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**Virtue Rewarded, Disobedience and Vice Punished: Attitudes towards Inheritance Rights in Swedish Early Modern Law and Practice<sup>1</sup>**

**Introduction**

Medieval Swedish law was very rigid concerning the transfer of “inherited land” (*arvejord*). Basically, it was to remain within the kin-group and be divided between the closest heirs according to the rules of statutory inheritance. As a rule, alienating inherited land required the consent of the next-of-kin.<sup>2</sup> This restricted the possibilities of individual strategies of heirship and of distributing property postmortem as far as their inherited land was concerned. It also limited the range of arguments likely to succeed in inheritance disputes in order to exclude the legitimate descendants of the deceased from inheriting.

In this article, I am arguing that the Reformation period saw an increasing use of arguments more or directly related to deserving the right to inherit. Also offending behaviour or neglecting one’s family duties were perceived as meriting a smaller inheritance lot or complete disinheritance. I am further suggesting that the use of the argument of undutiful behaviour or dishonouring conduct of heirs, especially female, demonstrated by sixteenth- and seventeenth-century sources is not only linked to the better survival rate of various sources or the sheer growth of written records. Thus, I am claiming that the increase of such arguments is not only apparent and relating to the growth of existing source materials, but that they were actually used more frequently and actively in property distribution and court cases. I will investigate the relationship between parents and children as well as between siblings in elite families through various sources of the time. I will especially focus on two inheritance disputes in the Svea Court of Appeal. One was between Elin Tönnesdotter [Tott]<sup>3</sup> and her

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<sup>2</sup> On this, see generally Christer Winberg, *Grenverket: studier rörande jord, släktskapssystem och ståndsprivilegier*. (Rättshistoriskt bibliotek 38) Stockholm: Institutet för rättshistorisk forskning, 1985, pp. 29 and passim.

<sup>3</sup> Most Swedish noblemen and women did not use a family name before the first half of the seventeenth century. Instead, both men and women were known by their first name and their patronymic. For reasons of clarity, researchers usually refer to them by the later surname of the family, often based on the images on the family

siblings in the late 1620s, and the other was initiated by Ingeborg Tott against her sister Brita Tott (1600-1660) in the late 1640s.<sup>4</sup> In both cases, siblings challenged the inheritance rights of their sisters who had married to disoblige and the family. Indeed, the Swedish courts of appeal became the locus of many property disputes within the Swedish nobility since the first one was established in Stockholm in 1614.<sup>5</sup>

In addition, I will also analyse some other documents, letters and legal texts from the sixteenth and early seventeenth centuries. The sixteenth- and seventeenth-century legal practice demonstrates the new arguments used for divesting heirs of their inheritance rights or to avoid the rules of statutory inheritance for inherited land. There was a tendency among the nobility to deny all noblewomen who had committed fornication or married commoners their property rights to noble and inherited land although the law did not support such an interpretation. Damage done to family honour also featured in the argumentation.

### **The Rigid Swedish System of Statutory Inheritance of Inherited Land**

Inherited land (*arvejord*), land that had been received as inheritance in the family line, had a special status in the Swedish property system. Unlike chattels or acquired lands (*avlingejord*) that could freely be bequeathed away, only one-tenth of inherited land could be alienated outside of the family without the consent of the next-of-kin – and only for pious causes. This

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escutcheon. For example the Leijonhufvud family had heads of lions on their coat of arms, while the Stenbocks had a goat. In the early seventeenth century, all noble Swedish families started to use a family name. Usually, first the men, then the women. In this article, those siblings who used the family name are referred to by it, and those who did not, have it in square brackets: e.g., Elin Tönnesdotter and Erik Tönnesson [Tott], but Gunilla and Ermegård Tott.

<sup>4</sup> Johan Olofsson on behalf of his wife Elin Tönnesdotter [Tott] vs. Henrik Stöör on behalf of his wife Karin Tönnesdotter [Tott] and other siblings can be found in Riksarkivet (hereafter RA, Swedish National Archives, Stockholm, Sweden), Svea hovrätt (hereafter SH, Svea Court of Appeal), Huvudarkivet (hereafter HA, main archive), E VI a 2 aa:53, and the cause Ingeborg Tott vs. Brita Tott in RA, SH, HA, E VI a 2 aa:126 (Liber causarum 99). On the former law suit, see also Mia Korpiola “‘The Fall and Restoration of Elin Tönnesdotter’: Land, Noble Property Strategies and the Law in Early Seventeenth-Century Sweden,” *The Trouble with Ribs: Women, Men and Gender in Early Modern Europe*, eds. Anu Korhonen and K. P. L. Lowe, pp. 153-179. *COLLeGIUM 2* (2007). Available online (accessed 8 May, 2012) at: [http://www.helsinki.fi/collegium/e-series/volumes/volume\\_2/index.htm](http://www.helsinki.fi/collegium/e-series/volumes/volume_2/index.htm) and for the latter law suit, see Barbro Bursell, *William Grey och Brita Tott: En berättelse om krig och kärlek i stormaktstidens Sverige*. Stockholm: Atlantis, 2012, esp. pp. 153-157.

<sup>5</sup> See, e.g., Elsa Trolle Önnerfors, *Justitia et Prudentia: Rättsbildning genom rättstillämpning: Svea hovrätt och testamentsmålen 1640-1690* (Rättshistoriskt bibliotek 70) Stockholm: Institutet för rättshistorisk forskning, 2014; Anu Lahtinen, “Prolonged Noble Property Disputes in the Svea Court of Appeal: Case Studies from the Early Years” and Elsa Trolle Önnerfors, “*Suum cuique tribuere* – Give to Each His Own: Court Cases Involving Swedish Nobility in the Svea Court of Appeal 1650-1690,” both in *The Svea Court of Appeal in the Early Modern Period: Historical Reinterpretations and New Perspectives*, ed. Mia Korpiola, (Rättshistoriska studier 26) Stockholm: The Olin Foundation, 2014, pp. 133-200.

was the rule in the dominant medieval provincial law, the Law of Uppland, which was largely followed all over Sweden in the sixteenth century.<sup>6</sup> Thus, almost all inherited land went straight to the closest heirs according to the statutory inheritance rules.

According to medieval law, both sons and daughters had a right to inherit all kinds of property. Thus by law, female heirs had equal access to inherited land in the Swedish countryside – not only acquired land or chattels. A son living in the Swedish countryside was to receive a double inheritance share, known as a brother's lot, i.e., two inheritance lots, while a daughter was only granted one, a sister's lot. Thus, the inheritance portion of daughters was half of that of sons. Thus, in a family with two daughters and one son, he was to receive half of the property while his sisters were to divide equally the other half, receiving one fourth each. However, sons were treated alike as Swedish law did not recognise primogeniture. All daughters were likewise treated equally. In towns, however, sons and daughters inherited portions of equal size. Any property given as advance inheritance to the children was to be returned to the estate of the deceased when he or she died for a new property division.<sup>7</sup> Yet, there was a push towards primogeniture in the sixteenth century. Kingship was made hereditary in 1540 on the basis of primogeniture, and the creation of hereditary noble fiefs and titles (duke, count and baron) from the 1550s on strengthened this trend.<sup>8</sup>

In Sweden, there was no system of marriage contracts defining the rights of widows and widowers after the death of one of the spouses. The laws insisted that the inherited lands of each spouse remain separate. Other individual property (chattels and acquired lands) were pooled so that at the death of either spouse, the wife received a third and the husband two

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<sup>6</sup> Kyrkobalken (Chapter on the Church) 14, Upplandslagen, *Svenska Landskapslagar* 1, eds. Åke Holmbäck and Elias Wessén, Stockholm: Gebers, 1936, p. 23.

<sup>7</sup> E.g., *Giftermålsbalken* [Chapter on Marriage, hereafter G] 12; Ärvdabalken (Chapter on Inheritance) 1 and 12, *Kung Magnus Erikssons Landslag i nusvensk tolkning* [hereafter MEL] eds. Åke Holmbäck and Elias Wessén (Rättshistoriskt bibliotek 6). Stockholm: Institutet för rättshistorisk forskning, 1962, pp. 44, 58, 61-62; G 18, Ärvdabalken (Chapter on Inheritance) 1-2, *Magnus Erikssons stadslag i nusvensk tolkning* [hereafter MESL], eds. Åke Holmbäck and Elias Wessén (Rättshistoriskt bibliotek 7). Stockholm: Institutet för rättshistorisk forskning, 1966, pp. 46, 56. However, sometimes brothers granted their sisters "a brother's lot" in the inheritance, making her effectively an equal co-heir with them. Thus, she was also to receive two lots instead of one, see, e.g., Anu Lahtinen, *Anpassning, förhandling, motstånd: Kvinnliga aktörer i släkten Fleming 1470–1620*. Trans. Camilla Frostell. Helsingfors – Stockholm: Svenska Litteratursällskapet i Finland – Bokförlaget Atlantis. 2009, pp. 132-133; Anu Lahtinen. "By Love and by Law: Choices of Female Donators in 15th and 16th Century Sweden," unpublished article manuscript.

