УДК 94:[343.85:343.352(497.1)"1918/1941"

DOI https://doi.org/10.31212/tokovi.2021.3.lec.37-70
Оригинални научни рад
Примљен: 7. 3. 2021.
Прихваћен: 12. 11. 2021.

Miloš LECIĆ
University of Regensburg
Milos.Lecic@geschichte.uni-regensburg.de

The Evolution of Anti-Corruption Legislation in Interwar Yugoslavia (1918–1941)*

Abstract: This article maps the legal framework of the anti-corruption legislation in interwar Yugoslavia, by examining the context and contents of the evolving anti-corruption laws in the period 1918–1941. It examines the intentions of the law-makers and the messaging that they wanted to convey through the legislation in a diachronic perspective, as well as the focus of the anti-corruption efforts towards petty corruption versus grand corruption. It poses questions towards the applicability of existing corruption models in the context of interwar Yugoslavia and proposes new directions for studying persisting structural phenomena shaping corruption practices in Southeastern Europe to this day.

Key words: corruption, interwar Yugoslavia, law, anti-corruption, corruption practices, political elites

Introduction

Studying historical corruption is not a task for perfectionists. The term "corruption" is familiar to most, yet there is no single satisfactory definition that would capture the scope of the activities that the term is covering. As a historian, labelling a society as corrupt to bolster one's ar-

* Part of a wider research project "From Informality to Corruption (1817–2018): Serbia and Croatia in Comparison" (https://www.uni-regensburg.de/forschung/geschichte-der-korruption-in-suedosteuropa/dfg-projekt-von-der-informalitaet-zur-korruption-1817–2018-serbien-und-kroatien-im-vergleich/index.html) funded by DFG, German Research Foundation.

gumentation is a well-established practice, yet little thought is given to the almost ontological difference between petty bribegiving and grand corruption.[1] The lack of written sources and reliable statistics, which necessitates an overreliance on ideologically laden discourse analysis, is another deterrent. Yet it seems clear that the way to attempt cracking this enigma is to add complexity, accept the limitations and find an inclusive methodology that is agnostic towards the normative valuations of the term corruption. Such a methodology, for studying corruption in interwar Yugoslavia, has been outlined by corruption scholars of the region.[2] Buchenau outlines the productivity of separating the scandalization of corruption from the reaction to it over time, explaining that "scandalization studies of corruption" in Southeastern Europe do exist, but "reaction studies of corruption" do not. Viewing the rise in the use of the term corruption as "a sign that traditional practices are being criminalized and scandalized" allows us to view corruption as a companion to processes of modernization.[3] Using this approach, the corruption narrative can, in a simplified way, be viewed as a three-part closed loop system. Part one are the corruption events, scandals and everyday occurrences, that take place in a reality shaped by laws and the enforcement of those laws. Part two is the problematization of those events, articulations of the problem, most commonly occurring as the public reaction to the events in the media. Part three is the reaction of the state to the public reaction, by prosecuting corruption under the existing laws and/or changing the laws to signal action and illegalize unregulated practices that are perceived as breaching the ever-changing norm. This final part closes the loop by creating a new reality in which new future corruption events take place. In this study, I will focus on the final step by analyzing the changes in the anti-corruption legislation in

1 For some notable exceptions, in the under-researched field of corruption studies in Southeastern Europe, see: *Korupcija i razvoj moderne srpske države*, eds Aleksandra Bulatović, Srđan Korać, (Beograd, 2006); Aleksandar Miletić, „Bakšiš i državna intervencija. Činovnička korupcija u Kraljevini SHS", *Tradicija i transformacija. Političke i društvene promene u Srbiji i Jugoslaviji u 20. veku*, ed. Vladan Jovanović, (Beograd, 2015); Klaus Buchenau, "Korruption im ersten Jugoslawien (1918–1941). Eine Skizze zu Diskurs und Praxis", *Südost-Forschungen* 72, (2013), 98–132; Srđan Mićić, „Problemi i zloupotrebe u jugoslovenskoj diplomatskoj kurirskoj službi, 1918–1941", *Arhiv: časopis Arhiva Jugoslavije* 1–2/2015; Vesna Aleksić, „Sprega politike i tokova novca u Srbiji: ekonomsko-istorijska pojava dugog trajanja", *Pravci strukturnih promena u procesu pristupanja Evropskoj uniji*, (Beograd: Institut ekonomskih nauka, 2016).

