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VSEBINA / *INDICE GENERALE / CONTENTS*

Prvih osem člankov v tej številki Acta Histriae je nastalo iz prispevkov za mednarodno spletno konferenco After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. Konferenca je bila del podoktorskega projekta Z6-3223 Reševanje sporov med nižjimi sloji v baročni Notranji Avstriji: med fajdo in kazenskim pravom, ki ga je financirala Javna agencija za znanstvenoraziskovalno in inovacijsko dejavnost Republike Slovenije (ARIS) v letih 2021–2023, ter raziskovalnega programa P6-0435 Prakse reševanja sporov med običajnim in postavljenim pravom na območju današnje Slovenije in sosednjih dežel, ki ga sofinancira ARIS v letih 2022–2027./I primi otto articoli in questo numero di Acta Histriae provengono dagli interventi presentati alla conferenza internazionale online After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. La conferenza faceva parte del progetto di post-dottorato Z6-3223 La risoluzione delle controversie plebee nell'Austria Interiore nel periodo barocco: tra faida e diritto penale, finanziato dall'Agenzia slovena per la ricerca e l'innovazione (ARIS) nel periodo 2021–2023 e dal programma di ricerca P6-0435 Pratiche di risoluzione dei conflitti tra diritto consuetudinario e statutario nell'area dell'attuale Slovenia e dei suoi territori limitrofi, cofinanziato dall' ARIS nel periodo 2022–2027./The first eight papers in this issue of Acta Histriae originate from papers for the international online conference After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe. The conference was part of the post-doctoral project Z6-3223 Plebeian Dispute Settlement in Baroque Inner Austria: Between Feud and Criminal Law, funded by the Slovenian Research and Innovation Agency (ARIS) in 2021–23, and the research programme P6-0435 Practices of Conflict Resolution Between Customary and Statutory Law in the Area of Today's Slovenia and Its Neighbouring Lands, co-funded by ARIS in 2022–27.

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ENMITY AFTER THE FEUD: VIOLENCE AND ITS CONTROL IN INNER AUSTRIA, 1500–1750

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ABSTRACT

Centring on non-nobles in the Duchies of Styria, Carniola and Carinthia, this paper addresses dispute settlement in Inner Austria, following the Imperial prohibition of feud in 1495 and the Habsburgs' local consolidation of power earlier in the century. These developments are said to have brought about an end to feuding in the duchies in the 1500s, but by focusing on the concept of enmity, which articulated the same state of social relations, this article presents ample evidence that among all social classes dispute settlement retained much of the traditional practices well into the 1700s. Their survival was instrumentally underpinned by various courts of law and local authorities, regarding them as an indispensable element of keeping social cohesion and peace.

Key words: feud, enmity, violence, peacemaking, dispute settlement, peasants, burghers, courts of law, legal culture, Inner Austria, Styria, Carniola, Carinthia, early modern period

L'INIMICIZIA DOPO LA FAIDA: LA VIOLENZA E IL SUO CONTROLLO NELL'AUSTRIA INTERIORE, 1500–1750

SINTESI

Ponendo al centro gli individui non nobili dei ducati di Stiria, Carniola e Carinzia, questo saggio affronta la risoluzione dei conflitti nella'Austria Interiore a seguito del divieto imperiale del 1495 di dichiarare la faida e alla luce del consolidamento del potere degli Asburgo a livello locale a inizio di quel secolo. Questi sviluppi sono stati ritenuti come la causa dell'effettiva fine del ricorso a questa pratica nei ducati nel corso del Cinquecento, ma focalizzandosi sul concetto di inimicizia, che esprimeva il medesimo stato di relazioni sociali, questo articolo presenta consistenti prove che tra tutte le classi sociali la risoluzione dei conflitti preservò gran parte delle proprie pratiche consuetudinarie fino al Settecento. La loro sopravvivenza fu strumentalmente sostenuta da diversi tribunali e autorità locali, le quali li considerarono elementi indispensabili per mantenere la coesione sociale e la pace.

Parole chiave: faida, inimicizia, violenza, pacificazione, risoluzione dei conflitti, contadini, borghesi, tribunali, cultura legale, Austria Interiore, Stiria, Carniola, Carinzia, età moderna

INTRODUCTION[1]

Similar to other parts of the Holy Roman Empire, feuding in the Inner Austrian Duchies of Styria, Carniola and Carinthia, which are at the centre of this paper, is generally said to have been eradicated by the early sixteenth century, following the Habsburgs' consolidation of power in the territory in the mid-1400s and the Imperial prohibition of feud, or *Fehde*, in 1495. However, this paper provides ample evidence that the practice survived among all social classes well into the early modern period, underpinning the latest investigations elsewhere in the Empire.

Since the 'anthropological turn' in the 1950s (Gluckman, 1955), different theses proposed therefrom on the role of feud or vengeance in dispute settlement and social cohesion have been exhaustingly debated by historians, largely by mediaevalists (e.g. Netterstrøm, 2007; White, 2016). Adapted to the research on European mediaeval societies, they provided important results (e.g. White, 1986; Miller, 1996; Smail, 2003), and today it is generally accepted among researchers that feud as a way to communicate grievances was an integral part of mediaeval dispute settlement and could have had an important role in maintaining social order and peace. However, there is a lot less agreement on whether this was still true in early modern Europe.[2] Research on feud in that period is rather recent, and while the number of studies is growing, thus far they have chiefly[3] centred on Italy, followed by Montenegro, Albania and France. Whereas the inquiry in the Balkans is focused on blood feud in an essentially agricultural tribal society (e.g. Boehm, 1984; Ergaver, 2017), in Italy and France the investigation has concentrated on the role of feud in local and state politics. Research on Italy, early modern Europe's most civilised and complex region, is particularly rich and demonstrates that feud or vendetta was a complex social practice of dispute settlement, which did not disappear after 1500 (e.g. Raggio, 1990; Povolo, 1997; Rose, 2016; Broggio, 2021).[4] In fact, in Italy the violence worsened in the sixteenth and seventeenth centuries. Italy also challenges the idea that lawsuits were the opposite of feud; they turn out to have been its corollary – interpersonal violence and litigation boomed at the same time. Studies on France (Carroll, 2006) have produced similar findings.

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1 This paper is the result of research carried out in the post-doctoral project Z6-3223 (B) *Plebeian Dispute Settlement in Baroque Inner Austria: Between Feud and Criminal Law,* funded by the Slovenian Research and Innovation Agency (ARIS) in 2021–2023, and the research programme P6-0435 (A) *Practices of Conflict Resolution Between Customary and Statutory Law in the Area of Today's Slovenia and Its Neighbouring Lands*, co-funded by ARIS in 2022–2027. My thanks to Stuart Carroll and Andrej Hozjan for their specialist advice as well as the anonymous reviewers for their comments on this paper. I would also like to thank Andrew Vidali for translating the abstract into Italian.

2 Recent international discussions are Carroll, 2007; 2023; Netterstrøm & Paulsen, 2007; Broggio & Paoli, 2011; Davies, 2013; Cummins & Kounine, 2016; Decock, 2021. In June 2023, these issues were also addressed by the online conference *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe* (After the Feud?) with most papers published as the first eight articles in this issue of Acta Histriae.

3 For recent research in Northern Europe, specifically Denmark, cf. Netterstrøm in this issue.

4 Cf. also the papers by Vidali, Madden and Cecchinato in this issue.

In contrast, the research on feuding in the Holy Roman Empire remains dominated by the belief that *Fehde* was a mediaeval and elite phenomenon, despite the not so recent examination of the widespread practice of feuds among peasants (Reinle, 2003). Feud's significance and function in the creation of a distinctively 'German' or Imperial constitution, either as the legitimating tool of a class of 'robber barons' (e.g. Rösener, 1982; Algazi, 1996) or as an essential element in state-building (Brunner, 1990; cf. Eulenstein et al., 2013), has been exhaustively debated, but the debate has remained an essentially local one (Kaminsky, 2002). Its protagonists generally tend to assume that *Fehde* is a quintessentially German phenomenon, a genus of war, abandoned following the Imperial Peace of 1495, the adoption of the inquisitorial judicial process following Emperor Charles V's penal code of 1532 and the establishment of Imperial legal institutions on a sounder footing following the Peace of Augsburg in 1555. This view of the period after 1500 as a time 'after the feud' (cf. Wieland, 2014) remains entrenched in German historiography, despite its rich early modern social history (e.g. Sabean, 1984), and growing evidence that in the Empire feuding among all social classes survived well into the early modern period (Zmora, 1997; Peters, 2000; Mommertz, 2003; Jespersen, 2009; Carroll, 2023, 145 ff.) – not as a rigid institution of the nobility, defined by mediaeval Imperial and provincial peace codes (*Reichsfriede, Landfriede*) and other legislation (cf. Patschovsky, 1996; Wadle, 1999; Prange & Reinle, 2014), but as a complex social practice, much like elsewhere in Europe.

Whether over spilled blood or property rights, the purpose of feud in every society was to communicate a grievance and invite mediation, first by the community. A recent study (Darovec et al., 2018) proposes that everywhere feud followed the ritualised pattern of publicised grievance – violence – mediation – truce – peace. *Fehde* was likewise a legal instrument for the enforcement of compensation for injustice through the use of limited violence, usually the seizure or destruction of enemy property, requiring a formal renunciation of peace (*diffidatio*, *Absage*). Following the ban, its vocabulary, rather than rites and social role, changed. Across early modern Europe, disputants had a rich language to describe their disputes and once *Fehde* was prohibited, all social classes abandoned the word for a plethora of cognates that articulated the same state of social relations. The English *feud* and the German *Fehde* share a common origin, meaning *enmity*. In fact, in mediaeval and early modern Europe, 'enmity' (*inimicitia*, *Feindschaft*) was the most common synonym for feud, denoting not just the emotion of hatred (*odio*, *Haß*) or anger (*ira*, *Zorn*), but a formal relationship of mutual opposition or hostility between individuals or kin groups. Yet, because both emotional states were closely related to enmity, they both often designate it in sources, for instance as 'old grudge' (*alter grollen*) or 'delayed hatred' (*verzogte haas*) among some Styrian peasants (StLA, Rothenfels, K.116/H.363, f. 26r–27v, 30 September 1620; StLA, Rothenfels, K.117/H.364, 1 November 1727). Similarly, blood feud was referred to as capital or mortal enmity: *inimicitia capitalis* or *mortalis*, *hauptveintschaft* or *totveintschaft* (Frauenstädt, 1881, 10; Zacharias, 1962, 167). Due to the centrality of enmity in interpersonal conflicts, Stuart Carroll (2017) has recently proposed it as a better analytical concept than 'feud', which is often burdened with anthropological and mediaevalist specifics or 'national' idiosyncrasies.

Enmity was closely connected to violent retribution for injury or injustice. It broke out if a publicized grievance was not honourably settled or if violent retribution was seen as more appropriate or honourable than (immediate) material or monetary compensation, particularly for homicide. Feuding rites dictated a balanced/honourable response or exchange for an offence. The aim of retribution was to gain satisfaction (*satisfactio*, *Genugthuung*), meaning a restoration of the offended party's honour and compensation for the injury. Even insults that may seem trivial today were generally far from petty in the competition for status among neighbours, and required a response to keep one's honour (cf. Schwerhoff, 2013). Retribution could include physical violence, ideally proportionate to that of the offending party, although the threat of violence was often enough. In general, the pressure to obtain satisfaction gradually escalated from coldness to verbal affronts and lesser and greater physical violence (Beuke, 2004), so a violent attack was not always simply in affect. With the growing importance of courts of law from the late Middle Ages, litigation became another avenue for pursuing enemies. A state of enmity, interrupted by truces, lasted until the parties made peace, with community mediation being a key component in settling disputes. Following a mutual renouncement of enmity (*Urfehde*) (cf. Blauert, 2000), peace (*pax*, *Sühne*, *Friede*) was made with a public oath, which restored justice and both parties' honour, establishing or renewing friendship and good neighbourliness or love and kinship. Even when the peace was unjust, settlement had to appear just in order to hold (Oman, 2021, 31–33, 36, 38–39).

The view of feud as an essentially mediaeval custom of the nobility is largely shared by Slovene and Austrian historiography. It is further grounded in a general disinterest in plebeian interpersonal violence, particularly notable in the Slovene historiography, which continues to focus on peasant revolts as the only form of plebeian violence worth researching. Only very recently have a few Slovene historians started to investigate the role of feud in early modern dispute settlement, both locally (Makuc, 2015; Darovec, 2018; Oman, 2021; cf. Kambič, 2017), and abroad, focusing on the Balkans (Ergaver, 2016) and Italy (Glavina, 2019). In contrast, in the Austrian historiography there seems to have been no acknowledgement of the recent research on early modern and plebeian feuds, with other studies of interpersonal conflicts of the lower orders focusing on Tyrol, Upper and Lower Austria (e.g. Winkelbauer, 1992; Griesebner, 2000; Hohkamp, 2003; Scheutz, 2004; 2007; Heidegger, 2005; Czwik et al., 2007), while Inner Austria, which encompassed a large part of the Republic of Austria and the bulk of today's Slovenia, as well as parts of Italy and Croatia, remains comparatively neglected.

Research on enmities in early modern Inner Austria has thus far only been done for Lower Styria, Carniola and Gorizia, which are today entirely or largely in Slovenia. This article expands the scope of investigation by including sources from Upper Styria and Southern Carinthia, today in the Republic of Austria, to provide a more comprehensive view and goes beyond the idiosyncrasies of national histories towards a shared history of legal culture. By focusing on non-nobles, who constituted the vast majority of the population, the paper addresses the broadest notions and practices of enmity in the early modern period, with a shorter chapter on nobility provided for comparison. Due to few surviving records of major crimes (*causae maiores*),

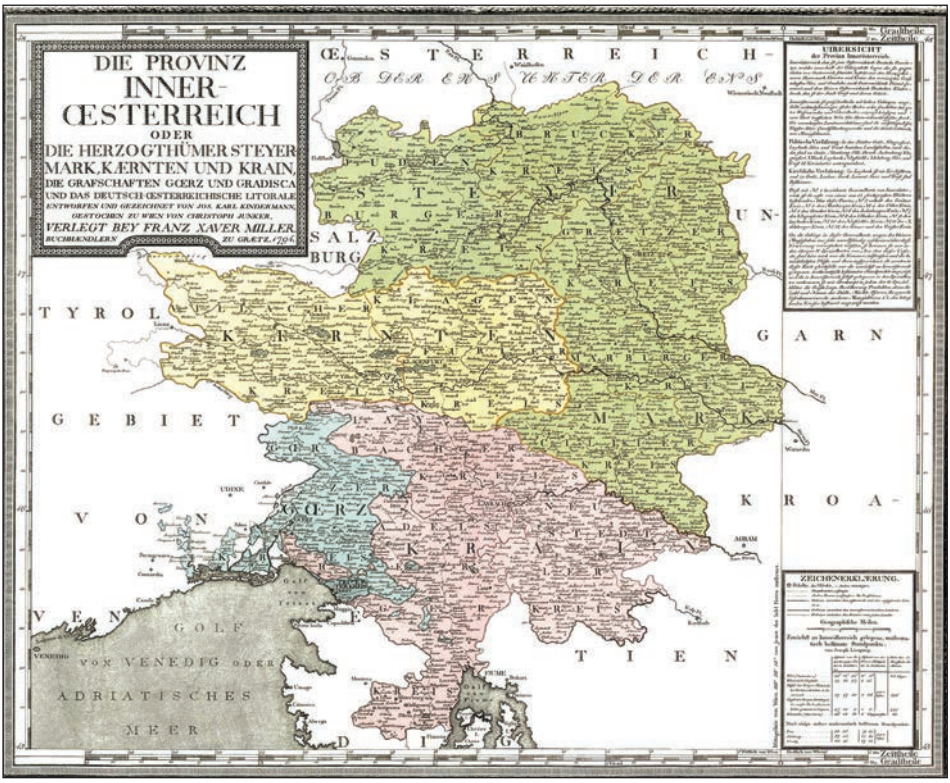

Fig. 1: Map of Inner Austria, Joseph Karl Kindermann & Christoph Junker, 1794 (Wikimedia Commons).

such as homicide, the analysis of plebeian disputes had to focus on more 'everyday' notions of enmity. Whereas this cannot provide a complete picture of the attitude towards enmity in early modern Inner Austria, surveyed records, especially town and provincial court registers, are nevertheless an important source for understanding plebeian social relations more broadly and, in particular, the manner in which everyday enmities that undermined ideals of good neighbourliness were mediated by secular authorities, specifically at the local level.

* * *

Late mediaeval Habsburg efforts to administratively bring the Inner Austrian provinces closer together culminated with the reforms of (future) Emperor Maximilian I in the late fifteenth and early sixteenth centuries. For the Provincial Estates (*Landstände*) dominated by secular nobility the establishment of the first

centralised offices for the Habsburg hereditary lands also facilitated their growing sense of independence from princely rule. This resulted in the formation of a kind of 'administrative dualism', even if in reality the delineation of princely and the Estates' offices and officials was often ambiguous. Most importantly, from 1518, the princes had to acquire the Estates' consent in order to raise new taxes, which were instrumental for the defence against Ottoman incursions and invasions. Following the death of Maximilian's grandson, Emperor Ferdinand I in 1564, the Austrian Habsburg territories were divided between Ferdinand's sons. The eldest, also King of Bohemia, Hungary and Croatia, became Emperor Maximilian II and ruled the Archduchy of Austria; the second son, Ferdinand, was given Tyrol and the rest of Further Austria; and the youngest came to rule Inner Austria as Charles II. During his reign, Inner Austria was organised into a semi-independent polity of the Habsburg lands. It consisted of the Duchies of Styria, Carniola (including Inner Istria) and Carinthia, the Counties of Gorizia and Gradisca (a county from 1647), the City of Trieste/Trst and a few smaller territories. The seat of the Princely Court was the Styrian capital Graz. When Charles' son became Emperor Ferdinand II in 1619, his residence moved to Vienna, but Inner Austria retained much of its autonomy and Graz remained the seat of the Inner Austrian Government until 1746. Three years later, the territory was finally integrated into a more centralised Habsburg state (Spreitzhofer et al., 1988, 64–66; Štih & Simoniti, 1996, 167–169, 171, 182).

NOBILITY

Despite almost a quarter century having passed since Maximilian I's ban on feuding, at the time of his death in 1519, the Carniolan Provincial Estates still complained about ongoing open feuds, discords and altercations (*offene Fehden, Irrungen und Späne*) among nobles, calling on the Provincial Governor[5] and his councillors to settle them amicably (Dimitz, 1875, 69), i.e. according to custom. The situation in Styria and Carinthia was likely similar. However, by the seventeenth century, the 'knightly feud' seems to have disappeared from Inner Austria, with several factors contributing to the demise of noble feuds in their 'mediaeval' form.

The Habsburgs' rule in the three duchies was consolidated by their victory in the feud with the Counts of Celje/Cilli (1437–43) and acquiring their extensive possessions following the Counts' extinction in 1456 (Štih, 1996), as well as inheriting the territories of the Counts of Gorizia with their demise in 1500 (Fräss-Ehrfeld, 1994, 51). Outside threats, first by the Hungarians and from the late 1400s especially by the Ottomans (Simoniti, 1990), also likely played a role in preventing larger conflicts among the nobility. One of the consequences of the Habsburg wars with Hungary

5 *Landeshauptmann*, the highest military and judicial office in a province after the prince and the highest representative of the Estates. His deputy was the provincial administrator or *Landesverweser*, who also presided over the Provincial Bar, or *Landschranne*, one of the courts with jurisdiction over nobility (Spreitzhofer et al., 1988, 66).

(1446–90) was the Baumkircher *Fehde*, the last large 'knightly feud' in Inner Austria (Rothenberg, 1909; Toifl, 2012, 13–15, 33–36). In the following centuries, border conflicts of Styrian lordships with Hungarian and Croatian nobles still often escalated into violence, largely as the result of shifting riverbeds delineating the territories of the Holy Roman Empire and the Lands of St Stephen's Crown (e.g. Zelko, 1984, 24–27; Burkert, 1987, 253). While Gorizia and Istria were devastated by wars with Venice (1508–16/21, 1615–7) and the tumultuous situation in the Venetian Friuli echoed in neighbouring Gorizia throughout the 1600s (Makuc, 2015), the Ottomans remained the greatest threat to the Habsburg hereditary lands throughout the early modern period. In the late fifteenth century, they quickly exposed the vulnerability of the Prince, the nobility and their military co-dependence, which resulted in the establishment of the Military Frontier in the first half of the sixteenth century. Solidarity among the Inner Austrian nobility was further strengthened by the need to protect its rights and privileges from the early Absolutist aspirations of the Habsburg princes. From the 1530s, the nobility in the three duchies was predominantly Lutheran, as was a large part of the burgher elite and middle class until the seventeenth century, particularly in the larger towns, while the vast majority of peasantry remained Catholic. In the 1570s, predicated on their consent in raising new princely taxes under growing Ottoman pressure, the Protestant nobility was able to force Charles II into granting it and four towns (Graz, Ljubljana, Klagenfurt/Celovec, Judenburg) freedom of religion, which they then lost under Ferdinand II; the towns in 1598 and the nobles in 1628. Thus, the political struggle over supremacy in the provinces was long interlocked with the confessional conflict between the largely Lutheran Provincial Estates and the Catholic ruling dynasty, but this was never exacerbated into the factional violence that ravaged some parts of the Empire or France. The nobles' solidarity was surely also facilitated by recurring peasant revolts, with those in 1515, 1573, 1635 and 1713 engulfing more than one province (Grafenauer, 1944). In the late sixteenth and early seventeenth century, the Princely Counter-Reformation, foremost directed at the noble opposition, accelerated the establishment of early Absolutism and enabled the princes, particularly Ferdinand II, to 'exchange' the Protestants for loyal Catholic Estates (Sittig, 1982; Burkert, 1987; Dolinar & Drobesch, 1994; Pörtner, 2001; Strohmeyer, 2011).

The Habsburgs' Absolutist ambitions were likewise furthered by the exclusion of their hereditary lands from the jurisdiction of the Imperial Chamber Court, which likely strengthened the role of princely authorities in dispute settlement among the nobility. Their authority was additionally fortified when, following Ferdinand II's death in 1637, the Imperial Aulic Court also lost its jurisdiction in the Hereditary Lands (Kluetnig, 1999, 13, 38–39). After the Imperial Enforcement Ordinance of 1555, both courts were envisioned as the main institutions for maintaining the Perpetual Peace of 1495, ideally removing the need for nobles to wage feuds (Brunner, 1990, 34–35; Wieland, 2014, 506). In Inner Austria, the role of the Aulic Court as the highest judicial institution was, in 1639, taken over by the Inner Austrian Privy Council or Office, which was abolished in 1749. From 1578, the role of the appellate

court was held by the Inner Austrian Aulic Council. After the Emperor moved to Vienna in 1619, the Inner Austrian Government in Graz became the highest judicial authority after the Privy Office. The Government had authority over provincial governors and administrators, various courts for nobility, provincial courts or *Landgerichte* for commoners, as well as over princely towns and market-towns (Spreitzhofer et al., 1988, 65–69).

In Inner Austria, the word *Fehde* seems to have lost its vogue among nobles prior to the seventeenth century, having been increasingly equated with commoners and criminals, much like the word *Rache*, or revenge. Semantic changes followed those in criminal law after the Imperial ban. In 1769, Empress Maria Theresa's penal code, the *Theresiana*, labelled feud as a criminal pursuit (there were mitigating circumstances) of alleged justice, with the diction making it clear that *Absagerey, oder Befehdung* pertained to commoners, while 'revenge' was used for similar actions by the nobility (CCT, 1769, Article 73). But despite normative stipulations and semantic shifts, violence remained a common occurrence in disputes among nobles – noble feuds did not cease in the early modern period, they were transformed.

One of the last 'mediaeval-looking' feuds in Inner Austria was over the Lower Styrian Pukštajn castle in the late sixteenth century, between the Lutheran noble families of Gaisruck and Amman. It originated in the sale of the castle and eponymous lordship in 1593, first by Georg Kasper von Gaisruck to his brother Hans Sigmund for 10,000 guldens, followed by Hans' sale to Matthäus Amman von Ammansegg later that year for the same sum. Amman, a prominent official of the Styrian Provincial Estates (Loserth, 1918), had been rapidly acquiring property in the area, including Pukštajn's neighbouring lordship and market-town of Vuzenica in 1588 (Pirchegger, 1962, 154). Following his brother's death, Georg demanded that Amman return the castle, claiming that Hans had not paid him out in the first place. In 1595, Georg seized Pukštajn by force and evicted his brother's widow, but lost the castle that same year, when his garrison surrendered to a larger number of horse and foot led by Amman's son, Matthäus Jr. In response, Gaisruck proposed both extra-curial settlement to Amman Senior and filed a lawsuit against him in the noble court, also claiming that by seizing Pukštajn by force Amman Jr had broken the Perpetual Peace of 1495, to which Senior replied that he was just defending his property. While it seems that Gaisruck managed to retake the castle sometime in 1596–7, in the end he could not prove his ownership. The matter was resolved out of court in 1600, with Gaisruck accepting Amman's control of Pukštajn. By then, the Ammans had already been pardoned for their 'disorder' (*vnordnung*) in 1595 (StLA, LA, LR 18/1, f. 120r–137r, 156r–162r, 181r–184r, 323r–359v; StLA, LA, LR 18/2, 1r–38v). Peace was either facilitated or underpinned by wedlock in 1594 (Loserth, 1918, 46) or after 1597 (Mravljak, 1929, 43–44), when Matthäus Jr married Georg's daughter Concordia; the bride could have hardly had a better-suited Christian name for the occasion.

By the seventeenth century, violence in enmities between nobles, barring duels, largely took the form of intermittent skirmishes. With the gradual end of specialist armed retinues, clashes generally involved poorly armed subjects and a few servants

Fig. 2: Pukštajn castle, Georg Matthäus Vischer, 1681 (Wikimedia Commons).

and sometimes the lord himself. This happened in the recurrent violence between the Upper Carniolan lordships of Bled and Radovljica, in part originating from the unclear delineation of their jurisdictions in the fifteenth century (Škrubej, 2012, 211). In 1651, the conflict flared up once more with the arrival of the latest administrator of Bled, an extra-territorial lordship of the Tyrolean Prince-bishopric of Brixen (Bressanone). The lord of Radovljica, Count Johann Ambros Thurn-Valsassina, seized the opportunity for a show of force to claim his rights, leading a handful of his armed servants and subjects to Bled castle, threatening to burn down some of its peasants' outbuildings. This was only prevented by the Bled garrison rushing to the defence, although no combat ensued. The administrator Georg Dienstmann filed a lawsuit with the Provincial Governorate, stressing that 'inimical attacks are highly forbidden in the province' and demanded 500 gold ducats in damages. The governorate raised this to 3,000 ducats, because in the meantime the count had once again invaded Bled under arms, personally hacking down some contentious fences. When he refused to pay for these incursions, the governorate mandated the seizure of some of his assets (ARS 721, fasc. 25, Process: Bled, Dienstmann Georg vs Radovljica, Thurn Johann Ambros, 1651).

Occasionally, such clashes resembled small battles, as in the dispute between Hans Jakob Baron von Herberstein from the Lordship of Slivnica and Lady Ursula Kohler from the Lordship of Fram, as well as their respective subjects. The feud broke out over the protection of the church fair in the Lower Styrian village of Slivnica

in the late 1620s, but Ursula's debts to Hans Jakob likely played a role as well. Providing security at church fairs was of great importance to the parishioners and their understanding of communal, familial and individual honour. It was also where the subjects' interests overlapped with that of their lords as holders of the rights of patronage, which were a marker of lordship. The protection of the fair in Slivnica, traditionally shared by local parishioners with those from neighbouring Fram, had in the mid-1620s begun to be usurped by the locals and their lord, following depopulation after a plague epidemic. Aside from a few armed scuffles among the peasants, the conflict was mostly carried out in the Styrian noble court between Herberstein and Kohler. The enmity boiled over at Pentecost in 1631, when Ursula's husband Wolf Sigmund led a force of allegedly over a hundred of their armed subjects, under the colourful noise of flying banners and beating drums, to Slivnica as a show of force. Things escalated into violence in which one of Herberstein's men was killed 'in fury'. The count complained to the Inner Austrian Government over the 'tumult and assaults breaching the provincial peace', but Graz only demanded that the nobles settle their dispute. Due to Ursula's natural death that same year and her debts to Herberstein, Fram became his property. However, this did not end the animosity of the Fram subjects towards their new lord, against whom they rebelled two years prior to the Second Slovene Peasant Revolt of 1635.[6]

Forty years later, Hans's relative Count Georg Günter Herberstein from the Lower Styrian Lordship of Vurberk fared much worse. Over several decades he was embroiled in a conflict with the Gallers from neighbouring Ravno Polje over fishing rights and the border on the shifting banks of the Drava River, further altered by levees their respective subjects raised to protect their fields. A settlement was reached in 1662, but Georg Günter continuously broke it by having his armed servants and subjects destroy the Gallers' dikes, seize their livestock and ferries, and trample their fields. Sometimes, Herberstein accompanied them and shot at his enemies' subjects. The count became more aggressive following the death of the influential Baron Johann Christian Galler in 1669, trying to take advantage of the lordship coming under his widow Countess Maria Theresa Galler and their underage children. In early 1675, the enmity escalated into a duel between Herberstein and Johann Christian's eldest son, Count Johann Maximilian. While no one was killed, the Styrian noble court threatened them with a fine of 2,000 ducats, confining them to house arrest at their seats. They settled the same day, but the conflict went on. Following another incursion into Ravno Polje territory, Georg Günter was killed near the village of Starše on

6 StLA, LA, LR 382/2, Countersuit of Lady Ursula Kohler against Baron Hans Jakob Herberstein regarding the church fair in Slivnica, s.d., s.l.; StLA, LA, LR 382/2, Order of the Styrian Provincial Administrator regarding the dispute between Baron Hans Jakob Herberstein and Lady Ursula Kohler, 21 April 1629, Graz; StLA, LA, LR 1112/5, Report to the Inner Austrian Government regarding the church fair in Slivnica on Pentecost 1631, 30 January 1632, Graz; StLA, LA, LR 1112/5, Legal opinion on the tumult in Slivnica, 21 May 1632, Graz; StLA, LA, LR 1112/5, Committee report to the Styrian Provincial Administrator regarding witness testimonies in the dispute between Baron Hans Jakob Herberstein and Lady Ursula Kohler, 20 March 1630, Fram; cf. Koropec, 1995, 39–40.

31 May 1677 in an altercation with around a hundred largely unarmed subjects the Gallers had finally mustered for a show of force. Despite rightfully defending their lordship, several subjects and servants were imprisoned and rotted in jail until 1680, with some dying before release. The Ravno Polje administrator Matija Golob and subject Jurij Kreušl were convicted of killing a member of one of the most important Styrian noble families, with Golob exiled for life and Kreušl sent to lifelong forced labour (Hernja Masten, 2004, 51–58; Grahornik, 2021, 255–257; 2022, 272).

The use of violence in early modern disputes was not confined to lay people nor, when it involved the clergy, to confessional conflicts. For instance, in 1603, the abbot of the Žiče Charterhouse in Lower Styria opted for a large show of force in a dispute over fishing rights with the Lordship of Pogled, under Toman Zipnikh or Tomaž Cipnik, chief toll master of Croatia and Slavonia. The abbey allegedly sent three hundred of its people armed with axes, halberds and firearms 'fishing' in the contentious sections of the Dravinja River, prompting Zipnikh to file a lawsuit (Koropec, 1980, 277).

In most enmities among nobles, the overwhelming number of victims were easy targets – peasants. An enmity originating from a long-standing inheritance dispute between the gentlemen Fermo Qualandro and Simon Moscon, uncle and nephew from the Lower Styrian town of Ptuj, turned into open feud on 22 October 1654, recorded as 'disorder' in the sources. The main point of contention was the Qualandros' *Freihaus* in town. After Fermo occupied it with a handful of his servants and subjects, Simon marched forty of his armed subjects into town and tried to storm the house, thus breaking town peace. The assault failed after Fermo fatally shot Luka Pajnkiher, one of the attackers. Town authorities immediately stepped in and quickly brokered a truce between the relatives. This was helped by Fermo taking asylum[7] with the town's Minorites and his son Mark Anton becoming a burgher, thus obtaining the town's and its lord's, the prince's, protection. Fermo also acquired safe conduct from the prince, Emperor Ferdinand III, in order to prepare his defence. At first, he claimed that the shot was accidental, but successfully pleaded self-defence in court in the end. This was surely helped by Fermo becoming a Minorite himself in the meantime. On 23 June 1655, the court ordered him to pay 150 guldens in damages for the homicide, a third each to his victim's family (blood money or wergild), the town (fine) and a local chapel (atonement). Already in October 1654, his nephew had also paid a fine to the town for breaking peace. Not only was the homicide settled much like in the Middle Ages – self-defence and the social status of the culprit and the victim played an important role – but the feud was also conducted according to the rites of publicised grievance, violence, mediation, truce and peace, although the language changed, with *Absage*, *Fehde*, *Urfehde* or *Sühne* being absent from these sources (Oman, 2021, 121–141).

7 At least until the early eighteenth century, in the duchies the monasteries and the Teutonic Order, e.g. their Graz house in 1713, were sometimes still able to grant asylum to killers, generally noblemen (Pirchegger, 1976, 171), to prevent revenge and facilitate mediation. The long survival of ecclesiastic asylum in Inner Austria makes the territory more akin to Italy, rather than Germany (cf. Carroll, 2023, 57, 254–255).

The language of dispute settlement changed in accordance with the framework of the new law courts and penal codes introduced after 1495. In general, violence was illegal and so it had to be legitimised using legal writs. In their lawsuits, nobles decried the violence of their peers as breaches of provincial or Imperial peace and presented their own actions as self-defence. Noble feuds in the early modern Inner Austrian duchies seem to have been conducted with a combination of litigation and carefully calibrated small-scale violence, which could be both construed as reasonable and leave open the potential for an out-of-court settlement. The very high numbers of duels fought in this period – forty are recorded in Graz alone in 1670–5, with forty more by 1700 (Zahn, 1888, 163, 170)[8] – should caution us against assuming a decline in noble violence, especially since there was a strong overlap between notions of credit and honour (Carroll, 2023, 15, 185) and material interests. For instance, it was over unpaid debts that in 1666 a young von Grienpach twice assaulted his debtor Georg Sigmund Roll von Rollau at the eponymous manor near Voitsberg in Western Styria, first with six and the second time with 30 men (Zahn, 1888, 155).

Hence, it remains to be seen how much of a stark contrast to the three duchies the County of Gorizia was, where the arrival of many wealthy nobles from Italy sparked competition with the old nobility, which also led to factional violence (Makuc, 2015, 218–226). For instance, in the 1660s, the enmity between several leading noble families in Cromòns (Neuhaus, del Mestri, Manzano, della Torre or Thurn), going back to the sixteenth century, once again broke out into open feud. As many Gorizian noble families had possessions on both sides of the Imperial-Venetian border, they could make use of their retainers or mercenaries (*bravi*), who were also hired from the large number of bandits in the Terraferma (Makuc, 2015, 214), which fed the violence in Gorizia.[9] Its Provincial Governor, Count Carlo della Torre (Thurn-Valsassina), used the *bravi* via his local allies to twice ambush the Barons and brothers Francesco Maria and Nicolò Neuhaus, leading to the latter's death on 6 June 1667. Francesco retaliated on Carlo on 24 May 1668, with an unsuccessful ambush on the governor's carriage, but still killed his driver and a fellow traveller, Cristoforo Bonomo from Trieste. The Inner Austrian Government banished Francesco for life, seizing his family's estates and razing his house in Cromòns. If caught, Francesco was to be hanged and quartered, and if killed by another bandit, the killer's banishment was to be annulled along with being awarded a bounty of 2,000 ducats, or twice the sum if the baron was slain outside the Habsburg lands. Francesco's hopes for obtaining a pardon from Emperor Leopold I were raised by della Torre's life-imprisonment in 1671, due to

8 Cf. Grahornik, 2022 and his paper in this issue. For more on intra-elite violence in Graz, cf. Zahn, 1888, 154 ff.

9 Bandits from the Terraferma occasionally crossed into the Inner Austrian duchies, even in larger numbers (AS 1, šk. 251, fasc. 131, The order of Archduke Maximilian against incursions of Italian bandits into Carniola, 17 December 1593, Graz, transcript from 20 June 1597; Makuc, 2015, 219–220). Most infamously, in 1512, enemies killed the banished Antonio Savorgnan in Carinthia in front of Villach's parish church (not cathedral) of St James, as part of the Zamberlani-Strumieri feud that ravaged neighbouring Friuli (Muir, 1998, 137–140).

his indirect involvement in the anti-Habsburg magnate conspiracy by Hungarian and Croatian nobles, and finally realised in 1683, against the backdrop of the imminent Ottoman invasion. This was similar to della Torre's own banishment for killing Baron Ulderico Petazzi at Švarcenek castle in 1651, which was annulled in 1658, once he joined the Imperial army to fight the Swedes in Silesia. On 24 July 1684, nine months after the Ottoman siege of Vienna, Carlo and his sons made peace with Francesco and his sons by Imperial order (Makuc, 2019).

TOWNSPEOPLE

Contrary to the nobility, relinquishing one's right to vengeance had already been a prerequisite for becoming a burgher since the thirteenth century, beginning in Italy. Oaths between burghers and town councils, by which the former renounced the use of violence in disputes and the latter granted them protection in turn, were the foundation of urban communities as legal communities of peace,[10] summed up as *Stadtfriede* in German. Breaking this oath resulted in losing the protection of said peace, particularly following grievous and repeated offences. Concurrently, the oath bound burghers to intervene in conflicts among their neighbours and assist them if they were assaulted. In the Empire, until this duty was completely taken over by city watches or soldiers in the eighteenth century, bearing arms to defend the city and keep its peace remained a key symbol of the burghers' status and masculinity (Tlusty, 2011, 17). While this and the omnipresence of arms could easily exacerbate disputes, a complex set of extrajudicial (e.g. Pohl, 2003) and judicial rites and practices of dispute settlement and conflict prevention successfully kept much of the interpersonal violence in check. Town authorities mainly strove to prevent violence and facilitate settlements, also favouring them over litigation, which was often corollary to violence and regarded as an expression of enmity. Court sentences could also be considered unjust, because they granted success to just one party, which was contrary to the social ideal of balanced settlements framed as 'friendship' (cf. Broggio, 2021, 84) and underpinned by the Christian teaching of loving one's enemies and neighbours. Despite theological and secular reservations towards litigation, from the Late Middle Ages, law courts were generally a successful forum for pursuing one's enemies by airing grievances and demanding justice or sanctions (Smail, 2003, 1–14). Settlements included the restitution of the parties' honour and the reintegration of offenders into the community, even in homicide cases, with councillors often accepting out of court settlements without further interventions. The role

10 At least since Max Weber (1978, 1252), the European late mediaeval and early modern towns have been regarded as those premodern societies to have come closest to realising the ideals of non-violent dispute settlement, but it would be inaccurate to argue (cf. Schwerhoff, 2004, 235) that measures for violence prevention were their invention. Anthropological studies have early on demonstrated that these ideals and efforts are universal and predate the first towns (e.g. Darovec, 2017).

of town authorities as mediators and arbiters in conflicts strengthened throughout the Middle Ages, while in the early modern period they sought to monopolise this role, including by sentencing growing numbers of culprits to the scaffolds, galley slavery or lifelong[11] banishment. On the continent, this process was aided by the accelerated reception[12] of Roman law and the introduction of the so-called strict inquisitorial procedure, but was not concluded before the end of the seventeenth century (Povolo, 2015). Furthermore, generally only the gravest and repeated criminal offences were met with the full severity of the law and already in the early seventeenth century judicial torture and executions were dropping across Europe, after rising since the late 1400s (Beam, 2020, 389–390). Especially in small towns, which also predominated in Inner Austria,[13] magistrates had to rely on the broad participation of all burghers in administering town matters, including justice, as courts were dependent on the cooperation of the townspeople. In fact, well into the early modern period, dispute settlement amongst townspeople was predicated particularly on informal mechanisms of interpersonal relationships and rites of sociability within the family, neighbourhood, confraternity or guild, with a strong component of mutual control, rather than on institutional proceedings (Eibach, 2007, 14–21; Eibach & Esser, 2007, 6–8; Behrisch, 2007, 45–46; Scheutz, 2007, 53, 61–63).

Across much of early modern Europe, traditional mechanisms of controlling violence and enmity came under strain due to political and social upheaval, which was the result of the Reformation and civil conflict (Carroll, 2023, 3–5), economic crises and natural forces such as epidemics (cf. Rose, 2016, 194–223), as well as rapid climate change leading to crop failures. While the politically quite stable Inner Austrian towns – aside from Gorizia – had been spared the factional violence that ravaged plenty of Italian cities and, compared to many in the Empire, remained rather peaceful even at the height of the confessional strife, there were plenty of issues that could lead quotidian disputes to violence. By the early seventeenth century, the princes' fiscal and mercantile policies, as well as, to a lesser degree, Ottoman and Venetian wars, severely disrupted particularly the important trading routes between Italy and Hungary crossing the region (Pickl, 1992, 205–207), causing economic stagnation or decline until the early 1700s, while smaller towns also struggled with the competition from rural trade (Štih & Simoniti, 1996, 175). The princely circumscription of urban autonomy growing since Ferdinand I (Pirchegger, 1976, 181) gained new momentum with the Counter-Reformation, which mostly hit urban elites (Oman, 2020, 333), and with miner and peasant revolts fed political and social anxiety, while plague epidemics decimated the population, particularly in the seventeenth century (Travner,

11 This fuelled banditry and filled the ranks of inimical factions (Povolo, 2017; Casals, 2019). Cf. also Llinares Planells in this issue.

12 In the Habsburg hereditary lands, the reception of Roman law was slower than in much of the rest of the Empire, dragging out into the early 1700s (Žepič, 2022, 29–30).

13 The population of 1660s Graz has been estimated at ca. 14,000 (Straka, 1957, 25) and for coeval Ljubljana at ca. 6,200 (Valenčič, 1955, 182), while other towns were smaller, for the most part substantially.

Fig. 3: Ljubljana, Johann Weikhard Valvasor, 1689 (Wikimedia Commons).

1934). Additionally, while Inner Austria was not directly affected by the ravages of the Thirty Years' War (e.g. Kočevar, 2020), its economic fallout was substantial, especially due to the severe devaluation of currency, and in 1635 also contributed to the second largest peasant revolt in Inner Austria (Koropec, 1985, 98–103).

Research has yet to determine if these crises led to an uptick of interpersonal violence in Inner Austria more broadly, but some figures show that they might have had local impact, for example, in the Carniolan capital of Ljubljana. While none of its criminal court registers survive, Ljubljana makes for an important case study, as it has one of the best preserved town archives from all of the Habsburg hereditary lands (Golec, 2005, 142). Its town registers also survive for eleven of the tumultuous twenty-two years between the beginning of Ferdinand II's reign and his Counter-Reformation policies and the factual end of the Uskok War with Venice in 1618 (de jure a year prior), a period that also included most of the Long Turkish War (1593–1606), although the fighting did not spill into Carniola (Hozjan, 2021). While the Ljubljana registers for these years comprise just a fifth of the 56 years recorded in the surviving registers from 1521–1671,[14] they contain two-fifths of all the therein

14 A total of 123 registers survive from 1521–1786. For up until 1671, they are also available online: http://zal-lj.splet.arnes.si/project/zapisniki-ljubljanskega-mestnega-sveta-1521-1671.

recorded homicides[15] (10 of 26) and threats with arms (5 of 13), half of all wounds made with weapons (3 of 6), almost a third of all verbal injuries (40 of 131) and over a quarter of all brawls (12 of 42) (LJU 488, Cod. I/1–40). Similarly, almost two fifths of all executions (31 of 78) from the 1581–1671 period were carried out between 1596 and 1618 (Fabjančič, 1944–45, 92–98). Still, the correlation of these figures and an exacerbated political, economic and social climate remains hypothetical, as half of the registers for the period are missing and no criminal registers survive, while the rise could also just have been a result of more diligently kept records.

Despite the registers largely containing *causas minores*, a few homicide settlements that still included the payment of blood money and atonement (*geistliche buße*) were recorded in Ljubljana, as well as elsewhere in the territory. Penances were already in decline in homicide settlements in the seventeenth-century Empire, having been largely converted into cash payments (Carroll, 2023, 238). In Upper Styria in 1698, the Oberwölz burgher and tailor Balthasar Kauffman had to pay for the renovation of a local church for killing the driver Mathias Paurer. Kauffman managed to present his case as involuntary manslaughter, since the victim drove for another three hours after he had struck him on the head with a loaded carbine, allegedly in anger (*zorn*) due to Paurer's drunken insults. The administrator of the Lordship of Rothenfels, under the Prince-Bishopric of Freising, first proposed that Kaufmann pay 20–25 guldens for the renovation of the local church, but as he was destitute and had a small child, this was changed to helping renovate in person, which was soon approved by Emperor Leopold I (StLA, Rothenfels, K.115/H.362, Report by the administrator of the Lordship of Rothenfels, 17 March 1698, Rothenfels; StLA, Rothenfels, K.115/H.362, Emperor Leopold I's decree to comply with the supplicant's request, 9 April 1698, Graz). In 1681, the Oberwölz town judge Balthasar Khibler had no problems in settling his killing of a subject of the nearby Lordship of Sankt Lambrecht of the eponymous Benedictine abbey with a 'substantial sum', because he had gotten rich from the Lower Styrian wine trade. The Lordship of Rothenfels was suspicious of the deal, perhaps being or feeling left out, but nothing seems to have come from the inquiry, with Khibler denying the unknown accusations with the town council's support (StLA, Rothenfels, K.115/H.362, The Lordship of Rothenfels to the Oberwölz town judge, 25 June 1681, s.d.). In a case from late sixteenth-century Ljubljana, when Domenigo Rohso unsuccessfully applied for citizenship, he also claimed to have paid some kind of atonement for killing someone (LJU 488, Cod. I/15 (1594), f. 73r–74v, 28 March 1594).

There are a few more homicide settlements from Ljubljana, but aside from a case involving two peasants (see next chapter) none mention atonement. In 1665, the father and 'entire kin'[16] of Lukas Maul rejected the extension of his killer's safe conduct and demanded the initiation of criminal procedures against the burgher and butcher

15 At least three did not occur in Ljubljana. In major criminal cases the town judge also had jurisdiction over six provincial courts in the neighbouring countryside (Golec, 2005, 140).

16 This formulation usually meant up to the third (Broggio, 2021, 98) or fourth degree (Frauenstädt, 1881, 16).

Fig. 4: Oberwölz, Georg Matthäus Vischer, 1681 (Wikimedia Commons).

Jurij Veitl. Emperor Leopold I granted the family's request, but in the end there was no 'revenge by executioner', and Veitl managed to settle for the homicide (StLA, IÖreg, Cop. 1665-I-53). The Mauls' tactic was probably to simply force a better or more honourable deal. Not all settlements were successful in the long term. In 1594, a peace between two burghers was almost undermined by competing interpretations of compensation, when Marco Vidalbo once again demanded that Josef Knoblauch finally pay all the damages for beating his wife, who had become deceased in the meantime. Knoblauch rejected this, replying that he had already paid for the apothecary and the barber surgeon, and refused to pay the remaining 44 guldens from the agreed upon 10 gold ducats[17]. Vidalbo remained resolute, but emphasised that he was still behaving in a 'neighbourly manner', not trying to (re)start an enmity (*khein feindtschafft tragen wellen*). Despite his rather thinly-veiled threat, the council supported Vidalbo, demanding that Knoblauch immediately pay 20 gold ducats (LJU 488, Cod. I/15 (1594), f. 168r–169r, 8 November 1594). Threats could be more direct. In 1599, the glassmaker Zuan killed his colleague Francesco in a fight and afterwards threatened the widow with murder and arson, should she not settle, promising her blood money of 40 guldens should she testify that Francesco died of some malady rather than from his wounds. Zuan was arrested, but does not seem to have been executed (LJU 488, Cod. I/16 (1599), f. 50v, 72v–73r, 7 and 21 May 1599). Maybe

17 Possibly 50 guldens in Carniolan value (Ribnikar, 1976, 29). In Upper Styria and Carinthia, it was 30 guldens.

he was banished. Similarly, in 1610, the apothecary assistant Ferdinando Curzio was first sentenced to death for killing a man surnamed Bianchino, but then pardoned (Fabjančič, 1944–45, 93) and perhaps banished.

Because settling homicide was always challenging, already in the Middle Ages peace was often underpinned by written contracts, which could be upheld and enforced by judicial authorities (Smail, 2001, 98). In Ljubljana, after the burgher and merchant Blasius Rottheüsser was killed in 1634, Lorenz Raisinger, the guardian of his heirs and property, requested that the town council examine and ratify his peace contract with Georg Andreas von Apfaltrer zu Roj (Jablaniški). While there is no mention if the gentleman or one of his kin or people was the killer, the council supported Raisinger's reasoning for ratifying the settlement: 'to keep the peace and unity and prevent all enmity' (LJU 488, Cod. I/25 (1633–1635), f. 135v–136r, 21 July 1634).

Contracts were drawn up for settling other enmities as well, at least in more severe cases. The barber surgeon Janez Jurij Seršič and Adam Weiss had a quarrel for at least four years, which followed or was exacerbated by an obviously grave insult from Weiss in 1659. A year into their enmity, largely conducted with accusations before the town council, Weiss unsheathed his knife or single-edged sword (*messer*)[18] against Seršič. The barber demanded an extraordinary 1,000 gold ducats in damages for the offence, yet this sum was just an expression of outrage or means of pressure, as Weiss only paid 55 gold ducats upon settlement in 1663. This nearly fell through, because Weiss at first very sloppily signed the contract due to his 'bitterness'. He properly signed the contract only after Seršič threatened him with a seizure (LJU 488, Cod. I/30 (1659), f. 217r, 12 December 1659; LJU 488, Cod.I/31 (1660), f. 158r–v, 5 September 1660; LJU 488, Cod. I/33 (1633), f. 75r–v, 13 April 1663). Weiss' original insult might have been related to the duel Seršič fought with the merchant's assistant Andreas Pototschnikher in Graz in 1652, in which he lost a man, perhaps a second. Seršič demanded 1,000 gold ducats for the 'murder' from Pototschnikher's guarantor, Domenico Brogiol, perhaps his employer (LJU 488, Cod. I/28 (1653), f. 118v, 163v, 20 June 1653, 23 August 1653).

Enmities often originated from or were intensified by broken contracts, unpaid loans or debts. These were regarded as serious breaches of trust, which was the foundation of charity, good neighbourliness and the *bonum commune,* and closely related to honour (cf. Muldrew 1998, 123–129, 199–200). In 1548, Leonhard Kache and Anton Tischler formally declared enmity on each other (*an einander abgesagt*) due to an unpaid bill. While provincial (LGK, 1535, 5) and the town's (LMF, 1514, f. 5v) criminal codes stipulated death by the sword for *Absager,* the two men were put into burgher arrest (LJU 488, Cod. I/6 (1547–1548), f. 99v, 27 April 1548) rather than the town gaol, the Tranča, where serious offenders (Fabjančič, 1944–45, 90) were imprisoned. Since burgher arrest (*Bürgerarrest*) was envisioned as punishment for misdemeanours and a means to cool passions (Valvasor, 1689a, XI, 672; Scheutz,

18 The word could denote a knife or a type of single-edged sword used by commoners (Lazar, 2017, 100).

2007, 55), the men were likely forced to settle and had to pay a fine to the town court, although this does not preclude eventual banishment. Sixty years later, two members of the burgher elite fell out over a similar matter, but no formal declarations of hostility were recorded. The enmity between Jožef Mohorčič and Hans Cornion, both town judges at some time (Fabjančič, 2005, 34, 38), originated in an alleged breach of a wine-sale contract and broke out into violence when Jožef unsheathed his sword and with insults 'heatedly' chased Hans out of his house. On the street, Hans returned Jožef's insults and challenged him to come out (*hinaußgefordert*), but to no avail. Although challenging someone to come out of their home was forbidden, failing to respond was not without consequences for their honour (Schwerhoff, 2004, 230). The council stepped in before things could escalate, confining Jožef to burgher arrest against a surety of 100 gold ducats, as the initiator of the violence, and Hans against a quarter of the sum. Not wanting to make peace, Jožef defiantly renounced his burgher rights and thus his oath, effectively declaring enmity on Hans, but soon beseeched the council that he may keep them. The matter was settled *ex officio* within a week, against a surety of 200 gold ducats for keeping the peace, and Jožef's public apology to the council for his 'recklessness' (LJU 488, Cod. I/20 (1608), f. 127v–128v, f. 130r–131r, 19 and 26 September 1608).

In 1616, a dispute Jožef's widow Marija had with the lawyer Daniel Schwizer and his wife over her widow's support and a house she inherited from her husband also boiled over into grave insults. Marija claimed that the Schwizers inimically (*haddersichtigen*) (cf. Hader) threatened to kill her, unsheathing a sword or knife, yet this claim might have been only a defamatory tactic. In the end, the council supported the lawyer, even after he threatened to 'become his own judge' in the matter (LJU 488, Cod I/24 (1616), f. 136v, 240v–241r, f. 259v–260r, 23 June, 19 September and 3 November 1616). In the same year, Schwizer was at odds with another widow, Marusch Ugga, who managed to get rid of him as a witness in a property appraisal by stating that he was her 'known enemy' (LJU 488, Cod I/24 (1616), f. 163v–164v, 18 July 1616). Whereas theirs did not involve physical violence, a year prior it broke out in a dispute between the widow Maria Weixlbraun and Hans Kheisell or Kajzl and his wife. The widow sued the Kheisells for their serious insults and Hans' allegedly counterfeit promissory note. Kheisell's wife responded that her insults were *defensiue* not *offensiue*, since the widow first insulted her as an adulteress, while her husband maintained that his insults were in anger, because the widow had waylaid his wife in the street, assaulting her with words and blows. The council took the matter seriously and settled the matter *ex officio*, imposing a heavy surety of 100 gold ducats. This was confirmed by the parties shaking hands, whereupon the council declared them good friends once again. But only four days later the widow had already claimed that the couple had broken the settlement. Hans had to publicly apologise to her (again), but the council let the matter rest after the women shook hands anew (LJU 488, Cod. I/23 (1615), f. 117v–119v, 121v–122r, 9 and 13 July 1615). As with nobles, widows seem to have also been regarded as easy targets in urban disputes.

Insults and brawls were common in urban enmities, but weapons were rarely drawn, and if they were it was largely among the elite, as between Mohorčič and Cornion. In a similar case from 1541, Georg Tiffrer, a later *Bürgermeister*, came to blows with one Dr Gregor, a physician in the employ of the Carniolan Provincial Estates. Their dispute worsened into insults, followed by Tiffrer hitting the doctor on the mouth and attempting to strike him with his sword in front of the town hall. Bloodshed was only prevented by the intervention of another burgher. Wanting to settle the matter out of court in the most reciprocal manner possible, Tiffrer suggested that Dr Gregor strike him on the mouth in public, but made no mention of the drawn sword. The doctor rejected the offer and went to court, demanding that Tiffrer prove his insults or publicly take them back (LJU 488, Cod. I/4 (1541), f. 79r–80r, 17 June 1541). No details of their settlement survive, but nine years later, when Tiffrer fell out with Johannes Baptist Posch in the town council, their colleagues immediately intervened by placing them in burgher arrest and calling for an end of their enmity, recorded as 'ill will' (*vnguette* and *vnwillen*). They were released once passions cooled, with the council declaring them good friends again and stipulating a surety of 100 guldens (LJU 488, Cod. I/7 (1548–1549), f. 163v–164r, 180v, 17 June and 19 July 1549). The somewhat stern intervention by the council attests to either an enmity already at, if not over, the edge of physical violence, or it may have been predicated on Tiffrer's assault on Dr Gregor in 1541.

Killings remained a veritable threat. In Ljubljana in 1601, the Trieste-born Peter Černe (*Zörne*) or Piero Cergnia was accused by his wife Speranza and brother-in-law Francesco Pellizarol of threatening to kill them for their accusations of theft and adultery. They demanded that he face a criminal trial, but Černe managed to escape from gaol. When caught, he claimed that he did not care for the accusations, openly admitting to having had sex with other women as his wife had refused him intercourse for three years already, but rejected having threatened or stalked her. The siblings did not trust him and Pellizarol demanded assurances and surety (*versicherung vnd caution*) from Černe for himself and his sister. Once he provided these (and paid a presumably heavy fine), he was released and the council had the relatives settle amicably, thereby restoring 'tranquillity [peace] and unity' (*rhue vnd ainigkheit*). Still, seven years later, the matter prevented Černe from acquiring citizenship in Ljubljana. He regarded the rejection as an insult to his honour, which the council saw as a ridiculous claim, remaining adamant despite a princely order for Černe's admittance and his wife's pleas – these show that the peace had held (LJU 488, Cod. I/18 (1601–1602), f. 102r–103r, 14 May 1601; LJU 488, Cod. I/20 (1608), f. 50v, 52v–53r, 7 and 21 March 1608).

While Černe could not gain burgher status due to his threats, Balthasar Einkat lost his in early 1606, after threatening to kill the postmaster Michael Taller, a recurrent town judge and confidant of Tomaž Hren, the Prince-bishop of Ljubljana. The threats were due to Taller accusing Einkat of already having a wife in Vienna, when he was courting the daughter of the apothecary and town councillor Janez Krstnik Vrbec. In response, Einkat publicly stated at least twice that he will kill or shoot Taller with a

pistol and then 'make the Croatian jump' (*crabatischen sprung thuen*), likely to flee to the Croatian Military Frontier. This would be a case of so-called *Austretten* or 'stepping-out', namely out of the legal order and community, which among commoners was closely connected to *Absage* (Reinle, 2007). Einkat was jailed and, following a public apology to Taller and a surety payment to the court, banished – perhaps unjustly and only due to Taller's connections (LJU 488, Cod. I/19 (1605–1606), f. 95r–97r, 9 February 1606; Kos, 2016, 281–282).

Death threats also seem to have been very serious in a case from 1602, when Jurko Nadal accused Hieronymus Görzer, likely a gentleman, of having attacked him in enmity (*mit feindtlicher hant angriffen*) with two men on a public road. This originated in, or was exacerbated by, Görzer fornicating with Nadal's wife and stealing 800 guldens worth of assets from him. The adulterers were jailed, but Görzer was quickly released without the town judge's consent. He was soon caught in bed with another woman, fined 200 gold ducats and banished, in part also because of his and his brother's threats, probably to the judge. However, Görzer soon returned to Ljubljana, swaggering about town with his men armed with crossbows and pistols in an explicit show of enmity, which also broke town peace. Nadal not only demanded a restitution of the stolen goods (and his honour for the adultery) with a lawsuit, but also assurances that he would not come to harm. Görzer was again jailed and the council supported Nadal's demand for security. Essentially, this was an *Urfehde*, which, when provided, at least formally froze their enmity. The matter garnered the interest of the princely authorities, but was not completely resolved for a few years. Its exact end is unknown (LJU 488, Cod. I/18 (1601–1602), f. 235r–v, 240r–242r, 318r, 4 and 7 January 1602, 7 June 1602; LJU 488, Cod. I/19 (1605–1606), f. 181r–v, 4 August 1606; cf. Kos, 2016, 251).

Enmities with those of higher rank were the most dangerous (cf. Beuke, 2004), but social capital could play an important role. This was the case in a dispute between the Žalec market-town councillor Johann Christoph Pilpach and Baron Ferdinand Miglio from the nearby Plumberk manor in Lower Styria, which erupted into an open feud in 1681. With the help of soldiers whom Pilpach acquired from the Counts of Strassoldo from Krško in Lower Carniola, he raided Miglio's manor during his absence, threatening his administrator Jakob Galič with killing the baron should he try to retake Plumberk. It is unclear for how long Pilpach occupied the manor, but on 12 September 1681 the nobleman avenged himself by ransacking his house in Žalec during his absence, essentially mirroring Pilpach's actions: threatening his kin and servants with violence and death, stealing his horses and slaughtering his poultry. While the origins of their enmity are unknown, Pilpach's plundering of Plumberk suggests that it might have been due to Miglio's debts to the affluent market-burgher. The raid on the manor was co-organised by Pilpach's son-in-law Gregor Rozman, who secured help from the Strassoldos. The exact nature of their relationship with the counts is obscure, but had to be close for an important noble family to lend its soldiers to two market-burghers from another duchy. Maybe the Strassoldos' help was related to disputes they themselves might have had with Miglio. Pilpach's social

capital was probably also strengthened by the marriage of a lesser line of the Valvasor noble family to the Pilpachs from Žalec in early 1680 (Golec, 2017, 385). These connections likely levelled the field once his dispute with the baron broke out into violence. Following the raids and after failing to obtain satisfaction from Miglio for the attack, Pilpach opted for a recourse to law, but the market-burgher's attempt to serve the nobleman a writ ended with Miglio cudgelling Pilpach's messenger nearly to death, regarding the attempt as sheer insolence. Despite going to court, the settlement of their dispute, or at least the violence, was likely extra-curial, as was common in enmities among the elite. Similarly, the only intervention by princely authorities seems to have been a demand that Miglio accept the writ, although attacks on the socially superior upset the social order. There were certainly no grave consequences for Pilpach, who in 1684 is attested as the Žalec market-town judge. All of this suggests that the social differences between the enemies were formal rather than factual, underpinned by Pilpach's connections to influential noble families and, perhaps, also by the Miglios' rather recent (Naschenweng, 2020, [1612]) rise to nobility. Pilpach's 'equality' with the baron during the feud probably also helped him to improve his social standing. Peace seems to have been made by Candlemas 1683, as a day later Pilpach's wife Ursula Elisabeth and his former enemy Jakob Galič became godparents to a child of one of their market-town neighbours (NŠAM, Župnija Žalec, KMK 1661–1683, 3 February 1684), and settlement generally included 'all the people' of the feuding parties.[19]

This feud was likely exceptional, and, as can be deduced from the figures for Ljubljana, serious insults were the most common public expression of enmities among townspeople, while the number of unarmed and especially armed fights was low, despite the burghers' duty to carry arms, which attests to the long survival of traditional rites of violence prevention. However, the recorded cases should not be seen as the total figures of breakdowns of good neighbourliness. Not only because many registers do not survive, but also due to the often poorly kept records and the continuation of out-of-court settlements.

For comparison, in the small[20] Lower Carniolan town of Višnja Gora, some 25 kilometres to the southeast of Ljubljana, verbal assaults predominated even more clearly than in the provincial capital. Between 1673 and 1750,[21] sixty insults – one

19 StLA, LA, LR 723/2, Record of the first trial between Johann Christoph Pilpach and Baron Ferdinand Miglio, s.d., s.l.; StLA, LA, LR, 723/2, Main evidence article by Baron Ferdinand Miglio regarding Johann Christoph Pilpach's lawsuit for an injury by acts on 26 October 1681, s.d., s.l.; StLA, LA, LR 723/2, Johann Christoph Pilpach's request to the Styrian Provincial Administrator regarding Baron Ferdinand Miglio, 23 September 1682, s.l.; StLA, LA, LR 723/2, Dr Jakob Sauer to the Emperor etc. regarding Johann Christoph Pilpach, s.d., s.l.; StLA, LA, LR 723/2, Imperial Privy Councillors to the Styrian Provincial Governor regarding Pilpach and Miglio, 30 October 1682, s.l.; StLA, LA, LR 723/2, Report to the Styrian Provincial Governor regarding the dispute between Ferdinand Miglio and Lorenz Frazioli, received on 28 June 1687, s.l.; StLA, LA, LR 7232, Report to the Styrian Provincial Governor regarding the dispute between Ferdinand Miglio and Lorenz Frazioli, received on 20 October 1687, s.l.

20 For the late 1500s, its population has been estimated at ca. 500 (Vilfan-Bruckmüller, 1978, 158).

21 With gaps for the years 1676–81, 1706 and most of 1682 (AS 166, fasc. 2).

Fig. 5: Višnja Gora, Johann Weikhard Valvasor, 1689 (Wikimedia Commons).

as 'inimical injury' (*feindtlichen iniurirt*) in 1719 – were recorded compared to nine brawls, two stabbings and one assault with an axe; the graver altercations do not seem to have been connected. Much like the standoff between Mohorčič and Cornion in Ljubljana, the assault with an axe in 1674 originated in a dispute over a wine sale between the town councilman Marx Raab and a man surnamed Mary, with Raab having been allowed to 'forever amicably settle' with his victim, even though he at first rejected the surety of 100 ducats and serving time in burgher arrest (AS 166, fasc. 2, Town court register 1673–1674, 21 August 1674). Likely, he was later forced to accept both. To the contrary, Mihael Meden, who stabbed Andrej Kastelc with a knife right below the heart in 1702, was arrested outright and had all his property impounded by the council, until he paid appropriate satisfaction to his victim (AS 166, fasc. 2, Town court register 1683–1710, 8 April 1702). Similarly, Gašper Šparovec had to remain in arrest at the town hall until he paid three guldens damages to Gregor Markovič for stabbing him in the stomach with a fork (AS 166, fasc. 2, Town court register 1707–1753, 29 December 1714). As in Ljubljana, settlements for various affronts in Višnja Gora also generally included fines and sureties and were demonstrated by public apologies and shaking hands. Local clergy were not exempt. In 1674, the vicars Jernej Mantvan and Mihael Poderžaj settled following the town council's intervention, after having often publicly threatened each other. The council stipulated a surety of 10 ducats and corporal punishment to keep 'quiet and safe' (AS 166, fasc. 2, Town court register 1673–74, 21 June 1674). In the 1600s, the town court sometimes stipulated burgher arrest lasting from a few hours to a couple days,

which, from 1714, seems to have become the norm for all affronts (AS 166, fasc. 2, Town court register 1673–1674; AS 166, fasc. 2, Town court register 1683–1710; AS 166, fasc. 2, Town court register 1707–1753).

What settlement generally looked like is perhaps best demonstrated by a Ljubljana case from 1569, when the town council had to intervene in the inheritance dispute turned bitter lawsuit that Erazem Naglič and his wife Agnes had with the other heirs of Blaž Sallitinger, Agnes' father. Erazem, likely found to be the instigator, had to pay 50 crowns for the upkeep of town fortifications and publicly apologise to his adversaries, with both sides then having to end their 'ill will' per decree of the town authorities and 'due to charity'. Settlement was confirmed and demonstrated by both sides shaking hands before the council and 'publicly declaring and vowing to settle with and forgive one another for everything and to forthwith have naught but love for each other as well as, for God's sake, to avoid all harm', whereupon the council declared them good friends again, emphasising that the settlement was 'without harm to their honour'. Again, this was a mutual renouncement of enmity or *Urfehde*, although the term does not seem to have been used in early modern settlements. No surety is recorded, but it was likely stipulated, since the spouses were urged to refrain from renewing the matter either amicably or by law (*guetlich noch rechtlich*), i.e. out of or in court; as certainly was the other party (LJU 488, Cod. I/9 (1568–1569), f. 219r–222r, 9 July 1569).

Sometimes, the clergy had to intervene in enmities at the behest of secular authorities, like in Ptuj in September 1642. The Inner Austrian Government ordered the parish priest to mediate between Hans Sigmund Khockerl and his enemy (*feindt*) or adversary (*widersacher*) Matej Sirc, who had Khockerl arrested over a debt in August, and to 'make them good friends again'. Their enmity seems to have been settled in early 1643, when Khockerl was ordered to go to confession and partake in communion by Candlemas (StLA, IÖReg, Cop. Protocol 1642, K and P; StLA, IÖReg, Cop. Protocol 1643, P). It was likely the priest's involvement that brought such atonement into the settlement, since this, when not specified for homicides, was usually just a payment of wax or candles.[22] In fact, mediation in enmities long remained a key social obligation of Church authorities and the clergy. In seventeenth-century Gorizia, where the situation in Inner Austria was direst, the Jesuits especially were involved in peacemaking among feuding nobles (Makuc, 2015, 220), as they were among all classes elsewhere in Catholic Europe (Bossy, 2004b). For the three duchies, the role of Jesuits and Capuchins in peacemaking remains to be investigated,

22 In Ljubljana, a payment in wax to the town's Corpus Christi confraternity or one of the mendicant orders was thrice stipulated for 'bad behaviour' and 'depravity' in 1635–6 (LJU 488, Cod. I/25 (1633–1635), f. 409r, 3 December 1635; LJU 488, Cod. I/26 (1636), f. 180r–v, 292r–v, 4 July & 19 December 1636). In Višnja Gora, it is recorded for insulting the town judge in 1701, and for theft and a brawl the next year (AS 166, fasc. 2, Town court register 1683–1710, 22 August 1701 & 24 October 1702), whereas in 1727 in the Upper Styrian market town of Niederwölz, for insulting and beating a sexton, a subject bought a couple of candles for the local church of his own volition (StLA, Rothenfels, K.108/H.343, Provincial court register 1723–1743, f. 13v, 29 April 1727).

but parish priests were obliged to report on hatred (*odium*) between individuals and families to their superiors until the late eighteenth century (Ožinger, 1993, 76). The clergy also mediated in criminal cases for lighter sentences or pardons. In Ljubljana in 1545, a man surnamed Plevnik was exiled for three years, but was able to keep his right hand – perhaps sentenced for perjury (LMF, 1514, f. 3v) – following the intervention of the cathedral chapter and the prince (LJU 488, Cod. I/5 (1544–1545), f. 177v, 25 September 1545). A few years later, when several potters allegedly beat Hans Marincelj to death, the chapter likewise intervened on their and their wives' behalf, so they could obtain safe conduct. It is unknown if the bishopric was successful for all of them, although at least Mihael Babst was acquitted (LJU 488, Cod. I/8 (1551–1552), f. 113r–114r, 133v–134v, 6 February & 23 March 1552).

The Ljubljana cases of dispute settlement show that among Inner Austrian townspeople the word enmity and its key synonyms expressing hatred, envy, discord, bitterness or resentment – as opposites of love, friendship and concord – long signified a formal state of hostility, even if they were rarely recorded; this happening only 15 times from 1521–1671. In fact, most recognizable enmities were never recorded as such. The majority were ultimately settled amicably at the town hall, at least as long as no one was killed or seriously injured, as was common in the Empire (cf. Nowosadtko, 2004, 15). Still, if the killing could be defended as justified, or at least unpremeditated, settlements with a combination of blood money, atonement and fines long remained in use. Town courts and councils retained their role as mediators and arbiters in enmities, underpinned by community mediation, and sometimes with the clergy's help. Prompt reconciliations for affronts and non-fatal violence with public apologies, forgiveness and declarations of friendship and neighbourliness, confirmed by handshakes, remained the norm, especially if acts could be presented as a defence of one's honour. Often, the councillors suggested out of court settlement to the parties, so they would avoid the costs (and animosity) that litigation would entail. For more obstinate parties, settlement had to be enforced *ex officio*, usually with threats of heavy fines, prison sentences, corporeal punishment or banishment. Settlements made at the town hall could also be enforced and were often safeguarded by substantial sureties[23] for keeping the peace. Presumably, and apart from the most affluent defendants, fines and sureties were at least in part paid for by guarantors from the defendants' kinship and friendship networks, giving them a say in renewing disputes (cf. Broggio, 2021, 137–141). All of this enabled the long survival of traditional practices of dispute settlement and largely prevented enmities from erupting into serious violence. Thus, when the market-town ordinance for the Upper Styrian (Bad) Aussee from 1568 stipulated that the judge and council are 'not to suffer any known enmity' (Mell & Müller, 1913, 12), this likely meant that they had to strive to settle it amicably, not outright or severely sanction it. Until local courts

23 In Ljubljana also twice recorded as *verschreibung* (LJU 488, Cod. I/12 (1575), f. 207v, 5 December 1575; LJU 488, Cod. I/25 (1633–1635), f. 25r, 3 March 1634) and once each as *cautio* and *pürgschafft de non offendendo* (LJU 488, Cod. I/28 (1653), f. 205r, 28 November 1653; LJU 488, Cod. I/36 (1667), f. 123r, 20 June 1667).

of law lost their autonomy towards the end of the eighteenth century (Kambič, 2005, 209–210, 213–216), Ljubljana in 1791 (Golec, 2005, 141), it is unlikely that the system changed much – this seems to be corroborated by the situation in the countryside, where conducting and settling enmities was very similar to that in towns.

PEASANTS

Most of the early modern Inner Austrian population worked the land as peasants, generally as subjects of secular and ecclesiastical lordships, while particularly in Carinthia and Upper Styria larger numbers of plebeians also laboured as miners and ironworkers. Free farmers were few. In the late fifteenth and early sixteenth centuries, it was the countryside that suffered most under Ottoman incursions that devastated whole swathes of Inner Austria, chiefly the south and east, while Venetian wars ravaged Gorizia in the early sixteenth century and decimated Istria in the early seventeenth. At least Inner Austria was spared the warfare that beset much of the early modern Empire up to and including the Wars of the Spanish and Austrian Successions. After the early 1530s, it also avoided most of the fighting harrying neighbouring Hungary and Croatia, only occasionally spilling into eastern Styria with the incursions of anti-Habsburg Hungarian forces (Kovačič & Slekovec, 1905; Pirchegger, 1976, 128–129). While the bulk of Inner Austria enjoyed peace, peasants were hit hardest by the economic fallout from these invasions and wars. Moreover, even in peacetime their situation continued to worsen, especially due to steadily growing feudal demands and princely taxes, periodically aggravated by plague epidemics and poor harvests, exacerbating existing conflicts in the village world of limited goods. Commercial competition with towns also sometimes led to violence. For instance, from the sixteenth to the eighteenth century, citizens of Trieste often raided the church fair in Duino/Devin and in 1565 burned down the village of Lokev in neighbouring Gorizia because of its fair (Vilfan, 1944, 19–22). Yet, from the late fifteenth to the early eighteenth century, it was particularly the rising fiscal pressure that led to several[24] local revolts and a few large ones that spilt across provincial borders, the latter mostly by Slovene[25] peasants. The largest two, in 1515 and 1635, resulted from the economic impact of Maximilian I's war with Venice and the Thirty Years' War (Štih & Simoniti, 1996, 180, 224–234).

In the countryside, provincial and manor or patrimonial courts, with few judges and lawyers trained in Roman law until well into the eighteenth century (Škrubej,

24 Their frequency alone refutes Otto Brunner's (1990, 69) thesis that Inner Austrian peasants were very loyal to their lords, which he predicated on the lack of sources on peasants' feuds with nobles.

25 Hence, the large revolts by chiefly Slovene peasants in 1515, 1573 (with Croatians), 1635 and 1713 are an important segment of Slovenian cultural memory and national history (e.g. Čeč et al., 2014; Jerše, 2017; for neighbouring territories, cf. Rauscher & Scheutz, 2013). Among German-speakers, the largest was the Upper Styrian peasants' and miners' revolt of 1525, connected to the German Peasants' War. Schladming joined the revolt after the miners threatened it with a *veindbrief* (Brunner, 1990, 77, n. 2), then lost its town privileges for revolting (Pferschy, 1966, 126–127).

2012, 216–224), administered justice much like courts in towns, with the rural communities and their elders playing a key part in the mediation and settlement of conflicts. Since the Middle Ages, dispute settlement in the countryside was regulated according to local statutes or *Weistümer,* which were legal customs recorded in cooperation between the lordship and experts in customary law, either by the lordship's demand or per request of its subjects (Dolenc, 1935, 118–119; Obermair, 2015, 108–111). In the early modern period, the mediaeval statutes' regulation of homicide and feud was replaced by penal codes at the normative level.

In criminal matters, peasants were under the jurisdiction of provincial courts, yet as very few records of major crimes survive, available documents are chiefly about minor crimes such as insults, beatings and brawls. An important exception are the registers of the Lordship of Bled in Upper Carniola, which contain a number of homicide settlements from the mid-seventeenth century.[26] On Palm Sunday 1656, Hans Mušan made peace with the family of Jakob Špetič in front of the Church of St John the Baptist in the village of Zasip, where Špetič had been killed and buried. He died the previous summer at the local church fair, after Mušan hit him on the head with a heavy club (cf. Fig. 6). In order to be granted princely pardon, Mušan had to regain the 'love and friendship' of his victim's kin, who demanded that he pay them for the appropriate food and drink, which demonstrated reconciliation, and as atonement donate a mass garment to the church in Zasip and pay for thirty masses to be held there in the next three years. Once he swore to do that, the victim's 'entire kin' pledged to no longer hold anything against him. The settlement was testified to by twenty-seven witnesses, including a local priest and nobleman (AS 721, kn. 21 (1655–1662), 9 April 1656). At least some of them should be regarded as mediators and guarantors of the peace.

Peace could be made long after a homicide. Gregor Knaflič killed Mihael Stojan in 1645, but it took him over a decade to settle with his widow Urša, their two young daughters Jera and Urša, and his next of kin; certainly because he had fled. In 1657, Knaflič made peace of his own volition (*wilkhierliechermassen*) before the court, once he attained the Stojans' 'full pardon', for which he had to pay his victim's daughters 25 guldens and almost three metres of coarse linen or hemp fabric within eight days, probably for their dowries, as well as pay several masses for Stojan. Five to be held at the Bled parish church of St Martin and 'at least' thirty at *Khostouiza* (perhaps St Andrew in the village Gosteče near Škofja Loka, cf. Kosi et al., 2016, 297), likely because the victim was killed and/or buried there. Once Knaflič swore to pay, the court declared the *widerwertigkheit* or enmity (Widerwärtig, 2a) to be over. Knaflič also had to pledge against a surety of 10 gold ducats or 30 guldens[27] not to molest or disturb his victim's widow, children and kin, either sober or drunk

26 Even if there was an upswing in homicides related to the suppression of the 1635 revolt, barely any sources on major crimes from the regions where it took place survive to corroborate this.

27 Presumably. This rate is given in coeval Upper Styria and Carinthia, where a ducat equalled 3 guldens, a crown 2 guldens and a thaler 1.5 guldens (StLA, Rothenfels; KLA 22).

(apparently a common excuse), in the street or in inns. Peace was made in front of eighteen witnesses, including Stojan's widow, daughters, sister Jera Hrastnik and 'closest aunt' Jera Potočnik (AS 721, kn. 21 (1655–1662), 7 April 1657).

In contrast, in 1654, swift peacemaking was facilitated by the culprits' flight and, quite likely, by the penitentiary season of Lent, after the four Svetina brothers beat Peter Jakopič to death on Shrove Monday. Matevž was imprisoned while Blaž, Hanže Jr and Matija fled the duchy, but it was unclear who dealt the fatal blow. In their stead, their father Hanže Senior requested peace from Peter's widow, brothers and rest of kin. The families reconciled by late April, after Easter. The victim's family accepted the father's request for settlement and agreed that all four of his sons were to be given 'true and full peace' and safe conduct (to be able to receive princely pardon), pledging not to pursue the brothers upon their return home and to forgo all enmity (*feindtschafft*), vowing instead to live with them 'in good neighbourliness as is becoming'. In exchange, Hanže pledged for himself and his family to give Peter's kin no cause for anger or ill will (*zorn oder widerwillen*) and forever remain in peace and good neighbourliness with them. After peace was made, the youngest of the brothers who fled, Hanže Jr, could return home immediately, while the other two had to remain in exile for the likely customary period of a year and a day, whereupon they could safely return home. Settlement included blood money for the widow: 10 crowns for the support of her underage child to be paid as soon as possible and a plot worth 30 crowns, plus the customary interest. This was not a meagre sum as 40 crowns or 80 guldens could equal the price of two farms (Kotnik, 1997, 48). Hanže also had to pay 35 crowns in legal fees, while a surety of 2 gold ducats was set for keeping the peace (AS 721, kn. 20 (1652–1655), 10 and 25 April 1654).

There is no mention of atonement or the location of this settlement. In 1637, Martin Mencinger, Wallandt Schiller and Andrej Prešelj, who beat Pavle Tišal to death in a brawl, made peace with his kin at 'a church fair in front of many people', but still had to have the settlement confirmed by the provincial court. The court agreed that blood money of 40 guldens would be paid to Tišal's relatives: 10 to his mother, 20 to his brothers (including legal fees), and 10 to the rest of his kin. The court also ordered the families to keep 'peace and concord', while the register specifies no surety (AS 721, kn. 18 (1636–1640), 27 April 1637). What's more, the family might have had to pay at least part of the sum back after 1639, when the court ruled that Tišal did not die directly from his wounds and the perpetrators were pardoned (AS 721, kn. 18 (1636–1640), 3 August 1637; AS 721, fasc. 6, Archducal pardon of three subjects for the death of Pavle Tišal, 3 January 1639, Graz).

Not all were so lucky, even if they managed to settle. In 1593, the young thief Martin Kačar broke into the house of Gregor Privec, a peasant from Studenec near Ljubljana. Woken up by the commotion, Privec rushed after Kačar with a sword, stabbing him to death. He was arrested and tried the next year. Following witness accounts, his lawyer argued that Privec, 'an honourable man', acted in defence of his property, while the 'known thief' resisted capture, and that the killing was not due to enmity or a grudge (*grollen*), essentially revenge, which were aggravating

circumstances. Privec had to publicly apologise for the deed, pay Kačar's mother 10 guldens of blood money, atone in an unspecified manner and spend a year digging ditches at the Karlovac fortress in the Croatian Military Frontier at his own expense (LJU 488, Cod. I/15 (1594), f. 42v–49r, 70v–72v, 14 February & 21 March 1594).

Sometimes, settlement was accompanied or preceded (forced) by razing the killer's house. In German-speaking lands, this was generally called *Wüstung* or devastation and existed in many forms for various offences, with razing the entire house most common for homicide (Coulin, 1915; Bühler, 1970). This also befell Baron Neuhaus in Cromòns. Chiefly, devastation was a communal sanction, but it is unlikely that at least in smaller communities the victim's family would not have participated in the destruction. Among peasants in sixteenth-century Carniola it might have been carried out only by the victim's kin in homicide cases, albeit likely with the community's, or its elders', consent. In the early 1540s, the Provincial Estates complained about the practice they recorded as *grundstöer* to the prince: 'when there is a homicide, the whole kin rise up, storm the perpetrator's land, devastate and trample everything, wanting to regard it as a custom and a right (no better or worse than others), during which a lot of evil happens' (AS 2, fasc. 98, Supplication of the Carniolan deputation to King Ferdinand I regarding various grievances, s.d., s.l.; Dimitz, 1875, 304). The 1542 concept of this supplication explicitly states that devastation was retaliation for homicide: *grundstöer vmb beschehen todslag* (Vilfan, 1943, 221, n. 5).[28] In the Carniolan town of Kranj in 1600, the Princely (Counter-)Reformation Commission also razed the house of the Protestant Križe Mikuž alias Luter for his sons' alleged murder of a Catholic surnamed Lovretič (Gruden, 1914, 834).

Although surviving cases of homicide settlement are rare, the practice went on until the eighteenth century, despite growing efforts of central authorities to eliminate it. Sometimes, this led to exaggerated claims, for instance, by the Carniolan Provincial Estates in 1530, who insisted that the high murder rate in the duchy was not easily matched by any other country (Žontar, 1952–53, 572). Closer to reality was the Provincial Governor's complaint from 1724 over the allegedly still common practice of 'trifling' sums paid to the kin of homicide victims among Carniolans (AS 1, šk. 251, Patent of the Carniolan Provincial Governor regarding the eradication of sins and vices, 4 March 1724, Ljubljana). As late as 1770, following mortal wounds in a brawl, a Lower Carniolan winegrowers' law court or *Bergtaiding* belonging to the Teutonic Order ruled that the culprit should make peace with his victim – or his kin, if he died – and the judges would make sure that the matter would not get to the provincial court as a *causa major* (Dolenc, 1921, 82). Homicide settlements could have only survived into the eighteenth century because they were underpinned by local law courts more interested in upholding peace in communities than the letter of the criminal law, as well as maintaining their autonomy before central authorities.

28 For more on *grundstöer* and its relation to *Wüstung* and (blood) feud, cf. Oman, 2021, 148–165.

Fig. 6: Upper-Carniolan peasants in late seventeenth-century attire, Johann Weikhard Valvasor, 1689 (Wikimedia Commons).

To a degree, this is reflected in the case of the miller Matthäus or Matthias Khözl, a subject of Rothenfels, even if his violent reputation made him a feared man among his neighbours, subjects of the Lordship of Murau. Due to the negligence of his brother Andreas' hired hand at logging, Adam Khnapp lost a cow in the Spring of 1668. He sent a few 'good men' to the Khözls to mediate (*beschikht*) for a restitution of damages, but the brothers would have none of it. Matthäus Khözl and his 'evil company', seemingly including his sister Gertrude, burnt down Khnapp's house and set four more fires to his property in their 'insatiable vindictiveness', as was put by the victim's lord, Baron Hans Sigmund Prankh from Murau. Khnapp was too afraid to sue and Prankh could not get Rothenfels to take action against its subject; a protection of its autonomy, which probably predicated Khözl's boldness. While the multiple arson attacks may point to a long-standing enmity, Matthäus also had a more violent demeanour than most. On 7 October 1668, he almost killed Maria Rackhl, ambushing her outside the tavern in Feistritz am Kammersberg and stabbing her seven times, likely for refusing to dance with him. Although soon caught, no one would testify against Khözl out of fear of arson. In fact, many

intervened on his behalf and he was able to settle, likely paying damages to Maria or her father Simon. However, only due to Baron Prankh's persistent interventions to Rothenfels, he also had to publicly apologise and pay a fine of two ducats for the attack. Because Khözl could not get any guarantors, presumably as everyone knew he would break the peace sooner or later, the surety was set at his 'own life and blood'. Khözl pledged not to cause any danger or harm to the baron or his people, which, as Prankh reminded him, also included Khnapp. The miller seems to have held his peace until June 1670, when he broke into his brother Andreas' house, smashing the oven and windows and threatening to kill him and his wife. The attack was part of an inheritance dispute and was soon settled with Matthäus revoking his claims and pledging peace with an actual *Urfehde* form. While he continued to threaten others with whom he was in dispute, even threatening to stab the market-town judge of St. Peter am Kammersberg if he would not rule in his favour, in the end Khözl's downfall was his obsession with Maria Rackhl. On Shrove Sunday 1671, he once again asked her to go to the dance with him, yet as she did not show up, the next day he attacked her with an axe on a public road. She managed to flee unscathed, and Khözl was soon apprehended. He had to pledge another *Urfehde* and pay 40 guldens for legal expenses. Since Khözl provided his life as surety for the first attack on Maria and his arson attack on Khnapp's house could not be proven – this would have meant execution by burning at the stake (LGSt, 1638, §90) – he was accompanied to the Carinthian border and banished from Styria for life. His debts of 48 guldens were paid off and his property, estimated at 75 guldens, was transferred to his brother, the mill alone worth 60 guldens.[29]

These and previous figures show that blood money was seldom trifling to peasants and could be decisive for their survival, so life was not always quite as 'cheap' as it is sometimes made out to be, even if losing a loved one could not really be compensated for. Nevertheless, the amount always depended on the killer's assets, as was also stipulated by the Carniolan Provincial Court Ordinance of 1535 (LGK, 1535, 15), in order to facilitate settlement and for the peace to hold. These were common concerns throughout the Empire (Frauenstädt, 1881, 141). In 1632, a subject of the Pleterje Charterhouse in Lower Carniola paid blood money in kind in various cereals to settle the enmity that broke out due to 'manslaughter', when the victim put a borrowed firearm into a fire and died in the resulting explosion

29 StLA, Rothenfels, K.117/H.364, Baron Hans Sigmund Prankh to the administrator of the Lordship of Rothenfels, 10 January 1669, Feistritz; StLA, Rothenfels, K.117/H.364, Baron Hans Sigmund Prankh to the administrator of the Lordship of Rothenfels, 26 September 1669, Feistritz; StLA, Rothenfels, K.117/H.364, Verdict in the settlement between Matthäus and Andrä Khözl, 23 June 1670, s.l.; StLA, K.117/H.364, Urfehde by Matthäus Khözl to the Freising Lordship and provincial court of Rothenfels, 23 June 1670, s.l.; StLA, Rothenfels, K.117/H.364, Baron Hans Sigmund Prankh to the administrator of the Lordship of Rothenfels, 23 February 1671, Feistritz; StLA, K.117/H.364, Georg Fux to Balthasar Heÿdt, administrator of the Freising town of Oberwölz and Lordship of Rothenfels, 7 March 1671, Schloss Murau; StLA, Rothenfels, K.117/H.364, Inventory of miller Khözl's assets, 7 March 1671, s.l.; StLA, Rothenfels, K.117/H.364, Baron Hans Sigmund Prankh to the administrator of the Lordship of Rothenfels, 27 February 1671, Feistritz.

(Dolenc, 1935, 409–410). On the other end of the spectrum is a case from Carinthia in December 1660, when the abbot of Arnoldstein/Podklošter opined that it would be of no use if Julian Grappler, a Villach/Beljak merchant, was executed for killing the abbey's subject Adam Sluga, as this would not benefit his family. Instead, Grappler had to pay off the family's debts, support the children until they were of age and provide the daughters with 'good dowries', which in total amounted to 2,273 guldens to be paid over 10 years. This included legal expenses, fines and a restitution of damages to the Benedictine abbey. It is uncertain if he ever paid the entire sum, but he did soon pay the widow 50 guldens, likely as blood money (KLA 445, Criminalia, Fasz. 53, XXV.48). Grappler was well-off, but among peasants the killers' families often had to chip in. For instance, in Bled in 1661, the late Gregor Iskra's next of kin paid the customary blood money (*gebreüchige bluet gelt*) on behalf of Peter Iskra's son Gašper, who had killed someone in a brawl two weeks prior (AS 721, kn. 21 (1655–1662), 6 August 1661). Raising the money could also lead to conflicts. In Bled in 1657, Jakob Prešeren sued Andrej Prešeren over 4 guldens he was supposedly owed, whereas Andrej claimed that he needed the money to uphold the settlement for killing Mihael Prešeren (AS 721, kn. 21 (1655–1662), 22 January 1657).

