

## Between Custom and Sanction: Theft in the Vinodol Code and the Poljica Statute

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### **Abstract:**

This paper addresses the regulation of theft as an illicit act in two major medieval Croatian legal monuments: the Vinodol Code (1288) and the Statute of Poljica. Rather than offering a systematic comparison of legal systems, the study concentrates on the legal nature, normative structure, and penal treatment of theft within these statutory frameworks, situating the offence in its broader social and institutional context. The central premise is that, although medieval law did not articulate theft through modern criminal-law categories, both statutes treated it as conduct attracting distinctly criminal sanctions rather than as a purely civil wrong. Attention is directed to the criteria shaping liability and punishment, including the manner of commission, the value of the stolen property, the status of the parties, and the communal or territorial context of the offence. In the Vinodol Code, theft is predominantly addressed through graded pecuniary sanctions and restitution, reflecting a compensatory model. By contrast, the Statute of Poljica adopts a markedly stricter penal regime, frequently prescribing corporal punishment, capital sanctions, and social exclusion, thereby emphasizing deterrence and collective self-protection within a customary legal order. Both legal monuments place considerable emphasis on communal participation in adjudication, including compurgation and character-based proof, illustrating a legal culture in which property offences were regulated through collective responsibility and social control. While certain conceptual parallels with Roman law may be observed, the regulation of theft in both texts is primarily rooted in native legal traditions shaped by local social structures and customary norms. The paper situates theft as a key indicator of the criminal dimension of medieval Croatian statutory law and its role in preserving social order and communal cohesion.

**Keywords:** medieval criminal law; statutory legal particularism; customary law; penal sanctions; social control

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## Introductory considerations

The Law Code of Vinodol (1288) and the Statute of Poljica represent two of the most significant legal monuments of medieval Croatia and are widely regarded as invaluable sources for the study of pre-modern law in the eastern Adriatic. Despite their recognized historical and normative importance, both texts remain insufficiently explored with regard to the development and legal characterization of specific institutions contained within them. This is particularly true in the field of criminal law, where individual offences are often treated descriptively rather than analytically. The present study addresses this gap by focusing on the regulation of theft as an illicit act, examining its legal nature, normative structure, and punitive consequences within these two legal monuments.

Although both texts are conventionally designated as “statutes”, a term commonly associated with municipal law and medieval legal particularism,<sup>1</sup> they governed communities that were economically developed and increasingly oriented toward administrative, territorial, and fiscal autonomy. Medieval communal self-government in Dalmatia was codified in statutory texts that regulated nearly all legally relevant social relations of their time,<sup>2</sup> except those left to customary law. Where statutory provisions proved insufficient to address concrete situations, analogical reasoning was employed, and, where appropriate, principles derived from Roman law could be applied, even when not expressly incorporated into the statutory text. As a result of this practice, Roman law gradually came to be perceived as a form of *ius commune* within Dalmatian legal culture.<sup>3</sup>

Abstracting from the specific constitutional features of Dubrovnik law and the predominantly Slavic character of Poljica, Dalmatian statutory law may be broadly defined as a body of norms developed within autonomous medieval communes and primarily preserved in communal statutes. These norms, sanctioned by the ruling communal elites,

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<sup>1</sup> In medieval continental Europe, legal particularism was an advanced and defining feature of the legal order. Alongside general law applicable to the entire polity and all its subjects, regulating only a limited range of social relations, there existed a multitude of particular legal regimes. These operated either on the basis of the personal principle, governing specific groups of subjects, or on the basis of the territorial principle, applying to defined geographic areas. A gradual shift toward the consolidation and strengthening of general law, at the expense of legal particularism, can be observed only in the late phase of feudal development, most notably during the rise of absolutist monarchies. For a more detailed discussion of the concept, theoretical foundations, and historical development of statutory law within the Dalmatian territories, see: CVITANIĆ, A. Prilog proučavanju specifičnosti dalmatinskog statutarnog prava [Contribution to the study of the specificities of Dalmatian statutory law]. *Fiskovićev zbornik: zbornik radova posvećenih sedamdesetogodišnjici života Cvita Fiskovića*. 1980, vol. 2, pp. 44–45.

<sup>2</sup> Statutory law in medieval Dalmatia constituted a comprehensive normative framework, regulating not only public-law matters, such as the organization of authority, the functioning of communal institutions, and judicial procedure, but also a broad range of private-law relations. These included personal status, family relations, property, obligations, and inheritance. In this respect, communal statutes functioned as general legal codifications within their respective jurisdictions, supplemented by customary law where statutory provisions were silent.

<sup>3</sup> With regard to the relationship between customary law and the Dubrovnik Statute in particular, see: DANILOVIĆ, J. Dubrovački statut i *consuetudo* [The statute of Dubrovnik and *consuetudo*]. *Anali Pravnog fakulteta u Beogradu*, 1975, vol. 23, no. 1–2, pp. 1–25, and CVITANIĆ, A. Proemiji statuta naših primorskih komuna – specifičan koncentriran izraz srednjovekovnog shvaćanja političke vlasti i prava [The proems of the statutes of our coastal communes – a specific concentrated expression of the medieval understanding of political authority and law]. *Zbornik Pravnog fakulteta u Zagrebu*, 1967, vol. 17, no. 3–4, pp. 279–283.

regulated social relations in conjunction with customary law and were often shaped by the interests of the nobility *vis-à-vis* commoners and peasants. Their normative content reflects a complex legal synthesis, incorporating elements of Roman, Byzantine, Canon, Italian municipal, and Slavic customary law. At the same time, these statutes express the feudal structure of medieval society alongside the early emergence of proto-capitalist economic relations.<sup>4</sup> Within this legal landscape, the Law Code of Vinodol and the Statute of Poljica occupy a distinctive position. Although they developed in parallel with the statutes of coastal Dalmatian cities, they display specific normative solutions rooted in local social organization and legal tradition. Rather than undertaking a systematic comparison of legal systems, this paper adopts a focused analytical approach, examining how theft was regulated in these two texts, how it was conceptually understood, and whether it was treated as a criminal offence or as a delict of a predominantly civil nature. In this context, particular attention is paid to the Roman-law concept of *furtum*, traditionally classified as a private delict, and to the extent, if any, to which its elements can be identified in medieval Croatian legal norms governing theft. For contextual purposes, reference is also made to other medieval legal sources, including the Statute of Krk (1388), the Istrian Demarcation or Perambulation (1325), the Statute of Vepranac (1507), and the Statute of Korčula (1214). However, due to limitations of scope, these texts are not subjected to detailed analysis.<sup>5</sup>

The sources of Dalmatian statutory law, both formal and material, are difficult to delineate with precision. Statutory provisions largely codified existing legal customs, which themselves represented a composite of Roman legal principles, Byzantine institutions, ecclesiastical norms, medieval social practices, and Slavic legal traditions. While ruling elites preserved customary norms that aligned with their interests, new regulatory needs were often addressed by adapting legal models from Italian cities. This process, however, did not amount to a wholesale transplantation of foreign statutes; rather, individual norms were selectively integrated and adjusted to local social and economic conditions. The influence of Roman law in Dalmatian legal systems can be attributed to several interrelated

<sup>4</sup> CVITANIĆ, *Prilog proučavanju specifičnosti [Contribution to the study of the specificities]*, p. 50. Between the twelfth and sixteenth centuries, following developments observable throughout the Italian Peninsula, individual cities and municipalities along the Dalmatian coast adopted their own statutes. This process was especially pronounced in urban centers more deeply shaped by Romanesque culture and closely connected with economically, politically, and culturally Italian cities, most notably Venice. These statutes were most prevalent in coastal cities and communes characterized by stronger Latin, and later Italian, cultural influences, and were typically drafted in Latin or, in later periods, in Italian.

<sup>5</sup> However, the linguistic form of these statutes should not lead to the erroneous conclusion that they were alien to the Croatian or Slavic population in general. At the time of their enactment, the majority of inhabitants in these cities were of Croatian or broader Slavic origin. Although often significantly Romanized, this population actively contributed to the customary practices, social norms, and legal traditions that ultimately found expression in statutory form. Consequently, while Roman and Italian influences on Dalmatian statutes are undeniable, many provisions were directly adapted from Italian municipal statutes and the legal traditions of free Italian cities, these legal texts simultaneously incorporated indigenous Croatian and Slavic elements. Despite borrowing certain institutions from Italian models, the statutes applied primarily to a Croatian (Slavic) population and, through their practical function and social embeddedness, effectively became Croatian (Slavic) law. For a comprehensive and nuanced analysis of statutory law in the Dalmatian territories, see: STROHAL, I. *Statuti primorskih gradova i općina: bibliografski nacrt [Statutes of coastal cities and municipalities: a bibliographical outline]*. Zagreb: Jugoslavenska akademije znanosti i umjetnosti, 1911.

factors. These include the enduring legacy of Roman legal tradition in formerly Roman territories, sustained commercial and cultural interaction across the Adriatic, and the broader phenomenon of the reception of Roman law observed throughout medieval Europe. Jurists educated at Italian and French universities played a crucial role in this process, as their exposure to Roman legal doctrine informed attempts to integrate Roman concepts into local normative frameworks upon their return. Roman law thus permeated Dalmatian legal culture through historical continuity, trans-Adriatic exchange, and conscious scholarly mediation.<sup>6</sup>

Despite extensive scholarship, there remains no consensus regarding the precise nature and legal character of medieval legal systems along the Croatian coast. This divergence stems from differing interpretations and arguments presented by various authors and researchers over the years. Earlier Italian scholarship occasionally advanced the view that legal life in Dalmatia was almost exclusively Roman in character,<sup>7</sup> particularly in the sphere of private law, as exemplified by early documents such as the will of Andrija of Zadar (918).<sup>8</sup> By contrast, scholars such as M. Boras and L. Margetić have emphasized the primacy of non-Roman, Slavic legal traditions.<sup>9</sup> More recently, Margetić himself has proposed a reassessment of the role of post-classical Roman law in medieval Croatian legal practice, suggesting a more nuanced interaction between Roman and native legal elements.<sup>10</sup> Against this background, the present study does not seek to resolve the broader

<sup>6</sup> A central mechanism through which external legal influence operated was the reception of Roman law. Italian jurists, educated at early European law faculties where the *Corpus iuris civilis* formed the core of legal instruction, particularly in relation to emerging early capitalist economic relations, played a decisive role in this process. Dalmatian communes therefore frequently appointed legally trained judges from across the Adriatic to serve for fixed terms, ensuring the transmission of Roman legal concepts into local legal practice. For further discussion, see: CVITANIĆ, A. Il contributo dei giuristi marchigiani alla formazione delle leggi statutarie di Split (Spalato) [The contribution of the jurists of the Marche to the formation of the Split statutory laws]. *Atti e memorie: Deputazione di storia patria per le Marche*, 1978, pp. 11–33.

