

## French Basque Women in California (1880-1940). Continuity or change in Their Inheritance Practices?

*Mujeres vascofrancesas en California (1880-1940). ¿Continuidad o cambio en sus prácticas sucesorias?*

Ipar Euskal Herriko emakumeak Kalifornian (1880-1940). Jarraitutasuna edo aldaketa oinordetzan?

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**ABSTRACT:** The French Basques residing in Kern, California between 1880 and 1940 originated from the valley of Baigorri, in Basse Navarre in the French Basque Country and perpetuated their ancient inheritance traditions. Based on 240 genealogies, this paper shows great continuity in Basque inheritance traditions in rural California, and particularly the stem-family and the «house system». This paper also shows the manner in which the women used California law to expand their civil and political power as women, wives, and mothers.

**KEYWORDS:** Women. French Basque Country. California. Emigration. Inheritance. house system. empowerment. 1880-1940

**RESUMEN:** Los vascofranceses residentes en Kern, California, entre 1880 y 1940 procedían del valle de Baigorri, en la Baja Navarra en el País Vasco francés, y perpetuaron sus antiguas tradiciones sucesorias. Basado en 240 genealogías, este artículo muestra una gran continuidad en las tradiciones sucesorias vascas en la California rural y, en particular, la familia troncal y el «sistema de casa». Este artículo muestra también cómo las mujeres utilizaron las leyes de California para ampliar su poder civil y político como mujeres, esposas y madres.

**PALABRAS CLAVE:** Mujeres. País Vasco francés. California. Emigración. Sucesión. Sistema de la casa. Empoderamiento. 1880-1940.

**LABURPENA:** Kernen, Kalifornian, 1880. eta 1940. urteen artean bizi ziren Ipar Euskal Herriko euskaldunak Baigorriko ibarrekoak ziren, Nafarroa Beherekoak, eta oinordetza-tradizio zaharrak iraunazti zituzten. 240 genealogiatan oinarrituta, artikulu honek erakusten du jarraitutasun handia egon dela euskal oinordetza-tradizioetan Kalifornia landatarrean eta, batik bat, familia tronkala eta «etxe-sistema». Artikulu honek erakusten du, halaber, emakumeek nola baliatu zituzten Kaliforniako legeak beren botere zibil eta politikoa zabaltzeko, emakume, emazte eta ama gisa.

**GAKO-HITZAK:** Emakumeak. Ipar Euskal Herria. Kalifornia. Emigrazioa. Jaraunspena. Etxe-sistema. Ahaldunzea. 1880-1940.

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**CUSTOMS SUMARIO:** I. SOURCES AND METHODS.—II. BASQUE CUSTOMS AND INHERITANCE IN THE OLD REGIME.—III. THE CIVIL CODE OF 1804 AND INHERITANCE PRACTICES IN THE 19TH CENTURY.—IV. BASQUE WOMEN AND CALIFORNIA'S COMMON LAW.—V. CONCLUSION.—VI. BIBLIOGRAPHY

Most of the French Basques who emigrated to Kern, an isolated rural County of California, in the period between 1880 and 1940 originated from valley or mountain villages around Baigorry in Basse Navarre. They were men first and then women with agricultural backgrounds and from farming families. Research on their life trajectory in California based on 240 family reconstructions indicate that these Basques opted for strategies and attitudes which highlighted their wish to maintain some of their lifestyles, their family traditions, and sometimes their language of origin, the Basque language. The data indeed indicate some continuity in their home lifestyle as well as their inheritance practices. These Basques emigrated to rural areas in California with specific economic and personal goals but also the wish to perpetuate aspects of their cultural heritage, family values, and inheritance practices derived from the Basque of Basse Navarre and the French Civil Code of 1804<sup>1</sup>. The purpose of this paper is to outline the family and inheritance practices which characterized the Basque stem-family system and the «house system». How did emigrants manage to perpetuate these practices in California? More specifically, how did women made use of California's Common Law to gain more power and rights than did the women who remained in the Basque Country?

Basques' lifestyle and inheritance traditions derived from old and new sets of laws, the unequal Customs of the *Ancien Régime*, those of Basse Navarre imposing single imitable inheritance by transferring all assets to the first-born male or female child, and the French egalitarian laws of the Civil Code of 1804 imposing equal partible inheritance between all siblings, male and female. In the course of the 19<sup>th</sup> century, Basques had managed to maintain their single-inheritance practices by adapting aspects of the Basque Customs to the Civil Code, thus avoiding the implementation of equal partible inheritance. These adaptations however generated greater inequalities between siblings, some which affected women in particular. From the middle of the nineteenth century until the early twentieth century, Basque women adopted new strategies to avoid unequal treatment by settling in large French cities first and later emigrating to America. While Basque men in America strove to improve their economic gains and status, Basque women eventually had greater designs in

<sup>1</sup> The Customs of Basse Navarre are published and analyzed in Jean GOYHENETCHE, *For et coutumes de Basse-Navarre*, Bayonne, 1985. Regarding the French Civil Code, see Edouard DALLOZ et Charles VERGÉ, *Code civil, annoté et expliqué d'après la jurisprudence et la doctrine*, Tome 2, Paris: Bureau de la Jurisprudence Générale, 1874.

the matter of inheritance (economic gains) and political powers (with strategies of empowerment). Indeed, Basque women in California participated in the reproduction of traditional inheritance practices, the transmission of family assets to one child but their strategies allowed them to gain more personal, civil, and political powers.

