

# Communities and Conflicts in the Alps from the Late Middle Ages to Early Modernity

edited by

Marco Bellabarba / Hannes Obermair / Hitomi Sato



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### COMMUNITIES

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*In ricordo di*  
*Klaus Brandstätter (1961-2014)*  
*zum Gedenken*





## Preface

This volume brings together the proceedings of the international conference “Comunità e conflitti nelle Alpi tra tardo medioevo e prima età moderna”, held in Trento on March 27 and 28, 2014. It was promoted by the Istituto Storico Italo-Germanico of the Fondazione Bruno Kessler in Trento with the collaboration of the research project “Communication, Conflicts and Order in Medieval and Early Modern Europe” coordinated by Professor Yoshihisa Hattori of Kyoto University, and with the financial support of the Fondazione Cassa di Risparmio di Trento e Rovereto. Over the two days of work there was a convergence of results from the research project initiated at the Istituto Storico Italo-Germanico in 2012, again with the financial support of the Fondazione Cassa di Risparmio di Trento e Rovereto, focused on investigating the way in which ancien régime communities exhibited a singular form of organization of space and political cohabitation in the Alpine area between the Late Middle Ages and Early Modern Period.

In a more operative phase of the project, and in view of the publication of the proceedings, the Istituto Storico Italo-Germanico initiated an institutional collaboration with the Stadtarchiv Bozen / Archivio Storico Città di Bolzano already involved in the scientific organization of the conference. This resulted in the inclusion of the archive, and through them the city of Bolzano, among the bodies organizing the seminar and co-financing the publishing project.

Right from the start the project defined its geographic ambit as a vast tract of Alpine terrain (northern Lombardy, present day Trentino, and Italian and Austrian Tyrol) characterized by its location along zones of intersection between different political and institutional models. These included the commune based system of Italian origin widespread within the Alpine area (for example the cities of Trento, Bolzano, and Merano), and the aristocracy based system originally more common in areas subject to imperial dominion, but which spread rapidly into more southern areas. The study of the “cross-contamination” between these two models was the main aim of the initial archival investigations

conducted between 2012 and 2013, principally by Hitomi Sato, Carlo Taviani, and Alessandro Paris. This interest in the theme of circulation of political-institutional models highlighted the openness of the Alpine model towards the outside, both in a longitudinal sense (from the mountain to the plain and vice versa), and along the transverse lines of communication between cities, valleys, and rural lordships lying within different political spheres.

The study of institutional structures was always conducted in symbiosis with investigation of the forms of conflict, not necessarily viewed as processes of community disaggregation. Ancien régime societies, both rural and urban, were highly permeable aggregations, in which conflicts also represented important occasions for communication and political mediation. This was the reason for giving preference to geographical and temporal contexts that could be classed as “frontiers”, since these appeared the most suited for comparing the formal and informal strategies adopted in the resolution of conflicts, strategies that could at times be in competition and at other times strictly bound by official judicial procedures.

The results of the first two years of research provided a basis for the preparation of the conference in March 2014, which was discussed during a seminar held in Trento on January 14, 2013, with the participation of other experts in the sector. As defined by the Scientific Committee (Yoshihisa Hattori – Kyoto University, Graduate School of Letters and Faculty of Letters; Massimo della Misericordia, Università degli Studi di Milano – Bicocca, Dipartimento di Scienze Umane per la Formazione Riccardo Massa; Hitomi Sato, Konan University, Faculty of Letters; Marco Bellabarba, FBK-Isig, University of Trento; Carlo Taviani, Isig-FBK; Alessandro Paris, FBK-Isig; Hannes Obermair, Stadtarchiv Bozen / Archivio Storico Città di Bolzano) the talks delivered at the conference examined the study of community conflict in relation to inclusion within specific areas of sovereignty (city, lordship systems, and states), as well as the penetration of economic ties (the trade and tax collection networks), regulatory models (urban and rural statutes, *Landesordnungen*, decrees of local nobility), and religious institutions (the network of chapels, parishes, and religious confraternities). A valuable additional contribution to the work of the conference was the presentation of papers from Japanese scholars part of the research group “Communication, Conflicts and Order in Medieval and Early

Modern Europe” coordinated by Professor Yoshihisa Hattori and financed by the Japan Society for the Promotion of Science, which enabled an extension of the field of observation to territories bordering on the project’s study area (Bohemia and Switzerland), thus providing interesting points of comparison.

The editors of the volume would like first of all to thank the participants at the congress (speakers, session chairpersons, and debaters) for the insightful and enjoyable discussions that enhanced the two days of work. Furthermore, we would like to thank the publishing office of the Fondazione Bruno Kessler for their valuable collaboration in the publishing of the proceedings.

And finally, the editors would like to commemorate their late colleague, Klaus Brandstätter, Professor of Medieval History at the University of Innsbruck, who took part in the research project from its earliest stages and whose participation was foreseen in the program. The serious illness that prematurely ended his life denied us his valuable participation in the discussion of issues in which he was a highly esteemed scholar. With great regret we dedicate this volume to his memory.

*Marco Bellabarba  
Hannes Obermair  
Hitomi Sato*



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# Community, Communication, and Political Integration in the Late Medieval Alpine Regions

Survey from a Comparative Viewpoint

by *Yoshihisa Hattori*

## I. "KOMMUNALISMUS" AND COMMUNICATION

The Late Medieval and Early Modern Alpine regions seem to illustrate quite significant cases for the comparative study of political integration or state-building in the fourteenth and fifteenth centuries. During these periods, some of these regions show an interesting interaction process between rural communities and growing state power, regardless whether it is monarchical or republican. It is generally accepted that such autonomous rural communities as villages and valley communities (jurisdictional districts) played a crucial role in the development of territorial or regional states. However, such communities could only be influential political partners of the central power when they cooperated with each other by organizing alliances or durable confederations.

When discussing communities and states in the Alpine regions, Peter Blickle's thesis, "Kommunalismus" and "kommunal-bündische Verfassung" retains its cardinal importance.<sup>1</sup> In his highlights of the political function of communities, however, Blickle failed to sufficiently consider the complex structure of the local or rural communities in the Alpine valleys and their mutual relationships. In my view, intercommunal relations and communication in daily life, which also included significant phases of conflicts, settlements, alliances, and confederations, are closely

This research project was supported by the Japan Society for the Promotion of Science (JSPS) KAKENHI Grant Number 21242025.

<sup>1</sup> P. BLICKLE, *Kommunalismus. Skizzen einer gesellschaftlichen Organisationsform*, 2 vols, München 2000.

correlated with the social and political structure of the region and with the method of the state's integration. In this essay I make a preliminary survey of the communities and the state in the interactive relationships in some Alpine regions in the Late Middle Ages to promote future comparative studies. Although in his impressive book, *Geschichte der Alpen*, Jon Mathieu adopted a broad perspective and comparatively studied the social and political structure, economy, demography, etc. of the western, central, and eastern Alpine regions, the relationship and communication between communities do not seem to be significant factors for understanding the history of the Alps. Nevertheless in a recent article, Mathieu pointed out the importance of a comparative study of the interaction between communities (also unions of communities), the nobles, and state (monarchical) power<sup>2</sup>. Studies by Blickle and Mathieu remain relevant for the historical study of the Alps.

## II. STRUCTURE OF COMMUNITY IN ALPINE VALLEYS

Considering the aspect of communication, I will indicate some characteristic points of the communities that formed the base of social and political life in the local societies of the Alps. In Alpine society, community (*Gemeinde* in German) refers to a unit of diverse geographical levels, such as village, a certain district or division, or valley. A large (upper) community (*Großgemeinde, comungrande*) usually corresponded to a jurisdictional district and was generally formed in the framework of a valley. A wide-ranging valley community (*Talgemeinde*), which often overlapped the mother parish in early periods, was comprised of several smaller settlements or villages. In a community spreading over a wide area based on a spacious and long valley, as Valtellina situated on Milan's northern periphery, there were multilayered subdistricts in the entire valley (*università di valle*). Therefore, we must at times consider double or multiple strata of overlapping communities that were provided with different autonomy that functioned complementarily<sup>3</sup>.

<sup>2</sup> J. MATHIEU, *Geschichte der Alpen 1500-1900*, Wien 1998; J. MATHIEU, *Gemeinde als sozialer Prozess. Der Freistaat der Drei Bünde 1500-1800*, in F. HITZ - C. RATHGEB - M. RISI (eds), *Gemeinde und Verfassung. Bündner Politik und Gebietsstruktur gestern, heute, morgen*, Chur 2011, pp. 44-45.

<sup>3</sup> As for diverse forms and spatial frames of Alpine communities, see F. MOUTHON, *Les communautés alpines et l'État (milieu XIIIe-début XVIe siècle)*, in *Montagnes*



Valley communities, which functioned as districts of jurisdiction and state administrations but enjoyed substantial self-government, represented individual communities to the central government and occasionally stood for a sort of federal entity. Because of the complex construction of valley communities, conflicts frequently occurred inside them, especially between individual communities, but a valley community itself was adequate for settlement, as discussed below. The political initiative of such communities greatly influenced the territorial constitution, as Grisons (*Graubünden*) in the fifteenth century, where political restructuring progressed.

Perhaps valley communities should not be derived from a single source. Undoubtedly, the administrative and judicial districts of influential lordships in the High Middle Ages provided a base of the framework of later valley communities. On the other hand, valleys were a shared space, where the peasants pastured on scattered alps. Rising from a loosening manorial organization, individual communities clearly emerged with the autonomous management of resources for cattle breeding in the twelfth and thirteenth centuries in the western, central, and eastern Alpine regions. Probably in the thirteenth century and after, it became necessary for small communities to arrange and regulate the use of resources more strictly and in wider ranges because of increases of population and intensive pasturing. Presumably parallel to such developments of intercommunal communication, a potential territorial lordship might have tried to organize the jurisdictional and administrative districts, perhaps considering a valley a shared space of peasant life. Although such a rough hypothetical sketch might improve understanding of the dynamic interaction of the development of communities and states, it has not been sufficiently considered<sup>4</sup>.

*médiévales* (Actes des congrès de la Société des historiens médiévistes de enseignement supérieur public, 34), Chambéry 2003, pp. 154-157; O. AUGÉ, *Das Werden von Dorf und Gemeinde. Südwestdeutsche, Tiroler und norddeutsche Befunde im Vergleich*, in K. ANDERMANN - O. AUGÉ (eds), *Dorf und Gemeinde. Grundstruktur der ländlichen Gesellschaft in Spätmittelalter und Frühneuzeit*, Epfendorf 2012, pp. 11-30.

<sup>4</sup> For the formation and political functions of the valley communities in Tyrol and Vorarlberg, see *Herrschaftsstruktur und Ständebildung*, vol. 3, München 1973, especially the chapter "Täler und Gerichte" by E. BRUCKMÜLLER, pp. 11-51.

This essay discusses the following two main points:

1. conflict, communication, and potential of confederations between communities;
2. interactive relationship among growing communities and their confederations on one hand and the political integration or restructuring of the state on the other.

These two aspects are correlated, but regarding the actual situation, remarkable differences are unquestionably discernible among regions. I roughly categorize the Alpine regions into four groups (A-D) from the above viewpoint and characterize each group as follows:

(A) Communities and their alliances brought about a communal and federal constitution. Under a loose territorial lordship and parallel to or encouraged by the decline and extinction of the important families of local lords in the Late Middle Ages, communities and their unions rapidly obtained the right to exert political influence and leadership in the region, to preserve autonomous customs and practices, and to defend their territory against outside threats. Grisons and Valais in the fifteenth century belong to this group.

(B) Through relatively early organized local administration and the jurisdiction of territorial states, close relationships between central governments and local communities were promoted from the thirteenth century, accelerated by restraining and excluding the power of local lords. Interactive communication between governments and communities was mainly realized in the territorial assemblies (*Landtag*) that were not only composed of nobles and prelates but also by the deputies of the (urban and rural) communities. Tyrol and Vorarlberg belong to this type.

(C) Rural communities were politically active and frequently revolted against local and ecclesiastical lords. Princely power intervened and managed the conflicts and tended to support the communities to put the lords under its control. The cooperation and union of communities for uprisings, however, did not continue or develop into federal organizations. A prince as a dominant territorial lord increased monarchical power; but although the fifteenth and sixteenth century communities enjoyed customary rights, they could no longer be political partners of their princely lords. The western Alpine regions, especially Savoy, show such circumstances. Also in the territory of the Archbishop of

Salzburg after the Peasant Wars, such relationships can be observed between communities and princes.

(D) In the peripheral or boundary areas of powerful territorial states, particularly in the southern Alpine regions, communities enjoyed comparatively great autonomy, although under deputy administrators from central governments. They even made their own political choices by building federal organizations, especially when the central government faced confusing or critical situations. Such political activity of the communities, surrounded by favorable geopolitical circumstances, was discovered in the valleys of the northern Lombardy or southern Rhaetia, as Valtellina, Poschiavo, Leventina, and in Cadore in the boundary area between the Tyrol and Venetian territories.

Since division into these four groups merely provides rough categorization for comparative considerations, the described characteristics are not necessarily confined to each group<sup>5</sup>.

### III. CONFLICT AND COMMUNICATION IN LOCAL COMMUNITIES

Before describing the characteristics of some Alpine regions, I clarify the significance of conflicts and their resolutions in the context of communication among communities and political power. Although individual communities and peasants continually tried to enhance the shared management of pastures and other natural resources in the valley for peaceful use, they often skirmished and at times disputes escalated into armed violence against neighboring communities. These conflicts are encountered in the local records throughout the Alpine regions belonging to the above four groups. A recent study by Fabrice Mouthon shed light on such intercommunal conflicts on the pastures in the western Alps (Savoy, Dauphiné, and Provence),

<sup>5</sup> Fabrice Mouthon's article in 2003 (see fn. 3) undertakes comparative research into Alpine communities and states in the Late Middle Ages, covering Savoy, Dauphiné, and Provence in the west, Valais, Grisons, and Lombardy in the central, and Tyrol, Vorarlberg, Cadore, and others in the east. His description, especially of the Western Alps, is truly illuminating, even though he gives more weight to the viewpoints of the state than that of the communities. As for the eastern Alpine regions, my interpretation of the relationship between communities and states is occasionally different from his.

and Massimo Della Misericordia illuminated a great many cases of feud-like conflicts among communities in Valtellina, in the area around Lake Como, and in the valley of Ossola and other valleys in northern Lombardy in the Late Middle Ages. Also in the *Bündner Urkundenbuch*, we find peace treaties between communities, suggesting the frequency and intensity of conflicts in the thirteenth century in Graubünden<sup>6</sup>.

In my view, conflicts and their resolutions among communities represent the process of intensive communication in local societies, and how conflicts are resolved reflect a region's political and social structures. Consequently, conflict resolution and the political autonomy of communities were closely related because the self-government of medieval communities greatly depended on the effectiveness and the intensity of communication within and among them and such communication probably facilitated conflict resolutions by the communities themselves. However, the differences of the economic and social conditions of the communities and the political circumstances in each region caused diverse appearances of the conflict praxis and resolution ways<sup>7</sup>. In addition, conflicts among communities were caused not only by disputes about the use of natural resources but also for such diverse reasons as rivalries over political advantages in the valley. Furthermore, particularly in the western Alps, conflicts between peasant communities and local lords were probably more remarkable and serious than among communities.

<sup>6</sup> F. MOUTHON, *Le règlement des conflits d'alpage dans les Alpes occidentales (XIIIe-XVIIe siècle)*, in SOCIÉTÉ DES HISTORIENS MÉDIÉVISTES DE L'ENSEIGNEMENT SUPÉRIEUR PUBLIC (ed.), *Le règlement des conflits au moyen âge*, Paris 2001, pp. 260-263; M. DELLA MISERICORDIA, *Comunità, istituzioni giudiziarie, conflitto e pace nella montagna lombarda nel tardo Medioevo*, in "Mélanges de l'École française de Rome – Moyen Âge (MEFRM)", 122, 2010, 1, pp. 139-172; O.P. CLAVADTSCHER (ed.), *Bündner Urkundenbuch*, Chur 2004, vol. 2, no. 592a, 851.

<sup>7</sup> As a way to resolve conflicts between communities (and monasteries), Mouton emphasizes the transition from mediation or arbitration to decisions in princely courts in the Late Middle Ages. F. MOUTHON, *Les communautés alpines et l'État (milieu XIIIe - début XVIe siècle)*, p. 160.

#### IV. COMMUNITY, COMMUNICATION, AND POLITICAL INTEGRATION IN THE ALPINE REGIONS

In the following comparative survey on each of the Alpine regions categorized above, I focus on somewhat different aspects that characterize the communal actions of the regions.

##### 1. *Grisons*

According to Jon Mathieu, Grisons is the most remarkable case of the development of a communal constitution in Early Modern Europe<sup>8</sup>. Actually, in this Rhaetian Freestate, temporary or durable political alliances were formed in every level of society and on various scales. These communal, local, and regional alliances were correlated with each other in the process of political restructuring after the extinction or the decline of powerful noble families in the fourteenth and fifteenth centuries. Regarding such political transition in the Three Leagues that constituted Grisons, since many monographs exist, I will only refer to some cases of the formation of intercommunal alliances, considering the multidimensional relationships that are comprised of diverse treaties.

As early as the beginning of the thirteenth century, in *Bündner Urkundenbuch*, documents of conflicts are found on the use of the alps and agreements between communities for safe traffic through valleys and passes. These intercommunal disputes and peaceful agreements were sometimes linked to feuds among nobles, prelates, and cities. At the beginning of the thirteenth century, a conflict between Bishop Arnold of Chur (von Matsch) and Heinrich von Sax (Enrico di Sacco), the bishop and the city of Como, and Chiavenna involved the surrounding valley communities of Schams, Mesocco, Bergell, and Bormio. Even after the pacification between the noble lords in 1219 or 1220, the conflict

<sup>8</sup> J. MATHIEU, *Statebuilding from Below – Towards a Balanced View*, in W. BLOCKMANN - A. HOLENSTEIN - J. MATHIEU (eds), *Empowering Interactions. Political Cultures and the Emergence of the State in Europe 1300-1800*, Surrey 2009, p. 308. For the following description of Grisons, see VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, Chur 2000; R.C. HEAD, *Early Modern Democracy in the Grisons. Social Order and Political Language in a Swiss Mountain Canton. 1470-1620*, Cambridge 1995; J. MATHIEU, *Geschichte der Alpen*, pp. 158-166; O.P. CLAVADTSCHER, *Die Täler des Gotteshausbundes im Früh- und Hochmittelalter*, in *Festschrift 600 Jahre Gotteshausbund*, Chur 1967, pp. 1-42.

among Schams, Bergell, and Chiavenna did not end until 1270<sup>9</sup>. The valley communities negotiated among themselves to pursue their own interests for the favorable use of pastures, somewhat independently from territorial or influential lords.

In the late fourteenth and fifteenth centuries, such assertive action of valley communities developed cooperation to proper alliances and also joined such neighboring unions as the Gray League, which was formed to try and bring peace at the end of the fourteenth century by an alignment of the abbey of Disentis and such noble lords as Rhäzüns, Sax-Misox (Sacco-Mesocco), and others in the area of Vorder- and Hinterrhein. At the beginning of the fifteenth century, the League was consolidated through the participation of the valley communities of Rheinwald, Schams, and Domleschg that had been subordinate to the count of Werdenberg-Sargans. In 1396 these local (valley) communities in the area of Vorderrhein and Hinterrhein formed an alliance with the bishop of Chur and his vassals and valley communities: that is, with the League of the House of God (Chadè) in opposition to the lord of Rhäzüns<sup>10</sup>. Although the valley communities continued to live under feudal rule, they could independently make political decisions as local units and form alliances with other communities or join the League based on the conditions surrounding them.

What circumstances caused the constitution of communal alliance? Since almost all of the influential noble families became extinct in the fourteenth and fifteenth centuries, no mighty territorial lordship existed in any of the areas of the Three Leagues. This transition provoked political chaos and a power struggle among surviving nobles, often under the influence of external monarchs and the state. During repeated conflicts, negotiations, settlements, and alliance formations, the local communities increased their political initiative and influence and particularly in the fifteenth century contributed to communal and federal state-building.

Why and how did communities develop political communication and cooperation in local and interlocal spheres? Since it is beyond the

<sup>9</sup> O.P. CLAVADETSCHER (ed.), *Bündner Urkundenbuch*, vol. 2, no. 592, 592a, 592b, 608; VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, p. 189.

<sup>10</sup> VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, pp. 277-278.

range of this comparative survey to clarify why by considering the different circumstances and political process in the Three Leagues of Grisons, here I only point out the significant role played by the local elites. They included lower nobles, such as the ministerial nobles of the bishop, wealthy peasants, and other non-noble families derived from the communities, which in the fifteenth century explicitly assumed a leading position in the community by pushing aside the ministerial families. Their power base was founded on living both inside and outside the community and usually shared pasture rights on shared alps with other peasants, but they monopolized the offices of territorial lords for communal and local administration. After joining the Leagues, they participated in decision-making at the assembly of Grisons (*Bundestag*) as community representatives<sup>11</sup>. It is quite understandable that these people in leadership positions became more active after the decline and the extinction of the old noble families and promoted alliances with other communities based on their far reaching personal connections. On the contrary, in some regions of the western Alps, as discussed below, the local lords who exercised jurisdiction were clearly separated from communal life and their exercise of power frequently fomented subsequent uprisings.

Last, I note that the political and spatial structures of the valley community were composed of individual village communities. Even though the valley community appeared to be a solid, single political actor for conflicts and alliances, it represented a complex tapestry of overlapping and competing interests<sup>12</sup>. If so, how could local societies be stabilized? Based on a recent article by Prisca Roth, I briefly describe the interesting case of Bergell<sup>13</sup>. In the fourteenth century, this jurisdictional and valley community (*Gerichts- und Talgemeinde, comungrande*) in Val Bregalia in southern Grisons was divided into two sub-communities,

<sup>11</sup> *Ibid.*, pp. 219-221; J. MATHIEU, *Geschichte der Alpen*, p. 162.

<sup>12</sup> R.C. HEAD, *Early Modern Democracy in the Grisons*, p. 91. For the political development of the valley communities in the League of the House of God, see O.P. CLAVADTSHER, *Die Täler des Gotteshausbundes in Früh- und Hochmittelalter*, in *Festschrift 600 Jahre Gotteshausbund*, Chur 1967, pp. 1-42.

<sup>13</sup> P. ROTH, *Gemeindebildung unter bischöflicher Herrschaft. Das Bergell: Wie man im Streit die Einheit findet*, in F. HITZ - C. RATHGEB - M. RISI (eds), *Gemeinde und Verfassung*, pp. 63-75; On the political institution of Bergell, see VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, pp. 198-199, 203.

Sottoporta and Sopraporta, each of which consists of two main village communities and other smaller settlements. Communities of every level enjoyed a certain degree of autonomy with their own customs and statutes. In 1474 the whole community of Bergell received from the bishop of Chur the right to elect an Ammann or a podestà as its head. Throughout the fifteenth century, however, disputes continued between Sottoporta (and the villages inside it) and Sopraporta because of the latter's advantage with regard to the elections of podestà. These disputes were mostly arbitrated by the jurisdiction of the League or decided by Bergell's podestà. In this manner toward the end of the fifteenth century, Sottoporta and Sopraporta gradually integrated into a single political system. Nonetheless, the different conditions of individual communities (villages) still prevented equal political representation. It is a paradox, argues Prisca Roth, that the autonomy granted by the bishop of Chur to Bergell, i.e., election of the podestà, caused an inner struggle for political advantage, and so the communities of Bergell continued to need intervention by the bishop and the League to settle conflicts and stabilize their relationships.

The case of Bergell shows the complicated relationships among autonomy, conflicts, and settlements as well as the political power inside and outside the local community. Such interactive relationships probably accelerated the political integration of the valley and the League.

## 2. Tyrol

I previously investigated the conflicts between small communities and the process of resolution in some valleys in Late Medieval and Early Modern Tyrol<sup>14</sup>. These conflicts were usually decided formally in the presence of an authority of the provincial court (*Landgericht*), but the official documents (*Siegelurkunde*) of reconciliation preserved in community archives (*Gemeindearchiv*) also suggest that mediation and

<sup>14</sup> For the following description of Tyrolean cases, see Y. HATTORI, *Konflikte, Konfliktlösungen und Gemeinde in der bäuerlichen Gesellschaft Tirols im Spätmittelalter und in der frühen Neuzeit*, in "Tiroler Heimat", 67, 2003, pp. 141-158; Y. HATTORI, *Arupusu no nōmin funsō: chūkinsei no chiiki kōkyōsei to kokka*, Kyoto 2009, especially the German summary: *Konflikte in der bäuerlichen Gesellschaft im alpinen Raum. Lokale Öffentlichkeit und Staat in Spätmittelalter und Früher Neuzeit*, pp. 364-399, and the bibliography, pp. 338-353.



arbitration by peasants from neighboring communities often played an active and essential role. This is easy to understand. Disputes over mountain pastures and woods were generally very difficult for the judicial authorities to decide by legal fiat, since using such natural resources was traditionally governed by the customary practices of the valley's peasants, as partly printed in *Die Tirolischen Weistümer*. Nevertheless, increases in population and new settlements in the valley encouraged more intensive utilization of resources and inevitably gave rise to disputes over the demarcation of the territory of communities or pasturing priority in the shared alps in the fourteenth and fifteenth centuries. These disputes had to be settled through negotiation, in which the peasants, most of whom were probably elders of neighboring villages, served as mediators and witnesses. Next I give some instances, although only summarily, from the Upper Inn Valley (Oberinntal).

According to Hermann Wopfner, ca. 1300, the communities in the Imst jurisdiction (*Landgericht*) comprised a cooperative for the use of pastures and meadows in the Pitz Valley, which is a branch valley of the Upper Inn Valley<sup>15</sup>. In the sixteenth century, the villages and hamlets around the central village community of Arzl still maintained a certain amount of cooperation. A document concerning reconciliation issued by a judicial authority in 1530, however, reveals that the communities of this cooperative in the lower Pitz Valley and a group of smaller settlements in its upper parts fought over pasturing in Nesselberg and Schwarzberg, both of which are in the lower Pitz Valley. This conflict ended through the intervention of nine inhabitants from the neighboring villages, whom both parties requested to attend judicial meetings that addressed a resolution. In this manner, wide-ranging cooperation for the common use and management of pastures in the valley was held, but the interests of the communities of the lower and upper parts for using the pastures scattered in the valley were hard to regulate; frequently disputes were caused. Even under such arduous conditions, however, both parties asked their neighbors to help forge an acceptable agreement<sup>16</sup>.

Flauring, Polling, Oberhofen, and Pfaffenhofen, which are village communities belonging to the jurisdiction Hörtenberg in the Upper

<sup>15</sup> H. WOPFNER, *Bergbauernbuch*, vol. 3, reprint, Innsbruck 1997, pp. 411, 417, 421.

<sup>16</sup> Tiroler Landesarchiv, Gemeindearchiv Arzl im Pitztal, no. 104.

Inn Valley, were included in the High Middle Ages in an organization of ecclesiastical property (*Hofmark*) that made a cooperative for the shared use of pastures. Six documents preserved in the community archives from the fifteenth to eighteenth centuries reveal that these four communities intermittently squabbled over pastures in Wiedersberg over a prolonged period. According to the documents, their contention had a harmful influence not only on themselves but also on the surrounding communities. Therefore, in arbitration in the presence of a judge, some inhabitants of the neighboring communities usually collaborated to achieve peaceful pasturing<sup>17</sup>.

Based on these two cases and dozens of other instances of conflicts between communities from the four jurisdictions (valley communities) of Upper Inn Valley that I investigated through documents from community archives, the disputing village communities were sometimes located as many as 10 to 20 km from one another in the valley due to the distribution of the pastures under contention. The villages working together to achieve a settlement were often also themselves far apart. In almost all cases, mediation of the communities more or less contributed to conflict resolution, and such cooperative actions covered the entire valley, and on occasion, beyond the valley.

Regarding interaction between community activities and the political order (state), it could be argued that the repeated cooperation for peaceful livestock farming and pasturing strengthened the communication and mutual relationships among the valley's village communities and that such communicative transactions among individual communities might have fostered the identity and the political capabilities of the valley communities (i.e., *Landgerichtsgemeinde*). Moreover, such intensive communication might have facilitated the deputation of the peasantry from valley communities to territorial assemblies (*Landtag*) and that the effective communication and discussion in each valley community during the peasant wars spurred social and political reform movements

<sup>17</sup> O. STOLZ, *Geschichte der Gemeinden Telfs, Pfaffenhofen, Oberhofen und Rietz*, in "Schlern-Schriften", 112, 1955, pp. 362-364; *Die Tirolischen Weistümer*, VI, pp. 13-25, 30-33; Tiroler Landesarchiv, Gemeindearchiv Polling, no. 18; Tiroler Landesarchiv, Verfachbuch Hörtenberg, 1605, fol. 283r-284v. Nevertheless, these disputes weren't resolved until the eighteenth century, so in 1783 the pasture in Wiedersberg was divided between Flaurling and Oberhofen under instructions from the commissary of the territorial government.

in Tyrol. The most remarkable result of such reform movements was the enactment of new territorial ordinance (*Landesordnung*) in 1526 that adopted most of the demands and complaints raised by the valley communities. In addition, the individual and valley communities could broach various complaints concerning agrarian and pasturing life or new legislation (*Landes-*, or *Polizeiordnung*) to the monarchical government. Martin P. Schennach's voluminous work has scrutinized the process of legislation in Late Medieval and Early Modern Tyrol, considering such interactive aspects as initiatives of the central government, negotiation in the assemblies of estates, direct negotiation between governmental commissaries and communities, and partial revision of the text of ordinances by adapting the requirements of communities<sup>18</sup>. In Tyrol, political communication was also formally established between the state and each community.

The effective and extended communication among local communities greatly influenced the political structure. We must also consider that in Tyrol, the political conditions, that is, the precocious development of the institutional framework of the state's local administrations, fueled the social and political activities of valley communities under the protection of a monarchical government that was willing to repress the growth of local lordships. For this reason, in Tyrol, individual or local communities rarely built durable alliances, either formally or informally. Cooperation and mutual support among small communities in a valley, as seen in the conflicts over pastures, were mostly ephemeral and changeable. Such collective action of communities was ad hoc collaboration and did not exercise any political influence, as the communal alliances and confederations in Grison did. However, I argue again that the repeated cooperation for untroubled pasturage among the communities fostered and enhanced the ability of communication and the political action of the whole valley community.

Disputes between the communities in Tyrol usually did not escalate into armed conflict, unlike the conflicts in the valleys of the western Alps (Savoy and Dauphiné) and in the valleys of northern Lombardy or southern Graubünden, where peasant communities occasionally skirmished violently over pasture rights and other matters. Regarding the

<sup>18</sup> M.P. SCHENNACH, *Gesetz und Herrschaft. Die Entstehung des Gesetzgebungsstaates am Beispiel Tirols*, Köln - Weimar - Wien 2010, pp. 447-546.

reasons for this difference, consider that in Tyrol, the districts of territorial jurisdiction and local administration, which had been established relative early, mostly corresponded to valley communities, that is, areas where the peasants spent lives of pasturage and principally followed their own customs. Hence, a combination of the autonomous activity of communities and the authority of the state might have controlled the conflicts and prevented them from escalating into bloodshed.

### 3. *The Western Alps*

According to Nicolas Carrier and Fabrice Mouthon, rural communities in the Western Alps, namely, Savoy, Dauphiné, Provence, and Piedmont, had a certain degree of autonomy, but they did not overcome their particularism to establish federal relationships among themselves<sup>19</sup>. If not, what political and social circumstances shaped the autonomy and political activities of the rural communities of the Western Alps? As for the characteristics of the territorial principality of Savoy, however, I will only consider points concerning the activities of the communities<sup>20</sup>.

Conflicts involving the communities in these regions refer not only to intercommunal disputes, as seen above, but also the vigorous struggles of peasants against feudal lords. This feature can be explained as follows. In comparison with the Tyrolean territorial constitution, the progress of the political integration and organization of the local administration by the Prince of Savoy was generally delayed, and the diversity in his territories spread over both sides of the Alpine pass. The stabilization of territorial lordships in the eastern parts, that is, Aosta and northern Piedmont, was relatively late. The prince's sovereignty over these areas was first established in the fifteenth century. Rural communities capable of the autonomous management of common resources for cattle breeding had already appeared in the valleys of Savoy in the twelfth

<sup>19</sup> N. CARRIER - F. MOUTHON, *Paysans des Alpes*, Rennes 2010, pp. 107, 126 ff., 342, 358, 373.

<sup>20</sup> On the structure of the territorial principalities in the Alps, and especially for Savoy, see P. CAMMAROSANO, *Die Organisation der territorialen Mächte in den Alpen*, and G. CASTELNUOVO, *Regionale Fürstentümer und territoriale Organisation in den Westalpen: Savoyen (frühes 13. bis frühes 15. Jahrhundert)*, both in G. CHITTOLINI - D. WILLOWEIT (eds), *Hochmittelalterliche Territorialstrukturen in Deutschland und Italien* (Schriften des Italienisch-Deutschen Historischen Instituts in Trient, 8), Berlin 1996, pp. 53-59, 61-70.

and thirteenth centuries. In the princely domain, communities were controlled by the chatelain who was designated by the prince, but in other areas, they generally remained subordinate to local lords who exercised lower or upper (capital) judicial power<sup>21</sup>. These secular or ecclesiastical lords often arbitrarily levied various impositions on peasants whose cattle were habitually excluded from the pastures under their control. Against this background in the thirteenth and fourteenth centuries, disputes frequently occurred between peasant communities and their lords<sup>22</sup>.

Unlike the above Tyrolean intercommunal conflicts, many such conflicts were settled through mediation and arbitration by monarchical delegations<sup>23</sup>. In the fourteenth century, extensive uprisings of peasant communities against bishops erupted in Savoy and the surrounding regions. Even though the foothills of the south-west Alps were divided into several smaller bishoprics, such influential and ambitious bishops as the archbishop of Embrun and the Bishops of Maurienne, Genève, and Sion tried to build their own territorial lordships. These prelates, however, failed to utilize their prerogatives to establish a firm base of princely power, as did the imperial bishops in the Eastern Alps (Trent, Salzburg, and Brixen). Instead they integrated their territory by intensifying and extending the feudal lordships that inevitably provoked vigorous reactions from the peasants. In the 1320s some parish communities in the Avran valley revolted against the Bishop of Maurienne who was compelled to seek the assistance of the Count of Savoy due to the pressure of the uprising communities, which had formed an alliance by swearing (*coniuratio*). The count probably guaranteed the

<sup>21</sup> The domain lands organized around princely castles were called *châtellenie*, *viguerie*, or *vicariat*. F. MOUTHON, *Les communautés alpines*, p. 161.

<sup>22</sup> On the conflicts involving communities and local lords in the western Alps, see F. MOUTHON, *Le règlement des conflits d'alpage*, pp. 260-263.

<sup>23</sup> For instance, some conflicts over pasturage among inhabitants of the parish Saint-Martin-de-Belleville in the fifteenth century were probably resolved through negotiations between the contending parties and the intervention of local judges entrusted by Duke Amdédée IX of Savoy. F. MOUTHON, *Le règlement des conflits d'alpage*, p. 276. For judicial decisions and composition as a compatible means of conflict resolution in Savoy, see N. CARRIER, *Une justice pour rétablir la "concorde": la justice de composition dans la Savoie de la fin du Moyen Âge (fin XIIIe-début XVIe siècle)*, in SOCIÉTÉ DES HISTORIENS MÉDIÉVISTES DE L'ENSEIGNEMENT SUPÉRIEUR PUBLIC (ed.), *Le règlement des conflits au moyen âge*, pp. 237-257.

prelate's position by an agreement in Randens that brought most of the bishopric dominion under the condominium of the count and the bishop<sup>24</sup>. In this manner, the Count of Savoy strengthened his political influence over the properties and territories of the bishop, and in 1356/57 he renewed and confirmed the former franchise privileges for the communities in the bishop's territory by considering their customary rights and autonomy<sup>25</sup>. The aggressive action of the peasants and communities against ecclesiastical lords weakened their power and authority in the western Alps and gave the prince the chance to consolidate his territorial state by deliberately providing protection for the customary autonomy of the communities.

This argumentation for political restructure is strengthened through observations of peasant uprisings against local lords called "Tuchinaggio" and is outlined as follows. Canavese is in the northern part of Piedmont, which is the area of the valleys (Orco, Soana, Locana, Chiusella, etc.) between Turin and the Aosta Valley. Superficially, the Count of Savoy was the lord of the whole area in the second half of the fourteenth century<sup>26</sup>. The local lords wearing the title of count, however, did not accept subordinate positions to the Count of Savoy and continued to feud among themselves and to disturb the peace of this local society. What is worse, they levied excessive taxes on the peasant communities and refused to approve the previous charter of franchises preserved by the communities. The communities of Canavese, therefore, formed an alliance by swearing (*liga, unio*) for defense and sought favorable intervention from the count, but his decision was disappointing and encouraged them into open rebellion against the local lords from 1386. The revolt of the peasants, who also disobeyed

<sup>24</sup> N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 349-352.

<sup>25</sup> *Ibid.*, p. 351.

<sup>26</sup> In reality, the Count of Savoy had to cope and negotiate with the Marquis of Monferrato and the Prince of Acaia to subordinate the local nobles lords in the south-east Canavese. I owe much of the following description of 'Tuchinaggio' to the following monographs: A. BARBERO, *Una rivolta antinobiliare nel Piemonte trecentesco: Il Tuchinaggio del Canavese*, in M. BOURIN - G. CHERUBINI - G. PINTO (eds), *Rivolte urbane e rivolte contadine nell'Europa del Trecento: un confronto*, Firenze 2008, pp. 153-196, also A. BARBERO, *La rivolta come strumento politico delle comunità rurali: il Tuchinaggio nel Canavese (1386-1391)*, in A. GAMBERINI - G. PETRALIA (eds), *Linguaggi politici nell'Italia del Rinascimento*, Rome 2007, pp. 245-265.

the count of Savoy, spread to the Aosta Valley and in ca. 1390 over the pass to Tarentaise. Eventually in that year, Gian Galeazzo Visconti mediated between the communities and the count who consequently chose peace in the presence of the deputies of the communities and the local lords gathered in Ivrea. Since the final settlement of 1391 gave priority to the stabilization of social order, the compensation imposed on the communities was relatively light. The lords in Canavese got their property back, but they had to renounce their right to feud and were forbidden to retaliate against the peasants<sup>27</sup>. Moreover, they had to render homage to the Count of Savoy as vassals; in turn the count bestowed generous franchise privileges on the communities of Aosta, Tarentaise, and St.-Jean-de-Maurienne<sup>28</sup>.

Based on the above uprisings, the collective activity and pressure of the aligned communities indisputably weakened the power of both the ecclesiastical and secular lords, who were consequently forced to petition the count for support. As a result, the count's final decision, which was rather favorable to the peasant communities, accelerated the expansion and integration of his territory in northern Piedmont. Next we have to discuss whether this dynamic process of political restructuring in Savoy brought about the same interactive relationship between princely governments and local communities as in Tyrol. We can safely assume that in the fifteenth century, the growing power of the Prince of Savoy controlled the local lords more effectively and generally increased direct influence on the peasants and the communities<sup>29</sup>. However, the political communication between the Prince of Savoy and the peasant communities was hardly institutionalized, let alone their representation to any political assembly in the Savoyard state<sup>30</sup>. Then why were the communities in Savoy, unlike the Tyrolean circumstances, not organized

<sup>27</sup> A. BARBERO, *Una rivolta antinobiliare*, pp. 191-196.

<sup>28</sup> F. MOUTHON, *Les communautés alpines*, p. 159.

<sup>29</sup> The local lords tried to resist the political pressure of the duke until late fifteenth century, and imposed extortionate levy on the peasants, which provoked the revolt of "robes rouges" en Faucigny in 1492. N. CARRIER, *La vie montagnarde en Faucigny à la fin du moyen âge. Économie et société fin XIIIe - début XVIe siècle*, Paris 2001, pp. 523-530.

<sup>30</sup> N. CARRIER - F. MOUTHON, *Paysans des Alpes*, p. 342. As stated by Mouthon, direct communication between prince and rural communities in the Western Alps was generally feeble.

into local communities that were qualified as the political partners of the prince? The structural characteristics of the local lordship and administration in the Savoyard territories must be investigated as crucial factors of the political function of the communities, but outlining them is not easy because the conditions of the local administration exercised by the prince remained diversified. Therefore, I focus instead on the significance of the forms of communication between communities, which might have enhanced their political capacities.

In such times of crisis as rebellion against ecclesiastical and secular lords or the menace of external power, the communities promoted communication and solidarity among themselves and occasionally formed quasi-alliances. In some areas of Provence and Dauphiné, close cooperation of communities, such as "escarton" in Briançonnais, had already appeared in the thirteenth and fourteenth centuries<sup>31</sup>. Nevertheless, the communal cooperation in the Western Alps at that time, as Carrier and Mouthon stated, did not develop into a durable organization for self-government. Indeed the communities of the valleys of Avran and Canavese temporarily activated intensive cooperation and alignment, but they could not be consolidated as federal institutions. How should we evaluate the cooperation of the communities during the revolt in Canavese? The union or league of communities in 1385 probably did not spread over the whole area of Canavese, and from 1387, some communities retreated from the rebellion and individually reached compromises with the counts and local lords<sup>32</sup>. Presumably, the communities in northern Piedmont in the fourteenth century were separately subordinate to the local lords under more or less different conditions, partly because their customary rights and franchises were often disapproved by their lords; the wide-ranging cooperation and alliance among communities could hardly be durable. The communities certainly intended to break such arduous situations by forming leagues. Just for this reason, the league of communities was severely denounced not only by the local lords but also by the count in the

<sup>31</sup> In 1343, deputies from 51 communities and five valleys in Briançonnais negotiated for the repartition of taxes for the prince of Dauphiné. Such cooperation among communities for tax contracts in Briançonnais, called *escarton*, did not have any political autonomy as a confederation. N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 305-306, 343-344.

<sup>32</sup> A. BARBERO, *Una rivolta antinobiliare*, p. 181.



peace treaty (sentence) in 1391<sup>33</sup>. The count obviously would not promote or approve intercommunal alliances as the basis of his direct rule of peasants.

The reasons for the different relationships between the growing princely states and communities in the Western Alps from those of Tyrol can be explained by the diverse conditions of the political integration and the position of the communities and local lords in this dynamic process. However, conflicts over pastures and resolutions between communities and their opposition to their lords have not yet been correlatively explained. According to Carrier and Mouthon, the conflict resolution of the communities generally relied on the intervention of the count or influential lords, such as prelates<sup>34</sup>. The cooperation between the communities to manage resources at the local or interlocal levels was probably not effectively operative. If not, then it is understandable that the peasant communities in the Aosta Valley first attempted to defend their area against rebellious peasants from Canavese, because both sides had often fought over pastures on the boundary zone<sup>35</sup>. For the resolution of conflicts between communities, or between communities and local lords in the western areas of the Savoyard territories and Dauphiné, the prince and his officials played a more and more significant role in the Late Middle Ages, both in arbitral interventions and judicial decisions. As Mouthon emphasizes, in the Western Alps no regular gathering of the peasants for arbitral negotiations was held, as was seen among valleys in the Western Pyrenees<sup>36</sup>. To understand precisely the intercommunal communication in the Western Alps, we should consider more carefully the actual state of the com-

<sup>33</sup> *Ibid.*, pp. 169, 173.

<sup>34</sup> N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 121-127, 306.

<sup>35</sup> A. BARBERO, *Una rivolta antinobiliare*, p. 178.

<sup>36</sup> F. MOUTHON, *Le règlement des conflits d'alpage*, pp. 270, 278. For conflicts between valley communities in the Western Pyrenees, which often escalated into bloodshed with peasant militia organized by the communities, see J.-P. BARRAQUÉ, *Du bon usage du pacte: les passerries dans les Pyrénées occidentales à la fin du Moyen Âge*, in "Revue Historique", 302, 2000, pp. 307-335; C. DESPLAT, *La guerre oubliée. Guerres paysannes dans les Pyrénées (XIIe-XIXe siècles)*, s.l. 1993. To prevent the escalation of conflicts, periodical gatherings of certain valley communities were held on the boundary, accompanied by rituals that symbolized friendly relations.

munity that often stands for a large parish community as a unit of collective activity of the peasants, particularly in the Western and Southern Alps<sup>37</sup>.

#### 4. *The Southern Alps*

As previously stated, in some peripheral or boundary areas of the powerful territorial states in the southern Alpine regions, communities enjoyed comparatively great autonomy. Individual communities in these regions were, as in Grisons and Tyrol, integrated into a large valley community (*universitas vallis*) that had a council (*consilium*) or a general assembly of the heads of families and customary laws (*consuetudo vallis*) for self-governance under lenient control by central governments. In the Late Middle Ages, communal and federal relationships at times spread over several valleys and formed wide-ranging alliances, particularly in times of political crisis<sup>38</sup>. Such political communication between communities or valleys played a substantial role in pasture management, the security of passage through valleys, and conflicts and settlement within and between valley communities<sup>39</sup>. The valley communities in this sense even made their own political choices, in many cases, to join the League of Rhaetia to defend their autonomy from local lords and to extricate themselves from the power of Visconti. Independent political decisions considering their own interests were crucial for the confused and critical situations of central governments. The political activity of such communities between territorial powers will be discovered in various places in northern Lombardy and southern Rhaetia, such as the valleys of Ossola, Blenio, Leventina, Solada, Mesocco, Verbano, and Valcamonica, although their subsequent political choices and position

<sup>37</sup> N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 135-138.

<sup>38</sup> The *universitas* of the valley of Verbano in the western shore of Lake Maggiore allied with the distant city of Vercelli against Novara in the thirteenth century. This autonomous organization of the valley was approved by Gian Galeazzo Visconti in 1393. R. LEGGERO, *The Construction of Local Political Identity in Lake and River Communities in North-West Italy, Twelfth to Fourteenth Centuries*, in W. BLOCKMANN - A. HOLENSTEIN - J. MATHIEU (eds), *Empowering Interactions*, pp. 40-47.

<sup>39</sup> For feud-like conflicts and settlements between communities in Valtellina and northern Lombardy, see M. DELLA MISERICORDIA, *Comunità, istituzioni giudiziarie, conflitto e pace*.

transitions were different<sup>40</sup>. Among others, the valleys of Valtellina and Poschiavo, situated in favorable geopolitical circumstances, clearly represent the characteristics of the structure and political function of the communities in these regions. Also noteworthy is the development of the communal and federal republic of Cadore in the boundary area between the Tyrol and Venetian territories.

Poschiavo (Puschlav), a branch valley of Valtellina south of the Bernina Pass, is described in documents early in 1192 as a “comunis de Pusclavo” and comprised the communities of Poschiavo and Brusio, both of which were districts (*comungrande*) of lower or upper jurisdiction<sup>41</sup>. The increasing pressure exerted by the city of Como and the Bishop of Chur weakened the lordship of the noble family of Matsch over the valley during the thirteenth century, but Milan established control in the mid fourteenth century, even though the bishop attempted to retain influence by granting almost all the property and the competence in the valley to the community Poschiavo as a fief<sup>42</sup>. In Milan’s political disorder after the death of Gian Galeazzo in 1402, jurisdiction over the valley was left in the hands of a noble castellan, but this measure from Milan provoked violent reaction from the people in Poschiavo. They revolted against Milan and requested protection from the bishop, the Canon of Chur, and the valley communities of the League of the House of God; finally in 1408, Poschiavo became a member of the

<sup>40</sup> For communal constitution and alliance in these valleys, see N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 357-361; L. DEPLAZES, *Alpen, Grenzen, Pässe im Gebiet Lukmanier – Piora (13.-16. Jahrhundert)*, Disentis 1986, *passim*; L. DEPLAZES, *Begegnung und Abgrenzung zwischen Nord und Süd in den Paßtäälern der Zentralalpen*, in H. MAURER - H. SCHWARZMAIER - T. ZOTZ (eds), *Schwaben und Italien im Hochmittelalter*, Stuttgart 2001, pp. 213-218; K. RUSER, *Die Talgemeinden des Valcamonica, des Frignano, der Leventina und des Blenio und die Entstehung der Schweizerischen Eigdenossenschaft*, in H. MAURER (ed.), *Kommunale Bündnisse Oberitaliens und Oberdeutschlands in Vergleich*, Sigmaringen 1987, pp. 117-151; M. DELLA MISERICORDIA, *Divenire Comunità. Comuni rurali, poteri locali, identità sociali e territoriali in Valtellina e nella montagna lombarda nel tardo medioevo*, Milano 2006, pp. 813 ff., 845 ff., 909-928; VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, pp. 201-206; F. MOUTHON, *Les communautés alpines et l’État*, p. 158.

<sup>41</sup> VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, pp. 199-201, 212; O.P. CLAVADETSCHER (ed.), *Bündner Urkundenbuch*, vol. 1, no. 459.

<sup>42</sup> O.P. CLAVADETSCHER (ed.), *Bündner Urkundenbuch*, vol. 5, no. 2624; VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, p. 200.

League. The people of Poschiavo chose to move under the authority of the bishop, anticipating that this prelate's rule would be controlled by the communal and federal constitutions of the League. Meeting their expectations and requests in 1494, the bishop ceded his prerogative to the communities (*comungrande*) of Poschiavo and Brusio.

The political development of Poschiavo outlined above suggests some general characteristics of the valley communities in northern Lombardy and southern Rhaetia: independent decisions about their political positions between competing hegemonic and territorial lordships and the growing influence of the Leagues on the political restructuring of these areas.

Regarding the communal structure of the large valley of Valtellina, I owe a great deal to the exhaustive research work of Della Misericordia. I will only refer to the confederate structure of this spacious valley. After 1335, the rule of Valtellina moved from the hand of the Bishop of Como to Milan (Visconti), just as Poschiavo did. In the fourteenth century, individual communities and districts of the entire valley were integrated into one single federation<sup>43</sup>. The valley's political organization was based on both the territorial principle of communal administration and the personal bonds of the factions that had spread widely in the valley. The Milan government exploited both ways to control this society by authorizing the official head of the valley (*capitano di valle*) and keeping a connection to the leaders of the factions. According to Della Misericordia, however, the factional relationship of the inhabitants became subsidiary to the community in the late fifteenth century, and the community chose a Guelph or a Ghibelline, which corresponded to its basic identity. In reality, the multilayered unity of the communities and their factional relationship remained auxiliary to or competitive, but I will not discuss this point in detail<sup>44</sup>.

The aspect of greater import in Valtellina is this grand valley's territorial structure, which corresponded to the communal and federal constitu-

<sup>43</sup> As a political unity, Valtellina did not contain Bormio, the innermost parts of the valley. On the territorial structure of the area around Bormio, see M. DELLA MISERICORDIA, *Paesaggio, istituzioni, identità locali di una valle Alpina nel tardo medioevo. Elementi per una storia sociale della Valfurva*, in "Bollettino della Società Storica Valtellinese", 2007, 60, pp. 27-69.

<sup>44</sup> M. DELLA MISERICORDIA, *Divenire Comunità*, pp. 627-640.

tion. In the fourteenth century, the valley was divided into trisections: “Terziere Inferiore”, “Mezzo”, and “Superiore”. The general assembly (*consiglio generale*) was attended by representatives from all the valley communities, but the subdistricts under the *universitas* (*università di valle*), namely, *terzieri* and *squadre* (subdivisions of the “Terziere Inferiore”), kept adequate activity and functions. These layered divisions represented a sort of confederation of individual communities, although the details of the construction process have not been elucidated yet. However, control of the valley by the authority of the Visconti or Sforza, although lenient, was significant enough to maintain the order of this territorial organization and was accepted by the valley. By the instructions of the Milanese prince, “Terziere Inferiore” was divided into two *squadre* to create two separate jurisdictions. Della Misericordia argued that these reorganization measures were implemented to meet the demands of the inhabitants, who deemed that the coexistence of two factional areas in a single district was impossible<sup>45</sup>. Hence, a combination of factional relationships and communal areas was regulated and promoted to some extent by Milan. Disputes arising among *universitas*, *terzieri*, and *squadre* on the competence of the officials were also likely settled by Milan at the turn of the fifteenth century.

The substantial unit of peasant lives and identities was doubtless the individual community, but organizing the valley’s *universitas* and subunits by the principle of communal confederation effectively kept the peace and managed the natural resources in the valley. The general assembly and meetings in the subdistricts functioned as a forum for social and political communication among the communities, but they occasionally needed the intervention of the Milan authority, for instance, in the case of serious conflicts inside the valley. In this relation, it is understandable that the valley community of Valtellina was particularly active after the transfer of the valley under Milan’s dominance, partly because the means of the integration of the Milanese state under the Visconti were not oppressive for the local lords and communities, but rather bilateral, particularly for the communities in the Alpine valleys<sup>46</sup>.

<sup>45</sup> *Ibid.*, p. 667.

<sup>46</sup> *Ibid.*, pp. 666-668; G. CHITTOLINI, *Principe e comunità alpine*, in G. CHITTOLINI, *Città, comunità e feudi negli stati dell’Italia centro-settentrionale (secoli XIV-XVI)*, Milano 1996, pp. 127-144. These communities retained their autonomy and enjoyed certain privileges regarding taxation by the Visconti. The Bishop of Chur demanded the rule

After the acquisition of this valley by Graubünden in 1512, its self-governance became even more effectual. In the subordination of Valtellina to Graubünden, the meetings of the subdistricts and the general assembly of *universitas* (*consiglio di valle*) were even more active, although in cooperation with the Leagues. The commissaries who were dispatched periodically from the Leagues arbitrated various differences among the communities, the local lords, the inhabitants, and the officials and relayed the decisions to the assemblies they attended<sup>47</sup>. Therefore, we can safely assume that the activity of self-government, based on the organization of communal confederation and the political communication with the Milanese authority, held on sufficiently in the interactive relationships with the Leagues. From the outlined important aspects of Valtellina, this valley community obviously owed its substantial autonomy to the geopolitical situation between the growing power of Milan and Graubünden.

As one reason for the relative stable continuation of the communal and federal constitutions in the vast valley, we should also consider that neither influential urban centers (except for Sondrio) nor powerful lords existed who might control rural communities. Another crucial point is that future research must shed light on community leaders and elites who kept and enhanced the political communication between the communities and districts in the valley. In the political sphere, they were sometimes leaders and sometimes the officials of *universitas*, *terzieri*, and communities who attended the assembly as deputies. In the social sphere, they were occasionally notaries and bosses or the leading member of the factions. These characteristics might distinguish Valtellina somewhat from other previously examined Alpine regions<sup>48</sup>.

of Valtellina from Milan in the second half of the fifteenth century, however the relation of the bishop, Grey League, the League of the House of God and other influential lords in this region with Milan was not always hostile but various and changeable. G. SCHMID, *Bünden und Mailand im 15. Jahrhundert*, in *Festschrift 600 Jahre Gotteshausbund*, pp. 336-350.

<sup>47</sup> M. DELLA MISERICORDIA, *Divenire Comunità*, pp. 701-702.

<sup>48</sup> Della Misericordia clarified these points in comparison with Emilia, Romagna, Mantua, etc. The communities in the lowland areas around Lake Como did not form durable confederations beyond the parishes. According to Della Misericordia, a major cause was the lack of notable leading families to promote and support communication beyond the communities, *ibid.*, pp. 925-928.

## 5. *Prospects for comparative study*

Above I sketched the characteristics and some instances of communal activity in four groups of regions. Because of space limitations, I did not address Valais and Cadore, both of which are significant cases of communal confederation. The intercommunal cooperation and integration or restructuring of the territorial states in the Alpine regions were interdependent. As for comparative studies, I only clarified some similarities and differences in the federative and cooperative action of rural communities and interactive relationships between the communities and growing state power. In Grisons and some valleys of northern Lombardy, the political communication developed federative relationships between the communities, whereas in the Western Alps, communities could not establish continuous federative institutions through which they could become influential political partners of the prince. Also in Tyrol, the alliance of communities was rather exceptional, probably because the peasant communities were represented in the assembly of the estates (*Landtag*) by their own deputies. They could maintain and (if required) enhance political communication with each other and with governments as well in this institutional framework. Why didn't the communities in Savoy build confederations? How were the communities in regular communication with the princely government after the revolt of Tuchinaggio? Such problems require us to elucidate the reasons for these differences from multiple viewpoints by scrutinizing each region's historical sources.

Last, for advancing comparative research, I emphasize again that the Alpine communities, valleys, states (confederations), and regions mentioned here were by no means closed spaces clearly demarcated by borders. There were always correlations and interactions among them that might have stimulated the development of similar communal institutions in the neighboring areas and regions in the Alps. We can safely assume that the local elites, mostly wealthy families appearing from the communities, facilitated communication between the communities and also in the more wide-ranging areas<sup>49</sup>. We must pay more attention to

<sup>49</sup> According to Konrad Ruser, close correlations should be perceived between communal organizations in the valleys of Uri, Schwyz, and Unterwalden as well as those of Leventina and Blenio. This similarity was presumably brought about by the people who traded back and forth between these northern and southern valleys through the

intercommunal communication and the making of various relationships between them, even if such movements were transitory or failed to blossom into wide-ranging political confederations. This consideration will contribute to discussions on state-building in Late Medieval and Early Modern Europe from a comparative history of the Alpine regions.

St. Gotthard Pass. K. RUSER, *Die Talgemeinden*. See K. MEYER, *Italienische Einflüsse bei der Entstehung der Eidgenossenschaft*, in "Jahrbuch für Schweizerische Geschichte", 45, 1920, pp. 1-76. For the importance of the local elites, see J. MATHIEU, *Geschichte der Alpen*, pp. 162-163; N. CARRIER - F. MOUTHON, *Paysans des Alpes*, pp. 373; F. MOUTHON, *Les communautés alpines et l'État (milieu XIIIe - début XVIe siècle)*, p. 165; VEREIN FÜR BÜNDNER KULTURFORSCHUNG (ed.), *Handbuch der Bündner Geschichte*, vol. 1, pp. 219-221.



# Legal Transfer and Connected Histories

## The Trentino and Tyrolean Legal Models of the Early 1500s

by Marco Bellabarba

In a very interesting passage of a book written some years ago, Peter Goodrich criticised the idea that laws or legal texts could be thought of as simply authoritarian prescriptions. On the contrary, he wrote, any “legal discourse” describes a much more complex and multifaceted reality:

“It has its own history, its own interpretative techniques and its own meta-language of methodology. It is contradictory, in other words, to suppose that the dialogic nature of legal discourse is solely a feature of its explicit semantic presuppositions and choices alone, without at the same time showing that legal language in its entirety is embedded in the history of its institutionalisation and in the complex interrelations of various languages, multiple audiences and frequently divergent communicative and practical effects. Legal language, I shall argue, is not purely and simply the malleable or transparent instrument of ideological purposes”<sup>1</sup>.

This quotation from Goodrich can serve as a starting point for a theme that is in no sense original, that of the reception of the *jus commune* within the region then comprising the County of Tyrol and the two ecclesiastic principalities of Trent and Brixen. According to most traditional scholars, this *Rezeption* represented the assimilation of a set of written legal regulations, from Roman-Canon law, which originated from the Italian territories and succeeded in supplanting the pre-existing legal customs. It was in fact congenial to

“1800s positivism to conceive of law as a pure and simple sum of rules and principles that could without doubt be justifiably transposed from one experiential context to another, without consideration for the substantial and indivisible connection of law with its spiritual and ethical foundations and with the specific social and historic situations that conditioned its concrete implementation”<sup>2</sup>.

*Translation by Gavin Taylor*

<sup>1</sup> P. GOODRICH, *Legal Discourse. Studies in Linguistics, Rhetoric and Legal Analysis*, London 1987, p. 169.

<sup>2</sup> F. WIEACKER, *Storia del diritto privato moderno con particolare riguardo alla Germania*, vol. 1, Milano 1980 (orig. ed. 1967), p. 184.

There is no doubt, for example, that the antique prince-bishopric statutes were inspired by the “statutory family” of the Venetian cities and referred back to a legal culture of Italian origin<sup>3</sup>. From the earliest 1300s fragments, to the Codex of 1425-27, up to the statute of 1528 published under the government of Bernardo Cles, the regulations and procedures within the prince-bishopric sphere were no more than a retracing of legal traditions created within the area of the communes and aristocratic dominions of the Po Valley. At the same time, the excellent essay published in 1895 by Tullius von Sartori-Montecroce on the *Rezeption der fremden Rechte in Tirol*<sup>4</sup> clearly identifies and underlines the differences between the legal system of Germanic origin existent in the county and the legal culture of Roman inspiration (“Italian”) adopted in the nearby ecclesiastic principality. Even the essay title suggests the forced entry of a foreign (*fremd*) legal system into Tyrol, and Sartori-Montecroce proposed the hypothesis of two distinct legal communities, the prince-bishopric of Trent to the south, and the Tyrolean County to the north, without any intercommunication or reciprocal ties. Based on this premise was the fairly obvious idea of a forced “Romanization” of the Germanic habits that had become established during the Late Middle Ages due to pressure from above from the princes, despite the obstacles and resistance put up by the Tyrolean *Stände*.

The question that the young *Privatdozent* originating from Trentino<sup>5</sup> intended to answer was posed in the introduction to the work: “wie, wann und auf welchen Wegen das römisch-canonische Recht” had entered the Tyrolean region and supplanted the existing laws? Though admitting that he was unable to write a “erschöpfende Geschichte der Rezeption in Tirol”, Sartori-Montecroce described a very linear process of penetration of Roman-Canon law into Tyrol. A decisive phase for the arrival of the “Gelehrtenrecht” coincided with the pub-

<sup>3</sup> As already clearly demonstrated by H. VON VOLTELINI, *Gli antichi statuti di Trento*, Rovereto 1989 (orig. ed. 1902).

<sup>4</sup> T. VON SARTORI-MONTECROCE, *Über die Rezeption der fremden Rechte in Tirol und die Tiroler Landes-Ordnungen* (Beiträge zur Österreichischen Reichs- und Rechts-Geschichte), Innsbruck 1895.

<sup>5</sup> On this figure see N. GRASS, *Francesco Schupfer und Tullius von Sartori-Montecroce als Rechtshistoriker an der Universität Innsbruck*, in *Festschrift für Ernst Carl Hellbling zum 70. Geburtstag*, Salzburg 1971, pp. 195-258.

lication in 1499 of the *Malefizordnung* by Maximilian I, a text that reveals an “unverkennbar” trace of the influences deriving from the Italian sphere. While in criminal law there remained a few signs of the Germanic procedural tradition<sup>6</sup> (the oral nature of the debate, the role of the jurors) these were displaced by the arrival of written procedures, inquisitorial in nature, in which the writing of the acts and the use of torture biased the procedure in favor of the judge. Although the designs for regulation in the civil sphere were unsuccessful due to the opposition of the social classes<sup>7</sup>, during the years of the Maximilian era there was an increasing penetration into governing magistrates of ever more numerous “Räte” of legal training. As in all the other Imperial territories, in Tyrol the reception was thus “von oben hinunter”<sup>8</sup>, in symbiosis with the consolidation of the *Regierung* of Innsbruck as the judicial and administrative authority.

The decision of Maximilian to favor the “Gelehrten” and the “Gelehrtenrecht” was based, according to Sartori-Montecroce, on two simple suppositions: the Roman trained jurists supported Princely authority while at the same time they were hostile to the claims for autonomy of the aristocracy. Furthermore, Roman-Canon law was an essential instrument for encouraging the unification of all the inherited Habsburg territories, not only of Tyrol. For this reason, after the death of Maximilian his successor, Ferdinand I, again a Holy Roman Emperor and Tyrolean Count, continued in the same way without hesitation, challenging the protests expressed by the provincial diets who accused “Fremde und Doctoren” of cancelling the antique legal customs of the County.

A recent book by Martin Paul Schennach introduced some important corrections to this rigid interpretation of the times and protagonists of

<sup>6</sup> As also stated by J.H. LANGBEIN, *Prosecuting Crime in the Renaissance: England, Germany, France*, Cambridge MA 1974, p. 158.

<sup>7</sup> T. VON SARTORI-MONTECROCE, *Über die Reception der fremden Rechte*, p. 3 cited in this respect the late 1700s testimony of ANDREÆ ALOYSII HELLRIGL, *Dissertatio de differentia successionis ab intestato inter jus civile Romanum et prouinciale Tyrolense*, Innsbruck 1780, p. 24: “Tyrolenses consuetudinum suarum Germanicarum adeo fuerunt tenaces, ut illud projectum Statuti, quod Imperator Maximilianus I promulgare voluit, sibi deprecati sint, quia id nimis romanizare credebant”.

<sup>8</sup> T. VON SARTORI-MONTECROCE, *Über die Reception der fremden Rechte*, p. 7.

the *Rezeption*. Firstly, the reception of the *jus commune* preceded the government of Maximilian and it occurred over a much longer period of time. As already observed by Harold J. Berman, what “many legal historians continue to call the ‘practical reception’ of Roman law in the late fifteenth and sixteenth centuries, in contrast with the ‘theoretical reception’ of Roman law in the late eleventh through fifteenth centuries, should be seen as parts of a much longer historical process in which both practical and theoretical elements were always present”<sup>9</sup>. On the other hand, while “from the twelfth to the nineteenth century Roman law was continually ‘received’ in Europe”, this practical *Rezeption* was not limited to a simple prescriptive deed, realized “von oben hinunter” by the prince. On the contrary, the writing of new laws affecting the Tyrolean zone from the second half of the 1400s revealed the weakness of the figures of Maximilian or Ferdinand as “legislators”, in the sense that they were considered the sole instigators of the drive for legislative renewal<sup>10</sup>. The multiplicity of legislative texts (mandates, privileges, rulings) issued by the Innsbruck court called directly into question the role of the *Landtag* (the assembly of Tyrolean social classes), who instead of being a limiting element for the *potestas legislativa* of the prince, participated decisively in the drafting of laws. The finely detailed examination conducted by Schennach of the hundreds of supplications, memoirs, and petitions conceived in the Tyrolean Parliament, reveals in abundant detail the many possibilities conceded to the *Landstände* to influence the writing of laws<sup>11</sup>.

