HONOR AMONG NOBLES IN THE 16TH CENTURY GRAND DUCHY OF LITHUANIA

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A dissertation in

History

Presented to the Faculties of the Central European University in Partial Fulfillment of the Requirements for the Degree of Doctor of Philosophy

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Budapest, Hungary; Vienna, Austria

2022

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Abstract

The present thesis engages with the concept of honor as a measure of human worth. In contrast to the modern Western ideals, where universal human worth is a cornerstone of politics, throughout most of history human worth was subject to change. It could have been elevated by garnering resources or power, diminished through insults, or revoked for grave crimes, which, in extreme examples, could have entailed deprivation of status as a human being. The ideas governing preconditions for claiming, increasing, or losing human worth were subject to change. The state manipulated human worth to facilitate loyalty and regulate social relations by inflicting shame and threatening humiliation. Insults in honor societies grow in importance and due to fundamentally unstable foundations of human worth damaging words and actions are more prone to provoke a violent reaction as means to assert and defend honor. Here the law provided an alternative path to resolve such conflict, namely, litigation and remuneration practices that ought to substitute blood vengeance with monetary and physical punishments.

The polysemy of honor makes it a challenging subject to study. However, informed by analysis of primary sources and a selection of interdisciplinary works on honor, the present study models a specific set of etic concepts subsumed under the word honor in the present context. Honor in this study is taken to have fourfold meaning: status, reputation, honor code, and sense of honor. Status was the legally outlined place occupied within the social hierarchy and is held to be horizontal honor, whereas reputation builds upon status and was expressed through rank and "good name," therefore is held to be vertical honor. Increase or decrease in reputation held the potential to alter status. The honor code is the set of rules that outlined the expected behavior based on inborn status and facilitated acquiescence with the communal norms through manipulation of

reputation. The sense of honor stands for the internalized human worth based on the aspects of honor and is akin to self-worth.

The historical context within which the study of honor is undertaken is the 16th century Grand Duchy of Lithuania, particularly focusing on the nobility as a legal corporation within its setting. Considered in hindsight, it was a time of intense modernization within the polity, marked by economic innovations altering the boundaries of hierarchical society, movements for increase of political rights, and extensive legal codification. Behind these processes that altered the architecture of society and state were changes in the social and political thought showing significant influence of Renaissance thinkers. Therefore, the study begins with an examination of political writings that concerned honor as human worth, which had shown that the number of people who could claim honorable status was growing. Many of the scholars employed to write the said treatises were directly involved with codification of the law which shaped social relations among Grand Duchy's population. Legal analysis showed that honor as status became an instrument in statecraft, whereas honor as reputation functioned as guarantee of trust within local communities. Aiming to thwart arbitrary violence Lithuanian Statutes extended protection to honor as status and reputation. The enaction of these laws is explored based on the archive of the royal court records in 1529-1566. The cases inform of the acts that had been considered insulting or shameful and in doing so informs of the certain tenets of nobles' honor code and motivations to litigate, which included protection of sense of honor. Lastly, a short discussion of gendered legal aspects of honor and legal practice of commoners reveals that honor was a social structure governing the attribution of human worth within the whole contemporary society.

Acknowledgements

The journey of which this dissertation marks an end had begun longer ago than I care to remember, while the reasons for undertaking it should be sought deeper yet. Therefore, names of many those, who inspired me to choose this path and encouraged to keep walking I keep in my memory and am hopeful to one day thank in person. However, it is to my closest that I owe the most—my parents Linas and Rita, my grandmother Momo-Rasa, my sisters Ona Kotryna, Emilija, and Indrė, and my closest group of friends, who believed in me motivated to keep at it. But most of all – Jovilė, who walked beside me all this way and without whose support I would have succumbed to doubt years ago. I can only hope I'll have the opportunity to show such support to her as she did to me. I owe a great debt of gratitude to the Central European University where I learned how intense academic work may become and how rewarding it could be and especially the Department of History which I have been proud to call my academic home for the last few years. The community it unites were nothing short of inspiring and I wish to extend thanks to László Kontler, Jan Hennings, and everyone who had read parts of the present work in its various stages, but especially James Gresock, whose attentive reading corrected many of my linguistic blunders. I am most grateful to my supervisor Matthias Riedl, whose unfailing support, confidence in my ability, and encouragement to think broader and bolder made this thesis possible.

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Introduction

Prologue. On honor

What is it about honor that makes it so obvious at first glance, yet so ambiguous under examination? One relatively constant quality behind the shadow play that surrounds this concept is the approximation of human worth. It is a sort of culturally conditioned matrix that solves one perennial social question: does this person deserve respect? The answer to this deceptively simple question is so internalized that it became almost intuitive, and the decision is passed without reflection, while it is judged upon the whole cultural spectrum of values the asker embodies. Much like beauty, honor resides in the eye of the beholder.

The parameters for evaluation could be highly individualized and unique, suffice it to say that deciding factors may include such widespread traits as ethnicity, religion, and language, as well as aspects of social identity – class, trade, gender, etc. – and lastly personal qualities including morality, trustworthiness, or any other particular trait that one may hold respectable. The decision may be prompted by external signs such as rank or status, or internal qualities and show of character. Moreover, the answer, once taken, is not necessarily set in stone – idols sculpted for years crumble in seconds once the character is exposed to be lacking. Historical glance over the traits that won respect reveals how many of them West relegated to the past while those same ideals are upheld in contemporary societies all over the world. Historical change of customs, stereotypes and traits deciding perceptions is at the core of the notorious elusiveness that scholars ascribed to honor.

Modern concern for personal equality and equal dignity eroded normative status differences within democratic states. Hierarchies, perceived or otherwise, are the lifeblood of

honor and the answer to the perennial question of respect depends on preferring one thing over another. Status differences were historically established and stable traits that regulated this economy of respect, obligating those of lower status to show respect to their superiors. Oft ridiculed and misunderstood quarrels over who should tip their hat or bow first, whose seat is placed where, even life-threatening stubbornness to give way may be in all actuality ways to resolve this question and the stakes were ever higher when one acted as representative of their peoples, state, or sovereign.

Honor was the meter that evaluated human worth in Early Modern societies. The formula for approximating its lack or possession had many variables, but its answer was very tangible. Honor decided the success of one's social life, including marriage and trade, limits of trustworthiness, even the amount of wergild. It was much less ethereal than honor is perceived today, as honor depended on many external material signs and even material possessions such as the ornateness of the house could weigh the scales of respectability and human worth. People were willing to risk their wellbeing and livelihood to protect it and the trope of honor-ensued violence has become a landmark historical imagination and a sign of still romanticized, yet outdated social ideals. Since then, with the tremendous change in the architecture of social relations brought about by the redescription of the classical meaning of dignity into an intangible and incorruptible internal personal worth, honor has been seemingly relegated to the past. Our contemporary inability to describe what is honor is indicative of the contemporary egalitarian social system: we have drifted away enough not to see it clearly, but not enough to forget it completely. In truth, we may hold honor itself accountable for its contemporary malady because its core tenet, one of the few ideals that honor cultures cherish throughout the world, loyalty, had become so fiercely felt that submitting to its commands brought inhumane amounts of suffering in the 20th century.

The object of study

The object of this study is honor as a measure of human worth among nobles in the Grand Duchy of Lithuania throughout the 16th century. Definitions of honor are plenty, but many share that core notion that honor has to do with human worth, and while modern egalitarian societies agree on its equality, hierarchical societies of the past operated on very different grounds that did not necessarily hold equality of human life was in high regard. Honor, however, is notoriously protean which makes it a complicated subject to study. Not only does the word carry overlapping and contradictory meanings, but those also had morphed throughout time. Meanings acquired in various periods coexist side by side within the semantic horizon of the concept. It may be taken to mean moral integrity, trustworthiness, even creditability on the one hand, and office, status, or esteem on the other, and it is more than likely that these meanings were taken to be part of the concept of honor in different historical periods. Some of these phenomena are intertwined, however, it is nearly impossible to consider them in unison, for such attempts require covering a dazzling array of topics that span into a variety of different directions. For this reason, any research on honor must begin with setting certain boundaries and an indication of themes that one intends to explore. The present study is no different and will be limited to primarily exploring the issues of social status and reputation, which are interrelated and co-dependent on each other.

Positive methodological distinctions

The following differences between guises of honor are etic and have been developed through the course of research on this topic.[1] Although they are based on emic concepts, often the source language did not bear out these exact distinctions conceptually but once considered within their

[1] Kenneth L. Pike, "Etic and emic standpoints for the description of behavior," in Kenneth L. Pike, *Language in relation to a unified theory of the structure of human behavior* (Mouton & Co, 1967): 37–72.

larger framework, the following distinctions grow increasingly apparent. Additionally, the following only outlines several variables that must be considered before approaching honor, whereas the actual historical analysis of ideas over status, reputation, and limits of the honorable behavior are explored in the chapters of the thesis.

A fruitful approach to honor as a measure of human worth is through its contrast to dignity. Dignity is an ancient ideal of being dignified—esteemed, highly positioned, magnanimous; it simultaneously carried moral connotations of trustworthiness, restraint, and overall virtuous demeanor.[2] With the advent of Christianity, this ancient formulation of dignity was complemented with another important view of the human as an image of God. In Christian philosophy, humans reflect the dignity of God and are but its vessels, not the direct bearers of dignity. In this sense, dignity becomes a motive to act according to Christian ethics to be deserving of the elevated status of humanity in the whole creation.[3]

In other words, the traditional understanding of dignity was that of a deserved merit achieved through an active moral agency. This view changed with the advent of modern moral philosophy, and, most notably due to its Kantian redescription, dignity became a transcendental measure of worth beyond any comparable equivalents.[4] In Kantian formulation dignity was still conditional upon acting according to the categorical imperative, however, every human being had

[2] Recently, the history of dignity has grown into a field of stimulating scholarly exchange. For a short introduction into the topic, see Michael Rosen, *Dignity. Its history and meaning* (Cambridge, MA: Harvard University Press, 2012) The topic is further elaborated in collective volumes Christopher McCruden, ed., *Understanding Human Dignity.* (Oxford: Oxford University Press, 2013); Remy Debes, ed., *Dignity: a history* (Oxford: Oxford University Press, 2017).

[3] For an overview of dignity in Christian thought, see Bonnie Kent, "In the Image of God," in Remy Debes, ed., *Dignity: a History*, (Oxford: Oxford University Press, 2017), 74-98. For further reading, see Matthew Puffer, "Human Dignity after Augustine's Imago Dei: On the Sources and Uses of Two Ethical Terms," *Journal of the Society of Christian Ethics* 37.1 (2017): 65-82; James Hanvey, "Dignity, person, and imago Trinitatis," in Christopher McCruden, ed., *Understanding Human Dignity*. (Oxford: Oxford University Press, 2013): 209-228.

[4] Oliver Sensen, *Kant on Human Dignity* (Berlin: De Gruyter, 2011): 146-173. Also see Stefano Bacin, "Kant's idea of human dignity: Between tradition and originality," *Kant-Studien* 106.1 (2015): 97-106.

an *a priori* claim to it as every human being is a moral agent. Albeit not without its faults and challenges, such conception of dignity became the foundation for universal human worth and grounded the development of the modern human rights discourse. However, the concept remained notoriously elusive, to the extent its contenders often proclaimed it meaningless. However, in the effort to provide a philosophical foundation for the modern conception of human dignity capable of grounding human rights, Remy Debes indicated several fundamental requirements that such modern definition of dignity must abide by, the most important of them being that dignity can neither be earned, increased, nor alienated in any way, nor dependent on external social, religious, or moral traits.[5] Peter Berger has efficiently contrasted this view of modern dignity with the hierarchical concept of honor.[6] The main difference between the two systems of allotting human worth is that dignity is a measure of human life invested within a human being disregarding any of the social roles one may occupy, whereas honor was largely the opposite—it depended on social roles. That said, dignity may be viewed as atomist and individualistic, whereas honor is inherently collectivist, claimed as and paid to a member of a group when acting out shared ideals. Another crucially important difference is that while modern dignity is inalienable, honor could be lost or deprived, creating a precarious living environment where human worth had to be safeguarded and proven. That said, the historical genealogy of dignity shows its proximity to honor, but while dignity was reformulated to suit modern times, honor was blamed for many of the atavistic social phenomena, most notably, dueling and overall proclivity to violence.

[5] Remy Debes, "Dignity's gauntlet," *Philosophical Perspectives* 23 (2009): 45-78.
[6] Peter Berger, "On the obsolecence of the concept of honor," *European Journal of Sociology/Archives Européennes de Sociologie* 11.2 (1970): 338-347. His provocative account of the move from honor to dignity proclaims the death of honor in modernity and while the present study does not engage directly with the theory proclaiming death of honor, there are some other works that contest it, see section *Select scholarship on honor*.

With a distinction between modern dignity and historical honor as modes of allocating human worth in place, one may ask on what grounds was it possible to claim honor. Concise encyclopedic entries of several historical dictionaries offer several possible answers. *Deutsches Rechtworterbuch* suggests a strong connection between honor and law, with adjacent meanings of esteem, reputation, rank, and landed property. Du Cange's Latin dictionary lists many moral and religious examples and emphasizes the interdependence of honor and office.[7] Additionally, Dietrich Schäfer analyzed several translations of the medieval Latin term *honor* and found that in most contexts it ought to be translated as law, not as honor or power.[8] He lists examples where this translation is more appropriate and applies it to corporate bodies, such as states and cities, including *honor imperii,* a term that has historiography of its own.[9] Turning towards Grand Duchy of Lithuania, The Historical Dictionary of Belarusian language contains the entry for honor (*честь*) that provides meanings of morality, respect, title or status, and feast.[10] This bird's eye view of the concept of honor shows several shared connotations, namely, legal status, reputation, and morality. These shared themes inform further consideration of honor in its guises of status, respect, and honor code. Turning towards modern scholarly definitions of honor, the most encompassing one is presented by Wolfgang E. J. Weber, who outlines honor (*ehre*) as

> *"a historically variable, complex system of rules governing mutual attribution of value; this system engendered both individual self-esteem and notions of value and status specific to various roles and groups, along with corresponding behavioral expectations."*[11]

[7] Du Cange et al., *Glossarium mediæ et infimæ latinitatis. T. 4* (Niort: L. Favre, 1883-1887): 230a.
[8] Dietrich Schäfer, "Honor, citra, cis im mittelalterlichen Latein," *Sitzungsberichte der Preußischen Akademie der Wissenschaften zu Berlin* XXIII (1921), Berlin: 372-381.
[9] Peter Rassow, *Honor Imperii. Die neue Politik Friedrich Barbarossas 1152–1159* (München u.a., Oldenbourg, 1940); Knut Görich, *Die Ehre Friedrich Barbarossas: Kommunikation, Konflikt und politisches Handeln im 12. Jahrhundert* (Darmstadt: Wissenschaftliche Buchgesellschaft, 2001).
[10] Александр Николаевич Булыка, рэд., *Гістарычны Слоўнік Беларускай Мовы. Выпуск 36. Фолкга-чорногрывый* (Мінск: Беларуская навука, 2016): 367-369.
[11] Wolfgang E. J. Weber, "Honor," in: Graeme Dunphy, Andrew Gow, eds., *Encyclopedia of Early Modern History Online*. Consulted online on 22 February 2021. URL: http://dx.doi.org/10.1163/2352-0272_emho_COM_018570

This condensed take on honor encompasses the aforementioned traits of status, reputation, and appropriate conduct, presenting a workable definition of honor.

Honor as status is perhaps most recognizable in the medieval social theory of the three estates, which segregated people into three major groups – nobles, clergy, and laborers. With this distinction came separate degrees of honor and whereas commoners were deemed subservient to both clergy and nobles, the latter two groups laid claim to honor through two discourses, one based on secular power and privileges, another – on the salvation of souls and eternal life. These social distinctions were formulated in the law, creating legal communities that were endowed with rights to facilitate the fulfillment of their respective obligations. Honor in this sense can be best perceived as legal standing and the set of rights and privileges shared among peers within a larger social framework. This created status differences that in turn generated very different social worlds with contrasting expectations of preferred behavior.

The second guise of honor, and one that is often more discussed, is that of reputation. As already discussed, a life of disrepute in largely localized communities of landholding nobles was challenging and opportunities for marriage and economic relations, even certain legal rights were put at a disadvantage by disrepute. Reputation is a measure of an externally perceived individual worth that is awarded by one's status peers and is won by acting according to the social expectations of one's status. Status ascribes models of ideal behavior that are named the honor code. Honor code is something that was taken for granted, therefore there was no reason to commit it to paper. Its core notions are entrenched in law as well as in various sorts of personal sources. Honor code covers a large array of internalized values, secular and religious alike, and describes what it is to be a good person and lead a good life in a certain society. To continue with the analogy of the three estates, nobles were expected to wage war while the clergy were charged with leading

a saintlike existence. Subversion of these expectations had often been the stuff of satire and comedy; ridicule meant disrepute remains some of the most effective means for social control to this day.

Reputation is made tangible through the communication of (dis)respect: the language of honor. Every society develops certain modes of communicating respect through various means of public rituals, gestures, and special objects. This guise of honor attracted historians' interest most often. For instance, Martin Dinges calls for a more methodologically unified historical anthropology of honor and suggests treating it as a complex and dynamic system of communication instead of some essentialized identity of a person or a group.[12] Dinges suggests that honor is not awarded due to some ratio of traits, such as status, gender, profession, etc., but rather is a symbolic system through which many problems relating to these traits may be addressed.[13] In emphasizing the communicative aspect of honor Dinges relies on the works of Thomas Luckmann and urges to consider defamatory language, gestures, and defaming actions as the main vessels of meaning in this code. Deciphering these meanings requires anthropological methods because often such actions were highly ritualized and relied on symbolic meanings carried by a certain object or parts of the human body. For instance, the head, and especially the face, was considered the seat of honor and personhood, hence European touchiness over various kinds of headgear was a matter of their embodied honor. For the same reason denigrating punishments for

[12] Martin Dinges, "Ehre als Thema der historischen Anthropologie. Bemerkungen zur Wissenschaftgeschichte und zur Konzeptualizierung," in: Klaus Schreiner, Gerd Schwerhoff, eds., *Verletzte Ehre. Ehrkonflikte in Gesellschaften des Mittelalters und der frühen Neuzeit* (Köln: Böhlau Verlag, 1995): 29-62.
[13] Ibid. 52: "Ehre klebt nicht an einer Person im - gar nicht bestimmbaren - Verhältnis dieser Merkmale, sondern ist ein recht variables Zeichensystem, in dem fast alle Probleme unter Bezugnahme auf die genannten Merkmale thematisiert werden können."

sexual impropriety targeted the nose, while cutting the hair was a thoroughly widespread practice prevalent in Early Modern Mexico as well as 20th century France.[14]

To use anthropological terminology suggested by Frank Henderson Stewart, status is the horizontal honor – the fundamental requirement to be recognized as a peer, while reputation or esteem is vertical honor, which builds upon it by embodying the shared behavioral expectations.[15] One can even take a step further to argue that horizontal and vertical honor warrants a different kind of respect, as Stephen Darwall did.[16] As per his famous thesis, respect could be divided into recognition respect – a formal acknowledgment that a person belongs to some social group and their wellbeing must be considered taking further action; it is the imperative dictated by recognition of another as a peer, a member of an honor group possessing horizontal honor; and appraisal respect – appreciation for certain talents or high-minded behavior – an expression of vertical honor. Lastly, every honor group harbors contrasting ideals and honor codes which they reward with respect. To draw upon one of the myriad historical examples, the commoner's attempt to look or behave as a noble resulted in spitefully comical reactions.[17]

While Dinges is insistent on refuting treating honor as identity, there is no particularly prescient reason not to reflect on several guises of honor within the boundaries of one research project. I would argue that status, reputation, and code of honor are mutually dependent components of the historical phenomenon of honor. Status outlined the main behavioral expectations of all individuals sharing within it, reputation motivated to acquiesce with them,

[14] For Mexico see Osvaldo F. Pardo, *Honor and Personhood in Early Modern Mexico* (University of Michigan Press, 2015): 186-194; for a recent discussion of various modern ways of shaming, see Ute Frevert, *The Politics of Humiliation. A Modern History* (Oxford: Oxford University Press, 2020).
[15] Frank Henderson Stewart, *Honor* (Chicago: University of Chicago press, 1994).
[16] Stephen L. Darwall, "Two Kinds of Respect," *Ethics* 88.1 (1977): 36–49.
[17] For instance, in the late 13th century verse novella *Meier Helmbrecht* a story of a young commoner finds a beautiful bonnet and decides to imitate a life of a noble knight. Story ends with violent death of the protagonist, which is explained as the expected outcome of his arrogance—leading a life of a noble when he was born peasant.

because social life of disreputable members of the community was significantly more limited, moreover, the danger of disrepute was an essential tool for constant reinforcing behavioral patterns within a social group as well as ingraining them in the next generation. Reputation was made tangible through paying respect and functioned according to established and widely recognizable acts of communication.

Hence, these are the three guises of honor analyzed in the present study—social status, reputation, and honor code. Status creates a social group of peers which share a comparable set of rights and obligations. Peer groups engage in competition for reputation according to the shared behavioral expectations. Living up to the honor code resulted in esteem, communicated through paying respect, while failure was met with disrepute and denigration. This symbolic system of communicating reputation—the language of respect.

Lastly, the fourth methodological distinction is the sense of honor. This is the most internalized form of honor, which is akin to self-respect and integrity. Essentially, this sense of honor is the aspect which personal insults target and which most suffer from shame; it motivates bloodthirsty responses to defamation and explains the seemingly illogical valuation of individual honor over life. Sense of honor is influenced by all the aforementioned aspects—status, reputation, code of honor—and entails its moral dimension—principles and core beliefs over what it means to lead an honorable life. This part of honor was most personal, therefore it has been considered a trigger for emotional responses, be it anger, shame, or pride; additionally, honor itself was conceptualized as an emotion lost with the transition towards more egalitarian social settings,[18] however, it rather seems that it has survived and is only overshadowed by its subsets, including

[18] Ute Frevert, *Emotions in History—Lost and Found* (Budapest: Central European University Press, 2011).

duty, loyalty, perseverance, and pride. Analysis of sense of honor requires sources that demonstrate not only understanding of prevalent honor codes but also conscious reflection over them. Needless to say, such sources are extremely scarce, therefore widescale reflection over this side of honor was outside the grasp of many scholars and will not be intentionally pursued in this study, albeit some sources speak of it. Sense of honor as a unit of analysis is best approached through a microhistorical lens, once the broad strokes of status, reputation, and honor code are well established and serve as a reliable interpretative template for further contextualization.

The opposites of honor

With the methodological distinctions between status, reputation, honor code, and language of honor in place, we can take another step further. Arthur Schopenhauer's acute distinction further illustrates the difference between honor as status and reputation:

> *"Honor is not the opinion people have of particular qualities which a man happens to possess exclusively: it is rather the opinion they have of qualities which a man may be expected to exhibit, and to which he should not prove false. Honor, therefore, means that a man is not exceptional; fame, that he is. Fame is something which must be won; honor, only something that must not be lost. The absence of fame is obscurity … but the loss of honor is shame."*[19]

His observation reveals extreme ends of the human worth spectrum: honor-shame and since he speaks of obscurity without a negative connotation, one would not be wrong to presume that the true opposite of fame is infamy. The counter concept of horizontal honor (status) is shame, whereas that of vertical honor (reputation) is infamy. It is these counter concepts that make manipulation of human worth such a handy instrument to regulate social relations.

[19] Arthur Schopenhauer. *Parerga und Paralipomena: Short Philosophical Essays Volume 2*, ed. E. F. J. Payne (Oxford: Oxford University Press, 1974): 365.

To begin with horizontal honor, its existential importance lies not with its improvement, but rather its maintenance. Status locates an individual within the larger social system of any polity and its loss could well be treated as civic death. As Sybille Hofer writes in her entry on the loss of honor (*ehrverlust*),

> *"Honor in the Early Modern period had legal significance not only in the form of criminal protection against injuries to one's honor, but also by virtue of the fact that the legal status of an individual was associated with his respectability. Intact general civic honor was regarded as a precondition for full legal capacity, while the loss of honor led to limitations on the exercise of one's rights."*[20]

Hence, loss of status meant detraction of any legal rights and protection an individual might have carried, along with the recognition respect that horizontal honor warranted. Law had a way of regulating it through the legal institute of *infamia iuris.* It originated in Roman law and was later adapted to cannon law.[21] Once adopted in secular Early Modern legal codes, *infamia iuris* often took two forms: first entailed loss of public rights, such as passive and active rights to elect as well as the privation of offices, whereas the second pronounced the convict an outlaw. Such people were considered dishonored and in extreme examples, their status as humans could be questioned or revoked.[22] Naturally, this is an extreme punishment that could have only been pronounced by the sovereign and highest legal authorities.

Status regulated the ideas about the human worth on the macro level. It becomes most evident when the whole hierarchical social order of a polity is considered and is regulated by the sovereign, who possesses the authority to decide over status. While status reflected on the grand

[20] Sibylle Hofer, "Honor, loss of," in: Graeme Dunphy, Andrew Gow, eds., *Encyclopedia of Early Modern History Online*. Consulted online on 22 February 2021. URL: http://dx.doi.org/10.1163/2352-0272_emho_COM_018584
[21] Abel Hendy Jones Greenidge, *Infamia: Its place in Roman public and private law* (Oxford: Clarendon Press, 1894).
[22] This phenomenon is further explored in Chapter 2, some of the other notable works in this topic include Giorgio Agamben, *Homo sacer* (Torino: Einaudi, 1995) and Mary R. Gerstein, "Germanic Warg: The Outlaw as Werwolf," in Gerald James Larson, ed., *Myth in Indo-European Antiquity* (Berkeley: University of California Press, 1974): 131–156.

scheme of things, reputation micromanaged social relations among equals. The reputation is built upon the status and facilitated following the code of honor by awarding or detracting respect. Acts of exaltation and denigration were mutually dependent, as only by introducing and enforcing such differences could they attain social power. Indeed, as Georg Simmel noted, this honor code could be construed as a system of norms in competition to law.[23] However, this was equally evident in the 16th century, as Michel de Montaigne writes:

> *"there are two sets of laws, the law of honour and the law of justice which are strongly opposed in many matters (the first condemns an unavenged accusation of lying: the other condemns the revenge; a gentleman who puts up with an insult is, by the laws of arms, stripped of his rank and nobility: one who avenges it incurs capital punishment; if he goes to law to redress an offence against his honour, he is dishonoured; if he acts independently he is chastised and punished by the Law)"*[24]

The relationship between status and reputation within many of Early Modern European countries was quite tangible. Reputation played a role in awarding offices and within legal settings. High esteem could result in ennoblement by the office attained or exceptional service, thus providing a path for the commoners to become part of the privileged estate. It also worked the other way around, as infamy due to leading an inappropriate lifestyle could result in curtailing public rights or even privation of noble status.

Legal codes as well as various social groups relied on reputation for social control. 18th-century legal thinker Cesare Beccaria (1738-1794) succinctly explains Early Modern logic for legal defamation:

> *"Those injuries, which affect the honour, that is that just portion of esteem which every citizen has a right to expect from others, should be punished with infamy. Infamy is a mark of public disapprobation, which deprives the object of all consideration in the eyes if his fellow citizens, of the*

[23] Georg Simmel, *Gesammelte Werke Bd. 2. Soziologie. Untersuchungen über die Formen der Vergesellschaftung*, (Berlin: Dunker und Humbolt, 1983): 403.
[24] Michel de Montaigne, *The Complete Essays*, 132-3. (23. On habit: and on never easily changing a traditional law).

> *confidence of his country, and of that fraternity which exists between members of the same society."*[25]

Early Modern law protected people against unwarranted reputational damage but also inflicted it to achieve a variety of ends. Pillory is the perhaps best-known example of such debasing punishments, whose effects often linger much longer than the duration of the punishment itself. Such punishments also enlisted the participation of observers, who often threw various objects, spat, and dirtied the condemned to materialize signs of their disrespect.

The phenomenon of informal defamation is regarded as *infamia facti* and was outside the bounds of law, rather it was exacted by peers or members of a social group according to the principles of their honor code. The effects of disrepute in the Early Modern times are arguably best researched in the Holy Roman Empire. Several studies explore the status of executioners, skinners, and other representatives of what was deemed "dishonorable professions."[26] Although, these people shared in the rights of their estate, disrepute of their professions led to them being largely excluded from their honor group of their peers. A gleaming example of this cultural logic is the fact that the children of executioners had little choice but to marry within the boundaries of this profession thus forming professional dynasties, despite formally sharing equal status with other representatives of the urban estate.

Every analysis of honor punishments must make a clear separation between the sanctions of honor as status and those attacking reputation. Punishments targeting status may be described as existentially important as they are often irrevocable and concern the individual and their progeny. While reputation sanctions hold the potential of being just as damaging, as the lives of

[25] Beccaria, *Crimes and Punishments*, 89.
[26] Kathy Stuart. *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany*. Cambridge Studies in Early Modern History. (Cambridge: Cambridge University Press, 2000). Jutta Nowosadtko, *Scharfrichter und Abdecker: Der Alltag zweier "unehrlicher Berufe" in der frühen Neuzeit* (Paderborn: Ferdinand Schöningh, 1994).

hangmen illustrate, their effect is more fleeting. The legal and informal shame sanctions are mutually dependent and often intertwine in interesting ways. Gerd Schwerhoff has shown their points of convergence when analyzing dishonoring punishments in Early Modern German towns.[27] He argued that shaming punishments ascribed for transgressing boundaries of moral conduct were taken up from pre-existing local traditions developed in close-knit societies. Most pertinent examples of such sanctions are pillory, various types of processions, physical marking, and stone-bearing. These were codified but drew heavily on the popular rituals and symbols of shaming, most likely because early judicial systems could benefit more from coopting existing symbolic forms of shaming rather than trying to enforce new ones.[28]

The function of both, sanctions of honor and inflicting of shame were to introduce, reinforce, or police boundaries. Nevertheless, as compared to other types of punishment – fines or imprisonment in particular – status and reputation sanctions were not that common. Beccaria already saw their limits, claiming that if used profusely these sanctions deplete their efficacy. Moreover, since publicity was their defining aspect, the outcome of reputation sanctions is not always foreseeable. It posed dangers of crowd disapproving of the sanction or the denounced persuading the onlookers of innocence of the victim. Arguably the most famous example of such punishment subversion took place in London in 1703, when Daniel Defoe was pilloried for seditious libel. The usually cooperative and vengeful crowd refrained from denigration and persuaded by his verse threw flowers at his legs instead.[29]

[27] Gerd Schwerhoff, "Verordnete Schande? Spätmittelalterliche und frühneuzeitliche Ehrenstrafen zwischen Rechtsakt und sozialer Sanktion" in, Andreas Blauert, Gerd Schwerhoff, eds., *Mit den Waffen der Justiz. Zur Kriminalitätsgeschichte des Spätmittelalters und der Frühen Neuzeit Blauert* (Fischer: Frankfurt am Main, 1993): 158-188.
[28] Esther Cohen, *The Crossroads of Justice: Law and Culture in Late Medieval France* (Brill: Leiden, 1992). Also see Anton Blok, "The Symbolic Vocabulary of Public Executions," in June Starr, Jane F. Collier, eds., *History and Power in the Study of Law. New Directions in Legal Anthropology* (Ithaca: Cornell University Press, 1989): 31–54.
[29] John Robert Moore, *Defoe in the Pillory and Other Studies* (Bloomington: Indiana University publications, 1939).

The subject of study

Honor is a highly contextual phenomenon, therefore studies addressing it from a detached universal perspective risk overemphasizing the author's beliefs. For this reason, the present study focuses on the nobility of the Grand Duchy of Lithuania interpreted as a legal community bound by honor. But how reasonable is it really to talk of nobility as a single community? The diversity of Grand Duchys' social world was astounding. It was home to many languages, ethnic groups, and faiths. Arian Ruthenians, migrant Catholic Poles, Karaim Tatars, Calvinist Lithuanian magnates, and Orthodox Ukrainian Cossacks coexisted crossed paths within the polity. What could unite such a disparate group of actors, and could they share a distinct understanding of honor? Despite their differences, these groups shared the status of nobility and the privileges of the noble estate. Accumulated over the 15th and early 16th centuries, royal privileges outlined the nobility as a corporation and gave way to the development of shared estate conscience among them. The most important tenets of this elevated status consisted in land ownership, economic concessions, political rights, and personal inviolability, in exchange for military service. This legal standing was further cemented and detailed in Lithuanian law, throughout the three editions of Lithuanian Statutes (1529, 1566, 1588). In other words, these people were divided by faith, ethnicity, and language but shared in status, and, arguably, much more important identity trait in Early Modern Europe.

This noble estate has been evolving since the first royal privilege instituted this community of landholders. Research on GDL's nobility spans several centuries and has been an important topic for all the successor states. The historiography in this field is immense and therefore the present overview must content itself with the most important entries of recent scholarship. Noble estate, legally instituted in 1387 reached maturity in 1566 and formed one formally equal estate

which reached its full power in 1588 when their rights were confirmed and extended again. King Jogaila offered rights to personal freedom, land ownership, and people working it, the right to be elected to office, in exchange for military service in 1387. This was limited to those willing to accept the Roman creed. Already in 1413 nobles were granted political rights and equal rights as those of Polish szlachta. In 1434 the right to freely dispose of their land was increased and *neminem captivabimus nisi iure victum* privilege ensured further personal legal protection extended to Catholic and Orthodox nobles. In a landmark 1447 privilege, King Casimir increased noble's rights over their peasants by increasing noble's judicial authority over them and abolishing peasant obligations to the royal court. This privilege also introduced the clause that only Grand Duchy's natives could be elected officers, a clause that reached the Lithuanian Statutes and was a point of contention among two constituting political nations of the Polish-Lithuanian Republic. King Alexander's privilege of 1492 strengthened the political rights of the noble elite – the Council of Lords, while in 1505 he introduced the *nihil novi* act, prohibiting taking any political decision affecting the nobility without the agreement of nobles. In 1557 King Sigismund Augustus revoked peasants' rights to their land and person, noble's power in their land was further extended. A few years later, the principle of internal legal parity was introduced among nobles and magnates, abolishing exclusive privileges the elite enjoyed. Lastly, the Third Lithuanian Statute extended noble's rights once again, granting them tax, legal, and administrative immunity and the right to participate in the legislative process through the joint Polish-Lithuanian Sejm.

While economic concessions were extremely important and formed the backbone of the noble estate's influence as well as the military power of the Grand Duchy, tracing the growth of their political power is more important for the present purposes. The process of growing political influence among magnates gave way to development of political nation that had Grand Duchy's

interest in mind first and foremost. Under the conditions of personal and later federal union, the magnates were hailed as *patres patrii* and important political actors within the Grand Duchy. For most of its early history, only the very elite of the Grand Duchy was charged with political responsibilities. The Grand Duke was always surrounded by a group of confidants who enforced and shaped his power over the land. For this reason, the history of Christian Lithuania should be addressed through the lens of cooperation between magnates and the Grand Duke. Magnates were the top layer of the nobility, whose legal distinction grew since the mid-15th century and was abolished in 1564, but their dominance over the sociopolitical landscape lasted throughout until the final partition of the polity in 1795. As a social group, magnates were not well defined; their numbers included but were not limited to, the highest officials of the Grand Duchy's administrative apparatus, hierarchs of the Catholic Church. Another source of their influence was lineage, as they often were descendants of regional princes, some boasted ties with the ruling Jagiellonian dynasty, others traced their lineage back to the pagan aristocracy.

According to Rimvydas Petrauskas, 15th-century magnates functioned as heads of clans and were closely connected with the lesser nobles they represented; hence their political power was dependent on local communities of landed nobles.[30] They drew their power from these networks and successful political maneuvering, thus accumulating influence and setting themselves further apart from other nobles. The fortunes and dramatic downfalls of the magnate clans were often decided by their ability to successfully navigate the complicated political landscape of the Grand Duchy. Magnate coalition successfully orchestrated dethroning Grand Duke Švitrigaila (1370-1452), who objected to closer union with Poland and killing his successor Sigismund Kęstutaitis (1365-1440), whose politics leaned towards an alliance with middling

[30] Rimvydas Petrauskas, *Lietuvos diduomenė XIV a. pabaigoje–XV a.: sudėtis–struktūra–valdžia* (Vilnius: Aidai, 2003).

nobility and thus threatened magnate interests. However, an attempt at the life of Sigismund's successor, King Casimir Jagiellon (1427-1492) in 1481 shows the stakes of a failed ploy: princes Ivan Holshansky and Mikhailo Olelkovich were decapitated.[31] Magnate power was cemented and institutionalized by the formation of the Council of Lords—a permanent senate type of collegial institution that reigned over the Grand Duchy while the ruler resided in the Kingdom of Poland. Its power grew since the mid-15th century but accelerated since 1492 during the reign of King Alexander Jagiellon (1461-1506).

The growing political power of magnates led several scholars to apply the concept of civic nation in the context of the Grand Duchy of Lithuania, inquiring whether it is possible to talk of a community bound by loyalty to the Grand Duchy and its interests. Most recently, historian Jūratė Kiaupienė has summarized and fine-tuned this analytical category.[32] Her insights and topical analysis of previous work had yielded a definition of the civic nation as a community of princes, magnates, politically active gentry, and humanists invested in the fate of the Grand Duchy and actively involved in its politics. It was a top-down creation; therefore, it began as an attempt of the Grand Duke to rally supporters, and over time this effort created a community of magnates whose wealth and status was invested in the historical success of the Grand Duchy's state. The importance of humanists and the middling gentry grew more significantly since the mid-16th century, whereas during its early year's magnates referred to the middling nobles as their lesser brothers who participate in diets only to hear out magnate's decisions.[33] Although this civic nation grew over

[31] Rowell, S. C. "Bears and traitors, or: Political tensions in the Grand Duchy, ca. 1440–1481," *Lithuanian Historical Studies* 2 (1997): 28–55.
[32] Jūratė Kiaupienė. *Tarp 26omo sir Bizantijos: Lietuvos Didžiosios Kunigaikštystės politinės kultūros aukso amžius: XV a. antroji pusė – XVII a. pirmoji pusė* (Vilnius: Lietuvos istorijos institutas, 2016): 72. This work was translated and published in English, see Ibid. *Between Rome and Byzantium: The Golden Age of the Grand Duchy of Lithuania's Political Culture. Second half of the fifteenth century to first half of the seventeenth century*, trans. Jayde Will (Boston: Academic Studies Press, 2020).
[33] For a full examination of this sentiment, see Chapter 1., especially *Gasztold's retort*.

time, its size was never very broad. This was neither a corporation bound by ethnic or religious traits, nor did it concise of the whole nobility. In fact, it was only a meager part of the population actively engaged in shaping Grand Duchy's political culture. However, the strength of the political nation was never in numbers, it was an elite movement.

The civic nation was the most active part of the noble estate, and the results of its actions were most visible in the landmark political and cultural achievements. The history of the elite yields perhaps the most dramatic and high-stake narrative of Grand Duchy's history, stories of war, treason, defection as well as scholarship, diplomacy, patronage. This façade of Grand Duchy's history is fascinating, yet the scope of historical reality was so much broader than failing to reflect upon the life of their less illustrious contemporaries shackles historical narrative in being distant and unrelatable to a modern reader. The lives of Renaissance magnates are beyond the pale of contemporary experience even more because magnates led exceptional lives in their days, therefore a reflection on the broader group of the privileged estate is an important step to take towards a more representative model of narration. Lives of middling to lesser nobles left few sources and even fewer of those reflect on honor, however, this study aims to consider ways less influential members of the legal community of nobles protected their status and reputation.

Literature review

Select scholarship on honor

"*Even for standing armies and military service, the machine guns and artillery of World War I opened a mass grave for honor,*" writes Alexander Welsh in his extensive literary account of the idea of honor.[34] Honor was one of the factors that led to the harrowing experiences of war

[34] Alexander Welsh, *What is Honor? A Question of Moral Imperatives* (New Haven: Yale University Press, 2008): x.

and great disillusionment followed. War was motivated by injured honor, therefore the period of reconstruction was based on a different mode of human worth–dignity, thus relegating honor to the past. The idea that honor is essentially un-modern is best articulated by sociologist Peter Berger, who treats it as an atavistic remnant of feudal social relations that was completely supplanted by dignity.[35]

Nevertheless, honor had undergone several surges of scholarly interest in the last century. Significant sociological contributions reach back to the interwar period, among which Hans Speier's work deserves mention.[36] Anthropologists were among the first to theorize honor, which was instrumental in explaining violence and social dynamics among the "primitive" peoples they studied. Julian Pitt-Rivers summarized the findings of anthropological research on honor up to the 1960s, thus establishing himself among the foremost authorities in the field.[37] Pierre Bourdieu also weighed in on the topic, interpreting honor as means to reproduce the social world throughout the generational change.[38] Later yet, Stewart F. Henderson wrote a seminal anthropological inquiry on honor building upon the ideas of his peers and this study remains among the most concise and useful interpretations thus far. Therefore, it shaped the present study in its call for interpreting honor as a right and the methodological approach of dividing it into vertical and horizontal parts.[39] James Whitman's comparative historical analysis of insult law in Europe and the USA remains among the most important legal interpretations of honor and dignity to date.[40] His hypothesis of

[35] Berger, "On the Obsolescence of the Concept of Honor," 339.
[36] Hans Speier, "Honor and social structure," *Social Research* 2.1 (1935): 74-97.
[37] Julian Pitt-Rivers. "Honour and Social Status," in Jean G. Peristiany, ed., *Honour and shame: the values of Mediterranean society* (Chicago: University of Chicago Press, 1966): 19-77.
[38] Pierre Bourdieu, "The sense of honour" in Pierre Bourdieu, *Algeria 1960: The Disenchantment of the World, The Sense of Honour, The Kabyle House or The World Reversed* trans. Richard Nice (New York: Cambridge University Press, 1979): 95-132. and ibid. *Outline of the theory of Practice*. Trans. Richard Nice. (Cambridge: Cambridge University Press, 1986): 10-16.
[39] Henderson Stewart, *Honor*, 54-63.
[40] James Q. Whitman, "Enforcing Civility and Respect: Three Societies," *Yale Law Journal* 109 (2000): 1279-1398.

honor being recognized as a tangible good in Europe due to its feudal and hierarchical past is persuasive within Grand Duchy's legal framework.

Historians' interest in honor fluctuated and often built on the findings of anthropologists or the writings of past philosophers and poets. Among the earlier analyses, one must mention the works of Mervyn James, whose multifaceted analysis showed the usefulness of honor as an analytic category in the English context. He traced the shift of warrior nobility into Early Modern service nobility through the change of what kind of service was deemed honorable.[41] This change also carried implications over the honor code—honorable responses to actions and the lineage-based nobility's propriety for violent responses was supplanted with service-nobility's restraint and virtue. The suggested shift from violent honor towards restraint virtue had sparked the interest of other historians, notably Markku Peltonen, who analyzed the intellectual history of dueling to argue that transition towards virtue resulted in the first civilized society.[42] James' conclusions had been under scrutiny since the publication of said work, calling into question his partial disregard for aspects of gender and class, but one of the foremost criticism being changes in understanding honor did not necessarily completely replace the previous notions, instead, they coexisted and provided another way for individuals to present their actions as honorable, whether it was a violent response or virtuous restraint.[43]

Historical interest in Early Modern honor peaked in the 1990s when its confluences with topics of violence and gender truly flourished. For instance, *Transactions of the Royal Historical*

[41] Mervyn James, "English politics and the concept of honour, 1485-1642," in Mervyn James, *Society, Politics and Culture. Studies in Early Modern England* (Oxford: Past and Present Society, 1978): 308-415.
[42] Markku Peltonen, *The Duel in Early Modern England: Civility, Politeness and Honour* (Ideas in Context). (Cambridge: Cambridge University Press, 2003).
[43] Cynthia Herrup, "'To Pluck Bright Honour from the Pale-Faced Moon': Gender and Honour in the Castlehaven Story," *Transactions of the Royal Historical Society* 6 (1996): 137-159.

Society devoted one volume to the exploration of honor and reputation in Early Modern England, covering the extensive manifestations of honor from funeral monuments to insults.[44] However, its popularity has led to such a dizzying array of definitions that the very usefulness of honor as an analytic category was called into question due to its contradictory nature.[45] The most recent contribution to the field is Courtney Thomas' *If I lose my honour, I lose myself* (which also includes an up-to-date historiographical discussion of the topic) argues to the contrary of said opinion.[46] Thomas' work takes up these challenges and navigates successfully among the many of the pitfalls indicated by her predecessors.

Scholars working on continental Europe also took a keen interest in varieties of (dis)honorable violence and the importance of honor in constructing gendered identities. Robert A. Nye studied the nexus of masculinity and honor in modern France.[47] Masculinity and violence were closely intertwined, aspects of which had been explored in a volume of collected essays edited by Pieter Spierenburg.[48] Ute Frevert has devoted much attention to studying German practices of ritual violence—dueling, before turning to interpreting honor as an emotion.[49] Scott Taylor analyzed the language of honor as a rhetorical strategy in 17th century Spain.[50] Natalie Zemon Davis explored the connection of honor and ritual from the opposite side by studying forms

[44] "Honour and Reputation in Early-Modern England," *Transactions of the Royal Historical Society* 6 (1996): 136-248.
[45] Ingrid Tague, Helen Berry, "Summary of Closing Plenary Discussion on 'Honour and Reputation in Early Modern England,'" *Transactions of the Royal Historical Society* 6 (1996): 247–48.
[46] Courtney Thomas, *If I Lose my Honour I lose Myself. Honour among the Early Modern English Elite* (Toronto: University of Toronto Press, 2017).
[47] Robert A. Nye, *Masculinity and Male Codes of Honor in Modern France* (New York: Oxford University Press, 1993).
[48] Pieter Spierenburg, ed., *Men and Violence: Gender, Honor, and Rituals in Modern Europe and America* (Columbus: Ohio State University Press, 1998).
[49] Ute Frevert, *Men of Honour: A Social and Cultural History of the Duel* (Cambridge, Mass.: Polity Press, 1995).
[50] Scott K. Taylor, *Honor and Violence in Golden Age Spain* (New Haven, London: Yale University Press, 2008).

of shaming rituals as means of social control in Early Modern France.[51] Many works of Gerd Schwerhoff were devoted to studying the implications of honor to the social world and state politics.[52] Interest in the topic of honor in German history resulted in several volumes of collected essays.[53] More recently, historians turned to analyzing the importance of honor in its economic and familial aspects.[54] Overall, honor encompasses a broad specter of topics, which only confirms the observation of Keith Thomas that any normal existence in Early Modern England was built on reputation.[55] This rings just as much true in the context of the Grand Duchy of Lithuania.

Nevertheless, not much of this interest is reflected in the studies of honor East of Elbe. A notable exception is the work of Nancy Shields Kollmann, whose analysis of honor in Muscovite Russia is rightly considered a seminal contribution to the field.[56] One particularly important observation is that the society of Early Modern Muscovy was more inclined to action than reflection and this fits the context of the Grand Duchy as well. There are relatively few intellectual and personal reflections on honor, however, its legal importance is reflected in normative law and its practice as well. Remnants of the world these societies created and inhabited are mostly

[51] Natalie Zemon-Davis, "The Reasons of Misrule: Youth Groups and Charivaris in Sixteenth-century France," *Past & Present* 50 (1971): 41-75.
[52] For an overview of his ideas see Gerd Schwerhoff, "Early Modern Violence and the Honour Code: from Social Integration to Social Distinction?" *Crime, Histoire & Sociétés/Crime, History & Societies* 17.2 (2013): 27-46.
[53] Klaus Schreiner, Gerd Schwerhoff, eds., *Verletzte Ehre. Ehrkonflikte in Gesellschaften des Mittelalters und der frühen Neuzeit* (Köln: Böhlau Verlag, 1995). Sibylle Backmann, Hans-Jörg Künast, Sabine Ullmann, B. Ann Tlusty, eds., *Ehrkonzepte in der Frühen Neuzeit. Identitäten und Abgrenzungen* (Berlin: Akademie Verlag, 1998).
[54] For honor in family relations, see Valentina Cesco "Female Abduction, Family Honor, and Women's Agency in Early Modern Venetian Istria," *Journal of Early Modern History* 15. 4 (2011): 349-366; Courtney Thomas, "'The Honour & Credite of the Whole House' Family Unity and Honour in Early Modern England," *Cultural and Social History* 10. 3 (2013): 329-345. For convergence of honor and capital, see Scott Taylor, "Credit, Debt, and Honor in Castile, 1600-1650," *Journal of Early Modern History* 7. 1 (2003): 8-27; Teresa Phipps, **"**Misbehaving Women: Trespass and Honor in Late Medieval English Towns," *Historical Reflections/Réflexions Historiques* 43. 1 (2017): 62–76. Craig Muldrew, *The Economy of Obligation: The Culture of Credit and Social Relations in Early Modern England* (London: Palgrave Macmillan, 1998), chap. 6.
[55] Keith Thomas, *The Ends of Life: Roads to Fulfilment in Early Modern England*, (Oxford: Oxford University Press, 2009): 177.
[56] Nancy Shields Kollmann, *By Honor Bound: State and Society in Early Modern Russia*. (Ithaca: Cornell University Press, 1999).

reflected in the documents that recorded action, such as court cases. Therefore, the most fitting way to inquire about the importance of honor in said societies is through analysis of litigation records, a method that was also popular in Western European scholarship. This strategy was employed in a very significant study by Ukrainian historian Natalia Starchenko, the author of *Honour, Blood, and Rhetoric: Conflicts in the Volhynian Gentry Milieu. Second Half of the 16th through the Early 17th Century*.[57] This monograph is the result of scholar's decades' long interest in the community of nobles of Volhynia and aims to reexamine the problem of seemingly senseless violence and social interaction based on outright domination that pervaded the established historiographical narrative on Volhynia in particular but became a commonplace trope throughout the studies of Grand Duchy.[58] Starchenko tackles this century-old trope and shows that senses of honor and justice were responsible for much of the bloodshed but those same impulses regulated wellbeing and coexistence within the community of landed nobles. This study of micromanagement of social relations falls well within the more recent historiographical attempts to show honor as an inhibitor, not only a facilitator of violence, which also interprets it as a certain rhetorical strategy to negotiate other aspects of individual identity.

Interest in honor has been steadily growing during the following decades, but while historians turned to other topics, honor grew as a topic of interest among moral and political philosophers. Most recent titles, such as Anthony Appiah's *The Honor Code,* Sharon Krause's *Liberalism with Honor*, William Lad Sessions' *Honor for Us,* Tamler Sommers' *Why Honor Matters?* not only show that honor is not obsolete but aim to rehabilitate its usefulness in the

[57] Наталя Старченко, *Честь, кров і риторика. Конфлікт у шляхетському середовищі Волині (друга половина XVI — XVII століття)* (Київ: Laurus, 2014).
[58] The historiographical influence is credited most often to one work, namely Władysław Łoziński, *Prawem i lewem: obyczaje na Czerwonej Rusi w pierwszej połowie XVII wieku* (Lwów: Nakł. Księgarni H. Altenberga, 1904).

modern world.[59] Since honor still carries a negative connotation, these authors aim to reform and repurpose honor for the modern world. Appiah aims to show the way modern societies could fight moral problems of the present through changing its honor code and deeming them shameful, Anthony Cunningham aims to "save what is worth saving, to purge objectionable features, and to flesh out the picture in a way that does justice to what we might be at our best, individually and as a people."[60] Overall, it seems Laurie Johnson Bagby and Dan Demetriou, editors of a collected volume *Honor in the Modern World: Interdisciplinary perspectives*, were right in pronouncing the return of honor after a century-long hiatus.[61] However, it is quite unclear as to what shape will honor assume after many daring definitions and modernizing attempts that (with several notable exceptions) often operate on a relatively vague notion of honor as a historical phenomenon. Therefore, the said surge in abstract approximations of honor would do well to seek stable ground in historical analyses of honor's past.

Historiography: main topics

First trope: idea

Reflections on honor have been a part of social and political thought at least since antiquity, therefore delving into its changing definitions could be a research project of its own. The closest attempt at systematically outlining ideas around honor as respect is to be found in an entry on

[59] Kwame Anthony Appiah, *The Honor Code: How Moral Revolutions Happen* (New York: WW Norton & Company, 2010), Sharon R. Krause, *Liberalism with honor* (Cambridge, MA: Harvard University Press, 2002); William Lad Sessions, *Honor for Us: A Philosophical Analysis, Interpretation and Defense* (New York: Bloomsbury Academic, 2010.); Tamler Sommers, *Why honor matters* (New York: Basic Books, 2018). For the most recent publication on honor, see Haig Patapan, *A Dangerous Passion: Leadership and the Question of Honor* (Albany, New York: SUNY Press, 2021).
[60] Anthony Cunningham, *Modern Honor. A Philosophical Defense* (New York: Routledge, 2013): 69.
[61] Laurie M. Johnson, Dan Demetriou, eds., *Honor in the Modern World: Interdisciplinary Perspectives* (Lanham, MD: Lexington Books, 2016).

honor in the *Geschichtliche Grundbegriffe* authored by Friedrich Zunkel.[62] Alexander Welsh's *What is honor?* traces the philosophical treatment of honor from Homer to Adam Smith and contends the idea that modernity had overcome honor by supplanting it with dignity.[63] More recently, Peter Olsthoorn provided a topical analysis of its changing importance.[64] Laurie M. Bagby studied the relevance and redescription of honor in the core political texts of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau.[65] Most recent and perhaps the most pertinent account of honor in political texts of Early Modern authors is laid out by Antong Liu.[66] His take on Hobbes, Mandeville, Montesquieu, and Rousseau shows the pitfalls of essentialist thinking about honor. The elusiveness of the concept accommodates a variety of meanings and allows for conflicting fundamental ideas about it, therefore any ahistorical formulation of honor risks making it redundant by multiplying its conflicting interpretations. For this reason, Liu concludes, contemporary scholars of honor would do well by studying its historical formulations instead of producing novel coherent theories of honor which are nevertheless inconsistent with other ideas in the field.

However, these texts consider honor as reputation and reflect on ideas of the 17-18th century Western Europe. Ideals on honor in the Renaissance are not that well analyzed in comparison. Among these, one could single out a study of Curtis Brown Wattson on honor in Shakespeare's dramaturgy.[67] Welsh's study, which some hail as the foremost historical account of

[62] Friedrich Zunkel, "Ehre, Reputation," in Otto Brunner, Werner Conze, Reinhart Koselleck, eds., *Geschichtliche Grundbegriffe: Historisches Lexikon zur Politisch-Sozialen Sprache in Deutschland. Band 2, E-G*. (Stuttgart: E. Klett-f. G. Cotta, 1972): 1-63.
[63] Alexander Welsh, *What is Honor? A Question of Moral Imperatives* (New Haven: Yale University Press, 2008).
[64] Peter Olsthoorn. *Honor in Political and Moral Philosophy* (Albany, New York: Suny Press, 2015).
[65] Laurie M. Bagby, *Thomas Hobbes: Turning Point for Honor* (Lanham, Md.: Lexington books, 2009); Ibid., *Locke and Rousseau: Two Englightenment Responses of Honor* (Lanham, Md.: Lexington books, 2012).
[66] Antong Liu, "The Tragedy of Honor in Early Modern Political Thought: Hobbes, Mandeville, Montesquieu, and Rousseau," *History of European Ideas* 47. 8 (2021): 1243-1261.
[67] Curtis Brown Wattson, *Shakespeare and the Renaissance Concept of Honor* (Princeton, NJ: Princeton University Press, 2016). Originally published in 1960.

this idea to date, also limits its account of the Renaissance to writings of Shakespeare. Among the best known among the playwright's takes on honor were Falstaff's words in *Henry IV* (Part I, Act V, Scene 1):

> "*PRINCE HENRY*
>
> *Why, thou owest God a death.*
>
> *Exit PRINCE HENRY*
>
> *FALSTAFF*
>
> *'Tis not due yet; I would be loath to pay him before his day. What need I be so forward with him that calls not on me? Well, 'tis no matter; honour pricks me on. Yea, but how if honour prick me off when I come on? How then? Can honour set to a leg? no: or an arm? no: or take away the grief of a wound? no. Honour hath no skill in surgery, then? no. What is honour? a word. What is in that word honour? What is that honour? air. A trim reckoning! Who hath it? he that died o' Wednesday. Doth he feel it? no. Doth he hear it? no. 'Tis insensible, then. Yea, to the dead. But will it not live with the living? no. Why? detraction will not suffer it. Therefore I'll none of it. Honour is a mere scutcheon: and so ends my catechism*."[68]

Having in mind that the voice of a character is not necessarily that of the author, we still see that Falstaff's disillusioned soliloquy portrays honor as a mere illusion without actual merit to its bearer, a shadow play of opinions held in the fickle hearts of men. This resonates with an ancient stoic critique of reputation as an external good upon which individual will has little influence and therefore should not bother considering at length. Men of letters of the late 16th century voiced these concerns increasingly often, for instance, Michel de Montaigne decried glory as a mere word and preferred clear conscience above exalted honor.[69] Perhaps most notably these outdated notions of feudal honor and inability to conform to changing times were made an object of ridicule and tragedy in Cervantes' *Don Quixote* (first part published in 1605, second in 1615).

[68] William Shakespeare, *Henry IV, Part One*, ed. David Bevington (Oxford: Oxford University Press, 1987): 266-267.
[69] Michel de Montaige, "Of Glory," William Carew Hazlett, ed., *Essays of Montaigne, vol. 6*, trans. Charles Cotton, (New York: Edwin C. Hill, 1910). URL: https://oll.libertyfund.org/title/hazlett-essays-of-montaigne-vol-6

This disregard for honor is partly connected to the resurgence of stoic philosophy and perception of honor underwent a change in the 16th century. Haig Patapan indicates that the main intellectual push to rethink honor came from Machiavelli and took the form of considerations over the importance of glory.[70] Patapan argues that honor is essentially the desire to be praised and avoidance of being ashamed.[71] He builds on that by claiming that there are two faces to honor, namely, one that seeks out honor through widely esteemed virtuous actions, and another, which seeks out exceptional glory by being willing to contravene established expectations. The willingness of glory-seekers to achieve esteem through dishonorable means was often held to be a political liability, but Machiavelli's account reclaimed it as a legitimate end of republican politics. He argued that glory holds the power of directing the actions of its seekers, since glory must be paid and therefore is best achieved through actions that further the common good.[72] Bernard Mandeville further elaborated this interpretation of honor in his *Fable of the Bees*, proclaiming public benefits of private vices.[73] However, something that lies perhaps at the sidelines of Patapan's discussion is an earlier one, prevalent most significantly among quattrocento Italian humanists, over true nobility. Erudite and intricate discussions over what warrants a claim to exalted social status – individual virtue or esteemed lineage – was tied directly with the process of upward social mobility through the accumulation of capital or distinct scholarship, which in turn challenged entrenched social hierarchies. Machiavelli allied with the proponents of individual virtue before delving into the question of people motivated by glory.

Little to none has been written on the changing idea of honor in the 16th century Grand Duchy of Lithuania. An educated guess over the most influential thinkers that shaped its elite

[70] Haig Patapan, "The Politics of Modern Honor," *Contemporary Political Theory* 17 (2018): 459–477.
[71] Ibid., 462.
[72] Ibid., 465.
[73] Bernard Mandeville, *The Fable of the Bees; or Private Vices Public Benefits* (London: T. Ostell Press, 1806).

culture, Aristotle and Cicero would be the foremost contenders. The classic Aristotelian formulation treats honor as a reward for virtue. Describing the passions of a "great-souled" person, the golden middle between the vain and small-souled people, Aristotle says:

> *"In fact, it is obvious even without argument that great-souled people are concerned with honour; for it is honour most of all that they think themselves worthy of, and this accords with their real worth* […] *Again, greatness in every virtue would seem to be a characteristic of a great-souled person. It would be quite unfitting for him to run away with his arms swinging, or to commit an injustice. For what could prompt someone like this, to whom nothing is great, to act disgracefully? If one considers particular cases, it becomes obvious that the notion of a great-souled person who is not good is quite ridiculous. Nor would he be worthy of honour if he were bad, since honour is the prize of virtue, and it is conferred on those who are good. Greatness of soul, then, seems to be a sort of crown of the virtues, because it makes them greater and does not occur in isolation from them. This is why it is hard to be truly great-souled, since it is not possible without a noble and good character."*[74]

Such view puts honor in tall order, as Aristotle regards it as the reward for possessing all virtues, needless to say, few (if any) people could rightfully claim honor thus understood. Nevertheless, Aristotle's conception was a paradigmatic source and often the starting point for many 16th century Italian reflections upon honor.[75] This Italian connection is important and directly relevant to Grand Duchy's intellectual atmosphere, as magnate offspring and many aspiring humanists left to study in Italian universities, Padua taking the crown place among them.[76] Hence, although tentatively, ideas of honor as virtue's reward could be one of its prevalent conceptions.

[74] Aristotle, *Nicomachean ethics* (Cambridge Texts in the History of Philosophy) ed. Roger Crisp (Cambridge: Cambridge University Press, 2014): 68-9. 1123b-1124a.
[75] Frederick Robertson Bryson, *The point of honor in sixteenth-century Italy: an aspect of the life of the gentleman* (Columbia university, 1935): 2. URL: https://babel.hathitrust.org/cgi/pt?id=wu.89054049028&view=1up&seq=16 .
[76] For Polish-Italian relations in 16th century, see Wojciech Tygielski, *Włosi w Polsce XVI-XVII wieku. Utracona szansa na modernizację* (Warszawa: Biblioteka „Więzi," 2005).

In another passage Aristotle identifies honor as "*the end of the political life*" which hints at many vainglorious people being prone to choosing a political life.[77] Overall, it seems that Aristotle reflected on honor as an ethicist, taking a broader perspective than what he classified as a subsection of ethics: politics. It was Cicero who tied honor and politics into a firm knot, as he postulated that honor was impossible without a public life and service to one's political community. In a more ethically inclined *De Officiis* Cicero famously argues that any contradiction between honorable and useful is illusory and honorable course is always the wisest.[78] Ancients reflected on honor as an external good and a kind of worth, allotted for living up to certain moral standards and service to a larger goal, such as communal happiness. In this sense, honor was a secondary good, a by-product of the virtuous life, and manifested as widespread respect and made tangible through various monuments, verses, and the like. This view changed with the writings of Machiavelli, who posited *gloria* as earthly immortality, a way to live on within the political community, and an end in itself.[79] Thus understood, pursuit of *gloria* could serve as a powerful incentive to forgo selfish desires and serve in public interest to attain worldly glory. People eligible to attain glory were statesmen, among which most esteemed are those remodeling the state through law. Darius Kuolys had shown that such feverish pursuit of glory was widespread in the Grand Duchy's humanist culture. It comes to the fore especially clearly in the historical works of Maciej Stryjkowski (1547-1593).[80]

[77] Aristotle, *Nicomachean ethics*, 7. 1095b.
[78] Cicero, Marcus Tullius. *De Officiis*, trans. Walter Miller (Cambridge, MA: Harvard University Press, 2014)
[79] On the topic of glory in Machiavelli, see Dan Eldar, "Glory and the Boundaries of Public Morality in Machiavelli's Thought," *History of Political Thought* 7. 3 (1986): 419–38; Hillay Zmora, "A World Without a Saving Grace: Glory and Immortality in Machiavelli." *History of Political Thought* 28. 3 (2007): 449–68.

[80] Darius Kuolys, *Asmuo, tauta, valstybė Lietuvos Didžiosios Kunigaikštystės istorinėje literatūroje (renesansas ir barokas)* (Vilnius: Mokslo ir Enciklopedijų leidykla, 1992): 22-31.

Taking a broader look at the political discourse of both constituents of the Republic of Poland-Lithuania would reflect little attention to theoretical reflections over honor as a topic. Some authors reflected on honor sporadically, among them Domenico Mora in his *Il Cavaliere* (1589) that aimed to defend soldier's honor over that of men of letters. This, however, ought to be considered a historical curiosity that does not suffice to elevate reflections on honor into the level of thorough moral or political discourse. Neither was it any sort of anachronism because the first work devoted exclusively to the idea of honor in anglophone scholarship was Robert Ashley's *Of Honour* (c. 1596).[81] Long believed to have been an original work, recently Ashley's essay was proven to be a translation of a treatise by Spanish humanist Sebastián Fox Morcillo titled *De Honore* (Basel, 1556).[82] Early Modern Spain has often been seen as a society held firmly in the grips of honor code, so often affirmed by citing honor-plays of Lope de la Vega (1562-1635) and Pedro Calderón de la Barca (1600-1681), thus it is perhaps no surprise that Northern Europeans borrowed ideas of honor and propriety from their Mediterranean neighbors. Aside from Spanish thinkers and playwrights, Italian humanists devoted significant attention to matters of honor. As honor was regarded honor a crucial part of a life worthy of a *gentilhuommo*, their works attracted wide readership throughout the 16th century, all the more so since these discussions were not exclusively relevant as a topic of reflection. Honor had very practical implications since preconditions to claiming honor shaped public opinion on certain social groups (bankers being exceptionally influential in this regard). Moreover, questions of honor held authority over life and death as they dictated what actions were insulting and what were the honorable way to remedy

[81] Virgil Heltzel, "Robert Ashley: Elizabethan Man of Letters," *Huntington Library Quarterly* 10. 4 (1947): 349–63
[82] Antonio Pinilla Espigares, "Teoría y práctica de la imitación ciceroniana en el diálogo *De iuuentute* de Sebastián Fox Morcillo," in Trinidad Arcos Pereira, Jorge Fernández López and Francisca Moya del Baño, eds., *"Pectora mulcet:" Estudios de Retórica y Oratoria latinas*, vol. II (Logroño: Instituto de Estudios Riojanos—Ayuntamiento de Calahorra, 2009), II, 799–816.

them. Contemporary historians have moved away from the conviction that honor held absolute authority over social relations and agree that honor was a flexible rhetorical strategy to negotiate matters of reputation and status, its influence remains undeniable.

Albeit humanist honor discourse did not take root in the Grand Duchy of Lithuania, political and social thought did reflect on honor indirectly. For example, any incursion upon liberty and disputes over rights would be perceived as insults to honor, venerable roots and family lineage were particularly dear to every individual noble as well as the noble estate, and lastly, reputation for political loyalty was fiercely guarded. That said, to find reflections over the import of honor one must read broadly and consider various genres of literary sources. For this reason, I focus on public genres of writing – appeals, dialogues, treatises – which inform of attempts to establish and defend claims to honor on several levels. In this endeavor an understanding of social and political ideas of the century is invaluable, therefore recent growth of interest in Grand Duchy's political thought is essential. The most recent contribution to the intellectual history of the Polish-Lithuanian Republic is Dorota Pietrzyk-Reeves' *Polish republican discourse in the sixteenth century*, which discusses several important thinkers of the Grand Duchy of Lithuania as well.[83] Pietrzyk-Reeves focuses on the reception of classical republican tradition within the bounds of learned political reflection, whereas Anna Grześkowiak-Krwawicz explored the political thought of the newly established Polish-Lithuanian Republic merging the learned discourse with speeches,

[83] Dorota Pietrzyk-Reeves, *Ład Rzeczypospolitej. Polska myśl polityczna XVI wieku a klasyczna tradycja republikańska* (Kraków: Księgarnia Akademicka, 2012). This work has been revised and translated as Ibid. *Polish republican discourse in the sixteenth century* (Ideas in Context), trans. Teresa Baluk-Ulewiczowa. (Cambridge: Cambridge University Press, 2020).

pamphlets, and other sorts of records of political action.[84] Albeit these studies deal little with the topic of honor, they help situate certain ideas within a larger network of references.

Second trope: identity

Honor has often been described as the crucial link between the self and society. To quote Julian Pitt-Rivers:

> *"Honour is the value of a person in his own eyes, but also in the eyes of his society. It is his estimation of his own worth, his* claim *to pride, but it is also the acknowledgement of that claim, his excellence recognized by society, his* right *to pride.*[85]

For this reason, honor (and shame) was regarded as a social phenomenon *par excellence* and as such fulfills a distinct role in identity formation. The usefulness of the term *identity* in historical contexts can be debated, especially due to its wide-ranging and variant meanings, however, its usefulness in discussions over honor is apparent. If identity was to be understood as a sum of external widely recognized social markers, such as legal status, ethnic or religious belonging, gender, and political affinity, then it could be seen as containment of honor understood as the worth society ascribes to its member as well as self-ascribed worth based on these external markers or qualities of character. Honor is to be understood as a mixture between said external identity markers and a natural and symbolic language was used to negotiate the personal worth. That said, honor is not a stable measure of worth, but rather a language to negotiate ones standing within the bounds of said identity markers.

[84] Anna Grześkowiak-Krwawicz, *Dyskurs polityczny Rzeczypospolitej Obojga Narodów. Pojęcia i idee*. (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2018). This work has also been translated recently, as Ibid. *The Political Discourse of the Polish-Lithuanian Commonwealth Concepts and Ideas*, trans. Daniel Sax (New York: Routledge, 2021).
[85] Julian Pitt-Rivers, *Honour and Social Status*, 21.

This leads to a question: upon which grounds can a person claim to possess honor? The most fundamental factors within this equation are one's legal status, communities (regional, religious, linguistic, economic, etc.), and personal status demonstrated by office taking and marriage. Every individual would find themselves embodying a different amount of these traits and could negotiate their reputation through recourse to social expectations prescribed by their identity markers. For instance, the honor code of artisans favored economic proficiency and loyalty to their guild, both traits awarded with respect from peers, whereas Grand Duchy's noblemen would be considered dishonored if they would show the same qualities and dabbled in trade. However, the urban population developed honor codes of their own and have been a subject of many studies.[86] Peasant communities developed their understanding of honor as well and the Polish-Lithuanian Republic was no exception, although studies on this topic are very few.[87] Additionally, one could negotiate their honor through marriage to a person of influence, a prominent example of this strategy being women eager to share in their husband's official title and introduce themselves as the official's wife.

This leads to an exposition of the importance gender carried over choosing an honorable code of conduct. The classical theories of honor emphasized paternalistic and male-oriented models that ascribed men the role of attaining and defending family honor through any means necessary. Women, however, were seen most often as "a liability" to family honor, because they

[86] For studies of honor in urban context, see James S. Amelang, *Honored Citizens of Barcelona: Patrician Culture and Class Relations, 1490–1714* (Princeton: Princeton University Press, 1986). James R. Farr, *Hands of Honor: Artisans and Their World in Dijon, 1550-1650* (Ithaca, NY; London: Cornell University Press, 1988). Esther Cohen, "Honor and Gender in the Streets of Early Modern Rome," *The Journal of Interdisciplinary History* 22.4 (1992): 597–625. Kathy Stuart, *Defiled Trades and Social Outcasts: Honor and Ritual Pollution in Early Modern Germany* (Cambridge: Cambridge University Press, 2000). Ágnes Flóra. 2019. *The Matter of Honour. The Leading Urban Elite in Sixteenth Century Transylvania*. Turnhout: Brepols.

[87] Jaśmina Korczak-Siedlecka, "Czy chłop miał honor? Zastosowanie kategorii honoru w badaniach nad społeczeństwem nowożytnym" *Kwartalnyk Historyczny* 125. 3 (2019): 633-655. Recently this author has published a monograph dealing with this issue: Jaśmina Korczak-Siedlecka, *Przemoc i honor w życiu społecznym wsi na Mierzei Wiślanej w XVI–XVII wieku* (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2021).

could not increase it but only risked damaging it through dishonorable acts, most grave of those being sexual promiscuity, which supported the idea that chastity was the most important virtue a woman can possess. That said, women were seen as having a relatively inactive role within honor cultures, their utmost concern being protection, whereas men were deemed to be actively involved with protecting and securing reputation. Portraying women as passive is the root cause that led to failure in recognizing their role within honor and shame cultures. Albeit their legal rights were much more limited and social expectations of their conduct stood in stark contrast to those of men, women were just as much willing to manipulate rhetoric of honor to achieve their personal goals. For instance, Joanne Ferraro showed how women turned to court where they manipulated male honor codes, namely allegations of impotence, to dissolve unhappy marriages.[88] This view is based on the guise of honor that is most recognizable in violent encounters, which informs of honor as a catalyst for violence but fails to recognize its cohesive effects, because in cases when violence was sparked, the pacifying function of honor had already failed. By analyzing the role of honor outside violent scenarios more recent historical scholarship showed its potential for pacification and challenged the stereotypical gender roles and revealed much more active role women played through imparting honor codes in children and actively dissuading physical violence.[89]

Broader communities also carried distinct claims to honor and had their systems of measuring reputation in place. This has been thoroughly explored in Natalia Yakovenko's study of Volhynian gentry, which showed that one of the fundamental prerequisites to claim honor was landholding and sharing in local networks of power.[90] However, it seems feasible to apply the

[88] Joanne Ferraro, *Marriage Wars in Late Renaissance Venice* (Oxford, 2001): 69-105.
[89] Linda Pollock, "Honor, Gender, and Reconciliation in Elite Culture, 1570–1700," *Journal of British Studies* 46. 1 (2007): 21-26. Thomas, *If I lose my honour*, 76-123.
[90] Наталя Яковенко, "Про два ментальні стереотипи української шляхти: «чоловік добрий» і «чоловік злий»" in *Паралельний Світ: Дослідження з історії уявлень та ідей в Україні XVI-XVII ст*. (Київ: Критика, 2002): 106-148.

concept of honor to even larger communities, namely, the political community of the state. I would consider a hypothesis that major political processes such as unions or incorporation altered the understanding of honor of the affected political communities reasonable, but it is quite challenging to substantiate empirically. One successful example of tracing such transition tells of the change of Gaelic *eineach* to British honor.[91] Brendan Kane traces the concept of honor as rendered by medieval bards, which was altered after Ireland was pronounced a kingdom under the English crown in 1541, and once again after 1641 Irish rebellion, when the principal political and intellectual actors were no longer of Gaelic but of settler descent.[92] Aside from Kane's endeavor, political use of honor shines through in Osvaldo Pardo's study on Early Modern Mexico.[93] His study focuses on Dominican and Franciscan friars who instructed the local population in religious and secular matters as they were understood in Early Modern Spain. In doing so they relied on concepts of honor and defamation to enforce political loyalty to the Spanish crown and instill a model of morality regarded honorable upon the local population.

Medieval and Early Modern periods saw the rise of historical narratives explaining the genesis of the nation and state. These discourses of collective identity provided common descent for ethnic and legal communities and facilitated the defense of their interests within the composite states.[94] Such narratives were often named patriotic or nationalistic, and their interpretation as claims to honor has proven a fruitful research topic in the context of nationalism studies.[95] Caspar

[91] Brendan Kane, "From Irish *Eineach* to British Honor? Noble Honor and High Politics in Early Modern Ireland, 1500–1650," *History Compass* 7 (2009): 414-430. Also see Brendan Kane, *The Politics and Culture of Honour in Britain and Ireland, 1541-1641* (Cambridge: Cambridge University Press, 2010).
[92] Kane, *From Irish* Eineach *to British Honor*, 423.
[93] Pardo, *Honor and Personhood*.
[94] For a broad intellectual history of said discourses, see Balázs Trencsényi, Márton Zászkaliczky, "Towards an Intellectual History of Patriotism in East Central Europe in The Early Modern Period," in Balazs Trencsenyi, Márton Zászkaliczky, eds., *Whose Love of Which Country? Composite States, National Histories and Patriotic Discourses in Early Modern East Central Europe* (Leiden: Brill, 2010): 1–72.
[95] Caspar Hirschi, *The Origins of Nationalism: An Alternative History from Ancient Rome to Early Modern Germany* (Cambridge: Cambridge University Press, 2012).

