

**Provisions for Widowhood in the Legal Sources
of Sixteenth-Century Lithuania**

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I. Introduction

Of all women of the medieval and early modern times, widows are one of the most visible groups, due to their – sometimes greater and sometimes smaller – freedom from the custody of men and family, and their different legal status. Their position differs from that of unmarried girls and married women in several respects: they are usually more empowered and at the same time less protected than other women.

The depictions of widows and widowhood in medieval and early modern Europe range from, on the one hand, descriptions of widowhood as a state of independence, prosperity and authority to, on the other hand, accounts of poor widows struggling for survival or widows being exploited in their defenceless state or deprived of any authority in the administration of their property. There is no contradiction between these two – from first sight cardinally different – views: widows' role in the society and in the family varied from one country to another, from one period to another, from one stratum to another, from one environment to another.

Many questions can be raised about widowhood. Only after separate aspects of widowhood and widows' role in the society and in the family are explored in sufficient detail in a certain country and a certain epoch, for a certain stratum and a certain environment can a more general all-embracing and objective picture be drawn. This dissertation aims at being one of the stepping stones towards this goal of developing a general all-embracing picture of widowhood by looking at widowhood from one specific aspect: widows and family property as reflected in legal sources.

The Framework of the Research

The Subject

This dissertation investigates *the status of mid-sixteenth century Lithuanian noble widows and their relations to family property as reflected in the normative law and the legal practice*. An investigation of the *legal status* of women upon their husband's death is one of the ways of analysing the position of widows.¹ Such a subject contributes to the research on widows and widowhood in Lithuanian history. The question of widows in Lithuania has been addressed by several researchers from several perspectives; however, there is still space for research. When defining the focus of my research, the combination of the following aspects was taken into consideration: the existing research, the sources available, the timeframe, the social stratum, and the environment to be researched.

Previous Research

Research on the legal status of widows in historical perspective has been one of the main new issues taken up in the last couple of decades in various Western European countries.² As for Eastern Europe, however, most of the results in this field are inaccessible to international scholarship because of language barriers. For example, although important research has been carried out on the status of women, including widows, in Lithuania, it remains largely unknown outside the country.³

¹ The research does not embrace widowers, since they are essentially invisible in both the normative law and legal practice.

² For a good bibliography on the research on widows and widowhood in Europe, see Sandra Cavallo and Lyndan Warner, ed., *Widowhood in Medieval and Early Modern Europe* (New York: Longman, 1999). Another bibliography, also useful, is that of Ida Blom, "The History of Widowhood: A Bibliographic Overview," *Journal of Family History* 16, No. 2 (1991): 191-210.

³ Thus, one of the indirect aims of this dissertation is a brief presentation of the works of Lithuanian scholars, which can be found in Chapter II.

In Lithuania, widows are seldom treated as a separate subject in most investigations, but rather appear as part of broader research on women or the family. The main contributors in this field are Irena Valikonytė (sometimes in collaboration with Stanislovas Lazutka), Jolanta Karpavičienė and Vytautas Andriulis. Jolanta Karpavičienė concentrates her research on the urban women, using both normative sources and the records of the legal practice from the first part of the sixteenth century. Vytautas Andriulis deals with family law recorded in the laws of the landowning nobility – mainly the three *Lithuanian Statutes* of the sixteenth century. Irena Valikonytė investigates the position of women in the same normative legal sources as Vytautas Andriulis and, in addition, in the records of legal practice. Most frequently she treats the normative sources and the records of legal practice as complementary to each other rather than in a comparative manner; her aim is to create an all-embracing picture of the situation of women in sixteenth-century Lithuania rather than to analyse the status of widows.

The two main Lithuanian authors who influenced my work are Irena Valikonytė and Vytautas Andriulis.⁴ As regards the reliability and the usefulness of the current Lithuanian research on widows, the works of Irena Valikonytė (sometimes in collaboration with Stanislovas Lazutka) are of the most value. Her results are both most valuable and reliable, as the methods used in her work – the comparison and detailed analysis of both the normative law and the legal practice with special attention to their interaction – are up-to-date and offer deep insights. Embracing quite a brief period of time – mainly the first part of the sixteenth century, with the *First Lithuanian Statute* as the central point – her research, while concentrating on the position of women, touches upon most of the aspects of the status of widows under various circumstances. Publications by Irena Valikonytė are of most use for my dissertation both as a good summary on and an introduction to the position of women,

⁴ Results of foreign scholarship which serves as a background and a source of inspiration for my dissertation are addressed in Chapter II.

including widows, in the first half of the sixteenth century and an example of combined use of the sources of normative law and legal practice. The publications of Vytautas Andriulis are of less use for my work, as they are more of a descriptive character, with some conclusions not based on specific facts and they cover only the normative law.

My dissertation in some way follows in the footsteps of the work of Irena Valikonytė: it covers the same area, the same stratum, the same environment and a similar timeframe. However, it concentrates on the noble widows rather than women in general. Also, it raises some different questions than the ones present in Irena Valikonytė's works. This will be addressed in detail further in the aims of the dissertation.

Sources and the Timeframe

Widows' theoretical status in the normative law and their real status in the legal practice may be best observed directly from the legal sources. Thus, my dissertation employs a group of legal sources from sixteenth-century Lithuania.

For sixteenth-century Lithuania, legal sources form one of the largest groups of surviving historical documents: three legal codes and numerous judicial books exist, as well as ducal privileges to the state and to the provinces, and decrees of the Council of Lords. Such rich legal sources allow a fruitful comparative analysis.⁵ However, in order to perform a comprehensive analysis of the status of widows in the extant normative laws and legal practice, and to attempt to trace changes in the status of the widows over time, the sources used – both the normative legal sources and the records of the legal practice – have to be restricted in some way.

⁵ This is one of the aims of the dissertation – see more in this chapter, section 2.

Two collections of normative law – the *Lithuanian Statutes* – serve as the main timeframe for this dissertation, covering the period from 1529 to 1566.⁶ The *First Lithuanian Statute* of 1529 (FLS) was chosen as the starting point of the timeframe for the investigation because it was the first codified law collection of the Grand Duchy of Lithuania, presenting most of the aspects of contemporary legal norms in an already almost fully developed form. The *First Lithuanian Statute* was heavily based on the privileges of the ruler (which were, in their turn, to some degree based on customary law) and influenced by court practice (that is, the customary law). The *Second Lithuanian Statute* of 1566 (SLS) was selected as the closing point of the timeframe as a certain stage in the development of the normative law: it is based on the *First Lithuanian Statute*, but it introduces several emendations and augmentations. The analysis of the two legal codes, separated by almost forty years, allows a comparison of the norms related to the status of widows. The privileges of the ruler and the decrees of the Council of Lords (both those preceding the *First Lithuanian Statute* and those issued after it) are also addressed as an inseparable part of the development of the normative law.⁷

As for the choice of the records of the legal practice, I employ them for the purpose of comparison with the normative law, using selected records which serve as examples or exceptions for the points which appear in the normative law. Records of the law cases in sixteenth-century Lithuania have been collected and preserved by the chancery of the Grand Duchy of Lithuania in a collection of documents known as the *Lithuanian Metrica*.⁸ Out of all books of the *Lithuanian Metrica* covering the period from 1529 to 1566, I have selected some books from the *Books of Court Records* pertaining to the court of the grand duke and the

⁶ For all references to both Statutes, see the Ruthenian text and the translation into English in the Appendix.

⁷ The *Third Lithuanian Statute* of 1588 is an invaluable resource of information and it could contribute to the picture of the further development of the laws regarding widows; the period between the *Second* and the *Third Lithuanian Statute* could be a topic for separate research.

⁸ A more comprehensive introduction to the *Lithuanian Metrica*, its history and formation, is presented in Chapter III. When referring to the specific books and court cases I will use the abbreviation LM.

Council of Lords.⁹ From these sources, I have included in the research not only court cases, but also testaments and the mutual donations of property by spouses to each other; they reflect the status of widows in conflictive situations and contribute to the knowledge about property transactions between husband and wife.¹⁰

The choice of the sources defines the stratum and the environment to be researched. This research will best reflect the position of widows of one stratum and one environment: these sources contain mainly information on the landowning rural nobility.¹¹ Unfortunately, the *Lithuanian Metrica* does not contain data on peasant widows, as by the sixteenth century the matters of the peasants were already normally resolved at the local courts of the landlords, who had the right to judge their peasants.

⁹ There are 17 books of this type for this period, 12 still unpublished. During my research, I searched for examples in all of them, but in the final version I mainly use the court cases which were recorded in the first years after the appearance of the *First Lithuanian Statute* (in order to see whether the *Statute* was followed), and court cases which were recorded in the last decade before the appearance of the *Second Lithuanian Statute* (I use more of these latter examples, as these court records are less analysed in Lithuanian scholarship). Some other sources, although also highly interesting, had to be left out due to the constraints of the time available for the research. Two groups of documents: first, the court records from the Vilnius castle court, for the years 1542-1566 (it is deemed as not being a part of the original *Lithuanian Metrica* – see Irena Valikonytė and Stanislovas Lazutka, “Įvadas” (Introduction), in *Lietuvos Metrika (1542): 11-oji Teismų bylų knyga* (The *Lithuanian Metrica*, 1542: The Eleventh Book of Court Records), ed. Irena Valikonytė and Saulė Viskantaitė (Vilnius: Vilniaus universiteto leidykla, 2001), ix), and second, the *Books of Inscriptions*, have been left out. Most of these books are of a mixed character and useful information may be found in all of them. Materials from many of these books, especially from the time before the *First Lithuanian Statute* and then a couple of decades after the *First Lithuanian Statute*, have been analysed by Irena Valikonytė and Jolanta Karpavičienė.

¹⁰ Since this dissertation deals with widows in relation to the family property, the cases which deal with widows in relation to society have been omitted (for example, widows and their late husbands’ debts, widows and their neighbours, widows in criminal cases). As the preliminary research has shown, the court cases and other types of documents regarding widows are few and many of those are of a very different character from each other, thus any statistical analysis would not provide reliable results.

¹¹ As is noted in the introduction to the publication of the LM 225, the cases were recorded in the court books only if the fee was paid (Stanislovas Lazutka, Irena Valikonytė and Jolanta Karpavičienė, “Įvadas” (Introduction), in *Lietuvos Metrika (1528-1547): 6-oji Teismų bylų knyga* (The *Lithuanian Metrica*, 1528-1547: The Sixth Book of Court Records), ed. Alfredas Bumblauskas, Edvardas Gudavičius, M. Jučas, Stanislovas Lazutka and Irena Valikonytė, xiii [Vilnius: Vilniaus universiteto leidykla, 1995]), which decreases the likelihood of encountering cases concerning poor people.

Information on Widows in the Legal Sources

In normative legislation, there appear to be two basic types of laws defining the position of widows: 1) the freedom to choose a new remarriage partner and 2) the property status. The first question, that of widows' freedom (or lack of it) in choosing a partner for remarriage, at first glance does not seem to be directly connected to the property relations between the widows and their families. However, it should not be ignored, since the property status of widows depended on their marital status; thus, the ability of the relatives to regulate the remarriage of widows also gave them an opportunity to control the property that was in their hands.

As regards the second category, there appear to be three major factors which determined the property status of widows: 1) the financial stipulations connected to the marriage (legal provisions or private contractual provisions), 2) the marital status (re-marriage or no re-marriage) and 3) the parental status (childless widows, widows with minor children, and widows with adult children).

The financial stipulations were the crucial factor in the property status of widows. Analysing these financial stipulations, a difference should be made between the *legal provisions* for a widow, and the *contractual provisions*. Legal provisions here mean basic rights, guaranteed for all widows, enshrined in law and applicable without any special arrangements or agreements. Contractual provisions mean the dower contracts/testaments/mutual property donations which may modify the legal provisions for widows to a certain degree on an individual basis. Different legal provisions and different contractual provisions were available for those widows who stayed unmarried and for those who remarried, as well as for those who had children and those who were childless – that is, the widows' position depended on their marital and parental status. Thus, widows' position

under these different circumstances will be explored here, too. Theoretically, there are six possible combinations of these factors (although, as will be shown, not all of them appear in the normative laws and the legal practice):

Non-remarried widows with minor children
Non-remarried widows with adult children
Non-remarried childless widows
Remarried widows with minor children
Remarried widows with adult children
Remarried childless widows

The Aims of the Research

After defining the subject of the dissertation, delimiting its scope and presenting the types of the available materials, it is time to turn to the aims of this dissertation. As mentioned above, the subject of this dissertation is widows and family property in normative law and the legal practice. This dissertation aims at establishing the legal status of widows in the law and legal practice concerning family matters in the time period between the two *Lithuanian Statutes*, those of 1529 and 1566. One of the main characteristics of the period in question is the rapid development of the laws and the legal system. It is the time when different legal models coexisted and were used in the legal system. The coexisting legal models, present in the period under discussion, as mentioned above, are: the legal provisions for widows – default support for the widows, guaranteed by the law (rather fully defined by the normative law) and the contractual provision for widows – dower contracts and testaments (to a certain degree defined by the normative law).

Thus, the main point of focus of the dissertation falls on the definition of these different legal models and the analysis of their coexistence and development. Looking at widowhood from the perspective of the different legal models used in defining the status of widows, and especially comparing these models, raises the following questions: What was the point of the existence of two legal models at the same time? Did the contractual provisions

appear because the legal provisions were not enough to ensure the status of widows, or maybe these legal provisions could not be enforced properly? Maybe, on the contrary, the contractual provisions came into being as a means of limiting the access of widows to their husbands' property?

The main aims of the dissertation will be achieved by the following means: grouping the norms present in the normative legislation according to the legal models they follow; comparing the two legal codes, the *First Lithuanian Statute* and the *Second Lithuanian Statute*, and other normative legislation, in order to establish the differences present within each model in the normative law and see the trends of their development; comparing the normative law with examples of the legal practice in order to establish and clarify the relations of the normative law and legal practice and to see how the existing theoretical legal models functioned in real practice.

A summarising overview of the existing legal models will allow drawing some conclusions about the status of widows in relation to family property in sixteenth-century Lithuania, establishing the differences between the different legal models and discovering which of them was prevailing/gaining priority in the first part of the sixteenth century in Lithuania.

Since this dissertation utilizes legal sources, it is mainly the problematic side of widowhood that will be seen. Seeing widows in extraordinary conditions, when their position and rights are challenged or their duties are reinforced, allows seeing what kinds of problems widows had to handle. Discussing the particular legal issues listed above will also enable me to clarify more general issues such as: What was the position of Lithuanian widows in the sixteenth century, around the turn of the medieval times to the early modern period? Was widowhood a comfortable state of freedom, which was enjoyed and maybe even desired, or was it a state feared by all women, which guaranteed them only trouble and financial

insecurity rather than peace and prosperity? Was the position of widows clearly defined by the law, or did it fluctuate depending on the circumstances? Did the law provide the necessary norms establishing the rights and duties of widows and was society able to reinforce these rights? Were the concepts related to the position of widows clearly defined?

In order to place the Lithuanian widows into a wider European perspective, parallels and the possible influences on the position of Lithuanian widows will also be addressed by this dissertation to some degree. Realising the problem of the relations of normative law with legal practice, and keeping in mind that there were many variations in the legal practice of various countries, I have no ambition to define the actual situation of widows in any of these other countries. This situation could not only vary considerably from case to case in legal practice, but could also change with each law passed, so that what looked like two different legal models in two countries in one decade could develop into two almost identical systems in another. The aim here is rather to demonstrate the existing variety of different models for providing for widows and to show how Lithuania fits into the more general European picture.

Lithuania in the Sixteenth Century: A Summary on Society, Law, Family, and Inheritance

Society

After presenting the existing research, sources, the timeframe, and the aims of this dissertation, I will give a brief overview of the general situation in Lithuania during the first half of the sixteenth century. In the first part of the sixteenth century, Lithuania, which formed as a state only in the mid-thirteenth century and adopted Christianity in 1387, was a state on the border of the East and West. The Grand Duchy of Lithuania of the first part of the sixteenth century consisted of the ethnic Lithuanian lands and western Orthodox Russian Lands (part of the territories of current Belorussia and Ukraine) and was in a personal union

with Poland after 1387 (when Jogaila, the Grand Duke of Lithuania, married a Polish princess and became king of Poland). Lithuania was still essentially an independent country with its own ruler, a Diet, army, and coinage, but it was influenced by the surrounding cultures (with the Polish influence constantly increasing) and its culture reflected the interaction of various nations on various levels. To give just some examples of the coexistence of various influences, Latin was used as the official language at the most prestigious levels, but for less official matters, everyday proceedings (such as, e.g., court proceedings), Ruthenian (the predecessor of the current Belorussian and Ukrainian languages) was used.¹² Borrowings from Polish law determined the formation of social relations within the Lithuanian state, but the nobility at that point was still becoming “Ruthenianised” rather than Polonised.¹³ The sixteenth century was the age of legal codification and of several legal reforms, which makes this period especially interesting for research based on legal sources.

¹² Lithuanian language at this time was used only in the non-official everyday communication. The very first Lithuanian books only appeared around this time; the *Catechismusa Frosty Szadei* (The Simple Words of the Catechism) by Martynas Mažvydas was published in 1547.

¹³ The Polonisation of the Lithuanian nobility occurred later, mainly from the seventeenth century.



Picture 1: Grand Duchy of Lithuania 1568.¹⁴

In the time period on which I am going to concentrate – the time between two legal codes – the *Lithuanian Statutes*, that is, between 1529 and 1566, the country was ruled by only two rulers. From 1506 to 1544 Lithuania was ruled by Sigismund the Old and from 1544 to 1572 by his son, Sigismund August.¹⁵ This period was quite peaceful for ethnic Lithuania, but not for its Orthodox frontiers, thus even in the ethnic Lithuanian lands the effect of

¹⁴ At <http://www.zum.de/whkmla/histatlas/eceurope/haxlithuania.html>, after Wladyslaw Czapinski and Tadeusz Ladogorski, *The Historical Atlas of Poland* (Warsaw: Panstwowe Przedsiębiorstwo Wyd. Kartograficznych, 1986), 23.

¹⁵ Actually, Sigismund August was assigned as the Grand Duke of Lithuania in 1529, at the age of 9, but his father gave him the power of rule only in 1544.

continuous wars was felt. The hope for help from Poland in the wars with Muscovite Russia was one of the factors why Lithuania entered into complete union with Poland in 1569.¹⁶

As regards social stratification, Lithuania, like Poland,¹⁷ was a “land of nobles,” the lesser nobility forming a significant proportion of society compared to Western European countries. The higher nobility, the so-called *pany*,¹⁸ and some nobles who retained the title of dukes,¹⁹ were the ruling stratum of the Grand Duchy. Although the *First Lithuanian Statute* claimed that the laws enshrined in it were applicable to everyone, in reality it was these aforementioned strata that were the subjects of the code (and which are the object of my research). Lithuanian nobility as a social group was very varied and several subdivisions existed. The three main categories of nobles were the dukes, the *pany*, and the boyars. The rights and duties of the dukes and the *pany* were unified as early as the fifteenth century, but the terminological difference persisted, as the dukes kept their titles, even though not the rights. The unification of the substrata of the *pany* and the common boyars took somewhat longer; *pany* from the end of the fifteenth century participated in the management of the country to a greater degree than boyars and had legislative powers.²⁰ In the first part of the sixteenth century, the term boyar often meant the “common” nobles, contrasted to the *pany* and the dukes (the higher nobility), but also was used as an umbrella term for all nobles. There was a difference between the boyars of the grand duke and the boyars of the *pany*, depending on whom they got their property from.²¹ In my sources, the difference between the

¹⁶ The Union of Lublin was the act of union of the Lithuanian and the Polish states which introduced a single ruler, a single diet, a house of representatives and a senate, common foreign policies, law, and currency.

¹⁷ And, to a lesser degree, Hungary.

¹⁸ App. the lords. Singular: *pan*.

¹⁹ Originally, the provinces of the Grand Duchy of Lithuania were ruled by dukes, but later this became a hereditary title rather than a real function.

²⁰ Jevgenij Machovenko, “Lietuvos Didžiosios Kunigaikštystės visuomenės luominės struktūros susidarymo teisiniai pagrindai” (The Legal Basis for the Formation of the Stratified Society in the Grand Duchy of Lithuania), *Teisė* 39 (2001): 53-67.

²¹ Rimvydas Petrauskas, “Luomai” (Strata), in *Lietuvos Didžiosios Kunigaikštijos kultūra: tyrinėjimai ir vaizdai* (Culture of the Grand Duchy of Lithuania: Research and Images), ed. Vytautas Ališauskas, Liudas Jovaiša, Mindaugas Paknys, Rimvydas Petrauskas and Eligijus Raila (Vilnius: Aidai, 2001), 320-328.

higher nobility and the lower nobility is mainly seen from the different titles used as well as from the sums of money mentioned in the court records related to widows. The percentage of nobility in Lithuania is described differently in different sources. On average, it seems to have been around seven percent.²² However, out of this number, only a small proportion, the higher nobility, was truly rich. The lower nobility was closer to the peasantry than to the dukes and *pany*. While the dukes and the *pany* actively participated in the life of the state (forming the Council of Lords, which had the right to pass laws), the lower nobility were essentially landowners who concentrated on farming (as in the sixteenth century trade, especially grain export, was growing). Lower nobles had to perform military duties in the case of war,²³ and also had an opportunity to send their representatives to the General Diet, where, however, originally they were more often listeners than active participants,²⁴ and their influence slowly grew only in the later sixteenth century.

The other social strata in Lithuania were the clergy and the peasantry. Towns were few and the urban population was not numerous.²⁵ In first part of the sixteenth century, the process of the legal subjection of the peasantry was approaching completion. Already in the fifteenth century, by the privilege of 1447, the nobility was granted the rights of being the sole administrators and judges of their peasants. With the regulations of 1547, which ordered ignoring the patrimonial rights of the peasants, and with the regulations of 1557, which

²² *Lietuvos Statutas – The Statute of Lithuania – Statuta Lituaniae, 1529*, ed. and tr. Karl von Loewe and Edvardas Gudavičius (Vilnius: Artlora, 2002), 54.

²³ Zigmantas Kiaupa, Jūratė Kiaupienė and Albinas Kuncevičius, *The History of Lithuania before 1795* (Vilnius: Lithuanian Institute of History, 2000), 172.

²⁴ Machovenko, “Lietuvos Didžiosios Kunigaikštystės visuomenės luominės...”, 58.

²⁵ Only in the second half of the sixteenth century did the urban population become clearly distinct from the lesser nobility and the peasantry: on the one hand, some noblemen were residents of the towns, engaging in various trades, on the other, many town-dwellers had some land and were engaged in agriculture besides being involved in trade and crafts.

abolished the allodic²⁶ rights of the peasantry and turned them into serfs, the process was essentially complete.²⁷

Law

The Grand Duchy of Lithuania of the fifteenth and the sixteenth centuries was uneven in political, economic, ethnic and religious aspects alike.²⁸ Part of it was ethnic Lithuanian lands, converted from paganism to Catholicism at the end of the fourteenth century, and the rest was Orthodox Slavic lands (Ruthenia),²⁹ most of which had previously belonged to the territory of the Kievan Rus'. Both Ruthenian and Polish cultures had an impact on Lithuania in many spheres, not excepting the legal culture; Lithuania, in its turn, had an impact on these cultures. The customs valid in various parts of the territory of the Grand Duchy of Lithuania were different, and sometimes even contradictory. The two main areas of legal heritage in the Grand Duchy of Lithuania were: 1) eastern Slavic customary law, the core of which had developed during the times of the Kievan Rus' (ninth-twelfth century), and which prevailed in the Slavic lands, and 2) Lithuanian customary law, which prevailed in ethnic Lithuania.³⁰ Also, Polish law was used in the province of Podlachia at least from the first half of the fifteenth century.³¹

²⁶ Allodium was independently held real estate, not subject to any rent, service, or acknowledgment to a superior.

²⁷ This was not the case in Samogitia, where the nobility was less rich and much weaker, and the free peasants were rich to the degree that they could compete with the nobility (Kiaupa, Kiaupienė and Kuncevičius, *The History of Lithuania*, 174-175).

²⁸ In the fifteenth and early sixteenth centuries the territory of the Grand Duchy of Lithuania consisted of lands (земли), which from the beginning of the sixteenth century were usually called provinces (воеводства). Each province was an administrative, judicial and military unit. (Jevgenij Machovenko, *Nelietuviškų žemių teisinė padėtis Lietuvos Didžiojoje Kunigaikštystėje (XIV–XVIII a.)* [Vilnius: Vilniaus universiteto leidykla, 1999], 23.)

²⁹ The current nations of Ukrainians and Belarusians.

³⁰ Jevgenij Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai: mokomoji priemonė* (Legal Sources of the Great Duchy of Lithuania: A Primer) (Vilnius: Justitia, 2000), 10-11.

³¹ I. Jakubovskii [И. Якубовский], "Земские привилегии Великого Княжества Литовского" (Province Privileges of the Grand Duchy of Lithuania), *Журнал министерства народного просвещения* 347 (June 1903): 245-303 (part 2), 252; Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 65.

The situation regarding canon law was just as complex as customary law in the Grand Duchy of Lithuania. From the fourteenth to the sixteenth century two branches of canon law were valid here. In the ethnic land of Lithuania, Catholic canon law prevailed, while in the Slavic lands of the Grand Duchy Orthodox canon law predominated.³² Canon law regulated family relations, inheritance, and guardianship and influenced the civil law of the Grand Duchy of Lithuania. Via the canon law, elements of Roman law reached Lithuanian civil law, especially in the spheres of ownership, contracts, and inheritance.

As regards the laws valid in towns, before the reception of the Magdeburg law the lives of town-dwellers were regulated by urban customary law, the privileges of the grand duke, and the statutes of the town's self-government. From the end of the fourteenth century, the towns were granted the so-called Magdeburg law. The essence of each "Magdeburg" privilege was as follows: 1) the abolition of written and the customary legal norms contradicting Magdeburg law (which is to be understood not as the abolition of the local law, but as the abolition of the laws contradicting the principles of the town self-government and violating the rights and privileges of the town-dwellers); 2) exemption of town-dwellers from the power and court of the lords, the boyars and the state officials; 3) the establishment of self-government; 4) grants of economic privileges. The privileges did not enumerate the specific norms of Magdeburg law; it is likely that the "real" Magdeburg law was not very well-known in Lithuanian towns, at least in the fifteenth century. The town-dwellers did not need all of its norms; they borrowed only the provisions useful for them, and formed a synthesis of Magdeburg law and the local written and customary law. Magdeburg law was used if it did not contradict the local law. The town-dwellers mainly used the administrative and the procedural norms, but even these norms were adjusted to specific local circumstances. Besides the state towns, there were many private towns that belonged to both laymen and the

³² Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 35.

clergy. They could be founded and given “Magdeburg law” only with the permission of the grand duke, but then the owner of the town had the freedom to decide which norms of Magdeburg law were valid in his town and could change them.³³

Family and Inheritance

Briefly summarising the inheritance system present in Lithuania in the sixteenth century in order to place widows into a more general context, the following may be said. Inheritance was regulated by the legal provisions enshrined in the normative legislation and could be modified to some degree by testaments. There was no primogeniture in Lithuania in the sixteenth century. According to the legal provisions, after the death of the parents, the hereditary property had to be divided among the children – both sons and daughters – of the deceased (FLS III/9).³⁴ The parents were not obliged to give any property to the children during their lifetimes unless they themselves decided to do so. In their last testaments they could divide their property between the children as they saw fit (FLS V/20). The parents could disinherit their children for certain misdeeds, but this had to be properly recorded in court. The reasons for which a father could disinherit his son of his entire patrimony were disrespect or humiliation of the father. If a child was disinherited, two thirds of the property still had to stay in the family and one third could be disposed of freely (FLS IV/13), as testamentary inheritance laws allowed only one third of one’s hereditary property to be treated freely (purchased property and movables could be disposed of freely). A mother insulted by her son or daughter could also disinherit them of the property that she had (FLS IV/13). If a testament was drawn up, the parents had the freedom of distributing the property that they had among the children as they wished, but in the absence of a testament the default rules were different

³³ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 35-43.

³⁴ For all references to both Statutes, see the Ruthenian text and the translation into English in the Appendix.

for inheriting paternal and maternal property. If there were several siblings in the family, they could either live on independent property or stay on property undivided from the family. If they had already been assigned their portions and one of the brothers died, then whatever he had from the father was distributed only among his brothers. Whatever he had from the mother was equally distributed among both brothers and sisters (FLS IV/2). If there were sons from several marriages, by the legal provisions all of them were to receive equal shares of the father's property (FLS IV/14).

In general, the family structure was becoming more agnatic, but the primogeniture was practiced mainly among the higher nobility and women did not lose the right to immovable property from their fathers. As to the marriage patterns, I cannot say much from my sources, but in general equal marriages were encouraged, from the point of view of both the economic standing and ages of the spouses.³⁵ As Jolita Sarcevičienė notes, with no detailed studies it is difficult to say at what age women married, but she estimates the women's age at first marriage at 14-16 years. Relying on the Polish sources, Jolita Sarcevičienė says that the average marriage did not last long due to the death of one of the spouses; according to some scholars the duration was some 8-10 years, according to others, 10-15 years.³⁶ Remarriages were common, maybe somewhat less so among the highest nobility. Officially, the head of the family was the husband, but in reality power-relations within the family depended on the personalities of both spouses.³⁷

Women could hope for both inheritance and a dowry from their parents, although in practice the dowry coincided with the inheritance. Upon marriage, a parent could assign the

³⁵ Jolita Sarcevičienė, "Moterys," (Women), in *Lietuvos Didžiosios Kunigaikštijos kultūra: tyrinėjimai ir vaizdai* (Culture of the Grand Duchy of Lithuania: Research and Images), ed. Vytautas Ališauskas, Liudas Jovaiša, Mindaugas Paknys, Rimvydas Petrauskas and Eligijus Raila (Vilnius: Aidai, 2001), 397-412. As Sarcevičienė notes, since the research on family history in the Grand Duchy of Lithuania is not sufficient, it is difficult to say how often and in which strata marriages seeking to advance social and financial status were common.

³⁶ Jolita Sarcevičienė here refers to the research of Maria Bogucka, *Białogłowa w dawnej Polsce* (A "Whitehead" in Ancient Poland) (Warsaw: Trio, 1998).

³⁷ Sarcevičienė, "Moterys," 402-403.

daughter any amount as a dowry, in movables and/or immovables. However, if the parents died before all the daughters were married, all the daughters had to receive dowries equal to that of the first daughter. If the dowries were not given to the daughters in the parents' lifetime, then after their deaths the dowries were taken from one quarter of the property, regardless of the number of girls in the family, and the remaining three quarters were to be shared by the sons (FLS/7). Dowry was essentially the most secure means for women to obtain property, as all women had a right to it. A dower was not mandatory, thus women did not necessarily receive any property from their husbands. All that the law guaranteed was temporary usufruct rights to some of the husband's property; the rest depended essentially on mutual agreements and wishes of the husband.

Since this study relies on court records, it should be noted at this point that widows and women in general could access the court on equal grounds with men. True, in many instances they were represented by men – e.g., their son-in-law or by some other relative or friend – but in many other cases they went to court themselves.³⁸ In some circumstances – for instance, if a woman was letting her husband dispose of her dower – her presence in court was even required in order to make sure that she had not been forced into an agreement which she did not really wish (SLS V/16).

The position of noble women, including widows, in the Grand Duchy of Lithuania, at least in the eyes of the contemporary writers and politicians, was seen as being even “too good.” From a modern position, this is not quite so; although noble women could inherit immovable property and were expected in some circumstances to perform some of the same duties as men (e.g., to prepare resources from their property for military purposes), and could to some restricted degree or indirectly participate in public life, their position was not the

³⁸ Just a few examples: LM 227/398; LM 229/273; LM 254/34v-35v.

same as that of men in many respects.³⁹ As was mentioned above, they could not inherit paternal property on equal grounds with their brothers, and, could not marry freely without the agreement of their parents/relatives or hold immovable property if married to a foreigner,⁴⁰ as will be discussed below.

³⁹ Irena Valikonytė, “Ar Lietuvos Didžiojoje Kunigaikštystėje XVI a. moteris buvo pilietė” (Was a Woman Considered to be a Citizen in the Grand Duchy of Lithuania in the Sixteenth Century?), *Lietuvos istorijos studijos* 2 (1994): 64-69.

⁴⁰ Valikonytė, “Ar Lietuvos Didžiojoje Kunigaikštystėje...,” 65, 70.

II. Scholarship and Key Terms and Concepts

Research on Lithuanian Widows

This subsection of the overview of the scholarship presents a collection and analysis of the secondary literature which deals with the widows and family property in the legal documents of the Grand Duchy of Lithuania from the sixteenth century. Although this research will concentrate on materials from the first half of the sixteenth century, the collected literature embraces a broader time-span (mainly the fifteenth and sixteenth centuries), useful for putting the problem of widowhood into a wider perspective. The overview of the scholarship on Lithuanian widows is presented in chronological sequence in order to show the development of the scholarship and the trends present in it.

When dealing with secondary literature in this field, a critical approach should be applied for two reasons. Firstly, looking at the secondary literature from the chronological perspective, it is necessary to be aware of the ideological circumstances of the time: if during Soviet times a Marxist-Leninist ideology had to be present in any research and any earlier authors from previous times had to be treated with caution, now the scholarship of authors who carried out their research during Soviet times has to be interpreted carefully and selectively. Secondly, the fact that the history of the Grand Duchy of Lithuania belongs not to one nation, and thus attracts the interest of the researches of various nationalities – Lithuanian, Polish, Russian and Belorussian – who look at the issues in question from their own perspective, should not be forgotten.

The first interest in family law – and thus in the status of widows – of the Grand Duchy of Lithuania arose in the eighteenth century,⁴¹ but the first scholarly works

⁴¹ For a short summary, see Vytautas Andriulis, *Lietuvos Statutų (1529, 1566, 1588 m.) šeimos teisė* (Family Law of the *Lithuanian Statutes* [1529, 1566, 1588]) (Vilnius: Teisinės informacijos centras, 2003). (In this

concentrating specifically on the issues of widowhood date back to the late nineteenth century. Most scholars of the late nineteenth century touched upon various aspects of family law, and the following tendencies of research may be observed: some authors made overall reviews of the questions of family law while others concentrated on more specific issues such as the property relationship of spouses, the position of widows, and the relationship of parents and children, or even more particular topics, such as guardianship or adoption.

Most of the earliest research was undertaken by Russian and Polish scholars. Matvej Kuz'mich Liubavskii [Матвей Кузьмич Любавский] investigated the political and economic situation of the Grand Duchy of Lithuania before the *First Lithuanian Statute* of 1529 came into force, and also, basing his research on the *Lithuanian Metrica*, touched upon questions of the property relationships between spouses, the relations of widows with their adult children and the institution of inheritance.⁴² In his essays on civil law F. Leontovich [Ф. Леонтович] did not separate out the institution of family law as such, but explored it quite broadly under a review of some of the property relations.⁴³ Mihail Flegontovich Vladimirkii-Budanov [Михаил Флегонтович Владимирский-Буданов] made an effort to reconstruct the organisation of family from the court cases of Grodno from the mid-sixteenth century.⁴⁴

dissertation, when using the publications by Vytautas Andriulis, the most frequent reference is made to the aforementioned work as the most recent one; however, it should be noted that this book is in large part essentially a reprint of his earlier works, published starting from 1973.)

⁴² Matvei Kuz'mich Liubavskii [Матвей Кузьмич Любавский], *Областное деление и местное управление литовско-русского государства ко времени издания первого литовского статута* (Division into Districts and Local Government of the Lithuanian-Russian State before the Time of the *First Lithuanian Statute* Coming into Force) (Moscow, 1892), 551ff.

⁴³ F. Leontovich [Ф. Леонтович], "Правоспособность литовско-русской шляхты" (Legal Capacity of Lithuanian-Russian Nobility), *Журнал министерства народного просвещения* 3 (1908), 5 (1908), 6 (1908), 7 (1908), 2 (1909); F. Leontovich [Ф. Леонтович], "Очерки из истории литовско-русского права" (Sketches from the History of Lithuanian-Russian Law), *Журнал министерства юстиции* September, October 1903; September, October 1905; June 1906; F. Leontovich [Ф. Леонтович], "Источники русско-литовского права" (Sources of Russian-Lithuanian Law), *Варшавские университетские известия* 1 (1884); F. Leontovich [Ф. Леонтович], *К вопросу о выморочных имуществвах по литовскому праву* (To the Question of Escheat according to Lithuanian Law) (Moscow, 1897).

⁴⁴ Mihail Flegontovich Vladimirkii-Budanov [Михаил Флегонтович Владимирский-Буданов], *Очерки из истории литовско-русского права: Черты семейного права западной России в половине XVI в.* (Sketches from the History of Lithuanian-Russian Law: Features of Family Law of Western Russia in the Mid-Sixteenth Century), vol. 1 (Kiev, 1890).

Sergej Aleksandrovich Bershadskii [Сергей Александрович Бершадский] discussed property relations between parents and children.⁴⁵ I. Skitskii [И. Скитский] analysed the property relations of spouses and widows⁴⁶ and V. Spasovich [В. Спасович] also investigated the property relations of spouses.⁴⁷ J. Loho-Sobolewski and V. I. Picheta [В. И. Пичета] did research on guardianship.⁴⁸ Juliusz Bardach, historian of Polish and Lithuanian law, wrote about adoption in the Lithuanian law.⁴⁹

Lithuanian scholars started showing an interest in family law quite late, only at the beginning of the twentieth century. J. Baldžius, who researched ancient marriage customs, collected many useful sources in his works and tried to explain some of the terms connected to marriage.⁵⁰ L. Veržbavičius addressed questions of marital property, property relations of parents and their children,⁵¹ and issues of guardianship.⁵² In Soviet times the first scholars to

⁴⁵ Sergej Aleksandrovich Bershadskii [Сергей Александрович Бершадский], *О наследовании в выморочных имуществax по литовскому праву* (About the Inheritance of Escheat according to Lithuanian Law) (St. Petersburg: тип. Стасюлевича, 1892); Bershadskii, Sergej Aleksandrovich [Бершадский, Сергей Александрович], *Литовский статут и польские конституции. Историко-юридическое исследование* (*Lithuanian Statute and Polish Constitutions. Historical-Legal Research*) (St. Petersburg, 1893).

⁴⁶ I. Skitskii [И. Скитский], “Невенованные вдовы по Литовскому Статуту и по толкованию Сената” (Widows without Dower according to the *Lithuanian Statute* and to the Interpretation of the Senate), *Журнал министерства юстиции* 7 (1907): 19-64; 8 (1907): 141-187.

⁴⁷ V. Spasovich [В. Спасович], “Об отношениях супругов по имуществу по древнему польскому праву” (About Property Relationship between Spouses according to Old Polish Law), in *Сочинения* (Writings), vol. 1 (St. Petersburg, 1892), 1-49.

⁴⁸ J. Loho-Sobolewski, *Prawo opiekuńcze w dawnej Litwie* (Right of Guardianship in Ancient Lithuania) (Lwów: Drukarnia uniwersytetu Jagiell. pod zarządkiem J. Filipowskiego, 1937); V. I. Picheta [В. И. Пичета], “К истории опекунского права в Литовском Статуте 1529 г.” (To the History of Guardianship Law in the *Lithuanian Statute* of 1529), in *Белоруссия и Литва* (Belorussia and Lithuania) (Moscow: Издательство академии наук СССР, 1961), 456-472.

⁴⁹ Juliusz Bardach, *Adopcja w prawie litewskim XV i XVI w.* (Adoption in Lithuanian Law in the Fifteenth and Sixteenth Centuries) (Vilnius: Drukarnia artystyczna “Grafika”, 1938).

⁵⁰ J. Baldauskas, “Pirktinės vestuvės” (Bought Wedding), dissertation (Kaunas, 1936); J. Baldžius, *Vogtinės vestuvės* (Stolen Wedding) (Kaunas, 1940).

⁵¹ L. Veržbavičius, “Senoji Lietuvos šeimos teisė, I dalis: Vedybų teisė” (Old Laws of Lithuania, Part 1: The Law of Marriage), *Teisė* 18 (1930): 64-83; L. Veržbavičius, “Senoji Lietuvos šeimos teisė, II-oji dalis: Vedybų turto teisė” (Old Laws of Lithuania, Part 2: The Law of Marriage Property), *Teisė* 19 (1931): 26-43; L. Veržbavičius, “Senoji Lietuvos šeimos teisė, III-ji dalis: Tėvai ir vaikai” (Old Laws of Lithuania, Part 3: Parents and Children), *Teisė* 20 (1931): 77-92.

⁵² L. Veržbavičius, “Globa pagal Lietuvos Statutus” (Guardianship according to the *Lithuanian Statutes*), *Teisė* 39 (1937): 298-312.

investigate family property relations to some extent were J. Jurginis⁵³ and J. Jablonskis.⁵⁴ Among Lithuanian emigrants who left Lithuania in connection to the Second World War, family law was investigated by Aleksandas Plateris.⁵⁵

From the 1970s onwards research on the family law of the Grand Duchy of Lithuania, in all three *Statutes* and in the *Metrica*, experienced a qualitative and quantitative leap due to greater availability of materials and a resurgence of interest – most importantly, among a fresh generation of scholars. Vytautas Andriulis started his research on family law by exploring conditions for concluding a marriage.⁵⁶ He dedicated his attention, *inter alia*, to problems of family property relations in his articles on illegitimate children and divorce,⁵⁷ and even more so in his articles on the relations of parents and children and on the legal regulation of family property relations.⁵⁸ Vytautas Andriulis' research resulted in a dissertation on family relations, where property questions were addressed in great detail.⁵⁹ Afterwards Vytautas Andriulis returned to questions of family law in an article on the legal regulation of family property relations.⁶⁰ He based his research on the family on the *Third Lithuanian*

⁵³ J. Jurginis, "Lietuvių šeima XIII–XIV amžiais" (The Lithuanian Family from the Thirteenth to the Fourteenth Century), *Iš lietuvių kultūros istorijos* 1 (1958): 248-259; J. Jurginis, *Baudžiavos įsigalėjimas Lietuvoje* (The Establishment of Serfdom in Lithuania) (Vilnius: Valstybinė politinės ir mokslinės literatūros leidykla, 1962).

⁵⁴ Konstantinas Jablonskis, *Lietuvos valstybės ir teisės istorija nuo XIV a. pabaigos iki XVI a. vidurio* (The History of Lithuanian State and Law from the End of the Fourteenth to the Middle of the Sixteenth Century) (Vilnius: [s.n.], 1971).

⁵⁵ Aleksandras Plateris, "Turto paveldėjimas pagal Pirmąjį Lietuvos Statutą" (Inheritance of Property according to the *First Lithuanian Statute*), *Lituanistikos darbai* 4 (1979): 248-258.

⁵⁶ Vytautas Andriulis, "Pozityvinės santuokos sudarymo sąlygos pagal 1588 m. Lietuvos Statutą" (Positive Conditions for the Conclusion of Marriage according to the *Lithuanian Statute* of 1588), *Teisė* 12, No. 1 (1973): 19-26.

⁵⁷ Vytautas Andriulis, "Neteisėti vaikai pagal feodalinę Lietuvos teisę" (Illegitimate Children according to Lithuanian Feudal Law), *Socialistinė teisė* 2 (1974): 60-63; Vytautas Andriulis, "Santuokos nutraukimas ir jos pripažinimas negaliojančia senojoje Lietuvos teisėje" (Termination of a Marriage and Its Acknowledgement as not Valid in Old Lithuanian Law), *Socialistinė teisė* 1 (1975): 55-60.

⁵⁸ Vytautas Andriulis, "Tėvų ir vaikų santykiai pagal Lietuvos Statutus" (Relationships of Parents and Children according to the *Lithuanian Statutes*), *Socialistinė teisė* 3 (1975): 50-54; Vytautas Andriulis, "Sutuoktinių turtinių santykių reguliavimas įkraičio (вено) sutartimi 1588 m. Lietuvos Statute" (Regulation of Property Relationships of Spouses in the Contract of Dower in the *Lithuanian Statute* of 1588), *Lietuvos TSR mokslų akademijos darbai, A serija (Visuomenės mokslai)* 52, No. 3 (1975): 39-50.

⁵⁹ Vytautas Andriulis, "Šeimos santykių teisinis reguliavimas pagal 1588m. Lietuvos Statutą" (Legal Regulation of Family Relations according to the *Lithuanian Statute* of 1588), dissertation (Vilnius, 1975).

⁶⁰ Vytautas Andriulis, "Teisinis šeimos turtinių santykių reguliavimas Lietuvoje XIII–XVI a." (Legal Regulation of Family Wealth Relationships in Lithuania from the Thirteenth to the Sixteenth Century), in *Teisinių institutų*

Statute, but also looked at the material from the *First Lithuanian Statute* and the *Second Lithuanian Statute*, and recently a summary of his investigations of the past thirty years was published in book form. Some of the research done by Vytautas Andriulis will be relevant for this investigation; the analysis of the norms of the *First Lithuanian Statute* and the *Second Lithuanian Statute* provides some insight into the development of legal norms related to widowhood, as well as his analysis of other sources (including the privileges of the ruler), which influenced the formation of the norms in the *First Lithuanian Statute*.

Irena Valikonytė started her research into questions connected to family law at approximately the same time as Vytautas Andriulis. She restricted her research to the socio-economic and legal position of women, but carried it out on a wider range of sources; she not only analysed the legal norms regarding the position of women in the *First Lithuanian Statute*,⁶¹ but also investigated material concerning the status of women in the books of the *Lithuanian Metrica* from the end of the fifteenth to the first half of the sixteenth century and compared them to the laws of the *First Lithuanian Statute*.⁶² Irena Valikonytė paid great attention to the property status of women,⁶³ the position of widows⁶⁴ and the rights of

raidą Lietuvoje XIV–XIX (The Development of Legal Institutions in Lithuania from the Fourteenth to the Nineteenth Century), ed. P. Dičius, Vytautas Andriulis, V. Raudeliūnas, and Stasys Vansevičius, 79-102, *Teisės istorijos studijos* (Studies of the History of Law), vol. 2 (Vilnius: Mintis, 1981).

⁶¹ For example, in Irena Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių, atspindinčių moterų padėtį, šaltiniai” (Sources for Some of the Articles of the *First Lithuanian Statute*, Concerning the Status of Women), *Jaunųjų istorikų darbai* 1 (1976): 29-40; Irena Valikonytė [И. Валиконите], “I Литовский Статут – один из важнейших источников истории положения женщин в Великом Княжестве Литовском” (The *First Lithuanian Statute*: One of the Most Important Sources of History of the Status of Women in the Grand Duchy of Lithuania), in *Первый Литовский Статут 1529 года (материалы республиканской научной конференции, посвященной 450-летию Первого Статута)* (The *First Lithuanian Statute* of 1529: Materials of the Scholarly Conference of the Republic on the Occasion of the 450 Anniversary of the *First Statute*), ed. J. Kubilius et al. (Vilnius: Lietuvos TRS aukštojo ir specialiojo vidurinio mokslo ministerija, 1982), 38-46.

⁶² For example, in Irena Valikonytė [И. Валиконите], “Социально-экономическое и правовое положение женщин в Великом Княжестве Литовском (конец XV – первая половина XVI в.) и его отражение в Первом Литовском Статуте” (The Socio-economic and the Legal Status of Women in the Grand Duchy of Lithuania from the End of the Fifteenth to the First Half of the Sixteenth Century, and Its Reflection in the *First Lithuanian Statute*), dissertation (Vilnius University, Vilnius, 1978).

⁶³ Stanislovas Lazutka and Irena Valikonytė [С. Лазутка и И. Валиконите], “Имущественное положение женщины (матери, жены, дочери, сестры) привилегированного сословия по Литовскому Статуту” (Property Status of a Woman [Mother, Wife, Daughter, Sister] of the Privileged Stratum according to the *Lithuanian Statute*), *Istorija* 16, No. 2 (1976): 74-103.

women,⁶⁵ and analysed various aspects of family law in the introductions to editions of the *Books of Court Records of the Lithuanian Metrica*⁶⁶ and works connected to the research of the *Lithuanian Metrica*.⁶⁷

The research done by Irena Valikonytė is highly important for this study, especially in terms of her approach to the primary sources, that is, the study of the material from the *First Lithuanian Statute* combined with analysis of material from the *Lithuanian Metrica*. Her analysis has already answered many of the questions connected to the status of widows. The research of this dissertation, among other aims, will contribute to the analysis of one of the aspects taken up by Irena Valikonytė, the property status of widows within the family, in the context of family property relations.

Some research into family law was also done by Stanislovas Lazutka, who addressed family law in the *First Lithuanian Statute* to some extent,⁶⁸ and by Stasys Vansevičius, who

⁶⁴ Irena Valikonytė and Stanislovas Lazutka, “Keli Lietuvos Metrikos aktai apie neįdovintų našlių padėtį XVI a. I pusėje” (Some Acts from the *Lithuanian Metrica* about the Status of Widows without Dower in the First Half of the Sixteenth Century), *Lituanistica* 7, No. 3 (1991): 91-98; Irena Valikonytė, “Našlės vainikinė Lietuvos Didžiojoje Kunigaikštystėje XVI a.: norma ir realybė” (Widow’s *Venets* in the Grand Duchy of Lithuania in the Sixteenth Century: Norm and Reality), in *1566 metų Antrasis Lietuvos Statutas. Respublikinės mokslinės konferencijos medžiaga* (The *Second Lithuanian Statute* of 1566: The Materials of the Republic’s Scholarly Conference), ed. Alfredas Bumblauskas, M. Jučas, Stanislovas Lazutka, Irena Valikonytė and A. Vasiliauskienė (Vilnius: Vilniaus universiteto leidykla, 1993), 82-90; Irena Valikonytė, “The *Venets* of Noblewomen in the Grand Duchy of Lithuania,” *Lithuanian Historical Studies* 2 (1997): 97-107.

⁶⁵ Irena Valikonytė, “Lietuvos Didžiosios Kunigaikštystės bajorių teisė laisvai ištekti: realybė ar fikcija?” (The Right of the Noblewomen of the Grand Duchy of Lithuania to Marry Freely: Reality or Fiction?), in *Lietuvos valstybė XII–XVIII a.* (The Lithuanian State from the Twelfth to the Eighteenth Century), ed. Zigmantas Kiaupa, Artūras Mickevičius and Jolita Sarcevičienė (Vilnius: Lietuvos istorijos instituto leidykla, 1997), 147-157; Valikonytė, “Ar Lietuvos Didžiojoje Kunigaikštystėje...,” 63-73.

⁶⁶ Stanislovas Lazutka, Irena Valikonytė, G. Kiekienė and Jolanta Karpavičienė, “Įvadas” (Introduction), in *Lietuvos Metrika (1522–1530): 4-oji Teismų bylų knyga* (The *Lithuanian Metrica*, 1528-1547: The Sixth Book of Court Records), ed. A. Bumblauskas, Edvardas Gudavičius, M. Jučas, Stanislovas Lazutka and Irena Valikonytė, ix-lxxxi (Vilnius: Vilniaus universiteto leidykla, 1997); Stanislovas Lazutka, Irena Valikonytė and Jolanta Karpavičienė, “Įvadas” (Introduction), in *Lietuvos Metrika (1528–1547): 6-oji Teismų bylų knyga*, ed. Bumblauskas, Gudavičius, Jučas, Lazutka, and Valikonytė, ix-cxix; Stanislovas Lazutka, Irena Valikonytė and J. Sinkevičiūtė, “Įvadas” (Introduction), in *Lietuvos Metrika (1533–1535): 8-oji Teismų bylų knyga* (The *Lithuanian Metrica* (1533-1535): The Eighth Book of Court Records), ed. A. Bumblauskas, M. Jučas, Stanislovas Lazutka and Irena Valikonytė (Vilnius: Vilniaus Universiteto Leidykla, 1999); Irena Valikonytė and Stanislovas Lazutka, “Įvadas” (Introduction), in *Lietuvos Metrika (1542): 11-oji Teismų bylų knyga*, ed. Valikonytė and Viskantaitė, ix-xxv.

⁶⁷ Irena Valikonytė, “Lietuvos Metrikos 4-oji Teismų bylų knyga – šaltinis moters statusui tirti” (The Fourth Book of Court Records of the *Lithuanian Metrica*: A Source for the Research into the Status of Woman), in *Lietuvos Metrikos Studijos* (Studies of the *Lithuanian Metrica*), ed. Irena Valikonytė (Vilnius: Vilniaus universiteto leidykla, 1998).

gave a summary of family law in the Grand Duchy of Lithuania.⁶⁹ A Belorussian historian, Galina Dzerbina, has also contributed to the research on family law,⁷⁰ although her work is mainly descriptive.

The newest research in the field, tangentially connected to my topic, is that of Jolanta Karpavičienė, who deals with the status of women in towns,⁷¹ basing her research on several different sources (such as the books of the magistrate of Kaunas), but also analysing to a great extent the cases from the *Lithuanian Metrica* for a comparison of the status of women in towns and the countryside. Another scholar dealing with matters connected to my subject is Lina Anužytė, who deals with testamentary inheritance.⁷² Somewhat less relevant to my research, but still of great interest, is the research of Jolita Sarcevičienė, who draws her data on women from literary sources.⁷³

⁶⁸ Stanislovas Lazutka [С. Лазутка], *I Литовский Статут – феодальный кодекс Великого Княжества Литовского* (The *First Lithuanian Statute: A Feudal Codex of the Grand Duchy of Lithuania*) (Vilnius: Vilniaus universiteto leidykla, 1973).

⁶⁹ Stasys Vansevičius, *Lietuvos Didžiosios Kunigaikštystės valstybiniai-teisiniai institutai (Pagal 1529, 1566 ir 1588 m. Lietuvos Statutus)* (State and Legal Institutions of the Grand Duchy of Lithuania according to the *Lithuanian Statutes of 1529, 1566 and 1588*) (Vilnius: Mintis, 1981), 63-79.

⁷⁰ Galina Dzerbina [Галіна Дзербіна], *Права і сям'я ў Беларусі эпохі Рэнесансу* (Law and Family in Belorussia during Renaissance) (Minsk: “Тэхналогія,” 1997).

⁷¹ Jolanta Karpavičienė, “... Magdeburgo teisėje gerada turi dukrai tekti”: Turtinė moters padėtis Vilniuje ir Kaune XVI a. pirmojoje pusėje” (“... According to the Magdeburg Law the *Gerade* Belongs to a Daughter”: The Property Status of a Woman in Vilnius and Kaunas in the First Half of the Sixteenth Century), *Lituanistica* 47, no. 3 (2001): 3-19; Jolanta Karpavičienė, “Moteris teisinėje Vilniaus ir Kauno kasdienoje XVI a. pirmojoje pusėje: Modernėjimo gyvenimo ženklai” (A Woman in a Legal Everyday Situation in Vilnius and Kaunas in the First Half of the Sixteenth Century: Signs of Life Becoming More Modern), *Lietuvos istorijos studijos* 9 (2001): 17-32; Jolanta Karpavičienė, “Moters padėtis Kaune XVI a. pirmojoje pusėje: globėjiskasis miesto teisės aspektas” (A Woman’s Position in Kaunas in the First Half of the Sixteenth Century: Protective Aspect of the Town Law), *Kauno istorijos metraštis* 3 (2002): 37-48; Jolanta Karpavičienė, “Moters statusas Lietuvos miestuose iki XVI a. vidurio: Vilniaus ir Kauno pavyzdys” (The Status of Women in Lithuanian Towns until the Middle of the Sixteenth Century: The Example of Vilnius and Kaunas), PhD dissertation (Vilnius, 2002).

⁷² Lina Anužytė, “Testaments of Nobles of Samogitia in the Second Half of the 16th and the Second Half of the 17th Century,” MA thesis (Budapest: CEU, 1995); Lina Anužytė, “Lietuvos Metrika – šaltinis ikistatutinio laikotarpio testamentinio paveldėjimo reguliavimui tirti” (The *Lithuanian Metrica* as a Source for the Study of the Regulation of Pre-Statute Inheritance by Testament), *Lituanistica* 39, No. 3 (1999): 3-15.

⁷³ E.g., Jolita Sarcevičienė, “Vyro ir žmonos santykių modelis XVI a. II pusės – XVII a. I pusės proginėje literatūroje Lietuvos Didžiojoje Kunigaikštystėje – patriarchatas ar partnerystė?” (The Model of Relations of Husband and Wife in the Occasional Literature of the Second Half of the 16th and the First Half of the 17th Century: Patriarchate or Partnership?), in *Kultūrų sankirtos* (Crossroads of Culture) (Vilnius: Diemedis, 2000), 189-217; Jolita Sarcevičienė, “Moterys,” (Women), in *Lietuvos Didžiosios Kunigaikštijos kultūra: tyrinėjimai ir vaizdai* (Culture of the Grand Duchy of Lithuania: Research and Images), ed. Vytautas Ališauskas, Liudas Jovaiša, Mindaugas Paknys, Rimvydas Petrauskas and Eligijus Raila (Vilnius: Aidai, 2001), 397-412.

The material chosen for research on family property relations in the Grand Duchy of Lithuania in the first part of the sixteenth century has been investigated to very diverse degrees. The *First Lithuanian Statute* is a well-analysed source.⁷⁴ Among various other aspects, the family law (and especially the legal status of women) of the *Statute* has also been studied to a considerable extent. The *Lithuanian Metrica* has not received such close attention as a direct object of study, partially because of its poorer accessibility,⁷⁵ although materials from the *Metrica* have been published in a number of source collections.⁷⁶ Also, recently the

⁷⁴ Apart from the above-mentioned edition and translations of the *Statute*, which have extensive introductions, the following recent works can be mentioned: Lazutka and Gudavičius, “I Lietuvos statuto šaltinių klausimu,” 149-175; Лазутка, *I Литовский Статут*; Stasys Vansevičius, “Teismas ir jo procesas pagal 1529 metų Lietuvos Statutą” (The Court and Its Process according to the *Lithuanian Statute* of 1529), in *Teisės bruožai Lietuvoje XV–XIX* (The Features of the Law in Lithuania from the Fifteenth to the Nineteenth Century), ed. Vytautas Andriulis, V. Raudeliūnas and Stasys Vansevičius (Vilnius: Mintis, 1980), 59-70; Vansevičius, *Lietuvos Didžiosios Kunigaikštystės...*; Vytautas Andriulis, “1529 metų Lietuvos Statuto sistemos problema teisės sistemos istorinės sampratos požiūriu” (The Problem of the System of the *Lithuanian Statute* of 1529 from the Perspective of Historical Understanding of the Law System), *Teisė* 17, No. 1 (1983): 5-21; Stanislovas Lazutka [С. Лазутка], “От Первого Литовского Статута ко Второму (пространная редакция Первого Статута)” (From the *First Lithuanian Statute* to the *Second*: Expanded Redaction of the *First Statute*), in *1566 metų Antrasis Lietuvos Statutas. Respublikinės mokslinės konferencijos medžiaga* (The *Second Lithuanian Statute* of 1566: The Materials of the Republic’s Scholarly Conference), ed. Alfredas Bumblauskas, M. Jučas, Stanislovas Lazutka, Irena Valikonytė and A. Vasiliauskienė (Vilnius: Vilniaus universiteto leidykla, 1993), 76-81; Juliusz Bardach, *Statuty litewskie a prawo rzymskie* (*Lithuanian Statutes and Roman Law*) (Warsaw: OBT, 1999).

