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978-0-521-17847-1 - Heirs, Kin, and Creditors in Renaissance Florence

Thomas Kuehn

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Heirs, Kin, and Creditors in Renaissance Florence

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.

Thomas Kuehn is a graduate of Carleton College (B.A. 1972) and the University of Chicago (M.A. 1973, Ph.D. 1977). Professor Kuehn taught at Reed College for four years before going to Clemson University, where he has served as the history department chair since 2001. Among his many published works, Kuehn has written *Emancipation in Late Medieval Florence* (1982); *Law, Family, and Women: Toward a Legal Anthropology of Renaissance Italy* (1991); and *Illegitimacy in Renaissance Florence* (2002). His scholarship has been published in journals as diverse as *Renaissance Quarterly*, *American Journal of Legal History*, *Continuity and Change*, and the *Journal of Women's History*.

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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

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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

¹ James Casey, *The History of the Family* (Oxford: Blackwell, 1989), esp. 30–37, 138–40. See also Paolo Grossi, “*Un altro modo di possedere*”: *L'emersione di forme alternative di proprietà alla coscienza giuridica postunitaria* (Milan: Giuffrè, 1977); Jane Fishburne Collier, *From Duty to Desire: Remaking Families in a Spanish Village* (Princeton: Princeton University Press, 1997).

² See George E. Marcus with Peter Dobkin Hall, *Lives in Trust: The Fortunes of Dynastic Families in Late Twentieth-Century America* (Boulder: Westview Press, 1992).

³ Beatrice Gottlieb, *The Family in the Western World: From the Black Death to the Industrial Age* (New York and Oxford: Oxford University Press, 1993), 203.

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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.⁴

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.”⁵ 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

⁴ Luigi Pirandello, *One, No One, and One Hundred Thousand*, trans. William Weaver (New York: Marsilio, 1992).

⁵ Sylvia Junko Yanagisako, *Producing Culture and Capital: Family Firms in Italy* (Princeton: Princeton University Press, 2002), 89.

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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.⁶

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,⁷ 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.⁸ 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.⁹ 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.¹⁰ But Florence also shared

⁶ Paula Findlen, “In and Out of Florence,” in *Beyond Florence: The Contours of Medieval and Early Modern Italy*, ed. Paula Findlen, Michelle M. Fontaine, and Duane J. Osheim (Stanford: Stanford University Press, 2003), 13–28, esp. 15–19.

⁷ Interestingly, Findlen, *ibid.*, 21, poses that historical attention to the notary “surely goes a long way to enriching the comparative history of Italy.”

⁸ Which can be the result if too hard a distinction is drawn between law (in *ius commune*) and ideology or conscience or sentiment (in *ius proprium*), as per Manlio Bellomo, “La struttura patrimoniale della famiglia italiana nel tardo medioevo,” in *Marriage, Property, and Succession*, ed. Lloyd Bonfield (Berlin: Duncker & Humblot, 1992), 68. In contrast, see Paolo Grossi, *L’ordine giuridico medievale* (Bari: Laterza, 1995).

⁹ Cf. Thomas Kuehn, *Law, Family, and Women: Toward a Legal Anthropology of Renaissance Italy* (Chicago: University of Chicago Press, 1991), 212–37; *id.*, “Person and Gender in the Laws,” in *Gender and Society in Renaissance Italy*, ed. Judith A. Brown and Robert C. Davis (New York: Longman, 1998), 87–106; *id.*, “Understanding Gender Inequality in Renaissance Florence,” *Journal of Women’s History* 8 (1996): 58–80; *id.*, “Figlie, madri, mogli e vedove: Donne come persone giuridiche,” in *Tempi e spazi di vita femminile nella prima età moderna*, ed. Silvana Seidel Menchi, Anne Jacobson Schutte, and Thomas Kuehn (Bologna: Il Mulino, 1999), 431–60; *id.*, “Household and Family in *Ius Commune* and *Ius Proprium*,” in *The Household in Late Medieval Cities: Italy and Northwestern Europe Compared*, ed. Myriam Carlier and Tim Soens (Leuven: Garant, 2001), 37–50; Isabelle Chabot, “‘Biens de famille’: Contrôle des ressources patrimoniales, gender et cycle domestique (Italie, XIII^e – XV^e siècles),” in *ibid.*, 89–104; *id.*, “Seconde nozze e identità materna nella Firenze del tardo medioevo,” in *Tempi e spazi*, 493–523; Samuel K. Cohn, Jr., *Women in the Streets: Essays on Sex and Power in Renaissance Italy* (Baltimore: Johns Hopkins University Press, 1996); Stanley Chojnacki, *Women and Men in Renaissance Venice: Twelve Essays on Patrician Society* (Baltimore: Johns Hopkins University Press, 2000).

