SCIREA Journal of Sociology

http://www.scirea.org/journal/Sociology

December 27, 2020

Volume 4, Issue 6, December 2020

Good Old Laws. The Tradition of Combating Corruption in Croatia: Examples from the Statutes of Rab and Šibenik*

Tomislav Galović

University of Zagreb, Faculty of Humanities and Social Sciences, Department of History and Institute of Croatian History, Zagreb, Croatia

Email: tgalovic@ffzg.hr

Abstract:

The topicality of old medieval statutes and law codices in the Croatian historical territory is sufficiently reflected in the fact that if we did not know when select examples thereof had been written we would think that they were actually from our own time. This paper contains an analysis of select, but also the most intriguing, excerpts from Croatian laws and statutes over the period spanning the 13th to 16th centuries, with particular emphasis on the *Statutum*

* One part of this paper is based on the Proceedings (Croatian texts without footnotes and references): Dalibor Čepulo, Marta Dragičević Prtenjača, Tomislav Galović, Zdenka Janeković Römer, Ozren Kosanović, Renata Lukić Galović, Željko Radić, *Suzbijanje korupcije u Hrvatskoj u srednjem vijeku*, vol. II, edited by Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, chapter: Tomislav Galović, *Šibenski statut: Volumen statutorum legum, et reformationum civitatis Sibenici*, pp. 78-89; Tomislav Galović, *Statutum communis Arbae – Statut rapske komune iz 14. stoljeća*, pp. 40-50, co-author Renata Lukić Galović). The title of this paper inspired by international conference "Good Old Laws. The Tradition of Combating Corruption in Croatia", organized by European Parliament, Group of the Greens/European Free Alliance, Brussels, Belgium, October 14, 2015.

communis Arbae, the Statute of the Rab commune, and the *Volumen statutorum legum, et reformationum civitatis Sibenici*, the Statute of Šibenik.

Keywords: Combating Corruption, Croatia, Middle Ages, Statute of Rab, Statute of Šibenik

1. Introduction: "Good old laws"

Among Croatian law codices, first place is held by the Law Code, or Codex, of Vinodol of 1288 – the oldest and most significant Croatian medieval legal document, and also the oldest enumerative Croatian legal custom (Lat. *consuetudo*), written in the Croatian language and in the Glagolitic script. [1] Thus, in Article 20 it stipulates that no man can propose his wife to testify on his behalf in court, but according to Article 67, a father may testify for his son, a son and daughter may testify for their father, and by the same token, a brother and sister may testify on behalf of their sister, but only if they do so by standing independently and separate from one another, while the provision of Article 54 which prohibits lawyers from receiving recompense higher than that prescribed! [2]

The Statute of the City of Rijeka (*Statutum terrae Fluminis*) of 1530 orders and specifies that: "whosoever owes taxes or a portion of municipal taxes or if he is at the time indebted to the city may not be elected to public service if he does not immediately, prior to his election, intend to settle his debt" (Chapter 1, Article 4). In modern countries governed by laws such provisions are customary and underscore a simple principle: one may not be expected to enforce a given regulation if that person is in violation of said regulation. A similar sentiment is expressed in the provision "that nobody – in any manner or for any reason whatsoever – shall dare to petition, bribe or persuade any councillor of the grand council for oneself or on behalf of others" (Chapter 1, Article 19), intended to prevent nepotism and corruption when seeking employment in the civil service. Meanwhile, in nearby Kastav, in its Law Code, which dates to roughly 1400, one provision defines the penalty for failure to comply with a judicial proceeding: "If anyone, after a court judgment, continues the lawsuit without lodging an appeal to a higher court, then such individual shall pay eight librae, of which a portion shall go to the captain, magistrate and *satnik*" (chap. 20). [3]

According to the Statute of Cres and Osor (*Statuto di Cherso et Ossero*, 1441), on the Cres-Lošinj archipelago, when a major infraction is perpetrated, the syndics (Venetian officials with duties in overseas communes, i.e., charged with the security of governance, reformation of administration and fostering trust in authority in Istria, Dalmatia and Albania) were obliged to launch and conduct investigations – using inquisition tactics (i.e., without a judicial procedure) as needed – against any local official who had been shown to improperly to have managed or taken the commune's money and assets. With regard to the structure and jurisdiction of Osor's Council, it is noteworthy that it was the representative body of the Osor commune "framed by the interests and protection of the rights that ensue from the Statute and privileges." Only legal adults (18 years of age) born in legal wedlock who swore an oath of fealty and service to the honour and well-being of Venice to the benefit and betterment of their commune could be members of the Council. They were obliged to submit to the rector and perform their duties conscientiously, while they had to pay monetary compensation for their absences at the Council. They could not disclose any secret entrusted to them by the rector – while not aiding friends or impinging upon adversaries. During votes in the Council – which may be "for," "against" or "for nobody" (*prosperi – contra – extra*) – those members who were kin could not vote for one another. [4]

