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*Between freedom and exclusion*

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WIDOWS IN THE EARLY MIDDLE AGES. BETWEEN  
FREEDOM AND EXCLUSION

The acceptance of Christianity by the German societies of the newly-arising medieval Europe opened a long process of Christianization understood as a cultural change that embraced all spheres of life. The clash between old and new norms and values led to the rise of a more or less coherent system of rules that determined the individuals' way of thinking and behaviour, and caused the transformation of the whole social organization. This multi-plane process, slow and frequently eluding direct observation, can be traced mainly in those areas of social life where the cultural dissonance gave rise to the strongest tensions, and consequently was best recorded in the sources. Hence we may best learn the mechanism of those changes by studying the influence of new cultural patterns on the social groups especially sensitive to change, that is mainly those which were, for various reasons, socially underprivileged and subject to strong, contradictory pressures. In this context it would be worthwhile looking closer at the evolution of the social role of widows — a category doubly underprivileged, both by reason of their sex and position within the kinship structure, and whose status underwent considerable changes under the influence of Christianity<sup>1</sup>.

<sup>1</sup> On widowhood and the status of the widow in the Middle Ages see the recent set of studies: *Veuves et veuvage dans le haut Moyen Âge*, ed. M. Parisse, Paris 1993; J. L. Nelson, *The Wary Widow*, in: *Property and Power in the Early Middle Ages*, ed. W. Davies, P. Fouracre, Cambridge 1996, pp. 82–113; C. La Rocca, *Segni di distinzione. Dai corredi funerari alle donazioni 'post obitum'*, in: *L'Italia centro-settentrionale in età longobarda*, ed. L. Paroli, Firenze 1997, pp. 31–54, the version here used is accessible on-line <http://centri.univ.it/RM/biblioteca/scaffale/1.htm#Cristina%20La%20Rocca> (18.11.2005), pp. 12–16; B. Jussen, *Der Name der Witwe. Erkundungen zur Semantik der mittelalterlichen Busskultur*, Göttingen 2000; E. Santinelli, *Des femmes éplorées? Les veuves dans la société aristocratique du haut Moyen Âge*, Paris 2003. We must note that the political and legal position of widows from the royal families is a separate subject of studies.

In traditional societies, as they appear both in the studies of ethnologists and historians, widows as persons who had remained in the closest contact with the deceased, were treated as indirectly belonging to the sphere of death, so fear-inspiring and dangerous to people; hence, as a rule, they were embraced by restrictions and prohibitions which for a certain time removed them to the margin of social life. This period — which in anthropological terms can be defined as a prolonged period of passage — allowed a woman to adjust socially and psychologically to her new role, and at the same time protected the community against the threatening and uncanny powers liberated by death. The manifestation of pain shown by a widow after her loss was also of an essential symbolic value to the group of kinsmen to which the deceased belonged, it was an element of a complex ritual that accompanied the reconstruction of the order undermined by death.

Deprived of the support she found in her husband whose status determined her position and relations with other people, the widow found herself outside the social positions designated and regulated by law and custom; this was the reason for the equivocal and indefinite character of her situation at this stage of her life. At any rate, one can hardly speak of widows as a distinctive social category; widowhood was perceived as a transitory period, preceding a new marriage, which finally let the woman leave that temporary status and recover a stable position in society. Thus the social role of a widow was defined, just as in the case of other unmarried women, mainly by the expectations of her relatives concerning her next marriage. For her kinship group her personal value was appraised mainly according to her usefulness in establishing further family relationships or retaining her ties with the family of her first husband by marrying some of his relatives. The persistence of the latter custom, also after the acceptance of Christianity, was testified by the prohibition of marrying the brothers of the deceased or his relatives by his widow, recurring in the Frankish synodic legislation and royal capitularies since the 6th century; such prohibition appeared also in the Lombardic royal legislation in the 7th and 8th centuries. In effect, the widow's value was strictly connected with her ability to give birth to children.

This way of perceiving the position of widows is reflected in the early-medieval customary laws of Germanic peoples that were codified in the area of the barbarian kingdoms. A large part of the norms that define the situation of a widow are regulations concerning her custody (by her own kinsmen, or the relatives of the deceased, who would consequently co-decide whom she would marry)<sup>2</sup>. In this context of great significance is the formulation recorded in chapter 182 of the Edict of Rothari, King of the Lombards, of 643, where the codifier extends special protection over those widows, *quae maritum non vellit aut non possit habere*, as a special category of women who are most exposed to the persecution by their kinsmen precisely because of their prolonged widowhood. It seems that the behaviour of a widow who despite her “eligible” age did not decide to remarry, was treated as a kind of deviation from the socially accepted norms. Her sexual continence, required of her during widowhood, was not perceived as a value *per se*, but was a necessary safeguard of the biological resources of her kinship group.

Before a candidate for a new spouse appeared, a widow could choose between two ways: either she might stay in her deceased husband's house in the custody of his inheritors, or return to her family home under the rule of her father, brother or more distant male relatives, or, as a last resort, to seek the protection of the king<sup>3</sup>. By staying in her husband's house, especially if a widow was childless or had juvenile children, she risked being used badly by the male relatives of the deceased who were in charge of the inheritance and who held protective power over her (*mund*). The weak position of a widow in the family of her husband led to the frequent infringement of her property rights<sup>4</sup>, and to restrain-

<sup>2</sup> See especially *Pactus legis Salicae*, ed. K. A. Eckhardt, *MGH, Leges nationum Germanicarum*, vol. 4, part 1, Hannoverae 1962, tit. XLIV, pp. 168–173; *Edictum Rothari*, ed. C. Azzara, S. Gasparri, in: *Le leggi dei Longobardi. Storia, memoria e diritto di un popolo germanico*, Milano 1992 (henceforward: *Edictum Rothari*), cap. 182, pp. 50–52. In accordance with Burgundian law (*Lex Gundobada*) only a woman who was widowed twice gained more freedom in contracting a third marriage, which is corroborated by the norm that makes her the sole recipient of *wittimon*, that is a payment for her custody made by the bridegroom to the bride's guardian: the father of a virgin or kinsmen of the first husband of a widow, *Leges Burgundionum*, ed. L. R. von Salis, *MGH, Leges nationum Germanicarum*, vol. 2, part 1, Hannoverae 1892, cap. LXIX, pp. 95–96.