Even rarer than homicide settlements are attested declarations of enmity. This was also certainly due to the fact that in most parts of the Empire peasant feuding had already been criminalised in the fifteenth century (Reinle, 2003, 112–122). Furthermore, as a case from Lower Styria shows, 'common crime' and feud could be conflated[30] in legal sources. In 1610, Matej Rojko, *župan* (leader) of the village of Negova, complained that his kinsman Jurij Rojko had been 'robbing and thieving' in the countryside between Ptuj and the market town of Ljutomer for several years, often declaring himself the enemy (*durch des feindts eingebung*) of his victims as well as threatening Matej with 'robbery, arson and murder'. He and his associate Jurij Arnečič were caught and handed over to the provincial court of Gornja Radgona (PAM 1856, TE 371, Bergtaiding register 1610–1624, 13–14). While its registers do not survive to offer further insight, Matej's complaint should be taken with a grain of salt. He and Jurij were clearly enemies and perhaps so were his other alleged victims. Hence, Jurij's actions might also have been the result of enmity rather than just 'simple' robbery.

A Bled case likely provides a better example of declaring enmity among coeval peasants. In 1634, the millers Christoph Scheull and Adam Paßler or Hörman fell out. The offended Scheull swore in front of a handful of witnesses: 'Mark my words Hörman, if I haven't caused you harm yet, I still will!', tapping himself on the nose, vowing that it should be cut, if he does not deliver on the threat (AS 721, kn. 17 (1632–1636), 1 December 1634), gesturing that failing to do so would cause him great dishonour (cf. Pejanović, 2018). *Austretten* was also used. In 1646, Hans Jakopič threatened his *župan* Gregor Konič and a man surnamed Ferčej with the killing of Konič's foal, as well as

30 Cf. also Garés Timor in this issue.

anyone who would 'hold any suspicion against him', and then leaving for Karlovac. The župan filed a lawsuit and expressed his 'suspicions' (*argwon*) against Jakopič in court, likely fearing that he would deliver the threats. Jakopič was jailed until Hanže Svetina Senior agreed to be the guarantor of his surety (AS 721, kn. 19 (1644–1651), 455–458, 7 July 1646). Perhaps the killing of Peter Jakopič by the Svetina brothers eight years later was connected to disagreements over this very surety.

Following great crises or social upheaval, everyday disputes could also lead to larger-scale violence, as between the parishioners of Fram and Slivnica after the 1620s plague. A much grimmer case took place in the wider Vurberk area soon after the peasant revolt of 1635, as several subjects of the eponymous lordship carried out three organised murders within a year or so. Some were led by Arni Rešetar, an official of Vurberk's vineyards (*bergsuppan*), others by Urban Graber and the rest by Tomaž Lesenägerä. Their first victim seems to have been a peasant surnamed Bač from the village of Grajena in 1638, whom they suspected of something; most likely witchcraft, since he was tied to a table and burnt to death along with his house. That same year at least some of the same men also drowned a miller from near Vurberk in the Drava River. In 1639, the vintner Martin Böhemb, nicknamed Dry or Skinny Martin (*Suchi Martin*), was suspected of having 'blocked the south wind, so it could not get warm'. Several masked men broke into his home at night, savagely beat and then shot him, or hacked him to pieces according to another report, looted the house and were about to burn it down, when neighbours rushed to the scene (StLA, IÖReg, Cop. 1639-IV-81; StLA, IÖReg, Cop. 1639-IV-119). While the belief in witchcraft in the Lower Styrian northeast was particularly strong, the authorities also persecuted alleged witches with determination and this was years before the height of the 'witch craze' in the Slovene-speaking regions of Inner Austria from 1660–1710 (Košir, 1997, 124). On the other hand, accusations of witchcraft between neighbours were often settled much like other insults (see below). Hence, rather than distrust in the provincial courts to take care of the witches, the killings might attest to a severe breakdown of trust among neighbours, perhaps following the 1635 revolt or its suppression, and in one case further exacerbated by a late spring thaw.

In the early eighteenth century, matters were even worse between the subjects of the Lower Styrian Lordship of Zavrč, belonging to the gentleman Franz Xaver Qualandro, Fermo's grandson (Oman, 2021, 125), and those of the Croatian Lordship of Trakoščan and, later, Zelendvor, under Count Ivan V Drašković, one of the most influential Croatian magnates and later Ban of Croatia (1732–3) (Švab, 1993). Much like in Slivnica, the subjects' enmity was enmeshed with that of their lords. The dispute originated in the delineation of their lands along the Drava River and the subjects in the contested Styrian village of Dobrava, today Dubrava Križovljanska in Croatia. There the counts had five families and Qualandro two, with two more under other Croatian lords. One of the reasons why the counts' subjects wanted to come under Croatia might have been to avoid Imperial prohibitions on the trade of sea salt and tobacco and consequent heavy fines for smuggling, over which they often complained. Relations became strained in 1705, when Drašković's subjects started

logging across the border with their lord's tacit support. Qualandro complained to the Inner Austrian Government, but to no avail, since Drašković, with lands on both sides of the border, had better connections in Graz. With Qualandro unable to muster support, the incursions grew bolder, especially after the count's return from the suppression of Rákóczi's Revolt. On 7 August 1713, he sent 40 soldiers to protect the logging activity, who then also went 'looking' for Qualandro in Zavrč; although he was away. The enmity (*feindtselligkheiten*) continued. In 1717, the count's subjects dragged three women and their livestock from Qualandro's estates across the border, killing the women, half burning their bodies without 'giving any cause' – evidently taking them for witches – and leaving the corpses for the animals to feed on. Three years later, the Zelendvor judge and his men came to Dobrava and demanded that Andraž Lebič switch allegiance, beating him to death when he refused. The local priest rushed in to mediate and managed to get the killer to pay a truly trifling 4.5 guldens as settlement. In June 1724, Qualandro finally retaliated, moving into Dobrava with some 60 subjects, allegedly to run out Croatian 'vagabonds' like every year, whereas Drašković claimed that over 300 of Qualandro's peasants looted his subject's homes and trampled their fields. Qualandro claimed not to have that many subjects, most likely truthfully. Two months later, the counts' subjects hit back, killing one of Qualandro's in the Croatian village of Voća. The violence peaked on 20 July 1728, when reportedly almost 50 of the count's peasants from the Croatian villages of Lovrečan and Breznica crossed into Zavrč territory at midnight, robbing and abducting the vintner surnamed Skok and his wife. On their way back to Lovrečan, the woman was thrice sunk into the Drava River and then burnt alive at the stake for having 'closed off the rain for a long time'. The husband was set free. Local Jesuits soon had two of the men apprehended, but the outcome is unknown. By 1735, Styrian authorities accepted the redrawn border.[31]

However, these were extreme cases. Akin to enmities of urbanites, violence among disputing peasants was largely limited to verbal and unarmed attacks, although the latter were more common in the countryside. Despite the ubiquity of beatings and brawls, they seem to have rarely resulted in homicide, even if dangerous objects and tools such as clubs, axes, picks and knives were commonly used (Müller-Wirthmann, 1983). This attests to the rites of violence control generally being adhered to, albeit the lack of sources on major crimes warrants caution. As does coeval ethnography. In the late seventeenth century, the renowned Carniolan polymath Baron Johann Weikhard Valvasor wrote that Upper Carniolan peasants were known for their long and heavy clubs, mostly made of hawthorn wood, emphasising that a single blow by one could, and of

31 StLA, LA, USGL, K.8/H.36, Franz Xaver Qualandro's request to the President of the Styrian Provincial Estates' representatives, s.d. [after 1713], s.l.; StLA, LA, USGL, K.8/H.36, Franz Xaver Qualandro to the Styrian Provincial Governor, received 9 March 1725, s.l., Appendices A and C; StLA, LA, USGL, K.8/H.36, StLA, LA, USGL, K.8/H.36, Report by postmaster Johann Baptist Aichmaÿr on the abduction and execution of vintner Skok, 27 July 1728, Zavrč; StLA, LA, USGL, K.8/H.36, Franz Xaver Qualandro to the Inner Austrian Aulic Chamber on the selling of sea salt in the Lordship of Zavrč, s.d., s.l.; cf. Hernja Masten, 2005, 113–116.

Fig. 7: Landskron castle, Matthäus Merian, 1679 (Wikimedia Commons).

often did, kill a man. There were plenty of opportunities for this to happen at or after gatherings such as church fairs, where many brawls took place. Valvasor also noted that Upper Carniolans were passionate dancers (Fig. 6 background) and that many brawls and deaths occurred at their dances, which drew attempts by Church and provincial authorities to have them banned. But to no avail, since they regarded the dances as their 'ancient right'. They also attended weddings carrying sabres at their sides, as if they were 'off to fight the Turks' (Valvasor, 1689b, VI, 278–283). Even if Valvasor may have exaggerated the high numbers of killings among peasants, as noblemen often did, proximity spawned conflict.

Registers of the Rothenfels provincial court record 83 beatings and brawls from 1656–88 and 95 cases from 1706–43, while registers for the united Landskron/Vajškra and Velden/Vrba provincial courts near Villach in Carinthia give 53 cases for 1651–7 and 24 for 1752–60. Whereas Rothenfels' numbers remained stable, in Landskron and Velden, belonging to the mighty House of Dietrichstein, they more than halved between the mid-seventeenth and mid-eighteenth century. However, these were not total numbers, as several known cases were not recorded in the registers and not all

came to the court in the first place, having been settled sooner. Roughly a fifth of these altercations are recorded to have occurred at church fairs, tavern visits and other gatherings, or on the way home from them: 34 in the Styrian court and 16 in the two Carinthian ones.[32] While alcohol consumption lowered the threshold for violence, it was rarely its cause. On 5 July 1665, at the dance at a church fair in Lind/Lipa near Arnoldstein, Jurij or Georg Pinter's younger son met 'an enemy of his', with whom he had already had an altercation about a year previously, and attacked him. The man defended himself with a stiletto, but Georg's older son intervened before matters escalated[33] (KLA 445, Criminalia, Fasz. 53, XXV.51). Drunkenness was not recorded as a mitigating circumstance. In fact, it seems to have rarely been emphasised; it is only mentioned thrice in the Landskron and Velden cases and eight times in Rothenfels.

The use of arms in disputes among peasants was rare. For instance, it is only recorded once in the surviving Rothenfels registers and five times in the surveyed Landskron and Velden registers, all in the 1600s. Most prominently, in the long-standing enmity between Bärtl Kaufman and Sebastian Lippitsch, peasant sons and Jesuit students. The latter fact should not surprise, since, as noted by Stuart Carroll (2023, 77), 'violence was not the product of an absence of civilised manners; rather it was a consequence of political relationships'. After all, education was a means to gain status and power. Kaufman and Lippitsch seem to have first come to blows in 1654, when Kaufman dangerously beat up Lippitsch, possibly at Carnival. Following new provocations on Shrove Sunday 1655, Lippitsch retaliated with three accomplices and/or kinsmen, attacking Kaufman's party at the masquerade, including his relative Oswalt Kaufman, the parish priest in Köstenberg/Kostanje. Bärtl was severely beaten up, but managed to strike Lippitsch with his sabre, although he did not seriously injure him. In addition to the sabre, Kaufman also carried two stilettos, which was forbidden in general, as was carrying swords at the masquerade. The court forced the parties to settle, fined them a total of 6 guldens and stipulated a somewhat high surety of 15 thalers or 22.5 guldens to keep the peace. Less than two years later, on New Years' Eve 1656, a student friend of Kaufman's called Lipp stabbed Lippitsch almost to death with his sword outside the tavern in Köstenberg, after someone from the victim's company ridiculed him. A witness later said that Lipp, Kaufman and his relative Oswalt came to the tavern looking as if 'full of anger'; if there was any truth to that, the attack might have been premeditated (KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 185v–186v, 282v–284r, 15 February 1655, 5 January 1657).

32 StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688; StLA, Rothenfels, K.107/H.342, Provincial court register 1706–1723; StLA, Rothenfels, K.108/H.343, Provincial court register 1723–1743; KLA 22, Landskron and Velden, Provincial court register 1651–1657; KLA 22, Landskron and Velden, Provincial court register 1752–60.

33 Another brawl ensued soon thereafter in which someone was knifed, with the brothers Clement and Hans Pinter denounced as the culprits and jailed. Months later, it was established that it was the actual killer who denounced the brothers. The Pinters from Krainberg/Strmec were subjects of Arnoldstein's mining office or *Bergamt* (KLA 445, Criminalia, Fasz. 53, XXV.51).

Aside from attacks on persons, peasants would also damage their enemies' property, kill their livestock or dogs, etc. Arson, however, is rarely mentioned in enmities in the surviving sources and, apart from Khözl's actions and the Vurberk witch-hunts, was largely used as a threat. Still, arson remained enough of a problem in the late eighteenth-century Habsburg Monarchy to be mentioned specifically in the *Theresiana* (CCT, 1769, Article 73), so the lack of recorded accounts probably does not equate to local restraints on its use, nor was it used just by the marginal as a century later (cf. Schulte, 1994, 27–57). Since fire could cast a family into beggary within moments, it was a popular threat that generally coerced an enemy to swift settlement (Reinle, 2003, 259–260; 2007, 165), but it could be dangerous if this got to court. In 1651, Mathes Underraüer, a subject of the Upper Styrian Benedictine nunnery of Göss, lost his farm and 36 guldens that had been set as surety due to his continued threats with revenge and arson against his neighbours (StLA, Göß, K.304/H.439, Court register [1647–1700], f. 25r), while Gregor Zupančič from Višnja Gora was burned at the stake for the same offence in 1715 (AS 166, fasc. 2, Town court register 1707–1752, 13 April 1715). However, this might have been due to recidivism, as in 1754, Andre Trinkher or Casperl from Gratschach/Grače only had to apologise to Hans Lugensteiner, bailiff of the Landskron and Velden provincial courts, after threatening to burn down his home, with the surety set at two gold ducats (KLA 22, Landskron and Velden, Provincial court register 1752–1766, 109'–110, 1 October 1754).

If the Rothenfels court's information on Gertrude Khözl was correct, peasant women sometimes also participated in arson attacks. Overall, however, they largely conducted their enmities with insults – as did men – calumny, keening and gossip (cf. Čeč, 2011), rarely by physically attacking their enemies. Sometimes, this was alongside their husbands in brawls among inimical families, rarely between the women themselves: there are only nine cases from Rothenfels and four from Landskron and Velden in the surveyed registers. A quarter of these cases, and one with a husband present, took place at laundry areas such as wells and streams, which were public spaces generally only frequented by women. When settling altercations involving women, the Rothenfels court four times out of 34 stipulated a shaming punishment (once as part of a surety) known as *Geigen*, or shrew's fiddle, a violin-shaped wooden collar that immobilised the hands in front of the neck (Coy, 2008, 47). This was never ruled as punishment for men in the surveyed registers. Presumably, because contrary to men, a woman's violent retribution to verbal or physical attacks on her honour dishonoured her (Pohl, 2003, 29) and consequently her family. The usual insults between women were accusations of adultery, dishonesty and theft, much like amongst men, while the one largely levelled only at women was that of witchcraft. This was dangerous and liable to backfire, so once in court, plaintiffs would be vaguer or double down on their accusations. In the surveyed registers, insults of witchcraft have only been recorded in the seventeenth century, thrice in Landskron and Velden and six times in Rothenfels (twice for men). Most were accusations of casting harmful spells on livestock, but all were settled much like other insults, with fines and sureties stipulated by the court. For instance, in

Rothenfels in 1671, Magdalena, daughter of Andrä and Elisabeth Dietmaÿr, on a public road accused Maria, wife of Georg Lähner (Länner), of being a witch and killing her family's cows. Maria retaliated by strangling Magdalena until she passed out, insulting her and her mother as witches and thieves. The altercation was part of a long family feud. Because Magdalena could not prove her accusations, the court ruled that she and her mother had to first apologise to Maria and her husband through two honourable men, followed by Maria's apology to the Dietmaÿrs. The women were ordered to keep the 'peace, safety and good neighbourliness' against a surety of 6 thalers. They were also fined, Magdalena one gulden due to her poverty and Maria one thaler for 'being her own judge' (StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688, f. 102r–103r, 5 September 1671).

Whereas insults of witchcraft, much like those of theft, were a common expression of enmity and a 'weapon of the weak', as they could result in the prosecution and execution of the accused (Carroll, 2023, 191), curses and spells were likewise a tool of retribution, although admitting so in court would have been unwise. In 1513, a robber and murderer from Upper Styria, who was likely executed soon after, also admitted that he had an 'evil envy' towards Gotthard Hackenschmid from Kindberg and not knowing how else to take vengeance had used some spell to dishonour him (StLA, Stubenberg, K.99/H.620, Admission of guilt, 1513, Monday before the Feast of Saint Elias [14 July 1513]).

Even lesser verbal affronts were far from trivial, as the assault on honour demanded reciprocation in kind or with 'interest', i.e. physical violence. Since insults often led to brawls, sometimes with grave consequences, the swift restoration of good neighbourliness was in the interest of the community and local courts of law, as well as, generally, the parties themselves. While recorded numbers are not to be seen as accurate totals, in the surveyed seventeenth- and eighteenth-century Rothenfels, Landskron and Velden registers, only 12 settlements are recorded as having been ordered by the courts for 255 brawls, because the parties were too reluctant or averse to making peace. Particularly in such cases, courts had to emphasise that apologies and concessions to erstwhile enemies were not shameful, so that the settlement would hold. In 1648, the Bled provincial court mediated between Hans Triplat and Jurij Avsenik in their 'longstanding evil unneighbourliness' (*lang geführten vblen vnnachparschafften*) that repeatedly erupted into insults and fights. As usual, the settlement included a fine for the offence, but in this case the court also stressed that this was just compensation for the legal fees that had accumulated during their enmity, not punishment or otherwise dishonourable (ARS 721, kn. 19 (1644–1651), 809–811, 31 March 1648).

Opposite to verbal abuse, not greeting one's neighbours was another expression of enmity. In 1668, in the jurisdiction of the Rothenfels provincial court, the dairy farmer Adam Ebmer ambushed Merthen Pechl on a public road and asked why he did not greet him anymore and held an enmity towards him (*nit griesse vnd feintschafft auf ihm trage*), then hit him in the teeth. The dairy farmers from different lordships, Reiffenstein and Admont, were in conflict over the use of pasture rights (StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688, f. 75r–v, 2 March

1668). In 1677, Matheus Stainer or Grueber threatened his neighbour Georg Lähner with an axe, allegedly even encouraged by his wife to throw it at him, because he would not greet him anymore, following their settlement two years prior. The threat broke the 1675 'peace and security' pledged to by the two Rothenfels subjects. While that surety was set at 6 ducats, Stainer did not have to pay as he was destitute, whereas the new settlement was to be guaranteed by three 'honourable men' or, if none were willing, by his 'own body and life', to be banished if he broke the renewed peace (StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688, f. 126v–128r, 5 November 1677).

Sometimes, enemies were very reluctant to make peace, and Georg Lähner was particularly stubborn. When his neighbour Andrä Dietmaÿr, another subject of Rothenfels, was on his deathbed in late 1674, he called for Georg to apologise to him and end the years' long enmity between the families. But Lähner, being 'hard and unchristian', rejected the offer and later also refused to help bury his neighbour, as was customary. He was sternly reprimanded for his behaviour by the court and fined three guldens (StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688, 115r, 3 January 1674).

Following an agreement on blood money or damages, legal expenses and sometimes atonement, settlement could take place. This was often initiated by formal public apologies (*Abbitte*) by the offending or both parties, frequently in the company or via a few 'honourable men', who also acted as witnesses and, likely, as mediators and guarantors. Sometimes, especially in the Landskron and Velden court registers, public apologies were specified as Christian apologies. Following apologies and consequent forgiveness, peace was solemnly sworn with a mutual renouncement of enmity and the restoration of neighbourliness, love, honour and friendship (*lieb ehr vnd freindtschafft*) (AS 721, kn. 17 (1632–1636), 13 June & 15 September 1635). Although not all of these terms were always recorded, a combination thereof is always to be expected in peacemaking rites. For insults, giving the former adversary a 'good word' could be enough to repair their honour (e.g. KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 41r, 22 September 1651). Peace was further publicised and confirmed by court rulings, warning the parties to avoid any future harm and henceforth keep good neighbourliness, peace, quiet (tranquillity), unity (concord) and safety.

The kiss of peace, in decline since the fifteenth century (Koslofsky, 2005, 25, 33), seems to have disappeared from the three duchies by the seventeenth century, and the embrace (cf. Carroll, 2016, 128–129) is likewise mentioned nowhere in the surveyed sources. The essential gesture that underpinned the words of peace, friendship and forgiveness was the handshake as a sign of peace (*fridenzaichen*) (KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 190r, 26 February 1655). This was frequently followed by a shared drink of settlement wine (*vergleich wein*) (StLA, Rothenfels, K.108/H.343, Provincial court register 1723–1743, fol. 23r, 22 September 1731), to be paid for by the offending party. This was not for communal feasts, like the *Bierbuße* in other parts of the Empire (cf. Carroll, 2023, 243), but to be

drunk by the parties as a sign of friendship. In the Rothenfels, Landskron and Velden registers, a measure of wine is recorded to have been paid 44 times and a measure of mead four times (all in Carinthia), constituting almost a fifth of all cases. Again, these should not be seen as total figures, as in eighteenth-century Rothenfels the court for the most part only recorded the fines. Likely, mutual toasts were always present in peacemaking, at least as an extrajudicial ritual. In the late nineteenth century, the Slovene shoemaker, shopkeeper and self-taught ethnographer Gašper Križnik still recorded handshakes and mutual toasts in out-of-court settling of insults and brawls among peasants, denoted as *sovraštvo* or enmity (Polec, 1945, 47, 50), in parts of Upper Carniola.

Matrimony was regarded as the ideally ultimate guarantee for lasting peace, although there were also plenty of intra-familial enmities. In the Inner Austrian countryside, at least until the early 1700s, some marriages in Lower Styria and Carniola are attested as having been envisioned to end bitter disputes over the delineation of property, eventually aiming to unite it by wedlock. In 1705, matrimonies between Matija Predovnik and Magdalena Tončnik, from the Lower Styrian village of Braslovče, and between Jakob and Agnes Prešeren, from the Upper Carniolan parish of Radovljica, were probably orchestrated by their parents, whereas in the Lower Styrian market-town of Gornji Grad in 1709, it was the prospective newlyweds Andrej Maranšek and Marija Avguštin who were hoping that their marriage would end the dispute between their families (Kos, 2015, 160–161). It remains unknown if wedlock could still be part of homicide settlements in rural early modern Inner Austria, although there are echoes thereof in a few folk songs (Štrekelj, 1980, 213–215; cf. Oman, 2021, 193).

Concurrent to restitutions to the offended party, the courts stipulated fines for offences and sureties for keeping settlements. Sums depended on the gravity of the offence and on the offending party's assets. In the sixteenth century, fines were generally still kept low to facilitate settlement, even in cases of unpremeditated homicide. The Carniolan Provincial Court Ordinance of 1535 stipulated the sum of 60 pennies, roughly the price of a pair of boots or ten chickens (Koropec, 1972, 109), to be paid by those who killed in self-defence in order to make peace with the court (LGK, 1535, 12). In some parts of Inner Austria, subjects held their own court or *Taiding*, at least until the late sixteenth century; for instance, in Kleinsölk in Upper Styria, a free valley or *Freithal* in an area largely supposed to be allodial property of the Styrian Provincial Estates. Its *Weistum* stipulated that when an enmity (*feintschaft*) arose between neighbours, with or without justifiable cause, the bailiff (*ambtman*) and four peasant trustees (*verorndten*) first had to try their best to amicably settle the dispute (*güetlich zu vergleichen*). Should both or one party resist this, the matter could be taken to court, but the bailiff had to be compensated with a pound of pennies (one gulden). Then, one party or both had to call on the peasants' court within three times fourteen days (three court days) and present the matter there. The bailiff and the lordship (the Estates) also had to be paid 30 guldens before the court convened. Both parties were then allowed to employ such lawyers as 'they could find or afford' (Bischoff & Schönbach, 1881, 7, 12). Whereas the court path at the time retained

'subsidiarity' to custom in Kleinsölk, elsewhere peacemaking came under the supervision of provincial courts, as Tišal's killers were reprimanded in Bled in 1637. Settling without notifying the court, or without its assent, usually resulted in fines. This was not simply out of avarice, as was the common lament of lawyers trained in Roman law. For instance, the authors of the Bamberg penal code of 1507 complained that judges were only after fines instead of working towards 'general peace and the common good' (CCB, 1507, §272), but it was actually the continued use of traditional settlement by the courts that helped them maintain both (cf. Povolo, 2015, 219–221), as was the case in Inner Austria, likely until the late eighteenth century, when they lost their autonomy. Settling in court was also beneficial to the parties, as it could be enforced, which also furthered the courts' role in dispute settlement.

As in towns, keeping in mind the few surviving criminal records, the judiciary's main form of control over rural enmities seem to have been sureties, envisioned to 'firmly keep the peace' (KLA 22, Landskron and Velden, Provincial court register 1752–1766, 312–313, 14 November 1757), which included involving guarantors from the parties' networks of relatives and friends to help safeguard settlements. In the sixteenth century, sureties were sometimes very low. Market-town privileges of the Lower Styrian Šentjur pri Celju from 1538 stipulated a fine of 70 pennies to be paid to the market-town judge for breaking peace settlements ordered by the court and an unspecified, and likely higher, sum to the town's lord, the Bishop of Gurk from Carinthia (Mell & Müller, 1913, 257). By the seventeenth century, the amounts rose and could be substantial, especially for homicide, grave wounds and dangerous insults. In two cases of insults of witchcraft in 1664, the Rothenfels court stipulated sureties of 6 and 12 gold ducats or 18 and 36 guldens (StLA, Rothenfels, K.107/H.341, Provincial court register 1656–1688, 56r–58v, 12 January & 11 July 1664), which are significant, but dwarfed by a case from Bled. In 1656, Jurij and Marina Kozel settled with Katarina and Marina Vidmar, because the mother and daughter accused Jurij's wife of being a thief and a witch, whereupon he incriminated the accusers for theft and libel. While the settlement's other provisions are unknown, the court stipulated a surety of 200 gold ducats, with another 5 to be paid to the offended party if the accusations were renewed (ARS 721, kn. 21 (1655–1662), 8 April, 1656). The enormous amount clearly shows that the court preferred to keep the peace and social order instead of upsetting it with a witch trial.

For settling brawls in the Rothenfels registers, the average recorded surety in the seventeenth century was 9.9 guldens, while no surety was recorded in 44 of the 83 cases. This rate was even lower in the first half of the eighteenth century, when a surety was recorded in only 18 of the 95 cases, so the average surety of 11.4 guldens might be misleading. For comparison, in 1678, in settling a brawl between two smiths from competing hammer mills, Mathias Sadlhacker and the Oberwölz burgher Martin Langauer, the surety was set at 30 thalers or 45 guldens (StLA, Rothenfels, Provincial court register 1656–1688, f. 130r–v, [after 25 July] 1678). Among local peasants, this was topped by the surety of 75 guldens for settling a brawl between Oswald Zechner and Mathias Pez in 1739, which was just the latest of the 'many worrying

violent acts' between them (StLA, Rothenfels, Provincial court register 1723–1743, f. 46v, 17 December 1739). The court already had to intervene in another of Pez's enmities in 1722, when he and his neighbour Georg Schäffer fell out over their pigs, likely their grazing. To prevent anything 'more serious and worse' from arising from their 'quarrel and hot-headedness' (*hüzigkheiten*), the court ordered them to shake hands and forever forget about the matter. Peace lasted for a fortnight and this time the surety was heavy: whoever renewed the 'discord' would lose his farm (StLA, Rothenfels, Provincial court register 1706–1723, f. 70v, 72r, 14 November 1722 & 27 February 1723). Apparently this worked, as no new altercations between the two were recorded. There were also shameful 'sureties'. Spending time in the shrew's fiddle in public if they broke the peace was stipulated for the wives of Blasi Leÿtgamb and Georg Schloÿer in 1721, after settling a brawl in the families' long-standing enmity. For the men, the surety (*sichere darobhaltung*) was set at 6 thalers (StLA, Rothenfels, Provincial court register 1706–1723, f. 58v–59r, 5 March 1721).

Sureties were recorded more diligently in the court of Landskron and Velden. In the mid-1600s, 37 of the 53 cases record a surety, twice only as oaths to keep the peace and once with jail time for breaking the settlement. The other 34 cases give an average surety of 11.2 guldens. By the mid-1700s, this dropped to 13 recorded sureties out of 24 settlements, with the average surety of 12.7 guldens. But this is misleadingly high, as in 1756, a surety of 24 ducats or 72 guldens was stipulated in settling Karl Schwinger's and Christian Bauer's beating of Thomas Lassnig (KLA 22, Landskron and Velden, Provincial court register 1752–1766, 198–199, 21 June 1756), so excluding this one instance the average recorded surety was only 7.8 guldens. This case also included atonement: Schwinger had to pay three ducats in damages to Lassnig for beating him up, which Lassnig had to immediately hand over to the Church of St Nicholas in Villach (KLA 22, Landskron and Velden, Provincial court register 1752–1766, 198–199, 21 June 1756); perhaps because he was regarded as the initiator of the brawl and keeping the money himself would look unjust. A century earlier, the highest surety was 15 thalers or 22.5 guldens in settling Lippitsch's attack on Kaufman. Also of note is the surety stipulated in settling the beating that Anna Rägger took from Lorenz Schwinger's wife in 1655. If they broke the peace, the 'hot-headed' *Schwingerin* was to pay 10 thalers, while Anna was to be jailed for 8 days (KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 191r–v, 4 March 1655), which as a fine equalled 4 thalers (KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 109r–v, 26 February 1653).

The average surety for settling brawls as rather quotidian expressions of enmity, was generally low enough for peasants to be able to raise the cash, especially with kin and friends pitching in. However, they were still high enough that people could not disregard them completely, even when they could have managed the sum by themselves. This was especially true since settling a broken peace would entail higher sureties, including with property and life, which meant banishment from the estate or province if they were broken again. The low number of broken settlements suggests that the system generally worked.

In the Rothenfels, Landskron and Velden registers, surety was nearly always recorded as *pöen* or penalty for breaking the settlement, with the exceptions of the abovementioned Styrian case from 1721 and another from Carinthia in 1654. In the latter, after Steffen Kölbinger threw a rock at Georg from Sattendorf/Sedlo and went on publicly that one of them should die, Georg requested that the court have Steffen provide settlement and *porgschafft*, surety; for them to keep the 'quiet and peace' the court set it at 6 thalers. They were also to be fined if they failed to notify the court of any breach of settlement within eight days (KLA 22, Landskron and Velden, Provincial court register 1651–1657, f. 162r–164v, 15 August 1654). The terms *caution* and *pürgschafft* were sometimes used in Bled, for instance in settling Jakopič's death threats. Both terms are also used in a document related to Khözl's stabbing of Maria Rankhl. He was ordered by the Rothenfels court to *de non amplius offendendo* and provide an appropriate living surety (*lebendige porgschafft*), i.e. a guarantor, or *cautionem juratorium*, if no one was willing, so that his neighbours would be safe from 'murder and arson' (StLA, Rothenfels, K.117/H.364, The administrator of the Lordship of Rothenfels to Baron Hans Sigmund Pranckh, 30 September 1669, Burg Rothenfels). As noted, Khözl had to set his life as surety and was banished for breaking the peace.

* * *

Apart from wordings such as the 'evil unneighbourliness' in Bled, the vocabulary of peasant enmities differed little from those of townspeople. In the Styrian registers, enmity is recorded six times, whereas more emotionally-charged words are predominantly used by litigants or recorded by the court: anger or *zorn* and hot-headedness or *hizigkheit* are given nine times each, followed by discord or *vneinigkheit* with eight mentions. Other cognates for enmity are recorded once: revenge or *rach*, grudge or *grollen*, suspicion or *argwon*, bitterness (*verpittert*), hardness (*harth*), even contempt or *verachtung*. To the contrary, enmity was not directly recorded in the Carinthian registers, wherein the most common analogues used are *zorn* with five mentions and *hizigkheit* and *vneinigkheit* with three mentions each, followed by ill will (twice *widerwillen*, once *vnwillen*), grudge and envy or *neid*. In the eighteenth century, in both courts, the most common words for a state of enmity were discord with seven mentions and anger with five mentions, but also enmity (in Rothenfels) and hot-headedness with three each. The quotidian word for quarrel, or *handel*, was also commonly used by all classes in the territory.

The use of emotionally-charged cognates for enmity is unsurprising, since the language of enmity and peacemaking, including gestures as nonverbal communication, was inseparable from their emotional dimension. However, the meaning of some emotions changed over time, notably anger. In the Middle Ages, *ira* generally signified a state of mutual enmity (Bossy, 1985, 35–36), rather than the capital sin, which was generally understood as uncontrolled wrath. The dichotomy between blind rage due to injustice and just anger or *ira justa* as an emotionally balanced expression of

grievances was known since at least the antiquity (Dixon, 2020). In mediaeval and early modern Europe, honourable men had to respond to affronts, but their emotions and actions, including violence, had to remain balanced. This separated them from young men and women, supposedly subject to unbridled passions. Since their anger and enmity had to serve justice, honourable men had to remain level-headed, always prepared to settle. But to achieve the desired effect, their anger had to be convincing, even when formalised (cf. Miller, 2012). During the early modern period, in part due to the changing attitude of central authorities and intellectuals towards feud (Broggio, 2015, 47–50), justifying violence with anger slowly changed from claiming just anger as a reasonable defence of one's honour to mitigating one's actions based on a sudden bout of rage or a temporary loss of sense. Success in the very least resulted in a lighter sentence, especially if the defendant was otherwise known as honourable (cf. Pohl-Zucker, 2018). Conversely, the emotional dimension of peacemaking was less prone to change, as it communicated expressions of humility and affection, especially with gestures and words of friendship, forgiveness, good neighbourliness, peace,[34] concord and love.

Because the rites, words and emotions of feud and peace were known to everyone involved, it allowed them room to manoeuvre and historians to read between the silences and holes in narration. Recently, it has been propounded by Robert Kaster (2005, 10) that

> *when we understand the basic structures of thought and behavior that converge on a given emotion-term, and* […] *how those structures are related both to each other and to the structures associated with other terms, we can claim with greater confidence to understand* […] *scenes built upon the same structures, even when they happen to be devoid of emotion-talk.*

The key to reading emotions in enmities is understanding their 'structure', namely the rites and language of feud and peace. But understanding this 'structure' goes both ways: it not only allows historians to read hidden emotions, but also enables us to see past emotionally-charged terms, when they communicate a state of social relations rather than unrestrained feeling.

CONCLUSIONS

Despite entrenched notions of the demise of feuding in the Inner Austrian duchies of Styria, Carniola and Carinthia soon after the Habsburgs' consolidation of power in the territory in the mid-1400s and the Imperial ban on feud in 1495, the disap-

34 *Sühne,* the 'mediaeval' customary and legal term for settlement, concord and peace is only echoed once in the surveyed Styrian and Carinthian registers as a verb denoting settlement (*versöhnet*), much like in modern German, in 1729 Rothenfels (StLA, Rothenfels, Provincial court register 1723–1743, f. 18v, 1 October 1721).

pearance of the practice among all classes was a drawn-out process, which was not completed before the eighteenth century. While the word *Fehde* fell out of vogue in the sixteenth century, noble feuds did not vanish with the disappearance of the 'knightly feud', but were transformed from warlike combat into a combination of litigation and carefully calibrated small-scale violence, which could be both construed as reasonable and leave open the potential for an out-of-court settlement, whereas duels became a new important avenue for redressing injuries among the elite. The rites of feuding, however, largely persevered, centred in the concept of enmity or *Feindschaft*, expressing the same state of social relations. Violence and litigation likewise long remained correlated means of pursuing one's enemies among Inner Austrian urbanites and peasants, with violent retribution for affronts having broad legitimacy. Women of all social classes were also involved in family feuds or carried out enmities among each other, sometimes using physical violence, but largely verbal attacks. Among peasants, even in cases of homicide, extra-curial settlements with blood money persisted into the eighteenth century, much to the chagrin of the central authorities, but insults and brawls were the dominant expressions of their and townspeople's enmities. However, this picture might be distorted due to the lack of surviving records of major crimes, and the levels of graver violence indeed might have been higher. Nevertheless, even if the lack of such sources precludes putting together a complete picture of the attitude towards enmity and violence in early modern Inner Austria, surveyed records, especially town and provincial court registers, offer important insight into understanding plebeian social relations more broadly and, in particular, the manner in which everyday enmities that undermined the ideals of good neighbourliness were mediated by local secular authorities. While physical violence from brawls to arson and killings, remained a present threat in plebeian enmities, it continued to be largely dealt with by traditional rites of dispute settlement, with community mediation, apologies, forgiveness and compensation payments for affronts. Atonement by paying for masses for homicide victims also persevered at least until the mid-seventeenth century, while monasteries continued to provide asylum to (elite) perpetrators until the early eighteenth century. Customary peacemaking was integrated into court proceedings and instrumentally underpinned by local courts of law, which regarded it as an indispensable element of social cohesion and peace; at least as long as they maintained control over settlements, largely through sureties, with corporal punishment, death sentences and banishment generally reserved for recidivists or the gravest breaches of social order. Until the local law courts lost the remaining vestiges of their autonomy during Emperor Joseph II's judicial reforms in the 1780s, this system is unlikely to have changed much in the Inner Austrian duchies. In parts of the countryside, in the extrajudicial settling of insults and brawls, still denoted as enmities, some key peacemaking rites survived well into the late nineteenth century.

SOVRAŽNOST PO FAJDI: NASILJE IN NJEGOV NADZOR V NOTRANJI AVSTRIJI, 1500–1750

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POVZETEK

Osredotočen na neplemiško prebivalstvo vojvodin Štajerske, Kranjske in Koroške članek obravnava reševanje sporov po habsburški konsolidaciji oblasti v Notranji Avstriji sredi 15. stoletja in cesarski prepovedi fajde leta 1495. Kljub ukoreninjenim predstavam, da je temu že v 16. stoletju sledilo izginotje maščevanja iz notranje-avstrijskih vojvodin, razprava pokaže, da je bil zaton te prakse med vsemi sloji dolgotrajen proces, ki se ni končal pred 18. stoletjem. Beseda Fehde *je prišla iz mode v 16. stoletju, vendar fajde plemstva niso izginile z izumrtjem »viteške fajde«, ampak so se iz vojaškim podobnih spopadov spremenile v kombinacijo pravdanja in natančno odmerjenega nasilja manjšega obsega, ki ga je bilo mogoče zagovarjati kot razumno in je dopuščalo možnost izvensodne poravnave; obenem so med elito dvoboji postali nova možnost za poplačilo krivic. Kljub tem spremembam je obredje maščevanja večidel preživelo, osredotočeno v konceptu sovražnosti ali* Feindschaft*, ki je izražal enak družbeni odnos. Nasilje in pravdanje sta prav tako dolgo ostala soodvisna načina soočanja s svojimi sovražniki med nižjimi sloji Notranje Avstrije, pri čemer je nasilno povračilo imelo široko legitimnost. Tudi ženske vseh stanov so sodelovale v meddružinskih sporih ali vodile sovražnosti med seboj, včasih s fizičnim nasiljem, večinoma pa z verbalnimi napadi. Med kmeti so se, na nejevoljo osrednjih oblasti, v 18. stoletje obdržale celo izvensodne poravnave ubojev s plačilom krvnine, a so bili pretepi in žalitve glavni izraz njihovih sovražnosti, enako kot tistih med prebivalci mest. Vendar je ta podoba morda izkrivljena zaradi pomanjkanja virov o težjih kaznivih dejanjih in je stopnja hujšega nasilja mogoče bila višja. Čeprav pomanjkanje tovrstnih virov onemogoča celovit vpogled v odnos do sovražnosti in nasilja v zgodnje novoveški Notranji Avstriji, nudijo zlasti protokoli mestnih in deželskih sodišč pomemben uvid v razumevanje širših družbenih odnosov med neplemiškim prebivalstvom ter v načine, s katerimi so lokalne posvetne oblasti posredovale v vsakdanjih sovražnostih, ki so spodkopavale ideale dobrega sosedstva. Fizično nasilje od pretepov do požigov in ubojev je še naprej grozilo v sovražnostih nižjih slojev, a so se z njim pretežno uspešno spoprijemali s tradicionalnim obredjem reševanja sporov: z mediacijo skupnosti, opravičilom in odpuščanjem ter odškodnino za žalitve in škodo. Tudi pokora s plačilom maš za žrtve ubojev se je obdržala vsaj v sredino 17. stoletja, Cerkev in samostani pa so do zgodnjega 18. stoletja nudili tudi azil storilcem (iz vrst elite). Pomiritve po običaju so bile integrirane v sodne postopke in, kar je bilo ključno, podprte s strani lokalnih sodišč, ki so jih hkrati pojmovale kot nepogrešljive za vzdrževanje družbene kohezije in miru; vsaj dokler*

so ohranila nadzor nad poravnavami, zlasti skozi jamstva, medtem ko so telesne kazni in smrtna kazen ter izgon bili praviloma pridržani za povratnike oziroma najtežje kršitve družbenega reda. Ta sistem se v notranjeavstrijskih vojvodinah najbrž ni kaj dosti spremenil, dokler lokalna sodišča niso izgubila zadnjih ostankov svoje avtonomije med jožefinskimi reformami v poznem 18. stoletju. Ponekod na podeželju se je del pomiritvenega obredja v izvensodnem reševanju žalitev in pretepov, ki so bili še vedno označeni kot sovraštvo, obdržal globoko v pozno 19. stoletje.

Ključne besede: fajda, sovražnost, nasilje, pomiritev, reševanje sporov, kmetje, meščani, sodišča, pravna kultura, Notranja Avstrija, Štajerska, Kranjska, Koroška, zgodnji novi vek

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FEUDING AND PEACEMAKING AMONG PEASANTS IN SEVENTEENTH-CENTURY DENMARK

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ABSTRACT

This article discusses instances of feud-like behaviour, enmities and peacemaking among peasants in seventeenth-century Denmark. It provides examples of early modern peasants declaring enmities, exacting vengeance, committing various forms of feud-related violence and making private peace settlements, and discusses whether such practices may be seen in continuation of late medieval peasant feuds. It is concluded that while such behaviours and mentalities were indeed rooted in earlier conflict resolution paradigms, they need to be interpreted in the context of social change, not least state-making, pacification and criminalisation, in order to estimate their significance and avoid selective use of evidence.

Keywords: feud, peacemaking, Middle Ages, early modern period, homicide

FAIDE E RICONCILIAZIONE TRA CONTADINI NELLA DANIMARCA DEL SEICENTO

SINTESI

Il presente contributo analizza casi di faide e comportamenti affini, di inimicizia e di riconciliazione tra contadini nella Danimarca del Seicento. Attraverso esempi specifici si illustrano inizialmente i modi in cui i contadini della prima età moderna si dichiaravano inimicizia, compivano vendette e vari atti di violenza legati alle faide e concludevano accordi privati di pace, per dibattere successivamente se tali pratiche possano essere considerate una continuazione delle faide contadine del tardo Medioevo. Si conclude che tali comportamenti e mentalità, sebbene effettivamente radicati nei paradigmi di risoluzione dei conflitti dei periodi storici precedenti, dovrebbero essere interpretati nel contesto dei cambiamenti sociali, innanzitutto della costruzione dello stato, della pacificazione e della criminalizzazione perché si possa valutarne l'importanza ed evitare un uso selettivo delle prove.

Parole chiave: faida, riconciliazione, Medioevo, prima età moderna, omicidio

INTRODUCTION

In the early spring of 1616, a big fight between two groups of peasants broke out in a field outside the village Hou in Northern Jutland. Locals had gathered to participate in the peaceful distribution of the rights to use the field, but soon preexisting tensions between claimants turned to violence. Opinions differed as to who had drawn first blood, but the end result was that Jep Sørensen was wounded with a knife by Christen Christensen. Jep Sørensen died a few days later, and his uncle, Niels Andersen, who had been present at the altercation, raised a formal accusation of "murder and man-death" against Christen Christensen at the hundred court (*herredsting*, a local rural court). Niels Andersen claimed that Jep Sørensen had been killed without "guilt or breach" (*uden skyld og brøde*), meaning that he had done nothing to justify Christen Christensen's killing of him. Niels Andersen also accused Christen Christensen's wife of complicity, because she "had been angry at, and not good to" Jep Sørensen during the quarrel, "and had helped causing the harm and not averted it". Niels Andersen moreover accused a man named Jes Pedersen of complicity because he had run toward Niels Andersen with an axe, and "threatened and defied" (*truede og undsagde*) him right after Christen Christensen's killing of Jep Sørensen (NLD 1616A, 89v–93v).

At that point, the parties had already met at the hundred court to exchange mutual peace promises. On behalf of the victim's family, Niels Andersen assured that they would leave the accused killer and his family in peace, "in words and deeds" and without "feud and quarrel" (*fejde og bordag*), until the case had been resolved by a jury "and for the rest of that day" (i.e. the day of trial). Representatives of Christen Christensen gave similar assurances and offered to pay wergeld for the killing of Jep Sørensen. They promised to yield "gold and money, pay and prayers, and all good, friendly love, and what wergeld should rightfully be paid for a dead man". However, when the case was tried at the high court of Jutland in April 1616, Niels Andersen rejected the offer of wergeld. Instead, he claimed that Jep Sørensen had been killed "without due cause" (*sagesløs*), and that Christen Christensen should be outlawed. Among other written evidence, he presented an eyewitness account, obtained eight months previously, to prove that Christen Christensen had held a grudge on Jep Sørensen and Niels Andersen since long before the killing. In August 1615, Niels Andersen had courteously approached Christen Christensen to divide a hay harvest that they both owned shares in. Christen Christensen's cryptic reply hinted at the underlying issue, namely that Jep Sørensen and Niels Andersen had acquired ownership rights in the farm that Christen Christensen inhabited and that they planned to move into it. Christen Christensen had said that "he would just as well endure that he would move into Hell as move in with him", and that Niels Andersen "would never eat a meal in peace" living at the same farm as Christen Christensen. Jep Sørensen and Niels Andersen had attained the

farm shares like "thieves and scoundrels", he continued, and were not to expect anything good from moving into it. Niels Andersen had immediately used the hundred court to document these barely concealed threats in writing, foreseeing that the conflict might escalate. This proved to be a wise move after the killing of Jep Sørensen, because it not only documented the killer's previous threats against the homicide victim, but also established a link between the original conflict over the partitioning of the farm and the division of its adjacent fields which became the direct cause of the killing.

At the high court, Christen Christensen's representative claimed that the killing had been committed in self-defence: Jep Sørensen had attacked a third man with a pitchfork, Christen Christensen had tried to separate them, and had accidentally wounded Jep Sørensen as the two wrestled. The high court jury rejected this claim, seemingly because it was based on prejudiced eyewitnesses (the alleged co-perpetrators), and outlawed Christen Christensen. This meant that, in principle, anyone could kill him with impunity, but more importantly that the authorities were obliged to apprehend and execute him. The alleged co-perpetrators were later acquitted (NLD 1616A, 152r–153r, 246v–248r).

Whether this conflict was a feud or not of course depends on how we define the concept of 'feud' (Netterstrøm, 2007b). It surely had some of the characteristics which historians often ascribe to that concept: It was a long-lasting, public enmity between two groups which resulted in (lethal) violence. If we demand of a conflict that it includes a long chain of revenge actions, preferably homicides, in order to perceive it as a 'real' feud, the conflict which caused Christen Christensen's killing of Jep Sørensen was not a feud. At least not as far as we know. We cannot rule out that it continued after the high court verdict, but it seems unlikely (for reasons that I shall return to) that it led to more killings. What we can say with relative confidence is that it included certain features, and a specific vocabulary, that were quite similar to what we find in medieval feuds and attached conflict resolution practices. It is therefore reasonable to see such instances as lying in direct continuation of the medieval feuding-and-peacemaking culture. By the most stringent definitions, there were not many full-blown feuds in seventeenth-century Denmark, but there was definitely "feud-like behaviour". How significant was such behaviour in seventeenth-century Denmark, vis-à-vis ongoing pacification, criminalisation and state-making processes? And how are we to view feud-like traits when they occur? As unimportant "remnants" of social behaviour and communication that had lost their "true" importance and meaning, perhaps only kept alive by linguistic inertia and legalistic formalism?

Relatively few systematic, detailed studies of late medieval and early modern peasant feuds exist in European historiography. For long, historians perceived feuding as an aristocratic prerogative and as an inherently medieval phenomenon that was rooted out by the early modern state (e.g. Brunner, 1990). Over the last two decades, German scholars have demonstrated that

peasant feuding was, in fact, widespread in the Empire, not just in the Late Middle Ages, but well into the early modern period (Peters, 2000; Reinle, 2003; Mommertz, 2003). In seventeenth-century Inner Austria, rituals of enmity and peace remained largely unchanged from the late Middle Ages, and vestiges of traditional conflict resolution practices were still present in the late nineteenth century (Oman, 2019). Continuities of, even increases in, feuding and enmities among peasants in early modern Italy, Germany, France and England have recently been tied to factionalism, civil wars, confessional conflicts and disruptive side effects of state-making (Carroll, 2023). In Scandinavia, late medieval and early modern feuding is scarcely researched, and most studies have centred on noble feuding (e.g. Poulsen, 2001; Opsahl, 2007; Netterstrøm, 2012). The Danish legal historian Ole Fenger's doctoral thesis, *Fejde og mandebod* (Feuding and Wergeld), from 1971, was groundbreaking in the Nordic context by directing the attention to feuding and peacemaking as legal and functional phenomena that survived until the middle of the seventeenth century, even among commoners, but his treatment of the late medieval and early modern periods focussed on legal aspects (the longevity of collective liability, i.e. the obligation of the killer's kin to pay wergeld), not on a detailed study of particular feuds or a systematic assessment of the prevalence or social significance of feuding (Fenger, 1971). In recent decades, Scandinavian historians have become increasingly interested in violence among late medieval and early modern peasants and townspeople, but only a few have done so by employing the scholarly concept of feud (Netterstrøm, 2003; 2007a; Lindström, 2007; Jansson, 2009; Dørum, 2016).

LATE MEDIEVAL FEUDING AND EARLY MODERN PACIFICATION

Feuding was, to our best knowledge, rather widespread in late medieval Denmark. Preserved sources are scarce, but we know that there were many noble feuds, including feuds between the highest-ranking noble families, and we have enough material to analyse some of them in detail. We also know that commoners engaged in similar activities, and that this behaviour was not more criminal than noble feuding. Although we only have one or a few sources extant for each peasant feud, usually charters from legal cases, we can piece together a picture of a deeply entrenched feuding culture in which vengeance and enmity were very real possibilities. We find peasants declaring enmities, exacting and exchanging blood vengeance, swearing to uphold truces, paying compensation, making peace and promising lasting friendship after the conclusion of feuds. In the absence of strong central institutions, 'private' violence and conflict resolution were not just possible, they were necessary components of social cohesion and legal-moral sanctioning. Late medieval feuding was socially layered according to the prevailing social hierarchy: Commoners feuded against other commoners and only rarely against social

superiors. If violated by a nobleman, peasants called upon the protection of their noble lord, and conversely, peasants sometimes took part in their noble protectors' feuds against other noblemen (Netterstrøm, 2003; 2007a; 2012).

King and Church had attempted to limit private violence since the High Middle Ages, and late medieval feuding was probably already a moderate form of earlier cultures of violence. Toward the end of the Middle Ages, feuding among peasants was increasingly criminalised. For example, in 1468, a royal ordinance had admitted the right to declare an "honorable feud" to any "good man", a social nomenclature which included peasants, but from 1513 provisions for such virtuous defiances only applied to "knightly men" (i.e. nobles). The royal central power was severely strengthened after a major civil war 1534–36 that also led to the Lutheran Reformation. The nobility lost much of its power, and the early modern state intensified its disciplining of the broad population (Krogh, 2017). In 1537, the death penalty was introduced for intentional homicide committed by peasants and townsmen, and private settlements were made illegal. Nobles could still atone for homicide by paying wergeld and performing peace rituals according to medieval laws, and they kept their formal right of declaring an honorable feud until the introduction of absolutism in 1660, but large-scale noble feuding ceased after 1536, and from around 1600 some noblemen were even executed for homicide (Jørgensen, 2007, 289–304; Fenger, 1971; Netterstrøm, 2017).

Harsher punishments, social disciplining, criminalisation of various forms of violence, and strengthening of the legal system (cf. Andersen, 2010; Kjær & Vogt, 2020) seem to have resulted in a major pacification of the Danish population. We do not have many reliable homicide statistics for early modern Denmark (and none for the medieval period), so it is not possible, at the moment, to ascertain precisely to what extent Denmark followed the conjunctures of other European regions, for instance whether an increase in homicides occurred in the second half of the sixteenth century (cf. Carroll, 2023), or exactly when a decisive decrease took place; rough estimates suggest that a major drop happened after c. 1640 (Næss, 1994). This article builds on the premise that, in Denmark, violence was much more widespread in the Middle Ages than later, and that it was falling (though not necessarily without temporary increases) over the sixteenth and seventeenth centuries. It follows from this that feuding among peasants decreased as well (Netterstrøm, 2017).

Seen from the point of view of historians, however, feud-like behaviour among peasants in a way becomes more clearly visible during the early modern period due to the enormous growth in surviving sources. Whereas analysis of conflicts among late medieval peasants is depending on a limited number of more or less randomly preserved charters, early modern historians can delve into an exponentially increasing amount of sources produced by the central administration and law courts at all levels of the legal system. Most importantly, whole record books containing verdicts, depositions etc., appear from

the beginning of the sixteenth century onward, first from urban law courts, then the supreme court (from 1537), and later local rural courts and the high court of Jutland (beginning in the second half of the sixteenth century). This means that although feuding among peasants was in all likelihood declining throughout the early modern period, this is so to speak "counterweighed" by the growth in sources as seen from the present-day historian's angle. In the following, I will give examples of feud-like behaviour among peasants taken from seventeenth-century court records and seek to contextualise them.

REVENGE

Revenge is the motive behind much feuding and is, directly or indirectly, included in almost all definitions of the scholarly concept of "feud" (Netterstrøm, 2007b). Danish seventeenth-century court records yield many instances of peasants retaliating transgressions by means of violence. In 1618, a peasant woman exacted vengeance on a man who had attacked her earlier the same day. After having broken a staff over his head, the woman put her hands on her hips and said to the victim, who lay bleeding on the ground: "damned be you, now you can keep what you got. I will take what I got, now blood has been given for blood" (NLD 1618B, 169r–170v). The intention to take blood for blood was also present in a case from 1617, when Niels Christensen, who had been injured by Jens Nielsen in a brawl at a dance party, told bystanders that he wanted to "avenge (*hævne*) his wound on Jens Nielsen". Niels Christensen then went back to the dance floor and attacked Jens Nielsen with a sword. Jens Nielsen, however, managed to draw his knife and kill Niels Christensen in self-defence (NLD 1617C, 134r–138r).

A particularly forceful exclamation of the desire for revenge was uttered by the peasant Christian Madsen when he came to his neighbour's door on a summer morning in 1617. The neighbour invited him in for food and drink, but Christian Madsen said that he "was not able to eat anything because his heart was bursting in his chest and he could not breathe before he got revenge (*hævn*) on that scoundrel", by which he meant another villager, Peder Nielsen. Christen Madsen then ran to Peder Nielsen's house with a drawn sword, pounded on Peder Nielsen's door and challenged him to come out and fight. The reason for Christen Madsen's anger is not revealed in the court transcript, but in the end Peder Nielsen came out and killed him with a pitchfork (NLD 1617B, 295v–296v).

As mentioned, seventeenth-century court records are replete with instances of peasants retaliating against perceived wrongdoers. Nevertheless, examples like the ones provided above, where the Danish word for revenge, *hævn*, is used explicitly, are much rarer than one might anticipate (cf. Fenger, 1971, 531). This has also been observed in late medieval Danish feuds (Netterstrøm, 2012, 306), meaning that the scarcity of explicit revenge terminology in seventeenth-century sources does not in itself indicate a decline in feuding.

DEFIANCE AND DECLARATION OF ENMITY

Defiances, public challenges to or warnings of feud, and declarations of enmity appear regularly in seventeenth-century conflicts between peasants. They are often marked by the verb *undsige* (noun *undsigelse*), a loanword from Low German (cf. High German *Entsagen*) which had been used in Denmark since the Late Middle Ages to denote the same as it did in German feuding discourse (cf. German *Absagen*, latin *diffidatio*): To renounce friendship or loyalty, declare enmity, and/or warn of or challenge to a feud (Netterstrøm, 2007a). For example, in 1633, a married couple from the estate of Herlufsholm on Zealand complained that one of their neighbours had tried to rape the wife on several occasions, and had threatened the husband, "and still regularly defies (*undsiger*) him". The manor court therefore forced the perpetrator to promise that he would leave the couple in peace, and not commit violence against them or pay anyone else to do so. In a different case at the same estate, a man was jailed at the manor because he was guilty of "threats and defiance (*undsigelse*) with hits and blows" against the estate's bailiff. He was released on assurances that he would not bother the bailiff with violence or defiance (*undsigelse*) in the future. Tellingly, in conclusion of both these cases, the receivers of defiance had to swear that they too would keep peace with the perpetrators, indicating that the acts of defiance had created a mutual enmity which had to be ended by public peace announcements on both sides (HBT, 1633, 165, 213). Other words could convey the same meaning as *undsige*, for example the verb *advare*, to warn someone of something. This was used in a case from 1616, when a boatsman from Jutland threatened the captain of a Danish ship outside Lübeck, "and warned him (*varede ham ad*), he should stay out of his sight", acted mischievously (*modvillig*, cf. German *mutwillig*) toward the captain, and later attacked him. In this case, the "warning" was clearly perceived as a declaration of enmity (NLD 1616A, 310r–312v).

When interpreting the use of words such as *undsige* and *advare* in seventeenth-century sources, it is sometimes difficult to distinguish between simple, spontaneous threats and declarations of total enmity, since the original meaning of those words (i.e. feud-commencement) had been somewhat watered down since the Middle Ages. When the case described in the beginning of this article mentions that Jes Pedersen had run toward Niels Andersen with an axe and "threatened and defied" (*truede og undsagde*) him, does that mean that Jes Pedersen had thereby declared a feud on Niels Andersen, or merely that he had threatened to strike him with the axe? The simple occurrences of words like *undsige* or *advare* cannot be taken as certain indicators of feuding without contextualisation. Conversely, expressions that usually denoted simple threats were sometimes utilised to express deep-seated enmities. For example, violent threats such as "you shall have a devil's ride", "you shall have a devil", or "you shall catch shame", were frequently spoken in drunken quarrels and impulsive

brawls, but in a homicide case from Jutland in 1612 it was clearly meant as something more than just a petty threat: The killer attacked his victim with the words "you shall have a thousand devils", and after stabbing him many times with a knife shouted, "now you got yourself a devil, I have promised you that for three years", the latter remark hinting at a long-standing enmity, which was corroborated by the fact that the killer had earlier told people about his intentions to harm the victim (NLD 1612A, 157v–160v). This means that, in other cases where less context is provided, threats that appear relatively harmless or spontaneous can obscure deeper enmities.

Commoners' feud declarations had been criminalised during the sixteenth century. The right to challenge someone to an "honorable" feud had become a noble privilege in the beginning of the century, as noted above, and royal ordinances from 1551 and 1558 made peasants' declarations of enmity punishable. Interestingly, these ordinances tied *undsigelse* closely to arson, indicating that "murderous arson" (*mordbrand*) was seen as the "poor man's feud", similarly to what has been observed in early modern Germany (Reinle, 2003, 258–262; Mommertz, 2003). This observation gives deeper meaning to a case from Sokkelund Hundred (close to Copenhagen) where a peasant publicly threatened his opponent with "the red rooster". He was immediately arrested by the royal bailiff (which was rather unusual), no doubt because his threat was perceived as a public declaration of deadly enmity and not just a simple threat to set fire to his adversary's house. Later, the man did indeed kill his enemy by "murderous arson" (Scocozza, 1991).

Peasants' public declarations of enmity are most often described negatively in seventeenth-century court records. Acts of defiance are often emphasised to prove premeditation behind subsequent unlawful violence. In some cases, however, the absence of a warning is portrayed as dishonest. In 1617, the peasant Rasmus Jørgensen was walking unarmed through the village late at night, "knowing of no danger or enmity (*fjendskab*) in any way", when a soldier named Christen Madsen came up from behind and hit him in the back with a sword, "entirely unwarned" (*uadvaret*). According to a witness, Rasmus Jørgensen had shouted, "now you struck me like a scoundrel", and "had you been an honest man you would have warned me first", after which he stabbed the soldier with a small knife in self-defence. Apparently, Christen Madsen's attack would have been deemed "honest" if he had announced the enmity and warned Rasmus Jørgensen beforehand (NLD 1617B, 93r–94v). The same way of thinking is present in cases where duel-like fights between peasants are considered "honest" and "rightly" (*redelig*) because a challenge had been given and accepted (e.g. NLD 1618A, 193r–193v; NLD 1622A, 172r–178r).

There was thus ambiguity in the attitude to peasants' defiances, challenges, warnings and declarations of enmity in seventeenth-century discourse: Sometimes they were described as reprehensible or criminal, sometimes as acceptable and honest. This ambiguity cannot simply be attributed to a divergence between

the state's legalist perception, according to which defiances were criminal, and popular mentalities that embraced such declarations of enmity as prerequisites of legitimate violence. Even the authorities sometimes accepted defiances as valid and "honest"; and conversely, peasants' condemnations of defiances were likely often heartfelt, even if litigants also exploited the fact that defiances were illegal in the eyes of the authorities. It should be remembered that declarations of enmity had never been universally accepted. There had always been ambivalence and subjectivity in the evaluation of concrete feuding behaviour (Netterstrøm, 2012). The ambiguity toward acts of defiance in the seventeenth century was not new, rather, it continued from paradoxes that had always been integral to the feuding culture.

PUBLIC ENMITY

Explicit mentions of ongoing public enmities appear from time to time in seventeenth-century court records. Interestingly, these enmities did not always entail acts of violence, at least not violence that was serious enough to be reported in the court rolls. In Hvetbo Hundred in northern Jutland, a man and two brothers disputed for several years about cattle and landed property. In 1631, at the local hundred court, one of the brothers, Las Laursen, offered to guarantee that he would stay clear of their opponent, Peder Nielsen, and abstain from "feud and fighting" (*fejde og bordag*), to which Peder Nielsen replied that he had "never threatened or feuded" (*fejdet*) Las Laursen, but Las Laursen had threatened him with a gun. In 1633, the parties gave mutual assurances that they would not engage in "feud and fighting" (*fejde og bordag*), and two weeks later they reached a settlement concerning the disputed property (HHT, 1631, 15; 1633, 812, 858 et pass.). In a number of instances, reference to enmity was used to undermine the credibility of witnesses or accusers in court trials. For example, in 1618, three peasants from eastern Jutland were suspected of giving false testimony in a homicide trial out of "hatred and enmity" (*had og avind*) toward the alleged perpetrator (NLD 1618B, 404r–407r). In 1633, the Zealand peasant Jep Nål used this kind of reasoning against himself, so to speak, to avoid giving testimony against Niels Madsen who had challenged him to stand by accusations of theft. Jep Nål said that "Niels Madsen is his enemy (*fjende*) and un-friend (*uven*) so that he could not rightfully bear witness against him, because they had had a dispute (*trætte*) with each other for a long time" (HBT, 1633, 244). The language of enmity can, of course, also be found in cases that culminated in lethal violence. An inheritance dispute among peasants from southwest Jutland ended with a man killing his own uncle after the uncle had thrown himself at him with a knife. Eyewitnesses said that the uncle had previously "threatened and defied" (*truede og undsagde*) his nephew, who had accused him of theft of a silver belt from the disputed estate. During a quarrel, the uncle had drawn a knife and said to his nephew: "Were you not my brother's son, you would

never get out of this house alive". The uncle had also told people that he had become his nephew's "enemy" (*uven*). The uncle had then gone to his nephew's home and called him out to fight, and when the nephew came to the door and asked to be left in peace, the uncle attacked him; but the nephew killed him in self-defence (NLD 1620C, 198v–200r).

FEUDING AND PEACEMAKING FOLLOWING HOMICIDE

In medieval Denmark, any homicide automatically led to a state of feud between the kins of killer and victim. This mortal enmity, or blood feud, would then have to be resolved either by the parties making peace or the perpetrator getting outlawed. Peacemaking comprised payment of wergeld and oaths and rituals designed to compensate the honour of the victim's family; to end the feud and restore friendship between the kins; and to make peace with God by atonement (penance) and receive forgiveness from the Holy Church. Even if the killer was outlawed, he could regain his peace by paying a fine to the king, obtaining ecclesiastic absolution and paying wergeld to the victim's family, an arrangement that required that the latter abstained from its right to revenge. Compensation and reconciliation were therefore, as far as we know, the outcomes of most homicide cases in late medieval Denmark. The oath taken by the victim's family to end the blood feud was called *orfejde*, another loanword from German, *Urfehde*, meaning something like non-feud or end-of-feud. A significant number of preserved *orfejder* sworn by peasant families is important evidence of peasant feuds in late medieval Denmark (Netterstrøm, 2007a).

The new legislation of the sixteenth century supposedly rendered peacemaking, wergeld and *orfejde* irrelevant in cases of intentional homicide among commoners, since the only possible outcome in such cases was the death penalty or outlawry, depending on whether the killer was arrested (see above). An ordinance of 1547 precluded outlawed commoners from buying back their peace from the king, and ordinances issued during the second half of the century illegalised out of court settlements in homicide cases. The obligation to pay wergeld was, however, kept as sanction for manslaughter in self-defence and accidental killings (Netterstrøm, 2017). When we turn to legal practice as expressed in seventeenth-century court records, we encounter many instances of payment of wergeld and swearing of *orfejde* following homicide. It is often not stated positively that these killings had been done in self-defence or by accident. Suspicions that many of them were in fact wilful homicides that were concealed (by both parties) as killings in self-defence or by accident have been confirmed by recent research (Netterstrøm, 2017; Kivivuori et al., 2022). Such strategies to evade criminalisation are interesting in themselves, but in the present context they are particularly relevant because they may reveal a continuity in feuding and peacemaking practices.

A case from Jutland may serve as an, in many ways, unusual example which however reveals a way of thinking that may have been more widespread than normally disclosed in homicide trials. In 1605, a peasant killed another peasant and was outlawed by the high court for intentional homicide. After that, the perpetrator reached an agreement with the victim's family to pay wergeld and receive *orfejde*, and this settlement was recognised and published by the local hundred court (all against the letter of the law). The settlement stipulated that the killer should pay wergeld in instalments, but before the last instalment was due in 1607, the victim's family assaulted and wounded him on the verge of his life, claiming that the killer had not kept his part of the agreement. The killer then sued the victim's family and attained a verdict (at an unknown law court) that they should forfeit the wergeld because they had broken the *orfejde* that had been sworn in connection with the original settlement. The victim's family in turn got the local hundred court to proclaim that the killer should keep his obligation to pay the full wergeld. This verdict was finally appealed by the killer to the high court which, to the chagrin of the killer, scrapped the original wergeld settlement on grounds that the killer had been outlawed and that the settlement was therefore illegal (NLD 1608A, 332r–335r).

Many important points can be deduced from this case. It shows that peasants were still inclined to reach settlements, which carried economic benefits for the victim's family, rather than pushing for the punishment required by state legislation, and that they felt entitled to set aside such legislation if needed. In doing so, they employed ancient practices of conflict resolution that had been part of the medieval feuding culture, i.e. the settlement. Indeed, both parties seem to have perceived the whole process as a feud: The killing had created a state of enmity, and a right to exact vengeance on the part of the victim's family, which was terminated by the settlement; when the victim's family felt that the killer did not live up to his obligations, their right to revenge was reactivated, and they attacked the killer; the killer in turn interpreted the almost fatal attack to mean that satisfactory vengeance had now been taken and that wergeld should therefore not be paid, since the meaning of wergeld was to replace rightful vengeance. What is entirely unusual about this case is that the local law court had accepted and contributed to this process, as if unaware of the royal ordinances issued over the past three quarters of a century. It is also odd that the killer appealed to the high court believing that he, still an outlaw, could get it to convict the victim's family to forfeiture of the (illegal) wergeld. Peasants were normally shrewder than this, but the killer's openness and the local court's cooperation have left us this evidence of continued feud mentalities.

As said, killing in self-defence or by accident should still be sanctioned by wergeld, and payment of wergeld was therefore, of course, not necessarily illegal; to the contrary, in such cases it was the only possible outcome according to the law. When seventeenth-century court records regularly report instances of killers offering to pay wergeld at the local law court early in the trial (before

conviction), it was technically not against official homicide legislation, since the case might end with a court order to pay wergeld. Still, this practice seems to demonstrate a significant degree of continuity from medieval feuding and peacemaking practices. The language in which such wergeld offers were put forward is in itself revealing. We have already seen one example in the beginning of this article, where the killer's family offered "gold and money, pay and prayers, and all good, friendly love, and what wergeld should rightfully be paid for a dead man" (NLD 1616A, 89v–93v). Other examples could be mentioned, such as "goodwill and gifts, hour and assembly, silver and money, amends and atonement" (NLD 1618B, 329r–330v), with "hour and assembly" referring to the proposal of a peace meeting at an appointed time. Archaic and characterised by frequent pleonasms and alliterations, such language is indistinguishable from late medieval peacemaking terminology. Equally important to note is that, in the seventeenth century, such offers of wergeld ahead of the trial verdict were not demanded in current legislation. If the trial ended with the death penalty or outlawry for intentional homicide, earlier offers of wergeld were entirely irrelevant, and if it ended with wergeld payment for killing in self-defence or by accident, such offers were somewhat superfluous, since the payment of wergeld in such cases followed from the court verdict and not the will of the killer and his family. It is never explicitly stated what the peasants hoped to achieve, but offers of wergeld most likely represent conscious attempts to influence the course of the homicide trial, including the contents of eyewitness testimonies and decisions made by persons of authority, in the direction of settlement by compensation instead of death penalty or outlawry.

Much the same can be said about a related phenomenon which figures even more prominently in seventeenth-century homicide trials than wergeld offers, namely mutual agreements to keep the peace for the duration of the trial. An example of this is included in the case described in the beginning of this article, where the parties promised not to "feud or quarrel" against each other until the jury had spoken its verdict. From a legal point of view, such assurances were unnecessary, since revenge actions ahead of the verdict were entirely illegal. But apparently, peasants found them necessary. They indicate that peasants perceived that the homicide was embedded in a preexisting mutual enmity, or that it launched a feud which not only gave the victim's family a right to exact vengeance, but could also cause further violence by the killer and his family. Conditions that the truce lasted until a fixed time, in most cases the day of the trial "and the rest of the day" (giving the parties time to leave the high court in peace), seem to expose that the threat of violence was perceived to be realistic, and presupposed that feuding could continue after that point in time. In a case from 1616, the temporary peace was set to last until eight days after the trial, indicating that the duration of the truce was negotiated in a conscious manner from case to case (NLD 1616A, 205r–206r). Such temporary peace arrangements and the whole mindset behind them were in direct continuity of medieval peacemaking practices and mentalities (Netterstrøm, 2007a).

That peasants went to great lengths to avoid harsh punishment by settling even lethal violence out of court, thereby activating traditional peacemaking mechanisms to override the role of law courts, is manifested by the existence of "contracts" between participants in brawls where one of the parties had been seriously injured but was still alive. In these extra-judicial contracts, the perpetrator (or the less injured person) promised to pay compensation, and the victim declared that he had thereby been satisfactorily recompensed, and that further prosecution of the perpetrator should be abolished, even if the victim died (e.g. NLD 1618A, 23v–26r, ; NLD 1618B, 151v–153r, ; NLD 1619B, 282v–284r). Private settlements in cases of non-lethal violence were very common and completely legal (if the guilty party remembered to also pay a fine to the king's representative) (Stevnsborg, 1984; Appel, 1999). But the prevention of a homicide trial in case the victim died was certainly not in keeping with the spirit of the law. Contrary to the wishes of contract participants, such cases did indeed often lead to a homicide trial, and judges and juries almost always rejected these private settlements when they were brought before them. Still, peasants continued to draw up such contracts, most probably hoping to gain a fair chance of avoiding punishment. We typically learn of these contracts when they are referred to in homicide trials, so we only see the ones that failed. Perhaps many more were drawn up in cases that did not lead to a homicide trial even when the victim died; we do not detect them in the court records exactly because they were successful. In any case, this type of settlement is yet another example that peasants felt that the right to decide whether infringements should be avenged or forgiven belonged to them, not to representatives of the state.

An important factor behind the continued uses of traditional peacemaking practices was that they were often supported by the noble lords of the involved peasants. Noble landowners were endowed with the "privilege of neck and hand" (*hals- og håndsret*, cf. German *Halsgericht*), i.e. the right to prosecute and punish their subject peasants and receive all royal fines from them when convicted of crimes. Over the 1530–50s, the royal government had to repeatedly impress upon the nobility that arresting and executing subject peasants guilty of intentional homicide was not just every noble landowner's right, but also his duty. Further ordinances throughout the sixteenth century reveal that noble lords often perceived it more economical to avoid executing or outlawing peasant tenants, and instead take a bribe to turn the blind eye and let the peasants negotiate a settlement; such practices were now explicitly prohibited (Netterstrøm, 2017). Noble lords participated as prosecutors or defenders in some of the above-mentioned seventeenth-century cases, when intentional homicides were most likely concealed as killings in self-defence, allowing for public payment of wergeld. In other cases, homicides were apparently resolved without involving the law courts at all. In 1607, the noble lady Karen Banner wrote a private letter to the nobleman Manderup Parsberg to defend her peasant who stood accused of homicide. Karen Banner pleaded with Manderup Parsberg,

whom she feared would prosecute on behalf of the victim's kin, that "if the dead's kin come to you and declare the case to you, that you would do well and help my poor servant, so that everything would remain and be in friendliness [friendship] between him and the dead's kin, whether it [the homicide] should come before the jury or not". Karen Banner expected that the case might be resolved without going to court, explaining that the victim had settled amicably with the offender before he died. She promised that her peasant would pay even more in compensation "so that everything would be in friendliness, and so that he [the accused] would not be punished more than that". Manderup Parsberg, however, wished to get the offender outlawed and had Karen Banner's letter read aloud at the high court, thereby exposing her intent to keep the killing a secret, and at the same time proving that it could not have been committed in self-defence (NLD 1608A, 46v–47r). In this case, the attempt to conceal the killing from the law courts failed because the interests of the involved noble landowners diverged, but it is highly probable that similar clandestine communication among noble landowners proved effective in other cases; if so, they have not left traces in the court records.

VOCABULARIES OF LEGITIMATE VIOLENCE

A final illustration of the continuity of mentalities rooted in a medieval feud culture can be observed in the manner in which seventeenth-century peasants spoke about killing and violence. There was an entire discourse on killing and violence, that was often shared by state representatives and even present in legislation, from which can be deduced that some homicides and acts of violence, while illegal, were deemed more acceptable than others. For example, killings might be described as being done "rightly" or "un-rightly" (*redeligt*/*uredeligt*) depending on circumstances (see above). Frequently, it was asserted that a person had been killed or assaulted "innocently" (*uskyldig*), "without due cause" (*sagesløs*) or "without guilt or breach" (*uden skyld og brøde*), suggesting that, under different conditions, the victim might not be perceived as entirely innocent, potentially rendering the violence more justified. An example of this was seen in the case study at the beginning of this article. Distinctions between "murder" (*mord*) and "manslaughter" (*drab*, *manddød*, *mandslet*) had been made since the High Middle Ages, the former of course denoting the heinous and entirely inexcusable form of homicide, and the latter by contrast the less disgraceful one. The boundary had originally been drawn between killings committed secretly vs openly, but over the Late Middle Ages this categorisation changed as perpetrators began to conceal otherwise honest homicides, and other factors came to decide whether a homicide qualified as murder. Early modern homicide legislation did not distinguish between murder and manslaughter (only between intentional and non-intentional homicides), but the distinction lingered on in legal practice (Jørgensen, 2007, 289–304). In seventeenth-century court

records, the term "murder" was often used by the prosecuting side alone (as seen in this article's introductory case study), and seldom by judges and juries (Netterstrøm, 2017).

As previously mentioned, violence could face condemnation as "undeclared" or "unwarned" (*uforvaret*, *uadvaret*), suggesting that the act might be deemed less reprehensible if declared in advance with proper justification. Conversely, violence was often condemned exactly because the perpetrator had earlier declared his intentions to do harm. In cases of non-lethal fights or assaults, the boundary between acceptable and unacceptable violence was crossed when the perpetrator became (discursively) "angry", employed violence at prohibited times or places, or resorted to the use of weapons. In some situations, these popular views influenced how the authorities assessed concrete instances of violence. All in all, seventeenth-century discourses reveal that certain homicides and acts of violence were seen as morally defensible or acceptable because they were righteous, justified, honourable, part of a mutual enmity, or performed in a correct manner or at the right time and place. These perceptions were no doubt founded in medieval notions of legitimate feud violence (Netterstrøm, 2007a; 2017).

EARLY MODERN FEUDING AND PEACEMAKING IN CONTEXT

Danish seventeenth-century court records contain enough evidence to suggest that a whole range of mentalities and practices were inherited from late medieval feuding and peacemaking. But how much did they matter in the big picture? There is a risk of "cherry picking" when we look for specific forms of behaviours and practices in early modern sources. Instances of "feud-like behaviour" are interesting and telling, even when they appear in limited quantities, but if we wish to assess their social and legal significance, we need to place these instances in larger contexts.

One way of doing so is to quantify them within the framework of large datasets, to see how prevalent feud-like practices were, as measured against comparable phenomena. One such dataset, which may be relevant for this endeavour, is a sample of 200 homicide cases from seventeenth-century Denmark that was recently investigated for a project on historical homicides in Scandinavia (which has also yielded many of the above-mentioned examples). The 200 cases comprise all homicides mentioned in extant verdict books of the high court of Jutland during the years 1608–22. Since any homicide committed in a rural jurisdiction was supposed to be adjudicated by the high court (rather than by local hundred courts), the verdict books treat, in principle, all homicides committed among rural commoners (c. 88 percent of a total population of around 260,000) within the high court's jurisdiction (Jutland north of the Kongeå River, i.e. not including the Duchy of Schleswig). For the purposes of the research project, these 200 cases were coded (by the author of this article) (in SPSS) according to the criteria of the Historical Homicide Monitor which measures c. 100 variables

for each homicide (time, place, gender, social status, motives, weapons etc.) and then analysed statistically (Kivivuori et al., 2022). Feud-like behaviour was not investigated systematically for this project, but still the sample of 200 cases can give indications of how typical such behaviour was. The idea is that if feuding and enmities were very widespread in Jutland in the first decades of the seventeenth century, a large part of the homicides would show signs of this.

The general impression is that while feud-like traits were present in many of the cases (precisely how many cannot be said), a large share of the cases does not exhibit significant elements, or any traits at all, of feuding. For example, only six cases were coded as "feud-related" in a variable ("type of homicide") where other coding options (e.g. "conflict over land rights" or "conflict over other economic matters") were more pertinent for the rest of the cases. A variable measuring "organised groups" did not reveal a single incidence of homicide perpetrated by a "feuding group". Under variables related to motives, 12 percent of homicides were claimed to be motivated by revenge, but it should be noted that revenge was defined broadly here (retaliation of any earlier physical injury, grave insult or allegation). There was not a single instance of a homicide being committed to avenge a previous killing. Among the 200 homicides, none was connected to a full-blown blood feud with open declarations of enmity, revenge cycles, involvement of feuding groups or the like (Kivivuori et al., 2022). This is, by the way, the reason why we can say with some certainty that the case described in the introduction to this article did not entail further killings.

On the other hand, the dataset shows a rather large share of cases motivated by long-standing property disputes, and a surprisingly large share of (more or less) premeditated homicides, indicating that killings related to enmities make up a larger part of the 200 homicides than revealed by the above-mentioned variables. Furthermore, the nature of the extant sources may obscure that feud-like practices were more widespread than what is apparent on the surface. High court judges and juries often focussed on the situational aspect of the homicide, i.e. the short-term events leading up to the fatal moment, e.g. assessing who had struck first or who had first drawn a weapon. These factors were often sufficient to pass a verdict, and juries and judges were therefore not always interested in previous conflicts. Finally, trial parties were often impelled to conceal revenge motives or relatedness to enmities in order to be able to settle the case by compensation and avoid the death penalty (Kivivuori et al., 2022).

Another way of contextualising seventeenth-century evidence of feuding and peacemaking, and of continuities from late medieval practices, is to place it within a wider societal setting and a long historical perspective. In short, society had changed significantly between the late Middle Ages and the seventeenth century. The state had grown much stronger, and the nobility, whose feuding practices had sustained peasant feuding, had lost much of its previous power. The enmities, defiances, *orfejder*, offers of wergeld and other feud-like traits that we encounter in seventeenth-century court records took place in a

social context marked by growing state intervention in peasant communities, pacification, disciplining, juridification and criminalisation. In the Middle Ages, feuding had played a major role as a means of securing the rights of individuals and families, and "private" peacemaking had been decisive for the resolution of conflicts (Fenger, 1971). In the early modern period, the state was rapidly taking over these functions (Netterstrøm, 2007a; 2017).

Returning to the case outlined at the beginning of this article, despite its abundance of feud-like characteristics, we may emphasise that state institutions and representatives were very much involved, and that they defined the boundaries that constrained the possibilities available to the peasants: The conflict was played out within the state's legal system and according to the state's legislation on homicide; despite offers of wergeld, and instead of exacting private vengeance, the victim's family opted to seek an outlawry conviction with the purpose of getting the killer executed by royal officers; and even if the victim's family clearly had the upper hand at the local level, the high court acquitted the killer's wife and a third man of complicity, signalling the dominance of the state's law courts over local power struggles. There was still space for peasants to manoeuvre: Feuding and enmities could be concealed, illegal settlements could be veiled, and law courts could even be utilised for these purposes. But there was no longer room for unconstrained feuding among peasants in seventeenth-century Denmark.

In the wider European context, on the other hand, the case of Denmark is interesting because it offers an example of the persistence of feuding in an early modern realm that was comparably stable. Whereas continuities, and even surges, of feud violence in other parts of early modern Europe may be explained as consequences of civil wars, religious divisions or social upheaval (Carroll, 2023), early modern Denmark was characterised, after the civil war of 1534–36, by dynastic stability and religious homogeneity, and by the absence of factional violence, civil wars and commoners' revolts (Jespersen, 2000; Vogt, 2014). The Danish state was not stronger or more centralised than most of its European counterparts, and its legal system was indeed relatively conservative and underdeveloped, but it was successful in preventing the kind of political and social conflicts that caused private enmities to flourish elsewhere. That feuding and peacemaking to some degree persisted in early modern Denmark, in spite of these stabilising forces, may be taken to indicate the tenacity of medieval modes and mentalities of conflict resolution.

FAJDE IN POMIRITVE MED KMETI NA DANSKEM V 17. STOLETJU

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POVZETEK

Članek obravnava primere fajdi podobnega vedênja, sovražnosti in pomiritve med kmeti na Danskem v 17. stoletju. Avtor predstavi primere, ko so zgodnje novoveški kmetje napovedali sovražnost, se maščevali, izvajali različne oblike s fajdo povezanega nasilja in sklepali zasebne mirovne sporazume, ter razpravlja o tem, ali je mogoče take prakse razumeti kot nadaljevanje poznosrednjeveških kmečkih fajd. Razprava sklene, da sta tako ravnanje in mentaliteta sicer izhajala iz zgodnejših paradigem reševanja sporov, vendar jih je treba interpretirati v kontekstu družbenih sprememb, nenazadnje izgradnje države, pacifikacije in kriminalizacije, da bi lahko ocenili njihov pomen in se izognili selektivni rabi dokazov. Vzpon države je vse bolj postavljal meje, ki so omejevale možnosti ravnanja kmetom, vpletenim v spore. Na podlagi obsežnega nabora podatkov o 200 ubojih iz Jutlandije v 17. stoletju se zdijo primeri fajdi podobnega vedenja manj izraziti, vendar se je treba zavedati, da so kmetje prav zaradi kriminalizacije takšno vedenje pogosto skrivali pred sodišči ter da so bile zato sovražnosti in zasebne poravnave morda bolj razširjene, kot se zdi na prvi pogled.

Ključne besede: fajda, pomiritev, srednji vek, zgodnji novi vek, uboj

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LOS HERMANOS COLOMER DE VALLDIGNA ¿SALTEADORES O MIEMBROS DE UNA FACCIÓN?

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RESUMEN

Los asaltos y las agresiones que los usuarios de calzadas y senderos sufrían por presuntos bandidos y proscritos ha sido una constante histórica. De ello se ha derivado la percepción social del bandolero en tanto que asaltante de caminos. No obstante, cabría preguntarse ¿Hasta qué punto es verídica y acertada esta imagen? ¿Era ésta siempre una violencia indiscriminada y fortuita ejercida por simples salteadores y desharrapados? o, por el contrario, ¿había cierta premeditación? ¿Los asaltantes desconocían, o no, la identidad de su víctima? ¿Agresor y agredido formaban parte, o no, de alguna facción? En el presente trabajo analizamos un caso de asalto y agresión acaecido en 1536 en el camino real, cerca de Carcaixent, una pequeña aldea del reino de Valencia (Corona de Aragón). En aquella ocasión, los hermanos Cosme, Damià y Vicent Colomer, habitantes la actual Valldigna, asaltaron al labrador Bertomeu Garrigues, al cual le hurtaron algunas pertenencias y le ocasionaron graves heridas. De este modo, lo que a todas luces se presenta como un caso paradigmático de asalto y agresión en el camino por parte de unos delincuentes comunes, resulta un caso mucho más complejo en la medida que se profundiza en la identidad y la trayectoria vital de los protagonistas y de sus respectivas familias.

Palabras clave: violencia social, salteadores, bandidaje, faida, reino de Valencia.

THE COLOMER BROTHERS FROM VALLDIGNA: ROBBERS OR MEMBERS OF A FACTION?

ABSTRACT

The assaults and aggressions that road and trail users suffered from alleged bandits and outlaws have been a historical constant. As a result, the social perception of the bandit as a road robber. However, one might ask: To what extent is this image true and accurate? Was this always indiscriminate and fortuitous violence exercised by simple robbers and the ragged? Or, on the contrary, was there some premeditation? Did the assailants know, or not, the identity of their victim? Were

the aggressor and the victim part of a faction or not? In this paper, I analyze a case of assault and aggression that occurred in 1536 on the royal road, near Carcaixent, a small village in the Kingdom of Valencia (Crown of Aragon). On that occasion, the Cosme brothers, Damià and Vicent Colomer, inhabitants of the present day Valldigna, assaulted the farmer Bertomeu Garrigues, stealing some of his belongings and causing serious injuries. What looks as a paradigmatic case of assault and aggression on the road by common criminals, proves to be a much more complex case when we go deeper into the identity and life trajectories of the protagonists and their respective families.

Keywords: social violence, robbers, banditry, feud, Kingdom of Valencia

INTRODUCCIÓN

El estudio de la conflictividad, de la violencia o de la criminalidad ha atraído a antropólogos, historiadores y sociólogos, entre tantos otros profesionales de las más diversas disciplinas, que han abordado desde perspectivas muy diversas sus variantes histórico-sociales. De ello se desprende, pues, cuanto menos el que debería ser el punto de partida: la necesidad de un análisis amplio y en la medida de lo posible multidisciplinario. En ese sentido, conviene advertir también que algunos de estos vocablos, como por ejemplo "violencia", distan de tener (si es que se puede) unas demarcaciones mínimamente acotadas o que los utilizamos habitualmente para referir situaciones muy distintas. Por lo tanto, a la extensa y a menudo inabarcable literatura sobre los conceptos genéricos se ha añadido un inmenso volumen de aportaciones específicas y se ha oficiado también un creciente número de discusiones, no siempre exentas de controversias (Aróstegui, 1994, 17–55).

En ese orden de cosas, si centramos las miras en el propósito de este artículo, habremos de mentar a Eric J. Hobsbawm y a Fernand Braudel. No en balde, sus respectivas contribuciones sobre aquello que convinieron en llamar "bandolerismo" o "bandidaje", no sólo fueron cruciales para la superación de los estudios precedentes meramente localistas o románticos, sino que establecieron paradigmas de interpretación globales o de amplio espectro. Con ello, lograron asentar las bases historiográficas, además de conseguir que investigadores de todos los continentes comenzaran a interrogarse de modo científico sobre la naturaleza del fenómeno y que se sumasen a un riguroso y encendido debate de alcance planetario. Ciertamente, las concepciones de uno y otro distaban un tanto, por no decir que eran bastante antagónicas. El británico acuñó el término "social banditry", al que atribuyó una incipiente lucha de clases. He aquí la razón por la que su propuesta también es conocida como "paradigma Robin Hood". El

francés, en cambio, propugnaba que el bandolerismo, al menos el mediterráneo, contenía una rebelión larvada y pese a su extrema complejidad estaba causado por la necesidad. Dicho en otras palabras, era el fruto de los desajustes entre demografía, geografía y recursos. Esto es, esencialmente "hijo de la miseria" (Braudel, 1953, I, 1–73; 1953, II, 40–60; Hobsbawm, 2001, 58–101).

Desde entonces, la cuestión, al menos en lo referente al ámbito europeo o mediterráneo, se ha tratado en diversos escenarios y en distintos tiempos. A ese respecto, cabe destacar reuniones como el *Convegno di Venezia* (1983), *Banditismi Mediterranei* (2002), así como otras posteriores – *Banditi* (2013) y *Faida* (2016) – que se han encargado de rebatir los planteamientos de ambos y ofrecer nuevas perspectivas (Ortalli, 1986; Manconi, 2003). Tanto es así, que actualmente la mayor parte de los especialistas coinciden en señalar que el bandidaje no puede ser sino "hijo de la *faida*" o de la *Blutrache*. Otros incluso, como Xavier Torres, se han atrevido a elevar la norma al signo contrario propuesto por el historiador galo. No en vano, si en el fondo lo que trasluce de estas manifestaciones violentas es una lucha por el poder y la riqueza, es lícito sostener la existencia de posiciones económicas un tanto holgadas. A esto cabe adicionar los cambios que se han producido en el utillaje: la metodología y las fuentes. En lo que a este trabajo compete, subrayaremos las bondades del uso de la microhistoria y el cruzado de información de distinta naturaleza con una finalidad crítica. De otra manera, si solamente se emplea documentación de tipo judicial o de carácter represivo, se corre el riesgo de ofrecer una visión excesivamente alejada de la realidad, esto es, mediatizada por el discurso regimental u oficialista. A estos planteamientos todavía habría que añadir otros enfoques como el de la infrajustícia o el de la historia institucional, que de modo paralelo se han esforzado en poner de relieve el sentido jurídico y cultural de la violencia así como los mecanismos de pacificación inherentes a las comunidades humanas antes y después del advenimiento de los Estados Modernos (Casals, 2012, 9–16; 2016; 2019; Torres, 1999, 410–411; 2003, 35–52; 2012, 22–26).

