Opportunity or Constraint? Partible Inheritance, Family-property and Household Structure in Southwest Germany – Evidence from the Inventories
C J Maegraith

I. Introduction
The dominant inheritance system in the southwest Germany Duchy of Württemberg was partible inheritance. Partible inheritance is defined as an inheritance system, where real estate and movables are divided up equally between all heirs, male and female. In the historiography partible inheritance is often viewed critically and made responsible for unlimited division of land and farms. Angelika Bischoff-Luithlen, for example, viewed partible inheritance as ‘democratic constraint’ and wrote:

“In Württemberg, the democratic constraint of partible inheritance prevailed. Partible inheritance equated all siblings and other heirs; the inheritance of the deceased was divided up into as many parts as there were heirs regardless of the further existence of the farm holding.”

But did this ‘democratic constraint’ always have negative consequences or did equal property transmission create opportunities for the heirs? Following questions will be pursued to shed more light on these implications: How was partible inheritance practised and was it in fact ‘equal”? How were real estate matters handled and was there an equivalent of ‘family land”? How was family-property defined and what consequences did these practises have on family strategies and household structure?

The focus will be on Württemberg from the 17th until the early 19th century and I will address the open questions with evidence from personal inventories of two Württemberg communities, Wildberg and Auingen.

This paper evolved from my work on the project ‘Human Well-Being and the ‘Industrious Revolution’: Consumption, Gender and Social Capital in a German Developing Economy’. It is supported by the Economic and Social Research Council (ESRC). http://www.econ.cam.ac.uk/Ogilvie_ESRC/index.html

II. The Context

1. The Communities of Wildberg and Auingen

Württemberg was a Duchy of the Holy Roman Empire of the German Nation from 1495 to 1806. In 1534 Protestantism was introduced. After the collapse of the Old Empire in 1806, Württemberg became a Kingdom and was part of the new German Confederation (Deutscher Bund) established in 1815.

The two communities we are analyzing are the small town of Wildberg in the Black Forest; and the small agrarian village of Auingen in the Swabian Jura, close to the town of Münsingen. Both are located about 50-60 km from Stuttgart, the capital city of Württemberg.

In Wildberg, the four largest occupational categories were farming, day-labouring, ‘proto-industry’ in form of export-oriented worsted production, and traditional crafts. Many households relied on by-employment, for example to farm a small amount of land in combination with operating a craft or proto-industrial workshop.

The village of Auingen was more agricultural with a high proportion of full-time farmers. Crafts in combination with farming did appear, and proto-industry also played a role in form of linen-weaving, especially around and after the 1750s.

What were the main demographic characteristics? Based on previous studies by Sheilagh Ogilvie on Wildberg and on our demographic studies on both communities, we can say, that households here mostly consisted of the conjugal family. Often, daughters and sons left the household to work as servants between the age of 15 and 30. Women and men in Wildberg married in their mid to late twenties, but there was a high rate of life-time celibacy especially amongst women. And there is hardly any co-resident kin present, but frequently non-kin co-residents such as servants and inmates.

2. Household and family-property

How can we define ‘household’ and family? In Württemberg the word ‘family’ hardly appears in legal documents before 1806, when the so-called family registers were introduced. Historians argue for the use of ‘household’ instead, which would comprise the core-family and non-kin co-residents.
What were the economic characteristics of such households in this agrarian society? According to Württemberg historians such as Andreas Maisch, the pre-industrial economy resembled family economy: Land and resources were property of the family and family members were the work force, sometimes complemented by servants. With the options of by-employments in form of crafts, if the family owned land, and seasonal wage labour, a family could secure its livelihood. But, the family would be integrated within the community’s economy and social and institutional constraints.

But this rural household structure does not resemble a ‘family-farm’. The property including houses and land, were not necessarily passed down to the other generations as an entity and kept within one family, but frequently sold or purchased on the market. It was thus subject to change. The family-property describes the property owned by the core family, mainly husband and wife, and is divided up after their death.

