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RESEARCH ARTICLE

Widow-right in Durham, England (1349–1660)

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Abstract
A customary tenant's widow in County Durham had a right to his holdings for her life, and did not forfeit the lands for remarriage or fornication in contrast to customs found elsewhere in England. In this case study of three neighbouring villages, more than 80 per cent of widows with the option exercised this right, and did so consistently over three centuries. The persistence of this pattern indicates that widows as tenants were common and capable of cultivating or managing holdings. It suggests complex interconnections of gender with local social and economic structures, which include marriage, migration, and household formation.

1. Introduction

In pre-modern England, land was the measure of wealth and power and thus was concentrated in the hands of men; yet a man's widow had legal claims to his land, and both custom and charity decreed that she be provided for from his estate. Under common law a widow received a life interest in one third of her deceased husband's free holdings. For lands under the jurisdiction of the customary law of the manorial court (hereafter 'customary land'), one third and one half were common for the widow's dower or portion, while in many locations the widow enjoyed possession of the entire holding (a custom known as free bench). These provisions often carried restrictions, such as the widow forfeiting the lands if she remarried or was found to be unchaste.[1] In some manors, such as the Norfolk manor of Hevingham Bishops, 'widows did not have any rights to their husbands' customary land' if they had not been made a joint tenant.[2] Coupled with the potential of forming new households through remarriage, dower and free bench made widows an important, if small, group within the landholding sector. As seen in the present study of three villages from the Durham bishopric estate in County Durham, whether and how widows held lands and remarried had ramifications beyond widow-right. For one, the experiences of taking and holding land provide glimpses of social mores and expectations of widows by the widows themselves, the courts, and local society; and second, the practice of widowhood interconnected with broader structures in local society such as the land and marriage markets.[3]

Sandy Bardsley, Miriam Müller, Richard Smith, and Jane Whittle have all commented on the need to consider the local interplay of attitudes and economic

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change to understand women's roles in a given community, and the different experiences of Durham widows provide us with a glimpse of that interplay.[4] Long-term studies are crucial: if there was consistency over centuries in the practices of widow-right, as in these Durham villages, then widows found these lands attractive or necessary and there was a broad if perhaps reluctant acceptance of the widow as tenant, which speaks to public and underlying patriarchal attitudes and structures. Consequently, such an analysis opens the complexities of patriarchy for closer inspection and discloses localised views about women, widows, and even the gendering of other elements of rural life. Irrespective of whether widow-right in Durham was unique or if similar patterns may be found elsewhere in the future, the contrast between the Durham widows examined here and widows elsewhere offers a means to better understand the agency and economic activity of widows in that locality and beyond.

In much of County Durham, the widow had the option to take her deceased husband's full holdings of customary land, although the lack of surviving records from lay estates precludes attempts to ascertain the full spread of the practice. The Durham records referred to this right as widow-right (*in jure vidue* or *in jure viduale*) and its lack of restrictions meant Durham widows were less hemmed in than their sisters elsewhere in England, who could lose the land due to fornication or even remarriage.[5] For the period 1349–1660, in the Durham bishopric villages of Bishop Middleham, Cornforth, and Sedgefield, widows normally took up their deceased husbands' lands, trumping inheritance and inter-vivos transfers to sons and other relatives.[6] Moreover, despite the many upheavals and transformations of this period from the aftermath of the Black Death to enclosure, this and other patterns associated with widow-right in Durham persisted without challenge until the sixteenth century, and on both the bishopric estate and the Dean and Chapter (formerly Priory) estates the widow's right survived those challenges.[7] Such consistency should not be presumed. Richard Smith explored the ways in which customary law was mutable and its application was flexible, and in one of his examples, the Cambridgeshire manor of Cottenham, when it suited their interests both lord and village elite ignored the custom of a widow forfeiting her holding on remarriage then later observed that custom when socio-economic conditions had shifted.[8] On the other side of the coin, Sandy Bardsley showed how inheritance practices on a range of English manors changed after the Black Death with daughters inheriting land less frequently than they should have in that demographic environment; she concluded that '[t]he structures that gendered land-holding as primarily male were thus too complicated and intertwined to be dislodged by massive population loss alone.'[9] Thus when both custom and practice remain unchanged over a long period, a simple invocation of 'custom' is an insufficient explanation; the answer lies in the complex social, cultural, and economic context. The constancy of both custom and practice in these Durham villages over such a long period is indicative of a practice deeply embedded in rural society; similar to Bardsley's analysis of the continuity of inheritance practices, Durham widow-right too was a product of patriarchal structures, but in this case those structures were served by maintaining the rights of widows.

Yet while the people of these Durham villages respected the rights of widows and the absence of remarks about lands held by widows being rundown (remarks

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made about lands held by men) suggests that Durham widows could run their lands capably, a widow held widow-right as an extension of her deceased husband's right. She did not possess the level of control that she would have had over land held in her own right, she did not have the same power and authority in the village that her husband derived from the holding, and widows sometimes were protected and valued less for themselves than for the lands they occupied.[10] The self-reinforcing mixture of predation with protection and respect with denigration indicates a complex view of gender relations and patriarchy rooted in the particular social and economic systems of agrarian Durham and ingrained in the general culture of the period.[11] As widowhood and widow-right were inextricably linked to the activities and life-events of men, any shift in one required a shift in the other; widow-right in Durham evolved according to local population and economic realities and was not purely a social or cultural phenomenon. Thus the definition and practice of widow-right together raise questions about patterns of marriage and economic development, and emphasise the need to evaluate widows within the context of this framework as well.

Long-term studies specifically of widow-right are all but lacking, although shorter-term studies of women and English communities demonstrate the potential of examining widows within changing historical contexts. Widows were an important group in Jane Whittle's examination of landholding by women in north-east Norfolk from 1440–1580, and she found that women as landholders were a small but consistent group.[12] That period is important in the transition between the medieval and early modern but it omits most of the critical century following the Black Death as well as the fuller impact of population growth leading up to the Civil War. Another work comparable in time period although not focusing on women or widows is Cicely Howell's study of the Merton College manor of Kibworth Harcourt (Leicestershire), where in the sixteenth and seventeenth centuries men left holdings solely to their wives slightly less than half of the time, but that study used wills and did not include villein lands.[13] Beyond these works, decades of research first on rural society in general and then on rural women specifically has prepared an ample foundation for sustained research on widows. In the wave of general studies on rural society in the 1960s and 1970s, historians sought to identify the customs of widow-right and its relation to the land market and the broader economy, whether in regard to remarriage or fathers and sons developing strategies to keep land out of widows' hands, but little beyond this.[14] After Margaret Spufford's 1974 monograph *Contrasting communities: English villagers in the sixteenth and seventeenth centuries* gave greater, if still limited acknowledgement, to the experiences of widows outside the land market, in the 1980s historians began studying records for signs of agency, seeking explanations for widows' marriage choices outside the pressures of the land market.[15] Research focusing on women, such as Judith Bennett's *Women in the medieval English countryside: gender and household in Brigstock before the plague*, Mavis Mate's *Daughters, wives and widows after the Black Death: women in Sussex, 1350–1525*, and Amy Louise Erickson's *Women and property in early modern England* contributed to or complemented studies of widow remarriage by exploring the different facets of the lives of widows (and other women), laying out the choices and limitations they faced.[16] In turn, more recent socio-economic works such as John Mullan and Richard Britnell's

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Land and family: trends and local variations in the peasant land market on the Winchester bishopric estates, 1263–1415, provide far greater coverage of widows' tenurial activities when examining a village or estate as a whole.[17] Even with the proliferation of studies on medieval women, certain questions have yet to be addressed to satisfaction. In particular, what were the lives of widows like outside of central England? Did the status and rights of widows change as agriculture and rural society were transformed over centuries? As noted previously, studies of estates or regions over long periods could afford only limited attention to widows. Those studies focusing primarily on widows usually cover a century or less, and normally emphasise the period before the Black Death.[18] The haphazard survival of manorial records puts significant limits on the quantitative analysis of rural widows and widow-right. And, as is true with much medieval rural history, southern England is overrepresented. The care with which historians now strive to avoid essentialist analyses and instead emphasise variation over time and place has its own drawbacks. Studies of other rural topics over the long term, such as the family-land bond and standards of living, have indicated the importance and influence of widows in these systems and suggest that a similar long-term study of widow-right would be profitable, especially with a sufficiently intact series of manorial records.[19]

This returns us to a focus on widows and land to examine how a widow's choices shaped the broader patterns in rural society, and in turn an analysis of those patterns to map out a widow's agency and how this reflects society's views of widows. That is the approach of this case study. While it might appear to be a return to the narrow focus of widows in relation to land, the quantitative approach and long period permit identification of broad patterns or practices illuminating the status and roles of widows and generate new lines of enquiry for understanding rural society. The results depict a complex dynamic rooted in both economy and society in ways that suggest that geography and agriculture were important factors. The mixed agriculture and availability of land in the villages obviated any need to challenge or limit the widow's right. One supposition arising from this is that similar patterns should be found in other areas of low pressure on land resources, with similar cultural and legal inertia. The opportunities of widows in Durham to take land in widow-right and to remarry are high compared to the experiences of widows reported in other studies, which themselves show considerable variation dependent on both location and time period. This study is not meant as a claim to typicality, but as an extended exploration of connections between widow-right and a particular economy and geography that offers a new way forward in the history of women and of gender in pre-modern England.

2. Tenure and the custom of widow-right in Durham

Widow-right functioned as part of a broader spectrum of customary law tenures in Durham. On the extensive bishopric and Durham Priory estates, which together included one hundred villages and hamlets and thus encompassed the better part of the county, the manorial courts (called halmotes in Durham and other areas of northern England) administered most lands not held under common law.[20] The main types of customary land, which originally rendered heavy weekly

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and seasonal labour services on the lord's lands, were the husbandland, usually of 30 acres of arable land, and the cotland of up to 12 acres of arable. Other types of customary land, such as mallands, which earlier paid a combination of money rent and lighter labour services, and exchequerland, a catch-all category comprised predominately of lands cleared and brought into cultivation in the thirteenth and early fourteenth centuries, existed in medieval Durham but by the fifteenth century the practical distinctions were eroding as labour services were commuted into cash rents. Customary land could not be alienated by the holder but had to be surrendered into the lord's hand, voluntarily or upon the tenant's death, and then the new tenant was admitted to the holding. This process of surrender and admittance occurred in the halmote court or before the lord's steward and was enrolled in the records of that court. Complaints of broken contracts and unpaid debts make clear that buying and selling underlay many of these surrenders, and tenants when taking up a holding frequently purchased licences to let part or all of their holdings, suggesting a substantial and lightly regulated market in sublet holdings and parcels.[21]

The basic form of customary tenure was *in jure dum vixit* ('in right while he/she lives'), often shortened to *in jure* even in many records written in English in the sixteenth and seventeenth centuries. In the Middle Ages this form of tenure possessed a *de facto* hereditary right, and by the sixteenth century the hereditary descent was made *de jure* with the specification that the land was to be held by the new tenant *et sequilis suis* ('and his sequels').[22] With hereditary right and the need to keep records of current and even past tenants, the halmote books permit a reconstruction of the inheritance customs for non-freehold land as practiced in Durham. Customs rarely were stated explicitly but can be extracted from the usually consistent procedures of the halmote court. When a tenant died, any customary holding held for life followed a set descent:

