

Komunjsko, Skupno and Seljansko: Legacy of Eastern Adriatic Commons

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INTRODUCTION

In this paper we shall offer a short overview of collective rights upon some still existing common lands in the Croatian littoral. Common lands make a property form known as the commons, undivided by individual owners belonging to the same community. Other well researched forms of commons include fishery rights of local communities, communal irrigation arrangements, pastoral husbandry, communal forests and hunting rights. Each among these domains was capable of bringing greater gain if left undivided. Disliked by scholars and despised by administrators (Grove and Rackham 2001: 71), both of them had been describing commons as a backward relic. Commons were denigrated by aristocratic physiocrats of the 18th Century, Marxists of the 19th Century and liberal thinkers of the 20th Century, with

“The Tragedy of the Commons” engraved deeply into the academic mainstream (Hardin 1968). Even the Communist regime had favoured state property over its own communitarian programme of equality and cooperation. Emulation of commons in state-controlled cooperatives had produced a toxic legacy which discourages mere public discourse about modern cooperatives at all.

When ethnological texts are analysed one can clearly observe that communal property usually means either a township or *zadruga*-type of family, leaving actual commons out of sight (Kale 2009: 238-242). Some global concern is being revived due to the preservation of nature (Brosius et al. 2005). In cultural heritage collectively important spaces were included into the 1979 Burra Charter (Silverman and Fairchild Ruggles 2007: 7). From Burra and deliberations about authenticity a way was paved to the internationally conventionalized categories of cultural landscape and intangible cultural heritage, also being a right to collective intellectual property. Finally the human rights themselves established culture, heritage, landscape and property issues “as an inclusive framework for negotiating the rights of local communities and the marginalised” (Egoz et al. 2011: 17). Due to the recent shockwaves of the global economic crises a certain amount of public attitude towards the commons changed (Baden and Noonan 1998), but in the Adriatic we still lack particular studies.¹

Obligatory nuances include historical legal division of the continental and littoral parts of Croatia. The commons of the former lands were legally transformed into state property in 1913,² leaving a small number of latter communal properties temporarily off the hook.³ *Zemljišne zajednice* (“land communities”) were legally formed before the Communist regime, only to be disbanded later, together with the so-called *krajiške imovne općine* (“Krajina inhabitants' land communal properties”) from the historical territory of the Militärgrenze. In the south, all Montenegrin common pasturelands (*komunice*) were appropriated by the state (Ćirić-Bogetić 1966: 249).⁴

In the history of the Croatian littoral commons can be followed side by side with *općina* (word derived from adjective „opće“

1 Overview is given by Tadić 1993.

2 The most usual toponymic reminiscence is term *gmajna*, stemming out from German “Gemeinde”. “Plemenita općina turopoljska” (“Turopolje Noble Commune”) refers to the local lower nobility, not to their commoners.

3 Oftenly called *muša* or *bušak* (from Italian “bosco”).

4 “In Montenegro all land was in tribal property (...), common land of *bratstvo* is in the mountains where katun and common forests are situated – *komun, komunica, zajednica, meteh, begluk, vakam*”, Rovinski 1994 [1897]: II, 122 and 123.

which covers public matters), an important concept from the very beginning of Croatian legal history, dating back to The Law of Vinodol from 1288.⁵ According to its regulations, *općina* was a community different from its feudal mastership or royal emissary jurisdiction – for example, while collecting fines (Ch. 14).⁶ Session places for assembly deliberations were formalized, either in settlements' centres or under some nearby monumental tree, with typical littoral toponym of *Posoba* denoting session, as well (with small initial letter as in *posoba*). *Posoba* represented a form of a self-governing community, related to archaisms like *posebina* meaning “res publica” (SER III: 130, 211). Historians warn against the essentialist view of the Slavic *općina* and its historical functions as a gradually diluted relic. They were strongly influenced by Byzantine authorities in the earliest periods of the Croatian state and appropriately used as a legal tool by later feudal masters (Margetić 1980: 157). In the Early Modern Age use of *posoba* was documented by Venetian authorities because they recognized commoners' councils as the best way for recruiting armed bands and whole communities for borderland military duties.⁷ Their leaders were awarded with distinctive clothes and adornments, land and lower nobility ranks.⁸ Later legacy of the War of Candia served as a symbolic basis for the national revival movement in the 19th Century. National costumes, various traditions and building heritage were founded upon historical borderland institutions. Three examples are presented here: the commons at Lanišće in Istria, Lun on the island of Pag, and commons on the island of Žirje in the Šibenik-Zadar archipelago.

