

***“Et vedoando sia donna et madonna”*: Guardianship and Remarriage in Sixteenth-Century Venice**

by

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Widowhood and Guardianship

The Roman law was very clear: widows couldn't have guardianship of their minor children, because, according to Yan Thomas' interpretation, the juridical capacity of women was limited to their own person. In fact, in most cases, Roman widows or divorced women kept their children with them, to bring them up and to educate them, but there was always a male guardian, to whom accounts could be asked.¹

In late medieval Florence, a noble widow was remarried soon after her husband's death by her family.² Widowhood was quite a common experience in this social group, as patrician girls were married at an extremely young age (13 or 14), to much older husbands (30 or even 40 years old). A young widow couldn't be left alone too long for evident moral reasons, but when she remarried, she had to leave her children to her first husband's family, as they were the heirs of their father's blood and fortune. Christiane Klapisch-Zuber has given us a powerful description of these “cruel mothers” who were forced to be “cruel” by their former in-laws. In early modern Florence mothers could be chosen as guardians, if they didn't remarry. Giulia Calvi studied and described the negotiations between the two families to designate the guardians of young children after their father's death. According to her, there was a kind of a “moral contract” between the mothers and the State: if they were usually chosen as guardians it was more because they couldn't inherit from their children, than because this was their “natural” role.³

In late medieval London, mothers were usually chosen as guardians, even when they remarried.⁴ In Paris, the royal *édit* of 1560 on remarriage fixed new rules for the financial contributions of bride and bridegroom in order to protect the rights of the children of the

¹ Yan Thomas, “La division des sexes en droit romain”, in Georges Duby, Michelle Perrot, *Histoire des femmes en Occident*, vol. 1, *L'Antiquité*, Paris, Plon, 1990, 103-156.

² Christiane Klapisch-Zuber, “La mère cruelle. Maternité, veuvage et dot”, in eadem, *La maison et le nom. Stratégies et rituels dans l'Italie de la Renaissance*, Paris, Éd. de l'École des hautes études en sciences sociales 1990, 249-261; Isabelle Chabot, “Lineage strategies and the control of widows in Renaissance Florence”, in Sandra Cavallo, Lyndan Warner (éd.), *Widowhood in Medieval and Early Modern Europe*, New York, Longman, 1999, 127-144.

³ Giulia Calvi, *Il contratto morale. Madri e figli nella Toscana moderna*, Bari, Laterza, 1994; eadem, “Widows, the state and the guardianship of children in early modern Tuscany”, in Cavallo, Warner, *Widowhood*, 209-219.

previous marriage to receive inheritance from their mother, and, through her, also from their father.⁵

According to thirteenth-century Venetian Statutes, all relatives, from the maternal as well as the paternal family, were invited to explain to the judges (a special court, the *Giudici di Petizion*) the reasons why they wanted to be the guardians of young children whose father had died intestate. Judges also asked for information about absent relatives but according to the Statutes, the mother was usually chosen as guardian.⁶ Guardianship could be *legittima*, when given to the nearest relative by a court decision, *testamentaria*, when guardians were designated by testators, and *dativa*, when given by magistrates because of the absence of legitimate or testamentary guardians. As a public task, guardianship couldn't be given to a woman, except the mother or grandmother of the minor. A testamentary guardian designated by the father received guardianship *ipso iure*, and no other legal procedure was needed. When the guardian, in contrast, was designated by the mother, grandmother or, says the law, "any other *stranger*", he, or she, had to be confirmed by a court decision.⁷ Guardianship of minor children (*tutela*) and administration of their goods (*cura*) were in Venetian law associated in the *commissaria*. In their wills Venetian men usually designated their *commissarii* and their wives were among these but, quite often, only if they renounced their claim to get their dowry back and to remarry.

"Donna, madonna et commissaria"

A complex system, with special magistrates and judges existed in renaissance Venice to protect women's right to their dowries. According to the law, a widow had the right to receive her dowry back from her husband's family. Once a marriage ended, she or the executors or heirs designated by deceased wives, reclaimed it in a two-stage process, the *vadimonium*, in which the widow or her heirs presented documentation of the dowry to the *Giudici del Proprio*, and the *diiudicatus*, in which the same judges authorised payment of the dowry from the late husband's estate and, when that was insufficient, from the property of the person who had guaranteed the dowry. Once the widow had received her *diiudicatus* she could no longer claim a living allowance, but she could still remain in her husband's house

⁴ Barbara Hanawalt, "The Widow's Mite: Provisions for Medieval London Widows", in L. Mirrer (éd.), *Upon my Husband's Death: Widows in the Literature and Histories of medieval Europe*, Ann Arbor, 1992, 21-45.