Hirschi took a broader view of these discourses and theorized that their development and especially their clash led to their reification and development of new ones. Proliferation through the competition was fueled by attempts to claim national honor, a highly symbolic value and this competition reified their sense of community. He presents an argument for nationalism before industrialization and dates it as a Late Medieval-Early Modern European phenomenon. In this iteration, nationalism is treated as an elite discourse that ensures the autonomy of a nation, which he defines as

> *"an abstract community formed by multipolar and equal relationship to other communities of the same category, from which it separates itself by claiming singular qualities, a distinct territory, political and cultural independence and an exclusive honor."*[96]

Hirschi suggests that the concept of national honor, shared among all subjects of the realm, is intrinsic to every hierarchical society, despite differences in economic and political power. However, the only truly conscious and active participants of nationalism were the civic nation, namely the humanists and the political elite, while the population at large did not share said nationalistic ideals.

The subject matter of the present study supports the thesis that Renaissance Humanists were heavily involved in propounding or defending the honor of their respective nation and state. Nationalist discourse, understood as means to guard the autonomy of a nation, is certainly applicable to the publicist writings from the Grand Duchy of Lithuania. This comes to the fore clearly in the heated clashes between humanists of the Polish Crown and the Grand Duchy of

[96] For detailed definitions see Ibid., 47-9.

Lithuania over the status of the respective nations in the union as well as the extent of their freedom.[97]

Third trope: violence

At the expense of sounding paradoxical, one may state that research on honor is thinner than it seems at the first glance. Firstly because of honor's ambivalent meaning, which covers ground from legal status to moral qualities. Additionally, honor is a charged term that invokes a certain kind of imagery, and therefore, it has been used as an illustration or a catchphrase. Otherwise, it has been presented as the reason for something else, most often – violence. Therefore, it is symptomatic that Pieter Spierenburg's landmark *History of Murder* names honor as one of the most prescient reasons for interpersonal violence in the Middle Ages and Early Modern era, yet devotes only several pages to its definition.[98] If honor was to be held accountable for all kinds of enmities of the past, it is at least as important to understand it as it is to study violence. Hence the question: what is it about honor that is so conducive to violence?

Few if any among classic works of historical scholarship explained the connection of honor and violence better than Otto Brunner's watershed work *Land und Herrschaft*:

> *"every violation of a man's rights, his 'honor' demands retribution; this was the aim of the feud as well as of legal action in court … to put up with injustice and renounce vengeance would have meant loss of honor"*[99]

In another passage he further elaborates:

> *"Whoever proved unable to maintain his rights, whether in a court of law or through private arbitration, would lose his honor along with his rights*

[97] For an extended discussion of this issue see *Chapter One* subchapter *Conversation and Quincunx*.
[98] Pieter Spierenburg, *A History of Murder: Personal Violence in Europe from the Middle Ages to the Present* (Cambridge: Polity, 2008): 22-28.
[99] Otto Brunner, *Land and Lordship: Structures of Governance in Medieval Austria* trans. Howard Kaminsky, James Van Horn Melton (Philadelphia, Pa.: University of Pennsylvania Press, 1992): 19.

> *if he let these be taken away without a struggle. For in medieval thought, honor* (honos) *and a subjectively claimed right were one and the same."*[100]

This explanation fits well with the approach to honor elaborated in the present study—as a right to status and respect. As mentioned, honor was liable to being lost and this precarity strengthened extreme responses to threats; additionally, insults and disrespect threatened the rights owned by virtue of privileged birth. Honor codes often required to protect it at the expense of livelihood, therefore lethal violence seems to have been the natural culmination of preceding acts of aggression. The encounter that eventually would turn physical often started with a recognition of perceived injustice, followed by verbal or symbolic abuse, and only then would the weapons be drawn.

However, the explanation of violent responses would benefit from consideration of internal and personal incentives just as much as it does from the defense of status and rights. Affronts to the internalized sense of self-worth claimed by having a certain position within the society or internal moral convictions (which is by far best exemplified by the prevalent contempt to lying widespread in honor cultures), can warrant emotional responses. Affects of anger and shame caused by the attempts to question individual worth as well as the threat of its loss through inappropriate responses to such attempts could lead to violent responses. Much has been written of inhibiting and civilizing emotional responses in the eras preceding modernity; however, insults of a wide variety remain causes for violent outbursts today. Many post-WW2 Western societies follow ideals of dignity, which encapsulates and places individual human worth beyond any sort of breach, moreover, it is quite hard to imagine a scenario of dehumanization or deprivation of human rights from any modern European person, which facilitates the safety of personal worth. In

[100] Ibid. 42.

the Early Modern period such protections extended by international and state law were not in place and a well-placed accusation could end up in losing face or privileged rights entirely and completely. In such a situation, violent responses are further ignited by the insecurity about personal worth typical of honor societies.

Having this in mind, one may begin to wonder whether Early Modern law offered sufficient restitution to qualm injured personal honor. Meaning, whether it extended protection to and was able to cleanse status as well as reputation, which essentially leads to the question of whether law encompassed and could restitute all facets of honor. The prevalence of violent responses to slights would suggest the contrary. Since the law and legal protection of honor was something largely dependent on the state, personal honor was a social phenomenon, largely rooted in self-perception and the image person presents to his community. There was a relationship between these two aspects of honor, however, to save face within the community of one's peers law may not be an equal equivalent to violence.

However, this scenario was not necessarily doomed to play out violently, as some studies suggest that honor could serve as an inhibitor to violence. For instance, people outside the peer group could not provide an effective offense—noble's violent response to an affront issued by a commoner carried a potential risk of bringing ill fame over the noble himself because nobles often owed protection to their lesser; such responses depended on the prevalent honor codes which could either incite violence or praise self-control. Historical scholarship on the role of women in honor cultures, the shift of honor codes from inciting revenge to commending restraint, as well as treatment of honor as a negotiation tactic shows that honor had much potential to restrain conflict.

Laying blame on touchiness of honor to explain widespread elite violence throughout Early Modern Europe is not as convincing a strategy as it once had been, claims Linda Pollock. Her

analysis of injurious encounters among 17th century English elite shows that honor could serve as much as an inhibitor of violence as its motivation if the behavioral expectations rewarded with an increase of reputation emphasized patience and constraint. Too often did the historians analyze the breach of honor and too little research aimed to uncover motivations of noblemen who declined to duel, says Pollock.[101] Additionally, research on honor has been too focused on individuals and neglectful of their social ties that inhibited and shaped their responses to insults, whereas communal honor ties (such as obligations to family and community) often restrained violent responses, mediated injustices, and, according to some, maintained social bonds and furthered cohesion.[102]

Historiography: regional research review

Honor in Kievan Rus' and Muscovy

As the previous discussion had shown, research on honor proliferated in Western and Central European contexts, however, the topic had limited success East of Elbe. Several notable scholars have searched the meaning of honor through the analysis of the literary heritage of Kievan Rus', others carried out meticulous analyses of Muscovite legal sources to reveal the usefulness of protecting personal honor to statecraft. These insights allude to the historical trajectory concept of honor undertook in this region and has a direct bearing on its history in the Grand Duchy of Lithuania, because of a shared administrative language and inherited culture through Grand Duchy's conquest, whereas Muscovite legal history serves as a useful counterpoint to the research the present thesis undertakes.

[101] Pollock, *Honor, Gender, and Reconciliation in Elite Culture*, 10.
[102] Ibid.: 26-29.

In 1967 semiotician Yuri Lotman published an essay on the distinctions between the concepts of honor and glory in secular literature of Kievan Rus'.[103] Lotman noticed that honor and glory are often mentioned side by side but came to believe it was more than a mere tautology, rather, he theorized that concepts of honor and glory reflected the socio-political hierarchy of human worth in Kievan Rus'. He proposed that honor is the attribute of knights, which he based on the frequent formulation that knights would return with honor from their military raids, and due to formulations, he argued that honor was a synonym for bounty, elevated into symbolic dimension. Knights would present the bounty to their princes, who would redistribute the acquired goods as symbols of valor. This act would also reflect onto princes, who would claim glory—a worthier symbolic currency unhindered by material expression.

Aleksandr Zimin rejected claims due to the lack of broader precedent in contemporary literature.[104] Zimin's *ad fontes* approach indicated many instances where honor and glory were used synonymously or contravened the attribution of one to the knight and the other to the prince. Overall, Zimin contended that it was a traditional military formula and deemed Lotman's thesis speculative. This warranted Lotman's response where he defended his opinion.[105] There he reiterated the interpretation of honor as a gift, an exchange of a material sign that binds people into the social contract, which ensures the right to respect and social worth. Explaining the function of honor, Lotman gives the example of investiture procedure, where the vassal brings his own lands and wealth and gives it to the signior, who gifts it back to the vassal as a sign of honor and a promise of care in exchange for loyalty. Glory, on the other hand, is also a sign but one that has

[103] Юрий Лотман, "Об оппозиции «честь» — «слава» в светских текстах киевского периода," in Юрий Лотман, *Избранные статьи. Т. II* (Таллинн, 1992): 111-126.
[104] Александр Зимин, "О статье Ю. Лотмана «Об оппозиции честь-слава в светских текстах Киевского периода»," Σημειωτκή - Sign Systems Studies 1 (1971): 464-468.
[105] Юрий Лотман, "Еще раз об о понятиях «слава» и «честь» в текстах Киевского периода," in Юрий Лотман, *Избранные статьи*. *Т. III* (Таллинн, 1992): 121–127.

exclusively verbal expression; it dies in silence and oblivion. Therefore, glory is a form of certain collective memory. Since it is more fleeting and has no material embodiment, glory was considered more suitable to people of higher status or heroes who attained it at the price of their life.

As intriguing as Lotman's thesis was, it has been altered (if not disproven) by more recent scholarship. Nancy Shields Kollmann expressed doubts about its validity in 1988, however, her analysis focused more on the concepts of disgrace in the legal sources of Rus' and hence was not directly comparable to Lotman's analysis of honor based on a literary text.[106] More recently Lotman's thesis was taken up by Piotr Stefanovich, who analyzed the meanings of honor in Kievan Rus' based on a deep reading of translated hagiographies as well as secular chronicles.[107]
His research showed that the term honor carried several meanings, among which the connotation of paying respect dominated. Respect could take a variety of forms, such as proper ingress of a prince into the city and the gifts he bore to show respect to the city's magistrates, similarly, honor could be taken to mean an adequate funeral procession or any other festivities marking a passage in prince's life. Lotman's thesis that honor was due to the servant and glory to the prince did not bear out in Stefanovich's research which showed no hierarchical difference between ascription of honor and glory.[108] Nevertheless, some of Lotman's conclusions were correct, because honor could

[106] Nancy Shields Kollmann, "Was There Honor in Kiev Ruś?" *Jahrbücher Für Geschichte Osteuropas* 36. 4 (1988): 481–92.
[107] Петр Сергеевич Стефанович, "Древнерусское понятие чести по памятникам литературы домонгольской Руси," *Древняя Русь. Вопросы медиевистики* 2 (2004): 63-87. It has been since translated to Polish, see Piotr Stefanowicz, "Staroruskie pojęcie "honor/cześć" w pomnikach literatury na Rusi (do najazdu mongolskiego)," *Rocznik Antropologii Historii* 1. 6 (2014): 131-169.
[108] Петр Стефанович, "«Честь» и «Слава» на Руси в X—начале XIII вв.: Терминологический анализ," *Мир истории* 2 (2003): 17-34. This work focuses more closely on the connotations of glory, which he traces back to its nearly opposite divine and secular meanings. Glory was owed to god, he was the sole source and the only being worthy of it, according to religious literature translated from Greek to Ruthenian. This divine view of glory later permeated the secular literature acquiring the connotation of princely rulership and prince's person or exceptional military deeds. Glory had geographical as well as historical breadth and to be considered glorious, a deed must resound through space and time and remain in the memory of its witnesses. Around 12th century glory and honor started becoming a literary commonplace expression denoting positive events of high political importance—military victories, campaigns, ingresses, and the like.

take material form as a sign of respect. This stands in stark contrast with the glory that only subsides in word of mouth. Additionally, the term honor could mean social status, symbols of princely power, and, lastly, honor could be taken to mean victory and military glory.[109]

Overall, Stefanovich showed that honor in Kievan Rus' was most often regarded as an external trait that was communicated through signs of respect, be it material or ritualistic. In contrast, the modern understanding of honor mostly emphasizes internalized traits, such as moral strength and steadfast principles. In Kievan Rus' concept of honor had little to do with morality and the closest secular trait it could encompass was courage in the field of battle. This insight allows Stefanovich to draw several historical trajectories, first, that concept of honor turned moralistic and internalized, and second, that its limits expanded to encompass people of various social layers and walks of life.

On this note, it is worthy to return to the question Nancy Shields-Kollmann raised: *was there honor in Kievan Rus'*? She answers positively, insisting, however, that the concept of honor of the Kievan chronicles is crucially different from the one featured in Kievan legal sources, such as the 12th century *Russkaja Pravda*. While the chronicles feature honor as a deferential and elitist term (as Stefanovich had shown in his research), Kollmann argues that the legal sources defend "individual's personal dignity" and "personal inviolability" by protecting subjects from humiliating assaults to their bodies and personal decorum.[110] Kollmann's insights were in line with previous conclusions of Russian legal historians, beginning with Pavel Bobrovsky, who was

[109] This was the only instance when Stefanovich deems adjectives *feudal* or *knightly* honor partially applicable to the context of Kievan Rus' due to their martial aspects but disagrees with their use, not least because no previous author explains the exact meaning of these terms. Such strict rejection of the possibility chivalrous ethos existed in Rus' has been put in question by Yulia Mikhailova, however, she voiced her disagreements in conference and no publication on this issue is available at this point. The summary of her talk is available at Юля Михайлова, "Понятие чести в Киевском своде и в западноевропейских памятниках XI-XII в." *Древняя Русь. Вопросы медиевистики* 45. 3 (2011): 86-87.

[110] Kollmann, Was There Honor in Kiev Ruś? 491-492, 483.

among the earliest researchers to analyze the legal meaning of honor,[111] and H. W. Dewey who presented it to the anglophone audience.[112] Serge Levitsky analyzed legal sources from Kievan Rus' to 17th century Muscovy to historicize the protection against insults it provided.[113] One among many important tendencies Levitsky points out is that physical insults (tempering with the hair or beard, removal of a cap, biting, etc.) were legislated earlier than verbal slights. These were first mentioned in church statute dated approximately 11-12th century that aimed to protect religious values, not the personal sense of honor of the victim; however, by 1397 verbal slights were a recognized offense in secular law and the amount of remuneration was counted according to the office of the victim.[114] This principle remained entrenched in Russian legal practice. Boris Floria contrasted legal practices of remuneration for insult in Muscovy and Grand Duchy of Lithuania.[115] While in the former fine depended on office and influence, in the latter the main factor was an inborn estate, meaning that all nobles were restituted equally. Overall, scholars of honor in Russian law traced its protection back to *Russkaya Pravda,* whereas the 16th century legal codes already featured a fully developed system of restitution for insults based on social rank.

Nancy Shields-Kollmann's *By Honor Bound* remains the most extensive and influential analysis of honor in Muscovy to date.[116] Besides thoughtfully merging previous scholarship with various examples of Early Modern European examples and social theories of honor, the author

[111] Павел Осипович Бобровский, *Преступления против чести по русским законам до начала XVIII века*, (Санкт-Петербург: тип. Правительстсвующего Сената, 1889).
[112] Horace Dewey, "Old Muscovite Concepts of Injured Honor (Beschestie)," *Slavic Review* 27. 4 (1968): 594–603. Additionally, Dewey discussed social phenomenon of defamation, see Horace Dewey, "Defamation and False Accusation (Iabednichestvo) in Old Muscovite Society," *Études Slaves et Est-Européennes / Slavic and East-European Studies* 11. 3/4 (1966): 109–20.
[113] Serge L. Levitsky, "Protection of Individual Honour and Dignity in Pre-Petrine Russian Law," *Tijdschrift voor Rechtsgeschiedenis* 40 (1972): 341.
[114] Ibid.: 349; 352.
[115] Бори́с Никола́евич Фло́ря, "Формирование сословного статуса господствующего класса Древней Руси (На материале статей о возмещении за "бесчестье")," *История СССР* 1 (1983): 61-74.
[116] Nancy Shields-Kollmann, *By Honor Bound: State and Society in Early Modern Russia*. (Ithaca: Cornell University Press, 1999).

develops an original use-case of honor as a tool for integrating the growing population and coopting local elites within the expansionist state. Kollmann reflects upon legal components of honor, engages with social ideals exposed in the several Early Modern scholarly works, and engages a multitude of litigation records to reveal the ways honor upheld patriarchal social model, details numerous instances of insults of personal honor as well as precedence, which motivated people to litigate to seek redress or material gain. Her work showed honor to be an essential part of everyday life as well as statecraft, and, perhaps more importantly, showing an alternative architecture of honor than one prevalent in European countries, one where personal honor was legally ascribed to all subjects disregarding their inborn estate. Additionally, her work had shown that a meaningful analysis of honor does not necessarily have to depend on the ego documents or scholarly analyses, which were relatively scarce in Muscovy as well as Grand Duchy of Lithuania. The lack of said documents did not necessarily mean that honor was irrelevant, but rather that its importance should be sought in another kind of source, such as litigation documents.

Research on Honor and Reputation in Grand Duchy of Lithuania

As mentioned, research on honor in Grand Duchy is relatively scarce but one major contribution stands out. Ukrainian historian Natalia Starchenko had been working on topics pertinent to honor for over a decade before her monograph *Honour, Blood, and Rhetoric* was published in 2014.[117] This was a tremendous achievement in furthering the study of honor in Grand Duchy and questioning the established interpretations regarding the nature of violence that permeated interpersonal relations among nobles. Starchenko's research had shown that violence was meaningful and closely related to their understanding of justice. Since the weakest link of the Early

[117] Наталя Старченко, *Честь, кров і риторика. Конфлікт у шляхетському середовищі Волині (друга половина XVI — XVII століття)* (Київ: Laurus, 2014).

Modern judicial system was its enactment, many citizens of the republic saw it as their own personal responsibility to carry out justice themselves. The work reflected upon fundamental grounds for respect in a local landed community that was involved in the local networks of power, economy, and religion. All those found lacking would feel the importance of reputation firsthand, as the landed community of nobles did not regard newcomers as trustworthy and were not quick to accept them among their midst. It limited the possibility of leading a successful social life and the integration of newcomers could extend into generations. Lastly, the author reveals the rhetorical aspect of legal culture. Honor was an important part of it and stood as one of the means to achieve the preferred outcome of litigation and for this reason, nobles often framed their arguments in a way that reflected the shared values to produce a more convincing argument for the courtroom. This does not necessarily mean that every claim uttered in court should be discounted, however, the possibility of exaggeration and self-fashioning should be considered as an important factor while reading court narratives. Starchenko continues to research honor and since the publication of this landmark work has authored several articles on the topic.[118]

That said, the present study carries several important differences. Firstly, Starchenko focused on the regional gentry community of Volhynia after the union of Lublin. At that point, Volhynia became part of the Crown of Poland, however, its regional legal institutions continued to operate according to the judicial reform carried out by Grand Duchy of Lithuania, introducing land and castle courts that judged according to the Second Lithuanian Statute. For this reason, Starchenko takes the newly reformed judicial system as a starting point of the research, whereas the adoption of the Second Lithuanian Statute marks the mid-point of the process it traces. More

[118] Ibid., "'В обороні честі дому шляхетського': справа про страту слуг князем Самуелем Каролем Корецьким на Волині 1645 р.," *Український історичний журнал* 1 (2017): 12-31 Ibid. "Шляхтич та Інший: метаморфози з честю. Волинь кінця XVI ст.," *Соціум. Альманах соціальної історії* 15-16 (2020): 99-127.

importantly, the very scope of the present thesis is broader in comparison: the focus here is on the whole nobility as a legal community, moreover, the state is presented as a factor that formed this community, following the changing ideals regarding human worth. In doing so, this thesis relies on intellectual history and narrative sources to grasp the prevalent ideals that later influenced legal development and in does so with a comparative outlook. Lastly, to reflect certain social and quotidian aspects of honor, this research turns to the analysis of the practice of the royal court in the period of 1529-1566, where cases from all over the Grand Duchy were brought. Overall, this study is less concerned with the micromanagement of social relations, as it aims to see the relevance of honor in various contexts and paint a broader picture of the historical developments in the 16th century that saw a rise of humanist thought which led to rethinking the grounds for as well as the meaning of honor and that reflected in legal developments. In doing so, this study aims to engage with broader scholarly discussions of honor, human worth, and violence by presenting the often-overlooked yet very rich historical experience of the Grand Duchy of Lithuania.

Aside from Natalia Starchenko, there are very few historians who analyzed honor as their main research interest. Indirectly, however, many historians have touched upon parts of this wide-ranging phenomenon and those could be grouped under historians of politics, society, and law. To begin with those interested in politics and political thought, the most relevant are the aforementioned works of Jūratė Kiaupienė, Dorota Pietrzyk-Reeves, and Anna Grzeszkowiak-Krwawicz. Sławomir Baczewski analyzed the changing meaning of nobility in the Polish context, approaching it from the methodological standpoint of the history of ideas.[119] This study serves as a possible point of comparison to the developments in the Grand Duchy mostly due to its

[119] Sławomir Baczewski. *Szlachectwo. studium z dziejów idei w piśmiennictwie polskim* (Lublin: Uniwersytet Marii Curie-Skłodowskiej, 2009).

descriptive merits. Additionally, Henryk Lulewicz has analyzed the political troubled political relationship of the Crown and the Grand Duchy after the union of Lublin, especially during the interregnums, which Grand Duchy's political nation used to regain and reinforce certain markers of sovereignty over the terms of union which they deemed unjust or insulting.[120]

As to the legal historians, the greatest debt any researcher of Lithuanian Statutes owes is to Edvardas Gudavičius, Stanislovas Lazutka, and Irena Valikonytė, whose collective work resulted in new scholarly editions and thorough analysis of the First Lithuanian Statute. Due to their effort, this is the best known of the three codes. Their research had tackled such politically laden questions as the formative influences of Grand Duchy's law, arguing against the claims of the 19th century legal historians of the Russian Empire, treating it as an integral part of Russian legal tradition. Instead, their work laid the foundation for interpreting the Statutes as of the extension of Grand Duchy's political culture and a mixture of several traditions of customary law, Baltic as well as Ruthenian.[121] Irena Valikonytė has devoted many of her studies to the role of women in Grand Duchy's courts. Her research on the double restitution norm ascribed to remunerate offenses against women was an especially fruitful addition to approaching the status of women in a patriarchal setting.[122] Additionally, no work of this kind would be possible without her expert commentaries on legal terminology and types of sources, but perhaps the greatest

[120] Henryk Lulewicz, *Gniewów o unię ciąg dalszy: stosunki polsko-litewskie w latach 1569-1588* (Warszawa: Neriton, 2002).
[121] Stanislovas Lazutka, Edvardas Gudavičius, "Pirmojo Lietuvos Statuto šaltinių klausimu," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 11 (1970): 149-175.
[122] Irena Valikonytė, "Dviguba išpirka už moterį Lietuvos Didžiojoje Kunigaikštystėje XVI amžiaus pirmojoje pusėje," *Lietuvos TSR Mokslų Akademijos darbai. Istorija*, 17. 2 (1977): 51-64. Irena Valikonytė, J. Jaksebogaitė, "Выкуп за женщину по Литовскому Статуту," in Vytautas Andriulis, ed., *1588 metų Trečiasis Lietuvos Statutas. Respublikinės mokslinės konferencijos, skirtos Trečiojo Statuto 400 metinėms pažymėti, medžiaga* (Vilnius: Vilniaus Universitetas, 1989): 85–95. Irena Valikonytė, "Ar Lietuvos Didžiojoje Kunigaikštystėje XVI amžiuje moteris buvo pilietė?" *Lietuvos Istorijos Studijos* 2, (1994): 62-73.

achievement of her scholarly carrier are the many published editions of sources—the Lithuanian Metrica—the archive of the Grand Duchy of Lithuania.

Legal sources remain among the most available ones to analyze Grand Duchy's society, therefore it is not surprising that many historians approached them intending to investigate society, instead of focusing exclusively on legal development. Again, Edvardas Gudavičius was the author of fundamental insights that helped to date the full formation of the noble estate and its turning into the closed corporation of privileged landowners through the exclusion of war servants.[123] He also authored an insightful essay on the principles of penal law in the First Lithuanian Statute.[124] Darius Vilimas interrogated many aspects of legal development and legal culture through analyzing the archives of the land courts that were established in 1566. His work provides valuable information on legal development and local level interaction among nobles.[125] Lastly, an erudite study of the concept of treason was published, merging methodology of social and legal history, where Andrej Ryčkov touches on the import of honor in slanderous accusations over disloyalty.[126] Overall, his work is closely related to broadly conceived questions of honor, however, at the center of his endeavor, we find the institution of Grand Duke and the attempts to further loyalty within the state.

[123] Edvardas Gudavičius, "Šlėktų atsiskyrimas nuo bajorų Lietuvoje XVI a. (1. Bajorų luomo susidarymas)," *Lietuvos TSR mokslų akademijos darbai. A serija*. 51. 2 (1975): 97-106. Ibid. "Šlėktų atsiskyrimas nuo bajorų Lietuvoje XVI a. (2. Dėl XVI a. privilegijuotųjų ir "neprivilegijuotųjų" bajorų)," *Lietuvos TSR mokslų akademijos darbai. A serija.* 52. 3 (1975): 65-74. Ibid. Kas buvo XVI amžiaus bajorija? In: Zigmantas Kiaupa, Arturas Mickevičius, eds., *Lietuvos valstybė XII-XVIII a.* (Vilnius: Lietuvos Istorijos Institutas, 1997): 133-145.

[124] Edvardas Gudavičius, "Pirmojo Lietuvos Statuto baudžiamosios teisės bruožai," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 15. 2 (1975): 85-103.

[125] Darius Vilimas, *Lietuvos Didžiosios Kunigaikštystės žemės teismo sistemos formavimasis (1564-1588).* (Vilnius: Lietuvos istorijos institutas, 2006); Ibid., *Bajoras Lietuvos Didžiosios Kunigaikštystės žemės teisme (1566-1600).* (Vilnius: Lietuvos istorijos institutas, 2019).

[126] Andrej Ryčkov, *Judo bučinys: valdovo išdavystės samprata Lietuvoje (XIII a. pabaiga – XVI a. vidurys)* (Lietuvos Istorijos Institutas: Vilnius, 2018).

Among scholars writing of the Grand Duchy's society, few reflected on the issue of honor directly, however, their work is of utmost import in understanding the larger social processes at work in the 16th and the preceding centuries. Rimvydas Petrauskas has shed light upon the social organization of the Grand Duchy through his research on magnates, the upmost layer of nobility.[127] He revealed their status as leaders of regional noble communities, who often represented their interests on the highest echelon of political power. Additionally, Petrauskas had shown the spread of Western European culture of chivalry into the Grand Duchy through contacts with the Teutonic Order and *grand tour* becoming increasingly fashionable.[128] Additionally, his interpretation of the social meaning the theory of Roman Descent carries and explication of political meaning European titles carried continue to be insightful studies into corollary topic of honor as prestige.[129] Additionally, Agnė Railaitė-Bardė's recently published work on heraldry provides a valuable source for delineating changes in noble's mentality and cultural inspirations.[130] The author further investigates Petrauskas' thesis on the formation of genealogical memory.[131]

Turning from legal and cultural history towards studies based on Renaissance literature, we see the possibility to apply the concept of honor on several layers. Ideas of communal honor based on ethnic and political belonging were most broad ranging. Apart from the aforementioned

[127] Rimvydas Petrauskas, *Lietuvos diduomenė.* Ibid., "Titulas ir valdžia: Lietuvos Didžiosios Kunigaikštytės didikų savimonės pokyčiai XVI amžiaus pirmoje pusėje," in: Irena Valikonytė, Lirija Steponavičienė, eds., *Pirmasis Lietuvos Statutas ir epocha* (Vilnius: Vilniaus Universiteto Leidykla, 2005): 35-46.
[128] Ibid., "Riteriai Lietuvos Didžiojoje Kunigaikštystėje XIV a. pabaigoje–XVI a. pradžioje," in Darius Antanavičius, Darius Baronas, eds., *Istorijos šaltinių tyrimai* T. 1, (Vilnius: Lietuvos Istorijos Instituto Leidykla, 2008): 91-113. Ibid. "Tolima bičiulystė: asmeniniai Vokiečių ordino pareigūnų ir Lietuvos valdovų santykiai," in Rita Regina Trimonienė, Robertas Jurgaitis, eds., *Kryžiaus karų epocha Baltijos regiono tautų istorinėje savimonėje* (Šiauliai: Saulės delta, 2007): 206-222.
[129] Ibid. 2004. Socialiniai ir istoriografiniai lietuvių kilmės iš romėnų teorijos aspektai, in Sigitas Narbutas, ed., *Literatūros istorija ir jos kūrėjai* (Vilnius: Lietuvių literatūros ir tautosakos institutas, 2004): 270-285.
[130] Agnė Railaitė-Bardė, *Origo et arma. Kilmė ir herbas Lietuvos Didžiojoje Kunigaikštystėje XVI–XVIII amžiuje* (Vilnius: Lietuvos istorijos institutas, 2021).
[131] Rimvydas Petrauskas, "Atrandant protėvius: genealoginio mąstymo prielaidos ir užuomazgos Lietuvoje XIV–XVI a. viduryje," in Zigmantas Kiaupa, Jolita Sarcevičienė, eds., *Ministri historiae. Pagalbiniai istorijos mokslai Lietuvos Didžiosios Kunigaikštystės istorijos tyrimuose. Mokslinių straipsnių rinkinys, skirtas dr. Edmundo Rimšos 65-ečio sukakčiai* (Vilnius: Lietuvos Istorijos Instituto Leidykla, 2013): 45-63.

works of Jūratė Kiaupienė outlining the notion of the political nation, these ideas were analyzed by Matthias Niendorf, who studied the nation-building processes in the Grand Duchy of Lithuania.[132] Following the view that nationalist discourse forms the nation, he ventures to analyze the development of Grand Duchy's political nation, a state-based nationalism that linked together disparate ethnic, linguistic, and religious groups. A view from the "outside" provides a welcome perspective into the nation-building process of a state, whose tradition is under siege by several national historiographical traditions. Although his focus is upon later centuries, Niendorf confirms that Humanist writings could be regarded as proto-nationalist discourse, especially because these texts set up boundaries among competing communities through rhetorical exclusion and development of common descent. Within this state-based nation-building process he traces the strengthening of several competing ethnic loyalties, most notable being *gens Lituanica* and *gens Ruthenica*, however, those are of less importance than supraethnic political loyalty to *natio Lituanica*. Lithuanian literature historian Darius Kuolys authored a more ethnically motivated, but deeper and more concentrated study on Renaissance history writing and its political importance.[133] He focuses on the works of Maciej Stryjkowski (1547-c. 1593), the author of the first humanist history of the Grand Duchy of Lithuania and concludes that this text defined ethnic Lithuanian nation during the Renaissance period. Kuolys remains among the most innovative experts on Grand Duchy's literary heritage and political thought, whose later works turned towards the

[132] Mathias Niendorf, *Das Großfürstentum Litauen: Studien zur Nationsbildung in der Frühen Neuzeit (1569-1795)* (Wiesbaden: Harrasowitz Verlag, 2006). Translated into Lithuanian as Matthias Niendorf, *Lietuvos Didžioji Kunigaikštystė. Studija apie nacijos formavimąsi ankstyvaisiais naujaisiais laikais. 1569-1795*, trans. Indrė Dalia Klimkaitė (Vilnius: Mintis, 2010).

[133] Darius Kuolys, *Asmuo, tauta, valstybė Lietuvos Didžiosios Kunigaikštystės istorinėje literatūroje. Renesansas, barokas.* (Vilnius: Mokslo ir enciklopedijų leidykla, 1992).

analysis of Lithuanian Statutes as pillars for Grand Duchy's nationalism and fundamental ground for the autonomy of its state.[134]

Research questions and thesis structure

The object of this thesis is honor as a concept of human worth in 16th century Grand Duchy of Lithuania. The main question the thesis poses is how honor was (intentionally and otherwise) used in the intellectual sphere, legal aspects of statecraft, and what forms it took on the level of interpersonal interactions. Previous elaborations exemplify the multifaceted character of honor, nevertheless, this thesis approaches honor through several methodological distinctions: horizontal and vertical honor, honor group, code of honor, and language of respect. The thesis combines several approaches of historical research, including political thought, legal and political history, and historical anthropology. The selected avenues of research do not claim to exhaust the topic of honor, since this thesis makes scarce uses of ego-documents and does not reflect on the urban milieu. Those are used only to an extent that they have a direct bearing on statecraft or aspects of social history, notably, violence and gender.

To answer the main question thesis poses, the following research questions are posed:

1. Who could claim honor and on what grounds? Did these grounds change over time? What socio-political processes influenced these changes?
2. What functions honor had in normative law? What was the use of status in state law? Was reputation protected by law? What means were nobles provided with to preserve and cleanse their status and reputation? What were the uses of defamation in penal law? What changes can be seen in the legislation of honor in the three Lithuanian Statutes?
3. How did the regard for honor manifest in interpersonal interactions of Grand Duchy's nobles? Did the normative law and legal practice align? How does legal practice contribute to our understanding of normative law? How useful was honor as a litigation strategy? What were the types of insults that were deemed litigable? How does legal practice inform us of the boundaries of the honor code?

[134] Ibid., *Res Lituana: kunigaikštystės bendrija* (Vilnius: Lietuvių literatūros ir tautosakos institutas, 2009).

4. How did gender factor in the legal aspect of honor? What was the normative standing of women vis-à-vis the law and what can be told of their honor based on legal practice? Was honor applicable to commoners? Did they litigate over charges of defamation?

Answers to these questions are pursued in separate chapters. The first chapter addresses the cultural perception of honor through analysis of narrative sources—letters, political dialogues, and intellectual treatises. The second chapter carries out a thorough analysis of the clauses concerning honor in the three Lithuanian Statutes (1529, 1566, 1588). The third chapter tackles the question of honor in legal practice and limits of acceptable behavior by analyzing the archive of the royal court during the years 1529-1566, whereas chapter four continues this analysis with special focus on women and commoners. We turn next to source critique and methodological strategies of interpretation.

Sources and methodology

The first chapter is based on several texts that manifest political intent. Those include a letter magnate Olbracht Gasztold sent to Queen Bona Sforza, a theory of Roman descent that was formulated (or at least developed) upon his bequest, a dialogue defending Grand Duchy's position vis-à-vis further union project, and, lastly, an intellectual exposition on liberty. These texts cover most of the 16th century and do not necessarily bear direct links with one another, however, they supply us with the ideas about predicates of honor and illustrate to whom this concept could have been applied. To thoroughly analyze them and come closer to their intended meaning, it is important to place those writings in their political and intellectual context. For this reason, this section adheres to the principles of Cambridge school intellectual history otherwise labeled as contextualism.[135] The most important of its lessons to the present context is a textual analysis

[135] Quentin Skinner's article is often hailed as the manifesto of this strand of thought, see Quentin Skinner, "Meaning and Understanding in the History of Ideas," *History and theory* 8. 1 (1969): 3-53. For a discussion of the influence of

aiming to uncover their illocutionary force and treat them as speech acts. This necessitates stepping outside the text and considering the political situation, and in this case, asking whose interests do these texts reflect because humanist scholars were often associated with the ruler or magnates through ties of patronage. Content-wise, contextualism helps to uncover the use of broader discourses that were drawn upon to build a coherent and convincing argument.

The second chapter approaches honor as a legal idea by analyzing the three Lithuanian Statutes (1529, 1566, 1588). Honor has been mentioned in many articles of law but featured especially heavily in state and punitive law. However, to give a comprehensive view of the concept of honor in Grand Duchy's normative law I have approached these sources with several key inspirations of conceptual history, most notably following Hans Wellmann's admonitions concerning the conceptual analysis of honor.[136] To approach honor from the perspective of conceptual history, one must operate on the axioms that many words may describe one concept and that this concept is still intelligible today; were these axioms not shared, historical analysis of concepts would be untenable. The axiom that the present study relies on is that the concept of honor is a historically dynamic means to indicate human worth.

Conceptual analysis is complicated further by the fact that no linguistic term can accommodate the full range of meaning that a given concept encapsulates. Therefore, no word can be named sole bearer of historical continuity of a given concept, moreover, words are polysemantic and may attain or indeed lose certain meanings over time, whereas concepts are monosemantic, their meaning relatively stable. Therefore, to outline the meaning of a concept, one must consider several words that denote different aspects of the said concept. In tandem, these words constitute

contextualism, see Mark Bevir, "The contextual approach" in George Klosko, ed., *The Oxford Handbook of the History of Political Philosophy* (Oxford: Oxford University Press, 2011): 11-24.

[136] Hans Wellmann, "Der historische Begriff der "Ehre" - sprachwissenschaftlich untersucht," In: *Ehrkonzepte in der Frühen Neuzeit*, 27-39.

the semantic field – the most tangible external expression of a concept, its form. However, an attempt to comprehend a concept necessitates considering its opposites. Antonyms provide a substantial amount of information regarding the concept in question, therefore, the semantic field ought to be considered together with a web of contradictory meanings. In unison, they provide the linguistic form of the concept complete with semantic peripheries.

The semantic field and peripheries of a concept are subject to historical change. As linguistic artifacts, those are heavily dependent on various contemporary discourses. For this reason, scholarly and political writings have a direct effect on the meanings of terms within the semantic field and the definition of the concept itself. In the present case, the rise of humanist scholarship reformulated the fundamental tenets upon which honor could be claimed, thus altering the semantic field surrounding this concept. The concept of honor that we encounter in Lithuanian Statutes is not only part of its legal framework but should be also seen as a legal formulation of the cultural artifact of honor which was influenced by the intellectual atmosphere of the Grand Duchy; in turn, legal formulation of honor directly shaped the quotidian social relations. However, this was not a top-down process, but to be effective, legislation had to be upheld "on the ground." Moreover, legislation initiatives also shaped the intellectual atmosphere, therefore one must view these developments as interdependent. Viewed from this vantage point, the legal concept of honor serves as a nexus between the intellectual and quotidian iterations of honor.

Analysis of the legal codes of the Grand Duchy of Lithuania led to identifying these core terms as the semantic field of the concept of honor: honor (Ruth. честь), office (Ruth. достойность), a good name (Ruth. добра слава), and respect (Ruth. почтивость). Additionally, the term nobility (Ruth. шляхетство) itself was a crucially important part of the conceptual network because, as the research had shown, honor was sometimes taken to mean the sum-total of

noble privileges that were the legal essence of nobility. The most prevalent counter concepts of honor were shame (Ruth. стыд, соромота), to slander (Ruth. ганити, примовити), and treachery (Ruth. предательство). Lastly, a term denoting a specific fine for disgrace (Ruth. безчестье) constitutes an important part of this semantic network, which also bears direct ties with the Russian legal tradition. Following the use and development of these notions within Grand Duchy's legal tradition allows indicating the direction towards which concept of honor was developing, as well as the ways legislators coopted it to achieve political and social goals.

"*The system of honour values is enacted rather than thought, and the grammar of honour can inform actions without having to be formulated*"[137] following Bourdieu's dictum, in the third chapter the thesis turns to the role of honor in interpersonal interaction. This question is pursued by analyzing court record books of the royal court, where the king or his plenipotentiaries ruled over a variety of cases, including those brought on the charges of insult, defamation, and slander. These court records offer a treasure trove of information on the social interactions of the day. Nevertheless, it would be unfair to expect this archive to render an objective definition of reality, reading court archives often have an exactly opposite effect, painting a grim and violent picture of the past. Neither is it an exhaustive source, as many of such interactions were undocumented, additionally, even if the court case was dutifully recorded, it is impossible to know exactly what happened in any given instance. Additionally, one must keep in mind that the royal court was quite expensive and held sessions infrequently. That said, cases analyzed in the third chapter do not draw their importance from their representativeness. Rather, it is the individual actions and precedents that are most interesting: what was deemed an actionable insult, what litigation strategies were employed, what punishments were allotted for such crimes – these are the questions

[137] Bourdieu, *The Sense of Honour*, 128.

that make it worthwhile to analyze legal practice. These precedents inform us of actions that were deemed to have transgressed the boundaries of the honor code.

The last chapter continues with the analysis of legal and normative laws with an additional focus towards the legal standing of women and commoners. It aims to take a step beyond the stereotypical affiliation of honor with the violent noble men that remains a historiographical commonplace. It begins with outlining the legal standing of women vis-à-vis the law and analysis of legal practice that sheds light on the way women used honor norms to achieve their ends. Lastly, the section on legal dealings of commoners challenges another notion entrenched in historiography that honor was exclusive to the noble estate and only the nobles litigated over verbal charges of defamation. Instead, as the research shows, etic and emic meanings of honor were applicable to commoners of various ranks.

Turning towards the particular archive used in this study—those are the books of Lithuanian Metrica that contain the minutes of the royal court between 1529 and 1566. This court instance was selected due to its complete coverage of many facets of honor. As the Lithuanian Statutes often mention, only the ruler had the right to preside over matters of honor, he held the power to alter social hierarchy by either promoting or demoting people, and only his word imbued officials with authority and power. Although other courts could and did judge over matters of reputation, which include many instances of insult and slander, we encounter many occasions when people address this court seeking redress for injuries of their reputation as well. Additionally, this court served as the highest court in the land and presided over cases of appeal, moreover, during this period only the ruler had jurisdiction over the highest magnates in the land, making this court an institution all nobles of the Grand Duchy could petition. The chronological period selected for this study coincides with the standing of the First Lithuanian Statute, although cases of the

period prior to it and after it were taken as examples at times. This decision was based on the hypothesis that some clauses inscribed in the subsequent codes were drawn from court practice. The majority of the Lithuanian Metrica books used in this study were published, as the priority to publishing court record books of the ruler's court is often given precedence. Nevertheless, several archival books of the Lithuanian Metrica remain unpublished, in this case their microfilm copies kept at the Lithuanian State History Archive were consulted, as the original books are stored in Moscow. In total, 16 books of court records of the royal court were analyzed for cases over insult, which yielded over 400 relevant processes of which most important ones were presented in Chapters Three and Four. Additionally, court record books of other instances were consulted to gain further insight over litigation in the courts of the first instance or the legal practice among commoners, however, those were only relied on if materials from the royal court records fell short.

Chapter One. Metamorphoses of honor

This chapter explores select pieces of public writing produced in the 16th century Grand Duchy of Lithuania, aiming to unveil the ways honor was used to achieve personal and political ends, who it was ascribed to, ways it was described, and negotiated. Although the terminology varies, this chapter traces the concept of honor as a measure of human worth, analyzing the texts to see ways the preconditions for honor and ways to maintain it. While the selected texts are primed to achieve certain aims, they feature ample references to honor and reveal the slow change the concept undertook under the spreading influence of humanist thought throughout the 16th century. Redefinition of honor mirrors social processes of consolidation of noble estate and growing import of middling nobility in the Grand Duchy.

Magnate's retort: defense of personal honor

In his address to Queen Bona Sforza (1494-1557), Olbracht Gasztold (1480-1539) did not mince words. With royalty residing in Kraków, Gasztold was arguably the most influential person in the Grand Duchy, often named the man second only to the ruler. And rightly so, as he served as the Grand Chancellor and the Voivode of Vilnius, boasted descent of the most illustrious clan and title of Graf of the Holy Roman Empire. Written on the 2nd of June 1525, the text bears an unequivocal title: *Albertus Gastold, Palatinus Vilnensis, Bone Sphortie, Regine Polonie. Contra ducem Constantinum de Ostrogk et contra Radivillones.*[138] His adversaries were nobles of comparable wealth and fame, nevertheless, their competition came as an affront in the eyes of the proud magnate, who refused to see them as equals. Both of his adversaries enjoyed the favor and the ear of the queen, therefore Gasztold decided to address their benefactress directly. Although

[138] The Radziwiłł family was represented first by Mikołaj *Amor Poloniae* Radziwiłł (1470-1521) and later his son Jan Radziwiłł (1492-1542). The second target of the text was Ruthenian Prince Konstanty Ostrogski (~1460-1530).

the reason that pushed him to address the queen is stated clearly, Gasztold writes this text to defend his steadfast faithfulness and purify himself in the eyes of the Queen from false accusations fueled by jealousy.[139] To underline the injury he adds:

> *"I am subjected to injustices of a man scheming my death, one who persecutes me with no reason, tarnishes my good name* [fama] *with calumny and strives to deprive me – me, a patient and agreeable man giving no reason for discord – of all honors* [honore], *dignities* [dignitate], *and riches by extraordinary and unjust actions, although crude is a man who neglects his reputation* [famam suam] *not using violence in defense."*[140]

Literary scholars agree that Gasztold's address was a text driven by passion, likely written in one sitting without a second thought to its phrasing. However, this does not make the text lacking, nor does it diminish its scholarly value. In fact, it attests to Gasztold's education (as did his wide-ranging book collection)[141] and contains several veiled insults. Such immediacy offers a glimpse into a mindset of a magnate, whose authority and perceived superiority were put in question by people of less illustrious ancestry.

That said, Gasztold's version of the events is not to be taken for granted or even judged to reflect his truthful opinion, for his words serve a political end. However, there is little reason to view the document as completely untruthful. It is especially fruitful in analyzing what Gasztold

[139]Adam Tytus Działyński, ed., *Acta Tomiciana*. *VII*. (Posnaniae: Ludovici Merzbachiensis, 1857): 258-269. Henceforth – AT. AT: 260: "Sed ne longum faciendo sermonem sim tedio, quam brevissimis rem expediam, ut meam fidem, constantiam et integritatem apud sacram Mtem. vram., ex que me sue Celsitudini intellexi iniquo zelo et falso fuisse delatum, bene expurgatam facerem et puram."

[140] AT: 268: "et esse nunc in me experior iniquitatem hominis machinantis mihi mortem, et qui me ulla absque causa persequitur, in fama denigrat atque omni honore, dignitate et bonis, miris ac iniquis artibus contendit spoliare, me patientiam habentem et nullam unquam causam dissensionis prebentem, licet crudelis sit, qui negliget famam suam et vim vi non defendat." Interestingly, the Lithuanian translation adds an extension to the text, reading: but I can be no different. Meant to communicate Gasztold's moral high ground, this phrase finds little basis in the text. Gasztold continuously says that he fights his enemies and even speculates that he could prevail in a duel against Prince Ostrogski, thus showing his willingness to resort to violence in protecting his good name. See Algis Samulionis, Rasa Jurgelėnaitė, Darius Kuolys, eds., *Šešioliktojo amžiaus raštija. Senoji Lietuvos literatūra* 5 (Vilnius: Pradai, 2000): 53. Henceforth – *Šešioliktojo amžiaus raštija.*

[141] Kęstutis Gudmantas, "Alberto Goštauto biblioteka ir Lietuvos metraščiai," *Knygotyra* 43 (2003): 9-24.

understood by "good name and honor" which he aims to defend by writing this text. Even if he twists the facts and fashions himself as a scion of the most illustrious clan, the virtues he chooses to support this claim disclose what he deemed to be the sources of honor. To be sure, he relies on the arguments that do not reflect as favorably on his opponents, nevertheless, the discussion of his attacks allows posing several important questions about the way honor was understood in the Grand Duchy of the early 16th century.

Gasztold's relationship with his enemies was not always wrought with tension. He mentions the Ruthenian Orthodox Prince Konstanty Ostrogski as a man "*who seemed to me most friendly, had his loyalty to me in friendship sworn by an oath, had made it a habit to visit my home at will.*"[142] Moreover, their relationship manifested in political support, because during 1522 Sejm Gasztold voted in favor of instating Ostrogski as the Grand Hetman, an act contrary to the customs and noble privileges of the day that reserved this post to Catholic magnates of Lithuanian descent. Later in the text, he bitterly decries this decision and turns this experience into an argument for acting according to ancient customs.

Gasztold relates that their animosity began in 1525 when they took opposing sides in a political debate over succession. King Sigismund the Old wished to pronounce his newborn son and heir to the Grand Duchy of Lithuania, which was a practice quite contrary to the terms of the union with the Kingdom of Poland. Yet Lithuanian magnates were sympathetic to the cause and showed keen interest in the matter, seeing it as a way to assert political autonomy. In addition, this strategy was all the more welcome since it had worked out well in the past.[143] Gasztold took upon

[142] AT, p. 259: "qui cum mihi videtur esse amicissimus iureiurando etiam fidem amicitiae sue mihi obstringens, libere domum meam, ut crebrius id facere solebat, veniens." Šešioliktojo amžiaus raštija: 32.
[143] Lithuanians would first gather and proclaim one of the Jagiellonian princes a Grand Duke and then Polish nobles were hard-pressed to follow suit and crown the same person to preserve integrity of the union. This was the case with

himself to champion the cause of supporting succession and gathered all his influence to do so, while Ostrogski pleaded against it. King Sigismund the Old met his opposition with ire and publicly reprimanded Ostrogski for his lack of support. Gasztold presents this episode as the reason for Ostrogski's hatred towards him: the prince saw the magnate as the person responsible for losing the good graces of the King and public denunciation.

Adversity motivated Ostrogski to join the side of Radziwiłł, who vied for power against Gasztold. Their animosity ran way back to the times of Gliński's rebellion in 1508, when Mikołaj *Amor Poloniae* Radziwiłł accused Gasztold of supporting Gliński's cause. Charged with grand treason Gasztold was imprisoned in 1509 and later faced trial. He was proved innocent, released, and reinstated into all his offices, but this taint survived; even in this text, he makes his actions during the rebellion abundantly clear. Unsurprisingly, his animosity towards the Radziwiłł did not abate either.

Gasztold begins his text by setting himself apart from his enemies, starting with the Radziwiłł: "*truth be told, I have surpassed them in antiquity [of my lineage] as well as in possessions.*"[144] He continues:

> *"Their significance was minuscule to begin with, as Grand Duke Vytautas provided their great-grandfather with twenty peasant holdings a hundred years ago. Their rustic ancestry was first elevated* [nobilitaverat] *by the Duchess of Masovia, their sister, whom Prince Konrad had wed. Later still our illustrious king and most beloved ruler, the husband of your sacred Majesty, rightfully, not without an interception of the aforementioned woman, who was favored by nature and not altogether unattractive, donated them Goniądz and many other holdings greatly*

Casimir Jagiellon, who ruled the Grand Duchy from 1440, but reigned as a king of Poland Casimir IV from 1447 until his death in 1492.

[144] AT: 259: "ut verum fateat, antiquitate et possessionibus anteibam." Šešioliktojo amžiaus raštija: 33.

> *elevating their value to a hundred thousand golden coins at the cost of Grand Duchy's treasury."*[145]

What today could be viewed as an example of successful upward social mobility, Gasztold deemed quite unfitting and made sure to express his opinion in biting terms. Even in the quoted passage, he insinuates that were it not for the blessings nature bestowed upon Anna Radziwiłł (~1475-1522) and her successful marriage, the family would not have amounted to much. In contrast to stressing the virtuous deed of his great (male) ancestors, who won their status with a sword in hand and leaped at the opportunity to demonstrate their loyalty to rulers of the past, Radziwiłłs supposedly owe their success to fortunate marital politics and royal favor.

The animosity against the Radziwiłł seems quite sedate in comparison with the adversity the text displays towards Ostrogski. He is called a *princeling* (ducaculus),[146] an untrustworthy Ruthenian,[147] moreover Gasztold insinuates that Ostrogski conspired with the Muscovites. Accusations continue throughout the text and capitalize on widespread distrust towards the Orthodox, fueled by years of wars against Muscovy. However, this is not to say that Gasztold necessarily viewed all Ruthenians with disdain (his most important holdings laid in the Orthodox lands), rather it is more likely that this was a strategy geared for ruthless effectiveness.

Here is what Gasztold has to say about Ostrogski:

> *"That cunning foe threatens not only myself but also the actions I carry out undaunted and to the best of my ability to the benefit of your sacred majesties and the Republic, not only my good name* [bona fama] *and*

[145] AT: 259: "cum illis ab exordio pauca esset suppellex, quia viginti dumtaxat cmetones, qui proavo eorum ante centum annos per Mg. ducem Vitowdum dati erant. Eorum rusticitatem, quam prius paulo ante olim ducissa Masoviae soror eorum, duci Conrado nupta, nobilitaverat, modernus Sermus. Rex noster et dominus gratiosissimus, conjunx sacre Mtis. Vre. causa deinde intercessionis eiusdem mulieris, que atique benignitate nature favente non indecora erat, sublevavit valde bonis Goniądz et aliis quam plurimis de mensa Mg ducatus sui ad valorem centum milium ducatorum ornavit.". p. 33-34. Konrad III the Red.
[146] AT: 261, Šešioliktojo amžiaus raštija: 37.
[147] AT: 268, Šešioliktojo amžiaus raštija, 52.

> *inborn honor* [honoreque naturali] *as well as riches accrued in honest ways but also my life with his actions so thoroughly twisted."*[148]

Even though the Radziwiłł had served in the highest offices and already secured the status of princes of the Holy Roman Empire, in Gasztold's eyes they were unworthy upstarts, just as Prince Konstanty Ostrogski, of whom Gasztold says this:

> *"he boasts of good service to the Republic, but in truth is a new man of unstable means and descendant of a Ruthenian princeling (ducaculus)* […] *neither this enemy of mine, nor his ancestors ever sat in the Council from which they were always excluded, and hardly ever would have stood on my ancestors' footstool."*[149]

Here we see Gasztold making a distinction between his natural honor (*honore naturali*) and acquired reputation. Therefore, the first source of true honor was illustrious heritage. While one can climb the social ladder, in Gasztold's view, the more prestigious natural honor was an inherited trait. This view benefitted the old aristocracy of ethnic Lithuanian lands that comprised the ruling elite of the Grand Duchy at the turn of the 16th century. The Grand Duchy at that time was ruled by a small circle of magnates serving in the Council of the Lords. Gasztold ascribes natural honor to them, thus making it an inborn quality setting them apart not only from the lesser nobility but also powerful contenders to the magnate status, such as his current enemies.

Gasztold's memorial relies on genealogical arguments to defend his honor as well as to introduce a distinction between high esteem and natural honor. However, for genealogical arguments to be persuasive, genealogical thinking should have been a widespread phenomenon. Gasztold's arguments show that it was so in his day, however, genealogical thinking was an

[148] AT: 260: "Hostis vafer non tantum meus, sed etiam factorum meorum, que ego pro sacris Mtibus. vestris ac pro Republica facio et pro virile mea intrepidus exequor, non solum bona fama honoreque naturali et bonis honestique modis quesito, verum etiam vita me artibus suis perversis privare contendens."

[149] AT: 261: "Gloriatur se bene meruisse de Republica, homo novus infirme conditionis et de pauperrimo ducaculo Ruthennus natus. […] tamen iste hostis meus et majores sui nunquam in consilio sedissent, a quo perpetuo exclusi erant et vix starent in scabello pedum majorum meorum." *Šešioliktojo amžiaus raštija*: 37.

innovation that challenged the previous understanding of nobility. Petrauskas proved that before genealogy took such a prominent role it held in the first decades of the 16th century, noble status relied on belonging to a clan. The clan is to be understood as a kinship group of contemporary nobles linked together by marriage and allegiances into a dynamic cognatic structure, where kin from both sides of the marriage carry equal influence.[150] Due to its reliance on contemporaries, this type of structure does not yield an inheritable family name (at least not one passed down for more than two generations) or settle on a core landholding, and, perhaps most importantly, its genealogical memory was kept only until it was directly relevant. In other words, the clan is a horizontal structure of kinship, where contemporary third-degree relatives took predominance over the direct ancestors of one individual. In contrast, vertical, or agnatic, kinship groups prefer ancestors to the contemporary relatives of a lesser degree. Gasztold's memorial attests to how much the core tenets of thinking on social structure, power, and legitimacy changed during the 15th century, as Gasztold bases his supremacy on the esteem of his direct ancestors. He justifies his rank in agnatic terms, by emphasizing lineage, which was previously not as relevant.

Esteemed lineage draws importance not only on its long history but by being on its right side. Gasztold expresses his gratitude to God, who steers the course of history by elevating some and denigrating others.[151] An esteemed and persistent lineage then becomes a sign of true worthiness approved by divine power, which is passed on through blood, as children inherit their nature from their parents—an obvious truth in Gasztold's presentation.[152] However, it was the ruler

[150] Petrauskas, *Lietuvos diduomenė*, 109-110. In arguing this he relies on Karl Schmid, "Zur Problematik von Familie, Sippe, und Geschlecht, Haus und Dynastie beim mittelalterlichen Adel," *Zeitschrift für die Geschichte des Oberrheins* 105 (1957): 1-62.
[151] Ibid. "de quo ego primum gratias deo opt. max., qui hec cuncta versat, hunc humiliando et hunc exaltando."
[152] AT, p. 269: "non sunt ista nova, que scribe, nec fingere oportet, veritas est lucida et natura avorum descendit in filios filiorum". *Šešioliktojo amžiaus raštija*: 54.

who implemented god's judgment. Hence the second source for acquiring or maintaining natural honor is loyalty to the ruler.

For this reason Gasztold thanks the ruler for his benefaction, expressing his willingness to serve just as fiercely as his forefathers did.[153] He continuously stresses the import of loyalty and his unflinching allegiance and relates his forefather's input in stopping an assassination attempt on Casimir IV Jagiellonian in 1480.[154] In another important document produced in Gasztold's cultural proximity – the foreword to the First Lithuanian Statute and Gasztold's *laudatio* – his secretary writes of unflinching loyalty Gasztold family demonstrated to the Grand Dukes over the years, including the said intervention of the same assassination attempt, as well as numerous battles against Muscovy and Crimean Khanate.[155] To cleanse the smear regarding Gliński's rebellion, he draws a parallel between his unfortunate fate and one of Cato the Younger, a republican hero daring to oppose Caesar's dominance. Perhaps as further development on this theme, he fashions himself the last defender of the Grand Duchy of Lithuania.[156] Interestingly, while talking of external threats or conspiracies, he uses the term *dominium* rather than *Respublica*, thus subtly reminding the queen of her relationship to the Grand Duchy and its inhabitants. He ends the text just as he opened it, with a pledge of loyalty and a plea

> *"to defend me, ever faithful in all deeds, even against hostile conspiracies, and in turn I give myself and my only son to perpetual service of most illustrious Grand Duke Sigismund Augustus, our lord."*[157]

[153] AT: 261: "et deinde Sermo. dno. meo regi ac divis majoribus immortals ago et habeo, acturus perpetuo et quilusvis servitiis fidelibus sibi et posteritati suae Serme. fideliter famulaturus." *Šešioliktojo amžiaus raštija*, 37.
[154] *Šešioliktojo amžiaus raštija,* p. 54. Stephen C. Rowell, "Bears and Traitors, or: Political Tensions in the Grand Duchy, ca. 1440-1481," *Lithuanian Historical Studies* 2 (1997): 28-55.
[155] Stasys Lazutka, Edvardas Gudavičius, Deodato Septenijaus Goštautų "panegirika," *Lietuvos Istorijos Metraštis* (1976): 82, 85.
[156] AT: 260.
[157] AT: 54: "et mihi fideli omnibus in rebus etiam contra calliditatem et conspirationem hostium patrocinari, ac me et filium meum unicum, quem trado et dedo una mecum in perpetuum servitorem Illmo. dno. Mg. duci Sigismundo Augusto, dno. Nostro." Šešioliktojo amžiaus raštija: 54.

This plea serves as a reminder of his status as a loyal subject to the Crown and the obligation of the royal couple to protect their subjects.

The bond between the ruler and the subject was a crucial part of the honor code, therefore, to dishonor his adversaries, Gasztold charges them with disloyalty. This tenet is widely shared, since as the text argues, he was charged with disloyalty which gives the cause of writing this text. The Radziwiłłs are presented as scheming and land-hungry people, claiming that they plotted his demise ever since the ruler awarded them with a manor in Goniadz, bordering Gasztold's lands in Tikocin. Were they to succeed, their "*family would increase in fame and riches*."[158] Prince Konstanty Ostrogski is called a fox (a likely a reference to Cicero) and often charged with being untrustworthy, disloyal, and deceitful, claiming he betrayed their friendship and tried joining forces with the invading Muscovites to bring devastation over the land. This was fearmongering based on the widespread bias of Ruthenians being untrustworthy.[159]

Gasztold attacks his adversaries' political influence by targeting their claim to honor and contrasting his superiority over them. Albeit he contends that at the day of writing the Radziwiłł and Ostrogski are well established and comparable to him in riches (in fact, the Radziwiłł clan surpassed him in wealth), this was not always so. Their rustic or regional birth prevents from putting them on one level with him and makes this largely an issue of difference in esteem. Although Gasztold does denigrate the roots of his adversaries, he does not question their claim to noble status. Instead, he blames them for acting dishonorably – scheming, pretending, even betraying. Instead of treating them as not his equals, he charges them for being unworthy of their status.

[158] AT, 264, Šešioliktojo amžiaus raštija: 41.
[159] AT, 268, Šešioliktojo amžiaus raštija: 48.

Taken in the larger sociopolitical perspective, Gasztold's view represents the interests of magnates—the top layer of the socially stratified noble estate—a group Radziwill and Ostrogski also belonged to. However, this group is not as well defined as it may appear at first glance. It includes the ruling elite of the country, which consisted of members of the Council of Lords, but is not limited to these officials. As Rimvydas Petrauskas' research shows, some 15th century magnates held no offices and still were part of political decision-making on the highest level. Magnates ought to be perceived as leaders of the cognatic noble clans. They were closely related to the people they represent, therefore there was no justification for conceiving magnates as an existing separate estate at the beginning of the 15th century.[160] However, a slow change towards the agnatic terms set magnates apart from other nobles. This change manifested most visibly in their marital politics, as magnates were only interested in forging personal bonds with superiors in rank – princes or people close to the ruler – and marriages with middling or even high-ranking nobles were growing increasingly rare.[161] In addition, the institutionalization of the state cemented their power as most of the high-ranking dignitaries and offices were only given to magnates. Hence, by the end of the 15th century noble estate held the potential of fracturing into the aristocratic and middling estates due to surmounting social stratification.

The chasm between the citizens of the republic in the early 16th century is well summarized in one of the proclamations uttered in Gasztold's environment. This is his take on the proceedings of Sejm of the Grand Duchy of Lithuania: "*our younger brothers are welcome to listen to us deliberating, but it is we who take decisions.*"[162] The "we" Gasztold refers to here is the Council

[160] Petrauskas,*Lietuvos diduomenė*, 49.
[161] Ibid., 52.
[162] Olbracht Gasztold, "Rationes Alberti Gastoldi, cur judices ex equestri ordine non sint in Lithuania instar regni Poloniae constituendi" in Adam Tytus Działyński, ed., *Acta Tomiciana. XI.* (Posnaniae: Ludovici Merzbachiensis, 1901): 163-165; URL: https://www.wbc.poznan.pl/dlibra/publication/32672/edition/49911/content : "Nostrae longe

of the Lords, a narrow faction of dignitaries who garnered most of the political power. This institution grew in prominence throughout the 15th century as the rulers chose Kraków as their primary residence and would visit Vilnius only so often. In their absence, the Grand Duchy was ruled by the Council with little to harness their power. They were only answerable to the ruler and although he was the only authority to pass judgment onto them.

At the time King Jogaila bequeathed the first privilege to the "whole nobility" in 1387, a unified noble estate only existed on paper. In truth, as Petrauskas has insightfully argued, noble status in the 15th century was inherited but depended on allegiance to a clan. This is evident in the way nobles described themselves, for instance, using predicates as *haeres*, *filius*, and *de* to emphasize affiliation with one clan or the other.[163] The 15th century noble estate consisted of many clans competing for esteem through marriage, land holdings, and political influence and, as becomes evident from Gasztold's text, some clans were more revered than others.

Changing the structure of kinship inevitably altered the predicates of nobility and honor. Perhaps the most important trait of the 15th century nobility that the horizontal structure of kinship brought was that elevated status depended on belonging to a kinship group.[1] Cognatic clans treat the maternal line of the family with equal import as the paternal one and the network of the family itself is spread horizontally not vertically, throughout geography, not history. The esteem of the clan is rather dependent on the esteem of contemporaries, not the deeds of their ancestors. Moreover, in such a configuration, offices were not as effective a means to attain honor, as family's esteem was secured and protected collectively. Awarding offices and bequeathing honors can be

aliter absolvuntur conventiones, et quidquid per Mtem. Regiam concluditur et dominos, nobilitas hic nra. exsequatur necesse est. Vocamus quidem ad nostros conventus etiam nobilitatem, tamquam honoris gratia, revera autem, ut singulis palam sit, quidquid concluserimus."

[163] Petrauskas, *Lietuvos diduomenė*, 51.

seen as ways the ruler could diminish the influence clans wielded, as these esteemed positions elevated one person over the kinship group. Once the conception of the family had become agnatic and more vertically integrated, the import of lineage grew and provided a means to bind together even those families of magnates that could have been at odds otherwise. In other words, once lineage gains import, it is possible to conceive of forming a magnate estate disconnected from the lesser nobility it used to represent when the main predicate of nobility was the clan.

The noble estate was decentralized, depended on the integration into kinship groups, and lacked a shared measure of honorability. This form of nobility morphed into a more unified social group due to the processes of institutionalization and legal development. By the 16th century, nobility grew into a social group with a shared notion of worth, which at first manifested in the legal codes and during the following decades became increasingly a part of the quotidian life. Its justification for privilege became esteemed lineage as opposed to affiliation to a clan. The turn from one predicate of nobility towards the other is a long process, which reached a tipping point at around 1522 when legal means to justify nobility were devised and relied on proving noble lineage up to the 4th generation.[164]

Before the agnatic kinship structure took form the idea of equality within the noble estate is impossible to conceive of. While at the beginning of the 15th century nobility was decided by belonging to a contemporary group of kin, by the 16th century nobility was dependent on personal lineage. In the 15th century, nobility consisted of groups banding together under the banner of their magnate, while by the mid-16th century nobility is to be conceived of as an estate united by certain privileges and interests. Social stratification and competition for esteem remained, but the

[164] Legal procedure of proving noble status is detailed in the next chapter.

institutional and legal developments forged a shared belonging based on recognition of the equal base worth of noble's life.

Overall, Gasztold's view of honor and nobility is agnatic and akin to the feudal one. On these terms, honor is comprised of illustrious lineage, drawing upon the ideas that God works through the ruler to ensure justice, children inherit virtues of their parents, and preferred customary lifestyle. Money and a good name were important enough to serve as a point of attack but fell short of justifying an honorable status. However, the text glimpses at the marks of changing times: his opponents are relatively new people to the ruling elite, who managed to make a career out of their gifts and climb up the social ladder. His references give signs of humanist influence at the time when the only classically trained people in the country were foreign scribes. The times were slowly changing in the Grand Duchy and although Gasztold did embody the retracting middle-ages, he was himself a man of their autumn. Nevertheless, he did manage to change in time: his feuds with the powerful Radziwiłł faction ended in 1532 when Stanislaus, his only son and, as history will show, the last descendant of the Gasztold clan, married Barbara Radziwiłł.

Roman roots of Grand Duchy's nobility

At the time Gasztold defended his name, the supposed Roman descent of Lithuanians was familiar to many men of letters. It has been developed back in the 14th century, albeit disseminated mostly through writing. That changed in the early 16th century when two alternate versions of the Lithuanian *origo gentis* narrative were put down in writing between approximately 1519 and 1525.[165] Although the authorship is unknown and remains contested, both sources defend the

[165] For the latest historical take on the theory of Roman descent, see Rimvydas Petrauskas, "Palemon und die vier Sippen. Die römische Abstammungstheorie der Litauer," in: Stefan Donecker, ed., *Abstammungsmythen und Völkergenealogien im frühneuzeitlichen Ostseeraum, Studien zur Geschichte der Ostseeregion* (Greifswald: Greifswald Universität, 2020): 195-209.

interests of Lithuanian magnates. Among the most likely candidates for providing the incentive to formulate an extensive literary treatment of the theory are Bishop of Lutsk Paweł Holszański (1485-1555) and Grand Chancellor Olbracht Gasztold. More recently, Lithuanian historians persuasively argued for Gasztold, whose involvement was further supported by the extensive holdings of his personal library.[166] However, older historiographical positions ascribing it to Holszansky remain popular among Belarussian and Polish colleagues. Given the available source base, this question could never be conclusively determined, for the arguments supporting either candidacy are persuasive.[167] However, it may not be as important, because, as Jan Jurkiewicz suggested, the Lithuanian chronicles might have been the result of their collaboration, as the text certainly defends the interests of Gasztold, Holszanski, as well as Giedrojc clans.[168] Needless to say, the name of the scribe was also lost to history. Some had argued that certain qualities of text composition and intimate knowledge of specific Baltic onomastic and topography indicate that the scribe could have been of Lithuanian descent.[169] While the evidence remains inconclusive, this is certainly a possibility, not only because of the linguistic clues, the difference from the tradition of Russian *letopisy,* but also seemingly first-hand knowledge of historical details surrounding events transpiring in the largely Lithuanian-speaking region of Samogitia.

With agnatic genealogical thinking growing in influence, the need for "revealing" the descent of Lithuanian nobles became a necessity among the powerful. No longer was it only a

[166] Kęstutis Gudmantas, "Alberto Goštautot biblioteka ir Lietuvos metraščiai," *Knygotyra* 43 (2003): 9-24.
[167] Jerzy Ochmański supported Holszanski's authorship in ibid., "Nad Kroniką Bychowca," *Studia Źródłoznawcze* XII (1967): 155-63. Rimantas Jasas argued that the theory was created in the cultural proximity of Gasztold's court, see Rimantas Jasas, "Bychovco kronika ir jos reikšmė," in Rimantas Jasas, ed., *Lietuvos metraštis. Bychovco kronika.* (Vilnius: Vaga, 1971).
[168] Jan Jurkiewicz, *Od Palemona do Gedymina: wczesnonowożytne wyobrażenia o początkach Litwy* (Poznań: Wydawnictwo naukowe, 2012): 55.
[169] Eugenijus Saviščevas, "Palemonidai, Gediminaičiai ir žemaičiai: kelios pastabos apie lituanistiką 'Lietuvos Didžiosios Kunigaikštystės ir Žemaitijos kronikoje,'" *Lietuvos istorijos studijos* 48 (2021): 10-14.

scholarly interest, the question of honorable roots became a political concern. The theory established a difference between the magnates and the middling nobles by ascribing the powerful with the illustrious Roman ancestry, while others hailed from nameless Roman entourage and autochthonous tribes. This theory was an effort to capitalize on esteem by fabricating a theory of descent that would introduce a concept of honor beyond the claim of ordinary nobles. One of the aims the theory served was resistance to the idea of equality within the noble estate, an influence of Polish political thought that eventually became very alluring to the middling nobility of the Grand Duchy. Reinforcing differences within nobility had the potential of creating an aristocratic estate.

The Roman descent theory was articulated in two versions. The shorter and earlier edition is dated around 1519-21 and bears the title of *The Annal of Grand Duchy of Lithuania and Samogitia.*[170] A few years later an extended edition was produced, however, its title did not survive, and nowadays it is known as the Bychowiec chronicle. Both tell a similar tale of peregrination from Rome to Samogitia and the establishment of *Lithuania propria*, hence scholars usually refer to these narratives as the Lithuanian chronicles. Although narratives bore some signs of reality, they largely served an ideological purpose. Both variants are primarily targeted at a local reader, as they were rendered in Ruthenian, nevertheless, in cultural logic and ideas the works transmitted, those were artifacts of Latin West. Even in attempts of self-fashioning Grand Duchy stood dead center in the cultural crossroads. However, in these first textual renditions, the theory was a tool to further internal politics: to enforce the magnate vision of social order and offer a myth that could integrate multiethnic and multifaith Grand Duchy's nobility.

[170] Ruth: *Летописец великого князства Литовского и Жомоитского.*

The Annal is the earliest narrative to lay out the theory of Roman descent, but it is far from being the first attempt to uncover the origins of Lithuanians. This question was on the minds of several humanist scholars mulling over the origins of European nations. Enea Silvio de' Piccolomini (1405-1464) theorized that they descended from Slavs in his *De Europa* (1468),[171] whereas Polish Chronicler Jan Długosz (1415-1480) was the first to opine on Lithuanian and Roman similarities and theorize the possibility of Roman descent. Nevertheless, it is worth noting that the Roman connection failed to inspire Italian humanists, including Piccolomini and Filippo Buonaccorsi Callimachus (1437-1496). The latter was well acquainted with these lands, as he served as royal secretary to the Polish Crown and had visited the Grand Duchy. He suggested that Lithuanians were more likely descended from some Gallic tribes, or perhaps Celts, or maybe autochthonous people of Bosphorus.[172]

Nowadays historians presume that legend of Roman descent spread among learned men before anyone cared to write it down and, in time, it accumulated arguments in its favor. Jan Jurkiewicz argues that Długosz composed the texts concerning Lithuanian descent around 1459-1466, where he points out the proximity of Latin and Lithuanian languages as well as the similarity of rites between their pagan religions.[173] More particularly, he draws a connection between the Roman patrician family Villius and Grand Duchy's capital Vilnius (Vilna, Wilna) and speculates their involvement in establishing the city; half a century later Maciej Miechovita echoed said claims, as did many 16th century humanists.[174] Their interest was most likely fueled by scholarly

[171] Printed in Venice as *Historiarum ubique gestarum locorumque descriptio* (1477).
[172] He expressed his opinions in *Vita et mores Sbignei Cardinalis* (c. 1480). Jan Jurkiewicz, *Od Palemona do Gedymina:* 42-46.
[173] Ibid., 38.
[174] Maciej Miechowita *Tractatus de duabus Sarmatiis Asiana et Europiana et de contentis in eis* (Kraków, 1517). Kęstutis Gudmantas, "Lietuvių kilmės iš romėnų teorijos genezė ir ankstyvosios Lietuvos vardo etimologijos," *Senoji Lietuvos literatūra* 17, 2004, p. 250.

ambition to provide a thorough picture of European ethnogenetic narratives. Placed in said context, the legend of Roman descent was but a contested historical curiosity that failed to impress people closer to Italian culture. And while authors of *The Annal* shared this spark for scholarship, political agenda dominated over it. And, in hindsight, this agenda was successful – Grand Duchy's nobility quickly adopted the narrative of descent from Roman patricians and adapted it to their needs. This theory proliferated throughout the 16th century and proved useful by cementing a cultural identity separate from Sarmatism – the Polish *origo gentis* narrative that spread throughout Grand Duchy's nobility alongside wider adoption of the Polish language – and helped to refute Muscovite claims to Livonia.

However, before delving into the contents of the legend, we must address a crucial question—whose genealogy does the myth of Roman descent detail exactly? Długosz, as well as other scholars, were most preoccupied with explaining the historical contingencies that led a relatively small ethnic group with speaking an admittedly unfamiliar language and practicing pagan rites into the territory surrounded by Slavic peoples speaking significantly more similar tongues and customs. This, however, was not the primary aim of Lithuanian Chronicles. In contrast, these texts hint at political goals, which begin by outlining the core territory of the Grand Duchy and continue by explaining the origins of their ruling estate. Both territory and estate were multiethnic and multireligious, therefore Lithuanian Chronicles set out to provide the whole nobility, and especially its upmost layer, with esteemed roots and legitimacy to rule said lands. For this reason, neither ethnic nor religious traits are as important as common descent from Polemon's arc that transported civilization into these lands.

The Annal begins by detailing the arrival of Roman patriciates to the lands of the Grand Duchy. It opens with a variation of Athanasius' creed, noting the birth of Christ in *Anno Mundi*

chronological tradition.[175] Sacral references frame the settlement in the universal history of salvation and sanctify the beginnings of the political formation.[176] The narrative continues with a list of Roman emperors until Nero, whose terrible reign was taken as the reason for peregrination:

> *"And then one Roman duke by the name of Polemon, who was of the same blood as Nero, called his wife and children, and gathered all his belongings, and five hundred nobles with wives and children, and many other people followed him. They enlisted an astronomer and boarded ships to sail the sea towards the direction of the setting sun, wishing to find themselves a suitable land where they could settle and live in peace."* [177]

Eventually, having crossed a "sea-ocean" – the Baltic Sea – navigating by starlight interpreted by an astronomer.[178] Romans found their way to Samogitia. Historians speculate that the chosen means of peregrination hints at the changing political orientation: while Lithuanians of the 12-15th century were named the Vikings of the land, by the 16th century the Baltic was the new frontier. The means of travel of their supposed ancestors reinforced the budding perception of the Grand Duchy as a sea-faring state.

