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Marriage strategies and inheritance system in Polish peasant families in the 15th-17th centuries

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Comprehensive research on marriage strategies and inheritance system of Polish peasants in the Middle Ages and Early Modern period has not been commenced yet. Much more attention has been paid to the systems of inheritance than marriage strategies but historians have been focused on other social groups (e.g. gentry) and later period.

Though since the beginning of the 20th century the issue of inheritance system has been touched on by some historians, their works have either focused on some narrow aspects of the problem and lacked a broader perspective or tended to neglect peasants as elements of this system¹. Several books tackling the problem were written in communist Poland, but they tended to consider its legal aspects only or looked at it from the point of view of struggle between the classes².

¹ P. Dabkowski *Prawo prywatne polskie*, vol. II, Lwów 1911; Much more was written after the publication by B. Ulanowski fragments of village court rolls in a series: *Starodawne Prawa Polskiego Pomniki*, vols. XI-XII, Kraków 1921; J. Dicker, *Testament w polskim prawie wiejskim* [in:] *Pamiętnik Trzydziestolecia pracy naukowej Przemysława Dąbrowskiego*, Lwów 1927; J. Rafacz, *Włościańskie prawo spadkowe w Polsce nowożytnej* [in:] *Zwyczaje spadkowe włościan polskich*, vol. 5, Warszawa 1929, pp. 5-36; K. Dobrowolski, *Włościańskie rozporządzenie ostatniej Wolina Podhalu w XVII i XVIII wieku*, Kraków 1933.

² S. Ingot, *Obrót ziemią i włościańskie zwyczaje spadkowe w Małopolsce od XVI do XVIII wieku w świetle wiejskich ksiąg sądowych*, „Sprawozdania Wrocławskiego Towarzystwa Naukowego” 11, 1956 (publ. in 1959), pp. 79-83; S. Ingot, *Z życia codziennego chłopów polskich od XVI do XVIII wieku*, „Acta Universitatis Wratislaviensis” no. 97, Historia XV, Wrocław 1969; K. Orzechowski, *O śląskich źródłach do poznania chłopskiego prawa spadkowego w późnym feudalizmie*, „Śląski Kwartalnik Historyczny Sobótka” 19, 1964, pp. 78-87; F. Bortkiewicz, *Alienacje nieruchomości w prawie wiejskim w Małopolsce (XVI-XVIII w.)*, Łódź 1970, pp. 68-72; R. Łaszewski, *Wiejskie prawo spadkowe w województwie chełmińskim w okresie oligarchii magnackiej*, „Czasopismo Prawno-Historyczne” 28, 1976, pp. 37-57.

The best introduction into marriage strategies and inheritance system of Polish peasants is still an article of Anna Kamler originally published in 1983³.

The pattern of heirship among Polish peasants and their marriage strategies can be examined on the basis of three different types of sources: village regulations issued by the owners of villages – gentlemen, clergymen or the king; state law; and village court rolls. However, the relevance of the first two types of sources to our study is limited for two reasons. Firstly, majority of surviving village regulations relate to the period beyond the turn of the Middle Ages. Secondly, state law, with the exception of the so called *ius caducum* in 1588, was not concerned with peasant inheritance practices at all.⁴

Village court rolls, registering practice not legal theory, are basic sources of research on social and economic life of Polish peasants in the late Middle Ages and Early Modern period. Moreover, they are a potential, although still unused, source for demographic research on the period before introduction of birth, marriage and death certificates.

The origins of village court rolls go back to the moment when the, so called, German law was introduced in Poland, which resulted in the development of peasant self-government. *Soltys* (Lat. *advocatus*) was its head and together with aldermen (*scabini*) he performed also legal functions in a village. The rolls in question document village court sessions and contain records of land transactions made by local peasants. Although similar village courts functioned all over the country, surviving records of their proceedings in the 15th and 16th

³ A. Izydorczyk, *Rodzina chłopska w Małopolsce w XV-XVI wieku*, „Społeczeństwo staropolskie”, t. III, Warszawa 1983, pp. 9-27; A. Kamler, *The Peasant's family of Małopolska in the 15th and 16th centuries*, „Polish Population Review 10 (1997), pp. 13-27.