2 Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 98–103.

3 *Ibid*., 102.

interwar Yugoslavia, by identifying and systematically evaluating changes in the laws, that were intended to curb corruption. This study is limited in scope for two reasons. Firstly, because supplementing the analysis of the legal framework with an assessment of the effectiveness of the judicial system in curbing corruption would be a much more demanding task, not least because of the heterogeneity of the legal traditions and practices in the country.[4] Secondly, because a mapping of the legal anti-corruption framework in interwar Yugoslavia does not exist. This study will provide a base for further inquiries into the interplay between corruption events, reactions to them and legal tools in prosecuting it. Successful corruption control is contingent on a number of factors, where the legislation is only one, creating merely a potential for dealing with the problem. The enforcement of the laws by independent and capable prosecutors, as well as an independent judiciary are arguably even more important, on par with the political will of key stakeholders and an independent press. Due to this low placement on the anti-corruption hierarchy, a serious question emerges. Why study the laws, if the laws were not enforced? I argue that even in a setting where the laws are not followed, understanding their development can tell us something about the intentions of the law-makers, their reactions and the messaging that they wanted to convey. This study will also examine the seriousness of the elites towards the anti-corruption effort, by showing the intensity and development of the anti-corruption legislation towards petty corruption, as opposed to grand corruption. Lastly, this study will attempt to contribute towards the understanding of the "quality of fit" of already established corruption models, such as the principal-agent-client model, in a context of interwar Yugoslavia.[5]

In attempting to identify all the relevant laws that can be considered part of the anti-corruption legislation some difficulties emerge very early on. What definition of corruption should be used? What constitutes a corruption offence? Is a law on accounting practices a law that regulates corruption? How does one identify all the relevant laws, when the term "corruption" was not used at all in the law texts? These and additional questions necessitated a consideration regarding scope. I have decided to use the classic, yet adequately abstract, definition of corrup-

4 Klaus Buchenau, "What is Justice? Complaints about Courts in Interwar Yugoslavia", *Südost-Forschungen*, Band 77/2018, Themenheft der Zeitschrift *The History of Corruption. The Balkans and Latin America in Comparison*, ed. Klaus Buchenau, 135.

5 Petra Stykow, "Mésalliance à trois, Politische Korruption als Beziehungsphänomen", *Sichtbarkeit und Unsichtbarkeit der Macht*, Hgs Bluhm, Fischer, 91, in: Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 107.

tion as "abuse of entrusted power for private gain", but also to include laws in this paper that were perceived by the public at the time and are perceived by historians today, as anti-corruption laws.[6] This constraint meant excluding a whole set of laws regulating smuggling, as the intent of these laws was aimed at stopping external actors from stealing from the public good. Even though public officials have participated in corruption acts enabling smuggling, it was different laws that regulated the participation of the public officials entrusted with power, in this type of corruption.[7] On the other hand, I have decided to include laws that did not explicitly contain mentions of public servants, but where the spirit of the law was clearly aimed at curbing the societal realities of high-ranking officials abusing their status and privileges. It is therefore important to highlight that the selection of the laws for this analysis has been a subjective matter and that there certainly might be a number of smaller laws and/or regulations that would have deserved a place in this paper. I am however confident that all the major legislation, regulating corruption, has been included and that this study provides a holistic overview of the anti-corruption legislation in interwar Yugoslavia.

Background

Interwar Yugoslavia was a Versailles construction that unified many different, primarily South Slavic, populations under the political hegemony of the Serbian elites and institutions. Due to the Serbian legacy of independence, the country´s size and its role in the war, the Serbian legal tradition became the foundation on which the new state was built.[8] This did not mean that the other ethnic groups easily accepted the Serbian dominance. It also did not mean that the process of ironing out the legal traditions of the many different areas, now united, was going to be quick and simple. The ruling elites had to accept the realities on the ground and let the areas of the previous Austro-Hungarian Empire continue to function

6 Joseph Pozsgai-Alvarez, "The abuse of entrusted power for private gain: meaning, nature and theoretical evolution", *Crime, Law and Social Change*, volume 74, 2020, 436–439.

