

“WOMEN’S LEGAL STATUS IN THE SOCIETY OF THE POLISH-LITHUANIAN COMMONWEALTH AND THE UKRAINIAN COSSACK STATE (SECOND HALF OF THE XVI-XVIII CENTURIES)”



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Abstract. Unlike the rest of Western Europe, in Ukraine the social status of women depended not on the social status of her husband, but on her own property status. The women's legal status was regulated by the Lithuanian Statutes, which criminal and civil

rulings enshrined the principle of equal rights for men and women. By ensuring the property independence of women and their right to inherit the land, the Lithuanian Statute thus legalized wives' equal legal status with their husbands.

It is also noteworthy that divorces in Ukraine at the time of XVI-XVIII centuries was considered a mundane procedure, in contrast to the rest of medieval Europe, and it took place not only in cases permitted by the church but also because of the lack of consent in married life and even because of the loss of trust and love or chronic illness of one of the spouses. The divorce process took place by means of a mutual “protest” with the determination of the material conditions and rights of the children. After all the formalities related to divorce were done, man and woman both were able to enter new marriages.

All of that and many more proves that the legal status of women in the society of the Polish-Lithuanian Commonwealth and the Ukrainian Cossack state was quite high and was regulated by the norms fixed by the secular and church legislation and the customary law of the Ukrainian people.

Keywords: *Lithuanian Statutes, customary Ukrainian law, hereditary property rights, women's rights, Ukrainian Cossack State, Polish-Lithuanian Commonwealth*

Introduction

In the Cossack's period of Ukrainian history there are still quite a number of unexplored phenomena. Taking into account the importance of the Cossacks' influence in the way of life and worldview of Ukrainian people in the XVI-XVII centuries, we would like to note that such an important page of the multifaceted history of that time as the role and status of Ukrainian women remained out of the researchers' sight.

Conclusions about women's status were based mainly on the study of Cossack asceticism, such as Cossacks' renunciation from families in general and women in particular, concentration of their mental and physical efforts in military affairs. Some researchers of the Ukrainian past genuinely believed that, living on the Dnieper islands, Cossacks were indifferent to the usual worldly joys, neglected family comfort and their own welfare. But of course, the dramatic events of the XVI—XVII centuries, constant wars and bloodshed did not contribute to a civilized way of life, marriage and family either.

It should be noted that the topic of Ukrainian women as part of social life in XVI-XVII centuries was studied by historians rather superficially. However, without their presence in the history we shouldn't hope that the Ukraine will “tell” the whole truth about its past. The history of Ukraine needs a more detailed study, which would depict not only the struggle for the emergence of the Ukrainian state, but also reproduced the daily life of people who inhabited the land on which this

state was created. It is especially important as for the Ukrainian society the activity of social groups, estates or public organizations was traditionally more significant than that of state institutions.

The main material

The first one who raised the issues related to the status of Ukrainian women was the historian N. Kostomarov. The other one was a Polish historian Anthony I (Joseph Rolle); though his works were descriptive at best and to a certain extent had a pro-Polish orientation, the author clearly distinguished the Ukrainian women among Russians or Poles. But the properly scientific study of women's status in the Ukrainian society of XVI-XVII centuries was started by a famous Ukrainian historian academician A. Levitsky. He was the first domestic researcher who devoted a number of special works to certain aspects of this complex problem.

Unlike Western Europe, the social status of women in Ukraine at the time of XVI-XVII centuries depended not on the social status of her husband, but on property status of her own. Therefore, noblewomen, regardless of their marital status, sometimes possessed huge latifundies and had a significant social weight in their lands. This fact was also noticed by Mikhail Litvin, who visited Ukraine in 1550. He wrote that "Tatar and Moscow women have no man's rights, but our women rule many men: some are running volosts, cities and estates, others are making a profit and even getting inheritance."

"Although living under woman's rule is a shame even in private house," said Litvin, "they rule our fortresses, even those bordering on Moscow, Turkish, Tatar and Moldovan lands, which should have to be entrusted only to the men of great courage."

Women's legal status was regulated by the Lithuanian Statute, in which criminal and civil rulings enshrined the principle of equal rights for men and women. By ensuring women's property independence and their right to inherit land, the Lithuanian Statute thus legalized women's equal legal status with men, which was of great importance. After all, it was the legal status that characterized medieval people and dictated their moral qualities.

The age of majority in the first Lithuanian Statute in year 1529 was set at 18 years of age for men and 15 years for women. The third Statute lowered the women's age of majority to 13 years. From that time on, a girl became not only a full-fledged owner of

hereditary property in case if she became an orphan, but also could have a separate property while living in the parental home, as she could receive this property thanks to the married sisters or as a gift from her parents. The property rights of an unmarried woman were the same as those of a single man.

