

THE LEGAL FOUNDATIONS OF REGULATING FAMILY RELATIONS AND THE ORDER OF SUCCESSION IN SMBAT SPARAPET'S “DATASTANAGIRK” (BOOK OF JUDGMENTS)

Lilit Sarvazyan¹

Abstract

In all historical periods, a special order for regulating marriage and family relations has existed in Armenia. Family law is the totality of legal norms that regulate personal non-property and related property relations arising from marriage, kinship, and other grounds provided by law. The institutions of family law and the principles of property inheritance have been preserved—with certain changes and revisions—within Armenian legal-philosophical culture. In this context, we emphasize the study of national sources of law, including Smbat Sparapet's “Datastanagirk” (Book of Judgments), which contains ideas of modern resonance. These include marriage based on love, mutual consent, and free choice; the legal equality of spouses; the exclusion of violence against women and children; the prevention of immoral relations; and the protection of ancestral property and hereditary rights.

Keywords: Datastanagirk, family law, free choice, moral virtues, legal policy, order of succession, property relations

Smbat Sparapet (1208–1276) is known as the renowned sparapet (constable/commander-in-chief) of the Cilician Armenian kingdom, a socio-political figure, diplomat, legislator, and historian. He was honored with titles such as “Subtle Philosopher,” “Smbat the Brave,” “The Wise Sparapet of the Armenians,” and “The Great Prince.”²

Smbat made a significant contribution to the history of Armenian law through his translational and legislative activities. He translated the “Assizes of Antioch” from Old French.³ These rules were applied in Armenian courts to resolve disputes between Armenians and the Crusaders of Antioch, as well as to settle commercial and political issues. It is worth noting that this code became known to the scientific world thanks to Smbat Sparapet's Armenian translation, as the original Old French text has not been preserved. Ghevont Alishan re-translated the Armenian text back into French in 1876, ensuring its preservation as a global legal monument⁴.

¹ Lilit Sarvazyan, PhD, Associate Professor at the Armenian State Pedagogical University. Head of the Department of Theory and History of Philosophy, Institute of Philosophy, Sociology and Law, NAS RA, E-mail: lilit.sarvazyan@gmail.com

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² See: Catholicos Garegin I 1951: 951-952.

³ Assises D'Antioche 1876.

⁴ See: Alishan 1901: 111.

As a chronicler, Smbat wrote the “Chronicle” (Taregirk)⁵, which covers history from 951 to 1272. He provides detailed interpretations of Armenian-Byzantine, Armenian-Arab, Armenian-Georgian, Armenian-Turkish, and Armenian-Persian relations, as well as the Crusades and the nature of expansionist policies.

Smbat Sparapet’s masterpiece is the “Datastanagirk” (Book of Judgments)⁶, compiled over many years and completed in 1265 for the purpose of regulating socio-political relations in Cilician Armenia. It consists of eight chapters comprising 202 articles. The sources of the “Datastanagirk” are Armenian customary and canon law, the canons of Sahak Parthev, Mkhitar Gosh’s “Armenian Datastanagirk,” and certain Greco-Byzantine and Latin legal norms.

Smbat utilized all previous legislative acts creatively. He was creating a code for the Armenian State, and naturally, he had to base it primarily on Armenian primary sources of law. According to Arsen Gltchyan: “Customary law... powerfully influenced the nature of Smbat’s Datastanagirk, giving it immense importance.” He rejects the opinion of J. Karst, who, “...being unfamiliar or little acquainted with the older sources of Armenian law, considers Armenian law... a borrowing, inspired and produced by external influence.”⁷ Meanwhile, another European legal scholar, J. Kohler, emphasizes Armenian customary law and the national roots of the law, affirming: “There is no doubt at all that the Armenian nation was, from the beginning... a nation possessing legislation... A nation whose racial affinity is Aryan.”⁸

The “Datastanagirk” is based on the ideas of state sovereignty, the supremacy of law, the priority of state interests, and the protection of the rights and freedoms of citizens. Therefore, Smbat prioritized the problems of improving internal state life and regulating social relations, including family relations. He sought to maintain the stability of the Armenian family as the foundation of the state, uphold ancient national traditions, and prevent groundless divorces.

According to national legal consciousness, marriage is a divine institution—an eternal union of man and woman: “...the two shall become one flesh... what God has joined, let no man separate” (Matthew 19:6). This idea permeated both Armenian canonical and secular legislation.

