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STUDIA I MATERIAŁY Z DZIEJÓW EUROPY ŚRODKOWO-WSCHODNIEJ

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THE SOCIAL STATUS OF WOMEN IN THE OLD ICELANDIC LAWS

An article on the social status of women in the old Icelandic laws may seem out of place in a book devoted to the concept of manliness in the medieval Norse society. However, the role men played in the old Nordic society, their preferred occupation, and heights to which they aspired to, is only partially attributable to the archetypal qualities of their gender. The medieval Nordic culture might have been especially focused on physical prowess, valor, emotional balance, cunningness, and open-handedness, but these qualities are not gender specific, and on their own they could only explain the advantaged status of *some* men.

If one is to uncover the reason for which the old Nordic communities depicted in the extant narrative sources appear to us as "a man's world"[1], one needs to look at the customs, norms and institutions that gave shape to the Saga Age societies. It is especially revealing in this regard to focus on the legal standing of women, since the numerous and vast differences between the rights of Nordic men and women, provide us with a clear perspective on the former privileged social status. It is in these old laws that we find the reason why men and women appear to operate in different social realms in the sagas, and why personal honour – the main currency of individual's worth in the old Norse society – was gained and lost differently by people of different genders.

Our main source of investigation will be *Grágás* – an old Icelandic law-compilation, described by one eminent legal historian as the giant bird among the old Norse normative sources. The so called "Grey Goose" is not only the largest,

[1] R. Frank, *Marriage in Twelfth- and Thirteenth-Century Iceland*, "Viator" 4 (1973), pp. 473–484.

and the most comprehensive of all Nordic law-books, but it also contains a large number of very detailed provisions concerning the rights and duties of women. By collecting the norms dealing with the inner workings of families and households, the unknown thirteenth-century Icelandic law-compilers gave us an opportunity to supplement the narratives about the saga-worthy individuals, with a set of extremely detailed rules regulating the behavior of all people living in Iceland. Examining these texts we can gain a deeper understanding of the medieval Icelandic society in general.

The paper is organized as follows. Part 1 contains basic information on *Grágás* and its value as a source for the laws of early Iceland. Part 2 deals with the legal status of unmarried women. Part 3 contains rules concerning betrothal, marriage, separation, husband's death, and their legal consequences for a woman. Part 4 is concerned with women's political and procedural standing. Part 5 discusses actions deemed offensive towards women or their families. The sixth part concludes the paper.

I. Our main source for the early Icelandic laws are two large vellum codices, collectively known as *Grágás*[2]. The name translates into "Grey Goose", and first appears in this context in the middle of the sixteenth century. Most of the modern scholars considered the name a misunderstanding of a scribe, who mistakenly transferred it from an early Norwegian code into the old Icelandic laws. The manuscripts themselves are of much earlier date than the aforementioned name. The older of the two – Ms. No. 1157, currently held in the Danish Old Royal Collection, and called *Konungsbók* – isbelieved to be written around the year 1260. The younger – Ms. no. 334 in folio at the University of Copenhagen, and commonly referred to as the *Staðarhólsbók* – has been written around year 1280.

Both codices are believed to be derived from an earlier, long gone, source. They are mostly concerned with similar matters, but differ in internal organization, style and content. *Konungsbók* contains a large section on constitutional matters, that is not available in *Staðarhólsbók*, but the later is more detailed. When dealing with similar issues, the manuscripts are usually in agreement with regard to the essence of the law, but the wording and sequence of matter can be quite different. Seen *in toto,* both codices are fairly consistent with the substance of the norms found in both of them. They even contain the same scribal mistakes, which suggest that both are based on the same ancestral source[3].

The manuscripts compile what is purported to be the laws of the Old Icelandic Commonwealth. Some of the norms contained therein are formulated in a way

[2] M. Stein-Wilkeshuis, *Laws in Medieval Iceland*, "Journal of Medieval History" 12 (1986), pp. 37–54.

[3] P. Foote, *Oral and Literary Tradition in Early Scandinavian Law: Aspects of a Problem*, [in:] *Oral Tradition, Literary Tradition: A Symposium*, ed. H. Bekker-Nielsen, Odense 1977, p. 52.

suggesting that they have been transcribed from the recitations, which according to an old Icelandic custom, the Law Speaker was to deliver yearly from the Law Rock at the Þingvellir. Readers are thus told what they are to do "here [at the Thing Fields]", informed that some actions should be undertaken by the assembly of participants "today", others "tomorrow", and reminded what "I" – that is the Law Speaker – have just said. Overall the reader is clearly led to believe that the norms compiled in the manuscripts genuinely represent "our laws" (*var lög*), as the medieval Icelanders called the legal system of the Commonwealth.

Grágás provide us with a fascinating though somewhat obscure insight into the inner workings of an early Icelandic Society. The Old Icelandic law-books are elaborate, detailed and at times extremely casuistic. There are hardly any areas of individual or collective lives that did not attract meticulous interest of the Icelandic law-compilers. One can find in *Grágás* very thorough norms on the rights and duties of individuals – interpersonal relations, family obligations, care of one's dependents, running farms and hiring workers, herding animals, fishing, cultivating fields and using pastures, sale and acquisition of property, driftage, riding horses, dogs that bite, raging bulls and tame polar bears, reciting poetry, feasting and fasting, religious observance, as well as on legal consequences of various dangerous, harmful or offensive deeds. By combining the norms contained in the old Icelandic law-compilations with the descriptions of social rules and customs found in the narrative sources, modern scholars are able to offer a fairly detailed, though still speculative reconstruction of the daily lives of common Icelandic men and women.[4]

Grágás as a historical source is not without its problems however. The extant manuscripts have been reliably dated by paleographers to the second half of the thirteenth century. This was a crucial time in the history of medieval Iceland. After several decades of inner struggle between its most powerful families, the country became a tributary land of the Norwegian Crown, and started undergoing radical institutional changes.[5] Some of its most distinct and unique political institutions were abolished or underwent a fundamental alteration in their functions, resulting

[4] See e.g. J.L. Byock, *Viking Age Iceland*, London 2001; W.I. Miller, *Bloodtaking and Peacemaking. Feud, Law, and Society in Saga Iceland*, Chicago 1990; T.M. Andersson, W.I. Miller, *Law and Literature in Medieval Iceland: "Ljósvetninga Saga" and "Valla-Ljóts Saga"*, Stanford 1989.

[5] Jón Viðar Sigurðsson, *Changing Layers of Jurisdiction and the Reshaping of Icelandic Society c. 1220–1350*, [in:] *Communities in European History: Representations, Jurisdictions, Conflicts*, ed. J. Pan-Montojo, F. Pedersen, Pisa 2007, pp. 173–187; Jón Viðar Sigurðsson, *Becoming a Scat Land: The Skattgjafir Process Between the Kings of Norway and the Icelanders c. 1250–1300*, [in:] *Taxes, Tributes and Tributary Lands in the Making of the Scandinavian Kingdoms in the Middle Ages*, ed. by S. Imsen, Trondheim 2011, pp. 115–131; Helgi Þorláksson, *Ambitious Kings and Unwilling Farmers. On the Difficulties of Introducing a Royal Tax in Iceland*, [in:] *Taxes, Tributes and Tributary Lands...*, pp. 133–147. On the institutional evolution of Iceland in general see Orri Vésteinsson, *The Christianization of Iceland: Priests, Power, and Social Change 1000–1300*, Oxford 2000.

in a thorough redesign of Iceland's constitutional structure. This background has to be taken into account while using Grágás as a source for the reconstruction of the legal system of the old Icelandic Commonwealth, as we do not know the purpose the extant manuscripts were to serve.