<sup>3</sup> So: *Edictum Rothari*, cap. 183, p. 52.

<sup>4</sup> In all the codes of barbarian laws a widow had a right to a personal property that as a rule consisted of movables handed over to her by her father or other ma-

ing her freedom of choosing a new spouse<sup>5</sup>. She could not freely dispose of her widow's endowment presented by her late husband, since this goods were seen as family possessions to be inherited by their children or, in the case of childlessness — by the relatives of the deceased<sup>6</sup>. It is true that she had a right to sell or present her personal property, but this required the consent of her guardians<sup>7</sup>.

On the other hand, the legal status of the widow who decided to return to her father's home, in fact only slightly differed from

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le guardians and her husband's morning gift (*morgingab*, *morginaghepha*, *lectaria*); this, in some areas differed from the dowry or the dower, defined by the Latin term *dos*, *dotalicium*, which embraced both movables and landed property (on the differentiation of the property rights of married women and conflicts that were connected with them see the set of studies *Dots et douaires dans le haut Moyen Âge (VII<sup>e</sup>–X<sup>e</sup> siècle)*, ed. F. Bougard, L. Feller, R. Le Jan, Rome 2002, with bibliography, see also R. Le Jan–Hennebique, *Aux origines du douaire médiéval*, in: *Veuves et veuvage*, pp. 107–122; J. L. Nelson, *op. cit.*, p. 84ff). The size of the property remaining at the disposal of the widow, on condition she did not marry again, differed considerably depending on the period and the area from which my information is derived. Among the Visigoths and Bavarians a widow had a right to a life usufruct of a part of her husband's hereditary property equal to that that fell to each of his sons (*Lex Visigothorum*, ed. K. Zeumer, MGH, *Leges nationum Germanicarum*, vol. 1, Hannoverae 1902, cap. IV, 2, 14, p. 182; *Lex Baiwariorum*, ed. E. von Schwind, MGH, *Leges nationum Germanicarum*, vol. 5, part 2, Hannoverae 1926, tit. XV, cap. 7, p. 426), and in case of childlessness a half of her husband's property (*Lex Baiwariorum*, tit. XV, cap. 10, p. 429); among the Ripuarian Burgundians and Franks a widow had a right of usufruct of 1/3 or 1/4 of her late husband's property (*Leges Burgundionum*, cap. LXXIV, p. 98; *Lex Ribuaria*, ed. F. Beyerle, MGH, *Leges nationum Germanicarum*, vol. 3, part 2, Hannoverae 1954, cap. XLI, 2, p. 95); likewise among the Lombards where in the 8th century the top limit was 1/2 of the husband's property, although in practice it was most frequently 1/3 or 1/4 (*Ahistulfi leges*, in: *Le leggi dei Longobardi* [henceforward: *Ahistulfi leges*], cap. 14, p. 256, cf. *Liutprandi Leges*, *ibidem* [henceforward: *Liutprandi Leges*], cap. 7, p. 132), cf. also Louis the Pious' capitulary of 821, *Capitula missorum*, MGH, *Leges, Capitularia regum Francorum*, vol. I, ed. A. Boretius, Hannoverae 1883, N° 148, cap. 9, p. 301. It is worth noting that it is sometimes difficult to distinguish between the various categories of property remaining at the disposal of a widow.

<sup>5</sup> *Edictum Rothari*, cap. 182, p. 52, which was doubtless connected with a wish to retain control of the personal property presented to a woman by her first husband (*morgingab*); more extensively on the guardianship of a widow by her kinsmen and relatives among the Lombards see: K. Modzelewski, *Barbarzyńska Europa (Barbarian Europe)*, Warszawa 2004, p. 162ff.

<sup>6</sup> E.g. in accordance with Bavarian law, if a widow had no children in her second marriage, her personal property passed to her offspring from the first marriage, *Lex Baiwariorum*, tit. XV, cap. 7, p. 427; documents bear out the universal practice that a widow who wanted to sell her personal property had to obtain the consent of her sons or other relatives. J. L. Nelson, *op. cit.*, p. 88; E. Santinelli, *op. cit.*, p. 324ff.

<sup>7</sup> *Liutprandi Leges*, cap. 101, p. 178.

the situation of her unmarried sisters<sup>8</sup>. A widow formally gained a right to co-decide whom she would marry, but her freedom of choice was not complete. In the Scandinavian sagas the widow's consent to a new marriage was considered by her relatives and the candidate for her new husband as a condition *sine qua non*, even if she remained under the guardianship of her father — though in such a case her refusal was treated as disobedience<sup>9</sup> — but in Merovingian hagiography we come across examples of widows given away in marriage by their fathers not only without being asked, but completely against their will<sup>10</sup>. But the widow's right to use her personal effects given to her by her first husband was as a rule respected<sup>11</sup>.

Hence, according to customary laws there were many restrictions on the independence of widows, and they were rather the objects than subjects of family and property strategies realized by their male relatives. Both in the power of the relatives of the deceased husband and in her family home the status of a widow depended in fact on the will — not always favourable to her — of her legal guardians.

The gradual process of Christianization of Germanic societies and the spread of Christian cultural patterns, also those concerning marriage, a woman's position and relations within the family, caused far-reaching changes in the situation of widows. Those who consciously refused to marry again started to be perceived as a social category endowed with definite roles, and widowhood as a separate status, not always positively evaluated. The Church teachings included the commandment to take special care of the widows, especially old, poor and lonely, as a socially underprivileged group exposed to persecution, a commandment directed

<sup>8</sup> See e.g. *Edictum Rothari*, cap. 190 and 191, p. 54, which treats on a par the marriage contracted without the consent of the relatives by a widow or by a virgin betrothed earlier to another man.