According to Smbat’s “Datastanagirk,” the union of a woman and a man is validated through betrothal and coronation (the marriage rite). Betrothal is a promise to marry subject to certain conditions. The crucial stage of marriage is the coronation. The “crown” is a combination of canonical rites and specific behaviors defined by legal norms, through which the marriage is legalized. As G. Safaryan affirms: “The order of coronation was a progressive phenomenon in Armenian reality and legal history.

⁵ Smbat Sparapet 1956.

⁶ Law Code of Smbat 1918.

⁷ Law Code of Smbat 1918: 7-8. See also: Sukiasyan 1978: 230-231.

⁸ Kohler 1963: 11.

Coronation is indisputable proof of marriage. By the blessing of the crown, the married couple was under the protection of the law and the clergy.”⁹

Smbat Sparapet defined the following conditions for marriage:

- **Gender:** The persons marrying must belong to different genders. Relations between persons of the same gender are illegal and criminal. In almost all sources of Armenian law, punishment is defined for “men-seekers” and “women-seekers,” and in such cases, divorce is not prohibited.
- **Monogamy:** A married person cannot marry again. Bigamy and the keeping of concubines are prohibited by both canonical and secular laws.¹⁰ Based on Armenian canon law, Smbat even forbade the king from having extramarital relations: “The law does not allow the king to live with a mistress without marriage, for since he establishes laws with God and the Patriarch, let him marry legally.”¹¹
- **Voluntary Consent of the Spouses:** Punishment is established for those clergy and parents who force young people to marry against their will.¹² Such a marriage is considered invalid. A union through the abduction of a girl is likewise illegal, and children born without a “church crown” are considered “illegitimate.”
- **Marital Maturity:** Smbat considers the marriageable age for a boy to be 15 years. M. Gosh defined the marriage age for boys at 14 and for girls at 11–12.¹³ Smbat does not specify the bride’s age in his “Datastanagirk,” although the 7th canon of the 1243 Church Council of Sis set the minimum age at 14 for boys and 12 for girls.¹⁴ It is likely the Council used Mkhitar Gosh’s definitions as a basis.
- **Confessional Unity:** Both Gosh and Smbat attached great importance to the condition of common faith, prohibiting the marriage of Christians with those of other faiths or heretics. The law permits marriage with a slave or servant on the condition that the man converts her to the Christian faith, baptizes her, and marries her as a legal wife.

⁹ Safaryan 2010: 171.

¹⁰ It is known that rejecting incest and double marriage, Hovhannes Odznetsi established a specific penalty, requiring that those marrying affirm their mutual consent through mediators and guarantors and receive the seal of their legal marriage from the church. Otherwise, they must do penance for ten years. See: Canons of John 2001: 173.

¹¹ Smbat Sparapet 2001: 564.

¹² Earlier, Catholicos Nerses II, in Canon 23 of his Constitution, commanded: “They shall not dare to bless the crown of children, nor of those who have reached maturity, without both seeing each other.” See: Canons of Nerses II 1905: 24. See also: Canons of St. Sahak 1964: 382.

¹³ See: Mkhitar Gosh 2001: 403.

¹⁴ In Cilician Armenia, for political or other reasons, the condition of marital maturity was sometimes violated. For example, Levon II married the 11-year-old daughter of the King of Cyprus at age 60. Levon II’s 11-year-old daughter, Zabel, was married to Prince Philip, and 12-year-old Levon IV was married to a 7-year-old princess of the Lusignan dynasty. See: Ormanian 1913: 1080, 1102, 1213.

- **Absence of Blood or Affinal Relation:** An essential condition of marriage is the absence of certain ties of kinship or affinity between the couple. Smbat mentions nothing specific about marriage between relatives; however, this condition was emphasized in Armenian canon law and the codes of David of Alavik and M. Gosh.¹⁵ We believe that in this matter, too, the Sparapet took the national tradition—which had become law—as his basis.

The “Datastanagirk” defines certain principles for the married couple. The husband’s authority in the family and the wife’s obedience to her husband are considered the norm. Those marrying must be healthy in order to bear and raise children. The blood of a healthy person must not be mixed with the blood of an incurably ill person, so that the nation has healthy generations: “The law commands judges and all secular lords that those who are infected with leprosy or vitiligo from father to son or by race... shall not be allowed to marry; never give them a wife or take a wife from them,” because “...the disease... is passed on by inheritance.”¹⁶ The marriage of the blind or the mute is also discouraged, as they cannot raise children.

