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Review paper

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SOME LEGAL ASPECTS OF WOMEN'S STATUS UNDER THE 1305 STATUTE OF BRAČ: REFLECTIONS ON ITS 720TH ANNIVERSARY*

ABSTRACT

This paper analyses the issues of the legal status of women in the mediaeval Statute of Brač from 1305 in comparison with the other Dalmatian statutes. It examines to what extent the provisions of statutory law correspond to the general tendencies, as well as their possible peculiarities in status, family, property, criminal and procedural law. By analysing notarial acts and archival material, the extent to which the statutory provisions were applied in everyday life is examined. It is known that the Dalmatian statutes are an example of the synthesis of different legal cultures. The provisions of the Statute of Brač shows the mutual permeation of two fundamental legal cultures: Slavic and Roman, as well as the influences of the canonical and Venetian legal systems.

Keywords: *the Statute of Brač, 14th century, Dalmatian statutory law, legal status of women.*

1. INTRODUCTION

Among the communal societies in the eastern Adriatic, the mediaeval Brač is distinctive for its peculiarities in terms of its border location at the intersection of

political and cultural activities, as well as its peculiarities in terms of its social structure.¹ There were no urban settlements on medieval Brač, and the rural settlements were located in the interior of the island or developed along the coast towards the mainland due to the frequent attacks from the sea. In addition to these two directions in the social development of Brač, there was another direction of connection with the neighbouring island of Hvar in the Middle Ages. At the Church Council of Split in 1185, it was decided that the jurisdiction of the Bishop of Hvar would comprise the territories of Hvar, Brač, Vis, Korčula, Lastovo, Makar and the whole of Krajina.² As early as the beginning of the 12th century, Brač appears in documents as an independent administrative-territorial unit with its own self-government, forming an island community together with Hvar and Vis, having a common duke and bishop.³ In 1240, Brač recognised the authority of the City of Split and its *podestà* (chief magistrate) Gargan.⁴ In 1278, the Republic of Venice gained power over Brač and Hvar. Since 1423, the island has become a special commune ruled by the Venetian duke. In reality, the inhabitants of Brač lived completely independently, with all the privileges granted to them by the rulers.⁵

The Statute of Brač is one of the statutes of the Neretva region, together with the statutes of Korčula and Hvar.⁶ These statutes, although written in Latin and adopting Roman law to a certain extent, are mainly based on the substrate of old

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¹ Raukar, T., *Srednjovjekovni Brač na razmeđu društava*, in: *Studije o Dalmaciji u srednjem vijeku*, KKS, Split, 2007, p. 357.

² *Codex Diplomaticus, Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije*. Vol. II, ed. Tadija Smičiklas, JAZU, Zagreb 1904, p. 193. For more details, see: Dokoza, S., *Dinamika otočkog prostora, Društvena i gospodarska povijest Korčule u razvijenom srednjem vijeku*, Književni krug Split, 2009, p. 241; Raukar, T., *O sjedištu hvarske biskupije u 12. i 13. stoljeću*, in: *Crkve i crkvice Staroga Grada* (ed. Tarbušković, V.), Stari Grad 2009, pp. 8-21.

³ Vrsalović, D., *Povijest otoka Brača*, Brački zbornik br. 6, Štamparsko poduzeće Franjo Kluz, Omiš, 1969, p. 92.

⁴ *Codex Diplomaticus, Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije*, Vol. IV, ed. Tadija Smičiklas, JAZU, Zagreb, 1906, p. 112.

⁵ Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 96; Vrandečić, J., *Značajke društveno-gospodarskog razvoja Brača za vrijeme mletačke uprave (1420-1797)*, *Historijski zbornik*, 1993, pp. 67-88.

⁶ Dokoza, *Dinamika otočkog prostora*, *op. cit.*, note 3, p. 257.; *Brački statut* (edited and translated by Cvitanić, A.), Književni krug Split, Split 2006; Karbić, D., Karbić, M., *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, London 2013; Cerineo, A., *Nekoliko riječi o postanku, redakciji i važnosti Statuta i Reformacija otoka Brača*, *Brački zbornik*, issue No. 1., Split, 1940, pp. 90-96.; Gospodnetić, J., *Brač i njegovo pomorstvo*, Brački zbornik d. o. o., Supetar, 1995., p. 73.

Croatian law.⁷The legal provisions, privileges and customs were codified before 1277 but were destroyed in a fire during the invasion of the Omiš pirates.

The Statute of Brač from 1305, together with later amendments, i.e. Reformations, was published in 1656 under the title *Statuta municipalia, ac reformationes magnif. Communitatis Brachiae* and dedicated to the brothers Jerolim and Vinko Michaeli.⁸

It consists of a preamble (*Prohemium*), four books of statutory provisions in the narrower sense, and three books of Reformations.

The preamble and the first three books were simultaneously revised in 1305. Each book is divided into chapters (*capitulum*). The first has 29 chapters, the second 11 and the third 43. Chapter 43 of the third book was completed in 1351 and is part of the Reformations of the first three books.

The fourth book was completely revised up to and including chapter 56. It has a total of 59 chapters, so that chapters 57, 58 and 59, which were completed later, are actually Reformations but were included here by mistake. Chapter 57 was completed on March 12, 1375. Chapter 58 is divided into four parts. The first part was completed in 1383; in the second there is no date but the Vice-Duke Comuli de Petrarchis is mentioned, whose name is again linked to the year 1385 in the third part; the fourth part was completed in 1392. The last chapter 59 was completed in 1415.

After the four books that make up the Statute in the narrower sense, there are three books entitled Reformations. As the Statute in the narrower sense was revised twice, so were the Reformations. As far as the books of Reformations are concerned, the first book is considered separately from the second and third books.⁹

⁷See in details: Margetić, L., *Hrvatsko srednjovjekovno obiteljsko i nasljedno pravo*, Narodne novine, Zagreb 1996, p. 8, 169-245.; Margetić, L., *Srednjovjekovno hrvatsko pravo. Stvarna prava*, Zagreb – Rijeka – Čakovec, 1983, p. 1.

⁸The coat of arms of the Mičelović family is on the front cover of the book. Around 1650, Jerolim Michieli wrote the manual *Pratica Criminale*, which was used by Venetian chancellors in criminal proceedings. For more details, see: A. Cvitanić, *Tragom rada jednog našeg pravника-krivičara iz XVII. stoljeća*, *Iz dalmatinske pravne povijesti*, Split, 2002, pp. 749-758. (in particular 751); Radić, Ž., *Jerolim Mičelović – Michieli, A Penologist from the XVII Century and his Pratica Criminale*, *Annals of the Faculty of Law in Belgrade, Belgrade Law Review*, year LVIII, 2010, No. 3, pp. 176-185.

⁹Cvitanić, A., *Uvodna studija in: Brački statut, op. cit.*, note 7, p. 21.

The chapters of the first book of Reformations are undated, but they probably date from the pre-Venetian period. They were completed in the last years of Croatian-Hungarian rule on Brač, from 1415 to 1420. The last chapter IV of the Statute refers to the year 1415, while an extract from the decree of Doge Tomaso Mocenigo of 22 October 1420 refers to the year 1420, when the new Venetian supreme authority confirmed these communal legal regulations of Brač. This book of Reformations has 87 chapters, and the 87th is an extract from the aforementioned decree.¹⁰

The chapters of the second and third books of Reformations are partially dated and all date from the period of the final Venetian rule, after 1420. Since then, Brač no longer had a common duke with Hvar (and Vis), but its own duke.

The second and third books of Reformations were revised in 1655, when Duke Aluise Duodo ordered the collection and editing of scattered passages of statutory legislation. During this editorial work, however, Chancellor Petar Mattiazzi did not even ensure that all the chapters of Reformations were arranged chronologically. Thus, the second book contains chapters that often date from 1423-1615, with longer intervals, and the third book contains chapters from 1435 and 1436. The second book of Reformations consists of 23 chapters. The first 8 chapters date from 1423-1434, the others from 1445-1615. These last three groups of provisions do not contain any conclusions of the Great Council of the Brač Commune.

The third book of Reformations comprises 18 chapters and contains conclusions adopted by the Great Council of Brač in 1435, which were sent to Venice for confirmation together with three new conclusions of the same Council from 1436. In the same year, Doge Francesco Foscari confirmed the chapters submitted to him with some modifications.¹¹

The Statute was written in Latin, with the exception of a few provisions in Italian, which were formulated in Venice and included in the Statute of Brač. Although it was written in Latin, the Statute of Brač did not adopt Roman law to the same extent as the neighbouring Dalmatian towns. The reason for this is that the communal system of Brač has features of feudalism with the remnants of Slavic social regulations from the time of the dissolution of the clan system. It can be argued that the Statute of Brač is predominantly a collection of feudal laws with elements of received Roman law, and in terms of its characteristics, lies between

¹⁰*Ibid.*, *op. cit.*, note 8, p. 22.