Scholars agree only in that *Grágás* did not have the status of the official code of the land. The *Konungsbók* and *Staðarhólsbók* were private law collections, without the binding force of public institutions behind them. The manuscripts are skilfully written and beautifully ornamented and their production must have been very expensive.[6] Their content however lacks proper structure, contains repetitions, many abbreviations, and references to other sources. There are also some inconsistencies between the two manuscripts. The somewhat disjointed nature of the norms contained in the two codices suggests that the compilation itself may had been prepared in a hasty manner.

Two main hypotheses can be formulated regarding the origin of *Grágás*. They can be viewed as a result of an effort to preserve the Old Icelandic laws in the face of radical institutional changes, and/or an attempt to influence the expected Norwegian legislation. The later hypothesis, if valid, poses some problems for our analysis, since it could imply that the law described in the extant manuscripts, does (at least to some extent) not necessarily reflect the actual laws of the Icelandic Commonwealth, but the views of the compiler on what the laws should have been. While this possibility cannot be excluded, it seems more worrying for scholars who are trying to reconstruct the constitutional features of the old Icelandic Commonwealth, than to authors who are interested in laws pertaining to private matters. Given the circumstances, it is more likely that the law-compilers would have been much more concerned with the prospective changes to public law in the immediate aftermath of the submission to the Norwegian Crown, than to changes in private law, which were probably less pressing.

This uncertainty about the extent to which *Grágás* preserve the actual old Icelandic laws could have been reduced substantially if it was possible to reliably date the norms contained therein. Dateable references however are very few, and mostly related to the norms established by the Church. There have been some attempts at establishing the historical origin of some of the secular norms contained in *Grágás* based on their linguistic features but they are regarded as inconclusive. The task of dating the norms is further complicated by the fact that few earlier legal manuscripts have come down to us, and all of them exist nowadays only in small fragments. Therefore no substantial comparative historical analysis is possible. It is however generally agreed in the scholarly literature that at least some sections of *Grágás* represent the genuine twelfth-century Icelandic law.[7]

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[6] Páll Eggert Ólason, *The Codex Reguis of Grágás: Ms. no. 1157 in the Old Royal Collection of The Royal Library Copenhagen, Corpus Codicum Islandicorum Medii Ævi*, Vol. 3, Copenhagen 1932.

[7] J.L. Byock, *Viking Age...*, pp. 308–316.

Another important caveat when using *Grágás* as a source for the legal norms of the Icelandic Commonwealth is its non-official and in most cases non-binding status. As previously noted, none of the extant legal manuscripts can be regarded as *codex receptus*. It is further necessary to recognize that most of the secular rules contained in the manuscripts were not regarded as unconditionally binding. The laws only provided default rules that could be negotiated by the interested parties unless this possibility was specifically excluded by the law itself. As William Miller explains "most rules, such as those governing land, livestock, marriage, driftage, were not intended to be absolute. Their purpose was to provide a default setting that would govern unless the parties to the transaction preferred to bargain out of the ambit of the rule. Presumably many of these rules were intended to codify standard practice and hence to relieve the parties of the burden of hashing out a multitude of particular terms for each transaction"[8].

Finally, before attempting to reconstruct the old Icelandic legal system on the basis of *Grágás*, it is important to recognize that prior to the submission to the Norwegian Crown Iceland was a stateless society that lacked any public law-enforcement mechanism[9]. Therefore, breaking the legal norms was punishable only in case someone – usually the wronged party or another person close to him/her – felt injured, threatened or disrespected so much as to initiate retaliatory action against the wrongdoer. Moreover, with the exceptions of fairly rare cases in which no private settlement was to be made without a prior leave from the Law Council, the person trying to enforce the law had a lot of leeway in deciding on which course of actions to take. The avenging party could not only bring the suit before a public court, but also use various methods of private adjudication based on mediation and arbitration (or if he was powerful enough, ignore the law altogether and relay on self-help). In fact, judging by the conflicts referred to in the narrative sources, it was the extra-court and *extra legem* methods of dispute settlement which were the most frequently used by the feuding parties in medieval Iceland[10]. Therefore the law preserved in the extant manuscripts – even if indeed the law of the land – may not necessarily reflect the actual realities of everyday life.

II. *Grágás* contain a large number of references to the rights and duties of Icelandic women. According to the extant manuscripts, women's legal status was determined mainly by their age and marital status.

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[8] W.I. Miller, *Bloodtaking*..., p. 208.

[9] J.L. Byock, *Governmental Order in Early Medieval Iceland*, "Viator: Medieval and Renaissance Studies" 17 (1986), pp. 19–34; J.L. Byock, *State and Statelessness in Early Iceland*, [in:] *Samtíðarsögur: The Contemporary Sagas*, Vol. I, Akureyri 1994, pp. 155–169; D.D. Friedman, *Private Creation and Enforcement of Law: A Historical Case*, "Journal of Legal Studies" 8:2 (1979), pp. 399–415.

[10] J.L. Byock, *Feud in the Icelandic Saga*, Berkeley 1982; W.I. Miller, *Bloodtaking*..., pp. 179–220.

An unmarried woman was placed under the care of a legal administrator until she reached the age of twenty. In the extant law books the term "legal administrator" (*lögráðandi*) refers mainly to a person who had a right to give a woman in betrothal. This right belonged to the woman's male next of kin, who was legally capable of taking care of his own property "to the last unit". To be capable in this regard a male had to be at least sixteen-winters-old[11], freeborn and intelligent enough to know how to saddle a horse (GII, 144_{53})[12].

If a woman had several capable male kin, the right to give her in betrothal belonged to the male who stood closest to her in the inheritance sequence – first her son, than her father, and after that her brother born of the same father. Only in a rare case when none of her lawful prospective male heirs were alive, an unmarried woman younger than twenty-years-old could have been betrothed by her mother. Otherwise the right belonged always to her male relative – a close kinsman or a husband of a kinswoman (GII,144_{53}).

An unmarried woman's legal administrator was responsible for taking care of her property (provided he was at least 20 years old). He could keep all the yields from her estate to himself, but was barred from diminishing her wealth unless a legally stipulated case of hardship occurred. Upon reaching the age of sixteen an unmarried woman acquired the right to keep the income from her estate and the right to claim inheritance. At the age of twenty the care of property returned to her as well (GII, 118_{8}).

The man taking care of an unmarried woman's property was responsible for her maintenance for the whole time she was his ward. He provided her with boarding and logging in his own household or settled on a keep for her by an agreement with another householder. If a girl had no property and was incapable of earning a living, she became a dependant of the first kinsman in the inheritance sequence who could afford to provide her with logging and boarding. In cases where a girl could not be maintained within a family, her keep became a responsibility of the local commune.

At twenty an unmarried woman could arrange her own residence. Every Icelander was required by law to be in "settled logging", i.e. to have a legal domicile. Minors usually resided with their legal administrators, most typically parents. Adults who were not householders were responsible for arranging their own log-

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[11] The Icelandic year was divided into two seasons – winter and summer. The age of a person was counted by the number of winters she or he survived.