Parallel developments can be observed in inland Croatian territories. Bishop Stjepan II was instrumental in establishing the Zagreb Kaptol as a credible and authoritative institution, thereby marking the beginning of its sustained intellectual and legal prominence. During his tenure, the cathedral school in Zagreb attracted its first students educated at leading European universities, notably Paris and several Italian cities; it is generally assumed that Bishop Stjepan II himself completed his theological studies in Paris. Ivan Goricki, widely regarded as the author of the Statute of the Zagreb Kaptol and among the earliest historical and legal scholars of Pannonian Croatia, exerted significant influence on the legal culture of his time. According to Tkalčić, Goricki studied law in Bologna in the early fourteenth century. Additional evidence of academic transmission is found in records of lectures delivered by the canon law professor Angelo de Castro and others in Padua, whose students, including Blaž od Moravča, Martin od Gradene, Ivan Vitez, and Stjepan Brodarić, later returned to Croatia as prominent legal scholars (APOSTOLOVA-MARŠAVELSKI, M. Zagrebački gradec kao područje utjecaja postglosatorskog prava [Zagreb's Gradec as an area of influence of postglossator law]. *Pravni vjesnik*, 1985, vol. 1, no. 2–3, pp. 137–138).

<sup>7</sup> A representative scholarly work advancing this interpretative approach is: INCHIOSTRI, U. *Contributo alla storia del diritto romano in Dalmazia nel X e XI secolo* [A contribution to the history of Roman law in Dalmatia in the 10th and 11th century]. Trieste: Società di Minerva, 1906, p. 122 *et seq.*

<sup>8</sup> JANKOVIĆ, D. et al. *Istorija države i prava jugoslovenskih naroda* [History of the state and law of the Yugoslav peoples]. Beograd: Univerzitet u Beogradu, 1976, p. 42.

<sup>9</sup> BORAS, M. – MARGETIĆ, L. *Rimsko pravo* [Roman law]. Zagreb: Informator, 1986, s. 280.

<sup>10</sup> MARGETIĆ, L. *Rimsko pravo kao europski fenomen* [Roman law as a European phenomenon]. In: MARGETIĆ, L. (ed.). *Rimsko pravo kao europski fenomen i hrvatska pravna povijest* [Roman law as a European phenomenon and Croatian legal history]. Rijeka: Pravni fakultet Sveučilišta u Rijeci, 1997, pp. 12–28.

debate on the overall character of Dalmatian medieval law. Instead, it offers a focused contribution by examining theft as a legally regulated institute, tracing its normative construction, punitive logic, and social function within two prominent regional legal monuments. By analyzing theft as an illicit act situated at the intersection of criminal and civil liability, this paper aims to clarify whether and how Roman legal concepts, particularly *furtum*, were selectively absorbed, transformed, or rejected within the medieval Croatian legal tradition.

## 1. Law Code of Vinodol (or *Vinodol Statute*, 1288)

### 1.1 Some Observations on Social and Political Preconditions

Vinodol is identified as a region characterized by its unique geographical and administrative features. Situated along the Croatian coastline between Rijeka and Senj, spanning from Kržišić to Ledenice. Vinodol is a valley enclosed by mountains, with only two openings, near Cirkvenica and Bribir, that connect it to the sea. This geographic configuration defines Vinodol as a hinterland accessible through mountain passes.

In 1225, King Andrija II of Croatia-Hungary is traditionally held to have granted Vinodol and Modruša to Prince Vid II (Gvido) of Krk, a member of the Frankopan (Frangipani) family, as a hereditary fief. This act is generally interpreted as the formal incorporation of Vinodol into the feudal order, establishing Prince Vid as its lord and transforming the local population into feudal subjects bound by obligations of dependency.<sup>11</sup> From this perspective, the donation marked a decisive shift in Vinodol's legal and social status, aligning it with the broader structures of medieval feudal governance.

Nevertheless, both the validity and the implications of this donation remain the subject of sustained scholarly debate. Closely connected to this issue is the unresolved question of Vinodol's internal socio-territorial organization prior to the early thirteenth century. M. Kostrenčić advanced the influential thesis that Vinodol functioned as a league of autonomous rural communes, in which local communities exercised collective self-governance and the population enjoyed a relatively free status within independent territorial units.<sup>12</sup> In contrast, M. Barada argued that Vinodol resembled other administrative units in medieval Croatia and should be understood not as a federation of communes but as a distinct *županja*, that is, a territorial-administrative district under centralized authority.<sup>13</sup>

Additional perspectives further complicate the picture. Frejdenberg cautioned against drawing direct institutional continuities with antiquity, maintaining that any resemblance between Vinodol's organization and the ancient *polis* is merely typological and

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<sup>11</sup> JANKOVIĆ, D. *Istorija države i prava feudalne Srbije: XI.–XV. Vek. [History of the State and Law of Feudal Serbia: 11th–15th Century]*. Beograd: Univerzitet u Beogradu, 1951, p. 149. See especially: KLAJČ, N. Kako i kada su knezovi krčki stekli Modruš i Vinodol? [How and when did the princes of Krk acquire Modruš and Vinodol?]. *Vjesnik historijskih arhiva u Rijeci i Pazinu*, 1971, vol. 16, pp. 129–168.

<sup>12</sup> KOSTRENIČIĆ, M. *Vinodolski zakon [The Law of the Vinodol]*. Zagreb: Jugoslavenska akademija znanosti i umjetnosti, 1923, pp. 111–115.

<sup>13</sup> BARADA, M. *Hrvatski vlasteoski feudalizam po Vinodolskom zakonu [Croatian noble feudalism according to the Vinodol Law]*. Zagreb: Jugoslavenska akademija znanosti i umjetnosti, 1951; and KLAJČ, N. *Vinodol: od antičkih vremena do knezova krčkih i vinodolski zakon [Vinodol: from ancient times to the princes of Krk and the Vinodol law]*. Pazin – Rijeka: Historijski arhiv Pazin and Historijski arhiv Rijeka, 1988, pp. 109–110.

that a genuine line of continuity over several centuries is historically implausible.<sup>14</sup> More contemporary scholarship, supported by D. Janković, has tended to favor the view that Vinodol retained its traditional character as a Croatian *župa* up to 1225, functioning as an administrative and territorial unit of the early feudal Croatian state. According to this interpretation, Vinodol preserved its structural integrity even after the dynastic union with Hungary in 1102, thus maintaining a degree of institutional continuity within the evolving framework of royal authority.<sup>15</sup> These divergent interpretations underscore the complexity of Vinodol's medieval development and highlight the absence of consensus regarding its administrative and social organization before its presumed feudalization.

The problem becomes even more intricate when considering the question of when and how the Counts of Veglia (Krk) acquired possession of Vinodol. The Vinodol Code itself was drafted in the presence of Leonard, Count of Veglia, Modruš, and Vinodol, a prominent member of the powerful Frankopan (Frangipani) lineage, known earlier as the Counts of Veglia. In the sixteenth century, through a hereditary agreement,<sup>16</sup> this family admitted the Counts of Zrinski to the administration of Vinodol, before disappearing from public life in Croatia, Hungary, and Austria following the execution of Fran Krsto Frankopan and Petar Zrinski in 1671 at Wiener Neustadt. While the prevailing scholarly opinion long held that the Counts of Veglia obtained Vinodol through a royal donation (hereditary fief) in either 1223<sup>17</sup> or 1225<sup>18</sup>, Hungarian historians have for decades advanced compelling arguments that these documents related to Andrija II are forgeries.<sup>19</sup> Building on this line of inquiry, N. Klaić<sup>20</sup> conducted a systematic analysis of all known royal donations relating to Modruš and Vinodol and concluded that every such document dating from 1193 to 1322 lacks authenticity. According to Klaić, the Counts of Veglia did not acquire Vinodol through royal grants in the thirteenth century but had already established their possession of the territory by the mid-twelfth century.

Analysis of L. Margetić, undertaken in 1980<sup>21</sup>, examined the full corpus of documents by which Croatian-Hungarian kings supposedly recognized the Counts of Veglia's rights

<sup>14</sup> MARGETIĆ, L. *Iz vinodolske prošlosti: pravni izvori i rasprave* [From the Vinodol's past: legal sources and debates]. Rijeka – Zagreb: Liburnija – Školska knjiga, 1980, p. 156.

<sup>15</sup> JANKOVIĆ, *Istorija države* [History of the State], p. 150.

<sup>16</sup> LASZOWSKI, E. *Gorski Kotar i Vinodol* [Gorski Kotar and Vinodol]. Zagreb: Matica Hrvatska, 1923, p. 28. Such hereditary agreement has been published in the following work: BARABÁS, S. *Zrínyi Miklós, a szigetvári hős életére vonatkozó levelek és okiratok* [Letters and documents concerning the life of Miklós Zrínyi, the hero of Szigetvár], Vol. 1. Budapest: Magyar Tudományos Akadémia, 1898, p. 152 *et seq.*

<sup>17</sup> SMIČIKLAS, T. *Diplomatički Zbornik Kraljevine Hrvatske, Dalmacije i Slavonije* [Diplomatic Collection of the Kingdom of Croatia, Dalmatia and Slavonia], Vol. III. Zagreb: Jugoslovenska Akademije Znanosti i Umjetnosti, 1905, pp. 244–245.

<sup>18</sup> Given the presence of some textual and normative inconsistencies in the document, see: *Ibid.*; BARADA, *op. cit.*, p. 19; and KOŠOČAK, V. *Položaj Vinodola u hrvatskoj feudalnoj državi* [The position of Vinodol in the Croatian feudal state]. *Historijski zbornik*, 1963, vol. 16, no. 1–4, p. 133 *et seq.*

<sup>19</sup> KARÁCSONYI, J. *A hamis, hibáskeltű és keltezetlen oklevelek jegyzéke 1400-ig* [List of false, flawed and undated charters up to 1400]. Budapest: Magyar Tudományos Akadémia, 1902, p. 14; SZENTPÉTERY, I. *Az Árpád-Házi Királyok okleveleinek kritikai jegyzéke, I. Kötet: 1001–1270* [Critical List of the Charters of the Kings of the House of Árpád, Volume 1: 1001–1270]. Budapest: Magyar Tudományos Akadémia, 1923, p. 81, 132.

