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USE OF TORTURE IN WITCHCRAFT TRIALS IN THE POLISH-LITHUANIAN COMMONWEALTH FROM THE 17TH TO THE 18TH CENTURY

A CONTRIBUTION TO RESEARCH
ON THE POLISH JUDICIARY OF THE MODERN ERA

Torture was already known in the ancient world, where it was sanctioned by Roman law. At the beginning of the Middle Ages, it was not used in trials, and the renaissance of this judicial method came in the 13th century, which was connected to the spread of heresies at that time. During the prosecution of heretics, it was the confession of guilt, an error in the faith, profanation of the host, blasphemy, and the disclosure of accomplices that was most important, and this was done under torture. In the 15th century, with the onset of witchcraft trials, the same principle applied in court cases brought against alleged witches and sorcerers.¹

Witchcraft in modern Europe was an offence covering all levels of social life, including both private and public matters. All penal codes treated this crime very seriously, and the consequences of using sorcery could result in a sentence of death by burning at the stake. Therefore, witchcraft was an offence against religion and was in the same group of offences as apostasy. The bringing of charges itself was one of the special trials, which in practice had already passed from the jurisdiction of the clerical courts to the secular courts by the 16th century. The accusation in this type of case could be made

¹ Tazbir: *Okrucieństwo*, S. 81.

by private action or a so-called “appointment” by a person already tried for the offence. This was most often the case in torture, where the tried person subjected to this procedure identified other alleged witches whom he knew or had heard of.²

Sorcery was feared not only by the lowest social groups, such as peasants and burghers, where trials of this type were most common but also by the nobility, who believed in the efficacy of alleged witches. A classic example of that kind of action is the case of Jan Stanisław Sapieha, on whose initiative the alleged witch Raina Minkowska Hromyczyna was tried, illegally, for 2 years.³ Another example of an aristocrat who feared witchcraft was Prince Bogusław Radziwiłł. He believed that the wedding to Anna Maria Radziwiłł, which was supposed to be a modest ceremony, should be performed by some “stupid” priest because he feared they might be bewitched or poisoned during a big ceremony.⁴ His subjects also feared sorcery and wrote to Prince Radziwiłł asking for help. The nobleman Konstanty Aleksandrowicz addressed this in 1667, writing that the inhabitants of the village of Masztel-erzowice could not perform the work entrusted to them in the estate leased by Prince Radziwiłł because of a witch.⁵

TORTURE IN THE PROCEDURE OF POLISH AND LITHUANIAN WITCHCRAFT TRIALS

Torture was a regular feature of trials in Poland in the 17th–18th centuries⁶ when dealing with witchcraft cases, as it was simply impossible or extremely difficult to provide empirical evidence in such cases, and the evidence collected was unlikely to warrant a conviction. Because of those factors, torture was intended to guarantee the punitive nature of the crimes and ultimately, it was believed, a voluntary confession. It was a key element of the trial, as the accused/defendant was first to be induced to make a voluntary confes-

² Bardach et al.: *Historia ustroju*, S. 264, 281.

³ Sawicki: *Czarownica*, S. 59–73.

⁴ Wasilewski (Hg.): *Radziwiłł: Autobiografia*, S. 92.

⁵ Archiwum Główne Akt Dawnych w Warszawie: *Archiwum Radziwiłłowskie*, Sygn. V. 91, S. 2.

⁶ Broadly about torture in the old Polish judiciary and the terminology associated with it Kamler: *Rola tortur*.

sion and only if this failed it was decided to first threaten by torture, show the instruments of torture, expose and bind the accused person and place them in the torture chamber. The last resort was to torture itself, which in the Polish-Lithuanian penal system was 'confessio est regina probationum' (confession is the queen of trials/experiments).⁷ On March 31, 1637, in the court of Lublin, or rather in the torture chamber in the basement of the Lublin town hall, a woman named Jadwiga was threatened with torture to avoid subjecting her body to torment because she continued to deny any involvement in witchcraft. In the same trial, this method was also applied to a woman named Maryna, but this time it proved effective, as she voluntarily confirmed her previous statements to the judges.⁸ Threats of further, even more severe torture could also occur during or immediately after the initial torture session. An example of this is the sorcery trial in Bochnia in 1679, when a court juror, right after the first round of torture in prison, persuaded the accused women to testify voluntarily and confess to their guilt to avoid worse torture.⁹

The issue of witch trials was addressed by the eminent 16th century Polish jurist Bartłomiej Groicki in his collection of laws, where in paragraph 14, he stated that those guilty of such crimes should be severely punished. However, in the legal record, it is not explicitly stated whether the accused must necessarily be handed over to the executioner for torture. There was a significant degree of interpretative discretion left to the judge, who could, but was not obliged to, sentence the accused to torture for such offences. This largely depended on the prior confession of guilt by the accused and the provision of exhaustive information about the committed crime.¹⁰