Based on Mosaic Law, the “Datastanagirk” exempts newlyweds from going to war: “A newly married man should not go to war, so that there is no untimely mourning for the wife.”¹⁷

Smbat defines the following conditions for **divorce**:

- **Disobedience of the Wife:** According to the Sparapet, traditional rules did not allow divorce due to disobedience, but “...when they saw that because of impossibility a greater misfortune might happen, they softened that law,” and divorce was permitted. In this case, the husband must give the wife everything she brought with her, “...so that she can marry someone else.”¹⁸
- **Serious Illness:** Serious physical and mental illnesses—such as epilepsy, leprosy, “pain-sickness,” mange, etc.—make the shared life of the spouses impossible. But Smbat requires the illness to be confirmed by a special examination. If cured, the wife may return to her husband; if uncured, the husband must return all the property she brought—except for the marital gift—and he may marry again. If the parents prove the illness originated in the husband’s house, the husband must wait seven years, and if the wife is not cured, “...he has the right to separate and take another wife.” The conditions are the same in the case of the husband’s illness. Divorce is not allowed if the spouses were aware of the illness but married regardless.¹⁹

¹⁵ See: Canons attributed to the Council of Ashtishat, Ch. I; Canons of Shahapivan, Ch. XII; Canonical Constitution of King Vachagan of Albania, Ch. X-XI; Code of David of Alavik, Art. 70; Mkhitar Gosh 2001, Art. 192.

¹⁶ Smbat Sparapet 2001: 613-614.

¹⁷ Smbat Sparapet 2001: 612.

¹⁸ Smbat Sparapet 2001: 602.

¹⁹ See: Smbat Sparapet 2001: 612, Art. 80, 89, 104.

- **Captivity, Long Absence, or Death:** The captivity, prolonged absence, or death of one of the spouses can serve as grounds for the dissolution of the marriage. If a wife is taken into slavery from the husband's house, the husband must pay her ransom; if from the parents' or brothers' house, they must pay. If after seven years the wife is not ransomed, her dowry and marital gift must be returned. "But if a child remains, in that case, the dowry belongs to the child."²⁰ Thus, the property rights of the child are protected. In the case of the husband's captivity or absence for trade, if word is received that he has died, the wife may marry after waiting seven years. If the husband returns, he may "take the wife back" only by her own will.
- **Mutual Hatred and Antipathy Between Spouses:** Incompatible relations or antipathy sometimes arise within a family. If the reason is not immoral behavior, the law commands an investigation to determine who is at fault. If the husband is at fault, the wife may take her dowry and marry someone else. In the case of the wife's fault, the husband has the right to give her nothing and remarry. Regarding children, if the father is at fault, they are given to the mother; otherwise, they are given to the father.
- **Marital Infidelity:** A husband has the right to separate from an immoral wife: "The law always considers separation correct from women who have committed the following sins: fornication, witchcraft, and other similar sins." However, the husband "...must be compelled to repent."²¹ If a wife flees from her husband without church permission or serious reasons convincing to a judge, she must be apprehended and returned to the husband as a servant. He has the right to treat her as he wishes, but he cannot sell her, kill her, or divorce her. Only in the case of infidelity does he have the right to sell her. However, if it is revealed that the wife left "...because of the husband's foul behavior... the husband must be seriously admonished with the punishments of the court and the church."²² Divorce is permitted if both parties are at fault. Thus, in cases of infidelity, a wife's right to divorce is more limited than a man's. However, Smbat does not leave the wife entirely without rights.²³ For example, a wife is permitted to divorce if the husband leads an immoral life, does not work, and lacks the means to provide for her. Effectively, the issue of the wife's welfare is prioritized in this context.
- **Female Sterility and Male Impotence:** These also serve as grounds for divorce, although by Christian law, sterility is not a cause for separation. Therefore, the "Datastanagirk" commands: "Physicians must examine and determine whether the cause of infertility lies with the husband or the wife." If sterility is the result of an illness, it should be treated. If it is incurable, both spouses must be examined. If

²⁰ Smbat Sparapet 2001: 603, Art. 81.

