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Trousseau according to the *Ius municipale Magdeburgense*  
by Paweł Szczerbic and the position of a woman  
in the craftsman family at the beginning of the early modern time

**Key words:** Magdeburg Law, Paweł Szczerbic, woman's trousseau, craftsman family, material culture

**Słowa kluczowe:** prawo magdeburskie, Paweł Szczerbic, wyprawa kobiety, rodzina rzemieślnicza, kultura materialna

In accordance with the *Ius municipale Magdeburgense*, that was in force, for example, in Cracow and that provided for the separation of property between spouses, the wife, after her husband's death, was only entitled to (1) the payment of a dowry which was bequeathed on her husband's property in return for the dowry she had contributed (the latter was linked to the marital property and it never returned to the family from which she came out), (2) the return of her trousseau (*gerada/gierada* or *paraferna/paraphernalia*) and (3) a half of the yearly food portion.<sup>1</sup> In order to present the subject of this article, I have chosen the version of *Ius municipale* by Paweł Szczerbic, who was a lawyer practicing in Lviv and Cracow in the 16th century.<sup>2</sup> The version published in 1581, in the Old Polish language, contains the largest amount of information about the woman's trousseau in comparison with the earlier statutes: Latin statutes by Jan Łaski (1506)<sup>3</sup> and by Mikołaj Jaskier (1535)<sup>4</sup> as well as the first Polish language version by Bartłomiej Groicki (1558).<sup>5</sup> This is most likely due to the fact that Paweł Szczerbic's version is — to quote its editor G.M. Kowalski — a “scrupulous collection of municipal law regulations, their ordering and their accurate and careful translation into Polish”.<sup>6</sup>

Paweł Szczerbic in his translation of the *Ius municipale* (with his own glosses), in the article XXIII devoted to the woman's trousseau, first enumerated meticulously elements of that trousseau which was referred to as *gerada* or *paraferna*. For the clarity of the narration, the entire relevant passage must be given here: “The *gierada* covers all the garments and clothing of women, cloth and linen {cut for the costume of a woman} and whatever women wear for neatness, and whatever they have under their power or under their lock and key. Furthermore, all silver and gold woven into the garment of women, rings, clasps, wrapped

<sup>1</sup> For details on the rules of inheritance by the widow in the towns chartered with the Magdeburg Law, based on the Latin statutes of this law collected by Jan Łaski (1506) and Mikołaj Jaskier (1535) — cf. Sowina U. 2002, p. 18; Sowina U. 2006, p. 176; cf. lately Miłkowska M. 2018.

<sup>2</sup> Szczerbic P. 2011.

<sup>3</sup> Łaski J. 1506.

<sup>4</sup> Jaskier M. 1535.

<sup>5</sup> Groicki B. 1558.

<sup>6</sup> Kowalski G.M. 2011, p. XI.

silk belts, bracelets or hand ornaments, small curtains, bed covers or quilts, sheets, bath towels, curtains, bed, headboards, pillows, tablecloths, brewing pans, rented vessel, laundry boiler, chests with lids, linen, yarn, washed or unwashed, books women used to read, geese, ducks and sheep that go out to pasture”.<sup>7</sup>

In the gloss, Paweł Szczerbic recalls that the *gierada* also comprises many other things that are not described in the text, *i.a.* torn feathers, chests with slats and with a raised lid — “those if not there, then she will take the ones she brought to her husband. Especially those items to which she carried the key herself. Also silk and silver belts made for decoration of a woman, one drinking cup, if there is one, one can, one table, one stool, and small stool, which — if there were more — belong to the *gierada*. You must know that a silver drinking vessel {and a small stool} not by duty but by grace is given, therefore it depends on the will of the one who gives the *gierada* which of these things he/she wants to give”.<sup>8</sup> In sum, it can be noted that usually the main focus of the historians is on the set of listed items that the bride was equipped with by her parents, or, more generally, by the family she came from. But from the given quotation, one can see that the law allowed that the *gierada* could also comprise some items (*i.e.* things from the same groups as those included in the trousseau) from the common assets acquired already during the marriage. In the lists of the *gierada* those were mainly all the clothes of the woman, as well as the materials from which clothes were sewn after the wedding. Both the term “all clothes” and the indication of two most commonly used materials at that time, that is to say cloth and linen, leads to the obvious conclusion that the woman in her trousseau, both as a bride and then as a married woman, and still later as a widow, was supposed to have all the elements of female clothing, ranging from linen underwear through undergarments and outer cloth garments. On the basis of the inventories of movable goods of the women, I recreated such a complete outfit of Cracow townswomen (often in harmonized sets) in my other work.<sup>9</sup> However, from comparisons of the lists of the *gerada/gierada* in the versions of *Ius municipale Magdeburgense* with the analogous lists of women’s clothing belonging to the trousseau and mentioned in burghers’ inventories of movable goods or in testaments, a conclusion can be drawn that the items in the last two types of lists were contained in the canon of the Magdeburg law concerning the bride’s trousseau. The only exception noticed in this list of, after all, valuable items, was the lack of mentions of any hides or furs in the lists of the *gerada/gierada*, which were so often found in inventories of movable goods and testaments (*e.g.* fur capes — *andromedae*, fur coats — *pelliceae* or fur lined coat). Another observation is that lawmakers foresaw — and allowed — the presence of expensive materials in a trousseau, which were interwoven with silver or gold, while the anti-luxury regulations often repeated in towns, including urban centres based on the Magdeburg Law, forbade at least the “ordinary/common” townswomen, mostly from craft families, to wear such costumes or their elements (*e.g.* pearl collars). In accordance with the anti-luxury laws, such townswomen were also forbidden to wear some of the above-mentioned objects of the trousseau including the elements of silk garments, for example “wrapped silk belts” (probably forged in silver, as indicated by the development of the composition description of the *gerada/gierada* in which “silk and silver belts” occur). In the trousseau apart from the clothes and ornaments, that is to say things a woman could wear, other items were also listed which were supposed to be the elements of the furnishing of the bedchamber, kitchen and dining room (or the place where the family dined), that is to say those spaces of the house where the mistress of the house played the main role. In a bedchamber heated by a fireplace women gave birth to more and more children (Fig. 1) and then they lay there in childbirth (if they had

