How to Record a Conflict?

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

by *Hannes Obermair*

"In this central and centralized humanity …
we must hear the distant roar of battle".

M. FOUCAULT[1]

I.

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

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

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

II.

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

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

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

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

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

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

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

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

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

[6]   E.P. Thompson, *The Making of the English Working Class*, Harmondsworth 1975; P. Laslett, *The World We Have Lost, Further Explored*, London 2005.

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

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

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

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

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

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

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

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

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

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

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[10]   L. ANDERGASSEN - H. STAMPFER, *Schloss Sigmundskron: Bischofsburg und landesfürstliches Bollwerk* (Burgen, 11), Regensburg 2014.

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

[12]   J. MATHIEU, *History of the Alps 1500-1900. Environment, Development, and Society*, Morgantown WV 2009.

conflicts arise individually, do they follow a determined, more general logic, related to some territorial specificity?[13].

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

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

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

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

[16]   The high point of this historiography was reached in O. STOLZ, *Die Ausbreitung des Deutschtums in Südtirol im Lichte der Urkunden*, 5 vols, München - Berlin 1928-1934.

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

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

[17] On the concept of "medievalism" see T. Pugh - A.J. Weisl, *Medievalisms. Making the Past in the Present*, Abingdon 2013.

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

[19] V. Stamm, *Soziale Zwischengruppen in der mittelalterlichen Agrargesellschaft*, in "Historische Zeitschrift", 291, 2010, 1, pp. 1-22.

[20] C. Hagen, *Fürstliche Herrschaft und kommunale Teilhabe. Die Städte der Grafschaft Tirol im Spätmittelalter* (Veröffentlichungen des Südtiroler Landesarchivs, 34), Innsbruck 2015.

[21] K. Pattis, *Neustift zur Zeit des Bauernaufstandes 1525. Wirtschaftliche, soziale und religiöse Hintergründe*, Brixen 2012; G. Zeindl, *Meran im Mittelalter – eine Tiroler Stadt im Spiegel ihrer Steuern* (Tiroler Wirtschaftsstudien, 57), Innsbruck 2009.

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

III.

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

– I propose to use a rural statute, known as a "Weistum", which provides a picture of the situation of a community in the early 1400s;

– to examine some witness statements from a rural setting in Gries, Bolzano, dating back to 1367 and connected with a dispute over property;

[22] B. Rath, *"... und wolt das Schwert durch in stossen." Zur physischen Gewalt in Südtirol um 1500*, in "L'Homme", 7, 1996, 2, pp. 56-70; M.P. Schennach, *Gesetz und Herrschaft. Die Entstehung des Gesetzgebungsstaates am Beispiel Tirols* (Forschungen zur deutschen Rechtsgeschichte, 28), Köln - Weimar - Wien 2010.

[23] G. Albertoni, *Die Herrschaft des Bischofs. Macht und Gesellschaft zwischen Etsch und Inn im Mittelalter*, Bozen 2003; S. Sonderegger, *"... der Zins ist abgelon ...". Aushandeln von Schadensteilungen zwischen Grundherren und Bauern in schwierigen Zeiten der Landwirtschaft*, in R. Kiessling - W. Scheffknecht (eds), *Umweltgeschichte in der Region* (Forum Suevicum, 9), Konstanz 2012, pp. 139-157 (drawing on examples from neighboring Switzerland).

[24] A similar evaluation seems to be reached, referring to modern Trentino in a recent note by M. Bellabarba - G.M. Varanini, *L'età medievale, l'età moderna*, in "Studi trentini. Storia", 94, 2015, 1, pp. 9-14.

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

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

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

[26]   For a contextualisation of the works of the Grimm Brothers, see J. LEERSSEN, *Literary Historicism: Romanticism, Philologists, and the Presence of the Past*, in "Modern Language Quarterly", 65, 2004, 2, pp. 221-244.