THE FIRST EXAMPLE: LANIŠĆE, ISTRIA

The village of *Lanišće* comprises a greater part of *Ćićarija*, which are elevated pastures adjacent to the Kras hinterland of Trieste. The *Ćići* were a historical Vlach seminomadic population in Istria, existing separately in neighbouring *Žejane* and distant *Šušnjeвица* as specific

5 The oldest law written in Croatian language (Bratulić 1988: 5).

6 “It seems that some kind of court staffed primarily by locals, whether under the auspices of lords, communes, municipalities or the community of commoners, was the norm” (De Moor et al. 2002: 250).

7 Archival documents of the period take “communal” for denoting municipal meanings, while the Latin and Italian translation for commoners' assembly was influenced with *općina* as “universitas” (reflected back in Croatian usually as *univerzija*). More in Kale 2006: 242.

8 About *posoba* in Čoralić and Vrbanus 2013: 113.

communities with their own languages. The village of Lanišće came into possession of its territorial lands in 1832 and 1833, buying its rights from the state. The cadastre term denoting their possession is *seosko dobro* („village property“) with the vernacular expressions of *komunjsko* (adjective) and *komunela* (noun). Collective rights over pastureland were an appropriate means in local sheep-herders communities, dissected by hamlets. There were sixteen of them in 1948, when they struggled against state appropriation (Katarinčić Škrlić 1996: 113). Today, they are organized in six villages with Lanišće as their administrative center.

After legal termination of the commons („skupno vlasništvo“, i. e. „group property“ under former property law), every village established its civil association for management of the common property („Udruga za upravljanje zajedničkom imovinom“) in 1998.⁹ They were supposed to delegate and represent local communities in legal matters, lacking specific regulations. Civil associations' leaders acted like former village officials (*župan*) and later politically elected presidents of local communities („mjesna zajednica“ – the smallest administrative unit). The commons include buildings, as well, for example the church and the school building in Trstenik. With the abandonment of the dominant pasture economy, these new associations have been serving as village representatives in communications with the state forestry, and were acutely needed when this market enterprise discontinued paying for the tree trunks extracted from village forests. In the Yugoslavian period the state paid for tree trunks and coal, while villages paid their property tax. The forest fees from the period of 1998-2003 were used by civil associations for communal needs, such as repairs of churches and schools.

The civil associations eventually engaged in prolonged trials for establishing their forest utilization property rights. The associations from Račja Vas and Trstenik are additionally registered as private forest proprietors („šumoposjednik“). The role of civil associations is also important in the planning of wind turbine facilities approved by regional authorities. Local involvement in such planning is not just passive. According to the preliminary plans made by local civil associations, villages could act as co-investors with their capital share secured by forest mortgages. Another contemporary issue concerns hunting rights, now functioning without the participation and agreement of the local administrative unit or civil associations.

9 Each one for villages of Lanišće, Dane, Brgudac, Trstenik, Račja Vas and Brest.

Lun is a village situated at the northernmost tip of the island of Pag, where the so-called „lunjsko pitanje“ („The Lun Problem“, Crnković 1988) was a legal anomaly just partially dismantled after the final elimination of feudal types of land proprietorship after World War II. The village was founded by sheep-herders settled there by feudal masters from Rab. However, Lun villagers gradually broadened their economic activities by grafting wild olive trees. Grafting was forbidden because it was overstepping the basic feudal cultivation agreement with masters. When terminating his cultivation contract with villagers, a feudal master was obligated to pay a fair amount for property improvements. Such a regulation was the reason for frantic efforts invested in the dissuasion and blockade of commoners' additional cultivations upon tending land. By the end of the 19th century both commoners and aristocracy fell into a tight knot of obligations, unable to terminate their dependency even after the agrarian reforms authorized commoners to buy the lands they had been working.

The most complex pasture among Lun pastures was *Dudička kunfina*, next to the Lun proper. There, inhabitants from the hamlet of Dudići (dozen of Badurina families nicknamed Dudići) were shepherding the livestock owned not by a sole feudal possessor, but by Rab city commune and all its members. A legal solution following the laws from Austrian and Yugoslav periods was impossible and the landscape remained undivided. The sole Adriatic forest of wild olive trees exists at *Dudičke krune* (next to the top of cliff, *krune*), and has been protected as a biological reserve since 1963, used only as sheep pasture. In such circumstances, villagers invented a multicellular drystone-walled sheepfold called „Dudićev osik“, a landscape tool for flock management between grazing on the undivided, common pasture and daily milking of sheep owned by several families in Dudići.