¹⁰ Samuel K. Cohn, Jr., *The Cult of Remembrance and the Black Death: Six Renaissance Cities in Central Italy* (Baltimore: Johns Hopkins University Press, 1992), 172–80, 196–97.

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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.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.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.”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

¹¹ Cf. Francis William Kent, *Household and Lineage in Renaissance Florence: The Family Life of the Capponi, Ginori, and Rucellai* (Princeton: Princeton University Press, 1977), 135–44; and Anthony Molho, *Marriage Alliance in Late Medieval Florence* (Cambridge: Harvard University Press, 1994), 333–34.

¹² See the classic examinations of Florentine governance, officeholding, and factionalism: Gene Brucker, *The Civic World of Early Renaissance Florence* (Princeton: Princeton University Press, 1977) and *Florentine Politics and Society, 1343–1378* (Princeton: Princeton University Press, 1962); Lauro Martines, *Lawyers and Statecraft in Renaissance Florence* (Princeton: Princeton University Press, 1968); Nicolai Rubinstein, *The Government of Florence under the Medici (1434–1494)* (Oxford: Oxford University Press, 1965); Dale Kent, *The Rise of the Medici: Faction in Florence, 1426–1434* (Oxford: Oxford University Press, 1978) and “The Florentine ‘Reggimento’ in the Fifteenth Century,” *Renaissance Quarterly* 28 (1975): 575–638; John J. Najemy, *Corporation and Consensus in Florentine Electoral Politics, 1280–1400* (Chapel Hill: University of North Carolina Press, 1982); Marvin Becker, *Florence in Transition*, 2 vols. (Baltimore: Johns Hopkins University Press, 1967–68).

¹³ Yanagisako, 83. See also her comments about anthropological theories of kinship, 77–79.

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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.

Acknowledgments

The dynamic between individual and group goes into a book too. The individual author bears the blame for errors, omissions, and patent stupidities. The collective shares the credit for what value there is. Credit then must go first to the National Endowment for the Humanities for a year-long fellowship, coupled with sabbatical leave from Clemson University, that allowed me to do the bulk of the archival research. The Clemson College of Architecture, Arts, and Humanities also provided funding for travel. I am grateful to the professional and efficient staffs of the Archivio di Stato and Biblioteca Nazionale Centrale of Florence for their assistance and kindness. Nor can I forget the gracious assistance of the staff at the Robbins Center at the University of California, Berkeley, Law School, and of its director, Laurent Mayali, and the incredible and invaluable aid of the Clemson University Interlibrary Loan Office. My first exploration of repudiation took the form of a presentation to the Renaissance Society of America meeting in 1990. I thank some of those present then for their comments and encouragement, notably Libby and Tom Cohen, and the late Rona Goffen for tracking me down and asking me to submit the paper to *Renaissance Quarterly*, which subsequently published it. An invitation to an international conference on “Famiglie e poteri in Italia tra Medioevo ed Età Moderna” in Lucca in June 2005 allowed me to present and discuss part of Chapter 2. I thank Anna Bellavitis, Isabelle Chabot, and Silvana Seidel Menchi for the invitation, and Stanley Chojnacki and Caroline Fisher for their comments and questions.

Debts of a personal nature abound. My thanks to Anthony Molho for sharing his digitized version of the 1480 catasto and to Lauro Martines for answering my queries. I am grateful to archival companions Bill Caferro and Lawrin Armstrong for lending an ear and offering suggestions. Daniel Smail endured some painfully obtuse early drafts of various chapters and notably encouraged me to keep the issue of credit and trust at the center of the study. Jules Kirshner has been an invaluable source of insight and an inspiring model of scholarship and intellectual acuity for more than three decades.

Support closer to home sustained my labors. I thank colleagues whose patience I am sure I wore down – Roger Grant and David Nicholas. And I am ever grateful to all my colleagues in the Clemson history department for being day by day a community of engaged scholars and passionate teachers. Amy Matthews provided valuable help in recasting some data so that it could “crunch” through Excel and SPSS, beyond her invaluable work in keeping the department functioning despite me. Trish Nigro found a way to

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assemble some tables, print copies of this typescript, and observe the Friday color regimen. Ben Stephens slid over to the building from his outpost in the psychology department to show me the ropes with the data software.

My daughter, Allison, endured her father's chatter and grew through the years to show me what a splendid legacy I will leave. The book is dedicated to Teresa Suggs, *amica amatissima*, who still may not like the subject but who helped make it happen and kept me going.