⁵ Barbara Diefendorf, "Widowhood and Remarriage in Sixteenth-Century Paris", *Journal of Family History*, winter 1982, 379-395; Lyndan Warner, "Widows, widowers and the problem of 'second marriages' in Sixteenth-century France", in Cavallo, Warner, *Widowhood*, 84-107.

⁶ Roberto Cessi (éd.), *Gli Statuti veneziani di Jacopo Tiepolo del 1242 e le loro glosse*, Venice, 1938, vol. II, chap. II.

⁷ M. Ferro, *Dizionario del Diritto Comune e Veneto*, Venice, 1779.

until she had received full repayment of her dowry. However, a sumptuary law of 1420, limiting dowries to 1600 ducats (or 2000 in marriages between a nobleman and a “popular” woman), also states that, in case of restitution, a third of the dowry was not to be returned to the widow nor to her heirs. In fact, and “following the Venetian use”, that third was lost by the widow only if she had children.⁸

Stanley Chojnacki, who studied 454 fifteenth- and sixteenth-century *vadimonium* and *diudicatus* cases involving nobles, shows that in nearly the three-fifths of the claims involving deceased wives the husbands also were deceased. This probably meant that the widow hadn’t claimed her dowry at her husband’s death, but had decided to continue living in her late husband’s house, raising their children and with her expenses paid by his estate. In so doing, women acted in conformity with the wishes of many, if not most, husbands. Most of the time, husbands tried in their wills to pressure their wives not to remarry but to stay with their children; they did so by promising that, if she didn’t remarry, she could stay in the house as *donna et madonna*. To which extent this title gave the widow the right to administer her husband’s estate is difficult to say, but according to the Statutes to be *donna et madonna* simply meant that she could continue to be the house mistress as she had been during her married life. Stanley Chojnacki concludes that remarriages were exceptions for noble widows, accounting for fewer than 9% of women’s marriages and that “many and probably most widows, old and young, took advantage of statutory rights and husbands’ inducements to refuse remarriage, staying in their marital residence and delaying claiming their dowry for years or even decades”.⁹

Of the 979 marriage contracts of Venetian “citizens” (merchants, bureaucrats, professionals) I’ve studied, 110 are remarriages of widows and seven of them concern women at their third or fourth marriage. This represents a percentage of remarriages of about 12%,¹⁰ but it is impossible to document remarriages of widowers, because men’s marital status is never mentioned and this in spite of the fact that remarriage is always an “asymmetrical experience” which is much more frequent for widowers than for widows.¹¹ Sometimes, in women’s wills, the remarriage of their husband and father of their children looks like something natural and even necessary for the well being of the children. As most women write their last wills during their pregnancy, children are necessarily their first concern. Benedetta di Maistri, for example,

⁸Stanley Chojnacki, *Women and Men in Renaissance Venice. Twelve Essays on Patrician Society*, Baltimore and London, 2000; Anna Bellavitis, *Identité, mariage, mobilité sociale. Citoyennes et citoyens à Venise au XVI siècle*, Rome, 2001.

⁹ Chojnacki, *Women and Men*.

¹⁰ Bellavitis, *Identité, mariage, mobilité sociale*.

asks her husband not to make a difference between the child she is bearing and children he might have with another woman.¹² In some other examples, the wives consider the probable future remarriage of their widowed husbands with some anxiety and hostility. Paola Orio, who leaves her goods to her children, prohibits them to leave the inheritance from her to their father, a coal and wood merchant, because she doesn't want any children he might have after her death to inherit any part of it.¹³ Marina, the wife of a barber, Nicolo' Grossi, leaves her goods to him, but only if he doesn't remarry.¹⁴

May we reach the conclusion that even outside the aristocracy widows were strongly urged not to remarry by their husbands' last wills? Most of the wills confirm this impression. Sometimes, that seems quite a "natural" choice for a woman of a certain age. Zuanne Salvador, for example, makes his wife Maria *donna et madonna* of "all incomes, and the house in which I live". Zuanne uses the expression *casa da stazio*, which is the family house, that, according to the Venetian law, women never inherited from their husband's family.¹⁵ In fact, Maria isn't the heir but only the usufructuary for life, and only if she doesn't remarry "because", he writes, "I think she is wise and God's servant, and, because of her age, she must prepare herself for her and for my soul. She does not care for the vanities of the world, and she does *not have to submit herself to a person anymore*, but only to the omnipotent God"¹⁶. For Zuanne, it was certainly quite natural to think that his wife had been *submitted* to him, but as a widow her master was nothing less than God. We can discern, in this last will, the ideal life of a perfect widow.¹⁷