On the nearby island of Krk, in regulations on vice-rectors and magistrates of the island castles, the *Krčki* or *Vrbanski/Vrbnički statut* (Statute of Krk or Vrbnik) of 1388 provides an excellent example of abuse of office and authority: "We duly stipulate and order that (…) vice-rectors and magistrates shall not interfere in criminal matters which fall under the jurisdiction of the lord *provveditore* (governor), nor in civil lawsuits except those involving a sum less than 5 librae." With reference to elected and confirmed sworn councillors in the Venetian era, it was stipulated that they had to swear their oath before the lord governor and that they would perform their duties properly and honestly and not take into account either kinship or friendship nor concern themselves with affection, animosity, requests for favours, fear or threats, and that they would notify his mercy (the governor) of what they know and see to the reputation and benefit of 'our mighty and respected lords and their subjects'. [5]

The meticulous definition of all income and privileges of magistrates diminished the risk of any possible attempts at bribery, which was stipulated in the Statute of Senj (*Statutum Segniae*) of 1388 such that judges had to have two librae worth of meat in the butcher shop every week on Sunday, or 4 librae annually (Article 74). [6]

The penalty for possible misappropriation of public revenues, customary in all modern legislation, was defined by the following provision in the Statute of the Pag Commune (*Statuta Communitatis Pagi*) from 1433: "Not one official nor clerk (...) may receive or have allocated to him any levy of the Commune of Pag (...), and the collector of said levy neither may nor is obliged to relinquish a portion to these officials, under penalty of a fine of fifty librae, of which half shall be granted to the individual who reported said infraction, and half to the Commune" (Chapter VI, Article 61). [7]

The first example of filing a charge on an *ex officio* basis, similar to provisions also enforced in modern legislation (albeit without the right to half of the adjudicated penalty), can be found in the Statue of the City of Dubrovnik compiled in 1272 (*Liber statutorum civitatis Ragusii compositus anno MCCLXXII*): "Municipal prosecutors shall be obliged, by virtue of their sworn oath, to initiate proceedings against violators when they are notified thereof, and they must be entitled to half of the aforementioned penalty" (VI, 68). [8]

In one of the oldest statutes, the Statue of the City and Island of Korčula (*Statuta et leges civitatis et insulae Curzulae*, 1265 version with initial version dating perhaps to 1214), the public accessibility of information is the fundamental prerequisite in the operation of all bodies of public authority: "Whenever any letters arrive for the Council and the administration of Korčula, and the Council is not in session at that time, the administration together with those councillors who are present in the city shall be authorized to allow such letters to be opened and read by the city chancellor" (Article CIX). This is indeed the case in many countries, including Croatia, and currently it is regulated by the Access to Information Act. The same statute also stipulates the standard obligation for transparency of operations which is incorporated into most legal instruments of all regulated countries: "Whenever anyone wishes to seek his document or notation in a communal register, the judge who holds the keys must seek the same together with the communal chancellor and may not seek any file without the chancellor" (Article CXI). On the other hand, the customary system of oversight of the operations of public authorities may be discerned in Article LXXI of the Statute of the City and Island of Korčula, which stipulates that "every six months three paper registers of the communal revenues and expenses shall be compiled, of which the first shall be held by the rector, the second by the senior judge and the third by the communal treasurer." [9]

At several points, the Zadar Statute with All Amendments, i.e., New Regulations Enacted by 1563 (*Statuta Iadertina cum omnibus reformationibus usque ad annum MDLXIII factis*) very precisely defines conflicts of interest, such as this provision: "Since experience (...) has quite

often shown that bonds of blood many times impede the mind of the one who judges (...) we hereby stipulate: let no father be the judge in the lawsuits of his sons (...), nor may a relative be a judge in any lawsuit of his relatives" (Chapter 2, title I., Article 1). [10]

Finally, the Statute of the City of Split (*Statuta civitatis Spalati*) of 1312 must be mentioned; it is an invaluable source and a monument to the jurisprudence of Split's communal governance. It contains an ingenious example of the standard prevention of conflicts of interest in the work of physicians, reading as follows: "A physician who draws a salary from the Split commune may not form a partnership with a pharmacist, and whosoever does otherwise shall be penalized each time with a fine of ten librae" (Chapter III, Article XLVII). [11]

2. *Statutum communis Arbae* – Statute of the Rab Commune

In the history of the development of statutory law in the eastern Adriatic seaboard, the *Statutum communis Arbae* (Statute of the Rab Commune) is among the most important and also oldest statutory codices in general. In order to understand the process of its compilation, it is necessary to examine the historical circumstances in which the medieval island and town of Rab as a whole existed. [12]

We know for certain that in the 11th century Rab was within the borders of the Croatian Kingdom. The document (certificate of confirmation) issued by King Petar Krešimir IV on 16 May 1070 which speaks of the Benedictine Abbey of St. Peter in Supetarska Draga on the island of Rab most directly testifies to this fact. During the High and Late Middle Ages, thus in the period when the Rab Statute was compiled and statutory law on Rab developed, authority changed hands between the Republic of Venice and the Croatian-Hungarian Kingdom. [13] The medieval Rab commune [14], seated in the town of Rab, encompassed the entire island, and its territory also extended to the neighbouring island of Pag – to the towns of Novalja and Lun, as well as several small nearby islands (e.g. Sveti Grgur and Goli), islets and/or crags. The importance of this area is sufficiently demonstrated by the fact that there is a separate formula specified in the Rab Statute for the oath to be sworn by the Novalja rector. As to the rest of that other island – thus primarily the town of Pag – another statue was in effect there: the *Statuta Communitatis Pagi* (Statute of the Pag Commune) which was codified in 1433 and ratified in the Venetian Senate and finally printed in Venice in 1637. [15] Thus,

two statutes, as well as two administrations, both political and ecclesiastical, were in effect on a single island as a geographic unit.