<sup>9</sup> Suffice it to cite the well-known example of the second marriage of Gudrun, the daughter of Oswifr, *Saga rodu z Laxdalur*, trans. A. Załuska-Strömberg, Poznań 1973, chap. 43, pp. 104–105.

<sup>10</sup> So e.g. St. Salaberga, *Vita Sadalbergae abbatissae Laudunensis*, ed. B. Krusch, *MGH, Scriptores rerum Merovingicarum*, vol. 5, Hannoverae 1910, pp. 54–55.

<sup>11</sup> *Edictum Rothari*, cap. 199, p. 58; this did not concern the property presented to a woman by her kinsmen at the moment of her marriage, which after her return to the family home was treated as part of the common heritage, *ibidem*: *De faderfio autem, id est, quantum de alia dona, quando ad maritum ambulavit, pater aut frater ei dedit, mittat in confuso cum alias sorores*.

also against their relatives who abused their power. The concern for the fulfillment of this duty became also one of the most important qualities of a holy bishop and an ideal Christian ruler. In this respect of special importance was the ruler's delegation of custody rights to his specially appointed representatives who in the case when the relatives refused to support the widow, were obliged to act as their substitutes<sup>12</sup>. This was tantamount to a consent to the interference in the internal relations within a kinship group, which considerably strengthened the position of the widow who in the case of conflict with her relatives could appeal — at least formally — to the royal power. The sources, of course, contain examples of the abuse of power over the widows by officials who should have protected them; such behaviour was, however, definitely censured<sup>13</sup>.

The socio-legal situation of widows changed significantly when the custom spread of taking by them a vow of life-long chastity and being wholly devoted to prayer and good deeds, confirmed by donning a widow's veil in front of a bishop (or another clergyman). Without discussing here the changes in the perception of the status, role and legal position of widows in the Church of late antiquity (extensively analyzed also in the Polish literature of the subject)<sup>14</sup>, we should note that also in the Early Middle Ages women who decided to take a widow's vow and the veil, since then formally passed under the charge of the bishop, which helped them to liberate themselves from the pressure exerted by their kinsmen. What is important, however, they were not obliged by canon law to give up their worldly life, they could remain in the homes of their deceased husbands on condition of retaining their chastity and moderation becoming their status<sup>15</sup>.

<sup>12</sup> See especially the capitulary of Pippin, King of the Lombards, son of Charlemagne, of c. 782, *I capitulari italici. Storia e diritto della dominazione carolingia in Italia*, ed. C. Azzara, P. Moro, Roma 1998, N° 5 (91), cap. 5, pp. 58–60: *Et si tutor aliquis illorum esse non voluerit, iudex prevideat Deum timentem hominem iuxta ut lex ipsorum est, qui per nostra praeceptione illorum peragere debeant causa*, cf. e.g. *Admonitio ad omnes regni ordines*, of Louis the Pious of 823–825, *MGH, Capitularia regum Francorum*, vol. I, N° 150, cap. 8, p. 304.

<sup>13</sup> See e.g. Paschasius Radbertus' account in the Life of Wala, extremely interesting for the student of the history of customs, cap. 26 (Paschasius Radbertus, *Epitaphium Arsenii seu Vita venerabilis Walae abbatis Corbeiensis in Gallia*, in: *Patrologiae cursus completus. Series Latina*, ed. G. P. Migne, Parisiis 1844–1864 (henceforward: PL), vol. 120, cap. XXVI, col. 1561).

<sup>14</sup> Recently E. J. Jezierska, *Instytucje diakonis i wdów w Kościele pierwszych wieków (Institutions of Deaconesses and Widows in the Church of the Early Middle Ages)*, "Analecta Cracoviensia", 33, 2001, pp. 385–395.

The emergence of the new model of a widow's life entailed serious psychological consequences: it changed her sense of identity, traditionally connected with her inclusion in the kinship group of her father, and her ties with the kinship group of her husband. In the case of consecrated widows, the family community ceased to be their only reference group. Now their source of identification was also their inclusion in the *ordo viduarum* (how deep it was, may, of course, be the subject of discussion), that is a group of women remaining under the special protection of the Church, connected by the community of their fate and their religious purpose and, an important point, whose position in the Christian hierarchy was higher than that of the married believers: *triplex [est enim] agri divini fructus, videlicet [...] tricesimus in copulatione conjugii, sexagesimus in continentia viduali, centesimus in pudore atque integritate sanctimoniali*, as Hincmar of Rheims put it in the middle of the 9th century in his *De coercendo et exstirpando raptu viduarum...*, while referring to the formulations of one of St. Jerome's letters<sup>15</sup>. The outward distinction of this group was a unicoloured dark dress<sup>17</sup>. The integrating significance of these outward attributes should not be ignored, for they confirmed the inclusion of its members in a community of a special status and strengthened their sense of their mutual objective ties.

The new ideal of feminine personality found expression in the model of a holy widow widespread in early medieval hagiography; she renounced marriage in order to dedicate herself to good deeds, and this resulted in her surprising activeness in social life<sup>18</sup>. The death of her husband, perceived as a (fortunate) decree

<sup>15</sup> This is discussed in detail by B. Jussen, *op. cit.*, with bibliography.

<sup>16</sup> Hincmar Rhemensis, *De coercendo et exstirpando raptu viduarum, puellarum at sanctimonialium*, *PL*, vol. 125, col. 1031, cap. XVIII.

