

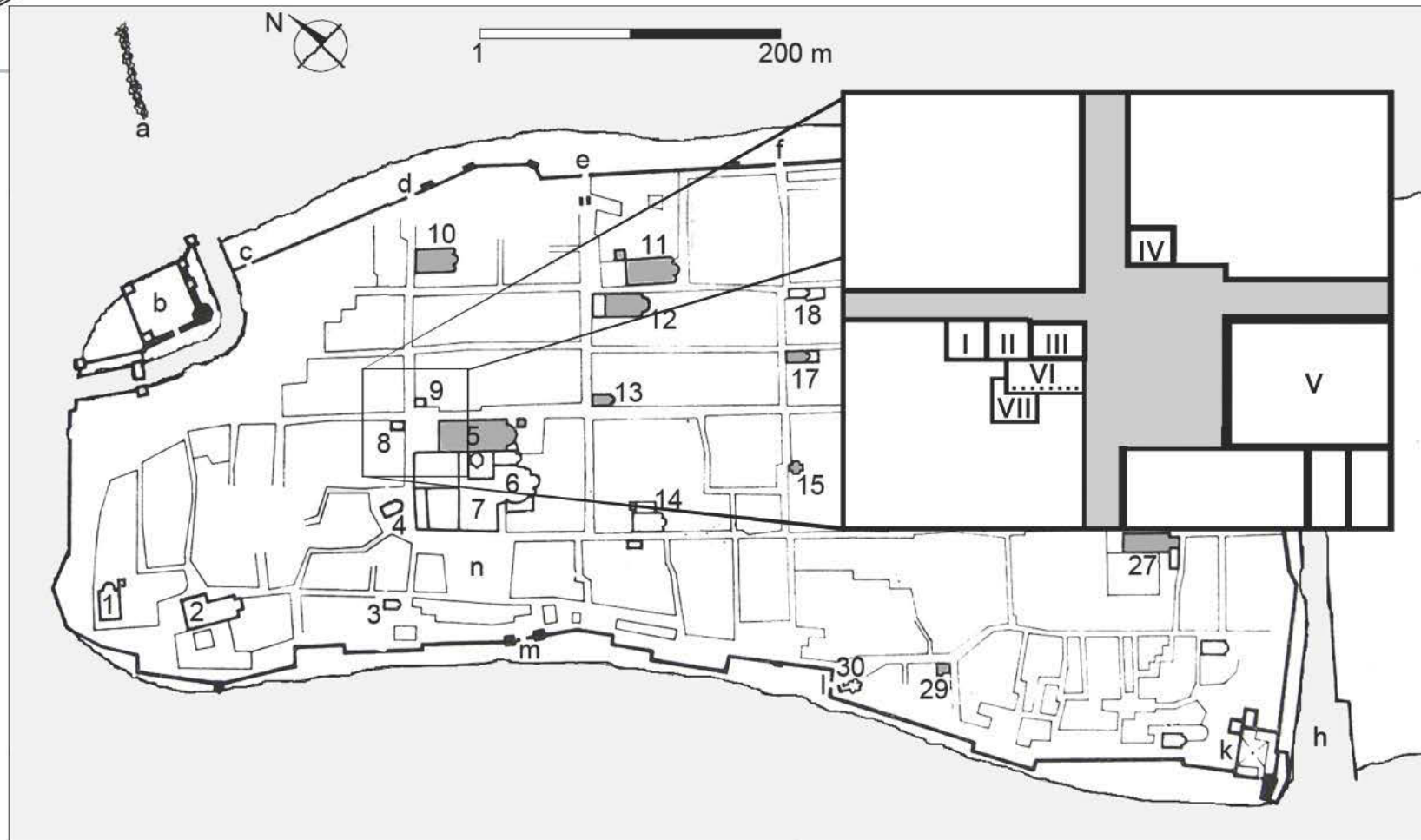


# **‘To avoid the costs of litigation, the parties compromise...’**

**Crime, Extrajudicial Settlement, and Punishment  
in Venetian Dalmatia, c. 1550**

**Dr Stephan Sander-Faes**

**Venice and its *Stato da mar*, Venice, 11 March 2017**



**Zadar, c. 1550** (based on Raukar et al. 1987, 135; additional information by me)

small insert: (v) St. Anastasia; (vi) TOR convent; (vii) house of Francis Tubicina; (---) planned latrine; *NB* that in the absence of clear-cut borders, the lines above are indicative, at best.