<sup>20</sup> KLAJĆ, *Kako i kada su knezovi* [How and when did the princes], p. 131 *et seq.*

<sup>21</sup> MARGETIĆ, *Iz vinodolske prošlosti* [From the Vinodol's past], p. 40 *et seq.*

over Vinodol. He concurred with N. Klaić's conclusions, finding that even the earliest document, the alleged donation of Modruš in 1193 to Count Bartol cannot be regarded as authentic or reliable in the form in which it has survived. More plausibly, the royal charters concerning Modruš and Vinodol did not constitute acts of original enfeoffment but merely provided formal legal recognition of an existing state of affairs, namely the prior possession of these territories by the Counts of Veglia. In this light, the traditional narrative of a decisive transfer of Vinodol in 1225 must be reconsidered. The evidence suggests instead that the Counts of Veglia already exercised control over Vinodol in the twelfth century and sought royal confirmation of their authority at a later stage. This situation closely parallels developments on the island of Veglia itself, where the counts similarly held *de facto* power and subsequently secured legal recognition from Venice shortly after 1118. Such a reinterpretation not only reshapes our understanding of Vinodol's political history but also reinforces the view that feudal relations in the region evolved gradually, through processes of legitimation and consolidation, rather than through abrupt legal transformations.<sup>22</sup>

## 1.2 The Law Code in Light of Criminal Justice

The promulgation of the Vinodol Code under the authority of the Frankopans, most notably Prince Leonard, was a deliberate and carefully orchestrated undertaking. By convening respected and senior representatives of the Vinodol communities, the lord sought to commit existing customary norms to writing and to present the codification as an expression of established local practice.<sup>23</sup> Despite this outward appearance of participatory or even democratic legitimacy, the Code functioned primarily as a normative instrument of Frankopan authority. The repeated invocation of "ancient, venerable, and experienced laws"<sup>24</sup> served

<sup>22</sup> Cf. MARGETIĆ, *Iz vinodolske prošlosti [From the Vinodol's past]*, p. 45 *et seq.*

<sup>23</sup> The manuscript of the Vinodol Law Code was written on fourteen sheets of parchment, each measuring approximately 23 × 16.5 cm. The recto of the first sheet and the final ten pages remain blank, while the last two or three sheets contain later marginal notes concerning the age of the manuscript. In total, the manuscript comprises seventeen written pages. According to A. Mašuranić, the normative text itself consists of 486 lines. Several initial letters are richly ornamented, and certain provisions are accompanied by illustrative elements that frequently correspond to the substantive content of the respective articles. Notably, a number of provisions lack original titles or numerical designations; these were supplied subsequently by later editors and publishers. The text opens with a proem outlining the circumstances of its creation and concludes with interpolations that postdate the year 1280, indicating later stages of textual development. The dating of the manuscript has been the subject of scholarly debate. V. Jagić and F. Rački situate its origin in the late fifteenth or early sixteenth century, considering it a transcript of one of the original versions referred to in the statute's introduction. By contrast, R. Strohal argues for a later date, placing the manuscript in the second half of the sixteenth century on the basis of palaeographic analysis and stylistic features characteristic of Vinodol writing from that period. In support of this position, Strohal refers to a document dated 1565 employing the same terminology (*gradi*) mentioned in the Vinodol Code's proem, suggesting that its author was well acquainted with the Vinodol legal tradition. An earlier document from 1505, authored by J. Arbanosić, further corroborates the continuity of legal language and conceptual familiarity with the Vinodol norms (RAČKI, F. – JAGIĆ, V. – CRNČIĆ, I. *Hrvatski pisani zakoni: Vinodolski, Poljički, Vrbanski a donekle i svega Krčkog otoka, Kastavski, Veprinački i Trstanski [Statutes written in Croatian language: Vinodol, Poljica, Vrbanski, and to some extent of the island of Krk, Kastavski, Veprinački and Trstanski]*. Zagreb: Jugoslovenska akademija znanosti i umjetnosti, 1890, pp. III–VII (3–4); KOSTRENČIĆ, *op. cit.*, pp. 98–100).

<sup>24</sup> The promulgation of the Vinodol Law Code must be understood within the broader effort to record and formalize customary law along the eastern Adriatic coast in the latter half of the thirteenth century. Determined not to remain behind other communal centers, the municipalities of Vinodol convened in 1288,

less to preserve communal autonomy than to legitimize and stabilize feudal obligations imposed upon the local population. In this respect, the Vinodol Code exhibits features closely analogous to those of an *urbarium*, insofar as it sought to consolidate seignorial rights and regulate the economic and personal dependencies of the inhabitants.<sup>25</sup> The Law Code itself was written in Glagolitic script of the Chakavian dialect of Croatian language.<sup>26</sup>

At the same time, the Vinodol Code occupies a distinctive place in the legal history of medieval Croatia. It represents one of the earliest known codifications produced within a feudal context and is particularly significant for having been drafted in the vernacular, thereby marking a crucial stage in the transition from orally transmitted customary law to written normative regulation. In this regard, it invites comparison with the *Russkaya Pravda*, the earliest compilation of Old Russian law, preserved primarily in a fifteenth-century Novgorod manuscript, which similarly reflects the recording of archaic legal customs in written form.<sup>27</sup> Notwithstanding its conventional designation as a “law,” the Vinodol Code does not conform to the strict juridical definition of legislation in the modern sense, as Vinodol itself neither constituted a sovereign state at the time of its promulgation nor at any subsequent point. Rather, the Code is more appropriately understood in relation to regional statutory texts, such as the Mošćenički and Vepranički statutes of Istria, which likewise focused on regulating relations between feudal lords and dependent rural populations. In terms of legal substance, these texts share affinities with *urbarium* regulations, though they also display distinctive normative features. Accordingly, the Vinodol Code may best be classified within the broader genre of medieval statutes, while simultaneously representing a particular variant of the *urbarium* tradition, distinguished by its scope, structure, and integration of customary legal norms.<sup>28</sup>

The Vinodol Code contains an extensive enumeration of offenses to which specific penalties are attached, reflecting a relatively advanced attempt at normative regulation within a medieval legal framework. The effort to systematize these offenses has been undertaken most notably by M. Kostrenčić<sup>29</sup> and M. Barada<sup>30</sup>, whose analytical contributions remain indispensable for understanding the internal structure of the code. Nevertheless, scholarship has not sufficiently emphasized the extent to which the Code, like other medieval codifications, diverges fundamentally from modern criminal law concepts. Most importantly, the principle *nullum crimen sine lege* was clearly not operative within this legal

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when, as stated in the proem, “all the people of Vinodol, both clergy and laymen” assembled in Novi Grad “in due order” to commit *their* “good old and tested laws” to writing. This undertaking did not merely record the rights of the Vinodol population but also articulated their obligations toward secular and ecclesiastical authorities, namely the prince and the bishop. The reference to the document known as *Vinodolski ludi*, which allegedly contained these ancient customary norms, serves as an introductory framework for the Vinodol Code and underscores its foundation in pre-existing legal tradition (Cf. KLAIĆ, N. *Izvori za hrvatsku povijest do 1526. godine* [Sources for Croatian history until 1526]. Zagreb: Školska knjiga, 1972, pp. 156–161).

<sup>25</sup> ČULINOVIĆ, F. *Državopravna historija jugoslavenskih zemalja* [State and legal history of the Yugoslav countries]. Zagreb: Školska knjiga, 1961, pp. 75–76.

<sup>26</sup> HAMAN, D. *The Influence of the Zakón Súdnyi Liúdem on the Vinodol Law and the Medieval Croatian Legal System*. Newcastle upon Tyne: Cambridge Scholars Publishing, 2024, p. 35.

<sup>27</sup> ČULINOVIĆ, *op. cit.*, p. 77.

<sup>28</sup> JANKOVIĆ, *Istorija države* [History of the State], pp. 150–151.

<sup>29</sup> KOSTRENIĆ, *Vinodolski zakon* [The Law of the Vinodol], p. 126 *et seq.*

<sup>30</sup> BARADA, *Hrvatski vlaseoski feudalizam* [Croatian noble feudalism], p. 19.

order. This conclusion follows directly from the wording of Article 39, which stipulates that no complaint may result in a penalty exceeding 6 *libars*, except in cases of explicitly enumerated acts of violence.<sup>31</sup> By implication, the court was authorized to punish offenses not expressly mentioned in the text, provided that the imposed penalty remained below this threshold. The provision thus pursued a dual purpose. On the one hand, it ensured the punishability of socially harmful conduct not exhaustively defined by the Code. On the other, and perhaps more significantly, it functioned as a safeguard against arbitrary or excessive financial penalties imposed by the count and his court upon the tenant population. In this sense, Article 39 offers important evidence that the Code was not merely a unilateral expression of authority, but the product of negotiation between the representatives of the tenants and the lord, with the latter retaining a supervisory role in the legislative process.<sup>32</sup>

Equally significant is the question of culpability as a prerequisite for criminal liability. It has often been argued that the Vinodol Code operated according to a purely objective model of liability, punishing the act (*actus*) rather than the offender's intent.<sup>33</sup> However, this interpretation cannot be sustained upon closer examination of the text. As early as 1881, the Russian legal historian Vladimirski-Budanov<sup>34</sup> challenged this view, and the internal evidence of the Code supports his position. Articles 27, 62, and 64 clearly differentiate between intentional and negligent forms of conduct, as we will see in particular later in this paper, demonstrating that the Code was sensitive to degrees of culpability. It is therefore highly improbable that such a distinction was absent in the case of homicide, especially in light of comparable contemporary sources. Notably, the Golden Bull of 1242,<sup>35</sup> which codified key aspects of the legal order of the city of Zagreb, explicitly distinguishes between killing committed in play *sine premeditata malicia* and intentional homicide. The Vinodol Code must thus be situated within a broader legal culture that, while not systematized in modern doctrinal terms, nonetheless recognized intent as a legally relevant factor.