²¹ Smbat Sparapet 2001: 610, Art. 100.

²² Smbat Sparapet 2001: 612-613, Art. 112.

²³ Cf. Sukiasyan 1978: 208.

the husband married knowing about it, divorce is excluded. Only with the wife's permission can the husband separate, provided he provides her with a house and necessary property. The age of the spouses must also be considered, and "...in all cases, the bishop must find a solution, for no one else has the right."²⁴ In this case, the condition is to wait seven years; if the wife no longer wishes to marry, the husband is obliged to return her dowry and provide for her throughout her life. Regarding male impotence, the law again proposes various solutions: if a man cannot fulfill his marital duty, "...it is not fitting for the wife to separate and leave him." Otherwise, she cannot remarry without proving through the church that the husband is incapable. If someone marries through deception, hiding sexual weakness, the wife may resolve the issue through the church, after which "...it is legal to give her half of the husband's property so she may go and take another husband for herself."²⁵

- **Sodomy and Bestiality:** These also grant the wife the right to divorce: "If the husband breaks his fidelity to his wife through sodomy with another, which is revealed, or if he engages in bestiality... he must be divorced by law and... receive half the dowry,"²⁶ while physical punishment—mutilation—is prescribed for the husband.
- **Renunciation of Faith:** Maintaining the Christian faith and common confession are among the most important conditions of family life. Spouses are punished for apostasy. An orthodox (faithful) wife can: a) divorce, or b) strive to "convert" her husband, for which she shall be rewarded. If the offender is the wife, the husband may divorce.
- **Wife's Lack of Cleanliness and Quarrelsomeness:** Smbat considers it a misfortune for a man to be married to an "incurably filthy" or unrestrained woman. In this case, he commands that witnesses be invited, and if the husband can no longer tolerate the wife's flaws or quarrelsomeness, he may grant a written divorce. Upon leaving, the wife has the right to take her dowry and remarry. The husband, however, cannot remarry as long as the wife is alive.
- **Slandering the Wife and Violence Against Her:** The law protects the dignity and safety of the wife from the husband's violence. Spreading unnecessary rumors about the wife and acts of violence—unjust beating or persecution—are prohibited.

It should be noted that the laws defined by Smbat Sparapet clearly bear the influence of the corresponding laws in M. Gosh's "Datastanagirk."²⁷

Smbat also interprets the rights and responsibilities of parents and children. He commands parents to care for their children. The father is obliged to educate his children, provide for them materially, and prepare them for independent living. Children

²⁴ Smbat Sparapet 2001: 613-614, Art. 116; see also: 605, Art. 84.

²⁵ Smbat Sparapet 2001: 611, Art. 102-103.

²⁶ Smbat Sparapet 2001: 605, Art. 85, p. 605.

²⁷ See: Mkhitar Gosh 2001, Art. 10-11, 14, 17-18, 28, 53, 111, 169, 172, 190, 192.

are obliged to obey their parents and care for them: “And that son who denies the father who fed and cared for him, and leaving him... goes to others, God and the law have cursed him more severely.”²⁸ Guardians are responsible for the suicide of relatives in a grave mental state. In such cases, the punishment must be decided based on the circumstances of the death. However, a parent is not responsible for the son’s crime: “If a son is sentenced to death by law, his father should not be imprisoned, nor his brother.”²⁹

The issues of children’s education and upbringing are not ignored in the “Datastanagirk.” Free education was established. Special care is required for orphans and the poor so that “...many of them may strive to go and study”; their needs must be cared for by monasteries. A student may give a gift to a poor teacher only of his own will; otherwise, the teacher will be appropriately punished by the court. Violence against students is prohibited. Just as a father, a teacher has no right to strike a child for the purpose of admonition: “If a master strikes a student during teaching in such a way that the latter dies, he is a murderer” and “...can no longer be a clergyman.”³⁰ Thus, the “Datastanagirk” protects children’s right to education and safety, commanding a humanitarian treatment toward them.

In the “Datastanagirk,” Smbat defined the order of property succession, which directly relates to family law. Inheritance law is a combination of legal norms regulating the succession of a deceased person’s property. In Armenia, inheritance law regulated marriage and family issues, property, divorce fines, dowries, the inheritance rights of daughters, and other fundamental matters.