Property was extremely important and it seemed to have been decisive in the choice of a marriage partner. Regulation and enforcement of inheritance laws also suggest its apparent importance. Andreas Maisch concludes that property was strongly linked with responsibility and not liberty: The core family was expected to react to a family member’s deviation and to protect the property-shares.

III. Partible Inheritance (Realtteilung)
According to Anderson, inheritance and its different practices form one important characteristic when looking at household economics. Inheritance can be seen as one part of property acquisition or transmission, and inheritance could be defining the life chances of a person.²

Within partible inheritance systems real estate and movables are being divided up equally between all heirs, male and female. The inheritance matter equals what we have termed family-property. Primogeniture, on the other hand, is the right of the firstborn to inherit the entire estate. The development of partible inheritance is one of

² Michael Anderson.
the most disputed topics in agrarian history and possible links between inheritance systems and population and economic developments such as proto-industry still remain disputed.

Partible inheritance was practised in most parts of Württemberg. The Duchy had been favourable towards partible inheritance and between 1555 and 1610 the Württemberg common law was constituted which also regulated matters of family- and inheritance law. Women had property rights in Württemberg which forms the basis of partible inheritance. However, women’s property rights were constrained in two ways: By marriage law and when unmarried or widowed, women had to have a guardian (Geschlechtsvormund): They could not act independently in property matters.

Interestingly, this legal implementation of partible inheritance is hardly discussed in the historiography. There is rather a tendency to highlight its negative characteristics based on inheritance divisions: especially historians of the 19th century argue, that partible inheritance in combination with population growth led to increased fragmentation of farm holdings and land, and thus to a decline of agricultural productivity. Only Warren Sabean highlights the effect of partible inheritance on family dynamics and property transmission and argues against a general aspect of fragmentation. What can the personal inventories as a product of partible inheritance tell us about the practice of partible inheritance?

IV. The Documents: Personal Inventories (Inventuren und Teilungen)

1. The Legal Framework

What are inventories? The Württemberg “Inventuren und Teilungen” are lists of possessions. They list, describe and value the entire possessions of the persons in question, including real estate, moveable goods including clothing, tools, all household goods and food, debts owed, and financial claims on others. They were written up to assist the legal regulation of the property divisions in order to avoid inheritance conflicts. [See example of inventory Auingen, hand-out]

---

3 Rolf-Dieter Hess discusses in detail the development of the family and inheritance law, including marital property laws and the specific inheritance regulations.
4 Wolfgang von Hippel; Friedrich List. But Hans Medick argues in his local study on Laichingen, that the fragmentation usually seen in context with partible inheritance only really increased during the 19th century.
Death inventories were made compulsory for most Württemberg inhabitants from 1555 onward. From 1610 onward, marriage inventories were also supposed to be drawn up, in order to record what was brought into a marriage by both bride and groom. Marriage and death inventories continued to be compulsory in Württemberg until c. 1899/1900.

Who is being inventoried? Unlike in other European societies, the writing up of inventories in Württemberg was in principle obligatory for all inhabitants: mostly married people, or people leaving an inheritance or debts. In a preliminary analysis we found, that inventories indeed cover a wide-spread proportion of the community’s tax payers – including women.5

Within the system of partible inheritance drawing up inventories was essential. To define the inheritance matter, the inventories list personal possessions individually. This makes it possible to distinguish the possessions of both women and men. Marriage inventories usually list brides’ and grooms’ possessions separately, and death inventories usually itemize women’s and men’s clothing in separate lists. The reason for this is that clothes, tools and jewellery were regarded as being the respective person’s own possessions or pre-belongings. The Württemberg inventories are therefore particularly well suited to explore consumption patterns, but also the composition of family-property.