En este punto, a modo de resumen, conviene hacer descender el marco al antiguo reino de Valencia para destacar la figura de Sebastián García Martínez y la de su mentor catalán: Joan Reglà. No en balde, cuando el historiador catalán llegó, en 1959, a la Universitat de València trajo consigo numerosos temas de investigación, entre los que se encontraba el bandolerismo entendido bajo las tesis braudelianas (Reglà, 1955; 1956; 1966; 1969; Fuster & Reglà, 1961). Reglà era pupilo de Jaume Vicens i Vives, quien había mantenido contactos fluidos con Lucien Febvre, Fernand Braudel y Pierre Vilar. He ahí la razón de la consolidación de la influencia historiográfica de la Escuela de los *Annales* en tierras valencianas. Por lo tanto, García Martínez, heredero y continuador de Reglà y pionero del estudio del bandidaje del suelo valenciano, inició sus búsquedas siguiendo estos mismos parámetros. De este modo se explica que vieran la luz un creciente número de libros y artículos, en alguno de los cuales el villenense

incluso empezó a dudar de la interpretación del galo (García Martínez, 1977; 1980; 1991). En 1979, el norirlandés James Casey, en *The Kingdom of Valencia in the Seventeenth Century,* ensayó otra hipótesis que vinculaba el bandolerismo valenciano con una forma pretérita de mafia (Casey, 1981, 237).

De todo esto se puede inferir que las propuestas explicativas de Eric J. Hobsbawm no llegaron a calar nunca en la historiografía valenciana, como también había ocurrido en otros ámbitos de la antigua Corona de Aragón. Por lo tanto, Reglà y fundamentalmente García Martínez canalizaron el curso de las búsquedas y, en ausencia de propuestas diferentes – exceptuando la de Casey –, los discípulos de uno u otro tomaron el testigo y profundizaron en el cometido y principios básicos. En este sentido, para empezar, cabría mentar a Emilia Salvador. No por casualidad, esta destacada pupila de Joan Reglà fue la directora y aglutinadora de un buen número de tesis en las que se han abordado metódicamente el mandato de los virreyes valencianos durante el siglo XVI, tribuna desde la cual sus doctorandos hubieron de asomarse insoslayablemente a la cuestión de la represión de la violencia y el orden público (Pérez, 1982; Martí, 1993; Salvador, 1986; Piles, 1981; Belchí, 1996; 2000; Costa, 1982; Herrero, 1994). En esta misma dirección, se deben referir las contribuciones de Amparo Felipo, Carmen Margarita Vila o Lluís Guia, puesto que fue esencialmente García Martínez el que les incitó a la indagación en el reinado de Felipe IV e influyó para que trataran de profundizar sobre el bandolerismo valenciano (Felipo, 1985, 323–448; 1988, 133–186; 1990, 103–114; Guia, 1972; 1982; Vila, 1973; 1976; 1984).

Ciertamente, en el transcurso de los decenios se han producido reajustes, críticas parciales y modificaciones en las perspectivas, pero pese a todo, algunos de los planteamientos de García Martínez continúan estando un tanto presentes. De entrada, convendría mencionar los trabajos de Pablo Pérez, los cuales ha abordado desde una rama hermana a la del bandidaje: la historia de la criminalidad. Si bien en sus inicios la abordó desde una vertiente básicamente jurídica, con el tiempo sus estudios se han proyectado hacia a las más diversas esferas del delito, cosa que le ha permitido poner en relación los vínculos y las contradicciones existentes entre justicia pública, justicia privada, la construcción del estado moderno, el cambio del discurso social sobre la violencia o la necesidad de pacificación y disciplinamiento social. Todo esto ha permitido que sus ensayos transiten desde la estricta legalidad hasta el análisis antropológico, social y cultural (Pérez, 1988; 1989, 735–746; 1990a; 1990b, 11–37). También resulta importante destacar algunos de los artículos y contribuciones posteriores de Lluís Guia, en los que se observa claramente el viraje o la evolución de sus planteamientos. Esto, junto su vinculación al ámbito italiano y sardo, su participación en *Banditismi Mediterranei* o en otros encuentros sobre bandolerismo, lo han convertido en uno de los principales referentes en el asunto en tierras valencianas (Guia, 1994, 67–91; 2002, 287–315; 2003, 87–106; 2012, 57–86). Ahora bien, cabe destacar también la notable contribución de Emilia

Salvador al *xvііé Congrés d'Història de la Corona d'Aragó*, al menos por la considerable repercusión que ha tenido, entre otros, en las investigaciones de Jorge A. Catalá y Sergio Urzainqui (Catalá & Urzainqui, 2009, 57–108; 2016, 32–34; Urzainqui, 2016, 37–58). No en balde, Salvador abogó en esa ocasión por una neta caracterización y separación entre bandolerismo y parcialidades; en otros términos, entre asaltantes y miembros de una facción (Salvador, 2003, 19–34; 2008, 885–902; 2014, 253–262).

En el presente artículo partimos, pues, de estas premisas y proponemos la utilización de la microhistoria como metodología óptima para el discernimiento. No en balde, solamente a través del cruzado de fuentes y del estudio prosopográfico de individuos y linajes, del ahondamiento en las relaciones de parentesco, de las alianzas y contra-alianzas existentes entre los protagonistas de agresiones y hechos luctuosos, del análisis de perfiles socioeconómicos, evolución patrimonial o aspiraciones políticas (por citar algunos focos sobre los que deberíamos comenzar a centrar la atención), podremos diferenciar entre supuestos bandidos y atracadores de caminos y miembros e integrantes de *bandositats*. De otra manera, se corre el riesgo de minimizar el análisis de los vínculos que pudieran existir entre unos y otros, así como sus repercusiones en lo referente a clientelismos y dependencias; enfoque que sin duda distorsiona el campo de visión y estrecha y empobrece la trascendencia de semejantes fenómenos sociales. Dicho en otras palabras, de este modo podremos dilucidar si las parcialidades fueron, en el reino de Valencia, realmente un *primum mobile* o *primus agens* (Catalá & Urzainqui, 2016, 32–34) – como lo postula Xavier Torres para el principado de Cataluña (Torres, 1999, 397–423) – o si, por el contrario, funcionaron como dos fenómenos bastante independientes e igualmente preocupantes, sin distinción, para las instituciones regnícolas (Garés, 2015a, 719–738). En cualquier caso, a nuestro parecer, convendría huir de la tradicional tendencia a acudir a las fuentes de carácter represivo o criminal – que certifican la consumación de tal o cual delito – e inferir de ellas, sin más, una suerte de clasificación categórica. Como poco, supone aventurarse en un logro incierto, incluso en aquellos casos en los que parece más sensato; como en el que nos ocupa en el presente trabajo. He aquí el relato de los hechos.

LA CONSUMACIÓN DEL DELITO

El viernes 4 de agosto de 1536 por la mañana, el alguacil Jaume Falcó cruzó las puertas de la villa de Alzira a lomos de su caballo. No en balde, la jornada anterior el entonces virrey Fernando de Aragón, duque de Calabria, había hecho redactar un edicto o pregón público mediante el cual instaba a que se investigase la agresión que había sufrido a plena luz del día Bertomeu Garrigues, labrador y vecino del lugar de Carcaixent, en el trecho del camino real que separaba ambas poblaciones herida (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 5r–6r).

El oficial encontró a la maltrecha víctima del asalto en casa de Guillem Gibertó, su suegro, "en un llit, gitat, nafrat de cinch nafres. Ço és, la mà esquerre llevada e fora del bras e una passadora en lo mateix bras squerre, que li passa lo bras de part a part; una coltellada en lo cap e una lançada en los pits e altra lançada en les spatles" ("En una cama, acostado y malherido por cinco lesiones. Es a saber, la mano izquierda cortada y separada del brazo, una saeta en mismo brazo izquierdo, la cual le atraviesa el brazo de parte a parte; una cuchillada en la cabeza y un lanzazo en la espalda"). Tras examinar las heridas, procedió a interrogarlo.

De acuerdo con la versión del agredido, la acometida se había producido el miércoles anterior – 2 de agosto – cerca de las dos del mediodía. Al parecer, Bertomeu Garrigues tenía por costumbre acudir al mercado que semanalmente albergaba el recinto amurallado de la villa con la finalidad de adquirir aquello necesario para el sustento de su casa y familia. Relató que aquella jornada se había entretenido más de lo habitual. Pasada la una, había tomado su cabalgadura y había emprendido el camino de regreso a casa.

Estando ya fuera del núcleo urbano, avistó cerca de él en la calzada real al joven Joan Amador, labrador de Cogullada; otra de las numerosas aldeas que – del mismo modo que Carcaixent – conformaban la particular contribución de Alzira. El susodicho le llevaba una ventaja de no más de un centenar de pasos e iba a horcajadas sobre su yegua.

Un poco más adelante, esto es, cuando Bertomeu Garrigues llegó a las inmediaciones de un olivar cercano a la vía, precipitadamente, le salieron al paso los hermanos Damià y Vicent Colomer, naturales de Simat de Valldigna. El primero iba a pie y portaba una ballesta armada, el segundo en cambio se presentó montado sobre un rocín sosteniendo una lanza en una de sus manos. Bertomeu había coincidido algunas veces con ellos en Carcaixent, pero no les prestó demasiada atención. Parecía que buscaban algo. Uno de ellos le dijo: "Garrigues, haveu-me vist una talequa que he perdut?" ("Garrigues, ¿habéis visto un talego que he perdido?") Y tras responder negativamente continuó la marcha.

Instantes después se perpetraba la agresión que a poco estuvo de terminar con la vida del agricultor. En primer lugar, Vicent Colomer le arrojó la lanza, la cual le acertó en la parte alta de la espalda y lo derribó de la montura. Acto seguido, éste se abalanzó sobre él y trató de hundirle la lanza en lo más hondo del pecho. El fierro encontró, no obstante, la resistencia de la víctima, cuyas manos se aferraron al fuste al tiempo que Damià Colomer, el otro de los hermanos, arremetía contra él con un puñal, gritándole: "Dexa la lança, perro!"(¡Deja la lanza, perro!). Una de ellas le impactó en la cabeza e inmediatamente después un pasador de ballesta le atravesó de lado a lado el brazo izquierdo. En el ardor del embate, Bertomeu Garrigues escuchó que Vicent Colomer increpaba a su deudo: "Degolla'l traydor! Si no yo·t degollaré a tu!" (¡Degüéllalo, traidor! ¡Si no yo te degollaré a ti!), motivo por el que, en un

acto reflejo, protegió su cuello con el brazo izquierdo. Seguidamente, Damià, colocándose encima para inmovilizarlo, le asestó la cuchillada que acabó por cortarle la mano de cuajo.

De este modo, los asaltantes tras despojarlo de algunas de sus pertenencias, creyéndolo en sus últimas agonías, se dispusieron a abandonar el escenario del crimen y poner rumbo a las montañas a lomos del rocín. Fue entonces cuando percibieron la presencia del joven Joan Amador, excepcional testigo visual de lo ocurrido, al que no dudaron en intimidar y tratar de silenciar desde la distancia: "Mirau [Amador] açò són fetes de hòmens. No digau res a ningú!" (Mirad Amador, ¡esto son cosas de hombres! ¡No digáis nada a nadie!) (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 5r–6r).

En efecto, el muchacho había presenciado los hechos desde la seguridad que le confería la distancia, girándose a mirar lo que acontecía a sus espaldas a cada trecho que recorría, apenas sin detener la marcha. Debió de quedar tan turbado y asustado que, incluso cuando Bertomeu Garrigues se levantó y le pidió que lo socorriese y diese aviso de lo ocurrido en Alzira, se negó y prosiguió su ruta hacia Carcaixent.

Malherido, nuestro protagonista dejó su burra y comenzó a deshacer con no poco esfuerzo sus pasos con la finalidad de alcanzar de nuevo el núcleo urbano alzireño. Afortunadamente, en el camino tropezó con un par de moriscos y más adelante, hablando con un mercader de trigo, encontró a tres vecinos de Carcaixent, conocidos suyos (Pere Fluvià, Antoni Dalmau y la esposa de éste), quienes se apresuraron en hacer llegar la noticia a la Isla del Júcar (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 5r–6r).

No pocos individuos, entre ellos Perot Gibertó, cuñado de Bertomeu, acudieron armados al llamamiento de las campanas y partieron seguidamente con una escalera – improvisada camilla – al lugar donde se encontraba la maltrecha víctima. De ese modo, al cabo de unos minutos, el herido entraba portado a hombros en casa de su suegro, Guillem Gibertó. Tras él, un mozo portaba la mano, envuelta en varias hojas de parra (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 10–12v, 21v–22v).

¿UN SIMPLE ASALTO EN EL CAMINO O UN AJUSTE DE CUENTAS?

Tal y como hemos señalado arriba, más allá de lo anecdótico del caso, la cuestión de fondo en torno a la cual cabría reflexionar no es otra que la naturaleza de la agresión. ¿Se trató de una fechoría propia de salteadores de caminos o bien los asaltantes buscaban con esta acometida un resarcimiento de otra afrenta o embate?

Ciertamente, ofrecer una respuesta ponderada a semejante cuestión se antoja una tarea un tanto peliaguda, aun habiendo elaborado – como es el caso – un relato detallado y minucioso del incidente. ¿Qué sabemos realmente de lo acaecido? y ¿de las motivaciones y propósitos? Prácticamente, nada.

De hecho, a juzgar por las apariencias, los sucesos acontecieron en un entorno rural: nada más evocador, en ese sentido, que un camino; se produjo un hurto, todo sea dicho de paso, previo aparente intento de homicidio, y además tras consumarse el crimen en la llanura del realengo alzireño, los dos sujetos partieron a darse cobijo en la jurisdicción eclesiástica del monasterio de Santa María de Valldigna. (Císcar, 1997; 2007). Por lo tanto, convendremos que *a priori* todo habría de apuntar hacia la primera de las opciones. Sin embargo, no se debería descartar por completo la segunda de las posibilidades. No, al menos, sin intentar ahondar en el asunto. He aquí el *quid* de la cuestión. Es a través del estudio prosopográfico de individuos y linajes, del ahondamiento en las relaciones de parentesco, en las alianzas y contra-alianzas de los individuos y familias, en el análisis de perfiles socioeconómicos, en la evolución patrimonial o en las aspiraciones políticas que se puede deducir que la agresión que casi acabó con la vida de Bertomeu Garrigues, no fue sino un violento ajuste de cuentas, fruto de las desavenencias endógenas de la comunidad local. En otros términos, consecuencia de las parcialidades.

LOS COLOMER: UN PROFUSO LINAJE DE SIMAT DE VALLDIGNA

Hace más de una década, veía la luz una obra titulada, *La vall de les sis mesquites: el treball i la vida a la Valldigna medieval*. En ella, el profesor Ferran Garcia-Oliver daba a conocer los resultados de su investigación centrada en la vida cotidiana de las personas, mayormente campesinos cristianos, musulmanes o moriscos, que habitaron los dominios del monasterio cisterciense de Santa María de Valldigna en el tránsito de las edades Media y Moderna. La referencia no es casual, puesto que en uno de los capítulos analiza la trayectoria vital de los Colomer en el seno del citado valle (Garcia-Oliver, 2003, 142–153).

En ese orden de cosas, lo primero que transluce es que la presencia del apellido Colomer en la también llamada vall d'Alfàndec era relativamente reciente. No en balde, Vicent Colomer, padre de los agresores y natural de Llutxent, se había casado en 1479 con Joana Pardo, descendiente de un modesto pero antiguo linaje cristiano de Valldigna. Sin embargo, esto es, pese a no disponer de una gran hacienda ni de un copioso caudal en metálico, los Colomer despuntaron tempranamente también por su exagerada prodigalidad reproductiva. En el transcurso de los años, del citado enlace nacieron al menos nueve vástagos: Vicent, el primogénito; Antoni, Úrsula, Jaume, Pere, Joan, Cosme, Damià y Lluís.

La rápida obtención de descendencia obligó al matrimonio a adquirir una casa en propiedad y dejar el cuarto que ambos ocupaban en la morada de Jaume Pardo, suegro de Vicent Colomer. A la transacción por el primer inmueble en 1491 le siguió, al año siguiente, la compra de la vivienda contigua; la cual

hasta ese momento había sido propiedad de los padres de su esposa, y aún una tercera, en 1502, en pago de lo que restaba de la dote de Joana. De este modo, los suegros pasaban de propietarios a inquilinos.

Este ostensible aumento patrimonial, no obstante, no fue nada fortuito, sino que se forjó gracias a la buena administración de la dote de Joana, al duro trabajo librado durante años en el seno de la comunidad monástica, a la afección ganada entre los monjes y al buen olfato para arriendos, negocios y compra de tierras. Todo esto hizo de Vicent Colomer una persona cada vez más poderosa, cuyo protagonismo no iba sino en aumento día tras día por aquellos lares; sobre todo a partir de octubre de 1499, momento en el que logró introducirse en el selecto grupo de prestamistas locales.

Con todo, la excesiva prole a su cargo habría de obligar a él y a su mujer a buscar los medios para aligerar este lastre. La solución pasó por utilizar contratos o "cartes d'afermament". De esa manera se explica, por ejemplo, la presencia de Vicent, el primogénito, en casa de un barbero de Valencia, donde además de aprender el oficio encontraría esposa: Caterina, o la llegada del segundo, Antoni, al hogar de Joan Martí, posadero y guardia de Simat de Valldigna (Garcia-Oliver, 2003, 142–144).

La insultante promoción de los Colomer no pasó tampoco desapercibida para el resto de los habitantes del valle, por lo que se labraron simpatías, pero también forjaron enemistades. No en balde, tal y como solía ocurrir, envidias, ansias de poder y pequeños desencuentros fueron los causantes de las pendencias y reyertas que les condujeron ante la justicia abacial. En noviembre de 1505, Jaume Colomer, condenado a prisión por un altercado, había logrado escaparse. Cuatro años más tarde, el propio Jaume Colomer y su hermano Pere fueron obligados a firmar "pau i treva" (paz y tregua) tras haber asestado varias cuchilladas a Pedro del Corral, colector del "magram". Finalmente, en abril de 1513, Joan Colomer era desterrado, mediante bando público, de los dominios de Santa María de Valldigna tras haberse visto involucrado en un oscuro homicidio. En este punto se pierde terminantemente su pista (Garcia-Oliver, 2003, 145–146).

Como en un juego de ajedrez, tras la precipitada huida de Joan Colomer de Valldigna y la marcha definitiva de Pere a Carcaixent – donde desde 1509 venía arrendando de vez en cuando el horno – Vicent, el primogénito, y su esposa volvieron de Valencia. Y una vez más, la influencia del padre entre los monjes les deparó beneficios, propiciando que el joven fuese investido lugarteniente de justicia. De este modo, tras residir unos meses en casa de sus progenitores, el verano de 1514, ambos consiguieron adquirir una vivienda propia con diecinueve moreras y también algunos pedazos de tierra.

No muy lejos de lo que cabía esperar, lo cierto fue que Vicent Colomer junior utilizó el cargo para vengarse de los adversarios propios y de la familia; hasta el extremo de ser cesado. En ese sentido, las artimañas usadas para encarcelar a Abrahim Sempet y a diversos miembros del clan de los Mugàber, no sólo se

volvieron en su contra, sino que a punto estuvieron de acabar con su vida. En efecto, una noche de febrero, queriendo atajar un presunto corro de borrachos hacinados debajo de un algarrobo, Vicent resultó cosido a puñaladas por Iaie Mugàber, individuo sobre el que acabaría dictándose pena de muerte.

A la postre, el revuelo causado y las sombrías maniobras del joven Vicent Colomer lo obligaron a dejar la lugartenencia de justicia; lo que para nada significó su caída en desgracia. Para empezar, su hijo Miquel logró ser contratado como acemilero del monasterio. Y en 1518, recuperada la salud, Vicent volvía a la carga al enzarzarse con Saat Sabanet y a reincidir después rompiéndole la "pau i treva", motivo por el que, tanto el mudéjar como el procurador fiscal, habrían de reclamar una confiscación de bienes que se ejecutaría – salvando la dote de Caterina – ese mismo diciembre (Garcia-Oliver, 2003, 146–147).

A partir de 1519, cuando la sombra de la Germanía salió de la ciudad de Valencia y se cernió sobre el resto del territorio valenciano, adquirió nuevos objetivos, los cuales se sumaron a los primigenios de los gremios de la ciudad. (Vallés, 2000). De este modo, en Valldigna adquirió un cariz jurisdiccional, antifeudal y antimudéjar. Ante ello, los Colomer no dudaron en alienarse entre los "mascarats" o contrarios al alzamiento y se mantuvieron fieles a la mano que les daba de comer: la comunidad cisterciense. A la sazón, aquellos turbulentos años les sirvieron para afianzarse como proveedores del monasterio y como agentes de recaudación de impuestos o para formar parte de los instrumentos de delación. No por casualidad, Antoni Colomer se convertiría durante unos meses en procurador fiscal, mientras que sus hermanos abastecían de vino a los monjes o el joven Vicent, en cualidad de subarrendador del hostal de Simat, hacía frente a las reivindicaciones fiscales de los nuevamente convertidos.

Tras la derrota del conflicto agermanado, Cosme y Damià Colomer saltaron también a escena en defensa de los intereses familiares. No en balde, el 1 de mayo de 1526 ambos firmaron sendas paces y treguas con Miquel Ferrer y Bertomeu Ros, de una parte, y de otra con Joan Borràs, Pere Carpí y Cristòfol, domestico del mercader Miquel Puig; a la vez que el primogénito, Vicent, la suscribía directamente con el citado Puig (Garcia-Oliver, 2003, 148–149).

En definitiva, si bien la vall d'Alfàndec era una tierra de oportunidades y esta les había ofrecido una no poco provechosa a los Colomer, la ubérrima prodigalidad reproductiva de Vicent Colomer y Joana Pardo, las estrategias familiares y demás contingencias de la vida impidieron que la totalidad de sus vástagos se afincase en el valle. Tal y como sabemos, Joan hubo de huir precipitadamente de Valldigna, Pere se instaló en el lugar de Carcaixent, mientras que Úrsula tras esposarse en el Ràfol había dado el salto a Valencia en su segundo matrimonio. Más lejos todavía moraba el menor de los hermanos, Lluís, quien se había convertido en un respetado comerciante de

Medina del Campo. Lluís Santacreu se hacía llamar justo antes de fallecer prematuramente a finales de 1528 (Garcia-Oliver, 2003, 150).

PERE COLOMER EN CARCAIXENT: EL RELATO DE UNA DISPLICENTE ACOGIDA

Corría el año 1513 cuando Pere Colomer se decidió a residir de forma definitiva en el pequeño lugar de la contribución de Alzira. Había trascurrido apenas un lustro desde que consiguiese que el arzobispo de Valencia y abad de Valldigna, Lluís de Borja, le rentase por primera vez el horno de Carcaixent, propiedad del monasterio (Daràs, 2016, 297–311). Desde entonces Pere lo había retenido con escasas interrupciones y se había nutrido de sus sustanciosos beneficios.

A esas alturas, si bien su hermano mayor, Vicent – ocupado ahora en el trasiego de mercancías—había adquirido la tenencia del hostal de Simat, ampliado su patrimonio con la compra de casas y buenas tierras o pujado por los derechos señoriales, Pere bien podía hacerle sombra, pues se había convertido en el hombre de confianza del cenobio cisterciense en el realengo alzireño. No en balde, además del horno, le habían sido cedidas algunas parcelas en la alquería de Benivaire, una explotación cercana a Carcaixent cuyo dominio directo pertenecía a Santa María de Valldigna (Císcar, 1996, 145–176). Además, desde 1521 los monjes le habían confiado también el cobro de censos de la citada finca, la cual consiguió arrendar en 1527 (Garcia-Oliver, 2003, 151).

Todo ello junto, sumado al hecho que también ejerciese las veces de mercader de trigo, seda, aceite y otros géneros o que estuviese abriéndose camino en los concursos de licitación por algunos impuestos de la Isla del Júcar, provocó que la notoria promoción de Pere Colomer resultase insultante para algunos de sus convecinos: el perro fiel enviado a defender los intereses del cenobio[1].

El 1532, tras veintiún años ininterrumpidos, Miquel Garrigues, labrador de Carcaixent, logró arrancarle de las manos el horno a Pere Colomer. El nuevo abad, Gaspar Bellver, a diferencia de Alfons de Borja, prefirió aprovecharse de la competencia al año siguiente y jugar a dos bandas. Denigró a Pere Colomer ante la comisión de vecinos mientras negociaba con éste un aumento del canon que Carcaixent no aceptó de ninguna de las maneras. De ese modo, Colomer volvió a tener la concesión del horno (Garcia-Oliver, 2003, 151).

Tal fue el revuelo causado en la población que, el 8 de enero de 1533, cuando los representantes de Valldigna, el notario y el resto de los miembros de la comitiva llegaron a Carcaixent con la finalidad de librarle las llaves del horno,

1 Pere Colomer fue el arrendador del impuesto del “terç d’herbatge i carnalatge” de la villa de Alzira al menos entre 1529 y 1544 (ARV, Mestre Racional, 977–987).

los ánimos estaban ya muy crispados. Apenas iniciada la toma de posesión, la gente encabezada por los miembros de la élite local (Peris, 1988, 132–133) se fue arremolinando en la plaza (Daràs 2007, 322–328).[2] En ese punto, Miquel Garrigues,[3] el mismo que había regentado el establecimiento durante 1532, interrumpió el acto arengando al gentío espada en mano. Al instante se le sumó Francesc Talens, desenvainando también el acero, y tras él muchos más que tildaban a Colomer de "traïdor", "mascarat", "fill de frare", "lladre" o "moriscat" (traidor, mascarat (contrario a la Germania), hijo de fraile, ladrón, amoriscado) y querían terminar con su vida. Para cuando Pere Colomer y el resto de los integrantes del séquito venido de Valldigna decidieron poner pies en polvorosa, el pueblo se había levantado ya en armas, gritando: "Anem a cremar casa de Colomer, matem-los a tots!" (¡Vayamos a quemar la casa de Colomer! ¡Matémoslos a todos!). Sin más salidas, tomaron precipitadamente las cabalgaduras y salieron de Carcaixent. Pasaron la noche en Benivaire.

A la mañana siguiente el notario y justicia de Alzira, Pau Truxà, tomó cartas en el asunto y reprimió a los culpables. No en balde, la recuperación del horno había figurado entre las reivindicaciones de 1521 y las Germanías eran todavía una herida demasiado reciente en Alzira, la última de las plazas del Reino en plegarse ante el Emperador (Garés, 2015b, 193–211; Peris, 2008, 149–190). Rápidamente se hizo patente que el motín había sido orquestado por Bernat Garrigues,[4] lugarteniente de justicia y hermano de Miquel, por lo que él y cinco de los cabecillas acabaron siendo encarcelados en Valencia. De esa manera este alzamiento con tintes agermanados quedó descabezado y Pere Colomer fue devuelto a la posesión del horno, eso sí, con el aditamento de los odios de sus convecinos (Garcia-Oliver, 2003, 151–153). Así pues, llegamos a 1536.

AL ACECHO DE BERTOMEU GARRIGUES

A estas alturas, si algo resulta notorio es que Pere Colomer despertaba no pocas animadversiones en Carcaixent. Sin embargo, nada hemos dicho todavía de sus poderosas e influyentes amistades. Esto lo traemos a colación porqué tras los tornasolados posos dejados por la Germanía en la villa de Alzira se escondía una maraña de relaciones de dependencia, de clientelismos o de intereses familiares que trascendían de lo colectivo a lo individual, de lo público a lo privado y de lo formal a lo informal; sin las cuales difícilmente podríamos explicar lo que sigue.

2 La plaza del Horno o de los Guerau corresponde a la actual plaza de Miguel Hernández.

3 Se trata de Miquel Garrigues, el Llor. Todo apunta que el correspondiente *padró de riquesa* de Carcaixent de la primera mitad dl siglo XVI, no conserva las páginas donde se encontraban anotados sus bienes.

4 Bernat Garrigues, hijo de Bertomeu y nieto de Bernat, pertenecía también a la elite económica local. Pagaba a razón de 218 libras pecheras, poseía 216 hanegadas de tierra, un censal y varios inmuebles en Carcaixent, uno de ellos junto al cementerio de la iglesia y otra que tenía un palomar (AMA, Padró de Riquesa, 220–I/9, ff. 600r–v, 614r–v, 935r–v, 988v).

Durante la primera mitad del siglo XVI, los linajes de "ciutadans" y de la pequeña nobleza de la Isla del Júcar se alinearon en dos facciones con sus parientes y deudos, resultando de ello una lucha intestina por la riqueza y el control de los resortes de poder, tales como los cargos en el *Consell* de la localidad o la posesión estratégica de hornos y molinos, entre otros. De una parte, los Valero, Vendrell, Garí y Traucador, de otra, los Lluquí, Guerau, Vilanova y Garcia y alrededor de ambas parcialidades un sinfín de familias y solidaridades en jerárquico orden descendiente (Garés, 2015b, 193–211). En este momento ya poco importaba la posición que se hubiese adoptado durante el conflicto agermanado, dado que las oligarquías alzireñas se habían visto obligadas a recuperar su autoridad en los pueblos de la contribución mediante la captación para su causa de los lugareños más acaudalados. Esto es, personas fiables a las que poder entregar las lugartenencias de justicia con la seguridad de que se convertirían en sus brazos y sus ojos en el territorio.

¿Hacia dónde se inclinaba Pere Colomer? Los Colomer habían crecido al amparo de los Borja y del cenobio cisterciense, y éstos tenían allegados y familiares en la villa de Alzira. Las evidencias se encuentran por doquier. Sin ir más lejos, don Rafael Figuerola y mosén Mateu Guerau – dos destacados miembros del bando de los Lluquí – ejercieron de fiadores en las incautaciones de bienes de la casa de Pere Colomer tras la agresión a Bertomeu Garrigues (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 2r, 3r–4r). A ellos debemos sumarle la principal baza de la casa de Gandía en la capital de la Ribera: don Manuel de Vilanova (Garés, 2017). Por ende, en el frente opuesto se encontraban, como no, Francesc Talens, los hermanos Miquel y Bernat Garrigues o el notario Pau Truxà, quien el 1534 había suscrito junto a los Valero, Vendrell y Garí *pau i treva* con Mateu Guerau y los Lluquí (Garés, 2015b, 200). De ahí que Colomer se jactase a menudo: "Yo·n tinch tals padrins que si hau[r]ia mort deu hòmens aquells farien que yo no n'hauré mal algú" ("Yo tengo tan influentes padrinos, que yo hubiese matado diez hombres ellos harían que a mi no me pasase nada") (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 49r–51v).

En ese orden de cosas, lo cierto fue que, tras la represión del alzamiento de Carcaixent, Pere Colomer había tenido que soportar que sus resentidos vecinos continuasen zarandeándolo con insultos y bellaquerías. Incluso algunos habían dejado de ir a cocer el pan, vulnerando así el privilegio feudal del monasterio. Ahora bien, el asalto armado a su morada protagonizado, entre otros, por Antoni – el esclavo negro de Bernat Garrigues – ya era el acabose, por lo que se decidió a emprender acciones legales. Poco tiempo después, Bernat y Francesc Talens, Bernat Garrigues y su cuñado Marc Rubí[5] ingresaban en la prisión común de

5 Marc Rubí también formaba parte de la élite económica local. Pagaba a razón de más de doscientas libras pecheras, poseía más de un centenar de hanegadas y unas casas junto a la almazara de su hermano Lluc Rubí y el camino Real (AMA, Padró de Riquesa, 220–I/9, ff. 589r–590v, 601r–601v, 614r–v, 935r–v, 943v, 951v–952r, 957v–598r, 988v).

Valencia. También lo hizo Antoni, el cual, tras huir de Carcaixent, había sido apresado en la ciudad de Alicante (ARV, Real Cancillería, 1317, ff. 49r–v).

Sin embargo, los enemigos de Colomer, no escarmentados todavía, volvieron a las andadas a principios del verano prendiéndole fuego al improvisado almacén donde éste solía guardar el grano. El resultado: más de un centenar de cahices de trigo quemados e inservibles. Sin duda, esto suponía una ruina para un pequeño mercader de su talla.[6] Aunque en Carcaixent se hablaba mucho y circulaban diversas opiniones, nuestro protagonista sospechó de Bertomeu, hermano de Bernat y Miquel Garrigues.[7] No obstante, esta vez no recurriría a los tribunales, sino que se tomaría la justicia por sus manos. Bastaba con llamar a Cosme, Vicent y Damià Colomer para que hiciesen el trabajo sucio (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 34r–51v).

Conforme a lo acordado, aquella calurosa mañana del 2 de agosto de 1536, los forasteros llegaron al arrabal de San Agustín de la villa de Alzira, dejando sus cabalgaduras en el hostal regentado por Onofre Marc y su mujer Maria. Acto seguido, habiendo dado forraje a los animales, atravesaron el puente y se internaron en el recinto amurallado. Allí les esperaba Pere Colomer. Cosme no había podido acudir a la cita.

No cruzaron más palabras de las justas. Bertomeu Garrigues todavía no había llegado, por lo que tocaba esperar. Vicent, había traído un poco de seda. Había que aprovechar el desplazamiento al máximo… Pere se dirigió entonces al domicilio de Miquel Tovià, el arrendador del diezmo, donde le aguardaba Bertomeu Talens. Habían acordado que Colomer intercedería ante el mercader con la finalidad de arrancarle una demora en el cobro. Tovià accedió, pero a cambio le solicitó que le llevase a cubrir un par de mulas a Valldigna. Un mero trámite sin importancia.

Tan pronto como Bertomeu Garrigues accedió a la villa los hermanos Colomer lo comenzaron a seguir celadamente. Al cabo de un rato, hastiados por el calor y la dilatada tardanza, decidieron deshacer sus pasos para comer, vigilando la ansiada partida de su víctima desde el hostal de Pere Roís. De este modo, llegado el momento podrían tomar sus monturas con ventaja suficiente y disponerse para la agresión. Nadie sabría quien había asesinado a Bertomeu Garrigues, pues su hermano Pere contaría con la cuartada perfecta. Así se urdió y ejecutó una venganza que por ventura no salió exactamente como se deseaba. Joan Amador asistió como insólito testigo y Bertomeu consiguió sobrevivir

6 Pere Colomer pertenecía entonces a la élite económica local, puesto que pagaba por razón de 536 libras y media y poseía cerca de cuatrocientas hanegadas. También tenía diversas viviendas en Carcaixent. Una tenía salida a dos calles y la otra estaba en el camino del Molino. Fuera de la población poseía la mitad de la *heretat* de Terra Murada (AMA, Padró de Riquesa, 220–I/9, ff. 900v, 912v, 915v, 923v, 932r, 936v, 970v, 982v, 986v, 994r, 1068r).

7 Bertomeu Garrigues, fue tachado del padrón el 2 de marzo de 1540 por defunción. Entonces pagaba a razón de 208 libras pecheras y poseía casas en las plazas del Pozo y de la Higuera de Carcaixent y más de 203 hanegadas (AMA, Padró de Riquesa, 220–I/9, ff. 605r y v, 625v, 633v, 639v y 932v–933r).

para denunciar, no sólo a sus agresores, sino también a Pere Colomer, quien había maquinado y concertado tan atroz crimen (ARV, Real Audiencia, Procesos Criminales, P, 10, ff. 10r–17r; 18r–22v, 24r–28r).

A MODO DE CONCLUSIÓN

Sin lugar a dudas, el caso del asalto a Bertomeu Garrigues pretende mover a la reflexión sobre ciertos aspectos generales, pero no por ello poco trascendentales, del estudio de la conflictividad: la eterna cuestión de las fuentes y la metodología, el abandono de mitos y prejuicios y también de encorsetadas categorías, que en lo ordinario se adaptan mal a la realidad histórica, o evitar el uso de concepciones y terminologías presentistas con la finalidad de desligar o atar las diferentes manifestaciones virulentas de las sociedades del Antiguo Régimen.

En todo ello, si exceptuamos los planteamientos teóricos de partida, cabe indicar que la piedra angular de la investigación ha sido el proceso judicial de carácter criminal conservado en el Archivo del Reino de Valencia, del que no hemos logrado encontrar la sentencia, sin el cual difícilmente se hubiese podido alcanzar a entender en profundidad o discernir sobre lo sucedido. Del mismo modo, se debe reseñar el progresivo encadenamiento de causas o la ausencia de ellas de que da cuentan esta y otras fuentes. No en balde, todo ello evidencia tanto los éxitos como los fracasos de la acción judicial, así como lo que resulta más destacable: la persistencia de la violencia privada como recurso de justicia reglamentado, aparentemente nomotético, aunque no siempre lícito, como es el caso, debido a que no se cumplían los preceptos del desafío foral.

En resumen, el estudio de caso que hemos tratado en este artículo revela que los asaltos en los caminos no siempre fueron lo que aparentaban ser. Contrariamente, lo que resulta significativo es la perduración de los principios de la faida en el territorio valenciano a principios del siglo XVI, aunque los medios oficiales y el discurso social sobre la violencia se inclinaban hacia la pacificación social y la erradicación de estas prácticas. Esta pacificación social, sin embargo, no se manifestaría – si es que alguna vez se produjo – hasta bien entrada la Edad Moderna. No en vano, las leyes valencianas, abolidas por el Decreto de Nueva Planta (1707), facilitaron y permitieron, no sin limitaciones, el recurso a la guerra privada para reparar estos agravios. Buena prueba de ello es el hecho que las facciones en la villa y contribución de Alzira no solo no cesaron, sino que se perpetuaron y durante el Quinientos y el Seiscientos.

BRATA COLOMER IZ VALLDIGNE: ROPARJA ALI ČLANA FRAKCIJE?

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POVZETEK

Napadi in nasilje, ki so jih bili deležni uporabniki cest in popotniki zaradi domnevnih banditov in izobčencev, so zgodovinska stalnica. Zaradi tega se je v družbi razširila percepcija bandita kot cestnega razbojnika. Vendar se lahko vprašamo, v kolikšni meri je ta podoba resnična in točna? Ali je šlo vselej za naključno nasilje, ki so ga izvajali preprosti roparji in reveži? Ali pa je, nasprotno, kdaj šlo tudi za naklepna dejanja? Ali so napadalci poznali identiteto svoje žrtve ali ne? Ali sta bila napadalec in žrtev pripadnika frakcij ali ne? V tem članku analiziram primer napada in nasilja, ki se je zgodil leta 1536 na kraljevi cesti v bližini Carcaixenta, majhne vasi v Kraljevini Valenciji (Aragonska krona). Ob tej priložnosti sta brata Cosme, Damià in Vicent Colomer, prebivalca današnje Valldigne, napadla kmeta Bertomeua Garriguesa, ki sta mu ukradla nekaj stvari in povzročila hude poškodbe. Dogodek, ki se zdi kot paradigmatski primer napada in nasilja na cesti s strani navadnih kriminalcev, se izkaže za veliko bolj kompleksnega, ko se poglobimo v identiteto in življenjsko pot protagonistov in njihovih družin.

Ključne besede: družbeno nasilje, roparji, banditizem, fajda, Kraljevina Valencija

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EVERYDAY VIOLENCE AND NATURAL DISASTERS IN EARLY MODERN TREVISO. NEWS OF HOMICIDES IN THE *LIBRO MACARONICO* OF ZUANNE MESTRINER (1682–1731)

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ABSTRACT

Between 1682 and 1731, the barber Zuanne Mestriner recorded many murders that occurred in Treviso. His Libro macaronico *is a valuable account of the dynamics that led to a murder in modern times. This ego-document opens a glimpse into everyday interpersonal violence, showing how members of any social class resorted to lethal violence in conflicts that stemmed from seemingly trivial motives. This paper provides the first quantitative and qualitative analysis of this data for the city, measuring the homicide rate and focusing on the characteristics of the clashes. It finds a cause for the high rates of violence in the natural disasters that made urban life precarious.*

Keywords: interpersonal violence, Republic of Venice, Treviso, homicide rate, ego-documents, Zuanne Mestriner, weapons, eighteenth century, natural disasters

VIOLENZA QUOTIDIANA E CALAMITÀ NATURALI NELLA TREVISO DI ETÀ MODERNA. NOTIZIE DI OMICIDI NEL *LIBRO MACARONICO* DI ZUANNE MESTRINER (1682–1731)

SINTESI

Tra il 1682 e il 1731, il barbiere Zuanne Mestriner registrò nel suo Libro macaronico *gli omicidi avvenuti a Treviso. Questo ego documento è un prezioso resoconto delle dinamiche che portavano agli omicidi in epoca moderna. La fonte apre uno squarcio sulla violenza interpersonale quotidiana, mostrando come i membri di qualsiasi classe sociale ricorressero alla violenza in conflitti che nascevano da motivi apparentemente futili. Il presente lavoro fornisce la prima analisi quantitativa e qualitativa di questi dati, misurando il tasso di omicidi e concentrandosi su vari aspetti della violenza interpersonale. Le calamità naturali che rendevano precaria la vita urbana erano una delle cause degli alti tassi di violenza.*

Parole chiave: violenza interpersonale, Repubblica di Venezia, Treviso, tasso di omicidio, ego documenti, Zuanne Mestriner, armi, diciottesimo secolo, disastri naturali

INTRODUCTION[1]

Sunday, 7 June 1705, Treviso. A soldier serving a local nobleman sits at a tavern table and orders a drink. The waiters, however, ignore him – perhaps because of the many Sunday customers. After a while, the soldier, feeling outraged, draws his sword and strikes one of the waiters three times. The victim died of his wounds within three months (Mestriner, 2003, 137–138).

Between the seventeenth and eighteenth centuries, similar events happened daily in Treviso, the first town of the Terraferma to fall under the control of Venice – first between 1339 and 1381, then stably from 1388 until the fall of the Republic – which gradually deprived the local aristocracy of all political roles and exercised tight control over the economy (Varanini, 2010; Del Torre, 1990). The gratuitous use of lethal violence did not shock the barber Zuanne Mestriner, who recorded the incident in his journal, the *Libro macaronico*. On the contrary, he seems to justify the aggression, stating that the wounds inflicted on the victim were not intentionally fatal, the waiters were arrogant, and the time the soldier had to wait exceeded the limits of etiquette (Mestriner, 2003, 137).[2]

This familiarity with interpersonal violence has long been the subject of study. Many historians have suggested that the high rate of interpersonal violence in early modern Italy was due to the existence of a 'culture of violence' supported by the aristocratic cult of honour and usually explained peaks in murder rates by the presence of factional conflicts (Rose 2019; Carroll, 2017) or associated them with elite violence (Eisner 2003, 122–123). The *Libro macaronico* opens new perspectives on the causes that drove people to resort to violence in their daily interactions.

Written between 1682 and 1731, Mestriner's journal provides an insight into daily life in Treviso during what has traditionally been considered a relatively peaceful period – compared to what other cities of the Terraferma where experiencing. Previous studies on the criminal funds of the Council of Ten have established that no factional conflicts were taking place (Meneghetti Casarin, 1992, 297–300). The few criminal sources currently held by the Trevigian State Archive – only a few trials and prisoner registers (ASTv-C, 1737, 1738, 1739, 1740) – do not allow a more in-depth study.

The *Libro macaronico* proves this view to be erroneous. The average homicide rate extractable from its records is ca. 24.9, well above the European and Italian average for the same period (Eisner, 2014, 80–81). Complementing what is not left in local archives, Mestriner sketches a scenario in which violence is recurrent in all kinds of everyday social exchange.

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1 I would like to thank Stephen Cummins, Žiga Oman, and the two anonymous reviewers for helping me improve this article with their valuable feedback.

2 *Là* [in the tavern] *che erano superbi, comenzando dal patrone, e poi la patrona, e poi tutti li loro servi che in tutto il mondo non credo che ne fusero di pegior di loro aroganza e di mal tratare. Vedendo quel soldato che non era servido con quela presteza che risercava la puntualità di ben servire, ghe viense sdegno* (Mestriner, 2003, 137).

Ego-documents like Mestriner's journal have recently been used as sources for understanding the role of violence in pre-modern urban life. Journals and family memoirs kept by members of conflicting parties became 'account books' where all offences received from enemies were noted down. They often contain comments that shed light on the author's opinion on violent actions or the causes that triggered them. Thus, they have mostly been studied to reconstruct the perception and the experience of the authors, as well as the political conflicts that disrupted urban everyday life (Carroll, 2023, 373–404; Valseriati, 2016, 49–61).

Ego-documents have been used much less to study the formal aspects of interpersonal violence and could be regarded as unsuitable for statistical analysis due to their private nature. However, the *Libro macaronico* seldom narrates events in which the author was involved; rather than a personal memoir, it is a collection of news that circulated orally, a forerunner of today's newspapers. Providing useful data on times, spaces, and circumstances of violent events, the *Libro* is a precious source for understanding the dynamics of interpersonal violence in Italy between the seventeenth and eighteenth centuries.

This paper introduces the source and its author. Then, it presents a quantitative and qualitative analysis of data concerning lethal violence and measuring the homicide rate of eighteenth-century Treviso. It points at new research directions, finding an alternative explanation for the high rates of violence in early modern Italy and looking at how natural disasters influenced the economic and social life of Treviso.

THE URBAN CONTEXT

In Mestriner's days, about 10,000 people lived in the city of Treviso. In 1509, after the battle of Agnadello during the Italian Wars, the Venetian government pulled down the medieval walls and all the buildings nearby to raise a more advanced defence system, designed to withstand modern artillery. The new city wall, with only a few gates and surrounded by a large, flattened area, turned the town into a fortress and prevented its urban development in the following centuries (Bellieni, 1992, 215–217). At the beginning of the eighteenth century, Treviso still appeared enclosed within its defensive walls and crossed by canals (Fig. 1).

Transformed into a fortress, Treviso entered a phase of cultural, social, and economic stagnation. The consequent isolation from the main trading routes and the lack of a local productive chain made the inhabitants dependent on income from the surrounding rural territory (Brunetta, 1992, 53–128), exposing them even more to the dangers of droughts, famines and epidemics that struck the region throughout the early modern era.

Almost all the events narrated in the *Libro Macaronico* took place within the city walls. Between the seventeenth and eighteenth centuries, the community has been described as relatively peaceful compared to other areas of the Venetian

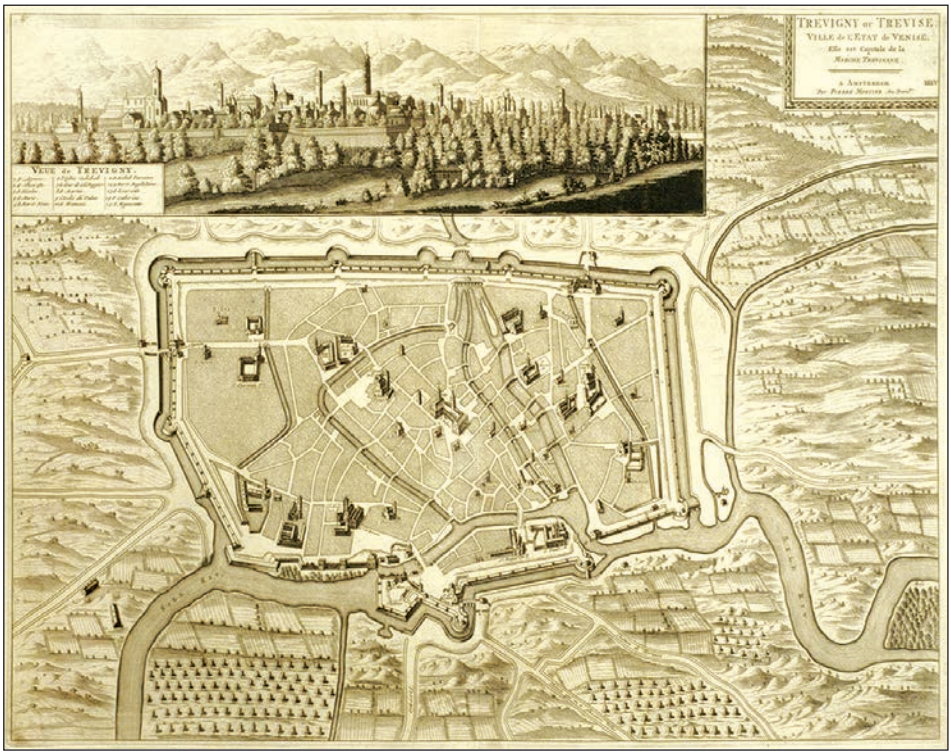

Fig. 1: Map of Treviso from Les Villes de Venetie, published by Pierre Mortier, Amsterdam, 1704.

Republic. Historians underlined the absence of factional conflicts and the low rate of crimes recorded in criminal archives (Meneghetti Casarin, 1992, 300). Mestriner's accounts partially belie this view. Although he does not quote many factional conflicts – the word *vendetta* appears only in two cases; the word 'enmity' only in one – he describes a recourse to violence that underpinned everyday interpersonal relations.

Mestriner explains the high rate of interpersonal violence with the instability and precariousness which affected townspeople's lives. The context of food and economic crises looms in the background of violent facts. In general, there is a sense of instability, insecurity, and cynicism towards institutions – all aspects widely recognised as causes of high rates of violence throughout early modern Europe as in other parts of the world (Carroll, 2023; Roth, 2009, 17–26).

According to Mestriner, the population suffered from the maladministration of the Venetian *podestà* who succeeded each year in the government of Treviso. Economic aspects essential to everyday life were subjected to con-

tinuous change. Each *podestà*, upon taking office, could raise or lower the price of grain, affecting the daily well-being of the inhabitants.

In Mestriner's eyes, murders appeared to be direct consequences of these political choices. A good governor would ensure the peace of the community, whereas a bad one would push people to resort to violence. In 1712, according to Mestriner, under the regime of Lazzaro Ferro, the price of consumer goods rose due to a wrong economic administration, thus poor people suffered, and many murders occurred. Conversely, under Girolamo Corner, who ruled in 1684 with wisdom and administered justice with fairness, there was no killing, and everyone lived in peace (Mestriner, 2003, 62, 41).[3] Historians have described how the Renaissance State and its legal system could foment violence rather than limiting it (Carroll, 2023, 460–467; Povolo, 2017, 27–28; 1980, 220–232). In Mestriner's reports, at the turn of the seventeenth and eighteenth centuries, the Venetian State appears still playing a primary role in the high levels of interpersonal violence in Treviso.

THE AUTHOR

Mestriner is a good example of the eighteenth-century middling sort. According to Maria Moro, he was in his twenties when he started writing the *Libro macaronico*. In his youth, he served as *bombardiere* – a member of the burgher militia. In 1712, he was a father of four. In 1717, he was appointed as *capocontrada* – the chief of the burghers' police services – in the parish of San Vito. Although he mainly worked as a barber, he had other means of income, renting out a "house with a little courtyard" in the neighbourhood of San Francesco, from which he gained 5 ducats per year (BCTv, ms. 1614, f. 89v). In 1719, he was among the *massari* and *gastaldi* of the local Arts. He died of apoplexy in December 1731 (Moro, 2003, 11–14).

His job and his social position allow Mestriner to connect with important people. His barber shop was frequented by rich merchants and members of the local aristocracy. These connections provided him with first-hand oral information, in some cases received from those who were directly involved. Indeed, barbers were at the centre of urban life and often acted as informers (De Vivo, 2007, 142–146). Zuanne was in touch with local authorities. His main source was Nicolò degli Oniga, a *notaio del maleficio* working at the court of Treviso as the criminal judge's assistant (Mestriner, 2003, 143).

3 *Sotto de sto degno Cavalgero* [Lazzaro Ferro] *se ha incarido ogni cosa e la povertà si lamentava grandemente* […] *ben sì sotto de sto sogetto se avarano mazà più di cento persone però su tutto il teritorio, ma in Treviso ne sono stato mazà pure se di ogni condisione*; *Sotto sto no se ha mai sentudo mai nisun mal de mazamenti, né ubriachi, né nisuna cosa* […] *perché tutti stavano in pace e con il santo timor d'Iddio e tutti stavano bene* (Mestriner, 2003, 62, 41).

Through his job, Mestriner may have witnessed the aftermath of some of the cases he reported. Barbers usually acted to heal wounds and were committed to denouncing any of them they suspected to be the result of a violent clash (Rose, 2019; Blastenbrei 2006; Pastore, 2004). Sometimes, his comments betray his experience with the injuries or his direct contact with the treating doctors. For example, in the case of the waiter killed by the soldier quoted above, he confidently states that the soldier's wounds were not lethal and that the waiter died from an illness that arose while he was recovering – even though he admits that the main cause of death was those same wounds, which had weakened the waiter. In another case, he states having met the culprit in prison (Mestriner, 2003, 137, 154). This position gives him a particular perspective on experiencing everyday urban violence.

Zuanne's way of reporting violent events was also shaped by the rivalries between the local *bombardieri* militia and the Venetian governors' police forces. *Sbirri* are always depicted as cruel people operating above the law, abusing citizens, and acting hostilely against the *bombardieri*. Every time the two groups came into contact, a fight ensued, often leaving someone dead. In a particularly brutal case, a group of *sbirri* entered a tavern where some soldiers were eating. A joke by one soldier – "*sbirri* should not stay where soldiers are" – is enough to trigger a shootout. The soldiers are forced to retreat and leave one of them behind, who is surrounded, tied up and brutally beaten up. When the *bombardiere* asks to receive the last rites, a *sbirro* executes him with a pistol shot (Mestriner, 2003, 133–134). In this rivalry, it is possible to spot the ancient hostility between the burghers' militia and the governors' police forces, outsiders who came every year at the service of new governors (Dean, 2019; Basaglia, 1985).

THE *LIBRO MACARONICO*

The original manuscript of the *Libro macaronico* is currently held by the Biblioteca Comunale of Treviso, but a 2003 critical edition by Maria Moro provided easier access to the wider public (BCTv, MS 645; Mestriner, 2003).

Mestriner wrote the *Libro macaronico* between 26 February 1682 and 27 April 1731, spanning over 49 years. As he states in the first record, he started writing after the suggestion of some elders, because it was important to transmit certain events to posterity (Mestriner, 2003, 85). In this, the barber follows a long tradition of diarists with humanistic cultural backgrounds (Carroll, 2023, 374).

The *Libro macaronico* is a peculiar ego-document. It is not a personal or family memoir. Compared to other diaries studied by historians of violence, it is not written to recall injuries and offences the author suffered (Carroll, 2023, 373–404). Not one of the violent facts recorded involves Mestriner or his family directly, except when his wife is accidentally killed by one of his sons during a brawl. Even in that case, Mestriner recorded the fact as a cold, external observer (Mestriner, 2003, 318).

In many aspects, the *Libro macaronico* resembles a modern news journal. It is not a chronicle of linear, related events, but rather a collection of everyday happenings: 'noteworthy' facts noted down in a few lines – which however contain many useful details. Similar sources have been named *notatori* – for example, the 38 manuscript volumes written by the Venetian nobleman Pietro Gradenigo starting from 1747 (BMCVe, Classe VII, 67). The term *notatorio* generally indicated a kind of register used in courts to record procedural acts (Boerio, 1867, ad vocem). Mestriner's style recalls that of a court notary recording events briefly and ordering them day by day.

Because of the author's purposes and his writing models, the fictional component of the *Libro macaronico* appears to be very limited, if not completely absent. Some of the cases cited by Mestriner are traceable in the few remaining archival sources for that period, sometimes supplementing the data not reported in the journal. For example, in February 1682, Mestriner reports that a furrier stabbed his friend to death over a dispute. Called to trial, the aggressor cleared himself of the charges "at great expense to his father", a wealthy fur trader (Mestriner, 2003, 87). Thanks to other sources, we know that the case ended upon payment of 10 ducats (ASTv-C, 1737, *Libro de condane pecuniarie*, c. 23r).

Although his style is dry, detached, and impersonal, Mestriner often enriches his entries with personal comments. In particular, the first part of the journal is dedicated to the evaluation of the different Venetian *podestà* who every year succeded in the government of the city. This part delineates the political participation of the writer in community life and offers a fresh perspective on how social and economic crises were perceived by a middling sort of man.

Mestriner rates some governors as good administrators, attentive to the needs of the community. Pietro Zenobio, who ruled in 1687, personally controlled the foodstuffs sold at the market and in the town shops, and under his regime food was cheap and of excellent quality. Moreover, he fairly administered justice, listening even to the humblest pleas. When some poor people complained about being unable to access public loans from the Monte di Pietà because the administrator lent everything to his brother, an insolvent debtor, the *podestà* ordered an investigation and condemned the administrator and his brother to several years of prison, after discovering a loss of 3,000 ducats (Mestiner, 2003, 43–45).

Conversely, other governors are described as raiders. Giuseppe Pasqualigo took office in July 1692 and throughout his regime, he starved the population by setting excessive food prices and 'sold justice', releasing murderers upon payment of little money. Mestriner states that he had not seen worse before. The population was terrorised by Pasqualigo's guards and by his barber, a Venetian with a "face that frightened even children", who always went around carrying firearms and surrounded by an armed escort. All the most heinous actions were granted to him, being in the grace of the *podestá* (Mestriner, 2003, 46–47).

At times, Mestriner speaks out for the discontent of the community, as in the case of Pietro Maffetti, local governor in 1704. As it had been of poor harvest, the population blamed the governor, and on his departure, someone defaced his heraldry (Mestriner, 2003, 54).[4] In another case, he comments on the work of the *contestabile* – the chief of the guards – called Antonio Duro – in Italian, Antonio the Tough – who, according to Mestriner, was tough in his actions too, committing unjust, barbaric, and shameful acts against the population, which were not tolerated by the community (Mestriner, 2003, 78).[5]

QUANTITATIVE AND QUALITATIVE ANALYSIS

Data provided by sources like the *Libro macaronico* are by no means exhaustive, but they do project numbers and features of interpersonal acts of violence that lend themselves to quantitative and qualitative analysis, shedding light on many aspects of interpersonal lethal violence. However, in analysing this data, it is important to bear in mind it is a product of Mestriner's representation.

Over forty-nine years, Zuanne Mestriner recorded 122 homicides and 51 non-lethal cases of interpersonal violence. This imbalance may be due to Mestriner's desire to record sensational events. In any case, with a homicide rate of around 24.9 per 100,000 inhabitants, Treviso stands well above the European and Italian average of that period – which, between 1650 and 1749, appears to be 10.2 and 16.9 (Eisner, 2014, 80–81). Treviso's homicide rate resembles what has recently been calculated for Bologna, which has a mean number of 27 for the period 1600–1755 (Muurling 2020, 119–120; Rose, 2019, 79–140).

Unlike in Bologna, where many violent acts were related to power struggles between noble families (Rose, 2019, 8–10), there were no factional conflicts in Treviso at this time. Since aristocracy had been excluded from political power for centuries (Varanini, 2010), major families had little reason to compete. Thus, Treviso's high rate of violence needs an alternative explanation.

The chart in Fig. 3 reports a timeline of calamities recorded by Mestriner. The district was frequently hit by plagues killing people and cattle, weather anomalies destroying crops, and natural disasters devastating the countryside. All these calamities heavily affected the urban economy, spreading misery and death, and imposing a sharp rise in supply prices.

Cross-referencing these figures with those of homicides per year, one can draw some connections with the daily use of violence. For example, between 1709 and 1713, Treviso was hit hard by different calamities, culminating in an

4 *Aveva preso un poco di sdegno, che li fesero la notte quando è andato via li hano smerdà la sua arma* (Mestriner, 2003, 54).

5 *Sì come porta il nome di duro, è duro anco nelle sue male qualità, perché è barbaro nelle sue operationi, delle male giustisie costui ma barbare e vergognose, e poco buone intese dalla città* (Mestriner, 2003, 78).

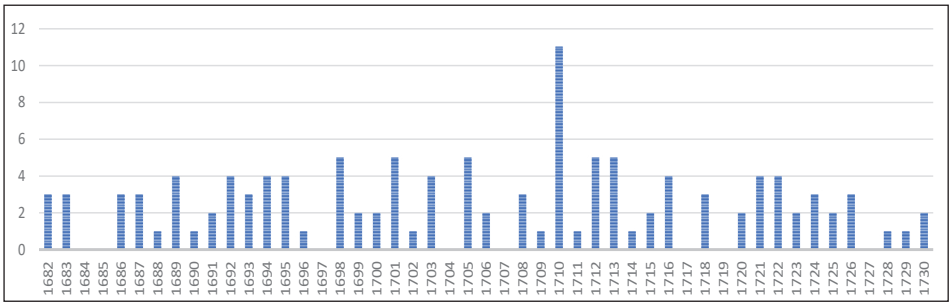

Fig. 2: Number of homicides per year in Treviso as recorded in the Libro macaronico, 1682–1731.

animal disease that exterminated at least 14,000 cattle and a two-year plague that killed more than 20 people per day, according to Mestriner's estimations (Mestriner, 2003, 170, 177). The chart in Fig. 2 shows how homicides peaked in 1710, right in the middle of this period, declined immediately after, and rose again during the years of the plague (1712–1713).

Although the data provided are not exhaustive, many violent disputes appear to be motivated by economic problems resulting from these calamities. In 1710, the community was experiencing a general dissatisfaction with the price of meat, so much so that the *contestabile* was forced to flee shortly after the start of his charge for fear of reprisals (Mestriner, 2003, 60). In August, an official in charge of weighing and pricing bread was ambushed and killed by a baker, who was accusing him of setting unfavourable prices (Mestriner, 2003, 161). In 1725, a severe drought despoiled the countryside, followed by an earthquake and several storms which spread destruction both in the city and among rural villages. In May, Mestriner saw a crowd around the local Monte dei Pegni: due to economic crises, many people were obliged to pawn their goods. This view impressed the barber and made him complain about the current time, stating that the city streets were not safe anymore because many armed men were around during the night robbing passers-by (Mestriner, 2003, 324).[6]

On the other hand, the fallout of these disasters could be mitigated by the governor's administration, also diminishing the violence rate. In the summer of 1696, a famine struck the entire Venetian Terraferma. Although many people starved to death, the effects on Treviso were mitigated by the charitable policies of the governor, who spent large sums of his own money to keep the price of food down (Mestriner, 2003, 115). In this year, Mestriner recorded only one murder.

6 *E adeso su la sera si vedono omini con cappe longhe in fina a tera, con arme longhe e corte, e vogliono delli soldi o roba per forsa. Siamo redoti adeso in una forma che non si può dire* (Mestriner, 2003, 324).

1682	
1683	
1684	Extreme weather - cold
1685	
1686	Extreme weather - storm
1687	
1688	
1689	Extreme weather - cold and heavy rain
1690	Extreme weather - heavy rain and flood
1691	
1692	
1693	Extreme weather - heavy rain and flood
1694	
1695	Extreme weather - heavy rain and flood; Natural disaster - earthquake
1696	Famine
1697	
1698	
1699	
1700	Draught
1701	Extreme weather - heavy rain and flood
1702	
1703	
1704	
1705	
1706	
1707	
1708	
1709	Extreme weather - cold and heavy snow, frozen
1710	Extreme weather - storm and wildfires
1711	Natural disasters - earthquake; cattle epidemic
1712	Extreme weather - storm; Animal epidemics; Plague
1713	Extreme weather - storm; Animal epidemics; Plague
1714	Animal epidemic
1715	Draught
1716	Draught
1717	Extreme weather - storm; Draught
1718	Draught; Extreme weather - heat
1719	Natural disasters - earthquake; Extreme weather - storm, heat, flood
1720	Natural disasters - earthquake; Extreme weather - storm
1721	Extreme weather - storm; Draught
1722	
1723	Draught; Extreme weather - storms
1724	Draught
1725	Draught; Natural disasters - Earthquake; Extreme weather - storms
1726	Extreme weather - storm
1727	Extreme weather - storm and anomalous heat
1728	Extreme weather - storm
1729	Extreme weather - storm
1730	

Fig. 3: Calamities that struck Treviso and its district as recorded by Mestriner (1682–1730).

Lethal clashes involved people of any social background and occurred inter and intra-classes. Grouping the aggressors' and victims' heterogeneous social conditions displayed in the chart in Fig. 4 into broader categories, violence delivered by commoners – workers and shopkeepers – a total of 104, doubled that by the 'aristocrats' – citizens and noblemen – a total of 50.

Police forces, soldiers, and officials were also responsible for many violent acts, a total of 57. Most of this violence derived from excessive use of force during policing action, clashes between *bombardieri* and *sbirri*, or duels among the dragoons quartered in the city for short periods.

On the other hand, 'outlaws' like smugglers and bandits, who have long been considered a primary source of violence in the sixteenth- and seventeenth-century Republic of Venice (Povolo, 1980), are involved in only five cases. Marginalised people did not therefore represent a great danger to social life, as interpersonal violence mostly occurred in everyday social exchanges between residents.

Homicides occurred mainly between males (109) and from male aggressions against females (9). Mestriner records only four cases in which a woman attacked a man (2) or another woman (1) or defended herself from a man's attack (1).

In these few cases, women resort to violence with similar motives and in similar ways to men. For example, in July 1710, two aged women disputed a laundry place. One of them, in her sixties, hit the other, aged 70, three times with a knife, killing her instantly. In July

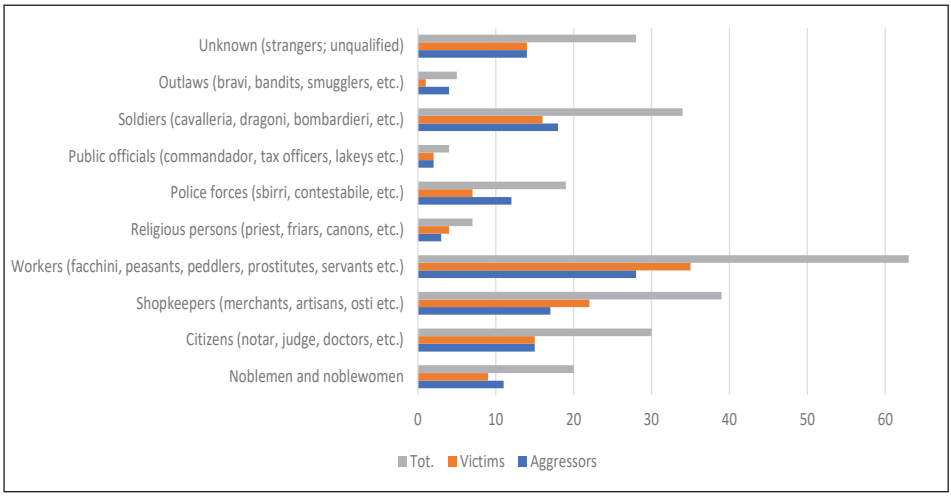

Fig. 4: Social classes involved in violent acts.

1686, the nobleman Anzolo da Ponte was strolling with a lover, during which they argued, and the woman killed him with a *stiletto*. In August 1694, a woman killed her husband defending herself from his aggression: she managed to take the *stiletto* from the man's hands and hit him back. One night in April 1704, a woman ambushes in a street and kills a man with a *pistolese* (Mestriner, 2003, 154, 90, 106–107, 134–135). In all these cases, women wield the same weaponry as men, and this adds further confirmation to much recent research that revisits female violence (Muurling, 2020, 136–138; van der Heijden, 2013).

The *Libro macaronico* also informs about the geography of violence. As the chart in Fig. 5 shows, homicides occurred mostly in nodes of public interactions, such as the *osterie* (26) and the streets (25), sacred spaces (11), squares (9), and bridges (3).

Domestic murders appear in 20 cases. As many domestic murders are recorded in other Italian cities of the time (Rose, 2023, 6–7), this imbalance may be due to the perspective adopted by the writer. Public violence was more recognisable and left traces in oral communication,

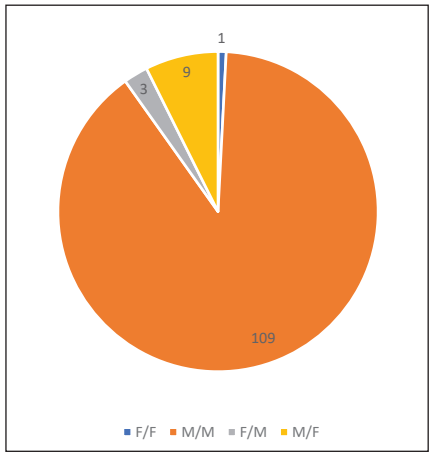

Fig. 5: Acts of violence by gender.

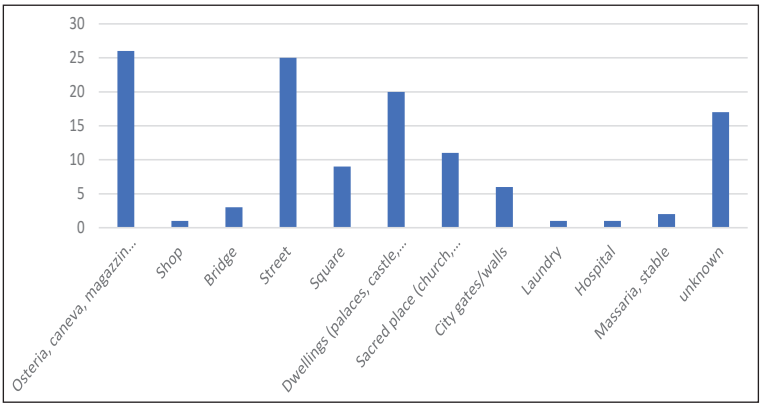

Fig. 6: Urban spaces in which violence occurred.

members of the community could speak for years about a public dispute. Mestriner might also be prone to record facts in the public dominion instead of domestic disputes, as they could serve as samples to be transmitted to posterity.

In any case, data shows that violence was still widely practised and mediated in public, differently from what has been argued for other eighteenth-century European regions – e.g., in German towns, where the authorities gradually took over the right to settle conflicts, once possessed by citizens (Eibach, 2007).

The public nature of the disputes allowed bystanders to interrupt the fight before it became lethal. In December 1708, for example, two nobles argued verbally in an apothecary shop but were stopped by those present. Later that day, the two reappeared armed with their retinues in the public square, but the confusion generated by their presence alarmed the governor, who settled the dispute by force of trial (Mestriner, 2003, 145).

Showing resentment in public could be a means of getting the authorities to intervene before the dispute turned into a bloody conflict. In June 1711, the *cittadini* gathered in the city square for a ball match. The playground was traditionally used in turn either by *cittadini*, by nobles, or by merchants. That day, however, while the citizens were preparing for the game, the nobles decided to occupy the ground and began to play. The citizens, then, stood at the sides of the field and pierced every ball they could get their hands on. After a while, the nobles stopped playing and swore revenge. The next morning, the citizens marched into the square with a large armed retinue, heading for the area usually occupied by the nobles. But the nobles did not show up, and the *podestá*, after having had the two parties seized, called two "*signori sopra la pace*" – one for each side – and forced the two parties to negotiate, but they could not come to a resolution. Therefore, the *podestà* wrote to the senate, and

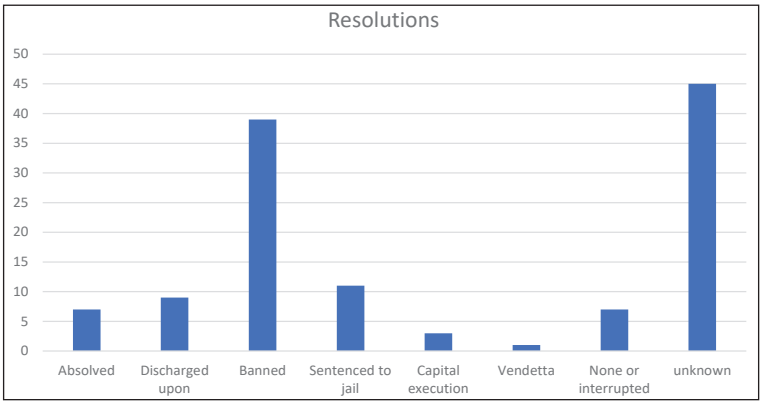

Fig. 7: Resolutions.

the two parties were summoned to Venice. Here, the negotiation was mediated by two Venetian patricians, and in October peace was sealed (Mestriner, 2003, 163–164).

In many cases, however, onlookers did not have time to break up the quarrel, because from a few words the disputants immediately moved on to physical violence. Many victims were fatally injured but recovered after a period of convalescence.

Mestriner discusses also the legal consequences of the murders, often commenting for or against the verdicts. Data collected in the chart in Fig. 6 represents whether the actors recurred to justice, sought an extrajudicial resolution, or were tried and punished by authorities.

The high number of people banished *in contumacia* (39) indicates that killers still preferred not to face the trial. These cases are likely to involve an extrajudicial settlement, which Mestriner unfortunately does not report (Povolo, 2017). Nevertheless, the banishment solution left the murderer with wide freedom due to the difficulties of controlling people's movements and the widespread *omertà*. Many murderers returned to the city shortly after the crime and were tolerated by the authorities. Mestriner's son regularly returned to Treviso after being banished for the death of his mother (Mestriner, 2003, 318).

Many murderers brought to trial were released by paying a fee to the court and in some cases to the victim's family. In June 1683, a merchant duels with another merchant in a churchyard over a quarrel in the fraternity and kills his opponent. Despite the seriousness of the deed – duels were prohibited, and the churchyard had to be reconsecrated – the murderer stands trial and is freed by paying 200 ducats to the dead man's family and another 300 to the court (Mestriner, 2003, 89).

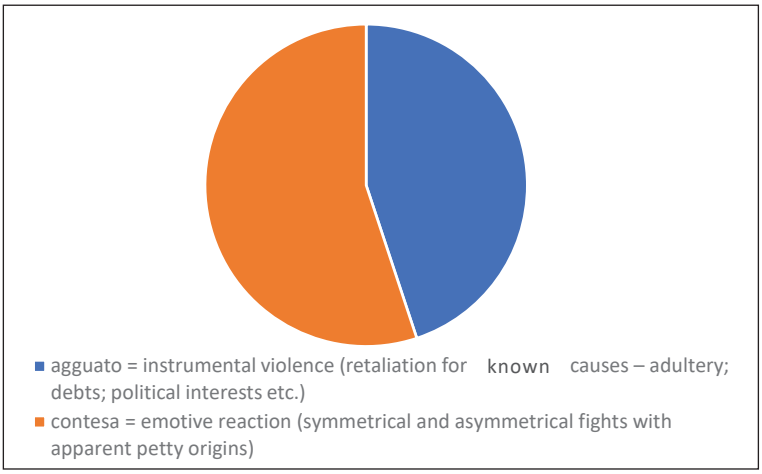

Fig. 8: Dynamics of lethal interpersonal violence.

Some people decided to face trial because they were sure they would receive favourable treatment due to their social position. These cases are usually commented on negatively by Mestriner. In August 1689, thanks to his privileged position, a notary of the governor's court was discharged at little cost after having killed a painter over a woman (Mestriner, 2003, 95).[7]

Judges also turned a blind eye to murderous cops. In July 1718, a *sbirro* shot dead three peasants – two men and a woman – in a farmhouse northwest of Treviso, but not even a trial was formed, because "that's the way to deal with cops, even if thirty people die" (Mestriner, 2003, 258).[8] In March 1730, a *sbirro* shot a gunsmith in the mouth during a fight and flew away. After a brief trial, he is banished and sentenced to death. However, a few weeks later the soldier came back and showed himself around the city as if nothing happened (Mestriner, 2003, 350).

The victim's relatives may take revenge when they feel betrayed by a court's verdict. Ambushes occurred far apart in time and space. In August 1705, a nobleman argues with a saleswoman over money change and calls her a liar – an insult that carried deep meanings in Italy and often led to violence. The nephew of the woman intervenes on her behalf and kills the nobleman in a duel. Put on trial, he is acquitted for self-defence. He later went to live in Venice, but ten years later, he was lured into a back alley and killed by a pair of assassins (Mestriner, 2003, 138).

7 *Se ha deliberà con poca speza perché era (notaio) di Malefisio* (Mestriner, 2003, 95).
8 *Onde chi è morti, so dano. Che così si stila con li sbiri si anco fuse morti trenta persone* (Mestriner, 2003, 258).

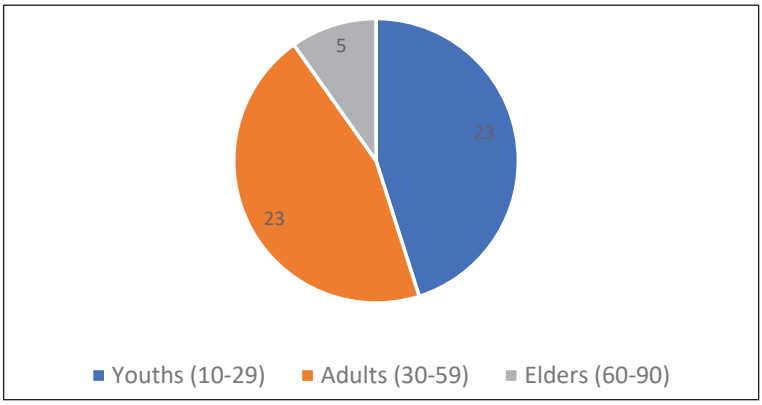

Fig. 9: Victims' Age.

Capital punishment was rarely imposed on murderers, as was the custom in European legal practice and other Italian states (Beam 2020, 395–400; Muurling, 2020, 113–114). Mestriner records only four executions, none of which were related to crimes committed in Treviso. In all the recordings the tone betrays the pity felt towards the condemned.

The chart in Fig. 7 shows that murders stemming from a hot-blooded dispute on trivial matters occurred almost the same number of times as the instrumental, revengeful ones, usually perpetrated by ambush. Notwithstanding that, as even seemingly petty motivations conceal deeper causes (Gould, 2003), many of the disputes described by Mestriner were probably driven by previous enmities.

Hot-blooded disputes are commonly believed to be the reign of young and unmarried people (Muchembled, 2011, 9; Ruff, 2001, 125). However, the sporadic recordings of the victims' ages in the *Libro macaronico* show an equal distribution of violence between youths between 10 and 29 years old and adults between 30 and 60, Fig. 8 and indicate that men of all ages resorted to violence.

Charts in Fig. 10 and 11 show the type of weapons reported by Mestriner – i.e., 92 cases out of 122. Long blades, short blades, and firearms appear in equal numbers and are widely spread across social classes. Aristocrats, merchants, and artisans used both long blades and firearms daily, although Venetian authorities forbade the possession of weapons, especially firearms, under pain of harsh penalties, as happened in any other Italian states (Fletcher, 2022; Muurling, 2020, 137–138; Povolo 1980). This data casts doubt on the rigid categorisations adopted by some historians, who associate certain types of weapons with certain social classes (Spierenburg, 1998, 109–10; Muurling, 2020, 141–142).

In all cases, fighters used lethal weapons. The total absence of weaponized working tools – except in one case, in which a nobleman used a fork against

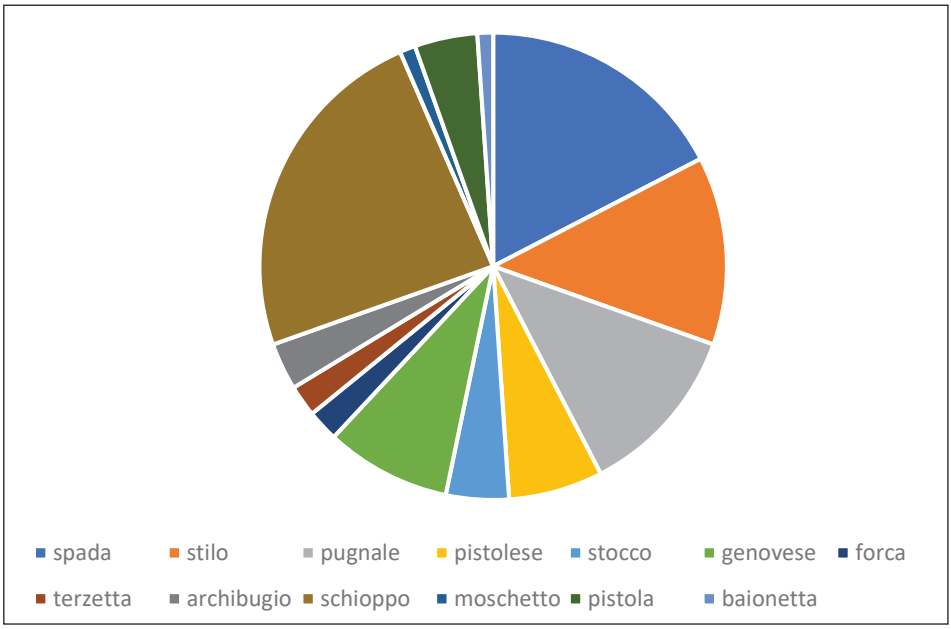

Fig. 10: Weapons used in the violent conflicts recorded by Mestriner.

his old stable servant (Mestriner, 2003, 310) – demonstrates that carrying weapons was still important in defining masculinity and their use spread in setting public disputes.

CONCLUSIONS

The *notatori* as a source could be used more extensively for quantitative analysis of interpersonal violence. Sources like the *Libro macaronico* offer a personal perspective on daily acts of violence. Even the dry reports of Mestriner have plenty of useful information on how, when, where, and why interpersonal violence occurred.

This perspective allows us to see the phenomenon of violence avoiding the usual factional/noble conflicts model and getting a glimpse of how violence affected everyday urban interpersonal interactions. Remarkably, no factional conflicts were going on in Treviso in that period, as was the case in cities with a similar murder rate, such as Bologna. Although further research on the Italian homicide rate will allow a better comparison, this data indicates that a high rate of homicide could be reached even without factional violence.

Treviso was traditionally seen as a relatively peaceful city. The *Libro macaronico* counters that perception, showing that people of all social classes often

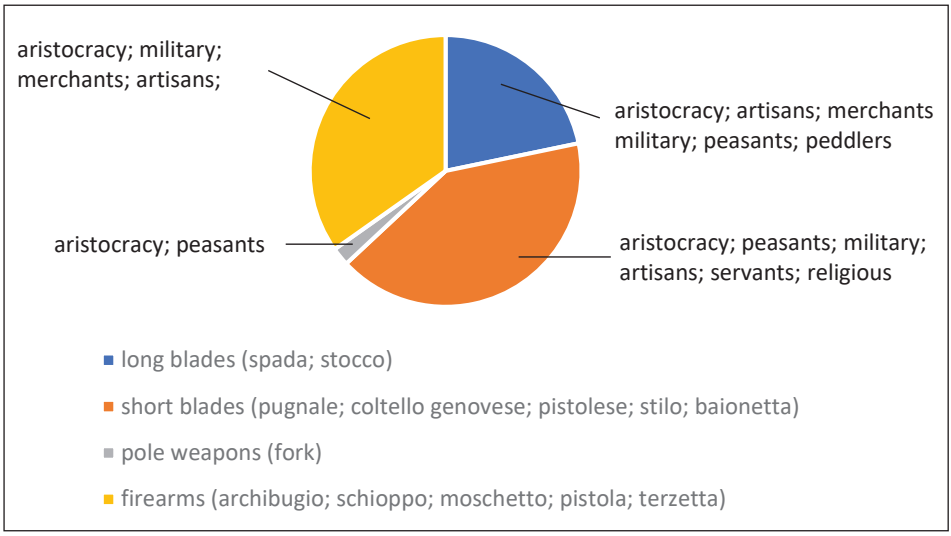

Fig. 11: Distribution of weapons among the social classes.

resorted to armed violence to solve seemingly 'petty' disputes. and were still prone to "ritually pull out their knives" in everyday public interaction. (Eibach 2007, 22–23). This resort to violence was motivated by enmity rooted in the relationships between individuals, although Mestriner does not reveal these reasons in any but very few cases.

What clearly emerges, however, is that political and economic insecurity made people more vulnerable and prone to defend their status by resorting to violence. Plagues, famines, and natural disasters constantly endangered the lives of the inhabitants and contributed to making interpersonal violence endemic. Moreover, the unfair administration of justice – which left many murders unpunished, favoured privileged categories and allowed murderers sentenced to banishment or capital punishment to roam freely – stimulated a sense of impunity and legitimised the use of violence. Arms and firearms were largely spread across the classes and openly displayed, despite being strictly regulated by the Venetian authorities. All these aspects undoubtedly contributed to the high homicide rate of a city like Treviso.

NASILJE IN NARAVNE NESREČE V ZGODNJE NOVOVEŠKEM TREVISU. NOVICE O UBOJIH V *LIBRO MACARONICO* ZUANNEJA MESTRINERJA (1682–1731)

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POVZETEK

Libro macaronico *je dragocen vir za razumevanje dinamik medosebnega nasilja v Italiji med 17. in 18. stoletjem, saj nudi koristne podatke o času, prostoru in okoliščinah nasilnih dogodkov. Prispevek najprej predstavi vir in njegovega avtorja, nato pa poda, kaj ponuja zgodovinarjem nasilja, ki izvajajo kvantitativno in kvalitativno analizo podatkov o smrtonosnem nasilju in merijo stopnjo ubojev v Trevisu 18. stoletja. Analiza pokaže, da visoka stopnja nasilja, ki je bila značilna za zgodnje novoveška italijanska mesta, ni bila vedno posledica frakcijskih spopadov ali fenomena banditizma, temveč je bila lahko povezana z okoljskimi razmerami. Treviso je bil izpostavljen naravnim nesrečam, ki so prizadele njegovo ozemlje in vplivale na življenja njegovih prebivalcev, kar je prispevalo k visoki stopnji medosebnega nasilja.*

Ključne besede: medosebno nasilje, Beneška republika, Treviso, stopnja ubojev, egodokumenti, Zuanne Mestriner, orožje, 18. stoletje, naravne nesreče

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THE SONGS OF THE SCAFFOLD: CHARACTERISTICS, CREATION, AND DIFFUSION OF EXECUTION BALLADS IN SIXTEENTH- AND SEVENTEENTH-CENTURY CATALONIA

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ABSTRACT

This paper analyzes songs of the scaffold in Catalonia in the sixteenth and seventeenth centuries, a hitherto unknown subject that has been paid little attention to date. On the one hand, I will analyze their creation and dissemination using different documentary and literary evidences to demonstrate that they were highly demanded texts composed when an execution was going to be held. On the other hand, I focus on the propagandistic role that these printed texts had, using a micro-historical analysis of two examples: the famous bandit Antoni Roca (1546) and the Morisco witch hunter Joan Malet (1549).

Keywords: execution ballads, Catalonia, banditry, witchcraft, death penalty, popular print, early modern history

CANZONI DA PATIBOLO: CARATTERISTICHE, CREAZIONE E DIFFUSIONE DELLA LETTERATURA DEI GIUSTIZIATI IN CATALOGNA NEI SECOLI XVI E XVII

SINTESI

In questo articolo analizziamo la letteratura dei giustiziati in Catalogna nei secoli XVI e XVII, un argomento finora sconosciuto a cui è stata dedicata poca attenzione. Da un lato, analizzeremo la loro creazione e diffusione sulla base di varie testimonianze documentarie e letterarie, per dimostrare che si trattava di testi molto ambiti, composti in occasione di un'esecuzione. Dall'altro lato, ci concentreremo sulla funzione propagandistica di questi testi a stampa, basandoci sull'analisi microstorica di due esempi: il famoso bandito Antoni Roca (1546) e il cacciatore di streghe moresche Joan Malet (1549).

Parole chiave: letteratura del patibolo, Catalogna, banditismo, stregoneria, pena di morte, letteratura popolare, storia moderna

INTRODUCTION[1]

In 1759, Paul Sandby RA, a British map and landscape artist, produced a drawing entitled *Last Dying Speech and Confession*.[2] The illustration features a man and a woman as the principal figures, who are orally sharing the contents of a bundle of unbound papers. A public execution is depicted in the background with a blurry outline of a scaffold surrounded by a crowd. Therefore, it is apparent that the materials in the hands of the presumed peddlers reproduce the convict's final discourse and admission, which was either scripted or rehearsed while in prison and is now being prepared for an impending execution.

This is the very definition of gallows' literature, a term invented by Hans-Jürgen Lüsebrink in his 1982 article titled *La letteratura del patibolo. Continuità e trasformazioni tra '600 e '800* (Lüsebrink, 1982). Printed material is a good example of "intermediality", representing a form that blends various communicative and cultural techniques or resources, including popular literature concerns with the celebration of an execution. In this particular instance, an interrelation between oral tradition, written literature, and visual elements can be observed through popular poetry. These were all integral parts of the public sphere during the modern period. These texts were designed not only for individual reading but also for communal recitation by figures such as blind men or street vendors (Rospocher et al., 2019).

The study of scaffold literature holds a prominent place in current historiography. Notably, important works have addressed the issue at the national level, for instance the United Kingdom, France, Italy, and Germany. For instance, in Italy, the book *Delitto e Perdono* by Adriano Prosperi stands out for its thorough analysis of the subject. Prosperi compared Italian works with those from other countries and examined an array of printed materials, including *lamenti di condannati*, *storie romanzesche*, and *l'avviso* and *autos da fé* (Prosperi, 2013).[3] French literature on execution ballads draws on recent studies by Pascal Bastien, who offers a fresh cultural perspective on capital punishment, examining the relationship between justice, its participants, and the public execution ritual (Bastien, 2006, 2011). Richard Evans' works on the German context (Evans, 1996) and Gatrell and Sharpe's research on England (Gatrell, 1996; Sharpe, 1985, 144–167) complement these contributions. In recent years, scaffold literature has been approached from a new methodological perspective, which involves analyzing similarities and differences across different countries. Una McIlvenna's work has been instrumental in highlighting the unique characteristics of this literature at the European level (McIlvenna, 2015, 47–88). In

1 This work is part of the research project *Las barricadas del recuerdo. Historia y memoria de la Era de las revoluciones en España e Hispanoamérica (1776–1848)* (PID2020-120048GB) financed by el Ministerio de Economía y Competitividad del gobierno de España.

2 Located at Yale Centre for British Art.

3 For Northern Italian scaffold literature cf. Rospocher & Salzberg, 2017, 164–185.

her monograph *Singing the News of Death: Execution Ballads in Europe 1500-1900* (McIlvenna, 2022), she analyses German, English, French and Italian couplets performed by the prisoners, taking into account lyrics and melodies.[4]

Spanish execution ballads have received much less research attention than their European counterparts. Although the existence of such documents had previously been noted by Cesare Acutis (1978, 163–180) and Pierre Civil (1989, 139–151), it was Juan Gomis (2016, 9–33) who confirmed the presence of an executioner's literature with a long tradition in the Hispanic Monarchy, in a study that also highlighted the need for further research on this topic, as many questions remained unanswered. Gomis' work has been followed by others, such as my own work on death-row inmate's poems in the Crown of Aragon (Llinares, 2017, 108–125). In this work, I present solid evidence that this type of story was inspired by judicial documents from criminal files and that they began to be printed in the opening decades of the sixteenth century in places such as Catalonia, the Kingdom of Valencia or Aragon.