¹¹ The Statute of Brač, Ref. III, 18.; *Diversi publici decreti, terminationi, privilegi et indulti a favor della magnif. communita della Brazza*, Udine, 1656, p. 30.

the statutes of coastal towns, which adopted Roman law to a greater extent, and the legal codes from rural areas based on the old Croatian legal basis, such as the Statute of Poljica and the Vinodol Code, which were written in Croatian and also in the local script (Croatian Cyrillic script and Glagolitic script, respectively).¹²

The Statute of Brač from 1305 served the nobles of Hvar as a model for the drafting of the Statute of Hvar from 1331. The circumstances on Hvar (with Vis) were similar to those on Brač, and at that time Brač and Hvar (together with Vis) had a common duke. When the inhabitants of Hvar revised the last two books of their statute (the fourth and fifth) in 1453, they no longer used parts of the Statute of Brač as a model due to the changed circumstances.¹³ Since 1420, Brač and Hvar (with Vis) had their own duke.¹⁴

With the exception of the town of Hvar on the south-western cape of the island, the situation on the rest of the island remained the same as it was on the neighbouring islands of Brač and Vis at the beginning of the 10th century. In the Middle Ages, these three areas were part of the Principality of Neretva. The nobility was of endogenous origin, which is confirmed by the Charter of Povelja from 1184.¹⁵

The medieval communal legal systems, including that of Brač, retained some of the public and private law restrictions on women from the legal systems of the early Middle Ages, as we will see on following text.¹⁶

¹²Cvitanović, A., *Uvod u Brački statut*, op. cit. in footnote 7, p. 24. For the Statute of Poljica, see *Poljički statut*, Split, 1988; for the Statute of Vinodol, see Margetić, L., *Iz vinodolske prošlosti*. Rijeka, 1980; cf. Cvitanović, A., *Slavenski pravni elementi u statutarnom uređenju Poljica, Brača i Splita*, Zbornik radova Pravnog fakulteta u Splitu, Split, 1963.; *Usporedba Vinodolskog zakona i dalmatinskih statuta*, Zbornik radova Pravnog fakulteta u Splitu, year 29, issue No. 1-2, Split, 1992.; Cf. Dokoza, *Dinamika otočkog prostora*, op. cit., note 3, p. 257.

¹³Kasandrić, I., *Uvod u Hvarski statut*, Split, 1992., p. 9; Pezelj, V., Erent Sunko, Z., Bartulović, Ž., *Neka pitanja pravnog položaja žene prema Hvarskom statutu iz 1331. godine (povodom 690 godina)*, Zbornik radova Pravnog fakulteta u Splitu, year 61, 1/2024, p. 2.

¹⁴See: Cvitanović, *Uvod u Brački statut*, op. cit., note 7, p. 25.

¹⁵Rački, F., *Najstarija hrvatska ćirilicom pisana listina*, Starine JAZU, knj. XIII, Zagreb 1881, pp. 196-211.; Ostojić, I., *Benediktinska opatija u Poveljima na otoku Braču*. Split: [s. n.], (Zagreb: Nadbiskupska tiskara), 1934, pp. 28-66.; Cvitanović, A., *Pravnopovijesno značenje Povaljske listine, Spomenica u povodu 500. obljetnice dominikanskog samostana u Bolu*, Provincijalat hrvatske dominikanske provincije, Zagreb 1976., in: Cvitanović, A., *Iz dalmatinske pravne povijesti*, Književni krug Split, Split 2002, pp. 407-429; Margetić, L., *Neka pitanja Povaljske listine*, *Archaeologia Adriatica*, Vol. 2; No. 2, 2008, pp. 611-621; *Leksikon hrvatskoga srednjovjekovlja* (ed. Šanjek, F.; Grbavac, B.), Školska knjiga, Zagreb 2018, pp. 546-548.

¹⁶Tribal laws were uniform in terms of restricting women's legal capacity, with women being under the guardianship of their father or husband. They were excluded from all public functions, and they could not appear in court independently, but had to be represented by

2. PERSONAL STATUS AND FAMILY LAW

Like others medieval legal systems, Dalmatian statutory regulations do not postulate full age (maturity or majority) as a single category.¹⁷ It rather was determined differently regarding to different public or private rights. However, marital maturity is usually taken as a guideline.¹⁸ In Justinian's Roman law as well as in later canon law, that was indifferently valid in all catholic countries, such capacity was acquired in the age of twelve (for women) or fourteen (men).¹⁹ It should be assumed that the canonical age was also relevant on the island of Brač,²⁰ not only for marriage but also forttestamentary capacity as well as dowry, as the Statute of neighbouring Split expressly says.²¹ The Statute of Brač contains no provisions on the manner in which a marriage is concluded, as canon law applied in this respect.

With regard to secular matters, some statutes required a higher age, thus aiming to protect family assets. The Statute of Split stipulates that a child can only prevent

their husband. In the event of the death of the father or husband as the holder of authority over the woman, they were replaced by the closest male relative in the male line. A woman's rights to dispose of her property were regulated differently in certain legal laws. The general principle probably corresponded to the provisions of the Lombard law, where the property of both spouses passed into the hands of the husband who managed it (*Edictus Rothari*, par. 204). See in details: Ketch, P.; Kuhn, A., *Frauen im Mittelalter*, Band 2, Schwann, Düsseldorf 1984, p. 146; Guerra Medici, M. T., *I diritti delle donne nella società altomedievale*, Edizioni Scientifiche Italiane, Napoli 1986, p. 116; Dubby, G.; Perrot, M., *A History of Women in the West*, Harvard University Press, Harvard 1994, p. 174; Ennen, E., *The Medieval Woman*, John Wiley & Sons, Ltd., Oxford 1989, p. 29.

¹⁷ Beuc, I., *Statut zadarske komune iz 1305. g.*, Vjesnik Državnog arhiva u Rijeci, 2/1954, pp. 579-580; Cvitanić, A., *Statut grada Splita*, splitsko srednjovjekovno pravo, translated by A., Cvitanić, Književni krug Split, 1998, pp. 148-150; Besta, E., *Il diritto e le leggi civili di Venezia fino al dogado di E. Dandolo*, F. Visentini, Venezia 1900, pp. 72-73; Roberti, M., *Svolgimento storico del diritto privato in Italia*, Vol. I, CEDAM, Padova 1935, pp. 142-143; Radić, Ž., *Imovinsko pravo po Statutu grada Trogira*, doctoral thesis, Pravni fakultet Sveučilišta u Splitu, Split 2002, p. 16 and p. 290.

¹⁸ Čepulo, D., *Hrvatska pravna povijest u europskom kontekstu*, Zagreb, 2023, p. 104.

¹⁹ Gross, K., Schueller, H., Novak, M., *Udžbenik crkvenog prava Katoličke crkve*, Zagreb, 1930, p. 284.

²⁰ Cvitanić, *Uvod u Brački statut*, op. cit., note 7, p. 82.

²¹ The Statute of Split (III, 68) expressly emphasises this. Under the influence of neighboring Split, adulthood according to the Poljica Statute (cap. 99) acquired at the age of 18. On Hvar, the age prescribed is 25 years for reaching the age of majority. See in details: Pezelj, V., Erent Sunko, Z., Bartulović, Ž., *Neka pitanja pravnog položaja žene prema Hvarskom statutu iz 1331. godine (povodom 690 godina)*, Zbornik radova Pravnog fakulteta u Splitu, year 61, 1/2024, p. 4. According to the Statute of Korčula (Chapter 50 old ed. and Ch. 54 new ed.) up to the age of 14, women were nominally treated like men. Pezelj, V., Štambuk Šunjić, M., *Pravni položaj žene prema srednjovjekovnom Korčulanskom statutu*, Zbornik radova Pravnog fakulteta u Splitu, Vol. 55, 3/2018, p. 559.

his father from disposing of his property at the age of 18, and at the age of 25, a son can act as a representative in court or a legal guardian in the father's estate.²²

Some of the city's statutes raised the age limit for marriage, thereby contravening canonical regulations. The Statute of Zadar set the age limit at 15 years, and the Statute of Šibenik at 14 and 16 years, respectively. *Liber viridis* of Dubrovnik stipulated with a decree from 1458 that a marriage cannot be concluded unless the groom is 20 years old and the bride 14 years old.²³

The marriage could not be dissolved, but there could be a separation of the spouses from table and bed. If the husband banished his wife for unjustified reasons, he was obliged to pay spousal support until she returned home, otherwise he was not obliged to do so.²⁴

If a child married without the parents' consent, more specifically the son without his father's consent, and the daughter without her mother's consent if the father was absent, the marriage would not be invalid, but the child could be disinherited as a result.²⁵

2.1. Married women

A married woman had only limited legal capacity and could not enter into binding obligations without the will and consent of her husband.²⁶ The same provision

²² The Statute of Split, III, 67-68, 70.

²³ *Statuta Jadertina – Zadarski statut sa svim reformacijama odnosno novim uredbama donesenim do godine 1563.*, Matica hrvatska Zadar, Hrvatski državni arhiv, Zadar – Zagreb 1997, III, 111.; *Knjiga statuta, zakona i reformacija grada Šibenika*, Muzej grada Šibenika, Šibenik 1982, II, 61; *Statut grada Dubrovnika 1272.*, Historijski arhiv Dubrovnik, Dubrovnik 1990, *Liber viridis* 478.

