Throughout medieval Europe, women regularly found themselves in court, suing or being sued, defending themselves against criminal accusations, or prosecuting others for crimes committed against them or their families. But for women in the Middle Ages, choosing to litigate entailed accepting the conceptual vocabulary of the learned law, which identified women according to their relationship to a given man. The Measure of Woman examines hundreds of unpublished records of women's litigation in the fourteenth-century Spanish Crown of Aragon to show how women played a crucial role in shaping their own legal identities, working within the parameters set out in the written law.

By the end of the Middle Ages, the ius commune – the combination of canon and Roman law taught in the high medieval law faculties – would form the basis for all law in continental Europe, and its system of categories for women would be accepted as natural for centuries afterwards. My book examines women's litigation during this formative period, contributing new insights to three fields of inquiry. First, this book advances the study of women's historical experience by moving away from the tendency to view women's interaction with the law (especially Roman law) as inherently adversarial, focusing instead on the ways that women, their families, and their neighbors engaged with patriarchal legal assumptions as a part of their litigation strategies. Second, this book contributes to the field of legal history by adding to the literature on the role of laypeople during a period that has been represented as one of increasing professionalization of law. Finally, this book will be of interest to scholars and students interested in the history of premodern Spain in general: while recent works in the history and literature of the sixteenth- and seventeenth-century Inquisition period (Black, Perry, Vollendorf) have tapped into an intense interest in Spanish women and legal culture, there is as of yet little recent English-language work exploring the experience of women during the medieval centuries that laid the groundwork for the legal culture of the early modern era.

The State of the Question

Legal documents have long provided a window onto women's experience in past societies, but the way that historians of women have approached these documents has changed over time. Scholars in recent decades have focused especially the gap between the gendered ideals expounded in the law codes on the one hand, and the "real" experience of women as represented in litigation on the other. More recently, however, legal historians have been raising important questions about the way law works, both as text and context, and have argued that the nature of law itself helps to shape human relationships. Daniel Lord Smail, for example, has argued that the act of choosing litigation was a form of status negotiation and communication. Carol Lansing has
reached similar conclusions in her investigations of women’s identity in medieval Bologna, showing female litigants and witnesses using the legal system to communicate something about their status that did not fit within the categories developed by the learned law. The work of these two historians, among others, represents a new approach to the relationship between individuals and the law, and signals new ways to use legal sources in an attempt to understand the historical experience of women.

My book applies these tools to the study of women in the medieval Crown of Aragon, combining the long-standing questions of women's historians with the methodologies and approaches of scholars working in legal studies. The past several decades have witnessed a rapid expansion of research on the history of women in the various Iberian kingdoms during the Middle Ages. But the bulk of recent scholarship on this subject has been the work of scholars publishing in Spanish and Catalan. Studies in English on women in medieval Iberia have largely focused on a relatively narrow stratum of women – mainly queens, noblewomen, and nuns (usually themselves of noble background). The most recent comprehensive English-language treatment of Spanish women in general, Heath Dillard’s Daughters of the Reconquest, published two decades ago, suffers from two flaws: first, it is rooted in a theory of frontier exceptionalism that has been challenged by more recent scholarship; and second, it is based almost solely on prescriptive sources – an approach that I believe poses serious methodological problems. The time is right to revisit the situation of women in medieval Spain, taking into account the recent scholarship produced by Spanish- and Catalan-language scholars, and placing Spanish women’s experience into the broader context of medieval women in general, and in light of new work on the legal culture of the Middle Ages.

"The Measure of Woman"

My book provides a new perspective on medieval Spanish women, focusing on women who lived in the territories of the medieval Crown of Aragon. In particular, I examine legal ideas about women and gender as they developed not only in the law codes, but also in medieval courtrooms and communities. Hundreds of unedited documents drawn from Catalan archives provide glimpses into the lives of individual women within the context of their own communities, as well as of the larger culture of the high medieval Crown of Aragon. In these documents, we observe women suing to control their own economic resources, negotiating the boundaries of acceptable sexual behavior, and prosecuting individuals who committed acts of violence against them. Their experience as represented in these records at times contradicts the expectations outlined for them in the prescriptive legal sources, but rather than focusing on the undeniably significant areas of contrast between these two types of sources, I argue that records of litigation reveal women actively interacting with the gender system enshrined in the law codes. In some cases, this litigation challenged the boundaries set out for women in the legal sources, but in others, women's active engagement with gendered legal categories helped to solidify a legally-enforced gender system that would retain its influence well into the modern era.
It is my argument that the early fourteenth century represented a critical moment in the formation of legal ideas about women. During this time period, when the *ius commune* was ascendant but not yet hegemonic, legal ideas about women and gender remained somewhat pliable open to at least limited participation by women themselves (albeit mediated by male relations and legal professionals). During this time we can catch glimpses of the battle over women’s identity: the law did not precisely mirror women’s lives, but it did provide a vocabulary through which women – along with their legal representatives, friends, and neighbors – attempted to define themselves in a world that was becoming increasingly legalized.