The study of traditional Armenian inheritance law substantiates that principles of legal equality and division of labor, as well as the protection of the rights of women and children, operated within the Armenian family. Adult children had equal inheritance rights—unlike in Islamic legal conceptions, where inheritance rights differ significantly for daughters and sons. In feudal Armenia, not only the father but also the Armenian woman, as a subject of property rights, could pass both movable and immovable property to her children.

According to the “Datastanagirk,” inheritance is passed by will or by law. Smbat Sparapet viewed the right of the will as the dominant form of inheritance in Cilician Armenia. He defines the legal conditions for drafting a will. Every legally capable person has the right to make a will. The will is made orally or in writing, in the presence of a notary and witnesses. The law states: “As long as the sick person’s consciousness is fully present, let him call his acquaintances and the notary—or if in a village, the village priest—and in the presence of three witnesses, command an inventory of his property and, according to his will, decide what to give for the salvation of his soul and what to give to his heirs.”³¹

²⁸ Smbat Sparapet 2001: 616, Art. 121.

²⁹ Smbat Sparapet 2001: 617, Art. 124.

³⁰ Smbat Sparapet 2001: 576-577, Art. 29.

³¹ Smbat Sparapet 2001: 624, Art. 144.

If the sick person recovers, he is not bound by it, as a will has legal force only after death. However, the recovered person must unconditionally fulfill what was promised in the will; if he dies, the executors must carry out the requirements written in the will. Moreover, "...the will cannot be diminished; it is a vow before God—it must not be diminished."³²

When drafting a will, the "soul-portion" to be given to the church is emphasized: the dying person "...must first of all care for his church under which he belongs, where he was baptized, where his parish is, because that is a debt and it must be paid first to his priests. And after that, if other things remain, he may give to whom he wishes."³³ Furthermore, the priests must also donate a portion of what they receive to the church.

The testator's will is law for the heirs. A father has the right to bequeath his property not only to his heirs but also to a servant. He has the right to disinherit his disobedient sons and give the property to his servant by his own wish. In fact, a father can only disinherit disobedient and unworthy children, and even then, only if the secular authorities do not oppose the father's decision: "...the kings, who first wrote and established the laws, wrote them to respect the lord, so that it may be done with the lord's knowledge and consent."³⁴ Another article states: "...besides the lord and the church, no one can make a servant either an heir or a clergyman."³⁵ Apart from this partial restriction on the testator's rights regarding legal heirs, in all other cases, the law gives the testator full right to divide his property among the heirs at his discretion. In this sense, the will is law for the heirs, and no one has the right to make any correction or change to the provisions of the will.

It should be noted that inheritance by will played a significant role not only for Cilician Armenian society but also for the Royal House. The "Datastanagirk" defines that the king has the right to write a will whether in health or on his deathbed and "...give mountains and fields, and all his landed estates, to whomever he wishes; neither his son nor any other person has the right to oppose him."³⁶ Although heirs through the female line did not have equal rights to heirs through the male line, the father still had the right to leave any part of his property to his daughters by will.

Smbat also interprets the property rights of spouses. If the spouses are together and their entire property is undivided, the husband may also bequeath from the common property. However, if the wife's property is separate, it "...shall belong to her followers (heirs) whom she herself appoints as heirs." In the absence of children, everything must be decided by will. If the joint marital life is short-lived and there are no children, everything is returned to the wife, and the husband has no share in it. But if they had a child, the entire property belongs to the husband. In defining these legal

³² Smbat Sparapet 2001: 624, Art. 144.

³³ Smbat Sparapet 2001: 583, Art. 37.

³⁴ Smbat Sparapet 2001: 615, Art. 118.

³⁵ Smbat Sparapet 2001: 625, Art. 146.

³⁶ Smbat Sparapet 2001: 564, Art. 1.

norms, Smbat also considers national customary law, commanding: "...judges must carefully study the existing conditions and the customs of the land, and act accordingly to fill any deficiencies."³⁷

Thus, in each individual case of property division, the principles of Armenian customary law and regional traditions must be taken as a basis. Furthermore, as Kh. Samuelyan rightly observes: "Not every custom without exception can be a source of law, but only those customs that are applied and maintained in social coexistence as certain norms having mandatory significance."³⁸

In the absence of a will, inheritance is divided according to the law. The "Datastanagirk" establishes a unified order for both the nobility and other classes of society. According to the degree of kinship, heirs are classified in the following order:

1. Children
2. Brothers
3. Paternal uncles
4. Other male relatives up to the fourth generation.

"And the law commands that this order of inheritance on the father's side be preserved until the fourth generation."³⁹ A wife can be an heir if the testator has children by her. Female-line heirs include children and other blood relatives up to the fourth degree, and a husband can be an heir if he has a child from his marriage with the deceased wife.