## I. SOURCES AND METHODS

The following analysis is based on material from three different research projects. The analysis of the ancient Basque customs or *Fors* derives from my analysis of the written customs of Basse Navarre and from the published works by Maïté Lafourcade and Anne Zink<sup>2</sup>. These comprehensive studies based on the reconstitution of Basque devolution practices from notary records (succession documents, marriage contracts, and wills) serve as the groundwork to explain ancient family inheritance practices before the French revolution.

The data to analyze Basque devolution practices under the Civil Code of 1804 in France derives from my own research on Basque inheritance practices since 1800. It is based on the study of 120 genealogies which comprise 120 couples (20 in each of the selected villages) who married between 1800 and 1820, their 567 children and their 1,039 grand-children originating from six villages (Sare, Les Aldudes, Mendeive, Alçay, Izturits and Amendeuix) using the civil registers (État civil), the inheritance records (*Enregistrement*), the land records (*Cadastral*), and the marriage contracts of the selected population from 1800 until 2000.<sup>3</sup> The computerized data allowed a gendered analysis of inheritance practices in the French Basque Country after the implementation of the Civil Code of 1804 and on how these practices affected women's destinies.

Finally, the study on Basque inheritance practices in California derives from genealogies of Basque families who settled in Kern County California in the period between 1880 and 1940. The data are part of a larger research project I am conducting on French immigration into California. The study is based on 240 genealogies over three generations: the immigrant men and

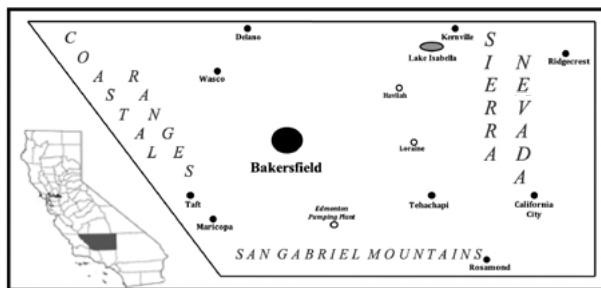
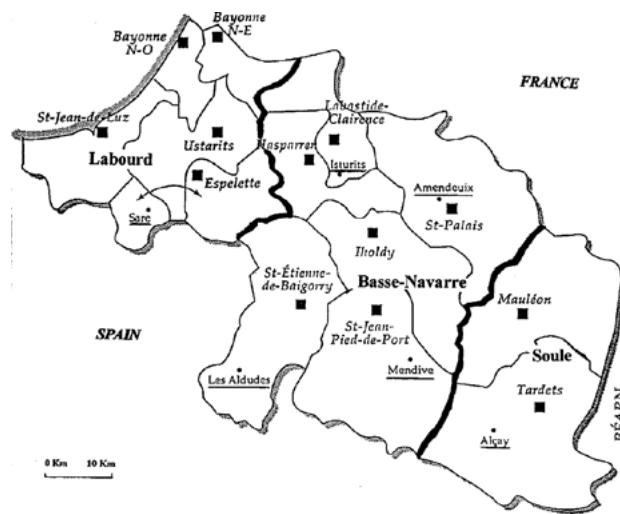
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<sup>2</sup> See Maïté LAFOURCADE, *Mariages en Labourd sous l'Ancien Régime. Les contrats de mariage du pays de Labourd sous le règne de Louis XVI*, Bilbao, 1989. See also Anne ZINK, *L'Héritier de la maison. Géographie coutumière du Sud-Ouest de la France sous l'Ancien Régime*, Paris, 1993.

<sup>3</sup> The civil registers comprise birth, marriage and death records. The *Enregistrement* combines all notary documents: marriage contracts, inheritance arrangements, testaments, and donations. Finally, the *Cadastral* identifies the location, nature, size, and evolution of individual properties over time.

women, their parents and their 740 children using six US censuses (from 1880 to 1940), the civil registers (births and marriages records), the naturalization records, and the inheritance settlements (Probate records) of Kern County, California.<sup>4</sup>

The data drawn from these three research projects will help analyze how Basques used prerogatives of California's *Common Law* to perpetuate some of their ancient inheritance practices in California and how their adapted practices contributed to Basque women's empowerment<sup>5</sup> in America, allowing them to gain greater personal, civil, and political powers as women.



<sup>4</sup> The site, *Ancestry.com*, was used to complete the missing data

<sup>5</sup> On the gender approach, see Joan W. SCOTT, *De l'utilité du genre*, Paris, 2012 ; Françoise THÉBAUD, *Ecrire l'histoire des femmes et du genre*, Lyon, 2007 (among others).