Thus, this article aims to examine the traits of Catalonia's execution ballads during the sixteenth and seventeenth centuries, along with their production and distribution. During the late fifteenth century, the principality of Catalonia had abundant printing presses which produced material in a wide range of topics, including those related to public executions, which were predominantly a reflection of widespread banditry. This was a serious problem in Catalonia from the early sixteenth century to almost the conclusion of *Guerra dels Segadors* or Reapers' War (1640 to 1652). In the opening section, I shall examine how this type of text was created in Barcelona and how it then spread to various rural areas. Furthermore, based on documentary evidence, we will explore the methods used by the poets who composed these factual verses to gather information. Finally, I shall examine this literary genre through the microhistorical analysis of two particular incidents from the sixteenth century: namely, the case of the outlaw cleric Antoni Roca (1544 and 1546) and that of the Morisco witch hunter, Joan Malet (1549).

DISSEMINATION AND PRODUCTION OF EXECUTION BALLADS

Dissemination: an urban and rural literature

Virtually, all the texts of the Catalonia's executioners were printed and stamped in Barcelona under license.[5] Catalonia's capital was the epicenter of print production during the Baroque period, and there the texts would be advertised and disseminated by blind men and peddlers. In spite of this, as noted by

4 Cf. McIlvenna et al., 2021, 123–159. On the death of the French bandit Cartouche in Dutch folk poems cf. Salman, 2019, 20-47.

5 In spite of that, I have not been able to find the applications for these printing licenses. The only extant record is an application to print a sheet in Catalan about the famous bandit Joan Sala i Ferrer "Serrallonga" in 1635 (Valsalobre, 2021).

Ricard Expósito in his doctoral thesis, the factual accounts, gazettes, *romances*, etc., were in demand by rural society. Well-off peasants, clergymen, or millers like Menocchio (Ginzburg, 1976), were consumers of printed news and entertainment, in Spanish and Catalan, Catalonian, national or international topics such as the French Wars of Religion or the sighting of a comet (Expósito, 2016). Some peasants bought and consumed this type of printed material, including stories of bandits from the early seventeenth century, whose protagonists ended their days on the scaffold.

In this way, Roc Soler, from the parish of Nostra Senyora de les Encies (Garrotxa, Girona), bought *Aquí se refereix llargament la molt grandiosa y memorable expulsio de lladres y bandoles feta per ordre del excelentissim senyor don Francisco Fernandez de la Cueva duc de Alburquerque lloctinent y capita general...* published by Esteve Liberós in Barcelona 1616, sold in bookshop of Geronyma Bosca (Lopes, 1616). Soler himself noted that this account was "bought today, July 20, 1616 in Barcelona, Roc Soler from *las Entías*" (*comprat vuy a 20 de julio de 1616 en Bar*[*celo*]*na Roch Soler de las Entias*). In this case, Soler went to Barcelona and purchased this propagandistic print reporting the good news of the capture of bandits "Trucafort" and "Tallaferro". Despite this, as Expósito himself explains, he not always had to travel to the cities of Barcelona or Girona to buy these stories, as peddlers used to walk assiduously in the area (Expósito, 2014, 519). It is precisely by this method that another peasant, heir of the Fontanil de Cogolls farmhouse, in the parish of Sant Cristòfol de Cogolls (Garrotxa, Girona), acquired the account in Catalan of the death of the famous robber Francesc Margarit composed by an Isidre Violer from Moià (Barcelona) (Violer, 1627).

In the family documentation, the countryman explains that before purchasing these verses he heard the narration or recitation, abbreviated or complete, made by a peddler named Jerònim Plana. According to Expósito, it is not unreasonable to think that this itinerant seller returned, some time later, to the Cogolls farmhouse or its surroundings to sell printed material with which the local population kept informed about the Thirty Years' War, the fight against Ottomans, or French diplomacy, among other issues (Expósito, 2014, 519). Likewise, the family books contain verses taken from a banditry tale from 1627, linked to the publicist working for the bishop of Solsona, the viceroy at that time (Expósito, 2014, 792). This text is dated to the same year as Margarit's, and, therefore, it is likely that Soler purchased it from the same hawker or, failing that, that he heard it sung and remembered some verses that, in the event, he decided to write down in his account's book as "news about bandits."

In the same way, Francesc Regàs, from Santa Maria de Lliors, a landowner in the region of La Selva (Girona), collected a propaganda leaflet on the expulsion of the bandits from Catalonia in 1616 and another on the execution of the famous Serrallonga in 1634, which is the only one preserved in Catalan about an outlaw (Expósito, 2014, 529). Therefore, we know that these texts, printed in Barcelona,

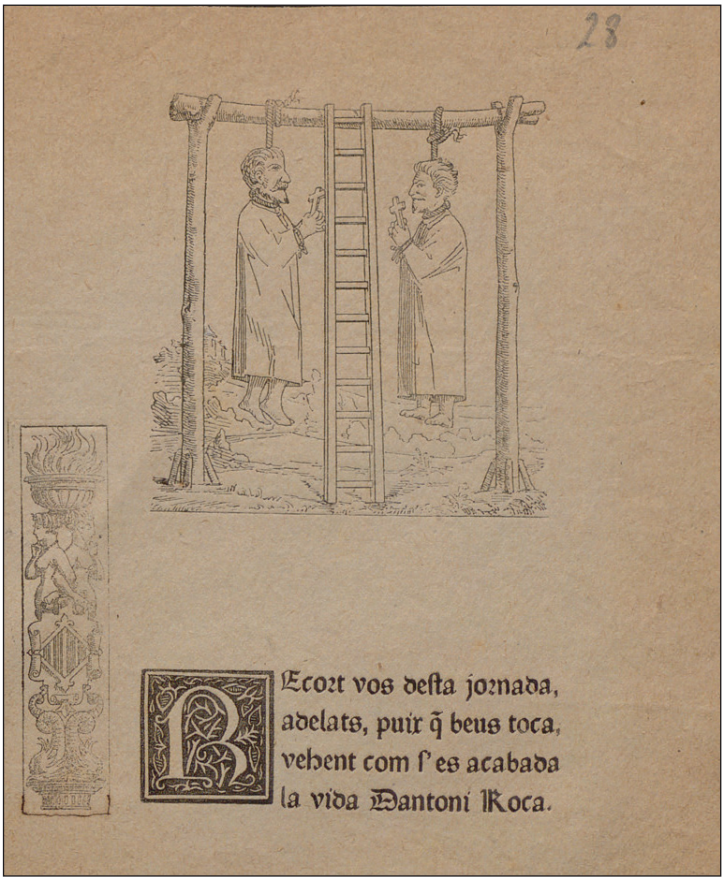

Fig. 1: Cobles fetes ara novament sobre la justícia i cruel mort d'Antoni Roca, escandalitzador de tota Catalunya, i la de con companyó Sebastià Corts, 1546. Cançoner Popular de Catalunya, Sèrie A, Materials Aguiló, carpeta A-15, VI, num.1.

were bought by travelers who passed by the city and took them to their places of residence. Besides, the peddlers were responsible for bringing them to the rural villages and selling them. It is not unreasonable to think that, as was done in the cities, there were also collective readings, usually in verse, in the villages and hamlets in which a person who was literate read to the others. To this should be added the recitation of these papers by the sellers themselves, whether they were blind or not.

In the same way, many Catalonian songs about death row inmates were printed on the occasion of a recent or incoming public execution. We know that on 18 June 1616 twenty-eight bandits were executed, as recorded by the subtitle

of *Aqui se refereix llargament la molt grandiosa y memorable expulsió de lladres y bandolés feta per orde del excelentssim senyor don Francisco Fernández de la Cueva Duc de Alburquerque...* 1616, Barcelona, Esteve Liberós imp. Jeroni Biosca's book shop, with ordinary license, Lopes, 1616; in addition, the purchaser of two poems noted on them the date on which he got them. As such, *La bona Fortuna del excelentissim don Francisco Fernandez de Cueva Duch de Alburquerque lloctinent i capità general en lo Principat...*1616, Barcelona, Llorens Deu imp., Martí, 1616, was purchased on the same *18 de juny de 1616* also noting that on that day 28 people had been hanged in the city of Barcelona. On the other hand, the *Relació verdadera de la transformació de Cathalunya y inmemorial justicia...* Barcelona, Llorens Deu imp. (Pelegrí, 1616), was obtained the following day, and it seems safe to assume that the execution that it describes was the one carried out the day before. Likewise, we also have evidence that these poems were still being sold in Barcelona sometime after the event they describe, since, as noted, the farmer Roc Soler from *les Encines* (Garrotxa, Girona), bought the first of these long after the execution it describes. These are, therefore, texts written and disseminated at the foot of the scaffold, and printed before, during, and after the death of the prisoner in question.

For example, in 1573 the neighbors of Conca d'Òdena (Barcelona), captured and executed more than 60 bandits at the same time. Seven texts about this event came to light, being printed as the events progressed (Llinares, 2021a, 105–128).[6] Specifically, on 6 and 7 of April the following texts were published: *Summa del testament de part dels bandolers de la companyia de Moreu Palau, Cascavell y Camadall, a sis de abril, 1573*, Barcelona, book shop Joan Burguès, (BC, Sig: 6-IV-39), and the *Testament y Codicil, en lo qual sa legats la presó de Barcelona, als bandolers de la companyia de la ànima pecadora, fet a set de abril de 1573*, Barcelona, book shop Plaza del Blat, (BNE, R/36459). They are *testaments de mort*, wills of the dead, which, a priori, intend to justify the death sentence and to show the reconciliation of the souls of the executed (Llinares, 2023, 39–63). In addition, they served to publicize the sentence issued by the *Generalitat* in those days, because between 6 and 7 April, the wrongdoers were tortured, the heads of those killed in the conflict were publicly exposed and the sentences of the prisoners were published. Therefore, it is very likely that among the crowd that came to the *Generalitat* courtyard to contemplate the heads of the bandits, there were already blind men and hawkers singing these sheets. This can be seen in the content of the second text itself, since it is specifically stated that it was publicly recited on 6 April:

6 I am currently preparing a specific article on this subject, paying closer attention to the poems.

En la ciutat	In the city,
devant la gent	before the people,
públicament	publicly,
en la dita summa	in said *summa*,
de tots en una	of all with one voice,
un testament	a testimony,
en l'any corrent,	in the current year,
setanta y tres	the seventy-third,
del present mes	of the present month,
que.s sis d'abril	which is the sixth of April

At least four popular poems were printed about Serrallonga (1594–1634). In the 1630s it came out: *Relación verdadera de la vida, robos y delitos del famoso bandolero Juan Sala Serrallonga, y de su prisión, siendo Virrey de Cataluña el Excelentíssimo de Cardona*, Barcelona Esteve Liverós (Meluco, 1633; AHCB, LIB-14 B), and *Xacara y relación verdadera de los hechos y prisión del famoso bandolero Sierrallonga*, Barcelona, Esteve Liberós imp. (Lamuela, 1633), came out in 1633, when the criminal was imprisoned and awaited sentencing. That is to say, these texts were printed and disseminated before the prisoner was taken to the scaffold on 8 January 1634.

Production: different ways of writing a scaffold poem

It still remains to be clarified how these stories were composed, and whether they are fictional stories or have a factual, documentary basis. These are difficult questions to answer, however, since the documentary evidence is scarce, and the texts need to be compared with other sources: archival material and theater, suggesting great heterogeneity in the writing processes that lie behind these stories. For example, the play *El Catalán Serrallonga, y bandos de Barcelona*, written by the playwrights Antonio Coello, Francisco de Rojas, and Luís Vélez de Guevara in 1635 illustrates this process. When the protagonist, Joan Sala i Ferrer, alias "Serrallonga", is in prison waiting to be executed, he is accompanied by "the blind man who sells songs" and at the exact moment when the sentence against the famous bandit is going to be made public, the blind man shuts up the other inmates saying

"let's hear the sentence", and then calls the Student, a friend of the robber himself who could read and write:

CIEGO: ¿Señor Licenciado?	BLIND MAN: Mr. Bachelor?
ESTUDIANTE: ¿Quién me llama?	STUDENT: Who is calling me?
CIEGO: El ciego.	BLIND MAN: The blind man.
ESTUDIANTE: ¿Y qué quiere?	STUDENT: And what does he want?
CIEGO: Que, pues, es tan gran poeta, unas coplas me escribiese de Serrallonga, ese bravo bandolero, ese que tiene toda Cataluña en arma; que yo daré un dobloncete por el metro.	BLIND MAN: That, since he's such a great poet, that he would write me some verses about Serrallonga, that brave bandit, the one who has all Catalonia in arms; that I'll give a doubloon for the verse.

Likewise, in the play, Serrallonga complains that, while in prison "before they arrest me, they write songs, couplets and verses/, because the ladies cry for me,/ before they look at me as a prisoner". This source, in this case literary, indicates that collecting information about a prisoner who was going to be executed was an everyday action, something normal in Baroque society. On the one hand, a blind man is shown asking a friend of the criminal to compose the account, that is, he uses a third person who had information about the case. On the other hand, we deduce that the blind man in the play wanted the verses to be finished so that he could sell them when Serrallonga was about to go to the scaffold or even a little before, as is clear from the second quote where the bandit himself is aware that poems about him were being published. This was also happening in England, where, if a prisoner was to be executed in the afternoon, that very morning the couplets about his death were already being sold, usually a speech written by none other than the criminal himself, encouraging the population to attend the spectacle (Ezell, 2014, 1–14).

Likewise, in England, the regular priest in the prisons of Newgate, who was in charge of providing spiritual comfort to those who were going to die also transcribed their last words (The last Dying Speech), and had them printed and made money

from their sale. We have no evidence that this happened in Catalonia as well, as in the Catholic world the sacrament of confession was a secret between the priest and the believer. In spite of this, the printed document about the death of Antoni Roca, apart from praising the marquis, recounting the punitive ritual, and warning the bandits, devotes an important part to justify the judicial sentence from a religious point of view. Thus, *lex talionis*, St. Augustine, the Commandments, and the Bible, among other documents, are cited, arguing that the death penalty was the way to purge sins on earth. This led Joan Fuster to interpret that the anonymous poet could be a clergyman or jurist (Fuster, 1963, 29).[7]

Clearly, the author had read St. Augustine and dealt with sacred books, which he used to elaborate a discourse related to the person who was going to be executed, justifying the punishment, and giving it a clear moralizing component. All this leads me to interpret that the anonymous subject who wrote these verses could be the priest assisting the prisoner in the chapel, who would launch a harangue before or after the death of a bandit on the scaffold. In other words, it is very likely that the chaplain who consoled the bandit before he died used his religious training and the information he acquired after giving spiritual comfort to the prisoner to write some verses, either by order of the viceroy, to earn money, to reinforce his speech after Roca's death, or by a combination of different factors.

Likewise, we know that between 1748 and 1767 the brotherhood of *Nuestra Señora de la Visitación y Almas de Purgatorio* in the city of Madrid received the monopoly over the *coplas de ajusticiados* and that they asked the court clerk for a report with which to write a song about it (Botrel, 1973, 417–482).[8] We have no evidence that this privilege also existed in other parts of the monarchy, although, everything seems to indicate that in Catalonia many stories were also inspired by the judicial process or other official documents such as banns or published court rulings. For example, in the *Relación verdadera de la vida, robos y delitos del famoso bandolero Juan Sala Serrallonga…* when the protagonist is in jail suffering different forms of torture, the text alludes to the judicial process, a cause in which many people testified, and that altogether adds up to more than 1,000 sheets, something that did not go unnoticed by the poet:

7 Almost all the texts have a part reserved for the salvation of the prisoner's soul. Despite this, Roca's text goes a step further and shows a more learned knowledge of the sacred scriptures.

8 This is a topic that I am developing extensively in my doctoral thesis, and I am also working on a book about scaffold literature in Spain.

De muertes y robos hechos	Of deaths and robberies made
de este forajido se halla,	this outlaw is found
en la Audiencia Real	in the Royal Audience
un proceso, de hojas tantas,	a process, with so many pages,
que por tomos le dividen	that it is divided into volumes
y ay algunos de una quarta.	and there are some of a quarter.

That is to say, the writer knew of the existence of this judicial process and its magnitude. The inspiration of the poet in question in official documentation of the case to compose a text can be corroborated by crossing sources of different typologies. Thus, in *Cobles ara novament compostas sobre la presa y sentencia de Montserrat Poc*.[9] Barcelona, Jaume Galvan (printer), 1578 (digital copy in BIDISO), it is explained that this Catalonian bandit spent some time in the Balearic Islands, besieged in the house of "Honofre Penya", besides narrating the details of his escape from the island and his subsequent capture and execution. The bandit's presence in Mallorca is confirmed by the historian Miguel Deyà, since he located a process in the *Arxiu del Regne de Mallorca*, where he explains that this was aligned with the Puigdorfila side, which were in enmity with the Torrelles,[10] and, in addition, he documents that Montserrat Poc was pursued and besieged in the village of Deià, in the house of the cleric "Guillem Penya" (Deyà, 2016, 83–98; Llinares, 2021b, 211–236)[11]. Therefore, these are "non-fictional" texts inspired by official documentation, a situation that is repeated in other printed documents of the time, such as those explaining the deaths of "Trucafort", "Tallaferro", Miquel Morell or Jaume Clua, alias "Bord Clua", among others.

Although for this chronology we do not find the last mortuary speeches in Catalan, since this type of document would take a few years to arrive, as noted, in the sixteenth century wills of the executed were printed. In general, these are poems, written in the first person, which showed the population that the prisoner in question was repentant and that he faced death with courage and resignation in order to purge his sins on earth and, therefore, to be able to enter the Kingdom of God. It was believed that what was written in these stories was what the prisoner had written or said while in prison, being, theoretically, composed in this way. Even so, we can argue that what appears in these writings was invented by the authorities in order to make it look like the prisoner had incriminated himself of the crimes he was accused of, and thus justify capital punishment even more.

9 Montserrat is nowadays a very common female name in Catalonia, but in the Ancien Régime it was a male name.

10 In Mallorca there was factional violence much like in Catalonia or Valencia.

11 It is likely that the clergyman's name was changed to protect his identity.

Overall, it is likely that the poets who wrote these texts used all the means at their disposal, resorting, even, to their own visual experience, attending the execution personally or through someone close to them. As noted, there are many texts that were written after the prisoner died on the scaffold and that describe it in print in greater or lesser detail. On the one hand, in some stories the writer limits himself to saying that the sentence was rigorously applied and does not go into much detail, and, at most, they provide general information. On the other hand, in other stories the public execution is described much more precisely and in greater detail, which leads us to assume that the writer was telling his own experience as a spectator, as in the text *Relació verdadera de la transformació de Cathalunya y inmemorial justicia...* Barcelona, Llorens Deu imp. (Pelegrí, 1616), where the protagonist describes, in detail, what he feels or sees during a public execution in Barcelona in the first half of the seventeenth century.

BANDITRY AND WITCHCRAFT: TWO PROBLEMS TO BE FOUGHT

Catalonian banditry during the Baroque period goes back to medieval feuds and aristocratic conflicts and was widespread across Europe (Torres, 1993). The laws of the different kingdoms of the Crown of Aragon accepted the right of the nobility to bear arms and to wage "private war" against their enemies if they followed the legal channels for doing so. Catalonian society until the Reapers' War was divided into factions: the Pujades, the Setmnats, the Morells and the Voltors, the Nyerros and Cadells, etc.; they were a parallel power to the king in the territory.[12] The bishop of Vic in 1615, not in vain, came to say that "the bandits are more lords of the land than the king" (Soler, 1909, 417). Honor, personal or family revenge for economic reasons, or conflict over public office were some of the causes that led different subjects with resources to hire and protect gangs to do their dirty work for them. In other words, nobles, members of the Church, feudal lords, municipal officials and the Principality itself made use of bandits to solve their problems, in both rural and urban areas. In this context, the king struggled to control and monopolize violence in the territory.[13]

Propaganda sheets at the service of the viceroy: the case of Antoni Roca

Facing a society divided into violent factions that controlled part of Catalonia's institutions, both at the Principality and the local levels, some viceroys, as well as imposing repressive measures, also had to resort to culture war, using popular poems when a specific rule was adopted. I have been able to count a total of 47 poems printed between 1500 and 1635, mostly written in Catalan, and, to a lesser extent, in Spanish, linked to the Catalonian banditry of the Baroque period, 44 of which I was able to identify.[14]

12 For a European overview on enmity and violence cf. Carroll, 2023.

13 For the historiography of banditry in the Crown of Aragon cf. Casals, 2019, 581–602.

14 A question I address extensively in my doctoral thesis.

However, although in this article I shall highlight the "official" or "officialist" uses of the Catalonian poems, it is very likely that these printed works were interpreted differently and even that a "subversive" reading could be made. In this process, they could include multiple variables such as the personal context of the person to be executed, the socio-political outlook of the moment, the gender and ideological components, etc.; a circumstance that leads to multiple interpretations most of which will never be known (Chartier, 1993).

Therefore, much of this propagandistic literature was printed when an important bandit was going to be executed, as happened with Catalonia's first great bandit, Antoni Roca (?–1546). After Moreu Cisteller, an evildoer linked to the side of the Pujades, was executed in 1543, Antoni Roca, a bandit linked to the opposite faction, the Sentmenats, gained enormous prominence. He was a bandit priest who brought Francesc de Borja (1539–1543) and the Marquis of Aguilar (1543–1553), viceroys of Catalonia, to their knees. This character was one of the most wanted men in the sixteenth century Catalonia, defined by Àngel Casals as "one of the most feared and persecuted bandits of Catalonia" (*un dels bandolers més temuts i perseguits de Catalunya*) (Casals, 2011, 9). This bandit, from Sant Joan de les Abadesses, was ordained chaplain, probably to avoid capital punishment in case he was captured, although, if he was a famous criminal, being a priest did not eventually free him from this tragic end. The brigand was immersed in the factional fights in the Viscounty of Castellbò (1538–1544) (Obiols, 2004, 203–251), and when truces were signed, he placed himself under the orders of the nobleman Bernat de Pinós, member of the Sentmenat faction, which had important connections with members of the royal court and administration.

The Marquis of Aguilar could not put an end to this criminal, a situation that worsened notably after Pere Malaveniz de Gasca, known as "Galipapo", Roca's lieutenant, and Joan Puig, of the Sentmenat faction and the bandit's protector, killed Gabriel Orriols, son of the mayor of Caldes de Montbui (Barcelona) (ACA, Real Cancillería, Reg.4.220, f.187v). Finally, "Galipapo" and two more bandits involved in this killing were captured and were to be executed in Barcelona in 1544. Therefore, after his continuous failures, Antoni Roca's constant mockery and his protection by part of the ruling class of the Principality, the imprisonment of the bandit's lieutenant, and his subsequent execution, were the viceroy's first great triumph and a check to banditry and the Sentmenat faction. It was the perfect occasion to lay their cards on the table and to launch a clear warning to Roca and Catalonian banditry, which was done by means of the popular couplets entitled *Cobles novament fetes per Pere Giberga contra tots los delats de Cathalunya i secaços d'Antoni Roca, recordant-los la cruel sentència y mort del Galipapo y altres dos de lur companyia, la qual passarà per tots ells, si no buyden prest la terra*, Barcelona, s. imp (Giberga, 1544).[15] According to Josep Gisbert, this print is "the oldest bandit song that is known from a Catalonian songbook" (*la més*

15 This poem can be consulted online through the Biblioteca Virtual Miguel de Cervantes.

antiga cançó de bandolers que es coneix del cançoner català) (Gisbert, 1989, 24).[16] In spite of this, the execution of Pere Malaveniz and the other criminals was only an excuse to write and disseminate the poem. I think that the purpose of this text was to inform the population that some bandits have been put down and to do so while the execution was being carried out, to make it stand as an example to all. In this way, most of the document is overshadowed by political propaganda or "official or officialistic journalism", in Richard Kagan's terminology (Kagan, 2012, 87–100). The intentionality of the narrative can be divided into three fields: messages of warning to Roca and the highwaymen still roaming Catalonia; the stanzas addressed to the gangs and protectors of highwaymen; and praises to the Marquis of Aguilar.

"Galipapo's" execution is not the relevant theme of the composition, since he is only mentioned once in the whole text to say that he and two others were bound and executed for the crimes they had committed. At the end of the stanzas there is a refrain that says "save yourselves from disgrace, /from Regomir Street" (*guarda-vos de la desferra,/del carrer del Regomir*) in allusion to the street in Barcelona where the convicts walked before being executed and where they received some corporal punishment. These words being chosen as a refrain is already a declaration of intentions, but not more than the first stanza when it says:

Malfactors Buydau la terra,	Evildoers, empty the earth,
no us vullau més detenir:	do not stop any longer,
Guardau-vos de la desferra	save yourselves from disgrace,
del carrer de Regomir.	from Regomir Street.

The text warns the bandits committing crimes in the Principality that the pincers with hot irons, torture, and death will be the end of them. For this reason, it advises them to leave the territory or hide well. In addition, the name of "Toni Roca" is mentioned twice in order to emphasize that the viceroy would soon catch him and that he would no longer be protected by his French friends. Likewise, this officialist literature does not miss the opportunity to make direct allusions to the factions and people who harbor bandits, directly mentioning the Pujades and the Sentmenats, rivals and protectors of Roca, respectively:

16 Nowadays, we know that before this one, other sheets about bandits were printed, although most of them have not been preserved.

No us engan fer de pujades,	Do not deceive yourselves, being of pujades,
ni de semanat valença,	nor of semenat protector,
que sols no us faran parença,	which only will not make you appearance
quels dolguen les tenallades.	that the pincers hurt them.

It is noted that part of the 1539 royal decree is reproduced, which prohibited the harboring of bandits, among other things (Borràs, 1953, 159–180). It is also known that the king ordered successive viceroys to promulgate and enforce it. Therefore, it is likely that this *pliego* served to disseminate this legislative text through a song and took advantage of the population's eagerness to know the lurid details of Galipapo's death as well. In the same way, I think that the different warnings to the Pujades and Sentmenats and to Roca himself were expected to reach them, directly or indirectly.

Despite the viceroy's triumphalism, Roca was still at large and a real headache for the king's representative in Catalonia. It must be understood that Roca counted on *fautores* in Catalonia and in France, where he fled when the persecutions against him intensified (AGS, Estado, leg.294, num.238). This circumstance was taken advantage of by the French monarch, Francis I, to put Roca at the head of three thousand men in the context of the war between France and the Hispanic Monarchy, with the aim of sacking Cerdanya and laying siege to Puigcerdà (Casals, 2011, 57). It was at this moment that Roca became a problem for the emperor's international interests and, therefore, he indicated to the viceroy that his capture should be the priority. His apprehension was the result of a complicated diplomatic operation to get his companions to betray him, among them, the governor of Narbonne himself. The hypothesis suggested by Casals is that the bandit was no longer useful to the French monarchy because the Peace of Crépy had been signed in September 1544 and the king's secretary, Francisco de los Cobos, authorized negotiations with the French to imprison Roca (Casals, 2011, 62). So, if the capture of Galipapo inspired a popular *copla*, the imprisonment and death of Roca was not going to be less so. This is behind the anonymous verses *Cobles fetes ara novament sobre la justícia i cruel mort d'Antoni Roca, escandalitzador de tota Catalunya, i la de con companyó Sebastià Corts* (Aguiló, 1900, 345–348), which must have been very popular at the time, since at least three versions, with three different headings, were printed.

Analyzing these works, we can say that the one about Roca's execution is clearly a scaffold poem, while in the one about Galipapo, the focus is on the messages and threats sent to the bandits and their protectors, with the main bandit still at large. On the one hand, the 1546 poem tries to inform that Roca has been executed, and on the

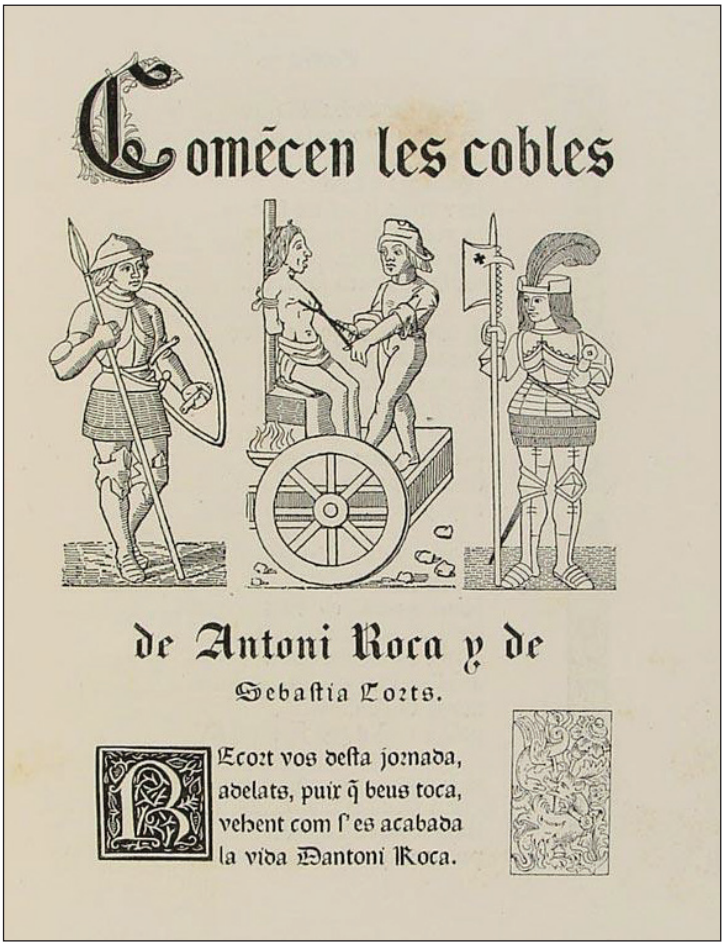

Fig. 2: Cobles fetes ara novament sobre la justícia i cruel mort d'Antoni Roca, escandalitzador de tota Catalunya, i la de con companyó Sebastià Corts, 1546 (Aguiló, 1900, 345–348).

other hand, we find an exhortative and moralizing function, in this case, exemplified by the reproduction of the "baroque terror" in these texts: the bloodcurdling and dramatic details, such as the amputation of the ears, the *atenallament* (clamping of the skin with hot iron), or reproducing the scene where Roca's mother visits him in prison, in order to "educate" and "direct" the population for moralizing purposes (Maravall, 1975). In other words, the intention is to teach by reproducing the basic premises of *lex talionis*, and for the propagandistic message to last and extend beyond the city of Barcelona. Likewise, this print also aspired for the wrongdoers

to be its primary audience, as reflected in the first stanza:

Recort-vos desta jornada [la ejecución],	Remember this day [the execution],
adelats, puix que beus toca,	bandits, to you it is your turn,
vehent com l'és acabada,	seeing how it ends,
la vida d'Antoni Roca.	the life of Antoni Roca.

In spite of this, the intention is to show that the prisoner is repentant, and that justice has managed to redeem his soul with an exemplary death. It is the triumph of justice, embodied in the figure of the viceroy. Likewise, in this sheet, the Marquis of Aguilar is shown as both a victor, the one who has put an end to the main bandit of Catalonia, and as the *alter ego* of the monarch, as well as pious, righteous and fair towards the prisoner who was going to die. It is made clear that the highest royal authority in Catalonia did not have a bloodthirsty character. If someone had to be executed, it was for the good of society. Thus, after learning that Roca's mother had visited him in prison and that he was suffering and repentant, he ordered that the bandit should not receive any corporal punishment other than what his death sentence ordered.

Renata Bojničanová conducted a study where she compared Roca's two accounts with a Slovak song from 1543 about the death of the outlaw Matiáš Bazald. She was able to note some similarities between the two poetic forms, such as the criminalization of the outlaw, the narration of the details of the punishment and humiliation connected with the execution, biblical quotations, and references to the protectors of evildoers. For Bojničanová, these similarities between the two texts are due to the fact that both are part of the literary network that served the political propaganda of the Habsburgs (Bojničanová, 2007, 11–24).[17]

I think that we can only come to understand these texts and others of the same style if we examine the person who persecuted Roca day and night, Viceroy Aguilar. He wanted to gain recognition so he could go to the Court, but he also had trouble with Catalonia's governor, Pere de Cardona, because he thought that the viceroy was interfering with the persecution of bandits, which was his responsibility (Buyreu, 2005, 195). The tensions between Aguilar and the *consellers* of Barcelona were continuous throughout his reign for different reasons, such as the prohibition of shotguns of *pedrenyal*, arbitrary arrests, and his refusal to accept some appointments; for these reasons, his reputation among the Catalonians was low. In March 1544, this situation led the representatives of the Principality to present an embassy in Valladolid to complain about the emperor's *alter ego* (Buyreu, 2005, 238).

17 In this sense, the *coblas* of Galipapo and Antoni Roca present some differences that I have been pointing out throughout these pages, although both are part of the propaganda system of Viceroy Aguilar.

The complaints of Catalonian representatives against viceroys are a constant throughout the modern period, and banditry was a clear element of friction. This largely explains the existence of a prolific scaffold literature, like that linked to Antoni Roca and texts printed during the viceroyalties of the Duke of Alburquerque (1616–1619) or the Duke of Segorbe and Cardona in the 1630s (Llinares, 2018, 53–80). In other words, these compositions reveal the viceroy's attempt to entrench his contested authority and that of the monarch.

The poem of the witch-hunting Morisco Joan Malet (1549)

Parallel to the fight against banditry, hundreds of women were hanged for witchcraft across the Principality of Catalonia, accused of causing deaths, especially of children, and the meteorological phenomena that ruined the crops (Alcoberro, 2020; Castell, 2013). Unlike those of bandits, these executions had little publicity. We do not know the real reasons for this, but we understand that the contexts for banditry and witchcraft are different. The former was a powerful organizational system, parallel to the king's, and at times, it held unofficial control over the territory. The latter always developed clandestinely, since they would not exist without the secret covens, and it was the civilian population and the Inquisition who fought it.[18] In the case of Catalonian witchcraft, most of those denounced and prosecuted were "marginalized" women, i.e., single women, widows, old women, poor women excluded from society, etc. Normally, it was a neighbor who accused a defenseless person of having made a pact with the devil. A famous bandit had weapons and powerful allies, that is, the highwayman, for better or worse, had a certain "social status" and instilled terror and respect alike among the population. In addition, some people helped outlaw gangs out of fear or for economic benefit. Thus, banditry had to be combated by all means, for the reasons mentioned above. Therefore, we must think that witchcraft, despite the theological debates of the period (Llinares, 2021c, 119–140), was unprotected nor had the approval of virtually anyone.

Despite this, there is a song linked to the world of witchcraft about the execution of a witch hunter. As noted, most of the witches were persecuted by the local authorities, who received enormous popular pressure from the neighbors who accused some women, whom they used to know, of the harm that had befallen animals, people or crops. In this context, in the first half of the sixteenth century, some subjects considered becoming witch hunters as a highly lucrative business, as was the case of the Morisco Joan Malet, who acted in the towns of Tortosa, Reus, Valls or Tarragona, among others, reporting, before the local authorities, dozens of neighbors (Alcoberro, 2020; 2023). Malet's actions caused the death of a large number of women, and this initiative was followed by the Grand Inquisitor of Barcelona, Diego Sarmiento, seeking "an increase in power, prestige, and income for the Holy Office" and convened

18 The Inquisition condemned and fought witchcraft, but was also quite skeptical of this crime, especially from the seventeenth century onwards (Llinares, 2021c, 119–140).

a board of theologians who approved that important repressive measures had to be taken against witches (Alcoberro, 2012, 100). The jail of the Holy Office was filled with alleged sorceresses, and six women were executed on 18 January 1549; but Sarmiento's methods and harshness of did not seem correct to the Inquisition, and therefore the Grand Inquisitor ordered the release of the women because of lack of evidence, and ordered the execution of Malet. The Holy Office stopped what could have been the first great collective execution of Catalonian witches, revealing a lack of severity or even some skepticism about this crime. Finally, Malet was captured in Valencia and executed in Barcelona in July 1549 (Campagne, 2003).

The popular sheet entitled *Cobles ara novament fetes sobre la mort d'en Malet, feta en Barcelona als dos de juliol any mil e cinc-cents quaranta-e-nou from 1549* (BC, Ms. I-IV-42) was printed to set an example to the population and make them aware that abuses committed by witch hunters would not go unpunished. This scaffold text is dated to the first half of the sixteenth century and was probably circulated where the witch hunter was executed. The verses provide a little information about Malet's life, as, for example, that he accused two women, one of whom was pregnant, of being witches in Tortosa. Even so, most of the text focuses on justifying Malet's punishment because he falsely accused women for money:

Moltas bruxas a accusat	Many witches he has accused
y ha altras falsament.	and others falsely.
Bé mostrava ser malvat,	Well he showed himself to be evil,
que açò fes per argent.	For this he did for money.
Mirau bé, si són bejans!	Look well, if they are evil!
Qui farà lo que ell feu?	Who does what he did?
Qu·en Malet y fos engans	that Malet and his deceits
han pagat lo deute seu.	has to pay his debt.

It must be understood that the profession of witch hunter was respected by the population, who trusted their judgment; characters like Malet became popular in Catalonia after a while. In any case, denouncing witches also became a profit-driven profession. I think that these two reasons lie behind the publication of this popular text. It is, first, a warning to the other witch hunters in the area to be careful with their "condemnatory sentences", as they could end up like Malet. Second, it denounced Malet's deceptions and falsehoods, making the population aware that this type of characters could not be trusted, and that the death penalty was fully deserved for his continuous deceptions.

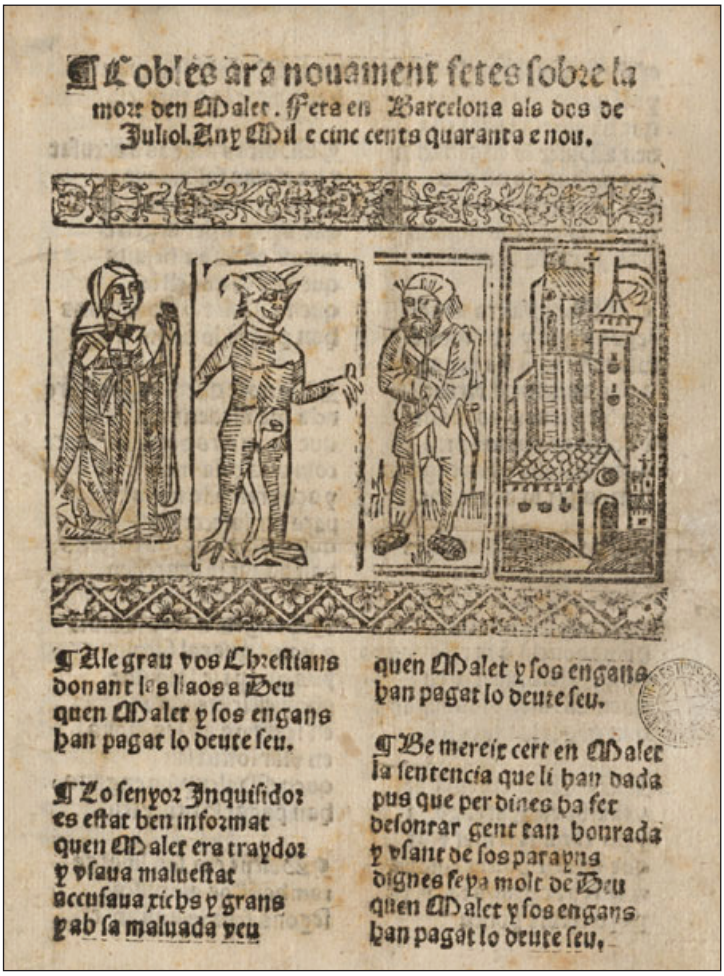

Fig. 3: Cobles ara novament fetes sobre la mort d'en Malet, feta en Barcelona als dos de juliol any mil e cinc-cents quaranta-e-nou, 1549 (BC, Ms. I-IV-42).

In addition, the text also intends to make clear that the power to judge and sentence witches was not held by the witch hunters, but by the Inquisition, the competent body that ensured compliance with Catholic dogma and fought to eradicate heresy. In other words, I think that this text does not seek to condemn witchcraft or to publicize the public execution of women accused of this crime, but rather to reaffirm the role of the Inquisition in the matter. Put differently, it is a propagandistic poem, in all probability linked with this ecclesiastical institution to sway public

opinion in its favor and to make the population understand that crimes against the mother Church were within its competence:

Molt noble Inquisidor,	Most Noble Inquisitor,
Deu vos vulla mantenir,	may God protect you,
bé mostrau esser senyor,	for you show that you are a lord,
en tot quant se pot ben dir,	in all that can be said,
pus llevau tots los engans,	for you eliminate all the deceptions
de Malet y qui es feu,	of Malet and the one who does it
[...]	[...]
Ya no us cal tenir més por,	Do not be afraid
de les bruxes ni bruxots,	of witches and sorcerers,
que'l senyor Inquisidor,	that the lord inquisitor,
los farà cremar a tots,	will order them all to be burned,
en Malet paga sos mals,	Malet pay for his wrongs,
calcun pagarà lo seu,	each shall pay for his own,
pues Malet y los engans,	for Malet and his deceits
han pagat lo deure seu.	have paid what they owed.

Therefore, the Morisco Malet was not a witch, on the contrary, he fought witchcraft throughout in Catalonia and came to gain certain status in many Catalonian villages, and his death stood as a warning. Those who admired him and wanted to follow his footsteps for gain were told where that ended, which was at the stake. The authorities had to make it clear that the fight against evil practices was the competence of the ecclesiastical authorities and that private individuals had no say in the matter. I think that this was the aim of this popular poem, the death on the scaffold of Joan Malet, which reached a large number of people through the use of a popular format, to hammer the idea home. Ultimately, the texts referring to Roca and Malet, different as they were, aimed to convey the notion that the monarchy held a monopoly on violence and that the Inquisition ordered over spiritual matters.

CONCLUSIONS

In this article I have approached the basic characteristics of scaffold literature in Catalonia in the sixteenth and seventeenth centuries. In the first section, I analyzed the distribution and creation of these narratives. I highlighted the fact that this form of literature underwent a significant growth during this period, and that Barcelona was the main production center, owing to the abundance of publishers in the city. We know that many texts ran several editions, although today only a few copies have survived, since, for instance, at least three versions of Antoni Roca's poems were printed with different engravings. Likewise, travelers passing through Barcelona and itinerant peddlers brought these printed to the rural areas.

I examined the various techniques used by poets to create their "non-fictional" narratives. This revealed a diversity of methods, ranging from incorporating contemporary rumors or interviewing those familiar with the prisoners, to drawing from personal experiences as witnesses to the execution or as participants in the judicial or religious system that dealt with the criminals. Other texts draw inspiration from official documents, legal proceedings, rulings, admonishments, and possibly even writings authored by the criminal themselves.

In the second section of the article, I examined two specific instances to gain additional insight into the unique characteristics of this type of literature. I analyzed two poems connected to banditry during the mid-seventeenth century and associated with the notorious bandit-priest, Antoni Roca, in order to contextualize the poems and better understand their significance. Although the two compositions are different, both aim to teach the public through "baroque terror" – by narrating the agony prisoners went through torture, and corporal punishment. Additionally, printed songs were distributed to persuade other perpetrators to stay away from crime, illustrating the fate that awaits them if they choose to continue living outside the law. Furthermore, the songs were connected to power, specifically those of Antoni Roca's songs linked with Viceroy Aguilar's attempt to sway public opinion in his favor. These songs justified the implementation of the death penalty and the success of the viceroy's police operation at a time when the monarch's alter ego in the territory faced serious legitimacy issues.

Secondly, I analyzed a poem that refers to the witch-hunting in Catalonia during the sixteenth and seventeenth centuries. The poem specifically focuses on dealing with the execution of Joan Malet, a Morisco witch hunter, in 1549. This text tries to educate the public about witchcraft, without condemning the practice itself. Rather, the focus lies on the authority of the competent institution, in this case the Inquisition, to judge heresy and superstitions. Its purpose was to serve as a cautionary message for those who may consider which hunting as a profession. In conclusion, it can be argued that the literature of public executions was a significant genre in Catalonia.

PESMI Z MORIŠČA: ZNAČILNOSTI, NASTANEK IN RAZŠIRJANJE BALAD O USMRTITVAH V KATALONIJI 16. IN 17. STOLETJA

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POVZETEK

Ta študija analizira balade o usmrtitvah v Kataloniji zgodnjega novega veka. Prvi del članka se osredotoča na nastanek in razširjanje tega žanra. V zgodnjem novem veku je večina teh besedil nastala v Barceloni, popotniki in trgovci pa so jih razširili na druga območja, kjer so jih prevzeli lokalni kmetje. Podobno so različni anonimni pesniki sestavljali take pesmi z uporabo različnih metod, kot so pridobivanje informacij iz pravnih dokumentov, govoric, pogovori z ljudmi, ki so poznali zapornika, ali osebne izkušnje iz udeležbe na usmrtitvi. Možno je, da so bili nekateri avtorji člani pravosodja ali verskih skupin, ki so spremljale zločince na morišča. Obenem nekatere pesmi kažejo, da so bili njihovi avtorji kar zločinci sami. V drugem razdelku obravnavam dva posebna primera in analiziram značilnosti natisnjenih besedil. To sta slavni bandit Antoni Roca, o katerem sta leta 1544 in 1546 nastali dve pesmi, ter lovec na čarovnice, Morisk Joan Malet, ki so ga leta 1549 sežgali na grmadi. Malet je bil obtožen, da je goljufal pravosodje, ko je prijavil več deset žensk pod pretvezo, da so sklenile pakt s hudičem. Ti dve pesmi ponazarjata, da so bile katalonske balade o usmrtitvah informativna, moralizirajoča in propagandna besedila, namenjena vplivanju na vest javnosti.

Ključne besede: balade o usmrtitvah, Katalonija, banditizem, čarovništvo, smrtna kazen, ljudski tisk, zgodnje novoveška zgodovina

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WHEN PEACE IS NOT ENOUGH. MARCO MICHIEL AND THE COUNCIL OF TEN IN EARLY SIXTEENTH-CENTURY VENICE: SHIFTING JUDICIAL PARADIGMS AND NOBLE VIOLENCE

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ABSTRACT

The homicide of Vincenzo Molin by Marco Michiel in early 1518 fits into the framework of feuds and enmities between Venetian noble families that broke out in the first half of the sixteenth century. But these events overlapped with greater political and judicial changes, which involved the Council of Ten taking action against elite violence with unprecedented intensity. The result of this intersection is an episode with various outstanding features, in particular, the early questioning of the juridical-cultural relevance of peace-making as essential to ensure the end of judicial exile.

Keywords: violence, early modern Venice, peace-making, history of criminal justice, Venetian nobility, Council of Ten

QUANDO LA PACE NON È SUFFICIENTE. MARCO MICHIEL E IL CONSIGLIO DEI DIECI NELLA VENEZIA DI INIZIO CINQUECENTO: PARADIGMI GIUDIZIARI IN CAMBIAMENTO E VIOLENZA NOBILIARE

SINTESI

L'omicidio di Vincenzo Molin da parte di Marco Michiel si inserisce nel quadro delle faide e delle inimicizie tra famiglie nobili veneziane scoppiate nella prima metà del XVI secolo. Ma questi eventi si sovrapposero a cambiamenti politici e giudiziari più ampi, che videro il Consiglio dei Dieci intervenire contro la violenza delle élite con un'intensità senza precedenti. Il risultato di questo intersecarsi è un episodio che presenta diversi tratti distintivi, in particolare la prima messa in discussione della rilevanza giuridico-culturale della pacificazione come elemento essenziale per garantire la fine dell'esilio giudiziario.

Parole chiave: Venezia in eta' moderna, pacificazione, storia della giustizia criminale, patriziato veneziano, Consiglio dei Dieci

INTRODUCTION: AN EXCEPTIONAL FORGIVENESS[1]

In the 1780 reprint of the "Dizionario Storico-Portatile di tutte le Venete Patrizie Famiglie", the Molin family's origin was not indicated, but the moral greatness of its members was indisputable: a clear example of this virtue was given by "ser Luigi Procurator", whose "son had been killed by ser Marco Michiel, and not only did he not rail against him, but with greatness of mind, he instructed another son of his, ser Marco, to pardon him and ensure his freedom" (Bettinelli, 1780, 109–110). The memory of the death of Vincenzo di Alvise Molin, which caused a great stir at the time, surpassed the centuries and is summed up in these few sentences. However, the undisputed protagonist of this episode of noble violence was undoubtedly Marco of Alvise Michiel, despite Alvise Molin's resounding act of forgiveness that earned him mention and citation as an example to follow.

Before going into the details of the story, it is preliminary to contextualise the story of Marco Michiel, which unfolds between the 1510s and 1540s. These roughly four decades opened with the very serious political and military crisis that followed the Venetian military defeat in 1509 against the League of Cambrai, which resulted in the loss of most of the Venetian mainland, recovered only in 1517 (Cozzi & Knapton, 1986, 89–93; Cozzi, et al., 1992, 9–16). The early 1510s were extremely complicated for Venice and its ruling class, which at certain moments understood that the very existence of Venice was in danger. In the same years there were also a series of rebellions and factional clashes in some Dalmatian towns, which Venice struggled to repress precisely because it was busy fighting the Italian and European powers in its own backyard (O'Connell, 2009, 142–149).

This political crisis caused severe socio-political stress and lethal violence within the Venetian patriciate spiked in the mid to late 1510s and early 1520s, while in the first decade of the century there had been no murders among Venetian patricians. Losing control of a large part of Italian territories implied the loss of a large number of political offices in state administration, leading to the depletion of material and immaterial resources for the Venetian patriciate. Material resources such as the salaries paid to low and middle-ranking noblemen to occupy minor roles in the state administration, salaries that were necessary for those families' survival, and immaterial resources such as the prestige and honour arising from the more important administrative roles, which were not paid, and therefore sought after by the patricians belonging to the most important Venetian families.[2]

The Venetian troops' entry into Verona in January 1517 marked the almost complete fulfilment of the rebuilding of the Mainland state. But the balance had

1 This research was financially supported by the European Union's Horizon 2020 research and innovation programme under the Marie Skłodowska-Curie grant agreement No. 101023687 *ViolenControl - Violence and its Control in Early Modern Venice*. This research was originally carried out at the University of York, Department of History. The author would also like to thank the reviewers for their valuable feedback.

2 On the relationships between political offices and the Venetian patriciate's inner social structure Finlay, 1980; Chojnacki, 2000.

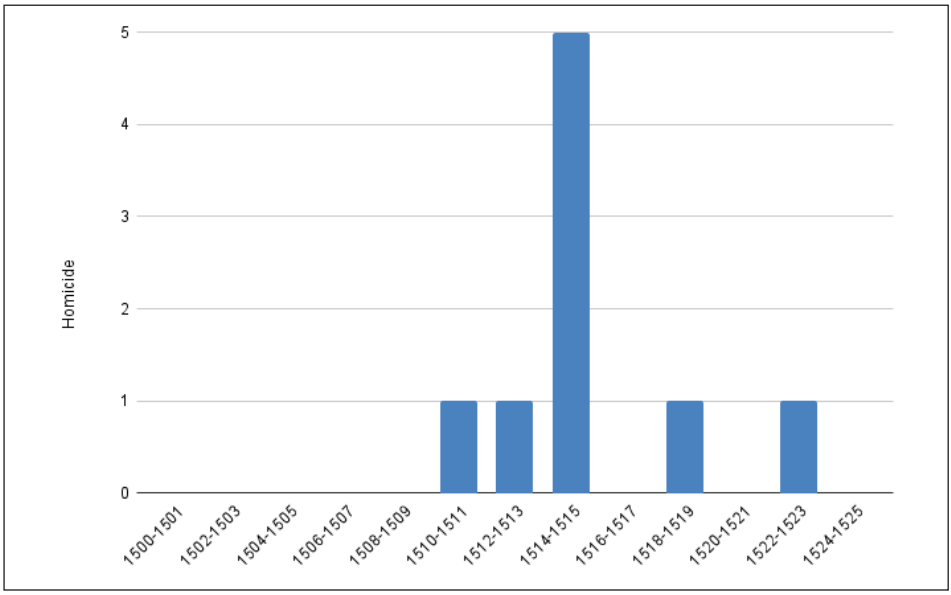

Fig. 1. Venetian patricians killed by their peers (Diari, 3–40; ASVE-AV, 3659–3665; ASVE-CDMR, 28–30; ASVE-CDCR, 1–3).

now been broken, and not only within the Venetian patriciate. As a consequence of the League of Cambrai, for instance, Venetian foreign policy changed profoundly, turning to cautiousness and neutrality wherever possible (Cozzi, 1994, 4). But the outcome that matters most is the crisis due to the reduction of available resources. This unleashed, regardless of the individual triggers, an internal conflict in the Venetian nobility, which resulted in 8 murders of Venetian nobles by their peers between 1510 and 1519, with a peak of 5 murders between 1514 and 1515.[3] In this framework, Marco Michiel's violent retaliation against the Molin family took place in 1518.

Before delving into the details, it is also necessary to quickly introduce the protagonists of this paper, the Michiel and Molin noble families, and how they fitted into the Venetian nobility. Between June and July 1501, the Venetian government acknowledged the virtues of Alvise Michiel, Marco's father, because he was cruelly cut to pieces by the Ottomans while helping to defend the Greek city of Modon, leaving five children in great misery (ASVE-SMR, 14, 29v). To guarantee their sustenance, the Senate assigned the son and wife of the dead gentleman the *castellania* of Mestre for fifteen years and a dowry of one thousand ducats for Alvise's daughter for her marriage or three hundred if she decided to enter a convent. This premise clarifies

3 On the relationship between environment and violence Rose, 2019, 156–180.

the difficulty that Marco Michiel's family, part of the San Geminiano branch, faced at the beginning of the sixteenth century (Barbaro, 21, 97). On the other side is a parental group that experienced remarkable political fortune: both Alvise and Marco, members of the Molin d'Oro branch, achieved the prestigious title of Procuratore di San Marco (Barbaro, 21, 235–236).[4]

This case study fits into a recent reassessment of noble violence committed by members of the Venetian ruling class, which is increasingly being framed in terms of feuds and enmities. Many scholars have previously held that vendetta was not a shared practice among Venetian patricians, implicitly setting the lagoon nobility apart from the rest of the pre-modern elite from an anthropological point of view. According to such views, it was the Venetian institutions that brought about this socio-cultural hiatus, as they had unparalleled success in reducing internal political violence by implementing a system of distribution of offices and privileges. The qualitative leap is marked – according to this thesis – by the transformation that took place between the thirteenth and fourteenth centuries.

Not only political changes contributed to this outcome but also psychological ones; these favoured the principle of the common good over private interests and the building of a broad political consensus, putting an end to internal conflicts. This was also achieved through a bitter fight against factionalism and the different weight given, by the courts, to those forms of insult that could trigger a violent reaction (Muir, 1993, 50–53). The peculiarity of the Venetian patriciate, who allegedly did not share the tenets of honour, has been emphasised again more recently (Muir, 2013, 492).

In contrast, Claudio Povolo investigated and reported on cases of violent clashes between Venetian noble families involving, for instance, the Trevisan, Bon, Valier, and Calergi (Povolo, 2018; 2020). These feuds took place between the late sixteenth and early seventeenth century, at a time when the relationship between legal institutions and the patterns of violence was being reshaped, especially in the Venetian Republic (Povolo, 2015). The dispute that opposed Michiel and Molin unfolded, however, between the early and mid-sixteenth century. The political and legal context surrounding this enmity was quite different from that of the turn of the century. Future research will then have to bridge these two periods, as well as expand research to other ones, for instance the mid-seventeenth century or the second half of the fifteenth century, after the resolution of the Foscari affair.

THE FIRST CONVICTION

The nobleman from ca' Michiel appears in the trial records of the Council of Ten in February 1516 due to his strong feelings, deemed immoral, which turned into violent retaliation. The Ten summoned him to defend himself against the charges of threatening and assaulting a young man with weapons with the purpose

4 According to the writer, the title of Procuratore was, in a sense, handed down from father to son. On this prestigious title, second only to the one of Doge, Chambers, 1997; Metlica, 2021.

of sodomizing him (ASVE-CDCR, 2, 162r; ASVE-CDP, 1, 141). Marin Sanudo's diaries provide a better picture of what happened: Marco Michiel cut off Giovanni Malipiero's robe in Santa Maria Formosa square for reasons of love and jealousy towards Domenico Molin of Alvise (Diari, 21, 514). Despite Marco Michiel's wicked intentions, it should be noted that no blood was spilled, and no actual act of sexual violence took place.

This aggression against Giovanni Malipiero is described by Marin Sanudo as a manifestation of jealousy by Marco Michiel. This feeling embodied the expression of male competition on the level of sexual honour and took part in building ideas of masculinity, and affected family life (Breitenberg, 1993; Barclay, 2017, 218–219). At the same time, this emotion is often used to negatively characterise the 'Muslim Other' in early modern European literature (Calefas-Strebelle, 2017, 302). The quintessentially jealous Moor is, not surprisingly, Othello, anxious over Desdemona's fidelity (Olson, 2015).

In Marco Michiel' case, however, such jealousy could not be socially accepted as it was tainted by its overlapping with the crime of attempted sodomy. Historians of emotions showed how negative feelings such as anger, jealousy, and violence were part of homoerotic relations and not just heterosexuals (Grossi, 2021, 139) and we can arguably frame the aggression towards Malipiero in this sense, even if it did not lead to an actual sodomitic act. Nevertheless, it is also important to not underestimate the implications of this assault in terms of humiliation and shame at being associated with sodomy.

As in the rest of Renaissance Europe, sodomy carried a strong clout not only in social and judicial terms but also political: the prejudices associated with this immoral sexual conduct affected reputation, and this also applied to Venetian society and the class at its top, the patriciate. Even when Venice was renowned for its toleration and libertinism, charges of sodomy could ruin the political aspirations of noblemen belonging to even the most important and prestigious families. This is what happened to Alvise V Sebastiano Mocenigo, a candidate to become Doge in 1789. But he had to renounce because of the accusations of infamy against him, linked to a previous prison sentence for sodomy (Scaramella, 2021).

At any rate, Marco Michiel did not show up and was sentenced in contumacy to fifteen years' banishment from Venice and the lagoon area, the Dogado, while a milder sentence of six years' exile was rejected (ASVE-CDCR, 2, 163v). This first conviction brings forth the institutional protagonist of the Michiel-Molino affair, namely the Council of Ten. This court had significant political power, which increased progressively towards the end of the fifteenth century and took a further leap during the first half of the sixteenth century, as a consequence of the political and military crisis affecting Venice (Conzato, 2008; 2011). Its criminal justice jurisdiction also expanded considerably in the first decades of the sixteenth century.

Initially, when the Ten were established at the beginning of the fourteenth century, it had criminal jurisdiction in cases where the very life of the Venetian Commune and then Republic was at risk, as in the case of the Bajamonte Tiepolo

and Doge Falier conspiracies, events that marked the birth and definitive affirmation of this court inside the lagoon (Ruggiero, 1997, 399–402). The Ten had a peculiar trial rituality, which guaranteed no lawyer for the defendant and almost no room for legal defence (Andreato, 2007; Girardello, 2007). The sentences imposed by this court were then among the most severe and not open to appeal. As we shall see at the end of Marco Michiel's story, the Council of Ten began to interfere in the management of enmities between Venetian noble families.

But the fact that it was the Council of Ten that dealt with Marco Michiel's attack on Giovanni Malipiero is actually not unexpected. The Ten had already extended their jurisdiction over cases of sodomy for some time (Ruggiero, 1985, 109–145) and since Marco's attack was aimed at this, at least according to the judicial account of the events, it is not surprising that the Ten claimed jurisdiction over it. The punishment was significant, as it mirrored the punitive justice approach of the Council of Ten, but it was also proportionate to the social alarm sparked by a crime that, at that time, would certainly have led to a death sentence had it been fully perpetrated. Marco Michiel should have stayed away from Venice for a long time to avoid worsening an already compromised condition.

However, he tried to exploit the precarious political and financial situation of the Republic to seek a pardon, just as many other patricians did during those years of the Italian Wars.[5] In early December 1516, the Ten replied to Marco's request to be acquitted from his long exile and to be allowed to return home. Marco Michiel offered a 200 ducats loan, also as a symbol of the same loyalty to the Republic shown by his father so many years before. In return, he asked for absolution "with the peace and consent" of the offended party (ASVE-CDMF, 38, 186). But he was denied absolution.

The good intentions to reconcile with Giovanni Malipiero were not enough to secure his freedom, nor was the sum proposed, which might have been considered too low. Other hypotheses to consider are that too little time had passed since the conviction and the possible objections not so much from the Malipiero family but more from the family members of Domenico Molin, Marco Michiel's beloved. As we are about to see, not all patricians belonging to the Molin d'Oro branch wished for Marco Michiel's absolution. As a consequence, Domenico Molin became the target of Marco's retaliation, which took place in late January 1518, changing this affair from a question of unrequited attraction to a violent dispute between noble families.

VIOLENCE OUT OF PROPORTION AND UNCONVENTIONAL SUMMONS

Marin Sanudo describes how, disguised with a mask, Marco Michiel ambushed Domenico Molin and his cousin Vincenzo Molin, son of Alvise *Procuratore*, near the church of San Zulian, wounding both, but putting Vincenzo's life at risk (Diari,

5 Some examples of negotiation between the Council of Ten and Venetian nobles living in both Venice and Crete in Vidali, 2020.

25, 217). Girolamo Molin, Domenico's brother, who was also present, managed to escape. A fight with some servants from ca' Molino ensued, but the masked person defended himself with great skill and managed to escape. A convulsive manhunt followed and, while the search continued, the Council of Ten announced that "for the atrocity of the premeditated and abhorrent crime committed today", of which "by very clear evidence it is understood that the perpetrator was Marco Michiel of the late Alvise of the late Maffio", a three thousand *lira* bounty was issued as well as harsh punishments for those who would have sheltered or helped him in any way (ASVE-CDCR, 2, 212v). Impunity would have been granted to whomever had killed Marco Michiel in the manhunt.

Marin Sanudo offers further insights that do not transpire from official sources and confirm some assumptions made earlier. In particular, he offered two possible explanations shared by the Venetian public for this aggression: firstly, Vincenzo Molin had urged his father Alvise, the powerful Procurator of St Mark, to have Michiel outlawed as a consequence of the first attack on Giovanni Malipiero, as in fact happened; secondly, Marco Michiel wanted revenge on Alvise Molin because the latter had promised to help the former get absolution by lending him money to offer to the Venetian Signoria, but he did not keep his word (Diari, 25, 219).

In light of the diarist's interpretation of events, it is possible to reconsider the earlier rejected pardon request. Alvise Molin had failed to give his financial and, consequently, political aid to Marco Michiel. The fact that Alvise Molin had in any case entered into negotiations with Marco and probably his relatives was an important sign, although they failed. This was perhaps because the family itself was not united and not everyone shared Alvise's intention to settle the quarrel with the Michiel family: evidence of this is the conduct of Vicenzo Molino, Alvise's son and cousin of Domenico, who had instead put pressure on his father and probably opposed Marco Michiel's absolution.

A few days later, as he was the main suspect in the malicious assault on Domenico and Vincenzo Molin, Marco Michiel was summoned to defend himself against the charges and, as he had already been banished from Venice and Dogado, he was granted safe-conduct to appear (ASVE-CDCR, 2, 212v; ASVE-CDP, 1, 185). Meanwhile, the hunt continued, while Vicenzo Molin died. The diarist's pages express in a very accurate manner the sense of the shock caused by Marco Michiel's revenge and the unease pervading the city (Diari, 25, 230–231). To grasp the distress felt within the patrician class, one must bear in mind that Michiel's retaliation was carried out in a way that exceeded the threshold of tolerance that noble violence enjoyed.

The attack was considered heinous because it took place while the nobleman was already serving a harsh sentence for another serious crime and because of the circumstances: the disguise and the ambush left no doubt as to premeditation and, in fact, the gravity of the episode was expressed in the severity of the sentence. The sentence in absentia at the beginning of February 1518 involved a lifetime exile not only from Venice, but also from all Venetian territories on both land and sea, and from all ships

flying the Venetian flag. If captured, the patrician would have been led by horsetail from Santa Croce to San Zulian, the place of the ambush, where his right hand would have been chopped off, to be then led between the two columns at St Mark's Square. Here he would be "descopato", that is, killed with a strong blow to the nape, then quartered, and his body parts hung on the gallows (ASVE-CDCR, 2, 213r).[6]

Marin Sanudo's diaries show that the nobleman managed to escape and take refuge outside the Serenissima, as his presence is attested in Bologna in the second half of the 1520s (Diari, 40, 726). For more news on the gentleman, we must wait until 1529, when Venice attempted to seize the Apulian ports again (Cozzi, et al., 1992, 12–14). On this occasion, the military skills of the exiled patrician earned him the esteem and support of several people at the top of the military hierarchies, both foreign and Venetian.

At the nobleman's request, these figures pleaded with the Signoria, listing Marco Michiel's merits and valour shown in battle, to grant him a safe-conduct. His numerous deeds for the benefit of the Venetian state were attested in the letters of the late Odet de Foix, Vicomte de Lautrec,[7] and of lord Camillo Orsini as well as some other Venetian noblemen, who recalled the death of Marco's father at the Ottoman siege of Modon (ASVE-CDCF, 6, 1529 Die 10 Augusti in Consilio X, with attachments).

Despite the high-ranking support that the banned patrician could display, the decision of the Ten to confront the relatives of the dead before making any decisions was much more significant:

> *Summoned to the presence of the Most Excellent Lords Heads of the Most Illustrious Council of Ten, the noble men, Ser Marco da Molin Procurator of the late Ser Nicolo and Ser Andrea da Molin of the late Ser Marin, and asked if they had made peace and forgiven all wrongdoing by the noble man Ser Marco Michiel. They replied that they have, and they will be very pleased if he is granted what he asked for, and so it has been noted by order and commandment of the most excellent Lord Heads* (ASVE-CDCF, 6, 1529 Die 10 Augusti in Consilio X, first attachment).

The father of the murdered and the brother of the wounded man had given their approval to Marco Michiel's request for a five-year safe-conduct to live anywhere in the dominion, with the notable exception of Venice and the Dogado. The reason for summoning the members of the Molin family is probably to be found in the fact that peace, although achieved, had not been formalised in a notarial deed, but it remains unclear why Marco Michiel did not specify this in his supplication. Perhaps the influential recommendations played a role in this. Nevertheless, the pardon was granted at the end of September.

6 On quartering in Venice as part of the capital punishment ritual, Ruggiero, 1994.

7 On him, Woodcock, 2015.

It is worth noting that when assessing this first supplication, the crime committed in 1516, i.e., the assault to sodomise Giovanni Malipiero, was completely set aside in light of the homicide of Vincenzo Molin and the wounding of Domenico Molin. During this first negotiation between the Ten and Marco Michiel the 15-year sentence issued in 1516 was still in place, however, it was not taken into account at all. Not only that, the Malipiero themselves had not been considered in either Marco Michiel' pardon requests or by the Council of Ten, which summoned only the Molin family members. This disregard for the very first sentence against Marco Michiel can be seen as proof that the case had taken on a different significance after the ambush and that the resulting feud had encompassed the armed aggression on Malipiero.

Two years later, in 1531, further evidence of the Venetian gentleman's bravery accompanied a new petition asking for a much longer safe-conduct, one that would last for the rest of Marco Michiel's life. The arguments largely followed those already advanced two years earlier, with minor differences (ASVE-CDCF, 7, 1531 die 4 Septembris, with attachments). The Heads of the Council of Ten again summoned some Molino family members but on this occasion in place of Alvise, who had in the meanwhile passed away, his son Marco was called.

Marco had become Procurator of St Mark in place of his late father. In addition to him, Andrea of Marino came again to confirm the reconciliation between the family groups. Following on from 1529, the two noblemen declared their consent to granting the pardon (ASVE-CDCF, 7, 1531 die 4 Septembris, first attachment). The new petition, granted in mid-September 1531, kept the ban on the entire lagoon territory, from Grado to Cavarzere, as had already been put forward two years earlier.

FATHERLY MEMORIES

Marco Michiel finally attempted to exploit the next politically difficult moment for the Republic, that is, the conflict at the end of the 1530s with the Ottomans (Cozzi, 1994, 33–34), to secure the lifting of the remaining ban from Venice and Dogado, at a time when the criteria for a pardon had been softened.[8] An initial offer of three hundred ducats, voted at the end of October 1539, did not obtain enough votes to be approved (ASVE-CDCO, 13, 95v). At the end of September 1540, however, a further request for absolution was rejected. On this last occasion, the court read the letters attesting to his merits and the statement by Marco Molin, Procurator (ASVE-CDCR, 5, 168r).

After recalling the pardon already granted to him in 1531, Marco Michiel declared that he continued to serve the Venetian Signoria, as he had been sent by the Senate to the custody of Zadar in 1537 (ASVE-CDCF, 9, 1540 Die 22 Septembris in Consilio X, with attachments). The nobleman had in fact been chosen by ballot,

8 Cf. some measures taken by the Council of Ten in ASVE-CDCO, 12, 197v, 212v–213r, 224r–v; ASVE-CDCO, 13, 5v, 22v, 26 r, 44 v, 50 v, 54r, 98 r.

along with nine other patricians, to go and defend the city and territory of Zadar, and each of them was entrusted with the command of a group of soldiers (ASVE-SMR, 24, 137v–138r, 140v–141r). His military actions were praised by the commander, Camillo Orsini, and by the Venetian nobleman Giovanni Vitturi, captain-general in the Adriatic Sea, both of whom already recommended Marco Michiel in the 1529 and 1531 pleas (ASVE-CDCF, 9, 1540 Die 22 Septembris in Consilio X, second and third attachments).

Marco Michiel believed he had earned a full release after more than twenty years of exile from his homeland and he also offered 150 ducats as a gift. The parallels with the previous pardon requests don't stop there: on this occasion too, the family members of the victims of Marco Michiel's vengeance were heard by the Ten before voting. Marco Molin expressed again his consent to any pardon that the Ten would agree to Marco Michiel. In particular, Marco Molin said that this is what his late father wanted and even wrote so in his last will (ASVE-CDCF, 9, 1540 Die 22 Septembris in Consilio X, first attachment).

Marco of Alvise Molin approved once again Marco Michiel's pardon, who had killed his brother Vincenzo and wounded his cousin Domenico. Above all, he declared his intention to follow the pledge left to him in his father's will. Between 1515 and 1522, Alvise di Nicolò Molin had changed his last will several times, reflecting the vast fortunes his family had at its disposal (ASVE-NT, 208, 11r–14v). The first amendment occurred in March 1518 because an unforeseen event had recently occurred, the death of his son Vincenzo. Alvise wanted to make explicit how his son died and what his last wish was, promptly emulated by the testator:

> *Having seemed to God to call to Himself my dearest and most beloved son Vicenzo, not from natural death but from a violent one, for he, most innocent, had been horribly killed without cause by one Marcho Michiel, a facinorous man of ill fortune, to whom the poor man granted forgiveness and I too have done the same, whose death has taken away all my good and hope* (ASVE-NT, 208, 11v–12r).

Alvise's last will calls into question the complex relationship between memory, conflict, and forgiveness.[9] The memory of violence feeds on the word, either orally or in written form, as is evident with regard to the recollection of the bloody events of the 1511 Friulan revolt (Casella, 2008). It was not only through words that the memory of family feuds was passed on: stone was just as effective. In sixteenth-century France, small monuments, burial chapels, crosses and more were built at the expense of the murderers to commemorate their victims (Carroll, 2003, 108–109).

We cannot know why a full acquittal was not granted to Marco Michiel, despite the new services valiantly rendered to the Republic and attested to by those

9 On this topic, De Vincentiis, 2004; 2009.

we can consider to be Michiel's greatest sponsors, namely Camillo Orsini and Giovanni Vitturi. Perhaps the Ten believed that a 150-ducat gift was insufficient to replenish the state's coffers after the war effort, which in any case ended in 1540; perhaps the Molin family informally opposed the return of the nobleman to Venice, although on paper they said to hold no grudge against him. There is a chance that the concession of peace was in fact apparent, even though we must factor the forgiveness expressed by the victim's father in his last will and that the Molin family members could have deliberately said that they did not want Marco Michiel to be pardoned. After all, the Ten were well-known for the secrecy of their work and decisions (Conzato, 2008).

Another possible explanation why the Venetian patrician failed to be completely acquitted is that Marco Michiel's return to Venice would have caused embarrassment for the family of the victim, something that the Ten wanted to avoid. However, other similarly severe murder cases ended with the killer returning to the lagoon: in March 1535, the nobleman Lorenzo of Girolamo Bembo got killed in a fashion deemed atrocious. The case was taken up by the Ten who identified the culprit in another patrician, Zaccaria of Marco Gabriel, who was sentenced within the end of the year to a fifteen-year confinement in Koper/Capodistria (ASVE-CDCR, 5, 51v, 52v–53v, 70v).

Only four years later, in 1539, Marco Gabriel succeeded, albeit laboriously, in negotiating the complete release of his son without peace having been achieved as he sought instead to buy his son's freedom with a substantial pecuniary offer (ASVE-CDCO, 13, 18r, 20r, 22v). So being fully acquitted from heinous murder was possible even without reconciliation between the parties. This should make us wonder even more why one year later, in 1540, the Ten did not fully pardon Marco Michiel once again.

CONCLUSION

As the nobleman probably lost hope of obtaining full absolution, Marco Michiel at least attempted to once again play the card of his father's actions to secure the financial benefits he had lost when he was first outlawed. At the end of July 1546, the Ten voted on the nobleman's petition to recover the castellania of Mestre for three regiments, so that he could support himself financially. In fact, Marco, who had done much for the benefit of the Republic, was the only one left of Alvise Michiel's sons, and his mother was also now deceased. The Council, however, was split in half and the plea was not granted (ASVE-CDCO, 17, 163r).

Regardless of the conclusion of Marco Michiel's events, what is important is the contribution this story makes to the relations between enmities among Venetian noble families and the criminal justice system during the turbulent period of the Italian Wars. It is indeed not improper to frame the events outlined as a feud between Venetian patrician households, and this can be inferred by the stress placed on reconciliation by both Marco Michiel and the Council of Ten: despite

the Venetian nobleman did not include information about any attempts to broker peace with the Molin d'Oro family, in his first pardon request he admitted – albeit indirectly – that he harmed Giovanni Malipiero's honour with his shameful deeds. Hence Marco Michiel's self-imposed condition to get absolution only with their peace and consent. A similar emphasis can be trace in the Ten's summons of the Molin family members to certify that no hatred and enmity existed between the Michiel and Molin.

The perseverance with which the Ten refused to allow him to rejoin the patrician community has the character of uniqueness, even though the crime he had committed was tremendous and the sentence inflicted was just as heavy. Waiving a sentence of banishment but keeping the interdiction from the territory where the crime had taken place and the victim's relatives lived was an accommodation between the absence of peace among the parties and the pressure to absolve a convicted for different reasons – political, financial, or otherwise. This compromise had, in fact, been employed by the Council of Ten in relation to other areas of the Venetian Republic, particularly in early sixteenth-century Crete (Vidali, 2020, 46–47). In general, forbidding the offender not to reside where the crime had taken place reflected the logic of driving the offender away to ease a truce and, eventually, reconciliation. This is the rationale that shaped the customary features of outlawry (Smail, 2003, 172–173).

However, this requirement was evidently redundant in the case of Marco Michiel, given the repeated confirmation by members of the Molin family that they granted pardon and reconciled with him. So why was peace not enough to let the Venetian nobleman make his return to the lagoon? If even the goodwill of the victim's relatives was not sufficient, then these events can be framed as an early sign of a process that was still in its early stages; a shift that would lead, in the long run, to the socio-cultural and juridical de-legitimation of vengeance and enmity. This is not to say that peace ceased to play a fundamental role in the criminal justice systems of sixteenth and seventeenth-century Italian states. There is evidence to the contrary.[10]

Altogether, the most recent historical research proved how the problem of aristocratic violence ultimately declined significantly in central and northern Italy in the first half of the eighteenth century, including the Republic of Venice. Political, social, and cultural changes contributed to their definitive disqualification, as well as that of the associated "scienza cavalleresca" (Carroll, 2023, 137–140). Peace either within or outside the trial did not disappear, but other logics guided eighteenth-century Italian justice (Bellabarba, 2008, 159–178). The case of Marco Michiel should then be understood as one of the first seeds of a process not necessarily deliberate in the first decades of the sixteenth century, which would only take a more mature form in the following centuries.

10 An example in Edigati, 2008.

KO MIR NI DOVOLJ. MARCO MICHIEL IN SVET DESETIH V BENETKAH NA ZAČETKU 16. STOLETJA: SPREMINJANJE SODNIH PARADIGEM IN PLEMIŠKO NASILJE

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POVZETEK

Uboj Vincenza Molina, ki ga je januarja 1518 zagrešil Marco Michiel, sodi v okvir fajd in sovražnosti med beneškimi plemiškimi družinami, ki so izbruhnile v prvi polovici 16. stoletja. Vendar se je to v danem primeru zgodilo na način, zaradi katerega je bilo nasilje v očeh beneške družbe in njenih institucij nesprejemljivo: iz zasede, ko je bil plemič že izobčen. Kljub temu so sorodniki žrtve z Marcom Michielom sklenili mir in podprli njegove prošnje, da se vrne v domovino. Toda ti dogodki so se prekrivali z večjimi političnimi in sodnimi spremembami, v okviru katerih je Svet desetih z neprimerljivo večjo intenzivnostjo ukrepal proti nasilju elit. Rezultat tega presečišča je epizoda z različnimi izjemnimi značilnostmi. Svet desetih je patricija strogo kaznoval, vendar to ni bila neka izjema. Nenavadno je bilo to, da je sodišče le delno sprejelo prošnje izgnanega patricija in mu nikoli ni dovolilo vrnitve v Benetke, temveč mu je dovolilo, da živi na drugih ozemljih republike. To se je zgodilo kljub sklenitvi miru. Z navzkrižnim pregledom sodnih odločb, prošenj in sodobnih dnevnikov ta članek sestavlja celovito sliko dogodkov Marca Michiela v širšem političnem in sodnem kontekstu. Epizoda je nato oblikovana kot zgodnje preizpraševanje pravno-kulturnega pomena sklepanja miru kot bistvenega za zagotavljanje koristi reševanja sporov, zlasti konca sodnega izgona.

Ključne besede: nasilje, zgodnje novoveške Benetke, sklepanje miru, zgodovina kazenskega prava, beneško plemstvo, Svet desetih

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ASVE-AV – Archivio di Stato di Venezia, Avogaria di Comune.

ASVE-CDCR – Archivio di Stato di Venezia, Consiglio dei Dieci, Deliberazioni, Criminali, Registri.

ASVE-CDCF – Archivio di Stato di Venezia, Consiglio dei Dieci, Deliberazioni, Criminali, Filze.

ASVE-CDMR – Archivio di Stato di Venezia, Consiglio dei Dieci, Deliberazioni, Miste, Registri.

ASVE-CDMF – Archivio di Stato di Venezia, Consiglio dei Dieci, Deliberazioni, Miste, Filze.

ASVE-CDCO – Archivio di Stato di Venezia, Consiglio dei Dieci, Deliberazioni, Comuni, Registri.

ASVE-CDP – Archivio di Stato di Venezia, Consiglio dei Dieci, Proclami.

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THE PEACE AND THE DUEL; THE PEACE IN THE DUEL

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ABSTRACT

Using statutory law, criminal records, cartelli, and chronicles that address both dueling and vendetta, this paper posits that the increase in dueling and state attempts to regulate peace were interconnected. Specifically, it addresses dueling as part of the peace process, thereby arguing for a reframing of the duel's place in dispute resolution and a reexamination of the type of violence it represents.

Keywords: dueling, violence, instruments of peace, vendetta, feud

LA PACE E IL DUELLO; LA PACE NEL DUELLO

SINTESI

Utilizzando leggi statutarie, precedenti penali, cartelli e cronache che affrontano sia i duelli che la vendetta, questo articolo postula che l'aumento dei duelli e i tentativi statali di regolare la pace fossero interconnessi. Nello specifico, affronta il duello come parte del processo di pace, sostenendo quindi una riformulazione del ruolo del duello nella risoluzione delle controversie e un riesame del tipo di violenza che rappresenta.

Parole chiave: duello, violenza, strumenti di pace, vendetta, faida

THE DUEL

In June of 1558, Captain Camillo Forni of Modena challenged another Modenese nobleman, Lanfranco Fontana, to a duel.[1] As was customary, Camillo sent a challenge, or *cartello di sfida*, which bore the signatures of three witnesses. Camillo's message expressed decidedly violent intentions in fastidiously polite form:

> *I invite you as a man of honor to settle our enmities in a safe place, which out of courtesy I will undertake to find and offer you two sorts of the most honorable weapons, which I will send to you if you accept the battle.*[2]

Camillo's close companion Giovanni Battista Ronchi delivered the missive. In the honor culture of sixteenth-century Italy, no man, especially no man of arms, could ignore such a public challenge (Sposato, 2018; Shaw, 2014). In a response sent two days later, likewise witnessed by three signatories, Lanfranco insulted Camillo, accusing the latter of giving him the lie, that is, of questioning Lanfranco's honor.[3] Thus began a ritual that was framed as civilized, whether its written exchanges were placid, inflammatory, or an odd mix of tones – and despite the armed combat that would conclude it.

The exchange of *cartelli* proceeded as each party insulted the other's honor. After the cartelli were publicly posted, the two men agreed on weapons and procured a moderator or patron, in this case Federico Gonzaga, Marchese of Gazzuolo. Camillo and Lanfranco were to meet on a field of battle in the Duchy of Mantua. According to Vitale Papazzoni's epic poem about this duel – which probably exaggerated the facts – when the agreed-upon day arrived, the combatants celebrated Mass to cleanse their souls (Papazzoni, 1572, 121).[4] Decked in ceremonial armor and cloth of gold, accompanied by retainers and witnesses, trumpets and drums, the two men progressed to the field on warhorses (Papazzoni, 1572, 121).[5] A large crowd of men and women,

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1 Count Carlo Forni and Niccolai Gamba "Il Combattimento fra Camillo Forni e Lanfranco Fontana" (cf. Combattimento). Copies of these cartelli can be found in the private archives of the Dal Forno family. Count Forni has graciously made these available.

2 ...[*V*]*i invito come uomo di onore a difinire le nostre inimicizie in luogo sicuro, quale per mia cortesia mi obbligo a trovare, offrendovi due sorte di armi onoratisssime, quali vi manderò accettando voi la battaglia* (ASMo, Archivio Segreto Estense, Cancelleria, Archivio per materie Duelli i Sfide, b. 3, f. 17).

3 *Messer Camillo Forni, In risposta alla vostra dei 17 del presente vi dico che mentite che io sappia le cagioni per le quali debba essere fra noi quella inimicizia che dite, come anche mentite che a ciò vi conduciate per men male* (ASMo, Archivio Segreto Estense, Cancelleria, Archivio per materie Duelli i Sfide, b. 3, f. 17).

4 *Ma come prima in oriente desto,/ si vide il giorno, fu di lor ciascuno,/Ne i sacri Tempii a presentartis presto./La dove cosi all'altro, come à l'uno,/ Fù celebrata una devota messa,/Con cio che in simil caso era opportuno./Ciascun con la persona genuflessa,/Levò le palme al cielo, Iddio pregando,/Che la vittoria à sè fosse concessa* (Papazzoni, 1572, 121).

5 *Si ricca seta i bei ricami d;oro/Ch'haveano intorno, e le diverse ascice/Rendeano splendissimo decoro./ Molt'arme, e tutto di diverse guise/Portate lor innanti eran pian piano/Da molti Cavalier, fra lor divise/A quali venian dietro à mano à mano/ Di varei sorti alcuni bei destrieri,/Che tutti quanti eran menati à mano./ Delle trombe e tamburri suoni alrieri,/Eccitatori della lor natura* (Papazzoni, 1572, 121).

both nobles and commoners, were gathered to see the combat and witness the end of a ritual that had, from first *cartello* to actual combat, lasted several months (ASMo, Rettori dello Stato, Rettori di Modena, al governo al duca, 20 September 1558).

In comparison with the exchange of *cartelli* and the rituals and ceremonies that preceded it, the combat itself was of short duration. Once they arrived at the field, the two men dismounted their horses and faced one another with their ceremonial swords. After a brief exchange of blows, Camillo's armor was damaged and Lanfranco was mildly wounded. The two were beseeched three times by Federico to make peace. When his entreaties proved unsuccessful, the Duke of Mantua, whose appearance at the combat was a surprise, exhorted the men to lay down their arms. They agreed, embraced, and thus the duel was completed to wide celebration.

In many of the formative discussions of dueling among historians and literary scholars, this series of events has often been cited as one of the paradigmatic examples of a discernible change in violence and conflict resolution, a transformative shift from the unrestrained bloodshed of vendetta among Italian noblemen to a ritual that conformed to more civilized norms, and that, at least in some ways, bent to the will of centralized authority. This shift has been identified as part of a wider civilizing process wherein the Italian nobility moved away from trade and professions, bought land, gained titles, and began to join the expanding princely courts (Bryson, 1938; Cochrane, 1970; Quint, 1997). In these changing circumstances – so goes the conventional view – as feuds no longer had the same political rewards, the warrior nobility became courtiers, and princes gained increasing control over the rights of justice (Muir, 1993). More than any other development, the duel has been identified as an indicator of this shift.

This understanding of the duel has a measure of documentary support. There is no question that Italian noblemen of the sixteenth century began more regularly to undertake the ritualized aspects of dueling, including exchanging *cartelli*. Nor is there any doubt that some duels were not only extensively documented, but also widely understood to be freighted with larger meaning (Cavina, 2016). Some exchanges of *cartelli* did not lead to actual combat, but those that did were more likely to be seen as significant social and political rituals. One such duel was fought between the Marchese di Polignano and Camillo Orsini in 1533 to considerable notoriety (ASMo, Duelli i sfide, b. 2, n. 15). Also widely reported and discussed was a duel Federico Savorgnan fought with Troiano d'Arcano in 1568 (Shaw, 2014, 74). A famous duel fought in 1516 between Ugo Pepoli of Bologna and Guido Rangone of Modena, both members of noble families, was even more marked by ritual, pomp, and splendor than the duel between Camillo and Lanfranco. One of the more famous duels of the century, it occurred in the presence of members of the Gonzaga, the D'Este, and Baldassare Castiglione, the author of *The Courtier* (Cavina, 2014)

As was the case with the duel between Camillo and Lanfranco, these duels began with public challenges, each insulting the honor of the opponent. After a number of exchanges, which could go on for months or even years, the two principals would agree to meet in combat. Perhaps most importantly for scholarly proponents of the

duel as a civilizing force, a prince or a lord invariably mediated the actual combat, ensuring that all parties behaved honorably and by the rules. Often, these occasions were inflected with the trappings and rituals of the cavalier: prayers offered just before combat, the accouterments of decorated swords and armor, courtly words and manners, and obeisance to the prince. Any such event was markedly ceremonial and ended with a peace agreement between the two parties that formally satisfied their quarrel. In the scholarly framing that sees it as a key component of the civilizing process, dueling as it was developing was ritualized, contained, and courtly – and while its early stages might be extensive, its decisive conclusion was as brief in duration as it was effective in achieving peace.

A general survey of discourses on dueling would seem, at least initially, to support this view of the practice. Dueling certainly became a cultural phenomenon in the sixteenth century. It was written about at length and advocated for in the new manuals for courtiers and discourses on honor in the *scienza cavalleresca*, or the art of the nobleman. Duels were immortalized in the literature of Lodovico Ariosto and Torquato Tasso, as well as among lesser poets. Accounts of duels fill *avvisi,* diplomatic letters, chronicles, and the correspondence of government officials. Hundreds of *cartelli* and challenges were issued, exchanged, and posted in streets and squares. And the practitioners who took to the field of honor, like proponents on the sidelines, appeared to advocate dueling as a civilized and honorable way to settle disputes.

However, both the literature of dueling and records of individual duels contain discordant elements that trouble the conventional scholarly picture. Girolamo Muzio famously maintained that the duel was necessary to defend one's honor; as this was part of natural law, it superseded the law of the prince (Muzio, 1560, 220). Others similarly argued that dueling was not only a correct way to defend one's honor but was also a natural right that superseded all others. Such claims complicate any concept of dueling as fully congruent with the growing power of princes and their civilizing influence on the nobility. Notably, the aforementioned Duke of Ferrara, Ercole II d'Este, who ruled Modena (and whose family had done so for much of the previous two centuries), attempted to forbid the duel between Camillo and Lanfranco by *grida* or public proclamation (ASMo, *Rettori dello Stato*, b. 112). However civilized this duel may have appeared on the field of combat in Mantua, it apparently looked unacceptable to a prince who naturally considered both combatants to be his subjects, and to be answerable to him more than to any honorable rules of engagement.

In all likelihood, Ercole's disapproval of the duel stemmed from an awareness of what was really at stake in the combat: a sprawling vendetta among several Modenese families that significantly challenged the duke's capacity to govern in the city. In fact, such concerns were common for Italian princes of this period. Research on violence in early modern Italy continues to reveal that in urban centers vendetta retained a crucial place among the civic nobility even as discourses of dueling became more prominent (Vidali, 2019; Carroll, 2023). Further, there may have been a significant gap between discourses of dueling, which certainly proliferated, and the actual number of duels fought. As will be unfolded in what follows, duels were rare in

Modena while vendettas continued to be common among the city's elite well into the seventeenth century (Madden, forthcoming). In Bologna, the situation was the same; duels were fought far less often in proportion to ambushes in the streets, fights at masquerades, violent quarrels, and assassinations – all occurring among the same elite that, from time to time, challenged one another with *cartelli* (Rose, 2019). All evidence indicates an overlap between the two methods of dispute settlement that extended into the seventeenth century. And in this period, far from superseding or dampening vendetta, a duel was often a pause in a feud, ostensibly to make peace, rather than an actual conclusion. A duel could take place between two men of enemy families one year and an assassination could be committed in the next. Moreover, in the sixteenth century duels took place in the context of vendettas but not necessarily as a means to end them – indeed, on some occasions, as a way to perpetuate them beyond a show of peace at the conclusion of combat.

