Bukurije Guni

Marriage Payments in the Venetian Eastern Adriatic

A Comparative Approach to the Fourteenth-Century Statutes of Shkodra and Budva

MA Thesis in Medieval Studies

Central European University

Budapest

May 2014

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A Comparative Approach to the Fourteenth-Century Statutes of Shkodra and Budva

by

BukurijeGuni

(Albania)

Thesis submitted to the Department of Medieval Studies,

Central European University, Budapest, in partial fulfillment of the requirements of the Master of Arts degree in Medieval Studies.

Accepted in conformance with the standards of the CEU.

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Chair, Examination Committee

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Examiner

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I, the undersigned, **Bukurije Guni**, candidate for the MA degree in Medieval Studies, declare herewith that the present thesis is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Budapest, 21 May 2014

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Signature

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CONTENTS

Introduction

From 1396 the town of Shkodra, situated in today's northern Albania, and, from 1420, the town of Budva, situated in today's Montenegro, were under the rule of Venice. These towns, among other communities in the eastern Adriatic, were key areas for the maritime and mercantile control of the Adriatic Sea, which was the linchpin for Venetian dominance over trade in the Mediterranean. In order to legitimize its authority in these sectors, Venice installed counts to manage centralized bureaucracies and imposed structured jurisprudence. The effective control of the towns was exerted through the enactment of statutes,[1] which served as the law codes of the towns where they were enacted and organised their functioning. Due to the Venetian influence and the regions' close geographical proximity to each other, these statutes are quite similar in their narrative structure, principles, and branches of judicial government.

Shkodra came under Venetian rule when, in 1396, the noble family of Balshaj, which had ruled the town since 1355, the year when the Serbian king Stephan Dushan died, signed a treaty surrendering the town to Venice.[2] They were not the only community joining the Venetian Empire at that time.[3] The reason for this act was the constant menace of an Ottoman invasion and the attempt of the Albanian nobles to escape from the Ottomans by seeking refuge under Venice. As Luan Malltezi states, "for sure the calculations were not inappropriate."[4]In fact, Venice was a strong empire and had a successful rule in the Adriatic. It extended along the Adriatic coast from Trieste to Durrës. Shkodra stayed under Venetian rule from 1396 to 1479. On 25 January 1479,

[1] For detailed information about all the law codes in this area under the Venetian occupation see Damir Karbić and Marija Karbić, *The Laws and Customs of Medieval Croatia and Slavonia: A Guide to the Extant Sources* (London: University College, 2013).
[2]Luan Malltezi, "Skanderbeg and the Albanian Coastal Cities under Venice," *Geopolitics* 6 (2011):59; www.ceeol.com (accessed May 14, 2014)
[3]Durrës and Lezha had already been handed over to Venice by their rulers, Ibidem, 59.
[4]Ibidem, 59.

Antonio da Lezze, the Venetian count, representing authority of Venice in the town, handed Shkodra over to the Ottoman, Ahmed Pasha. All the towns of Albania that passed under the Venetian jurisdiction had their own statutes, as a means of regulating the functioning of the towns, likewise it was the case for Durrës, Drishti, Bar, and Ulčinj[5]. These statutes were registered in the Senate of Venice but there is no surviving copy of them[6]. The only statutes that survived were statutes of Shkodra.

[5]Luan Omari and AleksLuarasi, *Historia e Shtetitdhe e së Drejtës në Shqipëri*, (The History of State Formation and Law in Albania), (Luarasi University Press:Tiranë, 2007, 4th ed.), 119.
[6]Ibid., 119.

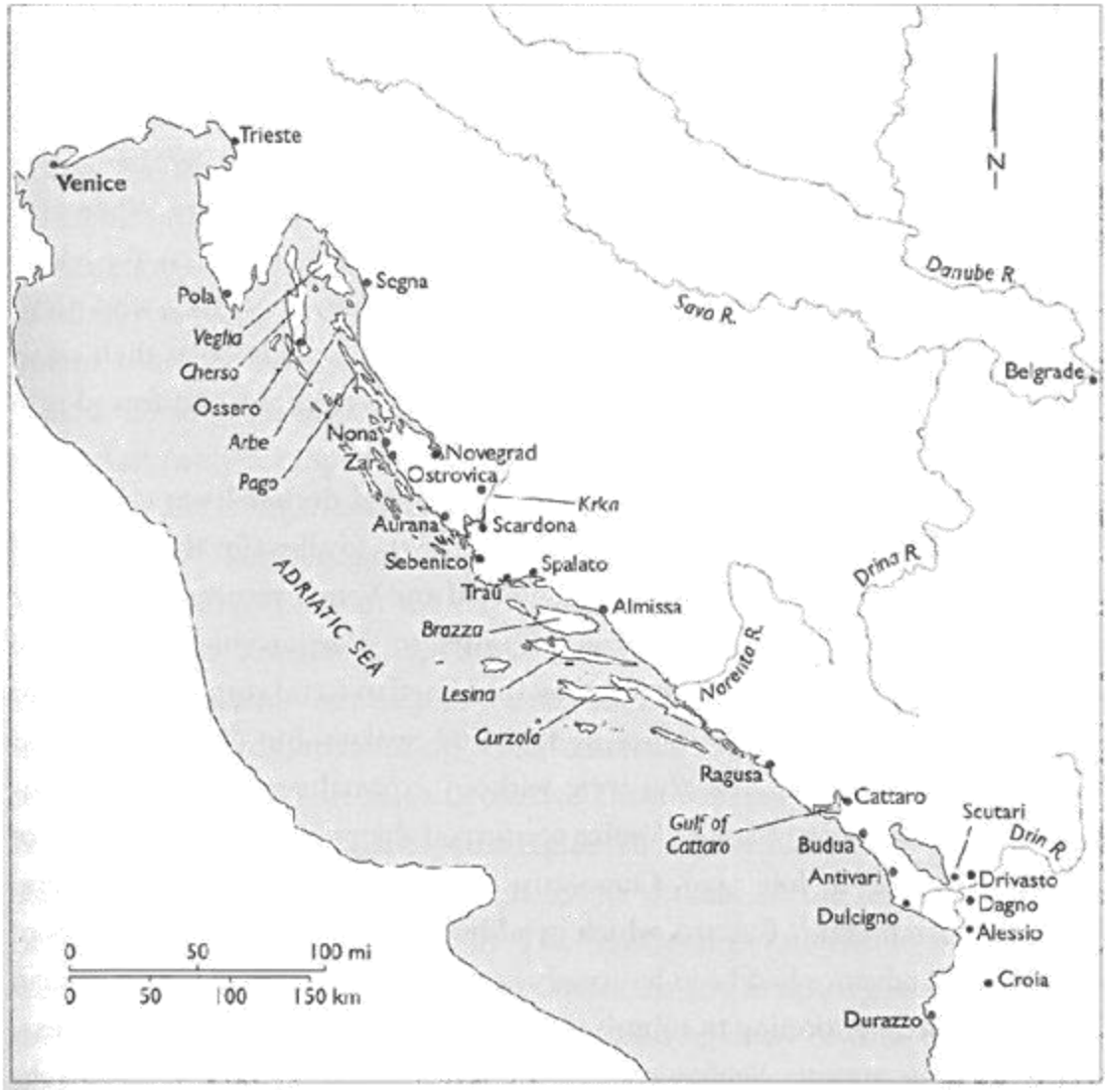

Figure 1.1. Map of the eastern Adriatic (place names in Italian: Shkodra=Scutari and Budva=Budua,) (Monique O'Connell, *Men of Empire: Power and Negotiation in Venice's Maritime State* [Baltimore: The Johns Hopkins University Press, 2009], 29).

According to Oliver Schmitt, the law codes of Shkodra seem to have been valid from before 1346 until 1479.[7] This means that the statutes persisted for more than one century and, what is

[7]Oliver Jens Schmitt, *Shqiperia Venedikase (1392-1479); Das Venezianische Albanien, 1392-1479*(Berlin: Oldenburg, 2001) (Tirana: K&B Natyra, 2007), 113.

more important, were valid normative sources in the town during all these years. Although, thus, the statutes had already existed before the Venetian occupation, one can assume that they were "revised" by the Venetian authorities to be in accordance with Venice's requirements and standards. They seem to have been norms set by local authorities first and later adopted and approved by Venice. Gherardo Ortalli states that it was the tendency of Venice to accept and save the local traditions, as can be seen not only in the case of Shkodra but also in that of other towns in the area, such as Drishti, Lezha, Bar, and Ulčinj[8].

Gaetano Cozzi also argues that Venice was to some extent indifferent to the local legislation of the minor places it controlled.[9] He argues that Venice's tendency was to show an attitude of acceptance of "the specific physiognomy that every city had inherited from their past"[10]. This can also be recognized by the fact that in all the articles of the statutes of Shkodra the name of King Stephan Dushan of Serbia was not removed, although he was no longer in power after 1355[11].

The Statutes of Shkodra comprise 279 articles. They start with a set of regulations for public law and go on with family and inheritance, meaning civil law, then criminal law and trade law. They were mentioned for the first time by Leone Fontana in his bibliography of Italian statutes published in 1907[12]. In this bibliography, Fontana mentioned the location where the statutes were kept, namely, the Museo Correr in Venice. Gherardo Ortalli comments that "among the codices of the Cicogna collection, marked as ms.295, the nice codex of the Statutes of Shkodra

[8]Ortalli, "Glistatutitra Scutari e Venezia," in *Statuti di Scutari della prima metadelsecolo XIV con le addizionifino al 1469*, ed. Lucia Nadin (Rome: Viella Libreria Editrice, 2002), 20. For detailed information about the attitude of Venice toward the occupied countries see Gaetano Cozzi, *Republica di Venezia e statute Italiani. Politica e giustizia dal secolo XIV al secolo XVIII* (Turin:Einaudi, 1982).
[9]Ibidem, 20.
[10]Ibidem, 20.
[11]Ortalli, "Gli statuti tra Scutari e Venezia," 20.
[12]Leone Fontana, *Bibliografia degli statuti dei comuni dell'Italia superiore,* vol. 3 (S-Z) (Milan, 1907), 101.

is still situated in our days, placed there probably from the beginning of the sixteenth century."[13]. Lucia Nadin gives exact data for the location, stating that: "the actual mark is MS Correr 295, belonging to MSS Correr III n˚661."[14] According to Nadin's description the statutes were transmitted in one single manuscript composed of forty pages of parchment.[15]

Ms. Correr 295 is a copy from the lost original of the statutes. It was written by Marino Dulcich, about whom there is no exact information.[16] Schmitt argues that Dulcich wrote it in1500, being among the people who, after Shkodra was ceded to Ahmed Pasha, left Albania and moved to Venice, trying to keep Albanian memory and tradition alive. Schmitt ranks him among other Albanians undertaking similar activities, such as Gjon Muzaki, Marino Barlezio, and Archbishop Paolo Angelus of Durrës (Durazzo)[17].

For the first time, the statutes of Shkodra were presented in Albania by an article of Lucia Nadin, "Sugli antichi statuti della città di Scutari"[18] in the proceedings of a conference at Luigj Gurakuqi University of Shkodra in 1997. In 2002, Nadin published the first critical edition of the statutes, with a translation into Albanian by Pëllumb Xhufi and introductions by Giovan Battista Pellegrini, Oliver Jens Schmitt, and Gherardo Ortalli[19]. In 2010, the same authors published a second edition of the statutes with the addition of an article by Vjollca Lisi[20]. Later, the statutes

[13]Gherardo Ortalli, "Gli statuti tra Scutari e Venezia," 9: "…tra i codici della collezione Cicogna, segnato come ms. 295 si trova tuttora il bel codicetto degli Statuti di Scutari, steso forse verso inizio Cinquecento."
[14]Lucia Nadin, "Il Codice degli Statuti e l'edizione", in *Statuti di Scutari della prima metà del secolo XIV con le addizioni fino al 1469*, ed. eadem (Rome: Viella Libreria Editrice, 2002), 77-88:"la segnatura attuale è:ms Correr 295; L'appartenenza è: mss Correr III n˚661."
[15]For a detailed description of the statutes' parchment see Lucia Nadin, "Il CodicedegliStatuti e l'edizione",77 -88.
[16]Ortalli,"Glistatutitra Scutari e Venezia," 21.
[17]Oliver Jens Schmitt, "Un monumento dell'Albaniamedievale," in *Statuti di Scutaridella prima meta del secolo XIV con leaddizionifino al 1469*, ed. Lucia Nadin (Rome: ViellaLibreriaEditrice, 2002), 26.
[18] Lucia Nadin, "SugliantichiStatutidellacitta di Scutari", in *Studiuesititalianëpërjuhën, letërsinëdhekulturënshqiptare*, University of LuigjGurakuqi, Shkodër: Volaj, 1997, 41 – 45.
[19]Lucia Nadin, "Il Codice degli Statuti e l'edizione", in *Statuti di Scutari della prima metà del secolo XIV con le addizioni fino al 1469*, ed. eadem (Rome: Viella Libreria Editrice, 2002.
[20]*Statuti di Scutari della prima metà del secolo XIV con le addizioni fino al 1469*, ed. Lucia Nadin, 2nd ed.(Tirana: Universiteti Wisdom, 2010).

became a point of reference for legal historians covering the history and evolution of Albanian law[21].