⁷⁵ Most of the books of the *Lithuanian Metrica* are still available only on microfilms in the National Historical Archives of Lithuania. The originals are kept in the Russian State Archive of Early Acts [Русский государственный архив древних актов, РГАДА, фонд no. 389]. Few books were published in the early twentieth century in Russia. Publication was renewed about fifteen years ago in Lithuania, and some publications are also produced in Poland, Belorussia and Ukraine.

⁷⁶ Materials from the *Lithuanian Metrica* were widely used for thematic collections, primarily regarding political aspects of the Grand Duchy of Lithuania (for example, *Акты, относящиеся к истории Западной России, собранные и изданные Археологической комиссией. Том первый. 1340–1506* (Acts Concerning the History of Western Russia, Collected and Published by the Archeographical Commission. Volume One. 1340-1506) (St. Petersburg: Типография II Отделения Собственной Е. И. В. Канцелярии, 1846), reprinted in Slavistic Printings and Reprintings, vol. 261, No. 1, ed. C. H. van Schooneveld (The Hague: Mouton, 1971); *Акты, относящиеся к истории Западной России, собранные и изданные Археологической комиссией. Том второй. 1506-1544* (Acts Concerning the History of Western Russia, Collected and Published by the Archeographical Commission. Volume Two. 1506-1544) (St. Petersburg: Типография II Отделения Собственной Е. И. В. Канцелярии, 1848), reprinted in Slavistic Printings and Reprintings, vol. 261, No. 2, ed. C. H. van Schooneveld (The Hague: Mouton, 1971); *Акты, относящиеся к истории Западной России, собранные и изданные Археологической комиссией. Том третий. 1544-1587* (Acts Concerning the History of Western Russia, Collected and Published by the Archeographical Commission. Volume Three. 1544-1587) (St. Petersburg: Типография II Отделения Собственной Е. И. В. Канцелярии, 1848), reprinted in Slavistic Printings and Reprintings, vol. 261, No. 3, ed. C. H. van Schooneveld (The Hague: Mouton, 1971); *Акты, относящиеся к истории Южной и Западной России* (Acts Concerning History of Southern and Western Russia), vol. 1: 1361-1598 (St. Petersburg: Археологическая комиссия, 1863), reprinted in Slavistic Printings and Reprintings 178, No. 1, ed. C. H. Van Schooneveld [The Hague: Mouton, 1970]), but also touching such areas as law (for example, *Zbiór praw litewskich od roku 1389. do roku 1529. Tudzież rozprawy sejmowe o tychże prawach od roku 1544. do roku 1563*. (Collection of Lithuanian Laws from 1389 to 1529. Also

material of the *Metrica* has been drawing more and more attention from scholars of various nations.⁷⁷ These scholars have used the materials from the *Lithuanian Metrica* to a lesser or greater degree, discussing also the matters of family law.

As can be seen from this short overview of the secondary literature, many aspects of the family law have been analysed. To the best of my knowledge, no work has been carried out concentrating on widows and family property with an emphasis on the legal models of the provisions for widowhood based on materials from both the *Statutes* and the *Lithuanian Metrica*, therefore I feel that this is an area where I can make a contribution to knowledge.

International Research

This dissertation aims not only at defining the status of widows in sixteenth-century Lithuania, but also at putting Lithuania into a broader European context. This section contains a brief overview of works of international scholarship on similar subjects which contribute to the theoretical and methodological background of this dissertation as well as providing comparative material. The readings of the existing research had to be delimited in some way. The works that are included in this overview present either a detailed analysis of widowhood in other countries, contain some useful theoretical material, or served as background reading.

the Decisions of the Diet Regarding These Laws from 1544 to 1563), ed. Dzialiński (Poznań: W drukarni na Garbarach No. 45, 1841).

⁷⁷ The latest research on the *Lithuanian Metrica* is regularly published in *Lietuvos Metrikos naujienos* (News of the *Lithuanian Metrica*), vol. 1- (Vilnius: LII leidykla, 1996-). An on-going project at the Faculty of History of Vilnius University, “The Society of the Grand Duchy of Lithuania from the Fifteenth to the Eighteenth Century. Research and Publication of the *First Lithuanian Statute*, the *Lithuanian Metrica* and Sources of the Age of Enlightenment” (1999-2008, supervised by Prof. Irena Valikonytė), investigates the *First Lithuanian Statute* and the so-called *Court Record Books* of the *Lithuanian Metrica* of the first half of the Sixteenth Century. In 2001 Belorussian scholars started issuing a new periodical, *Metriciana*, dedicated to research on the *Metrica* of the Grand Duchy of Lithuania (*Metriciana* 1 (2001) is accessible on the Internet, at http://starbel.narod.ru/metr1/metr1_gal.htm). Also, part of the catalogue of books of the *Lithuanian Metrica* (based mainly on the catalogue of Ptaszycki), as well as some of the registers of the published books, were made accessible at http://starbel.narod.ru/metrika/metrika_gal.htm.

As was noted in the introduction, the status of widows can be seen differently from different perspectives. One trend in scholarship regards widowhood as a desirable state for a medieval woman. Widowhood is seen as an opportunity for independence,⁷⁸ at least partial equality with men,⁷⁹ and legal liberation.⁸⁰ Widows are seen as not having to conform to the traditional male ideal of a woman⁸¹ and being free of anyone's authority.⁸²

According to another view (e.g., Anderson and Zinsser), becoming a widow meant becoming vulnerable,⁸³ and remarriage is seen as the most favourable outcome in many situations, although it may have been forced;⁸⁴ widows were in mercy of overlords and kings. According to Anderson and Zinsser, in the West husbands were acquiring more control over the wives' property from the thirteenth to the seventeenth century; acquiring "authority over any money or property she might have in her own right or that the couple might have acquired together." However, as the authors admit, for strong-minded women widowhood was a time of opportunity.⁸⁵

⁷⁸ E.g., Shulamith Shahar, *The Fourth Estate: A History of Women in the Middle Ages*, tr. Chaya Galai (London: Routledge, 1991) (1st ed. London: Methuen, 1983), 95.

⁷⁹ Eileen Power, *Medieval Women*, ed. M. M. Postan (London: Cambridge University Press, 1975), 38, sees widowhood as allowing women to be equal to men at least in private life.

⁸⁰ Julia O'Faolain and Lauro Martines, ed., *Not in God's Image: Women in History from the Greeks to the Victorians* (New York: Harper, 1973), 146: "death of one partner was the legal liberation of another."

⁸¹ Bonnie S. Anderson and Judith P. Zinsser, *A History of Their Own: Women in Europe from Prehistory to the Present*, vol. 2 (New York: Harper, 1988), 29.

⁸² Shahar, *Fourth Estate*, 95: "no longer forced to accept the authority of another."

⁸³ Anderson and Zinsser, *A History of Their Own*, vol. 1, 324: "For most noblewomen from the ninth to the seventeenth centuries, however, becoming a widow, a woman 'sole and unmarried,' as the English called it, meant becoming vulnerable. In theory her husband's family had assumed responsibility for her on her marriage, the obligation to protect her and to provide for her. The gift of dowry at the time of the betrothal negotiations had been balanced by rights to part of her husband's wealth should he die before her. In fact, however, a widow could easily become the pawn of the interests of her new family, or those of a stronger warrior, even the king. Lords and overlords considered widows fair game. Widows could lose title to all property, even their dowry. They might be forced to remarry. When enough of property was involved, they might lose the right to care for their own children; others would want control of the heirs' lives and future holdings."

⁸⁴ Anderson and Zinsser, *A History of Their Own*, vol. 1, 325: "If she was young enough, a widow expected to remarry. A well-born woman might trust to her family to choose a new husband and so to ensure her continued comfort and safety. ... From the ninth to the seventeenth centuries the more prosperous she was, the more illustrious the lineage, the more important her remarriage would be, and the more likely the occasions for abuse..."

⁸⁵ Anderson and Zinsser, *A History of Their Own*, vol. 1, 326, 328-329, 400. Isabelle Chabot, "Widowhood and Poverty in Late Medieval Florence," *Continuity and Change* 3 (1988): 291-311, is another author who presents an account of poor widows struggling for survival.

Numerous other general works on family relations, the status of widows, the relation of the dowry and the dower, although not directly used in the dissertation, informed my knowledge of the widow's position in Europe throughout the Middle Ages and to some extent into the Early Modern period and served as sources for understanding the possible problematic of the status of Lithuanian widows.⁸⁶ The book of Inger Dübeck is an interesting overview of the legal history of women and property in Europe.⁸⁷ Sandra Cavallo and Lyndan Warner in their work present possible models of widowhood and various stereotypes of widows,⁸⁸ and Olwen Hufton presents an overview of the history of widowhood in various countries.⁸⁹ Jack Goody discusses the relation of dower, dowry, and inheritance.⁹⁰ Lloyd Bonfield's article was useful for the understanding the use of legal sources in history.⁹¹ The work of Charles Donahue, Jr. was useful for understanding the relation of separate versus common property and the widow's rights to her husband's property.⁹² Another group of works which was not used directly in this study but which helped to identify possible and impractical directions for my research as well as forming the general wider understanding of

⁸⁶ The work of Emilie Amt, ed., *Women's Lives in Medieval Europe: A Sourcebook* (New York: Routledge, 1993) is an interesting reference for various medieval laws on marriage and widowhood.

⁸⁷ Inger Dübeck, *Kvinder, familie of formue: Studier i dansk og europæisk retshistorie* (Women, Family and Fortune: Studies in Danish and European Legal History) (Copenhagen: Museum Tusculanums Forlag, 2003).

⁸⁸ Sandra Cavallo and Lyndan Warner, "Introduction," in *Widowhood in Medieval and Early Modern Europe*, ed. Sandra Cavallo and Lyndan Warner (New York: Longman, 1999), 3-23.

⁸⁹ Olwen Hufton, *The Prospect before Her: A History of Women in Western Europe, Volume One, 1500-1800*, chapter 6, "Widowhood" (London: Fontana Press, 1997), 215-250.

⁹⁰ Jack Goody, *The Development of the Family and Marriage in Europe*, appendix 2, "From Brideprice to Dowry" (Cambridge: Cambridge University Press, 1983), 240-261.

⁹¹ Lloyd Bonfield, "Developments in European Family Law," in *The History of the European Family*, vol. 1: *Family Life in Early Modern Times, 1500-1789*, ed. David I. Kertzer and Marzio Barbagli (New Haven: Yale University Press, 2001), 87-124.

⁹² Charles Donahue, Jr. "What Causes Fundamental Legal Ideas? Marital Property in England and France in the Thirteenth Century," *Michigan Law Review* 78 (1979): 59-88.

family models, were further works of Jack Goody,⁹³ Peter Laslett,⁹⁴ David Herlihy,⁹⁵ Emmanuel Le Roy Ladurie⁹⁶ and others.

As regards the works that had direct an influence on the ideas of this dissertation, the following publications should be mentioned. The collection of articles by Maria Ågren and Amy Louise Erickson was possibly one of the greatest influences on my dissertation. This work offered me the idea of looking at Lithuanian laws on widows from the perspective of the separate legal models – those of contractual provisions and legal provisions.⁹⁷ The work of Susan Staves turned my attention to the importance of the ownership of property versus temporary management rights to property or income from the property.⁹⁸ As regards the literature on separate European countries, the following books and articles were of use for the dissertation (although not all of them were directly used).⁹⁹ For Poland, I found useful the works by Juliusz Bardach,¹⁰⁰ Maria Bogucka,¹⁰¹ and Teresa Zielińska,¹⁰² which analyse the

⁹³ Jack Goody, *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983).

⁹⁴ Peter Laslett, "Characteristics of the Western Family Considered over Time," in *Family Life and Illicit Love in Earlier Generations: Essays in Historical Sociology* (Cambridge: Cambridge University Press, 1977), 12-49.

⁹⁵ David Herlihy, *Medieval Households* (Cambridge, MA: Harvard University Press), 1985.

⁹⁶ Emmanuel Le Roy Ladurie, "Family Structures and Inheritance Customs in Sixteenth-Century France." In *Family and Inheritance. Rural Society in Western Europe, 1200-1800*, ed. Jack Goody, Joana Thirsk and E. P. Thompson (Cambridge: Cambridge University Press, 1976), 37-70.

⁹⁷ Maria Ågren and Amy Louise Erickson, ed., *The Marital Economy in Scandinavia and Britain, 1400-1900*, Women and Gender in the Early Modern World (Aldershot: Ashgate, 2005), 12.

⁹⁸ Susan Staves, *Married Women's Separate Property in England, 1660-1833* (Cambridge: Harvard University Press, 1990), 1-90. As Susan Staves notes, an important indicator evaluating women's rights is whether she merely temporarily manages immovable property or is in full control of it: giving rights of full ownership to women means that a legal system trusts their ability and judgement.

⁹⁹ Some of the works on separate countries, although not used directly in this dissertation, were of interest for my research: for England: Amy Louise Erickson, *Women and Property in Early Modern England* (London: Routledge, 1993); for Italy: Isabele Chabot, "Lineage Strategies and the Control of Widows in Renaissance Florence," in *Widowhood in Medieval and Early Modern Europe*, ed. Sandra Cavallo and Lyndan Warner (New York: Longman, 1999), 127-144; Thomas Kuehn, *Law, Family and Women: Towards a Legal Anthropology of Renaissance Italy*. Chicago, 1991; for France: Barbara B. Diefendorf, "Widowhood and Remarriage in Sixteenth-Century Paris," *Journal of Family History* 7, No. 4 (1982): 379-395; Barbara B. Diefendorf, "Women and Property in ancien régime France: Theory and Practice in Dauphiné and Paris," in *Early Modern Conceptions of Property*, ed. John Brewer and Susan Staves (New York: Routledge, 1995), 170-193.

¹⁰⁰ Juliusz Bardach, ed. *Historia państwa i prawa polski, część II: od połowy XV w. do r. 1795* (History of Polish State and Law, Part 2: From the Middle of the Fifteenth Century to Year 1795) (Warsaw: Państwowe wydawnictwo naukowe, 1957).

¹⁰¹ Maria Bogucka, *Women in Early Modern Polish Society, against the European Background* (Burlington, VT: Ashgate, 2003); Maria Bogucka, "Marriage in Early Modern Poland," *Acta Poloniae Historica* 81 (2000): 51-78.

status of Polish women and widows in various sources. For Hungary, I relied on the works of Erik Fügedi¹⁰³ and Katalin Péter.¹⁰⁴ The status of widows in Muscovite Russia is explored by George G. Weickhardt¹⁰⁵ and Ann M. Kleimola.¹⁰⁶ For the Nordic countries, I should mention works by Anu Pylkkänen,¹⁰⁷ Katherine Græsdal¹⁰⁸ and Inger Dübeck.¹⁰⁹ In all these countries, the status of widows was defined by both legal and contractual provisions. The importance of the legal provisions versus the contractual ones differed from country to country. As in Lithuania, the status of widows was also related to their marital and parental status.¹¹⁰

Key Terms and Concepts

After this brief overview of the secondary literature, it is time to look at the specific questions raised by this study and their treatment in Lithuanian scholarship. This dissertation concentrates on widows and their relation to family property, thus the key concepts here are those connected to the property distribution, and redistribution in families and between spouses. The main concepts are the *dowry* and the *dower* as the ways of providing the means for a woman in case she was widowed. Further concepts connected to widows are the

¹⁰² Teresa Zielińska, "Noblewomen's Property Rights in 16th-18th c. Polish-Lithuanian Commonwealth," *Acta Poloniae Historica* 81 (2000): 79-90.

¹⁰³ Erik Fügedi, "Kinship and Privilege," in *Nobilities in Central and Eastern Europe: Kinship, Property and Privilege*, ed. János M. Bak, *Medium Aevum Quotidianum* 29 (Budapest: Hajnal István Alapítvány, 1994), 55-75.

¹⁰⁴ Katalin Péter, ed., *Beloved Children: History of Aristocratic Childhood in Hungary in the Early Modern Age*, tr. Rachel and János Hideg (Budapest: Central European University Press, 2001).

¹⁰⁵ George G. Weickhardt, "Legal Rights of Women in Russia, 1100-1750," *Slavic Review* 55, No. 1 (1996): 1-23.

¹⁰⁶ Ann M. Kleimola, "'In Accordance with the Canons of the Holy Apostles': Muscovite Dowries and Women's Property Rights," *Russian Review* 51 (1992): 204-229.

¹⁰⁷ Anu Pylkkänen, "Forming the Marital Economy in the Early Modern Finish Countryside," in *The Marital Economy*, ed. Ågren and Erickson, 75-88.

¹⁰⁸ Katherine Græsdal, "Joint Ownership in Medieval Norway," in *Family, Marriage and Property Devolution in the Middle Ages*, ed. L. I. Hansen (Tromsø: Department of History, University of Tromsø, 2000), 81-97.

¹⁰⁹ Inger Dübeck, "Legal Status of Widows in Denmark 1500-1900," *Scandinavian Journal of History* 29 (2004): 209-223; Inger Dübeck, "Property and Authority in Danish Marital Law," in *The Marital Economy*, ed. Ågren and Erickson, 75-88.

¹¹⁰ See Chapter VIII, Influences and Parallels.

widow's seat (*vdovii stolec*), the dowerless (*venovana*) and the dowered (*nevenovana*) widow and the *venets* – a sort of “dower for the dowerless widow,” as Irena Valikonytė calls it.¹¹¹

I am aware that the term *dower* has a very specific meaning in the English literature; however, I choose to use it in this dissertation as the term used in my secondary literature on Lithuania.¹¹² *Veno* also has a slightly different connotation in different countries and thus could be misleading to the same degree. Within the scope of this dissertation, in describing the situation of the Lithuanian widows the term *dowry* means the property received by a woman from her birth family upon her marriage¹¹³ and *dower* means the property assigned to a woman by her husband as security for the received dowry.

The definition of the key terms connected to widowhood is problematic, since the terms are used inconsistently in the legal sources (especially in the legal practice, less so in the normative law) and they do not always express the same concept, thus, it is difficult to define their most common meaning.¹¹⁴ Such terms are:

- Those connected to the dowry: *vnesen'e*, *viprava*, *posag*.
- Those connected to the dower: *veno*, *privenok*, *o(t)prava*.

The Concept of Dowry and Terms Used to Define the Dowry

Vytautas Andriulis defines *vnesen'e* as property given to a girl who is getting married – that is, a dowry.¹¹⁵ *Posag* and *viprava* are, according to him, parts of the *vnesen'e*-dowry, the *posag* being property in precious stones, gold, silver and other luxuries meant for long-term

¹¹¹ Valikonytė, “The *Venets* of Noblewomen,” 107.

¹¹² E.g. Valikonytė, “The *Venets* of Noblewomen.”

¹¹³ The dowry was under husband's management during the marriage, but after the husband's death the wife received the equivalent of it as a part of the dower.

¹¹⁴ As Валиконите, “І Литовский Статут,” 41, notes, the imprecisely defined terms have caused a great deal of confusion in the historiography of the subject.

¹¹⁵ Andriulis, *Lietuvos statutu...*, 23. In Polish literature, it is noted that *wyprawa* is *paraphernalia* (Karpavičienė, *Moteris Vilniuje ir Kaune*, 155). This would fit in the Lithuanian definition given by Andriulis as well.

use, and the *viprava* being property in livestock, clothes and various household items.¹¹⁶ According to him, up to the *Third Lithuanian Statute* of 1588 it did not matter what the dowry was called since all its parts were evaluated equally when assigning the dower.¹¹⁷ This theory is also supported by Galina Dzerbina.¹¹⁸

Irena Valikonytė and Stanislovas Lazutka, working with earlier sources, define the dowry differently.¹¹⁹ For them, the general word for the dowry as a share of property (both movable and immovable) is *posag*, while *viprava* and *vnesen'e* are words used to define the dowry in relation to the subject of giving and/or receiving the dowry. The dowry, or *posag*, is called *viprava* when being given by the parents to the girl, and is called *vnesen'e* when being received by the husband.¹²⁰ They also note that the word *pridan'e* was also, although seldom, used in the legal practice.¹²¹

Such different interpretations of the terms defining the dowry lead to different understandings of the dowry. The main idea of the dowry remains the same in both definitions: property, given to a woman by her family. However, according to one theory the dowry is not divided into any constituent parts, but changed its name depending on the subject of giving/receiving the dowry. According to the other theory, the dowry had two constituent parts, both of which comprised a certain range of items. For this dissertation, the issue of the definition of the dowry is important because widows, depending on the circumstances, received their dowries back, and in order to evaluate what precisely they got back, a clear

¹¹⁶ Andriulis, *Lietuvos statutu...*, 23-24.

¹¹⁷ Andriulis, *Lietuvos statutu...*, 24.

¹¹⁸ Дзербіна, *Права і сям'я*, 101.

¹¹⁹ As Vytautas Andriulis, "Lietuvos Didžiosios Kunigaikštystės teisės ištakos (1)" (Beginnings of the Law of the Grand Duchy of Lithuania [1]), *Socialistinė teisė* 3 (1988): 45, notes, the semantic contents of the identical concepts may change considerably with time. As he bases his definitions mainly on the sources of the second part of the sixteenth century, the fact that his are different does not necessarily mean that one of the definitions of the dowry is incorrect.

¹²⁰ Лазутка and Валиконите, "Имущественное положение женщины," 84-86; Irena Valikonytė, *Социально-экономическое и правовое положение женщин в Великом Княжестве Литовском (конец XV – первая половина XVI в.) и его отражение в Первом Литовском Статуте* (Socio-Economic and Legal Status of Women in the Grand Duchy of Lithuania [from the End of the Fifteenth to the First Half of the Sixteenth Century] and Its Reflection in the *First Lithuanian Statute*), Summary of a dissertation (Vilnius, 1978), 10.

¹²¹ Лазутка and Валиконите, "Имущественное положение женщины," 84.

concept of the dowry and its constituent parts – if any – is necessary. As is emphasised in the literature, the use of the terms related to the dowry varies in the legal practice and the *Statutes*.¹²² As my research on some examples from the *Lithuanian Metrica* shows, there was a change in the understanding of the dowry over time. For the earlier sources, the definition given by Irena Valikonytė and Stanislovas Lazutka is applicable, while for the later sources the definition given by Vytautas Andriulis is correct. Between the two *Lithuanian Statutes*, both definitions could be found in practice (although the dowry as defined by Vytautas Andriulis entered the law only in the *Third Lithuanian Statute*). For example, in LM 248/131r-132r, when the dower is assigned, only the cash, gold and silver were doubled when assigning the dower, but the clothes were not.

The Concept of Dower and Terms Used to Define the Dower

According to Vytautas Andriulis, *veno* – that is, the dower – is the property of the husband which serves as security for preserving the dowry brought by the wife, or its value,¹²³ and is assigned in land.¹²⁴ Before the *First Lithuanian Statute*, according to Vytautas Andriulis, the *veno* was understood very broadly (sometimes the dowry was also called *veno*); it could be assigned at any point in the marital life and given to the wife either into her ownership or for life; the amount; the type of property and the proportional size of the property were not limited.¹²⁵

Two problems occur in relation to the concept of dower. The first one is its connection to the concept of dowry and the second one is the relations of the Ruthenian and Latin terms. As regards the understanding of the dowry and the dower in the normative law, the sources reveal that the dower was at least partially perceived as a compensation for the dowry, which

¹²² Лазутка and Валиконите, “Имущественное положение женщины,” 86-87.

¹²³ Andriulis, *Lietuvos statutu...*, 24.

¹²⁴ Andriulis, *Lietuvos statutu...*, 104.

¹²⁵ Andriulis, *Lietuvos statutu...*, 104.

must have, at least partially, caused the imprecise usage of the terminology; examples from the *Lithuanian Metrica* reveal that the use of the terminology was imprecise. For example, in LM 224/477 from 1530, dowry is referred to as *veno*; in this case, a husband asks his wife's brothers to give her the promised *veno* and *viprava*.¹²⁶

According to Stanislovas Lazutka and Edvardas Gudavičius, the treatment of the dower, at least as partly compensation for the dowry, is proven by the translation of *veno* as *dos*.¹²⁷ However, in the Early Middle Ages *dos* and *dotalicium* could be used as synonyms for dower,¹²⁸ thus referring to *veno* as *dos* might reflect this synonymy rather than being proof of the perception of dower as being a compensation for the dowry. Still, such perceptions must have existed, although the legal practice reveals a rather different direction; in the court cases a dowry is referred to as *veno* rather than *vice versa*. I think one can speak of the existence of a tendency to call a dowry *veno* rather than to call the dower *posag*, *vnesen'e* or *viprava*.

As regards the connection of the Ruthenian and the Latin terms, in the Latin version of the *First Lithuanian Statute* dowry – *posag* and *viprava* – is translated as *dotalicium*, and dower – *veno* and *oprava* – as *dos*. The early privileges almost consistently (with the exception of the Belsk privilege of 1501) used *dotalicium* for dower-*veno* (dowry not being mentioned in these sources). However, in sixteenth-century sources the dowry was called *dotalicium* and the dower was called *dos*. To quote just a couple of instances from the *First Lithuanian Statute*: FLS IV/7:¹²⁹ “што будеть *выправы* за первою дочкою дали” – *tunc pro dotalicio datum fuerit prime*; FLS IV/9: “яко иншим девкам *посаги* дают у Великом

¹²⁶ LM 224/477: “вы вена жоне его, сестре своей, платити, и *выправы* – серебра и ковровъ, и иных рухомых речей – поотдавати не хочете” (you do not want to pay his wife, your sister, *veno*, and do not want to give her *viprava* – silver and carpets, and other movables). Another case, where the father gives *veno* to his daughter, is LM 224/507 from 1530: “у вене за дочкою своею ему дал” (gave as a dower with his daughter) (later in the same case this property is called *pridan'e* (dowry)). (This is noted in the introduction to LM 224, xxxviii.)

¹²⁷ Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 161.

¹²⁸ Karpavičienė, *Moteris Vilniuje ir Kaune*, 153.

¹²⁹ For more extensive quotes from the *Statutes*, see the Ruthenian text and the translation into English in the Appendix.

князьстве Литовском” – “prout alijs puellis *dotalicia* dantur in Magnoducatu Lithuanie”; FLS IV/1: “маеть осести только на *вене* своем” – *debet residere in dote tantum sua*; FLS IV/4: “которая *вена* от мужа своего записаного не будеть мети” – *que dotem a marito reformatam non habuerit*.

As to the size of the dower, it depended on the size of dowry and from the *First* to the *Third Lithuanian Statute* it is always double the size of the dowry, but does not exceed one third of the value of the husband’s property; the amount above the size of the dowry is called *privenok*.¹³⁰ Vytautas Andriulis understands the dowry and the dower as separate entities under the management of the husband, according to the *Second Lithuanian Statute* both belonging to the widow with full ownership rights. According to him, the dowered widow had the right to her dowry and the right to her dower after the death of her husband.¹³¹ This would mean that a woman received the dower, which was double the value of the dowry, plus the dowry, the total being three times as much as the size of the dowry. However, such a definition is not precise. A careful reading of the normative law plus examples from the legal practice demonstrate that a woman could receive twice as much as she took into the marriage.

Irena Valikonytė and Stanislovas Lazutka define *veno* as the joint value of the dowry and the *privenok*.¹³² They clearly state that the *veno* (dower) consisted of the *vnesen’e* (dowry) and the *privenok* (that is, the dowry rather “disappears” in the dower), that it should be double the value of the dowry and that it may not exceed one third of the value of the husband’s property.¹³³ However, the concept is not so clear after all; when analysing different sources, different conclusions may be reached. E.g., if in one place Irena Valikonytė and Stanislovas Lazutka say that the *veno* may not exceed one third of the value of the husband’s property –

¹³⁰ Andriulis, *Lietuvos statutu...*, 24.

¹³¹ Andriulis, “Sutuoktinių turtinių santykių reguliavimas,” 46.

¹³² Valikonytė, *Социально-экономическое и правовое положение женщин*, 10; Лазутка and Валиконите, “Имущественное положение женщины,” 90, 93.

¹³³ Лазутка and Валиконите, “Имущественное положение женщины,” 93.

and say that the dowry should thus not exceed 1/6 of the value of the property of the husband – in another place they say that the *privenok* should not exceed one third of the value of the husband's property.¹³⁴ Also, although in one place Irena Valikonytė and Stanislovas Lazutka see the dowry as part of the dower, in another they say that the widow is entitled to both the dowry and the dower.¹³⁵ Furthermore, if in one article it is stated that both the dowry and the dower of a widow are under her full ownership,¹³⁶ in another work Irena Valikonytė stresses that the dower belongs to the wife only for her lifetime.¹³⁷ To use some Polish examples, as Karpiński¹³⁸ defines the dower in Polish towns, the dower (*wiano*, *dotalicium*, *dos*) was the equivalent of the dowry (*posag*) in cash, which could be increased by a *privenok*. That is, instead of the dowry, the woman got an equivalent amount as a dower (*veno*), plus *privenok*. Such a definition seems suitable from the linguistic side: *privenok* is something that is additional, added to the *veno*. Bardach¹³⁹ defines the Polish dower (*wiano*) as security for the widow's dowry, which consisted of the equivalent of the dowry, and the *wiano* (also called *przywianek*) which doubled it; it could be assigned on half of the husband's property. This suggests that the differences in the scholarly literature when defining the dower must have occurred because of the different use of terms *veno* and *privenok* in the sources. On the one hand, *veno* could mean the sum of the dowry and *privenok* (as an umbrella term for all the property), but could also mean the *privenok* part only (as a synonym for *privenok*) (thus, when the sources mention *posag* and *veno*, this does not necessarily mean the *posag* plus the equivalent of *posag* plus *privenok*, but simply *veno*).¹⁴⁰

¹³⁴ Лазутка and Валиконите, “Имущественное положение женщины,” 90, 91.

¹³⁵ Лазутка and Валиконите, “Имущественное положение женщины,” 102.

¹³⁶ Лазутка and Валиконите, “Имущественное положение женщины,” 98.

¹³⁷ Валиконите, “І Литовский Статут,” 41.

¹³⁸ Andrzej Karpiński, *Kobieta w mieście polskim w drugiej połowie XVI i w XVII wieku* (A Woman in a Polish Town in the Second Half of the Sixteenth and in the Seventeenth Century) (Warsaw, 1995), 33.

¹³⁹ Bardach, *Historia państwa*, 495.

¹⁴⁰ Case LM 229/57 from 1540 indicates that sometimes the dower (*veno*) was perceived as consisting of dowry (*vnesen'e*) and *privenok*, dowry becoming a part of dower, and re-emerging from it only upon the woman's death, when she was free to will it; another perception was that the dowry and the dower existed as two items to

As regards the term *o(t)prava*, it is not addressed by Vytautas Andriulis, but in later literature it is defined as “dower record”¹⁴¹ and sometimes treated as being synonymous with *viprava* – both meaning “dower record.”¹⁴² M. K. Liubavskii saw *oprava* as a synonym for *privenok* rather than a synonym of *veno*.¹⁴³

There might not be one strict definition of dower: it remains unclear whether the dower was under the full ownership of the widow or whether she only had the right of usufruct to it; it remains undefined whether the widow was entitled only to her dower upon her husband’s death (the dowry being a part of the dower) or whether the dowry could be claimed separately from the dower. This is mainly due to the variations found in the legal practice¹⁴⁴ and there may not be any straightforward answer. My research in this regard has confirmed that there was no single way of defining the concept of dower and that, although the normative law provides some definition of what a dower is, drawing some limits, in the legal practice there are numerous variations both within and outside of these limits.

The Widow’s Seat

be received from a husband (LM 229/57: “маеть она от мужа оправу вена и внесенья” (she has from her husband the dower and the dowry record). In LM 229/162, a widow also claims *veno* and *vnesen’e*). Unfortunately, the size of these parts is not defined in the case, thus it is unclear if in such a case, when the dowry is listed separately, the dower still is double the dowry (as when the dowry is subsumed under the dower), or if it just equals it. In a case related to his one, LM 229/65, only reference to *veno* is made, mentioning the same property. Thus it seems that *veno* could be used both as meaning the combination of the *privenok* and the dowry (as in LM 229/65), and as a synonym of *privenok* (as in LM 229/57).

¹⁴¹ *Lietuvos Metrika (1522–1530): 4-oji Teismų bylų knyga*, ed. Bumblauskas, Gudavičius, Jučas, Lazutka and Valikonytė, 442.

¹⁴² *Lietuvos Metrika (1528–1547): 6-oji Teismų bylų knyga*, ed. Bumblauskas, Gudavičius, Jučas, Lazutka and Valikonytė, 286.

¹⁴³ Любавский, *Областное деление*, 573.

¹⁴⁴ Лазутка and Валиконите, “Имущественное положение женщины,” 90. As Stanislovas Lazutka and Irena Valikonytė note, term *veno* in the legal practice is used not only for dower. Case LM 224/477 is an example where *veno* means dowry rather than dower, since it should be given to the woman by her brother, not her husband (“... пан Ян Аврамовичъ, жалуючи о том, што жъ, дей, вы вена жоне его, сестре своей, платити и выправы – серебра и ковровъ, и иных рухомых речей – поотдавати не хочете...” [*pan Jan Avramovich*, complaining that you do not want to pay the dower for his wife, your sister, and so not want to give the dowry – silver and carpets, and other movables...]). In case LM 224/507, again, the father gives her daughter a *veno* (“... у вене за дочькою своею даль...” [... gave as a dower for his own daughter...]).

The widow's seat, or the *vdovii stolec*, is the estates which came to a woman after the death of her husband and were hers as long as she remained a widow. Stanislovas Lazutka and Irena Valikonytė point out that *vdovii stolec* meant the rights of management of the family property by an unmarried widow.¹⁴⁵ I would like to add the following to this definition: the widow could manage the whole of the property only if she was also a guardian of the underage children (FLS IV/6 (2)),¹⁴⁶ otherwise it meant the share of property that she was entitled to – either by legal provisions (FLS IV/1 (2)) or contractual ones (FLS IV/1 (1)).

The Dowered versus the Dowerless

Two more terms connected to the concept of dower are the dowered (*venovana*) and dowerless (*nevenovana*) widow. These terms are not problematic, unlike the ones discussed above. They mark the difference between widows who have a dower contract (and thus their position in their widowhood is regulated by the contractual provisions) and the widows who do not have it (and thus their position is regulated by the default legal provisions). All previous scholars have noted the existence of these two different legal models for providing for widowhood, but these models are not defined as separate systems, and the trends of their development as well as their priority over each other can be analysed in more detail. For example, Vytautas Andriulis, although noting the difference between dowered and dowerless widows, analyses this difference in detail only in one regard – that of separate marital property versus joint marital property during the marriage¹⁴⁷ – and does not go into further analysis of the legal provisions versus the contractual provisions.

The Venets

¹⁴⁵ Лазутка and Валиконите, “Имущественное положение женщины,” 95-96.

¹⁴⁶ The decree of 1509 also allowed childless widows to stay in the whole of the husband's property, but the *First Lithuanian Statute* restricted their share to one third (FLS IV/2 (3)).

¹⁴⁷ Andriulis, *Lietuvos statutu...*, 71, 94, 106, 112.

The *venets* was, as Irena Valikonytė says, a sort of dower for the dowerless. The function of the *venets* was to provide for dowerless widows in the case of remarriage. The payment of *venets* was prohibited – or at least was made not mandatory – by the *First Lithuanian Statute* (FLS IV/3 (2), FLS IV/4 (4), and FLS IV/8 (2)) and prescribed by the *Second Lithuanian Statute* (SLS V/1 (3), SLS V/5 (4), and SLS V/9 (4)). Irena Valikonytė has analysed the institution of *venets* and its history and development in Lithuania in several of her articles, reaching a conclusion that this concept was borrowed from Poland and never really caught on in Lithuania.¹⁴⁸

The concepts and terms described above are the main terms used throughout this dissertation. As was pointed out, for some of them it is impossible to provide a strict definition, thus in this dissertation I take this into consideration and do not try to deliver the “correct” definition for all of them: rather, I note the circumstances in which one or another definition is used.

¹⁴⁸ Valikonytė, “The *Venets* of Noblewomen,” 107.

III. Sources

Customary Law

Up to the middle of the sixteenth century the main sources of law were local customs, but there are no records of Lithuanian customary law as such.¹⁴⁹ The traces of it, however, may be found in the (especially pre-statutory) legal practice, which has come down via the records of the *Lithuanian Metrica*, the privileges of the ruler, the decrees of the Council of Lords and the Diet as well as the *Statutes*.¹⁵⁰ Furthermore, most scholars trying to reconstruct the norms of Lithuanian customary law turn to the surviving customary laws of the Prussians, claiming that, as a Baltic tribe, they must reflect some common Baltic customary law.¹⁵¹ At the same time, they emphasise that any interpretation is very difficult, since Prussian law was influenced by German laws.¹⁵² The two sources for the Prussian customary law are the Treaty of Christburg¹⁵³ and the *Iura Prutenorum*.¹⁵⁴ Slavic laws – Ruthenian¹⁵⁵ and Polish¹⁵⁶ – also impacted Lithuanian customary law. The Christianisation of the country (1387) and the change in its political orientation did not cause a sudden change of the legal system, it was rather developing slowly.¹⁵⁷

¹⁴⁹ Лазутка and Валиконите, “Имущественное положение женщины,” 80; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 34; Andriulis, “Lietuvos Didžiosios Kunigaikštystės...,” I: 39.

¹⁵⁰ Лазутка and Валиконите, “Имущественное положение женщины,” 81.

¹⁵¹ Лазутка and Валиконите, “Имущественное положение женщины,” 80; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 34.

¹⁵² *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 19.

¹⁵³ Vladimir Terent'evich Pashuto [В. Т. Пашуто], *Образование Литовского государства* (The Creation of the Lithuanian State) (Moscow, 1959), 500.

¹⁵⁴ Vladimir Terent'evich Pashuto [В. Т. Пашуто], *Помезания* (Pomesania) (Moscow: Издательство академии наук СССР, 1955).

¹⁵⁵ The norms of the *Russian Pravda* which became customary law and could have had an influence on Lithuanian customary law. (Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 33.)

¹⁵⁶ There are several examples in which some norms first appear as a foreign influence, but rather soon are already perceived as local custom. (The Land Privilege of 1413 and the Land Privilege of 1447 (Ruthenian version).)

¹⁵⁷ Andriulis, “Lietuvos Didžiosios Kunigaikštystės...,” I: 40.

The Land and Province Privileges

The sources available for research are uneven; the early ones contain very little on the status of widows, but the later ones are much richer. When speaking about the development of normative law throughout this dissertation I do not assume that these sources – especially the early ones – truly reflect the level of development of the legal system, and I do not imply the presence of gaps in the legal system. Rather, I think that such sources as the privileges of the ruler, at any given point, either confirmed the key issues, discussed problematic points, or introduced changes, and only such sources as the *Statutes* were aimed at presenting a fuller system.

The privileges of the ruler, which are the first surviving items of Lithuanian legislation,¹⁵⁸ first appeared at the end of the fourteenth century. These privileges create a rather small, but important, group of legal documents which partly regulated legal relations in the Grand Duchy of Lithuania during the fifteenth and sixteenth centuries. They were the first step towards statutory law and legal codification,¹⁵⁹ and they had a certain influence on the *First Lithuanian Statute*.¹⁶⁰ The privileges were a compromise between the nobles and the ruler,¹⁶¹ who needed their support in internal and external politics.¹⁶² In time, these privileges granted the nobility increasingly extensive rights and a greater role in the rule of the state.

¹⁵⁸ There are no direct sources concerning Lithuanian law from before 1387. It can be traced to some extent in other documents of the period, for example, diplomatic correspondence, international treaties of peace and truce, trade contracts, and land donation documents (Andriulis, “Lietuvos Didžiosios Kunigaikštystės...,” I: 39).

¹⁵⁹ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 11.

¹⁶⁰ An analysis of the influence of the privileges on the *First Lithuanian Statute* is presented in Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 149-175.

¹⁶¹ Якубовский, “Земские привилегии,” part 1, 239; Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 15.

¹⁶² Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 15.

The privileges of the ruler are classified into two categories: land privileges, valid throughout the whole Grand Duchy of Lithuania,¹⁶³ and province privileges, which were issued for the provinces of Lithuania – the Slavic lands and Samogitia.¹⁶⁴ These privileges regulated civil law, criminal law, and legal process as well as administration, finances, and the relations of different social strata. There are few norms of civil and family law in the privileges, since the state was interested only in those property relations which were connected to its interests, that is, the transfer of land and the effect that this transfer had on the performance of duties to the state.¹⁶⁵ The land privileges are based on the customary law, valid in the main territories of Lithuania, but also show some signs of foreign – Polish – influence. The province privileges are based on customary law, agreements of the local inhabitants with the local dukes, land privileges, various other documents of the grand duke, and previous privileges given to that province or other provinces.¹⁶⁶

There are 16 known land privileges,¹⁶⁷ 15 of them falling into period before the *First Lithuanian Statute*, came into power in 1529. Out of these 15 land privileges, 6 give some details about the status of widows (none of the land privileges issued between the *First* and the *Second Lithuanian Statute* contain any new information on widows):

- The land privilege of 1387, issued by Jogaila, is the first known document of the normative law containing legal provisions for the widows

¹⁶³ A detailed description of the land privileges is given in Якубовский, “Земские привилегии,” part 1, 239-278, and in Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 15-24. The description of the land privileges in this dissertation in large part repeats the materials published in my article “Lithuanian Widows in Land Privileges before 1529,” in *Annual of Medieval Studies at CEU* 12 (2006), 163-179.

¹⁶⁴ The detailed description of the province privileges is given in Якубовский, “Земские привилегии,” part 2, 245-303, and Jevgenij Machovenko, “Lietuvos Didžiosios Kunigaikštystės sričių privilegijos kaip teisės šaltiniai” (The Regional Privileges of the Grand Duchy of Lithuania as a Legal Source). In *Lietuvos teisės tradicijos. Mokslinės konferencijos, skirtos Vilniaus universiteto Teisės fakulteto profesoriaus Stasio Vansevičiaus septyniadešimtmečiui, medžiaga* (Traditions of Lithuanian Law. Materials of the Scholarly Conference, Dedicated to the Seventieth Birthday of Stasys Vansevičius, Professor of the Legal Department of Vilnius University), ed. Dalia Vėbrienė (Vilnius: Justitia, 1997), 127-137, with the main points summarised in Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 25-31.

¹⁶⁵ Andriulis, *Lietuvos statutu...*, 86-87. Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 29-30.

¹⁶⁶ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 29.

¹⁶⁷ Якубовский, “Земские привилегии,” part 1, 277-278; Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 15. There is nothing on widows in the privilege of Jogaila, 15 October 1432.

- The land privilege of 1413, issued by Jogaila and Vytautas, introduces the dower
- The land privilege of 1434, issued by Sigismund Kestutian, defines the circumstances when the dower should be given
- The land privilege of 1447,¹⁶⁸ issued by Casimir, combines the information present in the earlier privileges and introduces some requirements regarding proof of the dower contract
- The land privilege of 1492, issued by Alexander, essentially repeats the information present in the land privilege of 1447, and
- The land privilege of 1506, issued by Sigismund the Old, confirms the privilege of 1492.¹⁶⁹

As regards the legal status of women, the land privileges reveal a steady process of defining these rights in more and more detail. However, in general they touch upon only a few aspects of the property status of widows; they give the basic definition of the legal provisions (for non-remarrying widows) and the contractual provisions (for remarrying widows), but do not define the size of the dower, do not discuss the position of widows with a dower who do not remarry, or widows in further remarriages.

There are 23 province privileges,¹⁷⁰ 20 from the time before the appearance of the *Second Lithuanian Statute*. Out of these 20 privileges, 9 have some information about widows. None of the province privileges issued between the *First* and the *Second Lithuanian Statute* contains any new information on widows. The province privileges containing information about widows may be subdivided into four categories according to their contents (this subdivision into categories allows discussing the privileges in groups rather than

¹⁶⁸ The privilege of 1447 was a breaking point in the Lithuanian legal system in the regard that it introduced legal systems for different strata; also, from this privilege onwards the development of the Slavic lands of the Grand Duchy of Lithuania depended on the general Lithuanian legal politics, although some Slavic elements of the civil and criminal law were preserved (Andriulis, “Lietuvos Didžiosios Kunigaikštystės...,” I: 44, 45).

¹⁶⁹ The land privilege of 1506 offers less information regarding the legal status of widows than is found in earlier privileges. The original version of the privilege does not have any articles on the status of widows at all: it only confirms the previous privileges, without disclosing/repeating their contents. See Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 153.

¹⁷⁰ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 26. At least other 19 province privileges, mentioned in various documents, have not survived to the present time (Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 28).

separately and avoids repetition, as the privileges of each group contain essentially the same text).¹⁷¹

- The privilege of Alexander to the eldership of Samogitia, 22 August 1492 and the privilege of Sigismund the Old to the eldership of Samogitia, 29 November 1507¹⁷²
- The privilege of Alexander to the district of Belsk (the province of Podlachia), 22 February 1501¹⁷³
- The privilege of Alexander to the province of Vitebsk, 16 July 1503, the privilege of Sigismund the Old to the province of Vitebsk, 18 February 1509, the privilege of Alexander to the province of Smolensk,¹⁷⁴ 1 March 1505 and the privilege of Sigismund the Old to the province of Polotsk, 23 July 1511 – all coming from the north-eastern territories of the Grand Duchy of Lithuania
- The privilege of Sigismund the Old to the province of Kiev, 8 December 1507 and the privilege of Sigismund the Old to the province of Kiev, 1 September 1529.

The Decrees

With time, especially during the sixteenth century, the power of the grand duke diminished and that of the lords of the Council grew stronger, and the decrees of the Council of Lords started to play the same role and had the same power the privileges of the grand duke had previously.¹⁷⁵ As regards the decrees concerning the rights of widows, the decree of the Council of Lords from 1509 discusses the position of dowered widows in more detail than any of the previous sources and defines the size of the dower. Another decree – discussing the

¹⁷¹ For more details on these privileges, see Якубовский, “Земские привилегии,” part 2.

¹⁷² All the norms found in the privileges of 1492 and 1507 to the Samogitians are the same as those found in the land privileges.

¹⁷³ The privilege in its contents and character is completely different from all the other land and province privileges – it reflects Polish laws rather than Lithuanian/Ruthenian and discusses mainly the return of the dowry to the widow and her family after the death of the husband.

¹⁷⁴ Smolensk did not belong to the Grand Duchy of Lithuania from 1514 onwards.

¹⁷⁵ Privilege of 6 August 1492, issued by Alexander, contains such an article: the decrees of the Council of Lords may be changed only by the decision of the Council of Lords and no one else. If the opinion of the Council of Lords is different from that of the grand duke, the grand duke should not be offended and take any action against the Council of Lords, but has to adjust himself to the opinion of the Council of Lords. See Konstantinas Avižonis, “Teisinė buitis Lietuvoje ligi Pirmojo Lietuvos Statuto” (Legal Mode of Life in Lithuania before the *First Lithuanian Statute*), in *Rinktiniai raštai* (Collected Works), vol. 2, ed. Angelė Avižonienė and Rapolas Krasauskas (Rome: Lietuvių Katalikų Mokslo Akademija, 1978), 39. [*Zbiór praw*, ed. Działyński, 62: “XXI. Item, quando aliqua consilia et negotia in consultatione cum dominis nostris tractanda euenerint, et ipsis dominis non placebunt, pro isto super eos, commoueri non debemus, sed quaecunque nobis consulent, pro nostra et communi utilitate, istud nos efficiemus.”]

position of the dowerless widows – did not survive to our times. Its existence, but not its precise contents, is known from a mention in a court case.¹⁷⁶

From the time of the appearance of the *First Lithuanian Statute*, the *Statute* was the main source of law, but it was not sufficient as such. Many social relations were regulated by land decrees (*zemskije uchvaly*): the normative acts of the General Diet of the Grand Duchy of Lithuania confirmed by the Council of Lords and the ruler.¹⁷⁷ The decrees from the Diets of 1551 and 1554, among other matters, discuss a widow's right to give her daughter in marriage, a widow's right to leave the property to the church, and a widow's right to marry abroad.¹⁷⁸

¹⁷⁶ *Lietuvos Metrika (1522-1530): 4-oji Teismų bylų knyga*, ed. Bumblauskas, Gudavičius, Jučas, Lazutka and Valikonytė, XLIII.

¹⁷⁷ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 63.

¹⁷⁸ The decrees which contain information on widows are few – some of them, e.g., the decrees from the Diet of 1544 and 1559, contain nothing on widows.

*The First Lithuanian Statute*¹⁷⁹

The *First Lithuanian Statute* of 1529¹⁸⁰ was the first attempt to regularise the elements of law existing up to that time. Some of the sources for the *First Lithuanian Statute* were the court practice which comprised the customary law of Lithuanian and Slavic lands of the Grand Duchy of Lithuania (and, being collected into books and thus available to consultation for future reference, “cross-checking,” and guidance, served as precedent law), privileges issued by the ruler, which, again, reflected the customary law of the nations of the Grand Duchy of Lithuania, and the special decrees of the Council of Lords.¹⁸¹ The *First Lithuanian Statute* embodies the synthesis of Lithuanian, Ruthenian, and Polish cultures and is one of the best examples of the legal systems in Eastern and Central Europe of the time, also displaying some

¹⁷⁹ There are nine known copies of the *First Lithuanian Statute*, which fall into four editions: the primary Ruthenian edition of 1529 (copies: Zamoyski, c.1529, Firlej, c. 1529 and Działyński, c.1550s-1560s); the Latin edition of 1530 (copies: Laurencius, 1531 and Puławy, late 1530s); the first Polish edition (copies: Swidziński, between the middle and the third quarter of the sixteenth century, lost); the expanded version (copies: Ruthenian Slutsk copy, 1580s, the second Polish edition, copies of Olszewo, 1550 and Ostra Brama, turn of the sixteenth century, lost). The expanded version did not change or eliminate the first edition and can be regarded as having been valid in court practice (*Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 22, 26.)

¹⁸⁰ The main edition of the text of the *Statute* is *Pirmasis Lietuvos Statutas, II, pirma dalis: Tekstai senąja baltarusių, lotynų ir senąja lenkų kalbomis* (The *First Lithuanian Statute*, vol. 2, part 1: Texts in Ruthenian, Latin and Old Polish), ed. Vytautas Andriulis, J. Grigonis, Edvardas Gudavičius, Stanislovas Lazutka, V. Lesčius, V. Mažiulis, L. Sudavičienė, Irena Valikonytė, T. Vlasova and M. Zakarjan (Vilnius: Mintis, 1991). This volume is a part of an extensive work on the publication and analysis of the *First Lithuanian Statute*. The first part of the first volume, *Pirmasis Lietuvos Statutas I, pirma dalis: Paleografinė ir tekstologinė nuorašų analizė* (The *First Lithuanian Statute*, vol. 1, part 1: Palaeographical and Textological Analysis of Copies), ed. J. Grigonis, Edvardas Gudavičius, Stanislovas Lazutka, V. Lesčius, V. Mažiulis, L. Sudavičienė, Irena Valikonytė, S. Vansevičius and M. Zakarjan (Vilnius: Mintis, 1983), contains the palaeographical and textological analysis of the surviving manuscripts of the *First Lithuanian Statute* (4 in Ruthenian, 2 in Latin, and 1 Polish [2 more Polish manuscripts, kept in Warsaw, were destroyed during World War II]). The second part of the first volume, contains the facsimile edition of the *Pirmasis Lietuvos Statutas, I, antra dalis: Działyński, Lauryno ir Ališavos nuorašų faksimilės* (The *First Lithuanian Statute*, vol. 1, part 2: Facsimiles of the Copies of Działyński, Laurencius and Olszewo), ed. J. Grigonis, Edvardas Gudavičius, Stanislovas Lazutka, V. Lesčius, V. Mažiulis, L. Sudavičienė, Irena Valikonytė, S. Vansevičius and M. Zakarjan (Vilnius: Mintis, 1985). The second part of the second volume, which will contain the translation into Lithuanian and commentary on all paragraphs and terms, is under preparation. The recent translations of the *Statute* are *Pirmasis Lietuvos Statutas, 1529* (The *First Lithuanian Statute*, 1529), ed. Irena Valikonytė, Stanislovas Lazutka and Edvardas Gudavičius (Vilnius: Vaga, 2001) (translation into Lithuanian), and *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius (translation into Lithuanian and English).

¹⁸¹ *Pirmasis Lietuvos Statutas*, ed. Valikonytė, Lazutka and Gudavičius, 40.

features of Roman law.¹⁸² The compilation and codification process, supervised by Chancellor Albertas Goštautas, lasted at least seven years.¹⁸³

The *First Lithuanian Statute* has thirteen chapters on different legal aspects: (1) the ruler, (2) the defence of the country, (3) the rights of noblemen, (4) the status of women, (5) the office of guardianship, (6) the judicial system, (7) acts of violence, (8) land suits, (9) hunting grounds, forests, lakes and related matters, (10) estates, (11) wergild, (12) robbery, and (13) theft. Two main chapters of the *First Lithuanian Statute* relevant for this study are chapter (4), “Concerning Inheritance by Women and the Giving of Girls in Marriage,” which deals with the position of widows and girls of nubile age, and chapter (5), “Concerning Guardians,” which discusses the choice of guardians and their rights and responsibilities.

There are several articles regarding the status of widows in the *First Lithuanian Statute*. Most of them appear already in the first version of the *First Lithuanian Statute*, but three of them (FLS IV/[1], FLS IV/16 and FLS IV/17),¹⁸⁴ describing the size and order of assigning the dower, the repeated remarriage of widows, and a widow’s right not to be summoned to court for one year appear only in the second, expanded, version of the *First Lithuanian Statute*.

If in the early sources there are only a few norms regarding the property status of widows, in the later sources there is a clear tendency for more and more details being brought into consideration. The *First Lithuanian Statute* presents a fully developed system of norms regarding the legal status of widows and their property rights – although further refinement of this system occurred later, all the basic provisions are already there. In the *First Lithuanian Statute* the status of both dowered and the dowerless widows is defined, taking into consideration their parental and marital status.

¹⁸² *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 18.

¹⁸³ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 23.

¹⁸⁴ For all references to both Statutes, see the Ruthenian text and the translation into English in the Appendix.

The Second Lithuanian Statute

As soon as the *First Lithuanian Statute* appeared, the need for its amendment arose. Thus, after a few decades, in 1566, the *Second Lithuanian Statute* appeared, which expanded and amended the *First Lithuanian Statute*. The *Second Lithuanian Statute* came under even stronger influence of Roman law and legal science and was better systematised.¹⁸⁵ The *Second Lithuanian Statute* kept essentially the same chapters, but was expanded and rearranged. Chapter (5) of the *First Lithuanian Statute*, “Concerning Guardians,” was split into two, and became chapter (6), “Concerning Guardians,” and chapter (7), “Concerning Testaments.”

New laws appearing in the *Second Lithuanian Statute* may be divided into three main subcategories: firstly, corrections, emendations, clarifications of the laws which do not change the meaning of the laws;¹⁸⁶ secondly, changes in the meaning of the existing laws; thirdly, completely new laws (whether as expansions of existing laws or completely new paragraphs).

The Legal Practice

A big part of the current knowledge about legal practices in sixteenth-century Lithuania comes from the *Lithuanian Metrica*. The *Lithuanian Metrica* is the collection of the archival

¹⁸⁵ *Lietuvos statutas*, ed. and tr. von Loewe and Gudavičius, 27. The *Third Lithuanian Statute* of 1588 was a further expansion of the first two *Statutes*. It was an effort not only to adapt the written law to the needs of society, but also an attempt to make Lithuanian law correspond to Polish law because of the Lublin Union of the two states in 1569. This *Statute* is not analysed here.

¹⁸⁶ By corrections, emendations and clarifications I mean such places in the text of the *Second Lithuanian Statute* as differ from the text of the *First Lithuanian Statute* only in form, but usually not in content. One of the most common differences between the *First Lithuanian Statute* and the *Second Lithuanian Statute* is word order. Since purely linguistic analysis is not the aim of this research, I do not analyse such differences in any detail if they do not change the meaning of the text. Another difference between the *First Lithuanian Statute* and the *Second Lithuanian Statute* is word choice. Again, mostly it does not change the meaning of the laws. However, in some contexts it clarifies the meaning.

records – that is, copies of all incoming and outgoing documents – of the chancellery of the Grand Duchy of Lithuania. It encompasses documentation from the fifteenth to the eighteenth century, and covers such materials as the rulers' privileges for the state, a province or a town, grants by the grand duke, confirmations of land ownership, land sale and purchase documents, last wills, court decisions of central and local administration, documents about state expenditure and income, as well as diplomatic documents. These are just a few examples, not a complete list.¹⁸⁷

There are four categories of the records in the *Lithuanian Metrica: Books of Inscriptions, Books of Court Records, Books of Public Matters* and *Books of Re-writings*.¹⁸⁸ I am using only the *Books of Court Records*, although the *Books of Inscriptions* also have some court records as well as many interesting documents on the sale and purchase of family property as well as testaments and marital contracts.¹⁸⁹ Most of the material is in Ruthenian,¹⁹⁰ but some cases are in Latin.

The section *Books of Court Records* contains 40 books of various lengths for the period between 1529 and 1566, and 4 books¹⁹¹ have been identified as *Books of Court*

¹⁸⁷ The original manuscripts of the *Lithuanian Metrica* are now kept mainly in Moscow, in the Central State Archive of the Old Acts, but some of them are in Warsaw. For this dissertation, the microfilms of these documents, kept in National History Archive in Vilnius, are used. Most of the materials from up to late sixteenth century survive only in the copies of the late sixteenth century.