In a mercantile family, dowries could be part of the capital of the company. Francesco Bortolusso, a glassmaker in Murano, gives his wife three choices. She could recover her dowry and stay as a widow in his house, living with his brothers, who will continue the business after his death, or leave his house and family and remarry. In both cases, she would have, besides her dowry, 30 ducats per year. Otherwise, if she decided to leave the dowry in his family "for their children", she would have 40 ducats per year. Francesco is apparently very

¹¹ Cf. Jacques Dupâquier, Étienne Hélin, Peter Laslett, Massimo Livi-Bacci, Sølvi Sogner, *Marriage and Remarriage in Populations of the Past*, New York, Academic Press, 1981.

¹² Archivio di Stato di Venezia (ASV), *Notarile Testamenti*, 193, f. 174, 1561, 27th of February.

¹³ *Ibid.*, 196, f. 904, 1544, 20th of February.

¹⁴ *Ibid.*, 782, f. 678, 1556, 9th of December.

¹⁵ Cf. Anna Bellavitis, Isabelle Chabot, "Comparative households. Women and men in the domestic space 8Florence and Venice, XIV-XVI centuries", to be published in Marta Aymar, Flora Dennis (eds.), *The Renaissance at home: art and life in the Italian house 1400-1600*, London, Victoria & Albert Museum, 2006.

¹⁶ ASV, *Notarile Testamenti*, 1185, f. 54v, 1508, 28th of December.

¹⁷ Cf. Scarlett Beauvalet-Boutouyrie, *Être veuve sous l'Ancien Régime*, Paris, Belin, 2001; Cavallo, Warner, *Widowhood*, especially Barbara J. Todd, "The virtuous widow in Protestant England", 66-83.

generous with his wife, but it seems clear that in no case could his wife bring her children with her if she chooses to remarry or even not to live with the *fraterna* Bortolussi¹⁸.

Benedetto Arborsani writes his last will soon after his son's death. His son's wife is pregnant and the couple has three children already. He gives her two choices: to live in his house with her children and to leave her dowry to the administrators he had chosen for his estate or to recover it and to leave her husband's house. In that case she couldn't take with her the children, who would be committed to the care of some relatives of their father.¹⁹

When a wife is designated *commissaria*, her role is definitely more important, as she is one of the administrators of the estate and guardians of the children. A wife can also be chosen as the unique *donna, madonna, commissaria, usufruttuaria* for life, as in the will of the ducal secretary Gerolamo Zuccato, whose wife, Roberta, "promised not to remarry".²⁰ The merchant Zuanne Rimondi dalla seda is more generous with his wife Angela, "to whom his children never can ask any account of the administration, because she has a very good intelligence", and if she decided to remarry, she wouldn't lose the *commissaria*, but she would have to share it with her parents and brothers.²¹ Having the guardianship, the mother is also responsible for the education of the children and if they refuse to be obedient, children could lose their paternal inheritance. This kind of recommendations and threats appear quite frequently in fathers' wills.

Not all husbands are so categorical about their wives' remarriage. Some of them leave to their wife the administration of the estate and the guardianship of the children even if they remarry. Stefano Ramberti, a merchant, wants her to share the *commissaria* with their son, *vedoando come non*.²² Others, especially if there are no children, give to their wife a *augmentum* of her dowry in order to help her to remarry.

*Remarried widows*²³

When a widow got her dowry back, she could remarry (and remarriage was in fact encouraged, as remarriage dowries were not limited by sumptuary laws), but at least one third of the dowry had to go to children. However, that didn't mean that these children were left

¹⁸ On these mercantile companies formed by all the men of the family, see Frederic C. Lane, "Family Partnerships and Joint Venture", *Journal of Economic History*, IV, 1944, 178-196.

¹⁹ ASV, *Scuola Grande della Misericordia, Testamenti*, 130, 1549, 2nd of October.

²⁰ ASV, *Notarile Testamenti*, 1218, f. 50, 1562 25th of November.

²¹ *Ibid.*, 1218, f. 36, 1556 15th of June.

²² *Ibid.*, 192, f. 159, 1539, 14th of March.