Once aground, Romans established their rule, they founded cities soon after and continued to expand and procreate. Their leader, Polemon, named the land Samogitia and through this symbolic act instituted rulership, an act his kin will repeat by expanding into new territories and naming them Lithuania. Landing in and naming Samogitia is an act that bore significant political

[175] Notably, it places the birth of Christ at 5526, some 18 years later than the tradition would have it. While it may be dismissed as a mistake, this likely carried a numerological significance readily understandable to the intended audience of Rennaissance scholars. More on the symbology later.

[176] Kęstutis Gudmantas, "Legendinė Lietuvos pradžia: Lietuvos metraščių versijos," in Darius Alekna, ed., *Saeculo Primo. Romos imperijos pasaulis pežvengus "naujosios eros" slenkstį,* (Vilnius: Vilniaus Universiteto Leidykla, 2008): 374.

[177] In this work I address Krasinsky manuscript, the earliest surviving copy of *The Annal*, published in Николай Николаевич Улащик, ed., *Полное собрание русских летописей*, t.35: *Летописи белорусско-литовские* (Москва: Наука, 1980): 128: "Где ж одно княже римское именем Полемон, который же цесару Нерону был кровный, забралъся з жоною и з детми и з скарбы своими и подъданными своими с которым жо кн[я]жетем собралося пят. сот шляхты з жонами и з детми и з многыми людми." Henceforth – PSRL.

[178] Some argued that due the import of astrology at that time period, the figure of astrologer could be interpreted as another sign that Polemon was destined to populate the Grand Duchy by some higher power.

significance because it was a region with entrenched political elites and a sense of independence. As per Matthias Niendorf, Samogitia had the potential to grow into a nation of its own was it not for the early conquest of Lithuanian dukes.[179] Nevertheless, Samogitia retains a separate character to this day. Polemonids were fashioned as settlers of the Ruthenian lands, establishing Navahrudak and conquering Polatsk. On the other, as Jan Jurkiewicz posits, the narrative already shows tripartite territorial and political formation of the Grand Duchy, consisting of Samogitia, Lithuania, and Navahrudak.[180] These were the regions where the rule of Lithuanian magnate families was most solidified and naming does not extend deeper into Ruthenian and Livonian lands, as "settlers" were depicted taking over existing structures.

Polemon's entourage consisted of some 500 noble families (albeit such numbers were more symbolically laden than anything else) but among them, some were more exalted than others: *"among those nobles were four of the highest birth, by names Centaurs, Columns, Roses, and Ugri."*[181] Polemon's kin was most revered, as they were kin to Emperors of Rome; however, this bloodline did not survive to the presence of the text, which constitutes another political clue. Albeit Polemon instituted rulership, he did not survive and passed on the authority to the most exalted noble families. Hence, no claim is made to the actual imperial bloodline from Nero through Polemon to Gediminds, instead, a more strategic route is taken—the Gediminid dynasty is brought to the level of the four most esteemed noble houses of Polemon's entourage effectively placing the magnates ever closer to the ruling dynasty. Notably, by the 16th century Council of Lords were mostly in charge of ruling the Grand Duchy.

[179] Matthias Niendorf, *Lietuvos Didžioji Kunigaikštystė. Studija apie nacijos formavimąsi ankstyvaisiais naujaisiais laikais. 1569-1795*, trans. Indrė Dalia Klimkaitė (Vilnius: Mintis, 2010): 216-261.
[180] Jan Jurkiewicz, Od Polemona do Giedymina, 225-226.
[181] PSRL: 128. "А с тыми шляхты чотыри были рожай наивишшие, именем Китоврасы Колюмны Рожи Оургы."

Overall, the narrative structure of Lithuanian Chronicles is centered around these families, and one would seek in vain for the stories of other nobles. The exaltation of four families over the remaining 500 noble houses mirrors the perceived social order of early 16th century Grand Duchy, where the difference among the magnate families and the rest of the nobility was evident in every respect. The trend to favor magnates continues throughout Lithuanian chronicles, as only these magnate families were treated as historical actors while all the rest of the nobility remain nameless. Such narrative structure perpetuates the division of political power between the ruling dynasty (the legendary Polemonids and historical Gediminids) and a close circle of most influential nobles, who represent the Council of the Lords. In other words, narratives created in the first decades of the 16th century limited the political nation of the Grand Duchy to a handful of magnates. Historians agree that such rendition was not far from the truth, as the political nation actively involved in the creation and development of the Grand Duchy was certainly limited and did not extend to broader echelons of the noble estate.

A closer look at the listed names suggests ample historical reference. Columns and *Ugri*, whose name was corrupted due to its unfamiliarity to the copying scribes, were contemporary Roman aristocratic families *Collumna* and *Orsini* transposed upon the historical imaginary. In the 16th century, both families boasted widespread esteem and political power, however, their historical lineage extends only back to the 12th century, when they led the leading Ghibelline and Guelph factions respectively.[182] Hence, the positivist approximation of the historical value of

[182] In 1518 King Sigismund the Old was about to wed the Milanese duchess Bona Sforza, who sent Chrisostom Collumna as a messenger to Vilnius and her entourage included Prospero de Collumna. Gasztold established himself as an ally to the Queen in 1519 and proved his loyalty in the already discussed issue of naming the newborn Sigismund Augustus a successor. But before that came to pass, it was likely his influence that encouraged interweaving Collonas as one of the legendary forefathers of Grand Duchy's nobility. This hypothesis becomes even harder to dispute for the fact that the progenitor of Collonas was named Prospero; the choice of the name could not have been a mere coincidence, more likely a superimposed sign of contemporaneity upon the imagined past. Rimvydas Petrauskas,

Lithuanian chronicles crumbles due to its imaginary chronology and primacy of political needs over historical fact. Nevertheless, the narrative met the contemporary requirements of scholarship and fulfilled the needs of its creators.

These aims become more apparent once we consider the international significance of chosen families: at the time of writing, certain theories named: *Collumnas* were also named among the possible ancestors to Habsburg and Hohenzollern families. Fabricated claim to their bloodline lifted the esteem of Grand Duchy's magnates and integrated them into the networks of European aristocracy. Moreover, as Rimvydas Petrauskas succinctly points out, Lithuanian chronicles do not claim direct succession from Polemon to the Gediminid *stirps regia*.[183] Instead, the most important magnates gathered to elect a new ruler in their stead and selected the Gediminids. Interestingly, they were fashioned as descendants of Collumnas, hence sharing their legendary ancestors with the Gasztold clan. This rendition of the myth of origins placed Olbracht Gasztold ever closer to the ruling dynasty.

In the effort to construct the past, the author(s) of the chronicle skillfully manipulated images and symbols. Lithuanian chronicles featured numerological and onomastic clues that bore messages the humanist elite could easily decode. The text carries important references to the Scripture and significant borrowings from the medieval Alexander Romance, which had been recently translated into Polish (1510).[184] Among the most useful tools in forging the links to the

"Socialiniai ir istoriografiniai lietuvių kilmės iš romėnų teorijos aspektai" *Senoji Lietuvos literatūra* 17 (2004): 279-280.

[183] Petrauskas, *Socialiniai ir istoriografiniai*, 279; 282.

[184] Among first attempts to decode their Biblical symbolism was Eligijus Raila, "Palemono legenda: Istoriografinės teksto ištakos" *Lietuvos Istorijos Studijos* 4 (1997): 130-134 and Ibid., "Lietuvos atradimas, arba Palemono prolegomenai" *Naujasis Židinys-Aidai* 4 (1995): 298–303. Further analysis was carried out by Kęstutis Gudmantas, "Vėlyvųjų Lietuvos metraščių veikėjai ir jų prototipai: 'romėnai'" *Senoji Lietuvos literatūra* 18 (2005): 113-139. For the link with Alexander Romance see Kęstutis Gudmantas, "Apie kai kurias 1510 metų *Aleksandrijos* ir legendinės Lietuvos metraščių dalies sąsajas" *Archivum Lithuanicum* 5 (2003): 207-226.

past was heraldry. Despite the fact it gained prominence in the culture of the European Middle Ages, *The Annal* attributed Romans with sigils of the 16th century magnates. Bychowiec chronicle features a passage claiming that while Poles were commoners and bought their coat of arms from Bohemian aristocracy, Lithuanians were once Roman nobles who still bore these ancient sigils. These words were supposedly directed at the future Holy Roman Emperor Sigismund of Luxemburg during the Convent of Lutsk (1429). To which Sigismund responded favorably, claiming to be well aware of Lithuanian noble roots that in fact are more esteemed and whose nobility is older than that of the Poles.[185] Sigil of Collumnas was suggested as the original version of the coats of arms Gediminid and Gasztold clans. Their similarity was rather superficial, comparable to one of columns and pillars. Other sigils were more precise: centaur was the sigil of the magnate Holszansky clan, the bear was represented Samogitia and magnates Dowojno, while Roses was the heraldic symbol of the Giedroyc clan.[186]

Soon after, an extended version of the theory of Roman descent was written.[187] The historiographical tradition took to naming it the Bychowiec chronicle, in honor of its owner Aleksander Bychowiec, who introduced it into scholarship in the 19th century. This chronicle bears no original title and its opening and concluding parts seem to be missing, however, its contents have enough similarities to deem it an extended version of *The Annal*. It eliminated the variation on *Credo* and changed the cause for peregrination: Nero's tyranny was substituted with Attila's threat, thus postponing the arrival by four ages.[188] Nevertheless, both variants share the danger of

[185] Jasas, *Lietuvos metraštis*, 116.
[186] Gudmantas, *Vėlyvųjų Lietuvos metraščių veikėjai*, 120.
[187] The question of chronology is still debated with some scholars arguing for late 16th century. However, here I follow the dating suggested by Rimantas Jasas, who places the creation of the manuscript during 1517-1525 and argues for its close relation with Olbracht Gasztold. Rimantas Jasas, *Bychovco kronika ir jos kilmė*, 26-38.
[188] Knowledge of Attila was most likely drawn from Johannes de Thurocz's *Chronica Hungarorum* (1488) because he indicates the same date of the calamity - 401 AD, see Kęstutis Gudmantas, "Vėlyvųjų Lietuvos metraščių erdvė," *Darbai ir dienos* 44 (2005): 107.

calamity or tyrannical oppression as the essential reason to seek out new lands beyond the *oikumene*.[189] This falls in line with the traditional myths of lineage since several European nations traced their roots back to the sack of Troy or the conquest of Alexander the Great. In comparison to *The Annal*, the chronicle has more factual merit: it features more detailed information on 13th century King Mindaugas, rule of Vytautas the Great (the years of 1405-1430) and added original material covering the period of 1445-1506. However, there is reason to believe that the manuscript had to cover the Gliński rebellion of 1508.[190] Notably, it also featured a strong claim for superiority in the Ruthenian lands: Polemonid dynasty was presented as the ancestors of Muscovy's Rurikids.[191]

Just as the earlier edition, the extended Lithuanian chronicle was created in the cultural proximity to Olbracht Gasztold and continued faithfully in the spirit of its predecessor. Bychowiec chronicle transposes the 16th century institutions upon the past. It narrates that once the Polemonid dynasty died out, the Council of the Lords grieved their passing and then elected a descendent from the Centaur clan.[192] Their rule did not last, and then the lords gathered and elected Vytenis—the historical ancestor of the Gediminid dynasty, himself a descendant of the Collumna family.[193] To strengthen his claim to the office, Olbracht Gasztold invented an ancestor Gasztold Gasztoldowicz[194], holding two very important offices – Grand Hetman and Voivode of Vilnius, albeit neither of the offices existed in the 14th century. The Bychowiec chronicle tells of his conversion and taking the Christian name Petrus, moreover, the text proclaims him the first

[189] Gudmantas, *Legendinė Lietuvos pradžia*, 377.
[190] Ibid., 18.
[191] Kęstutis Gudmantas, "Valdovo ir dinastijos įvaizdžiai vėlyvuosiuose Lietuvos metraščiuose," *Acta academiae artium Vilnensis* 65-66 (2012): 57.
[192] Jasas, *Lietuvos metraštis*, 60.
[193] Ibid., 66.
[194] Ibid., 76.

neophyte Lithuanian responsible for introducing the Roman Church to the Land by inviting the first 14 Franciscans to Lithuania.[195] However, this was nothing more than an attempt to strengthen his position. It was likely necessary because he succeeded his enemy Mikołaj Radziwiłł in the post of Voivode of Vilnius. These superimpositions of the 16th century reality over historical past shrouded magnate grip over the Grand Duchy with tradition.

Overall, narratives of Lithuanian chronicles defend the view that politics, conquest, and rule were matters best left in the magnate's hands. The Council of the Lords was presented as a collegial institution advising and electing the rulers and virtually the only political actors beside him. This becomes evident judging *ex silentio* as no other nobles were named, as they are largely referred to as "our people." This was a continuation of the political *status quo* that settled because the rulers resided in Poland increasingly more often and left the Council of the Lords to reign in their stead, whose role strengthened especially since the rule of Alexander Jagiellon (1493-1506). Simultaneously, narratives deepened social differences among the magnates and middling nobles, not to talk of commoners, e.g., Bychowiec chronicle names peasants "dogbloods."[196]

Nevertheless, Lithuanian chronicles represented only one measure magnates had taken to cement their political vision over the Grand Duchy. Simultaneously, magnates sought other ways to show superiority over lesser or middling nobles. Analysis of titles reveals the inflation of their significance: terminology that in the mid 15th century was only applicable only to the magnates had become honorifics shared by the whole noble estate. This motivated magnates to seek other ways to establish their superiority.[197] This requirement was met through the initiatives of magnates

[195] Ibid., 72, 77.
[196] Jasas, *Lietuvos metraštis*, 124.
[197] Rimvydas Petrauskas, "Titulas ir valdžia: Lietuvos Didžiosios Kunigaikštytės didikų savimonės pokyčiai XVI amžiaus pirmoje pusėje," in Irena Valikonytė, Lirija Steponavičienė, eds., *Pirmasis Lietuvos Statutas ir epocha: straipsnių rinkinys*, (Vilnius: Vilniaus universiteto leidykla, 2005): 35-46.

themselves or royalty granting them exceptional privileges or titles. This manifested first in internal politics with Marcin Gasztold extending his office as a Voivode of Vilnius to his son Olbracht in a letter dated 1490, naming him the son of the Voivode (lat. Palatinades, ruth. воеводичь).[198] Later Olbracht Gasztold was granted the right to seal his letters in red wax – otherwise an exclusively royal privilege.[199] The first several decades of the 16th century witnessed the growing demand for internationally recognizable titles and ties with nobles of other European polities. The Radziwill clan were the first to claim the title of Princes of the Holy Roman Empire in 1518, but the Gasztold's claimed the title of Graf in 1529.[200] Viewed in the light of these processes, claiming Roman descent was just another step towards establishing dominance through means of symbolic exclusivity and presenting them as equals to European aristocracy.

Political, legal, and symbolic domination of magnates was already a quotidian fact in the Grand Duchy, so a narrative exalting their ancestry was just another step in the same direction. While the ideals of equality among the members of the privileged estate were gaining popularity due to the cultural proximity in Poland, those did not yet have any potential to succeed in Lithuania, where the political elite sought to conserve the customs of the ancients and the singularity of the Lithuanian republic. The aristocratic clans had to fade into oblivion before ideals of equality could stand a chance. In the mid-16th century, this came to pass, as several magnate clans died out, mostly due to their marital politics and impulse to consolidate the land ownership into the hands of one scion. Then, the judicial-administrative reform of 1564-1566 made noble equality before the law a reality.

[198] Ibid., 36.
[199] Ibid., 41.
[200] More on the Habsburg politics with the Lithuanian magnates see Oskar Halecki, "Die Beziehungen der Habsburger zum Litauischer Hochadel im Zeitalter der Jagellonen," *Mittleinugen des Instituts für Österreichischer Geschichtsforschung* 36 (1915): 595-660.

The multisemantic narrative of Lithuanian chronicles was as much historical fantasy, as it was a manifesto of political ambition. It shaped the past and, by extension, affected the interpretation of the present, all the while leaving enough space for adjustment, should the future require it. As Petrauskas points out, the core tenets of the narrative hold little potential for ethnic conflict, instead, it was a narrative describing the genesis of an estate, not an ethos.[201] Already at the time of its conception, this narrative accommodated aristocracy of any nationality and creed. And as extensive research into the heraldry of GDL's most illustrious lineages shows, they gladly incorporated the narrative into their genealogical consciousness.[202]

In time, its elitist character waned and the claim to Roman descent opened up to the whole estate. In *Conversation of a Lithuanian and a Pole* (1564) the Gasztold and Gediminid ties are severed and instead, an invented progenitor of the Radziwill clan is presented as the forefather of Vytenis—the first Grand Duke of the Gediminid dynasty, thus bringing these families closer and responding to the extinction of the Gasztold clan.[203] In the mid-16th century, Michalo Lituanus edited the theory to sever the ties between the Columns and the ruling dynasty, thus eliminating the potential magnate claim to power. By the end of the century, Stryjkowski's *Chronicle* (1582) claimed that the whole nobility of the Grand Duchy descended from Polemon and joined the mythology of Polish Sarmatism with the Roman roots of Lithuanians. As Hans-Jürgen Bömelburg has argued, this narrative integrated both myths after the union of Lublin was concluded and was

[201] Rimvydas Petrauskas, "Lietuvių kilmės iš romėnų teorija: socialiniai ir istoriografiniai aspektai," in Rimvydas Petrauskas, ed., *Lietuvos Didžioji Kunigaikštystė. Politika ir visuomenė vėlyvaisiais Viduramžiais*, (Vilnius: Naujasis židinys-Aidai, 2017): 93.
[202] Agnė Railaitė-Bardė, *Origo et arma. Kilmė ir herbas Lietuvos Didžiojoje Kunigaikštystėje XVI–XVIII amžiuje* (Vilnius: Lietuvos istorijos institutas, 2021).
[203] Šešioliktojo amžiaus raštija, 187; Anon., *Rozmowa Polaka z Litwinem / z której tu snadnie każdy obaczyć może co jest prawa wolność / abo swoboda / i jakoby uniją Korona Polska z Księstwem Litewskim przyjąć miała / przeciw sromotnemu i omylnemu Stanisława Orzechowskyego pisaniu / którym niewinne sławne Księstwo Litewskie zelżyć chciał / uczyniona,* in Józef Korzeniowski, ed., Rozmowa Polaka z Litwinem (Kraków: Wydawnictwa Akademii Umiejętności w Krakówie, 1890): 69. Henceforth—Rozmowa

acceptable to GDL's magnates, who bore favorable outlook to the union but also were vigilant of any incursions into GDL's autonomy.[204] Later yet, the imagined Roman heritage was used to forge a connection between the Florentine Pazzi and magnate Pac family based on the similarity of their family names.[205]

Quincunx and Conversation: defense of the honor of nation and state

The preceding examples illustrate that honor could be meaningfully ascribed to individuals and certain groups, while its redescription served social and political ends. However, the concept of honor may also extend to larger social formations, namely, nation and the state. This came to the fore most prominently during the political discussions debating the terms of closer union between the Crown of Poland and the Grand Duchy of Lithuania.

Political writers took up the challenge to defend different visions of political union and indeed conceptions of political order. The most resounding and, perhaps, infamous view of the union terms was championed by Stanisław Orzechowski – a skilled orator wielding enormous influence over the middling nobility. He championed the execution of the laws, a movement that started as a land-holding revision but later turned into a wide-reaching state reform.[206] One of the demands of the executionist movement was for the Grand Duchy to be incorporated into the Kingdom of Poland fulfilling the terms of the union of Krewo (1387). This view was based on the tradition of Polish political thinking interpreting the term *applicare* to mean complete

[204] Hans-Jürgen Bömelburg, *Frühneuzeitliche Nationen im östlichen Europa: das polnische Geschichtsdenken und die Reichweite einer humanistischen Nationalgeschichte (1500-1700)* (Wiesbaden: Otto Harrassowitz Verlag, 2006).
[205] Aušra Baniulytė, "The Pazzi Family in Lithuania: Myth and Politics in the European Court Society of the Early Modern Age," *Medium Aevum Quotidianum* 58 (2009): 41-57. Ibid. "Italian Intrigue in the Baltic: Myth, Faith, and Politics in the Age of Baroque," *Journal of the Early Modern History* 16. 1 (2012): 23-52.
[206] James Miller, "The polish nobility and the renaissance monarchy: The "execution of the laws" movement: Part one." *Parliaments, Estates and Representation* 3. 2 (1983): 65–87. Ibid., "The Polish Nobility and the Renaissance Monarchy: The "Execution of the Laws" movement: Part two." *Parliaments, Estates and Representation* 4. 1 (1984): 1–24.

incorporation, a view very much opposite to the Grand Duchy's interests. In *Quincunx, to jest wzór Korony Polskiej na cynku wystawiony* (1564) Orzechowsky posited that people in the Duchy are not free because their ruler is born and not elected as in Poland. To drive the point home, he relied on religious imagery to show that Heaven is a kingdom, while Satan reigns over a duchy.

This attack on the political order of the Grand Duchy warranted a swift response. The defense was the first and foremost responsibility of the magnate Radziwiłł family for the two cousins Mikołaj the Red and Mikołaj the Black dominated the political landscape of the Grand Duchy in the 1560s, led deliberations over the union terms, and organized military defense of its borders. They also supported men of letters educated in the classical canon and thus qualified to deliver a proper intellectual response. Out of the political circle of Mikołaj Radziwiłł the Black arose the anonymous work in the form of a political dialogue *A Conversation of a Pole and a Lithuanian*; subtitled: "from which everyone can see what true freedom is / or liberty / and whether or not Grand Duchy ought to come into union with Poland / against the disgraceful and mistaken Stanisław Orzechowsky's piece / that aimed to insult the famous Lithuanian Duchy with no reason."[207]

Scholars ascribe the authorship of this piece to Augustyn Rotundus (~1520-1582) – born in the Polish town of Wieluń, he moved to Vilnius in 1551 and since then devoted his efforts towards the improvement of the Grand Duchy. Rotundus was educated in Poznań and Wittenberg, accompanied young magnates on study trips to Italy, where he added to his education as well. Quality education furthered his career and later Rotundus settled in the Grand Duchy on the invitation of King Sigismund Augustus. Rotundus's work in the royal chancellery was rewarded

[207] "Rozmowa Polaka z Litwinem / z której tu snadnie każdy obaczyć może co jest prawa wolność / abo swoboda / i jakoby uniją Korona Polska z Księstwem Litewskim przyjąć miała / przeciw sromotnemu i omylnemu Stanisława Orzechowskyego pisaniu / którym niewinne sławne Księstwo Litewskie zelżyć chciał / uczyniona,"

with a privilege of ennoblement (issued in 1581), he was adopted into the heraldic family of *Rola* and gained the family name Mieleski. Ironically, after graduating from Wittenberg Rotundus became a staunch Catholic, known for his religious fervor, which is also evident in the pages of the Conversation, as well as his other political writings. Despite his religious convictions, in writing the *Conversation* he collaborated with Andreas Volanus (1530-1610), a man who later would be mockingly named the Calvinist pope of the Grand Duchy. However, aside from a short poem the work features signed *A. V.* his input remains unclear, yet their collaboration was entirely possible despite the religious differences. Ostensibly, their friendship flourished: Rotundus wrote a panegyrical introduction to Volanus' *De Libertate* and was known to host his theological disputes with Jesuit Piotr Skarga (1536-1612).

The *Conversation* comprises of two parts, interjected by a didactic poem glorifying reciprocal respect of nations living in a union. The interlocutors are straightforwardly named as Pole and Lithuanian, two nobles who meet outside the session of the Sejm to discuss political matters. These two characters were not supposed to merely represent the nations considering furthering their union, as Skirmantas Kneža insightfully argues.[208] Instead, the *Conversation* is to be treated as a product of GDL's political thought, which uses local tropes. Seen as such, these two characters are to be seen as representing the opinion of GDL's magnates, as defended by the Lithuanian, and the compound of stereotypes of Polish szlachta widespread in the GDL, making the character of the Pole an elaborate strawman. The dialogue opens with a question: why would you, Lithuanians, not uphold ancient agreements, reject the opportunity to merge in full union, and enjoy the sweet liberty that Poles do? To which Lithuanian responds: "we would like to be one

[208] Skirmantas Kneža, "Tarp tropų ir pragmatikos: Pasikalbėjimo lenko su lietuviu retorinis aspektas," *Literatūra* 61. 3 (2019): 86–97.

with you; we want to retain the liberty in which we live out of the glory of god, but we do not want to lose our well established and orderly republic by joining it to yours, nor is it right to lose her as you urge us to if we were to be considered good sons of our fatherland."[209] This quote sets the tone for the whole subsequent conversation and features hints of the discourses most pertinent to this piece, namely republicanism, patriotism, and, as I will argue Early Modern Humanist nationalism.[210]

The *Conversation* can be perceived as an intellectual retort to Orzechowsky's work; therefore, his claims are addressed head-on. The Pole contends that while Orzechowsky's arguments may sow disunity and are dismissed by some of his compatriots, they are well constructed and ought not to be taken lightly, as they did convince many. Nevertheless, in doing so he also claims it completely dishonorable to treat Lithuanians as slaves, because Poles had formed political agreements with them, were brought closer through bonds of marriage, and concludes that "it would be a great insult, disgrace, and shame to me and my house if my noble blood would bow the head to a brute, a slave."[211] Therefore, Lithuanian sets out to dispute Orzechowski's claims and prove, as the interjected Latin poem proclaims, that *syllogisms are understood in Lithuania*.[212]

The first part of the *Conversation* deals with Orzechowsky's claim that all duchies are servile, while all kingdoms enjoy freedom. Supposedly, people living in duchies are slaves weaving wicked thoughts who live in *sempiternus horror et nullus ordo,* whereas the subjects of

[209] Šešioliktojo amžiaus raštija, 116; Rozmowa, 1: "Chcemyćmy jedno z wami być; chcemy wolności, w którejeśmy z łaski bożej dawno są, używać, ale swej zdawna zasadzonej a porządnej rzeczy pospolitej do waszej przystawając stracić nie chcemy, ani się nam, jeśli chcemy być widziany dobremy ojczycny syny, stracić jej godzi tak, jako wy nas do tego wiedziecie."
[210] Humanist nationalism is a concept further explored by Caspar Hirschi in *The Origins of Nationalism: An Alternative History from Ancient. Rome to Early Modern Germany* (Cambridge: Cambridge University Press, 2012).
[211] Šešioliktojo amžiaus raštija, 121; Rozmowa, 6.
[212] Šešioliktojo amžiaus raštija, 171; Rozmowa, 54.

kingdoms are free, careless, their thoughts are bright and customs beautiful. The first pillar of this argument is the fact that *rex fit, dux nascitur* – the king is elected, while the duke is born. In other words, subjects give the right to rule over them to the elected king of their own volition, while the subject of duchies have no privilege of contesting their ruler, for he receives the right to rule them by birth.[213] From this follows that all subjects of kingdoms are free, whereas those of duchies have no choice, hence, are servile. The second pillar that holds the argument is that the duke enjoys complete freedom, and nothing can harness his power within the state, while the king is limited by the authority that crowned him – *patrem regni et primatem ac iudicium suum* – the Church. In this particular case, his power is limited by the archbishop of Gniezno who crowned Polish kings and therefore has the power to halt them from forcing personal will over subjects of the Crown.[214]

The Lithuanian does not dispute the claim that that kingdom is the best political system because the power is concentrated in the hands of one person. However, he adds, this is true only if the king has the soul of a king. Lithuanian concludes that Orzechowsky's argumentation is based on logical fallacies *accidentis aequivocationis* and *secundum non causam, ut causam*.[215] To prove these arguments fallacious, Lithuanian turns to history and lists many examples where kings did not submit to the authority that crowned them. The examples of wretched kingships range from Roman antiquity and Biblical times before turning to the discussion of Christian kingships. Starting with Charlemagne, Lithuanian continues to list the sins of Henry III, Henry IV, Friedrich Barbarossa, among other rulers, showing that they turned away from the Church and inflicted many wrongs upon it, despite supposedly owing their power to it. He finds such examples in the history of Poland as well, repaying Orzechowsky's insulting allegations with, supposedly, the

[213] Šešioliktojo amžiaus raštija, 120; Rozmowa, 5.
[214] Šešioliktojo amžiaus raštija, 121; Rozmowa, 5.
[215] Šešioliktojo amžiaus raštija, 123; Rozmowa, 8.

shameful period from the history of the Crown of Poland. Lithuanian retells the story of King Mieszko II who lived in fear of his wife Riksa and asks rhetorically whether any subject of an unfree king can enjoy freedom? Adding another layer to an already insulting allegation, Lithuanian turns Cicero's rhetorical questions into a statement, ultimately signifying that no man can enjoy liberty if he is in thrall of a woman.[216] Delving deeper into Polish history, Lithuanian concludes that the reign of dukes was to be regarded as the golden age in the history of Poland, and concludes that, in the case of Poland, it was the period of the duchy which ought to stand for freedom, liberty, and light, not the kingdom.

Hence, Lithuanian employs historical arguments to demolish Orzechowsky's categorical thesis that all duchies are unfree, and all kingdoms enjoy liberty. Nevertheless, he finds another fallacy In Orzechowsky's use of the concept *regnum.* Although it always carries the meaning of a free kingdom, at times the freedom is based on the *insignia regni*, while at others – on the investiture of power from the Church.[217] The Grand Duchy did not possess the crown and lacked overall recognition of a kingdom, however, based on Orzechowsky's arguments, the import of investiture from the Church surpasses the import external signs. The Grand Duchy was a Christian polity and an autonomous archbishopric, therefore even on Orzechowsky's grounds it should be regarded as *regnum*.

Thus, without challenging the contention that power trickles down from god, the political order of the Grand Duchy of Lithuania was defended. Freedom here is so important because it directly reflects on the status of a polity in comparison to others, raising the question of whether

[216] Šešioliktojo amžiaus raštija, 132. Rozmowa, 17. Marcus Tullius Cicero, *Paradoxa stoicorum ad M. Brutum*, in J. G. Baiter, C. L. Kayser eds., *M. Tullii Ciceronis opera quae supersunt omnia* (Leipzig: Tauschnitz, 1865): 36: "an ille mihi liber, cui mulier imperat? cui leges inponit, praescribit, iubet, vetat quod videtur? qui nihil imperanti negare potest, nihil recusare audet?"
[217] Šešioliktojo amžiaus raštija, 143, Rozmowa, 25.

or not it ought to be regarded as equal. Questioning the political status bore directly over the ability to conclude unions and the weight their voice carries in the discussion. As soon as equality and rights of polities are invoked, it becomes also a question of honor, as in, esteem and status of states compared to one another. There are several precedents in the text of ascribing honor to states,[218] but the meaning of this expression is not evident were one to approach it with a modern definition of a state as an institutional network. Instead, this text defines the state as "*nothing if not a community of people united by God, common law, and one ruler, where everyone considers the personal and common good.*"[219] This was an altered Ciceronian formulation of *res publica*:

> *"Well, then, a commonwealth is the property of a people. But a people is not any collection of human beings brought together in any sort of way, but an assemblage of people in large numbers associated in an agreement with respect to justice and a partnership for the common good."*[220]

The most important alterations, in this case, are the import of religion and loyalty to the ruler. These themes are mentioned here not by any sort of accident, as later the Lithuanian reflects upon the unity of faith and its direct consequence to the authority of the ruler. Nevertheless, such a republican definition of the state allows honor to be attributed to it because the difference between the state and the republic was not of great consequence and therefore honor of the state equaled the honor of the political nation—the noble estate and the ruler.

The *Conversation* relies on several terms denoting state. The first one is *państwo*, a term analogous to Machiavelli's *lo stato,* and used to denote the state apparatus. Historically, this concept competed with the term *rzeczpospolita* – the Polish term for *res publica*. Albeit the general

[218] Šešioliktojo amžiaus raštija, 116; Rozmowa, 1.
[219] Šešioliktojo amžiaus raštija, 117; Rozmowa, 2: "rzecz pospolita nic inszego nie jest, jedno zjednoczenie ludzi pod jednym Bogiem, prawiem, panem na pospolity pożytek patrzących i on się sam starających,"
[220] Cicero. *On the Republic. On the Laws,* trans. Clinton W. Keyes. (Cambridge, MA: Harvard University Press, 1928): 64-5: "res publica res populi, populus autem non omnis hominum coetus quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatus."

trend in Europe was to favor the state over the republic, Stanisław Kot concluded that the term *rzeczpospolita* overcame *państwo* in Polish political writings.[221] The main difference between these concepts was that while republic denoted the common interest of the whole citizenry, the state was a political entity different from the people, one to which political power was not delegated, but rather handed over; therefore, *państwo* carried the implied difference between state and society which *rzeczpospolita* did not have.[222] In other words, *rzeczpospolita* is a broader concept that can accommodate the meaning of *państwo* but for that same reason, it is less precise in conveying its implied meaning. For instance, *państwo* is used more often when discussing the form of state: monarchy, oligarchy, etc.[223] *Rzeczpospolita* is sometimes meant as the state, for instance, Lithuanian refers to a well-established republic to underline his worries regarding the closer union with the Crown of Poland.[224] However, in other instances, *rzeczpospolita* can be meant as the political nation, therefore, freedom (*wolność*) is coupled with *rzeczpospolita* but not *państwo*.[225] Overall, the use of terminology suggests that *państwo* is meant to service the *rzeczpospolita*—the political community, which is the true inheritor of freedom and bearer of honor.

Not only does the *Conversation* defend the honor of the state, but its arguments also extend to the nation.[226] Lithuanian decries Orzechowsky for attacking Lithuania, which, according to him, is no different from any other Christian nation. On another occasion Lithuanian claims that his main concern was with "disgrace and shameful reproach that Orzechowsky hurled at our

[221] Stanisław Kot, *Wpływ starożytności klasycznej na teorye polityczne Andrzeja Frycza z Modrzewa* (Kraków: Nakł. Akademii umiejetności, 1911): 20–1.
[222] Dorota Pietrzyk-Reeves, *Polish Republican Discourse in the Sixteenth Century*, trans. Teresa Bałuk-Ulewiczowa, (Cambridge: Cambridge University Press, 2020): 56-58.
[223] Rozmowa, 59, 60, 62.
[224] Rozmowa, 1.
[225] Rozmowa, 60.
[226] Šešioliktojo amžiaus raštija, 120; Rozmowa, 5-6.

nation."[227] These utterances signal a certain sensitivity towards collective honor of a different kind than witnessed in the prior examples. While Gasztold defended the honor of his own or his close associates, the narrative of Roman origins provided a broader circle of nobles with an esteemed lineage, the *Conversation* introduces a category broader still, by talking of the nation as the bearer of honor and therefore susceptible to shame.

The relationship between honor and nation is attested by the terminology Rotundus relies on. He often uses the term *naród*, but once he turns to defend the honor of Lithuanians, he also relies on the term *nacya*. While the former is a term of Slavic descent, the latter is a word borrowed from Latin, namely, *natio*. Caspar Hirschi describes the changing meaning this word acquired during the Late Medieval-Early Renaissance period. *Natio* began its career as a term describing barbarian tribes outside of the realm of the Roman Empire, designating the polar opposite to the Latin *populus*. This meaning remained largely unchanged until the Middle Ages when it was adopted to the university culture and described corporations of students joined by their place of birth. Hirschi claims that *natio* acquired the fundamentals of its contemporary meaning during the Council of Constance when university *nationes* were taken as representatives of their respective peoples. In an environment where every social formation cultivated a sense of honor and was part of a broader hierarchy, the act of representing nations through the participation of *nations* gave a base for the creation of the concept of national honor. This concept of the nation as an abstract community united by an amalgamation of various external traits spread alongside Humanist ideas and it was Renaissance humanists who changed the slightly derogatory classical meaning of *natio*

[227] Šešioliktojo amžiaus raštija, 195. Rozmowa, 77: "Barziej mię dolegała hańba i sromotna przymówka, którą Orzechowsky naród naszą popluskał,"

and formulated the concept of national honor, making them the progenitors of elitist nationalist discourse.

Given the fact that the most likely authors of this piece were graduates of German and Italian universities inspired by Humanist ideals, such selection of terms is not likely to be accidental. Defense of national honor and competition against other nations was one of the responsibilities Renaissance men of letters bore. This was primarily because the idea of national honor was an elitist concept, meaning that its spread in a given society is very much limited, despite the fact that in the eyes of Humanist writers, every free member of the nation possessed it and contributed to it by exercising duties of their inborn estate. Since the intended audience of the *Conversation* was the educated political elite, this concept must have been recognizable. Moreover, this text demonstrates the implications of tarnished freedom. Orzechowsky's attack against the Grand Duchy was targeted at freedom, calling its inhabitants slaves and ruler a tyrant. These were heavy allegations; however, the full title of the *Conversation* emphasizes the insults harmful to honor. This makes perfect sense within the bounds of early nationalist discourse, as there can be no honor without freedom. The ability to make uninhibited decisions and bear full responsibility for personal actions are some of the most essential predicates of honor. Therefore, any inhibition upon freedom is of direct consequence to honor of the state as well as the nation. With this in mind, one can begin to appreciate just how strong an insult it must have been to bow before an unfree person, of which the Pole talks in the opening pages, not to talk of a union of equals with a nation void of freedom.

Aside from being a biting retort, the *Conversation* reveals an image of the preferred political order for the Grand Duchy. It is expressed by drawing a close comparison between the political order of Poland and aims to strike a balance between freedom and order. Lithuanian

criticizes the Pole for turning liberty into a license that manifests through insubordination, disrespect, and preeminence of private over the public good. Moreover, due to close ties between the countries, these ills spread throughout the Grand Duchy. Therefore now, although the ruler knows what is best for his polity, he can't execute his judgment because the nobles are not willing to consider the common good and the ruler is devoid of means to make the nobles follow him.

The clash between the two political orders finds the clearest expression in the question of hierarchies. While the Poles supposedly went towards the direction of equality, abolishing the differences among nobles, this sowed seeds of anarchistic oligarchy in the country, instead of providing it with a democratic component within the boundaries of a *forma mixta* state.[228] Lithuanian, however, prefers a more hierarchical model and upholds respect for superiors as the crucial component of a well-ordered state. The highest posts should be reserved for elder people, who have more experience in political matters; this argument is as well supported by the etymology of the word *senatus*.[229] This vision of a more hierarchical social order is by no means new, rather, it was the traditional outlook propagated by the Grand Duchy's powerful. In 1526 Gasztold has argued that although the model of noble equality works in Poland, it is not suitable for the Grand Duchy not least because of its geopolitical situation. Violent encounters with Tatars on the Southern border and the growing might of Muscovy required stricter means of subordination for the defense of the state to be effective.[230] *Conversation* echoes these concerns.

However, while searching for the reasons behind the crisis of authority, Lithuanian does not blame the Polish license directly. Instead, he finds religious pluralism to be the root of all contemporary shortcomings. This is because religion underlies the shared customs and reinforces

[228] Šešioliktojo amžiaus raštija, 169; Rozmowa, 52.
[229] Šešioliktojo amžiaus raštija, 168; Rozmowa, 51.
[230] Gasztold, *Rationes Alberti Gastoldi*, 164-165.

political authority and the Protestant Reformation becomes a point of contention. While the Orthodox faithful were to be tolerated due to the decisions of the Council of Florence, no provision of the Church was ordered to tolerate evangelical movements. Pole attacks Lithuanian in this regard, emphasizing the great scope of the Reformation spread, thus questioning Grand Duchy belonging to the circle of Christian polities. Lithuanian responds that this malice reached the Grand Duchy from Poland.

> *"Once religion in Lithuania changed, so did the respect to the state, diminished the rule of the institutions, and a clear end looms large – the estates do not respect their superiors, do not listen to them, therefore Polotsk fell, and help us God, so that the remainder of Lithuania would not perish* […] *however, all of this we have learned from you, Polish lords, for from your lands did this new faith arrive and with it the license you call liberty."*[231]

Then Lithuanian joins the choir of Polish political thinkers who have been criticizing the extensive freedom Polish nobles indulge in and presents Grand Duchy as the veritably free state. Basing his argument on the Ciceronian idea that only a person who pursues the right goals is free, Lithuanian attacks the overemphasized care of the private good that diminishes the public good and places the state in danger. This in turn threatens the Grand Duchy as well, for Poles often refuse to support them in wars against Muscovy. Written at the height of the Livonian War, this argument gains particular weight. Lastly, Lithuanian claims they would not oppose an honorable union and names his terms:

> *"If you wish we became* vere unum*, as god-willing will come to pass, do not disgust us with your overstrained license, pay respects to the ruler and the councils, do not stray from the old way of the rule established by the*

[231] Šešioliktojo amžiaus raštija, 149-150; Rozmowa, 33-34: "Ale iż się ku rzeczy wrócę, iż teraz religio się w Litwie odmięniła, odmięniła się i powaga państwa, wypadła z swej miary władza wszystkich urzędów, za czym jawne zginienie, nie mają w poczciwości insze stany przełożonych swych, ani ich słuchają, więc też tym. Połock zginął i, strzeż Boże, aby i ostatek Litwy nie zginęło […] Aleć to wszystko od was, Panowie Polacy, mamy bo i ta wiara nowa od was do nas przysyła i swawola, którą wy wolnością zowiecie."

Grand Dukes, maintain the old council and make the young ones to learn from it."[232]

The second part of the *Conversation* continues to demolish Orzechowsky's claims, this time dealing with the issue of unfreedom, necessitated by hereditary kingship. Since the claim of inherent slavery of all duchies has already been disproven in the first part, the Lithuanian turns to ask whether an elective kingship is freer than a hereditary one. He begins by turning to Plato and following the thesis he presents in *Alcibiades*, namely, that noble birth is superior and has the potential to achieve true virtue through proper education. Stepping further, Lithuanian extrapolates that nobility is just as universal as the virtues it embodies; therefore, a foreign noble is neither more nor less honorable. However, nobles born in one country share customs and are "closer to heart." Lithuanian continues: "*but let's put old Plato to rest. Have you ever read the Italian Niccolaum Maciavellum author of* De Principe?"[233] This was the first known instance of invoking Machiavelli in the republican political discourse of Poland and Lithuania.[234] He cites this work despite *Il Principe* being on the *Index Librorum Prohibitorum* in 1559. Lithuanian relies on a passage in a second chapter, where Machiavelli proves that a hereditary ruler is more beneficial to the state than any foreigner could be.[235] Building on his arguments, Lithuanian concludes that a hereditary ruler would bear greater love to his subjects and the subjects would show greater love to him. This c*haritas civium* would bind them closer and strengthen the state, for the state is nothing else if not a community connected by ties of love. Therefore, it follows that the best rulers

[232] Šešioliktojo amžiaus raštija, 167; Rozmowa, 50: "Jeśli chcecie, abyśmy byli z wami vere unum, jakoż dali Bóg będziem, nie mierzście nam ta zbytnią swą wolą rzeczy pospolitej swej, pana i rady w uczciwości miejcie, kształtu dawnego jeszcze za książąt dobrze zasadzonego panowania nie mieccie, starej rady się dzierżcie, młodym się od nich uczyć każcie!"

[233] Šešioliktojo amžiaus raštija, 180. Rozmowa, 62: "ale dajmy pokój staremu Platonowi. Nie czytałesz kiedy Nicolaum Maciavellum po włosku, który pisał de principe?"

[234] Henryk Barycz, "Myśl i legenda Machiavellego w Polsce w wieku XVI i XVII," idem, *Spojrzenia na przeszłość polsko-włoską*, (Wrocław, Zakład Narodowy im. Ossolińskich, 1965): 272. Also, see Agnieszka Pietryka, "Polska recepcja "Księcia" Machiavellego - rozpoznania wstępne," *Rocznik Komparatystyczny* 8 (2017): 169-187.

[235] Šešioliktojo amžiaus raštija, 179-180; Rozmowa, 62.

are hereditary and, in this case, the descendants of Jagiellonian dynasty—a lineage so honorable that even the Poles chose them over any other contending dynasty because they embodied the most important kingly traits – piety, goodwill, honesty, wisdom, and love of subjects and the state.[236]

Discussion of hereditary kings reflects upon questions of nobility. Tackling the issue directly, Lithuanian asks:

> *"What exactly is* nobilitas generis*? Is it not those, as commonly held, who were born into an old family, one whose ancestors had benefited the republic since ages ago? Such people, were they to be* bene educantur*, as Plato says, easily take after virtue, because the blood of their ancestors and their nature flows in their veins, and examples of past deeds stop them from straying away from their ancestors."*[237]

Hence, traits of nobility are exalted ancestry, willingness to keep to traditional ways and imitate glorious predecessors, alongside certain character traits, such as bravery and honesty. These are supposedly more often found among the descendants of nobles, than people of any other order. The discussion then turns to examine whether honorability depends on the country of birth, which is then refuted, agreeing that honorability of noble birth is equal among all nations.

Lineage played a crucial role in judging honor and since the lineage of the ruling dynasty was not without shadow, this also had to be addressed. During the wars with the Teutonic order, dating back to the turn of the 14th century, a slanderous rumor had been spread around that one of the early rulers of the Jagiellonian dynasty, Gediminas was of no noble lineage, rather, he served as a head horseman who seized upon the opportunity to overthrow the ruling monarch Vytenis and usurp the throne. As Gediminas was Jogaila's grandfather, this blemished the legitimacy of all his

[236] Šešioliktojo amžiaus raštija, 178; Rozmowa, 61.
[237] Šešioliktojo amžiaus raštija, 178; Rozmowa, 61: "Cóż jest nobilitas generis? Aza nie to, kiedy się kto urodzi, jako pospolicie mówicie, z starożytnego domu, w którym domu ludzie dobrze się rzecze pospolitej z dawna i z wieków zasłużyli? Takowi ludzie, jeśli, jako tu Plato mówi, bene educantur, łacno ku cnocie przydą, bo mają i przodków swych w sobie krew a przyrodzenie przykłady domowe, które się im od przodków odrodzić nie dopuszcza."

successors. Eventually, this Teutonic fabrication found its way into the 15th century Polish annals and so was charged with authority of historical truthfulness. Therefore, the *Conversation* addressed this issue as well, arguing that if that were so, Polish King Władysław I Łokietek would not have associated with him and allowed his son to marry Gediminas' daughter. Instead, Gediminas is portrayed as a legitimate king and heir to Polemon—yet another appropriation of the narrative of Roman descent.

Overall, *Conversation* was a swift and straightforward response to a polemical publicist pamphlet that tarnished the reputation of both Grand Duchy as a state and Lithuanians as its nation. Formulated in clear and fitting language, it demonstrated widespread classical and local erudition as well as the capability to use this knowledge in formulating convincing arguments. The author(s) of the *Conversation* made skillful use of defamatory language themselves, which is no surprise as competition for honor involves repaying the offender in kind, for both parts are engaged in a zero-sum game: defamation of one correlate directly with the honor won by the another. In this case, two representatives of neighboring nations engaged in such competition defending their national honor, where syllogisms, veiled insults, and outright denigration were the weapons of choice.

However, this work also informs us of several important changes in the social thought in the Grand Duchy. The concept of nobility expounded in the *Conversation* would not be much different from the predicates of honor exposed in Gasztold's text, were it not for a retort that descendants can hardly claim the deeds of their ancestors as their own. Here we see an indication of a widely resounding development, namely the increased emphasis on individual achievements that is definitive of Renaissance thought. Later this trope will develop into another variation, claiming that esteemed lineage and honor are a responsibility as well as privilege. This interpretation of nobility received the most explicit advocate in Andreas Volanus.

Liberty, tradition, and law: Andreas Volanus on the social order of the Grand Duchy

Andreas Volanus (1531-1610), a notable Calvinist man of letters, set out to describe the face of liberty in the newly created Republic of Poland-Lithuania. His endeavor ventured beyond the philosophical and moralistic, as Volanus suggested practical means to perfect liberty through law. In doing so, Volanus drew on the wisdom of ancients as well as moderns, demonstrating the heights of his humanist education. He was involved in many epoch-making political events and still, much of his life has been overshadowed by his peers. Polish historian Michał Baliński was among the first historians to take interest in his life and, notably, opened his essay with the question: "who was Volanus?" attesting to centuries of oblivion surrounding his name.[238] Several decades later, notable historian of political thought of Renaissance Poland Stanisław Tarnowski assessed Volanus as a courageous and decisive thinker, holding, according to Tarnowski's standards, nEarly Modern-sounding convictions conflicting with the contemporary *status quo* that motivated him to reconsider the social order.[239] Beside these historicist and modernizing approximations of Volanus' life and thought, studies are few and far in between, especially his political thought. However, lack of studies cannot be explained by neither lack in quality nor impact of Volanus' oeuvre. Therefore, this chapter sets out to analyze Volanus' treatise *On Liberty* (*De Libertate*, 1572) aiming to discern his views on honor, universal human dignity, and nobility. Namely, Volanus' redescription of the predicates of horizontal honor—fundamental individual social worth, and vertical honor—the qualities worthy of esteem. Simultaneously, questions of his intellectual inspirations, practical applicability, and subversiveness of his thought are considered.

[238] Michał Baliński, "Andrzej Wolan. Jego zycie uczone i publiczne," in Michał Baliński, *Pisma historyczne Michała Balińskiego. T. 3-4* (Warszawa: G. Sennewald, 1843): 3.
[239] Stanisław Tarnowski, *Pisarze polityczni XVI wieku: studia do historyi literatury polskiej. T. 1,* (Kraków,1886): 381–382.

Volanus' biography and introductory remarks on De Libertate

Volanus was born in Lwówek, a town in Polish Silesia, to a family of a German burgher Johannes Volanus and Sofia Kwilecka an heiress to a middling noble family.[240] Not much is known of his youth, but it is certain that in 1544-6 he studied in Frankfurt a. d. Oder. After graduation, he traveled to Lithuania where he met his uncle Hieronym Kwilecki, who introduced him to Mikołaj Radziwiłł the Red – one of the most influential magnates in the Grand Duchy – and helped Volanus to secure a secretary position. Uncle soon recognized the need for further studies and, with patron's blessing, arranged three more years of studying in Königsberg. Albertina, as the university was popularly known, was established and led by Grand Duchy's most prominent protestant intellectuals who fled their homeland after the first wave of the Reformation receded. Protestant culture thrived there under the protection of the first European ruler to establish Lutheranism as the state religion, Albert of Prussia (1490-1568). Therefore, it's no wonder that Volanus returned a convinced religious dissident with pronounced Evangelical convictions. In 1569 the last Jagiellonian king granted him citizen rights and landholding nearby Vilnius.[241] It is debated whether Volanus served as *secretarius regius* under Sigismund Augustus, but it is quite clear that he did serve in this position under Stephen Bathory and Sigismund Vasa.[242]

His office and proximity to Mikołaj Radziwiłł the Red guaranteed involvement in many epoch-making political events throughout his career. In the Lublin Sejm of 1569 Volanus continued to represent the defiant contrarian position of his patron, once Mikołaj Radziwiłł the

[240] For the latest and most extensive rendition of Volanus' biography, see Kęstutis Daugirdas, *Andreas Volanus und die Reformation im Grossfürstentum Litauen* (Mainz: von Zabern, 2008). For an abbridged version, see Ibid. "Andreas Volanus (ca. 1531-1610)" in Irene Dingel, Volker Leppin, eds., *Reformatorenlexikon*, (Darmstadt: Lambert Schneider, 2016): 268-272.
[241] Baliński, *Andrzej Wolan*, 1-19.
[242] Daugirdas, *Andreas Volanus und die Reformation,* 84. While the first to argue for his service to Sigismund Augustus was Baliński, *Andrzej Wolan*, 96.

Red left the Lublin Sejm and did so in similar terms as those laid out in the *Conversation*. The death of King Sigismund Augustus (1572) inaugurated the unprecedented period of interregnum when the newly established Republic of Poland-Lithuania sought its ruler. In 1572 Volanus contributed to formulating the principle of toleration among dissidents in religion, which came to be known as the Warsaw Confederation (enacted in 1573). In 1575 the first King-elect Henry Valois deserted the throne thus initiating the second interregnum and leaving the Republic vulnerable. Muscovy's Ivan IV did not pass this opportunity to gain an advantage in the Livonian war. As the tensions were mounting, Volanus was delegated to carry out a peace-keeping mission to the court of Maximilian II Habsburg in Prague, where he met the emperor and encouraged him to intervene and deescalate the situation in Livonia. Volanus also carried a secret message: Lithuanian magnates and clergy offered the throne of the Republic to Maximillian II.[243] Given Volanus' office and political experience, it is no surprise that he deliberated over sociopolitical issues in his writings. However, only the early period of his productive intellectual life was devoted to secular issues and since the late 1570s, most of his intellectual energies went into matters theological and the defense of the reformed evangelical creed. Religious polemics against Jesuits and Antitrinitarians brought him fame in European literary circles and earned him the mock title of the Pope of Lithuanian Calvinists.

Albeit Latin was the language of learned discourse in Europe, Volanus' choice to use it carried an additional political significance. Some of his contemporaries noted similarities of Lithuanian and Latin languages and the idea that Lithuanian was bastardized Latin. This view fell

[243] Daugirdas, *Andreas Volanus und die Reformation*, 90. On 12th December 1575 the pro-Habsburg faction including Mikołaj Radziwiłł the Red pronounced him King and Grand Duke. However, this did not go down well with majority of nobles and Polish magnates supporting the candidacy of the Transylvanian prince Stephen Bathory, who pronounced him King the very next day. Bathory eventually claimed the title and these developments soured the first years of the relationship between the newly elect king and the Radziwiłł, including Volanus.

in line with the theory of Roman descent and served as another argument for making Latin the official administrative language of the Grand Duchy.[244]

Volanus' biography is riddled with overlaps and contradictions. Born to a family of a German burgher and Polish noble, he boasted noble descent which he was forced to defend against the widespread slanderous rumors. His peregrination from Poland to Lithuania makes him a prime example of a person *gente Polonus, natione Lithuanus*, who served his patron and chosen homeland through political and intellectual labor. He sympathized with the urban class and argued for the equal worth of individual lives in the eyes of law, simultaneously advising to rectify the hierarchical order of the estates. Volanus learned both Polish and German in his youth, which facilitated his diplomatic oeuvres, but he authored his works in Latin, which he mastered through years of studying.

His main work in the field of political thought is *De Libertate politica sive civili* (pointedly subtitled as *libellus lectu non indignus*) and consists of 15 chapters and three main thematic parts: Volanus opens with a philosophical discussion of liberty, goes on to describe his vision of the society of the republic, and concludes with practical advice on legislation. Volanus wrote it soon after the Union of Lublin. The timing was no accident: one of the clauses of the Union obliged the Republic to abide by a shared legal code and for this reason, Lithuanian Sejm commissioned scholars to make the Second Lithuanian Statute of 1566 compatible with the Polish law. Volanus saw an opportunity to influence the lawmaking process and decided to make his voice heard. Hence, the principal reader group of his work was the intellectual elite of the Grand Duchy involved in the improvement of the law.

[244] Pietro Dini, "Vilniaus humanistų "lotynintojų" lingvistika," *Archivum Lituanicum* 1 (1999): 115-126.

However, to pinpoint the exact object of his work is a deceitfully easy task. Volanus writes on the topic of liberty, but whose liberty does he have in mind? The problem becomes even more apparent when considering the way Volanus uses the concept *res publica*. The historical circumstances of *De Libertate* would suggest that he talks of the newly established Republic of the Two Nations, however, nowhere does he refer to the Union, nor mention any polity by name. Throughout the text he interchangeably refers to the laws of the Crown as well as those of the Grand Duchy, invokes cultural stereotypes more fitting to one or the other republic (e.g., the unbridled Polish freedom and lax morals prominent in the Grand Duchy). One clue may be more indicative: the work is dedicated to his patron Mikołaj Radziwiłł the Red, to whom Volanus is grateful for the citizenship of the Grand Duchy, whom he intends to better with his intellectual labor. Nevertheless, such ambiguity could be intentional and provide a way of abiding by the spirit of the Union. However, as much as he tried to think in terms of Poland-Lithuania, he still thought of Poland and Lithuania as separate. Hence in his writing *res publica* sometimes bore the broader meaning referring to the Republic of Two Nations, while at other times (especially when offering advice to the lawmakers) – the Republic of the Grand Duchy of Lithuania. Nevertheless, the geography of examples he invokes to support his arguments (such as oft-mentioned Muscovy and Livonia) suggests that the center of his discourse is Grand Duchy.

De Libertate covers a spectrum of political ideas and relies on the work of many authors. Volanus' wide-ranging erudition and humanist influences become evident from the opening chapters. He states that his work aims to collect certain teachings of learned men thus embellishing the common liberty and mending certain vices, in this way serving those ruling the republic.[245]

[245] Andrius Volanas, Marcelinas Ročka, Ingė Lukšaitė, eds., *Rinktiniai raštai*, (Vilnius: Mokslo ir enciklopedijų leidykla, 1996): 119, 54. Henceforth – RR; the first number indicates the page of Lithuanian translation, the second – the transcription of the original Latin.

Roman Mazurkiewicz estimates that Volanus mentioned over 40 ancient authors in this relatively short treatise, while the most prominent thinker of the Polish Renaissance Andrzej Frycz Modrzewski (1503-1572) mentions 48 in his much lengthier works.[246] The Moderns influenced Volanus' thought nearly as much as Ancients and he extolled the example of Venice as the ideal republican state (much like many of his compatriots did) which he saw through the eyes of Gasparo Contarini (1483-1542). Additionally, Volanus also draws upon Spanish and French legal systems, comments on Turkish customs, the sorrowful fate of Hungary, and tyrannical rule in Muscovy.

Interestingly, he rarely refers to any Polish authors, despite some of his most prominent ideals coinciding with those of Frycz Modrzewski. Volanus' intellectual debt to Frycz Modrzewski was substantial, however, he was never eager to indicate so. Polish historian Andrzej Kempfi has indicated at least a half-dozen instances when Volanus draws directly (and sometimes at length) on Frycz's *De Republica Emenanda* (Kraków, 1551).[247] Most prominent topics that Volanus and Frycz share were equality before law, nobility and noble prerogatives, as well as corruption of customs. Lengthy borrowings from Frycz's work could also be the cause of the aforementioned discrepancies in the use of *res publica*, as the intended audiences of both works were different. Additionally, it explains the prominence of examples of Polish customs and laws in a treatise otherwise tailored for the eyes of Grand Duchy's lawgivers. Later in his life, Volanus would devote his energies to translating Frycz's work into Polish.[248] In the preface of the Polish edition, Volanus

[246] Roman Mazurkiewicz, "Wstęp," in Andrzej Wolan*, De libertate politica sive civili = O wolności Rzeczypospolitej albo ślacheckiej* (tłumaczenie Stanisława Dubingowicza), Maciej Eder, Roman Mazurkiewicz, eds. (Warszawa: Wydawnictwo Neriton, 2010): 44.
[247] A. Kempfi, "Frycz a Wolan. Zapomniana karta recepcji Frycza w Polsce," in Tadeusz Bienkowski, ed., *Andrzej Frycz Modrzewski i problemy kultury Polskiego Odrodzenia* (Wrocław: Zakład Narodowy im. Ossolińskich, 1974): 203-218.
[248] He secured the patronage of Polotsk Voivode Mikołaj Dorohostajski, translated parts of the work before giving it over to Cyprian Bazylik, and wrote a preface to the translation. It was published in 1577 and remained the only translation of *De Republica Emenanda* until 1953.

wrote of the lamentable ignorance about the insights of divine Frycz in Poland-Lithuania.[249] The author of the second preface to the book, infamous unitarian thinker Szymon Budny attested to the limited knowledge of Frycz's thought among the Poles, decrying his compatriots for such negligence, and not translating this work into Polish earlier. Budny's preface was cut from later editions of the translation.[250] These claims were sometimes taken to support the argument that Frycz's ideas were better received, as well as swifter implemented in the Grand Duchy and not the Crown of Poland.[251] The fact that Volanus' *De Libertate* relies on Frycz does not diminish its political importance yet does little service to its intellectual worth. As we shall see, Frycz was not the only intellectual debt Volanus omitted.

Regarding the concepts of human worth, two strands of thought stand out among others. The first of those is the concept of universal human dignity borrowed from Cicero's *De Officiis*. Albeit this idea does not appear in the work directly, there is reason to believe that this idea grounds Volanus' advocacy for equality before the law. The second strand of thought is somewhat more oblique. Albeit Volanus does not credit him, *De Libertate* shows a considerable influence of St. Augustine's *De Civitate Dei*. This comes of no surprise, as Augustine laid the philosophical fundaments to conceptualize the Christian condition. St. Augustine married the republican discourse with Christian ethics in book XIX of *De Civitate Dei* and Volanus' *De Libertate* shows significant borrowings from this text. Nevertheless, Volanus only mentions Augustine once and

[249] Andreas Volanus, "Praefatio," in Andrzej Frycz Modrzewski, *O poprawie Rzeczypospolitej księgi czwore*, trans. Cyprian Bazylik (Łosk, 1577). 3v-4r. URL: https://www.dbc.wroc.pl/dlibra/doccontent?id=5023 "Unus se re in tota Sarmatia inventus est homo privatus, & re tenui, sed insigni doctrina & vitam integritate praeditus, Andreas Fricius, qui iniquam hanc legem doctissimis scriptis impugnandam sibi suscepit, & quem clades quem incommoda in universam inde redundaverunt Rempublicam, luculentissime explicavit. Sed adeo tamen ad divinam eius vocem obfurdverunt omnes, ut nullis hactenus comitriis auditum sit, aliquam mentionem de tollenda tam crudeli lege ab aliquo hominum ordine fuisse factam."
[250] Kempfi, Frycz a Wolan, 213.
[251] Darius Kuolys, *Asmuo, tauta, valstybė Lietuvos Didžiosios Kunigaikštystės istorinėje literatūroje (renesansas ir barokas)* (Vilnius: Mokslo ir Enciklopedijų leidykla, 1992): 43-44.

does so in passing.[252] In the following pages, I delve deeper into the contents of Volanus' argument, aiming to understand the conceptual logic of his work, reflect on his ideas of human worth, and reveal the main influences that helped him develop these ideals.

Conceptual structure and an overview of the argument

As mentioned, *De Libertate* consists of three thematic parts. The first one opens with a reconsideration of Plato's take on happiness, as expressed by Socrates in *Euthydemus*:

> *"*[SOCRATES] *Well, then, I said, since we all of us desire happiness, how can we be happy? – that is the next question. Shall we not be happy if we have many good things? And this, perhaps, is even a more simple question than the first, for there can be no doubt of the answer.*
>
> […]
>
> [SOCRATES] *And should we be happy by reason of the presence of good things, if they profited us not, or if they profited us?*
>
> [CLEINIAS] *If they profited us, he said.*
>
> […]
>
> [SOCRATES] *Then, I said, a man who would be happy must not only have the good things, but he must also use them; there is no advantage in merely having them?*
>
> [CLEINIAS] *True.*
>
> [SOCRATES] *Well, Cleinias, but if you have the use as well as the possession of good things, is that sufficient to confer happiness?*
>
> [CLEINIAS] *Yes, in my opinion.*
>
> [SOCRATES] *And may a person use them either rightly or wrongly?*
>
> [CLEINIAS] *He must use them rightly.*
>
> [SOCRATES] *That is quite true, I said. "*[253]

[252] RR, 106, 173. Interestingly, he is only mentioned when praising Pythagorean system of education.
[253] Volanus himself indicates that he follows the formulation from Euthydemus. Plato, "Euthydemus," in: *Dialogues of Plato*, trans. Benjamin Jowett (Cambridge: Cambridge University Press, 2010): 251. Made available online at http://classics.mit.edu/Plato/euthydemus.html

Hence, in *Euthydemus* Plato maintains that happiness consists in just the use of goods rather than their misuse or mere possession. Promoting happiness is considered the ultimate end of any political formation. Volanus agrees but adds that no happiness, understood as just the use of goods, is possible without liberty.[254] For this reason, he positions liberty as a fundamental prerequisite for a happy life and, therefore, the ultimate end of politics.

The definition of liberty varies throughout the text, but essentially it follows Ciceronian formulation of freedom to act justly and honorably. Additionally, Volanus posits that freedom is a thing most suitable to human nature and no man is born a slave.[255] It implies a certain notion of humanity not bound by a social estate or religion, a definition that could encompass a large group of people. Such understanding of the human condition further reveals the influence of Stoicism on Volanus' view of social order. Additionally, thoughts on slavery are likely borrowed from *De Civitate Dei* where Augustine historicizes the concept of slavery explaining it as a consequence of war.[256]

However, the freedom to which people are born is not quite equivocal with liberty. Throughout the treatise, Volanus develops an argument which he succinctly sums up in one of the passages: "*The difference between license and liberty is that the first one acts by the following predilection, while the second one harnesses all actions straying away from the just path of virtue by reins of reason*."[257] While true liberty ultimately coincides with acting according to reason, freedom implies the possibility of acting at will. Volanus often reminds his audience that freedom

[254] RR, 124, 59: "Nempe bonorum omnium, de quibus supra dictum est, pacifica et sine ullius iniuriae metu possessio, cum recto et legitimo eorum usu coniuncta."
[255] RR, 122, 57.
[256] Augustine, *The City of God against the Pagans* (Cambridge Texts in the History of Political Thought), trans. R. W. Dyson (Cambridge: Cambridge University Press, 1998). Book XIX, chapter 15.
[257] RR, 145, 79: "Atque hoc inter licentiam et libertatem interest, quod illa solam animi cupiditatem in rebus agendis ducem sequitur, haec autem fraeno rationis omnes inordinatos et a recta virtutis via aberrantes motus cohercet."

itself is unsustainable and eventually deforms itself by turning either into unjust license or slavery to the passions. This is another link with the Augustinian political thought, for he posits that the corruption of human nature made people susceptible to sin and likely to give in to passions that stray people away from reason and good life. Therefore, liberty is achieved through reason, while unbridled freedom will inevitably lead to license and anarchy due to corrupted human nature—the result of the original sin.

For that reason, liberty must be nourished and protected. Volanus sets up law and ancient customs its most important guardians: positive law had to preserve liberty from degenerating into unjust license by meeting crimes with appropriate punishments, while ancient customs guarded it against degeneration into slavery to passions. However, over time customs grew inefficient due to their widespread corruption. Hence, aiming to reinvigorate the customs Volanus suggests turning them into laws; infusing them with an educational function meant to direct citizens away from the tyranny of vices and towards virtuous life. This schematic layout of the argument shows the importance Volanus paid to the law, essentially proclaiming it the guardian of the political order and main facilitator towards the fulfillment of political ends of the Grand Duchy.

Honor, liberty, and freedom

In the relatively rare cases Volanus turns to talk of honor, he most often invokes it in the meaning of esteem, which is its primary meaning in Latin. Honor was won through a life well-lived, one spent by abiding by just laws and ancient customs, if not marked by military glory or distinguished public service. Therefore, the relationship of liberty and honor is fundamentally the same as that of liberty and happiness: no honor could be ascribed to a person or a community devoid of liberty.

The most explicit example of honor being contingent on liberty is to be found in chapter IX, where he addresses the privileges nobles enjoy in Poland-Lithuania:

> *"But the greatest and best recompense for every hardship – and the only basis for human welfare – is liberty, which they possess due to the beneficial laws and by following the way of life of their ancestors. In truth, without liberty, honor and riches lose their worth, for all they contribute to the happiness of life is the antagonism of vainglorious tyrants, provokes their greed-blinded hearts to plunder and teases them like hungry dogs."*[258]

In writing these words, Volanus has a particular example in mind. He continues:

> *"Muscovy is the prime example that riches without liberty lead to perdition. For there reigns a tyrant privy only to his passions, one who mistakes his insane wrath for law and therefore puts honor and riches of his subjects in danger, for not only does he steal at will, he also cruelly persecutes and slaughters their owners."*[259]

This observation was inspired by contemporary events, namely the *oprichnina* – a cruel string of events when Ivan IV dealt with some of the most illustrious nobles by violent means. Some of them sought refuge in the Grand Duchy, among them Prince Andrei Kurbsky (1528-1583) who later led a personal correspondence with the tsar and criticized his actions.

In another instance, Volanus formulates the contingency of honor on liberty in negative terms. Discussing liberty in Athens and Rome, he uses a historically speculative statement to claim that no honor is possible outside a political order that ensures liberty:

[258] RR, 142, 76: "Maxima tamen et praecipua omnium laborum merces est, et quae sola omnia vitae humanae condit commoda, libertas est, quam hi legibus, et institutis maiorum suorum habent non infoeliciter ordinatam. Nam dignitates et opes absque libertate, tantum abest, ut ad foelicitatem vitae degendae conferant aliquid, ut magis tyrannorum in se cupiditatem accendant, et ad praedam avaricia excaecatam mentem provocent, ac tanquam famelicos canes irritent.

[259] RR, 142, 76: "Huius vero rei illustre nobis argumentum exhibit Moschovia, et quam cum certa pernicie coniunctae sint opes, ubi absit libertas, perspicue declarat. Nam quia pro libidine animi illic dominatur tyrannus, et legem putat, quidquid insana mentis suaserit rabies, adeo dignitates et opes incolarum ab eius iniuria non sunt tutae, ut non modo eas pro libito rapiat, sed in possessorum etiam capita crudelissime saeviat."

> *"Barbarians learned to abide by the reign of Tyrants but always lacked all understanding of civil customs and sense of honor, therefore their mores did not differ much from unintelligent beasts."*[260]

Hence, people devoid of liberty lose the possibility to lead an honorable life, because only under the conditions of liberty can a society develop a sense of honor. Herein lies an important distinction between honor, as the esteem deserved by a righteous life, and a sense of honor, which is to be construed as an internalized set of expectations of moral behavior handed down from generation to generation. Customs that facilitate an honorable life can only develop under conditions of liberty, tyranny erodes the sense of honor through uncertainty and fear.

One would find no honor in a tyranny, however, searching for honor in a state of unbridled freedom would be just as vain. Reminiscing of the *Quincunx* and the general atmosphere in political praxis may be construed as a thinly veiled reference to the conditions in the Kingdom of Poland. Moreover, Volanus points out that while liberty is held in high esteem in the Republic, foreigners, who often are the better judges of local customs, rarely praise this liberty; in fact, he carefully suggests, they are of the opposite opinion.[261] Battling popular sentiment, Volanus reminds us that unbridled freedom soon turns into slavery:

> *"Since any immoderate use of things degenerates it into vice, so is excessive freedom no longer honorable liberty, but may with good reason bear the name of the perverse license […] Therefore may be damned the foolish opinion of people, who call unrestrained license to do whatever they will true liberty, for it is only related to the honorable decisions and in all things follows the judgment of proper reason."*[262]

[260] RR, 120, 55: "Barbari enim, qui Tyrannorum imperio parere didicerunt, adeo ab omni civilium morum, et omnis honestatis noticia alieni semper fuerunt, ut non magnum sui discrimena reliquis animantibus brutis ostenderent."
[261] RR, 130, 64.
[262] RR, 123, 58: "At quaemadmodum immoderatus rerum omnium usus in vicium degenerat, ita qui immodicam exercent libertatem non iam libertatis honestae rei, sed perversae licentiae nomine merito gloriari possunt. […] Facessat igitur procul talium hominum demens opinio, qui indomitam quidvis patrandi licentiam, pro libertate usurpant, cum ad solas haec actiones honestas animi respiciat, et in omnibus rebus agendis rectum rationis sequitur iudicium."

Liberty was a point of contention between the two polities. In this discussion, Volanus stands in favor of stronger laws and defends the position of the Grand Duchy. He reiterates Cicero's dictum: *legum omnes servi sumus, ut liberi esse posimus* and concludes that no state can boast true liberty if civic life is not ordered by the letter of the law.[263]

Although Volanus himself does not reveal it, the language and the content of his arguments suggest the influence of St. Augustine. The key concept that shows such influence is the *recta ratio* – the proper reason – which he uses in the passage cited above. The *recta ratio* reigns over virtues, the means to battle vices, and decides their content. In *De Civitate Dei* Augustine lays out that human reason was tarnished by the original sin and therefore human judgment of good and evil is easily misled.

True liberty must be constrained by just laws and honorable customs; unconstrained liberty turns to freedom and due to human nature corrupted by sin, soon after passions take over will, turning freedom into depraved anarchy. This view was grounded on the Christian conception of human nature after the Fall, which Volanus describes in these words:

> *"Truthfully, vainglory and greed, those fruits of corrupted nature, caused war among men and in its wake, as a shadow behind its body, followed slavery. […] Whatever the reason for slavery, its roots are to be sought nowhere else but in human nature corrupted by original sin […] Nothing poses a greater and more certain danger to enslave than one person to another. In truth, a human is a boastful being, full of spite, greed, and cruelty, especially when his reins of shame and humility are lax, he so impudently and viciously desires to rule, that he thinks that his happiness depends on the oppression and servitude of the many."*[264]

[263] RR, 128, 63.

[264] RR, 122, 57: "Ambitio enim et avaritia depravatae naturae fructus, bellum inter homines pepererunt, quod deinde servitus tanquam umbra suum corpus sequuta est. […] Quaecunque tamen servitutis causa sit, non ad aliam originem quam ad viciatam peccato naturam ortum sui referre cogitur. […] Tamen nec certior a quoquam nec maiori cum periculo homini servitus imminent quam ab homine. Animal enim hoc turgidum, fastu, avaritia, et crudelitate plenum, praesertim si frena pudoris et modestiae laxaverit, adeo proterve et petulanter dominari cupit, ut non alibi foelicitatem suam, quam in oppression et servitude multorum collocatam esse putet."

Hence, despite that nothing is more suitable to human nature than freedom, the original sin corrupted it and deprived humanity of the ability to properly judge right from wrong as well as the will to abide by such judgment. Therefore, left unchecked freedom quickly turns into slavery.

Albeit this passage is uncredited, it is a nearly exact quote from St. Augustine's *De Civitate Dei*. The 15th chapter of book XIX is entitled "*Of the liberty which belongs to man's nature, and the servitude introduced by sin: a servitude such that the man whose will is wicked is the slave of his own lust, even though he is free in relation to other men*."[265] There Augustine relates the story of creation and the place of man as the shepherd of beasts, one who nevertheless has no authority over rational creatures. He continues arguing that slavery arose from war, once enemies were spared their life in exchange for liberty.

> *"The first cause of servitude, therefore, is sin* […] *Clearly, it is a happier lot to be the slave of a man than of a lust: indeed, the lust for mastery, to say nothing of any other, is itself the harshest kind of mastery, which lays waste the hearts of mortal men."*[266]

We see essentially the exact same argument being made in *De Libertate*. Moreover, slavery to the passions, one of the possible forms of corrupted freedom, seems to be directly borrowed from Augustine's writing. Hence, it seems reasonable to conclude that Volanus' argument on slavery was based on Augustinian foundations.

Volanus deemed honor contingent on political order. His conviction was that only certain political formations can sustain the well-instituted liberty that mirrors human nature and enables the possibility of an honorable life. Judging by his writings, Volanus' ideal political formation was the republican *forma mixta*, one which the Grand Duchy and the Republic of Poland-Lithuania

[265] Augustine, *The City of God against the Pagans*, 942-944.
[266] Augustine, *The City of God against the Pagans*, 943.

both swore by. On the other hand, tyrannies deprive citizens of their liberty and extinguish their sense of honor. Historical examples of license allow Volanus to convey this message in very clear terms: life without well-instituted liberty offers little stability and sense of security, as personal belongings and livelihood may be stripped away at the vim of the powerful, no matter the esteem a person enjoys.