<sup>8</sup> E.g., Assurance of the Council of the Realm regarding the king's planned marriage, 24 Jan. 1526, *Svenska riksdagsakter jämte andra handlingar som höra till statsförfattningens historia under tidevarvet 1521–1718* [hereafter *SRA*] 1:I, eds. Emil Hildebrand and Oscar Alin. Stockholm: Norstedt, 1887, p. 46; King Gustav Vasa's donation letter to Duke Johan, 7 Sep. 1557, *SRA* 1:2, ed. Emil Hildebrand. Stockholm: Norstedt, 1888, pp. 750–756, see esp. 751; King Gustav Vasa's will, 1 July 1560, *ibid.*, pp. 675–695; Winberg, *Grenverket*, pp. 31-50.

thirds of the joint property in addition to certain paraphernalia the widow or widower was allowed to take from the estate before division. (In towns, this joint property pool was to be divided fifty-fifty).<sup>9</sup> In addition, if the husband died before the wife, she was to receive her morning gift property that was hers to own and use as she wished. The morning gift was given by the husband to his bride on the morning of the second wedding day, i.e., after they had spent the wedding night together. Especially among the nobility, the morning gift property became a status symbol, and important landed estates and manors were promised as morning gifts to brides. If these gifts involved inherited land, the closest heirs had to agree to them in order to be valid. The morning gift was considered the widow's acquired property – land or chattels – and consequently, she could freely dispose of it.<sup>10</sup> However, the spouses were not each other's heirs even in childless marriages. According to the statutory inheritance rules, the property went to the closest relatives, male or female alike.

Thus, the law granted a person very limited means of favouring one child at the expense of another as far as inherited land went. The same applied to other, more distant heirs. Nevertheless, chattels, acquired land and a widow's morning gift property could be freely alienated. Almost all one's inherited land, with the exception of one-tenth to pious causes, was to go automatically to the next-of-kin without the owner having much to say in the process and without many opportunities of pursuing individualistic inheritance planning. Similarly, while widow(er)s did not inherit their spouses according to law, they were entitled to a portion of the joint estate and – in the case of widows – to their morning gift property that in noble families could be substantial. In addition, widows and widowers had the right to live in an undivided estate until remarriage.<sup>11</sup> This caused intergenerational tensions. Similarly, the Swedish partible inheritance customs could cause morcellation of property – and in some cases exacerbate a downward spiral of family status.

In sum, the Swedish inheritance norms provided fewer options for individuals to pursue their own property devolution strategies, and was thus – at least theoretically – more rigid than that of certain other European regions as far as inherited land was concerned. Only very exceptionally could inherited land be willed away from next-of-kin without their consent. This put more pressure on the existing means of disputing property divisions after death.

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<sup>9</sup> G 16-20, *MEL*, eds. Holmbäck & Wessén, pp. 44-46; G 9, 12-14, *MESL*, eds. Holmbäck & Wessén, pp. 42-44.

<sup>10</sup> G 9-10, *MEL*, eds. Holmbäck & Wessén, p. 43; G 9, *MESL*, eds. Holmbäck & Wessén, pp. 42-43.

<sup>11</sup> G 16-17, *MEL*, eds. Holmbäck & Wessén, pp. 44-45; G 12-13, *MESL*, eds. Holmbäck & Wessén, p. 44.

Swedish medieval law did allow parents to disinherit daughters who had married or fornicated without their authorisation. Thus, Swedes had an incentive to use arguments of filial disobedience, unauthorized matrimony and sexual *faux pas* to shut out their kinswomen from an inheritance and thereby to profit.

### **Reciprocity of Parental and Filial Love, Kinship Duties and Property Rights**

The Ten Commandments and the duty to obey one's parents were founded in Antiquity. Consequently, parental authority and obedience was emphasized in the legacy they transmitted to the Middle Ages and early modern period: the Bible and Roman law.<sup>12</sup> After the Reformation, the authority of the Ten Commandments started to strengthen as a legal source. Also the Fourth Commandment, to honour and obey one's parents, features in advice given by parents to their children in sixteenth- and early seventeenth-century sources. For example, in his autobiographical text containing advice for his children, Henrik Fleming observed that his life had been in danger several times because of his disobedience as "he had not wanted to follow [his parents'] good advice, orders and commandments, but defied them". Fleming exhorted his children always to obey their parents.<sup>13</sup>

While the Swedish inheritance system was rigid as far as inherited lands were concerned, a tendency towards a more individualistic system can be perceived in the sixteenth century. The statutory inheritance rules that regulated the post-mortem division of inherited land were based on blood and kinship ties alone. Yet, there were mutual expectations of behavior between relatives.<sup>14</sup> Failure to comply with these was supposed to affect the right to receive such property. One's worthiness and merit was also used as an argument for determining and allocating inheritance and property. In family disputes revolving around property issues, arguments of natural sentiments and the duties of family members were increasingly used in relation to property and property disputes. Notions of "natural" duties, love etc. were based on ancient and medieval philosophical, theological and legal discourses, but at this time, they

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<sup>12</sup> E.g., Robert James Bast, *Honor Your Fathers: Catechisms and the Emergence of a Patriarchal Ideology in Germany, 1400-1600*. New York: Brill, 1997; Charles J. Reid Jr., *Power over the Body, Equality in the Family: Rights and Domestic Relations in Medieval Canon Law*. Grand Rapids, Michigan – Cambridge, UK: Eerdmans 2004, esp. pp. 69-97.

<sup>13</sup> Henrik Flemings annotations of his life, *Upplysningar i svenska historien* 1, ed. Samuel Loenbom. Stockholm: Lars Wennberg, 1773, pp. 39-79 at pp. 44-45.

<sup>14</sup> For examples of this, see also Lahtinen, *Anpassning, förhandling, motstånd*, pp. 120-153.

found their way to more commonplace discussions through the Church.<sup>15</sup> Ordinary members of the nobility used arguments about the mutuality of kinship duties: good, dutiful and caring family members were to receive property, while neglecting and bad relatives were to lose their inheritance rights.

The duties between children and parents were ordained by nature and God as the will of Admiral Bengt Severinsson Juusten (nob. Gyllenlod, ca. 1550–1609), made close to his death in 1609, reminded. He ordered his son Hans Juusten to take care of his mother and the required cavalry service “according to God’s commandment and natural duty”. As his father’s “natural descendent”, Hans was to perform his mother “dutiful filial service”.<sup>16</sup> He was also keen on that the children would not lay their hands on any property without their mother’s consent “as it pleases Lord God that children in owed respect and honour see their mother out of this world, rather than vice versa, as they are all so many.”<sup>17</sup>

While it is not known whether Bengt Juusten’s wife needed extra protection against her children, relationships between mother and son were undeniable dysfunctional in one of the highest aristocratic families of Sweden. There was no love lost between Countess Ebba Månsdotter [Lilliehöök] (1529-1609) and her second son, Count Mauritz Stensson Leijonhufvud (1559-1607), Lord Chief Justice (*riksdrots*). The latter felt that his mother did not love him, but preferred all her other children to him.<sup>18</sup> Apparently, according to Leijonhufvud, “all her natural love towards him had died” and, instead “an unnatural hatred had been kindled without any reason” to the extent that he believed her to be able to “destroy his life and limb as well as his ultimate well-being.” This “exceptional hatred” towards “a

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<sup>15</sup> Reid Jr., *Power over the Body*, pp. 82-97, 167-169, 171-175, 209.

<sup>16</sup> The will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet, eller Handlingar ur Greffl. DelaGardiska Bibliotheket på Löberöd* 5, ed. P. Wieselgren. N. P. Lundberg, Lund, 1834, pp. 16-17. On Juusten/Gyllenlod, see Hans Gilllingstam, “Juusten, Bengt Söftringsson,” *SBL* 20 Stockholm: Riksarkivet, 1973-1975, pp. 492-495; July Ramsay, *Frälsesläkter i Finland intill stora ofreden*, Helsingfors, Förlagsaktiebolaget Söderström & Co, 1909, pp. 169–170.

<sup>17</sup> The will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet* 5, ed. Wieselgren, pp. 12-13.