The surviving manuscript of the statutes of the town of Budva also dates back to the sixteenth century, is written in vernacular Italian, and is a translation of a lost Latin version[22]. Again, the law code itself was not new and existed before the Venetian occupation[23]. It contains 295 articles[24]. Like the statutes of Shkodra, these articles are not arranged separately according to the areas of law that they treat but are all together in one list. The code includes a number of laws on governmental issues for the functioning of the city, meaning public law, going on with family law, inheritance law, and trade law[25]. The statutes of Budva, however, have no treatment of penal law.

Schmitt suggests dating the statutes of Budva to after 1346, saying that in all the statutes Stephan Dushan is referred to as *zar*, meaning originally a caesar of the Byzantine court, but acquiring in the Slavic world the meaning of "emperor", that is, supreme ruler without any other superior than God. This places the statute definitely after Stephan's coronation as *zar* in 1346.[26] The fact that the penal law section is missing in the statutes of Budva coincides with the enactment of Dushan'scode,[27] the Zakonik, in 1349, a normative source including public and penal law, which was to cover all the territory where Stephan Dushan ruled[28]. This might explain why the statutes of Budva do not contain any section on penal law.

[21]Ismet Elezi, *Legal and Criminal Protection of Human Dignity in Albania*,2011, http://immigrazione.diritto.it/docs/32423-legal-and-criminal-protection-of-human-dignity-in-albania (last accessed May 10, 2014).
[22]Karbić and Karbić, *The Laws and Customs*, 37
[23]Oliver Jens Schmitt, Un monumento, 29
[24]Karbić and Karbić, *The Laws and Customs*, 37
[25]Ibidem, 37
[26]Schmitt,Un monumento, 30
[27]ĐuricaKrstić, ed., *Dušan's Code: The Bistrica Transcript* (Belgrade:Vajat, 1994).
[28]Schmitt, "Un monumento", 31.

Methodology

To compare the statutes of Shkodra to those of Budva is the most self-evident methodological choice given the similarities between the two, which are so far-ranging that scholars usually return to the statutes of Budva as a point of reference to get the full meaning of several articles in the statutes of Shkodra[29]. Comparative studies on the two codes have been conducted by Oliver Jens Schmitt, Lucia Nadin, and Gherardo Ortalli. However, these scholars did not go into further details other than giving the general description of the content of the law codes. The present study intends to realize a detailed comparisons of the two sets of statutes for the first time.

The aim of my research is to explore this substantial legal status and the extent to which these statutes impacted the daily life of women and also to inquire into the life conditions of women and the construction of female identity based on the evidence of legal norms in medieval Albania. I will discuss the statutes of Shkodra and Budva and intend to discover differences and similarities between them which play an important role with regard to specific aspects of the position and rights of women

I will interpret the statutes within the context of their legal and historical background. I have chosen a cultural history approach that focuses on looking at mechanisms of a past society and a gender history approach that addresses the conditions for women to act in their own environment. The combination of cultural history and gender history will help me to better explore the presence of women in the legal evidence.

To realize this detailed comparison of Albanian and Dalmatian medieval laws, I have chosen one specific topic which has been generally of high importance in international research

[29]Ortalli,"Gli statuti tra Scutari e Venezia" 23.

for some decades: the position of women in the legal discourse and, within this topic, one particular aspect, namely, marriage payments. With the help of such an examination I hope to be able to go deeper than the general statements that have been offered by previous scholarship with regard to the similarities and differences of late medieval Albanian law codes.

Literature Review

When dealing with legal sources of the middle Ages, Albanian research often sees the so-called Code of Lekë Dukagjini as the most important source and states that it has prevailed in the country since, at least, the fifteenth century. Lekë Dukagjini was a Northern Albanian prince (1410-1481) after whom this canon was named[30]. The full version of it was published in 1933 by Shtjefën Gjecovi.[31] These publications are not based on any surviving medieval text but on collected oral transmissions, a method that was generally very popular in this period throughout Europe. The medieval origin can certainly not be proved. Nevertheless, the canon has been accepted as a medieval law code by many scholars until today[32]. Edith Durham wrote about this myth that Lekë Dukagjini must have had an imposing personality to have influenced to that extant as the expression "This is what Leka said" has more imposing power than the Ten Biblical Orders, the teachings of Islam and Christianity, The Sharia Law and the Church Law[33]

[30]Robert Elsie, *Historical Dictionary of Albania*, European Historical Dictionaries No. 42 (Lanham, Maryland, and Oxford: The Scarecrow Press, 2004), p. 217 "Lekë Dukagjini (1410-1481), after whom the code was named, is a little-known and somewhat mysterious figure thought to have been a fifteenth-century prince and comrade of arms of Scanderbeg. Whether he compiled the code or simply gave his name to it, it is not known".

[31]Shtjefën Gjecovi, Kanuni i Lekë Dukagjinit The Code of Lekë Dukagjini (Shkoder. 1933); reprint as *Kanuni i Lekë Dukagjinit, The Code of Lekë Dukagjini*, Albanian text collected and arranged by Shtjefën Gjeçov, translated with an introduction by Leonard Fox (New York: Gjonlekaj Publishing Company: 1989.)

[32] See, for instance, Islam Qerimi and Vjollca Salihu, *Social Organization and Self-Government of Albanians according to the Customary Law (*Prishtine, 2011),;5-6: "At the time when the code acted in Albanian territories, it could not be considered written law because there was no Albanian state, but the Ottoman occupation."; Genc H. Trnavci, "The Albanian Customary Law and the Canon of Lekë Dukagjini: A clash or Synergy with the Modern law", (2008), online version work.bepress.com/cgi/viewcontent.cgi?article=1000&context=genc_trnavci (last access May 21.2014).

[33]Edith Durham, *Brenga e Ballkanit dhe vepra te tjeta per shqiptarine dhe shqiptaret*. [The Burden of the Balkans and other Studies for Albania and Albanians] 2nd ed. (Tirana, Naum Viqilharxhi. 1998), 116.

The quasi-medieval Code of Lekë Dukagjini, on the one hand, as well as the statutes of Shkodra and Budva, on the other hand, contain a number of articles with regard to the position of women, but in a very different way that makes them rather incomparable and strengthens the doubts concerning the medieval origin of Lekë Dukagjini's canon. Article twenty-nine of the canon states, for instance, that "A woman is a sack, made to endure"[34]. Moreover, the canon does not mention females as having rights to inherit, to make testaments, to have an opinion concerning the fate of their children when it came to marriage, and so on. Thus, the laws in the Code of Lekë Dukagjini are totally different from the laws of Shkodra and Budva.

It can be generally stressed that through the statutes more than one aspect of the society, economy, and culture of the area can be brought to light[35]. However, although they have great value for the history of medieval Albania, the statutes have been treated by only a small body of secondary literature in Albania. The great bulk of the studies on the law codes have been written in Italian and German, while relatively little is available either in Albanian or in English. The few articles written in Albanian offer limited information in terms of originality; to a certain extent they look like merely a translation of the existing literature in Italian and German. Thus, the main authors who wrote about the statutes are still Schmitt, Ortalli, Nadin, and Pellegrini.

Articles such as the one written by Ermal H. Baze, "Statutet e Shkodrës dhe Kodeksii Stefan Dushanit në Sfondin Krahasues Historik"[The Statutes of Shkodra and the Code of Stephan Dushan in a Historical Comparative Approach] present a repetition of the work of what the above-mentioned scholars already said[36]. The same author goes more into detail in his analysis of the

[34]*KanuniiLekëDukagjinit*, 38.
[35]Oliver Jens Schmitt, "Un monumento dell'Albania medieval," 26.
[36]ErmalH.Baze,"Statutet e Shkodrës dhe Kodeksi i Stefan Dushanit në Sfondin Krahasues Historik" [The statues of Shkodra and the codex of Stefan Dushan] *Albanological Research – Historical Sciences Series* 41-42 (2011-2012): 219 – 242. On www.ceeol.com.

statutes of Shkodra in a recent book and also offers some comparison to other statutes from the area. However, his references to the role of females are limited[37]. Another, still unpublished, study of the statutes of Shkodra and the treatment of women by Etleva Lala[38] only presents a short summary of their contents and does not use a comparative approach to specific laws and the treatment of females. Detailed analyses and case studies concerning particular questions can, therefore, be seen as a necessity.

Just as other medieval law codes, both the statutes of Shkodra and Budva can be perceived as predominantly male-centered[39]. However, when treating institutions such as family and inheritance, they inevitably refer to females rather extensively. The status of women in medieval Venice has attracted the attention of a number of scholars. Questions referring to their agency, their power, and active role in society, their ability to make things happen, as well as their rights and duties have been the topic of a number of important studies.

One of these was prepared by Anna Bellavitis[40], who explores mainly the elements of everyday lives of women and men in the stages of their life cycles. She examines the representation of both genders and their joint actions. Her analysis shows the importance of normative evidence in shaping the relations between women and men in Venice. Bellavitis first states that: "reading the thirteenth-century Venetian statutes, one gets the impression that the right to both inherit and leave an inheritance were male rights"[41]. In the following, however, she comes to a rather different

[37]Ermal Baze, NjëQytet me Statute : *Shqipëria në gjysmën e pare të shekullit XIV* [A City with Statutes: Albania in the first half of the fourteenth century] (Tirana: Muzgu, 2013)
[38]Etleva Lala, "Women in Medieval Albania," in *Proceedings of the conference: East meets West: A Gendered view of Legal Tradition, .*, ed. Grethe Jacobsen and Heide Wunder(forthcoming).
[39]Cf. Chiara Benati, "The Role of Woman in Medieval Sweden on the Evidence of the Earliest Legal Texts*".* *Publifarum* 18 (2013). http://www.publifarum.farum.it/ezine_articles.php?art_id=239 (last accessed May 21, 2014).
[40] Anna Bellavitis, "Women, Family, and Property in Early Modern Venice," in *Across the Religious Divide, Women, Property and Law in the Wider Mediterranean ca. 1300 – 1800*, ed.Jutta Gisela Sperling and Shona Kelly Wray (New York: Taylor & Francis, 2010); 175-190.
[41]Ibid.,176. She is not the only one who offers such a statement. In fact, Chiara Benati, for instance, working with female agency in Swedish law codes states the same (Benati, "*The Role of Woman in Medieval Sweden ",* However,

conclusion: "Despite the possible impression of male chauvinism, Venetian statutes actually held woman's property rights in higher regard than did many other Italian urban statutes"[42]. Her comparative approach to the normative sources of Venice and other law codes of the area helped me compare and contrast the situation for the towns of Shkodra and Budva in relation to a broader picture.

Aysu Dincer is one of the authors who dealt with female agency within an area under Venetian influence in almost the same period as that when the towns of Shkodra and Budva were under Venetian influence. In her article "Wills, Marriage and Business Contracts: Urban Women in Late-Medieval Cyprus," she refers to a period of time around 1335, when Cyprus, like Shkodra and Budva, was under Venetian occupation[43]. She attempts to conclude that women's agency was quite significant, precisely stating that "women come into view as active figures in urban life"[44].

A similar situation can be recognized with regard to the laws of Shkodra and Budva. There, women could inherit, bequeath property to their children, enter contractual agreements, and bequeath any amount of wealth they chose to their heirs. Their position was crucial when it came to marriage.

Jason Hardgrave states that: "The majority of source materials remain descriptive of women but rarely reveal their voices or identities"[45]. However, this statement, based on a commonplace of subaltern studies, may be substantially modified through an analysis of the statutes. The statutes can be seen as offering relevant, context-dependent information on shaping

Benati also gets to the conclusion that although females seem to have hidden agency, their power must have been quite significant, especially when in issues regarding family and inheritance.

[42]Bellavitis "Women, Family, and Property in Early Modern Venice" ,177

[43]Aysu Dincer "Wills, Marriage and Business Contracts of Urban Women in Late-Medieval Cyprus", *Gender & History*24 (2013): 310–332, 201.

[44]Ibid., 310.

[45]Jason Hardgrave, "The Formation of Women's Legal Identity in TrecentoVenice,"*Essays in Medieval Studies* 22 (2005): 41 – 52, 41.

the life conditions of women and also offering important results concerning their identity construction.

Christiane Klapisch-Zuber, a French scholar whose work was oriented toward history and family, used notarial acts found in the *catastri* of the cities she investigated, mostly in Italy, to reconstruct dowry practice[46]. One has to say that although it is clear that contracts were the legal way to define concrete ownership rights, unfortunately there is a lack of this kind of source relating to practice for the towns of Shkodra and Budva. There are no surviving notarial acts or other non-normative sources which would give details of the practice on how the norms were applied. Therefore, one has to limit and concentrate on the laws and their detailed structure.