<sup>17</sup> *Nigram vestem quasi religiosam*, as established by the synod at Cividale del Friuli in 796 (*Concilium foroiulense, 796–797*, *MGH, Leges, Concilia*, vol. II, *Concilia aevi Karolini*, vol. I, part 1, ed. A. Werminghoff, Hannoverae et Lipsiae 1906, N° 21, cap. XI, p. 193); the interpretation of the symbolism of the widow's dress was presented by Hucbald in his *Life of St. Rictrud* written at the beginning of the 10th century (*Vita sanctae Rictrudis abbatissae marcianensis auctore Hucbaldo*, *PL*, vol. 132, col. 837): *Induitur viduitatis vestibibus, quae ipsa sui specie monstrarent contemptum mundi istius. Nam sicut albas vestes exaltationi et solemnibus congruunt laetitiae, ita nigrae humiliationi et lugubri conveniunt tristitiae. Inde et caput quod est principale corporis, tetro velatur amictu, ut principale animae, id est mens velanda signetur moeroris et poenitentiae luctu.*

<sup>18</sup> See e.g. *Vita Sadalbergae* and *Vita sanctae Geretrudis*, ed. B. Krusch, *MGH, Scriptores rerum Merovingicarum*, vol. 2, Hannoverae 1888, pp. 453–464.



of God, was a moment of deliverance from her spouse's power, and consequently, from the ties of sexuality, and opened before the widow the way to a new and better life dedicated to God<sup>19</sup>. Regardless of the actual scope of influence of those patterns, they show a set of feminine features, traditionally considered as desirable, that go beyond the old model of woman–mother and wife, completely subordinated to the power of males. What appears to be especially important in this model is the recognition of a widow's right to oppose the will and pressure of her male relatives, if they stood in the way of the fulfillment of her spiritual vocation. This was tantamount to a consent to the infringement (though only in some special circumstances) of the pattern of relations that connected the members of a kinship group and was essential to its functioning.

The concept of a strictly monogamous marriage, the spiritual and legal consequences of which transgressed the boundaries of death, as well as the depreciation of the sexual sphere of life in favour of getting liberated from corporal temptations, regarded as the way to spiritual perfection, clashed here with the traditional system of values deeply rooted in the consciousness of the era. In this system the procreative activity of women, enclosed, of course, within the boundaries accepted by society, was a basic determinant of a woman's role and position in the hierarchy of her kinship group and — more broadly — society.

Cultural transformations entailed changes in property policy, connected with the relaxation of the customary principle of inheritance within a kinship group. Now women were entitled to a larger share of the inheritance<sup>20</sup> and could dispose of their property more freely. This also changed the scope of freedom and the rights of widows. As diplomatic sources show, the childless spouses started to bequeath their property to each other, which made the widows the only heiresses of their husbands' property<sup>21</sup>. In the *pro anima* testament donations widows used to be ap-

<sup>19</sup> More extensively on this concept of widowhood — formulated already by St. Jerome — see: B. Jussen, *op. cit.*

<sup>20</sup> See e.g. the edict of Liutprand, King of the Lombards of 713 (*Liutprandi Leges*, cap. 1–6, pp. 129–131).

<sup>21</sup> E.g. Bavarian law, tit. XV, cap. 10, p. 429: [...] *omnia quae a marito ei sunt donata, possideat, et ea in quem voluerit pro suo iure transfundat*; cf. e.g. Merovingian documents of reciprocal donations of the spouses, *Marculli formularum liber II*, MGH, *Formulae Merovingici et Karolini aevi*, ed. K. Zeumer, Hannoverae 1886, N° 7, 8, pp. 79–80.

pointed the only executors of their husbands' last will, usually enjoying a right to a life usufruct of the property donated by the deceased to ecclesiastical institutions, on condition they would not remarry. They were frequently appointed superiors of convents founded by their husbands as a material safeguard for them and other unmarried women in the family, and at the same time as a place of commemorative prayer for the founder and his relatives. If the founder decided to donate such a convent to some ecclesiastical institution, the widow who was the head of the newly-arisen congregation could count on the direct protection of the abbot or bishop who was the beneficiary of such a donation. In this way she frequently gained considerable independence, also from the relatives of the deceased. As executors of their husbands' last wills, widows from aristocratic circles sometimes disposed of a property of considerable value and were able to administer it free of their relatives' control<sup>22</sup>.

This is testified by the *iudicata* concerning inheritance proceedings where widows acting in the name of their deceased husbands brought an action also against the closest kinsmen of the deceased, that is persons according to customary law appointed as their guardians. It is worthwhile citing here the extremely interesting example, discussed in the literature, of Rottruda, a Lombard widow of a powerful man from Pisa, who in 762 succeeded in placing her case at the royal court of justice in Pavia, claiming the recognition of her custody of the property of her spouse. She repudiated the claims of her husband's brother

<sup>22</sup> Examples from the territory of Lombard Italy are discussed by: B. Pohl-Reis, 'Quod me legibus contanget auere'. *Rechtsfähigkeit und Landbesitz langobardischer Frauen*, "Mitteilungen des Instituts für österreichische Geschichte", 101, 1992, pp. 215–218; C. La Rocca, *op. cit.*, p. 12ff.; eadem, *La legge e la pratica. Potere e rapporti sociali nell'Italia dell'VIII secolo*, in: *Il futuro dei Longobardi. L'Italia e la costruzione dell'Europa di Carlo Magno*, ed. C. Betelli, G. P. Brogiolo, Milano–Brescia 2000, pp. 58–59; see also J. L. Nelson, *op. cit.*, who analyzes this problem by example of widow Erkanfrida's testament donation (middle of the 9th century, Trier).

<sup>23</sup> *Codice Diplomatico Longobardo*, ed. L. Schiaparelli, vol. I–II, *Fonti per la storia d'Italia*, 62–63, Roma 1929–1933 (henceforward CDL), vol. II, N° 163, p. 109ff. Some scholars (C. Wickham, *Early Medieval Italy. Central Power and Local Society, 400–1000*, London 1981; C. La Rocca, *Segni*, pp. 14–15) are prone to suppose that the document presented by Rottruda was falsified by her order; whatever the case, the verdict in her favour of the royal court alone testifies to the possibilities open to enterprising widows.

and submitted her husband's last will as the cause of her action<sup>23</sup>.