7 An example of this is laid out in a paper by Srđan Mićić (Mićić, „Problemi i zloupotrebe u jugoslovenskoj diplomatskoj kurirskoj službi"), describing the abuses within the "Yugoslav diplomatic courier service", where the diplomatic secrecy of cross-border shipments invited attention of both smugglers and public servants who wanted to avoid postage costs for personal shipments.

8 Lenard, J. Cohen, "Judicial Elites in Yugoslavia: the Professionalization of Political Justice", *Review of Socialist Law*, Volume 11, Issue 1, 1985, 316.

with existing legal systems in place, while the post-Ottoman areas, that did not have a legacy of an independent judiciary, would be covered by Serbian law. A clash of opinions quickly arose between the legal scholars from the areas of the previous Austro-Hungarian Empire (*prečani*), that were experts in the Austro-German legal tradition, and scholars practicing law in the Kingdom of Serbia (*Srbijanci*), who practiced a hybrid version of many different legal traditions (Prussian, French, Italian, Austrian, Norwegian and Russian law), which comprised the basis for Serbian law.[9] Due to this heterogenous nature of the legal legacy practiced in the Kingdom of Serbia until the war, the accusations directed at the legal scholars from the areas of the previous Austro-Hungarian Empire were aimed as much at their scholarly narrowmindedness, as at their perceived Germophilia.[10] In Pavlović's analysis addressing the issues of equating the legal standards in the new country, he labels the heated debates between the Serbian jurists and the jurists from the previous Austro-Hungarian Empire, as a "clash of two legal worlds". He thereby qualifies the many smaller, often emotional, debates on specific legal topics and claims that the root-causes were grounded in a fundamentally different understanding of law and justice, between the rationalistic German law and the more emotional Serbian law, which was endowed with the "spirit of the times and folk traditions".[11] This analysis provides an insight into one of the most pronounced aspects of differentiation and othering among the Serbs and the Croats of that period (and today), namely the split between the "civilized West" and the "oriental East". Pavlović's analysis is useful in showing the perceived normative differences of the two groups and highlighting that the debates, of the legal scholars in interwar Yugoslavia, were guided by both idealism and tradition.

Around 800 legal decrees (*zakonske uredbe*) were used until 1921 to iron out the differences in legal codes between the different parts of the country.[12] In an article from the Belgrade based daily, *Politika*, from the 19th of April 1921, under the headline "What will the regulations lead to?", a Serbian intellectual Slobodan Jovanović warned that a constant issuing of new decrees has led to "the legal order losing its permanence",

9 Zoran Stojanović, *Krivično pravo*, (Beograd: Pravna knjiga, 2019), 32; Dunja Pastović, "Unification of Criminal Law in the Interwar Yugoslav State (1918–1941)", *Krakowskie Studia z Historii Państwa i Prawa* 12 (4), 2019, 557.

10 Marko Pavlović, „Problem izjednačenja zakona u Kraljevini Srba, Hrvata i Slovenaca / Jugoslaviji", *Zbornik PFZ*, 68, (3–4), 2018, 495.

11 *Ibid*., 514.

12 *Ibid*., 495.

which de-facto meant merging the executive and the judicial branches of the government.[13] Despite the excessive use of decrees, it was clearly unsustainable from a centrist viewpoint, to have so many different legal codes in force, at the same time.[14] Following the ratification of the new constitution on the 28th of June 1921, a draft of a uniform criminal code was completed already in 1922. Due to an improvised process of recension, that was ultimately delegated to a few trusted Serbian legal scholars, followed by loud and open criticism by the Croatian legal scholars, and due to the general political instability of the state, the process of ratifying the draft through the parliamentary procedure was never initialized.[15] The period between the enactment of the constitution in 1921 and the proclamation of the royal dictatorship in 1929 was a hectic time politically and a complicated time legally. New laws and decrees were passed which were valid for the whole country, yet had to subordinate themselves to the different legal systems in different areas. A picturesque assessment of this time, through western eyes looked like this: "Two American students of public law and civil administration who surveyed the Yugoslav regional situation in 1928 observed that although the interwar Yugoslav Kingdom may have been a unitary state, its judicial system exhibited a de facto 'legal federalism', and functioned, as a 'marvelous chaos'."[16]