In an interaction that was sometimes tense, other times able to overcome the initial differences, the prince and aristocracy interacted together in the legislative process. This does not mean the disappearance of antagonisms between *Hof*, *Regierung*, and *Landtag*, but the continuous exchange of opinions between the Diet commissions and the principality magistrates induced forms of shared action that escaped the traditional schema of the prince-aristocrats dualism that had represented a constant and unchanging element of Tyrolean political history.

<sup>9</sup> H.J. BERMAN, *Law and Revolution*, vol. 2: *The Impact of the Protestant Reformation on the Western Legal Tradition*, Cambridge MA 2003, p. 101.

<sup>10</sup> M.P. SCHENNACH, *Gesetz und Herrschaft. Die Entstehung des Gesetzgebungsstaates am Beispiel Tirols* (Forschungen zur deutschen Rechtsgeschichte, 28), Köln 2011, pp. 503 e ss.

<sup>11</sup> *Ibid.*, in particular the entire fourth chapter of the book.

It could be hypothesized that an initial<sup>12</sup> collaboration took shape in the late 1470's, when a substantial number of mandates were published with the aim of limiting peasant feuds ("bäuerliche Fehden"). In 1482, a multiplication of "Absagen" and "diffidationes" between subjects provoked an order from the Regency that all regulatory bodies should strengthen their surveillance of citizens without fixed abode, tramps, foreigners, or bandits circulating within the county. This order aimed to reduce arbitrational compromises in favor of more rigid and formal inquisitional procedures, and was sent to the outlying judges as early as the last years of the government of the Archduke Sigmund<sup>13</sup>.

These first efforts for reorganization triggered some proposals in the spring of 1493 from the aristocracy with the aim of making penal practices more effective. These proposals were discussed in the circle of advisors to Maximilian and after working on them for a few years they were presented to the Diet of October 1499, which ratified them and gave clearance for the printing of the *Malefizordnung*. The new criminal ordinance, despite some initial problems, was rapidly accepted even in the rural jurisdictions<sup>14</sup>, where the active "Pfleger" and "Richter" were by tradition more hesitant to accept the novelties of the new inquisitional procedure. Furthermore, for the first time the paragraph establishing the penalties against "Fehdeverbrechen"<sup>15</sup>, also obliged the Prince-bishops of Trent and Brixen to contribute funds towards the bounties promised for their capture. The "overspill" of a law promulgated in the county into the bishopric territories was not in itself an exceptional or entirely new event. However, there is the impression that the two legal traditions spanning the fifteenth and sixteenth centuries were no longer "des monades"<sup>16</sup> and impermeable to each other. For

<sup>12</sup> A collaboration, among other things, that would endure in the years to follow: "Der konstante Aufschwung ab den siebziger Jahren des 15. Jahrhunderts bis zum ersten Jahrzehnt des 18. Jahrhunderts vollzieht sich parallel zu den zunehmenden Aktivitäten der Landtage, die diesen Zeitraum mitprägten"; *ibid.*, p. 247.

<sup>13</sup> H. WOPFNER, *Die Lage Tirols zu Ausgang des Mittelalters und die Ursachen des Bauernkrieges*, Innsbruck 1908, pp. 173 ff.

<sup>14</sup> M.P. SCHENNACH, *Gesetz und Herrschaft*, p. 488.

<sup>15</sup> Cited from the edition of the *Malefizordnung* included in A. BUSCHMANN, *Textbuch zur Strafrechtsgeschichte der Neuzeit. Die klassischen Gesetze*, München 1998, p. 15.

<sup>16</sup> N. ROULAND, *Aux confins du droit. Anthropologie juridique de la modernité*, Paris 1991, p. 136.

example there was an evident circulation of institutional models, which meant that the functions attributed by Maximilian to the “Statthalter und Räte” of the *Regierung* of Innsbruck were imitated by the “Locumtenentes et Consilarii” nominated by the prince-bishop of Trent in his own government council. Moreover, there was an extensive substrate of conflicts, rural feuds, and anti-aristocratic protests that formed a common background for the entire Trentino and Tyrolean area.

Starting from the last years of the 1470s, the correspondence between the Bishopric Court and peripheral officials indicated a general increase in criminality. The social unrest caused by the spread of vagrancy and of the *Bauernfehden*<sup>17</sup>, was combined with increased bickering about tax impositions and the possession of common property (water, woods, and common pastures). In the face of the problems caused by this rise in criminality, radical measures were required that modified the procedures adopted up to that time by the legal courts. As in other Imperial territories,

“the pre-existing system of criminal law, based as it was on the presupposition of stable local communal institutions, was not adequate to deal effectively with widespread and mobile crime of a quasi-professional and professional character”<sup>18</sup>.

Among the measures imposed by Prince-bishop Johannes Hinderbach was a rapid adjustment of the statutes of valleys in the aspects considered incoherent with the model of city laws: the text of the Valli Giudicarie, approved previously by his predecessor, was corrected with the insertion of clauses regarding the *vicarius*, who had to be “forensis et iurisperitus”, the introduction of the “consilium sapientis”, and the need to limit exemptions in fiscal and military issues. After 1481, the customs of the Fiemme Valley were subjected to an intervention “that appears almost unique, a sort of rip, in the extremely long duration of institutional equilibrium characterizing the valley even in the modern era”<sup>19</sup>. In an effort to give concrete form to his prerogative in law,

<sup>17</sup> A very common experience in the German regions in the Late Middle Ages; C. REINLE, *Peasants' Feuds in Medieval Bavaria (Fourteenth-Fifteenth Century)*, in J.B. NETTERSTRØM - B. POULSEN (eds), *Feud in Medieval and Early Modern Europe*, Aarhus 2007, pp. 161-174.

<sup>18</sup> H.J. BERMAN, *Law and Revolution*, vol. 2, p. 131.

<sup>19</sup> G.M. VARANINI, *Il vescovo Hinderbach e le comunità rurali trentine*, in I. ROGGER - M. BELLABARBA (eds), *Il principe vescovo Johannes Hinderbach (1465-1486) fra tardo*

Hinderbach limited the power of the “scario” (a judge elected by local communities) in criminal procedures and subordinated this figure to the decisions of the vicars nominated by the bishop.

The bishopric’s interventions clearly demonstrated a careful rewriting of customs with the aim of bringing them closer to the texts of the statutes of the capital. But this ‘bending’ towards a model inspired by the language of the *jus commune* was not limited to the bishopric’s territory alone. Very similar projects were conducted in jurisdictions outside of the principality and were realized by institutional subjects that, at least on paper, would have been expected to have very little sympathy for the *Reception* of Roman law. In the Valle di Primiero, a Tyrolean fiefdom of the Welsperg Counts lying on the boundary between the Republic of Venice and the Prince-bishopric of Trent, there was a dispute starting from 1450 between the feudatories and the community, regarding the possession of the woods. After a procedure lasting decades, in the end the commune of Primiero had to concede direct control over the most important of their economic resources to the Welspergs<sup>20</sup>. It is interesting to note, however, that the legal procedure was punctuated with dozens of legal opinions commissioned both by the commune and by the counts from jurists of the Studio di Padova<sup>21</sup>. The request for *consilium sapientis*, a common practice at the time in Roman Canon Law, superseded the local statutory sources and little by little demoted them to a lower level<sup>22</sup>.

*Medioevo e Umanesimo* (Pubblicazioni dell’Istituto di Scienze Religiose in Trento. Series major, 3), Bologna 1992, p. 189.

<sup>20</sup> L. BERTAGNOLLI, *Giacomo Castelrotto e la signoria dei Welsperg in valle di Primiero*, Tonadico 2001, p. 33.

<sup>21</sup> These were noted by G. PAPALEONI, *Comuni e feudatari nel Trentino. Il comune di Primiero e i signori di Welsperg nel sec. XV*, in “Atti dell’Accademia roveretana degli Agiati”, s. 3, 1896, pp. 61-62.

<sup>22</sup> As observed by A. MAZZACANE, *Law and Jurists in the Formation of the Modern State in Italy*, in J. KIRSHNER (ed.), *The Origins of the State in Italy, 1300-1600*, Chicago IL 1995, pp. 62-73, here p. 67, despite the fact that recourse to *jus commune* was supposed only to be a last resort, “in reality things were quite different. Roman law, the function of which was in theory only subsidiary, played a much more substantial role. In fact, it constituted the background of the jurists who were assigned the task of evaluating customs and drawing up laws, statutes, and regulations. Moreover, Roman law was also the source of the principles guiding the interpretation and enforcement of laws and statutes”.

The corrections to the original text of the statutes of Primiero that were issued on the orders of the Welsperg Counts, “dominorum dictae vallis”, in 1498, specifically in order to make them compliant with a “new” criminal procedure, appear almost as the inevitable outcome of the dispute over the woods<sup>23</sup>. Also inevitable in this context appear the measures adopted for the statutes of the Non and Sole Valleys, again in criminal matters. These were modifications to the legal seat and introduction of the *consilium sapientis*, even though the party calling for them in 1487 was not the prince-bishop but rather the Archduke of Tyrol, Sigmund of Austria, who governed the valleys after the Peasants’ Revolt of 1477<sup>24</sup>.

Despite the Tyrolean and Trentino territories having such different historical backgrounds, the communication between the two legal spheres became less sporadic in this period than in the past<sup>25</sup>. The continuous interaction “between the customary law and Roman law”<sup>26</sup>, a condition common to all European countries, was made possible by the flexibility with which the two legal systems could adapt to local conditions without creating barriers or insurmountable obstacles. The particular nature of the penal law under the bishop, as a prince of the German Empire, emerged frequently in the language of the jurists that circulated in the Trentino law courts. Giovanni Antonio Guaschetta, under the service of the prince-bishop in the famous case against the

<sup>23</sup> The “Constitutiones et decreta de iudicaturis, salario capitanei et appellationibus”, are published in appendix to U. PISTOIA, *La valle di Primiero nel Medioevo. Gli statuti del 1367 e altri documenti inediti*, Venezia 1994, pp. 154-157. In the 1560s, the Captain of Primiero, Giacomo Castelrotto, made regular recourse in criminal procedures to the opinions of external jurists in order to legitimate the procedure of his own tribunal against the *jus proprium* of the commune: in response to this break, in 1577 the men of Primiero requested his replacement “vedendo et chiaramente cognoscendo noi il magnifico capitano far cose contrarie alle antiquissime consuetudini nostre, statuto et conventioni”; cit. in L. BERTAGNOLLI, *Giacomo Castelrotto e la signoria dei Welsperg*, p. 71 and fn. 267.

<sup>24</sup> Archivio di Stato Trento (hereafter ASTn), Archivio Principesco Vescovile (hereafter APV), s.l., cp. 85, n. 8, cc. 77r and ff.

<sup>25</sup> For this reason it is perhaps more opportune to speak of “de pluralité de mécanisme juridiques que de pluralisme juridique, lequel suppose l’existence et la rencontre de multiple ordres juridiques”, as affirmed by N. ROULAND, *Aux confins du droit*, p. 125.

<sup>26</sup> See P. STEIN, *Legal Institutions: The Development of Dispute Settlement*, London 1984, pp. 77-78.



Jews of Trent in 1475, justified the correctness of the convictions on the basis of belonging to the *deutsches Reich*:

“propter stillum et consuetudinem curie tridentine, qui et que servatur ab antiquo Tridenti et in aliis iurisdictionibus episcopatus Tridenti ac in Allemania in puniendis similibus malefactoribus pro similibus atrocibus delictis, pro quibus licet leges et statua transgredi”<sup>27</sup>.

This example was certainly a statement designed for the purposes of the procedure, but the dense circulation of legal opinions between the fifteenth and sixteenth centuries within the bishopric dominions managed little by little to create a sort of unifying container for a *melange* of Roman Law and local traditions. This osmosis was very rapid, first in the area of penal law, and also regarding certain *Gerichte* that, like Primiero, Königsberg-Montereale, Telvana, the upper Non Valley, and the County of Arco<sup>28</sup>, acknowledged a tie of feudal dependence with the Count of Tyrol. The summation of norms drawn from the *jus commune* together with the existing statutes and traditions, case by case, cited or hidden, generated the variety of mechanisms that the law made recourse to during the early Modern Period<sup>29</sup>. Furthermore, in a highly fragmented territorial context like Trentino-Tyrol, uncertainties about the location of political boundaries amplified the legal ambivalences. It was thus almost impossible to designate in a single coherent way the

<sup>27</sup> ASTn, APV, s.l., cp. 69, n. 196, c. 2v.

<sup>28</sup> M. GRAZIOLI, *Gli statuti di Arco. Fra norme consuetudinarie, diritto proprio e diritto comune*, in “Il Sommolago”, 10, 1993, 2, p. 16: following a first statute published in 1481, known as the *Cento capitoli*, the lords of Arco emanated two confirmations in 1506 and 1507, which on request from the community explicitly declared the validity of the Trentino statute within the County, despite it being recognised for about a century as a Tyrolean fiefdom: “Quia extat statutum hoc et ius municipale huius patrie, videlicet episcopatus Tridenti, quod etiam fuit observatum in toto comitatu continuis temporibus et etiam observatur, in quo quandoque dubitari contingebat propter malas interpretationes que de ipso fiebant: ea propter instantibus supradictis syndicis et me notario dictis nominibus ut supra, prelibati magnifici domini Comites et fratres ut supra, ad tollendas omnes ambiguitates, promiserunt et convenerunt ipsum statutum tam in civilibus quam in criminalibus causis observari iuxta veram intelligentiam et interpretationem ac laudabilem consuetudinem in aliquo ipso non alterando nec alterari volendo, quod afferat vel in futuro afferre possit aliquod preiudicium ipsis subditibus terre Archi”.

<sup>29</sup> The author takes leave to refer to M. BELLABARBA, *La giustizia ai confini. Il principato vescovile di Trento agli inizi dell'età moderna* (Annali dell'Istituto storico italo-germanico in Trento. Monografie, 28), Bologna 1996, p. 385.

“legal actors” (judges, attorneys, and experts) for any one or another legal area. Quite the opposite, more typically they considered themselves belonging “regularly to multiple legal authorities and perceive themselves as members of more than one legal community”<sup>30</sup>.

Between the publication of the *Malefizordnung* and the death of Maximilian, there was a sudden acceleration of legislative processes that simultaneously affected the Tyrolean County and the Trent prince-bishopric. The meetings of the ruling classes also became increasingly frequent as a consequence of constant requests for new fiscal contributions by the Emperor. In the course of these provincial Diets, the request “zur Ausarbeitung einer umfassenden Landesordnung ging durchwegs von den Tiroler Landständen aus”<sup>31</sup>, but this was always rejected by Maximilian. Of all the Austrian territories united at Innsbruck in January to May 1518, only the famous *Ausschlusslandtag* managed to break the Emperor’s resistance, with his consent for the institution of a commission comprising delegates from the aristocracy and of the *Regiment* to draft a new *Landesordnung*. The delegation included the two prince-bishops of Trent and Brixen, two representatives for the three estates of the nobility, the city, and the rural jurisdictions. The *Stand* of the Tyrolean ecclesiastics thus took part in the commission through the figures of the two prince-bishops, which was not surprising for Brixen since it had almost been annexed, at least de facto, into the political sphere of the county. It is also noteworthy that one of the two delegates of the noble *Stand* was Balthasar or Baldassarre Cles, the elder brother of the Prince-bishop of Trent, Bernardo (already designated as a member of the commission), Captain of the Non and Sole Valleys, and over the same years more than once imperial ambassador to Venice to resolve the numerous border disputes with the Republic<sup>32</sup>.

The presence of Tyrolean aristocrats in the Trentino jurisdictions (in the role of *Pfleger* or *Hauptmänner*) and vice-versa of Trentino aris-

<sup>30</sup> L. BENTON, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900*, Cambridge - New York 2002, p. 8.

<sup>31</sup> M.P. SCHENNACH, *Gesetz und Herrschaft*, p. 503.

<sup>32</sup> T. VON SARTORI-MONTECROCE, *Über die Reception der fremden Rechte*, p. 5, and, on the figure of Baldassarre Cles, G. RILL, *Fürst und Hof in Österreich: von den habsburgischen Teilungsverträgen bis zur Schlacht von Mohacs (1521/22 bis 1526)*, Wien - Köln - Weimar 1993, in particular pp. 157-159.

tocrats in the Tyrolean magistrates and court, was normal during the Maximilian period<sup>33</sup>, a practice destined to increase under the brief period of interim rule of Charles V and after 1522 under Ferdinand I. An expression of this dense circulation of individuals can be observed in the parallel rhythm of publication of the legislative codes adopted by the two territories. The process of writing new laws proceeded in the first two decades of the sixteenth century both in the county, and in the ecclesiastic prince-bishopric. In a detailed archival study<sup>34</sup> Marco Stenico demonstrated that the drafting of the new statute of Trent involved a large number of protagonists and that it took many years to reach a final version. Just like in the Tyrolean *Landtag*, also in Trent commissions of bishopric jurists, aristocrats, delegates of the association of judges, and notaries of the city, were comparing the respective drafts. The results of the Trentino commission *ad reformationem statutorum* gave rise to the printing of an initial provisional text in 1504, and finally the edition of 1528, published under the Prince-bishop Bernardo Cles. In the meantime in Innsbruck, the long negotiations between the social classes and the Count of Tyrol with Emperor Ferdinand I concluded with the publication of a first *Landesordnung* in 1526 and a second version in 1532.

Considering the short timespan separating the printing of the three legal codes and the historical context in which this occurred, it is legitimate to pose the question whether, and in what terms, the traumatic event of the Peasants' War in 1525 might have conditioned their genesis. It is also logical to ask whether there was any circulation of models or standards between the three texts, considering the chronological proximity of their issue. An exhaustive answer to these questions cannot be claimed here, since this would require much more detailed studies. Instead a few pieces of documentary evidence are considered, which appear to suggest a framework of reciprocal resemblance and influence, which would be worthwhile pursuing in further research.

<sup>33</sup> A large number of these interpersonal relations are examined by H. NOFLATSCHER, *Räte und Herrscher. Politische Eliten an den Habsburgerhöfen der Österreichischen Länder 1480-1530*, Mainz 1999.

<sup>34</sup> M. STENICO, *Questioni di statutaria trentina. Schede per una mappa della produzione statutaria trentina*, in M. WELBER - M. STENICO, *Statuti dei Sindici nella tradizione trentina*, Trento 1997.

Traces of the peasant demands made during the course of the revolt, regarding feudal burdens and clerical privileges, are found in about thirty of the 1526 *Landesordnung*<sup>35</sup>. But as is known, the most obvious effect of the *Bauernkrieg* was the famous *Empörungsordnung*, a group of articles that aimed to avoid “future insurrections” appended to the text<sup>36</sup>. The coming into force of the *Landesordnung*, and in particular the regulations against revolt, were announced in all districts of the County of Tyrol and in the Prince-bishoprics of Trent and Brixen, considered in this case a single regional area<sup>37</sup>. However, immediately after publication the *Landesordnung* already started to undergo a process of correction and re-elaboration, which once again did not originate from the count and Emperor *in pectore*, Ferdinand I, but instead from the aristocratic component of the Tyrolean Diet. In 1531, a commission presided over by jurists and the Imperial advisor, Jakob Frankfurter, together with representatives of the social classes, among them Sigmund von Thun, the most important feudal Lord of Trentino at the time<sup>38</sup>, prepared an almost definitive version at the provincial Diet of Bolzano. The text would be discussed at some length by the *Hofrat* of Ferdinand, presided over at the time by Bernardo Cles, and was finally enacted towards the end of 1532.

A document of the German section of the prince-bishopric archive includes a letter from the first of May 1532 in which Ferdinand states that he was sending to Bernardo Cles, President of the Secret Board and supreme chancellor, the “Protocol des Libels unnsere fürstlichen Graffschaft Tirol Landtsordnung mit dem neuen ingrossierten Libel von unnsere Regierung zu Innsbruck” for him to review and approve<sup>39</sup>. Is this evidence of a more than formal participation of the Trent prince-bishop in the process of drafting the *Landesord-*

<sup>35</sup> *Der Fürstlichen Grafschaft Tirol Landsordnung ...*, Augsburg, Silvan Otmar 1526.

<sup>36</sup> The *Empörungsordnung* was mainly elaborated by the representatives of the urban and rural ruling classes and the nobility; M.P. SCHENNACH, *Gesetz und Herrschaft*, pp. 514-515.

<sup>37</sup> It was the ruling classes of the County who requested the validity of the *Landesordnung*, at least *in subsidio*, also in the so-called “Welsche Confinen”: T. VON SARTORI-MONTECROCE, *Über die Reception der fremden Rechte*, p. 14.

<sup>38</sup> M.P. SCHENNACH, *Gesetz und Herrschaft*, p. 551.

<sup>39</sup> ASTn, APV, s. t., cp 53, l. &&& (May 1, 1532).

nung?<sup>40</sup> Considering the two legal codes from the point of view of the issuing authority, as the expression of two distinct territorial states, the *Landesordnungen* and the Trent statutes reciprocally excluded each other. Where one code was applicable the other could not be used by the law courts, principality officials, jurists, or notaries. But when certain aspects of their contents are examined, this principle of exclusion does not appear so rigid. Two considerations are useful in this respect: the first is that the history of ancien régime European law was characterized by a ‘prodigious’ number of reciprocal loans and exchanges, to the extent that local legal systems were normally composed of amalgamated parts taken from other nearby systems. This form of loaning is difficult to explain entirely in purely legal terms: “law, at least within the Western legal family, evolved normally through transplants, and that the logic of these transplants has been directed by competing elites in search of legitimation”<sup>41</sup>.

The drafting of laws always came about within a process that, in the words of Antonio Padoa Schioppa, can be defined as “‘institutional competition’. The authority of princes and kings did not deny either the existence or the legitimacy of pre-existing or in any case non-state statutes, customs, and jurisdiction alongside them in an attempt to gain ground at their expense”<sup>42</sup>.

A second observation can be drawn from an essay by David von Mayenburg, in which the author reflects on the reactions of German jurists on the event of the Peasants’ War of 1525. Mayenburg very clearly explains how on one hand the Imperial jurists, taken by surprise by the insurrection, did not understand its social, economic, and religious motivations and so had difficulty fitting it into traditional legal categories. On the other hand he explains how at the end of the revolt, instead of

<sup>40</sup> M.P. SCHENNACH, *Gesetz und Herrschaft*, p. 807, who over the course of the sixteenth century examined the connections between the Trentino statutes and Tyrolean regulations, tends to exclude this hypothesis: over the long term, he writes, the “Rechtstransfer blieb eine einseitige Angelegenheit und verlief ausschließlich von Norden (Grafschaft Tirol) in Richtung Süden (Hochstifte Trient und Brixen)”.

<sup>41</sup> P.G. MONATERI, *The Weak Law. Contaminations and Legal Cultures*, in “Rechtsgeschichte. Zeitschrift des Max-Planck-Instituts für europäische Rechtsgeschichte”, 8, 2006, p. 44.

<sup>42</sup> A. PADOA SCHIOPPA, *Conclusions: Models, Instruments, Principles*, in A. PADOA SCHIOPPA (ed.), *Legislation and Justice*, Oxford 1997, p. 357.

debating the available legal solutions, jurists and Catholic or Protestant theologians produced a single “discourse” almost as a direct reaction, focused solely on the issue of the obedience of peasants and the means to achieve this. In their view the revolution was a break with the natural order based on the duty of obedience of subjects to their prince and to God. The fact that the peasants refused to swear obedience to their lords was an open breach in the wall of political order, a breach that initiated the uprising and had to be immediately repaired<sup>43</sup>.

This concentration on the “Gehorsamsfrage”<sup>44</sup> dominated legal literature following the revolt of 1525. But the content and practical indications of this *Aufstandsliteratur* were immediately received into the Trentino and Tyrolean codes after the repression of the *Bauernkrieg*. The obligation to swear loyalty to the prince appears in the *Landesordnung* of 1526, in the fourth section of the first book. In the second part of the fourth book, at the end of the *Landesordnung* in the *Empörungsordnung*, there is a chapter titled “Die Unnderthanen in Stetten unnd Gerichten auch auf den Perckwechen sollen ir Phflicht vernewen” in which all subjects of the county are ordered to make an “Aydsphlicht” to the prince, threatening the punishment of banishment for anyone who refused to comply<sup>45</sup>. The obligation of swearing loyalty acquired a exceptional symbolic and political importance in the reformed version of 1532. The text of the new *Landesordnung* started with the title *Von der Erbhuldigung und wie die Burgerlewt und all underthanen in Phlicht und Aid genommen werden sollen*. The second heading of the first book “Was gegen dem der sich der obgescribten phlicht widert und dieser Lanndsordnung ungehorsam ist, gehandelt werden solle”, specifies the foreseen penalties “nach erkantnus der Obrigkeit” for those who failed to obey this obligation. These laws were extremely precise in their use of terminology (the *Erbhuldigung* was a more powerful deed of homage

<sup>43</sup> D. VON MAYENBURG, *Peasant War or Peasant Law? Some Observations on the Role of Jurists during the Peasants' War (1524-1525) in South-West Germany*, in A. DE BENEDICTIS (ed.), *Teatri di guerra: rappresentazioni e discorsi tra età moderna ed età contemporanea*, with the collaboration of C. MAGONI, Bologna 2010, pp. 99-131.

<sup>44</sup> D. VON MAYENBURG, *Der Bauer als Rebell in der Tradition des Jus commune und der frühneuzeitlichen Aufstandsliteratur*, in A. DE BENEDICTIS - K. HÄRTER (eds), *Revoltent und politische Verbrechen zwischen dem 12. und 19. Jahrhundert. Rechtliche Reaktionen und juristisch-politische Diskurse*, Frankfurt a.M. 2013, p. 110.

<sup>45</sup> *Der fürstlichen Grafschaft*, II T., IV B., c. 73.

than the *Aydsyblicht* on behalf of the estates and subjects to their lord and also included (again not present in the text of 1526) indexes in the second book listing the oaths that had to be taken by public officials (lay and ecclesiastic) or anyone else participating in a legal procedure: “Aid der Schreiber”, “Aid der Redner”, “Aid der Procuratoren”, “Aid der Gerhaben”, “Aid der Kirchenprobst”, “Aid der Viertelmeister, und Zusätze in Stetten und Gerichten”, “Aid der Zeugen und Kuntschafft”, and “Aid der Malefitzrichter”<sup>46</sup>.

Such a proliferation of oaths of loyalty in the *Landesordnung* indicates a transition from a “swearing *ratione officii*”, as a commitment to carry out certain tasks assigned by the community or the lord, to “swearing *ex officio*”, required as a natural obligation of all subjects and in particular those who were delegated functions of public significance<sup>47</sup>. This happened in many other European territories between the 1400s and 1500s, but in the case of the Trentino-Tyrolean region this appears to have undergone an acceleration as a direct consequence of the revolt of the peasants. The legislative interest in the theme of loyalty (and oaths of loyalty) expressed by the Tyrolean legislation was preceded in the statutes published by Bernardo Cles for his principality, a territory where the *Bauernkrieg* persisted longer and the repression was even more severe than in German Tyrol. The first two chapters of the Trentino book of criminal law, are titled “De juramento fidelitatis Domino Episcopo servando et de poena infidelitatis”, and “De his qui conspirationem, conjurationem aut perpetrationem fecerint in detrimentum Domini Episcopi”, which as can be seen are very similar in content to the first two opening titles of the *Landesordnung* of 1532. It is true that these titles were already present in the statutory codes of the 1400s, but in the 1528 edition they were expanded and reformed with greater care in the signification of the text: the “Formula iuramenti fidelitatis

<sup>46</sup> *Landtßordnung der Fürstlichen Grafschafft Tirol*, Augsburg, Silvan Otmar, 1532.

<sup>47</sup> P. PRODI, *Il sacramento del potere. Il giuramento politico nella storia costituzionale dell'Occidente*, Bologna 1992, p. 252, explains, that while “assistiamo ad un moltiplicarsi, in tutte le monarchie, principati e signorie di vario tipo, dei giuramenti di fedeltà dei funzionari e collaboratori, sino ai gradi più bassi – giuramenti che, totalmente distaccati da ogni tipo di omaggio feudale, assumono la forma di veri e propri mansionari – d'altra parte verificiamo anche il fenomeno parallelo del moltiplicarsi dei giuramenti di fedeltà anche tra coloro che non hanno con il signore alcun rapporto d'ufficio ma che rivestono nella società responsabilità particolari”.

subditorum post ingressum cuiuslibet novi domini et episcopi”, and the “Iuramentum prestandum vassallis litterarum ignaris”, were insertions that the chancellor of the Prince-bishop, Antonio Quetta, inserted in his own hand on the example of the Trentino statutes of the 1400s<sup>48</sup>. The formulas of the oaths (“Iuramentum pro secretario”, “Iuramentum pro medico”, “Iuramentum pro cappellano”) date back to 1531 and Cles had them inserted into the *Libri copiali*<sup>49</sup> as an obligation before assumption of office by his personnel.

There is no intention here to go beyond this hypothesis of a Trentino-Tyrolean legislative affinity before more detailed archival research. However, it is clear that both the Trentino statute and the *Landesordnung* placed an unusually high emphasis on the breaking of obligations of loyalty as infringements “des (politischen) Verbrechens”<sup>50</sup> committed by the peasants during the two years 1525 to 1526. The repression of the revolt was marked by numerous trials for “oath breaking” in relation to the prince, and a long series of oaths of loyalty was imposed on the rural community<sup>51</sup>. It can hardly be accidental that the *Empörungsordnung* was also present in legal contexts that did not accept the *Landesordnung* as a legal code. Forty years after the end of the revolt, in 1565, the Captain of Primiero, Giacomo da Castelrotto, noted that of all the laws of the Tyrolean County, this was the only one obeyed, while for all remaining issues the subjects of Count Welsberg obeyed their own statutes and the *jus commune* in complete tranquillity:

<sup>48</sup> M. STENICO, *Questioni di statutaria trentina*, p. 230, marks a hand written intervention of the councillor of Cles, Antonio Quetta, on sheet 71r of the original code of the early 1400s at the point at which the swearing of loyalty is mentioned. There follows in the same code the oath that had to be recited at the time of swearing loyalty in the vulgar tongue: “Promittereti in mane de lo reverendissimo et illustrissimo monsignor et principe B(ernardo) veschovo Tridentino”. Finally, on the back of the same sheet is a transcription of the prologue of the Gospel of John, which was the text recited “vassallis litterarum ignaris” when swearing loyalty to their lord.

<sup>49</sup> ASTn, APV, *Libri copiali*, serie I, no. 2, 1527. It is interesting to observe that in the first decades of the 1500s these oaths “ex officio” are no longer recorded in the register of feudal investitures, but in the archival records of the so-called *Libri copiali*, which collected the mandates and orders of the episcopal chancellery.

<sup>50</sup> D. VON MAYENBURG, *Der Bauer als Rebell in der Tradition*, p. 110.

<sup>51</sup> A huge number of example community oaths after 1525 are cited in G. DI SARDAGNA, *La guerra rustica nel Trentino (1525): documenti e note*, Venezia 1889, pp. 103, 191, 195-198, 205-207, 209-210, 229-239, 231-232.



“... è da notare ch’ancorché detti marzoli promettino nel secondo capitolo di osservar l’ordini et capituli manifestadi nella dieta del ’25, massime circa la seditione et, dove il loro statuto non gionge, adherir a detti capituli et che perhò da qui alcuni fano coniettura et si persuadeno che il Landordnung habbe luogo in questa iurisdittione dove il statuto non dispone. Nientedimeno, per quel ch’io ho visto et praticado, si observa il contrario et perhò io credo che o veramente detti marzoli non sanno ciò che prometteno over che solamente intendeno di osservar quella parte di Lantzordnung che concerne il tumulto et così fedeltà.

Et che questo sia il vero, ecco che essi homini non hano statuto cerca li testimoni, non cerca le successioni, non cerca l’ordine del foro, non cerca le ferie et in molte altre cose, et nientedimeno in tutti questi casi essi non attendeno detto Landordnung ma le loro consuetudini over ius comune, di maniera che posso comprender che sia statto usato in questo foro et vale et in vero sarebbe difficile la sua observantia et a meterlo in uso per la diversità et ignorantia dela lingua quale hano il più dele volte il vicario, nodaro et marzoli”<sup>52</sup>.

Once again, the latter documentary evidence might be proof, as in many other cases, of the continuous interweaving between the legislative “families” that co-existed in the Trentino-Tyrolean region. This encourages an examination of the ties between written laws and legal practices in a society characterized by the presence of dispersed authorities, the interplay of which frequently created an integration stronger than any territorial or political boundaries. The widespread habit among the Trentino-Tyrolean aristocracy in the second half of the 1500s to undertake a period of legal study in the Italian universities<sup>53</sup> was an important sign of this osmosis. Only in this way, as Peter Goodrich observes, is it possible to avoid the risk of exaggerating the characteristics of closure typical of every legal language, instead discovering that the idea of a closed legal system “is both a mechanism for excluding challenges to legal language, and also a specific strategy or manner of relationship to other discourses and audiences”<sup>54</sup>.

<sup>52</sup> As cited in L. BERTAGNOLLI, *Giacomo Castebrotto e la signoria dei Welsperg*, p. 102.

<sup>53</sup> The legal “professional training” of Trentino and Tyrolean nobles (Bernardo Cles, Sigmund Thun, Cristoforo Madruzzo, Nikolaus Trautmannsdorf, Johann Thomas Spaur, Johann Jakob Thun, Jakob Brandis), is noted by M.A. CHISHOLM, *The Tyrolean Aristocracy in 1567*, in “Austrian History Yearbook”, 40, 2009, pp. 3-27, here p. 14.

<sup>54</sup> P. GOODRICH, *Legal Discourse*, p. 183.



# A Local Political Sphere

Communities and Individuals in the Western Alps (Thirteenth Century)

by *Luigi Provero*

## 1. *Introduction*

The present discussion will be based on two ideas: firstly, the plurality of actors and political horizons that can be found within late medieval Alpine communities, and secondly, the persistent capacity of local political groups to shift between different options, a capacity that was never eliminated by geographic conditioning or regional political systems. This requires delegation of issues of identity to a secondary level, with the aim of starting from actions in order to interpret processes of identification (the mechanisms of “historical production of places” brought into focus by Arjun Appadurai)<sup>1</sup>. In this perspective, the community dimension of villages is obviously not negated, but it is not a necessary and sufficient focus for analysis of a rural society: it is instead one of the leverage options in the interplay between different actors of the political scene.

The discussion will follow two lines of analysis: on one hand the places of political action, on the other the tensions in relation to collective resources. These two themes match two case studies, the Valle Stura and the Certosa of Pesio, but these will be extended to more general observations about the area under study, the Italian side of the western Alpine chain, and more specifically the valleys in the area of Cuneo, in the southwestern corner of Piedmont<sup>2</sup>.

*Translation by Gavin Taylor*

<sup>1</sup> A. APPADURAI, *Modernità in polvere*, Roma 2001, pp. 231-257; also see A. TORRE, *La produzione storica dei luoghi*, in “Quaderni storici”, 110, 2002, pp. 443-475.

<sup>2</sup> More wide-ranging reflections about rural politics in southern Piedmont in the thirteenth century in L. PROVERO, *Le parole dei sudditi. Azioni e scritture della politica*

## 2. Places of political action - Valle Stura

A good starting point might be the agreements reached in 1231 between Manfredo di Saluzzo and the men of Valle Stura<sup>3</sup>. The definition appears simple: a territorial prince confirms the customs of the men of an entire valley, of a space that appears well defined and free of uncertainties, a long Alpine valley that culminates in a boundary ridge of over 3000 m in altitude. However, if the text is studied carefully, it emerges that the situation is more complex and diversified.

First of all, Manfredo di Saluzzo acknowledges the customs of “omnibus hominibus vallis Sturane, a Berzesio inferius”, all the men of the Valle Stura from Bersezio downwards, and so excluding the upper part of the valley, subjected to the lordship of the Monastery of Saint Chiaffredo of Cervere<sup>4</sup>. It is thus not the entire valley but a part, albeit substantial [see map 1]. It also emerges that the deed was stipulated in front of the castle of Demonte, which was a very specific decision that can be understood by extending the analysis to the set of locations in which political deeds of the valley community were enacted. During the thirteenth century, the villages of the Valle Stura sometimes had to send representatives to renew their ties of loyalty to the marquis, with the swearing of oaths in Saluzzo and in the Staffarda Abbey, which were plains settlements and real and symbolic centers of the marquisate<sup>5</sup>. There were much more frequent meetings between the village communities and the marquises (or their representatives) in venues within the valleys (churches, cemeteries, houses)<sup>6</sup>, with a clear polarization around

*contadina nel Duecento*, Spoleto 2012, a study from which many of the observations presented here are drawn.

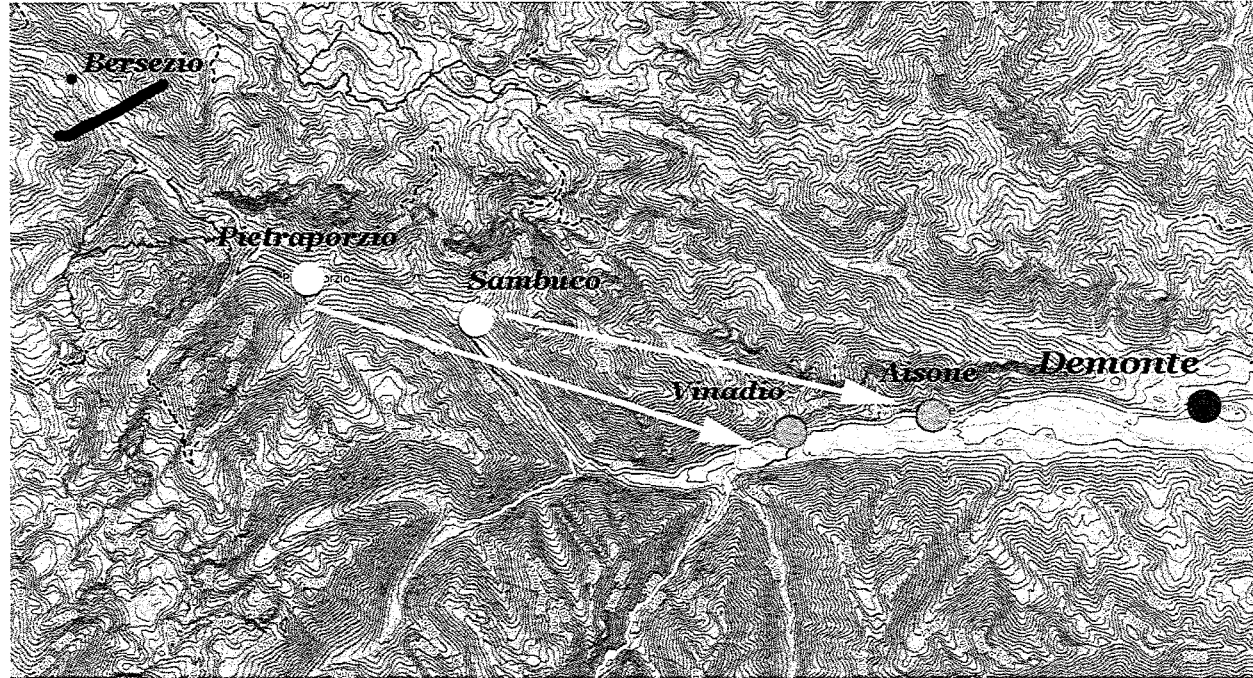
<sup>3</sup> E. DURANDO et al. (eds), *Cartari minori* (Biblioteca della Società storica subalpina, XLII, XLIII and LXIX), Pinerolo 1908-1923, III, pp. 24-27, doc. 17.

<sup>4</sup> E. DURANDO et al. (eds), *Cartari minori*, III, pp. 48-51, doc. 36.

<sup>5</sup> *Ibid.*, p. 30, doc. 20. A. TALLONE, *Regesto dei marchesi di Saluzzo (1091-1340)*, (Biblioteca della Società storica subalpina, XVI) Pinerolo 1906, pp. 497 ff., doc. 134 (and also p. 493, doc. 129, the deed whereby the community of Gaiola nominates their delegates to swear loyalty to the marquis; the delegation was drafted in Gaiola, but the complete sequence of oath taking by the community in 1286 took place in Staffarda: *ibid.*, pp. 496-501, docs 133-136).

<sup>6</sup> E. DURANDO, *Cartari minori*, III, p. 13, doc. 7 (1214); p. 17, doc. 10 (1224); p. 19, doc. 12 (1225); p. 21, doc. 14 (1227); p. 29, doc. 19 (1240); p. 34, doc. 25 (1250); A. TALLONE, *Regesto dei marchesi di Saluzzo*, App. p. 371, doc. 47 (1250).

Map 1. *Valle Stura*



Source: Map based on [openstreetmap.org](https://openstreetmap.org)

Demonte, the most important village in the valley, with its church and cemetery also appearing to represent a point of reference for the other villages. In the cemetery of S. Marcellino in Demonte, agreements were stipulated between the marquis and the men of Bersezio in 1228, and some men from Valdieri swore loyalty to the marquis in the church of Demonte in 1284<sup>7</sup>.

The decision to hold the confirmation at Demonte in 1231 was thus not accidental: Demonte was chosen as a habitual venue for meetings between the marquises and the village communities, and specifically the castle, the center of marquisate power over the valley. However, the proceedings were conducted outside, at the entrance, seeking a point of mediation and encounter between the lord and the community.

Other informations in the text indicates how the men of the valley were not an entirely homogenous and cohesive group, with very differentiated interventions from the villages of Demonte, Aisone, Vinadio, Sambuco, and Pietraporzio. In order to confirm the local customs, the marquis and the men of the valley together nominated thirteen "homines predictae vallis", who swore to relate the local customs and who originated from different villages, according to a distribution that appears not to directly reflect their demographic weight, but rather the political balance between the different communities: the 13 swearing people included 5 men from Demonte, 6 from Vinadio, and 2 from Aisone. This can be compared to the distribution of fiscal burdens between the individual villages, which presents a somewhat different balance, with an even clearer differentiation of Demonte from the other villages, and the appearance of two other villages. Of the total dues payable of 40 lire, 20 came from Demonte and 20 from the other villages, with 6.66 from Vinadio, 5.5 from Aisone, 4.5 from Sambuco, and 3.33 from Pietraporzio. These were the sums effectively due, but the way in which this sub-division of the taxes was defined is interesting: 10 lire were due from Vinadio and Pietraporzio together (respectively divided 2/3 and 1/3), and 10 lire from Aisone and Sambuco together (respectively divided 11/20 and 9/20).

If the mechanisms of political representation are compared with the dividing up of the dues (the main channel for transfer of resources from subjects to lord), it emerges that there were three types of village:

<sup>7</sup> E. DURANDO, *Cartari minori*, III, p. 22, doc. 15 (1228); p. 45, doc. 34 (1284).

– Demonte, was assigned dues equal to all the other villages combined, and represented the political center of the valley and the control base of the marquisate over the same.

– Vinadio and Aisone, which sent their own representatives to relate their local customs and negotiate with the prince, bore slightly heavier fiscal burdens compared to the other villages (but much less than Demonte), and they appear to have been responsible for collecting dues and consigning them to the prince, both for themselves and for other less important villages (the political weight of these two villages also appears very different, with 6 representatives from Vinadio and 2 from Aisone).

– Finally, Pietraporzio and Sambuco, which clearly emerge as communities with specific collective fiscal obligations, but whose political representation is very limited, probably mediated through the same villages that they apparently referred to for payment of their dues.

All this also leads to a clear distinction between upper and lower valley, a distinction never made explicit in the text, but obvious in this distribution of roles and obligations, given that the two highest villages, Sambuco and Pietraporzio, had their fiscal and political representation mediated by villages lower down, respectively Aisone and Vinadio, and ultimately all the villages gravitated around the center of Demonte, at the lower end of the valley.

The 1231 pact thus certainly represented a deed of great political and ceremonial impact, but at the same time it is necessary to underline that this was not the creation of a system of completely new regulations, but rather the reiteration and drafting in writing of old local customs, a system of rules valid for the entire valley that throughout the thirteenth century existed alongside political actions conducted village by village<sup>8</sup>. It is thus evident that there was a series of relatively specific issues, regarding in particular the tax system of the marquisate and the legal mechanisms, so that the encounter between the prince and the local society regarded a quite extensive region, in a process of contracting involving five villages, but with only three directly represented by selected inhabitants.

<sup>8</sup> *Ibid.*, p. 13, doc. 7 (1214); p. 17, doc. 10 (1224); p. 19, doc. 12 (1225); p. 21, doc. 14 (1227); p. 29, doc. 19 (1240); p. 34, doc. 25 (1250); A. TALLONE, *Regesto dei marchesi di Saluzzo*, App. p. 371, doc. 47 (1250).

Clearly emerging then are both the community identity of the individual villages, and the political and economic hierarchy of the villages (always excluding Bersezio, which was part of the valley from an orographic point of view, but was not part of the political entity known as the “Valle di Stura”), which through the century appeared to be individually active on a political level.

There is thus no defining political model, nor a social and territorial framework that can be identified as the prevailing organizational system within which the people of the Valle Stura recognized themselves and acted. These procedures of political negotiation within the valley instead testify to a non-conflictual cohabitation of a plurality of non-exclusive political identities, which were activated by the local political society depending on varying needs and political circumstances<sup>9</sup>. This process of activation of the different territorial options included local communities and princely power, with the undeniable, though poorly documented, role of individuals and family groups: the 1231 dispositions, like many of the other deeds cited above, focused the center of attention not only on the local communities and the prince, but above all on the mediators, the small groups of individuals (13 for the 1231 dispositions) who were given the right to speak to the lord on behalf of their community. This was a very powerful function: stating the customs and negotiating with the lord are actions that could shape the local political balance, social hierarchies, and economic systems<sup>10</sup>. While in this case it is not possible to establish the details, there is no doubt that the process of delegation was the outcome of a struggle for access to political expression, an internal confrontation within communities in which individual family groups had plenty of scope for action. This individual and familial action can also be identified in a different sphere, that of access to common property and relations with the large monastic bodies.

<sup>9</sup> Regarding the “multiplicity of local options”, this is rightly emphasised by P. GUGLIELMOTTI, *Comunità e territorio. Villaggi del Piemonte medievale*, Roma 2001, p. 175.

<sup>10</sup> For this type of process, see G. ALGAZI, *Lords Ask, Peasants Answer: Making Traditions in Late-Medieval Village Assemblies*, in G. SIDER - G. SMITH (eds), *Between History and Histories: The Making of Silences and Commemorations*, Toronto - Buffalo NY - London 1997, pp. 199-229, in particular p. 201.



### 3. *Collective resources – villages and monasteries*

Studies of the Alpine economy have concentrated to a large extent on issues regarding animal raising, Alpine meadows, and the marketing of dairy products. This aspect of communal life effectively illustrates not only the tendencies for the opening and closure of the Alpine world, but also the degrees of complexity of community cooperation<sup>11</sup>. However, it is very difficult to establish the precise operation of this productive system during the Middle Ages, in part because it was presumably already an extremely old system<sup>12</sup>.

The control of pasture and common property is rarely considered in the sources of the Cuneo alpine valleys in the thirteenth century. Even if we look to a very large regional area, the pacts between lords and communities—one of the sources traditionally most used to interpret rural society—are generally very elusive as regards the issue of common property, limiting themselves to stating that the combined pastures and forests were classed as communal, or that the master had to protect the community property<sup>13</sup>. This lack of comment is entirely coherent with the nature of these documents and the political actions leading to their drafting: the acknowledgement of certain areas as common property put them outside of the range of the deed of agreement, because their management was not an issue to be regulated between lord and community, but within the community itself (with deeds and possibly documents that almost entirely escape scholars today). While common

<sup>11</sup> See the monographic edition of “La ricerca folklorica”, 43, 2001, dedicated to summer Alpine grazing and the market.

<sup>12</sup> See J.-F. BERGIER, *Histoire de l'économie alpine: concepts et périodisation. Quelques idées*, in “La ricerca folklorica”, 43, 2001, p. 15.

<sup>13</sup> For example F. GABOTTO - F. GUASCO DI BISIO (eds), *Il Libro rosso del comune di Chieri* (Biblioteca della Società storica subalpina, LXXV), Pinerolo 1918, p. 4, doc. 1 (1168); F. COGNASSO (ed.), *Documenti inediti e sparsi sulla storia di Torino* (Biblioteca della Società storica subalpina, LXV), Pinerolo 1914, p. 44, doc. 50 (1187); p. 177, doc. 173 (1247); F. GABOTTO (ed.), *Cartario di Pinerolo fino all'anno 1300* (Biblioteca della Società storica subalpina, II), Pinerolo 1899, p. 84, doc. 1 (1198); R. MENOCHIO, *Memorie storiche della città di Carmagnola*, Carmagnola 1890, p. 302, doc. 16 (1203). This marginality of the issue within the parts is reflected in a marginality of conflict between lords and community in the studies dedicated to common property, as seen in the recent and detailed volume G. ALFANI - R. RAO (eds), *La gestione delle risorse collettive. Italia settentrionale, secoli XII-XVIII*, Milano 2011.

property undoubtedly played an important role in the elaboration of local community solidarity, within legal dispositions this property became fully visible when its control was the object of disputes, and shared use was contested between the lord and community<sup>14</sup>.

If then in the thirteenth century growing tensions are observed between lords and peasants in relation to common property, and there was a trend for the aristocracy to appropriate what was under community control, this does not appear to be an issue specific to the Alpine area, but a more general trend in Piedmont lands, and in any case it tells us very little about the forms of individual and community action regarding the management of this property<sup>15</sup>. However, there are some specific cases in which the control of collective resources becomes central in local political action over the course of the thirteenth century, these being cases in which the patrimonial expansion of the Cistercian and Carthusian monasteries reached a scale sufficiently large and compact as to significantly interfere with local balances.

The author's studies of the Cistercian abbeys of the Cuneo plain, including Staffarda and Casanova, made it possible to reconstruct a patrimonial consolidation of the uncultivated areas remote from villages, achieved thanks to a patronage network, with the intervention first and foremost of the Marquises of Saluzzo, the hegemonic power on a regional level, and then secondarily by the noble families tied by vassalage to the marquises, the lower aristocracy, and finally the local elite. However, this was the action of a specific sector of the local society, definable as a faction, and the monastic patrimony became a cause for tension when new local political balances reduced the strength of this faction, in favor of new powers and new families, who gathered around other religious bodies<sup>16</sup>.

<sup>14</sup> For all this L. PROVERO, *Le parole dei sudditi*, pp. 100-107; more in general, see R. RAO, *Comunia. Le risorse collettive nel Piemonte comunale*, Milano 2008.

<sup>15</sup> For the future accentuation during the thirteenth century of tensions regarding common property, see previous footnotes; for certain community actions and conflicts for common property (in this same region, but not within the Alpine area), see *ibid.*, pp. 434 ff.

<sup>16</sup> L. PROVERO, *Abbazie cistercensi, territorio e società nel marchesato di Saluzzo (secoli XII-XIII)*, in "Quaderni storici", 116, 2004, pp. 529-558; L. PROVERO, *Casanova e il territorio di Carmagnola, tra i marchesi di Saluzzo e la società locale (secoli XII-XIII)*, in

The voluminous Cistercian documentation allows detailed analysis of the social dynamics rotating around the establishment of these granges, and interesting details are also found for the same decades from the mountain areas, associated with the formation of the Carthusian monasteries. Shifting from Cistercian abbeys to Carthusian monasteries, despite the important similarities between the two movements, reveals certain differences that need to be underlined: a specific mountain orientation; a system of economic decisions oriented towards the exploitation of uncultivated land; a different notion of *desertum*, which for the Carthusians was not simply an area remote from habitations, but a precisely delimited sector of mountain, modelled on the Grande Chartreuse<sup>17</sup>, characterized by a more marked desire for separation from the world, in thought and in practice. However, this clear desire for separation co-existed with a capacity to trigger very intense social dynamics around the process of formation of the Carthusian estates.

Tensions between Carthusian monasteries and neighboring villages were a common factor in diverse Piedmont contexts, like for example Monte Benedetto in Valle di Susa, a case documented only enough to establish the main issues generating the tension. A Carthusian monastery at an altitude around 1000 m came into conflict with the village communities lying much lower down the valley. The villagers saw their access being increasingly limited to the mountain areas after the establishment of the Carthusian *desertum*, an uncultivated area of mid to high mountain altitudes, defined by specific boundaries and from which the communities were excluded<sup>18</sup>.

However, the example of the Carthusian monastery of Pesio, studied in particular depth by Paola Guglielmotti<sup>19</sup>, provides a documentary

R. COMBA - P. GRILLO (eds), *Santa Maria di Casanova. Un'abbazia cistercense fra i marchesi di Saluzzo e il mondo dei comuni*, Cuneo 2006, pp. 77-88.

<sup>17</sup> R. COMBA, *Eremiti ed eremiti di montagna: spazi e luoghi certosini nell'Italia medievale*, Cuneo 2011, in particular pp. 118 and 121 ff.

<sup>18</sup> G. CHIARLE, *La certosa e il villaggio: uomini, ambienti, luoghi nei primi anni di Monte Benedetto*, in S. CHIABERTO (ed.), *Certose di montagna, certose di pianura: contesti territoriali e sviluppo monastico*, Borgone di Susa 2002, pp. 27-37; S. POZZATI, *Villar Focchiardo da villaggio a comunità (secoli XI-XIV)*, in "Bollettino storico-bibliografico subalpino", 105, 2007, pp. 633-638.

<sup>19</sup> P. GUGLIELMOTTI, *I vicini di Santa Maria di Pesio: uomini e comunità di Chiusa fino alla metà del Trecento*, in R. COMBA - G.G. MERLO (eds), *All'ombra dei signori di*

sequence that, while not achieving the detail of the Cistercian abbeys of the region, makes it possible to more analytically interpret the social dynamics revolving around the constitution of the monastic estates, and, in particular, regarding the issue of most interest here, the actions and transformations that shaped local societies within the context of this process [see map 2].

The text that serves as a starting point is in a sense the final outcome of the process being presented here: in January 1261 the men of the village of Chiusa acknowledged, “se male fecisse et offendisse in pluribus” the nearby Carthusian monastery of Pesio, and in particular, “in iniuriis plurimis, in furtis, in rapinis, in percussione fratrum eiusdem domus, in frangendo ostia et cella predictae domus, in pascendo alpes et prata predictae et in incidendo nemora”<sup>20</sup>. The violence of the peasants in relation to the monks thus appears directly and specifically connected with the issue of access to uncultivated land. However, it is questionable whether this incident can be interpreted simply as a cohesive and united community opposing monastic expansion into their common land. The issue is more complex, and this can be understood by tracing out the places and people involved in detail.

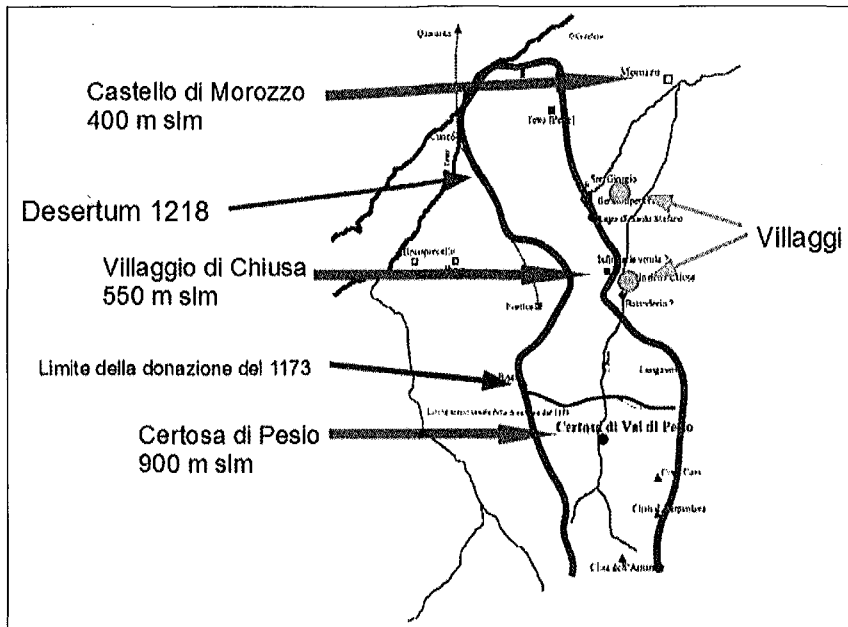
Pesio was the first Carthusian monastery founded in Italy in the 1170s, on the initiative in particular of the Lords of Morozzo, a village on the plains not far from Mondovì, which in 1173 donated the upper Valle Pesio to the Carthusians, in a deed enacted “cum omni populo Cluse”<sup>21</sup>, in other words, including the people of Chiusa, the main village in the valley, at a height of about 550 m, while the monastery was to be constructed in an area some 300 m higher up. The agreement of the lords and community regarding the donation of 1173 was in fact extremely weak. While the concession was made by the lords “cum omni populo Cluse”, it was drafted in Morozzo on the plain and among those present only one person can be identified with certainty as an inhabitant of Chiusa. The lords stated that their subjects in Chiusa were

*Morozzo. Esperienze monastiche riformate ai piedi delle Marittime (XI-XV secolo)*, Cuneo 2003, pp. 221-270; see this study for all aspects of the Pesio affair (with references to specific texts in the following notes).

<sup>20</sup> B. CARANTI, *La certosa di Pesio. Storia illustrata e documentata*, 2 vols, Torino 1900, here vol. 1, pp. 83 ff., doc. 83.

<sup>21</sup> *Ibid.*, vol. 1, p. 3, doc. 1.

Map 2. *Pesio*



Source: Re-elaboration from G. COCCOLUTO, *Il «desertum» della Certosa*.

in agreement, but without the subjects being genuine and significant political actors in the transaction.

This triangular relationship between the monastery, local lords, and local village community characterized the following decades. It was a confrontation between political actors, but also between places: a village of the plain, Morozzo (the main base of the lords and the place where they were physically present on all occasions in which they intervened in favor of the monastery), a low mountain village, Chiusa (home of a community probably separated into various settlements), and the monastery (located at a higher altitude, in an area not entirely uninhabited but without substantial settlements).

Again, from the perspective of places, it should be noted that the donation of 1173 created a clear fracture between the upper valley, assigned entirely to the monastery, and the lower valley, in which the

inhabitants of the nearby villages continued to operate. The following decades exhibit a rapid consolidation of monastic property, which extended into the lower valley and the plain. Clearly, if the boundary defined in 1173 was intended to provide a guarantee for the community of Chiusa<sup>22</sup>, this guarantee proved ineffective.

This expansion of monastic lands did not derive from major interventions of the lords of Morozzo, authors of the original donation in 1173. The lords instead appeared to assume a role of distracted protection, with occasional actions supporting the expansion of monastery property, which over the period of a few decades would become a cause for tensions inside the Morozzo lordship. It is probably not accidental that the subsequent conflicts apparently induced the Carthusians to considering the Morozzo lords as less than adequate legal guarantors.

Initiatives by the commune of Chiusa in favor of the monastery were also rare, intervening on only two occasions to confirm a sale by a private inhabitant and to concede two chestnut groves to the monastery. Donations and sales to the monastery were instead conducted by individual inhabitants of the village, mainly involving a small group of families that repeatedly intervened in favor of the monks. These families were clearly members of the elite, taking their first actions in favor of the monastery in the early thirteenth century and continuing over the following decades, including the period of most intense conflict between monks and villagers in the 1260s<sup>23</sup>. It can thus be observed that, similarly to better documented cases on the plains, the property of the monastery developed both from the original monastic project, and from a "social system that tended to accumulate around this purpose"<sup>24</sup>, a social system that, however, did not include the village society in its entirety but only some components of it.

<sup>22</sup> The priority function of the boundaries of common land as a guarantee for community needs emerges in numerous analyses dedicated to these themes, like for example G. ALFANI, *Le partecipanze: il caso di Nonantola*, in G. ALFANI - R. RAO (eds), *La gestione delle risorse collettive*, p. 51.

<sup>23</sup> For the interventions of the Morozzo family and the men of Chiusa, see P. GUGLIEMOTTI, *I vicini di Santa Maria di Pesio*, pp. 233-251.

<sup>24</sup> L. PROVERO, *Abbazie cistercensi*, p. 534.

The expansion of property was sanctioned in a very interesting document, a *recognitio* of the *desertum* produced by the monks in 1218<sup>25</sup>. Firstly, the deed illustrates how, 45 years after its foundation, the *desertum* extended well beyond the original donation of 1173, including a large area of the valley and arriving very close to the villages of Chiusa and Beinette. The *desertum* thus failed in its original aspiration of marked detachment from the world, but the Carthusians intervened in this by reinforcing the notion of boundary, of separation: the *recognitio* was certainly a deed of revendication of property, but at the same time it was a way to reaffirm the effectiveness of the boundary, of the separation between the monks and the surrounding world. This act of ideological reinforcement is even more evident when it is noted that, at the points where the boundary approached the villages of Chiusa and Beinette, the text totally ignores their presence, describing the boundary with a series of reference points (rivers, topography, etc.) making it possible to almost touch the villages without mentioning them. The ideological implications of these textual preferences are clear: the text tends to reinforce the notion of the *desertum* as a space of isolation, that must ignore human settlements. The proximity of these settlements, threatening the effective isolation of the Carthusians, was precisely what made it necessary to conduct an operation like the *recognitio*.

The expansion of the property and *desertum* generated a growing overlap of rights and claims between monastery lands and potential community resources, triggering tensions which were not manifestly documented over these decades, but that appear to have been expressed in acts of violation of the *desertum* by the people of Chiusa, as can be deduced in subsequent documentation. Before these conflicts could become visible, a transformation was required in the regional political situation, opening new opportunities for action. In 1259, this area—like most of southern Piedmont—fell under the control of Carlo d'Angiò, and the Carthusians saw this as an opportunity to appeal to a strong political and legal authority that was extraneous to the local society and without the links of solidarity that had presumably limited the action of the Morozzo lords for the protection of the monastery. The Carthusians

<sup>25</sup> The deed is published in B. CARANTI, *La certosa di Pesio*, vol. 1, p. 22, doc. 25; very penetrating analyses in G. COCCOLUTO, *Il "desertum" della Certosa di Santa Maria di Val di Pesio. Realtà o programma?*, in R. COMBA - G.G. MERLO (eds), *All'ombra dei signori di Morozzo*, pp. 137-152.

thus initiated a dispute against the people of Chiusa before the Angiò judges, culminating in the admission of guilt in January 1261 from which the present discussion started, in which the *universitas* of Chiusa admitted violence, committed in particular by 7 men “et multi alii”<sup>26</sup>.

This result can now be interpreted from a more informed perspective. Three lists of names can be compared: on one hand families that supported the Carthusians (the Pipa, Cotarello, and Postello families); on the other hand the men who in 1261 were found guilty of violence against Pesio (Astesano Arcimberto, Raimondo *miles* and his brothers, Pietro Albo, Simone Turbilio, Giacomo Colla, Pietro Colla, Uldrico Armoino); finally the four men who were nominated by the commune the previous year as delegates in the dispute (Enrico Rolando, Bonifacio Baudana, Raimondo *miles*, and Astesano Arcimberto)<sup>27</sup>. The comparison is very clear: two of the four delegates belong to the group that led the violence against the monks, while none of them belong to the families that supported the monastery. Very similar results emerge if the lists of council members of the commune of Chiusa are considered<sup>28</sup>.

The case of Pesio thus has to be seen in a wider perspective, to assess whether it really represents an exemplary case. It is obvious that here the dispute arose out of the prevalence in the community of a group contrary to the monastery, and also by the legal and political opportunity offered to the monks by the new political situation, thanks to the dominion over the territory by the Counts of d’Angiò<sup>29</sup>. It also seems important to note that the Carthusian documentation is not simply a way to identify pre-existing divisions in the local society. Instead, it was precisely the local establishment of this religious body and its propensity for property expansion that encouraged the consolidation of conflicting relational networks, thereby polarizing and dividing the local society. The imposition of the Carthusians in the upper valley forced a restructuring

<sup>26</sup> The dispute continued over the following years, and was resolved with an agreement between the parties, testifying to the reduced capacity of control of the Angiò family, which provided the monastery the opportunity to increase the conflict, but did not offer a way to resolve it. For the limits of the Angiò power in this affair, see R. COMBA, *Eremiti ed eremiti*, pp. 136 ff.

<sup>27</sup> B. CARANTI, *La certosa di Pesio*, vol. 1, p. 82, doc. 81.

<sup>28</sup> P. GUGLIELMOTTI, *I vicini di Santa Maria di Pesio*, pp. 246 ff.

<sup>29</sup> *Ibid.*, p. 246.



of local economic networks, an imposition that led certain portions of the society to oppose the monks and struggle to re-assert community rights over sectors of the valley lost to the monastery. Other sections of the society adopted a policy of cooperation with the monastery, in a system of exchanges that are not discernible in detail, but with obvious implications, considering the variety of forms of exploitation of the uncultivated lands that emerged from the Pesio documentation over the following decades (the construction of sawmills and the presence of groups of turners and joiners)<sup>30</sup>.

#### 4. *Concluding remarks*

In conclusion, two aspects and two lines of action of Alpine societies of the thirteenth century were observed: on one hand, negotiations with regional powers; on the other, conflicts over access to resources, and specifically the resources associated with uncultivated areas. The two dimensions co-exist in the two examples, with different degrees of documentary proof. However, rather than the differences, the intention was to highlight the fundamental similarity and the consequent methodological implications.

The perception of these local dynamics derives first and foremost from the actions of forces partially extraneous, like the regional princely powers or the monastic bodies that settled in the area. But in both cases, like a sort of Heisenberg Principle, the intervention of these forces not only revealed local social practices, but they also significantly modified them. The action of the Marquises of Saluzzo gave a different political meaning to the places of the Valle Stura and the development of the Pesio monastery property polarized the village society, creating or crystalizing internal divisions, which were further exacerbated by the affirmation of the Angiò principality and the associated opportunity for legal action.

The object of the present analysis was not the action of the local peasant society, but rather the interference between this action and certain external forces acting on the levels of property, politics, and documentation. This gives rise to the process of historical production

<sup>30</sup> *Ibid.*, pp. 261 f.

of places: since the discussion started with the premise of a plurality of political actors, then the investigation must set itself the objective of reading the social configurations that develop out of the interference between these different actors.

