

**Comparative Studies
in the History of Insurance Law**

**Studien zur vergleichenden Geschichte
des Versicherungsrechts**

Volume / Band 14

Widows and the History of Insurance

Edited by

Phillip Hellwege



Duncker & Humblot · Berlin

PHILLIP HELLWEGE (ED.)

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Preface

The present volume results from the research project ‘A Comparative History of Insurance Law in Europe’ (CHILE). CHILE has received funding from the European Research Council (ERC) under the European Union’s Horizon 2020 research and innovation programme (grant agreement No. 647019). The contributions to the present volume are based on papers presented at a conference in Augsburg in July 2019.

The volume is thinner than I had hoped: two further authors had been invited to present papers and submit contributions covering France and the Southern Netherlands. For different reasons, these two authors had to cancel their participation in the project at an early stage. The COVID-19 pandemic then made it impossible to find suitable substitutes for them. One further author covering Italy had to drop out of the project at a later stage, again due to the COVID-19 pandemic. It proved impossible for him to finalize his contribution in the present situation. The pandemic forced universities to switch to online teaching on very short notice, a process which was more challenging and more time consuming than any of us had ever anticipated. Furthermore, the lockdown and the closing of libraries and archives greatly hindered research. Finally, the pandemic had very different effects on our private lives, which made it more difficult for some to finalize their research or take over new projects than for others. I am grateful to Dr. Katharina Doll for her willingness to assume the burden of writing a paper on Italy under these circumstances and on very short notice.

After a careful consideration of the submitted papers on England, the Dutch Republic, Germany, Scandinavia, Italy, and Spain, I came to the conclusion that it was very reasonable to proceed with the publication of the volume without the planned papers covering France and the Southern Netherlands. First and foremost, the six papers included in the present volume already exhibit diverse strategies for widows in the different European countries, thereby explaining the different historical settings in which life insurance developed. Secondly, life insurance was prohibited in France. A contribution covering France would thus most probably have been yet another paper presenting alternative strategies of providing for widows, not adding much to the volume’s core research question. Thirdly, in the current situation it was not foreseeable at what point I could have expected final papers covering France and the Southern Netherlands if I had continued searching for other authors to assume this task. In a multi-authored volume, however, it is in the interest of all the authors who have submitted their contributions on time to not see the date of publication delayed *ad infinitum*. Moreover, the time frame of the CHILE project was yet another reason to proceed with the publication of the volume.

Finally, I would like to thank Michael Friedman for his critical comments on an earlier draft of this volume and for correcting the English.

Augsburg, November 2020

Phillip Hellwege

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Chapter 1: Introduction

By *Phillip Hellwege*

At first sight, it may not seem to be the most innovative undertaking to edit a volume on the position of widows in history. There is already abundant literature, and all historical subdisciplines have made rich contributions: social history, economic history, legal history, to name only the most important of these subdisciplines. Many studies focus on very specific, narrowly defined aspects regarding the legal, social, and economic position of widows, for example their position as resulting from the diverse matrimonial property regimes. Numerous micro studies limit themselves to a specific timeframe, focus on a specific city or territory, or analyse the position of individual widows. A number of macro studies add the broader picture. Furthermore, there are already numerous historical studies comparing the position of widows in different countries. Other contributions analyse what the position of widows tells us about the societal role of women in history, and it would be equally interesting to assess what the framing of specific research questions tells us about the role of women in the view of the many historians writing on widows in history: more often than not, modern historians ask the question of how widows were provided for, thereby assuming that women had only a passive role and leaving the equally important question aside of how widows actively provided for themselves. In historical research, wives are thus more often than not reduced to the position of being dependants. Equally, we ask more often than not what effect matrimonial property regimes had on the position of widows, leaving aside the equally interesting question what effect these regimes had on the position of widowers.

However, the ultimate aim of the present volume is not to add to our libraries yet another book on the position of widows in history. Rather, the present volume wants to analyse the genesis of modern life insurance. It wants to do so by focusing on one specific purpose which life insurance serves: seeking provision for widowhood.

The present volume is part of a research project on a comparative history of insurance law in Europe. One ingredient in the project is the organization of a number of conferences, each resulting in a conference volume. The first of these volumes fully mapped out the project's point of departure and its research agenda.¹ The subsequent volumes have each taken a different perspective to analyse the history of insurance. The second volume focused on a specific product which existed across Eu-

¹ *Phillip Hellwege* (ed.), *A Comparative History of Insurance Law in Europe. A Research Agenda* (2018).

rope: tontines.² The third volume focused on a specific institution: guilds.³ The fourth volume focused on a specific context: risk management in the maritime context.⁴ The present volume focuses on a specific group of beneficiaries: widows. A final volume will focus on a specific risk: fire.

