



# Gender and Power in Pre-Modern Societies: Women's Agency and Representations in Ancient, Medieval, and Early Modern Legal and Literary Sources A Historical Analysis

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## Abstract

This paper examines the complex relationship between gender and power in pre-modern societies through a comprehensive analysis of legal and literary sources from ancient, medieval, and early modern periods. Drawing on recent scholarship in feminist medieval studies, legal history, and literary criticism, this study challenges traditional narratives of universal female subordination by documenting significant variations in women's agency across different temporal, geographic, and social contexts. Through comparative analysis of Roman law, medieval English common law, and early modern European legal codes, alongside literary representations from classical antiquity through the Renaissance, this research demonstrates that women's power and autonomy were negotiated within patriarchal structures rather than simply negated by them. The study reveals that marital status, social class, and regional legal traditions created differential opportunities for women to exercise agency in property ownership, legal action, guardianship, and economic activity. Literary sources, while often reflecting male authorial perspectives, provide evidence of evolving representations of women that both reinforced and contested prevailing gender norms. This paper contributes to ongoing scholarly debates about the concept of agency in historical analysis and argues for a nuanced understanding of pre-modern gender relations that acknowledges both structural constraints and individual strategies of resistance and negotiation.

**Keywords:-** Women's Agency, Pre-Modern Societies, Roman Law, Early Modern Europe, Literary, Representations

## Introduction

The study of gender and power in pre-modern societies has undergone significant transformation over the past several decades. Whereas earlier scholarship, influenced by second-wave feminism, often portrayed pre-modern societies as uniformly oppressive to women, recent historiography has adopted more nuanced approaches that recognize women's varied experiences and their capacity for agency within patriarchal structures. As Martha Howell observes, "any patriarchal regime is embedded in and ineluctably bound to the larger political, social, economic, or cultural order; it necessarily varies as that order varies" (Howell 2019, 21-31).

This paper examines women's agency and representations across three major pre-modern periods: ancient Rome, the medieval era, and the early modern period. By analyzing both legal sources including Roman law codes, medieval court records, and early modern legal treatises and literary sources ranging from classical

texts to medieval romances and Renaissance drama this study reveals the complex and often contradictory ways in which gender and power intersected in pre-modern societies.

The concept of "agency" itself requires careful definition. In recent scholarship, agency refers to the capacity of historical actors to make meaningful choices and exercise power within the constraints of their social, legal, and cultural contexts. As Bronach Kane and Fiona Williamson argue in their influential edited volume, women in pre-modern Europe often exercised agency "within the hegemonic paradigm of patriarchal authority" rather than in opposition to it (Kane and Williamson 2013). This framework allows us to recognize women's strategic navigation of patriarchal structures without minimizing the very real constraints those structures imposed.

This paper proceeds through several analytical stages. First, it establishes a theoretical framework for understanding agency and representation in historical context. Second, it examines legal sources from ancient Rome through the early modern period, with particular attention to property rights, marriage law, and women's standing in courts. Third, it analyzes literary representations of women, exploring how texts both reflected and shaped gender ideology. Finally, it offers a comparative analysis that highlights regional and temporal variations in women's status and agency.

## **Theoretical Framework: Agency, Patriarchy, and Historical Analysis**

### **Defining Women's Agency in Pre-Modern Contexts**

The application of the concept of "agency" to pre-modern women presents both opportunities and challenges for historical analysis. Joan Scott's influential formulation suggests conceptualizing power not as "unified, coherent, and centralized" but rather as "dispersed constellations of unequal relationships." Within such dispersed power structures, women found opportunities to exercise agency even while remaining constrained by patriarchal norms.

Recent scholarship has emphasized that women's agency must be understood contextually rather than anachronistically. Cordelia Beattie and Tim Stretton note the methodological challenges of recovering women's voices from legal records, which were typically mediated by male scribes, lawyers, and officials. Similarly, P.J.P. Goldberg's analysis of church court records demonstrates that while witnesses were "well-prepped by lawyers," they nevertheless "drew on their own experiences to create their testimony" and were "at least an equal partner to the lawyer."