### 1.3 Theft between Custom, Statute, and Sanction

This section is devoted to an examination of theft as a distinct illicit act within the normative framework of the Vinodol Law Code, with particular attention to the possible orientation and indirect influences of the Roman legal tradition. The analysis is conducted primarily through a comparative lens, drawing parallels with the Roman-law delict *furtum*, not in order to posit a direct reception of Roman legal institutions, but rather to contextualize the Vinodol provisions within broader legal-historical patterns. It is essential to

<sup>31</sup> MARGETIĆ, L. La Legge del Vinodol (1288) e L'Urbario di Grobnico (1700) [The Vinodol Law (1288) and the Grobnik Urbarium (1700)]. *Atti*, 1982, vol. XII, no. 1, p. 178; HAMAN, *The Influence*, s. 43.

<sup>32</sup> HAMAN, *The Influence*, s. 43.

<sup>33</sup> ŠILOVIĆ, J. *O razvoju krivnje u hrvatskom kaznenom pravu* [On the development of culpability in Croatian criminal law]. Zagreb: Jugoslovenska akademija znanosti i umjetnosti, 1912, p. 157; KOSTRENIČIĆ, *op. cit.*, s. 203; and MILOVIĆ, Đ. Nešto o mjestu i tretmanu vinosti u riječkom krivičnom pravu XVI stoljeća [Something about the place and treatment of culpability in Rijeka's criminal law of the 16th century], *Vjesnik historijskih arhiva u Rijeci i Pazinu*, 1972, vol. 17, p. 183.

<sup>34</sup> VLADIMIRSKIY-BUDANOV, M. F. Neizdannyye zakony yugozapadnykh slavyan [Unpublished laws of the southwestern Slavs]. *Zhurnal ministerstva narodnogo prosveshcheniya*, 1881, vol. 204, pp. 314–315.

<sup>35</sup> SMIČIKLAS, T. *Diplomatički Zbornik Kraljevine Hrvatske, Dalmacije i Slavonije* [Diplomatic Collection of the Kingdom of Croatia, Dalmatia and Slavonia], Vol. III. Zagreb: Jugoslovenska Akademije Znanosti i Umjetnosti, 1906, p. 173.

emphasize the deliberately narrow and specific nature of this inquiry. The term “specific” is appropriate insofar as no direct incorporation of Roman legal norms can be demonstrated within the text of the Vinodol Code, nor are there identifiable traces of systematic borrowing from Roman law. Indeed, some scholars categorically reject the possibility of any Roman influence, whether on the substantive provisions concerning theft or on the overall structure of the Code.<sup>36</sup> Nevertheless, it is well established that the Frankopans, as feudal lords, sought to consolidate and formalize native legal customs into a coherent written instrument, motivated primarily by pragmatic considerations of governance and control. From this perspective, a methodological examination of the process by which customary norms were collected, structured, and codified allows for the hypothesis that Roman legal influence, if present at all, operated indirectly. Such influence may have been mediated through the legal customs themselves, which constituted the substantive foundation of the Vinodol Code. While this hypothesis has been articulated in the scholarship for several decades and appears in the works of multiple authors, it remains weakly substantiated, as convincing empirical arguments in its favor are scarce. This deficiency is largely attributable to the persistence of scholarly paradigms that conceive “people’s law” or customary law as an organic product of a given society, reflecting its internal historical, cultural, and ethnographic conditions, and thus largely insulated from external legal traditions.

From a historical perspective, particularly within the Balkan context, this view appears problematic. The region was characterized by centuries of population movements, political transformations, and sustained intercultural contact, all of which left discernible traces in social practices and legal customs. One of the most prominent proponents of Roman legal influence on the customary law of the populations broadly categorized as “South Slavs” was V. Bogišić, a jurist, legal historian, and legal ethnologist. Through extensive comparative research, V. Bogišić assembled a substantial body of material on South Slavic legal customs, arguing that certain legal institutions within this corpus exhibit structural and functional affinities with Roman law. By identifying correlations between customary norms and Roman legal concepts, V. Bogišić advanced the thesis that Roman legal traditions exerted a long-term, indirect influence on the formation and evolution of these legal cultures.<sup>37</sup>

<sup>36</sup> For instance, see: KOSTRENČIĆ, *op. cit.*, p. 126 *et seq.*

<sup>37</sup> BOGIŠIĆ, V. *Na “ocjenu” Zbornika sadašnjih pravnih običaja u južnih Slovena [On the “evaluation” of the Collection of Current Legal Customs among the South Slavs]*. Spljet (Split): Tiskom Antuna Zanonnia, 1877. In his comparative legal studies, V. Bogišić emphasized the significance of customary practices that reveal discernible influences of Roman-Byzantine law. One such example concerns inheritance customs relating to childless widows, who, in certain regions, would return to their paternal household, provided their father was still alive, and receive one quarter of their deceased husband’s estate. Bogišić identified analogous practices in villages such as Leskovac and Odžakovo in the Tarnovo region of Bulgaria, arguing that these norms exhibit structural affinities with Roman-Byzantine legal concepts governing marital property and succession (BOGIŠIĆ V. *Pravni običaji u Slovena: Privatno pravo [Legal customs among the Slavs: Private law]*. Zagreb: Štamarija Dragutina Albrechta 1867, p. 43).

In a further comparative analysis, V. Bogišić drew attention to parallels between archaic Roman legal institutions and customary law in Montenegro, particularly with regard to the concept of *peculium*. In Roman law, children initially lacked *peculium*, with later legal developments introducing differentiated forms such as *peculium castrense*, *quasi castrense*, *profectitium*, and *adventitium*. Similarly, Montenegrin customary law was characterized by the absence of a comparable proprietary sphere for male family members, reflecting a distinct yet conceptually analogous approach to family property relations. These observations

The present analysis of theft within the Vinodol Law Code follows a similar comparative methodology. By examining the regulation of theft in both systems, the aim is to identify convergences and divergences while avoiding assertions of direct legal reception. One of the most significant distinctions emerging from this comparison concerns the legal qualification of delicts. In Roman law, delicts functioned primarily within the sphere of private law, serving as sources of obligations and giving rise to specific legal actions.<sup>38</sup> By contrast, in the Vinodol Code delicts are firmly embedded within the domain of criminal law, a feature characteristic of medieval legal codifications.<sup>39</sup> This difference represents a fundamental conceptual divergence between the two systems. The internal structure of the Vinodol Code reinforces this observation. The overwhelming majority of its provisions are devoted to the regulation of criminal conduct and the imposition of penalties, predominantly pecuniary fines, whereas matters of civil and private law receive only marginal attention.<sup>40</sup> Criminal offenses are grouped into four principal categories: (i) offenses against the prince and the court, (ii) offenses against property, (iii) offenses against the person, and (iv) offenses against religious norms. Within this framework, theft occupies a prominent position among offenses against property. Although Roman law designated this offense as *furtum*, the Vinodol Code employs a different terminological designation, reflecting its distinct normative environment.

The Vinodol Code classifies theft as a criminal offense in two principal forms: simple theft and aggravated (or qualified) theft. Simple theft was punishable by a fine of 40 *soldina*, equivalent to two *libars*, whereas aggravated theft carried a substantially higher penalty of 50 *libars*. Aggravating circumstances included theft committed within urban settlements, theft committed at night, and cases in which the victim called for assistance, indicating that the perpetrator was apprehended *in flagrante delicto*.<sup>41</sup> This classification

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reinforce the view that medieval customary law in the South Slavic territories, while autonomous in form, cannot be fully understood without reference to the broader Roman legal tradition that permeated the region (BOGIŠIĆ, V. *Zbornik sadašnjih pravnih običaja u južnih Slovena: knjiga prva [Collection of current legal customs among the South Slavs: book one]*. Zagreb: Tisak dioničke tiskare, 1874; BOGIŠIĆ, V. *Gradja u odgovorima iz različitih krajeva Slovenskog juga [Material in responses from different parts of southern Slavic territories]*. Zagreb: Jugoslavenska akademija nauka i umjetnosti, 1874, s. LVI (56); and KRSTIĆ, Đ. *Pravni običaji kod Kuča [Legal customs among the Kuča]*. Beograd: Srpska akademija nauka i umjetnosti: Balkanološki institut, 1979).

<sup>38</sup> ZIMMERMANN, R. *The Law of Obligations: Roman Foundations of the Civilian Tradition*. Oxford: Oxford University Press, 1996, pp. 902–904; RESKUŠIĆ JARAMAZ, I. Theft in Roman law: *delictum publicum and delictum privatum*, *Zbornik Pravnog fakulteta u Zagrebu*, 2007, vol. 57, no. 2, pp. 313–352; BIRKS, P. A note on the development of *furtum*, *Irish Jurist*, 1973, vol. 8, no. 2, pp. 349–355.

<sup>39</sup> MILOVIĆ, Đ. *Nešto o mjestu i tretmanu [Something about the place and treatment]*, p. 183; MILOVIĆ, Đ. *Politički delikti po statutu riječkom iz 1530. godine [Political offenses under the Rijeka Statute of 1530]*. *Vjesnik historijskih arhiva u Rijeci i Pazinu*, 1963–1964, vol. 8–9, pp. 28–30; BRATULOVIC, Ž. *Neka pitanja stvarnih i obveznih prava: Vinodolski zakon (1288.), Krčki i Senjski statut (1388.): Suvodnim razmatranjem o povijesti otoka Krka, Vinodola i Senja od antike do konca XV. stoljeća [Some issues of property and law of obligations: Vinodol Law (1288), Krk and Senj Statute (1388): With an introductory discussion on the history of the islands of Krk, Vinodol and Senj from antiquity to the end of the 15th century]*. Rijeka: Sveučilište u Rijeci, Sveučilište u Rijeci, Pravni fakultet, 1998.

<sup>40</sup> KOSTRENČIĆ, *op. cit.*, 123.

