of age marries without the consent of her parents, she will not receive her share in the property of her mother or father, unless her mother or father forgive her, or if one forgives her and the other does not she may share in the property of the parent that forgave her. And if after her marriage the living parent is the one that did not forgive her and decides to do so, she may have her share in these goods.26

25 *Fuero Real* III.i.6: “Si el padre o la madre o hermanos o otros parientes touieren en su poder manceba en cabellos e non la casaren fata XXV annos e ella despues casare sin <su> mandado, non aya pena por ende casando ella con omne quel conuiene.”

26 *Fuero Real* III.i.5: “Si la manceba de cabellos casare sin consentimiento de su padre o de su madre, non parta con sus hermanos en la buena del padre nin de la madre, fueras ende si el parde o la madre la perdonaren; o si uno la perdonare e el otro non [seyendo amos uiuos, aya su parte en la buena daquel
In this manner, families could restrict their underage daughter’s right to inherit property from them in the event she married an unsuitable partner. This law provided families with a safety mechanism by which they could control the flow of wealth into their daughter’s hands and those of her husband. For all its obvious implications for the young woman, the law does to a certain degree protect her from men who sought a marriage of convenience for money or property. The law does allow for families to forgive the young woman in question and thus restore her inheritance. Men, however, are not subject to the same stringent rules with respect to the inheritance of property and their family’s wishes in their marital affairs. Men are simply restricted from marrying an underage girl without the consent of her parents or brothers. Like many other laws in the Fuero Real, this particular statute is negatively gender biased toward women and restricts their choices with respect to social relations outside the home.

Even when a young woman was fortunate enough to exercise freedoms and greater social mobility with respect to the selection of her future husband, the Church, in all its socio-political complexity, casts a large shadow over all actions involved in the process of marriage. According to the law mandated by the Fuero Real all persons must marry in accordance with all the commands of the Church and may not enter into marriage if one or the other partner is either married or involved in an active marital dispute before a judge. Until all disputes are ended or decisions are rendered by an official of the Church, neither individual may enter into a marriage anywhere in or outside of the kingdom of Castile-León. This law serves, as do the

que la perdonó E si el uno fuer e el otro non] al tiempo que casare aquel que es uiuo la perdonare, parta en los bienes damos a dos."
others outlined above, as a social litmus test to ensure the spiritual and social quality of a marriage. Economic factors also play a vital role in the process of marriage in medieval Castile-León. A major factor in this process was the husband’s gift of a dower to his betrothed.

Dowers and Dowries in the *Fuero Real*

The medieval dower, in some limited respects, resembles the modern prenuptial agreement. In both cases, a careful summary of what each party brings to the marriage in the way of goods and other assets is paramount. In the event of a divorce or the death of one of the spouses, both dowers and modern prenuptial agreements serve as mechanisms to divide marital property and assets between both parties or their representatives. After marriage, the *Fuero Real* addresses the issues connected with dowers and how they are to be regulated and by whom.

Men and women both, in some cases, brought a dower/dowry to their marriage. In the case of a man, the dower was a gift given by him to his wife. For the wife’s part, the dowry was a gift from her parents to her husband that was to be kept under his watchful supervision for her future use in married life. This gift could take the form of a traditional bride price, in limited occasions, or her inheritance. To fully understand the Castilian legal position on dowers and dowries, it is necessary to briefly mention such payments and gifts as they were defined in other areas of Europe. In Barcelona, for example, the traditional Visigothic dower brought to a marriage by the husband was slowly being supplemented by a payment
brought by the wife (dowry) in the eleventh and twelfth centuries as well.\textsuperscript{27} This clearly runs contrary to the Castilian model established in the \textit{Fuero Real} in which the dower is predominate. Other scholars, such as Diane Owen Hughes and Jack Goody, have looked at other areas of Europe and the Mediterranean and have argued that medieval marriage and its associated customs underwent a change that saw the "brideprice" supplanted by the Roman version of a dowry. According to Hughes, the devaluation of the brideprice and the emergence of the dowry, in the Mediterranean, signaled a new method of economic and social exclusion toward women. Women, when given a cash dowry, were left unable to inherit other forms of property that would ultimately fall into the hands of their male siblings. In this manner, women were left out of the process of property inheritance.\textsuperscript{28} In Hughes' assessment, this process constituted a marginalization of women away from their kin groups and their share in their families' wealth. Goody, on the other hand, views the transformation of the brideprice to a dowry not as an obstacle to women and their ability to inherit from their families, but rather as a process by which sons and daughters inherited equally in measure and were afforded greater flexibility as to when they could receive their share normally given upon their parents' deaths.\textsuperscript{29} While the \textit{Fuero Real} contains

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\textsuperscript{28} Diane Owen Hughes, "From Brideprice to Dowry in Mediterranean Europe," \textit{Journal of Family History}, 3 (1978), 262-96.

\textsuperscript{29} Goody's analysis of the transformation from brideprice to dowry includes a lengthy discussion of the terminologies used to express these legal transactions. For the sake of clarity, the terms "dower" and "dowry" will be used. Jack Goody, \textit{The Development of the Family and Marriage in Europe} (New
several pieces of legislation with respect to dowers, its pages are almost silent with respect to the dowry. How to interpret this silence is a topic open to debate and speculation. The most plausible explanation, however, is that the number of women on the frontier in relation to men was far less than necessary for a vibrant marriage market. Dowries were less necessary with fewer women living in frontier establishments, and, therefore, dowry inflation was less. The role of marital property and asset distribution and management was geared toward the creation of a new social unit, namely a family, and the protection of its assets from outside economic and social forces. Therefore, joint control with respect to the use of dowers and dowries and other assets, as provided for in the Fuero Real, ensured economic stability for women and their families. In the Fuero Real’s title on inheritances, parents are ordered to offer the same amount to sons and daughters for use in the event of their marriage. Of course, for the son this constitutes a dower and for the daughter a dowry. With women a valuable asset for marriage and the process of the repopulation during the Reconquest, the lack of a dowry, or bride price, signals a need to make marriage affordable for men, women, and their families. According to Dillard, the fixed Castilian arras ensured that bachelors, who were needed desperately in the repopulation efforts of new towns as well, could afford marriage.30 To ensure that marriages were legitimate and to keep them affordable for all socio-economic

York, 1983), 240-61.

classes of society, the *Fuero Real* mandates a cap on dowers.

Any man who marries ought not give more dower to his wife than one tenth of what he has, and if he wants to give more than he has and if he does indeed give more than one tenth, his family may sue him in court for the amount of the dower.\(^3\)

The law limits a man’s ability to offer higher dower amounts in an effort to ensure that marriages are legitimate and entered into in good faith. For a prospective husband, the dower cap provides a form of financial stability and allows the marriage market to flourish. With a ceiling on the amount of dower a man can give, a woman can possibly count on as much as ten percent of her intended husband’s overall worth: for a husband, this means marriage is economically feasible. However, for the future husband with very limited resources, the *Fuero Real* gives the man the ability to hold off payment of the dower to ensure that the union commences.

If a man is too poor at the time when he marries and there exists no dower, and he promised his wife that he would give it to her after he earned it, we mandate that whenever she demands the dower from her husband he must give it to her in the manner of no more than one tenth of what he has at the time of her request.\(^2\)

For the wife, the protection of her right to demand the payment of the dower promised to her by the husband is subject to his ability to produce the

\(^{31}\) *Fuero Real* III.ii.1: “Todo onme que casare non pueda dar más arras a su mugier del diezmo de quanto ouiere, e si más le diere o pleyto sobrello fiziere, non uala; e si por auentura más diere, los parientes más propinquis del marido lo puedan demandar por él.”

\(^{32}\) *Fuero Real* III.ii.2: “Si alguno fuere tan pobre en el tiempo quando casare e non ouiere de qué arras e prometi6ere a la mugier con que casa ge las dará daquello que despues ganare, mandamos, que quandoquier que ella demandare a so marido que entregue las arras quel prometi6, que las dé, de guisa que non le dé más del diezmo de quanto que ouiere [al tiempo que ge las demandare].”
necessary assets and whether or not she is twenty-five or more years older. The ideal circumstances for a woman to receive a dower are based upon several factors including her age, her family’s authority over her actions, and her husband’s financial status.

While women over the age of twenty-five exercised total authority over their dowers, a young woman (*manceaba en cabellos*) under this age was subject to strenuous legal protection and hindrance with respect to her dower assets. According to the *Fuero Real*, when a man marries a woman that is under the age of twenty five, he must place the dower in his in-laws control. "When a man marries a young woman, if she is not twenty five years old, the mother or the father of the young woman have the authority to guard her dower so it cannot be sold or confiscated."\(^{33}\) In this manner, a woman is protected from financial mismanagement of her assets. If her parents are deceased, her brothers or closest living relatives have the authority to guard her interests. One aspect of familial control over a young woman’s dower includes the right to request that the dower be paid to her upon her twenty fifth birthday or when she requests the dower for a specific purpose. Once the dower is received by the wife, the couple controls it as communal property, with the consent of the wife necessary for its use. However, when the bonds of marriage are strained or transgressed, a woman’s access to her dower is altered.

If a woman commits adultery and it is proven, she loses her dower if

\(^{33}\) *Fuero Real* III.ii.3: “Quando el que casare diere arras a la manceba con qui casare, si ella non ouiere XXV annos, el padre o la madre de la manceba aya poder de guardar estas arras por su fiiiia, por que se non pueden uender nin enagenar.”
her husband wishes. Similarly, if the woman leaves the home of her husband to take part in or separates from him to commit adultery, she loses her dower and any gifts given to her, even if it is not proven that she completes the act in question, because perhaps some obstacle prevented her from doing so. In such a case, the failure to commit the sin was due to circumstances beyond her control and not due to her strength of will.34

Curiously, the same punishment is not applied to husbands that stray from their wives and take up mistresses. This is but one of many examples of how the Fuero Real disciplines women and men in different ways for identical crimes. Here the woman’s supposed weak nature is showcased and her husband’s authority over the eventual disposition of her dower is enhanced. Clearly, her authority is challenged and openly usurped even if the hint of impropriety is evident. For a husband, the same behavior is overlooked and tacitly approved through this lack of legislation. Equality between the sexes is therefore only applied in selected matters of marital life. For women, this legislation has the potential to negatively influence the future of her children with her husband through her loss of the dower, which could have legally been incorporated into her estate and passed to her children.

The fate of women and their dower rights affect the children produced in a marriage as well. The Fuero Real maintains that a woman who has children with her husband has the unrestricted right to make her children the inheritors of her dower. The law mandates that the husband must honor the wishes of his late wife with respect to her dower and its final disposition.

34 Fuero Real III.ii.6: “Si alguna muger fiziere adulterio, sil fuere proouado, opierda las arras si el marido quisiere. Ortossi si la muger se fuere de casa a su marido o se partiere d6l por raz6n de fazer adulterio, pierda las arras, maguer non sea prouado que cumpli6 la maldat que quiso <por> algún embargo <non la pudo fazer> que non finc6 por ella de lo complir.”
This mandate holds true even if the couple has no children and the woman has clearly stated wishes for the final use of her dower. If the woman in question died intestate, her husband was responsible for the equal division of her dower between her children. The possibility of remarriage affects this process as well.

If a woman had children with two or more husbands, each of those children inherits the dower given to their mother from their father and the children of one father cannot partake of the dower from another father; and if the father or mother wishes to give a dower to their son or daughter, they ought not give more than one tenth of what the child will inherit.\(^{35}\)

The *Fuero Real* ensured that the dower of one father was not given to a child other than his own. This use of legitimacy of children was not only an economic measure but one of social control as well. This legal maneuver ensured that a woman’s past marriages, children and behaviors were never completely put to rest. The lines of inheritance of possible rival families, only united through the marriage of a woman and her subsequent remarriage, were delineated and left intact thus preserving the social order. For women, however, the communal sharing of earnings from employment and other activities outside the household provided an opportunity for financial stability in the face of male economic domination outside the home.