Natural law and dignity

The means to constrain corrupted human nature and safeguard liberty are just laws and ancient customs. Straying away from the ancient way of life was met with shame, an effective, but much less institutionalized gatekeeper than the laws. Therefore, Volanus argued that customs that had lost their efficacy should become laws and educate subjects about the befitting way of life.

Before voicing the practical advice, Volanus considers the fundamental question of the origins and essence of the law. In this task, he turns to Cicero and his rendition of natural law theory, presented in *De Legibus*: *"Law is the highest reason, implanted in Nature, which commands what ought to be done and forbids the opposite."*[267] Law is therefore perceived as a set of universally valid principles that manifest through human reason. However, in defining the contents of natural law, Volanus offers his own definition:

> *"There are however among human minds certain sentences, dictated by the natural reason, and those are as certain as the forces of nature that express them, such as none are to be allowed to violate the sense of shame* [pudicitia]*, none should threaten either wealth, or life."*[268]

[267] RR, 129, 63: "Lex est ratio summa insita in natura quae iubet ea, quae facienda sunt, prohibetque contraria." Volanus did not alter Cicero's wording in the least, cf. Marcus Tullius Cicero, *On the republic. On the laws*. trans. Clinton W. Keyes (Cambridge, MA: Harvard University Press, 1928): 316; LCL 213.
[268] RR, 129, 63-64: "Est autem inter caeteras mentis humanae, quas naturalis dictat ratio, sententias, et illa certa, ac vi naturae expressa, nullius pudicitiam esse violandam, nullius aut fortunis aut vitae insidiandum."

Liberty can only be preserved in a republic where the law is aligned with the principles of universal reason, namely if the law protected a sense of shame, property, and life.[269] This excerpt bears similarity to Rom 2: 14-15:

> *"Indeed, when Gentiles, who do not have the law, do by nature things required by the law, they are a law for themselves, even though they do not have the law. They show that the requirements of the law are written on their hearts, their consciences also bearing witness, and their thoughts sometimes accusing them and at other times even defending them."*

Here St. Paul talks of natural law and this passage had been used to argue for pagans abiding by it despite being ignorant of the Christian faith. Volanus reworks the idea of natural law to suit his own means, using it to establish certain affixed standards that serve as the foundation for his critique of Grand Duchy's positive law in the later chapters.

However, despite the fact these principles were deemed divine and universal, in practice, hierarchical societies did not extend them to every subject. Turning to the example of the Grand Duchy, Volanus divides its society into three estates: nobles, city-dwellers, and peasants (and some claim he was the first one to apply the theory of three estates to the society of the Grand Duchy). These estates contribute to the wellbeing of the republic in different ways and the importance of their lives depends on the importance of their responsibilities. Volanus concludes that only the nobles enjoyed full liberty, while the other estates bore some marks of slavery,[270] which he considered a necessary evil, as Volanus believed that the citizen community would not be able to subsist without a certain amount of slavery.[271] The reason for slavery was not the hierarchical

[269] The term used in the original is *pudicitia*, a concept widely used in the Classical Roman jurisprudence upon which Volanus drew directly, denotes abiding by widely accepted norms with special emphasis on sexual mores.
[270] RR, 131, 65.
[271] Ingė Lukšaitė, "Lietuvos publicistai valstiečių klausimu XVI a. pabaigoje-XVII a. pirmojoje pusėje," *Acta Historica Lituanica* 12 (1976): 35.

political order (indeed, he decries the idea to abolish the estates) but rather the failure to ensure justice to all free subjects.

To amend the ills of slavery Volanus suggests judging free subjects according to a shared code of law and meeting certain crimes with equal punishment indiscriminate of the estate. In other words, he suggests following the Aristotelian principle of commutative justice and the example of Venice, where all free subjects share laws. In the political system of the *Serenissima*, esteem does not translate into legal preference—quite the contrary, as Gasparo Contarini claims, any patrician would be persecuted if he insulted a plebeian, and the penalty would be harsher if he was graced with fame. Building on this example, Volanus argues for a shared legal code to all free people:

> *"Our nobles would do well in following the famous and meaningful moderation of the most splendid Republic of Venice, instead of boasting about the excessive and grave pressure they exert over plebeians and keeping their rights from them. Just as the citizens of Venice retain their dignity and nobility despite accepting plebeians into their community of laws and rights, so would our noble estate remain stable, showing no signs of authority being subverted."*[272]

Overall, Volanus held that every individual contributed towards the increase of the public good and for this reason is owed equal protection of the law. This did not lead to egalitarian ideals, which Volanus deemed unsustainable, but rather towards a more harmonious hierarchical society of the estates, where the law curtailed the domination nobles exerted over peasants and the urban population.

However, some deeper forces underpin his argument. Volanus' political ideals were formed significantly by Ciceronian humanist notions and in this case, he bases his advocacy for

[272] RR, 133, 67: "Hanc praeclaram et insignem pulcherrimi Venetorum imperii moderationem, utinam potius gentis nostrae nobilitas aemulatretur, quam nimiam et gravem in deprimenda plebe, et de possessione legum deicienda ostentaret. Nam quae Venetis integra constitit dignitas et Nobilitas, tametsi in societatem iuris et legum admiserint plebeios, eadem et nostris constaret, neque ulla in parte labefactata conspiceretur."

sharing the code of law and ascribing equivocal punishment on Ciceronian formulation of natural law. An extended quote from Cicero's *De Legibus* explains the relationship of human nature, reason, law, and justice in the Stoic cosmopolis:

> *Therefore, since there is nothing better than reason, and since it exists both in man and God, the first common possession of man and God is reason. But those who have reason in common must also have the right reason in common. And since the right reason is Law, we must believe that men have Law also in common with the gods. Further, those who share Law must also share Justice; and those who share these are to be regarded as members of the same commonwealth.*[273]

Therefore, reason binds humanity with the divine into a commonwealth. The virtue of reason elevates humanity above all other forms of life. Cicero designates this prided position as *dignitas* and expounds upon it in *De Officiis*:

> *"And if we will only bear in mind the superiority and dignity of our nature, we shall realize how wrong it is to abandon ourselves to excess and to live in luxury and voluptuousness, and how right it is to live in thrift, self-denial, simplicity, and sobriety (I.106) We must realize also that we are invested by Nature with two characters* [personae], *as it were: one of these is universal, arising from the fact of our being all alike endowed with reason and with that superiority which lifts us above the brute. From this, all morality and propriety are derived, and upon it depends the rational method of ascertaining our duty. The other character is the one that is assigned to individuals in particular (I.107)."*[274]

[273] Cicero, *On the republic. On the laws*, I. 23; 320-323: "est igitur, quoniam nihil est ratione melius eaque est et in homine et in deo, prima homini cum deo rationis societas; inter quos autem ratio, inter eosdem etiam recta ratio communis est; quae cum sit lex, lege quoque consociati homines cum dis putandi sumus. inter quos porro est communio legis, inter eos communio iuris est; quibus autem haec sunt inter eos communia, et civitatis eiusdem habendi sunt."

[274] Marcus Tullius Cicero, *De officiis*, trans. Walter Miller (Cambridge, MA: Harvard University Press, 2014) I.106-107; 109: "Atque etiam si considerare volumus, quae sit in natura excellentia et dignitas, intellegemus, quam sit turpe diffluere luxuria et delicate ac molliter vivere quamque honestum parce, continenter, severe, sobrie. Intellegendum etiam cst duabus quasi nos a natura indutos esse personis; quarum una communis est ex eo, quod omnes participes sumus rationis praestantiaeque eius, qua antecellimus bestiis, a qua omne honestum decorumque trahitur, et ex qua ratio inveniendi officii exquiritur, altera autem, quae proprie singulis est tributa."

Possession of reason is a universal human trait that *lifts people above the brute* and since humanity possesses dignity by virtue of possessing reason, dignity becomes a universal human trait.[275] Its possession obliges people to abide by natural law to maintain decorum but simultaneously provides a foundation for all to be treated as *members of the same commonwealth* who ought to be judged by the same code of law.

Additionally, the discourse of dignity was profoundly changed by Augustine's writings. Although according to Christian teaching man was made in the image of God and bore inherent dignity, original sin, and redemption by the crucifixion, shows that human nature is mutable and therefore possession of dignity is conditional upon leading a Christian life.[276] In book XII of *De Civitate Dei* Augustine framed it as an outcome of creation—filling an intermediary position, people can either rise to the company of angels or sink to the life among beasts.[277] Such mutability is further exemplified by Thomas Aquinas' justification of capital punishment: the life of sin could degenerate human status to one of beasts and therefore violent defense against their actions is a rightful response in the effort to assure the safety of one's community.[278]

[275] For further analysis of this passage, see Hubert Cancik, "'Dignity of Man' and 'Persona' in Stoic Anthropology. Some Remarks on Cicero, de Officiis I 105-107" in David Kretzmer, and Eckhart Klein, eds., *The Concept of Human Dignity in Human Rights Discourse* (The Hague: Kluwer Law International, 1972), 19–40.

[276] For a short summary of Christian view on dignity see Bonnie Kent, "In the Image of God? Human Dignity After the Fall," in Remy Debes, ed., *Dignity: a history* (Oxford: Oxford University Press, 2017), 73-98.

[277] Augustine, *The City of God against the Pagans*, 533. Book XII, Ch. 22: "Man, however, whose nature was to be in a manner intermediate between angels and beasts, God created in such a way that, if he remained subject to his Creator as his true Lord, and if he kept His commandments with pious obedience, He should pass over into the company of the angels and obtain, without suffering death, a blessed immortality without end. But if he offended the Lord his God by using his free will proudly and disobediently, he should live, as the beasts do, subject to death: the slave of his own lust, destined to suffer eternal punishment after death."

[278] This is especially evident in Aquinas' answer to the question whether or not it is lawful to be a sinner in St. Thomas Aquinas, *The Summa Theologica of St. Thomas Aquinas*, Second and Revised Edition. Translated by Fathers of the English Dominican Province (London: Burns Oates and Washbourne, 1920). II-II:64. URL: https://www.newadvent.org/summa/3064.htm#article2: "By sinning man departs from the order of reason, and consequently falls away from the dignity of his manhood, in so far as he is naturally free, and exists for himself, and he falls into the slavish state of the beasts, by being disposed of according as he is useful to others. This is expressed in Psalm 48:21: "Man, when he was in honor, did not understand; he hath been compared to senseless beasts, and

The concept of universal human dignity underwrote the fundamental tenets of Volanus' vision of social order and grounded his campaign for a shared legal system and equivocal punishment for manslaughter. It infused individual life with worth and set Volanus' view apart from the hierarchical visions of social order prevalent among his contemporaries. Volanus does not argue for the elimination of estates, far from it, however, his call for recognition of value to individual lives in the face of the law challenged the status quo. The stance of his interlocutor the first rector of Vilnius Academy and a prominent voice of the counter-reformation movement, Jesuit father Piotr Skarga (1536-1612) offers a good contrast to Volanus' social views:

> *"Inequality must exist among the estates of the Republic. One is more noble than another, one is of higher estate, another – of lower; one possesses a more honor, another - less. As the Philosopher says: 'do not be surprised that one is elevated, another yet more elevated, and that the King commands the land, and it serves him.' Therefore, it is a great arrogance and stupidity to think all are equal."*[279]

In Skarga's view, the worth of human life depended on their inborn estate, while Volanus' humanist outlook was more universal in recognizing human worth to all members of society.

The campaign for equal punishment for murder was not without precedent in the political thought of Poland-Lithuania. Andrzej Frycz Modrzewski had expressed similar convictions in his *De Republica Emenanda*. Volanus held his works to such high regard that he would later seek out patronage for translation of Frycz's work into Polish. His efforts were successful and Voivode of Polatsk Mikołaj Dorohostajski (1530-1597), himself one of the leaders of the Calvinist faithful

made like to them," and Proverbs 11:29: "The fool shall serve the wise." Hence, although it be evil in itself to kill a man so long as he preserves his dignity, yet it may be good to kill a man who has sinned, even as it is to kill a beast. For a bad man is worse than a beast, and is more harmful, as the Philosopher states (Polit. i, 1 and Ethic. vii, 6)."

[279] Piotr Skarga, Stanisław Kot, ed., *Kazania Sejmowe* (Kraków 1939). URL: https://literat.ug.edu.pl/skarga/index.htm see Kazanie trzecie o drugiej chorobie rzeczypospolitej, która jest z niezgody domowej "Nierówność być musi w stanach i osobach Rzeczyposp[olitej]. Eccles. 4. Także musi być nierówność w Rzeczypospolitej. Jeden zacniejszy niźli drugi, jeden wyższy w stanie, a drugi niższy; jeden więtszą cześć ma, drugi mniejszą. Jako Mędrzec mówi: "Nie dziwuj się, iż nad wysokiego jest wyższy, i drugi jeszcze wyższy, a ziemi wszytkiej król rozkazuje i ona mu służy". Przetoż hardość jest wielka i głupstwo, gdy się wszyscy równymi sobie czynią."

and a member of the commission amending the Second Lithuanian Statute, funded the publication of Frycz's work in 1577. Volanus' and Frycz's arguments likely convinced him to strengthen the laws protecting individual human lives indiscriminate of the estate. However, while Volanus' arguments fell on eager ears in the Grand Duchy, the legal situation in the Crown did not change. Nor were such ideas more popular in contemporary Europe. In his famous *Les Six livres de la République* (1576) Jean Bodin commented on Andrzej Frycz Modrzewski's campaign for equal punishment for murder in Poland this idea in these words:

> *"Yea Andrew Ricee a Polonian writeth it to be great iniustice, That the nobilitie offending are not punished with the same punishment that the common people are; the rich as the poore, the citizen as the stranger, without any respect of degree or persons: that which nothing could bee more absurdly written, of him which would take upon him to reforme the lawes and customes of his owne countrey and Commonweale."*[280]

Bodin's estimation of Volanus' efforts must have been similar. Eventually, the vision of hierarchical order prevailed over the increasingly individualistic social order Volanus envisioned.

Nobility

The different legal treatment of the estates relied partly on the concept of nobility. According to Sławomir Baczewski, who analyzed the development of the idea of nobility in 16th century Polish political thought, Volanus represents the formulation of nobility most representative of the middling layer of the estate. In doing so, he stands beside such thinkers as Orzechowsky and Frycz Modrzewski.[281]

[280] Quoted from Jean Bodin, *Six Books on the Commonwealth*, trans. Michael Tooley (Kentucky: Lenxington, 2009): 773. Original French: Jean Bodin, *Les six Livres de la Republique. Tom II* (Geneva: 1629): 1036. https://books.google.lt/books?id=L4RLAAAAcAAJ&lpg=RA25-PA16&dq=Andr%C3%A9%20Ricce%20Polonnois&hl=lt&pg=RA4-PA16#v=onepage&q&f=false

[281] Sławomir Baczewski. *Szlachectwo: studium z dziejów idei w piśmiennictwie polskim: druga połowa XVI wieku - XVII wiek* (Lublin: Wydawn. Uniwersytetu Marii Curie-Skłodowskiej, 2009). Baczewski deems Volanus a radical thinker for claiming that nobility has no other fundament beyond violence and the forefathers of Roman nobility were

Since all human beings share equal dignity, privileged status loses its fundamental conceptual basis. Nobility then is no more an essential distinction but rather one contingent on individual merit. Failure to maintain dignity carried the danger of its loss, no matter rank or status.[282] Therefore, nobility in Volanus' thought was conditional upon abiding by the fitting rules of decorum. In defining nobility, Volanus follows Aristotle, treating it as glory passed down the generations. The glory that gave birth to nobility could itself have been achieved through virtue, riches, or esteemed service at state offices. However, since Volanus treats nobility as a historical fact, he admits that its roots may not be as glorious as once thought.

Given such predisposition, Volanus could not subscribe to the dominant idea of nobility being inherited virtue. In general, Volanus is quite critical of the necessary connection of the two: not only does he say that virtuous men were always few,[283] he also adds this:

> *"I wouldn't dare deny that virtuous parents occasionally raise virtuous children who they are implanted with seeds of virtues that bear fruit even if cultivated with less work. However, pronouncing it a perpetual law of nature that applies in every case would be an exercise vainer than a lengthy refutation of such claim."*[284]

mean and unknown men before they banded alongside Romulus (Ibid., 44). Removing virtue as fundament for nobility and proclaiming nobles the violent usurpers effectively question the political order and social relations. However, these more radical ideas Volanus voices are mentioned briefly and not developed to their extreme conclusions that Baczewski has in mind. Moreover, Baczewski's reliance on translations may have misled his take on Volanus, for he relies on the 1606 translation by Stanislaw Dubingowicz, the first proper rendition to Polish language of the Latin treatise, that was written on the eve of clash of monarchic and republican political ideals turned violent and erupted in Zebrzydowski rebellion. Volanus, while surely suggesting that nobility is a historical fact that may have had ignoble beginnings, does not pronounce nobility as unwarranted. Quite the opposite, he does not argue for abolition of nobility, rather takes a historical view towards it. In discussing the roots of Roman nobility, Volanus claims that they could not have been people of virtue for there was no difference between a free person and a slave, all they sought by establishing the state was security and under these circumstances no virtue can thrive. Therefore, the fundament of their nobility became riches or service to the republic, both of which may have been acquired by less than glorious methods.

[282] Mirriam Griffin, "Dignity in Roman and Stoic thought," in Debes, *Dignity: a history*, 55.

[283] RR, 134; 68.

[284] RR, 135, 69: "Non tamen similem morum effigiem animis posterorum semper ingenerare putanda est, ut sine cultu, sine labore ac xime nobiles et illustres reddidit maiores. Non quod negem probos ex probis aliquando nasci, et semina virtutum aliis inseri maiora, ut minore exculta labore uberem proferant frugem. Sed aliquam necessitatis omnibus imponere legem, ut perpetuo naturae sic omnes nascantur ordine, id vero vanius est, quam ut longa egeat refutatione."

Futility aside, he continues listing numerous examples where sons of famous men failed to live up to the standards of ordinary men, not to mention their ancestors. Therefore, Volanus concludes that those believing blindly in their inherited superiority over members of lower estates are vainglorious men inhabiting a land of smoke and mirrors.[285] Instead, Volanus likens inherited nobility to a torch: it puts a person into the spotlight and sets him as an example to the people. He follows Juvenal in warning that once contemporary deeds turn to vices or fail to live up to the achievements of their noble predecessors, nobility itself turns against the person by putting shameful acts on display. [286]

Overall, Volanus rendered nobility an inherited esteem that obliges nobles to lead a virtuous life. All are responsible for living a good life that may then be rewarded with honor, while inherited nobility is nothing but an increased responsibility to abide by laws and traditions.[287] Hence, in Volanus' formulation, nobility depended on virtuous life and was easily lost by failure to abide by the appropriate lifestyle:

> *"However, for nobility not to appear bare and no more than a certain spurious honor, this estate is charged with certain duties and* [following] *excellent customs, because if a person would not live within the well-instituted boundaries outlined by his occupation it would necessitate a loss of rights* [diminutionem capitis] *and degeneration back into plebeian condition."*[288]

This noble code of honor obliged them to live off land holdings and devote their time to studies and the art of war – the only activities that befit their elevated status, for they must be ready to

[285] RR, 137, 69.
[286] RR, 138, 72.
[287] Interestingly, Volanus traces genealogy of nobility back to ancient Rome and argues that during the period of the republic nobility was only achieved through virtue, service, or riches while during the imperial period it was also bestowed upon emperor's favorites. Neither of these was to be perceived superior to another. *Conversation* postulated a similar outlook.
[288] RR, 139-140, 74: "Ne autem nibilitas nuda quaedam saltem et fallax dignitatis videatur professio, certa quoque huic ordini attributa sunt munia, ac tale institutum vitae, ut nisi se intra certos profesionis et institute sui continuerit terminus, diminutionem capitis patiatur necesse est, et in plebeiam conditionem iterum degeneret."

carry out their obligations to the republic. It barred nobles from "defiled" trades and mechanical arts, lest they sink into the ignoble state, deny any thought of profit and instead work towards the benefit and increase the honor of the republic.[289] This view found its way to the legal codes as well: a clause outlining the consequences of an improper way of life (e.g. engaging in exchange of goods, lending money, and living off of trade) was introduced in the Second Lithuanian Statute and threatened the loss of nobility.[290]

To emphasize the importance of abiding by a proper way of life decided by the inborn estate, Volanus continuously glorified the nobles of old. He credited them with the survival of the Grand Duchy because they lived by this code of honor: those were warriors, daring to charge into the midst of battle only out of the splendor of virtue and respect to honor.[291] However, the customs are changing and nowadays nobles turn their efforts towards financial prosperity and are not ashamed to dabble in trade, own inns, lend money for profit, among many other unfitting acts. Volanus concludes that due to corruption of customs, shame no longer deters nobles from pursuing profit and directing their thoughts towards plebeian ends instead of their noble obligations anymore. If allowed to play out, this path is potentially pernicious: straying from ancient customs, Volanus says, will be the cause of Grand Duchy's fall.

As the enticing influence of customs was fading and the beauty of virtue failed to spark noble hearts aflame, Volanus suggested reinforcing the traditional noble obligations with the letter of the law. Alongside the suggestions to revisit the rules on military service, he urged to legally outline norms of decorum nobles had to abide by to prove worthy of their nobility.[292] Fundamental

[289] RR, 140, 75.
[290] SLS, III.20.
[291] RR, 140, 74: "[…] id solum virtutis decus, et respectus honesti, a nostris extorquet."
[292] RR, 145, 79.

tenets of this thought that human worth ultimately hinges upon abiding by a certain set of rules align with both Ciceronian conceptions of dignity. In addition, since we know that Volanus' work exacted influence over the lawmaking process, such viewpoint allows us to read codes of law partly as codified traditional codes of honor—a loose set of instructions for leading an honorable life.

Practical advice

The last part of the treatise concerns improvement of the laws and edification of customs through legislation. Volanus voices his concerns about laws harmful to liberty and, by extension, the possibility of an honorable life. First and most important of such laws concerns disproportionate punishments for murder. Volanus argues that human life, regardless of the estate, ought not to be bought as the current laws allow it: according to the Second Lithuanian Statute, a noble who would kill a peasant is subjected to a fine.[293] Volanus argues that this clause is contrary to the Roman law and human conscience, moreover, it is nothing short of moral outrage that while pagans would condemn such laws, they thrive in a Christian country where laws are imbued with the Holy Spirit,[294] in these words he again refers to the Second Letter to the Romans (Rom. 2: 14-15). It may also be interpreted as another step in Augustine's footsteps, meaning, that even pagans recognized the injustice of such laws without relying on the *recta ratio*.

Lastly, this law sows strife among the people of the Grand Duchy and allowed to continue, might bring the state to the brink of destruction. Volanus calls for equivocal punishment because otherwise no justice can be served since the current laws are nothing short of preposterous:

> *"Would you call free a man whom anyone can kill and butcher as some animal? But indeed, in our own republic murderers buy people for*

[293] SLS, XI. 26.
[294] RR, 132, 65.

> *slaughter and pay their relatives so that they could kill that person. In this respect, the fate of cattle is more desirable, for they are sold with the blessing of the owner who receives payment of their own accord. Whereas after killing a person, the remuneration is violently forced upon the relatives with no regard for the people who could seek vengeance for the blood spilled."*[295]

In this manner he describes the laws guarding commoners against the violence of the nobles, however, not much different was the punishment for a noble slaying another noble. Once more the criticism is targeted at the Second Lithuanian Statute, which entailed a fine of 50 kopa of groschens for killing a commoner,[296] as well as the Polish laws punishing a commoner for slaying a noble by 30 griven.[297] This criticism applied to involuntary manslaughter among nobles that Lithuanian laws punished by 200 kopa of groschens, while the same crime in Poland would warrant 120 griven and imprisonment in the castle tower for 6 weeks. Volanus concludes that such laws only encourage to kill and plunder, for who would dare to wrestle their murderous rage when the punishment is so minuscule. He judged the situation as so vile, he likened it to tyranny: as long as crimes are met with no consequence, the difference between the terror private persons inflict on their compatriots is no different from the tyranny of a ruler over his subjects. The way to rectify the situation Volanus offers is the introduction of capital punishment for murder. As mentioned, he was not the first to criticize this law, as Andrzej Frycz Modrzewski addressed its Polish equivalent several times.[298] While Frycz was condemned, Volanus was heard: the Third Lithuanian Statute introduced harsher clauses for murder.

[295] RR, 148, 82: "An vero liberum corpus hominis tu putes, cuius emendi et tanquam iumenti necandi penes aliquem sit potestas? At vero non dissimili a laniis ratione homicidae in Repub[lica] nostra homines necandos emunt, quia quos occiderint, cognatis illorum persolvunt in hoc tamen conditio tolerabilior iumentorum esse videtur, quia non nisi volentibus dominis, et precium ultro accipientibus venunandur. At vero pro hominibus necatis, invitis etiam et nolentibus his qui vindicandi sanguinis habebant potestatem, merces obtruditur."
[296] SLS, XII.1-3
[297] RR, 369.
[298] Andrzej Rycz Modrzewski, *Lascius, sive de poena homicidii* (Kraków: 1543). He developed the idea further and argued for equality before the law in his masterpiece *Commentariorum De Republica emendanda libri quinque,* 1551.

Despite all the contemporary criticism, Volanus' ideas were well-grounded in practical reality and offered a solution to widespread violence. Lack of legal protection of livelihood enticed weapon-bearing nobles to band together for safety. Later Volanus comments on the inefficacy of the judicial system and describes the result its rigidness yielded:

> *"And so, we see it became customary that anyone who suffered a bodily injury or financial detriment turn not to the law, which no man except the Magistrates understand, but seek security in arms."*[299]

While intended as a means of prevention of bloodshed, Volanus says it often gives an opposite effect: once bands of armed men find themselves in a tavern, any sort of insult may incite a brawl fueled by inebriation, the heat of passion, and lack of regard for legal consequence. Such occasions often lead to intentional killing as well as manslaughter, not to talk of many lighter injuries suffered surely by both parties as well as bystanders. Such violence is rarely punished and even when courts adjudge retribution its amount is so insignificant that it's shameful to accept it. Volanus says that punishment for killing bore no significant downsides as murderer's rights were not limited and they continued to enjoy the same respect, status, and fame as they did before committing the crime and while imprisonment seemed a substantial punishment, it often turned into house arrest, effectively turning punishment into inconvenience and adding insult to injury.[300]

Volanus fiercely criticizes this clause as a liability to liberty and advocates for equivocal justice. Murder ought to be met with capital punishment, indiscriminate of the estate of neither the

For similarities and differences of Frycz and Volanus, see Andrzej Kempfi, "Frycz a Wolan. Zapomniana karta recepcji Frycza w Polsce," in Tadeusz Bieńkowski, ed., *Andrzej Frycz Modrzewski i problemy kultury polskiego odrodzenia*, (Wrocław 1974): 203–218. Later some writers followed in their footsteps: Marcin Bielski (1495-1575) in his satire "Rozmowa nowych proroków, dwu baranów o jednej głowie" (1566) and Łukasz Górnicki (1527-1603) in his polemic "Rozmowa Polaka z włochiem o wolnościach i prawach polskich" (1588/98).

[299] RR, 178, 111: "Itaque solenne iam illud et usitatum ab omnibus usurpari perspicimus, ut qui aliquod aut in corpore aut fortunis detrimentum acceperint, non ad legum, quarum nullas vires sine Magistratu esse sentiunt, sed ad armorum confugiant praesidium."

[300] RR, 151, 85.

criminal nor the victim. In addition, legal protection from bodily harm ought to be reconsidered and improved upon by introducing well-outlined penalties proportionate to the suffered harm; he does not elaborate whether restitution should take monetary or any other form, however, Volanus suggests following the precedent of *Leges Corneliae*, but the fundamental basis of his political thought encouraging this decision hails from Cicero.

His advice was heard. The twelfth chapter of the Third Lithuanian Statute opens with such admonition:

> *"We, the ruler, seeing the human arbitrariness and audacity, which sometimes manifests among disobedient people not fearful of god, that leads to the blood of innocent people of untarnished reputation being shed in hopes to repay for it with coin, and to those not fearing to attract god's anger upon the Republic, establish: if any nobleman out of his audacity, out of drunkenness, and arbitrarily without any given reason, deliberately, disrespecting the laws of the Republic and the divine order, would kill a person of the common estate, not a noble, and would be caught presently red-handed, according to the laws of catching red-handed established in this Statute, such a nobleman after presenting rightful proof should be punished by the throat without wergild."*[301]

Catching a killer in the act or proving the guilt was no easy feat. In a much more likely scenario that the murderous nobleman would only later be "dragged" to court and proper procedure would prove his guilt, then he risked paying the wergild and remunerating any outstanding legal expenses. This would result in what Volanus would call buying human lives, therefore, the success of his argument was provisional at best. Nevertheless, this clause extended increased personal protection

[301] TLS, XII.1: "Повстегаючи мы, г[о]с[по]д[а]рь, своволенства и зуфалства людские, которые што от часу в людехъ неповстегливыхъ без всякое боязни божое оказують, с чого и кровь невинъную людскую невстыдливе и невинне, в надею заплаты за нее пенежное, розливають и тымъ не меншъ пана бога ку гневу на речь посполитую побужають, уставуемъ: если бы который шляхтичь зъ зуфалъства, з опилъства и без данья причины своволне, умысльне, легце поважаючи право посполитое а паствечися над створеньемъ божимъ, ч[о]л[о]в[е]ка простого стану, не шляхтича, забилъ, а былъ бы пойманъ заразомъ за горячомъ учинку в часе, вышей в семъ статуте на горячий учинокъ замерономъ, таковый шляхтичь за слушнымъ доводомъ маеть быти горломъ каранъ, кромъ головщизны."

to those of inferior estate and by doing so undermined the strict social hierarchy rooted in the Grand Duchy which the law stringently upheld.

The second law pernicious to liberty concerns sexual mores and infidelity. Volanus states that capitulation to bodily desires bears a mark of shame and corrupts fundamentals of any human association, thus showing yet another of his intellectual debts to St. Augustine. For this reason, even the most barbaric tribes barred this practice by gruesome punishments, but not Grand Duchy, where such disgraceful acts were supposedly allowed to flourish. Volanus discusses the laws various ancient states and barbarous tribes enacted to stand guard of marriage and contrasts them with examples of the vices of his contemporaries.

It should come as no surprise that emphasis and most of the blame being laid at the feet of women. Volanus voices a traditional patriarchal view that female sexuality ought to be tamed lest it disgraces the family. Virginity is valued as the highest virtue of a woman, naming it "the adornment most high, one that cannot be ever replaced;" therefore, losing it in an unsanctified or even violent manner may as well bring a toll of shame hefty enough to extinguish life itself. As an example of a virtuous response of a violated woman, he conjures the image of Lucretia, whose suicide Volanus construes as revenge upon the disgraceful act Tarquinius committed. Unfaithful wives supposedly lose any love for their husbands, schemes their downfall, become insolent, and insufferable. He judges unfaithful men also worthy of reprimanding, especially if they dared rob girls of their virginity. Such villainous deeds ought to be met with are privation of half their wealth if those are committed by a noble, while a commoner ought to be banished and deprived of their rights.[302] However, the legal reality was quite different. Rape was punishable by death according

[302] RR, 156, 90.

to the First Lithuanian Statute (1529) unless the victim would accept the man as her consort and thus spare his life. Some had argued that this clause is rooted in Lithuanian customary law.[303]

Volanus claims that women are responsible for the most acts of sexual deviation, but the deeper reason behind their promiscuity is the complete absence of laws regulating decency. However, there was a competing interpretation offered by Venetian scholar Marcus Antonius Coccius Sabellicus (1436–1506), who wrote that Lithuanian customs allowed women to entertain several men if their husbands agreed to such arrangement.[304] After voicing sufficient praise to Sabellicus as a fellow humanist, Volanus begs to differ, saying that none were so rotten as to go against this God's law inscribed in all human hearts.[305] The formulation hints at religious roots, namely, Jeremiah 31:33 and Hebrews 10:16, but again reminds of Rom 2:14-15 which extends the validity of Christian natural law to pagans. Additionally, it reminds us that the tenets of natural law are universally applicable.

Contending that the situation was bad but not as bad as Sabellicus describes it, Volanus admits that not an insignificant number of people treated adultery as some source of honor. In other words, vice has taken over the esteem should be paid to virtue, which is an outcome of corrupted customs. Therefore, adultery could be cut down at its root, if such laws protecting pure customs were implemented. He suggests doing so by implementing increasingly harsh punishments and outlawing brothels, that, supposedly, were quite numerous in the Grand Duchy. Volanus argues for punishing all adulterers indiscriminately of their estate. This argument builds on Dio Chrysostom (40-120), who argued that adultery ought to be eradicated even among slaves because all people are created out of honor of the Lord and are worthy of honor. However, it once again

[303] FLS, VII. 6.
[304] Notably, Enneas Silvio Piccolomini gave voice to such ideas in his *De Europa* (1458).
[305] RR, 155, 89.

proves Volanus' view that all human beings are invested with the notion of natural law and can lead an honorable life.

The last two laws Volanus pernicious to liberty can be subsumed under the topic of temperance. Again, this is another instance where Augustinian influence becomes apparent, as he says that the battle between vices and virtues for the virtue of temperance, one that bridles the lusts of the flesh and prevents them from securing the consent of mind.[306] Its subservience to *recta ratio* is of prime importance, otherwise, it will beset the balance of other virtues. With this background in mind, the religious content of Volanus' comments seems less like zealous moralizing and their conceptual usefulness for the project as a whole becomes understandable.

The first calls for moderation in alcohol consumption—the downside of the hospitality customs of the Grand Duchy's lands. Volanus reiterates that immoderate consumption bears directly on the previously discussed issues of infidelity and violence. Not only does intoxication leads to unfortunate quotidian events, but it also escalates social discord, effeminates virtue, and corrupts customs. Esteem for temperance had sunk so low that "heroic inebriation" was a cause for honor and nobles were expected never to turn down a drink lest they offend their host.[307] This is another instance where the esteem due to virtue was hijacked by a shameful vice. He reminds that such immoderation greatly diminishes citizens' freedom and sinks many into drunken insanity, leading to all kinds of terrible misdeeds and disgraceful demeanor. This vice equally torments other estates and inflicts heavy economic losses on the republic. Therefore, Volanus advocates

[306] Augustine, *The City of God against the Pagans*, book XIX, ch. 4.
[307] RR, 159-160, 93.

estate-dependent punishments for drunkenness that would range from reprimanding and fines to branding disgraceful marks or corporal punishments.[308]

The second vice of intemperance is extravagance, the daughter of greed. Volanus presents it as the reason why many empires fall and relates the story of the conquest of Constantinople, finding its cause in the fact that citizens hid their gold instead of donating it to support the defending forces. He blames greed for the downfall of the kingdom of Hungary and presents it as a pertinent cautionary tale. Hungarian nobles failed to carry out their military obligations and were unwilling to donate their wealth for the public cause, therefore losing their independence. He sees foreboding signs of a similar fate in Poland-Lithuania, where personal splendor thrived at the cost of avarice in public matters. This manifested in lesser nobles imitating glorious magnate attire that was beyond their financial capacity.[309] Thirst for luxury eclipsed the will to compete in warrior's glory, haughty consumption of lavish foods yielded more esteem than virtuously temperate disposition. While Volanus denounced men for their failure to carry out military obligations, he criticized women for being too eager to demonstrate their status and blamed their forgetfulness of virtue.

> *"Since only riches are judged valuable, only the rich are judged sufficiently honorable: those riding in decorated horse-drawn carriages, or those resplendent with gold and precious stones, putting themselves on display in squares and at crossroads* […] *The vice of luxury becomes very familiar among our women, they spend little time at home and instead they ride around town and visit each other, jabbering, feasting, even competing in drinking and learning ways to ignite flames of passion."*[310]

[308] RR, 161, 95.
[309] RR, 164, 99.
[310] RR, 167, 101: "nam quia solae in praecio habentur opes, satis honesta reputantur, quae curru vehitur superbo multis caballis iuncto, aut quae auro et ostro gemmisque fulgens se in omnibus plateis et compitis conspiciendam offert [...] Accessit enim ad caetera luxus vitia et hoc iam nostratibus foeminis nimis familiare, ut intra privatos parietes se minime contineant, sed per omnes angulos urbis obequitantes se mutuo invisant, ut garrientes et convivantes, ac grandibus quandoque poculis certantes, flammas libidinis concipere discant."

He would rather see women at home, for their present mores supposedly put the wellbeing of their families as well as a republic at risk.[311] Later on, he likens the image of an ideal woman to a mute statue.

With decency corrupted and temperance nearly lost, it is imperative to introduce sumptuary laws to halt further degeneration of customs.[312] Volanus presents Sparta and Venice as worthy examples in this cause, for they managed to curtail thirst for affluence by introducing strict laws combating both vices rampant in Poland-Lithuania. Volanus foresaw that this initiative would draw criticism all too similar to the one raised by the Roman tribune of the plebs Marcus Duronius: "*what is freedom worth if one is not allowed to die in opulence if he wishes so?*"[313] Therefore, Volanus reminds his readers ascribing to such a view of the differences between unbridled license and honorable liberty. Volanus reiterates that one consists in following duties and acting out virtuous deeds, while the other encourages giving in to lust and gluttony thus leading to the most despicable slavery.

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All in all, only by introducing equivocal punishment for murder and taming the vices of adultery, inebriation, and extravagance, could the Grand Duchy boast true liberty. Its failing customs ought to be reinforced by just laws that would educate the subjects and reignite the love of virtue in their hearts. Amended laws would defend liberty and facilitate an honorable way of

[311] RR, 168, 101.
[312] Lithuanian Statutes came to introducing such laws however was the clause regulating the dress of Jewish faithful, prohibiting them from wearing gold and silver chains, silver on the belts or swords as well as obliging them to wear distinctive marks (such as yellow caps) to distinguish them from Christians, see SLS XII.4 and TLS XII.8.
[313] RR, 165, 99: "et enim quid opus est libertate, si volentibus luxu perire non licet."

life consisting of fulfilling obligations. Therefore, according to Volanus, efficient legislation may hold the key to the prosperity and longevity of the republic.

Honor in *De Libertate* is a secondary topic, yet it is often invoked indirectly. On the level of political order, honor is only possible in the polities that enjoy liberty. Neither tyrannies nor anarchic states meet the criteria for an honorable life. Liberty itself is freedom reinforced by just laws guarding human life, property, sense of shame. as well as ancient customs. In this case, honor is well-lived liberty: a mark of a life lived according to the laws and customs, devoted to the service of the republic and fellow citizens.

As mentioned, Volanus most often reflects on honor in the meaning of esteem—a reward for worthy acts and life led abiding by the law and customs of forefathers. Inherited esteem is a form of nobility as social status, but a truly honorable life can be led by people of any estate. It depended on fully committing to the obligations of the estate and leading a life customary to it. Although it was not explicitly stated, customs ought to abide by the natural law and the classical virtues of wisdom, justice, courage, and temperance. Classical virtue ethics hold that virtue can only be possessed together as one or not at all. Volanus knew this and diagnosed that body politic lacked temperance to the extent that this shortcoming corrupted other virtues—misleading justice, effeminizing courage, and clouding wisdom. Virtues being in such state, perception of honor was also corrupted and therefore certain vices had become causes for widespread esteem and pride. Again, this aligns well with the classical thought on honor, which Aristotle named the proper reward for virtue. To this outlook, Volanus added that honor was only possible under conditions of well-ordered liberty.

His discussion of the concept of nobility exemplifies a move away from the rigid medieval model dominated by lineage, towards a more humanist approach allowing for recognition of

individual merit. He stressed co-dependence of noble status and noble way of life: nobles failing to abide by their code of honor should no longer be considered noble. Offenses as various kinds of profiteering and failure to carry out military service were made legal ways of forfeiting nobility.[314] The interdependence of honor code, esteem, and horizontal honor Volanus' thought exhibits is a quintessentially Early Modern take on human worth. It depended directly on their inborn social status and abiding by its code of honor.

Volanus' reformulation of the concept of nobility went hand in hand with his rearticulation of human worth. The value of human life was the core idea behind his campaign for equivocal punishment for murder and transgressions against tenets of natural law. The intellectual foundation that he based these ideals on was the Ciceronian concept of universal human dignity. Recognition of worth to people of all estates changed the perception of social order in the Grand Duchy, instead of the nobility being recognized as the worthiest, all were recognized as responsible for the common good of the republic, and estates were recognized as interdependent—failure of one estate would spell the ill fate of another. Hence, to maintain the integrity of the estates and republic, free subjects had to be subject to a shared code of law. Furthermore, Volanus argued that crimes against tenets of natural law ought to be met with equal punishments.

Nevertheless, such ideas were yet to come to fruition. Volanus' campaign for laws maintaining the dignity of all free subjects was only partially implemented and never did subjects of the republic share a code of law. This was a challenge to the social dominance of a landowning noble estate from a Calvinist thinker of burgher descent that was left unanswered. The dominating

[314] Question remains whether or not this decision was permanent, it is addressed in the next chapter.

Catholic thought later argued for the improvement of peasant living conditions, yet never did they address it in such strong terms as Volanus did.

Postscript

"[…] *for there the unbroken clamor of arms overbears any elements of the letters*"[315]

Provost of Vilnius Cathedral Chapter Erasmus Vitellius (c. 1470-1522) uttered these words to signal humility in his address to Pope Alexander VI during the 1501 embassy to the Papal States. Vitellius was of urban descent and rose through the ranks through scholarship, studying, and later teaching, at Kraków university. His humanist education led him to King Alexander Jagiellon's service and the King charged him with the responsibility to represent the Grand Duchy in an embassy to the Holy See. Albeit Vitellius was downplaying his ability (all the while paraphrasing Sallust, see *Bellum Iughurthinum* 60, 2) this was a truthful statement on the condition of letters in the Grand Duchy at the beginning of the 16th century. Grand Duchy's state and society were centered around military endeavors since its inception and its military prowess was to be tested again, this time from the East, where the might of Muscovy was growing increasingly threatening. Nevertheless, the following century was not only filled with military glory or political intrigue, but the 16th century also brought an unprecedented flourishing of the arts, as this chapter aimed to illustrate.

Learning and scholarship became a tool to reflect upon as much as shape social relations. Honor was a central concept in this undertaking, as it was inextricably linked to the conceptual framework including nobility, reputation, and dignity. It was often described as a life well-lived, one in accord with customs, service to the state in war or governance. Gasztold manipulated

[315] Augustinus Theiner, ed., *Vetera Monumenta Poloniae et Lithuaniae* […] *Tomus Secundus* (Rome: Typis Vaticanis, 1861): 277: "illuc enim continuus armorum strepitus litterarum rudimenta non admittit."

rhetoric of honor and shame to defend his reputation and launch an attack on his opponents. Texts produced in his cultural proximity indicate a keen understanding of honor mechanics and willingness to harness its power to further personal aims. His version of the theory of Roman descent ascribed honorable lineage to magnate families, thus elevating them over other nobles and laying the groundwork for institutionalizing the aristocratic estate further, therefore Gasztold developed a concept of honor dependent on esteemed lineage and inheritability. This he called *honor naturalis*, a trait that potentially differentiated magnates from all other estates. During the century this view has been challenged and Grand Duchy's social thought witnessed a turn from birth to ability. Examples such as the aforementioned Vitellius and Augustinus Rotundus were foremost examples of social mobility through letters. A familiar European pattern played out in the Grand Duchy as well, for the main advocates of said turn were protestant thinkers from urban backgrounds educated in humanist spirit. Brightest among them shone Andreas Volanus, who emphasized the need to continuously re-confirm honor to maintain it. His writings criticized the claim to honor by descent, however, the other significant predicates of honor such as loyalty and customary life remained intact. Customs were another way to reflect on the appropriate lifestyle that maintained reputation and as such it has been subject to historical change. Volanus decried the withering force of custom to order everyday life and turned to the law to reinforce it. His voice has been heard among legislators and, perhaps, it was in this spirit that nobles were later decried for "dabbling in mechanical arts and trade" and threatened with losing their nobility if they continued to act as commoners. Later yet thinkers would redescribe another classical pillar of honor – the customary way of life. Calvinist philosopher Adamus Rassius (1575-1627) shared Volanus' social ideals, furthermore, he laid out a particularly intriguing vision of social order in his *Tractatus politico iuridicus de nobilitate et mercatura* (1619). He argued for considering

wholesaling an honorable enterprise and large-scale merchants as noble people due to their positive effect on the whole society, thus grappling to overturn the widespread scorn towards active economic activity in the Republic of nobles. In this sense, an old debate over true nobility was animated in the Grand Duchy, centering it around the concept of honor. Similarly, as in Poggio Braccolini's famous *De vera nobilitate* (1440), representatives of established classes defended the opinion of inheritable nobility and honor, while disenfranchised championed virtue and individual achievement. However, by the time this topic reached the level of learned reflection, real-life examples of commoners rising through the ranks through scholarship or commerce were many.

Chapter Two. Honor as a legal concept in the Grand Duchy of Lithuania

The analysis of 16th century social and political thought in the Grand Duchy illustrated the wealth of meanings and applications the concept of honor carried. As we have seen, it had been applied to individuals, corporations, and communities as broad as citizenry or nation. That research had also shown the gravity honor was ascribed with; much ink had been spilled aiming to secure its stability or attain its increase. Nevertheless, while the polemical writings inform on the ideas influencing honor and offer several of its definitions, those are quite distant from the social world of the Grand Duchy. Moreover, one must admit that treatises engaging directly with honor are relatively few and far apart. Legal innovation attracted considerably more energy and attention from Grand Duchy's intellectual elite. This chapter aims to breach the gap between the intellectual sphere of Humanist thought and the quotidian world of honor by analyzing its uses in the normative jurisprudence of the 16th century. The chapter opens with a presentation of the political significance of legal codification and the history of codification of the Lithuanian Statutes. It continues with the analysis of honor in normative law.

The analytical part of this chapter explores the relationship between honor and normative law of the Lithuanian Statutes. In doing so it poses questions such as: how was honor conceptualized in legal codes? Did the law defend the honor of the ruler, the state, and the nobility? Since honor carried collective and individual significance, were both sides of honor recognized as a subject of law and warrant legal protection? Lastly, what relation is there between collective and individual honor? Overall, how did law use honor, and to what ends? These questions are pursued in the two analytical parts of this chapter, interpreting honor separately as status and as reputation.

Lithuanian Statutes I. The politics of legislation and multiform legal tradition

Large-scale legal codification swept through 16th century Europe. Some East-Central European examples include Bohemian *O právech, súdiech i o dskách země české knihy devatery* compiled by Viktorin Kornel (1497), Jan Łasky's edition of Polish royal privileges and other normative documents (1505), and István Werbőczy's codification of Hungarian customary law published as *Opus Tripartitum* (1514).[316] Albeit challenging and taxing tasks, these codifications proved to bear significant influence over the future development of the state and society. Legal codification had political significance not least because it was an attempt to impose legal unity over a certain territory. Law was one of the key elements in efforts to centralize power over composite Early Modern states, therefore codification was often interpreted as means to strengthen princely power over their respective realms.

This European trend manifested in the Grand Duchy in unprecedented intensity and yielded three wide-scale codifications of law regulating a wide array of social interactions. Some argued the Lithuanian Statutes being the first official codification of secular law in Europe,[317] while German legal historian Heiner Lück deemed its breadth and significance comparable to the Prussian Code of 1794.[318] While the ruler initiated the process, the Lithuanian Statutes were developed in consultation with larger circles of nobility with magnates exerting the most influence over the result. Originally rendered in Ruthenian, the main language of Grand Duchy's

[316] For an overview of legal codification in East Central Europe, see Mia Korpiola, "Customary Law and the Influence of the Ius Commune in High and Late Medieval East Central Europe" in Heikki Pijlajamaki, Markus Dubber, Mark Godfrey, eds., *The Oxford Handbook of European Legal History* (Oxford: Oxford University Press, 2018): 423-426.
[317] Vytautas Andriulis, "Lietuvos Statutai," *Visuotinė lietuvių enciklopedija*. URL: https://www.vle.lt/straipsnis/lietuvos-statutai/
[318] Heiner Lück, "The Codification of Law in Europe during the 16th century – Conceptions, Results, Effects," in Irena Valikonytė, Neringa Šlimienė, eds., *Lietuvos Statutas: Temidės ir Klėjos teritorijos* (Vilnius: Vilniaus universiteto leidykla, 2017): 31.

administration, the Statutes were later translated into Latin and Polish, to answer the needs of the highly heterogeneous society.

Casimir's code	1468	25 articles
The First Lithuanian Statute	1529	13 chapters, 282 articles
The Second Lithuanian Statute	1566	14 chapters, 368 articles
The Third Lithuanian Statute	1588	14 chapters, 488 articles

Table 2.1: the chronology of legal codification in the Grand Duchy of Lithuania

However, the history of legal codification in the Grand Duchy of Lithuania begins in 1468 when King Casimir Jagiellon (1427-1495) codified certain aspects of penal law. The roots of this codification lay deeper yet, namely, in his royal privilege of 1447. This privilege granted landowners legal authority over their serfs which in turn necessitated clearing up limits of their authority and certain aspects of the judicial process. The Codification effort resulted in the so-called Casimir's code that consisted of 25 articles detailing protection of personal property and showed signs of interpreting crime as detrimental to the society, not only the victim. The clauses standardized punishments for larceny outlawed vagabondage, and further enserfed bondservants.[319] At the onset of the 16th century Grand Duchy's legal landscape has grown into a complex mesh of overlapping legal powers that complicated legal practice. The idea of unifying state law grew increasingly attractive and already in the 1514 Vilnius Sejm magnates considered initiating codification. Their requests were swiftly met with discussions over the contents of such code mentioned in the protocols of 1522 Sejm. This earliest project of the Statute is now lost but its edition one made history: by the privilege of the king Sigismund the Old (1467–1548) the First Lithuanian Statute came to power on the day of St. Michael – September 29th, 1529.

[319] Juozas Jurginis, "Įvadas" in Juozas Jurginis, ed., *Kazimiero teisynas (1468)* (Vilnius: Mintis, 1967): 3.

But what was the political significance of a legal code? The familiar story of incentives that motivated the surge of legislation in 16th century Europe has to do with growing princely power and statecraft. However, the Grand Duchy was a particular polity in a semi-permanent interregnum due to the largely absent rulers. Such architecture of political power lent itself directly to the growth of a powerful magnate estate whose grasp over the land grew increasingly firm, and it should come as no surprise that the Grand Duchy was often criticized for being an oligarchy. Therefore, legal reforms presented a tool to turn the magnate vision of the social order into reality. The First Lithuanian Statute was a tool to shape the order of the polity, steering it towards a more pronounced aristocratic form of government and in that regard, it bore significant differences from Western European legal codification that served to further princely power.

At the center of this turn towards advocating aristocratic interest, we see a familiar face: Grand Chancellor Olbracht Gasztold, who oversaw the codification efforts. Its earlier version was developed under the supervision of his rival, the preceding Grand Chancellor Mikołaj *Amor Poloniae* Radziwiłł.[320] As their conflict verged on private war, it is no surprise that Gasztold halted the adoption of the Statute when he took office in 1522. Instead, Gasztold claimed the glory of the lawgiver for himself with the 1529 edition of the Statute, albeit the differences between the two editions remain unknown. The first Latin translation of the Statute bears a dedication, where Gasztold's scribe Deodatus Spetennius writes:

> *"As your clemencies know well, due to your wishes and often expressed entreaties of your clement Lords Councilors, as well as princes and lords and boyars, nobles and all knighthood of the Grand Duchy of Lithuania, who do not hesitate to lay their lives fighting the enemies of their prince, his magnificence the Ruler out of his singular grace and generosity*

[320] Irena Valikonytė, Stanislovas Lazutka, Edvardas Gudavičius, "Pirmojo Lietuvos Statuto kodifikavimas," in Irena Valikonytė, Stanislovas Lazutka, Edvardas Gudavičius, eds., *Pirmasis Lietuvos Statutas (1529 m.)* (Vilnius: Vaga, 2001): 46-55.

dignified with written Christian law. His grace the great King Sigismund charged my lord Grand Chancellor to compose it in writing."[321]

As expected, neither the previous edition nor his predecessor, are mentioned. Instead, the dedication strengthens Gasztold's image as a loyal servant by listing many achievements of his forebears. Even less surprising is the fact that said feats mirror those listed in his letter to Queen Bona and serve as the perfect counterpoint to the triumphs of his adversary – Grand Hetman Konstanty Ostrogsky. Aside from Deodatus Septennius (of whom we only know this Latinized name), scribes and learned men who could have composed the Statute remain anonymous. However, most likely candidates were members of Vilnius Cathedral Chapter *doctores utriusque iurii* Jerzy Taliat and Waclaw Czyrka, who had ties with Gasztold himself.[322]

Turning towards the contents of the Statute, one may see certain similarities between Gasztold's political writings and the codification of the laws. Magnates were regarded as the *patres patriae* and the most important political actors of the Republic, often at the expense of the ruler. In fact, magnates fashioned themselves as the foremost guardians of Grand Duchy's political order ready to oppose the ruler if he strayed from the laws.[323] Up until 1566 their exclusivity was established in law, as magnates were exempt from lower instance courts and only answerable to the legal authority of the ruler, while the ruler was bound to consult with the Council of Lords before taking any important political and economic decisions. These legal precedents provided

[321] Stasys Lazutka, Edvardas Gudavičius, "Deodato Septenijaus Goštautų panegirika," *Lietuvos Istorijos Metraštis* 1976: 82. "Prout est bene notum vestre clemencie, quod ad optionem et ad frequentes preces omnium vestre clemencie dominorum consiliariorum, et eciam ducellorum et dom[ini] cellorum et boyarorum, nobilitatis et tocius milicie Magniducatus Lithuanie impepercionem collorum contra hostes sue clemencie principis, dignatus est eius clemencia princeps ex singulari gracia et liberalitate sua huic suo Magno ‖ ducatui Lithuanie iura cristianica scripta concedere. Sua clemencia princeps, magnus rex Sigismundus, mandauit domino meo, vt cancellario et officiali terrestri, ea componere et conscribere."

[322] Czyrka received his doctorate in Rome, while Taliat was Gasztold's clent and studied in Kraków. Juliusz Bardach, "Statuty Litewskie w ich kręgu prawno-kulturownym," in *O dawnej i niedawnej Litwie* (Poznan: Wydawnictwo Naukowe Universytetu im. Adama Mickiewicza, 1988): 18.

[323] Darius Kuolys, "Didikų vaizdinys Lietuvos Didžiosios Kunigaikštystės raštijoje," *Senoji Lietuvos Literatūra* 47 (2019): 72-75; 92.

grounds for a *de facto* aristocracy to separate itself further from other layers of the nobility. Nevertheless, the magnate grip over the Grand Duchy was not in the interests of the King, and political struggle through legal means continued. Two weeks after the First Lithuanian Statute came to power, King Sigismund the Old issued a land privilege. In this document signed 1529 October 13th the King prohibited transmitting nobles into service of princes and magnates.[324] This move precluded further development of internal hierarchies within the nobility and claimed direct loyalty of every noble to the ruler.

The decades following the adoption of the First Statute were marked by growing social stratification and economic reforms. These social processes made the need for legal revision increasingly evident. Another highly important factor furthering the need for legal revision was growing ties with the Crown of Poland. During the 30 years between the two Statutes, the importance of middling nobility grew and their allegiance with Polish ideals of equality within the noble estate resulted in the spread of the executionist movement into the Grand Duchy. Originating in Poland, this movement demanded revision of land holdings, which posed a threat to the power of magnates who owned swaths of land throughout the Grand Duchy. They saw the reality of the threat in the developments within the Polish Crown and faced the risk of losing much of their economic concessions.

Seeing the potential political influence of middling nobility in the Grand Duchy, King Sigismund the Old and his son and successor Sigismund Augustus sided with them to curtail the influence of the magnates and strengthen royal power. Sigismund Augustus offered magnates a choice between land revision and giving up their exclusive legal rights and merging with the rest

[324] Edvardas Gudavičius, "Zigmanto II 1529 metų šalies privilegija," in Irena Valikonytė, Lirija Steponavičienė, *Lietuvos Statutas ir Lietuvos Didžiosios Kunigaikštystės bajoriškoji visuomenė* (Vilnius: Vilniaus Universiteto Leidykla, 2015): 19.

of the nobility. In the 1564 Bielsk Sejm where further union with Poland was debated, the magnates surrendered their exclusive rights of legal responsibility to the royal court. According to the privilege that confirmed this new development, magnates acted out of Christian compassion and fraternal benevolence towards the whole knightly nation of the Grand Duchy.[325] This meant that magnates were to be placed under the jurisdiction of Land and Castle courts – a new type of judicial institutions established according to Polish example – ran by local noble communities, meaning that the judges and scribes were selected from the members of a landed noble community of the particular district. The judicial-administrative reform of 1564-66 carried out these demands, which were made law in the Second Lithuanian Statute.

Already in the Brest-Litovsk Sejm of 1544 magnates criticized the Statute as being too limited and asked the ruler to initiate a revision of the code and in the meantime, while revision was in process, at least print it out because manuscripts proliferated errors. However, more importantly, middling nobility also expressed the need for revisions and began campaigning for implementing internal equality of the noble estate.[326] Neither process began in full until October 1551, when Vilnius Sejm appointed a special commission to revise the Statute under the leadership of Grand Chancellor Mikołaj Radziwiłł the Black (1515-1565). In contrast to their predecessors, the authors of the Second Statute are better known. The commission was comprised of 10 people, half of the group represented Roman Catholic, the other – Ruthenian Orthodox communities, which marked a significant step towards institutionalizing religious toleration. They were the humanist elite of the Grand Duchy and experts of various strands of law, including Italy educated expert on canon law Bishop of Samogitia Jan Domanowski (1496-1563), an expert on Magdeburg

[325] "Privilegium Sigismundi Augusti editum in Bielsk 1564 quo omnibus civibus M. Ducatus Lithuaniae datur facultas absolvendorum causarum omnium iuxta novum statutum methodo in eodem praescripta."
[326] Mečislovas Jučas, *Lietuvos ir Lenkijos Unija* (Vilnius: Aidai, 2000): 203; Darius Vilimas, "Formation of the land court system in the Grand Duchy of Lithuania (1564-1588)," *Lithuanian historical studies* 10 (2006): 1-28.

law, and author of *Conversation of Pole and Lithuanian* Royal Secretary Augustinus Rotundus (1520-1582), Spaniard doctor of both laws and, notably, a pupil of prominent legal humanist and founder of *mos gallicus* Andrea Alciato, Pedro Ruiz de Moros (better known in his selected *Patria* as Piotr Roizjusz; 1505-1571), several scribes and regional legal practitioners.

Fluctuating military fortunes in the campaigns against Moscow had a direct influence on the political situation of the Grand Duchy, turning the ratification of a new legal code into political leverage. The fall of Polotsk in 1563 put the military matters to the forefront as the Muscovite forces posed a direct threat to Lithuania Proper. The draft text of the Second Lithuanian Statute was ready by 1564 and Lithuanians persuaded Sigismund Augustus to adopt it, while Polish envoys rejected it due to certain clauses in the text that had been contested since the adoption of the first edition. They protested the legal status of foreigners the law ascribed to them, which in turn prohibited holding land and offices in Lithuania. This was, as Polish envoys saw it, an affront to the "brotherly relations" between the two nations. Nevertheless, despite the protests, the Second Lithuanian Statute came to power on 11 March 1566, establishing a new judicial and administrative system of the land, reconfirming political parity between Catholic and Orthodox nobles, and inaugurating internal legal parity of the noble estate.[327]

If the First Statute collected the customary laws and initiated the codification process, then the Second Statute reorganized the state through legal means. It operated on the assumption that a joint noble estate should be created and devised new laws that furthered this goal. For this reason, many hold 1566 the threshold that marked the full formation of Grand Duchy's noble estate and it was a step away from the aristocratic privilege entrenched in the First Statute, towards a system of

[327] Jučas, *Unija*, p. 203

forma mixta checks and balances, strengthening its democratic part. Nevertheless, legal parity was but an ideal, and while subjects to a common institutional network, magnates still enjoyed and exerted their significant power to bend the law to their favor.[328]

Although the Second Statute was inaugurated, members of the commission themselves agreed that their task was not complete. The need for another edition of the Statute was understood soon after its adoption and only four months had passed until nobility raised the question of editing the statute once more in 1566 Brest Sejm and already in 1568 Hrodna Sejm King Sigismund Augustus appointed four members of the Council of Lords and several lesser nobles to correct the Second Statute. The code had to be revised as soon as possible because the need for a further union was growing increasingly evident with every Muscovy's military success. However, Union was signed before the law was reformed once again.

The Lublin Union act of July 1st, 1569, envisioned the creation of common law within the Republic and therefore legal codification became a matter of the Common Sejm of the Republic. Hence, codification became a question of even greater political importance, as the unification of the laws would have furthered the integration of nobilities of both polities. That same Sejm appointed a new commission to unify the laws, its most notable members being Vilnius Bishop Walerian Protasewicz (1505-1579), Samogitian Castellian Melchior Szemet (d. c.1570), Calvinist Lithuanian Pantler Mikołaj Dorohostajski (1530-1597), who would later fund Volanus' initiative to translate Andrzej Frycz Modrzewski's *De Republica Emenanda*, editor of the Second Statute, Marcin Wolodkowicz (1510-1595), and Royal Secretary Augustinus Rotundus (1520-1582). The principles for electing people were different than the previous ones, it was rather regionally based,

[328] An overview of legal norm crashing against legal reality is outlined in Andrzej Zakrzewski, *Wielkie Księstwo Litewskie (XVI-XVIII w.) prawo-ustrój-społeczeństwo* (Warszawa: Campidoglio, 2013): 232-255.

the elected people had to be well acquainted with the needs of their regional noble communities. Therefore, although there were Orthodox members, religious parity was not as important as in the previous commission.

However, as hindsight attests, the project of unified laws was soon judged to be unrealistic and abandoned, whereas questions of another codification of Grand Duchy's laws were nearly ignored in Common Sejms. However, the work continued in local dietines and local conventions, thus involving a larger number of nobles to participate in devising the law.[329] Indeed, many members of the appointed commission died in the late 1560s-early 1580s and no new members stepped in their place. At some point during the 1570s, the initiative of developing the laws was taken into the hands of elected representatives of local dietines. They would develop suggestions and return them to Grand Duchy's Chancellery to integrate them into the project of the new Statute. The Grand Chancellor who supervised these additions was Calvinist Ostafi Wołłowicz (c. 1520-1587). Needless to say, these people were loyal to their local communities and the Grand Duchy, therefore merging with the Crown of Poland was directly contrary to their interests. The middling nobility that gained power by copying administrative and political demands of their Polish counterparts now turned against the Polish interest and declined to inscribe acts of the Union into Lithuanian law, quite the contrary, they demanded the preservation of "old privileges" that assured Grand Duchy's autonomy and demanded reconquest of lands lost in wars against Muscovy.

However, without royal consent, none of these legal changes could take power. By 1584 the text of the Third Statute was ready, and the Lithuanian convention pleaded King Stephen Báthory (1533–1586) to affirm the Statute. After a successful campaign against Moscow when the

[329] Ivan Lappo, *1588 Lietuvos Statutas. T. 1, d. 1: Tyrinėjimas* (Kaunas: Spindulys, 1934): 287.

loyalty Lithuanian troops showed, Bathory was favorable towards Grand Duchy's interests and promised to confirm the codex in the next Common Sejm. This did not lead to fruition, since the Polish envoys continued to protest certain clauses, claiming (not without precedent) that certain articles ignored the promises made in the Lublin Sejm and deviated from the Union. For instance, the Third Statute did not mention the Lublin acts, called the Grand Duchy of Lithuania an autonomous state (Ruthenian *панствa*, from Polish *państwo*), legalized the separate conventions equal to previous Sejms, and further strengthened Grand Duchy's autonomy.[330] Therefore, it is no surprise that the moment King Stephen Bathory brought the question of the Statute to the 1584 Sejm, it was immediately declined. Nevertheless, the royal promise to confirm the Statute held true and played a part in its later adoption.

After Báthory's death in 1586 Poland-Lithuania faced its third interregnum. Although this time the institutions and legal procedures were established, the country was torn apart by dissent. Main competitors for the elective throne were the Swedish prince of Jagiellonian blood from his mother's side Sigismund Vasa (1566-1632) and second-time candidate Maximilian III of Austria (1558-1618), while some Lithuanians supported the candidacy of Ivan IV as a measure to rule out the possibility of further armed conflicts. While the last option was upheld only by a fracture of the noble citizens, Maximilian III and Sigismund Vasa inspired many followers, whose rivalry often drew on personal grievances as much as was fed by the political passions. Paradoxically, competing camps of nobles pronounced them both king. This ruled out the possibility of peaceful resolution of the matter and battles erupted. Grand Hetman of the Crown Jan Zamoyski (1542-

[330] В. А. Воронин, "Термины, использовавшиеся для обозначения понятия «государство» в Великом княжестве Литовском в XIV – XVI вв.," in Irena Valikonytė, Lirija Steponavičienė, eds., *Lietuvos Statutas ir Lietuvos Didžiosios Kunigaikštystės bajoriškoji visuomenė: straipsnių rinkinys*, (Vilnius: Vilniaus Universiteto leidykla, 2015): 242-43.

1605) ultimately won the crown for Sigismund Vasa by capturing Maximilian III Habsburg at the battlefield of Byczyna in 1588 and forcing him to renounce his candidacy to the throne.

However, that was not the end of tensions. Grand Duchy's nobility kept out of these tensions and only after Sigismund was confirmed king, did they approach him. The Lithuanian envoys claimed that although he did swear an oath to the Polish nobility already, he did not do so to the Lithuanians and refused to hold him their ruler. They hinted at the possibility of civil war were he to reject their demands and agreed to endorse him only if Livonia was shared between both, Poland and Lithuania, he swore an oath to the Grand Duchy in Lithuania and confirmed the old privileges along with the new Statute. He acquiesced, their demands were met on the 28th of January 1588 and the King justified them as keeping the royal promise of his predecessor. The Third Lithuanian Statute would never have passed by the Common Sejm.

Two weeks later King Sigismund Vasa issued another privilege, this time personally to Vice-Chancellor Lew Sapieha (1557-1633). He was granted the right to print this code of law in exchange for covering the publishing costs. Sapieha was a Ruthenian-born Orthodox, who converted to Calvinism after his studies in Leipzig and due to his excellent education made a splendid career in the Chancellery serving under Ostafi Wołłowicz, whose death in 1587 left the seat of Grand Chancellor vacant. Sapieha succeeded him in 1589 and although he was not the figurehead of the codification process, he came to be regarded as the Lithuanian Solon. In the exordium to the code, Sapieha writes:

> *"Throughout the centuries learned people observed that an honorable person in every polity should hold nothing dearer than freedom and so despise slavery as to be compelled to ward it off not only at the expense of riches but also life. And therefore, honorable people spare neither their belongings nor their lives* [in the struggle] *against any enemy, so that they would not come under their cruel reign and be stripped of their freedom, so that they would not live according to the will and reason of strangers,*

> *as slaves. However, it does not suffice that a person would be free of slavery to the external enemy when he must suffer a local one.* […] *After all, the laws are instituted so that the rich and powerful would not be free to act at will. As Cicero said, we are slaves to the law so that we could live in liberty."*[331]

He once again confirms the intrinsic connection between honor and liberty—the foundation stone of any true and well-instituted republic. He continues with a specific vision of the good life:

> *"And if nothing pleases an honorable person more than a safe life in their fatherland without fear that anyone may tarnish their good reputation or injure their body and health, or harm them on their own property, then he must be devoted to laws, to which he owes his peace and reason he does not suffer any coercion, insults, and injuries, because the purpose and result of all laws in the world is and must be, that everyone would maintain a good reputation, health, and property and would suffer no damage to them.*"[332]

Hence within this well-instituted republic, only the laws make a good life possible. Protection of reputation, along with health and property, he names the most important ingredients of the said good life that must be protected.

> *"And that is our freedom that we boast among other Christian nations, that we have no Lord who would reign over us following his will and not our laws and, as honorable glory, so livelihood and property we freely possess, for if whoever would hurt any of those three our things and would attempt to rule us according to their desire and not our laws, that would*

[331] I. Lappo, 1588 metų Lietuvos Statutas, II t. (Kaunas, 1938): 15-17. "Обачывали то усихъ вековъ люди мудрые, же въ кождой речы посполитой чоловеку почъстивому ничого не маетъ быти дорожшого надъ вольность, а неволею такъ се маеть гыдити, же не только скарбами, але и смертю ее одъ себе отганяти есть повиненъ. А про то люди почъстивые не только маетности, але и горлъ своихъ противъ кождому неприятелю выносити не жалують, абы подъ ихъ окрутное опанованье не приходили, а з волности своее будучи злуплени, водлугъ воли и мысли ихъ, яко невольники, не мусели жити. Але вже мало бы и на томъ было, ижъ бы чоловекъ з неволи отъ посторонного неприятеля былъ воленъ, кгды бы домового неприятеля надъ собою терьпети муселъ. Тогды тотъ монъштукъ або удило на погамованъе кождого зуфальцу есть вынайдено, абы, се боячы права, отъ кожъдого кгвалъту и збытку погамовалъ, а надъ слабшимъ и худъшимъ не паствилъ се и утискати его не могъ, бо для того права суть постановлены, абы можному и потужному не все было вольно чынити, яко Цыцеро поведилъ, ижъ естесмо невольниками правъ для того, абысьмы вольности уживати могли."

[332] Ibid., "А естли жъ чоловеку почъстивому ничого нетъ милыного надъ тое, кгды, въ отчызне своей безп[е]чне мешкаючы, не боить се, абы его хто на доброй славе его змазати албо на теле и на здоровью его образити, албо тежъ на власной маетности его укрывдити могъ, тогды то ничому инъшому, одно праву причитати маеть, за которымъ од кождого въ покою седить а жадного усилства, обелжен[ь]я и укривжен[ь]я на собе не поносить, бо тоть цель и скутокъ усихъ правъ естъ и маеть быти на свете, абы кождый добрую славу свою, здоровье и маетность въ целости мелъ, а на томъ всемъ жадного ущирбку не терпелъ."

> *not be our Lord but a breaker of the laws and our liberties, and we then must be his slaves."*[333]

This freedom that makes honorable life possible relies on keeping the laws that bind the political nation as well as the ruler. No one is above the law and straying away from it leads to the tyranny which constituted a fate worse than death in the political thought of the Grand Duchy and the Polish-Lithuanian Republic. Overall, Sapieha's dedication to the codification to the nobility of the Grand Duchy is the epitome of confluence between legal and political thought. In a concise text, Sapieha conveys a strong political message, namely that laws constitute liberty, and life without it is not worth living.

The Third Lithuanian Statute reinforced the distinct status of the Grand Duchy in legal and political terms. Despite that it was adopted after the Union of Lublin, its clauses embodied a view towards the state much different than the Lublin union act. While the latter proclaimed the birth of a new nation comprised of two states grown into one body of the Republic, the Third Statute did not second these plans. In bare legal tone, it stated the obligations of the ruler to protect, reconquer, and expand the Grand Duchy of Lithuania, lacking any reference to Polish-Lithuanian Commonwealth.

What began as a gift became the cornerstone of the political nation of the Grand Duchy. The statute established the legal privilege of the nobility and outlined their obligations to the state. The union left only a few marks on the Third Lithuanian Statute: it adopted the clauses of the Warsaw confederation, which ensured the freedom of conscience, regulated the organization of

[333] Ibid.: "И то естъ наша волность, которою се мы межи иншыми народы хрестиянскими хвалимъ, же пана, ижъ бы водле воли своее, а не водле правъ нашихъ пановалъ надъ собою не маемъ а, яко славы учстивое, такъ живота и маетности волно уживаемъ, бо хто бы колвекъ съ тыхъ трохъ речей въ чомъ насъ укривдити и подлугъ уподобан[ь]я своего, а не водле правъ нашыхъ надъ нами паствити се мелъ, тотъ бы вжо не паномъ нашимъ, але сказителемъ правъ и волностей нашихъ былъ, а мы бысмо неволниками его быти мусели."

the dietines, and the election process of the envoys to the common Sejm.[334] This omission was itself a declaration of autonomy of the state. While some of the articles were incompatible with the union, especially those prohibiting Poles to own land and offices in Lithuania, those same clauses were twin guardians of Grand Duchy's state autonomy. The Third Statute embodied the Lithuanian vision of a federate relationship between the states.[335] And that is why although the two states grew together in time, the citizenship was never fully merged: even in the XVIII century the Poles could not easily own land or offices in Lithuania. Two centuries later, after the three partitions, the Lithuanian identity was still defined by the love of freedom and adherence to the Statute.

The Legal Landscape of the Grand Duchy's Law

The legal system of the Grand Duchy of Lithuania was a far cry from modern standards. Even calling it a system is somewhat misleading, as the efforts to impose commonality upon its vast lands was a creation of the authors of the Lithuanian Statutes. Before that, the legal system was more like a conglomerate of intermingling and interdependent legal traditions. The Ruthenian lands of the Grand Duchy inherited the legal tradition of the Kievan Rus' codified in the *Russkaja Pravda*, Slavic customary law, and through it, the tenets of Byzantine law. Extant legal sources attest to significant regional variation. However, the influence of Slavic customary law did not necessarily extend into *Lithuania Propria* which was later to become the Eldership of Samogitia as well as Voivodeships of Trakai and Vilnius. Customary law of this region was different; however, it remains unwritten partly due to the late Christianization and the advent of letters. Later

[334] Warsaw Confederation (originally adopted in 1573): TLS, III.3; Sejms: TLS, III.6-9, III.51.
[335] Ivanas Lappo, *Lietuva ir Lenkija po 1569 m. Liublino unijos* (Kaunas: Vytauto Didziojo Universitetas, 1932): 72.

normative legal documents bear direct reference to Lithuanian customary laws, but those offer little assistance for adequate historical reconstruction.

After the union of Krewo (1386) and Lithuania's subsequent baptism, its legal system was complicated further. Jogaila granted privileges to the Lithuanian noble estate thus expanding their rights. This process, which began as an incentive to adopt Christianity, would eventually develop into the set of rights that would eventually be known as the Golden Freedom, which the nobility of the Polish-Lithuanian Commonwealth enjoyed, making it arguably the most influential of all privileged estates in Early Modern Europe. Often these rights were granted at the expense of the other social groups or the ruler. Increasing the noble privileges was effective if not very far-sighted political practice. On the one hand, it assured the required military or economic support from the large body of the GDL's nobles, while on the other it detracted from the ability to effectively govern it. As the number and variety of land privileges to the GDL's nobility grew, it laid the foundation for the development of solidarity and consciousness of the privileged social class. This process was a long and winding one and, according to Javgenii Machovenko, a scholar of the old Lithuanian law, the base foundations for a class consciousness were in place by the beginning of the 16th century.

In addition to the social disparity formed by the strengthening of feudalism, GDL's laws were also varied in regional regard. More than 23 regional royal privileges survive from the period of late 14th to late 16th centuries, while the existence of additional 19 privileges is assumed.[336] They regulated certain regards of the region's life, such as economic activity, taxes, and institutionalization of regional government apparatus. Rarely were any alterations to the civil and

[336] Jevgenij Machovenko, *Lietuvos Didžiosios Kunigaikštystės teisės šaltiniai: mokomoji priemonė* (Vilnius: Justitia,2000): 28.

family law made in these privileges, as by principle these documents aimed to do as little intervention into the established social order as possible. Their core principle was to retain the *status quo* and only regulate aspects related to the governance of the state. This principle established the autonomy of the privileged regions within the GDL and secured their independent character.

