

**“because of a certain woman...
claiming these goods as her fief”.**
**Women’s Fiefs in Saxon Diplomatic Sources
in the High Middle Ages**

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ABSTRACT

The following text examines fief holding by women in the surviving charters from Saxony from about the 11th to the beginning of the 14th centuries. Specifically, these are the areas around Harz delimited by the five bishoprics of Meissen, Naumburg, Hildesheim, Halberstadt, and Merseburg. The basis for analysis is collections of charters from these dioceses supplemented by the collections of charters from the two most significant noble houses active in this area — the houses of Ascania and Welf. The selection of sources and region is not a coincidence: It is probably where Eike von Repgow lived most of his life and wrote his Saxon Mirror (*Sachsenspiegel*), which significantly influences the modern study of medieval law. Through an analysis of the terminology associated with fiefs and feudal institutions in general, as well as through specific examples of fief holding by women, this study attempts to show that the limitations on a woman holding a fief as defined by Eike in the Saxon Mirror and largely accepted in the contemporary literature are not entirely consistent with the testimony of these diplomatic sources.

KEYWORDS:

women’s fiefs; Saxony; Saxon Mirror; High Middle Ages; Feudalism; medieval law

The quote used in the title of this study comes from a document issued in the Hildesheim bishopric by Bishop Conrad II in 1230 for Lippold and Dietrich of Escherde. The bishop testified to the bestowing of unspecified goods in Helperthe, which a certain *dominus* Haltone had ceded to Conrad, to both brothers as their fief. In the text, however, Conrad expressed uncertainty whether the estates can be transferred to Lippold and Dietrich because an unnamed sister of Lampert of Helperthe demanded the goods as her *feodum*. The brothers thus had to swear before witnesses that they will yield the goods if the complainant obtains “justice” (*iustitia*).¹

1 UB Hild. II.: nr. 281: „Ad noticiam omnium volumus pervenire, quod bona quedam Helperthe sita et a domino Haltone de Biwende nobis resignata porreximus Lippoldo et Thiderico fratribus de Escherte titulo feodi, si tamen porrigere poteramus, quod dicimus propter quandam matronam sororem Lamberti de Helperthe bona eadem utpote suum feodum repetentem. Promiserunt autem data fide in manus nostras [...] quod antedicti Lippoldus et Thidericus fratres benevole ac sine petitione restauri cedant de iis bonis, si forte contigat prememoratam matronam dictante iusticia obtinere.“



At first glance, the document's contents aren't unusual for the Hildesheim bishopric's charters at the time. What is interesting is the reference to the role played by an anonymous woman in the entire process of granting estates as fiefs. Her efforts to enforce her claim and receive "justice" didn't raise any surprise, and the diction of the document suggests the bishop didn't underestimate the woman's chances. At the same time as the Hildesheim charter was drafted, another document was created near the borders of the diocese that significantly influenced and influences the modern study of medieval law. It viewed women in the feudal hierarchy in a completely different way. At some point between 1220–1230, Eike von Repgow wrote a work titled *The Saxon Mirror* where in the introduction to the fourth book dedicated to feudal law he noted: "*The following groups are excluded from feudal law: priests, merchants, villagers, women, all who are encumbered in their rights or born illegitimate, as well as all those who cannot trace their knightly status to their father and grandfather. Nevertheless, if a lord invests [such] a person with a fief, then the invested persons have feudal rights based on the land even though this land does not pass on to their children, and the fief-holders themselves lack the right to have the relationship renewed by any [successor of the original] lord.*"²

Eike's view of women's fiefs was not entirely consistent as he mentions other conditions for fief-holdings by women in other parts of his work.³ However, the literature usually accentuates the limitations set by Eike. Women's fiefs are conditioned by the guardianship of male relatives, the inheritance of fiefs by women is considered a special privilege granted by the lord, and the literature points out the rarity of such cases.⁴ None of that is evident in Conrad's document, however. On the contrary, it presents the women's right to claim her brother's fief as a normal occurrence that is not exceptional to the norms of the time. It's not an isolated case, moreover. Charters testifying to the rights of women to feudal estates are rather regularly found in diplomatic sources. The

2 *Papen (unde) wif, dorperre, koplude, unde alle de rechtes darvet oder unecht geboren sint, unde alle de nicht ne sin van ridderes art van vader unde van eldervader, de scolen lenrechtes darven. Swelk herre doch dirre eneme liet gut, van deme hebben se lenrecht an deme gude, unde ne erved it nicht an er kindere, unde darvet selve der volge an enen anderen herren., Sachsenspiegel Lehnrecht, 2 § 1–2, MGH Fontes iuris Germanici antiqui N. S. I/2, Karl Gustav Eckhardt (ed.), Berlin — Frankfurt 1956, pg. 19–20. English translation based on: *The Saxon Mirror. A Sachsenspiegel of the Fourteenth Century*, Translated by Maria Dobozy, Philadelphia 1996, pg. 143.*

3 Besides the phenomenon of the so-called *Leibgedinge*, these were primarily cases where the fief was not associated with military service, see B. JANZ, *Frauen und Recht im Sachsenspiegel*, in: *Der sassen speyghel. Sachsenspiegel — Recht — Alltag 2*, Mamoun Fansa (ed.), Oldenburg 1995, pg. 121–130; compare also with the subsequent text.

4 Other limitations to women's feudal holdings were expanded upon by Eike in: *Sachsenspiegel Lehnrecht*, 75 § 1–3, pg. 114–115; compare the question of women's fiefs with Karl-Heinz SPIESS — Thomas WILLICH, *Das Lehnswesen in Deutschland im hohen und späten Mittelalter*, Stuttgart 2011³, p. 28; H. RÖCKELEIN, *De feudo femineo — Über das Weiberlehen*, in: P. AUFGEBAUER — Ch. van den HEUVEL (eds.), *Herrschaftspraxis und soziale Ordnungen im Mittelalter und in der frühen Neuzeit. Ernst Schubert zum Gedenken*, Hannover 2006, p. 267–284; H. LÜCK, *Woher kommt das Lehnrecht des Sachsenspiegels? Oberlegungen zu Genesis, Charakter und Struktur*, in: K.-H. SPIESS (ed.), *Ausbildung und Verbreitung des Lehnswesens im Reich und in Italien im 12. und 13. Jahrhundert*, Ostfildern 2013, p. 264–265.



contents of the bishop's document thus offer a rather different view of women's fiefs, but also of the development and nature of the feudal system as a whole.