Keeping an undivided flock on common pasture was called *skupno* („doing together“). Everywhere else in Lun, villagers enclosed their individual parts of land and had changed from sheep-herders to olive-tree cultivators, but the land is still owned by the state. The distinction between Dudići and all other nearby pasturelands was obvious even in using a sling, because nobody else needed such a tool to direct their flock to wide-open spaces. Eventually, Lun earned a reputation for its multicentennial richly sculptured olive trees, and became a preferred tourist destination. Paths through the landscape were adapted for their new tourist uses, narrative signs were erected, and a reception building constructed. The EU-backed project was planned

by the olive-tree cultivators' cooperative and the city of Novalja, where Lun administratively belongs. After an incident over selling two multacentennial olive trees in 2010, an informal selling ban was agreed between inhabitants.

Recently, the descendants of the original olive tree cultivators changed their lawyers and their opinions wavered over suing the state in 2009, trying to obtain property rights to the land under their olive trees and thereby qualifying for new agricultural incentives offered by the EU. The local community is therefore divided in opinion towards suing the state, and more obviously, in actions towards the local authorities regarding the tourist management of their olive tree orchards. In Dudići, the process of property segmentation started with a state forestry enterprise. It currently advances slowly, due to the private costs that it brought.

THE THIRD EXAMPLE: THE ISLAND OF ŽIRJE

The third existing example of the littoral commons also stems out of historical sheep-herders' economy, situated at the island of Žirje near Šibenik. Žirje is located in the south of the island of Dugi Otok and the Kornati archipelago. During history it was important as an open sea military outpost controlling the Adriatic route. In communal economy Žirje had strictly regulated the vegetation regime because of the typical use of the outer islands as sources of lime. Lime kilns needed substantial masses of wood fuel, which caused pasture zoning in the late Middle Ages and early Modern Age. The use of landscape was communally regulated according to the types of grazing animals; a significant volume of lime was needed in the municipal transformation from a flammable wooden settlement to the more solid one built in stone. These processes lasted up to the Industrial Age, with commoners included as lime kiln masters and manual workers. In pastoral economy sheep husbandry was accordingly small and strictly regulated. A glance at the map of the island can vividly depict the central agricultural field zone (Polje): typically vineyards without grazing access, with adjacent extirpated karstic terrains of olive tree orchards, and the secluded part of the island with wide pastures and no individual enclosures.

The legal nature of this particular collective legacy originates from the 17th century, when the Venetian Republic gave both feudal lord rights and regal rights over the island to the Franciscans. This exceptional award recognized their merit in bringing over a vast

population from Bosnia to revive the coast that was severely hit by the plague, and to fill the ranks of borderland guards during the War of Candia. Due to this award, one of two Franciscan monasteries in Šibenik gained regal rights over the island that were normally reserved for the state. In the 19th century, when the agrarian reform made it possible, the villagers responded and the monks became willing to sell their rights because of the costs that were incurred by trials with commoners under their feudal and regal mastership. By that time villagers were gaining fish storages in Muna harbour. Also they started to exploit nearby coral sites. Therefore, in 1876 the villagers bought the property rights to their island (and the neighbouring islets, used as pastures), as well as the state rights.¹⁰ The vernacular expression for this property is the adjective *seljansko* (property belonging to villagers, *seljani*; Kale 2009).

The best-known local episode from recent history is the intervention of the coastal artillery at Zvizdulje military post, which was organized to save Šibenik from a tank and naval blockade in September 1991. It occurred at the southern edge of the former pastureland that had been closed for any local use since the Crisis of Trieste after 2nd World War. The artillery post itself, originating from the Austro-Hungarian period, has never changed its legal owners – the villagers as a community of the descendants of the buyers from 1876. The cannons were therefore positioned on the commons. Until the Vienna War Archive is researched, one can only speculate that proprietary relationships were complex enough even at the end of 19th century to discourage the state authorities from expropriation. Military presence saved the landscape from uncontrolled saturation of tourist-driven installations that could have been situated in the nautically most attractive part of the island.