## II. BASQUE CUSTOMS AND INHERITANCE IN THE OLD REGIME

Contrary to the rest of France where patriarchy prevailed in the form of male primogeniture or land partition between sons only,<sup>6</sup> the Basque Customs guaranteed gender equality at equal birth rank. According to the Basque Customs and based upon Jean Goyhenetche, Maïté Lafourcade and Anne Zink's research work<sup>7</sup>, first-born daughters had the same rights as first-born sons, a strict male or female primogeniture (*aînesse intégrale*) which secured the transmission of the family's house and land to the first-born child regardless of gender.<sup>8</sup> The customs thus enforced equal rights, status, and treatment between first-born sons and daughters<sup>9</sup> but unequal rights, status, and treatment between younger sons and daughters who were only entitled to the *légitime*, that smaller part of the family assets which farmers acquired during their marriage and later partitioned between the younger children. Among these acquisitions, there was the heir or heiress' spouse's dowry which was cash money automatically absorbed into the house upon marriage and used to compensate the heir or heiress' younger siblings wishing to depart from the family house.<sup>10</sup>

The historiography indicates that families had three surviving adult children on average in the eighteenth century. The first-born, male or female, child inherited the farm and land when he or she married a person of the same social (endogamy) and professional group (homogamy); the second-born child (no matter the sex) received a dowry in order to marry a local heir or heiress of the same socio-professional group as well;<sup>11</sup> finally, the third-born child, no matter the sex, received no compensation and was forced to a life of service and celibacy in the family farm under the authority of the parents first and

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<sup>6</sup> France generally protected men's rights by imposing either male primogeniture as in Central, Southern and Eastern France or equal male partition, as in Brittany and Normandy. See Gérard BÉAUR, Land Transmission and Inheritance Practices in France during the *Ancien Régime*: Differences of Degree or Kind?, in David R. GREEN and Alastair OWENS (eds.), *Family Welfare. Gender, Property, and Inheritance since the Seventeenth Century*, Westport, CO, 2004, pp. 31-46 & Martine SEGALEN, *Quinze générations de bas bretons: parenté et société dans le pays bigouden sud (1720-1980)*, Paris, 1985.

<sup>7</sup> GOYEHENECHÉ, Eugène, *Le Pays Basque: Soule, Labourd, Basse-Navarre*, Pau: Société nouvelle d'éditions régionales et de diffusion, 1979. Maïté LAFOURCADE, *Mariages en Labourd sous l'Ancien Régime*, op. cit., 1989. Anne ZINK, *L'Héritier de la maison*, op. cit., 1993.

<sup>8</sup> See Anne ZINK, *L'Héritier de la maison*, op. cit., pp. 107-117.

<sup>9</sup> The first-born children, male or female, became heirs upon marriage unless they were unfit (poor health, mental incapacity, incompatibility of character). See Maïté LAFOURCADE, *Mariages en Labourd*, op. cit., pp. 47-53.

<sup>10</sup> Maïté LAFOURCADE, *Ibid.*, pp. 68-70.

<sup>11</sup> Families practiced endogamy and homogamy (marriages within the same social, economic, and professional group). See Maïté LAFOURCADE, *Ibid.*, pp. 108-110.

later the first-born sibling, male or female, who had married into the house. Though ill-treated, the youngest children, male or female, had some rights and decision power over the house, one which the heir or heiress could not legally circumvent and known as the *droit de chaise* which granted them the right to live, work, and die in the family house (fully taken care of) and to approve or disapprove any decision affecting the house and the land attached to it.<sup>12</sup>

The first-born male or female children thus benefited the most from the Customs as heirs or heiresses. They became *coseigneurs* with the parents upon marriage and were secured heirship and headship of the house and land. They thus acquired equal decision power and equal status with the parents (*maîtres anciens*).<sup>13</sup> In return for these privileges however they had obligations, the most important one being cohabitation with the parents and unmarried siblings through life.<sup>14</sup> This complex household form known as the stem family system (*famille souche*) was first identified by Frédéric Le Play as one comprising two married couples, one at each generation (parents and the married heir or heiress) and their respective unmarried children, all living under the same roof.<sup>15</sup> The young heir or heiress (*maître/maîtresse jeune*) thus had legal powers but also great responsibilities, those of caring for the farm dwellers (aging parents and unmarried siblings) and transmitting the house and land intact to the next generation.<sup>16</sup> The customs were thus written to protect farm holdings and to perpetuate family lineage and securing the economic and demographic viability of farms and communities. To make up for inequalities, communities' common land was made available to the landless younger sons who herded sheep for themselves in order to make their own money.

The Customs thus aimed to secure continuity and perpetuity to families, farms, and communities through single inheritance, benefitting the first-born child, no matter the sex, to the detriment of the younger siblings, especially the younger women. These women were indeed treated most unequally and suffered greater discrimination because contrary to the younger brothers who could herd sheep for their own benefits, they were confined to house chores with no possibility to accumulate wealth of their own. Unequal treatment be-

<sup>12</sup> The *Droit de Chaise* was young unmarried siblings' rights to live and die in the house because they received no inheritance. In addition, heirs and heiresses could not sell family assets without celibate siblings' consent. See Anne ZINK, *L'Héritier de la maison*, *op. cit.*, pp. 160-175.

<sup>13</sup> Maïté LAFOURCADE, *Mariages en Labourd*, *op. cit.*, pp. 140-144.

<sup>14</sup> Anne ZINK, *L'Héritier de la maison*, *op. cit.*, pp. 191-196.

<sup>15</sup> See Frédéric LE PLAY, *L'Organisation de la famille selon le vrai modèle signalé par l'histoire de toutes les races et de tous les temps*, Paris, 1871; *Idem, La Réforme sociale en France déduite de l'observation comparée des peuples européens*, Paris 1878, 3 vols.

<sup>16</sup> Maïté LAFOURCADE, *Mariages en Labourd*, *op. cit.*, pp. 54-57 & 140-144.

tween children of different ranks was thus institutionalized in the Customs and enforced by families for the perpetuity of their farm and their line. These practices lasted until the French Revolution when the republican leaders abolished all privileges, including the Customs, on 4 August 1789 and imposed equal inheritance laws. Did the Civil Code of 1804 successfully impose egalitarian inheritance laws and abolish gender inequalities?