2. The different Types of inventories
Württemberg inventorying regulations distinguished three main types of inventory: the marriage inventory, the contingent inheritance inventory, and the actual inheritance inventory. However, our experience showed that there are also pre-mortem transfers and decreed inventories.

a. The marriage inventory (Beibringen)
A marriage inventory was supposed to be written up within a quarter year after a marriage took place. It was sub-divided into three main sections: the introductory

5 Sheilagh Ogilvie, Markus Küpker, and Janine Maegraith, Household debt in early modern Germany: evidence from personal inventories. Cambridge working papers in economics 1148
section, the inventory of the groom’s, and the inventory of the bride’s marriage portion. In the case of a remarriage, the inventory also records the precise family relationships prevailing at the time, any existing children, and the deceased marriage partner.

b. The contingent inheritance inventory (Eventualteilung)
A contingent inheritance inventory was drawn up after the death of one spouse. It also had three sections: The introduction with all necessary information concerning the official procedures and the persons involved, that is on the deceased spouse, his or her partner and the surviving children. This is followed by the inventory of the combined possessions of the married couple. And at the end, a balance-sheet is struck and an interim inheritance-division is established. The surviving spouse kept the estate including the inheritance share of the children in his or her ‘usufruct’ until he or she decided to hand out part of the shares in due course or until he or she died.

c. The actual inheritance inventory (Realtteilung)
The actual inheritance inventory was written up when a widowed spouse or a single person died and included an inheritance-division in which inheritance-shares were calculated and distributed among the heirs. It is in principle structured in the same way as a contingent inheritance inventory, only that it contains a complete inheritance-division at the end.

d. pre-mortem property transmissions (Übergabe)
After the death of one spouse, the surviving parent could decide to pass on some of the property to adult children before his or her death, i.e. pre-mortem inheritance shares. In that case, a list of the transmitted property is being drawn up.

e. Decreed inventories
And in some cases, the authorities could decide to order an inventory to be made, if for example the couple is so indebted, that doubt is being cast on their ability to pay the debts back.
At the end of all inventory types, the living persons involved append their signatures or if they could not write, their guardian signed instead. The inventories were legal documents which could be amended over time and often show later changes.

The different types of inventories alone show, how property was transferred in a gradual way: part of the property would be given to the children at marriage; and some after the death of one parent; the remaining part of the inheritance or family-property would be distributed after the death of the second parent.

III. Evidence from the Inventories

What can Inventories tell us about family-property, inheritance practice and family strategies? In the following, I will present some case studies and what our experience with the inventories showed us so far.

1. Real estate

Not every household possessed a house, and young couples seldom had their own house to start with. We can assume, that some lived as lodgers, as household structure showed for Württemberg. According to the more negative view on partible inheritance, houses would be rigorously divided up between the heirs. But the inventories show that only few houses were divided into half, and fewer were divided into smaller shares. It seems as if parents preferred to pass buildings on to one of their children and we can find financial agreements of purchase of buildings in marriage inventories between parents and their marrying children. The other children would then be ‘equated’. Buildings were the most valuable asset in family-property: it functioned not only as accommodation, but also as workshop, lodge and the adjacent garden as additional supply or income. Consequently, houses proved to be one of the most important assets when looking at household debts.6

The pieces of land were passed on individually to the heirs: not as a multi generational entity, and mostly not divided up into smaller pieces. As the family-property was not an entity, the heirs could receive individual pieces of land and after the death of the parents either retain them or sell them on the market to buy adjacent land; sometimes

they would sell them back to or from relatives. Thus, real estate was not necessarily kept within one family, but frequently sold or purchased on the market.

2. Marriage inventory: origin of the marriage portions
The marriage inventory established what the spouses brought into their marriage. These marriage portions would consist partly of what the parents gave their children for their marriage; and partly of what bride or groom bought themselves, for example with the money they had saved during servant-hood. The marriage inventory therefore also defined, which of the items were undisputed own property of the bride or groom. The parent’s part equals a pre-mortem property transfer and remains in principle part of the family-property until the parents die and the final inheritance division is drawn up in an actual inheritance inventory. Only the items highlighted as ‘own’ remained unquestioned property of bride or groom, together with the above mentioned pre-belongings, which were clothing, jewellery and tools.