²⁴ The Statute of Brač II, 5; The Statute of Hvar, II, 41. For more details on the Statute of Hvar, see: Kasandrić, *Uvod... op. cit.*, note 14, p. 50; Kasandrić, I., *Stvarnopravne, bračne i obiteljske odredbe Hvarskog statuta*, Hvarski zbornik, 5/1977, pp. 149-155.

²⁵ The Statute of Brač, II, 3.

²⁶ *Ibid*, I, 29. The same solution was found in the statutes of Brač, Pag, Šibenik, Cres (II, 125) and Dubrovnik. See: Čepulo, D., *Statut Paške općine*, Matica hrvatska Pag, Pravni fakultet Sveučilišta u Zagrebu, Pag – Zagreb 2011.; *Cresko-osorski statut*, in: *Srednjovjekovni zakoni i opći akti na Kvarneru* (ed. Margetić, L.), Globus, Kvarner, Pravni fakultet Sveučilišta u Rijeci, Rijeka 2012, pp. 1151-1312.

existed in the statutes of Hvar,²⁷ Pag,²⁸ Šibenik,²⁹ Dubrovnik³⁰ and Cres.³¹ A husband could, for certain reasons that were considered justified, banish his wife from the common home without granting her any kind of spousal support. However, if he banished her without justified cause, he had to pay for her maintenance.³²

In the Dalmatian legislation, a married woman generally had only limited legal capacity.³³ In this respect, Dalmatian statutes differed significantly from Roman-Byzantine and Venetian law³⁴ and resembled the characteristics of Lombard law.³⁵

When a woman married, she usually received a dowry from her parents, but also from her brothers.³⁶ The dowry was considered the wife's property which was given to the husband to cover the costs of the joint household. The dowry on Brač was between 400 and 4,000 ducats. It depended on the financial situation of the family that provided it, but also on fertile and infertile years, as the harvest was the basis for the payment of the dowry.³⁷ The woman was the owner of the dowry she brought into the marriage and could acquire property during the marriage, usually through inheritance from her ancestors. Her legal capacity did not cease during the marriage.

²⁷The Statute of Hvar, II, 31.

²⁸The Statute of Pag, IV, 7.

²⁹The Statute of Šibenik, IV, 8 (identical to the Statute of Pag, IV, 7).

³⁰The Statute of Dubrovnik, VIII, 32.

³¹The Statute of Cres and Osor, II, 126. See Lachner, V., *Obiteljskopravna regulacija Cresko-osorskog statuta iz 1441. godine*, Pravni vjesnik Pravnog fakulteta Sveučilišta J. J. Strossmayera u Osijeku, Vol. 39, 2/2023, pp. 31.

³²The Statute of Brač, II, 5.

³³Margetić, L., *Hrvatsko srednjovjekovno... op. cit.*, note 8, p. 180. This is also referenced by Italian authors, cf. Roberti, M., *Svolgimento... op. cit.*, note 18, p. 136.

³⁴In this respect it is significant a provision I, 39 of the Venetian statute of 1242, passed by doge Jacopo Tiepolo, according to which a woman may alienate her paraphernalia without her husband's consent. See: Cessi, R., *Gli statuti Veneziani di Jacopo Tiepolo del 1242 e le loro glosse*, Venezia 1938, pp. 70-71. See also: Besta, E., Predelli, R. (a cura di), *Gli statuti civili di Venezia anteriori al 1242*, Venezia 1901, pp. 102-103.

³⁵Margetić, L., *Hrvatsko srednjovjekovno... op. cit.*, note 8, p. 180. In Lombard law, a woman could not enter into legal transactions without the consent of her representative (*adjutor*). Margetić believes that this concept penetrated our territories from the Italian coast, and partly through the Croatian law of the old Croatian people's state, which resembled Lombard law. Margetić, L., *Bizantsko bračno imovinsko pravo u svjetlu Novele XX Lava Mudroga (s osobitim obzirom na razvoj bračnog imovinskog prava u srednjovjekovnim dalmatinskim gradskim općinama)*, Zbornik radova Vizantološkog instituta, XVIII, 1978, p. 36. Cf. Kasap, J., *Osobitosti nasljedno-pravnog uređenja Cresko-osorskog statuta iz 1441. godine*, Pravni vjesnik Pravnog fakulteta Sveučilišta J. J. Strossmayera u Osijeku, Vol. 38, 3-4/2022, p. 73.

³⁶Vodanović Kuček, V., *Brački testamenat*, Golden marketing, Zagreb, 2002, p. 75.

³⁷For more details, see: *Ibid.*, *op. cit.*, note 37, p. 42.

The husband administered the dowry until his death, and after his death she could dispose of it again as owner if it was not spent.³⁸ On 19 March 1344, Maroje Henrikov admitted that he had received 132 small dinars in gold and other items from Prvetin Teodozijevo from Brač as part of his wife Margarita's dowry.³⁹

In 1689, Bone Bersatić née Gospodnetić-Dominis, the widow of Captain Lovro, died without descendants. Her husband's sister Margarita asked the notary Zuppaneo to draw up a record of the tangible assets of the deceased widow, which she brought with her as a dowry. According to the marriage contract with the standard clause on the return of property in the event of the bride's death without descendants, this property was to be returned to the bride's family, i.e. to her brother Jeremija in Dol.⁴⁰

2.2. Women in convents

In the area of Brač and Hvar (i.e. within the jurisdiction of the Diocese of Hvar) there were no second-order female convents until the 17th century, and for this reason, from the 15th century onwards there were a lot of *picokare* (tertiary nuns of St. Vincent) and third-order nuns.⁴¹

Daughters who entered the convent also received a dowry. In 1609, Mihovil Cerineo left money in his will to three *picokare*⁴² convents on Brač (in Murvica⁴³, Škrip and Postira), to pray for his soul. The Brač families sent their daughters who did not want to or could not marry to these convents.⁴⁴ In 1625, Cerineo left money

³⁸The Statute of Brač, I, 23; The Statute of Hvar, II, 32.

³⁹*Splitski spomenici*, dio I., Splitski bilježnički spisi, sv. 1., Spisi splitskog bilježnika Ivana pok. Čove iz Ankone od 1341. do 1344. (ed. Stipišić, J.; Nazor, A), MSHSM, Zagreb 2002, issue No. 534, p. 322.

⁴⁰Vodanović Kukec, V., *Brački testamenat*, op. cit., note 37, pp. 23 – 33.

⁴¹Lonza, N., *Ana, Pavo, Grlica – rekluze i pustinjaci u pobožnom krajobrazu srednjovjekovnog Dubrovnika*, HAZU, Zavod za povijesne znanosti u Dubrovniku, Zagreb – Dubrovnik, 2021, p. 54.

⁴²The third order (*ordo tertius*) refers to the association of the laity, unlike the male order (*ordo primus*) and its female branch (*ordo secundus*). The sisters of the third order lived outside the convent. They were usually allowed to retain their property on the condition that they did not join the convent. For Split, see: Jurišić, K., *Samostan franjevačkih trećoređica picokara sv. Ciprijana u Splitu (1493-1905.)*, Prilozi povijesti umjetnosti u Dalmaciji, Vol. 33, No. 1, 1992, pp. 327-361.

⁴³For more details, see: Kovačić, V., *Pustinja Stipančić iznad Murvice na otoku Braču*, Klesarstvo i graditeljstvo, Vol. XXV No. 1-4, 2014, pp. 34-51.

⁴⁴Vodanović Kukec, V., *Brački testamenat*, op. cit., note 37, p. 72.

to the convent in Pustinja so they pray for his soul and two rings for his two nieces. He left everything else to his wife for life and, after his death, to his nephews.⁴⁵ In *testamento paterno* of 27 November 1745 in Bol, in the house of Giovanni Martinis, the father left his unmarried and ordained daughters (*monacate*), with the consent of their mother and brothers, equal shares of the inheritance in the event that they married or were ordained; to his wife he left usufruct for life, and to his sons (Ottavio, Alessandro, Antonio and Gio Pietro) the property on condition they complied with the above-mentioned conditions.⁴⁶

The monastic way of life was not always the free choice of the unmarried girls. In fact, it often happened that a girl without a dowry was forced to choose such a lifestyle. The provisions in the statutes of Trogir, Split, Kotor and similar provisions refer to this issue. The frequency of such cases is evidenced by the prohibition of the admission of girls from other communes to certain convents due to the large number of ordained girls.⁴⁷

Women were members of the confraternities of Brač. An example of this is the minutes of the meeting of the Confraternity of the Most Holy Body of Christ from 1 November 1509 in Bol, in the Church of St. Mary, where monks and nuns gathered.⁴⁸ The Daughters of Mary took care of the cleaning of the churches and helped the sick.⁴⁹

2.3. Paternal authority

Paternal authority in the family often extended to those who lived with him under one roof, such as the servants (*famuli*).⁵⁰ Paternal authority was also reflected in

⁴⁵*Ibid.*, *op. cit.*, note 37, p. 74; Tomić, R., *Oporuka Jakov Cerine*, Radovi Instituta za povijest i umjetnost, Zagreb, 1995, 19/1995, p. 114.