[12] All references to *Grágás* are to the standard English editions – *Laws of Early Iceland Grágás The Codex Regius of Grágás with Material from Other Manuscripts*, Vol. I & II, ed. A. Dennis, P. Foote, R. Perkins, Winnipeg 1980. For the ease of use, the following method of citation is used, the large Roman numeral refers to the volume, the Arabic numeral that follows to the paragraph in that volume, and the subscripted numeral after that to the page where the cited norm can be found. Thus GII, 144_{53} refers to the paragraph 144 that can be found on the page 53 in the second volume of *Grágás.*

gings by contract. Two classes of people were considered householders according to the old Icelandic law – landowners and tenants who owned milking stock (GI,81_{132}).

Contracts between a householder and someone who wanted to join his household were entered into for a year at a time, and stipulated the duties of both parties, including the type of work required from the person entering the household and the amount of payment the latter was to receive for her services. The typical return for ordinary farm work was lodging and boarding, only some special task enumerated in the law books, like catering for ten people, commanded extra payment.

One's legal residence could be changed during the Moving Days (*fardagar*). The Moving Days were four consecutive days at the end of May, established to enable parties to negotiate contracts with regard to household attachment. A person who had not entered into a valid domicile contract with a householder by the end of this period risked a fine of three marks.

III. Marriage resulted in a multifaceted change in a woman's legal status. Upon marriage the husband became a legal administrator of the woman and the sole guardian of her property. At the same time, however, the woman acquired the right to claim inheritance and have care of her dependant's property, even if not yet sixteen. She was expected to manage the couple's household, employ and control the domestic servants, and take charge of the milking stock.

The narrative sources suggest that marriage was first and foremost a business transaction. Its main goal was to strengthen the social and economic position of two families, by forming alliances, joining forces and combining their wealth (see e.g. *Njálssaga*, chap. 97). The surviving law-compilations confirm this idea, as all the therms used to denote social and legal institutions connected to marriage have economic connotations. The old Icelandic word for wedding (*brúðhkaup)* literally means "bride purchase", the dowry is called "property that follows the bride from home" (*heimanfyljga*), the word for bride token is "bride price" (*mundarmál*), the betrothal (*festar*) stands for "attachment", and the betrothed woman is an attached-woman (*festarkona*). The economic importance of betrothal agreement is further stressed by the fact that it was enumerated among the very few transactions that required the presence of witnesses (the others being: the sale of land, chieftaincy or an ocean-going ship, GII, 169_{94}).

There is no minimal age prescribed for a bride or a groom in *Grágás*, and from the evidence contained in the narrative sources we know that women as young as thirteen were being married. As previously noted, the right to give a woman in betrothal belonged to her legal administrator. If someone else tried to betroth her, the resulting marriage was not "warrantable" and could be broken off by any person without penalty. The man who set up the marriage without having the right to do so and the groom who accepted his offer faced lesser outlawry at the suit of the wom-

an's legal administrator. The women's legal administrator could also sue the men who had unlawfully betrothed the woman for personal compensation (GII, 144_{58}).

For the betrothal to be legal several other requirements had to be met. The betrothal had to be witnessed by at least two witnesses named specifically for this occasion. The parties to the prospective wedding could not be related to each other by blood or spiritual kinship, they had to jointly own a minimum amount of property prescribed by the law, and the match had to be "sound".

Marriage between kin who were second cousins or closer constituted a major incest (*frændsemisspell*) and was penalized with full outlawry. Minor incest with kin (*sifjaslit*) was from these degrees to fourth cousins, and with affine to third cousins once removed. The penalty for minor incest was lesser outlawry. The surviving law compilations prescribe that following the marriage a newlywed man had to swear an oath at the spring assembly and declare that he knows of no family link between him and his wife that would impede the marriage. Failure to follow this rule was punished with the penalty of six marks at the suit of anyone who wanted to prosecute (GII, 147_{60}).

A couple who were related to each other in the fifth and sixth degree could legalize their marriage upon payment of the capital tithe (*meiri tíund*), and for the remoter degree on payment of 120 or 60 ells of homespun. The payment had to be made at the next General Assembly following the marriage, and the money went to the Law Council. In 1217 a new rule was introduced in Iceland which relaxed the rules concerning incest by implementing the canons of the 1215 Fourth Lateran Council into the Icelandic law. From then on the limit of minor incest with kin became the fourth and fifth degree.

Spiritual kin were also barred from marriage. A person entered a spiritual relationship (*guðsifjar*) with another by standing sponsor for her or for her children at any of the ceremonies of primesigning, baptism or confirmation. Marriage between spiritual kins was considered to be equivalent to minor incest and could be punished with lesser outlawry.

Grágás also prescribe a minimal property requirement for a couple joining in marriage provided the woman was not past childbearing (GII, 148_{61}). For the marriage to be legal the newlyweds had to jointly own property valued at least at 120 ounce-units in legal tender (equivalent of 15 marks or 720 ells of homespun), beside their every day clothing, and not counting the property set aside for the keep of their dependants. Newlyweds who did not follow this rule faced lesser outlawry. In opposition to the general rule concerning the treatments of outlaws, no confiscation court was held for married couples sentenced for disregarding the minimal property qualification. The outlawed couple could come back to Iceland only when they amassed at least 120 ounce units in property.

The minimal property requirement was no doubt seen as a way of preventing couples without means necessary to support dependents from forming families. It is impossible to tell how strictly this rule was followed. However, if it was

observed literally, then only the householders could afford to marry. For a typical landless farm worker it would take around 20 years of work to save enough wealth to qualify for marriage.[13] In any case, the extant narrative sources include several examples of household men and women forming families without facing any legal consequences, which suggest that while not necessarily common, marriage between people other than householders was possible and did not always lead to outlawry and banishment from the country. It is however also possible that poor people who did not own enough to enter into marriage took out loans. The extant law books contain several references to encumbered capital on marriage though their meaning is uncertain (see e.g. GII, 153_{67}).

The amount of property owned by the prospective married couple was also important for deciding on the value of bride price and dowry to be exchanged between the parties. The payment of the bride price was a necessary condition for marriage to be lawful. Without the exchange of the agreed bride price the marriage would be invalid and the children born from it would be prevented from inheriting from their parents. The value of the bride-price was set by the agreement between the parties. However, for the match to be legally sound the bride price could not be lower than the customary price for a slave woman (GII, 144_{59}). This would set the minimal value of bride price between one and one and a half mark. Unlike the bride price, the dowry was considered to be a nonessential feature of a betrothal agreement, though the narrative sources suggest that it was a common practice to match the bride price with the equally valued dowry. The extant law books treat dowry as an advance of inheritance. A woman could not claim more property in dowry than any of her brothers could expect to inherit at the time of the betrothal (GII, $118_{4–5}$).

At the betrothal the parties would also typically decide on whether to form a partnership (*félag*). By putting their property into a partnership the prospective married couple agreed to combine all their wealth (unless specifically excluded) into a common pool and to divide it between themselves according to an agreed upon ratio. The only condition set by law for forming partnerships was that it had to be a fair agreement and could not be detrimental to their prospective heirs. Such an agreement was bidding as long as the betrothal witnesses who remembered its terms were alive and the married couple did not make any changes to the agreement. A change in the terms of the partnership agreement was possible providing at least two of the original witnesses were still alive and able to pass on their testimony. Entering into partnership was voluntary as long as the married couple was able to provide keep for themselves and their dependants. However, if they fell into a state of destitution the law imposed a partnership between them by diving their wealth in such a way that the husband gained the control over two-thirds of it, and the wife over the rest (GII, 153_{67}).