Children are the first legal heirs whose presence excludes the rights of other heirs. Among children, preference is given to sons, who receive equal shares, except for the eldest and the youngest. The eldest son receives a double share because "...God Himself gave preference to the firstborn child, and it is fitting that he replace the father and receive two portions." If a brother sells his share, the brothers must "...divide it among themselves according to the price, so that one does not seize it, but they must do this with love."⁴⁰ It is evident that Smbat rejects both the absolute monopoly of the firstborn son and any violent actions by brothers when dividing inherited property.

The youngest son inherits the father's house. If brothers decide to separate from one another, they must first "...separate their wives' portion (marital gift) from their property and income, and then divide what belongs to them."⁴¹

According to the "Datastanagirk," a wife receives half of the share due to the husband, because "...the wife is considered half of the husband." Two unmarried girls receive as much as one boy, "...because two girls are considered as one boy."⁴² Meanwhile, two married girls receive the equivalent of one unmarried sister's share.

³⁷ Smbat Sparapet 2001: 624-625, Art. 145.

³⁸ Samuelyan 1939: 26.

³⁹ Smbat Sparapet 2001: Art. 118, p. 615. This article is consistent with the law defined by Mkhitar Gosh.

⁴⁰ Smbat Sparapet 2001: 616, Art. 120.

⁴¹ Smbat Sparapet 2001: 616, Art. 120.

⁴² Smbat Sparapet 2001: 614, Art. 118.

As an exception, only the king's married daughter receives half of a brother's share: "Regarding daughters, the established order is that they be wed into the houses of patriarchs, that is, married to a king, a prince, a marquis, and the like. And the girl must be given a dowry from the paternal property in the amount of half of a brother's share."⁴³ This rule also applies to the daughters of princes. If the king's sons are deceased, the throne is inherited by the sons' sons, not the daughters' sons. If the king has no son but a daughter, "...the father has the right to crown his daughter, but on the condition that after the daughter's death, the royal throne shall not be inherited by the sons of the crowned daughter, but by one of the sons of the king's brother, whom the loyal nobility seats on the throne as a royal descendant."⁴⁴

The king also has the right to write a will and give his estates to whomever he wishes; no person has the right to oppose him. If the king has no heir but only nephews (brother's sons), Smbat defines: "With the approval of the Patriarch, other representatives of the ecclesiastical authority, the princes, and the people, let them choose the worthiest among them and educate him in the palace (court), and whomever they deem worthy, let them raise him to the throne after the king's death, crowning him by the hand of the Patriarch."⁴⁵

In effect, according to the order of succession legalized by Smbat Sparapet in Cilician Armenia, the king's unilateral decision is excluded in the process of throne succession. Taking into account national-state interests, the issue is resolved on a collegial principle—that is, by the mutual agreement of the secular and spiritual authorities and the people.

Smbat also reinterprets the "House-Son-in-Law" system characteristic of ancient Armenian inheritance law,⁴⁶ which is by no means identical to matriarchy. The relationship existing between the son-in-law who lives in the bride's home and the wife has no connection to matriarchy and even contradicts it. In the legal understanding of this system, a daughter without brothers is the legally capable heir of her father. The application of this right in both Ancient Armenia and Cilicia had political significance in the sense of protecting the property of families without male offspring and preventing its division among outsiders. Through the inheritance rights of daughters, Smbat protected Armenian estates to prevent their alienation in the case of mixed marriages. It should be noted that the law regarding the *tnpesa* exists only in Smbat's "Datastanagirk"; it is not present in Canon law, the Code of David of Alavik, or the Datastanagirk of Mkhitar Gosh.

According to Smbat, if there is no son in the family and "...a house-son-in-law has been brought, in that case, the son-in-law, along with his wife, shall be counted in place of a son and must receive two sisters' portions from the movable and immovable property." The *tnpesa* can use the family property and multiply it, but he has no right to

⁴³ Smbat Sparapet 2001: 563, Art. 1.