⁴⁶Vodanović Kukec, V., *Brački testamenat*, *op. cit.*, note 37, p. 75.

⁴⁷*Zlatna knjiga grada Splita*, Volume I, Latin documents were transcribed, translated and edited by Vedran Gligo and Marin Berket; Italian documents were transcribed, translated and edited by Vladimir Rismondo and Ljerka Šimunković; Književni krug, Split, 1996, p. 79: "A non-native woman and one who is not the daughter or sister of a nobleman of Split may not be admitted as a nun to any of the women's convents in the City of Split."

⁴⁸Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 279; For more details on confraternities, see: Jutrović, A., *Apostolska vizitacija otoka Brača 1579. g.*, Croatia sacra, No. 5, Zagreb, 1933, pp. 62-88.

⁴⁹Vodanović – Kukec, *Bračkitestamenat*, *op. cit.*, note 37, pp. 133-137. For other communes, see: Pezelj, V., *Žene u bratovštinama srednjovjekovnih dalmatinskih gradova*, Zbornik radova Pravnog fakulteta u Splitu, vol. 47, No. 1, 2010, pp. 155-173.

⁵⁰For Split, see: Pezelj, V., *Pravni položaj žene po Splitskom statutu iz 1312. godine*, in: *Splitski statut iz 1312. godine: povijest i pravo, povodom 700. obljetnice*, Zbornik radova (ed. Radić, Ž.; Trogrlić, M.; Meccarelli, M.; Steindorff, L.), Split 2015, pp. 227-253; for Zadar, see: Beuc, I., *Statut zadarske komune*, Vjesnik državnog arhiva žu Rijeci, Vol. II,

the father's power to give his children permission to marry. Even after the age of 14, children who were under paternal authority had only limited legal capacity even if they were otherwise considered to be of age and fully liable under criminal law.⁵¹ As a rule, this limitation manifested itself in their inability to conclude contracts independently and act as a party in court. Adopted children were subject to the same regulation.⁵²

3. PROPERTY LAW AND LAW OF OBLIGATIONS

Notarial records contain contracts for the sale and lease of land concluded by unmarried women or widows with children.

On 22 February 1344, Vukena, the daughter of the deceased Radoslav, the servant of Kamurcije Franjin, sold her small hut on the land of the Church of St. George "de Ponte Nigra" on Brač to Rada, the daughter of Ivan, for 8 gold ducats.⁵³

On 29 October 1341, Desula, the widow of Damjan Beriša from Brač, admitted that she owed Kamurcije Franjin 8 libras for two modius of barley.⁵⁴

On 21 August 1337, the Archdiocese of Split leased the land in the port of Postira to Buda, the widow of Mišo from Dol, and her sons Beriša and Vladinja for planting vineyards. The document is also the oldest mention of Dol.⁵⁵

On 10 July 1345, the land in Postira was leased to Desaća and her son Klonidrug.⁵⁶

In 1454, Dobrica, the widow of the deceased Mihajlo Klabučavić from Straževnik, sold part of the Glogoviza pond to Nikola Andrijević for 14 small libras in an office on Brač.⁵⁷

Due to the limited legal capacity of married women, they are rarely mentioned in notarial records as parties to binding contracts.

Rijeka, 1954, p. 596; for Kotor, see: Sindik, I., *Komunalno uređenje Kotora od druge polovine XII do početka XV. stoljeća*, Belgrade, 1950, pp. 131 – 133.

⁵¹ According to the Statute of Korčula (Chapter 50 old ed. and Ch. 54 new ed.) up to the age of 14, women were nominally treated like men. Pezelj, V., Štambuk Šunjić, M., *Pravni položaj žene prema srednjovjekovnom Korčulanskom statutu*, Zbornik radova Pravnog fakulteta u Splitu, Vol. 55, 3/2018, p. 559.

⁵² The Statute of Brač III, 11.

⁵³ *Splitski spomenici*, op. cit., note 40, issue No. 496, p. 298.

⁵⁴ *Ibid*, op. cit., note 40, issue No. 35, p. 22.

⁵⁵ *Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije*, Vol. X, ed. Tadija Smičiklas, JAZU, 1912, doc. 262. For more details, see: Bracanović, J., *Povijest župe Dol na Braču*, Brač, 2016, p. 5 and p. 6.

⁵⁶ *Ibid*, doc. 163. For more details, see: Bracanović, J., *Povijest župe Dol na Braču*, Brač, 2016, p. 5 and p. 6.

⁵⁷ Vrsalović, *Povijest otoka Brača*, op. cit., note 4, p. 228.

On 23 July 1288, Dragonja from Split, a tanner, as the authorised representative of his wife Dobra, and Peruša, the son of Desača, a shoemaker, sold the land on Brač called Rasohe, Prodole, Rapje, Vrilo, together with a fishpond to Milen Machein Nerežišća on Brač.⁵⁸

In 1441, there was a dispute in Nerežišća about the validity of the contract for the sale of part of the Vraniha pond, between Gradac and Mošuj, in the presence of the witness archpriest Grgur, Margarita Vilonićić from Hvar, residing in Trogir, sold her part of the mentioned pond to Matej Nižetić for 24 small libras with the permission of her husband.⁵⁹

4. INHERITANCE LAW

4.1. Intestate inheritance law

According to intestate inheritance law, the estate of a person who dies intestate can be inherited by children of both genders, with the exception of houses and buildings which may not be inherited by daughters if the person had sons.⁶⁰ Margetić believes that this provision was created in Zadar as an important economic and cultural centre, only to be abandoned during the period of Venetian rule in Zadar.⁶¹

The statutes treat the issue of the compensation of the married and financially supported daughter in relation to the father's property differently. According to the statutes of Dubrovnik, Zadar, Trogir, Šibenik, Pag and Split, she is not considered to be settled with regard to her parents' inheritance, and therefore has the right to

⁵⁸ Vrsalović, M., *Prinos iz bračkih starina– Emprunté a quelques documents de l'île de Brač*, Vjesnik za arheologiju i historiju dalmatinsku, Vol. L (for the years 1928 and 1929), Split 1932, p. 282, document III.

⁵⁹ Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 228.

⁶⁰ The Statute of Brač, I, 24. According to the venetian statute of J. Tiepolo from 1242 (IV, 24, 25) a person who died without a will is inherited in real estate by his sons, and they are obliged to provide the sisters with a proper dowry in movable property. Cfr. Cessi, R., *Gli statuti veneziani di J. Tiepolo del 1242. e le loro glosse*, Venezia, 1938. pp. 200-206. According to L. Margetić, In Venice, the solutions of Roman-Byzantine law (equality of sons and daughters) and Lombard law (sons have the right of inheritance, if there are none, sisters are invited) are accepted. Cfr. Margetić, L., *Hrvatsko srednjovjekovno ...*, *op. cit.*, note 8, p. 232.

⁶¹ Margetić, *Hrvatsko srednjovjekovno... op. cit.*, note 8, pp. 225-229; Margetić, L., *Nasljedno pravo descendenata po srednjovjekovnim statutima Šibenika, Paga, Brača i Hvara*, Zbornik Pravnog fakulteta u Zagrebu, year 22, 3/1972, pp. 215-247; Hebib, M., *Plodouživanje (ususfructus); primjena rimskog koncepta u dubrovačkom pravu*, doctoral thesis, Pravni fakultet u Sarajevu, Sarajevo 2022., pp. 282-283.

claim part of the estate after their death.⁶² These concepts correspond to the provisions of Roman law.⁶³

On Korčula, Lastovo and Mljet, a married daughter was considered compensated, because, according to the system of family property, a person who leaves the family community after receiving their share is considered compensated and permanently separated from the community.⁶⁴

Among the contradictory views mentioned above, the provisions of the Brač and Hvar statutes indicate that the father could marry off his daughter if he had secured her a share of the inheritance due to her in proportion to the number of children (*cum parte*) or compensated her (*cum dote*).⁶⁵ According to the provisions of the Statute of Brač, a daughter could not inherit any of the remaining property if she had received a dowry from her parents on the occasion of her marriage,⁶⁶ which can be compared to the Roman *collatio dotis*.⁶⁷ This provision was soon derogated by the following statutory provision.⁶⁸

The wife of a husband who dies intestate was entitled to the same share of the inheritance as the children of the deceased.⁶⁹ The widow retained the dowry, which was always her property, even though her husband administered it during his lifetime. If a woman remarried after her husband's death, she lost part of her

⁶²The Statute of Dubrovnik, IV, 47; The Statute of Zadar, III, 127; The Statute of Trogir, Ref. II, 223. *Statut grada Trogira*, Splitski književni krug, Split 1987; The Statute of Šibenik, V, 25; The Statute of Pag, V, 21; The Statute of Split, III, 44.

⁶³Margetić, L., *Hrvatsko srednjovjekovno ... op. cit.*, note 8, pp. 231-233.