[13] J.L. Byock, *Viking Age...*, p. 323.

The other items to be resolved at the betrothal were the exact date of the wedding, the place where the wedding ceremony would be held and how the cost of the wedding ceremony should be split between the parties. The surviving law compilations leave the specifics of those issues to the discretion of the parties, except forbidding them to organize the wedding on certain days connected to religious holidays or during an established fast (GII, 148_{62}).

The woman's legal administrator and a prospective groom negotiated all the aforementioned aspects of the betrothal agreement. The extant law compilations confer almost no rights to the woman herself in this regard, not even her consent was required for the betrothal to be legal. Only the woman who wanted to enter a covenant had the right to refuse marriage, and a leeway in negotiating with her male relatives on the choice of a husband was given to a woman whose father died (GII, 144_{53}). Careful reading of the sagas of Icelanders, however, leaves one with the impression that in practice it was prudent to get the woman's consent. Marriages into which women were forced almost always end up badly in sagas[14]. This divergence between the legal and the narrative sources however may be explained by the fact that some of the extant copies of the *Íslendingasögur* are younger then *Grágás*.[15] The sagas, thus, may reflect a change in social attitudes resulting from the growing insistence of the church on consent being the decisive criterion determining the legality of the marriage.

A betrothal agreement was binding for a year, unless the parties themselves stipulated otherwise. The wedding could be postponed if the groom became ill, and could not join his prospective wife in one bed. If his illness proved to be serious, and he did not recover within a year of falling ill the betrothal agreement lost its binding force, unless both parties decided to wait longer. In case the betrothed woman became ill, it was up to the prospective husband to decide if he wanted to proceed with marriage or wait until she regained her health (GII, 144_{56}).

Parties to a betrothal agreement could cancel the wedding without any of them incurring financial consequences, only if following the betrothal they discovered close kinship. In such case the man who took or the man who gave the woman in betrothal had to meet the other, and enumerate the kinship before witnesses.

If the parties had second thoughts about the marriage they could withdraw from the wedding contract by handing over the agreed bride price or dowry to the other party. However, if it was the legal administrator of the woman who had second thoughts about the wedding, the would-be groom had two choices. He could either summon the former for the dowry and for the sum he himself was to

[14] A very different situation is depicted in the contemporary sagas however. One can find many descriptions of marriages in the *Sturlungasaga*, but not one case in which women's wishes were taken into consideration. See J. Jochens, *Women in Old Norse Society*, Ithaca 1995, p. 44.

[15] Vésteinn Ólason, *Family Sagas*, [in:] *A Companion to Old Norse-Icelandic Literature and Culture*, ed. by R. McTurk, Oxford 2007, pp. 114–116.

contribute to the cost of the weeding, or summon him for withholding the woman. In the latter case the legal administrator faced lesser outlawry. The same penalty was also prescribed for anyone else who obstructed the marriage, by keeping the betrothed woman away from the groom (GII, $144_{57–58}$).

When the day of the wedding arrived the parties met at the farm they had chosen at the betrothal as the place of the marriage ceremony (if the evidence of the sagas is to be trusted, the weeding usually took place at the bride's house). While traveling to this place the wedding guest enjoyed the rights conferred upon the people traveling to assemblies. Householders were required by law to give board for up to five persons if there was a bride or groom among the traveling party, and up to three otherwise (GI, 10_{43}).

The importance of the wedding ceremony was also stressed by the special protection given by law for the horses the guest used for this occasion. Ill treatment of other people's horses usually resulted in a fine. If however the mistreated horse belonged to someone on a wedding journey, the penalty for "docking the tail" was lesser outlawry (GII, 164_{86}).

The extant law books do not indicate whether the wedding had any religious aspect. There is no indication that a marriage was administered by a priest, and the only explicitly mentioned action that had to take place during the wedding ceremony was a properly witnessed bedding. According to *Grágás* for a couple to become a man and wife at least six men had to see the bride and the groom enter the same bed (GII, 147_{243}).

Married couple belonging to the householder class was expected to live together in the same household. If both the husband and the wife were householders it was up for a man to decide where the couple should reside (GI, 82_{134}). If none of the couple were householders it was the duty of the husband to find a domicile for his wife before the end of the Moving Days. Failure to follow this duty resulted in a fine, and in such a case the wife could freely choose her own residence for the next year (GI, 78_{126}). If the marriage took place before the Moving Days and the couple lived in different households where they were tied to particular jobs, they were to spend two-thirds of the time at his lodging and one third at her lodging (GI, 80_{131}).

A married woman had limited rights in her property. Following the bedding the bride price and the yield from it constituted her own property, but was administered by her husband, who could set the income from the bride price against her keep. She could, however, claim inheritance and take care of her dependants' property even if she was not of full age. The husband was barred from hiring her livestock or any other "object of value" (*gripr*) that rightfully belonged to her (GII, 231_{271}), and could not leave the country with wife's property without her consent (GII, 150_{66}).

More importantly, if the wife had a share in the household she could take charge of the domestic affairs, and the dairying. This meant, among a number of

other things, that she could employ and control the domestic workers, as well as buy any necessary equipment for the household while her husband was away from home. With the consent of her husband she could also make deals with ship-merchants and enter into biding formal agreements concerning their "joint money matters" at assemblies (GII, 152_{67}). Otherwise however her financial and contractual rights were strictly limited.

A married woman could only spend half an ounce-units in a year without her husband's approval. Had she spent more than that, the husband could cancel the deal, take the property in question away from her and summon the seller for selling the property to his wife for a price higher than prescribed by law. A wife was also barred from selling half or more of a land with an inhabited farm on it without the consent of her legal administrator. The same applied to selling chieftaincy or an ocean-worthy ship, even if all the wealth constituted her own property. In case a woman disposed of her husband's property, the deal she had made was void and the husband could sue the men who had taken the property over for theft or appropriation (GII, $152_{66–67}$).

These legal limitations, notwithstanding, the narrative sources, strongly suggest that the day-to-day operations of "indoor households" (*innan stokks*) were mostly managed by married women. A common sign of women's authority over a household was a number of keys they carried on their belts. These keys opened the locks to rooms and boxes in which most of the family possessions, tools and valuables were safely stored. Such keys are frequently described in sagas and are among common archaeological findings in women's burials[16].

Marriage could end in two ways – due to the spouse's death or the separation of the couple (*lögskilnaðr*). If one is to believe the saga authors, the only action required during the pagan times for a separation to be effective was a public declaration renouncing the marriage. The most famous example of such an action comes from *Heiðarvígasaga*. "So it befell one morning, as they were both together in their sleeping loft, away from other folk, that Bardi would sleep on, but she would be rousing him, and so she took a small pillow and cast it into his face as if for sport. He threw it back again from him; and so this went on sundry times. And at last he cast it at her and let his hand go with it. She was wroth thereat, and having gotten a stone she throweth it at him in turn. So that day, when drinking was at an end, Bardi riseth to his feet, and nameth witnesses for himself, and declareth that he is parted from Aud, saying that he will take masterful ways no more from her than from anyone else. And so fast was he set in this mind herein, that to bring words to bear was of no avail". (*Heiðarvígasaga*, chapter 41). Similar accounts can be found in *Njálssaga* chapter 34, *Eyrbyggjasaga* chapter 14, and *Laxdælasaga* chapter 34. It is impossible to tell whether these stories faithfully preserve long gone pagan customs or if they are a creation of biased Christian saga-writers,

[16] A. Winroth, *The Age of Vikings*, Princeton 2014, pp. 73–74.

however the extant legal sources dealing with times after the religious conventions depict a completely different picture (GII, $150_{64–66}$).