¹⁸⁸ This is the classification by Stanisław Ptaszycski (Stanisław Ptaszycski [Станислав Пташицкий], *Описание книг и актов литовской метрики* [Description of the Books and Acts of the *Lithuanian Metrica*] [St. Petersburg: Тип. Правительствующего Сената, 1887]), which, though not perfect (Due to numerous re-writings, re-classifications and re-bindings of the *Lithuanian Metrica* over time some parts of the books were lost, some parts were bound into different volumes, some documents became loose and were collected (in some cases at random, it seems) into new volumes. The classification of the books of the *Lithuanian Metrica* is also analysed by Patricija Kennedy Grimsted, *The "Lithuanian Metrica" in Moscow and Warsaw: Reconstructing the Archives of the Grand Duchy of Lithuania* (Cambridge, MA: Harvard University Press, 1984). For more details on the history of the *Lithuanian Metrica*, see Egidijus Banionis [Егидиус Банионис], "Введение" (Foreword), in *Lietuvos Metrika (1427–1506): Užrašymų knyga 5* (The *Lithuanian Metrica*, 1427–1506: The Fifth Book of Inscriptions), ed. Egidijus Banionis, 5-26 (Vilnius: Mokslo ir enciklopedijų leidykla, 1993), is still used as a basis for the categorisation of the *Lithuanian Metrica*.

¹⁸⁹ I have not used all of the materials available because I had to restrict the volume of the materials used for research on some grounds, and decided to concentrate on the *Books of Court Records* as I deemed them to contain more (and more varied) material on widows.

¹⁹⁰ The debate about a proper term for the language used by the chancery of the Grand Duchy of Lithuania is summarised in *Pirmasis Lietuvos Statutas*, ed. Valikonytė, Lazutka and Gudavičius, 61-64.

¹⁹¹ LM 16; LM 27; LM 34; LM 40.

*Records*¹⁹² in the section of the *Books of Inscriptions*. Since most of them are unpublished, time did not permit a thorough analysis of them all. Thus, the choice was made to search for the relevant court cases from the *Books of Court Records* produced by the court of the grand duke and the court of the Council of Lords, leaving aside the records of the local courts of the *voevoda* (the Vilnius and Vitebsk castle courts).¹⁹³

Before the appearance of the *First Lithuanian Statute*, both local courts and the court of the grand duke relied mainly on customs. The application of customary law was complicated by the fact that there were no collections of the norms of customary law. Only the Slavic lands of Lithuania could rely on such a collection, namely, the *Russkaja Pravda*.¹⁹⁴ In the local courts, local noblemen were present as well as representatives of the grand duke and thus it was not difficult to find and apply an appropriate norm of local customary law. In the court of the grand duke and the Council of Lords there were normally no people who knew the local customs, thus influential and reliable members of the respective lands were questioned on such occasions. They had to supply the court with information about local norms of customary law.¹⁹⁵

The principles of organisation as well as the methods of work and kinds of practical activities of the chancellery of the Grand Duchy of Lithuania developed especially quickly at the end of the fifteenth and in the first quarter of the sixteenth century. The broadening of the

¹⁹² Grimsted, *The "Lithuanian Metrica,"* 37.

¹⁹³ Before 1564 the courts and the administrative authority were not separate ("Ivadas," XXIV). There were several courts: local courts, headed by the *voevoda* or local officials, the court of the grand duke (the court of commissaries and the court of accessories), the court of the Council of Lords, etc. (Jevgenij Machovenko, "Valstybinių išvažiuojamųjų, trečiųjų ir kuopos teismų veiklos nagrinėjant žemės bylas teisinis reguliavimas Lietuvos Didžiojoje Kunigaikštystėje" (Legal Regulation of Hearing of Land Cases in State Circuit Courts, Arbitration and Village Courts in the Grand Duchy of Lithuania), *Teisė* 46 (2003): 98-107). The Vilnius castle court – the court of the *voevoda* – books contain materials for 1542-1566 (and thus do not cover the whole period investigated here). Also, they concentrate on the matters of Vilnius town (the part which was under the jurisdiction of the castle rather than under Magdeburg law) and the province of Vilnius, while the books of the other courts provide a wider geographical framework.

¹⁹⁴ Jevgenij Machovenko, "Lietuvių ir slavų teisės vaidmuo kuriant Lietuvos Didžiosios Kunigaikštystės teisės sistemą" (Creation of the System of Law of the Grand Duchy of Lithuania: Role of the Lithuanian and Slav Law), *Teisė* 55 (2005): 5; Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 10, 12.

¹⁹⁵ Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 12-13.

sphere of its activities and the assignment of new functions of state management caused structural changes and differentiation in the specialisation of the chancellery staff. With the number of documents issued by the chancellery increasing, copies started to be collected in different books according to the themes. The everyday activities of the chancellery of the Grand Duchy of Lithuania and the constant increase of documents raised the task of their systematisation, description, preservation and use.¹⁹⁶ It is known that around 1570 a listing of separate documents, not belonging to any books, was compiled in the chancellery of the Grand Duchy of Lithuania. Two copies of that description now form the first two books of the *Lithuanian Metrica*. Around 1594, on the order of Lev Sapiega, the chancellor of the Grand Duchy of Lithuania, all the “books,” that is, all the documentation of the chancellery of the Grand Duchy of Lithuania collected during the fifteenth and the sixteenth century, and in quite bad state (from usage), began to be copied into copy-books. This work continued for more than 10 years, and resulted in 190 new books of the *Lithuanian Metrica*.

The documents of legal practice of sixteenth-century Lithuania survived only in the copies from the very end of the sixteenth century.¹⁹⁷ These copies not only fail to represent the original chronology of the documents and their original classification, but they even contain blank places in the texts of the cases where scribes failed to read the original manuscript. Also, it is not known precisely how faithful the transcription of the documents is. Comparisons of the copy-books of the sixteenth century with the original books of the seventeenth century allow one to assume that distortion of the texts was not significant to a degree to claim that those copy-books are unreliable sources.

Up to the court reform of 1564-1566, the authority of the secular and the ecclesiastical courts was not separated. In practice, with some exceptions, most of the property-related cases

¹⁹⁶ Банионис, “Введение”, 5.

¹⁹⁷ The original documents of the chancellery of the Grand Duchy of Lithuania of the fifteenth and the sixteenth century were placed for safekeeping in the Lower Castle of Vilnius town and were destroyed during the political disturbances of the seventeenth century, Банионис, “Введение,” 6.

were resolved in the secular court and questions of the validity of marriages in the ecclesiastical court.¹⁹⁸

Summary

The first normative legal sources on widows appear at the end of the fourteenth century. Throughout the fifteenth century, they become more and more detailed and include more and more information, and in the sixteenth century they are even more expanded and included in the *Statutes*. The development of the normative law did not stop with the appearance of the *First Lithuanian Statute*, and if in the fifteenth century it developed mainly through the privileges of the rulers, in the sixteenth century it developed mainly through the decrees of the Council of Lords. There are no collections of customary Lithuanian law. The customary law is reflected mainly through the normative legal sources and the records of the legal practice – the court cases of the *Lithuanian Metrica*.

The relations of the normative and the customary law were clearly defined by the *First Lithuanian Statute*; the *Statute* was the main source of law, but customary law and previously issued legislation were to be used if some norm was not found in the *Statute*.¹⁹⁹ The fact that the laws of the *First Lithuanian Statute* and the customary laws are essentially equally valid if they do not contradict each other is important to keep in mind when analysing the position of the widows; if some situation is not mentioned in the *First Lithuanian Statute* or other normative legislation then it should not be assumed that this is some new norm – it may as well be a part of customary law.

¹⁹⁸ Karpavičienė, *Moteris Vilniuje ir Kaune*, 145.

¹⁹⁹ FLS VI/[26]/25.

IV. Legislation Prior to 1529

Before starting the analysis of the legal sources of the period which fall into the timeframe of the research – 1529-1566 – I will present the legal sources which had appeared prior to 1529 in order to put the research of the period 1529-1566 into a wider context. The period before 1529 contains the privileges of the ruler to the land and provinces as well as a decree of the Council of Lords from 1509.²⁰⁰

Land Privileges and Province Privileges

The Land Privilege of 1387

The first known land privilege, the privilege of 1387,²⁰¹ defining the rights of the Catholic nobility of the Grand Duchy of Lithuania, is also the first legal document which addresses the position of widows.²⁰² The passage on widows describes the situations of a non-dowered widow who remains in the widow's seat and a non-dowered widow who remarries.

Although the institution of the dower was already known in Lithuania by the end of the fourteenth century,²⁰³ Irena Valikonytė rightly notes the absence of a mention of the institution of the dower in this privilege,²⁰⁴ which contains only the legal provisions for widowhood. The widow, according to this privilege, if she remains unmarried, may stay in the whole of her husband's property.²⁰⁵ At this early stage of the creation of Lithuanian

²⁰⁰ For all references to the privileges and the decree of 1509, see the Ruthenian text and the translation into English in the Appendix.

²⁰¹ *Lietuvos Metrika, Knyga Nr. 25*, 35-36.

²⁰² Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 30-31.

²⁰³ Лазутка and Валиконите, "Имущественное положение женщины," 81-82; Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 32-33.

²⁰⁴ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 31.

²⁰⁵ Although it is not stated explicitly in the privilege, Andriulis assumes that the widow keeps the *whole* of the deceased husband's property (Andriulis, *Lietuvos statutu...*, 87), and Valikonytė's interpretation implies the same idea (Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 31). Since the privilege only says "stay", not

legislation, the privilege is not very detailed; it does not bring into consideration the parental status of non-remarrying widows nor does it clarify how the absence or the presence of children affected the widow's property status. Nothing is said about the ownership of the property – that is, it is unclear whether the widow may freely dispose of the husband's property or whether she only has rights of management. The fact that she could keep it only if she did not remarry shows that it was for her widowhood only and she could not dispose of it freely.

As regards the remarriage of widows in the land privilege of 1387, for a remarrying widow, upon her remarriage the husband's property goes to his sons or, in their absence, to his relatives. In general, the privilege seems to be discouraging the remarriage of widows; such a norm makes a remarriage quite difficult, since the widow does not bring any of her husband's property to her new family, whereas, if she does not remarry, she stays in it. On the other hand, the remarriage of widows is clearly not prohibited, since the grand duke grants the nobility the right to give their widows in marriage and widows are allowed, as long as they have the approval of their relatives, to choose their husbands.²⁰⁶ Also, the privilege refers only to the property of the husband. It might have been possible for a widow to get her dowry back, which she would then take into a new marriage (cf. the province privilege to Belsk of

“keep”, it might also mean that the widow stays in the undivided estate with the children (not necessarily managing it if there are adult children).

²⁰⁶ *ipsa marito, quem elegerit ducendum, tradetur* in *Lietuvos Metrika, Knyga Nr. 25*, 35-36. ... *ipsa, marito, quem elegerit, dotandum tradetur* in *Zbiór praw*, ed. Działyński, 2. Działyński's publication relies on the eighteenth-century Polish copy of the *Lithuanian Metrika* rather than the original. *Dotandum* seems to be a scribal error, since the expression *ducere maritum* is a regular phrase for “getting married” and it also appears in the same context in the land privilege of 1447 as *tradenda est marito cui nubendum duxerit* and the land privilege of 1492 as *ipsa, marito quem ducere elegerit, tradatur*. In some publications, e.g., *Lietuvos TSR istorijos šaltiniai, I tomas: Feodalinis laikotarpis* (Historical Sources of the Lithuanian SSR, vol. I: The Feudal Period), ed. K. Jablonskis *et al.* (Vilnius: Valstybinė politinės ir mokslinės literatūros leidykla, 1955), 57, Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 31, and Andriulis, *Lietuvos statutu...*, 87, scholars relied on Działyński's version, which resulted in the treatment of *dotandum* as a “share”. The institution of dower as such was already known in Lithuania by the end of the fourteenth century (Лазутка and Валиконите, “Имущественное положение женщины,” 81-82; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 32-33). According to Vytautas Andriulis, who is using the variant of the text with *dotandum*, a remarrying widow is to be dowered by the new husband (Andriulis, *Lietuvos statutu...*, 87). However, the variant of the text with *ducendum* does not allow such a reading.

1501).

The Land Privilege of 1413

The first legal source containing any information about concluding dower contracts is the land privilege of 1413. The land privilege of 1413 introduces the concept of dower, which is not present in the land privilege of 1387. According to Irena Valikonytė, it is the first legal act in a Lithuanian context which contains the term *dotalicium* (dower).²⁰⁷ It is a significant document insofar as it introduces the institution of dower into the normative law and describes how it is to be calculated.²⁰⁸

This is an important detail because it defines a time when the dower should/could be assigned; it says that the dower should be assigned from the property which noblemen have or *will* have (*habuerint, uel fuerint habituri*). This means that the dower was calculated from the amount of the husband's property owned by him at the time of death and not from the original amount owned by him at the time of marriage. The result of such a regulation, the size of the dower being related to the size of the final amount of property, would mean that widows' property status depended on the economic success of their husbands during their lifetimes.

The privilege allows husbands to assign not only movable, but also *immovable* property as dower for their wives (*dotalitia in bonis et villis*).²⁰⁹ What is significant here is that the types of land from which the dower should be assigned are defined; it may be both from the paternal inheritance (*successione paterna*) and from the property received from the ruler (*concessione perpetua*). If the land privilege of 1387 gave the nobility the right to dispose of their hereditary property to a certain degree, the land privilege of 1413 gave the

²⁰⁷ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 31, note 11.

²⁰⁸ *Zbiór praw*, ed. Działyński, 7.

²⁰⁹ *Pirmasis Lietuvos Statutas*, ed. Valikonytė, Lazutka and Gudavičius, 285.

nobility the right to dispose of donations of the ruler (admittedly, with his permission).²¹⁰ This confirms the tendency to convert granted land to inheritable property.²¹¹ Purchased property is not, however, mentioned here. The right of the nobility to dispose freely of their hereditary and granted property was a sign of their increasing right to land.

The land privilege of 1413, which was the first one to mention the dower and which defined some aspects of the method of assigning the dower, did not, however, specify the circumstances under which a widow was entitled to the dower. There are no grounds to suspect that the circumstances of receiving the dower were different from those defined in the later privileges: that is, that the dower was given to a widow upon her remarriage. The function of the dower in Lithuania, as in other countries, was to provide for women in their widowhood. Although it is not explained in any of the land privileges, from the later legislation it appears that securing the dower was in the interests of the bride's family, and the duty of requesting a dower belonged to a woman's father.²¹²

One more feature which deserves some attention is the reference to laws of the Polish Kingdom. References to Polish law occur in many of the privileges. From the texts of these privileges it appears that the institution of dower, together with some other norms, was a borrowing from Polish law. According to Stanislovas Lazutka and Irena Valikonytė, the formation of the institution of dower could have been influenced by Ruthenian and Polish law, but essentially appeared in Lithuanian customs as a result of similar social circumstances rather than because of foreign influences.²¹³ The Polish influence could only have accelerated

²¹⁰ Vansevičius, *Lietuvos Didžiosios Kunigaikštystės valstybiniai-teisiniai institutai*, 12-13.

²¹¹ Jevgenij Machovenko, "Žemės nuosavybės formos Lietuvos Didžiojoje Kunigaikštystėje" (Forms of Land Ownership in the Grand Duchy of Lithuania), *Teisė* 36 (2000): 51-52.

²¹² FLS IV/8.

²¹³ For a detailed analysis of influences from and parallels with Polish, Ruthenian, Russian and Prussian laws, see the following: Лазутка and Валиконите, "Имущественное положение женщины," 81-84; Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 32-34; Lazutka and Gudavičius, "I Lietuvos Statuto šaltinių klausimu," 165. For the status of women in Poland, see, for example, M. Koczerska, *Rodzina szlachecka w Polsce późnego średniowiecza* (The Noble Family in Late Medieval Poland) (Warsaw, 1975), and M. Bogucka,

the development of the institution of the dower in Lithuania.²¹⁴ I would add that it was the legal provisions which were probably formed with no external influences, while the contractual provisions – that is, the dower – were more a result of legal influences from Poland.

As regards the remarriage of widows, the land privilege of 1413 does not mention widows overtly. In this privilege, widows must be covered by the general category of “kinswomen and women related to them by marriage;” this privilege reconfirms the right of the kinsmen to give their relatives in marriage.

The land privilege of 1413, like the privilege of 1387, leaves many aspects of the widow’s property status undefined. It is a significant document, however, insofar as it introduces the institution of the dower into the normative law and describes how it should be calculated. The fact that the dower may be assigned in immovable property is of particular importance, since it reinforces²¹⁵ the right of widows to own immovable property.²¹⁶

The Land Privilege of 1434

The land privilege of 1434²¹⁷ further specifies the property status of widows. It repeats the point which was first raised in the land privilege of 1387, that widows may hold the property of their deceased husbands if they do not remarry. However, the privilege of 1434, unlike the privilege of 1387, seems to define the situation of dowered widows. It appears that in the

Women in Early Modern Polish Society, against the European Background (Aldershot: Ashgate, 2004) (the latter work includes an overview of Polish literature on women).

²¹⁴ Valikonytė *et al.*, *Pirmasis Lietuvos Statutas*, 287.

²¹⁵ According to Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 162, Lithuanian girls and widows had the right to dispose of property from much earlier, but they do not specify if they mean *immovable* property.

²¹⁶ According to Лазутка and Валиконите, “Имущественное положение женщины,” 81, and Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 30, the right of women in general to inherit immovable property is first recorded in the land privilege of 1447.

²¹⁷ *Monumenta medii aevi historica res gestas Poloniae illustrantia*, vol. 14: *Codex epistolaris saeculi decimi quinti*, vol. 3 (1392–1501), ed. A. Lewicki (Cracow: Drukarnia Uniwersytetu Jagiellońskiego, 1894), appendix, no. 22, 530.

fifteenth century the status of dowered and non-dowered non-remarrying widows was the same; they were entitled to stay in the deceased husband's property, with contractual provisions modifying widow's property status only in the event of remarriage.

If in the land privilege of 1413 the conditions of receiving a dower are not specified, the land privilege of 1434 is the first one to specify that the dower should be given to the widow in the case of remarriage. The rest of the property goes to her children or, in the absence of children, to the brothers of the deceased husband. As regards the types of property, only the hereditary property is mentioned. This privilege, besides defining the status of both non-remarrying and remarrying widows, also states that duties must continue to be provided from property held by widows. It appears from this statement that the widows were entitled to manage property on the same grounds as men.

Again, like the land privilege of 1387 and the land privilege of 1413, this privilege does not address many aspects of widows' property status, but it contributes two further details to its fuller definition: namely, that widows have to perform state services from the property which they keep, and that the dower is given to widows in the event of remarriage, the widows otherwise being entitled to stay in the whole of their husband's property (most likely only with the right of usufruct and possibly staying together with the unmarried adult children).

The Land Privilege of 1447

The information in the land privilege of 1447²¹⁸ is also very scarce, or, rather, it contains little new. It mainly reiterates and summarised the previous points. Non-remarrying widows,

²¹⁸ *Codex diplomaticus Poloniae*, vol. 1, ed. L. Ryzyszczewski and A. Muczkowski (Warsaw: Drukiem Stanisława Strąbskiego, 1847), 336. *Акты, относящиеся к истории Западной России*, vol. 1, 75. According to Lazutka and Gudavičius, "I Lietuvos Statuto šaltinių klausimu," 161, this paragraph, which is also repeated in the Land Privilege of 1492, and appears in the Province Privileges of 1492 to Samogitia, 1501 to Belsk and 1507

according to this privilege, as in the land privilege of 1434,²¹⁹ are allowed to keep their deceased husbands' property if they do not remarry.²²⁰

In the case of a widow's remarriage, in the land privilege of 1447²²¹ the children and the relatives have the same rights to the property as in the land privilege of 1387. The important detail in this privilege is the request for a proof of the validity of the dower; the widow is expected to "sufficiently prove" that she has been assigned a dower (although there still is no indication of what should be proof of eligibility for the dower). This might be a sign that the dower was gaining firmer ground in regulating family property relationships and that the contractual provisions for the well-being of a widow were becoming more clearly separated from the default legal provisions. As for the right to remarry, the privilege of 1447 (like the privileges of 1492 and 1506) contains the same norm regarding the remarriage of widows as found in the earlier privileges. Here, as in the privilege of 1387, but not the privilege of 1413, widows are singled out as a separate group of women who could be given in marriage by their male relatives.

As regards the types of the property that could be assigned as a dower, the land privilege of 1447 also states the same as 1434, but only in the Latin version: *in bonis et possessionibus paternis*. The Ruthenian version contains simply "въ имени," which implies all of the property. As for the time of receiving the dower and the transfer of the property upon remarriage, the land privilege of 1447 is very similar to the land privilege of 1413; according to it, in the event of remarriage dowered widows received the dower, and the rest of the property went to the sons (in the Ruthenian version: children) of the deceased husband, and, if there were none, to the relatives of the deceased husband. Although not introducing

to Kiev, was a source of the *First Lithuanian Statute*. The source of the privilege of 1447, according to these authors, is the land privilege of 1387 and the land privilege of 1434.

²¹⁹ According to Lazutka and Gudavičius, "I Lietuvos Statuto šaltinių klausimu," 161, these two privileges contain the rudiments of the privilege of 1447.

²²⁰ The land privilege of 1492 repeats the land privilege of 1447.

²²¹ The land privilege of 1492 repeats the land privilege of 1447.

much new data regarding the property status of widows, this privilege, as will be discussed below, served as a template for many later privileges, both those given to the whole land²²² and those given to the provinces.²²³

The Land Privileges of 1492 (and 1506)

The land privilege of 1492²²⁴ gives essentially the same information as that in the land privilege of 1447,²²⁵ and repeats the requirement for widows to fulfil state military service from the land that they hold, which is first found in the land privilege of 1434. It seems that for nearly sixty years the legal status of widows remained essentially the same – or at least there were few changes in the normative law.

The land privilege of 1492 introduced one new restriction on the property status of women, including widows.²²⁶ It established that any girl or widow who was to be given in marriage abroad had to be satisfied with a dowry and not claim inherited property.²²⁷ This new article raises several questions connected to the property status of widows. First of all, from this article it appears that remarrying widows were entitled to a dowry. This statement does not correspond to any of the earlier known norms. One explanation could be the lack of precise terminology, which implies the lack of a precise distinction between the institutions of

²²² Лазутка and Валиконите, “Имущественное положение женщины,” 81; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 31.

²²³ According to Лазутка and Валиконите, “Имущественное положение женщины,” 81; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 31, the privilege of 1447 had influence on the province privilege of 1492 to Samogitia, the privilege of 1507 to Kiev and the privilege of 1511 to Polotsk. Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 161, see its influence on the decree of 1509 and the *First Lithuanian Statute*.

²²⁴ *Codex diplomaticus Poloniae*, vol. 1, ed. Ryszczewski and Muczkowski, no. CXCIV, 347.

²²⁵ According to Якубовский, “Земские привилегии,” part 1, 273, the privilege of 1492 repeats word for word the privilege of 1447 and has 20 new articles as well. Indeed, the differences are few and insignificant as regards the meaning of the privilege. See also Лазутка and Валиконите, “Имущественное положение женщины,” 81 and Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 31.

²²⁶ Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 162.

²²⁷ According to Vytautas Lazutka and Irena Valikonytė, slightly differently formulated versions of this article also appear in several of the land privileges: the privilege of 1492 to Samogitia, the privilege of 1501 to Belsk, the privilege of 1507 to Kiev, and the privilege of 1511 to Polotsk (Лазутка and Валиконите, “Имущественное положение женщины,” 81; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 31), which implies that the norms found in these privileges were not necessarily local customs and might have been introduced in an effort to unify or standardise the laws of Lithuania.

the dowry and the dower.²²⁸ Thus, it is possible that here *dos* referred to dower, and *expedicio* to dowry. Another important point of the privilege was the restriction barring those women who were given in marriage abroad from holding immovable property. This regulation reflects the attempt of the Lithuanian nobility to protect themselves against the efforts of the Polish to acquire Lithuanian lands.²²⁹ It is also one of the signs (although maybe not the primary concern under these circumstances) of the general tendency to restrict women's rights to immovable property.²³⁰

The land privilege of 1506 offers less information regarding the legal status of widows than is found in the earlier privileges, since it mainly confirms the previous privileges without repeating their contents.²³¹ The only article regarding the status of widows found in the land privilege of 1506 most likely refers to the article of the land privilege of 1492 regarding the status of women who marry foreigners.

The Province Privilege of 1492 (and 1507) to Samogitia

The province privileges to Samogitia²³² do not contain any information that is not present in the land privileges. They state that widows may stay in the property of their husbands for their widowhood, and upon remarriage may leave with the dower that was assigned to them. According to Vytautas Andriulis, the norms of the privileges to Samogitia regarding the

²²⁸ That inconsistency of the terminology for dower may be demonstrated on the text of the already quoted privileges: the land privileges of 1413 and 1434 refer to the dower as *dotalicium*, while in the land privilege of 1492 in one instance the dower is clearly referred to as *dotalicium*, but in the article on widows remarrying abroad there is reference to *dos*.

²²⁹ Valikonytė, "Ar Lietuvos Didžiojoje Kunigaikštystėje...", 65.

²³⁰ There were no regulations regarding the marriage of foreign women to Lithuanian noblemen.

²³¹ Якубовский, "Земские привилегии," part 1, 273.

²³² *Lietuvos Metrika, knyga Nr. 15 (1528-1538): užrašymų knyga 15* (The Lithuanian Metrica, Book No. 15 (1528-1538): Book of Inscriptions 15), ed. A. Dubonis (Vilnius: Žara, 2002), 182; *Zbiór praw litewskich*, ed. Działyński, 68-69. According to *Акты, относящиеся к истории Западной России*, vol. 1, 122, the Latin version is a copy of the Ruthenian version. According to Якубовский, "Земские привилегии," part 2, 261, the Latin is the original and the Ruthenian is the translation (since it contains many Polonisms).

property status of widows came from the land privilege of 1434.²³³ These privileges indeed raised most of the same points as the land privilege of 1434. However, the phrasing of the texts was different, the privilege of 1492 to Samogitia being less precise. For example, when describing who should receive the husband's property if the widow remarries, the privileges to Samogitia, instead of ordering a remarrying widow's property to be left for the male children or, in their absence, for the brothers of the husband, refer only to a more general group of "relatives". This difference, however, is not significant enough to claim that the situation of widows in Samogitia differed from the general situation of widows described by the land privileges.

The Province Privilege of 1501 to Belsk

The province privilege of 1501 to Belsk,²³⁴ on the other hand, widely differs from all known land and province privileges in its contents, addressing completely different points than those raised in the rest of the privileges. It offers regulations for non-dowered widows: after the death of the husband the widow, if she did not receive a dower (*dotalicium*) from him, may receive back her dowry (*dos*). This privilege also contains provisions for the further fate of such a widow. If the widow kept her dowry she was excluded from further inheritance from her family. If she gave the dowry back, she could stay together with her parents/siblings and was entitled to a share of the inheritance.

The privilege of Belsk contains yet another law absent from any other privileges. It aims at securing the situation of widows for a set time and states that after the husband's death a widow may not be summoned to court for a year and a week unless she remarries within this time.

²³³ Andriulis, *Lietuvos statutu...*, 89.

²³⁴ *Акты, относящиеся к истории Западной России*, vol. 1, 223-224; *Lietuvos Metrika. Knyga Nr. 25*, 60.

Speaking of this privilege, it is important to remember that Polish law was at least partially recognised in the district of Belsk,²³⁵ and thus this particular norm about daughters getting back the dowry and giving it back to their family might actually be a reflection of Polish law, but not necessarily so. According to this privilege, a non-dowered widow did not forfeit the right to her dowry, as in the *Second Lithuanian Statute*, but rather the dowry is prescribed to be returned to her. The *First Lithuanian Statute* does not explicitly say what happened to a non-dowered woman's dowry. It is possible that these were the rules applied.

The Province Privilege of 1503 (and 1509) to Vitebsk, the Province Privilege of 1505 to Smolensk, and the Province Privilege of 1511 to Polotsk

These three privileges: the province privilege of 1503 (and 1509)²³⁶ to Vitebsk, the province privilege of 1505²³⁷ to Smolensk and the province privilege of 1511²³⁸ to Polotsk contain the least information regarding the status of widows. The privileges to Vitebsk only state that the ruler may not take away a deceased man's property and may not force their widows to re-marry. The privilege of 1505 to Smolensk, apart from containing the promise of the grand duke not to force widows to marry, also includes the promise not to drive them out of their homes, which probably means that widows were allowed to occupy the (whole?) of their husband's property. None of the province privileges to Vitebsk and Smolensk offer any details regarding the legal status of widows which are not known from the land privileges.

²³⁵ Якубовский, "Земские привилегии," part 2, 253; Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai*, 65.

²³⁶ The privilege of 1503 (*Lietuvos Metrika. Knyga Nr. 25*, 174) and the privilege of 1509 (*Lietuvos Metrika, Knyga Nr. 8 (1499-1514): Užrašymų knyga 8*, ed. Algirdas Baliulis, Romualdas Firkovičius and Darius Antanavičius (Vilnius: Mokslo ir enciklopedijų leidykla, 1995), 291) to the province of Vitebsk contain exactly the same words.

²³⁷ Любавский, *Очерк*, 370.

²³⁸ *Lietuvos Metrika, Knyga Nr. 8 (1499-1514): Užrašymų knyga 8*, ed. Algirdas Baliulis, Romualdas Firkovičius and Darius Antanavičius (Vilnius: Mokslo ir enciklopedijų leidykla, 1995), 452.

This may be explained partially by their early origins and partially by their geographical proximity to ethnic Lithuania.²³⁹

One scholarly opinion regarding these passages is that they prohibited noblemen from forcing their widows to get married again.²⁴⁰ A different reading of the texts is possible, however, since in all the privileges this statement appears as one of many promises made by the grand duke to the nobility, it is not the noblemen who are prohibited from forcing their female relatives to marry, but rather it is the grand duke who declines his right to interfere in the marriage politics of his nobility and promises not to force their widows to remarry.²⁴¹ It is not explicitly stated whether noblemen have the right to give their women in marriage or whether widows have the freedom to choose their new spouses. Thus, these privileges do not seem to either narrow down or expand the legal status of widows.

Of the province privileges, it is only the province privilege of 1511 to Polotsk that contains more detailed information. The somewhat more extensive content of the privilege to Polotsk is explained by the fact that it was influenced by the land privilege of 1434.²⁴²

This privilege allows a widow to stay in the whole of her deceased husband's property and upon remarriage leave with only the property that her husband had assigned to her. As is clear from the privilege, the way to assure the right to the assigned dower was the confirmation of witnesses – the husband's family and others – that the dower had been assigned (this is connected to the land privilege of 1447 rather than to the privilege of 1434).

²³⁹

²⁴⁰ Lazutka and Gudavičius, "I Lietuvos Statuto šaltinių klausimu," 162, state this about the privilege of 1503 to Vitebsk and the privilege of 1511 to Polotsk; Andriulis, *Lietuvos statutu...*, 89, and Machovenko, "Lietuvos Didžiosios Kunigaikštystės sričių privilegijos kaip teisės šaltiniai," 133, see this in the privilege of 1503 to Vitebsk and the privilege of 1505 to Smolensk.

²⁴¹ Valikonytė, "Lietuvos Didžiosios Kunigaikštystės bajorių teisė...", 147-148, sees this as an obligation to the ruler rather than to the nobility. She says that in the privilege of 1503 to Vitebsk and the privilege of 1511 to Polotsk the ruler promised not to force widows to marry and sees it as a step towards the freedom of women to marry freely.

²⁴² Andriulis, *Lietuvos statutu...*, 89.

It remains unclear, however, whether it could be just an oral agreement or whether it should have been a written document.

The Province Privilege of 1507 (and 1529) to Kiev

In general, the province privileges of 1507²⁴³ and 1529²⁴⁴ to Kiev reiterate the points known already from the land privileges.²⁴⁵ They state that a widow could stay in her husband's property until remarriage and that upon remarriage she could only take whatever had been assigned to her by her husband. When she remarried, a widow left to her children whatever was not assigned to her or, if there were no children, to her husband's relatives, or, if there were none, to the ruler.

The privileges to Kiev are interesting from the point of view that they show that the size of dower was regulated. Only these two privileges, the province privileges of 1507 and 1529 to Kiev, contain any information regarding the size of the dower. The information is rather vague – one variant just says “one part” and another one “an appropriate part” – however, this is an important indication that the size of the dower was regulated. The land privileges only state, in the best case, that the dower was to be assigned on “some” of the husband's property.

Upon remarriage, according to the privileges to Kiev, as according to the aforementioned other privileges, the widow could take whatever the husband had assigned to her. In an interesting detail in the privileges to Kiev, the dower could only be assigned in money, not in property. Irena Valikonytė interprets the fact that the widow received money rather than property as a new legal tendency restricting the rights of widows to immovable

²⁴³ *Lietuvos Metrika, Knyga Nr. 8*, 240.

²⁴⁴ *Lietuvos Metrika. Knyga Nr. 25 (1387-1546)* (The *Lithuanian Metrica*: Book No. 25 [1387-1546]), ed. Darius Antanavičius and Algirdas Baliulis (Vilnius: Mokslo ir enciklopedijų leidybos institutas, 1998), 60.

²⁴⁵ According to Якубовский, “Земские привилегии,” part 2, 283-284 and 286, the privilege of 1507 to the province of Kiev is influenced by the land privilege of 1447. The same privilege, with minor changes, was repeatedly granted by Sigismund the Old to the province of Kiev in 1529.

property.²⁴⁶ The privileges to Kiev remain the only acts sanctioning such regulations regarding the property rights of widows. Such strict restrictions never appear on the state level; even according to the *Second Lithuanian Statute*²⁴⁷ widows could receive their dower in immovable property, although, admittedly, it could be bought out by the children or the relatives.²⁴⁸ It is difficult to say whether the general tendency to restrict women's right to hereditary immovable property occasioned the appearance of such a norm in the privileges to Kiev or whether this tendency first originated in the province of Kiev and slowly spread throughout the Grand Duchy of Lithuania.

These privileges offer the same norm regarding the status of non-remarrying widows, as the land privileges and province privileges to Samogitia and Polotsk. The privileges to Kiev also bring into consideration an additional aspect; they say that widows lived together with children or, if there were none, with relatives of the husband. Other privileges do not specify this; they only say that the widow may stay in the whole of her husband's property until she remarries. The phrasing of the privilege implies living together with children or relatives rather than sharing the property.

²⁴⁶ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 31.

²⁴⁷ SLS V/2.

²⁴⁸ Various scholars, writing about the status of Lithuanian widows, see the right of the relatives of exchanging dowers in immovable property for dowers in money as a negative phenomenon. But was it necessarily so? Margaret Hallissy, *Clean Maids, True Wives, Steadfast Widows: Chaucer's Women and Medieval Codes of Conduct*, Contributions in Women's Studies, vol. 130 (Westport, CT: Greenwood Press, 1993), 143, says: "The economic status of the medieval widow was enhanced by the transition then in progress from a land-based to a money-based economy." With the laws regarding the transfer and the purchase of land once again becoming more liberal from the *Second Lithuanian Statute* onwards, when land could easily be purchased for money, the widows were in the same position as the rest of society. Court records reveal that there were many land purchase cases, thus the land must have been quite easily available for purchase.

The Decree of 1509

The first legal document which offers a coherent view of the legal status of widows is the decree of 1509,²⁴⁹ called “Decree or Decision: In What Way Everyone May Assign a Dower to Their Wives on Their Property.”²⁵⁰ It defined the rules of keeping the dower in case of remarriage and also if the widow stayed unmarried.

The decree of 1509 was the first document of normative law where specific restrictions appeared on the size of the dower: the dower was restricted to one third of the property. The time of receiving the dower seems to have been at remarriage, not when being widowed (in line with the privileges, but not with the *Statutes*). What property a non-remarrying widow with children could keep was not explained. The decree only defined the property status of the non-remarrying childless widows: she was to stay in the whole of the property. As to the type of the property from which the dower was calculated, according to the decree of 1509 it was not only the hereditary property but also the granted lands (cf. the land privilege of 1413) which should be included in the calculations of the dower.

According to the decree, if a dowered widow with children remarried, she received the right of usufruct to all of her dower (not just the equivalent of the dowry), and upon her death her dower passed on to her children. Regardless of whether a remarrying widow had children or not, the relatives had a right to offer to buy out her dower, but the widow could refuse this offer (in the *Statutes* she did not have this option). The rights of remarrying dowered childless widows were broader: they received their dower not for life, but for good, and were allowed to bequeath it to whomever they wished. If a childless widow bequeathed her dower to someone, the relatives also had a right to buy it from whomever she bequeathed it to (but it is not explained whether or not the recipients of her dower could refuse to take money instead of

²⁴⁹ *Литовская Метрика. Томъ первый*, no. 54, 596-597. For the full text, see the Appendix.

²⁵⁰ “Уфала альбо постановление: якимъ способомъ оправу жонамъ каждый на имению своемъ чинити маеть”.

land, as the widow did in her lifetime). The decree was also the first document to define the rules of buying out the dower from a remarrying widow. What is most important here is that, where the *First Lithuanian Statute* does not leave the widows the option of disagreeing with buying out her dower, this decree gives the woman, not the children, the freedom of choice. Otherwise, the decree is in line with the *First Lithuanian Statute*. This decree also provided one further regulation of the property status of widows: none of the earlier legal documents explained what happened to a remarried widow's dower after her death.

As for non-remarrying widows, the non-remarrying childless widows (presumably both dowered and non-dowered, as the status of the non-remarrying widows was not differentiated before the *First Lithuanian Statute* according to whether they had a dower or not), could stay in the whole of the husband's property with the right of usufruct. After their death, the property reverted to the relatives of the husband. According to Vytautas Andriulis, this meant that only childless widows could stay in the whole of the husband's property.²⁵¹ However, the land privileges and the province privileges (except the privileges to Kiev), do not distinguish between the status of the childless widows and widows with children. They also do not state clearly that the widow *keeps* the *whole* property, and the decree quoted above may possibly imply that she only *stays* in the undivided estate if she has children.

According to Stanislovas Lazutka and Irena Valikonytė, by the beginning of the sixteenth century the examples of legal practice, the customary law, and the privileges defining the status of women were not sufficient, which caused further clarifications of the status of women.²⁵² After the decree of 1509 was issued, it was widely used by the litigants, and the Council of Lords itself, when making a decision. Thus, by the time of the appearance

²⁵¹ Andriulis, *Lietuvos statutu...*, 90.

²⁵² Лазутка and Валиконите, "Имущественное положение женщины," 81.

of the *First Lithuanian Statute*, the size of the dower and the order of assigning the dower were fully established.²⁵³

Summary

In comparison with the data found in the *Statutes*, the information present in the privileges and the decree of 1509 is rather scarce. None of the sources contain any details as to the time of drawing up the dower contract or the form of the contract. It is only in the land privilege of 1447 and the province privilege to Polotsk that any proof of the existence of dower agreements is required.

As to the type of the property on which the dower was assigned, the land privileges reveal that the dower was certainly to be assigned from the paternal inheritance (the land privileges of 1413, 1434, 1447, 1492) and also from granted property, granted for eternal use (the land privilege of 1413). Nothing is said of purchased immovable property. None of the land privileges define the precise size of the dower; some of them only refer to “something”. From the province privileges, only the province privileges to Kiev of 1509 and 1527 show that the dower had to be assigned on an “appropriate” part, and then the decree of 1509 introduces the defined size of the dower: one third of the husband’s immovable property.

The time of receiving the dower is, in all privileges that mention it as well as in the decree of 1509, that of remarriage rather than that of widowhood. As to the rights of disposing of one’s dower, it is only the decree of 1509 that states that a dower should revert back to the woman’s children, if she had any, upon her death, but in the absence of children she could dispose of it freely. The decree is also the first document that indicates the possibility for the children to buy the dower out from the widow, if she agrees to it.

²⁵³ Лазутка and Валиконите, “Имущественное положение женщины,” 92.

In general, most of the pre-statutory legislation concentrated on explaining the transfer of the dower upon widow's remarriage; widows could take whatever they had been assigned into a new marriage and leave the rest of the husband's property to the children or, if there were none, to the relatives of the husband. Only the land privilege of 1387 defined the legal provisions for widowhood exceptionally, according to which a non-remarried widow could stay in the husband's property, but upon remarriage she had to leave it. Although the pre-statutory legislation was lacking many points later found in the *Statutes*, it outlined the basic framework for the two legal systems for the provisions for widowhood which appeared later in the *Statutes*.

V. The Rights and Duties of Widows according to the *Statutes*

The privileges of the ruler and the decree of the Council of Lords from 1509 contain only some fragmentary details of the whole system of the provisions for widowhood and the rights and duties of widows. It is first the *First Lithuanian Statute* that contains an essentially full system of provisions for widowhood and touches upon most of the aspects related to widows. Since the *First* and the *Second Lithuanian Statute* are very similar in most regards, I do not present them separately in chronological order, but rather address them both together when presenting the points of the *Statutes* thematically. The two different legal models: the legal and the contractual provisions – will be addressed separately in Chapter VI. Here, I concentrate on the rights and duties of widows which they had according to the *Statutes*.

The Right to a Dowry when Getting Married

I will start with a brief note on the legal norms of assigning the dowry, in order to make the picture of the property status of widows more complete. This is important, since after the husband's death a widow most often regained her dowry – or, rather, the equivalent of it. Also, it was one of the preconditions for signing the dower contract. The legislation prior to the *First Lithuanian Statute* does not address the question of dowry: up to the *First Lithuanian Statute* it was regulated by customary law only. The *First Lithuanian Statute* defines some aspects of the institution of the dowry. It leaves a father the freedom to decide on the size of the dowry,²⁵⁴ with only one restriction: the dowries of all the daughters of a couple had to be equal (FLS IV/7).²⁵⁵ If the parents did not express their will regarding the size of the dowry for their daughters in their testaments, then all the daughters together were

²⁵⁴ Лазутка and Валиконите, “Имущественное положение женщины,” 89.

²⁵⁵ For all references to both Statutes, see the Ruthenian text and the translation into English in the Appendix.

entitled to a quarter of the father's property (FLS IV/7). According to the *Statute*, women could get both movable and immovable property as a dowry, but there was a tendency to replace the immovable property with cash (FLS IV/9).²⁵⁶ The dowry under most circumstances was the way to receive a share of the paternal inheritance.²⁵⁷

Option of the Dower

While the right to the dowry was definitely a woman's *right*, her right to a dower was not actually a *right*, but just an option; the dower was not mandatory, thus it was up to a husband to assign a dower to a woman or not. Regardless of this, various aspects of the dower, including its proper assignment, the type of property on which it could be assigned, the size of the dower, the time of receiving the dower, as well as the conditions of keeping it were quite extensively defined in the *Statutes*.

The Order of Assigning the Dower: The Time, the Form and the Place

²⁵⁶ Валиконите, "І Литовский Статут," 40.

²⁵⁷ Валиконите, "І Литовский Статут," 39-40, states that the right to inheritance was expressed mainly through the right to the dowry and the dower: "Главный вопрос отражающий имущественно-экономическое положение шляхтянки – это ее право на наследование которое осуществлялось в свою очередь через право на приданое и вено." (The main point, reflecting the property and economic status of a noblewoman, is her right to the inheritance which is, in its turn, expressed in her right to the dowry and the dower). An exception was made in the absence of sons, when the girl could inherit all of the paternal estate (and this was then her inheritance, not her dowry). Also, girls could inherit their mother's property, which also was not a part of their dowry. Also see Лазутка and Валиконите, "Имущественное положение женщины," 99-100. The same was sometimes true in the urban sphere (Karpavičienė, *Moteris Vilniuje ir Kaune*, 148), although there the dowry was not necessarily considered to be a form of inheritance (Karpavičienė, *Moteris Vilniuje ir Kaune*, 158). Here is one example demonstrating inheritance and dowry: in LM 261/168v-170v from 1565, a certain Teniuta with his wife take some property from the wife's brother as her *posag* and *viprava*. In exchange, the wife renounces her rights to a quarter of the paternal property which should come into her hands according to the *Statute*. This case shows that the dowry was not always perceived as identical to woman's inheritance: here, as a special agreement was made to clarify the situation. Since the wife was not present in the court together with her husband on that occasion, in another court record, LM 261/171r-172v a promise is made that the husband will confirm this together with his wife. In LM 261/172v-175r, this promise is fulfilled (here, the reference is already made to a *veno* of the sister, not her *posag*: this is one more example of the imprecise usage of *veno*).

There are only a few legal norms covering the order of assigning the dower. They encompass the rules of composing the dower contracts and assuring their validity, and concern the time, the form, and the place of drawing up the dower contract. The legislation prior to 1529 touched upon these points very little and rather vaguely, while the *Statutes* address them in more detail.

The *First Lithuanian Statute* explains how important it was to assign the dower in a proper way in order for the contract to be valid. FLS IV/[1] (7, 8) states that unless the property is assigned in accordance with the requirements of a “decree”, the assignment is not valid. The *Second Lithuanian Statute* (SLS V/2 (9, 10)) contains the same statement. The “decree” as such is not present in the *Statutes*, but in various articles they describe and urge compliance with – sometimes in a more and sometimes in a less detailed way – various requirements for the exact order of assigning the dower, the “proper” way of assigning the dower, the main regulations and restrictions.

The time of assigning the dower is defined as being before the marriage in both the *First* and the *Second Lithuanian Statute*. FLS IV/8 (Title, 1) says that a father should demand a dower from his future son-in-law before the marriage (otherwise, as other parts of the *Statutes* explain, a woman forfeits her dowry), and SLS V/1 (1) reiterates the same, just with more detail. The question of the time of assigning the dower is not as clear as it may seem from the two aforementioned paragraphs. Both the *First* and the *Second Lithuanian Statute* contain some contradictory norms. Article FLS IV/[1] (6) and article SLS V/2 (6) indicate that the dower could also be assigned after the wedding, in a testament – that is, the husband could also give his wife immovable property after the marriage.

As regards the form and the place of drawing up the dower contract, SLS V/1 (1) is the most comprehensive source for the rules concerning the drawing up of dower contracts. It explains that the dower contract should be in written form, sealed by the future son-in-law and

other trustworthy witnesses, and then this dower contract should be taken to the land court when it meets next and entered into the court books – which confirmed the validity of such a contract. SLS V/1 (1) is the first known law containing information on the form of the contract (“a document”), the form of confirmation of the validity of the contract (“sealed by him and by trustworthy people,” “write it into the land books”), and the place of registration (land court). None of the earlier known legislation contains such a paragraph, however, as the examples of the *Metrica* show, these norms were already known and applied in practice.

The Type of the Property Assigned as the Dower and the Size of the Dower

In order to understand what property widows could receive as dower, it is important to see on what kinds of the property the dower could be assigned, and how the size of the dower was limited. The *First Lithuanian Statute* says that the dower should be assigned on the immovable property, and limits the size of the dower to not more than one third of the immovable property of the husband – “all his estates” (FLS IV/[1] (1)). SLS V/2 (1) repeats FLS IV/[1] (1) almost word for word.

The *Statutes* clearly define the size of the dower; between the *First* and *Second Lithuanian Statute* it could be up to one third of husband’s immovable property. The size of the dower is, on the one hand, connected to the size of a woman’s dowry, and on the other, on the size of the man’s estate; in order to combine these two in right proportions the spouses had to be of more or less equal economic standing. The *Statutes* are not so clear about the kind of the property that could be assigned; what “all the estates” of the husband refers to should be investigated. Immovable property could be acquired by a man in three ways: by inheritance, by a grant from the grand duke, and by purchase. A question arises here of what is meant by “all” in the *First* and the *Second Lithuanian Statute*: Does it really include all three types of the immovable property or is it limited in some way? This will be clarified

below. Another question is what counts as “immovable” property. Both the *First* and the *Second Lithuanian Statute* provide a list of such items; both FLS IV/[1] (6) and SLS V/2 (6) say that apart from the land and the buildings, it is also the “armour, herds and serfs, and manor livestock.” The *Second Lithuanian Statute* even gives an explanation of why these particular items count as immovable property (SLS V/2 (7)): They are needed for military service.

Both the *First* and the *Second Lithuanian Statute* define the size of the dower as double the size of the dowry (doubled by the so-called *privenok*).²⁵⁸ Since the time of assigning the dower was not restricted, this regulation raises the problem of calculating the amount of the dower. That is, the immovable property could differ in size before the wedding and before the husband’s death (e.g., the husband could inherit more of the ancestral property or be granted more lands from the ruler – or lose some of it). It appears that, whenever the contract was signed, the dower always comprised one third of the husband’s ancestral and granted property – although in quite a few court records, as noted below, the dower was assigned on all three types of land: ancestral, granted by the ruler, and purchased. The option that the dower contracts which are found in testaments are sometimes just a reiteration of the dower contract signed before the marriage cannot be excluded, but many testaments contain a phrase indicating that the dower was assigned after the wedding, often before the death of the husband; the husband, assigning the dower, often says that his wife “proved to be faithful and reliable,” and thus deserves the dower.

Also, if the dower contract was signed before the marriage, the dowry was not counted as a part of the husband’s property. But when the dower contract was signed during the

²⁵⁸ *Pirmasis Lietuvos Statutas*, ed. Valikonytė, Lazutka and Gudavičius, 286. The *privenok* was a portion, equal to the bride’s dowry, assigned by the groom to the bride in order to form the dower. Валиконите, “І Литовский Статут,” 40: “... сумма вена должна быть двойной по отношению к приданому-внесению, но не превышать 1/3 стоимости имений мужа” (... the value of the dower must be double in comparison with the dowry, but not more than the value of 1/3 of the husband’s estates).

marriage, what was the status of the dowry? Neither the normative law, nor the legal practice reveals any clear details regarding this issue.

Hereditary Land, Granted Estates and Purchased Property

In order to clarify what is meant by “all” immovable property, why the land privileges do not mention purchased property, why the decree of 1509 refers only to the paternal and granted property, and why the *Statutes* refer to “all” property, it is necessary to look at the status of different types of property in the law and track its changes.

From the fifteenth century onwards, the main form of land ownership was hereditary property.²⁵⁹ Two other forms – the granted lands and the purchased property – were less frequent, partially because of the tendency to turn both the granted land and the purchased property into hereditary property.²⁶⁰ A purchased estate after the death of the owner devolved to the successor and became hereditary; some of the granted lands were also, with the permission of the grand duke, turned into hereditary property.²⁶¹

From the land privilege of 1387²⁶² to the land privilege of 1447 the disposal of hereditary lands was not restricted in any way.²⁶³ From the land privilege of 1413 to the land privilege of 1447 the same applied to the granted land (depending on its type²⁶⁴). The situation with the hereditary lands changed in the land privilege of 1492; the relatives are

²⁵⁹ It covered both paternal and maternal inherited property.

²⁶⁰ Machovenko, *Žemės nuosavybės formos*, 49.

²⁶¹ Some of the granted estates remained under their ownership only temporarily, some for life.

²⁶² The land privilege records the customary laws rather than introduces new regulations, thus the same must have been true even earlier.

²⁶³ Avižonis, “Teisinė buitis,” 22-44. The land privilege of 1387 (*Lietuvos Metrika, Knyga Nr. 25*, 35-36), the land privilege of 1413 (*Zbiór praw*, ed. Działyński, 7), and the land privilege of 1447 (*Акты, относящиеся к истории Западной России*, vol. 1, 75). Also see Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 153.

²⁶⁴ As Lina Anužytė notes, granted lands could be disposed of following the regulations in the privilege by which such a property was assigned (Anužytė, “Lietuvos Metrika,” 8). In legal practice, the granted estates are sometimes interpreted as belonging to the same category as the purchased estates (LM 224/3 [1522]; LM 224/4 [1522]).

given priority to purchase them.²⁶⁵ The decree of Brest from 1506²⁶⁶ contains the regulation that no one can disinherit all of their relatives – only one third of the property was exempt from needing permission from relatives.²⁶⁷ This restriction, according to Edvardas Gudavičius, appeared as early as the first part of the 1480s²⁶⁸ – that is, by the time of the land privilege of 1492 such a legal norm was already in use in the legal practice. The same was probably true of lands granted for eternal use. This restriction on disposing freely of immovable property also appears in the *First Lithuanian Statute* (FLS I/16).²⁶⁹ Another article in the *First Lithuanian Statute* mentions only the hereditary property (FLS I/17),²⁷⁰ but most likely also pertained to property which had been granted for full ownership.

Up to the *First Lithuanian Statute* there were no articles in the normative law regulating the disposal of purchased property. There simply was no need for it; all property, regardless of type, could be freely disposed of. With the restriction on the hereditary and granted property, however, it appears there was a need to define the status of the purchased property as well (FLS V/[16] 15 (1)).

Between the *First* and the *Second Lithuanian Statute* the situation with immovable property was as follows: only one third of the hereditary and granted lands could be disposed of freely, the rest had to devolve to relatives according to the indicated laws. The purchased immovable property belonged to a separate category – a person had to provide military service from such lands,²⁷¹ but otherwise he was free to dispose of it as he wished.

²⁶⁵ *Zbiór praw*, ed. Działyński, 9: *Item, a consanguineis et propinquis, bona haereditaria alicuius non redimemus, neque ea aliquis redimere debet, in praejudicium ipsorum consanguineorum, vel propinquorum sed solummodo, iste, qui propinquior extiterit, repositis pecuniis, bona haereditaria obtinebit et possidebit.*

²⁶⁶ The decree of Brest from 1506 does not survive to our day and its content is known only from one court case (*Литовская Метрика. Томъ первый* (Lithuanian Metrika. Volume One), Русская историческая библиотека, vol. 20 (St. Petersburg: Археографическая Комиссия, 1903), 525-528.

²⁶⁷ Anužytė, “Lietuvos Metrika,” 7.

²⁶⁸ Edvardas Gudavičius, “Baltų alodo paveldėjimas ir disponavimas juo” (The Inheritance and the Disposal of the Baltic Allod), *Mokslų Akademijos darbai. A serija* 3, No. 72 (1980): 61.

²⁶⁹ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 73.

²⁷⁰ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 73. Also FLS I/15, FLS V/[16] 15.

²⁷¹ FLS I/15.

The *Second Lithuanian Statute* introduced some radical changes in the laws on immovable property. Some articles abolished the difference between the different types of the immovable property. SLS VII/1²⁷² is the fullest of them and explains that any man can give away in any manner any type of estates, including paternal, maternal, and service estates, purchased, and acquired or claimed in any other way.

According to this article, all types of immovable property can be freely disposed of, with no restrictions. The *Second Lithuanian Statute* contains another article, however, which partly contradicts article SLS VII/1.²⁷³ Article SLS VIII/2 states that only movable property and acquired property may be bequeathed by a testament, although SLS VII/1 clearly says that any kind of property may be disposed off freely. This article, SLS VIII/2, was most likely left from the original version of the *Second Lithuanian Statute*. Originally, the *Second Lithuanian Statute* contained the same norm as the *First Lithuanian Statute* – that is, only one third of hereditary and purchased property could be disposed of freely. Later, however, this norm was changed at the Diet of Brest,²⁷⁴ but probably each article was not reviewed.

The development of the laws concerning the dower clearly followed the development of the general laws concerning the ownership of immovable property. When the general laws mention both hereditary and granted property, as, for example, the land privilege of 1413, then the laws concerning the dower also do so. When the general laws on immovable property mention only hereditary property, as, for example, the land privilege of 1434, then the laws concerning the dower do the same. When the change appears in the general laws – that is, the

²⁷² Another article – SLS III/32.

²⁷³ R. Karoblis, “Nuosavybės santykių reguliavimas Antrajame Lietuvos Statute” (Regulation of Ownership in the *Second Lithuanian Statute*), in *1566 metų Antrasis Lietuvos Statutas. Respublikinės mokslinės konferencijos medžiaga* (The *Second Lithuanian Statute* of 1566: The Materials of the Scholarly Conference of the Republic), ed. Alfredas Bumblauskas, M. Jučas, Stanislovas Lazutka, Irena Valikonytė and A. Vasiliauskienė (Vilnius: Vilniaus universiteto leidykla, 1993), 104.

²⁷⁴ Karoblis, “Nuosavybės santykių reguliavimas,” 101; Machovenko, “Žemės nuosavybės formos,” 52.

disposal of immovable property is limited – the same is reflected in the laws concerning the dower.

The disposal of immovable property was limited by the decree of Brest from 1506 to one third of the property. A corresponding development soon appeared in the laws concerning the dower; the decree of the Council of Lords from 1509 limits the size of the dower to one third of the husband's property. This is the logical consequence: if the husband can dispose freely only of one third of his property, then he cannot assign more of it to his wife as a dower. As was mentioned above, the tendency to limit the disposal of immovable property appeared as early as the 1480s.

Did the need to limit the disposal of immovable property emerge because of excessive dowers being assigned to widows or did this occur for completely different reasons? According to Stanislovas Lazutka and Irena Valikonytė, by the beginning of the sixteenth century the examples of legal practice, the customary law and the privileges defining the status of women were not sufficient, which caused further clarifications regarding status of women and resulted in the decree of 1509.²⁷⁵ The circumstances of the appearance of the decree of 1509 indicate that one of the reasons may have been that this decree was inspired as a response to one particular court case in which a husband assigned all of his property to his wife. However, since the known normative sources limiting the disposal of property in general predate the known normative sources limiting the share of widows, the reason for this change was probably not the widows. In the scholarship the wish to protect the children from being disinherited is given as a reason.²⁷⁶ Another theory – that of the need to perform

²⁷⁵ Лазутка and Валиконите, “Имущественное положение женщины,” 81. As Лазутка and Валиконите, “Имущественное положение женщины,” 84, point out, the reason for the appearance of this decree was a court case which involved the widow of Alexander Mongirdovitch and her husband's relatives: the court decided that Mongirdovitch had no right to exclude his relatives and leave all his property to his widow.

²⁷⁶ Machovenko, *Žemės nuosavybės formos*, 49-50.

military service – has currently been rejected, as military service had to be performed from all lands and it could not have mattered much if they changed hands.²⁷⁷

Abolishing the restriction on the disposal of property in the *Second Lithuanian Statute* was connected to the increasing power of the nobility and their insistence on the change.²⁷⁸ However, the restriction on the size of the dower remained in effect. One possible reason for this is the fact that with the removal of the restrictions husbands could leave all their property to their wives anyway. With the general property restrictions removed, the rules for assigning the dower, although remaining in normative law, to some degree lost their relevance: that is, if originally they were introduced partly in order to *limit* the property that could be assigned as a dower, now these limits essentially disappeared. All of the dower laws remained in place and active, however, as they continued to function in guaranteeing widows a minimum of the property for their widowhood: one third of the husband's immovable property.