<sup>18</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz Leijonhufvud, 10 April 1604, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 28. On them, see Ivan Svalenius, “Ebba Månsdotter (Lilliehöök),” *Svenskt Biografiskt Lexikon* [hereafter *SBL*] 23. Stockholm: Riksarkivet, 1980-1981, p. 105; Birgitta Lager-Kromnow, “Moritz Stensson (Leijonhufvud),” *SBL* 22. Stockholm: Riksarkivet, 1977-1979, pp. 484-487. Countess Ebba Månsdotter was also involved in inheritance disputes concerning her maternal inheritance after Brita Jönsdotter [Roos] against the children of Count Gustav Johansson [Tre Rosor, 1531-1566], the husband of her late step-sister Ingeborg Christoffersdotter [Ekeblad av Hedåker, d. 1558], in the early 1580s. On the arguments of both parties see *Upplysningar i svenska historien* 4, ed., S. Loenbom. Stockholm, Lars Wennberg: 1771, pp. 74-93 and on the family Tre Rosor, see Hans Gilllingstam, *Äldre svenska frälsesläkter: Ättartavlor* 2:1. Stockholm: Riddarhusdirektionen, 2001, pp. 97-99.

child of her own flesh and blood” could only be incited by the devil.<sup>19</sup> As parents were expected to feel “natural love” towards their children and act in their best interests, these allegations struck at the very core of the Countess’s parental role in society

Facing these overt accusations, Countess Ebba fully understood the consequences to her reputation of the claims that she was an unnatural mother whose wickedness and hatred was talked and wondered about both within the country, but also abroad – probably referring to her German daughter-in-law.<sup>20</sup> She observed that if all the things her son claimed of her could be “proven, she would not be considered a Christian mother, but a senseless animal.”<sup>21</sup>

On the other hand, it was understandable if step-parents maltreated their step-children as their interests could run counter to theirs and their possible own children.<sup>22</sup> In fact, the noblewoman Elin Johansdotter [Måneskiöld] was involved in long property litigation processes against her step-children, the children from her husband Tönne Eriksson’s [Tott] first marriage, in the Svea Court of Appeal in the 1610s and 1620s. Tönne Eriksson’s second marriage may have fallen apart because of tensions between step-mother and step-children, who later expressed their animosity towards their step-mother “who had injured and oppressed them also when their father was alive from the first day on she came to his manor.” She was depicted as the cause of discord, and it was claimed that she had always felt – and demonstrated – hate and envy towards her step-children.<sup>23</sup> In fact, the worst insult a child in sixteenth-century Germany could offend his or her mother with was to liken her with a step-mother.<sup>24</sup>

In her account of the circumstances leading to her elopement and unauthorised marriage, Brita Tott also stressed the excessively harsh treatment meted out by her mother, Elin Johansdotter

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<sup>19</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz [Leijonhufvud], 10 April 1604, *DelaGardieska Archivet* 5, ed. Wieselgren, pp. 26-27.

<sup>20</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz [Leijonhufvud], 10 April 1604, *DelaGardieska Archivet* 5, ed. Wieselgren, pp. 28-29.

<sup>21</sup> *Ibid.*, p. 28.

<sup>22</sup> See, e.g., Malin Lennartsson, “Oskuld eller ondska? Bilden av barn och styvföräldrar i tidigmodern tid,” *Tid och tillit: En vänbok till Eva Österberg*, eds. Irene Andersson, Kenneth Johansson and Marie Lindstedt Cronberg. Stockholm: Atlantis, 2012, pp. 351-369.

<sup>23</sup> RA, SH, HA, E VI a 2 aa:53, Letter of Gunilla and Ermegård Tott to the Svea Court of Appeal [hereafter SCA]; *ibid.*, letter of Henrik Stöör to the SCA, 5 June 1627. See also RA, SH, HA, E VI a 2 aa:2, letter of Tönne Eriksson [Tott] to Erik Tönnesson [Tott], undated, fols. 204<sup>r-v</sup>. On the property disputes between Elin Johansdotter and her step-children, see Jan Eric Almquist, “Rättstvisten om Skeboholm 1614-16: Bidrag till släkterna Måneskölds och Totts historia,” *Personhistorisk tidskrift* 40 (1939-1940), pp. 1-22.

<sup>24</sup> Lennartsson, “Oskuld eller ondska?,” p. 358.

[Måneskiöld]. At the age of sixteen, when Brita was “under her authority and discipline,” the local nobleman Måns Uddesson Örneflyckt (1585-1657) appeared on the scene, asking for her hand in marriage. According to Brita, her mother quickly consented without considering that her daughter never had any inclination towards him.<sup>25</sup> Having noticed this, Elin attempted to persuade her daughter by words, but because of Brita’s resistance, Elin took to “abusing her with threats, force and blows” for a long time. In fact, Elin Johansdotter started to hate Brita so that the girl almost despaired. The mother’s detestation and maltreatment of her daughter was painted in a light that bordered on the unnatural – and this hardness was stressed as a motivation for disobedience. Later, she also referred to her mother’s “insupportable chastisement and daily hatred” towards her and “the hatred and enmity she was daily submitted to” in her maternal home.<sup>26</sup> Indeed, moralists taught that parents were to raise their children virtuous, obedient and well-behaved instead of spoiling them. If necessary, physical discipline was required. Count Per Brahe (1520-1590) observed that an unchastised child became uncontrollable like a wild and unbroken horse. Nevertheless, citing Sirach (4.30), it was exhorted that heads of households were not to act cruelly like lions in their own houses.<sup>27</sup> Even if one did not merit inheritance rights through love, obedience and service according to the law, these expectations were commonly shared by the people.

The law remaining silent, people attempted to reward and punish their relatives through legal instruments. Sixteenth- and seventeenth-century wills justify more frequently than before why one child was favoured over another. The good, dutiful and humble behaviour of one’s child or another relative was used as a stated reason for rewarding good conduct and parting from the statutory inheritance rules. For example, the noble Karin Göransdotter [Stiernsköld] of Harviala (d. 1584), widow of Councillor of the Realm Björn Klasson [Lejon] (d. 1551) and mother of several sons and daughters, donated the important manor of Harviala to her daughter Anna Björnsdotter [Lejon] (d. 1618) at Anna’s wedding to Matts Larsson Cruus (d. 1606), future Councillor of the Realm, in 1573.<sup>28</sup> According to Karin, Anna had “always

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<sup>25</sup> RA, SH, HA, E VI a 2 aa:126, letter of Brita Tott to the SCA, 16 Oct. 1649.

<sup>26</sup> Ibid.

<sup>27</sup> Per Brahe, *Oeconomia eller Hushållsbok för ungt adelsfolk*, ed. John Granlund and Gösta Holm. (Nordiska museets Handlingar 78). Nordiska Museet, Stockholm, 1971, pp. 8-10; Sigfrid Aronis Forsius, *Een Brwdhpredikan, Tehri j alle vnge Brwdhar och Ächteqwinnor sigh bespegla kunna och see hwadh för dygder them bäst stå så at the sina Män och sigh sielfwe the medh frögda kunna och göra sich itt lyckosampt och roligit Ähteskap och itt gott wälbestält Hwshåll [...] then 18. Septembris Anno 1608 af Sigfrido Arono Forsio*. Stockholm: Andreas Gutterwitz, 1608, fol. Cij<sup>v</sup>.

<sup>28</sup> On the family, see Jully Ramsay, *Frälsesläkter i Finland intill stora ofreden*, Helsingfors, Förlagsaktiebolaget Söderström & Co, 1909, p. 259.

stayed with her ever since her youth”, “performed her filial service” and always acted “in a humble, willing and obedient way.”<sup>29</sup> Another witness who had attended the wedding remembered Karin Göransdotter having said that “all her other children had deserted her in her difficulties” and had not provided her with “counsel or service.” However, she thanked Anna who “ever since her youth had both in adversity and prosperity been humble and obedient and served her like an honest dear daughter in every matter that she had been able to and that her mother had demanded of her.”<sup>30</sup> Later during her final illness in 1584, Karin Göransdotter [Stiernsköld] confirmed this promise in her oral will in the presence of the local priests and many other witnesses three days before her death. She referred to Anna’s “humble service to her until her dying hour,” and in addition, she affirmed that she could freely dispose of the property as it was partly her morning gift, partly purchased.<sup>31</sup>

Similarly, in the next generation, Anna Björnsdotter donated property in 1616 to her daughter Brita Mattsdotter Cruus (d. 1618) “for the humble service her dear daughter [...] always had performed.” Thus, while she had two sons, Jesper (1577-1622) and Axel (1584-1630) alive, she wished to favour her daughter whose inheritance lot would have been half of what her brothers received according to law.<sup>32</sup> In her deathbed testament two years later, Anna Björnsdotter willed all her bought (acquired) lands (*köpegodz*) to Brita while making some bequests to Jesper’s family. However, she seems to have left Axel out of her will noting that “My d[ear] son Axel [...] had taken his so that will remain as it is [...] even if the preacher has reminded thereof.”<sup>33</sup> Anna may have considered that Axel had had received what he deserved already in addition to the son’s share in the goods and chattels of his parents he was to receive after her death according to the rules of intestate succession. However, she also wished to draw attention to the fact that she remembered and had been reminded of Axel, but chosen not to bequeath him any particular object as she had others (gold chains, a silver bowl, a piece of jewelry). There are also many other cases from the period in which arguments of special filial or sororal love, service and obedience are used as arguments for granting a person more property than according to statutory inheritance rules.<sup>34</sup>

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<sup>29</sup> Kansallisarkisto [hereafter KA, Finnish National Archive, Helsinki, Finland], the Harviala copybook, Testimony of Lars Torstensson [Ram], 28 July 1585, fols. 319-320. I owe this reference to Anu Lahtinen with many thanks for giving me access to her transcription.