[46] See Christiane Klapisch-Zuber, *Women, Family and Ritual in Renaissance Italy*(Chicago: University of Chicago Press, 1987).

Similarities and Differences: Law and Order in the Towns of Shkodra and Budva

When comparing the two law codes, as a general rule one can say that there is a slight difference between the statutes of Shkodra and those of Budva in the number of articles and their contents. There is, however, such a great resemblance between the two codes of statutes that one can easily see the connections of the articles. The code of Shkodra has 279 articles and that of Budva has 295 articles. The differences are related to the fact that sometimes two articles in the law code of Shkodra are in one article of Budva and vice-versa, as for instance article two *De casiche de' zudegar lo re*[47](The cases that the king should judge)and article three *De tempo de andardoppoi la citatione*[48](About the time to go to summons) in the statutes of Shkodra correspond in content to one article in the statutes of Budva, namely, article three, *Di che deve giudicar l'imperador*[49](The cases that the emperor should judge).

Schmitt states that "a comparison between the statutes of Shkodra and the statutes of Budva, chronologically later, reveals how the latter derives from the first in many parts".[50] He emphasizes that the language of the texts is still an issue[51]. However, the clearest similarity

[47]Statute of Shkodra, article 2, page 91. De casiche de' zudegar lo re: "De basa per ciaschun che miser lo re d'ognu caso che venissi in citade concede a li zudesi de zudegar, come a citadino, a sclavo, a arbanese et ciaschunstranier d'ognu cosa salvo de quarto cose, cio è imprimera mente de infedelitate, de homicidio, de servo et de ancilla, de cavallo et de questi cosi de'zudegarmiser lo re stesso."

[48]Statute of Shkodra, article 3, pg 91, De tempo de andar doppoi la citation: "Anchora si ne fa gratiamiser lo re che nessuna citation che fosse cita do nostro citadinocumbola voi cumcharta, che non sia tenudo andar, da poi la citatione, aragando della festa di sanctoStephano, fina a la festa de sanctoSergii, che vada dappoi la citation, et de poi che comenza a seminar fina a la festa de sanctoStephano, de Nadal non sia tenudo de andar a la citation."

[49]Statute of Budva, article 3, page 93. Di che deve giudicar l'imperador: "Ciascheduno de vesaper, che m. lo imperador concede alla nostra citta, che d'ogni cosa possano giudicar li giudici della nostra terra con li nostri statute, tanto homo terrier quanto forestiero, che Avanti loro se placitasse, eccetto che trasse a se de infedeltade, de homecidio, de servo, de serva et de cavallo robbado o morto, di queste cose vuole lo imperador giudicar lui. Ancoravuole m, lo imperador che nissun nostro cittadino, che fosse citado avanti esso imperador con lettera o con bolla, o fosse citado delle cose, chel'imperadorsi ha tratto a se per giudicar, non sia tenuto andar dietro la citation dalla festa di santa Maria di settembre fino la festa di s. Michiel; et dalla festa di s. Michiel fin la festa di s. Maria di settembre ciascheduncitado con lettere o con bollasia tenuto andar dietro la citation."

[50]Schmitt,*Un monumento*, 30: "un confronto fra lo statuto scutarino e quello buduano, cronologicamente piu tardo, rivela come questo deriva letteralmente dall'altro in molteparti."

[51]Ibidem, 30.

straightforwardly visible is the one of the language. The vernacular Italian in which the two codes are written is almost the same language and enables the comparison of the content easily. Seen from the perspective of the development of the modern Italian language, they can be set in a linear development from the early vernacular Italian of the Shkodra statutes to the later vernacular Italian of Budva and, from there, to modern standard Italian. Schmitt suggests, and I agree, that the statues of Shkodra were written down earlier than the Budva Statutes. What is particular for both the statutes of Shkodra and the statutes of Budva is the diversified treatment of the areas of law. Often in one article the legislator tended to include all specific areas related to the subject it refers to and in most cases the articles refer to more than one single law. There is always some intersection in content as the boundaries are not clearly drawn. General similarities occur in the general dispositions of the law such as legal age, legislative power and categorization of the population.

Legal Age

A distinctive feature which applies to all the articles of the statutes of both Shkodra and Budva is the legal age at which one can acquire rights and duties. Both statutes limit the age when a person could engage in legal actions to 14 years for boys and 12 years for girls. This is, for instance, mentioned in the article dealing with making one's testament: "a child cannot dispose a testament until the age of 14 for boys and the age of 12 for girls"[52]. Thus, the moment when a boy turned 14 and a girl 12 they were considered to be adults. From then onwards they had full rights and duties and both males and females could be active and passive subjects of the law. This age

[52]Statute of Shkodra, article 186, page 138, De etade de far testamento."Ordinemo che zaschadunfante che fosse de etade de anni XIIII, chipossafarliberamente testamento cum charta de notario over cum guarenti, e se de manco de anni XIIII et overfesse testamento, chi non tegnanevalia, malu facto suovada a chipiupertien ; e fantulina e femenahabiapotestate de anni XII in suso de farsuo testamento e tegna e valia, e se de mancho fecisse testamento, chi non tegnanevalia ; e si la fantemorissesenzamaritupoi che havissifactu testamento, volemo che li dicticosi romane a lo pluiproxima le overproximala";Statute of Budva, De Testamento. "Ordinemo, che nissun homo d'anni 14 possafar testamento con lettere di notaro o con guarenti o scritto di mano con guarenti, et de manco de anni 14 non possafar; se facesse, non tenga nevagliaquel testamento, ma va di ilfattosuo come di intestado, se morisse, a chipiuapartiene; et se non havesse la feminamarito, possafar testamento de anni 12."

was the same in Venice and its peripheries as well as in other cities of Italy, Sweden, France, and England[53].

Election of People who Exercised Power

According to the statues of the Shkodra regulations, the feast day of Saint Mark, April 25, was to be the day of elections of the Commune Organs by the population, the bishop, and four noblemen[54]. They were to gather at the sound of the bell of the Saint Stephan Church. The persons elected were: three judges, eight councilors, and two distributors. The commune and the count were both the organs through which the law was imposed and controlled. In all the articles, if a fine is levied as punishment for some transgression, it is divided, half to the count and half to the commune. The election process is more elaborate in the statues of Budva, which state that:

> On the day of Saint Mark the Evangelist the bells of the church of Saint John should be rung and the noblemen should gather in the number of thirty at least, If they are at least thirty, they have to hold counsel and elect the officials of the municipality through throwing lots. The one who gets the vermilion lot must choose who should be in the given office. If the latter gets the majority of the votes, he will definitively receive the given office; if he loses the majority of votes, then, he stops to be eligible for the given office[55]; once the office is filled they repeat the same procedure for the next office.[56]

[53]Colin Heywood, *A History of Childhood: Children and Childhood in the West from Medieval to Modern Times*, (Cambridge: John Wiley & Sons, 2001), 14.

[54]Statuti di Shkodra, article 89, page 113. "De li dìche si pone li zudesi et officiali. 'Ordine moche sempre mai il lo dì de sancto Marco evangelista se debia poner tre zudesi, conseglieri octo, et do spendedori in tal forma chi se debia sonar la campana de Sancto Stefano et congregar lo povolo et chiamar lo vescovo nostro chi vada cum IIII zentilhomeni a de lezer eisora dicti officiali, como è li zudesi e li conseglieri."

[55]This should mean that they are throwing lots – rather the noblemen are drawing from the ballots in a vessel – as long as the office is not filled but the one who lost is not eligible anymore

[56]Statute of Budva, article 70, page 106, "Del giorno che si creano li officiali. Ordinemo, che il giorno di s. Marco evangelista si debbi sonar la campana di s. Zuanne, et congregarse li gentil'huome ni al menotrenta in conseglio et non manco; et se fossero più, debbanoandar in conseglio, et ellegger li officialidel commun per ballote, et a colui, chetoccasse la balottavermiglia, debbiellegger, chi deveessernell'offitio, il quale se la guadagnasse per la maggior parte, essodebba haver il dettooffitiofermo, et se ello la perdesse per la maggior parte, che non si debbimetter più ballotta per lui et per il dettooffitio. Et chedebbinoponertregiudici, ottoconsiglieri e duecapitani, doispendidori, doiavocati, doiauditori e trevenditori et stimadori, et il vescovodebbimetter a sacramento li dettiofficiali, essendofatti. »

The persons elected in the town of Budva are the three judges and eight councilors, there were also two captains, two spenders, two advocates, two officers and three sellers and estimators.

The Categorization of Men and Women in the Statutes

Law not only makes a difference between men and women in the way they are represented, but also it differentiates within the groups of males and females[57]. There are different categories of women and men in the law codes. While males are categorized as son, groom, husband, father, and widower, females in the law codes of Shkodra and Budva are categorized as daughter, bride, wife, mother, and widow. Often the categorization even involves quality and behavioral elements as distinguishing features.

Moreover, there is a division concerning the social strata of the persons, where the category of noble men *zentil homeni* and noble women *zentil donne* played the most important role. In the statutes of Budva they are mentioned respectively as *gentil'houmeni* and *gentil donne*. There are articles in the statutes of Shkodra that use the adjective *bona* which refers to commoners. Interestingly enough, besides noble women, only one category of common women is mentioned, those who are considered the very opposite of being *bona*. The two law codes contain only one article related to women with no right to get married or to claim inheritance, to whom no honor is due, namely, harlots.

Harlots

Article 87 of the statutes of Shkodra and article 66 of the statutes of Budva are two related regulations, which, however, show interesting differences. The article of Budva states:

[57]Hardgrave, TheFormation, 41.

> Any harlot who may be found by proof of two or three men, is not allowed to wear any headgear according to our usage. If she does not comply, she cannot come close to noblewomen or monks, nor live in their vicinity under the pain of paying 8 *perperi*, half of it to the count and half of it to the municipality. Also, if any harlot were found and proven to operate evil spells, or to be a procuress, she cannot stay in our land for more than three days. In case she were to be found to stay longer, she should pay a fine of 4 *perperi*, half of it to the count and half of it to the municipality; she should be flogged all over the land and should be banned from our land for all her life.[58]

Clearly, the law of Budva permits the exercise of the *métier*of a harlot, but prescribes that harlots distinguish themselves from other women by not wearing the headgear used in the city. The law does not specify if they were allowed to wear another, distinguishing, headgear. In other terms, the only prescription for harlots was to distinguish themselves so that anybody might know who they were. The statute also prescribed that harlots who did not comply with the law – that is, those who tried to mingle with other women – were forbidden to do so under the pain of paying a fine amounting to 8 *perperi*. Thus far the limits for being a harlot were set, permitting them to stay in the city. The forbidden activities of harlots were magic spells (apparently they were reputed to do or were actually engaging in such practices), or to be a procuress. Such women were banned from the city, fined 4 *perperi*, and banned from the land for their whole lifetime, without the possibility of return, after the public humiliation of flogging.

The parallel statute of Shkodra is much more severe[59]. Not only does it forbid wearing the headgear according the usage of the city, but also forbids the utilization of any type of veil;

[58]Statute of Budva, article 66, page 106, "Delle Puttane 'Ordinemo, che ciasche duna puttana, che la fosse provato per doi o tre homeni, non debba portar ombrano, in testa a nostra usanza. Se non faciol, ne possa star appresso gentildonne o monache ad habitare in vicinanza in pena di perperi 8, la mita al conte e la mita al commun. Et se alcuna si trovasse per prova, che facesse malefitio, o che fosse ruffiana, che non dovesse star nella nostra terra se non per tre giorni ; et se fosse trovata star piu, paghi per pena perperi 4, la mita al conte et la mita al commun, et sia frustata per tutta la terra, et sia bandita in vita sua dalla nostra terr'."

[59]Statute of Shkodra, article 87, page 112, De meretrice. 'Ordinemo che chadauna meretrice chi fosse per prova trovata per dui over per tre homeni, chi non debia portar umbrano in testa a nostra usanza no ma cum tuta vaiila, ne possa star apresso de zentildonne et habitar in vicinanza de zentildonne, in pena de perperi VIII, la mita al conte e la mita al accusasse ; et zascha duna meretrice si se trovasse per prova chi fecisse alcun maleficio over fusse rufiana, che non devesse star ne la nostra citade no ma in spacio de III di, e se la fosse trovata piu de loter meno, chi paghi

apparently harlots had to walk bareheaded. Nor did the Shkodra statute permit the prostitutes to stand next to gentlewomen or to live in their vicinity. This means that this law set limits on the appearance of prostitutes, thus separating them from ordinary and noble women, and also limited their freedom to move or live where they would like to. Another difference is that, while the fine for not complying was the same 8 *perperi*, half of it was not to be given to the municipality but rather to the one who denounced the prostitute. While the Budva law seems to encourage the clients of the prostitutes to denounce them if they were hiding (the testimonies of two men were enough proof], the Shkodra law also prescribed a reward for such denouncers. The punishment of those practicing magic or acting as procuresses was double that in Budva, but the rest of the formulation of the law and the punishments are the same. The situation in both towns was that once a woman was labeled as a harlot her situation could only change for the worse. The law does not mention any way out of her situation when caught.

per pena perperi VIII, e chi se frusti per tota la terra e sia bandizata e per nisun tempo che non sia recevuta ne la nostra terra ne torniza mai.