Apart from its economic aspect, the transfer of rights and duties resulting from the execution of the last will of the deceased on his widow was also of symbolic significance. The ceremony of the division of his property among his inheritors played an important part in the establishment of their position within the group and the reconstruction of its internal order, and legitimized the power of the person who was at their head. When a woman took over control of the symbolic values connected with the personal property of the deceased, the ritual surrounding death underwent an essential change. This strengthened the position of the widow who due to her special bond with the deceased became an intermediary between him and the world of the living, and at the same time a guardian of (collective) memory. By her consecration to God, that is her renouncement of all things essential to her worldly life, through her prayer for her late husband, the widow also symbolically accompanied him in his after life. At the same time, due to her right to administer his property, and especially due to the donations aimed at the salvation of his soul, the widow gained a possibility of establishing an especially close, reciprocal relation with the *sacrum*<sup>24</sup>.

That remaining in a state of widowhood could be an attractive alternative for many women, not only for religious reasons or because of their husbands' will, is also testified by the prohibition of a willful adoption of the widow's veil before the end of the mourning period, issued by the monarchs and episcopal synods on both sides of the Alps. The reasons for this kind of action are explained in one of the episcopal capitularies issued in Frankish Neustria in the first half of the 9th century: *quaedam femine, maxime que valde sensu tenues sunt, sine consensu sacerdotum idcirco sibimetipsis velum inponant, ut sub pretextu huius velaminis ecclesiarum excubatrices et administratrices fieri pos-*

<sup>24</sup> See the study, classic by now, (concerning, however, a later period and above all the widows from the royal family), by K. Leyser, *Rule and Conflict in Early Medieval Society. Ottonian Saxony*, London 1979, p. 51ff.; cf. P. Corbert, 'Pro anima senioris sui'. *La pastorale ottonienne du veuvage*, in: *Veuves et veuvage*, pp. 233–254; in this vein E. Santinelli's analysis, *op. cit.*, p. 281ff., based on the Frankish 7th–10th century material.

<sup>25</sup> *Capitula Neustrica prima*, MGH, *Capitula episcoporum*, vol. III, ed. R. Pokorny, Hannover 1995, cap. 12, p. 55, cf. J. L. Nelson, *op. cit.*, p. 92.

*sint*<sup>25</sup>. An equally derogatory opinion about the motivations of some widows is presented by the Lombardic law of the 8th century, which accused them of *logrum pecuniae vel seculi cupiditas*<sup>26</sup>.

The legislators placed emphasis on the obligation of checking whether the women who decided to adopt the veil were not motivated by condemnable worldly interests. This task was as a rule entrusted to clergymen, but in 8th century Italy the possibility of taking a widow's vow depended on the consent of the king<sup>27</sup>. Louis the Pious radically restricted the freedom of a widow's decision, and took in this respect the advice of the local bishop, and in his absence, asked the opinion of *aliorum religiosorum sacerdotum suorumque parentum atque amicorum*<sup>28</sup>. Thus, according to the legislators' intention, the decision about remaining in the state of widowhood should not depend exclusively on the woman's own will, but that of her kinship group, or more broadly — her social networks, which guaranteed full control of her actions.

Underlying this restriction on the widow's right to make an independent decision about her fate was mainly the conviction of her inability to control her corporal desires. Even if her sincere grief over her loss made her initially opt for retaining her chastity — a widow was usually unable to keep her vows, *nam cum in se revertitur, et carnis dilectatio ei obvenerit, quod peius est, in adulterium cadit* — this is how king Liutprand justified his decisions (cap. 100). In this respect the early medieval legislators followed St. Paul who in his *First Epistle to Timothy* regarded with suspicion the young widows, enjoining on them a new marriage precisely in order to quench their corporal desires.

No illusions about the real nature of women were cherished by their husbands who bequeathed their property to their spouses for life usufruct on condition that *lectum meum custodieret et fidis [sic!] maritalis obseruaueret*<sup>29</sup>. Such clauses were frequently supplemented by a disposition concerning the fate of the

<sup>26</sup> Liutprandi Leges, cap. 100, p. 178.

<sup>27</sup> Ibidem.

<sup>28</sup> Capitulare ecclesiasticum, 818/819, MGH, Capitularia regum Francorum, vol. I, N° 138 [135], cap. 21, p. 278, cf. decisions of the Paris synod of 829 (Concilium parisiense, MGH, Concilia aevi Karolini, vol. I, part 2, N° 50, cap. XL, p. 637); J. L. Nelson, op. cit., p. 90.

<sup>29</sup> AD 747, 24 April, Lucca, CDL, vol. II, N° 90, p. 262.

widow if she decided to break such an injunction, e.g.: *ut, si coniuge mea [...] carnale uitio fuerit consecuta et in ipso senodochio uel monasterio noluerit deseruire, nulla de rebus meis auere debeant, nisi uacua et inane exinde foris exire deueant* [sic!] *ambulando ubi uoluerit*<sup>30</sup>. The economic stimulus was to enable the husband to retain control of his wife even from beyond the grave. Also in this case the man's action was meant to help the fallible woman to retain her chastity and marital faithfulness and to overcome her natural corporal weakness. In fact, her husband's death meant that the woman lost the guide who showed her, sometimes against her nature, the right way of behaviour. She was almost inevitably condemned to vice unless she was immediately surrounded by the care of relatives or other males who acted by proxy.

A willful adoption of a widow's veil that limited the traditional rights of relatives, marred the proper relations between a woman and the world of men, and could sometimes prolong, and even perpetuate this state of disorder: *abitum sanctimonialis in secrete domi suscipiunt, ne vim nuptialem perpetiantur, quippe tuta sibi cuncta fore arbitrantur, si coniugalis dominatui non subiciantur. Sicque fecit, ut sub optentu religionis demta omni formidine, quicquid animo delectantur, licentius assequantur*, complained the Prince of Benevento Arechis II (758–787)<sup>31</sup>. Thus the religious zeal of a widow should be treated with great caution. A woman who once tasted sexual freedom was unable to reform herself on her own, for she was fatally burdened by her unbridled nature that pushed her to animal promiscuity: *hoc quoque procul dubio luxuriante vitae fomite succensa exurunt eas carnis incentiba adeo, ut non solum unius, set, quod dicit nefas est, plurimorum prostitutionibus clanculo substernantur; et nisi uterus intumuerit, non facile comprobatur*. Sexual freedom threatened not only the soul of a vicious widow but also ruined the social order where a woman's fertility should only serve her husband; thus it was a portent of sexual chaos. This made men treat with suspicion the widows who had known nuptial delight and now — remaining outside any control — could indulge in their lust and induce men to adultery: *si quando in plateas processurae sunt, facies polliunt,*

<sup>30</sup> AD 748, 8 September, Pistoia, CDL, vol. II, N° 96, p. 279.