The village community is just one of these possible social configurations, an organized cooperation that does not cancel the capacity for individual political action, so much so that for the system of peasant political action it can be stated that, "it is impossible to reduce the political action of peasants to the political action of the village community"<sup>31</sup>. While the actions of individuals and of individual family groups become particularly obvious through the collection of depositions (occasions in which individual witnesses spoke in support of their lords, but also in order to pursue their own specific purposes)<sup>32</sup>, it is particularly noteworthy how the deeds presented here, despite being centered on conflicts between local communities and aristocratic power or monastic property aspirations, led to a very clear emergence of the individual dimensions of political action. The Alpine context appears to induce certain differences compared to the dominant social models: an accentuated attention is observed for common property and the possibility of coordinating villages into extended valley communities. But this peculiarity does not cancel the fundamental characteristics that the Alpine society shares with other rural societies of this period, first of all an extreme flexibility of the forms of organized cooperation.

<sup>31</sup> L. PROVERO, *Le parole dei sudditi*, p. 448.

<sup>32</sup> *Ibid.*, p. 305.

# Border Conflicts between Bohemia and Bavaria and Their Solutions

## Comparative Considerations

by *Taku Minagawa*

### I. CULTURAL DIFFERENCES AND CONFLICT RESOLUTION: INTERNATIONAL RELATIONSHIPS IN EARLY MODERN EUROPE

Ways of resolving disputes reflect the cultural specificities of a given period and region. The secondary literature on this topic has focused on the chronological development of an order within a certain area. However, these studies have not examined how one common order developed among culturally different regions. In particular, few works have studied how common protocols over disputes developed between areas, which were to become parts of different countries in different cultural zones after the early modern period<sup>1</sup>. It appears that an idea specific to the modern period—namely, that only states can provide orders and that there is chaos outside state borders—has affected historians.

However, even in modern international relationships where states have taken over diplomacy, cultures of conflict resolution derived from the pre-modern period still play an important part. It was only by the late twentieth century that the international laws and international organizations had fully developed. Until quite recently, various laws (peace

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<sup>1</sup> Although there have been studies which dealt with conflicts between two different territories, the similarities in their cultural and political attributes are evident: e.g., E. SCHUBERT, *Die Landfrieden als interterritoriale Gestaltung*, in E. SCHUBERT - E. WADLE (eds), *Landfrieden. Anspruch und Wirklichkeit*, Paderborn 2001, pp. 123-152.

treaties), which resulted from diplomatic negotiations during peacetime, as well as pre-modern styles of international jurisdiction remained significant. In fact, countries in early modern Europe always seek peace, contrary to the prevailing image of being preoccupied with violent warfare under the pretext of confessions and succession. For peace talks, rulers usually had negotiators relatively independent from states (e.g. clergy, lawyers, mercenary commanders). If necessary, they did not hesitate to employ any titular relationships they could use (e.g. the papal authority, feudal relationships, and relationships with various arbitrators) to reach a mutually acceptable agreement<sup>2</sup>. The concept of “total war”, which seeks to exclude and eliminate the enemy, is particular to the twentieth century when the “balance of power” theory, nationalism, and heavy industrialization were brought to the fore. However, the brutality widely seen in modern Europe misleads one to think that pre-modern Europe totally lacked a proper order between states<sup>3</sup>.

Conflict resolution between modern countries is different from the maintenance of order within a modern state because the latter is sustained by a strong system of domestic laws and legal force. Nevertheless, conflict resolution without a system of laws and legal force is never exclusively applicable to modern “international relations”. Recent medieval studies affected by anthropology interpret violence as a type of communication for dispute resolution and argue that violence in combination with other communication styles was a means to settle conflicts without a certain system of laws and legal force. Otto Brunner demonstrated that a feud was a means to assert one’s right within the framework of a region’s customary law (*Landrecht*) and brought to light the clear difference between medieval states and modern states<sup>4</sup>. After Brunner’s studies,

<sup>2</sup> K.H. LINGENS, *Internationale Schiedsgerichtsbarkeit und Jus Publicum Europaeum 1648-1794*, Berlin 1988.

<sup>3</sup> This Situation has been criticized by some case studies since the 1990s: e.g. H. DUCHHARDT - P. MONNET (eds), *Krieg und Frieden im Übergang vom Mittelalter zur Neuzeit. Theorie-Praxis-Bilder*, Mainz 2000.

<sup>4</sup> O. BRUNNER, *Land und Herrschaft. Grundfragen der territorialen Verfassungsgeschichte Österreichs im Mittelalter*, Darmstadt 1965<sup>5</sup>. More recently K. ANDERMANN, *Raubritter, Raubfürsten, Raubbürger? Zur Kritik eines untauglichen Begriffs*, in K. ANDERMANN (ed.), *“Raubritter” oder “Rechtschaffene” vom Adel?*, Sigmaringen 1997, pp. 9-29; P. GILLI (ed.), *Guerre, paix, alliance, duel: le disciplinement de la violence dans les traités juridiques*, in J. PAVIOT - J. VERGER (eds), *Guerre, pouvoir et noblesse au Moyen Âge*,

many historians have demonstrated that not only laws and institutions but also religion, customs and traditional practices, ceremonies, and even violence could be employed as a tool of political communication, and provided numerous case studies showing how these things were shared to autonomously resolve conflicts among different communities in pre-modern Europe. Their works presented dynamic social systems rather than static state-models in a framework of *Landrecht*<sup>5</sup>.

In case of conflicts, various autonomous groups in medieval Europe preferred different tools of political communication to resolve them. For example, the aristocracy and distinguished families preferred a feud, which the clergy and municipal corporations tended to avoid. We can label this phenomenon a “difference in the culture of conflict resolution”. This “difference in the culture of conflict resolution” made it difficult for the conflicting parties to reach a resolution of their dispute. However, the clash of different cultures could result in a new culture of conflict resolution. For example, a conflict between aristocrats and a municipal corporation could lead to complications, which was unlikely to happen in disputes in homogeneous groups: refusing reconciliation after violent attacks, refusing trials at court, or even appealing to indifferent violence or brutal execution. In late medieval Germany, such disputes between communities with different cultures of conflict resolution led to a new culture of *Urfehde*, which seek to find peace in a way that one gives generous pardon to a violation for the first time and imposes severe revenge on the second one<sup>6</sup>. Other than *Urfehde*, various new cultures of conflict resolution appeared in this period, such as holding a conference attended not only by the conflicting parties but also by various third parties, or drawing up a peace document as equal partners with very concrete articles<sup>7</sup>.

*Mélanges en l'honneur de Philippe Contamine*, Paris 2000, pp. 323-341; J. EULENSTEIN - C. REINLE - M. ROTHMANN (eds), *Fehdeführung im spätmittelalterlichen Reich zwischen adeliger Handlungslogik und territorialer Verdichtung*, Affalterbach 2013.

<sup>5</sup> Today such an intention becomes more and more universal, e.g. G. ALTHOFF (ed), *Frieden stiften. Vermittlung und Konfliktlösung vom Mittelalter bis heute*, Darmstadt 2010.

<sup>6</sup> For “Urfehde” see K. WAKASONE, *Uafede no kenkyū. Doitsu keijihōshikō* [Studies of Urfehde. A historical consideration of the German criminal law], Tokyo 2009.

<sup>7</sup> In the case of conflict resolution in the Middle Ages this difficulty appeared more in leagues and confederations of different estates or their assemblies than in the rela-

It seems that the continual clashes between different cultures of conflict resolution in late medieval Europe played a significant role in developing the manner of dispute settlements in later periods. In fact, pre-modern East Asian countries did not have treaties and courts of arbitration, although they had wars and ceremonies to confirm feudal or familial relationships based on the Confucian world concept<sup>8</sup>. However, many historians have failed to investigate the process of conflict resolution between different communities belonging to different countries. Much historical research there tends to directly connect the medieval social system to early modern territorial state-making. Yet systematic conflict resolution between modern states—or modern nation-states—is an important legacy of pre-modern Europe and, therefore, we should focus not only on the history of governmental diplomacy and international laws, but also on the various regional cultures of conflict resolution in late medieval Europe.

Considering these problems in historiography, this paper will provide a case study and chronologically examine how communities belonging to different countries with different cultures of conflict resolution overcame their dispute. This essay will investigate a territorial dispute over the Wetland of Furth (*Further Senke*) between the thirteenth and the sixteenth century. The Wetland of Furth was located between the Duchy of Bavaria and the Kingdom of Bohemia, and both countries claimed sovereignty (more accurately “territorial superiority”) over the area<sup>9</sup>. Although Bohemia is not part of the Alps, most of the Bohemian Forest located near the southwestern border of the kingdom lies above

tionships between the European princes, so in these political corporations the conflict resolution system was especially developed; e.g. H. CARL, *Der Schwäbische Bund 1488-1534*, Leinfelden - Echterdingen 2000.

<sup>8</sup> S. NISHIJIMA, *Higashiasia sekai to sakubōtasei* [Eastern Asia and tribute system], Tokyo 2002.

<sup>9</sup> The most detailed study is A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze von Furth bis Eisenstein*, in “Verhandlungen des historischen Vereins von Oberpfalz und Regensburg”, 89, 1939, pp. 187-358. However, influenced by his contemporary situation (the 1938/39 occupation of Czechoslovakia by Nazi Germany) this work is so prejudiced by the partial use and translation of the materials that one must carefully deal with the original materials. Regretfully the relative new studies on this problem give only very limited information; W. PERLINGER, *Die erste Begehung der bayerisch-böhmischen Landesgrenze*, in “Beiträge zur Geschichte im Landkreis Cham”, 15, 1998.

500 m.a.s.l. This highland stretches to the states of Salzburg and Tyrol, and surrounds lower Bavaria. While grazing was the main agricultural activity in the Bohemian Forest, grain farming thrived in Bavaria. As often seen near the Alps, the contrast in main agricultural industries caused the cultural differences between the two communities. This essay will focus on the chronological transformation of political communication in the territorial dispute and attempt to illuminate the process that allowed two different groups with no common laws or legal force to develop a common culture of conflict resolution.

## II. A CASE STUDY OF DISPUTES IN THE WETLAND OF FURTH

### 1. From "feuds" to verbal communication

The Further Senke is a narrow and winding basin surrounded by the Bohemian Forest and the Upper Palatinate. It stretches 40 km from east to west and 5-10 km from north to south, covering a total area of 281m<sup>2</sup> at about 400 m.a.s.l. elevation. (E.g. Cham, a central city on the Bavarian side, is located at 370 m.a.s.l.; as for a central city on the Bohemian side, Domažlice is located at 428 m.a.s.l.) Settlements in the Wetland of Furth are first recorded in the eleventh century. The oldest record of the lordship of the area stems from the same century that the Emperor of the Holy Roman Empire, Henry IV, granted the southwestern part of the area to the Counts of Bogen who belonged to the House of Babenberg<sup>10</sup>. In contemporary records, settlements in this area had names both in High German (Tranesdorf, Puchberg, Jägerhof, Neuhof, a.o.) and in West Slavic (Grawat, Sichowa, Horni Stuby, Dorni Stuby, a.o.) languages. In each settlement, residents seem to have spoken different languages. In addition to their services to the Holy Roman Emperor, the Counts of Bogen became vassals of the King of Bohemia in order to expand his power to the Bohemian Forest. However in 1242, the absence of a heir to the countship provoked feuds for the succession of the lands between a relative of the last count, the Duke of Bavaria, and the lord of the last count, the King of Bohemia. In 1257, the King of Bohemia reluctantly conceded the duke to succeed to most of the lands, which had belonged to the late

<sup>10</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 190-191.

count. However, he made a part of the Wetland of Furth a settlement for the Chodové people whom the King of Bohemia had ordered to move out of Silesia. A Bohemian aristocrat, Burkard von Janowitz, gained another part of the area and was appointed as local manager (*advocatus*) of the Chodové settlement. In return for a king's warrant to assure their liberty of free movement and equipment, the Chodové defended the periphery of the kingdom as well as exploited forests. Although they engaged in farming to some extent, their main activity was grazing and, starting in the fifteenth century, mining<sup>11</sup>. The pledge of the Wetland of Furth was possessed by Bohemian aristocrats, who developed the idea that the area belonged to Bohemia.

In the meanwhile, the Duke of Bavaria continued to claim his lordship over the Wetland of Furth on the grounds that the area was part of the lands he had inherited from the late Count of Bogen. As a result, feuds occurred between the duke and Bohemian aristocrats. In 1291, the two parties sat down at the negotiating table for the first time, but did not reach an agreement. To justify his control over the Wetland of Furth, in 1312 the Duke of Bavaria made an *urbaria* (register of possession) proving his legal lordship there and began subinfeudating villages in the disputed area to powerful locals such as Puchberger, Runtinger, Sattelborger, and others. Judging from their names, it seems that these new landholders were from distinguished families in local Bavarian cities such as Furth, Arnschwang, Eschlkam, and Cham or in settled villages. As his tenants often traded their land ownership rights of the Wetland, the jurisdiction and the right of landholdings were separated more and more, and in 1383, the duke made "cadasters" (taxation registers) instead of the *urbaria*, to show his 'sovereignty' over the Wetland of Furth as a territorial prince<sup>12</sup>.

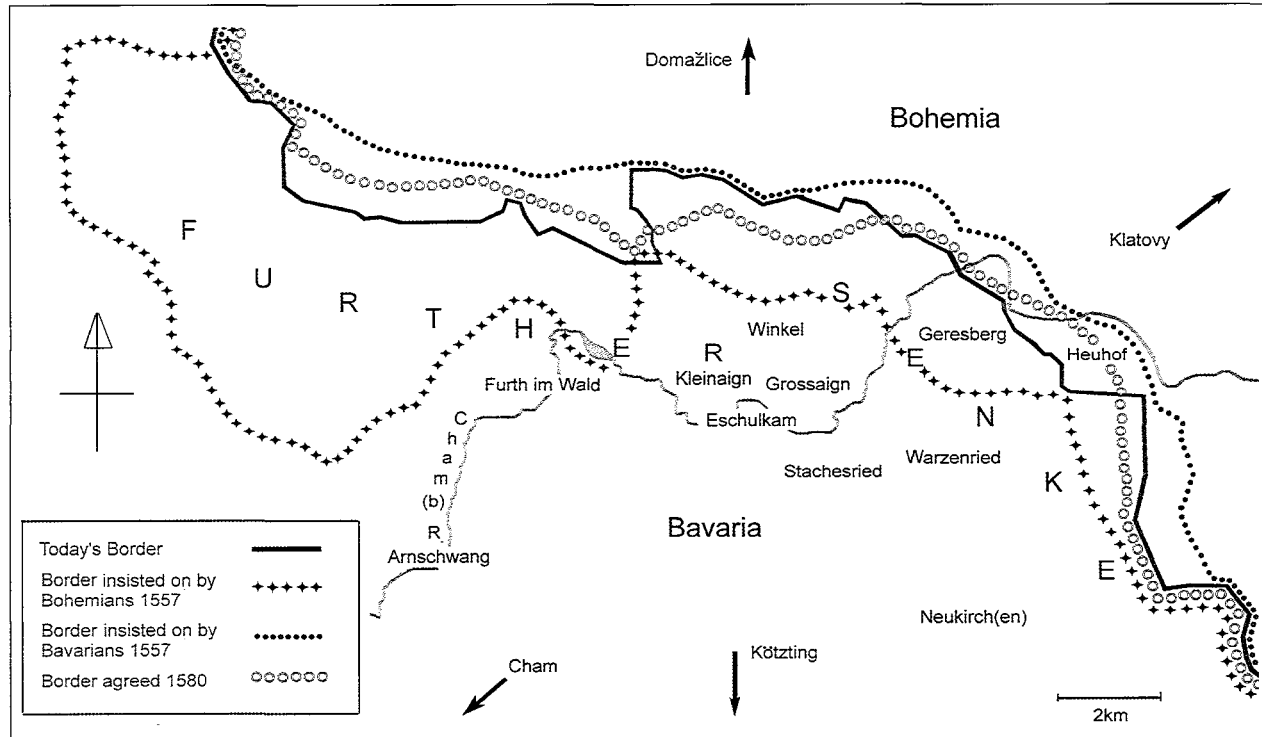
After the mid-fourteenth century, the main actors in local disputes changed from the overlords to their tenants, lower aristocrats, and then to ordinary residents there. In 1342, the Chodové and "the Bavarians"—seemingly lower Bavarian aristocrats—had feuds and since then

<sup>11</sup> E. MAUR, *Die Chodenbauern. Eigensinn und Widerständigkeit einer privilegierten Untertanengruppe in Böhmen im 16.-18. Jahrhundert*, in J. PETERS (ed.), *Gutsherrschaftsgesellschaften im europäischen Vergleich*, Berlin 1997, pp. 387-398 (partial translation of J. PETERS, *Chodové. Historie a historická tradice*, Praha 1984).

<sup>12</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 192-194.



Map 1. *The Border between Bavaria and Bohemia in the Wetland of Furth*



the former continually attacked Bavarian settlements in the Wetland of Furth. As neither the Duke of Bavaria nor the King of Bohemia interfered in the troubles, Bohemian local tenants—the Chodové and their managers—and Bavarian landholders played a significant part in the disputes. As the overlords were receding into the background, the tradition of ceremonial letters of defiance faded and raids without notices increased. This trend became more and more apparent during the Hussite Wars (1420-1434) in which the German princes were defeated by the Hussite army. Although the attacks of the Hussites against Bavaria had ended by 1435, Bohemian aristocrats who acted as land managers—von Janowitz, von Klenau, von Schwamberg, and others—and also the Chodové often attacked and plundered their neighboring Bavarian cities and villages without notice by a letter of defiance. It is unclear whether they continued the Hussite Wars or restarted their old feud. Anyhow, in this period, the style of violence seen in the Wetland of Furth had transformed from aristocratic feuds with ceremonial methods to wars driven by the objectification of one's rivals and self-interests<sup>13</sup>.

Citizens and farmers in Lower Bavaria where the Wetland of Furth was located were hardly able to implement their right to feud, as their administrative system based on local cities and districts had banned all forms of violence since the fourteenth century. Furthermore, Lower Bavarians had no system to organize a large armed force of hundreds of soldiers as the Chodové did. Therefore, they petitioned the Duke to appoint a lord with strong military power to protect them. Some of them even swore allegiance to Bohemian aristocrats for their safety<sup>14</sup>. Eventually, in 1451, the Duke of Bavaria himself granted part of the Wetland of Furth to a Bohemian aristocrat, Pribik von Klenau, who was the land manager of the Wetland on the Bohemian side. The Duke's offer paid off: some of the Bohemian aristocrats who accepted this infeudation

<sup>13</sup> München, Bayerisches Hauptstaatsarchiv (hereafter BayHStA), Kurbayern Äußeres Archiv (hereafter KÄA) 188, *Grenzstreitigkeiten zwischen Bayern und Böhmen* (1580), fols 463-475; M. PANGERL, *Die Choden zu Taus*, in "Mitteilungen des Vereins für Geschichte der Deutschen in Böhmen", 13, 1874, pp. 144-176; A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 194-203.

<sup>14</sup> BayHStA, KÄA 192, *Grenzstreitigkeiten zwischen Böhmen und Bayern* (1586), fols 57-59; BayHStA, KÄA 227 (1339, 1433-1442), 228 (1443-1451), especially 228, fols 181-184.

as a bribery mediated between two parties, and the Bohemian aristocrats agreed to stop the feuds in the disputed Wetland. Nevertheless, the Chodové were against the peace agreement on the grounds of their royal rights over the Wetland of Furth. Some aristocrats joined them and resumed feuding, which ended the peace talks<sup>15</sup>. In 1465, when the Bohemian land manager Pribik von Klenau who had acted as a major mediator died, the Duke of Bavaria granted the late aristocrat's lands to a vassal of his inner circle. Bohemian aristocrats reacted sharply to this decision, which in 1472 led to a raid on Bavarian cities by 600 Bohemian knights and 1,500 Chodové<sup>16</sup>. Unfortunately for the duke, in this dispute aristocrats in his own country joined forces in a league of knights—the Bökklerbund—and stood by Bohemia. That thwarted the Duke's counter-measures<sup>17</sup> and consequently a considerable number of residents in the Wetland of Furth fell under Bohemian landlords. Fortunately for the Duchy of Bavaria, the Bohemian landlords did not replace Bavarian tenants with Bohemian ones. The new rulers were interested only in collecting taxes or plundering from their tenants<sup>18</sup>.

Things changed in 1462 when the parish priest of Furth im Wald called representatives of the cities in and around the Wetland of Furth for a convention. It was attended by a district officer of the Duchy as well. They invited local patriarchs and heard the history of the Bavarians' exploiting the area to make notarial records of the borders of their own territory<sup>19</sup>. In 1464, when the Duke of Bavaria and the King of

<sup>15</sup> BayHStA, KÄA 182, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1577-1579), fol. 299; BayHStA, KÄA 229, *Streitigkeiten zwischen Böhmen und Kurpfalz* (1452-1461), fols 60-68.

<sup>16</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, p. 205.

<sup>17</sup> M. PIENDL, *Die Ritterbünde der Bökkler und Löwler im bayerischen Wald*, in A. FINK - P.E. RATTELMÜLLER (eds), *Unbekanntes Bayern*, vol. 5, München 1976, pp. 72-81.

<sup>18</sup> For these leagues of knights, other than the above study by Piendl, also see A. ZEITLER, *Zwischen Fürstenmacht und Ritterfreiheit. Die Ritterbünde der Bökkler und Löwler in Ostbayern*, Amberg 1989. For the situation of the conflict of the second half of the fifteenth century, see BayHStA, KÄA 230, 231, 232, 233, 234, 235, 236, 237, *Streitigkeiten zwischen Böhmen und Kurpfalz* (1472-1506); A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 205-206.

<sup>19</sup> BayHStA, KÄA 196, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1557-1577), fol. 308; KÄA 261, *Die kompromittierende Grenzstreitigkeit vor dem Böhmerwald*

Bohemia reached an agreement to set the borders between their territories, the duke presented the result of the 1462 investigation. On the other hand, Bohemian aristocrat representatives demanded their lordship over the whole Bohemian Forest including the Wetland, asserting that all produce from the forest should belong to the Crown of Bohemia. Due to this condition, the peace talks failed yet again<sup>20</sup>. In 1472, the bailiff of Cham and the magistrate of Furth, who were in charge of the management of Bavarian lands in the Wetland petitioned the king of Bohemia, and reached an agreement to ban all violence between the two parties. They also decided that in case of dispute, the accuser should go to the ordinary court in the defendant's community<sup>21</sup>. In 1511, the Chodové attacked Bavarian territory twice, but they returned soon after putting up their first boundary marker in the central-south of the Wetland<sup>22</sup>. This meant that not only the Bohemian king but also the Chodové had begun contemplating the necessity of demarcation.

In 1512, local magistrates from Furth and Neukirch negotiated with Bohemian mortgagee landlords (protectors of Chodové) in Klatovy and commenced a new round of talks to establish a boundary between their territories. By the arguments on both sides, the differences in the respective definitions of the term "grenitz" (border) became clear. For the Bavarians it meant the borderline separating the lands they used from those the Bohemians used, while for the Bohemians the same word designated the area the Bavarians had occupied in addition to the undeveloped forests in the Wetland. That is, the Bavarians attempted to confirm their existing rights over the fields, while the Bohemians, who were interested in the conversion of forests to grazing lands, demanded to hold the forests exploitable in the future. They

*zwischen Bayern und Böhmen* (1560), fols 31-56; KÄA 265, *Die kompromittierende Grenzstreitigkeit vor dem Böhmerwald zwischen Bayern und Böhmen* (1561), fols 4-16, 30-34, 53, 257; A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 207-211.

<sup>20</sup> BayHStA, KÄA 188, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1580), fol. 486.

<sup>21</sup> BayHStA, KÄA 196, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1557-1577), fol. 322.

<sup>22</sup> BayHStA, KÄA 166, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1510-1515), fols 47, 54, 55, 75, 76.

ended the talks without success and the planned resumption never came about<sup>23</sup>.

As we have seen so far, it is possible to assert that the situation changed in the late-fifteenth and early-sixteenth centuries. Until the mid-fifteenth century, one can clearly see that these two parties had different cultures of conflict resolution. Regarding the disputes, almost all feuds were commenced by the Bohemian local lords and the Chodové. On the other hand, the Bavarians stuck to the non-violent measures such as enfeoffment or peace talks. As the privileges concerning forests had been granted to the Bohemian local lords and the Chodové by the king within a framework of medieval law, it was only natural for them to defend their legal rights by military force. However, in the Duchy of Bavaria, not only citizens and farmers but also aristocrats tried to avoid feuds whenever as possible<sup>24</sup>. In later periods, people under the King of Bohemia, who resorted to typical styles of feud and then to *bellum justum* attacks for dispute resolution only to find these violent means useless, also started to choose more modest measures. At the same time, both parties found it necessary to establish the boundaries between their territories. The fact that in 1511 the Chodové attacked not to plunder the Bavarians but to put up a boundary marker suggests that they had begun imagining a kind of symbiosis with the Bavarians by dividing the territory. Their discourses to justify their rights were also gradually changing: while the Bohemians continued to insist on their privilege granted by the king, the Bavarians started to employ testimonies from local elders to support their claims, which is the same method used to make a customary law (*Weistum*) in farming villages<sup>25</sup>. It was of course

<sup>23</sup> BayHStA, KÄA 239, *Streitigkeiten zwischen Böhmen und Kurpfalz* (1510-1512), especially fols 239-241; A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 219-220

<sup>24</sup> According to Reinle the peasants of Bavaria surely tried to insist their right to make feud; C. REINLE, *Bauernfehden. Studien zur Fehdeführung Nichtadeliger im spätmittelalterlichen römisch-deutschen Reich, besonders in den bayerischen Herzogtümern*, Mainz 2003. In this case, there is no record that they made feud as their right. It is clear that they could not do it against the organized feuds of the Chodové.

<sup>25</sup> For the importance of *Weistum* to the studies of constitutional history in the early modern period, see D. WERKMÜLLER, *Weistümer als Quellen zur Verfassungsgeschichte*, in G.H. GÖRNIG - U. KRAMER - U. VOLKMANN (eds), *Staat, Wirtschaft, Gemeinde. Festschrift für Werner Frotscher zum 70. Geburtstag*, Berlin 2007, pp. 35-44. The studies of *Weistum* of this area are much lacking.

difficult to overcome their different legal understanding. The Bohemian royal privilege was never concerned with real possession but with the right of use, therefore the limitation of the territory was ambiguous. Nevertheless, in 1512 the Chodové had to begin discussing the meaning of “border”: they became aware of the necessity to show their rivals the spatial limitation of their own demand if they wanted to defend their right of pasturage against the occupation of the Bavarian farming settlers. On the other hand, the Bavarians could neither exclusively sit on the Wetland as settlers nor ignore the Bohemians’ rights but had to agree to negotiate with the Bohemians under their strong pressure of violence. This combination of violence and verbal communication was—of course—never institutionalized. However, the “normative” use of these two communications promoted an efficient and effective negotiation, and therefore opened the way to a definitive resolution. In this period, their cultures of conflict resolution deeply met up with one another and were rapidly reorganized.

## *2. The development of negotiation skills and demarcation lines*

After the suspended 1512 negotiations for the demarcation dispute, it was the paternal mediation by a local magnate, Georg Pfeil that prevented the escalation of the conflict between the two communities. Pfeil was an influential magistrate of Furth from 1520 to 1553. Help from other local magistrates under the control of his patronage such as Wolf Stacho of Eschlkam, Blasi Werner of Kötzing, and others ensured that Pfeil’s negotiations with the Bohemian residents went smoothly. While he successfully strengthened Bavarian control of the Wetland by promoting the re-settlement of abandoned villages, he also showed lenience towards their rivals. For example, Pfeil allowed the Chodové to build a road in the Wetland of Furth despite the duke’s opposition because he recognized that the Chodové wanted it to keep their silver mine in Alber. He also forcefully divided a disputed pasture in Heuhof into halves for the two parties. In 1539, some Chodové cowherds were captured while grazing in the Bavarian settlements, but he immediately released them “aus gueter Nachperschaft” (for good neighborly relations)<sup>26</sup>. Therefore, Pfeil limited the use of the violence within the

<sup>26</sup> BayHStA, KAA 200, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1618-1620), fols 323-325; KAA 176, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1560-1566), fols 300-301.

area, which was attributed to the Bavarians by the investigation of 1462. Indeed, his tactful and paternalistic management prevented the conflict's escalation. However, it could not reduce the dissatisfaction on both sides with the violation of their respective rights, and by 1540 numerous petitions for redress of grievances concerning disputed areas had been presented to the rulers<sup>27</sup>.

In 1551, considering a flood of petitions, Duke Albert V of Bavaria and King Ferdinand I of Bohemia once again took up their border talks. During the first set of talks on May 11, both parties claimed the opponent had invaded the other's territory. Therefore, it became necessary to define the word "Eingriff" (invasion) and the parties agreed on "disturbances, wrongdoings, and violence" (*turbationes, vim et violentas*). In the second round of talks on May 15, the Bavarian representatives insisted as follows:

- 1) the Bohemians had not proposed a clear borderline in the Wetland of Furth;
- 2) although the Bavarians wanted to establish the boundary along their settlements where Bavarian colonizers actually settled, the Bohemians drew the border far from their own settlements;
- 3) nevertheless the Bohemians invaded the Bavarian settlements beyond the forest (the feud of the Chodové in 1511);
- 4) the Bavarians were able to submit testimonies to prove that Bavarian cities legally held the disputed area.

However, to maintain their peaceful and good neighborly relations ("umb erhaltung willen fridlicher güter nachbarschaft") for the land between Heudorf and Geresberg—if necessary—they were ready to recede at most one mile from the River Cham, which was the borderline they originally wanted. The Bohemian representatives however declined this offer explaining that their mortgagee lords would not accept it. They instead suggested a plan that the duke should receive one-twentieth of the disputed lands and the King of Bohemia take the rest. The Bavarians made one further concession adding one-third of the disputed pasture to Bohemian territory. The Bohemians also sought compromise by offering a quarter of the disputed pasture to Bavaria

<sup>27</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 227-237.

on the condition that the Bavarians abstain from using the remaining two-thirds of pasture. Nevertheless, all these efforts eventually failed and the talks ended without an agreement<sup>28</sup>.

In February 1557, ceaseless complaints from vassals and subjects on both sides as well as repeated violence in the Wetland finally convinced the King of Bohemia, who was also the Emperor of the Holy Roman Empire, to bring the problem before the Imperial Diet (*Reichstag*) in Regensburg. The Diet discussed it and decided to hold a court of arbitration presided by the bishop of Würzburg. In this court, Bohemia and Bavaria each chose two princes of the Holy Roman Empire (*Reichsfürsten*) as judges on behalf of them (for the Bohemians the Elector-Prince of Saxony and the Bishop of Bamberg, for the Bavarians the Count Palatinate of Neuburg and Archbishop of Salzburg). They agreed that after an *in situ* investigation they would have the case considered by the judges in court who were to give their unappealable verdict within a year. In June 1557, the lawyers delegated by the four princes heard from both sides and investigated the boundary area. Then, based on Roman *Ius Commune* (*Gemeines Recht*), the vice-judges gave a verdict ordering to divide the disputed area equally between the two parties. However, both sides rejected the verdict as unreasonable. The court extended the trial for nearly two more years and ordered both parties to listen to each other's allegations and to discuss the problem directly<sup>29</sup>.

Consequently, another round of arbitration was held in Klatovy in May 1560. The case was discussed in a fashion that after one side pointed out the flaws of the other's allegation from a legal perspective, the other side had the chance to respond. Both the Bohemian and Bavarian delegates examined the opponent's documentary evidence in detail from a legal point of view, and their discussion gradually converged on the credibility of the testimonies each side had submitted. As a result, another year was required for both sides to gather and submit new evidence to prove the validity of their statements. Even during the 1560

<sup>28</sup> BayHStA, KÄA 170, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1550-1555), especially fol. 23; A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 237-240.

<sup>29</sup> BayHStA, KÄA 172, 173, 174, 175, 195 and 196, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1554-1557), especially KÄA 175, fols 66-72 for the arbitration agreement.



arbitration, both the Bavarians and the Bohemians continued to make use of the disputed Wetland, which caused considerable additional strife. Local magistrates tried to resolve the disputes and at the same time, earnestly gathered evidence advantageous to themselves, such as *urbaria*, indentures, warrants, common laws, and judicial precedents. The reports, which they wrote in 1562 based on this evidence, ran to more than 1,000 pages. The vice-judges eventually submitted a long report of more than 5,000 pages and presented a plan to grant the Bavarians two-fifth of the disputed area—mostly populated places and fields—and to give the Bohemians the remaining three-fifth, which mainly consisted of forests and grassland. Although the Duke of Bavaria was ready to accept the decision, not only the Bohemian representatives but also local lords and magistrates under the duke rejected it<sup>30</sup>.

In 1569, a new vein of iron was discovered in the border area (circa 50 km southeast of Furth) and an ironworks authorized by the King of Bohemia was constructed near the disputed area, which violated Bavarian interests because it stood on land belonging to the Bavarian nobleman Hans Sigmund von Degenburg. The conflict escalated and led the pledgee of the Bohemian royal property, Count of Gutenstein, to arm the people with guns to guard them against the Bavarians. The Duke of Bavaria responded by closing the road in the Wetland, which led to the ironworks, and, therefore, they threatened each other again. Since the Count of Gutenstein laid a complaint before the Bohemian court of Prague, the Bohemian King and the Duke of Bavaria had to resume their peace talks. Their delegates had a meeting in the Bavarian city of Zwiesel in June 1571 to discuss this dispute, but nothing was concluded in this meeting except the promise of non-violent negotiation: the King of Bohemia intended to have his delegates dispute only the ironworks, but the Bavarian delegates demanded to clearly define the borderline between them. Despite a series of arrests of offenders and shooting incidents between the citizens of Furth and Domažlice in 1572, an agreement was made to prohibit any violence in the disputed area in 1573. Subsequently 1577, the duke successively bought the Bohemian ironworks in his area and settled the conflict<sup>31</sup>. Furthermore, in 1579 the

<sup>30</sup> BayHStA, KAA 176, 177, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern* (1560-1569), especially 177, fol. 113 (Juli 10, 1564); A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 248-250.

<sup>31</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 251-259.

King of Bohemia and the Duke of Bavaria agreed to set up a permanent board to resolve the problems concerning the Wetland of Furth. The suspended court of arbitration presided over by imperial princes also resumed its hearings primarily in order that the duke and major Bohemian lords discuss the demarcation based on the 1564 plan<sup>32</sup>. In the following year, 1580, based on the amount of evidence submitted by both sides, they exchanged land on a large scale aiming at halving the disputed area without exclaves. The final agreement was ratified by both sides. At last, a boundary in the central part of the Wetland of Furth had been established<sup>33</sup>. However, some questions about the unsettled area remained and there were yet to be numerous disputes, negotiations, and trials in courts of arbitration. Only in 1764 was the demarcation of the whole disputed area completed<sup>34</sup>.

### III. CONCLUSIONS

This essay briefly reviewed the Bavarian-Bohemian border dispute between the fourteenth and sixteenth century. This case study shows how two communities with different cultures found a way to resolve their disputes in a mutually complementary manner through the process of conflict resolution. At first, aristocrats and settlers under the crown of Bohemia exercised their medieval right to feud to defend their liberties derived from the king. However, as the differences grew between words in their old warrants and the reality of their lives in the disputed area, the right to feud gradually lost its legality and changed into self-serving violence. On the other hand, the Bavarians, who had a culture of conflict resolution derived from the customs of cities, preferred to have talks, where they presented evidence to prove their occupancy and usufruct in the disputed area and asserted their legal right to hold the land. It is not correct to say that the Bavarian culture of conflict resolution replaced the Bohemian one. It is true that since the fifteenth

<sup>32</sup> BayHStA, KÄA 183, *Grenzstreitigkeiten zwischen Böhmen und Kurbayern (1579-1580)*, fols 203, 223, KÄA 184 (1578-1579), fols 72-92, 235-256, a.o.

<sup>33</sup> BayHStA, KÄA 185 (1580, large protocols of the detailed border); A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 260-265. Despite the agreement small conflicts often happened until 1610; *ibid.*, pp. 265-327.

<sup>34</sup> A. WEISSTHANNER, *Der Kampf um die bayerisch-böhmische Grenze*, pp. 317-325.

century, influenced by their rivals, the Bohemians began to choose talks to resolve conflicts. The skills of peace negotiations between the two parties were indeed improved mainly by the Bavarians. It is clear that the increase of accessible information and the development of verbal communication that began in the same period played an important role in changing their cultures of conflict resolution. In particular, the common rules to discuss disputes played a significant part in clarifying what a "right" allowed its holders, easing sophisticated negotiations and avoiding the deadlock of peace talks specific to unilateral insistence on rights. However, one must point out a crucial fact: they did not have a common legal force. Disputes in the sixteenth century were characterized by continual peace talks and their failure. Whenever paternal mediation by local magnates failed, petty acts of violence occurred and led to another round of peace talks. This cycle of peace and violent disputes continued into the mid-sixteenth century, when the system of trials in courts became common and courts ordered to settle a case within a certain period. Petty violence was even necessary to the peace talks. Had there not been the pressure of such incidences of violence, how could they have led Bavarians to a verbal bargain who occupied the Wetland as farming settlers and believed the authenticity of "written evidence" of their settlement? They would have ignored the requests of the Bohemian shepherds and miners, which would have eventually led to more extreme forms of violence such as war. This fact indicates that (in pre-modern Europe) recurrent petty conflicts had a similar function to the legal violence that modern states exercise in preventing catastrophic total violence and resolving conflicts by verbal communication such as the combination of the executive power of the police and the juridical processes of court<sup>35</sup>. Such small violence, supplemented by exact information from the scene and sophisticated verbal communication, could even be a driving force for conflicting parties to reach an agreement. Therefore, it is not correct to say that peace talks totally replaced violent disputes during the medieval and modern periods. Rather, one should interpret this phenomenon as the amalgamation of two different cultures of conflict resolution. Such forms of amalgamation can be seen not only in the border areas of the Holy

<sup>35</sup> K.O. VON ARETIN, *Friede und Friedensordnungen im neuzeitlichen Europa*, in G. CLEMENS (ed.), *Nation und Europa. Studien zum internationalen Staatensystem im 19. und 20. Jahrhundert. Festschrift für Peter Krüger zum 65. Geburtstag*, Stuttgart 2001, pp. 285-288.

Roman Empire but also in the Alpine area (e.g. a mediators' network of the multi-constructed Swiss Confederation including Milan and Savoy)<sup>36</sup>. The different cultures of conflict resolution can be arranged into a normative system not only in form of the institutional style in one state but also of the political balance among states, once the social and intellectual condition is prepared. It seems that cultures of conflict resolution, which evolved during the Medieval period through countless clashes, are the prototypes of the international "order" in Europe, which was accepted in the early modern period, even if it was developed on an incomparably larger scale, up to the era of the "Concert of Europe" in the nineteenth century, and especially up to the time of international law and organizations against the emergence of the total wars of the twentieth century<sup>37</sup>.

<sup>36</sup> For Savoy e.g. C. PARRY (ed.), *The Consolidated Treaty Series*, vol. 2: 1649-1653, New York 1969, pp. 352-355. For the Swiss Confederation there are so many arbitrary treaties, including the Italian territories. For the famous treaty between the Swiss and the king of France of 1516, J. KAISER - A.PH. SEGESSER (eds), *Eidgenössische Abschiede*, vol. 3/2, p. 1411.

<sup>37</sup> Criticism of the so-called "balance of powers system" in the early modern times is abundant. For example H. DUCHHARDT, "Westphalian System". *Zur Problematik einer Denkfigur*, in "Historische Zeitschrift", 269, 1999, pp. 305-315; S. BEAULAC, *The Power of Language in the Making of International Law. The Word Sovereignty in Bodin and Vattel and the Myth of Westphalia*, Leiden 2004. About the relationship of the developments of European countries and the reiteration of war and peace in the early modern period, see J. BURKHARDT, *Die Friedlosigkeit der Frühen Neuzeit. Grundlegung einer Theorie der Bellizität Europas*, in "Zeitschrift für Historische Forschung", 24, 1997, pp. 509-574.

# Alpine Village Communities, Ecclesiastic Institutions, and Clergy in Conflict

## The Late Middle Ages

by *Emanuele Curzel*

Alpine village populations knew how to organize themselves for the management of the important and very concrete common good of organized religion. The present text does not deal with the subject in general terms (something that would have been possible, considering the large number of studies published between the end of the twentieth and start of the twenty-first centuries)<sup>1</sup>, but rather focuses on two specific moments of conflict: the opposition of village communities to paying the expenses for the construction of parish churches, and the disputes that sometimes developed between villages and their chaplains.

*Translation by Gavin Taylor*

This essay anticipates part of a wider study under preparation. Thanks to Franco Bianchini and Italo Giordani for the archive references.

<sup>1</sup> Notable among the studies referring to the Alpine area are: F. DE VITT, *Istituzioni ecclesiastiche e vita quotidiana nel Friuli medievale* (Deputazione di Storia patria per le Venezie. Miscellanea di studi e memorie, 29), Venezia 1990; P. PARAVY, *De la Chrétienté romaine à la Réforme en Dauphiné. Evêques, fidèles et déviants (vers 1340-vers 1530)*, (Collection de l'École française de Rome, 183-184) Roma 1993; G. ANDENNA, *Strutture territoriali ecclesiastiche ed attività pastorale in alta diocesi milanese durante il basso medioevo*, in C. TALLONE (ed.), *L'Alto Milanese nell'età del Ducato*, Varese 1995, pp. 69-86; I. SAULLE HIPPENMEYER, *Nachbarschaft, Pfarrei und Gemeinde in Graubünden 1400-1600*, Desertina 1997; P. OSTINELLI, *Il governo delle anime. Strutture ecclesiastiche nel Bellinzonese e nelle Valli ambrosiane (XIV-XV secolo)*, (L'Officina. Nuove ricerche sulla Svizzera italiana, 11) Locarno 1998; E. CANOBBIO, *La visita pastorale di Gerardo Landriani alla diocesi di Como (1444-1445)* (Materiali di storia ecclesiastica lombarda. Secoli XIV-XVI), Milano 2001. To extend the geographical horizon see E. CURZEL, *L'organizzazione ecclesiastica nelle campagne*, in "Reti Medievali Rivista", 11, 2010, 1, [www.rivista.retimedievali.it](http://www.rivista.retimedievali.it).

This is achieved by considering various cases from the Diocese of Trent and bordering areas<sup>2</sup>.

It is necessary to remember what, in principle, the institutional equilibriums were. In the period in question, the parish system (dating back to the eighth to ninth centuries) was generally still operative. There were only a few *plebes*, which were churches with full authorization to administer the sacraments and collect tithes, located in the center of relatively large districts. There were also numerous minor sacred buildings (chapels) that instead did not enjoy these rights and were only periodically visited by the parish priest. During the Late Middle Ages there was a centrifugal trend and increasingly these chapels (sometimes called “parishes”) obtained various sacramental rights and a resident priest (or chaplain), supported by the village communities. However, this presence did not exempt the faithful from maintaining the clergy of the parish church and the parish buildings, a fact that was regularly mentioned in documents in which bishops and parish priests consented to the presence of a priest at a chapel, but requiring that the parish income should never be compromised as a consequence<sup>3</sup>.

The presence of a sacred building and priest within a village gave the faithful the option of visiting the main parish center less frequently, and so the burden of maintaining the mother church was felt to be unnecessarily onerous.

<sup>2</sup> For the Diocese of Trent in the Late Middle Ages, see G.M. VARANINI, *Le istituzioni ecclesiastiche della Val Lagarina nel Quattrocento veneziano*, in “Atti della Accademia roveretana degli Agiati”, a. acc. 238, s. VI, 28/A, 1988, pp. 435-533; E. CURZEL, *Le pievi trentine. Trasformazioni e continuità nell'organizzazione territoriale della cura d'anime dalle origini al XIII secolo* (Pubblicazioni dell'Istituto di Scienze Religiose in Trento. Series maior, 5), Bologna 1999; E. CURZEL, *Chiese trentine. Ricerche storiche su territori, persone e istituzioni* (Biblioteca dei Quaderni di Storia Religiosa, 4), Verona 2005; E. CURZEL, *Pievi e cappelle in area trentina nel tardo medioevo*, in S. BOSCANI LEONI - P. OSTINELLI (eds), *La chiesa “dal basso”. Organizzazioni, interazioni e pratiche nel contesto parrocchiale alpino alla fine del medioevo*, Milano 2012, pp. 103-122.

<sup>3</sup> The possibility of having a resident priest in a secondary church, without compromising the rights of the mother church, was foreseen in a letter by Pope Alexander III (1159-1181) to the Bishop of York, a letter that was included in the *Decretali di Gregorio IX* (1227-1241); Lib. III, Tit. XLVIII, c. III; A. FRIEDBERG (ed.), *Corpus Iuris Canonici*, vol. 2: *Decretalium collectiones*, Graz 1959<sup>2</sup>, cols 652-653.

An interesting and early example of a conflict on this theme occurred in Volano, a parish church of Vallagarina, in the Adige river valley south of Trent, an area that included the very important castle of Beseno somewhat outside of the town center, and the large important mountainous area of Folgaria<sup>4</sup>. In May 1281<sup>5</sup> Bishop Henricus II, having noted the state of degradation of the parish church (“desolata et discooperta, quod quidem malum est”) and considering that previous appeals to the parish priest and to the men of Volano, Beseno, and Folgaria had failed to achieve anything (“quod quidem facere recusaverunt”), convened the representatives of the *homines* and heard their arguments. Peregrinus and Guillelmus (son of Nicolaus *de Beseno*) stated on behalf of the inhabitants of Folgaria that they were prepared to pay half the expenses, “cum observatum fuit per longum tempus”, considering Beseno and Volano liable for the other half. However, the inhabitants of Volano did not want to divide up the costs in this customary way. Their representative, called Brugna, stated that the men living in the parish centre were so poor that they could do nothing for the reconstruction of the church, the expenses of which would thus have to be paid by the bishop: “villa de Avolano est distructa et devastata, et ... homines illius ville Avolani in maxima paupertate vivunt propter werram, et super hoc dicentes quod nos deberemus providere”<sup>6</sup>. The bishop ignored this appeal and ordered all the parties to contribute towards the restoration of the church, requiring the works to be completed within the precise deadline of the eve of the Assumption (the following August 14). The expenses were to be divided proportionally according to population and income (“pro quolibet foco domi, videlicet per libram et solidum et secundum facultatem hominum habentium”), all under pain of excommunication, which if necessary would be imposed by the Archpriest of Volano.

<sup>4</sup> For the parish of Volano see M.A. FEDERICO, *Volano tra parrocchia e comunità: l'istituzione ecclesiastica (secoli XV-XIX)*, in R. ADAMI - M. BONAZZA - G.M. VARANINI (eds), *Volano. Storia di una comunità*, Rovereto 2005, pp. 245-279.

<sup>5</sup> The document—today no longer traceable—was published in C. BARONI DE CAVALCABÒ, *Idea della storia e delle consuetudini antiche della Valle Lagarina ed in particolare del Roveretano*, Rovereto 1777, p. 258, no. 60 (“ex archivio Avolani”).

<sup>6</sup> The *werra* might have been the one of previous years, between the same bishop Henricus II and the Count of Tyrol, Meinhardus II: J. RIEDMANN, *Verso l'egemonia tirolese (1256-1310)*, in A. CASTAGNETTI - G.M. VARANINI (eds), *Letà medievale (Storia del Trentino, 3)*, Bologna 2004, pp. 255-343, here p. 279.

The inhabitants of Rumo, in the upper Non Valley, as early as the 1200s had complained on more than one occasion of the lack of attention that the clergyman of the parish church of Revò dedicated to their remote chapel<sup>7</sup>. Another occasion for conflict between the village and the parish center occurred when, in the second decade of the fourteenth century, there was an almost complete reconstruction of the mother church (“constructio et reformacio parietum et tectorum plebis eiusdem et capellarum ipsius”: the *capellae* were probably the side chapels of the main building). On August 16, 1317 the Bishop of Trent, Enricus from Metz, entrusted this dispute to the jurist Millacius from Bologna, explaining that it was between the parish priest and clerics of the parish church of Santa Maria di Revò and the community of Revò on one hand, and the *communitas* and the *homines* of the *terra* of Rumo on the other<sup>8</sup>. The final ruling is not documented, but was probably unfavorable for the inhabitants of Rumo, since a few years later (in 1323) they again nominated attorneys to represent them in disputes underway with the other *ville* of the parish of Revò regarding expenses for the repair of the Santo Stefano di Revò church and rectory annex. In 1366 an arbitration ruling was reached regarding a dispute for the division of expenses for a bell in Revò between the communities of Rumo and Proves on one hand, and the community of Cagnò on the other (the latter contested the one third share requested from them, and they were ultimately ordered to pay one fifth). There was also a ruling by the Bishop Bernardus Cles obliging Rumo to contribute one third towards the expenses for the bells of the parish church. On the occasion of the pastoral visit of 1537, the residents of Revò requested the residents of Rumo also to pay half the expenses of the sexton. After bitter argument (“postquam inc inde fuerit altercatum”), the visitors deferred the decision to the Bishop’s court, which subsequently (in 1554) again ruled against the inhabitants of the remote village<sup>9</sup>.

<sup>7</sup> Publication of the 1200s documentation in E. CURZEL, *Le pievi trentine*, pp. 307-309.

<sup>8</sup> D. RANDO - M. MOTTER (eds), *Il “Quaternus rogacionum” del notaio Bongiovanni di Bonandrea (1308-1320)*, (Fonti e testi, 1), Bologna 1997, nos 130, 150, 183 and app. 2.

<sup>9</sup> See the numerous documents in the parish settlement archive and cited in *Parrocchia della Conversione di San Paolo in Marcena. Inventario dell’archivio storico (1413-1950) e degli archivi aggregati (1257-1969)*, Trento 2001, pp. 127-132 (consultable on the website [http://www.trentinocultura.net/catalogo/cat\\_fondi\\_arch/cat\\_fondi\\_arch\\_h.asp](http://www.trentinocultura.net/catalogo/cat_fondi_arch/cat_fondi_arch_h.asp));



The dispute between the chapel of Bagolino and the parish church of Condino, a settlement in the southwestern extension of the diocese, is also worthy of note. The disagreement started in January 1339, when the Condino residents asked for a contribution towards a bell, amounting to a quarter of the cost of the bell and any other expenses that might arise (“ut deberent solvere quartam partem cuiusdam campane nove facte in dicta plebe de Condino et cuiusdam paramenti et alia onera ad ipsius plebis fabricam pertinencia seu incumbentia pro quarta parte”). The inhabitants of Bagolino, a village lying a good 22 km from the parish center, refused this, stating that they were not prepared to pay so much. The dispute was concluded in May 1340 before the episcopal vicar with a compromise based on the principle that the contribution would not be a quarter but proportional to the number of inhabitants (*pro foco*): at the time there were 479 households in Condino, compared to 121 in Bagolino<sup>10</sup>. In 1383 the parish church was badly damaged by a fire and the issue once again arose of the contribution due from the chapel. The representatives of Condino and of Bagolino renegotiated the compromise achieved forty years previously until an arbitration procedure, concluded in Trent on June 16, 1383, exempted the Bagolino residents from contributions towards the baptismal font, which they obviously did not use (having their own in the chapel), towards the painting (“quia voluntarie sunt”), and towards the banners and standards (again they would have their own and so there was no sense in them paying for those of Condino). They were instead ordered to contribute towards the expenses necessary for construction works, for communion cups, vestments, books, crosses, and bells, based on the traditional proportion of one quarter to calculate this. However, the expenses resulting from the fire were deemed not attributable to them<sup>11</sup>.

A fourth case, involving a settlement not far from Trent but under the diocese of Feltre, was that of Calceranica in Valsugana. The parish

G. CRISTOFORETTI, *La visita pastorale del cardinale Bernardo Clesio alla diocesi di Trento 1537-1538* (Pubblicazioni dell'Istituto di Scienze Religiose in Trento. Series maior, 2), Bologna 1989, pp. 270-271.

<sup>10</sup> F. BIANCHINI, *Le più antiche pergamene dell'archivio comunale di Condino (1207-1479)*, Trento 1991, no. 35, pp. 158-161. The numbers raise some suspicion, considering that their sum gives the round number of 600; almost as if the share of one hundred and twenty-six hundredths was the outcome of very closely contested negotiations.

<sup>11</sup> G. PAPALEONI, *Le chiese di Condino*, Rovereto 1913, pp. 22-23.

center was located centrally relative to the territory, but it was remote from the most significant inhabited centers, from the castles, and from the judicial seats. On April 25, 1390<sup>12</sup>, Johannes Spanangel from Nordlingen, vicar *in spiritualibus* of Antonius Naseri, Bishop of Feltre and Belluno, heard a request from Conradus “de Alemania”, parish priest of Calceranica. Addressing the representatives of the communities of Levico and Vigolo Vattaro and relative beneficiaries, he asked firstly whether these considered him to be their parish priest, and after a positive response, he informed the assembly that he had undergone considerable expenses and that there was the intention to spend even further to restore his residence, “que erat destructa nec poterat habitari nisi mediante refectione”. He thus requested all parties to contribute to these expenses as “parochiani plebis”. Those present were not greatly convinced (“responderunt se non teneri ad ea que petit dictus dominus plebanus”), delayed their response (“non sunt hic omnes parochiani seu eorum sindici”), and asked for the hearing to be adjourned. The following day, with the additional presence of a representative of Vattaro and another from Centa (other villages within the parish), the parish priest repeated his request to the vicar. The *sindici* opposed (“negaverunt dictam petitionem esse iustam et veram”) stating that the request was preposterous (“numquam auditum fuit quod facerent nec fecissent aliquam expensam circa reparationem predictae domus”), since it was well established that the inhabitants of the parish territory only had to contribute towards the upkeep of sacred buildings, “pro quarta parte” (the reference is probably to the donation of a quarter of income). The ruling of the vicar, on the basis of an episcopal regulation, was in favour of the parish priest: the “parochiani capellarum” were also responsible for the repair of the homes of clergymen, to the extent of one part for every nine paid by the parish. He thus ordered Levico, Vigolo Vattaro, Vattaro, and Centa to pay said amount within two months. The ruling was seen as harsh, and those present rejected it, stating their desire to refer to the bishop, “cum numquam fecerunt expensam aliquam nec facere teneantur circa refectionem et reparationem domus plebani, sed solummodo ecclesie plebis pro quarta parte”.

A final case worth citing is the one involving the agreement between the parish church of Bono and the chapel of Roncone (1494). The *homines* and the *comunitas* of Roncone were obliged to continue contributing

<sup>12</sup> E. CURZEL, *Chiese trentine*, pp. 111-117.

their proportions, according to practice up until that time (“iuxta eorum ratam, quando opportuerit aliquid facere, construere vel edificare vel alia onera subire pro dicta ecclesia Sanctae Iustinae cum aliis de comunitate dictae plebis, sicut hactenus observatum est”). The appeal to established practice, in this case, was considered sufficient in order to establish the amount of the contribution and nothing changed compared with the past, despite the chapel having just obtained extensive liturgical rights on the strength of a papal letter<sup>13</sup>.

In the five cases cited above a modest degree of progress can be identified in the forms of representation. Starting from the simple presence of an important figure, who declared himself to be present in the name of the *homines*, there was a transition towards the presence of *sindici* elected for this purpose. A marked consistency can be noted in how the management of the chapel was considered a community issue. It can also be observed that the lines of conflict were opened indirectly, seeking in each case to reduce previously determined proportions, avoid expenses that could be presented as accessory, and pass on some of the costs to other communities. Conversely, there was also consistent resistance of parish priests and the inhabitants of parish centers to attempts by peripheral villages to avoid paying their dues or modify the conditions of payment. Generally, bishops and vicars *in spiritualibus* defended (as happened elsewhere)<sup>14</sup> the rights of the mother church, which was coherent with the interests and regulations of episcopal authority.

As regards relationships between local communities and chapel clergy, it is interesting that this theme is sometimes studied starting from narrative sources and prose fiction<sup>15</sup>. In the present case, it is necessary to concentrate on documentary sources. This relationship was regulated

<sup>13</sup> Roncone, Archivio Parrocchiale, perg. no. 4; Pieve di Bono, Archivio parrocchiale, perg. no. 1; also see S. AMISTADI, *La chiesa di S. Stefano in Roncone nelle sue secolari vicende*, Tione 1952, pp. 13-14.

<sup>14</sup> For example in the diocese of Como (E. CANOBBIO, *La visita pastorale*, p. 53) or of Geneva: L. BINZ, *Vie religieuse et réforme ecclésiastique dans le diocèse de Genève pendant le grand schisme et la crise conciliaire (1378-1450)* (Mémoires et documents publiés par la Société d'histoire et d'archéologie de Genève, 46), Genève 1973, p. 246.

<sup>15</sup> See in particular G. CHERUBINI, *Parroco, parrocchie e popolo nelle campagne dell'Italia centro-settentrionale alla fine del Medioevo*, in *Pievi e parrocchie in Italia nel basso medioevo (sec. XIII-XV)*, (Italia sacra, 35-36) Roma 1984, pp. 351-413.

by agreements that located priests in a position subordinate to village authorities<sup>16</sup>, who, in exchange for liturgical services, guaranteed priests support (the Bishop Hinderbach, in 1481, called on the men of Peio to do at least as much as the nearby villages: “quod ... eidem presbitero et capellano debitam provisionem de victu et amictu ac salario competentem faciant, ita ut honeste vivere possit quemadmodum aliis capellanis in ceteris capellis sub dicta plebe constituti fieri consuevit et circa eisdem solitum est observari”)<sup>17</sup>. The ex-possessiones of priests could become objects for disposal: in 1451 the bishop Georg Hack confirmed the rights of Termeno, not only approving the fact that the inhabitants could choose their own chaplain, but also adding that according to custom the “sindici dicte capelle pro tempore existentes, de scitu et voluntate hominum dicte communitatis”, could assume ownership of the property of the curate for the benefit of the church buildings (“se de bonis relictis per ipsum plebanum ibidem intromisissent ipsaque bona pro fabrica et structura prememorate capelle applicanda recepissent et consignassent”)<sup>18</sup>.

Fulfilment of the liturgical duties foreseen in the agreements was inevitably subject to rigorous daily assessment by the community who thought of the church as being their property. Any shortfalls between expectations and actual behavior could lead to conflicts. In the face of negligence it was possible to appeal to the bishop: in 1346, after

<sup>16</sup> Examples from the 1300s to 1400s of these contracts are found in San Nicolò, in Alta Valtellina: E. CANOBBIO, *La visita pastorale*, p. 78 (1379); in Lodrino, in Ticino: P. OSTINELLI, *Il governo delle anime*, p. 88 (1446); in Socchieve, in Friuli: F. DE VITT, *Pievi e parrocchie della Carnia nel tardo medioevo (secoli XIII-XV)*, Tolmezzo 1983, pp. 145-147 (1445). In the diocese of Trent, this type of documentation is found from the start of the 1500s. The case of Salerno dates back to 1505: V. MATTEVI, *La prepositura di S. Michele all'Adige e la pieve di Salerno*, in “Civis”, 13, 1989, pp. 19-53, in particular pp. 49-51; also worth noting is Tesero: L. FELICETTI - V. CANAL, *Memorie storiche di Tesero, Panchià e Ziano nel Trentino*, Cavalese 1912, pp. 22-23 (1547-1550); and, in the diocese of Brixen, Campitello di Fassa: C. BERNARD, *Il decentramento della cura d'anime nella pieve di Fassa: la fondazione della curazia di Campitello (1554)*, in “Mondo Ladino”, 24, 2000, pp. 43-167.

<sup>17</sup> Trento, Archivio di Stato, *Libri Feudorum* (= *Codex Clesianus*), VII, fol. 96r-v. Summary: M. MORIZZO - D. REICH (eds), *Codex Clesianus Regesta*, extract from “Rivista Tridentina”, 7, 1907-15, 1915, p. 548.

<sup>18</sup> Trento, Archivio di Stato, *Archivio Principesco Vescovile*, Sezione Latina, caps 10, no. 49.

hearing the proposals of the inhabitants of Tesero (“*exposita sibi querella pro parte hominum et personarum comunitatis et universitatis ville Tesedi*”), the episcopal vicar ordered the beneficiary of the chapel in question, up till then in default, to procure a clergyman to fulfil at least the liturgical obligations<sup>19</sup>. This could go as far as the dismissal of a chaplain. In the confirmation of the rights of the village of Moena (1430) the possibility was contemplated of the chapel also becoming vacant by dismissal (“*per vos ... propter certos suos excessus*”)<sup>20</sup>. A dismissal that (from the perspective of the bishop) should not be undertaken lightly: Johannes Hinderbach, in 1471, confirmed the rights of the community of Predazzo but cautioned that, “*absque rationabili et evidenti causa [capellanum] non repellant*”<sup>21</sup>.

Hinderbach himself, when describing the general conduct of clergymen dedicated to pastoral care<sup>22</sup>, in 1473 depicted a context in which the vice of concubinage was widespread and undisguised (“*coram vicinia et plebisanis scandalose retinent [mulieres]*”). This behavior, according to the bishop, gave a very bad example to the faithful and also resulted in a reduction of donations to parish churches, to the advantage instead of the religious orders. However, the available documentation provides no explicit indications that this form of immorality provoked the reprobation of the local population, who (as elsewhere)<sup>23</sup> probably tolerated lifestyles, deviant as they might be from canonical rules, that did not interfere with the liturgical practices, and might even have rendered the figure of the chaplain closer to the common condition of life.

In addition to these general examples, the documentation also provides a very unusual and clamorous case. On January 8, 1492, before the Bishop Udalricus Frundsberg, the men of Storo asked pardon for lynch-

<sup>19</sup> Tesero, Archivio Parrocchiale, perg. no 1; summary: L. FELICETTI - V. CANAL, *Memorie storiche di Tesero*, p. 20; I. GIORDANI, *La chiesa di San Leonardo in Tesero*, Calliano 1991, p. 33.

<sup>20</sup> Moena, Archivio Parrocchiale, perg. no. 7.

<sup>21</sup> Trento, Archivio di Stato, *Libri Feudorum*, VII, ff. 163v-164v; summary: M. MORIZZO - D. REICH (eds), *Codex Clesianus Regesta*, p. 572.

<sup>22</sup> Letter from 1473, possibly connected with a pastoral visit, as cited in G.M. VARANINI, *Le istituzioni ecclesiastiche*, p. 464.

<sup>23</sup> See for example the considerations of P. OSTINELLI, *Il governo delle anime*, pp. 210-214; E. CANOBBIO, *La visita pastorale*, pp. 71-73.

ing their chaplain, a certain Iacobus, guilty of unclearly defined crimes. He had been beaten and burnt, they explained, by unruly youths. The bishop decided the community could continue having a chaplain (at their own expense) but, having lost "omnia eorum privilegia" (privileges, he wrote, that had been obtained from the apostolic seat, from previous bishops, and from Frundsberg himself), they would no longer be entitled to choose him<sup>24</sup>. On January 21, 1492 the bishop thus entrusted the chapel to the priest Laurentius, son of the late Manfredus from Roccafranca (Brescia), informing him of the events ("propter crimen et excessum per eos commissum circa cremationem ac combustionem quondam prespiteri Iacobi, olim eorum capellani") and stating that he did not want the absence of a clergyman to compromise the souls of the faithful ("more pii patris ac pastoris, utilitatibus ac commoditatibus necnon salutis animarum ipsorum providere volentes")<sup>25</sup>.

This extreme episode illustrates how the potential tensions between community and clergy resident at the chapels could also lead to acts of violence. Furthermore, in an age in which the clergy were numerous, but often resistant to the control of ecclesiastical authorities, the bishops themselves were not against the fact that lay citizens supervised not only the administration of the church's assets, but also the behavior of the clergymen: "in a fragmented ecclesiastical context ... the local authorities represented a sort of vigil conscience for clergymen"<sup>26</sup>.

<sup>24</sup> G. PAPALEONI, *La giustizia penale e la delinquenza nelle Giudicarie ulteriori alla fine del Medio Evo*, in "Studi Trentini di Scienze Storiche", 19, 1938, pp. 139-173, in particular pp. 170-173.

<sup>25</sup> Trento, Archivio di Stato, *Archivio Principesco Vescovile*, Sezione Latina, capsula 49, no. 31.

<sup>26</sup> D. RANDO, *L'episcopato trentino di Johannes Hinderbach (1465-1486): forme e strumenti del governo pastorale*, in I. ROGGER - M. BELLABARBA (eds), *Il principe vescovo Johannes Hinderbach tra tardo medioevo e umanesimo*, Bologna 1992, pp. 305-317, here p. 312.

# How to Record a Conflict?

The Communities of the German Part of the Diocese of Trent during the Late Middle Ages

by *Hannes Obermair*

“In this central and centralized humanity ... we must hear the distant roar of battle”.

M. FOUCAULT<sup>1</sup>

## I.

The considerations made in the following deal with a short, but close examination of the research on South Tyrol in the Late Middle Ages, which—after a long period of decreasing interest followed by the great stories of the first part of the twentieth century—has gained new breath from recent investigations conducted as comparisons and seems therefore to have undergone a renaissance. In order to give more detail to the project, the first and more general part is followed by some concrete examples, which in their turn are followed by general conclusions.

The reflections then attempt to reconnect with themes from the social history of the Pre-Modern era, which have experienced notable acceleration over the previous years, when one refers to the picture of the often endemic conflicts. Although for a long time separated from Medieval Studies where priority was given to modern and contemporary history, the dimensions of conflict throughout life in the Late Middle Ages are in fact now demonstrating all their analytical value. It is principally the concept of the “economy of war”, developed by sociologists and social

*Translation by Joy Avery*

<sup>1</sup> This is an extract from the famous final sentence by M. FOUCAULT, *Discipline and Punish: The Birth of the Prison*, New York 1991, p. 308.

anthropologists<sup>2</sup>, which can be applied in this context, for example with regard to the history of the European urban centers or the birth of the pre-state or state territorial structures<sup>3</sup>. However, less attention has been paid to the more rural type of societies until now, for example, the prevalently agricultural economies within a particular context such as the Alpine regions. But even here, the ice is beginning to thaw, and an important historian such as Luigi Lorenzetti has placed the theme of conflict at the center of his recent investigations on migration from the Italian Alps, not without underlining the particular quality and functionality of the economic and social conflicts associated with such migration<sup>4</sup>.