Marriages as a Means of Transactions of Goods: Marriage Payments in the Towns of Shkodra and Budva

The Presence of Women in the Statutes of Shkodra and Budva

Generally, in the statutes of Shkodra and Budva the main areas of the laws that deal with women and reflect their agency are family and inheritance law. The most important part of the family issue was certainly marriage, which was then also the most relevant institution of family law. The importance of marriage was extensively perceived in the economic aspects of daily life and in social relations that were built due to marriage alliances between the spouses themselves, among their families, and within the wider kin structure.

The most important aspects of marriage were expressed through the rights and duties that emerged between the spouses themselves. Marriage established a socially significant "relationship of affinity" between the spouses and their relatives. Above all, property relations were one of the main relations beginning and developing between the spouses after their marriage. Marriage gave either one or both spouses rights over the other's property. This property consisted of the specific goods of each of the spouses and the common goods earned through work after marriage and onward. The specific property of the spouse was what she or he owned at the time of the marriage, which for the female spouse, according to the statutes of Shkodra and Budva, was the dowry.

According to Francesco Brandileone,[60] in the twelfth century the Roman institution of dowry became more important and somehow more crucial in the legal system. Chojnacki argues that this changed in medieval Italy and that marriage payments that is, dowry, were seen as the wealth given to a girl as a part of her patrimony. In Shkodra and Budva marriage payments stood for both, that is, for patrimony of the girl and for help for the future family. She might have gotten

[60]Francesco Brandileone, "Studi preliminari sullo svolgimento dei rapporti patrimoniali fra coniugi in Italia", *Archivio giuridico* 67 (1901): 231.

her patrimony either in the dowry or as an inheritance later, but it comes to the same thing—it was for her family.

Dotal and Non-Dotal Assets

Property acquired during marriage was that received by testament, donation, or purchase, which Julius Kirshner groups as non-dotal assets: "A Florentine wife might … acquire during marriage by gift, bequest, or descent, assets classified as non-dotal[61]." Of course this is related to the freedom that the laws in the towns foresee for making the testament over all of one's wealth. The statutes of Shkodra[62] and Budva[63] state that everyone, regardless of whether or not he or she had children, had the right to make a testament and to include in the testament all his or her wealth, and therefore to bequeath everything he had in his possession. As the objects allowed to be given in inheritance are unlimited, the objects that one could get from inheriting were unlimited as well. This means that women as subjects of the law were entitled to benefit fully from it. Thus, a woman could inherit not only from her parents and not only through dowry, but she had the possibility to inherit from others as well. All these inherited goods, independently of their source, would be non-dotal assets.

As a general rule, the dotal and non-dotal assets were distributed according to the statutes

[61] Julius Kirshner, "Materials for a Gilded Cage: Non-dotal Assets in Florence, 1300-1500" in *The family in Italy: from Antiquity to the Present*, ed. David I. Kertzer, Richard P. Saller (Yale University; 1991) 184-207; 185.
[62]Statute of Shkodra, , article 195,page 140, De testamento libertade,"Ordinemo chi zaschadun homo che havisse fiolo over non havissi, chi habea potestade de far testamento sovra tutti li soi beni e de pagar lo stranio, et nesuno fiolo over fiola li possadar contrario ne nisuna altra persona."
[63]Statute of Budva, article 172, page 127,De poter far testamento con figlioli o no, "Ordinemo, che cada uno huomo, che havesse figlioli o non havesse, habbia potesta de far testamento di tutti li suoi beni a pagar il stranio et mal tolto ; et niun figliolo o figliola possa contradir al suo testamento ne nissuna persona."

of Shkodra[64]and Budva;[65] a daughter (or daughters) received a dowry when she married and what was left after the dowry distribution pertained to the son or sons. Both statutes emphasize that married daughters had no right to take anything beyond their dowry. However, the lack of sons, mentioned apparently as an exceptional case, would have led to the situation that the rest of the family's patrimony would go to the daughters, who would divide it equally among themselves.

Another article in the statutes of Shkodra also gives a hint about further goods that any of the children might receive after the division of wealth from their parents. It states that:

> On the father who wants to bequeath his property to his children: We order that every father who has got legitimate children and wants to bequeath to them his his movable and immovable property, can freely do this, even if the children do not agree, and to give each of them their lots. If any one of the children is dearer to him than the others, he can give more to him up to the value of 20 *perperi*, but not a house or another building. If the father wants to keep the inheritance of all the children until the end of his life, we want him to have this power and we also want that the mother should have the same power, namely to keep all the property during her life, but not the power to bequeath.[66]

The non-dotal assets could be divided any time but immovable goods had to be distributed equally. The statute states the inalienable right of the father to bequeath or not to bequeath his

[64]Statute of Shkodra, article 162, page 131, De non dar niente a le fiole femene maritate, "Ordinemo che chadaun pare over mare havissi fioli femini maritati et havissi fioli masculi, over fioli de fioli mascoli, chi ello non possa dar a li fioli femini cosa nesuna sora de lo prechio, ma volemo che tuti li cosi che romagnise de li doti de le femine che esta de lo fiolo masculo, over fioli masculi, over a li fioli de li fioli masculi ; e si fioli masculi non fosse, che li fioli femene debia partire li dicti cosi tuti insemblo gualmente et che non habia la una plui de l'altra de quelli cosi chi e de sopra del prechio de la filia over fiole".

[65]Statute of Budva, article 138, page 119, De figliole maridate, "Ordinemo, che qualunque padre o madre havessefigliole maridate, et havesse figlioli maschi, non possa dar alle figliole cosa nissuna piu delle sue doti, ma tutte le cose, che remanessero delle dote delle figliole, sia del figliolo et de figlioli mascoli, o alli figlioli del figliolo o delli figlioli mascoli; et se non fossero figlioli, le figliole femine possano partir insieme per cavo d'homo ugualmente le cose, che avanzassero delle dote della figliola o delli figlioli".

[66]Statute of Shkodra, article 169, page 133, De pare che volissi partir li sui beni a li fioli. "Ordinemo che zaschaduno pare chi fioli legitimi havissi et volissi li sui beni mobili et stabili partire a li suoi fioli, liberamente li possafare anchora se li fioli non volissi, et a zaschaduno assignare la parte sua tanto ad uno quanto a l'altro et se alchuno de li fioli li fosse piu charo de li altri, possa li dar plui cha a i altri uno segno de valor de perperi XX, non casa ne casella; e si la parte de tuti li fioli volesse lo pare tenere fino la vita sua, volemo che habia potestade de tegnirla, e questa potestade anchora volemo che habia la mare, ao e de tegnir tuti i beni sui in vita sua, ma non da partir."

property to his children. The mother has certain rights, she can keep the property even after the death of the father (a condition not explicitly stated but subsumed) but has no right to bequeath.

Engagement, the First Dowry Negotiation

The first stage of a marriage arrangement mentioned in the two statutes is the engagement. This institution is not covered extensively in the law codes and it seems to have been merely a precursor to dowry negotiations and marriage. An engagement could be contracted even before the couple reached the legal age, but the marriage itself could only take place after the couple had reached the age required by law. The fact that the engagement was allowed before reaching the legal age was mainly to allow the exchange of marriage payments between the families. As a general rule one can say that a young woman could not decide on her own engagement. In fact, marriage and also the preparations for it, generally seem to have been a way to move goods and to convey wealth, representing mostly an action of great economic importance.

An important element of the formal side of engagement was the order that had to be followed. According to the statutes of Shkodra[67] and Budva[68], engagements had to be in accordance with the law that stated the following:

> We order and want that the father and the mother who have children to marry are required first to marry the daughters and later the sons.

[67]Statutes of Shkodra, article 161, page 130, De maritar e uxorar li fioli, "Ordinemo che lo pare et la mare che havessero fioli a maritar over ad uxorar, volemo che in prima se debia maritar li fioli femene et poi debi uxorar li fioli masculi… "
[68]Statutes of Budva, article 137, page 119, De maritar et uxorar li figlioli, "Ordinemo, checiascunpadre, chehavessefigliole a maritar et figlioli ad uxorar, in prima debbia maritar le figliole, et poi uxorar li figlioli; et se alcuno delli figlioli se volesse uxorar esenza volonta del padre et della madre avanti che le sue sorelle fossero maridate, il padre et la madre habbino potesta a cacciar quell figliolo fora di casa".

This was the only condition, that is to say, the boys could not be married out before the daughters. The reason for this arrangement was apparently the rule that the female children were not inheriting together with the male children unless there were no male children in the family. So the latter could get their heritage only after the dowry of their sisters had been paid. The law of Budva even states the sanction in case the law was violated; if a son wants to be married before his sister, the father and the mother have the right to chase him out of their house. The statutes of Shkodra[69]and the statutes of Budva[70] both state explicitly that a son could be engaged before reaching the legal age.

When the parents decided on the engagement of their children before their legal age, it is clear that this engagement was not as a result of love or conjugal affection, but depended on the tendency of the fathers and mothers to agree on economic affairs linked to the marriage of their children as soon as possible. Once the engagement was made, even in cases when the spouses had not yet reached the legal age, the families could take the dowry right away if they wanted so. Moreover, according to the statutes of Budva, the father of the groom had free power to use the dowry received from the family of the bride. Thus, dowry was an accelerating factor for engagements as well as an accelerating factor for marriages to happen.

The Kinds of Marriage Predicted by Law

The statutes of Shkodra and Budva imply that parental agreement was a requirement for most marriages, which I will refer to as traditional marriages. Furthermore the statutes strengthen the power of the parents and order that, if any of the sons wanted to get engaged without the

[69]Statutes of Shkodra, article 159, page 130 De pare che vulissi uxorare lo suo fiolo non siando de legitima etade. "Ordinemo che lo pare habia plena valia ad uxorar lo suo fiolo infra legitima etade zo e ananti de eta,…"

[70]Statutes of Budva, page 119, Article 135 De maritar li figli**. "**Ordinemoche il padre habbia libera potesta di maritar li suoi figli, avanti che fossero in eta legittima, et recever la dote della moglie di suo figlio, et far di essa ogni sua volonta...".

permission of his father and mother before his sisters were married, the mother and father had the right to ban the son from home"[71].

This shows not only the parents' authority, but also gives a hint that there was a possibility for the son to leave home and get married without his parents' consent and not being under the parents' command. The law code of Shkodra, in article 166, regulates the economic life of the new couple created out of this kind of marriage.[72] It states that the following:

> If any man takes a wife, or if any woman takes a husband, and they stay together without <the agreement of> the father and the mother, of everything they are earning together, each of them should have a half, that is, half for husband and half for the wife, and this also applies to all the losses they suffer.

This situation seems similar to the case of Janne Heyndericx and Adriaen Jacopsz, in the Zeeland village of Kouwenkerke in 1505[73]. The couple dated and met each other in a regular basis for eight years and pretended to be married by God, although they were not married officially. As they thought that feeling married by God was more important than marriage by law, thus they were waiting for a more appropriate time to get married. Their relationship was not approved by the parents of the girl and, after four years of the relationship, she had to leave home and move to another town, find a job, and earn her living. There she lived with another man with whom she begot a child. This story presents a "reality" which is, as the authors justly say, "strikingly modern"[74].

[71]Statute of Shkodra, article 161 *De maritar e uxorar li fioli*. (see note 66),
[72]Statute of Shkdora, article 166, page 132, De marito et de mulier senza pare et senza mare che stanno insemblo. "Ordinemo che se alchun homo tolisse moier, over o mulier tolisse marito e stessero insemblo senza lo pare et lo mare, volemo che ogni cossa che guadagnano insieme tuto habia per mezo, zoe la mita e la mita a la mulier, et lo damno per quello modo."
[73]Tine De Moor and Jan Luiten van Zanden, "Girl Power: The European Marriage Pattern and the Development of Labour Markets in the North Sea Region during the Late Medieval and Early Modern Period," *The Economic History Review* (2009): 2.
[74]Ibidem, 2.

The type of marriage referred to in article 166 of the laws of Shkodra was apparently an exception to the traditional marriage. A corresponding version to this article is not found in the statute of Budva. This seems to have been the case only for the town of Shkodra, which shows that the citizens had quite significant agency. Indeed, the fact that females and males are mentioned as having equal rights in the law is interesting. They themselves could decide to leave their parental homes and get married, which deduced that they not only had the juridical right to do this, but the economic situation could also be in their favor.