Even though the Rab district was initially insular, this changed in the 13th century when the town of Jablanac on the mainland shore came under the commune's authority. Rab experienced an economic boom, despite two major outbreaks of the plague (1449 and 1456), precisely in the 15th century, mostly thanks to the growth of trade and crafts. As of the 16th century, the second largest community on the island, Lopar, began to develop. The subsequent period in Rab's history – which was under Venetian rule from 1409 to 1797 – was particularly characterized by general Ottoman pressure and the consequent migrations from the Croatian mainland to the island, which had a positive demographic impact on the latter. [16]

The fundamental work for the study and evaluation of the Rab Statute as a reflection of the medieval and early modern Rab commune and its functioning was a monograph published in 2004 under the title *Statut rapske komune iz 14. stoljeća*. This edition consists of two units: the Introductory Remarks ("From Rab's cultural and political history" by Petar Strčić and "From the older legal history of Rab" by Lujo Margetić), and a comparative transcript of the Latin original *Leggi municipali di Arbe* (i.e., a transcript of the *Statuta* held in the library of the Franciscan Abbey of St. Euphemia in Kampor) and the Croatian translation of the *Statutum communis Arbae*/*Statut rapske komune* which was prepared by Margetić. [17]

However, Lujo Margetić had not yet ascertained the existence of the so-called Rab Proto-statute contained in a document from 1234, which is today held in the Croatian State Archives in Zagreb, and which actually places this statute as one of the oldest, if not the very oldest statute and set of statutory provisions, in Croatia. This is tied to a Rab document from 1281 today held in the State Archives in Venice, which testifies to the transition from *divine judgment* (in this case the evidentiary means of carrying a hot iron in the hand by the accused) to torture (subjecting the accused to physical distress in order to ascertain the truth). [18]

However, it would appear that the statute as we know it today, and this one roughly dates to 1326 and is preserved in numerous manuscripts in the Latin and Italian languages, was compiled in its original version in the 1260s. The Rab Statute – written in Latin – contains five chapters. The first chapter contains provisions governing the field of civil litigation. The second chapter encompasses the matter of family and probate law, while the third contains provisions in the realm of the economy, actually substantive, contract and maritime law. The fourth chapter also has a separate title: *De malefitiis* (On Crimes), and pertains to criminal law. The last, fifth chapter contains provisions on the oaths (and election) of rectors and municipal

officials. These officials were: judges of the Grand Curia, prosecutors, treasurers, councillors, notaries, examiners, heralds, gaugers, municipal night watchmen, etc. [19]

According to Margetić's laudable opinion, the primary characteristic of the Rab Statute is its "originality, since it had not legal models, which was unusual and amazing." On the other hand, this statute "did not fall from the sky", because its links to ancient Lombard-Frankish legal institutions, and also to the legal system of the Croatian state from the era of the Croatian ethnic rulers, are obvious. "The Statute of Rab is especially interesting. Since Rab had been exposed to a permanent Venetian influence more than any other island, one would expect that the similarities between its statute and Venetian law were the greatest. This is not so. The Statute of Rab incorporated many specific legal institutions and original terminology reminiscent of the Franko-Lombardian legal system" (L. Margetić). [20]

The caste organization of Rab society assumed its final form in the 14th century. The government on the island in the narrower sense consisted of the rector (*comes*) and three judges (*iudices*) who together formed the *Curia*. In a wider sense, there was also the commission of twenty wise men (*viginti sapientes*) to which ten nobles (*nobiles*) and ten commoners (*populares*) were appointed. They were selected by the rector with the judges. There was also the Grand Council, which according to the provisions of the Rab Statute, consisted of 100 to 120 members, of whom one half were nobles and the other half commoners. Thus merchants, craftsmen and land-owners were elected to the council from the quota of commoners. It is noteworthy that most Dalmatian communes did not manage to secure such a principle of representation as was evident in the example of Rab. Moreover, that provision on the representation of commoners was a "thorn in the side" of the ruling class/nobles and they often attempted to amend it or refuse to adhere to these directives, so that in the roll from 1372 one can see that out of 72 councillors in the Grand Council, only 6 were commoners and 66 were nobles. [21]

With regard to regulation of conflicts of interest and corruption, the following may be underscored in the provisions of the Rab Statute. Out of the five chapters it contains, the most examples can be found in the final, fifth chapter, which is entirely dedicated to the oaths of rectors and municipal officials, from which a considerable amount may be gleaned, both directly and "between the lines." Through its twenty-two articles, the fifth chapter meticulously regulates the oath sworn by the lord rector, then the oaths of those who elect judges, the oaths of judges in the Grand Curia, the oaths of the prosecutors of the Curia and then the oath of the treasurer of the Rab Commune, the oaths of councillors and the oath of

the Novalja rectors (which has already been noted above). This is followed by the oaths of executives and the oaths of judges (*iudex carariarum*) who adjudicated disputes involving carriageways and boundaries. There is also a specific and in many ways unique provision on the oath of the examiner of notary documents and notaries, which are absent in such form in other Dalmatian statutes. These oaths are followed by the oaths of heralds, gaugers (weights and measures), municipal night watchmen and assessors who safeguard the island's gardens. All of these were vital functions for a commune which ensured life and economic prosperity. [22]

One is given the impression that this listing of oaths was meant to allude that if those who exercised political authority, i.e., the member of the communal administration, could not adhere to them then it would be difficult to expect them to enforce the provisions of the preceding four chapters of the Statute.