The publication of the now renowned work *Fiefs and Vassals* by English medievalist Suzanne Reynolds in the mid-1990s brought new interest into feudalism. In subsequent years, research showed the limits of previous legal-historical investigations that placed excessive emphasis on the testimony of normative medieval texts. German research especially showed the problematic nature of the entire concept of *Lehnswesen* that significantly emphasized the political aspect of the entire phenomenon. While Anglo-Saxon research includes fiefs in the wider concept of feudalism (which continues to accent the economic side of the topic, for example), German historiography set up pronounced boundaries between a chivalric fief and leases to non-nobles. Thus, the only "genuine" fief remained the "true fief" associated with vassalage. This does not mean that older research completely lost its relevance, but the emphasis on the lord-vassal relationship considerably elevated certain characteristics of the entire topic to the detriment of others. The latest research has clearly demonstrated that the terminology often considered to be an exclusive sign of *Lehnswesen* was at the very least used for an entire spectrum of phenomena whose interpretation is not possible based on a single valid formula. The issue of fief tenure and vassalage therefore should not be separated from studies of the general concept of the lease in the Middle Ages. In general, the *Lehnswesen* of the High Middle Ages was not a clearly defined legal institution, but rather a broad palette of forms and influences.⁵

The following text examines fief-holding by women in the surviving documents from Saxony from about the 11th to the beginning of the 14th centuries.⁶ Specifically, these are the areas around Harz delimited by the five bishoprics of Meissen, Naumburg, Hildesheim, Halberstadt, and Merseburg. The basis for analysis are collections of charters from these dioceses supplemented by collections of charters from the two most significant noble houses active in this area — the houses of Ascania and Welf.⁷

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- 5 S. REYNOLDS, *Fiefs and Vassals. The Medieval Evidence Reinterpreted*, Oxford 1994; A detailed overview of the discussion is offered by Jürgen DENDORFER, *Zur Einleitung*, in: J. DENDORFER — R. DEUTINGER (eds.), *Das Lehnswesen im Hochmittelalter. Forschungskonstrukte — Quellenbefunde — Deutungsrelevanz*, Ostfildern 2010, pg. 11–39; cf. also A. STELLA, *The Libri Feudorum (the 'Book of Fiefs'). An Annotated English Translation of the Vulgata recension with Latin Text*, *Medieval Law and its Practice*, vol. 38, Leiden — Boston 2023, pg. 46–52.
- 6 The study significantly summarises the conclusions in Jan ZELENKA, *Vom Beneficial- zum Lehnswesen. Eine vergleichende Analyse sächsischer und böhmischer Quellen des 10.–14. Jahrhunderts*, Berlin-Münster usw. 2019.
- 7 The sources used here exclude the collections of charters of the Archbishops of Magdeburg and the Miesen Margraves as the edits go back to the 12th century and the beginning of the 1230s. They thus do not offer an adequate basis for comparison in relation to other collections that cover the period of the 14th century. The editions of charters used: *Codex diplomaticus Anhaltinus I. (936–1212)*, Otto von Heinemann (ed.), Dessau 1867–1873; *Codex diplomaticus Anhaltinus II. (1212–1300)*, Otto von Heinemann (ed.), Dessau 1875 (and UB A I.–II.); *Urkundenbuch des Hochstifts Halberstadt und seiner Bischöfe I (bis 1236)*, Gustav Schmidt (ed.), Leipzig 1883; *Urkundenbuch des Hochstifts Halberstadt und seiner Bischöfe II. (1236–1302)*, Gustav Schmidt (ed.), Leipzig 1884 (and UB Halb. I.–II.); *Urkundenbuch des*



The selection of sources and region is not a coincidence. This is probably where Eike lived most of his life and wrote his Saxon Mirror. The limited composition of the surviving sources means the closest we can come to the “everyday reality” of the time is through these charters. The diplomatic sources speak of the ordinary administration of ecclesiastic and lay dominions. As they capture exchanges and the granting of goods, define the extent of property, rights, and obligations, and in general testify to how personal relationships worked, we can rightfully expect the participants to be aware of the meaning of the texts. It’s thus probable the context of the charters where the feudal relationships are described are no different from the reality of the time. The amount of conformity between the testimony of the *Sachsenspiegel* and the surviving charters from the areas where Eike was active can thus act as an appropriate correction to the “theorizing” testimony from the legal mirror. It also shows to what extent the mirror is an appropriate tool for understanding and interpreting other surviving medieval sources.

TERMINOLOGY

The document by Bishop Conrad and other similar records offer several levels of testimony. The primary one is terminology. If we omit normative writings, we can identify records associated with feudal institutions in most narrative and diplomatic sources specifically by the terminology used. The use of the terms *beneficium* and *feudum* (*ius beneficiale/feudale*), *vasallus*, *homagium/hominium*, *consilium et auxilium*, *fidelitas*, etc., their meanings, and their possible transformations form a part of the study into the topic as such and the historiographical concept is based on a specific generally accepted terminological framework.⁸

Hochstifts Hildesheim und seiner Bischöfe I. (815–1221), Karl Janicke (ed.), Leipzig 1896; *Urkundenbuch des Hochstifts Hildesheim und seiner Bischöfe II. (1221–1260)*, Hermann Hoogeweg (ed.), Hannover — Leipzig 1901; *Urkundenbuch des Hochstifts Hildesheim und seiner Bischöfe III. (1260–1310)*, Hermann Hoogeweg (ed.), Hannover — Leipzig 1903 (dále UB Hild. I.–III.); *Urkundenbuch des Hochstifts Meissen I.*, E. G. Gersdorf (ed.), Leipzig 1864 (and UB Meiss. I.); *Urkundenbuch des Hochstifts Merseburg (962–1357)*, Paul Fridolin Kehr (ed.), Halle 1899 (and UB Mers.); *Urkundenbuch des Hochstifts Naumburg I. (967–1207)*, Felix Rosenfeld (ed.), Magdeburg 1925; *Urkundenbuch des Hochstifts Naumburg II. (1207–1304)*, Hans K. Schulze (ed.). Auf der Grundlagen der Vorarbeiten von Felix Rosenfeld und Walter Möhlenberg bearbeitet von Hans Patze und Josef Dolle, Köln — Weimar — Wien 2000 (and UB Naum. I.–II.); *Die Urkunden Heinrichs des Löwen, Herzogs von Sachsen und Bayern*, MGH Laienfürsten und Dynastenerkunden 1, Karl Jordan (ed.), Leipzig 1941 (further UHdL); *Urkunden zur Geschichte der Herzögen von Braunschweig und Lüneburg*, Hans Sudendorf (ed.), Hannover 1859 (and UGHBL).

⁸ Let us leave aside the issue of the relationship between Latin terminology and local legal customs, which is difficult to resolve in the absence of similarly extensive vernacular source material for the period in question; see e.g. Dirk HEIRBAUT, *The Dangers of Using Latin Texts for the Study of Customary Law: The Example of Flemish Feudal Law during the High Middle Ages*, in: Matthew W. McHaffie et al. (ed.), *Law and Language in the Middle Ages*, Leiden 2018, pg. 165–195.



If we focus on the two basic terms for feudal holding, specifically *beneficium* and *feudum*, we can see a unified terminological development in the period under examination. The use of the term *beneficium* dominates until the second half of the 12th century. The term *feudum* begins to be significantly used only toward the end of the century and then begins to dominate in the first half of the 13th century. In the second half of that century, only ecclesiastic prebends are labelled using *beneficium*, while *feudum* fully took over as the word used to label property bestowed to lay people. The unified diction in the collections of charters basically allows no doubt that the type of property bestowed could be determined by using one or the other term by the mid-13th century at the latest. The first, *beneficium*, alluded to the ecclesiastic career of the recipient and church property — benefice — that serves to support the individual throughout their lifetime. The latter, *feudum*, testified to a lay user, but other characteristics for a so-designated holding remained markedly heterogeneous.⁹ A similar conclusion is also true for other terms related to feudal institutions. For example, burgher Richard of Altenburg and his wife, daughter, and their other possible heirs received a large hide *in feodo* from the St. Mary the Virgin church in the collegiate church of Naumburg in 1280. They were to deliver a talent of wax to the provost every year as payment and a form of tribute (*qui in homagii singulis annis in festo assumptionis sancte Marie in talento cere domino proposito respondebunt*).¹⁰ In another case from 1259, a scholastic from the St. Cross collegiate church in Hildesheim received *fidelitatis debite iuramentum* from an unknown “female serf” (*litonissa*) for the bestowment of two large hides *litonum iure*.¹¹ Although at first glance we can see the use of “traditional” feudal terminology, in reality this is a broader spectrum of different relations that cannot be interpreted using a simplified image of a lord and his armed vassal. The documents do not prove that the analysed terms would specifically relate to the type of holding that was characterized by feudal tribute in the form of a pledge of a vassalage that then required loyalty and obedience expressed by military service.