During this period, noblewomen enjoyed great freedom and legal independence, not at all inferior to men in the fullness of their civil rights. The social status of the female noblewoman differed from that of noblemen mostly in the fact that only one-fourth of the parental homeland was inherited by women in the existence of living brothers. This exception is explained by the fact that Lithuanian feudal legislation on the ownership of estates was always combined with the duty of military service. If the land was owned by the widow or women who lived separately from her family, she was obliged to supply a certain number of soldiers and not to serve personally. However, women sometimes preferred to apply in the military service themselves, as did Zofia Yezofova, a noblewoman from 1565.

Although Zaporizhzhya Sich was almost inaccessible to females, the Ukrainian women were connected to the army and military duties to the point that was almost unprecedented in Europe during this period. The peculiarities of the unstable life in the Ukrainian voivodships near the Tatar borders determined the necessity of armament, belligerent character and peculiarity of the worldview. Under such conditions, women were engaged in the same practices as their husbands or brothers. In an area full of dangers, women often had to protect the family hearth and household property. Life on the borderline granted Ukrainian women endurance, independence, and courage, ability to stand up for themselves and their families with weapons in their hands. To be convinced of it, it is enough to read the lines of folk songs and Cossack dumas. The image of the mother, wife, sister, and bride were depicted here with sincerity and realistic reflection of reality and does not give reason to doubt that the Ukrainian ideal of beauty and femininity of the second half of the XVI-XVIII centuries was a woman "as beautiful as lightning", "as flexible as a poplar", with an "a ruddy face",

with "eyes as a thorn", socially active and with free-loving personality, able at the same time to release prisoners, fight the enemy, run a military unit or manage the land.

Anna Borzobagaty-Krasenska, a noblewoman from Volyn, ran the treasury of the Lutsk diocese, raided the estates of the gentry's neighbors and even refused to comply with the orders and demands of the king himself. When a general militia of the whole voivodship was organized against her, this fearless woman put on the armor and, running the hajduks, repulsed the gentry's attacks and defeated the enemy's army.

In the year 1584, the noblewoman Milohna Ostashkova with her daughter Sofia organized an armed attack on the estate of the nobleman Gnivosha Strizhevsky in the village of Dudnivtsi in Zhytomyr region, causing significant damage to the property.

Colonel Ivan Donets' sister took a direct part as a horseman in the military operations against the Polish-Szlachite troops in Volyn in the year 1649. During one of the attacks, she died.

According to the legend, recorded by A. Kovalev, the wife of the Cossack centurion Semen Motora, Varvara, took an active part in the uprising led by Jacob Ostryanin (1638). She especially distinguished herself during the defence of the rebel camp near Zhovnin on the Sula River. Ostryanin allegedly ordered Varvara Motora to shoot the most important people in the enemy camp, instructing six Cossacks to load muskets and prepare arrows for her.

As documents testify, in the year 1524, after the battle at Pruchnik Castle in Podillya, the bodies of women dressed in men's clothes were found among the killed defenders. Women even shaved their heads so that they wouldn't be recognized.

Significant power and the influence over the Cossacks of Right-bank Ukraine had a "mother-colonel", the wife of the Fastovsky colonel Semen Paliy, Feodosiya. The glorious "Paliyiha" not only knew how to receive ambassadors who came to Paliyava state, but also in the absence of her husband managed the economic affairs of the Fastovsky Cossack Regiment. During the period of her husband's exile in Siberia, she repeatedly conducted campaigns against the Moscowites and the Polish gentry, defending the Fastovshchina from their encroachments.

Ukrainian women were taken prisoner as often as men, but their fate was tragic. The slave fate waited for them, along with the hard, exhausting work in enslavers' estates. The best and the youngest were sent to the harem. Ukrainian captives were highly valued in the slave market for their beauty, intelligence and high physical endurance.

The author of the XVI century chronicle, already mentioned Mikhail Litvin, wrote that sometimes Ukrainian girls were bought for the price of gold, and at once, here on the spot, were resold for profit... "The present Turkish emperor has beloved wife," he wrote, "mother of his first-born child and heir, stolen from our land." It was the wife of Turkish Sultan Suleiman I Nastia Lisovskaya, who went down in history as Roxolana.

She was not the only one. Wives of Osman II (1618 - 1622), Ibrahim (1640-1648), and Mustafa II (1695-1703), as well as mothers of Mohammed IV (1648-1687) and Osman III (1754-1757) also were Ukrainian women.