Political instability was undoubtedly the main reason why a unification of the legal codes did not happen before the royal dictatorship in 1929. The practice of tying reforms to ministers, who would often get replaced, and commissions, that would almost always start the reform work from scratch, was the concrete outcome.[17] Following a great political turmoil of the end of the 1920s, the proclamation of the Royal dictatorship on the 6th of January 1929, which abolished the 1921 constitution, led to a great number of new laws being passed with dictatorial efficiency. A unified criminal code was proclaimed publicly on the 9th of February 1929 and took affect from the beginning of 1930 (supplemented in 1931 and

13 „Чему воде уредбе?", *Политика*, 19. 4. 1921.
14 Amra Mahmutagić, „Pravna heterogenost u zajedničkoj jugoslavenskoj državi između dva svjetska rata", *Revija za pravo i ekonomiju*, br. 1, (Pravni fakultet, Univerzitet Džemal Bijedić u Mostaru), 2016, 18.
15 Pastović, "Unification of Criminal Law in the Interwar Yugoslav State", 558–563.
16 Cohen, "Judicial Elites in Yugoslavia", 315.
17 Gordana Drakić, „Formiranje pravnog sistema u međuratnoj jugoslovenskoj državi", *Zbornik radova Pravnog fakulteta u Novom Sadu* 1–2/2008, 654.

continually revised until 1941).[18] Corruption of the bureaucracy during 1920s was not only contributing towards inefficiencies in public management and waste of state-resources, it was also a highly politicized issue that was polarizing the state on two fronts, Serbs against the Croats, as well as the exploited peasantry against the exploiting city elite.[19] The reforms of the bureaucracy, that took place after 1929, had a dual purpose, to curb corruption in order to defang the politization of the issue, as well as to create a more obedient bureaucracy for the aims of an intensified royalist nation-building project.[20] In addition to the many new laws passed after 1929, some grand, yet halfhearted, attempts were made at confronting corruption publicly (the trail following the Našice scandal), but the label of "a corrupt state" has remained an obligatory qualification in most of the descriptions of interwar Yugoslavia.[21] The following section of this paper will provide an overview of the context and content of the legislative side of the anti-corruption effort in this state.

Analysis of the Anti-Corruption Legislation

Criminal law serves as the underlaying framework that defines criminal offences and regulates the sanctions. Anti-corruption legislation is, in principle, an add-on to the criminal law. It is therefore necessary to reflect on the differences in the legal legacies of the criminal law in the legal areas that joined the new state, through the lens of their anti-corruption sections. The following table offers an overview of the primary criminal codes in 1918:[22]

18 Milica Anđelković, „Šestojanuarska diktatura i Krivični zakonik Kraljevine Srba, Hrvata i Slovenaca", (Master thesis, University of Niš, 2018), 30–31; Stojanović, *Krivično pravo*, 33.

19 Christian A. Nielsen, *Making Yugoslavs: Identity in King Aleksandar's Yugoslavia*, (Toronto: University of Toronto Press, 2014), 71–73.

20 *Ibid*., 248–249.

21 Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 126–130.

22 The table is compiled based on: Anđelković, „Šestojanuarska diktatura", 29; Pastović, "Unification of Criminal Law in the Interwar Yugoslav State", 556–558. - The criminal codes in the table are the foundational criminal codes for each area that have all have been supplemented and amended from the time of their enactment until 1918. In Croatia-Slavonia the Austrian criminal code was functioning and evolving independetly within the framework of the authonomus Croatian law and the Austrian Criminal Code for Bosnia and Hercegovina of 1879 was itself an ammended version of the Austrian Criminal Code of 1852.

Legal area	*Criminal code*
Serbia	Serbian Criminal Code of 1860
Montenegro	Montenegrin Criminal Code of 1906
Croatia-Slavonia	Austrian Criminal Code of 1852
Dalmatia-Slovenia	Austrian Criminal Code of 1852
Vojvodina	Hungarian Criminal Code of 1878
Bosnia and Hercegovina	Austrian Criminal Code for Bosnia and Hercegovina of 1879