It is noteworthy that this conclusion is also true for the category of holdings that are expressively described in the sources as “true fiefs”. This combined term first appeared in the sources in around the middle of the 13th century and then more often in the second half of the 1260s and especially from the 1280s. The total number of cases, however, remains significantly limited. Cities and castles are among the property thus labelled,¹² as well as larger territorial units and individual plots,¹³ financial payments

9 J. ZELENKA, *Vom Beneficial- zum Lehnswesen*, pp. 23–50, 59–82.

10 UB Naum. II.: nr. 478. For the original Latin term “mansus”, the English translation “hide” is used in the following text in the general sense as a unit of land tenure, regardless of its actual size, quality, etc.

11 UB Hild. II.: nr. 1117; also compare J. ZELENKA, *Vom Beneficial- zum Lehnswesen*, pp. 43–45.

12 Except for two cases, all the examples of “true fiefs” come from the second half of the 13th or beginning of the 14th centuries. UB Halb. II.: nr. 1159 (1267 — *iusto titulo pheodali*); UB Meiss. I.: nr. 206 (1268 — *verum feudum*); UB Mers.: nr. 568 (1292 — *iusto feodali tytulo*); UB Naum. II.: nr. 445 (1276 — *iusto feodali tytulo*); nr. 525 (1284 — *iusto tytulo feodali*); nr. 699 (1294 — *iusto tytulo feodali*); UGHBL: nr. 114 (1289 — *iusto titulo feodali*).

13 UB Naum. II.: nr. 630 (1290 — *iusto titulo feodali*); nr. 713 (1295 — *iusto titulo feodali*); nr. 786 (1300 — *tytulo iusti feudi*); nr. 831 (1304 — *titulo iusti feudi*).



and tithes,¹⁴ or even vineyards¹⁵. The variety of the bestowed properties corresponds to the social composition of the holders that included members of princely houses, clergy, and burghers. Men were predominant, but there was a widow named Elisabeth from an urban environment that purchased an annuity from the Hildesheim stewardship “*to rechteme lene*”; or another widow, Margaret, who altogether held the summary of financial and natural revenues from the Bishop of Meissen (*nomine dotalicii tenet sive possidet titulo iusti feudi*).¹⁶ References to “true fiefs” also appear in mortgage agreements where the creditor and his heirs received hereditary holding of the mortgaged properties if the agreed amount is not repaid.¹⁷

If the documents more closely describe the details of the holding of “true fiefs,” they most often list its inheritability.¹⁸ This was not the rule, however. We listed the example of the widow Margaret where the document equated “true fiefs” with a dowry (*dotalicium*).¹⁹ Furthermore, Thuringian Landgrave Albrecht acquired selected properties *iusto feodali tytulo* (*zu rechteme lene* in the German version of the document) from the Merseburg bishopric only for his lifetime.²⁰ Obligations are minimally recorded. In two cases, documents associate military service with the bestowing of a castle, while other charters calculate payments for the bestowed property.²¹

Based on the diction of the sources, the image of a “true fief” is rather unclear and disparate. This phrase appears more often toward the end of the 13th century, but it remains marginally used when compared to the number of times *feudum/lehen* appeared. Nor does the secondary characteristics bring more clarity to the situation. We find “true fiefs” in the hands of nearly all social groups. Their possession wasn’t exclusively connected with a certain kind of (military) obligation. The literature, however, does work with the understanding that the term “true fief” was always associated with vassalage created by a homage (*Mannschaftsleistung*),²² but even in this case we

14 UB Halb. II.: nr. 1570 (1291 — *iusto pheodali titulo*); UB Naum. II.: nr. 803 (1302 — *iusto titulo feodali*).

15 UB Naum. II.: nr. 755 (1297 — *tytulo iusti feudi*).

16 In the case of other women where the bestowment of a “true fief” can be documented, their social status is not certain, compare with UB Meiss. I.: nr. 350; UB Naum. II.: nr. 492.

17 UB A II.: nr. 156 (1242 — *iusto feodo [...] erimus nos et nostri heredes predicti feodi perpetui possessores*); UB Hild. III.: nr. 627 (1283 — *pro iusto feodo iure hereditario remanerent*); nr. 864 (1290 — *iure iusti pheodi apud nos et heredes nostros perpetuo remanebunt*).

18 This is also true in the case of the aforementioned Elisabeth, her sons, and their heirs, UB Hild. III.: nr. 1693: “[...] *vruwen Ilseben wedewen Henrikes Schonekindes unde oren sonen Hermene, Iohanne, Conrade, Benrike unde oren erven*”; compare further with UB Halb. II.: nr. 1570; UB Hild. I.: nr. 263; UB Hild. III.: nr. 627; nr. 864; UB Meiss.: nr. 206; UB Naum. II.: nr. 445; nr. 525; nr. 755; nr. 803.

19 UB Meiss. I.: nr. 350 (*nomine dotalicii tenet sive possidet titulo iusti feudi*), while a document issued four years later reiterates that Margaret had been bestowed the property for her lifetime, UB Meiss. I.: nr. 365.

20 UB Mers.: nr. 568: *ad vite nostre tempora / zu unseme libe*.

21 UB Hild. I.: nr. 263; UGHBL: nr. 114; UB Naum. II.: nr. 518; nr. 786; nr. 831.

22 Compare with K.-F. KRIEGER, *Die Lehnshoheit der deutschen Könige im Spätmittelalter* (ca. 1200–1437), Aalen 1979, pg. 27, 35nn.; K. KROESCHELL, *Lehnrecht und Verfassung im*



encounter a rather fundamental problem. The sources list the taking of the *homagium* or vow in only a very few cases, and we don't encounter it a single time on documents that discuss "true fiefs". We can presume that, for example, when Henry of Hodehagen accepted a castle "*iusto titulo feodali*" together with the obligation of loyal service in 1289, this was an example of a "true fief" despite the document not specifically mentioning feudal homage.²³ It would be difficult, however, to apply the same assumption to information from 1290 when a certain Siegfried *de Tschechs* (Zetsch) held one and a half hides "*iusto titulo feodali*" and his wife "*nomine dotalici*",²⁴ nor in the case of an unnamed widow that held a single hide as a "true fief" together with her sons,²⁵ and there are other similar cases. Questions are also raised by the wording of the source that is the basis of research into the definition of the term "true fief".

The foundation for determining a "true fief" that is used to compare other mentions in medieval sources is chiefly a passage in the fourth book of the *Saxon Mirror* that discusses feudal law (*Lehnrecht*). The first excerpt says that anything a lord bestows through feudal tribute (*manleke*) is either a "true fief", "hereditary fief", or a "castle fief" (*recht len oder erflen oder borchlen*) or a "claim" (*gedinge, wardunge*) on a property held by another man at the given time. The second passage offers a more specific definition, saying a fief without homage (*manschap*) is not a "true fief", which the author differentiates from fiefs bestowed upon ministerials based on ministerial law — *hoverechte* (*Hofrecht*).²⁶

However, Eike also spoke about "true fiefs" in a previous section dedicated to land law (*Landrecht*). In his third book, he writes that a woman holds a "claim" (*gedinge*) to a husband's feudal property during his life and these fall to her as a "true fief" upon his death.²⁷ The passage can be found in the section where the author discusses *Leibgedinge*, or providing for the wife's needs throughout her life in case of the husband's death. The widow Margaret actually held income *nomine dotalicii* or also *titulo iusti feodi*.²⁸ This is, however, not so much about the relationship between the legal mirror

deutschen Hochmittelalter, Erste europäische Internetzeitschrift für Rechtsgeschichte, Artikel vom 27. April 1998, http://fhi.rg.mpg.de/98_04/krsch.htm, Sp. 13.