Moreover, the territorial and social differences were further complicated by the religious differences and legal norms of other social classes, such as the urban population. All this contributed to a very uneven legal terrain with overlapping jurisdictions and contradictory clauses. It seems that before the Lithuanian Statutes the only normative legal document that aimed to introduce some unity was the Casimir's Code of 1468. Albeit the territorial extent of its authority is a subject of scholarly debate, it seems that the Code eventually was enforced throughout the whole GDL. The Code outlined the boundaries of the penal law that could be ascribed to the criminal subjects. Most articles concern crimes against property and thievery. Therefore, they have little to do with honor or individual legal protection of a person. However, as an especially dishonorable crime, theft was met with degrading punishments: flogging, binding into a brick, and upon cases of catching red-handed or recidivism – hanging.[337] Casimir's code shows strong traits of individual legal responsibility and the strengthening realization of crime as a general social ill: no longer can the victim forgive the crime and take money or freedom of a criminal admitted guilty of theft. The ascribed punishment had to be carried out to its fullest extent.

Just as the Casimir's code, the Lithuanian Statutes were an amalgam of various strands of law. Much ink has been spilled trying to identify the main sources of Grand Duchy's legal tradition

[337] Ibid.: 13. More on ways of imprisonment in the GDL, see https://be.convdocs.org/docs/index-700.html .

and this question proved to be most resilient since the beginning of scholarly reflection on the legal tradition of the Grand Duchy in the 18th century. Unsurprisingly, the search for "the roots" of law was a politically laden question. It is especially evident in 19th century scholarship that shows a certain proclivity to claim Grand Duchy's heritage by emphasizing links with certain legal traditions. Franciszek Piekosiński emphasizes its Polish nature,[338] while Nikolai Maksimeiko claims that *Russkaja Pravda* was the most influential source of private law and since private law supposedly was the definitive mark of national consciousness, Lithuanian Statutes ought to be interpreted as part of Russian legal tradition.[339] Political conjectures aside, nowadays Lithuanian Statutes are regarded as amalgams of various legal influences that included Ruthenian as well as Baltic customary law, borrowings from neighboring legal traditions as well as legal traditions of Western and Eastern Roman Empire, namely *Corpus Iuris Civilis* and Nomocanon.

While the definite influence of customary laws is hardly measurable and facilitating national interests growing increasingly outdated, more recent studies focus on uncovering exact borrowings from Roman law as a measure of modernity the Lithuanian Statutes showed.[340] Most experts agree that the First Lithuanian Statute exhibited the least signs of Roman jurisprudence and those that it did were most likely second-tier borrowings—adaptations of clauses from Polish or Magdeburgian law. The history of direct contact with Roman jurisprudence intensifies with the development of the Second Statute.[341] And truly, it is no wonder, as the authors of the statute included many humanist jurists. Henceforth influence of Roman law only grew and culminated in

[338] Franciszek Piekosiński, *Statut litewski. Cz. 1.* (Kraków 1899).
[339] Николай Алексеевич Максимейко, *Источники уголовных законов Литовского Статута*. (Киев, 1894).
[340] For a concise summary of scholarship on Roman law in Lithuanian Statutes, see Sławomir Godek, "Kilka uwag o badaniach nad romanizacją Statutów litewskich," *Zeszyty Prawnicze* 2. 2 (2002): 71-81.
[341] Juliusz Bardach, *Statuty litewskie a prawo rzymskie* (Obta: Warszawa, 1999): 41.

the Third Lithuanian Statute.[342] The process of *romanization* of Grand Duchy's law gathered pace throughout the 16th century, this process coincided with the spread of the Roman descent theory and arguments for turning towards Latin as the main administrative language of the state. Needless to say, at the helm of these developments we would find scholars educated in Humanist spirit working in accord to the elite of Lithuanian political nation—the magnates.

To give more tangible examples of the influence of Roman jurisprudence over the Lithuanian Statutes one would do well by investigating laws on sovereignty and certain frightening, denigrating punishments aiming to deter. As said, Roman influence grew exponentially in the Second Statute and grew further in the Third. Ignas Danilevičius, another early historian of Grand Duchy's law, claimed that the influence of the Roman law over the Statutes trickled through the German codes: Saxon Mirror and Magdeburgian law. [343] Their influence is the most visible in the laws on prescription, testaments, inheritance, and through the adoption of several specific penal practices, such as *poena cullei* (lat. punishment of the sack, introduced in the Second Statute), as well as punishments for filicide and passion killing. Maksimeiko shows that laws on high treason and lèse-majesté are direct translations from the Latin edition of the Saxon Mirror, as were the laws against forging coins, seals, and denigrating royal documents, fleeing the field of battle, prohibition of duels, and parricide.[344] However, in more recent research, Andrej Ryčkov conclusively argued that the concept of grand treason was formed by political experience and especially disobedience showed towards Grand Duke (including signs of his

[342] Sławomir Godek, *Elementy prawa rzymskiego w III Statucie litewskim (1588)* (Warszawa: Oficyna Naukowa, 2004).
[343] Ignacy Daniłowicz, "Historischer Blick auf die Litthauische Gesetzgebung," *Dorpater Jahrbücher für Litteratur, Statistik und Kunst, bes. Russlands* 2 (1834): 481-491.
[344] Ibid., 163-165. Changing concept of parricide: in FLS this only concerns the relationship among parents and children (matricide or patricide) and children among themselves (sororicide or fratricide). Later editions were widened to include filicide, uxoricide or mariticide, as well as killing one's master.

power) throughout the 15th–early 16th centuries. This research shows that the Grand Duchy's lawgivers could pick and choose formulations of legal clauses from previous legal codes, this does not mean that those notions were innovations. In fact, the necessity of said clauses grew out of the political experience of the state and only then adapted to better suit the context. For this reason, pointing out similarities among normative legal codes is insufficient, influences over legal formulations should always be considered with an eye for the historical context in which they were introduced and the developments that could have necessitated their introduction.

Lithuanian Statutes II. Legal aspects of honor

Overall, the question of sources and influences is perhaps of secondary importance to the present study. Instead, in reading the legal codes as cultural artifacts of Grand Duchy's society, I aim to understand the clauses protecting or utilizing corporate and personal honor within Grand Duchy's legal codes. This analysis will reveal a development trajectory towards this legal tradition and the society it created. However, before approaching honor and its earlier conceptualizations, it is worthwhile to overview certain core tenets of the way neighboring legal traditions protected human worth. This is most evident in the history of penal law, namely the clauses regulating punishments for physical harm, defamation, and murder. In this view, Maksimeiko's research proves useful, as he inquired extensively into the criminal law of Kievan Rus and compared it with the Lithuanian Statutes. He concludes that the two most prominent differences between these two codes are the estate-based execution of justice and the very developed monetary punishment system in the Lithuanian Statute.[345] *Russkaja Pravda* offered similar monetary restitution to victims of any estate, while the Lithuanian Statutes restituted nobles with increased rates than it did commoners. This was characteristic of feudal law and Maksimeiko suggested that this could

[345] Максимейко, *Источники уголовных законов,* 65.

be an influence of Polish legal tradition, where estate-based society was more developed than in Ruthenian lands.[346] Nancy Shields Kollmann carried out the most extensive analysis of restitution for crimes against honor in Russian jurisprudence and their rationale.[347] Status there was much less unified than in the Grand Duchy of Lithuania and vertical honor had direct influence over the amounts of restitution for suffering an insult one might claim. Therefore, honor in Muscovy was much more dependent on the rank that in turn provided a very fragmentary basis for creating horizontal social relations: the honor of those higher up the rank was regarded as more valuable than that of their less distinguished peers, e.g., a bishop could claim increased restitution than a parish priest, a commander than a captain, etc. However, nearly any subject of the Tzar could initiate a lawsuit over an insult to their honor and litigate over its restitution. Considered together, such logic of honor-bound subjects to the Tzar precluded developing a shared unity of an estate thus supporting autocratic mode of government. Boris Floria analyzed restitutions for suffering disgrace outlined in *Sobornoe Ulozhenie* of 1649 and confirmed Kollman's findings, emphasizing that this code did not universally elevate the nobles above commoners, instead, the honor of wealthy merchants was valued far more than that of a regional nobleman. Overall, he confirmed that individual honor depended on rank and its size was evaluated according to its importance to the state.[348] In contrast, every nobleman of the Grand Duchy of Lithuania would claim higher restitutions for transgressions against their person or health than a commoner. Restitution amounts depended on the inborn estate, not service to the ruler.

[346] Ibid., 87.
[347] Nancy Shields Kollmann, *By Honour Bound: State and Society in Early Modern Russia* (Ithaca: Cornell University Press, 1999): 41-63
[348] Бори́с Никола́евич Фло́ря, "Оценки возмещения за оскорбление дворянской "чести" и "чести" представителей других сословий в памятниках русского законодательства XVI-XVII," *Древняя Русь. Вопросы медиевистики* 70. 4 (2017): 5-16.

Asymmetric as it may be, since the codes in question are produced in different periods, this comparison between Grand Duchy's and Muscovy's legal traditions informs us of several things. First, and by far the most important one, is the principle of evaluating human worth in these contexts, namely, the difference of preferring either status or rank. Lithuanian Statutes preferred status and that led to the creation of shared consciousness throughout the noble estate that included a specific understanding of honor. Additionally, that furthered a certain understanding of equality among noblemen albeit a formal one. Intense informal networks of influence that historiography calls the clientele joined nobles into vertically organized groups, where disparity of power, influence, and rank were made very tangible. This inequality of influence translated into preferential treatment within the justice system that has often been noticed. Nevertheless, since 1564 in the eyes of the law all nobles were treated as members of the same corporation, and that equality translated into an equal measure of restitution and asymmetrically harsh punishments in cases when commoners defamed nobles. Secondly, according to the Lithuanian normative law, not everyone had a claim to honor as opposed to the principle of the Russian legal tradition, traceable from Kievan times through the Early Modern period. That said, Lithuanian Statutes were codes of and for the nobility and their normative law utilizes a distinct concept of honor (to be discussed in the following subchapter) that it only recognizes to the noble estate. Nevertheless, as further research highlights, this concept of honor was rather more related to honor as status and does not cover honor as reputation or negate honor as the personal worth of commoners. Certain clauses show that personal worth was defended even by these codes that primarily outlined the legal status of nobility. If we were to analyze clauses of Magdeburgian law or Church law, we would find clauses defending the commoner's honor. Moreover, even the practice of trials conducted

according to the Lithuanian Statutes shows their proclivity to defend personal worth despite legal status.[349]

Conceptualizations of honor in previous scholarship

So, what meaning honor was ascribed in the Lithuanian Statutes? The first researcher to address this question was Pavel Bobrovsky in a broader work analyzing transgressions of honor in Russian law. Published in 1889, this study treated Lithuanian Statutes as an integral part of the legal heritage of the Russian Empire and a steppingstone towards the *Sobornoe Ulozhenie* (1649). Bobrovsky contrasted the conceptions of honor of the Lithuanian Statutes and the Muscovite legal tradition, he claims that honor is the sum of privileges the ruler granted to the noble estate and as such ought to be treated as the influence of the Polish legal practice.[350] This framework of interpretation and view of honor served as the cornerstone for many following studies in legal history. Essentially, honor was formulated as an exclusive legal trait of the noble estate in which all the noblemen share as members of the corporation. It is a marker of status in a hierarchical society and as such, honor is not individualized, but indicative of formal privileged standing.

However, such a definition of honor is not exhaustive of its phenomenon. Defined in such strictly formal terms honor does not cover the meaning of reputation, which, as I intend to show, Lithuanian normative law covers. Having neglected this important part of honor phenomenon, Bobrovsky, somewhat unsurprisingly, could not faithfully follow the definition he offered. To remedy this omission, he introduces the concept of *personal honor* that he describes as an individual sense of worth that arose from the practice of trial by combat—a part of customary law

[349] This question is addressed in the *Chapter 4* subchapter *Honorable commoners*.
[350] Павел Осипович Бобровский, *Преступления против чести по русским законам до начала XVIII века*, (Санкт-Петербург: Правительстсвующего Сената, 1889): 37.

that eventually morphed into dueling.[351] He argues that clauses regulating insult, slander, slurs against women, insinuation, and duels were aimed to protect this *personal honor*. However, he treats these as separate phenomena and gives an exclusively legalistic explanation of honor's relevance and individualization, which comes up short in considering this widespread phenomenon.

Joanikii Malinovsky, a historian and a jurist of criminal law, built on the fundament Bobrovsky had laid out.[352] His work shows a much more methodical and focused approach to the concept of crime in Lithuanian Statutes. He discerns viable the object of a crime, subjects of law, and various methods to accord justice. Like Bobrovsky, he treats noble honor as the sum of privileges and freedoms bestowed upon the nobility throughout the ages and as an institute of the state, which state wields full power over the rules regulating the attainment or loss of honor.

Additionally, Malinovsky recognized the less formal aspect of honor too and named it "personal dignity." He recognized it as a viable object of a crime, meaning that crimes against it are litigable.[353] This led him to revisit Bobrovsky's claim about honor's exclusivity to the noble estate and found that some articles award a specific type of restitution adjudged only to recompense disgrace (*bezchest'e*) to commoners. This specified type of restitution was adjudged to commoners who suffered insults, unjust dismissal as witnesses, or unjust imprisonment.[354] Malinovsky's analysis of normative law revealed that commoners could have a claim to honor under specific conditions and concluded that it is possible to talk of encroachment on commoners' honor and

[351] Ibid., 43.
[352] Иоанникий Алексеевич Малиновский, *Учение о преступлении по Литовскому статуту* (Киев: Типография Университета св. Владимира. 1894).
[353] Ibid., 106-112.
[354] Ibid., 106. He lists FLS VI.21, 22; TLS IX.15, TLS XIV.4.

freedom.[355] Malinovsky put his finger on several inconsistencies that Bobrovsky ignored, yet he did not reconsider the initial definition of honor as an estate-specific sum of rights and privileges his predecessor offered.

As limited as those admittedly were, Bobrovsky's and Malinovsky's studies have proven fundamental for thinking about honor according to the Lithuanian Statutes. While Bobrovsky supplied the comparative framework and placed them in context, Malinovsky approached the analysis of honor with methodological rigor. Their influence is made evident once one turns to contemporary scholarship on criminal law in the Grand Duchy of Lithuania. For instance, relatively recently Taisiya Dovnar commented on crimes against honor in much the same manner as Malinovsky did.[356] Otherwise, Bobrovsky's comparative approach was recently taken up by Boris Floria, whose work has contrasted the Muscovite system of restitution of honor with Polish law and found that estate played a lesser role in Russia.[357] Modern authors owed much to the insights of their predecessors and did not thoroughly rethink their claims.

Conceptualizations of both scholars demonstrate a certain tension of claiming honor as a member of a group and more individual, personal honor. This is not surprising, as their analysis presume these are separate phenomena. This is further complicated by the semantic character of the term honor, which may simultaneously denote both extrinsic (e.g., rank, authority) and intrinsic qualities (integrity, moral compass). Although these separations remain pertinent, in the legal context it is more fruitful to think of personal honor as embodied status, not moral character. The latter is by no means a legally defendable or otherwise externally quantifiable trait, while the

[355] Ibid., 107.
[356] Таісія Івановна Даўнар, *Развіццё Асноўных Інстытутаў Грамадзянскага і Крымінальнага Права Беларусі ў XV-XVI Стагоддзях* (Мінск: Выдавецтва Еўропеіскага Гуманітарнага Універсітэта, 2000): 162-3.
[357] Флоря, *Оценки возмещения*, 5-16.

former certainly is: every single individual nobleman had the right to occupy certain offices unavailable to commoners, enjoyed all of the noble privileges individually, despite them being granted to the nobility as a group. The use of said privileges was conditional upon leading an appropriate lifestyle following the duties of the estate. Abiding by this honor code translated into the respect of their peers which made life within close-knit communities of landholders easier and more enjoyable. Albeit the tenets of this honor code were often described as "customary," implying stability and ancient roots, it seems to have been anything but. The customary way of life often changed, but some of the core tenets could be named as loyalty to the ruler and faithfulness to one's creed.

In other words, a person may expect to be respected not as a moral agent, but rather as a noble, a respect which is warranted by partly birth and partly by leading a certain conduct of life. Such conception of personal honor as embodied status does not necessarily negate the existence of self-worth attained through moral character, far from it, however, analysis of this type of personal honor should be conducted outside normative legal books. It is in the realm of the *personal* that this type of honor is met most often. And while its glimpses do as well appear in the litigation records, where people sought restitution for the injustices to their honor, those often are quite fragmentary.

Interpreting honor as legal status and the sum of estate privileges only covers a part of the phenomenon that honor was. Another part, and a closely connected one at that, had to do with the reputational aspect of honor. Most of the insults, gestures and physical disrespect targeted exactly this part of honor without questioning the legal status of a person. As the analysis of Lithuanian Statutes will show, most of the clauses regarding honor use it in a reputational sense, therefore discussion of restitution and other kinds of punishment for reputational damage that previous

scholars discuss do not comply with the definition of honor they inherited from Bobrovsky. Hence, in this study, the discussion of honor includes both sides of what I believe to be a singular phenomenon of honor, namely, legal status as well as reputation. Honor as a status is the horizontal honor upon which the vertical scale of reputation depended.

Honor clauses in the Statutes

Legal terminology

The First Lithuanian Statute established the core understanding and legal use of honor upon which the later statutes elaborated. In this legal code honor appears most often in its connotation of status, under the term "honor" (Ruth. честь; Lat. honor) and "dignity" (почтивость; учтивость; honor), which could also indicate high offices; and "good name" (добра слава, fama)—its reputational side.[358] These terms appear in different contexts and are multivalent, were often used in overlapping fashion, therefore sometimes they seemed to have been used synonymously. The status aspect of honor appears most importantly in clauses regarding the state, military service, and penal law. It appears clauses outlining lèse-majesté, desertion, patricide, and buying out of punishment.[359] Additionally, the ruler obliges to preside over matters of honor and a good name in due time without postponing the deliberation of these clauses indefinitely.[360] The good name was mentioned alongside honor several times,[361] it also functioned as a prerequisite to swear an oath before the law.[362] The dignity of high offices only appears in a chapter reserving dignitaries to

[358] The Ruthenian terms used are: честь, почтивость, добра слава; Latin: honor, dignitas, bona fama.
[359] FLS I, 2; I.20; II.3; II.4; VII.14; VII.29.
[360] FLS I.20.
[361] FLS I.20, VII.29.
[362] FLS VIII.5, XIII.8.

citizens of the Grand Duchy.[363] It is the least codified of the iterations of honor and most often it had been subsumed under the broader category of its status aspect.

In the Lithuanian Statutes, the negative side of honor appears as shame. The terms used are *soromota* (shame), *zsoromotiti* (to shame), *legkost'* (disrespect), *ganiti* and *primoviti* (to slander), which are done by *slovi nedotklivie* or *neuchtivie* – rough and disgraceful words.[364] Actions are termed *zufalstva* (зуфалство) or *svovolenstva* (своволенства) – audacity and arbitrariness. The following pages survey the ways these terms appear in the three Lithuanian Statutes and trace the development of legal institutes guarding honor and reputation as well as those inflicting shame as means of punishment.

Honor: status

Individual social status depended on being born into a social group and becoming subject to the royal privileges that group enjoyed. Such rights varied regionally and responded to the unique economic and political situation of the region. Therefore, regional noble communities enjoyed different rights and ultimately a variant relationship with the state. However, they were united by a set of privileges granted to the whole noble estate of the Grand Duchy of Lithuania. The addressees of these documents ignored the regional and rank stratification of the noble estate and applied to the princes as well as noble war servants, albeit their ability to enforce these rights was strikingly different. In the First Lithuanian Statute, the ruler personally promises to fully conserve the privileges and immunities granted by his predecessors.[365] This promise means that the liberties these social groups enjoyed could only grow.

[363] FLS III.3.
[364] Ruthenian: соромота, зсоморотити, ганити, примовити, слови недоткливие, неучтивые. Latin: confusio/ ignomia, confusionem inferre/opprobrio afficere, diffamo, obitio.
[365] FLS III.7.

Additionally, the ruler obliged not to exalt (повышати, preferendi) commoners over nobles and maintain them within their honors (заховати в их почстивости; conservabimus in eorum honoribus).[366] This clause assured that all offices were reserved to the nobility and no commoner could have power over the people of privileged estate and did not change in the subsequent editions of the Statute.[367] It succinctly expresses the essence of hierarchical society, where limitations of service to the state were limited by birth, and serving as a dignitary had the power to increase not only reputation but also status. Hence, neither rights nor offices the crown provided were retractable and these clauses cemented the dominance of nobility over other estates.

The Lithuanian Statutes were a code of law of the nobility. It was granted to "all prelates, princes, standard-bearers, nobles, high born, initiated knights, *shliakhta*, and all the community and their servitors, native people of our Grand Duchy of Lithuania."[368] While some clauses did regulate the legal status of commoners and the urban population, this was mostly done regarding their interaction with nobility. Despite that the Statutes were estate-based codes of law, it was a public law that treated all its subjects equally: all groups and ranks within the noble estate stood equal before the law. Public law was intended as universal means of enacting justice, while the influence of confessional and regional privileges was confined within their communities. As such, it established core principles of Western jurisprudence: the presumption of innocence,[369] personal responsibility of criminal actions,[370] and equality before the law.[371]

[366] FLS III.10, SLS, III. 14.
[367] FLS, III.10, SLS III.15, TLS III.18.
[368] This is evident from the subjects of the law. FLS I. introductory privilege states that this law is given to: "всем прелатам, княжатам, панам хоруговным, вельможам, повышониым рыцарям, шляхте и всему поспольству и их подданным, коренным жителям земель нашего Великого княжества Литовского."
[369] FLS I.1.
[370] FLS I.7.
[371] FLS I.9.

Nobility and its protection

The first meaning of honor, and the more extensively legislated one at that, was the totality of noble privileges. In this sense, honor was an indication of social status, and as such, it was given, maintained, and lost at the will of the ruler. His court was the highest legal authority and the only one authorized to judge over matters of honor and offices. This regal privilege was outlined in the First Lithuanian Statute, which obliges the ruler to preside over cases on honor (на честь кому прыганил, *contra honorem … obiecerit*) and reputation (о добрую славу, *vel bonam famam*) of any noble alongside members of the Council of the Lords (I.20).[372] This is a development of the privilege of Grand Duke Alexander Jagiellon conferred in 1492 when the ruler for the first time obliged himself to preside over important and complicated cases with the members of the Council. Moreover, such cases could not be postponed more than four times and until such cases were ongoing, the status of the noble in question remains unchanged and therefore that person is to be treated as a noble and fulfill military duties. There was no explicit clause that ensured legal protection of honor and reputation and this clause is the closest expression of this principle in the Lithuanian Statutes.

The Second Statute affirms that only the ruler's court can judge in the matters of noble honors (Ruth.: почтивостей шляхецскихъ) meaning privileges and offices and neither the Council nor the newly established land courts can preside over matters of such gravity.[373] Nor can any duke or magnate preside over such cases in his manor court, would noblemen in their service

[372] FLS, I. 20.

[373] SLS, III. 39: "А што се дотычеть почтивостей шляхецскихъ, о то жаденъ съ пановъ радъ ани судъ замковый ани тежъ судъ земскій повѣтовый не маеть судити, толко мы сами Господаръ съ порадою пановъ радъ нашихъ Великого Князства Литовского судити маемъ"

bring such matters forth.[374] This was not to be taken lightly, as anyone violating this clause would risk capital punishment for infringing upon the precedence of the royal court. The Third Statute retains this clause and insists on the royal prerogative to preside in such cases in several articles. Even though nobles had the authority to proclaim capital punishment in their manor courts, they were not qualified to decide over the matters of possessing honor as status or offices (Ruth.: не мають сами о почтивость судити). No noble possessed the jurisdiction of ruling over belonging to the noble estate and possessing an office.[375]

Normative law pronounces the ruler as the only arbiter of noble honors; however, such a clause would have presented the highest court with insurmountable amounts of copious cases were it to claim jurisdiction on all possible types of insult. Instead, only the cases questioning nobility or ability to carry out the duties of an office required were sent to the ruler's court. Casting a shadow over a noble's birth called his privileged status and the right to enjoy the rights of the nobility, including land ownership and its free disposition, into question.[376] Publicly proclaiming someone's ignobility in words of one's choosing may have caused trouble and in certain cases lead to the loss of the noble status. As the beginning of the 16th century was a time of intense social change, many landless and poor nobles met this fate. The noble estate became better outlined with every decade of the 16th century and social mobility into the privileged strata was increasingly difficult. While up until the beginning of the 16th century it was possible to achieve cooptation through military service[377] or privileged professions, legal codification has put an end to this

[374] SLS, III. 8: "Тежъ уставуемъ, ижъ княжата и панове рада наша шляхту и кождого бы зъ рицерства нашого, которые тежъ шляхту нашу служебниками въ себе ховаютъ, не мають сами о почтивость судити кромѣ насъ; бо тотъ судъ никому иному не належитъ одно Господару".
[375] TLS, I.4, I.10, III.11, and III.46.
[376] A right conferred to the nobility by Jogaila in 1387.
[377] For long military effort defined nobility and it could have been granted on the grounds of good service. Edvardas Gudavičius, "Kas buvo XVI amžiaus bajorija?" in Alfredas Bumblauskas, Rimvydas Petrauskas, eds., *Lietuvos europėjimo keliais. Istorinės studijos* (Vilnius: Aidai, 2002): 168–179.

process. With the Second Statute, the economic and legal status of the noble estate was stabilized and cooptation into its ranks became hardly possible. Nevertheless, losing nobility and the honor of using the privileges of the estate was a far easier matter.

A verbal accusation of ignobility sufficed to put noble status in question. However, it must have been uttered or at least confirmed in court, but if someone doubt nobility but would retract their words in court–no harm is suffered and no reason to prove noble ancestry.[378] Once confirmed, if the accused was to retain his noble status the charge of ignobility was to be denied and in doing so, his honor cleansed. The legal procedure of proving nobility was outlined in 1522.[379] The accused noble birth had to be proven by bringing people ready to swear on their lineage and dignity of birth. The accused was obliged to bring forth four noble relatives (two from his mother's and two from his father's side) who would swear in his presence on his noble birth. Foreigners accused of ignobility were obliged to return to the country of birth and procure documents with seals that prove noble lineage. However, if the Grand Duchy was at war with that country, then oaths of two of his compatriots would suffice.[380] If a case of ignobility should not be resolved in due time or the slandered noble would die before its resolution, the honor of his progeny will not be affected. In the meantime, the slandered noble should uphold the military obligations. If such a case was not concluded successfully in his lifetime, this slander will not affect his children.[381] The subsequent editions did not introduce much novelty into this procedure.

[378] FLS, III. 13.
[379] The 1522 procedure survived among copies of litigation records, it is published in *RIB*, no. 388, p. 1114.
[380] FLS, III.11.
[381] FLS, I. 20: "Si quis contra honorem vel bonam famam alterius obiecerit, et hoc ad nostrum serenitatem devolutum fuerit, debemus iusticiam in hoc administrare unicuique. […] Non debet exiam infamatus excusare se a servicio nostro. Et si infamatus fuerit in prelio, quamvis non sit expurgatus, non obest nihilominus ei, et successoribus ejus." SLS repeats the same formulation in I.24.

The impersonal status of noble honor is best exemplified by the fact that since the Second Lithuanian Statute law extended protection of honor to dead noblemen. This was introduced due to very practical reasons, as perpetrators often refused to recognize the nobility of their victim, aiming to avoid paying a noble wergild. Proven otherwise, the perpetrator would be pronounced slanderer and obliged to pay restitution for defaming a dead nobleman to his surviving kin.[382] Punishment in this case serves to cleanse the honor of the slandered. The most widespread form of punishment was monetary restitution, coupled with a personal punishment of imprisonment or corporal punishment, depending on the social status of the insulter.[383] In this context, slandering was a refusal to recognize the status and rights of another person and does not bear any meaning of reputational damage.

Dishonoring and *infamia*

Honor as social status featured prominently in the penal law, the ruler could deprive it as a punishment for heaviest crimes. Pronouncing a person devoid of honor is akin to the clause in Roman law pronouncing a person *homo sacer*—the perpetrator is deprived of any sort of rights he may have possessed due to his social status, including the protection of the law, which effectively meant that such a person could be killed with impunity. Moreover, such people were the equivalent of social plight, as anyone willing to extend a helping hand also risked suffering the same punishment. Hence it is a form of civic death, the person devoid of status is banished from the bounds of society, effectively dehumanizing him. Moreover, similar Germanic laws pronounced such people *vogelfrei*—people freed from any kind of association, whereas early Mary Gerstein had argued based on early Germanic law, that odious criminal activity could render the perpetrator

[382] SLS III.19; TLS III.23
[383] More on this in the following chapter.

a werewolf in many Indo-European cultures, effectively depriving them of human status and outlawing their presence within any human association, an outlaw whose presence threatened disease and pestilence.[384] Often deprivation of honor was coupled with banishment, confiscation of property, or a form of capital punishment.

However, as Gregor Wirschubski has correctly pointed out, deprivation of honor in the Lithuanian Statutes may imply two different punishments. First, it carries the meaning of losing nobility and all the legal privileges it carries, including personal protection and the right to freely dispose of landed property. Wirschubski claims this type of punishment is limited to the person and does not extend to his progeny unless the law indicates otherwise. Most often this punishment will be coupled with an additional one, such as banishment, the privation of property, or life. The second one he names privation of honor by which he means stripping away only those privileges that enable participation in public life. Under these circumstances a noble would retain rights to their landed property, their children would classify as nobles, but he would be devoid of the right to partake in dietines or serve in court. While the loss of nobility was final, loss of honor could be temporary.[385] Nevertheless, Wirschubski's remark regarding temporality is valid in the Third Lithuanian Statute, as there is nothing indicative of impermanence in the previous codes.

The first group of crimes that warranted loss of honor was an intricate part of legislation concerning the state and the ruler's person. As previously argued, the ruler had the exclusive right to preside over matters of honor, but he was not exalted above honor as its sole arbiter, for he was bound to safeguard the honor of the state. The ruler had promised personally "*not to demean that*

[384] Mary R. Gerstein, "Germanic Warg: The Outlaw as Werwolf," in Gerald James Larson, C. Scott Littleton, Jaan Puhvel, eds., *Myth in Indo-European Antiquity* (Berkeley: University of California Press, 1974), 131–156.
[385] Gregor Wirschubski, *Das Strafrecht des Litauischen Statuts* (Heidelberg: Carl Winters Universitätsbuchhandlung, 1935): 216-218.

our state Grand Duchy of Lithuania, nor its Council, but protect that state from any kind of disrespect and denigration." The source of such a promise was the royal privilege of 1506. Its clauses were an outcome of living in the union when the autonomy of the Grand Duchy was often put in question. This promise is followed by another royal duty—to safeguard the territory of the Grand Duchy and regain the lost lands. Honor is here meant as autonomy and integrity of the state and its institutions, its more practical implementation being protection from limiting statehood through unions and obligation to wage war.

Given the connection of honor and the state, it is not surprising that one of the most prominent ways to lose it was through actions construed as disloyalty to the state or ruler—grand treason. This concept was adopted from the Roman law but was not yet fully formed in the First Lithuanian Statute and did not outline every aspect of grand treason, nor its punishment.[386] Andrej Ryčkov convincingly argues that this is because defection only began to be considered a part of the rudimentary notion of grand treason at the turn of the 16th century and was a direct outcome of the war against Muscovy.[387] However, it did establish that whoever would leave the Grand Duchy for a hostile land will lose their honor (честь свою тратить, honorem suum ammittit) and their property would become part of Grand Duchy's treasury.[388] The terminology used implies that the perpetrator would lose all of their privileges, not only the public ones, effectively depriving him of nobility without using this exact formulation. An example of execution of this clause was quite fresh in the memory of the nobility when the First Statute came to power. In 1508 the rebellion of

[386] Irena Valikonytė, Stanislovas Lazutka, Edvardas Gudavičius, "Pirmojo Lietuvos Statuto komentarai," in Irena Valikonytė, Stanislovas Lazutka, Edvardas Gudavičius, eds., *Pirmasis Lietuvos Statutas (1529 m.)* (Vilnius: Vaga, 2001): 266.
[387] Ryčkov, *Judo bučinys*, 102-3.
[388] FLS, I. 3, Ibid., p. 147: "Quicunque subditorum nostrorum, profugierit de dominio nostro, ad terram hostium nostrorum, talis unusquisue honorem suum amittit et bona ejus paterna, et servitia, aut coempcione acquisita, non poeris eius, nec propinquis devolvuntur, sed nobis principi."

the falsely accused Prince Mikhail Lvovich Gliński (1460s–1534) – a powerful magnate and the court favorite of the former king Alexander – was crushed. He fled to Moscow and helped Vasili III to wage war against the Grand Duchy, eventually conquering the strategically crucial castle of Smolensk.

The Second Statute already featured a more pronounced concept of grand treason. It retained the clause qualifying defection to an enemy land as grand treason punishable by privation of honor. However, in addition, it introduced several more nuanced clauses which included rebellion, conspiring against the ruler, threatening his health, or spying for the enemy state. These actions would have been considered treason earlier but have not yet found a way into the First Statute. Treason was met with deprivation of honor, life, and property (честь и горло и именье стратитъ)[389] and, no privileges or offices could protect the traitor from rightful retribution.[390] Perhaps, the most scandalous use of this clause took place in 1580, when Stephan Bathory had Hrehory Ościk (1535–1580) publicly executed in Vilnius for conspiring with Moscow and planning an attempt on the king's life.

Ościk, a descendant of Grand Duchy's aristocracy tracing its lineage to the pagan times, gave out information about the future whereabouts of the king and part of his forces to Ivan the Terrible, however, his scheme was brought to light. In addition, Ościk was accused of falsifying money and faking royal seals, all of which were sufficient transgressions for a qualified capital punishment, since they demeaned the majesty of the king, as counterfeiters were punished by burning at the stake.[391] The Statute states that a son of a father turned traitor should lose his honor

[389] SLS, I. 3.
[390] SLS, I.4: "жаденъ привилей ани зацность ани достоенство не маеть помагати ани се имъ щытити можеть"
[391] Maria Łowmiańska, "Hrehory Ościk i jego zdrada w roku 1580," *Księga pamiątkowa Koła Historyków Słuchaczy Uniwersytetu Stefana Batorego w Wilnie* (Wilno: 1933): 32–51. Alexander Kraushar, "Lament Hrehorego Ościka," *Roczniki Towarzystwa Przyjaciół Nauk Poznańskiego* 18. 2 (1891): 387-395.

as well (while daughters and wife did not risk it).[392] Additionally, the law ordained confiscation of the father's property, but his son was able to persuade the court that the last scion of the esteemed Ościk clan should retain at least a fringe of the family inheritance.

The Third Lithuanian Statute does not further specify the forms of grand treason but regulates the judicial procedure of its many variants. It outlines the same preconditions for grand treason, including rebellion, attempted murder of the ruler, defection, and conspiring with antagonistic powers against the Republic.[393] It clarifies, however, that only sons who knew of the father's betrayal and their involvement could be convincingly proven in the court of law, should lose their honor. Otherwise, they only lose the inheritance rights to the property from the father's side, for all the assets of the traitor are confiscated to the benefit of the treasury. Whereas the traitor's daughter's honor remains intact but she and his wife both lose rights to the inheritance of the traitor's estate.

Interestingly, Third Statute codified verbal defamation as treason, ordering any such offender, no matter the form of the insult being verbal or written, to stand trial in the ruler's court within the year. If the perpetrator would prove having said those offensive words unjustly, he would be sentenced to no more than 6 weeks of imprisonment in the "honorable" jail of Vilnius upper castle; otherwise, it could result in the gruesome punishment described previously.[394] However, offenses uttered out of "stupidity or recklessness" were disregarded.[395] The slanderous accusation of treason in any form would entail the same punishment the accused risked. Laws of

[392] SLS, I.3: "и таковаго зрадцы дети сынове за таковый выступокъ отца своего безецными будутъ."
[393] TLS I.3.
[394] TLS I.4. On the distinction between upper and lower prison see *Chapter Two* subchapter *Shameful punishments*.
[395] TLS I.4: "А вед же естли бы хто з глупъства або шаленства в томъ выступилъ, за то мы, господаръ, братися не будемъ."

grand treason significantly influenced the subsequent legislation of Muscovy, namely, *Sobornoe Ulozheniye* of 1649.[396]

Lastly, honor protected the extensions of royal sovereignty – ruler's decrees, coins, representatives of his justice. The ruler could extend personal protection to the people who required an increased amount of it by issuing a *gleit* – a decree of inviolability. People eligible to these were those who fled justice and left for another state before their case could be addressed in court and now are willing to return and face justice.[397] These were a temporary measure but throughout their duration secured personal wellbeing by imposing threatening sanctions to all those who would dare pose danger. In case a person protected by *gleit* would assault anyone himself, he would be deprived of honor and life, whereas those daring to assault the protected person risk deprivation of honor and banishment from all the ruler's realms.[398]

Such documents drew their commanding power from the sovereign, therefore the only institution to issue them was the royal chancellery any attempt to falsify them would be an encroachment on royal prerogatives, interpreted as grand treason. Counterfeiting coins was an act interpreted with similar seriousness: counterfeiters risked a qualified punishment of burning at the stake "and shown no *misericordia*."[399]

Additionally, increased protection was extended to important dignitaries – members of Council of Lords, voivodes, castellans, eldermen, sub-chamberlains, and all personnel of the justice system during their time of service. Hence if anyone would assault and wound or kill them

[396] Георгий Густавович Тельберг, *Очерки политического суда и политических преступлений в Московском государстве XVII века* (Москва: Типография Императорского Московского Университета, 1912): 113. URL: http://elib.shpl.ru/ru/nodes/8891-telberg-g-g-ocherki-politicheskogo-suda-i-politicheskih-prestupleniy-v-moskovskom-gosudarstve-xvii-veka-m-1912#mode/inspect/page/125/zoom/6
[397] TLS I.12.
[398] TLS I.13.
[399] FLS I.5; SLS I.13; TLS I.17: "мают быти на горле огнемъ карани без милосеръдья."

during the trial, the perpetrator would be summoned to Sejm Court and there deprived of honor and life. Whereas if a person would assault them verbally, he would be imprisoned for 6 weeks.[400] However, the formulation of the latest clause informs us that any kind of lash out in court was regarded as disrespect to the ruler's superiority, a place where the ruler, as the guarantor of justice, is present, although often by proxy.

Connected to this is another group of crimes that risk privation of honor concern behavior in a court of law and royal palace. Courts were institutions where increased legal protection was warranted, therefore *locus criminis* itself acted as an incriminating circumstance and any kind of criminal behavior within the walls of justice was interpreted as an affront not only to the assailed but also the dignity of the court and its officials. The First Lithuanian Statute assured litigants increased personal protection during the trial in the form of specific fines in case of verbal abuse and corporal mutilation in case of physical violence,[401] imprisonment of six weeks was warranted if proper respect was not shown to the legal officials.[402]

The punishments grew graver over time. Second Lithuanian Statute ascribed deprivation of honor to the procurators, a legal professional representing the accused, who would share the documents with their opponent and thus betray their client.[403] The Third Statute increased punishments for misconduct in court that were already outlined in the First Statute. Would any litigant dare to attack the opponent,[404] or an official of the court[405] and succeed in killing him, such a person would be deprived of honor and life, while his surviving relatives would be obliged to

[400] TLS I.14.
[401] FLS, VI.17.
[402] FLS, VI.18.
[403] SLS, IV.35.
[404] TLS, IV.62.
[405] TLS, IV.7.

pay a wergild for the murdered person according to the victim's status. This clause also stands if it was the official attacking litigants or his colleagues.[406] The Third Lithuanian Statute extended increased legal protection to the royal palace, where defamatory speech was met with six weeks of imprisonment, while physical attacks turned lethal resulted in privation of life and honors.[407] Again, *locus criminis* was the reason for heavier punishment as violence was construed as an affront to the ruler.

Punishments for inadequate military service were the third group of laws that authorized deprivation of honor. War was the source of honor and all noble privileges. The privilege of holding and freely disposing of landed property had a direct connection to the obligation to defend the state and terminology attests to it, as military service was named *zemskaya sluzhba* – land service, meaning that every landholder had to prepare a certain number of knights according to the size of their holding. It is no coincidence that most punitive clauses in this chapter adjudge confiscation of manors and assets for disobedience or defection, whereas deprivation of honor is a stricter and rarer clause.

War effort depended on the material holdings of every noble, hence, failure to provide adequate service was proof of unworthiness. Therefore, a noble trying to cheat his commander by wearing worse armor or riding an older horse than those he arrived at the military camp with, risks losing his manor, whereas mercenaries conspiring to do the same risk losing their honor.[408] The difference here lies with the methods of serving in war: the confiscation of manors is adjudged to those nobles who carry out their military service personally; in the second case, a landholder had paid another noble to serve in the war in his stead or alongside him. Most often, such mercenaries

[406] TLS, IV.63
[407] TLS, I.9: "А где бы от тое раны умеръ або хто зараз забит былъ, тот горъло и почъстивость тратит."
[408] TLS, p. 175: "[…] ut sunt qui pro stipendio servient, talis perdit honorem, perinde ac si de prelio aufugisset."

had no land holdings of their own, as they would have been forced to carry out their military services personally. Therefore, they have little else to lose except for their estate privileges. This punishment is quite extreme since even deserters are punished with the confiscation of landed property.[409] The Second Lithuanian Statute added that a noble who fled the battlefield for the second time is to be deprived of his honor.[410] However, the Third Statute did away with any leeway and ruled that whoever dared to flee the battlefield will be deprived of land and honor.[411]

Military clauses of the Statute were adaptable to the times and graveness of danger that the state faced. The worse the position in continuous wars against Moscow was, the stricter the punishments of the martial law became. For example, in 1533 Vasilii III died and was succeeded by his 3-year-old son Ivan IV, which led to certain instability in Moscow. Aiming to seize the momentum Sigismund the Old decided to strike. He levied the nobility and, since time was of the essence, introduced a very strict martial law. The war statute of 1534 charged Grand Hetman Jerzy Radziwiłł (1480-1541) nicknamed Hercules with increased power over the military force. The new war statute allowed the Grand Hetman to ascribe even the harshest punishments during the campaign: it threatened combined punishment of losing life and honor if a noble talked back to or rebelled against the Grand Hetman, left his proper place, stole, or stood guard later than ordered.[412]

The fourth group of laws depriving of honor could be subsumed under the category of criminal behavior. In contrast to the clauses discussed earlier, these laws deprive a person of public privileges but not the right to freely dispose of land, unless stated otherwise. Most prominent

[409] TLS, p. 181-2.
[410] SLS II.14: "Уставуемъ тежъ, хто бы первей разъ зъ битвы утекъ, таковый имѣнье тратитъ; пакли тежъ и другій разъ зъ битвы утекъ, таковый за слушнымъ доводомъ отъ гетмана черезъ вырок нашъ господарскій почтивость свою тратитъ."
[411] TLS, III.14: "хто бы з битвы утекъ [...] именье и честь тратить."
[412] Stanisław Kutrzeba, *Polskie ustawy i artykuły wojskowe: od XV do XVIII wieku* (Kraków: Polska Akademia Umiejętności, 1937): 40-43.

among these clauses were various types of most heinous murders, such as patricide, which is punished with deprivation of honor and life in the First Statute.[413] The Second Statute retained this combined punishment and introduced, arguably, the most shameful punishment in the whole code by turning the felon's death into a spectacle.[414] The condemned perpetrator of such "shameful wickedness"[415] had to be brought to a marketplace, where the guilty body was to be pinched with pliers, put in a large bag with a dog, hen, snake, and cat, taken to the nearest river and drowned.[416] This was an appropriation of the *poena cullei* – the punishment of the sack, as it was known in Roman law and reappropriated in several European legal codes of the 16th century of the Holy Roman Empire.[417] Although this punishment has many variants and complicated history, its implementation in the Lithuanian law was closer to its medieval descriptions than the original Roman tradition. However, the Germanic reappropriations of this clause often omitted the part featured in the Lithuanian Statutes, namely, the exhibition of the criminal body. Some had argued that this punishment developed from ritualistic means, aiming to secure the community from potential polluting effects that heinous crimes as patricide threatened. In the Early Modern era, theatrical punishment aimed to deliver symbolic retribution to the criminal and strike fear into any observer as the tortured body was taken from market to market. If deprivation of honor is a form of legal exclusion, *poena cullei* increases the stakes filling it with denigrating symbolism.

Filicide did not challenge the values of social hierarchy quite as drastically, therefore was not punished as harshly. Nevertheless, it warranted imprisonment in a castle tower for a year and

[413] FLS, VII. 7.
[414] Wirschubski, *Das Strafrecht des Litauischen Statuts*, 218-9.
[415] SLS, XI. 16: "потварностью ганебною"
[416] Ibid.: "по рынку возечи и клещами тѢло его торгати, а потомъ у мѢхъ скураный усадивши, до него пса кура ужа котку, и тое все посполу въ мѢхъ завезавши, гдѢ наглубей до воды утопити"
[417] Florike Egmond, "The Cock, the Dog, the Serpent, and the Monkey. Reception and Transmission of a Roman Punishment, or Historiography as History," *International Journal of the Classical Tradition* 2. 2 (1995): 159–92.

six weeks, then, granted freedom, the convict was obliged to publicly confess the sin in front of regional Catholic or Orthodox church while facing the "good Christian people." This public penance was to be repeated four times a year.[418] The Third Statute retained the same clause and obliged the local court to oversee that the ascribed punishment was carried out properly.[419] Termination of pregnancy and infanticide were punished by a different clause and threatened capital punishment.[420] Note that such punishment would prove a heavy burden on the reputation of such people and entail a blemish that could hardly be washed. This reputational damage could last generations, as the regional noble communities were quite stable, rooted in their landed domains.

The Third Lithuanian Statute adjudged loss of honor for murder with aggravating circumstances. It deprives of honor and life an adulterer, who, upon being caught in the sinful act, would resort to violence, and kill the rightful husband. Such crime can be likely interpreted as petty treason, as marital infidelity broke trust and challenged social subordination, therefore warranting privation of honor. Moreover, a wergild would have to be sought out of his property, and the adulterous wife would also be condemned to capital punishment.[421] Additionally, treacherous murder of a noble, carried out by another noble, would warrant deprivation of honors, namely offices and rights, (*почстивости*), double wergild, and violent death by quartering. The Statute lists these aggravating circumstances:

> *"if anyone would treacherously and secretly kill someone in the dark of night or midday without any prior warning or quarrel, that is either ambushed on the road hiding behind the bush, out of revenge or seeking*

[418] SLS XI.16: "годъ и шесть недѣль на замку нашомъ у вежи седѣти, а выседѣвши годъ и шесть недѣль, мають еще до году чотыри кроть при церкви и при костелѣ головномъ покутовати и вызнавати явнѣ найвышній грѣх свой передъ всими людьми збору Хрестіянского."
[419] TLS, III. 7.
[420] TLS, XI.60.
[421] TLS, XIV. 30.

> *pay, in a village, in the neighboring streets, or the house, firing some gun through the door or the window or from a dark pantry, or killed with any kind of cold weapon, or brought death in sleep, or during a visit or any other kind of gathering of people, silently and secretly with some dagger or any kind of weapon […]"*[422]

The main trait that made this act so dishonorable was secrecy. Noble communities had a certain understanding of exacting revenge and the honor code required it to be publicly pronounced and registered at the court of law before any acts of revenge could take place. Violent acts carried out in secrecy or for coin were irreconcilable with the noble code of honor, therefore entailed its deprivation. Additionally, this clause reveals several spaces of increased danger – the road or the street, and increased security of one's own home, as crimes there warranted increased punishment. The means of murder also bear relevance. Guns and projectiles of any sort were regarded as less honorable means of personal combat in this context, while knives, daggers, or khanjali were regarded as unusual weapons in a fight. Therefore, murder using these weapons warranted quartering, but in case the assault only resulted in wounding a nobleman with such blades, it would be regarded as an insult and entail severing the offending arm.[423] Quartering was ascribed only thrice in the Statutes, the last instance of its applicability being to the servants daring to attempt or kill their masters; such people "*must be harshly punished by the neck by quartering, as traitors*."[424] There indeed is a connection between these clauses, as servants could also be noblemen enlisted in a patron-client service to a certain magnate. Betrayal of master's trust or peer's honor code entailed the same qualified physical punishment.

[422] TLS XI.17: "Хто бы кого неведоме без звады, але молъчкомъ, здрадливе а потаемне в ночи або и в день забилъ, то естъ або в дорозе крыянъкою с куста, зъ заплотья, або в месте, в селе, на улицы заседъшы, або в дому, через дверы, черезъ окно албо в коморъце таемной потребной якою стрелбою пострелилъ, або зручною бронью якою забил, будь теж спячого яко колвекъ о смерть приправил, албо теж в беседе, або в ыншомъ якомъ згромаженья людей, але молъчком потаемне пуйаломъ и якою кольвекъ бронью забилъ […]"
[423] TLS XI.16, also see GSBM, t. 35 p. 305-306.
[424] TLS XI.9: "таковый маеть срокго горломъ каранъ быти яко здрадца четвертованьемъ."

Aside from gruesome murder, public privileges could be lost by leading an inadequate way of life. The Second Lithuanian Statute established that anyone, who moved into a city, engaged in commerce, or took up a trade – loses noble honor, on the grounds of not practicing the noble way of life.[425] While the punishment outlined in the Second Statute threatened with a permanent loss of honor, the Third Statute ruled that the nobles who would leave the city and remembered the knightly calling, deeds of their ancestors, and take up the fitting way of life once again—they ought to be regarded as true noblemen.[426]

Once lost, honor is hard to ever regain. For instance, if a person would be sentenced with capital punishment for committing theft or other crime, but would buy out his life or survive due to intervention of some higher official, he would still "*have no place among the virtuous knightly people and should not be allowed to enjoy his noble privilege; while the honor and good name of those who would buy out with their own money or liberate will depend on our, ruler's, grace.*"[427] Hence, a person willing to buy out of the punishment would have no place in public life or carrying out any office. Lazutka argued that this clause had been adapted from the regional privilege to Volhynia of 1506 and its deeper sources are to be found in Casimir's code, namely, its clause regulating the punishment of thieves.[428] Nevertheless, neither of these previous documents mention anything about the status of people who would buy out of the said punishment, only that such action should be impossible, and no mercy is to be shown to sentenced criminals. Nevertheless, the clause in the Statute considers such a possibility and applies a certain kind of punishment for such actions. In the Latin edition of the First Statute this clause is titled *Malefactur*

[425] SLS, III.20
[426] TLS, III. 25
[427] FLS, VII. 29.
[428] Stanislovas Lazutka, Edvardas Gudavičius, "Pirmojo Lietuvos Statuto šaltinių klausimu," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 11 (1970): 163-164.

contempnatus redditur infamis[429] – the sentenced criminal is rendered an *infamis*—a person whose public rights were deprived. This was not a widely used legal concept in Lithuanian law, in fact, it seems like this was the only instance of its use, however it had a broader application in Polish law.

Adaptation of this article carried significant changes. An article from the Statute of Casimir the Great (c. 1362) that ascribed infamy to traitors and thieves was formulated thus:

> *"Cod. D. IV. 80. It often so happens that some arise from the noble midst that waste their honor and glory and become defectors of our kingdom, following their goodwill, neither do they dread to commit evil acts, nor fear our anger. [later they ask our forgiveness]. But even once they received our forgiveness, they ought to be responsible to court and satisfy the damages caused to good people* […] *and we hold them as those who lost their honor (Lat. infamem), and so they cannot be equal to other noblemen, who never defected, in their glory and height of their honor. Similarly, we ascribe privation of honor to those inhabitants of our kingdom who harbor thieves and fugitives. Those cannot hold themselves honorable, just like those, unequal to the honorable men."*[430]

This formulation treats honor as part of state law, which the state revokes for committing said crimes, depriving nobles of their public estate privileges and reputation.[431] Nikolai Maksimeiko suggested that this was the original source for the adapted clauses in the Lithuanian Statutes. Nevertheless, authors of the Statutes did away with the term *infamia* but this clause effectively

[429] FLS, VII. 29; p. 215.
[430] Максимейко, *Источники уголовных законов Литовского Статута*, 22: "Часто случается, что некоторые, происходя из рыцарскаго рода, какъ расточители собственной чести и славы, становятся выжлецами нашего королевства по своей доброй воли и при случае не страшатся совершать много зла, за что подпадають нашему гневу. наконец, побужденные раскаяньиемъ в совершенных кражах и другихъ дурных поступкахъ, при посредстве своих друзей, они обыкновенно вымаливали наше прощение и таким образом снова приобретали нашу милость. Хочемъ, чтобы они, хотя бы и получили наше прощение, обязаны были судебнымъ порядкомъ отвечать и удовлетворять за кражи и вредъ, причиненные добрым людям. И таковою мы считаемъ лишенными чести (инфамет), и онъ не можетъ быть равнымъ другим шляхтичамъ, которые никогда не были выглецами, в славе и повышение чести. Равнымъ образомъ объявляемъ лишенномъ чести того, кто, строя козни обывателямъ нашего королевства, воровъ и беглецовъ укрываетъ и делится съ ними похищенными и нечестно приобретенными вещами. Такие не могутъ называть себя честными, такъ какъ они считаются неравными честным мужам."
[431] Ibid.: 22-3.

retains the same meaning and ascribes this punishment to the group of people, who, albeit being sentenced with capital punishment, managed to buy out of or otherwise avoid it.

Honor: reputation

As much consideration as Grand Duchy's lawgivers extended to legislating issues relating to honor as status, they did not bother much with establishing clear distinctions between various meanings this concept carried. Honor could have meant both status and good standing, its deprivation could either be construed as civil death or limitation of public privileges, often named *infamia*. The situation is not much different with the reputational side of honor; it is neither used consistently, nor its meaning is succinctly outlined. Therefore, to grasp its probable meaning we must first begin with forensic conceptual analysis and devise the legal use-case of reputation before turning to the main questions—whether Lithuanian Statutes extended protection to personal reputation and did the law make use of reputation to achieve certain ends?

We begin with the concepts used to describe reputation. "Good name" (добра слава, bona fama) is a less defined legal category than honor as status. The issue is made more complicated by the fact that the term "honor" (честь) was taken to mean reputation.[432] However, there are instances where those are distinguished from one another. Clauses protecting honor as status or political rights extend this same protection to a good name.[433] As a legal concept "good name" sprouts from the aforementioned article in which the ruler obliges himself to solve cases on honor and reputation in no longer than four terms.[434] These categories are often mentioned together, therefore their differences may not be immediately clear and those have often been taken to mean

[432] GSBM, t.36, 365-367.
[433] SLS. III. 22; TLS III.27.
[434] FLS, I.20.

the same thing, while their mentions were explained as stylistic choices of lawgivers. However, not always are reputation and honor mentioned side by side, yet their differences were significant. The most prominent of those was the fact that honorable status was shared among the whole noble corporation, while the good name was a more individual quality.

The only instance where the positive requirement of good name figures more prominently in Lithuanian Statutes are clauses outlining compurgation. It was a means to settle cases where otherwise were no proof. Compurgation was executed by swearing an oath about personal truthfulness alongside several willing people.[435] It was often used to establish the character of the litigant, therefore character witnesses themselves had to be considered *good people* (homines probi, люди добрые). According to the First Lithuanian Statute, only honest people of Roman or Greek creed, who confess and take communion yearly, whose good name is not tarnished by any suspicions of thievery, forgery, or other kinds of disgrace, could serve as witnesses in cases regarding property boundaries.[436] These qualities for compurgators remained largely the same in the following editions. The third Lithuanian Statute added that in certain cases Tatars could also serve as compurgators but have to swear according to their faith and laws.[437] Additionally, the reputation of such witnesses is under increased protection in the court hall: would anyone dare dismiss distinguished noblemen by questioning their good name and the baselessness of such claims would later surface, such a person would be obliged to restitute them for the disgrace (*bezchest'e*) they suffered.[438]

[435] Jevgenij Machovenko, "Liudytojai ir priesaikos pagalbininkai Lietuvos Didžiojoje Kunigaikštystėje," *Teisė* 51 (2004): 48-57.
[436] FLS, VIII.5; ALS IX.3; TLS IX.14.
[437] TLS IX.14.
[438] FLS, VIII.15. Further examination of the specific fine for inflicting disgrace is analyzed in the following subchapter *Restitution for disgrace*.

The importance of compurgation surfaced most prominently in the land-holding disputes, where each side should bring 18 co-swearers and the opposing side would select 6 of them to swear on the limits of landholding. Additionally, it has often been used in criminal cases where no other evidence was presented to court and charges of theft, which was punishable with death by hanging. To avoid the gallows, the accused nobleman could personally swear on his innocence if he was accused of the said crime for the first time. If he met the accusation for a second time, he should find two well-reputed noblemen of his rank willing to swear alongside him that the accusation was baseless. If the same person would be accused of theft for the third time, he would have to find six reputable noblemen of his rank to save his life.[439] Therefore, the ability to find good people willing to act as character witnesses could make the difference between incarceration, large fines, and, in certain cases, life and death. Natalia Starchenko has analyzed oaths as an evidentiary tactic in GDL's legal process and gathered several insightful clues as to the exact ritual of swearing an oath.[440] Oaths were only sworn before noon, in the presence of good men and court officials, either in court hall or church. Some cases suggest oaths were sworn to genuflect, facing the cross and holding a hand over the Gospel. The text of an oath was written out beforehand and was often read out loud by an official and repeated by the swearing party. Usually, the judge formulated the contents sworn upon before the ritual could take place.

The efficacy and truthfulness of the oath relied on reputation, as there were no other means to base sureties and facilitate trust. This role of reputation standing in for trust already figured as a qualifying trait for releasing prisoners on parole during the wars against the Teutonic Order.[441]

[439] FLS, XIII.8, XIII.9.
[440] Наталя Старченко, "Oath as an evidential tactic in the legal procedure in Volhynia: legislation and practice (1566 – early 17th century)," in Irena Valikonytė, Neringa Šlimienė, eds., *Lietuvos statutas: Temidės ir Klėjos teritorijos. Straipsnių rinkinys* (Vilnius: Vilniaus Universiteto Leidykla, 2017): 274-276.
[441] Antanas Petrilionis, "'Auf Die Hand' Praktika: Belaisvių Lygtiniai Paleidimai Tarp Vokiečių Ordino Ir Lietuvos (XIV a. pabaiga–XV a. pirma pusė)" *Lietuvos Istorijos Studijos* 45 (2020): 31-46.

The ruler or a high-ranking person willing to set free prisoners of war could intervene on their behalf and guarantee that the prisoner will not run away, return to imprisonment if required, or in case he would not uphold the deal—the guaranteeing party would pay the wergild for the prisoner. Olga Kosheleva describes the same role of honor in establishing sureties in pre-Petrine Russia. Her research attests to the connection between reputation and trustworthiness, both meanings subsumed under the concept of honor, and the importance of being embedded in local communities to warrant trust.[442]

Overall, one would not be wrong to assume that reputation determined trustworthiness. That said, based on legal sources, description good reputation remains overly formal. As Lithuanian Statutes hint, a good reputation depended on abiding Christian morality, however, it was neither the only nor the most important criterion. Instead, as Natalia Yakovenko shows, a good reputation indicated belonging to the community.[443] In landed noble communities an important part of reputation relied on ancestry and prominence, therefore, newcomers were often treated with suspicion. Reputation was partly inheritable and was conditional on the integration to the local networks of power. Every regional community was bound together not only by their institutional setting, such as the military flag, dietine, and court but also by various coexisting and competing social networks uniting locals of various ranks. Historiography on the Grand Duchy named this phenomenon clientelism, which bound magnates with local nobility into symbiotic relationships

[442] Ольга Кошелева, ""Честь" и "порука" - гаранты доверия в России Средневековья и эпохи Просвещения," *ГИИМ: Доклады по истории 18 и 19 вв. – DHI Moskau: Vorträge zum 18. und 19. Jahrhundert* 17 (2013). URL: https://perspectivia.net/receive/ploneimport_mods_00011437 . For the original French version, see Olga Kosheleva, "L'honneur et la caution: La confiance en Russie (XVIIe-XVIIIe siècles)" *Cahiers du Monde Russe* 50 (2009): 361−380.

[443] Наталя Яковенко. "Про два ментальні стереотипи української шляхти: 'чоловік добрий' і 'чоловік злий'" in Наталя Яковенко, *Паралельний Світ: Дослідження з історії уявлень та ідей в Україні XVI-XVII ст.* (Київ: Критика, 2002): 114.

based on mutual loyalty and trust.[444] People detached from such social networks were regarded as untrustworthy. These local social networks exerted considerable influence over the local political institutions but were not necessarily the deciding factor in taking political allegiances.[445] There was constant tension between the needs of the local communities, magnates, and state interests. Reputation and good name were most apparent and useful in a local context, therefore, patriotic defense of regional interest could better personal reputation. Nevertheless, clientelism was a zero-sum game, where one had to give to receive. Therefore, the defense of magnate's interests in local dietines could lead to a favorable ruling in a local court or furthering a successful marriage.

In the legal context, an oath was a measure that often decided the outcome of the case where evidence was inconclusive. But what was the reason for their reliability and efficacy? We have already considered a part of the answer, namely, reputation in the community, the manner of oath-swearing, eagerness as well as hesitation, could influence personal reputation; for instance, refusal to swear an oath when it was not essential could indicate moral integrity and exemplify the personal value of one's word. However, this was not the root source upon which oaths drew their importance, their power hailed from the divine. Oath began as a form of an ordeal that invoked divinity to guarantee the truthfulness of one's words. As John Spurr writes, oaths were provisional self-curses used, in the judicial setting, to ascertain the truth by invoking the personal relationship to the divine.[446] Perjury was a crime punishable by death because, as some held, false oaths defamed God. This was deemed a despicable act; however, unnecessary swearing was also

[444] The role of honor in clientelism has been discussed in Наталя Старченко, *Честь, кров і риторика. Конфлікт у шляхетському середовищі Волині (друга половина XVI — XVII століття)* (Київ: Laurus, 2014): 95-135.
[445] Artūras Vasiliauskas demonstrated it in ibid., "Noble Community and Local Politics in the Wiłkomierz District During the Reign of Sigismund Vasa (1587-1632)," in Richard Butterwick and Wioletta Pawlikowska, eds., *Social and Cultural Relations in the Grand Duchy of Lithuania: Microhistories* (New York: Routledge, 2019): 132-147.
[446] John Spurr, "A Profane History of Early Modern Oaths," *Transactions of the Royal Historical Society* 11 (2001): 38; 61.

considered sinful because it contravened the second commandment. For these reasons, judges did not authorize oath swearing often and once they did, these could only be undertaken after a brief break to give litigants time to reflect whether proving their case is worth risking eternal damnation.

To realize the legal importance of the good name, it is also useful to consider its opposite. Defamation had many practical uses and most notably has functioned as means of informal social control. Much of historical scholarship has examined the effects of public shaming rituals that regional communities enacted to punish misbehaving members and reinforce social boundaries. Those include the Frech *charivari,* notably analyzed by Natalie Zemon-Davis and their English counterpart—rough music, researched by Edward Palmer Thompson and Martin Ingram.[447] It would not be a stretch to presume that regional communities of the Grand Duchy had mechanisms of furthering social cohesion through shaming rituals of their own. One may speculate that shameful punishments featured in Lithuanian Statutes were coopted versions of such action, namely the debasing apology for slander and repeated public penance outside the parish church for infanticide.

Efficacy of well-timed rumors was a well-known and recognized fact, for they held the power to throw the political status out of balance. Spreading rumors of treason was one of the most effective tactics the Grand Duchy's powerful elite employed to doom their competitors for a fall from grace. There are numerous examples of such actions, among them Gliński's rebellion and ensuing Gasztold's imprisonment. As per Andrej Ryčkov, these were popular means of political powerplay which could truly disrupt the political landscape.[448] Law was one of the few means to

[447] Natalie Zemon-Davis, "The Reasons of Misrule: Youth Groups and Charivaris in Sixteenth-Century France." *Past & Present* 50 (1971): 41–75; Edward P. Thompson, "Rough music reconsidered." *Folklore* 103. 1 (1992): 3-26. Martin Ingram, "Ridings, Rough Music and the 'Reform of Popular Culture' in Early Modern England." *Past & Present* 105 (1984): 79–113.
[448] Ryčkov, *Judo bučinys*

test the veracity of such claims, therefore, the act of slander (ганити, diffamo; примовка) was the most regulated crime against reputation in the Lithuanian Statutes.

The ruler obliged himself not to judge any subject accused of any crime without his presence in court in the very first clause of the First Lithuanian Statute.[449] In addition, another promise was made:

> *"Anyone who would slanderously charge another with a crime that is punished by shame or loss of life, and that threatened of privation of livelihood or assets, or any other kind of punishment, so that person, who would calumniate and fail to prove the said charge, he himself has to be subjected to the same punishment his false charge entailed."*[450]

The Second and Third Statutes did not introduce much difference to this clause,[451] which was intended to put an end to malicious slander by threatening with the punishment their slander held the potential to bring forth.

Another marked instance of slander had to do with questioning nobility in a particular way, namely, casting a shadow over the legitimacy of birth. Although any disproven claim regarding ignobility could be regarded as slander, this case carried an increased gravity of defamation. If a noble would proclaim another a child out of wedlock and fail to provide proof, he would be obligated to declare these words in court: "*What I have said against you, that you are a son out of wedlock, I said that as a dog.*"[452] As researchers of the First Lithuanian Statute attests, such restitution for the defamatory claim had indeed preceded the codification and was part of legal

[449] FLS, I. 1.
[450] Ibid: "и теж коли бы хто, обмовляючи кого-колве, винил ку соромоте або ку страченью головы а шло бы о горло або о именье, або о которое-колве каранье, тогды тот, хто на кого помовить, а те доведеть, том караньем маеть сам каган быти."
[451] SLS I.2; TLS I.2.
[452] PLS III.12 pp. 114-115. "Што есми менил на тебе, ижбы ты быль злого ложа сынъ, менил есми на тебе яко песъ"; "Quod asserui contra te, quod esses mali thori filius, hoc contra te tanquam canis."

practice in the pre-Statutory period.[453] Similar formulations were featured in the earlier is Polish and Czech law codes.[454] The Second edition has retained the clause introducing a slight change in formulation ("I have lied like a dog") and added that those unwilling to proclaim this can be prompted by imprisonment of six weeks which does not terminate the obligation to declare it.[455] The Third Statute elaborated it further, adding that if a confirmed slanderer wanted to avoid imprisonment, there was a possibility to buy out by paying 50 kopa of groschens to the victim. However, this does not exempt from a fine for slander.[456] Grigor Wirschubski named this punishment a "shameful apology" (*schimpfliche Abbitte*) and counted it among the few degrading punishments Statutes ascribed.[457] In practice said punishment could take even more shameful forms. For instance, in the 17th century, a nobleman named Rudomina insulted a justice of the Lithuanian Tribunal by calling him a briber. It is noteworthy that he did so at court and stood against an ordained official, therefore his transgression was subject to at least two incriminating circumstances. Although corruption was a widespread social ill that polemicists criticized fiercely,[458] Rudomina's claim was disproven. The court proclaimed him a slanderer and as a punishment obliged him to crawl under the bench and from there publicly declare that everything he said was a lie. He was to conclude his apology saying that he had lied like a dog, and as an affirmation to such words, bark thrice while still kneeling under a bench.[459] This example attests

[453] Pirmojo Lietuvos Statuto komentarai, 280. Example of court praxis: *RIB* T. XX. No. 238 (1516).
[454] Яковенко, *Про два ментальні стереотипи*, 142.
[455] SLS. III. 38: "брехалъ якъ песъ".
[456] TLS III. 27.
[457] Wirschubski, *Das Strafrecht des Litauischen Statuts*, 218.
[458] Humanist Michalo Lituanus voiced sour critique of Lithuanian justice system in his comparative treatise on the customs of Lithuanians, Muscovites, and Tatars, see Mykolas Lietuvis, *Apie totorių, lietuvių ir maskvėnų papročius. Dešimt įvairaus istorinio turinio fragmentų* (Vilnius: Vaga, 1966): 44-49.
[459] *Акты Виленской археографической комиссии. Т. 15* (Вильна: Тип. А.К. Киркора, 1888): XL-XLI, 126.

that eventually this punishment for slander was unhinged from a specific crime and could be ascribed as a punishment for all kinds of slander.

Closely related to the clause is an article Third Lithuanian Statute introduced to protect women from slander. If a shadow of doubt was cast upon the reputation of noble's mother, the act of conception, or accuse her of being a prostitute without providing adequate proof, then the perpetrator will be subjected to a composite punishment of a fine amounting to 40 kopa of groschens and a proclamation of a similar degrading formula: *"What I claimed against you that you are a son of a disgraced mother and unclean copulation, this I have lied about you like a dog."*[460] The guilty party should not be allowed to leave the court until the fine was paid and the apology uttered in the presence of the judge. Would the perpetrator be unwilling to carry out any of these actions – he would remain imprisoned until he changes his mind.[461] Interestingly, the clause does not indicate a maximum prison sentence, therefore it could be indefinite. Overall, slander was one of the few misdemeanors Lithuanian Statutes punished with the *lex talionis* principle: proven slander was met with inflicting shame.

And while proclaiming oneself having lied as a dog was regarded shame inflicting, what was exactly shameful about it?[462] The first core component is the implied publicity, a factor no shameful punishment could bypass. But more important in this case was the equivocation with the dog. Dogs occupied a certainly perplexing place within Grand Duchy's legal system. On the one hand, some hunting dogs were valued higher than indented slaves and manor servants, on the other, a dog bite was regarded as an unclean and defaming injury. Legal practice discloses that being

[460] TLS, III.28 "[…] што есми менил на тебе, жебыс ты былъ неучъстивое матъки и нечистого ложа сынъ, томъ на тебе брехалъ, яко песъ."
[461] Ibid.
[462] Further analysis of legal utilization of shame is carried out in the following subchapter.

called a dog bore insulting connotations,[463] yet not much is known of the reason this was perceived so. Natalia Yakovenko noticed the particularly insulting nature of being called a dog in two phrases in particular: the example of lying like a dog and a threat to kill a person like a dog, i.e., with impunity. She suggested that dogs were counted among the forces of evil in many cultures and due to their connection with the netherworld they were considered ritually unclean.[464] While in time the memory of them being associated with evil incarnate faded, the injurious meaning shifted from religious to social and the imagery of dog was considered an injurious insult.

While the First Lithuanian Statute outlawed slander concerning treason and tarnished ancestry, the Second one hinted at broader protection against verbal defamation. It states that no matter if noble birth or "*other things harmful to the good name*" were slandered with the victim present or absent, but not repeated in court, such action should not harm their reputation.[465] It was not yet a fully pronounced clause extending full legal protection to reputation, but this step was taken in the Third Statute, which extended protection against "*things harmful to dignities and good name.*"[466] Therefore, any person targeting the status or the reputation of a noble risks being pronounced slanderer, which in this case is punishable by six weeks of imprisonment.[467] Even though protection against verbal defamation came in late, it had been part of legal practice already before the First Statute came to power. In addition, the Second Statute introduced a clause that invalidates court summons if they feature defamatory speech, and this clause was retained in the Third Lithuanian Statute.[468]

[463] More on legal practice in *Chapter Three*.
[464] Яковенко, *Про два ментальні стереотипи*, 141.
[465] SLS, III.22: "о шляхецство яко и о иншые речы шкодливые доброй славѢ".
[466] TLS, IV.26: "о шляхетъство, яко о иншие речы, почстивости и доброй славе дотъкливые."
[467] TLS, III.27.
[468] SLS, IV.16; TLS, IV.26.

Alongside questioning nobility, the morality of parents, and accusing of treason, a cursory review of normative law suggests several other injurious allegations that could lead to a legal process of slander. Most prominent among them was calling someone a thief. The theft was a hated and severely punished crime: almost any kind of theft committed by the common people lead to the gallows. Nobles had the right to swear against such accusations and proving that a noble stole something was extremely complicated. Oftentimes, it was risky as well because, if a noble would accuse another noble of thieving and fail to provide proof, he would have to pay a fine of 12 rubles of groschens "as if he was injured" and spend the next 12 weeks imprisoned. However, were such slander committed by a commoner, the Third Lithuanian Statute ascribes a punishment of public whipping at the pillar of shame.[469] Thieves were punished by hanging, which was regarded as a base if not shameful punishment in and of itself. The same logic extended to other false accusations of heaviest crimes—theft, murder, and treason—failing to prove one's claims would qualify as litigable slander.

However, all statutes ruled that verbal defamation only becomes litigable if the perpetrator reiterated the charge facing court. Would he not admit to uttering insulting and possibly libelous words in court, then the case should be dismissed and his words should not harm the plaintiff's reputation.[470] Third Lithuanian Statute makes clear that this clause applies to noblemen of any rank or office – from the most powerful to most impoverished – as long as they belonged to the noble estate, they are eligible to litigate for the rebuke of ancestry, as well as other things harmful to their dignity and good name if the harmful words were repeated in court. If not, the insult is made void, whereas

[469] TLS, XIV. 10: "яко бы его зранил."
[470] FLS, III.13, SLS, III.22, TLS III.27.

> *"no one should take offense for libel made in absence for that is only detrimental to the one who says it, because it does not suit a good person to talk badly of a respectable* [person]*."*[471]

Hence the formulation that appears alongside protection of nobility, namely, one guarding against "things harmful to the good name" is to be taken to mean protection against slander—baseless defamatory speech. Protection of good name did not extend protection against just about any insulting words that might be perceived as hurtful. As Malinovsky has argued, calling a son out of wedlock a bastard is an insult that does not offer a sufficient precedent for litigation, however, labeling so a noble of untarnished lineage most certainly does. Nevertheless, insults may become litigable in certain exceptional cases, for instance when *locus criminis* warrants increased protection, such as court. Then any injurious speech, as well as unjustified dismissal of witnesses, could entail restitution for disgrace.[472] However, in these cases, actionable injury is against the dignified institution of the court primarily, not necessarily the individual.

Another notable variable is occupation. People in service of the ruler warranted increased protection, as did servants of the law. First among them were the judges. Their work could be called into question and appealed to the royal court but were they found to have judged according to the written law, doubts of their work were to be considered an insult and restitution should be paid to the judge for the defamation he suffered.[473] Additionally, anyone daring to verbally insult the judge (*nota bene*, it did not have to qualify as slander), such person would spend the following 6 weeks imprisoned. The same stood for judges: they were prohibited from insulting the litigants lest they have tried themselves and paid the fine for disgrace, while physically violent judges were

[471] TLS, III.27: "А о заочную примовку нихто се брати не маеть, кгды ж то при томъ зоставати маеть, хто заочне мовить о чоловеку почстивомъ, бо доброму ч[е]л[о]в[е]ку не годитьсе лихо говорити о почтивомъ."
[472] Малиновский, *Учение о преступлении по Литовскому статуту,* 106-7. TLS III.27.
[473] FLS VI.1

to serve 6 weeks incarcerated.[474] Justice was lotted out by the ruler, although often by proxy, therefore any debasing or violent action was an encroachment on his honor; on a more practical note, these clauses intended to keep the peace in the courtroom.