²³ For this paragraph, see Bellavitis, *Identité, mariage, mobilité sociale*.

with this third to their father's family, as is demonstrated by the two marriage contracts of Cassandra de David, the daughter of a merchant and citizen of Venice.²⁴

When Cassandra marries Olivier dalla Vecchia, owner of marble quarries, she is the widow of a doctor of medicine from Padua. Her remarriage dowry is exactly the two thirds of her first one, as she has four children who will live with her and her second husband. Cassandra promises to bequeath all her dowry to the future children of this second marriage. The inheritance from her first husband goes to the children of her first marriage, but is managed by her second husband. However, Cassandra may as "mother and guardian" assume control of the inheritance, if there is any conflict between her and Olivier. As a guardian, she has the right to take part in decisions concerning her children's money, but as a wife she has to leave to her husband the management of it.

In sixteenth-century Venice the remarriage contracts seldom mention children of a previous marriage. Of 110 remarriage contracts of "citizen" widows, only twenty mention children of a previous marriage. It's difficult to say exactly what that means: that the mother had left her children with the father's family? That there were no children? In some cases we know for sure that the children don't live with her mother, because they are adults living on their own (4 contracts); but 90 infertile marriages on 110 seem too much!

The two marriage contracts of Paola dalla Giudecca, the daughter of Francesco, a ducal secretary, show us that children could exist without being mentioned in the remarriage contract of their widowed mother. In 1513, Paola dalla Giudecca married Gasparo Mastelli,²⁵ and when in 1531 she married Gerolamo Rota, the contract doesn't mention the children of her first marriage and stipulates that if Paola and Gerolamo have children, they would inherit her entire dowry, but if they have no children, she may choose the heirs to only the half of it.²⁶ In her last will of 1554, she bequeaths her dowry to her husband and, after his death, half of it to the children of her first marriage, Pellegrina, Carlo, Nicolo' and Agostino Mastelli.²⁷ Paola dalla Giudecca gave to her two husbands a dowry of one thousand ducats. That could mean that she had recovered her entire first marriage dowry because she didn't have any children but, in fact, she had four children, even if we don't know where and with whom they lived. They received more than one third of their mother dowry, but only after her death and at least twenty-four years after her remarriage. But, as her remarriage contract is one of the very few (along with the Cassandra's) which include clauses about the rights of the (future) children of

²⁴ ASV, *Avogaria di Comun, Matrimoni*, 144, f. 105, 1558 29th of December ; 153, f. 29, 1570 9th of September.

²⁵ *Ibid.*, 141, f. 85, 1513, 3rd of December.

²⁶ *Ibid.*, 142, f. 234v, 1531 22nd of October.

²⁷ ASV, *Notarile Testamenti*, 81, f. 901, 1554 5th of September.

her second marriage to inherit from her, this could also mean that, in exchange for this insurance, her second husband had accepted her children.

The children's sex could play a role, too. To keep the control over male descendants was obviously very important in terms of lineage strategies. The case of Livia Rimondi gives us the example of a widow who leaves her two sons with the brother of her first husband when she gets married again to Gerolamo Rocca, a lawyer.²⁸ In contrast, when Elena Giustinian gets remarried, it's Elena's brother who promises to pay the aliments for her two little daughters, aged nine and eight, and to pay their dowries.²⁹ We don't know if her first husband's family played a role in that decision, we don't even know if her husband's relatives were still alive, and we can only formulate the hypothesis that two daughters could more easily be left in the care of their mother and of her family than two sons. Daughters and their property were in any case, "lost" to the lineage.³⁰

The fact that children live with their mother and her new husband doesn't always mean that she has the guardianship, which may be assumed by the Procurators of St. Mark, as in the remarriage contract of Fiammetta Pasqualini "as she has two young children of her first husband and wants to keep them with her, as they have been until now, but under the guardianship of the Procurators". Her new husband and her father-in-law accept them with their inheritance, which is administrated by the Procurators.³¹

In fact, when the children of a first marriage appear in a remarriage contract, it's usually because there is, somewhere, an inheritance for them that is not included in their mother's dowry. Lucietta, the daughter of a haberdasher, and twice the widow of a haberdasher, marries a spinner, who promises to accept her daughter, and to "supply her with everything which is necessary for a girl of her condition", while the mother promises 3.228 ducats in addition to a dowry of 2.000 ducats.³² Quite probably, this is a hypogamic marriage for Lucietta (haberdashers have usually a better and more "honoured" situation than spinners) and, in exchange, her third husband accepts with her money, also her daughter.

When Anastasia Fondra gets remarried with a ducal secretary, she has a dowry of 2.500 ducats, and her paternal inheritance, 11.500 ducats, "to govern, dress and marry" her two daughters. Her second husband promises to leave them an inheritance of at least 1.000

²⁸ ASV, *Avogaria di Comun, Matrimoni*, 153, f. 57v, 1581 14th of October.