Returning to the question of purchased property, it should be noted that there is no single solution in the scholarship. Normative law, up to the *First Lithuanian Statute*, does not mention purchased property at all; the *First Lithuanian Statute* states that the disposal of purchased property was not restricted. In the *Second Lithuanian Statute* the reference to the whole of the husband's property probably includes purchased property as well, since the rights to dispose of various kinds of immovable property were made equal by this *Statute*. The *Second Lithuanian Statute* expanded the rights to dispose of immovable property, but did not change the rules for assigning the dower. This absence of a change did not, however, worsen the situation of the widows, as they could receive additional property from their husbands in testaments. Purchased land, not mentioned in the land and province privileges, did not mean that it was not to be included in the dower.²⁷⁹ Legal practice reveals examples of both

²⁷⁷ Machovenko, *Žemės nuosavybės formos*, 50.

²⁷⁸ Machovenko, *Žemės nuosavybės formos*, 52.

²⁷⁹ Andriulis, "Sutuoktinių turtinių santykių reguliavimas," 42.

purchased property not being included as a part of the dower²⁸⁰ and being part of it.²⁸¹ The general conclusion regarding the size and the type of property assigned as a dower is that it was tightly connected to the general land ownership regulations.

If the Dower was not Large Enough

The *First Lithuanian Statute* is the first legal source that provides a mechanism for ensuring the proper size of a dower and defines the rules of how to behave if the prospective son-in-law cannot guarantee an appropriate dower for his wife. Essentially the same, just in different words, is stated also in the *Second Lithuanian Statute*. FLS IV/[1] (9) and SLS V/2 (11), defending the rights of a woman to her dowry, prescribe the father to check whether the future son-in-law has enough property to secure his daughter's dowry, assigning her a dower of one third of his immovable property. Part of FLS IV/[1] (10) and SLS V/2 (12) are also the same; in order to secure that the daughter's dowry preserves its value, the father has to buy immovable property for his daughter for the sum of the dowry.

Further on, the texts depart. If FLS IV/[1] (10) prescribes giving this property to the son-in-law; SLS V/2 (12) states that this property goes to the daughter. Then the texts of the *Statutes* depart even more. FLS IV/[1] (11) states only that if the father does not follow this advice the dowry is lost to his daughter, but SLS V/2 (13) goes into further detail on the ownership of that dowry in form of real estate. At first glance the difference between FLS IV/[1] (10) and SLS V/2 (12) seems to be of great importance; if the *First Lithuanian Statute* gives the dowry property to the son-in-law, the *Second Lithuanian Statute* gives it to the woman herself. However, one should not forget that this "immovable dowry" was to be created because the son-in-law did not have enough immovable property himself, and bringing in the dowry in the form of immovable property is meant to compensate that lack –

²⁸⁰ LM 224/4 [1522]; LM 224/336 [1528].

²⁸¹ LM 254/197r [1560]; LM 254/248-249v [1561].

that is, now the son-in-law can assign a dower on the immovable property to his wife – that is, give her back her dowry. Thus, the *Second Lithuanian Statute*, instead of changing the norm just expands it, explaining how this immovable dowry should be treated during the marriage. SLS V/2 (13) explains that in such cases the husband has the right of usufruct of such property during the marriage and he *still* has to assign one third of his immovable property to his wife; that is, the wife has her dowry in immovable property, half of which her husband can use with usufruct rights, and a dower of the value of one third of her husband's immovable property.

Protection of the Dower

The *Statutes* not only defend the dowry from becoming a part of husband's property and being consumed during the marriage, but they also defend the dower assigned to a woman. None of the earlier privileges or any of the decrees contains such regulations. FLS IV/[11] 10 (1) explains that if some property of the husband is assigned as a dower to his wife it has certain immunity because although the husband is the manager of this property, the future owner is the wife, and her property interests are defended here if she is not guilty of a crime together with her husband; consequently, if the husband's property was confiscated for any reason, it could not be from the dower share unless the wife agreed to it. SLS V/16 (1, 2) also contains a similar norm. Such a norm defends the woman's dower in two regards. Firstly, a dower was defended against being wasted by the woman's husband because the husband, although the manager of the property, needed his wife's permission to dispose of it. And, to assure that the wife was not forced to give her permission, a personal appearance of the wife in court was required.

Neither the *First*, nor the *Second Lithuanian Statute* gives the same level of protection to the children – that is, in this regard the wife had a better standing (of course, through the

wife, the children were also protected, at least to some degree, as the dower usually went to the children (although one part of it, the equivalent of the dowry, could be disposed of freely by the wife, but this was seldom the case).

The Time of Receiving the Dower

Different normative legal sources prescribe that the dower be given to the widow at different points in her widowhood. There is a difference between the *Statutes* and all of the legislation prior to 1529 in this regard. Both the *First* and the *Second Lithuanian Statute* prescribed the receipt of the dower at the moment of husband's death, unless the widow became the guardian of the children, in which case she could remain in all of the husband's estates as administrator of the property, and only later, when the children grew up, did the dower alone remain to her. According to FLS IV/1 (1) and SLS V/4 (1), if there were adult sons, the dower went to the widow and the rest of the property to the sons. If there were no children, after the death of the husband the dower went to the widow and the rest of the property to the relatives (FLS IV/2, SLS V/5).²⁸²

The fact that the dower was given to the widow soon after her husband's death would not raise any additional questions if it were not for the different situation in all of the legislation preceding 1529. That is, the norm recorded in the *First Lithuanian Statute* was actually an innovation. The normative legislation before the *Statute* always put stress on the dower as a means of providing for widows upon their remarriage.

Rights to Dispose of the Dower

According to the different items of legislation, a widow's right to dispose freely of her dower was different. Some legislation states that the whole of the dower belongs to the widow with

²⁸² Daughters were entitled to a quarter of their father's property (FLS IV/7).

full ownership rights, whereas other legislation declares that the widow has full ownership rights to only a part of it. As regards the management of the dower, FLS IV/[1] (3, 4) and SLS V/2 (3, 4, 5), besides explaining the rules on buying out the dower from the widow in the case of her remarriage, also explain which part the widow is free to dispose of according to her own will. It turns out that half of the dower – the equivalent of the dowry – belongs to a widow with full ownership rights, while the other half, the *privenok*, is hers only with the rights of usufruct and descends to the children or returns to the husband's family. That is, the widow has the benefit of her husband's property only during her widowhood – not during the marriage and not after her death. Otherwise, she had the rights of full ownership only to the equivalent of her dowry. If her dower was bought out by the relatives, she was paid the full amount for it, which she could dispose of freely.

One of the laws which does not appear in the *First Lithuanian Statute* but appears in the *Second* concerns the rights of the woman's family of origin to her dowry. SLS V/2 (5) states that the dowry of a childless widow has to be returned to her family of origin upon her death. Otherwise, she was free to will it to whomever she wanted. I am not aware of any earlier laws valid for the whole land which state the right of the widow's family of origin to claim her dowry. There is a law in the province privilege of Alexander to the district of Belsk, 22 February 1501, however, which states that a widow leaving her husband's family should take her dowry back to her family if she had no dower. It is important to note here that in the district of Belsk Polish law was at least partially recognised, and this norm regarding the return of the dowry to the woman's family might be of Polish origin, and thus the rule about the return of dowry in the *Second Lithuanian Statute* may mark Polish influence. However, it

need not have been so, since the return of the dowry to the family of origin was a fairly widespread phenomenon across Europe.²⁸³

Thus, in general according to normative law the widow was entitled to dispose freely only of her dowry. The exception to this situation was the right of her husband's relatives to buy out the dower, in which case, according to both *Statutes*, they had to pay its full value.

Restrictions on Holding the Dower

Under some conditions defined first by the *Second Lithuanian Statute*, the widow's right to the dower was eliminated. One restriction was the six-month waiting period before the remarriage and another was marriage to a commoner.

For remarrying widows, the *Second Lithuanian Statute* introduced the period of six months²⁸⁴ of waiting after the former husband's death before a new marriage could take place (SLS V/12 (1, 2)). The law states that after the death of her husband a widow could not remarry for six months; if she disobeyed she lost her dower, and if she had no dower then she had to pay to the treasury 20 *rubli* of *groshy*. This law defended the interests of the legitimate children of the widow. Since the fine was to be paid to the treasury, the fate of the dower of such a widow remains unclear, whether it went to the children or to the husband's family, or also to the treasury.

The *Second Lithuanian Statute* contained several more laws which were not present in either the *First Lithuanian Statute* or the earlier legislation. One such law is a law on noble girls and widows who marry commoners (SLS V/11 (1, 2, 3)). This law states that a noble girl or widow who owned paternal and maternal property lost all of this property if she married a commoner. A widow was paid for such estates, however, but only half of what they were

²⁸³ In Lithuania, the return of the dowry was not connected to the duration of the marriage.

²⁸⁴ Why this was not nine months or a year, as in other countries, I cannot explain; my only guess is that six months was deemed to be sufficient for the pregnancy to show sufficiently well to allow a prediction of the starting date of the pregnancy.

worth and she lost all of her dower. The appearance of such regulations shows the increasing separation of the social strata and attempts to restrict mobility among them.

Testaments and Other Contractual Agreements

Besides the dower, assigned as a norm on one third of the husband's property either before or after the marriage, a wife could expect to receive more of her husband's property, both movable and immovable, within the boundaries allowed by testamentary inheritance regulations. In the sixteenth century, with the amount of freely disposable immovable property (with the exception of purchased property) being limited to one third, the property that could be disposed freely consisted of all the movable property and purchased estates. What can be left in a testament is defined in both the *First* and the *Second Lithuanian Statute*. In the *Second Lithuanian Statute*, the presence of these restrictions is somewhat redundant, keeping in mind that this *Statute* reintroduces total freedom of disposing of all immovable property (SLS VII/1).

The *First Lithuanian Statute* contains a paragraph, FLS IV/[1] (6), according to which all such belongings as gold, silver, and clothing could be left to a wife. SLS V/2 (6) contains a similarly phrased sentence, with the only difference being that the *Second Lithuanian Statute* emphasises the possibility of leaving the property to anyone, even a stranger, while the *First Lithuanian Statute* does not say that.

In the scholarship this issue is interpreted in two ways. According to Irena Valikonytė,²⁸⁵ the dower was normally assigned on immovable property (estates). This would mean that a widow did not get any movable property as her dower, but the husband could give

²⁸⁵ Валиконите, *Социально-экономическое и правовое положение женщин*, 16.

it to her separately. According to Andriulis,²⁸⁶ the dower consisted of both movable and immovable property. Both the *First Lithuanian Statute* and the decree of 1509 say that the dower should be assigned on the “именье”, using the word which, like the English “estate”, could mean either immovable property only or both movable and immovable possessions. The SLS V/1, however, says that the dower should be assigned “на третьей части имения своего лежащего” (on one third of the immovable estate). The land privilege of 1413 does, on the contrary, say that the dower should be assigned in *bonis et villis* – in property and estates. Such a regulation could be explained by the contractual provision being influenced by the older legal provision, according to which the wife was entitled to both immovable and the movable property. The wife could also inherit the husband’s purchased immovable property, as was allowed by the general laws on testaments (FLS V/[16] 15).

Testaments were also the means for husbands to assign a post-marital dower, if it had not been assigned before the marriage or at some point during it. Apart from testaments, the legal practice also contains various donations of the property by spouses to each other which were not defined in the normative law in detail.

The Right to the Default Legal Provisions for Widowhood

If the dower was just an optional benefit that a widow could have and was not mandatory (although becoming firmly established during the sixteenth century), the default legal provisions were something that a widow had a default right to. Both the *First* and the *Second Lithuanian Statute* contain default legal provisions for widowhood – that is, even with no contractual agreement, a widow is entitled to a certain means of provision for her widowhood. There is no one specific article in the *Statutes* that states that contractual provisions are not

²⁸⁶ Andriulis, *Šeimos santykių teisinis reguliavimas*, 12-13.

needed for the basic provisions for widowhood, but paragraphs spread throughout the *Statutes* (they will be presented in Chapter VI) form a clear and full system of default legal provisions for widowhood. This entitlement to default legal provisions seems to be one of the oldest rights of widows, already recorded in the earliest privileges of the ruler.

Widows' Right to Remarry

Apart from the main rights: those to the dowry, to the dower, and to the default legal provisions for widowhood, widows also had some additional rights and duties. Widows' right to remarry freely was important for their property status. When widows were free to remarry, they could choose whether to remarry or not, and thus whether to stay in their husbands' property or not. If they did not have this freedom, then they might have been forced into remarriage, consequently losing all or some rights to the property of their husband.

As regards the ruler renouncing the right to give the widows of his subjects in marriage, the *First Lithuanian Statute*, FLS IV/15 (1) states that the ruler renounces his right to be involved in the marital strategies of his subjects and he appears to give all women the right to marry freely. In the *Second Lithuanian Statute* (SLS III/31) the phrasing of the paragraph is different, but the idea is the same. This norm is not new – it appears in the legislation as early as the end of the fourteenth century, in the land privilege of 1387. The ruler gave up his prerogative to interfere in the marital policies of his subjects as early as 1387, and there was no change to this norm at least up to and including the *Second Lithuanian Statute*. This norm must have given the men more opportunities to form marital strategies to

their own advantage. However, none of the excerpts quoted above grant any freedom of marriage to women themselves.²⁸⁷

At first glance, the *First Lithuanian Statute* (FLS IV/15), giving the windows the right to get married with the counsel of their relatives, seems to be more conservative than the *Second Lithuanian Statute*, which appears not to require such a counsel (SLS III/31 (2)). In the *First Lithuanian Statute*, the counsel of relatives is mentioned as a condition when “freely” choosing the husband. In the *Second Lithuanian Statute*, “relatives” are missing. SLS XI/9 reveals that permission of the parents and relatives was still required, however, indicating that otherwise women lost the right to the property to which they are otherwise eligible. Thus, there is no difference between the *First* and the *Second Lithuanian Statute* as regards the right of women, including widows, to marry freely. Widows’ right to choose a new husband did not change from as early as 1387 up to and including the *Second Lithuanian Statute*; they could remarry only with the advice of their relatives.²⁸⁸ It is only the *Second Lithuanian Statute* (SLS XI/9) that reveals that financial sanctions were to be applied to the widows married without permission, but it is likely that the same was true earlier as well.²⁸⁹ Thus, the right of widows to remarry freely should be treated with caution: they not only needed permission to remarry, but also could be forced to do so.²⁹⁰ In the right circumstances (or with supportive/indifferent relatives) the widow could govern her own property and her own fate to some degree, but in general her marital status – and thus her property status – depended much on the decisions of others.

²⁸⁷ The question of widows’ freedom to remarry is widely explored by Irena Valikonytė (e.g., in Irena Valikonytė, “Lietuvos Didžiosios Kunigaikštystės bajorių teisė...”).

²⁸⁸ As regards legal practice, some of the cases seem to support freedom of choice for women, but most indicate that the agreement of relatives was required. For more on the freedom of marriage in legal practice, see Valikonytė, “Lietuvos Didžiosios Kunigaikštystės bajorių teisė...,” 147-157. I did not find any cases in the *Lithuanian Metrica* clearly connected to the widow’s right to remarry with the sanctions indicated in the normative law being applied.

²⁸⁹ FLS IV/10 and FLS IV/11 contain such sanctions for girls; widows are not explicitly mentioned there.

²⁹⁰ As Irena Valikonytė notes (Valikonytė, “Lietuvos Didžiosios Kunigaikštystės bajorių teisė...,” 150), the law (FLS IV/11, SLS V/8) granted the right of women to get married (they could complain if they were hindered in doing so), but there were no norms defending women who were being forced to get married.

Widows' Right to Give Their Daughter(s) in Marriage

The right of the widows to give their daughter(s) in marriage is less connected to the property status of the widows themselves, than to the property distribution in the family. If a widow could give her daughters in marriage she could also deal with their dowries; if, however, she did not have such a right, then the family of the widow's former husband (i.e., the daughter's father) had more opportunities to manage the family property. The *First Lithuanian Statute* (FLS IV/7) gives mothers (more likely, mainly widows, as with the father alive it could have hardly been the mother's prerogative) the right to give their daughters in marriage. The *Second Lithuanian Statute* also states that mothers may give their daughters in marriage (SLS V/7).²⁹¹ The law seems to be quite straightforward and uncomplicated: in the absence of the father, it is the mother who gives her daughters in marriage. However, this law raised long debates in the Diets.²⁹² The Diet of 1551 asked the ruler to forbid widowed mothers from giving their daughters in marriage.²⁹³ The reason for such a request and such a change in the law might have indicated the wish of the widows' husbands' families to increase their role in the management of the family property. However, it turned out that when the mothers lost their right to give their daughters in marriage, the brothers and other relatives of the girls, who now had the say in these matters, misused the situation and withheld their permission for the girls to marry, thus keeping the girls' property, or forced

²⁹¹ The same was true in the urban sphere (Karpavičienė, *Moteris Vilniuje ir Kaune*, 148).

²⁹² This could have been caused by some specific court cases, but I did not see any specific cases concerning the problems connected to the widows' right to marry off their daughters. I found only cases where it is simply stated that a daughter was married off by the mother.

²⁹³ “Уставы данные Литве и областям Жмудьской и Волынской, на второмъ Виленскомъ сейме: V.” (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Second Diet of Vilnius: V.), in *Акты, относящиеся к истории Западной России*, vol. 3, 46-47.

them into marriage.²⁹⁴ Thus, as early as 1554, the law of 1551 had to be retracted.²⁹⁵ Regardless of the possible reasons for these debates, the temporary result²⁹⁶ was to the advantage of widows; they retained their right to give their daughters in marriage. With a three years' gap (1551-1554), between 1529 and 1566 widows could take control of their daughters' marriages and thus of at least partial management (as it was restricted by other laws) of their dowries.

Widows-Guardians and Summons to Court

In the *First Lithuanian Statute* there was a law stating that a widow should not be summoned to court for one year after the death of her husband (FLS IV/17)²⁹⁷ (but otherwise had to answer in court for mismanagement of the property (FLS IV/6)). The Diet of 1551 tried to change this law.²⁹⁸ The Diet asked to not summon widows-guardians to court for the whole period of the guardianship, but unsuccessfully, and the norm of the *First Lithuanian Statute* remained valid.

Widows and Military Service

The *First Lithuanian Statute* does address the duty of the widows to perform military service, although the point was not new and appears in the land privilege of 1434, which states that the

²⁹⁴ It is possible that the law has been issued and then retracted in order to serve the purposes of some specific noble family (as three years is quite a brief period of time and thus it is somewhat unlikely that there were many cases of its misuse), but I do not possess such data.

²⁹⁵ As one of the reasons for this change Irena Valikonytė has indicated the possible dissatisfaction of the legitimate guardians of the orphaned girls with the restriction of their rights (Valikonytė, "Ar Lietuvos Didžiojoje Kunigaikštystėje...", 67).

²⁹⁶ In the *Third Lithuanian Statute*, TLS V/16, the widows once again cannot marry off their daughters without permission.

²⁹⁷ From the expanded Slutsk version.

²⁹⁸ "Уставы данные Литве и областям Жмудьской и Волынской, на второмъ Виленскомъ сейме: I." (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Second Diet of Vilnius: I.), in *Акты, относящиеся к истории Западной России*, vol. 3, 29-30.

military duties have to be continued to be provided from the property held by widows. The same obligation is reiterated in the land privilege of 1492. The *Second Lithuanian Statute* states that widows must perform military service from the lands belonging to them (SLS V/2 (7)). It appears from this statement that the widows were entitled to manage the property on the same grounds as men.

It would seem that widows were entitled to run the estates on the same grounds as men from at least the mid-fifteenth century, including not only rights, but also duties. However, the *First* and the *Second Lithuanian Statute* contain some norms contradicting SLS V/2 (7) and the land privileges. FLS IV/1 (1), FLS IV/2 (4) and SLS V/4 (1), defining the position of dowered widows with adult children, contradicts the rule from SLS V/2 (7), stating that a widow should give two thirds of the property to her sons or relatives so that they can perform the land service. It becomes unclear under what conditions the widow should perform military service. Since SLS V/4 (1) is aimed at dowered widows with adult children, it could be assumed that the law applied only to widows with underage children. But then they, as guardians of the children, would perform the military service from the whole property, not just one third of the estates. SLS V/5 (and FLS IV/2 (1)), which defines the property status of the non-dowered childless widows, has the same rule.

Since the duty of widows to perform military service is not mentioned in the *First Lithuanian Statute* and only repeats several times that the services must be performed by the son or the relatives, possibly this duty which they had had in the early privileges was abolished from the *First Lithuanian Statute* onwards. However, this does not explain the re-occurrence of this duty in the *Second Lithuanian Statute*. It cannot be explained by the reintroduction of the norm, as the *Statute* contains both norms. There, in most articles, the widow does not have the duty to perform military service, but in one article she does. Vansevičius interprets this in the following way: that *if* the wife was assigned one third of the

armour and horses,²⁹⁹ then she was obliged to perform military service,³⁰⁰ and I do not have any alternative explanation on this point.

Summary

In the *First Lithuanian Statute*, several rights and duties of widows appear which are not known from the earlier normative law, or were not defined in the same detail. The *Second Lithuanian Statute*, as regards the points discussed in this chapter, does not contain any significant changes, just some minor details are changed (e.g., the way immovable dowry property is treated when the husband may not guarantee the appropriate dower) and some details are added (remarriage when pregnant, marriage to a commoner) which did not change the status of widows in a significant way.

In the *First Lithuanian Statute* all women were entitled to a dowry, but a dower was optional, as in all of the earlier normative legislation (there were default legal provisions for non-dowered widows). Although the dower was optional, close attention is given to it in the *Statute*, explaining the order of assigning the dower (it could be assigned either before or at any point during the marriage, it had to be in written form and confirmed in court), the type of property on which the dower should be assigned (essentially, hereditary estates and the estates granted by the ruler (depending on the conditions of their use in the ownership document, but purchased estates could also be included), and the size of the dower (double the dowry, one third of the husband's estate).

In addition, the *Statutes* specify that if the husband could not afford a proper dower the wife's dowry was turned into immovable property and only then given into the management of the husband (in this way probably at least partially protecting the property of the wife from

²⁹⁹ See SLS V/2 (6), which explains what may and what may not be assigned to a widow.

³⁰⁰ Vansevičius, "Lietuvos Didžiosios Kunigaikštystės...", 74.

being wasted), and also protecting the dower from being confiscated for the husband's misdeeds during the marriage if the wife was not aware of her husband's doings. The *Statutes* also state that the dower was to be received upon widowhood (not upon remarriage, as in the earlier legislation), and that only half of the dower – the equivalent of the dowry – could be disposed of freely by the wife, and the rest – the *privenok* – was only for the lifetime use of the wife. That is, in the end the wife was left with whatever she had brought into marriage, unless the husband gave her any property with full ownership rights by some other documents.

The *Second Lithuanian Statute* introduces two additional restrictions regarding the right to the dower: widows were to lose it if they got married within six months of the husband's death (to make sure who the father of the child was) or if they married commoners (this making the boundaries of the social strata even more strictly separated than they were previously).

Apart from the dower, widows, according to the *Statutes*, could get additional property from their husbands in a testament, which could be any or all of the movables and purchased estates. If no contractual provisions were present for a widow then she was entitled to the default legal provisions.

Besides defining a widow's rights to various types of property and various rules of keeping it, the *Statutes* also explain the widow's right to remarry (only with the counsel of relatives), her right to give her daughters in marriage (a widow had the same rights as the father in the absence of the latter), her right not to appear in court for one year after the husband's death if she had underage children (thus letting her get established without being troubled about various family property matters for a while), and her – somewhat unclear – duty to perform military service to the ruler if she had been given the means for doing so.

The points addressed above cover the most important aspects of widows' property status. Two of the points – those related to the dowered and dowerless widows – appear in the *Statutes* in detailed form, with explanations of what the dowered and dowerless widows are entitled to under different circumstances. These norms belong to two different legal models (the legal provisions and the contractual provisions), but are quite similar, as will be discussed below.

VI. Legal and Contractual Provisions in the *Statutes*

In the previous chapter the rights and the duties of a widow were described. Two of the aforementioned points: the right to the default legal provisions for widowhood and the option of contractual provisions for widowhood, that is, the dower, represent two different legal models of provision for widowhood, yet they have most features in common. Thus, they are discussed in a separate chapter here, comparing them and analysing their differences and similarities.

A widow's rights to her dower – if she was assigned one in the first place – depended first of all on her marital status: different regulations applied when she stayed unmarried and when she remarried. When a widow stayed unmarried, the important aspect was the age of the children. The status of non-remarrying widows, childless or with adult children, and those with underage children differed to some degree. In the case of remarriage, even more factors have to be taken into account: whether and how the adult children or other relatives could buy out the dower, what happened if they did not want to buy out the dower, what happened if the dower which was being bought out had been spent; again, the situation was different if there were underage children. Also, there were restrictions on the widows who got remarried to commoners, foreigners or got remarried too early (these were already discussed in Chapter V, above).

For non-dowered widows, as will be seen in this chapter, having no dower contract did not mean having no provisions for widowhood. The normative law contains a set of regulations concerning dowerless widows. In this chapter, the following issues will be addressed: the rights of dowerless widows in the case of no remarriage if they have adult sons, underage children, or are childless, as well as the position of remarrying widows and the question of the *venets*.

Non-remarried Widows

The status of dowered widows, at least legally, was firmly established, with some variation in the provisions. There were two main types of property regulations for dowered widows: they either managed the whole of their husband's property (as guardians) or received a dower, which they could either dispose of freely or not (the legal default option was half of the dower to be disposed of freely, but this could vary according to the wish of the husband). Under the law, adult sons and other relatives of the husband had the same rights, but the relatives gained these rights only in the absence of children. Since their rights were in most regards the same, for the purposes of this subchapter the adult sons and other relatives of the husband are counted as one group and underage children as another.

For dowerless non-remarried widows the situation was pretty much the same. If they had underage children their status was the same as dowered widows. If the children were adult or they had no children they were entitled, to a certain share of the husband's property for life.

Underage Children

Between the *First* and the *Second Lithuanian Statute*, the management of the whole of husband's property by his widow was possible only under one specific condition: a widow had to have minor children and be either their legal, assigned or testamentary guardian (FLS IV/6, SLS V/10).³⁰¹

³⁰¹ According to the *First Lithuanian Statute* (FLS I/18), the legal coming of age was 18 for boys and 15 for girls.

The conditions of a widow becoming a guardian were defined in FLS IV/6 (1, 2)³⁰² and SLS V/10 (1, 2). Both the *First* and the *Second Lithuanian Statute* contain a provision, allowing the widow to become a guardian if no other guardian is assigned (SLS V/10 (2), FLS IV/6 (2)). The difference between the *Statutes* is that, whereas in FLS IV/6 (1) for a widow to become a guardian it is sufficient that no other guardian was assigned by the husband, in SLS V/10 (1) the widow either has to be well-settled³⁰³ and have a dower, or at least have support of proper witnesses (SLS V/10 (3)); that is, more emphasis is laid on the property status of a woman. At a first glance it seems quite irrelevant; the greater share of the children's property comes from the father, not from the mother, and the future of the children seldom relies on the property of the mother. However, this is tightly connected to the responsibility of the widow for the husband's property under her temporary management. FLS IV/6 (8, 9, 10) explains the responsibilities of a widow for her husband's property in her care, what the consequences are of her status as a guardian, and exactly the same provisions are repeated in SLS V/10 (4, 5, 6). According to these paragraphs, between the two *Statutes* the law defended both the interests of widows and the interests of the children. As regards the widows, the losses incurred against their husband's property in their temporary care had to be proven in court. As regards the interests of the children, if a widow proved to be incapable of properly managing the property of the children, entrusted to her temporary care, she lost the rights of guardianship of her children and their property; both the children and the property were then entrusted to the relatives, primarily from the father's side. The widow, if she was dowered, remained with only her dower. Furthermore, according to the *Second Lithuanian Statute* – the provision being absent in the *First Lithuanian Statute* – a widow had to cover losses incurred: from her

³⁰² For all references to both Statutes, see the Ruthenian text and the translation into English in the Appendix.

³⁰³ The widow did not have to have a dower in order to become a guardian. Dowerless widows had the same rights as those with a dower.

dower, if she had one, from her own property, or, in the absence of both, those who supported her claim as a guardian had to cover the losses (SLS V/10 (11)).

Non-dowered widows with minor children, if they did not remarry, were in exactly the same position as dowered widows with minor children (FLS IV/6, SLS V/10). Probably because the mother would be the natural guardian, whether she was dowered or non-dowered was not considered relevant in this situation. SLS V/10 (1-3) even contains a clear provision that non-dowered widows may be guardians (in the *First Lithuanian Statute* it only becomes clear from the context, only in the middle of FLS IV/6). She does not even have to have sufficient property of her own to support the children if she is supported by well-established people.

All the same regulations which applied to dowered widows with minor children applied to the non-dowered widows as well. They were also punished if they wasted the property of the children (SLS V/10 (9)) and the guardianship was transferred to the other guardians in the same manner (SLS V/10 (4, 5)). Just the outcome as regards their property status was different, since they did not have the dower. In both FLS IV/6 (11, 12) and SLS V/10 (7, 8) the widow, if she mismanaged the children's property, had to leave the administration of the estate to the new guardians and stay either in her dower, if she was dowered, or receive a share of the husband's property, the same as she would get if her sons were adult. In the *First Lithuanian Statute*, no additional punishments are prescribed for mismanagement of the property – the widow only loses her right to administer the whole of her husband's property. The *Second Lithuanian Statute* orders her to pay for damages incurred (SLS V/10 (11)).

Here it becomes clear why a guarantee was required from well-established people for a non-dowered widow who wanted to be a guardian; if a non-dowered widow caused damages to the children's estate and forfeited the right of guardianship, her guarantors had to cover the

damages. Of course, she was entitled to a share of the husband's property, but covering losses from the property that was technically her husband's and belonged to the children, would not make much sense.

Adult Children or No Children

The position of the non-remarrying dowered and also dowerless widows in the *First* and the *Second Lithuanian Statute* was differentiated according to the age of children, but not dependent on the absence or presence of children. The position for dowered non-remarrying widows was essentially the same whether they had adult children or were childless, as the relatives of the husband received the same rights as the children, had there been any. The same was true for non-dowered widows. For the dowered and for the dowerless widows, however, the property that they kept was given on different grounds.

For dowered widows as regards the rights of adult sons to their father's property, FLS IV/1 (1) clearly states that if the widow had adult sons, then she could have held only her dower, the rest going to the sons, who were required to perform military service from the estates. SLS V/4 (1) contains the same: adult sons inherited a part of the husband's property other than the widow's dower. An important detail here is that, according to these paragraphs, if there was no testament by which the widow was entitled to the husband's movable property it automatically went to the sons. That is, a dowered widow with adult sons was entitled only to a share of the immovable property, her dower.

As regards non-dowered non-remarrying widows, their position was essentially the same, just on different grounds. Both FLS IV/3 (1) and (SLS V/1 (4))³⁰⁴ prescribe a share of the husband's property for dowerless widows with adult children (or childless) if she wants to stay unmarried. However, there are some differences: where SLS V/1 (4) only says that a

³⁰⁴ Another article from the Second Lithuanian Statute, SLS V/4 (2), simply refers back to SLS V/1.

non-dowered widow is entitled to an equal share of the estate for her lifetime with the children or (in their absence) with the relatives of the husband, FLS IV/3 (1) also prescribes her a share of the valuables. Whether the *Second Lithuanian Statute* really excluded movables from the non-dowered widows' share is difficult to say, as "именье" could mean not only "estate", but also "property."³⁰⁵ FLS IV/3 (1) also prohibits the children from taking this part from her, which is absent from the *Second Lithuanian Statute*. Maybe this sentence was removed from there as redundant, as the paragraph is more forceful in defining the widow's right to a share – "will hold" (будеть держати) – than the one in the *First Lithuanian Statute*. FLS IV/6 (4, 5) offers some additional details, absent in the *Second Lithuanian Statute*. FLS IV/6 (5) prescribes that a widow may not hold more than one third of the property, even if she has only one son. This possibly connects to the general landholding laws which allowed only one third of the property to be alienated (even though it was temporary in this case). FLS IV/6 (3) also clarifies that the widow had to transfer the property to the sons not only if they were adult when their father died, but also when they came of age during her widowhood and her guardianship over them ended.

The position of childless widows, both dowered and dowerless, was essentially the same as that of dowered widows with children, with some small exceptions. For the dowered widows, FLS IV/2 (1, 2) contains the law concerning the inheritance of the property by the relatives of the husband in the absence of children. As in the case with adult sons, the law prescribes that the widows should remain in their dower, and gives the rest of the property to the relatives of the husband so that they can provide military services from these estates. SLS V/5 (1, 2) repeats the same in almost identical words. For non-dowered childless widows the

³⁰⁵ *Pirmasis Lietuvos Statutas, II, pirma dalis*, 364. Also, SLS V/9 (1), which contains provisions for widows after the second marriage, prescribes them a share of movables. Thus, if widows after further remarriages were entitled to such a share, it is unlikely that a widow was deprived of such a share after the first marriage.

norm was the same as for widows with adult sons in both *Statutes*. FLS IV/2 (3, 4)³⁰⁶ and SLS V/5 (3)³⁰⁷ state that a childless non-dowered widow should stay in a share provided to her and the rest must go to relatives who must provide military service.

All that was mentioned above in this chapter only applied if a woman was widowed for the first time. According to the *Statutes*, if a woman became a widow a second time, she could not have a dower (if she had it in her first marriage), but was entitled to the same legal provisions as a widow with no dower after the first marriage; along with the children she could receive an equal share of the movables and immovables from the husband's estate for life. If a woman had children in her second or subsequent marriage, according to FLS IV/4 (1) and SLS V/9 (1) she was entitled to an equal share of all estates and valuables with the husband's children from earlier marriages and with children that the husband had with her. FLS IV/[16] (2) and SLS V/15 (2) clarify that a widow could live on a received share of the estate only for life (or, although this is not explicitly stated, until remarriage).

If a woman in her second and subsequent marriages had no children with the current husband her situation was different. The situation of such women is defined in FLS IV/4 (2, 3) and SLS V/9 (2, 3). In the *First Lithuanian Statute* the remarried widow, remarrying again and having no children with the second husband, was entitled to a share of the immovable property for life equal to that of each child from the husband's previous marriage. Otherwise, she could take only what she had brought into the family, her separate property. She could only get extra movables (immovables are not mentioned) if her husband gave her any (probably in a testament). In the *Second Lithuanian Statute*, she is entitled to the same portion (the share of immovables for life and her own separate property), but the article indicates that she could also have a share of immovable property if the husband assigned her such (probably

³⁰⁶ The same is reiterated also in FLS IV/5 (1, 2).

³⁰⁷ Connected to SLS V/5 (1), which explains that barren widows who stay in their husband's property cause harm to the Commonwealth.

in a testament, and possibly with full ownership rights). One should not forget that purchased property in the *First Lithuanian Statute* was treated as movable property; thus, widows were not denied the possibility of getting some immovable property from the husbands only because the *First Lithuanian Statute* mentions it explicitly. In the times of the *Second Lithuanian Statute*, total testamentary freedom was confirmed, which may have contributed to the appearance of the norm suggesting that the husband could bequeath immovable property to his wife (as then it could not be only purchased immovables).³⁰⁸ The *Statutes* also define the position of remarried women where no children at all are present in the family. FLS IV/[16] (3) and SLS V/15 (3)³⁰⁹ explain that such widows were to receive one third of the estate from the relatives of the husband for life.

Remarried Widows

For remarrying widows with dowers, the conditions for keeping the dower were different from those for non-remarrying widows. Since remarriage meant termination of ties with the family of the late husband, and transfer of some of the family property – which was assigned as a dower – to another family, the regulations regarding the dower were directed at preserving the husband's immovable property intact. For a non-dowered widow the situation was different from that of the dowered widow, who could take the dower or its monetary equivalent to the new marriage if she decided to remarry. A non-dowered widow could not keep her share which she received for use until death or remarriage.

³⁰⁸ We should not forget that in the *First Lithuanian Statute* the husband could dispose freely of one third of ancestral land, but the law on assigning the property to childless widows in their second marriage seems to ignore that fact, maybe discouraging such assignments for the benefit of the children of the first wife.

³⁰⁹ In the *Second Lithuanian Statute*, it is not clear when a widow may receive one third, as the preceding paragraph gives provisions regarding situations where children are present [SLS V/15 (2)]. As otherwise both articles are the same, it seems that the article from the *Second Lithuanian Statute* is simply missing the start of the phrase (the *Third Lithuanian Statute* corrects that, inserting: “А если бы одно дитя осталось; тогда отъ того дитяти альбо отъ ближнихъ...” [and if there was one child, then the child or the relatives...]).

Unlike the situation for the non-remarrying widows, for the remarrying widows the ages of their children did not matter. When dowered widows remarried the ages of the children essentially lost any relevance. Remarried dowered mothers of underage children were treated in the same way as remarried mothers who had adult sons or who were childless; they lost the right to the guardianship and the right to manage the whole of the husband's property and were left with only their dowers, with the possibility for the children to buy the dower when they grew up (FLS IV/6 (6, 7)).³¹⁰ As regards the non-dowered remarrying widows with underage children, none of the *Statutes* address such a point, and there is no reason to believe that dowerless widows with underage children were exempt from the general norms on dowerless remarrying widows.

Most of the laws in both the *First* and the *Second Lithuanian Statute* regarding the remarriage of dowered widows concerned the opportunity for the children and relatives to buy the dower property from the widow, turning it into cash. FLS IV/[1] (2) and SLS V/2 (2) are the paragraphs which address this point in detail, explaining that a remarrying dowered widow may take her dower to the new marriage, and the adult children or, in their absence, relatives of the husband, may buy the dower estates from the remarried widow, paying the full amount for them.

The *Second Lithuanian Statute* here is more specific than the *First*. The *Second Lithuanian Statute* specifies that the dower may be bought out by the relatives, not only by the children. The law prescribes that *whole* amount of the dower – “тогда мають ей всю суму пенязей, як будеть в листе описано” – be paid out for a remarrying widow. Buying out the dower of a remarrying widow was, however, not mandatory. The law provided the means for

³¹⁰ Although the *Second Lithuanian Statute* proclaimed that only the norms of the *Statute* were valid (as opposed to the *First Lithuanian Statute*, which allowed the use of the privileges and the customary law), there is no reason to believe that this norm was cancelled in the *Second Lithuanian Statute*.

keeping the immovable property of the husband intact, but this was optional. They could choose to wait for the widow's death (FLS IV/[1] (3, 4), SLS V/2 (3, 4)).

Upon the remarriage of a widow her children had two options. The first option was to buy out the dower of the mother, paying the full sum. The second option was to wait for their mother's death. Then half of the dower – the *privenok* – automatically returned for them, and the other half – the equivalent of the dowry – they had to pay out to whomever she willed it (if it was not left to them). That is, in the first case the children could acquire all of the immovable property assigned to their mother as a dower, by paying her the full amount for it, getting it quicker but paying more; in the second case the children could acquire *half* of the immovable property assigned as a dower for sure, just getting it later. The other half could also end up in their hands, but not necessarily (since their mother could choose to leave the equivalent of the dowry to someone other than her children). What were the consequences of these regulations for a widow? In the first case, she lost access to immovable property, but gained more in cash. In the second case, she kept hold of immovable property for longer, but could dispose freely only of half of it. Neither of the options seems to be to any special disadvantage or advantage of the widow. The only disadvantage probably was the fact that it was the children who had the decisive power whether to buy the dower out or to wait for her death.

Both *Statutes* defined what belonged to the movable and immovable property. The definitions of immovable property coincided in both *Statutes*: here were not only land and the buildings, but also armour, herds, serfs, and manor livestock as items necessary for the proper provision of military service. The *First Lithuanian Statute* only stated that these were regarded as immovable property, and only one third of which could go to the widow as a dower. The *Second Lithuanian Statute* explained the rules of how to deal with these items if the widow's dower was bought out (SLS V/2 (8)): when the dower was bought out, these

items were also bought out and stayed in the estate, as they formed the part of the value of the dower. If any of these items were spent they were subtracted from the total amount when giving the dower and the widow got less. This norm appeared first in the *Second Lithuanian Statute*. Neither the *First Lithuanian Statute*, nor any of the earlier legislation contained any information about this.

The rules for buying the property were different when a widow remarried within the country and when she married a foreigner. The *Second Lithuanian Statute* contains only a paragraph about the duties of foreign husbands settled in Lithuania to perform military service (SLS V/6). This is surprising, since earlier legislation contained several regulations and even legal debates on this question. As regards such a sudden disappearance of the law regarding women's marriage abroad, so far I have no conclusive explanation. My suggestion is that in the second half of the sixteenth century the attitudes towards foreigners were changing and foreigners stopped being seen as a threat – after all, the Lublin Union of 1569 (The Union of Lublin was the act of union of the Lithuanian and the Polish states with a single ruler, single diet, a house of representatives and a senate, with common foreign politics, law and currency) was approaching and the relations of the Lithuanian and the Polish nobility had to change, at least from the legal point of view (alternatively, it is possible that the debates of the Diets of 1551 and 1554 were inspired by some concrete cases which escalated this question and made it look like a pressing matter, but after these concrete cases went into oblivion the issue was forgotten). This could also have been connected to military service. Logically, a man could not perform military service for two countries – thus, getting a wife with immovable property from which military service had to be provided for the Duchy of Lithuania, the husband might have ended up in a situation where he had to provide military services for two different countries at the same time. With Lithuania and Poland forming the same state, this contradiction disappeared.

The *First Lithuanian Statute* defined the rights of women to marry abroad in FLS IV/9. This is the only article regarding marriage to foreigners, and here only girls are mentioned explicitly, but at least at first glance there are no reasons to believe that the law did not apply to remarrying widows as well, especially as the *First Lithuanian Statute* includes the provision that all previous legislation remains valid (FLS III/4) – which means that if a norm did not contradict the *First Lithuanian Statute*, which had the highest priority, then such a norm remained in force. It stated that girls were not allowed to own any immovable property if they married foreigners. If they married abroad, according to an early version of the *First Lithuanian Statute*, they could receive their dowries in cash.³¹¹ Essentially, the rights to property of women who married in foreign countries and the women who married within the country differed in one regard; women within the country could hold immovable property, for women leaving the country it was changed to cash.

Continuing the theme of marriage to foreigners, the decrees of 1551 and 1554 should be mentioned here. Between the two *Statutes* a couple of legal debates occurred regarding the marriage of women to foreigners. In 1551, an interesting situation occurred.³¹² The Diet of 1551 asked the ruler to deprive any girls and widows who married without the permission of their relatives of the right to their property. Also, they wanted the ruler to confirm a law which would allow those girls and widows who had their relatives' permission to marry to receive the shares due to them, but only in cash. The ruler rejected the request, saying that he left the present norms of the *Statute* valid.

³¹¹ *Pirmasis Lietuvos Statutas, II, pirma dalis*, 130. According to the expanded version of the *Statute*, women who marry abroad may not receive any property at all (FLS IV/9). This version of the *First Lithuanian Statute* deprives the women who marry foreigners of any property whatsoever. Is such a radical change likely in such a short time span? The similarities of the phrasing of two versions, comparison with the Polish of the same expanded version, as well as the norms found in the later legislation lead to the thought that the negative in the expanded version (“не повинни”) might be a scribal error.

³¹² “Уставы данные Литве и областям Жмудьской и Волынской, на второмъ Виленскомъ сейме: II.” (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Second Diet of Vilnius: II.), in *Акты, относящиеся к истории Западной России*, vol. 3, 37.

The issue of the widows marrying foreigners and keeping immovable property must have been rather serious. The Diet of 1554 raised the same question again;³¹³ this time the demands of the Diet were stronger. Now they wanted to deprive the widows of a part of their legitimate shares. The Diet claimed that many widows married foreigners and kept their immovable property. The widows, apparently, frequently mortgaged it and thus greatly incommoded their children and relatives, who, trying to keep ancestral property intact, had to use their right to buy out the mortgaged lands and were thus impoverished.

If in the first Diet the request seems to have concerned only immovable vs. movable property, now the Diet concentrated the request on harsher sanctions for remarrying widows. The Diet asked the ruler to confirm a law reducing the amount of property that widows were entitled to; according to it a widow who married a foreigner got only half of her dowry and none of her dower.³¹⁴ Also, the Diet requested that the relatives or neighbours of widows received the right to pay only half the price for the serfs and nothing for such landed property as forests and waters when buying out widows' immovable property. Additionally, the Diet asked for some further details regarding the girls marrying abroad to be confirmed, but the ruler declined this request. If in the previous laws the emphasis seemed to be on not letting foreigners hold Lithuanian lands, this request aims at limiting the rights of women – more precisely, widows – not to the type, but to the amount of the property.

As regards widows, this time the ruler did not satisfy the request of the Diet either. He only allowed the immovable property of women to be bought out by the relatives in instalments. The ruler still rejected most of the demands of the Diet; widows preserved the right to keep their dower and the whole of their dowry. He did not agree with the Diet's

³¹³ “Уставы данные Литве и областямъ Жмудьской и Волынской, на третьемъ Виленскомъ сейме (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Third Diet of Vilnius), in *Акты, относящиеся к истории Западной России*, vol. 3, 53.

³¹⁴ Such a law was confirmed in the *Second Lithuanian Statute* regarding marriages to commoners.

proposal to deprive widows of any of the property – it all had to be bought out for the full price with no delay in time.

If the situation was rather similar for non-remarrying widows according to the normative law regardless of whether they were dowered or not, for the remarrying widows it differed significantly. In addition, not only did the *Statutes* provide very different norms for the non-dowered remarrying widows, these norms themselves changed from one *Statute* to another. Regarding the status of non-dowered remarrying widows, the *Second Lithuanian Statute* acknowledges a completely opposite norm from that in the *First Lithuanian Statute*. The *First Lithuanian Statute* discourages the family of the husband from paying his non-dowered widow a *venets* (FLS IV/3, FLS IV/4, FLS IV/8). The *Second Lithuanian Statute* states that the non-dowered remarrying widows *must* receive a so-called *venets* (SLS V/1, SLS V/5).

Before analysing this change, the institution of the *venets* should be addressed in some detail. The most detailed analysis of the institution of the *venets* can be found in an article by Irena Valikonytė.³¹⁵ The function of the *venets* was to provide for non-dowered remarrying widows,³¹⁶ in other words, a *venets* was a non-dowered widow's dower. The *venets* was considered to be a compensation for the loss of virginity and thus given only to widows remarrying for the first time.³¹⁷ The institution of *venets* was borrowed from Poland, although it seems that it never became popular in Lithuania. Irena Valikonytė, who has investigated the *venets* both in the normative law and legal practice, notes that the *venets* was practically unknown in legal practice, regardless of it being acknowledged in the *Second Lithuanian Statute*.³¹⁸ If a non-dowered widow had children, FLS IV/3 (2)³¹⁹ did not oblige the children

³¹⁵ Valikonytė, "The *Venets*," 97-107.

³¹⁶ Valikonytė, "The *Venets*," 99.

³¹⁷ Valikonytė, "The *Venets*," 104.

³¹⁸ Valikonytė, "The *Venets*," 97-107.

³¹⁹ FLS IV/8 (2) contains the same.

to pay the *venets*.³²⁰ The *Second Lithuanian Statute* in such circumstances prescribed them to pay a *venets* of thirty *kopy* of *groshy* to their mother (SLS IV/1 (2)). If the non-dowered widow had no children, the same obligation fell to the husband's relatives (SLS V/1 (3, 5)).³²¹ Taking the whole paragraphs, the contents of SLS V/1 roughly correspond to FLS IV/3 and FLS IV/8, SLS V/5 to FLS IV/2, and SLS V/9 to FLS IV/4. However, while SLS V/1 orders the payment of a *venets*, FLS IV/3 and FLS IV/8, under the same circumstances, prohibit it, and while SLS V/5 also prescribes a *venets*, FLS IV/2 does not mention it at all. Only SLS V/9 contains the same norm as FLS IV/4: both of them forbid payment of the *venets*.

In the *First Lithuanian Statute*, the payment of the *venets* is forbidden under all circumstances. FLS IV/8, which deals with the question of father's duty to ensure that his daughter will be granted a dower by her husband, explains the importance of assigning a dower by pointing out that non-dowered women are not entitled to a *venets*. FLS IV/3, which defines the status of non-dowered widows, is more detailed – it explains that the *venets* is something that is not to be given to a non-dowered remarrying widow.

The *Second Lithuanian Statute* presents a situation corresponding to the Polish one: that is, the *venets* is compensation for the absence of the dower. SLS V/1 defines how the dower must be assigned and what happens if a father fails to make his son-in-law assign a dower for his daughter. SLS V/1 unites FLS IV/3 and FLS IV/8, with one great difference – here, the norm regarding a *venets* is completely the opposite. If the *First Lithuanian Statute* forbids paying a *venets* to a remarrying widow, the SLS makes such a payment mandatory. Also, it defines the size of the *venets* – it is fixed to thirty *kopy* of *groshy*. If the property of

³²⁰ What is interesting here is that the norm only says that the relatives are not obliged to pay the *venets*, which implies that the payment of *venets* was simply not mandatory rather than prohibited. However, in other instances in the *First Lithuanian Statute* the phrasing used does not allow this interpretation.

³²¹ SLS V/5 (4) contains a similar provision, there it is stressed that the *venets* is given only after the first marriage. The *First Lithuanian Statute* does not contain the equivalent paragraph; it first appears only in the *Second Lithuanian Statute*. FLS IV/5 (3) says only that the estate which was temporarily given to a non-dowered childless widow falls to the relatives in the case of her remarriage, with no obligations from their side.

the husband is worth less than that, then the widow has a right to keep a quarter of the property.

So why was the situation in the *First Lithuanian Statute* so different? The question which is rightly asked by Irena Valikonytė is as follows: If the *First Lithuanian Statute* made no provisions for the assignment of a *venets*, why was it necessary to forbid a widow getting it?³²² She comes to the conclusion that the reasons for such a prohibition of the *venets* by the *First Lithuanian Statute* are unclear³²³ and indicates its foreign origin as a possible reason for the institution of *venets* not getting established in Lithuania.³²⁴ At least theoretically the *Second Lithuanian Statute* improved the property status of remarrying non-dowered widows' by granting them a *venets*. Now, widows had a legal claim to some of their deceased husband's property even if they had not been assigned a dowry. By being granted a *venets* by the *Second Lithuanian Statute*, however, the widows definitely lost the right to their dowry. This might be seen in a following way: maybe, instead of receiving back the dowry, a widow got a *venets* as compensation.

The status of non-dowered widows upon their third or any subsequent marriage (i.e., the second re-marriage) is also defined in the *Statutes*. Here, there is no contradiction between the *First* and the *Second Lithuanian Statutes*: in subsequent remarriages, a widow is *not* entitled to a *venets*. The *Second Lithuanian Statute* (SLS V/9 (4)), which otherwise prescribes the *venets* for widows, here forbids it, as does the *First Lithuanian Statute* (FLS IV/4 (4)) because the *venets*, perceived as a compensation for the loss of virginity, could be given to a woman only after her first marriage.

A Note Regarding the Right of Non-Dowered Widows to their Dowries

³²² Valikonytė, "The *Venets*," 99.

³²³ Valikonytė, "The *Venets*," 104.

³²⁴ Valikonytė, "Našlės vainikinė," 88.

In the opinion of some Lithuanian scholars, based on FLS IV/8 (1, 2), in the absence of a dower contract a widow lost the right to the property which she brought into the marriage.³²⁵ I will consider another possibility here, based on some other articles of the *Statutes* and one example from the legal practice. SLS V/9 (2) and FLS IV/4 (2) state that a widow in her second and subsequent marriages may take with her the property that she had brought in. In SLS V/9 (2) it is referred to as *vnesen'e* (dowry), and in the FLS IV/4 as *prinesenoe* (that which is brought in). It is possible that in both cases the reference is made to any property that she brought in (e.g., her dower that she had received from her previous husband or any of her separate property), but it also may mean her dowry. In such a case, if a widow was allowed to keep her property after further remarriages, why should not she not be allowed to do so after the first one? After all, she is not allowed to be dowered by her second husband, thus, according to the reasoning that a woman's property is lost to her if it is not secured by a dower in the first marriage, she should not be able to retrieve her property in the second marriage either.

In an example from *Lithuanian Metrica* of a case with an invalid dower contract (LM 229/162 from 1541), a husband received a dowry of 100 *kopy* of *groshy* and assigned her 200 *kopy* of *groshy*.³²⁶ This corresponds to the normative legislation: the husband should double the dowry. However, it turns out that this assignment was made on the whole of the property, not on one third as allowed by the law, and thus it was not valid. The widow tried to get back at least her dowry, 100 *kopy* of *groshy*, but her husband's nephew, who claimed all the property, said that she had already taken all the movables. The case remained unresolved, thus it is not clear if the widow succeeded in getting back the dowry, but the fact alone that she

³²⁵ *Pirmasis Lietuvos Statutas*, ed. Valikonytė, Lazutka and Gudavičius, 288-289; Andriulis, *Lietuvos Statutų...*, 71. The equivalent norm in the *Second Lithuanian Statute* is SLS V/1 (2).

³²⁶ LM 229/162: “муж взял по мне посагу сто копъ грошей, окпомъ шать и ньших речей, и записаль ми за внесенье и за вено двесте копъ грошей” (the husband took from me a dowry (*posag*) of 100 *kopy* of *groshy*, not counting clothing and other movables, and assigned for the dowry (*vnesen'e*) and the dower (*veno*) 200 *kopy* of *groshy*).

claimed it shows that a dowry may have been returned to non-dowered widows, if not by statutory law then by custom.

This being the case, the treatment of the institution of *venets* in the *First* and *Second Lithuanian Statute* would have the following meaning: in the *First Statute*, a widow is not entitled to a *venets* because she regains her dowry. In the *Second Statute*, she loses the right to the dowry if it is not secured by the dower, but instead gains the right to receive a *venets*.³²⁷ I do not have more information for supporting this theory, thus I present it only as a thought for consideration rather than a conclusive statement. If this were the case, one of the possible explanations for the difference between the *First* and the *Second Lithuanian Statutes* could be as follows: at the time of the *First Lithuanian Statute*, the *venets* was not encouraged because it was viewed as a foreign institution, with the custom in Lithuania being that non-dowered widows got back their dowries. As Polish influences became more accepted in the country, the *Second Lithuanian Statute* prescribed the non-dowered widows a *venets* and deprived them of the right to the dower.

Summary

Basically, a widow's property status according to the normative law depended on the age of her children if she did not remarry and on the presence or absence of contractual provisions if she did remarry. Between the two *Lithuanian Statutes* a non-remarrying widow, if she had both a dower and adult sons who could take over the management of their father's property, was left only with her dower (and none of her husband's movable property if he did not so indicate in a testament). The same situation occurred if the widow was childless; in that case she was also left with only her dower, the rest of the property going to the relatives of her

³²⁷ The fact that the *Second Lithuanian Statute* explicitly forbids returning the dowry and provides a widow with a *venets* instead is one more indicator that up to the *Second Lithuanian Statute* the dowry probably was returned.

husband. If she was dowerless, with either adult sons or no children, she was entitled to a life-time right to a maximum of one third of her husband's property if she had one or two sons, and less – a share equal to that of each son – if she had more than two sons.³²⁸

A widow with minor children, if she did not remarry, could manage the whole of the husband's property. If her sons were adult or if she was childless, then she had a right only to her dower or, if she was non-dowered, a share of the property equal to that of each son (but not more than one third). Once she became a guardian of her children and administrator of her husband's property (the property never came under her ownership), her situation could change under three circumstances: 1) mismanagement of the property with financial responsibility for the wasted property (with the *Second Lithuanian Statute* foreseeing the need for guarantors to cover the damages incurred by a non-dowered widow), 2) the coming of age of the oldest son and 3) remarriage. All these conditions deprived her of both the guardianship of the children and the management of the property and left her only with the dower or, for dowerless widows, the appropriate share of the property.

If a widow decided to remarry, according to the *Statutes* there were two possible outcomes upon the remarriage which did not depend on the widow, but on her children and the relatives of the husband. The first option was changing the share of the immovable property assigned as a dower into cash. The second option was allowing the widow to keep the dower until her death, when half of it would revert to the husband's family and half of it was hers to dispose of freely. The presence or absence of children or their ages did not matter. If there were children, they had the right to buy out the dower; if there were no children this right belonged to the relatives of the husband. If there were children and they chose not to buy out their mother's dower, other relatives could not do so either. As for the ages of children, the law provided that if a widow remarried she lost the right of guardianship and took her

³²⁸ The daughters were eligible for a quarter of their father's property if the father did not specify otherwise.

dower to the new marriage; in such a case the dower could be bought by the children when they reached majority. The laws also sanctioned the remarriage of widows to foreigners; in the *First Lithuanian Statute* they could not hold immovable property, but would receive the value in cash. Debates in the Diet did not change the situation and this law disappeared in the *Second Lithuanian Statute*.

For remarried non-dowered widows, the *First Lithuanian Statute* stated that they could not keep their husband's property and that they were not entitled to receive a *venets* – a dower compensation known from the legal practice even before the *First Lithuanian Statute*. The reasons for this prohibition are not clearly known. According to Lithuanian scholarship, such widows also lost the right to the dowry which they had brought into the marriage. That is, between the *First* and the *Second Lithuanian Statute* non-dowered remarrying widows were left with nothing but their separate property, if any. The privileges before the *First Lithuanian Statute* only stated that such a widow could not stay in her husband's property, but did not say whether she was entitled to a *venets* or, maybe, the return of the dowry.³²⁹ In legal practice, at least some widows tried to get back their dowries when they had not been entitled to a dower, thus possibly there was a custom according to which such a widow was not left entirely with nothing. Also, the *First Lithuanian Statute* does not say anything explicitly about whether these widows kept the dowry or not, while the *Second Lithuanian Statute* prohibits giving her the dowry back, which is another indicator that up to then non-dowered widows did get the dowry back. This is not a conclusive statement as I would need more data to prove it, but in my opinion it seems likely that non-dowered remarrying widows were not left with nothing between the two *Lithuanian Statutes*. From the *Second Lithuanian Statute* onwards, widows definitely did not have the right to their dowries according to the normative law, but were instead entitled to a *venets*.

³²⁹ With the exception of the privilege to Belsk from 1501.

In marriages after the first, the same legal provisions applied to all widows, as the dower was given only after the first marriage. The widows who had children with their second husband were slightly better off than those with no children, as they were entitled not only to a share of the property for life, but also a share of the movables, while widows who did not have children from the second marriage could rely only on the mercy of their husbands, hoping for a share of movables (probably including purchased estates) according to the *First Lithuanian Statute* and also some immovable property according to the *Second*. If there were no children at all in the family, the widows were entitled to a share of one third of the estate for life from the relatives of the husband. Essentially, the status of repeatedly widowed women was the same as that of non-dowered widows who were widowed for the first time.