⁶⁴The Statute of Korčula, (B) 98 and 113. *Korčulanski statut*, JAZU, Pravni fakultet u Zagrebu, Pravni fakultet u Splitu, Skupština općine Korčula, GZH, Zagreb 1987; The Statute of Lastovo, 32. *Lastovski statut*, Splitski književni krug, Split 2024; The Statute of Mljet, 13. *Mljetski statut*, Književni krug Split, Zavičajni klub Mljet, Split – Dubrovnik 2002.

⁶⁴The Statute of Brač, I, 23; The Statute of Hvar, II, 32.

⁶⁵*Ibid.*

⁶⁶The Statute of Brač, I, 23.

⁶⁷Horvat, M., *Rimsko pravo*, Školska knjiga, Zagreb, 1973, p. 393.

⁶⁸The Statute of Brač, I, 24. For more details, see: Cvitanić, *Uvod u Brački statut*, *op. cit.*, note 7, p. 105.

⁶⁹The Statute of Brač, I, 23; The Statute of Hvar, II, 32. Inheritance of spouses under the provisions of the Zadar Statute was possible only if one of them died without a will, leaving no ancestors, descendants or relatives until the fourth degree of kinship (The Statute of Zadar III, 135). According to the older law of Cres, the wife inherited half of the husband's property, while the husband had no rights to the wife's estate. Newer rules have determined that up to one quarter of the property can be inherited from each other (The Statute of Cres and Osor II, 67). In Dubrovnik law, the marital relationship did not constitute the basis for invoking inheritance, and the issue of the position of the surviving spouse was resolved by applying the institute of widow's enjoyment. Cfr. Hebīb, M., *Plodouživanje...*, *op. cit.*, note 62.

husband's estate, which then passed to the children of the deceased in equal shares, as after her death. The husband inherited the wife's estate in the same amount as the children. By remarrying, he also lost the portion that passed to his children in equal shares as after his death.⁷⁰

The estate of a childless husband who died intestate was inherited by the wife, albeit in the amount of one third. The husband had the same right of inheritance to the estate of a deceased woman without children. The remainder, i.e. two-thirds of the estate, belonged to close relatives of the deceased spouse.⁷¹ According to the statute, the estate of a widow and a widower who died intestate and without children was inherited in full by their close relatives. The statute made no distinction in terms of the rights and the amount of the inheritance share between husband and wife. With the exception of the inheritance of real estate, the statutory rights of inheritance of a man and a woman were identical.

The Statute of Brač contained elements of gender equality with regard to inheritance. The widow was entitled to the same share as the children of the husband who died intestate, regardless of the dowry she had retained. However, she could not dispose of it, but only use it and exercise usufruct. However, if she remarried or died, this share was divided equally between the children of the deceased. An analogous procedure was applied when the wife died, so that the widower received the same share of her inheritance as the children, and if he remarried, this share went to the children.⁷²

The estate of a man who died intestate and without children or a wife was inherited by his closest relatives. However, if he had a wife but no children, she received one third of all tangible and intangible assets.⁷³ The same procedure was applied to a woman who died intestate and without children or a husband, as well as to a woman who had a husband but no children.⁷⁴ Here, too, women and men were treated equally as in the intestate inheritance of the widowed spouse and surviving children.⁷⁵

The estate of a person who died intestate and without heirs and relatives would belong to the commune, with the obligation of the commune to give one third of the estate to the church for the eternal peace of the deceased person's soul and for

⁷⁰The Statute of Brač I, 23.

⁷¹ The Statute of Brač, I, 25; The Statute of Hvar, II, 34 and 35.

⁷²The Statute of Brač I, 23.

⁷³*Ibid*, 25.

⁷⁴ *Ibid*, 26.

⁷⁵ Cvitanić, *Uvod u Brački statut*, *op. cit.*, note 7, p. 106.

the repair of the church.⁷⁶The Brač regulation was not favourable to the intestate inheritance, which is evident from the aforementioned provision. Similar provisions can also be found in other Dalmatian and Istrian statutes.⁷⁷

Brač inheritance law, like Roman law, advocates universal succession according to which the debts of the testator pass to the heir.⁷⁸ The heir was not obliged to accept the inheritance.⁷⁹ This did not apply to legacies, as the legatee only received certain property benefits at the expense of the heirs and only after the inheritance debts had been settled. Children as heirs were only responsible for the debts of their parents as testators up to the value of the inheritance.⁸⁰

4.2. Testamentary inheritance law

As a rule, the testator had to entrust the drafting of the testament to the communal chancellor or a notary, but he could also make it orally in the presence of witnesses whose statements were later recorded in a special communal register. An oral testament before witnesses was called a *testamentum nuncupativum*, as in Roman law.⁸¹ The oral testament of Bogdana, the daughter of the deceased Grubša from Brač, and her sister Petruča was recorded before witnesses on 23 February 1344with a codicil clause according to which the testament was to be considered a codicil if it was not recognised as valid.⁸²

Exceptions to this rule were only allowed in cases where there was a plague and for plague sufferers.⁸³Brač was struck by the plague in the 1420s and 1430s, and in 1430 the Reformation on how todraft a testament during the plague was included in the Statute of Brač.⁸⁴People suffering from the plague patients could

⁷⁶The Statute of Brač I, 27;The Statute of Hvar, II, 36.

⁷⁷Beuc, I., *Osnovi statutarnog prava u Istri*, Zbornik Pravnog fakulteta u Zagrebu, XII, 3-4, 1962, p. 196.

⁷⁸D. 50, 17, 62; Nov. 48, *preaf.* For more details, see: Cvitanić, *Uvod u Brački statut*, *op. cit.*, note 7, p. 106.

⁷⁹The Statute of Brač, III, 11.

⁸⁰*Ibid*, II, 4.; Cvitanić, *Uvod u Brački statut*, *op. cit.*, note 7, p. 107.

⁸¹*Ibid*, I, 28; IV, 59; Ref. III, 16.

⁸²*Splitski spomenici*, *op. cit.*, note 40, issue No. 502 p. 301.

⁸³The Statute of Brač, Ref. II, 4.

Pezelj, V.; Erent Sunko, Z; Dajak, M., *Pravnopovijesni modeli suzbijanja pandemijaskih ugroza kao podloga razumijevanju suvremenih zdravstvenih izazova*, Zbornik radova s međunarodnog kongresa 5. kongres KOKOZ-a i 7. Hrvatski kongres medicinskog prava s međunarodnim sudjelovanjem, Novi Vinodolski, 19-21 April 2024, p. 18; Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 256.

⁸⁴The Statute of Brač, Ref. II, 4 of 1430: The manner of drawing up testaments in times of plague. For more details, see: Jutrović, A., *Prilog proučavanju zdravstva na Braču*, Anali Histozijskog instituta JAZU u Dubrovniku 2 (1953), p. 277 and the references cited therein.;

make their testament orally before three credible witnesses who were obliged to appear before the administration in the presence of the chancellor and four witnesses within two months of the end of the epidemic and report on the testament by confirming their statement with an oath. The content of the testament had to be attested by at least two of the four witnesses, excluding the legatee, the heir and the executor. The chancellor was obliged to enter the witness report in the official register and fulfil other necessary formalities in order for the testament to be valid.⁸⁵

An oral testament made in the commune without a notary had to be delivered to the duke within fifteen days of the testator's death, and if made outside the commune without a notary, within two months. The witnesses to the testament were obliged to appear before the duke or his deputy and their judges, and their statement had to be entered in the communal register.⁸⁶

The main purpose of the inheritance provisions in the Dalmatian statutes was to ensure the integrity of property. Most statutes recognise equal rights for male and female heirs (Brač, Hvar, Zadar, Šibenik, Pag.). The Statute of Dubrovnik emphasises the primacy of male heirs. Testamentary inheritance is restricted by the institution of family property, especially in the statutes from the end of the 13th and beginning of the 14th century (Brač, Hvar, Korčula, Rab). More recent statutes from the end of the 14th and beginning of the 15th century allow disposition in the event of death, not only for pious purposes, but also in favour of any person (e.g. Šibenik IV, 64 and Pag IV, 48, which allow the testator to freely dispose of half of his property).⁸⁷

The debts of the testator passed to the heir as soon as the latter accepted the inheritance as universal heir. All debts for which the creditors proved to be true and lawful had to be paid from the inheritance without affecting the rights of dowry and commune.⁸⁸

The statute stipulated that children as heirs were liable for the debts of their father

Jutronić, A., *Bračka naselja i podrijetlo njegovog stanovništva*, Brački zbornik 1, pp. 10, 8-17. t.

⁸⁵The Statute of Brač, Ref. II, 4 of 1430. For more details on the special form of the testament in Roman law *testamentum pestis tempore*, see: Carbone, M., *Epidemije i pravo u antičkom svijetu: od Tukidida do Prokopija iz Cezareje*, Godišnjak Udruženja Bathinvs Acta Illyrica, p. 225. Online ISSN 2744-1318.

⁸⁶*Ibid*, I, 28.; The Statute of Hvar, II, 37.