The active presence of women in Cossack traditions and folklore gives grounds to believe that their figure in Cossack society held no less regard as that of a man.

Women were capable of good or evil deeds on an equal footing with men, and in their actions, they displayed the moral values of their time. "The determined, brave woman," wrote about the Ukrainian woman Joseph Rolle, "commanded great respect and easily found supporters; society was forgiving of her antics".

Women landowners were not exempted from paying taxes; they were collected without any restrictions, as women were considered the full members of society. It's also worth mentioning the participation of women in the most important political decisions. When the Polish king Zygmunt Augustus ordered the Ukrainian and Polish gentry to swear allegiance to the union of the Lithuanian principality with Poland, then on Volyn, along with the male ones, a lot of female landowners swore allegiance. For herself and her children, Princess Vasilisa Ruzhynska, Princess Catherine Skorupynska, Kashtelanova Lutska, and Mrs Mikhailova Kozynska pledged loyalty to the king. Kozynski's son-in-law, Prince Nikolai Yaroslavovich, had the right to sign only after the matriarch of the family. Thus, the signature of noblewomen often became decisive in matters of national importance.

Documents show that women could be employed and followed as headmen. For example, the position of headman was transferred from Jan Danilovich to his wife Sofia.

In the year 1613, the right of life-long use and possession of the Vogtei was granted to Ekaterina Kavetskaya, the wife of the Vogt Jan Ozhigalka.

According to the contract between the nobleman Mikhail Dubnitsky and his wife, to pay off the monetary debt after the death of her husband she received the right to own the Vladimir Vogtei "with all the rightful power, and with all income and possessions".

In the year 1576, the noblewoman Bogdana Elovich-Malinovskaya was the Vogt of the great city of Lutsk. A conflict arose between her and the Lutsk bourgeoisie. The case was settled only after the intervention of the king, who officially forbade violating the rights of Lutsk bourgeoisie.

Ownership of estates, full civil rights, and respect in the society gave Ukrainian women of higher classes the right to issue documents of different political weight: from administrative and economic orders meant for the management of the Vogtei to the granting the right of self-government to individual cities, the distribution of land and property.

The documents clearly prove the active participation of women magnates in the affairs of local self-government and their impact on the social and political life of Ukrainian cities. As I. Rolle pointed out, noblewomen in the Cossack state were quite active in political life: "They participate in conferences, meetings, seimas, farmers' congresses, penetrate the courts in general, and even the royal court; often are seen around leaders of the allied armies, whom they no doubt use for the sake of their own benefit; in other words, they take a leading role in our lands".

At the turn of the XVI-XVII centuries, when Orthodoxy became a symbol of the struggle against the domination of the Polish language and culture in Ukraine, many worthy women defended the Orthodox faith through their patronage and cultural activities. Anna Goiska, Raina Solomyretska, Galshka Ostrozhska, Sofia Chartoriyska, Galshka Gulevichyvna, Raina Mohylyanka and others have left many vivid pages in the history of the liberation struggle of the Ukrainian people against polonization.

Women's patronage was a natural phenomenon of the Ukrainian life at that time. One of its directions is the establishment of Orthodox churches, monasteries and schools under them. In the memorial of the Kiev-Pechersk monastery there are many women who made offertory; for example, the widow of the Chernigov treasurer Kateryna Ugornytskyi handed over all her estates to the monastery. Elena Gornostaeva, born Princess of Chartoria, was the founder of the Peresopnytsia Monastery on Volyn (in 1596). She wrote the charter for it and arranged a hospital for the poor and sick at the monastery, as well as a school for peasant children. Her sister Sophia opened a printing house in her estate in Rachmanov, where were translated from Greek into Ukrainian books of the Holy Scriptures, both Evangelical and Apostolic. The admirer of the Orthodox faith and general education, Princess Chartoriysk supported the famous figure of the Lviv Brotherhood Kirill Trankvillion-Stavrovetsky, the author of the "Gospel of the Teacher", published in Rachmanov at the year 1619.

At the end of the XVI century the monastery of the Church of the Assumption in Pochaev was founded by the wife of the Lutsk judge Anna Goiskaya. At the same time the noblewoman Elena Stetkevich, the wife of the future Hetman of Ukraine Ivan Vygovsky, is building a church in the village of Yusiptychi. In the year 1637, Volyn gentlewoman Raina Yarmolinska founded a monastery in her estate Zagaity in Kremenetsky district. Two years later, princess Raina Solomyretska, the last of the Gojskih family, build the monastery in Gojci with her own funds. These examples were not an exception, but rather the norm of life at the time.