### III. THE CIVIL CODE OF 1804 AND INHERITANCE PRACTICES IN THE 19<sup>TH</sup> CENTURY

On the issue of inheritance, the Civil Code imposed equal gender and birth-rank equality and therefore equal rights and treatment between male and female siblings, making it illegal to transfer patrimony to one child without compensating the other siblings. From then on, family assets had to be equally divided between all the children so that each child, no matter their sex and birth-rank, was treated equally and enjoyed an equal share of the family inheritance. The Code endangered farm holdings which inevitably became smaller and smaller at each generation. The Code also endangered the viability of the farm holdings because they eventually became too small to support a family. Finally, the Code endangered the economic and demographic equilibrium of communities because there resided too many people with smaller and small land holdings to feed families.<sup>17</sup> This strict egalitarian law took time to be implemented, a time which Basque families used to adopt new strategies to adapt to the law and to find ways to circumvent them.

Actually, data indicate that across the nineteenth century, the ancient Basque practices of single inheritance and of the stem-family remained in place.<sup>18</sup> The law nonetheless required that, while one child could collect the family farm and land, the excluded children were to be compensated for their shares of the inheritance. This could be costly and burdensome for families. Devolution negotiations turned into a lifetime collective bargaining process between siblings until both parents died. In the end, families managed to perpetuate single inheritance and the stem-family system despite the new egalitar-

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<sup>17</sup> Single inheritance was institutionalized for farm holdings to remain in place from one generation to the next. Land was never partitioned in order to allow the same number of people to survive on the same amount of land and thus avoid economic crisis, rural exodus and massive migration.

<sup>18</sup> See Marie-Pierre ARRIZABALAGA, The stem family in the French Basque Country: Sare in the nineteenth century, *Journal of Family History*, 1 (1997), pp. 50-69; Idem, Gender and Well-being in the Pyrenean Stem-family System, in Bernard HARRIS, Lina GÁLVEZ, and Helena MACHADO (eds.), *Gender and Well-being in Europe. Historical and Contemporary Perspectives*, London, 2009, pp. 85-102.

ian law but in the process, new inequalities emerged, some of which affected women more than men.<sup>19</sup>

Family reconstitution data indicate that indeed the Civil Code transformed Basque devolution practices over time and that at first glance, the new practices increasingly favoured daughters. Indeed in the first half of the nineteenth century, the majority of heirs were first-born children (52.2%) but among these, there were more women (55.6%) than men (44.4%). In addition among the 47.8% of the younger children who took over the farm, there were more heiresses (51.5%) than heirs (48.5%). Research thus shows that at first glance, single inheritance prevailed and it did not discriminate against women. These changes evolved even further in the second half of the century, when only 38.7% of the single heirs/heiresses were first-born. Among them, more than two thirds were heiresses (65.1%). Finally, among the younger siblings (cadets) who took over the farm (61.3%), half were women and half were men.<sup>20</sup>

**Table 1.** Single inheritance in the Nineteenth-Century Basque Country  
According to Sex and Birth Order Among the Second- and Third-  
generation Cohorts (percentage)\*

Generation	Second Generation			Third Generation		
	Heiress	Heir	Total	Heiress	Heir	Total
First-born Child	55.6	44.4	52.2	65.1	34.9	38.7
Younger Child	51.5	48.5	47.8	50	50	61.3
Total	53.6	46.4	100 (N=69)	55.9	44.1	100 (N=111)

\* The data concern the children (second-generation) and the grand children (third- generation) of the 120 couples who married in the early nineteenth century

As the data show, families in the second half of the nineteenth century did not discriminate against women, 55.9% of the selected heirs being women, a phenomenon that was observed in other parts of France in the same period, as in Cantal.<sup>21</sup> Research indicates that there was no gender discrimination against

<sup>19</sup> See also André ETCHELECOU, *Transition démographique et système coutumier dans les Pyrénées occidentales*, Paris, 1991, among others.

<sup>20</sup> See Marie-Pierre ARRIZABALAGA, Succession Strategies in the Pyrenees in the 19th Century. The Basque Case, *The History of the Family*, 10, 3 (2005), pp. 271-92 and Id., Pyrenean marriage strategies in the nineteenth century: the Basque case, *International Review of Social History*, 50 (2005), pp. 93-122.

<sup>21</sup> On Cantal (Central France), see Rose DUROUX, Temporary Male Migration and Female Power in a Stem-Family Society: the Case of 19th Century Auvergne, in David R. GREEN and Alastair OWENS (eds.), *Family Welfare. Gender, Property, and Inheritance since the Seven-*

first-born daughters indeed, but also that younger daughters were more equally treated. Practices thus evolved over time to become more flexible so that parents selected more often daughters to assume heirship and headship and these women could be first-born or younger daughters. In order to secure headship, all children, no matter their sex, were trained to assume responsibilities as possible heirs, heiresses, heirs'/heiresses' spouses. In the process these children acquired financial resources and professional and educational capabilities to manage farms at home and/or other businesses in towns and in America. By contrast fewer and fewer first-born and younger sons took over heirship and headship though they were trained to do so but instead they chose other destinies, especially America.