**Marital Earnings in the *Fuero Real***

The distribution of marital assets and earnings helps to define the role

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\(^{35}\) *Fuero Real* III.ii.1: “E si la mugier ouiere fiios de dos maridos o de más cada uno de los fiios hereden las arras que dio su padre, de guisa que los fiios de un padre no partan en las arras que dio el padre de los otros. E si el padre o la madre quisiere dar arras por su fiio, no pueda dárs más del diezmo de lo que puede heredar dellos.”
of women in the economic union of marriage. The formation of a nuclear family unit brought with it the need for increased economic stability. The dowry brought to a marriage by a wife, in some circumstances, and the dower given to her by her husband is but one of an assortment of complex pieces in the puzzle that is medieval Castilian marriage. All earnings from a marital union, whether they be from the labors of the husband or wife, are another aspect of importance in the assessment of women’s social standing in thirteenth-century society.

Men and women upon marriage share the fruits gained through their labors communally. Whether the husband or wife earns more is not of importance but rather the fact that they share in almost all assets equally. How much women were able to earn and contribute to the household economy is not the issue at hand but rather the fact that they did possess equal rights and access to marital assets.

All things that the husband and wife earn in their marriage they share communally, unless something was a donation to one of them in specific from the King, then in which case the one to whom it was given governs it alone.36

This establishes the right of women to exercise sole possession over some forms of marital income or assets such as personal belongings, gifts of various forms made directly to her, her dower and any other assets specifically earmarked for her use. It also gives the woman a right to maintain control over an equal share of her husband’s earnings even if she does not contribute

36 Fuero Real III.iii.1: “Toda cosa que el marido y la mugier ganaren o copraren de souno, áyanlo amos por medio; e si fuere donadío de rey e le diere a amos, áyanlo amos, marido e mugier, e si lo diere al uno, áyalo solo aquel a quien lo diere.”
to the economic life of the household through employment. Her role as a wife and later as a mother are, to an extent, rewarded through this freedom. Another form of donation, an inheritance, carries with it special stipulations as a marital asset dependent upon the provisions of the will in which its disposition is outlined.

If a husband receives something by inheritance from his father or mother or from another family member or through a donation from a lord or from one whom he has served through service in battle, he is to keep all that he gains as his own, and if a man was in battle without pay, he shall be paid for his service.37

Even though this law deals directly with men, the same principle holds true for women, as they are allowed to keep any earnings they make on their own. Earnings made through the labors of the husband and wife together are, however, communal property, as is their home and its major contents such as furnishings and materials necessary for the sustenance of the family. Women had the opportunity to take a share of their husband’s spoils of war and war pay if she were able to make a donation of a saddle, bridle or boots to his military service effort. For women whose husbands died in battle this was an insurance policy of sorts that guaranteed that their husband’s horse, armor, sword and war spoils would be returned to her for whatever use she deemed fit.

37 Fuero Real III.iii.2: “Si el marido alguna cosa ganare de herencia de padre o de madre o de orto propinquo o de donadio de sennor o de pariente o de maigo o en hueste en que uaya por su soldada de rey o de otri, áyalo todo quanto ganare por suyo; e si fuere en hueste sin soldada a cuesta de sí e de su mugier, quanto comunal desta guisa sea del marido e de la mugier, ca así como la cuesta es comunal así lo que ganare sea comunal damos. esto que es sobredicho de las ganancias de los maridos e esso mosmo mandamos del as mugieres.”
The possibility that a wife may enter into a marriage with more financial assets than her husband is also addressed in the pages of the *Fuero Real*. When a couple married, a careful accounting of the assets each brought to the union was paramount. Even though assets were to be mutually and communally shared between the husband and wife, if profits were derived from the dower of the wife, for example, they were her profits to control.

Even though the husband may have more than the wife or the wife than the husband, whatever in inheritance or in moveable goods, the fruits of the marriage are to be shared communally and mutually between them; the inheritance and other things from which fruits and profits derive are to belong to whoever originally owned them, whether it be the wife or the husband, and to the appropriate heirs.38

The above law is somewhat contradictory and confusing as assets are defined as communal marital property to be jointly controlled. At the same time however, a clear division between the husband and wife’s properties is evident. This clearly is an attempt to ensure that the husband and wife have the ability to maintain control over the assets they brought to their marriage in the event of death or divorce. Women had the ability to maintain this control over their assets and assured that they would not be destitute as a divorcée or widow. In a society geared for battle as was thirteenth-century Castile-León, young women married husbands who were much older and thus leaving many young widows. This legal construct ensured that women were not destitute as widows and therefore a burden on their families or society. This concept is absent in many other European legal codes of the

38 *Fuero Real* III.iii.3: “Maguer que el marido aya más que la mugier o la mugier que el marido, quier en heredat quier en mueble, los fructos sean comunales damos a dos; e la heredat e las otras cosas don uienen los fructos áyalos el marido o la mugier cuyas eran o sos herederos.”
time in which men controlled marital assets, dowers, inheritances and their final disposition. In this case, the nature of Castilian society and its socio-political development benefited women through increased rights and responsibilities with respect to marital earnings.

Wills and Inheritances in the *Fuero Real*

The fifth and sixth titles of the *Fuero Real’s* third book deal with the thorny issues of wills and inheritances. Through the process of property exchange via legal means, such as a will, medieval Castilian society ensured that lands, moneys and goods remained in Christian hands rather than those of Muslims, Jews or heretics. While the fifth title makes very little mention of women, its provisions establish a framework in which men seem to control the flow of property after death. However, as the sixth title of the *Fuero Real* unfolds, the rights of women as inheritors are outlined and their roles as benefactresses in wills is apparent.

When men drafted their wills in medieval Castile-León they needed to follow a prescribed process in which a public scribe took the testament down and filed it in the local record office in cartularies. The scribe and the drafter of the will both had the obligation to affix their seals to the document to make it legally binding. Once this was completed, the will was valid for all time. Amendments to a will could be made so long as it was completed by a scribe, signed by the appropriate parties, and sealed. No mention of women is made in the process of drafting a will. However, wills of women have been found and support their legal right to draft such documents.

The *Fuero Real* places a set of restrictions upon specific individuals in
society deemed unfit to draft a will. It is important to note that women are not mentioned among these individuals unless they fall into the outlined categories.

We mandate that those who are underage, or have amnesia, or have no common sense, or those who are serfs or those judged to die for a crime they have committed, or heretics or men of religion or clerics will not make a will and if they do so the will is not valid.\(^\text{39}\)

Individuals in the above categories were prohibited from drafting wills. Any possessions or financial assets in their possession at the time of their death would become the property of their lord or the King himself. In an attempt to keep assets away from undesirable individuals, the *Fuero Real* places restrictions upon who can inherit assets and act as the executors of a will as well.

We order that no serf, nor religious man or woman, nor a man that is underage, nor a madman, nor a Muslim, nor a heretic, nor a Jew, nor a mute, nor a deaf individual nor a perfidious or treasonous man, nor one that is judged to die for crimes or has been banished can be the executor of any will.\(^\text{40}\)[Furthermore] we defend that no man can will his things to a heretic, nor a man of religion, unless the items are willed to his monastery, nor a perfidious or traitorous man, nor a man that saw his master be murdered or wounded or take captive, nor a son or daughter conceived in adultery nor to a woman of a religious order.

\(^{39}\) *Fuero Real* III.v.5: “Establecemos que los que non fueren de edat, o non fueren en su memoria e en su seso, o los que fueren sieruos, o los que fueren iudgadol a muerte por cosa atal que deuen perder lo que an, o los que fueren eres o omnes de religion o cléricos de las cosas que tienen de las eglesias, que non fagan mandas e <si> las fizieren non ualan.”

\(^{40}\) *Fuero Real* III.v.7,10: “Mandamos que ningún sieruo nin religioso nin muger nin omne que non sea de edat nin loco nin erexe nin moro nin judío nin mudo nin sordo nin omne que sea dado por aleuoso o por traidor nin omne que sea iudgado a muerte nin omne que sea echado de tierra, que non puedan ser cabecales en ninguna manda. Defendemos que ninguno non pueda mandar de us cosas a ningún erexe nin a omne de religión después que fiziere promisión fuera si lo mandare a su orden o a su monasterio nin a
Once again, women are given very little attention in the legislation of wills and the process in which they are drafted and inheritors named. The *Fuero Real* addresses the issue of women and their right to inherit property in the sixth title on inheritances.

Inheritances were a method by which women gained access to previously male-dominated forms of property such as homes, lands and business assets. The laws of the *Fuero Real* clearly delineate who is a rightful heir and under what circumstances they can receive the benefits of a will and who controls such assets. Issues of marriage, divorce, and adultery are prevalent in the stipulations placed upon inheritance. Clearly, natural or legitimate children held preference in the inheritance process, while illegitimate children were ignored altogether.

A man who has children or grandchildren or descendants with his wife cannot bequeath to them, along with other children he may have with a mistress, more than one fifth of what he has. From this amount he can give to his children whatever he wishes for them to have.41

A man is restricted from taking away any inheritance earmarked for his parents, if they are still alive, in favor of illegitimate children. The inheritance rights of the later, along with those of their mother, are questionable. If, however, a man is unmarried and has children with a woman and marries her at a later date, the children become legitimate and

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41 *Fuero Real* III.vi.1: "Todo omne que ouiere fiios o nietos <o dent ayuso> de mugier de benedicion, non puedan heredar con ellos otros fiios que aya de barrangana, mas del quinto de su auer mueble e rayz puédales dar lo que quisiere."
they along with their mother are the legal beneficiaries of their estate. For women, it was in their best interest to have children out of wedlock with unmarried men, even if the men were never to marry them after the birth of the children. A man retains the right to leave an inheritance for the sustenance of these children provided he does not marry and have legitimate children at the time he drafts his will. These circumstances could be affected further if a man were to die with a pregnant mistress or wife left behind. In this case, the family of the deceased must register his property before the mayor of the town. Once this is completed, the pregnant woman retains control over the property until the birth of her child. After the child arrives and is baptized it will receive the property of the father. Of course, the birth must be attended by two reputable women of the community to ensure that the child indeed survives. Here the indication of falsifying an infant’s death in order to receive property is paramount for if the child dies the property in question reverts to the family of the deceased. Family relationships and kinship ties are paramount, in the establishment of the legal right to inherit or be named an inheritor. When these relationships become entangled the process is complicated even further.

An example of the above mentioned situation is best exemplified when a man, already married and with family, marries another woman and raises yet another family. The nature of thirteenth-century Castilian town life often meant that men were away from their families for long periods of time. In some documented cases, men took second wives and raised entirely new families while the first wife and family awaited their return at home. The Fuero Real addresses the situation not by acknowledging the man’s deceit but
rather by the woman's actions.

If a man that is married and has a wife living marries another woman and has children with her, they shall become rightful heirs so long as their mother had no knowledge of the husband’s previous marriage. She and the children will have half of the property they earned together. If, by chance she knew that her husband was already married, she and her children would not receive these benefits. If the second wife knowingly married the husband of another living woman, and they had no children, the legitimate first wife may take this woman into custody and do with her whatever she wants except kill her.42

For a husband in this situation, there are few if any penalties connected with his second marriage and family except for the encumbering economic burden. However, for the unfortunate second wife the circumstances of such a union are mixed. A second wife may inherit up to fifty percent of the earnings she and her husband made together. Therefore, she and her children, if any, will not be left destitute. However, if she knew about her husband’s first wife she faced an uncertain future both financially and socially. While the Fuero Real spares her the penalty of death at the hands of her husband’s first wife, she and her children share equally in the shame attached with their illegitimate legal status. A woman’s best interests were served when she was ignorant of her husband’s personal affairs. In this instance, women were rewarded for ignorance. How this has affected the stereotypical image of the subjugated Hispanic woman is difficult to assess,

42 Fuero Real III.vi.4: “Si omne que ouier mugier casare con otra e ouiere fiios della, si esta con quien casa non sopiere que él era casado, estos fiios sean herederos e ella aya la meetat del os bienes que ganaren de consouno; e si por auentura lo ella sabi, los fiios non sean herederos e esta que a sabiendas casó con el marido ageno sea metida con todos sus bienes, si fiios legítimos non ouiere, en poder de la mugier que auíe aquel marido e faga della lo que quisiere fuera que la non mate.”
but is a question worthy of future further study.