<sup>31</sup> *Principum Beneventi leges*, in: *Le leggi dei Longobardi*, cap. 12, p. 270; on this chapter of the edict see comments by C. La Rocca, *La legge*, p. 57.

*manus candidant, incendunt lividinem, ut vescentibus incendia misceant: saepe etiam formosus videre atque videri impudentius appetunt et, ut brebiter dicat, ad omnem lasciviam voluntatemque animi frena relaxante.* This reversed in an inadmissible way the principles that governed the relations between men and women as well as the roles ascribed to each sex: it was the women who turned out to be the active side, and freely chose their sexual partners. In this situation it was not only the right but also the duty of the relatives, clergymen and the king, to defend the sacred principles of social order against the unbridled nature personified by the widows deprived of masculine guidance, as well as to make them respect the principles of social life, also out of concern for their salvation.

In accordance with this aim, the widows suspected of ignoble behaviour (and such an accusation could be made against many of their actions that men thought undesirable) could meet with many sanctions. One of them, for example, was excluding them from society by isolating them in a convent and depriving them of the material basis of their existence by the confiscation of their property<sup>32</sup>. Generally, both in the ecclesiastical and royal legislations of the end of the 8th and the 9th centuries there was a clear tendency to exclude *viduae velatae* from the broadly conceived social, economic and political life, and to enclose their activeness within convent walls (although this principle was not always applied in practice)<sup>33</sup>, a policy which was, otherwise, consistent with the mainstream of the revival of convent life. What comes to the forefront in the Carolingian era, is the sanctified model of a widow-founder and supporter of convents who realized her vocation mainly within the framework of a convent community<sup>34</sup>.

It is worth noting that the accusation of widows of breaking the principles of sexual life was frequently accompanied by charging them with indulging in those spheres of activeness that

<sup>32</sup> The bishops assembled at the synod at Cividale del Friuli in 796 decided that *segregentur ab invicem et agant cunctes diebus vitae suae poenitentiam et a comunione corporis et sanguinis Christi priventur* (*Concilium foroiuliense*, cap. XI, p. 193); cf. decisions of the synod at Tussey, 860, *MGH, Concilia*, vol. IV, *Concilia aevi Karolini 860–874*, ed. W. Hartmann, Hannover 1998, cap. II, pp. 19–20; *volumus, ut usque ad finem vitae in ergastulis retrusae poenitentiam agant*).

<sup>33</sup> J. L. Nelson, *op. cit.*, p. 92ff.

<sup>34</sup> M. Parisse, *Des veuves au monastère*, in: *Veuves et veuvage*, pp. 255–274; E. Santinelli, *op. cit.*, p. 170ff.

were traditionally reserved for males<sup>35</sup>. By renouncing a new marriage and remaining in the property of her husband a more enterprising woman could gain considerable independence, and doubtless, the interests of a widow need not have always agreed with those of the relatives — the widow was sometimes an inconvenient rival. These tensions grew stronger with time. In a changing social and cultural situation the traditional mechanisms of control that allowed men to enforce the obedience and submissiveness of women entrusted to their care, and consequently to maintain the clear division of roles ascribed to each sex, turned out ineffective. As a result, the greater freedom gained by the widows infringed the stable system of social positions, and was an obstacle to the normal functioning of patriarchal kinship groups. This gave rise to a psychologically justified frustration of the males and their striving for the restoration of the unsettled order, which resulted in greater repressions against women perceived as those who infringed the principles of social co-existence sanctified by tradition.

Conflicts between the widow and her surroundings were most frequently caused by matters connected with inheritance and property rights. The legislators tried to solve this problem by defining the scope of those rights and the ways of their vindication in an unequivocal way, and also by surrounding the widows with

<sup>35</sup> See e.g. *Concilium parisiense*, 829, cap. XLIII, pp. 638–639; *Nobiles feminae, quae amissis viris velantur et non in monasteriis sub spiritalis matris regimine, sed potius in domibus propriis, occasione liberorum rerumque suarum, residere delitiisque affluere delectantur, quia, iuxta apostolum, viventes mortue sunt, necesse est, ut ab episcopis pastoralis sollicitudine admoneantur et instruuntur, quatenus suae salutis consulant, ne sic indiscrete vivendo et terrenis actionibus, sexui suo non convenientibus, se implicando [stress — A.P.] vitam perpetuam amittant. [...] statuimus [...] ut non in domibus propriis, sed in monasteriis sub spiritalis matris regimine Deo se servituras subdant, quoniam huiusmodi adolescentulas, viros amittentes et in sanctimoniali habitu propriis domibus residentes, persepe in laqueum diaboli lapsas esse didicimus.*

<sup>36</sup> See e.g. tit. LIV, 1, 2, 3 Alamanni's laws (*Leges Alamannorum*, ed. K. Lehmann, K. A. Eckhardt, MGH, *Leges nationum Germanicarum*, vol. 5, part 1, Hannoverae 1966, pp. 112–113), which define the procedure of the vindication of the widow's rights to property, including the *morginaghepha* "morning gift", *aut per sacramentum, aut per pugnam*; the chapter of Visigothic law (*Lex Visigothorum*, tit. IV, 2, 14, p. 182) envisaging the intervention of royal officials in the case of infringement of the widow's property rights by her sons, and King Liutprand's edict of 717 (*Liutprandi Leges*, cap. 7, p. 132), enjoining the public announcement and recording of the document specifying what property was handed over to the wife as a *morgingab*, *ut in futuro pro hac causa periurio non percurrat*. More extensively on the legal protection of widows E. Santinelli, *op. cit.*, pp. 86–106.