Groicki, whose works on existing law became the foundation of the legal and judicial system, also addressed in his writings the preparations for torture, which were not only meant for the legal identification of witches and wizards. This included ensuring that the accused did not possess magical

⁷ Tazbir: *Okrucieństwo*, S. 81–82; Baranowski: *Procesy czarownic*, S. 157. Torture was threatened during witchcraft trials, as exemplified, for example, by a case in Biecz in Lesser Poland in 1645, where Anna Markowa, accused of witchcraft, was interrogated. The judges asked her to voluntarily admit her guilt and not to expose her soul to perdition (Mikołajczyk: *Proces kryminalny*, S. 248).

⁸ Cichy: *Procesy o czary*, S. 15.

⁹ Mikołajczyk: *Proces kryminalny*, S. 305.

¹⁰ Groicki: *Artykuły prawa*, S. 117.

objects that may help them endure the torment, feel no pain, or refrain from answering questions. Therefore, the accused, especially those charged with witchcraft, had to be shaved of all hair on their heads, under their arms, and in intimate areas. This was to prevent the smuggling of magical objects into the torture chamber. An example of such a practice can be seen in the trial before the municipal court in Upita in 1595. A man accused of theft refused to confess to anything during torture, and when the executioner removed his shirt, a piece of bread fell from under his arm, which was considered a magical object. Similarly, in 1598, before the court in Lublin, the accused was found to have magical objects only after his head and beard were shaved. Belief in such assistance during torture persisted in the former Polish Lithuanian Commonwealth until the end of the 18th century.¹¹

Bartłomiej Groicki, in his collection of laws, also addressed the issue of the use of torture in criminal proceedings (paragraph 4), including those related to witchcraft. He argued that torture should only be used when the evidence is clear and points to the guilt of the accused. He also believed that it often happened that a person being interrogated, out of fear of torture and pain, would confess to untruths and admit to things they had not committed, which was frequently the case in witch trials. According to Groicki, another problem was that individuals would accuse others out of fear of torture. He also noted that some accused individuals could exhibit a high pain tolerance and, during torture, would neither confess to guilt nor tell the truth. Therefore, to avoid mistakes, the case should be thoroughly examined, and all evidence and witness testimonies analysed, before ultimately deciding on torture, so as not to unnecessarily torture innocent people or those for whom judicial evidence did not unequivocally indicate guilt.¹²

The issue of witch trials, including the use of torture, was also addressed by the Roman Instruction published in 1657, which was meant to outline the procedures before ecclesiastical courts. The most significant error was initiating a witchcraft trial and using torture against a person without clear evidence of their guilt. All evidence against the accused should be examined first before arrest and not based solely on the accusations of those allegedly harmed by witchcraft. It was also believed that violence should not be used

¹¹ Koranyi: *Czary*, S. 16–18; Wyporska: *Czary*, S. 142.

¹² Groicki: *Artykuły prawa*, S. 105–106.

based on mere rumours, gossip, or accusations, especially when the woman was old and ugly, fitting the common stereotype of a supposed witch. The instruction emphasised that torture should not be applied without first consulting the Holy Congregation on the matter.¹³ It also stated that torture should not be used to force the accused to name accomplices of the alleged witch. Attention was drawn to the fact that if this did happen, and the accused later retracted their statements, such retractions were usually not considered by judges. It was noted that it was precisely out of fear of torture that alleged witches would reveal their accomplices, which often resulted in the falsification of judicial testimonies.¹⁴

To convict an alleged witch or warlock, a confession of guilt from the accused was necessary, hence the use of torture, which was intended to guarantee this. This method was equally often used for other crimes, including the most common ones. In witchcraft trials, noblewomen were exempt from torture, and such cases in the Polish Crown were rare and most often associated with, for example, the profanation of the host. Besides them, this method of obtaining confessions was not used when the accused was pregnant, regardless of social status, as well as against clergy and children, as the upper age limit was rather imprecisely defined.¹⁵

However, in Polish judicial practice, even after a confession of guilt, people were often sentenced to torture on the pretext of imprecise previous testimonies. It was very often in many cases claimed that the confession was incomplete and that new circumstances of the crime might come to light during torture. Therefore, consequently, it became an additional severe punishment, inflicted even before the actual sentence. Perhaps it was genuinely believed that a person who had previously voluntarily confessed their guilt would provide complete testimony under torture or a confession obtained in such circumstances was considered more reliable.¹⁶ In 1662, the Lipnica-Nowy Wiśnicz court decided to subject a woman accused of witchcraft to torture to gain more detailed testimony regarding the case. In 1688, in Nowy Wiśnicz, the court decided to torture Regina Smalcowa, denounced by a certain Talarzyna, to gain better knowledge concerning

¹³ Wijaczka: *Kościół*, S. 112–113; Wyporska: *Czary*, S. 158.