<sup>30</sup> KA, the Harviala copybook, Testimony of Erik Tönnesson [Wildeman] till Nääs, 1 Dec. 1585, fols. 321-322. Thanks to Anu Lahtinen.

<sup>31</sup> Ibid., 30 Sept. 1584, Testimony of Olaus Martini and Georgius Henrici, fol. 325-327. Thanks to Anu Lahtinen.

<sup>32</sup> Donation of Anna Björnsdotter Lejon, 3 April 1616, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 20.

<sup>33</sup> Will of Anna Björnsdotter [Lejon], 1618, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 21.

<sup>34</sup> Lahtinen, *Anpassning, förhandling, motstånd*, pp. 104-111; Lahtinen. “By Love and by Law.”

Similarly, Countess Ebba Månsdotter [Lilliehöök], accused of hating her son Mauritz, seems to have been blamed of greed and depriving him of what he “had received from others” through “robbery and violence.”<sup>35</sup> She had also given her castle of Gräfsnäs to her older son, Axel (1554-1619).<sup>36</sup> She defended herself observing that Gräfsnäs was her morning gift and she had the right to give it whomever she wished, and she had preferred to grant it to her other son “out of a maternal loving consideration”.<sup>37</sup> Moreover, she called into question whether Mauritz was a dutiful and good son who helped, consoled and supported his mother in her old age, and implied that he was not a “child with an innate good nature” as he failed to assist her in her short-term hour of need “without insulting words”.<sup>38</sup> She even challenged whether he was good Christian, and she reminded him of their different status, authority and roles by stating: “I am the mother and he is the son.”<sup>39</sup>

Such arguments were not only used between parents and children, but also between siblings. There were certain cultural perceptions of how the brothers or sisters “of the same flesh and blood” were to behave towards each other. In 1578, Filippa Eriksdotter [Fleming] (1530s-1578), an unmarried aristocratic maiden, made her will in which she attempted to prevent her brother Klas Fleming (ca. 1535-1597) from inheriting her property both in movables and immovables.<sup>40</sup> In her will, Filippa presented a long list of grievances with which she attempted to demonstrate that Klas had forfeited the right to inherit after her. Some of these were related to her being under his guardianship, unmarried as she was. While administrating her property, he had pocketed some of her revenues and her parental inheritance. However, what she also stressed was that he had failed her in his duties as a brother as “he who is my flesh-and-blood brother” had never taken care of her, attempted to please her or remembered

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<sup>35</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz Leijonhufvud, 10 Apr. 1604, *Dela Gardieska Archivet* 5, ed. Wieselgren, pp. 32-34.

<sup>36</sup> On Count Axel Stensson see, Birgitta Lager-Kromnow, “Axel Stensson (Leijonhufvud),” *SBL* 22. Stockholm: Riksarkivet, 1977-1979, pp. 479-484.

<sup>37</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz Leijonhufvud, 10 Apr. 1604, *Dela Gardieska Archivet* 5, ed. Wieselgren, pp. 32-34.

<sup>38</sup> *Ibid.* pp. 31-32.

<sup>39</sup> *Ibid.* p. 31.

<sup>40</sup> On Filippa Eriksdotter [Fleming], see Anneli Mäkelä-Alitalo, “Fleming, Filippa,” *Suomen kansallisbiografia* 2. Helsinki: Suomalaisen Kirjallisuuden Seura, 2003, pp. 806-807, and on Klas [Eriksson] Fleming, see Kari Tarkiainen, “Fleming, Klaus,” *ibid.*, pp. 816-820; Berndt Federley, “Klas Fleming,” *SBL* 16. Riksarkivet: Stockholm, 1964-1966, pp. 126-133.

her during her long illness but had “let her be completely forgotten” even if she had much needed his assistance.<sup>41</sup>

Filippa wished to present Klas as an unnatural, uncaring and selfish brother who had forfeited his inheritance rights by letting her linger and die forgotten by him. Because he had neglected his brotherly duties, his sister argued that he no longer deserved to inherit her property. Instead, she wanted to leave almost all of her lands to someone who had proved worthy of it. Her niece Anna Joakimsdotter [Fleming] (ca. 1562-1608), the only living child of her brother Joakim, had been living with Filippa for some time and had shown her such “behaviour as a poor good niece in willingness and obedience” was supposed to.<sup>42</sup> ..

Thus, regardless of the mechanical rules of property division to next-of-kin as defined by law, Swedes in the early modern ages had more active perceptions of mutual kinship duties and behavior. Respecting family duties and expressing the expected natural sentiments towards members of one’s family could give access to property, while contrary behavior merited financial sanctions.

### **Daughters Offending and Dishonouring Their Family**

While the reciprocity of kinship ties were increasingly overtly connected to property and inheritance rights at least on a rhetorical level, even perceptions on the possibility to disinherit one’s daughters evolved. According to Swedish medieval law, daughters could lose their inheritance rights for marrying or fornicating without parental consent unless the parent(s) forgave them the offence. This section in the law reflects a later-medieval European trend of norms threatening daughters marrying against their parents’ will with disinheritance.<sup>43</sup> This wave of legislation was a reaction against the Church’s insistence that the free consent of the contracting parties was the one and only determining factor in making a valid marriage.

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<sup>41</sup> RA, Biographica, Fleming 12c, microfiche E01493 8/8, will of Filippa Eriksdotter [Fleming], 22 August 1578 (transcript by Anu Lahtinen – acknowledged with thanks). On the case, see also Lahtinen, *Anpassning, förhandling, motstånd*, pp. 145-153; Lahtinen, “By Love and by Law.”

<sup>42</sup> Ibid. For another case resembling this, see, Lahtinen, *Anpassning, förhandling, motstånd*, pp. 188-189.

<sup>43</sup> E.g., see Mia Korpiola, *Between Betrothal and Bedding: Marriage Formation in Sweden 1200-1600* (The Northern World 43). Leiden: Brill, 2009, pp. 170-173, and the referred literature there; Anne Irene Riisøy, *Sexuality, Law and Legal Practice and the Reformation of Norway*. (The Northern World 44) Leiden: Brill, 2009, pp. 163-168.

Parental consent was desirable, but legally redundant.<sup>44</sup> The disinheritance of daughters fornicating or marrying without parental consent was mentioned in the Statute of Skara in 1335, and the penalty of loss of inheritance was included in the Swedish mid-fifteenth-century laws of King Magnus Eriksson (r. 1319-1364).<sup>45</sup>

Yet, there are only few indications of the use of this argument for medieval Sweden in practice.<sup>46</sup> This can partly be explained by the low survival rate of medieval sources and the fact that the existing sources on medieval inheritance litigation usually focused on other kinds of arguments, such as the proximity of the heirs to the deceased or to the type of property involved. There is increasing evidence from the early modern period that relatives denied women land rights these were entitled to because of alleged misalliances or fornication. However, stripping a woman of her inheritance rights because of a sexual *faux pas* was only allowed for her parents. Unless parental disinheritance had taken place, other relatives could not deny her inheritance right to inherited land according to the law. A noblewoman lost the tax-exemption on her lands as a consequence of a misalliance or sexual crime – she did not forfeit her lands to the king or her next-of-kin. However, the loss of tax-exemption demonstrates the pressure on the nobility by the royal policy of investigating claims of nobility and tax-exemption on land based on cavalry service.<sup>47</sup>

Family honour also became linked with discussions of mutual love and duties between relatives. When “natural love” was supposed to regulate the relations, a person who openly neglected or maltreated a family member or demonstrated animosity towards them caused dishonour to the family and its reputation. For example, the above-mentioned Count Mauritz Stensson [Leijonhufvud] claimed that his mother’s “unnatural and evil intentions” towards him affected her “own honour, good name and reputation” that she ought to value more.<sup>48</sup>

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<sup>44</sup> E.g., Reid, *Power over the Body*, pp. 37-63.