However, ensuring the wellbeing of the personnel charged with carrying out the legal directives was of even greater practical importance. Their duties had a direct bearing on the state, hence shown to a court official or even a royal letter had been treated as an actionable affront.[475] Court messengers often put themselves in harm's way trying due to their extensive traveling, officers of the court often had to deal with violent offenders and even drag them to court by force if it had to come to it. The dangers court officials faced is a documented fact that had not yet been analyzed in the context of the Grand Duchy but did receive attention in Polish and Ruthenian contexts. Julia Mrukówna analyzed such incidents and found that often were court officials forced to ingest the summons they brought.[476] She recounts instances spanning throughout 15-17th centuries of nobles pushing summons down court officials' throats or making them eat documents at gunpoint; she concluded that such forcefulness was regarded as means to annul the case. In a more recent study, Natalia Starchenko names it a widespread phenomenon in the whole Republic, but by far not the only risk these officials had faced. Nevertheless, instances of their litigation for insults were rare, which suggests that these dangers were regarded as a part of the job.[477]

[474] FLS VI.18.
[475] A more extreme example of this same logic had to do with counterfeiting coins and falsifying seals, but these crimes entailed a much harsher qualified punishment—burning at the stake. See Andrej Ryčkov, "Mirties bausmės skyrimas viešųjų raštų klastotojams LDK teismuose XV amžiaus pabaigoje-XVI amžiaus viduryje," Irena Valikonytė, Lirija Steponavičienė, (eds.), *Lietuvos Statutas ir Lietuvos Didžiosios Kunigaikštystės bajoriškoji visuomenė*, (Vilnius: Vilniaus Universiteto leidykla, 2015): 109-119. FLS, I.5; SLS I.12-13.
[476] Mrukówna, "O zmuszaniu woźnego do połykania pozwu," *Czasopismo Prawno-Historyczne* 22. 2 (1970): 159–168.
[477] Наталя Старченко, "Возні на Волині в останній третині XVI-на початку XVII ст.: судові урядники чи слуги?" *Соціум. Альманах соціальної історії* 8 (2008): 152-154.

That said, it becomes apparent that insults may take physical form. Malinovsky discusses them on a separate occasion and describes them as actions that are equally injurious to the physical and psychological wellbeing. However, while this statement rings true, such assaults had to have a symbolic dimension beyond the personal to be deemed truly degrading. Among such actions one counts forcefully removing any form of headdress, pulling on hair or beard. The human body has often been taken to be the microcosm of the surrounding world, with the head being the most esteemed and symbolically charged of all human parts. Additionally, some regarded it as the seat of the soul although such status has been often challenged by the heart.[478] An acute observer could judge the social position, trade, and faith of a person only by their headdress.[479] Women would wear their hair or cover them in a particular way to indicate their family status while inappropriate headdress would suggest sexual promiscuity and bring a great deal of shame upon herself, which would also often reflect badly on her family.[480] Additionally, hair and beard communicated ample social and ritual meanings which were highly contextual and often too specific to arrive at a general theory of their meaning, therefore any worthwhile consideration of the symbolism of hair in the Grand Duchy should begin with archival analysis.[481]

However, within the head, the face took the most exalted position. The face was a site of honor and shame. As Valentin Groebner has argued, facial disfigurement was considered a direct assault on honor because the face was the noblest part of the body and within it, the nose was of

[478] Esther Cohen, "The Meaning of the Head in High Medieval Culture," in Catrien Santing, Barbara Baert, Anita Traninger, eds., *Disembodied Heads in Medieval and Early Modern Culture* (Brill: Leiden, 2013): 59-76.
[479] Rudolf Hadwich, *Die rechtsymbolische Bedeutung von Hut und Krone*. Doctoral dissertation. Mainz, 1952.
[480] Gabriela Signori, "Veil, Hat, or Hair? Reflections on an asymmetrical relationship," *The Medieval History Journal* 8. 1 (2005): 25-47.
[481] Robert Bartlett, "Symbolic Meanings of Hair in the Middle Ages," *Transactions of the Royal Historical Society* 4 (1994): 43-60. For a broad overview of studies on significance of facial hair see Christopher Oldstone-Moore, "Social Science, Gender Theory and the History of Hair," Jennifer Evans, Alun Withey, eds., *New Perspectives on the History of Facial Hair*. Genders and Sexualities in History (Cham: Palgrave Macmillan, 2018): 15-32.

central importance. Disfiguring the nose was a frontal attack on a person's gender and a symbolic attack on sex, once the nose was physically disfigured so was the entire human being.[482] This punishment was most often applied to crimes of sexual nature and the Third Lithuanian Statute applied it to panders, while Magdeburgian law, one of the codes used to fill in when Lithuanian Statutes did not have a specific punitive clause for a particular crime, punished prostitution by these means.[483] By extension, *denasatio* reflected poorly on the honor of the city that harbored disfigured criminals. Despite the contrary claims of several medieval surgeons, facial disfigurement was an irrevocable mark of dishonor.

The Orthodox tradition ascribed increased protection to beards, which were never to be shaved as it would render human face imperfect reflection of the image of God. Additionally, shaving was associated with the Latin heresy and therefore unbecoming to any Orthodox faithful. For these reasons, *Russkaya Pravda* extended protection to hair and beard. However, such laws were not without precedent, as early English law too protected against shaving head or beard with heavier fines than any other physical assault.[484] However, the significance of beards was not necessarily dependent on sacral connotations, as they also carried a pronounced meaning of masculinity. Medieval Irish laws punished wives who would wish shame on their husband's beard and in doing so effectively put their masculinity in question, while narrative sources feature insulting formulations calling down shame on someone's beard.[485] Hence any affront directed at the head offended the whole being of a person.

[482] Valentin Groebner, *Defaced: The Visual Culture of Violence in the late Middle Ages*, trans. Pamela E. Selwyn. (New York: Zone Books, 2004): 76.
[483] Наталя Сліж, "Прастытуцыя ў Вяліком княстве Літоўском у XVI– XVII ст." *Соціум. Альманах соціальної історії* 13-14 (2018): 116.
[484] Frederick Pollock, F. W. Maitland. *The history of English law: before the time of Edward I. Vol. 1* (CUP Archive, 1968): 59.
[485] Patricia Skinner, *Living with disfigurement in early medieval Europe* (Chum: Palgrave Macmillan, 2017): 49.

Targeting the head and hair was one way to physically inflict an insult, another was to use inappropriate means to do so. Alongside the daggers and knives mentioned earlier, construed as "unusual weapons" to bring to a fight, exists another category of tools that were deemed ignoble. According to the Third Lithuanian Statute, using these weapons show scorn and therefore warrants restitution for the disgrace noble suffers rather than that violence against the noble body. Among them are sticks, flails, maces (*buława*), whips, rods, and other similar tools.[486] Dog teeth were not mentioned but bore similar connotations. The rates of restitution for suffering a physical affront in this manner were higher than those of a light beating, open bone wound in the head, and twice the restitution for a lost finger—40 kopa of groschens (amounting to 12 rubles of groschens). Moreover, if a noble's head was wounded with such a weapon, then, in addition to the fine, the perpetrator was to spend 12 weeks imprisoned due to such audacity of this action.[487]

Analysis of the ways concepts of honor and good name appear in the normative law is one of the avenues towards deducing what exactly was considered injuriously shameful in the eyes of the law and, by extension, the society at large. Two other ways to approach this question would be from the negative side: first, by researching ways shame was cleansed and restituted, and second, the way it was wielded by legal means. It consists of the analysis of penal law, firstly, its means to punish shameful actions by fines, and, secondly, the means law resorts to secure social principles through punishments that inflict shame. The following subchapters further explore these avenues, aiming to arrive at a more comprehensive understanding of the honor and shame dynamic in the Lithuanian Statutes and Grand Duchy's nobility at large.

[486] TLS XI.27: "А хто бы теж кого умыслне на зелживость стану шляхетского киемъ, кестенемъ, булавою альбо пугами, дубцы и иншими якими приправами билъ альбо бити казалъ, за таковый кождый бой и зелживость мает быти навезки плачоно сорокъ копъ грошей."
[487] Ibid. also see GSBM, t. 13, p. 228.

Restitution for disgrace

While sometimes stinging words potentially bore more danger than physical violence, the law protected the privileged status of the noble body by shrouding it in honor. The disrespect shown to nobles extended to their physical wellbeing and thus functioned as yet another way to safeguard a noble person. While it is not surprising that nobles were protected by higher amounts of restitution for physical violence against them than people of other estates, another type of monetary restitution mainly exclusive to nobility coexisted alongside it—the restitution for disgrace (Ruth. *навязка за безчестье*).[488] Term *bezchest'e* denoted the crime of inflicting disgrace, and the specified fine restituting it. Similar practice of adjudging *bezchest'e* (and retaining the specified term for this restitution) was very widespread in the Muscovite legal system during the XVII century, although its principles of ascription were quite different. For a physical affront to warrant this sort of restitution in the Grand Duchy's law it must qualify as demeaning. Clauses that mention this sort of restitution are only featured in the First Lithuanian Statute and the later Statutes did away with this specified fine. It is likely that *bezchest'e* was a remnant of customary law that was eventually subsumed under other fines, especially since the amounts of restitutions for disgrace and violence against nobles coincided, it was 12 rubles of groschens.

It is worthwhile to take a closer look at the clauses mentioning *bezchest'e*. First and most intriguing of them holds that nobles who had fallen prey to an attack of a loose dog would be eligible for restitution for suffering disgrace from its owner, however bad the wounds were suffered.[489] In contrast, would a commoner suffer the same fate, he could sue the dog owner for restitution for the wounds he suffered. Neither the Second nor the Third Statute mention *bezchest'e*

[488] The terms used in the code are Ruthenian: *безчестъе*, Latin: *compensatio*. Interestingly, the Latin translation does not differentiate between this specific restitution and any other fine for violence.
[489] FLS, VII. 17, 18, XII. 13. For comparison, 12 kopa of groschens in 1530s amounted to four horses fit for war.

but retain this clause. Instead of disgrace, it obliges the owner of the dog restitute the victim for the suffered injuries "*as if he had injured them by his hand*."[490]

The First Statute mentions restitution for disgrace twice more, both times when regulating behavior in court. The First Statute established that if anyone was to grapple during the court proceedings, he should pay *bezchest'e* to the victim.[491] The same restitution for dishonor protected the litigants against the physical violence coming from the judge.[492] This regulation was not limited to nobles: Malinovsky's analysis had shown that in certain cases commoners could claim restitution for disgrace.[493] However, *bezchest'e* was not meant to remunerate physical violence, as a false claims of judge's incompetence would warrant him this restitution.[494] The Second Statute changed the monetary punishment with a personal one: if the noble litigants would insult each other or court officials during the trial, they should be imprisoned in the closest castle and kept there for six weeks.[495] Nevertheless, physical threats were taken more seriously. If one litigant threatened another by action, but without any physical consequence – he pays 12 rubles of groschens to the victim and spends 6 weeks in prison. However, if a litigant (or a court official for that matter)[496] would succeed wounding another – he should only be punished by the "neck", but should he flee the court successfully – such noble is banished from the realm.[497] The Third edition added that a murderer in court should lose his life and honor.[498] Overall, although the term

[490] SLS, XIV.13, TLS XIV.13: "яко бы его самъ своею рукою ранилъ."
[491] FLS, VI.17. However, if anyone would dare to unsheathe a sword in court – loses the arm, and if blood was drawn – forfeits one's life.
[492] FLS, VI.18. The judge's verbal slights should be brought forth before the royal court.
[493] Иоанникий Алексеевич Малиновский, *Учение о преступлении по Литовскому статуту* (Киев: Типография Университета св. Владимира. 1894): 107.
[494] FLS, IV.17.
[495] SLS, IV.40 and IV.41.
[496] SLS, IV. 41.
[497] Throat (Ruthenian *горло*) was the term used for the capital punishment. The Statute does not specify how it was to be carried out, however, most common punishments were decapitation or hanging. SLS, IV. 39.
[498] TLS, IV. 26, IV. 62.

bezchest'e disappeared, its function remained and Lithuanian Statutes extended increased personal protection against physical violence to the litigants and court officials of any status.

Overall, *bezchest'e* was most often applied as a restitution for physical actions that were sufficiently insulting to outgrow their physical consequences. However, to carry such insulting connotations such actions must have drawn upon symbolic systems of broader significance than personal ones—in other words, an argument of feeling personally insulted was insufficient to be regarded worthwhile in court, actions must have been broadly recognized as demeaning. Suffering a dog bite is a good example of an action widely construed as dishonorable. *Bezchest'e* survived outside the court room and the same notion informed a clause in the Second Lithuanian Statute which says that slaps to the noble's face or tearing his beard should warrant a restitution amounting to 12 rubles of groschens, whereas wounding his face or hitting him with a whip warrant 24 kopa of groschens.[499] Protection against demeaning violence carried into the Third Lithuanian Statute. The most prominent example of said principle were the attacks on nobles with an ignoble weapon—essentially, anything but a blade—which was punishable by the same amount of 12 rubles of groschens. The same amount coupled with three weeks of imprisonment would be the punishment of those who would slap a noble's face or tearing at their hair or beard.[500] Lastly, such restitution might be warranted due to certain aggravating circumstances perceived demeaning, such as publicity. Further research on *bezchest'e* and its application in court practice is carried out in the next chapter.[501]

[499] SLS XI.13.
[500] TLS XI.27. Same applies to court messengers except that the imprisonment ought to last 12 weeks, see TLS IV.11.
[501] See subchapter *Bezchest'e: the Price of Honor*.

Shameful punishments

While undisputedly important, protection of honor was only a part of the way reputation was used in the Lithuanian statutes, as the state also wielded the power to impose disrepute upon deviant subjects. Despite that Lithuanian Statutes had relatively few instances of utilizing shame as part of the punishment, for instance, stripping or forcing the perpetrator to wear shameful clothing was lacking from the Lithuanian penal system,[502] and therefore Statutes were appraised as relatively timid codes of law. Nevertheless, shame had its uses and was utilized in the Statutes—suffice it to remember the most prescient examples of *poena cullei*, public atonement, and debasing apology for slander. Before we turn to the analysis of the logic behind adjudging shaming sanctions, it is important to review the historical change that the concept of suitable punishment underwent throughout the legislation of the Statutes.

Interpretation of crime and the consequence of transgressive action entails fluctuated during the 16th century. At its beginning, the most important aim penal law was charged with was to subdue blood feuds, lawlessness, and encourage to solve personal qualms through legal recourse. The most rudimentary form of penal law was the *Lex Talionis*—the principle of an eye for an eye—however, it did not stop the vicious circle of violence after the initial outburst but rather repaid it in kind. Antanas Mikalauskas analyzed the penal law of the Lithuanian Statutes aiming to trace the changing concept of punishment.[503] He showed that the First Lithuanian Statute had already outgrown the talion principle and replaced it with a system of compositions—financial punishments that remunerated damages the victim suffered. In this setting, crime was treated as an undesirable personal grievance and not yet a public ill and the state had little interest beyond

[502] Wirschubski, *Das Strafrecht des Litauischen Statuts*, 218-9.
[503] Antanas Mikalauskas, *Das Strafrecht der drei litauischen Statute von 1529, 1566 und 1588* (Kaunas: I. Karvelio, 1938)

handing out predetermined fines. However, the First Statute was already advanced a step beyond this system, as Mikalauskas argues, because it claimed monetary fines as restitution to the state. Namely, the same amount of money had to be paid to the victim and the state, showing that both subjects were recognized as having endured harm, but the state does little to prevent future crime or deter others from it. Therefore, the First Lithuanian Statute marks a transitive period between the system of compositions towards the public law, where a crime is recognized as a public ill.

This scheme of private law turning public is confirmed by another researcher. Grigorii Demchenko, who studied the change of forms, aims, and meaning of punishment in all three Statutes, claims that the First Statute uses punishment as means to qualm personal revenge. The main goal of the punishment at the beginning of the 16th century was the desire to satisfy the victim for the sustained damages. The system of compositions sufficed to calm the victim and make amends on a personal level but again it demonstrates the most antiquated treatment of crime and equally primitive treatment of punishment: one that aims to restore peace and prevent personal retaliation. In time, criminal action was recognized as a public evil, an act harmful to the state and society as well as the perpetrator. Once the meaning of crime was reinterpreted, so did the punishment; it had become an instrument to protect society from mean feats of angry people.[504] The character of punishment had changed from restorative to retributive and instructive. To meet these aims punishment had to take other forms than monetary fines.

With such change in the meaning of crime and aims of punishment, the forms of punishment between the First and Second Statutes underwent substantial change. Since the corrosive social effects of crime were recognized, the subject of punishment shifted from

[504] Григорий Васильевич Демченко, *Наказание по Литовскому статуту в его трех редакциях (1529, 1566, 1588 гг.)* (Киев: 1894): 170-1.

criminal's possessions to criminal's person. While the victims would still receive remunerations for the damages suffered, the state abandoned the claims to monetary restitution. Instead, those were substituted with more personal punishments such as imprisonment, defamation, even physical mutilation, banishment, and capital punishment. These forms of punishment were intended as revenge on the deviant and deterrence of the would-be offenders. The use of imprisonment grew in popularity significantly and aimed to prevent future criminal activity as well as deprive the criminal of time and prestige. More theatrical punishments used the body of a criminal as a prop and were more focused on inflicting fear to the onlookers. Over time, theatrical punishments grew bloodier, the cruelty of executions increased, and new kinds of qualified punishment appeared. The Third Lithuanian Statute (1588) continued in this direction and fully incorporated the dangers of criminal behavior to society into the very principles of statehood thus bringing the understanding of the public law to its full manifestation in the Grand Duchy.

Changing interpretation of crime and aims of punishment is directly reflected in the increase of shameful punishments. While some shameful punishments (e. g. debasing apology) sought to please the victim, most of them carried broader significance. The aims of shame inflicting punishments were a mixture of instructive and revenge. On the one hand, they were means to inflict pain, suffering, and humiliation upon the person who undermined the basic tenets of social organization. On the other hand, the punishment was often public, or at least its effects remain visible on the deviant body. The shameful punishments here considered targeted the reputation of a person and diminished it significantly or, in most extreme examples, place a person outside the bounds of society. Such unforgiving punishment was inscribed into the perpetrator's face and was more than a disfigurement, it was a mark of shame and a warning to everyone who laid eyes upon him. The Statutes, like many other Early Modern legal codes, operated on the assumption of

exclusion of criminals, not their reintegration into society. Convicted felons were allowed to return to their community (this was of course conditional on their crime) however, their good name was irredeemably lost.

While the First Lithuanian Statute has several accounts of intentional shaming, namely debasing apology for slander and branding for theft, the Second and Third Lithuanian Statutes bear a marked increase in the practice of debasing felons, with *poena cullei*, public penance for filicide, imprisonment, and binding. The divide between nobles and commoners manifested in forms of capital punishment. Usually, noble deviants were decapitated, which was considered a much more honorable sentence than hanging, not least because the hanged criminal body was often left on display to serve as a warning. Both punishments were subsumed under the category of "punishment of the neck" in the legal jargon of the Grand Duchy and coincide with the general trends of capital punishment in the European context.[505] Only a few truly shame inflicting punishments were ascribed to nobles, however, commoners were subjected to it more often, namely those who undermined social hierarchy by targeting their superiors. Criminal encounters contravening the principle of seniority, that is between commoners and nobles or nobles and the ruler, often resulted in disproportionately humiliating practices, the severity of which was often aimed to deter the observers from engaging in such acts.

This is exemplified by (but not limited to) cases when a commoner would question noble birth. Would commoner's claims be disproven – the First and Second Statutes ascribe a physical punishment – the false accuser would lose his tongue.[506] However, the Third Statute alters it: such transgressor is to be given to the executioner, who would put them in a pillar of shame and publicly

[505] Esther Cohen, *The Meaning of the Head in High Medieval Culture*.
[506] III.18

birch their bottom.[507] After doing so, the executioner may command the progenitor to shout the words which he uttered to slight noble honor. This added an insult to injury and made punishment a spectacle, a cautionary reminder of the dangers that questioning social hierarchy entails. The same logic enforced the gruesome punishment for patricide. Affronts to social superiors could have been surmised as *superbia*, therefore, warranting infliction of shame.

One of the fundamental elements of debasement is forced publicity—whipping at the pillar of shame, binding at the town square, or demonstration in the marketplace, combined with the exposure of the criminal body were common in such retributions. Shame is a social emotion, one that is most effectively weaponized in public, and the Grand Duchy's lawmakers were aware of this. While some punishments were quite transient, shame could take more permanent forms such as embodiment. Upon proven recidivism, Lithuanian Statutes ascribed corporal mutilation, inscribing shameful marks on the criminal body. First-time thieves borne scars on their foreheads, petty thieves lost their ears;[508] noses, lips, and ears were cut off to sentenced panders of either sex who were then proceeded to be banished from the place of their residence,[509] nostrils of habitual slanderers were cut off.[510] Commoners daring to physically attack nobles and successful in drawing their blood were often punished with cutting off the weapon-bearing arm while slandering a noble warranted a loss of tongue. These punishments were intended to do more than inflicting personal harm. The public debasing actions were made into a theatrical spectacle, which attracted

[507] TLS, III. 22: "[…] маеть росказати кату вести до пренкгира и тамъ его дупцы бити и потом высветчити. А ведучи его от вряду до каран[ь]я и высветъчываючи з места, маеть казати обволати, же се такими словы на шляхтича торгнулъ."
[508] FLS XIII. 23. This is likely a remnant of Lithuanian customary law because same punishment is listed in *Iura Prutenorum* (written around 1340)—the only code of Baltic customary law; see Lazutka, Gudavičius, *I Lietuvos Statuto šaltinių klausimu*, 174.
[509] TLS XIV. 31.
[510] TLS IV. 105.

many prying eyes. Aside from being a permanent mark of shame, corporal mutilation acted as a sign reminding people to tread carefully or not to trust the mark-bearer.

Nevertheless, shame lied on the opposite of publicity as well. Exclusionary punishment of imprisonment and other forms of binding personal freedom carried expressed connotations of disrepute. People who had served time were much more likely to be counted as having "bad name" and viewed with suspicion even if they had been acquitted of the crimes they were accused of. One way to cleanse their reputation was to seek out remuneration for slander and disgrace suffered, therefore reputational damage was not necessarily permanent. As mentioned, imprisonment was among the personal punishments introduced with the Second Statute. The process of growing popularity of this punishment is best illustrated by the sheer numbers of its appearance as a form of punishment: the First Statute mentions imprisonment in 5 articles, the Second Statute adjudged it in 23 articles, and the Third Statute mentions it 57 times.[511] Imprisonment, however, could take several forms. The lightest of its iterations was binding by a chain or into a brick to restrain movement and it had been most often utilized for petty crimes or disturbances committed by commoners. This way of restraint had been an integral part of shaming punishments of binding at the pillar of shame or by the neck. Most often these sanctions were applied to convicted petty thieves of common descent.[512] Such punishments were considered beyond the nobility's stature and therefore if a noble was to be constrained, it was most often done in the upper prison; usually, castle towers served this function, but it could also be a ground-level chamber. Lastly, the most gruesome form of imprisonment was the underground dungeon, a place where murderous nobles were condemned to. The Second Lithuanian Statute regulates those nobles who had killed their

[511] Вікторія Пальченкова, "Еволюція тюремного ув'язнення в трьох редакціях Литовських статутів," *Держава та регіони. Серія: Право* 2 (2011): 17.
[512] TLS XIV.26.

peer must pay a wergild and serve their imprisonment sentence of 46 weeks "in the ground."[513] One of the expectations for such a place was the lack of connection with the outside world, therefore no windows or even chimneys and other means of ventilation were constructed in such facilities. Unsurprisingly, time served in this dark, damp, and the forsaken place was deemed very disreputable and was even sometimes likened to banishment to the netherworld.[514]

Due to the personal protection and presumption of innocence that the Statutes featured, only a court of law could pronounce the punishment of imprisoning a convicted noble. This punishment was to be carried out in the nearest castle, however, often did the wealthier nobles have their places of imprisonment where they would imprison their subjects according to manor court, but it also happened that these places would be used to illegally detain criminals of noble descent, aiming to prevent them from fleeing justice or taking matters into one's own hands. Crimes that carried imprisonment sentence for nobles were the murder of another noble, slander of noble birth, failure to carry out war service, an offense against a judge or court official, home invasion when someone was injured, violence in the Christian church, failure to pay remuneration for violence.[515]

As mentioned, one group of crimes that warranted debasing response were affronts to social hierarchy. Among them, affronts to social hierarchy were by far the most numerous. It could have been done by committing grand treason, slandering noble birth, betrayal of one's master, and patricide, even mariticide. Another group of crimes punished with shame related to decadent sexual behavior. Although the codes did not feature clauses on prostitution (these cases were likely

[513] SLS XI. 12: "въ везенью сорокъ и шесть недѢль седѢти на замку Виленьскомъ або Троцкомъ въ земли шесть сажонъ."
[514] Олена Сокальська, "Міські та повітові місця ув'язнення на українських землях у другій половині XVI-XVII столітті," *Вісник Пенітенціарної асоціації України* 1 (2017): 58.
[515] SLS: XI.12; III.23; III.25; IV.40; XI.2; XI.3; XI.11.

punished in ecclesiastical courts), the Third Statute featured a clause punishing procurement of sexual services for money with facial disfigurement and banishment, adding capital punishment upon recidivism.[516] Notably, punishment of *denasatio* was a punishment for dishonorable behavior, often adjudged for sexual misconduct in other Early Modern law codes,[517] although this practice extended into the medieval era as well.[518] Lastly, petty theft was met with disfigurement—cutting off an ear.[519] Overall, shame guarded respect to superiors, the propriety of customs, and the integrity of the property.

Conclusion

An inquiry into Lithuanian Statutes suggests several meanings that honor took. First, it was considered the total of the noble privileges, the privileged status of the noble corporation. The Lithuanian Statutes only ascribe the honor of this sense to the nobility. As such, it had little to do with individual self-esteem or reputation, rather it was a legal indication of status within the social hierarchy. Losing honor was possible through a court process when the accused failed to prove noble lineage or by certain crimes. Deprivation of honor was pronounced for committing grand crimes against the state or the ruler, especially gruesome crimes against one's equals, or fleeing justice. In such cases, the dishonored person would lose their claim to any noble privileges and, perhaps most importantly, the protection of the law. In such cases, the punishment of depriving honor was often coupled with the capital punishment, banishment, or deprivation of any holdings. Alongside existed means of lesser gravity—privation of public privileges, or *infamia*. It applied

[516] TLS IV. 105.
[517] Valentin Groebner, "Losing Face, Saving Face: Noses and Honour in the Late Medieval Town," *History Workshop Journal* 40. 1 (1995): 1-15.
[518] Patricia Skinner, "The Face, Honor and "Face"," in: *Living with Disfigurement in Early Medieval Europe* (New York: Palgrave Macmillan, 2017): 41-66. URL: https://link.springer.com/book/10.1057/978-1-137-54439-1
[519] If petty theft took place in royal manor, see TLS XIV. 27; or both ears if the perpetrator fished out a private pond for the third time XI. 27.

for murder with aggravating circumstances, people who would avoid capital punishment, and those leading an inappropriate lifestyle. Such people would be destined for private life and would be barred from political participation and the right to serve at an office, however, in certain cases this sentence was not permanent.

Second, honor appears as reputation. It appears in the statutes as a *good name* and only figures as a qualification of viable witnesses. However, many clauses protected reputation from slander, which was an important and well-outlined crime. The baseless defamatory speech was an actionable crime punishable by the same means that the slanderous statement entailed. Additionally, it was restituted through fines, could warrant imprisonment, or entail shame-inflicting punishments. However, slander was the only type of insult that was truly actionable according to the normative law, other kinds of verbal defamation were either not extensively legislated or subsumed under the category of "*words harmful to a good name.*" The exact contents of this phrase are to be sought out in legal practice.

Third, honor comes in as a part of state legislation. Laws regulating the offense of the sovereign majesty are intricately connected to the honor of the ruler, as the person who embodies the apparatus of the state. Those were heavily influenced by the German and Roman legal heritage because customary law had little to offer in this sense. These laws are intricately connected to the ones guarding the dignitaries and officers, who represent the ruler's authority. Their person was protected by sanctions of increased gravity while carrying out official duties. At first, only the most important state officials and royal envoys were accorded the additional legal protection, in time, however, this trend grew to accept the servants of justice into their midst. By the time of the

First Statute, such protection was not only well established but also minutely considered.[520] The protection entailed verbal defamation and physical violence, both were regarded as transgressions against the honor of an official. State dignitaries were elected by the ruler, while envoys as well as royal documents were his direct representatives and embodied the authority of the ruler. From the Second Statute (1566) the officers of the law would be elected by the local dietines and therefore the people entrusted with the responsibility to enforce the law and carry out justice would be imbued with such power by the local community of nobles, therefore drawing on the honor of the noble estate to justify the increased personal protection.

Fourth, honor appears in the legal codes from the negative side, especially as a target of punishment. Again, before listing the examples, one must carefully consider the facet of honor that is being targeted by the punishment. First, honor may be considered the total of noble privileges and the mandate to be regarded as a part of the noble corporation. This type of honor is revoked for grand crimes and theft, which was notoriously difficult to prove. A different kind of honor is targeted by those punishments that aim to denigrate or shame the perpetrator. Many of the influences of German and Roman laws may be listed here, perhaps the most prominent of those being the *poena cullei*. This punishment combines all the elements imaginable to produce the most denigrating and fear-inflicting retribution: physical disfigurement, symbolic denigration, forced publicity, and post-mortem ostracism. Other punishments were limited only to some of these traits. Nevertheless, the Statutes showed concern for the honor of their noble subjects in a sense that dishonoring punishments were rare. However, such actions, especially inflicting physical harm, were widely applied to the commoners and slaves that would commit actions undermining the social hierarchy. People who would dare to reprimand, insult, assault, injure, kill a noble, or even

[520] Further analysis of this law is carried out in the subsequent chapter.

question their noble lineage, would risk harsh punishments that would become markers of shame for all to see. Overall, shame inflicting punishments were devised to instruct the onlookers at the expense of the criminal. Public lashings and prostrations against one's peers did not foresee any reintegrative function of the convicted felon, instead, his body was turned into a warning on the consequences of disobedience. The good name was often the main target of such punishments, which was diminished through a mixture of violence, publicity, and verbal defamation. Shame stood faithful guard at the boundaries of inborn feudal social hierarchy.

Overall, the nature of human worth that Grand Duchy's normative law exhibits was hierarchical and defends the worth of the collective that individual members embodied. As such, Grand Duchy's normative law of the 16th century preferred to secure the human worth warranted by social status to upkeep social order. A law that protects the honorable status of a deceased noble can serve as an example of this logic because his personal honor could no longer be offended. Nevertheless, such configuration of human worth does not negate import of personal honor that manifests as reputation. Reputation builds on status and is an indication of successfully living out the ideals of the honor group and therefore it is mostly irrelevant to other honor groups who are not on equal footing and do not share in the ideals. In this case, noble ideals consisted in carrying out legal duties, such as military service, and maintaining a good name within the landed community. For this reason, slander was an actionable offense within the normative setting whereas other verbal accusations were not. It was considered criminal to wrongfully suggest that a good reputation was undeserved but dealing with the maintenance of that reputation was left to personal discretion. Similarly, the noble body was protected from physical assaults that were deemed demeaning and even the law did not subject them to, say, public lashing. To test these observations further, we now turn to the analysis of legal practice.

Chapter Three. Ignoble acts.

Cases on defamation and humiliation in royal court (1529-1566)

The letter of the law is at least a step away from the quotidian reality. This is easily attested by the example of the already discussed *poena cullei*, the punishment for parricide that has been inscribed in the Lithuanian Statutes. Lithuanian codes were not the only ones to institute an Early Modern version of this punishment, it was part of some German legal codes, the earliest of them adopted in Saxony in 1572. Although the punishment was inscribed, research of German legal practice revealed that it was only rarely carried out; many parricides avoided this gruesome fate or at least suffered its lighter form. This reluctance to carry out its full scope earned it a name as a phantom punishment.[521] Analysis of legal practice is the only way to verify whether the normative clauses were really implemented and the judicial process faithfully upheld. Moreover, analysis of legal practice is crucial in understanding what people deemed demeaning enough to seek out restitution through legal recourse. Most of the earlier studies on the Lithuanian Statutes, especially the classic historiographical entries, did not engage with legal practice and, for that reason, the gap between normative law and everyday experience remains.

The minutes of legal practice survive in the archives of various court instances and the present study relies on documents from the royal court that survived as a part of the Lithuanian Metrica. As the analysis of the normative law had shown, only the ruler had the prerogative to preside over cases regarding honor as status, therefore the archive of his court allows access to the broadest spectrum of cases—ranging from verbal assault to deprivation of honor. Magnates and descendants of regional royalty were only answerable to the ruler's court until 1566, therefore it

[521] Florike Egmond, "The cock, the dog, the serpent, and the monkey. Reception and transmission of a Roman punishment, or historiography as history," *International journal of the classical tradition* 2. 2 (1995): 159-192.

is the only venue where middling nobles could litigate against them, thus representing the whole social spectrum of nobles. Additionally, until 1581 the royal court functioned as the court of appeals, therefore it had to rule over the most intricate cases with the highest stakes. Although most cases were ruled by the reigning monarch, some were delegated to either members of the Council of Lords or regional representatives of central power. The chronological boundaries of this analysis cover the duration of the First Statute, the years from 1529 to 1566. The First Statute was not as extensively codified as its successors and the legal practice of this period allows one to see whether the clauses of the Second Statute were innovations or simply a more thorough codification of the commonplace legal practice. Nevertheless, the chronological boundaries are rather fluid, and cases of both earlier and later periods must also be analyzed to gain a full perspective on legal implementation.

This chapter seeks to answer questions pertaining to the form of insulting action. The main goal of studying these cases is to ascertain what actions have been perceived as degrading and, by doing that, to outline the limits of acceptable behavior within the society. On a larger scale, it seeks to address the question of whether the laws protected personal honor, or the honor of the estate invested in the individual noble? The selected material is organized according to these questions, additionally, in continuation of the previous chapter, the phenomenon of honor is split into its meanings of reputation and status.

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In 1534 the ruler Sigismund the Old bestowed nobility upon Martin Chizh and issued a privilege as proof of his ennoblement. To ensure the posterity of this decision, the privilege was copied into the archive of the ruler's chancellery where it has survived to this day. The document solemnly states:

> *"When the Almighty God decides to test the actions of humankind in various ways, among good people honor and nobility are not of least importance. It is the duty of the King or the Grand Duke to clearly recognize people who demonstrated exceptional virtue or served through reliable and solid counsel in proper things and increase their renown by ascending them into nobility* […] *and We, having a graceful outlook towards virtue and loyalty, ennoble* […] *Martin Chizh Kostyantinovich from Netechi* […] *his sons and daughters, and all of his progeny".*[522]

The document continues, stating that Sigismund the Old (1467—1548) having witnessed the great services of Martin Chizh from Netechi [Gardin district, Belarus] decided to ennoble him and his progeny, adopt them into the heraldic family, and shroud them in honor. The document scarcely mentions any details about Chizh's service but praises him as a loyal servant who labored relentlessly, gave good advice, and displayed a demeanor that was thankful and pleasant. Such documents are evidence of the ruler's right to sovereign power and their ability to enshrine the subject with nobility, effectively altering the social order of the day.

The privilege stresses that from this point onward the Chizh lineage should be allowed to hold every secular or spiritual office, and none should dare to shame, threaten, or insult them directly nor behind their back.[523] Modern historiography holds that litigation over insults was exclusive to nobles because only this estate possessed the claim to honor.[524] This is true, but only partially, and there have been few efforts to add nuance to this assertion. Therefore, little is known about the actual content of litigation over insults, it remains unclear whether the honor law

[522] Irena Valikonytė, Stanislovas Lazutka, Nerginga Šlimienė, eds., *Lietuvos Metrika (1533-1535) 8-oji Teismų bylų knyga* (Vilnius: Vilniaus universteto leidykla, 1999). Henceforth – 8CRB, case 366, 1534: "Кгды Бог вшемогуцый розмаитыми обычаймы и поступы рожай людский розозновать рачыт и межи людским добрым честъ и шляхетность не заднее местцо собе привлащают, и есть того потреба кролем и княжатамъ, иж которых альбо цнотою некоторою особливою преложонйхъ, альбо в добре заслужоныхъ речахъ добре а стале справуючы, ясне убачат, тых знаменитостю шлахецтва помножают [...] иж мы, маючи ласкавый възгляд на цноты и верности, [...] Мартина Чижа Костятиновича зъ Нетечы [...] з сынми и з девъками, и зо всимъ его потомствомъ ошляхчаемъ"

[523] Ibid.: "за шляхту мели, ани жадною соромотою явне або потаемне их ображати и пренагабатъ не смели".

[524] Ibid., p. XXXIII; Edvardas Gudavičius, "Pirmojo Lietuvos Statuto baudžiamosios teisės bruožai," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 15. 2 (1975): 91.

recognized to nobles was due to their belonging to the estate or the recognition of their worth as individuals. This chapter sets out to analyze the said questions in detail, namely, the contents of an insult, the exceptionality of honor, and the basis for claiming honor. We begin with the first question, providing a typology of insults based on cases brought before the royal court. The material is grouped based on the type of defaming act: verbal insults, debasing actions, and humiliation. The typology of cases brought to court over insult serves the purpose of answering the last research question, namely, whether human worth was recognized to an individual as a person, or as a member of the estate. The main clue to this complex issue is the prevalence of cases over personal insult—claims where personal honor is claimed and defended and has no relation to the status of the victim.

The organization of this chapter continues with the presented division of the honor phenomenon into categories of status and reputation. Cases brought over verbal and physical insults in most cases were crimes against reputation, these cases inform about what was deemed litigable and delineate boundaries of acceptable behavior within the honor group. This is followed by discussion over restitution norms and specified fine for inflicting disgrace (*bezchest'e*). Analysis continues with the examination of charges threatening the noble status itself in their verbal and physical forms. Imputations of ignobility were litigated exclusively in the royal court as it was the only instance justified for presiding over cases concerning status. Lastly, we turn to the royal prerogative of depriving of status and analyze cases that ended in privation of honor, paying special attention to the killing of Prince Jaroslav Sangushka (d. 1564).

Verbal Insults

"Gnawing words:" A note on abusive phraseology

Defamation suits brought to court were intended as protection of one's reputation, nevertheless examples of transgressive language remain few. Most insults are veiled by obscuring phrases, substituting the actual affront with euphemisms of biting, shaming, dishonoring, and unfitting words.[525] Reasons for such substitution could be several. First, it might depend on whether the litigants pronounced the exact insults that were the issue in front of the judge, and in this case – often the ruler himself. Natalia Starchenko argues that dishonoring words were banned in court practice, however, if this was a universally upheld practice, no insults would have survived in the court record books.[526] However, it might have been in the interest of the plaintiff not to repeat the exact insult in court as it could have hardly been desirable to repeatedly defame oneself in front of a new audience. Moreover, even in the cases when those words were reiterated in court, the insulting formulations were not necessarily committed to posterity in their actual form: the royal scribes might have omitted or reformulated insults while inscribing the court minutes into the archival books. Committing insults to paper could have been held to be inappropriate, especially considering that insulting formulations held the power to invalidate the legality of court summons, as the normative law attests.[527] Moreover, several cases suggest that after "the gnawing words" were disproven, the slanderer was obliged to eradicate insults from the court record books.[528] On

[525] Neringa Šlimienė, Irena Valikonytė, eds., *Lietuvos Metrika (1554-1556). 34-toji Teismų bylų knyga* (Vilnius: Vilniaus universiteto leidykla, 2018). Henceforth – 34CRB, c. 154: "некоторые слова" – certain words; c. 332: слова дотливые – harmful words; слови ущипливые – hoarse words; c. 238: "слове неучьстивыми на него торгали ся" – assailed him with dishonorable words; c. 266: "словы неучьстивыми соромотити" – to shame him with dishonorable words; etc.

[526] Наталя Старченко, *Честь, кров і риторика Конфлікт у шляхетському середовищі Волині Друга половина XVI — XVII століття* (Київ, Laurus, 2014): 81.

[527] SLS, IV.16; TLS, IV.26. This issue is discussed in subchapter *Honor: reputation*.

[528] Viskantaitė-Saviščevienė, Saulė, Irena Valikonytė, eds., *Lietuvos Metrika (1554-1568). 35-oji Teismų bylų knyga* (Vilnius: Vilniaus universiteto leidykla, 2018). Henceforth – 35CRB, c. 154; c. 193.

a different note, the very formulation of said euphemisms deserves attention. Those are often named as biting, gnawing, and attacking words which suggests physically felt damage. Such interpretations of insults as physical harm that must be responded with violence were also recorded in German context.[529]

Defiance as an insult

Office, and the dignity it bestowed upon a person, was among the fundamental sources for claiming honor. Most often it increased in vertical honor, the amount of respect and deference a person could claim, however, in certain cases, office and dutiful fulfillment of the appointed role had the potential to result in changes of horizontal honor. The example of Chizh's ennobling due to his reliable council serves as one example. We could also remember the case of the renowned Royal Secretary Augustinus Rotundus, who earned his ennoblement through dutiful service in all kinds of intellectual matters and who was adopted into the Rola heraldic family in 1568. Moreover, some offices invested the people with authority to command and increased personal protection of the bearer of said authority. Disregarding official authority was often taken to be an insult to the civil servant and a personal offense, as the difference between official and personal rank was blurred. Naturally, the same logic extended to examples of grand treason – the most extreme example of defiance.

One of the earliest examples of verbal defamation in the history of the GDL was directed against Grand Duke Vytautas the Great—a ruler idealized for generations, who attained a mythical status by the 16th century.[530] In 1403, Marquard von Salzbach—the Komtur of Brandenburg—

[529] Martin Dinges, "Ehre und Geschlecht in der frühen Neuzeit" in Sabine Ullmann, Sybille Backmann, ed., *Ehrkonzepte in der Frühen Nuezeit: Identitäten und Abgrenzungen* (Berlin: Alademie-Verlag, 1998): 126.
[530] Giedrė Mickūnaitė, *Making a Great Ruler: Grand Duke Vytautas of Lithuania*, CEU Press, Budapest, 2006

called Vytautas *vorstockten vorrether*.[531] This insult was met with a challenge to a duel which never took place, allowing the tensions to linger. In 1409, Salzbach slandered Vytautas' mother, and their confrontation reached its apogee with the battle of Tannenberg (1410) when Vytautas took Salzbach hostage and publicly beheaded him.[532] But what reason did the leader of the Teutonic order have to call Grand Duke Vytautas a traitor? In fact, he had plenty. Before Vytautas claimed the throne, he faced a civil war of succession within the Grand Duchy. His opponent was Jogaila, his cousin and the future King of Poland. Vying for power against him, Vytautas joined ranks with the Teutonic order, accepted Christ, and led their troops against Lithuanian castles reaching and devastating the capital Vilnius. However, after his short-term goals were achieved, Vytautas defected from the order and returned to the Grand Duchy, thus committing an act that the Brothers of the Sword held to be treasonous. He forsook the Order twice (hence the *vorstockten* part), nevertheless, back in the Grand Duchy Vytautas bore no stigma of betrayal because changing sides was regarded as a legitimate strategy of rivalry in the pagan Lithuanian culture.[533] The concept of treason was prevalent in the Teutonic Order but not the Grand Duchy, where it only took root following the spread of Christianity. Despite that, Vytautas interpreted accusations of treason as an insult that warranted a violent response. In time this view only strengthened.

In the years after adopting Christianity, the concept of treason took root. Although the 15th century witnessed several attempts on a sovereign's life,[534] its spread is perhaps best exemplified by the reaction to the Gliński rebellion of the early 16th century. Prince Mikhail Gliński (c. 1460-1534) was a newcomer to the GDL's ruling elite and became the favorite of the Grand Duke

[531] A stubborn, unrepentant traitor; quoted from: Ryčkov, Judo *Bučinys,* 58.
[532] Ibid., pp. 117-8.
[533] This has been thoroughly substantiated in innovative research on treason, see Andrej Ryčkov, Judo *Bučinys: Valdovo Išdavystės Samprata Lietuvoje (XIII a. pr.-XVI a. vid.)* (Vilnius: Lietuvos Istorijos Institutas, 2018).
[534] Steven C. Rowell, "Bears and Traitors, or: Political Tensions in the Grand Duchy, ca. 1440–1481," *Lithuanian Historical Studies* 2 (1997): 28–55.

Alexander (1461-1506) since the beginning of his rule in 1496. Gliński's success was based on his military genius and excellent education as well as experience of living in foreign royal courts. However, Gliński's influence posed a significant challenge to the established political order dominated by Lithuanian Catholic aristocracy. His weak ties to the other aristocratic families, regional descent, and religious background made his safety and fortunes dependent on the wellbeing of his patron.[535]

When King Alexander was succeeded by his brother Sigismund the Old (1467-1548) in 1506, Gliński had to face fierce opposition alone. Due to the combination of his actions and the foul play of his adversaries, he was alienated from the royal cohort. His fall from grace was quite fast, as his foremost adversary Trakai Voivode Jan Zabrzeziński (1437-1508) accused Gliński of grand treason by poisoning King Alexander. King Sigismund the Old did not clear his name, and, already in 1508, Gliński took matters into his own hands: he attacked and succeeded in killing Zabrzeziński, an act that is held to signal the beginning of Gliński's revolt. He then marched upon Vilnius, planning to seize the Grand Duchy's treasury. Simultaneously, Vasili III of Russia, joined the campaign under the guise of defending the Orthodox faith. Gliński gambled to claim the throne, but Olbracht Gasztold outmaneuvered him and organized a successful defense of the city. After the unsuccessful attempt at dethronement, Gliński defected to Muscovy where he helped in Vasilii III's wars against the GDL and later served as a tutor to Ivan the Terrible, only to die imprisoned during the regency of his niece Elena Glinskaya (1533-38).

The written tradition dubbed the years 1507-08 as *Glinszczyzna* (the time of Gliński). The political rupture caused a shock enough to warrant a separate term. Needless to say, the turmoil

[535] He was a scion of Muslim princes who converted to Orthodox Christianity when they settled in the eastern lands of the Grand Duchy. However, he personally converted to Roman Christianity at age 12 perhaps due to his Western education and service in cohort of Prince Maximilian I Habsburg.

took many years to settle, and this act of grandiose disloyalty resounded with accusations of lesser gravity in the courts of the Grand Duchy. For example, in 1511, some three years after the event, Prince Timofey Kapusta addressed Sigismund the Old, claiming that his courtier Eustach Dashkovich "*is not your faithful servant but a traitor of your brother.*[536] *He was charged with holding Krichev [Krychaw, East Belarus] but betraying Your Majesty he fled to Muscovy.*"[537] Kapusta provided the royal letters of King Alexander as evidence, and, sure enough, those letters labeled Dashkovich a traitor. The verdict was to transfer all Dashkovich's property in the Kyiv district to Kapusta. Dashkovich decried it as false claiming that by leaving…

> *"*[…] *Krichev for Moscow I did no harm to the castle nor His Majesty's state, but my adversaries have slandered me obliquely to His Majesty and rumors reached me that His Majesty will arrest me and punish me by the neck*[538] *with no guilt of mine; in fear of my life I've given Krichev and all* [land—PD] *to the ruler's courtier Piotr Epimakhovich and left having announced this to all people; and later while I was in Moscow I came to terms with His Majesty and returned* [to the GDL—PD] *under the protection of his gleit*[539] […]*"*[540]

He relates that during the Beresteisk diet [Brest, South-west Belarus] the ruler Alexander forgave him and "forgot his anger," welcoming Dashkovich back into his royal grace and allowing him to keep any holdings he had. Dashkovich supported his words with King Alexander's royal decrees. Having heard this, Sigismund the Old rejected Kapusta's accusation and ordered him to hand over the documents he used as proof to the royal chancellery, destroy all their copies, and forget the

[536] King Sigismund the Old succeeded his older brother Alexander Jagiellonian.

[537] *Русская Историческая Библиотека, Издаваемая Археографическою Комиссию. Том Двадцатый. Литовская Метрика*, (Петербург, 1903) henceforth—RIB: 770, case 155: "онъ не естъ вашей милости слуга добры, але есть здрадца брата вашей милости какъ держалъ от его милости Кричевъ, тогды съ Кричева, зрадивши его милость, бегалъ къ Москве." The case is also cited in Ryčkov, *Judo Bučinys*, p. 98.

[538] The punishment of the neck was a commonplace for the capital punishment in the legal language of the GDL.

[539] A document ensuring personal protection by the ruler.

[540] RIB, 770, c. 155: "съ Крычева къ Москве, ни которое шкоды замку и панству его милости не вчинившы нижли мя обмовили были мои неприятели заочне ку его милости и мене тыее слухи зашли, ижъ бы мя его милости мелъ безвинне поимати и шиею карати и я боячися того подавшы замок со всимъ дворанину пану Петру Епимаховичу и объявившися всимъ людемъ поехалъ и потомъ, бывши на Москве, зася его милость господаря нашого есми перееднавши, на кглеит прехалъ […]".

accusation. However, Dashkovich did serve Ivan the Great and Vasili III out of his own volition during 1503-1508 and received amnesty from King Alexander because of the influence of Grand Hetman Prince Konstanty Ostrogsky.

Another case regarding *glinszczyzna* was brought to trial some two decades later. In 1530, Prince Jan Kroshinsky addressed the court of the Council of the Lords blaming the ruler's courtier Feodor Kolontay for robbing his manor in Kroshinsk [Kroshin, West Belarus] during the Gliński rebellion. The court registered this claim and summoned Kolontay. The summons reached him in the Kingdom of Poland, where he was serving at the side of King Sigismund the Old. Kolontay used his position to his advantage and addressed the ruler directly. He "*tearfully complained*"[541] and pointed out Kroshinsky's violations of the judicial process, namely, the silence that lasted for two decades and his failure to bring this matter to the royal court session held in the Grand Duchy. Instead, Kolontay dismayed, "*only now he accused him thus, which assails his honor*"[542] portraying the accusation as slander.

On June 24th, 1530, King Sigismund the Old wrote a letter to the Council of the Lords, detailing that Kolontay showed him the proceedings of an earlier case brought on the same accusations. It detailed that during the judicial examination of said process Kolontay was imprisoned and released only once he was found to be a loyal and good servant of the ruler, welcomed back into the king's grace, and allowed to rule all his manors: his honor was cleansed.[543] Kolontay's good name was "insured" by a bond of 1000 kopa of groschens so that no one would dare smear him again. Sigismund ordered to write down, that

[541] Stanislovas Lazutka, Irena Valikonytė, eds., *Lietuvos Metrika (1522-1530). 4-oji Teismų bylų knyga*, (Vilnius: Vilniaus universiteto leidykla, 1997). Henceforth – 4CRB, case 510. "плачливее жваловалъ".
[542] Ibid. "а тыхъ часов такову речъ на него поведил, што жъ ся стегаеть ку чсти его".
[543] 4CRB, c. 510.

> *"despite* [the bond] *Prince Kroshinsky dared to assail his honor with such summons before your Majesties, which is unheard of since we have already presided over this matter* […] *and relegated it to eternal silence. And it brings us no joy that the things that Gliński started rise again and now prince Kroshinsky aims to rekindle them which does not befit him."*[544]

The letter ends with an order not to issue any summons at odds with the previous rulings of the King, Prince Kroshinsky is deterred against addressing the Council of the Lords again on these grounds. Additionally, Queen Bona asked to remind that proceedings over honor can only be addressed by the royal court, therefore, would the Prince wish to address this issue again, he should stand in front of the ruler himself.

Aside from charges of complicity in Gliński's rebellion, accusations of treason were also perceived as an actionable insult among nobles. On April 23rd, 1529, Matey Obramovich filed a complaint against Stanislav Voishkovich because he "*called me a traitor, and I am no traitor, therefore I wish to litigate.*"[545] The accused did not back out, admitting that he did call him a traitor and will continue to do so because he killed the bannerman Momul.[546] To which the plaintiff erupted, saying that he already litigated over this charge and won the suit. Although there is no record of this suit that I could locate, that case officially had to cleanse his honor from slanderous accusations of murder and prohibit any further spread of said accusations. Upon hearing that the murder of Momul had already been resolved in court, the ruler to turned to the plaintiff asking: did Obramovich "*betray the ruler or forge documents*"?[547] After hearing a negative response, the court

[544] Ibid. "княз Крошынский смел то въчынити и таковым позвом на честь его сягнути и ку вашой милости его позвалъ, што ж есть реч незнаная, о то ся правовати над вырокъ нашъ господарский и лист, бо мы таковые речы вси ускромили и то у молчаньи вечномъ оставили. И не ради то видим, абы ся тые речы знову мели узривати, которого Глинского плодили, а тепер княз Крошыньский хочет их подносити, чого ж ся ему не годить чинити."
[545] Stanislovas Lazutka, Irena Valikonytė, eds., *Lietuvos Metrika (1528-1547). 6-oji Teismų bylų knyga* (Vilnius: Lietuvos istorijos institutas, 1995): 87. Henceforth – 6CRB, c. 110. "што ж, дей, он мене зрадцою зоветь, а ям не есть жадный здрайдца, и хочу ся того справити."
[546] Ibid.: "забил он хоружого Момуля."
[547] Ibid.: "кого он зрадил, господаря ли, листы лъ фальшовалъ".

dismissed the litigants without ascribing any fines or cleansing the name of the plaintiff. However, the ruler established a bond to prevent Voishkovich from badmouthing Obramovich in this manner—100 kopa of groschens should be paid to the realm's treasury was the bond breached. This example already indicates that laws against lèse-majesté were extended to the representations of the sovereign rule before the First Lithuanian Statute came to power, in this case forging the royal letters. The First Statute added forging coins and disobeying the ruler's rightful representatives to that list.[548]

Aside from the accusations of grand treason, disobedience shown to state-ordained officials would be regarded as their insult. The court officials charged with carrying summons to court and enforcing court rulings were the first in line to suffer said insults. Court record books retained some cases brought by the officials serving as the executive branch of the justice system, however, those are few and affirm Natalia Starchenko's conclusion that legal servants accepted verbal assault as an unavoidable professional risk.[549] The insult, in this case, was disobedience shown towards the officer and often was not limited to acerbic verbal exchanges. For instance, in a case dated 1533, Jerzy Ostromechinski, a noble from Beresteisk [Brest, South-west Belarus], sued his son-in-law Jan Ilyinich. The charges were that Ilyunich refused to return the Ostromechinsk manor to him, which he held as a temporary substitute for Ostromechinski's daughter's dowry. Once the plaintiff gathered the agreed dowry sum, he enlisted a court official and paid a visit to Ilyinich to carry out the transaction. However, they found Ilyinich antagonistic, and the intended financial transaction turned violent. Ostromechinski reports suffering a beating, while the court messenger was "shamed."[550] Similarly, in 1556 court official Mikolai Shembel was shamed and beaten while

[548] For a closer analysis of grand treason and honor in normative law, see Chapter 2.
[549] Наталя Старченко, "Возні на Волині в останній третині XVI-на початку XVII ст.: судові урядники чи слуги?" *Соціум. Альманах соціальної історії* 8 (2008): 152-154.
[550] 8CRB, c. 23.

carrying out his direct orders.[551] Regrettably, neither case details the means of inflicting shame. But another, more detailed case, sheds some light on this issue. A case from 1566 records that the court official Mikolai Kozitsa was sent to deliver royal letters to Prince Jan Svirski. He did not find him home but met his wife Anna Ragozyantse to whom he presented the letters. This followed:

> *"And she did not respect those letters nor our messenger and took them, threw them on the ground and trampled over them, and later she turned to him, our messenger, assaulted him with ignominious words and by hand and beat him with no reason, slapped him, moreover she made threats to his health* […]*"*[552]

Kozitsa brought charges on his defamation. Again, his complaint shows plenty of basis for feeling insulted, as he was disobeyed as an officer, moreover, defaming words and a slap (!) were directed at his person. This was a considerable case, actionable by at least three clauses of the First Statute. Nevertheless, the case was annulled since the claimant did not arrive in court. Overall, one can surmise that the sheer disobedience shown to the legal authority sufficed to denigrate the officer.[553]

A later case process provides an example of disregard shown to royal letters. It narrates an encounter between an influential noble diplomat Prince Skumin Tishkevich (c. 1510-1566) and several Kyiv magistrates. On his way with the diplomatic mission to Crimean Tatars, Tishkevich had to pass through Kyiv where he was to obtain some 50 boats employed with rovers. Tensions were high, as the Livonian war against Muscovy was in full swing and Crimean Tatars were in contact with both parties while wielding sufficient power to turn the tide of war to either side,

[551] 34CRB, c. 186.

[552] Irena Valikonytė, Neringa Šlimienė, eds., *Lietuvos Metrika (1562–1566). 47-oji Teismų bylų knyga* (Vilnius: Lietuvos istorijos instituto leidykla, 2011), henceforth—47CRB, c. 124: "а она, якобы того листу и его, посланъца нашого, не учтити и, взявшы тот лист, на землю покинуть и потоптати, а потомъ и на него, посланъца нашого, словы неучтивыми и рукою торъгати се и невинъне его збити, и поличок ему дать, и надъ то еще якобы его одповеди на здоровъе его учынити мела."

[553] Disrespect could take truly denigrating forms, but the present research did not yield examples of the "traditional" form of defamation targeted at court officers: forcing them to consume the summons to court at gunpoint. See Старченко, *Возні на Волині*, 150-151; Julia Mrukowna, "O zmuszaniu woźnego do połykania pozwu" *Czasopismo Prawno-Historyczne* 22.2 (1970): 159–168.

therefore Tishkevich's mission was of considerable political importance. The right to demand means for passage was inscribed into the royal letter, therefore Tishkevich sent envoys in advance to inform the city officials of his arrival, demands, and to give them time to prepare for an appropriate welcome. Instead, his envoys were welcomed with dishonorable words, threats of violence, and were forced to leave without result. They returned to the city for the second time alongside Tishkevich only to suffer the same fate: Kievans did not wish to hear any of the demands and insulted, shamed, and made Tishkevich himself run for safety, even beating 11 people of his consort. Kievans countered these accusations blaming Tishkevich for paying no heed to the regional privileges granted to Kyiv and ordered the arrest of some officials on charges of disobeying the King. The accused magistrates managed to slip away. Eventually, the city acquiesced, Tishkevich reached Perekopa, while in the following legal process Sigismund Augustus forgave Kyiv's insubordination.[554] Overall, these cases indicate that the language of defamation was applied to people and the extensions of royal sovereignty: offices and letters. At times, disobedience and insubordination could fringe on treason, but in these cases, the main charges were debasing the official rank and disrespecting the royal documents.

Treason and disobedience were understood as insults, however, said actions presume asymmetric power relations between the parties. The resulting insult arises from the disrespect shown to the authority invested into a person by their rank or office. Thus, it gives precedence to litigation which restored the challenged asymmetry by the legal process and imposed punishment. However, the logic of honor and shame changes significantly when considered within a more egalitarian setting, such as an encounter among equals. Analyzing insults among peers requires

[554] Neringa Šlimienė, Irena Valikonytė, eds., *Lietuvos Metrika (1559-1563). 40-oji Teismų bylų knyga* (Vilnius: Vilniaus universiteto leidykla, 2015). Henceforth – 40CRB, c. 249.

setting aside the hierarchical logic implied by state-subject relations, instead, it demonstrates precedents that show various linguistic strategies employed to insult. We turn now to their analysis.

"On this, my honor depends:" verbal slights among peers

Personal defamation took many forms and gave reason for numerous legal processes. These could either be targeted to damage the reputation of a peer, almost tangible within the local communities, or to injure their personal honor. Admittedly, injuries to the personal sense of honor are hard to substantiate, however, some cases mention it as a deciding factor that led to litigation. The source material being what it is, we can only glimpse at the cases that were deemed litigable and worthy to be heard in the royal court. Hence, one must bear in mind that outside the court existed many other strategies to insult honor.

Nevertheless, before analyzing hurtful rhetorical strategies it bears understanding the demographic component of cases brought to court over matters of honor. Here we concern ourselves primarily with the dealings among nobles, who, in a legal sense were supposed to be equal. Except they were not, not until the 1568 Brest Sejm when magnates and princes revoked their legal and political privileges, such as their right to be judged exclusively by the ruler or to serve as in the most important political posts. Nevertheless, even with these normative barriers within the noble estate gone, the magnates and princes remained a socially distinct group, surpassing other nobles in every objective parameter. The social relationship between magnates and other nobles was based on client-patron hierarchy ever since the mid-15th century when the magnate power was institutionalized into the Council of the Lords. This social distance between the elite group and numerous nobles suggests that magnates could not have held other nobles their equals. As argued in the introduction, insults are most effective within the bounds of honor group, where people owe one another recognition and respect and cannot easily dismiss the words of a

peer without suffering reputational damage. Having in mind that ordinary nobles and magnates shared in much the same privileges, regarding them as peers is not without precedent. Moreover, their clientage networks bind lesser nobles with other magnates and therefore an insult from the client of another magnate clan could be interpreted as an insult of another peer by proxy of a lesser noble. However, these are hypotheses, and to test them we begin with the question—did the hierarchies within the noble estate play a part in the practice of litigation over matters of honor? Could a middling noble offend a prince?

An absolute majority of processes regarding defamation were initiated by the nobles of equal standing. In 1555 Olekhna Chesheyko sued a Vilnius district noble Mikolai Komarovski claiming that Komarowski "*slandered him with defaming words.*"[555] The accused did not stand in court but sent a letter, stating that he has "*no memory of saying anything malicious of him and holds him the same as other good people perceive him,*"[556] and this sufficed for litigants to settle.[557] Nevertheless, there were exceptions to the rule. Nobles of highest rank addressed the royal court to litigate against ordinary nobles on questions of reputation.[558] For instance, in 1534 Prince Vasili Czetwertyński sought redress claiming that the ruler's courtier Grishka Fedorovich "*brought shame upon him and spoke many words harmful to his honor.*"[559] The insult must have been particularly hurtful, for it was uttered in Lutsk castle with Lutsk Starosta Lithuanian Prince Fiodor Michałowicz Czartoryski present.[560] Another Lithuanian Prince Fedor Zasławski brought a similar

[555] 34CRB, c. 84: "о примову словы дотклывыми на честь его".
[556] Ibid., "же ему в памети не есть, штобы дотклывого ку немо мовиль, маючи его за такового, яко иншуе люди добрые мають его".
[557] 34CRB, c. 86 is most likely a related case, since both claimants served the same patron family and brought same charges against nobles of Vilnius district. However, in this case the accused did not stand in court, therefore the end of the case is unknown.
[558] This accelerated after the adoption of the Second Lithuanian Statute (1566) when the magnates and princes gave up their privileges to a separate court. The following example is found due to the judicial practice of litigating according to the status of the accused, which, in this case, is a simple nobleman.
[559] 8CRB, c. 297 "его соромотил и многие слова шкодливые ку чсти ему мовил".
[560] Ibid.

charge against Eustakhi Jatsynich, who supposedly chased him away from Prince's hunting grounds and beat him and his servant on the public road, thus bringing great shame upon them.[561] It turned out, however, that the prince had lied and in fact he broke into Jatsynich's hunting grounds, therefore the court ruled against the prince but ordered him to bring a separate case and seek out restitution for beating.

Additionally, princes reached out to the ruler seeking solution to personal conflicts. In 1561 Lithuanian Prince Lukasz Świrski brought a charge against a Ruthenian Prince Jerzy Tyszkiewicz Łohojski, claiming that he "*assails me with gnawing words*" and demanded the ruler's interference.[562] Dated at the end of November 1561, the case retains a formulation that had to be a hard pill to swallow for a prince: Sigismund Augustus replied that he had more important things to do and postponed the case indefinitely. And indeed he did, as it was a crucial period in the first Livonian war against Muscovy (1558-1561). A case from 1568 shows that nobles of lesser rank did sue princes for defamation, as the judge of Ašmena district land court Stanislav Stanislavovich did, claiming that the abovementioned Prince Lukasz Świrski insulted him.[563] Hence, several examples support the argument that nobles of the highest rank sought justice in the ruler's court on charges against nobles of significantly humbler lineage.[564] Moreover, nobles sued princes over defamation as well. These examples and cases that are discussed later confirm that the hierarchies of rank and status did not necessarily place magnates beyond the grasp of ordinary nobles. However, litigation over said charges between princes and other nobles was admittedly much less common than that among ordinary nobles. Even less often we see examples of litigation against

[561] 4CRB, c. 362.
[562] 35CRB, c. 167.
[563] 35CRB, c. 333. This case will be discussed later in more detail.
[564] Another case of litigation between a prince and a noble 35CRB, c. 333.

the members of the Council of the Lords. Nevertheless, the royal court was the institution where one could settle such arguments.

Ruler's court also provided the grounds for litigation between nobles and men of the cloth. In 1551 Lutsk-Ostroh Vladyka Feodosyi launched several lawsuits, one against Prince Fiodor Ostrovicky for defamation. Vladyka's representative narrates that Prince brought shame over him when the Prince attacked Vladyka with dishonorable and completely unfitting words in a public meeting at the Lutsk castle with all nobility of Volhynia district present.[565] The Prince did not attend the trial. However, Vladyka himself faced a charge of defamation brought by Prince Matiej Ostrovicki, claiming that Father Feodoyi defamed him and addressed the Prince with gnawing words.[566] This Vladyka's representative did not mention, however, it seems that in 1551 the relationship between the Princes Ostrovicky and Vladyka Feodosyi were tense but both sides chose to ignore the court summons on defamation.

In 1563 a royal courtier Vasilei Zahorovski registered a complaint that Vladimir's Vladyka Ivan Borzobohatii and Stepan Olehnovich did not honor the terms of agreement set by the court-appointed judges. The claimant relates that their legal encounter began when Borzobohatii's son Vasili insulted him at his father's behest. Moreover, Zahorovski claimed that he served as a court official and was charged with acquiring a certain amount of money from Borzobohatii's manors and they hindered carrying out this duty and disregarded the royal letters. Bearing the charges of insulting him personally and undermining his authority as an appointed official of the law, Zahorowski turned to the court. The process ended in his favor and judges helped to reach an agreement that obliged Ivan Borzobohatii to visit Zahorovski's house in Vilnius and "humble

[565] Российский государственный архив древних актов, ф. 389 (Литовская Метрика), ед. хр. 239 (Henceforth—24CRB), 99v-100.
[566] 24CRB, 17.

himself" in front of the claimant under the threat of a fine.[567] Zahorovski employed a court official to visit Borzobohatii and inform him that Zahorovski will leave Vilnius for Volhyn on the day after tomorrow when the public clock strikes at 10 AM. Unsurprisingly, no apology was offered and on his way out of the city, Zahorovski visited the notary to register the fact that Borzobohatii failed to honor their agreement thus rendering it null and void. He added that he will seek justice through legal means and left.[568] Another example of litigating against an Orthodox priest tells the violent story of Dmitro Burenski. In 1566 he represented his son Aleksandr and sued Mark Zhuravnitski, Vladyka of Lutsk-Ostroh eparchy. The charges were orchestrating assault on Buremsk fort, which Vladyka's son Jan Zhuravnitski and his servants carried out, stealing some 1200 livestock animals. Charges included multiple home invasions and violent actions, including verbal defamation of Dmitro Buremski with dishonorable words.[569] However, the case had to be postponed as Zhoravnitski fell ill on his way to the court session, therefore the final ruling remains unknown.

That said, research suggested several categorizable strategies and the first among them is debasing, i.e., an insult tarnishing the status of a peer. This type of insult gains significance by casting doubt on the belonging to their estate. Preliminary research into archives of other courts shows that these insults are often uttered and resolved in the first instance court and this presumption is substantiated by the recent analysis of litigation in Land courts in the latter part of the 16th century.[570] Claims of ignobility were also considered a debasing insult but their importance was far greater as it threatened to lose the social status, therefore these specific legal processes are

[567] 47CRB, c. 45: "Иванъ Борзъдобогатый, помененый владика володымерский, за тую зельжывость его до господы его шолъ и в томъ ся ему упокорыл".
[568] Ibid.
[569] Lirija Steponavičienė, Irena Valikonytė, eds., *Lietuvos metrika (1565–1566). 50-oji Teismų bylų knyga* (Vilnius: Vilniaus universiteto leidykla, 2014), henceforth—50CRB c. 31: "о зелженье его самого словы неучьстивыми".
[570] Darius Vilimas, *Bajoras LDK žemės teisme (1566-1600)* (Vilnius: Lietuvos istorijos instituto leidykla, 2020).

tackled in a separate subchapter.[571] That said, cases brought to the royal court over debasement are few, but those that do consist of insults calling a noble person a commoner, a peasant, a bondservant, or any other word which implies that person was anything but a noble. Therefore, the only accusations that could classify as debasement without threatening the social status are instances when the insults were used as "fighting words" – those meant to inflict emotional hurt instead of implying possessing undeserved privileged social status. Most often, this manifested by refusing to repeat the said accusation in court, as the case Stanislav Jurevich brought against Marina Minevich in 1516 attests. He claimed that she assaulted his honor by calling him a *smerd* (Ruth. смерд) – a serf of a particularly uncomely variety – and continued to beat his peasants.[572] Minevich denied the charges and confessed to neither the beatings nor debasement. The court ruled that these words cannot harm Jurevich's honor, since she retracted the insult in court. While *smerd* was considered a nasty insult, Minevich's actions insulted Jurevich just as much as her words did. Assault on landed property or house servants, who were considered a part of the estate, was considered an assault on the landowner's honor by proxy. Violence brought upon any kind of property reflected badly on the reputation of the head of the household, who owes protection to his servants. This case is especially hurtful; since it was a woman who assaulted his property thus effectively challenging the patriarchal gender norms of both men and women.[573] Faced with such a multifaceted challenge to his good standing, Jurevich was forced to find ways to resolve it and the legal path was only one among several options.

Another strategy to insult was to allege having committed one of the grand crimes without sufficient proof. For example, Jakob, a priest of Lukonica [West Belarus], litigated with the ruler's

[571] See subchapter *Humiliation.*
[572] RIB: 315, c. 238: "штожь дэй прыганила мы ки чти и назвала мя смердомъ".
[573] Further examination of the gendered aspects of honor are pursued in the chapter "Women in court."

courtier Ivan Esman for the better part of the year 1533. Their earliest encounter that we know of is violent, the priest sued Esman for having occupied church land and garden, including the people living there, who suffered numerous beatings and a great deal of material loss.[574] The courtier denied the charges and as the judicial process continued, the tension grew, culminating in the priest calling Esman a robber.[575] Upon witnessing these words, the court immediately halted its proceedings and postponed them for three days. After the brief hiatus, the ruler welcomed the parties with a warning: the priest should not slander Esman because questions regarding his honor play no part in the case.[576] Moreover, the ruler ordered to address the priest's insult in the court of Vilnius' bishopric. As this example shows, insults had significant influence over the judicial process, and as other examples will show, gnawing words could prove strategic tools in the courtroom. Additionally, we see that the premonition inscribed into the normative law of honor being a matter exclusively litigated in the royal court does not stand in legal practice. Seeing that this insult inflicted reputational damage, the ruler directs further litigation over this matter to the ecclesiastical court, should the courtier seek restitution for being called a robber. As this example had shown, charges of insult often played a part in a larger lawsuit.

Allegations of crimes interpreted as insults feature in several other cases, among them, accusations of stealing play an important part. In a case dated 1540 Prince Vasili Bagrinovski expressed a sentiment of personal hurt while litigating over other charges. He was sued by Vojtech Nasilovski to the court of the Council of Lords for unlawful imprisonment of Nasilovskis' servant named Grishka.[577] Prince Bagrinovski countered this claim saying that his actions were in

[574] 8CRB, c. 128.
[575] 8CRB, c. 138: "а затымъ клебанъ назвал Есмана розбойником."
[576] 8CRB, c. 143: "плебань того не мел Есману мовити, во ни в жалобе его, ани на листе пана воеводы троцъкого ни в чомъ чьсти Есмановы не дотыкаетъ."
[577] 6CRB, c. 244.

accordance with a previous agreement between himself and Nasilovski and since the plaintiff failed to honor its terms, Bagrinovski chose to imprison Grishka to motivate him to uphold his part of the deal. However, the court recognized the illegality of such actions and ruled to restitute Grishka by the amount of 3 rubles of groschens on the grounds of illegal imprisonment.[578] After a ruling in his favor, Nasilovski accused Prince Bagrinovski of seizing 37 kopa of groschens that Grishka was carrying. The Prince responded by saying: "*By God, you will not prove this against me for I have not taken the money, neither am such a person as you imply*."[579] The Prince took this allegation of thievery as an insult and added that this process cannot continue in this court, since, as Prince Bagrinovski claimed, "*on this my honor depends*."[580] Surely, in this sense honor was meant to be read as reputation and such allegations were taken as personal insults. Another example of a similar sentiment is recorded in a winding process over the right to legitimate officeholding in the city of Bielsk [East Poland] dated March 20th, 1557. Prince Jerzy Tyszkiewicz claimed that his accusers plotted against him with no fault of his own and sought to remove him from his rightful position. Moreover, in doing so, his opponents defamed him and encroached on his dignity by calling him a violent, bloodthirsty man (Ruth. *кгвалтовник*, Pol. *gwałtownik*) and accusing him, "*an honorable knightly man, of stealing*."[581] Hence we see that both princes were touchy to the matters of their personal honor even more so since, as discussed in the previous chapter, stealing was regarded as a shameful crime that was met with shame-inducing punishments. Thieves were famously hated and any imputation of said crime was taken as a

[578] Interestingly, as this case shows, imprisonment was regarded an offense against people of common descent. Further analysis of imprisonment as an insult is pursued in the following section.
[579] Ibid., p. 175: "Дали, дей, Богъ, того на мене не переведетъ, бомъ, дей, тых пенезей не отнималъ ани эстем таковыи чловекъ, якъ онъ на перъсуну мою менуэтъ.".
[580] Ibid.: "бо, дей, то мне о честь идетъ".
[581] Irena Valikonytė, Lirija Steponavičienė, eds., *Lietuvos Metrika (1555-1558). 37-oji Teismų bylų knyga* (Vilnius: Lietuvos istorijos instituto leidykla, 2010). Henceforth – 37CRB, c. 40: "и при том пан Юри мовил, ижъ они невинне а змысльнье его в том ославили и на почстивость доткнули, кгвалтовником меновали и лупъ ему, почстивому человеку рицерскому, приписали".

personal offense. Nevertheless, it was a crime very hard to prove if not caught red-handed, therefore erupting in defiance of said accusations often sufficed to secure a favorable ruling.

But what was the target of such insulting accusations? The wording of both aforementioned cases suggests that the main incentive for insult came from misalignment of personal image and the accusation. That said, the accusations of thievery insulted princes' sense of honor which they were willing to defend in court. Additionally, nobles of lesser rank did pay attention to propriety, as an encounter between Sofia Kmitova and Mikhal Krishinovski in 1561 attests. Sofia was represented in court by her husband Jan Kmita – the holder of Ukmergė and Anykščiai. They brought charges against Mikhal Krishinovski, charging him with an attack of their household, personal affronts against his wife, and denigrating a delegated court official responsible for witnessing the sustained damage. Kmita accused Krishinovski of "*directing improper words at my wife, disrespecting the ruler's officer and himself, since no dignified noble should launch a personal attack against others with such words and in such inconsiderate and hasty manner*."[582] Again, in this accusation we see a misalignment between the proper and actual conduct, not unlike the accusation of thievery that princes suffered. Standing in the ruler's court, Krishinovski denied those allegations, saying that he did not affront Kmita's wife because the ignominious words he directed at his servant Jan Vasilevich. And Krishinovsky does not "*renounce them now since that person wronged me many times*."[583] Despite the manifold defamations that Krishinovski was charged with, he succeeded to avoid any responsibility by misdirection. Overall, offenses to the sense of honor were remedied in court but only few litigants framed accusations as hurtful to their

[582] 35CRB, c. 154. "он дей перед тым же вижом словы непристойными сегнул ся на особо его, врядника господарского не уважившы, дей, того в себе, што пристоит каждому почтивому шляхтичу, але своволне, дей, и нерозмисьльное дотькливе меновал на его усово Крошиловский некоторые слова."
[583] Ibid.: "на онъ час мовиль и их причитал наместнику его Ивану Васильевичу и теперь, дей, того не отступую, во ми, дей, тот врадникъ его жатеревский много завинил."

sense of honor or propriety. Many more cases emphasized reputational damage instead. Lastly, one must note that the cases emphasizing hurt sense of honor were brought later in the period and were likely to increase in number in sources from the later period.