23 UGHBL: nr. 114.

24 UB Naum. II.: nr. 630.

25 The document states she held the fief *iusto titulo feodali*, UB Naum. II.: nr. 492.

26 *Sachsenspiegel Lehnrecht*, 55 § 9: "Swat de herre manleke liet, dat is recht len oder erflen oder borchlen, oder gedinge an enes benumeden mannes gude, oder wardunge an enes umbenumenen mannes gude, swar it deme herren ledich werde."; 63 § 1: „Svelk gut deme manne ane manschap gelegen wert dat ne het nen recht len, also dat gut dat die herre sime dienstmanne liet ane manschap to hoverechte; das sat he hoverechtes afplegen unde nicht lenrechtes.“; companion with Heinrich MITTEIS, *Lehnrecht und Staatsgewalt. Untersuchungen zur mittelalterlichen Verfassungsgeschichte*, Weimar 1933, pp. 130–131; 446; KRIEGER, *Lehnshoheit*, pp. 27, 35nn.; KROESCHELL, *Lehnrecht und Verfassung*, Sp. 13.

27 *Sachsenspiegel Landrecht*, MGH Fontes iuris Germanici antiqui N. S. I/1, Karl Gustav Eckhardt (ed.), Berlin — Frankfurt 1955, III 75 § 1–2: "An egene is recht lifgetucht der vrowen, went it en nemant gebreken mach to erme live; unde an lene nicht, went it en to maneger wis gebroken mach werden. Len bi eres mannes live is er gedinge; na eres mannes dode is it er rechte len."

28 UB Meiss. I.: nr. 350; an identic case is listed in UB Naum. II.: nr. 630; nr. 786; in other cases where we find "true fiefs" in the hands of widows, it's not clearly stated whether this is the



and everyday practice, but a specific statement about his text. If Eike did not waver in considering a dowry as a “true fief”,²⁹ then he not only expands the context of the meaning he gave to the specific term but also relativizes the significance of the cited records from the book on feudal law. If on the one hand, the *Sachsenspiegel* describes a “true fief” as one characterized by a vassal’s homage and then uses the same term to describe a holding such as a *dotalicium* or *Leibgedinge*, we cannot consider the “true fief” to be a consistent *terminus technicus* that we can use to easily classify or interpret other uses of the term in the medieval sources.

There may be the objection that Eike’s classification from the book on feudal law can describe a rule about the most common type of feudal holding and all deviations are just exceptions that do not void its general validity and useability. The problem is in the simple fact that the sources do not provide enough clear clues to separate the “usual” from the “extraordinary” in the grand majority of cases. Most of all, the records speak of only *fiefs* without greater details about the method and conditions of their holding. We most often encounter references to inheritance and the possible claims by children or relatives. There are very few documents that list military obligations or otherwise emphasize vassalage. The same is true in documented cases of rent. In the case of the obligation to pay rent, the question must be raised whether the possible tribute automatically implicates a parallel to homage and vassalage, or only the symbolic confirmation of the contractual relationship and obligation similarly to what we saw in the case of the burgher and the unnamed female serf. Finally, it cannot be ignored that the so-called *Auctor vetus de beneficiis*, which is the work considered to be Eike’s original Latin version of the fourth book, didn’t use the term “true fief” at all. The author of the so-called *Swabian Mirror* (*Schwabenspiegel*, probably 1275), moreover, considered every fief bestowed to be a “true fief”.³⁰

It is impossible to claim that contemporaries were not aware of the difference between bestowing a castle on a noble or a smaller landed property on a burgher for an annual rent. The limited appearance of terminology does not automatically testify to the inability to differentiate various titles of bestowed property. The creation of the legal mirrors themselves as well as their copies and medieval editions are the best testimony of the need and effort to classify types of holdings and the related law in greater detail. The above collected examples from the sources do not, on the other hand, confirm that legal systemization had advanced far enough to clearly differentiate — among property labelled *feudum* or the bestowed form *iure feudali* — the dedicated category *iustum/verum feudum*, which would be distinguished by exclusive characteristics and were understood to be superior to other types of feudal holdings. In general, it is valid that the term *feudum* or the method of holding *iure/titulo feudali* were used for both vassal and ministerial fiefs that carried the obligation of military

widow’s dowry, compare with UB Naum. II.: nr. 492, the often-cited UB Hild. III.: nr. 1693 also says the fief is designated for Elisabeth’s sons and their heirs.

²⁹ Eike doesn’t specify the social environment the woman should come from.

³⁰ *Auctor vetus de beneficiis*, MGH Fontes iuris Germanici antiqui N. S. II/1, Karl August Eckhardt (ed.), Hannover 1964; compare with KROESCHELL, *Lehnrecht und Verfassung*; quotes from the *Swabian Mirror* MITTEIS, *Lehnrecht*, pp. 131, note 68 (*swaz der herre lehen gelihet daz sol sin recht lehen*).

service, as well as properties bestowed for the payment of natural or monetary rents, mortgages, emphyteustic holdings, or dowries.



WOMEN AND FIEF-HOLDINGS

The general developmental trend and the use of Latin terminology in the sources offer an unambiguous testimony. Fiefs held or claimed by women did not differ from the fiefs of men. In other words, there are no terminological specifications that would suggest a difference between “men’s” and “women’s” fiefs. On the contrary, the fiefs held by women were also labelled “true fiefs”.

If we turn to specific documented mentions that connect women with holding fiefs, these are usually records of mutually-held marital property.³¹ Wives also expressed consent with vacating a fief as a result of sale or exchange.³² The women that appeared as fief holders themselves mostly did so as widows,³³ often with the postscript that these were the above-mentioned *lippgedinge* (*Leibgedinge*). This is the right that allowed women to use fiefs or at least their parts until the end of their lives after the death of their husbands.³⁴ There is only a single case documenting and emphasizing that a widow will hold a fief as *lippgedinge* under the guardianship (*tutelam*) of her father.³⁵ The granting of a fief to a woman without the characteristic of a “life estate” (*Leibgedinge*) or other limitations to the end of the woman’s life appears less often. These women include representatives of most social groups from members of the