## II.

It is useful to start with a general overview, before presenting the geographical area of study. According to a theory, which is relatively diffuse and substantially agreed upon, social practices of the individual agents between the Late Middle Ages and the start of the Modern era were largely conditioned by the social class they belonged to, which in turn contributed towards forming a social identity. In this way, using a class-driven approach—to use the Marxist terminology—inevitably, however, would tend to prevail over the historical perception of a plurality or social multitude made up of individuals, which has always been present.

It will therefore be a challenge for historians, at least when their actions are strongly inspired by the canons of social history, to not dilute the associated individualities and mentalities into mere groups. In this sense, the classic studies carried out by Natalie Zemon Davies or Carlo

<sup>2</sup> See only R. COLLINS, *Conflict Sociology: Toward an Explanatory Science*, London 1975; J.S. COLEMAN, *Foundations of Social Theory*, Cambridge MA - London 1990.

<sup>3</sup> See M. BARBER, *The Two Cities. Medieval Europe, 1050-1320*, London - New York 2007, and W. BLOCKMANS - A. HOLENSTEIN - J. MATHIEU (eds), *Empowering Interactions. Political Cultures and the Emergence of the State in Europe 1300-1900*, Farnham - Burlington VT 2009.

<sup>4</sup> L. LORENZETTI, *Razionalità, cooperazione, conflitti: gli emigranti delle Alpi italiane (1600-1850)*, in A. ARRU - F. RAMELLA - D.L. CAGLIOTI (eds), *Donne e uomini migranti. Storie e geografie tra breve e lunga distanza*, Roma 2009, pp. 181-209.



Ginzburg are exemplary. Both of them have tried to connect an empirical impetus aimed at individual lives and Pre-Modern biographies with a more general picture of the historical macroprocess<sup>5</sup>. Of course, we must not forget the fundamental contributions made by the pioneering Anglo-Saxon school coupled with great names such as Edward P. Thompson or Peter Laslett, who, with their concept of an “economic moral” and with an epistemological perception of “social humanism” deeply changed the historiographic approach towards “the world we have lost”<sup>6</sup>.

This research, characterized by a strongly sociological method, highlighted the fact that the Pre-Modernist social groups were conditioned by various basic dimensions, made up of different settings: primarily economic, oriented towards the field of production; the reproductive sphere, profoundly connected to the question of gender; and finally, the cultural and “ideological” sphere, where these conditions reflect and self-represent if taken to a level of cultural, literary and iconographic representation.

Inserted into this type of superstructure, the dimensions of conflicts and antagonisms take on a topological dimension, they have a physical space and belong to a certain place, but this is true obviously not only for the areas which are the subject of this paper. As far as the so-called “German part” (*deutscher Anteil*) of the diocese of Trent in the Middle Ages and Early Modern Age is concerned, this included an area along the course of the River Adige between Merano, Bolzano, and Salorno, which had only a few side valleys such as the Ulten valley, the lower Sarntal and the Passeier valley, as well as the most southerly stretch of the Isarco valley as far as the gates of Bolzano<sup>7</sup>. The current pro-

<sup>5</sup> See N.Z. DAVIES, *The Return of Martin Guerre*, Cambridge MA 1984, and by the same author, *Women on the Margins. Three Seventeenth-Century Lives*, Cambridge MA 1997; C. GINZBURG, *Threads and Traces: True, False, Fictive*, Oakland CA 2012.

<sup>6</sup> E.P. THOMPSON, *The Making of the English Working Class*, Harmondsworth 1975; P. LASLETT, *The World We Have Lost, Further Explored*, London 2005.

<sup>7</sup> The “German part”—this expression may be attributed to the early Modern period—has been widely studied in monographs, from an ecclesiastic point of view, in the large manual by K. ATZ - A. SCHATZ, *Der deutsche Anteil des Bistums Trient*, 5 vols, Bozen 1903-1910. See also E. CURZEL, *Le pievi trentine. Trasformazioni e continuità nell'organizzazione territoriale della cura d'anime dalle origini al XIII secolo* (Centro per le scienze religiose in Trento. Series maior, 5), Bologna 1999, pp. 210-264.

vincial capital was even then an important intersection of roads with a fork in the transalpine stretch which reached either the upper Adige valley crossing the Venosta valley and going over the Reschen pass, the Swabian territories, or reached the Renon way or also directly the Isarco valley by means of the “Kuntersweg” which was instituted in the 1300s, crossing the Inntal and Austrian and Bavarian territories via the Brenner pass<sup>8</sup>.

In order to define this micro-region in even more detail, the Überetsch follows the river Adige on the right-hand side from Bolzano upwards towards the small vale of Salorno, where the river is squeezed into a tight stretch, which also represented a language barrier between the territories, which spoke either Romance languages or German from the 1500s onwards. Not to forget Bolzano, either the area of Jenesien with its so-called Tschöggberg or the area of Deutschnofen with its Regglberg, well settled and populated at least from the 1200s on and linked by a dense network of roads between them and in the direction of the central towns, where Bolzano and Merano played an important role, as they also functioned as central market towns for their respective hinterlands, and were thus connected with the larger centers along the edges of the Alps<sup>9</sup>.

To complicate the geopolitical situation described here, all of the area in question belonged ecclesiastically speaking to Trent, while politically, it was an integral part of the dominions of the Tyrolean counts; in fact it was the hinge and determining factor in their politics from the times of Count Meinhard II in the second half of the thirteenth century. With the acquisition of Tyrol by the Habsburgs in 1363, the “German part” of the diocese of Trent became a further bastion of political, military, and economic activity on the part of the Habsburgs towards the lower

The region in question in relation to its geographical and political situation, during the interwar period, was also called “Bozner Land”, see R. VON KLEBELSBERG, *Das Bozner Land* (Alpenlandschaften, 4), Wien - Leipzig 1930.

<sup>8</sup> For information on the case of Bolzano, see the reflections by A. BONOLDI, *Dimensioni spaziali dell'azione mercantile: alcune riflessioni sul caso delle fiere di Bolzano*, in M.-C. SCHÖPFER PEAFFEN - F. VANNOTTI (eds), *Unternehmen, Handelshäuser und Wirtschaftsmigration im Alpenraum*, Brig 2014, pp. 99-127.

<sup>9</sup> A. BONOLDI, *La fiera e il dazio: economia e politica commerciale nel Tirolo del secondo Settecento*, Trento 1999, pp. 20 ss.

Adige valley, towards Trent itself and also towards the more southerly regions of northern Italy. The fortification of the Sigmundskron castle at Bolzano by Duke Sigismund in the last quarter of the 1400s bears architectural witness: the castle is not by chance one of the largest fortified complexes along the Alps<sup>10</sup>. Austrian politics in the Late Middle Ages were substantially oriented along an east-west axis, and Tyrol was a decisive anchor in order to connect the Austrian territories in the Swabian *Vorlande* with the lower Austrian hinterland<sup>11</sup>. In this manner, the area around Bolzano could be described as a balcony overlooking Italy, from whence it was necessary to control the traffic along the Brenner, but also to gain military access, if and when it became necessary, to the plains of the Po, Veneto and Lombardy.

It would, however, be too banal to say that the area around Bolzano, as a hybrid micro-region, was in any way other in terms of social formation than the greater picture of the Trentino-Tyrolean regions or the Alpine areas overall (as has been wonderfully analyzed by Jon Mathieu, this area was characterized by a precariously urban demographic and was therefore a Pre-Modern ecosystem of its own kind)<sup>12</sup>.

Obviously, an interesting element could be, in any case, the way in which the southern part of Tyrol belonged to models thus far described as differing and often contrasting in terms of political and ecclesiastical organization. As it was the most northerly part of the diocese of Trent, which from the thirteenth century constantly belonged to the political orders linked to the county of Tyrol and the Empire, to the Habsburgs and Austrian order of society, these imposed their own models of how society should be constituted. In some ways, it is from this that a kind of “half-caste” situation arose, which raises many questions: does belonging to different types of society herald conflicts, or better still, do they give their particular color to the conflicts? And further: even if

<sup>10</sup> L. ANDERGASSEN - H. STAMPFER, *Schloss Sigmundskron: Bischofsburg und landesfürstliches Bollwerk* (Burgen, 11), Regensburg 2014.

<sup>11</sup> H. DOPSCH, *Die Länder und das Reich. Der Ostalpenraum im Hochmittelalter* (Österreichische Geschichte), Wien 1999; J. WHALEY, *Germany and the Holy Roman Empire*, vol. 1: *From Maximilian I to the Peace of Westphalia, 1493-1648*, Oxford - New York 2012, pp. 49 ss.

<sup>12</sup> J. MATHIEU, *History of the Alps 1500-1900. Environment, Development, and Society*, Morgantown WV 2009.

conflicts arise individually, do they follow a determined, more general logic, related to some territorial specificity?<sup>13</sup>.

In order to answer this question, it is useful to trace a short overview of the state of research on this region. It underwent considerable acceleration in terms of the nationalisms it created, most importantly on the part of the German-speaking Tyrolean historiography and motivated by the fragmentation of old Tyrol following the Austrian defeat during the World War I. Great operas of erudition were born from nationalistic yearnings, although they were characterized in varying degrees by a revanchist spirit and were therefore strongly ideologically disciplined. By this I mean the “grandfathers” of Austrian-Tyrolean research<sup>14</sup>, who were also distinguished in the sector of research concerning local communities and their conflicts, Otto Stolz, Hermann Wopfner, Franz Huter, as well as Nikolaus Grass, who were not without a type of “völkisch” vein, intended to legitimise *Deutschtum*—which was at risk in that period as a result of Italian nationalism and fascism—by returning in a rather emphatic way to old medieval forms of society<sup>15</sup>. Such societies were often idealized by these authors as a social reality, which was still solid and “pure”, invalidated neither by the modern world, nor by ethnic commixtures, and inserted in a *Land* whose institutional and social situation was never challenged<sup>16</sup>.

<sup>13</sup> For a reflection on the hybrid status and in some opinions ‘half-caste’ Bolzano region, see from the point of view of sources from late medieval writings, H. OBERMAIR, *The Use of Records in Medieval Towns: The Case of Bolzano, South Tyrol*, in M. MOSTERT - A. ADAMSKA (eds), *Writing and Administration of Medieval Towns. Medieval Urban Literacy 1* (Utrecht Studies in Medieval Literacy, 27), Turnhout 2014, pp. 49-68.

<sup>14</sup> For an efficient typology, see A. MÜLLER, *Alte Herren/Alte Meister. Über Ego-Histoire in der österreichischen Geschichtswissenschaft. Eine Quellenkunde*, in “Österreichische Zeitschrift für Geschichtswissenschaften”, 4, 1993, pp. 120-133. For a particular narrative of the Tyrolean historiography in the early 1900s, see L. COLE, “Für Gott, Kaiser und Vaterland”. *Nationale Identität der deutschsprachigen Bevölkerung Tirols 1860-1914* (Studien zur Historischen Sozialwissenschaft, 28), Frankfurt a.M. - New York 2000, pp. 13-23.

<sup>15</sup> An important monography on this topic is that by W. OBERKROME, *Volksgeschichte. Methodische Innovation und völkische Ideologisierung in der deutschen Geschichtswissenschaft 1918-1945* (Kritische Studien zur Geschichtswissenschaft, 101), Göttingen 1999; on the Austrian-Tyrolean historiography in the interwar period, see in particular pp. 73-80.

<sup>16</sup> The high point of this historiography was reached in O. STOLZ, *Die Ausbreitung des Deutschthums in Südtirol im Lichte der Urkunden*, 5 vols, München - Berlin 1928-1934.

Although completely ahistorical, this one-dimensional, strongly identitarian vision with a firm official footing, had a long-lasting retarding effect towards a kind of modern medievalism in the Trentino-Tyrol regions, no longer connected to territorial structures considered to exist almost *a priori* of any historiographical considerations.

This Tyrolean type of medievalism *sui generis* or an imagined or imaginary medieval period, constructed in the light of and with the ends of an extremely politicized present<sup>17</sup>, was efficiently deconstructed only in the last two decades by a younger generation of regional researchers who, not denying the cognitive contribution the said historians could still offer, brought to light also the political paroxysms, often connected to rising patriotism, if not to Pan-Germanic nationalism or even pro-Nazism<sup>18</sup>. It was only around the year 2000 and later that some interesting analytical approaches of great depth emerged, which have begun the rewriting of the pages of medieval Tyrol in critical terms. Here I mean in particular researchers such as Brigitte Rath, Volker Stamm, Karin Pattis, Martin Schennach, Christian Hagen, Gertrud Zeindl, Giuseppe Albertoni, or Stefan Sonderegger. They have obviously approached the topic from differing angle, some from a more economic-historical point of view (Stamm even began with a discussion of West African societies)<sup>19</sup>, some more with an eye to the production of documental material concerning urban societies (as with Hagen)<sup>20</sup>, and those who looked at the demographic situation (Pattis and Zeindl)<sup>21</sup>, some looked at criminal

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<sup>17</sup> On the concept of "medievalism" see T. PUGH - A.J. WEISL, *Medievalisms. Making the Past in the Present*, Abingdon 2013.

<sup>18</sup> L. COLE, 'Fern von Europa'? *The Peculiarities of Tirolian Historiography*, in "Zeitgeschichte", 23, 1996, pp. 181-204; *Nationalismus und Geschichtsschreibung – Nazionalismo e storiografia*, in "Geschichte und Region/Storia e regione", 5, 1996.

<sup>19</sup> V. STAMM, *Soziale Zwischengruppen in der mittelalterlichen Agrargesellschaft*, in "Historische Zeitschrift", 291, 2010, 1, pp. 1-22.

<sup>20</sup> C. HAGEN, *Fürstliche Herrschaft und kommunale Teilhabe. Die Städte der Grafschaft Tirol im Spätmittelalter* (Veröffentlichungen des Südtiroler Landesarchivs, 34), Innsbruck 2015.

<sup>21</sup> K. PATTIS, *Neustift zur Zeit des Bauernaufstandes 1525. Wirtschaftliche, soziale und religiöse Hintergründe*, Brixen 2012; G. ZEINDL, *Meran im Mittelalter – eine Tiroler Stadt im Spiegel ihrer Steuern* (Tiroler Wirtschaftsstudien, 57), Innsbruck 2009.

history (Rath and Schennach)<sup>22</sup>, some at the institutional structures of the big religions and their particular management of power (Albertoni and Sonderegger)<sup>23</sup>. These authors, some of them still young, have revisited the south Tyrolean question without ideological preconceptions, using more conceptual and analytical methods, thus giving new life to old topics which seemed to be more or less dead. And it is also thanks to their contributions that a history of conflicts at a community level in the Pre-Modern era in the Alpine regions can now be revisited on the basis of research options, which no longer neglect a general planning of historical studies, reconnecting instead to the great schools in this field<sup>24</sup>.

### III.

In order to give more solidity to the question and debate we are looking at here, to throw some light on the micro-regional conflictuality, and to reconstruct the related dynamics, I would like to introduce in the following some material examples taken from the late 1300s, from the early 1400s and from the period between the fifteenth and seventeenth centuries. I will only touch on these periods in an effort to finally draw some conclusions for our debate:

- I propose to use a rural statute, known as a “Weistum”, which provides a picture of the situation of a community in the early 1400s;
- to examine some witness statements from a rural setting in Gries, Bolzano, dating back to 1367 and connected with a dispute over property;

<sup>22</sup> B. RATH, “... und wolt das Schwert durch in stossen.” *Zur physischen Gewalt in Südtirol um 1500*, in “L’Homme”, 7, 1996, 2, pp. 56-70; M.P. SCHENNACH, *Gesetz und Herrschaft. Die Entstehung des Gesetzgebungsstaates am Beispiel Tirols* (Forschungen zur deutschen Rechtsgeschichte, 28), Köln - Weimar - Wien 2010.

<sup>23</sup> G. ALBERTONI, *Die Herrschaft des Bischofs. Macht und Gesellschaft zwischen Etsch und Inn im Mittelalter*, Bozen 2003; S. SONDEREGGER, “... der Zins ist abgelon ...”. *Ausbandeln von Schadensteilungen zwischen Grundherren und Bauern in schwierigen Zeiten der Landwirtschaft*, in R. KIESSLING - W. SCHEFFKNECHT (eds), *Umweltgeschichte in der Region* (Forum Suevicum, 9), Konstanz 2012, pp. 139-157 (drawing on examples from neighboring Switzerland).

<sup>24</sup> A similar evaluation seems to be reached, referring to modern Trentino in a recent note by M. BELLABARBA - G.M. VARANINI, *L’età medievale, l’età moderna*, in “Studi trentini. Storia”, 94, 2015, 1, pp. 9-14.

- lastly, to analyze court protocols from Bolzano in the years around 1500, to see how, and using what type of statistics, the “criminal facts” are registered and “metabolized” by the institutions.

Statutory sources are generally excellent in terms of facilitating the observation of social dynamics and antagonisms<sup>25</sup>. In fact, they usually are not so much an expression of a free propellant force of the communities able to give themselves rulings autonomously, to concentrate around an autonomous statutory nucleus, as would form within a community and therefore an expression of their own federalizing forces. This was the somewhat social-romantic interpretation of the “rulings”, which, at least in German-speaking areas (to limit ourselves to those) had rather illustrious ancestors—the Brothers Grimm with their “Rechtsaltertümer”<sup>26</sup>—and then an important, positively positioned, although critical reconsideration by Peter Blickle and his school with the concept of “communalism”<sup>27</sup>. He, in his turn, was doubly associated with Otto Brunner, whose nostalgic tenor was the example which had already been bitterly criticized by Fernand Braudel who, however, recognized Brunner’s exceptionally penetrating, analytical research methods<sup>28</sup>. The harmonizing approach to the statutory sphere then entered a period of crisis as a result of the detailed research by Gadi Algazi<sup>29</sup> and André

<sup>25</sup> The study by P. BLICKLE is always very useful in relation to the German-speaking regions, *Deutsche ländliche Rechtsquellen. Probleme und Wege der Weistumsforschung*, Stuttgart 1977. For the Tyrolean regions, see the immense edition by I. ZINGERLE - K.T. INAMA-STERNEGG - J. EGGER (eds), *Die Tirolischen Weistümer* (Österreichische Weistümer, 5/1-4), 4 vols, Wien 1875-1891. For the Italian context, see A. CORTONESI - F. VIOLA (eds), *Le comunità rurali e i loro statuti (secoli XII-XV)*, (Rivista Storica del Lazio, 13-14, 21-22) 2 vols, Roma 2006.

<sup>26</sup> For a contextualisation of the works of the Grimm Brothers, see J. LEERSSEN, *Literary Historicism: Romanticism, Philologists, and the Presence of the Past*, in “Modern Language Quarterly”, 65, 2004, 2, pp. 221-244.

<sup>27</sup> P. BLICKLE, *Kommunalismus. Skizzen einer gesellschaftlichen Organisationsform*, München 2000.

<sup>28</sup> O. BRUNNER, *Land and Lordship. Structures of Governance in Medieval Austria*, Philadelphia PA 1992. For an authoritative critique, see F. BRAUDEL, *On a Concept of Social History*, in F. BRAUDEL, *On History*, Chicago IL 1980, pp. 120-131.

<sup>29</sup> G. ALGAZI, *Herrngewalt und Gewalt der Herren im späten Mittelalter. Herrschaft, Gegenseitigkeit und Sprachgebrauch* (Historische Studien, 17), Frankfurt a.M. - New York 1996.

Holenstein<sup>30</sup> after the 1990s, or still in the Anglo-Saxon area where the concept of the “medieval market morality” (James Davis) introduced a fundamental sociological and substantially materialistic criterion to explain the formation of the regulating structures and apparatus, based on the above-mentioned “moral economy” formulated by Edward P. Thompson<sup>31</sup>.

I think it would be useful to look more closely at a statutory source dating from 1403 relating to Salorno, a town halfway along the road between Bolzano and Trent, and a real crossroads between the two cultural models. Diderot in his *Encyclopédie* describes the village in the late 1700s with clear and precise words: “Salurn ... [un] gros bourg aux confins d’Allemagne e d’Italie, dans le Tirol, auprès du Trentin, dont il fait la separation”<sup>32</sup>. A fulcrum, therefore, in terms of both “culture” and “politics”, at least in the perception of the French encyclopaedists, who were united in the clique around Baron Paul Henri Thiry d’Holbach during the period of the Enlightenment. From the thirteenth century on, Salorno had been one of the last Tyrolean judiciary districts and bastions, in the area bordering on the Prince-bishopric of Trent. It therefore also became a workshop of Habsburg power, as, in 1363, they came to settle in this station, which directly overlooks Trent.

The statutory text was redacted in the presence of some 11 jurors (*gesworen*), all of them male, who were representatives of the community and who met in the house of a woman: “in der stuben des hauss frauen Claren genannt die Rallin” [in the living room of the house of a certain Clara Rall]<sup>33</sup>. It was the so-called “Röll’sche Behausung”, which was located east of the parish church in Salorno, in the middle of the town, almost as if to denote a common space imbued with social

<sup>30</sup> A. HOLENSTEIN, *Die Huldigung der Untertanen. Rechtskultur und Herrschaftsordnung (800-1800)*, (Quellen und Forschungen zur Agrargeschichte, 36) Stuttgart - New York 1991.

<sup>31</sup> J. DAVIS, *Medieval Market Morality. Life, Law and Ethics in the English Marketplace, 1200-1500*, Cambridge 2012.

<sup>32</sup> *Encyclopédie*, vol. 14, Paris 1765, p. 586.

<sup>33</sup> For an edition with detailed comments, see H. OBERMAIR, *Soziale Produktion von Recht? Das Weistum des Gerichts Salurn in Südtirol von 1403*, in “*Concilium Medii Aevi*”, 4, 2001, pp. 179-208.



relationships, physically identifiable in a determined geographical place, which immediately also becomes an anthropological space. At this point, it is appropriate to only look at the research, although centered on neo-liberalism, carried out by the sociologist David Harvey for whom the category of “space” is never neutral, but always the result or product of social struggles, and which therefore becomes absolute, relative, and common space<sup>34</sup>. This is also valid for the structures existing in the late Middle Ages: the completely male panel of jurors means a strong mobilization of social capital, which customarily became a judicial structure and in which the sex of a person was a determining factor in structured social activities<sup>35</sup>.

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We can find a trace of this: there is talk of *masi* (*höff*—farms where the workers were paid in kind) which were managed by settlers (*pawlewt*),

<sup>34</sup> For this concept, see D. HARVEY, *Justice, Nature, and the Geography of Difference*, Cambridge MA 1996.

<sup>35</sup> W.C. BROWN, *Charters as Weapons. On the Role Played by Early Medieval Dispute Records in the Disputes They Record*, in “Journal of Medieval History”, 28, 2002, 3, pp. 227-248.

<sup>36</sup> A critical and reflective use of concepts developed by Tönnies is considered possible by P. VON MOOS, *Fehltritt, Fauxpas und andere Transgressionen im Mittelalter*, in P. VON MOOS (ed.), *Der Fehltritt: Vergehen und Versehen in der Vormoderne* (Norm und Struktur, 15), Köln 2001, pp. 82-83.

<sup>37</sup> M.P. SCHIENNACH, *Gesetz und Herrschaft*, pp. 219-220.

but here incorrectly (“die man unrichtiglichen arbeit”), perhaps in terms of not paying the tithes or under-use of the land. Such settlers could be substituted by the authorities (*herrschaft*) by force (“mit gewalt”). Literally, this meant violence, but we can without doubt compare this practice to today’s monopoly of power. In this way, the text legitimizes the tendency of the central powers to control the small pieces of land, which made up the primary sector of the Pre-Modern economy. Optimizing these settlements meant guaranteeing any surplus produce from the fertile lands of the Adige Valley, which was in large part destined to go to the authorities, by means of using the territorial courts and, more directly, their representatives. The fact that friction arose between the settlers and the state authorities on the subject of land owning and management is no great surprise. The town of Salorno was therefore the site of a potential conflict with diverging aims, or rather between the permanently precarious situation of the settlers on one hand and the stability of the income of the authorities on the other, which were used to guarantee a large part of the gross domestic product of the territories<sup>38</sup>. Such conflicts persisted and lasted, in cyclical patterns, for all of the early Modern period, giving rise to, for example, the peasant’s revolt of 1525 which plainly lays bare the contradictions in the living conditions of the previous regimes in the Alpine area<sup>39</sup>.

The second example leads us to the topic of “memory”, connected to the cycle of generations, a resource in the resolution of conflicts connected to rural economies, rooted in primary production, and strongly anchored in models of subsistence farming.

The year is 1367. In a document drawn up in Bolzano, in the main Kornplatz—or Corn Square (“in foro bladi ubi iudicium regitur”) by the imperial notary Willehalmus, son of the late Otto, a certain Jacobus Zässegleiger brings a case to the public courts against the lord, Rendlinus de Turri, who was a member of the important Niedertor family

<sup>38</sup> For a wide comparison on this antagonism, see T. IVERSEN - J.R. MYKING (eds), *Land, Lords and Peasants. Peasants rights to control land in the Middle Ages and the Early Modern Period – Norway, Scandinavia and the Alpine Region*, Trondheim 2005.

<sup>39</sup> For the regional situation, see H. OBERMAIR, *Logiche sociali della rivolta tradizionalista. Bolzano e l’impatto della “Guerra dei contadini” del 1525*, in “Studi Trentini. Storia”, 92, 2013, 1, pp. 185-194. For a more general context, see D. MILLER, *Armies of the German Peasants’ War 1524-1526*, Oxford 2003.

relationships, physically identifiable in a determined geographical place, which immediately also becomes an anthropological space. At this point, it is appropriate to only look at the research, although centered on neo-liberalism, carried out by the sociologist David Harvey for whom the category of “space” is never neutral, but always the result or product of social struggles, and which therefore becomes absolute, relative, and common space<sup>34</sup>. This is also valid for the structures existing in the late Middle Ages: the completely male panel of jurors means a strong mobilization of social capital, which customarily became a judicial structure and in which the sex of a person was a determining factor in structured social activities<sup>35</sup>.

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<sup>37</sup> M.P. SCHENNACH, *Gesetz und Herrschaft*, pp. 219-220.

of Bolzano<sup>40</sup>. The case was brought before the public court, before the ruling judge Hainricus Gurre, who in his turn was the substitute for Franziscus de Rafenstein, the judge of Gries, which was the pertinent Tyrolean judicial district<sup>41</sup>.

There are some 16 documented testimonials relating to this case, including both ministerial documents but also, for the main part from people from the bourgeoisie and rural areas, and even from the surrounding area as a presence from Kastelruth in the Isarco valley underlines, and finally from the judge. This fact means that we can talk of a real Pre-Modern “concentration of difference” (Robert Park) which can be observed here: the Alpine town in particular, given its precarious characteristics, presents itself as represented by different lifestyles which intersect each other in a, geographically speaking, very reduced, anthropized space<sup>42</sup>.

The subject of the dispute, whose existence was already confirmed in earlier documents, was the tithes or half of it, which derived from two agricultural units (*curie terre*) whose locations are accurately given. It was the wine-growing settlement of Gries (near Zeslar-Rundenstein) and the profits of the object in dispute were mainly a certain amount of wine and occasionally of meat. In view of this legal argument, which was booked to take place over two weeks, the defense brings forward some 19 witnesses whose statements are abundantly documented. These were mainly witnesses from the peasant class from around Gries and from the fertile plateau of Jenesien; for example, there were Chunradus Werner, Jacobus in der Grube, and Heinricus Wiser.

Their statements all offer the same structure: one records a period of 30 to 40 years (occasionally also between 15 and 26 years) and this knowledge is documented. The semantic basis of the statements is

<sup>40</sup> For more information on such families, see M. BITSCHNAU, *Burg und Adel zwischen 1050 und 1300. Grundlagen zu ihrer Erforschung* (Mitteilungen der Kommission für Burgenforschung, 1), Wien 1983, no. 447, pp. 389-390.

<sup>41</sup> This document is to be found in the ample archival sources of Bolzano's Hospital of the Holy Spirit and is published in H. OBERMAIR, *Bozen Süd – Bolzano Nord. Schriftlichkeit und urkundliche Überlieferung der Stadt Bozen bis 1500*, vol. 1, Bozen 2005, no. 741, pp. 361-362.

<sup>42</sup> On the particular typology of Alpine towns, see in addition to J. MATHIEU, *History of the Alps*, K. BRANDSTÄTTER, *Die Alpenstadt – Annäherung an einen Begriff*, in “Tiroler Heimat”, 67, 2003, pp. 261-287.

“N.N. dixit et protestatus est, quod recordaret circa triginta annos” etc. I do not intend to go into the details of the testimonies, which are of no interest here, but I would like to point out the connection between conflict and memory. The technical, legal term for this type of memory is encapsulated in the word “recordari” or records, and this opens up a vast spiral of associations that can be anchored in ancient times “rerum recordatio et memoria”, a trope often used by Cicero<sup>43</sup>.

The classicist Jan Assmann dedicated his concept of cultural memory<sup>44</sup> to a subtle reconsideration of the assumption made by Maurice Halbwachs who brought to light how the past, in traditionalist societies, was generally constructed in the function of a respective present and its contingent necessities. Assmann added the analytical distinction between the generalized collective long-term memory and a short-term communicative memory, which included at the most three or four generations. Owing to the “floating gap” of memory, this is only succeeded by a cultural memory of myths and ceremonies, which is highly stylized.

Such a communicative memory is what pervades the legal statements taken before the court of Bolzano, which are connected to a recent past. It is linked to the statements made by the witnesses (“presentes”), who are regularly indicated in the notarial documents with name, occupation and community of origin<sup>45</sup>. These are the indirect ingredients of the codified memory, and they are what provide the snapshot of the conflict itself, turning it from a “heated” event to a “cold” element which has been registered, conserved, and which has more or less lain dormant. Thus, the judicial interrogation of the year 1367 reproduces a determined life cycle. Speaking in a sociological sense, the generation cycle as a non-standard unit of temporal measurement indicates the average duration of the generative cycle, which ensues between the birth of

<sup>43</sup> CICERO, *Laelius sive de amicitia. Ad usum scholarum*, ed. by J.B. MAVER, Kempten 1831, cap. 27, p. 416.

<sup>44</sup> J. ASSMANN, *La memoria culturale. Scrittura, ricordo e identità politica nelle grandi civiltà antiche*, Torino 1997<sup>2</sup>.

<sup>45</sup> For the peculiar characteristics of the late medieval Bolzano notarial profession see H. OBERMAIR, *Il notariato nello sviluppo della città e del suburbio di Bolzano nei secoli XII-XVI*, in A. GIORGI et al. (eds), *Il notariato nell'arco alpino. Produzione e conservazione delle carte notarili tra Medioevo e Età moderna* (Studi storici sul notariato italiano, 16), Milano 2014, pp. 293-322.

parents and the birth of their children, and this passage can be indicated, in more traditional societies, to be of between 20 and 25 years.

The Bolzano document retraces this cycle, but also looks at a conception of the recent past and therefore a determined perception of historical times as “futures past”<sup>46</sup>. It is substantially the medieval vision of the past, still present in a group culture, which re-evokes a cycle of one or two generations, which is available to their collective memory. It would be difficult to deduce from a similar collective memory the degree of “historical” consciousness, which was present in European populations in the late Middle Ages. For them, the historical dimension represented either the theological horizons of monotheist Christian religion, with its clear points of arrival and departure, both of these points transcending the historical secular horizons, or a dimension which was experienced for a long time, which was envisioned as an eternal present whose slow waves passed down from parent to child and to their children’s children, almost in unbroken contemporaneity, but always expressed in the same basic material conditions.

The third and last example leads us to a source taken from criminal circles. It is the first *Gerichtsprotokollbuch* or protocol register kept by the legal system in Bolzano dated between the years 1495-1517. From the second half of the fifteenth century on, the district included all of the area surrounding Bolzano together with Gries and had full competence in criminal court cases<sup>47</sup>.

The codex consisting of approximately 120 pages, which is preserved at the Provincial Archives of Bolzano, was the subject of an important and detailed analysis by Brigitte Rath at the University of Vienna<sup>48</sup>. She has published some detailed extracts from this codex from an original, but equally tactful, feminist point of view<sup>49</sup>. The author

<sup>46</sup> On the concept of the past as “futures past” see R. KOSELLECK, *Vergangene Zukunft. Zur Semantik geschichtlicher Zeiten*, Frankfurt a.M. 1979, pp. 17-37.

<sup>47</sup> O. STOLZ, *Politisch-historische Landesbeschreibung von Südtirol* (Schlern-Schriften, 40), Innsbruck 1937, p. 268.

<sup>48</sup> B. RATH, *Aspekte geschlechtsspezifischer Kriminalität in Bozen um 1500*, Ph.D. thesis Vienna, 2002.

<sup>49</sup> B. RATH, *und wolt das Schwert*; B. RATH, *Familienstand und geschlechtsspezifische Kriminalität in Bozen im 16. Jahrhundert*, in S. CLEMENTI (ed.), *Der ledige Un-Wille. Zur Geschichte lediger Frauen in der Neuzeit*, Wien - Bozen 1998, pp. 257-268.

brought to light the interconnections between “crime” and the notion of an infraction, fully following the indications of the *labeling approach* or the ascribing, relative and socially and ideologically constructed quality of the criminal action and not of its essential nature<sup>50</sup>. Rath did this on the basis of a statistical analysis of the criminal events, which emerged from the proceedings registered in the Bolzano protocol. If the criminal framework can be associated with the wider field of conflictuality, the data which emerged from Rath’s analysis gives a snapshot also of the social dimensions of the society of Bolzano from both an economical point of view and one of gender.

In around 20 years, approximately 350 crimes were counted at the level of legal proceedings.

Of these, 228 (= 65.8%) referred to crimes committed against property. There were 74 crimes of violence (= 21.3%), there were 21 crimes against public order and morals (this also includes sex crimes and is the equivalent of 6%), 3 against religion (= 0.8%) and 20 against governmental authority (= 5.7%). A total of 50 people were condemned, of which some 41 (= 82%) were men. Seen in this way, the gap between the two sexes is extremely noticeable. The distribution of the types of crime does not vary significantly between men and women, where only the rate of violent crime is much higher for men.

The family status of the wrongdoers is very revealing. As far as the sources permit positive interpretation, it was normally single people and in general, they were of no fixed abode. Both of these conditions were the general circumstances for young people. In many of these cases it was a sort of *Lumpenproletariat*, the Pre-Modern underclass, economically and socially disadvantaged, which found itself in a perennial state of existential precariousness.

This means that the bonds were often very weak between people who moved about the area and who were not yet settled in terms of property or family, and the more settled population. Such mobility would certainly have lowered the threshold for infraction of the existing norms. On the other hand, the more settled, more ancestral population

<sup>50</sup> For the state of research on pre-Modern crime in a historical-anthropological perspective, see R. HABERMAS (ed.), *Verbrechen im Blick. Perspektiven der neuzeitlichen Kriminalitätsgeschichte*, Frankfurt a.M. 2009.

would in their turn have been more in favor of reporting to the authorities persons whom they deemed to be potentially dangerous only because of their mobility and instability. Therefore, one could say that there was a construction of social antagonism based on matters to do with property<sup>51</sup>.

#### IV.

As has been seen, the method of representing forms of conflictuality present within communities have been represented in different ways and on different levels in the written documentation which has been passed down to us from that period and that region. Finally, to complete the presentation of the cases discussed, and to reach a final consideration, we can formulate three questions, or concluding observations:

1) The putting into writing, or the act of actual and tangible registration, presents itself as the deciding element of objectivisation of the conflicting elements, because it is the document and its performative essence, which is not only the documentation but also the channeling, creating and sometimes even resolving of the conflict. There exists therefore an “analytical bridge/bond” between the writing and the conflict. Alternatively, to use the words of John L. Austin: *How to do things with words*—every utterance of words is in reality a practical action.

2) But how strong is the imprinting by these texts on the practice? Or is it practice that shapes the texts? Are there contradicting tendencies, with ambiguous perceptions, or contrasts between the medium and the sphere of social activity? Or is one thing unthinkable without the other, and both intersect with each other indistinguishably? Certainly, the texts would be opaque without the practice, but the practice in its turn conforms to the legal and economic parameters existing at the time. The relationship between the two is bi-directional, and includes the liminal and interactive area between the oral and the written.

<sup>51</sup> A similar conclusion relating to England between the fifteenth and sixteenth centuries in reference to the wide sphere of parish economies is reached by R.C. PALMER, *Selling the Church. The English Parish in Law, Commerce, and Religion, 1350-1550*, Chapel Hill NC - London 2002, pp. 112-142. For Bolzano-Gries see also V. STAMM, *Grundbesitz in einer spätmittelalterlichen Marktgemeinde: Land und Leute in Gries bei Bozen* (Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte. Beihefte, 222), Stuttgart 2013.



3) In his classic sociological discussion on space and difference, Georg Simmel insisted on the fact that a certain amount of discord and diversity, and conflict relating to a group or to a community, both internal and external, has the effect that elements for finding solutions are discovered and put in place, which have the effect of further compacting the group or the community<sup>52</sup>. This affirmation could be of assistance in a reconsideration and understanding of the nature of conflict and the antagonistic moment, not so much as a dysfunctional element, but rather as an important dynamic resource for the societies of the Late Middle Ages and Early Modern period.

<sup>52</sup> G. SIMMEL, *Das Ende des Streits*, in "Die neue Rundschau", June 6, 1905, pp. 746-753.

# Hunting Witches in Fiemme Valley (1504-1506)

by Carlo Taviani

## 1. Introduction

In the town of Cavalese in the Alpine valley of Fiemme (*Fleimstal* or *Val di Fiemme*), not far from Trent, nowadays during the summer it is possible to see, as a tourist, a strange theater show. In the ancient palace of the community a trial is performed and a group of women is accused; then puppets symbolizing witches are burned in the main square. People theatrically perform the accusation and the murder of witches, remembering an episode that occurred more than 500 hundred years ago. Trials took place between 1504 and 1506, when 27 people were accused, tortured and killed as witches. It was the biggest witch-hunt of the region. A few kilometers away, in the quiet village of Truden, a street is named after a witch, one of the supposed witches. In a way or another, mixed or not with touristic purposes, the memory of the supposed witches is still persistent in the valley.

The present article focuses on this witch-hunt and has three parts. The first presents the case study; the second explains the witch-hunt using a hypothesis based on politics; the third focuses on the people involved in the witch-hunt, discussing the existence of an ancient ritual assumed by previous studies. Finally, the article circulates some information about the impact of the Kramer Institor's *Malleus Maleficarum* in this Alpine region. More broadly the article has two aims, it maintains that the information scholars obtain when they study witchcraft primarily concerns the culture of those who persecuted and killed the women as witches, not the victims themselves. Secondly, it deals with the topic of circulation of people and ideas within the Alpine regions. Witchcraft did not take roots in the valley because of the isolation of the place. The valley was connected both with the city of Trent and with the county of Tyrol. Relationships between alpine valleys are generally posited and investigated by historians who focus on economics (i.e. the production of wood, a topic that applies to the case of Fiemme Valley). However,

when dealing with witchcraft in the Alps, scholars do not tend to focus on exchanges and encounters. Not much is known about the circulation of people (witch-hunters, supposed witches), objects (amulets, books), or beliefs<sup>1</sup>. The case study presented here, on the other hand, shows the relationships between the valley and the urban center of Trent. A supposed wizard entered the valley, witch-hunters from Trent found him and destroyed the community of Fiemme, accusing, torturing, and killing the women. The community was affected not because the valley was isolated and detached from the urban centers, or from the very well-connected and large valley of the river Adige, the main thoroughfare of the region. It was exactly the opposite. This case shows how the culture of witch-hunters spread into the valley.

## 2. *The witch-hunt*

The Fiemme Valley was inhabited partly by Italian speakers and partly by speakers of German. It had a tradition of pacts with the bishop of Trent and with the County of Tyrol. A part of its jurisdiction was under the bishop of Trent, another under the County of Tyrol. Notwithstanding this juridical separation and the presence of two different languages, the various villages within the valley (Cavalese, Daiano, Carano, Varena, Predazzo, Moena, and Truden) formed a distinct and united community with a strong tradition of autonomy<sup>2</sup>. The bishop held the power to administer justice. The two main figures representing the bishop were the captain and the vicar. The witch trials started in 1504 and ended in 1506. 28 persons were accused of witchcraft, of these only 4 survived<sup>3</sup>. The survivors were not released; they managed to escape. The vicar of the bishop of Trent, Domenico Zen, was the judge in charge at the time of the trial. A notary, Silvestro Leitner, wrote the draft of the trial. After

<sup>1</sup> On the possibility of connecting witchcraft to the geographical context of the mountains and more specifically to the Alps, see P. PARAVY, *La sorcellerie, une spécialité montagnarde? Le cas du monde alpin occidental. À propos d'un ouvrage récent*, in "Heresis", automne/hiver 2003, 39, pp. 19-33.

<sup>2</sup> T. SARTORI-MONTECROCE, *Die Thal- und Gerichtsgemeinde Fleims und ihr Statutarrecht*, Innsbruck 1891. See also R. TAIANI - M. BONAZZA, *Magnifica comunità di Fiemme: inventario dell'archivio, 1234-1945*, Cavalese 1999, Introduzione.

<sup>3</sup> I. GIORDANI, *Processi per stregoneria in valle di Fiemme: 1501, 1504-1506*, Trento 2005.

the trial, the papers were copied and collected in a manuscript volume today preserved in the municipal library, the Biblioteca Comunale di Trento<sup>4</sup>. The volume was finally annotated by Pietro Alessandrini, the bishop's lawyer. He wrote 4 *consilia* (juridical allegations) after the trial. The manuscript volume is the main source of information regarding the trial. It starts with the pages related to the arrest of Zuan delle Piatte, a *clericus vagans* who had predicted the arriving of a flood in the valley and had presented himself as a physician at the beginning of the 1501<sup>5</sup>. At that time, he was accused of being a wizard, but the authorities were clement with him. Some curative roots, a crystal to see the future, and a German book that contained spells to conjure the devil were confiscated; he was banished. This trial was short and the documentation about it is scarce. Three years later, on December 1 1504, the captain of Fleims found Zuan in the valley again, near the church of the village of Tesero. He arrested and interrogated him. With the information provided by Zuan during the interrogations, 27 witches were arrested and many of them killed. The entire manuscript was written at the same moment, yet the writer copied the text from different papers dated 1501 and 1504. Presumably, he wrote the final text in 1504. We do not know if informers, denouncers, or witnesses existed.

The manuscript contains the depositions of the victims who were tortured. It describes their meetings with the devil (Sabbath) and various rituals. The supposed witches were accused of practicing a ritual. During the meetings, they allegedly ate the flesh of animals and humans, than they recomposed the spoils, putting the bones back into the skins. Later the eaten animal or person came to life again, but lived just for a few weeks or months before dying. In the manuscript volume, the act of devouring the flesh is defined as "to undo" ("disfare" in Italian). The animals or the humans lived for a while, later they became weak and slowly died. We know that the persons of the community named in the manuscript really died. Economic sources of the same period (an inventory of the families of 1503) give us information about them<sup>6</sup>.

<sup>4</sup> Biblioteca del Comune di Trento, MS 617.

<sup>5</sup> On this figure, see G. KRAL, *Il viaggio di Zuan delle Piatte al Monte della Sibilla*, in O. BESOMI - C. CARUSO (eds), *Cultura d'élite e cultura popolare nell'arco alpino tra Cinque e Seicento*, Basel - Boston MA - Berlin 1995, pp. 393-431.

<sup>6</sup> I. GIORDANI, *Processi per stregoneria*, p. 33.

It is likely that the person who wrote the manuscript or the victims who told their story did not invent the names of the people who died. Those seem real deaths. What they invented—and here I am referring to the person who wrote the manuscript, the notary, or to the victims themselves—were the way they died.

### 3. *Political explanations*

Editing the sources of the Fiemme Valley trials, some years ago, Italo Giordani made the hypothesis that the witch-hunt in Fiemme was a vengeance of the captain of Trent against that community<sup>7</sup>. However, he hid this interesting hypothesis inside the volume and did not provide all the information he had. This article makes use of Italo Giordani's hypothesis and reinforces it.

Thanks to the manuscript of the trial, we have information on the deaths of people in Fiemme Valley; we can know the names of the dead and sometimes the years they died. It is a sort of long necrology. So many deaths could have been a result of conflicts within the community. There are no clues, however, that point to any such conflict inside the community. It seems more likely that a conflict existed between the community and an external power, the bishop and his captain. This conflict can reinforce the hypothesis that the persecution of the witches was a way the bishop of Trent and his captain used to punish the community.

In 1503—one year before the first trial against the supposed witches—the community appealed to the emperor Maximilian I against the captain of the bishop Vigilio Firmian, avoiding to bring the accusation before the bishop Ulrich of Liechtenstein<sup>8</sup>. Since Fiemme also had a relationship with the county of Tyrol, this was possible. However, avoiding the authority of the bishop was risky. 221 members of the community of Fiemme nominated four representatives who went to Innsbruck. In the grievances presented to the emperor, we find accusations against the captain, who took too many taxes and more generically did not respect the privileges of Fiemme Valley. Vigilio Firmian was not only the

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

representative of the bishop, but—being a part of the valley (Castello) under the jurisdiction of the county of Tyrol—he also represented the emperor in the valley. This double charge was quite common in other valleys too. The emperor forced the captain to cancel the dispositions he had taken: no more taxes of that kind. The captain did not give up. He accused the community and the lawyer who helped him was Pietro Alessandrini, the same person who was in charge of the trial against the witches. We do not know how the trial of 1504 ended. Alessandrini asked for a fine of 3.000 florins, but we do not have other documents.

Among the 28 condemned witches, 20 had family ties with the members of the assembly that decided to appeal to the Emperor in 1504. Among them we find brothers (7), sons (7), and husbands (6) of the witches. It was a very large assembly: 221 members for a total of 331 families of the whole community of Fiemme. 28 witches is a large number in relation to the population<sup>9</sup>. These numbers simply show that there is a high inference between the population of the valley and the accusations. We cannot take the possibility into account that the accusations intended to persecute some specific family. It is more likely that the captain wanted to persecute the community itself. From a note of the manuscript of the trial we know that the captain took 1.135 florins from the women. Among the women 4 had more than 100 florins (Giacoma Vinanta, 112; Giuliana, wife of G. Jellici, 170; Bona Popo, 102; Bona Zanuchi, 100). These were large sums considering that the price of 2 cows was around 10 florins.

Some information about the conflicts between the community of Fiemme and Vigilio Firmian exists. Conflicts arose some years before the early Cinquecento in 1492 and 1493. In a trial, Vigilio Firmian accused 5 persons of the community of Fiemme, among them Federico of Gardena called the Mauringar. He was accused and punished for rebellion against the captain. 3 of these 5 persons had family ties with 3 of the 28 witches who died some years later. These cases simply show that the community had a long history of conflicts against the captain Firmian.

This last information reinforces the possibility that the accusations of witchcraft were connected with the conflicts between the community and the captain Vigilio Firmian. In the political trial between the community

<sup>9</sup> *Ibid.*

and Vigilio Firmian of 1504, some months before the witch-hunt began, the lawyer of the bishop Giacomo Callavini accused the community of rebellion against the captain. Among his *consilia* he wrote that the community acted as if a devil spirit were among the people of the valley. It was perhaps a way of preparing the plot for the accusation of witchcraft<sup>10</sup>.

#### 4. *An ancient ritual*

Some decades ago, the historian Maurizio Bertolotti presented a very fascinating reading of the ritual described in the Fiemme Valley trials. Bertolotti noted that the ritual of consuming or devouring bodies and their following weak resurrection also appeared in two others trials; one against the witches of Canavese in 1474 and one against some witches from the Modena area in 1520<sup>11</sup>. All the three rituals were similar. The witches killed and ate people and animals, resurrecting them. Later the people and the animals died. The Fiemme Valley trials however, continued Bertolotti, were different from those of Canavese and Modena, because they lacked negative connotations. In the manuscript of trials of Fiemme the act of consuming or devouring the flesh is not described as *maleficium*. Neither the notary, Silvestro Leitner, nor the lawyer who wrote the *consilia* after the trial called them *maleficium*. The act of devouring the flesh is described as a sort of routine here; it is something that witches did mechanically. The Canavese and Modena trials extensively used the word *maleficium* and many other negative connotations.

Bertolotti investigated various ancient sources to track the existence of an ancient myth. Both Christian and non-Christian sources refer to a myth of rebirth. In the Edda of Snorri of the thirteenth century, Thor, after having eaten a goat donated by a peasant, makes it come back to life and gives it back to the peasant who had offered it to him. The same happened in a text on Saint German, who donated an animal to a generous peasant, after he, German, had eaten the animal. These myths are positive. They describe the rebirth as a way of compensating someone

<sup>10</sup> Archivio di Stato di Trento, Archivio Principesco Vescovile, s.l., caps. XII, n. 30.

<sup>11</sup> M. BERTOLOTTI, *Le ossa e la pelle dei buoi. Un mito popolare tra agiografia e stregoneria*, in "Quaderni Storici", 41, 1979, pp. 470-499.

for a loss. From the existence of these sources, Bertolotti inferred that the myth migrated into a ritual that was performed by various witches in Canavese, Modena, and in Fiemme Valley. Then the witch-hunters enter the valley and discover them. According to Maurizio Bertolotti the various trials he collected and compared simply reflected different phases of the description of the same ancient ritual. He finally concluded that the sources of Fiemme were the most useful, because they were the most pure, uncontaminated, and less altered than the others. The lack of negative connotations in the description of the Fiemme trial—according to him—supported the explanation of the existence of an ancient ritual. This perspective is possible. However, before we conclude that it is the only possible explanation, it would be better to explore another avenue of research. I propose to clarify the judicial and political aspects.

In the *consilia*, Pietro Alessandrini, the lawyer of the bishop, wrote after the trial, we found many references to the *Malleus Maleficarum* of Kramer the Institor, the most important book for witch-hunters. Scholars recently came to the conclusion that the *Malleus* was not important for witch-hunters in Italy during the period considered here. It seems that the people read it, but did not use it as a guide. However, Pietro Alessandrini had one copy in his library and most of his *consilia* at the end of the trial contain references to the *Malleus*<sup>12</sup>. Alessandrini prompted the prosecutions in the valley, the trials, and wrote the *consilia*. One of his *consilia* stated that when the witches of Fiemme stated they made some animals and persons come back to life, it was false. Neither the devil, nor witches could do something that only god could do<sup>13</sup>. Since Alessandrini knew Kramer's conception, this *consilium* explains why we do not find the word *maleficium* in the sources related to the witches of Fiemme. Alessandrini himself made the sources so uncontaminated and uninfluenced that Maurizio Bertolotti saw in the manuscript of the trial of Fiemme the presence of an ancient myth transformed into a ritual. Thus, we could consider the sources of Fiemme not as untouched or pure, but simply as elaborated in a different way. A civil judge and not a religious judge elaborated them. What we read in the manuscript

<sup>12</sup> T.M. LAURIOLA, *La repressione della stregoneria nel mondo giuridico medievale: i processi di Cavalese del 1501-1505*, dissertation, University of Trento, 1995-1996.

<sup>13</sup> *Ibid.*



of the trial is more the culture of the people of Trent—and mostly of Pietro Alessandrini—than the culture of the valley inhabitants. It is possible to describe the political conflicts of the community of Fiemme. It is very difficult to know something about the culture of the people who were accused and killed as witches. We do not know if the ritual of rebirth existed or not.

The Fiemme Valley sources make it possible to conclude this paper with a final note on Heinrich Kramer. The prosecutor of Trent was inspired by Kramer's *Malleus Maleficarum*. According to the most recent studies, the circulation of Kramer's conception of witchcraft in Italy depends on the presence of Kramer himself on the peninsula. Kramer's impact in Italy was less extensive than in northern European regions, since his conception was closer to the latter<sup>14</sup>. However, the city of Trent had an eccentric position in Italy. Today it is part of Italy, it was once a place considered to be close to Italy and on the boarder with the northern regions. What can we say about Kramer's impact in Trent? Was it directly correlated to the presence of Kramer in the city? Did Kramer's conception have an impact in Trent because of its geographical position, close to the northern regions?<sup>15</sup>. These questions deserve future research.

<sup>14</sup> T. HERZIG, *Heinrich Kramer e la caccia alle streghe in Italia*, in D. CORSI - M. DUNI (eds), *“Non lasciar vivere la malefica”: Le streghe nei trattati e nei processi (secoli XIV-XVII)*, Firenze 2008, pp. 167-196, p. 196.

<sup>15</sup> Some author refers that Kramer was involved in the famous trial against the jews of Trent, who were accused of murdering the child Simone (1475). See at least O. DI SIMPLICIO, *Heinrich Kramer*, in A. PROSPERI - V. LAVENIA - J. TEDESCHI (eds), *Dizionario storico dell'Inquisizione*, Pisa 2010, 4 vols, pp. 864-865, p. 864: Kramer “was quite active in investigating the accusation” (my translation). Even this work, however, does not mention any evidence for Kramer's presence in Trent in 1475.

# Ritual Surveys

Conflict, Articulation, and Composition of Local Societies within the Sacred Sphere in the Lombardy Alps during the Late Middle Ages

by *Massimo Della Misericordia*

## I. SACRALITY, UNITY, AND ARTICULATION OF LOCAL SOCIETIES

The present essay aims to bring together some elements regarding the role of local churches in the processes of perpetuation of rural societies, their cohesion, articulation, and hierarchy. Both the active symbols in this sphere and the available material resources are considered. During the debate that accompanied the development of this research project, the results of which are presented here, the author sustained the importance of accompanying the study of conflictuality with attention to the modes of its public mediation, in order to avoid limiting the study to a merely deconstructionist approach. While it is true that a disaggregating analysis of local contexts has served in recent times to overcome simplistic harmonic readings of Middle Age and proto-modern communities, today these appear outdated and poorly reflect the complex experience of relations in corporative societies. The author also sustained that the exploration of compositional mechanisms should extend into the sphere of sacrality.

Given these premises, one inescapably starts from the fascinating work of John Bossy, who elected the Late Middle Ages as the focus for his study and demonstrated the capacity of sacramental and religious life in general to reinforce family, friendship, and peaceful relations within the local parish<sup>1</sup>. The most recent Italian research accentuates and even

*Translation by Gavin Taylor*

<sup>1</sup> J. Bossy, *Christianity in the West, 1400-1700*, Oxford 1987; Italian translation *L'Occidente cristiano. 1400-1700*, Torino 1990; J. Bossy, *Dalla comunità all'individuo. Per una storia sociale dei sacramenti nell'Europa moderna*, Torino 1998. For pointers for

exaggerates the importance of the social context of ritual (as favored by Bossy) rather than analyzing its code, demonstrating how fragmented and conflictual the sacred sphere really was. A place, therefore, not of cohesion but of symbolic competition between parish and community, confraternities, local chapels, the families of altar patrons of the church, and so on<sup>2</sup>.

Bossy had already grasped the complexity of the corporative dialectic (one of the most powerful models through which people of the Late Middle Ages understood social relations) operating within the rite of the mass itself.

“I proceed by taking the distinction between sacrifice and sacrament in the mass of the waning middle ages to be equivalent to a distinction between the Christian community considered as an assembly of distinct parts and that community considered as a transcendent whole”<sup>3</sup>.

The present author does, however, feel bound to voice the impression that the social significance assumed by the sacraments in the Late Middle Ages are, in some cases, overestimated by this British historian, possibly influenced by more recent developments in theological thought. Certainly within the different fields of the official liturgy, worship, and theology, orientations were expressed that were not necessarily consistent, and that ought to be distinguished in a more analytic way than is possible in the present work. In any case, even within the more limited scope

reflection on the contributions of this author; see A. PROSPERI - A. TORRE, “*Christianity in the West*” di John Bossy, in “Quaderni storici”, 22, 1987, pp. 961-986; D. ZARDIN, *Riscrivere la tradizione. Il mondo delle confraternite nella cornice del rinnovamento cattolico cinque-seicentesco*, in M. GAZZINI (ed.), *Studi confraternali: orientamenti, problemi, testimonianze*, Firenze 2009, pp. 167-231; V. LAVENIA, *L'infamia e il perdono. Tributi, pene e confessione nella teologia morale della prima età moderna*, Bologna 2004, pp. 14 ff.; O. NICCOLI, *Postfazione*, in *La pace fra realtà e utopia*, Caselle di Sommacampagna 2005, pp. 283-291.

<sup>2</sup> See E. GRENDI, *Il Cervo e la repubblica. Il modello ligure di antico regime*, Torino 1993, pp. 41-76; A. TORRE, *Il consumo di devozioni. Religione e comunità nelle campagne dell'ancien Régime*, Venezia 1995; A. TORRE, *Luoghi. La produzione di località in età moderna e contemporanea*, Roma 2011, pp. 73-101; L. GIANA, *Topografie dei diritti. Istituzioni e territorio nella repubblica di Genova*, Alessandria 2011, pp. 91-126; L. PROVERO, *Le parole dei sudditi. Azioni e scritture della politica contadina nel Duecento*, Spoleto 2012, pp. 339-366. A composite picture is painted in P. GUGLIELMOTTI, *Ricerche sull'organizzazione del territorio nella Liguria medievale*, Firenze 2005, pp. 112-128.

<sup>3</sup> J. BOSSY, *Dalla comunità all'individuo*, p. 151 (quote from the original text).

of the aspects considered here, closer to the experience of the sacred, there is still a net impression of greater complexity.

Considering first of all the Mass, Bossy underlines the social and compositional significance of its central element, the Eucharistic Prayer. Instead, theologians, liturgists, and historians within the Catholic world have expressed different points of view, though in a critical light that sometimes appears evaluative and conditioned by personal commitment to the 1900s reform of rites<sup>4</sup>. They note how the notion of aggregated community in the body and blood of Christ, explicit in the most ancient formulas including Roman, and which survives in eastern churches, disappeared from the consecratory prayer of the western Catholic church during the Middle Ages and modern eras, being re-proposed again only in the *preces* elaborated in the 1960s. They identify an associated accentuated individualization of the relationship between believers and the Redeemer that emerged in Latin Christianity during those centuries. The main focus of the Eucharist was shifted to personal redemption, and only in recent times has this been extended again to include the community and eschatological context within which this can be achieved. Such a conception of the Mass is thought to have emphasized the power of the priest, diminishing the role of the assembly of believers<sup>5</sup>.

The attribution of “socially integrative powers” to the celebration of the “Corpus Domini as a ritual of Christian integration in the late medieval city”<sup>6</sup> cannot but take into account that the *proprium* of the relative Mass emphasized the redeeming values of the identification of

<sup>4</sup> See for example H. DE LUBAC, *Corpus mysticum. L'eucharistie et l'Église au moyen âge*, Paris 1949, Italian translation, *L'eucaristia e la Chiesa nel medioevo*, Milano 1982, p. 328 and *passim*; J.A. JUNGSMANN, *Missarum sollemnia. Eine genetische Erklärung der römischen Messe*, Wien 1949, Italian translation, *Missarum sollemnia. Origini, liturgia, storia e teologia della messa romana*, Milano 2004<sup>2</sup>, vol. 1, pp. 89 ff.; M. RIGHETTI, *Manuale di storia liturgica*, Milano 1964, *passim*; F. RAINOLDI, *Traditio canendi. Appunti per una storia dei riti cristiani cantati*, Roma 2000, pp. 250 ff.; E. CATTANEO, *Il culto cristiano in Occidente. Note storiche*, Roma 2003, pp. 252-280.

<sup>5</sup> E. CATTANEO, “*In unum congregans*”. *La supplica per il raduno della chiesa nelle preghiere eucaristiche*, in “*Rassegna di teologia*”, 27, 1987, pp. 345-373. Particular liturgical texts sometimes conserved these themes, like the preface to the Liturgy of St. Ambrose of the sixth Sunday after the Epiphany (*Missale ambrosianum Gasparis s. E. mediolanensis archiepiscopi iussu recognitum et editum*, Mediolani 1594, fol. 36r-v).

<sup>6</sup> J. BOSSY, *Dalla comunità all'individuo*, p. 187 (quote from the original text).

believers in Christ, while the unity and peace of the Church, though invoked, remained somewhat in the background<sup>7</sup>.

Alongside this reflection within the Catholic world, it is interesting to compare the approach that underlined the aspects of self-identity that developed within the bounds of the orthodox tradition, claiming that the single Mass celebrated at a single altar in the Church had better conserved the cycle of positive interactivity within the parish. Both lines of analysis note, as a specific feature of Latin Christianity of the second millennium, a proliferation of oratories within the same parish territory, and of altars within individual churches, with a multiplication of masses, high and low, public and private<sup>8</sup>. In this perspective, the cohesive forces are not very evident. Instead, there was an isomorphic relationship between the divisions of Catholic liturgical space and the Late Middle Ages articulation of Western European society into a plurality of individual and collective subjects capable of acting concretely within the religious sphere through deeds of devotion, patronage, and so on. This relationship shaped religious experience in polycentric ways.

In the Late Middle Ages, undoubtedly the “sign of peace” developed and absorbed the social aspects of the practice of the communion, which had become sporadic<sup>9</sup>. The fact that peace tablets used for the purpose bore Eucharistic images, like the *Imago pietatis*, confirms the overlap of the two elements. A projection of the Eucharistic assembly outside the walls of the church can be identified in socialization in public squares, with both recreational aspects (games in the church square, the habit of meeting in the adjacent tavern), and political aspects (when the tradition of meeting was sometimes institutionalized into formally convened gatherings of family heads). The division of the consecrated lamb and distribution of wine at Easter in Bormio, the more regular sharing of bread and wine during the celebrations of patronal saints,

<sup>7</sup> *Missalis romani editio princeps. Mediolani anno 1474 prelis mandata*, Roma 1996, pp. 215-217. These texts remained unchanged over the following centuries. See also *Missale ambrosianum*, fols 149r-150r.

<sup>8</sup> For the liveliness of the discussion, see for example C. YANNARAS, *Ενάτια στή θρησκεία*, Ikaros 2006, Italian translation *Contro la religione*, Magnano 2012.

<sup>9</sup> L. CABRINI CHIESA, *Gesti e formule di pace: note in margine all'età medievale*, in *La pace fra realtà e utopia*. On the relative social status see G. TODESCHINI, *Visibilmente crudeli. Malviventi, persone sospette e gente qualunque dal medioevo all'età moderna*, Bologna 2007, p. 107.

solemnities of the liturgical year, funereal commemorations in all the villages, and the distribution of alms at the doors of sacred places or in cemeteries, were all effectively para-Eucharistic rituals<sup>10</sup>. It is interesting to note that this reciprocal reflection between religion and social relations was disconcerting to bishops and priests with a Catholic Reformation background, who strived to distinguish moments of sacred celebration from the profane, in order to head off a cross-contamination that had long been the rule.

Nevertheless, it is important to note that the salvation offered by the rites of a commemorative Mass was for individual souls. The communities that united to pray for the dead (or did not even unite but entrusted to a priest the task of celebrating a private mass) presented marked variability and divisions: village, confraternity, family, or guild. The force of propitiation of the same Mass could be directed towards the benefit of an entire town, a single individual, a family, or a confraternity. At the end of life, burial privileged the same relations, from kinship to membership of a confraternity, underlining hierarchies of rank, the extraneousness of foreigners, and so on.

Moving on from the Eucharistic community to consider the baptismal community, the same questions can be posed. Without doubt, as will become clear, baptism was a rite dense with relational implications. However, it is important not to forget the transition that occurred in the countryside between the High and Late Middle Ages. Initially the sacrament was administered twice a year at the parish font during the collective rituals of the Easter Vigil and Pentecost. Later it involved individual new-born infants, their families, godmothers, and godfathers convened around fonts that were increasingly widespread among newly established parishes, but also in chapels with some aspirations towards exercising the care of souls, administered as soon as possible after birth, without any connection with the more generalized liturgical and community timeframe. Again, the accentuated concern for saving the individual soul, to be urgently protected against the risk of limbo, was decisive in transforming a celebration of the entire religious community

<sup>10</sup> C. NUBOLA, *Chiese delle comunità. Diritti consuetudinari e pratiche religiose nella prima età moderna. Qualche spunto di ricerca*, in C. NUBOLA - A. TURCHINI (eds), *Fonti ecclesiastiche per la storia sociale e religiosa d'Europa: XV-XVIII secolo* (Annali dell'Istituto storico italo-germanico in Trento. Quaderni, 50), Bologna 1999, pp. 441-464, here pp. 457-464.

into a ritual which, while not exactly private, was certainly restricted to a community of relatives, in-laws, and carefully selected friends.

As regards confession, Bossy himself considers numerous shades of difference. While the interiorization of penitence may have a modern origin, the individualization of the sacrament already existed in the Late Middle Ages. Furthermore, while the cycle of sin and penitence remained, in the latter period, intimately woven into a social relationship punctuated by offence and compensation, the growing importance of priestly absolution compared to public rituals of expiation shifted this experience towards privatization, with confession to a priest at the altar, or even in the priest's personal residence, or supplications dispatched to a distant office in Rome, like the Apostolic Penitentiary. The practice of frequent confession, promoted by preachers and required by the confraternities, weakened other links on a community level. These included the liturgical period of Lent (for penitence) and of Easter (for communion), instead establishing rhythms shared by more restricted groups of believers, or even deriving from personal conscience<sup>11</sup>.

A final problematic point involves the internal composition of the parish community and the ties that held it together. Bossy gives priority to social relations, in particular those of friendship and family relations, rather than institutional bodies, a very contemporary perspective that today needs to be widened. The analysis of interpersonal ties should be extended on one hand to the biographies of the individuals that establish them, and on the other hand to the phenomenon of legal crystallization of certain networks into formalized units. In other words, rather than proposing yet again the eternal choice between mechanical

<sup>11</sup> The Low Middle Ages process of privatization has been object of particular attention: J. DELUMEAU, *Le péché et la peur. La culpabilisation en Occident, XIIIe-XVIIIe siècles*, Paris 1983; Italian translation *Il peccato e la paura. L'idea di colpa in Occidente dal XIII al XVIII secolo*, Bologna 1987; M.G. MUZZARELLI, *Penitenze nel medioevo. Uomini e modelli a confronto*, Bologna 1994; *Dalla penitenza all'ascolto delle confessioni: il ruolo dei frati mendicanti*, Spoleto 1996; A. PROSPERI, *Tribunali della coscienza. Inquisitori, confessori, missionari*, Torino 1996; P. PRODI, *Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra coscienza e diritto*, Bologna 2000; E. BRAMBILLA, *Alle origini del Sant'Uffizio. Penitenza, confessione e giustizia spirituale dal medioevo al XVI secolo*, Bologna 2000, especially pp. 39-44; E. BRAMBILLA, *La giustizia intollerante. Inquisizione e tribunali confessionali in Europa (secolo IV-XVIII)*, Roma 2006; for the area under examination, P. OSTINELLI (ed.), *Penitenzieria apostolica. Le suppliche alla sacra Penitenzieria apostolica provenienti dalla diocesi di Como (1438-1484)*, Milano [2003].

models and organic models, the ultimate need is to concretely understand how during the Late Middle Ages processes of individualization and collectivization were able to develop simultaneously, in forms that were contrasting but not mutually exclusive.