Another area of Ukrainian women's patronage was the organization of new Orthodox schools and support for existing ones. Thus, the noblewomen Raina Yarmolinska and Maria Mogila actively supported Orthodox schools and monasteries in their districts. Elizaveta Mogyla supported the Lviv Brotherhood, helping it socially and financially. Elizabeth's daughter Anna Mogila not only helped the brotherhood, but also entered the register of Lviv brothers herself in 1630.

Galshka (Elizabeth) Gulevichyvna, wife of the Kiev nobleman Stefan Lozka, was one of the founders of the Kiev brotherhood of the Kiev Epiphany Monastery and school under it.

The influential cultural and political figures of that time, such as Job Boretsky, Isaiah Kopinsky, Afanasy Luzina, and even hetman of the Zaporozhye Cossacks Petro Sahaidachny, praised Gulevychivna's actions.

Thus, the noblewomen patronage of Orthodox Church and schools was widespread among the nobility and magnate families.

Women's autonomy and freedom were determined not solely by economic factors. Regardless of their social state, women had the right to independently decide their own destiny in the marriage. It was possible thanks to unique legal structure, which existed only in the Ukrainian customary law, named "materyzna". Materyzna was a dowry of a woman in the form of real estate or land which was never included in the family property, was not divided among family members, and was inherited only through the mother's line and thus constituted a separate women's legal property institute.

Men's power over women was interpreted by the church as a law that corresponded to the hierarchy of the way of life: "The wife is led by a man, a man is led by the lord, and the lord is led by God". However, in real life, the question of marriage and family power were often solved contrary to the church dogmas. Chroniclers noted cases when in a noble family the wife "owned" the husband.

Materyzna made a woman financially independent from her husband during his lifetime and provided widow with means for living after his death. Regarding the right of property, a woman did not depend on anybody and was considered to be a free mistress of her own goods, as evidenced by numerous acts of donation, transfer for use and pledge of women's private property, all of which was concluded of women's own free will. Women of all classes had the right to delegate the conduct of legal proceedings either to an outsider or to their own husband, to whom the woman was assigned by law.

The woman was also free in decision of acquiring her husband's surname, next to which she "held" her generic name and title. In a significant number of cases, women preferred to sign documents with their maiden name. Moreover, noblewomen and bourgeoisie widely used their own seal with their name and coat of arms. They attached this seal was to various documents and records issued by them.

It is also noteworthy that divorces in Ukraine at the time of XVI-XVIII centuries was considered a mundane procedure, in contrast to the rest of medieval Europe, and it took place not only in cases permitted by the church but also because of the lack of consent in married life and even because of the loss of trust and love or chronic illness of one of the spouses. The divorce process took place by means of a mutual "protest" with the determination of the material conditions and rights of the children. After all the formalities related to divorce were done, both man and woman were able to marry again.

Peasant women also had the initiative both in marriage and divorce. Their dowry also was never dissolved in the family property, but, on the contrary, was clearly recognized and respected.

However, the accessibility of divorce did not mean that the family ties weren't strong. Historical sources testify that the relations between the spouses were warm and based on equal footing; often wives in sign of gratitude and without any coercion gave property to their husbands. Most of the endowmentary records ended with a legal formula explaining the reasons for the gift: "To my husband as a token of sincere love for him and thanks to the same love on his part". A significant number of such records were made by men themselves, which stated that men also give their wives property as a thank-you note "for marital love and fidelity".

It is also worth considering the status of a Ukrainian woman in the legal traditions of Zaporizhzhya Cossacks.

Modern researcher V. Kulchytskyi defined Cossack law as "a set of ordinary norms (prescriptions), the vast majority of which appeared in the Zaporizhzhya Sich". In the law used by Cossacks, which was recognized by both foreign countries and the Polish government, women were given a special place.

The Cossacks were not allowed to lead a family life in Sich itself, and their wives should've lived near the Sich in slobodas, where the Cossacks came to visit them from time to time. However, women were not forbidden to participate in Cossack courts.

The Cossack researcher D. Yavornitsky noted that among serious crimes Cossacks counted not only the treason, connection with a woman and sodomite sin (extreme debauchery), but also the "injustice done to a

woman, because a Cossack should glorify a woman as it dictated by tradition and law", because such a crime would bring shame to the entire army of Zaporizhzhya. According to sources, Cossack leader Ivan Sirko strictly adhered to this tradition. As in case of injustice caused by one of the Cossacks of the captive Turks, Circassians or Tatars, he condemned the guilty to death penalty.