¹⁴ *Instrukcja Rzymska*, no page number.

¹⁵ Tazbir: *Okrucieństwo*, S. 81–82.

¹⁶ Bardach et al.: *Historia ustroju*, S. 278.

the ongoing proceedings. It was also believed that a person tortured in this way could prove their innocence and clear themselves of the charges. In 1688, the courts in Niepołomice and Nowy Wiśnicz ordered the torture of women accused of witchcraft because, in both cases, they had consistently denied their guilt. It is worth mentioning that in the latter case, the alleged witch had been denounced by another woman on trial.¹⁷

Tortures could be repeated three times, each for one hour, over three days, although this rule was not always adhered to in practice. If the accused confessed, they then had to confirm their confession through what were known as „voluntary confessions,” which involved the accused voluntarily repeating their statements made in the torture chamber. If a confession was not obtained through torture, the evidence and witness testimonies were considered, and if they were convincing, the accused was convicted. If not, the person should have been cleared of the charges and set free.¹⁸ Often, in early modern Poland, particularly in small-town courts dealing with witchcraft cases, the principle of torturing three times was violated, and the number of tortures was extended to four or more. Such a case occurred before the court in Dobra, where, after previous tortures and burning with candles, a fourth torture was ordered because the accused refused to confess. The court was fully aware of the legal violation in this case.¹⁹ Anna Woźnicowa, tried for witchcraft in 1678 in Kowalewo, did not confess to the alleged crimes during the three rounds of torture and was ultimately acquitted and released according to law.²⁰ Another example of excessive prolongation of torture can be seen in the 1692 witchcraft case in the village of Młotkovo. This notable trial took place before the court in Łobżenica, where one of the accused women, Anna (whose last name is unknown), endured four rounds of torture before being acquitted of the charges, though ultimately, the owner of the estate where she lived ordered her expulsion.²¹ The same fate befell Maryna from Kościeszki in 1672, who, after enduring three rounds of torture without confessing, was acquitted.²²

¹⁷ Mikołajczyk: *Proces kryminalny*, S. 296.

¹⁸ Bardach et al.: *Historia ustroju*, S. 278; Groicki: *Artykuły prawa*, S. 118; Wyporska: *Czary*, S. 151; Kamler: *Rola tortur*, S. 109.

¹⁹ Baranowski: *Pożegnanie*, S. 14.

²⁰ Wijaczka: *Procesy o czary przed sądem soltysim Kowalewa*, S. 114–115.

²¹ Idem: *Proces o czary we wsi Młotkovo*, S. 164–170.

²² Hajdrych: *Wizja świata*, S. 142.

Similarly, Anna Jurkowa Malinowa, accused of witchcraft in Nowe, endured three rounds of torture, and by the court's judgment of August 5, 1701, she was cleared of the charges and released.²³ In another case, after enduring three rounds of torture, the court in Szczerców in 1715 was forced to change its previous acquittal and sentence the alleged witch to death, influenced by public opinion that pressured the court into revising its judgment.²⁴

On June 17, 1724, Katarzyna from Mała Wieś (Small Village) was tortured for the fourth time, against the law, during a trial in Kiełbów in Mazovia. It should be noted that she did not confess to the charges during the first three tortures, and only after the fourth session did, she admit her guilt, which can undoubtedly be seen as a case of coerced confession.²⁵ Paraszka Hłacholicha endured six rounds of torture in 1671 in Lublin, claiming that it is God who gives people the strength to endure torture and remain truthful.²⁶ In the territories of the Grand Duchy of Lithuania, which was confederated with the Polish Crown, if an accused person withstood three rounds of torture and was acquitted, they were entitled to compensation for their suffering. If someone accused of witchcraft died during the process and was under the authority of a specific person, that person had to receive compensation from the accuser.²⁷

During witch trials in early Poland, it was not uncommon, even in violation of the law, for the accused to be tortured two or even three times in a single day, or for the torture sessions to be extended beyond the legally allotted hour. In 1678, in Kowalewo, Trudy Ząbkowa was tortured twice in one day, during which she essentially confirmed the statements she had made during the earlier torture session, notably on the same day.²⁸ A different situation was observed in the case of Katarzyna Piskuła, who had previously lost her husband to the stake for witchcraft. The case began on April 7, 1690, in the village of Piesna. During the first two rounds of torture, she did not confess to the alleged crimes. Even during the third round, she did not meet the interrogator's demands and continued to claim her inno-

²³ Wijaczka: *Polowanie na czarownice i czarowników*, S. 138.

²⁴ Baranowski: *Pożegnanie*, S. 14.