Another case in which family entanglements factor into the inheritance process centers around the recognition of survivors and the manner in which goods are distributed to them based upon their location. The Fuero Real is very specific in its definition of marital property and who is the marital survivor. If a husband or wife dies, all that they shared through their union is considered marital property. The surviving spouse is therefore the rightful owner of this communal property. These properties would later pass to other family members, such as sons, daughters, grandchildren or nieces and nephews, via the testamentary process. This process becomes muddled when an individual, particularly a man, names an heir, whether related by blood or not, while unmarried.

Any man that is not legally married who wishes to name a child as his heir can do so. If by chance this man marries afterward and has legitimate children with his wife, these children shall be his rightful heirs and not the previous heir he named. This will also hold true for any man who takes the child of his mistress, whether is be his or not, as an heir.43

Once again the question of familial relationships and the idea of legitimacy play an important role in the establishment of the order of inheritance. With the relationship between a husband and wife as the basis for all property transactions, women were accorded a position of relative social and financial security and control so long as they remained faithful to their husband and did not interfere with his external affairs. However, spiritual affairs and

43 Fuero Real III.vi.5: "Todo omne que non ouiere fiios de bendición e quisiere recibir a alguno por fiio e heredarle en sos bienes, puédalo fazer; e si por auentura después ouiere fiios de bendición, hereden ellos e non aquel que recibió. E esto mismo sea por el fiio de la barragana que fue recibido por fiio et heredero."
marriage create a new set of difficulties for the testamentary process. After a marriage has taken place, the husband and wife both possess the right to take vows and enter the religious order of their choice. This situation raises the question of who now becomes the rightful heir to this property— the spouse, their children or the Church? The Fuero Real provides a unique solution to the problem. Whichever spouse enters a religious order, he or she has one year to file a testament and prescribe the conditions under which their property is to be divided. The spouse and children are the rightful heirs and can be provided for through the testament. However, if this process does not take place within a year, the property in question would revert to the Church. Whichever order the spouse joined would become the final beneficiary of the property and the family would lose all legal claim. To what extent this situation occurred is not clear, but the fact that it is provided for by law is an indication that the situation did arise. Whether this was an avenue of escape for women caught in abusive, loveless marriages is also speculative. The role of religion in society is apparent in further legal actions in the Fuero Real. To protect Catholic Spain from the encroachment of Jews, Muslims and heretics, the Fuero Real addresses the issue of these individuals as possible heirs.

We defend that no cleric or layman can in his lifetime or at the time of his death make a Jew, nor Muslim, nor heretic nor a man who is not Christian his legitimate heir. And if some man does this, the will shall be invalid and the King will inherit all of the property in question.44

This action is a direct result of the process of the Reconquest and repopulation

44 Fuero Real III. vi.16: “Deffendemos que ningún clérigo nin lego non pueda en uida ni en muerte judío nin moro nin herege nin omne que non sea christiano fazer heredero; e si alguno lo fiziere, non uala e el rey herede todo lo suyo.”
of former Muslim and Jewish areas. To prevent the penetration of Muslim and Jewish beliefs into mainstream Christian society, all familial associations between the three communities were strictly controlled. Women are not mentioned specifically in this passage as possible heirs or as the drafters of a will. The ideals of thirteenth-century chivalry are the likely culprit for this omission. While women are mentioned throughout this section of the *Fuero Real* as heirs and the creators of wills, here they are curiously absent. The protection of women from harm and corrupt influences surely extended to include Jews, Muslims, heretics and other non-Christian facets of society. The traditional male role as provider and protector of the home and family creates a legal system peppered with sexism that practiced exclusion and segregation of women from activities deemed dangerous to their moral and physical safety.

Women, Orphans and Guardianship in the *Fuero Real*

Once the order of inheritance is established through the testamentary process, women and children are, in some cases, provided with financial security. However, the prospect of both parents dying while their children were young existed in medieval Castile-León much as it does in society today. Therefore, women and children are subject to the laws of guardianship as well. In the seventh title of the *Fuero Real*, these issues are explored in detail. A guardian was any man who was twenty years of age, trustworthy and of good financial and social credit. The death of a parent,

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45 *Fuero Real* III.vii.1: “Todo omne, que quier de guardar huérfanos e sos bienes, e deue seer de XX annos al menos deue seer cuerd e de buen testimonio e abondado. E si tal non fuere non pueda guardar a ellos ni a sos
particularly the father, meant that the wife must carry out a prescribed set of duties to ensure that she and her children would be provided for and remain together. For a woman, the failure to comply meant that she lost not only her portion of the inheritance but the custody of her children as well.

If the father dies and the children are not of age, if their mother does not remarry she can control their property if she so desires, and may retain custody of the children until they are of age. She will receive the property of the husband in writing before an audience of her husband’s closest living relatives and in front of the mayor. If the mother remarries, she will lose custody of her children and the property from her husband.46

For a widow with children, the best course of action was to remain single until her children reached adulthood and were able to care for themselves. Her financial and social interests were protected as long as she remained faithful to the memory of her deceased husband and raised his children. This particular law raises an important question in relation to whether or not both sexes are treated equitably under law; does this legal action hold true for men who are widowed and left with their children to raise?

If the mother dies leaving the father and children behind, he will have custody of the children and the possession of their property as the law

46 Fuero Real III.vii.3: “Si el padre muriere e fíos fincaren sin edat, la madre non casando tome a ellos e a sus bienes si quisiere e ténagalos en su guarda fata que sean de edat et los bienes de los fíos recíbalos por escripto ant los parientes más propinuos del muerto e delante alguno de los alcaldes. E si la madre se casare, non tenga más los fíos nin a sus bienes en guarda et el alcalde con sus parientes más propinuos del muerto den a ellos e a sus bienes a quien los tenga en guarda assí como manda la ley de suso; et si la madre muriere e fincare, el padre tenga a los fíos e a sus bienes, quier case quier non, e guarde ellos e a sos bienes assí como manda la ley.”
mandates regardless of whether he remarries or not. Clearly, men received favorable treatment under the law with respect to the death of a wife and subsequent remarriage. While women lost control over any assets received and custody of the minor children, men were assessed no penalty and were, through a lack of punitive action against them, encouraged to re-marry and begin family life once again. The double standard is obvious and worth discussion. As the Fuero Real mandates in earlier titles, a woman had limited control over her ability to marry. As a widow, a woman was afforded greater control over her deceased husband’s assets provided there were no children involved in the process. However, for a widow with children, trouble arises when she wishes to re-marry, begin a new family and establish new joint assets. Any goods, properties or moneys she brought to the marriage would become part of this communal property to be held in common by the wife and her new husband. Therefore, the dower, goods, lands and other items from one marriage and family connection would be transferred into yet another family. The family of a deceased husband did not exercise the same parental controls over their daughter-in-law with respect to marital property and dowers as did her parents. In this manner, a woman could marry an unsuitable partner or an enemy of her deceased husband’s family without penalty. For this reason, the Fuero Real systematically protects the interests of families over that of the wife and offers her few choices in the matter of her remarriage. This ensures that property remains in her husband’s family away from enemies and others deemed unfit in society. Children, especially minors, fall into this process of guardianship

47 Ibid.
as well.

For children the death of a parent was a pivotal event. Children were protected from destitution through the process of guardianship. Upon the death of a parent or of both parents, children were cared for by their closest living relatives (i.e., grandparents, aunts, uncles). However, not all children were able to go to the home of a relative after the death of a parent(s). Through the testamentary process, parents could name who they wished to have as guardians of their minor children. At this juncture, any and all assets that would belong to the children are transferred into the direct control of the named guardian.

If children who are not of age are left parentless, the closest relatives who are eligible and agree will receive them and their property in front of the mayor in writing and will guard them and their property until they come of age.

Named guardians, or any individual charged with the task of guardianship, were strictly monitored. They were expected to carry out the wishes of the orphan's parents without fail or hesitation or else face direct penalty under law.

Women, Children and Governing Powers in the Fuero Real

Women and children were able to gain control over family assets and make vital decisions about their disposition under the provisions of the eighth title of the Fuero Real. This title, while brief in length, is rich in substance and provides much information on how family members were

48 Fuero Real III.vii.2: "Si algunos huérfanos que sean sin edat fincaren sin padre e sin madre, los parientes más propinquisos que ayan hedat e que sean pora ello, reciban a ellos e a todos sus bienes delantel alcalde y delant omnes buenos por escripto e guárdenlos fata que los huérfanos uengan a edat."
given various forms of authority. The power to govern included control over financial and physical assets, such as money, lands, homes, businesses and other forms of property, and extended to control over individuals and their actions as well. For women and children this form of authority was tenuous at best but could, in some cases, mean the difference between destitution and injustice and financial security and fairness. Various familial and extra-marital relations, as will be demonstrated, play an important role in the establishment of these powers. One's social status is also of paramount concern, especially with respect to religion, and who could be given governing authority.

As discussed earlier, the death of a spouse initiated a chain of events that determined how a wife would live out her days of widowhood and whether or not she would retain control over her minor children. In some cases, however, children were named as the guardians of their parents. The Fuero Real determined that children, especially those who are of age, can control the affairs of their parents.

If children, during the life time of their parents, inherit property of their father or mother, we command that each child will govern over the affairs of their father or mother to the best of their capability. If a parent dies, the children will govern over the remaining parent, and if the parent remarries the children will surrender half of their governing authority. They will not rule over their new step-parent if they do not wish to do so.49

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49 Fuero Real III.viii.1: “Si el padre e la madre uinieren a pobreza en vida de sus fiiios, quier sean casados quier non, mandamos que segund fuere so poder de cada uno que gouiernie al padre e a la madre. Otrosi mandamos que si ouieren algún hermano que fuere pobre, sean tenidos de lo gouernar, e si el padre o la madre muriere, los fiiios gouiernen a aquel que fincare, et si casare denle la meetat del gouernio aquel ante dauan e non sean tenidos de gouernar a la madrastra si non quieren.”
Under the above outlined circumstances, a child or group of siblings could exercise full authority over the financial and social interactions of their parent or parents. In cases of illness, mental decline or family instability, this provision of the *Fuero Real* could mean the difference between the smooth operation of a family’s estate or its potential ruin. Just as children are given broad authority to govern over a parental affairs, parents, whether they be married or not, are also afforded the same opportunity.

An unmarried woman faced an uncertain future with her child and was subject to the wishes of the child’s father in some circumstances. For the unwed mother, the ideal situation was to remain ignorant of her lover’s life away from her and their child. To retain custody and the authority to govern her child’s affairs until it reached the legal age of adulthood was the paramount task for an unwed mother. If the child’s father were to acknowledge the child as his own, however, the process was complicated and the mother’s ability to exercise complete control diminished. The *Fuero Real* places a child in this situation under the care of the mother for its formative first three years and then passes the child onto the father.

When an unmarried woman has a child with an unmarried man and the man receives the child as his, the mother will be made to raise the child until it is three years of age if she has adequate resources; and if she does not, she will raise the child at the expense of the father. If the mother raises the child from her own resources until the age of three, the father will then raise the child from there on and the mother relinquishes custody. She will not have custody unless the father wants her to do so, unless the King, for any reason, orders that the mother should retain custody and raise the child at the expense of the father.\(^50\)

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50 *Fuero Real* III.viii.3: "Quando alguna mugier soltera á fiio dalgún onme soltero e el onme lo recibiere por fiio, la madre sea tenida del criar e del gouenar fata III annos si ouiere dont, e si non ouiere de qué, críelo a cuesta
In the above passage, many legal concepts that have bolstered the image of the repressed Spanish woman are found. The first, the fact that the woman described in this law is an unwed mother at the mercy of her child’s father, creates an image of womanhood held hostage to the sexual act and its repercussions. Second, the father is depicted as an omnipotent, omnipresent individual that holds power over both the mother and child and their eventual fate with the woman as a silent partner. These legal concepts and their application, or more accurately misapplication, have left an irreversible imprint upon the image of women in medieval Spain as repressed, controlled, subservient beings. In reality, this clause of the *Fuero Real* gives the mother in question a unique opportunity not only to raise her child in the formative years, but also to ensure for its needs in the present and future through financial support from the father. In essence a medieval form of child support is advocated through this legislation. And, if a judgment unfavorable to the mother is rendered in this process, she did have the right to challenge the placement of the child with the father, provided she could prove that the child was better off under her supervision. Just how many times this situation arose in medieval Castile-León is almost impossible to ascertain. However, the existence of such legal clauses points toward the increased likelihood that medieval women did bear children out of wedlock and society through legislated rights and obligations felt the need to provide for them whether they were of a good name or not.