Thus, in the provision "On the oath of the lord Rector (V/1)," the lord rector, prior to assuming control of administration of the Rab Rectorate, had to swear on an entire series of provisions which rather thoroughly regulated potential conflicts of interest. Thus, the future rector was expected to maintain the town, island and entire Rab district entrusted to him in good faith and without deception, and the rectorship in line with its laws, statutes and their sound and old legal customs. This was his obligation every year, until God permitted him life and until he held the Rab Rectorate. Furthermore, he was required to stay and reside on Rab and the territory of his rectorate during the entire year. When we read this we gain the impression the people of Rab had encountered similar problems, as did the residents of certain other places today, when someone represents them on election day thanks to an address on personal identification card, while the rest of that individual's time is spent elsewhere, in some larger town or city. However, the rector could not nor was he permitted to interfere or encourage interference in the selection of the future rector in any way whatsoever or by deception, nor undertake any commitment or pledge on behalf of the Rab Commune in this regard. If, however, the rector did undertake some commitment or pledge tied to the Rab Commune and the selection of the future rector, then it would have been deemed invalid and without legal effect. In other words, the rector could not engage in lobbying for his successor. Furthermore, the rector could not purchase nor possess in any way whatsoever real property on the island of Rab or its district. This was intended to clearly deprive the rector of any potential conflict of interest, which most often involved dealings with real property. [23]

As an expression of potentially corrupt actions, the rector, and his entourage, were prohibited from participating in and attempting to purchase by deception any item at auction. We only have to recall contemporary examples when people in the immediate circle of some public personality perpetrate such infractions. The statute stipulates that the rector may not engage in any commercial activity either by himself or through intermediaries. This, unfortunately, proved ineffective in the 16th century and it has been recorded that the rector – in violation of his oath – did indeed engage in such activity.

Furthermore, the rector could not, by himself or through his entourage, seek nor encourage to seek or receive nor encourage to receive in any way whatsoever any gift, gratuity, favour, service or any liability against the Commune from individual citizens or residents of Rab. All of this also applied to his entourage. This is a matter that is regulated in modern Croatian legislation by the Civil Servants Act, stipulating that a civil servant is prohibited from demanding or receiving gifts for personal benefit, the benefit of his/her family or organization to ensure a favourable resolution in some matter, etc. [24]

However, there are also certain purely everyday and practical solutions which prohibited the rector and his entourage from being treated to lunch inside the town with any citizen or resident of Rab. He was also not allowed to bring or keep at his side any courtier who had been with an earlier rector or administrator of Rab. This was a way to prevent clientelism in the Rab Commune.

On the matter of the Rab Commune's revenues, they had to be "submitted to the treasurers of the Rab Commune" who in turn "had to release a balance statement of the revenues and expenses every three months to the rector or his vice-rector and judges, and others charged with this, and every year compile a consolidated balance of the aforementioned expenses and revenues" – and furthermore the rector "must have and possess the ledger in which he must regularly register all of these revenues and expenses of the Rab Commune." [25]

The rector may not "stamp any letter or document without the knowledge of the majority of the three judges" and without the counsel "of his judges he may not issue any order." In other words, he must "maintain and observe all judgements pronounced by the majority of Rab judges that were not issued in violation of the statute and legal system or contrary to the manner of their enactment." [26]

As to the convening of the Council, the rector may not convene a council without the consent of the majority of judges nor may he make decisions at a council without the majority of the

councillors present at said council. He also may not convene and make decisions at the Grand Council without the presence of 40 or more councillors. All of this is, on the other hand, tied to the provision that the rector "may not independently, without the judges, sell, donate or appropriate communal assets valued in excess of 6 Venetian small librae without the consent of the Grand Council." [27]

Finally, the lord rector of Rab "must and is obliged to reasonably maintain the Rab cathedral and cathedral district and all abbeys of the Rab Diocese in compliance with Divine Providence and the sound and old legal customs (…)."

In the cited provisions – which appeared over six centuries ago – clearly reflect a constant problem: *How to best administer a municipal community/city*?

This statute, for example, stipulates quotas in agriculture (still so topical to this day!), so that if anyone wanted to plant a grape vine on any land, such individual had to obtain approval from the Curia: "We want and stipulate that nobody may dare plant a vineyard on any land on the island of Rab without the permission of the lord rector or vice-rector and the aforementioned judges under threat of a penalty of 6 perperae for each violation, and furthermore the planted vines shall be removed" (IV/22). The Curia additionally appointed two persons each year, a commoner and a noble, who would investigate and verify adherence to this provision, i.e., that no one planted a vineyard against the will of the Curia, and if such a violator was taken to court, half of the paid fine was given to these two, the commoner and noble. [28]

Here it is worth drawing attention to the following: in the subsequent period, particularly in the 16th century, the Venetian administration on the island became subject to corruption, and this was confirmed by the fact that this statute, regardless of how old it was, could not – despite efforts to the contrary – cover all possible irregularities in the ensuing development of a social relations, even though its extent and detail constituted an attempt to do so. [29]