²⁵ Wijaczka: *Czarownicom żyć nie dopuścisz*, S. 119–120.

²⁶ Ostling: *Między diabłem a hostią*, S. 128.

²⁷ Pilaszek: *Litewskie procesy czarownic*, S. 31.

²⁸ Wijaczka: *Procesy o czary przed sądem sołtysim Kowalewa*, S. 112–113.

cence. It was only after extending the final torture session, which was legally unauthorised, that she confessed to the charges. This can for sure be viewed as judicial coercion, as the extended session was contrary to the law. Additionally, by that point, the accused was in such poor physical condition that it was difficult to continue the torture, as her hands were severely swollen and “rotted from the nooses”.²⁹ Three rounds of torture, once in the morning and twice in the afternoon, were applied to Anna Bielawska, known as Szynkarka, during the trial that began on March 16, 1689, in Gniezno.³⁰

TYPES AND PROCEDURAL EFFICACY OF TORTURE IN WITCHCRAFT CASES

The use of torture was intended to guarantee, as mentioned earlier, voluntary confessions of guilt, which, given the inquisitorial procedure adopted in the Polish Lithuanian Commonwealth, were considered the ultimate evidence in ongoing court cases. This method was important at the time, as contemporary jurists believed it ensured the punishment of crimes. Judicial procedures in the early modern era, including in the Polish Lithuanian Commonwealth, set such a high standard of evidence that torture essentially became a fundamental tool for interrogations. A personal confession of guilt was the most crucial and irrefutable evidence in court proceedings. This was especially emphasised when a death sentence was anticipated, and its issuance had to be supported by incontrovertible evidence, such as a confession of guilt by the accused.³¹

If a woman accused of witchcraft confessed during torture but did not confirm this in so-called voluntary testimonies (voluntary confessions), she could not be convicted of the crime unless other indirect evidence was overwhelming. There were also instances where alleged witches were sentenced to death by burning at the stake without prior confessions. In some cases, though likely rare, indirect evidence and the oath of witnesses sufficed. Such a case occurred in Wilkomierz in December 1646. On the 17th of that

²⁹ Idem: *Mężczyźni*, S. 29

³⁰ Wijaczka: *Jak się pozbyć matki*, S. 549.

³¹ Ostling: *Między diabłem a hostią*, S. 125; Płaza: *Rozwój staropolskiego prawa*, S. 357–358.

month, a court case began against two women, Jadziula Kuprycia-Jusiowa and Marta Stypajeje-Matullova Junkowa, accused of witchcraft. They were charged with causing damage to crops, domestic animals, and the health of people living in the estate of Kopyście with their sorcery. Ignoring the content of the witness testimonies, as it is not central to our discussion, the court heard five affected residents. Following them, the remaining men from the village were to testify; altogether, there were supposed to be 40 of them. The historical sources did not provide us with a detailed account of their words, only summarising and selectively treating their statements. Based on this, the court subjected the alleged witches to torture, noting that this decision was made under pressure from all the witnesses and affected individuals present in the courtroom. Unfortunately, the protocol does not specify what trials the accused women were subjected to. Neither during nor after the torture did any of them confess to the alleged crimes, i.e., killing domestic animals, destroying crops with sorcery, and infecting people with diseases. Marta only stated that the executioner could torment her all day, but she would still say nothing. Under such circumstances, the court decided to take an oath from seven affected men that both accused women were witches. The oath, according to a strictly established procedure, took place on December 17, 1646, in the church in Kopyście. This was done in the presence of judges and local nobility, although their names were not mentioned. After taking the oath, it was decided to hand over the women accused of witchcraft to the executioner, who was to burn them at the stake.³²

As seen from the above analysis, the final death sentence did not consider that neither alleged witch confessed to their guilt during torture. Moreover, the protocol does not state how many times they were tortured or whether they were stretched or only scorched, which seems unlikely. The principle of absolute confession of guilt was broken, and the death sentence was based on witness testimonies and the oath of the affected individuals. It cannot be ruled out that there was pressure from the local starost, Wilhelm Tyzenhauz, who was exceptionally active in the 1640s in persecuting witches in his jurisdiction.³³

³² Jablonskis / Jasas (Hg.): *Raganų teismai Lietuvoje*, S. 226–230.

³³ For another witchcraft case, albeit a slightly earlier one from 1641, which took place in the Kopyś starost and directly involved Wilhelm Tyzenhauz, see Sawicki: *Czarownica*, S. 59–74.