Several reasons explain parents choosing daughters as heiresses. The first one was because sons had other options and better economic opportunities in local villages, in French cities or in America, especially after 1840.<sup>22</sup> Indeed, first-born sons entitled to become heirs seemed to refuse headship and heirship because the position required late marriages (after siblings' departure from the house). Instead they envisioned earlier marriages in the vicinity, celibacy at home, the priesthood, or preferably emigration to America.<sup>23</sup> The second reason for more female inheritance was because sons resented the idea that the new law no longer guaranteed them the full ownership of family assets, and certainly not upon marriage (as under the Customs). They had to wait until both parents died to assume full heirship and headship and when all siblings were compensated and gone. This could take a lifetime and there were risks that they could not find the money to avoid partition. As a result, sons opted for departure and daughters (first-born or younger) sometimes became the only option available for passing on inheritance. Contrary to the men, the women were willing to assume these responsibilities. It was an honourable position, better than a marriage with an heir, an exogamous marriage (outside their socio-professional group), or celibacy. In addition, farmers perceived

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teenth Century, Westport, CN, 2004, pp. 47-71. Regarding Bearm see Christine LACANETTE-POMMEL, *La famille dans les Pyrénées: de la coutume au Code Napoléon: Béarn 1789-1840*, Estadens, 2003; on the Baronnies, see Gérard BOUCHARD, John DICKINSON, and Joseph GOY (eds.), *Les Exclus de la terre en France et au Québec, XVIIe-XXe siècles*, Québec, 1998, pp. 271-90; on *Esparros* by FAUVE-CHAMOUX, Le fonctionnement de la famille-souche dans les Baronnies des Pyrénées avant 1914, *Annales de démographie historique* (1987), pp. 241-62.

<sup>22</sup> French Basque men's emigration to American began in 1840 but intensified after 1860, a pattern women followed twenty years later. See discussion later in the paper.

<sup>23</sup> See also Marie-Pierre ARRIZABALAGA, Gender and migration in the Pyrenees in the nineteenth century: gender-differentiated patterns and destinies, in Beatrice MORING (ed.), *Female Economic Strategies in the Modern World*, London, 2012, pp. 127-144; Idem, Rôles et statuts des femmes dans les sociétés pyrénéennes: le Pays Basque aux XIXe-XXe siècles, in Nelly VALSANGIACOMO and Luigi LORENZETTI (eds.), *Donne e Lavoro. Prospettive per una storia delle montagne europee, XVIII-XX secc.*, Milan, 2010, pp. 296-318.

daughters as being more docile and reliable, accepting subordination and the role of caregivers for aging parents more willingly than their brothers and daughters-in-law. Finally, the third reason for more female inheritance was probably because of conflicts of authority.<sup>24</sup> Daughters more readily accepted parents' authority and their demand for a marriage with a man of similar social and professional background (endogamy and homogamy).

Devolution under the Civil Code may appear equal as heirs or heiresses were forced to compensate all their siblings for their equal shares of the inheritance. Actually the data show that there were prevailing inequalities between heirs and heiresses. Marriage contracts indicate that gender apparently did not matter. Heirs and heiresses each received one quarter extra share of the assets as a dowry upon marriage<sup>25</sup> and married a man or a woman of the same socio-economic background who brought into the marriage a dowry also worth a quarter of the assets. These gifts guaranteed the young couple the control of half of the assets upon marriage (half for the heir or heiress and half for the spouse). They then had until their parents died to acquire the rest of the assets to which the siblings were entitled.<sup>26</sup> It was in the course of these negotiations that new gender inequalities emerged. In the first half of the nineteenth century, sons-in-law and daughters-in-law suffered unequal treatment, their dowry being absorbed into the house but with no property compensation (which was illegal). In the second half of the nineteenth century, however, sons-in-law forced full property rights over the land acquired with their dowry (as the law required) while daughters-in-law only owned their dowry through life and not the land that was acquired with it (which was illegal). Heiresses and their husbands thus became legal co-owners and co-managers of the house and land with equal status while heirs and their wives did not, the latter having a subordinate status in the house.<sup>27</sup>

In order to circumvent inequalities, heiresses sometimes managed to ignore parental and spousal authority by choosing to marry late (after parents'

<sup>24</sup> In other parts of France, inheritance systems were less favorable to women. See notes 2 and 3.

<sup>25</sup> This quarter «extra share» allowed donors to favor any of the children outside the larger share (75%) to be equally divided between all siblings.

<sup>26</sup> According to article 916 of the Civil Code, partition upon parents' death took place in the following way. After the quarter extra share was attributed to the heir or heiress, there remained 75% of the assets. When there were three children, each child was entitled to 25%. With four children, each portion amounted to 19%; with five children, to 15% etc...

<sup>27</sup> See Marie-Pierre ARRIZABALAGA, Negotiating inheritance in the Western Pyrenees in the nineteenth century. Gender differentiated treatment and destinies, in Margareth LANZINGER, Janine MAEGRAITH, Siglinde CLEMENTI, Ellinor FORSTER and Christian HAGEN (eds.), *Negotiations of Gender and Property through Legal Regimes (14th-19th Century). Stipulating, Litigating, Mediating*, Brill, 2021, pp. 117-150.

death) and a man of lower status (a sharecropper perhaps), a man so happy to marry into a propertied family that he abode by his wife's demand to withhold his rights to co-ownership over the assets acquired with his dowry.<sup>28</sup> Thus, the sons and daughters who assumed heirship and headship indeed enjoyed equal rights but not equal status in the house. While heirs assumed full ownership and authority in the farm after their parents' death, heiresses often had to share headship with their parents first and then with their husbands. Similarly, sons-in-law and daughters-in-law did enjoy equal rights, to live, work and die in their spouses' house but sons-in-law gained property rights over their wives' inherited assets in a way daughters-in-law never could. The only time when heiresses and heirs' wives enjoyed full power in the house was when their husbands' parents had passed away and their husbands died young, and before the next generation heir or heiress took over. They then assumed full power and transitional authority for the sake of the family holding, a temporary position while waiting for the next generation to take over. Thus, women's status as heiresses seemed favourable and equal to men's under the Civil Code but in reality they had to share power in the house in a way the men did not. How were the excluded siblings treated?