3. Statute of Šibenik: *Volumen statutorum legum, et reformationum civitatis Sibenici*

Since it was first mentioned in written sources in 1066, the city of Šibenik has, besides invaluable historical, artistic and cultural monuments, also preserved a rich legal heritage, which is best reflected in its communal statute. Šibenik belongs to that group of Croatian

early medieval cities, such as, for example, Knin and Biograd, that were established by Croatian rulers either during the era of the duchy or the later kingdom. However, this does not mean to imply that there were no traces of human presence and/or settlements in their wider area even before. There certainly were, but it was only in the early Middle Ages that these sites became urban and administrative entities within the prevailing political frameworks. [30]

Due to its exceptional geographic location, Šibenik was and remains one of the most vital urban centres of the Croatian eastern Adriatic seaboard. To be sure, there are no direct data on the actual genesis of Šibenik's establishment, rather it is generally known that it first appeared in written sources in the foundation charter of the Benedictine Convent of St. Mary in Zadar, established by Abbess Čika in 1066, and Croatian King Petar Krešimir IV granted it royal liberty (*regiam libertatem*) in a document dated 25 December 1066, which was issued in Šibenik. Initially a castle (*castrum*) with suburban settlements (*suburbium*), and then a city (*civitas*), Šibenik's urban development in the Middle Ages proceeded in several routes, from institutional to architectural, wherein the establishment of the Šibenik Diocese in 1298 is particularly noteworthy, as almost a century and a half later it would be crowned with the construction of an exceptional architectural and artistic monument: the Cathedral of St. James. [31]

The life of the Šibenik commune in the Middle Ages and in the Early Modern era was regulated by its statute. The original Statute of Šibenik – the one from the period prior to 1412 (at the time the city came under Venetian rule for the second time) – has been preserved in a manuscript that is today held in the Biblioteca Nazionale Marciana in Venice. The Statute as we know it today was written in medieval Latin and approved in 1412, with amendments ratified in 1461. It was finally also printed in Latin (although there were suggestions to translate it into Italian) in Venice in 1608 in both variants with copious printer's errors, under a common title: *Volumen statutorum legum, et reformationum civitatis Sibenici cum tabula rubricarum* (Venetiis: Apud Nicolaum Morettum, 1608). It contains an extensive index, statutory regulations arranged in six chapters and a separate chapter of amendments. The first chapter contains 53 Articles, the second 82, the third 71, the fourth 90, the fifth 53, and the sixth 133, while the amendments contain as many as 295 articles. [32]

It is worth mentioning that among the Croatian eastern Adriatic statutes, besides that of Šibenik, the Statute of Zadar (*Statuta Iadertina*, 1564), Kotor (*Statuta et leges civitatis Cathari*, 1616), Pag (*Statuta communitatis Pagi*, 1637), Cres-Lošinj (*Statuto di Cherso et Ossero*, 1640), Korčula (*Liber legum … Curzolae*, 1643), Hvar (*Statuta Lesinae*, 1643), Brač

(*Statuta … Brachiae* , 1656) and Trogir (*Statuto … Tragurii*, 1708) were also published in Venice. [33]

However, there are grounds to assume that Šibenik had already had a statute in the 1280s and 1290s. This was followed by the version of the statute from the period when the city came under Venetian rule for the first time (1322-1357), which Doge Michele Steno directly cited in the ducal decree of 30 October 1412 when he stipulated that from that point forward the city was to be governed according "to those statutes and customs by which we ruled them (…), including the amendments, with enlargements and expansions of the commune and the territory and boundaries once more established in the city." Even though the communal independence of Šibenik was considerably diminished in the subsequent Venetian period – even to the point that no crucial decisions could be made at the city level without permission and/or a formal decision from doge – it is noteworthy that even under such a regime Croatian common law was acknowledged (*all'uso di Croazia senza legge scrita, con le consuetudini* or even *secundum leges Croatie*). According to the results of research conducted by legal historians, the Statute of Šibenik was modelled after its counterpart in Zadar. However, although similar it was not identical to its model, because it contained many unique solutions that complied with the needs of the commune for which it was intended. [34]

Otherwise, the Statute of Šibenik was among the first in Croatian legal historiography to be translated into Croatian (only the Rijeka Statute – *Statutum terrae Fluminis* – had been translated earlier, by the same person). This translation was done by respected Croatian legal historian Zlatko Herkov (1904-1994), and published by the Šibenik City Museum in 1982, edited by Slavo Grubišić, under the title: *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja* [Book of Statutes, Laws and Amendments of Šibenik with Articles Listed]. This valuable edition contains a facsimile reprint of the edition from 1608, accompanied by separate studies on the history of Šibenik and its statute, the city's administration and its bodies, and then old Šibenik weights and measures and currency and its value in Šibenik. [35]

The very beginning Statute of Šibenik features an epigram by Ivan Krstitelj Divnić (ca. 1570-1637), the Šibenik archdeacon and noble, and doctor of theology:

You, Šibenik, are protected by steep cliffs and walls, and in greater safety you sparkle with towers and two fortresses. But none of this would help the resident enjoy inner peace, if the rays of the law did not everywhere shine. Here, safeguard these written laws in your heart, so that in you tranquillity, the friend of peace, reigns forevermore.