⁴ *Volumina Legum*, vol. II, p. 1210; In Royal Prussia peasant inheritance system was regulated by the so called *chełmińskie* law, see: R. Łaszewski, *op.cit.*, p. 38.

centuries relate to two regions only: Cracow region and Sanok region in Little Poland⁵. This paper is based on two village court rolls, Krościenko village court rolls and Trześniowa village court rolls, which contain the largest number of entries⁶.

Marriage strategies

Village court rolls allow to research territorial selection of spouses. The research of two village court rolls we conducted (Trześniowa and Brzezówka) containing a great number of entries confirm the results obtained by A. Kamler, who analyzed several smaller rolls before. A prevailing majority of marriages was contracted within a village. In case of the village Trześniowa, whose roll has been preserved in the best condition and is the most precise, this rate amounted to over 80%. Peasant daughters found husbands outside their own villages much more frequently, on the other hand, however, such sources usually remain silent about peasant sons moving outside their home villages and taking over farms in their wives' villages. We know that if a man took over a farm inherited by his wife, he also adopted the last name of his father-in-law. According to A. Kamler a distance between a new place of residence, that is a home village, and a spouse's home village usually was 5 – 30 km. In Polish conditions it meant that territorial selection was generally made within one village or, less frequently, within neighboring villages of the same parish. A decision to contract a marriage outside a village was made for the following reasons:

⁵ S. Grodziski, *Księgi sądowe wiejskie (Zasięg terytorialny i geneza)*, „Czasopismo Prawno-Historyczne” XII, 1960, pp. 85-139; L. Łysiak, *W sprawie genezy ksiąg sądowych wiejskich*, „Czasopismo Prawno-Historyczne” XIV, 1962, pp. 175-194.

⁶ *Księgi gromadzkie wsi Krościenko z lat 1408-1535* (Further cited as: Krościenko) [in:] *Księgi Sądowe wiejskie*, vol. I, ed. by B. Ulanowski, [in:] *Starożytnego Prawa Polskiego Pomniki*, vol. XI, Kraków 1921, pp. 145-273; *Najstarsza księga sądowa wsi Trześniowej 1419-1609* (Further cited as: Trześniowa), ed. by H. Polackówna, Lwów 1923 [Zabytki dziejowe. Wydawnictwo Towarzystwa Naukowego we Lwowie, vol. I]. In Krościenko village court rolls there are 1644 entries made during the period of 129 years; in Trześniowa village court rolls there are 1542 entries covering the period of 192 years.

- a great number of children (the more children, the higher the probability that one of them will find a partner outside a home village)
- parents financial status (the smaller dowry or humbler earnings of sons, the more marriages outside a home village)
- village geographical location (city nearness/closeness is of significant importance)

Village court rolls do not allow to specify a financial status of spouses, still it is possible to compare rolls content to inventories. Such studies, however, have not been commenced yet. Humble research carried out so far shows that most marriages contracted within a village were matched according to the principle of social-financial selection, however, village court rolls quite often inform about marriages contracted between representatives of different classes of peasantry, which was not considered misalliance. Still we can observe an elite group of peasant families (village councils, innkeepers and millers), which made approx. 20% of all families in a village, whose representatives made efforts to observe the principle of financial equality.

Inheritance system

A common belief which is held by Polish historiography is that „[...] the main heir was usually the first-born son, but the rule was not always observed. Parents were often allowed to choose an heir from among younger children if they thought they were more fitted to manage the farm [...] So, the youngest son was sometimes a co-heir with the oldest one, or family land was divided equally among all the sons. There were also cases when, for lack of male heirs, land was transmitted to married daughters.”⁷ It can be stated, therefore, that there was no one dominant system of inheritance and it should be added that regional differences

⁷ S. Inglot, *Obrót ziemią i włościańskie zwyczaje spadkowe...*, pp. 79-80; S.Inglot, *Z życia codziennego chłopów polskich*, pp. 28-29; See also: A. Walawender, *op.cit.*, pp. 10-11;

reflected not only a variety of local customs but also some specific characteristics of peasant – landlord relations.

