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Women in Britain since 1750

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Course Week 2

Unfamiliar Terms/Concepts

Coverture — the common-law principle under which a married woman's legal identity and many of her independent property rights were subsumed into those of her husband.

Feme covert — a married woman under coverture; literally, a woman whose legal identity was “covered” by her husband's.

Feme sole — a woman legally treated as unmarried for certain purposes; normally an unmarried woman, but in some circumstances a married woman could be treated as a *feme sole* trader.

Banns — a public announcement of an intended marriage in a parish church, traditionally made on several Sundays before the marriage.

Legal fiction — a legal assumption or constructed principle that may not correspond literally to reality but is treated as legally true; relevant to the way coverture conceptualized married women's legal identities.

Takeaway 1

One thing that stood out to me in this week's readings was how differently the authors approach the relationship between women's lives and the structures surrounding them. This connects well to our earlier readings. Austen's *History of England* plays with the supposed

objectivity of historical writing, while Woolf asks us to look beyond literary production toward the material conditions that make it possible (Austen; Woolf). This week, the legal readings gave us a more concrete way of examining those conditions.

The Marriage Act of 1753 shows how much of marriage depended upon specific legal and physical procedures. Banns had to be publicly announced, marriages generally had to take place in the appropriate parish, licences were regulated, and marriages had to be formally registered and witnessed (Marriage Act 1753). Looking at the legislation itself makes the institutional structure of marriage much more tangible. Montgomery adds that the Act was primarily concerned with protecting inheritance and wealthy families from marriages considered unsuitable, rather than expanding women's rights (Montgomery 7).

Phillips complicates the legal picture further. Coverture incorporated a married woman's legal identity into that of her husband, but Phillips argues that this did not translate straightforwardly into the restriction of women's economic activity. Married women could make use of exceptions within common law, equity, trusts, and borough customs to continue conducting business, even though they did not thereby acquire the same legal rights as men or single women (Phillips 23–24, 46–47). I found this distinction between legal rights and practical ability particularly useful. It also explains why Phillips treats coverture as a “legal fiction”: the doctrine remained in place while its meaning and application changed over time.

Wollstonecraft approaches a related problem through education and social expectations. She argues that women are taught to cultivate beauty and dependence rather than intellectual and moral independence, and criticizes a society in which marriage becomes women's primary means of establishing themselves (Wollstonecraft). Her distinction between physical difference and the

much broader hierarchy constructed around it also challenges the idea that women's subordinate position simply follows from nature (Wollstonecraft).

This gives me a different way of thinking about Woolf's argument from last week. Her connection between women's intellectual production and money, private space, time, and freedom is closely related to the legal and economic questions raised here. Reading these texts together makes me interested in the relationship between formal rights and practical freedom: what legal, economic, and social conditions have to exist before an abstract right becomes something a person can actually exercise (Woolf)?

Works Cited

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