VII. Widows in the *Metrica*

As already mentioned in the previous chapters, in this dissertation I analyse provisions for widowhood not only in the *Statutes* and other records of the normative law, but also in the *Lithuanian Metrica*, the source of records of legal practices. For each legal norm that I found in the normative law, in the *Lithuanian Metrica* I looked for examples which both conform and contradict the normative law. I use only a selection of the collected examples here – those which best illustrate certain points. I do not aim at giving a detailed presentation of all the cases that I found, as many of them do not contribute any new information to the research and are rather formulaic, repetitive or not complete. An approximate number of cases is as follows: Book 239: 15 out of approx. 190; Book 248: 10 out of approx. 190; Book 249: 6 out of approx. 50; Book 254: 17 out of approx. 150; Book 261: 7 out of approx. 50; Book 263: 4 out of approx. 50; Book 265: 1 out of 15; Book 268: 1 out of 6. In all, slightly more than 10 percent of all court records in the books checked were related to widows and family property. In total, I examined approximately 2000 court records, out of which about 200 were relevant, but hard to classify as most of them were rather repetitive and formulaic. The remainder were unique cases, difficult to classify and aggregate; therefore I decided to use them only as examples. I consider the collected examples to be too varied to carry out any statistical analysis. I will present a sample of detailed cases which illustrate some of the main points regarding the provisions for widowhood in the normative law and then add some additional examples that either confirm or contradict the individual case and/or the normative law. These examples from the *Metrica* will show how and how much the legal practice diverged from the normative law.

Dowered Widows

Three Dower Contracts of Jan Shymkovitch

I will start with court records from LM 248³³⁰ and LM 254.³³¹ These court records serve as an interesting example of how a dower could be assigned and then re-assigned. They reveal various details regarding the process of how a dower could be assigned, what it consisted of and what were the conditions of its use, and also involve examples not only of a husband assigning property to his wife, but also a wife promising to leave whatever is hers to her husband. The chain of interconnected records also shows that dower records and other documents were entered in the books of the *Lithuanian Metrica* quite scrupulously – although I did not find all of the documents from this chain, the picture is quite clear thanks to the very extensive final document summarising all of the earlier history.

When Alexandra, daughter of Duke Ivan Michailovitch Vishneveckij, married Jan Shymkovitch, a high state official (“маршалок и писар”), Jan assigned her a dower. I did not find the dower contract that Alexandra received from Jan. The first document in the chain that I found is Alexandra’s response to the receipt of the dower contract from Jan, where she promised, if she died before him, to leave to him anything that he assigned to her.³³² Alexandra’s gift to her husband is dated August 1555.³³³ The wedding and the creation of the dower contract had probably happened shortly before this date. In the court record, Alexandra’s dowry is listed in detail. Jan, when marrying Alexandra, received from her

³³⁰ LM 248/131r-132r; LM 248/132r-133r; LM 248/133r-133v. For the non-published books, I use the following marking system: LM stands for the “Lithuanian Metrica”, 248 is the number of the book and the numbers after slash are the pages of the book. For the published books, after a slash I write the number of the case.

³³¹ LM 254/195v-202v.

³³² LM 248/131r-132r.

³³³ In Lithuania, widows and women in general had access to the courts on equal grounds with men. True, in many instances they were represented by some male – e.g., their son-in-law – but in many other cases they stood in court themselves. In some circumstances – e.g., if a woman was letting her husband to dispose of her dower – her presence in the court was even required, in order to make sure that she was not forced into an agreement which she did not really support.

mother and her step-father a dowry which consisted of: 250 *kopy* of *groshy* in cash, left to Alexandra by her biological father; 350 *kopy* of *groshy* in the form of an estate (mentioned in one of Jan's later dower contracts); and 200 *kopy* of *groshy* in cash, given to Alexandra by her mother. In addition, she received gold and silver worth 120 *kopy* of *groshy* and pearls and clothes worth 80 *kopy* of *groshy*. That is, she received 450 *kopy* of *groshy* in cash, 350 *kopy* of *groshy* in immovable property and 200 *kopy* of *groshy* in valuables and clothes totalling of 1000 *kopy* of *groshy*, exactly as indicated by Jan in his later retelling of the first dower contract.

For this dowry Jan gave Alexandra a dower: for the 450 *kopy* of *groshy* of cash and 120 *kopy* of *groshy* of gold and silver he assigned her a dower of 1140 *kopy* of *groshy*, doubling the amount she brought. For the other valuables and clothes, the value was not doubled, and this added another 80 *kopy* of *groshy* to the dower; the value of the estate, 350 *kopy* of *groshy*, was also added to the dower without doubling. This made a total dower of 1570 *kopy* of *groshy* $((450+120)\times 2+80+350=1570)$. Jan assigned this dower of 1570 on one third of all of his estates – paternal, granted, and purchased. Alexandra, as noted above, granted this property to Jan if she died first.

In the next record in the book,³³⁴ dated with the same date, Jan assigned to Alexandra some additional property: all of his movable property and the estate of Komorovo that he received from her as a part of the dowry valued at 350 *kopy* of *groshy*. Then, in the next entry,³³⁵ also dated with the same date, Jan cancelled his first dower contract, claiming that that the one third of his estates that he had assigned as a dower was not worth enough and that instead he gives his wife an estate of his mother worth 2000 *kopy* of *groshy*. Jan leaves a certain freedom to his wife to choose between the dower contracts; if she decides that she prefers to get the property in accordance with the first dower contract then she cannot claim

³³⁴ LM 248/132r-133r.

³³⁵ LM 248/133r-133v.

this estate of 2000 *kopy* of *groshy*. Alexandra, on the same date,³³⁶ assigns some additional property to Jan.

Jan and Alexandra reappeared on the scene five years later, in December 1560,³³⁷ when Jan decided to change the dower contract again.³³⁸ He explains all of the earlier history starting with the first dower contract, carefully explaining the reasons for all the changes.³³⁹ Retelling the story of the first dower contract³⁴⁰ he explains that upon marrying Alexandra he received from her a dowry (*posag*) in cash and also a trousseau (*viprava*) in gold, silver, pearls, clothes and other things, to a total value of 1000 *kopy* of *groshy*.³⁴¹ For this dowry (*vnesen'e*) he assigned Alexandra a dower on one third of all his paternal estates (he does not indicate the amount here) which he would receive from the father upon the division of the property with his brothers. Afterwards, however, he decided that it was an improper thing to do, as the property division with his brothers had not yet taken place. Furthermore, one third of the property that he would receive from the division was not worth enough. Thus, Jan decided to reassign the dower on different property. His wife Alexandra agreed to make the first dower contract invalid.

The decision to reassign the dower may have been caused not only by Jan's sudden "realisation" of somewhat improperly assigning the dower, but also by the feelings that he had apparently developed for his wife, as she had turned out to be a good housewife and was

³³⁶ LM 248/134r-134v.

³³⁷ LM 254/195v-202v.

³³⁸ I presented the records of LM 248 only briefly in order to avoid the repetition of the same facts and stories, but most of the details of the record from LM 254 are present in the cases mentioned from LM 248, and LM 254 mainly summarises them.

³³⁹ For various reasons, which he carefully listed, he decided to change the property on which he originally assigned the dower for his wife. It was already the second change in a row, as Jan kept being unsatisfied with the solution he had made and kept changing it with changing circumstances in his life. As a state official, who himself was closely familiar with the matters of court (e.g., LM 254/126v-129r from 1560, LM 261/9v-12v from 1565), he must have been well aware of all the laws and possible exceptions to them.

³⁴⁰ Cf. LM 248/131r-132r.

³⁴¹ A dowry of 1000 *kopy* of *groshy* and up seems to have been common among the upper nobility, while in the lower nobility it was frequently up to 500 *kopy* of *groshy*. To imagine the value of a *kopa* of *groshy*, here are some numbers from the *Statute* and the court books: a cow could cost half a *kopa* of *groshy* (FLS XII/8), a horse some 10 *kopy* of *groshy* (FLS XII/1), a fox-fur coat 7 *kopy* of *groshy* (LM 225/343), and a hat 6 *groshy* (LM 225/325).

obedient to him. Thus, Jan cancelled his first dower contract for one third of his paternal lands, and instead of the former dower (*veno* and *privenok*, as he called it) assigned his wife a dower of 2000 *kopy* of *groshy* on the estate of Mozheikovo.³⁴² This estate was a property of Jan's mother, Duchess Zofija Vasil'evaja Polubenskaja, which was to go to Jan after her death. Alexandra was to receive such a dower after the deaths of both Jan and his mother. This hardly seems a better arrangement; although the value of the dower was now indeed appropriate (2000 *kopy* of *groshy* against her dowry of 1000 *kopy* of *groshy*), otherwise Jan was again assigning something that he did not own himself, but Alexandra agreed to it.

After some further thought, *Pan* Jan (nothing is said in the text, but perhaps urged by his wife or maybe because of changed financial circumstances) once again decided that this new dower contract was not quite right, as he might die before his mother and then his wife would get no dower – or at least not immediately after his death – as his mother would still have the estate. He needed to assign the dower on an estate which would not cause conflict either with his brothers or his other relatives or his and Alexandra's children, if they had any (that at the drawing up the third dower contract in a row the couple was still childless is somewhat unusual, as the third dower contract was signed after five years after marriage). Then, after consulting with his relatives, his brothers, and his wife, Jan decided to cancel the second dower contract and create a third one.

Instead of paternal property, Jan now assigned his wife two acquired estates, Gorodnaja and Kozakov.³⁴³ These estates seem to have been acquired after the wedding, as Jan stresses that these are not his paternal estates, but estates acquired by him together with his wife. Jan does not say what the value of the estates is, but indicates that his wife is entitled

³⁴² Cf. LM 248/133r-133v.

³⁴³ The status of these estates is somewhat unclear from the case, as in one place they are called purchased estates, and in another they are described as received from the ruler.

to stay on these estates for life and to bequeath 1500 *kopy* of *groshy* from these estates on conditions specified by him.

Jan's conditions were rather strict; he orders that, if he and his wife have children, the wife could only leave these 1500 *kopy* of *groshy* to the children. He even goes as far as specifying that any daughters would be entitled to get this money only in the absence of sons, and would get nothing if there were sons. However, if he died childless, Alexandra was entitled to deal with these 1500 *kopy* of *groshy* as she wished and leave them to whomever she wanted. Jan also says that his brothers and his other relatives could not evict Alexandra from her dower estates after his death and should not try to buy them from her. They also could not enter the estates without paying the indicated sum to whomever Alexandra would bequeath it when she died. The children, if they had any, also had no right to evict Alexandra from the estates during her lifetime.

At first glance this seems to be even worse an arrangement than the second dower contract; although now the property that is assigned as a dower does belong to Jan, the value of the dower is less than in the second dower contract, where it was 2000 *kopy* of *groshy*. However, this is not all that Jan gave to his wife in the third dower contract. In addition to these estates, Jan assigned Alexandra another purchased estate, Glelvony, which he had bought from his brother for 1000 *kopy* of *groshy*. From this estate, Alexandra was free to bequeath 700 *kopy* of *groshy* at her death, regardless of whether they had children or not. Thus, she had 1500 *kopy* of *groshy* in the estates of Gorodnaja and Kozakov which she should leave for the children, if she had any, otherwise she was free to bequeath it to whomever she wished, and another 700 *kopy* of *groshy* which she was free to bequeath to anyone regardless of whether she had children or not.

Furthermore, Jan reminded the court of other property that he had previously assigned to his wife³⁴⁴ and confirmed the validity of these assignments. These gave her the right to the estate of Komorovo (part of her dowry), valued at 350 *kopy* of *groshy* instead of cash, also the estate of Pelesa which a certain Daugirdas had pawned to him for 1500 *kopy* of *groshy*, as well as all of Jan's movables.

Assigning a Dower: Time, Form and Place

Jan probably first assigned the dower in connection to the wedding, either before the marriage or at some point soon afterwards. The second dower was assigned some five years after the first one, if not more. Both such possibilities were enshrined in the *Statutes*, which allowed drawing up a dower contract at essentially any time before the death of the husband.

Other court cases also show that dower contracts could be assigned both before and after the wedding. I did not find any significant differences in the character of the contracts depending on the time of their creation. The only clear difference was that the pre-marital dower contracts are more general and concern only the wife; when the dower is assigned in the testament the children of the family are also involved, which offers a more detailed view of the family's financial situation. Another difference is that the pre-marital dower contract reveals only the dower, while in post-marital dower contracts or testaments other properties are also listed (this, of course, does not mean that a widow would not get any additional property by a testament if she had a dower assigned before the marriage).

In many cases, the time of the signing of the dower contract is not indicated, as with the first dower contract drawn up by Jan;³⁴⁵ only the fact that the marriage and dowry are mentioned and that the husband had still not received his share from his father might indicate

³⁴⁴ Cf. LM 248/132r-133r.

³⁴⁵ Similarly unclear is the time of the assigning the dower in e.g.: LM 248/75v from 1554; LM 248/85v from 1554; LM 260/194r-195v from 1566.

that the dower was assigned before the marriage. Soon in the same case the husband reassigned the dower, which definitely occurred after the wedding, as the husband already knows his wife and thinks that she deserves a fairer share of his property.³⁴⁶

Although Jan himself saw it as inappropriate that he assigned the first dower on property that he still did not own, he was not the only one to behave so. In some cases, when a dower was assigned before the marriage it could be assigned when the husband himself still did not have his own property. In LM 263/57r-58r from 1565, a father agrees that his son (it seems there is only one son in the family) marry and assign his wife one third of the father's property. Because the son would apparently inherit this property after the death of his father, the father allowed the son to assign some of his property to his wife rather than giving a share of property to the son during his lifetime).

All of Jan's dower contracts, although I did not find records of all of them, seem to have been drawn up in written form with all the required details present. Although the early privileges indicate that knowledge by witnesses was enough for the validity of the dower contract, a written form was already a norm (at least in most cases) between 1529 and 1566, although found first as a norm in the *Second Lithuanian Statute*. The dower list – *list venov(a)nyj* – is mentioned in several cases throughout the years.³⁴⁷ Often, a more generic phrase also used for other types of documents is encountered: *list zapisnoj/zapisnyj*.³⁴⁸ The cases of the *Lithuanian Metrica* also provide several descriptions of how this dower contract

³⁴⁶ There are several cases where the husband assigned the dower at some point during the marriage and claimed that he assigned the dower to his wife for her good behaviour, obedience, and kindness. This is mentioned in, e.g.: LM 254/53v-56 in 1559; 254/126v-129 from 1560; LM 254/245v-246v from 1561, LM 248/127r-129r from 1555. This is somewhat formulaic and maybe does not reflect the true feelings of the husbands in all cases; on the other hand, since the dower contract was not mandatory, and the husbands were not obliged to assign any property to their wives, the gesture itself of assigning the property suggests the presence of agreement in the family.

³⁴⁷ E.g.: LM 227/23 from 1533; LM 225/287 from 1542; LM 254/66v-68 from 1559; LM 254/196v from 1560; LM 261/42r-43r from 1562.

³⁴⁸ In LM 248/75v from 1554, the husband tears up the dower contract – лист записной – by accident, and informs the court that the contract is still valid. Also, e.g.: LM 254/195v-202v from 1560; LM 254/126v-129r from 1560.

was confirmed by the signer and the witnesses. In LM 254/53v-56r from 1559, there is such a description,³⁴⁹ the document is sealed and signed by the husband and also sealed by several lords of the Council and several officials. This seems to have been a formulaic expression used in court. What is of interest here is that the participants in the cases must have been literate, as they used not only their seal, but also their signature. Sometimes there was no signature, only seals.³⁵⁰ Some variation of this was possible; in some cases it was not the seals of the lords or court officials, but witnesses from the circle of relatives and friends, or sometimes other influential people.³⁵¹

All of the records connected to Jan's dower contracts were, self-evidently, registered in court, as otherwise they could not be read now. The registration was done according to the requirements which were entered in the *Second Lithuanian Statute*, which shows that the *Statute* registered a norm already known and used in the legal practice; all documents were brought in to the land court during its session and entered into the court book in batches. Only this explains how several interrelated but contradictory documents could be dated with the same date, as is the case with the documents of Jan: there, his wife acknowledges the receipt of the first dower contract and he offers her a second dower contract on one and the same day.

There are several court records which offer quite a detailed insight into the procedures.³⁵² LM 261/78v-79r from 1565 contains the following story, which emphasises the importance of the proper order of assigning the dower in the eyes of common people. A certain Martin Skoruta claims that his brother-in-law, the husband of his sister, gave her a

³⁴⁹ Similar expressions appear in other cases as well, e.g.: LM 254/126v-129 from 1560; LM 254/245v-246v from 1561; LM 254/294v-295v from 1561; LM 254/308v-310v from 1561.

³⁵⁰ LM 254/245v-246v from 1561.

³⁵¹ LM 254/126v-129 from 1560.

³⁵² In LM 261/56v-58v from 1562 the wife brings the dower contract to be entered in the chancery books. Some other cases also contain the request of entry into the chancery books, e.g.: LM 254/33r-34r from 1559. As far as I am aware, the opposite procedure: first registering in the court books on the basis of oral testimony, and then later writing out a contract on the basis of the court book entry was not practiced (although a copy of the contract could be acquired from the chancery if the original contract were lost) – at least the normative law did require that an already signed contract be brought to the chancery.

dower record, but this was not done in an appropriate way; the dower record was not confirmed in the appropriate state institution. As Skoruta himself is currently in Poland, he authorises a friend to deal with the matter, requesting his brother-in-law to assign the dower in a proper manner: “according to the *Statute* and customary law of the Grand Duchy.”³⁵³ This court record demonstrates two things: 1) evidently it was important to confirm the dower contract in an appropriate manner in order to ensure a woman’s appropriate property status in case of her husband’s death and to protect her dowry, and 2) people knew the legal requirements for a proper assignment of the dower. What is interesting here is that Skoruta refers to the customary law and the *Statute*, although the *Second Lithuanian Statute*, which contains a detailed order on confirming the dower, had not been issued yet. The *First Lithuanian Statute* contains only the requirement of doing it in an appropriate order, but does not detail the rules. Thus, if there was no version of the *First Lithuanian Statute* which contained detailed requirements on confirmation, it may be assumed that these requirements came from the customary law.

The dower contract could be confirmed in court not only by the husband, but also by the wife herself. In case LM 261/56v-58v, from 1562, a woman sent her friend to court with the request that he get her dower contract registered in the court book.

Type and Size of the Dower

In the first dower contract, Jan Shymkovitch assigned his wife a dower on one third of all of his paternal, granted, and purchased estates; which was the usual way of assigning a dower in the legal records. Later Jan admitted, however, that he had not yet received his paternal estates and thus perhaps such an assignment of dower was not quite appropriate. Thus, seemingly quite irrationally, he assigned the dower on some other property that he did not

³⁵³ LM 261/79r: “водле статуте и звычайу права Великого Князства”.

own either: an estate of his mother which he would receive as a maternal inheritance when she died. Here the *Statute* is no longer being followed, as Jan chooses to assign the dower estate on a property which is not even mentioned in the *Statute* as an option. He does, however, assign an appropriate amount, and this probably made the dower contract legally valid. When drawing up the third dower contract, Jan chose to use yet another type of property: this time estates that he seems to have received from the ruler (seemingly, partially paying for them). Doing this he relies on the law which allows managing purchased property freely – although this is in no way connected to the requirement to assign the dower on one third of the property. Again, he assigns a proper amount as a dower (even more), and thus this seems to make the contract valid.

Assigning dower on purchased estates and ignoring the requirement to assign it on one third of the whole of the property was, even though not frequent, a possible option. In the *Lithuanian Metrica* there are several examples of the dower being assigned on different types of property. LM 254/294v-295v from 1561 contains an example where the dower – likely before the marriage – was assigned on one third of the inherited estates.³⁵⁴ Another example of the dower, also likely to have been made before the marriage, includes the granted property besides the inherited estates. An example of one third of the whole property in a post-marital dower contract is LM 254/248r-249v from 1561; here, purchased property is included.³⁵⁵ The husband makes a distinction between different types of property, and clearly indicates that the share is calculated from one third of the whole property. An important detail is the fact that the property is given to the wife with full ownership rights, not just usufruct rights.

That purchased lands of the husband could go into the full ownership of the widow and her children is clear from LM 224/413, a case from 1529 where, a widow gets a

³⁵⁴ Another example: LM 254/308v-310av from 1561.

³⁵⁵ In LM 248/131r-132r from 1555, a husband also assigns a wife the dower on one third of his ancestral, granted, and purchased property.

confirmation from the court that she may keep the purchased estates of her husband for good. Since no testament is mentioned, it is not clear whether the husband assigned this property to the wife. What is interesting in this case is the fact that the widow stresses that all of the property that her husband has bought was hereditary land, sold by the previous owner with the permission of the relatives. The case, however, does not specify if the previous owners sold the whole of their property or just one third, as allowed by law.

That granted property could not be passed on if it was not given with rights of the full ownership is stated in LM 254/104v-106r. There, Didilevitchi accused a widow of holding property which had been granted to them by the ruler. In this particular case neither side could prove their rights to that property, and the grounds on which the widow holds this property are unclear (whether it is her dower or the property of her underage son in her temporary management), but the important detail here is that the types of property grants are clearly distinguished and different rules apply to them.³⁵⁶ LM 224/508 from 1530 shows that the dower could be assigned with usufruct rights rather than full ownership rights. As regards the types of the property given as a dower, the time of signing the contract does not seem to have influenced the types of property included in the dower contract – purchased property could either be included or not regardless of when the dower contract was drawn up.

When getting married, Jan received from Alexandra a dowry of the value of 1000 *kopy* of *groshy*. This seems to have been more or less a standard dowry for the upper nobility in the sixteenth century; from the court records that I have examined it seems to have been 1000 *kopy* of *groshy* and upwards.³⁵⁷ For the lower nobility dowries ranged from some 100 to some

³⁵⁶ A similar case, where a father illegally used a temporarily kept estate – only until his ancestral estate is freed – for his daughter's dowry (called *veno* here), is LM 224/507 from 1530.

³⁵⁷ LM 249/122r-123v: 1000 *kopy* of *groshy* (Fedora and Marina, daughters of Duke Sangushkovitch); LM 254/308v-310v: 1000 *kopy* of *groshy* (Ganna, daughter of *pan* Shymko Mackovitch); 254/294v-295v: 2000 *kopy* of *groshy* (Fedora Fedorovna, daughter of Duke Tchartoriskij).

500 *kopy* of *groshy*.³⁵⁸ What is interesting here is what the dowry consisted of and how the dower was calculated based on that. In LM 248/131r-132r, although the dower is assigned on the traditional portion of the husband's property – one third of all of his estates – the dowry is not simply doubled, as was more usual in the period of 1529 to 1566, but calculated in a way noted by Vytautas Andriulis;³⁵⁹ cash amounts were doubled, but other movables (or immovables in this case) were not. In the example described above, a wife brought 450 *kopy* of *groshy* in cash and 350 *kopy* of *groshy* were assigned on some property, and she also got 120 *kopy* of *groshy* worth of gold and silver, and 80 *kopy* of *groshy* worth of clothes and jewellery (pearls). A double dower was assigned only for the cash, silver, and gold, and the rest was not doubled. The total dower assigned was 1570 *kopy* of *groshy* $((450+120)\times 2+80+350)$.³⁶⁰ Cases like this show that the mid-sixteenth century was a turning point as regards the evaluation of the dowry and assignment of the dower.

However, in the materials for the period between 1529 and 1566 the dower was most frequently calculated in the “old-fashioned” way: doubled. Most of the instances in the legal practice conform to the norm established by the normative law – one third of the husband's estates.³⁶¹ A dower consisting of one third of the husband's property – although what was included in that property differed to some degree – was a norm between the two *Lithuanian*

³⁵⁸ LM 229/162: 100 *kopy* of *groshy* (some noblewoman Maryna Androshovna); LM 229/240: 200 *kopy* of *groshy* (some Anna Mateevna Kondratovitcha); LM 261/194r-195v: 300 *kopy* of *groshy* (some Varvara Shashevskaja); LM 224/484: 80 *kopy* of *groshy*.

³⁵⁹ See section *The Concept of Dowry and Terms Used to Define the Dowry* in Chapter II.

³⁶⁰ Another similar case where the dower is calculated evaluating different parts of the dowry differently is LM 261/194r-194v from 1566, where a wife brings 300 *kopy* of *groshy* as *posag* and 300 *kopy* of *groshy* in gold, silver and various movables. The husband assigns the dower of 1000 *kopy* of *groshy*. Here, the method of calculation is probably as described by Vytautas Andriulis: *posag* is doubled (making 600 *kopy* of *groshy*) and the other property is not doubled (remains 300 *kopy* of *groshy*); that would make 900 *kopy* of *groshy*. The husband maybe assigned 1000 *kopy* of *groshy* by rounding it up. None of this is explained in the record, so this may not have been the reasoning behind it. What is clear is that the dowry was not simply doubled. The dower was assigned on the whole of the property that the husband received upon the division of property with his brother; it is impossible to say whether this meant all of his property in total, as he could have had more of it acquired in different ways – thus one cannot say that the rule of one third was not followed here.

³⁶¹ LM 224/508 one third of all of the husband's estates (probably none of them were purchased lands), as well as LM 254/195v-202v from 1560; LM 254/308v-310v from 1561.

Statutes and the exceptions were rare.³⁶² One such an exception is found in LM 229/162 from 1541; a husband received a dowry of 100 *kopy* of *groshy* and assigned his wife 200 *kopy* of *groshy*. This corresponds to the normative legislation: the husband should double the dowry. However, it turns out that this assignment was made on the whole of the property, not one third as allowed by law, and thus it was not valid. The widow tried to get back at least her dowry, 100 *kopy* of *groshy*, but her husband's nephew, who claims all the property, says that she has taken all the movables already. The case remains unresolved. In some cases, instead of indicating that the dower was assigned on one third, only the amount of the dower is stated.³⁶³ Whether in these cases this always corresponds to one third of the husband's property is difficult to know; possibly at least some of the cases were similar to LM 229/162.³⁶⁴

If the Dower was not Large Enough

In the materials of the *Lithuanian Metrica* that I examined, I did not encounter any exact application of this law. The case of Jan may partially be such a case – he himself admitted that one third of all of his estates was not enough as a dower. Maybe this was the reason why Alexandra's mother, when giving her the dowry, instead of giving it all in cash gave part of it in the form of the estate; if her mother knew in advance that her son-in-law might face some difficulties in assuring a dower, then she provided her daughter with an estate in accordance with the provisions of the *Statute*. After all, Jan himself confirmed Alexandra's right to the

³⁶² There are some cases where the amount of the dower is not stated in any form (usually when the dower is not the matter of the case, as in, e.g., LM 229/15 from 1540, where there is a reference to a dower castle in which the widow resided). In other cases, e.g., LM 248/142r from 1555, it is not clear whether the property was assigned on the whole of the husband's property or just one of the husband's estates, and thus it is not clear whether the norm of one third was followed or not (there, two thirds of an estate are assigned to a wife, but it is not clear if the husband had only one estate). See also LM 249/94r-95v from 1557.

³⁶³ In LM 224/406 from 1529 the dowry is also doubled (true, there the court record refers to Polish law, and the property is assigned on half – not a third – of the husband's ancestral, purchased and mortgaged estates).

³⁶⁴ In LM 248/85v from 1555 the value of the dowry is not stated, it is only said that a dower of 2000 *kopy* of *groshy* was assigned.

Komorovo estate which she brought in as a dowry. Another example is assigning a girl the dowry in immovable real estate. The dowry could be given not only in cash or movables, but also in estates, at least temporarily, if not with full ownership rights. In LM 229/143 from 1541, a mother gave her son-in-law an estate worth 500 *kopy* of *groshy* as a dowry, with the provision that this estate could be bought out by his brothers if they wished to when they reached their majority.³⁶⁵

Donations of Property to the Spouse

The chain of the documents related to the three dowers of Jan Shymkovitch includes not only the documents from Jan's side, but also the documents from Alexandra's side. When Jan assigned her the first dower she responded by assigning him this dower "back" – specifying that this property – she calls it "dowry (*vnesen'e*) and *privenok*," as well as her estate of Komorovo, should go to Jan if she pre-deceased him. She also added that if her family wanted to recover the estate of Komorovo they would first have to pay Jan for it. Donation of the property of one spouse to another seems to have become more frequent towards the middle of the sixteenth century, but there are examples of it from as early as 1530. The increase in the number of such assignments of the property to each other could have been a Polish influence, where mutual agreements to the right to retain the deceased's property were also spreading.³⁶⁶ This might also have been an indicator of the wider circles of relatives losing importance in favour of the core family.

Another example of the donation of property, a woman assigning one third of her paternal and maternal property and all of her movable property to her husband, appears in

³⁶⁵ In this case, a mother was not a guardian and she stated that she gives this dowry in such a form according to the wishes of her husband and with consent of the guardians. This dowry assignment was challenged by the other children when they reached majority. They state that in his testament their father left the estate to all of the children. The case is not solved.

³⁶⁶ Zielinska, "Noblewomen's Property Rights," 85.

case LM 224/492 from 1530. Ganna Shemetovna assigned to her husband the share of property which she could dispose of freely according to the normative law: value of one third of her hereditary estates (Sholkiane and Kremianica) and all of her movables. This property went into the full ownership of her husband regardless of the presence or the absence of children. The other two thirds of the immovable property were to go to the children if the couple had any – and the husband was entitled to manage these two thirds of her property only if she had children. But what happens in their absence? It seems that the rest of the property would revert to her original family rather than her husband, since they would be obliged to make sure that her husband got one third of her immovable property if she died.

This case shows that any of a woman's property beyond her dowry that she had been granted or acquired could stay as her separate property. As her separate property, it had to follow the general rules for the disposal of immovable property; that is, she could dispose freely of only one third of her hereditary estates and the rest went to her relatives. Thus, assigning of one third of the property to the husband was the only means of giving him any of her separate property.

Time of Receiving the Dower

In all three dower contracts of Jan Shymkovitch the dower was to be received by the wife after the death of the husband. This was the norm starting from the earliest privileges of the duke. Court records show that the dower was indeed given to the widow upon her husband's death; court cases involve either descriptions of a dower being assigned until her death or remarriage. Sometimes it is said explicitly that the dower is to be received after the husband's death, as, for example, in LM 254, 248-249v from 1561, which says that the dower is to be

given to the widow “after his death” (по животе своемъ).³⁶⁷ A few examples, however, contain different information. In LM 225/342 from 1542 a son lived undivided with his widowed mother.³⁶⁸ It is not clear whether the widow was dowered or not, but the fact is that a widow did not leave a share of her husband’s estate to her adult son and lived together with him – there is no evidence of the son contesting this situation. To summarise, between the two *Statutes* the dower was normally given to the wife upon the husband’s death, not upon the widow’s remarriage, but in legal practice dowered widows did not necessarily divide the property with their children when their husbands died.

The Bequest of Olena

In the dower contracts of Jan Shymkovitch presented above, the amounts of the dower and the conditions for the use of this dower were somewhat unusual and did not follow either the *First Lithuanian Statute* or the common legal practice as regards the dower. The description of Olena Stanislavovaja Ginvilovitcha’s dower (LM 227/398 from 1535) is a somewhat more typical example of how the dower was normally assigned and what the conditions were for using it, although at some point it also diverges from the norms of the *Statute*.

In July 1535 a certain Olena Stanislavovaja Ginvilovitcha came to court to assign her property to her brother. First, she explained that she assigned her paternal property to her brother and his sons. She presented a document with seals of members of the Council of Lords (she found it important to explain that there were some clergymen and some laymen among them – possibly this was meant to make the document more trustworthy), which explained that after her death her paternal estate would pass into the hands of her brother and

³⁶⁷ LM 254/66v-68r from 1563.

³⁶⁸ The mother and the sons living together in undivided property are found in the *Lithuanian Metrica*, e.g., LM 225/342 from 1542.

his sons for their complete ownership. In addition, she wanted to leave her brother her dower. She explained that her late husband, Stanislav Ginvilovitch, had given her a dower of 1000 *kopy* of *groshy* on his paternal estate of Zhizhma which she wanted to leave to her brother, and she presented the dower contract. She asked for confirmation of the property that she was giving to her brother and the dower contract from her husband be entered into the court books.

The dower contract stated that Stanislav Ginvilovitch, Olena's husband, took Olena Olechnova as his wife, with a dowry of 500 *kopy* of *groshy*. Afterwards, seeing her obedience to him, he assigned her a dower of 1000 *kopy* of *groshy* on his paternal estate of Zhizhma. According to the dower contract, if he died first his wife Olena was to be free to live on this estate until her death, and upon her death she was free to bequeath this estate to whomever she wished. The relatives of Stanislav could not acquire the Zhizhma estate before they paid 1000 *kopy* of *groshy* to whomever Olena left it to.

In the contract, this time the dower was assigned according to the norms of the *Statute*, simply doubling it (not as in the case of Jan's first dower contract, where different parts of dowry were evaluated differently). The contract does not say, however, whether the dower was assigned on one third of Stanislav's property. It is possible that he had more than one estate and Zhizhma comprised one third of the total of his estates. Stanislav assigned the dower on his paternal property – neither granted lands nor purchases are mentioned. It is likely that, not being from the higher strata of society, Stanislav did not have any of these kinds of property and simply owned what he had inherited from his father (or parents).

This case exemplifies that Olena's dowry and inheritance were two separate things. She got a dowry – 500 *kopy* of *groshy* – and she had some portion of her paternal estate which she must have received as an inheritance and which she must have kept as her separate property during the marriage (although often a daughter's dowry meant her inheritance).

Widows in the Widow's Seat

Olena's husband, Stanislav, when assigning the dower to Olena, also defines her rights to that dower. He states that Olena may stay in her dower for life – it seems that he does not expect his wife to remarry, as no remarriage is mentioned – and upon her death dispose of it as she wishes, and none of his relatives may claim that property (children are not mentioned, so it seems that the couple was childless, especially since Olena was leaving whole of her property to her brother), and can enter it only after paying 1000 *kopy* of *groshy* to whomever Olena left it to.

In Olena's case there is no indication of whether anyone tried to challenge her right to her husband's property. In general, non-remarrying widows, if there were no complicating factors (e.g., questions of validity of the dower contract), seldom seem to have ended up in court. If this occurred, the widow's right to the one third of the husband's estates was defended as a rule, as can be seen in these examples. In case LM 224/508 from 1530, a certain Ganna Janovaja Jurevitcha complained that her sons did not give her access to one third of the estates that her husband had assigned to her. The court defended the widow's rightful claim. Another case that reflects the problems that a dowered widow could face is LM 229/161 from 1541. There, a widow litigated with her step-son.³⁶⁹ She said that in his testament her husband assigned her one third of his estate for life or until she remarried (in the case of remarriage her husband entitled her to 20 *kopy* of *groshy*), and her step-son did not give her access to that property. The step-son responded that he was not contesting his father's testament, but wanted his step-mother to contribute to the dowries of the girls in the family. The court decided that the widow should be given the one third of the property assigned to her by her husband in his testament, and must contribute to the dowries of the girls (one third should come from her,

³⁶⁹ I did not find any cases of a widow's litigation with a step-daughter, most likely because the step-daughter would be entitled to a smaller amount of the property and this division went more smoothly.

one third from her step-son, and one third from her son). What is interesting here is that the husband assigned a different amount for remarriage, neither one third nor an equivalent of the dowry. This is an example of a husband taking the liberty to impose restrictions on the widow; if she remarried she was not entitled to one third of his property.³⁷⁰

Remarried Widows

In Olena's case, her husband does not mention any conditions for remarriage. This may have been because the widow was already quite old. She refers to herself as old and not healthy, but just how old and whether she went to court rather soon after her husband's death or not are unknown. Stanislav simply assigns Olena her dower with full ownership rights, not going into many details. However, in many contracts and many court cases the question of remarriage is a rather important issue.

Upon remarriage, conflicts could occur over the right of the relatives to buy out the dower. In LM 224/476 from 1530 a certain Ivan Pjanovskij married the widow [sic] of a certain Michna Dankovitch, entered Michna's estate (ancestral property) and refused to leave it, although the plaintiffs – Michna's original guardians [sic] – following the testament of Michna's father, wanted to give Pjanovskij's wife 70 *kopy* of *groshy* to buy out her dower. Case LM 224/436 from 1530 is an example of a widow's dower being bought out; the widow seems to have been childless, and there was no remarriage. This shows that the dowry could be bought out *not only upon remarriage*. Here, two thirds of an estate were assigned to the widow. If this was the only estate of her husband then she had been assigned more than was allowed by the normative law.³⁷¹

³⁷⁰ Here, this might be connected with the institution of *venets*; see Chapter VI.

³⁷¹ As regards cases of widows remarrying abroad or to foreigners, I did not find such cases, but there are some cases of first-time brides marrying foreigners.

A husband could decide whether the dower could be bought out or not – and what amount should be paid for it – in a dower contract. In LM 261/194r-195v from 1566 a husband specifies that all of the dower – 1000 *kopy* of *groshy* – should be paid to his widow if she remarried; that is, here the widow took more than she brought in to her first marriage into her remarriage.³⁷²

LM 261/174r-177v from 1565 contains a detailed agreement between a remarried widow and her sons. While the sons were underage, the widow was entitled by the husband's testament to take care of them and the property. The mother was assigned as a guardian regardless the presence of an already adult son in the family. In the testament, the father divided his property for the three sons. On the same property that had already been divided, the father assigned the dower to his wife. She was entitled to keep this property until her sons came of age. If she were unmarried when the sons came of age, then she had to give them a portion of the estates and remain in an assigned part of the property for life. Upon her death she was free to assign 200 *kopy* of *groshy* to whomever she wanted (that might have been the value of her dowry, although not necessarily). If she remarried, her sons had to pay her 200 *kopy* of *groshy*. All movables were left to her by the husband's testament. Now, the sons came of age and, with witnesses, claimed their property. The wife was already remarried, so she was entitled to get 200 *kopy* of *groshy* and give the property to the sons. The sons – because they lacked cash – assigned her some property. After her death, she was entitled to will 150 *kopy* of *groshy* worth of it freely (not 200 *kopy* of *groshy*, as she was using the son's property in the meantime). The sons agreed that they would not have the right to buy this property out until she died. If the sons somehow lost the rights to this property, the widow had to move out, but was entitled to the full sum of 200 *kopy* of *groshy*. If one of the sons died, the other one obliged to carry out the agreement. If they both died, then the older brother, or

³⁷² The same is true in LM 248/127r-129r from 1555.

whoever inherited their property, was obliged to carry out the agreement. If any of them failed to carry out the agreement then they had to pay 100 *kopy* of *groshy* to the king, 100 *kopy* of *groshy* to the widow, and were still obliged to carry out the agreement.³⁷³ Fines were inflicted for not carrying out the agreement in several cases,³⁷⁴ which shows the increasing role of the ruler and the state in the regulation of private matters.

This case is a good example of how the general norms of contractual provisions could be modified – if the parties wished so – in a testament or other contractual agreement. A widow, against contractual provisions, was allowed to keep a share of her husband's property not until remarriage, but until the sons came of age – that is, presumably she took care of the children together with her new husband. Although the widow was assigned a dower on some of her husband's property, she was not allowed to take all of it to another marriage (or, rather, she was, but only while the sons were underage); she could take only 200 *kopy* of *groshy* (presumably, the equivalent of her dowry). That is, the widow got back only what she brought in. When the time came to pay the widow 200 *kopy* of *groshy*, the provisions were adjusted to the current situation; she received a share of immovable property instead. Here, again, the agreement was made that this property could not be bought out. This case demonstrates the flexibility of people when making various property arrangements. In general, compared to non-remarrying widows, remarrying widows frequently had to defend their interests in court, and their rights to the property of their husbands were often challenged.

Rights to Dispose of the Dower and Dowry

Returning to Olena's dower, her dower contract is typical not only in the sense that the dowry that was brought in was doubled; it was also quite typical in allowing Olena to dispose freely

³⁷³ The case continues in LM 261/177v-179r. There, the same is confirmed from the mother's and her new husband's side.

³⁷⁴ One example could be LM 249/87v-89r from 1556.

of the whole dower, not only the equivalent of the dowry. In many cases in legal practice, although the normative law prescribed only the equivalent of the dowry to be under full ownership of the widow, the whole dower was left for the widow. Other options were either to allow the widow to dispose freely of only her dowry equivalent or, as noted above in the case of Jan and other examples, to assign a widow *some* amount that she could take with her into the new marriage, although amount assigned did not necessarily equal her dowry. Thus, although the normative law declared that a remarrying dowered widow could take all of her dower into her new family, in practice husbands limited this right beforehand in various contracts.

The *Lithuanian Metrica* contains various examples of different rights to the dower which are given by the husband to the wife. Although the law declares that if a widow's dower is not bought out at her death she may bequeath half of it freely and another half returns to the children or her husband's family (except when the property is bought out), it seems not to have been followed in practice. For example, in LM 229/65, a widow bequeathed all of her dower to her daughter in some estates (apparently her son-in-law had helped her redeem them from someone by giving her 170 *kopy* of *groshy*), but nothing is said about it being only a dowry and it was evidently not in the form of cash. Later, she had a quarrel with the son-in-law and re-assigned the same dower to her son from her first marriage. The son-in-law complained to the court and the widow was told that she could not re-assign the dower. She was also told that she could stay in one of the estates for life (as the son-in-law had previously tried to cast her out)³⁷⁵ and that afterwards it would go to her granddaughter. The reason why a widow was allowed to dispose freely of the dower estates was the fact that she was not trying to sell them or to leave them to a stranger; she assigned whole of the dower

³⁷⁵ This is described in LM 229/57.

to her child, the daughter (that is, the whole of the dower stayed in the family, even though it was not divided evenly among the children).

The whole of the dower could be disposed of freely if such was the wish of the husband, who could alienate one third of this ancestral and granted property freely. LM 263/32-36v from 1565 shows the collision of legal inheritance and testamentary inheritance. A widow, having received a dower of 300 *kopy* of *groshy* from her husband with full ownership rights, bequeathed it to the relatives of her husband. She had a daughter, however, to whom her dower belonged by legal inheritance. The daughter, with her husband, not knowing that the dower had been left to someone else, entered the property after the death of her mother. Later the daughter died and the rightful inheritors of the property decided to take the property into their hands. The parties agreed among themselves that the husband would get a compensation of 200 *kopy* of *groshy* (which, as maternal property, would go to his son), and would relinquish any claims to his deceased wife's mother's dower.

That the dower was often perceived as belonging fully to a woman is evident from several cases where the relatives of a woman claimed it after her death. In LM 239/10r-10v from 1551, a mother with several sons claimed the *veno* and *vnesen'e* of a deceased daughter. The case was postponed, so the outcome is unknown. What is interesting here is that the mother claimed back not only the daughter's dowry, as was allowed by law, but also her dower. Since the details are scarce, one may only presume that the husband had assigned his wife the dower with the rights of full ownership.³⁷⁶

LM 248/58r-58v from 1554 demonstrates that the relatives of a woman felt that they had the right to her dower. There, some brothers of a husband claimed that certain property should revert to them as there were no children from the marriage. The wife's brother, however, claimed that one third of the property had been assigned to their sister as a dower

³⁷⁶ In LM 265/37r-40v from 1566, a son attempts to receive his mother's dower.

and thus should come into their hands (although according to the law, half of it should revert to the husband's family). The outcome of the case, however, is not known, so, as in the case above, one may only presume that the whole of the dower was left to a woman with full ownership rights.

A widow could make arrangements concerning her dower during her lifetime. The case of Olena, who left her property to her brother, was described above. Case LM 261/42r-43r from 1562 shows that a woman could make arrangements regarding her dower even before she received it. Here, a woman, after receiving a dower contract from the husband (for full ownership), made the provisions that if she died first he would get the entire dower and some additional property that he had assigned to her.

To summarise, the dower, although the law prescribed that only half of it could be bequeathed freely, was frequently claimed not only by the children (who had the right to that dower), but also by relatives of the wife. In general the husband could – and did³⁷⁷ – assign one third of this property as a dower to his wife with full ownership rights, and then she – and her relatives in the case of her death – disposed of it freely.

There are also examples of the fate of the dowry in the *Lithuanian Metrica* where the normative law was followed and the woman was free to dispose of her dowry, as seen in LM 224/484 from 1530. A woman bequeathed her dowry, which she had inherited back from her first husband after his death, to her second husband and two daughters, with the option for the daughters from her first marriage to buy that property out. Here, a woman tried to please children from both marriages: on the one hand, she favoured her second marriage, giving them the dowry. On the other hand, since the dowry was taken from her first husband's estate, she left her daughters from the first marriage the chance to recover their father's immovable property. According to the law, she did not have to give them this chance, as here she handled

³⁷⁷ LM 263/32-36v from 1565; LM 261/42r-43r from 1562.

and bequeathed only the equivalent of her dowry (the amount she brought to the first husband), but not the dower, although, interestingly, this property is called *veno*: here, as in some other places, *veno* and *posag* are used interchangeably, or for some reason the first husband, when assigning his wife a dower, did not double the amount of the dowry.

Protection of the Dower

The records of the *Lithuanian Metrica* contain not only the examples of various ways the dower was assigned and handled, but also examples of how the dower was protected. An example of protection of a widow's dower is found in LM 224/409 from 1529.³⁷⁸ There, the estate of the late husband is confiscated and temporarily given to the plaintiff in a suit until the damages done to him are covered by the administrators of the late husband's property. However, it turned out that the widow of the late man had a dower of 600 *kopy* of *groshy* in one of the estates. Since it was not known when the dower was assigned to the widow, two solutions are proposed; if the dower was assigned before the decision to confiscate the property, then the plaintiff has to pay the widow the total amount of the dower with no delay. If the dower was assigned by the husband when he already knew of the court decision, then the plaintiff may pay the widow her dower in shares over a set time. The court decision in general conforms to FLS V/[11]10.³⁷⁹

Non-dowered Widows

The subchapter above has concentrated mainly on the fates of the dowered widows. Here, I will present examples related to widows who had no dower.

³⁷⁸ Another case where a widow preserved her dower is when her husband was found to be guilty of some crimes is 229/240.

³⁷⁹ The case is analysed in the introduction to LM 224, xli. The analysis is taken from there. For all references to both *Statutes*, see the Ruthenian text and the translation into English in the Appendix.

Anna's Greed

For widows with no dower the data are much scarcer in the *Lithuanian Metrica*. For the dowered widows there are not only the court cases where different issues related to the getting or keeping of the dower are discussed, but also dower contracts which provide many details about the fate of dowered widows. Non-dowered widows appeared in court cases only when getting the share of their husbands' property they were legally entitled to presented some difficulties.

In March 1541, a certain Anna Ivanovaja Gorlaja raised a complaint against her son-in-law, Ivan Z'azevitch.³⁸⁰ She complained that she was cast out of her estate of Radivilovitchi and explains that she has already come to court and raised a case against him and the judges have already confirmed her right to the estate of Radivilovitchi, which was the property of her late husband (partly granted, partly purchased – “выслуга и купля”). Ivan ignored the court's decision, however, and did not let her stay in this estate. To this, Ivan, her son-in-law, responded that during the aforementioned court session he had paid the damages incurred against his mother-in-law and in the same session he also had raised the question of his mother-in-law also holding other properties of her late husband. He lists several estates and lands which were in the hands of his mother-in-law and claims that she kept hold of all these properties and refused to give them to her grandson, Ivan's son, the rightful heir of these estates. Ivan also points out that in this first court session the judges ordered that since Anna did not have a dower assigned by her husband, she could stay in one third of the granted and purchased estates and had to give the other two thirds to her grandson. The court also acknowledged that Ivan was to be the guardian of his son, not Anna, since he was a closer

³⁸⁰ LM 229/273 from 1541.

relative. After finishing his explanation on the decisions of the first court, Ivan also presented all the related documents related.

Seeing this, the second court came to the following decision: since Anna did not have a dower assigned by her husband, she was free to stay in one third of his property, and the rest was to go to her grandson. Ivan was re-confirmed as guardian of his son. Anna was to give two thirds of Radivilovitchi and two thirds of the other estates to Ivan's son and Ivan as his guardian. Also, she could not dispose freely of the one third that was left to her. She had to manage it with care and pass it intact to her grandson upon her death. She was also told to give all property-related documents to Ivan.

As we see from the case, Anna, a dowerless widow, apparently kept all of her husband's estates after his death until she was challenged by her son-in-law, who was defending the interests of this own son, Anna's grandson. As it turns out from the case, Anna's daughter had already died at that point. While Anna's daughter was alive, there was probably no pressure to get the properties from Anna, as Anna's daughter could quite naturally expect that after her mother's death the property of her father would be left to her. With Anna's daughter gone, Ivan possibly became anxious about the fate of the property and tried to enter some of it by force. When he did not succeed, as Anna accused him in court of trying to take her property away, he also started using legal means of getting hold of the property, and successfully acquired the right to the two-thirds of Anna's (or, rather, Anna's husband's) property during Anna's lifetime and the last third upon her death.

What is interesting here is that in the first court case Anna hides that she is not dowered and that she has kept the whole of her husband's property, and at first even gets permission to hold the whole of Radivilovitchi. It was only in the second court case that clarified that she was not dowered and that she holds more property that she was entitled to. The decision of the court, when in possession of all the facts regarding her status, is in

accordance with the normative law: Anna is allowed to stay in only one third of the husband's property, and only for her lifetime.

Legal Provisions for Non-Remarrying and Remarrying Widows

Although the normative legislation starting with the *First Lithuanian Statute* goes into great detail in defining the status of non-dowered widows, in practice such cases were few. The possible reason, as Irena Valikonytė notes, was that the institution of dower was gaining firm ground and there were not many non-dowered widows³⁸¹ – thus there could not be a great number of court cases concerning them. An alternative explanation, that non-dowered widows did not often litigate to defend their status because the legal provisions for non-dowered widows were working well (as an older institution, probably coming from the customary law), is less likely. As pointed out by Amy Louise Erickson when analysing the situation in England, legal provisions could be difficult to enforce, and this is why contractual provisions gained priority.³⁸²

LM 224/417, probably from 1529, contains an example of property division among the widow and her sons in absence of a testament and dower contract. There, *Pani*³⁸³ Mikolaevaja Radivilovaja and her three sons divided the hereditary property into four equal parts and she agreed to keep it with the rights of usufruct only, with the children keeping the hereditary rights to it. It is not mentioned in the case whether *Pani* Mikolaevaja Radivilovaja was dowerless, but the legal model applied in this particular case indicates that. LM 225/143 from 1530 contains a case where a certain Barbara Mateevaja Milochitch litigated with her brother-in-law, Michno, who wanted to deprive her of the husband's estates because she was

³⁸¹ Valikonytė, “Našlės vainikinė,” 87.

³⁸² Amy Louise Erickson, “The Marital Economy in Comparative Perspective,” in *The Marital Economy*, ed. Ågren and Erickson, 16.

³⁸³ Feminine form of *pan*.

childless. The judges looked in the *Statute*³⁸⁴ and declared that Barbara, as a non-dowered widow, could stay in one third of her husband's property for life, while Michno was entitled two thirds, from which he had to perform military service.³⁸⁵ In LM 225/342 from 1542, a certain Barbara Pavlovaja made a complaint against her mother-in-law and her brother-in-law for not giving her any of her late husband's property. It turned out that her husband's property was undivided from that of his mother and his brother (thus, he could not assign her a dower). Since the property was undivided, the widow was not entitled to the non-dowered widow's share either. She was only allowed to stay in the mother-in-law's place until she remarried or for life.³⁸⁶

In some cases, the existence of a dower contract was questioned. In LM 261/84v from 1564, a widows' sons tried to deprive her of her own maternal estate. They claimed that their mother had given this estate to their father, and thus it now belonged to them. They said that of their own free will they had allowed her to stay in the estate, half of which she allegedly gave to one of her sons, but now, urged by her daughter, she wanted to have all of it. The widow claimed that she had never given her maternal estate to her husband. Furthermore, she had a dower assigned by her husband, but her sons had taken possession of the dower contract. In court, the question of the existence of the dower contract was not investigated further – probably the court believed the son who claimed that he never took the dower contract; the widow was treated as dowerless, she was only allowed to stay in the whole share (not in half) of the property given to her by her sons.

As these cases show, there were some non-dowered widows, and the norms described in such great detail in the *Statutes* were fully functioning in court. Thus, the rights of non-dowered widows were defended to the same degree as the rights of dowered widows, with the

³⁸⁴ FLS IV/2 (4).

³⁸⁵ The case is described in Valikonytė and Lazutka, "Keli Lietuvos Metrikos aktai," 92.

³⁸⁶ The case is described in Valikonytė and Lazutka, "Keli Lietuvos Metrikos aktai," 92.

exceptions of such situations as where the late husband of the widow had no property. Even in such a situation the widow was not left with nothing; in LM 225/342 from 1542, a husband died being still undivided from his mother and had no property that he could assign as a dower – then his widow was entitled to stay in the property of her mother-in-law.

Court records are also few on the remarriage of non-dowered widows. As Irena Valikonytė notes, the institution of *venets* never became popular in Lithuania. Even when it was used, the reference was most often made to a dower rather than *venets*. Irena Valikonytė found only a couple of mentions of the *venets* in the legal practice, even those appearing before the *First Lithuanian Statute*,³⁸⁷ that is, when the institution of the *venets* was not registered in the normative law. Also, since the law actually forbade the payment of the *venets* in the *First Lithuanian Statute*, it is not very likely that people would frequently claim it against the law. As Irena Valikonytė notes, although the word *venets* was not used, there are several court cases in which widows claim their *dower* when they should be claiming their *venets*. E.g., in 1522 a widow, whose husband's testament, assigning her a dower, turned out to be invalid because too much property is assigned, receives only the right to reside in his property until her death or remarriage, and in the case of remarriage she would get 30 *grivny* as her *dower*.³⁸⁸

There are more cases where repeatedly remarried widows litigated with their step-sons,. As such widows were not entitled to a second dower the property matters in question embraced other movable and immovable properties. In LM 239/34r-38r from 1551, a widow is accused by her step-son of taking the whole of her husband's property plus the whole of the property of his previous wife, the mother of that step-son – that is, taking more than was allowed by the legal provisions. During the case it turned out that the step-son himself had

³⁸⁷ Valikonytė, "The *Venets*," 99.

³⁸⁸ Valikonytė, "The *Venets*," 101. See this article for more descriptions of the court cases where theoretically the institution of *venets* should appear but the dower is mentioned instead.

squandered the property that he had taken. Why he accused his step-mother remains unclear; possibly she was a rich woman, and the stepson hoped to take some property from her in this way. In LM 264/9r-12r from 1565, a stepson litigated with his stepmother, accusing her of not sharing the property as they had agreed. As it was her second marriage (her own children are mentioned in the case), no dower was involved. No assignment of the property to the wife is mentioned either, just the agreement between the woman and her step-son. The court ordered the widow to stay in the agreed share. It also ordered the stepson to become a guardian of his step-siblings and their property.³⁸⁹ Sometimes the records indicate that widows behaved as prescribed by the law (probably most such cases happened unnoticed). In LM 263/26v-28v, a widow, after the death of her second husband, left his property as prescribed by the *Statutes*, taking with her only what she had brought in, and leaving the movable property of the husband untouched for her step-son.

Even though according to the normative law a remarried widow was not entitled to a dower, it did not mean that other contractual provisions would not apply. A husband could divide all of his property (which was allowed by the general laws) as he saw fit, and he could use this opportunity to define the shares that would go to his children from his first marriage and his second wife. For example, in LM 254/388r-391r from 1563, a father confirms the division of property between his wife and his son, her stepson, so that there would be no arguments.

In some cases it is difficult to say whether the normative law was followed. In LM 261/43v-52r a stepmother is accused of seizing property which rightfully belonged to her stepson as his inheritance. It turned out, however, that the husband had left all his movable property and the money to his wife as well as assigning her a dower with usufruct rights. This

³⁸⁹ The litigation between a stepmother and stepchildren is also recorded in, e.g., LM 254/384v-388r; LM 264 (II) 114v-118v; LM 264/119r-125r. In some cases where a woman litigated with her stepsons it is impossible to say whether it was her first or second marriage when neither her own children nor a dower are mentioned.

case shows that the dower could be assigned in a second marriage as well as the first (it is clearly not her first marriage, as she has a son). What type of the property was assigned as a dower is not explained – it could in practice be assigned on a purchased property as well as other property, in which case this was not a breach of the normative law. If a dower here was assigned on the ancestral property, then this was against the *First Lithuanian Statute*.³⁹⁰

Property – on both sides – could be claimed by violent means. Quite frequently, one party plundered the property of another, claiming that they only took what was due them. Sometimes widows' property was attacked, and sometimes they were the attackers. For example, in LM 254/334r-334v from 1562, a widow is accused of seizing various properties.

Since there were many remarriages, and many people connected in different ways to the head of the family were often involved in the division of property of the husband or father, such divisions often led to litigation in court where the widows litigated against their stepsons. As regards the assignment of the *venets*, which was investigated by Irena Valikonytė, such cases often appeared as dower cases with no *venets* mentioned, although there the dower was given when theoretically the *venets* would have been applicable.

The “Generosity” of Pan Stanisław Pekarskij

Assigning a wife a dower was not the only possible contractual provision for widowhood. Property could be left to the wife by different arrangements as well. Several cases in the *Lithuanian Metrica* demonstrate that sometimes husbands could be generous, but at the same time they could impose restrictions on the property left to their wives. Here I will use an example of a generous husband,³⁹¹ who, against the regulations of the *First Lithuanian*

³⁹⁰ In LM 254/384v-388r from 1536 the widow is also given a dower with the presence of a stepson, but here it seems that it was a first marriage for her.

³⁹¹ LM 254/33r-34r.

Statute, left all of his immovable property – “все имена свои лежащие”, and all of the movables – “теж всю маетность свою рухомую”³⁹² – to his wife, with one restriction: she could hold that property only if she did not remarry.

In March 1559 Stanislav Pekarskij came to court and proclaimed that, being satisfied with the behaviour and kindness³⁹³ of his wife, Katarina, and wishing to make sure that she would have the strongest right to his property, above his heirs and the relatives, he asked that if he died before she did and she remained in the widow’s seat after his death, she was to hold the estates of Trishino, Kositchi, Jamno, and Kershonovitchi and all of the movables, and she was to hold all of these properties for life, without being hindered by the heirs or relatives. In the case of remarriage, the children should give Katerina 500 *kopy* of *groshy*, and she must leave all of the immovable and half of the movable property to the children.³⁹⁴

Since the assignment of the dower was not mandatory, there was plenty of room for freedom – essentially limited only by the general landholding laws – to endow wives with as much property as they wished and in any way that they wished. True, the default legal provisions for a widow did indicate that she could not stay in the whole of the husband’s property, even if that was only for life. It seems that such legal provisions were applicable in the absence of any contractual provisions, however, and as long as there was a contract and as long as it did not contradict the general landholding laws, it was valid.