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- 31 UB A I.: nr. 500; UB A II.: nr. 58; nr. 257; nr. 278; nr. 794; nr. 843; UB Halb. I.: nr. 499; UB Halb. II.: nr. 714; nr. 715; nr. 721; nr. 722; nr. 886; nr. 1362; nr. 1700; UB Hild. I.: nr. 409; nr. 434; nr. 522; nr. 526; UB Hild. II. nr. 475; nr. 475; nr. 932; UB Hild. III.: nr. 47; nr. 852; nr. 908; UB Meiss. I.: nr. 192; UGHBL: nr. 9; nr. 79.
- 32 UB Halb. II.: nr. 678; nr. 687; nr. 1339; UB Hild. I.: nr. 348; nr. 365; nr. 537; nr. 570; nr. 631; nr. 638; nr. 1111; UB Hild. II. nr. 464; nr. 550; nr. 570; nr. 574; nr. 664; nr. 914; UB Hild. III.: nr. 498; nr. 718; nr. 1332; UB Meiss. I.: nr. 211; nr. 214; nr. 238; UB Naum. II: nr. 298; nr. 667; nr. 817.
- 33 UB A II.: nr. 126; nr. 257; UB Halb. I.: nr. 638; UB Halb. II.: nr. 671; nr. 760; nr. 1183; UB Hild. I.: nr. 372; nr. 722; UB Hild. III.: nr. 5; nr. 762; nr. 1123; UB Mers.: nr. 564; UB Naum. II.: 798.
- 34 K *Leibgedinge* (či *Leibzucht*) compare with Lex MA 5, 1848; documented cases: UB Halb. I.: nr. 499; UB Hild. I.: nr. 169; nr. 567; UB Hild. II.: nr. 237; nr. 262; UB Meiss. I.: nr. 206; nr. 214; nr. 252; nr. 295; UB Naum. II.: nr. 310; nr. 318; nr. 755; nr. 776; nr. 786; in several documents (UB Meiss. I.: nr. 238; nr. 297; nr. 350; UB Naum. II. nr. 610; nr. 630) we learn that woman should hold the feudal estates as *dotalicium*, or as a gift from her husband on their wedding day that should be a life-long source of income should he die, compare with LexMA 3, 1328–1329. The *dotalicium* did not serve to support just the wife, such as when two burghers decided to abdicate the hide given to them *in feodo* in 1295, but the document recognizes a life-long claim for use by the wife and mother-in-law of one of the men, UB Naum. II.: nr. 712. Although the forms of feudal holding labelled as *dotalicium* and *Leibgedinge* are discussed independently in the literature, they are blurrier in the sources as suggested by UB Naum. II. nr. 134 and 776 (*dotalicium* [...] *quod vulgariter lippgedinge dicitur*).
- 35 UB Meiss. I.: nr. 252.



most significant Saxon houses to members of the opaque middle and lower nobility, and even female burghers and one ministerial.³⁶

The documents testify to women expressing claims to feudal estates rather often. There are a total of 155 documents in the collection that deal with the rights of descendants, but only 65 generally mention children or heirs,³⁷ 53 speak of the rights of sons,³⁸ 22 mention sons and daughters,³⁹ and 15 only mention daughters.⁴⁰ About a third of the documents that list the gender of the heir thus mention the inheritance of daughters. As with sons, the executors guaranteed minor daughters would abdicate their fiefs once achieving adulthood during the sale/appropriation of fiefs,⁴¹ or the daughters absent during the creation of the document would later confirm their consent with the appropriation before the feudal lord.⁴² The claims of female heirs to fiefs are also documented by the consent of sisters (or sons of sisters) with the sale (exchange, gifting, etc.) of the bestowed property.⁴³

³⁶ UB A I.: nr. 692; UB A II.: nr. 754; UB Halb. I.: nr. 298; UB Hild. I.: nr. 624; UB Hild. II.: nr. 447; UB Hild. III.: nr. 1693; UB Naum. II.: nr. 585; UHdL: nr. 18.

³⁷ UB A I.: nr. 298; nr. 453; nr. 500; nr. 784; UB A. II.: nr. 149; nr. 267; nr. 324; nr. 393; nr. 434; nr. 516; nr. 795; UB Halb. I.: nr. 298; nr. 328; nr. 499; UB Halb. II.: nr. 678; nr. 687; nr. 791; nr. 805; nr. 820; nr. 1024; nr. 1105; nr. 1128; nr. 1194; nr. 1295; nr. 1379; nr. 1581; UB Hild. I.: nr. 239; nr. 422; nr. 638; UB Hild. II.: nr. 26; nr. 676; UB Hild. III.: nr. 172; nr. 487; nr. 498; nr. 590; nr. 652; nr. 653; nr. 708; nr. 727; nr. 1261; nr. 1332; UB Meiss. I.: nr. 206; nr. 238; nr. 245; nr. 296; UB Mers.: nr. 342; nr. 352; nr. 514; UB Naum. I.: nr. 230; nr. 239; UB Naum. II.: nr. 313; nr. 335; nr. 337; nr. 381; nr. 445; nr. 467; nr. 479; nr. 585; nr. 633; nr. 667; nr. 755; nr. 803; UGHBL: nr. 99; UHdL: nr. 43; nr. 112.

³⁸ The lists include the expressed mentions of heirs and cases where the document speaks of child descendants, or children expressing consent with vacating a fief. All these cases can be considered proof of a claim by a descendant on the given property: UB A I.: nr. 205; nr. 413; nr. 675; nr. 696; UB A. II.: nr. 38; nr. 272; nr. 278; nr. 329; nr. 393; nr. 522; nr. 607; Halb. I.: nr. 447; nr. 500; nr. 638; UB Halb. II.: nr. 1040; nr. 1510; UB Hild. I.: nr. 86; nr. 169; nr. 526; nr. 537; nr. 566; UB Hild. II.: nr. 125; nr. 398; nr. 464; nr. 665; nr. 689; nr. 1024; UB Hild. III.: nr. 47; nr. 81; nr. 186; nr. 212; nr. 214; nr. 218; nr. 606; nr. 710; nr. 1609; nr. 1633; UB Meiss. I.: nr. 251; nr. 335; UB Mers.: nr. 41; nr. 282; UB Naum. I.: nr. 235; nr. 334; UB Naum. II.: nr. 100; nr. 298; nr. 310; nr. 437; nr. 445; nr. 452; nr. 607; nr. 667; UGHBL: nr. 93; UHdL: nr. 39.

³⁹ UB A. II.: nr. 267; nr. 386; nr. 830; nr. 843; UB Halb. II.: nr. 671; nr. 775; nr. 886; nr. 1339; nr. 1589; nr. 1617; nr. 1700; UB Hild. I.: nr. 263; nr. 337; UB Hild. II.: nr. 223; nr. 237; nr. 428; nr. 550; nr. 555; UB Hild. III.: nr. 718; UB Mers.: nr. 236; UB Naum. II.: nr. 276; UHdL: nr. 30.

⁴⁰ UB A I.: nr. 692; UB A II.: nr. 794; UB Halb. II.: nr. 1051; UB Hild. I.: nr. 522; nr. 526; nr. 531; nr. 567; nr. 631; nr. 642; UB Hild. II.: nr. 463; nr. 676; UB Hild. III.: nr. 5; nr. 143; UB Mers.: nr. 564; UB Naum. II.: nr. 478.

⁴¹ UB Hild. II.: nr. 463.

⁴² UB Halb. II.: nr. 1700.

⁴³ UB Halb. I.: nr. 348; UB Halb. II.: nr. 676; nr. 1453; nr. 1469; nr. 1516; nr. 1544; nr. 1589; nr. 1692; UB Hild. I.: nr. 348; UB Hild. II.: nr. 717; č. 914; a sister's son: UB Halb. II.: nr. 1379; UB Hild. I.: nr. 625; UGHBL: nr. 99; UB Hild. II.: nr. 281; accepting a fief for "oneself" and for a sister: UB Halb. II.: nr. 961.