<sup>45</sup> 28 Jan. 1335, doc. 3106, *Diplomatarium Suecanum* 4, ed. Bror Emil Hildebrand. Stockholm: Riksarkivet, 1853, p. 408; Chapter on Marriage 3, *MEL*, eds. Holmbäck and Wessén, p. 40; Chapter on Marriage 3, *MESL*, eds. Holmbäck and Wessén, p. 39.

<sup>46</sup> For one such rare instance, see, doc. 4285, 20 Mar. 1490, *Finlands medeltidsurkunder* 5, ed. Reinhold Hausen. Helsingfors: Finlands statsarkiv, 1928, p. 255

<sup>47</sup> See, e.g., Jan Eric Almquist, ”Rannsakingen i Västergötland 1574–76 rörande adelskvinnors ofrälse giftermål,” *Rättshistoriska studier* 4. Stockholm: Institutet för rättshistorisk forskning, 1974, pp. 85-116; Winberg, *Grenverket*, pp. 31-40; Korpiola, “‘The Fall and Restoration’,” esp. pp. 157-164; Lahtinen, *Anpassning, förhandling, motstånd*, pp. 181-187, 191-193.

<sup>48</sup> Reply of Ebba Månsdotter [Lilliehöök] to the accusations of Mauritz Leijonhufvud, 10 Apr. 1604, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 28.

However, more often the willful and disrespectful behaviour of children was considered to dishonour those under whose authority they were.

The honour of the family was constantly regenerated by the conduct of all the members of the family. Consequently, the matrimonial choices and sexual conduct of both male and female kinsfolk could bring lustre or shame to the whole family. However, the sexuality of especially the women of the family may have become a matter of greater importance – or at least, more frequently used in law suits. If possible, Swedish noble families preferred not to wash their dirty linen in public.<sup>49</sup> The Lutheran Church also hesitated to expand their control of sexuality inside noble domains, although the 1590s demonstrated increasing attempts to have the nobility submit to ecclesiastical discipline. Yet, sexual crimes of the nobility were still underreported in the mid-seventeenth century.<sup>50</sup> However, non-marital sexuality of noblewomen not only broke the law, but also challenged the authority of her male relatives and guardians.

In the early modern society in which the household represented the society in microcosm and the male head of the household, the *Hausvater* was supposed to represent the ruler, the *Landesvater*. His ability to rule over his reign and control those subjected by law to his authority reflected upon his honour and credibility. Defying him went against the *Familienordnung*, the “ideal of internal family regulation,” and undermined his authority and capacity to rule. The *paterfamilias* whose daughter committed sexual crimes under his very nose was hardly to be considered a competent and able manager of his household – or any official duties.<sup>51</sup> This happened to Count Axel Oxenstierna (1583-1654), Lord High Chancellor of the Swedish Realm since 1612, his brothers and cousins, who were supposed to

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<sup>49</sup> E.g., Mia Korpiola, “Affection or Ancestry? Royal Misalliances, German Legal Influences, and the Law in Reformation Sweden,” *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte, Germanistische Abteilung* 129 (2013), pp. 145-179; Mia Korpiola, “Kerstin Oxenstierna’s Lost Maidenhead: Honour, Sin and Matrimonial Law in Late Sixteenth-Century Sweden,” *Inter amicos: Liber amicorum Monique Vleeschouwers-van Melkebeek*, eds. Michiel Decaluwé, Véronique Lambert and Dirk Heirbaut. (Iuris scripta historica 26) Wetenschappelijk comite voor rechtsgeschiedenis, Koninklijke Vlaamse academie van België voor wetenschappen en kunsten, Brussels, 2011, pp. 243-268.

<sup>50</sup> E.g., Mia Korpiola, “Kyrkotukt för hela folket: Hertig Gustafs av Saxon ‘horerij’ och luthersk kyrkodisciplin i Sverige på 1590-talet,” *Norden, rätten, historia: Festskrift till Lars Björne*, eds. Jukka Kekkonen et al. Suomalaisen lakimiesyhdistyksen julkaisuja, E series, 11. SLY, Helsinki, 2004, pp. 65-99; Seppo Aalto, *Kirkko ja kruunu siveellisyyden vartijoina: seksuaalirikollisuus esivalta ja yhteisö Porvoon kihlakunnassa 1621-1700*. (Bibliotheca Historica 12) Helsinki: SHS, 1996, pp. 78-82, 162-172.

<sup>51</sup> E.g., Richard Cust, “Honour and Politics in Early Stuart England: The Case of Beaumont v. Hastings,” *Past and Present* 149 (2001), pp. 57-94 at pp. 81-83, 87-88; Erica Bastress-Dukehart, “Sibling Conflict within Early Modern German Noble Families,” *Journal of Family History* 33:1 (2008), pp. 61-80 at pp. 62-64; Korpiola, “Kerstin Oxenstierna’s Lost Maidenhead,” pp. 265-266.

administer and govern the country as some of the most important office-holders of the country. Instead they were humiliated and ridiculed by their cousin Elisabet Kristersdotter [Oxenstierna] (1584-1648), whose marriage guardians they were, by her secret marriage to an insignificant Livonian nobleman in 1616. This caused them personally as well as the whole family “great dishonour and subjected them to derision.”<sup>52</sup>

The same applied to monarchs. Queen Elizabeth of England (r. 1558-1603) went into tantrums and punished her maids-of-honour and her courtiers for their unauthorized marriages and illicit sexual relations, which has been attributed to sexual jealousy. However, their unruly behaviour defied her authority and affected her image as a sovereign - a touchy thing as her ability to govern may have been called into question because of her “weaker sex”.<sup>53</sup> In the mid-seventeenth century, even the Swedish royal family was not unaffected by unrestrained princesses whose concupiscence dishonoured it. Born and brought up in Sweden, Countess Palatine Eleonora Catherine of the Palatinate-Zweibrücken (1626-1692) resided in the court of her cousin Queen Christina of Sweden and was engaged to Landgrave Frederick of Hesse-Eschwege (1617-1655). At this point, she succumbed to the charms of a French lute-player ending her liaison with him only some six weeks before her marriage 1646. She was impregnated by him – a fact she later confessed crying and on her knees to her new husband after some months of marriage before giving birth to a bastard daughter.<sup>54</sup>

As long as disobedient daughters could show that the parents had forgiven them, their inheritance rights seem to have been safeguarded in court even in case of sibling rivalry and hostility. However, in 1622, the Privileges of the Nobility, granted by Gustav II Adolf,

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<sup>52</sup> Letter of Gabriel [Gustavsson] Oxenstierna to Axel Oxenstierna, 25 Aug. 1616, *Rikskansleren Axel Oxenstiernas skrifter och brevvevling*, senare afd., 3:1, Kungliga Vitterhets-, historie- och antiqvitetens-akademien: Stockholm, 1890, 23-24; Mia Korpiola, “Marrying off Sons and Daughters: Attitudes to the Consent of Parents and Guardians in Early Modern Sweden,” *Less Favored - More Favored. Proceedings from a Conference on Gender in European Legal History, 12th–19th Centuries*, September 2004, eds. Grethe Jacobsen et al., 2005. Available online (accessed 22 August 2015): [http://www.kb.dk/export/sites/kb\\_dk/da/publikationer/online/fund\\_og\\_forskning/download/A14\\_Korpiola.pdf](http://www.kb.dk/export/sites/kb_dk/da/publikationer/online/fund_og_forskning/download/A14_Korpiola.pdf), pp. 15-18.

<sup>53</sup> Paul E. J. Hammer, “Sex and the Virgin Queen: Aristocratic Concupiscence and the Court of Elizabeth I”, *Sixteenth Century Journal* 31:1 (2000), pp. 77-97, at pp. 82, 84, 91-93.