Inequalities were even more visible when analyzing the way heirs or heiresses compensated siblings for their shares of the inheritance. As indicated earlier heirs' or heiresses' spouses' dowries were helpful in the transactions necessary to acquire the full ownership of the family assets. Indeed, dowries were used to acquire one or several shares of the inheritance. Compensations however were unequal depending on gender, brothers being given better shares than sisters. Excluded brothers indeed received a «decent» compensation in the form of a lower cash payment in advance of succession. These lower compensations were attributed when male siblings departed permanently from the house as young adults and after they signed a written statement to never demand additional retribution for the remainder of their legal share. While some of the excluded and/or departed brothers were treated more fairly and used their share of the inheritance to marry into a local propertied family (within the same social (endogamy) and professional (homogamy) group) or to go to America, the sisters were treated more unequally, especially the youngest (who sometimes received nothing).

In addition, the data show that the men had greater cash money in their possession to marry decently or envision a better future abroad than their sisters. This was due to the fact that prior to marriage or emigration, the men had the opportunity to use the village common land to make their own money as sheepherders, something which the women rarely could because their ac-

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<sup>28</sup> These men lived a life of servitude and subordination as shown in Pierre BOURDIEU, *Le bal des célibataires. Crise de la société paysanne en Béarn*, Paris, 2002 (Second edition).

tivities were limited to house chores.<sup>29</sup> As a consequence, excluded sons had better destinies than their excluded sisters. With their savings and their early inheritance portion, they could marry local heiresses of similar status (endogamy and homogamy) or settle in America in proper conditions. By contrast, the women who did not marry heirs (the youngest ones generally) were rarely compensated for their share of the inheritance. With no dowry, they remained celibate or married landless farmers in the village. Others settled in cities where some had lower destinies as celibates.<sup>30</sup> While some married artisans or civil servants in cities and maintained their status through exogamous marriages (outside their professional group), others experienced downward social mobility as celibate servants in cities, refusing marriage outside their professional group and/or lower marriages in their village.<sup>31</sup> Without money these younger women could not afford emigration, until the 1880s when some accepted their brothers' call to America.<sup>32</sup> Emigrated brothers paid the passage across the Atlantic and welcomed their sisters in their home in order to help with house chores and until they found a job or married.

Many Basque women thus were unequally treated and had lower destinies than their brothers. These conditions seemed to be accepted for the sake of the family house and its lineage. According to the data here used, none of the children dared or managed to force partition and therefore the sale of the family assets in order to cash their legal share of the inheritance. In any case, they had to wait until both parents died to demand the cash for their full portion (9.4% only) and by then, they were older and had made a life for themselves. Thus, ancient inheritance practices seemed to prevail over the Civil Code, equal inheritance, and personal interests. Around the turn of the twentieth century, however, Basque women avoided lower destinies because many opted for emigration to America where male relatives had earlier settled (especially in California) and were willing to pay for the fare across the Atlantic. Once there, the women tried to marry well and to fare better than most of their sisters at home.

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<sup>29</sup> On issues related to excluded children and their destinies in other parts of Europe, see note 4.

<sup>30</sup> See Marie-Pierre ARRIZABALAGA, Celibacy and Gender Inequalities in the Pyrenees in the Nineteenth and Twentieth Centuries. In: Tindara ADDABO, Marie-Pierre ARRIZABALAGA, Cristina BORDERIAS, and Alastair OWENS (eds.), *Gender Inequalities, Households and the Production of Well-Being in Modern Europe*, London, 2010, pp. 219-34.

<sup>31</sup> On Basque women's destinies in cities, see Marie-Pierre ARRIZABALAGA, Destins de femmes dans les Pyrénées au XIXe siècle: le cas basque, *Annales de Démographie Historique*, 2 (2006), pp. 135-170; Idem, Basque women and urban migration in the nineteenth century, *The History of the Family. An International Quarterly*, 10, 2 (2005), pp. 99-117.

<sup>32</sup> See Johanna LEINONEN and Dona R. GABACCIA, Migrant Gender Imbalance and Marriage Choices: evidence from the United States, Canada, the United Kingdom, Sweden, and Norway, 1860-1910, *L'Homme*, 25.1 (2014), pp. 31-50.