If dueling is misunderstood now as possessing more civilizing force than it actually had in the sixteenth century, this is partly because it was misrepresented at the time. In many cases, there was a disconnect between elaborate and often embellished accounts of duels and the broader realities of the conflicts of which they were part. The larger conflicts themselves, however, are readily detectable once we look beyond accounts narrowly focused on particular duels. The history of noble violence in which Camillo and Lanfranco feature is a signal case in point. Lanfranco and Camillo moved in the same social circles and were well acquainted. Members of politically prominent patrician families of Modena, they were social equals with a multitude of connections (Tavilla, 2017, 11–55). Their fathers and uncles worked together in local governance, and because of the highly endogamous nature of the Modenese elite, they were related to one another by marriage. Their careers were similar, as both men had served militarily with the Duke of Ferrara or in the retinue of other princes. Prior to their duel in 1558, each had been exiled by the Duke of Ferrara for violent offenses; more generally, each had a marked reputation for violence. But for both, individual reputation was effectively inseparable from larger familial involvement in vendetta.

On his father's side, Camillo was a member of a notoriously feud-prone Modenese family that had been heavily involved in vendettas since the fifteenth century; some were ongoing a century later. On his mother's side, Camillo was descended from the Bellencini, a noble house involved in the aforementioned feud with the Fontana, which was to become the most infamous and extensive Modenese vendetta of the century. Lanfranco, meanwhile, had been involved in the murder of Annibale Bellencini in 1547; this was the crime for which he was exiled (though later pardoned) (Forciroli, 2007, 184–92). Moreover, while Lanfranco is now most famous among historians for his duel with Camillo, he became best known among sixteenth-century Italians as a mass murderer who committed one of the most infamous crimes in sixteenth-century Italy. Both this incident, which will be expounded presently, and the murder of Annibale Bellencini were tied to the Fontana-Bellencini vendetta (Madden, forthcoming). The larger context of the duel of 1558 obviously demands both a rethinking of the meaning of the duel itself and a fresh understanding of the civilizing process that,

supposedly, turned Italian noblemen towards dueling and away from the vendetta, increasingly restraining their violent proclivities.

Both Camillo's and Lanfranco's families bore all the marks of powerful urban nobility of this period. The Forni had been central to Modenese government and civic life for over two centuries, and were important for the history of the city as a whole and in the specific context of vendetta. They played a starring role in Alessandro Tassoni's *La Secchia Rapita* (*The Stolen Bucket*), an epic poem about the Guelph and Ghibelline conflict between Modena and Bologna. Though some members of the Forni earned fame in the realm of letters – Giacomo Forni, for instance, was known for his learning, literary bent, and sacred *canzoni* – the family's prominence went hand in hand with a willingness to pursue personal enmities (Vedriani, 1665, 105). The first Forni death caused by dueling, that of Gianfrancesco Forni, occurred in 1482. As was typical for Modenese urban elites, violent tendencies scarcely interfered with a range of accomplishments and careers of service. Gianfrancesco's son, Messino, became master of the horse of Duke Alfonso I of Ferrara, and subsequently fought in the war between the Duke and the Republic of Venice. Messino's brother, Giralamo, likewise served in Alfonso's army, and was rewarded with land in Carpigiano; he also served in the ducal *camera*. As a sign of his prosperity, Giralamo eventually commissioned the renowned architect Andrea Palladio to build him a villa close to Vicenza. Captain Giovanni Battista Forni was banished by Alfonso II, grandson of Alfonso I, for homicide, whereupon he went into the service of Cosimo I, Grand duke of Tuscany. He became captain of the ducal guard and later governor of Livorno. While their military and other careers of service were cosmopolitan in scope, the Forni also frequently sat on Modena's Council of Conservators, the city's governing council, as well as serving in the ducal administration. Like his ancestors, Camillo Forni had a career that combined military exploits with other service to princes. The son of Giulio and grandson of Gianfrancesco, Camillo entered the service of Duke Ottavio Farnese. He later served in the siege of Siena and was imprisoned; Cosimo I compensated him with sums of cash, arms, and horses (cf. Gli Este Signori).

The Fontana, for their part, were a prominent family in Modena with respectably long lineage, having merchant origins in the thirteenth century, at which time they were entered in the *Liber magne masse populi*, or register of noble citizens eligible to hold public office (Tavernari, 2017). Geminiano Fontana, for instance, began serving on the Council of Conservators in 1465 and become *sottopriore* in 1478. The most notable evidence of the ascendance of the Fontana in Modenese public life is a stop by Ercole d'Este I at the Fontana palazzo in the Piazza dei servi on his first visit to Modena after his coronation in 1471. While the Fontana had not been entrenched as deeply in Modenese politics for as long as the Forni or Bellencini, by the middle of the sixteenth century their office-holding patterns and service in the Modenese government looked nearly identical. As was the case for many vendetta-prone Modenese, the Fontana often made their careers in Este service. At least five members of the Fontana family held places at the court of Ferrara during the sixteenth century and served on the Council of Conservators and in other governmental offices

(Guerzoni, 2000, 69–155). Like the Bellencini, they were noted jurists and included among their ranks Giovan Fillippo, lieutenant governor of Reggio (1522–3), podesta of Mantua (1523–4) and frequent Conservator. Giovan Francesco, who also served on the Council, was chosen by the Este to reform Modena's statutes in 1533, helped reform the statutes of the college of bankers, and, perhaps most notably, sat on the criminal court (Tavernari, 2017, 58).

All such accomplishments, offices, and careers gain in complex significance the more we keep in mind that, at the same time that they served the church, the government, and princes, these nobles fought bitter, public vendettas in the streets of Modena. The Forni and the Fontana were both at the center of Modenese violence in the sixteenth century, as vendetta combatants and as duelists. The Forni had fought bitterly with the Tassoni during the first half of the century. They became involved in the feud their Bellencini kinsmen fought with the Fontana after the murder of Annibale Bellencini – an act in which, it should be recalled, Lanfranco Fontana participated. Not at all coincidentally, Annibale Bellencini was Camillo Forni's cousin. All this is merely a representative sampling of the long, complex, and quite pressing series of events, each woven into the tapestry of a massive vendetta, that lay behind the duel between Camillo and Lanfranco in 1558.

This fact, however, must be grasped together with another: both families' dueling and vendetta practices usually made little impact on prominence and profitable service for individual members. This was certainly the case for Camillo, whose duel with Lanfranco did not, apparently, harm his career, despite his duke's quite public disapproval. Nor had he suffered much harm from earlier legal misadventures. In 1550, Camillo had been caught possessing a forbidden arquebus, and in 1551, he fought a duel with another Modenese noble, Cornelio Molza; this was the incident for which he was banished (Lancellotti, 1862, XII, 398). Yet Camillo became a Conservator in 1573, and only fell into disgrace in 1579 for his conduct in a card game; he was murdered in Brescia in 1583 for reasons unrelated either to his general involvement in vendetta or to his enmity with Lanfranco (Gli Este Signori). For the conventional view of dueling as a sign of the civilizing process and the growing power of princes, it is difficult and perhaps impossible to understand how highly successful careers – often spent largely or entirely in the service of one prince or another – were so compatible with robust involvement in vendetta. To comprehend this basic fact, we should first grasp that while these two men are leading examples of Modena's political ruling class in the sixteenth century, similar figures can be found in Brescia, Verona, Vicenza, or any Italian urban center during this period (Ferraro, 2003; Hanlon, 2002; Lavarda, 2007; Faggion, 2009; Povolo, 2014).

Such men were marked by a particular combination of high career ambition, wide career opportunity, and substantial leverage in local and regional matters of governance. Members of increasingly ennobled ruling classes who, in addition to serving as lawyers, doctors, and governing officials, were turning to military service in the armies of rulers, these members of the urban nobility were likely even more conscious of status than their ancestors had been. In the context of wider European

conflicts, the Italian Wars, and more localized skirmishes, these men had ample opportunity both to emulate the chivalric ethos of the older nobility – the Pico, the Rangone, and the Bentivoglio – and to distinguish themselves as part of the new class of men whose ennoblement was not exclusively titular or feudal in nature, though it was bestowed by princes. As prominent urban elites upon whom princes depended for the functioning of their cities – in matters as various and essential as taxation, public works, and regulation of local economies – these were men whose dependence on the favor of their rulers was counterbalanced by two factors: their rulers' dependence on their competence in government and service, and their own capacity to seek service opportunities, and other chances for success, in a variety of places across the peninsula and indeed across the breadth of Europe. Thus, Camillo Forni could defy the displeasure of his duke by pursuing his duel with Lanfranco Fontana not despite, but partly because of, his successful service of that same duke in Modena's government.

This complex dynamic, whereby urban elites could, as it were, serve princes with the right hand while pursuing vendetta with the left, also points us nearer to the actual function of dueling in a larger frame that encompasses vendetta as an ongoing, indeed primary, fact of life for men like Camillo and Lanfranco. An initial indicator in this regard can be found a few years prior to the duel of 1558, when the Forni came into conflict with the Molza, another family whose history combined a record of prominent civic service with notable involvement in vendetta. In 1553, Girardino Molza and Camillo Forni had a "difference" after having some words together in a procession (Lancellotti, 1862, XII, 383). Subsequently, Camillo sent Girardino a *cartello* (Lancellotti, 1862, XII, 387). While the duke issued a *grida* against this duel, threatening to confiscate the property of the participants, it was ignored – just as the *grida* of five years later would prove ineffectual. Importantly, both Girardino and Camillo were in exile when the exchange of *cartelli* began. In order to return to Modena and have their sentences remitted, a peace process had to be signed. Officially, of course, a duel could be considered a long, ritualized process ending in a peace agreement. However, it did not appear in this light either to the two parties exchanging *cartelli* or to the duke to whom, ostensibly, they were both answerable. The duke apparently perceived what the intended duelists no doubt presumed: that whatever official promises might be made or implied by the ritual of the duel, its actual meaning could be found in the larger vendetta of which it was part – and which neither party was able or inclined to bring to a close.

THE PEACE

And thus it was for the duel between Camillo Forni and Lanfranco Fontana five years later. Persuaded by the Duke of Mantua, both men did agree to peace. However, it lasted less than a year. In August of 1559, Lanfranco, his Fontana cousins, Galeazzo and Jacopo, and some compatriots ambushed Cesarino di Parma, an adherent of Camillo Forni's uncle, and left him for dead in a ditch. A few years later, in 1562, Lanfranco took much more radical steps. He sent seven letter bombs to cousins

and uncles of Camillo Forni on the latter's maternal side, thereby murdering at least a dozen people. It is likely that another bomb was intended for Camillo himself. Clearly, the duel that has become one of the paradigmatic examples of the shift from vendetta to dueling did not end in peace (Forciroli, 2007, 184–192). It was simply one moment in a century-long vendetta, in which Lanfranco Fontana's infamous participation came to such a barbaric and explosive end that it earned him a sculpture, in which his likeness was engulfed in fire, outside the Fontana palazzo–to say nothing of numerous accusations of monstrousness in letters and chronicles across the peninsula. The Lanfranco Fontana of the duel and the Lanfranco Fontana of the letter bombs have yet to be linked in the scholarship, not least because the latter has yet to be well accounted for at all. When one understands the larger context, Lanfranco the honorable duelist is eclipsed by a more complex figure whose robust participation in a decades-long vendetta was part and parcel of his career as Modenese citizen and decorated cavalier.

With this spectacular – but more accurately rendered – figure in mind, we can better appreciate how clearly both Camillo and Lanfranco saw the duel of 1558 as part of a larger story. Their *cartelli* bear witness to their perspectives. The first sent by Camillo reads:

> *Messer Lanfranco, knowing that there will be constant enmity between us for the causes you know, the man of letters* [Giovanni Battista Codebò] *who was killed at the end of Vespers in the Church of S. Pietro near the Chapel of the Baptistery, having been shot at with stone muskets, and then given 27 wounds. The criminals were four, who fled through the holes in the walls, and mounted on horseback they headed towards Spilamberto. Of said death which is much spoken of and for which my friends and yours have to suffer labor and to buy the wrath of the Prince, I invite you as a man of honor to settle our enmities in a safe place, which out of courtesy I undertake to find, offering you two sorts of most honorable weapons, which I will send you by accepting the battle. And when this doesn't satisfy you, to show you how much my soul is, I'll be content to accept one of yours in the same manner described above.*[6]

Here Camillo points to the murder of Lanfranco's brother-in-law, "the man of letters," in August of 1547 while he was at vespers. The culprits behind this murder

6 *Messer Lanfranco, Conoscendo che fra noi di continuo sarà inimicizia per le cause che sapete, e acciò un giorno non succeda*, homo in la sua condizione de letere, *fu ucciso sul finire del Vespro nella Chiesa di S. Pietro presso la Cappella del Battistero, essendogli stato tirato contro con* schioppi da pietra, *e poi datogli 27 ferite. I malfattori furono quattro, che se ne fuggirono pei buchi che sono nelle mura, e montati a cavallo si diressero verso Spilamberto. Di detta morte* multi multa loquuntur *cosa per la quale li miei e vostri amici abbiano a patir travaglio e farsi acquistare l'ira del Principe, vi invito come uomo di onore a difinire le nostre inimicizie in luogo sicuro, quale per mia cortesia mi obbligo a trovare, offrendovi due sorte di armi onoratisssime, quali vi manderò accettando voi la battaglia. E quando questo non vi soddisfaccia, per mostrarvi quanto sia l'animo mio, mi contenterò accettarne una delle vostre del medesimo modo soprascritto* (Combattimento).

were actually Camillo's uncle, Alessandro Bellencini, and several of his Bellencini cousins. Camillo seems almost to implicate himself (insofar as he seems to be among those who have had to suffer "the wrath of the Prince"), presumably to spur Lanfranco to assent to a duel; at any rate, Camillo certainly frames the duel as an opportunity for Lanfranco to avenge his brother-in-law. At the same time, there is, if only implicitly, an invitation to settle the violent dispute between the Bellencini and Fontana for which Lanfranco was partially responsible since, again, he had participated in the murder of Camillo's cousin Annibale Bellencini in 1547. Thus, both men could avenge not only their own wrongs but also the wrongs of their families. Camillo seems to claim that the duel is a physical manifestation of an instrument of peace that would end the vendetta. Further, it would mitigate the "wrath" of their prince. The duel was thus, ostensibly at least, a tidy solution, particularly given the notorious propensity of the Fontana and Forni families to vendetta.

Lanfranco Fontana's response, however, evinces skepticism regarding Camillo Forni's motive:

> *I tell you that you are lying; I know the reasons why the enmity you mention must exist between us, just as you are lying that you are doing it for the good of all. And to avoid the travail that can arise between our families and friends, and so that we don't have to lose the favor of the Prince which is so esteemed and revered by me and my family that we rather hope to acquire it more and increase it every day, that you are afraid of losing it altogether.*[7]

Lanfranco's accusation that Camillo was not seeking peace between the parties or an ending to the vendetta but instead was trying to return to ducal favor had more than a grain of truth. As previously noted, this was not Camillo's first duel, and he was just as prone to trouble and general law-breaking as Lanfranco. Lanfranco's pointed barb that Camillo was pushing for peace as a subterfuge to curry the favor of the prince was simply true. Both the duel and the proffered peace were embedded into – rather than providing a conclusion for – the feud itself. It is thus little wonder that the duke publicly forbade the duel. It is perhaps even more unsurprising that, knowing he might not be obeyed, he also commanded his citizens not to attend it.

From the perspective of the court at Ferrara, the promise of peace through dueling appeared quite empty, as indeed it frequently was. Notably, at the same time governments were harshly cracking down on vendettas, they were increasingly regulating the peace process, or at least attempting to do so (Tavilla, 2001). Many instances of

7 *Messer Camillo Forni, In risposta alla vostra dei 17 del presente vi dico che mentite che io sappia le cagioni per le quali debba essere fra noi quella inimicizia che dite, come anche mentite che a ciò vi conduciate per men male. E per schivare il travaglio che può nascere fra le famiglie e amici nostri, e perché non si abbia a perdere la grazia del Principe la quale è da me e dai miei tanto stimata, e riverita che piuttosto si spera di acquistarla ogni dì maggiormente ed accrescerla, che si tema di perderla punto. Se vorrete rispondere per il termine di otto dì mi ritroverò qui in Venezia io, o mio legittimo procuratore, che sarà Messer Tommaso Fontana* (Combattimento, Di Venezia, il 22 Giugno 1558).

such attempts are related to Modena itself. In 1531, for example, Ercole II attempted to regulate Modenese instruments of peace with new reforms. The rationale for his attempt was explicitly given:

> *we have observed the contention, difficulty, and disputations that have arisen and are arising around the instruments of peace, and truces celebrated among our subjects. Following their execution and exaction, arguments among the principals over the penalties stipulated, or a lack of notarization, or either the inexperience of the notaries themselves, all of which problems are causing great disorder … and leading to vendetta.*[8]

The duke went on to make clear that the imprecision and irregularity of these instruments led "in our minds to the multiplication of scandal" In this law, he stipulated that precise clauses had to be included when drawing up these documents. Peace agreements were now to specify penalties agreed upon by both parties; the signatories were to include not only the principals, but also offenders sentenced in *contumacia*, and they were to be ratified in front of an official of the ducal *camera*.

The inclusion of these measures represented a notable change from the customary nature of earlier peace agreements. Up to the sixteenth century, peace agreements (and truces, which constituted a more restricted category) were voluntary barring exceptional circumstances (Tavilla, 2001). Further, their many customary and flexible features marked them as essentially self-regulatory. In trying to regulate peace agreements more strongly, the Este dukes were actually attempting to restrict the power of citizens at odds with one another, violently or otherwise, to end the conflict as they saw fit – a parallel strategy to regulating violence and consolidating power. Again, in this respect, the Este were part of a larger trend. In addition to addressing rising rates of violence via statutory law and ad hoc measures, Italian states were increasingly unwilling to leave truces and peace agreements in private hands. It is thus unsurprising that the reformed 1547 statutes make no provision for peace agreements in homicides, assassinations, or for "fighting like Guelfs and Ghibellines."

With such developments in mind, a better understanding of dueling is fully open to us. We need only understand peacemaking as a process that required collaboration between the duke and warring families; peace agreements could not be forced on Modena's ruling nobility (Tavilla, 2001). The voluntary nature of peace agreements doubtless extended the time necessary to broker them. On average, at least three to five attempts at pacification were made, most of which involved a brief period of truce (Darovec, 2017). A particularly lengthy time to broker a first peace agreement can be

8 *Perché havendo noi inetto le constationi, difficultam et disputatione che tanti volta, sono accadute sopra Instrumenti di pace et tregua celebrata nostri sudditi, et sopra la essecutioni, et essationi che di hanno da fare e contra li principali e contra li fideussori delle pene singulari et essi Instrumenti et questo perché tal hora le notai che ne sono rogati…per esse cause nuovo disordine…e che ne faccia l'eminente vendetta* (ASMo, Rettori dello Stato, February 11, 1531, B.12).

seen in the Fontana and Bellencini vendetta. After protracted negotiations between the families in Ferrara in the presence of the duke himself (at least two members of each family rented houses there because their stay was becoming so long), the two factions resorted to a truce in 1548. It was to be in effect for two years under a security of 2,500 scudi. A scant year after the truce was made, however, hostilities resumed. Even after much cajoling and pressure from all sides, it took until January of 1551 for a peace agreement to be signed (Madden, forthcoming). And while there were harsh penalties for breaking peace agreements in the reformed 1547 statutes of Modena, which included stiff financial penalties, exile, and even death, these agreements only seemed to take longer to broker as the century wore on as the Modenese elite increasingly resisted involvement in matters they believed to be theirs to govern.

Increasing ducal initiatives to regulate peace gave notice to vendetta-practicing families that if they did not assume the burden of disciplining their unruly members, they would be placing more power in ducal hands. Practicing vendetta without attention to these matters could prove costly to the foundations of noble power. Several ducal initiatives to wrest the power of peace-making from families and to legislate the variety of practices that comprised vendetta strategies, including regulating the clauses of peace agreements and enforcing greater penalties on rupturing the peace, threatened their political autonomy. As a result, vendetta-practicing families had to renew their efforts to develop coherent strategies to retain their power. Ultimately, the efforts of the Modenese elite were aimed not at suppressing vendetta, but at managing cycles of peacemaking and peacebreaking advantageously. Any such cycle typically included verbal insult, wounding which sometimes resulted in death, retaliation, truce between the two parties, another act or two of violence, and a peace agreement that, more often than not, would shortly be broken, beginning the cycle again.

It is here that dueling can most clearly be seen in a fresh light. During the sixteenth century, there were at least three major, long-term vendettas in Modena; the shortest lasted at least a decade before a definitive and effective peace agreement was signed, and the longest lasted four decades before peacemaking was successful (Madden, forthcoming). In the face of such facts, it is not possible to argue that the Modenese nobility became more peaceful as they became more civilized; there is simply no evidence for such a trend. Likewise, there is no evidence for a growing monopolization of violence by the Este government, even when they moved from Ferrara to Modena to make it their capital in 1598. The same families that had been involved in vendetta in the fifteenth and sixteenth centuries were still practicing vendettas in some form or another into the seventeenth century. At best, there is some evidence that the Modenese nobility began to duel more. However, many duels were simply part of the same cycle already described; in essence, they constituted another way to pursue vendetta. When we examine the clear cynicism with which Camillo and Lanfranco approached their duel in 1558 – clear, that is, with the benefit of hindsight – and the equally clear skepticism with which the duel's promise of resolution was apparently seen by ducal power in Ferrara, dueling appears simply as a new component of an existing tactic: to publicly avow peace in word only, making an empty show of commitment

to self-regulation of factional violence. Against the background of the rising tide of regulation, the duel can be seen as a form of dispute resolution that was more useful to vendetta-practicing disputants than it was to those attempting to regulate them. In general, peacemaking of any kind could be part of a flexible process embedded in the feud; dueling in particular became a form of dispute resolution that feuding families employed in order to conserve autonomy (Gluckman, 1955; Carroll, 2003).

I turn briefly to another famous duel that was embedded in a vendetta, and that can best be understood as an alternative to an instrument of peace. This duel was part of a feud between the Colloredo and the Savorgnan in the Friuli, and as it happened, it was also connected to the 1558 duel between Camillo Forni and Lanfranco Fontana. In one of his periods of exile in the 1550s, Marzio Colloredo served as a soldier under the Gonzaga. It was there that he most likely met Lanfranco, who was also in exile and serving under the Gonzaga; the two men formed a friendship that was to shape their vendetta practices just as much as it did their dueling. In 1562, both men commissioned the same artisan to construct letter bombs to use in their vendettas. Marzio sent his letter bombs to Urbano and Tristano Savorgnan; like the bombs Lanfranco commissioned, they were concealed in boxes disguised as gifts. The recipients, however, saw through the ruse. Likely because Lanfranco's letter bombs quickly became so infamous, Marzio's were identified immediately; the bombs were disarmed and no one was injured (Muir, 1993, 264).

The Savorgnan responded to the bombs by ambushing a member of the Colloredo faction; at the same time, the factions began to exchange *cartelli*. In 1563, Niccolo Savorgnan challenged Marzio to a "contest of honor." Marzio accepted on the condition that it bring about a lasting peace between the two clans, observing: "thus we cavaliers with risks to few can put an end to the deaths of many." This formulation strongly echoed what Camillo Forni had written to Lanfranco Fontana years earlier. Thus began what has been called the pamphlet war, a run of *cartelli* exchanged between the years 1563 and 1568. It eventually ended in a duel fought between Federico Savorgnan and Marzio in Ferrara, and then in Liguria. But neither the cartelli – whose markedly long run certainly indicates something other than an urgent desire for peacemaking – nor the duel itself dampened, much less ended, the vendetta of which they were a part (Brown, 2021, 252–257). Even with the formal reconciliation between the factions in 1568, the feuds continued until the beginning of the seventeenth century (Makuc, 2015, 214).

It is not without irony that two of the most notoriously violent and vendetta-committed men in sixteenth century Italy have been remembered not as letter-bombers but as duelists. In order to situate the duel alongside other developments, we must locate it on the spectrum of violent crime in Italy between the years 1500 and 1700, a key period in the development of the state and criminal courts. It was a period of discernible shifts in violence. Some changes were brought about by new innovations such as firearms, some occurred as violence became more subtly defined, and some were dependent on political, economic, and social forces. But dueling was, apparently, quite a small component of these changes (Carroll, 2016). The embeddedness

of dueling into the feud may be a leading reason we do not have a good sense of the place and rate of dueling in comparison to other types of violent crime. But while a systematic overview has yet to be done (and indeed may be impossible), dueling makes up a very small percentage of the criminal cases in state archives containing extensive criminal records for the sixteenth, seventeenth, and eighteenth centuries, including those in Verona, Venice, Bologna, and Vicenza.

For instance, in the Giudice di Maleficio in Verona, roughly two-thirds of which can be classified as some type of violent crime, only two can be explicitly classified as dueling cases prior to 1640. Among the thousands of sentences in the deliberations of Venice's Council of Ten, none are clearly duel-related; the same is true for the processi, or depositions, in the Avogaria di Comun, another Venetian court (ASVe, Giudici de Maleficio, 4a–82).[9] As for Bologna, the center of the *scienza cavalleresca* and dueling, there is little quantitative evidence in the criminal courts that there was an uptick in the practice among the Bolognese nobility, whose violence often threatened to push Bologna into civil war. Indeed, the Bolognese senatorial class continued their private warfare and revenge politics well into the seventeenth century (Rose, 2019). Colin Rose notes that, in the years he has sampled in the *Tribunale del Torrone* up to 1632 for violent crime in Bologna, there are no duels between noble families (Rose, 2019, 196). There was a shift in violent warfare between the noble factions after 1632, but the increase was in street violence, not dueling. Ghiselli's chronicle of Bologna stretches into the late 1680s, and while he notes with interest and much detail select duels between the Malvezzi and Bentivoglio and other senatorial families, there are far more accounts of ambushes in the streets and fights at masques (Ghiselli, XVI, 1575–80 436–440, 512–18, 539–46, 559–63, 570–595; XVII, 1580–85, 7–17, 33–4, 41–8; XX, 1595–1600, 10–41; Angelozzi & Casanova, 2003, 284–285). Similarly, in the case of Modena – which was rife with bloody vendettas in the sixteenth and seventeenth centuries – while very few criminal cases remain in state records, the chronicle of Spaccini, which describes a great deal of violence among families who had been practicing vendetta for well over a century, contains very few examples of dueling and far more examples of vendetta-related homicides (Spaccini, I–VI, 1588–1636). Indeed, in the criminal court records I have examined, while enmity-related crimes represent a fraction of the cases in any given criminal court, there is quite ample evidence that vendettas were ongoing.

The few cases of duels I have discussed here were fought during, and as part of, ongoing vendettas. And in such cases as these, dueling and vendetta ought to be understood now as they were apparently perceived in Lanfranco's lifetime. Dueling is certainly a cipher for changes in early modern practices of violence and dispute resolution. The explosion in the sixteenth century of treatises on dueling, treatises against dueling, *cartelli*, and accounts of famous duels all clearly mark the rise of a new and important mode of violence among the nobility. However, it is unlikely that dueling actually marked the advance of a civilizing process that would extinguish the

9 Cf. the inventories in the *buste* of the Giudice di Maleficio, ASVe.

fires of vendetta through ritual conflict resolution. Rather, dueling was a flexible element in a larger process of ongoing noble violence that remained deeply meaningful in the face of new attempts at control and reform.

Again, this is not to say that the rise of the duel is not evidence of some sort of shift in practices of violence among the nobility. Nevertheless, the quantitative and qualitative evidence available to us at this point does little to support the thesis that dueling replaced vendetta practices. We can know with fair certainty that some of the century's most famous duels bound their participants neither to actual peace nor to ruling authority. Quite the contrary: the duel was yet another in an arsenal of practices that were, in their way, as important to the pursuit of vendetta as weapons and occasions of violence. Just as statutes against violence became more numerous and penalties more harsh, the elites developed more creative means of circumventing punishment and pursuing their grudges. In the cases I have examined here, the entire discourse of dueling, from first insult to last blow, was one such exercise of creativity.

MIR IN DVOBOJ; MIR V DVOBOJU

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POVZETEK

Dvobojevanje je koda za spremembe zgodnje novoveških praks nasilja in reševanja sporov. Trdilo se je predvsem, da je bil dvoboj del širšega civilizacijskega procesa, ki je plemstvo usmeril stran od dozdevno nebrzdanega nasilja fajd. Vendar nedavne raziskave kažejo, da je vendetta v Italiji še naprej ohranjala svoj pomen ob hkratnem naraščanju števila dvobojev. Hkrati je celovitejše proučevanje vendette jasno pokazalo na prekrivanje obeh načinov reševanja sporov še globoko v 17. stoletje. Eno leto je lahko prišlo do dvoboja med dvema moškima iz sovražnih družin, drugo leto pa do atentata – kaj je vplivalo na to, da so se nasprotniki odločili za eno metodo nasilnega reševanja sporov namesto druge, ni povsem jasno. Obenem so države vse bolj regulirale pomiritvene postopke, kar je bil le na videz nepovezan proces. Natančneje, ob zakonski obravnavi naraščajoče stopnje nasilja s statutarnim pravom in ad hoc ukrepi, italijanske države niso bile več pripravljene pustiti sklepanja premirja in miru v zasebnih rokah.

Ključne besede: dvobojevanje, nasilje, orodja miru, vendetta, fajda

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DUELLING IN THE HABSBURG HEREDITARY LANDS, 1600–1750: BETWEEN LAW AND PRACTICE

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ABSTRACT

The article focuses on duelling in the Habsburg hereditary lands, with an emphasis on Styria. It presents around fifteen cases of duels that have been fought or provoked, from 1643 to 1750. In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after the Thirty Years' War, and thrived between 1660 and 1730. Anti-duelling decrees prescribed fines and sometimes imprisonment, and the death penalty in homicide cases. Duels continued despite strict bans (also) because sanctions were generally not enforced, and if the 'criminal' was brought to court, he was almost always pardoned by the Emperor. In practice, the death penalty for duellists was an extraordinary event, since even trials were exceptional, including cases when duels resulted in deaths.

Keywords: duels, early modern period, Holy Roman Empire, Habsburg hereditary lands, Inner Austria, Styria, Carniola, seventeenth century, eighteenth century

I DUELLI NELLE TERRE EREDITARIE ASBURGICHE, 1600–1750: TRA LEGGE E PRATICA

SINTESI

L'articolo si concentra sui duelli nelle terre ereditarie degli Asburgo, con particolare enfasi alla Stiria. Presenta una quindicina di casi di duelli combattuti o provocati, dal 1643 al 1750. Nelle terre ereditarie degli Asburgo e nel Sacro Romano Impero in generale, il duello fiorì durante e dopo la Guerra dei Trent'anni, e prosperò tra il 1660 e il 1730. I decreti anti-duello prescrivevano multe e talvolta la reclusione, e la pena di morte nei casi di omicidio. I duelli continuavano nonostante i severi divieti (anche) perché in genere le sanzioni non venivano applicate, e se il 'criminale' veniva portato in tribunale, veniva quasi sempre graziato dall'Imperatore. In pratica, la pena di morte per i duellanti era un evento straordinario, poiché anche i processi erano eccezionali, compresi i casi in cui i duelli avevano come esito la morte.

Parole chiave: duelli, primo periodo moderno, Sacro Romano Impero, terre ereditarie degli Asburgo, Austria Interiore, Stiria, Carniola, XVII secolo, XVIII secolo

INTRODUCTION[1]

Recently, a handful of publications addressed duelling in the early modern Holy Roman Empire (Carroll, 2023; Ludwig, 2016), but duels in the Habsburg hereditary lands remain underresearched. The most on local duels was written well over a century ago by Josef von Zahn (Zahn, 1888) in his article on the history of manners (*Sittengeschichte*) in Styria, which is, as can be expected, very outdated in its approach. For example, Zahn argued that the main reason for duels was intoxication, which encouraged quarrelling (Zahn, 1888, 151, 163). However, the number of eighty fought or provoked duels that he pointed out for the Styrian capital of Graz from 1670 to 1699 – forty cases alone from 1670 to 1675 (Zahn, 1888, 163, 170) – is nevertheless extremely high, and calls into question the traditional notions that the nobility in Habsburg hereditary lands had been largely pacified already by the early seventeenth century.

Due to the prohibition of feud, or *Fehde*, by the Imperial Perpetual Peace of 1495, nobility in the Empire has traditionally been seen as pacified early in the sixteenth century. However, Stuart Carroll has recently argued, that this is not the case and that despite the ban feuding was still widely practised at the end of the sixteenth century and beyond (Carroll, 2023, 145–185). There is growing evidence that this was also true in the Habsburg hereditary lands of Inner Austria (Styria, Carniola, Carinthia, Gorizia, Gradisca and some smaller territories) well into the seventeenth century (Makuc, 2015; Oman, 2016; 2019; 2023; Oman & Darovec, 2018). Furthermore, duelling did not replace the *Fehde*, as is generally assumed, but was in many instances its extension, much like elsewhere in early modern Europe (Carroll, 2023, 183–185).

Carroll also highlights rising levels of interpersonal violence and enmities as a result of economic, political, social and similar crises. In the seventeenth-century Habsburg hereditary lands, there was enough upheaval and unrest, starting with the Counter-Reformation from the late sixteenth century and early absolutist reforms. There were also peasant revolts and Hungarian rebellions. The Emperor was in constant demand for money to pay for the wars against Ottoman Turks and the combat of the Thirty Years' War, which exerted considerable pressure on the Provincial Estates, and thus on nobility, who in turn put pressure on their subjects. The Military Frontier was largely financed by Inner Austrian Estates, and some parts of the Habsburg hereditary lands were in 1683 invaded by the Ottoman Turks. The seventeenth century is also generally considered to be the century of the plague, with epidemics hitting Styria and Carniola every few years: 1600–2, 1623–31, 1634, 1641–8, 1664–9 and 1679–83 (Travner, 1934, 100; Umek, 1958, 80; Zupanič Slavec, 1999, 209), so it can be deduced that this was also a century of significant economic crisis in the

1 The research for this article was carried out as part of the research programme *Basic Research of the Slovenian Cultural Past* (P6-0052) and the postdoctoral research project *Probate Inventories of Styrian Social Elites in the Early Modern Period* (Z6-4606), funded by the Slovenian Research and Innovation Agency (ARIS). I would like to thank Žiga Oman for his advice on the drafts of this article, and the anonymous reviewers for their comments.

Habsburg hereditary lands. In part, these crises carried on into the early eighteenth century. In 1703–11, Styria and Lower Austria were for the final time invaded by kuruc insurgents from Hungary, while Styria was also hit by a rinderpest epizootic in ca. 1711. Concurrently, the last plague epidemic struck Styria in 1710–16, also spreading to Carinthia and Carniola in 1715–6 (Golec, 2022, 70–71; Brunner, 2007, 148). The Habsburg victories against the Ottoman Turks from 1683, and the start of the War of the Spanish Succession, led to new financial demands from the Emperor. The nobility's fortunes and credit, already very fragile after decades of economic crisis, especially after the Thirty Year's War, were put under further strain. As economic and material competition increased, the rise of duelling after 1648 can be interpreted as a consequence of the nobles' struggle for possessions, rights, positions and honour, all of which were closely related.

In the chapter on duelling in the Habsburg hereditary lands, some cases of duels in Habsburg hereditary lands will be presented, mainly from Inner Austria, especially Styria. These cases are rare. I became acquainted with duels during my genealogical research on the Herberstein noble family and their kin as part of my dissertation. Duelling cases presented in this article were more or less discovered by chance, as I surveyed the elite's probate inventories from the extensive *Landrecht* fond (StLA, LR), containing documents from all courts with jurisdiction over the provincial nobility. It should be noted, that these judicial documents are often very fragmentary. I have also surveyed some digitised burial registers and did some field research in Graz. As for individual accounts of duelling in Carniola, I have checked the diary notes of Baron Franz Heinrich Raigersfeld. Based on about fifteen duel cases, I will try to draw some conclusions at the end.

DUELLING IN THE HOLY ROMAN EMPIRE – AN OUTLINE

People have always sought honour and prestige (glory). This was a characteristic of all classes in early modern Europe, but was most pronounced among the nobility. For all pre-modern societies, the worst insult (injustice) was the accusation of lying or dishonesty. The semantics of honour took a central place in the dispute settlement of early modern societies. Among status equals, a violent response to an accusation of dishonesty was to some extent legitimate (Schwerhoff, 2013, 38–40). In sixteenth century Italy, the duel developed as a form of a violent response over the point of honour. It spread rapidly in France, having been brought home by soldiers serving on the Apennine Peninsula. Through them, the phenomenon was swiftly adopted by the French upper nobility, to such an extent that it persisted throughout the seventeenth century, despite repeated prohibitions by the authorities (Carroll, 2006, 9; 2016, 105–106, 117; Cavina, 2016, 579–580; Billacois, 1990, 15, 18–19).

Early duels were still public and formal procedures, allowing the community, such as the townspeople or local nobility, to intervene in a dispute at any point and settle it as quickly as possible. The duel can therefore be interpreted in the context of the traditional system of dispute settlement, i.e. the concepts or rituals

of vengeance and reconciliation (peacemaking), in which honour and humiliation were two sides of the same coin (Darovec, 2017, 74–75, 86–88; 2018, 469–470; Oman, 2023, 275–276).

As duelling became established in Renaissance Italy as one form of dispute settlement, a culture or code of honour developed alongside it both there and elsewhere in Europe, which, through the use of books of conduct and similar texts,[2] became a key part of the educational process and social consciousness of young noblemen in the period between the sixteenth and eighteenth century. This was also emulated by the more ambitious townspeople (Cavina, 2016, 571, 585–586).[3]

In the Holy Roman Empire, duels were rapidly adopted from Italy and especially France.[4] They were particularly common among the nobility and in the army, especially among officers, but were by no means confined to the upper classes (Carroll, 2023, 206–207; 2017, 132–133; Ludwig, 2016, 85, 94, 168–169; Schwerhoff, 2013, 39; Billacois, 1990, 24–26; Zahn, 1888, 154, 161). In her study of duels in the Empire, Ulrike Ludwig also lists craftsmen or apprentices, merchants and even peasants. Edicts against duels were formally addressed to the whole of society, with the exception of women (Ludwig, 2016, 47–49, 86–89). Although duels took place for the most part within the same social groups, the typical 'offenders' were military officers (Ludwig, 2016, 86, 165–167, 193; Schwerhoff, 2013, 39).

In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after the Thirty Years' War, when it peaked.[5] Of the 42 anti-duelling decrees, around 75% were issued in the second half of the seventeenth century, a quarter of these between 1650 and 1655 alone.

2 As duelling became established, the first treatises on the subject were published. In the sixteenth century, the first writers on duels were representatives of Italian humanism, such as Andrea Alciato, Girolamo Muzio, Giovanni Battista Possevino, Torquato Tasso, Sperone Speroni and others. Their treatises were known and copied throughout Europe (Billacois, 1990, 19–20; Carroll, 2016, 117–118; Štoka & Vrabec, 2013, 26–27).

3 At the same time, the Grand Tour (*Kavaliersreise*) was part of the educational process, where the nobleman perfected his knowledge of languages, artistic taste, poise, dancing and playing a suitable instrument, and, above all, the correct and elegant swinging of a one-handed rapier or smallsword. Knowledge of Italy and its culture was an integral part of the nobleman's decorum (Kokole, 2015, 60; Low, 2003, 18–19).

4 By the time Germans adopted the duel, they had their own specific style of fighting. They favoured slashing with the broadsword, but also valued wrestling with the opponent in order to disarm him. The adoption of the rapier required a new fighting style (Carroll, 2023, 207).

5 In the mid-seventeenth century, a corpus of about a dozen Lutheran theological texts about duels can be identified in Germany. In addition to the reception of French duelling mandates by German theologians, there were also other lines of connection with countries, where a specific duelling culture had already been established by the early seventeenth century. Thousands of Germans learned about duels fighting in the French Wars of Religion from 1562 to 1598, making the local nobility in Germany among the earliest adopters of the duel, while especially during the Thirty Years' War, the French were found in the armies of the German conflict parties and ensured that the duel was spread there (Ludwig, 2016, 68–69; Carroll, 2023, 170, 208).

They stipulated fines and sometimes imprisonment, and the death penalty in homicide cases (Billacois, 1990, 23). Early patents or decrees against duelling in Habsburg territories are mentioned in 1606, 1613, 1615, 1624, 1637, 1647, 1666, and 1670 (Ludwig, 2016, 77; Zahn, 1888, 152, 162; Kočevar, 2017, 137, n. 25; Guarient und Raal, 1704, 285–288, 624), which means that they long had little effect.

Before the nineteenth century, no specific duelling code, which would regulate the conduct and form of the duels, had been developed on German territory (Ludwig, 2016, 302, 332). Until then, duels, which unlike in France and Italy were not strictly distinguished from brawls and clashes between the lower classes, had been referred to as *Raufen*, *Prügeln*, *Balgen*, *Kugeln wechseln* and only from the 1760s increasingly also by the word *Zweikampf* (Ludwig, 2016, 80–81, 120). The foreign word *Duel* appears in the German press at the beginning of the seventeenth century, but it described a pre-existing practice. From the 1630s onwards, the term became commonplace, although it can be seen that it was used to refer to a wide variety of interpersonal conflicts. German combatants did not talk much about 'duels' and tended to talk of 'encounters', which were fortuitous and thus defensible in law, or they used the verbs *erstochen* or *erschossen* to distinguish their acts from simple murder (Carroll, 2023, 211; Zahn, 1888, 162–163). Listing cases from Graz, Zahn also records the words *Aufstoss*, *Missverstand*, *Ungelegenheit*, *Stritt*, *Zwispalt* and, when the duel was interrupted, the Franch loanword *rencontre* (Zahn, 1888, 162–163). The first trials against duellists in the Holy Roman Empire date from the mid-1600s.[6] Duelling thrived between 1660 and 1730 and then sharply declined, followed by a resurgence and boom since the 1790s, especially among officers and students (Ludwig, 2016, 102–103, 164–168, 200–205, 222; Carroll, 2023, 182, 209, 219; 2017, 132–133; Schwerhoff, 2013, 41).

A challenge to a duel was only possible if the adversary was of legal age and able to bear arms, while the age difference between the duellists was irrelevant. The duel did not depend on noble rank, but on whether the opponents were allowed to bear arms and considered themselves as equals (Billacois, 1990, 73, 75; Carroll, 2016, 122; Cavina, 2016, 584).[7] Those challenged usually had a choice of how to conduct the duel: on foot or on horseback, with a smallsword

6 A tourist visiting Vienna in 1651 reported that murders were still so common that one would be talking about one at midday only to hear that another had been committed that evening. By then the duelling to the death, which had already conquered the nobility, spread to the towns (Carroll, 2023, 182).

7 Germany was different from the rest of Europe in that martial arts were valued by all social classes. Service in civic militias was a badge of citizenship and, in contrast to many European countries, where military training of peasants was frowned upon, many German states organized territorial militias. In areas where there had long been a free peasantry, soldiering was a respectable profession, and in some parts of south-west Germany this was an important economic activity. Weapon ownership was not only widespread but often a requirement for citizens (Carroll, 2023, 208).

Fig. 1: Smallsword duel in the eighteenth century (Wikimedia Commons).

or pistol, etc. (Zahn, 1888, 166). After 1660, duels in France increasingly abandoned form in order to achieve the point: to kill the opponent, humiliate him or avenge oneself for an insult.[8] Sometimes only a few minutes elapsed between the challenge to a duel and the duel itself. A large open space was sufficient for a duelling venue. Those who wanted to attract attention chose more populated places, while others, wanting to avoid the authorities (state, civil, or religious), preferred deserted places. Conflicts over honour and rights were an integral part of noble life, so weddings and other celebrations were venues for displays and challenges of honour. As similar conflicts did not occur at princely courts or at the sessions of the provincial and state assemblies, some places were (apparently) considered sacrosanct (Carroll, 2017, 133; Ludwig, 2016, 175–176). As the timing of the duel was no longer important, the conflict ceased to be a public

8 In exchanges of vindicatory violence, the intention had not always been to kill, as drawing blood or maiming was often sufficient revenge (Carroll, 2006, 140). However, already in 1664, the German fencing master Johann Daniel Lange (pseudonym Jean-Daniel de l'Ange; † after 1682) published in Heidelberg a fencing manual entitled *Deutliche und gruendliche Erklaerung der Adelichen und Ritterlichen freyen Fecht-Kunst*, which treats the use of the single rapier. The manual advertised the art of killing quickly, by puncturing vital organs and arteries (Carroll, 2023, 207; Lange).

spectacle. The weapon of the duel became the one-handed rapier.[9] From the rapier the smallsword developed and was fully established by the mid-seventeenth century, with blade lenght usually between 60 and 85 centimetres. The not too sharp cutting edge and the sharp point made the smallsword suitable for stabbing (thrusting), with the shorter version allowing for a quicker stab. With the smallsword, it was possible to quickly kill the opponent, but otherwise the loser was not necessarily maimed and disfigured.[10] The rapier and the smallsword did not favour the duellist's physical strength or stamina, but rather his mastery of the weapon (Low, 2003, 6–7, 44; Small sword).

By the mid-seventeenth century, especially in France, pistols were also used in duels, due to their greater lethality. Pistol duels were usually carried out with two pistols, as at that time only one shot could be fired from each. While deep thrusts against an unprotected body were extremely difficult to heal, firearm wounds were often fatal due to sepsis.[11] In her study, Ludwig also reports on pistol duels in the seventeenth-century Empire. The German term *Kugeln wechseln*, i.e. the exchange of bullets, was also synonymous with duels at that time (Ludwig, 2016, 80–81, 120, 324, 326). Gerd Schwerhoff, for example, notes the prevalent use of firearms in duel killings in Cologne around 1700 (Schwerhoff, 2013, 40).[12]

Opponents sometimes arranged for the duel to be fought with weapons of same length or quality. Others did not care about this, as long as the duel took place as soon as possible, not to be seen as a coward in the opponent's eyes. Duels of the time were fast and deadly. An important change in the form of duelling was the new role of seconds as witnesses or assistants. As a rule, seconds accompanied each of the duellists to the duel site. Sometimes there were more than one, but always an equal

9 In Styria, one of the earliest rapiers recorded are in Hans Globi(t)zer's probate inventory from 1591. Among the many cold weapons of the deceased, 'three German rapiers' (*dreu teutsche rapier*) are mentioned, which itself is distinctive and interesting (StLA, LR 279, 210r). In the probate inventory of gentlemen Hans Gleispach from 1598, the inventory commission found several pieces of rapiers among the cold weapons: two silver-plated, two black and four old ones (StLA, LR 275, 400v–401r). This suggests that from the end of the sixteenth century onwards, rapiers were commonplace in the Habsburg Monarchy or at least in the Habsburg hereditary lands.

10 Smallsword is thought to have originated in France, from where it spread rapidly across Europe together with the duel. It was at the height of its popularity between the mid-seventeenth century and the late eighteenth century, when it was carried by every nobleman as an accessory to his outfit and as an aid in duelling or defence (Small sword).

11 Pistol duels around the mid-seventeenth century in France should not be equated with the student and bourgeois duels in Germany of the nineteenth century. In the seventeenth century, in so-called pistol duels the (unreliable) pistols were fired at first and then rapiers or smallswords were drawn. Those duels were fought with up to three men on each side (Carroll, 2006, 137–140, 158).

12 The prevalent use of firearms in Cologne homicide cases is a clear indication that the soldiers as 'professionals of violence' were becoming the main protagonists in many places. Schwerhoff states, that around 1700 not only in Cologne but also for other cities the retreat of the elites and the middle-classes from violence-based honour conflicts can be observed (Schwerhoff, 2013, 40).

number on both sides. They may have been related to the duellist (although often they were not) and, before the duel began, they encouraged or comforted him, checking, if necessary, the type and length of weapons, the absence of protection and amulets. However, seconds soon ceased to be passive witnesses and often fought among themselves. Moreover, if a second killed or otherwise knocked out his opponent, he could join the main duel and thus help the protagonist. In this case, the duellists were no longer tied, but this was irrelevant, as only the situation at the start of the duel was important (Billacois, 1990, 61–65; Carroll, 2006, 148–149, 151; Low, 2003, 18, 46–47; Peltonen, 2003, 96, 190, 203).[13] Taking part in a duel meant that one became known for one's courage, and even the losers seemed to have gained renown for their fighting. The performance of the duel was necessarily transmitted by a few observers, mostly seconds, sometimes surgeons etc. (Low, 2003, 18).

When someone was killed in a duel, the killer usually retreated to his estate, in most cases voluntarily. In practice, the retreat served as a form of self-punishment (or self-humiliation) and constituted the relinquishment of all his positions and rights while awaiting pardon. Such 'exile' interrupted his career, his network of acquaintances and distanced him from his home environment for a long period – possibly for several years (Billacois, 1990, 109, 161). Many then joined the Imperial or Royal Hungarian army, as their loyalty to the Emperor and service to the monarchy enabled them to obtain his letter of pardon sooner (Carroll, 2006, 127–129; Makuc, 2015, 222, 224).[14] The aim of early modern litigation remained settling the injustice and preserving the reputation or honour of the conflicting parties, not to seek out the truth. This was also supported by the (noble) courts of law, which, like extra-judicial rites, were primarily concerned with making peace quickly and safeguarding the social order and the balance of power in the community. The justice system was predominantly in favour of the more powerful party to a conflict (Oman, 2023, 276; Povolo, 2015, 215–217).

The fact that the decrees and anti-duelling patents (mandates) were violated was not only due to the duelling code of honour, but also due to the uneven procedures, and, in Inner Austria, occasionally the conflict between the two authorities: the princely Inner Austrian Government and the Provincial Estates. The nobles were under the jurisdiction of the provincial governor and members (*Beisitzer*) of his law court, and a court of their peers (and/or relatives) was rarely independent. In 1669, for example, the Government complained to the governor that one of the causes for so many duels were the many acquittals of duellists in the noble court. The Government admitted that the provincial governor or the provincial administrator (*Landesverwalter*) was not to blame, but rather the fact that the defendants appointed members of

13 Seconds were always persecuted in France. In royal decrees from 1643 and 1651, they were treated more severely than the main duellists and faced the death penalty (Billacois, 1990, 104).

14 Especially at the beginning of the early modern period, some truly contrite (and wealthy) nobles could even make the pilgrimage to Rome, hoping to receive in return for some act of penance a papal letter of pardon (Carroll, 2006, 128).

his law court and solicited votes from all of them, thus easily avoiding punishment (Zahn, 1888, 152–153). Duels continued despite strict bans (also) because sanctions were generally not enforced, and if the perpetrator was brought to court, he almost always received the Emperor's letter of pardon. This was due to the fact that the Emperor, like his courtiers, was not only indulgent of duellists, but also respected and even admired them (Billacois, 1990, 80, 110; Carroll, 2006, 151, 214–215). In practice, the death penalty for duellists was an extraordinary event, and even trials were exceptional, including cases when duels resulted in deaths (Ludwig, 2016, 281; Billacois, 1990, 109, 179).

DUELLING IN THE HABSBURG HEREDITARY LANDS

The conflicts over honour and rights were an integral part of noble life. The nobles' social gatherings were venues for displays and challenges of honour (Carroll, 2017, 133; Ludwig, 2016, 175–176). As princely courts and state assemblies were (apparently) considered sacrosanct, so were the provincial assemblies. That this was also the case in Styria, and likely elsewhere in Inner Austria, is evidenced by a well-preserved plaque on the exterior wall of the *Landhaus* in Graz. To the right of its main gate, there is a plaque from 1588, during the reign of Archduke Charles II. It states, that the Diet of the Styrian Provincial Estates also decided, that no one should dare to fight in the *Landhaus* with a weapon, dagger, or bread knife, practice mischief or play tricks with other weapons, but to use the weapons with all due respect and modesty, or be severely punished.[15]

In addition to the sacrosanctity of certain spaces, the plaque proves two things: that the rapier as a duelling weapon was not yet established at that time, nor was duelling as an avenue of dispute settlement and/or defending a nobleman's honour. This changed quickly. Already in 1591, 'three German rapiers' are recorded in Hans Globi(t)zer's probate inventory (StLA, LR 279, 210r). Fifteen years later, duelling evidently already made its way into Habsburg hereditary lands, as the first patent or decree against duelling in the territory was issued. To little avail, and the next ones followed in 1613 and 1615 (Zahn, 1888, 152; Kočevar, 2017, 137, n. 25).[16]

15 Original inscription in full: *Mit der Fürst. Durchl. Erzherzogen Karls zu Oestereich unseres gnädigsten Herrn u. Landesfürsten gdgsten Vorwißen Consens v. Ratification, hat eine Hochlöbliche Ladft. Dieses Herzogthumbs Steyer in dem Landtag unter anderen auch dahin beschloßen v. Befelch gethan daß Niemand wer der auch seyn mag sich unterstehe in dießem Hochbefreyten Landthaus zu rumoren die Währ Tolch oder brodmeßer zu zucken, zu balgen, v. zu schlagen, gleichfals mit andern Wöhren Vngebühr zu üben oder Maulstreiche auszugeben sondern hiernnen aller Gebühr und Bescheidenheit mit Worthen und Weethen zu gebrauchen Welche aber darwieder handlen daß dieselben nach Gelegenheit des Verbrechens an Leib und Leben unnachlässig sollen gestraffet werden darnach sich mäniglich wiße zu richten. Actum Gräz 20. Sept. 1588. Renovatum 12. Aprill 1694. Renov. 10. 8ber 1773. Renov. 29. 7ber 1824. Renov. 27. Jänn. 1900.*

16 Whether the early period of duelling in the Habsburg Monarchy or Habsburg hereditary lands was mainly about disputes between Protestants and Catholics would be pure speculation at this point.

Fig. 2: Plaque on the exterior wall to the right of the Landhaus' main gate in Graz (photo: Matjaž Grahornik, 2023).

On 1 December 1615 in Graz, Archduke Ferdinand II issued a special patent for Inner Austria, criticizing the vengefulness prevalent not only among commoners but also among the nobility, and again prohibited duels. The Archduke warned that such practices often led to wounds and even death. The decree portrayed vengeance as contrary to divine, ecclesiastical, secular and princely law and police orders. In addition to their injuries, it causes enmity and mistrust between families, which is passed on to their offspring. To maintain order among his subjects, the prince issued a patent that no one should sin against his neighbour, that everyone should behave peacefully, and that there should be no fights or duels. No occasion for a duel should be given by a provocation, regardless of status. If, however, any person is injured in honour, body or property, he is to report it to the competent authority or, in case of emergency, to the Inner

Austrian Government or the prince in person. The Government, as a princely institution, had his mandate to act in such cases. If someone does not appear for a duel, neither his honour nor his good name will suffer. Otherwise, he will be committing a criminal offence by appearing for a duel. The prince further called for peace and unity and threatened violators with severe penalties. To respect his patent, he authorized all his subordinate authorities, from provincial governors to elected market-town judges and lower offices (AS 1079, št. 99, Anti-duelling patent, 1 December 1615; Kočevar, 2017, 137, n. 25).

However, almost thirty years had passed between the anti-duelling patent from 1615 and one of the earliest well-documented duels in the Habsburg hereditary lands. In the meantime, a significant moment occurred when, on 1 August 1628, Emperor Ferdinand II issued a patent or general mandate, wherewith he ordered the Protestant nobility of Inner Austria to convert to Catholicism or leave all his lands within a year. According to known sources, some 750 nobles left Styria, Carinthia and Carniola, while other Protestant nobles converted. The patent was made possible by favourable political circumstances following the victories of the Emperor's and the Catholic League's armies in the first two phases of the Thirty Years' War (Kočevar, 2020, 381–382, 387–389, 393–397, 426).

The nobles who left Inner Austria were quickly replaced by newcomers, mainly from the Habsburg territories in what is now Italy and Spain.[17] Violence and enmities among early modern nobility – especially in urban centres – were also aggravated by increased social mobility, which eroded established signs of respect or honour, such as a proper greeting, the right of way, seating in church, etc. (Oman, 2023, 275). But none of this was the case on 17 June 1643, during the reign of Emperor Ferdinand III, when in Graz Baron Wolf Maximilian Eibiswald (after 1620–74) engaged in a smallsword duel with Baron Gottfried Schrattenbach Jr (†1643).[18] The duel is said to have taken place as a result of a drinking contest (*ein Gsundtrunk mit 3 classen*). Baron Eibiswald had had too much and spilt his drink. Baron Schrattenbach teased him and a verbal duel ensued. Schrattenbach snatched a smallsword from the present Baron Moritz Herberstein[19] and the duel almost started at the table, but then they immediately went to the *Kuhtratte* (Zahn, 1888, 163; Graz-Hl. Blut, DR 1642–1649, 62).[20] The seconds (*assistendo*) in the duel were Baron Hans Albrecht Herberstein and

17 In the lands of Inner Austria, particularly Styria and Carniola, there has been a significant increase in the population with roots from Italy from the sixteenth century, especially during the reign of the devout Catholic Archduke Ferdinand, from 1619 Emperor Ferdinand II.

18 Baron Gottfried Schrattenbach Jr is mentioned as a knight of the Teutonic Order. At the time of his death he was Vizedom von Friesach and Landkomtur in Velika Nedelja (Naschenweng, 2020b, 840). His name is not mentioned in the parish register. From the entry it is also not clear when and where he was buried (Graz-Hl. Blut, DR 1642–1649, 62).

19 Probably Christoph Moritz (1586–1647), who in 1621 married the widow Baroness Maximiliana Maschwander, née Baroness Herbersdorff (Naschenweng, 2020a, 515).

20 For *Kuhtratte*, cf. figure 3 and note 34.

Baron Johann Baptist Maschwander (StLA, LR 177, I. Teil, 109r–v).[21] Schrattenbach, who carried only a short smallsword, took that of his lackey, and when it fell from his hand, Eibiswald did not take advantage of it. In the second attempt, Eibiswald fell seriously wounded. Schrattenbach tried to give him a *coup de grâce*, which was parried by the Eibiswald's second, Baron Maschwander. Schrattenbach, himself badly wounded, took a few steps and fell dead (Zahn, 1888, 163; Graz-Hl. Blut, DR 1642–1649, 62; StLA, LR 177, I. Teil, 109r).

Schrattenbach's second, Baron Hans Albrecht Herberstein (1599–1651), was seen as the instigator of the duel.[22] On July 6 1643, he was ordered by the Styrian *Landesverwalter* to remain in 'actual prison' until the matter was resolved.[23] According to the decree of 28 July 1643, all three remaining participants in the duel were temporarily imprisoned in Graz (StLA, LR 177, I. Teil, 109r–v). Soon after the killing of Baron Schrattenbach, Eibiswald's father Christoph (1578–1650) petitioned to the Emperor and the Inner Austrian Government to release his wounded son. At his request, his son Wolf Maximilian was allowed to leave the prison for eight days after 5 August to recuperate in Tobelbad, but then had to return to his house arrest (*in seinem arrest*). The father guaranteed for his son's return to house arrest with all his property. The decree further reveals that Wolf Maximilian was imprisoned at his father's house in Graz and that he was guarded by the town guards (*die statt quardi*) (StLA, LR 177, I. Teil, 110r). Before 19 August, Christoph pledged again with all of his property, set as surety, at any time upon request, that his son could remain and live with him on his estate, free and unguarded.[24] A decree of the Styrian provincial

21 It was probably the same Baron Maschwander who, in 1669, after the Graz town judge had arrested one of his servants, came to the *Rathaus* and shouted that if his servant was not released immediately, he would kill the town judge and several members of the town council (Zahn, 1888, 155).

22 Hans Albrecht was born in 1599. On 8 November 1620, he was a colonel in the Imperial army in the decisive victory of the Catholic League in the first major battle of the Thirty Years' War, the Battle of White Mountain, near Prague. Afterwards, he became a major general (*General Feldwachtmeister*), and was also appointed Imperial chamberlain and a member of the Inner Austrian War Council. On 7 April 1625 in Graz, he married the widow Baroness Maria Renata Schrattenbach (!), née Baroness Herberstein. She was the daughter of Bernardin of the older main branch at Herberstein from his first marriage to Maria Constanze, née Baroness Fugger. Her first marriage to Baron Karl Schrattenbach took place on 13 February 1612 (Graz-Hl. Blut, MR 1621–1639, 182; Naschenweng, 2020a, 508, 521).

23 [*D*]*ie ferere allergenedigiste verordnung dahin gethan, daß er herr von Herberstain freyherr, biß zu außtrag d*[*er*] *sach in noch weitter würkhlichen arrest erhalten, unnd von d*[*er*] *gebettnen erlassung, abgerisen werden solle, weliches wollgedachter h*[*er*]*r landtsverwalter p*[*erge*] *ihme h*[*er*]*ren von Herberstain freyh*[*er*]*ren p*[*erge*] *hiemit nachrichtlichen erindert haben will, Gräz den 6 Jully* [*1*]*643* (StLA, LR 177, I. Teil, 108r–v). At that time, house arrest was (more) common, as will be seen below.

24 [*D*]*amit sein sohn herr Wolff Maximilian gegen disen sein herrn Christoffen von Eybißwaldt freyherrn anerbietten, d*[*a*]*ß er denselben bey verpfendung aller seiner güetter, iederzeit auf begehrn stöllen wolle, bei ihme auf seinen hoff frey unnd unverarrestierter verbleiben unnd wohnen möge, auß sonderbahren erhöblichen motiven, unnd ursachen dahin aller genedigist resolvirt, das gedachten jungen heern von Eybißwaldt freyherrn, gegen seines herrn vattern erbietten, auf den hoff sich zue begeben, erlaubt seyn, unnd sich dero selbe aldorten in arrest ohne quardi erhalten solle. Dessen wirdet herr landtshaubtman in Steyr zu nachricht, und des herrn supplicanten beschaidung hiemit erindert. Gräz den neün zehenden Augusti A*[*nno*] *x*[*ti*] *1643* (StLA, LR 177, I. Teil, 106r–v).

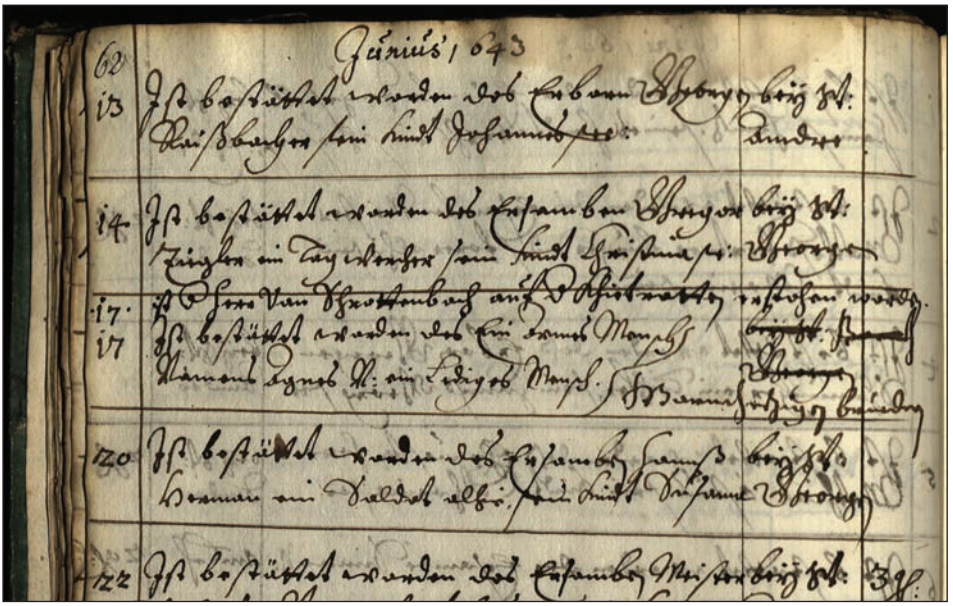

Fig. 3: Burial register entry for Baron Gottfried Schrattenbach Jr as a result of the duel, fought on 17 June 1643 in Graz (Graz-Hl. Blut, DR 1642–1649, 62).

governor from 20 November reminded Christoph that he has pledged for his son with his life and entire property. Upon his request, that his son be imprisoned as late as possible, and his payment of the bail (*caution*), Wolf Maximilian was granted to move freely in Graz, but was not allowed to leave the Styrian capital until further notice (StLA, LR 177, I. Teil, 103r–104v). A document from 21 March 1644 notes that Wolf Maximilian was still under arrest (for 9 months) in the house of his elderly father, with whom he had (for some time) to endure and provide for the town guards stationed there. According to the description, Wolf Maximilian had suffered serious, supposedly even 'fatal' wounds in the duel, which left him in severe pain and very weak.[25] We also learn, that Eibiswald's second, Baron Maschwander, 'who had little to nothing to do with the matter' (*deme die sach nit souil oder nichts angang*), soon left the house arrest, apparently without any notification or permission from the noble

25 [*D*]*as nit allein der herr von Eybiswaldt, in die zechen monat lang, sich in würklichen arrest erhalte, selbst, neben erlitnen unerträglichen iniurien, noch darzue tötlich verwundet worden, grose schmerzen undt schwaheiten ausgestanden,* […] *sondern auch dessen alt erlebter herr vatter, neben d*[*er*] *disfals ausgestandenen bekhümbenens die waht ein zeitlang, in seinen haus gedulden, und dieselben unterhalten müessen* (StLA, LR 177, I. Teil, 115v). According to the description, the document in question was written in order to bring a long process to a conclusion as favourable as possible for Wolf Maximilian Eibiswald (and his father).

court of law (*tribunalis*), and even went to the session (*tagsazung*) of the state assembly in Vienna (StLA, LR 177, I. Teil, 114r–115v). According to a resolution of the Court Council of 16 April 1644 in Graz, a decree stipulated that the Styrian provincial governor had to hand over the process to the Inner Austrian Government (*daß herr landtshaubtman gedachten abgefierten process ihro reg. verwartter übergeben solle*) (StLA, LR 177, I. Teil, 116r). In the final decree, Baron Herberstein was identified as the main culprit for the duel-homicide (*alß anraizer desselben duells*) and was to pay a fine of 1,000 Guldens. After the Inner Austrian Government confirmed the fine on 7 June 1645, the Styrian provincial governor Count Saurau was ordered to receive it from Herberstein. According to the Empress Dowager's decree, the money was to be donated to the St Catharine's building (*gebeü*); today part of the Mausoleum of Emperor Ferdinand II in Graz (StLA, LR 177, I. Teil, 101r–v). Interestingly, Baron Wolf Maximilian Eibiswald married Baroness Sidonia Eleonora Herberstein, daughter of Hans Friedrich and Anna Eleonora, née Lady Starhemberg, only a few years later, in 1647.[26]

On 7 February 1653, there was a pistol duel in Linz in Upper Austria between Baron Sigmund Friedrich Salburg and Baron Stephan Franz Oedt (*Öedt*). Baron Salburg was fatally shot and seriously wounded, and died a couple of days later.[27] Baron Oedt, on the other hand, retreated to an unknown place immediately after the shot.[28] A patent issued later clearly speaks of a duel (*Duell*) between the two barons. After his retreat, Baron Oedt was requested to appear before the Upper Austrian noble court of law (*sich persohnlich für dises löbl. landtshaubtmanisches gericht zustellen*) by three edicts issued one after the other, for the purpose of filing his stance on the matter or *purgation*. Finally, it has been decided that legal proceedings be taken against him in absence (*in contumaciam*). However, after the specified deadline expired, no written notice was received from Baron Oedt, nor did he appear in court in person, but remained absent. The Emperor then decided, 'according to all laws', that Oedt should lose his life. As the baron's whereabouts were unnown, on 18 November 1653 the provincial governor of Upper Austria,

26 Sidonia Eleonora and Hans Albrecht Herberstein were very distant kin. Her grandfather was Johann Friedrich from Hrastovec, while Hans Albrecht came from Neuberg line. Wolf Maximilian and Sidonia Eleonora had two children, Franz Christoph and Maria Eleonora. After the death of their only son (†1649), this branch of the Eibiswald male line died out in 1674 with his father (Naschenweng, 2020a, 340, 516, 518, 521). At this point, we can only speculate whether the 'only' two children of the marriage were the result of Wolf Maximilian's ill health (due to injuries sustained in the duel), a forced marriage, or if something else was in the way. Perhaps the marriage symbolised the reconciliation or the conclusion of peace between the Eibiswald and Herberstein families.

27 The issued patent mentions the death of Baron Salburg on the seventh day after the duel (*am sibenten tag hernach darüber sein zeitliches leben beschliessen miessen*) (OeStA, HHStA, StK Patente 9, Linz, 18 November 1653). Burial register entry for Baron Salburg records the date of 12 February 1653. The fact that he died as a result of wounds received in a duel is not mentioned (Linz-Stadtpfarre, DR 1640–1667, 151).

28 [*A*]*lsobaldt nach volbrachtem schusß von danen entwichen, und sich mit der flucht unwissent wohin* saluirt *habe* (OeStA, HHStA, StK Patente 9, Linz, 18 November 1653).

Count Johann Ludwig Kuefstein (1582–1656; governor 1630–56), issued a patent or decree in the Emperor's name, forever expelling Baron Oedt from the Habsburg Monarchy and the hereditary lands, depriving him of his honour, and striking his name from the Provincial Register (*Landts Matricul*) (OeStA, HHStA, StK Patente 9, Linz, 18. XI. 1653; Heilingsetzer, 1982, 183–184; Kuefstein).

The next Emperor, Leopold I, was through his officials well informed about duels, which resulted in a number of arrests or detentions of duellists. The aim of detaining duellists was not to initiate trials, but to facilitate settlements.[29] At least from the 1660s, that the Emperor was well-informed about duels was apparently not a problem, as, according to Count Gottlieb Windischgrätz's comment from 1664, duels in Vienna were the latest fashion by which participants tried to attract the attention of the Imperial Court.[30] On the other hand, rumours or the certainty of duels beyond the court could suddenly make court presence

29 As Billacois writes, the desire of the authorities was not to suppress, but to punish. They were trying not to wipe out a crime, but to purge a sin (Billacois, 1990, 110). Also, demands for challenges to a duel were not certain to succeed, since duels could be postponed, cancelled, or refused. Ludwig states, that a peaceful solution to the conflict was generally accepted at the time and the absence of a violent reaction did not mean a loss of honour for the offended party. The legal practice also proves to be different from what is described in the anti-duelling decrees, as it can be noted that the conflicting parties repeatedly filed charges themselves (Ludwig, 2016, 281, 294, 325; cf. Kos, 2016, 216, 219). For England, Peltonen writes that it was possible even to withdraw one's challenge without facing utter humiliation (Peltonen, 2003, 203).

30 Count Gottlieb Windischgrätz (1630–95) explained to Count Ernst Adalbert Harrach (1598–1667) that people were recently traveling to Vienna and thus to the vicinity of the Imperial Court, to fight a duel. Speaking of Cardinal Count Harrach, let us note that in his diaries from 1629–67 he mentions 16 duels or rumours of duels, none of which took place in the vicinity of the Imperial Court in Vienna. The first duel he recorded was in Summer 1647 in Prague between Emperor's colonel (*Oberst*) and artillery-general, Martin Maximilian Goltz (around 1593–1653), and silver chamberlain (*Silberkämmerer*) Wolfgang Adam Pappenheim (before 1627–47), the only son of the famous general and field marshal Gottfried Heinrich (1594–1632). That was the time of the Thirty Years' War. In 1647, another Swedish invasion of Bohemia became foreseeable. The field marshal and military governor of Prague Count Rudolf Colloredo invited the generals and colonels to a meal in his Prague palace on 30 June. Martin Maximilian Goltz, who was known for his bluntness, made very disparaging remarks about the absent major general Claus Dietrich Sperreuth (or Sperreuter). Wolfgang Adam Pappenheim defended Sperreuth, insulted Goltz in front of the assembled generals, threatened him with his pistol, and finally challenged him to a pistol duel. The duel was fought without seconds at Marienwall near Prague's fortifications on the left bank of the Vltava near the Royal Garden. At first Johann Christoph Wallstein intervened to reconcile the duellists, but while he was negotiating with Goltz, Pappenheim secretly approached and fired at Goltz. On the second attempt, Pappenheim again fired first, hitting the horse and Goltz's arm. The latter then pointed the pistol directly at Pappenheim's heart, fatally wounding him. After being shot, Pappenheim galloped off on his horse just 100 paces away and died. Goltz was placed under house arrest, and on 21 August 1647 he was already acquitted by Emperor Ferdinand III (Keller & Catalano, 2010, 49; Ludwig, 2016, 176–177; Goltz). Count Harrach wrote about this duel in his diary on 7 July, when he was in Vienna (Keller & Catalano, 2010, 49). I would like to thank Neva Makuc for the translation of Harrach's diary entry from Italian.

problematic.[31] Duellists have repeatedly used their contacts at court to obtain pardons. However, the Emperor's letters of pardon were not so important in avoiding a drastic punishment, since nobody could have seriously expected to be executed for duelling. They were more significant for duellists, so that they could remain at the court without any doubts. It was apparently perceived as a problem if a duel, as a (at least hypothetical) *crimen laesae maiestatis*, lacked the official pardon (Ludwig, 2016, 176–177).

The failure to intervene in a duel resulted in the homicide of Count Franz Adam Losenstein (1631–66). He died on 8 August 1666 from wounds received the day before in a duel with Count Adam Kollonitsch (Garsten, DR 1663–1685, 39r; Naschenweng, 2020a, 508).[32] Franz Adam, who married Countess Maria Theresia Herberstein in Vienna in 1658, got into a dispute already in the year of the wedding, which led to a duel with Count Ludwig (or Ludovico) Colloredo (Ludwig, 2016, 176–177; Naschenweng, 2020a, 508). Two years after Count Losenstein's homicide, Baron Albrecht Rattmansdorff died in Vienna as a result of the duel sometime between 30 July and 1 August. There was a large gathering at the house of Count Johann (or Hans) Jacob Khisl (1645–89), which was also attended by Count Johann Karl Saurau and Baron Albrecht Rattmansdorff. After twelve o'clock, Saurau sent a lackey into the salon to arrange a face-to-face meeting with Count Khisl. Rattmansdorff also wanted to be present, and although Khisl talked him out of it, he forced himself into the conversation. While they were riding, the words between Saurau and Rattmansdorff grew increasingly harsh and finally they drew their smallswords. Khisl knocked the sword out of Rattmansdorff's hand, grabbed Saurau by the wrist, and by doing so received three stabs in his hand. He managed to calm the opponents and they reconciled with a kiss. They were about to get back on their horses, when Saurau uttered some Italian word. Rattmansdorff wanted it explained, but this proved difficult. Now a formal duel broke out, which Khisl could not stop. Rattmansdorf was stabbed in the chest and was carried into his opponent's dwelling, where he died within half an hour. The Provincial Estates' investigation acquitted the victor of criminal offenses, but presented the case to the Emperor. A fine of 1,000 Ducats was imposed, which was eventually remitted (Zahn, 1888, 170). Baron Rattmansdorff was buried in the noble crypt of the Church of St Michael on 4 August 1668. He left behind his widow Anna Maria, née Countess Khisl (1643–1703), elder sister of aforementioned Count Johann Jacob Khisl, the influential owner of the Lordship of Maribor in Lower Styria (Wien-St. Michael, DR 1631–1699, 58; Naschenweng, 2020a, 176).

31 Carroll also states, that the Emperor's support did not come cheap and visits to Vienna could prove financially crippling, as access to the Imperial Court could require some type of (financial) compensation (Carroll, 2023, 260).

32 The burial register entry for Count Franz Adam Losenstein does not mention a word about the fact that he died as a result of wounds received in a duel (Garsten, DR 1663–1685, 39r).

The duellists evidently wanted to attract attention in the main or major cities and towns of the Habsburg Monarchy.[33] As noted, in the Styrian capital Graz,[34] forty duels are recorded to have been fought or provoked between 1670 and 1675 (Zahn, 1888, 163).[35] By then, the lessons in fencing could be gained locally, from the fencing master Hanns Jacob Khöfferl, who was employed by the Styrian Provincial Estates (*Landschaft*).[36] There is evidence of duels fought by three members of the Herberstein family between 1674 and 1675 alone. At the end of July 1674, Count Erasmus Friedrich Herberstein, lord of Hrastovec, publicly duelled over honour with Baron Maximilian Stübich. The two quickly cooled down and settled their differences on 2 August at the *Landhaus* in Graz. After the settlement, they had to remain under house arrest until further instructions (StLA, LR 393, H. 1, 51r–v). According to the anti-duelling decrees, a challenger who accepted a duel that did not take place lost his position at court, had to surrender his chamber key (*Kammerherrschlüssel*) and was interned in a frontier fortress or a prison. Such threats of punishment made little impression on the nobility (Zahn, 1888, 162–163). The reconciliation between Herberstein and Stübich was likely concluded by a symbolic gesture. As noted above, in the seventeenth-century Austria this could have still been a kiss (Zahn, 188, 170), as well as perhaps also an embrace, but definitely a handshake, as the main coeval gesture of peace. Also common was the joint participation at Mass (Carroll, 2023, 44, 259, 437; 2016, 127–128; Oman, 2019, 695, 700–702).

33 On noble violence in the border area between the Venetian Republic and Inner Austria, cf. Makuc, 2015.

34 For centuries, Graz was also the residence of the Inner Austrian archdukes and provincial administrators (*Landesverwalter*, *Statthalter*). According to Zahn, a favourite place for duels in Graz was the so-called *Kuhtratte* (or *Kühtratte*), a pasture for cattle in the vicinity of the *Eisentor* (Iron Gate), on both banks of the Grazbach (i.e. Graz Stream), roughly where the street Schönaugasse (*Schöne Au*, as beautiful floodplain) is today (Zahn, 1888, 154).

35 For this period, I have surveyed the burial register of the Graz-Hl. Blut parish. The entry for the first potential duel is from 7 April 1670, where it is mentioned that one Georg, a servant of Count Saurau, was stabbed (*erstohen wo*[*r*]*den*) by another servant (Graz-Hl. Blut, DR 1667–1673, 202).

36 Hanns Jacob Khöfferl is in the burial register entry from 7 December 1670 mentioned as a *vorfehter oder fehtmaister* in Graz (Graz-Hl. Blut, DR 1667–1673, 235). Since Johann Baptist Rubin (or Robin) was active as a fencing and dancing master in Graz in the first third of the eighteenth-century (see note 51), but is listed only as a fencing master (*fechtmäster*) in burial register entry from 4 August 1742 (Graz-Hl. Blut, DR 1742–1754, 45), the opposite can be assumed for Salvator Alefante (Alifante, Alephante, Allaffanta), who is mentioned only as a dancing master (*tantzmaister*) at the time of his death on 16 June 1676 (StLA, LR 15, 1r–2r; Graz-Hl. Blut, DR 1674–1682, 92). The Styrian Provincial Estates employed him on 9 December 1639. In his probate inventory, under the heading 'clothing', an old rusty smallsword (*ain alter verroster stosßdögen*) and an old ruined Ottoman backsword (*ain alter verdorbener päläsch oder plezer*) are listed (StLA, LR 15, 4r, 5r). The wear and tear of the mentioned cold weapons would not be so unusual for a fencing teacher. Besides, one would have expected a fencing teacher to demonstrate how to fight with or against Ottoman weapons, in addition to the popular smallsword-duels of the time, since Styria was close to the Hungarian and Croatian lands under Ottoman rule. Before Salvator Alefante, his relative (father?) Hortensius was appointed as a dancing master on 1 February 1623, at the early stage of the Thirty Years' War (StLA, LR 15, 4r; Graz-Hl. Blut, DR 1635–1641, 37).

In 1674, another duel in Graz took place between Count Richard Herberstein, Lord of Viltuš, and Count Felix Thurn-Valsassina.[37] On 9 September of that year the duellists were placed under house arrest. They settled the next day, following the mediation by Baron Johann Christoph Rottall and Count Wolfgang Ferdinand Schrattenbach (StLA, LR 394, 4r, 6r; Naschenweng, 2020a, 519). In early October 1675, a public duel took place between the 22-year-old Count Johann Maximilian Galler and the at least 47-year-old Count Georg Günther Herberstein. After facing a fine of 2,000 Ducats, the Styrian court of nobility ordered both men to be placed under house arrest at the seats of their respective lordships, i.e. Ravno Polje manor and Vurberk castle. A settlement was concluded on the same day (StLA, LR 393, H. 2, 130r–v). Their duel was undoubtedly part of an enmity between the Herbersteins and the Gallers, or the neighbouring Lordships of Vurberk and Ravno Polje, which culminated in May 1677, when Count Herberstein was killed in a clash with his opponent's subjects defending the lordship's border along the changing course of the Drava River (Oman & Darovec, 2018, 109–110; Radovanovič & Vidmar, 2002, 22–29). As noted, across Europe, duels in general were often connected to pre-existing disputes and enmities between families and lordships.

Between 1675 and 1699, another forty duels are recorded to have been impeded or fought by nobility in Graz (Zahn, 1888, 170). On 23 September 1682, Emperor Leopold I issued a new anti-duelling patent in the Habsburg hereditary lands, namely for Upper Austria. It imposed execution by the sword for all participants in a duel, both on the challenged and the challenging side, including all their supporters (seconds and other assistants). The death penalty was foreseen in case of death, inflicted wounds (first blood) and even if there were no duel-injuries at all (Guarient und Raal, 1704, 286, 288; Zahn, 1888, 162–163).[38] Only half a year later, a duel between Baron Johann Lucas Kriechbaum (*Khriehpaumb*) and an unknown opponent took place, probably in Linz. Given Baron Kriechbaum's escape, it can be assumed that his opponent in the duel lost his life.[39] The Imperial *Landrichter*, the gentleman Johann Paul Rottwang-Rottenstein, ordered that the baron was to be arrested and brought to Linz to face trial. This patent in the Emperor's name, issued on 5 March 1683 in Linz, ordered 'all and any authorities, their subordinate officials, as well as the market-town and village judges, wherever this patent is presented',[40] to comply with it and to provide the *Landrichter* with every possible support (*alle erforderte assistenz zu*

37 Richard (1648–77) was then no more than 26 years old. Felix may have been the 40-year-old Ferdinand Felix (1634–1714) from Zbelovo. He was married four times: the first time to Countess Sophie Schrattenbach (†1670), the second time (20 April 1671) to Lady Anna Maria Elisabeth Stubenberg (1634–92), the third time to the widowed Countess Regina Lucrezia Rattmansdorff and the fourth time to Countess Theresia Gabelkoven. I would like to thank Miha Preinfalk for this information.

38 The decree of 1624 already stipulated the death penalty for the challenger, the challenged and the seconds in the duel. In practice, however, the government's law that no one should lose his honour by refusing a duel had no impact on the nobility (Zahn, 1888, 152).

39 The death or burial register for the Linz town parish is not preserved for the period of 1668–1746.

40 [*A*]*llen, und ieden obrigkeiten, wie auch deren nachgesezten beamten, dann denen markt- und dorfrichtern, alwo gegenwertig offenes* patent *vorgebracht wird* (OeStA, HHStA, StK Patente 12, Linz, 5. III. 1683).

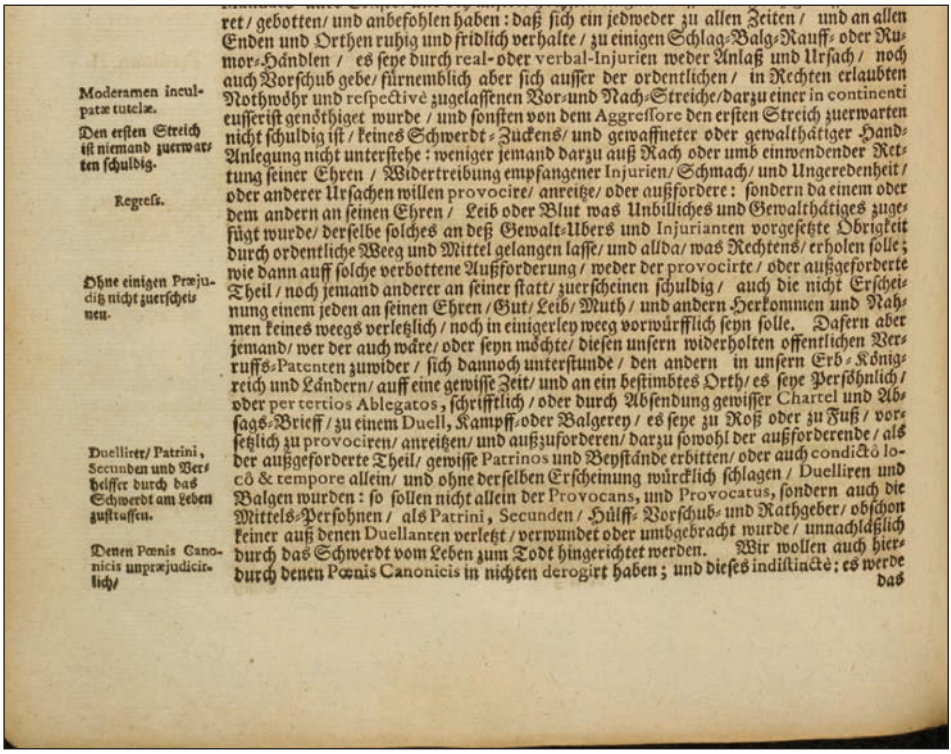

Fig. 4: Detail of the Emperor's anti-duelling patent from 1682, which decreed execution by the sword for all participants in a duel (Guarient und Raal, 1704, 286).

laisten) (OeStA, HHStA, StK Patente 12, Linz, 5. III. 1683). Unfortunately, we know nothing else about the unfolding of Baron Kriechbaum's story.[41]

From 1700 onwards, duelling became rarer, or rather, it no longer came to light (in the sources) as it used to (Zahn, 1888, 170), and by around 1730 duelling in Styria seems to have practically disappeared. It is known that Count Karl Friedrich Herberstein (1675–1739), lord of Hrastovec and son of Erasmus Friedrich, took part in a duel in Graz on 7 July 1708, in which Lord Leopold Stubenberg (1673–1708) lost his life. Leopold was on his way home in a carriage from the building of the Inner Austrian Privy Council at around midday when, at the gates of Prince Schwarzenberg's Palace near the Jesuit Collegium in the Bürgergasse, he was attacked by Count Anton Adam Saurau (1685–1737)

41 He may have been the son of Sigmund Balthasar (†1688, in Linz) from his first marriage to Baroness Maria Anna Ludovica Kazianer in 1658. At least 13 children were born in this marriage by 1683 (Naschenweng, 2020a, 229).

and his brother-in-law, Count Karl Friedrich Herberstein (Graz-Hl. Blut, DR 1705–1722, 142). The cause of Count Saurau's anger derived from a lawsuit. Lord Stubenberg lost it, and Saurau made fun of him, commenting about the age (or elderliness) of the Stubenberg family. Lord Stubenberg took advantage of a nobles' social gathering to verbally retaliate against Count Saurau, which justified a duel. Saurau then took a few days and demanded explanations, which Stubenberg continually refused (Zahn, 1888, 159). Finally, Saurau reached the point of stopping Stubenberg in his carriage and forcing him to a duel, in which Count Herberstein was his second.[42] Saurau and Stubenberg drew their smallswords and twice slashed at each other without a winner. On the third attempt, Saurau cut Stubenberg from the right side of the chest to his left hip, so that he died shortly afterwards. The description of the duel suggests that Herberstein, as Saurau's second, knocked out Stubenberg's smallsword, whereupon Saurau was able to deliver the fatal stab.[43] Lord Leopold Stubenberg, then Imperial Privy Councillor, Chamberlain and Styrian Hereditary Cupbearer, was buried a day later in the Stubenbergs' family tomb at the Jesuit church (today's cathedral) in Graz (Graz-Hl. Blut, DR 1705–1722, 142–143).

This duel was part of a long-standing feud between the Stubenberg and Saurau families. Lord Leopold Stubenberg was the adopted son of Lord Georg Stubenberg (1632–1703), a long-serving Styrian provincial governor (1687–1703), who was in several disputes with the members of the Saurau family. Before Lord Georg Stubenberg, the Styrian governor was Count Georg Christian Saurau (1624–86; governor in 1680–86). Georg Christian was one of the younger sons of the former Styrian governor Count Karl Saurau (1586–1648;

42 *Den sibenden July dises 1708ten jahrs gegen zwölff uhr umb mittag zeith ist /: layder :/ auß dem gehaimben rath nacher hauß fahrendt unversechens bey dem fürst. Schwarzenburg.* [sic!] *thor gleich neben dem Jesuit. Convict alhier von Antonio graffen v*[*on*] *Saurau* cum patrino suo *Carl Friderich graffen von Hörberstain in dem wag*[*en*] attaqui*ert, und bey betrohung des uhrblüzlichen todts auß selbigen zusteigen, auch sich mit ihme Saurau zuschlagen gezwungen worden, wellicher* moderaminis inculpatæ tutellæ *sich gebrauchendt* […] (Graz-Hl. Blut, DR 1705–1722, 142). It is unknown why Count Saurau accused Lord Stubenberg of undiligent guardianship (*moderaminis inculpatæ tutellæ*), cf. below.