The two most important criminal codes for understanding the basic differences in regulating corruption in the post-Ottoman and the post-Habsburg spaces, are the *Serbian Criminal Code of 1860* and the *Austrian Criminal Code of 1852*. The main corruption offences in the *Serbian Criminal Code of 1860* were contained within §105–134, under the section of "Crimes and misdemeanors of public servants".[23] The offences were: public servants receiving gifts or bribes, judges receiving bribes, public servants stealing money, public servants trading in secrets for purposes of gain, postmen opening or stealing letters, public servants executing legal sentencing, extorsion and giving/inducing bribes to public officials. The punishments for lighter offences, such as minor breaches or errors due to negligence or laziness, were usually monetary fines. Most bribery cases including public officials were punished in the range of two to five years in prison, with the most serious offences, including the offences of judges, being punished with up to ten years in prison. The punishment framework for bribegivers was up to three years in prison.[24] A further discussion of this law will be conducted later, when it is compared with the new criminal code from 1929.

The main corruption offences in the *Austrian Criminal Code of 1852* were contained within §101–105, under chapter 10 "About the abuse of authority".[25] The offences were: judge/public prosecutor/every civil serv-

23 Казнителни законик за Књажество Србију из 1860. године, 47, access date 23. 10. 2021, http://digital.bms.rs/ebiblioteka/pageFlip/reader/index.php?type=publications&id=3042&m=2#page/1/mode/2up

24 *Ibid.*, 47–58.

25 Österreichisches Strafgesetz über Verbrechen, Vergehen und Übertretungen vom 27. Mai 1852, 35, access date 23. 10. 2021, https://www.gesetze.li/chrono/pdf/1009001000

ant dangerously disclosing an official secret or destroying an official document, acceptance of gifts in official matters and inducing abuse of authority. The punishment for minor offences, such as receiving gifts for more lenient treatment, was imprisonment between six months and one year. The punishment for gift giving was imprisonment between six months and five years (as well as submitting the gift to the local poor fund). The punishment for the most serious crimes of public officials was severe imprisonment from one to five years, that could be extended to ten years.[26] The *Austrian Criminal Code of 1852* was a highly modernized piece of legislation for its time that was introduced as an absolutist reaction towards the liberalization requirements of the 1848 revolutions. It was the first piece of legislation that broke the long tradition of customary law and provided a unified criminal code for the areas of Croatia and Slavonia.[27] In essence, the two criminal codes outlined here are very similar in their content and punishment framework. It is therefore fair to conclude that most of the perceived differences in the pre-war quality of the criminal justice systems, in the post-Ottoman versus the post-Habsburg areas, were not primarily caused by the differences in the quality of the law texts of the respective criminal codes. The more likely hypothesis is that it was due to the quality of the enforcing institutions and personnel, as well as the consistency in enforcing the laws.

The First World War was a devastating experience for the Serbian people and for almost every aspect of the Serbian state. During the war, it was clear that the worst corruption offences within the Serbian army had to be curbed in the face of the existential threat, that the Austro-Hungarian Empire posed. The first order, publicized on the 11th of August 1914, was an order aimed at "suppressing the abuses during deliveries".[28] The main purpose was to state the importance of the professionalization of the commissioning process for army deliveries, by giving more executive power to impartial and professional public servants, as well as imposing much harsher penalties for suppliers or commission members that got caught in corruptive acts. Similar orders were issued during 1915, that had an aim at curbing corruptive activities of state officials towards issues

26 Ibid., 35–36.
27 Ante Novokmet, „Austrijski zakon o kaznenom postupku iz 1853. godine s osvrtom na njegovu ulogu u povijesti hrvatskog kaznenog procesnog prava", *Pravni Vjesnik*, vol. 27, no. 2, 2011, 82, 114.
28 Наређење о спречавању злоупотреба при ливерацији, *Службени дневник*, 11. 8. 1914.

such as livestock requisitioning and abuses during money transfers.[29] The big question posed by the reading public, in the immediate post-war period, was whether the laws were inadequate or if it was the enforcement that was inadequate. The leading article in *Politika* from the 19th of November 1919, under the headline "Empty laws or empty people?", uses an example of an unpunished bribery scandal involving a public servant to pose the question of whether the country has inadequate laws to fight corruption or inadequate people in the judiciary. It then goes on to state:

"Our state is the only one that has a false cult of laws and which, in an effort to literally enforce them, tramples on what is fundamental in them and what forms the basis of its own survival and development. No one invokes the laws more strongly than we do, and nowhere are they less respected than in our country."[30]

With these prophetic words, that in a matter of a decade would mature from being a warning to becoming an argument for dictatorship, we will now move on to the analysis of the anti-corruption laws which were passed in the new state. The table below will provide an overview.