During torture, devil's marks, which could serve as evidence in the ongoing proceedings, were often sought. These were searched for on the body and under the hair, hence the shaving of hair, which was also a torment for the accused. It was also believed that alleged witches could hide amulets in their hair to help them endure torture. Thus, shaving their hair was probably one of the methods for detecting such items. An example is the trial in Jędrzejewo (Cierpięgi) from June 1678. Agnes Dobrogostówna, accused of sorcery, stated during her third torture that if her hair was not shaved, her devil resided in it and helped her endure the torture. However, he left immediately after she was shaved.³⁴ Shaving the hair of those accused of witchcraft, including intimate areas, was also mentioned by the memoirist Jędrzej Kitowicz. He justified such actions with the possibility of a devil hiding in the hair, causing the accused to withstand the torture and not answer the questions posed.³⁵ There were also cases where hair shaving was ordered only after the first torture, during which the alleged witch did not confess to anything. This situation occurred in Bochnia in 1679. Only after this procedure did the accused change her testimony and confession to the charges related to sorcery. Sometimes the executioner was also instructed to carefully examine the body of the alleged witch to find devil's marks, as occurred in 1670 in Nowy Sącz.³⁶

The Roman Instruction specified the types of torture used in witchcraft trials. It was recommended not to use flogging or attach weights to the legs during suspension. Shaving women's hair on their heads was also not allowed, and the lack of tears during torture was not considered evidence of the accused's guilt. Torture should last a maximum of one hour and have to be recorded, and this activity could be repeated three times.³⁷

In Poland, torture often involved stretching the body and scorching it with torches, candles, or heated iron. In many cases, the first torture was carried out without the use of open fire or other methods of scorching. Sometimes sulphur was also used, which was burned on the body of the accused. These methods should have been applied only when the accused continued to refuse to confess, although, in judicial practice, it sometimes

³⁴ Wijaczka: *Czarownicom żyć nie dopuścisz*, S. 85.

³⁵ Skarżyńska (Hg.): Kitowicz: *Opis obyczajów*, S. 136–137.

³⁶ Mikołajczyk: *Proces kryminalny*, S. 307–308.

³⁷ *Instrukcja Rzymska*, no page number.

looked different, as described below. Exceptionally, finger or leg (shin) crushing was used with so-called “Spanish boots”, which, according to earlier mentioned Jędrzej Kitowicz, was practiced only in larger cities.³⁸ In most cases, it was, however, joint stretching and body scorching with fire. In witchcraft cases, scorching under the armpits, under the knees, and in other places where the pain was greatest was also used. Most often, the accused’s hands were tied above the head and attached to a ladder. Then, using winches, they were pulled by the legs, causing dislocation of the joints in both the hands and legs, usually resulting in irreversible disability. During the trial in Gniezno, Zofia Szynek was subjected to such cruel torture that on March 22, 1689, she had to be brought to court, as she was unable to walk due to the torture.³⁹

Sometimes the court immediately decided to scorch the accused witch with fire, as happened in Nowy Sącz in 1646. The alleged witch, Regina Oleksa, began to be scorched during the first and second stretching, but not during the third attempt. The use of torture was gradual—the next time, it was worse and more painful. However, sometimes the harshest methods were used right away, as in the witchcraft case before the court in Słomniki in 1674, where the accused woman was scorched with a heated piece of metal at the beginning.⁴⁰

The mouths and intimate areas of alleged witches could also be spread with a so-called pear, though in both cases, the tool was slightly differently constructed. This method seems to have been used very sporadically in the Polish Lithuanian Commonwealth. Sometimes, head crushing with a rope was decided upon, which put pressure on the eyes, although this was probably also a marginal practice.⁴¹

For torture, a bench very popular in all Western European countries was used. Properly equipping the room intended for torture was the responsibility of the city, which also covered the costs of making new tools. In Oława,

³⁸ Tazbir: *Okrucieństwo*, S. 82; Skarżyńska (Hg.): Kitowicz: *Opis obyczajów*, S. 136; Mikołajczyk: *Proces kryminalny*, S. 309–311. Baranowski claims that ‘Spanish shoes’ were also used in small towns and gives the example of Szczercow (Baranowski: *Procesy czarownic*, S. 160).

³⁹ Wijaczka: *Jak się pozbyć matki*, S. 548, 550.

⁴⁰ Mikołajczyk: *Proces kryminalny*, S. 311.