<sup>7</sup> Szczerbic P. 2011, pp. 118–119.

<sup>8</sup> Szczerbic P. 2011, p. 126.

<sup>9</sup> Sowina U. 2016a.

Fig. 1. A woman after giving birth in a bed standing in the chamber, leaning on two large pillows and covered with a quilt, with a newborn baby in swaddling clothes by her side. A chest by the bed (probably with part of the trousseau), a third large pillow on the chest. By the wall there is a cupboard with tin utensils, perhaps part of the trousseau.

Flanders, 15th century (after: Riché P., Alexandre-Bidon D. 1994, p. 75)

Ryc. 1. Niewiasta po porodzie w łożu stojącym w komnacie, wsparta na dwóch dużych poduszkach i przykryta kołdrą, z noworodkiem w powijakach u boku. Przy łożu skrzynia (zapewne z częścią wyprawy), na skrzyni trzecia duża poduszka.

Przy ścianie szafka z cynowymi naczyniami, być może również stanowiącymi część wyprawy.

Flandria, XV wiek (za: Riché P., Alexandre-Bidon D. 1994, s. 75)



the conditions for it) for up to several weeks, during which they or/and their newborn children often died.<sup>10</sup> Here, the equipment of the bedroom should also include bath towels-sheets ("bod-lochy"<sup>11</sup>) which — in an earlier version of *Ius municipale* authored by Mikołaj Jaskier and published in 1535 — were listed as *balneamina*, just after *linteamina*.<sup>12</sup> The latter meant, as it is known, sheets as part of the bed linen. In the kitchen women alone or with servants prepared food for household members, but they were also engaged in jobs that brought income to the family, such as for example weaving, spinning or beer brewing (in the face of the already well-known long-lasting home production of this beverage in the Polish towns). The extent of the activities mentioned here, for example, was so significant that among important items listed in the legal statutes as the elements of the trousseau, there were beer brewing vessels, including the main beer boiler, and, on the other hand, raw material in various forms for home weaving. Here, when paying special attention to the situation of working women — the majority of craftsmen's wives appearing in Cracow town court books — it is worth remembering the poor physical condition of most women: during pregnancy or between pregnancies from early adolescence, after a heavy childbirth, often additionally weakened by complications in *puerperium*, not to mention mental breakdowns after a child's death.

Therefore, the woman in the family in the light of her trousseau can be depicted in three ways: she herself; the space of her home; and her everyday life, that is to say her work — her daily activities. The legal lists of the *gerada/gierada* lacked objects related to her faith, and therefore religious worship, although there was room for a mention, for example, of "torn feathers". On the other hand, the basic set of the trousseau lists books which, according to Paweł Szczerbic, women used to read. Let us recall that in Mikołaj Jaskier's Latin version of *Ius municipale*... published in 1535 this sentence read as follows: "libri qui a mulieribus usitantur"<sup>13</sup> ("the books which were read by women").

<sup>10</sup> Recently, more details on perinatal complications cf. Delimata-Proch M. 2015, there also extensive literature.

<sup>11</sup> Szczerbic P. 2011, p. 119.

<sup>12</sup> Jaskier M. 1535, art. XXIII.

<sup>13</sup> Jaskier M. 1535, art. XXIII.

Animals occupied an important place in the sixteenth-century *Ius municipale Magdeburgense* among the elements of the *geradal/gerada*. While only a horse is left in the list of items that make up the male *hergwet*, and that in the context of military equipment, in the female trousseau, an important place was occupied by breeding animals. In the texts of both Jan Łaski (1506)<sup>14</sup> and Mikołaj Jaskier (1535)<sup>15</sup> as well as in the Polish translation of Paweł Szczerbic, sheep (*oves*) were mentioned. In the latter two editions geese and ducks were also listed. Mikołaj Jaskier, however, mentioned “*aseres, anete, oves pastorem praecedentes*”, which in Szczerbic’s translation took the form already quoted above: “geese, ducks and sheep that go out to pasture”.<sup>16</sup> The fact that in Jaskier’s version there is a shepherd who is “preceded” by the animals meant, of course, that they were taken out to pasture, like in Szczerbic’s translation. As for animals listed in the *geradal/gerada* this could only apply to sheep — in the system which existed in many towns, for example in Cracow whose authorities maintained a city shepherd grazing burghers’ herds of cattle and pigs (*pecorum, pecudum, scropharum*) for which the burghers paid the so-called *pecunia pastoralia* to the municipal treasury.<sup>17</sup>