In the marriage inventory of the farmer Hanß Hürning and Barbara Herrenmann, for example, who married in 1682 in Auingen, the character of the marriage portions was carefully defined:7 The groom received his marriage portion from his parents and nothing is defined as his own. However, most of the draught- and farm-equipment he only received as a half share which means that he and his parents shared the same tools and that he contributed his labour.

The bride received nothing from her father on her marriage portion. But she had saved money as a servant and it says for her clothing: ‘The following clothes she had made, bit by bit, from her wages as a servant’. The other household items she had received from her mother except for the cattle and poultry, which were defined as her own. The bride’s marriage portion was therefore constituted of two parts: what was her own and what she received from her mother.

The Wildberg marriage inventory of Johann Michael Kleinert, worsted weaver, and Christiana Margaretha Schmalzlenin from 1806 contains a detailed agreement

7 Stadtarchiv Münsingen B au 001 (Inv. v. 20.2.1682).
between the bride’s mother and the bride. The bride’s mother had decided to hand over her whole property to her single child, her daughter, which included also her dead father’s property. Whereas her dead father’s property would become the bride’s own property, her mother’s property, however, was treated as a loan until her mother’s death. That means the bride had to pay interest on the property and the mother retained the right to live in the house and to use the moveable goods. Also, the bride was not allowed to sell anything without her mother’s consent. This property was linked with obligations and it shows how in this case property was also linked to a person: although the mother wanted her daughter to have the property, she new she had to protect herself from misfortunes such as marital conflicts between her daughter and son in law, for example, or her daughter’s early death. With retaining property rights she secured her future livelihood.

3. Provisional inheritance and the definition of family-property

As described above, in the case of the death of one spouse, a contingent inheritance inventory is being drawn up. It comprises the belongings of the combined household of the married couple and describes in principle the family-property at this point of time. As its title suggests, it calculates the ‘probable’ share of the heirs should the other spouse die as well and a final division be drawn up with the same number of heirs. For this, an inventory is created and the calculation of the division added at the end. Legally the inventory comprises the following property components:

- The marriage portion of the husband, inheritance of parents or relatives
- The marriage portion of the wife, inheritance of parents or relatives
- Anything they might have gained i.e. by purchase, or lost during their marital life. This is calculated as follows:

The components of the property as described above do not show as groom’s or bride’s marriage portion in the inventory. Instead, the money value of the portion is being used to define the respective share. The only exception is the section clothing, weapons and tools.

8 HStAS, A 573 Bd. 5082 (1806) Inv. Nr. 5 v. 22.1.1806.
After the inventory is drawn up, the clerk proceeds to calculate the heirs’ share. This is, as mentioned before, a theoretical division and not necessarily enacted yet. Following steps are being taken:

- The sum of the deceased spouse’s marriage portion plus inheritance (A)
- The sum of the widowed spouse’s marriage portion plus inheritance and pre-belongings such as clothes (B)
- The sum of gained or lost wealth (C):
  Total wealth of the inventory minus the sum of A and B
- Calculation of the share of the widowed spouse based on his or her marriage portion and half of the gained or lost wealth: \( B + \frac{C}{2} \)
- The share of the deceased spouse would be: \( A + \frac{C}{2} \)
  This equals the inheritance matter.
- Depending on the number of surviving children the sum of the deceased spouse’s inheritance matter is divided up between the children and the widowed spouse.
- If a child dies during the lifetime of the widowed spouse, the shares are being recalculated.

The widowed spouse’s inheritance matter is defined equally between husband and wife; no difference is being made. Likewise, the inheritance shares of the children, boys and girls, are treated equally. But only with the death of the second parent was the estate actually divided between the heirs.\(^9\) Sabean finds in his study that the siblings were indeed treated equally. This can be verified in Wildberg inventories.