#### IV. BASQUE WOMEN AND CALIFORNIA'S COMMON LAW

French Basques settled in California after 1850 when the gold rush began. Before then, many had settled in Latin America (Argentina, Uruguay, Mexico and Cuba, among other destinations).<sup>33</sup> Most of them originated from rural villages and hoped to acquire cheap land to perpetuate their lifestyle. Those who emigrated to California after 1860 wished to herd sheep to then acquire vast lands in the American West. Many indeed became cattle raisers and/or farmers in places such as Kern County, California, and called upon their brothers, sisters, nieces and nephews to join them, thus forming communities where women played a role in the development to the family businesses and the reproduction of Basque traditions and lifestyle.<sup>34</sup>

**Table 2.** Immigration, marriage and naturalization among the Basques  
In Kern County, California, according to the genealogies

Status	Men	Women
Average age at immigration	20,1	19,4
Average age at marriage	33	24,1
Number of years between immigration and marriage	12,9	4,7

When the French Basques migrated to California, they were subject to the *Common Law* where devolution depended on the patrimonial regimes and/or wills. These legal acts gave individuals the complete liberty to transfer assets to whoever they wanted. Without a patrimonial regime contract which determined what each spouse owned personally and shared together, married women had limited rights and powers. They only owned their personal and inherited patrimony (their dowry, personal property, and other personal effects). They were not entitled to their husband's personal wealth and to the profits made with it during the marriage, except the house they lived in, the couples'

<sup>33</sup> William A. DOUGLASS & John BILBAO, *Amerikanuak. Basques in the new world*, Reno, NV, 2005.

<sup>34</sup> On Basque women's destinies in America, see Marie-Pierre ARRIZABALAGA, L'émigration des pyrénéennes en Amérique du Nord aux XIX-XXe siècles, in Marie-Pierre ARRIZABALAGA (guest editor), *Histoire sociale - Social History*, 40, 80 (novembre-November 2007), pp. 269-295; *Idem*, Les femmes pyrénéennes et l'émigration transatlantique aux XIXe et XXe siècles: une réalité mal connue, in Natacha LILLO & Philippe RYGIEL (eds.), *Rapports sociaux de sexe et migrations*, Paris, 2006, pp. 59-70.

savings, personal objects used daily in their home and the assets attributed to the spouse by will.<sup>35</sup>

Basque women however acquired extensive devolution rights in California because their patrimonial agreements clearly outlined the patrimonial succession clauses after death or in the case of a divorce. In these documents, each spouse was free to decide how he or she wanted to transfer patrimony. While in France, under community agreement, a deceased person's patrimony was divided between the spouse (50%) and the children (50%), in California all patrimonial wealth was transferred freely so that it was rarely divided up equally between the spouse and the children. The data indicate that Basque women greatly benefited from these agreements, more so than under the French Civil Code.

More than 80% of the French couples who resided in Kern County in California between 1880 and 1940 had opted for endogamous marriages, that is between people originating from France and for many, from the same rural areas.<sup>36</sup> Among the French Basques, 90% had married someone from the same Basque region, more specifically from the County of Baigorry. In addition, the data show that most of the Basque couples successfully established independent family businesses. While many owned farms or ranches, others opened hotels, shops or other commercial enterprises, which they managed as couples, in the same way their parents had managed the family farm or business in the Basque Country. Yet, with a patrimonial agreement such as those proposed by California *Common Law*, female spouses' rights were greater than in France. Indeed, according to the sources, Basque couples used the law to protect each other. They agreed to a patrimonial regime known as «Joint Tenancy» with the right of survivorship with no survival tax. This legal document was used as a strategy to protect and provide for the widowed spouse and guarantee him or her food, care, and house, as according to the Customs. In the same process, the deed guaranteed full equality between spouses and therefore full equal ownership of the assets listed on the deed. California law thus secured greater rights to women than Basque traditions did.

A joint tenancy contract not only treated each partner equally, each one enjoying equal rights and equal ownership of the assets in common but it also indicated that, upon one of the spouses' death, the joint patrimony was trans-

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<sup>35</sup> Basic information on marriage law according to California's *Common law*, see:

<https://www.educaloi.qc.ca/en/capsules/matrimonial-regimes-rules-managing-and-dividing-property>

<sup>36</sup> For Basque endogamous marriages, see Marie-Pierre ARRIZABALAGA, Mixed Marriages Among French Immigrants in Southern California, 1880-1950, in Luminița DUMĂNESCU, Daniela MÂRZA, Marius EPPEL (eds.), *Intermarriage throughout History*, Newcastle upon Tyne (England), 2014, pp. 426-450.

ferred to the surviving one who became the sole legal owner of the deceased person's shares of the business with the sole legal right to dispose of or sell the property as he or she wished, even when there was a will. Thus, the property part of the Joint Tenancy agreement was tied to the co-signers of the contract and could never be contested by others (including the children). The couple may also write a will to which the children may be entitled but this document concerned the assets other than those part of the joint tenancy. Basque women thus benefitted greatly from California law as they inherited all of their husbands' Joint assets upon their death to the detriment of the children.

There is a demographic reason why French Basque women's power expanded in California at the time. The family reconstitution data indicate that, among these couples, the husbands were on average nine years older than their wives. As a consequence, the women often became widows at a young age (in their forties or fifties sometimes). According to the U.S. censuses of 1930 and 1940, these widows were always provided for upon their husbands' death. They often declared themselves as sole owners of the property they earlier had in common with their husband as Joint Tenants, co-owners, and co-managers. In the end, the widowed women owned their homes and/or farms, ranches, hotels, shops or other businesses, some of which were of considerable value (several thousand dollars). As sole owners, they could dispose of the property in their own free will and for their own benefits. Actually they took advantage of this favorable situation to perpetuate ancient Basque family household and inheritance practices.