In this court record, the dower is not mentioned, and what happened here does not follow the order of assigning the dower either. Similar mechanisms apply, but the basic requirements of the *First Lithuanian Statute* are ignored, that the property that a widow gets contains all of the husband’s estates, not just one third. The promise to give Katerina 500 *kopy* of *groshy* if she decided to remarry also does not conform to the *First Lithuanian Statute*. The

³⁹² All of the movables are left to the wife in many other instances, e.g., LM 248/127r-129r from 1555; LM 261/174r-177v from 1565.

³⁹³ The usual formulaic expression already mentioned above is used here.

³⁹⁴ See also LM 229/161 from 1541.

First Lithuanian Statute actually prescribes that all of the dower that was assigned by the husband would still belong to the widow upon remarriage; only the option for the children and relatives to buy out the dower of the remarried widow is described there. In the legal practice, however, husbands often indicated that the widow could not keep the whole of the property, be it a dower or something else, if she remarried, and the case of Stanislav is exactly the same.

Property Left by a Testament

A popular way of assigning the immovable property to the wife was giving her purchased property for lifetime use. This could include the requirement to pass it to the children (as in LM 254/267v-271r from 1561 – to the daughter) or could include the request to give up the property in the case of remarriage (as in LM 254/53v-56 from 1559). None of these cases indicate whether this property is given instead or besides the dower. The value of the estates is not stated either.

There are, however, cases, where the wife is clearly assigned both the dower and some additional property. In LM 254/367v-368v from 1562, the wife is assigned 500 *kopy* of *groshy* for being a good wife (thus, the dower assignment is post-marital). Later, she is assigned additional 500 *kopy* of *groshy* on the same estate. The first assignment is for her life (“до живота”), which implies that it is hers only with the rights of usufruct. The second assignment is for her full ownership: “при животе и до живота” and she can deal with it freely. If the children or relatives do not want her present on the estates they have to pay her the full amount, 1000 *kopy* of *groshy* in total. A widow could also be entitled to some additional immovable property besides her dower. In LM 248/127r-129r, she receives a dower worth 1000 *kopy* of *groshy* (which she can dispose of freely), all of the immovable property and an additional estate worth 800 *kopy* of *groshy*, also with the rights of full ownership.

The objects that could be left for a widow could encompass practically anything, and a case could be raised for any of them. In LM 224/404 from 1529, a widow was assigned some wax which was in the hands of the mayor of Minsk, Fedko Cicul'a. Her second husband, Ivan Rusanovitch, tried to obtain the wax through the courts. Fedko is obliged to pay her for some of the wax that he has sold for 107 *kopy* of *groshy* and to swear an oath with the widow regarding the remaining amount of wax. Since Fedko failed to appear for the oath, he then forfeited his right to take an oath and he would have to pay the widow whatever amount she confirmed by her oath. Trying to ensure that the oath taking does not fail for a second time, the court, knowing about Fedko's plan to go to Turkey, forbids him to leave the country.

Joint Property

The joint property of spouses could be acquired during the marriage and then would go to the surviving partner. For example, in LM 229/94 from 1540, the father of a husband gives a house to both his son and the son's wife (later, she was forced to defend her right to that house in court against the brother-in-law). Joint property could be also acquired by purchase. It appears that if there was no testament, purchased estates, as acquired property, could end up in the hands of a widow; in case LM 224/413 the widow and her children (presumably minors, as it is the widow alone who appears in the case) got the rights to her husband's purchased estates. When describing the purchases, two of them are referred to as being sold to the husband and one as being sold to the couple. Technically, the manager was the husband, but if there was no testament then the widow could claim such property.

Unclear Grounds for Holding Property

The assignment of the property to a widow could sometimes be very abstract. For example, in a case from 1551 Duchess Vasil'evaja Polubenskaja, via her son, *Pan* Jan Shymkovitch,

accused her stepson, Duke Ivan Polubenskij, saying that he took two villages away from her which had been assigned to her by her husband, the step-son's father (LM 239/140v). How this property had been assigned to her is not explained – whether it was done by a testament or in some other way. Only because the duchess has another son can one presume that the property in question is left by her second husband rather than the first and that these two villages are not dower.³⁹⁵ In another case from 1551, a certain widow, Ganna Stanislavovaja Nekrashevitcha, complains that her brothers-in-law, the dukes Svirskie, accuse her, their sister-in-law, of holding two estates and movable property which belong to them, and then they themselves do not come to court at the appointed time (LM 239/116v). Again, it is not clear on what grounds the widow holds this property. In some cases, the grounds for holding the property are unclear because standard terminology is not used. For example, in a case from 1566 (LM 268, 84r) a widow simply says that a certain estate (*именье*) was assigned (*зануцаное*) to her by her late husband.

Widows with Underage Children

Widows with underage children, both dowered and non-dowered (because their status was the same as guardians), deserve some separate lines. Being a guardian of the underage children in theory gave them the right to the management of the whole of the property, but in practice this right could be challenged.

³⁹⁵ In LM 263/40v-42, a widow is asked to prove on what grounds she holds some of her husband's property. With her second husband, she claims that she received this from her first husband from his ancestral estates. The case remains unfinished.

Maria's Dispute with her Son

In December 1540, Maria Koptevaja Vasil'evitcha made a complaint against her own son, Fedor. She accused him of seizing her dower estate of Veisiejai and causing great damage there. They had already gone to court once, in Cracow, and according to the decision of the court the son had to cover all the damage that he had caused, returning her horses, serfs, and servants who had run away from her, and various immovables. He did not keep his word, however, and did not return the property to his mother. Then, Maria made a complaint against her son again, in Vilnius. The son once again agreed to cover all the damages and return all the property, but once more failed to do so. In this second court case, she also agreed with her son that he would give her some money every year for the upbringing of his younger siblings until they come of age, since he kept the property of these children in his hands. So now Maria was here in the court for the third time, complaining about all of this.

The court decided that in four weeks' time Maria's son was obliged to return the horses and the serfs to his mother, and if the horses were damaged in any way, he had to pay his mother for them according to the *Statute*. Maria also had to evaluate the damages caused to her by her own servants (who had later run away), and bring the estimates to court in four weeks time. If the son once again failed to cover the damage, the state would interfere; a certain Michail Konstantinovitch was to confiscate the equivalent property from Maria's son and give it to Maria. Also, if Maria's son failed to give the money promised for the children's upbringing, the equivalent value was also to be extracted from his property by force and given to Maria.

In Maria's case, since she had one adult son, she did not hold the whole of her husband's estate. Rather, she stays only on her dower estate. It seems that the adult son had already taken his share of the property, and in addition he also managed the portions of his underage siblings. There was an agreement between Maria and her son that he would support

the upbringing of his siblings by a yearly sum of money. The son not only failed to keep the agreement, however, but also caused damage to his mother's dower estate.

Windows as Guardians

That being a guardian of underage children and the manager of a whole estate was not easy, is also shown in case LM 229/98 from 1540. There, a widow with an underage son was deprived of estates by her brother-in-law, regardless of the fact that the ruler himself had confirmed her right to stay in the property while the son was under age. The brother-in-law offered to divide the estate in two parts, and the court went along with the suggestion; the property was to be divided into two shares until the majority of the child.

Normative law only declared that the widow must pass the property on to the children when they reached their majority (FLS IV/6) and that the oldest son could be a guardian of his younger siblings (FLS V/[4]3), but it did not define whether or not the oldest son necessarily had to take the estates of his siblings and their guardianship from the mother. In practice, this might or might not end both in favour of a widow. When there were both underage and adult children, an agreement could be made for a widow to stay in her dower property with the minor children, with the adult sons getting a share of property and contributing to the upbringing of the minor children. In LM 249/122r-123v from 1558 such a widow received one third of the husband's estates as her dower, and the adult son was obliged to pay her 30 *kopy* of *groshy*, helping her to raise the underage siblings.

The unfinished cases LM 261/143r-143v and LM 261/146v-147r from 1565 do not allow saying for sure whether the widow here was dowered or non-dowered, but presents another example of the difficulties that a widow with underage children could face. A certain *Pani Mikolaevaja Ostikovaja* accused her brothers-in-law of causing damages to her husband's estate. The time was assigned for a court case, but the brothers-in-law did not

appear. Later, in a second case, she reiterated that these brothers-in-law had seized the property from her and her daughter, the rightful heiress of the husband's estate. Thus, probably the widow, with a minor daughter to take care of, was holding the whole of the property and the brothers-in-law tried to take this property from her hands. Unfortunately, the trial was postponed again, and the outcome of the case or more details remain unknown.³⁹⁶

Confusion could occur when it was the first marriage for a woman, but not a first for the man. In LM 261/43v-52r, a husband assigned some dower property to his first wife and then, after marrying for the second time, he assigned the dower on the same property to his second wife (with the right of usufruct). The rest of the property was assigned to the sons, who seem to have been underage at the time. When he died, the son from the husband's first marriage tried to get his mother's dower, but it was – rightfully, according to one document – in the hands of the second wife, and the step-son had his mother's dower contract to the same property. The court case was postponed, thus the resolution for this situation is not known.

In general, the position of non-remarried dowered widows with minor children was easily challenged. Although according to normative law they had a right to manage the whole of their husband's property, this was often not the case. The non-remarried dowered widows with adult children also sometimes had to defend their position in court.

In LM 224/286 a remarried widow tried to keep her children, but unsuccessfully. The court recognised as a valid argument the claim of her brother-in-law – that is, the children's uncle on their father's side – to be the closest relative. This was so probably because of the fact that the widow has remarried and thus has lost her primacy as the closest relative, although it is not stated as a reason explicitly in the case. LM 224/286 is in agreement with

³⁹⁶ For some more cases, see Jurgita Kunšmanaitė, "The Legal Status of Female Guardians in 1530s Lithuania," in *Less Favored – More Favored: Proceedings from a Conference on Gender in European Legal History, 12th – 19th Centuries, September 2004*, ed. Grethe Jacobsen, Helle Vogt, Inger Dübeck and Heide Wunder, 2-3. (Copenhagen: The Royal Library, 2005). At http://www.kb.dk/export/sites/kb_dk/da/publikationer/online/fund_og_forskning/download/A13_Kunšmanaitė.pdf.

the norms of the *Statute*; although a remarried widow made an effort to regain the guardianship of her children and their property, she did not succeed.

LM 225/109³⁹⁷ completely ignored the *Statute* and permitted a remarried widow to take care of her children and their property. Here the natural primacy was debated: an uncle, as in case LM 224/286, tried to obtain the guardianship of his nephews and their property by claiming that he was a closer relative to his nephew than the child's mother. According to the *Statute*, he would have been correct because the defendant had remarried. The remarried mother, however, used the same rationale as the basis of her own argument. The court closed its eyes to the fact that the mother had remarried, and supported her side.

Widow-Guardians and Summons to Court

Although in the normative law widows were given the period of a year during which they were exempt from litigation, in legal practice there are some examples of widows trying to avoid being involved in litigation for an indefinite period of time. In LM 229/45 from 1540, a certain Kgezkgailovaja tried to avoid responsibility for the use of the neighbours' forest, claiming that she is a widow and does not have to answer in court while the children are still minors, but the court ignored that. It is not clear if the event happened soon after the husband's death. Kgezkgailovaja possibly tried to rely on another law, FLS V/[3]2, which allows children not to answer in court regarding land related matters while they are minors. In LM 229/129 from 1541, the widow with minor children stayed in the whole of the property, with the right not to answer in court while the children were still minor, confirmed by the

³⁹⁷ Both this case and case 224/286 date from slightly before the *First Lithuanian Statute*, thus technically they did not have to follow it, but they serve as interesting examples.

ruler, and her right is not challenged. It would seem that the intercession of the ruler was most important in such circumstances, but even that was not enough sometimes.³⁹⁸

Since there were two different types of laws, one specifically for widows (FLS IV/17), and one for guardians (FLS V/[3]2), it seems that the latter was applied for widow guardians, and they could be exempted from litigation (although the confirmation of the ruler for that seems to have been useful) during the minority of their children (the one-year period was probably applicable only to childless widows). The response of the ruler to the Diet of 1551 does not contradict FLS V/[3]2 – it rather defined the exception to the general rule; that is, widow guardians are in general exempted from litigation for the duration of their guardianship (with the support of the ruler for that), but not if the question concerns any damages to the ruler and state.

Summary

The assignment of the dower was regulated from different perspectives, mainly by the *First* and the *Second Lithuanian Statute*, although several privileges and decrees contain some information on aspects under discussion. Various court records reveal that in the legal practice the main principles of normative law were followed, but there were quite a few smaller and greater possible interpretations and divergences from what was entered in the normative law.

Normative law defined the time of assigning the dower – it could be either before or after marriage. Legal practice contains examples of both premarital and post-marital dower contracts, the latter prevailing somewhat.³⁹⁹ The main difference between the pre-marital and

³⁹⁸ In LM 229/127 from 1540 a widow repeatedly tried to avoid litigation until she gave her daughter in marriage, and even the letter of the ruler himself did not help; the case was not resolved and was passed on to the ruler.

³⁹⁹ Legal practice reveals that before the *First Lithuanian Statute* came into power the dower could be assigned before or after the wedding, it could be under the right of usufruct or the right of ownership, and the size and the constituent parts were not strictly defined (Andriulis, *Lietuvos statutu...*, 104, 105). After the *First Lithuanian*

post-marital contractual agreements is that the post-marital contracts are more detailed, including also the rights and duties of the couple's children. As to the form of the dower contracts and the place of their registration, according to the *Second Lithuanian Statute* they had to be in written form, with signatures and seals, and had to be registered in court. Court practice shows that these requirements were generally followed even well before the *Second Lithuanian Statute*, and, when not, they could be enforced through the courts.

As to the type and size of the property that could be assigned as a dower, the most important detail is that it was tightly connected to the general laws regarding the disposal of immovables. The fact that the dower was assigned in immovable property is of particular importance, since it reinforced⁴⁰⁰ the right of widows to own immovable property.⁴⁰¹ Originally, neither of them was limited: as long as a man could freely dispose of all of this property, he could leave all of it to his wife. In the sixteenth century, the freely disposable share – and thus also the possible size of the dower – was limited to one third of the property. With the *Second Lithuanian Statute* removing the restriction on the disposal of immovable property, limitations on the size of the dower remained, thus securing wives a minimum of one third of the immovable property. In general, the *Second Lithuanian Statute* gives widows the most security compared to any previous times, as before the decree of 1509 the size of the dower was not defined, that is, the wife could receive either very little or everything, and between the decree of 1509 and *Second Lithuanian Statute* of 1566 the widow could receive up to one third (possibly less, but not more).

Statute came into power, some irregularities continued to appear. According to Валиконите, *Социально-экономическое и правовое положение женщин*, 62, exceptions to the *Statute* found in legal practice, can normally be explained by extraordinary circumstances. Also see Valikonytė, “Našlės vainikinė,” 82-83.

⁴⁰⁰ According to Lazutka and Gudavičius, “I Lietuvos Statuto šaltinių klausimu,” 162, Lithuanian girls and widows had the right to dispose of property from much earlier, but they do not specify if they mean immovable property.

⁴⁰¹ According to Лазутка and Валиконите, “Имущественное положение женщины,” 81, and Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 30, the right of women in general to inherit immovable property is first recorded in the land privilege of 1447.

In addition to the regulations on the time of assigning the dower, the *Statutes* contained regulations for protecting the dowry of the daughter by turning it into immovable property and thus preventing it from being consumed and preventing a fall in status of women who married down. In addition to receiving a dower which was smaller than double their dowry, they kept the right to the immovable dowry, with their husband only having usufruct rights to half of it. The dower was protected as well; the wife was defended from being forced to give it up for her husband's benefit and from losing it for her husband's crimes.

Dower contracts were not the only contractual provision that could be made between the husband and wife. The husband could leave all of his movable and all his purchased immovable property to the wife by a testament. As the court cases of the *Lithuanian Metrica* show, this was practiced quite extensively, with testaments containing various restrictions on the management of the property that the husbands assigned to their wives, or giving the wife full ownership on one third of the property – the maximum that the husband could alienate from his family without infringing the law. To summarise, the wife was entitled to a maximum of one third of her husband's inherited and granted estates, all of his purchased estates, and all of the movables – that was the theoretical maximum that could be received.

As regards the time of receiving the dower, there was a change in the normative law with the *First Lithuanian Statute*. All legislation preceding it refers to the dower as a means of provision for widows in their remarriage. Otherwise, they stayed in their husband's property with no dower being extracted for their use. From the *First Lithuanian Statute*, they could stay only with their dower (although in practice there were widows living undivided with their sons) – which applied to both the non-remarrying and remarrying widows. The official reason given in the *Statute* was widows' incapability to properly provide military service. Whether this was the real reason or not, from the *First Lithuanian Statute* onwards widows could not be the sole administrators of the property (unless they had underage children) and that was

why giving them the dower immediately after their husband's death became necessary. Before the *First Lithuanian Statute*, they could stay in the husband's property either being the administrators of it or sharing the rights and duties with the children, and thus there was no need to extract the dower immediately.

If widows had minor children they could keep all of the property for the whole period of their guardianship. In practice, however, this right was often challenged. Remarriage changed the position of a widow in because in such a case the children or the relatives could buy their dower out. If the dower was bought out, it provided a widow with more cash; if it was not bought out, she had more immovable property under her management.

As regards widows' rights to dispose of the dower, the law provided two options, either being free to dispose of all of it⁴⁰² (if it was bought out and she received cash for it) or half of it (if it was not bought out). It was the children or the relatives who decided whether they wanted to buy the property or not (in the decree of 1509 the widow had the right to decide whether to agree with that or not). As the court practice shows, sometimes the husbands indicated in their testaments that the dower was only for life (if such was a husband's wish, as the dower was not mandatory then such a dower was given essentially under the same conditions as a widow's share according to the legal provisions), sometimes they allowed her to dispose freely of part of it (or take all or part of it into a new marriage), and sometimes they left one third of their estates to the widow with the rights of full ownership (as they could dispose freely of one third of their ancestral and granted property). The widow's right to the immovable property was lost in the case of remarriage abroad – then it was changed to cash. If the widow remarried within six month or married a commoner, she lost the right to her dowry altogether.

⁴⁰² According to Валиконите, *Социально-экономическое и правовое положение женщин*, 95, court practice demonstrates that childless widows had the opportunity to dispose of their dower freely.

In general, although the law contained a provision that upon remarriage the widow's dower should be bought out paying the full amount for it, husbands often specified otherwise in their testaments. The dower was indeed a support for widowhood or for life, but the right to full ownership of such property depended on the will of the husband. Normative law rather offered guidelines for how the dower should be assigned, imposing some limits, but within these limits (and sometimes outside them) the husbands defined the conditions in the dower contracts according to their will or mutual agreement with their wives.

To summarise the property status after the death of the husband for dowered non-remarrying widows, between the *First* and the *Second Lithuanian Statute* they were entitled to the dower which they have been assigned (but not the movable property if none was assigned to them separately by a testament). If they had adult sons, then the rest of the property went to them, if they were childless, then the property went to the relatives of the husband. If they had minor children, they temporarily had management rights to the whole of the property. This “privilege” of becoming guardians of the children and their property gave women both broader rights in general, as they could manage the property of the children (although they would not get any financial benefit from it), and more responsibility, as they had to account for any losses. In practice, this right of widows with minor children was often successfully challenged.

To summarise the regulations on remarrying widows' rights to their dower in the *First* and the *Second Lithuanian Statute*: According to the *Second Lithuanian Statute*, a widow lost her right to the dower if she married again within six months after the death of her husband or if they married a non-noble man. Otherwise, according to both *Statutes*, upon remarriage, there were two possible outcomes which depended not on the widow, but on her children and the relatives of the husband. The first option was changing the share of immovable property, assigned as a dower into cash. The second option was allowing the widow to keep the dower

until her death, when half of it would revert to her husband's family and half of it was hers to dispose of freely. In practice, husbands often specified different conditions for remarriage than those indicated in the *Statutes*.

The absence or the presence of the children or their ages did not matter in the case of remarriage. If there were children, they had the right to buy out the dower; if there were no children then this right belonged to the husband's relatives. If there were children and they chose not to buy out the mother's dower, other relatives could not do so either. As for the ages of children, the law provided that in the case of remarriage the widow lost the right of guardianship and took her dower to the new marriage; in such a case the dower could be bought by the children when they reached majority. The laws also sanctioned the remarriage of the widows to foreigners. According to the *First Lithuanian Statute*, they could not hold immovable property, but would receive it in cash. The debates in the Diet did not change the situation, and the law disappeared as such with the *Second Lithuanian Statute*.

Legal practices provide several examples of widows' rights being challenged. Those whose position seems to have been the weakest were the widows with underage children, although the property-holding of other widows could be questioned as well. A great many of the examples from legal practice are records of agreements between the parties or detailed descriptions of contractual provisions for widows. As the legal practice shows, essentially any point of the dower contracts could depart from the contractual provisions outlined in the normative law. As the assignment of the dower contract was not mandatory, such freedom is understandable.

As regards the status of the non-dowered non-remarrying widows according to the two *Statutes*, whether after the first marriage or after a subsequent one, they all received the same type of property: a share of their husband's movables and immovables. If a woman was not a guardian and administrator of the whole of the husband's property, the amount received

would vary only if there were adult sons, as the widow would receive a share equal to each of them (but not more than one third), otherwise it was limited to the lifetime-right to one third. Also, the widow was entitled to a share of the movables, except if she did not have children with her second husband but there were children from the husband's first marriage, then she was not entitled to any movables (according to the *First Lithuanian Statute* she could expect some movables, according to the *Second* – her husband could leave her some immovables in his testament). As regards the earlier normative legislation, the data is scarce and vague, thus it cannot be said that it contradicted the norms of the *First Lithuanian Statute*. Only the decree of 1509 states clearly that a non-dowered non-remarried widow stays in the whole of the property, while the *Statute* permits her to hold only one third. This change, as well as the restriction of the widow's share to one third, was indirectly related to the general change in landholding laws. Since the dower laws restricted the size of dower to one third, keeping the equality between the children and relatives of dowered and non-dowered widows, they limited the non-dowered widow's share to a maximum of one third as well.

As regards the non-dowered remarrying widows, according to all the legislation they had to leave their husband's property either to their children or to the husband's relatives. According to views expressed in the Lithuanian scholarship, such widows between the two *Lithuanian Statutes* were left with nothing (as only the *Second Lithuanian Statute* confirmed the non-dowered remarrying widow's right to a *venets*), although in my view, the legal practice indicates that there might have been a custom of returning the dowry to such a widow. Thus, apart from the fact that the non-dowered widows held their husband's property only for life or until remarriage and could not dispose of it, the position of the non-dowered non-remarrying widows was by and large the same as that of the dowered non-remarrying widows, while upon remarriage the dowered widows were in a better position.

As for the other points of legal provisions, although not directly defining the property status of widows they could have influenced their property status. The provisions regarding widows' right to remarry enabled them to at least partly control their marital strategies. The provisions regarding widows' right to give their daughters in marriage allowed them to have more control over their daughters' property. The immunity from having to answer in court until their children's majority also gave widows, at least theoretically, an option to manage their husband's estates in peace. The abolition of military duties also must have contributed to an easier management of the property in their hands.

As regards the differences between the two *Statutes*, the main difference concerns the institution of *venets*; where the *First Lithuanian Statute*, on unclear grounds, prohibits it, the *Second Lithuanian Statute*, most likely under Polish influence, makes its payment a norm. One other difference concerns the rights of widows in their second marriage; while the widows could expect movables⁴⁰³ from their husbands in the *First Lithuanian Statute*, the *Second Lithuanian Statute* entitled them to immovables. This was probably connected to the introduction of testamentary freedom in the *Second Lithuanian Statute*. Otherwise, the regulations concerning widows are the same in the *First* and the *Second Lithuanian Statute*.

As for the legal practice, the examples of records regarding non-dowered widows are fewer than those regarding widows with dowers. This probably indicates that the non-dowered widows were fewer in number. Most of them were widows in their second or subsequent marriages, when no dower could be assigned to them. Such widows litigated with their stepsons for the division of the late husband's property. As regards the court cases involving the *venets*, they were essentially non-existent, partially because between the two *Statutes* the *venets* was forbidden by law, and partly because the institution of the *venets* and the institution of the dower often were not distinguished in legal practice.

⁴⁰³ Or some of the purchased estates as they were in the same category as the movables.

To briefly summarise the differences and the similarities of the property status of dowered and non-dowered widows in the time period between the two *Lithuanian Statutes*, the two main differences were the rights to the property and the status of the widows upon remarriage. As regards the rights to the property, the non-dowered widows received a share of the husband's property with only the rights of usufruct while for dowered widows half of it (the equivalent of the dowry) was theirs with full ownership rights and the right to another half depended on the wish of their husbands. As regards the status of widows upon remarriage, dowered widows were entitled to take whole of their dower into a new marriage unless the husband had specified otherwise, while the non-dowered widows could not take their share into a new marriage (where the issue of their right to receive back their dowry remained under question). Otherwise, both the dowered and the non-dowered widows were in a similar position; the share of the property that they were entitled to being the same, connected to the general landholding laws, and the additional property that they could receive from their husbands being limited only by the general laws on holding property.

VIII. Influences and Parallels

This chapter will compare the legal position of widows in family property matters in Lithuania with the more or less contemporary situation (mainly the fifteenth and sixteenth centuries) in other, mainly peripheral, European countries, as well as discussing possible sources of influence on the Lithuanian laws. The chapter does not aim at creating an all-embracing picture of the situation and property relations of widows in Europe; in most countries, regional variants were many and fluctuated due to changes in normative law and in practice. What seem like completely different systems in one country in one decade might become similar systems in another decade. Thus, a choice had to be made from the selection of available materials;⁴⁰⁴ this chapter concentrates on the points that were important first of all in the Lithuanian context, in other countries some aspects may be omitted. Such a choice of materials seems justified well enough by the purpose of this chapter, the aim of which is rather to demonstrate the existing variety and different models of legal regulations than to draw a full picture of all possible provisions regarding widows in every corner of Europe at any point in time during the sixteenth century.

The property status of widows throughout Europe was determined by the amount of property to which they were entitled upon the death of their husbands for their lifetime use or for their perpetual ownership. The means of providing for a woman's widowhood differed to

⁴⁰⁴ There are several studies where a comparison between the countries of Western Europe is made, one of the most recent works being the introduction by Amy Louise Erickson to the *The Marital Economy*, ed. Ågren and Erickson, 3-20, on which I rely to a great extent in this chapter. In terms of comparison, my objective is to bring into the picture also some of the Eastern European countries which are overlooked in most comparative works. Since Lithuanian sources are aimed at the landowning strata, I have limited myself to widows of the landowning strata in other countries with only a few exceptions. For the purposes of this chapter I did not strictly distinguish between legal theory and legal practice, as otherwise it would have been impossible to draw a comprehensive system (as some literature analyses only normative legal sources, and some relies mainly on practice and hardly refers to normative at all). It must not be forgotten, however, that the relations of law and legal practice are more complex than presented in this chapter.

some degree, but the results: the amount and the form of the property received were quite similar in many regards.

Prussian Customary Law

Prussian customary law, according to various scholars, may be used as an example of what Lithuanian customary laws could have been like.⁴⁰⁵ The available data is rather scarce, but it gives some details on the customary law of the Prussians. There, the status of widows was mainly regulated by legal provisions, but one paragraph indicates the existence of the notion of dower.

As regards possible parallels with the Prussian customary laws, they contain one paragraph where property given to a woman is mentioned – *donacio propter nuptias*. According to Irena Valikonytė,⁴⁰⁶ paragraph II/5 of the Treaty of Christburg from 1249 shows the existence of the institutions of both the dowry and the dower, although the size or the type of the property assigned by the husband to the wife is not defined. The “promise” of the property indicates the existence of some kind of contractual provisions.⁴⁰⁷ The rest of customary Prussian law, found in *Iura Prutenorum*, refers to legal provisions for a widow. Articles 34 and 71 confirm the widow’s right to the property of her deceased husband;⁴⁰⁸ when the property was divided she received a half of it, and the rest was divided among the sisters and brothers of the deceased husband.⁴⁰⁹ Also, there is a reference to the division of the

⁴⁰⁵ The sources of customary law of Prussians are the Treaty of Christburg (1249) (Пашуто, *Образование*, 500) and the *Iura Prutenorum* (ca. 1340) (Пашуто, *Помезания*).

⁴⁰⁶ Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 34.

⁴⁰⁷ Пашуто, *Образование*, 500: “vel si dos viro vel donacio propter nuptias uxori data fuerint vel promissa” (or if dowry is given or promised to the husband or a gift on account of marriage to the wife).

⁴⁰⁸ Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 34.

⁴⁰⁹ Пашуто, *Помезания*, 126: “Stirbt ein Freier erbelos vnd lest Swestern vngemannet, die sind nicht mogen begehen mit seinem weibe, so nemen sie das gutt halb vnd lassens dem weibe halb” (If a free person dies without descendants, and leaves unmarried sisters who are not able to agree with his wife, then they take half of the property and leave half for the wife); 140: “wo zwene bruder bey einander seint geteilet oder ungeteilet, vnd ist das der eine stirbt vnd das weib mit dem swoger vber eyn nicht betragen mag, so mag das weib mit dem swoger die farende habe vnd das gutt halb teilen vnd also alleine bleiben mit yres mannes gutt yre lebtage”

property between a mother and her adult sons in article 106, but here it seems likely to refer to the mother's dowry rather than the property of the husband.⁴¹⁰ As regards underage children, according to Irena Valikonytė and Stanislovas Lazutka, article 25 of *Iura Prutenorum* implies, although indirectly, that a widow kept her full rights as an owner of the estate after the death of her husband and was the guardian of the children⁴¹¹ (as she had the right to be undisturbed for some time).⁴¹²

The information about the Prussian customary law is scanty; it only hints at the existence of the institution of dower and defines the division of property of the widow and husband's relatives. Nothing is said about the rights of remarrying widows, and nothing is stated clearly regarding the situation of the widows with adult sons. To summarise, in Prussian customary law the widow inherited the whole or a part of her husband's estate. According to Irena Valikonytė, there are no grounds to state that, for example, Grand Duke Jogaila knew of the *Iura Prutenorum* and used it in his privilege of 1387, but it is likely that he relied on Lithuanian customary law, which would have been close to Prussian customary laws.⁴¹³ According to Stanislovas Lazutka and Irena Valikonytė, Lithuanian customary law developed independently.⁴¹⁴ According to them, in both Prussian and Lithuanian law the position of women is somewhat better than that expressed in Slavic and German laws.⁴¹⁵ As I

(Pomeranians have established that if there are two brothers together, partitioned or not partitioned, and if one dies and the wife cannot get along with the brother-in-law, then the wife may separate from the brother-in-law and divide the property into two, and thus stay alone with her husband's property for her lifetime.). This is a parallel to the Lithuanian privileges where a widow could stay in the whole of the husband's property.

⁴¹⁰ According to P. Pakarklis, this article is about a woman's right to get back her dowry (P. Pakarklis, *Kryžiuočių valstybės santvarkos bruožai* (The Features of the Organisation of the Teutonic State) (Kaunas, 1948), 249.) The same opinion is expressed in *Iura Prutenorum*, 34. According to Andriulis, *Lietuvos statutu...*, 85, she could not dispose of her dowry freely if she had children.

⁴¹¹ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 34; Лазутка and Валиконите, "Имущественное положение женщины," 83. Although another article, 102, states the child could choose a guardian himself (Пашуто, *Помезания*, 150: "Ein unmundig kindt, es sey magt oder knecht, mag einen seiner freunde kiesen zu einem vormunden" (An underage child, a girl or a boy, may choose someone from the relatives as his guardian).

⁴¹² Пашуто, *Помезания*: "gebe den witwen nach yres mannes tode frey zu sein ane dienst drey Jar" (allowed the widows to be free from any obligations for three years). Here, a parallel can be seen with FLS IV/17.

⁴¹³ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 34-35.

⁴¹⁴ Лазутка and Валиконите, "Имущественное положение женщины," 83.

⁴¹⁵ Лазутка and Валиконите, "Имущественное положение женщины," 83.

am not aware of what exact Slavic and Germanic sources were used for comparison, thus I cannot either support or reject this conclusion. Comparing Prussian customary law with the *Russkaja Pravda*, I see more similarities than differences.

Prussian customary law is of interest as coming from the ethnic group closest to the Lithuanians.⁴¹⁶ The sources are very scarce, but the points that are addressed in Prussian customary law reveal similarities to the situation in Lithuania at the end of the fourteenth and the beginning of the fifteenth century. The main similarity was that the widows were entitled to a share of the husband's property and could manage the whole of the estate if there were minor children. These similarities are too general and universal, however, to claim that the Prussian and early Lithuanian laws on widows belonged to some special distinguished trend of development.

The Russkaja Pravda

The *Russkaja Pravda* was often seen in the early scholarship as one of the sources of the *First Lithuanian Statute*.⁴¹⁷ Now, the opinion is that some of the norms of the *Russkaja Pravda* could have reached Lithuanian law via customary Ruthenian law (since the *Russkaja Pravda*, which was later forgotten in the territories of its origin, influenced Ruthenian customary law).⁴¹⁸ As regards parallels with the *Russkaja Pravda*, it is comparable to the Lithuanian law in that it contains evidence for the existence of both contractual and legal provisions for widowhood.

⁴¹⁶ Prussians have ceased to exist by the sixteenth century, thus there was no further development of their laws that could be comparable to that of the Lithuania of the sixteenth century.

⁴¹⁷ The *Russkaja Pravda* comes from the Kievan Rus', from the eleventh-twelfth century, Daniel H. Kaiser, tr. and ed., "Civil Law in Rus': The Russkaia Pravda," in *The Laws of Rus': Tenth to Fifteenth Centuries* (Salt Lake City, UT: Charles Schlacks, Jr., 1992), 14-40

⁴¹⁸ Лазутка and Валиконите, "Имущественное положение женщины," 81-82. Valikonytė comes to the conclusion that although the possibility that these norms came to Lithuania from *Russian Pravda* via Ruthenian customary law may not be denied, it is more likely that the formation of the institution of the dower was the result of similar social relations rather than the immediate influence of the *Russian Pravda*, especially because similar norms may be found in the law codes of Western Europe (Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 34; Лазутка and Валиконите, "Имущественное положение женщины," 82.)

The *Russkaja Pravda* contains several articles defining the right of a widow to the property of her husband. Article 93 indicates the existence of contractual provisions; a widow could have a portion of the estate assigned by the husband (article 93),⁴¹⁹ she could choose whether she wanted a separate home (article 102⁴²⁰) or to live with one of the children (article 103).⁴²¹ The size and the type of the property assigned as a widow's portion are not clear from the *Russkaja Pravda*. Upon remarriage, the property that had been under the widow's administration passed to the guardians of the children.⁴²² The widow had a testamentary capability to assign her widow's portion to any of her children, dividing it or leaving it to one person. Without a testament, the widow's portion would go to the child with whom she resided (articles 103 and 106⁴²³).

Although the *Russkaja Pravda* defines many aspects of the provisions for widows, even more of them remain unclear. The size of the share according to the contractual provisions was not defined, nor was the type of the property clarified, neither was the status of

⁴¹⁹ Kaiser, "Civil Law in Rus': The Russkaia Pravda," §93: (If a woman after [her] husband's [death] remains [a widow], then give her a portion [of her husband's estate]; but [if] her husband[, while still alive,] assigned her some [property], of that she is mistress, and she has no need of her husband's estate.). The first sentence defines legal provisions, the second, contractual ones. It seems that legal provisions were applied in the absence of the contractual ones (it is just not clear if the property assigned by the contractual provisions involves immovable property; according to Weickhardt, *Legal Rights*, 5, it does).

⁴²⁰ Kaiser, "Civil Law in Rus': The Russkaia Pravda," §102: (If the children do not wish to live with her in the [family] residence, and she wishes to remain there, then her every wish is to be honored, and do not accede to the children's wish; but she may [sustain herself] on what her husband gave her, or, having received her portion [of the estate], she may sustain herself [by that].).

⁴²¹ Kaiser, "Civil Law in Rus': The Russkaia Pravda," §103: (And the children are to have no part of their mother's [widow's] portion, but to whomever the mother gives [the property], that person [legitimately] receives it; if she gives it to all, then all divide it [equally]; if she dies without [having made a disposition of her property], then with whomever she lived and whoever fed her [is] to take her property.)

⁴²² Kaiser, "Civil Law in Rus': The Russkaia Pravda," §99: (If there be small children [left] in the home [when their father dies], and they are not able to care for themselves, and their mother remarries, then whoever is [their] closest [kinsman] is to take them under his guardianship [together] with the house and property [left by their father] until they are able [to look after themselves and their property]; and give the property [into the guardian's care] in the presence of witnesses; and what profit [the guardian] makes by that property by letting it out at interest or by trading, then that [profit] is for him, and he is to return the original property to [his wards], and the profit is for him since he fed and cared for them; likewise, if there be offspring [either] from a slave or from an animal, then [the guardian] takes it all; [by the same token] whatever he loses he must repay the children in full; also, even if a stepfather takes children [together] with an estate the same regulations obtain.). §101 (On the wife, if she promises to remain a widow. If a woman promises to remain a widow after her husband's death, then squanders [her late husband's] property and remarries, she is to repay her children [the property she lost].).

⁴²³ Kaiser, "Civil Law in Rus': The Russkaia Pravda," §106: (If a mother [has] a good son, whether of the first [husband] or second, [she may] give him her own property; if all her sons be bad, the she may give [her property] to a daughter who feeds her.)

the remarrying widows was not determined – it is not clear if the contractual provisions remained valid upon remarriage. As regards the legal provisions, it is clear that she was not allowed to keep the children's estate, but not clear if this means that she was left with nothing herself. This makes any comparison with the Lithuanian laws quite difficult. What may be said is that, in contrast to the early Lithuanian privileges, where the non-dowered widows seem to have been entitled to the whole of the husband's property, in the *Russkaja Pravda* she always received just a share. What is similar to the Lithuanian laws is the institution of guardianship.

Some similarities may be seen in the relation of and the parallels between the early Lithuanian laws and the *Russkaja Pravda*. Both laws contain legal and contractual provisions and only the main idea rather than any details are present. In Lithuanian laws, no sharing of the husband's property is mentioned for non-remarrying widows, while the *Russkaja Pravda* prescribes such sharing, but Lithuanian laws do not explicitly say that the property is not co-owned with the children or relatives of the husband and that the widow becomes the owner of all of it. As for the contractual provisions, the *Russkaja Pravda* says that the widow gets the dower, if she was assigned any, upon the husband's death, while in the early Lithuanian laws the dower is indicated for remarriage. In the earlier historiography, the *Russkaja Pravda* was seen as the source of influence on the *First Lithuanian Statute*, but currently it is seen as a parallel development, with the norms of the *Russkaja Pravda* possibly influencing Lithuanian customary law through the customary law of Kievan Rus' rather than being a direct source of influence.

Poland

If Prussian and the Russian law may be seen only as parallels rather than sources of influence, some Polish influence on the Lithuanian law is undeniable.⁴²⁴ It was caused not only by the political ties between Lithuanian and Poland from the late-fourteenth century onwards, but also by the more developed legislation in Poland.⁴²⁵

In Poland as in Lithuania there were both legal and contractual provisions for widows. Some of the Lithuanian privileges regarding contractual provisions even refer to Polish law, claiming to follow it.⁴²⁶ The Statutes of Casimir the Great from 1347 already present the fully formed institution of dower,⁴²⁷ although the rules were somewhat modified at the start of the fifteenth century. According to the Statute of Jogaila from 1423,⁴²⁸ the widow may only stay in her dower (consisting of the dowry and *privenok*)⁴²⁹ if she has one, and essentially have half of the immovables.⁴³⁰ The situation of widows with a dower was more restricted in

⁴²⁴ Polish law could have had indirect influence – via Lithuanian customary law – on the laws on the position of women recorded in the *First Lithuanian Statute* (Лазутка and Валиконите, “Имущественное положение женщины,” 81-82, 83-84; Valikonytė, “Kai kurių I Lietuvos Statuto straipsnių...,” 40.).

⁴²⁵ Sources of Polish law are much richer than the ones from Prussia or Kievan Rus'. As I am mainly interested in Polish law as a source of influences rather than parallels, I rely on the sources which appeared before the *First Lithuanian Statute* was created in Lithuania. The main sources are The Statutes of Casimir the Great (1347), the Statutes of Jogaila (1423) and the Statute of King Alexander (1505) (all printed in, e.g., *Volumina legum*, vol. 1). The development of Polish law was fast, thus some norms changed in the sixteenth century; also, some laws differed in different regions.

⁴²⁶ The land privilege of 1413 regarding the assigning of the dower; the land privilege of 1447 regarding the remarriage.

⁴²⁷ *Volumina legum*, vol. 1, 9, 17, 20.

⁴²⁸ Statute of Jogaila from 1423, *Volumina legum*, vol. 1, 32: (1) *De uxore in sede viduali constituta. Ad abolendam damnosam consuetudinem, quod hactenus inter subditos nostros solum ex communi usu servabatur, quod uxor marito mortuo in sede viduali contra quandam antecessoris nostri institutionem, quae incipit: statuimus etc. remanens omnia bona possidebat, propter quod nonnulla bona pueris vel proximioribus per inadvertentiam et malam ipsorum procuracionem annihilabantur et desolabantur, unde talibus obviare volentes, statuimus de caetero, quod uxor marito mortuo, tantum dotem et dotalitium habeat, alia vero bona in quibus dotem et dotalitium non habuerit, pueris vel proximioribus tenebitur resignare.* (2) *In quibus vidua succedere posit. Licet etiam antiquitus per Antecessores nostros in quodam capitulo statutum sit, quod marito mortuo, uxor donationem et dotem, et quaelibet paraphernalia videlicet in gemmis, argento, vestibus et pecunijs habeat et teneat, tamen quod non modica damna per hoc pueris evenire solebant, quopropter de concilio et consensu Praelatorum et Baronum nostrorum omnimode statuimus, quod uxor marito mortuo solum circa paraphernalia domestica remaneat: thesauro videlicet pecunijs et argento equis magnis cum omnibus armis equireis, exceptis, quae omnia ad pueros devolvantur. Declarantes insuper, quod talis mulier, circa omnia pecora et quaevis alia, quae in dote sua et dotalitio fuerint, una cum equis vectigalibus, quibus tempore mariti sui vehebatur remaneat, demptis vestibus, et equis parvis in valore trium marcarum mariti defuncti, quae in aequalem sortem seu portionem dominae cum pueris cedere debebunt, et dividi cum effectu.*

⁴²⁹ Bardach, *Historia państwa*, 495, defines the Polish dower (*wiano*) as security for the widow's dowry, which consisted of the equivalent of the dowry and of the *wiano* (also called *przywianek*) which doubled it; *wiano* could be assigned on half of the husband's property.

⁴³⁰ Bardach, *Historia państwa*, 496.

Poland than in Lithuania; in Poland, a remarrying widow had to return the dower to the family of the husband and could take only her dowry with her.⁴³¹ Thus, if in Lithuania the dower, especially in the early legislation, was primarily aimed at providing for widows in the event of remarriage,⁴³² in Poland the dower was supposed to provide for the non-remarrying widows. True, in Lithuania the relatives of a remarrying widow could buy out her dower, but they had to pay the full amount for it, not only the equivalent of the dowry. As for any additional benefits for the wife in Poland, by as early as 1505 the disposition of real estate beyond the heirs was prohibited, so only bequests of movable property could be made. However, this could be – and was – circumvented by assigning the wife all of the property as *dożywocie*, with the right of keeping it for her lifetime. Otherwise, widows were entitled to support provided by legal provisions. In Poland, the legal provisions in the case of absence of a dower contract entitled a widow to get the so-called *venets* (probably a formal compensation for the loss of virginity); thus, they were not left without anything in the case of remarriage. This *venets* was a set amount of money⁴³³ applicable to all widows after the first marriage. There,

⁴³¹ The act of Diet of 1523, *Volumina Legum*, vol. 1, 205: *Cum primum mulier sedem sibi vidualem per secundas nuptias violaverit; volumus, ut talis citari poterit, aut in Iudicium Terrestre, vel ad actorum Terrestrium primam et proximam positionem, talis vidua citata in proximo termino non comparens, poenam contumaciae luet parti et iudicio exsolvendam; in secundo termino, sicut peremptorio tenebitur citata cum literis suis reformatoriis legitime comparere, ad tollendum pecunias a parte se redimente in literis suis reformatoriis, per expressum contentas, et condescendere bonis illis redemptis parti se redimenti, dando illi reemptori certos pro se fidejussores, bene possessionatos nobiles, in hunc modum, quod ea muliere defuncta, dotalitium alias przywianek, ad successores primi mariti devolvetur, vel potius restituatur.* The act of the 1523 Diet which defined the conditions under which a widow owned her husband's landed property on which he secured her dowry stated that in the case of remarriage she would have to return this property to her husband's family, receiving back only her dowry. Zielinska, "Noblewomen's Property Rights," 84-85.

⁴³² At least in normative law, as in practice the widows did not necessarily receive more than their dowry.

⁴³³ King Alexander's Statute of 1505, in *Volumina Legum* (St. Petersburg: Jozafat Ohrysko, 1859), vol. 1, 148: *De crinili nuptiarum virginum. Item dum aliquis copulat sibi matrimonialiter virginem seu puellam et privatur vita non reformans eidem uxori, extunc talis uxor accipiet pro crinili marcas triginta, aut possessionem ubi trium marcarum esset proventus, habebit tamdiu donec sibi persolvetur crinile tenendam, quae non tenetur equitare de bonis, ubi eam maritus morte reliquit alias odumarl usquequo dabuntur ei aut triginta marcae pro crinili, aut trium marcarum proventum alias cenum sibi constituent mariti successores.* Valikonytė, "The Venets," 103-104: "Although the custom to pay the dowerless widow a 30 grivny *venets* had been known in Little Poland in the fifteenth century, it became a judicial norm only in King Alexander's Statute of 1505. However, in the corresponding article, institutionalizing Cracow land custom, the assignment of a *venets* of as to a dowerless widow was not associated wither new marriage, as it was the case in Lithuania – even though such a decision had been taken by the same Alexander in 1495. True, in Mazovia the assignment of a *venets* to dowerless widows on remarriage was made law in 1540..."

however, a non-dowered widow was not entitled to a share of her husband's property.

Poland and Lithuania were in more or less close contact with each other from the beginning of the fifteenth century. Thus, in Poland, as might be expected because of historical circumstances, the position of widows was very similar to that in Lithuania. According to most researchers, some of the legal norms in Lithuania were influenced by Polish law. According to Irena Valikonytė, it is possible that the term *dotalicium* came to Lithuania from Poland, but it seems that the phenomenon as such was known to Lithuanian customary law, and the privilege of Horodle (the land privilege of 1413) only legally confirmed the already existing custom.⁴³⁴ The *venets* was also a borrowing from Poland. Besides similarities, there were also some differences, mainly in the status of non-dowered widows.

Muscovy

Previous examples refer to times preceding the *First Lithuanian Statute*, but the example of the situation in Muscovy presents a comparison with a situation contemporary to that of Lithuania in the sixteenth century. In Muscovy,⁴³⁵ there was no such difference between the legal and the contractual provisions as that found in Lithuania; contractual provisions (marital contracts, testaments) only modified the legal provisions, since these legal provisions were much less restrictive and less defined than the Lithuanian ones and could be modified by the

⁴³⁴ Valikonytė, "Kai kurių I Lietuvos Statuto straipsnių...", 31-34: word *dotalicium* was used in 1401 in the acts of Vytautas.

⁴³⁵ Legislation on widows in Muscovite Russia was scarce up to the second part of the sixteenth century. The *Russkaja Pravda* dealt with some aspects of the provisions for widows, but it did not define the size or the type of the widow's portion (Weickhardt, "Legal Rights," 5). Despite of appearance of new legal codices in the sixteenth century, neither the *Sudebnik* of 1497 nor the *Sudebnik* of 1550 dealt with the widow's property rights. Only the *Sudebnik* of 1589 defined the rights of the widows in more detail (Kleimola, "In Accordance...", 208). As V. S. Nersesjanc notes, in the sixteenth century family law relied mainly on custom (V. S. Nersesjanc [B. C. Нерсесянц], ed., *Развитие русского права в XV – первой половине XVII в.* (Development of Russian Law from the Fifteenth to the First Half of the Seventeenth Century) (Moscow: Hayka, 1986), 151). In this part I mainly rely on Weickhardt, "Legal Rights," 1-23, and Kleimola, "In Accordance...", 204-229, who use testaments as sources for analysis.

testament of a husband to a great degree. That is, a widow's status there depended much more on the will of her husband than in Lithuania.

The rights of women to land remained essentially the same from the twelfth to the mid-sixteenth century.⁴³⁶ In Muscovite Russia, if widows had minor children, as in Lithuania, they became administrators of the whole property.⁴³⁷ Otherwise, widows received back their dowry and got a portion of their husband's estate with management rights.⁴³⁸ In Muscovite Russia, women were legally entitled to receive back their dowry with ownership rights,⁴³⁹ as well as get a dower for the lifetime use, until remarriage or entry into a convent⁴⁴⁰ (it seems that its size was not regulated), and any additional gifts that the husband had left them in a testament. The dower could be given from any of the husband's lands.⁴⁴¹ Upon remarriage (or entrance to a convent), widows lost their dower rights,⁴⁴² but retained their dowries.⁴⁴³ In general, to compare the situation to that in Lithuania, in Muscovy legal provisions only outlined the most general rules of what a widow was entitled to, and then concrete contracts specified all further details (only the return of the dowry seems to have been unquestioned).

⁴³⁶ Weickhardt, "Legal Rights," 1.

⁴³⁷ Kleimola, "In Accordance...", 208.

⁴³⁸ Kleimola, "In Accordance...", 211: the widow's seat could be bought out, regardless of whether she remarried or not (in the case of the remarriage receiving only the equivalent of the dowry).

⁴³⁹ Kleimola, "In Accordance...", 205-206: "... the dowry provided the core for a woman's subsistence during widowhood, and her rights to this source of support were maintained both by her family and in law;" Weickhardt, "Legal Rights," 5, 8.

⁴⁴⁰ Kleimola, "In Accordance...", 208; Weickhardt, "Legal Rights," 5, 8. This was indicated in testaments. After the death of the wife, such property would often go to a monastery according to the will of the husband.

⁴⁴¹ Нерсесянц, *Развитие русского права*, 139: regardless of the existence of testamentary freedom, most of the property went to the legal heirs and seldom to the others; the main circle of legal heirs in the 15th-17th century were sons and the widow; Weickhardt, "Legal Rights," 10: essentially, the norms of intestate inheritance, established by the *Russkaja Pravda*, were followed in the wills; Weickhardt, "Legal Rights," 5, 11-12: testamentary freedom of men was limited in 1562 when it was forbidden to leave hereditary land to women in a testament. Inheritance was limited to the male relatives within the family. Before 1562, a widow's portion could presumably extend to any landed property (ancestral, granted and purchased). (When some widows' rights were restored in 1627, they could no longer receive a widow's portion from the ancestral and granted property, but could only receive purchased estates, with either management or full ownership rights, a quarter of the movable property and all of the dowry. They were also entitled to a quarter of the movable property and their dowries. Childless widows, from 1627, were entitled to a share of the granted lands – the so-called *prozhitok*.)

⁴⁴² Kleimola, "In Accordance...", 213.

⁴⁴³ Kleimola, "In Accordance...", 209.

Hungary

In Hungary in the sixteenth century, the situation was different from that in Lithuania and Poland in that there a widow's situation was more regulated by legal provisions and less by contractual provisions.⁴⁴⁴ It seems that in Hungary assigning the dower to a widow was mandatory, and thus there was no such thing as a non-dowered widow: every widow was legally entitled to receive a dower.

If the widow stayed with her minor children and did not remarry, she became their legal guardian with the right to administer her husband's property if he had died intestate.⁴⁴⁵ Otherwise, if she was with adult sons, she was entitled to a dower, and if she was childless, she was entitled either to stay in the whole of the husband's property, or to a dower⁴⁴⁶ and to stay in their joint house after her husband's death.⁴⁴⁷ The types of the property that could be assigned as a dower were different from those in Lithuania. While in Lithuania the dower was for the most part given in immovable property and it was optional for the relatives to buy it out upon a widow's remarriage, in Hungary the dower was given in cash or saleable chattels.⁴⁴⁸ Although the dower itself was given in cash, however, in Hungary the widow also had the right, guaranteed by law, to remain resident in her husband's house even after receiving the money.⁴⁴⁹ And if in Lithuania under certain conditions the dower could be bought out, that is, converted into cash, in Hungary, a non-remarrying widow could get her

⁴⁴⁴ The legal code used for Hungary is the *Tripartitum* (1514) (István Verböczi, *The Customary Law of the Renowned Kingdom of Hungary: A Work in Three Parts (the Tripartitum)*, ed. and tr. Martyn C. Rady, János M. Bak and Peter Banyó (Budapest and Idyllwild: CEU and Schlacks, 2006).

⁴⁴⁵ *Tripartitum* I-113; Péter, *Beloved Children*, 111; Fügedi, "Kinship," 61, 63.

⁴⁴⁶ If a husband dies childless and *intestate* (*Tripartitum* I-98) [Fügedi, "Kinship," 64 – the real estate remained for the kindred]. She may stay in the whole property even if she was given back her dower (*Tripartitum* I-98/1). If the amount of the movable and immovable property far exceeds the amount of the dower, then the rightful heirs may leave her only what is due to her as a dower (T I-98/3).

⁴⁴⁷ Fügedi, "Kinship," 64.

⁴⁴⁸ *Tripartitum* I-95.

⁴⁴⁹ *Tripartitum* I-30/7.

dower in the form of a lifetime-estate with the permission of her son or relatives.⁴⁵⁰ The dower was for good if taken in cash and for life only if taken in immovable property.

Another difference from the situation in Lithuania was that in Hungary the dower was not related to the size of the wife's dowry. Here it depended on the size of the husband's property only, and it was a set amount, at least for some social strata. A baron's or magnate's wife was entitled to 100 marks; a distinguished nobleman's or knight's wife was entitled to 50 marks;⁴⁵¹ for the lesser nobility, the exact amount was not specified, but depended on the size of the husband's property.⁴⁵² The size of the wife's dowry was not taken into consideration.

As regards the movable property, in Hungary, in the absence of a testament⁴⁵³ it was equally divided between the widow and the children who had not yet received their shares.⁴⁵⁴ The household goods and personal effects went to the wife.⁴⁵⁵ In Lithuania, the husband could will all or some of his immovable and some of the movable property to his wife. In the absence of a testament, the wife's share in the husband's property depended on whether she had a dower contract or not; if the wife had a dower contract, she had no rights to any of the husband's property besides her dower. If the wife was not dowered and there was no testament, she received a share equal to that of each child from the whole of her husband's property. In Hungary, the law guaranteed a wife a share of the acquired movable property after her husband's death, with all of it going to the wife if there were no children⁴⁵⁶ (although the rightful heirs could contest this in cases of great discrepancy between the value of the

⁴⁵⁰ *Tripartitum* I-134/4.

⁴⁵¹ *Tripartitum* I-93/3-4.

⁴⁵² *Tripartitum* I-93/5.

⁴⁵³ Ancestral property could not be bequeathed (*Tripartitum* I-101/2).

⁴⁵⁴ *Tripartitum* I-99/1 prescribed all movables to be equally distributed between the wife and the yet-undivided children.

⁴⁵⁵ *Tripartitum* I-100.

⁴⁵⁶ *Tripartitum* I-98.

dower and the value of those goods⁴⁵⁷). Also, immovable property was treated as joint property if the name of the wife appeared in the donation charter.⁴⁵⁸

One more difference between Hungary and Lithuania is that in Lithuania the wife was entitled to a dower only after her first marriage, while in Hungary she received the dower regardless of which marriage it was – only with the proviso that in the second marriage her dower was half of the amount, in a third marriage a quarter, and so on.⁴⁵⁹ Upon remarriage, a widow could keep her dower and various moveable personal accoutrements,⁴⁶⁰ but lost any right to reside on the husband's property,⁴⁶¹ regardless of the presence or absence of children, and lost her right to guardianship of minor children.⁴⁶²

The Nordic Countries

In the Nordic countries,⁴⁶³ contractual provisions were possible, but not so crucial. As in Hungary, here as well legal provisions were sufficient. In the Nordic countries, however, instead of putting emphasis on a widow's entitlement to a dower, the law emphasised a widow's entitlement to the joint property. Here, not much property could be involved in property arrangements. Contractual arrangements only redistributed the amount of the property held in common, but the share of the commonly held property which the widow

⁴⁵⁷ *Tripartitum* I-98/3.

⁴⁵⁸ *Tripartitum* I-102–102/2.

⁴⁵⁹ *Tripartitum* I-96.

⁴⁶⁰ *Tripartitum* I-100/1.

⁴⁶¹ *Tripartitum* I-98/2.

⁴⁶² The mother lost the right to guardianship upon remarriage (*Tripartitum* I-113), but if she owned some separate property she remained as one of the guardians even if she remarried (*Tripartitum* I-113/4). Péter, *Beloved Children*, 111: by a will, husbands could empower their wives to remain guardians of their own children even after a second marriage.

⁴⁶³ For the Nordic countries, the literature that I use refers to the following legal sources: for Sweden (rather, Sweden-Finland), the law of the Realm of c.1350 and 1442 (Pylkkänen, "Forming the Marital Economy," 77), which was valid by and large up to the seventeenth century; for Norway, the National Law Code of King Magnus the Lawmender (1274) and the decree of 1299-1306 by Haakan Magnusson (Græsdal, "Joint Ownership," 83, 91) which were valid by and large up to the mid-sixteenth century; for Denmark, the Jutland Legal Code (1241), the Scania law and Erik's Sealand law (Dübeck, "Property and Authority," 128-129), which were in force by and large up to the mid-sixteenth century. The literature used refers not only to the normative sources, but also to the legal practice to some degree (for Sweden-Finland – coming from the Finnish territories, with examples coming from later times, mainly the seventeenth century).

could get was controlled by legal provisions.⁴⁶⁴ In the Nordic countries marital contracts only specified the contents of the spouses' separate property for the sake of clarity.⁴⁶⁵ As for acquired property, it was considered to be joint property under the management of the husband.