- First claim to all holdings went to the widow.
- If there was no widow or if she declined, the holding(s) descended to the eldest son; and then to other sons in order of seniority, each of whom could decline in turn.
- Next, the holding(s) descended to the daughters. Composite holdings could be dismembered into the constituent parts, but a single holding meant joint tenancy if there was more than one daughter, although in practice, the other sister(s) often declined.
- The holding then passed to other blood kin of the deceased: brothers, cousins, nephews, nieces, and grandchildren.[23]

Inheritance should have been limited to lands held in right, but occasional incidences of widows or relatives taking leasehold lands (lands held not in right but for a specified term, whether for a certain number of years or lives) after the death of the tenant suggest that, while not automatic, they sometimes were offered first refusal of those lands. The 1647 Parliamentary Survey records widows holding their deceased husband's leaseholds and some leases for lives including the life of the tenant's wife.[24] Widows possessed the right of first refusal to leasehold lands on the estate of the Dean and Chapter of Durham following (and likely

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before) a dispute over terms of tenure in the sixteenth century, after which the right to claim the land went to the former husband's son(s), brother(s), or nephew(s) but not to any female relatives.[25]

Widow-right was treated as its own category of occupancy. Durham bishopric widows paid an entry fine commensurate with the holding and needed men from the village to stand as pledges that the rents would be paid and the holding maintained, as was true with most conveyances in right. The clerk recorded this as with any other holding except the formula stated that the widow would hold *in jure vidue* (although occasionally the clerk erred and entered *in jure*).[26] The widow possessed a life interest in the land. If she remarried, she retained her widow-right unlike widows in many other areas of England. However, the extent of the widow's right was limited in that custom controlled the descent of the land; a widow could surrender her holding at any time but only to her deceased husband's closest heir, and if she died the land followed the inheritance custom described above; only if the holding went into the lord's hand because the heir declined or if there were no heirs could someone else enter the holding. There is no evidence that a widow's new husband could take up the lands in his own right, except in the absence of heirs and thus as new entry.[27] Marriage to a widow provided access to land without a separate entry fine, but it did not convey any right; that remained vested in her deceased husband's heirs.

The definition of widow-right in Durham was a narrow, legalistic one: the widow was her deceased husband's relict in a tenurial, social, and legal sense. Unlike a jointure or land she held in her own right, a widow had no independent right and the lands remained linked to her husband. The need to link the widow to a current and past husband is reflected in the wording of some conveyances, as with 'Dorothea, now wife of William Digright, widow of Ralph Hutton.'[28] This view is exemplified further by an otherwise perplexing clerical practice. Of the 143 widows who took lands in widow-right in this period the next tenant of the lands could be determined in 79 cases (55 per cent).[29] But in 50 of these 79 cases, the clerk omitted the widow entirely in recording the conveyance; most of these are written as if the husband had only recently died, with no indication of a widow's death or her decision to surrender her right. Take Isabella Jopling, whose husband John died in 1612; she took up his two parcels of land in 1613 and died in 1615.[30] In 1618 their grandson came forward:

> Marmaduke Jopling, blood and heir of John Jopling deceased viz. son and heir of Anthony Jopling son and heir of the aforesaid John Jopling, came outside of the court at Durham before Robert Cooper Esq. the Steward. And he took [the lands] which the aforesaid John Jopling recently his grandfather held in right while he lived, to have to the said Marmaduke and his sequels in right [etc.][31]

Had the earlier records not survived, instances such as these would appear to be direct post-mortem transfers especially as most (33) were to a son. These instances show a legal mentality in operation akin to coverture. Coverture did not apply to widows and Miriam Müller has argued that it is not as applicable to manorial situations as historians have assumed; yet the elision of the widow from the record hints

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at a similar local perspective where gender was the greater limiter of the civil rights of married women, whether wives or widows.[32]

The clerks of the halmote court often noted not only the most recent tenant of a holding but the previous one, even if that person had been an occupant (*nuper in occupacione*) and not a tenant in right. That the clerks frequently omitted widows as prior occupants but (as far as has been determined) almost never omitted prior male tenants suggests a subconscious view if not deliberate policy.[33] In the minds of the clerks and likely many of the men of Durham, widow-right was a post-mortem extension of the man's right to land. Seen in that light, it should have been a way to secure inheritance by the son, but that is not how it played out in practice. Interestingly, this interpretation of widow-as-relict generated no restrictions on the widow's right to remarry as was common in many other English manors, and it presumed that a widowed woman was capable of finding ways to cultivate the land and pay the rent.

3. The practice of widow-right: sample, method and data

The villages of Bishop Middleham, Cornforth, and Sedgefield lay approximately eight to fifteen kilometres south and east of the city of Durham and formed an administrative unit of the Durham bishopric estate centred on Bishop Middleham (see Figure 1).[34] Those villages were the major settlements of the parish of Bishop Middleham, which was divided in 1580 with Sedgefield forming the centre of a new parish.[35] The three villages also comprised a judicial unit and served as one of the stops for the bishop's halmote court, with the bishop's steward and his retinue travelling throughout the county and holding court at ten estate centres such as Bishop Middleham (although later in the period meetings were held at Cornforth and Sedgefield as well). The circuit was held three times a year: spring, summer, and autumn, until 1512 when it began to meet only twice per year. The village of Bishop Middleham could be considered typical of many Durham villages in the Middle Ages with a mix of holdings and demesne land; Sedgefield was larger with a market; while Cornforth was a smaller village.[36] Two of the villages were enclosed in this period, Cornforth in 1626 and Sedgefield in 1636; the lands of Bishop Middleham would not be enclosed until 1693. The administrative, legal, economic, and religious connections, and the potential to observe patterns beyond a single village, means that a study of these three villages provides the benefits of a multi-village study while retaining a manageable sample size.[37]

Firm population numbers are lacking but various estate surveys note the size of the tenant population, with 136 tenants and 171.5 residences in the three villages circa 1383; in 1588 there were 70 tenants and 96 tenants in 1642.[38] The Protestation Returns of 1641–1642 recorded 442 adult males, while the Hearth Tax of 1666 listed 268 households.[39] Converting the number of tenants and taxpayers into overall population requires care and cannot be done reliably, as it requires using different multipliers to render three categories (tenant, adult male, household) into a single category of population, but different approaches yield similar results. Applying a multiplier of 4.15 based on the analysis of Broadberry et al. of Josiah Russell's estimates using the 1377 Poll Tax to the number of tenants recorded in 1383 yields an approximate population of 565. Projecting that forward to 1545

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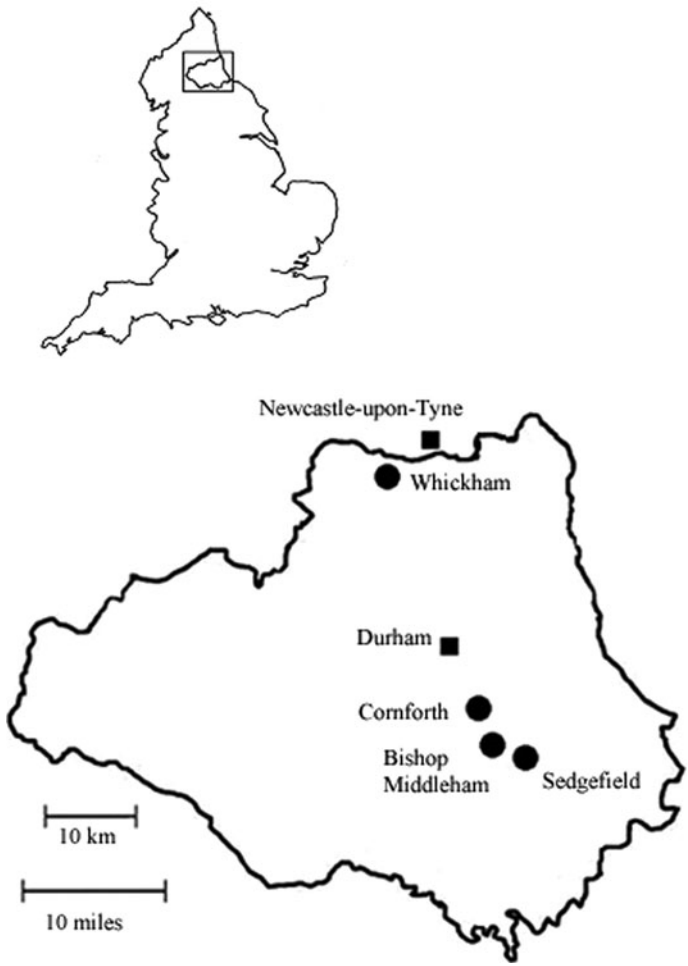


Figure 1. Pre-modern County Durham. Map created by author.
Note: Circles indicate location names mentioned in the article; squares indicate major cities.

with a multiplier of 1.13 (again based on Broadberry et al.'s study) yields an estimated population of 640. This is almost identical to an estimated population of 645 calculated by back projecting from an estimate of around 1,150 persons derived from applying Arkell's multiplier of 4.3 to the Hearth Tax returns.[40] That coincidence does not validate the result but at least suggests a degree of reliability for the approximations; data from the parish registers suggest a smaller population in 1545 and a much sharper increase in population in the seventeenth century, but those calculations do not account for migration. Nevertheless, the diverse sources show the slow and limited engrossment of holdings alongside the increase in population in the sixteenth and seventeenth centuries.[41]

Information on landholding and land transfer is more reliable. The process of surrender and admittance ensured that nearly all land transactions were enrolled,

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although not all stages in a transaction were recorded as a matter of course; the halmote court was concerned with right, not possession or life interest. As the halmote court also enforced minor debts, breaches of contract, and failure to adhere to agricultural bylaws, these add to the pool of data on widows and land. The business of the court was taken down on paper, with business transacted outside court entered into blank spaces left for that purpose; later on, the records were transcribed onto parchment as a permanent record. The parchment books, now held in The National Archives, Kew, London, are extant for 1349–1619, with significant gaps for 1362–1388 and 1425–1437, while the paper booklets, held in Durham University Library Special Collections, survive for 1519–1925.[42] Counting other small gaps, this provides landholding data from 269 out of the 312 years chosen for this study.

The land transactions for the three villages were extracted from the halmote books, yielding 2,462 separate actions.[43] To maintain fidelity to the original record, transactions were entered into the database as they were in the halmote books, so database entries could include more than one discrete holding if that is how they were originally entered. Often only a single entry fine was recorded for multiple holdings and over time accumulated holdings began to be treated as a single holding. The exception to this method was when a conveyance and sublet were recorded together, as these indicate a transfer of possession if not right that can reveal other dynamics of the land market.

The collection of transactions included 511 post-mortem transfers of land, of which 427 followed the deaths of 341 different male tenants, broken down by village in Figure 2.[44] The apparently smaller number of male tenant deaths in the village of Cornforth is explained by a widespread shift to leasing lands in the early fifteenth century, which removes the most reliable measure of tenant mortality: the call for heirs to claim a holding.[45] As this data reflects post-mortem transfers, there are numerous factors that require any demographic analysis to be tentative, yet increases in recorded deaths (particularly for Sedgefield in the 1390s to 1420s and for Bishop Middleham in the 1540s) suggest periods of increased overall mortality.