²⁹ *Ibid.*, 147, f. 265, 1575 4th of July.

³⁰ Cf. Chabot, "Lineage strategies".

³¹ ASV, *Avogaria di Comun, Matrimoni*, 153, f. 323, 1546 11th of November.

³² *Ibid.*, 153, f. 19, 1578 30th of June.

ducats each.³³ The marriage between Anastasia Fondra, widow Cavalli, and Lorenzo Massa is not a hypogamic one: the important inheritance of her father gives Anastasia the opportunity to remarry at the same social level, to keep her daughters with her and to give them a good education. The contribution of the mother's family is in fact always very important. When Orsetta Zanotto gets remarried with Bernardino Garzoni, her mother promises to give all her income to Orsetta and her three children.³⁴ When Laura Sagredo gets remarried, her father promises to pay the dowry of her daughter of her first marriage, if she doesn't want to become a nun, in order that future children of the second marriage "wouldn't suffer any damage".³⁵

In the social group of the Venetian "citizens", formed by non-noble merchants, professionals, and bureaucrats, the percentage of remarriages for widows was slightly higher than in the aristocracy. The evidence from remarriage contracts shows that remarried widows were not forced to leave their children. This research must be succeeded by analysis of the archives of the civil courts dealing with guardianship and succession.

³³*Ibid.* 157, f. 10v, 1574 17th of March.

³⁴*Ibid.*, 153, f. 76, 1583 28th of January.

³⁵ *Ibid.*, 147, f. 130, 1557.

Zusammenfassung

In diesem Artikel untersuche ich das Problem der Wiederverheiratung für Witwen mit Kindern im Venedig des 16. Jahrhunderts. Nach den Rechtsvorschriften Venedigs im 13. Jahrhundert, wurden nach dem Tod eines Vaters, der kein Testament hinterlassen und nicht-volljährige Kinder hatte, sämtliche Verwandte aus den Familien der Mutter und des Vaters dazu eingeladen, einem Sondergericht zu erklären, warum sie wünschten, zum Vormund der Kinder bestellt zu werden. Richter pflegten um Auskünfte über abwesende Angehörige zu bitten, nach den Rechtsvorschriften wurde die Mutter in der Regel zur Vormundin bestellt.

Die Vormundschaft über nicht-volljährige Kinder (*tutela*) und die Verwaltung ihres Gutes (*cura*) wurden im venezianischen Gesetz mit der *commissaria*, verknüpft. In ihren Testamenten bestimmten venezianische Männer ihre *commissarii* und ihre Frauen waren unter denen, aber ziemlich oft auf die Bedingung, dass sie darauf verzichten würden, ihre Mitgift zurückzufordern und wieder zu heiraten. Nicht alle Ehemänner waren so unbedingt mit Bezug auf die Wiederverheiratung ihrer Frauen. Einige von ihnen überließen ihrer Frau die Verwaltung des Erbes und die Vormundschaft über die Kinder, obwohl sie sich zur Wiederverheiratung entschlossen.

Um wieder heiraten zu können, musste eine Witwe ihre Mitgift wiedergewinnen (und zur Wiederverheiratung wurde tatsächlich ermutigt, da Mitgiften bei Wiederverheiratungen nicht durch Aufwandsgesetze beschränkt wurden), mindestens ein Drittel der Mitgift musste aber an die Kinder gehen. Das bedeutete aber nicht, dass diese Kinder, mit diesem Drittel ihrer väterlichen Familie überlassen waren, wie aus Wiederverheiratungsverträgen von „bürgerlichen“ Witwen im Venedig des 16. Jahrhunderts hervorgeht. Wenn in der Tat Kinder aus einer ersten Ehe in einem Wiederverheiratungsvertrag erscheinen, ist es gewöhnlich, weil es irgendwo eine Erbschaft für sie gibt, die nicht in ihrer mütterlichen Mitgift mit einbegriffen ist.

In der Sozialgruppe der venezianischen „Bürger“, die von nicht-adligen Kaufmännern, Ausgebildeten und Bürokraten ausgemacht wurde, waren die Prozentsätze für Wiederverheiratungen von Witwen etwas höher als im Adel. Wiederheiratungsverträge bezeugen, dass wiederverheiratete Witwen nicht gezwungen waren, ihre Kinder zu verlassen. Die Forschung muss durch eine Analyse der Archive der bürgerlichen Gerichte erfolgen, welche sich mit Vormundschaft und Erbfolgeordnung beschäftigten.

Übersetzung Tom Rundqvist