<sup>37</sup> *Lex Visigothorum*, tit. III, 3, 11, pp. 144–145.

special protection that included the possibility of appealing directly to the king in case of need<sup>36</sup>. Documentary sources show, however, that such precautions did not essentially change the usual practice. The widow — always somebody alien to the kinship group of the deceased — if she opposed their strategy concerning the property or their matrimonial designs advantageous to them, was perceived as an inconvenient adversary against whom, in the case of her resistance, they sometimes declared relentless war. The legal regulations that protected the widow testify to the brutal pressure exerted by her late husband's relatives aimed at forcing her to a new marriage and thus depriving her of her property rights. In extreme cases, her obedience was exacted by physical force<sup>37</sup>.

In this context one of the most drastic forms of repression was abduction, often performed with the consent, or even at the instigation of the deceased man's relatives<sup>38</sup>. Sexual coercion was also applied against poor widows, deprived of the protection of male relatives<sup>39</sup>. The significance and scale of this phenomenon is testified by the norms recorded in the 8th and 9th century codes and secular and ecclesiastical legislations, directed against the abductors. Hincmar of Rheims devoted to this problem a long letter *De coercendo et exstirpando raptu viduarum, puellarum et sanctimonialium*, where he showed it as a plague that ruined the social order<sup>40</sup>. He followed in it the Merovingian and Carolingian bishops, who many times condemned the abductors.

Regardless whether the abductor married his victim or whether she returned to find protection in the family of her deceased husband or of her father, her status changed. Unless she was

<sup>38</sup> Penalties for approving of or complicity in abduction were imposed on the woman's kinsmen by Visigothic law (*Lex Visigothorum*, tit. III, 3, 4, 5, p. 140ff.); in 845–846 at the synod at Meaux the bishops decided that *raptores virginum e viduarum, qui etiam postea voluntate parentum eas quasi desponsatas sub dotalicii nomine in coniugium duxerunt, publice penitentiae subiugantur* (MGH, *Concilia*, vol. III, *Concilia aevi Karolini*, 843–859, ed. W. Hartmann, Hannover 1984, N° 11, cap. 64, p. 115; see also cap. 65, p. 115).

<sup>39</sup> See e.g. *Lex Baiwariorum*, tit. VIII, cap. 7, pp. 356–357: *Si autem viduam rapuerit quae coacta ex tecto egreditur, propter orfanorum et propriae penuriae rebus, cum LXXXX soldat componat et XL cogatur in fisco, quia vetanda est talis praesumptio, et eius defensio in Deo et in duce atque iudicibus debet consistere*.

<sup>40</sup> Hincmarus Rhemensis, *De coercendo et exstirpando raptu viduarum, puellarum ac sanctimonialium*, PL, vol. 125, col. 1017–1032.

<sup>41</sup> *Leges Burgundionum*, tit. IX, cap. 1–4, pp. 132–133.



able to prove that the elopement took place without her consent, she was treated by the kinsmen and relatives as an adulteress<sup>41</sup> who defiled their honour, and as a consequence lost as a rule the right of the usufruct of her husband's property, and the custody of her children. As a matter of course, also in the case of marrying her abductor, she had to relinquish the part of her first husband's property of which she had the right of usufruct as a widow. This gave the relatives a possibility of taking control of the inheritance, especially if on the strength of the testament she was deprived of it in case of a new marriage. We may also suppose that the accusation alone that she consented to elopement, that is to adultery, could be a way of getting rid of an obstacle to taking over the inheritance of the deceased. It should also be noted that a widow became the object of pressure not only of the family of her husband, but also her own kinsmen, interested in establishing advantageous relationships due to her new marriage. Against such actions were aimed the regulations recurring in the ecclesiastical and royal legislations that penalized the kinsmen who accepted the state of affairs that resulted from such an abduction and recognized the marriage contracted by the abductor.

The wish to avoid such danger explains in part the eagerness with which women were ready to take widows' and conventual vows after the death of their husbands. They were probably induced to it by the hope of gaining the assistance of the representatives of the Church in case of their conflict with relatives or an excessive obtrusiveness of their suitors. Such a motivation for the behaviour of many widows was directly confirmed by emperor Louis II in 856 who abolished the law issued a hundred years earlier by the King of the Lombards, Liutprand<sup>42</sup>, which forbade velatio before a year elapsed after the husband's death, and agreed to making by women a widow's profession immediately after the husband's death, *quia praeterita*

<sup>42</sup> *Liutprandi leges*, cap. 100, p. 178, AD 728, the norm introduced under the influence of Roman law where the period (the so-called *tempus luctus*) when a widow could not contract a new marriage lasted a year; cf. *Lex Visigothorum*, tit. III, 2, 1, p. 133. Among the Franks this period was limited to 30 days, which was confirmed in 829 by the synod in Paris, *Concilium parisiense*, cap. XLVIII, p. 639 and episcopal legislations among others of Herard of Tours and Isaac of Langres (*MGH, Capitula episcoporum*, vol. II, ed. R. Pokorný, M. Stratmann, Hannover 1995, cap. 130 p. 155, tit. V, cap. 1, p. 213); more extensively E. Santinelli, *op. cit.*, p. 111ff.

<sup>43</sup> *Capitulare papiense pro lege tenendum*, in: *I capitolari italici*, N° 42 (215), cap. 2, p. 204.

*pro ipsa dilatione multae etiam raptu intra eodem spatio ad aliam partem distractae fuerunt*<sup>43</sup>.

It seems that the veiling was often treated as a form of temporal safeguard, ensuring a woman the protection of the Church and guarding her from the pressure of her suitors and relatives fighting for the inheritance of the deceased, as well as giving her time for making a decision about her future fate. However, the royal and conciliar legislations directed against abductions and against the relatives' practice of forcing the widows to a new marriage already after they had taken their widow's vows show that such hopes were often futile<sup>44</sup>.