Figure 3 shows the nearest named heir to the holding while Figure 4 shows the first entry into the holding post-mortem. Heirs were recorded or could be deduced for 301 of the deceased male tenants; of these, widows were the most frequent at 57 per cent, with sons at 25 per cent and daughters at 4 per cent. However, the nearest heir did not always take up the holding and in the case of multiple holdings the nearest heir may have taken some but not others; the nearest heir declined 54 of the 427 total holdings (14 per cent). Examining the first entry into a holding, widows still comprised the largest group but now at 42 per cent, almost exactly twice as frequently as sons at 22 per cent, with holdings going to daughters only 4 per cent of the time. Interestingly, one of the daughters was Agnes, widow of Gilbert de Hoton; the entry makes it clear that she was taking land that had belonged to her father (John de Hardwick) and she would hold it in right and not widow-right, but the clerk listed her deceased husband Gilbert as the most recent tenant, demonstrating a mentality of coverture.[46] Overall, and including instances where no heir was named, lands went into the lord's hand or out of the family slightly less than they went to sons, at 21 per cent.

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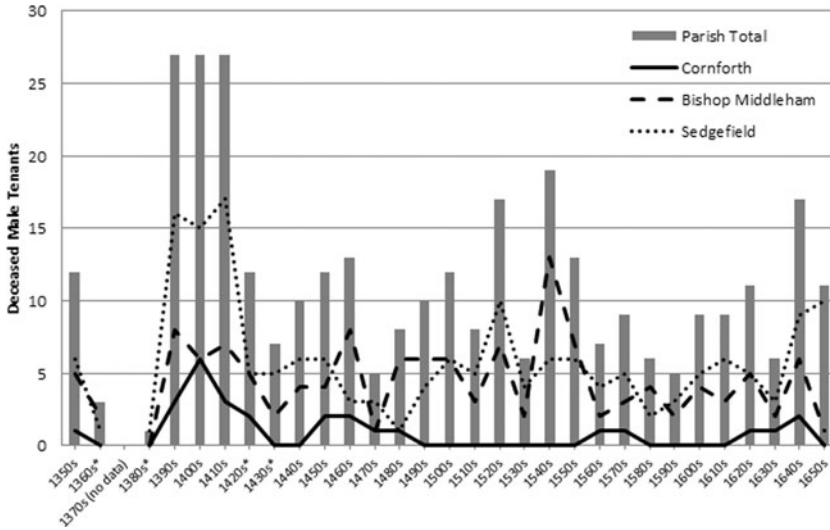


Figure 2. Male tenant deaths in the parish. N = 341 individual male tenants.
Note: The * on the x-axis labels indicate that only partial data survives for that decade.
Source: The National Archive: Public Record Office, Kew, London, Palatinate of Durham: Chancery Court: Curistor's Records: Halmote Court Books DURH (hereafter TNA PRO DURH) 3/12-28 and Durham University Library, Special Collections, Durham Bishopric Halmote Records: Court Books (hereafter DUL-SC) DHC 1/I/1-83.

These proportions fall within the range demonstrated by other studies of customary tenants. In her study of sixteenth and seventeenth century wills from Kibworth Harcourt (which excluded villein land), Howell found that men left land solely to the widow 44 per cent of the time, and to a widow jointly with a kinsman (usually a son), 31 per cent of the time. The pattern varied depending on whether there were minor children, and the widow's term could end when the heir was of age; moreover a woman lost her lands if she remarried.[47] In pre-plague Thornbury (Gloucestershire), 58 per cent[48] of new entrants were widows, compared to 37 per cent on the Winchester bishopric before the plague and 39 per cent after, whereas Thornbury sons were entrants 22 per cent of the time compared to 39 per cent and 31 per cent for Winchester bishopric. The major difference is how much more often lands left the family in these Durham villages: 21 per cent, compared to 7 per cent in Thornbury and 2 per cent and 1 per cent on the Winchester bishopric.[49] Although analysing deathbed transfers rather than a custom of widow-right in six manors for the later fourteenth and early fifteenth centuries, Smith found that 31 per cent of such transfers from a male tenant went to the wife/widow alone and another 9.1 per cent went to the widow and someone else jointly.[50] The variance in local conditions and customs, and the difference in periods examined, renders conclusions from such comparisons tenuous, but these do suggest that the inheritance by Durham widows, at least in these villages, was not atypical.

One question that often has not been asked (or it has not been possible ask) when looking at widows is, how frequently did widows decline their widow-right? The divergence between heir and first entry in Figures 3 and 4 indicates that looking solely at the inheritance is insufficient because it omits the widow's choice.

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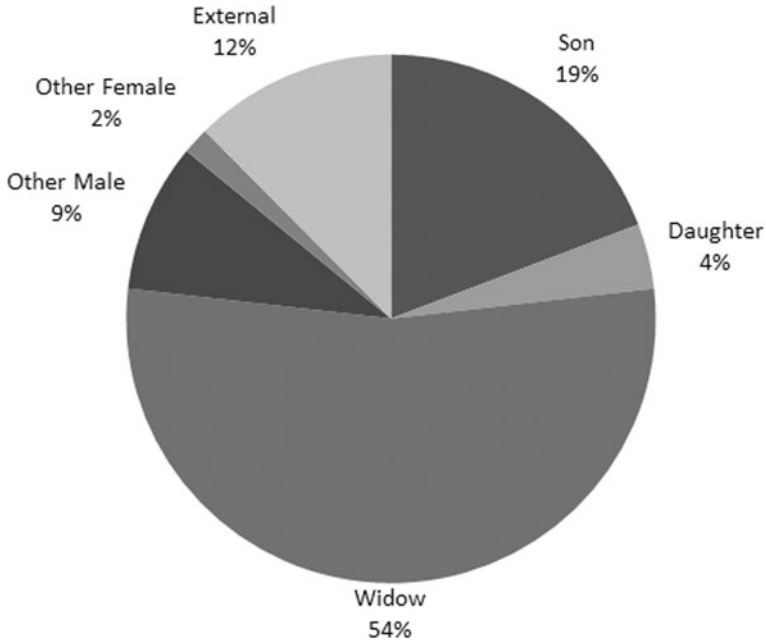


Figure 3. Nearest recorded heir to deceased male parish tenants.N = 301 individual men; heirs were not named for an additional 40 men. Based on heirs named in the halmote court.
Source: TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83.

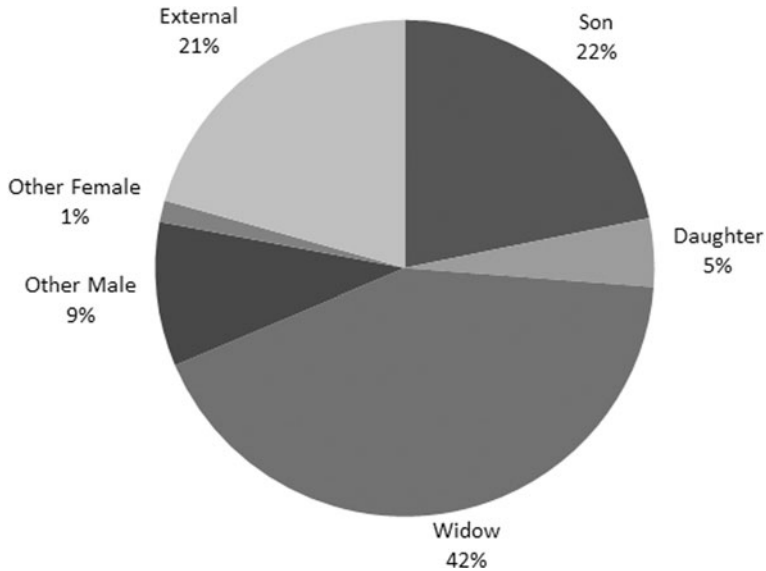


Figure 4. First entry post-mortem of male parish tenants for each holding. N = 427 holdings.
Source: TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83.

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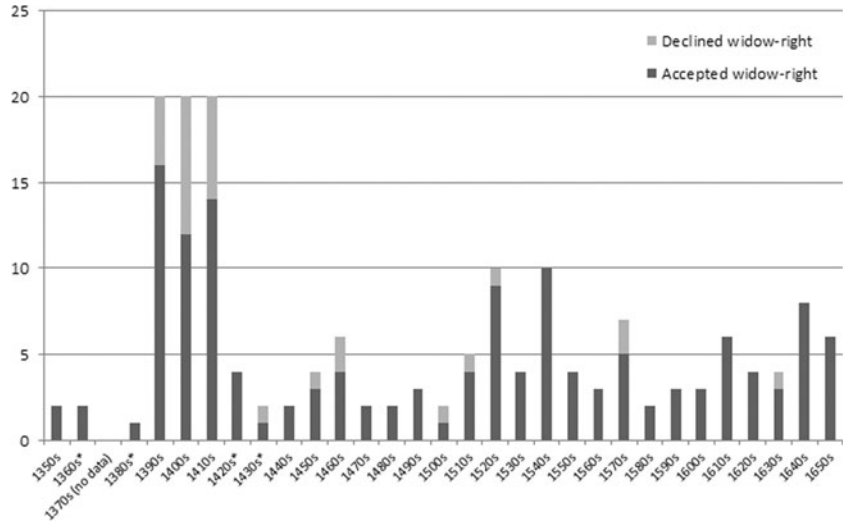


Figure 5. Widow-right taken and declined in the parish.
Note: The * on the x-axis labels indicate that only partial data survives for that decade.
Source: TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83.

Moreover, the question should be asked about individuals as well as holdings; that a widow kept one holding and declined another is significant and also different from discussing total numbers accepted or declined. Further exploration of these patterns should reveal not only more detail as to the workings of the land and marriage markets, but also more nuanced views about women and widows in particular localities.

Of the 341 male tenants who died between 1349 and 1662, 173 (51 per cent) left a clearly identifiable widow.[51] Most widows (144, or 82 per cent) chose to take possession of some or all of their husband's holdings (Figure 5).[52] Of the 230 total holdings in which widow-right could be claimed, widows claimed their right in 172 (75 per cent); there were claims in a further ten leases or temporary occupations, such as the case of Juetta del Gate, widow of Robert del Gate in Cornforth, who was granted a 'license to occupy [his] tenure' for the remainder of the year. Within that time she married John Py, who took del Gate's lands at lease.[53] Looking solely at the period after 1438, for which the records are nearly continuous, 230 male tenants left 105 widows of whom 93 (89 per cent) took their right.

The legal need to record a widow declining her right should mitigate omissions, and so while some widows must have gone unrecorded, determining the scope of under-reporting in land transfers is difficult. The clerks were consistent in linking widows back to their deceased husband in other halmote business, allowing for identification of an unrecorded widow but only if mentioned in the records for some other reason; three such widows were identified this way and added into the 173 widows above, but others might simply never have appeared in other halmote business. Connecting widows to deceased male tenants is more difficult for the sixteenth and seventeenth centuries because the clerks ceased to note the deceased's first name and often referred to the widow solely by her surname; for this reason, although the parish registers survive from 1559 onward they are of limited use.

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For example, was the 'widow Dawson' who died in 1587 the widow of William Dawson (d. circa 1560–1561), Robert Dawson (d. circa 1563–1564), or yet another Dawson?[54] The limited range of first names further hinders clear identification. Those caveats must be kept in mind when attempting to identify widows of deceased tenants. Of the 98 male tenants who died between 1559 and 1660, a widow was listed in the post mortem conveyance(s) for 50 (51 per cent) and 46 (92 per cent) took up a holding in widow-right. Of the remaining 48 men for whom no widow was listed, a search of the parish registers yields 26 possible marriages; an additional 8 of the men appear to have had neither wife nor issue. Of those 26 potential marriages, the wife predeceased or likely predeceased her husband in 10 instances and in another 8 the connection is tenuous. That leaves 8 potentially unrecorded widows, three of whom shared one of the common village surnames, Hutchinson.[55] If all of those connections were valid, that would raise the number of men leaving widows to 58 (59 per cent), and lower the percentage of widows taking widow-right to 79 per cent. If a similar rate of omission were applied to the entire period, to create a safe lower estimate of widow-right, widows would still have taken widow-right 71 per cent of the time. Whether the overall average of widows taking up lands was 71, 82, or 89 per cent, or even higher in certain periods, quite simply it is clear that over more than three centuries most widows took most of the holdings offered to them, a remarkable consistency given the transformations England underwent during this time.