The concept of agency employed in this study recognizes three key dimensions: economic agency (control over property and participation in commerce), legal agency (capacity to initiate legal action and represent oneself in courts), and social agency (ability to shape relationships and exercise informal power). These dimensions intersected in complex ways that varied according to marital status, social class, and geographic location.

### **The Problem of Sources: Law and Literature**

Both legal and literary sources present significant interpretive challenges. Legal sources, while providing concrete evidence of women's activities and rights, reflect ideals and prescriptions that may not correspond to actual practice. As Teresa Phipps observes, studying medieval women through legal records requires "reading behind and alongside legal discourses to discover women's voices and women's feelings" (Phipps 2020).

Literary sources are equally problematic. Most pre-modern literature was written by men, raising questions about whose perspectives are represented. Julia Hillner's analysis of late antique imperial letters demonstrates how difficult it can be to identify genuine "female voices" in texts that may have been composed by male secretaries skilled in "ventriloquising for women" (Hillner 2019, 321-48). Nevertheless, literary texts remain valuable for understanding the ideological frameworks within which gender relations were conceptualized and contested.

## **Legal Sources and Women's Agency**

### **Ancient Roman Law: Property, Marriage, and Guardianship**

Roman law provides perhaps the most comprehensive ancient legal framework for understanding women's status. The Roman legal system exhibited significant complexity and evolution over time, particularly regarding women's property rights and legal capacity. While Roman society was fundamentally patriarchal, centered on the concept of *patria potestas* (father's power), women's actual legal status varied considerably based on their marital status and social position.

In early Roman law, marriage *cum manu* transferred a woman from her father's authority to her husband's, effectively making her legally equivalent to a daughter in his household. However, by the late Republic, marriage *sine manu* had become predominant. Under this arrangement, a woman remained under her father's authority rather than coming under her husband's control, which paradoxically provided greater autonomy. As Jane Gardner's research demonstrates, this shift gave Roman women substantial control over property, particularly once their fathers died and they became *sui iuris*.

Roman law recognized women's capacity to own property, inherit wealth, make contracts, and engage in business transactions. The requirement of *tutela mulierum perpetua* that women have a male guardian to approve certain legal transactions theoretically restricted women's autonomy. However, by the late Republic, this requirement had been significantly weakened. Augustus's *ius trium liberorum* granted women with three children exemption from guardianship requirements, and by the Principate, many women had substantial economic independence.

The situation of freedwomen reveals both the possibilities and limitations of Roman law. While freeborn women benefited from the gradual relaxation of *tutela* requirements, freedwomen remained more constrained by their patrons' rights over them. Patrons retained significant control over freedwomen's property and marital choices, demonstrating how legal status intersected with social hierarchy to produce different experiences of agency even among women.

### **Medieval Legal Systems: Common Law and Regional Variations**

Medieval legal systems exhibited even greater regional variation than Roman law. In England, the development of common law created a relatively unified legal framework, though customary law and ecclesiastical courts provided alternative jurisdictions that women could strategically navigate. Continental Europe demonstrated even more diversity, with different regions developing distinctive approaches to women's property rights, inheritance, and legal standing.

Medieval English common law imposed the doctrine of coverture, which suspended a married woman's legal identity and placed her property under her husband's control. However, as recent scholarship by Alexandra Shepard, Tim Stretton, and others has demonstrated, married women found numerous ways to work within and around these restrictions. Women actively used various courts including chancery, ecclesiastical, and manorial courts—each with different procedures and jurisdictions that offered different advantages.

Marital status proved crucial to women's legal agency. As Ruth Mazo Karras emphasizes, "women's status under the law differed significantly depending on their marital status" (Karras 2005). Single women and widows, not subject to coverture, could own property, make contracts, sue and be sued, and engage in trade. Janet Loengard argues that "the real distinction in medieval England was not between men and women but between men and single women on the one hand and married women on the other."