Thus, the *statute* was that *ray of the law* which had to be followed, and how that appeared with reference to the prevention of conflicts of interest and other communal anomalies will be shown in select examples of Šibenik's statutory law.

The first article of the first chapter stipulates that lawsuits on old contracts are to be tried in accordance with old statutes, followed by a definition of what a law or statute is: "A law or statute complies with God's decree: a sacred exalted order, the supreme force that most benefits those who can do the least, not because a mortal man created or could have created it, but because it was proclaimed by God's will in the mouth of man with the special inspiration of Our Lord, Jesus Christ" (I/2). Immediately thereafter, it regulates the election of all officials in the Šibenik Commune and specifies who may and may not be elected. Thus, "an elector who is a father may not choose his son, nor a son his father, nor a brother his brother, regardless of whether they share two or only a single parent. Furthermore, one blood relative may not choose another blood relative, nor could a step-father choose a step-child, nor could the latter choose the former. To ensure that there were no dilemmas, an uncle, the brother of either a mother or father, could not chose a nephew, nor vice versa, nor a grandfather a grandson and vice versa, nor any cousin, nor a father-in-law his son-in-law nor vice versa, and in general those who could not be in court, could not nominate and vote, and those who could not vote had to depart when they or their blood relatives were being appointed for elections, under threat of a fine of five librae of small denarii" (I/3). [36]

Very interesting provisions – in which parallels to our current times may be observed – can be found in the sixth chapter of the statute, which is entirely dedicated to the field of criminal law, i.e., so-called substantive criminal law. Thus, for example, if a notary public were to have issued a falsified document, the penalty is set forth as follows: "If any notary would be so impudent, losing sight of God before his eyes, as to draft a false document or falsify the stamp of the Šibenik Commune or the lord rector of Šibenik, may he lose his right hand and be forever exiled from the city of Šibenik and its district" (VI/26). [37]

A person who bakes bread for sale was punished if he sold bread contrary to the regulation conferred to him by specific officials of the Šibenik Commune. The penalty for this was a fine of forty small denarii, and loss of the bread, which was then given to inmates in prisons. If there were no such inmates, then the bread was given to the poor. Penalties were also stipulated for butchers or excisemen of the city of Šibenik who, either due to indiscretion or impudence, sold meat in excess of the permissible price or perpetrated any other deception in the butchery involving meat. Finally, paid officials of the Šibenik Commune were prohibited

from giving goods on credit to anyone in the city or from loaning money under threat of a loss of everything they gave or loaned to anyone, and furthermore if they engaged in such activities they were immediately removed from their post (R/292). [38]

Out of the 295 articles of the amendments chapter, a series of provisions will be highlighted in which we may recognize problems once faced by the Šibenik Commune that are not unfamiliar to today's society. Thus, for example, during the election of judges or other officials, it was stipulated that not one voter should dare or presume to utter "choose that one" or "I gave my ballot token to that one or some other" (R/101). As to the matter of thresholds when deciding on the validity of a given election, the following was decided: "Since it occasionally occurs in the election of officials of Šibenik that of the eleven electors who exist in the election two are excluded due to familial ties, so that seven remain and of these seven five elect a certain official, it is proposed that the decision be made whether said five individuals are fully considered two thirds of the electors and whether the election that they concluded is to be upheld or not (…) it has been decided: henceforth, when two out of nine electors are rejected for legal reasons and out of the seven remaining five elect the same person, it shall be deemed that these five are two thirds of the electors and that their completed vote shall be binding" (R/204). Monetary fines were charged against a councillor who did not attended a convened session of the Council (R/11), and an elected official who refused to perform the post entrusted to him was also subject to penalties (R/75). In the same sense, under threat of penalty it was decided that henceforth not a single noble of Šibenik who was sent as an envoy of the Commune to any location could any way whatsoever or under any pretence acquire any movable goods or real property for himself or for others by means of the charge entrusted to him by the Šibenik Commune (R/77). Furthermore, it was determined and once more stipulated that no noble from Šibenik could hold two salaried posts, or a post from which personal gain could be derived. Only delegates and captains were exempted from this. If it was ascertained that a noble nonetheless held two posts with personal gain, such gains had to go to the Commune (R/16, cf. also R/199). No less important was the provision concerning councillors, whereby no Šibenik noble, even if he was over 18 years of age, could be allowed into the city Council if he did not learn to read and write, excepting those who have justifiable natural disability and not impinging upon inheritance rights (R/290). Namely, according to the Statute: "Since literacy has always been deemed one of the loveliest ornaments of the soul in a person of any class, being entirely illiterate should be deemed shameful and unworthy for someone of noble blood." With regard to the election of Šibenik's

councillor, chancellor of civil litigation and notary public – exceptionally vital communal posts – a test first had to be completed before a commission (R/294). [39]