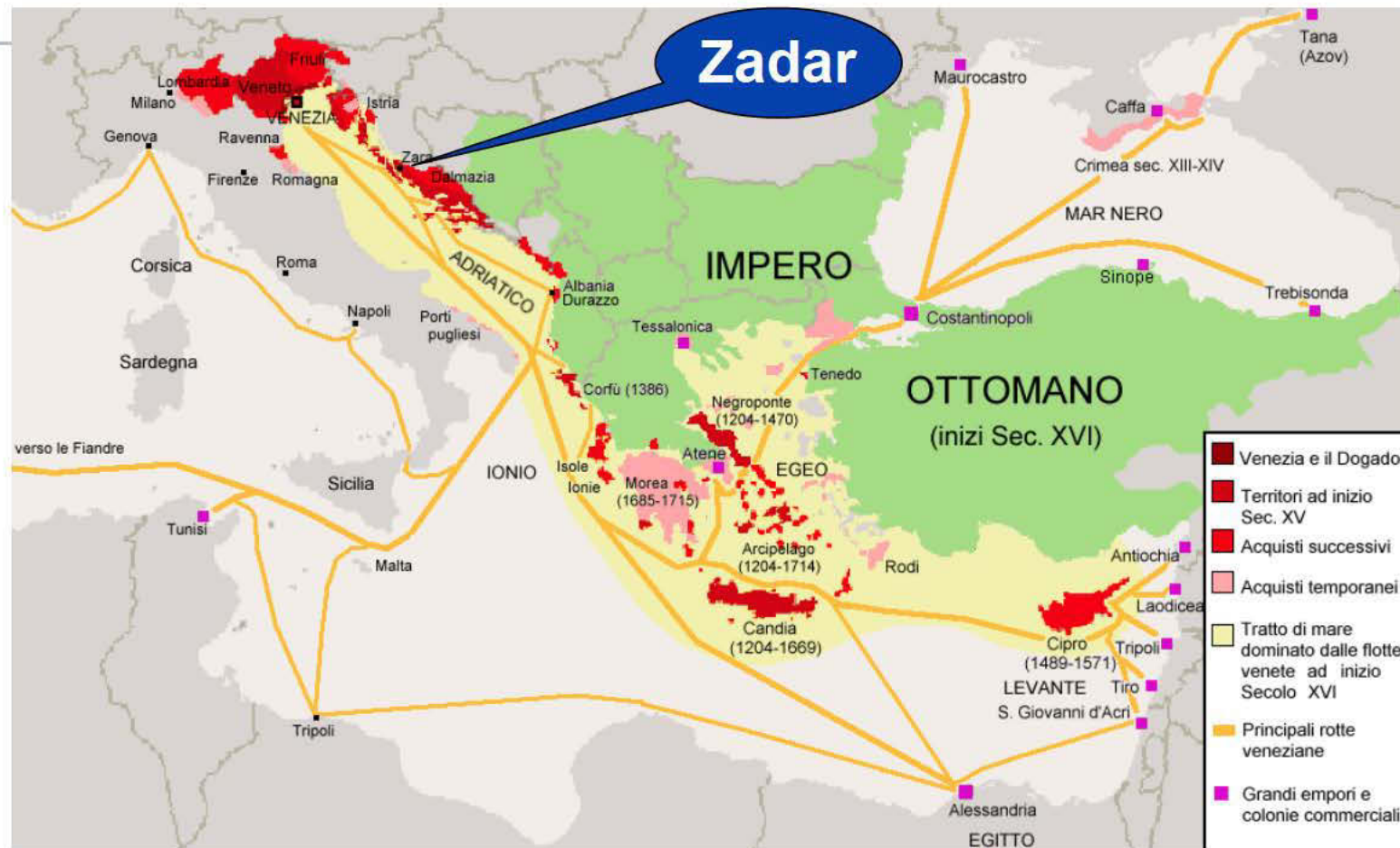
Sources: DAZD 31 BZ, Franciscus Thomaseus, I, 1, 2, f.3v, 24 Sept. 1550; Nicolaus Drasmileus, I, 2, 2, f.42v-f.43r, 29. Juli 1564.



## Outline of my presentation

1. (the briefest of ) **introductions**
2. my **approach** to 'infrajudicial' conflict resolution
3. many **examples** from the State Archivs in Zadar
4. some **conclusions** and future avenues of research

*NB:* anglicisation of first names and quotes; toponyms follow their present-day use, except for places generally familiar (such as Rome or Venice)



Venice and its dominions around 1500

Source: [http://upload.wikimedia.org/wikipedia/commons/0/09/Repubblica di Venezia.png](http://upload.wikimedia.org/wikipedia/commons/0/09/Repubblica_di_Venezia.png), 9 March 2017.