<sup>41</sup> Ibidem, p. 280, and BRATULIĆ, J. (ed.). *Vinodolski zakon 1288 [Law Code of Vinodol of 1288]*. Zagreb: Globus-Nacionalna i Sveučilišna Biblioteka-Jugoslavenska akademija znanosti i umjetnosti-Pravni fakultet, 1988.

invites comparison with Roman law as early as the Law of the Twelve Tables, which distinguished between *furtum manifestum* (theft caught in the act) and *furtum nec manifestum* (theft not caught in the act). Despite this apparent parallel, the Roman system imposed considerably more severe financial penalties: *furtum manifestum* entailed a penalty of four times the value of the stolen object, while *furtum nec manifestum* was sanctioned at double its value.<sup>42</sup> By contrast, the Vinodol Code exhibits a narrower disparity between penalties for simple and aggravated theft. Both systems also accorded importance to witness testimony, though in different procedural contexts. The Vinodol Code prescribed specific evidentiary requirements, namely five witnesses for simple theft and eleven for aggravated theft, whose role was to establish the accused's innocence rather than the prosecution's case. Another noteworthy similarity lies in the exclusive reliance on pecuniary sanctions.<sup>43</sup> Like the later, especially classical, phases of Roman law, the Vinodol Code refrained from imposing penalties aimed at the personal status or bodily integrity of the offender, focusing instead on monetary punishment.<sup>44</sup>

Nevertheless, the differences between the two systems are more substantial and more consequential than these limited similarities. The most fundamental distinction lies in the legal nature of theft itself. In the Vinodol Code, theft is unequivocally classified as a criminal offense, whereas in Roman law it retained a predominantly civil-law character. This divergence profoundly alters the theoretical foundations, practical application, and social objectives of the respective legal institutions, even if the broader social function of punishment, namely deterrence and restoration of order remains comparable. Furthermore, the Vinodol Code does not recognize the Roman-law distinctions between *furtum conceptum* and *furtum oblatum*, nor does it provide for any form of procedural remedy analogous to the Roman *actio*. Instead, the Code structures the offense of theft according to the status and identity of the victim. Theft from the prince, his palace, or his servants was punished with a fine amounting to seven times the value of the stolen object. A similar sanction applied to theft committed against ecclesiastical persons or within churches and monasteries. Theft from the docks of Vinodol incurred a fixed penalty of 24 *libars*.<sup>45</sup>

As previously indicated, the limited points of convergence between the Vinodol Law Code and Roman law in the regulation of theft are primarily confined to the treatment of apprehension in *flagrante delicto* and the qualification of nighttime commission as an aggravating circumstance. In Roman legal thought, illicit acts, particularly theft were regarded as posing a heightened threat to public order when committed under the cover of night, a perception that exerted a durable influence on later legal traditions and found expression in numerous medieval codifications across regions shaped by Roman legal culture. A clear illustration of this continuity is provided by the Statute of the city of Split

<sup>42</sup> KASER, M. *Das römische Privatrecht. Zweiter Abschnitt: Die nachklassischen Entwicklungen [Roman Private Law: Second Section: Post-Classical Developments]*. München: C. H. Beck'sche Verlagsbuchhandlung, 1975, pp. 434, 573; DEVISE, F. *Droit romain: du Vol entre époux. Droit criminel: des Délits contraventionnels*. Thèse pour le doctorat. Paris: Faculté de droit de Paris, 1893, pp. 7–8, 15; WATRIN H. *De la responsabilité civile*. Thèse pour le doctorat. Paris: E. Duchemin Libraire-Éditeur, 1873, pp. 24, 31, 36.

<sup>43</sup> ZORIČIĆ, G. *Kazneno procesno pravo po Vinodolskom zakonu [Criminal procedural law according to the Vinodol's Statute]*. *Pravnik*, 2011, vol. 45, no. 50, pp. 135–152.

<sup>44</sup> KOSTRENIČIĆ, *op. cit.*, p. 209.

<sup>45</sup> *Ibidem*, p. 210.

(*Spalatum*) of 1312, which prescribes the doubling of penalties for unlawful acts, including theft, when committed during nighttime hours, defined as the interval from the third evening bell marking the commencement of the city watch until the morning church service.<sup>46</sup>

Within the Vinodol Law Code itself, the social and economic gravity attributed to certain forms of theft is further evidenced by the explicit regulation of agricultural products, most notably wheat. Articles 8 and 10 of the Code refer directly to wheat and its central importance to the subsistence economy of the medieval community. Article 8 provides that a person who, during the night, steals an animal from a stable, wheat from the threshing floor, or honey from a beehive is liable to a fine of 50 *libars* if the offense is accompanied by a cry for help (*clamor*), whereas theft committed during the day, or at night without such a cry, incurs a penalty of 40 *soldina*, in addition to double restitution of the damage caused. The explicit inclusion of wheat alongside livestock and honey, resources essential for survival and agricultural production, demonstrates that such offenses were considered sufficiently serious to warrant formal written regulation rather than reliance on unwritten customary procedures prevailing at the time.<sup>47</sup> At the same time, despite the evident continuity in treating nighttime theft as an aggravated form of the offense, legal scholarship has not reached a consensus regarding the underlying rationale for this qualification. Although the aggravating significance of nocturnal commission is observable in Roman law at various stages of its development, neither Roman jurists nor medieval legislators articulated a clear theoretical justification for this approach. It is therefore plausible to assume that this reasoning originated in broader social norms and unwritten traditions, reflecting a communal perception that offenses committed during periods of reduced social activity and visibility posed a greater threat to collective security.<sup>48</sup> Acts carried out at night were likely viewed as more dangerous, deceitful, and disruptive to social order, particularly when accompanied by *in flagrante delicto* apprehension. Nevertheless, this derivative explanation cannot be directly attributed to Roman legal doctrine itself, but rather appears to reflect a shared cultural and normative understanding that was subsequently absorbed into medieval legal codifications, including the Vinodol Law Code.

## 2. Poljica Statute

### 2.1 Custom, Canon Law, and Roman Influence

Alongside the Vinodol Law Code, the Statute of Poljica occupies a prominent position among the most significant legal sources and monuments of feudal Croatia. The region of Poljica extends southeast of Split (*Salona*), bounded by the port of Donja Cetina and the coastal area between the mouths of the Cetina and Žrnovnica rivers. The Statute of Poljica stood as the principal legal source governing this territory. Composed in the vernacular and written in a native script, it represents an exceptional example of medieval

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<sup>46</sup> CVITANIĆ, A. (ed. trans.). *Statut grada Splita; Srednjevekovno pravo Splita [Statute of the city of Split; Medieval law of Split]*. Split: Književni krug 1985, pp. 227–228.

<sup>47</sup> HAMAN, D. The Vinodol Law provisions related to wheat as the most important agricultural crop in the Middle ages, *Proceedings of the 56th Croatian & 16th international symposium on agriculture*. Osijek: Fakultet agrobiotehničkih znanosti Sveučilišta Josipa Jurja Strossmayera u Osijeku, 2021, pp. 420–423.

<sup>48</sup> Cf. HARRIES, J. The thief in the night. In: CARTLEDGE, P. A. – GARNSEY, P. D. A. (eds.). *Law and Crime in the Roman World*. Cambridge: Cambridge University Press, 2007, pp. 43–58.

legal codification. An examination of its distinctive characteristics in comparison with contemporaneous legal texts provides a valuable framework for investigating the possible influence of other legal traditions within its provisions. This inquiry is particularly justified by several historical and contextual factors, which are reassessed in this study through a revised analytical perspective.

Scholarly research has consistently demonstrated that the application of Statute was shaped by a combination of customary law, canon law, and Roman law, with customary norms occupying a central position, much as they do in the Vinodol Law Code.

Throughout the Middle Ages, legal codification was predominantly grounded in custom, albeit continuously influenced by earlier legal systems. Canon law (*ius ecclesiasticum*), in particular, exerted a profound influence on the legal order of Poljica. Drawing upon Roman legal principles, norms derived from the Old Testament, and the ethical teachings of the Church Fathers, canon law formed a comprehensive doctrinal framework.<sup>49</sup> Parallel to the development of canon law, Roman law as substantial element of it, played a crucial role in shaping medieval legal thought. The interaction and eventual synthesis of Roman and canon law brought about significant social and legal transformations between the tenth and thirteenth centuries. Initially received in Italy, Roman law responded to the practical needs of late medieval urban communities, particularly artisans, merchants, and emerging entrepreneurial classes, who required legal mechanisms suited to increasingly complex economic and social relations. This reception stood in contrast to the fragmented legal landscape of the Middle Ages and contributed to the gradual unification of medieval society through the establishment of a more coherent and rational legal system.<sup>50</sup>

In seeking to identify the historical foundations of the norms and provisions contained in the Statute of Poljica, this study adopts an innovative analytical approach that examines the text through the prism of Roman legal influence. Such influence, where present cannot be understood as a direct or systematic reception of Roman law in its classical form. Rather, it must be approached as a mediated, partial, and contextually adapted phenomenon, embedded within a broader matrix of legal traditions. This raises a fundamental question: if the Statute of Poljica does not represent a straightforward reception of Roman law, in what form and to what extent can Roman legal concepts be said to have shaped its normative structure?

The justification for adopting this approach lies in the prevailing scholarly consensus regarding the origins and composition of the Statute's legal provisions. Existing literature consistently emphasizes the relevance of Roman law, particularly in light of Poljica's geographical position and its long-term socio-historical development within a region marked by sustained Roman presence.<sup>51</sup> Against this background, the present study seeks

<sup>49</sup> The Church's authority to enact binding legal norms was formally recognized as early as the Council of Ancyra in 314 AD and was further reinforced when Charlemagne mandated the application of canon law as state law in 779 AD (ELLUL, J. *Histoire des Institutions de l'Antiquité*, Vol. 1–2. Paris: Presses Universitaires de France, 1958, p. 517; and ROSELLI, G. *Forme di potere e struttura sociale in Italia nel Medioevo* [Forms of power and social structure in Italy in the Middle Ages]. Bologna: Il Mulino, 1977, pp. 146–147).

<sup>50</sup> PERA, M. *Poljički Statut* [Poljica Statute]. Split: Književni krug, 1988, pp. 240–241.

<sup>51</sup> The Roman presence in the territory of Poljica, a crucial contextual element for the present inquiry, can be traced back to Roman military interventions along the Dalmatian-Croatian coast in 229 and 228 BC. During the civil war between Caesar and Pompey, the nearby city of Salona sided with Caesar and was rewarded with the status of a Roman colony. The process of Roman urbanization intensified particularly during the

to determine whether Roman legal influence can be identified in the regulation of theft, the primary focus of this paper, and, if so, to clarify its nature, scope, and mechanisms. This inquiry proceeds in comparative dialogue with the Vinodol Law Code, which, while exhibiting certain analogies between customary legal norms and Roman legal concepts, does not constitute a comprehensive reflection of Roman law. By reassessing this issue through a focused doctrinal and contextual analysis, the study aims to contribute greater conceptual clarity to a long-standing scholarly debate concerning the origins and external influences shaping the legal system of Poljica.