4. Widows as tenants

The size of the holdings implies that Durham's social and structural institutions facilitated women as capable holders or at least stewards of land, in that there is no greater evidence for their failure than for men.[56] Some widows' holdings were small, and 26 (18 per cent) received no arable or pastoral land with their widow-right.[57] Others, such as the lands left by William Hall to his wife Helena, suggest rising yeomanry: more than 130 acres of arable and pasture lands, 11 unmeasured parcels and closes, and 14 residences (tenements and messuages).[58] Altogether, widows as tenants reflected the broader tenantry, which should be expected as there were no deathbed transfers to avoid widow-right; analysis of inter-vivos transfers confirms this. Although some holdings were broken up and clearing new lands had generated parcels of varying size, the basic tenurial structure still predominated: cottages with perhaps a garden but little to no arable land; cotlands (cottage-lands), which varied in size but frequently included 6 or 12 acres; husbandlands of 30 acres which were akin to the virgates and yardlands found elsewhere in England and were often noted as being comprised of two 15-acre parcels called bovates (or oxgangs); and in Sedgefield there was an unusual tenure, the malland, containing two bovates of 18 acres each. Engrossment in the late fourteenth century created another *de facto* category, double husbandlands and mallands of 60 or 72 acres (see Figure 6).[59]

The average size of a holding for a widow who took lands in widow-right was 30.57 acres, close to the standard 30-acre husbandland.[60] Forty-one widows possessed holdings totalling 30 acres or more, putting them among the top ranks of the peasantry, and six of those widows held one hundred acres or more in

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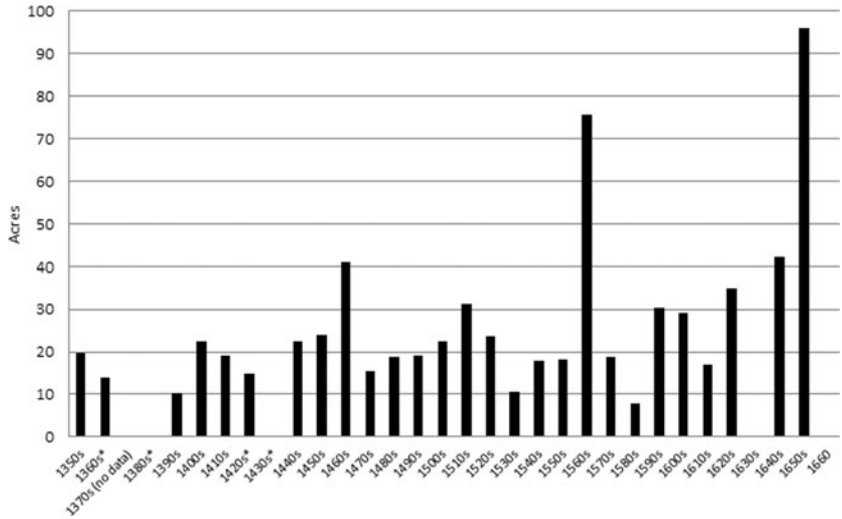


Figure 6. Average acreage in widow-right taken in the parish, by decade.
Note: The * on the x-axis labels indicate that only partial data survives for that decade.
Source: TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83.

widow-right. Widows like Helena Hall became instant landlords (or at least had the potential to be landlords) when their widow-right included multiple cottages or house plots (messuages); 26 widows fell into this category. While Alex Brown notes 'the importance of widows in the inheritance of land and future transmission of holdings' on the bishopric estate in the seventeenth century, the institution of widow-right had a mixed influence on the emergence of a yeoman group in the villages and over time the average size of the lands received in widow-right increased, reflecting the accumulation of holdings and increasing polarisation of wealth and status.[61] While widow-right as an extension of the deceased husband's tenure could preserve a holding for an heir and enable further engrossment, as seen above composite holdings could be broken up and the tendency for lands in widow-right to pass out of the family may have retarded the accumulation of very large holdings. Likewise, marriage to a widow often was a route to having land more so than having more land. In the fourteenth century, the average size of a holding for the widows who took land was 16 acres, slightly more than a bovate of husbandland and slightly less than the 18-acre bovate of malland. The average rose to 25 acres in the fifteenth century and then to 29 acres in the sixteenth century, but jumped in the seventeenth century to 54 acres. This change reflects an increasing number of large holdings in widow-right. The largest widow-right taken in the fifteenth century was 71 acres and 15 holdings were 15 acres or more, while in the seventeenth century the largest was over 194 acres and 10 widows took 30 or more acres. The increasing size of holdings in widow-right mirrored the increasing engrossment of lands while the variety in size reflected the surviving diversity of tenure and status, following a pattern similar to that which Brown described for his bishopric case studies but in marked contrast to the

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experience of the coal-mining village of Whickham.[62] The changes in economy and society that brought this about did not dislodge the acceptance, grudging or not, of widows as tenants.

The ubiquity of widow-right meant the passing of land to the next generation (or out of the family) could be delayed significantly.[63] The length of widow-right, whether to surrender or death, could be determined for 75 widows and on average widow-right lasted just over 12 years. This is twice the average that Jane Whittle found in four Norfolk manors in the fifteenth and sixteenth centuries, but just as in those manors, some Durham widows held their lands in widow-right considerably longer than average.[64] Only 7 widow-rights in Bishop Middleham parish lasted a year or less, while 37 were held for 10 or more years and 15 of those appear to have been held for 20 years or more. The longest discernible widow-right was that of Agnes, widow of Robert Sander, who took up a messuage called Hindleyland in 1551; the holding passed to her daughter Katherine after Agnes's death in 1604.[65] Another long widow-right was that of Alice, widow of Thomas Bentley; widowed in 1549, her granddaughter Helena Collinge took up the land in 1578 after Alice's death, and the halmote court book entry described Helena as 'the blood and heir of Thomas Bentley, that is the daughter of Thomas Bentley son of the aforesaid Thomas Bentley', her grandfather.[66] Agnes and Alice had exceptionally long periods of widow-right; whether this represented positive support for widows versus acceptance of widow-right as the lesser evil is a different question, but if there was pressure from family on widows to cede their lands to a new generation as has always been a distinct possibility in England, the halmote court and the overall tenantry provided sufficient support for widows to retain their lands.

Some widows surrendered their lands during their lifetime, but more often these lands passed to a new tenant upon the widow's death; 30 widows surrendered their lands whereas new tenants were recorded entering after a widow's death 40 times and in another 6 instances the land had been taken into the lord's hand when the new tenant took it up.[67] A son or grandson was the recipient of 60 per cent of holdings surrendered by widows, another 7 per cent went to other relatives, and in 30 per cent of the surrenders the next tenant came from outside of the family; in one case, the widow had two holdings, one of which she surrendered to a son and the other to non-relative man. Generally, when a widow died the lands were more likely to stay in the family, with 57 per cent of lands passing to a son or grandson and 19 per cent to another relative after the widow's death, with the remaining 23 per cent going out of the family.[68]

The post-mortem descent of land from widow to son in these villages is consistent with what has been found elsewhere, as seen in Table 1. The major difference lies in the descent of lands that did not pass to a son or grandson; in the manor of Thornbury and the Winchester Bishopric estate, the majority if not all of those lands passed to another family member, while in Durham, slightly more lands left the family than went to another family member. This indicates a potential link between widow-right and another factor, whether demography, migration, or attitudes to landholding, suggesting a potential future approach in studying these practices. That widows often retained the lands, when they could freely decline or later surrender the holdings, speaks of at least moderate success in managing those lands either directly or through subletting. There was no penalty for

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Table 1. Post-mortem descent of land held in widow-right in Bishop Middleham (County Durham), Thornbury (Gloucestershire), and the Winchester bishopric estate (%)

Next holder	*Bishop Middleham Parish*	*Thornbury (Gloucs.)*	*Winchester Bishopric*
Son or grandson	57	60[a]	55
Other relative	19	30	44
Outside the family	23	10	0

[a]Includes stepsons.
Sources: TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83; Peter Franklin, 'Peasant widows' "liberation" and remarriage before the Black Death', *Economic History Review* n.s. **39** (1986), 189–90; John Mullan and Richard Britnell, *Land and family: trends and local variations in the peasant land market on the Winchester bishopric estates, 1263–1415* (Hatfield, 2010), 107.

declining or surrendering a holding in widow-right, providing the widow with a choice subject to her own situation and any personal (rather than general) pressure.

5. Declining widow-right

In these Durham villages it was normal, perhaps even expected, for a widow to enter her deceased husband's holding, so the ubiquity of widow-right meant these widows – like many of the men of the parishes – could be found in small plots that might be little more than a cottage, or a garden: just enough to live in. The small number of holdings declined obviates reliable discernment of patterns in the size of the declined holdings, and other conclusions are tenuous at best. Overall, 27 per cent of those holdings that widows declined went to a son and 4 per cent to another relative; the remaining 69 per cent went to someone outside the family. In 8 per cent of those instances of a holding going to outside the family, the clerk noted that the son also refused the holding. Leaving aside the question of whether the widow wanted to take the holding, two factors may have influenced her decision to decline the land: pressure to give up the holding, and her ability to work or manage the holding. The consistency with which widows took lands suggests weak pressure to decline holdings and might suggest the reverse, that families and communities exerted pressure on widows to take the lands; as seen above, most lands held in widow-right stayed in the family while most of those declined left the family, and so family may have been a key element in supporting widows and perpetuating widow-right. The consistency in taking holdings in widow-right likewise suggests that widows were able to manage the holdings, with or without the help of children or a new husband; only two holdings were seized from a widow, a husbandland from Agnes Cape in 1355 'on account of her impotence' and a messuage and 13 acres called Butlerplace from Agnes the widow of Thomas Jakson because she could not find pledges in 1421.[69] Other studies have emphasised how the availability of land affected a widow's choice to take the lands or remarry, observing that '[i]t was obviously difficult for women to meet the obligations of customary land' or that widows relinquished land 'to escape the burdens of estate management', but these conclusions do not hold for these Durham villages.[70]

That said, there was a significant drop in widows taking lands in the 1390s to 1410s that requires explanation.[71] In these three decades, 68 per cent of widows

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who could take land in widow-right did so. This period is the only one when both the frequency is markedly lower and the sample size is large enough for the lower number to be significant. One possible factor here is that the emergence of leasehold as a tenure and other changes in the land market led to greater precision in identifying widows. However, since there are no records from before the Black Death and only fragments for 1363–1387, we cannot determine whether this pattern was new.[72] If it were, then it could be the response to a diminished population. Another potential explanation lies in a sharp rise in tenant mortality in this period; there is another coincidence of high tenant mortality with a decline in widow-right in the 1450s and 1460s, although other peaks in mortality do not correlate with drops in widow-right. Furthermore, refusal of lands coincides with higher percentages of men leaving widows; an average of 77 per cent of tenants left a widow in these three decades, whereas the average for the 1450s and 1460s was 40 per cent and for the entire period, 51 per cent. That variation suggests more was involved than increased mortality such as broader trends in the land market, particularly the emergence on the bishopric of leasing lands for a term of years, or variations in accuracy in reporting widows with right.[73] Only five holdings declined by widows were then taken at lease, but the increased leasing may have discouraged widows. Many holdings in the early fourteenth century were held by the new tenant 'at his peril' (*suo periculo*) and carried no right, suggesting that the bishopric steward was concerned that they might not make the rent.[74] The volume of transfers in the land market and the shift to leasing indicated that many men were uncertain in what was a perfect storm: high mortality, a dynamic land market and tenure system in flux, and deteriorating holdings that together created instability. Since trends in widow-right reflected broader trends in landholding, it follows that, like men, widows were doubting their ability to cultivate the holdings successfully but also that this was not a problem specific to women or widows. Beyond holding or surrendering land, there is little evidence to judge 'success' in landholding by women or men in Durham during these centuries, and the scant evidence from wills in the later sixteenth and seventeenth century adds little; engrossment was not open to women – aside from inheritance and surrenders, the land market was a male preserve – but lack of engrossment does not necessarily imply lack of success.