## The Venetian Adriatic

- focus = Zadar, “**metropoli et chiave di quella provintia,**” Antonio Diedo, 1553 (Ljubić 1880, 3:17)
- **15<sup>th</sup>-century:** (re-) acquisition by Venice, subsequent integration
- **local government** = Venetian patricians assisted by local noble and non-noble urban elites
- **Adriatic** = part of the Catholic-Italianate Mediterranean world

**Illustration:** Zadar’s old town, from north-west in the early 21<sup>st</sup> century

Source: [http://croatia.hr/Images/t900x600-210/croatia\\_dalmacija\\_zadar\\_0001.jpg](http://croatia.hr/Images/t900x600-210/croatia_dalmacija_zadar_0001.jpg), 9 March 2017.





## Benchmarks

- “Scholarship...has done away with a unilinear reading of Venice’s past.” (Martin and Romano 2000, 27)
- Most studies continue to focus on Venice (proper), elites, diaspora communities, symbols—regrettable **lacuna = peripheral areas, groups**
- “a high proportion of crimes did not come before the courts but were dealt on an *infrajudicial* level.” (Garnot 2000, 103, my emphasis)
- **Focus = extrajudicial settlements**, embedded in their various settings
  - *NB* the numerous overlapping features
- **Approach = combination of quantitative and qualitative analysis**
  - geographic area covered here = the ‘Greater Adriatic’



## Sample, n = 294 individual deeds, 1540-69

Instances	Type of contract	Comments
79	settlement agreement	<i>instrumentum pacis</i>
65	election of arbiter(s)	<i>compromissum; electio iudicis</i>
35	sentence	<i>sententia; appellatio</i>
33	compromise	<i>accordium; concordium; compositio; conventio</i>
82	other, n/a	<i>fideiussio; confessio debiti; con- sensum recuperationis; divisio bonorum/hereditatis; processo; quietationes; ratificationes</i>

NB that the total no. of notarised deeds (1540-69) is 6,425 individual contracts; cf. all property transactions, n = 1,772 individual contracts; cf. Sander[-Faes] 2011, 269-93.



## Elements of crime

- Most settle issues of **money/debt, property, or dowry** conflicts
- What crimes are we talking about?
  - **inheritance** issues (61 instances, or c. 21 %)
  - **transactions**, money, including debt, or ‘services’ (45, or c. 15 %)
  - **immovable goods** (41, or c. 14 %)
  - **movable goods**, including dowry issues (24, or c. 8 %)
  - **unnatural deaths**, including homicides (16, or c. 5.5 %)
  - **theft** (3, or c. 1 %)
  - other, n/a (82, or c. 28 %)
- **problematic differentiation** between criminal/civil law





## Class and gender composition

- **nobility** (both contracting parties) = c. 29 %  
– 65 ♂, 19 ♀ (constituents) vs. 75 ♂ 11 ♀ (recipients)
- **clergy** (constituents) = c. 11.5 % vs. c. 8.5 % (recipients)
- **artisans** (constituents) = c. 11.5 % vs. c. 12 % (recipients)  
– 28 ♂, 6 ♀ (constituents) vs. 30 ♂ 6 ♀ (recipients)
- **other socio-functional groups** (merchants, soldiers, literate professionals) = c. 4 % (constituents) vs. > 3 % (recipients)
- **women** = c. 20.5 % (constituents) vs. c. 12.5 % (recipients)



## Some examples

- Hieronymus Beripus, oarsman, repeatedly **went AWOL**  
– if he does so again, ½ ducat fine for replacement oarsman
- Franciscus de Martinis, merchant, ordered to pay 4 ½ ducats per year in **child support** ('alimony') to his former maid, Catherina
- Nicolota Fanfonea, noble, to pay 14 barrels of wheat to redeem her brother, Camillus, then in **Ottoman captivity** in Constantinople
- **Base line**—questionable differentiation between criminal vs. civil law



## Murder, death, kill in Zadar, c. 1550

- **'unnatural' deaths** = 16 instances, **assault, property damage** = 22  
– criminal offences, today—what about *then*?
- unequal, **inconsistent punishment**
  - some were 'just' banished/exiled
  - not all were similarly sentenced to death
  - way out = settlement with the victims' relatives
- **compensation**, damages was usually awarded to the victim
  - could include money and/or payment in kind, incl. for services
- **analogous settlement** practices for murder, assault, theft