Court records reveal women actively participating in legal processes. Studies of medieval English towns demonstrate women appearing as plaintiffs and defendants, witnesses and guarantors. Women raised hue and cry almost as frequently as men, participating in community enforcement of law. Even married women, despite coverture, sometimes appeared in court with their husbands' permission or in their husbands' absence.

### **Early Modern Developments: Continuity and Change**

The early modern period witnessed both continuities with medieval patterns and significant developments in women's legal status. In England, coverture remained the fundamental principle governing married women's legal identity, but the Court of Chancery increasingly provided married women with mechanisms to protect their property through trusts and separate estates. Continental European jurisdictions showed similar patterns of formal restriction combined with practical flexibility.

The Protestant Reformation had complex effects on women's legal status. On one hand, the closure of convents removed an important avenue for female autonomy. On the other hand, Protestant emphasis on marriage as a companionate partnership and Reformed property law in some regions gave wives greater recognition. The development of equity jurisdiction in England created new opportunities for propertied women to exercise control over their assets through marriage settlements and trusts.

### **Comparative Analysis: Women's Legal Capacity Across Periods**

The following table summarizes key dimensions of women's legal agency across the three periods examined in this study:

Table 1. Key dimensions of women's legal agency across the three periods

Legal Dimension	Ancient Rome	Medieval Period	Early Modern
Property Ownership	Substantial rights for women in free marriage; separate property maintained; tutela weakened by late Republic	Unmarried women and widows could own property; coverture suspended married women's rights; regional variations significant	Coverture continued; equity courts developed trusts and separate estates for propertied women
Legal Standing	Could sue and be sued; could not vote or hold office; status as witnesses limited	Single women and widows had standing in courts; married women's legal identity merged with husband's under coverture	Married women increasingly used equity courts; expansion of separate legal personality through settlements
Economic Activity	Could engage in business; elite women managed estates; evidence of women as moneylenders and patrons	Women worked in trades and crafts; femme sole status in some jurisdictions; brewing and textile industries	Continued participation in trade; gradual exclusion from some guilds; rise of merchant women in urban centers
Guardianship	Women generally could not serve as guardians; exceptions for mothers by late Empire	Widows increasingly served as guardians of children; customary law often recognized maternal guardianship	Maternal guardianship more common; women served as tutors and curators with increasing frequency

## Literary Representations of Women and Gender

### Classical Literature: Ideals and Realities

Classical Greek and Roman literature established enduring tropes for representing women that would influence Western literature for millennia. These representations were fundamentally ambivalent, presenting women as both powerful and dangerous, virtuous and deceptive. Homer's epics, for instance, depicted women ranging from the faithful Penelope to the destructive Helen, from the wise Athena to the vengeful Hera.

Classical drama presented particularly complex female characters. Euripides's *Medea* and Sophocles's *Antigone* portrayed women who transgressed normative gender roles, with ambiguous consequences. These characters demonstrated agency and moral reasoning while simultaneously embodying anxieties about female power. The very fact that such characters existed in prominent literary works suggests that Greek and Roman audiences could conceive of and were perhaps concerned about women acting independently of male authority.

Roman literature added its own distinctive representations. While Ovid's *Metamorphoses* often portrayed women as victims of male violence, it also depicted them as agents capable of transformation and revenge. Virgil's *Aeneid* presented Dido as a powerful queen whose passion threatened the masculine imperial project. These literary representations both reflected and shaped Roman anxieties about female power and sexuality.

### Medieval Literary Culture: Romance, Hagiography, and Critique

Medieval literature developed new genres and modes for representing women. Hagiography provided models of female sanctity that could authorize unconventional behavior. Saints' lives depicted women rejecting marriage, defying parental authority, and exercising spiritual power. As Liz Herbert McAvoy notes, medieval visionary women's writings created spaces for female authority grounded in direct divine inspiration.