<sup>54</sup> Bengt Hildebrand, “Eleonora Catharina,” *SBL* 13. Stockholm: Riksarkivet, 1950, pp. 256-258. The Countess Palatine’s daughter Juliana (1652-1693) was brought up at the Swedish court by Queen Hedvig Eleonora, possibly groomed to be the future wife of future Charles XII, her second cousin. However, she had been enamoured with the married Count Gustaf Lillie (1639-1684) whose son she bore in 1672 while in driving in a carriage with the Queen Dowager. Lillie was exiled to Germany and Juliana to a castle in the countryside. However, later, in 1679 Juliana gave birth to another illegitimate child, whose father Johann Jacques Marchand (1656-1703) was the son of her Dutch housekeeper, see, e.g., Nanna Lundh-Eriksson, *Hedvig Eleonora*. Stockholm: Wahlström & Widstrand, 1947, pp. 51-52.

penalised all marriages between nobles and commoners using the argument that “the nobility be kept pure and unblemished as largely as possible.” This also applied to the marriage of noblemen to commoners as “useful for the respect and reputation of the noble estate.” However, unlike noblemen, noblewomen were punished for their non-noble marriage by their immediate loss of all lands to their closest relatives and inability to inherit land in the future.<sup>55</sup> However, the increasing use of arguments like “shaming the family” or “causing the family to be despected” in property disputes and normative sources indicate that there was pressure to expand the law from its medieval limits. Moreover, they also indicate new attitudes towards equal marriage and family honour that were spreading top-down from royal to noble circles from Germany in the sixteenth century.<sup>56</sup> Consequently, the privileges of the nobility provided families with more effective means of penalising family members who contracted disparate marriages and thereby were perceived as bringing shame to them. This strengthened the patriarchal tendencies of the period, and may have given incentives to inter-family battles in law courts.

The internal tensions of the Tott family gave rise to merciless legal disputes in which noble families washed their dirty laundry publicly and dishonouring secrets were almost flauntingly paraded in court. In the Svea Court of Appeal, Henrik Stöör, the German-born brother-in-law of Elin Tönnesdotter [Tott], argued that she had through her sexual offences “stained her estate and family that had been noble since time immemorial”. Similarly, her two sisters argued that Elin had tainted her noble estate and caused her family shame and dishonour.<sup>57</sup> They also argued that she had “highly offended God, the authorities and her parents, family and friends.” The Tott siblings intended to make a warning example of their sister to other “frivolous persons especially within the noble estate” so that the “King’s Laws and Privileges would not be made powerless.” They also wanted to “constitute a difference between the wicked and the worthy so that there would be a distinction in inheritances between those who behaved virtuously and those who stained their [noble] estate or caused their family shame and dishonour.”<sup>58</sup>

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<sup>55</sup> Privileges of the nobility, 7 May 1622, *Kongl. Stadgar, Förordningar, Bref och Resolutioner Ifrån Åhr 1528 in til 1701*, ed. Johan Schmedeman. Stockholm, 1706, pp. 217-218.

<sup>56</sup> Korpiola, “Affection or Ancestry?”

<sup>57</sup> RA, SH, HA, E VI a 2 aa:53, letter of Henrik Stöör to the SCA, 5 June 1627; *ibid.*, letter of Gunilla and Ermegård Tott to the SCA, undated.

<sup>58</sup> RA, SH, HA, E VI a 2 aa:53, letter of Gunilla and Ermegård Tott to the SCA, 22 Aug. 1627; *ibid.*, letter of Gunilla and Ermegård Tott to the SCA, undated. See also Letter of Gabriel [Gustavsson] Oxenstierna to Axel Oxenstierna, 25 Aug. 1616, *Rikskansleren Axel Oxenstiernas skrifter och brefvexling* 3:1, 23-24.

More insultingly, Elin Tönnesdotter [Tott]’s siblings called her fornications exaggeratingly “adultery” which she had “shamefully committed not only once, but twice causing her siblings no little grief and shame.”<sup>59</sup> Elin’s older sisters Gunilla and Ermegård argued that they had shed many bitter tears because of their sister’s illicit behaviour and been much shamed by it.<sup>60</sup> As a result of her sexual faux pas, they had cut her off from the bosom of the family, shunned her by boycotting her company and punished her by denying her property rights. Her brother Erik Tott and brother-in-law Henrik Stöör were claimed never to have been able to tolerate Elin’s husband Johan Olofsson, and Stöör had reputedly said many times that he would as happily have a wolf in his house than Elin or her husband.<sup>61</sup>

When the noble Ingeborg [Tönnesdotter] Tott sued her sister Brita for unlawfully detaining her property at the Court of Appeal in 1649, she used largely similar arguments. Thus, in her letter to the court, Ingeborg argued that her sister Brita had “for her grave misdemeanour” forfeited her inheritance rights and her right to possess any landed property.<sup>62</sup> According to Ingeborg, Brita had forfeited her inheritance rights after both parents because of her fornication, elopement and later marriage with a non-noble Scottish officer, William Grey. This, Ingeborg Tott claimed, had “defamed their family” and greatly offended their late mother, Elin Johansson [Måneskiöld] and, and consequently, she had been cut both of the inheritance after her late father Tönne Eriksson [Tott of Skedebo] (1553-1608) and Elin Johansdotter by virtue of the law of Sweden and 1622 the privileges of the nobility.<sup>63</sup>

In addition, during the sixteenth- and seventeenth centuries there was also a willingness to increase the possibility of parents to disinherit their children by a reception of Roman law by introducing the list of grounds of disinheritance from *Novella* 115.3. This list of “causes of ingratitude” (*causae ingritudinis*) can be found in a number of law manuscripts of the period and it also influenced certain law proposals and legal commentaries from the early seventeenth century. The selective reception attempt demonstrates that there was a willingness to penalize undutiful and “ungrateful” children with the help of law even if the

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<sup>59</sup> RA, SH, HA, E VI a 2 aa: 53, letter of Klas Horn to the SCA, 22 Aug. 1627.

<sup>60</sup> RA, SH, HA, E VI a 2 aa:53, letter of Gunilla and Ermegård Tott to the SCA, 22 Aug. 1627.

<sup>61</sup> RA, SH, HA, E VI a 2 aa:53, letter of Gunilla and Ermegård Tott to the SCA, 22 Aug. 1627.

<sup>62</sup> RA, SH, HA, E VI a 2 aa:126, statement of Ingeborg Tott to the SCA, 11 Sep. 1649.

<sup>63</sup> RA, SH, HA, E VI a 2 aa:126, statement of Ingeborg Tott to the SCA, 11 Sep. 1649.

attempt failed.<sup>64</sup> Yet, the discourses influenced the arguments used in wills and litigation as this article demonstrates.

### **Counter-Arguments: Pardoning the Offence and Causing no Shame**

In accordance with Swedish law, the best way of argue against a true claim of fornication or elopement was to argue that it had been forgiven by the offended parent.<sup>65</sup> In the case of Elin Tönnesdotter [Tott], she had obviously had sexual relations with a student of Uppsala in the 1600s for which their father had become infuriated. She had been forced to take shelter elsewhere, fearsome of her father's wrath. However, after the intercession of noble acquaintances, Tönne Eriksson had finally relented and taken his daughter back under his roof. On his deathbed in 1608, he confirmed his forgiveness of Elin's offence against him and God in the presence of his father-in-law, his second wife Elin Johansdotter [Måneskiöld] and the local priest the permitting her to inherit together with her siblings. She had did indeed receive her share.<sup>66</sup> Nevertheless, this did not prevent Elin's brother and three sisters – not including the half-sisters Brita and Ingeborg, it seems – from later denying Elin's inheritance rights after she had again fornicated with – and later also married – the commoner Johan Olofsson. This dispute took place in Stockholm about twenty years after Tönne Eriksson [Tott]'s death.

Brita Tott could not have forfeited her paternal inheritance in any case as her father Tönne Eriksson had already died in 1608 when she was only a child. A dead parent could not be offended by future filial disobedience – the same applying to Elin Tönnesdotter's maternal inheritance. Moreover, the inheritance after Tönne Eriksson had been divided between the nine surviving children of his two marriages on 18 September 1616 after which Brita and her siblings had officially come in possession of it.<sup>67</sup> What Ingeborg Tott emphasised in her account in her lawsuit against her sister Brita was their mother Elin Johansdotter's implacable opposition to Brita's marriage to the non-noble William Grey and her adamant refusal to forgive the offence. According to Ingeborg, Elin had demonstrated this on many occasions.

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<sup>64</sup> Mia Korpiola, "Svensk familjerätt efter reformationen: förändringar i fokus," *Rätten och rättsfamiljer i ett föränderligt samhälle: Rättshistoriskt och komparativt: Vänbok till Rolf Nygren*, eds. Maarit Jänterä-Jareborg and Mats Kumlien. Uppsala: Iustus Förlag, 2011, pp. 145-166 at pp. 161-165. On the Roman law perceptions, see Reid, *Power over the Body*, pp. 165-170.

<sup>65</sup> This was also the case in Norway, Riisøy, *Sexuality, Law and Legal Practice*, pp. 166-167.

<sup>66</sup> RA, SH, HA, E VI a 2 aa:53, testimonial of Petrus Elai Unungensis, 19 July 1609.

<sup>67</sup> RA, SH, HA, E VI a 2 aa:2, inheritance division after Tönne Eriksson, 18 Sep. 1616, 175v.