In the version compiled by Paweł Szczerbic which is analyzed here, sheep and oxen but also other slaughter animals, are mentioned in his gloss in the context that increases the importance of these animals in the family household. At the same time, he draws attention to those craftsmen for whom these animals constituted the raw material in their work. Here, this applies



Fig. 2. Hog slaughter by the husband and fat melting by the wife; ready sausages in the chamber (one stolen by a cat). Bohemian calendar, 1554. The zodiacal sign of Capricorn indicates that this takes place between 21–22 December and 19–20 January (after: Husa V. 1967, Fig. 53)

Ryc. 2. Ubój wieprza przez męża i topienie sadła przez żonę; gotowe kielbasy w komorze (jedna kradziona przez kota). Zodiakalny znak Koziorożca oznacza, że dzieje się to między 21–22 grudnia a 19–20 stycznia, Czeski kalendarz z 1554 r. (za: Husa V. 1967, ryc. 53)

to butchers. The gloss says that “a butcher who has sheep, oxen and other livestock which will be beaten to slaughter or to the butchery — it is heritage”<sup>18</sup> (Fig. 2). So they did not constitute a part of *gerada*. The butcher’s family property inherited in his family according to the Magdeburg law also included cows, but the latter due to milk and milk products (Fig. 3) occupied a special place in terms of food in the families of at least so-called ordinary/common burghers including craftsmen. But as for sheep, “which he rented to someone else for his profit, these

<sup>14</sup> Łaski J. 1506, Liber I, f. CLXXXVII.

<sup>15</sup> Jaskier M. 1535, art. XXIII.

<sup>16</sup> Szczerbic P. 2011, p. 119.

<sup>17</sup> ANKr., AMK, sign. 1588, p. 18. Cf. also Wyrozumski J. 2010.

<sup>18</sup> Szczerbic P. 2011, p. 126.



Fig. 3. Milking a cow and making butter and cheese from milk. Bohemian calendar, 1554 (after: Husa V. 1967, Fig. 49)

Ryc. 3. Dojenie krowy i robienie z mleka masła i serów. Czeski kalendarz z 1554 r. (za: Husa V. 1967, ryc. 49)

belong to the *gierada*.<sup>19</sup> They, just like geese and ducks, in the butcher's family belonged to the *gerada/gierada* — as in all the above-mentioned statutes listing the components of the trousseau in general. Thus, regarding animals, if the wife brought them in her trousseau, they were supposed to bring — at least for some time — additional income to the newly formed family. As geese and ducks were placed on eggs, their herds grew over the years, becoming valuable food in every household — of course not only butcher's — or a source of additional income, if they were sold. Geese also provided torn feathers and down for bedding.<sup>20</sup> Ducks did not have such value since their torn feathers easily absorbed moisture and clumped in pillows and eiderdowns or quilts. Moreover, they gave off their characteristic “duck” smell. Until not too distant times, however, they were used in poor households, both in cities and in countryside; it remains to be examined whether in the studied era, duck feathers were used in bedding, for example in hospitals. However, duck eggs must have been valuable, since Anzelm Gostomski as the “good farmer” prescribed at that time (1588) that if there were no ducks, their eggs had to be obtained or bought and they had to be “planted under the hen, then this will hatch so you will get this cheap.”<sup>21</sup> However, hens themselves, which laid eggs that were eaten most often, were not mentioned as the elements of the trousseau in any version, because hens together with other birds but also with dogs and cats belonged to the heritage.<sup>22</sup>

Apart from the set of items mentioned (though with some variations) by all statutes, and relating to all those who were subject to the Magdeburg law, there were special provisions dedicated to some other craftsmen families. Thus, for example, in the same article devoted to the *gierada* Paweł Szczerbic wrote, *i.a.*: “For that you have to know that the wives of all craftsmen, who feed on their hands, are to content themselves with their *gierada*. {But *statek* or *cajg* belonging to craftsmanship is not to be demanded.}”<sup>23</sup> When analyzing the previous sentence, two terms should be noted here, namely, “*statek*” and “*cajg*”. The first of these terms was explained by the editor of Paweł Szczerbic as a “small tool needed for crafts”, while the latter was defined generally as: “a tool needed for making crafts”.<sup>24</sup> Meanwhile, the first term denoted

<sup>19</sup> Szczerbic P. 2011, p. 126.

<sup>20</sup> Let us remember that during delivery, especially one that took place in the supine position (in the bed), which was particularly painful, the woman leaned on several pillows.

<sup>21</sup> Gostomski A. 1951, p. 84.

<sup>22</sup> Szczerbic P. 2011, p. 132.

<sup>23</sup> Szczerbic P. 2011, p. 125.

<sup>24</sup> Szczerbic P. 2011, p. 125, footnotes 394 and 395 respectively.