⁴¹ Tazbir: *Okrucieństwo*, S. 82.

the cost of a new torture bench by a craftsman was 5 talers and 23 groszy.⁴² In Kraków and Poznań, such a bench was called a horse. In the case of an out-of-town court session, which happened relatively often, simple tools like a ladder were used for torture, where the accused person's hands and feet were fixed—one part of the ladder permanently and the other in a way that allowed stretching the alleged witch using a rope and lubricating substances. Stretching was also done on a bench (if available at the town hall), which could be transported to the interrogation site. Suspension in the air was also used, although attaching additional weights to the legs was usually against the regulations.⁴³

Another tool of torture in the Polish Lithuanian Commonwealth was, in a sense, the barrel. Its use during witch trials had a different purpose than a somewhat similar device used in Western Europe, which aimed to force the accused to confess or, once this was achieved, to reveal any possible accomplices. This barrel was open at the top and bottom and lined with nails or spikes around the inside, which would pierce the body of the person placed within as it was rotated. However, in the Polish Lithuanian Commonwealth, there are no records of this type of device being used, though the barrel served as a kind of torture tool. Sometimes, women accused of witchcraft were kept in barrels during trials. The alleged witch, placed in the barrel, had her hands and legs bound behind her in such a way that she could neither stand nor sit, leaving her forced to kneel the entire time. Additionally, the barrel was covered with a cloth bearing the inscription "Jesus, Mary, Joseph" to prevent the devil from accessing the accused and thus helping her. This method was used in a court case in Barcin in 1735, where a woman accused of witchcraft was kept in such a barrel throughout her trial. This practice was popular in the western regions of the Polish Lithuanian Commonwealth. It should be noted that this form of confinement for alleged witches faced condemnation from the clergy and diocesan synods.⁴⁴ The confinement in the barrel also had a secondary purpose – it isolated the accused witch from the ground, which was seen as protective. People feared that if the accused came into contact with the earth, she might gain devilish strength necessary to endure torture and, through this deception,

⁴² Wojtucki: *Rzemiosło katowskie*, S. 91.

⁴³ Baranowski: *Procesy czarownic*, S. 158; Mikołajczyk: *Proces kryminalny*, S. 309.

⁴⁴ Koranyj: *Beczka czarownic*, S. 6–8 [406–408].

might be acquitted of the charges. This method was already being criticised by 17th-century writers, including Daniel Wisner, author of *Czarownica powołana* [*The Summoned Witch*].⁴⁵

We cannot determine from the preserved source material what the courts ultimately based their decision to subject the accused person to torture on, as this could be due to a lack of evidence of guilt, incomplete evidence, or often witness testimonies and potential physical evidence of the committed crime. However, we must remember that this decision could sometimes also be influenced by the observations of the accused during the trial, such as their behaviour in the courtroom, which could also have impacted the decisions made. The torture order should specify the type of torture to be applied, while in the Polish judiciary, it was usually stretching, specifying how many times the accused should be stretched and whether they should also be scorched with fire. The severity of the torture was often adjusted based on the developments during the first attempts, and then decisions on harsher methods were made. It was also recommended that in cases with multiple accused of the same crime, in our case, witchcraft, the judge should first order torture for the person most likely to provide their testimonies swiftly. It was also believed that a wife should be tortured before her husband, as a person with less resistance to pain; a son before his father, because the latter, seeing the torments of his offspring, would be quicker to admit his guilt than on his own. In witchcraft cases, care was taken to ensure that torture decided by an appropriate decree was carried out as quickly as possible.⁴⁶

The trial in Merecz sheds some light on the use of torture. It began on April 27, 1614. Magdalena from the village of Lidekin was accused of bewitching Marcin Wieliczkowicz, although she immediately shifted the blame to Anna Marmurowa, who taught her love spells. Magdalena wanted to marry Marcin, who seemed reluctant to enter into a relationship. Thus, the only option for her was to use magic, in this case, a piece of a bed-sheet. After the initial testimonies, including those of Magdalena, which confirmed Anna's guilt, and after the necessary legal procedures that took three days, the court decided to hand over the alleged witch for torture, as noted in the protocol (April 30, 1614). Unfortunately, there is no mention

⁴⁵ Ibidem, S. 35–41 [435–441].

⁴⁶ Mikołajczyk: *Proces kryminalny*, S. 296–300.

of stretching or lifting the accused woman. There is immediate information about her being burned, though the document states that she was first instructed to confess her sins upon the first application of fire. The torture took place in the presence of jurors and other officials, though their identities were not specified. Ultimately, Magdalena was burned four times, with the fourth time being „against the law,” suggesting that she was subjected to four rounds of torture, possibly all on the same day. There is no mention of stretching in this case, only the application of fire to her body, although it cannot be ruled out that she was burned while being stretched. After these trials, the alleged witch continued to deny knowing any magic but confirmed that Marcin would be happy with his wife and live well with her. Ultimately, the court decided not to sentence her to death by burning at the stake but instead to flogging and banishment from the town. She was to be branded beforehand, in connection with the court's decision. The verdict also stated that anyone who decided to take her into their home would face a substantial fine of 100 zloty.⁴⁷