When William Grey had wished to wed Brita in church, he had sent a priest and a judge as intermediaries to solicit the consent of the mother, who had refused it and denied Brita's right to inherit any property. Ingeborg Tott also claimed that Elin Johansdotter had written about this exclusion to the President of the Svea Court of Appeal before her death, and even cursed Ingeborg if she would let her sister come to the inheritance after their mother. Ingeborg Tott topped the picture of filial disobedience and maternal unforgiveness by depicting how she had sent word to her sister Brita about their mother's last illness so that Brita could come and ask for pardon and forgiveness from their mother. This possibility for reconciliation her sister had refused.<sup>68</sup> Brita countered by claiming that she had been called to her dying mother so late that the ailing matriarch had already died while she was still *en route*.<sup>69</sup>

Another widowed (since 1599) mother, Anna Larsdotter [Bröms], forgave her daughter Margareta Månsdotter [Stiernbielke] (d. by 1650) her marriage to the commoner Göran Andersson (d. 1655, nob. Armsköld in 1628) "with a motherly heart and well-considered mind". While Margareta had by the marriage forfeited her inheritance rights, her mother restored them completely as to both land and chattels and expressly observed that Margareta was to inherit as much as her sister Helga (d. 1619). Apparently, Margareta and Göran had been having a sexual relationship before their marriage in 1606 or 1607.<sup>70</sup>

The above-mentioned will of Bengt Severinsson Juusten discussed the inheritance rights of two of his daughters in detail in the light of their sexual experiences. It also assessed the guilt and moral sinfulness involved in each of them, making it an even more extraordinary document.<sup>71</sup> Bengt Severinsson Juusten's eldest daughter Elin (d. bef 1630) had been raped by the married nobleman Bengt Larsson till Hammarstorp (ca. 1550–1616).<sup>72</sup> This had probably taken place during the tumultuous years around 1600 when the two men had been on opposite sides of the Swedish game of thrones, rivalry between King Sigismund Vasa and his uncle, Duke Karl of Södermanland, for the throne of Sweden in the 1590s. Consequently, as Elin

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<sup>68</sup> RA, SH, HA, E VI a 2 aa:126, statement of Ingeborg Tott to the SCA.

<sup>69</sup> RA, SH, HA, E VI a 2 aa:126, Brita Tott's letters to the SCA, 20 Oct. 1649.

<sup>70</sup> 28 March 1614, doc. 225, *Samlingar och anteckningar till en beskrifning öfver Ydre härad i Östergötland 1*, ed. Leonhard Fr. Rääf. Linköping: C. F. Ridderstad, 1856, pp. 363–364; Jan Eric Almquist, "Ätten Stjärnbjälke (från Småland)," *Släkt och Hävd* 1968:2, pp. 73–84, at pp. 78, 81–82, 84; Gustaf Elgenstierna, *Den introducerade svenska adelns ättartavlor* 1. Stockholm: P. A. Norstedt & Söner, 1925, pp. 177, 196.

<sup>71</sup> The will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet, eller Handlingar ur Greffl. DelaGardiska Bibliotheket på Löberöd* 5, ed. P. Wieselgren. N. P. Lundberg, Lund, 1834, pp. 11–18.

<sup>72</sup> The will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 13.

had not been deprived of her maidenhead voluntarily, her father “could not with a good conscience cut pitiful her out of paternal friendship and her full inheritance rights in immoveables and moveables.”<sup>73</sup>

By contrast, Elin’s younger sister Anna Juusten (d. 1633) had not committed fornication “out of rape, but out of frivolity”. She had “given herself into the powers of a man,” probably the noble Henrik Hansson Lindelöf av Hintsholm (d. 1639) whose son she is believed to have given birth to ca. 1605. Bengt Severinsson Juusten granted that there were special circumstances to be taken into consideration in Anna’s becoming the concubine of a nobleman as this was due to her father’s “misery and excessive poverty” and “fearing hunger and nakedness and that her parents would never be properly safe again”.<sup>74</sup> Even Anna received her parents’ full forgiveness and friendship and was allowed most of her inheritance rights: apparently some property in land but a whole portion in chattels as her other sisters.<sup>75</sup>

Yet, there seems to have been a fear that the siblings of the “undutiful” children would contest the parental forgiveness and the restored inheritance rights. Bengt Severinsson Juusten made a point of stating that his and his wife’s forgiveness of their daughter Anna was lawful, done in a Christian spirit and in order to have a good conscience. Therefore, Anna’s “co-heirs” were to uphold their act of pardoning.<sup>76</sup> We do not know whether the siblings of Anna and Elin Juusten denied their inheritance rights according to their father’s will after his death.

Obviously, the co-heirs of Anna Björnsdotter [Lejon], whose mother Karin Göransdotter [Stiernsköld] first promised and then willed the manor of Harviala to her, disputed the legacy. This is why Anna’s husband had to collect several witness statements thereof in 1584-1587. The co-heirs had expressly refused to believe the witness statement of Olaus Martini, vicar of Vanaja, and Georgius Henrici who had witnessed the oral will of the dying woman together with many other people of her entourage in 1584. This is why the former had to confirm his statement three years later.<sup>77</sup>

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<sup>73</sup> Ibid.

<sup>74</sup> Ramsay, *Frälsesläkter i Finland*, pp. 170, 265, 267; the will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 14.

<sup>75</sup> The will of Bengt Severinsson Juusten (Gyllenlod), July 1609, *DelaGardieska Archivet* 5, ed. Wieselgren, p. 14.

<sup>76</sup> Ibid., p. 14.

<sup>77</sup> KA, the Harviala copybook, Testimony of Olaus Martini and Georgius Henrici, 30 Sep. 1584, fol. 325-327; *ibid.*, Testimony of Olaus Martini, 26 Mar. 1587, fol. 323. Thanks to Anu Lahtinen.

Brita Tott's inheritance rights were certainly denied by her sister, but she even she maintained that her mother Elin Johansdotter [Måneskiöld]'s reactions had evolved with time and eventually, her mother had forgiven her. Admitting that Elin Johansdotter been very angry when she learning of the solemnisation of the marriage of Brita and William Grey, Brita claimed that her mother had come to terms with the *fait accompli* and relented when understanding that matters could no longer be altered. Even the witnesses for her sister Ingeborg admitted that Elin had then given her consent to Brita's marriage while stating that she would not receive any inheritance. Yet, Brita also argued that Elin had given the new couple "her favour and friendship" by granting her daughter access to some of her paternal inheritance in land, visiting her and her husband and vice versa. In addition, she had acted as godmother to two of Brita's children.<sup>78</sup>

In addition, Brita Tott emphasized that her elopement was not a result of her "lasciviousness and lust", but rather a consequence of her mother's hatred and oppression she had daily been submitted to in her home. She argued that even "many men became soldiers and monks out of despair" probably thus escaping the harsh treatment they had to endure in their parental home. Moreover, Brita had been engaged to William Grey when she got pregnant.<sup>79</sup>

Similarly, Brita Tott's brother-in law Johan Olofsson, her half-sister Elin Tönnerdotter's husband, presented evidence at court disputing that the family had consistently refused her company thereby indicating their lack of approval of her marriage. His witness Margareta Nilsson [Gyllenhierta], a noblewoman who had been present at their wedding in 1615, testified that the marriage of Elin and Johan Olofsson had by no means taken place without the knowledge or consent of her siblings. Both her unmarried sisters Gunilla and Ermegård were present at the ceremony and her married sister Karin was to be her matron of honour. Although Karin had finally been unable to come, she had sent her wet nurse with the wedding clothes, ornaments and other necessary things for the wedding.<sup>80</sup> Even Elin's brother Erik had been aware of the nuptials two weeks before the event, as he himself had told the Court of Appeal. His attitude towards the union was hardly enthusiastic but rather reflected the fact that the couple had already had carnal knowledge of each other. He asserted having said

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<sup>78</sup> RA, SH, HA, E VI a 2 aa:126, Brita Tott's letter to the SCA, 16 Oct. 1649.

<sup>79</sup> RA, SH, HA, E VI a 2 aa:126, Brita Tott's letters to the SCA, 16 Oct. 1649 and 20 Oct. 1649.

<sup>80</sup> RA, SH, HA, LC, E VI a 2 aa:53, Statement of Margareta Nilsson [Gyllenhierta], 12 Feb. 1628.

“since [Johan Olofsson] had had Elin earlier, he might as well have her now.”<sup>81</sup> Moreover, in a letter from 1618, i.e., after the marriage and the division of property between the siblings, Erik Tönnesson addressed at least one letter to Elin sending her his “friendly loving regards with God Almighty now and always in the future,” calling her his dear sister and wishing her welfare and good fortune.<sup>82</sup> Thus, the siblings had all known of the approaching wedding and several of them had attended it or contributed to it. Thus, the family had hardly consistently ostracized and boycotted the couple for their conduct.