[27]   P. BLICKLE, *Kommunalismus. Skizzen einer gesellschaftlichen Organisationsform*, München 2000.

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

[29]   G. ALGAZI, *Herrengewalt und Gewalt der Herren im späten Mittelalter. Herrschaft, Gegenseitigkeit und Sprachgebrauch* (Historische Studien, 17), Frankfurt a.M. - New York 1996.

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

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

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

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[30]   A. HOLENSTEIN, *Die Huldigung der Untertanen. Rechtskultur und Herrschaftsord-nung (800-1800)*, (Quellen und Forschungen zur Agrargeschichte, 36) Stuttgart - New York 1991.

[31]   J. DAVIS, *Medieval Market Morality. Life, Law and Ethics in the English Marketplace, 1200-1500*, Cambridge 2012.

[32]   *Encyclopédie*, vol. 14, Paris 1765, p. 586.

[33]   For an edition with detailed comments, see H. OBERMAIR, *Soziale Produktion von Recht? Das Weistum des Gerichts Salurn in Südtirol von 1403*, in "Concilium Medii Aevi", 4, 2001, pp. 179-208.

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

The preamble gives a good indication of the upper-class intentions found in the text: "was der gemeinschaft des gerichts wider von der herschaft beschehen sol" [what the community can expect from the powers that be]. It would be simple to attribute the semantic basis of the "gemeinschaft" to a social concept aimed at an associative community along the same line as expressed by Tönnies, located before the territorial powers[36]. Such power is incarnated here by the Tyrolean counts and Austrian dukes, who are directly apostrophised in the text as "lieber herr" [dear Lord]. The common laws were to be negotiated with them, yet they were substantially put under discussion by the centralised territorial law, the so-called "Landrecht", which in 1404—or just one year later—was to have its first reformulation carried out by the Habsburgs[37]. The motivation behind this draft was, in addition to the local contingencies, a potential contrast between the microcosm of the community and the macrocosm of the territory.

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

[34]   For this concept, see D. HARVEY, *Justice, Nature, and the Geography of Difference*, Cambridge MA 1996.

[35]   W.C. BROWN, *Charters as Weapons. On the Role Played by Early Medieval Dispute Records in the Disputes They Record*, in "Journal of Medieval History", 28, 2002, 3, pp. 227-248.

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

[37]   M.P. SCHENNACH, *Gesetz und Herrschaft*, pp. 219-220.

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

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

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

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

[39]   For the regional situation, see H. Obermair, *Logiche sociali della rivolta tradizionalista. Bolzano e l'impatto della "Guerra dei contadini" del 1525*, in "Studi Trentini. Storia", 92, 2013, 1, pp. 185-194. For a more general context, see D. Miller, *Armies of the German Peasants' War 1524-1526*, Oxford 2003.

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

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

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

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

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

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

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

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

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

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

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[43] CICERO, *Laelius sive de amicitia. Ad usum scholarum*, ed. by J.B. MAYER, Kempten 1831, cap. 27, p. 416.

[44] J. ASSMANN, *La memoria culturale. Scrittura, ricordo e identità politica nelle grandi civiltà antiche*, Torino 1997².

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

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

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

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

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

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[46] On the concept of the past as "futures past" see R. KOSELLECK, *Vergangene Zukunft. Zur Semantik geschichtlicher Zeiten*, Frankfurt a.M. 1979, pp. 17-37.

[47] O. STOLZ, *Politisch-historische Landesbeschreibung von Südtirol* (Schlern-Schriften, 40), Innsbruck 1937, p. 268.

[48] B. RATH, *Aspekte geschlechtsspezifischer Kriminalität in Bozen um 1500*, Ph.D. thesis Vienna, 2002.

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

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

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

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

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

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

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

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

IV.

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

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

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

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

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

[52] G. SIMMEL, *Das Ende des Streits*, in "Die neue Rundschau", June 6, 1905, pp. 746-753.