While a regional study of the relationship between women and the law might be undertaken anywhere, a specifically Spanish project offers special advantages. First, the Crown of Aragon’s proximity to and close commercial ties with the Italian cities that were the crucible of the revival of legal scholarship meant that the Crown lands felt the impact of the *ius commune* earlier and more profoundly than did many other European kingdoms. Second, the piecemeal reconquest of territory from the Islamic South resulted a legal diversity uncommon in other areas of medieval Europe, offering comparative possibilities that are not available in other regions. Finally, while my book focuses primarily on the experience of Christian women, for whom the most abundant records are available, the Crown of Aragon was home to important Jewish and Muslim communities. The experience of these women, when they do appear in the records, adds a dimension to the analysis of medieval women not found in other areas, and highlights how the category of "woman" in the Middle Ages might be more complicated than it at first seems.

My overall approach is to treat the law as an ongoing dialogue about the legal nature of women, rather than merely a means by which gender ideologies might be imposed, reinforced, or challenged. Although written law necessarily forms a part of any society's legal culture, it is only one variable among many. Legal ideas about women took shape in the courts, where lawyers and judges interpreted written law according to the exigencies of each particular case. But they also were formed at the level of local communities, where litigants, their families, and their neighbors interpreted the standards set out for various groups of women, and applied them to the individual women they encountered on a daily basis.

My research indicates that this legal discourse of gender, at all levels, played an important role in constructing boundaries between the categories that applied to women. Furthermore, my findings reveal areas of overlap and ambiguity in legal categories for women, and have suggested that these gray areas were the most dynamic parts of the legal discourse surrounding women, functioning as spaces in which the status of individual women could be negotiated.

**Table of Contents and Organization**

My book comprises four substantive chapters, conceptually divided into two parts. Chapter one, “Drawing Boundaries,” sets up the problem of the nature of legal discourse,
and asks how it was formed, who took part in its formation, and what was at stake for women. The following chapters move into an examination of the ideas surrounding women in relation to specific legal problems. While maintaining awareness of the legal categories for women discussed in chapter one, these chapters juxtapose the experience of women from different categories, looking for threads that run through the overall legal ideas about women, for both common ground and faultlines.

I anticipate a finished manuscript of approximately 90,000 words (including notes and bibliography).

Introduction

Chapter 1: Drawing Boundaries: Women in the Legal Landscape in the Age of Jaume II ⇒ The book opens by introducing the legal system in the high medieval Crown of Aragon, focusing special attention on the role of the *ius commune* in the development and practice of local law, and the way that these legal developments shaped the medieval gender system. An examination of matters of gender in both the various law codes of the Crown of Aragon and the principles of Roman and canon law that would have influenced legislators, judges, and other courtroom personnel reveals what seems to be a fairly solid taxonomy of women, based on their relationship to a given man (e.g. daughter, wife, widow), as well as some underlying assumptions that the female gender in general was weak, vulnerable, and naturally modest. The second half of this chapter moves from the realm of substantive law to consider procedural law, in order to argue that the formal legal framework, while important, was also negotiable, and illustrates the legal mechanisms by which women and their families, friends, enemies, and neighbors interacted with the legal discourse that shaped women's identities in the High Middle Ages.

Chapter 2: The Power to Hold: Women and Property ⇒ This chapter investigates how the gendered power relationships implicit in the *ius commune* affected women's control of property. My analysis of women's property rights within marriage (especially with regard to their dotal properties) and widows' property litigation illuminates a paradox in women's property litigation that may stand for a part of women's relationship to the law in general: for an individual woman to assert her rights to manage her own property in a way that ran counter to the gender assumptions of written law, a woman in essence had to reinforce the gendered legal category in which the law had placed her.

Chapter 3: Crimes of Passion: Regulating Female Sexuality ⇒ While the litigation in chapter two concentrated on women working *within* the categories set out for them in law, in the process reinforcing them, chapter three shows how the boundaries between those categories might not have been as solid as they appear. An examination of legal cases involving women's illicit sexuality (adultery; sexuality of unmarried women; prostitution) argues that women’s claims (and the
claims of others) about their bodies may have affected their status at law, rather than the other way around.

**Chapter 4: Women and Violence** The final chapter explores the question of violence against women, questioning what the legal discourse at all levels considered a "reasonable" expectation of violence. An examination of the issues of spousal abuse, rape, and uxoricide builds on the tension between category and slippage between category that have been built up over the preceding five chapters to argue that while the law afforded women protections against violence, they had to argue in such a way as to prove they were respectable enough to merit such protections, and by so doing, they helped to solidify gendered legal assumptions about deserving versus undeserving women.

**Conclusion:** Explores potential commonalities in women’s legal experience across categories of delict, and across prescriptive legal categories for women. Focuses on appeals to gender, from all parties to the legal discourse.

**A note on prior publication:** A portion of an early version of chapter four is forthcoming in the *Journal of Women's History* as an 8,000-word article entitled "Hers by Right: Gendered Legal Assumptions and Women's Property in the Medieval Crown of Aragon." Approximately 1,000 words of chapter two appear in an article in the 2006 issue of *Viator*, entitled "Law and the Maiden: *Inquisitio*, *Fama*, and the Testimony of Children in Medieval Catalonia."