6. Widowhood and rural society

The data from these villages suggest that, while the tenants of these three villages and the administrators of the Durham bishopric estate scrupulously observed the limitations of widow-right as a tenure, they also enabled the widow's right to hold her deceased husband's lands for as long as she wished. This becomes surprising given one critical element of tenurial practice across the bishopric estate: the basic building blocks of the landscape – the husbandlands, cotlands, and mallands – did not fragment during the later thirteenth and early fourteenth centuries as occurred in many other localities.[75] This made inheritance an all-or-nothing deal: a 30-acre husbandland could go to the widow, to one son, or to some new tenant, but it could not be divided among multiple heirs.[76] If a man died and left multiple holdings – two cottages, or a husbandland and a cotland, or the like – then multiple heirs could inherit, but the surviving widow still

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had the right to accept or decline each holding. The practice of widow-right thus put the widow in a strong position – legally emancipated and with a life interest in the land – that persisted even as society, economy, and other customs changed.

The practice of widow-right combined with Durham tenurial practices had implications for other aspects of rural life in the villages. A widow with land could make an appealing marriage partner, but widow-right affected the prospects of sons too. Some widows held onto the land for the sake of minor heirs, but the average length of widow-right and the rate at which land left the family means that often it was more than a temporary guardianship. For example, John Busby entered a cottage and acre in Sedgefield 20 years after his father's death.[77] Men such as John stayed with their widowed mothers and worked the lands with or for them, but others left to find their fortunes elsewhere. While 74 (22 per cent) of the 341 Durham men who died had some or all of their lands go to a son directly after their death, another 42 (12 per cent) had sons who did not receive lands until after a widow-right; thus nearly one third of sons inheriting post-mortem had to wait for their father's land. Besides post-mortem inheritance, a son could receive his father's land through an inter-vivos conveyance (or support from the father to enter another holding in the same village). But fathers were not providing lands for their sons in their lifetimes; only 34 men did so.[78] Thus a son could not rely on receiving his father's land during or after the latter's lifetime. If there were more sons than the land market evidence reveals – and disputes recorded in the court books do reveal younger sons – these landless sons had to turn elsewhere for their livelihood.

The prevalence of widow-right suggests that the (re-)marriage market and land market had a strong connection. In her study of sex ratios in late medieval England, Bardsley estimated there were 110 to 115 men for every 100 women, and the prevalence of widow remarriage in Durham would support that skewed ratio.[79] A preliminary analysis of marriage fines from the entire Durham bishopric from 1350 to 1450 shows that marriages to widows made up just under half (49 per cent) of all recorded marriages; and while the fine for marrying a widow could be higher than when marrying a never-married woman, the rates fell into the same general range of sixpence to two shillings.[80] For the first hundred years following the Black Death, marriage to a widow was, like widow-right, a regular element of Durham village life, at least for tenants. This is very similar to the 51 per cent of marriages involving a widow that Smith found in early fourteenth-century Cottenham but higher than found elsewhere, particularly for the post-plague period: in Ramsey Abbey from 1397 to 1458 only about 10 per cent of merchet payments were by widows, while on the Winchester bishopric estates between 9 per cent and 38 per cent of marriages involved a widow between 1350 and 1415.[81] The greater involvement of widows in the Durham marriage market reflects the interconnection of attitudes to tenure (in particular the inviolability of holdings) with both the land and marriage markets. Whittle attributed the absence of widow's right in the Norfolk manor of Hevingham to its active land market, as 'a widow's rights to dower complicated the full alienation of land by her husband'.[82] Referring to the village of Brigstock (Northamptonshire), Bennett observed that '[its] land market was an active component of the local economy; with parcels of land changing hands at almost every court meeting, several dozen households

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altered the size or configuration of their landholdings every year', while Britnell and Mullan remarked 'that there was an increasing tendency, particularly during the fourteenth century, for holdings on the Winchester estates to be viewed less as hereditary family resources and more as marketable assets'.[83] By way of contrast, inheritance and marriage to a widow were the main ways of acquiring a holding in Cottenham before the Black Death, but the post-plague availability of land lessened the importance and value of marrying a landed widow.[84] The land market in Bishop Middleham and its neighbouring villages allowed for the acquisition of holdings outside of marriage and inheritance but this still required pledges and cash, whereas marriage to a widow was cheaper. This would have shaped attitudes about the acceptability or desirability of marriage to a widow, which alongside a shortage of women increased the greater proportion of widows in the marriage market. The inverse correlation that keeps cropping up between the land market on one hand and the rights of widows and widow remarriage on the other warrants systematic research to see whether the decline in remarriage observed elsewhere in England also occurred in the Durham bishopric villages in the early modern period.[85]

Such research would address any changes that widows had in their choice to take up widow-right or remarry, especially in the absence of more narrative sources. The extent of women's agency is a major debate, particularly so for widows. Erickson has rightly challenged the 'particularly masculine point of view' in assumptions made about wealth and remarriage of widows, emphasising the need to consider other factors.[86] Barbara Todd noted that '[w]ealth seemed to have had less effect on changing remarriage patterns than one would expect' although the husband's occupation or social standing does appear to have affected remarriage for certain groups.[87] Barbara Hanawalt saw greater choice and agency for rural widows, and Peter Fleming has described the late medieval period as a 'golden age' for those widows who had property; Peter Franklin talked about widows' 'liberation' while linking remarriage with economic necessity and although Bennett rejected the concept of liberation, she did explore the options open to medieval widows.[88] Lori Gates consciously moved away from considerations of the land market to look at other economic, demographic, and social factors.[89] In Bishop Middleham, Cornforth, and Sedgefield, the widow's option to take her deceased husband's lands was a real one and not merely a legal formality. Hanawalt referred to a 'self-limiting patriarchy' in medieval London and Smith saw the 'village notables' as manipulating fines for marrying widows to keep lands within certain families, and similar concepts appear to be in operation.[90] Durham widows must have felt able to take their deceased husband's lands and run them, and their families may have even encouraged them to do so; and they were successful in doing so, just as Bennett found in pre-plague Brigstock.[91] The active subletting market helped widows to manage their lands, as a widow who found her holding too large could sublet all or part of her holding. Some widows with land chose to remarry and some did so out of necessity, but there is no evidence of pressure or economic need as was the case in late medieval Sussex, where widows regularly exchanged their lands for maintenance or an annuity.[92] Widows were an integral part of peasant society in this part of Durham as landholders and probably in the formation of new households as well.

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7. Conclusions

The historian's usual challenge is to explain change, particularly within the late medieval and early modern periods; here the task is to explain why widow-right did not change over three centuries, either directly or through circumvention by increasing use of inter-vivos or deathbed transfers to sons. Widow-right was part of a broader, stable system yet elements of that system were in flux, first with leasing and then with the many transformations of the early modern period. One possible explanation lies in the geography and economy of the parish, and potentially of the broader region. The Durham land market attests to a stability of rural society; there was some periodic engrossment of lands, a larger landless population, and increased polarisation of society, but many aspects of rural Durham in 1500 and 1660 were remarkably similar to 1349; even the enclosure of Sedgefield appears not to have led to immediate disruption of local society.[93] The sluggish land market strengthened widow-right, as the custom provided stability and, in a period of reduced or declining population, a larger tenant base. Widow-right prevailed even in the sixteenth century when demand for land rose and elsewhere in Durham lords threatened to replace copyhold tenure or tenure in right with less secure and therefore more profitable leasehold. For example, in the tenurial disputes in Weardale and on the Dean and Chapter estate, widow-right served as evidence in court alongside claims of military border service that might seem incompatible with a widow as tenant, suggesting that widow-right was a deeply ingrained part of rural culture. That should hold true in the three villages of Bishop Middleham, Cornforth, and Sedgefield, where military service was never part of a tenant's obligations.[94]

Maryanne Kowaleski notes that '[m]edieval demography is still a new frontier for feminist scholars, but it is the field most likely to show the powerful role of the undocumented, non-elite majority in shaping the medieval world', and the practice of widow-right in Durham is an entrée into how gender influenced demographic (and economic) trends.[95] The consistency of Durham widow-right and the absence of attempts to undermine or circumvent it seem to represent an acceptance of the widow as householder and tenant. If the remarriage of widows, at least in the late medieval period, was frequent then there are repercussions in other areas of women's lives. The remarriage of widows indicates a scarcity of unmarried women, whether due to fertility or mortality, or else landholding through widow-right provided widows with an edge over unmarried women who then had to migrate for marriage or employment. The low rate of sons receiving lands from fathers suggests similar issues facing young men, who had to migrate for lands or work if they did not marry a landed widow. Altogether this implies a flexibility or ephemerality of the household, with sons and perhaps daughters leaving and widows remarrying so that lands often changed hands from generation to generation. The persistence of certain surnames and lineages by contrast suggests stability of the parish and village community; the patterns in widow-right and widow remarriage may not even have been possible without a strong community.

The apparent prominence of widows in the Durham bishopric marriage market affected society too; as Bennett notes, '[a]ll these women, however, especially when widowed, could aspire to public power, not only as heads of households, but also as controllers of the economic resources left by their husbands.'[96] Taking on the lands

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of their deceased husbands may not have provided these Durham widows more standing in the village economy, and it did not permit them to hold office or serve on the jury, but the men leading the village took their needs into account – otherwise widows would not continue to take lands so consistently. Widow-right provided women with increased influence in other areas of life, although the biases of medieval recordkeeping in Durham hide this from view. Widows comprised a small group within the Durham tenantry, and they did not possess public authority, but the regularity of widow-right does provide a sound argument for asking those questions. More importantly, this study indicates the need for similar investigations of other areas in England and beyond to determine where, when, and why similar patterns of widow-right and concomitant effects occurred elsewhere. Areas with low pressure on land would be ideal starting places, as marriage and the land market are so closely connected. Likewise, where the practice of widow-right was not as stable, the factors driving those changes must be sought in local conditions, rather than assuming the change as natural. Such research will expand not only the history of women in England, but provide new insights into the broader mechanics of rural society.