If one was the child of a Jew, Muslim or other enemy of Christian
society the situation outlined above was not as supportive. When a Christian and a non-Christian had a child out of wedlock the Fuero Real is explicit with respect to which parent retains custody of the child and how it shall be raised.

If one is the child of a Christian and a Muslim or Jewish woman or a woman of another law, we mandate that the Christian will have custody of the child always and will retain the costs of raising the child as aforementioned; and if after three years the father denies the child as his own, the father will give custody of the child to the royal authorities until the dispute is settled. If he is proven to not be the father of the child, he will not be held responsible to pay the costs of the child's upbringing and the bills presented by the mother under such deceit. And, what has been mandated of the children of unmarried persons shall also hold true for married persons who are rightfully separated.\footnote{Fuero Real III.viii.3: "Esto mandamos de los fiios de los christianos; ca si fuere fiio de christiano e de mora o de judfa o de mugier dotra ley, mandamos que el christiano lo tenga siempre e aya la cuesta del otro assí como es sobredicho; et si despues de tres annos el padre lo negare por fiio, mientras andidiere en el pleyto el padre sea tenudo de dar el gouernio fata que sea iudgado el pleyto, e si non fuere dado por padre, aya las cuestas de la madre que ge lo daua por su fiio con tuerto. E lo que es dicho de los fiios de solteros sea de los fiios de los casados que fueren partidos por algun razón derecha."}

Muslim and Jewish women who had children with Christian men did not possess the same liberties as their Christian counterparts. As members of non-Christian cultures, these women were denied the right to raise their children and ensure their protection and security. The children were at the mercy of their fathers, who could if they wished, deny the child his name and support. In this situation, not only do the women suffer but their children suffer as well. The Fuero Real is clearly a pro-Christian legal source designed to protect and serve the needs of Christian society at the expense of other Iberian cultural groups. In this case, women not only suffered legal discrimination due to their sex but also because of their religious and cultural
orientation as well. This type of discrimination was enacted during the Reconquest period to ensure that Christian culture, religion and civilization not only survived but dominated the Iberian landscape. With the movement of men and armies from town to town, it is not at all unlikely that they had intimate relations with women from the areas they had conquered. The resultant offspring, however, became property of the father, another form of war booty to be controlled and manipulated. Due to a lack of legislation in the *Fuero Real* we are left to assume that Christian women did not interact on a sexual level with non-Christian men. This assumption, however, does not take into account the kidnap and forced slavery of Christian women by non-Christians, which surely took place in areas under Muslim political and legal control. How any offspring produced through these relationships were to be treated is never addressed in the *Fuero Real*, as such relationships were strictly forbidden by Christian law and existed outside of Christian legal jurisdiction. Thirteenth-century society, however, strove to protect the reputation of Christian women and this situation, when it did occur, was rare.

**Disinheritance and Women in the *Fuero Real***

Family relationships in Castile-León were subject to change based upon any number of situations. For a parent the process of disinheritance was a final solution to family disagreements when reason failed. Disinheritance is a legal maneuver by which a parent or family member could remove another family member from the line of inheritance in their will.

When the father or the mother want to disinherit their children or other relatives, they must name the reason why they wish to do so in their will, or in the presence of witnesses. If the child or family member denies the claim of the parent(s), the witness will prove its
In this manner, the *Fuero Real* ensures that a child or family member may not be disinherited without just cause or reason. The individual in question does have the right to refute the charges and appeal to the witnesses named in the will. Women benefited from this legislation as they could not be summarily disinherited by a parent unless a specific reason was given. A woman could exercise the right to challenge the position of her parent(s) and possibly be reinstated as a rightful heir. This provision, when used in conjunction with other testamentary legislation, proved to be a powerful weapon in a woman’s legal arsenal. Her rights as an heir could be protected, defended and strengthened through use of such legal maneuvers. For women who had access to legal services, the law became an arena in which she could prove her social, economic and personal worth in society and assert herself in family matters previously dealt with by men. However, for the woman with no legal services or knowledge, the existence of such legal statutes had little tangible impact upon her daily existence and the way in which she ran family affairs and tended to her duties as a wife, mother and household administrator.

For many women social relationships and interaction played a role in the process of disinherittance. Parents reserved the right to disinherit a child, male or female, based upon their choice of a spouse or social acquaintances. There were, however, restrictions placed upon the powers of parents with

52 *Fuero Real* III.ix.1: “Quando el padre o la madre quisieren deseredar sos fiios o dent ayuso nombre sennaladamient la razón por qué lo desereda o en su manda o delante testigos; prüela por uerdadera el so heredero, si el fiio lo negare.”
With respect to this process. The *Fuero Real* ensures that a child can only be disinherited if their social acquaintances or spouse "wounds" the family through action, deed, or reputation. For this clause to be enforced the parents in question had to prove that their child's spouse or acquaintance wounded the family with "evil" intent in mind in a premeditated fashion. How many times this was proven is difficult to ascertain and the legal concept is unstable at best. However, a child that denies their parent(s) as their own or commits an act of treason against their family is automatically eligible to be disinherited.

A parent may not disinherit their children, unless one of the children denies them as their parents, or if the children accuse their parents of a crime for which they face banishment from the kingdom, or for an act for which one of them may lose face, or for a crime against the King, their sires or lords.\

False accusation carried with it not only economic penalties for the children in question but also the social stigma of shame. To lie about one's parents, whatever the reason, dishonored the family name and its credibility. Credibility served as the basis for several social functions such as guardianship and the ability to co-sign on financial transactions. Children who accuse their parents of wrongdoing or deny their parentage also risk their chances at securing a suitable partner for marriage.

Women possessed specific rights with respect to the disinheritance

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53 *Fuero Real* III. ix. 3: "Quando fio o outro heredero por ruego o por falago a so padre o a so auuelo tuelle de fazer la manda que querría fazer e fazérgela dotra guisa, non deue auer la pena que manda la ley. Ca aquel deue auer la pena, que por fuerca enbarga el padre o el auuelo con qui faga la manda o quel tuelle que non pueda auer los testigos o el escuriano con qui faga la manda; otrosí aya la pena quien por fuerca fizier a padre o a auuelo fazer manda en otra manera que la él quería fazer."
process. These related more to their freedoms in conjunction with their husbands rather than those connected to their children. For women in the unstable Castilian frontier, the need for financial stability and security motivated such legal measures. While men tended to matters of battle, women kept the home fires lit in anticipation of their return. In some cases, however, the men returned with more than war booty. "A woman may disinherit her husband if she finds him with another woman or a mistress, or if he commits a crime for which he would be banished from the Kingdom." Women, if aware of their husband's infidelities, exercised the right to leave them out of their wills. This also meant that a widower could not collect on the dower his wife brought to the marriage, her moveable property, or personal belongings as well. If a man converted to another faith or embraced a life of captivity, he lost his right to draft a will as did a woman. "Neither a man or a woman can make a will if they become a heretic, Jew, or Muslim, or is held in captivity and does not try to help one's self in any way possible or attempt an escape." This aspect of the *Fuero Real* raises one particular question for study: if a woman is taken as a captive or hostage of war and she physically cannot escape, does she lose her right to draft a will? In the case of men, who more often than not owned horses, armor, and were physically more able to defend themselves and attempt an escape, this clause means little. However, for a woman, not hardened by battle and its physical

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54 *Fuero Real* III. ix. 2: "Ortossí lo pueda deseredar sil yoguiere con la mugier o con la barrangana, o sil fiziere cosa por que deua morir o prender lisión o si por prisió de so cuerpo nol quisiere fiar o si lo embargar o destoruar de guisa que non pueda fazer manda."

55 *Fuero Real* III.ix. 2: "O si fiziere erege o si tornare moro o judío o si ioguiere en catiuo e non le quisiere quitar en quanto pudiere."
conditioning, an escape may not be a feasible option. An answer can be found perhaps in the justification and impetus of the Reconquest itself. By its very nature, the Reconquest was a process by which the Christian armies of Castile-León took back the territory held by the Moors and re-established Christian rule. A byproduct of this process was the establishment of Christian communities on the frontier. Royal administrative practices, passed down through the town fuero granted by the King, shaped the way in which the new communities developed. The survival of the frontier community depended not only upon military strength but administrative rigor as a means of protection from external enemies. Therefore, a woman taken captive, even if returned to her family, would be subjected to the cultural and religious practices of the enemy. She might be suspect in the eyes of her community due to her close contact with the enemy’s culture. This attitude clearly demonstrates a negative stereotype with respect to women and their ability to endure captivity and remain faithful to their family, community and faith. This legislation also illustrates the beginning of a fragmentation of society in Iberia based upon religion. Later in Iberian history, the process would culminate in the establishment of the Inquisition.

Further legislation with regard to disinheritance is clearly biased in favor of males and their right to create an heir, whether related by blood or not, and makes no mention of women and their ability to perform the same function. At this juncture in the Fuero Real legislation specific to women and their rights in the legal processes become scattered and less prevalent. As will be demonstrated through statistical data and primary source analysis, titles ten through twenty deal primarily with economic issues, transactions,
legal trials and their costs and related issues. The scope of women's
authority diminishes as the third book draws to a close.

Women, Selling and Purchasing in the *Fuero Real*

The tenth title of the third book of the Fuero Real begins with the
process by which weights and measures are established, monitored and
enforced in the market place. This section of legislation also covers the sale
of human beings-- male and female-- who found themselves in serfdom or
slavery. Men and women could be sold by their lords or masters to other
estates. If a serf were to revolt against a master, severe physical punishment
was exacted by the original master. This process of punishment was applied
to men as well as women. A woman could not establish weights or
measures, engage in the sales of serfs, or co-sign loans or guarantees; she
could, however, be bought, sold, and punished.

The only legislation in the tenth title of the Fuero Real directly
connected to women and their rights is connected to the issue of inheritance
and the use of an inheritance to purchase goods or services. Women
exercised control over their dowers and up to fifty percent of the assets of
their marriage.

Women and Donations in the *Fuero Real*

A donation, as defined in the *Fuero Real*, refers to a gift from an
individual or couple to a religious organization, such as an order or cathedral,
an individual or family, or a gift from a husband to a wife or a wife to a
husband. The process of donations can become complicated when coupled
with the laws of inheritance and marriage and the restrictions placed upon them as noted earlier in this chapter. The twelfth title of this part of the *Fuero Real* deals specifically with donations and their disposition. Of the eleven laws in this title, only two make specific mention of women and their rights in the donation process.

For husbands and wives in medieval Castile-León, gift giving was a part of the marriage process. After a couple was married, a husband and wife shared all property that they earned or bought together communally and retained singular control over their dowers under specified conditions. Couples could, if they so desired, give gifts of money, lands, real estate or other items to one another through the process of donation. Both men and women had the right to make and change the terms of a donation.

If a husband wants to give something to his wife, or the wife to the husband, and they do not have children, he or she may do so after one year of marriage has passed and not before; and after the donation is made if they have children, the donation will be invalid if the donation includes the one-fifth that should belong to the child as their rightful share. And if before a couple marries, if they wish to make a donation to one another, the donation will be valid even if a child is born.  