⁸⁷The Statute of Šibenik, IV, 64; The Statute of Pag, IV, 48. For Pag, see: Čepulo, D., *Pravna baština i društveno okruženje Paškog statuta*, u: *Statut paške općine* (ed. Čepulo, D.), Matica hrvatska Pag, Pravni fakultet Sveučilišta u Zagrebu, Pag – Zagreb 2011, p. 73.

⁸⁸The Statute of Brač, Ref. III, 11.

and mother up to the value of the inheritance.⁸⁹The statutes of Brač,⁹⁰ Hvar,⁹¹ Zadar,⁹² Skradin,⁹³ Pag⁹⁴ and Split stipulated ⁹⁵ that a child could inherit a maximum of one tenth of the value of the estate over and above the share to which they were entitled. The Statute of Šibenik increased the amount of preference from one tenth to one quarter of the entire estate, which deviates most from the principle of equality of heirs.⁹⁶

A parent could only disinherit their child if the child maliciously beat them or entered into a marriage against the parents' will, as well as if the child acted against the father's testamentary disposition.⁹⁷The statutes often cite the grounds for disinheritance from Justinian's Novel 115 or Venetian law. In contrast to Justinian law, the right of parents to exclude forced heirs is relatively limited in Dalmatian statutory law. Venetian law recognised only one ground for exclusion – parental abuse, while children could also be disinherited by entering into a marriage against their parents' will, which was introduced by customary law.⁹⁸The provisions of the Statute of Rab⁹⁹ come closest to the Venetian provisions. Brač¹⁰⁰ and Hvar¹⁰¹ statutes contain the contradiction to the last will of the parents. The Statute of Zadar also accepts the grounds from Venetian law.¹⁰² Trogir,¹⁰³ Pag and Šibenik¹⁰⁴ only mention marriage without parental consent.

The only significant restriction on freedom of testation was the provision that forbade bequeathing property to the church under the penalty of nullity of such a disposition.¹⁰⁵This was later mitigated by the fact that property could be

⁸⁹*Ibid.*, II, 4; The Statute of Hvar, II, 40.

⁹⁰The Statute of Brač, II, 3.

⁹¹The Statute of Hvar, II, 30.

⁹²The Statute of Zadar, III, 61.

⁹³The Statute of Skradin, 10. *Statut grada Skradina*, Matica hrvatska Skradin, Zagreb – Skradin 2002.

⁹⁴The Statute of Pag, IV, 48.

⁹⁵The Statute of Split, III, 38.

⁹⁶The Statute of Šibenik, IV, 64.

⁹⁷The Statute of Brač, II, 3; The Statute of Hvar, II, 31.

⁹⁸The *Statute of J. Tiepolo*, IV, 35.; Cfr. Cessi, R., *Gli statuti veneziani di J. Tiepolo del 1242. e le loro glosse*, Venezia, 1938., p. 213-214. Margetić believes that Venetian law recognises only one reason for disinheritance, unlike Besta, who does not agree with the above. Margetić, *Hrvatsko srednjovjekovno... op. cit.*, note 8, pp. 219-224; Besta, *Il diritto... op. cit.*, note 18, p. 165.

⁹⁹The Statute of Rab, II, 10.

¹⁰⁰The Statute of Brač, II, 3.

¹⁰¹The Statute of Hvar, II, 31.

¹⁰²The Statute of Zadar, 90, 96-98.

¹⁰³The Statute of Trogir, II, 15 and III, 21.

¹⁰⁴The Statute of Šibenik, V, 38 and 48 and Ref. 39.

¹⁰⁵The Statute of Brač, Ref. I, 75.

bequeathed to the church, but in such a way that the church sold it and used the money for the construction of church buildings, their furnishings and the like.¹⁰⁶

According to the cartulary of the Charter of Povlja from 1184, masters usually freed their slaves on their deathbed and gave them part of their property on that occasion. For instance, Mrs Raška gave her slave Marija "a quarter of everything she owned" (a quarter of the entire estate).¹⁰⁷ The Statute of Brač does not mention slaves, unlike the Statute of Korčula, which banned the slave trade through reformations.¹⁰⁸

4.2.1. Legacy (*legatum*)

Brač legislation also recognises the institution of the legacy (*legatum*)¹⁰⁹ by which the testator bequeaths certain property benefits to third parties to be paid from the estate of the heirs, and the legacy was mostly used to leave property to the church.

4.2.2. Executor of the testament

The institution of the executor arose from the need to ensure the validity of a testamentary disposition.¹¹⁰ To ensure that the testator's last will is fulfilled, the testator appointed an executor (*commissario testamentario*)¹¹¹ in his testament. According to a document from 1342, women could also act as executors: *in Split*,

¹⁰⁶*Ibid.*, Ref. III, 8.

¹⁰⁷Vrsalović, *Povijest otoka Brača*, *op. cit.* in footnote. 4, p. 103, Ostojić, I., *Benediktinska opatija u Povljima na otoku Braču*. Split: [s. n.], (Zagreb: Nadbiskupska tiskara), 1934, p. 50.

¹⁰⁸The Statute of Korčula, Ref. 36 of 1399; Ref. 141 of 1412. For more details, see: Pezelj, V.; Štambuk Šunjić, M., *Pravni položaj žene prema srednjovjekovnom Korčulanskom statutu*, Zbornik radova Pravnog fakulteta u Splitu, year 55, 3/2018, p. 561; Dokoza, *Dinamika otočkog prostora*, *op. cit.*, note 3, p. 141.

¹⁰⁹The Statute of Brač, Ref. I, 65; Ref. II, 4.; Ref. III, 8.

Numerous aforementioned testaments mention legacies. Legacies and fideicommissum were used in classical Roman law for the purpose of circumventing inheritance regulations. See: Aličić, S.; Miletić, T., *Izigravanje odredbi o ograničavanju nasljednog prava žena putem legata i fideikomisa u rimskom pravu*, in: Boranijašević, V. (ed.). Zbornik radova sa znanstvenog skupa *Pravni sistem i zaštita od diskriminacije*, Kosovska Mitrovica 2015, pp. 487-499; Bujuklić, Ž., *Forum romanum*, Pravni fakultet Univerziteta u Beogradu, Beograd 2009, p. 439; Hebib, M., *Primjena instituta rimskog prava u cilju materijalnog osiguravanja ženskih srodnika u zakonskom nasljeđivanju srednjovjekovnog Dubrovnika*, Godišnjak Pravnog fakulteta u Sarajevu, LX, 2017, p. 102.

¹¹⁰For more details, see: Roberti, M., *Le origini dell'esecutore testamentario*, Modena 1913.

¹¹¹The Statute of Brač, Ref. II, 4.

*Dominik Matišić and Petrula, the widow of Dragan from Brač, then the wife of Dragoslav from Hvar, who are executors of the will of the deceased Dragan, admit that they owe 13 libras to the prefect Grgur, the nephew of the deceased Archbishop Petar.*¹¹²

On the neighbouring island of Hvar, it often occurred that fathers, brothers or others, who administered the inheritance of female family members, which they had acquired through a legacy (usually by usufruct), used this inheritance in ways other than for their benefit. In 1588, Duke Antonio Longo appointed four procurators (two from among the nobility and two from among the commoners) who were obliged to protect the interests of the female heirs and ensure that the testator's will was completely fulfilled. These executors were appointed by the public authorities in contrast to the executor who was appointed by the testator.¹¹³

4.3. Forced heirship law

On Brač, forced heirship share was introduced on 4 March 1436 together with the freedom of testation, as they are two related legal institutions.¹¹⁴ The amount of the forced heirship share is not specified, but the provisions refer to Venetian law, so it is the same as in the Statute of Split.¹¹⁵ Forced heirship share is rarely found in Dalmatian statutes. It appears at the earliest in the Statute of Split,¹¹⁶ according to which a son or a daughter is entitled to at least one third of what they would have received if their father had died intestate. The principle of family property weakens with respect to understanding the father's right to free disposition as an individual, but it survives in the form of forced heirship share.

¹¹²Splitski spomenici, dio I., Splitski bilježnički spisi, sv. 1., Spisi splitskog bilježnika Ivana pok. Čove iz Ankone od 1341. do 1344. (ed. Stipišić, J.; Nazor, A), MSHSM, Zagreb 2002. For Split, see 185/105, 77/45 and 78/46.

¹¹³ On June 27, 1588, the Duke of Hvar, Antonio Longo, appointed the nobles Antonio Fasaneo and Antonio de Barbis, as well as the commoners Marc' Antonio Ivaneo and Luca Milateo, as executors. For more details, see: Kasandrić, I., *Uvod u Hvarskistatut*, p. 65.

¹¹⁴The Statute of Brač, Ref. III, 16.

¹¹⁵ Bartulović, Ž., *Povijest prava države (I. dio – Opća povijest prava i države)*, Pravni fakultet Sveučilišta u Rijeci, Rijeka 2014, p. 64; Margetić, L., *Opća povijest države i prava (Nacrt predavanja)*, 3. izdanje, Pravni fakultet Sveučilišta u Rijeci, Rijeka 1985, pp. 80-82.

¹¹⁶The Statute of Split, III, 18.