By all indications, society back then was also not immune to the problem of unregulated construction, so a special provision once more stipulated that henceforth no person of any class or position may dare or presume to build or allow to be built a balcony or stairwell or any other structure above any public thoroughfare in the Šibenik Commune. If such construction did occur, it was subject to a fine of 100 librae and demolition and removal of the entire structure (R/43). This corresponded to the provision that prohibited the reconstruction or demolition of an old building on main thoroughfares or side streets without the knowledge of the authorities: "Since it is known that frequently cases occur in which citizens who have houses or construction sites in the city of Šibenik continue to expand these houses or construction sites, sometimes on their construction sites and sometimes on old buildings, not according care as to how they build and how they are permitted to build so as to not cause damage or harm to their neighbours, and occasionally such construction done without due care provokes discord between neighbours; in order to eliminate the grounds for such disputes a decision has been made that henceforth no person of any class or position may dare or presume to construct a building or commission such construction, nor demolish an old building on a main or side street, on houses or on any of their construction sites, beginning at the ground level and from the foundation below ground, without the permission and knowledge of the esteemed lord rector of Šibenik and his curia, whichever is present at that time" (R/264). With regard to real property, the Statute of Šibenik stipulates that nobody – neither a citizen nor any resident of the Šibenik district and regardless of class or position – could dare or presume to forcefully enter any possession or real property in the city of Šibenik and its district or on the islands or on the mainland (R/73). Also interesting is the provision that land with a planted vineyard granted for lease that does not yield a *modius* of wine (= ca. 50 litres) from each *gonjaj* (ca. 850 m^2) may be returned to the previous owner (R/144). [40]

After the establishment of Venetian administration in Šibenik for the second time, it was ordered – as a result of a shortage of money and to avoid usury – that a Jew who had ten thousand ducats be brought to the city and who would thereby be obliged to grant each citizen and district resident of Šibenik a loan. Namely, too many Šibenik citizens had given their property in sub-mortgages for a sum less than their actual value, so that after a brief period the lender received more from the revenues on such property than the loaned sum or principal (…) (R/221). [41]

The Statute of Šibenik, i.e., the *Volumen statutorum legum, et reformationum civitatis Sibenici*, was in force until the fall of the Republic of Venice in 1797 and it is precisely thanks to this – through communal life regulated by the statute, i.e., by the obligations and duties of its citizens and district residents – that, among other things, Šibenik has its current appearance and state of preservation and its cathedral is registered in UNESCO's World Cultural Heritage List.

4. Conclusion

The legal documents analysed and historically contextualized herein, although written and used under entirely different social circumstances, i.e., under feudalism, clearly reflect the common idea of humanity which is even advocated by today's democratic society: this is first and foremost the prevention of conflicts of interest and the struggle against corruption within the social order. Such terminology did not, naturally, exist back then, but the idea of justice and laws rooted in the functioning of individuals or groups in society may be interpreted from these medieval codices and statutes. In this sense, the *Statutum communis Arbae* (Statute of the Rab Commune) and the *Volumen statutorum legum, et reformationum civitatis Sibenici* (Statute of Šibenik) constitute a small legal treasure of provisions of "good old laws" and confirm the tradition of combatting corruption in Croatia in the Middle Ages.

References

[1] Lujo Margetić, Vinodolski zakon – La legge del Vinodol – Das Gesetz von Vinodol – The Vinodol Law, Rijeka: Adamić & Vitagraf, 1998.

[2] Tomislav Galović, Combating Corruption in Croatia in the Middle Ages: an Example of Croatian Legal Documents – the Law Code of Vinodol (1288) and Statute of the island of Krk/Vrbnik (1388), Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 40, No. 2, 2019, pp. 869-880.

[3] Ozren Kosanović, Statut grada Rijeke (1530.), in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 43-48.

[4] Tomislav Galović, Statut Cresa i Osora, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 53-61.

[5] Tomislav Galović, Combating Corruption in Croatia in the Middle Ages: an Example of Croatian Legal Documents – the Law Code of Vinodol (1288) and Statute of the island of Krk/Vrbnik (1388), Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 40, No. 2, 2019, pp. 880-889.

[6] Ozren Kosanović, Senjski statut (1388.), in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 39-41.

[7] Dalibor Čepulo, Sukob interesa i korupcija u Paškom statutu, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, vol. II, edited by Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, pp. 98-115.

[8] Zdenka Janeković Römer, Dubrovački statut i druge zakonske zbirke, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 96-102.

[9] Željko Radić, Korčulanski statut, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 23-33.

[10] Zrinka Nikolić Jakus, Zadarski statut, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 78-85.

[11] Željko Radić, Splitski statut, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, (second edition), edited by Zorislav Antun Petrović, Zagreb: Udruga Kultura i etika, 2016, pp. 86-95.

[12] Tomislav Galović (co-author Renata Lukić Galović), Statutum communis Arbae – Statut rapske komune iz 14. stoljeća, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, vol. II, edited by Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, pp. 40-50.

[13] Stjepan Antoljak, Izvori i literatura o prošlosti otoka Raba od ranoga srednjeg vijeka do godine 1797., Zadar – Rab: Zavod za povijesne znanosti i klasičnu filologiju Filozofskog fakulteta u Zadru i SIZ za kulturu Skupštine općine Rab, 1986.

[14] Dušan Mlacović, *Plemstvo i otok. Pad i uspon rapskoga plemstva*, prijevod sa slovenskog Anita Peti-Stantić, Jelena Tušek, Miroslav Gradečak, 2. izmijenjeno i dopunjeno izdanje, Zagreb: Leykam international, 2012.