Courtly romance introduced the idealized lady as an object of devotion but also as an arbiter of masculine behavior. The *Romance of the Rose* presented contradictory images of women, from the idealized beloved to the cynical *La Vieille*, whose advice to women emphasized strategic manipulation of men. This didactic poem, enormously influential throughout the Middle Ages, both celebrated and criticized women's power in courtly relationships.

Chaucer's *Canterbury Tales*, particularly the *Wife of Bath's Prologue and Tale*, offered perhaps the most sophisticated medieval exploration of women's authority. The *Wife of Bath* explicitly challenged clerical misogyny while simultaneously embodying many of its stereotypes. Her prologue demonstrated profound awareness of how gender was constructed through legal and theological discourse, and her tale imagined female sovereignty. As Corinne Saunders observes, medieval women were active "patrons, owners, occasional writers, and, most of all, readers of books," suggesting that such literary representations addressed female as well as male audiences.

### Early Modern Literature: Continuity and Transformation

Early modern literature inherited medieval traditions while developing new forms and preoccupations.

Renaissance humanist writers often drew on classical models, creating tension between classical and Christian conceptions of gender. Shakespeare's plays presented an extraordinary range of female characters, from the strong-willed Kate in *The Taming of the Shrew* to the tragic Desdemona in *Othello*, from the politically astute Portia in *The Merchant of Venice* to the mad Ophelia in *Hamlet*.

The querelle des femmes the literary debate about women's nature and capabilities intensified during this period. While misogynist texts continued medieval traditions of attacking women, defenses of women also proliferated. Christine de Pizan's *The Book of the City of Ladies*, though written at the end of the medieval period, exemplified a tradition that continued into the early modern era of using literature to argue for women's intellectual and moral capabilities.

### **Critical Evaluation: Limits and Possibilities of Agency**

The evidence examined in this study reveals both the significant constraints on women's lives in pre-modern societies and the considerable variations in women's actual experiences and opportunities. Three critical observations emerge from this analysis.

First, marital status fundamentally shaped women's legal and economic agency. The distinction between married and unmarried women often mattered more than the distinction between men and women. In Roman law, marriage *sine manu* gave women greater autonomy than marriage *cum manu*. In medieval and early modern Europe, coverture dramatically restricted married women's legal capacity while leaving single women and widows with substantial rights. This pattern suggests that patriarchal control was exercised primarily through marriage rather than through blanket restrictions on all women.

Second, the gap between legal prescription and social practice was often substantial. Legal sources establish formal rules, but court records and other evidence demonstrate that actual practice frequently deviated from these rules. Women found ways to exercise agency through strategic use of different legal jurisdictions, through informal influence, and through exploitation of contradictions within patriarchal structures themselves. As Amy Hollywood observes regarding medieval religious women, they "make use of the very gender subordination that constrains them as the condition for and source of agency."

Third, literary representations both reflected and shaped social realities. While most literary texts were written by men, they addressed audiences that included women and depicted female characters exercising various forms of agency. The very existence of literary debates about women's nature and capabilities suggests ongoing social negotiation about gender roles. Literary sources cannot be taken as straightforward reflections of women's lives, but they do reveal the ideological frameworks within which gender relations were understood and contested.

These findings complicate simple narratives of either oppression or liberation. Pre-modern women were neither universally powerless nor freely autonomous. Instead, they navigated complex systems of constraints and opportunities that varied according to temporal period, geographic location, social class, and individual circumstance. Understanding this complexity is essential for accurate historical analysis.

### **Conclusion**

This examination of gender and power in pre-modern societies through legal and literary sources demonstrates the necessity of nuanced, contextual analysis. The evidence reveals neither universal female subordination nor consistent female empowerment, but rather varied and complex patterns of constraint and agency that shifted across time, space, and social position.