The analytical premise underlying this study is grounded in the observation, articulated by Cvitanić and other scholars, that the legal norms of Poljica were shaped by a complex interaction of Lombard law, Canon law, and regional customary practices.<sup>52</sup> At the same time, a substantial body of scholarship<sup>53</sup> has long maintained that Roman law permeated the Statute of Poljica through two principal channels. The first operated indirectly, via canon law, which itself incorporated and systematized numerous Roman legal principles. The second involved the reception of Roman legal concepts through native legal customs that had developed under Roman influence, particularly in territories with deep-rooted Roman administrative and legal traditions. These dual influences reached Poljica primarily through ecclesiastical and educational institutions, most notably the cathedral school in Split, which functioned as a conduit for legal knowledge and intellectual exchange.<sup>54</sup>

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reign of Emperor Claudius in the mid-first century AD, leaving a lasting administrative, social, and legal imprint on the region (PERA, M. Prilog problemu naziva grada Splita [Contribution to the problem of the name of the city of Split]. *Kulturna baština*, 1979, vol. 9–10, pp. 30–33). These developments indicate that Roman governance, including its legal institutions, profoundly shaped local customs and social practices, many of which persisted long after the fall of the Roman Empire. In the medieval period, such traditions constituted an important substratum for the codification of law in feudal states, duchies, cities, and autonomous communities.

<sup>52</sup> Nevertheless, given the dominant role of customary law in Poljica, Roman law did not initially exert a decisive influence on its legal order. Unlike the coastal cities and islands of Dalmatia, where Roman law played a far more pronounced role through municipal statutes, Poljica preserved a predominantly customary and Slavic legal character. The incorporation of Roman legal elements occurred only gradually and selectively, paralleling the transformation of Poljica's social structure, from tribal and clan-based organization toward more developed feudal relations and, eventually, forms of production grounded in private property. This legal acculturation likely took place indirectly, through the reception of norms found in the statutes of neighboring urban centers, which served as primary channels for the transmission of Roman legal concepts (CVITANIĆ, A. O važnosti proučavanja specifičnosti poljičkog statutarnog uređenja [On the importance of studying the specificities of Poljica's statutory organization]. In: GRGA, N. (ed.). *Poljički zbornik: svezak drugi [Poljica's Collection: Volume Two]*. Zagreb: Kulturno-prosvjetno društvo poljičana – Matica Hrvatska, 1971, pp. 75–76).

<sup>53</sup> *Ibid.*, and references used by the author.

<sup>54</sup> PERA, *Poljički Statut*, p. 241. A concrete example of this selective reception is highlighted by V. Bogišić, who points to Heading CXII in Mesić's edition of the Statute of Poljica (Article 49c in Jagić's edition), entitled "Law of Sons and Fathers". According to Bogišić, this provision is essentially a paraphrase of the third chapter of Justinian's well-known Novel concerning *iustae causae ingratiitudinis*, which enumerates the grounds upon which parents could bring accusations against their children. Such instances demonstrate that Roman legal influence in Poljica was neither systematic nor comprehensive, but rather fragmentary and adapted to local needs (Cf. BOGIŠIĆ, V. *Pisani zakoni na slovenskom jugu, bibliografski nacrt: I. zakoni izdani najvišom zakonodavnom vlašću u samostalnim državama [Written laws in the southern Slavic territories, bibliographic draft: I. laws issued by the highest legislative authority in independent states]*. Zagreb: Jugoslavenska akademija znanosti i umjetnosti, 1872, pp. 116–120).

Within the normative framework of the Poljica Statute, as noted, customary law occupied a position of primary importance. Legal custom was not merely a subsidiary source applied in the absence of written norms, but also a complementary source that served to elucidate, interpret, and contextualize statutory provisions. Customary norms emerged through habitual practice, shaped by repeated social behavior and refined through experience over time. This gradual and adaptive process enabled customary law to respond effectively to concrete social needs, thereby constituting a dynamic and resilient legal framework.<sup>55</sup>

The codification of Poljica's legal norms arose from specific historical circumstances that demanded legal articulation and institutional stability. Each emerging social need required a corresponding normative response.<sup>56</sup> In this sense, the Statute of Poljica was a product of its historical moment, reflecting the aspirations of Poljica's community, particularly its pursuit of political and legal autonomy in relation to medieval Croatian and Venetian authorities. The codification of customary law in the fourteenth century was primarily undertaken by the literate elite of Poljica, notably members of the clergy, who possessed both the technical competence and intellectual resources necessary for such an undertaking. The Statute itself demonstrates a high level of legal sophistication and a nuanced understanding of the prevailing social consciousness. Its primary objective was to reduce normative ambiguity and inconsistency, thereby establishing a legal order grounded in rational coherence and internal consistency.<sup>57</sup> Legal codification in this context represents a deliberate legislative act rather than a purely organic expression of social practice. Such codification presupposes a stage of societal development in which legal knowledge and institutional awareness transcend mere subsistence. This condition materialized most clearly between the twelfth and fourteenth centuries, a period marked by the revival of legal scholarship in centers such as Rome, Pavia, and Ravenna, and later most prominently in Bologna.<sup>58</sup> During this period, Roman law increasingly gained recognition as positive law across various European territories, even as feudal fragmentation produced a proliferation

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<sup>55</sup> PERA, *Poljički Statut*, p. 248; GUILLAUME, P. *La formation des habitudes*. Paris: Presses Universitaires de France, 1968, pp. 28, 52. At the same time, the legal order of Poljica remained deeply rooted in indigenous customs and archaic modes of social regulation. Building upon the cultural foundation of fraternity and collective responsibility, dispute resolution relied on ancient mechanisms, including traditional Slavic forms of assurance and sanction. Acts such as theft caught in the act were punished through severe and archaic measures, as exemplified by Article 37d of the Statute, reflecting a legal mentality grounded more in customary justice than in Roman doctrinal distinctions.

<sup>56</sup> The provisions of the Poljica Statute are closely intertwined with the lived reality of the Poljica community, meticulously recording even slow and infrequent social changes. These transformations are often articulated through the juxtaposition of norms described as belonging to the "old law" with those characterized as the "new law", the latter frequently labeled as more "merciful" or lenient (Cf. Articles 46, 51b, 67c, 93, and 98). In this context, the notion of "mercy" should not be understood primarily in moral or theological terms, but rather as an indication that the newer norms were better aligned with evolving socio-economic conditions, rendering earlier rules increasingly perceived as unjust.

<sup>57</sup> The emphasis on continuity and legitimacy through antiquity is a recurring theme in the Statute. As early as the ninth century, Frankish King Lothar II pledged at his coronation to respect the customs of Roman citizens, illustrating the broader medieval tendency to anchor legal authority in ancient tradition (PERA, *Poljički Statut*, p. 391).

<sup>58</sup> HASKINS, C. H., *La rinascita del XII secolo [The Renaissance of the 12th Century]*. Bologna: Il Mulino, 1981, pp. 170–171; PIRENNE, H. *Povijest Evrope: od seobe naroda XVI stoljeća [History of Europe: from the Migration Period to the 16th century]*. Zagreb: Kultura, 1956, pp. 210–211.

of particularistic legal systems embodied in local statutes.<sup>59</sup> Urban and regional rulers sought autonomous legal frameworks capable of supporting effective governance. Within this broader intellectual and institutional landscape, Christian educational institutions, particularly the cathedral school in Split, played a decisive role in shaping the legal culture reflected in the Poljica Statute.<sup>60</sup>

As a normative document, the Statute of Poljica constitutes a primary source for understanding the legal, historical, economic, and political realities of medieval society, with particular emphasis on legal relations. Its authenticity and evidentiary value remain undisputed, as it represents a direct manifestation of historical legal practice. Rooted in indigenous social structures, the Statute offers a unique perspective on mechanisms of communal self-regulation in Poljica and medieval Croatia more broadly, while also contributing to the understanding of legal development in Slavic societies.<sup>61</sup> Furthermore, it must be emphasized that although the Statute assigns legal authority to custom, it cannot be regarded as a mere compilation of customary law. Once customary norms are formally recorded and sanctioned by recognized authorities, they cease to function as unwritten custom and instead acquire the status of statutory law. In this respect, the Statute of Poljica represents the transformation of living custom into a binding legal order, situated at the intersection of tradition, institutional authority, and legal rationalization.<sup>62</sup>

## 2.2 Linguistic and Manuscript Remarks

While the Glagolitic script functioned primarily as the liturgical script of medieval Croatia, *Bosančica*, a distinct variant of the Cyrillic alphabet was widely employed in both private and public legal practice.<sup>63</sup> The oldest extant manuscript of the Statute of Poljica, dating

<sup>59</sup> BASTAIĆ, K. – KRIZMAN, B. *Opća historija države i prava [General history of the state and law]*. Zagreb: Globus, 1981, pp. 78–79.

<sup>60</sup> The intellectual and institutional background of this legal culture should also be noted. The Lateran Council of 1179 required bishops to establish cathedral schools, a mandate that likely contributed to the founding of such an institution in Split. During the pontificate of Pope Alexander III (1159–1181), a distinguished canon lawyer and commentator on Gratian's *Decretum*, ecclesiastical learning flourished. His appointment of Rajneri, former bishop of Calli, as Archbishop of Split in 1175, despite Rajneri's tragic death in 1180, marks an important phase in the development of ecclesiastical education in the region. These educational centers played a significant role in transmitting canon and Roman legal ideas, even if their influence in Poljica remained limited and indirect (PERA, *Poljički Statut*, p. 390).

<sup>61</sup> PERA, *Poljički Statut*, p. 411. The Statute emerged from the collective aspiration of the Poljica people to safeguard established authority and customary order. The Statute frequently invokes ancient customs (see, for example, Articles 40, 49a, 59d, and 63a), and the general assembly in Gata expressly declared that statutory norms were to be observed "for eternity", as they had been "since ancient times" (Appendix 2). It cannot be denied that in those times, reference to antiquity was pervasive, akin to how today novelty is often embraced, as anything associated with the old was deemed virtuous. In a period in which antiquity itself conferred legitimacy, reference to the "old" was perceived as a guarantee of justice and moral correctness.

<sup>62</sup> Ultimately, because the Poljica Statute emerged organically from customary law, it was assumed that contemporaries would readily understand its provisions. This explains the Statute's concise and often elliptical formulation, which today poses interpretative challenges. Nevertheless, precisely this close integration of norm and custom underscores the Statute's value as a legal monument: it reflects a legal order in which written law did not replace custom, but rather crystallized it, preserving a distinctive synthesis of indigenous tradition and selectively received Roman legal concepts.