The roles of the widow in these Durham villages in contrast with widows elsewhere in pre-modern England demonstrate the complexity of gender relations in accordance with local conditions and context. These widows were not necessarily powerful, as their rights existed at the sufferance of men; their position and opportunities could have been modified or curtailed to their detriment.[97] This did not happen, and in large part the answer likely is that the economic and demographic systems did not push local men towards such changes; but there is more than economic determinism at work and the choices of men and women sustained these patterns.[98] Preserving the right of the widow was in the interests of many; it gave the widow a better chance of economic security, and both represented and provided a significant degree of agency in her life. Widow-right may have been perceived as the extension of the deceased man's right in land, but in reality it enabled widows to remarry or to cultivate the land on their own. Widow-right presumed that widows were capable; other than not expanding their holdings, there is no clear evidence that widows were any less successful than other tenants.

This discussion of widow-right has one glaring exception: widows who did not hold customary land either because their husband held no land or because he transferred it during his life.[99] If a man 'sold' his lands during his lifetime, what then happened to his future widow if he were to die? It is possible that some such men made provisions for the widow; if not, she could to look to children for support or find a new husband, or else face penury on her own. That many widows took their widow-right and died with their lands suggests the desire or need for those lands and the support or freedom that they brought, a conclusion that would be strengthened if landless widows remarried with greater frequency. This indicates a significant division in the histories of widows between those widows with land and those without, underscoring the diversity of women's experiences.

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Notes

1 L. R. Poos and Lloyd Bonfield provide a concise overview of dower and free bench in manorial courts, and they warn against reading too much consistency of practice into the two terms: Poos and Bonfield eds., *Select cases in manorial courts 1250–1550: property and family law*, Selden Society, 114 (London, 1998), cxxi–cxxvii. See also R. M. Smith, 'Women's property rights under customary law: some developments in the thirteenth and fourteenth centuries', *Transactions of the Royal Historical Society* **36** (1986), 181–6, esp. 186 where he contrasts joint tenancy with free bench. Smith warns against seeing common and customary law as opposites in regard to women and land; ibid., 192–3, and 'Coping with uncertainty: women's tenure of customary land in England c. 1370–1430', in Jennifer Kermode ed., *Enterprise and individuals in fifteenth-century England* (Stroud, 1991), 43–67. Joint tenancy was unusual in the medieval bishopric of Durham, and in the early modern period for these villages the idea of joint tenancy was found more often in a sublet by a son to his parents.

2 Jane Whittle links this custom with the land market in the manor: *The development of agrarian capitalism: land and labour in Norfolk, 1440–1580* (Oxford, 2000), 131.

3 This study echoes the approach of Miriam Müller on coverture and the medieval English countryside in which she argued that peasant women need to be understood in a local, manorial context: 'Peasant women, agency and status in mid-thirteenth to late fourteenth-century England: some reconsiderations', in Cordelia Beattie and Matthew Frank Stevens eds., *Married women and the law in premodern northwest Europe* (Woodbridge, 2013), 91–113.

4 Sandy Bardsley, 'Peasant women and inheritance of land in fourteenth-century England', *Continuity and Change* **29**, 3 (2014), 297; Müller, 'Peasant women, agency and status'; Smith, 'Women's property rights under customary law' and 'Coping with uncertainty'; Whittle, *The development of agrarian capitalism*, 131–41 and 'Inheritance, marriage, widowhood and remarriage: a comparative perspective on women and landholding in north-east Norfolk, 1440–1580', *Continuity and Change* **13**, 1 (1998), 34.

5 A query (intended recipient unknown) from 1601, written primarily in English, uses the term 'widow right', and later *jus vidual*', when discussing whether a widow lost her right if she failed to come to the halmote after the three proclamations following the death of her husband: Durham University Library Archives and Special Collections, Church Commission Deposit of Bishopric Estate Records: Miscellanea, CCB B/218/3/1.

6 A tenant while living had the right to surrender the lands to family or an outsider. In the sixteenth century a new but minor trend emerged of a man surrendering lands to a son, who then demised them back to both the man *and his wife* for their lives. This eliminated widow-right in that holding but still provided a life right to the widow.

7 Widow-right featured in a major dispute between the bishops and tenants in Weardale over leasehold in the sixteenth century: Linda Drury, 'More stout than wise: tenant right in Weardale in the Tudor period', in David Marcombe ed., *The last principality: politics, religion and society in the bishopric of Durham, 1494–1660* (Nottingham, 1987), 71–100. A similar dispute vexed the estate of the Dean and Chapter of Durham in the sixteenth and early seventeenth centuries: W. H. Longstaffe and J. Booth eds., *Halmota Prioratus Dunelmensis*, Surtees Society, 82 (Durham, 1889), xxxix; David Marcombe, 'The Dean and Chapter of Durham, 1558–1603' (unpublished PhD thesis, University of Durham, 1973), 141, 149–50; and Jean Morrin, 'The transfer to leasehold on Durham Cathedral estates', in Jane Whittle ed., *Landlords and tenants in Britain, 1440–1660: Tawney's* Agrarian Problem *revisited* (Woodbridge, 2013), 117–32. In both cases, the tenants won regarding inheritance practices and the rights of widows.

8 R. M. Smith, 'Some thoughts on "hereditary" and "proprietary" rights in land under customary law in thirteenth and early fourteenth century England', *Law and History Review* **1**, 1 (1983), 123–6; see also his 'Coping with uncertainty', and Jack Ravensdale, 'Population changes and the transfer of customary land on a Cambridgeshire manor in the fourteenth century', in Richard M. Smith ed., *Land, kinship and life cycle* (Cambridge, 1984), 197–225. Poos and Bonfield include a discussion of 'custom' and 'customary law' that includes the balance of general principle with contingent factors: *Select cases*, xxvii–xxxv.

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9 Bardsley, 'Peasant women and inheritance'; quotation from 320. On the need to reassess the relationship of gender and demographic change, see Maryanne Kowaleski, 'Gendering demographic change in the Middle Ages', in Judith M. Bennett and Ruth Mazo Karras eds., *The Oxford handbook of women and gender in medieval Europe* (Oxford, 2013), 181–96.

10 Only male tenants could hold village offices and serve on the jury, and the wealthier tenants tended to monopolise these positions in the Durham bishopric and priory estates: Peter L. Larson, 'Village voice or village oligarchy? The jurors of the Durham halmote court, 1349–1424', *Law and History Review* **28**, 3 (2010), 675–709, and *Conflict and compromise in the late medieval countryside: lords and peasants in Durham, 1349–1400* (New York, 2006), 58–61. The exclusion of women from public authority and political power was common throughout medieval England: Judith Bennett, 'Public power and authority in the medieval English countryside', in Mary Erler and Maryanne Kowaleski eds., *Women and power in the Middle Ages* (Athens, GA, 1988), 18–36.

11 Here I am particularly influenced by Judith Bennett's discussion of dispersed patriarchy in her *Ale, beer, and brewsters in England: women's work in a changing world* (Oxford, 1996), 154–5, and Barbara Hanawalt's description of late medieval London having a '"constrained" or "self-limiting" patriarchy' that protected 'their women from the predatory action of other males' and allowed capital and resources to circulate via widows' remarriage in *The wealth of wives: women, law, and economy in late medieval London* (Oxford, 2007), 12.

12 Whittle, 'Inheritance, marriage, widowhood and remarriage'.

13 Cicely Howell, *Land, family and inheritance in transition: Kibworth Harcourt 1280–1700* (Cambridge, 1983), esp. 253–62.

14 See, for example, J. Ambrose Raftis, *Tenure and mobility: studies in the social history of the English village* (Toronto, 1964; repr. 1981), 36–40, and Edward Britton, *The community of the vill: a study in the history of the family and village life in fourteenth-century England* (Toronto, 1977), 20–2.

15 Margaret Spufford, *Contrasting communities: English villagers in the sixteenth and seventeenth centuries* (Cambridge, 1974), esp. 88–9, 112–14 and 161–2. For a summary of the earlier historiography and its problems, see Lori Gates, 'Widows, property, and remarriage: lessons from Glastonbury's Deverill manors', *Albion* **28**, 1 (1996), 19–22.

16 Judith Bennett, *Women in the medieval English countryside: gender and household in Brigstock before the plague* (Oxford, 1987); Mavis Mate, *Daughters, wives and widows after the Black Death: women in Sussex, 1350–1525* (Woodbridge, 1998); Amy Louise Erickson, *Women and property in early modern England* (London, 1995).

17 John Mullan and Richard Britnell, *Land and family: trends and local variations in the peasant land market on the Winchester bishopric estates, 1263–1415* (Hatfield, 2010).

18 For example, Gates covers the period 1280–1380 but most of her transactions come from 1300–1350: 'Widows, property, and remarriage', 22–3; Peter Franklin's study of Thornbury Manor (Gloucestershire) spans 1328–1348: 'Peasant widows' "liberation" and remarriage before the Black Death', *Economic History Review* n.s. **39** (1986), 168–204.

19 In addition to socio-economic studies of the general population, Bennett's *Ale, beer, and brewsters* has demonstrated the simultaneous continuity and change possible in women's lives over a long period.

20 These lands are best described as customary rather than villein or unfree because many peasants in Durham were free by the time of the Black Death: Larson, *Conflict and compromise*, 62–7.

21 Cf. Timothy Lomas, 'South-east Durham: late fourteenth and fifteenth centuries', in P. D. A. Harvey ed., *The peasant land market in medieval England* (Oxford, 1984), 112–14. On the process of surrender and admittance, see also Smith, 'Women's property rights under customary law', 174–9.

22 This was not as strong as holding lands *et heredibus suis* ('and to his heirs'). Tenure at will (*ad voluntatem domini*) was nearly extinct. Tenure *in jure* already possessed many of the hallmarks of copyhold tenure even at the start of the fifteenth century, at which time some lands began to be held for a term of years (leasehold).

23 The number of instances is too small to determine priority of inheritance beyond children.

24 For example, in 1456, Joan Short leased for three years the messuage and husbandland in Cornforth that her deceased husband Thomas Short had held at lease: The National Archive: Public Record Office, Kew, London, Palatinate of Durham: Chancery Court: Curistor's Records: Halmote Court Books DURH (hereafter TNA PRO DURH) 3/15, fo. 386v.

25 David A. Kirby ed., *Parliamentary surveys of the Bishopric of Durham, vol. II*, Surtees Society, 185 (Gateshead, 1972), 189–219; Longstaffe and Booth, *Halmota*, xxxviii–xxxix.

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26 Raftis argued that in the Ramsey Abbey villages, husband and wife were co-tenants because the widow paid no entry fine: *Tenure and mobility*, 26–39. Widows on the Dean and Chapter estate in the late sixteenth century and onward paid no entry fine unless they remarried, in which case they paid a fine equal to two years' rent: Longstaffe and Booth, *Halmota*, xxxix.

27 Some men did take up the lands held or recused by the widow they married in the same halmote session (or soon after), and some entered the lands after the widow's death, but there is no evidence to contradict the assumption that the court followed normal inheritance customs in offering the lands to other heirs if there were any.

28 Durham University Library, Special Collections, Durham Bishopric Halmote Records: Court Books (hereafter DUL-SC) DHC 1/I/79, fo. 902Av.

29 Gaps in the record make it impossible to trace the remaining holdings.

30 TNA PRO DURH 3/27, 37, 118, 220.

31 TNA PRO DURH 3/28, fo. 21v.

32 Müller, 'Peasant women, agency and status'.

33 The only exception discovered so far is when Ralph Cokky, clerk, inherited one cottage and six acres in Bishop Middleham in 1548 from his brother Robert Cokky; in 1559, the lands passed to their nephew Thomas Cokky and the scribe named Robert as the prior holder: TNA PRO DURH 3/23, fos. 273v, 503r. This cannot be a simple error (Robert for Ralph) because the inheritance should be reckoned through Thomas's relationship to Ralph.

