

# A Legal History That's Really About the Place of Law in History

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Hendrik Hartog, [\*Someday All This Will Be Yours: A History of Inheritance and Old Age\*](#) (2012).

As the title suggests, *Someday All This Will Be Yours* is a legal history about inheritance and old age. The legal conflicts that form the core of the book make for compelling reading. Even so, the title does not capture the book's most compelling elements, which challenge conventional assumptions about legal history and the place of law in the past.

*Someday All This Will Be Yours* is a legal history in which the law is not really the focus. To be sure, [Hartog](#) bases the book on two hundred New Jersey cases from 1840 to 1950. All these cases involved conflicts over inheritance, in which older people promised property in return for care from younger people—often, but not always their children or other relatives. Hartog calls it a “primordial transaction found perhaps anywhere and everywhere and in any time and every time”: “Work and care for property. You do this (take care of me), and I promise to do that (give you property at my death).” (P. 3.) In law, such promises resulted in an enforceable contract, and legal cases ensued when older people did not follow through with their end of the bargain. As Hartog argues, the cases did form a distinct legal pattern, in which the wishes of the older people writing the wills took precedence over those of the younger people to whom promises had been made. But, as he also points out, the legal implications are not really the point. In fact, the cases have been largely forgotten in law.

So why bother with this piece of the law? The answer lies in the conflicts that brought the cases to court in the first place. Borrowing from legal anthropologists, Hartog describes the conflicts as “cases of trouble” that reveal legal norms because they transgress them. The resulting analysis is legal history of a particular kind. In Hartog's hands, the legal cases at the heart of the narrative reveal less about the law, per se, and more about the social dynamics and the cultural norms of the period between 1840 and 1950: not just geographic mobility, immigration, urbanization, commercialization, and industrialization, but also how people thought about themselves and their relationships to others. Hartog tells that story from a unique perspective, that of elderly people and their young caretakers. More than that, *Someday All This Will Be Yours* filters larger historical dynamics through the lives of particular elderly people and their young caregivers, giving those dynamics a human dimension that is impossible to grasp, let alone explore in most analyses of the period, which deal with them at a more abstract level.

Most interesting, though, is how closely the law was implicated in the ways that people structured even the most intimate aspects of their lives. Hartog uses the lens of the law to strip away the veneer of sentimentality that so often accompanies discussions of families and communities, so as to reveal the power dynamics underlying those relationships. The approach is in keeping with Hartog's previous book on marriage and with feminist scholarship on women and the family more generally. If anything, the power dynamics between the young and old were—and are—more fraught than those between husbands and wives. Property, as Hartog shows, was key in this relationship—at least in the period between 1840 and 1950. By tying the young to the old, property kept families together and created relationships among unrelated people that looked and functioned like families. But the law was also crucial in creating those relationships, which were negotiated through a legal culture that framed expectations of what was involved. In fact, popular conceptions of law so permeated family relationships

that the two are difficult to separate in *Someday All This Will Be Yours*. That aspect of the analysis also contains the book's most challenging historical and historiographical contributions. Ultimately, *Someday All This Will Be Yours* points to a very different conception of the law in history and of legal history: it suggests that law occupied more space than most historians allot to it and that legal history is actually necessary to understand dynamics that might, at first glance, seem unrelated to the law.

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