Upon their husbands' death, Basque women often decided to sign a Joint Tenant Agreement with one or several of their adult children to engage them into the partnership so that they could later take over the family business (with no tax). As the censuses indicated in these cases, the parents/widow and the children (some being married) lived together as stem families, showing that French Basque families reproduced the same household forms as in the Basque Country. Later, upon the widows' death, the surviving joint tenant(s) (one or several children) exclusively acquired all assets listed on the agreement to the detriment to their other siblings.<sup>37</sup> The assets outside of the tenancy may later be attributed to anyone by will, generally to the benefit of the other children, those excluded from the Joint Tenancy. By this process, some form of single inheritance was perpetuated in California with or without (but generally with) compensation for the excluded siblings.

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<sup>37</sup> Marie-Pierre ARRIZABALAGA, Des Françai(se)s naturalisé(e)s Américain(e)s, Quel héritage français au cœur de la Californie depuis 1880?, in Claire BOURHIS-MARIOTTI, François PERNOT et Eric VIAL (eds.), *L'Homo americanus: des Amérindiens à Donald Trump, en passant par les pèlerins du Mayflower et John Wayne...*, Montreuil: Editions de l'oeil, collection «La bibliothèque fantôme», 2020, pp. 118-150

Thus, the data on devolution practices in California between 1880 and 1940 indicate that Basque women acquired new rights in California, some which they could not have enjoyed in France. Many became equal partners and associates with their husbands. As joint tenants, the couple managed the business together and when the husbands died, their widowed wives owned all assets listed on the agreement in their names. Yet, despite this equal property status, Basque women in California had a subordinate status. Indeed, before 1920, women's activities and personal wealth were subject to marital consent. When they married, they had to take their husbands' citizenship but not in their own name. Instead, they citizenship dependent on their husbands' so that when their husbands became US citizens, they acquired their husbands' citizenship whether they wanted it or not. Though they became US citizens due to marriage with a Basque who had become or later became a US citizen, they did not enjoy the right to vote.

Basque women's status however greatly evolved after 1920. With the nineteenth amendment to the Constitution, Basque women who had become US citizens by marriage could now vote. And after 1922, with the Cable Act, those who were still French citizens could apply for US citizenship in their own free will and in their own name.<sup>38</sup> And many did so that they could vote and feel integrated in the local society. All in all, the data indicate that 80% of the Basque men and women of the study became US citizens upon or after marriage or were granted citizenship after 1922 in their names. From then on, all these Basque women could vote at local, state, and federal elections and thus participated in the election of the President of the United States.

Yet, it was probably the Joint Tenant Agreement which empowered the most Basque women residing in California. Some of these women owned sizable properties and businesses which, as widows, they run alone or (if they chose so) with one or several children who resided in their house with their mothers, thus forming stem families. Data clearly show that French Basques successfully perpetuated some traditional succession practices, securing the protection of the surviving spouse's interests and livelihood, and later transmitting the family business to one child, male or female (some form of single inheritance as in the Basque Country). The data also show that women were not discriminated against. They worked hard with their husbands in order to build the family business, some of which became very profitable. As a result, both men and women gained in status, powers and wealth, higher ones than those of the heir or heiress who took over the family farm in the Basque Coun-

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<sup>38</sup> On the issue of women, immigration and citizenship, see (among other publications): Martha GARDNER, *The Qualities of a Citizen. Women, Immigration, and Citizenship, 1870-1965*, Princeton, NJ, 2005.

try and much higher ones than the other siblings. This might have encouraged further Basque female emigration to California after 1880.

## V. CONCLUSION

In the Old Regime, Basque inheritance practices were not differentiated by gender but by birth rank. The first-born male or female child had the highest status because he or she inherited all family assets (no matter their sex). The other children were treated more poorly, no matter the sex: the second-born marrying into a propertied family and the third remaining celibate at home. With the Civil Code of 1804, gender and birth rank inequalities were abolished. In the Basque Country, in the nineteenth century, however, new inequalities emerged, some affecting women more so than men and the youngest ones in particular. Indeed sons had better opportunities besides inheritance and some took their shares of the inheritance to marry into propertied families of equal status or migrate to America (where they generally fared well). More daughters assumed heirship and headship than sons, thus giving the impression that they gained status with the new law. In reality heiresses were treated unequally compared to their male counterparts, having to share ownership of the family assets with their parents first and their husbands later. Some women managed to get around this discrimination by marrying late and choosing a man of lower status. Yet more women than men had to assume the difficult responsibility of transmitting the family assets intact to the next generation and caring for their aging parents.

The younger sisters were most discriminated against as many experienced lower social mobility due to celibacy or lower marriage (in the village or in cities). To avoid lower destinies, some opted for exogamy especially in cities. Yet, by the end of the nineteenth century, many men and women joined their brothers (or other relatives) who had settled in California, married Basques, and often fared well. There, women often gained in status and powers as they married Basque propertied men, became co-managers of the family business as joint tenants, and later as sole owners of their husbands' wealth as widows. Their status improved even further as they became US citizens and US voters after 1920. Despite Basque women empowered status in California, life in Kern County was hard on its male and female residents due to great isolation, difficult ecological conditions, and a contrasting climate - much hotter in the summer and much colder in the winter than in the Basque Country. These conditions did not discourage Basques' permanent settlement. Many never returned to the Basque Country and others were encouraged to emigrate to the United States from 1880 to 1930. This explains the presence of a large Basque community in Kern County today, one which strive to perpetuate some of the Basque cultural and linguistic traditions.

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