According to *Grágás* separation could be brought about only for the four enumerated causes: 1) if it was discovered that the marriage was in the forbidden degree, 2) if one of the spouses inflicted a major wound on the other, 3) if the husband wanted to take his wife out of the country under compulsion, or 4) if the couple "proved to be at variance" and the bishop for the Quarter where they lived gave leave (GII, 234_{272})[17]. Only in the first of the aforementioned cases separation was obligatory, and could be imposed on the married couple by a judgment or a bishop's decree (if they did not separate on their own accord). In all other cases the decision on whether to press with the separation was left to the wronged or dissatisfied party.

To become legally separated, the couple had to receive a leave from a bishop. To receive bishop's permission they had to meet with him personally, preferably at a General Assembly and bring before him their testimony as well as testimonies of their witnesses. A woman could also transfer her case to an agent, who could then represent her before a bishop. The parties were to present their case on the first Friday of the assembly, following the ordinary rules of testimony. After their testimony was properly delivered, the bishop had one day to decide whether to give them leave to follow with a separation or not.

Except for the separation on the grounds of incest, there was one more cause that could bring about a separation without the involvement of a bishop – an interspousal violence resulting in a major wound.[18] *Grágás* do not contain any specific procedures that should be followed in such cases, therefore it is most probable that general rules of pressing with an assault case were used on such an occasion.

No matter how the lawful separation was brought about, it was up to the bishop to decide whether the separated parties could enter into another marriage. Second marriage made without bishop's leave constituted bigamy (*tvíkvæni*) and was punished by lesser outlawry at a suit of anyone who wanted to prosecute (GII, 250_{278}). Children born from a bigamous marriage were not lawful heirs and were barred from claiming inheritance.

The surviving law compilations also contain rules for dealing with situations of ceased conjugal cohabitation. If a husband neglected his wife for six seasons by "sleeping elsewhere than in her bed" she could ask a bishop for a leave to

[17] *Konungsbók* contains also a paragraph according to which the separation of man and wife could be brought about if they became destitute and did not have the means to maintain their dependants. According to *Staðarhólsbók* this possibility was however abolished by a new law of unspecified date (GII, 232_{271}).

[18] A major wound was a wound that involved breaking of a bone, knocking out someone's teeth, and irreversible injuries to tongue, eye, nose or ears, as well as castration and a "shame-stroke across someone's buttocks" (GI, 86_{141}).

claim her own property from a husband and press for personal compensation (GII, $158_{77}235_{272}$). If it was the wife who caused the cessation of conjugal cohabitation then the husband was to meet her at the place where she was staying, and in the presence of other male residents invite her to return to his settled home. He could also invite her back publicly, by delivering the invitation from the Law Rock at a General Assembly or from an assembly slope at a local *Þing*. He was to repeat this invitation every spring, for three consecutive years. If after his third invitation the wife chose not to come back to him, he could claim personal compensation from her, unless she had received a leave from a bishop to be responsible for her own domicile (GII, 250_{280}).

There is no indication in the extant law books that a cessation of conjugal cohabitationalone could be used as a ground for bringing about legal separation. However, one can assume that at least sometimes this cessation was a result of marital incompatibility, and in such case the parties could obtain a leave from a bishop to separate (GII, 234_{272}).

Upon separation from her former husband a woman had the right to claim her bride price and dowry. Any inheritance she claimed during wedlock was also to be given to her, and if the couple had formed a partnership, the witnesses to their partnership were to testify to the terms that had been stipulated for it. Following the testimony, the separated couple was to divide their property according to the previously agreed allotment (GII, 150_{65}).

Considering the attention separation received from saga writers, and the duty to obtain a bishop's leave for it to become legal, one can assume that in most cases an end to a marriage was brought about by death, not separation.

Widows and widowers were not listed among those who were to inherit from their dead spouses (GII, 118_{3}). Therefore, after the death of her husband the woman could only claim her bride price, dowry and any inheritance she had claimed from her kin while the marriage lasted. If however her husband died with unsettled debts, part of the bride price could go to the creditors, provided that he had made the bride price payment with borrowed wealth. The dowry was not to be reduced in such circumstances (GI, 62_{114}). Had the couple made partnership upon their marriage, then widow was to meet all debts in proportion to the share she had in their joint property. If there was no partnership between the two, but the woman owned a share in the household, she was to meet her part of all the sums that were spent on their joint household and her own needs (GII, 223_{164}).

A widow had stronger position than unmarried and married women alike. She could decide her own domicile, even if she was under twenty years of age. She could not be betrothed against her will by anyone other than her father, and at least in some cases she had enough wealth, from bride price, dowry, and inheritance, to be economically independent. Therefore, it should not be surprising that widows were very prominent among the strong women described in the narrative

sources.[19] This image of independent widows managing their own household is, however, tempered when one looks closely at the economic realities of the pre-modern agricultural societies. Given the amount and the backbreaking hardship of work, which went into subsistence farming, it is rather unlikely that there were many householders who could afford to manage their farms singlehandedly. As Andreas Winroth observes, in the old Norse societies, the daily work at farms required constant participation of both men and women, therefore a household could not really function if it was not headed by a couple. For this reason both widows and widowers had to remarry very quickly.[20]

IV. Women who were the head of her own household (most likely widows) were counted as householders. They could enter into domicile contracts with people wanting to join their household, and were responsible for words and actions of their household men and women. If women householders owned enough wealth to be able to pay the assembly attendance dues, they could also choose a chieftain for themselves and for all the people who were legally attached to their household. Otherwise however their "political" rights were severely restricted.

Unlike male householders, women householders could not actively participate in assemblies. They were not allowed to be named as witnesses, and they could not serve as juries or members of verdict-giving panels (*kviðr*). There is no indication in the extant law compilations that women were even allowed to speak publicly at assemblies.

Women were expressly forbidden from prosecuting cases of killing (GI, 66_{216}). The supposed reason for this restriction is given in the *Eyrbyggjasaga*. "On Arknel's death, the legal heirs to his estate were all women, and it was their responsibility to take action over the killing. As a result the case was not followed up as vigorously as people might have expected after the killing of so great a man. […] Because the action over the killing of this great man had gone so badly, the leading men of Iceland made a law that neither a woman, nor a man under the age of sixteen, should ever again be allowed to raise a manslaughter action, and this has been the law ever since" (*Eyrbggjasaga*, chapter 38). In a few instances where the old Icelandic law did grant women the right to act as principals in a case (e.g. GI, 94_{158}), they had to be substituted by a male relative who had a legal domicile in her household. In this regard women were treated in the same way as minors and male householders who were not assembly-fit, that is too poor of health to personally participate in assemblies.

Similarly women could own a chieftaincy, but could not act in it. A woman that owned chieftaincy had to turn it over to a man (GI, 84_{137}). It is very unlikely

[19] J. Jochens, *Women*..., pp. 61–62.

[20] A. Winroth, *The Age of*..., p. 165.

that the man who acted as a chieftain on her behalf was in any way restricted by her wishes and opinions regarding the proper use of her chieftaincy.