There is no doubt that disregard for the Ukrainian woman was also strictly persecuted by the Cossacks. The death sentences recorded in the "Book of troops of the Zaporozhye Cossack Pryluk Regiment" say that in the year 1707, P. Mikitchenko was executed for the rape of a Prylutsky woman that lived in Grebenichka. According to custom, Cossacks was mercilessly punished not only for the presence of a woman in the Sich, but also for adultery. For this crime the Cossacks were punished both in Sich and Hetmanshchina. In particular, the sentences recorded in the "Reference Book" say that for

such a shameful sin man was sentenced to burning alive.

In the system Cossacks' spiritual values the traditions of honoring mothers received utmost importance. This turned out to be not only in the idealization of such notions as Ukraine-mother, Sich-mother, Cossack saber-mother, where Sich and saber embodied the ideal mother-in-law, but also in the worship of the Mother of God, The Madonna, whom Cossacks considered to be their religious patroness and protector. It was under her protection that the Cossacks were not afraid of fire or a terrible sea storm. On all Sich's the church of her name was considered to be the main one, and the temple holiday in Zaporozhye was the Feast of the Protection of the Holy Mother of God. Cossacks worn on the chest of a cross with her image, and a significant part of churches and chapels, built on the lands of Zaporozhye liberties, was dedicated to the Mother of God. Icons of the Mother of God were well respected among Cossacks.

Conclusions

Thus, the historical sources of the XVI-XVII centuries studied by us prove that Ukrainian women of this period were considerably freer to express themselves and had significant legal rights as the citizens of the state.

References

1. Bolmchevsky-Cherniak M. *Feminists Despite Themselves*, Edmonton, 1988.
2. Andryushchenko V. *Zaporozhetsy and women; Science and society*. 1991. № 7. P. 55.
3. Kostomarov N. *Two Russian nationalities // Historical monographs and works. Book I, vol. 1. St. Petersburg, 1903.*
4. Kostomarov N. *Essay of the domestic life and morals of the Great Russian people in XVI-XVII century*. St. Petersburg, 1860.
5. Antony I (Rolle I.) *Ukrainian women*. P. 268—269.
6. Antony I (Rolle I.). *Women at Chigirinsky court in the second half of XVII century // 1894. January—March.*
7. Levitsky O. *About family relations in South-West Russia in XVI XVII centuries // Russian antiquity. T. XXIX. 1880. November;*
8. Levitsky O. *Ordinary forms of marriage in Southern Russia // Kievan antiquity. 1900. January.*
9. Levitsky O. *Volyn stories from the life of the Volyn nobility of the XVI century, 1914. P. 17.*
10. Valikonite J. *The First Lithuanian Statute — one of the most important sources on the history of the status of women in the Grand Duchy of Lithuania // The First Lithuanian Statute of 1929: Mother, Conf. "450 years of the First Lithuanian Statute". Vilnius, 1982. P. 41.*
11. *Memoirs relating to the history of Southern Russia / Under edition of V. Antonovich. Issue I. K., 1890. P. 42.*
12. Gurevich A. *Categories of medieval culture. MOSCOW, 1984. P. 125.*
13. *First Lithuanian Statute 1529. Prepared by S. Lazutkina, Z. Gudavicius, Z. Vilnius 1983-1985. Part 1-2. P. 35—40.*
14. *Acts on marriage law and family life in South-Western Russia in XVI—XVII centuries // Yugoslavia. St. Petersburg, 1909. T. 3. h. 8. p. 6.*

15. Act book of Zhytomyr city government of the end of the XVI century. C., 1965, P. 83.
16. Mitsik Y. A., Plohiyi S. M., Storozhenko I. S. How the Cossacks fought. P. 151.
17. Antonovich V. Stories about Zaporozkiye Cossacks. 1991. P. 83.
18. Mordovian L. (Levitsky O.) About the marriage in Ukraine-Rus in XVI—XVII centuries. P. 7.
19. Kozyliya O. Womens in the history of Ukraine. 1993. P. 35.
20. Acts of settling of Southern Russia in XVI-XVII centuries // Yugoslavia. T. I, P. 5.
21. Grushevsky M. Barske Starostvo: Historical sketches (XV-XVIII century). Lviv, 1996. P. 307.
22. Grushevsky M. Cultural and National Movement in Ukraine in XVI-XVII centuries // Grushevsky M. Spiritual Ukraine. 1994. P. 245.
23. Ukraine: Cultural heritage, national consciousness, statehood. Issue 5. Lviv, 1998. P. 403.
24. Efimenko P. S. Ordinary law of the Ukrainian people // Ukrainian people in its past and present. Petrograd, 1916. P. 659.
25. Archaeological collection of documents related to the history of North-Western Russia. Vilnius, 1867, T. 4, № 74. P. 255-289.