5. CRIMINAL LAW

The Statute of Brač mentions women in relation to several criminal offences: murder, poisoning, rape, insulting a person of good repute, unauthorised picking of other people's fruit and washing in other people's fenced ponds.

5.1. Murder

The offence of murder committed by a woman is seldom regulated in the statutes. As far as the offence of murder is concerned, the statutes of Brač and Hvar make a clear distinction between nobles and commoners, as well as a gender distinction between the perpetrators. The Statute of Brač provides for the punishment of hanging for commoners and burning for women, while nobles are beheaded.¹¹⁷

5.2. Criminal offence against honour (slander) – defamation

The criminal offence of defamation (slander) against a person's honour and reputation was punishable by a fine. If a person of lower social status (*persona vilis conditionis*) insulted a noble man or woman or another reputable person (*sive alicui bonae personae*), the court may impose a more severe penalty at its discretion.¹¹⁸

When determining the punishment for insult, some statutes do not distinguish between the class affiliation of the perpetrator, e.g. the Statute of Trogir, unlike the statutes of Split, Brač, Hvar and Skradin, which take class affiliation into account.¹¹⁹ The Statute of Korčula regulates the offence of defamation and brawling between women.¹²⁰

5.3. Criminal offence of preparing a poisonous potion

With regard to the criminal offence of preparing a poisonous potion, the Statute of Brač stipulates that the duke and the judges are authorised to punish a person *who*

¹¹⁷The Statute of Brač, III, 27; The Statute of Hvar, III, 31. Cf. Cvitanić, A., *Diskriminacija pučana u Hvarskom statutu*, Radovi Instituta za hrvatsku povijest, Vol 10, 1/1977, p. 86; Splitski statut IV., 17; cf. Cvitanić, A., *Statut grada Splita*, KKS, Split, 1998, p. 264.

¹¹⁸The Statute of Brač III, 38; IV, 33; The Statute of Hvar, III, 33.

¹¹⁹The Statute of Trogir, II, 6; The Statute of Split, IV, 12; The Statute of Brač, III, 33 and 38; The Statute of Skradin, 20.

¹²⁰The Statute of Korčula, 18.

*prepares a poisonous potion (herbariam)*¹²¹ at their own discretion. The preparation of the potion itself is punishable, not just the act of poisoning. According to Vladimir Mažuranić, the preparation and administration of the potion were usually linked to certain spells and vice versa.¹²² These questions attract a great deal of attention, and not only from legal experts.¹²³

The Proto-Statute of Rab from 1234 stipulates that a woman who prepares poisonous herbs cannot be purified even with iron, i.e. by divine judgment of wearing heated iron, and if the poisoned person dies, the poisoner is to be burned at the stake.¹²⁴

The statutes differently define the offences of sorcery and witchcraft,¹²⁵ as well as the penalties for them.¹²⁶ Most statutes provide for penalties for *herbariae*, but only the statutes of Korčula¹²⁷ and Dubrovnik¹²⁸ specify their content.¹²⁹ Art. 59 of the Vinodol Code threatened the poisoner with a fine of 100 libras and burning if she was unable to pay the fine.¹³⁰ According to the provisions of the Statute of Poljica, witches or sorceresses are to be flogged for their first offence and burned if they reoffend.¹³¹ The neighbouring Statute of Split only prescribes the

¹²¹The Statute of Brač III, 8; The Statute of Hvar, III, 10.

¹²²Mažuranić, V., *Prinosi za hrvatski pravno-povijesni rječnik*, JAZU, Zagreb 1908-1922, Vol. I, p. 14.

¹²³See, Vukelić, D., *Magija na hrvatskome povijesnom prostoru*, Školska knjiga, Zagreb 2021.

¹²⁴Milović, Đ.; Milović Karić, G., *Tjelesne kazne u rapskom protostatutu iz 1234. godine*, *Acta medico-historica Adriatica* vol. 3, 1/2005, p. 40.

¹²⁵For witches, see: Jutronić, A., *Uzlovi i vilenice na Braču, Hvaru i Visu u 17. veku*, Glasnik Etnografskog instituta SANU, 11-15/1962-1966, pp. 179-184.; Skrivaneli, P., *O vješticama na otoku Hvaru*, *Prilozi povijesti otoka Hvara* Vol. IV, 1/1974, pp. 80-90.

¹²⁶See: Grozdanić, V.; Rittossa D., *Povijesni razvoj kaznenopravnog statusa žena*, in: *Kada žena ubije* (ed. Grozdanić, V.), Pravni fakultet Sveučilišta u Rijeci, Rijeka 2011, p. 74 and onward.

¹²⁷The Statute of Korčula, 17. Cf. Ređep, J., *Moć vradžbine (razmišljanja povodom XVII gl. Korčulanskog statuta)*, in: *Zbornik radova Znanstvenog skupa Statut grada i otoka Korčule iz 1214.* (ed. Šeparović, Z.), Jugoslavensko viktimološko društvo, Zagreb 1989, pp. 237-249.

¹²⁸The Statute of Dubrovnik, IV, 7.

¹²⁹The Statute of Split, IV, 87; The Statute of Trogir, II., 26; The Statute of Skradin, 76; The Statute of Rab, IV, 51; The Statute of Hvar, III, 10; The Statute of Kotor, 101. *Statuta civitatis Cathari, Statut grada Kotora*, Državni arhiv Crne Gore, Kotor 2009.

¹³⁰The Vinodol Code, Art. 59, text and translation according to *Srednjovjekovni zakoni i opći akti na Kvarneru*, pp. 1151-1312, ed. Margetić, L., Globus, Kvarner, Pravni fakultet Sveučilišta u Rijeci, Rijeka 2012. See also Milotić, D.; Milotić, I., *Proces protiv Dilette, Motovun - 1271. U prožimanju rimskog, kanonskog, običajnog i mletačkog prava*, Državni arhiv u Pazinu, Pazin 2022, pp. 59-61; Margetić, L., *Iz starije prošlosti Raba*, in: *Istra i Kvarner: izbor studija*, Pravni fakultet Sveučilišta u Rijeci, Rijeka 1996, p. 249 in footnote 79.

¹³¹The Statute of Poljica, Ch. 112.

punishment of burning with complete or partial confiscation of property in favour of the commune for the perpetrator of such an offence and their accomplice. If the perpetrator had no descendants, their property would be confiscated in favour of the commune, and if they had only female descendants, they received half of the property, while the other half went to the commune.¹³²

5.4. Rape

The Statute of Brač regulates the offence of rape in a short provision. The rapist was punished at the discretion of the Curia, taking into account the circumstances in which the rape took place and the person's social status.¹³³

In statutory law, punishment could often be avoided by the conclusion of a marriage between the perpetrator and the victim, which mitigated the consequences of the offence, as evident from the provisions of the Statute of Poljica.¹³⁴

It was considered that rape interfered with the foundations of the life of the commune, which is why it was strictly sanctioned in all Dalmatian statutes.¹³⁵ The Statute of Skradin defines rape as *primum maleficium post omicidium*.¹³⁶ The Statute of Zadar contains no provisions on rape, and the Statute of Pag sanctions rape in the Penal Statute of Pag from 1462.¹³⁷ The Statute of Rab precisely illustrates the social conditions in the offence of rape. The rape of a woman *bonae qualitatis* is punished with 100 perpers (half to the commune, half to the victim)

¹³²The Statute of Split, IV, 87. For more details, see: Pezelj, 2015, p. 250.

¹³³The Statute of Brač III, 12; The Statute of Hvar III, 14.

¹³⁴ Cf. The Statute of Poljica, Art. 110. For more details, see: Pezelj, V., *Neka pitanja pravnog položaja žene prema Poljičkom statutu iz 1440. godine*, Godišnjak Pravnog fakulteta u Sarajevu, LXVII, 2024, p. 194; Grozdanić, Rittossa, *Povijesni razvoj... op. cit.*, note 127, p. 53. For the criminal offences of violence against women in the Middle Ages, see Bartulović, Ž.; Erent Sunko, Z.; Pezelj, V., *Spolno zlostavljanje i druga kaznena djela nasilja nad ženama u zakonima srednjovjekovnog germanskog prava s naglaskom na Lex Salica i Lex Ribuarica*, Prilog istraživanju pravno-povijesnog položaja žena i borbi protiv nasilja nad ženama, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 39, 3/2018, pp. 921-945.

¹³⁵For the criminal offence of rape in Dalmatian statutory law, see Jaramaz Reškusić, I., *Kazneni sustav u Šibeniku od 14. do 16. st.*, Gradska knjižnica Juraj Šižgorić, Šibenik 1996, p. 53; Heršak, G., *Krivično djelo silovanja u Korčulanskom statutu i komparativno*, in: *Zbornik radova Znanstvenog skupa Statut grada i otoka Korčule iz 1214.* (ed. Šeparović, Z.), Jugoslavensko viktimološko društvo, Zagreb 1989, pp. 195-200.

¹³⁶The Statute of Skradin, 92; The Statute of Šibenik, VI, 61-66.