The fact that even women who were householders – and thus belonging to a very privileged strata of the Icelandic society – had very limited rights in a public sphere should not be interpreted in a way suggesting that they had no saying in political matters. As Helgi Þorláksson rightfully notes, there was no clear distinction between the private and the public sphere in the Middle Ages, and a lot of what went on in a household had serious political implications. "Such matters as the seating order at tables for feasts, the food and drink provided, and the gifts presented to guests were of the utmost political importance, since they raised questions of social honor, rank, and prestige among males that were constantly being debated and revised. In the political context, respect and popularity were matters of life and death for ambitious males, and it was the women who dealt with such matters"[21].

Strong female characters abound in sagas. Women might have lacked the right to vote on formal judgments or issue verdicts, but they frequently acted as peace-makers, mediators and arbitrators. In *Sturlungasaga* we even meet a heiress to a powerful chieftain who acted as an arbitrator together with the bishop of Skálholt on the condition that she alone would decide if they could not agree on the verdict. And while Steinvör's position was exceptional, sagas leave no doubt that women's voice carried weight.[22] The bases for women's significance in society, however, were very different than those set for men. Lacking legal, political and in most cases economic power, women had to rely on their personal qualities and "sexual politics" alone. Therefore, any social advancement was only attainable for women through men.

V. *Grágás* contain several provisions concerning various legally liable behaviors towards women which were liable at law. The most extensive of these provisions deal with unlawful intercourse and fathering an illegitimate child.

The preserved law compilations differentiate between two different kinds of unlawful intercourse – consensual and non-consensual. If a woman was forced to have sex, the man who had forced himself on her forfeited his immunity and could face death from several of her male kin. The extant law compilations enumerate six women on whose account "a man has the right to kill" – a man's wife, daughter, mother, sister, foster-daughter and foster-mother. The right to kill was

[21] Helgi Þorláksson, *Historical Background: Iceland 870–1400*, [in:] *A Companion to Old Norse-Icelandic Literature...*, p. 141.

[22] Numerous examples of women householders with strong social standing can be found in Þórunn Sigurðardóttir, *Saga World and Nineteenth Century Iceland: The Case of Women Farmers*, [in:] *The Cold Counsel: The Women in Old Norse Literature and Myth*, ed. by S.M. Anderson, K. Swenson, London 2002, p. 283.

limited in time and place depending on whether the "wrongful intercourse" did indeed take place or was only attempted. If the offender was caught while forcing himself on woman, but before a "wrongful intercourse" took place, he could be killed, but only at the place of action (GI, 90_{154}). If, however, the assailant was successful in his attempt, then "the right to kill" him extended up until the next General Assembly (GI, 63_{216}). For the killing to be lawful, the man who took part in it had to obtain a clearing verdict from the panel of five neighbors living closest to the place of assault. If the avenging party was unsuccessful in their pursuit of the offender, and/or the time during which the right to kill could be acted upon passed, the woman's assailant was to be summoned to full outlawry (GI, 90_{155}).

Consensual unlawful intercourse took place outside of marriage and is defined in the surviving law compilations as "laying with a woman and going so far that the man could have expected that they would have a child if that was destined for them" (GII, 157_{74}). The prosecution principal in such case was the woman's legal administrator or if she was married her husband (GII, 156_{70}). The man accused of intercourse faced full outlawry and had to pay personal compensation to the principal. As for the woman, her legal administrator had the right to take forty-eight ounce units (six marks, an equivalent of the standard personal compensation) from her, and if she did not have enough means to pay him, take her into a debt-bondage (GII, 158_{75}).

If the parties involved in a consensual unlawful intercourse were kin or affine (i.e. the intercourse also constituted an incest), or if the accused man had lain with a married woman, there could be no settlement without a prior leave from the Law Council (*alþingislof*). The penalty for an unlawful settlement in such case was lesser outlawry and the case was at hands of anyone who wanted to prosecute (GII, 156_{73}). In all other cases the parties involved in the dispute were allowed to make settlement without asking for a leave. However, no one was to take or award personal compensation smaller than the one prescribed by law, i.e. forty eight six-ells ounce units. Failure to observe this rule could result in six marks. Moreover, the intercourse case was then balked and anyone who wanted to prosecute could do so, to the limit of law (GII, 245_{275}).

Aside from the unlawful intercourse case, a man who fathered a child outside of marriage could also face a paternity suit. A paternity suit was separate from an unlawful intercourse suit, although the prosecuting principal in both cases was the same. It was possible for the woman's legal administrator to summon the offender first for the unlawful intercourse, and the following summer again, on the ground that he "has lain with the woman – and name her – and gone so far that he could expect that he might be the father of the child she had had" (GII, 157_{74}).

If the man charged with fathering the child was found not guilty, another suspect could be summoned the following summer. A fathering case was never "out of date". The old Icelandic law explicitly forbade charging more than

one man for fathering the same child in any single summer though. This was different from the intercourse case which was a "three assembly case" (*þriggja þinga mál*, i.e. it could be prosecuted only until the end of the third General Assembly from the moment the principal had learned of an offense), and in which the principal had the right to prosecute as many men during the summer as he chose to on grounds of having an unlawful intercourse with the same woman (GII, 158_{75}).

A pregnant unmarried woman was required to tell her legal administrator who the father of her child was. If she tried to withhold this information from him, the administrator was legally allowed to use force on her, provided he did this in front of five neighbors, and no lasting injuries or visible marks were suffered by the woman (GII, 161_{79}). The ultimate penalty for concealing the name of the father was full outlawry. The same punishment applied to a man who knowing that he had fathered a child out of wedlock did not come forward with this information. Lesser outlawry was prescribed by law for a man who was found guilty of false identification, that is for either ascribing another's man child to oneself, or knowingly ascribing his own child to someone else. A woman who falsely identified the father of her child also faced lesser outlawry (GII, 158_{77}).

The law also allowed for ordeals (*skírsla*) in paternity cases[23]. In fact, paternity and incest cases were the only instances for which the extant old Icelandic law books prescribe the use of ordeals (GII, 143_{49}, 156_{71}). For a man an ordeal consisted of carrying a rod of red-hot iron at a stipulated distance, and for a woman picking stones out of a pot containing boiling water (GII, 261_{282}). Following the procedure the wounded hand was bandaged and examined at the set latter date. If the wound healed cleanly the accused was found innocent. The whole procedure was conducted under clerical supervision and if the bishop supervising it found it necessary, he could choose to impose several ordeals on the same person in the same case (GII, 264_{233}).

A man who formally acknowledged an illegitimate child, or was found guilty of fathering one due to the results of an ordeal or a verdict from a panel of neighbors became responsible for the child's maintenance. The man could also be made a bounded-debtor if someone else made a lawful settlement on his behalf (GII, 249_{276}).

Unlike children born of parents married without betrothal, illegitimate children were "law-listed to inherit" (*taliðr til arfs at lögum*), that is they were included among lawful heirs. However, illegitimate children were unlikely to inherit after their parents or siblings. This is because misbegotten children were listed in the inheritance sequence after eight other classes of lawful heirs, and a single heir in any precedent class excluded all succeeding classes (GII, 118_{3}).

[23] It must be noted however that trial by ordeal was abolished by order of the Lateran Council of 1215.

Aside from intercourse and fathering a child the extant law compilations list several other behaviors deemed offensive towards a woman or her family that constituted punishable offenses.