The existence of such a possibility is important because it shows the circumstances of the rise of a neo-local habitation, where by neo-locality Tine De Moor and Jan Luiten van Zanden referred to the fact that marriage led to the setting up of a new household[75]. Whether this marriage was done as a result of love in poverty, as Barbara Hanawalt argues, "marriage for love has traditionally been assumed to be the dubious privilege of those without property",[76] or whether this marriage was done as a result of other affinity among the couple cannot be clarified. However, the fact that they could not inherit in case they left the house to get married implies that they had chances to earn their living themselves. In this kind of marriage there was no dowry distribution.

A further source for the emergence of this kind of marriage might have been the consequences of another law in the statutes of Shkodra[77] and Budva[78]. This refers to the situation

[75]Ibidem,, 2.
[76] Barbara A.Hanawalt, *The Ties that Bound: Peasant Families in Medieval England* (New York:Oxford University Press, 1986): 202.
[77]Statute of Shkodra, article 170, page 133,De zitar li fioli di casa "Ordinemo che zaschadun pare over mare che li fosse morto lo marito over al baron la mulier et havissino fioli che non volissino star cum lo pare over cum la mare, over si stesseno e non fesse la volunta de lo pare over de la mare, habia podesta lo pare e la mare de zetar li fioli de casa e non dar cossa nesuna ne de pare ne de mare, ma che tegna tuti li cossi lo pare et la mare tuto lo tempo de la vita sua".
[78]Statute of Budva, article 147, page 121, De Mandar li Figlioli de Casa. "Ordinemo, che ciaschedun padre o madre, che li fosse morto il marito, o al baron la moglie, et il figliolo non volesse star con il padre o con la madre, o non volesse star alli commandamenti del padre o della madre, habbia il padre o madre potestà de mandarli de for a de casa, et non dar cosa nissuna a lui ne del fatto ne del padre ne della madre, ma ogni cosa posseda e tenga il padre e la madre in vita sua."

when either the father or mother died and the children were not willing to stay with the surviving parent, or in cases when they stayed but did not obey them, the surviving parent had the right to ban the son or daughter and not to give them any of their wealth.

The identification of several kinds of marriages is important information when it comes to defining dowry and its importance in the society. Different marriages meant different kinds and patterns of dowries. According to Maristella Botticini and Aloysius Siow, "dowries happen in monogamous viri-local societies, where married daughters leave their parental home and married sons do not."[79] In the case of monogamous neo-local societies dowry was not a must. The society in the towns of Shkodra and Budva clearly had a mixture of viri-local and neo-local types of dowry patterns, although the monogamous viri-local pattern prevailed.

The Borderline between Dowry and Bride-Price

The traditional marriages in the statute of Shkodra and Budva seem to have been *dotal* marriages, meaning that the marriage payment was a mandatory element of the marriage bargain. Generally, neither in the statutes of Shkodra nor in the statutes of Budva are dispositions which show the formal side of the marriage. The only formal and institutional contractual element of a marriage explicitly mentioned as necessary to be arranged with a notarial act was the marriage payment.

Marriage payments were aiming to create a conjugal fund which would economically help the couple's life and facilitate it or were aiming to compensate the loss of their daughter to the family of the bride. However, in none of the statutes is there any mention of the cash value of the objects given in any of the marriage payments. The amount is not easy to reconstruct although an

[79]Maristella Botticini and Aloysius Siow, "Marriage Markets and Intergenerational Transfers in Comparative Perspective (Why Dowries?*)*,"*American Economic Review* 93 (2003):3.

estimation of the prices of the objects that were given in dowry might offer a hint about the amount of money the dowry consisted of.

As Chojnacki states in his article, at some point in time dowries "fled all limitations"[80]and to prevent this a law was passed in order to set an optimal value of the dowry. However, this was not the case for the cities of Shkodra and Budva, where none of the statutes states anything about the optimal dowry value. It seems that they were still not problematic in terms of value but normally accepted by the society and one can deduce that dowry inflation was still not a problem for the towns of Shkodra and Budva.

All in all, there are two forms of marriage payments in the statute of Shkodra and one in the statute of Budva. For the statute of Shkodra the marriage payments are the dowry, referred to in the statutes as *dote*, and the bride-price, referred to as *prechio,* while in the statute of Budva the only marriage payment is the dowry, referred to as *dote*. According to Stanley Chojnacki's definition, the bride-price was supposed to be the payment a husband owed to the bride's parents for the right to her labor and reproductive capabilities[81]. Jack Goody furthermore argues that the amount of bride-price required was uniform throughout society[82]. Thus, he suggests that the dowry was decided upon the agreement of the couple and it could have any value they agreed upon. Thus, the economic situation of the family would have been the indicator of how large the dowry should be. The bride-price, however, would have been a standard price required to be paid to the family of the bride, set by the society. Therefore, in bride-price-paying societies every family, despite their economic situation, had to pay the same value for any bride.

[80]He refers here to the value of dowry in Italy that went more than 1000 ducate, after which it was stipulated in the law that the dowry should not pas the amount of 1500 ducate, being this as an upper bound limit.
[81]Stanley Chojnacki,"Dowries and Kinsmen in Early Renaissance Venice," in *Women in Medieval Society* ed. Susan Mosher Stuard (University of Pennsylvania Press: 1976): 158.
[82]Jack Goody and Stanley Jeyaraja Tambiah, *Bridewealth and Dowry (*Cambridge: Cambridge University Press, 1973): 12.

Siwan Anderson states that "marriage payments come in various forms and sizes but can be classified into two broad categories: transfers from the family of the bride to that of the groom, broadly termed as dowry, or from the groom's side to the bride's, broadly termed as bride-price"[83].

Whether a society was a bride-price-paying society or a dowry-paying society helps to investigate other features of this society. As Chojnacki argues, the "bride-price paying societies are relatively homogenous, women have a prominent role in agriculture, bride-prices are relatively uniform within societies and do not vary by familial wealth"[84].In contrast, Chojnacki offers patterns for a dowry-paying society, saying that: "dowry is found in socially stratified, monogamous societies that are economically complex and where women have a relatively small productive role, dowries increase with both the wealth and social status of both sides of the marriage bargain"[85].However, he states that "both dowry- and bride price-paying societies tend to be patrilineal meaning that children belong to the lineage of their father and patrilocal meaning that a brides join the household of the groom and their families upon marriage"[86.] This was the case for the towns of Shkodra and Budva as well.

However, it is important to state that the two terms *dote* and *prechio* in the statutes of Shkodra are used interchangeably. In more than one case the two terms are used next to each other, likewise in articles where it is stated that *la dota zoe prechio* meaning "the dowry, that is to say, bride-price[87]". Thus, whatever is stated for the dowry, stands for the bride-price as well.

Aiming to get good dowries would not only target a better partner, but could have made it possible to receive part of parental inheritance as soon as possible. If the latter was the case, getting

[83]Siwan Anderson, "The Economics of Dowry and Brideprice," *Journal of Economic Perspectives* 21/4 (2007): 152.
[84]Ibid., 163.
[85] Ibid., 163.
[86] Ibid., 158.
[87]Statute of Shkodra, article 173, page 134, "Ordinemoche se li fioli de la prima mulier non havessenotracto la dota zoeprechio de la sua mare siando vivo lo pare… "

the dowry and using it, from the woman's or man's point of view, might have accelerated a marriage. Thus, women, willing to dispose of the wealth of their families would have been keener to claim the dowry as soon as possible as a part of their inheritance. The same applies to males, who would have long-lasting freedom to use and dispose of the wife's wealth. In this case, although the ownership title was claimed by them, this title was no longer important once the things were part of the conjugal fund.

Dowry Contracts in the Statutes of Shkodra and Budva: A Reconstruction of Formal Legal Aspects

Marriage Payments

Marriage payments were quite important in Shkodra and Budva. This can be deduced from the number of articles dealing with females in the context of dowry. In fact, thirty-five articles in the statute of Shkodra deal with women, out of which fourteen deal with dowry and bride-price, while thirty articles deal with women in the statutes of Budva, out of which twelve deal with dowry and bride price. The importance of dowry can be also deduced based on the fact that they required the involvement of a wide number of persons for the sake of arranging it.

According to the statutes of Shkodra and Budva, girls had a legitimate right over the dowry, which had mandatory character and therefore was a must for the woman's family. Francesco Ercole states for dowries in Italy that, "the dowry is a daughter's right that the father can neither neglect nor escape from"[88]. Both the father and mother were in responsible for equipping their daughters with the dowry. When the father was not able to present a dowry for his daughter then the mother was required to.

Dowry, however, was not strictly connected to the existence of the father or the mother, rather it was connected to the existence of the daughter herself. Thus, the death of either of the parents was not a valid reason to prevent daughters from claiming their dowry. This issue cannot be seen as separate from inheritance rules. Once the parents died the brothers would inherit everything. From this inheritance though, they had the duty to give their sisters their dowries. The brothers' universal inheritance from the parents is broadly referred to by Chojnacki, as the *fraternal* principle, for which he claims that other than in Roman law this principle was not

[88]Francesco Ercole, "L'istituto dotale nellapratica e nellalegislazionestatutariadell'Italiasuperiore," in *Revistaitaliana per le scienzegiuridiche*65 (1908):191-301; 283, "la dote è un dirittodellafiglia, cui il padre non può mai sottrarsi"

encountered in any other normative sources. This, however, was a principle quite clear in the statutes of Shkodra[89] and Budva[90], which state, according to the formulation of the Shkodra statute, the following:

> For all the orphan female children who have been left without a father or mother, we want that all the wealth should be divided equally, except for the situation when the daughter would have lost both the father and the mother, we want her to have her dowry even if she is unmarried; and again, if there would be left one brother with the sisters or a sister and brothers with the sisters or sister, we want the brother or the brothers and sisters to arrange the marriage of the aforementioned sister or sisters from the wealth of the father and mother, in everything that can be arranged for the marriage and, after that, everything that remains should belong to the brother or brothers.

Whether parents feared paying the dowry of their daughter(s)because of losing their properties or not to being able to give the daughter a dowry, cannot be deduced from the law codes. But one can assume that because of the mandatory character of the dowry, the parents would have worried about whether they could satisfy the requirements for the dowry. However, in Venetian society there was a way out, namely, by sending daughters to convent, thus escaping from the obligation to give them a dowry[91].Similar solutions are not mentioned in any of the articles, neither in the statute of Shkodra nor in the statute of Budva. This may suggest that this was not common practice in the two towns but rather that it was a common practice falling outside marriage law. It

[89]Statute of Shkodra, article 160, page 130, De fiole femeneche romani orphani non maridade, "Ordinemoche tutti li fiolifemine chi romagnissesenza pare e senzaso mare volemoche tutti i benidebiapartireinguale, salvo se alcunahavessemancoloso pare et la mare volemochehabia li soi dotiscapuli [check: thisshouldratherbe scapula, "unmarried girl"] ; et anchora se romagnesseunofradello cum le sorelle over sorella et fradelli cum sorelle over sorella, volemochelofradello over fradelli chi debiamaridar de li benidel pare et de la mare la dicta sorella over sorelle in tutoquelloche se potimaridar e da puo' tutoquellocheromanissesiadelfradello over fradelli. "

[90]Statute of Budva, article 136, page 119, De Parzogna de Fratelli,"Ordinemo, che tutte le figliuole, cherestasseroorfane di padre et di madre, tutti li lorobenipaterni et maternali, chehavessero, si debbinopartire per cavo di homo ugualmente, salvo se alcunafigliolahavesse il marito, il padre et la madre, la sua dote sia scapula et franca. Et se rimanesse un fratello con le sorelle, o sorella o fratelli con sorella o con sorelle, il fratello o fratellidebbanomaritar la sorella o sorelle con li benipaterni et materni in tutto, che se puomaritar; et essendomaritate le sorelle, tuttoquello, che resta siadelfratello o fratelli, et habbiaciaschedun la parte sua per cavo d'homo".

[91]Stanley Chojnacki "Dowries and Kinsmen in Early Renaissance Venice," in *Women in Medieval Society* ed. Susan Mosher Stuard (University of Pennsylvania Press: 1976): 176.

is worth saying that none of the statutes involve other persons in the dowry issue other than father, mother, and brother. Paternal and maternal kin did not play any role in dowry distribution in the two towns; everything was arranged within the nuclear family.

A dowry contract was the formal act that enabled the transfer of goods made possible by means of women, which Guzzetti refers to as distributing factors.[92] When focusing on the dowry contract, one can assume that it was important to follow the formal elements of the contract in order that the contract could be used as proof in case the marriage ended. According to Guzzetti, in cases when the marriage ended because of the death of the husband, the woman had to restore her dowry from the husband's wealth by means of the dowry contract. The same happened when children claimed the dowry of their deceased mother by means of the dowry contract that in absence of a will would have taken the greatest importance among the facts and documents to prove the dowry[93].

A Dowry Contract Sample

As far as normative sources allow reconstructing the formal legal aspects so that the dowry contract would have stayed valid through time and without shortcomings, the dowry had to have some basic components. Thus, a dowry contract had active and passive contractual partners, where by active partners I refer to individuals who take active part in the dowry negotiation and completion by taking actions to meet it. While the passive partners are the individuals who, although not directly taking part in the dowry negotiation and arrangement, and not taking any action to meet the dowry, still receive rights and duties that come from the dowry contract.