## Conclusions

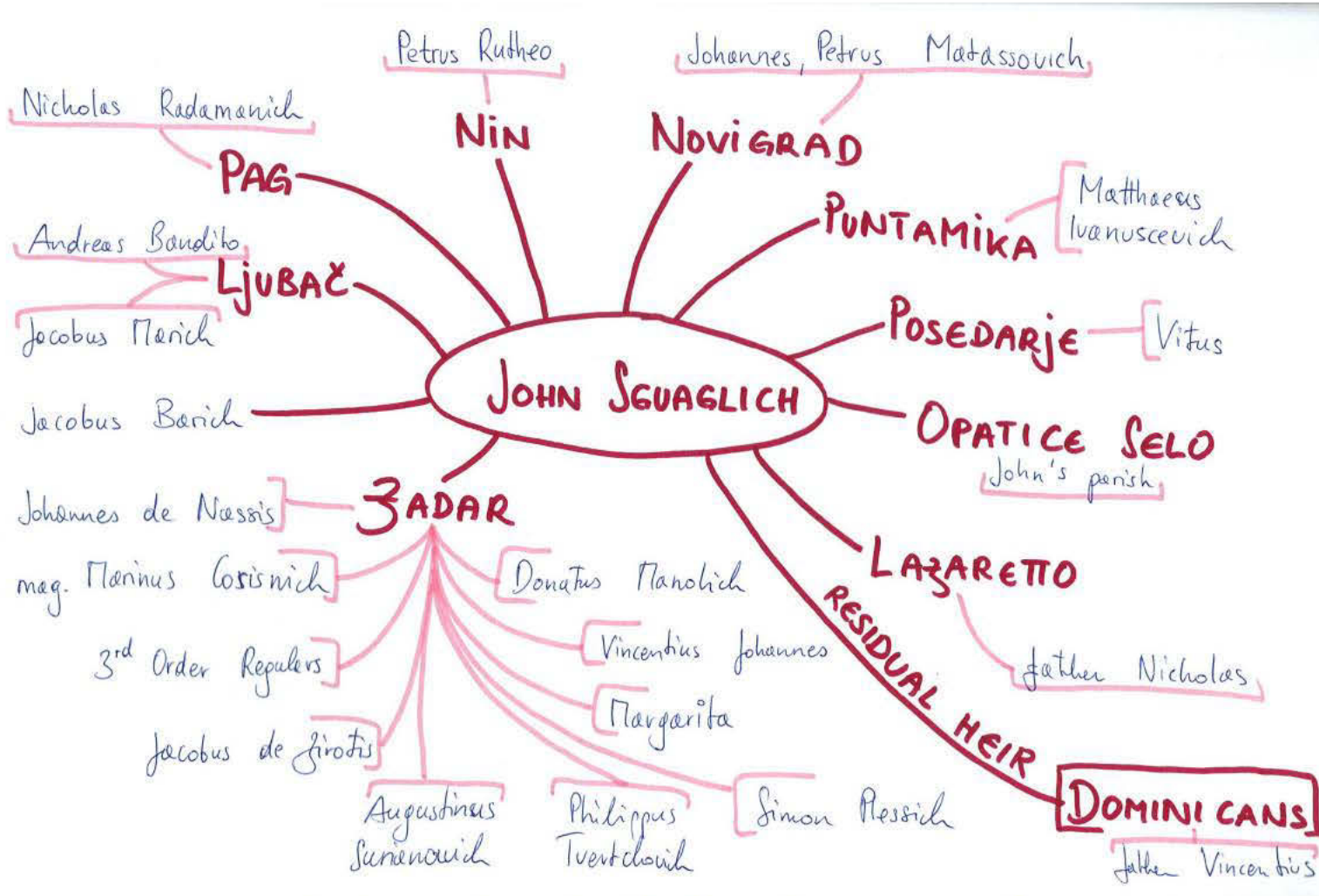
- Venice's commonwealth was a quite **flexible normative environment**  
– allowed for *diachronous* and *synchronous* jurisprudent
- **Crime History** overwhelmingly focuses on criminal, not civil, law
- we should *not*, however, treat this differentiation as gospel
- Additional aspect = **more than 1/4** of all parties **was physically absent**
- we should, thus, **include these spatial aspects** into our reconstructions  
– helpful sources incl. quitclaims, testaments, marriage/procura contracts



## E.g., 42 oarsmen get paid (1542)

- Background: Ottoman-Venetian war (1537-40), battle of Preveza (1538)
- Payment of 42 oarsmen, quitclaim\* for captain Tommaso Venier
- Total amount of c. 226 ducats
- 40 % of the **crew** > **Zadar** and its jurisdiction, c. 17 % > **Korčula**
- Other oarsmen from virtually all over the eastern Mediterranean, e.g., **Šibenik, Kythira, Koroni, Dubrovnik**
- All 42 had served on Venetian warships before
- 42 commoners, among them was 1 artisan, “Athanasius of Korčula”

Source: HR DAZD 31, BZ, Nicolaus Drasmileus, I, 1, E, s.p., 4 December 1542.



The topography of Fr. John Sguaglich's everyday life

Source: HR DAZD 31 BZ, Augustinus Martius, I, 2, no. 20, 13 June 13 1543.