43 [*Z*]*way gäng glikhlich wid*[*er*] *ihme Antoniu*[*m*] *vollbracht, im tritten* congressu *aber wegen v*[*on*] *Carl Friderich v*[*on*] *Herberstain alß Saurauischen* secunda*nten außgeschlagenen dögen v*[*on*] *ihme Saurau einen graußamben stosß von der brust rechter seithen biß zur huffte linkher seithen durch und durch empfangen* […] *in Gott seelig endtschlaffen* […] (Graz-Hl. Blut, DR 1705–1722, 142). It is not known who was the second of Lord Stubenberg. In a quick duel that followed, the role could have been taken by his carriage driver. Zahn states, that this homicide case was very notorious, as the duel was conducted against all forms of duelling. In fact, it was a murder and was treated as such. Unfortunately, we do not know the outcome of the story. For now, we can conclude that the 'strict investigation against Count Saurau' was ineffective, as were four other cases from the same year (Zahn, 1888, 159–160).

governor in 1635–48).[44] During his time as a student with the Jesuits in Graz, he and his younger brother Julius Ernst (1627–66) were notorious bullies among the students, with their rapiers or smallswords always on the loose.[45] In 1643, the Saurau brothers wounded a Hungarian student in front of the gate of the Jesuit Collegium. That same year, a duel is said to have occurred between Count Julius Ernst Saurau and Baron Johann Maximilian Herberstein Jr (1631–80), who was wounded (Naschenweng, 2011, 145).[46] As fate would have it, 37 years later, Count Georg Christian Saurau became the Styrian provincial governor after the sudden death of Johann Maximilian Jr. There were no children in the two marriages of Count Saurau, which is perhaps not unimportant for later developments (Naschenweng, 2011, 145–147; 2020b, 809). Lord Georg Stubenberg became Styrian governor after Saurau. Interestingly enough, when he was nominated the Styrian governor in 1686, he did not have the support of the Provincial Estates, but only the Emperor's.[47] This lack of Stubenberg's acceptance by the Estates is perhaps one of the reasons for the governor's later conflicts with them. During his time in office, there were further Habsburg victories against the Ottoman Turks, as well as the start of the War of the Spanish Succession. The resulting continuous demands for money from the Emperor, which the governor had to present to the Provincial Estates, put a heavy strain on the relationship between the government and the Estates. When the government demanded 500,000 Guldens in extraordinary taxes from Styria in 1693, in a heated debate the cathedral provost of Seckau argued about the land treasury system. He believed that it was not really known where the funds from such taxes were going, to which Stubenberg replied in irritation that he would not allow himself to be accused of stealing. Then he added, that the provost must be in cahoots with the Styrian Marshal (Count

44 Karl Saurau is said to have been rigorously striving to achieve wealth and dignities. He acquired many lordships and estates from his fellow noblemen who as Protestants had to emigrate following the Counter-Reformation against nobles in 1628–9. Many Stubenbergs were among them. Karl was also able to make use of his position as the main guardian of minor nobles' children. His final fortune was very respectable, as he was able to bequeath as many as ten lordships to his descendants. From an inexperienced court cavalier, he rose to the position of provincial governor. When the Emperor also granted him the office of Styrian Marshal, he gained the two highest dignities in the province. As early as 1628 he was elevated to the rank of count (Naschenweng, 2011, 138–139; Frank, 1973, 226).

45 In 1638, Georg Christian is listed as a student of poetics (*poetae*) in the 5th class of the Jesuit Collegium in Graz. Julius Ernst is recorded as a student of poetics at the same Collegium in 1640 (Andritsch, 1980, 28, 41).

46 Baron Johann Maximilian Herberstein Jr is 1644 listed as a student of syntax in the 4th class of the Collegium in Graz (Andritsch, 1980, 58), when he was 13 years old. From 1648, he held the rank of count and was Styrian provincial governor between 1675 and 1680 (Naschenweng, 2011, 144–145).

47 The Provincial Estates nominated Count Georg Seyfried Dietrichstein for the role. He became the Styrian provincial governor after Lord Stubenberg, in the period 1703–14 (Naschenweng, 2011, 153–154).

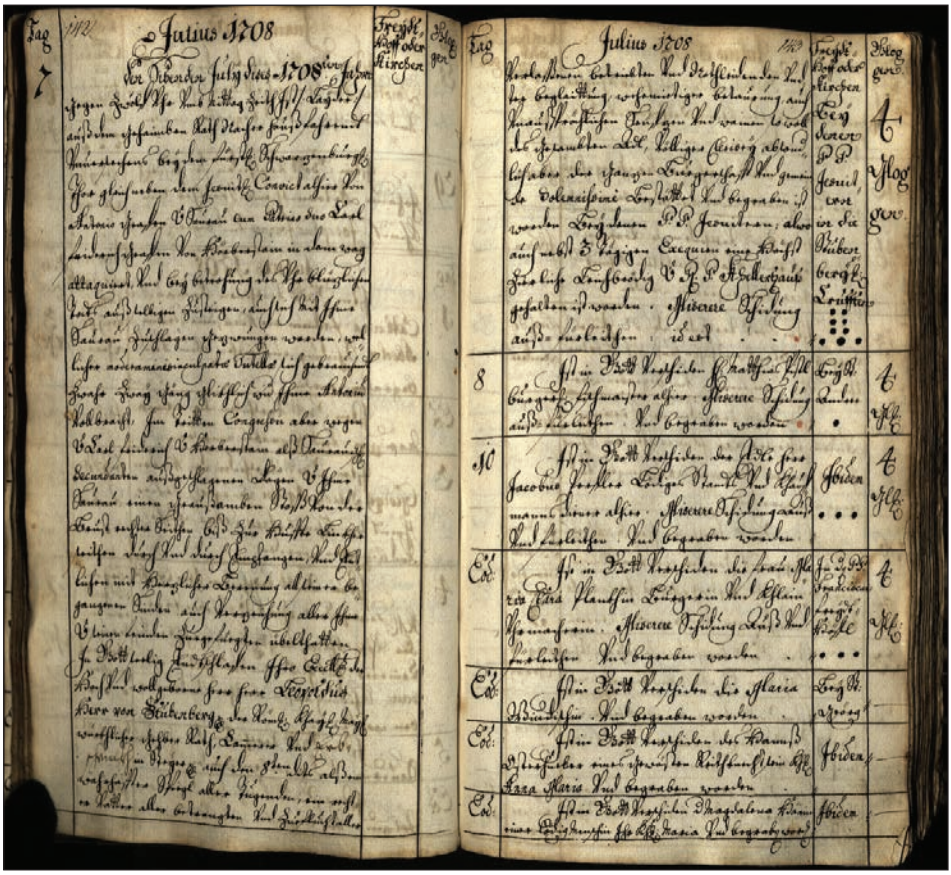

Fig. 5: Burial register entry for Lord Leopold Stubenberg as a result of the duel fought on 7 July 1708 in Graz (Graz-Hl. Blut, DR 1705–1722, 142–143).

Johann Georg?; 1654–99) Saurau, who had already verbally injured him once. The governor's enemies in the Provincial Diet (*Landtag*) were just waiting for (t)his attack. They managed to make the Emperor suspect Stubenberg and cast doubt on his loyalty, so that he had no choice but to order an investigation in the matter. This not only tarnished the governor's honour, but that of the entire Stubenberg family. Only years later did the invalidity of the accusations and slander become apparent. The Diet then hastened to restore Stubenberg's integrity, and the Emperor once again bestowed his favour upon him. The investigation and the affair have nevertheless very much shaken Stubenberg's health (Naschenweng, 2011, 148). He died in 1703 in Graz (Graz-Hl. Blut, DR 1692–1705, 303). As he had no children from his three marriages, he adopted

his nephew Lord Leopold Stubenberg as his son and heir. Leopold Stubenberg was a victim of the hostilities that had long been simmering between the families Stubenberg and Saurau (Naschenweng, 2011, 148).[48]

Only part of the story is known about the homicide of Lord Leopold Stubenberg in 1708 in a duel with Count Anton Adam Saurau, whose second was Count Karl Friedrich Herberstein. After the duel, Saurau fled to the monastery of St Paul, where he was granted asylum.[49] Then a conflict arose between the princely government and the Metropolitan of Salzburg, as the Inner Austrian Government wanted to apprehend the perpetrator, and the Metropolitan wanted the right to asylum to be respected. The Prince-Bishop of Salzburg excommunicated the officials involved. In response, the Emperor threatened to seize church temporalities (*Stiften*), i.e. the secular properties and possessions, that were used to support a bishop, other clergy members or establishment (Zahn, 1888, 171). The fact that the duel in 1708 was a special case is supported by the complaint of the Privy Council two whole years later (1710), that the provincial assembly was well aware of the situation between Saurau and Stubenberg, and that neither private nor official actions were taken to prevent the 'accident' (duel) (Zahn, 1888, 153). Later, Anton Adam became an Imperial chamberlain, lieutenant colonel and commander of the Otočac fortress in the Croatian Military Frontier (Naschenweng, 2020b, 807).[50] Karl Friedrich, the second in the duel, who, according to the entry in the burial register, had a fatal influence on its outcome, died in 1739 (Mooskirchen, DR 1731–1774, 63; Naschenweng, 2020a, 518). Interestingly enough, on 12 June 1713 in Graz, he stepped in as a godfather to the daughter of a Styrian fencing teacher in Graz, Franz Sigmund de Castro (Graz-Hl. Blut, BR 1707–1720, 367). At the end of the following year, the owner of the great Hrastovec lordship and castle went bankrupt. This was not the result of participating in a duel, but primarily due to the unfortunate death of his livestock by the rinderpest in 1711, after which he was left with only one cow out of 97 heads of cattle (StLA, LR 403, H. 2, 185r). This only highlights, how fragile the nobility's fortunes and credit really were in this period.

We are particularly familiar with the duel from 2 January 1713 between the Counts Franz Joseph Herberstein (1688–1713) and Franz Albrecht Rechberg

48 Naschenweng writes that Count Anton [Adam] Saurau dragged Lord Stubenberg out of his carriage and stabbed him on Herrengasse (Naschenweng, 2011, 148).

49 St Paul's monastery probably refers to the so-called Stiegenkirche in Graz. According to tradition, the Stiegenkirche is the oldest parish church in Graz. It is located in the oldest part of the city, where the 'Paulsburg' once stood, and is first mentioned in a document in 1343. By the middle of the sixteenth century, the Stiegenkirche was hardly used. In 1588, Archduke Charles II handed the Stiegenkirche and a house to the Augustinian hermits to accommodate their convent. In 1619–27, they built a new church and monastery above the old St Paul's church (Kölbl & Resch, 2004, 107–108; Stiegenkirche).

50 Count Anton Adam Saurau died at the beginning of February 1737 and was buried in Vienna on 7 February (Wien-St. Stephan, DR 1733–1737, 321).

(1645–1715) (StLA, LR 403, H. 1, 9r, 59r, 63r–64r, 69r–71v, 75r). The then 24-year-old Herberstein engaged in a duel with the 67-year-old chamberlain of the Prince-elector of Bavaria. They met the previous evening in the billiard salon at the Ballhaus in Graz, where the older count paid a compliment to his younger counterpart. The fact that the compliment was neither acknowledged nor returned by Herberstein annoyed Rechberg. After Dr Menradt, who was also present, explained that Herberstein is suffering from hypochondria, Rechberg calmed down – or so it seemed. During the night he may have nonetheless decided that he cannot swallow his pride so easily. The following morning, he returned to the Ballhaus with two acquaintances, Count Fugger, apparently a member of the entourage of the Prince-elector of Bavaria, and the Styrian Count Philipp Lodron. From the testimony of Count Wurmbrand, we can draw a conclusion that the three were waiting there specifically for Count Herberstein. The counts' reunion led to a duel. Count Rechberg could rely on Count Philipp Lodron as his second. Count Herberstein wanted his good friend Count Franz Dismas Attems in this role, but Attems did not oblige his request; it seems that Herberstein's second was the Noble Franz Anton Hasberg (StLA, LR 416, H. 1, 94r–95r).[51]

The duel took place at the Karmeliterplatz after 11 AM. Count Herberstein may have relied on his youth and his familiarity with the local terrain but, above all, desired to restore his wounded honour he had suffered from Rechberg's 'verbal stabbing'.[52] The circumstances, which spoke in Herberstein's favour, did not help him. Rechberg (or possibly Lodron, his second) stabbed the young Herberstein with a smallsword in the left side of the torso, between the fourth and fifth rib upwards. Bleeding, he was carried back to the Ballhaus, where he died before 11.45 AM, after receiving last rites. He was buried in the family crypt at the Jesuit church in Graz on 4 January (Graz-Hl. Blut, DR 1705–1722, 346). After the duel, Count Rechberg fled to the Capuchin monastery less than 200 metres from Karmeliterplatz. This is a further case, which confirms that ec-

51 At the age of 24, Count Herberstein likely did not have much experience with the smallsword. It is possible that he learned fencing while on a Grand Tour in Parma (StLA, LR 403, H. 2, 143v). We can also assume that he took fencing lessons from Johann Baptist Rubin (or Robin), who worked between 1701 and 1734 in Graz as a fencing and dancing master, as well as a dancing master in the Graz Jesuit Collegium (Kokole, 2015, 61). Count Rechberg noted in his application for the rank of Imperial Count (*Reichsgrafenstand*) that he had participated in 15 military campaigns (*veldtzig*) against the Ottoman Turks and other enemies of the Holy Roman Empire up until then (1699). In 1683, he took part in the expulsion of the Ottomans from the besieged Vienna, and in the conquest of important fortresses in the Great Turkish War: Zagreb, Nové Zámky, Buda, Belgrade and others, all in the presence of the Bavarian elector Maximilian II Emanuel (OeStA, AVA Adel, RAA 336.51, Rechberg, Franz Albrecht, Imperial Count-title, Vienna, 28 January 1699, 5r–v, 12r–v).

52 Franz Joseph was not a particular weapons enthusiast. In his probate inventory, which was valued by the commission at 50,550 Guldens and 43 Kreuzers, the weapons were valued at only 80 Guldens, however, five smallswords were inventoried (StLA, LR 403, H. 2, 151r–170v).

clesiastic and monastic asylum had long persevered in Inner Austria (cf. Oman, 2016, 81). The government ordered the Capuchin monastery to be surrounded. After a few days, the government secretary Wierth arrived there with the town captain (*Stadthauptmann*). The Guardian, the superior of the Capuchin monastery, only allowed the government secretary to enter. Before that, to prevent the town captain from entering the church, he had all the entrances to the church closed, all the candles lit and the host (communion bread) put on display. The government secretary handed over the extradition order, and as he received no reply, he wanted to leave. Then he was told that he could not leave through the main door, but only through the church, which was an act of humiliation.[53] As the government official regarded that as unacceptable, he stayed put. The government did not know what to do. After three weeks, the secretary's wife fell ill, and he finally left – through the church. The government then sent a commissioner, but the Guardian did not accept him, as the secretary had previously only been admitted as a friend. Eventually, this 'murder case' was almost forgotten and the trial stalled (Zahn, 1888, 171–172).

Emperor Leopold I's anti-duelling decrees in the Habsburg lands, issued on 28 September 1666, in 1670, and again (at least) in 1682, prescribed death by the sword for both duellists and seconds if anyone was killed. It did not matter whether the duel took place in one of the Habsburg hereditary lands or abroad. Although banishment was very rarely imposed, the 'criminals' usually left the court, city, town or province on their own. In the event that a duellist withdrew from the country or did not appear in court, the Emperor confiscated his property until he surrendered to the authorities and settled with the opposing party.[54] For a fugitive without possessions, the decree stipulated banishment (*Banno*), and in special cases the pillory (Guarient und Raal, 1704, 285–288; Ludwig, 2016, 77; Zahn, 1888, 162–163).

As a high-ranking and very influential Styrian noble family, the Herbersteins were probably in a position to obtain appropriate satisfaction with relative ease. The fact that they demanded this is evident from a letter from the deceased's stepmother and sister (StLA, LR 416, H. 1, 63r–64v). It should also be borne in mind that the Herbersteins had reached one of their high points on 30 July 1710, just a year and a half before Franz Joseph's death, when the entire family was granted the title of Imperial Counts (OeStA, AVA Adel, RAA 180.35, Herberstein, Imperial Count-title, Vienna, 30 July 1710, 1–15).

When a duel resulted in a killing, the killer usually retreated to his estate, in most cases voluntarily. In the case of Count Rechberg, the retreat was not or would not be particularly tragic, as he operated in Bavaria. He was certainly

53 The archpriest had the keys to the main door, and knew exactly what the right of asylum meant (Zahn, 1888, 171).

54 The fugitive's property was to be confiscated (sequestrated), but his family was taken care of in between (with maintenance or alimony) (Zahn, 1888, 162).

Fig. 6: Antoniuskirche in Graz (photo: Matjaž Grahornik, 2023).[55]

additionally protected due to the influence of the Prince-elector of Bavaria, being his chamberlain. In exchange for the ratification of the letter of pardon, he certainly had to pay a fine to the noble court of law as well as perhaps pay for masses for the victim and possibly also do some other kind of penance to commemorate his victim (purchase of vestments or church equipment, money for alms, etc.).[55] To the victim's family, he surely had to pay costs and appropriate reparations, i.e. blood money (Carroll, 2023, 238; Oman, 2019, 705;

55 Antoniuskirche (Church of St Anthony), built between 1600 and 1602, was the first church of the Capuchin monks in Styria (Antoniuskirche).

2016, 66; Billacois, 1990, 110).[56] The actual reconciliation or the conclusion of peace between the two families was certainly demonstrated by some kind of symbolic gesture (Darovec, 2018, 458–459). The perpetrator or his party had to publicly apologize to the offended party with gestures of humiliation and pleas for forgiveness. Reconciliation with the victim's family was the first step for the guilty party to regain the Emperor's favour (Carroll, 2006, 230). Count Rechberg died a little over two years after the duel, in May 1715, at the age of 69 (Rechberg). About his second, Count Philipp Lodron, it is known that he received safe conduct (*salvus conductus*) for his participation in the killing of Count Herberstein and had to pay a surety to prove he had no intention of fleeing in order to remain free for the trial (StLA, LR 416, H. 1, 2r–v). He died in 1718 (Graz-Hl. Blut, DR 1705–1722, 586).

For the Duchy of Carniola, two duels are known to having almost taken place in the provincial assembly in Ljubljana as early as in 1599 (Kočevar, 2017, 137, n. 25). Interestingly, we have very little information about duels in this province from 1600 to around the middle of the eighteenth century, especially as Carniola also bordered on Friuli in the Venetian Terraferma, which was beset with vendettas for much of the early modern period (cf. Makuc, 2015).

In order to not completely overlook Carniola, we will provide some information on duels in this province around the mid-eighteenth century. The following examples are further proof that duels for honour as a form of dispute settlement in the Habsburg hereditary lands were far from over by 1700.

As for individual accounts of duelling in Carniola, for now, we have to be content with the information on duels provided by the gentleman and, after 1747, Baron Franz Heinrich Raigersfeld (1697–1760), who wrote his diaries in 1739–60 and lived in the Carniolan capital of Ljubljana from 1747 (Kos, 2022, 7–8, 12, 75). In March 1748, Baron Raigersfeld described the prevention of a confrontation between Baron Seifried Gusič, then district governor of Inner Carniola (Notranjska), and Count Franz Karl Lichtenberg in front of Gusič's house in Ljubljana. The confrontation was prevented by Counts Leopold Karl Lamberg and Ignatius Maria Engelshaus. Both hot-blooded men were ordered to be taken into custody (house arrest) (Kos, 2022, 236).

56 The Church developed a series of rituals and penances that required the perpetrator (killer) to make adequate atonement for their crime. This usually involved a combination of devotional works, pilgrimage, masses for the deceased's soul, and the erection of a cross. These measures were often written into reconciliation agreements, either as part of court settlements or in addition to the blood money compensation set by the court. However, by the seventeenth century, settlements became disenchanted and atonement was largely replaced by monetary payment (Carroll, 2023, 229–233). The Church's influence nevertheless remained powerless against duels, and Church authorities could not be persuaded by the State to ban duelists from the church or to refuse them burial (Zahn, 1888, 153).

The townspeople and nobles always had disputes with military officers.[57] On 4 August 1750, gentleman and captain Karl Joseph Lukančič was taken to prison in Ljubljana Castle for stabbing a lieutenant Gruber to death.[58] On the morning of 9 October, he was transferred from prison at Ljubljana Castle to the town jail. He was released from custody on 5 November and allowed to rejoin his Regiment (AS 730, kn. 165, Diaria 1746–1750, 790, 794, 842, 856; Kos, 2022, 236).[59]

In May 1752, Raigersfeld described a noblemen's dispute in the salon of the Carniolan provincial governor Count Anton Joseph Auersperg (1696–1762; governor 1742–62), in his house on the Novi Trg in Ljubljana. Baron Joseph Alexander Mordax wanted to settle his wife's card-playing debt to colonel Baron Maximilian Krottendorf there, but the latter contemptuously refused the money, throwing it on the ground in front of Baron Mordax. Mordax then threatened Krottendorf in a slightly raised voice that he would have taught him manners (*die mores lehren wolte*) if they had not been the governor's guests. To avoid a confrontation, the governor immediately sent Mordax to house arrest. After the intervention of the cavaliers and officers, the two reconciled the next day (AS 730, kn. 166, Diaria 1751–1756, 251–252; Kos, 2022, 237; Preinfalk, 2005, 180–182).[60]

CONCLUSION

On the basis of data from the preserved probate inventories, we have found that the rapier as a primary duelling weapon was widespread in Styria and Inner Austria from the end of the sixteenth century. The adoption of the rapier also meant the general acceptance of duelling as a form of dispute settlement over the point of honour. According to the first patents against duelling (1606, 1613, 1615), the duel quickly established itself amongst the local nobility.

This article presents in more or less detail around fifteen duels that have been fought or provoked from 1643 to 1750. In the Habsburg hereditary lands and in the Holy Roman Empire in general, duelling flourished during and after

57 On 25 July 1749, Raigersfeld mentions in his diary the arrest of three noblemen's servants who, on the evening of July 22, clashed with some officers and wounded them (*mit einigen officieren handl gehabt u*[*nd*] *solche gefährlich blessiret haben*). The servants were handed over to the prison at Ljubljana Castle (*ins Castell in arrest geführt worden*) (AS 730, kn. 165, Diaria 1746–1750, 558).

58 After his imprisonment, the first witness hearings took place on 6 and 7 August 1750 (AS 730, kn. 165, Diaria 1746–1750, 794).

59 [*1750, 9'ber, 5*] *Heüt Morgens ist d*[*er*] ~~*Leüth. Lt*~~ *Haubt*[*ma*]*n Lukantschitsch v*[*on*] *Molckischen Regim*[*en*]*t auß seinen arrest gekomen u*[*nd*] *wied*[*er*] *auf freüen fuß gesezet worden* (AS 730, kn. 165, Diaria 1746–1750, 856).

60 *Gest*[*ern*] [May 22, 1752] *ist die affaire zwischen B*[*aron*] *Mordaxt u*[*nd*] *den obristen B*[*aron*] *Krottendorff güttlich beygeleget worden u*[*nd*] *seyn gegen ein and*[*er*] *officiers u*[*nd*] *Cavaliers geschickt worden das sich dan beede partheyen explicirt haben d*[*a*]*s Sie die Sache nicht übel gemeint haben* (AS 730, kn. 166, Diaria 1751–1756, 252).

the Thirty Years' War, and thrived between 1660 and 1730. While the first case, the duel between Eibiswald and Schrattenbach in 1643, can be attributed to drunkenness, this should not mislead us into thinking that this was the case in most duels, like Zahn thought in the late nineteenth century. In the seventeenth and early eighteenth centuries, there was a significant economic crisis in the Habsburg hereditary lands, which strained the nobility's fortunes and credit, often to the point of breaking. The rise of duelling after 1648 in the territory can be interpreted as a consequence of elite's struggles for possessions, rights, positions and honour, as the economic and material competition increased, worsening relations between individuals or families. The duel between Herberstein and Galler was undoubtedly part of a long-standing territorial dispute turned bitter enmity over the boundaries of neighbouring dominions along the changing course of the Drava River. The duel between Saurau and Stubenberg also stemmed from a long-standing dispute regarding rank and precedence between the two influential Styrian families; a Styrian provincial Governor was named from both families at the end of the seventeenth century. In the Styrian capital Graz alone, forty duels are recorded to have been fought or provoked between 1670 and 1675, and another forty between 1675 and 1699, which suggest that duelling was a widespread phenomenon. It seems reasonable to think that the violence and hostilities among the nobility in Graz were all the greater, because the town was the residence of the prince, the Inner Austrian Archduke, and provincial governors. From 1700, duelling becomes rarer in the sources, however Baron Raigerfeld's diary notes on the life in the Carniolan capital Ljubljana from the mid-eighteenth century reveal that they were far from over in the Habsburg hereditary lands. The examples given here show that noble disputes ending in duels took place primarily in the major towns or (provincial) capitals of the Habsburg hereditary lands. This is to be expected, as the noble's social gatherings were venues for displays and challenges of honour. The main reason why there were so many disputes is probably that the nobility was concentrated there, since it became increasingly urbanised. More nobles at one place meant that disputes were easier to arise. The main audience of urban nobles were other nobles. They had to present, claim and defend their honour and rank in front of the community of their peers. On the other hand, the princely courts and state or provincial assemblies were considered sacrosanct.

The presented examples show at least eight homicides, more than half the analysed cases of duels. Although this number is relatively small, and perhaps the most tragic ones are best documented in surviving sources, we can still conclude that the homicide rate of duellists in the Habsburg hereditary lands was not low. It is also clear, that in most cases after the duel or attempted duel all participants were placed under (house) arrest. Two (notorious) cases from the early eighteenth century suggest, that the medieval practice of seeking asylum in a church or monastery had not completely fallen into abeyance for noble perpetrators. In judicial hearings and parish registers there is much

talk about accidental 'encounters', which were defensible in law. The verbs *erstochen* ('stabbed') or *erschossen* ('shot') were used to distinguish duellists acts from simple murder. As a result, even when the duel ended with a homicide, the perpetrators were quickly released from prison or house arrest. The venality of noble courts of law also facilitated the duellists' acquittal. To the victim's family, perpetrators had to pay appropriate reparations, i.e. blood money. The reconciliation or the conclusion of peace between the two families was likely demonstrated by some kind of symbolic gesture. In the seventeenth-century Habsburg Austria this could still have been a kiss, perhaps an echo of the medieval 'kiss of peace'.

In the event that a duellist withdrew from the country or did not appear in court, the Emperor confiscated his property until he surrendered to the authorities and settled with the opposing party. For a fugitive without possessions, the decree stipulated banishment, and in special cases the pillory. When individual cases were decided by the Emperor or his Privy Council, heavy fines were usually imposed, but normally not enforced, and ultimately often remitted. But when the guilty party did not attend the settlement with the other party, the Emperor knew no mercy: the perpetrator was expelled from the Habsburg hereditary lands and the Habsburg Monarchy, deprived of his honour, and his name erased from the Provincial Register.

DVOBOJI V HABSBURŠKIH DEDNIH DEŽELAH, 1600–1750: MED ZAKONI IN PRAKSO

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IZVLEČEK

Dvoboji so kot ena od oblik reševanja sporov izšli iz renesančne Italije in do konca 16. stoletja hitro postali evropski fenomen. Z njimi se je razvil kodeks časti, ki je postal ključni del vzgoje in družbene zavesti mladih plemičev v obdobju med koncem 16. stoletja in 18. stoletjem. V Cesarstvu oziroma habsburških dednih deželah so dvoboje prevzeli iz Italije in predvsem iz Francije. Posebej pogosti so bili med plemstvom in v vojski, tam zlasti med oficirskim kadrom, vendar še zdaleč niso bili omejeni le na višje sloje. Med dvobojevalci so bili tudi obrtniki oziroma obrtniški vajenci, trgovci in celo kmetje. Odloki zoper dvoboje so formalno naslavljali vso družbo, z izjemo žensk.

Poziv na dvoboj je bil možen le, če je bil moški polnoleten in sposoben nositi orožje, pri čemer starostna razlika in plemiški rang dvobojevalcev nista bila tako pomembna. Po letu 1660 so pri dvobojih vse bolj opuščali formo, da bi dosegli bistvo: ubiti nasprotnika ali ga nadvladati (tj. ponižati ga oziroma mu vrniti za žalitev). Orožje dvobojevanja je postal enoročni rapir, iz katerega se je razvila in do sredine 17. stoletja povsem uveljavila spada. Udeležba v dvoboju je pomenila, da sta oba udeleženca (zmagovalec in poraženec) postala znana po svojem pogumu. O poteku dvoboja so pripovedovali opazovalci (večinoma sekundanti, včasih kirurgi ipd.).

Primeri v članku kažejo, da so se plemiški dvoboji odvijali predvsem v večjih mestih ali prestolnicah habsburških dednih dežel. Plemiška družabna srečanja so bila prizorišča razkazovanja in izzivanja časti. V (večjih) mestih je bila večja koncentracija plemstva, tako da so udeleženci dvobojev imeli svoje občinstvo, druge plemiče, pred katerimi so se morali boriti za prestiž in braniti svojo čast. V knežjih dvorih in na državnih oziroma deželnih zborih je bilo dvobojevanje prepovedano.

V 17. in v zgodnjem 18. stoletju je v habsburških dednih deželah vladala huda gospodarska kriza. Premoženje plemstva je bilo v tem obdobju zelo negotovo in občutljivo, zlasti po koncu tridesetletne vojne. Porast dvobojev po letu 1648 si lahko razlagamo kot posledico bojev plemičev za posest, pravice, položaje, čast itd. Zgodnji vrhunec so dvoboji v habsburških dednih deželah dosegli v obdobju od konca tridesetletne vojne pa do okoli leta 1730. Zatem so močno upadli, nakar sta sledila ponovna oživitev in razcvet od devetdesetih let 18. stoletja. Od 42 odlokov zoper dvoboje jih je bilo okoli tri četrtine sprejetih v drugi polovici 17. stoletja, četrtina zgolj med letoma 1650 in 1655. Predpisovali so globe in včasih

zaporne kazni, za primere uboja pa smrtno kazen. Odlok cesarja Leopolda I. zoper dvoboje v habsburških deželah, izdan leta 1666 in ponovno (vsaj) še leta 1682, je tako za dvobojevalce kot sekundante (in druge pomočnike) predvidel smrt z mečem.

Ko se je dvoboj tragično končal, se je krivec (morilec) umaknil na svoje posestvo, največkrat prostovoljno. V praksi je umik služil kot samokaznovanje (ali samoponižanje) in je pomenil odpoved vseh storilčevih funkcij in pravic v času čakanja na pomilostitev. Za formalno poravnavo v primeru dvobojev je bilo pristojno deželno ali ograjno sodišče. Najvišjo raven pri poravnavi je predstavljal tajni svet, kjer je vladar v spore med svojimi pomembnejšimi podaniki posegal osebno. Krivec je moral sodišču v zameno za ratifikacijo pomilostitve plačati globo in za zločin opraviti pokoro, ki je bila v obravnavanem času pretežno spremenjena v denarno plačilo. Pokojnikovi družini je moral zagotovo plačati stroške in ustrezno odškodnino, tj. krvnino. Ti ukrepi so bili pogosto zapisani v sporazumih o spravi, bodisi kot del sodne poravnave bodisi kot dodatek k odškodnini (krvnini), ki jo je določilo sodišče. Sprava s sovražnikom ali z njegovo družino je za krivca pomenila prvi korak, da je bil ponovno deležen vladarjeve milosti.

Dvoboji so se kljub strogim prepovedim nadaljevali (tudi) zato, ker se sankcije na splošno niso izvajale, če pa je krivec že bil pripeljan pred sodišče, ga je vladar (cesar) skoraj vedno pomilostil. To je bila posledica dejstva, da vladar, podobno kot njegovi dvorjani, na dvobojevalce ni gledal zgolj popustljivo, ampak tudi s spoštovanjem in celo z občudovanjem. V sodni praksi je bila smrtna kazen za dvobojevalce izreden dogodek, sodni postopek zoper njih – tudi v primeru uboja – izjema in odsotnost sodnega postopka pravilo.

Ključne besede: dvoboji, zgodnji novi vek, Sveto rimsko cesarstvo, Habsburške dedne dežele, Notranja Avstrija, Štajerska, Kranjska, 17. stoletje, 18. stoletje

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THE GENESIS OF KOPER MEDIEVAL STATUTES (1238–1423)

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ABSTRACT

This paper presents an original analysis and reinterpretation of two documents from 1238 and 1239, which are the first to mention the Koper statutes but have thus far received only sporadic mentions in historiography. The paper is further predicated on the study of archival sources of the Venetian Senate from the Senato Misti collection for the period after the Koper rebellion against Venice in 1348 up until 1394 when the Doge of Venice reconfirmed the Koper statutes. It is established that at least from 1238 the commune of Koper acted according to its already complex statutes. These were, with some further redactions, in force until 1348, when, due to the rebellion of Koper, they were disregarded by the Venetian authorities until 1358, along with the dissolution of the city's Major Council, and all of Koper's city offices were restructured. After 1358, the sources testify that the Venetians restored the Koper City Council and offices to their pre-rebellion state, but not the statutes, although some statutory provisions were taken into account in individual administrative or judicial cases. The Koper statutes officially came into force again in 1394, and a slightly modified redaction appeared in 1423. However, in both cases without the right to exercise criminal justice and the defence of the city, which remained in the exclusive domain of the Venetian podestà and captain until the end of the Venetian Republic in 1797.

Keywords: Koper, statutes, Middle Ages, Istria, Northern Italy, Republic of Venice

LA GENESI DEGLI STATUTI MEDIEVALI DI CAPODISTRIA (1238–1423)

SINTESI

L'articolo si basa sull'analisi originale e sulla reinterpretazione di due documenti del 1238 e 1239, che menzionano per la prima volta gli statuti di Capodistria, finora oggetto di riferimenti sporadici nella storiografia e sull'esame delle fonti archivistiche del Senato veneziano, della raccolta Senato Misti, per il periodo successivo alla rivolta di Capodistria contro Venezia del 1348 fino al 1394, quando il doge

veneziano confermò nuovamente gli statuti di Capodistria. Si è constatato che il comune di Capodistria, almeno dal 1238, si è retta sui suoi statuti già articolati per l'epoca, i quali nelle redazioni successive sono rimasti in vigore fino al 1348, quando a causa della rivolta le autorità veneziane non li riconobbero fino al 1358, poiché praticamente sciolgono il maggior consiglio cittadino, riorganizzando tutti gli uffici comunali di Capodistria. Dopo quest'anno, le fonti indicano che i veneziani hanno ripristinato il consiglio cittadino e gli uffici di Capodistria nella misura precedente alla rivolta del 1348, ma non gli statuti, anche se alcune disposizioni di questi atti vennero considerate in determinati casi in ambito amministrativo e giudiziario. Gli statuti di Capodistria furono ufficialmente ripristinati solo nel 1394 e in una redazione leggermente modificata del 1423, ma sempre senza il diritto alla giurisdizione penale e alla difesa della città, che rimasero prerogativa esclusiva del podestà e capitano veneziano fino alla fine della Repubblica di Venezia nel 1797.

Parole chiave: Capodistria, statuti, Medioevo, Istria, Nord Italia, Repubblica di Venezia

INTRODUCTION[1]

The City of Koper is abundant with its medieval history, which is also reflected in city statutes that regulated various aspects of life in the city community, from administration, economy and trade, to civil and criminal law, public and private life, and much more. In short, it is the statutes of cities that passed this type of legal act that are the fundamental historical source in research on medieval communities.

In the territory of present-day Slovenia, there are only four towns, which have passed such an act, three of which are Istrian: Koper (It. Capodistria, Lat. *Justinopolis*), Izola/Isola, and Piran/Pirano. In the interior, only the Styrian Ptuj (Lat. *Poetovio*, Ger. *Pettau*, Hun. *Optuj*) had its own medieval statute. There was a similar practice elsewhere in medieval Europe, namely that larger and smaller cities along the Mediterranean coast regulated their social life with relatively autonomously adopted statutes in the local community, while cities in the hinterland generally acted in accordance with the privileges that they were prescribed by a prince or feudal lord, or individual provisions were adopted from other cities, especially from Ptuj (Kambič, 2021, 624). The process was similar in other regions as well, where towns

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took examples from statutes of neighbouring or remote towns, especially in Italy (cf. Erdö, 1992; Bartoli Langeli, 1997). Another important distinguishing fact between European Mediterranean and continental cities contributed to this: continuity or discontinuity with the Roman tradition. As a rule, the urban settlements along the Mediterranean were formed independently and thus continued the ancient tradition, supported by the ecclesiastical administrative system and local customs, while inland cities were generally founded by princes and other powerful feudal lords, yet in the territory of today's Slovenia, only from the mid-1200s, however with much older urban foundations (cf. Kosi, 2009).

FORMATION OF MEDIEVAL CITY STATUTES

The recording and explanation of the provisions of Roman law and its adaptation to temporal and territorial peculiarities can be traced back to the very beginning of the Middle Ages, primarily with Justinian's *Corpus Iuris Civilis*. This reception of Roman law later provided the basis for the two main European social systems, the Byzantine and the Latin society. Within the latter, the idea of God as the source of law prevailed. Approximately in the tenth century, in most of Europe, both the Roman legal material and the Germanic *leges* were forgotten due to the decline of literacy, and the customary law prevailed. In Italy, where there was no local ruling dynasty, Roman law was never completely abolished, despite the Lombard invasion and spiritual decline. Pavia, the capital of the Lombard Kingdom, was also a judicial centre and from the eighth century onwards attracted students from all across Western Europe. Even in Ravenna, the old capital of Romagna, the study of law was never extinguished. Towards the end of the eleventh century, however, the great teacher Irnerius founded a school in Bologna that overshadowed all others. People consulted its *glossators* (explainers) for civil law and Gratian's for ecclesiastical law (*corpus iuris canonici*).

The scholars from these schools pejoratively characterized all of the citizens' initial efforts to collect local customs of Roman law, scattered regulations of inner city life (*iuramenta, consuetudines,* etc.) and feudal privileges as *ius asinorum*, i.e. the law of asses. However, later the inhabitants of cities – stratified into townspeople, nobles, and peasants – began to collect old city laws in official collections, or statutes, according to predetermined criteria. Commissions of recognized citizens (*statutarii*) were established, which usually included a notary or lawyer.

In addition to the feudal fragmentation and remoteness of the centres of state power, the events connected with the Investiture Controversy between popes and Holy Roman Emperors, and the Crusades (1095–1272), we can attribute the rise of Northern Italian and Adriatic cities in the twelfth century to the victory that the cities fought against the Emperor Frederick I Barbarossa in 1176 at Legnano, when the Emperor had to recognize the self-governance of the cities, which was formed on a pre-existing municipal system, itself predicated on the commune system (cf. Keller, 1997; Jenko Kovačič, 2022).

In the Northern Italian and Adriatic cities, this arrangement was initially personified by *consuls* – it is needless to stress their ancient origin – who were chosen among the local dignitaries. As these were often favouring only certain clients or families, a need for an independent governor became more prominent. This need was already satisfied by the mid-1100s in the form of podestà, whose function, interestingly, originates from the imperial designation of the city governor and, judging by the name itself, is based on power. Alongside him and not long after, in the thirteenth and fourteenth centuries, the pre-existing *arengo* (the general assembly of all citizens that slowly lost its influence in deliberation) formed the Major Council as a legislative body, consisting of influential families in the city, and the Minor Council as a body of executive power (Trombetti Budriesi, 2014).

This form of governmental structure was preserved with minor or major changes at least until the collapse of the Republic of Venice in 1797, although Venetians, who were successful precisely with their administrative system, did not change the autonomous administration in the Istrian cities. At first, they were mainly satisfied with appointing their own supreme city governor – the podestà, who received detailed instructions for his administrative tasks with the famous *Commissiones,* after being elected in the Major Council of Venice (cf. Benussi, 1887)

After the subordination of the northwestern Istrian cities (Izola and Koper in 1279, Piran in 1283), the Venetians played an important role in the development of and the additions to statutory law, mainly through orders (commands or *commissiones*) or with *Ducali*. However, even prior to the Venetian occupation, the statutes as fundamental evidence of the cities' autonomy were supplemented several times, especially by codes of customary law; we find one preserved for the Piran commune in the fragments of the statute from 1274, which is also the oldest preserved document of its kind in Istria. At the same time, we know that Koper had written statutes at least as early as 1238 (Kos, 1928, 333–334, 349–350), which all testify to a lively legal activity even before the Venetian occupation, and undoubtedly also under its influence.

Nevertheless, let us at this point attempt to refresh our memory with a more precise recollection of the events that had a significant impact on the development and formation of the independence of Istrian coastal cities and, consequently, on the creation of these fundamental legal records: the city statutes.

HISTORICAL CIRCUMSTANCES SURROUNDING THE GENESIS OF ISTRIAN CITY STATUTES

Mainly due to the gradual regaining of their city territories and thus the possibility of free development of maritime trade, the cities along the Western Istrian coast tried to diminish their direct dependence on the central government as much as possible from the ninth century onwards. The Venetians, who practically succeeded the Byzantine Empire on the Adriatic Sea already in the ninth century, soon began to get involved in the relations between the Istrian cities.

During the ninth and tenth centuries, the cities of Istria and Venice shared a common enemy in the Croats (who attacked Sipar/*Siparis*, Umag/Umago, Novigrad/Cittanova, and Rovinj/Rovigno in 876) and the Saracens. The Venetians played a leading role in the fight against them and benefited greatly from it. In 932, Koper, the most important Venetian partner in Istria at the time, made a commitment to the Venetian Doge to supply him with one hundred amphorae of wine annually during his lifetime. In return, the Venetian citizens in Koper would enjoy protection and have their issues with monetary debt with Koper's inhabitants resolved.

In the year 1000, Doge Peter Orseolo visited Poreč/Parenzo and Pula/Pola to punish pirates, the Croats, and the Neretvans. This visit demonstrated Venetian maritime supremacy. For more than a century, the Venetians had been paying taxes to ensure unobstructed navigation on the Adriatic Sea. As a result, they considered themselves Dukes (*dux*) of Dalmatia. To commemorate this achievement, they celebrated the *Sposalizio del' Mar* during the Feast of the Holy Ascension every year.

In the following period, not marred by wars against pirates and the Venetians, Istrian cities experienced gradual economic growth. They focused on developing agriculture, particularly the cultivation of olive trees and vines, as well as fishing and salt harvesting, which, accompanied by various crafts, generated significant profits in maritime trade.

However, this economic rise brought the Istrians into a new conflict with the Venetians, first in 1145, when Pula, Koper, and Izola rebelled against the Venetians. Defeated, the Istrian cities were forced to take 'oaths of loyalty' (*facere fidelitatem*) to the Doge of Venice and oblige to military and naval assistance. This resulted in a new rebellion of Pula in 1149 and its renewed oath of loyalty in 1150, which was extended to other participants in the rebellion: Rovinj, Poreč, Novigrad, and Umag. They also had to promise military aid with vessels and the payment of taxes, mainly in olive oil. The importance that Venetians attributed to the subjugation of the cities from Savudrija to Premantura was attested by the wonderful reception in Venice experienced by the victorious fleet and its commanders Morosini and Gradonico. Thereafter, the Doge of Venice also styled himself as *Istriae dominator* (cf. Darovec, 2018a).

Despite such uncertain conditions, the cities gradually gained their administrative independence in the absence of their masters and due to their growing economic prosperity. Furthermore, during the time of their last secular feudal lords before the onset of Aquileian rule, namely under the Spanheim and the Andechs families, the cities were able to freely choose their governors, and in addition, they also signed 'long-distance' trade agreements with one another, such as Piran with Dubrovnik in 1188 and with Split in 1192, Poreč with Dubrovnik in 1194, they also resolved disputes independently, such as Labin concluding a peace agreement with Rab, and Piran with Rovinj in 1208, when Rovinj was facing danger from Koper, etc. (cf. Benussi, 1924, 165–173).

In contrast to the mainland cities founded by princes or other important feudal lords who had the exclusive right to grant them city rights (in Slovenian

lands from the thirteenth century onwards), Istrian cities preserved the rudiments of autonomous organization from the late antiquity. From the Byzantine era onwards, the local self-government in cities gradually withered, but never completely ceased. This is indicated by the elected judges (*iudices*), called *scabini* during the Frankish rule. At the head of the cities were the so-called *locopositi,* who were appointed by the central government. However, they gradually became integrated into the city life and thus agreed to some established relationships within them.

The twelfth century marked the beginning of the movement for the liberation of cities from under the authority of bishops and local feudal lords, with Northern Italian cities taking the lead. The influences soon spread to Istrian cities as well. This is how the townspeople founded communes (Koper in 1186, Piran in 1192, Poreč in 1194, Pula in 1199, Trieste/Trst and Muggia/Milje in 1202), the supreme city authority was held by the assemblies of all the inhabitants – the *arengo*, where they also chose or elected governors of the City Councils, or consuls, and then the podestà and/or captains or, as they are generally called, rectors.

However, the freedom in decision-making was managed to be considerably limited by the Patriarchs of Aquileia, who received Istria as a fief from the Holy Roman Emperor in 1208. Patriarch Wolfger began to appoint his representatives of the authorities in cities and larger towns. For some time, there was a *potestas marchionis* in Koper, who governed from the Praetorian Palace, while the later administrators of the patriarchs of Aquileia were called *gastaldi*, the righters (*richtarius*), and margraves (*marchio*).

Despite the authority appointed to the margrave across the territory of Istria, the estates of the Counts of Gorizia/Gorica in central Istria and the Lords of Duino/Devin in the Kvarner Islands remained outside the control of the Patriarchs of Aquileia. In 1220, the Patriarch of Aquileia, Count Berthold V Andechs, received from the Holy Roman Emperor the right to issue orders related to trade, to exercise judicial authority and to grant pardons, to mint money and to forbid cities to elect their own governors, the podestà (primarily a Venetian citizen), if he was not confirmed by the Patriarch. The latter was also the basis for the so-called Istrian provincial law or statutes, which were approved by the Patriarch in 1222 with his provisions.

However, since the policy of the Patriarchs was based on the establishment of a completely shaken central authority in the March of Istria, it inevitably led to the resistance of the cities on the west coast of Istria and to conflicts with the Venetians. In 1230, with the efforts of the people of Koper, the Venetians managed to establish an all-Istrian organization called the *Universitas Istriae*, which was led by a Venetian. Due to the over-assertion of Koper, the union was dissolved after a bit over a year, with Piran playing the main role in the event, by siding with the Patriarch of Aquileia and thus establishing a unique autonomous position, which Patriarch Berthold and the Piran commune confirmed with a friendship treaty in 1231 (cf. De Vergottini, 1924, 81–105).

THE IMPERIAL PRIVILEGES OF KOPER AND THE FIRST STATUTES

The aforementioned events also bore the first news of the Koper statutes of 1238, which are supported by a document from the following year to be elaborated upon later. At this point, it is worth exposing the fact that the first mention of the Koper statutes is recorded in a document of Emperor Frederick II (1220–50) during the siege of Brescia in October 1238. In 1222, Frederick confirmed the privileges of Emperor Henry II to Koper issued in 1035, which permitted the city of Koper to be governed according to its laws and customs (*legem et rectam consuetudinem*; Kos, 1911, 62–63) and with some influence over the territory towards the Dragonja River, i.e. over Izola and Piran (De Vergottini, 1924, 103; Kos, 1928, 185-186). Frederick's confirmation of Koper's privileges was part of his mediation in its conflict with the Patriarch of Aquileia, which was especially over the Koper statutes and the Patriarch's right to choose the Koper podestà.

It is also worth highlighting the privilege of Conrad IV, dated 14 December 1251, in Portorož/Portorose (*S. Maria delle Rose*), by which he granted the imperial city of Koper full autonomy in appointing the podestà and in all other liberties of the city (De Vergottini, 1924, 123–124), and its exclusive direct subordination to the Emperor.[2] Frederick's son King Conrad IV of Germany, King of Romans in 1237–54, but not officially crowned Emperor, added to this document that the citizens of Koper should not recognize Gregorio (di Montelongo) as the Patriarch of Aquileia. After Conrad's death, the Holy Roman Empire entered a period of interregnum, which further contributed to the consolidation of smaller administrative-political territorial entities. Therefore, we can hardly be surprised by the tension that was present in Istria in the second half of the thirteenth century when Gregorio di Montelongo (1251–69) occupied the position of the Patriarch of Aquileia. The Patriarch's authority in Istria was declining, but it was still influential enough to shape the politics of its cities.

Initially, the Patriarch favoured the role of Koper against Trieste on one hand, and against the Central Istrian coastal cities and settlements in the interior of the Istrian peninsula on the other. Thus, in 1254, the Patriarch granted Koper governance over Buje/Buie, Oprtalj/Portole, Buzet/Pinguente and Dvigrad/Duecastelli. Simultaneously, Koper's influence over Piran, Izola and Muggia was growing.

2 *In Istria apud portam S. M. de Rosa. Conradus IV Rom. In regem electus petitionibus Andree* Çeni. *Potestatis et Comunis Justinopolis fidelium grato concurrens assensu, volens fidelibus imperii suis et dicte civitati Justinopoli que fondata fuit a predecessore suo dive memorie Imper Justino gratiam facere specialem largitur ut ipsa liberam habeat potestatem de fidelibus imperii eius undecumque et quandocumque voluerit, sicut imperialis civitas ab imperatore fundata eligendi Potestatem et in aliis omnibus que meram libertatem contingerit libere utatur et plena gaudeat libertate salvo honore et fidelitate eius et servicio quod debet imperio* (Vergottini, 1924, 123).

The situation became even more difficult in 1267, when Koper began a siege of Poreč. The fact that the Patriarch tried to stop the expansion of Koper with the help of Count Albert V of Gorizia shows that he was losing control. With his action, Montelongo played the wrong hand, as he pitted two forces against himself. The Count of Gorizia and the Commune of Koper allied against the Patriarch, and in July 1267 Count Albert had the Patriarch Gregorio di Montelongo imprisoned in the Rosazzo/Rožac monastery in Friuli (cf. Darovec, 2018b, 61–96). Poreč protected itself from this new alliance by submitting to Venice on 27 July. Since the union between Koper and the Count of Gorizia put pressure on other Istrian cities, the example of Poreč was followed by Umag (1269), Novigrad (1270), and Sv. Lovreč Pazenatički/San Lorenzo del Pasenatico (1271), and later Motovun/Montona (1275) followed the example of Poreč. Venice did not alter the autonomous government of the communes, it only appointed the city podestà, chosen from among Venetian nobility.

The Serenissima did not immediately decide to act against Koper's alliance with the Count of Gorizia, it did however slowly tighten the ring around them. Meanwhile, between 1269 and 1274, the position of the Patriarch of Aquileia was vacant, and only the new Patriarch Raimondo della Torre signed peace in Cividale del Friuli/Cividât/Čedad with the alliance of Koper and the Count of Gorizia in 1275. They promised each other the exchange of prisoners and to settle the damages caused by the years of war, plunder, and disorder (1267–75).

This peace treaty did not terminate the allied actions of Koper and the Count of Gorizia in Istria. In Pazin in 1278, Count Albert and the representatives of Koper, without the Patriarch, but on his behalf, established an alliance against Venice and its allies in Istria. They agreed on the division of spheres of influence, and in case of victory, Koper would have gained control over the coastal cities, while the count would acquire possessions in the Istrian interior. The allies took advantage of the Venetian preoccupation in the war with Ancona, and after the siege of Motovun, which bravely defended itself, the count occupied Sv. Lovreč Pazenatički.

Then the Venetians struck with all their might. After the successful siege of Izola, Koper was forced to unconditional surrender. Part of the city walls and city towers were destroyed. Although Koper was conquered with military force, the Venetians regarded it the same as other Istrian cities that peacefully 'submitted' to the Serenissima (cf. Greco, 1939).

In January 1283, the Major Council of Venice also accepted the 'surrender' of Piran. This marked the end of the alliance between Koper and Count of Gorizia, and a progressive end of the autonomous policy of the Istrian cities (only Pula, Trieste, and Muggia kept their autonomy), despite many attempts to regain their independence.

While the Venetians did not interfere with the internal autonomy of conquered cities, led by the City Council and the Venetian podestà, in military terms they did establish a provincial captaincy as early as 1301, first in Poreč and later in 1304 in Sv. Lovreč Pazenatički. In 1358, a new regional captaincy was established in Grožnjan for the territories north of the Mirna River, while the southern part was

still under the jurisdiction of the captain in Sv. Lovreč Pazenatički until 1394, when both captaincies were united in a newly established captaincy in Rašpor/Raspo. Although the towns self-governed their administrative and legal authority, the podestà of the Istrian cities were subordinated to the regional captain in the military and judicial aspects, as the latter was also responsible for the defence system in the region. However, the centralized military administration did not apply to the territory between Koper and the Dragonja River, meaning the cities Izola and Piran, for which the podestà and captain of Koper were competent in all military and judicial aspects. This double title used for the governor of the city of Koper was first attested after the Koper rebellion in 1348 (Vergottini, 1927, 21), and it was preserved until the end of the Venetian Republic. The Koper rebellion in 1348 had far-reaching consequences for its autonomy and especially its city statutes, as will be discussed below.

The Venetian podestà ruled in cities and territories or markets (*terre*)[3] with the help of orders (*commissiones*) of the Venetian Senate and individual city statutes, which the Venetians generally adapted to their norms after the subjugation of the city.

The development of these decision-making structures enabled more prominent and wealthier citizens to gradually take advantage of their powers, and eventually 'rise above' other townspeople to govern the city commune uninterruptedly. This was the genesis of the City Councils. Following the example of Venice, the end of the thirteenth century experienced the so-called 'closure' (*serrata*) of the city councils, which meant that they no longer accepted new representatives of the city families. They were accepted only in times of general depopulation, due to wars or epidemics, which also affected noble families.

The aristocratic regime in the cities, following the example of Venice, concentrated power in the hands of some wealthier and more influential families, excluding any possibility of influence of the townspeople. An oligarchy, represented by noble families was formed.

The oligarchy was partially restricted by the Venetians when they, on one hand, allowed their own model of city self-government with a City Council and an elected governor, while establishing a centralized military administration on the other. Thus, the Venetians also successfully exploited the traditional antagonisms between the cities and restrained the region from disturbances, that arose mainly due to the restriction of maritime trade.

The foundation of city self-government, even after the closure of the city council and the establishment of a characteristic city oligarchy in Istrian cities, was represented precisely within the city statutes. The basis of this law was certainly local customary law, a distinct mixture of Roman tradition, canon law, and medieval customs and practices, which were later supplemented mainly by orders (*commissiones*) or *Ducali* of the Serenissima.

3 *Terra* – lower rank administrative units that were not seats of bishoprics, but had nonetheless the right to autonomous governance, i.e. also to a podestà.

In Istria, according to the sources known thus far, the Koper statutes (1238) are the first to be mentioned, followed by the Pula statutes (1264), which have not been preserved (Benussi, 1897, 92). The oldest preserved statutes are from Piran from 1274, however only in fragments of later redactions, kept by the Piran unit of the Regional Archives in Koper (Pahor & Šumrada, 1987); these are certainly the oldest preserved statute fragments in Slovenia, and also the second oldest preserved on the eastern Adriatic coast, after the Dubrovnik statute of 1272 (Lonza, 2002). For Izola, we are familiar with a preserved redaction of the statutes from 1360 (Kos, 2006), and for Koper, there are redactions from 1423, one kept in the State Archives of Rijeka (DAR), the other in the State Archives of Venice (ASVe). Carlo Combi (1864, 283) was the first to write a note about the Koper codex of statutes of 1423, which is presently kept in the ASVe, followed by Carlo Buttazzoni (1870), who reported on it more extensively, while the codex kept in the DAR was first noted by Antonio Pogatschnig (1912), and the transcription and accompanying study were published by Lujo Margetić (1993). Otherwise, the Koper statutes from 1423, divided into four books, were published in print in 1668 together with a fifth book with the additions of various *Ducali* up until 1668 or even 1670 (STKP).

THE REDACTIONS OF KOPER STATUTES

Historians still hold divided and relatively diverse opinions about the first two mentions of the Koper statutes from 1238 and 1239 (Kos, 1928, no. 696 and 715). Some historians defend the opinion (Benussi, 1897, 92; De Vergottini, 1924, 115; Semi, 1975, 184) that these were already real statutes, as those we know from later periods, however, they were predicated on the statutes issued for Istria in 1222 by the Patriarch of Aquileia, the ecclesiastical and secular ruler of Istria (Semi, 1975, 159). Other historians argue that these were not yet 'real' statutes (cf. Lonza, 2023, 4–5), that they may have been only individual documents with certain provisions, but that they are definitely not to be regarded as codices that would have included all the statutory provisions of the time, i.e. written provisions on the legal and administrative order in Koper's city commune. I continue to defend the hypothesis that the commune of the city of Koper already had its customs and basic legislative acts collected and codified even before the (revised) statutes of the Patriarch of Aquileia were issued in 1222, according to which at least the Patriarch's main orders had to be followed in individual Istrian communities.[4] This hypothesis is difficult to confirm or reject, as the Koper statutes of that time have not been preserved.

4 Thesaurus, 526: *Item Statuta Istriae in forma publica confirmata, et de novo facta per D. Patriarcham Pertoldum in MCCXXII*. Thesaurus also states under no. 523: *Item quedam Cartula in qua scripta sunt Statuta Istriae* and under no. 524: *Item quedam Ordinationes facte in Istria per D. Patriarcham Bertoldum de voluntate Provincialium omnium Istriae, in una Charta*, both undated.

However, we can seek to create an adequate interpretation based on other sporadic documents, especially the charters from 1238 and 1239.[5]

The charter dated October 1238, which is the first to mention the Koper statutes, was signed in Brescia. Emperor Frederick II evidently acted as a mediator between the Patriarch of Aquileia and the representatives of the commune of Koper,[6] which means that the parties reached a peaceful resolution of their dispute (*formam pacis et concordie*) in front of the Emperor. This resolution testifies to the exceptional importance of the city of Koper in the region at the time, which was ruled by the Patriarchs of Aquileia as marcher counts (margraves) – marquises[7] as ecclesiastical and secular lords. There were four main points of dispute: the selection and confirmation of the podestà in Koper, the administration of justice, the revision of the Koper city statutes, and the resolution of the dispute over the Rižana 'water' (*de questione aque Rizani*), and the Koper bridge toll (*de pontatico*).

The most attention in historical literature has thus far been devoted to the selection and confirmation of the city podestà, the central figure of city autonomy during the formation and rise of medieval communes (De Franceschi, 1879, 122-123; Benussi, 1897, 92-93; De Vergottini, 1924, 112-114). When the citizens of Koper wanted to select their own podestà, they were to propose three candidates to the Patriarch, who were to come from Istria or Friuli, one freeman (*liberum*) and two *ministeriales* of the Aquileian Diocese. Whomever the Patriarch chose, would become podestà of Koper. The struggle of the communes to gain more autonomy in the selection of the podestà was at the forefront in Istria, as well as in other upper Adriatic communes at the end of the twelfth and in the first half of the thirteenth century, which is particularly vividly shown in the case of Koper under the Patriarchs of Aquileia. As researchers of medieval city statutes note, one of the reasons for writing down statutes and arranging them into codices was directly connected to the function of the podestà, who became the central authority figure and practically a symbol of autonomy in medieval communes.

The stipulation of the peace treaty brings us closer to the heart of our discussion. Following the provisions of the statute (*Provisum est eciam et in ipsa forma statutum*), it was agreed that the full authority regarding criminal justice was held by the *gestaldo* of the Patriarchs, who ruled in the presence of his judges in matters concerning allodia (*de allodiis propriis*), sentences of hanging, blinding, amputation of limbs and all other corporal punishments for robbery or theft with grievous bodily harm, while the podestà or consuls could punish the perpetrators

5 Available with transcription and a photo of original document at: FIM, 4: doc. 1238_FBI and FIM, 4: doc. 1239_MBI.

6 … *quod venientes ad presenciam nostram Bertuldus venerabilis patriarcha Aquilegensis, dillectus princeps noster, ex parte una et Albericus, Engelpertus s[c]abini* et magister Ricari(us) *notarius sindici et procuratores Comunis civitatis Iustinopolitane* … (FIM, 4: doc. 1238_FBI).

7 For more detail on the political events in Istria during the time of Patriarch Bertold, cf. Vergottini, 1924, 102-124.

with beatings for various thefts or other minor offences if perpetrators were not able to compensate for the damage in accordance with the city statutes (*iuxta statuta civitatis*). The following provision is even more interesting:

> *It was also decided that the Patriarch would visit Koper around the upcoming Feast of Saints Peter and Paul, where he would examine the city statutes (statuta civitatis examinens) with the advice of his wise men and officials. If he is to find anything contrary to his rites, he is to declare it void, and he may add to the said statutes the provisions that may suit his personal honour and benefit the city.*[8]

But if the citizens of Koper should decide that they do not want to have a podestà: 'they may, according to their custom, elect three consuls or even more, if they so wish. These consuls shall take an oath to act according to the Patriarch's statutes. Until they take the oath, they may not administer justice. They are only allowed to perform the duties of the rectors, appointed by the Patriarch' (Kos, 1928, 334)[9].

These documents give a clear indication that the inhabitants of Koper followed both the (autonomous) city statutes and the Patriarch's regional statute as previously mentioned based on sources from 1222. However, an oath upon the Koper city statute could only be taken when the head of the commune was the podestà confirmed by the Patriarch, but if they chose their own leadership (consuls) from among their citizens, they had to adhere to the Patriarch's (provincial) statute. In addition, we can understand from the context of the document that the city statutes of Koper, at least in terms of criminal and civil justice, were already relatively complex, and that they included other provisions that the Patriarch and his advisers should review, correct and supplement to his and the citizens' benefit.

The very beginnings of the creation of communes, urban communities were marked by the governance of elected consuls or other officials, who were appointed or elected by the people of individual communities at their assemblies (*arengo*). However, during the second half of the twelfth century, the principle that the head the communes came to be the confirmed podestà was gradually established. To ensure a high level of fairness and professionalism in the performance of this office, communities soon

8 *Additum est eciam in forma ipsa quod circa festum Beatorum Petri et Pauli proxime venturum, patriarcha predictus civitatem ipsam intrabit et de prudentum suorum et officialium conscilio statuta civitatis examinans. Si qua invenerit contraria iuribus Marchionatus sui et regalium, illa pronunciabit irrita et statuet non valere, dictis statutis adiciens que honori suo et civitatis commodo viderit expedire* (FIM, 4: doc. 1238_FBI; cf. Kos, 1928, 334).

9 *Si vero processu temporis Iustinopolitani ipsi rectorem habere noluerint, secundum suam consuetudinem tres consules de civitate, et plures si voluerint, eligendi habeant potestatem. Qui consules debeant sacramenta prestare quod statuta ipsius patriarche recipient et inviolabiliter observabunt nec ante prestacionem sacramenti iurisdictionem suam in aliquo exercebunt et de illis tantum se intromittent de quibus consueverunt se intromittere rectores constituti a patriarcha superius nominato* (FIM, 4: doc. 1238_FBI).

realized that it is better to choose the podestà from among foreigners. To ensure the governance of the podestà according to the local customs, the people began to collect and write them into special codices, so that each podestà would become familiar with them and would act according to them (cf. Trombetti Budriesi, 2014; Camarosano, 2021). This also makes the above provision easier to understand, regarding the citizens of Koper being able to use their city statutes if the Patriarch chose and approved the podestà, otherwise they had to adhere to his statutes. This further confirms the importance of the podestà's office in the early stages of the formation of autonomous medieval communes.

An additional explanation regarding the Koper statutes can be found in a document from Cividale dated 3 July 1239. It is evident that the tensions between the Patriarch of Aquileia and the people of Koper did not subside despite the 'Imperial peace', therefore Count Meinhard I of Gorizia-Tyrol acted as an arbitrator in the dispute. It seems that two of the four points of dispute, which the Emperor attempted to resolve a year earlier, remained open, namely regarding the statutes and the choice of the podestà. According to Meinhard's ruling, the people of Koper were allowed to appoint as a podestà 'whomever they want from Istria or Friuli, however if the candidate were from another province, they needed to obtain the approval of the Patriarch of Aquileia' (Kos, 1928, 349). The supreme power in the city was maintained by the Patriarch's *gastald*, but according to the new agreement, he always had to act 'with the help and advice of current podestà and the [commune] consuls'; if not, he was liable to a fine of 200 *lire.* This achievement marks a significant shift towards greater autonomy of the people of Koper and in the selection of the podestà, as it was no longer necessary for them to choose candidates from among the Patriarch's *ministeriales*, who were certainly much more devoted to the Patriarch. Furthermore, the Patriarch's *gastald* had to consider the podestà and consuls of Koper in his rulings, not his own advisers, as was agreed the year before.

As for the statutes, they determined that the Patriarch would examine them when he came to the city, in cooperation with his own and the city's advisers (*debet examinera statuta civitatis cum conscilio sapientium civitatis et suorum*). In this document, there is no longer an explicit date for the review or redaction of the statutes, as the Feast of Saints Peter and Paul (29 June) had already passed. The document also rules in favour of the Patriarch and gives him the power to annul the provisions of the statutes if they conflict with his rites, however, the document also states another important difference regarding the Koper statutes compared to the charter from the previous year: 'it should be added [to the *statuta civitatis*], whatever would be beneficial to him [the Patriarch] or to the city. Thereafter, the current podestà and the advisers shall swear that they will always act according to the improved statutes' (Kos, 1928,350).[10] So there is no longer any mention of the Patriarch's statute, both the podestà and

10 *Dictis statutis emendatis, adiciens que iuribus et honori suo et comodo civitatis viderit expedire. Et statuta per ipsum dominum patriarcham apposita vel correcta potestas vel consules, qui erunt pro tempore, iurabunt inviolabiliter observare* (FIM, 4: doc. 1239_MBI).

the city consuls swear by the city statutes, which also means that they only have to adhere to them. It also has to be stressed that the oaths of the city podestà and consuls in the medieval communes of Northern Italy and the Upper Adriatic represented the fundamental statutory chapters, the basis for the creation of a corpora of legislative provisions of criminal, civil, and administrative law, which can be gleaned from the context of the mentioned charters from 1238 and 1239.

Were these in fact not the real Koper statutes, but only individual short laws, *statutum*, and not larger and systematized collections, 'which can **nowadays** [emphasized by the author] be categorized with a term Statute', as Nella Lonza wants to portray them (Lonza, 2023, 4; 2002, 12–13, 16–18)? First, it is noted that the 1238 and 1239 documents consistently use statutes of Koper in the plural (*statutis*), therefore, it refers to a collection of legal provisions, not individual documents, as was the case for the strongest and most developed centres at the time – such as Venice – for where Lonza recognizes the existence of 'real' statutes (Lonza, 2023, 5).

It is a fact that Koper was the most economically and politically important city on the north-eastern coast of the Adriatic at the end of the twelfth and in the thirteenth centuries. It was at the head of the association of Istrian cities, or *Universitas Istriae*, and the Emperor himself had to intervene in the dispute between Koper and the Patriarch of Aquileia, Koper's own overlord, and Koper also attempted to subjugate other Istrian cities. Moreover, it had a branched out notary office with a centuries-old tradition, the office of the *vicedomini* and other offices, all of which indicates a close legal and professional connection with Bologna and other Northern Italian cities regarding the regulation of autonomous city life (cf. Darovec, 2015; Mihelič, 2015).

The thirteenth century marks an important era for the cities of the Upper Adriatic, regarding the intensive collecting and arranging of customs, privileges, and other legal acts of individual communes into special collections: statutes. Much has already been written about this in the scientific literature (cf. Cammarosano, 2009). In twelfth- and thirteenth-century Bologna, which is considered an example of the communal legal movement, we can notice special officials, *statutarii*, as early as 1207. They collected legal customs, old and new ruling privileges, and other acts important to the local community and incorporated them into special codes. Thus, in 1228 Bologna, in addition to the statutes of the people or the commune, the statutes of individual artisanal and military associations were mentioned, however, despite other mentions of the Bologna statutes from the beginning of the thirteenth century, individual fragments of these statutes were preserved only in redactions from 1250 onwards (Trombetti Budriesi, 2014). This phenomenon is attested in all Northern Italian cities: most of the statutes from the thirteenth century were lost in these communes with new redactions, because they were simply no longer needed, or they could pose a threat to legal security because the laws have been changed or abolished (cf. Ghignoli, 1998, XIII). In this regard, Koper records another tragic experience,

in 1380, when the city was attacked and devastated by the Genoese during their ten-year conflict with the Venetians and the competition for supremacy in the Mediterranean trade. During the attack, there was a fire in the Praetorian Palace and there are some assumptions that there was an arson of the Koper commune archives, including all the acts of the *vicedominaria*. Other sources, however, indicate that the Koper commune archive was taken to Genoa (Semi, 1975, 137, 157, 221), but both cases explain the reason as to why the documents of the Koper commune prior to 1380 have been lost.

It is surely not to be expected that the Koper statutes from 1238 would have been so complex and organized into books and individual chapters, as were those from the end of the thirteenth and fourteenth centuries onwards. But based on what criteria, apart from the specific title of the statutes, can we set the dividing line about when exactly any medieval commune formed its statutes? Even the Dubrovnik statutes from 1272, which Croatian historiography persistently declares to be the oldest in the Eastern Adriatic, were nowhere near as extensive and complex as those from the fourteenth century (Lonza, 2002; 2022).

The Patriarch of Aquileia would have been able to review the Koper statutes with his experts and the legal experts (*sapientes*) of the city only if they were codified and bound, because that was the only way they could confirm their authenticity and act according to the amendments. Based on the presented documents, it could therefore be said that Koper had statutes before 1238, and in 1239, according to available information, the first redaction of the Koper statutes took place. The very mention of legal experts (*sapientes*) gives a clear indication, compared to other cities in this area, that the practice of creating collections of legal provisions and recording them in statutes was booming in Koper (cf. Cammarosano, 2021).

We can assume that the next redaction of the Koper statutes took place after the Venetian subjugation of Koper in 1279. We have no concrete evidence for this, but the practice of Piran and other Istrian cities (cf. Darovec & Šumrada, 2006) undoubtedly points in this direction. This is also completely understandable: after the Venetian conquest or (more or less voluntary) subjugation, the podestà of the Istrian communes were elected in the Venetian Major Council. Due to this fact alone, the individual communes had to adapt their statutes to those of Venice, and they retained certain specifics with the consent of the Venetian authorities. Considering the importance and status of Koper compared to Piran at that time, it is unlikely that Piran would have had its 'real' statutes before Koper.

The redaction of the Koper statutes from 1423 helps us in terms of history, at least in some places. The oldest date mentioned in them is the year 1301, when a decree was passed that the master and servants in oil mills must separately keep the olives of different owners (STKP, Book III, Chapter 50; further: III, 50), which may mean that there was some redaction of the Koper statutes even before this date. Likewise, additions from 1318 and 1325 (IV, 26) prove the existence of a redaction before those years.

This chapter of the Koper statutes raises another important question: it is namely one of the eleven chapters of the 'Agrarian Code', as Kandler named it and dated it to ca. 1300 (CDI, III. 479, 856–859), which is followed by Chapters 25 to 35 in Book IV of the 1423 Koper statute. The chapters are additionally also important for Slovenian national history since they mention Slavs from the Koper countryside, whom the chapters in several places equate with peasants (*Sclavus vel rusticus, Sclauus aut rusticus*), which means that the Koper countryside was already in the thirteenth century largely Slavic. These chapters also contain an interesting reference to the Koper podestà Andrea Zeno (STKP, IV, 28). We find his name in the already mentioned and very important privilege for Koper, issued by King Conrad IV, dated 14 December 1251. It granted Koper the right to a completely autonomous appointment of the podestà and all other liberties, except for its direct subjugation to the Emperor, as in the charter. This may have included the right to autonomous criminal justice, which was one of the fundamental rights. Especially, if we consider the diction of the 1238 charter, wherein the Patriarch of Aquileia clearly expects his *gestald* to enact criminal justice, which indicates that he had no such prior rights.

This fact also attests to the continuity of the Koper statutes; regardless of whether this set of orders was included in the statute in 1251 or not, it confirms that in Koper statutory law was already well established in theory and practice, as early as the middle of the thirteenth century. However, given the diction of this privilege, we cannot rule out the possibility that a new redaction of the Koper statutes took place at that time, and that this redaction already included chapters on the management of the Koper countryside. Especially, since Chapter 28 of the Book IV of the statutes from 1423 begins with: 'For Koper's communal villages, the administrative order is valid, which was introduced by the podestà of Koper, Andrea Zeno, according to the decision of the Major and Minor Council.'[11] Thus, we can assume that by 1251 in Koper the criminal and civil courts and the city administration have already been standardized and recorded into chapters, with the rural administration following soon thereafter. This conclusion is based on the practice of other comparable cities of the same period that regularly changed or redacted their statutes (cf. Trombetti Budriesi, 2014).

This development of Koper's statutory law shows all the characteristics of many Northern Italian cities from the second half of the twelfth until the end of the thirteenth century, when individual decrees (*brevia*), collections of customs (*consuetudines*), and regulations (*constitutiones*) were written down and formed into legal books[12] with gradually changed or deleted individual provisions (*constitutis, ordinationes, capitula*), laws (*leges*), and combined them with the city

11 *Iste modus est uillarum comunis Iustinopolis inuentus per dominum Andream Zeno potestatem Iustinopolis auctoritate maioris et minoris consilij…* (STKP, IV, 28).

12 *Libri iurium* (cf. Cammarosano, 1998); *constituta usus et legis vel de usibus ad leges* (Faini, 2013, 449).

authorities with the help of legal experts (*sapientes*) into collections of statutes, which were first approved by the people and then by their elected representatives.[13] It is a process that took place in Northern Italian cities in the first fifth of the thirteenth century and had decisive consequences in the European political, social and cultural context. Probably the best explanation of what the 'real' statutes are and what their meaning was given by Hagen Keller:

> *L'importanza epocale di questo sviluppo può difficilmente essere sopravvalutata. Inoltre, quando viene analizzata l'accresciuta rilevanza della scrittura e delle nuove tecniche culturali, passa in secondo piano la domanda che finora, più di ogni altra, ha mosso la storia del diritto: da quando e basandosi su quale legittimazione i comuni si diedero propri statuti? Tanto le Gilde e le confraternite, quanto le collettività cittadine – fossero esse chiamate commune o universitas – potevano prendere decisioni vincolanti per tutti i loro membri. Secondo l'impostazione della nostra ricerca, il passo decisivo sta tuttavia nel legame del diritto alla normativa scritta e a un codice di leggi il più possibile completo e ordinato. Sebbene questo passo decisivo per la società europea non sia stato in nessun modo limitato al mondo comunale italiano, in nessun altro luogo esso si realizzò tanto velocemente, tanto in profondità e in modo così ricco di conseguenze. Dopo che i comuni italiani si affermarono nella guerra contro Federico Barbarossa ottenendo le garanzie per la loro nuova forma di vita politica, il processo di scrittura del diritto e delle norme amministrative subì un'accelerazione impressionante, che, per i primi decenni del secolo XIII, lascia lo storico quasi senza fiato. La fase decisiva dello sviluppo dei codici statutari sembra essere il periodo che va dagli ultimi anni del regno di Federico Barbarossa ai primi anni del regno di Federico II. Se poi pensiamo anche alla codificazione delle consuetudini, potremmo individuare in questa fase il momento storico – estremizzando possiamo indicare il primo terzo del secolo XIII – in cui in Italia avvenne il passaggio da un'amministrazione della giustizia basata soprattutto sulla consuetudine, sulla tradizione orale, sull'esperienza, sulla prassi usuale e, a fianco di queste, su singole leggi e norme scritte, a una vita giuridica organizzata intorno al diritto scritto e modificabile, in certo qual modo intorno al "codice di leggi vigenti"* (Keller, 1998, 72–73).

Based on these statements, we can conclude that Koper had its own collection of city laws and statutes even before 1238, and that the first documented redaction occurred in 1239, which, as in other similar cities along the Upper Adriatic, was followed by relatively numerous redactions with new provisions and determined in the second half of the thirteenth and the first half of the

13 Cf. Cammarosano, 2021; Faini, 2013; Zorzi, 2010; Storti Storchi, 1998; Besta & Barni, 1945; Solmi, 1915; Pitzorno, 1910; Besta & Predelli, 1901; and the therein listed bibliography.

fourteenth century and have been preserved in the redaction from 1423 in four books. In the printed redaction from 1668, a fifth book with provisions from 1394 onwards was added.

Actually, only the first document of Book V, the *Ducalo* from 1394, is dated earlier than the preserved redaction of 1423, which makes it all the more interesting. It provides the information that on 22 June 1394, Doge Antonius Venerio, requested by the Koper commune or its representatives, after having examined the Koper proposals for statutory provisions, approved a codex of Koper statutes with a lead seal (*bulla plumbea*),[14] which, unfortunately, has also not been preserved. However, this document gives us the impression that the people of Koper had not governed themselves according to their statutes (*quod omnes aliae Terre nostrae Istriae reguntur cum Statutis, & ordinibus suis*), at least certainly not in terms of civil and criminal justice, since both were under the arbitrary jurisdiction of the Venetian podestà (*Rectores*) in cooperation with their own chosen officials, as the people of Koper reproachfully remarked. With the *Ducalo*, which was clearly an integral part of the redacted statute, as it was ordered to be kept in the Koper chancellery for future generations, the Venetian authorities only partially granted the request of the people of Koper. In addition to minor requested corrections of two chapters,[15] that testify to a slightly different arrangement of the statutory chapters compared to the redaction from 1423, the *Ducalo* from 1394 states that the podestà governs and rules in civil and criminal matters in accordance with the Koper statutes, but with correction and clarification (*cum ista correctione, & declaratione*), that this does not apply in those parts of the statute that have been annulled (*non habeat locum sed annullentur*). In these cases, the respective podestà deliberates in agreement with his officials, who are elected by the Koper city council. Such a provision can also be found in the orders (*commissiones*) to the Koper podestà and captains from around the same time (Benussi, 1887, 55). It can also be found a few decades earlier in the collection of Venetian decrees, Senato Misti (SMi), more precisely from 1358.

It remains uncertain as to what may have contributed to the decisive insistence of the Venetian authorities as late as 1394 that criminal justice must stay in the hands of the Venetian podestà, who must consult with officials elected in the Koper city council, while simultaneously there are no local criminal provisions in the 1423 redaction of the Koper statute, although almost all statutes of the nearby communes of lesser importance than Koper also include criminal provisions. Most historians who have dealt with this phenomenon attribute this fact to the Koper rebellion against Venetian rule in 1348 (De Franceschi, 1879, 183; Semi, 1975, 159; Margetić, 1993, XVI).

14 *Volumen autem Statutorum nobis missum remittimus vobis per dictos nostros fideles nostra bulla plumbea communitum* (STKP, 1668, V, 1, 124).

15 Referring to Chapter 106 of Book II, that became Chapter 12 in redaction of 1423, while the Chapter 8 in Book II holds the same content as in redaction of 1423 (STKP, V, 1, 124).

THE REBELLION OF 1348 AND THE KOPER STATUTES

Although Pula is considered to be the most rebellious city in medieval Istria (cf. De Franceschi, 1903–1905), in the second half of the thirteenth century, due to its expansive policy towards other Istrian cities, Koper was the biggest thorn in the Venetian side (cf. Greco, 1939). Venice's monopolization of trade in the Upper Adriatic and the introduction of Venetian legal provisions into the Istrian statutes caused a lot of discomfort among the citizens (*cives*) and residents (*habitatores*) of the Koper commune. Among the latter were also the inhabitants of Koper villages, i.e. the Slavs, whom the statute additions of 1318 and 1325 deprived of many fundamental rights and freedoms, especially the free sale or exchange of land, granted to them by the thirteenth-century statute redactions. Chapter 25 of Book IV states that Slavic customs pose a danger to both laws, probably referring to Canon and Roman law, as well as communal and customary law (*Quare prauam utriusque iuris inimicam Sclauorum consuetudinem*).

The dissatisfaction of the citizens of Koper with Venetian rule culminated in a rebellion in 1348, which attracted a lot of attention from Venetian authorities and obviously had far-reaching consequences for the development of Koper's communal law.

The year 1348 is also known for the most terrible plague epidemic in the documented history of Europe: more than half of the European population and up to three-fifths of the Venetian population perished. The people of Koper wanted to take advantage of this circumstance to shake off Venetian rule. The news from the beginning of the 1350s that Francesco Petrarca invited Giovanni Boccaccio to Koper and Trieste because of their excellent air and dynamic environment (Schiavuzzi, 1889, 405) suggests that the plague epidemic did not affect northwestern Istria to the same extent as the other areas, which could have been an additional motive for the rebellion.

The Koper rebellion of 1348 is relatively well described in literature, particularly thanks to Giovanni Cesca, who collected and published as many as a hundred related documents (Cesca, 1882), while the participation of the Slavs from the Koper countryside was vividly highlighted by Srečko Vilhar (1953). Despite the devastating plague epidemic, the Venetian authorities reacted very decisively to the events in Koper in September and October 1348.

Sources report that on 2 September 1348, four hundred knights or horsemen (*equites*) attacked the territory of Koper from the north and looted and burned a village.[16] The podestà of Koper, Marco Giustiniani, sent his cavalry

16 Some sources indicate that the village is the castle (*castello*) Vicino St. Petro (De Franceschi, 1879, 183). The village *Vicum Sancti Petri* is also mentioned in the Statute of Koper (IV, 41), which must have been in the proximity of Sveti Peter, today in the Municipality of Piran. As late as the sixteenth century, *Vicum Sancti Petri* was regarded as a castle, part of the Koper defence line of castles ranging from the Dragonja River to the outskirts of the Karst (cf. Darovec, 2022). The village may be the present-day Krkavče, which is not mentioned in the lists of Koper's villages at the beginning of the seventeenth century, although its urbanistic structure testifies to its medieval presence.

against them, but in a battle near the city, his son Franceschino was captured together with other Venetian knights. On 14 September, these events spurred the disgruntled citizens of Koper to revolt under the command of the city nobles, especially the Tarsia and Verzi families. They killed some Venetian citizens in Koper, expelled the Koper podestà and his soldiers, who took refuge in the Lion Castle until the end of the rebellion, and opened the city gates to a vassal of the Counts of Gorizia, Lord Reifenberg and his soldiers, and prepared for defence (Pahor, 1953, 35–36).

The Venetian Senate, headed by the Doge, followed the events in Koper intensively on daily basis. For example, on 14 September, the Senate issued as many as six resolutions connected to these events, and seven resolutions on 15 September (cf. Cesca, 1882, 30–41). That they decided on a large-scale diplomatic and military campaign testifies to the (geostrategic) importance the Venetians attributed to their possessions in Koper. They sent their emissaries to the Count of Gorizia, the Patriarch of Aquileia, and the main lords of the hinterland, the Habsburgs. With this, Venice made it clear to the Habsburgs that they were aware of their involvement in the Koper rebellion. At the same time, Venetians tried to get military help from their allies from Treviso and Padua, who, together with their knights and foot soldiers, boarded naval ships, which began the siege of Koper. The people of Koper were evidently not prepared for such a decisive and intimidating response from the Venetians, and neither were the Reifenbergs' soldiers, who left the city shortly after the summons. The people of Koper had little choice but to offer unconditional surrender to the Venetians on 10 October, which they called *Reconciliatio Justinopolis* and which was also confirmed by the citizens of Koper on 13 October (Cesca, 1882, 74–88).

The success of the Venetian diplomatic and military campaign was complete. The people of Koper surrendered in every way, in legal, administrative, and territorial aspects at the mercy of the Doge and the Republic of Venice and begged for mercy on their knees, as the passage below clearly shows, although there are more similar expressions of submission and subordination in the documents themselves:

> *Et quod ipsam Civitatem, Castra, fortilicia, jnsulas, territorium, et districtum totum et personas eorum, Regat, habeat, et Gubernet, per se, vel alium, cum omnibus juribus, et pertinencijs, sub dominio, jurisditione, mero et mixto imperio, protectione et subiectione jpsius domini ducis et comunis Veneciarum, perpetuo, libere, alte, et basse, prout eis melius videbitur et placebit, contraditione jpsorum, vel aliorum eorum, seu alterius, non obstante, Et promiserunt, pro se et successoribus suis, jpsi domino duci Recipienti pro se, et successoribus suis, et comunis Veneciarum, tamquam suo vero domino, fideliter subesse, et perpetuo in omnibus obedire, Et flexis genibus, cum omni devotione, et Reverencia, ab ipso domino duce, humiliter pecierunt,*

misericordiam, et veniam, pro predictis, qui se ab ipsius obediencia, de facto jndebite subtraxerunt.[17]

The Venetians were determined to punish the rebellious city accordingly: they demanded fifty hostages to be taken from the citizens of Koper who participated in the rebellion, thirty-seven were tried, thirteen were sentenced to one to eight years of imprisonment, and some were also fined (De Franceschi, 1879, 179- 186; Pahor, 1953, 49). Venice decided to at least double Koper's taxes, to fortify the Lion Castle at the expense of its citizens and to build a new fortress, resulting in the construction of the defence tower of Mussela (SMi, 16 August 1349), which was located on present-day Belvedere. The increase in taxes due to the rebellion, which consequently resulted in great expenses, is already being mentioned among those hundred documents, initially as early as 18 October 1348 (Cesca, 1882, 96–97). Although there is no word about the Koper statutes in all the hundred documents about this rebellion, we can nevertheless find an important indication regarding the statutes, in a document (LXI) dated 8 November 1348. The cited document specifies at least two important changes in the orders (*commissiones*) of the Venetian podestà in Koper: from then on, the podestà is given the power to choose the judges and officials from among the citizens of Koper at his own discretion, as well as advisers in minor criminal offenses, however, only if he deems that he needs them, while he was given full discretion in civil and criminal matters (*Ita quod in civilibus et criminalibus habeam plenum arbitrium*; Cesca, 1882, 120–121). These authorities were usually determined by city statutes, which were adopted by the city councils of individual communes and confirmed by the Doge or the competent offices of the Republic of Venice. How and why such a change in decision-making took place is not explained by any preserved document, but it can be traced in some related provisions in the collection of documents of the Venetian Senate, Senato Misti (SMi).

In the absence of other historical documents, the Senato Misti collection is one of the most important sources for this period. For at least ten years after the Koper rebellion, we find various references to it in these sources, such as: the increase in taxes due to the rebellion on 28 December 1348 and 13 July 1349, news about the completed sentences of the rebels that are being released to return home (SMi, 9 September 1353), cases of the Venetian

17 Cesca, 1882, 76, document XXXVIII. It is also referred to by Lonza (2023, 5), but she only summarizes the final diction of the document, which confirms the pacification stated in this document and Koper's request for forgiveness. She thereby justifies her opinion, saying that some historians are mistaken (Semi, 1975, 159; Margetić, 1993, XVI), when claiming that the statute was abolished in 1348 (until 1394), as the statutes are not mentioned anywhere, while she simultaneously completely ignores all the other provisions of this document, that hand over full authority to the Doge and, consequently, to the Republic of Venice, so that he may rule in Koper both from legal, administrative and territorial point of view 'as he wishes and orders'.

podestà awarding individual Koper residents with city offices for their loyalty in the rebellion or due to the damages they suffered as a result of their involvement in the rebellion (e.g. SMi, 3 and 27 January 1348 m.v.[18]; 16 July 1349; 8 March 1351; 26 May 1352). Koper is also referred to in the news about the podestà appointing some city officials to the positions of justiciaries (*institui iusticiarum Justinopolis*) (5 July 1349), extimators (11 October 1349; 16 October 1354), judges (30 June 1353 *Paulo de Castro de Justinopoli … sit Judex*), measurers of flour and weights (*Zaninus Copedella, constitutus ad ponderandum farinam in Justinopoli*, SMi, 2 April 1350; *Zaninus Alberto habitator Justinopolis … in officio ponderis statere in Justinopoli per unum annuam*, SMi, 24 November 1352), of the guardians of the city gates (*Marino Gisi habitatori Justinopolis … in custodiam portum Sancti martini de Justinopoli*, SMi, 14 September 1355), etc. By analogy with coeval Istrian statutes and according to the preserved Koper statutes from 1423, this type of appointment of commune officials was carried out in the city council through elections, rather than the officials being appointed or proposed to the Venetian senate for approval by the podestà himself (SMi, 1 August 1357), which occurred on several occasions in Koper after the rebellion. This alone suggests that the Venetian podestà did not follow the Koper statutes at that time, as was the case in other cities subordinate to Venice.

RENEWAL OF THE KOPER CITY COUNCIL, OFFICES, AND STATUTES

Less than ten years after the rebellion, a series of provisions explains the aforementioned situation. The Venetian authorities apparently realized that their measures after the Koper rebellion were too rigorous, especially regarding taxes, *quod cives et forenses illa supportare non possunt* (SMi, 5 March 1358). They came to realize that the territory of Koper was poorly populated and that there was a great deprivation, as the people of Koper were forced to take produce and other products to Trieste and other places, resulting in smuggling becoming very rampant (SMi, 8 July 1355; 29 November 1355; 4 February 1355 m.v.), in an increase in the number of thefts (SMi, 21 March 1356), etc.

To improve the situation in Koper, on March 5 1358 (SMi), the Venetian Senate decided to choose three providures (*tres solennes provisores*), who would try to improve the situation: one should be proposed by the Doge, and two should be elected by the Senate. Then, on 5 April 1358 (SMi), three ‘wise men’ (*sapientes*) were elected by the Senate: Laurencius Zelsi, Stefanus Belegna and Petrus Gradonicus, the latter suggested by the Doge. They were ordered to study all Koper documents within one month and,

18 Abbreviation *m.v.* stands for *more veneto*, i.e. the calendar by Venetian custom, which considers 1 March as the first day of the New Year.

at their own discretion, report in writing on proposed measures 'for the restoration and good condition of the city of Justinopolis' (*pro reformatione et bono statu civitatis Justinopolis*). Apart from the loose statement *Et examinent scripturas et alia*, it is difficult to understand what the above decree has to do with the Koper statutes, which are not mentioned at all. But historians are lucky in this case, because some further documents have been preserved, on the basis of which we can reconstruct certain events or processes.

A key document is from 17 May 1358 (SMi), proposed to the senate by the abovementioned wise men is titled *Provisiones Sapientium Istriae*. The document underpins four main issues that need regulation ten years after the rebellion in Koper. The first point refers to military or defence matters, the necessary restoration work on the Lion Castle and the Palace of the Podestà and other defence facilities in the city. The second, which is the most important here, is about the restoration of the city council, the third about halving the tax on wine, and the fourth on the production of Koper salt, of which from then on a tenth of the harvest was to be allocated to the Venetian authorities, while the rest could be disposed of freely. The fourth provision was valid until the end of the Republic of Venice in 1797, while we will dwell on the second one a little longer, so I quote this decree first in translation:

> *And that our faithful citizens will see our good proposal and intention (*Et ut fidelibus nostris ipsius loci detur bona Spe: de proposito et intentione nostra*):*
>
> *Let it be henceforth arranged, that the citizens of Koper return to their Council, in the number and quantity as was before the event of the past rebellion. However, there shall not be in their councils but those whose grandfathers or fathers were in the aforesaid councils. Similarly, the offices and the right to manage the territory should be restored, just as the authorities and other offices were exercising it in the manner and under the conditions under which this city was governed before the novelties of the aforementioned rebellion. Except in criminal law and the defence of the city that are to remain at the sole discretion and freedom of the podestà.*[19]

19 *Ordinetur ex nunc quod cives Justinopolis, Reducantur ad consilium suum, Scilicet in numero et quantitate, que consueverat esse ante casum rebellionis preterite. Ita tamen quod non possint esse de consilijs suis, nisi ille quorum avi vel patres fuerint de consilijs antedictis et similiter restituantur ad officia et beneficia terre, ita quod Regimen et alia offitia terre exerceantur per illum modum et sub conditionibus quibus Regebatur ipsa Civitas ante novitates rebellionis iam dicte. Salvo quod Regimen criminalium et custodia Civitatis remaneat in arbitrio et libertate solius potestatis* (SMi, 17 May 1358).