[93]For further details about the usage of dowry contracts as means of claiming the inheritance in medieval Venice see Linda Guzzetti, "Dowries in fourteenth century Venice".*Renaissance Studies* 16 (2002): 430-473.

Active and Passive partners

The active partners of the dowry in both law codes could be the father or mother of the future groom and the father or mother of the future bride, or the groom and the father or mother of the future bride. In both law codes it is mentioned more than in one article that the ones who had the right and duty to arrange the engagement and marriages were the parents of the children, placing the mother and the father on the same level of importance in decision making.[94] Moreover In the statutes of Shkodra[95] and Budva[96]it is ordered that the father could already arrange the engagement of a son under the legal age required by law. This means that the father of the future groom was the legitimate one who decided on the terms of engagement and consequently over the dowry terms. Of course, this was done with the agreement and approval of the father of the future bride.

The passive partner was always the bride as the partner to whom ultimately the ownership title would fall. Guzzetti argues that in Venice "during marriage the wife had a *nuda proprietas* meaning that she was the holder of the title of ownership without having other rights over the dowry object"[97]. I argue that this was the case for the towns of Shkodra and Budva as well. As for ultimate ownership of the dowry, one could agree that in the law codes of Shkodra as well as in the law codes of Budva, the statement that Chojnacki makes for dowries in general that "the real owner of the dowry was not the women/mother but her children" is actually true for this case as well[98]. The law codes of Shkodra and Budva show that although the family of the girl gave the

[94]Statute of Shkodra, article 161, page 130-131, De maritar e uxorar li fioli. " Ordinemochelo pare et la mare chehavesserofioli a maritar over ad uxorar.. » andStatute of Budva, page 119, Article 137. De maritar et uxorar li figlioli **"**Ordinemo, che ciascun padre, che havesse figliole a maritar et figlioli ad uxorar..."
[95]Statute of Shkodra, article 159, page 130,De pare chevulissiuxorarelosuofiolonon siando de legiptimaaetade. "Ordinemochelo pare habiaplenavalia ad uxorarlosuofiolo infra legitimaetadezoeanati de eta… "
[96]Statute of Budva, article 135, page 119, De maritar li figli. "Ordinemo che il padre habbia libera potesta di maritar li suoi figli, Avanti che fossero in eta legittima..."
[97]Guzzetti "Dowries in Fourteenth-century" , 140
[98]Chojnacki,"Dowries and Kinsmen," 179.

dowry for the girl, the ones who used it were the husband and the family of the husband, and later the children inherited the dowry of their mothers

The statutes of Shkodra[99] and Budva[100] state that "when the son was under the legal age to get married, the father could receive the dowry of the future bride of his son and make full use of it, as he wanted to." Thus, before the son's legitimate age his consent to the use of the dowry was not required. However, after the legitimate age the consent of the son was required, for the issue of his marriage as well as for the issue of the dowry. After the marriage of the son, the father could use the bride's dowry with the consent of the son. In cases when the son refused to give the dowry of his bride to his father, the father could exclude him and his bride from the house. In cases when the father did not want to use the dowry of his son's bride he gave it to his son immediately. The statute of Shkodra also states the precise words that the father of the future groom would say to the father or mother of the future bride: "A cui dati la mulier a quellodati lo prechio"(Give the dowry to whom you gave the bride).

Conditions

There was one main condition to be a contractual partner of the dowry and sign a dowry

[99]Statute of Shkodra, article 159, page 130, De pare che vulissi uxorare lo suo fiolo non siando de legiptima aetade. "Ordinemochelo pare habiaplenavalia ad uxorarlosuofiolo infra legitimaetadezoeanati de eta, e possareceverloprechio de la muliere de losuofiolo e for de lu dictoprechioogni sua utilitade e quanto delsuofiolouxorarlo o cum la volontade de lofiolreceverloprechio de la mulier de li dictifioli; tota via se lofiolonovolesse chu loprechiode la sua mulierelotolissevoyricevisselosuo pare, ma lovolessestessomedesimorecever la dicta nota, volemolodicto pare possalodictofiololicentiare et chazare fora dellacasacumtota la mulier se lo pare voli; ma se lo pare delfiolo non volesserecevereloprechiode la mulieredica a losocerovoysoceracussi: "a cuidati la mulier a quellodatiloprechio", e stessolofiolosiategnudo a renderlodictoprechio e lo pare non siategnudo de lodictoprechiozoe dote per nessuna maniera. E questodicimutanto de lo pare quanto de la mare de lofante. "

[100]Statute of Budva, article 135, page 119, De maritar li figli, "Ordinemo che il padre habbia libera potesta di maritar li suoi figli, Avanti che fossero in eta legittima, et recever la dote della moglie di suo figlio, et far di essa ogni sua volonta. Et quando il figlio fosse di legittima eta, il padre lo possa maritar con volonta del fioglio, et recever la dote della moglie del suo figlio con volonta sua. Et se il figlio non volesse, che il padre riceva la dote della sua moglie, ma la volesse lui stesso recever, il padre lo possa licenciar di casa sua,et menarlo con sua moglie se volesse. Et se il padre non volesse recever la dote della moglie del suo figlio, ma volesse, che la receva il figlio, il figlio sia tenuto di recever la dote; et se venisse il casodi render la dote, il figlio l'havesse recevuta, sia tenuto renderla et non il padre per nissun modo, ne la madre del figlio sia a cio tenuta".

contract, namely, the right of the contractual partners to be owners of the dowry; the person agreeing to the dowry contract had to be entitled to the given object. This is expressed in various articles of both statutes, although not in a separate article. It is found in the articles which, trying to regulate the dowry institution, mention the fact that no one can borrow money for the dowry and that if the dowry given to the daughter was not in the ownership of the person who gave the dowry, then the contract was invalid.

Any possession over which the person had the right of ownership could be given in dowry. The fact that the property was temporarily in the hands of someone else as a result of a rental contract did not represent an obstacle to make this property at the same time the object of the dowry contract. However, the receiver of the dowry was only be able to have the full rights of ownership after the end of the existing rental contract term. The law implies that anyone who has the right of ownership over an object can give this said object in dowry. Article 43 states:

> if someone gives vineyards or a house in rent or a house and then gives these possessions as a dowry or sells them; we order that he cannot take these possessions from the person who took them in rent, except after one year or after the fixed term[101].

Dowry Objects

According to the statutes of Shkodra and Budva, the objects of a dowry contract could be a house, vineyard, a planted vineyard, field, and planted field[102]. According to Dincer, in the marriage contracts that she used for her investigation on Cyprus in the Middle Ages, parts of the dowry were not only the immovable estates but movable goods as well "such as cash, pearls, precious stones, jewelry, clothing and household items[103]". I think that this must have been the

[101]Statute of Shkodra, p. 101, article 43, page 101,De terra a parte, "Ordinemo chi dessevigna campo oy casa a laurar a parte voycasa a naulo epoidessiquistepossessioni in dotivoy lu vendissi, vulemochequestidoti non li possarecevere de quillochelavora a parte, salvodappoi de l'annovoydeltermino".
[102]Statute of Shkodra, see footnote 93.
[103]Aysu Dincer, "Wills, Marriage and Business," 314.

case for the towns of Shkodra and Budva as well, although it is not explicitly stated in the law codes. Although this cannot be proved because of the lack of dowry contracts, it can be understood from the articles in the statutes that deal with women's rights to reconstruct their dowry in case the marriage ended.

As mentioned above, when the dowry contract was signed the object of the dowry passed into the ownership of the woman. If the dowry of a certain woman was an immovable estate, a house, for instance, when she got married she became the owner of the said house. When the marriage ended, she was still the owner of the house. The same rule applied to all the other immovable properties, therefore there was nothing to recover from an immovable property. Only consumable goods, like clothes and money that the woman actually consumed during marriage, would have been possible to be recovered or replaced.

The interpretation that Bellavitis offers for the nature of the objects given in dowry is interesting. She shows anew perception of movable or immovable estates in the Middle Ages. She reasons in her article that in Venice the wealth given to females was considered movable and the wealth which could not be given to females was considered immovable.[104] This suggests that objects such as a house, vineyards, and fields and whatever girls could inherit were considered movable. Thus, for the division of the wealth the relation between the wealth and female agency was crucial.

Further details about the object of the dowry contract stated that if the object of the contract had some accessories, in this case fruit or the seeds, at the time the contract was stipulated, they should pass into the ownership of the new owner. Thus, the new owner had rights over the main

[104]Anna Bellavitis, "Women, Family, and Property in Early Modern Venice," in *Across the Religious Divide Women, Property and Law in Wider Mediterranean, ca. 1300 – 1800*, ed.Jutta Gisela Sperling and Shona Kelly Wray(New York and London: Taylor & Francis, 2010), 175-190, 176.

object of the contract and its accessories. In this case the accessories are of two kinds according their nature: divisible and indivisible. Fruit is divisible and although it can be separated by the main object, still, according to the law, it would go with the new owner, likewise the seeds of a planted field, which are indivisible from the main object.

Other parts of the dowry which were of a consumable nature according to the statutes of Shkodra[105]and Budva[106]were planted vineyards or fields. According to the statutes, if there was no mention of the ownership of the fruit of the planted vineyards or fields and there was no way to prove the ownership, the fruit would pertain to the receiver of the dowry. To what extent the reconstruction of these consumable parts of a dowry would have been done is ambiguous. Probably the estimation of their money value would have been used.

The object of the dowry was protected by law and the husband had limited rights over it. Actually, the only right he had was to use it but not to change it fundamentally so that it would lose its initial purpose. Moreover, explicitly mentioned by the law, he could not use the dowry for his personal issues like resolving a blood feud[107]and revenge. The law states that if this happened the commune was responsible for protecting her reasonably and her husband who did the wrong thing was obliged to pay from his own property and in case he had no money to pay, his wife had power over him (his person).”[108]

[105]Statute of Shkodra, article44 , page 101, De doti. “Ordinemo chi desse in dote vignalavorada et campuseminadu et a la parantiera non fesse mentione de li fructi non podessi per provamonstrar, vulemochesiadato ad essu cum tuti li fructi, como li fopromesso”.

[106]The Statute of Budva, article 142, page 120, De dar in dote possession lavorada, “Ordinemo, che se alcuna persona dasse in dote vignalavorada et campo seminado, et non facesse mention delli frutti, che non li da li frutti in dote, sia la vigna o campo con tutti li frutti suoi”.

[107] Sometimes a blood feud could be resolved by a payment to the family of the wronged man

[108]Statute of Shkodra,.article 266,page 156, De pagar urasbaovervendict “Ordinemo che zaschadunamulierechifossi maridada e lo suomaritofecissealcuna vendita overurasba, chi de li doti de la mulier non possa cosa nesunalevar; e se la signora li volissi cosa nisuna levar, che lo Comunisiatenudo defenderla cum la rasone, e lubaronechifezi la pazia che del facto suopaghe la vendicta e se non ha che pagare che la signorahabiapotestadesovra la sua persona”.

The statute of Budva[109]makes the issue clearer, stating that the dowries of citizens were to be free and their content clear. Moreover, the statute says that for no reason did a woman have any duty to pay the debts of her husband. The husband could not sell the dowry, which was also legally impossible as he was not the owner. The only reason for which the husband could spend the dowry of the wife was to survive in case of poverty. The issue of spending the dowry because of poverty is also mentioned in the statute of Shkodra, which says that "we order that everyone who alienates something from the dowry of his wife with the consent of his wife and not out of poverty..."[110] This article suggests that with the woman's approval there was a possibility to change the nature of the dowry object.

[109]Statute of Budva, article 255, page 142, De dote franche, "Ordinemo, che le dote de nostri cittadini siano libere et franche, et che nissuna donna delle sue dote non sia tenuta a pagar nissun debito fatto per suo marito per nissun modo ne ingegno, ma in tutto dette dote siano libere et franche, et il marito non possa obligor la dote di sua moglie, se non per necessita di viver, nel qual caso possa obligor et vender, si come e disposto per li nostril statute. Et se altremente fosse fatto, non tenga ne vaglia".

[110]Statute of Shkodra, article 165, page 132,De alienar doti. "Ordinemochadauno che alienassealcunacossa de li doti de la suamulier cum volunta de la suamalier non per povertade e la moier li morisse, che ello siategnudo a rendertuti li cossi che ha alienato de la dote de la suamulier de li sui propriibeni a restaurar a compimento li doti de la suamulier, et tanto dicemo si lo baronemorisseananti de la mulier, azoche la mulier non possaperdere de li soidotinesunacossa ; e se lumariduinsemblo cum la muliervegnisse a povertade, volemoquellochiellialienasse per volunta de l'una parte et de l'altra, lo damnazosia per mezo".