In the Nordic countries, a widow automatically received between one third (Sweden, eastern Denmark⁴⁶⁶) and a half (urban Sweden, Norway, western Denmark) of the joint property, which normally encompassed all property acquired after the marriage.⁴⁶⁷ In Denmark, proportions of joint property and separate property could be regulated during marriage.⁴⁶⁸ In Norway spouses could also decide on what became separate and what joint property, both before and after their marriage; everything became joint property after a certain time if no agreements to the contrary were made.⁴⁶⁹ In Sweden-Finland such a free change of proportions was not possible.⁴⁷⁰ The inherited land of the spouse was treated as separate property and the widow could only have a right of usufruct to such property.⁴⁷¹ Women also got back their separate property from the management of the husband, normally consisting of property inherited from their relatives, various presents, dowry,⁴⁷² morning⁴⁷³ and betrothal

⁴⁶⁴ 7Græsdal, "Joint Ownership," 95; Pylkkänen, "Forming the Marital Economy," 85; Dübeck, "Property and Authority," 129-130; Dübeck, "Legal Status of Widows," 210-211.

⁴⁶⁵ Erickson, "The Marital Economy," 13.

⁴⁶⁶ A half throughout Denmark from 1547, regardless of the presence or absence of children (Grethe Jacobsen, *Kvinder, køn og købstadslovgivning 1400-1600* (Women, Gender and Town Lawgiving, 1400-1600), Danish Humanist Texts and Studies, Volume 11, ed. Erland Kolding Nielsen (Copenhagen: The Royal Library, 1995), 177, 179).

⁴⁶⁷ Græsdal, "Joint Ownership," 95; Pylkkänen, "Forming the Marital Economy," 85; Dübeck, "Property and Authority," 129-130; Dübeck, "Legal Status of Widows," 210-211. In Denmark, it also included the inherited movable property from 1547 (Dübeck, "Property and Authority," 130). In Norway, inherited lands were included in joined property, with the right of management by the surviving spouse for the lifetime from 1557 (Græsdal, "Joint Ownership," 92).

⁴⁶⁸ Dübeck, "Property and Authority," 130.

⁴⁶⁹ Græsdal, "Joint Ownership," 84, 88.

⁴⁷⁰ Pylkkänen, "Forming the Marital Economy," 87.

⁴⁷¹ In Sweden, only one tenth of the inherited property could be disposed of freely (Maria Ågren, "Individualism or Self-Sacrifice? Decision-making and Retirement within the Early Modern Marital Economy in Sweden," in *The Marital Economy*, ed. Ågren and Erickson, 224-225).

⁴⁷² In Denmark, the dowry could, upon agreement, become joint property. If there was no agreement, a dowry in land remained separate property, and a dowry in cash became joint property (Dübeck, "Property and Authority," 130).

gifts,⁴⁷⁴ and gifts received on betrothal⁴⁷⁵ and given by the husband on the wedding morning.⁴⁷⁶

As regards remarriages and guardianship of the children, in Sweden-Finland, widows could stay in their husband's property until the majority of their children, but with a relative of the deceased husband as a "controlling" guardian of the children.⁴⁷⁷ Upon remarriage the inheritance was to be divided among the children, but if there were minor children, the stepfather often came to manage the property, division of the property was postponed to the majority of the children, and the widow was allowed to reside in her former husband's estates even after remarriage. If the widow left her husband's estates upon the remarriage, theoretically she could demand her marital portion (her share in a joint property), but practically she seldom received more than what she brought in (her separate property), especially if there were no children.⁴⁷⁸ In eastern Denmark, the widow, as the guardian of the children, could be in charge of the husband's separate property, the children's inheritance. In western Denmark guardians took care of separate paternal property, while widows with the children were entitled to the interest from that property.⁴⁷⁹ In the case of remarriage or when a son came of age the widow lost the right to administer the husband's separate property and it was handed over either to male relatives or a son, who also became guardians of the children.⁴⁸⁰

⁴⁷³ In Norway, a gift from the groom to the bride could be included in joint property (Græsdal, "Joint Ownership," 86).

⁴⁷⁴ Dübeck, "Legal Status of Widows," 213; Erickson, "The Marital Economy," 12, table 1.3.

⁴⁷⁵ Dübeck, "Legal Status of Widows," 213; Amy Louise Erickson, "The Marital Economy in Comparative Perspective," in *The Marital Economy*, ed. Ågren and Erickson, 12, table 1.3.

⁴⁷⁶ Erickson, "The Marital Economy," 12, table 1.3. In Sweden, it was a woman's separate property, to be extracted from the whole of the property before its division (Pylkkänen, "Forming the Marital Economy," 87). In Norway, a gift from the groom to the bride could be included in joint property (Græsdal, "Joint Ownership," 86).

⁴⁷⁷ Pylkkänen, "Forming the Marital Economy," 86.

⁴⁷⁸ Pylkkänen, "Forming the Marital Economy," 86.

⁴⁷⁹ Dübeck, "Legal Status of Widows," 212.

⁴⁸⁰ Dübeck, "Legal Status of Widows," 212.

Venice

In Venice, widows were in a different situation. There, the regaining of the dowry was the main point of the provisions for widowhood. I have decided to use an example from Venice in order to show that Muscovite Russia was not the only place where the emphasis fell on the returning of the dowry. Anna Bellavitis, whose article I use here, relying both on the normative law and examples of wills, draws the following picture.

In sixteenth-century Venice, the law granted widows' the right to receive back their dowries. According to the law, one third of the dowry was not to be returned to the widow, but in practice it was applied only if she had children. When the widow's right to get the dowry back was confirmed by the court, she could no longer claim a living allowance, but could stay in the husband's house until the dowry was given back to her – often widows would not claim their dowries and would stay in the husband's property instead. If the widow chose not to claim back the dowry and not to remarry, according to the law she could continue to be the mistress of the house. As regards contractual provisions, husbands had testamentary freedom to entitle their wives both to get back their dowry and to stay in the family house, also getting a yearly allowance, or could give them broader management rights over their property. The husbands also indicated whether the property the widow was entitled to would change upon remarriage. In their testaments, they gave their wives a choice: either to obey the conditions they outlined in the testament or accept the legal provisions, which entitled them only to the return of the dowry. As regards widows with minor children, a widow could be chosen as a guardian, if she did not remarry,⁴⁸¹ either also becoming manager of the husband's property or only enjoying the interest from it, but in the case of remarriage she had to leave her children to her first husband's family (taking with her her dowry). Another option

⁴⁸¹ The same was true in early modern Florence (Giulia Calvi, "Widows, the State and the Guardianship in Early Modern Tuscany," in *Widowhood*, ed. Cavallo and Warnew, 209-219).

was that the mother could be allowed to keep the children, but lose the administration of their property. Only in some few cases did husbands allow their widows to remain guardians upon remarriage.⁴⁸² In general, by legal provisions the widows were entitled only to a part of their dowry, but the contractual provisions gave husbands a considerable freedom to leave their widows with more property, at least for temporary use.

Similarities and Differences of Different Countries

In the European context, two main systems emerged as regards the provisions for widowhood, the same as in Lithuania: legal provisions and contractual provisions. In most countries, both elements are present, but in different proportions. As regards legal provisions versus contractual provisions, in Lithuania the presence or absence of a dower contract played an important role in deciding the widow's financial future, because if there were no contractual provisions, as between the two *Statutes*, the widow was not entitled to any of the husband's property with full ownership rights. In Poland, a dower contract would enhance a woman's economic status, but even without it she had a right to some financial support from the husband, in form of *venets*. In Hungary, codified legal provisions were in place to ensure the widow's financial security and even residential rights, and thus there was less pressing need for a woman to make sure that a dower contract was signed, since in effect the law enforced this. In the Nordic countries contractual agreements mainly reaffirmed legal provisions for the devolving of separate property and division of the joint property. In Muscovite Russia, the situation was different; there, the legal provisions were rather vague (only the return of the dowry seems to have been guaranteed), and the status of widows depended mainly on the contractual provisions. In Venice, the legal provisions also stipulated only the return of the

⁴⁸² Anna Bellavitis, "'Et vedoando sia donna et madonna': Guardianship and Remarriage in Sixteenth-Century Venice," in *Less Favored – More Favored: Proceedings from a Conference on Gender in European Legal History, 12th – 19th Centuries, September 2004*, ed. Grethe Jacobsen, Helle Vogt, Inger Dübeck, Heide Wunder (Copenhagen: The Royal Library, 2005), 2-7.

dowry (and the right to reside in the husband's property until the dowry was paid back), and the rest depended on the generosity of the husband.

In all countries, the marital status and the parental status of a widow was taken into consideration, but in different ways. In Lithuania, according to both the legal and the contractual provisions, marital status and changes in parental status (minor children) were the factors which determined the differences in the management rights to property granted to widows. In other countries, as regards widow's rights upon remarriage, more frequently than not she lost at least some of the property, and, if she had minor children, more frequently than not the rights of management of their property had to be handed over to some other guardian. Some interesting developments are noticeable regarding the situation of childless widows: if in Lithuania their rights were becoming more restricted,⁴⁸³ in, for example, Denmark in 1457, childless widows were finally secured a share of their husband's property.⁴⁸⁴ Generally, childless widows were better off, since widows with children might be required to leave some of their property for the children, or be entitled to a smaller share of movables.

In general, widows' property status seems to have been quite similar in various European countries, although in some countries the emphasis was on the dower and in others on the joint property. Normally, widows were entitled to receive back what they had brought into the husband's family (or its equivalent in cash, movable property or land), to get some of the family property (only with usufruct rights, if it was heritable ancestral property, and with ownership rights for acquired property). Widows would normally lose at least some of this property upon remarriage.

⁴⁸³ According to the decree of 1509, dowered childless widows could dispose freely of whole of their dower, and the non-dowered childless widows could stay in the whole of the husband's property (the decree does not say that the dowered childless widows could stay in whole of the husband's property, but that was most likely the case), in 1529 dowered childless widows could dispose only of the dowry part of their dower, and non-dowered widows could stay only in one third of their husband's property.

⁴⁸⁴ Jacobsen, *Kvinder*, 179.

My tentative explanation regarding the similarities and differences in the various systems is as follows. The similarities could mainly come from the fact that across Europe women received a dowry and this in one way or another had to be dealt with during and after the marriage. The differences may be based on the different family structures. Around the sixteenth century, for example, in Poland and Lithuania the “family” was still perceived as involving not only the nuclear family, but numerous nearer and further relatives who expected their share in the “family” goods (hence numerous restrictions and limitations on a widow, who was a “stranger” to the “family”, getting possession of the husband’s property). In the Nordic countries the nuclear family was becoming the main unit and thus the division of the family goods was different. In order to make a more precise comparison of the role of legal provisions, marital contractual provisions, and wills, it would be necessary to make a much deeper investigation into testamentary rights, and a comparison of the types of land ownership and property management during marriage, as these could be the factors that determined the formation of different legal systems of the provisions for widows in different countries. Also, the contrasts in management versus ownership of property in widowhood and custody of children’s property versus guardianship of children’s bodies, as well as questions of normative law versus legal practice could render fruitful results, but these questions remain beyond the scope of this dissertation.

IX. Conclusion

This research on the status of the mid-sixteenth century Lithuanian noble widows and their relations to family property has concentrated on the analysis of two coexisting legal models: contractual provisions and legal provisions. Under contractual provisions, I mean dower contracts, testaments, and mutual donations of property. Under legal provisions, I mean basic default rights guaranteed for all widows, enshrined in law and applicable without any special arrangements or agreements. My aim has been to trace the development of these two legal models, to compare them, and to see their reflection in the legal practice. This aim was reached by grouping the norms present in the normative legislation according to the legal models they belong to, comparing the two legal codes (the *First* and the *Second Lithuanian Statute*) and other normative legislation in order to establish the differences present within each model in the normative law and to analyse the trends of their development, and comparing the normative law with the examples of the legal practice, in order to establish and clarify their mutual relations and to see how the existing theoretical legal models functioned in real practice.

The analysis of the normative legislation shows that the normative law steadily embraced more and more aspects of widows' status, with norms being presented in a more and more detailed manner rather than changing drastically. The main change in the legislation before the *First Lithuanian Statute* was the size of dower, which was connected to changes in general landholding laws. When the amount of the immovable property that could be disposed of freely was defined as one third, the dower was also defined as one third of the husband's property. To summarise the differences between the *First* and the *Second Lithuanian Statute*, the biggest change was that in the institution of *venets*; the *First Lithuanian Statute* stated that

the *venets* did not have to be given to a non-dowered widow, but the *Second Lithuanian Statute* made it a requirement. Other changes were not great. For example, as regards the protection of women marrying down socially; in the *First Lithuanian Statute*, if a husband could not provide a woman with an appropriately sized dower, her father used her dowry to buy some immovable property and give it to the husband. In the *Second Lithuanian Statute*, such immovable property was given to the woman herself.

As regards the differences between the normative law and the legal practice, in general, in the basic features, the decisions of the court conformed to the normative law, with some exceptions. The court decisions sometimes claim to rely on the *Statute*, and sometimes on custom: this was fully permissible, as the *First Lithuanian Statute* itself allowed the court to rely on customary law if the norm was missing from the *Statute*. Testaments quoted in the court records reveal that when assigning the property to their wives the husbands by-and-large followed the normative law, but a certain testamentary freedom allowed many variations within the prescribed limits.

Classification of the legal norms into those belonging to the legal provisions and those belonging to the contractual provisions has shown that the legal and the contractual provisions have many features in common. According to both the legal and the contractual provisions, the status of a widow depended first of all on her marital status and the age of her children (the absence or presence of children was a less important factor, as in the absence of the children the relatives of the husband stood in essentially the same position).

Contractual provisions are more extensive than legal ones in that they also define the time, the form, and the place of creating dower contracts, the type and the size of the property given as a dower, and establish the means of protecting the dower. Normative legislation predating the *First Lithuanian Statute* does not define the time of assigning the dower. Both the *First* and the *Second Lithuanian Statute* permitted both pre-marital and post-marital

property arrangements; court records from the *Lithuanian Metrica* also contain examples of both patterns. Thus, the dower could be assigned at any point before or during the marriage, and I did not find any significant differences between the pre-marital and post-marital dower contracts, except that the post-marital ones are more detailed in including provisions not only for the wife, but also for children. As to the form of the dower contract, in the normative legislation before the *First Lithuanian Statute*, a common knowledge of the dower agreement was enough, but later a written form became mandatory. Court records show the tendency that getting closer to the *Second Lithuanian Statute* dower contracts were sealed and signed in the presence of witnesses – that is, the procedure of signing and confirming the dower contract became more official. As regards the confirmation of the dower, if at the early stages, before the *First Lithuanian Statute*, it was enough to prove the existence of the dower agreement by presenting witnesses who knew about it, later it became more institutionalised and had to be registered officially in court.

As to the type and size of the property that could be assigned as a dower, between the two *Statutes* a widow could receive up to one third of her husband's ancestral and granted lands. Before the decree of 1509, the size of the dower was not strictly defined. This clearly followed the development of general laws concerning the ownership of immovable property. When the change appeared in the general laws – that is, the disposal of the immovable property was limited – the same was reflected in the laws concerning the dower; the disposal of immovable property was limited to one third in 1506, and the size of a dower was defined as one third in 1509. The logical consequence of this was that if the husband could dispose freely of only one third of his property, then he cannot assign more of it to his wife as a dower. The disposal of immovable property was not limited for long and all limitations were cancelled in the *Second Lithuanian Statute*. Abolishing the restriction on the disposal of the property in the *Second Lithuanian Statute* was due to the increasing power of the nobility and

their insistence on the change. The restriction on the size of the dower remained in effect, however, but it took on a different meaning; between the two *Statutes* it meant the *maximum* that a widow could get as a dower, now it marked the *minimum* that a widow would receive if a husband assigned her a dower. Between the two *Statutes* the type of property that could be assigned as a dower encompassed ancestral and granted property. Purchased property was treated in the same way as movables and could be disposed of freely. In practice, it resulted in purchased property sometimes being included as a part of a dower, and sometimes not. Also, the dower could be assigned exclusively on purchased estates as well. If the husband could not provide his wife with an adequate dower, normative law provided the means of securing her position: her dowry was turned into immovable property under her ownership. The widow's dower was also defended against being misused by her husband or confiscated for his crimes.

These were the conditions of assigning a dower to the wife and the means of protecting it. Dower contracts were not the only contractual provision that could be made between a husband and wife; the second important option was to draw up a testament. The testament was not only the means of assigning or confirming the dower, but also an opportunity for the husband to leave all or some of his purchased and movable property to his wife. As the court cases of the *Lithuanian Metrica* show, this was practiced quite extensively, with some testaments containing various restrictions on the management of the property that the husbands assigned to their wives and some testaments entitling the widow to extensive ownership rights in the husband's purchased and movable property. Mutual donations of the property to each other between spouses, probably a Polish influence, were another way of giving property to the wife (these often included the one third of immovable property which could be freely disposed of by the general laws plus all other separate property).

In the normative law, there were some legal provisions with no counterpart in contractual provisions. Although not directly defining the property status of widows, they could have influenced their property status. The provisions affected widows' right to remarry – they could remarry “freely” with the counsel of relatives – enabled the widow to at least partly control their marital strategies. Provisions regarding the widows' right to give their daughters in marriage allowed them to have more control over their daughters' property. Immunity from having to answer in court until their children's majority also gave widows, at least theoretically, an option to manage their husbands' estates in peace. The abolition of military duties also must have contributed to an easier management of the property in their hands.

As was said above, the contractual and the legal provisions were quite similar in many regards. According to the *Statutes*, dowered non-remarrying widows with adult children (or no children) were entitled to a dower of a size of one third of their husband's ancestral and granted immovables (plus anything from the purchased and movable property), half (the equivalent of the dowry) with full ownership rights, and half for life. That is, essentially a widow took back what she had brought in and received some of the husband's property only for life or until remarriage. Non-dowered non-remarrying widows under such circumstances were entitled to an equal share for life with the sons of the husband from all of the husband's property, both movable and immovable. Although the size and the type of the property that a widow received differed depending on her being dowered or non-dowered, if a widow did not receive any additional property from the husband by his testament, her status was essentially the same: some of the husband's property was given to her for life.

The status of non-remarrying widows with minor children, both those with a dower and those without it, was equal; if no other guardian was assigned by the husband, they were the guardians of the minor children and the administrators of the whole of the husband's

property. They would forfeit these rights for mismanaging the property or upon remarriage. In the case of remarriage, their position changed.

For dowered remarrying widows, according to the normative law, there was no change in their property status; they were entitled to take the whole of their dower into the new marriage (but could dispose freely only of half of it). Legal practice often modified these provisions; in testaments, the husbands often indicated that upon remarriage a widow was not to get the full dower, but just the equivalent of the dowry. Sometimes, the contractual dower defined in normative law was made similar to the legal provisions by the testament of the husband, in this way the husband protected his property for his own children or relatives. Upon remarriage, the dower could be bought out by the children or by the relatives of the husband; this allowed preserving the integrity of the husband's property and passing it with no delay into the hands of the husband's family. In general, although the law contained a provision that upon remarriage a widow's dower should be bought out paying the full amount of it, husbands often specified otherwise in their testaments. The dower was indeed a support for widowhood or for life, but the right to full ownership to such property depended on the will of the husband. Normative law rather offered guidelines for how the dower should be assigned, imposing some limits, but within these limits (and sometimes outside them) the husbands defined the conditions in the dower contracts according to their wishes. For non-dowered widows, the law stated that the children or the relatives of the husband did not have to pay them a *venets* – a form of compensation for the non-dowered widows. In my opinion, such widows probably were left with something and received back what they had brought into the marriage. In general, for both remarrying and non-remarrying widows, their situation was quite similar and was connected to general landowning and property disposal laws.

Such conclusions lead back to the question of why both these types of provisions for widows co-existed at the same time if they were so very similar, and both were equally well

defined in the normative law. Coming back to the words of Amy Louise Erickson, legal provisions could be difficult to enforce, and this is why contractual provisions were gaining priority.⁴⁸⁵ This can be applied not only to the English, but also to the Lithuanian circumstances. With the spread of written culture, various forms of contracts were gaining more power, and with a widening of the freedom of testamentary inheritance, contractual provisions enabled people to express their wishes in more specific ways. Also, Lithuania, having ties with the external world and especially Poland, experienced foreign influences. These could be some factors which determined and explain the appearance and the strengthening of the institution of the dower in sixteenth-century Lithuania; as court records show, non-dowered widows were few, with the dower contract being the main form of provision for widowhood.

However, this does not explain why such detailed legal provisions survived in the normative law, experiencing several metamorphoses and becoming very close to the contractual provisions – as, for example, when in the contractual provisions the share of the property that may be given to the wife is limited to one third (following the general landholding laws), in the legal provisions the same limitation appears although there is no direct need for it as there the property is given to the widow with only usufruct rights and always returns to the family. This may be explained by the wish to keep all widows and all children in the same position, guaranteeing them the same rights, regardless of the presence or the absence of contractual provisions. But this explains only why the legal and the contractual provisions were similar, and does not say anything about why the legal provisions survived.

One should remember that all normative legislation concerning the assignment of the dower says that the dower *may* be assigned, and never turned it into a *must*. This is the reason why the legal provisions remained necessary: the dower never became mandatory, thus the

⁴⁸⁵ Erickson, “The Marital Economy,” 16.

legal provisions remained in power to protect the status of widows. This was connected to the general situation of property division after someone's death – testaments never became mandatory either, with the property division according to the law always remaining in power. Thus the dower – which may be seen as one of the sub-sections of testamentary inheritance (as it in practice often really was, with the dower being assigned by a testament) – also was not mandatory.

Analysis of normative law and legal practice also allow noting some general points regarding the status of widows in Lithuania in the first part of the sixteenth century. Because of the variety of options available in the normative law, the status of widows could vary a great deal, from as little as being left with only their own separate property, if any, to as much as not only receiving a substantial dower, but also all that the husband could dispose freely of – that is, all of his purchased estates and all of his movables. Although the position of widows was quite strictly defined by the law, testamentary freedom permitted considerable variety within a defined framework. In practice, there was even more variety, as the legal practice shows that widows could be deprived of everything, including their separate property, and widows could be left more than allowed by law by their husbands. In many instances, the widow's position depended not only on the law, but on the family circumstances, the generosity of the husband, the kindness and helpfulness – or animosity and greediness – of the children. Although the law provided most of the necessary norms establishing the rights and duties of widows, society was not always able to reinforce these rights.

The “average” noble widow between the two *Lithuanian Statutes* seems to have been a dowered widow with some additional properties left to her by her husband, but this was not a rule. In court cases, widows appear both as plaintiffs and as defendants, which indicates, on the one hand, that widows' status could be – and was – challenged, and on the other, that widows themselves could be the guilty party not obeying the normative law. It is difficult to

say what proportion of women ended up defending their interests in court. Surviving testaments and mutual property donations indicate that husbands made an effort to provide financial security for their wives, and in many cases their wishes must have been carried out with no complications. Whether what the widows received upon their husbands' death was sufficient for their subsistence is a different question; the sources contain very different numbers for the sizes of dowers, ranging from tens to thousands of *kopy* of *groshy*.

The situation of Lithuanian widows was comparable to those in other European countries. Compared to the closest neighbours from the ethnic point of view, the few surviving Prussian norms reveal some similarities with the early Lithuanian norms on widows. As to the *Russkaja Pravda* of Kievan Rus', there are also many similarities with the early Lithuanian laws; this was the result of parallel development and possibly some indirect, rather than direct, influence. The influence of Polish laws is, on the other hand, undeniable, the concepts of the *veno* and *venets* being influenced by Polish law. Due to this influence, the status of Lithuanian widows was most similar to that in Poland, where contractual provisions were the dominant means of providing for widowhood.

In other countries the means of providing for widowhood could be very different. Everywhere, both legal and contractual provisions were available for widows, with the emphasis falling on contractual provisions in some places (e.g., Venice, Russia, Lithuania, and Poland) and on legal provisions in others (e.g., Hungary, the Nordic countries). In all countries, the marital status and the parental status of a widow was taken into consideration. Everywhere remarriage or having minor children meant a different status, a more restricted amount or rights to the property of the husband in the first case, and much wider rights and access to the husband's property in the second.

Widows' property status was quite similar in various European countries, but in some the emphasis was on the dower (Lithuania, Hungary) and in others on the division of the joint

property (the Nordic countries) or on the return of the dowry (Muscovite Russia, Venice). In general, widows received back what they had brought into marriage in some form or were compensated for it. A share of the husband's ancestral property was normally given to widows only with usufruct rights, and acquired property could be shared (in some countries, like in the Nordic countries, this was enshrined in legal provisions, while in others, as in Lithuania, it depended on the will of the husband).

Although I did not go into great detail on the relations between normative law and legal practice in various countries due to the uneven accessibility of literature, my readings give me the impression that although widows' legal options differed quite considerably from country to country, various types of agreements such as marital contracts and testaments equalled out this situation to a great degree and a widow's situation probably depended more on personal relationships than on legal prescriptions.

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⁴⁸⁷ The references to the unpublished material are taken from Stanisław L. Ptasiński [Станіслав Л. Пташицький], *Описание книг и актов литовской метрики* (Description of the Books and Acts of the *Lithuanian Metrica*) (St. Petersburg: Типографія Правительствующаго Сената, 1887), which is used as a catalogue of the *Lithuanian Metrica* by the National Historical Archive of Lithuania.

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XI. Appendix

Land privilege of 1387⁴⁸⁸

Cum autem natam, neptem vel cognatam alicuius eorundem armigerorum post obitum sui mariti relictam seu viduam fieri contingerit, illam in bonis seu possessionibus mariti sui manere volumus, quamdiu videlicet in toro permanserit viduali.

Quae si ad secundas nuptias convolare voluerit, ipsa marito, quem elegerit ducendum, tradetur,⁴⁸⁹ bonis et possessionibus huiusmodi circa pueros, si fuerint, si vero non, extunc circa proximiores eiusdem sui prioris mariti derelictis, prout et caeterae mulieres viduae in aliis terris Regni nostri marituntur.

Concedimus etiam et donamus eisdem armigeris plenam et omnimodam potestatem, ut natas ipsorum, neptes et quaslibet faemellas in confinitate ipsis iunctas maritis tradant libere et viduas, ritum in talibus catholicum observates.

Moreover, if a daughter, a female descendant or a kinswoman of some warriors should be left after the death of her husband, that is, widowed, then we want her to stay in the property, or the possessions of her husband, as long as she clearly remains in her widow's bed.

If she wants to enter into a second marriage, she should be given to the husband that she chooses to marry, having left the property and the possessions of that sort to the children, if there are any – if not, then to the relatives of the previous husband, just like other widowed women, who are given into marriage to other lands of our kingdom.

Furthermore, we grant and donate full and all-embracing power to these same warriors, to freely give their daughters, female descendants and any other young women who are closely connected to them, as well as widows, to husbands, observing the Catholic rite in such cases [i.e. the marriage].⁴⁹⁰

Land privilege of 1413⁴⁹¹

Similiter uxoribus suis, dotalitia in bonis et villis, quas ex successione paterna, vel concessione nostra perpetua, habuerint, vel fuerint habituri, poterint assignare, prout in regno Poloniae assignantur.

Similarly, for their wives they may assign dowers in property and estates, which they [i.e. the husbands] have or will have as [their] paternal inheritance or our everlasting grant, as it is assigned in the Polish Kingdom.

Filias autem, sorores, consanguineas et affines suas, praefati barones et nobiles terrarum Lyttwaniae copulare poterint viris duntaxat catholicis, et tradere coniugio, iuxta

Moreover, the aforementioned lords and the nobles of the Lithuanian lands may unite their daughters, sisters, kinswomen and women related to them by marriage with men, that is

⁴⁸⁸ *Lietuvos Metrika, Knyga Nr. 25 (1387-1546), Užrašymų knyga 25 (The Lithuanian Metrika, Book No. 25 [1387–1546], Book of Inscriptions 25)*, ed. D. Antanavičius and A. Baliulis (Vilnius: Mokslo ir enciklopedijų leidybos institutas, 1998), 35-36.

⁴⁸⁹ "... ipsa, marito, quem elegerit, dotandum tradetur" in *Zbiór praw litewskich od roku 1389. do roku 1529. Tudzież rozprawy sejmowe o tychże prawach od roku 1544. do roku 1563* (Collection of Lithuanian Laws from 1389 to 1529. Also the Decisions of the Diet regarding These Laws from 1544 to 1563), ed. Działyński (Poznań: W drukarni na Garbarach Nr. 45, 1841), 2. For further analysis see the chapter on the legal provisions.

⁴⁹⁰ This norm, written in the year of the conversion of Lithuania, was probably rather to emphasize the use of Catholic rite at weddings than to provide a socially differentiated overview of legislation on marriage.

⁴⁹¹ *Zbiór praw litewskich*, ed. Działyński, 7.

beneplacitum eorum voluntatis, et iuxta consuetudinem regni Poloniae ab antiquo obseruatam.

to say, Catholics, and give them into marriage as they please and according to the custom of the Polish Kingdom observed from the old times.

Land privilege of 1434⁴⁹²

Si autem aliquem predictorum principum et boiarorum ab hac luce decedere contingat, uxor manens in sede viduali, in bonis paternis mariti sui permanebit, serviciis nostris et nostrorum successorum non diminutis.

Si vero voluerit ad secundas convolare nupcias, dotalicio per maritum designato gaudebit, bona paterna liberis legitimis ipsius mortui relinquendo.

Si vero pueri non fuerint, extunc germani fratres hereditaria bona possidebunt, serviciis nostris et successorum nostrorum similiter semper in omnibus salvis.

And if any of the aforementioned dukes or boyars leaves this world, the wife, left in the widow's seat, stays in the paternal property of the husband, without reducing the services to us and our descendants.

But if she wants to enter into a second marriage, she enjoys the dower assigned to her by her husband, leaving the paternal property for the legitimate children of the deceased.

And if there be no children, then the brothers hold the hereditary property, likewise always maintaining all services to us and our descendants.

Land privilege of 1447

Original Latin version⁴⁹³

Item quando aliquem Principum, Baronum, Nobilium, et Civium predictorum, ab hac luce decedere contigerit, extunc viduam in bonis seu possessionibus mariti sui volumus remanere, quamdiu in sede permanserit viduali: que si ad secundas nupcias convolare voluerit, ipsa marito, quem ducendum eligerit [sic!], tradatur; pueris

Contemporary translation⁴⁹⁴

А такожъ, коли некоторому князю, <рытеру>, шляхтичу и местичу съ того света пригодилося бы изыйти, тогды удову у-въ имени мужа ея оставити хочомъ, такъ долго, какъ долго будетъ на столци вдовьемъ седети: ажъ, пакъ, коли которая усхочеть къ другой свадбе приити, <маеть быти дана, когожъ выбереть>. А дети

Ruthenian Translation

Also, when any aforementioned duke, <lord>⁴⁹⁵, nobleman or townsman happens to pass away from this life, then we want the widow to stay in the property of her husband as long as she continues to be in the widow's seat; if she wants to enter into a second marriage, <she is handed over to the husband whom she has chosen to

⁴⁹² *Monumenta medii aevi historica res gestas Poloniae illustrantia*, vol. 14: *Codex epistolaris saeculi decimi quinti*, vol. 3 (1392–1501), ed. A. Lewicki (Cracow: Drukarnia Uniwersytetu Jagiellońskiego, 1894), appendix, no. 22, 530.

⁴⁹³ *Codex diplomaticus Poloniae*, vol. 1, ed. L. Ryszczewski and A. Muczkowski (Warsaw: Drukiem Stanisława Strąbskiego, 1847), no. CLXXXVIII, 336.

⁴⁹⁴ *Акты, относящиеся к истории Западной России, собранные и изданные Археографическою коммиссиею. Том первый. 1340–1506* (Acts Concerning the History of Western Russia, Collected and Published by the Archeographical Commission. Volume One. 1340–1506) (St. Petersburg: Типография II Отделения Собственной Е. И. В. Канцелярии, 1846), 75.

⁴⁹⁵ Ruthenian “knights”.

tamen in bonis et possessionibus paternis, si fuerint: sin autem, proximioribus eiusdem mariti prioris, derelictis: prout et cetera vidue Regni Polonie maritantur.

ажь будутъ первого мужа, въ <именьи> имають остати: ажь, пакъ, не будетъ детей первого мужа, ино ближнимъ именье первого мужа, якожь и иныи удовы у коруне Польской <держать>.

marry⁴⁹⁶; however, the children, if there are any, and if not, then the relatives of her previous husband, are left in the <paternal property and possessions>:⁴⁹⁷ just as also other widows of the Polish Kingdom <are married off>.⁴⁹⁸

Si vero prior maritus, in prefatis bonis et possessionibus suis, aliquod eidem uxori sue dotalicium assignaverit, et de eo sufficienter probare potuerit, illo secundum ordinem iuris recepto, cui voluerit, nubat in dominio.

Ажь первый мужъ у предреченомъ <именьи> своемъ своей жене некоторое вено запишетъ, а она можетъ того досветчити: тогды, подлугъ <обычаа права, кому усхочеть тому полецить>.

If the previous husband has assigned to his wife something in the aforementioned <property and estates>⁴⁹⁹ as a dower, and she can sufficiently prove that, then, according <to the accepted law, she marries whomever she wishes, with her property>.⁵⁰⁰

Item natas et cognatas, ac consangwineas ipsarum, virgines et viduas, libere possunt tradere maritis, nobis et nostris successoribus super hoc minime requisitis: ritum tamen catholicum in talibus observantes.

А такожь <дочки, племенници и удовы> могутъ за мужъ давати, <насъ и нашихъ наместниковъ не докладываючи>, нижли толко обычаи христианскыи у томъ заховаюче.

Also, they may freely give their <daughters and kinswomen, and also their kinswomen, girls as well as widows>,⁵⁰¹ to husbands, <not asking us and our descendants about this at all>,⁵⁰² as long as they observe the Catholic rite in these matters.

Land privilege of 1492⁵⁰³

Item quando aliquem Principum, Baronum, Nobilium, et Civium predictorum, ex hac luce decedere contingat, extunc viduam in bonis seu possessionibus mariti sui volumus relinquere, seu remanere, quamdiu in sede permanserit viduali: que si ad secundas

Also, when any aforementioned duke, lord, nobleman or townsman happens to pass away from this life, then we want the widow to remain, or stay, in the property or possessions of her husband as long as she continues to be in the widow's seat; if she wants to go to a

⁴⁹⁶ Ruthenian "then she may be given to whomever she chooses".

⁴⁹⁷ Ruthenian simply "property".

⁴⁹⁸ Ruthenian "keep it".

⁴⁹⁹ Ruthenian simply "property".

⁵⁰⁰ Ruthenian "to the custom of law, she entrusts [her property] to whomever she wishes". This variant comes from a Pilot Book of the beginning of the sixteenth century (according to *Акты, относящиеся к истории Западной России*, vol. 1, 75). The version, coming from the Działyński Codex, published in *Zbiór praw*, ed. Działyński, 32, says "majet sia otdati s kim chotiaczi" ("may give herself to whomever she wishes").

⁵⁰¹ Ruth. only "daughters, female relatives and widows".

⁵⁰² Ruth. "not informing us and our governors"

⁵⁰³ *Codex diplomaticus Poloniae*, vol. 1, ed. Ryszczewski and Muczkowski, no. CXCIV, 347-351.

nupcias transire voluerit, ipsa marito, quem ducere elegerit, tradatur; pueris tamen in bonis et possessionibus paternis, si fuerint: sin autem, propinquioribus eiusdem mariti prioris, derelictis: prout et cetera vidue maritantur.

Si vero prior maritus, in prefatis bonis et possessionibus suis, aliquod eidem uxori sue dotalicium assignaverit et de eo sufficienter probare poterit, illo secundum ordinem juris recepto, cui voluerit, nubat in dominio.

Item, vidue, que remanserunt in bonis haereditarijs post mortem maritorum, ad servicia terrestria et bellicas expeditiones, iuxta facultatem possessionum, obligabuntur.

Item si aliqua virgo aut vidua, voluerit nubere ad alienas partes extra Magnum Ducatum Lithvanie etc., expedicione ac dote recepta, bona hereditaria hic relinquat, ad eaque intromittere se non debebit.

second marriage, she is handed over to the husband whom she has chosen to marry; however, the children, if there are any – and if not, then the relatives of her previous husband – are left in the paternal property and estates, just as other widows are also married off.

If the previous husband has assigned to his wife something in the aforementioned property and estates as a dower, and she can sufficiently prove that, then, according to the accepted law, she may marry whomever she wishes, with her property.

Also, widows, who remain in the hereditary property after the husbands' death, are obliged to land service and war expeditions according to the resources of the possessions.

Also, if some girl or a widow wishes to be married off to foreign regions outside of the Grand Duchy of Lithuania, having received a dowry⁵⁰⁴ and a dower, she leaves hereditary property here, to which she may not let herself be introduced.

Province privilege of 1492 and 1507 to Samogitia

Ruthenian version⁵⁰⁵

Тежъ вдовы шляхтичов и боярскии во именьях мужов своих zostавуемы дотуля, <покуль бы вдовами были>. <А которой бы иньших мужовъ себе хотели мети и поимовати>: <ничого болшыи, одно тыи посаги, которыи имъ першыи мужы их назначали>, мають <мети>. А тыи именья их, которыи

Latin version⁵⁰⁶

Item viduas, nobilium et bojarorum, in bonis maritorum dimittemus, <quam diu in sede permanserint viduali>, <quae vero ad secundas nuptias convolaverint, seu alios maritos duxerint>, <dotaliciiis, si quae eis priores mariti assignaverint, solummodo> <gaudeant>: <bonis, ad proximiores ipsorum

Translation

We also leave the widows of the noblemen and the boyars in the property of their husbands <as long as they remain widows>⁵⁰⁷: <and if any of them wanted to get themselves other husbands>⁵⁰⁸, they <may have>⁵⁰⁹ <nothing more but only those dowers which their first husbands assigned to them>⁵¹⁰ <and that

⁵⁰⁴ I think that “expedicio” here stands for “expeditio dotalis”.

⁵⁰⁵ *Lietuvos Metrika, knyga Nr. 15 (1528-1538): užrašymų knyga 15* (The *Lithuanian Metrica*, Book No. 15 (1528-1538): Book of Inscriptions 15), ed. A. Dubonis (Vilnius: Žara, 2002), 182.

⁵⁰⁶ *Zbiór praw litewskich*, ed. Działyński, 68-69.

⁵⁰⁷ Latin “as long as they remain in widow’s seat”.

⁵⁰⁸ Latin “if they enter the second marriage, or marry other husbands”.

⁵⁰⁹ Latin “enjoy”.

⁵¹⁰ Latin “dowers, if their previous husbands have assigned any”.

| | | | |
|-------------------------|-----------------------------|---------|--|
| держали будучы еще | maritorum | omnibus | property of theirs, which they |
| вдовами, мают прыйти на | deuolutis ^{>} . | | kept while still being |
| приятели або на | | | widows, may fall on the next |
| прирожонны першых | | | of kin, or relatives, of their |
| мужов ихъ. | | | first husband ^{>} . ⁵¹¹ |

Province privilege of 1501 to Belsk

Ruthenian version⁵¹²

Потемъ, презъ родица мужеву въ стадо дана, гды умре мужъ, естли бы не мяла вена, теды вено⁵¹⁴ свое, зъ котрымъ же мужову дана была, ма съ собою взять, а зася до родицовъ своихъ, естли бы оны мяла, або братью, або сестры, оно вено ма взять и звротить онымъ, презъ кторе бы <выдана> была.

Естли бы не хтяла звротить, теды право близкості и тежъ часть отцовску тратить, а не матчинску, въ которыхъ же ту <часть> мяла была: тыле едно, бы не мяла родицовъ, братью а ни сестры, гдежъ теды ко взроценью того вена не банде повинна, але <на ся обротить отцовскіе и матчинскіе добра, а остатки надвышъ того и зъ онымъ веномъ, яко вымовено естъ>.

Взротивши ся до родицовъ, <зъ наимнейшей речи, быдла и инныхъ всякихъ домовыхъ речей спущенье,

Latin version⁵¹³

Item nata per parentes viro in matrimonium tradita, mortuo viro, si dotalitium non habeat, extunc dotem suam, cum qua tradita viro fuerat, secum recipere debet, et econtra ad parentes suos, si eos habuerit, vel fratres et sorores dotem eandem secum importare et restituere ipsis, per quos <exdotata> fuerit.

Quod si noluerit restituere, extunc ius propinquitatis et sortem paternalium amittit, et⁵¹⁶ non maternalium, in quibus <sortem et portionem> habebit,⁵¹⁷ excepto tamen quod parentibus, fratribus, sororibus careat, ubi tunc ad restitutionem huiusmodi dotis non tenebitur, sed <in paternalia et maternalia bona succedit.⁵¹⁸ Relicta insuper huiusmodi, et cum dote, ut expressum est,>

revertens ad parentes <de omni grano, pecoribus, et pecudibus et aliis suppellectilibus domus,

Translation

Also, a daughter, given to a husband into marriage by the parents, if the husband dies, and if she did not have the dower, then she may take with herself her dowry, with which she was given to the husband, and then she may return that dowry to her parents, if she has them, or brothers or sisters, by whom she was <given away>.⁵¹⁵

If she did not want to return it, then she lost her right of inheritance and also her paternal share, but not the maternal, in which she had a <share>⁵¹⁹: except if she did not have parents, brothers or sisters, in which case she is not obliged to return that dowry, but <she takes for herself paternal and maternal property and the rest, what is above it and with that dowry, as is prescribed>.⁵²⁰

Returning to the parents, <she may have an equal inheritance with the husband's helpers in minor

⁵¹¹ Latin "all property is devolved to the relatives of the husband".

⁵¹² *Акты, относящиеся к истории Западной России*, vol. 1, 224-225.

⁵¹³ *Lietuvos Metrika. Knyga Nr. 25*, 58-60.

⁵¹⁴ As may be seen here, *veno* may be used to mean both dower and dowry.

⁵¹⁵ Latin "endowed".

⁵¹⁶ *Lietuvos Metrika. Knyga Nr. 25*, 60: should be *at*.

⁵¹⁷ *Lietuvos Metrika. Knyga Nr. 25*, 60: should be *habebat*.

⁵¹⁸ *Lietuvos Metrika. Knyga Nr. 25*, 60: should be *succedet*.

⁵¹⁹ Latin "a share and a portion".

⁵²⁰ Latin "succeeded in the paternal and maternal property and left, in addition to this, with a dowry, as is said".

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| <p>ровне зъ помощниками мужовыми, ма меть,^{>} едно тыле выявши зброи, кони, кторе ся годять на войну, кторе жъ есть для службы нашой, съ того дому не мають быть браны.</p> | <p>divisionem aequam cum superstitionibus et successoribus viri debebit habere>, exceptis tamen armis et equis bellicis, qui propter servitia nostra bellica ex eadem domo, tolli non tenebuntur.</p> | <p>things, cattle and various other domestic items,^{>521} except the armoury and horses, suitable for war, which are for our service, may not be taken from the house.</p> |
|---|--|--|

| | | |
|--|---|--|
| <p>[...] По вмерломъ мужу, жона вмерлого землянина, презъ жданья одного року и неделя, отъ права ма быть у покою захована, хибо бы невеста, не ждучи того року, пошла бы замужъ.</p> | <p>[...] In mortuo⁵²² viro uxor terrigenae defuncti per spatium anni et septimanas a iure in pace fieri debet, excepto quod mulier non expectato huiusmodi tempore alium virum superduceret.</p> | <p>[...] Upon the death of the husband, the wife of the deceased nobleman may be left in peace from the law for a year and a week, unless the woman got married not waiting for that time.</p> |
|--|---|--|

Province privileges of 1503 and 1509 to Vitebsk⁵²³

| | |
|---|--|
| <p>... въ отмерщины Витебскийи тежъ не маемъ вступатися, и жонъ ихъ силою замужъ не давати.</p> | <p>... we also may not enter the Vitebskian escheats and force their wives to marry.</p> |
|---|--|

Province privilege of 1505 to Smolensk⁵²⁴

| | |
|---|--|
| <p>... намъ... въ отмерщины не вступатися. А по смерти мужней, жоны зъ дому не двигнути и по неволи замужъ ихъ не давати.</p> | <p>... we... may not enter the escheats. And after the death of the husbands [we may not] move their wives out of the house and force them to marry.</p> |
|---|--|

Land privilege of 1506⁵²⁵

| | |
|---|---|
| <p>Illae autem faeminae haeredes, virgines et viduae, quae nupserint alienigenis, conservabuntur juxta jura provinciae scripta.</p> | <p>Also, those heiresses, maidens and widows who are married off to foreigners are treated according to the written laws of the province.</p> |
|---|---|

Province privileges of 1507 and 1529 to Kiev

The privilege of 1507⁵²⁶

А по животе жоне и [де]темъ держати имене, а в именья держати, а в кого

The privilege of 1529⁵²⁷

А по животе жоне и детемъ именья держати, а в кого

Translation

And after his life, the wife and the children, and if

⁵²¹ Latin “she may have an equal share with the survivors and successors of the husband in all grains, cattle and sheep, and various furniture of the house”.

⁵²² According to *Lietuvos Metrika. Knyga Nr. 25*, 60 should have been *immortuo*.

⁵²³ *Акты, относящиеся к истории Западной России*, vol. 1, 352. The privilege of 1509 to the province of Vitebsk contains exactly the same words: “...в отмерщины витебские тежъ намъ не вступати ся, и жонъ ихъ силою замужъ не давати...” (*Lietuvos Metrika. Knyga Nr. 25*, 174).

⁵²⁴ Любавский, *Очерк*, 370.

⁵²⁵ *Zbiór praw*, ed. Działyński, 96.

⁵²⁶ *Lietuvos Metrika, Knyga Nr. 8*, 240.

⁵²⁷ *Lietuvos Metrika. Knyga Nr. 25*, 60.

кого дети не будетъ, ино
ближнему, а [жо]на тая
покуль усхочетъ по мужы
вдовети, и она мужн[иным
вла]дуеть, а записати жоне
на имене п(е)н(е)зи, [не
явом, но] ^{<на одной}
час[ти][>], а именья не
записывати. А похочетъ за
иный муж пойти, и она [с
тым] идетъ, што будетъ
мужъ ей записаль, а имене
детем оставити, а дети не
будетъ, ино ближнему; а
будетъ пустыи
ч(о)л(о)в(е)къ, ни дети, ни
племени, ино на нас то
имене.

дети не будетъ, ино
ближнему, а жона тая
покуль усхочетъ по мужи
вдовети, и она мужьнимъ
володеетъ, а записати жоне
п(е)н(е)зи на имени не на
всемъ, но ^{<на подобной}
части[>], а именья не
записывати. И похочетъ за
иного мужа пойти, и она съ
тымъ идетъ, што будетъ
мужъ ей записаль, а именье
детемъ зоставити; а дети
не будетъ, ино ближнему.
А будетъ пустыи
ч(о)л(о)в(е)къ, ни детей ани
племени, ино на насъ то
именье.

someone had no children,
then a relative, should keep
the property; and that wife, as
long as she wants to be
widowed after her husband,
she also owns what was her
husband's; and the wife
should be assigned money on
the property, not on all, but
^{<on one part>},⁵²⁸ but the
(whole) property should not
be assigned. And if she wants
to get married to another
husband, she goes with
whatever her husband
assigned to her, and the
property should be left for the
children, and if there were no
children, then to a relative;
and if the person was without
inheritors, with no children
and no family, then the
property goes to us.

Decree of 1509⁵²⁹

(1) И встановиль его милость съ паны
радами тымъ обычаемъ: от сихъ часовъ
хто бы коли хотелъ записати вено жоне
своей на именьи своемъ, тогды маеть
записати вено жоне своей не на всемъ
именьи, нижли только на третей части
именья своего всего, какъ отчизного, такъ
выслужного;

(2) и ошачовавши тую третюю часть
именья своего всего, чого будетъ стояти, и
въ той цене маеть ей тую третюю часть
записати;

(3) и по смерти мужа своего, естли бы она
хотела замужъ пойти, тогды маеть тую
третюю часть въ вене своемъ держати, а
две доли именья мають близькие взяти;

(4) а естли бы хотели близькие за тую
третюю часть вено ее отложить, а будетъ
ли на то воля ее вено въ нихъ взяти, тогды
они мають вено ее отложить за тую часть,
и тую часть мети къ своей руце;

(1) And his Grace with the lords of the
Council decided in the following way: from
now on, whoever wanted to assign a dower to
his wife on his property, then he may assign
the dower to his wife not on the whole of his
property, but only on one third of the whole
of his property, both on the paternal and the
service [estates];

(2) and, after evaluating what that one third
of his whole property would cost, may assign
her that one third of that value;

(3) and after the death of her husband, if she
wanted to get married, then she may keep that
one third as her dower, and the relatives may
take two parts of the property;

(4) ... and if the relatives wanted to pay her
the dower for that one third, and if she agreed
to take her dower from them, then they may
pay her the dower for that part, and have that
part to their own hands;

⁵²⁸ In the privilege of 1529 "on the appropriate part".

⁵²⁹ *Литовская Метрика. Томъ первый*, no. 54, 596-597.

(5) а естли бы она не мела воли вена своего въ нихъ взяти, тогда она маєть тую третюю часть держати до живота;

(6) а по животе, естли бы детей не мела, вольна, кому въсхочеть, тому вено свое на той третей части запишетъ;

(7) а близькие по ей животе мають тому вено ее отложить, кому она записала будетъ;

(8) а заплативши вено, мають тую третюю часть къ своей руце мети;

(9) а пакъ ли бы дети мела, тогда не можетъ ни кому по своему животе того вена своего отписати, только детемъ.

(10) Также естли бы пакъ не хотела по смерти мужа своего замужъ пойти, а хотела бы на вдовьемъ столыцы сeditи, а детей не маючи, тогда маєть на всемъ имени мужа своего, какъ на отчизне, такъ на выслуже, мешкати до живота;

(11) а по животе ее, маєть именье все на близкие спасти.

(5) and if she did not agree to take her dower from them, then she may keep that one third until her death...

(6) and after her death, if she had no children, she is free to bequeath her dower on that one third to whomever she wishes;

(7) and the relatives after her death may pay her dower to whomever she bequeathed it;

(8) and after paying the dower they may keep that one third to their own hands...

(9) and if she had children, then after her death she may not bequeath that dower to anyone, only to the children.

(10) Also, if she did not want to get married after the death of her husband, and wanted to sit in the widow's seat, not having any children, she may live in whole of her husband's property, both in the paternal and the service [property] until her death;

(11) and after her death the property may fall on the relatives [of the husband].

Province privilege of 1511 to Polotsk⁵³⁰

... и в отмерьшчины не вступати ся намъ. Также которые бояринъ а любо мешчанинъ соидеть съ сего света, ино жона тая, вдова, доколе на вдовымъ столыцы сedit именьемъ мужьнимъ володаеть, а коли всхочеть пойти за иного мужа, ино ее силою замуж не давати, а пойти ей съ тымъ, што ей будетъ мужъ записатьъ, а штобы то было с ведома племени перьвого мужа а любо инымъ добримъ людемъ, а именья оставити детемъ, а не будетъ детеи, ино братьи, а не будетъ братьи, ино ближнимъ первого мужа.

... and we may not enter the escheats. Also, when some boyar or townsman leaves this life, then the widowed wife rules her husband's property as long as she sits in widow's seat; if she wants to get married to another husband (she should not be forced to get married), she should go with whatever her husband assigned to her, and her first husband's family or other honest people knew about it, and the property should be left for the children, and if there were no children, then to the brothers, and if there were no brothers, then to the relatives of the first husband.

The First Lithuanian Statute of 1529⁵³¹

⁵³⁰ *Lietuvos Metrika, Knyga Nr. 8, 452.*

⁵³¹ Ruthenian text from *Pirmasis Lietuvos Statutas, II, pirma dalis: Tekstai senąja baltarusių, lotynų ir senąja lenkų kalbomis* (The First Lithuanian Statute, vol. 2, part 1: Texts in Old Belorussian, Latin and Old Polish), ed. Stanislovas Lazutka *et al.* (Vilnius: Mintis, 1991). Translation mine (if not indicated otherwise), based on Valikonytė, Irena, Stanislovas Lazutka and Edvardas Gudavičius, ed., *Pirmasis Lietuvos Statutas, 1529* (The First Lithuanian Statute, 1529) (Vilnius: Vaga, 2001), and *Lietuvos Statutas – The Statute of Lithuania – Statuta Lituaniae, 1529*, ed. and tr. Karl von Loewe and Edvardas Gudavičius (Vilnius: Artlora, 2002).

FLS IV/[1].⁵³² Естли бы хто хотел вено записати жоне своей

(1) Теж уставуем: естли бы хто хотел вено жоне своей записати, тогды маеть ошачовати вси именья свои и на третей части, чого стоить, маеть совито противко внесенья записати вено жоне своей так, як бы сума не переносила тое третее части, чого стоить.

(2) И кгда будеть тая жона его на третей части именья вено описано от него мети, а он потом умреть, а дети по собе оставить, а тая жона потом за другого мужа пойдеть, а дети усхотят ли ее с тое третее части за живота ее вывеновати, тогды мають ей всю суму пенязей, як будеть в листе описано, заплатити, тож тое именье к своим рукам мети.

(3) Естли ж бы дети будуть ждати смерти матки тое свое, а того именья за живота ее з ее рук не всхотят выкупати, тогды повинни будуть только унесенье ее, которую суму пенязей внесла в дом их, по смерти ее заплатити тому, кому она отпишет;

(4) а привенку, што будеть записал отец их напротивку внесенья ее совито, того не повинни платити; а она теж не маеть никому привенка отписывати, кром вольна будеть отписати внесенье свое.

(5) А естли бы тот муж детей по собе не оставил, тогды близкии в том по тому ж мають справовати.

(6) А вольно теж будеть мужу отписати жоне своей вси свои рухомые речы: злото и серебро, шаты и иные речы, кром зброи а стада, и чeledи невольное, и быдла дворного третюю часть, бо то не ест реч рухомая, але при именьи лежачое.

(7) А так подле тое уставы наше мають заховати вси подданные наши и на потомные часы.

(8) Хто бы назвыш тое уставы наше вчинил а што неслушного жоне своей записал, таковых записов не хочем моцне

FLS IV/[1]. If someone wishes to assign a dower to his wife

1) We also decree: if someone wishes to assign a dower to his wife, then he must appraise all his estates and he may assign to his wife a dower on one third of what [they are] worth, double [the amount of] the dowry, so that the sum does not exceed the value of that one third.

(2) And when his wife has the dower, assigned by him on one third of the estate, and later he dies and leaves children behind, and that wife later marries another, and the children want to deprive her of that one third during her lifetime, then they must pay her the entire sum of money as described in the document, and then may have the estate in their own hands.

(3) If the children wait for their mother's death, and they do not want to buy out that estate from her hands in her lifetime, then after her death they are obligated to pay only her dowry, the sum of money which she brought to their home, to whomever she willed it.

(4) They are not obligated to pay the *privenok*, which their father assigned doubling the dowry, and she may not will the *privenok* to anyone; she is free to will only her dowry.

(5) And if that husband did not leave children behind, then his relatives may behave in the same way.

(6) And the husband is permitted to will to his wife all of his movable property, gold and silver, and clothing, and other things, with the exception of armour and herds and serfs, and manor livestock, [of which he can will] one third, because these are not movable things, but belonging to the estate.

(7) And so all our subjects must behave according to our decree, throughout later times.

(8) We ourselves and our descendants, grand dukes, do not wish to be valid such assignments of one who acts in defiance of

⁵³² A chapter, absent from the first redaction and from the Latin redactions. Since it is only extant in the expanded version, there are no variants. It is the Sluck version (referred to as "S" in the text).

мети мы сами и потомки наши, великие князи.

(9) А вшакже, естли бы хто с подданных наших хотел дочку свою дати за кого и за нею мел дати которую суму пенязей, тогды первой маеть смотрети, естли бы того зятя его стояла третья часть имения совитое сумы пенязей, на чом бы мел веновати тую дочку его;

(10) пак ли бы третья часть имения его тое сумы пенязей совито не стояло, тогды он нехай, купившы за тые пенязи именье, и по той дочке своей зятю своему дать;

(11) пак ли бы он предся тую суму пенязей зятю своему дал, а он дочери его веновати не будеть на чом мети, таковой пенязи свои тратить.

FLS IV/1. О вдове, которая зостанеть на вдовьем столцы а будеть венована от мужа своего, маючи детей лет дорослых

(1) Вдова, которая седить на вдовьем столцы, а будет ли венована от мужа своего, а сынове маеть дорослые, тогды маеть осести только на вене своем, а сынове мають припушоны быти ко всим именьям и скарбом отцовским, которые мають службу земскую заступати.

(2) Пак ли не венована будеть от мужа своего, тогды маеть во всем ровную часть от детей дорослых лет своих мети в скарбех и в именьях рухомых и лежащих.

FLS IV/2. О пустии вдовы, которые детей не мають

(1) Вбачивши есмо то, иж которые вдовы пустые седять на вдовьем столцы, много ся от них шкоды дееть речи посполитой, а то тым, иж не бывають службы служоны так, яко бы мели быти, и тэж ближним много имения утрачають, уставуем так, яко нижей написано:

(2) а которая вдова пустая, детей не маеть, а будет ли венована от мужа своего, тогды маеть только на вене осести, а имения вси мають на ближние спасти;

(3) а естли бы не была венована от мужа своего, тогды маеть на третей части

our above decree and improperly assigns something to his wife.

(9) And if someone from among our subjects wants to give his daughter to someone, and for her has to give a sum of money, then first he may check that one third of son-in-law's estate, on which he has to assign a dower for his daughter, was worth double the sum of money.

(10) If one third of the estate is not worth double the sum of that money, then let him give the estate purchased for that money, together with the daughter, to the son-in-law.

(11) And if he, however, gave that sum of money to his son-in-law, and he does not have [the property] on which to assign a dower for the daughter, such a person forfeits the money.

FLS IV/1. Concerning the widow who remains in widow's seat and has from her husband her dower and who has adult children

1) If a widow is left in a widow's seat, and is dowered by her husband, and if her sons are adult, she may remain only with her dower, and the sons, who must perform land service, must be admitted to all estates and valuables of the father.

(2) If she was not dowered by her husband, then she will have in everything an equal part from her adult children: in valuables and in property, movable and immovable.

FLS IV/2. Concerning barren widows who do not have children

(1) Having discovered that, because some barren widows remain in widow's seat, much harm occurs to the commonwealth, because services are not performed as they should be, and also because they forfeit much property to relatives, we decree the following:

(2) such a barren widow who has no children, if she is dowered by her husband, may remain only with her dower, and all [other] estates must fall to the relative.