There is of course the question of to what extent these examples testify to the heredity of fiefs. Karl-Friedrich Krieger rightfully pointed out that in many cases the transferring of fiefs to heirs does not automatically indicate actual heredity, but only a claim (*Folgerecht*) to the father's property.⁴⁴ The difference between actual heredity and a mere claim could easily be blurred, especially if this claim is successfully used for several generations. For example, Albert the Bear's document from 1155 speaks of feudal property that was transferred among the male heirs of the original holder for more than 80 years. Only after the death of the rightful heir did the property return to the original owner.⁴⁵ When Hildesheim Bishop Bernard founded the Monastery of St. Gotthard in 1146, the document also had provisions about the office of the steward (*advocatus*) that was not considered a *beneficium* and the steward could not delegate it to others nor to his heirs (*posteris*) as was the norm with *beneficiums*.⁴⁶ Transferring the *beneficium* to heirs was thus considered a characteristic of feudal holding before the mid-12th century.

It is therefore no surprise the documents labelled fiefs as "inheritance" (*hereditas*) or used references to "inheritance rights" in relation to the feudal holding (*ius hereditarium*).⁴⁷ An apt example of this imprecision in defining "inheritance" that could include bestowed property can be seen in the document by Naumburg Bishop Meinher from 1278. The record says the original owner held the purchased hide "non tamquam feodum vel hereditas, sed tamquam vera proprietas." Fiefs and "inheritance" are thus expressively set against "true ownership".⁴⁸ This doesn't mean that contemporaries did not differentiate between allodial and feudal ownership.⁴⁹ However, the regular transmission of fiefs to "sons of sons" or "from heir to heir", as the documents sometimes describe feudal holdings,⁵⁰ made the bestowed tenure

44 K.-F. KRIEGER, *Die Lehnshoheit*, pg. 48–52.

45 UB A I.: nr. 413.

46 UB Hild. I.: nr. 239: "*Reliquorum vero prediorum ecclesiasticorum advocatum volumus ut abbas cum fratribus suis consilii maturioris eligat eique illorum tuitionem pro salute anime sue iniungat non in beneficium, sed tamquam commissum permansurum ei, si patronatus pius fuerit; sin autem alii committendum nec in posteris cuiusquam beneficium more transiturum.*"

47 UB A I.: nr. 675; UB A. II.: nr. 404; nr. 886; UB Halb. I.: nr. 447; UB Hild. II.: nr. 790; UB Hild. III.: nr. 627; nr. 943; UB Mers.: nr. 41; nr. 282; nr. 373; UGHBL: nr. 87; UHdL: nr. 17.

48 UB Naum. II.: nr. 461.

49 The contrary is best documented by cases where part of the property was in allodial ownership, while the rest was held as a fief. In these cases, terms like *ius hereditarium* and *ius feudale* certainly refer to other forms of holding, i.e. Hildesheim Bishop Bernard purchased 30 hides that the owners held *partim hereditario, partim beneficii iure*, UB Hild. I.: nr. 210. Similarly, when Halberstadt Bishop Volrad sold the county of Seehausen because of the debts of the Magdeburg dioceses, he did not forget to emphasize that it is not held as a fief, but is "free" (*comitiam domino Rudolpho archiepiscopo Magdeburgensi et ecclesie sue vendidimus liberam et non infeudatam*), UB Halb. II.: nr. 930. Although this cannot be considered allodial property, the document captures the differences between two positions of ownership — freely liquid holdings and bestowed estates with limited options for administration.

50 The hereditary status of the fiefs is shown in the charters by references to the transmission from generation to generation, see UB A. I.: nr. 413 (*filii filliorumque*); nr. 453 (*ab herede ad heredem*); UB A. II.: nr. 38 (*filii filiorum*).



an intrinsic part of the “hereditary” property not for only noble but also for burgher families.⁵¹

The 1/3 representation of daughters in the documents that describe the rights of children to fiefs and specify the gender of the heir cannot be overlooked as a peripheral phenomenon. However, the bestowing of fiefs upon women is associated with the problem of the interpretation of Eike’s legal mirror, as the holding of fiefs by women, their hereditary rights etc. were subject to several limitations. Some of the documents examined correspond to this view. In 1150, Hildesheim Bishop Bernard admitted that Count Herman rightfully held the castle of Winzenburg for which Herman and his wife gave the bishopric Homburg castle with 200 hides and all attachments. The castle and the land were then acquired by the couple, their sons and daughters, and their heirs as fief.⁵² A document from 1201 says that Hildesheim Bishop Harbert granted fiefs to the wife and daughter of Bernard of Wölpe “*iure feodalis*” as a result of the services the count performed for the bishop.⁵³ In 1255, Naumburg Bishop Dietrich granted Burgrave Meinhard of Zeitz that heirs of either gender could inherit his fiefs.⁵⁴ As in the first case, in 1283 Duke Otto II Duke of Brunswick and Lüneburg gave the Hildesheim Bishop the castle Lauenrode and the city of Hannover that he later accepted in fief together with his sisters.⁵⁵ The examples clearly show female heredity and the holding of fiefs by women with special conditions. The privileges are based on vacating their own property and its re-acceptance as fiefs or emphasizing loyal service and general grace on the part of the feudal lord. This is not the only view of fiefs acquired by women that the documents present, however.

If we return to the document by Bishop Conrad, his text offers not only questions about terminology and claims by women to feudal property, but it also testifies to another phenomenon that was closely associated with the fief-holdings. The document points out the problem that was characteristic and closely associated with the so-called feudal pyramid (*Heerschild*). The fief regularly did not remain in the hands of the original recipients but was bestowed on further. For example, Meisen Margrave Dietrich held a village from the Naumburg bishopric, but he granted it to a certain Bertold of Boblas, who then bestowed the village on the *miles* Albert. But even he wasn’t the last in line as parts of the village were held by unnamed *militēs*.⁵⁶ A similar path can be traced to the tithe the noble (*nobilis*) Herman received from the Halberstad bishopric that he bestowed upon two brothers named Wasmod and Henry together with their wives. Wasmod gave his half of the tithe *in feodo* to two brothers that were burghers of Brunswick and their sons.⁵⁷ An unspecified number of hides

51 Compare with for example UB A II.: nr. 267; nr. 795; UB Halb. II.: nr. 1581; UB Hild. I.: nr. 239; UB Naum. II.: nr. 478.

52 UB Hild. I.: nr. 623.

53 UB Hild. I.: nr. 567.

54 UB Naum. II.: nr. 276.

55 UGHBL: nr. 99.

56 UB Naum. I.: nr. 418 (1204): “[...] *marchione Theoderico eandem villam nobis resignante, quam iure feodi a nobis tenuerat et eodem iure Bertoldo de Bobeluz contulerat, a quo item Albertus miles iure beneficii eam possederat [...] et milites, qui parte eiusdem ville ab eo inbeneficiati fuerant.*”

57 UB Halb. II.: nr. 721 (1243).



of the Merseburg bishopric were first acquired by Burgrave Siegfried of Leisning, which was then bestowed on the *miles* Albert, who then bestowed five morgens on Merseburg burgher Dietrich.⁵⁸ The first record listed is an especially good example of the *Heerschild* where the gradual and recurrent bestowing of the village or its parts shows the individual levels of the feudal pyramid and its dependency ties.⁵⁹