**Example for a contingent inheritance inventory of a widowed spouse with six unmarried children [20001368]**

In October 1739, about 15 weeks after Heinrich Rockenbauch, citizen and baker in Wildberg, died, a contingent inheritance inventory was drawn up. As heirs the document defines the widow Anna Margretha, and their six unmarried children

---

\(^9\) See Hess, Familienrecht, 175. The Landrecht gives a slightly different definition of the inheritance shares: in the case of up to four children, the widowed parents received half of the inheritance matter; in case of more than four children the parents would get one third, and the children two thirds.
between 32 and 18 years old. An inventory of the combined possessions is being made and after subtraction of the debts, the family-property’s value is determined with 625 Gulden, 21 Kreutzer and 5 Heller.

The calculation of the inheritance shares is commenced with the parent’s marriage inventory from 1709 according to which the husband’s marriage portion had been 12 Gulden and 11 Kreutzer, and he had inherited from his father in 1720 9 Gulden 25 Kreutzer and 1 Heller. The widow’s marriage portion was 30 Gulden and 2 Kreutzer. She had inherited nothing from her parents during the time of marriage. Their combined marriage portion and personal inheritance subtracted from the overall sum of the property resulted in a surplus of 573 Gulden 43 Kreutzer and 4 Heller. Each spouse was entitled to one half of this surplus.

The latter equalled the inheritance matter, which was divided into 7 parts: the widow’s plus 6 children. Each child had in principle a claim on the value of their share, here 42 Gulden. But the widowed mother retained usufruct during her lifetime and the actual inheritance shares were not handed out yet. However, the widowed mother was responsible for keeping the shares together and for ensuring that the inheritance shares were not wasted or spent.

4. Actual inheritance inventory and the final calculation of inheritance shares
In the case of the death of a widowed spouse with surviving children, an actual inheritance inventory was drawn up. The inventory itself resembles the one of a contingent inheritance inventory. But at the end of the inventory the clerk creates a now final calculation of the inheritance shares. All surviving children received the same share; and this share was specified in separate lists attached to the main inventory. Here it would be defined who would receive real estate down to who would received which garment of clothes or which kitchen tools.

An example from 1739 shows, however, how another component of property would enter the final calculation of the inheritance matter: previously handed out pre-mortem inheritance shares. [20001368]

---

10 HStAS, A 573 Bd. 4984 (1739), Inv. Nr. 21 v. 7.10.1739.
Johannes Niemand, citizen and tailor also the town’s messenger, died in 1739 on his way back from an errant. He was widowed and left two married daughters, one married son and one son whose whereabouts were unknown since 22 years.\footnote{HStAS, A 573 Bd. 4984 (1739) Inv. Nr. 23 v. 11.12.1739.}

The inventory makers assessed a total value of Niemand’s property of 172 Gulden and 6 Kreutzer. But before this was divided up, the property shares, which had been given to the three married children as their marriage portions were pooled back into the family-property. These shares are equivalent to pre-mortem property transmissions. But: In order to ensure that every child received an equal share, these had to be included in the final calculations.

The new sum of the property, here for example 293 Gulden and 30 Kreutzer, would then be divided between four, as there were four children. Now every child had a claim on 73 Gulden minus the received marriage portions. For example: The eldest daughter, Salome, had already received as a marriage portion and property transmission 58 Gulden and 39 Kreutzer. This was now subtracted from her inheritance share which left her with c. 14 Gulden as her legal claim.

This example sheds light on two aspects:
1. Family-property is an entity which exists until both parents die – even if their children marry and receive a marriage portion or pre-mortem property transfer from their parents.  
2. The fact that the shared out portions of the children are being put back into the pool and taken into account of the family-property shows, how meticulous the inheritance calculation was administered, and how important it was to create equal shares among the children – even if one of them is missing or away.