<sup>63</sup> JUNKOVIĆ, Z. Jezik Poljičkog statuta [Language of the Poljica Statute]. *Poljički zbornik*, 1968, vol. 1, pp. 117–118.

from the sixteenth century, is written in this script. Linguistic analysis of the text reveals no features that would support its composition prior to the fifteenth century, indicating that the preserved manuscript reflects a later redaction of an earlier normative tradition.<sup>64</sup>

The linguistic and paleographic characteristics of the Statute suggest that its compilers were Glagolitic priests who possessed not only advanced literacy but also substantial knowledge of Roman and canon law, which they incorporated into the Statute's normative framework.<sup>65</sup> Beyond its legal, political, social, and economic significance, the Statute of Poljica thus represents an important linguistic monument, offering valuable insight into the written culture of the Poljica region. In this context, Glagolitic priests played a central role in the development and transmission of literacy, as they were responsible for copying documents and books and disseminating legal and cultural knowledge within the community.<sup>66</sup> The script predominantly used by these clerics in Poljica, and employed continuously until the nineteenth century, was *Poljičica*.<sup>67</sup> This script constitutes one of the three variants of the Cyrillic alphabet and is also known as Croatian Cyrillic. More precisely, it represents a distinct Split–Poljica variant of the Bosnian Cyrillic script, which was used for drafting legal documents, statutes, and other written materials in Poljica and the broader region of central Dalmatia.<sup>68</sup>

The oldest preserved manuscript of the Statute of Poljica is housed in the Archives of the Croatian Academy of Sciences and Arts (HAZU) under the signature Ic 65.<sup>69</sup> The title page of the manuscript contains the letters Č and U, which have been interpreted as indicating the year 1400.<sup>70</sup> However, based on paleographic and textual analysis, Vladimir Mošin dates the manuscript to approximately 1515 and identifies it as the third redaction of the Statute, compiled in 1485. According to Mošin, this redaction was necessitated by earlier limitations concerning the Statute's permanent validity and possibly by its temporary withdrawal following the suppression of a conspiracy in 1483.<sup>71</sup>

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<sup>64</sup> CICVARA, M. – KUŠTOVIĆ, T. Žena – žrtva, krivac i svjedok u trima srednjovjekovnim pravnim tekstovima [The woman – victim, culprit and witness in three medieval legal texts]. *Književna smotra*, 2022, vol. 54, no. 206(4), p. 32.

<sup>65</sup> *Ibid.*; PERA, *Poljički Statut*, p. 394.

<sup>66</sup> BULIĆ, A. *Poljica u srednjem veku [Poljica in the Middle Ages]*. Master's Thesis, Juraj Dobrila University of Pula: Faculty of Philosophy, Pula, 2018, p. 52.

<sup>67</sup> TOMELIĆ-ČURLIN, M. O fonološkim obilježjima jezika Poljičkog statuta i današnjeg govora Srijana [On the phonological characteristics of the language of the Poljica Statute and the present-day speech of the Srijans]. *Zbornik radova Filozofskog fakulteta u Splitu*, 2012, no. 5, pp. 195–197.

<sup>68</sup> BULIĆ, A. *Poljica u srednjem veku*, p. 52; NAZOR, A. *Splitsko-poljički odnosi u XVI. i XV. Stoljeću [Split-Poljica relations in the 16th and 15th centuries]*. Split: Književni krug, 2015, p. 16.

<sup>69</sup> PERA, *Poljički Statut*, pp. 390–391. Jedinice u sastavu HAZU [Units within HAZU] – Arhiv. *Hrvatska Akademija znanosti i umjetnosti [Archives. Croatian Academy of Sciences and Arts]*, <https://www.info.hazu.hr/jedinice/arhiv>, accessed 17 January 2026.

<sup>70</sup> LAUŠIĆ, A. *Postanak i razvitak poljičke kneževine [The origin and development of the Principality of Poljica]*. Split: Književni krug, 1991, p. 130.

<sup>71</sup> MOŠIN, V. Najstariji rukopis Poljičkog statuta i problem redakcije statuta [The oldest manuscript of the Polish Statute and the problem of redaction of the statute]. *Poljički zbornik*, 1971, vol. 2, pp. 9–17; PERA, *Poljički Statut*, pp. 403–404.

Mošin further posits that the second redaction of the Statute dates to 1440, a year explicitly stated in the text itself: “*U ime Gospodina Boga Amen. Statut poljički isučići statut iz staroga novi činimo na lita Gospodina Isukrsta 1440.*” (“In the name of the Lord God, Amen. This Poljica Statute is newly made from the old statute in the year of our Lord Jesus Christ 1440.”)<sup>72</sup> The first redaction, in his view, originates from the transitional period between the late eleventh and early twelfth centuries, contemporaneous with the conclusion of the *Pacta conventa* between the Hungarian king Coloman and representatives of the twelve Croatian tribes. This stratification of redactions underscores the long normative continuity of the Statute and highlights the dynamic interaction between oral custom, written law, and evolving linguistic practices in medieval Poljica.<sup>73</sup>

### **2.3 The Legal Nature of Theft within the Criminal System**

In continuity with the preceding analysis of the Vinodol Law Code, the present section examines selected aspects of medieval criminal law as reflected in the Statute of Poljica, with particular emphasis on the legal regulation of theft. Employing a comparative and contextual approach consistent with the overall structure and objectives of this study, the analysis seeks to determine the normative character of theft as an illicit act and to clarify its position within the broader system of legal and social regulation. Although medieval Croatian legal sources do not articulate a systematic criminal-law theory in the modern sense, the nature of theft as a criminal offence emerges clearly from the structure of the relevant provisions, the severity of prescribed sanctions, and the social consequences attached to its commission.

According to the Poljica Statute, any act committed with intent (*dolus*) that causes harm is inherently unlawful, as it endangers the fundamental values upon which the Poljica community was founded (art. 88). The Statute adopts a concept of liability that intertwines restitution and punishment: perpetrators were obliged not only to repair the damage caused but also to undergo punitive measures imposed by the legal order (art. 85). This dual structure, combining compensatory and penal elements, applies broadly to delictual conduct and is particularly evident in the regulation of theft, which will be examined in detail below. Restitution could take the form of specific restitution (*restitutio in integrum*) or monetary compensation, both applied according to objective criteria rather than subjective circumstances.

A defining feature shared by the Poljica Statute and the Vinodol Code, one that also resonates with Roman legal tradition, is the differentiated system of punishments calibrated to the gravity and circumstances of the offence. However, unlike Roman law, where *furtum* occupied an ambiguous position between civil and penal liability, the Poljica Statute unmistakably treats theft as a criminal offence. This conclusion is supported not by explicit doctrinal categorization, but by the nature of the sanctions imposed. Thus, a thief apprehended *in flagrante delicto* was subject to capital punishment by hanging, regardless of mitigating circumstances (art. 37d). Such a sanction clearly transcends the logic of

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<sup>72</sup> MOŠIN, *op. cit.*, pp. 9–17.

<sup>73</sup> MOŠIN, *op. cit.*, pp. 9–17.

civil compensation and situates theft firmly within the sphere of criminal law. The Statute's punitive severity is further reflected in provisions addressing acts of violent intrusion and vendetta. For example, murder committed on one's property or forcible entry with intent to steal incurred the death penalty (art. 37e). By contrast, cases involving forced entry without accompanying violence or theft were punished less severely, typically by a fine of 100 *libars* (arts. 44, 46). This nuanced gradation of penalties reveals a sophisticated normative framework in which theft is assessed in relation to intent, violence, and social danger. At the same time, the Statute adapts Roman legal concepts such as *furtum manifestum* and *furtum nec manifestum*, modifying them in accordance with local political conditions, social organization, and customary norms.

The criminal character of theft is further underscored by the procedural mechanisms established for its adjudication. The Poljica Statute introduces the institution of a jury and prescribes stringent evidentiary requirements for proving innocence in theft cases. When theft occurred within a household, the accused was required to produce twelve witnesses; theft committed outside the home required six witnesses (art. 76). The Statute also provides for simplified forms of proof, particularly in cases involving stolen livestock: the severed ear of the animal had to be presented before the court as physical evidence. Although similar procedures are not specified for other types of stolen property, these provisions illustrate the pragmatic and customary foundations of Poljica's criminal procedure. In cases involving dependent persons, such as servants, the testimony of their master was required (art. 77).

Notably, the Poljica Statute does not recognize certain Roman law distinctions, such as *furtum conceptum* and *furtum oblatum*, nor does it treat nighttime theft as an aggravating circumstance, in contrast to the Vinodol Code and the Statute of Split for instance. Instead, the Statute emphasizes territorial and personal criteria. Theft committed outside the territory of Poljica, as well as theft perpetrated by foreigners, constituted aggravating circumstances. A citizen of Poljica who committed theft in non-hostile foreign territory was punished by double restitution, whereas a foreign thief apprehended within Poljica was subject to capital punishment by hanging (art. 78b).

A particularly distinctive feature of the Poljica Statute is the establishment of a monetary threshold as a determinant of criminal punishment. If the value of the stolen property exceeded 100 *libars*, the prescribed penalty was death by hanging. Comparable monetary thresholds can be identified in other medieval legal systems, such as the *Liber statutorum civitatis Ragusii* (The Dubrovnik Statute) of 1272, although articulated in different normative terms.<sup>74</sup> The Poljica Statute further introduces a unique form of compensation in

<sup>74</sup> The Dubrovnik Statute articulated a highly differentiated and rigorously structured system of sanctions for theft, distinguishing explicitly between two principal categories: (i) ordinary theft and (ii) street theft. Ordinary theft was punished according to a graduated scale based on recidivism. A first-time offender was liable to a pecuniary penalty amounting to four times the value of the stolen property. In the event of a second offense, the penalty increased to eightfold, followed by twelvefold for a third offense, and ultimately twentyfold for a fourth offense. This escalating system underscores the Statute's clear orientation toward deterrence through progressive severity. Where the offender lacked the financial means to satisfy these monetary penalties, the Statute prescribed corporal punishments calibrated to the value of the stolen goods. For thefts valued at less than two perpers, the sanction consisted of physical beating. Theft involving property valued between two and five perpers resulted in beating combined with branding. For thefts between five and ten perpers, the penalty escalated to the loss of one eye, while thefts valued between ten and twelve