For a woman, her best opportunity to obtain a donation from her husband was prior to their marriage and the arrival of their children. Once married, the donation would be considered communal property even though the husband had given the donation specifically to his wife. If, however, she received the donation before their marriage, it was considered a part of the

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56 *Fuero Real* III. xii. 3: “Si el marido quisiere dar algo a la mugier al marido non auiendo fiio, puedalo fazer después que fuere el anno passado desde que casaren e non ante; e si después desta donación quieren fiios, non uala la donación fuera quanto en su quinto. E si ante se otorguen por marido e por mugier alguna donación fizieren el uno al otro, esta donación non se desfaga por fiio ninguno que les nasca después.”
dower and would remain under her supervision. Female children could inherit the donation given from one parent to another just as they could other forms of property. The same applied to male children, but the fact that women are mentioned in particular points toward a trend of female inheritance and participation in the donation process. These donations are to be treated the same as other property that can be inherited and the twelfth law in this title spells out the conditions in which a donation can be inherited and change hands from its original recipients and conditions upon its use.

If the husband gives the wife something he may do so; and if after the death of the husband the widow maintains a good life, she may do with the donation what she wants to if she does not have lawful heirs. And, if she does not draft a will, it can be returned to the heirs of the husband. And if by chance after the death of the husband, she does not maintain a good life, the widow may lose all that the husband gave her and his heirs will have the donations.57

As in earlier sections of the _Fuero Real_, restrictions are placed upon a woman’s right to inherit certain forms of property. In the case of a donation, a woman could maintain control over the gift from her late husband if she maintained a “good” life. The “good” life implies that the widow would remain unmarried and faithful to her husband’s memory. If she were to remarry, she would lose this right as any subsequent husband or children are not defined as the rightful heirs of the deceased husband. This can be interpreted as a means of social control that prevented women from marrying

57 _Fuero Real_ III. xii. 9: “Si el marido diere a su mugier alguna cosa que ge lo pueda dar e ella después de muerte de su marido fíziere bona uida, áyalo fata su muerte; faga della lo que quisiere si fíiios derechos non dexare, e si manda non fíziere tómesse al maridoque ge la dio o a sus herederos, si fuere muerto o si non dexare fíiios de bendición. Et si por auentura después de muerte de su marido non fíziere bona uida, piérdalo todo quantol diere el marido e áyanlo los herederos del marido.”
unsuitable men and passing the property of one family to another, or as a way in which women were protected from unscrupulous men out to marry her for her wealth in a time of grief. Whatever the impetus behind the legislation, women were to a certain extent treated with a fair amount of respect and given the opportunity to retain control over donations given to them by their husbands. As will be demonstrated later, women in other parts of Europe never exercised this kind of control over any form of marital property or received donations of the same magnitude as did women in Castile-León unless they were of the extreme upper classes or aristocracy. A Castilian woman’s power over marital earnings and property extended to the authority to co-sign on any transaction her husband wished to enter that utilized such assets. As will be shown in the next title, on guarantors and guarantees, women exerted influence when needed to protect their financial interests in their marriage.

Women, Guarantees and Guarantors in the *Fuero Real*

The eighteenth title of the *Fuero Real*, while lengthy and complex, makes reference to women in one brief yet integral piece of legislation. Once married, as previously stated, a couple exercised joint control over marital assets. If one party wished to enter into a financial arrangement and needed to use joint assets, the other party must also agree to the terms and conditions of the loan or business agreement. Women, in this position, had the right to be made aware of their husband’s intentions and had to agree to the use of joint funds and assets. If a woman did not agree to the terms and conditions her husband was about to bind them to, she could refuse to co-sign. The
*Fuero Real* protects her and her heirs from retribution or financial ruin as well.

If the husband co-signs an agreement without the permission of his wife and he does not repay his debt, neither she nor her heirs are to be held responsible for repayment of the debt. However, if a woman co-signs without the permission of her husband, the signature will not be valid and she will lose her property.\(^{58}\)

For all of her authority, a woman did suffer a severe economic penalty if she entered into a business transaction without her husband’s approval. While he could enter into transactions without her consent and suffered little if any penalty, she lost access to her property in question. To what extent this legislation was exercised is not known; however, it is reasonable to assume that far more men co-signed business ventures than women, as they stood to lose more than their male counterparts. This legislation is yet another example of how Castilian women were given legal responsibility without the necessary authority to ensure greater equality. The issues of debts and payments further illustrates this point.

Women, Debts, and Payments in the *Fuero Real*

Of the seventeen laws in the *Fuero Real’s* twentieth and final title of the third book, two deal directly with women and the process of debts and payments. A married woman, while unable to enter business transactions without her husband’s permission, could purchase items necessary for the maintenance of the home and her well-being, such as clothing and other

\(^{58}\) *Fuero Real* III. xviii. 8: “Et qui fuere fiador por otro en alguna cosa, nol puede demander quel quite de la fiadura ante que la peche, fueras si aquel por qui fio comencare de malmeter o de enagenar lo suyo, o sil fuere mandado por iuyzio que la pague, o si fuere el plazo pasado a quel ouo de quitar, o si la fiadura non fuere fecha a plazo e la non quitare fata I anno.”
goods. This type of debt was to be paid for by the husband as was his duty as the head of the household and its chief economic officer. However, if either the husband or the wife entered into their marriage with heavy debts, each was responsible for payment of the debt separate from the other.

Any debt that the husband and wife make as a couple they will pay together, and if before they were joined in marriage one of them has incurred a debt, the one who made the debt shall pay for it and the other shall not be responsible for this debt.\textsuperscript{59}

This legislation protects each party involved from debts of the other incurred before their marriage. For a woman, this is especially important. If her husband owed large sums of money, left for war and was killed in battle, she was not responsible for his debts. This ensured that she would never have to cover her husband’s previous debts regardless of her inheritance. The rightful heirs were also protected under this legislation. In other parts of Europe, the relatives were held responsible to pay the debts of the deceased. For many women, this practice sealed their fate and sent them into perpetual destitution. Castilian women, on the other hand, were guaranteed their inheritance as a measure of comfort in widowhood.

From this look at women’s rights and responsibilities as outlined in the third book of the \textit{Fuero Real} conclusions about their status in society, control over marital wealth and earnings, inheritance rights, and social freedoms can be compared and contrasted with their northern European and Italian counterparts of the era. An overall assessment of the status of women in the \textit{Fuero Real} must not only look at what evidence is apparent in its provisions

\textsuperscript{59} Fuero Real III. xx. 14: “Todo debo que marido e mugier fizieren en uno, págunelo ortosí en uno, et si ante que fuessen ayuntados por casamiento alguno dellos fizo debdo, páguelo aquel que lo fizo et el otro non sea tenido pora pagarlo de sus bienes.”
but what is missing as well. The final chapter of this work will blend the above avenues of inquiry to assess the lives of women in thirteenth-century Castile-León.
CHAPTER III

THIRTEENTH-CENTURY CASTILIAN WOMEN AND THEIR EUROPEAN COUNTERPARTS: A FINAL ASSESSMENT

Castilian Women and Their Status as Reflected in the Fuero Real

An overall assessment of women and their status in thirteenth-century Castile-León must take into account not only the evidence provided in but also absent from the pages of the Fuero Real. Through a process of comparison with secondary sources concerning women elsewhere, a new view of Castilian women and their social status and freedoms as compared to their other European counterparts can be composed. Based upon intensive research of the Fuero Real’s laws that have a direct connection to women’s lives, a portrait of women with a semi-autonomous, less restricted lifestyle emerges.

A Castilian woman had the right to marry the partner of her choice, under certain restrictions; could draft her own will; name her sons and daughters as heirs in equal measure; was able to join religious orders, even after married if she so desired; could be named as an heir in the wills of her parents, brothers, grandparents and husband, and was legally able to step into the role as head of the household or business if her husband died. Her contributions to his efforts in warfare were rewarded with a share in his war booty, which could include his armor, horse, and other implements of battle if he died in service to the King. She could also buy and sell property if it was purchased with her own funds, from a dower or gift, and could act as a co-
signer on financial transactions in limited circumstances. With respect to divorce, a woman could retain custody of her minor children provided she lived a respectful, modest life and could provide for their well being and needs. From these few examples of women’s rights and responsibilities as outlined in the *Fuero Real*, their relative equality and access to economic opportunities and advancement in Castilian society is evident. However, how did the average Castilian woman fare when compared to her European counterparts from France, Germany, England, or particularly from Italy?

To begin to understand the above question, one must look briefly at the development of Iberian law as a partial explanation of the disparity seen between Castilian and other European women of the period. Iberian law developed via a unique process by which three major cultural groups (Christian, Jewish and Muslim) lived side by side and adapted to each other’s social, political, religious, and economic differences. The Roman traditions of the pre-Visigothic era, old Germanic traditions of the Visigothic era, and Christian influences from canon law all melded into a new form of law based upon the needs of frontier life in Alfonso X’s Castile-León. Germanic codes, such as the *Lex visigothorum* and the *Fuero Juzgo*, a translated edition of the former compiled by Fernando III el Santo early in the thirteenth-century, were far less harsh with respect to women as were other Germanic and Roman codes. Alfonso X’s main objectives in the thirteenth century were the Reconquest of territory and the consolidation of power into a royal sphere of influence. Therefore, he needed a legal code that could be shaped and molded to fit the ever-changing needs of frontier society. With the absence of

60 See generally E.N. Van Kleffens, *Hispanic Law Until the End of the Middle Ages* (Edinburgh, 1968).
men from their homes and families while in battle on the road to Reconquest, the *Fuero Real* offered expanded freedoms for women in new positions as heads of households. With change the norm of frontier life, women were afforded a more equal legal foothold with men in Castilian society to counteract new necessities created by constant movement of men and the machines of war. Through this process, women increased their freedom and the ability to make critical life choices previously left to men.

The breadth of the once proud Roman empire stretched from Italy proper to Hadrian's Wall in Great Britain. With such an enormous geopolitical range, Roman law, especially after the compilations of Constantine and Justinian were published and circulated, gained and maintained a strong presence in Europe. Roman law was not especially cruel towards women, but rather treated them somewhat contemptuously with respect to the perceived weakness of their sex. Women did not, under Roman systems of administration, maintain the same rights to inheritance, choice of spouse, property ownership, custody, and religious freedom that Castilian women of the same period possessed. A comparison between Italian and Iberian women of the period will further highlight the differences in their social status and roles as mandated through legislation.

David Herlihy, in his intricate socio-economic analysis of women and work in medieval Europe, pays particular attention to women in Italy during the thirteenth and fourteenth centuries. From his extensive data and insight, a portrait of Italian women and their socio-legal restrictions is drawn. While remarkable women are a presence in each society and time period studied in history, the thirteenth and fourteenth centuries saw Italian women in low
profile positions in society. When compared to their counterparts in France, especially Paris, Herlihy asserts that Italian women were less likely to be active participants in the Italian economy. To further support his assertion, Herlihy notes that the traditions of law, especially that of the Lombards, demanded that women maintain a passive presence in society, economy, politics, and household life. Women in Italy could not enter into business transactions or contractual agreements without the consent of her male tutor, husband, or legal guardian. The role of women as passive and submissive and attentive to the needs and desires of men is further enhanced in Italian society through literature. The poetry of Francesco da Barberino, as an example, promotes the passive, retiring, modest, almost ethereal quality that was most cherished in women. These qualities and a lack of practical job skills made life difficult for women who wanted or needed to enter the workplace. A factor that further limits women's ability to participate in the economic and social life of Italy in the period is found in the guild structure, absent in Castile-León at this time. Even though Italy was highly urbanized, women did not possesses the legal, political, and economic leverage to stand against the actions of trade guilds. Women who were employed in the work force, as weavers and cloth makers, faced harsh opposition with the foundation of guilds in Italy. With restrictive policies against women, the guilds became male dominated organizations. Just as women seemed to gain a foothold in economic life the guild structure and system of hiring and protection of jobs forced them back into the confines and protection of the home, where society felt they belonged.

