



**38th Annual Meeting of
the Social Science History Association (SSHA), Chicago, IL,
21-24 November, 2013**

<http://www.ssha.org/>
Family/demography network

This panel session dedicated to

FAMILY CRISES RELATED TO CHANGES IN LEGISLATION

is taking place on
Thursday 21 November, 2013, at the Palmer House Hotel Hilton,
17 EAST MONROE STREET, CHICAGO, ILLINOIS, 60603, USA
from 12:30 PM to 02:30 PM,
Conference floor

Organisers:

Antoinette Fauve-Chamoux, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Paris, France, member of ERHIMOR group & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* ».

&

Gérard Béaur, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Director of ERHIMOR, Paris, France & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* ».

PANEL: FAMILY CRISES RELATED TO CHANGES IN LEGISLATION

Session abstract:

Customs or written laws always determined property rights, use and transmission of land and power from a generation to the following one. Over time, laws were modified. But legislative changes occurred in more or less favourable circumstances: either an old legislation was smoothly adapted to societal changes, with codifying a practice already well installed, either the State tried radically to change existing practices by imposing some new

law from the top (for example a Civil Code), in order to reach some change which was not wished by the population and by families, particularly in rural societies.

Whatever their circumstances, legislative changes present a double interest for historians: in the first case of a bottom up change, we can estimate the evolution of practices and mentalities, according to the social level, in the other case, when a top down change occurred, all kind of family crises were induced and we can study how families developed specific strategies in order to solve problems, avoid worst consequences and adapt at last their practice to new legal requirements or change the law again.

In this session, we shall investigate how the evolution of the legislation has been able to affect traditional rules of family transmission and access to land property particularly when it concerned women, since their role in the devolution of both movable and real property was often quite under developed.

The four papers are the following (see abstracts & emails below), with a Chair and a Discussant

PANEL: FAMILY CRISES RELATED TO CHANGES IN LEGISLATION

1/ The Family Laws in Spain: Crises and Conflicts from a Regional Perspective, 16th-19th centuries

OFELIA REY CASTELAO, *Professor catedratica*, University of Santiago de Compostela, Spain (History)

2/ Women, Law and Property Transmission in the Nordic countries (16th-20th centuries)

BEATRICE MORING, University of Cambridge (History of Population)

3/ The French Revolutionary Crisis and Gender Relations in Countryside Families

GÉRARD BÉAUR, *Directeur d'études*, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Director of ERHIMOR, Paris, France & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* ».

4/ The crisis of confessionally mixed families in Transylvania as linked to the provisions of the ecclesiastic legislation (19th-20th centuries).

MARIUS EPPEL, *enseignant-chercheur*, Université Babes-Bolyai de Cluj-Napoca, Roumanie, *Post-doc at EHESS*, Paris, équipe Séminaire de recherche EHESS « Histoire de la Famille ».

CHAIR: ANTOINETTE FAUVE-CHAMOUX, *Maître de Conférences*, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Paris, France, member of ERHIMOR group & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* », Séminaire de recherche EHESS « Histoire de la Famille ».

DISCUSSANT: MARY LOUISE NAGATA, *Professor*, Francis Marion University (History), équipe Séminaire de recherche EHESS « Histoire de la Famille ».

ABSTRACTS & emails

PANEL: FAMILY CRISES RELATED TO CHANGES IN LEGISLATION

1/ Paper one:

The Family Laws in Spain: Crises and Conflicts from a Regional Perspective, 16th-19th centuries

Ofelia Rey Castelao, University of Santiago de Compostela, Spain (History)
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The most important family laws in Spain are the civil law of 1505 and the *Civil Code* of 1889. The first law is known as the *Law of Toro* and its authors are the "Reyes Católicos" – Isabel I and Fernando II- : this law is a modern version of the medieval laws and establishes equality between the sons and daughters to receive inheritance from parents, but allows parents to give one greater share to a son or a daughter. This law was applied to the Crown of Castile and in South America and meant very important changes in the practices; it also meant intense conflicts. In the 16th, 17th and, above all, in the 18th century, several changes were made in the content of the law to adapt to social changes. But during the 19th century, no main change of the law occurred before 1889 when a *Civil Code* was adopted. This new legislation affected mostly women and the regional customs; again, situations of conflicts resulted from this change at family level. In this paper I intend to study crises and conflicts arising from these changes from a comparative and gender perspective.