Nevertheless, elevated princely status did not necessarily translate into a degree of honorability and higher moral standards. As a counterpoint to the aforementioned cases stands a process from 1534, when Prince Piotr Gorchak sued Prince Volodimer Bagdonovich Putivlski, claiming that "*once he returned from Muscovy, he served at my court but later he deserted my service and took my horses without my approval […] and he is no son of Prince Bogdan Putivlski, but of Vasili Skochkov from Velikie Luki*."[584] Answering the summons Putivlski staunchly rejected such claims: "*I have never served you, neither did I take any of your horses*."[585] In addition, Putivlski provided a letter Gorchak sent him as proof against the accusations, where Gorchak addressed him as his lord and asked to provide him with horses and money. Moreover, the letter bears a threat: Gorchak writes that were his demands declined, he would accept a bribe from another prince and sue Putivlski, moreover, Gorchak writes he did not accept the bribe yet but would "*prefer the highest payer*." Gorchak must have come across some proof that Putivlski was not who he claimed to be and tried his hand at extortion.[586] However, he incriminated himself by writing the letter, and with evidence against him surmounting, Gorchak must have realized that his attempt to blackmail Putivlski backfired. Gorchak confessed to writing the letter, therefore, the

[584] Laimontas Karalius, ed., *Lietuvos metrika Knyga nr. 226 (1532–1534). 7-oji Teismų bylų knyga* (Vilnius: Lietuvos istorijos institutas, 2019). Henceforth – 7CRB, c. 102: "Як ок з Москвы прыехал, в тотъ час в мене служыл, а потомъ отехал от мене прочь, чоломъ мне не ударывшы, и кони мои без моего ведома побралъ […] иж он не есть сын князя Богдана Путивльского, але дей есть сынь Васильев Скочьков прыездчого з Лук Великих."
[585] Ibid.: "я николи в тебе не служыл ани конеи твоих жадных не брал."
[586] The truth regarding Putivlski's lineage was quite complicated. Prince Volodimer was the son of Bogdan Gliński, Czerkasy and Putyvl' headman, whom Muscovites captured when they annexed Putivl [Putyvl', North-West Ukraine] in 1500. Prince Bogdan Gliński was forced to swear fealty to Grand Duke of Muscovy Vasili III and so the underage Prince Volodimer was made subject of Muscovy. Prince Volodimer Putivlski returned to the Grand Duchy in 1527 and was King Sigismund the Old gave him his family lands back. See Михаил Бенцианов, *Служилые элиты Московского государства. Формирование, статус, интеграция. XV–XVI вв.* (Центрполиграф, 2021): 212.

ruler Sigismund the Old sentenced Gorchak to prison for slander and cleansed Prince Volodimer Putivlski's honor.

Aside from thievery, baseless allegations of murder were regarded as an insult and warranted legal recourse to cleanse the reputation. An example of such a case took place in Homel [Gomel, East Belarus] 1561. This case narrates an encounter between nobleman Isaak Zemka and a soldier Jan Nagorski, whom Zemka accused of violence and slander. It was the second time they met in court, as the Homel court of the first instance proved incapable to resolve their conflict and restore peace. The transcript of the first trial session recorded slanderous words: Nagorski called Zemka a *potvartsa* (Ruth. *потварца*, Pol. *potwarca*) – a knave or a slanderer – additionally, a murderer, and not a nobleman.[587] Hence, the soldier's words targeted the nobleman's character by implying dishonesty, reputation through allegation that he committed murder, and status by implying ignobility. This last accusation went beyond the jurisdiction of the Homel court and obliged its officials to send the case to the ruler's court. They were to stand before royal majesty on November the 4th, 1561 in Vilnius. However, before said date, the litigants struck an out-of-court settlement and registered with the royal chancellery thus making it official. They agreed that Nagorski's words did not harm Zemka's honor and good name because he failed to prove them, effectively forgiving any monetary retribution Zemka could have otherwise claimed. In exchange, Nagorski agreed to thenceforth regard Zemka as "a good noble person."[588] Such settlements were rare and the reasons for reaching said agreements were rarely laid out, but one can surmise that prolonging a costly process was not in the interest of either side, especially if the outcome was uncertain. And it might have been quite blurry if Zemka did not have the means to properly prove

[587] 35CRB, c. 139: "потварцою, мужобойца, нэшляхтич." Same accusation is raised in, Ibid., c. 154.
[588] 35CRB, c. 139.

his nobility in the royal court. Be it the case, he stood to lose much more than he could have possibly hoped to gain. Overall, allegations of grave crimes, such as stealing or committing a murder, passed as insults because they cast a shadow on the personal reputation and carried out acts outside the nobility's honor code.

In addition to the abovementioned epithet of a knave, accusations of lying were often taken to heart. Honor-based societies often have a pronounced zero tolerance towards lying as it is regarded as one of the fundamental ways to prove oneself unworthy of respect.[589] However, in some cultures lying might be acceptable and successfully deceiving a peer could have been a source of honor, but it inevitably shows disrespect towards the person lied to, as honor was often a zero-sum game: one had to lose for another to win. Therefore, public accusations of lying remained a grave insult despite it being accepted or despised and were prone to provoking a violent reaction as witnessed in the case documented on 29th of January, 1520.[590] Lavrin Mikolaevich, governor of Radun [West Belarus], accused the ruler's courtier Tunkel of beating him and so bringing disgrace upon his person. Mikolaevich tells that it happened during their stay at Jan Jundilovich's home, where many good people (meaning, nobles) were present. Tunkel did not shy away from the accusation and admitted hitting his face with a mug of mead because Mikolaevich accused him of lying.[591] Mikolaevich responded having done no such thing and since Tunkel personally confessed to having hit him, the court ruled Tunkel to pay restitution for inflicted

[589] Cf. Edward Muir, *Mad Blood Stirring: Vendetta in Renaissance Italy*. (Baltimore and London: Johns Hopkins University Press, 1998).
[590] On the interpretation of lying in an honor culture, see Julian Pitt-Rivers, "Honor and Social Status," in Jean Peristiany, ed., *Honour and Shame: The Values of Mediterranean Society*, (Chicago: University of Chicago Press, 1966): 37.
[591] RIB: 1395, c. 113: "и знаюся къ тому, ижъ есми вдарилъ его скленицею зъ медомъ за слово его збитное, иж онъ задавалъ мы неправды."

disgrace (*bezchest'e*).[592] Before pronouncing the verdict, the appointed judge Mikołaj *Amor Polonia* Radziwiłł (1470-1521) added that:

> *"there is a custom in the knightly law: for untruth, those who know the knight's law and lives by it, should hit the mouth with the hand rather than to assail in such manner."*[593]

This verdict is very intriguing, as Radziwiłł was a well-traveled and well-educated magnate, and could as well be referencing the chivalrous honor code he witnessed personally. In any case, this is an example of the judge applying a clause of the customary law that was not inscribed in the First Statute. Only the Third Lithuanian Statute pronounced assault with an ignoble weapon an actionable offense to the honor of a nobleman that overshadowed the physical hurt.

Overall, as the selected cases aimed to illustrate, princes and middling nobles alike were concerned with defending their honor through legal recourse. Rank did not play a heavy role within such cases it seems, however, the office did. The disregard shown to official authority could border on much heavier charges of treason but oftentimes was downgraded to charges over personal disrespect shown towards the officer. This clause also stood in court, and, perhaps, especially there, as normative law attests to the dignity of said institution. Dishonoring or harmful words could disrupt the court session and, perhaps, partly for this reason few surviving cases from the archive of the royal court contain the exact words that gave precedent for litigation, instead, they are most often substituted with euphemisms. Nevertheless, the surviving examples reveal several effective strategies of insulting. Verbal attacks directed at status, personal character (especially accusations of dishonesty) or reputation by alleging having committed a grave crime such as theft or murder were regarded as litigable offenses.

[592] Further analysis of this specific restitution for disgrace is carried out in the subchapter *The Price of Honor*.
[593] Ibid.: "а есть тотъ обычай въ праве рицерскомъ: за неправду, хто права рыцэрский знаеть и их вживаеть, мелъ рукою погубокъ дати, а не тымъ обычаемъ сегатися."

It remains quite uncertain what motivated the litigants to address the court, but litigation remedied reputational damage and offered an opportunity for monetary gain if the case would be won. Additionally, it is any baseless accusation of a serious crime would necessitate legal recourse to avoiding unwarranted criminal responsibility. Few judicial sources offer a glimpse into the psyche of the litigants and reveal their personal feelings towards the issue beyond the limits of reasonable doubt. Some of the analyzed cases employed emotionally charged arguments of wounded honor and while we may not discern the honesty of said statements, the very fact that those phrases were uttered means at least that they were deemed potentially helpful to winning the case. Nevertheless, insults could have taken much more tangible forms that entailed physical as much as emotional turmoil. We turn next to the examination of physical insults.

Physical insult

Violence could carry defamatory significance, but not just any violent act did. "Knightly" ways of violence existed with its foremost example being duels.[594] Otherwise, just about any brawl could entail a measure of embarrassment for all parties involved, however, once such encounters found their way to court, the main charges were due to the violence suffered, and the victims were often restituted as victims of violence. Such cases rarely indicate a connection to reputation as perhaps such encounters were commonplace in the society of arms-bearing nobles. However, some cases hint at the existence of violence of particularly defaming variety, which could be termed physical insults—the polar opposite of "knightly" response. In fact, the aforementioned case over an

[594] Strangely, dueling is not a well-researched subject in scholarship on the Grand Duchy. For the latest entrance and historiography on the topic, see, Наталя Старченко, "Поєдинки у шляхетському середовищі Волині (остання третина XVI – початок XVII ст.)" *Український історичний журнал* 504.3 (2012): 49-77. For a polemic with this article see Володимир Гуцул, "Звичай шкодливий в Речы Посполитой жадного помноженья и пожытку не чинить..." *Український гуманітарний огляд* 18 (2013): 177-200. For the author's response, see Наталя Старченко, "З ким і про що полемізує Володимир Гуцул?" *Український гуманітарний огляд* 18 (2013): 201-209.

inappropriate violent response to the insinuation of lying stands as a good example of said physical insult: assault using a mead mug was insulting rather than plainly injurious, therefore, the honor of the victim had to be restituted. Nevertheless, the distinction between physical insults and outright violence is blurry and the following pages document the search for a clearer demarcation of these phenomena and aim to further the understanding of their variety and significance.

We begin this search with an encounter between two nobles from a case dated 1528. The plaintiff, Gintsa, brought this charge: "*I sat at a celebration in Vasiliškės, when he brought shame upon me, poured over my eyes, and tore the cap off from my head.*"[595] To what the defendant, Pavel, replied "*I sat with him and we drank mead at a tavern; we drank for one groschen, and then a second, then he himself took the hat off of his head and offered it to me for half a groschen, and I gave him that half a groschen and took the hat. I did not take it away, nor did I pour his eyes over.*"[596] Gintsa did not agree with such rendition of events and shouted that "*there were people, but all of them his friends and I do not dare to rely on them but I want to swear an oath on* [the truthfulness of] *my complaint.*"[597] The court ruled that the case was not important enough to invoke oath-swearing and ruled in the defendant's favor. Pouring one's eyes over[598] is a colloquialism for being heavily inebriated and in this case, the suffered disgrace was at least partially occasioned by immoderate alcohol intake. However, one must bear in mind that hats carried a symbolic significance in Early Modern societies, hence its removal was an act of symbolic transgression.[599]

[595] 6CRB, c. 4: "Седелъ есьми з нимъ на поседеньи у Василишъках, а такъ мя он зсоромотилъ и очи залилъ, и чепецъ силою з головы сорвал."
[596] Ibid.: "Седелъ я з нимъ, и пыли есмо мед у корчме, выпили есмо по грошу и поу другому, а такъ онъ сам, знявъшы чепец з головы, и дал мне у полугрошку, и я ему полгроша дал а чепецъ възялъ, а самъ есми не знималъ ани очью не заливал".
[597] Ibid.: "были тамъ люди, але все его приятели, а такъ на нихъ слати ся не смею, але за своимъ жалалемъ хочу присягнути".
[598] Ibid. "очи залить".
[599] The significance of headgear, hair, and aggressive tampering with either is discussed in Chapter 2. However, a notable entry in this discussion is Rudolf Hadwich, *Die rechtsymbolische Bedeutung von Hut und Krone*. Doctoral

Hats indicated belonging to an estate, communicated rank, and regional or religious belonging; in other words, hats were used to indicate one's place in society. Additionally, their material worth was not necessarily negligible, which was a factor that came into the equation when considering whether to petition the court and seek redress. It seems probable that a physical act of the insulting variety carried a disgraceful symbolic charge. Therefore, physical insults should exceed the realm of the physical by either their degrading quality or the circumstances of their occasion.

However, what were these symbolic actions that could turn an assault into an insult? One useful case from 1520 provides some insight. Vitebsk Voivode Jakub Kostevich addressed the ruler's court contesting the ruling of the first instance court that ordered his servant to pay restitution for disgrace (*bezchest'e*) to a noble Natskus Vaizbunavich. The plaintiff said that there was no ground for ascribing this restitution since they only clashed over horse ownership and Vaizbunavich was neither "*shamed, beaten, nor imprisoned*."[600] Voivode's words provide a clue worth exploring.

Imprisonment

Imprisonment is the clearest of the mentioned reasons for a physical act to be regarded as insulting, but it is not without some inconsistencies. As detailed in the previous chapter, normative law made much broader use of imprisonment as a punishment in the Second and the Third Statutes. Then the state ordered criminals to be jailed either in the tower, which was perceived as the noble prison and often reserved to nobles, or the castle basements where the commoners and murderous nobles were kept. However, unlawful imprisonment was a much less defined category. As the cases detail,

dissertation. Mainz, 1952, while the contrary opinion could be found in Maija Jansson, "The Hat Is No Expression of Honor," *Proceedings of the American Philosophical Society* 133. 1 (1989): 26-34.

[600] RIB: 1407, c. 117: "во не былъ соромочонъ, ани бить, ани вязанъ".

methods of limiting personal freedom varied from "binding into a brick" or chain to "throwing into the cellar" of a private manor, whereas magnates could use the state ordained places of incarceration to their personal needs. Any kind of limit unlawfully imposed over nobles was regarded demeaning and as act contradicting noble privileges: every noble had legal immunity according to the *neminem captivabimus nisi iure victum* clause in the 1447 privilege of King Casimir.

An early case relates to the process of breaking this right. In late 1510 an Eišiškės district nobleman Mikolai Ratskevich sued another noble, Andrei Jokubovich. The plaintiff complained that he was imprisoned, or to be more precise, taken as insurance once Andrei did not pay his personal debts. The defendant's debtors held Ratskevich prisoner until Jakubovich settled his debts, which lasted a week. The court ruled in the plaintiff's favor that the accused ought to pay restitution for disgrace (*bezchest'e*) to the claimant of the sum nearly thrice the amount he owed: 12 rubles of groschens.[601] A case from 1524 repeats that unjust imprisonment was regarded as a sufficient reason for filing a suit for defamation.[602] But a case between Vasilii Briants and Jurii Ilyinich conducted on May 9th, 1522, does not classify it as a shameful act. The plaintiff laid out that Ilyinich ordered his servants to assault his manor. That they did, proceeding to rob and pillage it, as well as to beat the owner: Briants was captured, brought to Ilyinich's home, and swiftly imprisoned. Briants' side of the story was not contested, as Ilyinich neglected every court summons he was issued. Therefore, due to contempt of the court, Briants won this case and the ruler adjudged retribution for the violence he suffered. The ruling does not mention any degrading connotations that unjust imprisonment carried.[603] However, the unlawful imprisonment that

[601] RIB: 467, c. 350.
[602] 4CRB, c. 141.
[603] RIB, c. 358, p. 1077.

Briants was subjected to, as well as the attack on his home and servants, were assaults on nobleman's honor, one of which was direct, limiting his freedom, and another carried out by proxy—assault on his manor insulted him as the head of the household.

Another example was a case brought in 1528 by Stanislav, a noble who sought retribution for his wife's shame. He brought a case against Dobka, the administrator of the ruler's manor where Stanislav served. Dobka claimed that some 30 roosters went missing and he went to Stanislav's house aiming to retrieve them. He was not home and Dobka came across Stanislav's wife and, according to the accusation, continued to "*shame her, bind her into a wooden brick*."[604] Binding into a brick could be interpreted as an unlawful restriction of movement that would not be applied to nobles by any of the Statutes. However, the court ruled that it was in the bounds of Dobka's rights to seek out those roosters and since the transgression was committed against the ruler's property, Stanislav should forget about any form of restitution.[605] This is an unusual ruling since neither a proper ingress into the accusation of stealing nor suitable restitution were considered. Moreover, likely, binding was not the only shameful act his wife had suffered, as *shaming* a woman could have been a euphemism for rape. However, this charge is not elaborated in the case and remains murky. What comes out clearly though is that Stanislav held an unlawful binding into a brick not only a defaming act but also an actionable offense.

Indeed, unlawful imprisonment was regarded a shameful and actionable offense throughout the period. An encounter in 1560 between a Poznan *voiski* – an official who guarded the estates of nobles gone to war – Jan Krizhanowski and Konstanti Kuntsevich resulted in

[604] 6CRB, c. 130: "и над то еще жону мою соромотили, у колоду сажали". For more information on laws of imprisonment, see *Chapter 2* subchapter *Shameful punishments*. More on the practices of imprisonment according to the Lithuanian Statutes, see Вікторія Пальченкова, "Еволюція тюремного ув'язнення в трьох редакціях Литовських статутів," *Держава та регіони. Серія: Право* 2 (2011): 17-23.
[605] 6CRB, c. 130. 1528 06 16, Vilnius. Another case mentions imprisonment of Kaunas' citizen 37CRB, c. 42.

numerous slights and injuries. Krizhanowski was certain that Kuntsevich killed his brother and claimed that it had been already proven in a court of the first instance where Kuntsevich was pronounced a murderer and banned out of the realm. However, since Kuntsevich contested this ruling and ignored the punishment as unlawful. Therefore, Krizhanowski realized that law failed him and decided to take matters into his own hands. Once Kuntsevich reached Vilnius on his way back from the theatre of war (Livonia), Krizhanowski assaulted and severely injured him, then took him hostage and threw him in prison. Kuntsevich initiated the legal process to claim restitution for faults committed against him. Krizhanowski motivated these violent actions by the previous ruler's order to capture Kuntsevich, an injury of his personal honor, as well as the memory of his brother. Once Krizhanowski reminded the court of the previous ruling and the accusations of murder, the plaintiff brushed them aside: *"he asked so that such indignity, wounds and imprisonment, that Krizhanowski subjected him to, would be settled first and in regard to the murder of Mikolai Krizhanovski he will litigate about it and prove his innocence once he will be summoned to court in a proper manner."*[606] Again, the ruling of the case is lost, but it is quite clear that Kuntsevich took imprisonment as a personal insult.

Nevertheless, the majority of the cases regarding imprisonment present it as an outcome of unmotivated violence. For instance, the ruler's marshal and scribe Jan Shimkovich sued Jakub Podolski with the following accusation:

> *"having forgotten the superiority of his royal highness and public peace, during the current time of war, ignoring the military service to his highness the ruler and the land,* [Podolski] *gathered many people, his companions, and captured an officer from Hrodno Petr Bartoshevich on a public road, a nobleman, a good person, who was on his way back from the Zhirmuny* [Northwest Belarus] *church with his company, on the day*

[606] 40 CRB, c. 76: "и просил, абы тая зельживость, раны и везенье от Крижановского первей было ему нагорожоно, а о голову Миколая Крижановского, кгды будет звычаем права посполитого позван, он в томъ исправедливити ся и невинность свою оказать хочет."

> *the Lord was born on, this year* [15]*64 December 25th, on Monday* [Podoski] *intentionally, violently and with no fault of his* [Bartoshevich's] *own, captured that officer and brought him to his own house in Lida district and threw him into prison, kept him there for a long time and tortured him."*[607]

It was coupled with several other accusations of violence, thievery, and disobedience to the ruler, but the contempt to the court was the straw that broke the camel's back: the accused did not stand in court and therefore the ruler decided to banish him from the land, claiming that Podoski disregarded the "*highness of the ruler's office and the force of the public law, dared to neglect the ruler's orders and therefore for such disobedience and his absence [the ruler] decided to banish him from his highness' state.*"[608] But before that, he had to repay the damage he caused and restitution for violence to Petr Bartoshevich amounting to 20 kopa of groschens.[609] Banishment was a severe punishment and although his crimes were grave and many, under normal circumstances they would not warrant such retribution.

Turning back to the matter at hand, what could have motivated unlawful imprisonment? As seen above, it was a measure used to extort debts as well as part of personal vendetta. Another case suggests that arbitrary imprisonment could be intended as a sign of dominance. In 1565 Theodor Kopot was sued for assaulting the manor and cruelly imprisoning nobleman Kuzma. In doing so he broke the bond established by previous litigation, moreover, the royal court ordered

[607] 47CRB, 74: "пропомъневшы зверхности его королевское милости и покою посполитого, под часомъ теперешнимъ военным, не едучы на служъбу его милости господарскую военъную, собравшы ся з многими людьми, поточниками своими, перенявшы на добровольной дорозе тивуна его городенъского Петра Бартошевича, шляхтича, чоловека доброго, едучы ему с подаными его с костела Жырмунского на день Божого нароженья, свята недавно прошлого, в руку минуломъ шестдесять четвертомъ, месеца декабря двадцать пятого дня, в понеделок, моцно кгвалтом а умыслнье, без причыны оного, дей, тивуна его взявшы и звежавшы, до дому своего, который, дей, мает по жоне своей у повете Лидском, отвелъ и до везенья в томъ дому своем осадилъ, и немалый час его у везенью держалъ и мордовалъ.". For another similar case see 47CRB, с.128.

[608] 47CRB, 74: "але праве недбалость собе зверхность враду его королевское милости ослухати се смелъ, тогды для такового непослушенъства и нестанья его рачылъ росказати его зъ земли панъства нашого господарского выволати." Contempt to the court often decided the outcome of the case and provided legal grounds for the decision, for another example regarding imprisonment see 47CRB, с. 128.

[609] The same amount as the usual restitution for disgrace (*bezchest'e*) of 12 rubles of groschens.

Kopot to set Kuzma free but enforcement of said ruling proved unsuccessful. Bogush Koshka, the court officer charged with freeing Kuzma, returned to the court to report his failure due to Kopot's insubordination. Kopot was summoned to court again and it was then that he gave the reason he held Kuzma captive: it is because Kuzma belongs to him.[610] The court ruled that despite his ownership of the Debrov manor, he does not own the noblemen associated with it and ought to set Kuzma free. Court officers were charged to carry out this ruling with Kopot's cooperation or against his will.[611]

Another case that supports this view was brought by Prince Pavel Svirski against ruler's nobleman Theodor Klopot, claiming that on October 5th, 1565, many of his servants attacked the prince's servants Pavel Janovich and his son Mikolaj on a public road. They were beaten, wounded, and imprisoned in a manor belonging to Drohiczyn Starosta Mikołaj Kiszka.[612] The accused did not stand in court, therefore was found guilty and obliged to pay restitution for violence against these noblemen. Somewhat similarly, Prince Jan Dorohostajski attacked his brother's alehouse and captured a barkeeper, Marina Pavlovna. As some legal factors indicate, barkeeps and especially women attendants were regarded less honorable than people of other trades—the protection of their person did not warrant the double restitution clause otherwise applicable to virtually all women.[613] The prince ordered his accomplices to bring her to his manor, where he proceeded to bind her in chains and kept her in jail for three days refusing to let her go unless he was paid 40

[610] 47CRB, c. 98: "А Федор Копоть, тутъ же очевисто будучы, зналъ ся, уж того боярына Кузьму поймавъшы у везенье осадилъ, нижли поведилъ, же тотъ боярынъ его естъ."
[611] 47CRB, c. 98.
[612] 47CRB, c. 128.
[613] More on the gender specific restitution norms in the chapter *Women in Court.*

groschens and given ale for another 20 groschens.[614] These are spitefully meager amounts for a landholder of such rank and reveal a willful disregard for the wellbeing of commoners.

Another case suggests that the reason for imprisonment could have been a misguided sense of justice. In 1516 Alzhbeta Petkovaya sued Jan Nemirovich in these words:

> *"when his nobleman and my husband Petko was murdered on the road, I lived in my house and did not know anything about it. Then Jan took me out of my house, and ordered to imprison me, while all of my husband's belongings and what I have brought to the house, money, cloths, and the unfree family among other household things, all of that he ordered to gather and carry to his manor; he kept me imprisoned for five years without any trial."*[615]

The accused replied that her husband and his nobleman Petko was murdered following her command, therefore he kept her imprisoned for two and a half years; he denied taking anything but the six unfree people. Upon asking if she was a noblewoman and accepting her proof, the court proclaimed the following:

> *"having understood that Jan unjustly imprisoned a noblewoman without any court and held her for two and a half years, and first took the belongings of that nobleman and his wife, and did not seek out any wergild, and for so long kept her captured, we have ordered to pay her a restitution for her disgrace* [bezchest'e] *24 rubles of groschens."*[616]

Taking matters into one's own hands was prevalent throughout the period, as another case attests. On January 7th, 1566, a noble landholder from Upytė district Voitekh Vinski complained against Voitekh Petrashkevich – another landholder of the same district. The cause for this case

[614] 47CRB, c. 126.

[615] RIB: 393, c. 297: "какъ забито боярина его, мужа моего, Петъка на дорозе, а я въ тотъ часъ въ дому своемъ мешкала, а ничого есми тому не зведома; и панъ Ян мене, въ дому поимавши, казалъ въ нетство осадити, и што было статку мужа моего въ дому и тежъ, што есми въ домъ принесла статковъ своихъ властныхъ, пенязей, шать и челяди невольное и иншихъ домовыхъ речей, тоо все казалъ на дворъ свой забрать, а мене держалъ въ нетстве пять гудов, безъ кождого права".

[616] Ibid.: "и мы, тому порозумевши, иж панъ Янъ не слушнымъ обычаемъ шляхтянку, безъ кождого права поймавши, и держалъ въ нятстве полтретья года, и первой бралъ статокъ того боярина своего и жоны его, а головщины ни на комъ не искалъ, и такъ много безвинне держалъ въ нятстве ее, сказали есмо на немъ той Алъжбете навязки за безчестье ее дванадцать и чотыры рубли грошей".

arose due to an earlier process when Vinski litigated against Jan Volmenski on charges of violence and plundering. Describing the situation that gave a pretext to this case, Vinski narrates that he fell sick and pleaded with his servant, another noble, Mikolai Janovich to represent him in court and once Janovich agreed, Vinski provided him with the required documentation. Janovich set out to the Krekenava [Central Lithuania] court riding on horseback until he arrived at Baltramiej Levonovich's manor, where he left his horse and saddle and continued his journey to Krekenava on foot. He reached the court and while he litigated in Vinski's stead, the defendant, Voitekh Petrashkevich, invaded Levonovich's manor and stole the horse and saddle. Moreover, once Janovich found out about it, he was forced to return to Krokinov and register the offense. The local official was not in his favor and proceeded to bind Janovich in chains and imprison him without providing him any explanation.

This is when Vinski turned to the court and litigated in Janovich's stead. Vinski accused Petrashkevich of imprisoning his noble servant, stealing the judicial documents and all the possessions Janovich carried. Janovich himself added to the charge in these words: "*Moreover, he imprisoned and bound* [me] *with no apparent reason, as if I was some beggar and not a landed person*."[617] The reason for this unlawful imprisonment was that Petrashkevich did not agree to recognize Janovich as a legal representative of the sick Vinski because Petrashkevich thought that Janovich did not possess any landed estate in Upytė district and accused him of forging the documents Janovich carried. This example attests that land possession was a pre-requisite in being recognized as a part of the local noble community. The ruler found Petrashevich guilty of many offenses but had this to say about imprisonment: "*as a restitution for his unjust binding and*

[617] 50CRB, c. 8: "и еще, дей, надто до везенья, нет ведома для которое причыны, яко которого голоту, а не оселого человека сажал."

imprisonment, to which Petrashkevich himself confessed, according to his nobility and without oath we order 20 kopa of groschens [to be paid]."[618] Moreover, the court ruled that the accusations of forgery should be forgotten and not diminish Janovich's honor in any way. Additionally, here we see an example of the importance of reputation within the landed noble communities—failure to recognize the representative as a local landholder was reason enough for imprisonment.[619]

Analysis of royal court archives did not yield any examples of cases brought exclusively on accusations of unjust imprisonment. This suggests that willful imprisonment was a result of previous actions, not an impulsive action as a verbal insult or exchange of blows. It was a degrading act that contravened noble privilege of *neminem captivabimus* and exerted dominance by limiting personal freedom. One can surmise that a noble populace idealizing freedom in its political discourse would regard limitations of freedom as degrading action.[620] Imprisonment was inevitably a violent act, which in theory justified a restitution for violence, not the one for disgrace. Nevertheless, claimants recognized it as a shame-inflicting practice, a perspective that is reflected in court rulings that adjudged restitutions for disgrace.

Shaming and violence

While imprisonment communicates a fairly defined meaning, "shaming" actions cover a much broader category. Shame may indicate any interaction that causes reputational loss and emotional distress, and all these were pertinent reasons to cleanse shame through legal redress. In 1518 Radun [West Belarus] district noblewoman Ana Gintautovna sued Pavel Bagdonovich for violence and

[618] Ibid.: "А навезки за безправное его до везенья сажанья, ку чому ся самъ Петрашкевич призналъ, сказали есмо без присяги водле стану его шляхетского двадцат копъ грошей." This is the same amount as the usual restitution for violence or disgrace enshrined in the Lithuanian Statutes, amounting to 12 rubles of groschens.
[619] More on the importance and fundamentals of good reputation see *Chapter Two* subchapter *Honor: reputation.*
[620] Anna Grześkowiak-Krwawicz, *Dyskurs polityczny Rzeczypospolitej Obojga Narodów. Pojęcia i idee* (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2018): 139-172; 377-405.

disgracing her by grabbing her breasts during a welcoming at her neighbor's Tomka Shumiatovich's house.[621] In his response, Bagdonovich denied hitting her and claimed having asked her forgiveness for the words that angered her. He relates trying to remedy the situation by inviting her to his house and offering gifts, whereupon she forgave the anger she held against him. Ana categorically denied his words, saying that she did not go to his house, nor did she accept any of his gifts. The accused proceeded to provide witnesses to support his case only for the case to come to an interruption: the ruler decided to postpone the decision to the next session. While the verdict of this case is lost, the defendant broke the rules of propriety and understanding that had tried to resolve the issue through gifts and diplomacy. However, his attempts fell short, and the encounter escalated into a legal proceeding, a relatively public event, where the whole local community could be informed or reminded of the transgression. In this case, publicity could have been in the interest of the plaintiff as a means to show that any unwanted attention might lead to court.

Nevertheless, not just any violent action was shame inflicting. In 1528 Volkovysk [Vawkavysk, West Belarus] district nobleman Vasili Eskavich addressed the ruler's court blaming Armal Kalenevich Posteluch for neglecting his taxes and destroying the oat crops. Eskavich claims that he tried to resolve this in the community court of the village, but during the process, Posteluch and his friend started pushing him around with an intention of beating him, but "*in truth, he did not, but he brought shame upon me and spat in my face.*"[622] The accused denied the charges, but witnesses supported the plaintiff and so the court ruled that Pasteluch will restitute Eskavich for defamation. One important nuance here is that he shamed a nobleman while being a free man of

[621] RIB: 1261, c. 36. Here is another instance when the phrase "на чести" is used in the meaning of being a guest.
[622] 6CRB, c. 146: "он помыкалъ ся перед копою до менье и з сокерою, хотячы мя бити, але, правда, не билъ, нижли мя соромотилъ и очы заплевалъ".

common birth. Interestingly, the adjudged restitution is 4 times lower than usual at 3 rubles of groschens instead of 12, which is what a nobleman owes another nobleman as restitution for defamation. Later legal codes will secure the boundary between nobles and commoners by introducing shame inflicting and corporal punishments, the opposite of what we see in this case.[623]

As the abovementioned example suggests, publicity played an important role in constructing an actionable claim on suffering shame. It remained so throughout the period, as the case from 1556 attests. Filip Kobilin coupled it with threats to ensure legal protection against Mark Vnuchka, a Rietavas [West Lithuania] district officer. Kobilin addressed the ruler saying that his wellbeing is threatened, because two days ago, on Friday Vnuchka "*disregarded bail, in the presence of court official and other people, assailed and reviled me with ignoble words harmful to my dignity.*"[624] Claimants often named dignitaries that witnessed the encounter against them thus attesting to their higher esteem which proved a constitutive part of a successful claim.[625] Numerous previous cases emphasized the high-ranking witnesses to the shameful act as an aggravating circumstance.

Again, as in the previous examples, charges of inflicting shame were often coupled with other charges, most often those of violence. Already seen in the abovementioned examples, the trend repeats itself throughout the period. An early example of this logic is confirmed again in the case dated 1519 when Elena Tortilovichova brought a case on this accusation to court: "*I arrived in Stanislav Skopovich's town, to Mitov, to Mass. And while I was at the Vojt of Mitovsk, that*

[623] This process is best seen via analysis of normative penal law, which is a topic explored in *Chapter Two* subchapter *Shameful Punishments*.
[624] 34CRB, c. 203: "не дбаючи ничого о заруку, перед тим же вижомъ и людь сторонному похвальки на него чинилъ и слово неучьстивыми, почстивости его дотклывыми, на него сегал.".
[625] 35CRB, c. 154. It also claims that only the ruler may preside over honor matters. The words ought to be deleted from the books.

official took my husband's horse with no reason, moreover, beat and shamed me."[626] Yurii, the accused, replied that he took the horse due to her husband's debt, and she was accusing him of lying and Yurii "*not suffering these words, hit her for [saying] them.*"[627] This harkens back to the already mentioned sensitivity towards accusations of untruth, but more importantly, the court was very sympathetic towards the plaintiff and ruled Yurii to restitute her for disgrace and her husband for the loss of a horse, which was evaluated as a steed fit for battle and evaluated at 3 kopa of groschens. This case hints towards a tendency to present minor physical abuse as an insult. This may be favorable because insults are slightly easier to litigate and would pass as an offense against the noble status. It could then become an actionable claim since nobility implies legal protection against any kind of shame.

Ruthenian Prince Andrei Petrovich Massalski presented his case in similar terms in 1566. He sued a Volhynian noble Fedor Senyuta Lyakhovitski, charging him with assault. Laying out the situation, Massalski relates that he was on his way to military service and reached the city of Lutsk. There he acquired some needed military equipment from the artisans and was on his way but once he crossed the *Zaglushetskoe* city gates

> *"that Fedor Senyuta, heeding his own will and having forgotten the superiority of the royal majesty and strictness of the common law at the time of war, with no apparent reason, accompanied by his many servants and henchmen who were armed with harquebuses and bows and other unsheathed weapons, caught up to him* [Massalski] *on a public road, near the* Zaglushetskoe *gate to the city of Lutsk, and without any parlance attacked him and his servant, dragged them out of their cart and beat and wounded them, set his horse loose, and caused many losses, since they*

[626] RIB: 1369, c. 98: "приехала дей есми до местечка Станиславова Скоповича, до Митова, до костела; и будучи дей мне у войта Мистовского, тотъ дъякъ отнялъ въ мене коня мужа моего безвинне, и надто ещо мя збилъ и зсоромотилъ."
[627] Ibid.: "правда есть, виненъ мне былъ мужъ ее Балтромей копу грошей, и я за тую копу грошей въ нее коня взялъ; и она дей за то почала мне неправду задавать; и я дей тых словъ ее не терпячи, за то есми ее вдарилъ".

> *stole everything from the cart—groschens, silver, chains, jewels, furs, weapons and many other things."*[628]

Other people came forth to support and add to this charge, which paints a picture of Senyuta's rampage in Lutsk. Those people attested to the denigration and injury suffered by Prince Andrei Masalskyi, whereas Senyuta did not stand in court and therefore lost the case due to contempt. The court ruled that he ought to pay restitution for injuries 12 rubles of groschens to the Prince, while the restitution to his servicemen was to be calculated according to their social status. This case plays on the shameful factor of public violence, as it was conducted on the common road.

In 1568 Stanislav Stanislavovich, the judge of the land court[629] of Ashmyany district [West Belarus] petitioned the royal court, claiming that Prince Jan Svirski, marshal at the royal court, beat and shamed him. He relates that their encounter began in the diet, where their views differed. On their way home, Prince Svirski met Stanislavovich once again in the streets of Hrodno [West Belarus]. Stanislavovich complained that the prince "*willfully attacked me not only with words, but also by his own hand and struck me inflicting shame on me, and then beat and tore the clothes of the servant Vaska Janovich.*"[630] This petition reveals that a seasoned jurist formulates his

[628] 50CRB, c. 73: "тот Федор Сенюта, напольнивши се воли своее а пропомъневшы звирхности его милости господарское и покою сроκгости права посполитого под часомъ служъбы его королевское милости и земское военное, не ведати, дей, для которое причины, з многими слугами и поточниками своими з аркабузы, з луками и з ыными бронями вырвавшы се, дей, онъ з господы своее и погонившы его на добровольной дорозе в месте Луцкомъ у брамы Заглушецкое и не чинечи з ним жадное розмовы, але заражом оскочившы, его самого и хлопца его з воза котъчого збивши окрутъне, его самого и слугъ его помордовалъ и поранилъ и коня его карого скололи, при которомъ, дей збитью и зранению его немалые ся шкоды ему стали, , то есть, вся матность его которая з нимъ у кочомъ возе была, яко грошы готовые, сребро, ланъцуг, клейноты, шаты, зброи, рады и иные многие речи " Massalski's losses are registered in 50CRB, c. 74.

[629] An institution introduced as a part of the judicial reform, which served as a court of first instance headed by local nobility.

[630] This case was mentioned earlier, discussing inter-estate hierarchies. 35CRB, c. 333: "и подкавший его на улицы, на дороже волной тут, в месте Городенском, против господи его милости пана воеводы виленьского, в овъторокъ сэс прошлый месеца июля тринадцатого дня, у вечере, умысльнье торгнуль ся на него не только слово ущыпъливыми, але и рукою своею его, именемъ Васька Ивановича, при немъ збилъ и сукню на немъ содралъ".

address by intertwining violence he suffered with shame, stressing publicity, as the transgression took place in the city street.

Publicity played a demeaning role in another case. The previous trial pronounced Dobka as guilty for inflicting damage amounting up to 160 kopa of groschens to Chizh by theft and invasion. This trial ordered them to travel from Vilnius to the royal court, where this ruling had to be approved. In this case, the transportation of the criminal was trusted to the victim and soon after the cortege was ambushed. Dobka's brother, Matiej, intercepted the transfer shouting "*I want to know where you are taking my brother!*"[631] These words were immediately followed by an assault on the cortege. He dragged Chizh off his horse and proceeded to beat him with the pommel of his sword. Later Chizh's wife found him lying in a puddle of blood and took him back to Vilnius. By the time she arrived, the brothers Dobka and Maciej were already long gone. Plaintiff's words were confirmed in royal court by a chance witness, a merchant on his way to the market in Vilnius. On the ground of his words, the royal court adjudged a restitution "*for beating, a noble restitution for disgrace, of the size of 12 kopa of groschens.*"[632]

This story confirms again that public beating was demeaning. Moreover, it shows the importance of the weapon employed to carry it out, in this case—the pommel of a sword. Considered alongside the demeaning connotations of assault with a mead mug, a suggestive picture emerges. Legal practice reveals that violence against nobles using anything but the sword was regarded as an insult, an undeserved offense to the stature of a noble. However, this did not become part of the normative law until the Third Lithuanian Statute of 1588.[633] In a later case of 1591, Pavel Janovich brought a case before the court alleging that some nobleman attacked him and his

[631] 6CRB, no. 44: "Хочу ведати докуль ты маешъ брата нашого Добка водити."
[632] 6CRB, c. 44: "за бой, безчестье шлахетское, водлуг обычай, 12 рублэв грошей заплатити."
[633] TLS XI.27.

wife Dorota on a public road. The inquiry court ruled in their favor and adjudged that for beating Pavel the offender had to pay restitution of 12 rubles and spend 6 weeks in jail. However, for beating Dorota, "*a noble white head (...) with a stick*" he was to pay additional 48 rubles and stay imprisoned for another 24 weeks.[634] Dorota's restitution was fourfold that of Pavel's due to the double restitution clause and an especially demeaning method of assault.[635] Total restitution cost was 60 rubles and 30 weeks in jail for assaulting a married couple and inflicting physical harm upon nobles, but more importantly, doing so in the manner that dishonored them.

Overall, the addressed court cases show that the difference between physical insult and outright violence was marginal. However, it is possible to trace a difference of intensity: the talk of insults usually cease once serious wounds were inflicted. In those cases, summons to court name violence as the main accusation. Therefore, it is possible to qualify bruises and mild traumas as a physical insult, while serious harm was qualified as outright violence. Unjust imprisonment was an important charge warranting restitution for disgrace suffered, nevertheless, most cases mention it as a part of a larger suit. Nevertheless, some examples suggest that it was an actionable transgression inflicting shame, but once coupled with other accusations it dissolved into a broader category of violence. Publicity played an important role, as witnessed wrongdoing may constitute a threat to personal reputation or the authority of an office. Lastly, some cases talk of inherently shaming behavior. Those provide the best insight into the concept of physical insult. While some

[634] Irena Valikonytė, Jolanta Jaksebogaitė, "Выкуп за женщину по Литовскому Статуту," in Vytautas Andriulis, ed., *1588 metų Trečiasis Lietuvos Statutas. Respublikinės mokslinės konferencijos, skirtos Trečiojo Statuto 400 metinėms pažymėti, medžiaga. medžiaga* (Vilnius: Vilniaus Universitetas, 1989): 88.
[635] The gendered norms of restitution are further discussed in *Chapter Three* subchapter *Women in Court.*

research talks of insulting gestures,[636] presently examined court cases confirmed tempering with headdress, groping, and spitting as inherently insulting actions.

Bezchest'e: the price of honor

While multivalent and manifold in their guises, every insult warranted restitution. Most often it took a monetary form, unless some aggravating circumstances arose which could have warranted imprisonment or corporal punishment. Most prominent of those would be publicity, crossing the lines of social hierarchy—insulting the ruler or one's social superiors—or, quite literally, adding an injury to an insult. Traditionally, the restitution for disgrace—*bezchest'e* (Ruth. *безчестье*)—amounted to 12 rubles of groschens (i.e., 1200 groschens or 20 kopa of groschens). The normative foundation for this restitution is insubstantial: it was sporadically mentioned in the First Lithuanian Statute of 1529, but no later codes mention it.[637] The legal practice followed suit, and the use of this concept recedes in the legal practice by the mid-16th century. However, its principle survived and even the term itself was used in the late 16th century on occasion.[638] In broad terms, normative law gives reason to hold *bezchest'e* as a restitution for physical harm that was regarded demeaning, but it could have been applied as a restitution for verbal insults under specific circumstances.

Nevertheless, restitution for disgrace did not cease once *bezchest'e* clauses disappeared from the legal codes, neither did the ascribed amounts change. Instead, it was subsumed under the broader categories of unspecified restitution (Ruth. *навязка*) or restitution for violence if the insult was physical (Ruth. *кгвалт*). This confirms the current historiographical assumption that moral

[636] Tomasz Wiślicz, "Gest obraźliwy na wsi polskiej w XVII i XVIII wieku," *Przegląd Historyczny* 88. 3-4 (1997): 417-425; Weronika Konkol, "Gesty zniewagi w świetle polskich późnośredniowiecznych przekazów pisanych i ikonograficznych o Męce Pańskiej" *Studia z Dziejów Średniowiecza* 21 (2017): 59-92.
[637] For a full analysis see the preceding chapter.
[638] The case of a Samogitian noblewoman Dorota Janovich dated 1591, quoted from Valikonytė, Jaksebogaitė, *Выкуп за женщину по Литовскому Статуту*, 88.

and physical violence was not differentiated in the First Lithuanian Statute.[639] And while the First Lithuanian Statute still used a separate concept, it seems that the later codes fully subsumed moral transgressions under the broad category of violence. The later editions of the Statutes introduced novel clauses that regulated restitution for moral hurt but did so without recourse to *bezchest'e*. For instance, assault with an ignoble weapon was regarded an insult but only warranted a general restitution.[640] That said, restitution for moral violence was subsumed under a broader category, the notion itself did not disappear. The law still extended personal protection against insults and slander, albeit it did so without a qualified concept to define it, instead the Lithuanian Statutes subsumed moral transgressions under the aegis of violence.

The lack of clear-cut regulation and uniform practice complicates research on restitution for disgrace, nevertheless, certain sources bear essential clues and allow one to sketch out aspects of its practice. Early examples could be taken as a starting point of analysis. In 1515 Elena Sarafinovaya, a noblewoman from Lida district brought a case against her brother-in-law Shimka Andriushkevich. She relates that she sent a servant to the forest to gather some firewood where he crossed paths with Shimka, who assaulted him, set his horse loose and stole the firewood. Moreover, Elena relates that when she walked up to Shimka demanding he stopped, he proceeded to beat her on the public road and thus disgraced her. In court, the accused denied it once more and explained that the servant took the horse and simply ran away. Then the plaintiff supplied witnesses to support her case, customarily the accused had the right to choose the one who would testify. He chose Stankus Voitovich, who testified in these words: "*While traveling back from Lipnishok's market, it so happened that I saw that Shimko rebinding the horses from Sarafinova's servant's*

[639] Edvardas Gudavičius, "Pirmojo Lietuvos Statuto baudžiamosios teisės bruožai," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 15. 2 (1975): 94.
[640] TLS XI. 27.

cart; and Sarafinova started to talk to him, asking to leave that person at peace; and he then beat her with a fist."[641] This concluded the court and the judge adjudged 24 rubles of groschens as restitution for disgrace. The term used here is *bezchest'e* and confirms that this was a remnant from local customary law that later made it into the First Lithuanian Statute. Additionally, this case shows that such restitutions were also subject to another trait of customary law—the double restitution norm.[642] The degrading content of the described crime that justified *bezchest'e* likely came from the implied defamatory significance of public beating and the clear gender divide.

Lithuanian legal historian Irena Valikonytė is the foremost expert on *bezchest'e* and gender roles in Lithuanian Statutes and she has argued that any violence against women was perceived as a moral transgression and this practice was based on the heritage of the more matriarchal pagan Lithuanian culture.[643] And indeed, a case from 1542 supports it, when Anna Petrovna sued Yurka Korznovich. According to her, he avoided paying restitution for disgracing her by physical abuse which an earlier court adjudged. He responded that the previous trial was started on a different summons and did not mention beating, therefore it was not following the legal procedure to adjudge this restitution. Nevertheless, the court did and so the ruler ordered him to pay up.[644] However, this view seems to have a weak spot, as the sources supply ample evidence where women seeking justice for physical violence against them did not mention their honor by any means.

Historiography has yet to reach a uniform opinion on the applicability of restitution for disgrace to social estates other than the nobles. While some claim that it was limited to nobles

[641] RIB: 235, c. 176: "коли есми ехалъ зъ Липнишокъ съ торгу, и пригодилося мы видеть, ижъ Шимко выпрегаетъ коня з воза у чоловека Сорофинова; и Сарафиновая почала ему говорить, абы далъ покой чоловеку ихъ; и онъ ее билъ колокомъ".
[642] This is a gender specific clause that is further explored in the next chapter, see subchapter *Women in Court.*
[643] Irena Valikonytė, "Dviguba išpirka už moterį Lietuvos Didžiojoje Kunigaikštystėje XVI amžiaus pirmojoje pusėje," *Lietuvos TSR Mokslų Akademijos darbai. Istorija* 17. 2 (1977): 63.
[644] 6CRB, c. 339.

because the statutory law only recognized their honor which could have been wounded, others disagree and emphasize the instances when such restitution was adjudged to commoners. The sources supply enough of a basis to argue any of these views convincingly. An early example from the late 1510s supports this view when the court adjudged restitution to a servant for suffering a beating during a home invasion. His master successfully litigated in his stead and won him *bezchest'e* of 1 ruble of groschens.[645] However, having in mind that application of *bezchest'e* was receding throughout the 16th century, this might be taken to be a remnant of passing times. Taken in its entirety, the source base suggests two viable interpretations: either this concept applied to the nobility and the highest echelons of commoners (road servants, municipal officers) or the lack of regulation led to inconsistent application of this concept and such variety attests to the human factor in the judicial process. While it is perhaps a mixture of both, the source base of the present study shows more support to the first interpretation. It would fall squarely with the notion that an office elevates and dignifies a person.

An office was an important variable in adjudging restitution but simultaneously some offices exposed people to an increased probability of shame. This was especially true in case of the people serving in the enforcing branch of the justice system, those charged with carrying out summons and ensuring rulings were upheld. However, increased personal protection also applied to other offices. Martin Chizh alongside several others of his kin were charged with guarding the entrance to the royal chambers of Sigismund the Old. In 1522 they filed a collective complaint against other courtiers, who interfered with their duties and threatened their wellbeing by word and hand. The ruler proclaimed that anyone who would dare shame or beat his concierges would

[645] RIB: 281, c. 211.

risk *bezchest'e*. This was to ensure their ability to carry out their duties.[646] A case dated 25 years later shows how important such protections may be. In 1547 royal concierges Ivan Milensky, his son Karp, and several other members of their family addressed King Sigismund Augustus, saying that some people threaten and insult them, thus disturbing them carrying out their duties.[647] To substantiate his supplication, Milensky refers to the decree issued to his former colleague Martin Chizh, threatening a fine of 12 rubles of groschens to all those meddling with their duties. Sigismund Augustus confirmed this privileged his father issued to Chizh and extended it to Milensky. Notably, serving in the royal cohort did not increase the amount paid to them.

As with just about any type of restitution in a hierarchical society, the amount paid depended on the social position and trade of the recipient. Nobles were awarded 12 rubles of groschens for slights against them, but this practice bears some notable deviations. While holding an office warranted increased personal protection, dabbling in trade could as well decrease it or threaten the noble status. Some trades could demean the social standing of a person. In 1533 descendants of several noble houses settled in Navahrudak district addressed the ruler with a complicated legal issue. They relate a story of their litigation against other nobles of the same district, a case where they sought restitution for their disgrace. Once it was adjudged, the accused side proclaimed that according to the First Lithuanian Statute the restitution to any serviceman or tradesman amounted to 1 ruble of groschens. The claimants served as falconers but pleaded with the ruler not to hold their trade against them, because

> *"they arrived in the Grand Duchy of Lithuania during the times of his majesty's predecessor Casimir and wished to merit the grace of his royal majesty and began serving as falconers but are from a noble lineage, also since the old days of our father Casimir and brother Alexander, kings their*

[646] 4CRB, c. 22.
[647] Андрэй Мяцельскі, ed., *Метрыка Вялікага Княства Літоўскага: кніга № 272 (1576-1579); кніга судовых спраў № 58 (копія канца XVI ст.)* (Мінск: Беларуская навука, 2015). Henceforth—58ТВК, с. 18.

> *graces, as well as during our honorable rule always was noble restitution for disgraced adjudged to them. And they bowed down low,* [asking] *that this old custom was secured, and we did not order to lessen their honor for serving that service".*[648]

The ruler answered this plea. He consulted the Voivode of Vilnius Olbracht Gasztold asking if those falconers were indeed noble and received a confirmation that they are, followed by an affirmation that they should be restituted as nobles, i.e., 12 rubles of groschens. Then he affirmed their dignified status and issued a decree proving it. Sigismund the Old pronounced:

> *"and so we, obligated to our subjects and wishing that everyone who shared the dignity of the noble estate was held in the appropriate honor, look gracefully towards subjects who would elevate our state and there were various services, and especially since they arrived in this Grand Duchy in the time of our father Casimir and in this service devoted themselves to his grace's elevation, and are born as nobles, although they provided this service, they should not be denigrated for it and cannot accept no slights to their honor."*[649]

Therefore, noble restitution should be ascribed to themselves and their progeny. So, in this case, the restitution was decided based on social standing, i.e., belonging to the noble estate, despite their trade as falconers. This was the usual decision in cases where nobles litigated against other nobles. The privileged estate was a corporation of legally equal people, owing recognition respect to one another. However, as this case shows, trade could have served as a reason to denigrate or eliminate a noble from the estate. This unappreciative view towards labor was established as a law

[648] 7CRB, с. 84: "а они деи с предков своих за отца нашого короля его милости Казимира до Великого Князства Литовского приехали, и хотячи ласки большое его милости господарьское осягнути и тым ся прислужыти, онью службу сокольницкую приняли, а з родо шляхтичы сут, как же деи имъ здавна за отца нашого Казимира и брата Олександра, королеи их милости, и за нашу щастное пановане завжды безчесте шляхотское поу дванадцати рублеи грошеи сюжоно. и били нам чоломъ, абыхмо в томъ их водле давнього обычая заховали, а для оное службы водле описаня прав честь их унижать не казали."

[649] Ibid.: "А так мы, маючи у землях на подданных нашых и хотячы кождого, которыи были у цноте роду шляхетского бысте почтиве захован, ласкаве осмотрети, абы тымъ большой подданыи панства нашого умножыли и овсякимъ послугамъ нашымъ охотнейшыи были, а звлаще, иж они за отца нашого короля его милости Казимира до того то панства Великого Князства прыехали и к тои послузе ку усмотреню ласки его милости севе привлащыли, а з родо своего шляхта суть, и ах колве к тои службе прыступили, однако ж за таковою послугою понижены быти и жадного ощыпку на чъсти своемъ прыимовати не могут"

in the Second Lithuanian Statute (1566), which pronounced any nobleman dabbling in manual labor or living in an urban environment at risk of losing their nobility.[650]

However, the sources suggest that there were more variable (if not chaotic) traits to the judicial practice than any clear-cut explanation could encapsulate. While plausible, the explanation that restitution for disgrace was awarded to the nobles and the upper echelons of the common folk, some notable exceptions bears considering. One exceptional example features two ordinary citizens of Bielsk, who were accused of thievery in court. The allegation was not substantiated, and the judge ruled to restitute them for disgrace even though they did not mention this charge in the summons.[651] Commoners were entitled to restitution for verbal insult if those were uttered in court, but it was rather due to the *locus criminis* and dignity of the institution of the court.

Overall, restitution for disgrace presents a complicated case study, especially if it was supposed to be used as an argument within the larger debate of attributing honor to commoners and various layers of nobility. Its normative foundations are quite insubstantial, therefore any insight towards its logic should be sought out on the scarce practice of its attribution. It is important to bear in mind that *bezchest'e* was on its way out throughout the 16th century and therefore the principles of its application were becoming blurry. As we have seen, some instances of unlawful imprisonment warranted *bezchest'e* whereas others did not.[652] Overall, its application was most prominent in pre-Statute period, when it was most often adjudged for physical harm. After legal codifications this trend persisted and slander in court also warranted this restitution. Nevertheless, restitution for disgrace remains an interesting and informative phenomenon in another sense. The

[650] SLS, III.20.
[651] This case is addressed in the *Chapter Four* subchapter *Honorable Commoners.*
[652] Based on the examples presented in the preceding subchapter, for instance, compare the rulings of cases of Alzhbeta Petkovaya (1516) and Voitekh Vinski (1566), see *Chapter Three* subchapter *Imprisonment*.

adjudged amount offers a glimpse at the scales of human worth within a hierarchical society by naming the value that Grand Duchy's law placed on the wellbeing of its subjects. As we have seen it was calculated based on the variables of social status, occupation or office, and gender.

Humiliation

Verbal and physical insults impinge upon personal honor or official dignity, but their essential target is an individual's reputation. While this was detrimental and might have had serious social outcomes, even the gravest wounds paled before imputations of ignobility. Verbal slights that question the legitimacy of one's birth or noble lineage bore considerably greater gravitas than physical impairment, as they threatened the social status of the person and his progeny. Unsuccessful attempts to prove nobility and cleanse honor would result in stripping the nobility away from the person and their family, along with their land possessions, and economic and political privileges. Therefore, it is reasonable to make a qualitative distinction between questioning nobility and other varieties of insult. In defining humiliation, I follow a slightly altered definition of humiliation suggested by Avishai Margalit, which he describes as an assault on the self-respect, the intrinsic value of a human being, and questions the right to be regarded as a part of the "family of man."[653] The universal appeal of human worth sounds anachronistic when applied to the context of hierarchical slave-owning societies, therefore humiliation in this context would be regarded as loss of status, expulsion from the honor group, and an act that strips one of a defining part of one's identity in a hierarchical setting.

[653] Avishai Margalit, *The Decent Society*, trans. Naomi Goldblum (Cambridge, MA: Harvard University Press, 1996): 120.

Humiliation by word

Decisions over social status and offices were the jurisdiction of the ruler's court and we have already witnessed an example of Queen Bona reminding another court that none but the King may preside over these cases.[654] Nevertheless, court record books retain evidence of other instances judging these over matters, but the ruler often reminded the would-be imposers of his privilege, that such rulings belong only to the royal court: "*and you* […] *judged over his honor which is astonishing to us* […] *because no one can do that but us the ruler are authorized to give honor or take it for anyone's transgression.*"[655] According to the Lithuanian Statutes, impinging on a noble's honor might be carried out in two ways: by publicly declaring that one is anything but a noble or slandering birth by implying marital infidelity. The latter was a graver crime, which carried a symbolic significance, which (once disproven) was met with the requirement to publicly shame oneself by proclaiming disgracing formula: "*What I claimed against you that you are a son of a disgraced mother and unclean copulation, this I have lied about you like a dog*."[656] The former, however, was regarded as an insult if the claims were retracted in court and we have already discussed such a case previously.[657] Now we turn to the example when the same accusation of being a *smerd* was confirmed in court.

In 1551 Navahrudak district noble Mishka Matsevich addressed the royal court to cleanse his name from the verbal attacks he suffered during the trial in the firs instance court in Navahrudak. Then Matsevich litigated against another noble of the same district Hryhor Prozvitsky

[654] See *Chapter Three* subchapter *Defiance as an insult.* More on the normative side of this matter, see *Chapter Two* subchapter *Honor: status*.
[655] 4CRB, c. 90: "и вы честь ... ему отсудили чому ж ся мы велико дивуем ... чого ж нихто не может вчинити, лечь мы сами господарь моцны честь даты и теж честь отсудити, водле чыего выступу."
[656] Иван Иванович Лаппо, *Литовский статут 1588 года. Т. 2: Текст*, (Kaunas: Spindulys, 1938): III.28: "[…] што есми менил на тебе, жебыс ты былъ неучъстивое матъки и нечистого ложа сынъ, томъ на тебе брехалъ, яко песъ."
[657] See *Chapter Three* subchapter *"On this, my honor depends:" Verbal slights among peers*.

on the claims of having suffered multiple injustices from Prozvitsky. During this trial in Navahrudak, the defendant insulted Matsevich with ignoble words and called him a *smerd*, not a noble (Ruth. *нешляхтичъ*).[658] Prozvitsky replied that many nobles in the district held the plaintiff a *smerd* and hearing such accusations Matsevich did not sue them "as good people should," moreover, he did not contest such accusations when they were voiced in the previous case he was involved in. Therefore, Prozvitsky held that he had the right to call Matsevich a *smerd* and treat him as such. Matsevich replied that he heard no such accusations from anyone but Prozvitsky and continued by proving his nobility by presenting a royal document issued by King Alexander which confirms that Mitsevich is "a noble since his predecessors." Moreover, he provided several additional documents and witnesses who confirmed having served alongside his father and grandfather in battle. Upon inspecting the documents and hearing the witnesses, King Sigismund Augustus confirmed his status and obliged him to continue serving in war and entitled his use of the noble privileges. Then the ruler turned to the defendant and ordered Prozvitsky to bring all those who called the plaintiff a *smerd* to royal court, where they should confirm his words that many people held Matsevich a commoner. Would he fail to do that or if they would not confess to such words, Prozvitsky himself was to lose his nobility and become a *smerd.* King Sigismund Augustus justified this decision as being based on the clauses of First Statute and, although the specific clauses describing defense of noble status do not detail punishments for unjustified claims, the clause regulating punishment for slander does: a slanderer should be punished by the same punishment that his words threatened, in this case—the loss of nobility.[659]

[658] Российский государственный архив древних актов, ф. 389 (Литовская Метрика), ед. хр. 239. (Henceforth—24CRB): 53v.

[659] FLS I.1. This punishment survived in Second and Third Statutes (SLS I.2; TLS I.2), introducing corporal punishment of cutting off the tongue for commoners who would baselessly question noble's birth. For a case threatening this punishment see 58CRB, c. 145.

In this example Matsevich followed the tenets of proving nobility outlined in Lithuanian Statutes. The procedure of proving one's belonging to the corporation of nobles was codified in 1522.[660] It regulated that one should prove oneself noble by the pledges of his kin, two good and noble people that are of his blood going at least back to the grandfather, that is to say, at least three generations. If there is only one person available, the accused should substitute with a personal oath. Ideally, nobles from the sides of both parents should be present. If kin could not attest to nobility, documents issued by the Grand Duke, or the Council of the Lords followed by swearing an oath should suffice. The First Lithuanian Statute of 1529 added that the slandered nobles who migrated to the Grand Duchy should cleanse their birth by providing adequate documents and two local witnesses acquainted with the mores of their homeland. These regulations were a part of the lost edition of the Lithuanian Statute and relied on earlier court practice and customary law. Therefore, the "honor cleansing" procedure might pose a challenge to many impoverished nobles that were the easiest targets of such imputations. The socio-economic changes taking place at the turn of the 16th century made it increasingly hard to earn nobility, as the boundaries of the privileged estate was closing.[661] By the mid-16th century, it closed completely and the boundary between commoners and the nobles became better pronounced and policed.

One of the early processes documents a case between ruler's courtiers, brothers Lenko and Petro Sasin who litigated against Stanislav Shchit, which suggests that imputation of ignobility could have an ulterior motive. The brothers addressed the ruler's court on the 7th of September 1518, aiming to cleanse their name. They relate that their case was considered in the court of lower instance, where they brought charges against Shchit for murdering their brother Stepan. They were

[660] RIB: 1114, c. 388.
[661] Edvardas Gudavičius, "Šlėktų atsiskyrimas nuo bajorų Lietuvoje XVI a.," in Alfredas Bumblauskas, Rimvydas Petrauskas, eds., *Lietuvos Europėjimo Keliais* (Vilnius: Aidai, 2002).

able to prove it, therefore so the court adjudged a wergild of 100 kopa of groschens and secondary restitution of the same amount to the ruler's treasury.[662] Nevertheless, Shchit protested this decision claiming they were no nobles, which would lift the obligation to pay such large restitution. The Sasin brothers disagreed, and the process had to be sent to the ruler's court which was scheduled 4 weeks after Easter. The Sasin brothers came to the court bringing their relatives willing to swear on their noble lineage, while Shchit did not arrive.[663] A later document shows that they were ordered to reconvene once more and Shchit ignored the summons again. Therefore, they were allowed to cleanse their name despite his absence, which was the usual procedure in the events of willful neglect. They did so and King Sigismund the Old writes to some of the most influential nobles of the Grand Duchy ordering them to serve as judges and oversee that the justice was carried out in this case, since the Sasin brothers proved their nobility.[664] Therefore, the court ordered to seek out the aforementioned wergild and the court expenses and if he would not cooperate willfully, this amount should be sought out from his manor.[665] The last case was documented on the 26th of July, 1519 which means that Shchit managed to delay the process by 10 months by impinging on the nobility of his adversaries. As this example clearly shows, in certain cases, such accusations can be rendered as a part of litigation strategy.

And in some cases, such a strategy paid off. On the 8th of June 1525 noblemen from Eišiškės district Rimovyd Romashkievich, Baltramiej Alekna, and Roman Jushkevich settled their case against Jakub Semashkevich. In an earlier case, Semashkevich was found guilty of beating and shaming them along with three other nobles, and they were adjudged restitutions for their disgrace and an additional one for violence against them, which amounted to 24 rubles of

[662] RIB: 1349, c. 86.
[663] RIB: 1314, c. 62.
[664] RIB: 1349, c. 86.
[665] RIB: 1352, c. 87; see also 4CRB, c. 95.

groschens each. Contesting the ruling, Semashkevich accused them of ignobility and that led straight to the ruler's court. They arrived together with an out-of-court settlement, which said that the Semashkovich retracts his words while the six injured nobles forgave him the fees.[666] Presuming that the plaintiffs agreed to such terms exactly because they lacked the means to prove their nobility would not be out of the realm of possibility.

As somewhat opposite example attests, the loss of noble status could come because of poor material standing. The aftermath of a conflict between Jan Gantsevich and Mikolai Rimkovich was a court order to pay *bezchest'e* for beating a nobleman.[667] The case reached royal court in 1528, because Rimkovich declined to pay the restitution saying that the adjudged amount was too high: he was ordered to pay Gantsevich 12 rubles of groschens, as if Rimkovich was noble, which he isn't. In an unprecedented turn of events, the plaintiff Gantsevich then tried to prove the nobility of his opponent in hopes to receive an increased rate of restitution. Nevertheless, upon inspecting the supplied documents the ruler ruled in Rimkevich's favor and adjudged a lower rate of restitution, he was ordered to pay 1 ruble instead of 12 but in exchange Rimkevich's legal status was affirmed as that of a war servant, not a noble.

In certain cases, some insulting words could be taken as accusations of ignobility, without uttering the usual accusation of not being a noble (Ruth. *нешляхтичъ*). That happened in the 1540 case of Zhoroslavsk noblemen whom magnate Prince Jerzy Radziwiłł (1480-1541) called road servants and demanded of them the service that road servants provide. The court of the first instance declined to provide justice as "*such great things as nobility and honor no one else but the*

[666] 4CRB, c. 195.
[667] The case was published in Dubonis, *Įdomesni dokumentai apie Lietuvos bajorus*, 176. This case is particularly interesting because it shows the logic of ascribing *bezchest'e* amount not only according to the social status of the victim but also that of the offender; in this case, war servant who insulted a noble paid 1 ruble instead of 12 rubles. Seemingly, 12 rubles would be only paid in case a noble would defame another noble.

ruler must judge" and sent it to the royal court.[668] The same accusation brought four nobles to court against Mikolai Chekhovich, who called them road servants during an earlier judicial process. Therefore, the earlier court sent this case to the ruler to settle the question of lineage before proclaiming a verdict in an earlier case. It took 5 court sessions before the claimants could prove their nobility since Chekhovich ignored the summons.[669] At last, they were allowed to swear an oath and prove their status, but it took more than a year to settle this case.[670] A different humiliating phrase brought some noblemen of Eišiškės district [South Lithuania] to court in 1524. They defended their honor from Jan Jushkevich's accusations of being of common birth.[671] They proved their honorable lineage by providing documents dating back to Grand Duke Alexander's rule (1492-1506). However, seeing the case develop in such a way, Jushkevich retracted his words in court. Therefore, the case lost its gravity and Trakai Voivode magnate Konstanty Ostrogsky (1460-1530) settled it without handing it over to the royal court.[672]

Humiliation by deed

Nobility could as well be impugned through action. Taking away the hereditary lands in part or whole carried such significance since it went against the noble privilege to dispose of land at will.[673] Such was the discontent of Lubetsk nobles Pershko and Andrei Ignatovich, as well as Pavel and Piotr Jatskovich who brought a case against a land-hungry courtier Martin Meleshkovich in 1522. They accused him of seizing their land and joining it to the Lubcho manor. At first,

[668] Irena Valikonytė, Neringa Šlimienė, Saulė Viskantaitė-Saviščevienė, eds., *Lietuvos Metrika (1540-1543). 12-oji Teismų bylų knyga* (Vilnius: Lietuvos istorijos instituto leidykla, 2007). Henceforth – 12CRB, c. 44: "Ино комисары, бачачи таковую речъ великую, которая се дотыкает чти и шляхетства, о што не тает нихто судить, окромъ самъ господаръ, его милость, и для то зложили тую речь на его милость господара и положили рокъ тымъ бояромъ […]"
[669] A similar case of disregarding the summons in a case concerning ignobility is registered in 47CRB, c. 62.
[670] 34CRB, c. 93.
[671] 12CRB, c. 88 (1524): "меновал их людъми простыми".
[672] 12CRB, c. 88 (1524).
[673] RIB: 841, c. 198.

Meleshkovich claimed that they are commoners and explained he was treating them the same way as his father did, but as the opposing evidence gathered, he eventually was driven to admit their nobility and cut the case short.[674]

Yet another way to question birth was forcing nobles to labor. This was arguably the most often litigated charge threatening humiliation and often these lawsuits were initiated by several nobles. But even having this in mind the 1541 lawsuit brought by eleven noblemen from the Rodūnė district is exceptional. They claimed that Vilnius Castle Castellan (Ruth. Каштелян, Lat. castellanus) Shimko Matskovich treated them as commoners and forced them to carry out duties "alongside serfs."[675] They list that they were forced to guard the Trakai castle, call everyone back to the castle at nightfall, and labor at Rodūnė manor. Moreover, Castellan sent officials and demanded taxes. All that, despite the fact they were exempt from manual labor by the virtue of their nobility, for which they had documented proof. The plaintiffs successfully defended their lineage and the ruler pronounced that henceforth their only obligation is to serve the ruler in war. In the most likely connected lawsuit also brought in 1541 the Krupavich family of nobles voiced similar accusations against the same Castellanus Shimko Matskovich and Patsko Puzelis for their plight. This case is interesting, for the claimants were able to present 5 documents proving their lineage dating back to the early 15th century, which is an exceptional example of genealogical memory of local nobility, which usually reached two generations.[676]

Tatars brought a slightly different complaint to the ruler's court in 1531 against Trakai Voivode Prince Konstanty Ostrogsky. They claimed that the magnate and his servants order them

[674] RIB: 1120, c. 394.
[675] 12CRB, c. 91: "поспол з людми тяглыми". This case is not dated but was registered alongside cases of 1541. For another similar charge see Dubonis, *Įdomesni dokumentai apie Lietuvos bajorus*, 177-179.
[676] 12CRB c. 96-101.

to accompany their hunts, pursue thieves, and ceremonially welcome the Voivode upon his arrival to Trakai. They did not agree to honor these requests and therefore the Tatars were fined. Having ignored the fines, they addressed the ruler, asking to resolve the matter and stop the Voivode from introducing novelties that contravened the royal privilege issued by Grand Duke Vytautas the Great (1350-1430). Sigismund the Old did exactly so, saying that they only had to hunt with the ruler, abide by his orders, and serve in war; he ended with reprimanding the Voivode and ordering not to issue any additional fines and compensate the earlier ones.[677]

The claims were raised on the same accusations but started with saying that the accused "*introduces new things.*"[678] It hints at disrespecting the status quo and the previous privileges the plaintiff enjoyed. While more common on the personal level, this accusation was raised by regional noble communities against the representative of central power.[679] Moreover, urban communities used the same allegation (often featuring inflicting shame and many other clauses) to present a corporate claim against city officers representing the central government or the city *mayor*.[680] Therefore, introducing newness carried an overwhelmingly negative connotation which also extended to the political thought of the Polish-Lithuanian gentry.[681]

Overall, humiliation by word or deed entailed grave consequences, nevertheless, inflicting them may not have been the only goal the accuser had in mind. Impugning nobility could serve as a means to delay court processes or encourage the litigants to reach an out-of-court settlement. For an insult questioning one's status to qualify as a humiliation, it had to be repeated in front of the

[677] 7CRB, c. 91.
[678] 12CRB, c. 91: "новини уводить".
[679] RIB: 922, c. 243 (1516): in this case—awarding offices to promised to the Vitebsk's locals to Voivode's consort.
[680] RIB: 1184, c. 471; 4CRB, c. 34; 35CRB, c. 113. A documented Kiev's case against its Voit Bogusz Lenkavich 35CRB, c. 234-5
[681] Anna Grześkowiak-Krwawicz. *Dyskurs polityczny Rzeczypospolitej Obojga Narodów*, 337-377.

court, while cases when such words were retracted lose their crucial significance. The 16th century witnessed the structural differentiation between the uppermost echelons of the free people and the lowest parts of the nobility: the upward migration halted, while downward increased. Any disadvantaged noble unable to provide military service or carry it out himself risked debasement, and many of them did during the 1540s. It was most often carried out by forcing them to labor and adjoin their land into the landownership of a ruler or a magnate. Those still wealthy and resolute enough fought these actions and protected their status by law.

Privation of honor

The conditions for losing honor can be conveniently summarized under the category of grand crimes—treason, desertion, and murder.[682] The Lithuanian Statutes allowed one to buy out of punishment but claimed that such a person had no place among good, honorable people and must relinquish their noble privileges.[683] According to Makarewicz, in Polish legal practice, dishonoring meant deprivation of citizenship rights: the right to elect the king, to participate in diets, and claim parliamentary immunity. In addition, the dishonored person is to lose any good reputation they might have had, yet still retain the status of a noble.[684] Moreover, it was not a permanent status, as honor could be regained. Deprivation of nobility, on the other hand, was a separate punishment and a graver one at that, since it permanently deprived a noble of his belonging to the estate and annulled his privileges.[685] There was no separate concept to denote punishment of depriving a person of his citizenship rights and one for losing his nobility: both cases were articulated as the

[682] For a detailed discussion see *Dishonoring and infamia*.
[683] FLS VII.29.
[684] Juliusz Makarewicz, *Polskie prawo karne. Część Ogólna* (Lwów-Warszawa: Książnica Polska, 1919): 289-301.
[685] Ibid., 293.

loss of the noble honor. The Statutes often coupled dishonoring with banishment or capital punishment, meaning that dishonored nobles lost their home in the Republic either way.

Dishonoring was not a common punishment which attests to its gravitas and precedents when it was adjudged bore certain traits of treachery, hostility, or dishonesty. One previously analyzed case mentions the privation of honor, but only in passing.[686] Another example tells a tale of tragic Raklevich family fate. A case registered in 1559 bears a decision for actions almost a year old. Shimko Romanovich, Matej Neliubovich and their wives sued Jakob Raklevich. The plaintiff's wives were Jakob's sisters, who accused him of fratricide—murder of their brother Mikolai Raklevich. They claimed that Jakob conspired to murder Mikolai with his cook, Dorota Zabelyanka. On the night of January the 3rd, 1558 Jakob and his many henchmen invaded his brother's home, pillaged the house for valuables, beat Mikolai to death, and burned everything down. Jakob Raklevich ignored the summons, therefore he was proclaimed guilty.[687]

The accusation brought heavy charges and many aggravating circumstances followed. They attacked the house, which was punishable by banishment or capital punishment, and did so at night after conspiring with a serf, nonetheless. Lithuanian law ascribed capital punishment for fratricide, while retribution for ignoring the summons on charges of murder was punishable by banishment. Therefore, the ruler's verdict was strict:

> *"*[Jakob] *has proved himself culpable and heavy guilt befell his shoulders, one which cannot be mended or lifted by none, since not only did he commit murder, but also house invasion and violence, moreover, did so in the manned of a foreign foe and burned* [the house] […] *Therefore wherever this Jakob Raklevich would be found, there and there he must be*

[686] 40CRB, c. 76: Kuntsevich v. Krizhanowski.
[687] 40CRB, c. 1.

> *punished by the neck, as a murderer and violator, as the one who insulted and disturbed the public order* […]*"*[688]

The document goes on to say that he ought not to find respite in any of his majesty's lands and no one should help him. It reiterates that Raklevich had brought it over himself since he committed all those acts and that it was regarded as especially demeaning to burn the remains, which also went against Church teaching. All these acts warranted capital punishment, therefore he, any of his coconspirators, and the kitchen maid Dorota Zabelyanka should be "punished by the neck" and in her case, this would mean hanging. In essence, the privation of honor is the harshest sentence the Lithuanian law bore. In addition to depriving the perpetrator of one's place in the society, it also took away the protection of the law, any property, and was most often coupled with capital punishment or at least banishment. Its instances throughout the 16th century were few, but as time passed, they were issued increasingly often.

However, research yielded one well-documented case that ended with privation of honor and offers several important insights into the workings of honor in the Grand Duhcy. The following pages reconstruct the process of a murder case motivated by injured honor.