In the following, the author will strive to measure the level of involvement, around the parish or chapel, of the various components of the community, those identified by the most traditional interpretation of rural stratification and those highlighted in modern social history: nobles and citizens, immigrants and emigrants, children, men, and women. The convergence of these towards unity will not be assumed *a priori* since the relationships between these groups in reality were sufficiently flexible to generate different alignments not only in time and space, but also in the same place, depending on the sphere of action. It is thus not given that, despite being in the same territorial ambit, these components would unite in religious life and, to the same extent and in the same forms, in political representation and enjoyment of collective property: the religious, political-institutional, economic, and legal communities did not necessarily match up. Nevertheless, the power of the aggregating forces will also be highlighted. During the period under study, the religious community was more often characterized by being more inclusive than the economic, political, and legal communities for immigrants, children, and women, but also for privileged figures excluded from village or town ("borgo") communes<sup>12</sup>.

In brief, the author does not intend to share reductionist readings that flatten the ritual into a mere instrument in the symbolic competition between individuals and groups, views that tend not to acknowledge the effectiveness attributed to the words and ceremonies by the women, men, and institutions of the period in question. On the other hand, it appears that, starting precisely from the intrinsic written and symbolic language of Middle Ages Catholicism, it is not possible to treat the community aggregated by religious manifestations as a statically

<sup>12</sup> Acting in this way was not only the ordinary religious force provided by the parish institutions, but also the extraordinary force ensured by miraculous events and sanctuaries, like the example of Tirano, the analysis of which should be developed along its own lines. See S. XERES (ed.), *Ubi steterunt pedes Mariae. L'apparizione mariana e il santuario di Tirano. 1504-2004*, Sondrio 2005; E. ZALA, *Da Santa Maria della Sanitate al ponte della Folla alla miracolosissima Madonna di Tirano. Origini e sviluppi del culto mariano valtellinese fra XVI e XVII secolo*, Ph.D. thesis, Fribourg, 2012, part 2.



delimited and articulated unit of individuals and groups. Instead, it is more opportune to analytically trace out the ways in which the ambit of ritually sanctioned friendship might in each case extend or restrict this changeable combination.

In the more limited development of the present work, the author will try to reconstruct these processes of division and composition within local societies of the Central Alps in the Late Middle Ages, referring essentially to the diocese of Como, apart from a few comparisons with surrounding valleys<sup>13</sup>. For reasons of space, the following will be dedicated in particular to the internal articulation of the community into families, social classes, age groups, gender groups, postponing to a later date a reconsideration of the equally important issue of territorial disputes.

## II. UNITY

Certain unitary symbols and some collective practices were profoundly linked to the local church, so much so that they became delimiting factors for the extension of the community. The classic theme of the relationship between the parish and the “origin” of the rural commune (well established in Italian historiography starting from the works of Arturo Palmieri, dating back to the end of the 1800s) could be reconsidered from this perspective, enhanced with the most recent analysis of the procedural nature of institutions. It would then be possible to consider the genesis of a community no longer as a specific moment limited by the appearance of new legal forms in the eleventh to twelfth centuries, but as an open process of continuous redesign and emerging from the combined experiences of organized cohabitation within a given territory<sup>14</sup>.

<sup>13</sup> For a contextualization, see the latest work by E. CANOBBIO, *Strutture della cura animarum in diocesi di Como: pievi, parrocchie, comunità*, in S. BOSCANI LEONI - P. OSTINELLI (eds), *La chiesa “dal basso”. Organizzazioni, interazioni e pratiche nel contesto alpino alla fine del medioevo*, Milano 2012, pp. 69-102, with relative bibliography. A version of the present work with more wide-ranging documentary material is M. DELLA MISERICORDIA, *Commune ecclesie. Chiese e società locali in Valtellina e nelle Alpi lombarde nel tardo medioevo*, Sondrio 2015.

<sup>14</sup> These perspectives are adopted in much of the cited literature; for a summary view, see for example M. AUBRUN, *La paroisse en France des origines au XVIe siècle*, Paris 1986, pp. 150, 158 and *passim*.

### 1. *The collective initiative within the religious sphere*

Above all else, a rural commune and local territory were units of collective action acknowledged in the religious sphere. In order to elect a curate, intervene on a church building, sometimes to administer church property, reference was made to the normal decision making procedures in use in the economic, political, and legal fields. This involved convening men or councilors or when necessary the election of more limited committees, which in the eyes of the ecclesiastic authorities fully represented the *universitas* (union of citizens).

However, it was not necessarily the case that decisional unity of the community was effectively achieved. Often there was a division of supporters of opposing candidates for the role of curate, and this resulted in obvious manipulations with individual parties striving to accredit their own desire as that of the overall community, while the threat of violence fermented confrontation. It thus became necessary to resort to a language of a specifically political nature in order to deal analytically with the active subjects and distinguish the different "parties"<sup>15</sup>.

Furthermore, collective action, as in political and economic life, could occur outside of the formalized framework and mediation of bodies and offices authorized to act for the population, in favor of more direct and disruptive methods, which nevertheless aspired towards the integration of the community, like the expulsion "by public demand" of unsuitable priests.

The rhetoric of both local and central documentation insists on the participation of the totality of the population in the shared responsibilities and duties in the ecclesiastic field. Even the minutes of pastoral visits indicate a significant legitimization of community action, and the instructions of the delegates of the Bishop of Como in 1445, recorded by the Episcopal Chancellor, for the purchase of a silver cross for the church of S. Pietro di Berbenno, required the agreement of the whole community ("omnes dicte communitatis")<sup>16</sup>.

<sup>15</sup> See G. CHITTOLINI, *Elezioni di parroci a Milano nel tardo Quattrocento*, in D. BALESTRACCI et al. (eds), *Uomini, paesaggi, storie. Studi di storia medievale per Giovanni Cherubini*, Siena 2012, pp. 49-62.

<sup>16</sup> E. CANOBBIO (ed.), *La visita pastorale di Gerardo Landriani alla diocesi di Como (1444-1445)*, Milano 2001, p. 146. See N. COULET, *Paroisse, oeuvre et communauté*

Sometimes this concourse was treated more analytically as an occasion for a sort of ritual survey. In 1518, for example, the People's Council of Bormio established that "quelibet persone de Burmio et in eo habitantes, habentes bona in extimo" should pay 3 Imperial coins for every 100 lire of property value, for the construction of the church of S. Barbara<sup>17</sup>. It was common that for the construction of a church for the community patron saint or for the home of a chaplain elected by the community, the commune would have the collaboration of all residents, who were required to provide manual labor for the project<sup>18</sup>. The constitution of a local parish involved a similar mobilization, sometimes with the assignment of public property, on other occasions individual gifts were solicited.

## 2. *Ambivalent symbols and aspects of public ceremonial life*

While collective initiative ran through the sacred sphere, on the other hand religious symbols and practices concurred to establish the ambit of social and institutional membership.

Church bells had a multifunctional role for religious services and civil life, given that very few communes in the area possessed their own bell tower. They rang to call the faithful to religious services and at the same time gave warning of the propagation of fires and other emergencies, they convened community meetings, announced the collection of taxes, and called the male population to arms in order to repress criminal activities. Bells guaranteed public announcements, which constituted one of the delicate stages in collective mobilization, political participation, and the distribution of local resources. For this reason, the definition of the interested parties when paying for a bell (an entire community, or a single parish when a civil circumscription was divided into two ecclesiastic units) involved the complex and at times problematic operation of establishing the confines of a community.

*d'habitants en Provence (le diocèse d'Aix dans la première moitié du XIVe siècle)*, in *La paroisse en Languedoc (XIIIe-XIVe s.)*, Toulouse 1990, pp. 215-237, here pp. 218-224.

<sup>17</sup> Archivio Storico del Comune di Bormio (hereafter ASCB), *Quaterni consiliorum*, 7, 1518.06.04.

<sup>18</sup> See G. SOLDI RONDININI, *Saggi di storia e storiografia visconteo-sforzesche*, Bologna 1984, pp. 57-58; G. PINTO, *Il lavoro, la povertà, l'assistenza. Ricerche sulla società medievale*, Roma 2008, p. 46.

In addition, there was a degree of overlap between an assembly of men and a Mass. The participation in a mass was one of the habits that revealed the presence, licit or illicit, of an individual in a given place, and the state authorities punished a community that, instead of sending away and reporting a banished person, accepted them and possibly even tolerated their presence in church<sup>19</sup>. Meetings of family heads were often held on Sundays, in the church or more frequently in the churchyard, cemetery, under the church porticoes, or in the public squares in front of the church. These are well known common practices<sup>20</sup> and so only a few more specific observations are offered here. First, it is notable that, while work on Sundays was forbidden in the statutes, it was admitted or even required to meet in order to decide community issues. In this way, meeting upon the sounding of the bell in the church square or inside the church, in the presence of the curate, acquired a significance in some way additional to the activities of everyday life, a celebration of political unity, or an aspired unity, that brought decisional deeds and the election of magistrates within the aura of the sacred.

A further aspect of note is that these habits did not fall within a logic of the timeless symbiosis between religious and public life. An analytic examination of the copious documentation as early as the 1300s regarding the lower Valtellina and the Valle del Bitto in fact make it possible to state that these habits consolidated between the fourteenth and fifteenth centuries. It became more common to use church bells (rather than more primitive percussion instruments) to convene meetings, Sunday as the meeting day, and a consecrated venue for the meeting place, with the priest invited to take part as witness. This convergence dates to a specific period, when the process of establishment of parishes in the valleys advanced significantly, between the 1300s and 1400s, with a multiplication of parish churches, which up until that time either did not exist or were not endowed with equal attributes, and certainly before the renewal of controlling measures over local contexts from above, by the reformed Catholic hierarchy.

<sup>19</sup> See F. DEL TREDICI, *Comunità, nobili e gentiluomini nel contado di Milano del Quattrocento*, Milano 2013, pp. 125, 167-168; G. CAMINITI, *La vicinia di S. Pancrazio a Bergamo. Un microcosmo di vita politico-sociale (1283-1318)*, Bergamo 1999, pp. 146-151.

<sup>20</sup> See the recent A. FIORE, *Signori e sudditi. Strutture e pratiche del potere signorile in area umbro-marchigiana (secoli XI-XIII)*, Spoleto 2010, pp. 404-405, 408.

It was not uncommon for a section of the community archives to be conserved at the local parish church, which thus also became the custodian of the memory of decisions reached at meetings, the administration of public property, and relations between the community and individual inhabitants.

Church doors and cemeteries were venues for the *pro anima* distribution of wine and food by those preparing for death, to the benefit of the poor or all local residents, with powerful effects in terms of social integration, and which again became progressively established as a social practice between the 1300s and 1400s. In Bormio on Maundy Thursday and Easter Sunday there was the distribution of *post cho-munichas* wine to the poor and local residents. Wine was denied to the faithful in the Latin rituals, but in this way, it was given to them by the commune on the same occasion and closely associated with the Eucharist. Furthermore, in the town suburbs and surrounding villages Easter was celebrated by calling all the local people for a banquet of a lamb offered by the neighborhood.

The commune was aggregated not only around Eucharistic or para-Eucharistic celebrations, but also around the ritual of Easter which traditionally also involved baptism. The commune of Bormio, for example, procured the candle "in die Sabbati sancti ad fontem baptismi"<sup>21</sup>. In a society with no other registry procedures, baptism was the rite of initiation into the Christian and political communities, family and friendship circles, establishing relations of compatibility and hierarchy between these different groupings, also through a multiplication of godfathers and godmothers.

The ritual was conducted at a font, which could depict the relevant public and private relations, within which the new member of society was received. The font in S. Lorenzo di Chiavenna, the parish center, dating back to 1156, on a site and from a period in which the ritual still had a very marked public nature, depicts the entire baptismal community. The work was commissioned jointly by the towns of Chiavenna and Piuro,

<sup>21</sup> Regarding the ritual calendar of Bormio, see L. MARTINELLI - S. ROVARIS (eds), *Statuta seu leges municipales communitatis Burmii tam civiles quam criminales*, [Sondrio 1984], pp. 96-97, chap. 63, pp. 168-169, chap. 158, pp. 170-171, chap. 159, the council minutes and register of council expenses, in ASCB, as well as Archivio di Stato di Sondrio (hereafter ASSo), Archivio Notarile (hereafter AN), 956, ff. 375r-377r, 1545.05.16.

as testified in an inscription that records the names of the officials, the institutions of which were temporarily united after extended disputes, a political settlement that was powerfully expressed as unity at the font. The basin bore a bass-relief depiction of the ritual of Holy Saturday, including the baptism of a baby, held by the godfather. Attending the welcome ceremony for the newly arrived were the archetypal figures of all the components of the local society, clerical and lay, divided into the social orders of nobles, burgers, and artisans<sup>22</sup>.

A unique testimony for the area under study is provided by the family journals of the Bormio Notaries, Lazzaro Marioli and his son Gian Battista, revealing how between the 1400s and 1500s the framework of memberships became increasingly complex, without failing to be shaped by the overall community structure, emphasizing the importance above all of relationships of family, affinity, and friendship within an individual's social class. The Mariolis meticulously recorded the names, surnames, and degrees of familial relationship of the godfathers and godmothers of sons and daughters, on five occasions. As the position of the two Notaries strengthened over time this circle extended with an almost mathematical progression (from 6 components in 1452 to 15 in 1511). It included other Mariolis, high ranking families of the town (the Sermondi, Grassoni, Alberti, Fiorini, and Fogliani families), and a group of emerging figures that included the Bruni family, while the presence of social ranks lower than the Mariolis themselves is marginal. Recurrence to the same godfathers and godmothers is indicative of the importance attributed to these relationships. In addition to these, there was also the doctor, the "podestà" (mayor), the dean, and other members of the local clergy<sup>23</sup>.

<sup>22</sup> F. RAINOLDI, *Vita di un fonte, fonte di vita. Riflessioni sul fonte battesimale romanico di Chiavenna*, in "Clavenna", 45, 2006, pp. 9-32.

<sup>23</sup> E. BESTA, *Bormio antica e medioevale e le sue relazioni con le potenze finitime*, Milano 1945, p. 236, §§ 2-3, p. 238, § 10, p. 241, §§ 29, 30. See G. ALFANI, *Padri, padrini, patroni. La parentela spirituale nella storia*, Venezia 2006, as well as W.J. CONNELL, *Il cittadino umanista come ufficiale nel territorio: una rilettura di Giannozzo Manetti*, in A. ZORZI - W.J. CONNELL (eds), *Lo stato territoriale fiorentino (secoli XIV-XV). Ricerche, linguaggi, confronti*, San Miniato 2001, pp. 359-383, p. 368 for the case of a community-godmother, a practice that was supposed to help personify the body; C. KLAPISCH-ZUBER, *La maison et le nom. Stratégies et rituels dans l'Italie de la Renaissance*, Paris 1990, pp. 126-127 on the role of godfather assumed by public entities.

### III. FAMILIES

#### 1. *Homesteads and community*

Often economic, political, and even ritual discourses present an image of a community not so much as a union of individuals (as might have seemed more marked in the previous discussion) but rather as a hierarchical set of domestic units. The convergence of families into a community was thus not a process that could be taken for granted, with textual and ceremonial elaborations serving to express and resolve the active competition for identity between community and family, proposing an idealized model of a village comprising individual houses and a commune composed of individual homesteads capable of cohabiting harmoniously.

The institution of a benefice, in the forms described above, might require the express agreement of the families. There was the generalized tithe and first fruits contributions due to the clergy *pro quolibet focho*. The same basis was applied for the collection of money and to ensure the supply of wood for curates and cereals for custodians<sup>24</sup>. Masonry work, or financial support for the same, could also be requested not from individuals but from homesteads.

One integrating ritual was the visit of the priest on Christmas Eve to each family: the rector of Rasura had to "ire in vigilia Nativitatis d. nostri Iesu Christi ad dandum aquam sanctam et incensum pro qualibet domo seu focho Rasure"<sup>25</sup>.

The family also extended to deceased members. The property on which the bequests to the church were established, for the specific purpose of perpetuating the commitments of the ancestors, contributed to maintaining the family history. It has become clear that in the Late Middle Ages salvation involved not only individual action, with instead

<sup>24</sup> R. GERMAIN, *Revenus et actions pastorales des prêtres paroissiaux dans la diocèse de Clermont*, in *Le clerc séculier au moyen âge*, Paris 1993, pp. 101-119, here p. 103; P. OSTINELLI, *Il governo delle anime. Strutture ecclesiastiche nel Bellinzonese e nelle Valli ambrosiane (XIV-XV secolo)*, Locarno 1998, p. 261; I. SAULLE HIPPENMEYER, *Il comune e la chiesa. Forme di controllo "dal basso" del patrimonio ecclesiastico nelle comunità grigionesi del tardo medioevo*, in S. BOSCANI LEONI - P. OSTINELLI (eds), *La chiesa "dal basso"*, pp. 123-135, here p. 126.

<sup>25</sup> ASSO, AN, 344, ff. 18r-19v, 1465.05.24; P. OSTINELLI, *Il governo delle anime*, p. 97.

a whole group operating in support of the deceased: the relatives who arranged celebration of the memorial Masses, the elected community of the confraternity, since a believer might fear leaving no earthly heirs who would dedicate themselves to praying for their soul<sup>26</sup>.

However, this does not imply that relations between living and dead, nor between the living who had to fulfil the desires of the dead, were always peaceful. Furthermore, the institutions responsible for implementing the dispositions of the dead had overlapping tasks and competed with each other. The commune, in a sense replacing relatives and confraternities, assumed numerous roles in this respect, ensuring the execution of bequests, managing property committed to charity, and memorial Masses, having been designated in the will to arrange celebration of the rites of suffrage. Sometimes the agreements that the community established with the curate prescribed the commemoration of particular figures. In addition, the community mediated conflicts between individuals and family groups, as well as inter-generational disputes regarding interests not only of a material nature, obliging heirs, who might be more concerned for the integrity of the inheritance rather than the salvation of the deceased, to fulfil the bequests of the will.

Finally, families instituted relations with each other through marriage. Before the Catholic Reformation regulation of the sacrament, one of the important responsibilities of curators was the *benedictio sponse*, a duty required at the time of institution of new parishes and also useful to underline the role and territorial competence of the clergyman. The intention was to create a relationship that would instate solidarity, but presumably, there would also have been moments of contrast, for various reasons, like the payment of dowries or the return of the same upon death of a husband, or safeguarding the property of wards.

## 2. Household heads, women, and children

The family was articulated into roles and relations, with an internal hierarchy. Different ceremonial behaviors, or at least their prescription, combined to define the identities of age and gender.

<sup>26</sup> J. CHIFFOLEAU, *La comptabilité de l'au-delà. Les hommes, la mort et la religion dans la région d'Avignon à la fin du moyen âge (vers 1320 - vers 1480)*, Roma 1980; J. LE GOFF, *La naissance du Purgatoire*, Paris 1981; Italian translation *La nascita del Purgatorio*, Torino 1982.



Pastoral care extended to the inhabitants of both sexes, and the female testaments prove a very widespread identification of women with the churches of the communes they referred to for spiritual care<sup>27</sup>.

However, on an institutional level there were numerous limitations. The right of patronage was explicitly conceived as only exercisable by men. Only in special circumstances could community decisions regarding the church and curate include women. Not unusually, however, the parish was seen to be more inclusive than the commune. In 1514 Asparino de Pianto, a resident in the settlement of Bioggio, was accepted among the neighbors of the commune of Mello and the parishioners of S. Fedele di Mello. The beneficiaries of the ruling, though occurring on the same day and included in a single notarial deed, differed significantly: the priest of S. Fedele accepted under his jurisdiction and guaranteed sacramental service to Asparino, his children, his wife, to other members of his family and descendants. The representatives of the local council accepted as *vicinus* and *socius* Asparino himself, his children, the other members of his family and descendants, but not his wife<sup>28</sup>. The infant population certainly enjoyed a low ceremonial status: according to the statutes of Sonvico children of less than two years could not even be taken into the church<sup>29</sup>. This status could also take the form of immunity and the statutes often spared minors of under fourteen years from the punishments foreseen for the disfigurement of sacred images, for throwing stones at the church, portico, and bell tower, or for other “dishonesty” committed against sacred buildings, gestures thus declassified, until a certain age, as childish pranks<sup>30</sup>.

<sup>27</sup> See M. BOURIN, *De la communauté paroissiale à l'«universitas castri»*, in *La paroisse en Languedoc (XIIIe-XIVe s.)*, Toulouse 1990, pp. 199-214, here p. 210.

<sup>28</sup> ASSo, AN, 648, ff. 289r-290r, 1514.08.17. See F. DEL TREDICI, *Il posto del prete. Sacerdoti, parrocchie e comunità locali nelle campagne milanesi del Quattrocento*, in A. ROCCA - P. VISMARA (eds), *Prima di Carlo Borromeo. Istituzioni, religione e società a Milano agli inizi del Cinquecento*, Roma - Milano 2012, pp. 243-268, here pp. 257 ff. No regulation was found for the area under examination resembling those described by G. CHERUBINI, *Fra Tevere, Arno e Appennino. Valli, comunità, signori*, Firenze 1993, p. 160, so that “only in church ... could women be interrogated by the official as witnesses”, which thus made it the place of excellence for the production of the normally uncertain public female credibility.

<sup>29</sup> G. ROVELLI, *La castellananza di Sonvico*, Massagno 1927, p. 196, chap. 33.

<sup>30</sup> D. ZOIA (ed.), *Teglio: terra dell'arcivescovo. Statuti ed ordini della castellananza e del comune di Teglio* [Villa di Tirano 1996], p. 100, chap. 39; *Li statuti, le ordinationi et*

However, in other cases the ritual surveys already mentioned were more open to the presence of infants. The duty to support the rector was sometimes more inclusive than the liturgy: the priest of S. Giacomo di Rasura was due one coin *pro singulla persona* under his care, *tam infantes, puberi et maiores*. For this purpose, the decision was made to draft a special (and extremely rare) systematic record, care of the family heads:

“omnes persone capitum familiarum dictorum communis et hominum patronorum ut supra teneantur portare dicto d. presbitero Antonio numerum quarumcumque personarum de eorum familia et omnia capita familiarum et focularia in scriptis”<sup>31</sup>.

#### IV. THE COMMUNITY AND GROUPS

##### 1. *Mobile individuals*

Foreigners and immigrants were often excluded or marginalized from political decisions and from the systems of redistribution the community provided for available resources. Once again, ceremonial participation provided a point of entry, albeit uncertain, for enhanced opportunities.

Foreigners were coercively bound by the calendar of celebrations observed in each locality, which had validity on a territorial level (in force in a commune or parish) rather than personal (observed by a group of faithful of a parish or those living in a commune). Tributes were also required from immigrants, but these expenses were not without benefits since the services of the curate were also extended to them.

On an institutional level, as already observed, admission into a neighborhood could be accompanied by a deed of inclusion into the parish. Since an individual's position inside, on the margins, or outside the ambit of a community was often controversial, the definition of parish rights was an occasion for negotiating this. For example, in 1488 an inhabitant of Ronco, Agostino de Putteo de Degio, son of Uguccio, appealed against his neighbors of Altanca, Cresta, and Ronco. The latter contested the legitimacy of the neighborhood rights acquired by

*leggi municipali de la terra et territorio di Poschiavo*, Poschiavo 1550, f. 19v., chap. 1; B. NOGARA - R. CESSI - G. BONELLI (eds), *Statuti rurali bresciani del secolo XIV (Bovegno, Cimmo ed Orzinuovi)*, Milano 1927, p. 71, chap. 155.

<sup>31</sup> ASSO, AN, 344, ff. 307v-308v, 1471.06.04.

his father and inherited by him, and he objected the exercise of mountain grazing on Ritòm by his herdsmen, their election to public office and, “nomine dicti Uguzi”, to the council of elders of S. Cornelio di Altanca, these effectively being the administrators of the local church. The court of Val Leventina ruled in his favor<sup>32</sup>.

Immigrants in turn expressed their integration in more personal gestures. In their wills, by establishing alms or bequests to the church, foreigners positioned themselves between the memory of their place of origin and identification with their place of arrival, expressed in relation to the respective devotional centers (the church and the cemetery). Sometimes they considered only the former, sometimes both, and not unusually only the second.

Women were particularly mobile by marrying away from their birthplace, and many widows, after the death of their husbands, remained in their new home and were generous towards the local church, in some cases exclusively, in others also supporting the church of their original home.

Conversely, those who left the village sometimes renounced all rights within the parish, along with the associated burdens and benefits, like the distribution of alms at church doors. In some cases, the church was an important intermediary for individuals and groups with their place of origin. The bequests of the will, as already mentioned, were one way to maintain this link. Furthermore, at least from the sixteenth century, groups of immigrants sometimes reserved an altar in the local church, possibly with tombs, which established them as a constant presence within the local ritual context. In 1514, for example, the representative of the *societas* of builders working in Viterbo requested the vicariate of S. Maria della Misericordia di Ascona for authorization to construct two sepulchral chambers reserved to them in front of the altar of the Madonna della Quercia<sup>33</sup>.

Finally, animal herders experienced a particular form of mobility. Both full-time transhumants arriving from outside, and members of the local

<sup>32</sup> L. BRENTANI, *Codice diplomatico ticinese. Documenti e regesti*, vol. 3, Lugano 1943, pp. 203-205, doc. 80.

<sup>33</sup> R. DA BEDANO, *Pergamene dell'archivio comunale di Ascona*, in “Archivio storico ticinese”, 21, 1980, pp. 49-69, here p. 56, doc. 17.

community committed, perhaps on behalf of their neighbors, to the custody of local livestock were effectively relegated for a number of months each year to a physically and culturally marginal space. As a consequence they came to be included among the stereotyped figures of wildness and deviance<sup>34</sup>. Nevertheless, the sacred sphere did offer possibilities to maintain links, as in the case of high mountain churches where a community would celebrate periodic masses. For example the S. Benedetto church in Val di Ron, located, according to the records of a visit in 1589, in “a vicus pro pastoribus” inhabited only in summer, where a Chaplain operated, unusual in being jointly nominated by the communes of Tresivio and Montagna<sup>35</sup>.

## 2. *Citizens and nobles*

In many parts of the diocese of Como, alongside the commune of residents, separate and variably durable groups developed of citizens resident *in loco* but endowed with the privilege of *civilitas*, and of nobles, with highly differentiated powers and wealth. The ecclesiastical and religious sphere expressed distinctions and disagreement, but also provided opportunities for encounter<sup>36</sup>. For example, when in Morbegno in 1376 the commune had to maintain the integrity of the pastoral care headed by S. Martino di Morbegno, three men defected because they did not want to share the initiative with the local residents and cover the relative expenses: two citizens and one noble<sup>37</sup>. Conversely, the local church was also a place of shared responsibility. A city statute as early as 1258 imposed on local nobles and Como citizens resident in the country, together with the neighboring residents (effectively the

<sup>34</sup> See C. GINZBURG, *Folklore, magia, religione*, in R. ROMANO - C. VIVANTI (eds), *Storia d'Italia*, 1: *I caratteri originali*, Torino 1972, pp. 601-676, here p. 658; R. GERMAIN, *Revenus et actions pastorales*, pp. 107-108; N. CARRIER - F. MOUTHON, *Paysans des Alpes. Les communautés montagnardes au moyen âge*, Rennes 2010, pp. 153-155.

<sup>35</sup> S. MONTI (ed.), *Atti della visita pastorale diocesana di F. Feliciano Ninguarda vescovo di Como (1589-1593)*, Como 1903, vol. 1, p. 316.

<sup>36</sup> See M. BOURIN, *De la communauté paroissiale*, p. 210; M. BOURIN - R. DURAND, *Vivre au village au moyen âge. Les solidarités paysannes du XIe au XIIIe siècles*, Paris 1984, pp. 81-82.

<sup>37</sup> ASSo, AN, 25, ff. 236r-237v, 1376.05.11.

rural commune), the obligation to contribute towards the expenses for sacred buildings and their bells<sup>38</sup>.

Once again, the bequests to the parish, connected to the memorial masses they wanted celebrated, expressed the links of local citizens and nobles with their places of residence.

Patronage came to express the different economic conditions in material form, making certain sectors of the church recognizable with individual or family attributions (aristocratic chapels, privileged entrances over which a family coat of arms was displayed, or even a fresco commissioned by an individual believer), but always within a shared space.

In some cases, and in particular in S. Giorgio di Grosio, it is possible to clearly identify within the parish a displacement of the most powerful families towards the practices and symbols of the local inhabitants, rather than the opposite, a process characterizing even powerful feudal figures of external origin.

Obviously, it was frequent for nobles to institute family patronage, providing a church or an altar under the condition that the priest was one of their descendants or at least chosen by their heirs. Other benefactors of non noble extraction sometimes also chose to assign their assets in this way<sup>39</sup>. However, many such chapels passed under community control between the fourteenth and sixteenth centuries, confirming a prevalence within the area for integration of sacred space rather than segmentation.

## V. MEDIATING CONFLICTS AND SETTLING DISPUTES

It was a proverbial cultural concept that living peaceful relations was an essential premise for salvation. The Bormio notary, Giacomo Fogliani, for example, established a link of certainty between the two things, annotating at the end of his notebook: “defunctus est ser Iacobus die

<sup>38</sup> A. CERUTI (ed.), *Liber statutorum consulum cumanorum iusticiae et negotiatorum*, Torino 1876, coll. 209-211, cap. CCCXXI. In particular this was already assessed by G.P. BOGNETTI, *Studi sulle origini del comune rurale*, Milano 1978, p. 143, no. 130, p. 273.

<sup>39</sup> See F. DEL TREDICI, *I benefici della parentela. Famiglie, istituzioni ecclesiastiche e spazi sacri nel contado di Milano (XIV-XV secolo)*, in L. ARCANGELI et al. (eds), *Famiglie e spazi sacri nella Lombardia del Rinascimento*, Milano 2015, pp. 308-343.

lune penultimo iulii 1520, anima cuius requiescat in pace, et credo firmiter eam bene requiescere quia erat bone fame et sine discordia”<sup>40</sup>. For this reason, the practical and symbolic reintegration into the community of those who had broken the rules of peaceful cohabitation was often mediated by the sacred. The “lites, questiones, differentie, discordie, controversie” were resolved in church or its surroundings with a ritual of pacification, compromise, or arbitration<sup>41</sup>. In 1433 an arbitration ruling between the commune of Olivone, and the commune of Ponto Valentino, Castro, and Marolta, contesting pasturing rights and wood cutting, was issued “ad crucem prope ecclesiam S. Antonii” in a territory external to that of the disputing parties<sup>42</sup>.

The communes assigned at least a proportion of the incomes deriving from judicial rulings to the church (for building and lighting). This was according to a simple logic of proportionality between the offence and the compensation due, as provided for in statutes that applied within the religious sphere. Significantly, however, other more general infringements of interpersonal relations that required respect within the guidelines of “accepted” habits (regarding commons, borders, limitations imposed by the community on the circulation of goods) were also punished with pecuniary sanctions subsequently devolved to the church<sup>43</sup>. These sanctions maintained limits for woodcutting and wood export for each family, and protected the local agriculture and hygiene of wells. All the regulations introduced in 1470 by the commune of Campovico (a prohibition for grazing the livestock of outsiders, the protection of vines, common meadows, community willow trees, and the calendar of the internal transhumance) foresaw sanctions destined one third to the church of S. Maria<sup>44</sup>. Certain rulings specifically repressed public

<sup>40</sup> ASSo, AN, 570, f. 367v, n.d. See O. NICCOLI, *Perdonare. Idee pratiche, rituali in Italia tra Cinque e Seicento*, Roma - Bari 2007, chap. IV. On hostility and exclusion from communion, see also D. ZARDIN, *Riforma cattolica e resistenze nobiliari nella diocesi di Carlo Borromeo*, Milano 1984, pp. 66, 101.

<sup>41</sup> For a recent detailed study of ceremony, see S. LEPRAI, *Il governo del disordine ai confini di uno stato. Borgotaro e gli Sforza (1467-1488)*, Bologna 2011, pp. 171 ff.

<sup>42</sup> M. FRAPOLLI et al. (eds), *Materiali e documenti ticinesi*, III: *Blenio*, fasc. 27 (1431-1433), Bellinzona 2000, p. 1294, doc. 542.

<sup>43</sup> See M. BOURIN - R. DURAND, *Vivre au village*, p. 64.

<sup>44</sup> ASSo, AN, 144, f. 336r-v, 1470.03.12.

behaviors considered harmful, for example in Costa Volpino (in the diocese of Brescia) the behavior of officials who had utilized incomes derived by the commune from licensing the exploitation of the forest for other things than the purchase of material property<sup>45</sup>. The council rulings implemented in everyday life the statutory regulations and thus the logic of an ideal ecological and social equilibrium of the commune, entrusted to a supernatural protection, the infractions of which were compensated, symbolically and materially, through the intermediation of the parish or confraternity.

## VI. THE ECONOMIC CYCLE

### 1. *Land holdings*

A portion of the inhabitants of many settlements were obliged to pay the parish a land rent since they had received terrain on lease, or because their forefathers had instituted a bond on certain lands in order to secure the celebration of memorial masses, and this obliged the heirs to pay a certain sum of money or provide a set quantity of goods. The most striking characteristic of this system was the number of people involved<sup>46</sup>. In Grosio, for example, among 336 property estimates in 1526, it is possible to identify 92 concessionaries of goods of the local churches. These do not include any of the foreigners assessed, and so this represents a system exclusively contained within the community, in which there is a degree of equilibrium between those assessed as richer, and contributing most, and the poorer residents, who were not excluded from participation.

The integration achieved in this way could be the result of a more or less conscious design by the community, intended to buffer social tensions. In 1491, the Grosio commune and the rector, Ambrogio Rumoni, contested a bitter dispute. The latter called for the "administratio" of the church assets comprising the benefice to be due exclusively to him. The commune authorities, in turn, intended to limit the chaplain's access

<sup>45</sup> O. BELOTTI - P. OSCAR (eds), *Statuto di Costa Volpino. 1488*, Bergamo 1994, p. 12, chap. 9.

<sup>46</sup> See P. DUBUIS, *Une économie alpine à la fin du moyen âge. Orsières, l'Entremont et les régions voisines. 1250-1500*, Sion 1990, vol. 1, p. 108.

to these resources, which were seen as the property of the community and not of the priest. The clergyman, in their view, was not entitled to replace the paid up land tenants, nor increase their rents. Furthermore, he was not entitled to make any concessions of land, unless in the presence of two or three of the oldest and most authoritative male elders of the commune, nor to expect any concession fees for such assignments<sup>47</sup>.

## 2. *Credit relations*

The relationship between individuals, the local community, and church also constituted a credit system. On the strength of their role as property owners, the churches and confraternities lent money against land security or guaranteed the liquidity of those in need, acquiring land and sometimes re-leasing it to the seller at favorable rates. In the 1400s, these institutions effectively assumed the role of providers of credit, not only in marginal contexts but also in villages close to lively commercial centers and in the more prosperous Lombardy valleys. In the Bormio area, for example, in 1486 the elders of the church of S. Maria di Cepina, elected by the local men, bought a field from a local inhabitant for 22 Imperial lire, immediately assigning it under lease to the same for 22 imperial coins per year, an operation of loan against land with interest of 5%<sup>48</sup>.

However, it should not be overlooked that these investments fueled tensions that even such a generally accommodating policy could not resolve, as demonstrated by an episode in which a loan was not agreed within a strictly local context. In 1453 Giovanni Grande from Castello di Giornico, insolvent in relation to the church of S. Lorenzo di Rossura, was called to appear before the court of Val Leventina. He complained of the unfair ratio between the amount received as a loan (not specified) and the annual rent set at 20 bushels of rye and millet

<sup>47</sup> Archivio storico del comune di Grosio, *Estimi e taglie*, 37, fasc. 6, 1526; *Pergamene*, 224, 1491.11.30.

<sup>48</sup> ASSo, AN, 251, ff. 16v.-18r., 1486.01.24. See SAULLE HIPPENMEYER, *Il comune e la chiesa*, pp. 130, 133. However, to date the commitment of ecclesiastical institutions on another level has attracted greater interest: M.P. ALBERZONI, *L'esperienza caritativa presso gli Umiliati: il caso di Brera (secolo XIII)*, in M.P. ALBERZONI - O. GRASSI (eds), *La carità a Milano nei secoli XII-XV*, Milano 1989, pp. 201-223, here pp. 205-208.



("nymis est respectu pretii"), which for two years he had no longer been able to pay. He expressed himself very clearly: "dicente ecclesia non deberet in se habere tantam uxuram". The judges awarded him a postponement of two months after which the church elders would be entitled to claim against his assets<sup>49</sup>.

Finally, the ecclesiastic institutions, in addition to the private sphere, also sustained public debt. In the emergency of the tribute imposed by the Tre Leghe at the time of conquest of Valtellina, more than one commune had to seek assistance from the churches. It is interesting to note that sometimes this was not even based on strictly local connections: at the beginning of 1513 Bormio received 200 Rhine florins from the wealthy institution of S. Maria di Tirano, presumably because the large sanctuary founded a few years previously was among the few bodies in the valley capable of ensuring the immediate availability of such a sum, paid back in instalments over the following eighteen months<sup>50</sup>.

<sup>49</sup> P. OSTINELLI, *Il governo delle anime*, pp. 246-247 (with reference to the published document).

<sup>50</sup> ASCB, *Quaterni consiliorum*, 6, 1513.01.20; 1514.01.05; *Quaterni datorum*, 1514 summer session.

# The Alpine Model of Witchcraft

## The Italian Context in the Early Modern Period

by *Vincenzo Lavenia*

In 1966 Fernand Braudel was the first to discuss the relationship between mountains and witchcraft in a few famous pages of the second edition of his depiction of the Mediterranean area at the time of Philip II, which were inspired, as acknowledged in a note, by the research of Emmanuel Le Roy Ladurie. The mountains, wrote Braudel, are “a world apart from civilizations ... Their history is to have none, to remain almost always on the fringe of the great waves of civilization”; “in the mountains ... civilization is never very stable”. The Christianization of the mountains, according to the author, was a very slow and difficult process: “it was only in places where its action could be persistently reinforced that the Church was able to tame and evangelize these herdsmen and independent peasants. Even so it took an incredibly long time”. Therefore

“widespread, irresistible outbreaks of ‘diabolism’ swept through the old populations of Europe, holding them enthralled, and nowhere did these outbreaks occur more strongly than in the uplands whose primitive isolation maintained them in backwardness. Sorcerers, witchcraft, primitive magic, and black masses were the flowerings of an ancient cultural subconscious, from which Western civilization could not entirely separate itself. The mountains were the favored refuge of these aberrant cults, which originated far back in time and persisted even after the Renaissance and Reformation”.

The histories of the Swiss, Milanese, and Piedmont Alps, like the mountains of the Massif Central, Franche-Comté, and Pyrenees, demonstrated for Braudel that this gloomy representation of the European mountains was a reality. “Everywhere,” he concluded, “the black sabbath seems to have been a social and cultural reaction, a mental revolution for lack of a coherent social revolution”<sup>1</sup>. Braudel’s words are evocative and

*Translation by Gavin Taylor*

<sup>1</sup> F. BRAUDEL, *The Mediterranean and the Mediterranean World in the Age of Philip II*, transl. by Sian Reynolds, New York 1972, vol. 1, pp. 36-38.

retain some of the Romantic spirit of the writings of Jules Michelet, who wrote a century earlier. In any case, mountains were perceived by this French scholar (who became enthusiastic about the history of commerce, urban and marine societies) as the ideal scenario for witch hunting in the Early Modern Period on the basis of their presumed social 'backwardness'.

This conception was adopted, in diverse forms, in all the interpretations of the anti-diabolical persecutions as a phenomenon of Christian acculturation and the struggle against "superstition". A year later, from the Anglo-Saxon world, Hugh Trevor-Roper praised Braudel and echoed his views in an essay that became equally famous (*The European Witch-craze of the Sixteenth and Seventeenth Centuries*). Focusing on the Pyrenees and the Alps, Trevor-Roper sustained that "the mountain origin of the witch-craze," was by then, "well established". This, writes the author, was the terrain where the theory was rationally formulated of a satanic plot, "and in which the Dominicans came to be its great adversaries". Later, the debates of the council of Basilea and the scenario of Lake Constance would inspire *Formicarius* by Johannes Nider (1436 approx.) in which the conception of the witches' sabbath was fixed once and for all, on the basis of the accounts of the Swiss magistrate Peter von Greyerz<sup>2</sup>. Following a few years later was the *Malleus maleficarum* by Heinrich Kramer, and numerous accounts by religious judges and Italian theologians belonging to the Dominical Order and operating mainly in the Alpine chain against this "new" diabolical sect. In the eyes of Trevor Roper, the witch hunt constituted the ideological and theological invention of an enemy within the Christian city alongside the heretics, Jews, and Muslims. However, this construction, observes the author without contradicting the basic premise, would not have been as effective as it was without the consent of the "common people", and without what he defines as the "fantasies of mountain peasants". "The thin air of the mountains breeds hallucinations, and the extreme phenomena of nature—the electric storms, avalanches, cracking and calving of the mountain ice—easily lead men to believe in demonic activity". Mountain inhabitants, specifies Trevor Roper, "were racially

<sup>2</sup> Regarding Nider see M.D. BAILEY, *Battling Demons. Witchcraft, Heresy, and Reform in the Late Middle Ages*, University Park PA 2003, *ad indicem*; G. KLANICZAY, *Entre visions angéliques et transes chamaniques: le sabbat des sorcières dans le "Formicarius" de Nider*, in "Médiévales", 44, 2003, pp. 47-72.

distinct" within the European populations (this step is very significant) and they had not fully undergone transition to the Christian religion, still rather labile in the sixteenth century, nor transition to the feudal society typical of the "civilization of the plains". In this way there remained in the mountains a lurking rejection of orthodoxy with the re-emergence of an ancient mentality that was crushed by the inquisitors active in the Pyrenees and the Alps, right into the Renaissance, in the name of a crusade that represented a "real social war". Later the confessional conflicts, the puritan obsession, and Roman law, especially in northern Europe, would rekindle the persecutions in a context that extended outside of the purely mountain sphere. Indeed, the second witch-hunt would witness the activity of civil and ecclesiastic judges, both Reformed and Catholic, without substantial differences between them<sup>3</sup>.

In one passage Trevor Roper mentions the fact that in Spain and Italy the birth of the centralized Catholic inquisitions from the end of the 1500s onwards led to a slow legal moderation, which did not occur in the Alps where the modern Holy Office was not established and "the free competition of bishops, abbots, and petty lords, each with his own jurisdiction, kept the furnaces at work"<sup>4</sup>. Nevertheless, the main nucleus of his interpretation was the idea that the feudal society, from the Late Middle Ages, launched a social war against the mountain world, first in the name of a struggle against heresy (Catharism and Waldensianism), and then against diabolical witchcraft. Jeffrey Russell tried to refute this reading, defining it as deterministic, instead shifting the emphasis to the gradual conversion of crime into heresy as the underlying cause of the witch-hunt<sup>5</sup>. Arno Borst countered this with an analysis of the trials conducted by Greyerz in Simmenthal, the oldest Alpine example. Far from being backward, the Bernese region, according to Borst, had for some time been an area undergoing profound changes, with a lively activity of economic exchanges that generated conflicts and insecurity. Therefore, the trigger for the burnings was innovation rather than persistence of the antique, also considering the adoption of

<sup>3</sup> H. TREVOR-ROPER, *The European Witch-craze of the Sixteenth and Seventeenth Centuries*, in *The Crisis of the Seventeenth Century. Religion, the Reformation, and Social Change*, Indianapolis IN 1967, pp. 83-178, in particular pp. 94, 97-98, 124.

<sup>4</sup> *Ibid.*, p. 176.

<sup>5</sup> See J.B. RUSSELL, *A History of Witchcraft: Sorcerers, Heretics, and Pagans*, London 1980, p. 72.

a judicial and persecutory model that had previously been developed to annihilate heresy<sup>6</sup>.

What remains convincing in the interpretation of Trevor Roper, as underlined a few years ago by Pierrette Paravy and Oscar di Simplicio, is certainly his shift of emphasis to the obvious fact that the first mass trials with a diabolical background occurred in Savoy, the Italian and Swiss Alps, the Dauphiné, and in other mountainous areas (or rather mountain valleys) of Late Middle Ages Europe<sup>7</sup>. Even the early texts discussing the reality of night flight from the early decades of the 1400s were elaborated within this same geographic space, which includes mainly the central-western Alpine chain. This becomes obvious simply by leafing through the collection put together by Agostino Paravicini Bagliani and his research group in 1999<sup>8</sup>, which includes texts by Hans Fruend, Nider himself, Claude Tholosan, Martin Le Franc, and the pages known as the *Errores Gazariorum*. The judges and inquisitors exchanged stories and experiences, convincing themselves of the existence of a sect of male and female Satan worshipers unknown in previous centuries and at the time of the *Canon Episcopi*. The form of persecution adopted against witches was however the same adopted against the Fraticelli, Templars, Jews, Cathars, and Waldensians, and for this reason the trial geography and chronology are much more extensive in Norman Cohn's more generalized book. As this author notes, before reaching the fifteenth century there was a long history of judicial stereotypes that did not feature the Alps as their primary context<sup>9</sup>. Even more extensive, to the point of being Eurasian and pluri-millennial, is the spatial and temporal scope of the book by Carlo Ginzburg. In his opinion the original nucleus of the witches' sabbath was traceable back

<sup>6</sup> See A. BORST, *Die Anfänge des Hexenwahns in den Alpen*, in A. BORST, *Barbaren, Ketzer, und Artisten. Welten des Mittelalters*, München - Zürich 1988, pp. 262-286; also in A. BLAUERT (ed.), *Ketzer, Zauberer, Hexen*, Frankfurt a.M. 1990, pp. 43-67.

<sup>7</sup> See P. PARAVY, *La sorcellerie, une spécialité montagnarde? Le cas du monde alpin occidental, À propos d'un ouvrage récent*, in "Heresis", 39, 2003, pp. 19-33 and O. DI SIMPLICIO, *Mountains and the Origins of Witchcraft*, in *Encyclopedia of Witchcraft*, ed. by R. GOLDEN, Santa Barbara CA 2006, pp. 790-792.

<sup>8</sup> See M. OSTORERO - A. PARAVICINI BAGLIANI - K. UTZ TREMP (eds), *L'imaginaire du sabbat. Édition critique des textes les plus anciens (1430 c.-1440 c.)*, Lausanne 1999.

<sup>9</sup> See N. COHN, *Europe's Inner Demons. The Demonization of Christians in Medieval Christendom*, Chicago IL 1975.

to shamanistic myths, and so the Alps completely lose their centrality, even if it was in these mountainous areas that the theories of a satanic conspiracy and the theory of the reality of nocturnal flight produced, in the writings of the demonologists and judges, that “compromise formation”—the witches’ sabbath<sup>10</sup>. For Brian Levack, rather than a mountain phenomenon, witch hunting was a rural phenomenon, while for Wolfgang Behringer the climate was considered more significant than the orography. According to this German historian, it is the Little Ice Age that explains the origin of the explosion of persecutory fury in the Early Modern Period<sup>11</sup>.

It is outside the present scope to trace out the complete historiographical sketch of witch hunting, but one aspect deserves note: the most recent research, which also underlines the issue of the gender of the accused (not always women)<sup>12</sup>, tends to give more emphasis than in the past to the accusations of sorcery and less to the constitution of the witches’ sabbath. This is not a complete novelty, considering for example the school that developed out of the research of Keith Thomas<sup>13</sup>, but after the volume by Robin Briggs the conflicts arising out of the fear of evil have become a key cipher for understanding the *social* nature of the crime of witchcraft and the dynamics whereby trials were initiated, often originating from village courts<sup>14</sup>. What can be added to this panorama in the light of the Italian context?

Firstly, it is important to underline that the main obstacle to understanding witch hunting in the Alpine chain (on a judicial level—which is the one under examination here—but also as regards beliefs) is the absence of comprehensive and comparative research into the phenomenon, neither for the Late Middle Ages, nor for the Modern Age, and there is not even

<sup>10</sup> See C. GINZBURG, *Ecstasies: Deciphering the Witches’ Sabbath*, Chicago IL 1991.

<sup>11</sup> B.P. LEVACK, *The Witch-Hunt in Early Modern Europe*, London 1987, 2006<sup>3</sup>; W. BEHRINGER, *Witches and Witch-Hunts. A Global History*, Oxford 2004.

<sup>12</sup> One example among others is A. ROWLANDS, *Witchcraft and Gender in Early Modern Europe*, in *The Oxford Handbook of Witchcraft in Early Modern Europe*, ed. by B.P. LEVACK, Oxford 2013, pp. 449-467.

<sup>13</sup> See K. THOMAS, *Religion and the Decline of Magic. Studies in Popular Beliefs in Sixteenth and Seventeenth Century England*, London 1971.

<sup>14</sup> See R. BRIGGS, *Witches and Neighbours. The Social and Cultural Context of European Witchcraft*, New York 1996.

a thorough investigation of available sources. The history of persecution in the “Italo-phone” areas of the Alpine zone (where this phenomenon was much crueler, at least until the early years of the 1500s) can only be traced through a patient collection and comprehensive analysis of local historiographical production, often fragmentary, sometimes of mediocre quality, and lacking in scope. However, a volume by Michael Tavuzzi does at least provide a provisional picture of the activities in northern Italy of the Delegated Papal Inquisition from 1451 to 1527, but only as regards religious judges belonging to the Dominican Order (nothing similar was conducted for the Franciscans). In this volume there are numerous examples of “witch hunter” friars (Bartolomeo da Omate, Niccolò Costantini, Bernardo Rategno, Modesto Scrofeo, Girolamo Armellini, Domenico da Gargnano, Biagio Berra, Lorenzo Soleri, Vito Beggiani) operating from Liguria through Piedmont and into Lombardy. This was the area of the first Italian witch hunt, for which the available data suggest hundreds of victims, even though the figure remains imprecise<sup>15</sup>. It is even more complicated to trace the story of the second witch-hunt, starting from around 1570. Non-Italian historiography and general summary studies treat it only briefly, preferring to concentrate on the Pyrenees, France, the Lorraine, Switzerland, and the Imperial zone, where there were effectively thousands of deaths. Numerous jurisdictions also operated in Italy and the Alpine chain, but even today these are relegated to a few pages, despite the numerous deaths in the Italian scenario including some important cases, as will be discussed below. What is the cause of this historiographical void?

The answer, possibly, is simple. When discussing modern Italy this implies the Roman Inquisition, a tribunal founded in 1542, which after the 1580s adopted a policy hostile to the initiation of individual or collective trials for witchcraft<sup>16</sup>. This date has been known for some time, perhaps

<sup>15</sup> See M. TAVUZZI, *Renaissance Inquisitors. Dominican Inquisitors and Inquisitorial Districts in Northern Italy, 1474-1527*, Leiden - Boston MA 2007. An attempt is made to calculate the number of victims in A. DEL COL, *L'Inquisizione in Italia. Dal XII al XXI secolo*, Milano 2006, pp. 156-217.

<sup>16</sup> On the Inquisition and witchcraft in Italy, see at least G. ROMEO, *Inquisitori, esorcisti e streghe nell'Italia della Controriforma*, Firenze 1990; D. GENTILCORE, *From Bishop to Witch: The System of the Sacred in Early Modern Terra D'Otranto*, Manchester - New York 1992; A. PROSPERI, *Tribunali della coscienza. Inquisitori, confessori, missionari*, Torino 1996, 2009<sup>2</sup>; R. DECKER, *Die Päpste und die Hexen. Aus den geheimen Akten der Inquisition*, Darmstadt 2003; O. DI SIMPLICIO, *Autunno della stregoneria. Maleficio*

always<sup>17</sup>. However, new research has undermined the idea that there was no witch hunt in Italy after 1570, because the strategy of the Congregation of the Holy Office was in any case contradictory and, in particular, the presumption of the inquisitors to retain a judicial monopoly over the crime of witchcraft (an offence considered to be of mixed jurisdiction) came up against the resistance of secular magistrates and episcopal courts, the summary justice exercised by feudal lords, and popular violence to which even some local inquisitors had to cede, far from the control of the Apostolic See<sup>18</sup>. As regards the Alps, it is also necessary to consider that the jurisdiction of the Roman Holy Office did not extend to the Aosta Valley and certain valleys in Lombardy, Trent, Tyrol, and Imperial Friuli. In these areas (but also wherever the Inquisition continued to exist at the foot of the mountain chain: in Vercelli, Alessandria, Turin, Como, and so on) after the Reformation, witch hunting was resumed with an intensity certainly not diminished compared to the past, but with a significant change. With few exceptions (like the minor treatise by Cipriano Uberti, religious judge of Vercelli<sup>19</sup>, and the compendium of Francesco Maria Guazzo, which in any case had little success in Italy)<sup>20</sup> in the Italian Alpine area demonological production stopped almost completely, since it was not viewed favorably by the Congregation of the Index or

*e magia nell'Italia moderna*, Bologna 2005; J. SEITZ, *Witchcraft and Inquisition in Early Modern Venice*, Cambridge 2011.

<sup>17</sup> Above all thanks to the research of John Tedeschi: see *The Prosecution of Heresy. Collected Studies on the Inquisition in Early Modern Italy* (Medieval & Renaissance Texts & Studies), Binghamton 1991.

<sup>18</sup> See V. LAVENIA, "Anticamente di misto foro". *Inquisizione, Stati e delitti di stregoneria nella prima età moderna*, in G. PAOLIN (ed.), *Inquisizioni: percorsi di ricerca*, Trieste 2001, pp. 35-80; G. ROMEO, *Inquisizione, Chiesa e stregoneria nell'Italia della Controriforma: nuove ipotesi*, in D. CORSI - M. DUNI, "Non lasciar vivere la malefica". *Le streghe nei trattati e nei processi (secoli XIV-XVII)*, Firenze 2008, pp. 53-65; V. LAVENIA, *Stregoneria e possessione diabolica nell'Italia moderna: un bilancio*, in *A dieci anni dall'apertura dell'Archivio della Congregazione per la Dottrina della Fede: storia e archivi dell'Inquisizione* (Accademia Nazionale dei Lincei), Roma 2011, pp. 519-544.

<sup>19</sup> See C. UBERTI, *Discorsi, ouero Trattatello sopra la moltitudine de aretiti, o spiritati, che hoggi si vede, con li rimedij curatiui, & preseruatiui, estratti da santi padri, & dottori approuati*, Torino, Antonio Bianchi, 1598. Regarding the author see, in particular, G. TIBALDESCHI, *Un inquisitore in biblioteca: Cipriano Uberti e l'inchiesta libraria del 1599-1600 a Vercelli*, in "Bollettino Storico Vercellese", 19, 1990, pp. 43-103.

<sup>20</sup> See FRANCESCO MARIA GUAZZO, *Compendium maleficarum*, ed. by M. Summers, New York 1988 (the first ed. was 1608, the second in 1626).



the Holy Office. Up until the 1520s, as already mentioned, the situation was different. During the years in which the Reformation altered the religious context of Europe, the writing of demonological texts (of western Alpine origin) experienced a final flowering in the Pyrenees (up until the 1530s) and on the Italian peninsula, thanks to the journeys from north to south of Kramer, who (as emerges from an important study) influenced his brethren Silvestro Mazzolini and Bartolomeo Spina (and possibly Bernardo Rategno) in the drafting of influential theological works and manuals for judicial procedures against witches<sup>21</sup>. Subsequently, between the end of the 1500s and the first half of the 1600s, demonology became a Franco-German genre and Italy was reduced to importing printed texts composed elsewhere.

Kramer's name brings the discussion to concrete examples. In 1485, before writing *Malleus maleficarum*, this friar had been sent away by the Bishop of Brixen, Georg Golser, and by Archduke Sigmund of Austria, who were not impressed by his severe judicial activity in Tyrol to the detriment of certain parties accused of practicing witchcraft<sup>22</sup>. This episode is a reminder that to understand the origin and outcome of individual episodes of witch hunting the issue of jurisdiction is fundamental. This is particularly true for the Alpine world where not even in the 1600s was there any sign of progressive verticalization of the judicial system. Historical research has revealed that starting from the end of the sixteenth century the courts of second instance, throughout Europe, applied a relative brake on witch hunting: not only where modern Catholic Inquisitions were operating (Spain, Portugal, most of Italy), but also in France and the Empire. However, this process of surveillance of high courts over the local courts relegated the mountains of northern Italy to a marginal status. It is thus no surprise that the second wave of "witch fever" in Italy was confined geographically almost exclusively to the Alpine and pre-Alpine areas.

<sup>21</sup> See T. HERZIG, *Bridging North and South: Inquisitorial Networks and Witchcraft Theory on the Eve of the Reformation*, in "Journal of Early Modern History", 12, 2008, pp. 361-382.

<sup>22</sup> See E. WILSON, *Institutoris at Innsbruck: Heinrich Institutoris, the 'Summis Desiderantes' and the Brixen Witch-Trial of 1485*, in R.W. SCRIBNER - T. JOHNSON (eds), *Popular Religion in Germany and Central Europe, 1400-1800*, Basingstoke 1996 pp. 87-100, now in B. LEVACK (ed.), *New Perspectives on Witchcraft, Magic and Demonology*, vol. 1: *Demonology, Religion, and Witchcraft*, New York - London 2001, pp. 165-178.

Furthermore, if an effort is made to establish what characterized witch hunting in the Alpine world, it is unlikely to be found in the accusations of evildoing. These follow the common pattern throughout Europe: harm to individuals, fields, animals; sexual impotence and infanticide; love spells and genuine poisons; the evocation of storms and natural disasters, and so on. Nor is it found in the fact that there were different sentences for male followers of Satan, or for those of ill fame deriving from their familial backgrounds, both of which were found in other areas of Europe. Not even the testimony of children at trials, which was sporadic, represents an original feature of Alpine trials. It might be more fruitful to address the morphology of the witches' sabbath over a relatively large area, because there were variations in the conception of the black mass and sometimes these reflected local social and political contexts, as well as ancient myths. For example, in a trial that started in 1650 in Val Leventina a woman recounted that during the meetings of the sabbath (the *barilotto*) the decisions about the evil deeds to be committed were taken by the diabolical host according to a majority vote, like a council meeting in the valley<sup>23</sup>. The court that tried the accused, together with dozens of other victims sent to the fire, was the *Landfogt* of Faido<sup>24</sup>. It also operated in the valleys of Blenio and Riviera according to Roman law and statutory rules. The jurors from the valley were accompanied by two ambassadors from the county of Uri, but they were highly autonomous, which is not surprising considering the confederate nature of these institutions.

In the Catholic lands the traditional judicial autonomy of the valleys meant that they had little regard even for ecclesiastic, episcopal, and papal courts. As a result, the presumption of Federico Borromeo to exercise the jurisdiction of the Ambrosian diocese and interrupt the chain of death sentences under discussion here, with his proposal for recourse instead to catechism and reconciliation, was strongly rejected and possibly even hardened the approach of the secular magistrates. As emerges from a succinct but important correspondence preserved in Rome, after the Holy Massacre of 1620 the Holy Office of Como never succeeded in limiting the judicial fury in Valtellina and Canton Ticino, where it

<sup>23</sup> See M. RODA, *Processi per stregoneria in Val Leventina (1650)*, in "Nuova Rivista Storica", 63, 1979, pp. 331-348, here p. 344.

<sup>24</sup> See M. SCANNI, *La lunga stagione della caccia alle streghe in Valle Leventina. L'opera repressiva del Magnifico Ufficio di Faido nel XVII secolo*, in "Nuova Rivista Storica", 81, 1997, pp. 131-158.

nominally had jurisdiction. The zeal of the local magistrates made the inquisitional court seem excessively indulgent towards the malefactors. A suspicion of this type was also formulated by a *crocesignato* of the Holy Office, who in 1631, during the plague, called for the heavy hand of religious judges but was ignored<sup>25</sup>. However, taking a stride back and into the Val Camonica, a dependency of the Republic of Venice, more than a hundred years earlier in 1520, during the terminal phase of the first great witch hunt, the roles were inverted: the ecclesiastic inquisitors had committed abuses, tortured and killed while the secular magistrates of the Serenissima Republic, as had already happened in Tyrol on the arrival of Kramer, blocked the trials on the strength of their jurisdiction over the crime of *maleficium*<sup>26</sup>. Between the fifteenth and sixteenth centuries, the inquisitors were far and away the main protagonists of persecution, over a geographic area extending from the Maritime Alps to, Piedmont, the Aosta Valley, Sondrio, Como, and Brescia (with over four hundred victims, by lowest estimate)<sup>27</sup>. Later, in contrast, where the Holy Office was weak or absent, the main protagonists were the civil magistrates and village courts, often coming into conflict with the ordinary or inquisitional ecclesiastic courts (examples include cases in Valtellina, Locarno, Chiavenna, and Poschiavo after joining the Grigioni)<sup>28</sup>.

<sup>25</sup> See P. PORTONE, *Alcuni documenti inediti del Sant'Uffizio sulla caccia alle streghe nell'antica diocesi di Como durante il XVII secolo*, in *Streghe, diavoli e sibille*, Como 2003, pp. 75-87 (for the protest of the *crocesignato*, p. 79).

<sup>26</sup> See A. DEL COL, *Organizzazione, composizione e giurisdizione dei tribunali dell'Inquisizione romana nella Repubblica di Venezia*, in "Critica Storica", 25, 1988, pp. 244-294.

<sup>27</sup> See among others M. PREVIDEPRATO, "Tu hai renegà la fede". *Stregheria e Inquisizione in Valcamonica e nelle Prealpi lombarde dal XV al XVIII secolo*, Nadro di Ceto 1992; G. GIORGETTA, *Inquisitori e giudici laici nel territorio dell'antica diocesi di Como*, in G.M. PANIZZA (ed.), *Caccia alle streghe in Italia tra XIV e XVII secolo*, Bolzano 2007, pp. 95-126; O. AUREGGI ARIATTA, *La stregoneria nelle Alpi centrali. Una lettura giuridica, in Sante, medichesse e streghe nell'arco alpino*, Bolzano 1994, pp. 89-123; St. BOWD, 'Honeyed Flies' and 'Sugared Rats': *Witchcraft, Heresy, and Superstition in the Bresciano, 1454-1535*, in "Past and Present", 199, 2008, supplement 3: St.A. SMITH - A. KNIGHT (eds), *The Religion of Fools? Superstition Past and Present*, Oxford 2008, pp. 134-156.

<sup>28</sup> See at least T. MAZZALI, *Il martirio delle streghe. Una nuova drammatica testimonianza dell'inquisizione laica del Seicento*, Milano 1988; R. LAORCA, *Le tre valli stregate*, Locarno 1992; D. BARATTI, *La persecuzione della stregoneria*, in R. CESCHI (ed.), *Storia della Svizzera italiana dal Cinquecento al Settecento*, Bellinzona 2000, pp. 377-396.

The picture is thus more complex, not only because after 1570 there are records of terrible witch hunting episodes guided by the Papal inquisitors and by bishops or their delegates (examples include the Novarese<sup>29</sup>, House of Savoy<sup>30</sup>, and Val Mesolcina at the end of the sixteenth century, during and following the activities of Carlo Borromeo as Archbishop of Milan)<sup>31</sup>, but also because the network of powers operating in the scenario was complicated during the first and second witch hunts. The profiles of the judicial agents that triggered the chain of trials between the fifteenth and seventeenth centuries would thus merit a parallel investigation. For example, in the Aosta Valley in the 1400s, twenty burnings are estimated out of forty accusations where inquisition friars circulated, but this figure is unreliable due to the incompleteness of the sources (not to mention the condemned who would die at the end of the 1500s)<sup>32</sup>.

In the impossibility of tracing a complete picture, the discussion is limited to citing a case studied by Rinaldo Comba and G.G. Merlo, which might be considered as indicative: that of Riffredo and Gambaasca. The location was the Marquisate of Saluzzo, under the diocese of Turin, in the House of Savoy. In 1495, after the transit of the French, an inquisitor friar, Vito dei Beggiami, resident at the Dominican convent of Savigliano and recently nominated as judge of faith for a vast portion of north-western Italy, was called on to intervene following a serious event. A servant was found dead and bruised in the Cistercian monastery of S. Maria della Stella, directed by the Abbess Margherita di Manton who exercised lordship over the local villages and enjoyed the support of Marchiotto dei Tapparelli, a papal delegate. The person accused of sorcery was Giovanna Motossa, recently widowed and in economic

<sup>29</sup> See Th. DEUTSCHER, *The Role of the Episcopal Tribunal of Novara in the Suppression of Heresy and Witchcraft, 1563-1615*, in "Catholic Historical Review", 77, 1991, pp. 403-421, now in B. LEVACK (ed.), *New Perspectives on Witchcraft, Magic and Demonology*, vol. 2: *Witchcraft in Continental Europe*, pp. 245-263.

<sup>30</sup> See V. LAVENIA, *L'Inquisizione del duca. I domenicani e il Sant'Uffizio in Piemonte nella prima età moderna*, in C. LONGO (ed.), *I domenicani e l'Inquisizione romana*, Roma 2008, pp. 415-476.

<sup>31</sup> The author limits reference, also in the bibliography, to G. ROMEO, *Inquisitori domenicani e streghe in Italia tra la metà del Cinquecento e i primi decenni del Seicento*, in C. LONGO (ed.), *I domenicani e l'Inquisizione romana*, pp. 309-344, especially pp. 324-326.