“statki rzemieślne” that is all craft tools, which is known not only from the context of the quoted sentence but also, at least, from the last wills and testaments of Cracow craftsmen in which it was repeated many times denoting inherited crafting tools. The ambiguous word “cajg” (German *Zeug*) was used here by Szczerbic as a synonym of the word “statek”. Szczerbic continued that when the wives carried out the craft without their husband’s participation (only with helpers — “maids”), such as “weavers and clothiers and the like”, all tools as well as raw materials were to be a woman’s trousseau.<sup>25</sup> These things were then inherited by “closer relatives on the spindle”, *i.e.* “on the distaff side”, by other women in the family.<sup>26</sup> Those were the following items: “all utensils [...], looms, frames, turnstiles, weaver’s reeds and prongs”.<sup>27</sup> From this inventory, it follows that if only the woman-wife (with the helpers) carried out the weaving craft, all tools, the above-mentioned craft tools synonymous with “all tools”, which can be identified as a complete horizontal weaving workshop with a wide loom, widespread in the Polish lands in the late Middle Ages<sup>28</sup> (Fig.4) constituted a part of a woman’s exclusive property (*i.e.* her *gierada*). In the case of weaving, the raw materials were a dyed silk and a dyed boiled or raw yarn. But the weaving craft, as is known, was also carried out by men, the fact recognised in the legal regulations of the *Ius municipale Magdeburgense*. The version compiled by Paweł Szczerbic after the earlier statutes, contained the provision that if a husband carried out this craft and made a living from it (which should be understood that it supported the whole family), then all these items would be the family heritage and not the wife’s *gierada*. Then, among the items of the trousseau, there would only remain “linen, yarn, canvases etc.”, which were always part of it, “what the deceased had in her use”.<sup>29</sup> The



Fig. 4. Horizontal weaving workshop with frames, England 14th century (after: Poppe D. 1978, p. 113)

Ryc. 4. Poziomy warsztat tkacki z ramami, Anglia XIV wiek (za: Poppe D. 1978, s. 113)

<sup>25</sup> Szczerbic P. 2011, p. 125.

<sup>26</sup> Szczerbic P. 2011, p. 124.

<sup>27</sup> Of these elements mentioned above, the editor of Paweł Szczerbic only explained the meaning of the “bardo” — and too generally, as: an “element of a weaving workshop” (Szczerbic P. 2011, p. 125, footnote 396). Meanwhile, in the textile manufacturing “bardo” means the “loom harness assembly needed to produce a certain fabric; weaving comb, reed, nailer” (Słownik Języka Polskiego. b.d.).

<sup>28</sup> Thanks to the thorough works of the authors of the *Zarys historii włókiennictwa*. 1966; Czech collective work entitled *Dějiny techniky*. 1974, pp. 200–204; as well as Danuta Poppe’s study of textile history and textile techniques (Poppe D. 1978, pp. 110–115), in the analyzed text-translation by Paweł Szczerbic one can recognize not only the looms and the aforementioned loom harness assemblies, but also the frames denoting here part of the weaving workshop (and not those on which the fabric was stretched for bleaching or dyeing), “turnstiles”/“wide turnstiles” as the tools for weaving the warp.

<sup>29</sup> Szczerbic P. 2011, p. 125: “if the husband made that craft and fed himself on it, then the vessel would be a heritage and not a *gierada*.”

described legal case of weavers' families shows a twofold situation that could have occurred in weaving families: each spouse could be — alternatively — the main person carrying out the craft. So far, I do not know of any similar legal provisions for other crafts. The legal source rather points to the lack of such analogies, which may lead to the conclusion about the specificity of the weaving craft consisting in the large role of women in this particular weaving occupation — not only as a domestic task but also as a profession. This can be confirmed by the following fragment of the gloss in the work of Paweł Szczerbic: “it is an inborn thing for women to spin the distaff”.<sup>30</sup> Let us remember that the specificity of this craft was also indicated in the earlier statutes, for example those of Jan Łaski (1506) and Mikołaj Jaskier (1535), when they mention among the items of the *gerada*, only tools used in weaving carried out also as a profession-craft. It is an important distinction, especially since Szczerbic stressed that “all craftsmen then {as goldsmiths and as those who make silk, painters, goldslars}, whatever craft equipment they have and feed on and always use, it belongs to the heritage and not to the *gierada*”.<sup>31</sup> This is intensified by the remark that “the goldsmith, whatever gold and silver he has, from which he makes for sale constantly, {also silver made for sale} — is a heritage.”<sup>32</sup> Thus, there was no mention that a wife could run a workshop of one of the other crafts on her own. On the contrary, repeating that the trousseau of a mistress of any craft house, the statute makes the *gierada* even more precise by distinguishing it from things which — like all items belonging to craftsmanship — pertain to the family heritage.