5. Re-marriage
In Württemberg, a widowed spouse could re-marry after a minimum period of six months. Re-marriage happened quite frequently, especially if small children survived. And correspondingly to first marriages, a marriage inventory was drawn up.
This posed a special problem to inheritance questions though: The children of the first marriage retained a claim on the inheritance matter of their deceased parent which would be defined in the contingent inheritance inventory. They would not have any claims on the new spouse of their parent. This could lead to complicated situations and sometimes to tensions between family members. But an example of 1708 and 1733 shows how this could also reveal co-operation between parents and children:

In 1707, the respected citizen, butcher and innkeeper Johann Albrecht Memminger died. He left his widow, Agnesa, and five unmarried children behind. Probably because his widow had thought of re-marrying, no death inventory was drawn up. One year later she re-married the butcher’s servant Jacob Loercher.\(^\text{12}\) [20000697]

In this context, an inventory was drawn up which constituted at the same time a death inventory and a marriage inventory: the deceased Memminger and his widow’s household formed the bride’s marriage portion, plus the groom’s marriage portion. Agnesa Memminger, as an innkeeper’s widow, brought in a large estate with a value of 4186 Gulden 8 Kreutzer and 3 Heller. This estate, however, included the children’s inheritance share of their father which she kept in usufruct. The groom’s marriage portion in contrast resemble about 0.7 % of the bride’s portion.

In spite of this unequal start, the couple apparently let a very happy marriage in which course the estate was considerably increased. When Agnesa died in 1733, a death inventory was drawn up which showed that the estate had now a value of 5507 gulden and 44 Kreutzer.\(^\text{13}\) [20001214] By 1733, Jacob Loercher himself had become a successful innkeeper and town magistrate, and all five children of his wife’s first marriage were still alive and married.

The normal procedure of the inheritance division would have left the widowed husband with a comparatively small share, because his marriage portion and one half of the gain would have been the basis of the calculation. But at the end of the inventory an inheritance settlement is amended between the widower and his step-

\(^{12}\) HStAS, A 573 Bd. 4953 (1708) Inv. Nr. 1 v. 5.3.1708.

\(^{13}\) HStAS, A 573 Bd. 4978 (1733) Inv. Nr. 12 v. 11.3.1733.
children which at first seems very surprising: He, the widower, has to abstain of all his inheritance claims, including his personal shares. Instead, his step-children give him the same legal position as if he was their sibling. This meant that the whole inheritance matter, i.e. the whole estate, would be divided into six equal parts and every sibling, including the widower, would receive the same share.

This resulted in a huge benefit for the widower:
- The estate as calculated in the inventory, included the inheritance shares of his step-children from their father, which would have had to be subtracted first.
- By resembling his step-children in legal status, he in principle received part of this inheritance matter as well.
- The estate grew considerably once the marriage portions of the step-children were pooled in, and thus the share of the widower increased.

In the end, every heir had a claim of 1238 Gulden and 58 Kreutzer.

The step-children had decided on this settlement in respect of his achievements and therefore showed substantial co-operation with their step-father.

6. Inheritance procedures, if no children survive
But what happened, if a couple left no children behind, or never had children at all?
In this case, either the parents of the deceased, should they still be alive, would inherit, or the siblings. If the siblings were dead as well, their children would inherit. In some cases this could lead to very complicated reconstructions of families themselves and in a contingent inheritance inventory of 1673 the inventory makers had to draw up a family tree to understand the hierarchy of inheritance.\(^{14}\) [20000112]

Jacob Stepper and his wife Apolonia died within two days apart and left no children behind. In his case, a family tree was reconstructed to determine the legal heirs of his inheritance, which included mainly his cousins from both sides. In her case no family tree was necessary, as her siblings had left children and the inheritance hierarchy was clear. However, one of her sister’s deceased sons had left two little children orphaned.

\(^{14}\) HStAS, A 573 Bd. 4920 (1673) Inv. Nr. 1 v. 27.2.1673.
And although they had no claim on the inheritance, both sides of the heirs decided to
give the two children a share as charity. [18 fl 37 x equals 1.7 % ...]