These two inheritance disputes within the Tott family in the Svea Court of Appeal demonstrate an increasing willingness of members of the Swedish elite to play the “shaming the family by fornication” card to exclude co-heirs from parental property and inheritance rights. Consequently, the parties threw at each other and the court details of their noble relatives’ misconduct, shameful behaviour and sexual *faux pas*. The property interests in these inheritance disputes seem to have been so important to the litigants that they outweighed the disadvantage of having the reputation of the parties tarnished by opening Pandora’s boxes of family secrets.

Both parties could launch attacks and counterattacks on each other from moral high grounds. Thus, as her sister Ingeborg accused that her elopement and prenuptial pregnancy shamed the noble lineage of Tott, Brita Tott retaliated with revelations of her own of Ingeborg’s family arguing that there was nothing to tarnish. According to Brita Tott, Ingeborg’s widowed daughter Beata Ikorn (d. after 1667) had had three fiancés during one year: a Captain Möller, Carl Wick for which even the banns had twice been publicised, and a commoner Johan Duse (1626-1659, nob. Dusenskiöld in 1651) whom she married. However, Beata had so “delighted in” Duse that she had given birth to a baby five days before the wedding – something that Ingeborg failed to mention altogether. Moreover, according to Brita, it was doubtful whether Ingeborg’s unmarried daughter Elin Ikorn (d. bef. 1661) could be called a noble maiden as she was reputed to spend her nights together with a nobleman. As for Ingeborg herself, she had been suspected of having committed incest by having sexual relations with two brothers – apparently between the death of her husband Erik Ikorn (d. by 1627 after five years of

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<sup>81</sup> RA, SH, HA, LC, E VI a 2 aa:53, Overview of the litigation, summary of the court session on 30 Oct. 1627.

<sup>82</sup> RA, SH, HA, LC, E VI a 2 aa:53, Erik Tönnesson [Tott]’s letter to Elin Tönnesdotter [Tott], 4 Aug. 1618.

marriage which produced four children) and 1640.<sup>83</sup> Thus, Brita concluded, was all this irregular and suspicious behaviour not something that “defamed Ingeborg’s *familia*”, while Ingeborg herself conveniently forgot her own and her children’s behaviour and exaggerated Brita’s “slight misdemeanour?”<sup>84</sup>

Thus, arguing that her sister had lost her inheritance rights by disobedience and dishonouring the family proved a double-edged sword for Ingeborg Tott. Brita Tott attempted to discredit the claim that her prenuptial pregnancy over three decades previously had shamed her sister’s family by providing examples of Ingeborg’s and her daughters’ improper conduct and suspected crimes. Brita’s point was that her sister and her family they had no great honour or virtue that could be tarnished as they debased their own name by their immoral behaviour. Thus, the use of the argument brought to light even more shameful details of the private lives of the families. Claiming dishonour for property reasons could thus bring further shame on one’s family if the court case initiated a reciprocal mud-slinging competition.

## Conclusion

The starting point of this article is that early-modern Swedes had relatively few options to change the division of property post mortem as far as inherited land was concerned. It was to go directly to the closest heirs and be divided between them according to the rules of statutory inheritance. Consequently, if testators wished to alter or co-heirs dispute the rules on equality of heirs as far as inherited land went, they could refer to a very limited range of causes according to medieval Swedish law.

The argument of obedience and honouring one’s parents, as expressed in the Fourth Commandment, features more prominently in the existing sources and inheritance disputes in post-Reformation Sweden. However, the mutuality of kinship duties was understood more widely. According to nature and divine law, children were perceived to “owe their parents

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<sup>83</sup> RA, SH, HA, E VI a 2 aa:126, Brita Tott’s letters to the SCA, 20 Oct. 1649. For the family of Ingeborg Tott, see Gustaf Elgenstierna, *Den introducerade svenska adelns ättartavlor* 4. Stockholm: P. A. Norstedt & Söner, 1928, p. 9; Gustaf Elgenstierna, *Den introducerade svenska adelns ättartavlor* 2. Stockholm: P. A. Norstedt & Söner, 1926, p. 354. However, even Brita’s own children were not exactly paragons of noble chastity and virtue as her daughter Elin Grey had apparently been fined for fornication or adultery with Johan von Bruun in 1646, Bursell, *William Grey och Brita Tott*, p. 178.

<sup>84</sup> RA, SH, HA, E VI a 2 aa:126, Brita Tott’s letters to the SCA, 20 Oct. 1649.

honour, respect and obedience” at all times, but also secular law could add special components to the duties of children towards parents.<sup>85</sup> Natural love was mentioned as well as divine duty not only between parents but also between siblings, while selfishness, disdain and shameful behaviour were considered to be breach of the owed natural love and taint the whole family. The duties of children towards parents, to respect and honour their family, were expanded to sibling relations, even cousins. Devoted and deserving relatives were to be rewarded by granting them property, while undutiful and disobedient kinsfolk merited disinheritance. As Swedish medieval law enabled parents to disinherit their daughters for crimes of the flesh and unauthorized marriage, the sexual life of daughters became more frequently discussed in parental wills and law courts.

Sibling arguments expanded the words of the law started to argue that their undutiful and immoral sisters dishonoured the whole family and ought to lose their inheritance rights. It was felt that sibling consensus of sisterly dishonour and misconduct ought to be able to deny the inheritance of a misbehaving sister. Even if the arguments did not necessarily persuade the judges, the fact that shaming the larger family appeared in inheritance disputes reflects that it was at least considered to be relevant. There was a widely shared notion that a distinction should be made between virtue and vice, obedience and disobedience, upholding and tainting the noble lustre of the family. Swedish *patresfamilias* wanted to set warning examples and punish wayward and self-willed female relatives who by their behaviour disobeyed God, expressed contempt their guardians and their legitimate authority and offended and dishonoured their families.

In addition, the scope of potential legitimate arguments for disinheriting children and heirs in general as far as landed property was concerned were being expanded. Noble marriages with commoners resulted in loss of property and the inheritance rights of the children to any inherited lands through the Privileges of the Nobility in 1622. There had also been attempts to incorporate the Roman law list of reasons for disinheriting children (*Novella* 115.3) into Swedish law. Research on later seventeenth-century testamentary litigation has demonstrated that such arguments were used by litigants and tested in the practice of the Svea Court of Appeal. They indicate some pressure towards more flexible and individualistic heirship strategies especially in the early modern period. However, inheritance remained a field of

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<sup>85</sup> Joh. O. Stiernhök, *De jure Sveonum et Gothorum vetusto 1672: Reproduction phototypique*. Rättshistoriskt bibliotek 1. Stockholm: Institutet för rättshistorisk forskning, 1962 [1672], 172.

conflicting interests. Perceptions of “natural love” were largely upheld in the Court of Appeal practice by restricting the parental possibilities of unhindered dispose of acquired land and moveables to the disadvantage of children who did not merit disinheritance.<sup>86</sup>

The changes in mentality and law also influenced people’s perception about themselves. Consequently, they presented their individual choices in a light that were as greatly as possible in accordance with the religious and social value system that came to be reflected in normative legal discourses. Brita Tott justified her defiance by unreasonable parental behaviour and tyranny by arguing in court that her elopement was made necessary by the inhumane treatment meted out by her mother attempting to beat her into submission and acceptance of a suitor of her choice. Facing accusations of greed, ingratitude and disobedience, the aristocratic Agneta Horn (1629-1672) portrayed herself as a suffering and maltreated heiress who despite her wilfulness would not have contracted marriage without the consent of her father and maternal grandfather whose legitimate authority she obeyed.<sup>87</sup>

The tensions between the rigid rules of statutory inheritance of family lands and more individualistic inheritance strategies allowing property to be allotted to “deserving” heirs, based on the assessment of their behaviour, are thus reflected in a variety of sources elucidating the mentalities of the time. While it was universally held that virtue was to be rewarded and disobedience, dishonour and vice punished, these could be argued in many ways in early modern Swedish inheritance discourses.

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<sup>86</sup> C. G. Bergman, *Testamentet i 1600-talets rättsbildning*. Lunds universitets årsskrift, N. F. Avd. 1, Bd 14, Nr. 8. Lund: Lunds universitet, 1918, pp. 75-81; Trolle Önnerfors, *Justitia et Prudentia*.

<sup>87</sup> *Agneta Horns Lefverne efter Ellen Fries’ efterlämnade manuskript*, ed. Sigrid Leijonhufvud. Stockholm: P. A. Norstedt & Söner, 1908, pp. 76-77, 88-91, 110-114.