Anti-corruption legislation in interwar Yugoslavia, 1918–1941

Date	*Name*
20. 7. 1921	Decree on the suppression of the high cost of food and unscrupulous speculation
6. 1. 1922	Law on the suppression of the high cost of food and unscrupulous speculation
1. 9. 1923	Law on civil servants and other servants of the civil order
9. 2. 1929	Criminal Code for the Kingdom of Serbs, Croats and Slovenes
3. 4. 1929	Law on the suppression of abuse of office
15. 8. 1929	Law on amendments to article 6 of the Law on the suppression of abuse of office

29 Наређење о спречавању злоупотреба приликом реквирирања стоке за војску, *Службени дневник*, 1. 8. 1915; Пропис о спречавању злоупотреба при слању новчаних аманета, *Службени дневник*, 7. 8. 1915.

30 „Шупљи закони или шупљи људи?", *Политика*, 19. 11. 1919.

25. 9. 1929	Announcement - Application of regulations from the Law on the suppression of abuse of office with the customs authorities
1. 4. 1931	Law on civil servants
28. 10. 1937	Commercial Law for the Kingdom of Yugoslavia

In the following part of this paper, I will analyze all the laws from the table, explaining the context in which they were passed, as well as the most important changes and/or new provisions for curbing corruption.

Decree on the suppression of the high cost of food and unscrupulous speculation, 20th of July 1921 and the Law on the suppression of the high cost of food and unscrupulous speculation, 6th of January 1922

The first piece of legislation in the new state aimed at curbing corruption was enacted in an environment of post-war poverty and widespread hunger. Under the headline "Hungry people", *Politika* from the 3rd of October 1921 leads with a letter written by a school teacher from Vojvodina that describes how school teachers are stripped of dignity, living at the edge of poverty and can only afford to eat boiled potatoes.[31] Similar headlines regarding hunger and the expensiveness of food were frequent in the newspapers from 1918 to 1922.[32] An article published the day after the decree was enacted stated that the greed and speculation were the main causes of the high food prices and that the effectiveness of the decree is contingent on "a minimum of consciousness for the legal defense of our people and if there still is a minimum of government which will perform what this decree prescribes".[33]

The first half of the articles in this decree are aimed at regulating the currency exchange markets and introducing price controls on the food markets. Article 11 is the only article, out of 22 in total, to criminalize corruptive activities of public servants, namely the "purposeful endangering or disturbance of deliveries [of food]" and penalizes this offence with one to six months in jail and 25 000 to 200 000 dinars monetary fine.[34]

31 „Гладни људи", *Политика*, 3. 10. 1921.
32 „Криза снабдевања, чега нема у Београду", *Време*, 18. 12. 1921.
33 „Нова уредба за сузбијање скупоће и несавесне спекулације", *Политика*, 21. 7. 1921.
34 Уредба о сузбијању скупоће животних намирница и несавесне спекулације, *Службени дневник*, 20. 7. 1921.

The rest of the articles in this decree, articles 12–22, are outlining a range of criminal offences in currency manipulation, as well as price manipulation, aimed at farmers and re-sellers of food items. It is noteworthy that only one article in this decree is aimed at curbing the corruption of public servants and only regarding food deliveries. The penalty is severe, as it includes up to six months in prison as well as a fine of up to 200 000 dinars. The size of the monetary fine is very high compared to the salaries of the time and should be considered as stark symbol of severity and the unacceptable nature of corruption in this area at this time.[35]

The decree was eventually amended and turned into a law on the 6th of January 1922. Following important changes were done to the law, compared to the decree:[36]

- Removal of point 3 in article 2 of the decree, that contained a provision stating that the Minister of Social Policy will "eliminate unnecessary mediation between producers and consumers";
- Increasing of penalties (especially fines) aimed towards producers, sellers and speculators;
- The fine from article 11 of the decree (article 10 of the law) aimed at corrupt public officials was halved to 100 000 dinars.