It is worth noting that despite the unequivocal attitude of the Church and secular legislators in this respect, the act of a widow's *velatio* was not in practice, in the societies of Merovingian or Carolingian Gaul or Lombard Italy, treated as an irrevocable renunciation of marital life. The status of *vidua velata* was perceived as something between that of consecrated virgins and lay women. There was no uniformity in the principles of making a widow's profession, the role and position in the Church structure of widows who decided to adopt a widow's veil was not clearly defined, either, hence the obligation to preserve a lifelong chastity was treated liberally. Since veiled widows did not take conventual vows, it was not regarded as a breach of celibacy if they returned to secular life and contracted a new marriage. That such an opinion was almost universal is testified by the frequency with which the regulations directed against women breaking such a prohibition and relatives assenting to such behaviour appear in the ecclesiastical and royal legislations<sup>45</sup>. Some light on how their situation was perceived in society is thrown by chapter 30 of Liutprand's edict, where we read, among other things, that women who *religionis habitu aut vestem monastiga induere vedentur, quamquam a sacerdote consecrate non sint*, should remain in this state, *nec sit excusatio mali hominibus dicendo: "Quod sacrate non sunt, ideo, si copolantur, culpa non*

<sup>44</sup> *Lex Visigothorum*, tit. III, 5, 2, pp. 159–161; cf. decisions of the synod at Meaux–Paris 845–846, imposing heavy ecclesiastical penalties on the abductors of consecrated widows (*MGH, Concilia aevi Karolini*, 843–859, cap. 67, p. 116).

<sup>45</sup> See e.g. *Concilium triburiense*, 895, *MGH, Capitularia regum Francorum*, vol. II, part 2, Hannoverae 1897, cap. 25: *si sponte velamen quamvis non consecratum sibi inposuerit et in ecclesia inter velatas oblationem Deo obtubrit, velit nolit, sanctimoniae habitum ulterius habere debet: licet sacramento confirmare velit eo tenore et ratione velamen sibi inposuisse, ut iterum possit deponere.*

*habent*”, as well as by the regulation issued a quarter of a century later (cap. 100) confirming the difficulties in defining the status of widows: *cum [id est: vidua velata — cit. A. P.] in adulterium cadit, nec monacha esse invenitur nec laica esse potest*<sup>46</sup>.

The significance of the problem and at the same time the ineffectiveness of prohibitions is testified by the seriousness of penalties envisaged for those who perpetrated such an offence, which equaled those for the gravest offences against social order<sup>47</sup>. In contrast to the Gallic conciliar legislation where matters concerning the abuses perpetrated by “consecrated widows” were subject to episcopal jurisdiction, in Lombard Italy the decisions in such cases were reserved for the monarch.

The sparse documents, especially the *iudicata* that arose in the cases concerning the status of such marriages, show that these principles were broken, and the practice of marrying *viduae velatae*, even those who chose a convent life, was socially accepted. There was a considerable relativity in the way such widows were treated within a kinship group, especially characteristic if the expected relationships established by a new marriage outweighed in the eyes of their relatives the spiritual value of their prayer. The contradictory expectations placed on the widows, resulting from the conflict between the model of behaviour imposed by religion on the one hand and the system of values that was the basis of the social organization, and of the functioning of a kinship group on the other, led to a conflict between the roles that were ascribed to them. At the same time, however, because of the inconsistency of the system of norms and values that governed social life, the effectiveness of the moral and religious sanctions applied to women who transgressed them, was limited. This is corroborated by the case of Gundi and

<sup>46</sup> *Liutprandi leges*, cap. 30, pp. 144–146; cap. 100, p. 178.

<sup>47</sup> According to Lombard law such an act was punished by confiscating the widow's property and submitting her to the king's judgment; her guardian who consented to such marriage, and any other person who helped in contracting it was charged with a penalty equal to his *wergeld*, that is, in fact, had to pay for his life (!), and the man who married her was fined 600 *solidi* (*Liutprandi leges*, cap. 100, p. 178); in Gaul the law established by Chlotaire II (614) envisaged a death penalty for the man and the confiscation of the property of the widow who consented to such a union, *Chlotharii II Edictum*, MGH, *Leges, Capitularia regum Francorum*, vol. I, cap. 18, p. 23.

<sup>48</sup> *I placiti del 'Regnum Italiae'*, ed. C. Manaresi, vol. I, *Fonti per la Storia d'Italia*, 92, Roma 1955, N° 76, pp. 274–277.

Sisenand, a married couple from Casaurea in the Duchy of Spoleto, investigated by the imperial court in 873<sup>48</sup>. Gundi married Sisenand with the consent of her son by her first marriage, who was her legal guardian (*mundwald*), and without any objection of her more distant relatives, although she had earlier taken the vows. It is of interest that both her son and her husband maintained that because her marriage was contracted according to customary law, it should be held valid, even after her vows were publicly confirmed. And indeed, this marriage was evidently socially accepted. The accusation against Gundi and Sisenand was brought only by order of emperor Louis II who, as it seems, regarded it mainly as a convenient pretext for taking over her property (it was soon included in the endowment of the newly-founded St. Clement's imperial monastery in Casaurea). The trial finished by sentencing Gundi to the confiscation of her property, in favour of the imperial treasury, while Sisenand, in accordance with the Lombard law, was fined 600 *solidi*.

The example of widows is an interesting illustration of the changes in cultural preferences that determined the hierarchy of social roles, changes that took place hand in hand with the assimilation of the Christian system of values: in traditional society the position in the kinship system was of primary importance; according to the Christian cultural model the position held in religious life gained more and more significance. In the case of widows these contradictions turned out to be extremely difficult to resolve, which resulted in conflicts between their social roles. It is precisely the inconsistency of normative expectations placed on this group of women that was the cause of the characteristic ambivalence in the way they were treated by the secular and ecclesiastical legislators of the Early Middle Ages.

(Translated by Agnieszka Kreczmar)

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