There is another legally important factor here — classifying objects as trousseau depending on the place or even on the way of storage of women's things: “After all, whatever the wife has in her closure or chest to which no one had the key but herself, also whatever would be {on the walls or benches in the chamber} for her neatness and embellishments [as are the carpets, curtains/drapes and so forth] — it is a *gierada*. But if it was found elsewhere not under her key, it is a heritage”.<sup>33</sup>

The theme of a closed chest or, in general, closing by a wife her things with her own key, as a necessary criterion determining the trousseau appears in other places of the statute, obviously referring not only to craftsmen and their families — since it concerns generally accepted legal rules of inheritance, not only in burgher families. Therefore, already in the first basic definition of the *gierada*, there is information about the wife's own key.<sup>34</sup> The keys to the wife's chests passed into the hands of her husband after her death, but he had to show her *gierada* to the inheriting side to which that trousseau belonged or at least give that side these keys.<sup>35</sup> Therefore, the trousseau chest played an extremely important role, not only as a basic piece of furniture most frequently found in the late mediaeval interiors (which can be seen, for example, in the inventories of movable goods), but also — or rather above all in the light of private law — as a place separating the personal movable goods of the wife, which neither the husband nor his heirs could take over — as opposed to a dowry brought by a wife into marriage, which “melted” into the husband's property. In case of guesthouse owners,<sup>36</sup> most likely innkeepers, the trousseau of the wife also included bed linen for the periperium or for other correctness<sup>37</sup> — but only if the wife stored them separately in her chest.<sup>38</sup> Otherwise, bed linen, sheets and

<sup>30</sup> Szczerbic P. 2011, p. 119.

<sup>31</sup> Szczerbic P. 2011, p. 125.

<sup>32</sup> Szczerbic P. 2011, p. 125.

<sup>33</sup> Szczerbic P. 2011, p. 125.

<sup>34</sup> Szczerbic P. 2011, p. 118.

<sup>35</sup> Szczerbic P. 2011, p. 120, before the thirtieth day after the death of his wife, on pain of punishment.

<sup>36</sup> The provision concerns only the innkeepers, *i.e.* probably the owners of the inns (*tabernatores*), since the statute emphasizes that it is “the one who constantly hosts guests and passers-by”, Szczerbic P. 2011, p. 126.

<sup>37</sup> Szczerbic P. 2011, p. 125.

<sup>38</sup> But even then there were situations when the sons did not want to hand over the item from the trousseau of the deceased mother. However, the legislator took this into account by giving the following example: “if the

headboards and “other hospitality needs” in such families belonged to “heritage”, *i.e.* to the family property (that is, they could be used by guests in inns?) For the lack of such a separate bedding, after the husband’s death, the widow had the right to a “bed made with that common guest linen”, consisting of three quilts, three pillows and three sheets and all other things being the equipment of the bed — three pieces of each kind of items.<sup>39</sup> Thus, in this part of the gloss, there is an additional element of movable property taken away from the family (*i.e.* husband’s) heritage and given to the widow on the same terms/rights as her trousseau. Therefore, it was possible to transfer her other movable property, not belonging to her trousseau brought to the marriage — not only through a will (*e.g.* as a testamentary legatee), but also according to the rules of the Magdeburg law. The creation of such a legal possibility meant that testamentary inheritance was not an alternative to customary succession regulated by the *Ius Magdeburgense*, but it became compliant with it. This practice was followed in Cracow burgher families of various social strata. Such a situation can be found, for example, in the 1508 will of the Cracow councillor and a great mining and copper trader Jan Turzo the elder, by which he bequeathed to his second wife Barbara the best movables that were in the house<sup>40</sup> — in fact, it was in compliance with the applicable law. This is one more example of how testamentary provisions were compliant with the private inheritance law (since they were adjusted to it), which I noticed years ago in my other work.<sup>41</sup>

Among representatives of the most important urban crafts mentioned in the analyzed version of Paweł Szczerbic’s statute, there were people professionally brewing beer, referred to as brewers. In their family and professional households, a subdivision into the heritage (*i.e.* inherited family property) and the trousseau was subject to the same general rule as in case of the craft families already mentioned here. Therefore, work tools, and more precisely vessels, if the craftsman used them himself to exercise his profession that he lived off with his family, pertained to the heritage (*hereditas*). However, they were considered a *gierada* when he rented them without using them himself (consequently not employing them for his craft!) In this double but alternatively understood role, the following vessels were listed: “brewing boiler, stuck or built into a certain place where it would always stand [...] in addition, vats, troughs and other brewing vessels”.<sup>42</sup>

Coming back to Paweł Szczerbic’s gloss analyzed here, it is also worth paying attention to an additional legal solution making it easier to determine which of the household items would constitute the final set of *gierada* items. It was needed for a specific purpose: because, according to the law, during the marriage, items that were considered a *gierada* were not allowed to be pledged, the legislator foresaw, or rather only sanctioned, such a possibility. Such adaptation of the law to the existing practice — and in fact circumvention of the law — was the passage that was most likely applied to buying out items “belonging to *gierada* or *hergwert* that were so pledged”.<sup>43</sup> It could have been carried out when “these things were not yet a *gierada* at that time, because only after her death they were named her *gierada*. Therefore he [here: husband and caretaker of the wife’s *gerada* — note U.S.] pledged not as a *gerada* but as his own things or her

person (not the daughter) taking the *gierada* found a piece of cloth {or a roll of cloth} in the chest of the deceased, the sons should give this item as belonging to the *gierada*.” However, if it was found “in her husband’s house or in his chest, then more rightly it stays with her sons. And it is to be attached to the heritage and not to the *gierada*”, Szczerbic P. 2011, p. 124.