¹³⁷Čepulo, D., *Pravna baština i društveno okruženje Paškog statuta*, in: *Statut paške općine* (ed. Čepulo, D.), Matica hrvatska Pag, Pravni fakultet Sveučilišta u Zagrebu, Pag – Zagreb 2011, p. 100.

and a one-year banishment, while the rape of a harlot or maid is punished with 12 perpers, and that of a harlot in a brothel with 6 perpers. If the rapist is unable to pay, in the first case both of his eyes will be gouged out, in the second case his right hand will be cut off, and in the third case he will be flogged and branded.¹³⁸

The Vinodol Code prescribes a heavy fine of 50 libras each for the duke and the injured party for rape and attempted rape unless the duke reaches an agreement with the injured party,¹³⁹ while other Kvarner and Dalmatian communes provide for the death penalty or banishment. The Vinodol Code makes no distinction as to the social status and marital status of the raped woman. If there are no witnesses, which is the most common case, the raped woman is believed with an oath of 25 sworn witnesses who confirm her good repute or even a self-sworn oath if there are no sworn witnesses.¹⁴⁰

5.5. Unauthorised picking of other people's fruit

For the unauthorised picking of other people's fruit, a noblewoman is required to pay 25 small libras (denars), and the commoner is required to pay the same amount but is also branded.¹⁴¹

In the Middle Ages, thefts were frequent on Brač, which is why the Venetian administration often intervened. In his decree of 29 July 1701, Doge Aloise Mocenigo threatened harsh punishments, in particular for thieves who damaged vineyards, harvested grapes, cut down and burned forests, orchards and pastures, with a sentence of up to three years in prison in a galley and banishment and for children and women with public beating.¹⁴²

5.6. Prohibition of washing in other people's fenced ponds

Many disputes stemmed from ponds because, like pastures, they were the common property of the islanders and they were used to water livestock and supply water to the inhabitants of the settlements in the interior of Brač. As there were hardly

¹³⁸The Statute of Rab, IV, 66-67. Cf. Margetić, *Iz starije... op. cit.*, note 131, p. 261.

¹³⁹ The Vinodol Code, Art. 56. See Bartulović, Ž.; Radić, Ž., *Pravna ostavština Frankopana*, in: *Putovima Frankopana*, pp. 375-428 (ed. Srdoč-Konestra, I.; Potočnjak, S.), Primorsko-goranska županija, Rijeka 2018, p. 422.

¹⁴⁰ Učur, M. Đ.; Bartulović, Ž., *Nomotehnički aspekti Vinodolskog zakona iz 1288. godine*, Grobnički zbornik, 11/2021, p. 44.; Heka, L., *Prisega kao dokazno sredstvo u Vinodolskom zakonu*, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, Vol. 41, issue No. 2, 2020, p. 549.

¹⁴¹The Statute of Brač, Ref. I, 10.

¹⁴² Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 238.

any sources of potable water, rainwater was collected in fenced troughs created by the natural configuration of the soil.¹⁴³

Washing in other people's fenced ponds, which served to supply people (with water) was punished with a fine of 5 small libras (denars), and if the perpetrator was unable to pay, he was punished with flogging from the Church of St. Anthony in Nerežišća to the Church of St. Peter.¹⁴⁴

6. PROCEDURAL LAW

In 1426, three seats of local judges on Brač were mentioned: in Nerežišća, in Donji Humac and in Gradac, while the judges of Brač were mentioned at the end of the document.¹⁴⁵

In some statutes, it is customary for the plaintiff to take an oath on the truthfulness of his claim when filing a lawsuit.¹⁴⁶ The supplementary oath is mentioned in the statutes of Brač,¹⁴⁷ Hvar and¹⁴⁸ Korčula,¹⁴⁹ and served the plaintiff to supplement the incomplete evidence, i.e. to compensate for the lack of evidence. The oath is found in the Dalmatian statutes in a considerable number of different cases in relation to the persons who take it and the consequences it entails.¹⁵⁰

The Statute of Brač makes no mention of torture in relation to women, although it is prescribed in neighbouring statutes. According to the Statute of Hvar, a woman brought before the duke for theft is interrogated and subjected to torture at the discretion of the duke and the judges.¹⁵¹ Torture as evidence against women is provided for in the statutes of Korčula¹⁵² and Split.¹⁵³

¹⁴³ *Ibid.*, p. 228.

¹⁴⁴ The Statute of Brač, Ref. III, 5.

¹⁴⁵ Vrsalović, *Povijest otoka Brača*, *op. cit.*, note 4, p. 100.

¹⁴⁶ The Statute of Brač, IV, 56; The Statute of Split, IV, 1; The Statute of Šibenik, Ref. 50.

¹⁴⁷ The Statute of Brač, IV, 51.

¹⁴⁸ The Statute of Hvar, III, 28.

¹⁴⁹ The Statute of Korčula, 7.

¹⁵⁰ For the notion of taking oaths in the Vinodol Code, see: Heka, L., *Prisega... op. cit.*, note 141, p. 552.

¹⁵¹ The Statute of Hvar III, 39. For more details on torture, see: Fiorelli, P., *La tortura giudiziaria nel diritto comune*, Vol. I, Giuffrè, Milano 1953, pp. 295-299; Pansolli, L., *Voce Tortura*, *Novissimo digesto italiano*, Vol. XIX, Turin 1973, pp. 424-425.

¹⁵² The Statute of Korčula, 134 new ed. For more details, see: Pezelj, V.; Štambuk Šunjić, M., *Pravni položaj žene prema srednjovjekovnom Korčulanskom statutu*, Zbornik radova Pravnog fakulteta u Splitu, year 55, 3/2018, p. 571.

¹⁵³ The Statute of Split, IV., 84-85. For more details, see: Pezelj, V., *Pravni položaj žene po Splitskom statutu iz 1312. godine*, in: *Splitski statut iz 1312. godine: povijest i pravo*,

7. CONCLUSION

Although the Statute of Brač follows the basic determinants of neighbouring statutes within the Dalmatian legal region and beyond, there are some peculiarities.

With regard to the age of majority, the Statute of Brač follows other statutes, which mostly take into account the provisions of canon law, i.e. the onset of sexual maturity at the age of 12 or 14.

A married woman had limited legal capacity, could not enter into legal transactions without the will and consent of her husband and was deprived of the right to dispose of and manage the dowry. The provisions of the Statute of Brač thus differed from Roman Byzantine law, which was based on the principle of a woman's full legal capacity, and they resembled the characteristics of Lombard law. The concept of paternal authority is made clear by the provisions on the marriage of children. The father's authority ended in relation to his adult daughter if she married during her father's lifetime. The woman was the owner of the dowry she brought into the marriage, and during the marriage she could acquire property, usually by inheritance from her ancestors. Her legal capacity did not expire during the marriage. The husband administered the dowry until his death, and after his death the wife could again dispose of it as owner. Archive material indicates that women were involved in the legal transactions of buying, selling and leasing land.

According to inheritance law, the estate of the person who died intestate was inherited by his children, equally by male and female, with the exception of houses and buildings, which were not inherited by daughters if the deceased had sons. This institution spread from Zadar, where it was later abandoned due to the dominance of Venetian law.

The estate of a husband who died intestate and childless was inherited by his wife in the amount of one third. The husband had the same right of inheritance for the estate of a wife who died intestate and without children. In both cases, the remainder of the estate (two thirds) belonged to close relatives of the deceased spouse. The estate of a widower or widow who died intestate and without children was inherited in full by close relatives. The statute made no distinction between men and women in terms of rights and the amount of the inheritance. The equal treatment of men and women in inheritance law indicates a less developed economy and a backlog in gender equality from the clan-tribal system.

Testamentary inheritance was limited by the institution of family property, especially on Brač, Hvar, Korčula and Rab. The free will of the testator was restricted by the statute in such a way that a parent who had living children could not leave more to one child than to the other, with the exception of an item worth no more than one tenth of the total estate. The same provision is contained in the statutes of Hvar, Zadar, Skradin, Pag and Split. A parent could only disinherit their child if the child maliciously beat them or entered into a marriage against parental consent, as well as if they acted against what the father had decreed in his last will.

Women performed the duties of an executor, who was named by the testator as a private individual in his testament.

As far as the criminal offence of murder is concerned, the statutes of Brač and Hvar are illustrative with regard to the gender difference between the perpetrators, as they provide for the punishment of hanging for commoners and burning for women, while noblemen were beheaded. Rape was punished at the discretion of the Curia, taking into account the circumstances in which the rape took place and the person's social status. The duke and the judges were authorised to punish a person at their discretion if they prepared a poisonous potion and if a person of lower social standing insulted a nobleman, his wife or another prominent person. The differentiation according to gender and class can be seen in the offence of unauthorised picking other people's fruit, for which noblewomen were fined and commoners were branded in addition to a fine.

With respect to the legal status of women, the provisions of the Statute of Brač are the most similar to the provisions of the Statute of Hvar as far as the content of the first three books is concerned. They indicate a favourable permeation of two basic legal cultures: Slavic and Roman, as well as the influences of the canonical and Venetian legal systems. It can be argued that women on Brač were not particularly discriminated against and that the legal provisions contain many elements that indicate equal treatment of wives and husbands, which is particularly evident in inheritance law.

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