(3) And if she was not dowered by her husband, then she may remain on one third

седети, поки замуж пойдеть;

(4) а естли замуж не пойдеть, тогда маеть таки до живота на третей части седети, а на ближние все именья маеть прийти, а они мають службу нашу господарскую заступати.

FLS IV/3. Естли бы которая жона замужом была и дети мела, а вена оправеного от мужа своего не мела

(1) Естли бы которая жона замужом была, а вена оправеного не мела, а мела бы с ним дети, а муж бы от нее вмер, а она бы по мужу своем вдовою зостала, тогда ровную часть маеть взяти межи детми своими в именьях и в скарбех а на одной части своей, естли бы вдовою хотела седети, маеть до смерти седети, а от детей не маеть з оное части рушона быти;

(2) а естли бы она хотела замуж пойти, тогда тую часть свою маеть детем зоставити, а дети ^{<ей венца>} [F: вена ее]⁵³³ не будут повинни дати.

FLS IV/4. О мачосе, которая будеть мети дети з двема мужи

(1) Тым же обычаем и мачоха, естли дети мела и з своим мужем, тогда маеть с первыми и з своими детми во всем именьи также ровную часть мети и в скарбех.

(2) Пак ли бы мачоха не мела детей с тым мужем своим, тогда маеть также с первыми детми в именьи часть ровную мети, а в скарбех детиных не маеть мети, кром только свое принесеное маеть з собою мети або што муж ее особливе з ласки дал рухomyх речей.

(3) А на той части и мачоха маеть з детми до живота седети, а естли бы замуж не шла.

(4) Пак ли бы замуж пошла, тогда тыю часть маеть детем зоставити, а дети ей венца не повинни будут дати той, которая вена от мужа своего записаного не будеть мети.

until she marries,

(4) and if she does not marry, then she may remain on the one third for life, and all the [remaining] estate must go to relatives, and they must perform our sovereign service.

FLS IV/3. If some woman is married and has children and does not have a dower recorded by her husband

1) If some woman marries, and does not have a recorded dower, and has children by him [i.e. the husband], and the husband dies, and she remains a widow, she may get a share equal to that of each child of the estate and valuables, and she may remain with this share until death if she wants to remain a widow; and the children may not take this part from her.

(2) if she wants to get married, she must leave her share to the children, and the children are not obligated to give her a ^{<venets>} [F: *veno*].

FLS IV/4. Concerning a step-mother who has children from two husbands

(1) In such a manner a step-mother, if she has children by her [second] husband, may have an equal share of all estates and valuables with [his children from] the first [wife] and her own children.

(2) If the step-mother does not have children by that husband, she may receive an equal share of the estate with the [husband's] first children, but she may not have [a share] in the children's valuables, but only that which she brought with herself, or what her husband gave her from movable items out of mercy.

(3) And on this share the step-mother may remain with the children for life, if she does not get married.

(4) If she gets married, then she must leave this share to the children, and the children are not obligated to give a *venets* to her, as is done when [a woman] does not have a dower assigned by her husband.

⁵³³ This variant, found in the Firlej version (F) (see Chapter III for all versions and their dates listed), shows that there was no clear understanding of the terms *veno* and *venets*, and the difference between them.

FLS IV/5. Если бы жена пустая была, детей не мела, тогда маеть седети на вдовьем столцы на третей части до живота

(1) Тэж естли бы жена пустая была, не мела детей ани оправы от мужа своего, тогда маеть седети на именьи только на третей части, а две части именья мають быти на близких.

(2) А она маеть седети на третей части до живота своего, а по животе ее и тая третья часть именья маеть прийти на близких.

(3) А пак ли бы замуж пошла, тогда маеть именье, на чом была, близким заставити.

FLS IV/6. Жона и з детми малыми по смерти мужней маеть седети на вдовьем столцы до лет детиных; естли ж ся не будет добре справовати, близкие мають того ей боронити правом

(1) Тэж уставуем: естли бы который муж, сходячи с того света або через тастамент, полецал дети свои и именья кому-кольвек приятелю своему, хотя бы обчому, хотя бы на кого опека слушным правом приржоним не прислушала, тогда оный маеть в опеце мети именье и дети его, а жона маеть только на вене своем седети.

(2) Пак ли бы который отмер, детей своих не полецывши никому, тогда жона маеть дети ховати и на всем именьи седети на вдовьем столцы до лет детиных.

(3) А естли бы дети узросли, тогда маеть детем именье спустити, а сама на вене до живота седети.

(4) А естли бы вена не мела, тогда маеть ровную часть взяти межи детей своих.

(5) А естли бы одного сына мела, тогда маеть сыну двух частей именья поступити, а сама маеть зостати на третей части.

(6) А естли бы жона маючи дети в опеце своей, а пошла замуж, тогда [S+ стрыеве або]⁵³⁴ ближние мають опекати ся детми и именьем [S+ бо ужо, коли жона замуж пойдеть, не маеть иными опекати ся].⁵³⁵

FLS IV/5. If a wife is barren, does not have children, then she may remain in widow's seat on the one third for life

(1) Also, if the wife is barren, does not have children or a dower record from her husband, then she may remain only on one third of the estate, and the two thirds must be for relatives.

(2) She may remain on the one third for life. After her death this one third of the estate must also go to the relatives.

(3) And if she gets married, then the estate on which she was must fall to the relatives.

FLS IV/6. A wife with small children after the death of her husband may remain in widow's seat until the majority of the children. If she does not manage [the estate] well, the relatives may prevent her [from doing] this by lawsuit

(1) We also decree: if some husband, when passing from this world, or in his testament, entrusts his children and estates to some relative of his, even to an outsider, to whom guardianship is not rightfully assigned by law of kinship, then that person may have in guardianship the estate and the children, and the wife may remain only with the dower.

(2) If someone dies, entrusting his children to no one, then the wife may raise the children and remain on the whole estate in widow's seat until the majority of the children.

(3) And when the children grow up, she must transfer the estate to the children, and she herself for life remains with the dower.

(4) If she does not have a dower, she may take a share equal [to that of] each child.

(5) If she has one son, then she may give the son two shares of the estate, and she herself remains on the third share.

(6) If a woman, having children in her guardianship, gets married, then the [S+ paternal uncles or] relatives may take the children and the estate into guardianship, [S+ because if a woman gets married, she may not take [anything] else into guardianship].

⁵³⁴ Addition in the expanded Slutsk version.

⁵³⁵ Addition in the expanded Slutsk version.

(7) А ближние не мають ее стискати з ыменья венованого, аж олиж дети доростуть лет своих, тогда дети мають ее скупати, естли бы замуж пошла.

(8) А естли бы которая жона, седечи на вдовьем столцы з детми своими, хотя бы венована або не венована, а замуж не хотела пойти, а, седячи вдовою, именья и скарбы утратила, люди розогнала, серебщизны и вины на себе брала а тые бы именья пустошила, тогда мають стрыеве, а не будет ли их, ино близкие позвати ее на роки зложные перед нас господара, або перед панов рад и таковые мають утраты на нее доводити.

(9) И естли того доведуть, тогда мы, господар, маем або панове дети и именья в нее з рук выняти и подати в опеку стрием або близким для ее выступу.

(10) А она, естли будет венована, маеть зостати только на вене своем.

(11) А естли бы ей вена не было, тогда мають ей ровную часть межи детей выделить;

12) и маеть мешкати на той дельницы до живота своего; а по животе ее и тая часть маеть <на дети прийти> [F: прийти на близких].

(13) А пак ли бы стрыев або близких оных детей не было, тогда мы, господар, або панове мають кого обчого доброго чоловека к тым именьям в опеку установити, который бы ее и вси именья, и дети в опеце мел и не допускал именья и скарбу тратити, поки дети ее лета свои будут мети.

FLS IV/8. Отец маеть от зятя наперед оправити вено, нижли дочку свою замуж выдати

(1) Тэж уставуем: естли бы хто дочку свою выдал замуж, тогда ей маеть первой вено оправити.

(2) А естли бы хто дочку выдал замуж, а вена ей не оправивши, тогда тая девка не маеть венца мети.

(7) And relatives may not exclude her from the dower estate. But when the children reach their majority, then the children may redeem [her part] if she gets married.

(8) If some wife, remaining in widow's seat with her children, regardless of whether she was dowered or not, does not wish to get married, and, while being a widow squanders the estates and property, drives people away, takes for herself silver tax and fines, and ruins the estates, then the paternal uncles, or if there are none, then other relatives, may take her on an established date before us, the sovereign, or before the lords of the Council, and must prove these losses.

(9) And if they prove this, then we, the sovereign, or the lords, for her crime may take away from her hands the children and property and give them over in guardianship to the paternal uncles, or to [other] relatives.

(10) And if she is dowered, then she may remain with only her dower.

(11) If there is no dower for her, then she may be apportioned a share equal [to that] of each child,

(12) and she may live on this share for life. After her death this share must <go to the children> [F: go to the relatives].

(13) But if these children have no paternal uncles, or [other] relatives, then we, the sovereign, or lords, must appoint a guardian over the children and the estate – a worthy outsider – who would hold her and all the estate and children in guardianship, and would not permit the squandering of the estate nor the forfeiture of property, until her children reach majority.

FLS IV/8. Before a father gives his daughter in marriage, he should demand that the son-in-law records a dower

(1) We also decree: if someone gives his daughter in marriage, he [i.e. the father] should first get a dower recorded [by the son-in-law].

(2) And if someone gives his daughter in marriage without recording a dower for her, then such a girl cannot have a *venets*.

FLS IV/15 Duchesses, lords' widows and girls may not be married off to anyone by force, but only with their consent

(1) Тэж обещуем и прирекаем з ласки и щедротливости наше господарское, иж маем мы сами и потомки наши княгинь, паней вдов, княжон, панян и девок заховати при вольностях их, а кгвалтом ни за кого их не маем давати без их воли,

(2) нишли кождой з них с порадюю приятелей своих, за кого хотя, за того вольно пойти.

FLS IV/[16].⁵³⁷ Естли бы которая вдова заму́ж пошла

(1) Теж уставуем: естли бы которая [вдова] заму́ж пошла, а первой, будучи за первым мужем своим, вена оправеного от мужа своего мела, тогды вжо от другого мужа не маеть вена записаного мети.

(2) Нишли естли бы тот другой муж ее умер, а детей по собе оставил, тогды она маеть межи детми ровную часть узяти и на ней до живота мешкати.

(3) И естли ж детей не будет мети, тогды от ближних маеть зостати на вдовьем столцы, на третей части, а по животе ее и тая часть маеть на близких прийти.

FLS IV/[17].⁵³⁸ Естли которая вдова по смерти мужа своего зостанеть без детей, не повинни отказывати в суду до году жадных речей

(1) Теж уставуем, иж которая сдова по смерти мужа своего зостанеть без детей або з детми малыми, або дорослыми нелетными, не повинна будет отказывати в суду по смерти мужней до году в жадных речах.

FLS V/[11] 10. Кому бы за который выступ именье взято, а наперед будет оправа вчинена жоне его [S+ она при первой оправа ма зостати, кроме злодейства, естли будет поспол з

FLS IV/15 Княгинь, паний вдов и девок не мають ни за кого кгвалтом давати, кром их воли

(1) We also promise and establish by our grace and generosity as sovereign, that we ourselves and our descendents shall protect duchesses, *pani*⁵³⁶ widows, princesses, lords' daughters and girls, in their freedom, [and] will not force them to marry anyone without their consent,

(2) but each of them [may] freely marry anyone [she] pleases with the counsel of her relatives.

FLS IV/[16]. If some widow marries

1) We also decree: if some [widow] gets married, and earlier while married to her first husband had a dower recorded by her husband, then she may not have a dower assigned by her second husband.

(2) And if that second husband of hers dies, and leaves children after him, then she may take a part equal [to that of] each child and may live on that for life.

(3) And if he has no children, then she may receive from relatives one third [of the estate] as widow's seat, and after her death that part may go to the relatives.

FLS IV/[17]. If some widow after the death of her husband remains without children, she is not obligated to answer any matters in court for a year

(1) We also decree: that every widow who after the death of her husband remains without children, or with small children, or with adolescents, will not be obliged to answer about any matters in court for a year after her husband's death.

FLS V/[11] 10. If for some crime someone's estate is taken, and before that a record is given to his wife [S+ [then] she may remain with the earlier dower record except [in the case of] theft, if she is guilty

⁵³⁶ The female form of *pan* (app. "lord□").

⁵³⁷ From the expanded, Sluck version.

⁵³⁸ From the expanded, Sluck version.

мужом винна]⁵³⁹

(1) Коли бы которому человеку земскому о который-кольве выступ або за которым правом переведеным именье его дедичное або закупное взято або в долгу подано, або осужоно, а на том бы именьи первым записом жона его мела оправу свою веновную, слушную записану первой, нижли бы оный виноват зостал с права, тогды тая оправа ее держана маеть быти, окром злодейства, коли бы жона посполу з мужем краденых речей ведома была и з мужем поживала.

FLS V/[3]2 (excerpt):

Коли бы хто детей, лет не маючих, до суда позвал о именья как отчизну, материзну и о купленину, и о выслугу, тогды уставляем, иж тые дети ани опекун не будут повинни отказивати в суда, але суд выроком своим маеть тую справу до лет детиных зуполных отложить и завесити.

FLS VI/[26]/25

Тэж уставляем: ач-кольве права писанные дали есмо всей земли, по которому праву мають суд судити, однак же вси права до остатку врыхле не могут ся зложити, яко ж и тые права не могли до остатка всих артыкулов мети. Нижли естли бы ся што пригодило перед судьями, чого бы в тых правех не было описано, тогды то даем на розознанье судей под сумненьем их, иж они мають, упомянувши на Бога, и то сказати водле старого обычая. А ведже скоро на первом сойме перед нами або перед паны радами нашими мають тые члонки объявити. И естли бы мы або панове рада наша тые члонки уфалать, тогды мають тэж приписаны быти к тым правам.

together with her husband.]

(1) If some person of the country, for some crime, or by sentence of the court, has his ancestral or mortgaged estate either taken in security or given up for debts, or taken away by court order, and from this estate his wife by his earlier record has her dower record properly recorded before this guilt is found by the court, then that dower record may remain valid, except [in the case of] theft when the wife together with the husband knew about the stolen goods and used them.

If someone takes minor children to court concerning an estate, whether a patrimony or matrimony, or concerning a purchase or service estate, then we decree that neither these children nor [their] guardian are obligated to respond in court, but the court by its own decree must suspend and postpone [the matter] until the children reach majority.⁵⁴⁰

We also decree: although we gave written law to the entire land, according to which law the judges must judge, all laws in entirety cannot be quickly compiled, and these laws cannot include in themselves all articles entirely. For this reason, if something occurs before a judge, [something] which is not written in these laws, we grant for the examination of the judges that they must, according to their conscience, setting faith in God, reach verdict in accordance with long since established custom. However, [they] must inform us or our lords of the Council at the next diet concerning these points. And if we or our lords of the Council affirm these points, then [they] must be added to these laws.⁵⁴¹

⁵³⁹ Also in Firley, so it might have been in the original (that is, it's not a late addition) (PLS II/1, 150).

⁵⁴⁰ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 91.

⁵⁴¹ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 102-103.

Diet of 1551⁵⁴²

13. *Прозьба*. Што есте тежъ просили короля его милости, абы девки и вдовы, которые бы за границы великого князства, до чужое земли, безъ воли пріятелей своихъ кровныхъ замужъ шли, отъ права своего приржоного и отъ имени отпадали; а которые бы съ призволенъемъ пріятелей своихъ приржоныхъ до чужое земли замужъ шли, абы именья zostавили близкимъ; а они бы имъ водле шацунку за тыи именья пенязи откладали.

Отказъ. На то его королевская милость казалъ вамъ поведати, ижъ тые прозьбы ваши его королевская милость рачить на томъ такъ zostановляти, яко есть около того въ статуте права посполитого описано.

И то тежъ на томъ же теперешнемъ вальномъ сойме Виленскомъ рачиль его королевская милость съ паны радами своими установити и ухвалити, около выдаванья замужъ девокъ, по смерти отцовъ ихъ осиротелыхъ:

ижъ каждая вдова, zostавши на вдовьемъ столыцы по мужу своемъ, не маєт дочокъ своихъ сама одна, своею волею, замужъ выдавати,⁵⁴³ алежъ съ волею и зъ ведомостью брата рожоной оныхъ дочокъ своихъ, летъ дорослыхъ.

А естли бы оные девки брата рожоной не мели, тогды вжо замужъ мають выдаваны быти зъ ведомостью и съ волею и съ порадою брата своее стрыечной, або иныхъ которыхъ близкихъ кровныхъ, пріятелей отца ихъ по мечу.

А естли бы, пакъ, близкихъ кровныхъ, пріятелей отца ихъ по мечу не было: тогды мають быти выдаваны съ волею и съ порадою вувъ рожоныхъ и иныхъ

Request 13. You have also requested his grace the king that girls and widows who get married beyond the borders of the Grand Duchy to a foreign land without permission of their blood relatives, are to forfeit their inborn rights and the estates; and those who get married to a foreign land with the permission of their blood relatives, are to leave the estates for the relatives; and they [i.e. the relatives] should give money for these estates according to their value.

Reply. To this, his royal grace said to tell you that [the matters of] these requests of yours his royal grace orders to leave as they are described in the law *Statute* of the Commonwealth.

On this in the present general diet of Vilnius decided the Sovereign, his Grace, with his lords of the Council, to establish and confirm regarding the marrying off the girls, orphaned after the death of the father:

that every widow, who remains in the widow's seat after [the death of] her husband, may not marry off her daughters on her own will, but only with the permission and knowledge of the adult blood brothers of the daughters.

And if these girls did not have any blood brothers, then they may be married off with the knowledge and the counsel of the father's brothers or any other blood relatives, relatives from the father's male line.

And if there were no blood relatives, relatives from the father's male line, then they may be married off with the permission and counsel of the mother's brothers or other blood

⁵⁴² "Уставы данные Литве и областямъ Жмудской и Волынской, на второмъ Виленскомъ сейме: II." (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Second Diet of Vilnius: II.), in *Акты, относящиеся к истории Западной России*, vol. 3, 29-30, 37, 46-47.

⁵⁴³ It is possible to see the influence of the Roman law here: as Huebner (*History of Germanic Private Law*, 365) notes "Roman ideas about guardianship also affected mothers' rights to their children. Early Germanic codes had known only fatherly authority, but the idea of joint parental authority over children had grown gradually in the Middle Ages. This died again with the reception of Roman law, with its concept of *patria potestas*". This is to some degree applicable to the Lithuanian situation as well. See also Wiesner, *Gender*, 86.

близкихъ кровныхъ своихъ по матце.

А естли бы ся прїатели кровные тое девки около того выдаванья зъ маткою ее не згожали, тогды мають обе-две стороне, то есть, и матка и близкіе оное девки очевисто стати передъ самымъ господаремъ его милостью, а въ небытности его милости въ тутошнемъ паньстве, ино передъ паны радами, або передъ воеводами своими поветовыми, и мають поведити зъ obu сторонъ слушныя причины, для чого тую девку замужъ дать, або не дать не хочуть;

а господарь его милость, або панове рада, або панове воеводы поветовые на онъ часъ мають розузнать, хто зъ нихъ, естли матка, або тые близкіе прїатели тое девки слушнейшіе причины къ выданью ее замужъ поведять:

тогды, за слушнейшою порадою оныхъ прїателей або матки своее, тая девка маеть замужъ выдана быти.

20. *Прозьба.*

За тымъ што есте чинили прозьбы ваши ко господарю его милости, абы вдовы о речъ, которая детемъ належить, мандатомъ не были позываны.

Отказъ.

... а ведъже, естли жъ то идеть о тые вдовы, которые вжо сугъ позваны, або ещо мають быти позваны о то, ижъ немало земель, людей и иныхъ именей къ своимъ рукамъ держать, къ шкоде его королевской милости: таковыхъ вдовъ его королевская милость будетъ рачиль казати позывати...

Diet of 1554⁵⁴⁴

6. *Прозьба.* Въ тыхъ же прозьбахъ вашихъ пишете, ижъ познали есте немалый упадъ того паньства, и то въ томъ, ижъ некоторые паньи вдовы, зоставши по мужохъ своихъ на именьяхъ у вене записаныхъ, замужъ за чужоземцовъ людей заграничныхъ идуть, именья

relatives from the mother's side.

And if the blood relatives of that girl and her mother did not agree about the marrying [the girl] off, then both sides, that is the mother and the relatives of the girl, came in person in front the Sovereign, his Grace, and in the absence of his Grace in this state, in front of the Council of Lords, or in front of the voevody of their own district, and may give valid reasons from both sides, why they do not want to marry or not to marry that girl off;

and the Sovereign, his Grace, or the lords of the Council, or the pany voevody of the district then must find out who of them, the mother or the close relatives of the girl, give the best reasons for marrying her off:

then this girl may be married off, in accordance to the best counsel of these relatives or her mother.

20. *Request.*

Regarding the request given to the Sovereign, his Grace, not to summon the widows by mandate to the court about the matters contingent to her children.

Response.

... if this concerns those widows who are already summoned, or still may be summoned regarding this that they keep many lands, people and other property in their hands, to the loss of the Sovereign, his Grace: the Sovereign, his Grace ordered that such widows should be summoned...

Request 6. In the same requests of yours you write that you have witnessed a great downfall of this country, in that some noble widows staying in the estates of their husbands, assigned [to them] as dower, get married to foreigners, to people from abroad, waste the estates and deprive the relatives and

⁵⁴⁴ “Уставы данные Литве и областямъ Жмудьской и Волынской, на третьемъ Виленскомъ сейме (Decrees Given to Lithuania and the Provinces of Samogitia and Volhynia in the Third Diet of Vilnius), in *Акты, относящиеся к истории Западной России*, vol. 3, 53, 58.

утрачаючи, и отдаляють отъ близкихъ и отъ детей своихъ, записуочи подъ обычаемъ заставы: за чимъ близкіе, або дети ихъ, окупуючи таковыя именья къ убожству и знищенію приходятъ, - и просите его королевской милости, абы таковая кожда вдова, которая за чоловіка заграничного пошла, або поидеть, половицы внесенья своего отпадывала, а до вена своего ничего не мела; а естлибы которая именье свое отчизное и материзное мела и записала такому мужу своему, обычаемъ заставнымъ, въ сумме, альбо яко-кольвекъ: ижьбы таковыя записы не шли, а ни жадное моцы не мели, але ижьбы близкіе кождую службу людей ихъ по пяти копъ грошей скуповали, лесовъ, боровъ, водъ и лововъ не шацуючи. А девки которые суть и будутъ черезъ отцовъ и братью и стрывевъ за границу зъ великого князства замужъ выдаваны, абы именья ихъ тымъ же обычаемъ черезъ близкихъ были скупованы; а ведьже не тые близкіе, которые тое малженство имъ еднати и выдавати за границу замужъ ихъ будутъ для пожитовъ своихъ, але иные близкіе кровные, безъ которыхъ бы воли то ся стало; а пакъ ли бы близкіе такъ можные не были, тогды суседи при тыхъ именьяхъ не далекіе; а трафить ли ся именье великое, ижьбы за короткій часъ пенезей такъ близкіе яко и суседи не могли заплатити: просите, абы вольно было имъ по части именья и по рокомъ скуповати.

Отказъ. Тую прозьбу вашу его королевская милость на томъ зостановляти рачить, яко въ статуте есть описано, около выкупованья именій у девокъ, за границу съ великого князства выдаваемыхъ. Такъ же и вдовы которые замужъ за границу съ великого князства пойдутъ, именья ихъ мають быти отъ близкихъ скупованы шацункомъ, за отчизные и материзные службы людей по десять копъ грошей платячи, тежъ лесы, земли и воды, съ чого пожитокъ есть, также слушнымъ шацункомъ шацуючи зъ урядомъ. А ведьже съ права альбо съ уряду мають быти роки складаны тымъ,

their own children of them by the way of mortgage: then the relatives or their own children, buying out such estates, become indigent and poor. And you ask his royal grace that every such widow, who got or will get married to a foreign man, should forfeit half of her dowry, and should not have any of the dower; and if some [widow] had any paternal or maternal estate and assigned it to such a husband, by the way of mortgage, for some sum, or in some other way, such assignations should not be made and should not be valid, but the relatives could buy each service unit of people for five *kopy* of *groshy*, not evaluating the forests, the pine woods, waters and fishing places. And for the girls, who are and will be married off abroad from the Grand Duchy by their fathers, brothers and paternal uncles, their estates should be bought out in the same way by their relatives, but not the same relatives who would give them into marriage and would marry them off abroad for their own benefit, but other relatives, without whose permission it happened. And if the relatives could not do it, then neighbours, living close to these estates [should do it]. And if the estate is big, so that the relatives or the neighbours could not pay money for it in a short time: you ask them to be free to buy out the estates in parts at set dates.

Reply. His royal grace decided to leave [the matter of] this request of yours as it is written in the *Statute*, as regards buying out the property of the girls who are married off beyond the borders of the Grand Duchy. The same also about widows who get married beyond the borders of the Grand Duchy: their estates may be bought out by the relatives according to their value, paying ten *kopy* of *groshy* for the service units of the paternal and maternal estates, also forests, lands and waters which are useable, evaluating them together with an official at their full value. However, the court or an official may give set dates for those who cannot give the whole

хто не будетъ възмочи заразомъ суммы
отдати за все именье, абы по року пенязи
платилъ и по части скуповаль, што
възможеть: але вено и оправа вдовъ въ
таковые роки не маеть быти вкладана.

20. *Прозьба.*

Просите тежъ его королевской милости о
томъ (што на прошломъ валномъ сойме
ухвалено), ижьбы matka або опекуны,
кому бы была опека злекона, девокъ безъ
воли братьи альбо дядьковъ ихъ замужъ не
выдавали;

въ томъ мените немалый упадъ речи
посполитой того паньства, што есте
обачили въ маломъ часе великие утиски
таковыхъ детей осиротелыхъ и знищенье
на многихъ местцахъ отъ братьи и отъ
стрыевъ, ижь они не зычачи на именій
ихъ, таковымъ девкамъ малженьства
забороняють, альбо мощнымъ браньемъ
панень у малженьство кгвалтовное
принужають,

– и просите, абы тотъ артикуль былъ
поправленъ тымъ, штобъ matka, або
опекуны въ томъ владность мели, кому то
зверено отъ отца ихъ будетъ, не
пытаючися прирожоныхъ.

Отказъ.

На тую прозьбу вашу его королевская
милость казалъ вамъ поведити, ижь и въ
томъ, яко въ речи слушной, чинячи досыть
прозьбе вашей, оный артикуль на
прошломъ сойме ухваленый касовати
рачить;

и, заховываючи при mocy старый звычай,
владность маткамъ и опекуномъ,
установленнымъ черезъ тестаментъ або черезъ
запись слушный, умоцняти его милость
господарь рачить, о таковыхъ девкахъ
осиротелыхъ обмышляти и малженьство
имъ еднати, водле порученья и mocy
даное отъ отца таковыхъ сиротъ;

а ведьже мають ся справовати водле
статуту и записовъ на то имъ даныхъ.

sum for the estates at once, so that [he] pays
when the set date comes and buys, what he
can, in parts: but the *veno* and the *oprava* of
the widow may not be included in such set
dates.

20. *Request.*

You ask the Sovereign, his Grace, regarding
that (which was confirmed in the previous
general diet): that the mother or the guardians
(to whomever the guardianship was trusted)
do not marry off the girls without the
permission of the brothers or the uncles;

you mention a significant recession in the
commonwealth of the state, that a big
oppression of such orphaned children is
noticed in a brief time, and deprivation in
many places by the brothers and by the
paternal uncles, who do not give them with
their estates, forbidding the girls to marry, or
force the *panni*⁵⁴⁵ to get married,

and ask for this article to be corrected so that
the mother or the guardians, to whomever it
was entrusted by the father, had the power in
that, without asking the relatives.

Response.

To this request of yours the Sovereign, his
Grace, ordered to announce to you that in
this, as in a well-grounded matter, fully
implements your request and retracts the
article, confirmed in the last diet;

and, leaving in force the old custom, his
Grace ordered to empower the mothers and
the guardians, indicated by the testament or a
proper letter, to decide regarding such
orphaned girls and give them into marriage,
as they are entrusted and empowered by the
father of such orphans;

and they may act in accordance with the
Statute and the letters given to them.

⁵⁴⁵ The feminine form of pan (app. “lord”) for unmarried girls.

The Second Lithuanian Statute of 1566⁵⁴⁶

SLS III/31 Кнегинь, паней, девокъ, вдовъ не маемъ ни за кого кгвалтомъ давати

(1) Тежъ обещуемъ и приказуемъ кнегинь, паней вдовъ, княжонъ, паненъ девокъ шляхтянокъ и всякого иного стану рожаю земского, яко людей вольныхъ подъ вольнымъ панованьемъ нашимъ господарскимъ, заховати ихъ при вольностехъ ихъ, а кгвалтомъ ни за кого их давати не маемъ без воли ихъ,

(2) за кого хотя, за того волно пойти.

SLS V/1. Которымъ обычаемъ отецъ выдаючи девку свою замужъ маеть обваровати и впевнити записанья вена отъ зятя

(1) Тежъ уставуемъ, ижъ каждый обыватель того панства которого кольвекъ будучы стану, выдаючи дочку свою замужъ и даючи за нею посагъ або выправу подле доброе воли своее, наипервей нижли девку выдать, маеть отъ зятя взяти запись подъ печатью его и подъ печатями людей добрихъ, маеть отъ зятя взяти запись подъ печатью его и подъ печатями людей добрихъ, которымъ онъ на третей части имения своего лежачого оный посагъ або выправу совито описати маеть потомужъ яко нижей описан, а потомъ оный запись тотъ же зять на первыхъ рокохъ земскихъ передъ судомъ земскимъ оного повету, въ которомъ оселости маеть, оповедати и въ книги земскіе записати маеть, таковая отправка маеть быти въ каждого права задержана.

(2) А пакли бы отецъ выдаючи девку замужъ передъ выданьемъ ее вена и отправки отъ зятя своего не одержалъ; таковая девка по смерти мужа своего внесенье тратить, хотя бы и великую суму за собою внесла.

SLS III/31 We may not marry off duchesses, noblewomen, girls [and] widows to anyone by force

(1) We also promise and order that duchesses, *pani* widows, princesses, noble girls, and any [women of any] other stratum born in the state, as free people under the free reign of our sovereignty, be protected in their freedom, and we may not marry them off to anyone by force without their consent;

(2) they [may] freely get married to anyone they wish.

SLS V/1. In what manner a father, giving his daughter in marriage, must ensure and guarantee that the son-in-law will assign a dower

(1) We also decree: any inhabitant of this country, of any stratum, giving his daughter in marriage, and of his own free will giving with her a dowry, or a portion, before he gives his daughter in marriage, must obtain from his son-in-law a document, sealed by him and by trustworthy people, must obtain from his son-in-law a document, sealed by him and by trustworthy people, by which he must assign [the amount] on one third of his immovable property, double the dowry or the portion, as is described below, and then the son-in-law must take that document at the next land court meeting to the land court of the district in which he resides, announce [it] and write it into the land books;⁵⁴⁷ such a dower must be in force in every court.

(2) And if a father, giving a daughter in marriage, before giving her away does not get the dower and the dower record from his son-in-law, such a girl forfeits her dowry, even if she brought with her a great sum.

⁵⁴⁶ *Статут Вялікага Княства Літоўскага 1566 года* (The Statute of the Grand Duchy of Lithuania of 1566), ed. Таісія Іванаўна Доўнар, Уладзімір Мікалаевіч Сатолін and Язеп Аляксандравіч Юхо (Minsk: Тэсей, 2003). Translation mine.

⁵⁴⁷ “Land books” is the *Lithuanian Metrica*.

(3) А ведже предсе яко шляхтянце дети або близкіе повинни будуть за венець дати тридцать копъ грошей, если бы замужъ пошла;

(4) а где бы замужъ пойти не хотела, тогды межы детьми и близкими въ именьяхъ мужжнихъ будетъ равную часть именья держати ажъ до смерти своей;

(5) естли же бы оногo шляхтича именье тридцати копъ грошей не стояло, тогды тежъ водлугъ того зъ оногo именья маеть выделена быти четвертая часть, которую будетъ держати только до живота своего, хотя за другого мужа пойдетъ.

SLS V/2. Якъ маеть мужъ жоне вено записати

(1) Тежъ уставуемъ, хто бы хотель записати вено жоне своей, тогды маеть, ошачовавши вси именья свои, на третей части, чого стоить, маеть совито противко того внесенья записати вено жоне своей, такъ яко бы сума описаная тое третье части.

(2) И коли будетъ тая жона его на третей части именей мужнихъ вено описаное отъ него мети, а онъ бы потомъ умеръ, а дети по собе оставилъ, а тая жона пойдетъ за другого мужа, а если дети всхочуть або близкіе ее съ тое третее части именья за живота ее вывеновати; тогды мають всю суму пенезей, яко будетъ въ листе описано, заплатити, тожъ тое именье къ рукамъ своимъ взяти.

(3) А естли же будутъ дети ждати смерти матки своее, не всхочуть выкупити; тогды повинни будутъ одно внесенье, што въ домъ ихъ внесла, по смерти ее заплатити тому, кому она отпишетъ,

(4) а привенку, што будетъ записать отецъ ихъ на противко внесенья, совито платити не повинни, а она тежъ не маеть никому того привенку записовати, кроме только вольна будетъ отписати внесенье свое,

(5) а естли бы никому не отписала а детей не мела, тогды маеть тое внесенье вернено быти въ домъ той, съ которого вышла.

(6) Вольно тежъ каждому жоне своей отписати речы свое рухомые такъ яко и каждому обчому, то есть: золото, серебро,

(3) However, if she marries, noble children or relatives must give her thirty *kopy* of *groshy* for the *venets*;

(4) and if she does not want to get married, then she will hold an equal share of estate with children and relatives on the husband's estates for her lifetime;

(5) if a nobleman's property does not cost thirty *kopy* of *groshy*, then according to this a quarter must be taken from that estate, which she will keep only for her life, even if she remarries.

SLS V/2. How a husband may assign a dower to a wife

(1) We also decree: whoever wishes to assign a dower to his wife, then he may, after appraising all his estates, assign to his wife a dower on one third of what [they are] worth, double [the amount of] the dowry, equal to the estimated sum of that one third.

(2) And when his wife has the dower, assigned by him on one third of the husband's estates, and if later he dies and leaves children behind, and that wife marries another, and the children or the relatives want to deprive her of that one third of the estate during her lifetime, then they must pay her the entire sum of money as described in the document, and then may take the estate into their own hands.

(3) If the children wait for their mother's death, and do not want to ransom [the estate], then after her death they are obligated to pay only her dowry, which she brought to their home, to whomever she willed it.

(4) They are not obligated to pay the *privenok*, which their father assigned doubling the dowry, and she may not will the *privenok* to anyone; she is free to will only her dowry,

(5) and if she did not will [it] to anyone, and did not have children, then that dowry may be returned to that home from which she came.

(6) And everyone is permitted to will to his wife his movable property, as also to any stranger, that is, gold, silver, clothing and

шаты и иные речы, кромъ зброи стада и челеди невольное быдла дворного; а ведже и того всего яко именья лежачого третью часть жоне отписати вольно,

(7) абы седечы на именью мела чимъ службу нашу господарскую и земскую съ третее части именья заслугovati.

(8) А дети и близкіе кгда будутъ съ тое третее части скуповати; тогды тые вси речы яко зброя челядь стадо и быдло мають при именью зоставити, а где бы тые речи утратила, тогды зъ вена ее мають за то ошачовавши вытрутити часу откладанья пенязей.

(9) А такъ подле уставы наше мають ся заховати вси подданные наши и на потомные часы,

(10) а хто бы надъ звышей тое уставы наше учинилъ, а што неслушне жоне своей записалъ; таковыхъ записовъ не хотимъ мети мощныхъ мы сами и потомки наши Великіе Князи Литовскіе.

(11) А для того жъ отецъ еще не выдавши девки своей замужъ маеть первой того смотрити, естли бы того зятя своего третяя именья совито стояти могла противко внесенья дочки его, на чомъ бы ее противъ того веновати мель.

(12) А где бы тая часть не стояла противко внесенья; тогды маеть отецъ за тую суму пенезей, што бы по ней мель дати, купити именье и дочке своей за то дати;

(13) а зять предсе жоне своей за то, што бы особно взялъ суму якую, маеть отправу вчинити на третей части именья своего властивого, а того именья, которое отецъ купивши дочке своей дастъ, мають сполу уживати ажъ до живота своего мужнего, а по животе мужнемъ она яко свое властное маеть одержати весполокъ зъ веномъ своимъ.

SLS V/4. О вдове венованной, якъ се мають противко ее дети лета маючые обходити

(1) Вдова которая сидитъ на вдовьемъ столцы, а будетъ ли венована отъ мужа своего, а сынове мають зуполные лета; тогды она маеть оселость только на вене

other things, with the exception of armour, herds and serfs, and manor livestock; however, from all of the latter, as immovable property, it is allowed to will one third,

(7) so that she, staying in the estate, was able to perform sovereign and land service from one third of the estate.

(8) And when children and relatives buy out that one third, then all these things, such as armour, serfs, herds and livestock, must stay in the estate, and if she lost these things, they must be subtracted from her dower, after evaluating this, subtracted at the time of giving money.

(9) And so all our subjects must behave according to our decree, throughout later times,

(10) and we ourselves and our descendants, grand dukes of Lithuania, do not wish to be valid such assignments of one who acts in defiance of our above decree and improperly assigns something to his wife.

(11) And for that the father before giving this daughter into marriage must first check if one third of his son-in-law's property would be worth double the dowry of his daughter, on which he could assign a dowry against it.

(12) And if that part was not worth the corresponding dowry, then the father may purchase an estate for that sum of money which he may give with her, and give it to his daughter.

(13) The son-in-law, however, specifically because he took a certain sum, must secure to his wife a dower record on one third of his own property, and he may use half of that estate which the father bought and gave to his daughter, for his, the husband's, lifetime, and after her husband's death she may keep [it] as her own together with her dower.

SLS V/4. Concerning the dowered widow – how her adult children may behave towards her

(1) If a widow is in a widow's seat and is dowered by her husband, and if her sons are adult, then she may remain only with her dower, and the sons, who must perform land

своемъ, а сынове мають припушоны быти ко всимъ именьямъ и скарбомъ отцовскимъ, которые мають службу земскую заступовати;

(2) а естли бы была не венована, тогда маеть быти захована, яко вышей есть описано.

SLS V/5. Вдовы безплодные, которые детей не мають

(1) Обачившы есмы то, ижъ которые вдовы безплодные сядятъ навдовьемъ столцы, многіе се шкоды отъ нихъ делаютъ Речи Посполитой, а то тымъ обычаемъ ижъ службы земскіе отъ ихъ не бывають служоны, такъ яко бы мели быти, и тежъ ближнимъ много именья утрачають; уставуемъ такъ, ижъ

(2) которая вдова безплодная, а будетъ ли венована отъ мужа своего, тогда маеть осести только на вене своемъ, а именья мають на ближнимъ спасти;

(3) а естли бы небыла венована отъ мужа своего, тогда маеть на третей части именья седети, поки за мужъ пойдетъ,

(4) тогда близшіе мають венецъ ее платити, яко есть вышей, если будетъ не вдовою замужъ пришла.

SLS V/6 (excerpt)

Тежъ уставуемъ, ижъ бы который кольвекъ оселый и неоселый оженился въ Литве и побралъ по жоне именья; тогда часу войны и каждое потребы Великого Князства Литовского противъ каждому неприятелю того панства зъ именей жоны свое...

SLS V/9. Кто бы з двема або съ трема жонами дети мель

(1) Уставуемъ, естли бы которая вдова замужъ пошла, и дети въ мужа першое жоны нашла и съ тымъ мужемъ другихъ детей набыла, тогда по смерти мужней зъ обоима детьми того мужа своего во именью ровную часть и въ скарбе маеть

service, must be admitted to all estates and valuables of the father;

(2) and if she was not dowered, then she may be treated as is described above.

SLS V/5. Barren widows who do not have children

(1) Having discovered that, because some barren widows remain in widow's seat, much harm occurs to the commonwealth, since land services are not performed by them, as they should be, and also they forfeit much property to relatives, we decree that

(2) such a barren widow, if she is dowered by her husband, may remain only with her dower, and the property must fall to the relatives;

(3) and if she was not dowered by her husband, then she may remain on one third of the estate until she marries,

(4) and then the relatives must pay her the venets, as [is described] above,⁵⁴⁸ if she got married not being a widow.

We also decree that if some person, either resident or not resident, got married in Lithuania, and received estates along with the wife, then in the time of war and every need of the Grand Duchy of Lithuania against every enemy of this country, he must himself undertake and perform military land service from the estates of his wife...

SLS V/9. If someone had children with two or three wives

(1) We decree that if some widow gets married, and comes across the children of the husband's first wife, and has other children with that husband, then after the death of the husband she may have with both children of that husband an equal share of the estate and

⁵⁴⁸ SLS V/1.

мети;

(2) а естли бы детей не мела, тогда зъ детьми мужа своего першое жоны его ровную часть только во именьяхъ лежащихъ будетъ мети, але въ скарбехъ и въ рухомыхъ речахъ мети не маеть, окромъ внесеня своего, и тежъ естли бы што зъ ласки ей мужъ записалъ некоторую часть именья лежачого,

(3) на той она маеть седети только до живота своего, если замужъ не поидеть,

(4) а если бы замужъ пошла, тогда тую ровную часть именья маеть детемъ первое жоны его zostавити, а тые дети венца ей не повинни будутъ дати.

SLS V/10. О вдове, которая zostанеть зъ детьми недорослыми метъ

(1) Уставуемъ, которая вдова zostанеть по мужу своему зъ детьми недорослыми, а хотела бы на вдовьемъ столцы седети и дети въ опеце своей мети, а будетъ ли оселость добрую мети або вено отъ мужа своего оправеное;

(2) тогда таковая вдова маеть на вдовьемъ столцы на всихъ именьяхъ зъ детьми седети, если бы опекуны уставленные отъ мужа ее не были.

(3) А естли бы оселости добрые або вена отписаного не мела, тогда маеть дати по собе рукомство доброе людей оселыхъ, таковая ку опеце маеть быти припущона.

(4) А где бы она и потомъ будучи на вдовьемъ столцы детемъ именья скарбы утрачала; тогда стріеве або близкіе мають ее притегнути передъ урядъ земскій на рокъ певный, яко на завитый,

(5) и доведутъ ли того, же утрачала, маеть опеку и именья и дети пустити крвнымъ,

(6) а сама zostати на оправе своей;

(7) а не будетъ ли мети оправы, тогда мають ей выделить ровную часть межи детьми,

(8) которую маеть держати и ее вживати до живота своего, або покуль замужъ поидеть, а по животе ее тая часть ее маеть спасти на дети.

of the valuables;

(2) and if she does not have children, then she will have an equal share with the children of her husband's first wife only in the immovable property, but she may not have [an equal share] in valuables and movable property, apart from her dowry and any part of the immovable property that the husband bequeathed to her out of his kindness;

(3) she may remain with it only for life, if she does not get married,

(4) and if she gets married, then she must leave that equal share of the property to the children of the first wife, and these children will not be obligated to give her a *venets*.

SLS V/10. Concerning a widow who remains with underage children

(1) We decree that if some widow remains after her husband with underage children, and wants to remain in widow's seat and have the children under her guardianship, and is well-established or has a dower recorded by her husband,

(2) then such a widow may remain in widow's seat on all estates with the children, if there are no guardians appointed by the husband.

(3) And if she is not well-established or does not have a dower assigned to her, she has to get a good guarantee of well-established people, and then she may be admitted to the guardianship.

(4) And if she afterwards, remaining in widow's seat, wastes her children's estates and valuables, then the paternal uncles or [other] relatives may summon her before a state official on the final set date.

(5) and if they prove that she wasted [the property], then she should give over the guardianship, the estates and the children, to the blood relatives,

(6) and remain herself with her dower record;

(7) and if she does not have any dower record, then [the relatives] may give her an equal share with the children,

(8) which she may keep and use for life, or until she gets married, and after her death that part may fall on the children.

(9) А ведьже утрата отъ нее на именьяхъ иншая не можетъ се показовати: одно естли бы непобожными податками винами серебщизнами людей у въ оныхъ именьяхъ обтяжала, гумна и иные статки домовые нерядне роспрашала, або частые и непотребные калацеи мевала, и слуги непотребные ховала, а ничего въ домъ детиный не прибавляла.

(10) А где бы стріевъ и иншихъ кровныхъ не было, тогда мы Господарь, а въ небытности нашой у Великомъ Князстве Литовскомъ ино панове рада наша каждый у своемъ воеводстве для таковое утраты мають зъ рамени нашего господарскаго опекуновъ оселыхъ на тое местце уставити, которіе дети именья скарбы и ее самую у въ опеце своей мети будутъ а не допускати большей утраты чинити.

(11) А въ томъ часе намъ тую утрату по ней обачать, она бы што детемъ утратила; тогда будетъ винна тую всю шкоду детемъ своимъ платити зъ вена або зъ властного именья своего, а не будетъ ли мети именья або вена, тогда оные рукоимцы будутъ повинни шкоду детемъ платити.

SLS V/11. О девкахъ и вдовахъ, которіе за простыхъ людей замужъ идутъ

(1) Уставуемъ, которая бы девка або вдова, будучы стану шляхецкого, маючи именья отчизные або материстые, пошла замужъ за простого стану человека не шляхтича;

(2) таковая отъ всихъ именей своихъ якъ отчизныхъ такъ материстыхъ вечности отпадываетъ, але тые именья на близкихъ мають прійти, а по вдове на дети и тежъ на близкихъ ее,

(3) которые дети яко близкіе предсе будутъ повинни таковой девце або вдове за тые именья ее отложить суму пенезей подле шацунку статutowого, але по половицы, то есть даючи за каждую службу людей пять копъ грошей, а иншыя кгрунты сумы по половицы, яко въ томъ статуте о томъ шырей написано, а вено описаное все тратять, и не повинни будутъ

(9) The following harm may not be inflicted by her on the estates: [she may not] burden the people of these estates with unbearable tributes, fines or silver tax, illegally waste barns and other estate property, or have frequent and unnecessary parties and maintain unnecessary servants, not adding anything to the house of the children.

(10) And if there were no paternal uncles and other blood relatives, then we, the Sovereign, and, in our absence from the Grand Duchy of Lithuania, our lords of the Council, each in his own *voevodstvo*, with our sovereignty mandate, because of such damage may appoint guardians, well-established in this area, who will have the guardianship of the children, the estates, the property, and her herself, and who will stop her from causing further damage.

(11) And at that time we should examine the losses which she caused for the children; then she will be obligated to pay for all damage to her children from the dower or from her own estate, and if she does not have any estate or dower, then those guarantors will be obligated to pay for the damage [caused] to the children.

SLS V/11. About maidens and widows who will get married to commoners

(1) We decree: [if] some girl or widow, being of noble descent, having paternal or maternal estates, gets married to a person of a common class, not a nobleman;

(2) such [a woman] forever forfeits all her estates, both paternal and maternal, but these estates may go to the relatives, and those of a widow to the children and also to her relatives;

(3) those children or relatives also will be obligated to pay such a girl or a widow for these estates the amount of money, according to the value, established by the statute, but only half of it, that is, giving five *kop* of *groshy* for each service unit of people, and for other lands half of the amount, as is described in more detail in the *Statute*, and she forfeits the whole of the assigned dower,

дети и близкіе таковой вена откладати.

and the children and the relatives will not have to pay the dower to such [a widow].

SLS V/12. О вдове, которая бы по смерти мужа своего за другого хотела пойти

SLS V/12. About a widow, who after the death of her husband wants to get married to another [man]

(1) Хотемъ мети, абы малженство въ почтивости было заховано и для ведомости плоду, абы каждая вдова шляхтянка по смерти мужа своего до шести месяцев за другого мужа не смела пойти;

(1) We want to have [it thus]: in order that the respectability of the marriage is preserved, and also for the clarity of the progeny, that every noble widow after the death of her husband may not get married to another man for six months;

(2) а которая пойдетъ, тогда вено отъ мужа своего описаное тратить, а пакли бы вена описанаго не мела, тогда заплату до скарбу нашего дванадцать рублей грошей заплатити маеть.

(2) and such one who gets married, loses the dower assigned by the husband, and if she did not have a dower assigned, then [she] must pay to our treasury twelve *rubli* of *groshy*.

SLS V/15. Если бы которая вдова замужь пошла

SLS V/15. If some widow gets married

(1) Уставуемъ, если бы которая вдова замужь пошла, а первой будучи за первымъ мужемъ своимъ вено оправленное отъ мужа своего мела; тогда отъ другого мужа вена записанаго мети не може,

(1) We decree: if some widow gets married, and earlier while married to her first husband had a dower recorded by her husband, then she may not have a dower assigned by her second husband,

(2) нижли бы тотъ мужъ ее другій вмеръ, а дети по собе зоставилъ, тогда она межи детьми своими ровную часть у въ имению взяти маеть, а на томъ до живота мешкати*.

(2) if that second husband of hers dies, and leaves children after him, then she may take a part of the estate equal [to that of] each child and may live on that for live.

(3) Тогда отъ близкихъ маеть на вдовьемъ столцу на третей части зостати, а по животе ее и тая третья часть маеть спасти на близкихъ, заховатися водле того, яко вышей о томъ написано.

(3) Then she may receive from the relatives one third [of the estate], behaving as described above, and after her death this third may fall to the relatives.

SLS V/16. О имению, на которомъ мужъ жоне отпаву чинить

SLS V/16 About the estate on which a husband may give a dower record

(1) Уставуемъ тежъ, ижъ хто кольвекъ описавшы отпаву жоне своей на которомъ имению своемъ учинившы, того имения своего никому иному никоторимъ правомъ а ни способомъ записовати а ни въ чужіе руки задавати не можетъ, хотя и призоление отъ жоны показоваль, безъ очевистого передъ врьдомъ сознанья ее;

(1) We decree that someone, after giving a dower record to his wife on some of his property, may not allot this property to anyone else under any law and in any way, and give it into strange hands without his wife's personal confession in front of an official, even if he shows her agreement;

(2) а и врьдъ тежъ кождый на таковомъ венованомъ имению никому отпавы никоторое чинити не маеть, окромъ

(2) and no official may perform any exaction on such dower estate, except with the free and personal approval of the dowered lady in

добровольного и очевидного передь front of an official.
врядомъ самое панее венованное
призволенья.

Other laws, not directly related to widows, but used for reference

FLS I/16 (excerpt):

Тѣж дозволили есмо третью часть именья
продати на вечность.

Also, we authorise the permanent sale of
[only] one third of an estate.⁵⁴⁹

FLS I/17 (excerpt):

Уставуем тѣж и допускаем с пороною рад
наших, иж коли бы хто в добром здоровьи
своем перед маестатом нашим або перед
некоторым врадником нашим оного
повета, под которым седить, очивисто ся
поставивши, отписал кому другому
тастаментом або записом третью часть
именья своего отчизного або
материстого...

We also establish and permit with the advice
of our councils that if someone, being in good
health, before our majesty or before any of
our officials of that country in which he lives,
personally affirming this, wills to someone
else by testament or by record one third of his
patrimonial or matrimonial estate...⁵⁵⁰

FLS III/4 (excerpt):

Тѣж уставуем: которую бы девку отец або
матка дали до чужое земли з Великого
князьства Литовского, до Польши або до
Мазовш, або которое-кольве земли, маючи
дедизну або отчизну, або материзну свою,
и мела бы тая девка в себе братью, а не
было бы братьи, только сестры, тогды тые
братья або сестры мають ошачовати тые
именья и пенезьми ей заплатити, чого тая
часть ее стояти будеть, а тыю отчизну або
дедизну именья властность ее мають тые
братья або сестры ее ку своим рукам
мети...

We also decree: if a father or a mother
marries off some daughter, who has ancestral,
paternal or maternal estate, from the Grand
Duchy of Lithuania to a foreign land, to
Poland or to Mazovia, or to some other land,
and this girl has brothers, or does not have
brothers, but only sisters, then those brothers
or sisters must evaluate those estates and pay
her in money as much as her share will cost,
and those brothers or sisters may take this
paternal or ancestral estates of hers into their
own hands...⁵⁵¹

FLS V/[16] 15. О тастаментах на рухомыи речи, яко мають чинены быти

(1) Коли бы хто на речи свои рухомые або
на именье, на куплю, хотел тастамент
вчинити, тогды таковой, хотя бы тѣж не
моцон был, коли бы только при доброй
памяти, моцон будеть речи свои, именье
купленное таковое отказывати куды хочеть,
так духовным парсунам, яко и светским,

FLS V/[16] 15. How Testaments to Movable Property Must Be Composed

(1) If someone wants to draw up a will to his
movable property, or to an estate, a purchase,
he, although [he] may be ill, if only
conscious, is entitled to will his things and
such a purchased estate to whom [he] pleases,
both to ecclesiastical and secular persons, for
this calling upon a priest or other witnesses,

⁵⁴⁹ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 73.

⁵⁵⁰ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 73.

⁵⁵¹ *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 82.

призвавши к тому каплани або иные светки, або люди, веры годные, або тѣж явного писара присяжного.

(2) А коли сам потом умереть а тыю волю свою остаточную смертью потвердить, а хто бы и печати не приложил, таковой тастамент маеть при моцы зостати.

(3) А пак ли бы хто по вчиненьи тастаменту и жив зостал, вольно быдетъ каждому кождый тастамент свой колько кротъ хочеть, только кротъ отменить.

(4) А остаточным с тых всех тастаментов смертью потверженный, владовне вчиненый каждому владом, маеть при моцы зостати.

(5) А именье-куплю тастаментом, яко и рухомую реч, кождый можетъ отдалити и продати, кому хочеть так.

(6) Нижли хто бы хотел куплю на церков записати, тым обычаем: которые-кольве духовные тое именье будетъ держати, только маеть с того именья службу земскую конно а збройно служити, водле уставы и уфалы земское.

(7) Вжо от того часу уставуем, иж хто бы записал именье на костел, тогды с того именья также маеть служба быти, яко и первой была.

(8) А если бы хто перед владом або перед светками, веры годными, отписал третью часть записом именья або куплю, або которую рухомую реч, а хотя был жив, тогды вжо таковой запис маеть держан вечно быти;

(9) а оный вжо другой раз отозвати ани кому иншому оное речи записывати а по второй раз не можетъ.

SLS VII/1 (excerpt):

Што вси отъ сего часу и дня волно и мощно каждому именья свои отчизные и земские материстые и выслужоныекупленные и якимъ кольвекъ обычаемъ набытые и названные, не смотречи третее и двоухъ частей, яко передъ тымъ бывало въ статуте обычаемъ

or persons worthy of confidence, or an officially sworn clerk.

(2) And if he himself later dies, and confirms that his last desire by death, then even if the seal is not applied, such a testament must be valid.

(3) And if someone after the composition of the will remains alive, then [he] has the right to change his testament as many times as [he] pleases.

(4) The latest of these testaments confirmed by his death and officially affirmed by the authorities, must be considered the real one.

(5) Each person may transfer by testament and sell as [he] pleases a purchased estate like movable property.

(6) However, if someone wants to assign a purchase to the [Orthodox] Church, [this is permitted under the following] conditions: if someone of the clergy is to hold this estate, [he] must perform from only this estate land service on horseback and with weapon in accordance with the laws and land decrees.

(7) From this time we decree that if someone assigns his estate to the [Catholic] Church, from this estate service must he performed just as was done earlier.

(8) And if someone before the authorities or before witnesses worthy of confidence assigns to someone a purchase or one third of an estate or some movable thing, even if [he] is alive, that record is valid forever,

(9) and he may not-recall it a second time nor assign that thing a second time to anyone else.⁵⁵²

That from this time and day onwards everyone may and can give away, sell, give as a present, assign and mortgage, exclude from the children and relatives, manage according to his own will his estates, paternal and present in this country, maternal and service estates, purchased, and acquired and

⁵⁵² *Lietuvos Statutas*, ed. and tr. von Loewe and Gudavičius, 94-95.

стародавнымъ... отдати продати даровати и записати заставити, отъ детей и близкихъ отдалити, подле баченья своего тымъ шафовать.

SLS VIII/2 (excerpt):

Коли бы хто на речы рухомые або на именье набытое хотель тестаментъ чинити... моцонъ будетъ речы свое и именье набытое таковое отказовати, кому хочеть...

claimed in any other way, not observing one third and two parts, as it used to be before in the statute according to an ancient custom...

SLS XI/9. О кгвалтовное взятъе въ малженство девки вдовы и каждое невесты

(1) Уставуемъ, хто бы безъ воли отца и матки стрьевъ або близкихъ на якомъ кольвекъ местцу взялъ кого съ тыхъ вышеймененыхъ кгвалтомъ, менуючы ижъ бы ему въ малженство его шлюбила, а то бы пришло до насъ Господара або передъ пановъ радъ нашихъ и передъ каждый врьдъ;

(2) таковая персуна маеть первой быти взята до секвестру.

(3) И кгда то покажетъ съ права, же яко пріятель кривныхъ такъ тежъ и ее самое на то позволенъя не было;

(4) тогды тотъ хто се того важыль, маеть горломъ каранъ быти, а за навезку третья часть всего имения его маеть спасти на тую парсуну кгвалтомъ взятую, а шкоды, которые се будутъ при томъ кгвалте стали, за доводомъ на двоихъ частехъ того жъ имения его маеть быти сказано.

(5) Нижли естли бы девка, уквивши то передъ родичами своими, на тое малженство и на взятъе позволила и на праве се того знала;

(6) тогды таковая девка отпадываетъ отъ выправы и отъ всихъ именей своихъ отчизныхъ и материстыхъ, яко о томъ вышей написано въ розделе пятомъ.

If someone wanted to leave the movable property and the acquired property by a testament... may renounce his things and such acquired property to whomever he wanted...

SLS XI/9. About taking girl, widow and any other woman by force into marriage

(1) We establish, that if anyone in any place kidnaps any of the aforementioned (women) by force, without the permission of the mother and father, father's brothers or relatives, stating that she has got married to him, and this has reached us, the Sovereign, or the Council of Lords and any official;

(2) to such a person sequestration should be applied.

(3) And when it will be found in court that there was no permission from the blood relatives and from her herself;

(4) then he, who did this, must be hanged, and one third of all of his estate should go to the person taken by force as remuneration, and damages, which have occurred during this kidnapping, when they are proven may be adjudged from the two parts of the same estate.

(5) If the girl, having concealed this from her parents, allowed this marriage and this kidnapping, and acknowledged that in court,

(6) then such a girl loses her dowry and all her paternal and maternal estates, as is described above in chapter five.