<sup>39</sup> The widower was to have a bed made by a collateral relative of his deceased wife taking the “*gierada*”, Szczerbic P. 2011, p. 129.

<sup>40</sup> ANKr., AMK, sign. 772, pp. 178–181.

<sup>41</sup> Sowina U. 2002.

<sup>42</sup> Szczerbic P. 2011, p. 125.

<sup>43</sup> Szczerbic P. 2011, p. 127.

own things”.<sup>44</sup> This intricate — not to say twisted — explanation was, however, the consequence of the situation presented in the gloss, when the husband “for urgent need”, so probably being in financial trouble, pledged (or even sold) “her garments or other jewellery”<sup>45</sup> and the wife — when the husband pledged these things — was healthy and then she fell ill and died. After her death, the husband did not want to, because he was not able to, give these things to her closest collateral relative, who was lawfully entitled to the trousseau. He explained that he supported his wife (while she was alive) with the money he obtained, anyway, by mutual consent of both of them — let us add: as the Magdeburg law directly required. The legislator decided that since the money went “to the wife’s needs” a collateral relative demanding the return of the *gierada* should buy out the things in dispute herself.

This decision shows that the wife, at least formally (because it is not known what the financial relations between the spouses looked like in such cases), supported herself alone at times like this — with the money obtained from the depletion of her *gierada* which, however, used to be inviolable. It is from the legal principle of inviolability of the *gierada* that the decision quoted above was derived, according to which things become a *gierada* only after the spouse’s death so that the husband, only taking care of the spouse’s trousseau (as indeed of all the goods she brought into marriage due to the preserved separation of the spouses’ property in accordance with the rules of the Magdeburg law — and the dowry never returned to her after her husband’s death), could *de facto* freely use this *gierada* for his financial needs, having a formal justification that it was for the (sick) wife’s support.

Although it seems that the articles of the Magdeburg law concerning the female *gierada* indicate that the trousseau was so clearly distinguished (also when it comes to the place where it was located) that there should be no doubt what it comprised, a thorough analysis of this source shows how many different possibilities there were for the trousseau to legally lose its inviolability. This included a completely loose understanding of what was and what was not a *gierada*, which is clearly evidenced by the last of the above-mentioned situations. In that case, however, it meant the spoiling of the law to the detriment of the wife and her significant material contribution to marriage. Taking a closer look at the composition and functions of the trousseau, it can be concluded that this material contribution was considerable and paid off for years. Let us not forget about the dowry brought by the bride — in money and/or in real estate. The former, if well invested, brought further profit and the latter was a source of income often exceeding (especially in smaller towns) the revenues generated by craftwork. If all these are considered together with the domestic work of the wife, including the participation in craft production alongside her husband, one cannot talk, for example, about a married woman being dependent on her spouse on a daily basis. Therefore, should not the wife’s “own income” in everyday existence inside the family be seen as an explanation for the strong position of some married women and of widows of the master craftsmen, which can be seen, for example, in testamentary practices of the members of craft families in Cracow?

So what was marriage under Magdeburg Law? Certainly, it was a business for a husband and his family. The wife enlarged the husband’s property with her dowry but also with her trousseau (*gerada/gierada*) not only at the time of the wedding, but also throughout the years, as shown above. She also gave him children, thus prolonging his lineage. In return, she gained a sense of social security, although it can also be seen as her paying to ensure this social security, which could only be achieved by remaining in family structures and, consequently, the professional structures governed by a man. This safety was, however, not guaranteed for her entire life, even if it was shorter than that of her husband, as evidenced by the above analyzed

<sup>44</sup> Szczerbic P. 2011, p. 127.

<sup>45</sup> Szczerbic P. 2011, p. 126.

clause about the possibility of selling or pledging a part of her trousseau by her husband, when he explained that he had to support his sick wife with it. The borderline situation of a woman between decent living conditions and poverty or even extreme poverty was evidenced, in my opinion, by the obligation to provide the wife with food after her husband's death — as a minimum. This can be found in all the versions of the Magdeburg Law. In the analyzed translation of *Ius municipale* by Paweł Szczerbic this is discussed in the whole article XXIV comprising two titles: 1. “About domestic food” and 2. “What is one year's food portion”.<sup>46</sup> All the above-mentioned versions of the Magdeburg Law state that the wife after the husband's death was entitled to a half of the food that was usually prepared in the household for a year. As Szczerbic wrote, “One year's food is whatever was prepared for the whole year”.<sup>47</sup> Already in the gloss, right after that definition, these “food items” were listed as follows: all kinds of meat, salted and smoked, pork fat, “szoldry” (Latin *pernae*, note U.S.). The latter could mean either hams<sup>48</sup> or (which cannot be excluded) pork meat and even beef meat, covered with fat for solidification and so left for a year.<sup>49</sup> And Szczerbic himself adds next: “cheese, sausages, butter, fat, salt, honey, fish, herring and all the other food items and vegetables that are cooked for the whole year for domestic need. These also include grains, malts, beer, honey, wine and other beverages prepared for domestic use. [...] To these, some also attach food hogs”.<sup>50</sup>