The Signing Couples

The contract ultimately would have been signed by the couple in the presence of a public notary. This was a common usage for the dowry procedure; many scholars have used notarial documents to reconstruct dowries. However, there are no such sources to be analyzed for the towns of Shkodra and Budva. I think that women might have been eligible subject to sign contracts. As the mother was one of the active contractual partners in the dowry negotiation and completion this means that she could sign the contract as well.[111] However, the fact of signing the contract apparently was not that crucial as, even if they were not the ones who signed, anyway the main actors in the dowry distribution were women.

Invalidity of the Contact

Both statutes suggest that there were cases when the dowry contract was not valid. The first condition that made the dowry contract invalid was when it was proved that the object of the dowry was not owned by the subject of the dowry at the time when the contract was signed.

The statutes of Shkodra[112] and Budva[113] give the conditions to be met and rules to be followed in cases when the dowry given to a woman was an object not owned by the person providing the dowry at the time of giving the dowry.

[111]Chojnacki, 'Dowries and Kinsmen,' 179.

[112]Statute of Shkodra, article 163, page 131, De dar cosastrania in dote. "Ordinemochenesun homo possa dar cosastrania in doti, over vender, over donar, over incambiar ; et chi per prova se trovasseche la cossa fosse strania, volemochequelloche la de, in prima chepaghi per penaperperi VIII de Sclavonia e poi chi paghi quanto fossi li dicticosiextimati per tre boni homeni mandati per li zudesi, et lodictopagamentovolemochelo dia quello a chi l'hadato in dota, over in cambio, over venduto, over donato ; e lopatroneche si trova over chi si trovassi de la dicta possessione over casa, chi la receva cum tuti li cosistranii et se fossitolti per forza, salco se la dicta possessione fosse posseduta XXXX anni, et de la pena la mita habialo conte e la mita quelli chi cercha".

[113]Statute of Budva, article 139, page 120, De non darecosastrania in dote. "Ordinemo, che nessun homo possa dar cosa strania in dote, ne vender, ne donar, ne cambia; colui che dasse per prova cosa strania o vendesse, o donasse o cambiasse, paghi paghi per pena perperi 8 al commun, e paghi, quanto fosse estimata la detta cosa per tre homeni, per la corte trovati a quello, che havesse dato la cosa, et la cosa sia renduta al suo padron con tutte l'entrade, cominciando dal tempo, che li fu tolta la cosa fin'al presente, eccetto se la detta cosa e possession fosse posseduta provevolmente 40".

If a dowry contract was considered invalid, the procedure to be followed (in article 163) is that the dowry object goes to the former owner and the cheater pays the holder of the dowry the price for the object of the dowry, estimated by "three good men" sent by the judge. There was also a payment included in case of cancelling a dowry contract. This payment was of 8 *perperi* of Sclavonia, half to go to the count and half to the plaintiff.

A dowry contract could also be half-invalid. When it was proved that the subject had possessed the dowry object for 40 years he became the new owner. Although the object of the dowry was not a legitimate object and the contract of dowry is claimed to be invalid because of the successor's lack of the title, the old owner can no longer get the object of the dowry back. In this case, the person who gave the dowry illegally is obliged to pay a fine. The payment for a half null contact was 8 *perperi* of Sclavonia, which would go half to the count and half to the plaintiff.

Authority in Cases of Dispute

According to the statutes of both Shkodra and Budva, in case of a dispute for any of the dowry issues the bishop of the city judged the issues and gave a final verdict. He was the ultimate authority that could decide disputes on dowry issues in the two towns. As is stated in both the statute of Shkodra[114] and the statute of Budva,[115] the bishop could judge out of his power, among others, also about dowry issues.

[114]Statute of Shkodra, article 154, page 129,De loofficio de lovescovo. "Ordinemoche miser lovescovonostro de biazudegare de la sua podestate a li clerici de questione de possessione et de ognicosa. Et questo si se entende a li clerici intra essi e como e de testamento de personiheretici e religiosi, de usurari et de usura e de doti se fosse dati, et de parzona intra lo baron cum la sua mulier".

[115]Statute of Budva, article 128, page 117, Dove si deve domandar al chierico."Ordinemo, che se alcun laico volesse domandar alcun chierico d'alcuna cosa, non la possa domandar se non Avanti il vescovo o Avanti li suoi vicarii, et la sentencia sia scritta per man del notaro della terra et sigillata col sigillo del vescovo. Et deve giudicar le ditte persone, heretici, religiosi, usurari de usura, de dote se fosse perzogna fra l'marito et moglie".

Dowry Inheritance: An Inter-Generational Transfer

End of the Marriage- Start of Inheritance Law

According to Shkodra and Budva, as Christian towns, the only moment when the marriage was considered as legally ended was the death of one of the spouses. Among other consequences, the end of the marriage was followed by the dissolution of the rights and duties created with marriage. Here again, one of the most important issues was the division of the common property, created with and during marriage, done through inheritance law.

The object of inheritance law is the group of rights and duties of the alive or dead person passed to the heirs. The rights and duties that dowry inheritances gave were numerous and important for the society. The first issue of the inheritance in this case is whether the woman had the agency to give possessions in inheritance and if yes then, to whom she could give her possession. The issue of agency can be sorted out of the statute, which states that a woman in the role of daughter could either inherit from her paternal family or in the role of wife could inherit from her husband. In the role of mother, she could give inheritance to her children. Although the line of a woman's heirs was well defined, to the point of a certain restriction, this does not deny the fact that women were active subjects of inheritance law. This happened because dowries, following their importance as marriage payments, were part of inheritance law more than any other possession.

Although not explicitly expressed, one can note that inheritance in the statutes of Shkodra and Budva is done in two ways: by law and by testament. The best way to inherit, and clearly most practiced according to the sources for the two towns, was the testament which expressed clearly the will of the person. Thus, a testament was the first legal action to be taken into consideration in

a case of inheritance. If a testament existed, the inheritance was done as the testament stated, otherwise the inheritance by law would have been the only option.

As a general rule one can say that inheritance according to a testament requires that the testament is compiled according the law and without shortcomings. As for the formal features of the testament, both statutes state that it was done through notarial contracts. However, no articles of the statutes show how a proper testament needed to be done. This is a piece of information which could have been extracted from the content of any surviving testaments. As for the forms of the testament, one can say that for sure there were testaments written in front of the witnesses and the public notary. Other forms of testament such as the testament written by the devisor himself and the court testament are not identifiable in the statutes. The dowry contract was used instead of the testament by the heirs to claim their inheritance after the death of their mother.

Restoring the Dowry

Dowry contract was not only important before and during marriage, but was also an important issue after the end of the marriage. According to the statutes of Shkodra and Budva, if the wife died the dowry should be returned to her family in the same condition or with the same value as the day she received it. If the man died, the wife used the property of her dead husband to complete her initial dowry. As for the way women took back their dowry Steven Epstein says that the way to restore the widow's wealth was through the husband's will[116].

The restoration of the dowry was guaranteed by both law codes. Christiane Klapisch-Zuber says that "widows in the fourteenth century had the law on their side even if the restitution of the dowry would take a long and complex procedure"[117].

[116] Steven Epstein, *Wills and Wealth in Medieval Genoa 1150-1250*, (Cambridge: Harvard University Press,) 1984,
[117]Christiane Klapisch-Zuber," Women, Family and Ritaul in Renaissance Italy," (Chicago, University of Chicago Press: 1987), 122.

"Dowries that were returned upon the death of a husband left women in control of money and property"[118]. As Guzzetti states, the main function of returning the dowry to the widow was an attempt "to prevent them from falling into poverty"[119].

The obligation of the husband to restore the dowry of the wife is expressed in article 165 of the Statute of Shkodra[120] and article 143 of the Statute of Budva[121]. Thus, stating the negative obligation of the husband not to sell or change the dowry of his wife during marriage, the statutes show the mandatory character of the procedure of restoring of the dowry. Both articles state that:

> everyone who alienates something from the dowry of his wife with the consent of his wife and not out of poverty, after the death of the wife, we want him to be obliged to give back all the things he alienated from the dowry of his wife and from his own wealth to restore and compliment the dowry of his wife, and we say the same if the husband dies before the wife, let the wife not lose anything from her dowry. If the man together with the wife became poor, we want that they can alienate the dowry with the will of both and let them pay the damage half each[122].

In cases when the surviving spouse could prove that the dowry was spent for economic reasons, restoring the full dowry was not mandatory. As the consequences of this action would fall upon both of the spouses, the statutes state that each of them had to pay for half of the damage to the dowry, that is, only half of the dowry was required to be returned.

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[118]Aysu Dincer "Wills, Marriage and Business," 312.

[119]Guzzetti; "Dowries;"430 ; for a further description of the situation of widows in the Middle Ages see Louise Mirrer (ed.), *Upon My Husband's Death: Widows in the Literature and History of Medieval Europe*(Ann Arbor: University of Michigan Press, 1992).

[120]Statute of Shkodra, article 165, page 132,De alienardoti."Ordinemochadaunochealienassealcuna cossa de li doti de la sua mulier cum volunta de la sua malier non per povertade e la moier li morisse, cheellosiategnudo a rendertuti li cossiche ha alienato de la dote de la sua mulier de li sui propriibeni a restaurar a compimento li doti de la sua mulier, et tantodicemo si lobaronemorisseananti de la mulier, azoche la mulier non possaperdere de li soi dotinesuna cossa ; e se lu mariduinsemblo cum la muliervegnisse a povertade, volemoquello chi ellialienasse per volunta de l'una parte et de l'altra, lodamnazosia per mezo".

[121]Statute of Budva, article 143, page 120,De non alienar dote,"Ordinemo, che se alcun alienasse alcuna cosa della dote di sua moglie con volonta della moglie non per poverta, et la moglie li morisse, sia tenuto dalli suoi propri beni a satisfar et render il defetto delle dote vendute o alienade integralmente. Et se il barone morisse avanti della moglie, pur sia tenuto il baron a satisfar integralmente le dote alienate, che le dote non die sminuir. Et se il marito et la moglie venissero in poverta, possa vender della dote de volonta et licenza delli giudici et de volonta del marito et della moglie, et il danno sia per mezzo, et possa cambiar delle sue dote con suo avvantaggio la moglie maridata o non maridata".

[122] Ibid., 120.

To Whom Does the Dowry Belong

After restoring the dowry of the wife, the husband had to give it back to her paternal family when she had no heirs. This was apparently a condition that prevented the husband from re-marrying. He needed to return every property that he had from the first wife in order to have the right to marry another woman. Both the statutes of Shkodra[123] and Budva[124] state that if the first wife died and the husband wanted to marry another woman, he was first obliged to return the dowry of his first wife to whom it belonged otherwise he could not marry again.

According to the statutes of Shkodra[125] and Budva[126], if the wife died and she had children, the father had to give them the dowry of their mother. This implies that every child, male or female, could claim his/her mother's dowry. Thus, if a woman died and she had a daughter, in the arrangement of her own dowry she also claims her mother's dowry. Even when the father would have married a second wife and had children with her, he was not allowed to give the first wife's dowry to the children of the second wife without having given back the dowry of the first wife to

[123]Statute of Shkdora, article 172, page 134,De quilliche leva seconda mulier. "Ordinemo si alcun homo li fosse morta la prima mulier et volessetuor la seconda, si fioli non havissi over fiolo cum la prima mulier, cheellosiategnudo in prima de renderloprechio de la prima mulier a cuiapertienanantichetolissi la secundamulier; e si altramente fesse, chi non possatoier la secunda".

[124]Statute of Budva, article 149, page 122,De seconda moglie."Ordinemo, se ad alcun homo li fosse morta la prima moglie, et tolesse la seconda moglie, et con la prima non havesseherede, sia tenuto di render la dote della prima moglie, a cuiappartien, avanticheprenda la seconda moglie; se facesse il contrario, non possaavantituor la seconda".

[125]Statute of Shkodra, article 173, page 134,De li fioli de la prima mulier. "Ordinemoche se li fioli de la prima mulier non havessenotracto la dota zoeprechio de la sua mare siando vivo lo pare e lo pare levasse unaaltramuliere et havessifioli cum quellamuliere, volemocheinprima se debiatirar li doti de li fioli de la prima mulier, zoe de la sua mare, e li benivoy de li possessione de lo pare et de quillocheromagnira se debiapagar li fioli de la secundamuliertanto quanto fo li doti de la lor mare ; et tantodicemo se fossifioli de tre over de quatromuliere ; et se alguno de li fioli de la secundamulier over de la treza non trovasse de li beni pare a pagarsi per li doti de sua mare, volemoche se habialodamnazo et li fioli de la prima moier non siategnudinesuna cossa a satisfar a desti, e si tutifossenopagati de li doti de la sua mare, similmentedebia partir insemblogualmente de dictibeni de lo pare et de la mare".