A detailed description of the tortures is known from the trial in the village of Młotkowo, thoroughly analysed by Jacek Wijaczka. Our goal is not to discuss this trial in detail, as it has been meticulously described by the aforementioned researcher, but to resolve the types of torture used by the judges, their intensity, and the nature of the inflicted pain. In Młotkowo, several women of different ages were accused of witchcraft: Katarzyna Derlina, Katarzyna Błachowa from Falmierowo, Regina – a servant of Szymon Konarski from the village of Gromadna, Anna from Żelazna, and Barbara (an old woman from the hospital in Gromadna). After conducting the swimming test, which resulted negatively for the accused, it was decided to subject all the accused women to torture. Barbara was the first to be examined in this manner, and during the first trial, in addition to stretching, her body was also burned in various places. The trial lasted over an hour, thus breaking the law right from the start. Anna was next, and as noted, being younger than Barbara, she was treated more cruelly than her predecessor, though we know that she was stretched for fifteen minutes and burned with fire. Second was Katarzyna Błachowa, also tortured for over an hour, similarly stretched and burned with fire. The second tortures were much worse. Barbara was stretched and additionally burned with sulphur, probably under the elbows,

⁴⁷ Jablonskis / Jasas (Hg.): *Raganų teismai Lietuvoje*, S. 216–218.

on the breasts, and under the knees. Despite this, like the others, she did not confess to her guilt. The judges asked where she found the strength to endure such cruel suffering, to which the alleged witch replied that it was thanks to Jesus Christ, to whom she prayed day and night in prison. The officials were also interested in why the accused did not scream while being burned with sulphur, to which Barbara only stated that she knew she was being burned and that it hurt, but despite this, she did not scream. Anna was treated similarly stretched and also burned with sulphur. During the second torture, Regina confessed to her guilt. Ultimately, all the accused, except for Anna, admitted to the charges during the third torture and talked about their misdeeds during subsequent-fourth tortures, which were also conducted illegally. Of course, in their cases, the death penalty by burning at the stake was applied. It is worth mentioning again that Anna endured all four trials. However, as mentioned earlier, she was exiled.⁴⁸

As can be seen from the above analysis, the judges immediately decided to use the most drastic interrogation methods, which only yielded results during the second attempt in one case, and the third attempt in the others. The law was repeatedly broken by torturing the alleged witches for over an hour and additionally four times. The only person who withstood the tortures still faced a severe punishment, which was exile.

Tortures were so unbearable that during them, women accused of alleged sorcery would ask the executioner to kill them, though, of course, he could not do so. During the trial of Agnieszka Goroska, judged for witchcraft in the summer of 1675 in Jędrzejewo (Cierpięgi), she asked for death at the stake, stating that it would be better to be placed on the stake than to continue suffering from torture. As can be seen, the fear of further torture was greater than the fear of death under cruel conditions at the stake.⁴⁹ During the trial in Młotkowo in 1692, Anna from the village of Żelazna asked for death twice during the first and second trials. The first time she wanted to be shot, and the next to be stabbed with a sabre. As can be seen, the intensity of the pain was very high, as in the previously described case, which led to the request for death in both cases.⁵⁰

⁴⁸ Wijaczka: *Proces o czary we wsi Młotkowo*, S. 166–170.

⁴⁹ Idem: *Czarownicom żyć nie dopuścisz*, S. 74; Baranowski: *Procesy czarownic*, S. 162–163.

⁵⁰ Wijaczka: *Proces o czary we wsi Młotkowo*, S. 166.

SUMMARY

Ultimately, torture and witch trials in the Polish Lithuanian Commonwealth were banned by the Parliament Constitution of 1776, as it is undeniable that the prohibition of torturing the accused had been in place even earlier⁵¹. Moreover, municipal courts in the former Polish Lithuanian Commonwealth rarely used this method in criminal trials, although in cases of witchcraft, it was employed more frequently. In 1749, in a judicial resolution or rather an appeal to the Assessor's court, the Grand Chancellor of the Crown, Jan Małachowski, recommended to the court in Bydgoszcz that the woman suspected of witchcraft be subjected only to voluntary examination and forbade the use of torture and flogging. Indeed, appeals related to witch trials in the Polish Lithuanian Commonwealth often concerned the illegal use of torture against the accused.⁵² Moreover, courts in smaller towns that tortured and sentenced people to death in the third and fourth decades of the 18th century did not enjoy prestige in the Polish Lithuanian Commonwealth. In the 17th century, efforts were made to limit their competence to minor criminal cases, in which, of course, witchcraft could not be classified at that time.⁵³

From the above considerations, it is also evident that being subjected to torture did not necessarily mean the ultimate penalty of death by burning at the stake. It was believed that enduring torture indicated the truthfulness and innocence of the accused, in our case, of witchcraft. A much more common outcome of using such a method of extracting confessions was disability and other serious health complications. Voluntary confession and admission of guilt formed the basis for the final court verdict. As seen, the tortures used in the former Polish Lithuanian Commonwealth for those accused of witchcraft were not as elaborate as in Western Europe, most often involving stretching and burning, yet their effectiveness cannot be doubted. Regardless of the method of obtaining confessions, torture was

⁵¹ More on the constitution of 1776 Michalski: *Jeszcze o konstytucji*. The 1776 constitution also prohibited, in addition to torture, the death penalty for witchcraft which was a progressive and modern provision even in relation to France, not to mention other Western European countries (Płaza: *Rozwój staropolskiego prawa*, S. 358).