It is assumed that „Inheritance, that is, the act of receiving property of a deceased person by one or more heirs can take two different forms: of inheritance received under a will and inheritance received even though there is no will left. In old peasant law both forms were known and applied.”⁸

The oldest village court rolls very rarely recorded the actual wills of deceased peasants. Nevertheless, information about peasant pattern of heirship may be inferred from the records of land transactions. They reveal that upon the death of a landholder his farm was transmitted to one child and his other children received the equivalent in cash from the main heir⁹. The following is a typical record of this kind: “[...] there came brothers Maciej and Stanisław, willing, unforced and sane, and they testified that they have received money for their father and mother’s land [...] from their brother Jan”¹⁰.

We presume that land was settled upon one of the sons, most probably the oldest one (though there were exceptions to this rule¹¹), but other children also had their claim to a share in it. Sometimes it happened that children sold their inheritance but even in such cases all sons and daughters were involved in the transaction, like in the year 1515 when “[...] there came [...] Jan Czajka with his sisters Katarzyna Vosczkowa and Jadwiga Mychalowa, all sane, and they

⁸ K. Orzechowski, op.cit, p. 80.

⁹ Krościenko no. 1327,

¹⁰ “[...]quomodo veniens providi fratres Mathias, Stanislaus non compulsi nec coacti sed sanni mente recognoverunt, quia acciperunt totalem solucionem patrimonialem et matrimonialem pro agro, qui iacet [...] a fratre Iohanne Szudek...” Trześniowa no. 547. See also nos. 702, 1219,1220, 1280,1281, 1293,1294, 1308, 1309, 1324.

¹¹ Trześniowa, no. 1355; P. Dabkowski, op cit, vol. II, p. 108;A. Walawender, op.cit., p. 149.

testified that they have received total payment of 1.5 *marc* from Tomasz Gyzycz [...]”¹². Detailed records of payments are extremely rare, but there are sporadic entries in village court rolls which confirm that equal sums of money were paid to brothers and sisters, irrespective of sex.¹³

It is hard to say whether such practices resulted from the fact that, as some historians suggest, peasants imitated the land law (*prawo ziemskie*) to which Polish gentry was subject¹⁴, or whether these practices grew up through custom. Sources relating to the history of Polish peasants appear to confirm the findings of the research on Polish gentry summarised by Maria Koczerska in the following way: “Being asked about the distinctive feature of a Polish family in the Middle Ages and early modern period, I would suggest that it is equality among siblings, or to be more precise, between brothers and sisters.”¹⁵ Our sources provide ample evidence of this rule also among peasants and record frequent cases when a brother who inherited his father’s land would then pay off his sister’s share in it.¹⁶ The accounts between siblings were settled on the basis of the, so called, *taksa* that is appraisal of estate which was usually carried out before the court.¹⁷

When there was no male heir to the peasant’s land, it could be transmitted to his daughters, but in such cases heiresses usually sold their inheritance¹⁸, or the management of the farm was

¹² [...] quomodo venientes [...] Iohannes Czayka cum sororibus suis germanis videlicet Catherina Vosczkoua, cum Hedvy Mychaloua, omnes sani mente et corpore recognaverunt se recepisse totalem solucionem videlicet mediam alteram marcam a Toma Gyzycz pro agro...” -Trześniowa, nr 566. Podobnie nr 168, 575, 583, 585, 594, 598, 600, 615, 623, 633, 635, 636, 641, 642, 647, 705, 765, 804, 912, 1002, 1051, 1076, 1086, 1087, 1097, 1102, 1124, 1130, 1213, 1221, 1242, 1251,

¹³ Krościenko no. 185, 331, 1615, 1626 Trześniowa no. 1459-1461,

¹⁴ S. Inglot, *Z życia codziennego chłopów polskich...*, p. 28.