It should be added here that half of the food for the year was allocated to the widow from the family inheritance, so after a husband's death the second half of food fell as an inheritance to the family of the deceased husband.<sup>51</sup> In Szczerbic's version of *Ius municipale* “food items” were listed most extensively. In earlier statutes things *ad vitam provisionem* or *pulmentaria* were mentioned. It is worth noting here that some Polish historians are mistaken in naming *pulmentaria* “things of everyday use” or the “obligatory part” — following the translation used in the “modern translation of the Old Culm Law” for the German word “Mußteile”.<sup>52</sup> Meanwhile, the latter term denoted a dish that was very popular in the Middle Ages, *i.e.* a mousse made from grain or legumes or cabbage and topped with fat — which in Latin was called *pulmentarium*. *Pulmentarium*, therefore, means simply food (*cibus*), a dish.<sup>53</sup> Referring to a thorough comparative research on the material existence of the poor in Western Europe by Anna Rutkowska-Płachcińska,<sup>54</sup> it should be kept in mind that the *pulmentarium* (also called *potagium* or *legumina*)<sup>55</sup> was the main mediaeval

<sup>46</sup> Szczerbic P. 2011, pp. 129–130.

<sup>47</sup> Szczerbic P. 2011, p. 130. Cf. also Łaski J. 1506, f. CLXXXVII: *omnia cibaria domestica: de quibus vir indiget ad unius anni reuolutionem que in sua possessione. inueniuntur: quorum cibariorum medietas ad mulierem pertinent*; Jaskier M. 1535, art. LVII, f. XLIII: *De dotalicio et vitae provisione mulierum*; Groicki B. 1954, p. 13.

<sup>48</sup> As hams — as the editor of Paweł Szczerbic explains (Szczerbic P. 2011, p. 130, footnote 410; Słownik Staropolski. 1981, p. 574). Cf. also *perna lardi* — a chunk of pork meat called “strona” (side), so the “strona” tribute — “stronne” paid in the form of pork chop), Słownik pojęciowy. 2011–2015, entry: “stronne” — where the source link to: MMAe XIII, No. 1640.

<sup>49</sup> Knapski G. 1643, p. 1119: “Szoldra” salted/smoked. Pork leg ham: *Perna [...] a pede dictam, Perna crus suillum; callum aprugnum [...] Tucetum, caro suilla aut bubula macerata et crasis condimentu oblita durans toto anno (Isidor)*.

<sup>50</sup> Szczerbic P. 2011, p. 130. He wrote elsewhere that these “house vegetables” are: groats, peas, salt, butter, lard, honey, meat cooked for common use, millet, etc.” (Szczerbic P. 2011, p. 208).

<sup>51</sup> Szczerbic P. 2011, pp. 130, 208.

<sup>52</sup> Mięka M. 2018, p. 143.

<sup>53</sup> Słownik Łaciny. 2000, sz. 1532–1533).

<sup>54</sup> Rutkowska-Płachcińska A. 1988, p. 24.

<sup>55</sup> For example, in the work by Bartholomew the Englishman, one of the most popular thirteenth-century encyclopaedias (after Plinius's *Historia naturalis*) — cf. Bartholomeus Anglicus. 1519, liber XVII, cap. XCV, *De legumine*. Wheat and barley grains, peas, broad beans, lentils and vetch are listed there as ingredients in various types of dishes. Depending on what legumes the dish was made of, it had a different colour (white, black or red), appearance and smell. One could add spices to it, *e.g.* marjoram. The water on which this dish was cooked was best taken from the spring or from the river — cf. also Sowina U. 2016b, p. 28.

dish and it was the basic staple food of that time. Its varieties were made with different species of legumes and/or grains that were boiled in water for a long time. Therefore, they usually had a consistency of a mush and hence the German source names of the dish: “brei” and “mus”. It was topped with fat, in Germany with pork lard or melted butter and with oil during fasts. Considering the long time this food was supposed to last, those were the products from which one could prepare various kinds of this dish, that is to say suitable ingredients being part of the above-mentioned “food items”, as referred to by Szczerbic. To sum up, although the first and basic meaning of *pulmentarium* was a “dish” since it denoted the most popular food in the Middle Ages, in legal statutes it became a synonym for the said food provision that should be given to the widow.<sup>56</sup>

An “ordinary/common” townswoman, for example a woman in a craftsman family, was a working person: as a married woman, widow and often as a remarried woman in a new family. Throughout the married life, as shown in this article, the woman brought her work which was difficult to estimate and which might not count in the eyes of her husband’s family (not to mention giving birth to children). The women who got married without “any property or dowry” could suffer the most difficult fate. Such a situation was mentioned by Paweł Szczerbic.<sup>57</sup> However, when during the marriage they “acquired wealth by working together”, even if the husband died without securing anything for his wife on the jointly acquired property, the wife could take the “third part of the husband’s property and *gierada* — except for the *hergwet*, in accordance with the law. {However, it says at the end of the article that she takes the fourth part of all the property and that she will receive a *gierada*}”.<sup>58</sup> This bequest was particularly important in face of the threat that if “his descendants did not want to give her anything, but if they wanted, according to the habit of some people, to dismiss her by putting the distaff in front of the door”.<sup>59</sup> And yet the gloss also revealed the situation of the groom, showing that “he, too, had nothing”.<sup>60</sup> However, it can be noticed that as a result of this imposition of the law, the *gierada* of the wife (and the “*hergwet*” of the husband) most probably comprised the items separated by them only from jointly acquired property. Thus, in such families, later than the wedding day, it was known which movable goods were included in each of these two groups. Moreover, it is also to be expected that in such situations there was no formal engagement — at least one understood as the financial contract concluded between two families. However, it is impossible to determine, because of the laconic nature of the municipal court books, to what extent spouses’ *inter vivos* mutual donations of property were either the result of joint amassing of property, *i.e.* earning money together, or only a way of protection of the widow. These provisions, however, may be a strong premise to point to family’s awareness of the importance of physical work that the wife contributed to the household of an “ordinary” burgher, including a craftsman family.