Legal sources from ancient Rome through the early modern period show significant variations in women's formal rights and actual practices. Roman law's evolution from marriage *cum manu* to marriage *sine manu*, combined with the weakening of tutela requirements, gave some Roman women substantial economic autonomy. Medieval legal systems, despite the restrictions of coverture, provided unmarried women and widows with considerable legal capacity and created multiple jurisdictions that women could strategically navigate. Early modern developments in equity law created new mechanisms for propertied women to exercise control over property.

Literary representations, while predominantly authored by men, reveal ongoing cultural negotiations about gender roles and female agency. From classical tragedy to medieval romance to early modern drama, literary texts depicted women exercising various forms of power while simultaneously expressing anxieties about female autonomy. These representations both reflected social realities and participated in constructing gender ideology.

The concept of agency employed in this study recognizing women's capacity to make meaningful choices within constraining structures proves productive for understanding pre-modern gender relations. This framework avoids both anachronistic attribution of modern feminist consciousness to pre-modern women and dismissive

denial of their capacity for autonomous action. Instead, it allows us to see how women navigated, exploited, and sometimes resisted the patriarchal structures that shaped their lives.

Several directions for future research emerge from this analysis. First, comparative study of different regional legal traditions could further illuminate the sources of variation in women's status. Second, more attention to the intersection of gender with other social categories such as class, ethnicity, and religion would deepen our understanding of women's differential experiences. Third, continued methodological innovation in reading sources "against the grain" to recover women's perspectives remains essential.

Ultimately, this study argues that understanding gender and power in pre-modern societies requires moving beyond simple binaries of oppression and liberation to recognize the complex, variable, and often contradictory ways in which patriarchal power operated. Women in pre-modern societies were neither passive victims nor proto-feminists, but historical actors who made consequential choices within the possibilities available to them. Recognizing both the constraints they faced and the agency they exercised allows us to write more accurate and complete histories of pre-modern societies.