The island itself is practically depopulated and its community is nowadays mostly absent, using summertime as a springboard for a modest tourism economy. The reputation of a „private island“ is being locally cherished as a legal argument, mostly respecting undivided wide parts of the island, with tolerance for small individual fragmentations needed for the building of secondary houses, also used as tourist apartments. Still, several initiatives are trying to gain wider access to the land in the most attractive places. Different collaboration and resistance strategies can be observed in legal processes, civil activities and small-scale entrepreneurship.

10 Pasturelands often called *komunada* are regularly state property.

The first common trait is obviously economical: all presented examples derived from former pasturelands.¹¹ In hilly and windy Lanišće, wind turbines could replace part of former gains. Next to Lun and Novalja, one can nowadays visit Kolan where the best Croatian cheese is produced. Historical sheep-herders became olive oil producers, selling their products in the reception centre of the tourist path, leading through orchards and towards a concert amphitheatre and the multacentennial behemoths, all explained with instructive plaques. The third case, abandoned pastureland in the southern part of the island of Žirje seemed to enclose the attractive Stupica bay with its numerous nautical shelters, saved for aesthetic pleasure due to the camouflaged military presence of the past.

The second common trait concerns the communities themselves. All mentioned villages are now mostly depopulated, nearly empty in all the seasons except summer. At the same time, descendants and inheritors are no more simple village folk. They have remained sentimentally attached, reacting with skills gained in many alleys of life. During local festivities it is possible to meet former mayors, prominent entrepreneurs, scientists, journalists, artists, war heroes, priests, lawyers, even developers – people well aware of administrative procedures, many among them multilingual, routinely hosting foreign guests, and comparing their experiences and reflections. Also newcomers are helpful. They all contribute to the tapestry of the internal dynamics, concerned with the current state of their commons and aware of its new market perspectives. Unofficial communication and civil activism is also important because of destroyed documentation: archival deposits for Lanišće and Lun archives were destroyed by fire and rain, while Žirje documentation is dispersed. Historical studies about Lun and Žirje were written by clerics out of office duties (Badurina Dudić 2006, Soldo 1973).

Finally, all three cases represent isolates. Among Ćići communities in upland Istria you can hear that they do not share common Istrian identity denoted as *Istrijani*.¹² The peninsular elongation of Lun makes a symbolic island inside of bigger island. Žirje is the most

¹¹ Commons trait upon changed property can be recognized in Bjelopavlići community use of Sinjajevina and Šitovo summer pastures in Montenegro, even after administration borders had left them in another administrative unit (Čirić-Bogetić 1966: 250).

¹² Before democratic changes in 1990 *Istrijani* was socionym used for Istrian Italians, while the one used for regional identity was *Istrani* – now nearly obsolete.

distant permanently inhabited island in the Šibenik archipelago. Isolates address their resources carefully, through a number of strategies (Royle 2001: 60-62, 170). Such strategies are subject to change. The relationship with the state is the regular agency for change.¹³ We cannot omit market as a basic denominator of vital opportunities in the commons either. Pasturelands encircled with lime kilns' remnants are attractive today because of their coastal strip, bays and beaches of an open sea island. The road to Lun used to be closed across the pasturelands in the past and there are no gates now. The wind regime represented a basis for cheese making, but now its measurements raise hopes for electricity rent in Čićarija.

CONCLUSION

The coastal commons are rare and marginal in contemporary society. Each one presented here denotes specific legal anomaly, filtered through a number of unique regulatory circumstances. In Croatia, they are left without associated positive regulations. During the 1990s the lawmakers intended to force such legacy into simpler property institutions. Local communities reacted by civil means, denoting commons as treasures of collective identity, pride and culture along the process. Paradoxically, that enables the commons as cultural capital to engage with post-industrial market forces.

The commons are inherited today by a different kind of "commoners". In modern times of consumption, their guests could be compared with historic aristocrats. Inheritors are not just passive objects of inevitable social forces, just as Lun grafters were not. They actively reformulate their common capital and react to new possibilities. Among the most promising ones (through projects or subsidized investments) is the dialogue with the new high authorities of the European Union, either through the Common Agricultural Policy or through specific regulations towards the commons.

The commons represent a strenuous research issue. Burnt archives, dispersed documents and people engaging dislocated events at moments either rare or unexpected all contribute to a complex fieldwork. An appropriate approach should be executed with nuanced

13 Some European examples are indicated in "The state and the commons" chapter in the concluding paper written by De Moor et al. 2002: 255-256.

multi-sited ethnography, backed by projects concerned specifically with the commons. Unfortunately, the demanding methodology leaves them at the margins of the research agenda.

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