Observing these changes, it seems that, in the five-month period between the enactment of the decree and the enactment of the law, the penalties for public servants were lowered while the penalties for other actors were increased. The law also made it easier to profit on being the middleman between the producers and consumers.

Law on Civil Servants and Other Servants of the Civil Order, 1st of September 1923

The law on public servants from 1923 was a comprehensive law structuring the rules for: hiring, promotion, salaries/pensions and sanc-

35 Based on statistical estimates (Dragan Vukmirović et al., *Dva veka razvoja Srbije: statistički pregled*, (Beograd: Republički zavod za statistiku Srbije, 2008), 86) and newspaper reports („Jadi državnih činovnika", *Slobodna Tribuna*, 7. 3. 1923), the average yearly net salary of a public servant with an academic education was in the range of 7500–8500 dinars.

36 Закон о сузбијању скупоће животних намирница и несавесне спекулације, *Службени дневник*, 6. 1. 1922.

tions of public servants. Following general provisions were aimed at penalizing corrupt behavior:[37]

Article 95 specifies that any misuse of authority and position of public servants for the aims of a political party will be penalized with either a salary decrease or retirement. In more serious cases the penalty was firing or the application of regulations from the criminal law;

Article 97 specifies that public servants cannot be "contractual parties" in public procurement contracts, nor have any direct or indirect interests in them. Public servants could also not be members of executive or advisory boards of companies, that they have any jurisdiction towards;

Article 98 specifies that a public servant cannot, directly or indirectly, receive any gift (cash or other valuables) that would influence his decision-making. The penalties were specified by the criminal law.[38]

The opposition did not vote for this law, stating a number of shortcomings, ranging from inadequate salaries to a lack of possibility for political expression for public servants.[39] The main critique seemed to be that the overall aim of the law was to transform the public servants from a branch of the government that was independent and bolstered by laws, to a fully obedient branch, that would serve as an extension of the ministerial power. A leader of an opposition fraction, The Yugoslav Club, expressed his disapproval, by stating that the political absolutism of the law would transform "the bureaucratic class into a caste […] which blindly obeys the ministers".[40] The general impression of the historians commenting on the enactment of this law is, that it was disliked by both legal scholars of the time, as well as the public servants themselves.[41] Reading through the Zagreb-based, *Slobodna Tribuna*, of this period, it is possible to infer

37 Закон о чиновницима и осталим државним службеницима грађанског реда, *Службене новине*, 1. 9. 1923.

38 A 2018 study on tenant protection schemes in Yugoslavia, in the early post-war period, provides an example of one type of widespread exploitative practice based on the vast discretionary rights and low accountability of public servants (Aleksandar Miletić, "An Interplay of Statism, Petty Corruption and Clientelism. The Tenant Protection Schemes in Yugoslavia, Bulgaria and Czechoslovakia in the Aftermath of the First World War", *Südost-Forschungen* 77(1), 2018, 91). The vague definition of "abuse during decision making", in article 98, addresses merely one aspect of this phenomenon, but considering how common and heterogeneous these abuses were, it is clear that this article was inadequate in seriously addressing the problem.

39 „Народна скупштина уочи распуштања", *Политика*, 25. 7. 1923.

40 „Чиновнички закон, најзад, изгласан", *Време*, 25. 7. 1923.

41 Dušan M. Blagojević, „Razvoj činovničkog prava i obrazovanja u Srbiji od 1804 godine do današnjih dana", *Kultura Polisa*, br. 43, godina XVII, 2020, 43.

a Croat view towards the public servants in general, as well as their view on this law in particular. In March of 1923, before the law on public servants was in the front of the public debate, *Slobodna Tribuna* was writing about the hunger-level poverty of the public servants and how that led to a degradation of their social status, as well as an exodus of qualified people from public institutions.[42] In June, a month before the vote on the law, the newspaper wrote about the necessity for a substantial salary increase for all levels of the impoverished public servants, in order to avoid that "the public service becomes infected with corruption", as well as amending the tendency to "bind the public servants to politics and parties".[43] It further writes that if the final draft of the law is voted through, it will lead to a spreading of "regrettably tolerated" corruptive customs for purposes of salary-supplementation, so far only known in the "Serbian lands".[44] Ultimately, after the passing of this law, the Zagreb daily returned to reporting on corruption scandals affecting the Croatian public and the country as a whole, only complaining that it was "hard to note them [scandals] all on such a small space".[45] The rest of the 1920s continued to be a particularly fruitful time for reporting on corruption scandals that often included public servants.