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<sup>56</sup> Cf. also Glosář. 2003, p. 308.

<sup>57</sup> Szczerbic P. 2011, p. 116.

<sup>58</sup> Szczerbic P. 2011, p. 116.

<sup>59</sup> Szczerbic P. 2011, p. 116.

<sup>60</sup> Szczerbic P. 2011, p. 116.

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### „Gierada” według *Ius municipale Magdeburgense* Pawła Szczerbica a pozycja kobiety w rodzinie rzemieślniczej w początkach nowożytności

Do przedstawienia tytułowego problemu wybrano tu wersję *Ius municipale Magdeburgense* Pawła Szczerbica, prawnika praktykującego we Lwowie i w Krakowie. Opublikowana po polsku w 1581 r. dostarcza bowiem najwięcej informacji o kobiecej wyprawie — „gieradzie” (określanej przez tego autora też jako paraferna), w porównaniu z wcześniejszymi statutami: łacińskimi Jana Łaskiego z 1506 r. i Mikołaja Jaskiera z 1535 r. oraz z pierwszą polskojęzyczną wersją Bartłomieja Groickiego z 1558 r.

Analiza opisów zestawu rzeczy należących do panny młodej, mężatki, później wdowy, a następnie dziedziczonego przez jej najbliższe krewne wskazuje, że własnością niewiasty były nie tylko wszystkie jej ubrania, tworzące — w zamyśle prawodawcy — kompletne zestawy kobiecego stroju, jak również wyposażenie tych przestrzni domu, w których odgrywała główną rolę. Jej własnością był także tak dobrany dobytek (w tym zwierzęta: owce, gęsi i kaczki), że przez lata mógł przynosić dochód we wspólnym, małżeńskim gospodarstwie. Co więcej, niektóre wyprawne przedmioty, według prawa, miały służyć kobiecie do samodzielnego wykonywania zawodu, np. profesjonalnego tkactwa jeszcze za życia męża, gdy ten nie brał udziału w tym rzemiośle. W takim przypadku (przy braku analogicznych przepisów w odniesieniu do innych rzemiosł) do „gierady” zaliczano nie tylko surowce, ale i warsztaty tkackie, chociaż te ostatnie były głównymi narzędziami pracy. W innych zawodach narzędzia rzemieślnicze były bowiem dziedzictwem należącym do męża, chyba że wniesione w małżeństwo jako składniki „gierady” wynajmowano innym, nie utrzymując się z nich; wówczas pozostawały „gieradą” (np. niekiedy kotły piwne).

Chociaż w przepisach prawa magdeburgskiego oraz w glosach do nich wiele miejsca zajmują dokładne opisy, co i kiedy było lub stawało się kobiecą wyprawą, to jednak prawodawcy dopuszczali możliwości łamania zasady nienaruszalności „gierady”, np. poprzez zastawianie lub sprzedaż rzeczy przez męża na utrzymanie chorej żony. Mimo to zyski z „gierady” i dobrze zagospodarowanego posagu żony mogły niejednokrotnie przewyższać dochody płynące z wykonywanego w rodzinie rzemiosła. Jeśli połączy się to z pracą żony w gospodarstwie domowym, w tym przy wykonywaniu tegoż rzemiosła, trudno mówić o pozostawianiu mężatki na co dzień na utrzymaniu małżonka. Czyż zatem we „własnych dochodach” małżonki w codziennym

bycie wewnątrz rodziny nie należy szukać wytłumaczenia silnej pozycji niektórych mężatek, a potem wdów-majstrowych, co widać choćby w praktyce testamentowej członków rodzin rzemieślniczych Krakowa?

A jednak, wśród form zabezpieczenia każdej niewiasty na wdowią drogę, prawo magdeburskie przewidywało — oprócz zapisu wiana i zwrotu wyprawy (czasem z koniecznością uprzedniego jej wydzielenia ze wspólnie zdobytego przez małżonków majątku) — zaopatrzenie wdowy w prowiant (w kolejnych wersjach prawa tu wspomnianych jako *cibaria domestica*, *vitae provisionem*, *pulmentarium/pulmentaria*, „strawa jednego roku”), którym była połowa żywności przygotowana na rok w gospodarstwie. Ponieważ wydzielano ją z dziedzictwa, jeśli nie została wykorzystana, wracała do spadkobierców męża.