Abducting a woman from her home carried a penalty of full outlawry. The person who took part in such a raid forfeited immunity in respect of all injuries inflicted by men who had legal claims to the woman (e.g. her legal administrator and kin). Not only the abduction (*konunám*) itself, but also plotting it was punishable by full outlawry. Full outlawry was also prescribed for a man who married the abducted woman, even if he himself had not participated in the abduction. People who knowingly shared quarters with the raiding party faced lesser outlawry (GII, $159–160_{78–79}$). A householder who had not been involved in the abduction, but whose house was used by a raiding party for harboring the abducted woman could avoid a penalty only if at the next public gathering – an assembly, a commune meeting, or after a mass – he announced that she stayed at his house and kept her there until someone who had claim in her came and fetched her (GII, 242_{275}).

Abduction was defined in the extant law-books as taking a woman away under compulsion. A woman could also leave her domicile on her own accord. Such consent however had a very limited exculpatory effect on men who accompanied her (GII, $156_{72,}$ 257_{281}). A man who traveled with a woman knowing that she had not received the permission to leave her domicile from her legal administrator was liable to lesser outlawry, and the same punishment applied to a ship's captain who gave her passage (his crew members were only fined).

Composing a love-poem on a woman was punishable with full outlawry. The principal in such case was the woman, however if she was younger than twenty, or did not want to prosecute, the case could be undertaken up by her legal administrator (GII, 238_{198}).

Secretly kissing an unmarried woman carried a penalty of three marks or lesser outlawry, depending on whether the woman in question had consented to the kiss or not. In the former instance the woman's legal administrator was the principal, in the latter the case lied with the woman herself. If the woman who was secretly kissed was married, her consent or the lack of it was irrelevant in the eyes of law – a person who kissed another man's wife always faced lesser outlawry (GII, 155_{69}).

The compilers of the old Icelandic law were concerned not only with sexual mores but also with cases of gender-bending. *Grágás* prescribe the punishment of lesser outlawry for all men and women who became "so deviant" that they started wearing clothing commonly associated with the other sex. For men that implied "putting on a woman's headdress [*faldr*] or women's clothes" in order to beguile a woman, and for women wearing male fashion in "order to be different" or cutting their hair short, or carrying weapons (GII, 155_{69}, 254_{219}). Anyone who was offended by a deviant deed could be a principal in such case. The offender had to be summoned locally at his or her legal home, and five neighbors of the

accused were to be called for an assembly to deliver verdict on the facts surrounding the case.

Lesser outlawry prescribed for transvestism – as the editors of the modern edition of the preserved old Icelandic law-compilations choose to call the aforementioned offense – was a severe punishment. However, even harsher legal consequences were faced by anyone who publicly mocked another man for his lack of manliness. Reciting poetry about another man containing lines suggesting that he is "womanish or has been buggered" was not only punishable by full outlawry but it could be avenged by death. Killing or inflicting injuries in such case was not punishable, although the mocked person had to bring a suit against his slanderer in order to clear himself (GII, $238_{198,}423_{354}$).

Grágás also mention women, though only in passing, in the wergild ring list section. The so-called *Baugatal* is an extremely complex set of rules concerning the atonement to be paid for killing a person who had not forfeited immunity (GI, $113_{175–183}$). According to the old Icelandic laws the killer's kin, up to forth cousins, were required to pay blood money to the corresponding member of the victim's family. This payment was mandatory irrespective of the end result of the lawsuit the victim's kin had brought against the killer. The atonement took form of wergild rings (*baugr*) and its value was calculated in ounces of silver, though the payment itself could also be made in other legal tender. In order to claim the wergild rings, the victim's family was required to formally guarantee truce (*grið*).

The *Baugatal* section is considered to be one of the oldest in Grágás, but due to its extreme intricacy, there are serious doubts as to whether it was ever in actual use. There are more than one hundred examples of atonement payments for killing in the old Icelandic narrative sources, but not one of them follows the rules set up in the extant law compilations. Therefore, modern scholars are inclined to believe that the wergild ring list section was more likely an exercise in complex legal reasoning, so beloved by the medieval lawyers, than an accurate account of existing societal norms.[24] The *Baugatal* is nevertheless worth adducing as another example of women being treated differently than men in the early Icelandic society.

In general, men alone were both the payers and receivers of the wergild ring. A woman could claim the atonement payment for the killing of her kin only when four requirements were fulfilled: 1) she was unmarried, 2) it was her father who was killed, 3) there was not one male who could claim the wergild ring, and 4) she did not enter into private settlement with the killer. In such rare case the victim's daughter was called the "ring-lady" (*bauga-hlín*), and she was to receive one wergild ring worth of three marks, just like a living son would. Similarly, the killer's unmarried daughter was required to make the atonement

[24] W.I. Miller, *Bloodtaking*..., p. 144.

payment to the victim's family, if no proper male payer existed. Once the killer's daughter became married however "she tossed the outlay into her kinsmen's lap" (GI, 113_{183}).

VI. Even a cursory reading of *Grágás* can explain why it is mostly men who were saga-worthy in the old Norse societies. They alone were active participants in the realms most interesting to the saga audiences. Travel, trade, feud, law and politics were quintessential male activities in the old Norse world not because they required gender specific attributes that were unattainable for women, but because women faced numerous and sometimes insuperable legal obstacles, that barred them from entering these fields.

Only men who reached the age of maturity could move about freely in the country and abroad. Only adult men could enter into unhindered deals concerning their wealth – sell a farm, an ocean-worthy ship or buy property valued at more than half an ounce-units. Males were the only ones who could carry weapons, avenge certain close family members who fell victim to killing, and prosecute all cases at a Thing. Men alone could be named as witnesses, serve as juries or members of neighbor-panels. And while women were allowed by law to own a chieftaincy, only men could act in it.

In all the aforementioned spheres women were subordinate to men, to their fathers, brothers, and husbands. Even when the law did provide the women with the ability to act within these realms, in order to be valid, most of their actions had to be sanctioned by a male – a legal administrator, a husband, or an agent. In general, wherever *Grágás* discuss norms pertaining to women, it does so mainly in relation to men. One of the clearest examples in this regard is the section on sexual assaults which is mainly concerned with the rights of the victimized woman's male kin over the assailant (GI, $90_{154–155}$). While it can be reasonably claimed that the purpose of such treatment of women was to shield them from violence, which was a very possible though not unavoidable part of the legal proceedings in the Icelandic Commonwealth[25], one cannot avoid the impression that the law-compilers, if not the actual law itself, saw women as the responsibility of male relatives and not legal persons in their own right.

The institutional structure and the power dynamics of the Icelandic Commonwealth also favored men over women in their quest for social advancement. The lack of central power and the executive authority created an environment characterized by a high level of social mobility, but the climb up the social ladder was strongly connected to success in feuds (though other routes for advancing in society were also available, if less often used). Notwithstanding the fact that not all conflicts were violent, and that many of them have found a peaceful res-

[25] J.L. Byock, *Viking Age*...., p. 317.

olution through private mediation and/or arbitration, the ability to mobilize and use force was a very important factor in determining their outcome. Men had clear upper hand over women in this regard. This is probably the reason why the saga writers associate powerlessness with being female[26], and why the old Icelandic law allowed the man accused of being "womanish" to avenge this insult with death.