## References

- Beattie, Cordelia. "Choosing Chancery? Women's Petitions to the Late Medieval Court of Chancery." In *Litigating Women: Gender and Justice in Europe, 1100–1750*, edited by Teresa Phipps and Deborah Youngs, 99–115. London: Routledge, 2021.
- Beattie, Cordelia, and Matthew Frank Stevens, eds. *Married Women and the Law in Premodern Northwestern Europe*. Woodbridge: Boydell and Brewer, 2013.
- Bennett, Judith M. *Ale, Beer, and Brewsters in England: Women's Work in a Changing World, 1300–1600*. Oxford: Oxford University Press, 1996.
- Blamires, Alcuin, ed. *Woman Defamed and Woman Defended: An Anthology of Medieval Texts*. Oxford: Oxford University Press, 1992.
- Brosius, Maria. *Women in Ancient Persia, 559–331 B.C.* Oxford: Oxford University Press, 1996.
- Calvi, Giulia. "Widows, the State and Guardianship of Children in Early Modern Tuscany." In *Widowhood in Medieval and Early Modern Europe*, edited by Sandra Cavallo and Lyndan Warner, 209–19. London: Longman, 1999.
- Chance, Jane, ed. *Gender and Text in the Later Middle Ages*. Gainesville: University Press of Florida, 1996.
- Clark, Elaine. "The Custody of Children in English Manor Courts." *Law and History Review* 3 (1985): 333–48.
- Coolidge, Grace E. "'Neither Dumb, Deaf, nor Destitute of Understanding': Women as Guardians in Early Modern Spain." *Sixteenth Century Journal* 36, no. 3 (2005): 673–93.
- Gardner, Jane F. *Women in Roman Law and Society*. Bloomington: Indiana University Press, 1986.
- Gold, Barbara K., Paul Allen Miller, and Charles Platter, eds. *Sex and Gender in Medieval and Renaissance Texts: The Latin Tradition*. Albany: State University of New York Press, 1997.
- Goldberg, P. J. P. *Women, Work, and Life Cycle in a Medieval Economy: Women in York and Yorkshire c. 1300–1520*. Oxford: Clarendon Press, 1992.
- Grubbs, Judith Evans, ed. *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood*. London: Routledge, 2002.
- Herlihy, David. "Land, Family and Women in Continental Europe, 710–1200." *Traditio* 18 (1962): 89–120.
- Hillner, Julia. "Empresses, Queens, and Letters: Finding a 'Female Voice' in Late Antiquity?" *Gender & History* 31, no. 2 (2019): 321–48.
- Howell, Martha C. "The Problem of Women's Agency in Late Medieval and Early Modern Europe." In *Women and Gender in the Early Modern Low Countries, 1500–1750*, edited by Sarah Joan Moran and Amanda Pipkin, 21–31. Leiden: Brill, 2019.
- Kane, Bronach, and Fiona Williamson, eds. *Women, Agency and the Law, 1300–1700*. London: Pickering and Chatto, 2013.
- Karras, Ruth Mazo. *Sexuality in Medieval Europe: Doing Unto Others*. New York: Routledge, 2005.
- Kelleher, Marie A. *The Measure of Woman: Law and Female Identity in the Crown of Aragon*. Philadelphia: University of Pennsylvania Press, 2010.
- Loengard, Janet S. "'Of the Gift of Her Husband': English Dower and Its Consequences in the Year 1200." In *Women of the Medieval World: Essays in Honor of John H. Mundy*, edited by Julius Kirshner and Suzanne F. Wemple, 215–55. Oxford: Basil Blackwell, 1985.
- McAvoy, Liz Herbert. *Medieval Anchoritisms: Gender, Space and the Solitary Life*. Cambridge: D. S. Brewer, 2011.
- Menuge, Noël James, ed. *Medieval Women and the Law*. Woodbridge: Boydell Press, 2000.
- Paoli, Ugo Enrico. *Rome: Its People, Life and Customs*. Translated by R. D. MacNaghten. Aberdeen: University Press Aberdeen, 1963.
- Perfetti, Lisa, ed. *Women & Laughter in Medieval Comic Literature*. Ann Arbor: University of Michigan Press, 2003.
- Phipps, Teresa. *Medieval Women and Urban Justice: Commerce, Crime and Community in England, 1300–1500*. Manchester: Manchester University Press, 2020.
- Saunders, Corinne. *Chaucer, Women, and Romance*. Cambridge: Cambridge University Press, 2020.

- Saunders, Corinne, and Diane Watt, eds. *Women and Medieval Literary Culture: From the Early Middle Ages to the Fifteenth Century*. Cambridge: Cambridge University Press, 2023.
- Scott, Joan W. "Gender: A Useful Category of Historical Analysis." *American Historical Review* 91, no. 5 (1986): 1053–75.
- Shepard, Alexandra, and Tim Stretton. "Introduction: Women Negotiating the Boundaries of Justice." *Journal of British Studies* 58, no. 4 (2019): 677–83.
- Smith, Julia M. H. "Women as Legal Agents in Late Medieval Genoa." In *Writing Medieval Women's Lives*, edited by Charlotte Newman Goldy and Amy Livingstone, 129–44. New York: Palgrave Macmillan, 2012.
- Stretton, Tim. "Women, Legal Records, and the Problem of the Lawyer's Hand." *Journal of British Studies* 58, no. 4 (2019): 684–700.
- Stretton, Tim, and Krista J. Kesselring, eds. *Married Women and the Law: Coverture in England and the Common Law World*. Montreal: McGill-Queen's University Press, 2013.
- Walker, Sue Sheridan, ed. *Wife and Widow in Medieval England*. Ann Arbor: University of Michigan Press, 1993.
- Wheeler, Bonnie, John C. Parsons, and Kenneth A. Loparo, eds. *Eleanor of Aquitaine: Lord and Lady*. New York: Palgrave Macmillan, 2003.