*natura* for theft: the theft of a chicken required restitution with a goat, while the theft of a goat or higher-value animal necessitated compensation with an ox or its equivalent. This mode of restitution, privileging tangible goods over monetary payment, is not attested in other contemporary statutory sources and appears to preserve deeply rooted customary practices of the local population.<sup>75</sup> These provisions demonstrate that the regulation of theft in the Poljica Statute served not only punitive and compensatory functions but also a broader role in social discipline and moral guidance. The severity of sanctions, public nature of punishment, and emphasis on communal values suggest that criminal law in

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perpers were punished by amputation of the right hand. Theft exceeding twelve perpers entailed the most severe non-capital sanction: the loss of both eyes. Comparable sanctions applied to female offenders, albeit in a mitigated form, reflecting gender-based differentiation in medieval penal policy. These provisions were formally enacted in 1228 under Duke Andrija Dauro of Dubrovnik, illustrating the Statute's systematic linkage between the gravity of theft, the offender's ability to pay, and the nature of punishment imposed. Street theft (*furtum publicum*), however, was treated as a significantly aggravated form of the offense and attracted markedly harsher penalties. For a first offense, the prescribed sanction amounted to eight times the value of the stolen property, doubling to sixteen times for a second offense, with each subsequent offense triggering a further doubling of the penalty. Where monetary compensation could not be enforced, corporal punishment followed a similarly escalatory structure. Theft valued at up to one perper resulted in beating and branding; thefts between one and three perpers led to the loss of one eye; thefts between three and six perpers entailed amputation of the right hand; thefts valued between six and ten perpers resulted in the loss of both eyes; and thefts exceeding ten perpers were punished by execution through hanging. This normative framework reveals a distinctly criminal-law conception of theft, characterized by proportionality tied to value, repetition, and public disturbance (*Statut Grada Dubrovnika* [*Statute of the city of Dubrovnik*]. Dubrovnik: Historijski arhiv, 1990, pp. 175–176; BOGIŠIĆ, V. – JIRIČEK, K. *Liber statutorum civitatis Ragusii*, compositus anno 1272: cum legibus aetate posteriore insertis atque cum summariis, adnotationibus et scholiis a veteribus juris consultis ragusinis additis [*Book of the statutes of the city of Ragusa*, composed in 1272: with laws inserted at a later date and with summaries, annotations and studies added by the ancient Ragusan jurists]. Zagreb: Typis expressit Societas typographica, 1904).

<sup>75</sup> PERA, *Poljički Statut*, pp. 439, 443 and 483. In contrast to the predominantly Latin-written municipal statutes of Dalmatian and Adriatic communes, many of which drew heavily upon Roman legal doctrine and circulated within the broader Romanesque legal culture, there existed, in the hinterland near Split, the small autonomous polity of the Republic of Poljica. Over several centuries, Poljica succeeded in preserving a distinctive legal order grounded in customary law, recorded in the vernacular and written in Bosnian Cyrillic (*bosančica*), as codified in the Poljica Statute from the first half of the fifteenth century. This legal system remained in force until its abolition by Napoleon in 1807. Both the institutional organization of governance and the internal hierarchy of the Poljica Republic retain discernible traces of its earlier clan-based social structure, while simultaneously incorporating elements of feudal relations and nascent early-capitalist principles.

These characteristics render the Poljica Statute an exceptionally valuable source for reconstructing the social relations and legal mentality of medieval Croatia. In this respect, its importance may be compared to that of Bogišić's *General Property Code* for understanding the traditional social order of Montenegro. Notably, however, the Poljica Statute predates Bogišić's codification by several centuries and regulates a broader spectrum of social relations, including governance, criminal law, and inheritance, areas largely absent from Bogišić's work. Moreover, whereas Bogišić occasionally framed Montenegrin customary norms through concepts derived from Roman law, the Poljica Statute represents, to a considerable extent, a direct and relatively unmediated codification of indigenous customary law. This distinction further enhances its value for the study of legal continuity, transformation, and the selective reception of Roman legal ideas within medieval Croatian legal culture (Cf. VOJINOVIĆ, N. *Uticaj rimskog prava na Bogišićev opšti imovinski zakonik* [The influence of Roman law on Bogišić's General Property Code]. *Naša zakonitost: časopis za pravno prosvjećivanje*, 1984, vol. 38, no. 12, pp. 1277–1284; and VOJINOVIĆ, N. Bogišić o odnosu običaja i Zakona [Bogišić on the relationship between customs and the Law]. *Naša zakonitost: časopis za pravno prosvjećivanje*, 1984, vol. 37, no. 6, pp. 742–752).

Poljica functioned as an instrument of social regulation aimed at preserving order, reinforcing collective norms, and deterring conduct perceived as threatening the cohesion and stability of the community.

Building on the discussion of theft and criminal liability under the Poljica Statute, it is evident that the Statute's punitive framework extended beyond material restitution or compensation, encompassing sanctions that targeted the offender's social and legal standing within the community. The provisions regulating the formal declaration of an individual as a "cursed one" (*prokletac*) exemplify this broader disciplinary logic. Such declarations imposed what may be termed *social death*, functioning as a form of public stigmatization that severed the offender from communal life. Far from being a symbolic or minor sanction, this measure operated as a surrogate for exile, carrying permanent consequences for both the life and the legal capacity of the convicted individual.<sup>76</sup> Article 32 of the Statute stipulates that "one who is publicly cursed and excommunicated may not live among other people, except with those of his household. He may not be buried among other Christians." Comparable sanctions were applied to public usurers, those neglecting the annual confession, and suicides.<sup>77</sup> Although the text does not explicitly address the exclusion of such individuals from public office, it can be inferred, given the severity of the social and legal ostracism, that a *prokletac* would have been ineligible to participate in communal governance or occupy official positions. The logic of this exclusion reinforces the principle that legal sanctions in Poljica were not limited to restitution or punishment of the act itself, but were intended to regulate the social order and uphold communal norms.<sup>78</sup>

This understanding is further corroborated by provisions extending punitive consequences to the families of offenders. The Statute prescribes that any individual deemed "unfaithful" to the community, and whose transgression is publicly recorded, also imposes restrictions on their household: "from his household no one may be admitted into the assembly or into any council of the brethren and the poor."<sup>79</sup> Such norms constitute a clear manifestation of collective responsibility, in which the consequences of individual misconduct reverberate across the offender's kin and social community. Viewed together with the Statute's regulations on theft, restitution, and evidentiary requirements, these provisions reveal a consistent and coherent legal philosophy: crimes were not solely personal transgressions but acts that threatened the cohesion and moral foundations of the community. The severity of sanctions, public nature of punishment, and emphasis on communal values

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<sup>76</sup> MARUŠIĆ, B. Statut i kazeno pravo Makarske s okolicom u Hercegovačkom sandžaku [Statute and criminal law of Makarska and its surroundings in the Herzegovinian Sanjak]. *Hercegovina: časopis za ključno i povijesno nasljeđe*, 2017, vol. 3, pp. 155–156.

<sup>77</sup> MARUŠIĆ, *op. cit.*, pp. 155–156.

<sup>78</sup> WINTER I-G. *Pravne posljedice osude u hrvatskom pravnom sustavu: povijesni razvoj i suvremeno uređenje* [Legal consequences of conviction in the Croatian legal system: historical development and contemporary regulation]. Master's Thesis, University of Zagreb: Faculty of Law, Zagreb, 2023, s. 16.

<sup>79</sup> LAUŠIĆ, A. Stvarnost i zabluda u sadržaju jedne spomen ploče u Poljicama [Reality and misapprehension in the content of a memorial plaque in Poljica]. *Radovi zavoda za hrvatsku povijest Filozofskog fakulteta*, 1987, vol. 20, no. 1, p. 160.

suggest that criminal law in Poljica functioned as an instrument of social regulation aimed at preserving order, reinforcing collective norms, and deterring conduct perceived as threatening the cohesion and stability of the community.

## Conclusion

The analysis shows that these two legal monuments developed different, yet internally coherent, responses to property crime, each shaped by the social realities in which it operated. In Vinodol, the regulation of theft is grounded primarily in restitution and graduated monetary penalties, carefully adjusted to the social standing of the injured party and to the interests of the ruling authority. Theft is addressed as a disturbance of property relations and legal order, one that can be remedied through compensation and financial liability. By contrast, the Poljica Statute adopts a far more severe and openly repressive stance. Serious or repeated theft is treated as a direct threat to the community itself and punished accordingly, through corporal sanctions, confiscation of property, and, in extreme cases, the death penalty. This approach reflects a legal culture deeply embedded in customary norms and collective responsibility, where deterrence and communal security take precedence over material redress.

Despite these differences, the two systems reveal important common features in their understanding and treatment of theft. Procedurally, adjudication rests largely on communal mechanisms, such as oath-taking and character testimony, which place the resolution of theft disputes within the moral and social judgment of the community. Substantively, both legal texts distinguish between forms of theft according to the circumstances under which the act was committed. Substantively, both legal monuments attach particular gravity to theft committed *in flagrante*, treating the immediate apprehension of the offender as a factor justifying heightened liability or more severe sanctions (in Poljica even capital punishment by hanging).

At the same time, significant divergence appears in the treatment of nocturnal theft. The Vinodol Code, in a manner closely aligned with Roman legal reasoning, qualifies theft committed at night as an aggravated form of the offense, warranting increased compensation or stricter penalties. The Poljica Statute, however, does not assign independent legal significance to the temporal context of the act. Its normative focus remains on the threat posed by the offender to the community and on the broader consequences of the conduct, rather than on formal aggravating circumstances tied to time or manner. This distinction underscores the differing legal logics at work: Vinodol reflects a more structured and differentiated approach to the qualification of theft, while Poljica adheres to a predominantly customary and outcome-oriented model of criminal responsibility.

Although certain conceptual parallels with Roman law can be identified, particularly in the Vinodol Code's treatment of aggravated theft, Roman law did not operate as a comprehensive normative framework in either statute. Its influence appears selective and mediated, absorbed only where compatible with existing legal practices and social expectations. In Poljica especially, customary law remained the primary source of normative authority, with statutory provisions closely following lived social relations rather than external doctrinal models.

Overall, the regulation of theft in these statutes illustrates how medieval Croatian statutory law balanced compensation, punishment, and social control. In Vinodol, fines and restitutions reinforce feudal authority and material order, while in Poljica, harsh penalties and public consensus reflect a community-oriented conception of justice. Both approaches reveal legal systems that responded pragmatically to theft as a threat not only to property, but to social stability itself. In this way, the treatment of theft offers a valuable window into the broader functioning of criminal law within the framework of medieval legal particularism in Dalmatia.