For a young Italian woman, the only way to gain any measure of freedom was through marriage or life in a religious order. Young women rarely left their parent's home if they were unmarried. The only manner in which they left home unmarried was to join a religious order. This paternalistic attitude toward women limited their social mobility. Through strict control over a woman's dower and marriage, an Italian family stood to gain a great deal through the successful marriage of a daughter to a prosperous man. While families in Castile-León did likewise, a young woman exercised more say in her choice of a mate and the process of marriage. She retained control over her dowry, if given one by her parents, and limited authority over her dower and was able to use them for her survival if she became a widow. Women in Italy were required to place their dowry or dower under the supervision of her husband and could not inherit property in the same manner as Castilian women. For the level of urban development, thirteenth-century Italian women were far more restricted than Castilian women, who still faced social and economic obstacles in their path to social equality and respect.

While Roman, Visigothic, and local traditions were blended to form the nucleus of medieval Castilian law, the publication of Peter Lombard's *Sentences* and the various Church reforms of the eleventh and twelfth centuries changed the model of northern European marriage. According to Lombard, a marriage was nothing more than a verbal promise made by a man and woman. It was entirely possible for a bride, bridegroom, or a member of their family to break the marriage promise with little consequences. This movement toward freedom of choice in personal
relationships eroded at the authority of the Church and moved marriage into the arena of the family and its decision making authority. According to Herlihy in his landmark study *Medieval Households* (Cambridge, MA., 1985), marriages became the primary function of young a woman’s family. The dowry was stressed over the dower and this clearly placed the burden of marriage and its financial responsibilities squarely upon the shoulders of the bride’s family. With the marriage market a competition between women and their families and the amount of dowry they could offer a prospective husband, many young women who were of lesser means relied upon the charity of the Church or of the various religious orders to ensure they had dowry enough for a suitable partner. Georges Duby, in his study of medieval marriage in France, noted that it was a common practice for a family to attempt to find suitable mates for and marry off all of their daughters, while only offering their eldest son for marriage. Younger sons remained single and the rights of inheritance fell to only the sons while sons-in-law were left to tend to the daughters’ needs. When women in northern Europe entered the workforce, usually out of necessity for survival, their positions were subject to the rise of the guild system and life was precarious at best.

In Castile-León however, the trend ran quite the opposite with a woman relying heavily upon the dower brought to her by her husband. With a Castilian husband responsible for a dower and his future wife responsible for her own personal possessions and in some cases household goods, the burdens of marriage were more evenly shared. This is clearly an outgrowth of the Castilian Reconquest and repopulation movement of the
thirteenth century where marriages were encouraged and vital to the well being of the state. In northern Europe, however, the trend was for women to marry young and then live their lives as widows, unable to inherit from their husbands while their sons received the properties of their fathers. With Castilian daughters and widows able to inherit in equal measure with their male counterparts, destitute women and children were less common. Northern European husbands were clearly the heads of the household and exercised the greatest latitude with respect to decision making. However, the Castilian woman of the thirteenth century was able to make decisions for her household if needed and flexed her domestic authority through child rearing and the inheritance process. Clearly, while Castilian women lacked the monetary support of an extensive dowry, what she lost financially through marriage she gained in social respect and through increased legal authority.

The *Fuero Real*, Women, and the Alfonsine Social Program

The combination of Fernando III’s Reconquest efforts and Alfonso X’s settlement and legal programs created a Castilian social environment in which women were able to thrive and sustain themselves and their families when necessary. To fully assess and understand the breadth of the Alfonsine social and cultural renaissance and its social programs and their impact upon women, one must place women squarely within the framework of the events of Alfonso X’s court and society as a whole.

Scholarly debate abounds with respect to Alfonso X’s legal program and various codes produced at his court. Clearly, Alfonso X continued his father’s efforts and completed a translation of the *Lex visigothorum*, later
known as the Fuero Juzgo. The Fuero Real was the next step in Alfonso X's legal program. As a royal legal code, the Fuero Real strived to fill in existing gaps in local tradition. His ulterior motive, however, was to produce a legal code that consolidated royal authority and kept regional and local legal control under check. After the promulgation of the Fuero Real, Alfonso X turned his sights to the theoretical, practical, and philosophical aspects of legal studies. Las Siete Partidas, begun at the Alfonsine court but not finished upon his death in 1284, combined legal case studies and the latest theoretical advancements of Castilian law into a handbook. Divided into seven books, the Siete Partidas delves into issues of marriage, divorce, adultery, dowries, dowers, and family life. While extensive in nature, the Siete Partidas never carried the full force of law and was not adopted in the thirteenth century as a legal code. Several studies of women's social standing in Castile-Leon based upon the Siete Partidas have been produced. These studies, however insightful, ignore the role of the Fuero Real. While the Siete Partidas is an excellent indicator of social and legal attitudes about women, the fact it lacked the force of law necessitates the use of the Fuero Real to fully comprehend the social position of women in thirteenth-century Castile.

In her landmark study on women in the Castilian town and frontier setting, Heath Dillard has utilized not only town fueros but the legal corpus of Alfonso X to bring the roles of women into sharper focus. Dillard states that:

Women in partnership with men advanced the growth of captured fortresses and small communities as these developed, especially during the twelfth and thirteenth centuries, into highly privileged and largely self-governing municipalities. Women, no less than men who seized, defended, and governed these towns were prosperous here and were instrumental in transforming uninhabited places and formerly Muslim sites into centers where Christian institutions put down new
and lasting roots.62

Women clearly were necessary for the success of the Alfonsine military program of Reconquest and repopulation. Without their participation, labors, and foundation of Christian homes and families in reconquered areas, the success of Castilian armies were of little practical value. Therefore, it was in Alfonso X's best interests to ensure that women were able to function in society in the place of men during their absences. Legally, women had little teeth and with the promulgation of the *Fuero Real* they gained the necessary legal status to ensure social stability. Without legal and social reform geared toward a greater equality between the sexes, women in frontier Castile would have found it more difficult to inherit property in equal measure as they did, and exercise their own discretion in passing it on to heirs (male and female alike), manage household affairs in their husbands' absence, carry out necessary business transactions, and ensure for the survival of families.

The role of women in the Reconquest effort forced legal scholars and royal administrators to acknowledge the unique contributions of women to society. Dillard asserts that women needed to ensure their survival and that of the next generation beyond the victories of Alfonso X's armies; increased legal freedoms and personal autonomy were clearly key to achieving this goal.63 To this end, the *Fuero Real* provided practical, short-term solutions to fill the needs of society in the turbulent frontier setting. *Las Siete Partidas*, on the other hand, looked toward the long-term needs of Castilian society and provided a philosophical view of the Alfonsine legal program. With its case studies and legal recommendations, the *Siete Partidas* was able to use the gift

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of hindsight to view previous Alfonsine legal trends and correct or change legal viewpoints through its practical suggestions on governance. An example of the difference between the treatment of women in the *Fuero Real* and the *Siete Partidas* will, in part, help to further illustrate this assertion. When a woman married, her husband gave her a dower that she had limited control over as a form of property. The *Fuero Real* devotes an entire title to the subject of dowers and only one law, under the heading of inheritances, to dowries. On the other hand, the *Siete Partidas* devotes several laws to both dowers and dowries. How is this legal trend to be interpreted? In the context of the Alfonsine social and legal program, when coupled with economic trends and the Reconquest, the lack of a female dowry indicates a marriage market heavily populated with women and fewer men. To keep marriage affordable and available to men of all social and economic classes of society, the lack of a dowry and an enforced ceiling on dowers creates a more stable marriage market. When the Reconquest ends, however, this trend shifts as seen in the *Siete Partidas*. In the *Siete Partidas* legal scholars again address the demands upon a bride's family with respect to her dowry. Economic and social changes in the Castilian frontier produced this legal shift. In the post-Reconquest period, men were more likely to remain in one area and with the economy in a state of transition that saw war pay and booty on the decline, soldiers who wished to marry needed the dowry brought to marriage by a wife to replace his lost wages of war. A woman's right to inherit the property of her father or mother made her an excellent choice for matrimony as property was vital to gaining full citizenship and participatory rights in society. By placing responsibility upon the families of
the bride and groom, neither party was financially exhausted and stood to
gain respect along with economic and civic visibility and prominence.

The Reconquest and repopulation of Castilian frontier towns
encouraged the establishment of conjugal household units. These units were
vital to the success and permanence of the Reconquest efforts of Alfonso X
and framed his social and legal programs. Through his legal compilations,
Alfonso X worked to ensure the strength of a uniquely Castilian and Catholic
frontier to face the tide of Muslim and Jewish cultural influences. As noted
earlier in this work, Alfonso X's nobles reacted vehemently with respect to his
legal and social program. In his attempt to consolidate law and place it under
the banner of royal authority, Alfonso X found it necessary to shape his legal
reforms to meet the needs of the Castilian frontier. Women and their roles as
wives, mothers, daughters, property owners, and inheritors were a vital link
in the social chain of responsibility and productivity. In the town setting, a
women could place herself at the center of social, political, and economic life.
Without women, frontier military garrisons and fortresses lacked the warmth
of community and family. Without families, the property and goods of
Christian society were at risk and able to fall into Muslim or Jewish hands. As
mothers, women exercised the authority and power of reproduction that
made their presence in frontier towns invaluable for the success of
repopulation efforts. As a provider for her family a woman, through her
assets, could be the economic stalwart of her family as well as the moral
backbone of Christian society. Dillard encapsulates the roles of women
succinctly when she states:

Women, above all, were the indispensable agents of transformation in
the process by which a mere fortress of soldiers became a town.
Women gained status, meaning a highly respected position in municipal society, as the responsible custodians of their household's and town's material as well as reproductive assets. The ownership of land and other municipal wealth by women, whether as daughters, wives, or widows, was at once a reflection and source of their prominence in municipal colonization and development. The documentary record as reflected in the *Fuero Real* addresses all of Dillard's above criteria within the framework of the thirteenth-century renaissance and Reconquest efforts of Alfonso X. Whether Alfonso X was conscious of his legal advancements and their practical applications to women's lives is speculative. However, with the rebirth of Castilian culture and society one of his main ambitions, Alfonso X succeeded in giving women the latitude necessary so they could create new social and legal realities in the face of the uncertainties of frontier life. Women exercised the freedom of enhanced opportunity and took advantage of the Alfonsine era to better their social and economic position to strengthen their families and ensure their future survival. The close of the thirteenth-century, however, brought with it changes for women that saw their freedoms curtailed.

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CHAPTER IV

SELECT TRANSLATIONS FROM THE THIRD BOOK OF ALFONSO X’S FUERO REAL

Title One: On Marriages

Law 1

We establish and order that all marriages be performed with those words mandated by the Holy Church, and that those that wish to be married may do so free of sin; and, that all marriages are to be performed with consent in public and not in secret, so if it were necessary that the marriage could be verified (proven) by those in attendance; and if a marriage is performed in secret then 100 maravedis are to be paid to the King, and if the offending party does not have 100 maravedis, they are to give to the King what they do have and place their body at the mercy of the King to make up the difference.

Law 2

If the parents of a young woman that is not of marriageable age (en cabellos) dies, and a man, with whom neither the woman nor her brothers have outstanding debts, asks her brothers for her hand in marriage, and her brothers, moved by disaffection for the man or by a covetous desire to have her part of inheritance, if she, knowing their intentions, were to marry against their will, these brothers may not disinherit her for this reason. The only exception would be if the husband is an enemy of the family, or is not of a
social standing equal to them and it is not proper to marry him. If she does this, she will be disinherited of the portion of her inheritance from her father and from her mother. And, if she were to marry a man that is not proper for her rank and lineage, or if she were to run away with him in a manner that is an affront to her family, she would then be disinherited of what she had already received or would receive from her parents. However, even though she may commit any of these acts, she will not lose the right to inherit anything that comes from her brothers or from strangers.

Law 3

If a widowed woman should marry after the death of her father and mother without the consent of her brothers, she should not be disinherited for this. Since her family knew about her error and tolerated it there is no reason for them to disinherit her because of her remarriage.

Law 4

Any widow, even though her parents are still living, can marry without their consent if she wants and there will be no penalty.

Law 5

If a girl who is not of age marries without the consent of her father or mother, she will not share in the property of either the father or the mother, unless the father or the mother forgives her; or, if one forgives her and the other does not, if they are both alive, she can share in their part of the property of the one that forgave her. And if one is alive and the other is not,
if sometime after her marriage the one that is alive forgives her, then she can take share in the property of both.