It should thus not be surprising that women, not being able to attain prestige in wider societal context, found their realm in the private sphere. It is in the inner walls of the Icelandic households that the women had the greatest influence. Being a mistress of the house was a very important and highly responsible position in the subsistence economies of the early Norse societies. By hiring and managing workers, taking care of the milking stock, overseeing the preparation of food, and organizing the production of *vaðmál* (a homespun wool cloth), a householder's wife had a major part in the success or failure of the whole family[27].

The fact that women lacked proper legal standing that would enable them to enter formally into the realms of law and politics did not preclude them from having a say in these matters. Wives, mothers, mistresses and concubines had various ways to influence their husbands, sons, and partners. Through men women could insinuate themselves into affairs reaching far beyond the inner households. This influence however was indirect, and very informal in nature. More importantly, a woman's sway was most significant within marriage, and when it came to deciding whom she should marry, her own voice was less audible, than that of her male kin.

The old Icelandic legal system was clearly more favourable to men than women. One should not, however, overlook the fact that Icelandic women, both single and married, generally had more rights than their sisters in contemporary continental Europe. This high legal status of medieval Icelandic women is nowhere more visible than in *Grágás*' section on law dealing with property, as *Grágás* consistently confers more ownership rights on women, than any other European code of similar age.[28] The ability of the Icelandic women to independently hold property, even if it came with substantial limits, had far reaching consequences, since the ownership of property was one of the more significant bases for achieving influence in the medieval society. And some women in the old Icelandic Commonwealth did indeed achieve it, as can be ascertained from numerous examples of strong female characters found in the sagas.

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[26] C.J. Clover, *Regardless of Sex: Men, Women, and Power in Early Northern Europe*, "Speculum" 68:2 (1993), pp. 363–387.

[27] Some eminent scholars claim that this very high level of involvement in the household economics gave Icelandic women a high social standing, though this is a contested issue in the scholarly literature. See e.g. J.L. Byock, *Viking Age...,* p. 319, J. Jochens, *Women*..., pp. 141–160.

[28] T.M. Andersson, W.I. Miller, *Law and Literature*..., pp. 19–20.

Bibliography

Andersson T.M., Miller W.I., *Law and Literature in Medieval Iceland: "Ljósvetninga Saga" and "Valla-Ljóts Saga"*, Stanford 1989.

Byock J.L., *Governmental Order in Early Medieval Iceland*, "Viator" 17 (1986), pp. 19–34

Byock J.L., *State and Statelessness in Early Iceland*, [in:] *Samtíðarsögur: The Contemporary Sagas*, Vol. I, Akureyri 1994, pp. 155–169

Byock J.L., *Feud in the Icelandic Saga*, Berkeley 1982

Byock J.L., *Viking Age Iceland*, London 2001

Clover C.J., *Regardless of Sex: Men, Women, and Power in Early Northern Europe*, "Speculum" 68:2 (1993), pp. 363–387.

Foote P., *Oral and Literary Tradition in Early Scandinavian Law: Aspects of a Problem*, [in:] *Oral Tradition, Literary Tradition: A Symposium*, ed. by H. Bekker-Nielsen, Odense 1977, pp. 47–55.

Frank R., *Marriage in Twelfth- and Thirteenth-Century Iceland*, "Viator" 4 (1973), pp. 473–484.

Friedman D.D., *Private Creation and Enforcement of Law: A Historical Case*, "Journal of Legal Studies" 8:2 (1979), pp. 399–415.

Helgi Þorláksson, *Ambitious Kings and Unwilling Farmers. On the Difficulties of Introducing a Royal Tax in Iceland*, [in:] *Taxes, Tributes and Tributary Lands in the Making of the Scandinavian Kingdoms in the Middle Ages*, ed. by S. Imsen, Trondheim 2011, pp. 133–147

Helgi Þorláksson, *Historical Background: Iceland 870–1400*, [in:] *A Companion to Old Norse-Icelandic Literature*, ed. by Rory McTurk, Oxford 2005, pp. 136–154..

Jochens J., *Women in Old Norse Society*, Ithaca 1995.

Jón Viðar Sigurðsson, *Becoming a Scat Land: The Skattgjafir Process Between the Kings of Norway and the Icelanders c. 1250–1300*, [in:] *Taxes, Tributes and Tributary Lands in the Making of the Scandinavian Kingdoms in the Middle Ages*, ed. by S. Imsen, Trondheim 2011, pp. 115–131

Jón Viðar Sigurðsson, *Changing Layers of Jurisdiction and the Reshaping of Icelandic Society c. 1220–1350*, [in:] *Communities in European History: Representations, Jurisdictions, Conflicts*, ed. by J. Pan-Montojo, F. Pedersen, Pisa 2007, pp. 173–187.

Laws of Early Iceland Grágás The Codex Regius of Grágás with Material from Other Manuscripts, Vol. I & II, ed. by A. Dennis, P. Foote, R. Perkins, Winnipeg 1980.

Miller W.I., *Bloodtaking and Peacemaking. Feud, Law, and Society in Saga Iceland,* Chicago 1990.

Orri Vésteinsson, *The Christianization of Iceland: Priests, Power, and Social Change 1000–1300*, Oxford 2000.

Páll Eggert Ólason, *The Codex Reguis of Grágás: Ms. no. 1157 in the Old Royal Collection of The Royal Library Copenhagen, Corpus Codicum Islandicorum Medii Ævi*, Vol. 3, Copenhagen 1932.

Stein-Wilkeshuis M., *Laws in Medieval Iceland*, "Journal of Medieval History" 12 (1986), pp. 37–54.

Þórunn Sigurðardóttir, *Saga World and Nineteenth Century Iceland: The Case of Women Farmers*, [in:] *The Cold Counsel: The Women in Old Norse Literature and Myth*, ed. by S.M. Anderson, K. Swenson, London 2002, p. 283.

Vésteinn Ólason, *Family Sagas*, [in:] *A Companion to Old Norse-Icelandic Literature and Culture*, ed. by R. McTurk, Oxford 2007, pp. 114–116.

Winroth A., *The Age of Vikings*, Princeton 2014.

STATUS SPOŁECZNY KOBIET W STAROISLANDZKIM PRAWIE

Streszczenie

Celem artykułu jest rekonstrukcja statusu społecznego kobiet w średniowiecznej Islandii dokonana w oparciu o zachowane prywatne zbiory staroislandzkiego prawa zwane *Grágás*. Zbiory te stanowią kompilację treści dwóch fragmentarycznych manuskryptów spisanych około 1260–1280 roku, znanych jako *Konungsbók* i *Staðarhólsbók*. Jakkolwiek we współczesnej literaturze przedmiotu zgłaszane są wątpliwości, co do wiarygodności struktury konstytucyjnej opisanej przez redaktorów *Grágás*, zebrane przez nich normy społeczne uznawane są przez badaczy za relatywnie wierne odbicie autentycznych średniowiecznych islandzkich zwyczajów i praw. Wiele z tych norm odnosi się do obowiązków i uprawnień kobiet. Liczne jednostki redakcyjne dotyczące małżeństwa, spadków, rozporządzania własnością prywatną, zawierania umów, czy zwłaszcza funkcjonowania rodzin i gospodarstw domowych zawierają wiele obszernych paragrafów odnoszących się do statusu kobiet. Dokonując rekonstrukcji prawnej pozycji kobiet w społeczeństwie islandzkim, zamierzam wskazać źródła uprzywilejowania islandzkich mężczyzn.