The treacherous murder of Jaroslav Sangushka (1564)

> *"We, the Ruler, adjudge for such action the punishment of the neck, because that Valent Zhelekh vowed, willingly pledged on his honor, and gave his word to us, the ruler,* [but] *did not uphold it and did not bring this case to a close fittingly, as an honorable nobleman. Once that time came,* […] *he left our manor despite having sworn on his arm, and not only did he not appear in court, but neither did he send anyone to stand in his stead. Therefore, according to the decision of the Councils of both states, the Crown and the Grand Duchy, he is to lose his honor and trust, and we proclaim him dishonored and with no place in any land, and he is*

[688] 40CRB, c. 1: "за таковою причиною сам винность выступу своего на себе вказал и в тую вини упал, которое вжо николы поправить и поднести не может, во не одно, иж замордовалъ, але кгвалтъ и наездъ домовый вчинилъ, и что большого еще--неприятеля постороннего прикладом огнем того забытого добывали и спалили. Прото где-колвекъ тот Миколай Раклевич будет найден, тогды вжо без жадное присяги мает быти каран горлом, яко мордер и кгвалтовникъ, и яко тот, который покой посполитый образил и нарушил."

banished from both of our aforementioned states Polish Crown and Grand Duchy of Lithuania."[689]

An excerpt from the original ruling of this winding homicide case lays out several guises of honor particular to the Grand Duchy's legal setting. In these words, King Sigismund Augustus proclaimed Valent Zhelekh guilty of killing Prince Jaroslav Sangushka. The combined punishment was extremely harsh—depriving Zhelekh of life, protection of the law, and banishing him from the realms of the Polish Crown and the Grand Duchy. Oddly, the main charge—murder with aggravating circumstances—does not appear in this ruling. Instead, Sigismund Augustus emphasizes the breach of confidence: despite making a vow (Ruth. шлюб)[690] on his honor and trust (Ruth. веры)[691] to the ruler of his own free will, Zhelekh broke it. By breaking his word, Zhelekh contravened the norms of an honorable nobleman, who ought to value his word over his life. Zhelekh did not honorably conclude the case and fled.

Since he broke his pledge, Zhelekh broke the bonds of trust that tied the ruler and subject and so Sigismund Augustus pronounced Zhelekh infamous, dishonored (Ruth. *безецънымъ*),[692] and exiled him from the realm. The legal basis for such ruling was not sufficient until the last court session but Zhelekh's escape provided required justification. Therefore, honor arises here as the prerequisite for mutual trust, a bond between the ruler and the subject, as well as an inhibiting factor by virtue of providing a certain code of conduct. Failing to meet the requirements of honor

[689] 35CRB, c. 291 "И мы, господаръ, его в томъ и за тотъ его токовый учинокъ на горло вьсказали, а иж тотъ Валенътый Желехъ шлюбу, чъсти и веры своее рукоданымъ и словънымъ преченьемъ, утвержоно намъ, господару, не здержал; и не зыстилъ, а досыть в томъ повинъности прыстойной шляхетской не вчынилъ, и яко перед пришьтьемъ того року [...] отъ двору нашого отъехалъ, такъ и на руку ся томъ не одно не становилъ, але и ни черезъ кого не озъвалъ, тогды з радою и згодливымъ зволеньемъ панов рад нашыхъ обоего панства, такъ Коруны Польское, яко и Великого князства Литовского, вырокомъ нашимъ так есьмо нашли и сказали, же онъ честь и веру тратить, а сказались мы его быти безэцънымъ, и не маючы вже николи местца и помешъканья во въсихъ земляхъ и межы всими поддаными нашыми тыхь то помененыхъ панств Коруны Польское и Великого князства Литовского, и нигде инъде."
[690] GSBM, t. 37, 147.
[691] GSBM, t. 3, 113.
[692] GSBM, t. 1, 231.

cost Zhelekh dearly—he was deprived of his reputation, his estate, his country, and, eventually, his livelihood. The following pages examine the legal process that led to this decision.

Valenty Zhelekh was a largely unremarkable young nobleman. He was of Polish descent and served as a ruler's courtier. The judicial records do not specify as to what responsibilities this position entailed to him, but Zhelekh might have carried out a wide variety of tasks, such as serving as a concierge or handing out royal decrees. Usually, such service was the first step of a career for a middling nobleman. In contradistinction, the victim was an heir to an illustrious family. He was the youngest of the three Sangushko brothers, a clan of Volhynian princes boasting ties with the ruling Gediminid dynasty proven by their extremely highly regarded coat of arms – Vytis or the Pogoń—a knight in pursuit of an enemy, the state sigil of the Grand Duchy. The fate of the three brothers is illustrative of the guises of honor, therefore, a more thorough investigation into their biographies helps to set the scene.

Dymitr Sangushko, the oldest of the three, was himself subject to much controversy. He plotted to marry Elizaveta Ostrogska—a 14-year-old heiress to the vast magnate Ostrogski clan estate. On September 6th, 1553, Dymitr arrived at Ostrog castle to meet Elizaveta but was denied entry, as her custodians protested their union. Dymitr invaded the manor, forced an Orthodox priest to marry them, and fled with the bride in hand. Shortly, he was sued and found guilty of home invasion, a crime that potentially bore capital punishment.[693] King Sigismund Augustus was one of Elizaveta's custodians and did not agree to the wedding, hence, somewhat unsurprisingly, the trial deprived Dymitr of honor and life. Dymitr and Elizaveta fled to Bohemia, which led Sigismund Augustus to issue royal decrees authorizing killing him with impunity and promising a

[693] It was conditional on proving the murderous intent, see FLS VII. 1, SLS, XI. 1, TLS IV. 4.

reward of 200 gold coins. Marcin Zborowski led the pursuit and captured Dymitr on the 1st of February 1554 in a tavern nearby Nymburk in Bohemia. It was the morning after Dymitr's wedding feast. Dymitr postponed the celebration until he was in a foreign land, where the jurisdiction the Lithuanian law did not reach. Cornered by pursuers, Dymitr tried to flee through the tavern window, but Zborowski was able to incapacitate him and ordered his servants to execute Dymitr.[694] Zborowski was swiftly imprisoned on the charges of murder and would have been met his end himself if not for the personal intervention of King Sigismund Augustus, who sent a letter to the Holy Roman Emperor Ferdinand I Habsburg. This letter secured Zborowski's freedom.

Meanwhile, back in the Grand Duchy, Dymitr fell into widespread disrepute and was regarded a flagrant from justice. Jaroslav Sangushko, the youngest of the brothers, petitioned the ruler to prosecute the Zborowski of murder and cleanse the reputation of his late brother. He achieved this goal in part. Dymitro's body was buried in Jaroměř's St. Michael church where the brothers funded a plaque, reading

> *"Herein lies the body of the Lithuanian prince Dymitr Sangushko from the magnificent Olgerdovich lineage, Starosta of Cherkasy and Kanev, whom Martin Zborovski treacherously and insidiously slain."*[695]

Roman Sangushko, the middle child, was the most politically successful of the brothers. Roman was born in 1537 and was brought up in the royal court, where he received exemplary education, honed his military talents, and warranted the favor of King Sigismund Augustus.[696] In 1564, at the age of 27, Roman served as the field hetman, a position that put him second in

[694] Mariusz Machynia, "Sanguszko (Sanguszkowicz) Dymitr, książę z linii niesuchejesko-lokackiej (zm. 1554)," Henryk Markiewicz, ed., *Polski Słownik Biograficzny T. XXXIV* (Wrocław Wydawnictwo Polskiej Akademii Nauk, 1993-1994): 471-473. https://www.ipsb.nina.gov.pl/a/biografia/dymitr-sanguszko-kniaz

[695] "Hoc loco conditur corpus clari lithuaniae ducis Dimithr Sanduskowic ex magnifica Olgerdorum familia nati, capitanei Cyrkoviensis et Kanowiensis, quem perfide insidiose Martinus Zborovski trucidavit."

[696] Mariusz Machynia, "Sanguszko (Sanguszkowicz) Roman, kniaź z linii niesuchojesko-łokackiej (ok. 1537–1571)," in Henryk Markiewicz, ed., *Polski Słownik Biograficzny T. XXXIV* (Wrocław Wydawnictwo Polskiej Akademii Nauk, 1993-1994): 500–505. https://www.ipsb.nina.gov.pl/a/biografia/roman-sanguszko-kniaz

command of the Grand Duchy's troops and the responsibility of leading them to the midst of theatre of war. The same year prince Roman Sangushka sued the ruler's courtier Valent Zhelekh for murdering his younger brother – prince Jaroslav Sangushka.[697]

We may never know what transpired on the evening of the youngest brother's death but this is how the procurator laid out the charge in the final hearing of the case on December 1st, 1565:

> *"On the aforementioned time, year of our Lord 1564, month of September 5th day, when the late Prince Jaroslav Sangushka, true brother to Prince Roman, was visiting Jarovitsky manor nearby Lutsk at the invitation of the duchess Chetvertenskaya, as a quiet person who had no quarrel with no one, he sat there calm and unarmed. Then this Valent Zhelekh came to that gathering without any invitation and having forgotten the fear of God, your royal majesty, the Christian duties, having devised the time and place for this absolutely treacherous wickedness, carefully left his hiding place in the darkroom and irresponsibly, basely, treacherously, during nighttime, fired four bullets from his harquebus at the Prince Jaroslav, true brother to Prince Roman, who had no connection to that Zhelekh, and so killed him,* [a person] *who committed no foul to him. And having done this base and treacherous deed Zhelekh fled the duchess' manor with Mikhal Mishka to his manor Borodchyt."*[698]

There is a lot to unpack in this accusation. A murder is deemed an inherently wicked act as well as an affront to both God and the ruler, especially one carried out so treacherously, skulking under cover of night, directed against an unsuspecting, virtuous nobleman unblemished by guilt. Moreover, it was carried out while under the hospitality of the duchess and followed by a flight from the premises. A combination of many aggravating circumstances and the widespread

[697] 35CRB, c. 290.

[698] 35CRB, с. 291: "Иж тых недавъно минулих часовъ, року Божого нароженья тисеча пятьсотъ шестьдесят четвертого, месеца сентября пятого дня, кгды был небощик князь Ярослав Санкушкович, брат князья Романов рожоный, в дому у княгини Матфеевое Четвертьенское, в дворе ее Яровицкомъ, подле Луцка, за прозьбою ее на учъте, яко человек спокойный, ни с кимъ жадного заштья не маючы, безпечъне а безобороньне седел. Где тамъ же тотъ Валенътый Желех, ни отъ кого непрошоный, на тую беседу пришедшы, запомневшы боязнь Божое, зверхности нашу господаръское, повинности хрестияньское, усмотревшы часъ и месце ку пополненю зрадливого злочинства своего, таемъне подшедшы под коморку потребную з дому, того князя Ярослава, брата князя Романова рожноного, не маючи з нимъ жадное знаемости ани заштья, неотъповедъне лотъровьский зрадливе, в ночи, дирею з гаркавуза чотырма кулями пострелил и так его, ни в чомъ собе невинъного, насмерть замордоваль и, пополнивъшы тотъ такъ злосливый а зрадливый учынокъ, поспол з Михайлом Мышкого заразомъ с того двора кнегини Четвертьенъское до менье его Бородчыть отъехал."

documentation of the case surged the interest of several scholars, inspiring some to state that it shook the contemporary society.[699]

And indeed, it might have been considered scandalous as such precedents were rare. A Polish nobleman was accused of murdering a descendant of a Volhynian princely dynasty – Jaroslav Sangushko. Despite the procurator's straightforward summary, the case was not as clear-cut as it was presented. Were it so, the plaintiff would not have had to exert his influence through extralegal means. The documents retained in the Sangushko archive retained a letter to Hrehory Chodkiewicz (1505-1572), Prince Roman's father-in-law and one of the most influential magnates in the Grand Duchy. King Sigismund Augustus' response to Chodkiewicz survives, proving that Chodkiewicz addressed the King directly, asking to resolve the case. Moreover, it seems that the prosecutor omitted certain important details. This is how Prince Roman Sangushko described the evening of his brother's death:

> *"Then arrived that rogue Zhelekh, who was drinking at Chaplich's in the Milovshy manor, half a mile away from Yarovitsy manor, and when that Zhelekh arrived at night, it was already 3 AM. He joined the ball and while dancing, brother's servant Andrey Lushchyk stepped on his feet, when that Zhelekh fell on his nose, and then Zhelekh attacked that Andrey and slapped him; that Andrey for said slap punched him to the teeth with a fist and they tore at that Zhelekh like a drunken mob. My late brother, seeing that he might be killed by the drunken people, jumped in and broke him away from them and brough him out of the room in one piece and gave him to two sober servants to take him away, and those servants took him to Myshka and this is how everything happened."*[700]

[699] Сергій Рибак, "Справа про вбивство князя Ярослава Сангушка (1564-1565) як приклад кримінального розслідування у Великому князівстві Литовському," *Наукові записки* 21 (2003): 10-16; Олена Сокальська, "Коронне «scrutinium» чи литовсько-руське «выведанье»: досудове слідство на українських землях у XVI столітті" *Актуальні Проблеми Держави і Права* 49 (2009): 110-116.

[700] Zygmunt Radzimiński, ed., *Archiwum książąt Lubartowiczów Sanguszków w Sławucie. T. VI (1549-1577)* (Lwów: 1910): 245: "Потым приехал той лотръ, Желех, который пил у Чаплича у Миловшах, пул мили от Яровицы и кгды у ноче приехал той Желехъ, южъ было годин 3 шэд танцовать у танцу, коли танцовал, заставил ему слуга брата, ниякий Андрий Лущик ногу, кгды се поточила на нос той Жалыхъ, торгнул се до того Андрийка и жди ся торгнул, дал му поличок. той Андрийко зас за тои поличок дал ему пястью у зубы а потом се порвали до

Despite the true happenings of that evening, several other cases suggest that Zhelekh harbored murderous intent as a consequence of his encounter with the deceased. While the murder investigation was taking place, some Sangushko servants brought a case against Zhelekh and his friend Zholkovski on the grounds of defamation—pulling out the beard, insulting, and threatening murder. Their witness statements retain a threat: "*you will see, Lithuanian, how you will leave this place*" said Zholkovski to Prince Jaroslav few hours before the murder.[701] Another surviving document in the Sangushko archive relates this story from another angle: Prince Mikolai Kharlinsky told that on September 10th, five days after the murder, Valenty Zhelekh attended a gathering at his manor and while there Zhelekh spoke of that evening at the Duchess Chetvertenskaya, when Prince Jaroslav Sangushko did something hurtful to Zhelekh, who immediately decided to take revenge and devised a manner for doing so.[702] Hence, the story prosecution was conveying, one of completely unreasonable outburst of violence, was not completely truthful. Instead, murder of Prince Sangushko should be seen as a story of revenge, inspired by hurt sense of honor and fueled by heavy inebriation.

That night Zhelekh slipped away. He found safety in the manor of Mikhail Mishka, who accompanied him to the ball in the first place. Prince Roman Sangushko pursued them and assailed Mishka's manor, requesting to extract Zhelekh and transport him to the Lutsk castle, where he ought to await murder trial. However, despite being the Field Hetman of the Grand Duchy, he did not possess the authority to impose such demands and therefore, Mishka did not give Zhelekh up, saying that Sangushka has no jurisdiction over his property and should procure court summons

того Желеха яко луд пьяный. Небожчик братъ видечи то, жебы был забыты от людей пьяных, скочивший, отнял его от них и вывел его у цалости преч изъ светлицы и дал его двум служебником тверезвым, абы его отпровадили, ты слуги отпровадили его аж до Мышки то уся речъ ма се у собы так."

[701] Ibid., 262: "уйзришь Литвине, яко от толъ выедешъ."

[702] Ibid., 240.

before making such requests. Moreover, Mishka emphasized that Zhelekh was a Polish noble. Overall, Mishka's words aligned with the law: the privilege of *neminem captivabimus* ensured Zhelekh's safety since he was not caught red-handed. Moreover, if Roman was to threaten Zhelekh's or Mishka's wellbeing, it could have been interpreted as blood feud—a crime punishable by death.[703]

Therefore, Roman Sangushko started the judicial procedure and registered the offense at the Lutsk castle court on the same night. Before leaving for court, prince Roman charged Mishka with the responsibility for Zhelekh's safety and whereabouts on the bond of 100 000 kopa of groschens.[704] Once in Lutsk, Sangushko contacted court officials who would later carry out a criminal investigation: inspect the crime scene, body, and record testimonies. But first, the whole entourage rode to Mishka's manor. Sangushko was gone no longer than three hours, but that was more than enough time for Zhelekh to flee from Mishka's manor. The only thing left to do was to sue his protector, Mishka, who let Zhelekh slip away. The case was based on the charges of disobedience towards the court officials since Mishka did not abide by the lawful demands of Lutsk castle officials and sheltered Zhelekh despite knowing full well about the murder. They met in court on the 26th of February 1565, but the ruler postponed deciding due to war and they resumed litigation on Friday, March 16th. In this court session, Mishka was able to present Zhelekh to the court, thus fulfilling his obligations.[705]

This was the first occasion that prince Roman Sangushko met the royal courtier Valenty Zhelekh since the night of September 5th, 1564. Albeit the case already dealt with the main clause

[703] Сергій Рибак, *Справа про вбивство князя Ярослава Сангушка*, 13
[704] 47CRB, с. 75: "врадовъне того Желеха Мышце припоручылъ на господара, его милость, под стома тысечьми копами грошей."
[705] Ibid., p. 92.

of the summons—Mishka's disobedience—and justified his actions, the trial continued. The representative of Roman Sangushko voiced the accusations, in much the same manner as it was quoted above, and so prompted Zhelekh's representative to respond. Mishka already hinted at the litigation tactic Zhelekh would adopt when he said that he did not want to give up a well-reputed Polish nobleman to Lithuanian officers. Zhelekh was represented in court by Mikolai Kumelski, who picked up on and carried this line of argumentation. The main pillar of his defense strategy was stressing that Zhelekh was a citizen of the Crown and thus a subject to Polish law. Additionally, he took issue with the wording of the summons and added that the current accusations are nothing short of insulting,[706] adding that Zhelekh will want to litigate over these insults once the right time comes, as is expected of an honorable nobleman. Overall, Kumelski attempted a defense based on technical and procedural angles, claiming that Zhelekh is not a subject of Lithuanian law and institutions and stands in court as a subject of the ruler, not because he acquiesced to being judged according to the Grand Duchy's law.[707]

The representative of Prince Roman Sangushka, Mezhinski confronted this line of defense, proclaiming that nothing that is said during the case is intended to insult Zhelekh or his progeny.[708] However, the words he used to present the crime were quite strong:

> *"Zhelekh came to this gathering uninvited and having forgotten the fear of God and the superiority of his royal grace, Christian duties, planned the time and place for his completely insidious crime, secretly came to the dark room, from behind prince Jaroslav's back at night, a true brother of Prince Roman, having no previous acquaintance of his, irresponsibly,*

[706] The Third Lithuanian Statute (1588) established that any summons worded in inappropriate or insulting way could be dismissed and pronounced void of their legal power (TLS IV.26)
[707] 47CRB, c. 75.
[708] 47CRB, c. 75: "Межынъский напервэй обмову делалъ и, просечы его королевъское милости, жебы то, што будет в той речы мовити, ему и доброй почътивости его, и потомству его напотомъ ничого ни шъкодило".

shamefully and treacherously fired four bullets from his harquebus and killed an innocent person."[709]

While the accusation bore significant similitude to the previously quoted case, this record retained a thorough presentation of the supporting evidence. The first piece of evidence that the prosecution presented is dated the 5th of September 1565, the night of the crime. It records the initial inquiry into the case. Then the officers of Lutsk castle were brought to the crime place – Jarovitsy manor, where they joined other important people and together witnessed the wounds, saw the crime scene, and recorded prince Roman's testimony. Their reports contain close scrutiny of the body of the deceased and the crime scene.

However, perhaps of more importance are the three witness statements that allow to trace the aftermath of the crime. First witness, Martin Maksimovich was a servant of the hostess Duchess Chetvertenska. He confirmed that Zhelekh settled at his house and soon left for the Jarovitsy manor. However, according to Maksimovich, Zhelekh soon returned, picked up a sword and a harquebus, and went out again accompanied by his servants. The witness did not detail where Zhelekh went but attested that Zhelekh returned for the second time a few hours later, shortly before dawn. The second was Mikolai Kharlinski, a nobleman of Volhyn district, who testified that five days later, on the 10th of September, Zhelekh visited the manor of the ruler's marshal Piotr Zagorovski. There he heard Zhelekh boasting to other Polish nobles about that evening at Jarovitsy manor and ordering to murder Prince Jaroslav Sangushka. Lastly, the third testimony retained the words of the dying prince, who unequivocally blamed Zhelekh for his death.

[709] Ibid.: "Желехъ, ни от кого непрошоный на тую беседу прышедшы, запомневъшы боязни Божое и зъвирхъности его милости господарское, повиннъости хрестиянъское, усмотревшы часъ и мейстъце ку пополненю зрадливого злочынства своего, таемне подъшедшы подъ коморку потребную, здолу того князя Ярослава, брата князя Романа роженего, не маючы з ним жадное знаемости ани заштья, неотъповедне, лотъровске и зърадливе в ночы дирою з гаркавуза чотырма кулями пострелилъ и такъ его сове, ни в чомъ невинного, насмерть замордовал."

After a lengthy and detailed charge was concluded, Zhelekh's representative had his chance to present a defense:

> *"Zhelekh does not have any connection to this case brought before his royal grace, neither does he answer to any other law besides the one of the* [Polish] *Crown, but he is an honorable nobleman and a settled citizen to the Polish Crown and a servant and an officer to the manor of his royal grace. If anyone had something against him, they should address him with the law that he belongs to and of that neighboring state, because it does not concern only Zhelekh but all other inhabitants of the Polish Crown."*[710]

But most important of all, Zhelekh's representative added that these accusations hurt Zhelekh's good reputation and honor and are voiced in a case between Prince Sangushka and Mishka. Supposedly, this trial has nothing to do with Zhelekh and he participates only of his own goodwill, Zhelekh only arrived at the court as a subject of his royal grace.[711] Moreover, since Zhelekh does not recognize any superiority over his person and is not Mishka's servant, he could not force Zhelekh to participate in court or subdue him on the night of the crime.

While the ruler forgave Mishka because he eventually led Zhelekh to court, he was not that sympathetic towards Zhelekh's defense. The twofold defense that relied on his noble honor and Polish origins had a glimmer of success only because the First Lithuanian Statute did not claim territorial superiority over other codes in the Grand Duchy.[712] This gap allowed one to insist upon being subject to a different code of law and demand legal treatment according to its clauses. This

[710] Ibid.: "Желехъ року некоторого ку той справе перед его королевского милостью не маетъ, ани которому иному праву опрочъ корунъного не подлех, але есть почтивы шляхътичъ а обыватель, в Короне Польской добре оселы, и слуга а врадникъ на дворе его королевское милости. Эстъли што до него хто мелъ, абы его правомъ, ему належным и в том тутъ панъстве звыклимъ, найдовалъ, кгды ж то не о одного Желеха идеть, але и о иныхъ всех обывателей Короны Польское."
[711] Ibid., p. 97.
[712] Сергій Рибак, *Справа про вбивство князя Ярослава Сангушка*, 13.

strategy prompted a lengthy commentary from the ruler, denouncing such deliberate negligence to participate in the process and engage with the charge. The ruler had this to say:

> *"Every law agrees with it, not only the Roman law but all the others as well, Christian and Pagan alike, that it would be a bad mistake if someone who has sinned and committed a crime in one state or law, would have to answer to a different law* […] *therefore Zhelekh must answer to the lawful summons and the decision of his royal grace."*[713]

In reaction to this, Zhelekh repeated that he attended the court out of his own volition, as a free man and a loyal subject to his majesty, and because of that was forced to endure ignominious and insulting words directed at him in a foreign institution. Zhelekh seemed outraged and reiterated that he will address these insults in the Polish courts to which he is subject, come proper time. Apart from the insulting words that were used to describe the act of killing, he implies that the course of the process itself is demeaning because his very subjecthood is at stake. A previously analyzed example of alleging treason in court alluded to the idea that legal subjecthood is closely connected to the estate and personal place in the society, therefore answerability to a different legal code might be perceived as a slight.

The prosecutor dismissed these protests as empty words and reiterated that Zhelekh

> *"was accused with these words because his action is such, and these words cannot be separated from this action, because this action was described so, as it was carried out. And since he is brought before Lithuanian law, he must be tried according to it and none other, because every legal code teaches this* […] *Moreover, the summons and the case do not regard words, but that unfair assault and killing of the late Prince Jaroslav, as it is described in the summons* […] *treachery in a peaceful place and so on, then these words, describing the deed, must be tried together, and the words cannot be separated from the charge, especially because the deceased blamed and denounced Zhelekh with his own words*

[713] Ibid.: "На шъто се згожають вси права не только цесарские, але и оные вси, так хрестьянские, яко и поганъские, во бы то злая пошлина была, абы хто згрешывъшы и выступок учынивъшы в которомъ панъстве або праве, а отъсылан быти мелъ до иного права, чого жадное право не учинить."

and died with these words on his lips, sealing this accusation with his death."[714]

The prosecutors pleaded with the ruler to take a decision: "*not only does the prince Roman ask for it, but also the blood of the murdered brother prince Jaroslav beg God for peace and justice and turn to the ruler*."[715] But the plea was not yet answered: long deliberations with the Polish and Lithuanian lords were fruitless and the ruler postponed his decision and ordered them to reconvene in eight weeks—on April 25th. But as his last command in this session, the ruler granted the plea for peace and allowed prince Roman to lay his brother's body to rest.[716]

However, the case was not solved on April 25th, nor in a later meeting. The prosecution repeated its allegations and Zhelekh relied on the same defense in the following court sessions. His insistence on being tried according to the Polish law would not have led to a different outcome, since murder with aggravating circumstances warranted capital punishment in both scenarios. Nevertheless, it was a handy judicial tactic: it stalled yet another court session which ended with the ruler ordering additional witness questioning and reconvention on November 13th, 1565. Zhelekh must have felt the fickleness of his luck and took a fatal, yet not entirely unexpected, decision. On the 13th of November, he did not arrive in court and continued to ignore every subsequent summons. When Zhelekh ignored summons to court for the third time, it presented a

[714] Ibid.: "его так тыми жъ словы обвинилъ, яко естъ на него жалоба учынена, а слова отъ учынку не могуть быти розделены во тот учынокъ так естъ выписанъ, яко есть учынен. А кгды жъ до права литовского есть поставенъ, тогды тымъ жо правом маеть быти сужонъ а не инымъ, во и права вси так учать [...] але ижъ тот учынок есть такий, иж не може быть иначей охрщонъ и назъванъ, одно яко в жалобе естъ описанъ -- покутъный на местцу спокойном и далей, тогъды и тые слова, пры учынку зоставаючые посполу мають быты сужоны, а зъвлаща, иж небожчик сам своими усты такъ объвинилъ и поволалъ Желеха и с тым умеръ, а своею смертью то запечатовал."

[715] Ibid., p. 97: "кгдыжъ не только княз Романъ, але теж и кровъ забитого и такъ замордованого брата его князя Ярослава помъсты и справедливости отъ пана Бога просить, ку его королевское милости жедаеть."

[716] The ruler mentions that the body was brought to the court, and he could observe it through the palace window. 35CRB, c. 290, p. 399.

sufficient legal basis to denounce him for contempt towards the court. The plaintiffs kneeled and begged the ruler in tears to take a decision. On December 1st, 1565, the verdict was pronounced.

Zhelekh was ruled guilty of manslaughter because he fled justice, thus confirming the mounting accusations against him.[717] Nevertheless, there were still blank spots in his case, evidence against him were the report of the words of a dying man, witnesses of the clash who were Sangushko's servants, and the examination of the body carried out by the court officials. However, the defendant refused to engage with the case: he did not refute these charges and refused to testify, claiming he was subject to a different legal code. Ignoring the summons solidified his guilt and allowed the ruler to proclaim a verdict under the Lithuanian law, it undermined the authority of the court, and broke the ties of trust between the sides. Zhelekh swore *on his hand and honor* to appear in court but did not uphold his words, therefore he was dishonored and deemed worthless.[718] In the official document pronouncing Zhelekh's banishment that was to be publicly read in the district centers and disseminated throughout the land, King Sigismund Augustus proclaims:

> *"*[…] *on the account of premeditated murder committed in a nefarious manner, he deserved to lose his life, on the account of violating trust and not upholding his knightly oath, as was fitting, he is deprived of honor and reputation* […] *that Valenty Zhelekh convicted by law in such a manner, declared an* infamis *and his life deprived, should be proclaimed such in public places where people often gather and regarded as such by all and avoided by all his companions* […] *one of you can have his riches, let them take heed and detain him according to the laws of this country* […] *so that by his example and his fame the malice of savage men may be prevented."*[719]

[717] The exact formulation was that he did not arrive to court, nor sent word about his absence, and by doing so confessed his guilt, see 35CRB, c. 290, p. 403.
[718] Безэцным: GSBM, t. 1, 1982, pp. 231-232.
[719] Radzimiński, *Archiwum książąt Lubartowiczów Sanguszków w Sławucie T. VI*, 287: "videlicet propter homicidium, modo praemisso nepharie comissum, vita demeruisse propter vero sponsionem fidei et sacramentum militare violatum et non completum, ut probum decebat, privationem honoris et famae […] ut praefatum Valentinum Zelech, sic iure convictum, infamem et vita privatum declaratum et publicatum, pro tali ab omnibus haberi et eius omni consortio vitari exlamare publice in locis frequentiae hominum faciant […] eius copiam aliquis vestrum habere poterit, eiundem

Hence, Zhelekh lost his life due to the premeditated murder, but he was deprived of his honor and glory for being untruthful and breaking his oath. Once dishonored, Zhelekh became a man outside the protection of the law. Anyone could claim his life without risking any retribution. However, Prince Roman Sangushko received the exceptional right to exact revenge over Zhelekh: the ruler appointed him the executor of his decision and commanded all subjects not to interfere with delivering justice.[720] Moreover, anyone standing in his way or protecting the guilty would risk the same punishment he was fleeing. Overall, this shows the state of the Lithuanian law of the mid-16th century, which made use of personal revenge once it was sanctioned by the state.[721]

Overall, this long and winding legal process details an aftermath of hurt honor. From what we know, Zhelekh was publicly beaten in the presence of high ranking and esteemed nobles, some even of princely rank, during a feast. More than likely, he was insulted as well. Hardly bearing such defamation he saw only one way to settle this issue—violence, targeting a person he deemed responsible. However, as the charges inform us, he chose a treacherous and improper way to carry out his revenge—an ambush utilizing an element of surprise and disappearing under cover of darkness. He succeeded in doing so and escaping the law several times, however, he paid a price for his decisions: Zhelekh lost his life as a murderer but lost his honor and reputation as an oath breaker.

Conclusion

In all their variety and guises, insults were a litigable crime in the Grand Duchy of Lithuania. The law guarded nobles and shrouded their name as well as body with honor. Verbal

iuxta leges patriae detineant, detinerique curent et faciant […] ut exemplo eius malitia hominum proteruorum et famam suam,iuraque omnia contemnentium arceri possit."

[720] 35CRB, c. 292.

[721] Григорий Васильевич Демченко. *Наказание по литовскому статуту в его трех редакциях (1529, 1566 и 1588 гг.)* (Киев: 1894): 203.

insults were described as physical hurt, whereas substantial wounds could be outweighed by their demeaning characteristics. This is led previous scholars to conclude that in those days moral and physical violence was not yet differentiated. However, while true, this conclusion bears a kernel of anachronism: it introduces a divide between honor and corporeality. Instead, it is quite productive to view honor in those days as an embodied individual trait, communicated through various signs, including gestures, hair and headgear, physical demeanor. As such, honor could be injured by attacking these same signs and therefore offenses against reputation ranged from allegations of grand crimes to removal of the hat or negation of royal privilege through unlawful incarceration. Seen as such, it should not be surprising that monetary restitutions for disgrace encompassed remuneration for actions that we today may perceive as moral or physical violence.

Instead, the dividing mark should be delineated according to the lines of status and reputation. While insults carried social significance and could result in diminished quality of life within a community, affronts to status bore an increased significance as those had to do with legal standing and the rights it entails. For this reason, insults to status were named humiliation. Only the royal court could preside over the cases that questioned status either by word or action, because only the ruler could alter social order. Unsurprisingly, deprivation of honor as status counted among the harshest punishments within the Lithuanian Statutes, as it constituted civic death—loss of any relation to one's community, deprivation of rights, and protection of the law.

Analysis of actions transgressing noble's honor intended to outline the outer limits of the Grand Duchy's nobility's honor code. Interpreted as such, insults could be grouped into several categories. First of those were character insults, namely the examples of implying dishonesty and lying, calling one a knave, or a bloodthirsty man. The documented cases are relatively few but must have been much more common than other kind of insults, as they entailed little judicial

responsibility. It is in response to accusations of lying that we see a rare glimpse of offended sense of honor in several cases. The second group of insults carried much more tangible legal weight as those were allegations of grand crimes. Allegations of treason, murder, or robbery were regarded insulting and would warrant a legal process to cleanse personal reputation. Lastly, the third group were the offenses to status, such as calling a noble a *smerd*. However, these groupings are quite tentative, as any imputation of, say, robbery would imply a certain kind of moral character just as an unwarranted accusation of serfdom would carry a certain set of personal qualities. Then, what could be learned of honor code from these transgressive acts? The insulting implications of dishonesty suggest its opposite being a valued trait, additionally, drawing upon legal formulations of King Sigismund Augustus, loyalty and trustworthiness would take a prided place within the portrait of an ideal noble.

Paradoxically, analysis of legal practice could be seen as yielding the opposite results than that of normative law. Whereas Lithuanian Statutes did not extensively regulate protection of reputation and the clauses are often silent about any verbal attacks, the judicial practice proved to be much more concerned about them, and this sensibility extended to the archives, as verbal slights and descriptions of defaming physical acts were rarely committed to paper. In some cases, even said traces were obliged to be eliminated to safeguard reputation. This is not surprising, as copies of court minutes could be used as evidence of noble status by the descendants of the insulted. In contrast, cases of litigation over status were fewer in number and much less varied. Most often they featured an accusation of not being a noble, a standard formula that initiated the process, or forced carrying out duties not necessitated by legal status. Protection of noble status strictly followed the letter of the law and relied on oaths of kin and royal documents. Only in one instance was nobility willingly lost, in other cases it had been successfully protected and survived in the

royal archive as it was in the litigants' interest to secure this document for posterity within the royal archive.

Overall, the judicial practice showed an acute sensitivity to insulting behavior, however, considered in context, cases over insults are not very common. More often insults are mentioned in lawsuits alongside other accusations, especially often violent ones. However, one would not be wrong to presume that many violent encounters began with an insult and escalated into further enmity. That said, less injurious insults may have not been regarded worthwhile to address the royal court for. Nevertheless, many of the discussed cases contain evidence that honor was taken personally, and the protection of personal worth did play a part among the motivations to litigate. Whereas the Lithuanian Statutes reflect nobleman's honor as a sort of shared worth of the estate, the cases defending reputation and status show that it has been internalized and embodied by every member of said community. Therefore, the answer to the question whether noble's honor was claimed as a corporate trait or personal quality is, unsurprisingly, both; status was a necessary condition for claiming more individuated forms of honor and its loss would entail also the loss of personal honor. We now turn to the last aspects of honor under study—its differences based on gender and those based on status.

Chapter Four. Not only noble men

In the historical scholarship on the Grand Duchy of Lithuania the concept of honor is most readily associated with noblemen. This is especially prominent among the classical legal history works, but since the topic of honor remains a largely uncharted territory, these entries retain their importance. More recent historical works have taken steps to challenge the notion of exclusivity of honor and in following this path the present chapter analyzes the legal standing of women and the cases commoners brought to the royal court.

Women in court

Noblewomen of the Grand Duchy were as much aware of the importance of honor as men. However, their code of honor rested on much different virtues than those of men. As in many other honor cultures, submissiveness, tenacity, and above all virginity took prided place. We have already seen that Andreas Volanus named virginity as the dearest trait of any woman and criticizing the ills of his contemporaries, portraying women as especially prone to lavish and unnecessary expenses.[722] Claiming honor by living up to the standards held by contemporaries would translate in increased respect, however, favored behavior in a patriarchal setting was much decided by the woman's marital status.[723] However, as already had been discussed in the introduction, women should not be regarded as passive actors within honor cultures. Instead, to find out their methods of influence one must employ a different kind of research strategy than that centering around conflict and violence, which were more often associated with the masculine honor codes. Nevertheless, examples discussed in the previous chapter exemplified women taking

[722] For a discussion on Volanus' views on women, see *Liberty, tradition and Law*, section *Practical advice*.
[723] For more on the idealized behavioral models of women see Jolita Sarcevičienė, "A Vessel of Sins Full of Virtues: The Ideal Image of the Female in the Occasional Writings of the Grand Duchy of Lithuania in the Late Sixteenth and Early Seventeenth Centuries." *Lithuanian historical studies* 6.1 (2001): 23-54.

to violent means more than once. A thorough examination of gender dynamics within the question of honor would require a separate set of questions and sources, therefore, the present discussion is but a step towards that direction. We continue with the analysis of normative law and legal practice, emphasizing the most pertinent examples of gender differences regarding honor.

Perhaps the most prominent aspect of gender difference within the Lithuanian Statutes was increased the personal protection of women. Women were accorded double the size of monetary restitution for violence or *bezchest'e* men of equal status would receive.[724] While any slighted nobleman could litigate for a restitution of 12 rubles of groschens, insulting a noblewoman would entail a sum of 24 rubles. This amount did not vary according to their marital status or rank, however, the arithmetic of monetary restitution was much more varied among commoners: their health and honor warranted different rates, depending on their trade and office. In this case, restitution for married women was calculated by doubling the restitution their husbands could claim. This practice extended to unmarried women but then the amount of their restitution depended on their social status instead of the office of their spouse. Double restitution norm extended to personal punishments, such as the length of imprisonment, and could potentially be applied to some corporal punishments.

There were several notable exceptions to the double restitution clause. It did not stand for women slaves,[725] barkeeps, and craftswomen, who were restituted by the same amount as their male counterparts. Artisan's wives, however, were restituted doubly. While historiography offers no further insight on the reason behind it, one hypothesis states that these exceptions arose due to the widespread negative view towards physical labor in the noble society. According to the Second

[724] For detailed amounts see *Table 4.1*.
[725] PLS XI. 3.

Lithuanian Statute (1566) nobles taking up mechanical arts or toiling the land risk losing their noble status.[726] The double restitution clause was not clearly formulated in the First Lithuanian Statute, instead, the amounts of restitutions for women were mentioned in the same articles as men. However, its application in legal practice was consistent. Earlier studies argue that the norm of double restitution is a remnant of archaic social relations, and this is supported by similar norms barbaric laws. The Salic Law and Slavic customary law extended double restitution to women but limited its application by either marital or social status.[727] However, these practices died out around the 13th century, while the Lithuanian Statutes carried the double restitution clause throughout the Early Modern period and applied it to nearly every subject of the female sex.

However, increased personal protection notwithstanding, Grand Duchy's normative legal system did not regard women as independent legal actors. Women were granted access to notaries and other legal institutions of the first instance to register a crime or file a case, but they had to be accompanied by a male in the following litigation. The choice of legal representative depended on their marital status: married women had to be represented in court by their husband, while unmarried ones by closest male kin, be it father or brother.[728] Court records retained instances of husbands litigating to cleanse the honor of their wives and sons representing their mothers. Legal practice was not as unified, and archives retained records of married women representing themselves. However, exceptions extended into normative law. Widows were legitimate landholders and although they lacked the political rights that should have come with

[726] SLS III. 20.
[727] Инге Лукшайте, "Об обычае двойного выкупа за женщины по литовскому праву," *Советская этнография* 2 (1968): 114-120.
[728] An example of husband litigating in wife's stead, see 12CRB, c. 154.

landownership, the law regarded them as independent legal actors.[729] They could initiate processes and litigate personally in their personal capacity and representing members of their household.

The exceptional status of widows was a cause for controversy within a patriarchal society. Michalo Lituanus, the author of a popular social commentary entitled *On the Mores of Tatars, Lithuanians, and Muscovites* (c. 1550) serves as an example of the backlash said legal exception caused. He lamented the corrupt customs of the local women whose laxity became especially apparent once compared with the more "virtuous" mores of Tatars and Muscovites. He identified one root cause for such difference:

> *"Our women walk from house to house, visiting their friends and wasting time, they ride in fancy carriages, participate in men's conversations, and wear man's clothes* […] *They care not for their chastity, yet want to appear beautiful and rich, despite their riches be spurious and their faces painted. Such mores spread throughout our nation since the adoption of the notorious law in the Lithuanian Statute allowing wives to claim a part of the inheritance in exchange for their dowry. Ever since they became impudent, they erode virtue, disobey their caretakers, fathers, husbands, and conspire how to hasten the death of the living."*[730]

Again, we see a conviction that laws had a direct influence on the prevalent customs that Volanus harbored. Michalo Lituanus, however, sees the potential threat in the laws to corrupt morality and attacks the clause that extends noble widows the status of landowners, granting them the right to rule over a third part of their late husband's estate.[731] This clause intended to protect the

[729] Irena Valikonytė, "Ar Lietuvos Didžiojoje Kunigaikštystėje XVI amžiuje moteris buvo pilietė?" *Lietuvos Istorijos Studijos* 2 (1994): 62-73.
[730] Mykolas Lietuvis, *Apie totorių, lietuvių ir maskvėnų papročius. Dešimt įvairaus istorinio turinio fragmentų* trans. Ignas Jonynas (Vilnius: Vaga, 1966): 27-28: "nostrae vero circumeunt domosociosae, coetibus virorum se miscendo, vestitu fere virili […] et id studet ut non tam integrae quam pecuniosae et formosae habeantur, et si fictis nonnunquam pecuniis, pictis faciebus, id quod latius in populo nostro patere coepit, postquam promulgata est nobis lex Stat. Lit. dist. 4 arti. 7 concedens pro dote mulierib: ceteras haereditatum partes. unde insolentes factae, subinde virtutem negigunt, tutoribus, parentibus, maritis immorigerae fiunt, et viventibus immaturam machinantur mortem." Lithuanian translation in ibid., 53-54.
[731] FLS IV.1, IV. 5.

particularly vulnerable social group and ensure their sustenance throughout their widowhood but if they decided to marry once again, they would lose the rights to the land.

Lituanus' prejudicial remarks against widows were extremely satirized, however, precedents of wives orchestrating the demise of their husbands were many. One particularly interesting case was recorded in 1529, when a Samogitian noblewoman Anna Yanushovaya Rodevich and her brother-in-law Piotr Shembel sued Agneshka—the wife of Anna's late brother Pashko. They accused Agneshka of killing her husband Pashko by ordering her bondservants to drown him. The plaintiffs asked the court to interrogate Agneshka's servants, but the defendant protested and defended her people, reiterating that her husband died of natural causes. However, the ruler ordered to bring her slaves to the court during the next session but on the set day, Agneshka reported the slaves ran away. The court caught three out of four fugitives and they confirmed drowning her husband because "*she forgave us all after his death*."[732] Their words sealed her fate and then Agnieszka herself admitted having had her husband killed. This record reached the ruler's court only for the ruler to adjudge an appropriate punishment. The ruler ordered to transfer all her assets to the plaintiff's disposition until Agneshka's children were of legal age. However, no further punishment adjudged because she appealed. A record dated only two months later states that the plaintiffs and the accused met in the royal court again, because Agneshka again denied her involvement in Pashko's death. This change of mind was brought about by the custom that nobles cannot be acquitted based on the words of their slaves or servants.[733] The plaintiffs had no further incriminating evidence but wanted to swear an oath on her guilt. The court allowed this, set the time, and formulated the text of an oath. However, the plaintiffs did not agree with the text

[732] 4CRB, c. 340: "как жо дей она нас всех по его смерти за то и даровала".
[733] This clause did not make it to the First Lithuanian Statute, but it is established the Second and Third Statutes.

of the oath instead and made an out-of-court agreement with Agneshka, returning her assets to her care.[734] Finally, the royal court issued a royal decree that set Agneshka free of any accusations regarding the death of her husband. This concluded a story of a widow who admitted to killing her spouse but won back her life back by the power of the customary law.

Due to their special status as landowners and legal guardians of underage children, widows wielded significantly more legal rights than other women.[735] They were exempt from legal responsibility for a year after the death of a husband. It was a time to grieve and a means of protection against the surviving kin, who often were eager to adjoin the land of the deceased to family estates. Legal practice suggests yet another reason for a lengthy period of legal exemption. In 1553 a noble widow Hromichnaya addressed the ruler personally, pleading to ensure her right to exemption from legal responsibility. And later she charged him with a secret:

> *"In addition, brightest and most beloved king, I understand and know well the manner in which I should speak in the presence of the brightest majesty of your grace and the high council of your grace, I understand as well, graceful king, what is the shame of the brides, but necessity overrides the law, as well as other norms. And where an important need arises, there every shame and remorse should cease. Therefore, I proclaim this before your grace's majesty that before my husband paid the inborn debt and according to the will of God left this world, he left in his wake an heir in my living body, for this reason, I bow my head down low before your grace, my ruler and Christian lord,* [asking] *to take my story into your ruler's grace and not judge it as depravity or shamelessness. However, it was not apt to keep my important and impudent matter to me since silence about such things could cause harm or injustice to the heir of my husband."*[736]

[734] 4CRB, c. 363.

[735] For a discussion of economic power of widows, see Jurgita Kunsmanaitė, *Provisions for Widowhood in the Legal Sources of Sixteenth-Century Lithuania*, PhD diss., Central European University, 2009.

[736] 8CRB, c. 50: "притомъ, теж, нaяснейшый а намилостившый кролю, розумемъ и умемъ добре, которым обычаем мамъ слово перед обличностью ясного майстату Вашое милости и теж высоких рад Вашое милости провадити и творити, розумемъ теж, милостивый королю, и тому, што естъ устыж невестеи, але, иж потребижность и законъ, и вьщелякии уставы ламълеть. а где теж навальная потребижность приодеть, тамъ кождый сором и встыд устати мусить. прото, ознаймую то перед майстатом Вашое милости, аж ачколве мужъ

This is a rare insight into the mind of a 16th century widow. Eloquent supplication portrays her struggle to address the intimate nature of her predicament however its success was vital to her wellbeing and the future of the child, whose right to inherit could have been contested. From the legal vantage point it is a preemptive measure to secure her status as a widow, which could be contested by accusations of infidelity when pregnancy began to show.

Grand Duchy's law required to arrange for provisions in case the husband died first. Every dowry was insured with a dower and the family tried to ensure the livelihood of their daughter. Widows were allowed to inhabit the third part of their husband's estate until their death or another marriage. Their condition depended on the fact if widows had progeny or not. Those widows who did not have sons constituted an exceptional segment of landowning nobility, which charged them with all the privileges and burdens of feudal law. They could represent themselves in court without any recourse to their male kin. Sometimes widows could not rely on them exactly because they were the cause of their suffering. For instance, in 1520 Elizaveta Mikhailovna sued her adult son and formal legal guardian Tomka for beating her thrice. He pleaded forgiveness and Elizaveta acquiesced, refusing to press charges on violence, nevertheless, she asked the court to divide their estate into parts so that she did not have to rely on Tomka as the head of the household. The ruler did so and insured her wellbeing by a bond.[737]

Widows were charged to provide military service by preparing cavalry and pay taxes when those were levied but had no political representation. Though not for the lack of trying, as some of

мой повинность долгу прироженого заплатилъ и с того света, подле воли Божее, сшол, однако ж по собе зоставил властного дедечи у животе моемъ, зато, Вашой милости, господарю своему милостивому а пано християнскому, низко чоломъ бью, абы рачыл тое оповеданье мое в ласку свою господаръскую приняты, а мне потом того за вшетечность або за невсътыдливость не полычати. Одно то той великой а нагълой потребе моей привлашчить абовемъ не годило мы ся, абыхъ через замолчанье таковое речи мели которую шкоду або безправье томи-то дедичу мужа моего вчинити."

[737] RIB: 1483, c. 162.

the most brazen widows fought for their rights and attended dietines in person. For instance, a diary of the Vilnius diet of 1507 mentions that widows participated but only through the representation of their male servants. By the late 16th century, the idea of women playing a prominent social role was ridiculed and made the subject of contemporary comedies portraying a parliament of women.[738] Otherwise, widows governed their households with as much authority as any man, taking financial decisions and presiding over cases. They exercised the right to the lives of their servants, wielding the power to adjudge capital punishment. Nevertheless, widows occupied one of the grey zones in a feudal society and therefore were regarded with suspicion, which found various expressions in the public sphere.

Although normative law was quite strict about women's rights to represent themselves in courts, legal practice was much more varied. Among the cases discussed previously, we saw examples of husbands litigating in their wives' stead but in some cases women represented themselves. For instance, in 1520 Marina Chizhova and her two sons sued her third son and their brother Andrei for invasion and violence. She laid out the charge: that Andrei's servants attacked her manor in Varniai [Samogitia, West Lithuania], beat some of the locals, bound others in bricks, drowned one, and killed two others; as evidence, their bodies they laid before the court. After a lengthy period of ignoring the summons, Andrei stood in court and proclaimed that his mother has an illegal tavern in the manor, which is a place notorious for brawls. Andrei claimed that his servants went there to spend their hard-earned coin, as they are free to do since they are good people—nobles, and he knows nothing of the way things transpired that evening. However, the judges were not satisfied with such an explanation and once the case had been brought to

[738] Valikonytė, *Ar Lietuvos Didžiojoje Kunigaikštystėje XVI amžiuje moteris buvo pilietė?*, 68. The comedy was likely written following Aristophanes' *Ekklesiazousai*.

conclusion, he was ordered to restitute any damage caused, pay wergild, and a bond to the treasury.[739]

This willingness to go to court representing personal interests remained steadfast throughout the period, as a case from 1540 shows. Another widow, Anna Viazhevich represented herself and the servants of her manor in court as is the right of the head of a manor. She sued her father-in-law, Odakhovski for violence against her and her servants.[740] She claims that he beat a noble Shchastna and her road servant Ostapka in 1540 during fast before Easter while visiting her manor. His visit brought "damage, remorse, and tearful disgrace" during this somber time.[741] Odakhowski denied the charge, but the plaintiff presented witnesses and records of wounds she sustained. To do so, Anna was forced to visit the nearby manor and demonstrate her wounds to her neighbors right after the crime. Neighbors would testify in court that she was hurt in the neck, her eyes were bruised blue, her servants barely alive. The court ruled in her favor and ordered to compensate her according to her status and the wounds she sustained.

Therefore, one would be wrong to view women exclusively as victims or passive participants in 16th century noble society. Contemporary scholarship on Early Modern honor and violence urges to reconsider this image, arguing instead that women also relied on violence and defamation to further their personal goals. The cases brought to royal court in the Grand Duchy of Lithuania support this view. For instance, in 1540 Duchess Anna Ozeritska ordered her son and his servants to invade an adjacent Kurovitski manor, they brought some people before her whom she then ordered to beat in front of her. She was represented in court by her husband, Prince Andrei

[739] RIB: 1402, c. 116.
[740] 6CRB, c. 214.
[741] 6CRB, c. 214: "и при том шкодыmi ми в тот час великии ся стали, для чого жъ жаль и легкость с плачомъ мы от него ся деть".

Ozaritski, who refuted the charges and claimed that she was the one who endured shame in this situation. As this was a case among a magnate and an ordinary noble, they had to litigate in the royal court, however, for the charges to be substantiated, the notary sent a court official Vaska Voinilovich to inspect the damage. He traveled to the Kurovitski manor and recorded the mayhem that followed the duchess' order.[742] The gates to the houses were broken, the doors were taken off their hinges, the windows broken, three people still laid wounded to the head, and one could see their blood on the ground nearby their houses. The locals testified seeing the duchess and being beaten at her request. She was found guilty of home invasion and fined.

The Duchess Ozaritska's case is an example of grandiose violence, while other cases attest to women resorting to defamation in more quotidian settings. In 1533 Eišiškės [Southeast Lithuania] noble Stanislav Bagdonovich sued his sister-in-law Agnieshka Alzelmovaya for defamation. She was found guilty, and the ruler's court detailed that she should not slander him with dishonorable words in the marketplace, or the house, nor the banquets, nor by the church, or the tavern, nor encroach upon him in any other way.[743] One can assume there were many witnesses to their enmity before Bagdonovich turned to court. In 1541 Prince Vasili Polubenski sued Duchess Mstislavna for ordering her servants to beat and disgrace his cohort.[744]

All in all, the cases women brought to court recorded the quotidian violence and transgressions against them that did not differ much from the cases led by their male counterparts. However, the gender divide made a pronounced difference in the way they presented themselves in court. Women had to rely on their closest male kin for representation, widows being the only

[742] 12CRB, c. 10.
[743] 6CRB, c. 188: "некоторыми невъчстивыми словы на торго ани в дому, ани на колацей, ани при костеле, ани в корчъме, ани похвалокъ жадное не мать чынити."
[744] 12CRB, c. 115.

prominent exception. Again, the court practice was more varied and many of the case records fail to mention their marital status. Women often represented themselves or their dependents, as well as answered direct accusations. Restitutions, on the other hand, were significantly more uniform, as every single encountered decision adjudged double the amount for slighting a man. The increased personal protection women were granted was in tension with them being deprived of full legal capacity or political representation to widows. Overall, analysis of court cases showed women acting violently and in this sense they do not appear much different from men. To do justice to their role in Grand Duchy's honor culture, a different research strategy should be employed.

Estate	**Social Status**	**First Statute (1529)**	**Second Statute (1566)**	**Third Statute (1588)**
Noble		24 rubles of groschens to the victim and same to the ruler	24 rubles and imprisonment of 12 weeks, degrading proclamation	24 rubles and imprisonment of 12 weeks, degrading proclamation
Tatar			24 rubles	24 rubles
Commoner	Wife of a free city official			12 rubles
Commoner	Wife of an armorer		12 rubles	12 rubles
Commoner	Wife of a town official			6 rubles
Commoner	Wife of a central government representative		6 rubles	6 rubles
Commoner	Wife of a city-dweller			6 rubles
Commoner	Wife of a Road servant	6 rubles		6 rubles
Commoner	Wife of an Artisan	2 rubles	6 rubles	6 rubles
Commoner	Wife of a Beekeeper	2 rubles	4 rubles	4 rubles

Commoner	Artisan	1 ruble	3 rubles	3 rubles
Commoner	Bartender			0.5 ruble
Commoner	Unmarried and no profession	1 ruble		
Serf	Cattle tender	2 rubles		
Serf	Wife of a Peasant	1 ruble	2 rubles	4 rubles
Serf	Unmarried and no profession	1 ruble	2 rubles	4 rubles
Slave		0.6 ruble	0.5 ruble	1.2 rubles
Unmarried slave			0.5 ruble	0.5 ruble

Table 4.2: Restitution amounts for insult allotted to women

Honorable commoners

If one was to follow closely the normative law of the land, forming an opinion that no commoner could lay claim to honor would be inevitable. The classical studies on Lithuanian law upheld this view, ascribing honor only to the privileged estate.[745] This claim was mostly based on the research on the Lithuanian Statutes, where just about any crime commoners would commit against a noble could be interpreted as an affront to the social order and an affront to the honor of an individual noble.[746] The boundary between the nobles and commoners grew increasingly pronounced throughout the 16th century, especially as the noble estate was approaching its full distinction. And while the normative law of the land offers little in suggesting that honor could be extended to the commoners, legal practice offers evidence to the contrary.

[745] For a further analysis of previous research on honor within the bounds of Lithuanian Statutes, see Chapter 2.
[746] Edvardas Gudavičius, "Pirmojo Lietuvos Statuto baudžiamosios teisės bruožai," *Lietuvos TSR Aukštųjų Mokyklų Mokslo Darbai. Istorija* 15. 2 (1975): 91-2.

The Statutes were a legal code written by the nobility for the nobility and were therefore limited. In these codes was developed a concept of honor that was limited to the noble estate and bound it closely to the predicates for nobility. But that does not mean that the sense of honor was limited to the noblemen, neither did it preclude commoners from forming views on honor: every segment of society develops modes of preferable behavior and a system of reputation that enforces it. The analysis of honor code or honor as reputation among the commoners in the Grand Duchy was not attempted, but a recent study into honor and violence among peasant communities of the Vistula Split challenged the equally elitist and largely ignored discourse on honor within Polish historical scholarship.[747]

With meager sources available, the analysis of honor among peasant population is hardly a possible task, however, the urban communities serve as an illuminating example. The citizens of Vilnius had no claim to the honorable status outlined in the Statutes, but they constituted a certain honor group bound by a shared social status, obligations to the city, and place of residence. This overarching belonging is complemented with other honor groups as those bound by trade, neighborhood, or ethnicity. In his research on the late 17th century Vilnius, David Frick had analyzed the language of litigation among Vilnans, and his findings attests numerous references to injured honor.[748] While this proves the existence and recognized importance of honor among commoners, Frick's research was based on municipal court documents of a much later period.

[747] Jaśmina Korczak-Siedlecka, "Czy chłop miał honor? Zastosowanie kategorii honoru w badaniach nad społeczeństwem nowożytnym" *Kwartalnik Historyczny* 75. 3 (2018): 633-655; Ibid., *Przemoc i honor w życiu społecznym wsi na Mierzei Wiślanej w XVI-XVII wieku* (Toruń: Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2021).

[748] David Frick, "Słowa uszczypliwe, słowa nieuczciwe: The Language of Litigation and the Ruthenian Polemic" in Peter Schreiner, Olga Strakhov, ed., *Chrysai-Pylai. Essays presented to Ihor Ševčenko on his eightieth birthday by his colleagues and students. I.* „Palaeoslavica" 10. 1 (2002): 122–138.

However, even the practice of the 16th century royal court shows the recognition of commoner's honor.

The legal practice of the royal court supports this hypothesis. Despite being bound to following the normative statutory law, the archive of the royal court retains instances of commoners bringing defamation suits. In 1514 the Vojt of Bielsk Rusin accused a woman from Bielsk of torturing her servant. The husband of the accused stood in her stead and denied the charge in Bielsk's municipal court. Gruesome details notwithstanding, the defense of the accused became heated and resulted in an affront to Vojt's honor by an accusation of treason.[749] Then the case was forwarded to the royal court, where the representative of the accused explained that inappropriate legal conduct was a betrayal of the citizen's honor.

In the same year 1514 the same Vojt of Bielsk, Rusin was himself sued for defamation. Malosha Bagdonovich, a citizen of Bielsk in municipal service, sued him for public shaming by calling him a thief. Bagdonovich argues that this is a baseless accusation since he served the city for years and never has been slandered in such manner. To reinforce his claims, Bagdonovich added a Latin letter written by burgomaster Masiut and signed by other citizens, bearing the seal of the city. The letter claims that Bagdonovich is regarded as a good person and has never been slandered.[750] Rusin replied that Bagdonovich had to sell some oats and put the money into the city's chest, but instead Bagdonovich took those oats back to his manor under cover of darkness. The court decided that Rusin proved nothing and should not continue slandering the accused, therefore the court pronounced Bagdonovich an honorable man and cleansed his honor of Rusin's accusations.

[749] RIB: 828, c. 189. This case was already mentioned in *Chapter Three* subchapter *Defiance as an insult*.
[750] RIB: 831, c. 190.

In 1528 member of the Vilnius Bench court Jan Savich sued another municipal officer Lukash Isaevich for addressing him with such words that "*denigrate his personal honor and the honor of his office.*"[751] Isaevich responded that Savich is guilty of the same offense since he insulted him in municipal court and its archive retains the insult. The royal court read both copies of the proceedings from the municipal court and concluded that those words should not harm or shame either side or their progeny, therefore the court pronounced both Savich and Isaevich honorable and cleansed their honor. Moreover, the ruler ordered to reinstate Savich into his municipal office, which presented the occasion for litigation in the first place, since his removal from office by the municipal officers was deemed unlawful.

Similarly, in 1534 Vilnius citizen Zhdan addressed the royal court on the account that the Vojt of Vilnius attacked his honor. Zhdan asked the ruler to name the judges who would preside over the litigation. The ruler did so without mentioning anything about the lack of honor of the urban community.[752] In 1557, Kaunas municipal officer Pavel Pugachevich sued Kaunas citizen Vidra for obstruction of justice. He accused Vidra of dishonoring words and depriving him of the keys, weights and measures, and his municipal office. He won the case in the municipal court, but the accused did not comply with the decision and did not reinstate him in office, therefore Pugachevich addressed the royal court.[753] Moreover, in another appeal Pugachevich sued the Kaunas municipality for neglecting to implement justice in his case with Vidra and unlawful

[751] 4CRB, c. 314: "сегнулъ на него слово, которые чти и уряду его были ки легкости. А Лукашъ перед нати поведилъ, иж бы Ян Савичъ также на него слова неучтивые передъ правом мовилъ, и тые рэчы их с обу сторон у книги местские были описаны."
[752] 8CRB, c. 302.
[753] 8CRB, c. 41.

imprisonment in the Town Hall jail for three days.[754] Unlawful imprisonment was deemed dishonorable and could warrant restitution among the commoners as well as the nobility.

Several cases from the court of Deputy of Vilnius Voivode Stanislaw Hamshey confirm that verbal defamation was reason enough to initiate legal action. In 1560 a merchant of Jewish descent Shmoil Izraelevich brought a case against a Muscovite merchant Ivan Skugor. While they were selling their wares in Vilnius, Izraelevich reports, Skugor called him a "*son of a whore*"[755] and otherwise disgraced him. Izaevich invited him to prove his words in court but Skugor neglected the summons, therefore the court ruled in favor of the plaintiff and restored his good name. In another instance merchant Mehmet from Constantinople publicly proclaimed that merchant Endrikh Karkonov from Riga was an honorable man, thus retracting his previous claims to the contrary.[756] Reputation among merchants was especially important because their commercial success often depended on their trustworthiness which was guaranteed by their good name.

As discussed previously, in some cases commoners were eligible for restitution for disgrace, for instance when they were carrying out their official duties or were offended in court.[757] However, in some cases, restitution for disgrace was adjudged without being sought. In 1542 a citizen of Porozovsk Jakob Stankevich sued Porozovsk Vojt Sebastian for a home invasion at night, leading to beating and wounding himself and his son. While the plaintiffs claimed there was no reason for such outburst, the accused disagreed, saying that he saw them fishing in his private pond at night. However, according to him, they saw him too and ran away. However, since he did

[754] 8CRB, c. 42.
[755] Raimonda Ragauskienė, ed. *Lietuvos metrika. Knyga Nr. 253 (1559–1562) 39-oji Teismų bylų knyga (Vilniaus vaivados vietininko Stanislovo Hamšėjaus teismo knyga)* (Vilnius: Lietuvos istorijos institutas, 2021). Henceforth: 39CRB, c. 237: "блединым сыном его назвал."
[756] 39CRB, 629. For another example of a Vilnan litigating on charges of defamation, see 39CRB, 129.
[757] For detailed discussion, see *Chapter 2. Restitution for disgrace.*

not catch them red-handed, nor saw the fish they caught, he had no sufficient evidence and the court pronounced him guilty of violence. The ruler ordered to restitute the father and son each six groschens for violence and an additional 10 kopa of groschens for shaming them in the court by charging them with theft and failing to provide any proof.[758] Hence, in this case, baseless accusation warranted a hundred times larger amount than violence. Interestingly, the concept denoting the restitution was the same as the one adjudged to the nobles. But the amount of restitution is half the amount owed to a nobleman (i.e., 1200 groschens or 12 rubles of groschens) and a quarter the amount for insulting any noblewoman. That would suggest that in practice the GDL's legal system recognized the importance of the commoner's reputation which was not as valuable as that of a noble, but protected, nonetheless.

While the last example related a story of an ordinary citizen, most commoners litigating in defense of their honor possessed a significant amount wealth, esteem, and influence. Urban elites were most concerned about their honor. The 1568 privilege extended ennoblement to some of the offices of Vilnius municipality. That is to say, every burgomaster from the mid-16th century was made part of the nobility. It was an outcome of a long process of distinction among the urban populations and its previous steps can be traced in the legal practice. High offices elevated the noblemen's esteem and carried the power to ennoble the commoners.

Certain examples suggest that the ruler's court aimed to lay claim over just about any case related to honor. In 1524 two citizens of Vilnius and municipal officers stood in court for defamation. Ivan Milnik sued his colleague Baltramiey for meddling with his official duties. They litigated in the municipal court, where Baltramiey publicly assailed Milnik's honor. Before the

[758] 6CRB, c. 303.

municipal court reached its verdict, Milnik addressed the royal court because it seemed to him that the municipal court was not enough. However, without waiting for the royal decision the municipal court deprived Milnik of his office and caused a blow to his honor. The royal court deemed it unlawful, and wrote this to the municipal government of Vilnius:

> *"*[…] *and you have taken that office away from him and presided over his matter of honor. It greatly surprised us, that you adjudge people honor, which no one else can do but us, the ruler,* [who] *possess the power to endow honor and take it away according to crime."*[759]

Therefore, the ruler declared the decision of the municipal court null and void, restored Milnik's honor, and ordered to return him to his office. Moreover, he ordered that no one was to denigrate him and implemented a bond on his honor worth of 100 kopa of groschens, which was to be paid to the treasury if anyone would insult Milnik. As a fitting end to a letter with threatening undertones, it was signed by the ruler himself. This is an interesting example, as it shows the ruler securing his power to alter social hierarchy: no one but him is allowed to preside over cases questioning the belonging to a certain estate. However, it would be unfeasible for the ruler to preside in just about any case over insults, therefore many courts of the first instance dealt with this kind of accusations daily. Examples of such sensitivity cease in the middle of the century and perhaps it could be an outcome of a growing awareness of the legal culture and, in turn, the litigiousness of the GDL's population.

But perhaps the most conceptually interesting cases are those crossing the estate lines. Although few, cases brought regarding commoners defaming nobles (and vice versa) suggest that estate boundaries might not have been as insurmountable as one could presume. For instance, in

[759] 4CRB, c. 90: "[…] тот врадъ в него отняли и честь ему отсудили. Чому ж ся мы велико дивиемъ, иж вы людем честь отсуживаете, чого ж нихто не может вчинити, лечь мы сами, господарь, моцни водле чыего выступу."

1524 Navahrudak goldsmith Jan Ivonich accused Vaska Zaroiski, a ruler's courtier, of unlawfully claiming some serfs and lands. He responded that all was done according to the royal letters, but upon inspection, the royal chancellery found those to be falsified. The early 1520s are known in the historiography as the time of falsification crisis and this case supports that name. Knowing full well that many falsified documents are in circulation, the ruler found the goldsmith right and cleansed the honor of the courtier. Nevertheless, during the hearing Ivonich claimed that Zaroiski unlawfully claimed more lands and people, but once the courtier provided additional documents and those proved legal, the ruler had this to say:

> *"and we have found the goldsmith Ivonich guilty of this slander and order this goldsmith not to address these bad words to that our good servant Vaska, and if anyone would want to attempt at Vaska with these bad words concerning this thing, then* [s/he] *must be punished by our punishment in such manner, that afterward, no one else would dare to assail the honor of our good and loyal subjects with such words."*[760]

Sigismund the Old affirmed this threat with his signature. Therefore, interestingly, prior to the enaction of the First Lithuanian Statute high-ranking commoners were capable of insulting and litigating against nobles. However, such examples are quite scarce, and warrant further analysis that is beyond the scope of the present thesis.

Although the normative law and the ruler oftentimes denied honor to the common folk, the judicial practice does not substantiate this claim. Cases of litigation concerning matters of honor among city dwellers and the rural population abound in the highest court, therefore it would be strange if it did not in the courts of the first instance, be it those functioning according to the Lithuanian Statutes or the Magdeburgian laws. Other research on this topic also shows that 16th

[760] 4CRB, c. 174: "а золотоара Ивонича в тых его помовахъ винного знайшли и впередъ розсказали есмо того золотарю, ижбы он такими словы злыми на того Васька, доброго слугу нашого, ни в чомъ николы не сегал, пак лыж бы и через то он або хто впорством своим предся хотел такими ж словы злымы на Васка в той речи сегати, тогды маеть караньемъ нашим господарскимъ тот каран быти так, якобы и на потом нихто инший не смел на чти дворян наших добрых а верных, и заслужоных такими словы сегати."

century Vilnans were quick to defend their honor in courts against a variety of slights and provocations.[761] Therefore it would be unfounded to claim honor as a distinct trait of the noble estate. It would be more plausible to talk of different honor codes governing various groups. While much overlap among those codes is to be expected, (treason or lying to those who matter would be held universally in contempt) they harbor some crucial differences, for instance concerning labor. A glimpse of these differences was embodied in different legal codes that defined the subjecthood of every person. Since the hierarchical societies shun universal equality, it would be unfounded to expect that honor of various groups would be regarded equally. Nevertheless, denying honor to large groups of people would be equally shortsighted. Instead, it ought to be seen as a matter permeating the whole social spectrum and having as many guises as there were groups of social actors.

However, there is a historical development at work here. It seems that in time judicial practice in the royal court ceased to issue restitution for disgrace to commoners. While at the beginning of the century it was quite widespread, by the 1550s any ascription was issued only once the noble lineage was assured. While this general trend is not without exception, it seems that in time the legal practice grew closer to the normative strictness of the law. However, this trend is based on the royal court's practice, but the picture could be quite different in the local courts, especially those working according to the Magdeburgian law.

Overall, court records of several instances support the fact that honor as reputation was important to people of every estate and that could be explained by their reliance on their community. Paradoxically, only the powerful had the privilege to disregard their reputation

[761] Jūratė Kiaupiene, "XVI a. ikireforminio Vilniaus pilies teismo knygos-kopijos Lietuvos Metrikoje struktūrinė ir informacinė analizė," in *Lietuvos Metrika. 1991–1996 m. tyrinėjimai* (Vilnius: Lietuvos Istorijos Instituto Leidykla, 1998): 36–92.

because they were better prepared to weather the hardship that disrepute might entail. It is honor as status that cannot be extended to the commoners, at least not in the form it has been formulated in the Lithuanian Statutes, namely, as possession of noble privileges. However, the mentality of domination over the commoners that was prevalent in the Grand Duchy and the Crown of Poland does not seem to provide much reason for commoners to take pride in their station within the society. And although Augustinus Rotundus criticized Poles for being too harsh to their peasantry, the Grand Duchy's peasants were referred to as "dog-bloods" and violent behavior against them led 16th century thinkers such as Piotr Skarga to advocate sympathy and consideration towards them. The social station of commoners was lower than that of privileged nobles but their communities also functioned as honor groups with specific idealized modes of behavior as well as system of symbols to communicate esteem and disgrace.

Conclusion

The approach to honor taken in this thesis divided this unified historical phenomenon into four main categories—status, reputation, honor code, and sense of honor. All of these were factors in deliberating human worth and tackling the question over the amount of appropriate respect to be shown to another person. Viewed in this matrix, the most fundamental aspect of honor is status: it placed every person in a hierarchy of a circumscribe society. The fundamental tenets regarding status and human worth were subject to historical change and the history of political and social thought best informs of these changes. Within the context of the Grand Duchy of Lithuania, we have outlined a relatively straightforward development from honor being ascribed to the upmost layer of the privileged estate, as exemplified by the concept of *honor naturalis* in Olbrach Gasztold's texts, towards a more open interpretation, initially attributing it to the political nation of the Grand Duchy, then its citizenry, and culminating into a certain recognition of human worth to commoners and serfs in the political thought of Andreas Volanus. This process was not unilateral and much of the elitist conceptions of honor survived, whereas the recognition Volanus exemplified hardly reflected in the lives of ordinary peasants, who were subjected to increasingly straining conditions, known in the historiography as second serfdom. Changes in status were better felt by the more consolidated and strengthened middling nobility as its political influence grew throughout the century.

Ideas about honor and status directly influenced the intensive legislation process. The three Lithuanian Statutes employed honor to manufacture loyalty to the ruler and facilitate faithful carrying out of certain obligations, threatening with deprivation of honor upon failure. In the normative legal setting honor was most often understood as the sum of noble privileges, therefore reflecting the side of legal status. Several historical developments arise when Lithuanian Statutes

are considered side by side. One may notice that the protection of noble person grew increasingly detailed throughout the period aside from being regarded as a tool to bind nobles with the ruler, honor facilitated a certain equality within the estate. With the inauguration of the 1566 Statute ranks did not translate into legal exceptionalism within the nobility and all were considered equal in honor and rights, i.e., their status. The solidarity within the noble estate also translated into increased policing of the hierarchical boundaries between nobles and commoners. This process manifested itself most prominently through theatrical and gruesome corporal punishments those daring to undermine this hierarchy were subjected to. The Lithuanian Statutes extended legal protection of reputation, however, it was not as well outlined or utilized by the state as status was. Reputation was important in determining reliability and trustworthiness, therefore only well-reputed nobles could serve as oath helpers and elected as legal officials. In its extreme form, reputation was safeguarded through laws criminalizing slander, which had proven a useful tool to many in struggle for political power. A proved slanderer risked the same punishment his false accusation threatened his victim. Otherwise, reputation is preserved by outlawing "things harmful to good name" which remain undescribed but the legislation over restitution for disgrace suggests that insults could have taken verbal as well as physical forms. Lastly, only very few punishments truly defamed nobles and those were retributions for breaking loyalty with the ruler, one's parents, or their peers. Otherwise, nobles risked little shame from the law.

However, interpersonal interaction threatened with shame and defamation much more often, as analysis of court records attests. Verbal slights constituted a sufficient reason to litigate, not only in the efforts to prove slander but also to cleanse the personal reputation or claim a restitution for the harm suffered. Grand Duchy's nobles were often regarded as litigious population and they made good use of the law when solving matters of honor. The records contain slights

targeting personal character, alleging of grave crimes, and questioning status, all of which could come in physical or verbal forms. However, most often insults were litigated as part of a larger suit and sometimes those were used as litigation strategy to prolong or disrupt the process. In contrast to the normative law, slights against reputation were quite numerous, whereas processes defending status were significantly fewer, with only a handful of cases when deprivation of honor was applied. No significant deviations from the normative law were encountered. Moreover, legal practice allowed to qualify certain clauses of the Second and Third Lithuanian Statutes as more thorough codification of prevalent practices and not innovations.

Lastly, analysis of woman's status vis-à-vis the law reflected best by a certain tension between an increased protection of personal honor and limited rights to legal representation. A thorough analysis of the honor code noblewomen lived by and their role within the honor culture of the Grand Duchy would require a separate analysis and a new set of sources, however, viewed from the perspective of the present study, their actions did not differ substantially from those of men. Women also were eager to rely on defamation and violence to achieve their aims. Commoners shared the concern for honor as much as nobles did, especially those whose reputation might have affected their economic prospects or authority – merchants, tradesmen, and officials. The urban population of the Grand Duchy litigated to defend or restore their honor in the royal court, despite that the normative law that regulated its proceedings did not recognize honor to commoners. Research into the forms of honor in urban environment presents an intriguing avenue aiming to deconstruct the perception of honor as an elitist phenomenon. Overall, further inquiry into honor as human worth would benefit from a turn towards its personal aspect—the sense of honor that holds the potential to reveal individual views towards honor and its importance.

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Abbreviations

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AT VII (*Acta Tomiciana T. VII*): Działyński, Adam Tytus, ed. *Acta Tomiciana*. *VII*. (Posnaniae: Ludovici Merzbachiensis, 1857).

CRB: *Court Record Book.*

FLS (*First Lithuanian Statute*) Lazutka, Stanislovas, Valikonytė, Irena, Gudavičius, Edvardas, eds., *Pirmasis Lietuvos Statutas. Tekstai senąja baltarusių, lotynų ir senąja lenkų kalbomis*, (Vilnius: Mintis, 1991).

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