[126]Statute of Budva, article 150, page 122, Delli fioli della prima moglie et seconda, "Ordinemo, che se li figlioli della prima moglie non havessero tratto la dote della loro madre, essendo il padre vivo, et havesse tolto altra moglie, et havesse figlioli con la seconda moglie, inprima li figlioli della prima mogliue devono trar la dote della sua madre dalli beni del padre in compliment, et il resto si debbi pagar la dote alli figlioli della seconda moglie, quando receve; tanto dicemo, se fossero tre over quarto moglie. Et se alcun delli figlioli della seconda o della terza moglie non trovassero beni del padre a pagarsi della dote della madre, sia il danno suo; et li figlioli della prima non siano tenuti a satisfar siente alli figlioli della seconda ne della terza; et se li figlioli di tutte le moglie fossero pagati della dote delle lor madri , l' vanzo delli beni del padre debbano darter tutti li figlioli per cavo d'homo egualmente".

her children. The same procedure was to be followed in case of marrying a third and fourth time. If the father could not afford to pay a dowry for the children of the second or third wife, this could not effect in anyway the restitution of the dowry of their mother to the children of first wife.

Universal Inheritance

Although property relations of the spouses ended at the moment of the death of either spouse. However, this situation was not ultimately the reason for property relations to be interrupted. In both statutes there is an institution called *De posseder il lecto* or *De possedere lo lecto lo baron e la femena l'uno a l'altro.*

The statute of Shkodra[127] refers to this as a form of custody over things remaining after the death of either of the spouses. It refers to the right of any of them, if one of them dies, the other one can freely use and dispose the possessions of the deceased. The term of one year seems to be a condition that had to be met. If the surviving person failed to take care of the vineyards and the house and mobile or immobile things in the house in this period, then the next legal heir would receive these objects and the right over them. The article suggests that if one of the spouses died and the other wanted to live in the same home with the same possessions and to continue using the same property as s/he had before the death of the spouse, this was possible. So custody itself was a way of universal succession of rights to the living spouse, which would prevent the division of the property among others. This shows that the spouse himself/herself was the first inheritor and could be a universal successor, unless otherwise stated in the testament. It is not clear whether

[127]Statute of Shkodra, article 168, page 132, De possedere lo lecto lo baron e la femena l'uno a l'altro."Ordinemo che zaschaduno homo over femina che volissi posseder lo leto, che lo possa possedere sicuramente et lavorar bene li vigni e coveriri li casi e custodiri tuti li altri fructi come se fosse soi proprii. Et se per uno anno non lavorasse ben i vigni over non covrissi li casi, se bisogno fosse, over se vendisse casa, mobele, over stabele, chi provar li potissi, volemo che abandoni tuti quelli cosi chi possedete lo barone de la mulier, over la mulier de lo barone et renda quello over a quilli chi e piu proximi aparteni, tota via siando cum plaito lo testamento de lo morto over de la morta".

there were cases when an heir refused to inherit, but what happened with the wealth of the husband or wife after his/her death can suggest that there were cases when the heir had to choose whether to accept the inheritance or not.

In the statute of Budva[128]it is states that

> Every woman or man who would like to possess all the things that had belonged to the spouse after his/her death could keep them. He or she had to work the vineyards well, to take care the house, and guard all the other things. If s/he did not work the vineyards properly for one year, or if s/he did not take care of the house, when needed, for one year, or if s/he sold mobile or immobile things, he or she will lose the right over those objects that belonged to his/her spouse if it can be proved and the deceased person's things should be given to the person to whom they would belong if the testament of the dead spouse had been applied. During the period s/he possesses the things, the spouse is obliged to organize a meal every year, for the salvation of the dead spouse's soul. If the death had to be proved, the one who has the thing is obliged to pay for it from the money of the dead spouse, and he/she cannot excuse herself/himself that s/he die should possessing it.

The Statute of Budva in this article adds the part about the meal to be served from the money of the dead spouse for his or her salvation, an obligation that is not present in the Shkodra statutes. In all other elements the law has the same content and conveys the same meaning. Nevertheless, the content of the article suggests in both statutes, Shkodra and Budva, to "possess the bed" means to succeed to all the rights of the spouse, preventing the other possible legal heirs from profiting from the property of the dead spouse.

[128]Statute of Budva, article 145, page 121, De posseder il letto vidual. "Ordinemo, che ciascun homo o femina, che volesse posseder il letto dopo la morte di sua moglie o de suo marito, lo possa posseder, et lavorar ben le vigne, et conciar le case, et custodir tutte le alter cose, come se fossero sue proprie cose. Et se per un'anno non lavorasse ben le vigne d'ogni opera, o non coprisse le case, se fosse di bisogno, o se vendesse cosa mobile o stabile, che se li potesse provar, perda tutte quelle cose, che fosse del letto della moglie, o la moglie del baron, et rendali a quelli, che apartien, essendo a pieno satisfato il testamento del morto o della morta; et fin che possede il letto, sia tenuto o tenuto de far un pranzo ogn'anno, ove giace il morto o la morta; et se l'obbito fosse cercato provevolmente, quello, che tien di letto, sia tenuto di pagarlo delle cose del morto o della morta, et non se possa scusare, che die posseder".

Conclusions

During their rule in Eastern Adriatic, the Venetians governed the towns using law codes which contained pre-existing laws as well as new rules introduced by the Venetian authorities. The town of Shkodra was under Venetian rule from 1396 until 1479 and the town of Budva was under Venetian rule from 1420 until 1797. The Venetian government exercised judicial power through the statutes of Shkodra and Budva, which were the law codes for the two towns. The law codes were the main sources of legislation in the two towns. .

The statutes of Shkodra contain 279 articles and the statutes of Budva 295. The articles in the two law codes cover several areas of law, such as civil law, family law, and inheritance law. The only major difference in the two law codes is that the statutes of Shkodra cover penal law, while the statutes of Budva do not. Otherwise there are extensive similarities and, for this reason, I chose to conduct a comparative study of the two law codes. . There is a slight difference in the number of the articles: the statutes of Budva have 17 more articles. However the information that the two law codes contain is almost the same. The difference in number is due to the fact that at some places in the statutes of Budva one article combines the content that may be mentioned in two articles in the statutes of Shkodra.

There is a minor difference in language between the two law codes. Both are written in vernacular Italian but the statutes of Shkodra are written in fourteenth-century vernacular Italian and the statute of Budva in the sixteenth century vernacular Italian. In spite of the difference in the language, the similarity of the texts is visible to a great extent. In most cases corresponding articles from the two statutes have the same formulation, the same words and, consequently, the same content.

The extensive similarity has made it possible for the scholars to translate and understand the comparatively more difficult content of the statutes of Shkodra with the help of the statutes of Budva. Since the language of the statutes of Budva is sixteenth-century vernacular, it is closer to modern Italian and hence easier to understand.

The two law codes contain a number of common features including the legal age to take legal responsibility, the main division of the population of the towns and the main judicial rights and duties of those who ruled the towns. Thus the legal age to take responsibilities and rights was 12 years for girls and 14 years for boys, the same as elsewhere in medieval Europe. The main categorization of the population was into good and bad, referring to their behavioral attitude. This particular categorization is only valid for the town of Shkodra, and it does not appear in the statutes of Budva.

The main controllers of the well-functioning of the laws of both towns were the Commune and the count. The judiciary and the administration in the laws of Shkodra were three judges, eight councilors and two distributors. In the laws of Budva, in addition to the three judges and eight councilors, there were also two captains, two spenders, two advocates, two officers and three sellers and estimators. It can be seen that the administrative structure in the town of Budva was getting more sophisticated than the one presented in the laws of the town of Shkodra.

In cases of disputes, the statutes of Shkodra decree that half of the fines go to the Commune and half to the plaintiff. In the statutes of Budva half of the fine goes to the Commune and the other half to the Count.

As for the features of the society members, the towns had their upper class and lower class members. The upper class are the *zentilhomeni* and *zentildonne* in the town of Shkodra and the *gentil'houmeni* and *gentildonne* in the town of Budva. For the lower class members of the society,

the statute of Shkodra refers to the commoners called *boni homeni* and *bone femene* respectively. These were clearly distinctive from the gentleman and gentlewoman, therefore one can deduce that they referred to different strata.

An exception for the categorization of the population were the harlots. Both statutes mention that their main punishment was the requirement to be distinct from the other women. Thus they were not to wear a veil or headgear. The veils and headgears were the features of good women and noble women. The noble women and good women had a separate space and it was distinct from the harlots' space.

An interesting point is to note the position of the females in the statutes and consequently their position in the everyday life of these two towns. In these medieval law codes females had a significant presence in the society, a prominent role in family and a crucial role as widows. Their power and position in society was protected by law. In fact, law gave them rights and duties which were similar to those given to their husbands in their family. Moving from public life to private life, the role of the women became more and more prominent so that it was the most manifest in the institution of marriage. Marriage itself was a moment that would have made significant changes in the life of a medieval woman.

Both the statutes of Shkodra and Budva contain a large number of laws concerning women. They show that females experienced a substantial amount of agency in exercising their legal rights. They are represented in the statutes as daughters, brides, wives, mothers and widows, and they are part of all the areas regulated by law. Mostly their presence is visible in the articles dealing with family law and inheritance law. This does not mean that they were omitted from the other parts of law but their role in the family was more prominent.

One of the most important issues of family law where women are mentioned as having

crucial role, is the issue of marriage. Marriage was important because it created new affinity connections. . In both law codes of Shkodra and Budva, there is a main marriage form, namely the traditional one. Once the marriage is solemnized, the bride moved to live with the family of the groom. In the statutes of Budva there is an additional alternative way of marriage, i.e. to leave the parents' home and to move to a new location.

The connection between families had its focus initially on marriage payments that were an inseparable feature of marriage and the first issue to agree upon. The first step towards the marriage arrangement was engagement. The engagements are important because they offer opportunities for two families to agree on the marriage payments. Marriage payments were different in kind in the two towns.

In the statutes of Shkodra there were two kinds of marriage payments, the dowry and the bride-price, referred to in the statutes as *dote* and *prechio*. The existence of two kinds of marriages in the society, indicates a mixed character of the society. The societies that are depicted in the law codes show a combination of the features of a dowry paying society and the bride-price paying society.

In addition to fulfilling a formal legal aspect of an important institution, marriage payments were also the means by which the distribution of the wealth was done. Therefore marriage payments had huge economic significance. Marriage payments, mostly represented by dowry, were exchange objects behaving as goods in a marriage market in both the towns of Shkodra and Budva.

Women in the bride-price paying society have a prominent role in agriculture and bride-prices were standard prices and did not differ depending on the family wealth. On the other hand, the dowry paying societies were already more socially stratified where dowry depended directly

on the status and wealth of the family. The role of women, unlike in the statutes of Shkodra is relatively less prominent in agriculture.

In the statutes of Shkodra, the dowry and the bride-price co-existed. This means that both features of the dowry and bride-price societies were present in the town. Meanwhile, the town of Budva seems to have had only features of the dowry paying society. I think that in Budva as well the two kinds of marriage payments might have coexisted, but later they were substituted by dowry only.

Dowries in both statutes mainly consisted of immobile estates. Personal things as well might have been parts of the dowry. Thus apart of houses and fields, clothes and jewelry might have also been component parts of the dowry. All the goods had to be frank and stipulated in the dowry contract. This contract was generally not signed by the daughters, as receivers of the dowry, but rather it was signed by the persons in charge of the marriage bargain.

After the marriage bargain dowry would pass in the ownership of the wife. However she had a *nuda proprietas* over the dowry. She and her husband could use the dowry but could neither change the nature of the object nor sell it. The only thing the wife had the legal right to do was to give the dowry to her children.

Dowry was a right that every girl had, despite the economic situation of their parents and it was a must for the parents to provide the daughter with a dowry. Dowry was mainly an exchange of wealth between families and a form of inheritance for the daughters. After their dowry, daughters could not inherit form their parents wealth, except when there were no male heirs.

During all her life, a married women could use the dowry and in the same time had the duty to save it from damages and from extreme changes that would make the main usage and aim

of the object different from the initial one. With the end of the marriage, the women would have the possibility to choose whether to continue the marriage thus to live in the same house and to make use of all the husbands wealth or get back her said dowry and to get married again. In case when the marriage ended because of the death of the wife, the husband was obliged to send back the dowry of his wife, to her family. Only after this, he could get married again. In case they had children, with the death of the mother, the dowry was given to the children.

All this issue of limited ownership rights over the dowry and the allowance of the usage of it while not changing it, the mandatory regulations that stated that dowry needed to be returned after the end of marriage and finally the strict relation of dowry with the existence of the women, make me think that dowry was a deposit contract.

First, because of the fact that dowry given by the family of the bride, aiming at the wellbeing and facilitating of the marriage life of the daughter, with the condition to take the dowry back in case the daughter would not be alive anymore and the aim of the dowry would exist. On the other hand the woman once she received the dowry was more a guardian of it rather than an owner with full right, as a matter of fact she could not sell it. Thus, the real owner was the one who gave the dowry and the dowry was a good standing as a deposit and common good that could be moved anytime. Moreover, the dowry would still help the upbringing and wellbeing of the heirs to the woman in case she had heirs after her death. This constitutes a line which would go on and on for generations, that used the dowry and gave it their heirs after death.

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