34 In addition to a *manerium*, Bishop Middleham was the site of an episcopal castle still in use in the fourteenth century: 'Parish of Bishop Middleham', *British History Online*, taken from Robert Surtees, *The history and antiquities of the county palatine of Durham: volume 3, Stockton and Darlington Wards* (London, 1823), 1–24, http://www.british-history.ac.uk/report.aspx?compid=76337 [accessed 8 March 2018].

35 Cornforth remained part of Bishop Middleham parish until 1868, when it too was made into its own parish. There were additional, small settlements in the parishes that were not part of the bishopric main estate. Lands for the village or manor of Mainsforth were conveyed in the halmote under the three villages, but these have been excluded.

36 'Co. Durham', from Samantha Letters, *Online gazetteer of markets and fairs in England and Wales to 1516*, http://www.history.ac.uk/cmh/gaz/gazweb2.html [accessed 8 March 2018].

37 Although the halmote courts recorded licences to dig coal in Cornforth in the fifteenth century, the mining industry did not really affect the villages until the 1830s. Cornforth colliery only operated from 1835 to 1851 although other collieries (including the Thrislington / West Cornforth colliery) and an ironworks in Thrislington did spur growth in the town, and a pit was not sunk in Bishop Middleham until 1846: 'Bishop Middleham colliery', website of *Durham Mining Museum*, http://www.dmm.org.uk/colliery/b002.htm [accessed 8 March 2018], and 'Thrislington colliery', ibid., http://www.dmm.org.uk/colliery/t003.htm [accessed 8 March 2018. For a study of a Durham village in the coalfield, see David Levine and Keith Wrightson, *The making of an industrial society: Whickham 1560–1765* (Oxford, 1991).

38 William Greenwell ed., *Bishop Hatfield's survey: a record of the possessions of the see of Durham, made by order of Thomas de Hatfield, Bishop of Durham*, Surtees Society, 32 (Durham, 1857; repr. London, 1967), 180–92; DHC 1/ M64 (a survey of the bishopric estates from 1588); Kirkby ed., *Parliamentary surveys*.

39 H. M. Wood ed., *Durham protestations*, Surtees Society, 135 (Durham, 1922; repr. London, 2014), 157–8, 179–80; Adrian Green, Elizabeth Parkinson and Margaret Spufford eds., *Durham hearth tax: Lady Day 1666* (London, 2006), xcix, cxvii. Further population information can be found that included all of the smaller settlements in the parish(es): in 1563 there were 286 households total; in 1641–1642 there were 442 adult males; and in 1666, 406 households: Alan Dyer and D. M. Palliser eds., *The diocesan population returns for 1563 and 1603* (Oxford, 2005), 136–7; Wood ed., *Durham protestations*, 157–8, 179–80; Green et al. eds., *Durham Hearth Tax*, xcix, cxvii.

40 Russell calculated a household multiplier of 3.51 for the county of Northumberland (on the northern border of Durham) for use with the 1377 Poll Tax returns, and I have multiplied this by 1.69 and 1.10, based on the suggestions of by Broadberry et al. to better account for children and non-paying adults. This process assumes that a Durham tenant would have paid the poll tax had it been levied in Durham, and that assumption adds an element of uncertainty into the equation: J. C. Russell, *British medieval population* (Albuquerque, 1948), 27–9; Stephen Broadberry, Bruce M. S. Campbell, Alexander Klein, Mark Overton and Bas van Leeuwen, *British economic growth 1270–1870* (Cambridge, 2015), 6–33. The crude back projection was accomplished using the proportions of overall population in England from 1545 to

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1666 as estimated by Wrigley and Schofield: they estimated that as many as 30 per cent of marriages in the period involved a bride or groom who had been married previously: *The population history of England, 1541–1871: a reconstruction* (Cambridge, 1989), 531–2; Tom Arkell, 'Multiplying factors for estimating population totals from the Hearth Tax', *Local Population Studies* **28** (1982), 55. It should be kept in mind that these are crude approximations of the population, attempting to provide a general sense of scale and change.

41 The decline in holdings and tenants in the villages to circa 1500 is not as steep as the decline Lomas documented for Durham Priory, but he was able to use a starting point prior to the Black Death: R. A. Lomas, 'Developments in land tenure on the prior of Durham's estate in the later Middle Ages', *Northern History* **13** (1977), 32–7. More widespread leasing, as well as the leasing of entire villages by tenant syndicates, also played a significant role in engrossment (and possibly polarisation) on the Priory estate: ibid., 37, and Larson, *Conflict and compromise*, 167. Alex Brown puts these into a broader chronological scope and notes the conflicts between the Priory/Dean and Chapter and their tenants in his 'Estate management and institutional constraints in pre-industrial England: the ecclesiastical estates of Durham, c. 1400–1640', *Economic History Review* **67**, 3 (2014), 699–719, and later in *Rural society and economic change in County Durham: recession and recovery, c. 1400–1640* (Woodbridge, 2015). He notes the continuing divergence between estates with the Priory tenants having 'a relatively uniform experience across the sixteenth century, with similar holdings and living standards' while 'the estate of the bishops of Durham contained a diverse mixture of tenures': *Rural society and economic change*, 224. In terms of engrossment and polarisation, the experience of Bishop Middleham, Cornforth, and Sedgefield stands in marked contrast with developments in the coal-mining village of Whickham as discussed by Wrightson and Levine, *The making of an industrial society*, 136–9; see below n. 62.

42 The data for the database derive from TNA PRO DURH 3/12-28 and DUL-SC DHC 1/I/1-83.

43 This includes transactions for these three villages that were entered under other villages.

44 Excluding lands taken in hand when no heir came forward and no one else was willing to take up the lands, as these instances were not regularly recorded even though there was a procedure for summoning heirs and recording their failure to appear. Because the court was required to proclaim the call for heirs up to three times, by the sixteenth century it could take a year and a half for the court to be satisfied.

45 Leasing was practised in the other villages but not to the extent as in Cornforth, where it became the primary form of tenure.

46 TNA PRO DURH 3/13, fo. 308v.

47 Howell, *Land, family and inheritance in transition*, 232, 256–7.

48 For consistency, I have rounded up all percentages including those taken from other sources.

49 Franklin, 'Peasant widows' "liberation" and remarriage', 189; Mullan and Britnell, *Land and family*, 104.

50 Smith, 'Coping with uncertainty', 48. He suggests that the deathbed transfer 'effectively displaced [dower] as a customary right and that the grant by the dying husband may have served as a substitute or alternative': 54–5.

51 Although the present article focuses on widows, it is clear that among tenants possibly almost as many wives predeceased their husbands, so while being a widower was not necessarily 'the more common experience' in Durham, it would be worthy of study: Sandy Bardsley, 'Missing women: sex ratios in England, 1000–1500', *Journal of British Studies* **53**, 2 (2014), 306.

52 In Thornbury, 66 per cent of male tenants left a widow: Franklin, 'Peasant widows' "liberation" and remarriage', 189.

53 TNA PRO DURH 3/14, fos. 404v, 417r. There was one instance where the widow and son jointly held a holding, but she was described as having right for her life: DUL-SC DHC 1/I/81, fo. 33v. This instance has been included as widow-right.

54 Durham County Record Office, Sedgefield Parish Registers, EP/Se 1/1 (Microfilm M42/152), 8.2; TNA PRO DURH 3/24, pp. 78, 209. On the problems of identifying and tracing widows see also Barbara Todd, 'The remarrying widow: a stereotype reconsidered', in Mary Prior ed., *Women in English society* (London, 1985), 57–8.

55 TNA PRO DURH 3/24, p. 802; DUL-SC DHC 1/I/77, fo. 1173v and /82 fo. 686v.

56 Whittle draws a similar conclusion: 'Inheritance, marriage, widowhood and remarriage', 58–9.

57 Some of these may have included land, for example a cottage might have been a 'cotland' but the acreage was not specified.

58 DUL-SC DHC 1/I/20, fos. 7v–8r; 1/I/30, fos. 53r–5v; 1/I/31, fos. 216r–25r.

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59 David Austin ed., *Domesday Book supplementary volume 35: Boldon Book, Northumberland and Durham* (Chichester, 1982), 38–43; Greenwell ed., *Hatfield's survey*, 60–73. The double holdings put tenants at the upper end of what R. C. Allen considered to be family or peasant farms, with farms of 60 to 100 acres being 'transitional' and 100 acres being 'capitalist': *Enclosure and the yeoman: the agricultural development of the south Midlands, 1450–1850* (Oxford, 1992), 56–7.

60 Excluding lands for which the size was not given or was incalculable. Sometimes the clerks referred to a 'place' or 'parcel' with no acreage specified; the size of the holding could be reconstructed with reasonable certainty in seven of the eight instances when the court clerks wrote down 'the total tenure'.

61 Brown, *Rural society and economic change*, 241.

62 Ibid., 227–43. Wrightson and Levine found a greater level of stratification in Whickham, where their 'impression is that the traditional pattern of mixed agriculture on the manor had been disrupted by the mining of the best arable land' and 'the pattern of copyhold tenancy had changed radically' with the disappearance of nearly all those holding 30 to 50 acres, replaced by many smallholders and a small number of 'very substantial copyholders': *The making of an industrial society*, 136–9.

63 Britnell and Mullan note that widow-right delayed inheritance on the Winchester bishopric estates: *Land and family*, 104–05. Franklin's data implies it: 'Peasant widows' "liberation" and remarriage', 189–90. Eleanor Searle asked 'whether on some manors and in particular cases the peasant heir would ever possess his father's tenement or whether, with the lord's permission, it might pass through a succession of widows and widowers': 'Seigneurial control of women's marriage: the antecedents and function of merchet in England', *Past & Present* **82** (1979), 39. While the practice of widow-right should have prevented this state of affairs in the bishopric, some situations came close, as when John de Hedlam of Sedgefield did not acquire his father's lands until after the death of his stepfather, some 36 years after his father died and at least five years after his mother the widow died: TNA PRO DURH 3/14, fo. 56r; 3/15, fo. 111v.

64 In Whittle's study, the average length was just under six years but she found instances of widows holding lands nineteen and twenty years: 'Inheritance, marriage, widowhood and remarriage', 59–60.

65 TNA PRO DURH 3/23, fo. 302v; 3/26, fo. 114r.

66 TNA PRO DURH 3/23, fo. 228v; 3/24, p. 737.

67 The state of the widow could not be determined in five instances.

68 Barring complete village reconstructions, the possibility remains that some lands that apparently left the family's owenership, in fact went to a family member.

69 TNA PRO DURH 3/12, fo. 149v and 3/14 fo. 539v. Agnes Cape is not noted as a widow but given the situation she likely was and has been counted as such.

70 Franklin, 'Peasant widows' "liberation" and remarriage', 193; Mate, *Daughters, wives and widows*, 105, see also 132.

71 The other periods with low rates of widow-right can be dismissed due to the low numbers involved.

72 Although it is difficult to generalise about manorial courts, it is wise to heed Richard Smith's warning that '[a] number of changes in English manorial courts between c. 1250 and c. 1330 led to quite profound alterations in the way women functioned in those tribunals in matters concerning land': 'Coping with uncertainty', 43.