It is clear from the decree that nearly ten years after the rebellion, the Venetian senate allowed the restoration of the Koper City Council or the Major Council.[20] A few months later, the Venetian Senate prescribed this composition: the city council should have 155 members, namely from those families that were in the city council before the rebellion, the members should be at least 20 years old (SMi, 13 and 20 September 1358). A year later, the Senate also prescribed the method of confirmation of councillors and elections to the Minor Council (SMi, 31 July 1359).[21]

With the decree of 17 May 1358, the Venetian Senate allowed the restoration of the city offices, which means that after the 1348 rebellion, the Venetians not only dissolved the Koper City Council, but also managed all city offices according to Venetian laws and customs. This is clearly evidenced by, among other things, the later provisions on the re-establishment of the Koper offices as they were known before the rebellion, with the exception of the office of chamberlains and the *fonticus* (city granary) (SMi, 13 September 1358). At the same time, they also stipulated that they should use measurement units (*pondus statere et mensure*) according to their custom (SMi, 31 July 1359), which may mean that during the decade of 1348–58, units of measurement for trade and commerce were leased according to Venetian and not Koper custom, as prescribed in the statutes. As a result of the restoration of the Koper offices, Paolo di Casto from Koper lost his job in the office of *judicatus*, which he had received for his services in the War of Ferrara, he was granted tithes in the Vicinato Sancti Petri and in Sancto Petro dela Mata and a stipend of six livres per month (SMi, 14 February 1358 m.v.). This also testifies to the abolition of offices and officials, which were organized by the Venetian authorities in Koper in the decade after the 1348 rebellion, bypassing the Koper statutes.

The last part of the decree, that criminal matters and the defence of the city remain under the exclusive jurisdiction of the podestà, a provision that is repeated in several documents (e.g. SMi, 31 July 1359) up to the statutes of 1423, also explains why in the Koper statute, which was in force until the end of the Venetian Republic, there are no provisions on criminal law, contrary to statutes of the vast majority of Eastern Adriatic cities under

20 *Maius Consilium,* as mentioned in SMi, 31 July 1359. The documents also mention the Minor Council, *minori consilio, quod est suum consilium rogatorum*, whose members were elected from among the members of the City Council.

21 'We must respect such order that a man whose father, grandfather of great-grandfather were in the Major Council, reaches 20 years of age, may be listed in a row in a notebook. The current podestà should have their names written on sheets of paper. These should be put in a purse. When there are one or more vacant positions in the council, the podestà would draw out a piece of paper or more, after shuffling them, and the drawn person comes into the council. When the members for the Minor Council are selected, who are also members of the Council of the Invited, the drawn person needs to be confirmed by the Major Council' (SMi, 31 July 1359).

the Venetians. Instead of criminal provisions, in Chapter 2 of Book I of the statutes from 1423, it is prescribed that 'in the city of Justinopolis and its district, criminal matters shall be governed by the statutes and orders of the Venetian commune'. However, the abovementioned provisions also do not mention the Koper Statutes.

THE FIRST MENTIONS OF STATUTES AFTER THE KOPER REBELLION OF 1348

According to the fundamental decision on the restoration of the Koper offices on 17 May 1358, the Koper statutes are mentioned for the first time on 7 July (SMi) of that year, when the Venetian Senate, based on the application of the Koper podestà, allowed inheritance disputes to be resolved in accordance with the Koper statutes and the therein recorded custom of marriage 'like brother and sister' (*sicut frater et soror*),[22] and on 13 September (SMi), when the Koper ambassadors (*ambaxatores*) before the Venetian Senate referred to the Koper statutes and their practice before the rebellion when accounting for the case of damages to a plot of land (*super dampnis datis*). Namely, they demanded that in such cases the podestà deliberates in consultation with his judges and officials, rather than acting arbitrarily. In doing so, they blamed the chancellor of the podestà, who was in charge of the legal procedure, that even after 17 May 1358 he rejected all complaints of the Koper citizens were raising against such behaviour of the podestà, and at the same time earned 2 *lire* for each rejected complaint. Based on restorative measures, the Senate decided that from then on the podestà should always deliberate together with his officials in such cases, and the chancellor should not receive a fee for rejected appeals.

These two cases could indicate that, following the decree, at least civil litigation proceedings took place according to custom, i.e. in accordance with the statutory provisions that were in force before the Koper rebellion. However, the following mention of the Koper statute of 8 June 1359 (SMi), in connection with a dispute over the ownership right to possess certain lands in Koper, shows again that the decision whether to act in accordance with the Koper statutes in certain civil litigations was in the hands of the Venetian Senate and the podestà.

This was probably not an isolated case. It helps us to understand the request of the people of Koper (*petitione Ambaxatorum comunis et hominum Justinopolis*) in the already mentioned document from 31 July 1359 (SMi), with which, among other things, they proposed to the senate that the judges and officials, who are being proposed by the city council at the bar (*ad*

22 More details about this custom cf. Margetić, 1970; 1993, XXXVIII–XLVII.

stangam),[23] should advise the podestà in judgments in civil and criminal cases (the judgment is in any case announced by the podestà), as it was accounted for in the past.[24]

However, the Venetian Senate replied that these judges and officials, who are presented *ad stangam* by the people of Koper, may only advise the podestà in civil and property litigations, while in other cases (i.e. criminal) judgments remain in the explicit domain of the podestà.[25]

Based on the above, we could conclude that after 1358, the Venetian authorities reintroduced the Koper statute that had been in force before the 1348 rebellion, in its original form, except for criminal law, which remained in the exclusive domain of the Venetian podestà. This assertion is cast into doubt by the already mentioned proposal of the Koper ambassadors from 31 July 1359 (SMi), when they asked the Venetian Senate to elect four justiciars to the city council for the good governance of the city, who would share the available stipend among themselves. The Senate replied that it already had huge expenses with the dominium in Justinopolis, so it did not accept their proposal and determined that the tasks of the justiciars would continue to be performed by the chamberlain and the *fonticus*. Similarly, the provisions of the statute were not regarded in the case of estates owned by brothers Giovanni, Ugo, and Sclavolino di Sabino that have been repossessed by other inhabitants in their absence due to military service and after their father's death.[26] These two cases suggest that the Venetian authorities or their podestà in Koper in the period up until 1394 followed the provisions of the Koper Statute only in individual cases, and only when it benefitted them.

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23 *Ad stangam* appears several times in the abovementioned documents in connection with judges and officials proposed to the podestà by the local city council. It is twice mentioned in the 1423 Koper statute in connection with the resolution of property disputes (II, 1; III, 17), and also from some Piran documents we can understand that they ruled *ad stangam* in connection with the restitution of debts, or performed other legally approved appeasements (Lex Latinitatis, 1121). Apparently, *ad stangam* is a synonym for a ritual place in the city where various legal matters were carried out, where a beam or bar separated the judge from the parties in dispute, or where legal proceedings took place (Lex Latinitatis, 1121), probably similar to what was considered a synonym *ad banchum*, which can be found in Izola (SMi, June 2, 1359) in connection with the podestà's adjudication regarding the payment of debts in two places in the Koper statute of 1423 (II, 76), and is also found in documents from villages of Slavia Friulana, or Venetian Slovenia, and Istria (cf. GDZS, 65, 197).

24 *Quod judices et officiales datos potestati Justinopolis ad stangam per consilium dicte terre debeant consulere ipsi potestati super processibus et delictis ibidem comissis sicut consuevit antiquitus observari* (SMi, 31 July 1359).

25 *Quod in processibus solum Civilibus et peccuniarijs Judices et officiales datos ipsi potestati ad stangam dicto potestati consulere debeant ut in dicto capitulo continetur. Remanendo tamen semper in omni casu arbitrium soli potestati faciendi in omnibus et per omnia prout sibi videbitur omnes de parte* (SMi, 31 July 1359).

26 SMi 8 June 1359: *quod aliqua prescriptione temporis, in statuto comunis Justinopolis contenta, non obstante, suprascripti fratres possint coram podestate et capitaneo Justinopolis et successoribus suis consequi jura sua contra quoscunque cognoscentur de jure obligatos eisdem*.

This is confirmed by the note in the commissions of Doge Antonio Venier (1382–1400) to the Koper podestà and captains, which was issued between 1382 and 1394 (since it is also annexed by the decision of the senate on the confirmation of the Koper statute in 1394), wherein the Doge advises the podestà to act according to their conscience and in accordance with the principles of the Venetian Dominion in regard to all disputes, taking into account the statutes, orders and customs of the Republic of Venice to the greatest extent possible.[27]

We can conclude that after the Koper rebellion in 1348, the Venetians dissolved the city council until 1358 and subjected the people of Koper to the legal order of the Republic of Venice, which also means that during this period they did not abide by the provisions of the Koper statutes that had been in force prior to the rebellion. All city services were also reorganized, the podestà judged civil and criminal matters arbitrarily, or in accordance with Venetian laws and customs.

In 1358, however, perhaps also under the influence of the war with the Kingdom of Hungary, when Venice lost Dalmatia for a few decades, and because of Koper's noticeable economic and demographic decline, Venetians decided to restore its communal self-government. First, they reconstituted the City Council with 155 members from the families that were represented in the City Council before the rebellion and restored individual city offices, including the Minor Council. It is also evident that in individual cases the provisions of the Koper statutes from before the rebellion of 1348 were again used, but the Koper podestà generally consulted the Venetian senate for their application. They also restored the custom that the podestà was advised in adjudication by judges and officials chosen in the Major Council, i.e. at the will of the local self-government, but only in civil and property matters, while criminal justice and the defence of the city remained the exclusive competence of the Koper podestà, which the Major Council of Venice elected from among its nobles every 16 months.

27 *Adherendo statutis ordinibus et consuetudinibus nostris Venetiarum quantum plus poteris: et in casibus quibus hoc rationabiliter facere non posses, faties* (Benussi, 1887, 38). The word *faties* can be interpreted based on the second sentence of Point 5 of the guidelines: *De maleficijs Vindictam et iusticiam facies contra malefactores. Et condemnationes de offensionibus, sicut tue discretioni videbitur secundum Deum et honorem nostri dominij* (Benussi, 1887, 39), or based on *Ducalo* from 1394 that confirmed the Koper Statute: *sententiandi, & terminandi prout eis secundum Deum, & suam bonam conscientiam videbitur iustum, conveniens, & honestum* (STKP, V, 1), that is, that he can act according to his conscience and according to God's will in accordance with Venetian customs and laws. Regarding the use of the term *Vindictam et iusticiam* in different countries in a comparable time, cf. e.g. Povolo, 2015; Muir, 2017; Marinelli, 2017; Faggion, 2017; Oman, 2017; Ergaver, 2017; Casals, 2017; Carroll, 2017. The book of the established legal historian Mario Sbriccoli (2009) on the history of criminal law and justice begins with the following sentence: 'La storia del 'penale' può essere pensata come la storia di una lunga fuoruscita dalla vendetta'.

The validity of the Koper statutes was restored only in 1394.[28] We can rightly assume that they mainly re-enacted the statutes from the time before the rebellion in 1348. In the accompanying *Ducalo* confirming a volume of Koper statutes of 1394 with a lead seal (STKP, V, 1), apart from the addition of two chapters of the statutes on debts, there is no word on other changes or the formation of special bodies that would study the necessary statutory provisions, as in the adoption of the Koper statutes in 1423, when a commission of nine trustees of the Koper City Council was appointed with the task of examining the statutes, review, supplement or cancel provisions that would not benefit the Republic of Venice and the residents of Koper (STKP, I, 1). The supposition is also confirmed by the diction of the *Ducalo* from 1394, that the podestà should always decide in civil and criminal disputes in accordance with the statutory provisions in consultation with judges and officials elected in the Koper Major Council, except, as has happened several times before, in cases that were repealed in the Koper statutes.[29] It is obvious that these abrogated provisions were still written in the statutes from 1394. This was probably one of the reasons that the new redaction of 1423 was prepared without the abrogated provisions after the rebellion of 1348, and in Chapter 2 of Book I of the statutes it was only written that in criminal matters they act according to Venetian laws.

CONCLUSION

The redaction of the Koper statutes from 1423 remained in force until the end of the Venetian Republic. In their printed edition from 1668, *Ducali*, orders, and referrals that were created after the redaction of 1423 were added to the four books from 1423, thus creating a fifth book of the statutes. To these five books printed in 1668, a *Ducalo* from 1670 was added, which granted the Koper Major Council the right to annually elect the Captain of

28 Perhaps the best testimony to this is the following passage from the *Ducalo* (STKP, V, 1; cf. Semi, 1975, 180): *Vadit pars, considerato,* ***quod omnes aliae Terrae nostrae Istriae reguntur cum Statutis et ordinibus suis****, quos credendum est* ***suos antecessores condidisse****, quia cognoverunt eos utiles et necessarios ad bonum statum, et conservationem dictarum Terrarum,* ***examinatis etiam bene dictis Statutis, et ordinibus****, ac habito bono diligenti Consilio super illis, et praecipue aliquibus, qui videbantur non ita rationabiles respectu nostrorum, et quantum difficile est Reggimen unius Civitatis ex toto difformare à statutis et ordinibus quibus fundatae sunt, et pro complacendo etiam ipsis nostris fidelibus, ut habeant causam perseverandi in bona dispositione sua* ...[emphasised by the author].

29 From Commissiones (Benussi, 1887, 55), similarly to the *Ducalo* from 1394 (STKP, V, 1): *Omni autem a te querenti rationem facies, regendo illam Civitatem et districtum in civibus et criminalibus secundum formam et ordinem statutorum suorum, cum ista correctione = Quod ipsa statuta et ordines non habeant locum, sed annullentur, et pro annullatis et cassis habeantur in quacumque parte faciunt mentionem, quod Potestas iudicet et faciat cum voluntate et consensu suorum officialium, et quod officiales eligantur per eorum Consilium.*

the Slavs from among its members. The Captain of the Slavs, who is first recorded in documents after the Koper rebellion in 1348, when the Venetian Guillielmini Rosso (SMi, 1888, 29 March 1349) occupied this position, was in charge of managing the Koper villages.

This provision testifies to the wider scope and resonance of the Koper rebellion in 1348, including the participation of the Slavic countryside. This rebellion evidently had a great impact on the further course of re-enforcement of the Koper statutes, as the foundation of the city's self-government.

The Koper statutes are undoubtedly attested in the sources as early as 1238, and with some redactions they were in force until 1348. Then, due to the rebellion, Venetian authorities did not abide by them until 1358, as they dissolved the City Council and all Koper city offices. After 1358, sources attest that the Venetians restored the Koper City Council and offices, but not the statutes, although some of their provisions were used in individual administrative and trial cases. The Koper statutes officially came into force again only in 1394, and in a slightly modified version in 1423, but always without the right of the citizens of Koper to exercise their own criminal justice and the defence of the city, which remained in the exclusive domain of the Venetian podestà and captain until the end of the Venetian Republic in 1797.

GENEZA KOPRSKIH SREDNJEVEŠKIH STATUTOV (1238–1423)

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POVZETEK

V članku so na podlagi ohranjenih arhivskih virov in (re)interpretacije primerljive zgodovinopisne literature za območje zgornjega Jadrana in severne Italije predstavljene zgodovinske okoliščine nastanka srednjeveških statutov mesta (civitas) Koper. V obdobju visokega in poznega srednjega veka se je mestna naselbina na koprskem otoku oblikovala v enega najpomembnejših komunov na istrskem polotoku. Z obsežno gospodarsko dejavnostjo, zlasti s trgovino z zalednimi deželami Svetega rimskega cesarstva, s pomembnim regionalnim geopolitičnim vplivom in kulturnimi izmenjavami v zgornjejadranskem prostoru je koprski komun tesno sledil vzponu avtonomnega oblikovanja mestnih političnih in gospodarskih institucij v severni Italiji. Temeljno podlago za to delovanje so bile zbirke zapisanih pravnih aktov, ki so jih od začetka 13. stoletja začeli oblikovati v zbirke posameznih mestnih statutov.

Izvirni prispevek te razprave temelji na analizi in reinterpretaciji dveh listin iz 1238 in 1239, ki prvi omenjata koprske statute in sta bili doslej v zgodovinopisju deležni le sporadičnih omemb, ter na proučevanju arhivskih virov beneškega senata iz zbirke Senato Misti za obdobje po koprskem uporu proti Benetkam leta 1348 do 1394, ko je beneški dož ponovno potrdil koprske statute. Ugotovljeno je, da se je komun Koper vsaj od leta 1238 ravnal po svojih za tedanji čas že razvejanih statutih, ki so z nekaterimi nadaljnjimi redakcijami veljali vse do 1348, ko jih zaradi upora do leta 1358 beneške oblasti niso upoštevale, saj so praktično razpustile mestni veliki svet, vse mestne koprske urade pa reorganizirale. Po tem letu viri pričajo, da so Benečani obnovili koprski mestni svet in urade v obsegu kot pred uporom 1348, toda ne tudi statutov, čeprav nekatere njihove določbe v posameznih primerih upoštevajo pri upravljanju in sojenju. Ponovno so koprski statuti uradno stopili v veljavo šele leta 1394, v malce spremenjeni redakciji pa leta 1423, toda vselej brez pravice do kazenskega sodstva in obrambe mesta, ki ostaneta v izključni domeni beneškega podestata in kapitana do konca Beneške republike (1797).

Ključne besede: Koper, statuti, srednji vek, Istra, severna Italija, Beneška republika

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GLI STATUTI DI CAPODISTRIA E LA VITA CITTADINA

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SINTESI

L'articolo, basato sugli statuti medievali di Capodistria del 1423, offre una panoramica di alcune delle principali disposizioni statutarie di questo periodo, che regolavano in modo completo tutti gli aspetti essenziali della vita pubblica e privata delle città medievali affacciate sul mar Mediterraneo e del loro entroterra. Gli statuti medievali di Capodistria, con i loro dati, definiscono e integrano l'immagine dell'allora 'civitas Iustinopolis'.

Parole chiave: Medioevo, Capodistria, statuti di Capodistria, vita cittadina, Liber niger

MEDIEVAL STATUTES OF KOPER AND CITY LIFE

ABSTRACT

Predicated on Koper statutes from 1432, this paper points out some main contents that evidence the diversity and expression of medieval statutory stipulations that at the time comprehensively regulated the fundamental aspects of public and private life in Mediterranean cities and their hinterlands. The data from the statutes of medieval Koper concretize and complement the picture of the former 'civitas Iustinopolis'.

Key words: Middle Ages, Koper, Koper statutes, urban life, Liber niger

LA RICCHEZZA DEGLI STATUTI CITTADINI[1]

Gli statuti cittadini medievali regolavano vari aspetti della vita della comunità cittadina. Intervenivano nel campo dell'amministrazione comunale, dell'economia, del diritto di famiglia, del diritto penale, della vita pubblica, ecc. (Mihelič, 1994), cercando di mettere ordine dal punto di vista legislativo nella vita quotidiana della comunità. Contenevano principi teorici sull'ordinamento stabilito e consentito della quotidianità e sulle violazioni della legalità. Le disposizioni degli statuti si formarono in parziale interdipendenza e sotto l'influenza delle città vicine. Nelle città subordinate a Venezia, alle quali apparteneva anche Capodistria, si verificò un adattamento delle antiche pratiche giuridiche agli interessi e alle esigenze veneziani. Dalle norme statutarie che regolavano questioni specifiche della città possono essere estrapolate molte caratteristiche dell'ambiente urbano, dello scorrere del ritmo della vita e della quotidianità. Questo vale anche per gli statuti medievali di Capodistria del 1423[2], che, con i loro dati, integrano, specificano e arricchiscono l'immagine della precedente *civitas Iustinopolis*.

La città aveva un proprio maggior e minor consiglio e un'amministrazione ramificata, che interveniva in tutti gli aspetti della vita cittadina. Questa era retta da un podestà e capitano (detto anche pretore), con quattro giudici, comprendendo due vicedomini, due stimatori, quattro giustiziari, sei avvocati, un ufficiale soprastante interno ed uno esterno, un camerario o camerlengo comunale, un soprastante comunale, vari cancellieri (*cancellarius*), i caved(i)eri custodi delle porte cittadine e diversi altri funzionari comunali fino al precone, che informava i cittadini sugli avvenimenti importanti, sulle aste pubbliche, sui ricercati, sui documenti smarriti, ecc. Gli ospedali cittadini offrivano ricovero ai malati e ai poveri. La città nel suo organico aveva un medico stipendiato. Gli orfani minorenni e gli storpi erano accuditi dai loro tutori.

Gli abitanti di Capodistria avevano degli obblighi (*angaria*) nei confronti del comune. Nessuno ne era esente, anche se era sotto l'autorità di un chierico ((libro) I, (capitolo) 28). Dopo un periodo di cinque anni gli stranieri erano affrancati dagli obblighi e diventavano cittadini di Capodistria, ma erano tenuti a registrarsi presso il cancelliere del podestà (I, 29). I conduttori dei dazi dovevano riscuotere le tasse entro un anno (II, 13). I cittadini di Capodistria dovevano pagare fino all'Assunzione di Maria il previsto *congium* dogale per il patriarca di Grado e il compenso per i guardiani delle vigne e dei campi (III, 49).

Gli statuti descrivono gli elementi della fisionomia del nucleo urbano della città (Mlacović, 2022) e del territorio rurale. Per il primo si menzionano i rioni cittadini con piazze e le porte lungo le mura. Quest'ultime erano: la porta S. Martino, Muda, Zubenaga, Bossedraga, S. Pietro, Isolana, S. Tommaso, Pretorio, Pusterla,

1 Il presente saggio è stato elaborato nell'ambito del progetto *FACING FOREIGNERS Between the Medieval and Early Modern Period in the North Adriatic Towns*, finanziato dall'Agenzia Slovena per la ricerca e innovazione (ARIS, n. J6-4603).

2 Si sono preservati due manoscritti originali degli Statuti di Capodistria del 1423, custoditi rispettivamente presso l'Archivio di Stato di Venezia e presso l'Archivio di Stato di Fiume. I riferimenti nel saggio si basano sulla pubblicazione dell'esemplare di Fiume: Margetič, 1993.

Nuova, Maggiore e Brazzuolo[3]. Le porte di S. Martino, di Bossedraga, di S. Pietro, di S. Tommaso e Maggiore erano sorvegliate ciascuna da quattro guardie segrete (*guardiani celati*), le altre invece da due, il che probabilmente indica l'importanza e l'affollamento di questi ambienti urbani. Altri edifici visibili sono la torre civica con scalinata e campana, da dove il precone faceva le sue grida. Sulla torre erano presenti i campioni di riferimento di due misure della lunghezza lineari (il cubito veneziano grande e piccolo (*brazolarium*))[4], utilizzate per i tessuti durante il commercio. Sulla piazza principale c'era anche una pietra con misure vuote per pesare gli alimenti sfusi. In città si fa cenno della chiesa cattedrale e di due ospedali: S. Nazario, che si affacciava sull'odierna piazza Prešeren e l'ospedale dei poveri di S. Marco sito nel piazzale del Museo, fondato dal lascito del signor Marco Trivisan di Venezia. Si menziona piazza Brolo, che gli statuti tutelavano dall'incuria e dalla sporcizia e di *Campo Marcio* ricoperto d'erba. La città era attraversata da strade pubbliche. Gli statuti ne assicuravano la viabilità e la pulizia. La macelleria e la pescheria ricadevano tra gli edifici commerciali importanti. Il pane veniva cotto nei forni appositi. La vita sociale si svolgeva nelle osterie. Accanto alle case residenziali c'erano giardini e in città c'erano anche alcune stalle per il bestiame.

Gli statuti trattavano anche dell'entroterra agricolo di Capodistria, che era molto esteso[5]. I terreni erano irrigati da ruscelli e sorgenti. I fiumicelli principali erano il Risano e il Cornalunga attraversati da strade pubbliche, delle quali si menziona il ponte *Trauolchi* (*Canzani*) e il ponte di legno (passante sul Cornalunga) sulla via per Montignano. Nell'entroterra gli statuti enumerano numerosi villaggi, a Risano mulini, una locanda e anche i torchi. Nel Capodistriano la coltura dominante era quella della vite, anche se crescevano gli ulivi, i meli e altri alberi da frutto, così come i castagni, prosperavano i prati, i pascoli, i boschi; le saline erano importanti per l'economia. Gli statuti disciplinavano i rapporti con la campagna assegnata (*diuisum*) o comunale di Capodistria. Prescrivevano anche le regole alle quali erano soggette le attività degli agricoltori del circondario.

I decreti statutari regolavano lo spazio urbano e il suo entroterra dal punto di vista dell'organizzazione, della tutela e delle coltivazioni, nonché in termini di proprietà. Regolamentavano la gestione delle proprietà immobiliari, dall'uso a fini commerciali di locazioni e di affitti fino alle alienazioni tramite vendite, aste ed eredità.

Sull'attività commerciale in città influivano le festività obbligatorie previste dagli statuti, durante le quali alcune attività si fermavano: 15 giorni prima e 15 dopo Natale, altrettanti prima e dopo la festività della Risurrezione di Gesù, allo stesso modo prima e dopo S. Pietro (28 giugno) e dopo S. Maria (15 agosto) fino a

3 Un confronto interessante a riguardo lo troviamo in Likar, 2009; cf. anche Žitko, 2019.

4 Il cubito lungo era pari a 679 mm, quello più corto a 639 mm, cf. Herkov, 1971, 100.

5 Secondo Benussi (1910) a Capodistria e distretto si contavano dai 7.000 agli 8.000 abitanti nel 1533, dai 9.000 ai 10.000 nel 1548. Nel 1554 essa fu colpita da un'epidemia che, secondo una relazione, uccise 3.500 abitanti, ma secondo un'altra ne sopravvissero solo 2.300 persone. Benussi conclude che il centro storico cittadino, quando si diffuse la malattia, non contava più di 3.000 abitanti e il circondario 5.000 abitanti.

S. Michele (29 settembre). Nonostante le giornate di festa era consentito richiedere i tributi per la casa (*casaticum*) e il pagamento per una prestazione di lavoro (*premium laboris*) (II, 102).

Gli statuti regolavano il rapporto tra datori di lavoro e i lavoratori salariati. Se quest'ultimi si impegnavano ad andare a lavorare e non lo facevano venivano multati (II, 99). Chi aveva ricevuto anticipatamente denaro per il lavoro e non si presentava a lavorare doveva restituire il denaro (II, 100). Gli schiavi e i lavoratori che andavano a lavorare per qualcun altro senza il consenso del padrone (ad esempio durante la vendemmia) e non davano nulla dei loro guadagni a quest'ultimo venivano multati o messi al palo della vergogna (I, 10). Gli statuti regolavano la cessazione del rapporto di lavoro e le regolazioni dei conti tra lavoratori salariati e i signori (I, 11). Era vietato trasferire un lavoratore straniero (I, 14). Era proibito condurre un parente o un lavoratore, sia maschio che femmina, appartenente ad un altro, in territorio *extra terram* (I, 15). Se qualcuno, consapevolmente o inconsapevolmente, si fosse costituito garante (fideiussore) per schiavi o lavoratori stranieri al loro padrone sarebbe spettato il controvalore della garanzia, detraibile dal patrimonio del garante (I, 12). All'oste non era consentito accettare pegno da uno schiavo o da un lavoratore salariato (I, 13).

Gli statuti hanno invaso anche la sfera intima degli abitanti di Capodistria, ovvero la loro vita familiare. La questione è stata affrontata mettendo in rilievo il versante patrimoniale. Era pratica comune la comunione dei beni tra i coniugi considerata come «a fra e suor». Molte disposizioni riguardavano l'indebitamento, i testamenti e l'eredità dei coniugi. Si definivano inoltre i diritti commerciali e di proprietà delle mogli e in parte dei figli, così come la tutela degli orfani.

Durante l'anno i ritmi di lavoro si allentavano per merito delle numerose festività e dei giorni in cui alcune attività riposavano. La settimana lavorativa durava dal lunedì fino alla campana della sera del sabato, quando si chiudevano anche le osterie. La campana dell'orologio suonava al mattino (*in mane*), all'ora della *tercia* (alle 9), alla *nona* (alle 15) e della messa vespertina (*ad uesperas*). Diversi ufficiali comunali dovevano rispettare questi orari: dalla mattina alle nove e dalle tre alla sera. Dagli statuti non risulta manifesto quando i capodistriani consumassero i pasti giornalieri, ma possiamo ricavare gli ingredienti di cui si componeva il menù dall'offerta delle botteghe di alimentari e dal mercato, nonché dai prodotti provenienti dall'entroterra: cereali, farina pane, latte, ricotta, formaggio, generi alimentari, frutta, castagne, erbe, vino, *mustarda*, olio, sale, miele, montone fresco, carne di maiale fresca e salata, galline, capponi, pollastri, fagiani, pernici, conigli, capretti, agnelli e uova. Dagli statuti non apprendiamo molto del comfort abitativo entro le mura domestiche: si menziona ad esempio il letto con cuscino, coperte e lenzuola, come oggetto del lascito del coniuge defunto.

Gli statuti cittadini solitamente contenevano una sezione che prescriveva il comportamento in pubblico e le sanzioni per gli atti criminali che minacciavano la sicurezza della città e dei suoi residenti. Negli stessi emerge l'impegno delle autorità a favore dell'ordine pubblico e della pace, nonché della protezione dell'integrità

dei beni. Per quanto concerne i comportamenti illeciti gli statuti cittadini sono soliti menzionare le imprecazioni blasfeme, le diffamazioni, le ingiurie, le dispute, le risse, le «tirate» per i capelli, ma anche scontri più gravi, che potevano avere esiti tragici.

Negli statuti di Capodistria non c'erano norme riguardanti i reati penali: *ciuitas Iustinopolis* e il suo distretto in materia penale seguivano gli statuti e le ordinanze del comune veneziano (I, 2). Il codice statutario menziona solo il divieto di vendere un uomo o una donna cristiana, il divieto di bestemmiare, limita la vita sociale nelle osterie solo al periodo diurno e proibisce l'intrattenimento con i giochi d'azzardo non autorizzati. Le disposizioni penali «mancanti» sono indicate in un documento separato chiamato, il *Liber niger*, conservato nel fondo dell'archivio storico della città di Capodistria presso l'Archivio di Stato di Venezia.

L'AMMINISTRAZIONE DI CAPODISTRIA, I SERVIZI PUBBLICI E LE ISTITUZIONI SOCIALI

La città medievale di Capodistria era retta dal podestà e capitano (anche pretore), mentre gli organi collettivi superiori erano il maggior e il minor consiglio. I figli di coloro che ne erano già membri potevano essere ammessi nel maggior consiglio dopo aver compiuto i vent'anni. I nuovi consiglieri venivano iscritti nel *register generalis* (III, 48). I funzionari capodistriani venivano eletti dal maggior consiglio secondo la procedura prescritta dallo statuto (III, 1). Mentre i quattro giudici, il cancelliere comunale, i quattro giustiziari *iusticiarii,* un soprastante esterno ed uno interno (*superstes*) ricevevano uno stipendio (da 6 libbre a 1 libbra e 7 soldi[6] al mese), i due stimatori e i sei avvocati lavoravano senza ricevere un compenso da parte del comune (III, 2). Gli statuti non specificano a riguardo dello status del precone (*preco*), responsabile di informare i cittadini sugli eventi importanti, le aste e le vendite immobiliari.

Il luogo di lavoro dei giudici, che ricoprivano il rango più elevato nell'ordinamento cittadino dopo il podestà, era il tribunale. Per il cittadino era obbligatorio rispondere alla convocazione in tribunale. Se il convocato non si presentava veniva multato fino a 5 libbre la prima volta, fino a 10 per la seconda assenza, e per la terza con una somma a discrezione (II, 60). Gli statuti stabilivano che gli imputati che evitavano di comparire davanti al tribunale non potevano lasciare la città, finché non rispondevano a colui che aveva presentato la denuncia; in caso contrario i giudici avrebbero pronunciato la sentenza con l'ausilio di testimoni e di altre prove (II, 83).

Il comune disponeva di sei avvocati comunali ufficiali, ai quali ognuno poteva e doveva rivolgersi in caso di controversia, a meno che non volesse rappresentarsi da sé (III, 10). Questa attività non poteva essere svolta da un chierico (III, 11). A causa del conflitto di interessi anche un giudice o un funzionario comunale non potevano presenziare durante una pena o una causa in cui lo stesso era avvocato o giudice (III, 9).

6 Il rapporto tra le monete era il seguente: 1 libbra = 20 soldi = 240 denari; 1 soldo = 12 denari.

A Capodistria si svolgevano spesso le aste immobiliari dei debitori per soddisfare le pretese dei creditori. Queste erano gestite dall'ufficio delle aste (*officium extimarie*), il funzionamento del quale era disciplinato dettagliatamente dagli statuti (III, 14). Gli stimatori disponevano di un cancelliere, il quale doveva presentare i suoi quaderni ad almeno un vicedomino e consegnarli agli stessi presso la loro sede, la vicedomineria (IIII, 40).

L'ufficio dei vicedomini (Darovec, 2010) è trattato ampiamente negli statuti (III, 17). Due vicedomini venivano nominati per un anno e dovevano essere presenti in ufficio dall'alba sino alle nove e dalle tre alla sera. Lavoravano sei giorni alla settimana, che si riducevano a cinque durante il periodo della vendemmia. Nei loro quaderni – i libri dei vicedomini – si registravano gli atti notarili: testamenti, accordi matrimoniali, vendite e le relative pubblicazioni, rinunce a proprietà, donazioni, inventari, scambi e divisioni. Ricevevano un compenso in base al tipo di documento vicedominato. Gli statuti cercavano di garantire l'autenticità delle note e degli strumenti registrati nei libri vicedomini (II, 103). Prescrivevano la procedura per ottenere una copia autentica sulla base dell'iscrizione nei libri dei vicedomini (II, 104).

Gli statuti menzionano diversi tipi di cancellieri (*cancelarius*): comunale (III, 2), podestarile (III, 7, III, 8) e l'addetto dell'ufficio delle aste (III, 15). Tra i funzionari pubblici comunali si annoveravano anche i tesorieri comunali o camerlenghi (*camerarius*), che erano procuratori e custodi dei beni del comune (*cataverius*). Essi sorvegliavano le cose appartenenti al comune (III, 12). Quattro giustiziari *iusticiarii* avevano compiti importanti nella vigilanza dello svolgimento delle professioni nel settore alimentare, dei commerci e delle misure.

Un soprastante interno (*superstes interior*) era responsabile della manutezione e della viabilità degli spazi pubblici della città (III, 25); sul *superstes uiarum extrinsecarum* (III, 23) ricadevano le strade del territorio fuori dalla città di Capodistria.

I cavedieri (*caviderii portarum*) erano a capo dei rioni cittadini. Ogni anno per la festa di S. San Pietro (28 giugno) venivano scelti dagli abitanti degli otto rioni o contrade che prendono il nome dalle porte della città: S. Martino, Brazzuolo, Maggiore, Pretorio, S. Tommaso, S. Pietro, Bossedraga e Isolana. Il salario annuo era di 100 lire cadauno (III, 18). Le guardie segrete (*guardiani celati*) controllavano le porte della città: erano quattro a S. Martino, due alla Muda, due a Zubenaga, due a Bossedraga, quattro a S. Pietro, due all'Isolana, quattro a S. Tommaso due al Pretorio, due a Pusterla due alla Nuova, quattro alla Maggiore e due al Brazzuolo. Il giorno stesso e in ogni momento potevano segnalare al cancelliere del podestà tutti i danni alle superfici agricole, i responsabili e gli animali. Il cancelliere registrava l'atto e si occupava di avvisare l'imputato del reato ricordandogli che aveva a disposizione tre giorni per organizzare la difesa. Il podestà e i giudici sceglievano le guardie il primo marzo per un anno (IIII, 1).

I cancellieri del comune, gli stimatori o gli ufficiali comunali dovevano avere il *privilegium artis notarie* (Darovec, 2014) e presentarlo al podestà prima

di prestare giuramento (IIII, 37). Dall'ordine dei notai provenivano anche i due vicedomini (Darovec, 1994; 2015), i quali possedevano il privilegio di svolgere l'attività notarile. La professione del notaio veniva attentamente considerata dagli statuti capodistriani (III, 19). Il notaio era incaricato di redigere un atto pubblico, doveva stilarlo e confermarlo entro 15 giorni, e riceveva il pagamento del servizio effettuato il giorno stesso o il giorno successivo (III, 20). La maggior parte dei documenti notarili registravano debiti commerciali. Il debitore poteva essere un individuo o più persone. In caso di un debito comune contratto da più debitori tutti erano responsabili per la restituzione del debito. I garanti che si erano impegnati a *conseruare indepnem* l'indebitato, erano responsabili della restituzione del debito contratto dallo stesso se egli non lo restituiva (II, 85). Il debito indicato nella cambiale era saldato dal patrimonio del debitore principale (*debitor principalis*). Quando c'erano più debitori, ognuno era responsabile della propria parte o quota di debito. Se il creditore non recuperava la somma dovuta dal singolo debitore poteva reclamare la differenza dagli altri debitori; in caso di insuccesso si rivolgeva ai garanti (*fideiussores*). Se i creditori non riuscivano a trovare i principali debitori si rivolgevano al podestà; si cercavano allora i debitori a casa per tre giorni e nel caso in cui non fossero stati trovati si poteva ricorrere ai beni dei garanti. In caso di debito congiunto di marito e moglie, il primo rispondeva per l'intero debito. Senza il consenso della moglie egli poteva mettere all'asta i beni comuni per soddisfare il creditore (II, 86, 87). Il creditore che non aveva recuperato il suo credito dalla vendita di un immobile del debitore, si rifaceva su quello successivo (II, 90, 91, 92). Se il debitore non aveva nulla con cui ripagare il debito, i creditori potevano anche confiscare i suoi beni, alienati dopo la stipula della cambiale. I recuperi dei debiti avvenivano in base all'ordine dei prestiti contratti (II, 89). A pagamento avvenuto i creditori dovevano rilasciare al debitore la quietanza attestante l'avvenuto annullamento della cambiale (II, 88).

Dopo dieci anni la registrazione del debito non era più valida e doveva essere rinnovata prima dello scadere di questo periodo. Il debitore doveva confermarla mediante giuramento. Se la registrazione andava persa e il debitore non compariva l'atto in questione veniva reso pubblico per tre volte; se il debitore non si presentava il cancelliere lo rinnovava senza la sua conferma (II, 65). Le cambiali degli stranieri venivano rinnovati entro un periodo di 20 anni (II, 67). Se l'atto veniva smarrito in seno al tribunale il precone lo rendeva pubblico, mentre il podestà ordinava la creazione di una nuova copia per il creditore. Tuttavia, se il documento perduto non era presentato in tribunale per il rinnovo era necessario il consenso del debitore (II, 84). Le cambiali non passavano liberamente di mano in mano come titoli di credito. Se in esse era annotata l'autorizzazione ad agire come creditore, da parte di chi deteneva il documento (*in cuius manu instrumentum apparuerit*), questa aveva valore solo se il principale creditore era nominato nella registrazione o se il detentore del documento era in possesso di un atto di donazione o di rappresentanza del principale debitore (II, 82).

I notai erano indispensabili per la redazione dei testamenti; muniti di carta, penna e canna da scrittura (*carta, pena, calamoque ornati*)[7] dovevano rispondere senza esitazione alla richiesta di registrare un testamento (II, 49). Il notaio forniva un'ulteriore aggiunta di autenticazione ai documenti scritti a mano, per i quali il testatore, alla presenza del vicedomino, garantiva che il testamento fosse suo. Durante la lettura del testamento erano presenti il testatore, il notaio, il vicedomino e i testimoni. Prima della morte del testatore il testamento veniva depositato presso la vicedomineria del comune in un'apposita cassa con due serrature e tre chiavi, che erano custodite da entrambi i vicedomini e dal giudice designato dal podestà.

Se un cittadino moriva fuori da Capodistria e aveva fatto testamento era necessario presentarlo alle autorità capodistriane entro un certo periodo di tempo (II, 50). Chi redigeva il testamento non poteva più modificarne l'aggiunta, il codicillo (*codicillum*) (II, 51). I notai che redigevano il testamento dovevano informare gli eredi sulle volontà del defunto (IIII, 39).

Nella Capodistria medievale ci si prendeva cura degli indigenti: i malati e i poveri trovavano rifugio in due ospedali cittadini (Bonin, 2009), presso l'ospedale di S. Nazario sito nell'odierna piazza Prešeren e l'ospedale di S. Marco in piazzale del Museo. Al primo pervenivano numerosi finanziamenti. Riceveva le donazioni destinate all'anima del defunto, che non venivano utilizzate entro un anno (II, 53). La persona ecclesiastica alla quale era stata lasciata una proprietà doveva prendersene cura in modo adeguato, altrimenti questa veniva venduta. Un quarto del ricavato andava direttamente all'ospedale di S. Nazario, mentre i rimanenti tre quarti andavano al fondo dei prestiti veneziani a beneficio e per la crescita dell'ospedale, il quale li riceveva secondo necessità (II, 81). I beni di una ragazza che si sposava senza il consenso del suo tutore, che non fosse un suo parente stretto, sarebbero andati al comune e all'ospedale di S. Nazario (I, 19). Il pane di peso insufficiente, cotto dai panettieri capodistriani, veniva donato ai prigionieri o ai poveri dell'ospedale (III, 43). Il terreno adiacente all'ospedale era coltivato e se veniva calpestato dagli animali, il danno cagionato veniva risarcito dal vicino più prossimo in possesso degli stessi (IIII, 44).

Ogni anno il podestà e capitano sceglievano due fiduciari (procuratori) dell'ospedale di S. Nazario, mentre il priore dell'ospedale veniva eletto dal maggior consiglio per un anno. Il priore aveva una domestica (*pedissequa*) che si prendeva cura dei malati e degli indigenti dell'ospedale. Ogni giorno un sacerdote veniva all'ospedale per celebrare la messa (III, 4).

L'ospedale dei poveri di S. Marco, istituito dal lascito di *ser* Marco Trivisan di Venezia, sorgeva nel rione Zubenaga, nell'odierno piazzale del Museo. I suoi beni

7 Oltre alla carta vengono menzionati due tipi di strumenti di scrittura (*pena* e *calamus*), ma non il calamaio (*calamarius*), che rappresentava uno strumento essenziale per i notai e veniva regolarmente menzionato nelle loro investiture (Darovec, 2014). Nell'edizione degli statuti del 1668 (Barbadicus, 1668, 40), a tale proposito, si fa riferimento a carta, penna e calamaio (*calamarius*), ma non al calamo (*calamus*). Così dovrebbe probabilmente essere indicato anche negli statuti del 1423, dove in questo caso manca l'abbreviazione sopra la parola *calam**ari**us*.

erano amministrati da quattro commissari: il vescovo, due «sapienti» capodistriani e un commissario giudiziario nominato in conformità al sudetto lascito (III, 6).

A Capodistria operava un medico stipendiato, di cui si parla indirettamente: un ferito non poteva consegnarsi alle autorità, anche se dichiarato sano, senza il consenso del medico *phisico salariato pro comuni Iustinopolis* in presenza del podestà (III, 22).

Al podestà e capitano spettava l'ultima parola in merito alla nomina di due procuratori della chiesa cattedrale in carica per un periodo di tre anni, che venivano da lui scelti dopo aver consultato il vescovo. Questi venivano confermati ogni anno dal maggior consiglio. Il vescovo poteva scegliere un terzo curatore, che era un sacerdote. Una volta al mese i procuratori presso la vicedomineria controllavano i lasciti testamentari destinati alla chiesa (III, 5).

Il podestà aveva a disposizione un'unità militare composta da cavalleria e fanti, che contava diverse decine di uomini armati. In occasione dell'Assunzione di Maria, il 15 agosto, si svolgeva una fiera presso la foce del fiume Risano. Alla vigilanza della quale il podestà inviava un suo milite (*socius miles*) con una scorta militare, due giudici e un cancelliere per gestire la fiera e mantenere l'ordine. Erano presenti 25 cavalieri, il comandante podestarile (*commestabilis*) con fanti locali e stranieri, per un totale di circa 40 uomini armati. Il milite scelto del podestà riceveva dai contadini fino a 16 libbre per il suo soggiorno, il comandante fino a 8 libbre. I contadini fornivano tutto il necessario per il soggiorno dei sopraccitati e dei loro cavalli. Si provvedeva al podestà e al suo seguito nonché a 30 cavalli (III, 51).

L'AMBIENTE URBANO

La città nel suo complesso si prendeva cura del proprio spazio abitativo e dell'entroterra cittadino, dove prosperavano vigneti, ulivi, castagni e alberi da frutto, prati, pascoli e foreste, attraversati da corsi d'acqua e collegati da strade pubbliche e locali.

Nelle città medievali c'era il pericolo di incendi e Capodistria non faceva eccezione. I suoi statuti si occupavano della sicurezza contro gli incendi. Gli incendiari dovevano risarcire il doppio dei danni che avevano causato: metà andava al danneggiato e metà al comune, a cui andava anche la multa di 5 libbre (I, 23).

Gli statuti si impegnavano a favore di un ambiente urbano ordinato e pulito. Diversi decreti statutari cercavano di garantire la viabilità e la pulizia delle aree urbane. Né al residente né allo straniero era permesso dalle grondaie, dai balconi o dalle finestre versare acqua pulita o sporca, rifiuti o sporcizia sulla strada pubblica. Alla gente del posto e agli stranieri non era permesso depositare letame o altra sporcizia sulle stesse, che andava pertanto ripulita o fatta ripulire. Dovevano pulire o far rimuovere il pattume entro otto giorni (I, 42, 43). Gli abitanti di Capodistria non potevano versare letame o terra nei pressi della chiesa né lasciarvi carri o legna (I, 44). Le grondaie che si protendevano sopra le strade pubbliche o altre superfici, con l'acqua che scendeva dall'alto verso la strada, dovevano essere arrangiate per evitare lo scarico in esse, provvedendo a tapparle o a modificarle altrimenti (I, 44).

A causa del fetore (?) a nessuno era permesso portare o appendere pellicce o pelli nell'orto o altrove se non sotto le mura della città (I, 37).

Chiunque scavasse, asportasse, modificasse o restringesse una strada pubblica o uno spazio comunale all'interno o fuori da Capodistria doveva pagare una multa di 5 libbre, ripristinando inoltre la situazione allo stato precedente (I, 36). Nessuno poteva scavare, raccogliere o accumulare terra o letame sulla strada o la via pubblica di *Agrapocrasti* fino al ponte di *Treuolchi*, *Cançani* e neanche in Brolo (*in Broylo maiori*) (IIII, 36).

Gli statuti limitavano gli spazi in cui il bestiame aveva accesso. Nella città di Capodistria nessuno poteva tenere maiali[8] se non chiusi in stalla o in casa (I, 46, IIII, 23). A nessuno era concesso di avere capre senza il permesso del podestà e capitano. Anche in presenza di questa autorizzazione non era consentito mandare le capre fuori città a pascersi e a brucare. Ai macellai della città non era consentito avere capre da mungere (IIII, 23), ma potevano far pascolare gli animali di piccola taglia in *Campo Marcio* per il fabbisogno della macelleria (IIII, 7). Il fornaciaio del forno del pane poteva avere tre bestie da soma per condurre la legna utilizzata per lo stesso (I, 45).

Le superfici coltivate erano sorvegliate dai custodi. Il 1 agosto queste venivano scelti dai cavedieri (*cauiderii portarum*) insieme a quattro cittadini «più competenti» (*meliores et legaliores*) di ciascun rione ed erano pagati dai residenti del vicinato[9]. I responsabili dei danni scoperti dai guardiani pubblici delle vigne o dai proprietari dovevano risarcire l'inconveniente arrecato e a pagare una multa, che dipendeva dall'entità degli stessi e dall'ora in cui si erano verificati: di notte era più alta che di giorno. I danni alle superfici erbose erano definiti a parte alla pari di quelli dei boschi. Se i trasgressori erano i custodi essi pagavano il doppio, ugualmente se non veniva trovato il colpevole (IIII, 2). Quando gli animali arrecavano danni ai terreni coltivati e il colpevole non veniva individuato, rispondevano gli abitanti delle vicine proprietà agricole (*curia*) e dei mulini o chiunque stesse pascolando gli animali in prossimità. Chi possedeva proprietà agricole fuori dal distretto di Capodistria non poteva arrecare danni ai terreni coltivati dai cittadini capodistriani.

L'allevamento dei buoi nel distretto di Capodistria doveva essere denunciato al cancelliere del podestà (IIII, 4). Il cittadino o residente di Capodistria che si recava con asini, cavalli, muli o altri animali sui terreni coltivati propri o altrui, doveva – tranne che durante il raccolto – tenere legati gli animali in modo che non potessero causare danni, in caso contrario doveva pagare una multa e risarcire i danni. Al momento del risarcimento dei danni, il proprietario veniva multato per ciascun animale che aveva causato il danno (IIII, 5). La multa per un bue o una mucca che distruggeva i terreni coltivati era di 30 soldi nei giorni feriali e di 40 soldi nei giorni festivi e notturni per animale. Per un montone, un montone castrato, un capretto castrato, un caprone e un agnello si pagavano da 4 a 6 soldi a capo (IIII, 6).

8 Era acconsentito uccidere l'animale che provocava danni.
9 Un membro del maggior consiglio non poteva essere eletto a guardia di vigneti e di boschi.

Alla gente del posto e agli stranieri era vietato far pascolare animali di piccola taglia a *Campo Marcio,* ad eccezione dei macellai. Non era consentito né falciare l'erba né fare il fieno sul *Campo Marcio* o in nessun'altra area comunale (IIII, 7).

Dal 1 marzo al 1 ottobre, nel contado di Capodistria era vietata la caccia senza il permesso del podestà (IIII, 8). Dal 1 aprile fino al giorno di Ognissanti (1 novembre) a nessuno era permesso di camminare sui terreni coltivati fuori città e di arrecarvi danni (IIII, 9). I contadini dall'altra parte del fiume Risano, tra S. Giorgio (23 aprile) e S. Michele (29 settembre), non potevano attraversare il fiume per pascolare animali di piccola o di grande taglia né sui prati né nei boschi né sui terreni coltivati o incolti del distretto di Capodistria (IIII, 11). Dal 1 marzo a Ognissanti (1 novembre) tutti i prati erano interdetti a chiunque (in banno): nessuna persona non autorizzata poteva raccogliere l'erba o falciarli (IIII, 12).

Nelle vigne di Capodistria da aprile a S. Michele (29 settembre) era vietato tagliare o potare le viti (IIII, 13). Né una persona del luogo né uno straniero potevano asportare o far portare via legname di viti o di altri alberi altrui senza il permesso del proprietario; la multa andava da 3 a 5 libbre, a seconda della quantità sottratta (III, 14). In una vigna altrui, senza il consenso del proprietario, non era permesso potare o raccogliere steli di vite con l'intenzione di piantarli altrove (IIII, 19). Nel nuovo anno, senza il consenso del padrone, non era permesso portare via steli o erbe da giardini altrui (IIII, 16).

Per coloro che desideravano allevare capre nell'entroterra capodistriano, gli statuti descrivevano dettagliatamente i confini dei vigneti dei cittadini capodistriani, dove le capre non potevano pascolare. Si menzionano a riguardo toponimi, località, rilievi, sentieri, corsi d'acqua, fossati, sorgenti, mulini, vigneti, terreni dissodati per le vigne, castagni, superfici erbose (IIII, 24). Era vietato tenere le capre all'interno della zona del vigneto dei cittadini di Capodistria e al di fuori di essa era necessario impedire l'accesso ai vigneti. La multa veniva inflitta anche a chi pascolava le capre e causava danni a vigne o campi al di fuori dall'area vinicola designata (IIII, 23).

Gli statuti dedicavano attenzione anche alla protezione degli ulivi, dei castagneti e degli alberi da frutto. In qualsiasi periodo dell'anno era vietato scuotere, raccogliere o potare alberi di olivi o castagneti altrui (IIII, 15). Le mele che pendevano dai rami al di sopra della terra di un altro potevano essere raccolte dal proprietario del terreno, ma non gli era permesso arrampicarsi sull'albero. Questo aveva diritto anche ai frutti caduti sulla sua terra. Il proprietario dell'albero, pertanto, non poteva raccogliere i frutti del suo albero su terreni altrui, né dai rami né dal suolo (IIII, 18). Chi tagliava un albero da frutto o un ramo di una pianta altrui doveva pagare una multa di un marco (8 libbre), altrimenti veniva fustigato alla colonna infame o per terra. Ai concittadini capodistriani e agli stranieri era consentito tagliare gli alberi da frutto secchi o verdi solo durante la festività di S. Michele (29 settembre) e di Ognissanti (1 novembre), quindi nel mese di ottobre. Solo durante questo periodo il podestà poteva permettere di estirpare le viti e gli altri alberi da frutto presenti nei vigneti per seminare il grano. L'albero estirpato o abbattuto doveva essere trascinato fuori dal vigneto e lasciato lì, mentre in città doveva essere portato nei tempi

prescritti. Gli alberi dovevano essere sostituiti. Tuttavia il podestà era autorizzato a consentire in qualsiasi momento il taglio dei castagni per la preparazione della carbonella. Se qualcuno voleva vendere alberi di castagno doveva concludere la transizione dinanzi al podestà (IIII, 20).

La città sfruttava saggiamente le aree boschive. Queste erano divise in sei parti, che erano disponibili per il taglio e l'utilizzo una dopo l'altra per un anno, poi venivano interdette per un periodo di cinque anni, per permettere al bosco di ricrescere e rigenerarsi. Gli statuti precisano quale era l'area boschiva allora utilizzabile (1423) e quale la avrebbe seguita in questa funzione. Solo i proprietari di fondi agricoli (*curia*) e i mugnai potevano tagliare il bosco comunale. I boschi erano sorvegliati da otto custodi, scelti dal podestà tra i cittadini di Capodistria, dei quali almeno due persone dovevano essere di ispezione ogni giorno. I guardiani e i custodi delle vigne non potevano accettare nulla in dono o alcun pagamento dai contadini, mugnai o proprietari di beni agricoli. Il custode in caso di violazione era soggetto ad una pena doppia (IIII, 21). I proprietari di fondi agricoli e i mugnai potevano raccogliere nei boschi pubblici in agosto tutto il fogliame necessario per gli agnelli e gli animali di piccola taglia, ma prima dovevano sotto giuramento informare il podestà sul numero dei loro animali. Le foglie erano destinate a questi e non potevano essere vendute (IIII, 22).

Dai decreti statutari risulta evidente la preoccupazione per la percorribilità e la sicurezza delle vie di comunicazione stradali. Chiunque durante il periodo della vendemmia veniva a Capodistria su un carro carico o vuoto trainato da buoi doveva tenere con la mano le redini degli animali sul ponte *Trauolchi* (*Canzani*) fino al luogo dove voleva scaricare o vendere le merci del carro (I, 47). I procuratori vigilavano sulle strade: sia interne (III, 25) che esterne, nonché i corsi d'acqua del Risano e della Cornalunga (*Flumisellum*?): il funzionario soprastante accertava quali lavori di riparazione erano necessari e stabiliva chi doveva svolgerli[10] (III, 23). Gli stranieri o i capodistriani che possedevano poderi oltre il *Flumisellum* dovevano rimuovere e pulire i rami, il legname, i rovi e la sporcizia dalle loro proprietà entro il termine temporale di un mese (III, 24).

GLI IMMOBILI, LE ATTIVITÀ IMMOBILIARI, I RAPPORTI FUORI DALLA CITTÀ

La maggior parte delle proprietà immobili di Capodistria e dei suoi dintorni appartenevano al comune di Capodistria o erano state assegnate ai signori (*diuisus*). L'alienazione dei beni comunali non era valida senza il permesso del podestà o di altri signori (I, 40). Ai cavedieri cittadini era consentito di alienare terreni della comunità cittadina solo previo permesso del podestà (II, 27). Chiunque violasse o si appropriasse di una superficie comunale fuori dalla città (bosco, campo, prato),

10 Nel dettaglio sono elencati i collegamenti e gli insediamenti i cui abitanti erano responsabili della manutenzione e della riparazione delle strade.

senza il permesso del podestà e non lo avesse dichiarato entro 15 giorni, doveva pagare una multa di 25 libbre. Se non pagava perdeva la proprietà acquisita e veniva bandito (I, 39). Il comune si appropriava anche dei beni di un forestiero che moriva senza fare testamento (II, 14). Chiunque si appropriasse della proprietà di un defunto senza testamento al di fuori di Capodistria doveva, sotto giuramento, presentare al podestà la questione e rinunciarvi entro un mese dal suo arrivo in città; di questa il comune ne avrebbe preso una parte. Questa veniva resa nota pubblicamente (proclamata) affinché gli aventi diritto (i beneficiari) si presentassero (II, 15).

La proprietà del terreno si trasferiva ai beni immobili presenti su di esso: se qualcuno costruiva sul terreno di qualcun altro, secondo l'antica legge, quanto costruito apparteneva al proprietario del terreno. Se qualcuno voleva costruire o dissodare la propria terra e glielo vietavano, aveva diritto ad un risarcimento. Fuori città non era consentito appropriarsi delle terre altrui senza il permesso delle autorità (II, 19, 20). Gli statuti vietavano di violare i confini della terra del vicino (II, 31). Piccoli pezzi di terra inutilizzati altrui venivano assegnati a discrezione del podestà a chi aveva dei terreni in prossimità (II, 36). Per le vigne e i campi che non avevano un accesso proprio era l'autorità a designare la servitù di passaggio (II, 32).

La città era garante della continuità della proprietà e della coltivazione dei beni immobiliari sul suo territorio. Chiunque avesse coltivato un terreno senza rimostranze per dieci anni lo usucapiva (II, 21). Il cittadino di Capodistria che per un periodo di 15 anni aveva goduto di una casa, di un campo, di un vigneto o di un altro bene nel territorio capodistriano o fuori dallo stesso, senza dispute sollevate davanti al capo del comune da parte di uno straniero di Capodistria o di altrove, ne diventava proprietario (II, 22). Dopo tre anni era vietato molestare il proprietario di un bene acquistato o altrimenti acquisito causa i debiti contratti dal precedente possessore (II, 23). Non era consentito acquisire la proprietà di un proprietario indebitato, qualora posseduta da un altro per un anno o più (II, 25).

La proprietà dei beni immobili o il diritto di affittarli o di darli in locazione costituivano una fonte di reddito. Il canone di locazione e le tasse sugli immobili dovevano essere regolarmente pagati (II, 35). Se la vigna alla quale era conferita la tassa sul vino *curuscongium* rimaneva incolta per due anni, secondo l'antica usanza, ritornava indietro al signore, a meno che il podestà non decidesse diversamente. Nel caso delle saline queste tornavano al loro proprietario, il comune (II, 34).

Gli statuti specificavano dettagliatamente le norme riguardanti l'affitto annuale e pluriennale di case, di prati e di imbarcazioni (II, 94). La locazione e l'affitto di un immobile senza registrazione pubblica non era valida per più di un anno (II, 97). Non era consentito portare via i beni dell'affittuario se non previo consenso e in accordo con il proprietario (II, 95). Se il proprietario voleva vendere o riprendere per sé un immobile, affittato per più di un anno con atto pubblico a Capodistria, doveva avvisare l'affittuario o l'inquilino due mesi prima della scadenza di un anno, mediante atto notarile davanti al vicedomino e all'affittuario (II, 96).

Non erano valide le vendite o le alienazioni delle proprietà che non potevano essere provate da un documento pubblico (II, 38). L'alienazione dei beni immobili era valida se effettuata per iscritto e sottoposta al podestà per la verifica e al vicedomino per la conferma (II, 42). Al di fuori di Capodistria, prima di essere venduto, ipotecato, affittato, scambiato o alienato, l'estensione di un vigneto, campo, terreno o altro bene doveva essere misurato[11] in pertiche[12]. Le alienazioni dovevano essere rese note pubblicamente dai gradini (*scalae*) del campanile, entro il termine di 15 giorni, affinché i parenti potessero esercitare il diritto di prelazione (II, 39, 42). Il proprietario doveva essere informato della vendita o dell'alienazione della sua proprietà, altrimenti questa non era valida (II, 26). L'immobile per il quale veniva pagato l'affitto, il canone o la tassa poteva essere venduto solo assieme agli obblighi (II, 28). A nessuno era consentito di comprare all'incanto sulla piazza pubblica la proprietà o alcuna rendita per conto di un altro, a meno che, davanti al podestà, non avesse dimostrato di essere un rappresentante legittimo (II, 48).

Li contenziosi relativi ai beni immobili venivano regolati pubblicamente: il precone del comune le rendeva note dai gradini (*ad gradum*) del campanile (II, 1). Con il cambio di poteri le questioni irrisolte riguardanti i beni mobili e immobili proseguivano sotto la nuova autorità (II, 4). Per evitare controversie gli statuti prescrivevano istruzioni sulla divisione dei beni comuni, alla quale partecipava il capo cittadino (II, 30).

Nelle controversie riguardanti beni immobili e mobili entrambe le parti coinvolte facevano pervenire domande scritte al podestà per l'audizione dei testimoni (II, 6). Il testimone doveva ispezionare la proprietà sul luogo a spese del querelante. Se il testimone mentiva veniva punito da una multa pari a 60 libbre; inoltre veniva dichiarato non attendibile (II, 7). I testimoni che cercavano di eludere il processo venivano condotti in tribunale forzatamente dal podestà (II, 8). Se il citato non compariva in tribunale pagava una multa aumentata ad ogni citazione successiva (II, 60). Chiunque chiamava un testimone gli pagava un'indennità giornaliera per le spese e questo veniva rimborsato dalla parte che perdeva la causa (II, 9). Se chi negava ogni addebito non riusciva a dimostrare la sua innocenza o la mancanza di debiti, si prendeva in considerazione la prova del querelante (II, 10). Se qualcuno citava in giudizio un debitore che negava di aver contratto un debito, ma questo veniva provato, quest'ultimo doveva pagare il doppio dell'importo (metà andava al comune). La testimonianza per un prestito superiore a 50 libbre era valida solo in presenza di una scrittura pubblica. Il procedimento doveva essere avviato entro tre anni dalla conclusione dell'affare. La testimonianza contro i cittadini capodistriani deceduti non era valida, mentre quella contro gli stranieri era nelle mani del podestà e capitano (II, 12, II, 8).

11 Per prima cosa si misuravano entrambi i lati, poi il lato superiore e quello inferiore (II, 40). Nell'atto generale della donazione non era necessario indicare il confine e la misura della proprietà (II, 41).

12 208 cm, cf. Herkov, 1971, 99–100.

Le relazioni creditore-debitore non appianate comportavano il pignoramento o l'intromissione nella proprietà del debitore (*intromissio*). Il precone lo rendeva noto dalle scale del comune e invitava il debitore a presentarsi e a regolare il debito con il creditore. L'intromissione era consentita se il debitore non si presentava (II, 45). Prima della sua esecuzione, il creditore doveva giurare davanti al podestà l'ammontare del suo credito in base alle cambiali (II, 47). Se qualcuno cercava di intromettersi nei beni del debitore assente, quest'ultimo veniva fatto chiamare dal podestà o avvisato in altro modo. Se il debitore si presentava il querelante aveva il diritto all'intromissione nei beni trattenuti. Se il debitore era informato e non si presentava si seguiva la normale procedura (IIII, 38). Al debitore che si sottraeva a questo compito e che il precone non riusciva a trovare, in città o presso la sua abitazione durante i giorni lavorativi, poteva essere trattenuto durante le festività quando si trovava a Capodistria (II, 63). Nel soddisfare le richieste dei creditori si rispettava l'ordine delle richieste (II, 62). Se qualcuno (nel testamento) affidava la gestione della proprietà a un rappresentante (commissario) e questi li alienava per sé, doveva pagare con i propri beni i creditori del defunto e coloro che avevano diritto all'eredità dallo stesso (II, 11).

Per quanto riguarda le eredità gli statuti stabilivano che i beni assegnati in godimento temporaneo non potevano essere alienati senza il consenso di coloro che avrebbero dovuto successivamente ereditarli. Questi erano anche legittimati a possedere i beni se il beneficiario non ne avesse avuto cura (II, 33). Agli ecclesiastici potevano essere lasciati beni immobili solo se il beneficiario ecclesiastico si occupava della proprietà come un buon padre di famiglia (*bonus pater familias*); in caso contrario, la proprietà veniva venduta. Un quarto del ricavato andava direttamente all'ospedale di S. Nazario, mentre i restanti tre quarti andavano al fondo di prestiti veneziani per lo stesso ospedale. Secondo necessità i vicedomini assegnavano i fondi ai rappresentanti dell'ospedale (II, 81).

Gli statuti cambiarono la vecchia pratica di disporre dei beni immobili, consuetudine propria dell'area rurale capodistriana, i quali appartenevano al comune o erano stati assegnati ai signori (*diuisus*). Da quel momento in poi nessuno poteva vendere o impegnare i vigneti, i campi o le proprietà di un altro senza il consenso del loro signore. Fu abolita l'antica usanza slava e chi lasciava il villaggio e passava sotto il dominio di un altro signore non poteva più conservare nessuna delle sue proprietà, che rimanevano al precedente signore (IIII, 25). Il contadino (*Sclauus uel rusticus utriusque sexus*) non poteva vendere, dare o in alcun modo alienare una proprietà se non ai suoi compaesani, ovvero non poteva comprarla o appropriarsene. Il 6 agosto 1318, il maggior consiglio decise che il contadino poteva vendere una proprietà solo ai suoi compaesani – contadini del suo signore. Il testo degli statuti fu integrato l'11 aprile 1325[13]: Lo slavo o contadino non poteva vendere, dare o in alcun modo alienare una proprietà, né darla in pegno o impegnarla in alcun modo (IIII, 26). Chiunque non fosse originario dei villaggi capodistriani

13 La decisione e l'aggiunta sono antecedenti all'anno di conferma degli statuti qui trattati.

non poteva ereditare dai contadini di Capodistria, e questi non potevano lasciargli l'eredità nei testamenti, a meno che il primo non avesse dato o offerto alla comune o al signore del villaggio garanzia o assicurazione che sarebbe rimasto nel villaggio in cui viveva il precedente contadino per cinque anni e lo avrebbe servito allo stesso modo. Se non avesse rispettato questo impegno i beni sarebbero tornati ai parenti del contadino dello stesso paese, prestando la dovuta osservanza del diritto matrimoniale del villaggio (IIII, 35).

Al di fuori dal villaggio in cui risiedeva un contadino non poteva rispondere a nessuno riguardo alle proprietà dello stesso senza avvisare il podestà in caso si trattasse di un contadino del comune, o il signore se apparteneva allo stesso padrone a cui era assegnato il villaggio (IIII, 27). Il contadino non poteva impegnarsi, con o senza documento, con il castellano o chiunque altro che risiedesse fuori dal territorio di Capodistria (IIII, 32). Non poteva consegnare i suoi animali in soccida (Mihelič, 2015), custodia o pascolo a un residente al di fuori del distretto (IIII, 33).

I signori dei villaggi comunali avevano giurato di prendersi cura onestamente dei contadini. Essi potevano recarsi in visita cinque volte all'anno e portare con sé sei cavalli. Questi potevano ricevere fino a 16 soldi per un castrato, 4 denari per un pane e 18 denari per una gallina. Gli abitanti delle campagne dovevano prestare servizio al signore cinque giorni all'anno: per la festa di S. Maria ad agosto, per S. Michele, per S. Martino, per Natale e per il periodo della Quaresima (*carnispriuium*) (IIII, 28). Il gastaldo e il giudice del villaggio non potevano permettere a un contadino che volesse lasciare un villaggio di Capodistria con i suoi averi di portarli via o di farli portare fuori dallo stesso se il paesano non avesse prima pagato al signore ciò che gli doveva di diritto o non si fosse accordato con esso (IIII, 30). Se qualcuno avesse accettato una garanzia dal suo contadino, che poi fosse fuggito o avesse commesso un altro reato, la condanna sarebbe stata soddisfatta con i suoi beni (IIII, 29).

I contadini e gli abitanti dei villaggi del comune di Capodistria e gli altri contadini, che servivano e erano soggetti ai signori di Capodistria, dovevano rispondere in città, ai cittadini e agli abitanti della stessa, sugli immobili e mobili secondo le loro usanze davanti ai gastaldi e ai giudici dei villaggi. L'istanza di appello era rappresentata dal podestà di Capodistria (IIII, 31). Tra gli sbirri (berrovieri, *baroeri*) inviati a far rispettare gli ordini nella campagna circostante a Capodistria e i contadini sorgevano delle controversie. Gli sbirri avevano un comandante (*commestabilis*). Gli statuti stabilivano la retribuzione degli sbirri inviati nei villaggi, elencando i paesi anche per nome (IIII, 41).

IL SETTORE ALIMENTARE

La principale preoccupazione di ogni città medievale era di garantire il cibo necessario alla città. Pertanto, gli statuti cittadini – compresi quelli di Capodistria – si occupavano intensamente delle attività legate all'alimentazione. Sotto stretto controllo i mugnai nei mulini, i pigiatori nei torchi, i panettieri nei forni, i macellai nelle macellerie, i locandieri nelle locande, i pescatori nei mercati del pesce, i salinari

nelle saline e numerosi venditori di generi alimentari nel mercato cittadino dovevano svolgere le loro attività con dedizione e onestà. Particolarmente dettagliate erano le indicazioni per i macellai.

I principali mulini in cui si macinava il grano di Capodistria erano situati lungo il fiume Risano. Questi svolgevano la loro attività nei giorni feriali fino al tramonto al sabato (I, 7). Di domenica e nei giorni festivi, Natale (25 dicembre), Epifania (6 gennaio), Pasqua, Ascensione di Cristo, Pentecoste, durante le festività mariane, e nei giorni dei santi apostoli e di S. Giovanni Battista (24 giugno) (I, 8) i mulini si fermavano. I mugnai, le mugnaie e gli osti che svolgevano la loro attività lungo il Risano dovevano vendere e consegnare grano e farina ai cittadini di Capodistria e ai locali, ma non agli stranieri (I, 6). Dovevano essere muniti di misure regolari: spettavano loro 2 *scate*[14] di farina o 4 soldi[15] di tasse di molitura per ogni staio macinato o proporzionalmente meno. Le misure erano sigillate e chiuse (I, 4). Dal mulino, costruito a Capodistria, al comune spettavano tre libbre e la stessa tassa di molitura di sempre (I, 9). Per riparare il mulino, lungo la diga o altrove, era necessario coinvolgere tutti coloro che avevano una quota nello stesso, in modo che ognuno contribuisse con la propria parte. Lo stesso valeva per i canali e gli argini dei soci delle saline e di altre proprietà (II, 98).

Nel 1301[16] fu emanato un decreto che imponeva ai mastri torchiatori e ai loro servi nei torchi di conservare separatamente le olive portate da ogni proprietario. Quando era necessario queste venivano lavate. Successivamente le macinavano o le avrebbero fatte macinare e poi messe in sacchi e lavorate. Gradualmente a questa massa con un contenitore sigillato (*situla*), delle dimensioni di un quarto d'*urna*[17], si aggiungevano almeno dieci misure (*zonta*) di buona acqua calda per ogni *mezena*[18] di olive. I torchiatori e i servi ricevevano un soldo per ogni *mezena* di olive spremuta; per il cibo, le bevande e la legna per il lavoro ricevevano 7 libbre (*libra*) di olio[19] netto per ogni *centenario* (100 libbre) o proporzionalmente. I residui della lavorazione appartenevano al proprietario delle olive. Le misure dei torchiatori dovevano essere regolari e sigillate dai giustiziari. Questi e i procuratori delle strade controllavano almeno una volta al giorno il lavoro dei torchiatori (III, 50).

I possessori delle fornaci a Capodistria dovevano mantenere i loro forni ben preparati, in modo che potessero funzionare ogni giorno senza arrecare disturbo a nessuno; la sanzione per la violazione ammontava a 10 libbre, che non potevano essere saldate con una pagnotta ogni venti cotte, e con il divieto di cuocere per i successivi cinque anni. La decisione in merito alla pena veniva presa nella casa dei

14 3 *scate* equivalevano ad 1 *bacharium*.

15 1 *scata* di farina corrispondeva a 2 soldi, 1 *bacharium* di farina invece a 6 soldi.

16 Il decreto è antecedente all'anno di conferma degli statuti qui trattati.

17 L'*urna* misurava 64,7 litri, cf. Mihelič, 1989, 25.

18 La *mezena* misurava 3 *quarte* ed equivaleva a 62,5 litri, considerando uno staio diviso in 4 quarte e pari a 83,3 litri, cf. Darovec, 2004, 287–291.

19 La libbra d'olio misurava 0,52 litri, cf. Herkov, 1971, 40–41.

patroni, dove i panettieri cuocevano il pane. Ogni fornaciaio del forno poteva avere tre animali da soma per portare la legna per le esigenze del forno (I, 45).

Ogni panettiere e ogni panettiera dovevano cuocere il pane secondo il peso stabilito dal podestà e capitano. Il pane non confacente veniva fornito ai prigionieri o agli indigenti dell'ospedale di S. Nazario (III, 43). Le misure dei pesi dei panettieri erano controllati settimanalmente dai giustiziari. Nessuno di loro poteva entrare in società con i fornai (III, 27).

I macellai dovevano avere i loro tavoli all'interno del colonnato del macello; all'esterno di esso non erano autorizzati a scuoiare gli animali, rimuovere il pelo o smembrarli (III, 37). Non potevano conservare, vendere o far vendere la carne di montone, caprone e capra nella macelleria comunale, tranne all'interno del colonnato di pietra nel mezzo della stessa verso il muro e verso est o al di fuori di essa. Il macellaio non poteva gonfiare (*sconflare*) la carne che vendeva, né vendere zampe e cosce insieme alla carne a peso (III, 36). Egli non poteva vendere carne di un tipo per un altro, ad esempio caproni per capretti castrati, montoni per montoni castrati (III, 38); vendere contemporaneamente due tipi di carne, ma gradualmente da quella migliore a quella peggiore (III, 39) e vendere la carne di un animale morto fuori dalla macelleria (III, 40). La carne dell'animale macellato andava venduta a chiunque e a nessuno andava negata finché durava la scorta. Il macellaio non poteva posare la carne su tavole e conservarla in macelleria, se non in un luogo designato (III, 41). Il macellaio e nessun altro poteva portare o produrre sporcizia in macelleria (III, 42). Uno dei giustiziari doveva sorvegliare i macellai ogni volta che vendevano la carne. Nella macelleria pesava e verificava la carne acquistata in un luogo designato, con una bilancia e dei pesi (*cadelepum*?). Il macellaio era presente in bottega dalle prime ore del mattino fino alla *tercia* (alle 9) e dalla *nona* (dalle 15) alla messa serale (*ad uesperas*). I giustiziari non potevano entrare in società con i macellai, né mangiare o bere con loro durante l'orario di lavoro né potevano acquistare carne neanche per un altro (III, 27) o accettare regali dai macellai (III, 28). Il macellaio non poteva tenere capre da mungere in città (IIII, 23). In *Campo Marcio* i macellai di Capodistria potevano far pascolare gli animali di piccola taglia per la macellazione (IIII, 7).

Il locandiere non poteva vendere a credito il vino nella locanda finché non veniva pagato (II, 61). Il funzionamento delle locande era posto sotto controllo: di notte, all'ultimo rintocco della campana serale, nessuno poteva stare o entrare in una locanda o tenerla aperta servendo da bere ai cittadini di Capodistria, ad eccezione degli stranieri che vi alloggiavano (III, 29). A nessuno era acconsentito di giocare a dadi o permettere di farlo a casa o in osteria, sotto la pena di una multa di 3 libbre per ciascuna infrazione. Chi veniva sorpreso a giocare doveva pagare lo stesso importo, indipendentemente se cittadino, straniero, cavaliere o fante mercenario. Anche i padroni di casa e gli osservatori del gioco che non segnalavano le violazioni erano multati (I, 41).

Il locandiere non poteva accettare pegno da un servo o da un lavoratore retribuito (I, 13). Il locandiere che viveva lungo il Risano doveva vendere e consegnare grano e farina solo alle persone del luogo e non agli stranieri (I, 6). Le misure nelle locande erano controllate almeno una volta alla settimana dai giustiziari, che non potevano entrare in società con gli osti (III, 27).

Anche la produzione per consumo personale di vino era limitata. A Capodistria o nel suo distretto nessuno poteva bollire o far bollire il vino se non per la preparazione della *mustarda* per uso personale e non per la vendita. Nessuno poteva aggiungere miele al vino per dolcificarlo, né altri ingredienti (IIII, 34).

Il pesce era importante per l'alimentazione della città. Nessun pescatore poteva portare a vendere il pescato altrove se non a Capodistria. I pescatori locali e stranieri che portavano a vendere i pesci in città dovevano consegnare immediatamente tutto il pesce catturato in pescheria e non altrove. Se un pescatore non riusciva a vendere i pesci nello stesso giorno doveva tagliare la coda degli invenduti, segno per indicare che non erano freschi. Né ad un pescatore né ad una pescatrice era permesso di avere pesci fetidi in pescheria comunale. Essi dovevano vendere i pesci in piedi (III, 44) e non potevano stare in un luogo coperto della stessa (III, 46, III, 47). Nessun pescatore poteva vendere pesci ad alcuno per la rivendita (III, 45).

I salinari di Capodistria non potevano lavorare altrove se non nelle saline di Capodistria, altrimenti venivano multati e non avrebbero potuto lavorarvi per cinque anni, eccezion fatta per i veneziani (I, 24). Dall'ora del tramonto all'alba nessuno poteva andare nelle proprie o nelle saline altrui, tranne durante il periodo della raccolta quando era acconsentito preavvisando le autorità (I, 25). I salinari potevano andare a lavorare nelle saline dalla metà di aprile (I, 26). Non potevano raccogliere il sale nelle saline se non lo avevano preventivamente comunicato ai proprietari delle stesse e ai dazieri (I, 27).

LE ATTIVITÀ COMMERCIALI

Gli statuti regolavano anche il commercio. La merce poteva essere venduta solo nei mercati cittadini (*platea communis*). Né un abitante del luogo né un forestiero potevano acquistare grano, farina o altri generi alimentari, ferro, legno, formaggio salato, carne di maiale salata o altre merci per rivenderle, tranne che sulle piazze di Capodistria e solo quattro ore dopo che le merci erano state consegnate al mercato dall'esterno.

Se qualcuno acquistava merci per la rivendita doveva venderle, il giorno in cui le aveva acquistate e non più tardi, agli abitanti locali per consumo personale e allo stesso prezzo a cui le aveva acquistate. Questa regola non si applicava ai venditori ambulanti (*musselati*) e ad altri commercianti che vendevano a peso con una bilancia o secondo i pesi comunali. Loro potevano vendere immediatamente al loro arrivo e anche i commercianti potevano acquistare da loro immediatamente senza dover aspettare che trascorressero quattro ore (I, 34). Galline, capponi, polli, fagiani, pernici, conigli, capretti, agnelli, uova, formaggio, ricotta, latte, frutta, importati dall'esterno, non potevano essere acquistati per la rivendita, tranne dopo le 9 del mattino. Se però i sopraccitati arrivavano al mercato dopo le 9 del mattino dovevano rimanervi per due ore affinché i cittadini potessero acquistarli per il consumo personale. Quest'ultimi potevano acquistare merci per consumo personale in qualsiasi momento (I, 35). Era vietato falsificare le merci in vendita (III, 30). Il latte doveva essere venduto senza l'aggiunta d'acqua (I, 30).

Grano, vino, sale o olio potevano essere acquistati solo durante il periodo usuale di raccolta/produzione: il grano dalla festa di San Pietro (28 giugno) in poi, il sale dal 1 maggio a seguire, il vino dall'Assunzione di Maria (15 agosto) in avanti e l'olio dalla festa di San Luca (18 ottobre) in poi (III, 21).

L'offerta e la carenza dei prodotti agricoli locali erano evidenti dai decreti che vietavano l'importazione di certi beni forestieri e l'esportazione di alcuni beni locali. Ai locali e agli stranieri era vietato portare a Capodistria vino o uva da fuori per la produzione di vino, a meno che non si trattasse di uva propria proveniente da vigneti di proprietà. Chi possedeva un vigneto in terra straniera doveva annunciare la vendemmia e il cancelliere podestarile gli rilasciava una certificazione (I, 31). Nessuno poteva, senza il permesso del podestà, portare in città la propria o altrui uva dal giorno di San Pietro (28 giugno) al giorno dell'Assunzione di Maria (15 agosto) (IIII, 17). Chi vendeva uva o altra frutta al mercato senza indicare la provenienza pagava una multa (IIII, 10).

Senza il permesso del podestà a locali e stranieri era vietato trasportare per terra o per mare grano o alimenti fuori città, ad eccezione di Venezia. Il trasgressore veniva punito anche con la privazione dell'animale da trasporto e dell'imbarcazione. Un contadino non poteva portare al di fuori del distretto di Capodistria legna, fieno o alimenti senza il permesso del signore (I, 33). Il trasporto di merci proibite doveva essere segnalato al podestà (I, 32). Quest'ultimo aveva un ruolo importante anche alla fiera, che si teneva ogni anno in agosto il giorno dell'Assunzione di Maria, presso la foce del fiume Risano (III, 51).

I commercianti e gli altri partecipanti erano tenuti a misurare e pesare la merce con le misure regolari (III, 31). A causa delle frodi ai commercianti non era consentito avere misure per l'olio diverse dalla libbra, mezza libbra e quarto di libbra di vetro e con il sigillo di San Marco (III, 32). La merce doveva essere venduta a peso come a Venezia (III, 33). I mercanti dovevano avere le misure in regola. La *meçena,* la *quarta* e il *bacharium*, utilizzati per pesare grano e legumi, dovevano avere il sigillo dei giustiziari ed essere verificati secondo il modello comunale; i *braçolaria* erano armonizzati con le misure comunali e portavano il sigillo dei giustiziari, mentre per i tessuti colorati e il fustagno si conformavano a quelli veneziani. I campioni delle misure per i tessuti *brazolarium maior e brazolarium Venetum* erano esposti sulla torre campanaria (III, 35). Il grano, il frumento e i legumi venivano pesati utilizzando misure in pietra sulla piazza. I commercianti che vendevano grano o legumi all'ingrosso con misure di *meçena* in metallo, eccezion fatta per i venditori ambulanti o altri stranieri che portavano grano o farina a Capodistria, lo facevano secondo le grandezze comunali: 40 libbre per *quarta*[20] di grano o farina (III, 34).

Le misure e i pesi dei commercianti, panettieri, locandieri e similari venivano controllati almeno una volta alla settimana da tre giustiziari. Quest'ultimi non potevano entrare in società con i macellai, i panettieri e i locandieri, né durante l'orario di lavoro frequentare i macellai o acquistare carne da loro (III, 27). Gli stessi non

20 La libbra corrispondeva a 0,52 litri, mentre la quarta (la quarta parte dello staio) equivaleva a 20,8 litri.

potevano accettare regali dai macellai o da altre persone con i quali entravano in contatto durante il loro lavoro (III, 28). Il procuratore delle misure del vino (*sprochanarus*) non poteva essere qualcuno che commerciava con il vino, l'olio, il sale o che entrava in una società avente questo tipo di commercio (III, 26).

I RAPPORTI FAMILIARI

Gli statuti intervenivano anche nella vita familiare dei cittadini di Capodistria. Questi mantenevano legami di parentela anche al di fuori del nucleo familiare più stretto, il che emergeva nelle disposizioni riguardanti la gestione dei beni coniugali e dell'eredità da parte di parenti in linea paterna o materna.

I figli nati nel matrimonio dovevano obbedire ai genitori fino alla maggiore età; se erano orfani dovevano sottostare ai loro tutori, i quali ne erano responsabili. Se un figlio minorenne offendeva qualcuno, il padre avrebbe dovuto soddisfare il risarcimento o impegnarsi a non consegnare i beni al figlio, finché con questi non si fosse compensata la comunità e la parte lesa. Un figlio minorenne senza proprietà non poteva impegnare né fornire garanzie (II, 44). Invece, i minorenni la cui cura era affidata ad anziani e inermi dovevano rispondere legalmente in tribunale e agire sia a nome proprio che a nome dei tutori, conseguendo in questo modo la maggiore età legalmente (II, 43).

In caso di dispute familiari tra padre e figlio o figlia, o tra madre, figlio e figlia e viceversa, tra fratello e fratello, fratello e sorella, o sorella e sorella, era necessario informare il podestà e capitano di Capodistria, che, dopo aver ascoltato i propri giudici, costringeva le parti in conflitto ad affidare la risoluzione della disputa a due arbitri, la decisione dei quali era definitiva. Se le parti non si accordavano il podestà poteva nominare altri tre uomini «saggi» per assisterli nel giudizio (III, 13).

Il matrimonio doveva essere contratto in presenza e con il consenso dei parenti di entrambi i contraenti. Una ragazza o una moglie sotto la tutela o l'autorità del padre, della madre, del fratello o del tutore avrebbe perso il suo patrimonio se si fosse sposata o avesse avuto rapporti sessuali senza il loro consenso prima che le fosse assegnata la proprietà. I beni sarebbero andati al comune e ai parenti più prossimi della stessa. Se invece il tutore fosse stata una persona diversa, l'ospedale di S. Nazario avrebbe ricevuto quanto spettante al posto dei consanguinei. Se una ragazza fosse stata ostacolata a contrarre matrimonio dai genitori, dal fratello o da un parente stretto-tutore, anche dopo aver compiuto i quindici anni, poteva ricevere l'autorizzazione dal podestà previa consultazione di due o tre dei suoi parenti (I, 19). Chiunque avesse contratto matrimonio segretamente con testimoni segreti doveva pagare una multa pari a 200 libbre, mentre i testimoni pagavano 50 libbre al comune. La giovane sposa veniva punita anche con la perdita del suo patrimonio, che le sarebbe spettato dai genitori e dai parenti, di cui metà sarebbe stato confiscato dal comune e metà dai parenti (I, 20). In questo modo appare evidentemente che la ragazza non poteva disporre di mezzi propri. Dopo il matrimonio il patrimonio passava dal padre sotto l'autorità del marito, che gestiva gli affari e agiva legalmente sia nel proprio che nel suo nome.

Il matrimonio comunemente a Capodistria veniva contratto «a fra e suor» (Margetić, 1970; 1993, XCIV–XXVI), a differenza del «matrimonio degli Slavi», che veniva concluso secondo le antiche tradizioni del villaggio (II, 68), ma era possibile anche un matrimonio secondo l'usanza veneziana. Il patrimonio dei coniugi rimaneva distinto nell'interesse dei loro parenti: il marito non poteva scambiare beni con la moglie o vendere le sue proprietà. Una cambiale contratta tra marito e moglie non era valida, salvo diversa disposizione testamentaria (II, 73). Marito e moglie non potevano dividere o assegnarsi reciprocamente la proprietà, tranne in caso di divorzio religioso. In tal caso, tutto il patrimonio restava al marito, che doveva fornire alla moglie solo il necessario per il suo sostentamento (I, 21).

Sebbene il marito fosse il capo della famiglia, in caso di un matrimonio «a fra e suor» questi non poteva rispondere in tribunale riguardo ai beni immobili senza l'autorizzazione della moglie (II, 2). Se il matrimonio era stato contratto secondo l'usanza veneziana e il marito aveva venduto i beni dalla dote della moglie, senza valutarli, questa poteva richiedere un risarcimento dai suoi averi (II, 74). Senza il consenso del marito la moglie non poteva indebitarsi (II, 3) e neanche vendere una proprietà senza il suo permesso; la vendita era consentita solo a fruttivendole, locandiere e panettiere (II, 75).

Riguardo ai debiti dei coniugi, gli statuti stabilivano che il debito contratto prima del matrimonio doveva essere pagato dal coniuge debitore con i propri beni. In caso di morte di questo il debito veniva saldato con il patrimonio comune acquisito durante il matrimonio (II, 69). Se il marito e la moglie si erano indebitati il primo era responsabile per l'intero debito: senza il consenso della consorte poteva mettere all'asta la proprietà comune per soddisfare il creditore (II, 86). In caso di un indebitamento congiunto il creditore poteva ottenere il pagamento da uno qualsiasi dei due, ma il marito decideva liberamente cosa vendere all'asta. Se quest'ultimo si era indebitato senza il consenso della moglie questa non era responsabile del debito (II, 70). Indipendentemente se sulla cambiale erano indebitati insieme o separatamente, il marito veniva chiamato pubblicamente a pagare il debito. Se non si presentava il creditore poteva rifarsi utilizzando il patrimonio comune dei coniugi; se tale patrimonio non c'era poteva richiedere il pagamento da quello del marito o della moglie. La consorte, tuttavia, senza l'autorizzazione o la presenza del marito non poteva rispondere al creditore per il debito (II, 47).

In caso di morte del coniuge la vedova poteva decidere di mantenere i beni che aveva portato in dote al matrimonio e rinunciare sia alla quota di debiti che al patrimonio acquisito durante la vita coniugale. I beni acquisiti dal marito rimanevano quindi di sua proprietà e di quella dei suoi eredi, inclusi i lasciti, mentre la moglie manteneva i beni che le spettavano come dote o eredità (II, 71). Se alla morte del coniuge la vedova o i suoi eredi rinunciavano ai debiti e al patrimonio matrimoniale e optavano per i beni originari, venivano considerati tali i beni mobili posseduti dalla coppia al momento della morte di uno dei coniugi. Se tuttavia il valore dei beni mobili fosse stato stabilito nel contratto di matrimonio allora si teneva conto della loro valutazione (II, 72). Il vedovo o la vedova poteva mantenere per un anno il letto con cuscino, coperte e lenzuola, purché prima fossero saldati i debiti del defunto (II, 56).