This type of management of granted estates caused the original holder significant problems. In 1195, Abbot Henry of the Conradsburg monastery acquired a tithe originally belonging to the Halberstadt bishopric, but first, it had to be bought out from the current holders. The tithe was held by the Counts of Valkenstein from the bishop, and then went on into the hands of other lay people.⁶⁰ The conditions in the dioceses had not changed even a century later. Bishop Volrad issued a document in 1295 that divided a mill and a near-by pond between the bishopric and the St. Anne's convent in Magdeburg. He notes in the text that the estates had been alienated from the bishopric a long time ago as the chamberlains granted them *feodaliter* to unnamed nobles who further bestowed the estates as fief. Only the abbess paying off all the heretofore holders allowed the property to be returned to the bishopric, which then gave the convent the mill and kept the pond for itself.⁶¹

The most exemplary case is the document by Hildesheim Bishop Bernard from 1150–1153. Bernard donated the Riechenberg monastery a tithe that was held *in beneficio* by Count Meinfried, whom the document states bestowed the tithe to a certain Thiedelin. The provost of the monastery paid both men 30 talents of silver to renounce the tithe. These were not the only costs, however. Without further details, the document says that the unnamed sons of Theoderic, a burgher of Goslar, made

58 UB Mers.: nr. 231 (1236).

59 For example, UB A II.: nr. 379; UB Halb. II.: nr. 1581; nr. 1629; UB Hild. I.: nr. 762; UB Hild. III.: nr. 498; UGHBL: nr. 79; UHdL: nr. 27. Fundamental works include Julius FICKER, *Vom Heerschild. Ein Beitrag zur deutschen Reichs- und Rechtsgeschichte*, Innsbruck 1862, despite his opinions on systems and the importance of the *Heerschild* being outdated. While Ficker saw the *Heerschild*, especially as described in the *Sachsenspiegel*, as the functional image of the feudal pyramid that created a certain binding legal framework, newer works arrived at an interpretation of the *Heerschild* as an idealized concept that lacked a clear legal anchor and general validity — H. MITTEIS, *Lehnrecht*, pg. 438; compare that with KRIEGER, *Die Lehnshoheit*, zejména pg. 119nn.; more generally see G. THEUERKAUF, *Lex, Speculum, Compendium iuris: Rechtsaufzeichnung und Rechtsbewusstsein in Norddeutschland vom 8. bis zum 16. Jahrhundert*, Forschungen zur Deutschen Rechtsgeschichte 6, Köln — Graz 1968, pp. 10nn.

60 UB Halb. I.: nr. 362: “[...] comes Otto de Valkensten fratrisque sui domini Theoderici filii, videlicet Burchardus et Conradus, decimam in Gerslevede manu domini Gardolfi nostri venerabilis episcopi tenuerunt, que ab illis ad manus aliorum iure feodali longe descenderat [...] dominus Henricus abbas de Conradesborch [...] de rebus ecclesie sue non sine labore compositis ipsam decimam de manu laicorum redemit.”

61 UB Halb. II.: nr. 1620: “[...] camerarii ecclesie nostre videremus feodaliter alienatum iam dudum ad manus nobilium a tempore, quo non extat memoria, et per ipsos nobiles ad manus aliorum laycorum multipliciter infeodatum [...] abbatissa totusque conventus monasterii s. Agnetis nove civitatis Magdeburgensis dictum molendinum cum piscina et omnibus attinentiis ab omnibus, quibus fuerat infeodatum, omnino absolverunt.”



a claim after the death of Meinfried. Theoderic was to have accepted the tithe from the count *in beneficio*. The sons complained that they were unfairly stripped of their father's property. They only rescinded their claim after receiving eight talents. The monastery had to then satisfied the demands of Meinfried's son who claimed he knew nothing of his father abdication of the tithe. He also received 12 talents and promised to make no further claims. Thiedelin's son acted similarly, with the monastery paying him three pounds of silver, after which the monastery could finally look forward to the benefits of the property.⁶²

For the original holder, the pitfall of the feudal hierarchy was that the property placed into the mechanism could fluidly move from one possessor to another and could even be sub-divided. This principle was succinctly described by the author of the mentioned document from 1195, who remarked that repeated *enfeoffments* had "significantly moved away" the tithe out of the reach of Halberstadt diocese (*ad manus aliorum iure feodali longe descenderat*). The document about the Hildesheim goods in Helperthe notes a similar problem as the case of the Riechenberg monastery. Lampert of Helperthe was apparently part of the chain that held the goods in the eponymous village. He may have been a vassal of the "lord" Halton. However, instead of a male heir claiming the monastery's tithe, it was a sister.

This was not the only case where women approached feudal holdings much like their male counterparts. In 1190, Abbess Agnes of Quedlinburg agreed with the daughters of Bertold of Hoim where the women received financial compensation for vacating the convent's goods that Bertold violently took and that the sisters claimed on the basis of "*hereditario iuri*". The abbess then confirmed all fiefs the father held by right for the sisters with the exception of the office of chamberlain (*officio camere*).⁶³ The rights of female heirs were also documented by two charters from the end of the 13th century from the Halberstadt diocese. The author of the first

62 UB Hild. I.: nr. 269: "*Sane comes Meinfridus de Bodenburch eandem decimam a me quondam in beneficio susceperat, qua ipse itidem illustrem virum Thiedelinum de Herre inbeneficiaverat, ac proinde impensa sunt eis a preposito Gerhardo xxx talenta argenti, sicque utroque beneficiarie possessioni in eadem duntaxat decima renunciante comes Meinfridus eam mee potestati resignavit. Verum tempore interiecto cum idem comes vita excessisset, filii Theoderici barbati Goslariensis civis, qui aliquando ipsam decimam ab eodem comite in beneficio susceperat, cum se paterno beneficio iniuste privatos esse sepe conquererentur, acceptis a preposito octo talentis ipsi quoque predictae decime omnimodis renunciaverunt. Deinde comes Henricus filius sepe dicti comitis Meinfridi cum patrem suum se in scio beneficium suum michi resignasse se penumero conquereretur, communicato consilio multorum tam clericorum quam laicorum dedit ei prepositus XII talenta, quibus ipse sub testibus qui adhibiti fuerant receptis, quod prefatam decimam nunquam in perpetuum reposceret, fideliter promisit. Postea Ecbertus filius supradicti Thiedelini super memorata decima me conveniens cum eam iure beneficii sibi debitam comprobare niteretur, monitus a fratre suo Ludolfo successore prepositi Gerhardi tres libras argenti ab ipso recepit sicque michi eam liberam et omni beneficiario iure vacantem resignavit.*"

63 UB A I.: nr. 692: "[...] *transactio, quam fecimus cum filiabus Bertoldi de Hoiem, qui violenter sibi res ecclesie usurpaverat et ille hereditario iuri addixerant [...] cl marcis eis pro restitutione per fideiussionum manus dedimus [...] nobis resignaverunt omnia bona, que pater earum sibi violenter usurpaverat [...] Et nos concessimus eis omne beneficium, quod pater earum iure possederat, excepto officio camere.*"



document was Bishop Volrad, who confirmed the transaction where a certain John of Mahndorf gave up three hides he held from the bishopric “*iure pheodali*” that were purchased by the canons of the chapter church of St. Mary in Halberstadt. The other document was issued by John’s sister who together with all her heirs renounced rights that could be claimed in the future on the sold property.⁶⁴ In 1292, the married couple Fridrich and Elizabeth, burghers from Halberstadt, decided to bestow one hide in the village of Klein-Quenstedt upon the Adersleben monastery as penance for their sins. However, the hide did not belong to the couple, instead being owned by a certain nobleman named Everhard. Fridrich and Elisabeth had to first purchase the property from him for eight silver marks. Then Everhard transferred the hide with the consent of his aunt and sisters to the monastery. Although both spouses participated in the transaction, the author of the document emphasized that the hide was held by Elisabeth from Everhard by “feudal right” (*titulo pheodali*).⁶⁵ These examples are supplemented by those mentioned above where guardians guaranteed minor girls would vacate the holdings once they reached adulthood or the daughter absent at the time of the document’s creation would confirm her consent with the alienation before the feudal lord.