Three of these volumes, thus, analyse the history life insurance from different perspectives: the second volume on tontines, the third volume on guilds, and the present volume on widows. Moreover, the second and third volumes were complemented by two monographs further analysing the importance of tontines and guilds for the history of life insurance in Germany.⁵ The reason why three volumes are devoted to the history of life insurance is that there are different national narratives on the genesis and development of life insurance. English historians claim that life insurance developed from marine insurance. By contrast, German literature assumes that life insurance developed from medieval guild support. At the same time, German research claims that 'modern' life insurance was received from England. Finally, German authors often point to the importance of tontines for the development of life insurance. The problem with these different, and at first sight conflicting, propositions is that they are never fully proven. Literature tends to focus on the history of marine insurance, often treating the history of life insurance as some kind of annex.

For that reason, the present project wanted to approach the genesis and history of life insurance from three different perspectives. Furthermore, for a conference volume it was simply not a viable strategy to request, for each country, a contribution covering the entire history of life insurance. Indeed, for each country a lengthy monograph would have been necessary to fully analyse the history of life insurance. Approaching the history of life insurance in a comparative project from three different perspectives made it necessary to find the three perspectives which made equal sense for all countries covered in the respective volumes. Tontines as a financial product existed across Europe. Guilds as an institution, again, existed in all European countries. Consequently, it was a sensible undertaking to assess their role in the emergence of life insurance from comparative perspectives. Finally, the problem of how to provide for widows was experienced in all European countries.

It needs to be clear that each of these three perspectives does not cover the entire history of life insurance. In addition to tontines, there were other and, one may add, more important financial products. In addition to guilds, there were other institutions

² Phillip Hellwege (ed.), *The Past, Present, and Future of Tontines. A Seventeenth Century Financial Product and the Development of Life Insurance* (2018).

³ Phillip Hellwege (ed.), *Professional Guilds and the History of Insurance. A Comparative Analysis* (2020).

⁴ Phillip Hellwege and Guido Rossi (eds.), *Maritime Risk Management. Essays on the History of Marine Insurance, General Average and Sea Loan* (2021).

⁵ Phillip Hellwege, *A History of Tontines in Germany. From a multi-purpose financial product to a single-purpose pension product* (2018); *idem*, *From Guild Welfare to Bismarck Care. Professional guilds and the origins of modern social security law and insurance law in Germany* (2020).

offering support for the case of death. And in addition to widows, there were other beneficiaries of life insurance products. Thus, taking these three different perspectives does not give us the complete picture of the development of life insurance. However, by focusing on these three aspects which were equally present across Europe, we are able to work out similarities and differences in the development of life insurance in the different European countries. However, it needs to be stressed that the approach of analysing the history of life insurance from three different perspectives leads to some repetitions between the three volumes. This is intended.

The special interest of the present volume is as follows: the evolution of modern life insurance can only be fully understood if its genesis is embedded, first, in the history of the many competing and often insufficient strategies for the support of widows and, second, in the many strategies which widows employed to support themselves. Only then it is possible to fully appreciate the historical context in which life insurance emerged. And this general framework for the genesis and development of life insurance was different across Europe.

As a closing remark I would like to return to the observation from above that the framing of specific research questions may tell us something about the role of women in the view of a historian writing on widows in history. The Augsburg conference in July 2019 was titled ‘Provision for widows’. This title was a literal translation of the German word *Witwenversorgung*, a word that is commonly used in the German language. The plan was to use the phrase ‘Provision for widows’ also in the book’s title. However, the further the project proceeded, the less comfortable I felt with this title. ‘Provision for widows’ pushes women into a passive role, ignoring the phenomenon that also historically widows simply provided for themselves. I searched in English library catalogues for book titles including the phrase ‘provision for widows’. It is telling that nearly all entries which I found date from the eighteenth and early nineteenth centuries. After rereading the papers by María del Mar Hernández Escudero and José Antolín Nieto Sánchez on the developments in Spain⁶ and by Geoffrey Clark on the developments in England,⁷ I began to realize what I had not understood before and why I had started to feel uncomfortable about the phrase ‘provision for widows’. Hernández Escudero and Nieto Sánchez distinguish different types of schemes. The military *montepíos*, the confraternities and *montepíos* in the craft sector, and the confraternities in the maritime sector were often organized by men for the benefit of widows.⁸ When discussing these schemes, it is proper to speak of ‘provision for widows’ as an exact description of their nature. However, Hernández Escudero and Nieto Sánchez also discuss the so-called *hermandades femeninas de socorro* as welfare schemes organized by women for women.⁹ It would simply be inapt to describe these schemes in terms of ‘provision for widows’. I began to understand why I

⁶ Hernández Escudero/Nieto Sánchez, pp. 137 ff., below.

⁷ Clark, pp. 15 ff., below.

⁸ Hernández Escudero/Nieto Sánchez, pp. 147 ff., below.

⁹ Hernández Escudero/Nieto Sánchez, pp. 152 ff., below.