<sup>32</sup> See S. BERTOLIN - E. EMERICO GERBONE, *La stregoneria nella Valle d'Aosta medievale*, Quart 2003.

difficulty, a tenant to the Abbess and previously accused by the dead servant of being a thief and witch, despite not being an emarginated figure (a detail that deserves to be emphasized). The trial began a few months later and uncovered the presumed existence of a group of men and women who, after torture, confessed their participation in a black sabbath in a field on the banks of the river Po, where they threw the cross onto the ground and trampled on it before committing acts of infanticide. During the trial, an envoy of the bishop and a friar of the same religious order representing the Marquis Ludovico II collaborated with the judge of faith, who had read *Malleus*. This generated a degree of friction, at very least at the start of the trial. It is important to establish that in this case, like others, the person who triggered the persecution did not derive from the lowest social ranks but belonged to the elite, intervening on the occasion of an evil spell perpetrated to the harm of men and women linked to their person through ties of loyalty<sup>33</sup>. As already seen, it was a *crocesignato* of the Holy Office who requested justice against the witches from the inquisitor of Como; in this case it was instead the Abbess who called for the stake in the Saluzzo region.

The persecutors of witches were not always men and women from religious institutions. Focusing on a geographic area that today is also part of Piedmont, it is sufficient to cite the terrible case of Spigno, in Val Bormida, studied by Lionello Oliveri and Luca Giana. Here in 1631 to 1632 fourteen accused lost their lives in prison as a consequence of procedural violence, on charges of spreading malefaction and the plague thanks to powers received from the Devil. The Bishop of Savona (who governed the Abbey of S. Quintino), the inquisitor of Genoa (who had jurisdiction over these lands), and the Roman Holy Office (called on for assistance) could not halt the cruel resolution of the local lord, Marco Antonio Asinari del Carretto, who in matters of justice did not answer even to the Gonzaga family, the sovereigns of Monferrato<sup>34</sup>. A relatively similar case is that of the Marquis of Garessio, Francesco Spinola, who did not obey the Holy Office of Asti. During the same

<sup>33</sup> See R. COMBA - A. NICOLINI (eds), *"Lucea talvolta la luna": i processi alle "masche" di Rifreddo e Gambasca del 1495*, Cuneo 2004; G.G. MERLO, *Streghe*, Bologna, 2006.

<sup>34</sup> See L. OLIVERI, *Un processo per stregoneria in Val Bormida nel 1631: le streghe di Spigno*, in "Bollettino Storico-bibliografico Subalpino", 93, 1995, pp. 135-184, 547-599; L. GIANA, *La stregoneria in Liguria. Prospettive di ricerca. 'La via occidentale'*, in G.M. PANIZZA (ed.), *Caccia alle streghe*, pp. 31-73.

years as the massacre of Spigno, the inquisitor tried to halt another witch-hunt of which few documentary traces remain<sup>35</sup>.

The area close to Trent should also not be neglected, with the cases of the Fiemme Valley in the early 1500s, and the Non Valley in the 1600s, where between 1612 and 1615 seventeen of one hundred and fifty accused died, followed by those of the Fassa Valley (1627-1631) and Nogaredo<sup>36</sup>. Also worthy of mention is Cormons, in Friuli, on the slopes of the Collio, where at the hand of a secular magistrate of the lords of Torre-Valassina, feudatories of the Hapsburgs, two women were burned in 1647, after the inquisitor of Udine and the Holy Office abandoned them to their fate in order not to enter into conflict with a lord of the Empire<sup>37</sup>. All these cases demonstrate how an excessively horizontal judicial system, as was still the case in the Alpine area, from west to east, remained permeable to the fears widespread in a Europe perturbed by war, so that accusations of malefaction advanced by men and women of rank could trigger chains of trials with the complicity of the judges.

A suitable conclusion is provided by a famous case from Liguria, that of Triora, where in 1587 the elders of the Valle Argentina, which belonged to the Republic of Genoa, appealed to the diocesan court of Albenga and to the vicar of the local Holy Office, claiming that a famine afflicting the local inhabitants (just over 3,000 souls) for some time was caused by malefactors. As suggested in a study a few years ago, this might have been neither a demonic nor natural event, but a fraudulent withholding of staple crops to the financial benefit of a

<sup>35</sup> See V. LAVENIA, *L'Inquisizione del duca*.

<sup>36</sup> See P. DI GESARO, *Streghe. L'ossessione del diavolo, il repertorio dei malefici, la repressione*, Bolzano 1988; L. SAMBENAZZI (ed.), *La confessione di una strega: un frammento di storia della Controriforma*, Roma 1989; C. BERTOLINI (ed.), *La stupenda inquisizione d'Anaunia. Processo del 1611-1615*, Trento 1990. For Tyrol, see at least H. BENEDIKTER, *Hexen und Zauberer in Tirol*, Bozen 2000; H. RABANSER, *Die Hexenprozesse in Völs am Schlern (1506 & 1510). Eine Darstellung anhand neuer Quellen*, in "Wissenschaftliches Jahrbuch der Tiroler Landesmuseen", 2, 2009, pp. 212-237; M. TSCHAIKNER, *Die Hinrichtung Dominik Zieglauers aus Pens (1686) und das Ende der Meraner Zaubererverfolgungen*, in "Der Schlern", 87, 2013, pp. 17-22 (thanks to my friend and colleague Katia Occhi for these references).

<sup>37</sup> See L. DE BIASIO, *Esecuzioni capitali contro streghe nel Friuli orientale alla metà del secolo XVII*, in "Memorie Storiche Forogiuliesi", 58, 1978, pp. 147-158.

group of wealthy individuals who were now in search of a scapegoat to hide their own involvement and free themselves of competition. True or false as this might be, the trials soon took a violent turn because the two ecclesiastic judges, far from Genoa, believed in the black sabbath and malefaction, and directly accused 32 women and 1 man, calling a further two hundred individuals into question, some belonging to the best known families of Triora. The community thus decided to refer to Genoa, and the Republic authorities delegated a judge who ordered the consignment of thirteen women and a man and shut them in the city prisons. At this point, the violence multiplied and the inquest extended to the towns close to Triora, leading to the deaths of a number of accused, and finally the heavy handed intervention of the Holy Office that closed the case<sup>38</sup>. These episodes are recalled at the end of this essay simply to note that, outside of the jurisdictional conflicts that formed the main subject here, there is a lack of analysis capable of revealing the social conflicts that were often masked behind cases of witchcraft, in the Alps as elsewhere. Hypotheses like the one formulated for Triora deserve verification, while other episodes could provide further material for study, especially in the Italian speaking areas of the Alps, which should be analyzed as a totality, worthy of standing alongside the French, German, and Pyrenees scenarios that are better known to historiography. What is certain is that the paradigm of the assumed backwardness of the mountain areas has nothing more to offer, and the religious and judicial trials in the Alpine chain produced witch hunts comparable in intensity with the mainstream European examples, and which are still not fully understood within the framework of local powers.

<sup>38</sup> See M. ROSI, *Le streghe di Triora in Liguria: processi di stregoneria e relative questioni giurisdizionali nella seconda metà del secolo XVI*, Roma, Tipografia delle Mantellate, 1898 (reprinted, with an introduction by C.G. ROSI, Lucca 1988); P. COPPO - G.M. PANIZZA, *La pace impossibile. Indagini ed ipotesi per una ricerca sulle accuse di stregoneria a Triora (1587-1590)*, in "Rivista di Storia e Letteratura Religiosa", 26, 1990, pp. 34-74; A. ASSINI - P. FONTANA - G.M. PANIZZA - P. PORTONE (eds), *La causa delle streghe di Triora. I documenti dei processi 1587-1618*, Taggia 2014.

# Resources, Mercantile Networks, and Communities in the Southeastern Alps in the Early Modern Period

by *Katia Occhi*

## 1. *Integration between the Alps and the plain*

During the Late Middle Ages and Early Modern Period, the considerable natural resources of the eastern Alps were extremely attractive to the cities on the Italian plain, with exchanges of raw materials documented as early as the thirteenth century, although these only began to multiply starting from the 1500s<sup>1</sup>. The main markets were the Republic of Venice, Verona, Padua, and the city of Venice, the latter being one of the most highly populated centers in the European continent. The vicinity of mountain supply basins for the supply of strategic raw materials, like iron and timber, had encouraged the development of naval shipyards and enabled the Venetian fleet to dominate the eastern Mediterranean and establish Venice as a marine and commercial power<sup>2</sup>.

*Translation by Gavin Taylor*

Abbreviations: ASBas = Archivio di Stato di Vicenza, Sezione di Bassano del Grappa; ASTn = Archivio di Stato di Trento; ASV = Archivio di Stato di Venezia; TLAI = Tiroler Landesarchiv, Innsbruck.

<sup>1</sup> E. WERUNSKY, *Österreichische Reichs- und Rechtsgeschichte. Ein Lehr- und Handbuch*, Wien 1894, pp. 975-976; G. MONTICOLO, *I capitolari delle arti veneziane sottoposte alla giustizia e poi alla Giustizia vecchia dalle origini al MCCCXXX*, 11, II, Roma 1905, pp. 3-7.

<sup>2</sup> F.C. LANE, *Navires et constructeurs à Venice pendant la Renaissance*, Paris 1965; F.C. LANE, *Venice. A Maritime Republic*, Baltimore MD 1973; P. BRAUNSTEIN, *Les entreprises minières en Vénétie au XVe siècle*, in "Mélanges d'archéologie et d'histoire de l'Ecole française de Rome", 77, 1965, pp. 529-607; P. BRAUNSTEIN, *De la montagne à Venise. Les réseaux du bois au XVe siècle*, in "Mélanges de l'Ecole française de Rome", 100, 1988, pp. 761-799; R. VERGANI, *Minerali e metalli della Terraferma*, in M. FERRARI BRAVO - S. TOSATO (eds), *Gli Arsenali oltremarini della Serenissima. Approvvigionamenti*



In the 1400s, the control of the trade routes between the Alps and the sea, both fluvial and terrestrial, was a determining factor for expansion into the hinterland, representing the first arteries of transit. The integration of the mountains into the commercial systems of the cities was achieved through the reorganization of the complex hydrographical system of the hinterland for the purpose of transport of timber and other goods, the penetration of the urban mercantile elite into the Alpine valleys, and the creation and maintenance of a complex network of relations with local rulers and merchants, who mediated with the local communities and those holding the rights for exploitation of the forests<sup>3</sup>.

The considerable reserves of forest in the Venetian mountains that the Republic had gained direct control of by 1420 were mostly managed under an early form of forestry policy with complex legislation dating from the mid 1400s<sup>4</sup>. In order to deal with a looming shortage of timber and to guarantee supplies of high quality timber to the shipyards, the government implemented public acquisition of a number of forests, subtracting them from the local communities and imposing strict limitations for use. In contrast to the measures to protect mountain forests reserved for state shipyards, there was a contradictory approach towards forests on the plain, without any restrictions on the clearance of entire forest basins and coastal pinewoods<sup>5</sup>.

*e strutture cantieristiche per la flotta veneziana (secoli XVI-XVII)*, Milano 2010, pp. 57-62; R. VERGANI, *Venezia e la terraferma: acque, boschi, ambiente*, in G. DEL TORRE - A. VIGGIANO (eds), *1509-2009. L'ombra di Agnadello: Venezia e la terraferma*, in "Ateneo Veneto", 197, 9/I, 2010, pp. 173-193.

<sup>3</sup> F. BIANCO, *Nel bosco. Comunità e risorse forestali nel Friuli di età moderna (secoli XV-XX)*, Udine 2001; A. LAZZARINI, *Le vie del legno per Venezia: mercato, territorio, confini*, in M. AMBROSOLI - F. BIANCO (eds), *Comunità e questioni di confini in Italia settentrionale (XVI-XIX sec.)*, Milano 2007, pp. 97-110.

<sup>4</sup> A. DI BÉRENGER, *Saggio storico sulla legislazione veneta forestale dal sec. 7. al 19.*, Venezia, Libr. alla Fenice G. Ehardt, 1873; K. APPUHN, *A Forest on the Sea. Environmental Expertise in Renaissance Venice*, Baltimore MD 2009.

<sup>5</sup> R. VERGANI, *Legname per l'Arsenale: i boschi "banditi" nella repubblica di Venezia, secoli XV-XVII*, in S. CAVACIOCCHI (ed.), *Ricchezza del mare, ricchezza dal mare*, Firenze 2006, pp. 401-414; R. VERGANI, *Boschi, miniere e metallurgia nell'area veneta: norme, istituzioni, conflitti (secoli XIII-XVIII)*, in A. VISCONTI (ed.), *Il legno brucia: l'energia del fuoco nel mondo naturale e nella storia civile*, in "Natura. Rivista di scienze naturali", 98, 2008, 1, pp. 147-158; A. LAZZARINI, *L'Arsenale di Venezia. Problematiche della produzione e del trasporto del legno*, in

Despite these government measures to ensure a supply to the shipyards, they still needed to refer to the international market for supplies, simultaneously utilized by the private shipyards and the numerous companies that depended on the energy produced by firewood and charcoal, which were often in sharp competition with each other<sup>6</sup>. At the start of the 1600s, the mainland areas including Istria and the Dogado exceeded 1,750,000 inhabitants, and the markets expressed a strong demand, differentiated between domestic consumption, building, artisans, and industry, with oak used for ships, larch and spruce for building, beech and other varieties for fuel. Both legal and smuggled supplies reached Venice from Istria, the island of Krk/Veglia, the Illyrian coast under Austrian control, and the port of Ravenna<sup>7</sup>.

Among the Republic's timber supply basins, the southern and eastern parts of the County of Tyrol and the ecclesiastic principalities of Brixen and Trent were of particular importance<sup>8</sup>. The network of rivers and Alpine torrents running through the area all ended up in the main rivers of the Italian plain (Piave, Brenta, and Adige), with the exception of the

M. FERRARI BRAVO - S. TOSATO (eds), *Gli Arsenali oltremarini della Serenissima*, pp. 47-56; A. LAZZARINI, *Remi per le galere. Dai boschi della Carnia all'Arsenale di Venezia*, in A. FORNASIN - C. POVOLO (eds), *Per Furio. Studi in onore di Furio Bianco*, Udine 2014, pp. 29-38; A. ZANNINI, *Un ecomito? Venezia (XV-XVIII secolo)*, in G. ALFANI - M. DI TULLIO - L. MOCARELLI (eds), *Storia economica e ambiente italiano (ca. 1400-1850)*, Milano 2012, pp. 100-113. For the shipyards, also see G. CANDIANI, *I vascelli della Serenissima: guerra, politica e costruzioni navali a Venezia in età moderna, 1650-1720*, Venezia 2009.

<sup>6</sup> For an overview of the Venetian economy, see D. SELLA, *L'economia*, in G. COZZI - P. PRODI (eds), *Storia di Venezia. Dalle origini alla caduta della Serenissima*, vol. 6: *Dal Rinascimento al Barocco*, Roma 1994, pp. 651-711; for the proto industrial activities in the city and mainland P. LANARO (ed.), *At the Centre of the Old World. Trade and Manufacturing in Venice and the Venetian Mainland 1400-1800*, Toronto 2006 and relative bibliography.

<sup>7</sup> K.J. BELOCH, *Bevölkerungsgeschichte Italiens*, Bd. 3: *Die Bevölkerung der Republik Venedig, des Herzogtums Mailand, Piemonts, Genuas, Corsicas und Sardinien. Die Gesamtbevölkerung Italiens*, Berlin 1961, p. 164. For the legal and illegal routes see A. LAZZARINI, *Le vie del legno per Venezia*.

<sup>8</sup> G.M. VARANINI, *Richter tirolese, mercante di legname, patrizio veronese. L'affermazione socio-economica di Nicola Saibante da Egna*, in "Geschichte und Region/Storia e Regione", 3, 1995, pp. 191-219; K. OCCHI, *Boschi e mercanti. Traffici di legname tra la contea di Tirolo e la Repubblica di Venezia (secoli XVI-XVII)*, (Annali dell'Istituto storico italo-germanico in Trento. Monografie, 42) Bologna 2006.

Drava, a tributary of the Danube. In the pre-industrial era, the territories lying along these river valleys, both under Trent and Tyrolean legislation and those over the border under Venetian sovereignty, represented an ecological model in which the exploitation of resources occurred within a macro-economic structure, exhibiting forms of inter-regional division of labor with an integration of the Alps, the cities, and the plains. This trade embraced the exchange of natural resources, agricultural products, and manufactured goods, extending on a more limited level beyond of the Venetian sphere to the markets of Ferrara and Mantua<sup>9</sup>.

Even timber originating from the Corinthian forests, floated down the tributaries of the Isonzo and Tagliamento Rivers, was involved in this trade until around the middle of the 1700s, when the Habsburg government took action to encourage the development of the ports of Trieste and Fiume, discouraging the presence of merchants from outside their boundaries with severe protectionist measures, introduced in particular to the disadvantage of Venice. In contrast, for the forestry resources of the Trentino-Tyrol areas the Venetian market continued to represent virtually the only outlet, so much so that in 1801 the sale of constructional timber alone (excluding firewood and charcoal) comprised 19% of exportation, even reaching Egypt and Turkey<sup>10</sup>.

Up until the 1800s the felling and sale of timber was a primary source of income for the Alpine villages, as testified in central and peripheral sources of the Tyrolean and Venetian governments, and in coeval literature. Of the latter, it is worth recalling *Landesbeschreibung von Südtirol* from the early 1600s by Marx Sittich von Wolkenstein, which documents the timber trade between Val Badia (Abtei) and Venice, through the jurisdiction of Livinallongo/Buchenstein and the Captaincy

<sup>9</sup> TLAI, *Ober-Österreichische Regierungskopialbücher*, Buch Tirol, 1540-1546, fols 304r-305v, 23.4.1540; fols 319v-320r, 1.3.1542: in 1540 the authorities approved the felling of 32 larch logs in the jurisdiction of the Deutschnofen to be sent to Ferrara; in 1542 exportation was authorized for 15 beams of larch for the construction of some mills in Mantua.

<sup>10</sup> For Carinthia see A. LAZZARINI, *Le vie del legno per Venezia*, p. 107; for Tirol A. BONOLDI, *La Fiera e il dazio. Economia e politica commerciale nel Tirolo del secondo Settecento*, Trento 1999, pp. 392-394; J.J. STAFFLER, *Tirol und Vorarlberg, statistisch und topographisch, mit geschichtlichen Bemerkungen*, Innsbruck 1839, vol. 1, pp. 418-421; Innsbruck 1844, vol. 2, p. 531.

of Agordo, by free floatation down the River Cordevole and then lashed into rafts down the Piave<sup>11</sup>.

## 2. Princes and communities

In the mountain regions of the Republic of Venice the forested areas were classified between private forest, communal forest (nominally belonging to the state but managed *ab antiquo* by the local community), and public forest (for the exclusive use of the state). Forest exploitation was largely managed by rural communities and the sale of timber (and minerals) paid for their requirements in foodstuffs, manufactured products, and financed public works. Even in the ecclesiastic principality of Trent, most forested land was communal, with the exception of Fiemme Valley where the forests were subjected to a number of different authorities (prince-bishop, local villages, and the Magnificent Community of Fiemme), and with some portions privately owned<sup>12</sup>. The exploitation and sale involved mainly the forests of Fiemme Valley and certain communities along the River Chiese, whose timber was destined for Brescia<sup>13</sup>.

In the jurisdictions of the County of Tyrol, the forestry reserves were subjected to the interests of the central authorities at an early date. In the northern area, in the second half of the thirteenth century, the devel-

<sup>11</sup> M.S. VON WOLKENSTEIN, *Landesbeschreibung von Südtirol, verfasst um 1600, erstmals aus den Handschriften herausgegeben von einer Arbeitsgemeinschaft von Innsbrucker Historikern*, Innsbruck 1936, p. 267: "ein bischof zu Prigsen da grosse anzahl holz schlagen last ... und dies holz wirt gefiert mit oxsen zwey Teische meil über ein gebürg, haist Campo Langa und wurt da in ein pach geworfen, so man Carthal nent und durch Beuchestain get und durch die Venetiger verfiert wirt in ire stedt". For the chronicles see S. BENZ, *Marx Sittich von Wolkensteins Landesbeschreibung von Südtirol*, in G. PFEIFER - K. ANDERMANN (eds), *Die Wolkensteiner. Facetten des Tiroler Adels in Spätmittelalter und Neuzeit*, Bozen 2009, pp. 295-321.

<sup>12</sup> A. ZANNINI, *Sur la mer, près des montagnes. Venise et le circuit de production et vente du bois (XVIe-XIXe siècle)*, in *Mer et Montagne dans la culture européenne (XVIe-XIXe siècle)*, Rennes 2011, pp. 43-55, in particular p. 45; M. NEQUIRITO, *La montagna condivisa. L'utilizzo collettivo dei boschi e dei pascoli in Trentino dalle riforme settecentesche al primo Novecento*, Milano 2010, pp. 56-57.

<sup>13</sup> ASTn, *Archivio del Principato vescovile*, Sezione Latina, Capsa 7, no. 52, testifying the sale of timber by Storo to Brescia, 12.5.1493. Marco Stenico is acknowledged for this reference.

opment of extractive activities at the Hall salt mines and the expansion of the mining and metallurgical centers in the fifteenth and sixteenth centuries generated an increase in demand for timber and rising prices, which the government authorities countered with a series of restrictive measures at the expense of local communities. From the second half of the fifteenth century the “common land” forests (*Almende*) of the Inntal and side valleys were reserved for the interests of the administration of the Principality and the quota of wood to be felled was only authorized in locations pre-defined by the forestry authorities during annual commissions (*Waldbereitungskommissionen*). Around the middle of the sixteenth century, all the forests were reserved for the needs of the Chambers (*Kammer*) of the Archduke of Tyrol, the organism that managed the financial incomes of the Archduchy of Upper Austria. Local communities retained their rights of use, and feudatories retained their rights to exploit the feudal forests, but an obligation was introduced for the issue of a license, released by the Chambers after hearing the opinion of the forestry office (incorporated into the mining or customs offices) of the local jurisdiction (*Gerichte*)<sup>14</sup>. The issue of a license was subject to payment of a lease and customs duties in the case of exportation abroad, a portion of which had to be paid in advance.

Between 1541 and 1587 the Tyrolean authorities intervened heavily in the forestry sector with the emanation of 30 regulations (out of a total of 68 rulings issued between 1492 and 1839) in which measures for the rationalization of forest cultivation stood alongside restrictive rulings in relation to local communities<sup>15</sup>. This institutional intervention was intended to regulate the exploitation of forests and maximize profits derived from trading with Italian markets. In the meantime there were a series of interventions affecting customs duties, introducing new tariffs and establishing about ten “timber offices”, subordinated to a central office in Lavis, controlled directly by the Chambers of the Archduchy,

<sup>14</sup> E. WERUNSKY, *Österreichische Reichs- und Rechtsgeschichte*, pp. 975-976; H. WOPFNER, *Almendregal des Tiroler Landesfürsten*, Innsbruck 1906, p. 75; H. WOPFNER, *Der Wald*, in *Tirol. Land und Natur, Volk und Geschichte*, vol. 1, München 1933, pp. 294-304. On Tyrolean jurisdiction, see W. BEIMROHR, *Mit Brief und Siegel. Die Gerichte Tirols und ihr älteres Schriftgut im Tiroler Landesarchiv*, Innsbruck 1994 and M.P. SCHENNACH, *Gesetz und Herrschaft. Die Entstehung des Gesetzgebungsstaates am Beispiel Tirols*, Köln 2010, pp. 76-89.

<sup>15</sup> The *Waldordnungen* and the *Waldbereitungen* are published by H. OBERRAUCH, *Tirols Wald und Waidwerk. Ein Beitrag zur Forst- und Jagdgeschichte*, Innsbruck 1952.

nine of which were located along the Venice-Archduchy border. In the early 1600s, these offices generated 40% of the income from customs duties<sup>16</sup>.

The control of the central authorities over the forestry resources and the derived income was highly articulated, as attested in the accounting records of the Chambers of the Archduchy (*Raitbücher*), inspections of the forestry officials, legal investigations against smuggling and fraud, fines inflicted on merchants and local operators recorded in the copy books of the Chambers and of the regiment (*Regierung*) starting from the 1540s, in the deeds of the State Council after 1564, and of the Secret Council (*Geheimer Rat*) of Upper Austria from 1602<sup>17</sup>.

### 3. *Communities and merchants: conflicts and consensus*

The pressure on the Tyrolean forests clearly reveals the balance of power between the central authorities and the peripheral areas of the state. The restrictions on the exports of timber introduced in the *Landesordnungen* of 1526 and repeated on subsequent occasions (1532, 1573) were aimed more at limiting the dissent of the estates, rather than limiting the use of a highly profitable resource<sup>18</sup>. The controversial debate about the introduction of general forestry regulations in 1551, and the reiterated

<sup>16</sup> K. OCCHI, *Boschi e mercanti*, pp. 29-45, pp. 294-295.

<sup>17</sup> For these sources see W. BEIMROHR, *Das Tiroler Landesarchiv und seine Bestände* (Tiroler Geschichtsquellen, 47), Innsbruck 2002.

<sup>18</sup> TLAI, *Tiroler Landesordnung* 1526, I. Buch, 7. Teil; *Tiroler Landesordnung* 1532, IV. Buch, 6. Tit., fol. L; *Tiroler Landesordnung* 1573, IV. Buch, 6. Tit., fol. L: "weder taufl raiff laerchen pirchin oder lindenholz auss dem Landt zufueren und zuverkauffen". It is interesting to note that practice deviated markedly from the rules. It is observed that, in a highly controversial issue like the commerce of timber used in the wine sector, in 1542 the government limited the request presented by the Duke of Mantua to purchase 12,000 barrel staves to 3,000 items, after hearing the opinion of the *Hofrecht* of Bolzano: in TLAI, *Ober-Österreichische Regierungskopialbücher*, Buch Tirol, 1540-1546, fols 319v-320r, 1.3.1542. Despite the restrictions in force, the central authorities authorized instead the sale of timber destined for Rovereto, Verona, and Venice, while delegating to the Captain of Trent, Francesco di Castellalto, the decision whether to authorize the felling of larch timber in Valsugana for sale to the citizens of Padua, TLAI, *Ober-Österreichische Regierungskopialbücher*, Buch Tirol, 1540-1546, fols 304r-305v, 10.3.1540; 12.5.1540; 15.5.1540; fol. 310v, 12.3.1541.

duties presented in provincial Diets, highlight how the protests of local people were disregarded when these were contrary to the interests of the principality. In 1563 the reactions of the subjects of Val Pusteria were noted contesting the sale of timber to Venice, in 1568 those of Primiero, and in the early 1600s there were similar complaints from villages throughout South Tyrol, from Val d'Ultimo, to Val Pusteria, and the communities along the Adige and Isarco Rivers, protesting against "mëiniglichs gfar unndt nachtl", and the damage caused by the impoverishment of forestry resources both as regards protecting the territory and the exhaustion of reserves<sup>19</sup>.

However, the advantageous position of the members of the merchant class and their role as connecting elements between plains and mountains helped limit the dissent. The importation of agricultural products, fabrics, and oil, both legally and smuggled, the lending of money to finance public works of local communities, micro credit provided for the inhabitants of villages, offered in the form of redeemable property leases, all helped to keep the discontent under control, preventing it from developing into forms of open conflict between mercantile enterprise and the rural communities.

However, the conflict remained latent and expressions of resistance were not rare. Some communities implemented a series of safeguarding measures to limit the penetration of business initiatives. In Venetian areas measures were introduced that penalized outsiders, like settlement bans, prohibition of the harvesting of wood, penalties for those who did not employ local workers, and duties on timber from outside of the community, as well as recourse to more drastic measures like arson, theft, and sabotage of floatation structures. In the Tyrolean jurisdiction of Ampezzo in 1592, officials of the archduke were attacked by the local population. In 1612 in Telve in Valsugana some men from the village burned the building timber ready for dispatch outside the

<sup>19</sup> TLAI, Landschaftliches Archiv, *Verhandlungen der Landschaft*, vol. 5, fols 262v-264v, 1605. For the Val Pusteria see W. KÖFLER, *Land, Landschaft, Landtag. Geschichte der Tiroler Landtage von den Anfängen bis zur Aufhebung der landständischen Verfassung 1808*, Innsbruck 1985, pp. 436-440. The debate between communities and principality in the Trentino territory are published in M. BELLABARBA - M. BONAZZA - K. OCCHI (eds), *Ceti tirolesi e territorio trentino. Materiali dagli archivi di Innsbruck e Trento (1413-1790)*, (Annali dell'Istituto storico italo-germanico in Trento. Fonti, 3) Bologna 2006. For the forestry regulations see M.P. SCHENNACH, *Gesetz und Herrschaft*, pp. 434-438.

boundaries, and a few years later (1618) in Pieve Tesino, as a form of reprisal against the timber merchants, “the metal door fixtures from the dam of Valcigia” were removed<sup>20</sup>.

The merchants in turn adopted various strategies to maintain control over the Alpine resources and ensure themselves contracts or felling licenses for the forests assigned by the communes or Tyrol mining and forestry offices, often for periods extending to decades. The maintenance of business in certain areas of exploitation was ensured through the creation of one or more areas of influence, making use of forms of pressure that aimed to limit conflicts and to “strive for the consensus” of the rural communities. These were paternalistic strategies to limit reprisals and control the communities, through forms of financing like the institution of funds for the dowries of young women of marriageable age, legacies to churches, or donations of sacred vestments. In 1608, the Trent merchants who leased Monte Quarazze for twenty years from the local authority of Pieve Tesino, donated 25 florins to the church of Saints Fabiano and Sebastiano<sup>21</sup>. However, the basins of exploitation were also controlled through alliances with the local elite, who played a role of mediation between the village heads and the local authorities, or other community associations, alliances that took the form of commercial shareholdings and/or marital ties.

There are numerous testimonies to these practices, documenting the complexity of the fiduciary relationships between merchants and local communities and the importance of maintaining stable relations to ensure medium and long-term lease agreements, also considering the multiple interests gravitating around the mountain areas, which were contested between the needs of local people, stock farmers, mineral companies, and timber merchants.

In Tyrol the penetration of foreign merchants was also mediated by the central authorities in Innsbruck, who limited the dissent of the

<sup>20</sup> ASBas, *Notarile*, Pompeo Perli, b. 571, prot. 1618-1619, fols 59r-60r, Valstagna, 1.5.1619; prot. 1625-1627, fols 77r-78v, Valstagna, 12.1.1627. ASTn, Ufficio vicariale di Ivano in Strigno, Cause penali, b. 5, 1615-1618, fol. 120r, 20.5.1618. TLAI, Hofregistratur, Hofrat Aktenserie Einlauf Kammer, 1592, Karton 49, B 107, Ampezzo, 7.9.1592. On the social tensions, see E.P. THOMPSON, *The Moral Economy of the English Crowd in the Eighteenth Century*, in “Past and Present”, 1971, 50, 1, pp. 76-136.

<sup>21</sup> TLAI, *Hofregistratur*, Allgemeines Leopoldinum, Kasten A, 354: Pieve Tesino, 13.6.1608.



villages by exercising pressure on the companies, obliging them to assume local labor. An example was in the jurisdiction of Welsberg in Val Pusteria, where in 1591 a merchant in the deed of lease of the forest had to undertake to hire 15 workers from the three villages of Niederdorf, Prags, and Egg. This was a habitual practice also applied in the Tyrolean Val di Fiemme, where in 1592 the merchants leasing the forest of Montalbiano located in the jurisdiction of Enn and Caldifff had to employ workers from the local community of Stramentizzo<sup>22</sup>.

In the County of Tyrol, the areas of influence of timber dealers were not only maintained through alliances with the local elite, but also thanks to direct relationships with the central authorities in Innsbruck, through the regional officials. It was by providing advance loans to the Chambers of the Archduchy of Upper Austria of Innsbruck that they could secure felling areas and multi-year contracts for the exploitation of the commune, feudal, and principality forests. This system had long been adopted by the monarchies to provide financial liquidity based on state asset guarantees, and was introduced in Tyrol starting from 1456 with the first contract stipulated between the Archduke Sigismund and the Augusta company involved in the extraction of silver in Schwaz and Gossensass<sup>23</sup>. The merchants controlled the timber production cycle, exercising pressure and control at all levels, from the officials at the Chambers of Innsbruck, to the regional officials, to the local elite. Reductions in transaction costs were also achieved with gifts and personal payments. Among the many cases, one of the most indicative is recorded in the accounting books of a Venetian merchant in 1626: “Lire 32 spesi in zucari et speciarie mandate oggi a donar a tutti e tre i signori officianti de Dobiacho pregandoli operar bene apresso alla Eccelsa Camera per le differentie che vertisse e lire 12 [per] un messo mandai a posta” [“32 lire spent on sugar and spices dispatched today as a gift to all three officials of Dobiacho, requesting them to act in favor at the Illustrious Chambers in the decisions taken, plus 12 lire for postage”] documenting dispatch of luxury goods like sugar and spices to the most remote Alpine valleys<sup>24</sup>.

<sup>22</sup> K. OCCHI, *Boschi e mercanti*, p. 91.

<sup>23</sup> E. WERUNSKY, *Österreichische Reichs- und Rechtsgeschichte*, p. 957.

<sup>24</sup> ASV, *Giudici di Petizion*, Inventari, B. 351/16 nr. 1, “1624 sin il 1627. Conti tra il signor Vicenzo Nordio e il signor Piero Campelli”.

#### 4. *Forms of rural industry*

The process of exploitation of these resources led to profound transformations in the territory, societies, and economics of the valleys facing onto the plains. This process of exploitation of resources, that until then had remained underutilized, involved a combination of exploitation and development, promoted and managed by entrepreneurs that sometimes controlled the entire timber manufacturing cycle. Between the sixteenth and eighteenth centuries a strong demand for raw materials and constantly rising prices helped to consolidate and extend business interest from the plains for Alpine forest resources, which were rendered accessible thanks to the mediation of landowners and local merchants, and the credit available in Venice<sup>25</sup>.

The extensive availability of raw materials and the traffic along the natural waterways gave the impulse for the establishment of some proto-industrial districts at certain strategic points in the Alps and Alpine foothills that satisfied certain environmental criteria: a concentration of forest suitable for commercial exploitation, competitive transport routes for moving the raw materials, and hydraulic energy to drive the processing plants. Ports for mooring barges, warehouses, and sawmills had already been established in the Middle Ages along the main watercourse of the Adige, Brenta, and Piave Rivers, where the land routes met the fluvial transport routes. Along the frontiers historical sources document the presence of groups of professionals, expert in the sector (civil law notaries), and specialized workers providing legal, technical, and linguistic services to a business class often organized around trans-national Venetian-Tyrolean or Venetian-Trentino family networks<sup>26</sup>.

<sup>25</sup> For timber prices in Europe see C.M. CIPOLLA, *Storia economica dell'Europa preindustriale*, Bologna 1994<sup>3</sup>, pp. 264-265; M. DEVÈZE, *La vie de la forêt française au XVI<sup>e</sup> siècle*, Paris 1961, vol. 2, pp. 353-383; M. MALOWIST, *L'approvisionnement des ports de la Baltique en produits forestiers pour les constructions navales aux XV<sup>e</sup> et XVI<sup>e</sup> siècles*, in M. MOLLAT (ed.), *Le navire et l'économie maritime du Nord de l'Europe du Moyen-Âge au XVIII<sup>e</sup> siècle*, Paris 1960, p. 36; M. CALLEGARI, *Legnami e costruzioni navali nel Cinquecento*, in *Guerra e commercio nell'evoluzione della marina genovese tra XV e XVII secolo*, vol. 2, Genova 1970, pp. 95-96; F.C. LANE, *Navires et constructeurs à Venise pendant la Renaissance*, Paris 1965, pp. 261-263. For coal prices see R. MACKENNEY, *Tradesmen and Traders. The World of the Guilds in Venice and Europe, c. 1250-1650*, London - Sidney 1987, pp. 101-102.

<sup>26</sup> For the management of trade through trans-national European family networks see the monographic edition of *Famiglie al confine – Cultures marchandes – Varia*, in “Mélanges

These companies were associated into *fraternities*, organized through “partnership contracts” and had financial resources and links to the aristocracy, Venetian financial world, and operators at the Bolzano fairs, the presence of which is recorded right through the Modern Period<sup>27</sup>.

A further competitive advantage was the abundance of labor, since mountain agriculture could only guarantee work for part of the year. Along with the local labor force there were other workers of various origins active in the timber and ancillary industries (from Carinthia, Bavaria, Bergamo, etc.) proving the permeability of the boundary. The presence of foreign labor was attracted by the seasonal nature of the timber industry, which reached its peaks in the winter and spring thaw, demonstrating the organization of a relatively articulated labor market and at the same time a degree of tolerance by the native communities<sup>28</sup>.

The data retrievable from sources show that, with the exception of Lavis to the north of Trent, the main processing centers known to date were located outside of the Trentino-Tyrol boundaries, in two areas in particular. One lying along the Brenta river about 80 km north of Padua,

de l'École française de Rome - Italie et Méditerranée modernes et contemporaines”, (on line), 125, 2013, 1; for Switzerland see M.C. SCHÖPFER PFAFFEN - G. IMBODEN, *The fratelli Loscho in Brig. Alpine Entrepreneurship in Small Markets during the Napoleonic Era*, in M.A. DENZEL - P. RÖSSNER - J. DE VRIES (eds), *Small is Beautiful? Interlopers in Early Modern World Trade. The Experience of Smaller Trading Nations and Companies in the Pre-Industrial Period* (Vierteljahrschrift für Sozial- und Wirtschaftsgeschichte. Beihefte, 213), Stuttgart 2011, pp. 219-249.

<sup>27</sup> On “fraternity” see F.C. LANE, *Family Partnerships and Joint Ventures in the Venetian Republic*, in “The Journal of Economic History”, 1944, 4, pp. 178-196. On the economic role of the family in the pre-industrial era see the monographic edition edited by G. ALFANI (ed.), *Il ruolo economico della famiglia*, in “Cheiron”, 45-46, 2007; S. CAVACIOCCHI (ed.), *La famiglia nell'economia europea secoli XIII-XVIII. The Economic Role of the Family in the European Economy from the 13th to the 18th Centuries*, Firenze 2009; on the Bolzano fair see the recent studies and updated bibliographic review in A. BONOLDI - A. LEONARDI - K. OCCHI (eds), *Interessi e regole. Operatori e istituzioni nel commercio transalpino in età moderna* (Annali dell'Istituto storico italo-germanico in Trento. Quaderni, 87), Bologna 2012.

<sup>28</sup> On the organization of the family and the work market in rural areas in Austria see M. MITTERAUER, *Ländliche Familienformen in ihrer Abhängigkeit von natürlicher Umwelt und lokaler Ökonomie*, in M. MITTERAUER, *Historisch-anthropologische Familienforschung. Fragestellungen und Zugangsweisen* (Kulturstudien, 15), Wien 1990, pp. 131-145. On the work market in these areas the author takes leave to refer to K. OCCHI, “*Boschieri, zattieri, stuari*”. *L'organizzazione del lavoro*, in K. OCCHI, *Boschi e mercanti*, pp. 77-109.

where the ownership of the facilities, which required significant fixed capital investments, was divided between the minor local businesses in association with Padua merchants, a few Venetian patricians (the presence of which grew after the plague of 1630 and the crisis of the Venetian economy), and merchants originating from Tyrolean jurisdictions who had moved their operating bases into the Venetian Republic, where they were registered with the authorities and paid the required taxes.

The second area lay along the river Piave, 120 km from Venice, where 80% of the facilities for processing timber were concentrated, and where the figures from the early 1800s indicate that 1/10 of the timber processed on site originated from Tyrol.

These trade flows testify how the economic geography did not always match the physical geography. Despite the high costs of setting up the infrastructures, labor, and transport, these measures made it possible for products to reach the main market more rapidly, this still being Venice, where the demand remained high throughout the Modern Period<sup>29</sup>.

The products not absorbed by the local market were sold to the Kingdom of Naples, in Puglia, Sardinia, Malta, and Alexandria in Egypt, which already in the Middle Ages “was the center of one of the largest commercial markets for constructional timber”, already testified in the tenth century and documented again in the eighteenth and nineteenth centuries<sup>30</sup>. The presence of a class of immigrant merchants from the cities and from other Alpine valleys, mainly involved in the sale of territorial resources, characterizes these districts, in which emigration was of limited scale compared to other Trentino valleys (the Valli Giudicarie for example), Bergamo, Brescia, and Como valleys where there was no possibility of exploiting the forest competitively<sup>31</sup>.

<sup>29</sup> On the distribution of the processing facilities along the Brenta and Piave see K. OCCHI, *Risorse forestali nell'arco alpino sud-orientale e vie commerciali verso la pianura in età moderna*, a talk presented at a seminar held by Milan Polytechnic, Dipartimento di Architettura e Pianificazione, 6.4.2009.

<sup>30</sup> R. VERGANI, *Le materie prime*, p. 289. On the timber trade with Malta see K. OCCHI, *Commercial networks from the alpine valleys to the Mediterranean: the timber trade between Venice and Malta (16th-17th centuries). First researches*, in “Studi Veneziani”, 67, 2013, pp. 107-121.

<sup>31</sup> The historic debate on Alpine emigration is too broad to be summarized here. Only the most pertinent studies for area and chronology are cited here: C.M. BELFAN-

For as long as the Alpine resources were exploited by the metropolitan mercantile system the economies of certain Trentino-Tyrol, Friuli, and Venetian districts were particularly lively, as demonstrated in the most recent studies<sup>32</sup>. The affirmation of the coal-based economy, steam, and railways at the end of the so-called first stage of Alpine economic evolution, occurring around 1850, transformed these into marginal areas, completely excluded from the development process, which would affect the various areas of the Italian plains in different ways, starting from the second half of the 1800s<sup>33</sup>.

TI, *Immigrazione e mestieri: i Trentini a Mantova (secoli XVII-XVIII)*, in *Le migrazioni internazionali dal Medioevo all'età contemporanea. Il caso italiano*, in "Bollettino di demografia storica", 12, 1990, pp. 103-115; L. FONTAINE, *Migration and work in the Alps (17th-18th centuries): Family Strategies, Kinship, and Clientelism*, in "The history of the family", 3, 1998, pp. 351-369; A. LAZZARINI, *Movimenti migratori dalle vallate bellunesi fra Settecento e Ottocento*, in G.L. FONTANA - A. LEONARDI - L. TREZZI (eds), *Mobilità imprenditoriale e del lavoro nelle Alpi in età moderna e contemporanea*, Milano 1998, pp. 193-208; A. FORNASIN - A. ZANNINI, *Montagne aperte, popolazioni diverse. Temi e prospettive di demografia storica degli spazi montani*, in A. FORNASIN - A. ZANNINI (eds), *Il popolamento dello spazio montano: paradigmi e specificità di una conquista (secoli XVI-XX)*, Proceedings of the session dedicated to the mountains of the Study Convention "La Demografia storica italiana al passaggio del millennio", Udine 2002, pp. 7-21; L. LORENZETTI, *Mobilità trasversali e mercati lavorativi nelle Alpi dal Seicento all'inizio del Novecento*, in P. VIAZZO - R. CERRI (eds), *Da montagna a montagna. Mobilità e migrazioni interne nelle Alpi italiane (secoli XVII-XIX)*, Magenta 2009, pp. 153-176.

<sup>32</sup> A. PETIZIOL, *Mercanti e traffici del porto di Latisana tra 1560 e 1630. Evidenze notarili*, thesis, University of Venice 2001-2002; C. LORENZINI, *Scambi di frontiere. Comunità di villaggio, mercanti e risorse forestali nell'alta valle del Tagliamento fra la seconda metà del Sei e la fine del Settecento*, thesis, University of Udine, 2003/04; G. BERNARDIN, *Un territorio di frontiera tra la contea del Tirolo e la Repubblica di Venezia. Storie di uomini e comunità nella valle di Primiero nel Quattrocento*, thesis, University of Udine, 2009/10.

<sup>33</sup> P. MALANIMA, *L'economia italiana. Dalla crescita medievale alla crescita contemporanea*, Bologna 2002; P. VIAZZO, *Comunità alpine. Ambiente, popolazione, struttura sociale nelle Alpi dal XVI secolo a oggi*, Bologna 1990.

# Tax, Property, and Community

## Mapping Fiscal Micro-conflictualism in Tyrol in the Early Modern Period

by *Marcello Bonazza*

### I.

The history of communities and the history of taxation are two fundamental themes of modern history and two pillars of the modern state. Notwithstanding this, they have quite rarely intersected, with a double paradox keeping them apart.

On one hand, the history of taxation and property registers has mostly been studied “top down” on a “macro” scale, basically perceived as an aspect of political, administrative, economic, or military history<sup>1</sup>. In the history of taxation, there is certainly no shortage of examples of conflicts in which communities are involved, including rebellions, evasions, and passive resistance to taxation<sup>2</sup>, but these conflicts have never constituted the main focus of research in the history of taxation. When discussing tax disputes, there is an almost exclusive focus on large-scale political conflicts: between the Empire and the states, between the princes and

*Translation by Gavin Taylor*

<sup>1</sup> Some recent titles on fiscal history with extensive annotated bibliography: A. SCHWENNICKE, *Ohne Steuer kein Staat. Zur Entwicklung und politischen Funktion des Steuerrechts in den Territorien des Heiligen Römischen Reichs (1500-1800)*, Frankfurt a.M. 1996; R. BONNEY (ed.), *The Rise of the Fiscal State in Europe, c.1200-1815*, Oxford 1999; S. CAVACIOCCHI (ed.), *La fiscalità nell'economia europea, secc. XIII-XVIII*, Grassano 2008; B. YUN-CASALILLA - P. O'BRIEN - F. COMÍN COMÍN (eds), *The Rise of Fiscal States. A Global History 1500-1914*, New York 2012.

<sup>2</sup> W. SCHULZE (ed.), *Aufstände, Revolten, Prozesse. Beiträge zu bäuerlichen Widerstandsbewegungen in frühneuzeitlichen Europa*, Stuttgart 1983; K. GERTEIS, *Fiscalité, représentation et soulèvements urbains en Allemagne aux XVIIe et XVIIIe siècles*, in J.P. GENET - M. LE MENÉ (eds), *Genèse de l'état moderne. Prélèvement et redistribution. Actes du colloque de Fontevraud, Paris 1987*, pp. 153-160.

the aristocracy, between state and church. The research rarely penetrates down to the micro-conflictualism observable on a community level where sources become numerous, the stories repetitive, and overall there is little of interest. After all, it is well known that commoners have never liked taxes!

On the other hand, in community histories an equal but opposite scale is prevalent: “micro” and “bottom up”. These are very detailed studies, in part due to the choice to strictly circumscribe the object of study. It is not by chance that the concept of “microhistory” is mainly associated with the history of rural communities<sup>3</sup>. The analytic and horizontal approach that guides these reconstructions, the attention to minor differences, and the polysemy of the sources relegate major conflicts in the background. In the microcosm of a community, the most important issues are border disputes with neighboring communities, strifes between neighbors, and clashes between factions. Conflicts with the power structures—often linked to issues of taxation—are of less interest. It is also worth noting that the use of fiscal sources on the history of communities is rare.

Instead, an intersection of these two approaches can produce some interesting results. An analytic observation of simple case studies, like communities, families, and other social groups, can help and refine the history of taxation<sup>4</sup>. Vice versa, to understand the historical dynamics

<sup>3</sup> J. AGIRREAZKUENAGA - M. URQUIJO (eds), *Storia locale e microstoria: due visioni a confronto*, Bilbao 1993, and in particular G. LEVI, *Un dubbio senza fine non è un dubbio: a proposito di microstoria*, *ibid.*, pp. 17-44. On the methodology and horizons of the history of communities: C. POVOLO, *Per una storia delle comunità*, in “Annali veneti. Società cultura istituzioni”, 1, 1984, pp. 11-29; P. BLICKLE (ed.), *Landgemeinde und Stadtgemeinde in Mitteleuropa. Ein struktureller Vergleich*, München 1991; R.C. HEAD, *Early Modern Democracy in the Grisons. Social Order and Political Language in a Swiss Mountain Canton, 1470-1620*, Cambridge 1995; E. GRENDI, *Storia di una storia locale: l'esperienza ligure 1792-1992*, Venezia 1996; G. TOCCI, *Le comunità in età moderna: problemi storiografici e prospettive di ricerca*, Roma 1997; P. BLICKLE, *Kommunalismus. Skizzen einer gesellschaftlichen Organisationsform*, München 2000; the essays in the dossier of “Quaderni storici”, 110, 2002, entitled *Dodici ricerche in ricordo di Edoardo Grendi*, and in particular A. TORRE, *La produzione storica dei luoghi*, *ibid.*, pp. 443-475; M. DELLA MISERICORDIA, *Divenire comunità. Comuni rurali, poteri signorili, identità sociali in Valtellina e nella montagna lombarda nel tardo medioevo*, Milano 2006.

<sup>4</sup> I take leave to refer to M. BONAZZA, *La nobiltà trentino-tirolese di fronte al prelievo fiscale tra politica di ceto e comportamenti individuali (secoli XV-XVII)*, in “Geschichte

of rural communities, it is useful to focus more attention on the major powers that conditioned life in the countryside: the dominant town, the regional state, the church<sup>5</sup>.

However, the author does not intend to develop this theme in methodological terms, and much less to further a broken trust. Instead, the discussion will remain on a descriptive and empirical level and attempt to trace out a sort of “map of conflictualism”, with the following four characteristics.

Firstly, conflictualism regarding taxation and property registration. Secondly, conflictualism regarding the communities: a village community but also a valley or town community that represents the jurisdictional nucleus for the imposition of taxes<sup>6</sup>. Thirdly, conflictualism focused chronologically between the Late Middle Ages and Early Modern Period, and localized geographically in the southern Alpine area corresponding more or less with current day Trentino, an interesting area characterized by institutional fragmentation and social stratification<sup>7</sup>. Finally, widely

und Region/Storia e regione”, 4, 1995, pp. 77-112; M. BONAZZA, *Il fisco in una statualità divisa. Impero, principi e ceti in area trentino-tirolese nella prima età moderna*, Bologna 2001; M. BONAZZA, *Fisco e finanza: comunità, principato vescovile, sistema territoriale*, in M. BELLABARBA - G. OLMÍ (eds), *L'età moderna (Storia del Trentino, 4)*, Bologna 2002, pp. 319-362; M. BONAZZA (ed.), *La misura dei beni. Il catasto teresiano trentino-tirolese tra Sette e Ottocento*, Trento 2004.

<sup>5</sup> M. BONAZZA, *Gli orizzonti di una comunità: spazi giurisdizionali e relazioni esterne di Volano in antico regime*, in R. ADAMI - M. BONAZZA - G. VARANINI (eds), *Volano. Storia di una comunità*, Rovereto 2005, pp. 285-335; M. BONAZZA, *Evoluzione istituzionale e maturazione archivistica in quattro comunità di valle dolomitiche (secoli XIV-XX)*, in A. BARTOLI LANGELI - A. GIORGI - S. MOSCADELLI (eds), *Archivi e comunità tra Medioevo ed Età moderna*, Roma 2009, pp. 111-153.

<sup>6</sup> The unit of measurement of fiscal breakdown was in fact the *Gericht*, the jurisdiction, which normally included various village communities. In the Trentino territory, the jurisdictions could coincide with pre-existing valley communities or aggregations of other origins. See in general H. VON VOLTELINI, *Le circoscrizioni giudiziarie del Trentino fino al 1803*, ed. by E. CURZEL, Trento 1999, with contribution by M. NEQUITO, *Il territorio trentino-tirolese dal particolarismo di antico regime alle individuazioni nazionali dell'Ottocento*, in *Radici storico culturali comuni alle popolazioni trentine e alto-atesine: invito alla ricerca*, Trento 2002, pp. 103-118.

<sup>7</sup> The obligatory reference is M. BELLABARBA - G. OLMÍ (eds), *L'età moderna*, and M. BELLABARBA - S. LUZZI, *L'età moderna (Il territorio trentino nella storia europea, 3)*, Trento 2011, with extensive bibliography.



documented conflictualism: moments of conflict have considerable heuristic significance since they encourage the production of documents from different sources. This circumstance helps both rural community history, often based on locally produced documents, and fiscal history, which often neglects consequences on a local level.

## II.

In order to acquire the necessary data to compile the map, ten episodes will be recounted briefly. This is an interesting series of case studies precisely because they fall half way between issues of taxation and community, with moments in the history of taxation that directly affected community equilibrium<sup>8</sup>, or episodes of community conflict caused by or involving issues of taxation<sup>9</sup>.

### 1.

The first of these episodes occurred in 1407, when the Prince-bishop of Trent, Georg Liechtenstein, took two definitive decisions for the power structure of the Trent Bishopric<sup>10</sup>. First, after strong protests and an open rebellion, he conceded complete exemption from extraordinary taxation to the entire population of the Giudicarie Valleys. Second, he conceded exemption from the same taxes to only a part of the subjects of the Non Valley, the so-called "rural nobles". These were a population band distributed between the different communities of the valley. They

<sup>8</sup> On Trentino-Tyrolean fiscal history see, in addition to the works cited in fn. 4, T. SARTORI MONTECROCE, *Geschichte des landschaftlichen Steuerwesens in Tirol von K. Maximilian bis Maria Theresia*, Innsbruck 1902, and W. KÖFLER, *Land Landschaft Landtag. Geschichte der Tiroler Landtage von den Anfängen bis 1809*, Innsbruck 1985.

<sup>9</sup> On Trentino communities, in addition to R. ADAMI - M. BONAZZA - G.M. VARANINI (eds), *Volano*, see M. BETTOTTI (ed.), *Storia di Piné dalle origini alla seconda metà del XX secolo*, Baselga di Piné 2009, and G. CORNI - I. FRANCESCHINI (eds), *Nel tempo e fra la gente di Bosentino e Migazzone. Territorio, società, istituzioni*, Bosentino 2010.

<sup>10</sup> M. BONAZZA, *Il fisco*, pp. 99-103. Furthermore V. INAMA, *Storia delle Valli di Non e di Sole nel Trentino, dalle origini fino al secolo XVI*, Trento 1905; E. LEONARDI, *Anaunia. Storia della Valle di Non*, Trento 1985; G. PAPALEONI, *Gli statuti delle Giudicarie*, in "Archivio Trentino", 7, 1888, pp. 184-198.

did not have the exterior signs of aristocracy, for example, they did not live in castles. But they did enjoy important privileges, so that they represented an intermediate layer of consensus for the power of the prince-bishopric<sup>11</sup>. It is obvious that having conceded exemption to all the inhabitants of the other valley, and to a significant component of the population of the Non Valley, the bishop had effectively renounced his absolute authority to impose taxes. In the Giudicarie his interlocutors were the so-called Sette Pievi, in other words the representatives of the entire population divided into territorial segments. This was thus a "horizontal" representation, in contrast with the "vertical" representation of the Non Valley. In the Giudicarie the conflictualism was mainly between the valley and the prince and only to a lesser extent between the different parishes, enabling them to achieve a common front that represented different interests. In the Non Valley the conflictualism was essentially internal, deriving from a stronger social stratification and also from the strategy of *divide et impera* (divide and conquer) adopted by the sovereign power. Not by chance, the Non Valley exhibited a much higher level of violence compared to the Valli Giudicarie. In the latter, mediation was entrusted to the representatives of the parishes, of equal social rank and substantially united in their objectives, while in the Non Valley it was not possible to mediate between simple subjects, rural nobles, and grand aristocracy. Mediation was thus entrusted to an external and interested power, the Count of Tyrol. The events of 1407 therefore represent an important turning point in the history of the Prince-bishopric of Trent. The prince-bishop lost fiscal control over a substantial part of the territory and delegated his taxation policy to the Count of Tyrol. His subjects would remain in a state of suspension, partly exempted but never definitively.

2.

In 1427, the Prince-bishop of Trent, Alessandro di Masovia, ended a long dispute between the city of Trent and its rural neighborhood regarding the division of communal contributions. The district of Trent included

<sup>11</sup> On the phenomenon of the rural nobles: C. AUSSERER, *Der Adel des Nonsberges: sein Verhältnis zu den Bischöfen und zu den Landesfürsten, seine Schlösser, Burgen und Edelsitze, seine Organisation, Freibeiten und Rechte, die Nobili rurali*, Wien 1900. For a comparison, see M. DELLA MISERICORDIA, *Divenire comunità*, pp. 249-258.

eighteen rural communities, known as *esteriori*, divided geographically into two blocks: nine *citra Athesim*, on the same side of the Adige river to the west of the city, and another nine *ultra Athesim*, on the opposite side of the Adige towards the east. For centuries the *esteriori* communities paid taxes together with Trent, which in turn included the true city enclosed by walls, three settlements immediately outside the walls, and another nine adjacent communities. Traditionally the common tax contribution was paid one third by the city, one third by the *esteriori* communities *citra Athesim*, and one third by the *esteriori* communities *ultra Athesim*<sup>12</sup>. In effect, the rural districts paid two thirds of the tax. Taking advantage of a favorable climate for revendications of the countryside, the *esteriori* communities refused once again to pay their share, but the prince ruled in favor of the city and definitively obliged the eighteen rural communities to pay their taxes. From this time on, the tax obligations of the *esteriori* would be ratified in the statutes and constituted one of the aspects of supremacy of the city over the local countryside. A very important outcome in perspective, and particularly interesting to the eyes of modern readers, since the facts of 1427 had for long been interpreted mainly in social and political terms, without a real understanding of the central role of the taxation claims of the rural communities<sup>13</sup>.

3.

In 1525 the Peasants' War, led by Michael Gaismair, extended into Tyrol and closely involved various communities of the Prince-bishopric of Trent. The social, religious, and economic causes underlying this uprising have been greatly emphasized, but considerable evidence leads to the conclusion that tax issues also played a primary role. This is hardly surprising, considering that tax obligations always represented one of the main problems in the relationship between the common man, the

<sup>12</sup> A. CASETTI, *Guida storico-archivistica del Trentino*, Trento 1961, pp. 825-827; F. CAGOL - M. NEQUIRITO, *Una città alpina e il suo 'contado': storia e documenti (secoli XIV-XVIII)*, Trento 2005; M. BONAZZA, *Il fisco*, pp. 105-117.

<sup>13</sup> K. BRANDSTÄTTER, *Vescovi, città e signori. Rivolte cittadine a Trento. 1435-1437*, Trento 1995, and K. BRANDSTÄTTER, *Le relazioni tra Trento e il Tirolo nel tardo medioevo / Die Beziehungen zwischen Tirol und Trient im späten Mittelalter*, in "Studi Trentini di Scienze Storiche", 75, 1996, pp. 3-59.

*gemeiner Mann*, and the state<sup>14</sup>. These issues have already been widely debated, also dealing in detail with the relationship between taxation and community. One of the most interesting aspects of the peasant revolt in Trentino is that not all the bishopric communities were involved but only those (accidentally?) not yet enjoying fiscal privileges. These included the communities of the upper Valsugana, a few exterior communities of Trent and the communities of the Non Valley (naturally excluding the rural nobles, who just a few years earlier had reached a favorable compromise). Vice versa, the bishopric subjects enjoying fiscal privileges, the Giudicarie and Fiemme Valley, kept out of the revolt. The great European uprising also served locally to regulate an obvious inequality between subjects of the same lord, so that the revolt of 1525 effectively concluded the work that had remained suspended since 1407. The rebellion ended in bloodshed, as elsewhere in Europe, but from this moment on all the bishopric subjects, and so also the rebels of 1525, were effectively exempted from all extraordinary taxation. From a fiscal point of view the insurrection of the communities thus had concrete and enduring effects.

4.

In 1556, the Consular Magistrate of Trent (the political-administrative body that governed the city) presented an appeal to the Imperial Court against a group of families of the high feudal aristocracy. These included important names: Thun, Madruzzo, Wolkenstein, and Welsperg. The object of contention was rather technical, but directly affected the distinction of rank between aristocracy and the city community. The city, of lower rank, contributed to the common taxation, the so-called

<sup>14</sup> For a general picture, P. BLICKLE, *La riforma luterana e la guerra dei contadini: la rivoluzione del 1525*, Bologna 1983. Local affairs are further investigated in A. STELLA, *La rivoluzione contadina del 1525 e l'utopia di Michael Gaismayr*, Padova 1975; G. POLITI, *Gli statuti impossibili. La rivoluzione tirolese del 1525 e il "programma" di Michael Gaismayr*, Torino 1995; C. TAVIANI, *Rivolte rurali e conflittualità urbana: la città di Trento durante il "Bauernkrieg" del 1525*, in C. NUBOLA - A. WÜRGLER (eds), *Forme della comunicazione politica in Europa nei secoli XV-XVIII: suppliche, gravamina, lettere / Formen der politischen Kommunikation in Europa vom 15. bis 18. Jahrhundert: Bitten, Beschwerden, Briefe* (Annali dell'Istituto storico italo-germanico in Trento. Contributi/Beiträge, 14), Bologna - Berlin 2004, pp. 235-261; H. OBERMAIR, *Logiche sociali della rivolta tradizionalista. Bolzano e l'impatto della "Guerra dei contadini" del 1525*, in "Studi Trentini. Storia", 92, 2013, pp. 185-194.

*steora*, on the basis of possessions in land and property. Conversely, the nobles, a superior rank, contributed on the basis of their feudal income. How then to treat the land and property purchased by the nobles in the city over recent decades? The consular magistrate sustained that these assets, previously subject to taxation, should also be taxed against the new owners, otherwise they would be excluded from common taxation, with additional burdens for the other citizens and non-noble owners. The nobles opposed this in principle. The Imperial Court ruled in favor of the Consular Magistrate of Trent, but the noble families appealed against this and with a memorial presented to the Prince-bishop Madruzzo, who had obvious interests in this issue, they managed to silence the demands of the city.

5.

In 1564, the city of Rovereto, together with the seven rural communities under its dominion, refused to pay the Count of Tyrol the so-called *Weinungeld* or *Schenkpfennig*, a tax on the consumption of wine and brandies, which directly penalized the heart of the local economy. For a few decades, Rovereto had been back under direct Habsburg domination and still aspired to the status of *Reichsstadt*, subject directly to the Emperor. In reality, it had already been within the ambit of the Tyrolean state system for a number of years<sup>15</sup>. The fiscal evasion of 1564 represented a last attempt to maintain an increasingly uncertain autonomy. In response, Habsburg troops led by Niccolò Madruzzo occupied the city, convinced the weak rural communities to back down, encouraged the emergence of internal conflicts, and forced the Rovereto citizens to pay homage to the Count of Tyrol and submit to the hated tax on wine. Within a month Rovereto became in all effects a Tyrolean city on the Italian border and naturally subject to taxation. An attempt to evade tax thus provoked an open revolt, the use of force by the state, rapid dispersion of a front of communities, strong internal divergences between groups and factions, and finally, a definitive constitutional change with important consequences for the history of the area.

<sup>15</sup> M. BONAZZA, *L'onda lunga di Agnadello. La breve illusione imperiale di Rovereto e l'assorbimento nel sistema tirolese*, in M. BONAZZA - S. SEIDEL MENCHI (eds), *Dal Leone all'Aquila. Comunità, territori e cambi di regime nell'età di Massimiliano*, Rovereto 2012, pp. 201-232.

6.

In 1579, a sudden and unexpected revolt broke out in the Valli Giudicarie, which passed into history as the "War of the Walnuts"<sup>16</sup>. The causes were diverse and confused, but tax impositions certainly played a part in the rebellion. Only six years previously, in 1573, the entire Tyrolean fiscal system had passed from the direct control of the prince to the Tyrolean estates. The latter set as a primary goal the struggle against tax evasion, which was particularly widespread in the southern portion of the territory and in particular in the Giudicarie. Furthermore, during these years as a consequence of the conflict over temporality (*Temporalienstreit*), the prince-bishop of Trent had been excluded from the government of the prince-bishopric<sup>17</sup>. This combination of political uncertainty and fiscal pressure made the subjects of the prince-bishopric nervous and in 1584, even the rural communities of Trent contested the old sentence of Alessandro di Masovia and strived to obtain fiscal separation from the city. The outcome of these rebellions was a substantial maintenance of the status quo: the Giudicarie ("rebels in the name of loyalty") were able to continue their tax evasion under the cover of the prince-bishops (save the exception of 1637 which will be discussed below), while the *esteriori* communities of Trent were called to order by the greater force of the city.

7.

In 1634 the Prince-bishop of Trent, Carlo Emanuele Madruzzo, faced with the emergency of war close to the Tyrolean borders, accepted the introduction *una tantum* of new taxes within his territory. Predictably, the bishopric subjects initiated an open resistance. The novelty was that on this occasion it was the city of Trent that started the protest, which up until that time had always paid up the Tyrolean taxes, although with

<sup>16</sup> C. NUBOLA, *Ribellarsi in nome della fedeltà: la "guerra delle noci" nel principato vescovile di Trento (1579-1580)*, in C. NUBOLA - A. WÜRGLER (eds), *Forme della comunicazione politica*, pp. 263-287.

<sup>17</sup> J. HIRN, *Der Temporalienstreit des Erzherzogs Ferdinand von Tirol mit dem Stifte Trient (1567-78)*, in "Archiv für österreichische Geschichte", 64, 1882, pp. 353-498; F. FANIZZA, *Limitazioni della sovranità temporale nel principato vescovile di Trento (1539-1660)*, in "Civis", 6, 1982, pp. 154-174; M. BONAZZA, *Il fisco*, pp. 188-213.

frequent delays. Trent stated that it was ready to pay its part but not in the form stipulated by the Congress and accepted by the prince-bishop. In other words, a contribution was offered, but reserving the right to collect the funds according to the best interests of the city. This was not a simple technical difference since Trent wanted to reserve its own *ius collectandi*, without ceding it to either the Count of Tyrol or the prince-bishop. The other communities prince-bishopric also immediately acted in imitation of Trent. The *esteriori* communities of Trent, the communities of the Non and Giudicarie Valleys, and the city of Riva. This open revolt caused the prince-bishop serious difficulty and initiated a long fiscal dispute known as the *Steuerstreit*<sup>18</sup>, a dispute that involved the County of Tyrol, Tyrolean estates, prince-bishoprics, clergy and cathedral chapters, communities, factions, and noble families. Over a period of fifteen years, the territorial policy was in disarray, with the Prince-bishops appealing to the Imperial Courts, the Tyrolean estates referring to the government, the bishopric communities putting pressure on their bishop and arguing among themselves. Traditional alliances broke down and all efforts at mediation failed to resolve the conflicts, with alarm and diffidence reigning in the communities, as illustrated in the following example.