73 The land market in the parish was particularly active at this time, although this may not have been a sign of prosperity or confidence: Peter Larson, 'Peasant opportunities in rural Durham: land, vills and mills 1400–1500', in Ben Dodds and Christian Liddy eds., *Commercial activity, markets and entrepreneurs in the middle ages: essays in honour of Richard Britnell* (Woodbridge, 2011), 146–52.

74 It also may indicate the expectation of an heir coming to claim the land.

75 A few holdings became divided, but even then they were reckoned not in acres but as portions of a holding (for example, half of a bovate, not seven-and-a-half acres) and often the connection to the original holding was maintained; this even applied to holdings that could be divided into smaller integral units (such as a husbandland into two bovates).

76 This was similar to the practice in Cottenham (Cambridgeshire), although if the widow refused the holding then it went to the youngest son, following Borough English custom: Ravensdale, 'The transfer of customary land', 198–9.

77 TNA PRO DURH 3/23, fo. 248r; 3/24, p. 286.

78 Compare this to the greater descent of land to sons in Hevingham Bishops (Norfolk): Whittle, *The development of agrarian capitalism*, 123–5.

79 Bardsley, 'Missing women', 306–07; see also Kowaleski, 'Gendering demographic change', 182–90.

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80 The emphasis needs to be on *recorded* marriages, as Smith points out that merchet rates reported in other studies are not viable and concludes that merchet was linked to landholding: Smith, 'Women's property rights under customary law', 170–2. See also L. R. Poos and R. M. Smith, '"Legal windows onto historical populations"? Recent research on demography and the manor court in medieval England', *Law and History Review* **2** (1984), 145–6. For merchet in Durham, see Larson, *Conflict and compromise*, 92–7. Marriage fines for widows in Cottenham could be very high: Ravensdale, 'The transfer of customary land', 202, 209–10.

81 Smith, 'Some thoughts', 124. The two are also similar in that the lord of Cottenham charged high marriage fines for widows with lands, seeking to profit from their desirability; the bishops of Durham did the same in the aftermath of the Black Death: Larson, *Conflict and compromise*, 94–7. Judith Bennett, 'Medieval peasant marriage: an examination of the marriage license fines in the *Liber Gersumarum*', in J. A. Raftis ed., *Pathways to medieval peasants* (Toronto, 1981), 205; Mullan and Britnell, *Land and family*, 105. Although not presenting firm numbers, Mate argued that widow remarriage was not significant in the late fourteenth century but had become 'fairly common' in the fifteenth century with perhaps two thirds of widows remarrying: *Daughters, wives and widows*, 126–7. Even before the plague the rates could be low; Titow found that from 1270–1315 widow remarriages as a percentage of all marriages ranged from 22–33 per cent in Taunton (Somerset), 5–15 per cent in Wargrave (Berkshire), and 16–26 per cent in Witney (Oxfordshire), while for Brigstock (Northamptonshire) Bennett found that only 1 in 13 widows remarried: J. Z. Titow, 'Some differences between manors and their effects on the condition of the peasant in the thirteenth century', *Agricultural History Review* **10** (1962), 8, and Bennett, *Women in the medieval English countryside*, 146. The rate could be higher; Franklin found in Thornbury that 4 of 12 widows holding gavel land remarried, and 6 of 8 holding customary land remarried, and in Halesowen (Worcestershire), 63 per cent of widows remarried before the Black Death but only 26 per cent after: Franklin, 'Peasant widows' "liberation" and remarriage', 193, and Zvi Razi, *Life, marriage and death in a medieval parish: economy, society and demography in Halesowen, 1270–1400* (Cambridge, 1980), 138. Spufford argued that remarriage of widows with land was common (though she admits her evidence is anecdotal) although some would find shelter with their sons: *Contrasting communities*, 116–18. Cf. Smith, 'Women's property rights under customary law', 169–72, where he argues that 'the relatively abundant evidence shows that landlords, particularly where widows possessed a secure life interest in their late husband's holding, were driven to goad them into matrimony'; Ravensdale finds no such evidence in Cottenham, however: 'The transfer of customary land', 203–04.

82 Whittle, *The development of agrarian capitalism*, 131.

83 Bennett, *Women in the medieval English countryside*, 33; Mullan and Britnell, *Land and family*, 130.

84 Smith, 'Some thoughts', 123–6; Ravensdale, 'The transfer of customary land', 216–19.

85 See, for example, Mate, *Daughters, wives and widows*, 126–7, 132, and Hanawalt, *Wealth of wives*, 106–07. Amy Erickson found that only 17 per cent of widows remarried: *Women and property*, 197. B. A. Holderness, in his survey of the late seventeenth and early eighteenth centuries, reported an aggregate rate of about 11 per cent: 'Widows in pre-industrial society: an essay upon their economic functions', in Smith ed., *Land, kinship and life cycle*, 430. Wrigley and Schofield estimated that as many as 30 per cent of marriages in the period involved a bride or groom who had been married previously: *The population history of England*, 258–9. For Barbara Todd, growing individualism among men contributed to the decline in remarriage by widows in Abingdon as the percentage of remarrying widows in her sample of men with proved wills declined from 50 per cent in the sixteenth century to 37.5 per cent in the seventeenth century then 23.5 per cent by 1720, or in her sample of widows from couples married at St Helen's Abingdon, from 48.4 to 38.5 to 15.8 per cent: 'The remarrying widow', 60–1, 74.

86 Erickson, *Women and property*, 196.

87 Todd, 'The remarrying widow', 65–72, here 68.

88 Peter Fleming, *Family and household in medieval England* (New York, 2001), 91; Franklin, 'Peasant widows' "liberation" and remarriage'; Judith Bennett, 'Widows in the medieval English countryside', in Louise Mirrer ed., *Upon my husband's death: widows in the literature and histories of medieval Europe* (Ann Arbor, 1992), 103.

89 Gates, 'Widows, property, and remarriage'.

90 Hanawalt, *Wealth of wives*, 12. Smith, 'Some thoughts', 125. See also Howell, *Land, family and inheritance in transition*.

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91 Bennett, *Women in the medieval English countryside*, 150–72. For early modern Ryton (County Durham), Chaytor argues that remarriage was not an economic necessity, and that young widows remarried against their best interests; drawing primarily on Continental studies she states that remarriage was discouraged socially and culturally and that community pressures were strong enough that a charivari was not needed; Miranda Chaytor, 'Household and kinship: Ryton in the late 16th and early 17th centuries', *History Workshop Journal* **10**, 1 (1980), 43–4.

92 Mate, *Daughters, wives and widows*, 132.

93 This is in contrast to communities in the coal mining areas of Durham; see Levine and Wrightson, *The making of an industrial society*.

94 On the claims of tenants to hold by tenant-right including border service in Weardale and the Dean and Chapter estate, see Drury, 'More stout than wise' and Morrin, 'The transfer to leasehold'. Weardale was more like the border counties than south-east Durham so such service would make sense there; however, Drury's earliest example comes from 1494 and there is no record of such service for bishopric customary tenants in either the twelfth-century survey *Boldon Book* or in *Hatfield's survey*, either for Wolsingham and Stanhope, so any attachment to tenure (rather than a general array of fencible men) came very late, although the claim was still being made in 1648: Drury, 'More stout than wise', 77, 96 n. 23; Austin ed., *Boldon Book,* 38–43; Greenwell ed., *Hatfield's survey*, 60–73; D. A. Kirby ed., *Parliamentary surveys of County Durham, vol. I*, Surtees Society, 183 (Gateshead, 1971), 149. For the villages of Bishop Middleham parish, there is neither evidence nor claim of such border service, in the halmote books or in other records: Austin ed., *Boldon Book,* 22–5; Greenwell ed., *Hatfield's survey*, 180–92. Although no comparable medieval survey survives for the Priory / Dean and Chapter estate, surviving rentals do not mention border or military service by customary tenants: R. A. Lomas and A. J. Piper eds., *Durham Cathedral Priory rentals, vol. I: bursar's rentals*, Surtees Society, 198 (Newcastle-upon-Tyne, 1989). David Marcombe judged the Dean and Chapter tenants' claims to be 'largely fictitious' and despite Morrin's arguments to the contrary, the limited medieval evidence supports his position: Marcombe, 'Dean and Chapter', 141, 146–9. It would seem that border service by *customary* tenants was a post-medieval development, and the specious claim associating border service with those customary lands was a rhetorical strategy. That would accord with some of R. W. Hoyle's observations for sixteenth-century developments in tenant-right in north-western England, and he also is very careful to indicate the diversity of tenant-right and its development: 'An auncient and laudable custom: the definition and development of tenant right in north-western England in the sixteenth century', *Past & Present* **116** (1987), 24–55.

95 Kowaleski, 'Gendering demographic change', 191.

96 Bennett, 'Public power and authority', 29.

97 As Bennett demonstrated for brewing in *Ale, beer, and brewsters*.

98 Such alterations clearly happened in Cottenham: Smith, 'Some thoughts', 125–7. Bardsley suggests this possibility was behind the denial of inheritance to daughters: 'the jury, manorial officials working on behalf of the lord, and/or the court at large … decided that a male tenant was a better choice' than the woman who should have inherited: 'Peasant women and inheritance', 317. Whittle suggests that women's possession of land was tied to the land market: 'Inheritance, marriage, widowhood and remarriage', 66, but the regularity with which those widows who had the option to take land did so demonstrates that widow-right in the parish could be independent of the land market.

99 The widow of a Durham freeholder would have been entitled to one third of her deceased husband's lands and he may have made other provisions for her, and while more than nothing that might still have left her in a diminished state economically. On early modern widows and their husbands' wills more generally, see Erickson, *Women and property*, 156–86. Erickson also points out that the husband's debts were another important factor in a widow's financial situation: ibid., 200–2.

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French Abstract

Le droit des veuves à Durham, Angleterre (1349–1660)

La veuve d'un tenancier, locataire coutumier dans le comté de Durham, avait droit d'usufruit sur les avoirs de son mari pour toute sa vie, et ne perdait pas son droit sur les terres en cas de remariage ou de fornication, contrairement à d'autres coutumes que l'on peut trouver ailleurs en Angleterre. Dans la présente étude de trois villages voisins, plus de quatre-vingt pour cent des veuves bénéficiant de ce droit l'ont exercé et l'ont fait dans les mêmes proportions au cours des trois siècles étudiés. La persistance de ce modèle montre que les veuves en position de tenancières étaient chose commune et qu'elles étaient capables de cultiver ou de gérer des exploitations. Cela suppose des interconnexions complexes entre sexes et structures économiques et sociales au niveau local, tout particulièrement en matière de mariage, migration et formation des ménages.

German Abstract

Witwenrecht in Durham, England (1349–1660)

In der Grafschaft Durham hatte die Witwe eines Pächters ein lebenslanges Nutzungsrecht an seinem Besitz, das sie auch bei Wiederverheiratung oder Unzucht nicht verlor, im Gegensatz zu den Gepflogenheiten anderswo in England. In dieser Fallstudie über drei benachbarte Dörfer nahmen über 80 Prozent der Witwen dieses Recht in Anspruch, und zwar gleichbleibend über drei Jahrhunderte hinweg. Die Konstanz dieses Musters lässt darauf schließen, dass Witwen als Pächter häufig waren und ihre Güter kultivieren oder verwalten konnten, und verweist auf komplexe Wechselbeziehungen zwischen geschlechtsspezifischen und lokalen sozialen und ökonomischen Strukturen, die Heirat, Migration und Haushaltsbildung einschlossen.

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