[15] *Statut Paške općine – Statuta Communitatis Pagi*, uredio Dalibor Čepulo, preveli Robert Leljak i Nella Lonza, autori uvodnih studija Dalibor Čepulo, Miroslav Granić, Nella Lonza, Robert Leljak, Pag – Zagreb: Matica hrvatska Ogranak Pag i Pravni fakultet Sveučilišta u Zagrebu, 2011; Damir Karbić & Marija Karbić, *The Laws and Customs of Medieval Croatia and Slavonia: A Guide to the Extant Sources*, London: UCL School of Slavonic and East European Studies (Studies in Russia and Eastern Europe), 2013.

[16] Ivan Pederin, *Svakidašnjica u Rabu. Od mistike do renesanse i baroka*, Rab: Ogranak Matice hrvatske Rab, 2011.

[17] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004.

[18] Lujo Margetić, Rapski protostatut iz 1234. godine, *Vjesnik Povijesnog arhiva Rijeka* 38 (1996), pp. 105-117.

[19] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004.

[20] Lujo Margetić, Laws, Common Laws, Statutes, Privileges, in: *Croatia in the Late Middle Ages and the Renaissance. A Cultural Survey (vol. II of Croatia and Europe)*. Chief editor Ivan Supičić, deputy chief editor Eduard Hercigonja. London – Zagreb: Philip Wilson Publishers – Croatian Academy of Sciences and Arts – Školska knjiga, 2008, pp. 150-168 (158).

[21] Tomislav Galović (co-author Renata Lukić Galović), Statutum communis Arbae – Statut rapske komune iz 14. stoljeća, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, vol. II, edited by Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, pp. 40-50.

[22] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, pp. 220-267.

[23] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, pp. 220-227.

[24] Tomislav Galović (co-author Renata Lukić Galović), Statutum communis Arbae – Statut rapske komune iz 14. stoljeća, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, vol.

II, edited by Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, pp. 40-50.

[25] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, pp. 220-227.

[26] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, pp. 220-227.

[27] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, pp. 220-227.

[28] Lujo Margetić – Petar Strčić, *Statut rapske komune iz 14. stoljeća*, Rab – Rijeka: Grad Rab i „Adamić“, 2004, 184-185.

[29] Ivan Pederin, Uprava, crkva, politika i kultura na Rabu u XVI. stoljeću, *Radovi Zavoda za povijesne znanosti HAZU u Zadru*, vol. 36 (1994), pp. 125-168.

[30] Tomislav Galović, Šibenik u kartularu *Libellus Policorion*, in: *Šibenik od prvog spomena. Zbornik radova s međunarodnog znanstvenog skupa 950 godina od prvog spomena Šibenika, Šibenik, 26. do 28. rujna 2016.*, (ed.) Iva Kurelac, Šibenik – Zagreb: Muzej grada Šibenika, Hrvatska akademija znanosti i umjetnosti – Odsjek za povijesne znanosti Zavoda za povijesne i društvene znanosti HAZU u Zagrebu, 2018, pp. 101-119.

[31] Tomislav Galović & Ivan Majnarić, Hrvatska i Šibenik u Tavelićevo doba. Presjek kroz povijest Kraljevine i grada u 14. stoljeću, in: *Sv. Nikola Tavelić mučenik – njegovo vrijeme i trajna poruka. Zbornik radova Četvrtog međunarodnog znanstvenog skupa »Franjevački velikani« o sv. Nikoli Taveliću (Šibenik, 20. – 21. listopada 2017.)*, (eds.) Daniel Patafta, OFM & Nedjeljka s. Valerija Kovač, Zagreb: Katolički bogoslovni fakultet Sveučilišta u Zagrebu, Hrvatska franjevačka provincija sv. Ćirila i Metoda, Hrvatska provincija sv. Jeronima franjevaca konventualaca, 2019, pp. 48-67.

[32] *Volumen statutorum legum, et reformationum civitatis Sibenici cum tabula rubricarum*, Venetiis: Apud Nicolaum Morettum, 1608; *Libro dei statuti della città di Sebenico*. Libro dei statuti delle leggi e riformazioni della città di Sebenico tradotto in lingua volgare da Giovanni Marcati quondam Domenico l' anno 1740.

[33] Damir Karbić & Marija Karbić, *The Laws and Customs of Medieval Croatia and Slavonia: A Guide to the Extant Sources*, London: UCL School of Slavonic and East European Studies (Studies in Russia and Eastern Europe), 2013.

[34] Tomislav Galović, Šibenski statut: Volumen statutorum legum, et reformationum civitatis Sibenici, in: Suzbijanje korupcije u Hrvatskoj u srednjem vijeku, vol. II, edited by

Zorislav Antun Petrović, Zagreb: Institut za kulturu i etiku & Fakultet političkih znanosti Sveučilišta u Zagrebu, 2016, pp. 78-89.

[35] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*. Prijevod Zlatko Herkov. Uvodna riječ / Introduction: Slavo Grubišić, Šibenik: Muzej grada Šibenika, 1982; *Knjiga statuta, zakona i reformacija grada Šibenika*, (translation from Latin) Zlatko Herkov, (eds.) Željko Krnčević & Gojko Lambaša, Šibenik: Muzej grada Šibenika, 2019.

[36] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, pp. 41-42.

[37] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, p. 181.

[38] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, pp. 342-343.

[39] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, pp. 213-348.

[40] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, pp. 213-348.

[41] *Knjiga statuta zakona i reformacija grada Šibenika s popisom poglavlja*, pp. 301-302.