Law 6

If the father, mother, brothers, or other relatives who are legal guardians of an underage girl (*manceba en cabellos*) do not allow or arrange for her to marry by the time she is twenty five years old and she marries afterward without their consent, there will be no penalty against her if she marries a suitable partner.

Law 7

We strictly forbid that after a command has been put into effect that anyone dare marry against a command of the Holy Church. Also, if two people file a claim regarding their marriage, we forbid either of them to marry somewhere else until the claim is settled by a judgment of the Holy Church.

Law 8

No man who has been lawfully married to a woman should dare marry another woman while his first wife is still alive, unless they have not taken the sacraments or have not lived with one another united in marriage; and we hold that the same order applies to a woman who has been married to a man. Also, we forbid anyone from marrying such a person as described, knowing that he or she is promised to another. Anyone who disobeys this order will pay 100 maravedis: one- half to the King and one- half to the one
that was wronged, and any marriage taken under these pretenses will be non-valid.

Law 9

If two people are promised to each other as husband and wife, and before the marriage is consummated one or both of them wish to enter a religious order, they may do so. And if one of them wishes to remain a layman, that person is free to marry without penalty.

Law 10

If a couple promises by word or oath that they will marry each other, they will be made to fulfill the promise; but, if before they are to marry one another, one of them gives him or herself to another in such a manner that it is considered a legal marriage this union will be valid and not the first.

Law 11

No woman whose husband is out of the country will dare marry another man unless the death of her husband is verified. Also, if the man that she wants to marry works as hard as he can to learn the truth about the death of the first husband, and under no other guise, will he dare marry her. If afterward the first husband returns, both of them will be subject to the authority of the first husband, and he can sell or do with both of them what he wants except kill them. And this will also be true of the woman who marries the husband who belongs to another.
Law 12

If a man marries the wife of another, or if he states that he will marry her after the death of her husband, or if by his counsel or deed her husband dies, or if during the lifetime of the husband the other man has "seen" her, he cannot then marry her later.

Law 13

No widow can marry until one year after her husband’s death; and if she marries without being ordered to do so by the King she will lose half of what is hers through inheritance and it will be given to the children or grandchildren she had with the deceased husband; and if there are none, it will be given to the closest living relatives of the deceased.

Law 14

No man will dare marry an underage girl without the consent of her father or mother, or if they are not living, of her brothers or her closest living relatives.

Title Two: On Dowers

Law 1

Every man who marries ought not to give more dower to his wife than one tenth of what he has, and if he gives her more, or if a suit is filed

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65 Use of the word "seen" implies sexual relations as defined in the biblical sense.
regarding the matter, the dower is not legal. And if by chance he happens to give more, the closest relatives of the husband may sue him for the dower in question. If the woman has children with this husband and she dies, he ought to give for her soul one-fourth of the dower that he gave to her upon their marriage, and the remaining parts to himself and their children. If she did not have children with her husband, he should do with her dower what she wishes, whether she is alive or dead. If she died intestate and did not have children, the dower goes to the husband who gave it or to his inheritors. If the woman had children with two or more husbands, each of those children inherits the dower that their father gave to their mother, and the children of one father cannot partake of the dower given by another father; and if the father or the mother wishes to give a dower to their son or daughter they ought not give more than one-tenth of what the child will inherit.

Law 2

If a man is too poor at the time when he marries and no dower exists and he promised his wife that he would give it to her after he earned it, we mandate that whenever she demands the dower from her husband that he will give it to her in the manner of no more than one tenth of what he has at the time when she demanded it.

Law 3

When a man that marries gives a dower to the young woman whom he marries, if she is not twenty-five years old, the father or the mother of the
young woman have the authority to guard this dower for their daughter, so that it cannot be sold or confiscated. If her parents are not living, the brothers of the young woman or her closest living relatives will have the authority, and when she reaches twenty-five years of age she may come into her dower. And if the dower is not given to her by the husband right away as he promised to give them, these people have the power to demand them as was agreed upon and the couple will share them communally.

Law 6

If a woman commits adultery and it is proven, she loses her dower if her husband wishes. Similarly, if the woman leaves the home of her husband to take part in or separates from him to commit adultery, she loses her dower and any gifts even if it is not proven that she consummated the bad deed that she wanted to do, because perhaps some obstacle prevented her from doing so, because in such a case the failure to commit the sin was due to circumstances beyond her control.

Title Three: About the Earnings of the Husband and Wife

Law 1

All things that the husband and wife earn or buy together are to be equally shared; if something is a donation from the King and he gave it to both of them, they are both to share it equally, and if he gave it to one alone, he/she to whom it was given governs it solely.
Law 2

If a husband receives something through inheritance from his father or mother, or from another family member, or by a donation from a lord, a relative, or in battle in which he was paid for his service by the King or another, he is to keep all that he gains for himself and if he served in battle without salary he will be paid for his service.

Law 3

Even though the husband may have more than the wife or the wife more than the husband, whether it be in inheritance or in moveable goods, the fruits of marriage are to be communal and mutually shared; and the inheritance and other things from which fruits and profits derive are to be belong to whoever owned them, whether the wife or the husband, or to the wife’s or the husband’s heirs.

Title Four: Title About the Partitions

Law 3

When the husband and wife plant vines in land that belongs to either of them, the one who owns the land is to take the vineyard and is to share the rest with the children of the deceased or with his or her other children or heirs if he or she had no children.
Title Five: On Wills

Law 1

Any man who makes his will, whether he is healthy or sick, will do so in writing through the hand of a public scribe, or in another document with the seal of the one making the will or with another trustworthy seal, or else by means of reliable testimony; and the will that is done in any of these four guises, it is to be valid for all time, if the one that did it did not undo it.

Law 2

If after a man makes his will, whether he is healthy or whether he is sick, if afterwards he makes another will at another time that concerns any of the things that he had initially willed, the most recent will is valid. Also, if those things, that he had initially willed, he gives away or takes out of the will, the previous will he had drafted with these things will be invalid, even though he did not undo them in writing by name, since it is valid that he undo them by action as by word. And, if that which he had willed or a part of it remains his and he does not unwill it by word, nor does he will it to another in a will that he makes afterward, the will which he made prior will be valid.

Law 3

If a man who dies does not have relatives and he made a will, it is right that the testament will be executed as he directed; and if he had not made a will, all that he owned is to go to the King.
Law 5

We establish that those who are not of age, or have amnesia, or are out of their wits, or those that are serfs, or those that were judged to die for a crime, such that they may must lose what they have, or those who are heretics, or men of religion or clerics (the things that they have are property of the Churches) cannot make wills and if these persons do they will not be valid.

Law 6

If a man does not want to or cannot draft a will by himself of what is going to be done with his things, and he gives power to another to draft his will, this person shall have the same power as the one who ordered the will to be drawn.

Law 7

We order that no serf, nor religious man, nor woman, nor man that is not of age, nor madman, nor heretic, nor Muslim, nor Jew, nor mute, nor deaf at birth, nor perfidious man or treasonous man, nor a man that is condemned to death, nor a man that is banished can be the executor of any will.

Law 8

When a man wants to make his will, he can request the testimony that he wants to be contained in the will. For if the testimonies are not requested or asked for, inquiries of the will and its validity cannot be made. And even though in the will an item is willed to someone, it cannot be discarded in the
testimony on the things that do not belong to him, and an heir cannot be a
witness to the will in which he is an heir.

Law 9

No man who has children, or grandchildren, or other descendants that
have the right to inherit can give or will at his death more than a fifth of his
property (unless if he wants to improve the position of one of his children or
grandchildren, he can give them a third of his property), and he can also give
a fifth for his soul and it will not to his heirs.

Law 10

We mandate that no man can will his things to a heretic, nor a man of
religion (after the religious man took his vows unless he wills it to his order
or monastery). No man can will to a perfidious man, nor traitor, nor one that
saw his master be killed or wounded or taken captive and did not want to
help him as he could, nor to a son that he conceived in adultery, nor to a
relative, nor to a woman in a religious order.

Law 11

If a man drafted a will and has inheritors outside the country and the
executors that are left execute the will as the deceased requested, and the
heirs come later and contradict the will, the executors will not be taken to
answer but rather will turn to those that received the inheritance and they
will answer according to the law; and if the executors sell something to carry
out the demands of the will they will not be taken to court unless they put in
a claim for their loss.

And, if before the inheritance is paid or the things are sold the inheritors contradict the will, the executors shall not sell nor pay until the will is settled and validated. If the inheritors are in the country and do not file suit against the will, and the executors pay or sell, they will not be taken to court for this has been said previously.

Law 12

If some man has a part in an inheritance and he contradicts it in court to stop it until judgment is given, he will lose all that he inherited in that will unless it is judged that the will is valid. Also, we order that if the executor, to whom the deceased left the will, does not want to be executor of the will, he will lose what the deceased willed to him. If he receives the executors job later, he will not leave it and he must answer to those who are to receive portions of the inheritance. Also, if the deceased wills someone to be the guardian of his children and his property as the law commands, and he does not want to be so, he will loose everything the deceased left him in the will.

Law 13

Any man that is to be executor of a will shall show it to the mayor within one month of receiving it, and the mayor will have it read in council; and, if the executor does not do this, he shall lose what he is to have of the inheritance and it should be given for the soul of the deceased. This is to be true of every man that is in the will, even though he may not be an executor. And if nothing is stated in the will, a tenth of the inheritance is to be taxed.
Law 14

If in his will a man bequeaths to someone something for doing anything for him, if the one that is named in the will receives his inheritance, he shall fulfill that duty for which he was named.

Title Six: On Inheritances

Law 1

A man who has children or grandchildren, or further descendants with his wife, cannot bequeath to them along with other children that he has from a mistress more than one fifth of what he has and from this he can give them whatever he wishes. And if his children or grandchildren or descendants are illegitimate, his legitimate children have the right to inherit. He may do with everything that is his what he wants, in a manner such that the King will not lose his right and he cannot take away from his father or mother and any other relative what is rightfully theirs. And if a man dies without a will and there are no heirs as have been mentioned, his father and mother will inherit all his property communally; and if not more than one parent is alive, he or she will inherit all. And if there is no father or mother alive, the grandparents will inherit or other descendants in that same manner. And if none of these are living, his closest relative, such as brothers or nephews, will inherit his estate.

Law 2

If an unmarried man has children with an unmarried woman and then
marries her later, these children will be his rightful heirs.

**Law 3**

If the man who dies leaves his wife pregnant and there are no other children, the closest relatives of the man and one of the woman must register the property before the mayor and the woman may keep it; and if afterwards a son or daughter is born and is baptized, he or she will have all the property of the father. And since no lie can be made of the birth of a son or a daughter, the mayor and the aforementioned relatives will put at least two reputable women that are there before the birth with light and no other woman enters at that hour, unless she is the one that is going to make the delivery. And she will be well told that she cannot lie and if the child dies before it is baptized, closest relatives of the father inherit the property that belonged to the father and not the mother; and if after being baptized the child dies the mother will inherit.

**Law 4**

If a man who has a wife marries another and has children with her, if the one he is marrying does not know that he was married, these children will be heirs and she will have half the property they earned together; and if by any chance she knew of her husband’s other marriage, the children will not be heirs and she who knowingly married another woman’s husband will handed over, if there are no legitimate children, into the power of the first wife of the husband, who can do with her whatever she wants except kill her.
Law 5

Any man who is not married and wants to take a child and let him inherit his property can do so; and if by any chance, afterwards, he has legitimate children, they shall inherit and not the one that he took as an heir prior to their birth. And this will be the same for a child of a mistress taken as a child and an inheritor.

Law 6

If the husband or wife dies, the bed that they had shared shall be given to the living spouse; and if he or she marries, it is to be given with the partition to the inheritors of the deceased.

Law 7

If a deceased leaves grandchildren who have the right to inherit, whether from a son or daughter, and there are more grandchildren of one child than the other, all the grandchildren on the side of one child will inherit that part that their father would inherit if he was alive and no more, and the other grandchildren on the side of the other child, even though they are less, will inherit all that their father would inherit as well.