8.

The *Steuerstreit* was above all a high-level dispute. It involved the Tyrolean government, the Prince-bishops of Trent and Brixen, and the Imperial courts of Vienna and Speyer. Nevertheless, in 1637 the disagreement also directly involved the bishopric communities. Two episodes in particular are worthy of mention<sup>19</sup>. In the spring, the Tyrolean authorities ordered the arrest of a number of merchants at the Fair of Bolzano and seizure of their goods. These hostages were meant

<sup>18</sup> M. BONAZZA, *Il fisco*, pp. 266 ff. Also worth considering are the reconstructions, dated and biased but accurate, of J. HIRN, *Kanzler Biener und sein Prozess*, Innsbruck 1898, and J. KÖGL, *La sovranità dei vescovi di Trento e di Bressanone. Diritti derivanti al clero diocesano dalla sua soppressione*, Trento 1964. Pioneering for its complex reading of the affair, J. BÜCKING, *Frühabsolutismus und Kirchenreform in Tirol (1565-1665). Ein Beitrag zum Ringen zwischen "Staat" und "Kirche" in der frühen Neuzeit*, Wiesbaden 1972, pp. 155 ff.

<sup>19</sup> M. BONAZZA, *Il fisco*, respectively pp. 332-338 and 346-361.

to serve in order to exert more effective pressure on the rebellious city of Trent, which however did not yield. While the Count of Tyrol had to deal with the subjects of Trent, in the summer of the same year the Prince-bishop of Trent in turn had to face another protest by his Giudicarie subjects. In 1634, the prince-bishop had covered the urgent taxes requested by Tyrol for common defense out of his own funds. Now he intended to claim these back from his subjects, requesting refunding from them of a portion of the amount paid. The communities of the Giudicarie sustained that this request was contrary to their privileges and refused to pay. After numerous meetings in the fields of Preore, they decided to adopt a hard line and a small local group of leaders, under the guidance of the civil law notary Onorati, took the conflict all the way to Rome and Innsbruck. A legal attorney from Rota procured a severe Papal admonition against the Prince-bishop of Trent, and the Archduchess Claudia of Tyrol herself, despite the need for funds, supported the protest of the Giudicaria faction, creating serious embarrassment for the prince-bishop.

9.

In 1745, the rural communities of the Rovereto jurisdiction called into discussion the so-called “caratata”, a mechanism which involved the dividing up of tax burdens between the city and the rural communities in the area. The mechanism, inaugurated in 1550, had always worked well in the past. In the first decades of the 1700s, the same mechanism was applied to divide up military expenses, which had become astronomical during the Wars of Succession<sup>20</sup>. The transiting imperial troops billeted in the villages, consuming huge quantities of food, hay for horses, wood for heating, and also sequestered means of transport. A dedicated “Transport Fund” was set up to cover these costs. However, despite the efforts of the administrators, at a certain point it was no longer possible to reconcile the different needs of the valley and mountain communities. The former had born the full burden and called for immediate refunds. The latter feared the abolition of their privileges with the excuse of the emergency and adopted delaying tactics. There were also technical complications, like the use of the antique calculation methods for establishing contributions. After thirty years of sufferance,

<sup>20</sup> M. BONAZZA, *Gli orizzonti di una comunità*, pp. 300-308.



the Fund was ingloriously liquidated and sold to the provincial tax authorities for a third of its credit value.

10.

Finally, the events of 1767 are of particular interest. In that year Tyrolean troops from Bolzano and Merano under the command of the Captain of Rovereto, Nicolò Cristani di Rallo, put the small communities of Oltresarca and Romarzollo near Arco under siege. The dual purposes were to counter the discontent for the setting up of a new customs barrier on the border with the Venetian Republic, and in particular to finally impose payment of the *steora* on the bishopric's subjects. The same treatment was subsequently meted out to the communities of the so-called "Four Vicariates". Brentonico was occupied by troops from Carinthia<sup>21</sup>. Even though the soldiers had orders to abstain from plunder, the communities were filled with fear. In Oltresarca there appears to have been a number of inhabitants favorable to fiscal submission, while other communities appeared more steadfast and determined to resist. The Prince-bishop of Trent was unable to prevent the attack. On April 23, Cristani di Rallo bombarded the surroundings of Arco, and soon afterwards a representative of Oltresarca, accompanied by Count Giovanni Battista Arco, signed the surrender. Oltresarca and Romarzollo agreed to pay the Tyrolean *steora*, including arrears, on the basis of the shares assigned to them since 1573, to establish a property register, and to pay the campaign costs (cannon fire and transfer of troops). Furthermore, the more actively aggressive citizens would be subjected to public corporal punishment. Over the following months, more or less all the tax evading communities were forced to concede. They all accepted to pay the arrears, though with substantial discounts, and to proceed to the evaluation of properties. The only exceptions, yet again, were the two Giudicarie parishes of Tione and Bono, that not only refused the settlement but burned down the new custom house of Tempesta, on Lake Garda. The result was an immediate dispatch of imperial troops and the sentencing to death of the responsible parties.

<sup>21</sup> These affairs emerged during recent research in the Tyrolean archives described in M. BONAZZA - R. STAUBER (eds), *Ceti tirolesi e territorio trentino. Materiali dal Landschaftliches Archiv di Innsbruck 1722-1785* (Annali dell'Istituto storico italo-germanico in Trento. Fonti, 7), Bologna 2008, pp. 213 ff.

It is interesting in this respect to read the opinion of the Tyrolean *Gubernium*, according to whom the real contention of the revolt was not the custom barrier itself but rather the fiscal inclusion of populations that had always enjoyed substantial exemption<sup>22</sup>. In any case, the result was that with a rapid, albeit mostly demonstrative military intervention the Tyrolean government resolved an issue that had dragged on for two and a half centuries. Clearly, in the meantime the general political conditions had changed. In the prince-bishopric tax evasion of rural communities was no longer tolerated as before. For this reason, the repression of 1767/68 can be considered the final local episode in the Tyrolean fiscal history under the antique regime, with the reformation of taxes and new property register initiating a new era.

### III.

Based on the events narrated above, it is possible to compile a rudimentary map of fiscal conflict. The map gives prevalence to the community dimension, but not exclusively since it is not really possible to distinguish a clear dividing line between the different levels of conflictualism. As mentioned in the introduction, the important aim is that the base level, microhistoric and “bottom up”, is fully represented in the map, and that the scale of observation extends to include the elementary components of the fiscal state.

Ideally, the map would include three superimposed sheets: one showing the actors in fiscal conflictualism; one the conflictual issues; and one the places of mediation and settlement of fiscal disputes.

#### 1.

Starting therefore with a review of the main protagonists in fiscal disputes, the most prominent were the sovereign powers: the Emperor, the Count of Tyrol, and the Prince-bishop of Trent. In the fifteenth century, the Emperor guided fiscal innovation within the territories of the Empire from above. In the seventeenth century, he acted as mediator between governments, who were drastically opposed regarding fiscal and

<sup>22</sup> M. BONAZZA - R. STAUBER (eds), *Ceti tirolesi e territorio trentino*, pp. 251-252 (chronology p. 380 and fn).

jurisdictional issues. The Tyrolean government appears frequently as the driving force for territorial taxation, while the prince-bishops tended to counter this. However, it was not unusual for the roles to be inverted and when the Count of Tyrol had to guarantee constitutional order in the territory, he sometimes ruled in favor of the bishopric subjects evading taxation. Conversely, the Prince-bishop of Trent occasionally resorted to the use of Tyrolean force to protect or extend his own fiscal power.

The same applies for intermediate actors, like the Tyrolean estates, and the Trent Prince-bishopric dominions. Here the discussion approaches closer to the community dimension. Essentially who were the Tyrolean estates? Nobles and clerics certainly, but also the cities and the rural districts directly dependent on the Count of Tyrol: therefore, they included all rural communities. All of these were in unstable relations with the components of the Prince-bishopric of Trent and of Italian Tyrol<sup>23</sup>. The fiscal behavior of these individuals and groupings was highly variable. In the case of the large aristocratic families, for the entire modern era the criterion of central/peripheral is applied: the nobles based near the capital were loyal and reliable; the nobles on the border with Italy were slow payers or evaders. Rovereto, an Italian speaking Tyrolean dominion, was always divided between the desire of the city to contribute in order to obtain the right to vote in the Tyrolean Assembly, and the resistance of the rural communities, who were more interested in reducing expenses and maintaining privileges. The bishopric rural dominions were all, apart from the *esteriori* of Trent, total tax evaders. Traces of them are only found when the Tyrolean estates protested, when a prince-bishop attempted timid incursions, or when a small Tyrolean division fired a few cannon shots. It would be interesting to know how united these evasions were. Various pieces of evidence reveal minor fractures and contradictions. These were more obvious in

<sup>23</sup> On the relations between Tyrolean estates and Trentino communities, in addition to the texts in fn. 4, 9, and 22, see M. NEQUIRITO, *La rappresentanza del territorio trentino alla dieta tirolese nell'età moderna*, in L. CASELLA (ed.), *Rappresentanze e territori. Parlamento friulano e istituzioni rappresentative territoriali nell'Europa moderna*, Udine 2003, pp. 265-284; M. BONAZZA, *Gli spazi della contrattazione: interventi e silenzi trentini di fronte alla dieta tirolese*, in M. BELLABARBA - M. BONAZZA - K. OCCHI (eds), *Ceti tirolesi e territorio trentino. Materiali dal Landschaftliches Archiv di Innsbruck 1439-1724* (Annali dell'Istituto storico italo-germanico in Trento. Fonti, 3), Bologna 2006, pp. 37-80; R. STAUBER, *Il Tirolo, la sua costituzione attuale e il principato vescovile di Trento nel XVIII secolo*, in M. BONAZZA - R. STAUBER (eds), *Ceti tirolesi e territorio trentino*, pp. 11-21.

the cities as seen in Rovereto in 1564, and Trent in 1579, when small groups of citizens supporting Tyrol appeared willing to accept the fiscal control of the estates in exchange for liberation from the power of the prince-bishopric. The most obvious contradiction was seen among the groups of Giudicarie leaders, who called on the Tyrolean government (who was interested in their taxes) in 1637 to defend them from the Prince-bishop of Trent, who up until that time had exempted them from the same Tyrolean taxes.

The individual communities were often silent, sometimes agitated, but without many episodes of explicit fiscal revolt, the motivations for which were diverse and can even escape detection. The general impression, as verified in the examples cited, is that often the fiscal motivations for rebellion have been pushed into the background. Taxation is not very useful for interpreting the critical stages of conflicts because it develops along slower paths. Furthermore, it is not explicitly declared in the official sources, since not of particular impact in discussion. The payment of taxation was a normal obligation of subjects to a sovereign power, and so it was not easy for a community to deny the obligation entirely, or even to condone evasion. Conversely, the dominant powers themselves prefer to disguise their fiscal purposes since this was such a clearly unpopular issue. Nevertheless, as this discussion has attempted to demonstrate, it is possible to detect a strain of fiscal discord in all the episodes described.

Another interesting aspect of fiscal conflictualism in communities is that it is mostly between entities on the same level or immediately contiguous levels, while only rarely (perhaps only during the Peasants' War) it involves the prince directly. Fiscal rebellion and protest almost never have subversive aims and do not call into question the pact of sovereignty. The aim is more modest, to redistribute the fiscal load in a more advantageous way, at the expense of the neighbors, or put pressure on superiors to obtain their support. In this respect, it is very instructive to consider the issues of unbalanced fiscal structures like those consisting of a town center, Trent or Rovereto, and the communities of the respective districts, which were rural communities in all effects, but included within a context of urban taxation and tied to the aims of the city.

It is also interesting to note interference between communities and other social subjects, like the aristocracy. The nobles were sometimes seen in

the role of mediators between communities and the state, as in the case of Giovanni Battista Arco, who assisted the subjects of Oltresarca and Romarzollo. On other occasions, they were instead the opponents of a community, as in the case of the disputes between noble families and the Consular Magistrate of Trent. Historical sources are very scarce on the much more significant issue of the relationship between communities and aristocracy: according to the rule, nobles paid their share on the basis of income, subsequently claiming it against their subjects. This mechanism appears to have worked, since there is little evidence of tensions between nobles and their immediate subjects regarding taxation.

There remains the question of the internal stratification of communities into neighborhoods, factions, and families. Unfortunately, there is little evidence, even if traces of different, and in some cases divergent, attitudes to taxation can be found in the city societies of Trent and Rovereto. The link is interesting between the supracommunity layer of the rural nobles and the communities of the Non Valley, where the former resided and constituted the elite. The contrast between their formal exemption and the self-styled evasion of their neighbors created dynamics that emerged in various moments of tension, between 1407 and 1525. Subsequently the generalized evasion, tolerated and protected by the prince-bishops, equalized the positions. Traces of internal stratification re-emerged in the 1700s when ruling classes of professionals or tradesmen became established within the communities. They were interested in closer relations with the state and so not entirely hostile to modest fiscal obligations<sup>24</sup>. This could be used as a basis for understanding the disputes between valley and mountain communities on the military burden in Rovereto and possibly also partly for the willingness of the communities to surrender in the face of the offensive of the state in 1767. Overall, even the rebellion in the Giudicarie, though dating back to a century before, exhibits an embryonic social articulation: the notaries and merchants that took the dispute as far as Rome and Innsbruck certainly were seeking protection from the unusual demands of their lord, but also seem interested in safeguarding their own positions and privileges.

<sup>24</sup> M. NEQUIRITO (ed.), *A norma di Regola: le comunità di villaggio trentine dal medioevo alla fine del '700*, Trento 2002; S. LUZZI, *Confini materiali, confini immateriali: pratiche dell'identità in una comunità rurale*, in R. ADAMI - M. BONAZZA - G.M. VARANINI (eds), *Volano*, pp. 373-402.

2.

The second “map” is dedicated to conflictual issues, with about half a dozen directly linked to the community level.

If “community” is interpreted as also applying to a city like Trent, it is obvious that a critical aspect is the *ius collectandi*: a typical attribute of sovereignty that the city had usurped from the Bishop in the 1400s and that also included the claim to the right to authorize taxation. The Trent delegates took part in the Tyrolean Assemblies, but only with the status of observers: this was enough to make them feel part of the large assembly invested of the *Steuerbewilligungsrecht*. The *Steuerstreit* was also born out of this conscious ambiguity, as well as from immediate economic interests.

Alongside the right to impose taxes, a second critical aspect concerned the technical modes of levying the same, in other words the taxable value. From the perspective of a community, it was one thing having to pay a share of a general tax with the right to divide this freely between the community members, it was quite another thing to be subjected to decisions from above, often damaging not so much to rights but to economic interests. An uninterrupted common theme through the history of the Tyrolean fiscal state is the constant refusal by the estates and prince-bishoprics of any alternative to the *Landsteuer* with its sharing mechanism. The most hated of all was taxation on consumption, which burdened the few marketable products of the regional economy.

Another problem was tax evasion, sometimes euphemistically disguised as tax avoidance and often vaunted openly. Two and a half centuries of Tyrolean fiscal history are characterized by useless efforts to recover over seven hundred *unrichtige Knechte*, which were unenforceable tax partitions, amounting to almost a fifth of the foreseen total. The majority of these were assigned to rural bishopric jurisdictions.

In the face of this fiscal evasion and the massive concealment of property, even the issue of measuring wealth—in other words, the assembling of cadastres—became controversial. In this issue an obvious paradox emerges: evaluations were simultaneously a means for equity and guarantees, but at the same time a cause for conflict and protest. They encouraged equalization within a community, but also represented an unwanted interference of the state in the economic life of individ-

uals and groups. Therefore, when a proposal to update the estimates arrived from above, it provoked protests and passive resistance, while assessments conducted “in house”, on the initiative of communities, appear to have encountered little difficulty, or at least among those few who paid taxes within the Prince-bishopric of Trent<sup>25</sup>.

While a survey of values could have pacifying effects in a horizontal sense, within a community, it is important not to forget other reasons for tension within communities of with neighboring communities. These tensions derived mostly from real or presumed inequalities in the valuation of property, giving rise to a permanent micro-conflictualism<sup>26</sup>. The disputes between the city of Trent and external communities were only the most obvious examples, balanced by the consensual divisions achieved in 1550 between Rovereto and its dominions.

### 3.

The political and administrative apparatus of the antique regime appears to have been adequately equipped to deal with this micro-conflictualism, and disputes between communities were usually resolved by agreements or arbitrations. There remains to define the final “sheet” of the map, dedicated to the seats of mediation and resolution of conflicts.

The main formal seats of mediation were naturally the institutions of representation: *in primis* the Tyrolean Assembly (*Tiroler Landtag*), the seat of epic controversies between government officers, prince-bishops,

<sup>25</sup> In addition to M. BONAZZA, *La misura dei beni*, refer to M. CARBOGNIN, *La formazione del nuovo catasto trentino del XVIII secolo*, in “Studi Trentini di Scienze Storiche”, 52, 1973, pp. 70-116; M. BONAZZA, *Dazi, moneta, catasto: il riformismo nel settore finanziario*, in M. BELLABARBA - G. OLMI (eds), *L'età moderna*, pp. 363-376; M. BONAZZA, *Catasto e conoscenza del territorio. Innovazioni tecnologiche e scelte di governo nell'esperienza del teresiano trentino-tirolese*, in L. BLANCO (ed.), *Le radici dell'autonomia. Conoscenza del territorio e intervento pubblico in Trentino*, Milano 2005, pp. 25-50. Fundamental for a comparison on a European level L. MANNORI, *Kataster und moderner Staat in Italien, Spanien und Frankreich (18. Jh.) / Cadastre et Etat moderne en Italie, Espagne et France (18e s.) / Cadastre and modern state in Italy, Spain and France (18th c.)*, in “Jahrbuch für europäische Verwaltungsgeschichte / Annuaire d'histoire administrative européenne”, 13, 2001.

<sup>26</sup> Micro-conflictualism is regularly revealed in certain types of sources like those of the Landschaftliches Archiv in Innsbruck, published in M. BELLABARBA - M. BONAZZA - K. OCCHI (eds), *Ceti tirolesi e territorio trentino*.

and the estates. Even more important was the administrative section of the Assembly, which had the task of day to day management of a complex and controversial fiscal system. This included the tax commission (*Steuerkompromiss*) between the 1500s and 1600s, and the offices of the estates (*ständische Aktivitäten*) in the 1700s<sup>27</sup>.

Other fundamental instruments for resolving conflicts were the arbitration commissions nominated by governments on the petition of the parties involved. Normally the commissions were entrusted to a pair of court advisers, or respected members of the aristocracy, or professionals (lawyers, notaries, experts) well connected within the administration. The territorial archives are full of commissarial deeds, often regarding only minor infra- or inter- community disputes.

Alongside the formal seats there were also non-permanent seats for the settlement of conflicts. The most important, as already mentioned, was the property register. A list of property in itself represented a means for the mediation and prevention of conflicts at their origins, even when it represented just a simple list of households belonging to a community. It became even more effective when it evolved into the formalized cadastres. The Trentino-Tyrolean register, the *teresiano*, was not a modern cadastre in the true sense of the word, like the coeval *Catasto milanese*. It was simply a more precise and up-to-date version of the ancient property registers, full of structural defects and unfulfilled promises. Nevertheless, even in this form it functioned reasonably well as a preventive guarantee for equilibrium and equalization, heading off numerous fiscal disputes. Understandably, this applied particularly to small communities where the identification of wealth followed torturous but strictly controlled paths. It worked less well in larger more complex situations, like the city of Trent, where the property register was also a hegemonic instrument of the local patricianship.

To conclude, it emerges from microhistorical research into the communities<sup>28</sup> that a distinctive sign of the antique legal mentality and political practice was the irresolution, which was expressed in concrete form in the interminable procedures that can be traced in the archives today.

<sup>27</sup> W. KÖFLER, *Land, Landschaft, Landtag*, pp. 519-536; T. PARINGER, *Nuove istituzioni, nuove fonti. Ordinamento, evoluzione e documentazione dell'Attività cetuale tirolese*, in M. BONAZZA - R. STAUBER (eds), *Ceti tirolesi e territorio trentino*, pp. 23-45.

<sup>28</sup> Sufficient here is the reference to A. TORRE, *La produzione storica dei luoghi*.



For a long time these were anachronistically mistaken as a sign of the immaturity of the system, rather than being interpreted simply as signs of a system different from the modern one. For this reason, it is also possible to consider the numerous examples of passive resistance, serial production of supplications and memoirs, even the various situations of “double subjection” as a consequence of the plural constitution of this area, and at the same time as a form of conflict management and mediation<sup>29</sup>. The main instrument for maintaining the right, even in the face of blatant violations of the same, was protest. This might be considered the triumph of *de iure* over *de facto*, but requires a patient effort in understanding.

<sup>29</sup> “Double subjection”, in the case of the Trentino communities, is discussed by M. BELLABARBA, *La giustizia ai confini. Il principato vescovile di Trento agli inizi dell'età moderna* (Annali dell'Istituto storico italo-germanico in Trento. Monografie, 28), Bologna 1996. On instruments like supplications and protests and in general political communication from the bottom towards the top in the modern period see C. NUBOLA - A. WÜRGLER (eds), *Forme della comunicazione politica*; C. NUBOLA - A. WÜRGLER (eds), *Suppliche e “gravamina”: politica, amministrazione, giustizia in Europa (secoli XIV-XVIII)*, (Annali dell'Istituto storico italo-germanico in Trento. Quaderni, 59) Bologna 2002.

# Towns and Nobles in South Tyrol (Fourteenth-Fifteenth Centuries)

by *Hitomi Sato*

## I. INTRODUCTION

For the past several decades, historians of the European Alpine regions have considered the Alps not as a uniform historical and cultural block, but rather a significant research area rich with diversity. Each region is intimately connected to the others, and contemporarily, open to the “external” world, with every Alpine micro-reality tightly interrelated. It might be said that the Alps are a *continuum* of small realities difficult to separate from the “outside”. Such internal Alpine diversities have allowed us to perceive the “Alpine regions” in a broad sense, as defined by Jon Mathieu<sup>1</sup>.

This idea is accompanied by the recent reconsideration of the notion of “boundary zone”. The Alps are to be understood as a zone of continuous communication-interaction, charged with tension as well as encounter and dialogue between various political, social, economic, and cultural entities and factors. One of the historical characteristics of the European Alpine regions, that is the political and institutional framework of territorial principality, is therefore to be reconsidered from the viewpoint of the dynamics born from the interactions among diversities.

For the purpose of reconsidering historical territoriality, Hannes Obermair’s analysis of the Tyrolean territorial development, which clarified the phases of *Territorialisierung*, *De-Territorialisierung* and *Re-*

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<sup>1</sup> J. MATHIEU, *Storia delle Alpi 1500-1900. Ambiente, sviluppo e società*, Bellinzona 2000.

*Territorialisierung*, would be an ideal starting point. In the fourteenth century, Tyrol was incorporated into the Hapsburg dominion but had not yet developed the convergence of interests between the dynasty and the elites and therefore had the potential to develop various other combinations of territories and personal relationships<sup>2</sup>. In other words, during the *De-Territorialisierung* phase, alternative political frameworks could be elaborated by the daily political actions of the persons who constructed, maintained, renewed, and transformed those spaces and relationships. The question therefore regards the alternative frameworks. Did they exist, and if so, what could they be and why and how could they have importance?

In this article, one effective fulcrum of such politically significant activities can be identified in Tyrolian cities and towns. Talking about the Alpine towns implicates framing them as “small towns in the mountains”. Studying these “small towns” is much easier today than before, when the historiography of the cities was dominated by historians’ interests in relatively big cities equipped with social, economic, and institutional complexity and, especially, a particular legal status. Recent developments in research have brought to the center of academic interest the last places previously considered “urban”: the mountains. Jon Mathieu called our attention to the common presence of urban centers and he proposed the idea of Alpine regions in a broader sense, which allowed us to consider not only the Alpine towns at the top of mountains, but also the urban centers in or very near to the mountains<sup>3</sup>.

Today we have a series of academic works on medieval towns in mountains, in both the western and eastern Alpine regions<sup>4</sup>. In terms of the Eastern Alps, it is impossible not to mention a series of studies rigorously conducted by Hannes Obermair on the Tyrol and Trentino areas, starting with his “Bastard Urbanism”. All differences among cases considered, this article suggests that attention be paid to some

<sup>2</sup> H. OBERMAIR, *Stadt und Territorium in Tirol. Streiflichter aus Mittelalter und Früher Neuzeit*, in H. FLACHENECKER - H. HEISS (eds), *Franken und Südtirol. Zwei Kulturlandschaften im Vergleich*, Innsbruck 2013, pp. 121-131.

<sup>3</sup> J. MATHIEU, *Storia delle Alpi*, pp. 89-120.

<sup>4</sup> A concise historiography is in J.-L. FRAY, *Des petites villes, la montagne, des historiens ...*, in J.-L. FRAY - P. CORNU - P. FOURNIER (eds), *Petites villes en montagne de l'antiquité au XXe siècle. Europe occidentale et centrale*, Clermont-Ferrand 2013, pp. 13-18.

of the important common aspects of the cities and towns existing in those areas as well as to the relationships created among them – for example, the dependency on the Alpine passes as a factor for the development of the economic and cultural “crossway” zone and the role played by the metropolis Trent, which prompted the formation of urban networks as a basis for a lasting acculturation and the reorganization brought about after the house of Habsburg’s acquisition of the county of Tyrol, in which “a new intracity and also intravillage milieu”<sup>5</sup> was created, and such “multidimensional small-scale networks guaranteed the stable integration of the near peripheries or semi-peripheries ... in the new centers, and they provided traditional economic system with those that were of a city or market form”<sup>6</sup>.

Such attention to the importance of urban networks is common also in the new research on the western Alpine regions, where Walter Christaller’s “centrality theory” is being revised. The “centrality-decentrality” theory (théorie de la “centralité-décentralité” (“c-d théorie”)) was proposed by Anne Radeff, on the basis of her case study on medieval Vaud in Switzerland, to replace the centrality theory<sup>7</sup>. In both regions, instead of taking into consideration a town or city as a research object separated from its environment, “urban networks” were examined. It would be interesting to explore both the centrality and the decentrality in example regions of the Eastern Alps, while at the same time considering the changes between the centralizing and decentralizing phases of Land Tirol revealed by Obermair, in which the cities and towns and their networks played an important role<sup>8</sup>.

The purpose of this article is to provide contributions that, when combined with further research, will allow us to examine the personal relationships and political actions of the people involved in these networked areas, composed of urban, semi-urban, and other types of

<sup>5</sup> H. OBERMAIR, ‘Bastard Urbanism’? Past Forms of Cities in the Alpine Area of Tyrol-Trentino, in “Concilium medii aevi”, 10, 2007, pp. 53-76, here p. 71.

<sup>6</sup> *Ibid.*, p. 73.

<sup>7</sup> A. RADEFF, *Réfection du système des lieux centraux dans le pays de Vaud (Suisse) au Moyen Âge: montagne (Jura, Alpes) et Plateau*, in J.-L. FRAY - P. CORNU - P. FOURNIER (eds), *Petites villes en montagne*, pp. 39-53.

<sup>8</sup> H. OBERMAIR, *Stadt und Territorium in Tirol*.

centers, including “rural” centers. In other words, our focus is on the human relationships among cities, towns, the countryside, and mountains. The other side of related historiography pertains, therefore, to the nobles and burghers.

Until today, research on medieval cities in South Tyrol has not revealed any development of significant urban patriciates<sup>9</sup>. The absence of an urban patriciate, that is the lack of any coagulative force exercised by the nobility in cities, is considered the other side of the characteristics of Tyrolean nobility: a purely territorial nobility embedded in the framework of the county of Tyrol as territorial statehood. Here is therefore a particular intersection of the research on cities and towns and the research on nobility. Some studies on the nobility are concentrated, or at least partially so, on the idea of nobles as urban élites, or they highlight the strong relationships between Tyrolean nobles and urban centers<sup>10</sup>. In the present study we start our analysis by sharing Klaus Brandstätter’s affirmation on “eine enge Bindung der Bürger an das Umland”, which, for Bolzano, prepared a strong presence of nobles in the city<sup>11</sup>. We also pay particular attention to the administrative structure of South Tyrol and its cities and towns, that is, the jurisdiction (*Gericht*).

<sup>9</sup> K. OCCHI, *I borgomastri di Merano tra Quattrocento e Cinquecento*, in “Geschichte und Region”, 7, 1998, pp. 135-160; K. BRANDSTÄTTER, *Aktionsradius und wirtschaftliche Orientierung städtischer Eliten in Tirol im späten Mittelalter*, in “Histoire des Alpes-Storia delle Alpi-Geschichte der Alpen”, 2000, 5, pp. 45-61; K. BRANDSTÄTTER, *Die bürgerliche Oberschicht in Bozen*, in ARCHIVIO STORICO DELLA CITTÀ DI BOLZANO (ed.), *Bolzano fra i Tirolo e gli Asburgo / Bozen von den Grafen von Tirol bis zu den Habsburgern*, Bolzano 1999, pp. 127-172.

<sup>10</sup> K. BRANDSTÄTTER, *Aktionsradius*; K. BRANDSTÄTTER, *Die bürgerliche Oberschicht*; G. PFEIFER, “Neuer” Adel im Bozen des 14. Jahrhunderts. Botsch von Florenz und Niklaus Vintler, in “Pro civitate austriae. Informationen zur Stadtgeschichtsforschung in Österreich”, n.s., 2001, 6, pp. 3-23; K.G. PFEIFER, *Nobis servire tenebitur in armis. Formen des Aufstieg und Übergang in den niederen Adel im Tirol des 14. Jahrhunderts*, in K. ANDERMANN - P. JOHANEK (eds), *Zwischen Nicht-Adel und Adel* (Vorträge und Forschungen, 53), Stuttgart 2001, pp. 49-103; G. PFEIFER, *Sozialer Aufstieg und visuelle Strategien im späten Mittelalter*, in STIFTUNG BOZNER SCHLÖSSER (ed.), *Krieg, Wucher, Aberglaube: Hans Vintler und Schloss Runkelstein*, Bozen 2011, pp. 71-114.

<sup>11</sup> K. BRANDSTÄTTER, *Die bürgerliche Oberschicht*, p. 131.

## II. THE JURISDICTIONS IN SOUTH TYROL

The jurisdiction (*Gericht*), the smallest unit of the administrative and territorial structure of the county of Tyrol, is well known as one of the most important focuses of Meinhard II's administrative reorganization of the county. For the prince, this system would become a key tool to directly control the inhabitants of the county, excluding, or at least trying to exclude, the influence of nobles, who collectively were considered an obstacle to the administrative centralization of the county<sup>12</sup>. The jurisdictions were indeed organized in every corner of Northern Tyrol, where few nobles maintained control of the territory.

However, South Tyrol had more than a few significantly different characteristics in comparison to its northern counterpart. First of all, there was a strong presence of the nobility in the territory. Along the rivers Inn and Adige and further southward, nobles remained important political actors, because their military role was considered necessary in defending that boundary zone, as pointed out by Klaus Brandstätter<sup>13</sup>. In addition to those nobles, there were important urban centers such as Meran, Bolzano, and Glurns. Essentially, cities, towns, and nobles were the distinctive elements of South Tyrol. What influence might these factors have had on the jurisdictions existing in this area?

In the most important cities, city judges served concurrently as the *Landrichter*, exercising upper jurisdiction over the communities in their surrounding territories<sup>14</sup>. In the thirteenth century, the judge of Meran was appointed by the prince of Tyrol. By the fifteenth century, however, the city council had adopted a procedure whereby they suggested three candidates and then the *Burggraf* of Tyrol appointed one of them as the city judge, since in those times the judge served

<sup>12</sup> J. RIEDMANN, *Mittelalter*, in J. FONTANA et al. (eds), *Geschichte des Landes Tirol*, vol. 1, Bozen - Innsbruck - Wien 1990, pp. 291-725, especially pp. 434-435.

<sup>13</sup> K. BRANDSTÄTTER, *Adel an Etsch und Inn im späten Mittelalter*, in R. LOOSE (ed.), *Von der Via Claudia Augusta zum Oberen Weg*, Innsbruck 2006, pp. 239-260.

<sup>14</sup> The *Landrichter* was competent for the *Landgericht*, which included some *Gerichte*. The *Gericht* had only the lower jurisdiction, and the cases concerning the upper jurisdiction had to be transferred to the *Landgericht* in its neighborhood as *Schubgericht*, while the *Landgericht* had both the upper and lower jurisdictions; O. STOLZ, *Politisch-historische Landesbeschreibung von Tirol*, Innsbruck 1973, p. 32.

not only as *Landrichter* but also exercised part of the competency of the *Burggraf* of Tyrol<sup>15</sup>. Probably this happened due to the increasing importance and authority of the *Burggraf*. His jurisdiction gradually widened beyond the *Landgericht* of Meran in the narrow sense<sup>16</sup>, so that eventually his range of competency extended to include not only the affairs of the city and its *Landgericht* but also the affairs of the entire county. The *Landrichter* of Meran started covering all these tasks as an acting officer. Even more significant is the fact that this office of the *Burggraf* of Tyrol was eventually combined with that of the captain of Etschland into one role during the rule of Archduke Sigmund,<sup>17</sup> so that only one person, who concurrently served as the captain of Etschland and *Burggraf* of Tyrol, administered all the judicial and financial affairs regarding nobles (as the captain of Etschland), a wide territory around the *Landgericht* of Meran (as *Burggraf* of Tyrol). The city judge of Meran acted as a substitute in this role and executed the duties of his own office. In the *Stadt- und Landgericht* Meran, the *Burggraf* of Tyrol was also the head of the jurisdiction (*Pfleger*)<sup>18</sup>.

To summarize, in South Tyrol, or at least in the area around the city of Meran, partly because of these overlapping administrative offices, the city of Meran played an important role as a physical center where nobles, burghers, and other inhabitants of the surrounding territories met when participating in trials or judicial meetings, and sharing experiences and knowledge regarding important conflicts in the territory. In the following chapter, we examine some examples of such occasions.

<sup>15</sup> F.H. HYE, *Die Städte Tirols*, vol. 2: *Südtirol* (Schlern-Schriften, 313), Innsbruck 2001, p. 290.

<sup>16</sup> Otto Stolz also mentions the double meaning of the *Stadt- und Landgericht Meran*. In the narrow sense, it refers to the area including the city of Meran and some surrounding communities directly dependent to Meran in judicial matters (Natsurns, Plaus, Partchins, Algund, and Tirol), as well as those belonging to the judicial district or *Burgfried* of Tirol Castle, that is Riffian, Kuens, Ober- and Untermais, Hafling, and Vöran. The competence of the *Stadt und Landgericht Meran* in a broader sense, which refers to its function as the upper court for independent *Gerichte*, which reserved themselves only lower jurisdiction, extended to more communities; O. STOLZ, *Meran und das Burggrafnamt im Rahmen der Tiroler Landesgeschichte. Von den Anfängen bis 1918*, Bozen 1956, p. 66.

<sup>17</sup> I.V. ZINGERLE - J. EGGER (eds), *Die Tirolischen Weisthümer*, vol. 4: *Burggrafnamt und Etschland*, Wien 1888, p. 2.

<sup>18</sup> O. STOLZ, *Meran und das Burggrafnamt*, pp. 32-66.

### III. NOBLES AND BURGHERS IN LOCAL CONFLICTS

#### 1. *The conflict between the Botsches and Sarnthein*

In 1411, an arbitral session was held regarding a conflict that arose around a toll payment charged on mineworkers at Bolzano. Interested parties were Hans, Blasius, and Jörg Botsch on one side, and the people and communities of seven jurisdictions on the other side, namely Ritten, Wangen, Deutschnofen, Sarnthein, St. Jenesienberg, Gummer, and Eppan<sup>19</sup>.

The subject of the conflict was a toll, called a "small toll", which the Botsch brothers claimed to have on the cows that the people and mineworkers from the seven jurisdictions brought. The Botsches' claim was based on a document issued by Ludwig von Brandenburg, the *Burggraf* of Tyrol at the time, while the seven communities asserted that they had never been obliged nor required to pay it. In order to sustain their claim, the seven communities showed a notarial act, according to which, they said, they had no such duty either by law or custom. The controversy was brought to Peter von Spaur, the captain of Etschland and the bishopric of Trent. The arbitrator appointed by both parties was Niklaus Vintler, advocates for the Botsches were Franziskus von Greifenstein, Hans von Wolkenstein, and Hans Weinecker, and advocates for the seven communities were Christoph Fuchs von Fuchsberg, Ludwig Sparenberger, and Offrius von Stätten from Sarnthein. Offrius von Stätten aside, all members were nobles of no small importance.

After having talked, they convened that the two parties must be friendly to each other and completely eliminate the conflict and any damages stemming from it, and that, as "friends", the people of the seven communities had to pay the toll to the Botsches, whatever the size of the cow<sup>20</sup>. Obviously the seven communities were not satisfied with this conclusion. The community of Sarnthein brought the case in front of Archduke Friedrich, who eventually ordered the people of the community along with their advocates and documentation to go to Trento<sup>21</sup>.

<sup>19</sup> Bolzano/Bozen, Archivio Provinciale/Südtiroler Landesarchiv (hereafter APBz/SLABz) Archivio Comunale/Gemeindearchiv (hereafter AC/GA), Sarnthein, no. 4.

<sup>20</sup> APBz/SLABz, AC/GA Sarnthein, no. 4.

<sup>21</sup> APBz/SLABz, AC/GA Sarnthein, no. 5.



The result of the meeting in Trent is unknown, but we do know that another arbitral meeting was held on October 25, 1434, where the people of the jurisdiction of Sarnthein claimed the Botsches had acted against the decision given in front of Archduke Friedrich the Old<sup>22</sup>. Most probably Friedrich was in favor of the seven communities, or at least of Sarnthein. It might also be possible that Jenesien, too, was sustained by the count. In 1411, it was probably under control of the Starkenberger who was lord of the jurisdiction (*Gerichtsherr*), while it passed under the direct administration of the count in 1426<sup>23</sup>. In 1434, another meeting was held with Wolfhard Fuchs von Fuchsberg as the chair and with new advocates. The advocates for Sarnthein were Michael von Wolkenstein, who was the *Hauptmann* of Prawneck (Bruneck), Urban Sigwein, who was the *Pfleger* of Kronburg, and Sigmund Tyergartter from Meran. The advocates for the Botsches were Ulrich Fulhyn who was the *Pfleger* of Ulten, Zyprian Fuchs, and Martin Valsler from Bozen<sup>24</sup>.

The difference between the advocate groups of 1411 and 1434 was not to be underestimated. While Franziskus von Greifenstein, Hans von Wolkenstein, Hans Weinecker, Christof von Fuchs, Ludwig Sparnperger, as well as Niklaus Vintler were all members of the Falkenbund founded 1407<sup>25</sup>, such a predominance of nobles was no longer possible in 1434. It is however difficult to talk about a complete change of players. Two nobles, that is Michael von Wolkenstein and Zyprian Fuchs, were still present and continued to play their roles. We rather have a balanced co-presence of nobles and burghers in arbitral meetings.

A similar “balance” of members of different groups does not, however, seem to be totally new in 1434. Although almost all the advocates of 1411 were important members of the Tyrolean nobility, this does not imply the absence of contrasts among them. Between the years 1411

<sup>22</sup> H. OBERMAIR, *Bozen Süd – Bolzano Nord. Schriftlichkeit und urkundliche Überlieferung der Stadt Bozen 1210-1500*, vol. 2, Bolzano 2008, no. 989, p. 76.

<sup>23</sup> H. TONIATTI, *Gerichtsverwaltung und Gerichtsherrschaft in Jenesien*, in O. PARTIELI - H. TONIATTI (eds), *Jenesien am Tschöggberg. Landschaft – Geschichte – Kultur – Kunst*, vol. 1, Jenesien 2012, pp. 165-182, here p. 168.

<sup>24</sup> H. OBERMAIR, *Bozen Süd – Bolzano Nord*, p. 76, no. 989.

<sup>25</sup> E. SCHWIND - A. DOPSCH, *Ausgewählte Urkunden zur Verfassungsgeschichte der deutsch-österreichischen Erblande im Mittelalter*, Innsbruck, 1895, no. 161, pp. 303-306.

and 1434, the Tyrolean nobility was first split into two antagonistic camps, each supporting one of the two brothers, Friedrich and Ernst of Hapsburg, then unified under the former. According to A. Jäger, the Tyrolean nobles' assembly held in Bolzano in 1416 presided by Peter von Spaur was a factional meeting supported by Ernst, rather than an assembly representing the whole county of Tyrol<sup>26</sup>. No Botsch and no Vintler was present there. Among the advocates of 1411, those who were present in the assembly of 1416 were Franziskus von Greifenstein, Christoph Fuchs von Fuchsberg, and Ludwig Sparenberger. Hans von Wolkenstein was not there, although Michael, one of the advocates of 1434, was<sup>27</sup>. The other two noble advocates and the chair, Niklaus Vintler, were not there. In addition, in 1434 Michael von Wolkenstein was on the side of Sarnthein, while in 1411 another Wolkenstein, Hans, had been an advocate on the opposite side. Two Wolkensteins were acting for antagonistic sides, although this does not exclude the possibility that Michael could have been there as *Hauptmann* of Bruneck rather than as a member of the house of Wolkenstein. The composition of the advocates, in short, seems to show no influence of the factional loyalties among the Tyrolean nobility in the first two decades of the fifteenth century.

No other advocate was from any well-known noble house. While one advocate of Sarnthein was indicated as a *Pfleger*, the other's name was followed by the name of the city, Meran, where he was living or from. In 1434, the three advocates of Sarnthein were therefore two officers and one burgher. As for the advocates for the Botsches, they were one officer (Ulrich Fulhyn as *Pfleger* of Ulten), one noble (Zyprian Fuchs), and one burgher (Martin Valser from Bolzano)<sup>28</sup>. Although it is possible that Michael Wolkenstein was there as a noble, at least one officer and one burgher were included among the advocates of both sides. The two

<sup>26</sup> A. JÄGER, *Geschichte der Landständischen Verfassung Tirols*, vol. 2/1: *Die Genesis der Landstände Tirols*, Innsbruck 1970, p. 326.

<sup>27</sup> C.W. BRANDIS, *Tirol unter Friedrich von Österreich*, Wien 1821, no. 88, pp. 415-418, here p. 418.

<sup>28</sup> Martin Valser from Bolzano was acting judge of Deutschnofen, one of the seven communities, in 1411, in place of Paul von Welsberg. In 1421, he was also acting in the names of two nobles, Veit von Niederthor and Paul von Welsberg; REDAKTIONSKOMITEE GEMEINDEBLATT DEUTSCHNOFEN (ed.), *Aus der Geschichte des ehemaligen Gerichtes Deutschnofen*, Bozen 1982, p. 97.

advocate groups seem to have been fairly balanced and, even made up of neutral members in terms of their social class.

The importance of neutrality was perhaps the reason no Vintler or Vintler relative was in either advocate groups nor acted as chairperson. The Vintlers, well known as the possessors of Runkelstein Castle near Bolzano, had held the office of *Pfleger* of Sarnthein for generations. Niklaus Vintler, the chairman in 1411, was the *Pfleger* of Sarnthein at least in 1407<sup>29</sup>, although we do not know whether he still held the same position in 1411. From 1417 to 1421, we see Hans von Gerloch as *Hauptmann* of Sarnthein<sup>30</sup>, while in 1421 Hans von Goldegg was *Pfleger* and in 1431 it was Christof Adelshofer<sup>31</sup>. In 1433, however, the *Pfleger* of Sarnthein was Jörg Metzner von Runkelstein<sup>32</sup>, who was again *Pfleger* and simultaneously *Richter* of Sarnthein in 1443<sup>33</sup>. He was a grandson of the above-mentioned Niklaus Vintler—a son of Anna Vintler (the daughter of Niklaus Vintler) and of Wolfhard von Metz<sup>34</sup>. He was referred to as a “von Runkelstein” at least in 1420, and was married with Barbara von Schlandersberg<sup>35</sup>. In addition, his mother’s sister Agnese’s husband was Heinrich von Schrofenstein. That is, Jörg was the grandson of a Vintler and the son-in-law of a Schlandersberg, also related to the Schrofensteins. Moreover, in 1449, another Vintler, Konrad, was again *Pfleger* of Sarnthein at least until the following year<sup>36</sup>. The Vintlers might therefore have been kept away from the arbitrary sessions due to a potential conflict of interests, although it is difficult to be certain of this. However, it is significant that in 1434 burghers of Meran and Bolzano were thus provided with occasions to act together

<sup>29</sup> E. VON OTTENTHAL - O. REDLICH, *Archiv-Berichte aus Tirol*, vol. 1/1, Wien 1888, no. 2148, p. 391.

<sup>30</sup> O. STOLZ, *Politisch-historische Landesbeschreibung von Tirol*, Innsbruck 1937, p. 297.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Ibid.*

<sup>33</sup> APBz/SLABz, AC/GA Sarnthein, no. 11.

<sup>34</sup> G. PFEIFER, “Neuer” *Adel im Bozen des 14. Jahrhunderts*, in particular p. 19.

<sup>35</sup> *Ibid.*

<sup>36</sup> E. VON OTTENTHAL - O. REDLICH, *Archiv-Berichte aus Tirol*, no. 2148, p. 391; APBz/SLABz, AC/GA Sarnthein, no. 20.

with nobles—being involved in the same vicissitude—and to collaborate with them in conflict resolution.

#### IV. CONFLICTS AND INTER-LOCAL RELATIONSHIPS

##### 1. *The Arthung conflict*

In the above mentioned toll conflict that took place between 1411 and 1434, not only the development of the relationship among various social groups, but also that among various local communities existing in a relatively extended geographic area can be observed. The seven communities involved—Ritten, Wangen, Deutschnofen, Sarnthein, St. Jenesienberg, Gummer, and Eppan—were out over a considerable in the area between Sarnthein and Eppan, crossing over the Adige River.

Sarnthein and Eppan had a deeply rooted historical relationship. A part of the territory of the jurisdiction of Sarnthein had belonged to the dominion of the count of Eppan until the county of Bolzano became independent and separated from it. Even after that, the count of Eppan held the jurisdiction over his ex-dominion<sup>37</sup>. As for the jurisdiction of Eppan, at the end of the fourteenth century, it belonged to the nobles of the house of Fuchs von Fuchsberg, as the lord of jurisdiction (*Gerichtsherr*), and contemporarily also to the Gnausches who obtained it as a feudal tenure from the prince of Tyrol<sup>38</sup>. In the following years, Fuchs von Fuchsberg seems to have been its only one lord. According to Otto Stolz, documents from 1469 and 1475 reveal that the lords Fuchs von Fuchsberg obtained the jurisdiction of Eppan (Altenburg) and of Passeir in mortgage from the archdukes Leopold and Friedrich<sup>39</sup>. Therefore, most probably, Wolfhart Fuchs von Fuchsberg was the chairperson of the meeting of 1434 because of his position as *Gerichtsherr*.

Sarnthein and Eppan are frequently mentioned in documents conserved in communal archives. These documents reveal that the two communities were often in conflict but also collaborated for long stretches of time

<sup>37</sup> O. STOLZ, *Politisch-historische Landesbeschreibung*, p. 294.

<sup>38</sup> *Ibid.*, p. 183.

<sup>39</sup> *Ibid.*, p. 184.

during the fourteenth and fifteenth centuries. The first case we examine here is the conflict over a pasture dated April 2, 1415, between the community of Gries on one side, and Sarnthein, Gröden, Terlan, and Eppan on the other. The root of the conflict was that cows belonging to inhabitants of the latter four communities had been introduced into the concerned pasture illegally. Peter von Spaur, in his capacity as captain of Etschland and the bishopric of Trent, ordered Caspar Grädner, *Pfleger* of the jurisdiction of Gries, to protect the people of Gries in accordance with a princely document. According to Peter von Spaur, Gries and the four opposing communities, including Sarnthein and Eppan share a common pasture<sup>40</sup>.

Here we can see how inter-*Landgericht* conflicts came to be treated<sup>41</sup>. Caspar Grädner, the *Landrichter*, brought the problem directly to the captain of Etschland. The fact that the captain of Etschland at that time was Peter von Spaur might not be without importance, because he was, at the very moment, at the center of a tentative protest against the count of Tyrol Frederick, as seen above. In his political program of the Whole Land's League, which proposed to divide the entire land of Tyrol into five geographic territories, he himself, in his capacity as the captain of Etschland, was hoping to control the area extending from Nonsberg and the jurisdiction of Eppan to the lower Adige valley on both sides of the river<sup>42</sup>. It is probable that Peter von Spaur was willing to intervene in the same problem in order to consolidate the territorial base for his program of the League. In any case, an important fact is that the captain of Etschland is clearly positioned as a point of reference above the land jurisdiction in the hierarchy of the judicial system to treat inter-*Landgericht* conflicts. This could have been a dialectics between daily practice of conflicts and tentative propositions of an alternative

<sup>40</sup> APBz/SLABz, Merkantilmagistratsarchiv, Urkunden no. 1.8.

<sup>41</sup> Some cases of inter-*Gericht* conflict solving in Northern Tyrol are Y. HATTORI, *Arupusu no nōmin funsō: chūkinsei no chiiki kōkyōsei to kokka*, Kyoto 2009 [Conflicts in the Alpine peasant society. The local public sphere and the state in the late Middle Ages and early modern period].

<sup>42</sup> C.W. BRANDIS, *Tirol unter Friedrich von Österreich*, pp. 415-418, no. 88. A. JÄGER, *Geschichte der Landständischen Verfassung Tirols*, vol. 2/1: *Die Genesis der Landstände Tirols*, Innsbruck 1970, p. 325; M. BELLABARBA, *Il principato vescovile di Trento nel Quattrocento: poteri urbani e poteri signorili*, in A. CASTAGNETTI - G.M. VARANINI (eds), *L'età medievale (Storia del Trentino, 3)*, Bologna 2004, pp. 385-415.

idea of the Land, based on the league of nobles, in other words, on personal relationships, but contemporarily, also on the territorial base that was coming to be constructed by the very daily practice.

Sarnthein and Eppan were also involved in a controversy regarding another question of pasture, which was called Arthung or Harthung. The two communities were therefore not considered stable allies. Indeed, the controversy relating to Arthung had begun before 1393. On September 29, 1393, Archduke Albrecht ordered Heinrich von Rottenberg, captain of Etschland at that time, to protect Sarnthein's pasture rights, which had been recognized by the same archduke on the basis of old customs<sup>43</sup>. This suggests an ambiguous relationship between Sarnthein and Eppan, during the period between the end of the fourteenth and the middle of the fifteenth century. They were on the same side in the conflict against the Botsches, while on the other hand, they were in conflict with each other over the Arthung pasture. And about 50 years later, on January 7, 1443, King Frederick also recognized the rights and customs of Sarnthein<sup>44</sup>. This seems to be nothing special, as there were many such conflicts over pastures all over medieval Europe, many of which continued for a very long time. However, the interesting thing is that the development of the vicissitude after 1443 reveals more details of inter-*Gericht* conflict resolution.

On January 12, 1443, King Frederick, having himself recognized the rights of Sarnthein, ordered his committee, and Jörg Mezner, the *Pfleger* and *Richter* of Sarnthein, to uphold the rights of the people of Sarnthein<sup>45</sup>. We have already encountered Jörg Mezner above as a close relative of the Vintler, so we can assume that he had personal interests in protecting Sarnthein. Six years later, however, the people of Sarnthein presented another claim regarding the same problem to Archduke Sigmund<sup>46</sup>. Around the time this new claim was made, the officers involved in the same matter greatly intensified their reciprocal communication.

<sup>43</sup> APBz/SLABz, AC/GA Sarnthein, no. 2.

<sup>44</sup> APBz/SLABz, AC/GA Sarnthein, no. 10.

<sup>45</sup> APBz/SLABz, AC/GA Sarnthein, no. 11.

<sup>46</sup> APBz/SLABz, AC/GA Sarnthein, no. 12.

On April 16, 1449, Sigmund ordered Parcival von Annenberg, the captain of Etschland and *Burggraf* of Tyrol, to clarify the Sarnthein-Eppan conflict<sup>47</sup>. Then, on May 17, Parcival requested the community of Eppan to send him a report on the problem in order to mediate it<sup>48</sup>. Eleven days later, on May 28, the archduke ordered the *Pfleger* of Sarnthein, Konrad Vintler, to support the people of Sarnthein<sup>49</sup>. Then Konrad Vintler wrote to Parcival von Annenberg, saying that he would have liked to postpone the arbitral session dealing with the conflict on Arthung<sup>50</sup>. The examination of it was held about 11 years later, on August 17, 1460, by Hans Plankensteiner von Reischach, who acted in the name of Ulrich Wälzlein who was acting in place of Jörg and Christoph Fuchs von Fuchsberg<sup>51</sup>. The development of that problem in the following interval is not clear, but we do know that in 1492 King Maximilian recognized the pasture rights to the people of Sarnthein<sup>52</sup>, and four years later, on October 22, of 1496, Maximilian called the people of the jurisdictions of Arthung, Auer, Passeier, and Sarnthein to Innsbruck in order to mediate the conflict in front of his vicar and advisers<sup>53</sup>.

What mattered in this conflict? A written statement dated in 1449 explains it to some extent<sup>54</sup>. What Sarnthein put forth was as follows. The people of Sarnthein were obliged to pay a tax to the prince on each horse they brought from Sarnthein to Arthung, apart from those that were carrying no load. According to the statement, this tax exemption was the Tyrolian prince's "admirable" measure to help poor people. In other words, Sarnthein's rich(er) people were working in transportation with their own horses and paid the requested tax. However, now that the people of Eppan had attacked them, blocking their horses and cows from crossing over the Adige, and excluding them from the pasture of

<sup>47</sup> APBz/SLABz, AC/GA Sarnthein, no. 13.

<sup>48</sup> APBz/SLABz, AC/GA Sarnthein, no. 14.

<sup>49</sup> APBz/SLABz, AC/GA Sarnthein, no. 15.

<sup>50</sup> APBz/SLABz, AC/GA Sarnthein, no. 17.

<sup>51</sup> APBz/SLABz, AC/GA Sarnthein, no. 24.

<sup>52</sup> APBz/SLABz, AC/GA Sarnthein, no. 27.

<sup>53</sup> APBz/SLABz, AC/GA Sarnthein, no. 28.

<sup>54</sup> APBz/SLABz, AC/GA Sarnthein, no. 12.

Arthung, the number of taxable horses had so diminished that the prince could not levy the same taxes as before. The details are not clear, but it seems that such conditions forced the prince to impose the horse tax on poor people as well as on the rich. It also seems that the inhabitants of Sarnthein, prevented by those from Eppan from pasturing in Arthung, could not breed as many horses as before. However, they needed horses because “in the jurisdiction of Sarnthein, there is no cartable road, so people can only move with horses”<sup>55</sup>. Now that they could not do this anymore because of the conflict with Eppan, rich and poor alike were forced to pay taxes in the jurisdiction of Sarnthein. This is why they asked the Tyrolean prince to show some mercy otherwise, they should “become ... poor subjects, and loose our houses”<sup>56</sup>.

The fact that more than two communities, sharing common pastures, maintained a durable collaborative relationships—in spite of the potential for conflict—is well known. The problem is which collaboration and which conflict mattered in each specific case. Here, in the cases of Sarnthein and Eppan, it seems that both the toll conflict with the Botsches and the one regarding the Arthung pasture resulted in traffic and transportation conflicts in a mountainous area like Sarnthein. In which direction? In the South, to Bolzano and still further south. That is, to the principal city of the area and to all its related places.

However, the same problem regarded not only Bolzano, but also Meran, which was another important city. As well as the seven communities, Sarnthein and Eppan included, the city of Meran also had a dispute with the Botsches over the toll imposed in Bolzano on mineworkers. In 1409, when the people of Meran brought their claim in front of Leonhard von Lebenberg, the captain of Etschland, they had already had their goods taken away as security. Von Lebenberg decreed that the Botsches had to give these goods back to the people of Meran on the basis of the franchise document that the city of Meran had previously received by the Tyrolean prince<sup>57</sup>. One year later, in 1410, Archduke Frederick confirmed this decree<sup>58</sup>, and in 1411, Peter von Spaur, the

<sup>55</sup> APBz/SLABz, AC/GA Sarnthein, no. 12.

<sup>56</sup> APBz/SLABz, AC/GA Sarnthein, no. 12.

<sup>57</sup> P.C. STAMPFER, *Geschichte von Meran, der alten Hauptstadt des Landes Tirol*, Innsbruck 2009, no. 38, pp. 377-378.

<sup>58</sup> *Ibid.*, no. 39, p. 378.



captain of Etschland, did the same<sup>59</sup>. The fact that mineworkers from Meran were imposed a toll in Bolzano might have strengthened the relationship between Meran and the other communities against the Botsch. We have already seen above that the nobles of Etschland assemble a territory-based noble's league against the Archduke Frederick, probably supported by his brother Ernst. In that league, the name Botsch was absent. On the other hand, Meran was the only city that effectively sealed the document of the league together with the Bishop of Brixen, Ulrich von Friendsberg, Ulrich von Starkenberg, Michael von Wolkenstein, and Bartlme von Gufidaun<sup>60</sup>. Sarnthein, which was under the influence of Ulrich von Starkenberg and Michael von Wolkenstein, was also very close to the league<sup>61</sup>.

We can therefore conclude that the nobles of Etschland, with or without public titles such as *Richter* or *Pfleger*, continued to exercise their influence up until the middle of the second half of the fifteenth century. It is also clear that the burghers grew increasingly influential during the second half of the same century in solving conflicts regarding their territory. In the following section, we focus our attention on the burghers, examining some of the conflicts in which they were involved.

## 2. *The Ströbmader conflict*

On February 4, 1470, people from Gries clashed with those from two other communities, Terlan and Siebeneich, regarding a fertile land under Greifenstein and a "boundary" called Ströbmader. Archduke Sigmund ordered a group of burghers to decide upon a day to hold an arbitral session. They were Leonhard Vent, Andre Kalmüntzer, Jörg Stemmer, and Ciriak Hawser from Meran; and Jörg am Rössel, Oswald Panzel, Hanns Weidacher, and Hanns Staffler<sup>62</sup>. Two days later, on February 6, 1470, the archduke ordered the same Leonhard Vent to organize the

<sup>59</sup> *Ibid.*, no. 40, pp. 378-379.

<sup>60</sup> C.W. BRANDIS, *Tirol unter Friedrich von Österreich*, no. 88, p. 418; A. JÄGER, *Die Genesis der Landstände Tirols*, p. 325. Other four cities, that is Bolzano, Innsbruck, Hall, and Trento, were expected to seal, but in the end they did not.

<sup>61</sup> *Ibid.*, p. 326.

<sup>62</sup> H. OBERMAIR, *Bozen Süd – Bolzano Nord*, no. 1112.

arbitral session<sup>63</sup>. Burghers of Meran were then selected and appointed members of the jury, whom they let interrogate the people from Gries, Terlan, and Siebeneich. Those appointed jury members were the same as those appointed by the archduke. The only apparent difference is that Hanns Staffler was now referred to by the name of his place of origin, “ab dem Ritten”<sup>64</sup>.

Terlan and Siebeneich, however, did not give enough verbal evidence, so another session was set to be held in Bolzano on June 26. The two communities were again unable to offer sufficient evidence in the second session and so a third one was held on September 14 in Meran<sup>65</sup>. After that, under Archduke Sigmund’s instruction, Leonhard Vent and the jury placed a stone to demarcate the boundary on December 11<sup>66</sup>. On March 11 of the following year, the archduke confirmed this arbitral ruling<sup>67</sup>.

The problem was however not definitively resolved. On June 29 of the same year, the people of the jurisdiction of Siebeneich brought before the captain of Etschland and the *Burggraf* of Tyrol, Ulrich von Matsch, an accusation against the people of Gries for having stolen 40 heads of their livestock. Ulrich subsequently ordered Hanns Hellgruber, *Gerichtsverweser*, to restore the rights of those who had suffered damages<sup>68</sup>. However, Ulrich’s order was not carried out by the people of Gries. Ulrich then ordered the judge of the jurisdiction of Gries, Rueland von Spaur, to force the people of Gries to give back the livestock they had stolen from Siebeneich.

To sum up: the conflict involved three communities divided in two parties. On one side, there was Gries and on the other side, there were Terlan and Siebeneich. The archduke ordered a group of people formed by four burghers of Meran and two other people to organize an arbitral session. Leonhard Vent seems to be the most important

<sup>63</sup> *Ibid.*, no. 1113.

<sup>64</sup> APBz/SLABz, Merkantilmagistratsarchiv, Urkunden no. 1.9.

<sup>65</sup> APBz/SLABz, Merkantilmagistratsarchiv, Urkunden no. 1.10.

<sup>66</sup> H. OBERMAIR, *Bozen Süd – Bolzano Nord*, no. 1119.

<sup>67</sup> *Ibid.*, no. 1122.

<sup>68</sup> APBz/SLABz, Merkantilmagistratsarchiv, Urkunden no. 1.11.

figure among the six. These six appointees then interrogated the two parties involved. Not given enough evidence, they had to hold three sessions, one of which was held in Bolzano and another in Meran. The case concluded with the placement of a boundary stone. Six months later, another conflict arose because the people of Gries stole livestock belonging to the people of Siebeneich. This time, the accusation was brought before the captain of Etschland, who tried to execute his order via local authorities. Whether the people of Gries finally gave back the animals they had stolen remains unknown.

The above example seems to be a common medieval conflict occurring around pastures and other fertile lands. There are still some pressing questions, however. For example, why was the majority of the first jury composed of burghers from Meran, even though Gries, Terlan, and Siebeneich all belonged to the *Landgericht* of Gries-Bolzano? Moreover, why was the second arbitral session held in Meran, after the first had been in Bolzano? At least one thing seems clear: about half a century after Innsbruck had become the Tyrolean residence, Meran apparently maintained its importance as a center of judicial administration. Burghers of Meran were also esteemed enough to work on cases that regarded other jurisdictions.

Who were those Meraner jurymen? All four names can be confirmed as *Landrichter* of Meran around 1470. The *Landrichter* of 1470 was Jörg Stemmer<sup>69</sup>, while Ciriak Hawser was so in the previous year, 1469<sup>70</sup>. The latter's name is on a document conserved in the municipal archive of Partschins, dated 1469, as *Landrichter an Meran*<sup>71</sup>. Andreas Kalmüntzer's

<sup>69</sup> K. MOESER - F. HUTER (eds), *Das älteste Tiroler Verfachbuch. Landgericht Meran 1468-1471*, Innsbruck 1990. Documents mentioning to his title as *Landrichter* are no. 80, while in the same document Andre Kalmüntzer appears as a witness, and nos 81, 86, 87, 89a (*sub sigillo iudices Jorgen Stemmer*), 97, 99 (*landrichter, obman*), 100, 109, 116, 130 (*lantrichter obman*), 132, 135, 139, 140, 141, 145, 146, 152. In no. 152, dated January 13, 1471, he still appears as *lantrichter*, while in no. 157, dated February 5, 1471, he gives his seal just as *burger an Meran* to a receipt, and in no. 159, on February 10, 1471, he results as *anwalt des landgerichts*.

<sup>70</sup> K. MOESER - F. HUTER (eds), *Das älteste Tiroler Verfachbuch*. Ciriak Hawser appears as a *burger an Meran* on June 8, 1468, no. 2a, while on February 8, 1469 he was *lantrichter an Meran*. Nos 25, 26 (*sub siglillo iudicis Ciriacken Hawser*), 31a, 33a, 36, 44, 47, 56, 57 (*sub siglillo iudicis Ciriacken Hawser*), 62, 66, 71, 75, 78.

<sup>71</sup> APBz/SLABz, AC/GA Partschins, Urkunde no. 12.

name is also in the same archive, in a document dated 1472, with the same title<sup>72</sup>. In the same document, we also come across the name of Ciriak Hawser again, as one of the jury members for a conflict among Marling, Partschins, and Algund, regarding wood<sup>73</sup>. Andreas Kalmüntzer was also the *Landrichter* of the year 1460, according to the judicial protocol conserved in the civic archive of Meran<sup>74</sup>. He also played a role as the *Anwalt des Lantgerichts* on May 6, 1471<sup>75</sup>, and frequently as a hospital master of the *Heiliggeistspital* of Meran<sup>76</sup>, and his name is clearly recognizable on a fresco on the exterior wall of the cathedral of Meran dedicated to his and his wives' souls. He was also a notary, as mentioned in the *Verfachbuch* of 1468-1471<sup>77</sup>. Leonhart was also a notary of importance. In his presence, on June 18, 1446, Leonhard Wismar from the Salzburger bishopric presented to Albert Unfrid, the parish clergy of Naturns and the dean (*Erzpriester*) of Vintschgau, an appointment document given by Archduke Sigmund and the Bishop of Chur to enter into the parish of Tyrol<sup>78</sup>. They sometimes worked together, too. On October 29, 1470, when the *Landrichter* was Jörg Stemmer, a Hawser—probably Ciriak—and Andreas Kalmüntzer were *Sprecher* members of an arbitral session presided by Jörg Stemmer<sup>79</sup>. On December 9, 1470, Jörg and Ciriak were again *Sprecher*<sup>80</sup>. On March 5, of the same year, Andreas Kalmüntzer was one of the witnesses of a testament sealed by Jörg Stemmer as *Landrichter*<sup>81</sup>. These burghers of Meran were therefore experienced in judicial and arbitral affairs, having

<sup>72</sup> APBz/SLABz, AC/GA Partschins, Urkunde no. 14.

<sup>73</sup> APBz/SLABz, AC/GA Partschins, Urkunde no. 14.

<sup>74</sup> Archivio storico di Merano/Stadtarchiv Meran, Protocollo giudiziario/Gerichtsprotokolle 5.

<sup>75</sup> K. MOESER - F. HUTER (eds), *Das älteste Tiroler Verfachbuch*, no. 180.

<sup>76</sup> *Ibid.*, nos 41, 68, 90, 137, 192.

<sup>77</sup> *Ibid.*, nos 130, 187.