⁴⁴ Smbat Sparapet 2001: 564, Art. 1.

⁴⁵ Smbat Sparapet 2001: 564, Art. 1.

⁴⁶ For the interpretation of Armenian inheritance law, see: Glitchyan 1913.

sell or gift it. The wife's property is inviolable. The Sparapet also explains that "...the legal inheritance of daughters will be in that form only if the father has not left a will,"⁴⁷ otherwise, everything must be done according to the father's will.

If the daughters have children, then the son-in-law or anyone not descended from the father's lineage, as well as the daughter's grandson, cannot be heirs because they are of a "foreign race" (lineage). The same applies to the maternal uncle and the sister's son. Paternal uncles and their sons also have no share in the daughters' inheritance if there is an unmarried daughter in the house. In the case of a married and separated daughter, the paternal uncle may receive a quarter share, but not his sons.

According to the law, this order of inheritance along the male (paternal) line must be preserved until the fourth generation; that is, if there are no sons, daughters, or grandchildren born of them, then the brothers, nephews, and their grandchildren up to the fourth generation become heirs. If there are no brothers, the paternal inheritance must be given to the paternal uncle and his sons, again up to the fourth generation. In the absence of blood relatives, the property is considered heirless and passes to the state treasury.

Smbat also defines the order of succession along the female (maternal) line, which is consistent with the male line. According to the Datastanagirk: "If a woman leaving an inheritance has a grandson from a son, and the father of that grandson is not alive, or if she has a grandson from a daughter and the mother is not alive, in that case, the grandchildren must inherit."⁴⁸ This does not contradict the earlier mention that a daughter's grandson cannot be an heir; it simply clarifies that if the parents of the grandchildren are alive, the parents are the heirs because "...they are closer to the inheritance." In the event of the death of grandchildren, the heir is the father, as the father is the undisputed heir of his sons just as sons are of the father, but this does not apply to the mother.

Thus, although according to the Datastanagirk male-line heirs have more rights than female-line heirs, the rights of women are not ignored. This is evidenced by the fact that in Cilician Armenia, women were gradually gaining inheritance rights equal to men.

Smbat Sparapet also addressed the issue of adoption. The law allows adoption if there are no children or relatives up to the fourth degree. Although the jurist defines only the right of a clergyman to adopt, one can infer the existence of the institution of adoption. The right of the adopted child ("soul-son") extends to the movable property of the adopter, but not to immovable property: "if the heir is not a kinsman but only an adoptee, he may be given only movable property by choice, while the house and ancestral estates belong to the church." However, if the adoptee is a dedicated clergyman from a priestly or other known lineage "...who is not an illegitimate child, he may legally receive half of the house and estate."⁴⁹

⁴⁷ Smbat Sparapet 2001, Art. 118.

⁴⁸ Smbat Sparapet 2001: 615-616, Art. 119.

⁴⁹ Smbat Sparapet 2001: 615-616, Art. 119.

In this way, based on the principle of the natural equality of humans, Smbat Sparapet considers it legal not to separate the rights of sons and daughters. At the same time, he distinguishes between the rights of division and the rights of preservation of inheritance. Daughters are heirs to paternal property, but they are not the preservers of the inheritance if they have brothers.

Conclusion

This article substantiates that in the 13th century, through Smbat Sparapet's "Datastanagirk," family relations in the Cilician Armenian state were regulated for the welfare of the Armenian family and the protection of national property. Basing his work on Armenian canon and customary law, as well as Mkhitar Gosh's "Armenian Datastanagirk," Smbat sought to maintain the stability of the Armenian family as the foundation of the state and prevent divorce. The regulation of family relations was subject to both secular-state and spiritual-ecclesiastical jurisdiction.

In numerous articles of the "Datastanagirk," violence against women and children and extramarital relations are condemned, and the personal and property rights of spouses are protected. The necessity of children's education is established, prescribing free schooling for poor and orphaned children.

Smbat Sparapet viewed the right of the will as the dominant form of inheritance in Cilician Armenia. In the absence of a will, inheritance was divided according to the law. A unified order was established for both the nobility and other classes, ensuring social harmony. The inheritance rights of Armenian girls are protected in the "Datastanagirk." The application of this law in Cilicia had a political purpose: to protect the property and ancestral estates of families without male heirs and to prevent their alienation in the case of mixed marriages.

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