Visions of modernity rest in part on a distinction between inherited status (past) and achievement (present). Inheritance is taken as automatic, if not axiomatic; the recipients are passive, if grateful. This study, based on a singular source (Florentine repudiations of inheritance), reveals that inheritance was in fact a process, that heirs had options: at the least, to reject a burdensome patrimony, but also to maneuver property to others and to avoid (at times deceptively, if not fraudulently) the claims of others to portions of the estate. Repudiation was a vestige of Roman law that became once again a viable legal institution with the revival of Roman law in the Middle Ages. Florentines incorporated repudiation into their strategies of adjustment after death, showing that they were not merely passive recipients of what came their way. These strategies fostered family goals, including continuity across the generations.

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Heirs, Kin, and Creditors in Renaissance Florence

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For Teresa
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Preface

The Ambivalence of Inheritance

I first came across repudiation of inheritance in my initial foray into Florence’s rich archives, more than thirty years ago. At that time, I was researching emancipation of children. Repudiation struck me as both similar to emancipation – perhaps too similar, in the concerns it raised about fraud and its consequent parallel registration – and too strange. It was hard to understand why one would turn down an inheritance, even in the face of language that it was damnosa. In contrast, it was not so hard for one who grew up in the sixties to understand why a child would want to be free of paternal control or even why a father might want to relinquish such control.

Emancipation turned out to lead to other elements that I had not anticipated, as any fruitful research topic should. It was, as I had hoped, a good point to begin to understand the workings of law within families. Repudiation remained a nagging and puzzling presence on the margins. As part of the large, complex, and foreboding area of inheritance, repudiation seemed beyond reach. Having spent an enjoyable lunch one day in Berkeley dissuading Gene Brucker from tackling inheritance as a research topic because of its vastness and complexity, I only further convinced myself that it was too difficult. Maybe this book will serve to convince readers that my initial premonition was correct.

Inheritance was the vital process – the central moment in the life cycle – by which social reproduction occurred. Passage of titles, especially to land, defined elites and their power over others. Inheritance was too vital to be left to individual whims or to chance. It was hedged about with rigid rules and commanding expectations. In contrast, the great social theorists of the nineteenth century – Henry Sumner Maine, Frédéric Le Play, Émile Durkheim, Max Weber, for example – had all variously posed the passage to modernity in terms of a change from social order based on ascription, largely the result
of inheritance, to one based on achievement. Property went from being a collective to an individual attribute.\(^1\)

Against modernistic visions and stories of individual achievement, inheritance, in fact, still matters in the development and consolidation of modern commercial and industrial firms – disguised though it may be by law and accounting mechanisms that separate business from household.\(^2\) Conversely, forms of achievement or the revision or avoidance of inheritance rules operated in the past, as one can see with women’s property rights and the social and legal standing of illegitimate children, whose main legal and social disability operated with regard to inheritance. As Beatrice Gottlieb notes, “near unanimity about the rightness of inheritability did nothing to eliminate the ambivalence that surrounded certain aspects of it.”\(^3\) The laws of inheritance in the past gave room and means to strategies. Heirs did not have to be heirs; guardians and executors could opt out of the burdens and duties left to them – even if they all faced countervailing moral pressures to undertake the tasks the deceased had, knowingly or unknowingly, imposed.

I took on a partial study of repudiation (published in 1992, which predated that lunch with Brucker by some three years). Work on illegitimacy forced me to confront inheritance in law and practice subsequently. As my study of illegitimacy wound to a conclusion, Jules Kirshner suggested that I needed to return to repudiation. Once again, I took his advice.

There are several points of departure to this study. For one thing, it is a study of inheritance strategies by heirs. These strategies were related to and served the goal of family survival and preservation as Florentines and Tuscans understood it. They were not individualistic in any modern sense, yet they were also not simply the product of a group dynamic. They were worked out by persons, singly or in groups. They were flexible and adaptive – maddeningly so to the governing authorities who sought to extract revenues from households and to protect the integrity of markets. Repudiation was only one device available to heirs, but it was useful. Repudiations of inheritance were a regular feature of the Florentine social landscape and generational progression.

The utility of repudiation rested in good part on the fact that it provided a way to avoid debts and obligations. A second starting point to this book is that the society of Florence operated on a dense but porous web of credit

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and debt, trust and distrust, honesty and deceit. The economy was volatile, and the best of intentions to meet obligations, to pay off a credit extended to oneself and, to extend credit to others could hit insurmountable obstacles. We can appreciate only with difficulty that planning could meet with apprehension and uncertainty. It is easy to fall into the mindset of Pirandello’s narrator, seduced by the fixity and clarity of history in the documents found in a notary’s office, compared to the shifting reality of daily life.