2/ Paper two:

Beatrice Moring, University of Cambridge (History of Population)
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Women, law and property transmission in the Nordic countries (16th-20th centuries)

The 18th and the 19th century Nordic countries were still basically rural and agrarian where property and inheritance rights retained many traits from medieval Germanic legislation until the 1850s and 1860s. Land was the most important property and family rights were transferred vertically through the generations. Women as well as men could inherit land and family property. Marriage gave the parties rights to the marital movable property but land was separated and the ownership of a family holding could only be transferred to offspring, not a spouse. If the parties resided on the land of the husband the widow inherited one third of the marital property. She could reside on and run a farm for her children in their minority and she had the right to upkeep for life when a child took over the headship. She was however, never the legal owner of the land. The 1734 law code introduced changes to the transmission process and over time the issue of individual rather than family rights became more prominent. A study of the provisions for old age in so called retirement contracts and the timing of the drawing up of such documents reveal the responses within agrarian communities to changes in the nature of transmissions and ownership. They also document the concept of the right of the wives of farmers to security in old age.

3/ Paper three:

G rard B aur, *Directeur d' tudes*, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Director of ERHIMOR, Paris, France & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* ».
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The French Revolutionary crisis and gender relations of powers in countryside families

How did the changes resulting from successive reforms of matrimonial law and the inheritance system affect women's lives? This paper approaches the question by examining the situation in several French regions.

The Revolution brought about important changes both in the matrimonial arrangements that applied to spouses during their marriage and in the rules governing the succession after parents died. The uncertainty created by the tentative nature of the Revolutionary legal system, termed intermediary law, followed by a more stable situation under the new provisions of the Civil Code had an immediate impact and some delayed effects on the fate of family members.

The position of women within the family when they inherited or became widows was inevitably affected. It is easy to see that the upheavals varied widely in their results and could produce different effects, depending on the province and the legal system in force under the Old Regime. In one place they could be insignificant; in another, considerable. In one area they improved women's lot, in another they made it more precarious. Thus, in order to really understand the effect of the Revolutionary reforms it is necessary to look at the regional, or even local, level.

For this reason we propose to show how practices changed and how the changes had selective effects by looking at a few sample studies from the Pyrenees, Normandy and Perigord.

4/ Paper four:

Marius Eppel, maître de conférences, Université Babes-Bolyai de Cluj-Napoca, Roumanie, équipe Séminaire de recherche EHESS « Histoire de la Famille »
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The crisis of confessionally mixed families in Transylvania as linked to the provisions of the ecclesiastic legislation (19th-20th centuries).

The position of the Church (be it Orthodox, Greek-Catholic, Roman-Catholic, Reformed or Lutheran) with regard to mixed marriages was a unitary one. Beyond their more or less intense practice of the indulgence principle, each would oppose the settlement of such a marriage. All confessions hoped to register as many religiously homogeneous couples as possible, in order to ensure a smoother management of the unity of faith. If such marriages still proceeded to institutionalization, the ecclesiastic authorities would insist that children be brought up according to the doctrine of one of the parts involved. This would lead to confessional conflicts, since each was drawn to promoting its own catechism. Reality went beyond canonical provisions and, hence, each Church had to appeal to concessions. The transformations in the position of the Transylvanian Church with regard to mixed marriages were largely influenced by the intensification of the process of secularization towards the end of the 19th century. The modernization of the society, industrialization and urbanization all facilitated the transition of the population from the rural to the urban areas. Men proved more determined to change their social milieu in search of a job, which led to their progress to a different location and their marriage to a woman of different confessional or ethnical background. If the 19th century recorded an often difficult interconfessional dialogue on the question of mixed marriages, the 20th century's ecumenism brought the dialogue within a more balanced sphere. Nevertheless, no Church would explicitly admit the government of

the other Church over itself in the context of mixed marriages. The state's intervention along with the process of secularization would ultimately diminish the peremptory attitude of the Churches.

5/ CHAIR:

Antoinette Fauve-Chamoux, *Maître de Conférences*, EHESS/CNRS-UMR8558, Centre de Recherches Historiques, Paris, France, member of ERHIMOR group & of the International Scientific Coordination Network « *Crises and Change in the European Countryside* », Séminaire de recherche EHESS « Histoire de la Famille ».
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6/ DISCUSSANT:

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