7. Decreed inventory: duty and responsibility for the family-property
As mentioned above, an inventory could also be drawn up, if an exceptional case
made it necessary to estimate the estate of a household. In 1671, for example, the
authorities ordered an inventory to be made of Hans Steimlin and his wife Catharina,
because of the creditors’ persistent enquiries, if Hans Steimlin would be able to repay
at all. In this case, the inventory was used to clarify the financial status of the debtor
to appease the creditors.15

8. Poverty and Inheritance: poverty and suspension of the inheritance
But what happened, if an inventoried person was too poor to either pay his or her
remaining debts or if there was nothing to bequeath? In some cases we have evidence,
that an inventory was omitted on the grounds that the deceased person was too poor
and had nothing to pass on.

In one case, in 1740, the widow of the worsted weaver Lorenz Dingler, Anna Maria,
was found to be very ill and poor. She owned a small house, but with her debts added
up hardly anything would be left. The authorities decided therefore, that the deceased
only heir, his sister, and the creditors would have to be put off until the house was
sold.16 [20001392]

Conclusion: Opportunity or Constraint?
There is a tendency in the historiography towards highlighting partible inheritance’s
negative characteristics or constraints, such as increasing fragmentation of arable land
and thus decreasing agrarian productivity in 19th century Württemberg. The
historiography shows that many people of rural communities had by-employments to
secure their lively-hoods as often the pieces of arable land were too small or too few
to solely survive on them. But there are also references towards a more cautious
approach.

15 HStAS, A 573 Bd. 4918 (1671) Inv. Nr. 10 v. 20.2.1671. His debts resulted in the large inheritance
share for his children from his first marriage. [20000177]
16 HStAS, A 573 Bd. 4985 (1740) Inv. v. 9.12.1740.
The inventories show, that houses were not divided up between all heirs. Instead, they were either handed on to one heir, whereas the others would be compensated. Or the buildings would be divided in two parts. Similarly to this, land and arable fields were not subject to unlimited divisions. The fact that in this economy ‘family farm’ were not present, enabled the heirs to sell their inherited land on the market and thus realign their land if possible. This would also question the argument of ‘increased fragmentation’ as the land already was fragmented.

What was not discussed in the literature (with one exception) was, how partible inheritance could have contributed to property transfers and accumulation, property rights of women, the definition of family-property and the actual procedure of dividing the inheritance matter up between the heirs – in short: the opportunities.

The legal procedure of drawing up an inventory made it possible to determine the meaning of family-property: Family-property comprised the combined property of husband and wife, which consisted of his and her marriage portion, their respective inheritance from their parents and relatives and any gains or losses. Part of this family-property could be handed over to marrying children in form of their marriage portion. Parts could also be handed out as a pre-mortem property transfer. But it would legally stay family-property until both parents died at which point all surviving children would have a claim on an equal share.

What implications did this have? In principle, this meant that both sides, parents and children, were bound by property rights, responsibilities and expectations. Parents were expected to keep their property together or to administer it in a responsible way so as to pass it on to their children. If they failed to do this, their estate could be ordered to be inventoried.

The children, on the other hand, when receiving property transfers during lifetime of their parents, did not become fully independent from the parental household but were expected to co-operate. Since the family-property was transmitted only gradually, offspring and parents remained dependent on each other: The father might still have retained important tools for trade or agriculture, and the sons and daughters provided
their labour. Or they were expected to accommodate their parents in their house or lodging, just as the agreement of 1806 showed.

The link to family-property of marriage portions also meant, that bride and groom both retained ownership of their respective portions. This meant that spouses had to manage their assets responsibly, although this was not always the case, of course. But in theory a wife could make claims in court should she suspect her husband of mismanagement. If the magistrate would take her side, is another question.

What Andreas Maisch has shown in his study could be verified for Wildberg and Auingen inventories: Property was linked with responsibility, not with liberty. Although this responsibility was undeniably linked with legal constraints, I would argue that partible inheritance offered considerable opportunities for the heirs:

Partible inheritance and the practice of gradual property transmission, together with offspring working as servants who accumulated some of their own means, enabled young people to set up their own household and single persons to have some economic means. And it also meant, that women had property rights and inherited equally to men, which was an exceptional opportunity – even if their rights were constrained by male guardianship.