Another and related preoccupation in this study has been that a thorough distinction between family and individual – a distinction that also serves as a progression from past to modernity – is not a useful framework for analysis. It could reify the casa rather than projecting it as a site of the confluence of interests and sentiments. Fathers could not so control and subordinate their sons that they, in turn, would prove incapable of managing and directing family affairs when their time came. Sons somehow had to be both independent and respectful. As Sylvia Junko Yanagisako nicely expresses it, “patriarchal desires of succession are constituted by a complex array of altruistic and self-serving sentiments of love, attention, respect, and esteem.”

A device such as repudiation of inheritance could variously suit needs of individuals and family groups, as circumstances seemed to warrant.

There is another point of departure (or is it arrival?) for this book – Florence. The city is a prominent fixture in studies of the Renaissance. It came to dominate most of Tuscany politically and economically. It gave birth to or attracted figures, from Dante to Michelangelo, whose writings and monuments defined the city and an age. And it still possesses the richest and most varied collections of sources, whose preservation makes possible historical research unimaginable for most anywhere else.

It used to be that investigation of some aspect of Florentine history required no justification, or was its own justification. The centrality of events and people in Florence to an understanding of the Renaissance, whose importance in terms of Western history had been undoubted since Burckhardt, meant that any aspect of that city’s history was fair game. Things have changed. A recent volume of essays entitled Beyond Florence has challenged Florentine exceptionalism, both diminishing the sense that Florence was somehow pivotal to developments in early modern history and asserting that Florence cannot be taken as typical of central and northern Italian cities, as has often been the case. Paula Findlen, one of the editors of Beyond Florence, notes that the “decline” of Florence in historiography coincides with the decline of the Renaissance as an organizing principle. Even though Florence had been taken increasingly as a kind of anthropological

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laboratory (by myself, among others) because of its unique records, it has become increasingly evident that even the history of Florence and the history of Tuscany are not the same.  

I propose to treat Florence once again as an anthropological lab. I will do so with no illusions about generalizing Florentine experiences, or Florentine laws, to other Italian cities, and I will be at pains where appropriate to draw distinctions between Florence and Tuscany. In fact, Florence shared a legal culture with the rest of Italy, marked by the activities and writings of trained lawyers and notaries, which was the underpinning of inheritance practices. Layered on top of this “common” legal heritage (hence *ius commune*) were cities’ own peculiar modifications (termed *ius proprium* in distinction). There was some correspondence in law and legal institutions among them, though we cannot see this correspondence as strict and isomorphic. Florentine legal experiences, therefore, both shared common terms and features with those in many other Italian cities, yet also diverged from them in significant ways. Florence may have been harsher than most cities in its laws placing legal restrictions on women. And it may be that Florence earlier and more thoroughly saw the adoption of a “male-oriented ideal of lineage” that directed the flow of property to successive generations. But Florence also shared
that tendency with other communities and may even have shown the way, versus previous views that spotted such an “aristocratic” vein only after the definitive triumph of the Medici in the sixteenth century.\(^\text{11}\) Access to offices and associated forms of wealth and prestige was not the result of set legal distinctions, as was more so the case for the patriciate of Venice, or would be the case in Florence under the Medici dukes. Manipulation of electoral purses, patronage, and family connections was vital to the identities and practices of those in Florence’s elite.\(^\text{12}\)

Inheritance was pivotal in Florentine society and politics. Inheritance was also precarious. Florence saw numerous economic swings and was exposed to almost constant disruptions of its markets—beginning most spectacularly with the famines, plagues, and financial failures that were the immediate backdrop to the legislation of 1355 regulating both repudiations of inheritance and emancipations of children. Family fortunes came and went with the winds of economic and political storms. Florentines knew the stories of the formerly great and wealthy and saw some of those stories unfold firsthand. It was in this context that they used repudiations, and perhaps more consistently and ruthlessly than was the case in any other Italian city, although any definitive judgment on this score must await parallel research for other towns.

A final point of departure is the realization that, like the testaments and schemes of intestacy against which it operated, repudiation was a legal institution. As an area of law permitting exceptions to other areas of law, repudiation certainly shows us that “law is only one of the complex and sometimes contradictory forces of kinship that shape the reformulation and renegotiation of the sentiments, interests, and strategies of family members.”\(^\text{13}\) Law does more than “double kinship” with rules, the normative content of which can in fact be deeply contested. It is a means of expression and enactment of moral commitments and emotional attachments and of


\(^{13}\) Yanagisako, 83. See also her comments about anthropological theories of kinship, 77–79.
material and nonmaterial interests. My approach to repudiation and inheritance has been guided by a sense of the potential and limits, the rigidity and yet plasticity of the law in relation to daily life.

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