<sup>78</sup> E. VON OTTENTHAL - O. REDLICH, *Archiv-Berichte aus Tirol*, no. 2135, pp. 389-390. Other mentions to him as notary are in K. MOESER - F. HUTER (eds), *Das älteste Tiroler Verfachbuch*, nos 52, 59, 81, 94, 169, 196.

<sup>79</sup> *Ibid.*, no. 130.

<sup>80</sup> *Ibid.*, no. 140.

<sup>81</sup> *Ibid.*, no. 80.

often held the office of the *Landrichter*, acted in juries, or having been involved in repeated conflict resolutions among the territories around the city of Meran.

## V. CONCLUSIVE CONSIDERATIONS

As seen above, the city of Meran appears to have continued to play a significant role in local conflict resolution activities, offering judges, juries, witnesses, and meeting places, even in the period that historians refer to as a period of “decadence”, that is, after that the capital of the county of Tyrol moved to Innsbruck. Certainly, its significance is not the same as that of other big cities in either qualitative or quantitative aspects. This does not mean, however, that it had no weight in a local, inter-local, regional, and inter-regional context, each of which had its own particular way of adapting to the changing circumstances in order to survive, rather than to develop. Survival, continued existence, was what mattered. In the period around the middle of the fifteenth century, both traditional nobles of “Etschland” and the burghers in the city of Meran persisted through their active involvement in the daily problems of their jurisdictions as well as those of others, thereby offering possibilities of constructing and strengthening the networks of urban centers and their surrounding territories. These networks were not only territorial, but also social, functional in supporting a series of local and inter-local political and social relationships in the composite territory of South Tyrol in the fourteenth and fifteenth centuries.

## Aristocratic Prestige and Military Function

The Counts of Arco between the Late Fifteenth and Early Sixteenth Centuries

by *Alessandro Paris*

In the last few days of August 1475, everything was ready in Mantua for the wedding of Odorico, son of Count Francesco d'Arco, and Cecilia Gonzaga, niece of Marquis Ludovico II and daughter of Carlo in the Sabbioneta branch of the family<sup>1</sup>. The authoritative *compagnia di zentilhomeni*, who were to accompany the heir of the Trentino family in the Mantua ceremony on September 8, included eight aristocrats with a total company of fifty-eight mounts. Their area of origin and the order of precedence at the celebration tables effectively indicates the network of aristocratic alliances interwoven and consolidated during the second half of the fifteenth century by this Trentino family. From Treviso came Carlo Collalto, who "for his antique nobility" was seated to the immediate right of the groom, while to his left was the Marquis and warlord Nicolò de Scipione. However Francesco dedicated most of his attention to the young Alessandro, son of Gerardo Martinengo of Brescia, who presented himself with the largest number of mounts (as many as twelve), underlining the solidity of the military alliance between the Arco family and the Brescia aristocracy, established during the Milanese operations in the Wars of Lombardy. The aristocratic court

*Translation by Gavin Taylor*

<sup>1</sup> For the marriage negotiations starting as early as the previous January and on the homage of Odorico to the Mantua court, as well as the dowry purchases of Francesco, see Archivio di Stato di Mantova (hereafter ASM), *Archivio Gonzaga*, b. 1413, fols 103r, 105r; b. 1415, fols 5r-6r; Archivio Provinciale di Trento (hereinafter APTn), *Archivio di Arco-Chieppio* (copy), b. 2, fasc. 6, microfilm images 108-110. The alliance would ensure the dynastic line of Odorico d'Arco Mantua citizenship and the feudal incomes of Cavriana and Polesine; see G. RILL, *Storia dei conti d'Arco (1487-1614)*, Roma 1982, pp. 80-81; political and marital dynamics between the Gonzaga and the Empire between the end of the fifteenth and the beginning of the sixteenth centuries in E. SEVERIDT, *Familie, Verwandtschaft und Karriere bei den Gonzaga*, Leinfelden-Echterdingen 2002.

was completed with Baldassarre Thun (since 1460 the husband of his daughter Filippa d'Arco) from Trent, Pietro Nogarola from Vicenza, Giovanni Carlo Anguissola from Piacenza, Andrea Carlotto from Verona, and the son of Antonio Terlago from Trent<sup>2</sup>.

Starting from mainly local marital alliances in the fifteenth century (Lodron, Beseno, Gardumo, and Castelbarco) and the first ties with the Italian courts established during the first half of the fifteenth century (Visconti, Correggio, Emo), over the second half of the 1400s and in the context of the Italian Wars, the Arco family had thus first established their authoritative role in the political interface between the Italian world and the Empire<sup>3</sup>. The strategic position of the County of Arco, located on the southern borders of the Bishopric of Trent, enabled this aristocratic family to construct and consolidate a political authority that guaranteed them extensive negotiating powers in the wars of the 1400s with a consequential and increasing specialization in the art of war<sup>4</sup>. Repeatedly courted by the Serenissima starting from June 1407, during the months of conflict in Tyrolean and Trentino lands between claimants to the imperial and archduchy crowns, the Nobles of Arco never formally signed an alliance with Venice, but at the same time did not disdain the stipulation of temporary marital alliances with families of Venetian patricians<sup>5</sup>.

<sup>2</sup> The dispositions of Francesco in the letters of August 23 and 30 in the Archivio Fondazione d'Arco Mantova, *Archivio d'Arco-Chieppio*, b. 2, fasc. 6, fols 67-68; on the negotiations B. WALDSTEIN-WARTENBERG, *Storia del conti d'Arco nel Medioevo*, Roma 1979, p. 379; for the dowry and gifts G. RICCADONNA, *Le fastose nozze Gonzaga - d'Arco*, in "Il Sommolago", 1992, 2, pp. 59-74.

<sup>3</sup> For a survey of the warring scenario in Italy from the descent of the King of France Charles VIII in 1494 up to the Bologna incoronation of Charles V in 1530, see M. PELLEGRINI, *Le guerre d'Italia (1494-1530)*, Bologna 2009.

<sup>4</sup> An introduction to the Italian Wars of the 1400s in terms of military and tactical evolution, social composition of the armies and recruitment, operations and types of weapons is provided in the classic M. MALLETT, *Signori e mercenari. La guerra nell'Italia del Rinascimento*, Bologna 2013 (orig. ed. 1974).

<sup>5</sup> The proposals for alliance issued by the Serenissima to the southern Trentino aristocrats (Castelbarco, Lodron and Arco) dated June 2 and 3, 1407, foresaw, "si ei necesse fuerit, stipendiare et pro sua pecunia conducere ad soldum suum gentes armigeras, equestres et pedestres in terris et locis et territoris alterius partis, sine incommoda tamen et damno dicte alterius partis". Vinciguerra and Antonio d'Arco never signed this agreement (unlike the Lodrons), thus also refusing to authorize transit and logis-

Starting from these decades the House of Arco would progressively shift their political destiny under the umbrella of the Imperial eagle, towards the outstanding career opportunities provided by the Habsburg Court. After obtaining the title of Imperial Counts and the recognition as an imperial fiefdom on October 4, 1433, the brothers Antonio and Vinciguerra ruled a territory that included the jurisdictions of Arco and Drena, Nago and Torbole<sup>6</sup>. Having imposed upon the small local aristocracy of the Seiano and Campo families since their encastellation in the seventeenth century and progressively englobed their jurisdictions, the Arco family never divided up the entire inheritance between the heirs, entrusting each fortress to small garrisons of soldiers (a few dozen in number) with very limited artillery and with the possibility of counting on local recruitment that

tical support to Venetian troops (“dare et dari facere receptum et transitum per terras, castra, loca et territoria atque passus eorum, seu que possident nunc vel in futurum possiderent, tam per terram quam per aquam, tam citra Atticem quam ultra Atticem quam etiam super lacu Garde, et alibi ubicumque, quibuscumque gentibus equestribus et pedestribus, tam armigeris ... et similiter victualia pro pecunia dictarum gentium”). They also refused the burden of paying at least 50 knights and a variable number of foot soldiers enrolled from among their own subjects on behalf of the Serenissima. On September 2, 1407, the Arco family came back into possession of the dominion of Drena (the northern border of the county) thanks to the military support of the Venetian military captains based in Verona and Vicenza; see Biblioteca Comunale di Trento, *fondo manoscritti* (hereinafter BCTn, 1), 2484, unnumbered fols. An example of alliance by wedlock of the Counts of Arco with the Venetian patricians was the marriage of the daughter of Antonio, Agnese, and the Venetian Vittorio Emo, the dowry negotiations for which in June 1414 are found in BCTn, 1, 2544.4, fols 29r-31r; on the Venetian army and recruitment, see M. MALLETT, *L'organizzazione militare di Venezia nel '400*, Roma 1989.

<sup>6</sup> Between 1407 and 1410, Vinciguerra was not by chance defined by the Venetians as “semper devotus et amicus magnifice domus Austrie, et sic esse intendit in futurum”; see BCTn, 1, 2484, unnumbered fols; orig. in Archivio di Stato di Venezia (hereinafter ASVe), *Senato Misti*, vol. 47, fol. 146r; vol. 48, fol. 131r. The acknowledgement of the episcopal fiefdoms of the Arco family is dated 1425, but in 1452, Bishop Giorgio Hack also conceded the fiefdom of the dominion of the Oltresarca area, impinging on the local Seiano family. The overall consistency of the Arco dominion in the first half of the fifteenth century is described in H. VON VOLTELINI, *Le circoscrizioni giudiziarie del Trentino fino al 1803*, ed. by E. Curzel, Trento 1999, pp. 189-198, here pp. 190-192. On the constitution of a Trentino-Tyrolean aristocracy in the first three decades of the fifteenth century in opposition to Venetian power, see M. BELLABARBA, *Guerra, violenza, nobiltà: il tramonto del cavaliere*, in F. MARZATICO - J. RAMHARTER (eds), *I cavalieri dell'imperatore: tornei, battaglie e castelli*, Trento 2012, pp. 227-235.



already in the fourteenth century numbered a thousand *homines* or *subditi*<sup>7</sup>. It was, however, the recruitments for the Wars in Lombardy in the first half of the fifteenth century that raised the county onto the political and military stage, delineated by the balance of power between the states of northern Italy. The logistical support and information service, supply of provisions, and recruitment of troops was conducted by the Counts of Arco on commission from the main pro-imperial courts of northern Italy (Duchy of Milan and Marquisate of Mantua) during the first conflicts of the Wars in Lombardy. During August 1438, the Arco family guaranteed *sterratori* [labourers] and provisions for the joint armies of Milan and Mantua who were fighting the Serenissima, giving rise to the request of the captain of the treasury of Milan, Luigi (Alvise) dal Verme, who on August 12, 1438 called on the Lords of Arco for “ogni aiuto, subsidio et favore possibile et maxime de victualie,” in order to “exequire la impresa de Brentonego, de Dossomazore et Avii” in the southern jurisdictions of the Prince-bishopric of Trent<sup>8</sup>.

<sup>7</sup> In the local documentation both terms indicate how many were released from bonds of servitude to their lord and in the case of the Arco county they reveal an early formalization and contractualization of relations between court and dependent communities. The oldest statutes of the town of Arco conceded by the counts (*Cento Capitoli*, 1481) date to the early years of the fifteenth century, and extend to other communities bordering the county: in this way, in 1507, it was the turn of the dependent communities of Romarzollo (for which the earliest statutory elaborations appeared in April 1498); in chapter X of this law: “in dicta terra Archi sunt plures et diversae hominum conditiones, quia sunt exemptae ac liberae a servitutibus personalibus, et aliis prestandis sive in partiendis magnificis dominis comitatibus, aliae enim sunt liberae privilegio, aliae consuetudine, aliae instrumentis et aliae pretio exemptae”; see BCTn, 1, 2567.34, fols 197r-208r. Again, at the end of the sixteenth century, the Counts of Arco exhibited with pride to the imperial chamber that in their dominions the peasants’ contributions comprised a single annual “salarium” of 50 Rhenish florins; see B. WALDSTEIN-WARTENBERG, *Storia*, pp. 390-400; G. RILL, *Storia*, pp. 18-19.

<sup>8</sup> See BCTn, 1, 2539, fol. 73r. When Niccolò Piccinino invaded Brescian territory at the start of the summer of 1438, Dal Verme was at his side as second in command. He had the task of combining his own troops with those of the Marquis of Mantua, who had already made an agreement with Milan (June 26). After defeating the Venetians at Lazise, on this occasion he strove to obstruct the Serenissima army under Gattamelata, which was trying to escape through the Arco jurisdictions; see M. MALLETT, s.v. *Luigi (Alvise, Ludovico) Dal Verme*, in *Dizionario Biografico degli Italiani*, vol. 32, 1986; on Dal Verme see P. SAVY (ed.), *Seigneurs et condottières: les Dal Verme. Appartenances sociales, constructions étatiques et pratiques politiques dans l’Italie de la Renaissance*, Roma 2013; for the wars in Lombardy and role of the Lords of Arco, see B. WALDSTEIN-WARTENBERG, *Storia*, pp. 329-343.

The need to guarantee the transit and maintenance of armed forces within the jurisdictions on the borders of the principality led to a rapid military specialization of the Arco family. A constant rivalry with the neighboring Lodron (who were nevertheless also subject to recruitment for the Gonzagas)<sup>9</sup>, requests for military supplies also for the needs of the prince-bishopric, and their growing role as informers for the Tyrol court, resulted in their development of a modern personalized aristocratic code, which distanced them from other aristocratic families within the territory of the prince-bishopric, and they assumed the authoritative profile of imperial counts<sup>10</sup>.

It was above all the consolidation of courtesan exchanges and alliances through wedlock with the Gonzaga court and the renewed Milan court that vigorously projected this Trentino family into the war-torn scenario of Italy in the first half of the fifteenth century, accelerating the political and military rise of the brothers Francesco and Galeazzo, confirmed as imperial counts on May 30, 1440, in the face of the consolidation of mainland dominion of the Serenissima, which now extended all the way to the borders of their jurisdictions following conquest of the ports of Riva del Garda and Torbole, and of Penede Castle in Nago (1440-1508).

Galeazzo was a particularly important figure in the military history of the household in the second half of the 1400s. After taking possession of Bissone castle in the County of Pavia between 1439 and 1441, he obtained the title of "family member" of the imperial court (October 2, 1442) from Filippo Maria Visconti in exchange for his military services. He then had sufficient funds to mobilize a considerable military following in his own community to place at the disposal of Milan and Mantua, and when necessary even for the prince-bishopric. His military

<sup>9</sup> There is no shortage of indications in the second half of the fifteenth century of military contacts between Lodron and Gonzaga, like on April 25, 1479, when the military captain Paride Lodron wrote to the Marquis Federico: "Havendo persentito che la vostra Illustrissima signoria fa zente da piè per andare ale parte de Toschana, uno mio servitor per nomine Domenego Batayolla, de questa presente hostensore, dissideroso de voler far l'arte del soldo mi ha pregato volia scriver et recommandarlo a vostra excelentia; per tanto prego quella che havendo de bisogno de uno homo bono dela persona et homo fedelissimo, quella il volia acceptare per mio amore et se havete alguno bisogno io mi obligo per esso Domenego et quello farete a lui reputarò esser fato ala propria persona mia"; see ASM, *Archivio Gonzaga*, b. 1414, fols 242r-v.

<sup>10</sup> See M. BELLABARBA, *Guerra, violenza, nobiltà*, pp. 231-232.

specialization was matched by his ability to manage the dynastic affairs of his brother Francesco, also involved in the Milan campaigns, but as a consequence committed to establishing much more solid political alliances with them by means of lucrative wedding arrangements, as already seen<sup>11</sup>.

The dynastic conflicts between the two brothers would condition the subsequent history of the household with direct influences on the rural communities of the Counts of Arco. Francesco and Galeazzo reached an initial division of the family heritage in 1447, but this was periodically brought into discussion, sometimes by one brother and sometimes the other. With the aim of gaining the more substantial finances required to maintain the military presence in the Milan fiefdom of Bissone castle, on January 28, 1448, Galeazzo conceded to fifteen heads of the households of the small rural settlements of Varignano, Vigne, and Padaro in the community of Romarzollo (located in the section of the county ruled by him) exoneration of feudal obligations, in exchange for a lump sum payment of 2,000 ducats, with which he bought, among other things, a new set of armor<sup>12</sup>. His career, within the war torn scenario of northern Italy, reached its apex with his marriage between 1448 and 1449 to the last descendent of the Aldobrandeschi Counts of Siena, Giovanna Giacomina di Santa Fiora. Thus after 1450 Galeazzo established himself in Sienese territory fighting alongside the Sforza against Siena and their allies (the Serenissima and the King of Aragon), but he did not manage to defend the small dominion very long, soon returning with his followers back to his county of origin, just before the Treaty of Lodi in 1454<sup>13</sup>.

<sup>11</sup> On August 29, 1444, Francesco received from the Milanese court of Francesco Sforza payment of 1000 gold ducats for the supply of 25 lances for the War of Milan. Included as compensation for the military supplies was the engagement of his daughter Angiola in June 1454 to the Milanese Nicolò Pallavicino, a courtier of Francesco Sforza and of Arco defined as "zenthilomo, persona da bene, virtuosa, dotata de molte et singulare virtute cossì militare, como civile"; see APIn, *Archivio d'Arco-Chieppio* (copy), b. 8, fasc. 44, immagini microfilm 17, 20.

<sup>12</sup> See BCTn, 1, 2541.5, fols 17r-24r; 2551.11, fols 94r-103r; also in B. WALDSTEIN-WARTENBERG, *Storia*, pp. 352-353. For the armor, made in the workshop of the Milan armorers Missaglia and with Galeazzo's name engraved on the breastplate, see M. SCALINI, *L'Armeria Trapp di Castel Coira*, Udine 1996, pp. 262-263.

<sup>13</sup> On May 28, 1454, Francesco Sforza acknowledged among his allies the Count Galeazzo with his "assets in Tuscany" (ratification of the alliance dated July 16); see

The community documentation provides traces of the destabilization of dynastic equilibrium that this armed return quickly produced in the small Arco scenario. The growing tensions between the two brothers, fueled by violence between the respective military followers, were well known in the public places of Arco and nearby Venetian Riva del Garda. Between 1454 and 1455 Galeazzo was accused of conceiving a military plan to oust his brother with the help of certain members of the Castelcampo family, Arco feudatories, the Castelbarco from Val Lagarini, and even the powerful neighbouring Lodrons. After failure to mediate between the two factions, entrusted since 1456 to the brother-in-law Cesare Martinengo, Francesco ended up having his brother arrested, leaving him to languish for more than twenty years in the family castle prison “ob suas iniustas praetensiones et minas factas”<sup>14</sup>.

Alongside the growing economic ties (in particular the periodic supply of grain), occasional gifts of falcons and sparrowhawks, and on request of highly valued stone varieties from Trentino for the sculptors working in Mantua<sup>15</sup>, the links to the Gonzaga court in the second

R. PREDELLI - P. BOSMIN (eds), *I libri commemoriali della Repubblica di Venezia: registi*, Deputazione veneta di storia patria, 8 vols, Venezia 1876-1883, vol. 5, p. 95; orig. in ASVe, *Libri commemoriali*, XIV, fol. 133v. In 1454, Galeazzo took part in a Gonzaga campaign acting as intermediary for the Mantua court. This involved “capituli, conventionne, confederatione et obligatione, quali furono conclusi et firmati dalo illustrissimo principe et excellentissimo signore Francesco Sforza Vesconte duca de Milano et de Pavia, et Anghiera conte, et de Cremona signore da una parte et lo illustrissimo signor misser Ludovico marchese de Mantua da l'altra parte, secundo appare per publico instrumento facto hinc hinde per mezanità del magnifico conte Galeazo de Archo, et per mano del egregio Antonio Guidobono ducale secretario ... nel loco de Belzoyoso”; see ASM, *Archivio Gonzaga*, b. 51, fol. 98r.

<sup>14</sup> See Archivio di Stato di Trento (hereinafter ASTn), Archivio principesco vescovile (hereinafter APV), capsula 30, no. 41. The biographical affairs of Galeazzo and Francesco are in B. WALDSTEIN-WARTENBERG, *Storia*, pp. 358-359.

<sup>15</sup> Periodic requests for grain to the Gonzaga in APTn, Archivio d'Arco-Chieppio (copy), b. 2, fasc. 6; b. 8, fasc. 44, 46; also numerous in ASM, *Archivio Gonzaga*, b. 1402. The family archive section also contains numerous other testimonies prior to the mid 1400s (for example BCTn, 1, 2539.5, *Note relative ai grani somministrati ai conti d'Arco negli anni 1439-1440*). The Venetian military garrison in Riva also sometimes referred to the Gonzaga court to request provisions, as on January 30, 1490; see ASM, *Archivio Gonzaga*, b. 1407, fol. 139r. Gifts of birds and hunting falcons are documented for August 1456, September 1460, and July-August 1468. For the marriage between Isabella d'Este and Francesco Gonzaga (February 12, 1490) Andrea d'Arco gifted the new marquess on August 13 with a “tertiolo” (duck) “per intrare in grande familiare

half of the 1400s were also strengthened from a political perspective, providing a real launch pad for the more ambitious offspring of the Arco household and other Trentino aristocrats into careers as courtiers and in the imperial military. In this way Antonio d'Arco was entrusted by his father Andrea to the Mantua court in May 1500 in order to achieve the credentials for a career in the Imperial entourage<sup>16</sup>. Roles in the Gonzaga court were thus also requested for the local allies, the Castelcampos, as well as for the son of their in-law, Baldassarre Thun, defined by Francesco as one “deli più richi gentilhomeni che habia el paese del nostro illustrissimo duca de Austria et ... de generosissima et antiquissima prosapia”<sup>17</sup>.

During the Venetian War the requests from Arco to Mantua for specialized troops reached its apex. On the eve of what was referred to in the chambers of the family castle, with barely concealed fear, as the “great war”, in April 1487, the brothers Andrea and Odorico referred to the Marquis Francesco Gonzaga, requesting the dispatch of a “persona pratica et experta de guerra, che sapia trare de spingarde passavolanti et simile artiglierie”, as well as other “experti de guerre che stagino cum noi per consiglio de le cose che occorrerano et de li quali noi ne possemo

dimestigeza cum quella, dela quale io sum fidelissimo servitore sì per la illustrissima casa de Este, come de la illustrissima casa de Gonzaga”; see ASM, *Archivio Gonzaga*, b. 1413, fols 143bis r. The gift of the brother Odorico to Isabella on August 3, 1504, is instead in ASM, *Archivio Gonzaga*, b. 1407, fol. 349r. The Milan court was also traditionally given valuable hunting falcons from Arco, as emerges in the note of thanks of Galeazzo Maria Sforza Visconti on August 12, 1472. Finally, see mention of purchases of “predille” to construct a “gesiola” by the “tagliapietra” serving the Gonzagas, Luca Fancelli between 1456 and 1461. This is all found in APTn, *Archivio d'Arco-Chieppio* (copy), fascicolo 44, b. 8; the episode is cited but no direct reference appears to be made to this document G. RILL, *Storia*, p. 408.

<sup>16</sup> Francesco requested the Mantua court for letters of reference for his son Antonio “ala sacra maiestà del imperatore, alo illustrissimo duca Federico de Sanxonia, uno deli electori del imperio, alo illustrissimo duca Alberto de Bavaria, et alo reverendissimo archiepiscopo Bertoldo Maguntino, li quali al presente se ritrovano apresso la maiestà delo imperatore”; see ASM, *Archivio Gonzaga*, b. 1413, fol. 161r.

<sup>17</sup> The dispatch to the Court on June 27, 1489, of the son of Filippa Arco and Baldassarre Thun was accompanied in Francesco's letter with the inevitable underlining of the “genealogia del zovene”; see ASM, *Archivio Gonzaga*, b. 1413, fols 137bis r-v. The reference from Count Francesco of “misser Nicolò da Campo cittadino de Trento” of May 1500 and the thanks for the introduction into the imperial court of his son Antonio on May 26, 1500, are instead in ASM, *Archivio Gonzaga*, b. 1413, fols 162r, 163r.

integramente fidare”<sup>18</sup>. During those months the Arco court succeeded in achieving a decisive role on the vast military front, entrusting their men with the role as informers for the imperial troops, exploiting the geopolitical peculiarity of a frontier noble household, while at the same time confirming their definitive detachment from the political and military sphere of the Serenissima<sup>19</sup>. Other letters in the summer of 1487 between the Arco brothers, the Bishopric Court of Trent, and imperial agents testify to the strengthening of political ties, documenting requests for arms and soldiers, growing coordination between the Trentino *zentilhomini* in their approaches to the Innsbruck court<sup>20</sup>.

Tensions with the neighboring Venetians were obvious during these months of war with a growing number of border disputes between the county and the Riva jurisdiction, which traditionally represented a local expression of the wider political conflicts between the Empire and the Serenissima. The representatives of the powers in conflict in the Lake Garda sphere of action personally exploited and exacerbated these border controversies, which did not completely abate even after the stipulation of the first agreements between the Empire and the Venetians and the relative territorial reorganization<sup>21</sup>.

<sup>18</sup> According to the Arco family, the team of specialists would have been able to cross the front line garrisoned by the Venetians pretending to “voler visitare il beato Symone”, the remains of which rested in the church of S. Pietro in Trent and were the object of pilgrimages. It is not known whether the Mantua support effectively reached Arco, but certainly the county, despite being guarded by a Tyrolean garrison, did not escape being sacked in May 1487 by mercenaries paid by Roberto da Sanseverino and Alessandro del Turco; see APTn, *Fondo d'Arco-Chieppio*, fol. 90r.

<sup>19</sup> Already on the eve of hostilities, the Counts of Arco reported in May 1487 that they had received from their agents precise reports of Venetian troop movements and military plans and to have in turn informed the Tyrolean Captain Gaudenz von Matsch; see G. RILL, *Storia*, pp. 43-46. The military profile of the Gonzagas is described in the rather dated G. CONIGLIO, *Francesco Gonzaga e la Lega di Cambrai*, in “Archivio Storico Italiano”, 120, 1962, 433, pp. 1-31.

<sup>20</sup> For example, on August 14, 1487, Odorico wrote to his brother Andrea from Trent (where “continuamente azonze zente ... et se ne aspecta granda quantità”), that he had sent his military requests through the Tyrolean captain of the city and other *zentilhomini* in the Innsbruck Court. He also reassured him regarding the *springarde* (“vederò de fornirve de uno, il qual possa satisfar a tute le cosse rechieste”) and reassured that: “vederò de pretender provision del soldo de lo signor”; see BCTn, 1, 2537.31, fol. 216r.

<sup>21</sup> In June 1487, it was the Tyrolean captain overseeing Arco castle, Johann Pangoter, who acted in the territorial claims on behalf of Arco by uprooting and burying the

Already acknowledged as aristocrats by the Tyrol court since 1474, during the 1490s and the wars led by Maximilian I in the Grigioni and Engadina, the Arco family were increasingly co-opted into the military recruitment system imposed by the Tyrolean Imperial Diet, which in 1499 called on them to finance the arming of a hundred infantry to swell the imperial ranks<sup>22</sup>.

Between 1507 and 1508, on the eve of Maximilian's Italian campaign and the re-opening of the Venetian-Imperial military front along the dominions bordering the Prince-bishopric of Trent, the correspondence between the Counts of Mantua and Arco testifies to the decisive role of the espionage service of the Arco family for informing the Innsbruck court of the Venetian military plans, a fundamental role considering the mutual confusion of the Mantua and Trent officials regarding the real Venetian intentions, and itinerary subsequently chosen of Maximilian for his Italian campaign<sup>23</sup>.

large border marker ("saxum ingens") planted by the Venetian officials from Riva in the Linfano area. The border conflicts did not end immediately after the truce and despite repeated attempts at mediation by the Prince-bishopric of Trent and Tyrolean officials. The counts also requested legal help from the Mantua court, on March 12, 1488 also investigating the willingness of the canonist Benedetto Mastini; see G. RILL, *Storia*, pp. 43-44, 47-52.

<sup>22</sup> From this initial request the number was soon tripled, but the Counts of Arco eluded the order with the justification of the economic devastation suffered by the County during the Venetian war. A copy of the call to arms for the expeditions against the "guizzari" according to the rules established by the Tyrolean Diet and referring to all ranks (including the "zentili homini") can be seen in BCTn, 1, 2553.31, fols 90r-91r. From the Mantua archives there emerges the care with which the Mantua residents also referred to the Imperial Court; on January 19, 1501 the invited Mantua delegate wrote from Trent that: "Qua h  fatto comandamento duplicato a tuti li zentilhomini castelani, siano in ordine con arme et duy cavalli ad ogni richesta del capitano de l'imperio et li sono littere duplicate ... per scoder dinari"; see ASM, *Archivio Gonzaga*, b. 1407, fol. 286r. The role of the Counts of Arco during the Swiss Wars is in G. RILL, *Storia*, pp. 52-56, 82-86.

<sup>23</sup> On October 10, 1507, the Mantua informer Paris Caesareus wrote from Arco that he had learned that "la signoria di Venetia al presente ha mandato a Riva di Trento ... alcune fantarie et balestreri, et similmente lo episcopo di Trento   venuto a questi confini et ha fatto provisione in fornire alcune sue rocche contermine al stato di venetiani, et al simile ha exhortato ad far a questi signori d'Arco". The prelate of Trent stated however that he did not know "da qual parte ... sua maest  avesse advenir in Italia", while gathering in Trent there was "una compagnia di gente d'arme" commanded by Andrea Liechtenstein. On October 20, the Caesareus stated that "se

With the stipulation of peace agreements after the Venetian defeat at Agnadello (1509), the court of Riva del Garda was annexed to the Prince-bishopric of Trent. Odorico and Alessandro d'Arco with their following took part in the solemn entrance into the city castle, alongside the Tyrolean and Trentino troops who had sieged the city between March and May 1508<sup>24</sup>.

On June 7, 1509, the Counts of Arco hosted the stipulation of the three-year truce between the Empire and the Serenissima on the southern borders of the county in the Cenobium of S. Maria delle Grazie. This was mediated by the Prince-bishop of Trent and the Habsburg official, Giorgio Neideck. Arco was rewarded by the Imperial Court in 1511 with renewed possession of the dominions of Penede Castle and the villages of Nago and Torbole. The monastic complex, desired by Francesco d'Arco in 1478 on the county's land and entrusted to the Franciscan order, had already been the venue for the settlement of a legal dispute on July 2, 1481 between the neighbouring communities of Riva, Pranzo, and Tenno, in the presence of Venetian representatives and delegates of the prince-bishop. When dictating his will and testament on May 20, 1482, Francesco called on his sons Odorico and Andrea to complete this work, "speransque ad pacem et unionem inter habitatores et incolas comitatus sui procurandam et conservandam"<sup>25</sup>.

aspettava in Trento circa mille fanti" and the force commanded by Cristoforo Thun, grandson of Baldassare, was joined in the capital by four thousand foot soldiers and a large number of knights; see ASM, *Archivio Gonzaga*, b. 1415, fols 33r-v, 41r.

<sup>24</sup> The forces commanded by Odorico and Geronimo d'Arco on the plateaus of Vicenza in the Spring of 1510 were denigrated by the Venetians as being made up of soldiers "poltroni e descalzi"; see G. RILL, *Storia*, pp. 58-60.

<sup>25</sup> It cannot be excluded that the religious company was supported by specialists from other Italian courts, as suggested in the traces of correspondence during those months with the Mantua court. Andrea and Odorico d'Arco explained to the Marquis Federico on December 14, 1482 of having "besogno del iudicio di Zuanne da Padova, ingenerio di vostra excelentia signoria, il quale non retineremo qui, se non per un giorno solo, ... per certa nostra fabrica la quale desyderemo fare"; see ASM, *Archivio Gonzaga*, b. 1413, fols 128bis r-v. The Papal Brief of consecration is dated March 22, 1483; see BCTn, 1, 2551.13 (copy 1617), fols 110r-111r; the church was in any case only consecrated on October 18, 1492. On the negotiations conducted here in 1509 see G. RILL, *Storia*, pp. 58-59; on the monastic complex M. TURRINI, *Santuario della Madonna delle Grazie e convento dei francescani*, in *Ecclesiae. Le Chiese del Sommolago*, Arco 2000, pp. 285-291; E. CURZEL - S. VARESCHI, *Arco (loc. Ceole). Madonna delle Grazie*, in E. CURZEL - G.M. VARANINI (eds), *Santuari d'Italia. Trentino/Südtirol*, Roma 2012, pp. 200-201.



This monastic foundation gave concrete expression to the renewed peace in the county after the devastation suffered during the Venetian War and was the expression of a specific desire for a permanent presence of Franciscan preachers and confessors within the dominion. Also, as specifically desired by the elderly head of the family, it symbolized the restored harmony between the different social components of the county and the resolution of internal family conflicts with the legitimization of only two heirs: Andrea (1457-1507) and Odorico (1470-1528)<sup>26</sup>. This excluded Francesco's brother, Galeazzo, from succession having been imprisoned for many years in the family castle where he probably died in 1489<sup>27</sup>. It also excluded the elder son, Camillo, who was accused of aspiring to the military goals of his uncle Galeazzo, and of trying to liberate him, as well as conspiring against his father and carrying out raids on the county confines<sup>28</sup>.

<sup>26</sup> Insisting on purely pastoral requirements is L. NARDELLI, *Il santuario della Madonna delle Grazie fuori Arco (Trento)*, thesis, University of Padova, 1975/76, pp. 111-112. Only Andrea (†1509) and his wife Barbara Martinengo (†1493) are buried within the complex, along with the wife of Odorico, Susanna di Collalto (1495) and some of their heirs; see M. TURRINI, *Santuario*, p. 291.

<sup>27</sup> There is no confirmation of the presumed liberation of Galeazzo under caution of 200 ducats, mentioned in ASTn, APV, *sezione latina*, n. 49. The Arco humanist Ambrogio Franco recounted the death of Francesco in 1593 and the foundation of the cenobium based on a popular legend, according to which the count had a poor poacher arrested for hunting hares in the dominions. He was thrown into prison and in response to his prayers to save his life Satan in person responded, taking his soul to hell. Brought after three days into the presence of the count, seven serpents and fire appeared from the prisoner's chair; see AMBROGIO FRANCO, *De Arcensis castris fundatione*; see L. NARDELLI, *Il santuario*, p. 92. Franco cites two humanist publications, the *Dies Geniale* by Alessandro d'Alessandro and *Silva* by Pedro Mexia, in which the symbolic meaning of the hares is mentioned. For the first see M. DE NICHILLO, *Un'enciclopedia umanistica. I "Geniales" dies di Alessandro d'Alessandro*, in V. MARAGLINO (ed.), *La "Naturalis Historia" di Plinio nella tradizione medievale e umanistica*, Bari 2012, pp. 207-235; on the literary genus of the *Selve* see P. CHERCHI (ed.), *Ricerche sulle selve rinascimentali*, Ravenna 1999. However, the episode does not appear to hide an allusion to the usurping Count Galeazzo and at the same time, it is not possible even to hypothesize that the latter was affected by a diabolical curiosity. Instead, in the story the author explains, with the cancellation of a superstition attested by illustrious authors, why the Count of Arco wanted to found a cenobium, dedicated to the Virgin. It was in order to prevent the peasants in the area from freely hunting hares and game. Acknowledgement to Vincenzo Lavenia for his valuable suggestions in the interpretation of this document.

<sup>28</sup> Though excluded from succession, he was silenced by his father with 5000 ducats in property. Banished from the county as "impium et rebellem" with the obligation

The two brothers Andrea and Odorico, permanently established in the ranks of the Imperial Court<sup>29</sup>, were called on to reach an agreement over property between 1488 and 1491, both by the Bishop of Trent, and by the *Landeshauptmann an der Etsch*. The sources from the two factions project an image of dynastic conflict, with Andrea accused of excessively close ties with the Imperial Court and subsequent inability to control his son Antonio, who surrounded himself with a cohort of “*homines malae vitae*” responsible for violent intimidation of the adverse party (as denounced by Odorico to the Court of Maximilian on September 22, 1496). Andrea’s faction in turn accused the wife of Odorico, Cecilia Gonzaga, of excessive favouritism towards relations with Mantua, which had provided almost all the arms held in the family castle. For more than twenty years, the two factions never managed to reach an agreement and not even a further intervention by the bishop succeeded to this end. Only between 1511 and 1512, facing an imperial court tribunal and thanks to the mediation of Cardinal Adriano Castellesi from Corneto, the two brothers formalized the sub-division of the family heritage into two clearly distinct portions, from the town of Arco to all the feudal dominions and bordering communities<sup>30</sup>.

to reside at least 30 miles away, he took refuge in Riva where he lived under the protection of the Venetians. From here on the night of December 26, 1481, he raided the countryside with his band of 25 armed soldiers and burned animal stalls at the bordering locality of S. Nazario; see BCTn, 1, 2539, fols 8r-21v, 36r-38r; G. RILL, *Storia*, pp. 61-64. Camillo lived in Riva, marrying the daughter of Nicolò Micheli; see ASTn, APV, *sezione latina*, no. 49. On May 5, 1498, he testified in favor of his son Antonio; see BCTn, 1, 2595.68, fols 227r-230r (sixteenth-century copy).

<sup>29</sup> Odorico became an advisor to the King of the Romans in 1491. In 1470, Andrea instead married Barbara Martinengo and became advisor and treasurer for Maximilian I in 1496, receiving an annual salary of 200 Rhenish florins, which obliged him to serve the sovereign in war accompanied by four knights; in the following years he was spoken of as a possible imperial representative at the Este Courts; see BCTn, 1, 2542, fol. 7r.

<sup>30</sup> On the bishops attempts at reconciliation see ASTn, APV, *sezione latina*, nn. 77-78, 92; the arbitration entrusted to the Cardinal Castellesi “per bene, pace et quiete de la nobile casa de Archo” is in BCTn, 1, 2539.11 (March 27-May 24, 1512), fols 79r-102r; coeval Mantua copy in ASM, *Archivio Gonzaga*, b. 1416, fols 100r-107r; a copy from the eighteenth century in the family archive in BCTn, 1, 2528.6 (act March 27, 1512), fols 13r-19r. On the Castellesi see the headword G. FRAGNITO, *Castellesi Adriano (Adriano da Corneto)*, in *Dizionario Biografico degli Italiani*, vol. 21, 1978, pp. 665-671; on the Arco controversies in general between 1480 and 1512 see G. RILL, *Storia*, pp. 67-76.

It emerges that alongside the traditional military obligation imposed on citizens and servants dependent on Arco, from the second half of the 1400s the majority of the armed forces increasingly came from outside the county, according to the needs of the Italian Wars, and that these were only partly demobilized at the end of campaigns. These ranks were also swollen by men banished from the territories of the Serenissima<sup>31</sup>.

In the first decade of the sixteenth century, the military followers of the house of Arco still appeared polarized by the dynastic disputes between Andrea and Odorico. These armed troops represented the diligent pawns in familial conflicts and the favored instruments in violent territorial claims, as demonstrated in an episode in June 1507 in the bordering community of Nago and Torbole, which was still under the control of the Serenissima<sup>32</sup>. Right in the midst of the dances for the festival of the Sacred Trinity on June 1, about fifty men, comprising a rabble of Arco subjects, Verna and Brescia ex-patriots, as well as three *famegli* of Giulio Martinengo (according to a letter from Riva by the Venetian administrator Marco Renier) appeared on the square of the small town of Nago armed with clubs, swords, and crossbows, where they watched the celebrations for two hours “inerte e senza strepito”. When invited by the representative of the community and by Venetian officials to lay down their arms and leave, they nevertheless tried to avenge themselves by attacking a certain Lionardello in his own home. They then headed to Torbole and “lì con uno tamburlino, che loro haveano, comenzorno a far sonar et ballar continue cridando: ‘Archo Archo’, ‘Tirolli Tirolli’”. Confronted by some Venetian soldiers “volseno far rixa” and they ended up by throwing one of the officials to the ground, before retreating rapidly back inside the boundaries of County of Arco. Returning to the square in Torbole “cum el tamburlino sonando avanti a dui a dui cum dicte arme; andorono a torno a dicta piazza, come se fesseno la mostra, continue cridando: ‘Archo Archo’, ‘Tirolli Tirolli’”. The official described the episode as “caso dishonestissimo, scandaloso et de mal exemplo, maxime in questi lochi de confin et de gran mormoration de

<sup>31</sup> That this represented a growing cause of social instability, which the issue of official proclamations attempted to shore up, was noted by G. RILL, *Storia*, pp. 30-31.

<sup>32</sup> From a Mantua letter of August 14, 1500, the danger emerges of following the Torbole road controlled by the Venetians since 1440 and guarded at night at that time by around fifty armed men (it was written of that place “non era buso dove non fosse guardie”); see ASM, *Archivio Gonzaga*, b. 1407, fol. 237r.

questi populi”, but also stated that he did not “voluto scriver a quelli conti de Archo de questo caso, perché,” he said, “più volte anchora che io ho a piacere de ben vicinar cum tutti et [gli Arco] ho compiazuti de tutte cosse che cum honor mio ho podesto ..., et se sono venuti in questa terra vostra li ho honoradi; ho li scripto qualche altra volta de alcuni sui homeni scandalosi che veneno a dannizar suso questo vostro territorio pascolando le biave e pradi de questi vostri subditi, loro me respondeno sempre a una via et a un modo non saper niente et non esser de suo consentimento”. He thus concluded his report to his superiors in Laguna clearly identifying the instigators as the Arco court, torn apart by familial struggles. He referred that “non ho visto né persentido fazino una minima demonstratione, imo iudico loro siano consentienti”<sup>33</sup>.

The responsibility for the disorder, the execution of which was entrusted to a small group of “homeni scandalosi”, was thus attributed by the Venetian authorities without any degree of doubt to the Counts of Arco, in particular the faction close to Count Odorico. Nevertheless, on September 20, they were not even named in the legal decree condemning the perpetrators to banishment from all dominions under the flag of the lion of St. Mark, both land and sea<sup>34</sup>.

This episode is symptomatic of the social tensions that existed in the critical months of the conflict between the Empire and the Serenissima on the southern borders of the prince-bishopric, fueled by the display of arms and violence of the military followers of the House of Arco. The extraordinary symbolic effectiveness of the explicit references to Tyrolean sovereignty carried with it an explosive mixture of revendication of aristocratic honor, traditional border tensions, and family conflicts, while at the same time exposing the difficulty of disciplining the armed bands recruited by the Arco aspirants to fight in the military scenarios of the Italian Wars. By this time, these bands had become indispensable

<sup>33</sup> ASVe, *Lettere ai Capi del Consiglio dei X*, Documenti relativi al Trentino, b. I, unnumbered fols; copy XIX sec. in BCTn, 1, 2486, unnumbered fols.

<sup>34</sup> The same ruling of the Venetian Senate also voted for banishment and pecuniary penalties to be inflicted on another five individuals “flagiciosi” resident in Arco “armati diversis armorum generibus”, accused of having drowned a Riva citizen in Torbole on another occasion (July 4); see ASVe, *Senato Terra*, XV, fol. 172r; copy in BCTn, 1, 2485, unnumbered fols.

trappings for their aristocratic profiles, used as a form of pressure in dynastic struggles and an instrument for destabilizing the fabric of the local community<sup>35</sup>.

The political ties interwoven throughout the 1400s with the Milanese and Mantua courts were decisive factors structuring the aristocratic prestige of the House of Arco in the imperial sphere. This profile, following the institutional and fiscal consolidation of the Empire between 1509 and 1511, was progressively englobed and regulated according to the criteria defined by the Tyrolean Diets<sup>36</sup>. Alongside the ever more frequent attempts by the Arco claimants to establish alliances in the Imperial Court and other German courts<sup>37</sup>, there would be a reiteration of the request by the court of the new Tyrolean Archduke Ferdinand I to resolve familial conflicts within the institutional framework of the Empire. This happened a few years later (July 1523) when the elderly Odorico, always compliant in satisfying the Gonzaga recruitment requests despite his age<sup>38</sup>, received an order to entrust to the court tribunal

<sup>35</sup> Analyses of the social languages of the feud and of the local settlement of the borders and disciplining of aristocratic violence are found in M. CAVINA, *Duelli, faide, rappacificazioni: elaborazioni concettuali, esperienze storiche*, Modena, 2001; M. BELLABARBA - G. SCHWERHOFF - A. ZORZI (eds), *Criminalità e giustizia in Germania e in Italia. Pratiche giudiziarie e linguaggi giuridici tra tardo Medioevo ed età moderna* (Annali dell'Istituto storico italo-germanico in Trento. Contributi/Beiträge, 11), Bologna - Berlin 2001.

<sup>36</sup> A convocation to the Tyrolean Diet for the Count Andrea d'Arco dated July 17, 1490, is in BCTn, 1, 2577.51, fol. 184r. At the start of the sixteenth century the contribution to the military organization of Tyrol assigned to the Arco dominions was a total of 25 foot soldiers by way of taxation; in the 1520s this number rose to 41 (the two lineages of descent provided 6 men each, 18 the subjects of Arco, 1 the owner of the castle of Penede, and 10 the subjects of Nago and Torbole). The system remained in force for almost a century and the Arco family supplied more than half of the 70 taxation of foot soldiers (*Steuerknechte*), which was also imposed on the nearby households (Lodron and Castelbarco); see G. RILL, *Storia*, pp. 82-86.

<sup>37</sup> Thus, the Mantua envoy Paris Caesareus on November 1, 1507, referred from Arco to the Marquis Francesco Gonzaga of the departure for the Bavarian court of Count Geronimo d'Arco, "andato ne la Magna ala servitù del duca Alberto di Bavera"; see ASM, *Archivio Gonzaga*, b. 1415, fols 36r-v.

<sup>38</sup> In a letter from Arco on June 8, 1523 the elderly Odorico wrote to the Marquis Gonzaga: "anchor che la età mia senile più presto se gli convegna cose pacifice cha turbulentiae de arme, nondimeno per la riverentia che sempre ho portato et sempre son per portare a vostra illustrissima signoria in questo et in ogni altra rechiesta, son sempre per obedir a quella"; see ASM, *Archivio Gonzaga*, b. 1413, fol. 187r.

the judgement of certain *italos* arrested in the county, who were to be considered on the same level as all “subditos et vasallos caesaris et catholicis maiestatis domini et fratris nostris collendissimi et sacri romani imperii corpusque”<sup>39</sup>. There would be increasingly less possibility in the ever more compact Imperial legal system to justify this form of conflict resolution, as happened a few years before (January 9, 1499) when the brothers Odorico and Andrea were able to answer the Bishopric Court of Trent regarding violence perpetrated *armata manu* by their men within the dominions of the bishopric in the Valle del Sarca. The heirs to the household on that occasion explained that traditionally “in confinibus et semper nostri homines soliti sunt ferre arma”<sup>40</sup>.

The military profile of this frontier household, organized thanks to the decisive mediation of the Gonzagas in imperial campaigns starting from the second half of the fifteenth century, established the political basis upon which the prestige of the household developed: an aristocratic conception strongly anchored in the idea of the military profession, which was destined to delineate the dynastic affairs for all of the following decades of the 1500s and the early modern period within the Habsburg Empire<sup>41</sup>.

<sup>39</sup> The arms at the service of the Arco factions were no longer the exclusive method for the resolution of social conflicts, but the Imperial Courts, as noted by the archduke himself: “discordias et differentias non armis sed iure et medio praesenti maiestatis et eius iureregentes cognoscendas et decadendas esse”; thus Ferdinand wrote from Innsbruck on July 16, 1523 to Odorico “et omnibus eius nepotibus comitibus de Arco coniunctum et divisum”; the letter is preserved among the Gonzaga documents in copy; see *ibid.*, b. 1413, fols 189r-v. Also a border dispute for woodland between Nago and Torbole was immediately referred to the court tribunal in May 1519; see BCTn, 1, 2559.38, fols 90r-91r.

<sup>40</sup> See ASTn, APV, *sezione latina*, capsula 30, no. 77; also in G. RULL, *Storia*, p. 30.

<sup>41</sup> A new generation of military leaders from the House of Arco would repeat the biographical path of Gerardo d’Arco (1468-1538), whose military career was shaped by the Italian Wars, under the Milanese payroll of Francesco Sforza and of the Duke of Mantua’s army; see L. MAZZOLDI, *Arco Gerardo d’*, in *Dizionario Biografico degli Italiani*, vol. 3, 1961, pp. 788-789.



# The District Court and the Nobility of the Basel-Land Region (Fifteenth Century)

by Toshiyuki Tanaka

## I.

The most interesting thing for me was the prevailing current concerning country gentry on the other side of the Alps<sup>1</sup>. Switzerland is the best example of a successful confederation contract and the resulting state-building power. In this framework, the supersession of the Habsburg influences in general, alongside the autonomy of the peasants and the region (*Land*) and municipal territorial powers, are seen as an important factor in the genesis of the Swiss Confederation<sup>2</sup>. The *Länder* and the cities, the so-called *Orte*, came into conflict with one another principally as a result of the developing territorial powers during the course of the process of attaining self-administration by peasants or burghers, as happened in the fourteenth and fifteenth centuries between the Confederation *Orte* and the Habsburgs. Whoever is interested in the old Confederation will unavoidably come across the Habsburgs<sup>3</sup>.

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<sup>1</sup> It indicates the German-speaking areas of the Swiss Confederation.

<sup>2</sup> P. BLICKLE, *Friede und Verfassung. Voraussetzungen und Folgen der Eidgenossenschaft von 1291*, in HISTORISCHER VEREIN DER FÜNF ORTE (ed.), *Innerschweiz und frühe Eidgenossenschaft. Jubiläumsschrift 700 Jahre Eidgenossenschaft*, 2 vols, Olten 1990, vol. 1, pp. 13-202; P. BLICKLE (ed.), *Landgemeinde und Stadtgemeinde in Mitteleuropa* (Historische Zeitschrift. Beihefte, 13), München 1991; P. BLICKLE (ed.), *Gemeinde und Staat im Alten Europa* (Historische Zeitschrift. Beihefte, 25), München 1997; T.A. BRADY jr, *Cities and State-building in the South German-Swiss Zone of the 'Urban Belt'*, in P. BLICKLE (ed.), *Resistance, Representation, and Community*, Oxford 1997, pp. 236-250.

<sup>3</sup> P. NIEDERHÄUSER, "Erbfeindschaft", *Konkurrenz oder gemeinsame Wurzeln? Habsburgisch-eidgenössische Geschichte(n) im Spätmittelalter*, in P. NIEDERHÄUSER (ed.), *Die Habsburger*



As the development of Swiss history moves through the great battles of Morgarten, Sempach, Näfels etc., the image of the Habsburgs as being the enemy of the Swiss comes to the fore. It would seem that, after the occupation of the Aargau in 1415 by Bern and the Confederates, the Habsburgs lost power and influence on the fringes of their territory during the fifteenth century<sup>4</sup>. However, was that really the case? Did the Habsburgs not have any role in the consolidation of the creation of the Swiss state from the point of view of the region?

Ever since the work by Roger Sablonier on the subject of Middle and Eastern Switzerland, there has been increased interest in the study of the nobility<sup>5</sup>. Recently, researchers such as most importantly Peter Niederhäuser, Alois Niederstätter, and Bruno Meier have developed new projects on the topic of the mediaeval Confederacy from “outside”, namely from the “Habsburg” point of view<sup>6</sup>. In order to understand the role of the Habsburgs in Swiss history, the orientation of the Habsburg nobility of the region is of determining importance. This article concentrates on the position of the nobility of the Basel-Land region, west of the Aargau during the fifteenth century. The focus of the article will be the question of how a local nobleman tried to perform his role on behalf of the Habsburgs working between the municipal territorial power and the peasant self-administration. To do this, the focus will not be on the theoretical level of the constitution, but on the local level of the conditions of the nobility, and the differentiation between the incumbent Habsburg nobility and the local nobility without authorized office, such as the *Dorfherr* (local supreme judge).

To begin with, I would like to explain the conditions in Basel-Land in terms of the territorial expansion of the city of Basel and the autonomy of the peasantry. In comparison to Bern and Zurich, the Basel territory

*zwischen Aare und Bodensee* (Mitteilungen der Antiquarischen Gesellschaft in Zürich, 77), Zürich 2010, pp. 9-11, here p. 10.

<sup>4</sup> B. MEIER, *Habsburger und Eidgenossen im Mittelalter. Versuch einer Periodisierung*, *ibid.*, pp. 13-20, here p. 18.

<sup>5</sup> R. SABLONIER, *Adel im Wandel. Eine Untersuchung zur sozialen Situation des ostschweizerischen Adels um 1300*, Zürich 2000<sup>2</sup>.

<sup>6</sup> P. NIEDERHÄUSER - A. NIEDERSTÄTTNER (eds), *Die Appenzellerkriege – eine Krisenzeit am Bodensee?* (Forschungen zur Geschichte Vorarlbergs, 7), Konstanz 2006; P. NIEDERHÄUSER (ed.), *Die Habsburger zwischen Aare und Bodensee*.

was only of modest proportions in the first half of the fifteenth century<sup>7</sup>. The most important advance in the extension of its area of jurisdiction and its territory in the fifteenth century was undertaken by Basel in 1461 with the purchase of the landgraviate of Sisgau and the lordship of Farnsburg, which then became the bailiwick of the most populous Basel department<sup>8</sup>. In the following years, Basel was at pains to round off its territory by means of the purchase of different local jurisdictions of historical noble families such as Eptingen<sup>9</sup> and it swallowed up the lordships of local Habsburg noble families one after the other.

The bailiwick of Sisgau as a whole probably first came under the control of the Bishop of Basel during the fourteenth century<sup>10</sup>. After 1300, there are signs of the existence of bailiwicks, which after 1350 are shown to have become high or “blood” courts (meaning they could give death sentences) within the lordship<sup>11</sup>. This district court (*Landgericht* otherwise known as *Landtag*) was held by the district judge (*Landrichter*) as representative of the landgrave while the nobility and burghers of the small towns Liestal, Olten, and Waldenburg made up the majority who were entitled to pass sentence. In contrast to the fourteenth century, in the fifteenth century the “peasant jurisdiction” (*Bauerngericht*) came into existence<sup>12</sup>. The politically influential peasants, who were delegated by the parishes to the Sisgau district court, came to the fore. The transfer by the Falkenstein family of the landgrave of Sisgau to the city of Basel did not entail any break with the authority of the peasant jurisdiction<sup>13</sup>.

<sup>7</sup> D. RIPPMANN, *Bauern und Städter: Stadt-Land-Beziehungen im 15. Jahrhundert. Das Beispiel Basel, unter besonderer Berücksichtigung der Nahmarktbeziehungen und der sozialen Verhältnisse im Umland* (Basler Beiträge zur Geschichtswissenschaft, 159), Basel - Frankfurt a.M. 1990, p. 143.

<sup>8</sup> *Ibid.*, p. 147.

<sup>9</sup> *Ibid.*, p. 148. On the family Eptingen see W. MERZ, *Die Burgen des Sisgaus*, 4 vols, Aarau 1909-1914, vol. 1, pp. 308-318.

<sup>10</sup> REGIERUNGSRAT DES KANTONS BASEL-LANDSCHAFT (ed.), *Nab dran, weit weg. Geschichte des Kantons Basel-Landschaft*, 4 vols, Liestal 2001, vol. 2, p. 228.

<sup>11</sup> *Ibid.*, p. 229.

<sup>12</sup> D. RIPPMANN, *Gemeinde im Widerspruch: Soziale Unrast und Bauernunruhen*, *ibid.*, pp. 197-224, here p. 217.

<sup>13</sup> M. OTHENIN-GIRARD, *Ländliche Lebensweise und Lebensformen im Spätmittelalter. Eine wirtschafts- und sozialgeschichtliche Untersuchung der nordwestschweizerischen*

What was the role played by the Habsburg nobility on the two different levels of local developments—the Basel territorial expansion on the one hand and the extension of the district court as a peasant jurisdiction on the other? This paper will first look at the “Immli” case in the village of Sissach and then the role of the Habsburg nobility during the process and in the surrounding region<sup>14</sup>.

## II.

The court records pertaining to the Immli case are kept in the State Archive of the Canton of Basel-Land<sup>15</sup>. The documents pertaining to the legal action taken by Hans Müller against the village reeve Hans Lang during the years of 1460-1463 give an insight into life within a parish<sup>16</sup> and the regional powers of order. The court of 1460 was held in the name of Count Thomas von Falkenstein, while that of 1463 was held in the name of the city of Basel, which had taken over power by that time. The case dealt with the measure of capacity for corn, called an “immli”, which was in the possession of Müller.

The departure point of this suit according to the statement made by the village reeve Lang was “women’s gossip”, a rumor amongst the women of the village that Hans Müller was using a false measure for corn, that his immli had too large a capacity<sup>17</sup>. On later examination

*Herrschaft Farnsburg*, Liestal 1994, p. 411. On the family Falkenstein see W. MERZ, *Die Burgen des Sisgaus*, vol. 2, pp.1-86.

<sup>14</sup> On the rough outline of the “Immli” case see D. RIPPMMANN, *Gemeinde im Widerspruch*, pp. 212-222.

<sup>15</sup> Staatsarchiv des Kantons Basel-Landschaft, Altes Archiv (hereafter StABL, AA) 1010, Lade (hereafter L.) 11, vol. 214, no. 7. The court is hold four times, the first, the second, the third in 1460, the fourth in 1463. These trial documents consist of several books, bound by paper strings, of more than 70 pages in all. The following argument about the “Immli” case always depends on these trial documents.

<sup>16</sup> D. RIPPMMANN, *Gemeinde im Widerspruch*, p. 215.

<sup>17</sup> *Ibid.*, pp. 216 ff. StABL, AA 1010, L. 11, vol. 214, no. 7: “Item des ersten Rüttsch hûglin hanns langen zug ist verhört vnd hatt gescit das er da ze mal der vier geswornen einer were vnd es sich fügen wurde das er vnd sin mitgesellen by ein ander In hanns langen stuben warend vnd sich allerley mit ein ander vnder rettend von eynungen wegen vnd vnder allen worten hûb hanns lang uff vnd sprach lieben fründe wissend ir nût mir ist eigentlichen furkomen wie hanns muller ein nûw mesz gemacht sol haben vnd

it became clear that a “quarter” was only equivalent to six times Hans Müller’s *imkli*, while a quarter was normally the equivalent of seven times an *imkli*. A “quarter” was the measuring unit used for corn<sup>18</sup>, which was measured by volume and an *imkli* was somewhat more than a liter. In his office as village reeve, Lang took the rumor as occasion to carry out an impromptu inspection with a small group of other people, when they entered the mill in the dark of the night, and confiscated the questionable measure. Because the miller saw his reputation, honor, person, and assets, or his behavior, honor, and rights as being damaged, he submitted a claim for libel.

Even if the women had spread the gossip irresponsibly, it would nonetheless have become increasingly believable in the parish. It is interesting to note that here the discussion was about such topics in social history as honor and rumors<sup>19</sup>. In the original phases of the lawsuit, the district judge ordered the reeve to make good the damage caused to the miller through his libel of the same. It is also interesting that the suit took a positive turn for the miller from the start because of support from the district judge, Hans Schmid, who was the village reeve in Gelterkinden. During these court proceedings, he took the initiative as an influential person from the *landgraviate* of Sissach<sup>20</sup>. However, three other things are also notable: firstly the self-confidence of the high and low court jurisdiction of the local supreme judge of Sissach, Götz Heinrich von Eptingen; secondly the reaction of the parish towards their reeve Hans Lang; and thirdly the position taken by the Habsburg nobility in the legal action among peasants.

das ist also grosz dz nit me den[n] sechs in ein fierteil gangend vnd aber ze zuntzken vnd andrisswo gond sybne in ein fierteil vnd das hatt mir heintzy leimer vnd klein hanns schnider von oltingen geseit darzû so hatt mirs Claus nollinger ouch geseit das er das von steinbrüchel ouch gehört hab wie hanns mullers mesz ze grosz sy uff das antwurt Im rütsch huglin diser zuge werlich ich weisz nit vil darumb den[n] das wiben red Im dorff affter wegen gat die darusz redend er hab ein nûw mesz gemacht vnd das sy ze grosz ob aber das also sy oder nit weisz ich nût ...”.

<sup>18</sup> REGIERUNGSRAT DES KANTONS BASEL-LANDSCHAFT (ed.), *Nab dran, weit weg*, vol. 2, p. 230.

<sup>19</sup> K. SIMON-MUSCHEID, *Gewalt und Ehre im spätmittelalterlichen Handwerk am Beispiel Basels*, in “Zeitschrift für Historische Forschung”, 18, 1991, pp. 1-29; K. SCHREINER - G. SCHWERHOFF (eds), *Verletzte Ehre. Ehrkonflikte in Gesellschaften des Mittelalters und der Frühen Neuzeit* (Norm und Struktur. Studien zum sozialen Wandel in Mittelalter und Früher Neuzeit, 5), Köln - Weimar - Wien 1995.

<sup>20</sup> M. OTHENIN-GIRARD, *Ländliche Lebensweise*, pp. 408 ff.

Götz Heinrich supported his village reeve throughout the entire case, even in the face of his repeated non-appearance before court. In fact, Götz Heinrich even forbade him to appear, which can perhaps be explained by the fact that, since the 1430s, the rights of the Counts von Falkenstein, the holders of the landgrave of Sisgau, were contested within the village of Eptingen and the Eptingen inhabitants rather observed the rights of the high and blood courts<sup>21</sup>. The delimitations between high and low court jurisdiction were fluid so that the *Dorfberr* often claimed the exemption of a village from the landgraviate in court cases<sup>22</sup>. Götz Heinrich had also fought for the exemption of Sissach from the landgraviate, which meant freeing Sissach from the judicial coercion of the Sisgau court<sup>23</sup>. In the Imkli case, he was of the opinion that such affairs were alone his responsibility and they belonged in his court, not the high court of the landgrave<sup>24</sup>. However, the majority of those involved paid him no attention and his opinion was disregarded. Thus, Götz Heinrich exposed his own weakness as a leader and he was seen as being powerless.

In the following, we give the information from the legal statements, known as *Kundschaften*, which resulted from the judicial interrogation of witnesses<sup>25</sup>. The sworn statements were taken during the court proceed-

<sup>21</sup> *Ibid.*, p. 193; D. RIPPIMANN, *Unbotmässige Dörfler im Spannungsverhältnis zwischen Land und Stadt. Pratteln im 15. und zu Beginn des 16. Jahrhunderts*, in U. PFISTER (ed.), *Stadt und Land in der Schweizer Geschichte: Abhängigkeiten – Spannungen – Komplementaritäten* (Itinera, 19), Basel 1998, pp. 110-156, here p. 115; W. MERZ, *Die Burgen des Sisgaus*, vol. 3, pp. 134-178.

<sup>22</sup> On the jurisdiction see REGIERUNGSRAT DES KANTONS BASEL-LANDSCHAFT (ed.), *Nab dran, weit weg*, vol. 2, p. 227.

<sup>23</sup> H. BOOS (ed.), *Urkundenbuch der Landschaft Basel*, 3 vols, Basel 1881-1883, vol. 3, p. 967 (no. 809).

<sup>24</sup> StABL, AA 1010, L. 11, vol. 214, no. 7: “Vff semlichs her[r] Götzhainrich selber rett vnd mangerley worten darin louffen liesz wie hanns Muller das ymlin selb gen Rinfelden getragen vnd machen hette lossen vnd ander lute darin ze rot genomen vnd denen die sachen fur geleit denen es nit geburte noch zü gehorte vnd es were Im ein Intrag siner gerechtikeit wen[n] semlich sachen gehortend Im Zü vnd dientend sinen gerichtten vnd nit den hohen gerichtten vnd er hette billich die synen darin ze ratt genomen vnd niemand andren ...”.

<sup>25</sup> On the “Kundschaft” see REGIERUNGSRAT DES KANTONS BASEL-LANDSCHAFT (ed.), *Nab dran, weit weg*, vol. 2, p. 228.

ings on behalf of those involved and were protocolled in the minutes of the interrogation. In order to guarantee the unbiased consideration of evidence, witnesses for both parties were interrogated.

In the witness statements during the Imkli case, the village authorities, namely the current and previous village reeves from Sissach, the forester, and four members of the jury, accused reeve Lang of having acted on his own authority without their agreement<sup>26</sup>. He tried to move the responsibility onto the parish by claiming to have consulted with them and to have acted with their agreement, but they refused to have anything to do with him. Neither was it of any use to him that he presented many more witnesses than the complainant, as the village authorities, well respected personages and also the court judge, Hans Schmid, accused him of acting on his own authority, which was synonymous with the disruption of the parish order.

Where, however, is the participation of the Habsburg nobility to be found in the Imkli case? In the testimonies, three representatives of the Habsburg nobility indeed appear—Werner Truchsess, Wilhelm von Runs, and Marquart von Baldegg. At first, not only the accused with his supporters, but also the complainant with his supporters made a statement to the effect that they had both gone to the authorities in Rheinfelden to ascertain the correctness of the corn measure. With regard to this point, it transpired that Werner Truchsess found the capacity of the miller's imkli corn measurement to correspond to the norm, and that Wilhelm von Runs and Marquart von Baldegg, according to the wish of the miller to have a new imkli, ordered the jury in Rheinfelden to enable a new measurement to be manufactured<sup>27</sup>. The contents of

<sup>26</sup> D. RIPPmann, *Gemeinde im Widerspruch*, p. 222.

<sup>27</sup> StABL, AA 1010, L. 11, vol. 214, no. 7: "Item hanns Schmit vogt zû Gelterkingen Richter In disen sachen vnd ist hanns mullers zuge ist verhort vnd hatt geseit das Im wol In denck vnd wissen sy das hanns muller In Clewin Ernysz stuben zû Junckher wilhelm vom Runsz vnd zû Im keme vnd In rates fragt vnd Im seite er hette ein mesz von allen sinen vordren ie vnd ie gebrucht das were nit mer nütz vnd wolte brechen das er nüt mer da mit konde schaffen / vnd batt In das er Im riete wie er sich da mit halten solte // da rett Junckher wilhelm hanns muller du hast recht das du mir das seist vnd mich darumb frogest wen[n] semlichs gehört minem herren als der obren hand gen varensperg zû darumb so nim das selb alt mesz vnd kum gen rinfelden uff einen tag als er Im beschied / so wil ich ouch da sin vnd dir durch die geswornen verschaffen das dir ein ander mesz nach noturfft geben wirt // sprach hanns muller das wil ich tûn wen[n] ich wolte gar vngern da mit v[er]handlen dz nit recht oder

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