Law 8

If at the hour in which the father or the mother dies, if one of their children is not in the country and the other child that is there goes and takes the property that belongs to the absent one by inheritance, whenever the brother that was not in the country returns he will come into that property.
He cannot say that the brother who seized the property before his return has to return it because he is the rightful holder unless that is property that has been partitioned. And this will also be the same with respect to property which comes to them from grandparents who have the right to name them as inheritors.

**Law 9**

If the husband and the wife consolidate the property that they each had in the year before they married into one and they do not have children or lawful heirs somewhere else, the consolidation will be valid; and, if after they consolidate their property, they have children together, their consolidation will be invalid since it is not right that the children produced from their marriage are disinherited for this reason.

**Law 10**

When a man dies without a will the siblings will inherit equally from their father and mother and from other relatives if they are of the same degree. Also, we command that if the one who dies is intestate and does not have children or grandchildren and leaves grandparents (of the father or the mother as heirs), that the grandparent on the father's side will inherit what property belonged to the father, and the grandparents on the mother's side will inherit what property belonged to the mother; and if the deceased had made any profit during his lifetime both grandparents will inherit this together equally.
Law 11

Every man or woman who takes religious vows can make a will before a year has passed. If before a year has passed he or she does not do it, he or she cannot make a will, in which case their children inherit all that is theirs and if there are no children or grandchildren or other descendents, the closest relatives will receive the inheritance.

Law 12

When a man who has children with a woman marries another woman who has children and both have children together, if the husband or wife dies, the children of the deceased will share communally all of their parent’s estate. And if one of the brothers dies without any inheritors and does not make a will, his other brothers that are of the same father and mother will inherit all of his property; each one of the brothers inherits the property that came from his father or of the mother from which they are brothers, and if the deceased named heirs from somewhere else, the other brothers shall partition the inheritance communally.

Law 13

If the one who dies without a will and without natural inheritors has nephews or children of brothers or sisters who are closest relatives, all shall partition the property of the uncle or aunt per capita, even if the nephews of one of the siblings outnumber the siblings of the other, since they are of equal degree, they should be equals in the partition; and this will be the same of the cousins or descendants that have the right to inherit what belonged to the
deceased.

Law 14

Anything that the father or mother gives to one of his or her children for their marriage will be kept by the son/child to bring and be partitioned with the other brothers after the death of the father or mother who gave it to him or her; and if both gave it to him or her together and one of them dies, the child will be made to turn it in to be partitioned by half of what he or she was given when married, and if both die, they must turn everything they were given to be partitioned with their siblings.

Law 15

When some man makes someone and heir whom he owes something or that was his guarantor if he receives the inheritance, he may lose the lawsuit that there is against him or his property. But if it is such that he did not make a will because he was his closest relative, if he inherits with others, will what is debited to him be given first and after partition what is left.

Law 16

We declare that no cleric and no layman can in his life or death make a Jew, nor Muslim, nor heretic nor non-Christian his inheritor.

Law 17

Even though an illegitimate child must not inherit as the law mandates, but if the King wants to make a favor, he may make him legitimate
and will he will be an inheritor as if he was from a legitimate woman and marriage since the Church has the apostolic power of leniency in the spiritual, so the King can have these powers in the temporal.

Title Seven: On the Guardianship of Orphans and Their Property

Law 1

Every man that guards orphans and their property must be at least twenty years of age and be sane of mind and trustworthy and of good credit. And if he is not he cannot guard orphans and their property.

Law 2

If underage children are left parentless, the closest relatives who are of age and are in agreement will receive them and all of their property in front of the mayor in writing and guard them until they come of age; and if there are no relatives who are able to care for them, the mayor will give them to a trustworthy man to be guarded with all their property as is foresaid; and anyone who has them will maintain them from his own profits and take for himself one-tenth of the property by reason of his work. And when they come of age he shall give them all that is theirs before the mayor with the documents with which he received them and give them a correct count of the profits that he received; and if some lawsuit is filed against the orphans, or they wish to sue another, their guardian who has them in his custody can sue and answer for them and what he does on their behalf will be valid unless he does it with deceit or brings harm to them; and if by negligence or by his fault the orphans property is harmed he will be forced to pay for the damages. If
the orphans file some claim against him while he has them in his charge, it will not be valid. After the orphans are of age if their property or something of theirs is held, he will answer to them whenever they demand. And when the father or the mother die the children who are left become the rightful owners of the property of the deceased or if there are no children the property belongs to the rightful heirs.

Law 3

If the father dies and the children are underage, if the mother does not remarry she can take their property if she desires, and may keep the children in her custody until they are of age. She will receive in writing the property of the children before the closest living relatives of her dead husband and in front of the mayor. If the mother marries, she will lose custody of her children and their property and the mayor or the closest living relatives of the dead husband will receive the children and their property until they are of age as the law mandates. If the mother dies, leaving the father and the children, he will have custody of the children and possession of their property as the law mandates whether he remaries or not.

Title Eight: Of How Children/Relatives Can Be Given Governing Powers

Law 1

If a father or mother becomes impoverished during the life of the children, whether they are married or not, we order said children to support their parents to the extent they are able. We also order the children to
support any impoverished brother they might have. If the mother or father
dies, the children are to support the one who remains, and if he marries they
are to give him one-half the support they gave when the spouse was alive.
But they are not obligated to support their stepmother unless they want to.

Law 3

When an unmarried woman has the child of an unmarried man, and
the man receives the child as his own, the mother will be held to raise the
child and govern it until it is three years of age if she has resources; and if she
does not have resources to raise the child, she will raise the child at the
expense of the father. If the mother raises the child from what resources are
hers until three years of age, the father will then raise the child from there on
and the mother will not have custody if the father does not want her to,
unless the mayor for some reason orders that the mother raise the child at the
expense of the father.

This we command of the children of the Christians; for if one is the
child of a Christian and a Muslim or Jewish woman, or woman of another
law, we mandate that the Christian will have the child always and will have
the cost of the other as was aforementioned; and if after three years the father
denies him/her as his child while he is settling the dispute the father will be
held to give the child to the government until the quarrel has been judged. If
he is not proven to be the father, he will not have to pay the bills of the
mother that was deceitfully presenting the child as his. And what has been
said of the children of unmarried persons will be the same for the children of
married persons that are separated for a rightful reason.
Title Nine: On Disinheritance

Law 1

When the father or mother want to disinherit his or her children or other descendants, he or she must name specifically the reason why he or she disinherits them in their will or in the presence of witnesses; if the child denies the claim the witnesses will prove its truth.

Law 2

A father or mother may not disinherit their children from a legal marriage, nor their grandchildren, nor great grandchildren, nor other descendants unless one of them wounds the mother or father with malicious intent or with dishonor, or if one of the children denies them as their parents, or if the children accuse their parents of a crime for which they would face banishment from the kingdom or for an act for which one must lose face (unless the charge is a crime against the King or their sires or lords). Also, a wife may disinherit her husband if she finds him with another woman or a mistress, or if he commits a crime for which he would die or be imprisoned or banished from the kingdom. Neither can one make a will if they become a heretic, Muslim, Jew, or is held in captivity and does not try help oneself escape in any way possible. But, if by chance a father or mother disinherits a child, grandchild, or heir for any of the aforementioned reasons and forgives them later, they will be an inheritor as they were before they were disinherited.
Law 3

When the child or another heir, by respectful request or by deceit, keeps their father or grandfather from drafting the will which they desired and forces them to produce it under duress, the law mandates that there must be a penalty.

Law 4

If a person who has no rightful heirs drafts his will and makes a relative or any other person his heir, if the heir later kills the benefactor or knows of the benefactor’s death (if another murdered him) and refuses to denounce the death as wrongful, he will not inherit his share and everything that he would inherit will go to the King. This is to be true also of the children or grandchildren or other descendants. Also, we mandate that anyone who is made an heir in the will of another person that is not a child, grandchild, or descendant says that the will in which they are an inheritor is false, they will not receive their share as mandated by the will and the King will receive what they were to inherit.

Law 5

The law commands that an heir, whether a child or another person who does not denounce the suspicious death of the individual who named them in their will, shall not have anything which they were to inherit. We mandate that this will also be true of those males, who are of age, especially if they know who the killer was and are capable of denouncing the wrongful death.
Title Ten: On Selling and Purchasing

Law 9

We mandate that no man may sell a male or female servant who belongs to another.

Law 10

When some man sells his male or his female servant, if the servant rises against the new master and creates mischief, the original master will pay the price of the servant to the new master, and the servant shall remain under his or hers original master’s authority.

Law 13

Any man who inherits from patrimony or bloodline who wants to sell his inheritance, if a man of that bloodline wants to buy it dollar for dollar he will have it before any other, and if two or more want it, if they are of the equal bloodline, they will share it among themselves, and if they are not of equal degree the closest relative will own it alone. Moreover if before the inheritance is sold the relative does not come on the first day of sale until nine days past, if he gives the price by which it was sold he will have it; and if the closest relative does not want to demand it another relative cannot, and if the closest relative is not present it can be demanded by another of his lineage. If an inheritor wants to exchange his inheritance for another, no relative can contradict this action, and that relative who wants the inheritance that is sold to another will give the price that it costs and he will swear that he wants it
Title Twelve: On the Donations

**Law 3**

If the husband wants to give something to the wife or the wife to the husband, and there are no children, he or she may do so after one year has passed since their marriage and not before. If after the donation they have children, the donation will be non valid outside all that is in his/her one-fifth. And if before they marry they make a donation to one another, this donation may not be undone and given to any child who is born later. And if the husband dies and the wife is left pregnant, if in the end a son or a daughter is born, he or she will take part equally with the other siblings if there are any, and if there are no brothers or sisters on the side of the father and the father had willed all that was his, the fourth part of what the inheritance was they shall part among themselves and to those named in his will, and three parts will go to the child or any other born afterwards.

**Law 4**

All moveable properties\(^{66}\) which a man leaves or donates to Churches, or poor people, or in other places of charity, or for when he is ordained as a cleric, or for the wedding of a layman, he must give as promised.

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\(^{66}\) The term moveable property refers to items such as clothing, household items and other material goods that are easily moved. Moveable property is the most common type of property owned by women in this time period.
Law 8

If the husband gives his wife something he may do so and if after the death of her husband she makes a good life, she may have it until her death; she may make with it what she wants to if she does not leave lawful heirs; and if she does not make a will it will return to the husband who gave it or his heirs, if he is dead or if he does not leave lawful heirs. And if by chance after the death of her husband she does not make a good life, she may loose all that the husband gave and the heirs of her husband will have it.

Title Eighteen: On the Guarantor and the Guarantees

Law 5

If the husband makes a co-signature without permission from his wife, neither she nor her heirs will be held to pay anything by reason of this co-signature during their lifetime or in death. And if the woman makes a co-signature for another without the permission of her husband, it will be invalid and neither she nor her heirs shall be held to pay any debt from her property.

Law 12

If by chance a co-signer dies before he is relieved of his obligation, his heirs will be held free from the duties of the co-signature. Also, if he who received the benefits of the co-signatory dies before it is paid, his heirs can demand the benefits as their owner as if the co-signer if he were alive.
Law 6

Whoever sues the heirs of another for a debt that the deceased owed, or for a debt that the deceased made, the heirs will be held to answer for the deceased, even though the deceased was not ordered to make payment on the debt in his lifetime; if by witnesses or worthy letters it is proved that he made payment, the heirs will not be held to make payment on the debt. But if the estate of the deceased is not worth the amount of the debt, the heirs will not be held to turn over the estate as payment.

Law 13

Even though a married woman cannot co-sign or make a debt without the permission of her husband, the woman may however buy or sell any merchandise that she needs without her husband's permission as she sees fit to do so.

Law 14

Any debt that husband and wife incur as one, they will pay also as one, and if before they are joined in marriage one of them incurs a debt, the one who incurred it will pay it and the other one will not be held to pay it out of his/her property.
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