⁵² Pilaszek: *Apelacje*, S. 123, 134–135.

⁵³ Michalski: *Jeszcze o konstytucji*, S. 98.

a brutal way of extracting appropriate statements, and jurists who used it believed that only through this method could they obtain voluntary and, most importantly, true confessions and reveal further accomplices in the committed crime, although it was already believed in the 17th century that this method could not be considered reliable⁵⁴.

STOSOWANIE TORTUR W PROCESACH O CZARY W RZECZYPOSPOLITEJ OBOJGA NARODÓW OD XVII DO XVIII WIEKU

PRZYSZYNEK DO BADAŃ NAD POLSKIM SĄDOWNICTWEM
DOBY NOWOŻYTNEJ

STRESZCZENIE

Tortury były stałym elementem wszystkich procesów karnych w XVII–XVIII wieku. Przyznanie się do winy nie uwalniało od tortur, ponieważ sędzia mógł je nakazać, jeśli osoba oskarżona nie wyjawiała współników lub jeśli uznał, że zeznania są niewystarczające. Według ówczesnych ludzi tortury gwarantowały prawdomówność i karalność przestępstw. Wierzono, że osoba, której zadaje się ból, mówi prawdę i unika kłamstwa. Nie inaczej było w procesach o czary w Rzeczypospolitej Obojga Narodów. W niniejszym artykule autor skupił się na omówieniu metod zadawania bólu w polsko-litewskich procesach czarownic, częstotliwości ich stosowania oraz prawodawstwie na ten temat.

ANWENDUNG VON FOLTER IN HEXENPROZESSEN IN DER POLNISCH- LITAUISCHEN RZECZYPOSPOLITA VOM 17. BIS 18. JAHRHUNDERT

EIN BEITRAG ZUR ERFORSCHUNG DER POLNISCHEN JUSTIZ
DER FRÜHEN NEUZEIT

ZUSAMMENFASSUNG

Folter war im 17. und 18. Jahrhundert fester Bestandteil aller Strafprozesse. Ein Schuldeingeständnis befreite nicht von Folter, da der Richter sie anordnen konnte, wenn die angeklagte Person die Namen der Komplizen nicht preisgab oder wenn er die Aussagen für unzureichend hielt. Den damaligen Menschen zufolge war Folter ein Garant für die Durchsetzung der Wahrheit und Strafwürdigkeit des Verbrechens. Es wurde angenommen, dass eine Person, der Schmerzen zugefügt wurden, die Wahrheit sagt und es vermeidet zu lügen. Bei Hexenprozessen in der polnisch-litauischen Rzeczpospolita war das nicht anders. In diesem Beitrag

⁵⁴ Wiślicz: *Spółczesność Kleczewa*, S. 48.

konzentrierte sich der Autor auf die Beschreibung der Methoden der Schmerzzufügung in den polnisch-litauischen Hexenprozessen, der Häufigkeit ihrer Anwendung sowie der Gesetzgebung zu diesem Thema.

Übersetzt von
Renata Skowrońska

USE OF TORTURE IN WITCHCRAFT TRIALS IN THE POLISH-
LITHUANIAN COMMONWEALTH FROM THE 17th TO THE 18th CENTURY
A CONTRIBUTION TO RESEARCH ON THE POLISH JUDICIARY
OF THE MODERN ERA

SUMMARY

Torture was a regular feature of all criminal trials in 17th and 18th century. An admission of guilt did not exempt one from torture, as the judge could order it if the accused did not reveal the names of accomplices or if the judge deemed the testimony insufficient. According to popular belief, torture guaranteed the truthfulness and punishment of crimes. It was believed that a person who is inflicted with pain tells the truth and avoids lying. It was no different in witchcraft trials in the Polish Lithuanian Commonwealth. In this paper, the author intends to focus on discussing the methods of inflicting pain in the Polish-Lithuanian Commonwealth, the frequency of their use in witch and trials their appearance in legislation.

SŁOWA KLUCZOWE / SCHLAGWORTE / KEYWORDS

- Rzeczypospolita Obojga Narodów; procesy o czary; czarownicy i czarownice; tortury; prawo
- Polen-Litauen (Rzeczypospolita); Gesetz; Hexenprozesse; Zauberer und Hexen; Folter
- Polish Lithuanian Commonwealth; law; witchcraft trials; sorcerers and witches; torture

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