Gli statuti prevedevano come doveva essere ripartita l'eredità (Kambič, 2005; Kambič, 2010) nel caso in cui il defunto non avesse lasciato testamento. Si teneva conto anche dei figli illegittimi e dei loro discendenti (II, 16). Se il defunto lasciava figli illegittimi, alcuni dei quali avevano ricevuto l'eredità e altri no, i primi, se volevano ereditare, dovevano restituire nel fondo comune tutto ciò che avevano ricevuto fino a quel momento (II, 17). Se il genitore destinava un legato separato a uno dei figli e non specificava *in benedictione et contentu*, quel legatario non era escluso dall'eredità del resto della successione (II, 52). Gli eredi erano responsabili dei debiti contratti dal defunto solo fino all'ammontare dell'eredità. I beneficiari dell'eredità dovevano far inventariare i beni in due copie entro un mese di tempo (II, 24). Alle aste dei beni immobili per saldare i debiti, i parenti del defunto avevano il diritto di prelazione sulla proprietà dei beni di famiglia (II, 37). Se chi voleva acquisire la proprietà faceva valere tale diritto e non pagava, questa poteva essere acquistata dal vicino (II, 27).

Dopo la morte dei genitori i tutori si occupavano dei figli orfani (Kambič, 2021). Il tutore diventava il genitore sopravvisuto, a meno che il testatore nel testamento non avesse disposto diversamente (II, 54). La madre agiva come tutrice, se il testatore non aveva designato altri tutori, finchè viveva onorevolmente da vedova (*donec caste uixerit uiduata*) e fintanto non fosse accusata di immoralità e di danneggiare il patrimonio dei figli. In tal caso veniva nominato un altro tutore. Se nessun genitore era in vita il podestà nominava come tutore il parente che offriva «di più», era più idoneo e forniva buone garanzie. Se il tutore si rivelava inadatto il podestà poteva nominarne uno nuovo entro otto giorni. Se un genitore moriva senza testamento sui tutori decidevano il podestà e il maggior consiglio (II, 55). Al tutore non era pemesso di danneggiare il patrimonio dell'orfano. Entro 30 giorni egli doveva redigere un inventario in presenza di due parenti o testimoni designati dal podestà e preparare due copie autentiche. Una copia veniva consegnata ai minoriti di Capodistria per essere vicedominata, l'altra veniva conservata dal tutore. Al raggiungimento della maggiore età l'erede avrebbe dovuto ricevere la sua eredità intatta. Se il tutore, eccetto il padre, fosse stato accusato di danneggiare il patrimonio ne sarebbe stato nominato uno nuovo. Se la vedova, tutrice dei figli, si fosse risposata, prima che questi raggiungessero la maggiore età, avrebbe dovuto coprire al tutore successore le spese per il cibo e l'abbigliamento della prole e il mantenimento dei beni. La tutela si concludeva con il conseguimento dei 15 anni d'età per i ragazzi, dei 14 anni per le ragazze. Questi non potevano indebitarsi o vendere i beni prima di aver compiuto i 20 anni, senza il consenso del podestà e in presenza di due parenti designati dallo stesso. Se non c'erano i parenti era il podestà a dover approvare l'alienazione. Tuttavia, a un ragazzo di 14 anni malato era permesso di redigere un testamento con il consiglio dei parenti o, in loro assenza, con quello del podestà. A 14 anni un ragazzo poteva sposarsi «a fra e suor» previo consiglio dei parenti. Una ragazza poteva sposarsi a 13 anni e redigere un testamento in presenza del tutore o dei tutori e di due parenti più idonei. In mancanza di questi suppliva l'autorità del podestà. Le proprietà immobiliari non potevano essere impegnate o alienate per il sostentamento dei figli, se non in conformità alla volontà del podestà (II, 57). Tra i 15 e i 20 anni l'erede poteva prendere possesso dei suoi beni o di una parte di essi dal tutore, con la mediazione di

due parenti designati dal podestà; in assenza di quest'ultimi egli designava altre due persone. I parenti facevano una valutazione propria dei beni, che venivano inventariati secondo la loro stima. Se il tutore non era d'accordo i parenti vendevano i beni all'asta e il ricavato veniva registrato. Gli statuti stabilivano cosa succedeva ai beni se l'erede moriva in giovane età, ecc. (II, 58). Il tutore era responsabile delle richieste degli orfani sul patrimonio. Se moriva il tutore del patrimonio del padre subentrava il tutore del della madre assumendosene la responsabilità e viceversa, in quanto la proprietà doveva rimanere intatta (II, 59; Mihelič, 2007).

Il trattamento dei reati

Gli statuti cittadini si impegnavano a preservare l'ordine e impedire i comportamenti indecorosi, varie villanie, la disonestà, lo sfruttamento materiale, nonché vari reati (anche i più gravi) contro la proprietà o la persona. Nel segnalare ciò che è vietato si rappresentano di riflesso le debolezze umane presenti nella società. Nel caso degli statuti di Capodistria del 1423 è assente la parte relativa a tali violazioni. Nelle questioni penali la città e il suo territorio si regolavano secondo le leggi veneziane: *Quod ciuitas Iustinopolis et eius districtus in criminalibus regatur secundum statuta et ordines communis Venetorum* (I, 2).

Gli statuti di Capodistria vietavano, come del resto gli statuti di altre città, che un cristiano vendesse un cristiano e che un notaio ne registrasse la transazione. Né un abitante del luogo né un forestiero a Capodistria potevano comprare un cristiano o una cristiana senza il consenso del podestà (!?). Un acquirente straniero che non avesse pagato una multa di 100 lire sarebbe stato frustato e marchiato nonché gli sarebbe stato vietato l'ingresso in città (I, 16). Gli statuti menzionavano la bestemmia contro Dio, Maria e i santi come comportamento inappropriato. La multa per tale violazione era di 5 libbre; chi invece non avesse pagato doveva rimanere mezza giornata al palo della vergogna (I, 1). Gli statuti vietavano il gioco dei dadi: la pena per organizzarlo o permettere di giocarlo a casa o in osteria era di 3 libbre per ciascuna infrazione per chi giocava, per l'oste e per gli osservatori del gioco, che non avevano denunciato la violazione (I, 41). L'incendio doloso era considerato un crimine grave: gli incendiari dovevano risarcire il doppio del danno causato. La metà del risarcimento andava alla vittima e l'altra metà al comune, a cui spettavano anche le 5 libbre della sanzione (I, 23).

Alcune disposizioni del diritto penale che erano in vigore a Capodistria sono contenute nel *Liber niger*, un codice conservato negli archivi della vecchia città di Capodistria presso l'Archivio di Stato di Venezia. Nei primi fogli sono registrate in modo non sistematico e non ordinato cronologicamente le disposizioni relative a delitti e crimini, che integrano gli articoli degli statuti veneziani in vigore anche a Capodistria. In esse vengono menzionate crudeli punizioni corporali inflitte ai delinquenti[21].

21 Le pene comminate a Pirano nel XIV secolo non si discostano da quelle prescritte negli statuti (Mihelič, 2023); per Capodistria una ricerca simile non è stata ancora condotta.

Il ladro al primo furto di valore fino a 1 libbra veniva frustato; per un valore da 1 a 5 libbre veniva frustato e marchiato; alla seconda ruberia della stessa entità gli strappavano un occhio. Se il valore di quanto sottratto era compreso tra 5 e 20 libbre perdeva un occhio e la mano; da 20 a 30 libbre perdeva entrambi gli occhi, mentre da 30 a 60 libbre ci rimetteva occhi e mano. Al secondo furto veniva impiccato alla pari del ladro che avesse la prima volta rubato più di 60 libbre.

Allo scassinatore sorpreso in una casa altrui durante una rapina, che si difendeva o colpiva qualcuno con una spada durante la fuga, veniva tagliata la mano destra o veniva accecato. Coloro che venivano sorpresi di notte in una casa altrui venivano frustati e marchiati, ma se venivano colti nuovamente, venivano privati di un occhio, come coloro che distruggevano e danneggiavano la casa d'altri. Se uno o l'altro di questi commetteva un furto veniva punito anche per questo.

In caso di aggressione fisica, l'aggressore che con una spada feriva qualcuno fino a farlo sanguinare doveva pagare alla vittima una multa di 25 libbre. In caso di uccisione veniva impiccato, ma secondo l'aggiunta del 1382 gli avrebbero dovuto tagliare la testa (*debeat amputari caput a spatulis itaque moriatur*). Chi cercava di avvelenare qualcuno con il cibo o una bevanda veniva frustato e marchiato; se il colpevole confessava o se l'atto fosse stato provato avrebbe perso occhi o mano a discrezione dei giudici. Se qualcuno fosse morto o avesse perso la ragione a causa del filtro, il criminale sarebbe stato impiccato o bruciato. Il delitto sessuale di stupro era definito come la deflorazione di una vergine, la violenza su una donna sposata o «già corrotta» (*mulier iam corrupta*): il colpevole dei reati veniva immediatamente gettato in prigione Se entro otto giorni non avesse risarcito la vittima gli avrebbero cavato gli occhi.

Al falsario veniva confiscata la merce contraffatta e veniva rivelato pubblicamente sulle scale (del comune). Se qualcuno falsificava il sigillo veneziano o il sigillo del sale o il denaro veneziano gli veniva tagliata la mano. Per la falsificazione di quest'ultimo, il codice in secondo luogo aggiunge che un falsario straniero sarebbe stato punito alla pari di un veneziano, ovvero sarebbe stato arso.

L'esecuzione delle pene differiva tra uomini e donne. Le donne non venivano impiccate, ma la decisione sul metodo da adottare spettava al giudice. Queste al posto di occhio e mano perdevano il naso e il labbro e in più venivano picchiate e marchiate. Non venivano accecate, ma private del naso, del labbro e di entrambe le orecchie, e poi frustate e marchiate.

Il *Liber niger* registra anche un decreto del 1279 che stabiliva la nomina di tre giudici competenti a giudicare i criminali, per i quali i giudici ordinari non erano idonei. Il decreto include un giuramento giudiziario. La parte di quest'ultimo relativa all'incorruttibilità recita: *Preterea presens seu donum aut in prestitum non recipiam aut recipi faciam occasione huius offitii per me uel per alium ullo modo uel ingenio in predictis. Amicum non iuuabo nec inimico nocebo per fraudem*[22].

22 Oltre a ciò in occasione di questo incarico in alcun modo non accetterò né concederò omaggi, doni o prestiti. Non aiuterò astutamente l'amico né danneggerò il nemico.

CONCLUSIONI

Il presente studio suggerisce alcune delle tematiche fondamentali dalle quali emerge, attraverso l'esempio degli statuti di Capodistria del 1423, la ricchezza e la versatilità delle disposizioni statutarie medievali, che regolavano in modo completo tutti gli aspetti essenziali della vita pubblica e privata nelle città medievali mediterranee e del loro entroterra. La problematica che è stata appena accennata può essere ulteriormente integrata, grazie ai dati provenienti dagli statuti, mediante approfondite e dettagliate ricerche sui fenomeni più vari che toccano diversi aspetti della storia, del diritto, dell'architettura, delle relazioni interpersonali e persino della percezione del mondo. Sembra che le possibilità di ricerca offerte dagli statuti cittadini siano praticamente illimitate. Gli statuti nel loro insieme e le singole questioni che regolano consentono e stimolano anche ricerche comparative sugli stessi e sulle condizioni tra le città di luoghi vicini e più lontani.

Tuttavia, è importante considerare con una certa cautela gli statuti, sia per il loro scopo che per il loro messaggio, come fonte di dati per lo studio di vari aspetti della vita nel passato. Non dobbiamo dimenticare che si tratta di atti normativi medievali e che la legislazione giuridica dell'epoca si adattava spesso piuttosto rigidamente alle esigenze effettive e alla pratica quotidiana. Sorge giustamente la domanda se sia possibile dedurre dalle regole prescritte le reali condizioni della società e della vita quotidiana. La presunzione di discordanza tra la norma prescritta e la situazione effettiva per quel periodo non è infondata. Tuttavia, a causa dell'abbondanza di dati raccolti in un unico luogo, gli statuti cittadini sono e rimangono un oggetto di studio gratificante; disturba solamente che le disposizioni statutarie siano spesso erroneamente interpretate come il riflesso di pratiche effettive consolidate.

Per concludere, è opportuno aggiungere una riflessione sul codice *Liber niger* e sulle disposizioni del diritto penale che erano in vigore nella Capodistria medievale. Nella valutazione della terribile crudeltà dei delitti e delle pene menzionati dobbiamo essere consapevoli che ogni epoca e luogo hanno regole proprie di comportamento e modi di farle rispettare. Lo storico deve valutare il crimine e la punizione solo nel contesto dei principi affermatisi in un determinato momento e luogo. L'uso di criteri valoriali moderni, propri dell'ambiente europeo, su cosa sia o non sia crudele o violento, è inappropriato dal punto di vista della disciplina storica.

KOPRSKI SREDNJEVEŠKI STATUTI IN MESTNO ŽIVLJENJE

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POVZETEK

Srednjeveški mestni statuti so urejali različne plati življenja v mestni skupnosti. Posegali so na področje mestne uprave, gospodarstva, družinskega, kazenskega prava, javnega življenja itd. Iz statutarnih predpisov, ki urejajo konkretno problematiko v mestu, je mogoče izluščiti številne značilnosti mestnega okolja, njegovega življenjskega utripa in vsakdana. To velja tudi za statute Kopra iz 1423, ki s svojimi podatki dopolnjujejo podobo nekdanje 'civitas Iustinopolis'.

Mesto je imelo svoj veliki in mali svet in razvejano upravo, ki je posegala v vse pore mestnega življenja. Načeloval mu je podestat in kapitan s štirimi sodniki, v upravi pa so sodelovali še številni uradniki in mestni uslužbenci do klicarja, ki je obveščal meščane o pomembnih dogodkih. Mestna špitala sta nudili zatočišče bolnikom in revežem. Mesto je imelo plačanega zdravnika. Za nedoletne sirote in nebogljene so skrbeli varuhi.

Koprski statuti opisujejo elemente fizionomije mestnega urbanega jedra in koprskega podeželskega ozemlja. Za prvega omenjajo mestne četrti z mestnimi trgi in obzidnimi vrati. Omenja se mestni stolp s stopnicami in zvonom, od koder je klicar objavljal razglase. Na stolpu sta bili označeni dve dolžinski meri za izmero tkanin ob trgovanju. Na glavnem trgu je stal kamen z votlimi merami za merjenje sipkih živil. V mestu se omenjajo stolna cerkev in dva špitala: sv. Nazarija na današnjem Prešernovem trgu in špital za reveže sv. Marka na današnjem Muzejskem trgu. Omenja se trg Brolo, ki so ga statuti ščitili pred uničevanjem in onesnaženjem in 'Campo Marcio', ki je bil porasel s travo. Mesto so prepredale javne poti. Statuti so skrbeli za njihovo prehodnost in snažnost. Od gospodarskih objektov sta bili pomembni mesnica in ribarnica. Kruh so pekli v krušnih pečeh. Družabno življenje se je odvijalo v gostilnah. Ob hišah so bili vrtovi, v mestu je bilo tudi nekaj staj za živino.

Statuti so obravnavali tudi koprsko kmetijsko zaledje, ki je bilo zelo obsežno. Namakali so ga vodotoki in izviri. Glavni rečici sta bili Rižana in Badaševica, prečkale pa so ga javne poti, na katerih se omenjata most 'Trauolchi' ('Canzani') in lesen most (prek Badaševice) na trasi proti Montinjanu. V zaledju naštevajo statuti številne vasi, na Rižani mline in gostilno, omenjajo se tudi torklje. Vodilna kultura, ki je prevladovala na Koprskem, je bila trta, sicer pa so tam rastle oljke, jablane in drugo sadno drevje ter kostanji, uspevali so travniki, pašniki, gozd, za gospodarstvo so bile pomembne soline.

Statutarni odloki so skrbeli za urbani prostor in za mestno zaledje tako glede njegove urejenosti, zaščite in kultiviranosti, kot glede njegovega lastništva. Urejali so poslovanje z nepremičninami od njihovega koriščenja v pridobitne namene do odtujitev v obliki prodaj, dražb in zapuščin in opredeljevali razmerja med delodajalci in plačanimi delavci.

Statuti so posegali tudi v intimno sfero Koprčanov, namreč v njihovo družinsko življenje. Obravnavali so ga s poudarkom na premoženjski plati. V navadi je bila skupnost imetja med zakoncema »kot brat in sestra« . Številni predpisi so se posvečali zadolževanju, testamentom in dedovanju zakoncev. Opredeljevali so tudi poslovne in premoženjske pravice žena in deloma otrok, kakor tudi skrbništvo za sirote.

Delovni ritem so v letu rahljali številni prazniki in dnevi, ko se določena opravila niso opravljala. Delovni teden je trajal od ponedeljka do sobotnega večernega zvonjenja, ko so se tudi gostilne zaprle. Zvon ure je udarjal zjutraj, ob devetih, petnajstih in za večerno mašo. Kdaj so Koprčani uživali dnevne obroke hrane, iz statutov ni razvidno, pač pa moremo iz ponudbe v prehranskih obratih in na trgu ter iz pridelkov zaledja povzeti sestavine jedilnikov: žitarice, moka, kruh, mleko, skuta, sir, živila, sadje, kostanj, zelišča, vino, 'mustarda', olje, sol, med, sveže meso drobnice, sveža in soljena svinjina, kokoši, kopuni, piščanci, fazani, jerebice, zajci, kozlički, jagnjeta, jajca. Glede bivanjskega udobja za domačimi zidovi iz statutov ne izvemo dosti – omenja se npr. postelja z blazino, odejo in rjuhami kot predmet zapuščine pokojnega zakonca.

Mestni statuti so praviloma vsebovali sklop, ki je predpisoval vedenje v javnosti ter sankcije za kazniva dejanja, ki so ogrožala varnost mesta in njegovih prebivalcev. Prizadevali so si za javni red in mir. Skušali so zavarovati nedotakljivost premoženja. V koprskih statutih predpisov glede kriminalnih deliktov ni: 'ciuitas Iustinopolis' s svojim distriktom se je v kriminalnih zadevah ravnala po statutih in uredbah beneške komune. »Manjkajoča« kazenska določila pa so nakazana v ločenem dokumentu Liber niger, ki se hrani v fondu starega koprskega mestnega arhiva v Archivio di Stato di Venezia.

Ključne besede: srednji vek, Koper, koprski statuti, mestno življenje, Liber niger

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GRAD LUŠPERK IN NJEGOVI PREBIVALCI MED 13. IN 15. STOLETJEM

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IZVLEČEK

Članek obravnava doslej slabo raziskan grad Lušperk v bližini Zreč in njegove prebivalce, zlasti vprašanje njihovega izvora. Grad so v 13. stoletju zgradili na posesti Krške škofije, njegove prebivalce pa v pisnih virih pogosto srečujemo kot priče, večkrat v povezavi s Krškimi škofi, z gospodi Žovneškimi (oziroma grofi Celjskimi) ter grofi Vovbrškimi, čeprav ne kaže, da bi v politiki imeli pomembnejšo vlogo. V teku 15. stoletja je grad vse bolj propadal, v času celjsko-habsburške fajde je bil poškodovan, zatem pa je ostal v ruševinah.

Ključne besede: Lušperk, Maribor, vojvodina Štajerska, Habsburžani, gospodje Mariborski, grofje Celjski, Krška škofija

IL CASTELLO DI LUŠPERK E I SUOI ABITANTI TRA IL DUECENTO E IL QUATTROCENTO

SINTESI

L'articolo tratta del finora poco studiato castello di Lušperk (Luschberg) e dei suoi abitanti, con uno sguardo particolare alle loro possibili origini. Il castello, situato vicino all'odierna Zreče, fu eretto nel Duecento sul territorio della Diocesi di Gurk (Krka), e i suoi abitanti sono frequentemente citati nelle fonti scritte come testimoni, spesso in relazione ai vescovi di Gurk, ai Signori di Sanneck (Žovnek, successivamente i Conti di Cilli) o ai Conti di Heimburg (Vovbre), anche se non sembrano aver svolto un ruolo particolarmente rilevante nella politica. Nel Quattrocento il castello andò in decadimento, gravemente danneggiato durante la faida tra i Cilli e gli Asburgo, e da allora rimase in rovina.

Parole chiave: Lušperk/Luschberg, Maribor, Ducato di Stiria, Asburgo, Signori di Maribor, Conti di Cilli, Diocesi di Gurk

UVOD[1]

Tema pričujočega članka je danes malo znan srednjeveški grad Lušperk, katerega ruševine so še danes vidne v Loški gori, dobre tri kilometre severozahodno od Zreč. Pri pisanju bomo upoštevali časovni okvir, raztezajoč se med 13. in 15. stoletjem, ko je bil grad naseljen. Proučil bom (nič kaj intenzivno) politično delovanje (redkih poznanih) prebivalcev tedanjega Lušperka. Obravnavana bodo vprašanja glede njihovega izvora in medsebojnih sorodstvenih povezav. Zanimivost Lušperških je, da je njihov izvor enigmatičen oziroma da so jih dosedanji raziskovalci imeli za stransko vejo gospodov Mariborskih. Zdi se, da izvirajo iz spremstva grofov Vovbrških, zato so v obravnavanem prostoru precejšnja redkost. Glede na to, da so zelo verjetno vovbrški vitezi, bi jih bilo prej pričakovati na Koroškem in ne na Spodnjem Štajerskem, bližini Celja navkljub. Prav tako se bo skušalo odgovoriti na vprašanje glede njihovih povezav z rodbino gospodov Mariborskih. Kar se tiče arhivskega gradiva, bo pri pisanju uporabljeno razno že izdano gradivo, ki so ga v preteklih desetletjih zbirali Franc Kos (GZS II–III), Dušan Kos (CKL), August von Jaksch (MDC I), Hermann Wiesser (MDC I, VI–X), Hermann Wiesflecker, Reinhard Härtel (RHSt II), Annelies Redik (RHSt I), Jože Mlinarič (GZM II–IV), Joseph von Zahn (UBSt III), Viktor Thiel, Johann Loserth, Anton Mell ter Hans Pirchegger (Beiträge). Neizdano arhivsko gradivo, ki bo prav tako uporabljeno pri pisanju pričujočega besedila, se danes nahaja v Arhivu Republike Slovenije (AS 1063), Nadškofijskem arhivu Maribor (NŠAM), graškem Štajerskem deželnem arhivu (StLA) ter Škofijskem arhivu krške škofije (Archiv der Diözese Gurk) v Celovcu (DAK). Slednjič bom posegel tudi po mikrofilmu ene izmed listin (ki jo jo je sicer najti med gradivom zbranim s strani Jožeta Mlinariča), ki ga hrani Pokrajinski arhiv Maribor (PAM).

Že leta 1893 je v svojem *Ortsnamenbuch der Steiermark im Mittelalter* Lušperk obravnaval tudi Joseph von Zahn (1893, 322). Dobrih devet desetletij kasneje je nekaj podobnega storil tudi Pavle Blaznik (1986, 454–455). Omenjeni grad je do današnjega dne v svojih besedilih omenjalo le nekaj raziskovalcev, pa še ti so se ga večinoma dotaknili le na kratko in z nekaj besedami. Izjema je zbornik *Freudenberg, Lušperk, Jamnik: zreški gradovi med včeraj, danes in jutri*, kjer je gradu Lušperk namenjenih 20 strani, ki ga je uredil Igor Sapač in se koncentrira na zgodovino same grajske stavbe, čeprav je govora tudi o njenih prebivalcih (Sapač, 2016, 34–53). Posledično v pričujočem besedilu podrobno ne bo govora o sami grajski stavbi, temveč bo ta le omenjena. Nasprotno se bom podrobneje ukvarjal z njegovimi prebivalci.

1 Članek je nastal v okviru programske skupine Oddelka za zgodovino na Filozofski fakulteti Univerze v Mariboru P6-0138 (A): *Preteklost severovzhodne Slovenije med slovenskimi zgodovinskimi deželami in v interakciji z evropskim sosedstvom*, ki ga financira Javna agencija za znanstvenoraziskovalno in inovacijsko dejavnost Republike Slovenije (ARIS). Za pomoč pri pregledu besedil več listin ter za razne druge nasvete se lepo zahvaljujem Tonetu Ravnikarju in Vinku Skitku.

Razen omenjenega zbornika, je še največ o Lušperku v svojem pregledu srednjeveških gradov na Kranjskem, Štajerskem in slovenskem Koroškem, z naslovom *Vitez in grad*, pisal Dušan Kos (2005, 319–321). V pregledih sta ga že pred tem omenjala Ivan Stopar (1991, 75–76) in Ivan Jakič (1999, 198–199) ter še pred tem Avguštin Stegenšek (1909, 94–95). Sam sem lušperški grad v nekaj besedah omenjal v svojem pregledu posesti krške škofije na današnjem slovenskem Štajerskem (Bele, 2012, 549). Nekaj kratkih vrstic je mogoče najti o Lušperku tudi pri Hansu Pircheggerju, namreč v njegovih delih *Die Herrschaften des Bistums Gurk* (Pirchegger, 1956, 8–9) ter *Die Untersteiermark in der Geschichte ihrer Herrschaften und Gülten, Städte und Märkte* (Pirchegger, 1962, 136, 138, 143–144, 215). Obravnava dotičnega gradu sicer tudi tam ni zelo izčrpna.

IZVOR POSESTI IN GRAJSKA STAVBA

Zgodbo kasnejšega lušperškega zemljiškega gospostva moram začeti malo pred sredino 11. stoletja, in sicer s Hemo Krško. Hemina družina, ki se je v zgodovino zapisala kot Hemin rod, je imela ogromno posesti, ki so se v prvi polovici 11. stoletja razprostirale vse od Furlanije na zahodu do Sotle na vzhodu, ter od Donave na severu in Krke na Dolenjskem na jugu. Heminega moža Viljema II. je leta 1036 ubil njegov sovražnik Adalbero Eppensteinski. Hema, ki je bila brez preživelih otrok, se je zatem odločila ustanoviti ženski samostan v Gurk/Krki na danes avstrijskem Koroškem (Štih & Simoniti, 2009, 81–82, 109). Tedanji salzburški nadškof Baldvin je na Hemino prošnjo v Krki posvetil Marijino cerkev in imenoval prvo opatico (MDC I, št. 17 (I.); GZS III, št. 126)[2]. Že Baldvinov neposredni naslednik Gebhard je Hemin samostan razpustil ter njegove posesti namenil tamkajšnji novi škofiji, ustanovljeni maja 1072 (MDC I, št. 27, 30, 32; Bele, 2012, 544–545; Štih & Simoniti, 2009, 138).

Hema je ob ustanovitvi svojega samostana temu podarila razno posest na Koroškem ter v mejni grofiji Savniji (GZS III, št. 126). Na severu tega zemljiškega kompleksa je bilo tudi ozemlje kasnejšega lušperškega gospostva. To je najbrž izviralo iz posesti, ki jo je od cesarja Otona II. leta 980 dobil Hemin tast Viljem I., namreč na raznih krajih »v grofiji grofa Rahvina« (GZS II, št. 470; Štih, 2007, 15–16). Iz besedila te listine se stvari sicer ne da z gotovostjo dognati, tako da ostaja vprašanje glede tega odprto. Zelo možno bi namreč bilo tudi, da je ozemlje kasnejšega lušperškega gospostva leta 1025 (1028) od kralja (cesarja) Konrada II. dobil šele Hemin mož Viljem II. Besedilo sicer govori o tem, da si lahko Viljem posest, tj. kraljevske hube, izbira med rekami Koprivnico, Hudinjo in Voglajno ter med Krko in Savo oziroma po raznih krajih in kjer mu je všeč (*sitos quos ipse in eiusdem marchie locis ad plenitudinem elegerit. ubicumque sibi placuerit*). Posledično do zaključka, kaj

2 Listina je sicer ponaredek iz druge polovice 12. stoletja, a je nastala na podlagi nekega pristnega spisa iz obdobja nadškofa Baldvina.

Slika 1: Hema in Viljem, kot upodobljena v 17. stoletju (Wikimedia Commons).

je tedaj dejansko pripadlo Viljemu, ni mogoče priti (GZS III; št. 68, 84; Štih, 2007, 15; Kosi, 2011, 66, 68–69). Kakršnakoli je že bila točna zgodba izvora lušperškega gospostva, je šlo za krško zemljo oziroma za krški grad.

Jedro lušperškega gradu je danes popolnoma porušeno, tako da se o njegovi prvotni podobi ne da reči nič določenega. Jedro obdaja mnogokotno, dober meter debelo obzidje, ponekod še šest metrov visoko. Na dveh straneh je predrto z odprtinama, ki sta nekoč služila kot vhoda. Delno je še viden obrambni jarek, ki je nekoč obdajal grad (Stopar, 1991, 75–76; Stegenšek, 1909, 94). Dejstvo, da je grad danes tako slabo ohranjen, ne preseneča, saj je zapuščen že več kot pet stoletij. Prvič je sicer omenjen leta 1279, in sicer v imenu nekega Henrika, *Heinricus dictus de Luchsperch* (GZM II, št. 45), čigar izvor ni nedvoumno jasen.

Točne okoliščine njegove postavitve niso znane. Glede na besedilo v Snojevem Etimološkem slovarju slovenskih zemljepisnih imen domnevamo, da je ime gradu izpeljano iz prvotnega krajevnega imena Log za »močvirnat travnik ob vodi« (Snoj, 2009, 245–246). Po drugi strani izhaja ime po Sapačevem mnenju iz nemškega izraza za t. i. goro risov oziroma risovo goro: *Luchs* in *Berg* (Sapač, 2016, 34). Medtem ko tudi ta podatek pri časovni umestitvi nastanka gradu ne pomaga, bi smeli ugibati, da Lušperk v času poznega 13. stoletja še ni bil star in ga je morda postavil sam Henrik. Struktura zidave obzidja z grobo obdelanim lomljenim kamenjem, razvrščenim v medsebojno ločene vodoravne plasti, kaže, da je grad nastal v času, ko je na Slovenskem romaniko že nadomeščala zgodnja gotika. Gre za sredino oziroma drugo polovico 13. stoletja (Sapač, 2016, 34), kar se prav tako ujema s časom Henrikovega delovanja oziroma začetkom le-tega.

VPRAŠANJE HENRIKOVEGA IZVORA

Kot rečeno, je lušperški grad prvič omenjen v imenu nekega gospoda Henrika, in sicer leta 1279 (GZM II, št. 45). V dosedanjih besedilih kategoričnih trditev glede njegovega rodbinskega izvora ni, mestoma pa se domneva, da je izviral oziroma bil eden izmed članov rodbine gospodov Mariborskih[3]. Že Hans Pirchegger Henrika označuje kot bratranca Gotfrida Mariborskega (Pirchegger, 1962, 215). Dušan Kos glede Henrika domneva, da je bil eden izmed Mariborskih, ker naj bi se v virih vedno pojavljal v družbi vsaj enega izmed njih ter predvsem v Mariboru (Kos, 2005, 320). Po Kosu sem to mnenje glede Henrikovega izvora v preteklosti povzel tudi sam (Bele, 2012, 549). Zelo podobne trditve o Henriku je najti tudi pri Sapaču (2016, 35) in Jakiču (1999, 198), pri Stoparju (1991, 75) in Stegenšku (1909, 95) pa ne. V naslednjih vrsticah bom skušal rešiti vprašanje Henrikovega izvora.

Medtem ko Kosove domneve ni mogoče na hitro zavreči, ji tudi pritrditi ne morem. Prav tako se zdi pomota Pircheggerjev zapis, da je bil Gotfrid Mariborski Henrikov bratranec. Pirchegger trdi, da sta Henrik Lušperški in njegova žena Pendit (Benedikta) leta 1305 njegovemu bratrancu Gotfridu Mariborskemu

3 Več o Mariboru in gospodih Mariborskih v 13. stoletju prim. Ravnikar, 2020; 2021.

prodala njun delež lušperškega gradu (Pirchegger, 1962, 215)[4]. Ob pregledu listine je jasno, da je pri kupcu sicer res šlo za Gotfrida Mariborskega, prodajala pa nista Benedikta in Henrik Lušperški, temveč Benedikta in Konrad Mariborski (GZM II, št. 114)[5]. Da gre pri prodajalcu oziroma Benediktinem možu res za Konrada Mariborskega in ne Henrika Lušperškega, potrjuje tudi mikrofilm originalne listine (PAM 1808, TE 828). Henrika Lušperškega v listini je sicer moč najti, a kot prvo pričo, ne kot akterja. Izstavitelj je listino tudi pečatil in ob pregledu pečata je vidno, da je njegov lastnik Konrad Mariborski (GZM II, št 114; Pirchegger, 1952, 52–53)[6]. Nobenega dvoma torej ni, da je šlo pri bratrancu Gotfrida Mariborskega za Konrada Mariborskega in ne Henrika Lušperškega. Dušan Kos, ki kot prodajalca prav tako omenja Konrada, ne Henrika, vidi v tem potrditev eventualne sorodstvene povezave med Mariborskimi in Lušperškimi. Res je, da se Henrik Lušperški med pričami omenja prvi, celo pred Ulrikom Mariborskim, a je to najbrž treba pripisati dejstvu, da je v listini govora o deležu na gradu Lušperk. Pri Konradu in Gotfridu Mariborskih je šlo sicer očitno za Konrada IV., čigar žena se je dejansko imenovala Pendit oziroma Benedikta, in Gotfrida IV., ki pa nista bila bratranca, temveč stric in nečak (Kos, 2005, 320, 330); Pirchegger, 1952, 52–53); PAM 1808, TE 828; GZM II, št. 114).

Kot rečeno, je Dušan Kos mnenja, da je treba Henrika Lušperškega šteti h gospodom Mariborskim spričo dejstva, da se vedno pojavlja v družbi vsaj enega izmed njih ter predvsem v Mariboru (Kos, 2005, 320). Henrik Lušperški se v do danes ohranjenih virih omenja med letoma 1279 in 1325, in sicer vedno le kot priča. Res je, da ga zelo pogosto najdemo v družbi Mariborskih ter njihovih sorodnikov Viltuških (Ravnikar, 2020, 55) ali pa vsaj navzoče v Mariboru (GZM II, št. 45, 73, 78, 114; CKL, št. 74, 76; StLA, AUR, 1305 V 16; AS 1063, 1309 VIII 10; AS 1063, 1309 IX 1; AS 1063, 1325 V 13; GZM III, št. 20, 61; RHSt II, št. 1353, 1636). Po drugi strani obstajajo tudi redki primeri njegovega pričanja, ki se ne zgodijo v Mariboru oziroma gospodje Mariborski ali Viltuški v zadevo, kot kaže, niso vpleteni (MDC VIII, št. 322, 418, 432; GZM II, št. 80; GZM III, št. 18; RHSt II, št. 1382). Kot piše že Kos, ime Henrik v rodbini gospodov Mariborskih ni bilo tradicionalno. Vseeno tudi med Mariborskimi najdem Henrika, aktivnega med letoma 1307 in 1353, in sicer ravno kot sina zgoraj omenjenega Konrada IV. (Kos, 2005, 320, 330); GZM II, št 118 GZM III, št. 53; GZM IV, št. 60, 64, 71)[7].

4 *1279 wird ein Heinrich von Luchsberg genannt, 1305 verkauften er und seine Gatin Pendit ihren Anteil an der Feste Luchsberg seinem Vetter Gotfried von Marburg* (Pirchegger, 1962, 215).

5 *Ich Chvnrat von Marchpurchc vnt mein haus vrav, vrav Pendit… dass wir mit gvtem willn vnt mit verdahtem mvt meinem vetern Gotfriden von Marchpurchc ver chauft haben vnsern tail an Lusperchc mit allev vnt dar zve gehort* (GZM II, št. 114).

6 Iz besed listine se ne da jasno razbrati, na kakšen način sta si Konrad in Benedikta dotični delež na gradu Lušperk sploh pridobila, zato ni rečeno, da je izviral od Konrada. Pirchegger ugiba, da bi lahko izvirala iz rodbine Hompoških, a njegove domneve slednjič ostajajo nedokazane *Ich Chvnrat von Marchpurchc… vnsern tail an Lusperchc mit allev vnt dar zve gehort… gib ich im disen prief mit meinem insigel versigelt zv ainem warm vrchvnd aller staetichait* (GZM II, št 114).

7 *Jch Chuenrat von Marchpurch… vnt Hainreich, mein sune* (GZM II, št 118).

Henrika Lušperškega med Mariborske prišteva tudi Igor Sapač, pri čemer se sklicuje na Kosa. Navaja, da je bila Vilburga iz gradu Freudenberg (krški grad na grebenu Brinjeve gore) očitno sorodnica Mariborskih, ki je svoj delež freudenberškega gospostva po letu 1256, kot se zdi, prodala svojima bratrancema Henriku in Konradu IV. Mariborskima. Slednja sta nato zasnovala novo zemljiško gospostvo in zgradila grad (Sapač, 2016, 35). Glede Vilburginega sorodstva z Mariborskimi sicer ni dvoma (UBSt III, št. 193; Bele, 2018, 647–648),[8] ni pa nujno, da je Vilburga svoj delež gospostva po letu 1256 res prodala Henriku in Konradu. Poleg tega je pri Henriku Mariborskem, kot rečeno, šlo za Konradovega sina in ne brata (Pirchegger, 1952, 52–53). Sicer bi bilo možno, da je kasnejše lušperško gospostvo res izviralo od Vilburge, a je podatkov glede tega ponovno premalo.

Vse do sedaj našteto nesporno ne dokazuje ničesar. Hkrati se zdi neverjetno, da bi bila Henrik Lušperški in (Konradov sin) Henrik Mariborski ista oseba, saj bi javnemu delovanju takega moža lahko sledili izredno dolgo, med letoma 1279 in 1355 (GZM II, št. 45; GZM IV, št. 71). Kot rečeno, Kosovega mnenja glede sorodstvenih povezav med Lušperškimi in Mariborskimi ni moč zavreči brez pomislekov (Kos, 2005, 320), prav tako jih ni mogoče brez oklevanja potrditi. Pri osebi Henrika Lušperškega bi tako lahko res šlo za člana štajerske ministerialne rodbine Mariborskih ali pa morda za moža krškega ministerialnega izvora. Med lokalnim plemstvom na ozemlju današnje slovenske Štajerske je bilo ime Henrik na prelomu med 13. in 14. stoletjem izredno razširjeno. Posledično se glede rodbinskega izvora prvega znanega Lušperškega prav tako ni mogoče učinkovito orientirati izključno s pomočjo njegovega imena.

Henrik se pojavlja v mariborskih listinah (GZM II, 45, 73, 78, 80, 114; RHSt I, 108, 110; GZM III, št. 20, 61; RHSt II, št. 1636), moč pa ga je najti vpletenega oziroma le prisotnega tudi v zadevah Žovneških svobodnih gospodov (CKL, št. 74, 76), Krških škofov (MDC VI, št. 189, 312; RHSt I, št. 488) ter (večkrat) grofov Vovbrških (RHSt I, št. 96; MDC VIII, št. 525–526, 532; GZM III, št. 18; RHSt I, št. 488, 733, 809, 978). V eni izmed listin Hermana Vovbrškega (iz leta 1318) najdem med pričami na prvem mestu najti moža, označenega kot *unser ritter herr Hanrich von Lusperch* (RHSt I, št. 961). Ob tem se postavlja vprašanje, ali je treba Henrikov izvor iskati na vovbrških posestih na Koroškem ali Celjskem; Lušperk je od središča Celja oddaljen le nekaj več kot 20 km. V takem primeru bi Henrik lahko do svojega krškega gospostva prišel ravno zaradi zaslombe, ki bi jo imel od svojih vovbrških pokroviteljev. Morda je bil izvorno član vovbrškega oboroženega spremstva ter se tam uspel izkazati s kakšnim vojaškim dejanjem, zaradi katerega je bil nagrajen, čeprav skromno. Kar se porekla tiče, je Henrik, na območju spodnje Štajerske, torej precejšnja redkost. V njegovem času so na tem območju namreč prevladovale rodbine štajerskega, salzburškega in krškega

8 Vilburgin sorodnik, štajerski deželni sodnik Gotfrid Mariborski je bil sicer Gotfrid II. in ne III.: *Ego Wilburgis de Vreudenberch…testimonius domini Gotvridi de Marpurch, cognati mei, iudicis prouincialis per Stiriam* (UBSt III, št. 193).

ministerialnega izvora. Tudi hipoteza glede njegove »vovbrške provenience« je slednjič nepreverljiva, vendar se glede na vse ostalo, kar vemo o Henriku, zdi daleč najbolj verjetna.

Ob tem nas pri pregledu listinskega gradiva v oči nasploh zbode neko že nakazano dejstvo: gospoda Henrika Lušperškega je skozi leta sicer mogoče najti v znatnem številu listin, a nikoli kot nekoga, ki bi imel vsaj kanček politične ali vojaške moči. Primera morebitnega njegovega pečata mi ni uspelo najti. Glede na sezname prič, v katerih ga srečujemo, je sicer imel stike s številnim štajerskim in koroškim lokalnim plemstvom ter je prisostvoval njihovim medsebojnim pogodbam, a kot kaže aktivne vloge pri tem ni igral popolnoma nikoli. Med pričami ga najdem tako na prvem kot na zadnjem mestu in vmes. Glede na kontekst njegovih pričanj je mogoče trditi, da je bil med najbolj obrobnimi spodnještajerskimi plemiči svojega obdobja.

Domneva se lahko, da so bili podobno nemočni že njegovi predniki. Ti so najbrž stali ob strani v preteklih desetletjih, ko se je politična situacija na Štajerskem in v Avstriji spreminjala skoraj vsakih nekaj let. Leta 1246 je umrl zadnji moški pripadnik rodbine Babenberžanov, katere pripadniki so do tedaj sedeli na štajerskem in avstrijskem vojvodskem prestolu (Lechner, 1994, 46–54, 296–298). V naslednjih letih si je Štajersko uspel priboriti ogrski kralj Bela IV., Avstrijo pa češki kralj Otokar II. Přemysl. Po uporu štajerskega deželnega plemstva proti ogrski nadoblasti je Otokar II. leta 1260 vlado prevzel tudi na Štajerskem, približno desetletje kasneje pa še na Koroškem in v velikem delu Kranjske (Komac, 2006, 224–229; Kosi, 2011, 71). Jeseni 1273 je bil za rimskega kralja, novega vladarja v cesarstvu, izvoljen na videz precej nemočni grof Rudolf Habsburški kot Rudolf I., pod pritiskom katerega se je Otokar svoji oblasti nad Avstrijo, Štajersko in Koroško moral odpovedati. Ko sta se oba vladarja avgusta 1278 spopadla v bitki pri Dürnkrutu kakih 53 km severovzhodno od Dunaja, je češki kralj izgubil življenje. Rudolf je štiri leta kasneje Avstrijo in Štajersko podelil svojima sinovoma, Albrehtu in Rudolfu II.; slednji se je svojemu deležu moral odpovedati že junija 1283 (Dopsch et al., 1999, 468–481; Kosi, 2011, 72).

Medtem ko je dinastija Habsburžanov v času Henrika Lušperškega pridobivala in utrjevala svojo oblast nad nekdanjo babenberško dediščino in drugimi vzhodnoalpskimi deželami (Lackner, 2015a, 100–104; 2015b, 110–111), sam v dogajanje, kot kaže, ni bil niti malo vpleten. Prav tako nobenega sledu o njegovi udeležbi ni moč najti v protihabsburškem uporu na Štajerskem in Koroškem, ki se je tam po smrti kralja Rudolfa I. leta 1291 razplamtel proti njegovemu sinu Albrehtu I. (Niederstätter, 2001, 101–102; Kosi, 2008, 546–548; Ravnikar & Maver, 2018, 62). Slednjič Henrika Lušperškega ni omenjenega niti v t. i. Avstrijski rimani kroniki izpod peresa Otokarja iz Geule, umrlega med letoma 1319 in 1322 (Loehr, 1937, 124), izredno obsežnem in vodilnem narativnem viru za zgodovino vzhodnoalpskih dežel druge polovice 13. stoletja. V dotični kroniki so tako omenjene številne obskurne figure iz tedanjega vzhodnoalpskega prostora, a si Henrik, kot kaže, tudi omembe med njimi ni zaslužil (Ottokars Österreichische Reimchronik 5/2, 1893, 1288–1290, 1294–1295).

Slika 2: Pečat grofov Vovbrških iz sredine 13. stoletja (Wikimedia Commons).

Poleg Henrika Lušperškega je treba na tem mestu omeniti še moža po imenu *Ulle von Lusberch*, ki se pojavi med pričami v neki listini iz leta 1305. Medtem ko najdem med pričami v isti listini tudi Henrika Lušperškega, se *Ulle* (Ulrik) ne pojavi takoj za njim, temveč med Henrikom in Ulrikom stoji *Ortolf der Gaircher* (StLA, AUR, 1305 V 16)[9]. Razlogov za tak zapis je lahko mnogo. Morda so bili vsi trije možje povezani, morda Henrik in Ulrik nista bila brata, ali pa je šlo le za pisarjevo napako. Možno bi tudi bilo, da moža sploh nista bila sorodnika in je bil Ulrik v odnosu do Henrika v podrejenem položaju. Lahko, da so bili v tesni sorodstveni povezavi vsi trije. O Ulriku Lušperškem, morebitnem Henrikovem bratu, sinu oziroma sorodniku ni mogoče reči nič določenega, saj se – kolikor mi je znano – ne pojavlja v prav nobenem drugem viru.

VESTI IZ ČASA HENRIKOVIH NASLEDNIKOV

Zgoraj omenjeni avstrijsko-štajerski vojvoda Albreht (I.) Habsburški je v prvih letih svoje vlade uspel pomiriti upor Štajercev in Koroščev, leta 1298 pa mu je celo uspelo doseči kraljevsko krono. Ko je bil leta 1308 umorjen (Niederstätter, 2001, 96–111), so habsburškim deželam (Kosi, 2011, 72; 2008, 543, 546, 552)

9 [*U*]*n sint sein geziuge her Heinrich von Lusberch. Ortolf der gaircher. Ulle von Lusberch* (StLA, AUR, 1305 V 16).

vladali njegovi sinovi Albreht II., Friderik in Oton[10]. Albrehtova sinova Albreht III. in Leopold III. sta leta 1379 dinastijo razdelila na dve veji in t. i. Leopoldinska veja je obdržala oblast nad Štajersko (Niederstätter, 2001, 178–179). Ernest Železni, sin Leopolda III. je na Štajerskem vladal vse do svoje smrti leta 1424. V letih, ki so sledila, sta se za oblast borila njegova sinova Friderik V. in Albreht VI. Albreht je umrl leta 1463 (Niederstätter, 1996, 140–149), medtem ko je Frideriku uspelo, da je že leta 1442 postal najprej kralj, deset let kasneje pa še svetorimski cesar. Kot kaže, tako Henrik Lušperški kot njegovi nasledniki niso bili v dogajanje na državni ravni vpleteni na prav noben način. Za kaj takega so bili popolnoma brez moči in brez neposrednih povezav s habsburško dinastijo.

V prvem desetletju po 1325 v virih na kratko mogoče zaslediti Vernerja, Nikolaja in Petra, ki se prav tako imenujejo po Lušperku. *Wernher der Lusperger* je leta 1325 pričal v viltuški listini za šentpavelski samostan (GZM III, št. 76; RHSt II, št. 1667). V žovneški listini, izdani leta 1327 v Kranju, najdemo med pričami moža po imenu *Nikel der Lussperger* (CKL, št. 199; RHSt II, št. 1809). Tako Verner kot Nikolaj omenjenih listin nista pečatila. Leta 1333 je omenjen tudi Peter, za katerega ni dvoma, da je bil res Henrikov sin: *Peter, Herrn Hainreichs sun von Luhsperch* (prim. Kos, 2005, 320). Tedaj je Peter v Vitanju potrjeval, da je svojemu gospodu, krškemu škofu Geroldu, prodal dva mlina, ležeča pri Lušperku, in sicer za 10 srebrnih mark in se glede njiju odpovedal vsem pravicam. Pečatil je sam, kakor tudi njegov gospod *Herdegena von Pettaw*; pečata nista ohranjena (MDC IX, št. 604).

Če je bil Herdegen Ptujski v času izdaje omenjene listine v Vitanju dejansko prisoten, ni jasno, saj bi naj bil glede na neko drugo listino ta dan navzoč na Dunaju (MDC IX, št. 604–605). Iz vitanjske listine ni jasno razvidno, v kakšnem odnosu sta bila Peter Lušperški in Herdegen Ptujski. V vsakem primeru je pri Herdegenu šlo za izredno močnega plemiča, enega najpomembnejših predstavnikov svoje rodbine nasploh. Peter Lušperški se z njim nikakor ni mogel primerjati. Herdegen je bil najbrž pismen, morda celo študent v Bologni, ob tem pa še uveljavljen vojak in politik s tesnimi stiki s tedanjimi Habsburžani. Med drugim je bil tudi kranjski deželni glavar (1340–1350) in štajerski maršal (1324/28–1352) (Ravnikar, 2007, 79; Hajdinjak & Vidmar, 2008, 22–23; Krones, 1900, 180).

Medtem ko je pri Petru Lušperškem jasno, da je bil Henrikov sin (MDC IX, št. 604), tega za Vernerja in Nikolaja ni moč trditi. Glede na pičle vire se niti ne ve, v kakšnem sorodstvenem razmerju so bili dotični trije. Prepričani ne moremo biti niti, da so na Lušperku sploh še živeli (Kos, 2005, 320). Bolj gotovo je, da Henrika Lušperškega po svoji politični moči niso uspeli preseči, temveč so morda ostali na njegovi ravni. Količina virov, ki so v zvezi s Vernerjem, Nikolajem in Petrom na razpolago, je sicer neprimerljivo manjša. Kljub temu ni nobenega razloga za sklep, da so se Henrikovi nasledniki v letih in desetletjih po njegovi smrti politično okrepili, morda kmalu po njegovi zadnji omembi leta 1325.

10 Leta 1311 je bila s Štajersko zvezana Savnija, leta 1335 pa so Habsburžani neposredno zavladali tudi na Koroškem in Kranjskem.

V približno istem času, kot so živeli Verner, Nikolaj in Peter, sta na krškem škofovskem stolu stolovala Henrik III. (1298–1326) in Gerold (1326–1333). Medtem ko je bil Henrik iz rodbine Helfenberških (Ravnikar, 2001, 328),[11] je Gerold izviral iz Friesach/Brež (MDC IX, št. 628). Pred svojim nastopom škofovske službe je Gerold služboval kot pisar in vicedom, pri čemer se je očitno izkazal (Obersteiner, 1969, 127–140). Henrik je s premoženjem svoje škofije očitno slabo gospodaril in jo pustil »v težavah in pod bremeni dolgov«. Med drugim so bile prazne kašče, srebrne posode in okrasja pa ni bilo več. Vse to je Gerold uspel izboljšati in obnoviti. Med drugim je svoji škofiji na lastne stroške pridobil razne posesti in dohodke, poleg ostalega tudi »grad in gospostvo Lušperk s 60 markami dohodkov« (MDC VIII, št. 76; MDC IX, št. 628; Obersteiner, 1969, 138). V kontekst teh prizadevanj je očitno treba postaviti listino, v kateri je omenjen Peter Lušperški, ki je Geroldu leta 1333 prodal dva mlina pri Lušperku (MDC IX, št. 604). Prav tako je neki *Hainraich der Tanner* Geroldu istega leta prodal kmetijo ležečo *am Burk gegen Luchsperch* (MDC IX, št. 616; Pirchegger, 1962, 143–144). Očitno je pri tem »gradu nasproti Lušperka« šlo za Jamnik (Holenstein), nekoč stoječ pred t. i. Pavlakovo jamo na strmem hribu v bližini Osredka pri Zrečah oziroma današnjega zreškega pokopališča. Danes ni več sledu o tem gradu. Za Henrika samega se sklepa (Jakič, 1999, 143; Stopar, 1991, 54), da je bil vitez gospodov Konjiških in ne sorodnik Lušperških.

Ni znano, kaj se je v desetletjih po času škofa Gerolda dogajalo z Vernerjem, Nikolajem, Petrom in njihovimi morebitnimi potomci iz virov. Politično in vojaško okrepili se vsekakor niso, kar pa ne pomeni, da je rod nujno izumrl. Pirchegger je sicer navajal, da se je izvorna rodbina na gradu uspela obdržati do leta 1376, ko je izumrla, saj zatem krški škofje gradu naj ne bi več podeljevali v fevd. Po Pircheggerju so letnico navedli tudi drugi (Kos, 2005, 321; Stopar, 1991, 54; Sapač, 2016, 36–37), a pri določanju letnice je Pirchegger očitno mislil na izumrtje rodbine Mariborskih (Pirchegger, 1956, 9; 1962, 215),[12] za menimo, da najverjetneje ni bila sorodstveno povezana s Henrikom Lušperškim. Izumrtje gospodov Mariborskih (Pirchegger, 1952, 47) torej ni imelo nobenega vpliva na lušperško gospostvo oziroma prebivalce tamkajšnjega gradu. Kdaj so Henrikovi potomci izumrli ali pa morda le zapustili lušperški grad, iz virov ni jasno razvidno in morda so se na gradu uspeli obdržati tudi v desetletjih po letu 1376.

V delu *Vitez in grad* je omenjen še neki Hans, in sicer v letih 1363 in 1365 (MDC X, št. 421, 575, 619, 661, 663; MDC X, Namenregister, 421; Kos, 2005, 320),[13] za katerega pa Kos trdi, da ni bil eden izmed gospodov Lušperških. Zelo verjetno ima prav, saj pri Hansu najbrž ni šlo ne za Henrikovega potomca ne za nekoga, ki bi na Lušperku sploh bival. Z dotičnim je še najverjetneje mišljen avstrijski plemič *Johansen von Lozberg*, očitno imenovan po Lasbergu v današnji Zgornji Avstriji. Bil je komornik tedanjega nadvojvode Rudolfa IV. (vsaj med letoma 1361 in 1365)

11 Grad Helfenberg je bil zgrajen nad sotesko Pirešice, dobrih šest kilometrov severozahodno od Dobrne.

12 »Die Kleine Herrschaft blieb den Herren von Marburg bis zu ihrem Erloschen 1376« (Pirchegger, 1956, 9).

13 Kos sicer navaja, da Hansa omenja tudi Pirchegger, a ga pri njem ne najdem.

(Ardelt, 1962, 291, 302–305, 314–317)[14]. Kot vse kaže, je imel isti mož kasneje naziv maršala na dvoru Rudolfovega brata Leopolda III., in sicer med letoma 1370 in 1381 oziroma 1384 (MDC X, št. 619, 661, 663; Lackner, 2002, 83, 344).[15] Bil je brez sorodstvenih povezav z Lušperškimi.

V dveh listinah, ki ju hrani Arhiv Republike Slovenije, iz let 1387 in 1394, je moč najti tudi moža po imenu *Wilhalm der Lusperger*. Šlo je za človeka, očitno dve generaciji za zgoraj omenjenim Henrikovim sinom Petrom in generacijo za Henrikom Tannerjem. Kos domneva (Kos, 2005, 321), da Viljem ni bil nujno v sorodu z izvornimi Lušperškimi, podobno navaja Sapač (Sapač, 2016, 37, op. 72; Kos, 2005, 321). V obeh listinah najdemo Viljemov pečat, ki upodablja risa na hribu, torej gre za govoreči grb. Glede na to, da so morebitni pečati zgodnejših Lušperških danes neznani, jih ne morem primerjati z Viljemovim. Res je, da Viljemov ris ni imel zveze z mariborskim vzpenjajočim se levom (Kos, 2005, 315, 321, 327, 389), a v primeru vovbrškega izvora Henrika Lušperškega tega niti ne bi pričakovali. Gre torej za prvi primer pečata katerega izmed Lušperških, ki se je ohranil do danes (čeprav ga je leta 1333 tudi Peter očitno imel).

V prvi izmed omenjenih listin, izstavljeni leta 1387, Viljem ni bil akter, listino pa sta izdala *Hanns und ich Rudel bruder die Grasl,* in sicer za grofa Hermana in Viljema Celjska (AS 1063, 1387 XII 11; Kos, 2005, 260–261)[16]. Naj na tej točki je treba spomniti, da so se Lušperški tudi v preteklosti že pojavljali med pričami Celjskih oziroma Žovneških, morda v povezavi s svojo nekdanjo povezanostjo z Vovbrškimi, tako da nas Viljemovo pečatenje dotičnega dokumenta ne preseneča. V primeru druge listine, iz leta 1394, je Viljem Lušperški Viljemu Lambergerju predal posest na Gorenjskem (AS 1063, 1394 III 31; Kos, 2005, 321)[17]. Pri vsem skupaj še najbolj preseneti prav dejstvo, da je bil Viljem Lušperški v tem primeru akter, ne pa le opazovalec, priča oziroma eden izmed tistih, ki so listino pečatili. Kos navaja, da je bil Viljem v tistem trenutku gotovo eden izmed celjske klientele (Kos, 2005, 321), pri čemer ima bržkone prav.

Še zadnji, iz virov znani Lušperški bi utegnil biti Henrik (II.?). Ta je leta 1418 Bernhardu Ptujskemu predal posestvo Laporje, ki je tedaj bilo njegov sedež

14 Hans (II.) je bil očitno velik podpornik nadvojvode Rudolfa. Rodbina se je sredi 15. stoletja sicer nehala ukvarjati z lokalno gornjeavstrijsko politiko ter se je dokončno preselila na območje Spodnje Avstrije. Leta 1664 so njeni člani prejeli naslov državnih baronov s strani cesarja Leopolda I., (leta 1705 pa državnih grofov s strani cesarja Jožefa I). V 18. stoletju so prodali svoje avstrijske posesti. Protestantska grofovska veja se je preselila na Ogrsko, katoliška baronska pa na Hannovrsko, Bavarsko in Švabsko. Za pomoč pri prevodu plemiških naslovov 17. in 18. stoletja se zahvaljujem Matjažu Grahorniku.

15 *Rudolf von Österreich… Johans von Lozperch, unser kammermeiste*r (MDC X, št. 619), *Hans Lasperger, unser chamermaister* (MDC X, št. 661), *Rudolff von Osterreich…seinem lieben, getreuen Johansen von Lozberg* (MDC X, št. 663), *Er gehörte gleichfalls dem österreichischen Ritteradel an* (Lackner, 2002, 83).

16 Kot kaže, je šlo za bratranca Viljema in Hermana II.

17 *Ich Wilhalm der Lusperger… geben und verchnuft haben unseren lieben swag und oheim Wilhalm dem lemberger und allen sinen Erben* (AS 1063, ZL 1394 III 31).

(Beiträge, 95, št. 14; Pirchegger, 1962, 136, op. 131; Stopar, 1991, 68)[18]. Da je Henrik pripadal izvorni rodbini Lušperških, se lahko sklepa le na podlagi njegovega osebnega imena, saj drugih podatkov o njem tako rekoč ni. Zelo možno bi bilo, da na Lušperku sploh ni več živel, temveč je le pripadal prvotni družini. Kot njegovi (morebitni) predniki tudi on očitno ni imel prav nobene politične moči, temveč se je morda udinjal pri močnejših plemičih, kaj šele, da bi imel stike z dvorom na Dunaju. K družini vsekakor ni več spadal Nikolaj Limbuški, leta 1430 omenjen kot lušperški gradiščan oziroma oskrbnik (StLA, AUR, 1430 IX 24)[19]. Listino je sicer izdal tedanji krški škof Ernest (Obersteiner, 1969, 138, 195–197; StLA, AUR, 1430 IX 24; Kos, 2005, 391–393), kateremu je bil Nikolaj očitno podrejen. Prav tako je jasno, da pri Nikolaju ni šlo za nekoga iz (zelo verjetno izvorno mariborske) rodbine Limbuških, saj je ta izumrla že konec 14. stoletja (Bele, 2021, 218, 224). Brez dvoma je Nikolaj torej bil le krški uradnik, ne pa pripadnik kake lokalne, spodnještajerske plemiške rodbine.

PROPAD LUŠPERŠKEGA GRADU

Podatkov o dogajanju na lušperškem gradu v njegovih zadnjih desetletjih je le za vzorec, kar je razumljivo glede na zapisano. Že Mlinar (2005, 160) in Sapač (2016, 36) navajata, da je kontekst njegovega uničenja treba iskati v celjsko-habsburški fajdi. Lazar pri obravnavi te fajde navaja primere več gradov, a Lušperka ni med njimi. Omenja pa »dolgo vrsto gradov in stolpov«, ki so jih Celjski zavzeli (Lazar, 2012, 451–452). Leta 1436 je tedanji cesar Sigismund, medtem ko je bil Friderik V. Habsburški (kasnejši cesar) na romanju v Sveti deželi, grofe Celjske povzdignil v državne kneze (Štih, 1996, 244; Ravnikar, 2019, 397). Friderik je proti temu najprej neuspešno protestiral, slednjič pa proti Celjskim sprožil fajdo (Oman, 2022, 268), o kateri imamo danes podrobno, a ne povsem zanesljivo poročilo v t. i. Celjski kroniki. Do poravnave med sprtima stranema je prišlo leta 1443 (Štih & Simoniti, 2009, 126; Fugger Germadnik, 2014, 96–98; Mihelič, 2021, 342). Celjska kronika Lušperka med uničenimi gradovi sicer ne omenja (Orožen, 1854, 63), a je očitno bil zraven. Požgala ga je, kot kaže, celjska vojska (Sapač, 2016, 36), saj je bil tedanji krški škof Janez V. Schallermann zaveznik habsburške strani (Obersteiner, 1969, 211, 219–220; Fugger Germadnik, 2014, 98). Celjska stran je podpirala svojega kandidata in sočasnega lavantinskega škofa Lovrenca Lichtenbergerja (Štih, 1996, 247). Julija 1439 se je škof Janez Schallermann s tedanjim lušperškim oskrbnikom in uradnikom Andrejem Metzom poravnal glede stroškov in škode (DAK, Kopialbuch 1438–1442, 13 (1439

18 *Ain anstand von Hainrich Luchsperger etlich lehensguetter nemblichen das gesess Lapriach mit aller zugehorung, so er herrn Bernharten von Pettau als lehensherrn aufsendt. Des datum stet im 1418. iar* (Beiträge, 95, št. 14).

19 *Wir Ernst den gotes gnaden Bischoue ze Gurkch… Niclas lempacher diezeit uns purggraf und 16 Amptman zu Lusperg* (StLA, AUR, 1430 IX 24).

Slika 3: Friderik III. Habsburški, kot upodobljen v zadnji tretjini 15. stoletja (Wikimedia Commons).

VII 19)),[20] ki jo je Metz imel med vojno, tj. fajdo,[21] s Celjskimi ter za obnovo med njo porušenega oziroma poškodovanega gradu (DAK, Kopialbuch 1438–1442, 13–14 (1439 VII 19); Mlinar, 2005, 160; Sapač, 2016, 36)[22].

O Andreju Metzu, v fajdi očitno pripadniku habsburško-krške strani, je ponovno možno reči le nekaj besed, nedvomno pa tudi on ni bil član rodbine izvornih Lušperških. Njegova žena v besedilu poimensko ni navedena (DAK, Kopialbuch 1438–1442, 13–14 (1439 VII 19)). Očitno je bil Metz del vojske škofa Janeza in je pod seboj imel neznano število vojakov. Med drugim lahko o njem rečemo, da ni bil eden izmed t. i. deželnih sovražnikov, torej tistih, ki so v času fajde na Kranjskem in Štajerskem kršili deželno pravo, torej pravila vodenja fajde, v akcijah proti Habsburžanom, pa tudi proti Celjskim. Na seznamu deželnih sovražnikov ga ne najdem (Otorepec, 1996, 331–342; Nared, 2002, 330–336). To ne preseneča, saj bi bil v nasprotnem primeru preganjan – glede na to, da rodbina ni imela dobrih zvez. Andrej Metz je leta 1439 pečatil s svojim pečatom, a tega v krški kopialni knjigi seveda ni. Morda je šlo za okroglo pasno zaponko (Kraßler, 1968, 9, 167). Ponovno se torej lahko zatrdi, da Metz ni bil eden izmed izvornih Lušperških. Glede na njegov priimek bi lahko ugibali, da izvira iz izraza za nož oziroma rezilo (*metze, metz*) a to pri vpogledu v njegovo rodbinsko situacijo prav tako nič ne pomaga (Metze).

V času iste fajde je Andrej Metz uspel zasesti grad Jamnik (DAK, Kopialbuch 1438–1442, 13–14 (1439 VII 19)) in se tja zatem morda celo naselil. Od škofa pridobljenega denarja za obnovitvena dela na Lušperku kot kaže ni porabil, kot je bilo prvotno mišljeno, obnova lušperškega gradu pa očitno ni bila izpeljana. Sledi kakšne obnovitvene dejavnosti na prvotnem obzidju iz 13. stoletja danes ni videti in, kot vse kaže, je po juliju 1439 ostal trajno v razvalinah. Po drugi strani je Andrej Metz pridobljen denar morda porabil za obnovo oziroma razna gradbena dela na osvojenem Jamniku, ki se je leta 1477 omenjal kot grad oziroma *castellum Jannik*, ki je pred tem bil le utrjeno selišče oziroma *gesiezz* (Sapač, 2016, 36, 56; Kos, 2005, 293). Za Andrejem Metzem ni iz virov znan noben lušperški gradiščan več, saj grad v času po celjsko-habsburški fajdi sploh ni več obstajal oziroma je propadel, ker ga, kot kaže, ni več nihče obnovil. Prav tako tam očitno ni nihče več živel. Kot je znano (Kos, 2005, 321; Stopar, 1991, 75; Pirchegger, 1962, 215; Sapač, 2016, 36), je bil v krškem urbarju iz leta 1502 že označen kot opuščen oziroma propadel (*reinz auff das Purkhstall Lusperg auff mit des Pachs genant die Tran*) (StLA, HS, Nr. 1230 (vormals 3877); Zahn, 1893, 322).

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20 *Ich Andre Metz… Als ich des hochwurdigen fursten, meins gnedigen herren Johansen Bischofen von Gurkch phleger und ambtman zu Lusperg gewesin bin und von seinen und seins Gotshaus wegen in dem krieg gegen dem von Cili mit absag angreiff und ander sachen begrieffen scheden genomen Auch das hawss luspers* (DAK, Kopialbuch 1438–1442, 13 (1439 VII 19)).

21 O jeziku fajde npr. Darovec, Ergaver & Oman, 2017, 397–398.

22 Kot kaže, je šlo za povračilo stroškov za razno v času fajde storjeno škodo. Iz besedila bi smeli sklepati, da je škof plačal Metzu. [*D*]*as mich derselb mein gnedig herr von Gurkch…gennzlich entricht und bezalt ha*t (DAK, Kopialbuch 1438–1442, 13 (1439 VII 19)).

Ostanki nekdanjega lušperškega gradu so bili sicer nekoliko težje dostopni ter hkrati iz tršega kamna, kot je bil sosednji Freudenberg (Sapač, 2016, 6–7),[23] zato so se ostanki ohranili vse do danes (Sapač, 2016, 37). Lušperški grad najdemo omenjen tudi v konjiški krstni knjigi, in sicer pri vnosu za leto 1611 (NŠAM 174, Krstna knjiga Slovenske Konjice 1604–1611, 323; Stegenšek, 1909, 95; Sapač, 2016, 37)[24]. Še nekaj let nazaj so bile grajske razvaline še skoraj identične tistim, ki sta jih v 20. stoletju dokumentirala Stegenšek (leta 1909) in Stopar (leta 1991). Od leta 2013 so ostanki lušperškega gradu razglašeni za kulturni spomenik (Sapač, 2016, 37). Med širšim slovenskim prebivalstvom je grad danes tako rekoč popolnoma nepoznan. Med lokalnim zreškim prebivalstvom je danes še zmeraj razmeroma poznan Freudenberg, medtem ko sta Jamnik in Lušperk skoraj docela utonila v pozabo[25].

* * *

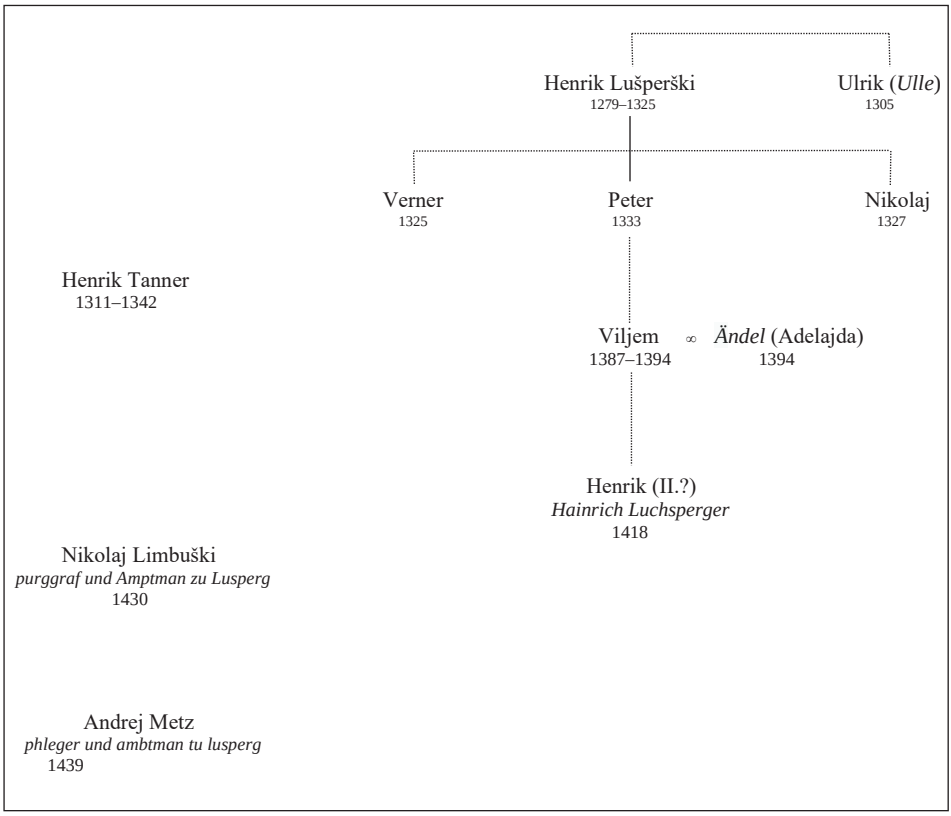
Za konec je moč skleniti, da je rodbina Lušperških najverjetneje res izvirala iz spremstva grofov Vovbrških, a jim je to slednjič bolj škodilo kot koristilo. V službi Vovbrških se niso uspeli vojaško, politično ali rodbinsko povzpeti, prav tako so Vovbrški razmeroma hitro izumrli. Tako so Lušperški ostali še brez močnejših zaščitnikov in bili v naslednjih desetletjih obsojeni na politično životarjenje. Njihov grad je v virih bolje zastopan šele v času celjsko-habsburške fajde, ko je rodbina že izumrla, grad pa je prav tako doživel svoj konec oziroma ga niso več obnovili.

23 Skupaj z Jamnikom tvorita Freudenberg in Lušperk nekakšen navidezen trikotnik okoli današnjih Zreč-Freudenberg s severne strani, Lušperk proti zahodu, Jamnik pa na južni strani.

24 Tega leta je bil pod gradom očitno krščen neki Matija, ki je bil Andrejev zakonski sin. *17. Februaris baptisatus e. fetus nomine Mathia legitims filius Andreae sub Arce Lushperk* (NŠAM 174, Krstna knjiga Slovenske Konjice 1604–1611, 323).

25 Za ta podatek se zahvaljujem Marku in Robiju Koprivniku.

POSKUS REKONSTRUKCIJE DRUŽINSKEGA DREVESA RODBINE LUŠPERŠKIH



LUŠPERK CASTLE AND ITS INHABITANS BETWEEN THE THIRTEENTH AND FIFTEENTH CENTURIES

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SUMMARY

The topic of this article is the little-known castle of Lušperk, the ruins of which lie some three kilometers northwest of Zreče. The article's timeframe encompasses the thirteenth and fifteenth centuries. The estate on which the castle was built was originally owned by the Diocese of Gurk. The castle was first mentioned in 1279, as part of the name of a Henry (1279–1325), whose origin is unclear. Henrik may have been related to the Styrian ministeriales of Maribor or (much more likely) came from the retinue of the Counts of Heunburg. Considering his (still uncertain) 'Heunburg pedigree', Henrik was quite an exception among the many Styrian, Salzburg and Gurk ministeriales in his area of residence. According to the witness lists, he had contacts with members of the local nobility in Styria and Carinthia, but apparently never played an active role in these contracts. In addition to him, a man named Ulrich of Lušperk should be mentioned. In the 1330s, we trace Werner, Nicholas and Peter. While it is certain that Peter was Henry's son, this cannot be said about Werner and Nicholas. We also come across a William who may have been a member of the clientele of the Counts of Celje. The final member of the family attested in the sources may be another Henry, mentioned in 1418. Other men, mentioned in connection to the castle later, no longer belonged to this family. In July 1439, Bishop John of Gurk paid Andrew Metz, the administrator of Lušperk, for the damage he suffered during the feud with the Counts of Celje. After that, Lušperk was apparently never rebuilt

Keywords: Lušperk, Maribor, Duchy of Styria, Habsburgs, Lords of Maribor, Counts of Celje, Diocese of Gurk

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POROČILA

RELAZIONI

REPORTS

Conference Report on *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe*, 21–22 June 2023, Maribor & Čentur (online)

Regarding violence and dispute settlement, historiography has, for a long time, rested on deep-rooted positivist and evolutionist interpretations. These were consistent with the dominant historical narratives, which saw the (supposed) decline of violence through history as part of a linear progression towards the emergence of modern civil society. In this context, European early modernity was equated with the establishment of modern order and, with the notable exception of some Mediterranean regions, predicated on the eradication of feud. Based on the state's monopolisation of law and violence, the state, together with the efforts of religious reformers, tried to suppress traditional customs of dispute settlement, such as (blood) feud, which were seen as destructive and irrational, and an obstacle on Europe's way towards a 'rational' society. Nevertheless, since the 'anthropological turn' in the 1950s, the role of feud in conflict resolution and social cohesion has been exhaustingly debated by historians.

Medievalists have generally accepted the importance of feuding in conflict resolution and demonstrated that it played a significant role in maintaining peace in the community. However, there are still disagreements as to whether the same was still true in the early modern period, particularly after 1600. This question was one of the main issues addressed by the participants of the international scientific conference *After the Feud? Dispute Settlement Between Custom and Law in Early Modern Europe*, which took place online (Zoom) on 21 and 22 June 2023, and was organised by the Institute IRRIS for Research, Development and Strategies of Society, Culture and Environment. The conference was part of the postdoctoral project Z6-3223 *Plebeian Dispute Settlement in Baroque Inner Austria: Between Feud and Criminal Law* and the research programme P6-0435 *Practices of Conflict Resolution Between Customary and Statutory Law in the Area of Today's Slovenia and Its Neighbouring Lands*, both (co-)funded by the Slovenian Research and Innovation Agency (ARIS).

The conference was organised into four panels, with altogether 14 speakers from across Europe and the US, all specialists in the fields of the history of violence and dispute settlement. Following the conference outline, they focused particularly on: 1) the role of customs and law in dispute settlement, with particular regard on the lower strata of the population; 2) the rites and language of enmity and peacemaking; 3) feud's gendered and 4) emotional aspects.

Following the welcoming address by the conference committee chair and leader of the postdoctoral project, Žiga Oman, the conference opened with the first panel, titled *Pacified Regions?*, moderated by Stuart Carroll from the University of York (UK). The first paper was by Jeppe Büchert Netterstrøm from the University of Aarhus (Denmark). In his presentation, titled *Feuding and Peacemaking in 17th-Century Denmark?*, predicated on 200 homicide cases between 1608 and 1622,

Netterstrøm presented how, despite the strengthening of the Danish monarchy in the sixteenth and seventeenth centuries, and contrary to generalised views of Danish history, the authorities occasionally still tolerated feud-like violence and private dispute settlements among lower classes.

The next paper, titled *Feuding 'After the Feud' in Baroque Inner Austria*, was given by Žiga Oman from the Institute IRRIS (Slovenia). Based on early modern primary sources, he outlined the control of enmities and the resolution of disputes by all social classes in Inner Austria, arguing that the tolerance of traditional practices of dispute settlement by local judicial authorities was of key importance for their continued existence, since they were seen as an indispensable element of social cohesion and peace within the community.

Concluding the first panel, Vicent M. Garés Timor from the University of Valencia (Spain) questioned the notions of banditry in his paper entitled *The Colomer Brothers from Valldigna: Robbers or Members of a Faction?*. Based on a case study of an attack in 1536 on the royal road near Carcaixent, a small town in the Kingdom of Valencia, he refuted the traditional interpretation of banditry in its 'mythical' narrative, establishing that it was a much more complex phenomenon. In this case, a rather typical feud.

The second set of presentations, moderated by Žiga Oman, focused on emotional and narrative aspects of enmity. Umberto Cecchinato from the University of Trento (Italy) analysed a particularly interesting ego-document in his paper entitled *Everyday Interpersonal Violence in Early Modern Treviso. News of Homicides Recorded in the Libro Maccheronico of Zuanne Mestriner (1682–1731)*. This document, containing dispassionate reports on murders between 1682 and 1731 written by the Treviso barber Zuanne Mestriner, not only provides a starting point for a quantitative study, but also offers a rare insight into the dynamics of enmity before the criminal acts themselves.

The following presentation was given by Stephen Cummins from the Max Planck Institute for Human Development (Germany). In the paper titled *The Emotional Politics of Enmity in the Aftermath of the Revolt of Naples (1647–8)*, he discussed the relationship between enmity, peacemaking and royal justice in the tumultuous years after the Revolt of Naples (1647–8). Cummins focused on the issues of the state's ability to resolve disputes and its legitimacy therein, especially predicated on complaints that came to the governing council of the kingdom, i.e. the Collateral Council. He concluded his presentation with some general reflections on how historians may conceptualise some of the emotional politics of enmity in the early modern period, especially regarding the 'emotional regime' concept.

A presentation by Alejandro Llinares Planells from the University of Málaga (Spain) concluded this panel. In his paper entitled *Executions Ballads in Catalonia Between the 16th and 17th Century*, Llinares Planells initially used a comparative approach to outline the broader context of the function of execution texts in early modern Europe. He specifically focused on Catalonia and regional specifics in the creation, transmission and reception of execution ballads.

The afternoon panel entitled *Enmity and Law*, moderated by Stephen Cummins, began with a presentation by Paolo Broggio from the Roma Tre University (Italy). In his paper, *The 'Surety Not to Offend' as an Obligation 'In Forma Camerae': Blood Feuds and 'Binding Over' Legal Instruments in the Papal States (XVI–XVII Centuries)*, Broggio analysed the guarantees against insult or so-called 'sureties not to offend' or 'cautiones de non offendendo' in Latin. This court practice, unlike a peace accord, was concluded without an agreement. At the same time, it represented an important element in establishing and maintaining peace within the community. As he showed, the practice persisted for a long time, due to its economic benefits for the state, and because it legally bound entire lineages more efficiently than peace deals.

The next paper was given by Sian Hibbert from the University of York. In her paper entitled *Violence and Litigation: Women in Dispute in Early Modern Languedoc*, she addressed the role of women, an often-neglected topic in dispute settlements. Based on individual case studies, Hibbert refuted the traditional historiographical interpretation of women as solely victims of – especially sexual – violence, establishing that despite the principled exclusion from the use of physical violence, early modern women used it more often than commonly assumed.

The last paper of the first day, entitled *When Peace is Not Enough. Marco Michiel and the Council of Ten in Early 16th-Century Venice: Shifting Judicial Paradigms and Noble Violence*, was by Andrew Vidali from the University of York. He contextualised the affair of Marco Michiel, which represented the first considerable intervention by the Council of Ten in the customary legal practices of settling disputes, in general, governing enmities between Venetian noble families.

Jeppe Büchert Netterstrøm concluded the first day by providing some final thoughts and starting points for future research.

The second day of the conference began with a panel focused on the issue of duelling, moderated by Andrew Vidali. The introductory paper, entitled *Regole per effettura le paci. A 17th-Century Italian Treatise on the Role of Mediation in Dispute Resolution and Peace-Making*, was given by Tilen Glavina from the Science and Research Centre of Koper (Slovenia). Referring to the posthumously published treatise (1686) by Abbot Taddeo Pepoli, he outlined similarities and differences with the concept of peacemaking in duels and at the same time discussed the ideal mediator or *mezzano*.

Next followed the paper *The Peace and the Duel; The Peace in the Duel*, by Amanda Madden from George Mason University (USA). Referring to various sources, she suggested that the increase in duels was related to the state's attempts to arrange peace. Madden described a duel as part of the peace process, congruent with the 'peace in the feud' (a reference to Max Gluckman), and argued that a re-examination of the role of the duel as a practice of conflict resolution is required.

This panel was concluded by Matjaž Grahornik from the Milko Kos Historical Institute (Slovenia). While emphasising that duelling was not limited only to the upper social classes, in his paper entitled *Early Modern Duels in the Habsburg He-*

reditary Lands between Practice and the Law, Grahornik focused on duels among the (high) nobility in Inner Austria, linking some of the cases to the pre-existing enmities, and examining them in more detail.

After the conclusion of the main panels, Darko Darovec from the Institute IRRIS presented some guidelines for future research. First, the project proposal PEACERITE, which would be the first comprehensive and comparative global historical study of the rituals of conflict resolution based on case studies from pre-modern Europe and indigenous societies of colonial America and Australia. Next, he presented the COST Action with the acronym CHANGECODE, recently launched by the Institute IRRIS. The main goal of this project is to systematise, conceptualise and epistemically upgrade existing knowledge about the influence of past dispute resolution mechanisms on modern practices.

Christine Reinle from the Justus Liebig University of Giessen (Germany) closed the conference by giving her concluding thoughts.

In addition to the already highlighted experts, who, by using various primary sources from different points of view, spoke on the complex topic of dispute settlement in the early modern period, it should be emphasised that very fruitful discussions followed each panel, as well as the concluding remarks. This is quite notable, since debates are too often a neglected part of online conferences, although they are vital in the exchange of knowledge and through constructive criticism enable the further development of the scientific field. Accordingly, the organisation committee is to be commended for the selection of papers, as well as for the organisation and technical execution of the conference. The conference outline, programme and book of abstracts can be accessed at https://www.irris.eu/wp-content/uploads/AFTER-THE-FEUD-Conference-Programme-and-Book-of-Abstracts-21-22-June-2023-Online-1.pdf, while the recording of most papers will be available on the IRRIS website in early 2024.

Veronika Kos

Conference Report on *Violence and its Control in Early Modern Europe*, 4–5 July 2023, York

Under the influence of legal anthropology, historical research has, in the last few decades, begun to challenge the traditional interpretations of the role of interpersonal violence in early modern European society. Recent studies have shown that pre-modern society was not chaotic and 'irreparably' violent, as is often assumed. Instead, conflicts were often regulated by specific social 'rules' or customs. Violence has proven to be an ambivalent and complex phenomenon with no clear definition and a product of interactions between cultural, economic, social, political etc., factors, which vary according to time and place.

Therefore, it is not surprising that interest in researching the role of interpersonal violence and its control in early modern societies has increased in recent decades. This issue was, among others, the focus of the EU-funded research project *ViolenControl – Violence and its Control in early modern Venice, 1500–1797*, coordinated and led by Andrew Vidali, a Marie Skłodowska-Curie Research Fellow at the Department of History at the University of York (UK).

Between 4 and 5 July 2023, in the framework of his MSCA research project, a two-day conference entitled *Violence and its Control in Early Modern Europe* was organised and hosted at the University of York. The event also took place online for those who could not attend in person.

The opening address was given by Andrew Vidali, chair of the conference committee and head of the Marie Skłodowska-Curie research project. In the following two days, four panels were held in which thirteen research specialists from across Europe and the US presented their papers on the history of controlling interpersonal violence. Following the conference outline, however, not limited exclusively to these themes, they focused on: 1) the quantitative analysis of violence; 2) peacemaking, public order and policing; 3) interrelationships between criminal justice and violence; 4) factionalism, political and elite violence; 5) class, gender-based and collective violence; 6) minorities and violence; and 7) spatial patterns of violence.

The opening panel, *Gender and Spaces of Violence*, was moderated by Amanda Madden from the George Mason University (USA). The first paper, entitled *Controlling violence in the* Bagno de' Forzati *of Livorno (17th–18th centuries)*, was given by Benedetta Chizzolini from the Ludwig Maximilian University of Munich (Germany), in a cotutelle agreement with the University of Padua (Italy). She presented an analysis of the control of violence, the clash of jurisdictions and the exemplary punishments against specific crimes within the *Bagno*, a prison built between 1598 and 1604 under Ferdinando I de' Medici, Grand Duke of Tuscany, in the heart of medieval Livorno. The prison was mainly used for 'Turks' captured and enslaved by the Order of Saint Stephen as well as Tuscan prisoners.

This was followed by a paper by Nere Jone Intxaustegi Jauregi from the University of Deusto (Spain). In her paper *Violence and Women in Early Modern Basque Territories*, she analysed physical mistreatment, verbal violence and mental abuse

against women and by women against other individuals, especially in the 'private' space of conflict, the family.

The first panel concluded with a presentation given by Sanne Muurling from the Radboud University (The Netherlands). In her paper entitled *Women, violence and the use of justice in early modern Bologna*, she refuted the traditional interpretations of women's 'passive' role and how, despite their so-called subordination, they participated in all categories of criminal offences as well as in (in)formal mechanisms of dispute settlement.

The second panel of the day, *Social Groups and Politics*, moderated by Stuart Carroll from the University of York, was opened by Ugo Muraca from the University of Messina (Italy). In his paper, entitled *«Faire tyranniser la majorité du peuple par une minorité factieuse»: the suppression of the federalist uprisings in Southern France in 1793*, he analysed an insurrectional movement, which occurred in the French provinces and countryside in the same year as the peasant uprisings in Vendée (1793). With it, several towns in the Midi opposed the capital's alleged 'centralism'.

The next presentation, entitled *Controlling the violence of servants: a pressure way in early modern diplomacy?*, was given by Amelie Balayre from the University of Arras (France). Predicated on ten incidents that occurred between French and English diplomatic staff in 1559–98, she showed that diplomacy, traditionally viewed as a dispute settlement practice that resolves issues between states through negotiation and compromise, also involved violence. While ambassadors were the public faces of their rulers, they were usually accompanied by a retinue of people and servants of varying ranks, who, in the context of war and strong religious tensions, used violence without much hesitation.

The final lecture of the second panel was presented by Sian Hibbert from the University of York. In her paper, *Violence and the Notability: Languedoc 1680–1720*, she questioned what constitutes notability in a community and outlined how violence and its control were treated when individuals of specific social statuses were involved. She suggested that the traditional notability concepts of status and 'power' (and therefore our understanding of the tensions underpinning incidents of violence) need to be located within the geographical locality of the individuals involved, because of the complex system of office holding and election specifics.

The first day of the conference was concluded with a talk by the keynote speaker, Amanda Madden. Her lecture titled *The history of violence between the micro and macro: notes from the field of early modern studies* discussed the importance of micro and macro studies, focusing on the history of violence and its control in the early modern period, based on Italian cities. In doing so, she specifically stressed the important role of spatial analysis of violence, e.g. GIS mapping. In her opinion, this methodological approach can bridge the micro and macro studies and deepen our understanding of patterns of violence and its control throughout history.

The second day of the conference began with the panel *Cultures of Violence, Peace, and the Law*, moderated by Paolo Broggio from the Roma Tre University (Italy). In the first paper, entitled '*Who is there?': the Violent Game of chivalì in the Republic of Venice (1576–1645c.)*, Andrea Toffolon from the Ca' Foscari University of Venice (Italy), gave a detailed analysis of *chivalì*, an ambush taunt or provocation considered a 'game', which developed into interpersonal violence. He placed the insufficiently researched phenomenon of the chosen time and space in a wider context of violence and called into question the randomness of the targets (i.e. victims). He also addressed the gendered aspects of this 'game', showing that despite being in the minority, women were also involved; however, solely as victims.

The second lecture of the panel was given by Povilas Andrius Stepavičius from Vilnius University (Lithuania). His paper *Attempts to live peacefully: violence and its control in the 17th century Vilnius* explored what kind of violence deterrence measures were used in seventeenth-century Vilnius. He focused 1) on inhabitants and their ways of dealing with violent outbursts and 2) on the attempt to identify how the city's institutions prepared for peacemaking and protecting the public order. He argued that the source material reveals a strong desire to control violence in the domestic and neighbourhood environment.

The panel ended with a presentation by Mattia Corso, an independent researcher from Italy. In his paper entitled *The Problem with Weapons: Arms Control Policies in Sixteenth Century Verona*, he examined the historical context of weapons control in sixteenth-century Verona, specifically focusing on the laws that governed the use and carrying of arms in public spaces. In his analysis, he combined archival records documenting the enforcement of laws with two unique and valuable sources, reports by judge Ermes Forcadura (1550–1607), focusing on factors that influenced the effectiveness of arms control measures.

The fourth and last panel of the conference, entitled *Looking East: Violence in Central Europe*, was moderated by Andrew Vidali. The session was opened by Žiga Oman from the Institute IRRIS (Slovenia) with the paper entitled *Dimensions of Enmity in Early Modern Inner Austria*. Predicated on cases from the provincial courts of Rothenfels in Styria and Bled in Carniola, as well as the town court of Ljubljana, the Carniolan capital, he addressed the use of violence and its control in dispute settlement among non-nobles to discern the dimensions of 'enmity' in early modern Inner Austria.

Next followed a presentation by Marta Raczyńska-Kruk from the University of Warsaw (Poland). In her paper*'You dog, Polish deaf German!'. The story about Deaf Germans in early modern Poland and the problem of symbolic violence*, she dealt with the concept and the cultural phenomenon of the so-called 'Deaf Germans' (*Taubdeutche* in German, *Głuchoniemcy* in Polish) ethnic group in early modern Poland and the history of research on this phenomenon in the context of symbolic violence. According to her paper, a

type of non-physical violence manifested in power differences between social and cultural groups, focusing especially on the expression of violence through language and how ethnic stereotypes build a linguistic and cultural image of the world.

The panel and the conference were concluded by the paper entitled *Protection from Violence: the Anabaptists in Moravia (1525–1621)*. It was given by Emese Bálint, an independent researcher from Romania, who focused on the protection from the violence of the Anabaptist minority in early modern Moravia. She challenged the traditional views which interpret the toleration of a religious minority solely as a cultural tradition and/or a legal guarantee. As Bálint illustrated, protection from violence was a complex variable depending on the outcomes of power struggles, economic gains, and political costs.

The conference *Violence and its Control in Early Modern Europe* successfully addressed the topic of interpersonal violence and its control in the early modern period from various points of view. The speakers and the moderators showed that this research topic is very complex and deserves further consideration. The organisers should be commended for the selection of compelling papers and the good organisation of the conference.

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