¹⁵ M. Koczerska, *Geneza, znaczenie i program dalszych badań nad kobietą i rodziną w średniowieczu i nowożytności* [in:] *Kobieta i rodzina średniowieczu i na progu czasów nowożytnych*, ed. Z.H. Nowak and A. Radzimiński, Toruń 1998, p. 10.

¹⁶ Trześniowa no. 451, 670, 737, 1280, 1324, Krościenko no. 1250, 1640

¹⁷ Krościenko no. 181, 359, 543, 1382

¹⁸ Trześniowa no. 556, 836, 1097, 1121, 1124, 1202, Krościenko no. 1266

entrusted to a husband of one of them.¹⁹ It needs to be remembered, though, that when a woman appeared in court with her husband it did not necessarily mean that it was him who was an interested party, but he could only represent his wife as a, so called, tutor.

It appears that on a wife's death, her husband took over the right to her share in her father's land. Village court rolls provide us also with information on the situation of widows. The entries recorded in the rolls show that women were entitled to one third of their deceased husbands' land.²⁰ However, widows were not given the land itself, but instead they received the equivalent in value in cash from a son who inherited from his father. Sometimes records in village court rolls relate also to customs regarding inheritance of movables by widows. For example, in the year 1533 in Trześniowa, a widow was endowed with a quarter of her dead husband's personal property and one third of grain.²¹

All scholars studying the inheritance system of Polish peasants have emphasized the importance of a landlord as an agent who regulated and controlled inheritance practices among his peasants. Historians have tried to prove the thesis of landlords' role by drawing attention to the increase in the number of laws limiting peasants' freedom of movement. However, when we refer to village court rolls, we can see that entries very rarely contain information that land transactions connected with inheritance were performed with the landlord's consent ("cum consensus generosi domini")²² although his intervention was sometimes indispensable in more complicated cases. It seems, therefore, that these were peasants themselves who made decisions about their, as they called it, hereditament.

¹⁹ Trześniowa no. 526; A son-in-law inherited not only deceased peasant's land but also his surname See: M. Górny, *Uwagi o badaniu przezwisk i nazwisk staropolskich*, *Genealogia* 6, 1995, p. 151.

²⁰ Trześniowa no. 746, 790, 845, 1095, Krościenko no. 181, 359, 490, 867, 988, 1048, 1118, 1273, 1376

²¹ Trzesniowa no. 733

²² Trzesniowa no. 1143.

Inheritance customs assuming that land was settled upon one heir who later paid off other members of the family were of crucial importance from the point of view of the development of peasant economy. On the one hand, the system helped to preserve integrity of peasant holdings; on the other, it contributed significantly to the commercialization of peasant economy. The main heir was obliged to pay off the equivalent of other family members' shares in land in cash. It was, along with financial demands of the state and feudal lords, the most important factor conducing towards commercialization. And it has to be emphasized that in comparison with feudal and state obligations this burden was much heavier to carry. In the first half of the 15th century a state tax paid by a Polish peasant on his one-*mansus*-big holding was 16 *groszy* annually, and a money rent per *mansus* paid to the landlord averaged 24 *groszy*.²³ At the same time, an average annual instalment paid by the main heir to his siblings was 88 groszy in Krościenko village and 53 grosze in Trześniowa village. In the second half of the 16th century average size of peasant holding decreased to half a *mansus*. While the average rate of feudal rent and state tax remained the same, 24 *grosze* and 16 *groszy* respectively²⁴, annual installments increased. In Trześniowa village, for example, an average rate increased to 60 *groszy*. Full payment was usually completed only after several years and it often amounted to a half of a peasant holding's lifespan which in Poland was 12 to 17 years.²⁵

²³ P. Guzowski, A changing economy: models of peasant budgets In fifteenth- and sixteenth- century Poland, „Continuity and Change” 20, 2005, p. 15.

²⁴ Ibidem.

²⁵ A. Wyczański, *Powrót do dyskusji o łanach pustych*, [in:] *Celem nauki jest człowiek... Studia z historii społecznej i gospodarczej ofiarowane H. Madurowicz-Urbańskiej*, Kraków 2000, p. 350.