All these records speak of claims by women without mentioning any special favours, privileges, or the issuers of the charters expressing surprise over women’s behaviour. In their belief in their own rights, the daughters of Bertold of Hoim, the sister of Lampert of Helperthe, the sister of John of Mahndorf, and other women showed no difference to that shown by their male counterparts. In many respects, the behaviour is reminiscent of a relationship to an allodial property, which is expressively stated in the agreement between Bertold’s daughters and the monastery. The sisters considered their father’s property as their inheritance, but the problem was not in the claim itself, but in the reality that they appropriated property that neither they nor their father had a claim to according to the monastery. The case of the sisters of Lampert of Helperthe is also an example of a blurring between real heredity and a mere claim. The fief did not automatically go to the woman, but if she made a claim that was proven to be valid, the feudal lord could not justly deny her rights.

The composition of the bestowed estates is noteworthy in association with women’s claims to holding fiefs. The privileges of Herman of Winzenburg, the wife and daughter of Bernard of Wölpe, Meinhard of Zeitz, and Oto of Brunswick and his sisters speak of significant properties and strategic points. The remaining documents and other records of feudal estates held or claimed by women show a diametrically different picture. The grand majority are land ownings not exceeding three hides. And in the cases that exceeded this size or name other types of property, they still do

⁶⁴ UB Halb. II.: nr. 1515; nr. 1516. In a similar case confirmed by Volrad in 1292, a certain John Kotte paid his sister and her heirs, a son and three daughters, six silver marks to consent to the sale of half a hide he held as a fief, UB Halb. II.: nr. 1589.

⁶⁵ “*Fridericus de Fallersleve laicus, civis Halberstadensis, et Elisabeth uxor ipsius proprietatem unius mansi siti in campis ville Parvi Quenstidde, quem mansum dicta Elisabeth a nobis tenebat titulo pheodali,*” *Codex diplomaticus Anhaltinus II. (1212–1300)*, Otto von Heinemann (ed.), Dessau 1875 (Neudr. Osnabrück 1986), nr. 754, pp. 533.



not reach an extensive scope.⁶⁶ There were only four cases where the documents show the case of a fief bestowed for an annual rent.⁶⁷ Yet the very extent and significance of the property granted, which differed quite substantially for the privileges mentioned above and in all other cases, may indicate a difference in the approach by the lords to women's enfeoffment. The reason for limiting feudal holding to the male line was understandable in the case of vassal fiefs associated with military service, significant ranks within the administrative apparatus (counties, margraviates, etc.), and the associated property units. Military service does not appear in the sources as the main and dominant form of obligation associated with holding a fief, however. Obligations to pay an annual rent are actually more numerous in the studied sources than promises of military service.⁶⁸ The approach of the senior could be more benevolent in the case of fiefs bestowed for natural or financial compensation, and thus asserting holding and heredity in the female line would be much easier, as it did not affect the purpose of the enfeoffment, which was the payment of rent.

CONCLUSION

The question of feudal holdings by women is mostly shrouded in the historiographic approach. If we consider vassalage the defining characteristic of the feudal institution that was used to organize representatives of the "administrative" apparatus and warriors, the position of women in this hierarchy is automatically of inferior significance. But the feudal relationships in the sources were much more complex and complicated. The documents don't prove that Latin terms like *beneficium*, *feudum* etc. were primarily associated with fief-holdings characterized by homage, vassalage, or the obligation of loyalty and obedience expressed by military service. All the above-listed terms show adaptable meanings throughout the sources and were used to cover a broad range of relationships and needs based on everyday socio-economic interactions. Despite encountering fiefs most often in the hands of nobles of various social

66 The numbers in parentheses that don't have further specifications give the number of hides. UB A. II.: nr. 386 (3/4 mansus); nr. 754 (1); nr. 794 (3); nr. 843 (3); UB Halb. I.: nr. 298 (3); nr. 348 (1); UB Halb. II.: nr. 671 (1); nr. 676 (1); nr. 775 (mansum dimidium [...] curiam medietatem); nr. 886 (3.5); nr. 961 (octo mansos in Ditforede, duos mansos in parvo Quenstide, unum et dimidium in Ergenstide [...] decimam in Asterendorp); nr. 1051 (0.5); nr. 1339 (1.5); nr. 1379 (2); nr. 1453 (a rent of 15 soldos); nr. 1469 (1); nr. 1516 (3); nr. 1544 (1); nr. 1589 (0,5); nr. 1617 (3); nr. 1692 (1); nr. 1700 (1); UB Hild. I.: nr. 263 (a castle); nr. 337 (curia); nr. 624 (3); nr. 625 (4); UB Hild. II.: nr. 223 (3); nr. 237 (undefined goods with an obligation of vassalage); nr. 447 (2); nr. 463 (1/4 of a tithe); nr. 550 (2); nr. 555 (unlisted, the promise of a fief for sons and daughters once it is vacant); nr. 631 (decimam in villa Egem cum tribus mansis et curia in eadem villa); nr. 642 (V mansos et dimidium cum decima eorundem, II areas adiacentes curie, silvulam unam, prata molendinum et preter ista capellam cum tribus mansis); nr. 676 (16 morgens); nr. 717 (3); nr. 914 (3); UB Hild. III.: nr. 143 (two plots); nr. 718 (5); UB Mers.: nr. 236 (tithe held by the male and female lines of margraves); UB Naum. II.: nr. 478 (1); nr. 585 (curia).

67 UB A II.: nr. 386; nr. 794; nr. 843; UB Naum. II.: nr. 478.

68 For details see J. ZELENKA, *Vom Beneficial- zum Lehnswesen*, pp. 35–38, 69–73.

positions, the analysed sources do not show that contemporaries applied more importance to fiefs with a political/military character over fiefs with an economic function. The carrier of the *Lehnswesen* was not necessarily an armed vassal, but also at least the payer of an annual natural or financial rent.

In general, the position of women certainly wasn't one of complete equality in terms of feudal holdings. On the other hand, it is impossible to omit the fact that documents confirming the inheritance of women as a special privilege are much less numerous in our sources than those that take their claims as an everyday reality. The gender "handicap" obviously did not prevent women from claiming their rights with the same confidence and success as their male counterparts. This is seemingly not anything surprising. Even the text of the *Saxon Mirror* makes it clear the author had an ambivalent view of so-called women's fiefs. The strict rejection of women in the book of feudal law was balanced by the enumeration of situations where the holding or inheritance of a fief was possible. Eike's approach to the question of women's fiefs and other topics only underlines that his work is a typical medieval mirror. It reflects the past, the present, and offers lessons for the future in a mix influenced by the author's concepts not just about how things are, but especially what they should look like according to Eike's view. In practice, this means there were also pragmatic reasons on the sides of women and other groups Eike ostracised, such as burghers, which was to provide not just ranks of armed vassals, but also an adequate supply of natural and financial payments. Like other manifestations of feudal institutions and law in our sources, the holding of fiefs by women and their inheritance by women should be evaluated in the context of the specific cases and not solely based on a norm that only separates the exception from the rule.