Criminal Code for the Kingdom of Serbs, Croats and Slovenes, 9th of February 1929

The need for a unified criminal code covering the whole country was evident and immediate from the beginning, so the work towards updating the already existing Serbian criminal code project from 1911, had already begun in 1920, was completed by 1923 and only enacted in 1929, when crippling parliamentary disagreements got replaced with dictatorial efficiency.[46] The main corruption offences in the criminal code of 1929 were contained within §384-404, under section 28 titled "Criminal acts against public service".[47] In addition to this section, two other paragraphs

42 „Jadi državnih činovnika", *Slobodna Tribuna*, 7. 3. 1923.
43 „Stanje i pokret javnih činovnika i namještenika", *Slobodna Tribuna*, 23. 6. 1923.
44 „Izjednačenje činovništva ili militarizacija države", *Slobodna Tribuna*, 30. 6. 1923.
45 „Afere kao naše nacionalne bolesti", *Slobodna Tribuna*, 4. 8. 1923; „Problem našeg iseljavanja", *Slobodna Tribuna*, 4. 8. 1923.
46 Toma Živanović, *Osnovi krivičnog prava Kraljevine Jugoslavije*, (Beograd, 1935), 92.
47 Кривични законик за Краљевину Срба, Хрвата и Словенаца, *Службене новине*, 9. 2. 1929.

criminalize behavior which can be considered corruption, namely §133 that criminalizes bribe giving, as well as §371 that criminalizes lawyers and public notaries that misuse their responsibilities towards their clients with the purpose of self-enrichment (imprisonment of up to 5 years and a fine). Serbian legal scholar Milica Anđelković highlights two major aspects that changed, regarding the law against corruptive practices of public officials, as a consequence of the new criminal code. Firstly, the new law expanded the category of public officials to also include the clergy. Secondly, Anđelković assesses that the penalties prescribed for serious offences by public officials were "not only not strict, they were mild".[48] In order to evaluate this assessment by Anđelković, I have compiled the following table comparing similar offences from the *Serbian Criminal Code of 1860*, which was the official criminal code in the post-Ottoman parts the country until 1929 and the succeeding *Criminal Code for the Kingdom of Serbs, Croats and Slovenes of 1929*.

Comparable crimes of public servants in law codes from 1860 and 1929[49]

Serbian Criminal Code of 1860	*Sanction*	*Criminal code for the Kingdom of SCS of 1929*	*Sanction*
§105 - receiving or demanding a gift to ignore a public servant's responsibilities	100 talirs fine or prison up to 6 months	§384 - receiving or demanding a gift to do (or not do) acts that are part of the responsibilities of a public servant	imprisonment (length not specified)
§106 - receiving or promising a bribe or any form of benefit to do illegal acts	5 years in prison and loss of citizens' rights	§385 - receiving or demanding a gift to do illegal acts	up to 5 years in prison

48 Anđelković, „Šestojanuarska diktatura", 66–67.
49 Казнителни законик за Књажество Србију из 1860. године, 47–58; Кривични законик за Краљевину Срба, Хрвата и Словенаца, *Службене новине*, 9. 2. 1929, 184–186.

§109 - sentencing in somebody's favor against the law (judge)	2 to 5 years in prison	§386 - illegally favoring a party during official work (public servant / judge)	minimum of 6 months in prison for public servants and up to 5 years for judges
§107 - receiving bribe for favorable sentencing	2 to 10 years in prison	§387 - receiving or demanding a gift for favoritism or illegal acts	up to 5 years in prison for favoritism and up to 10 years in prison for illegal acts
§123 - unlawfully arresting citizens	50-200 talirs, firing or 3 months to 5 years in prison	§391 - unlawfully arresting citizens or keeping them arrested too long	up to 3 months in prison
§117 - revealing a secret	from firing to 3 years in prison	§401 - revealing a secret	up to 2 years in prison
§118 - opening or destroying letters and/ or packages (public servant - postal)	firing and 3 months to 1 year in prison	§402 - opening or destroying letters and/or packages, delivering to a wrong person, discloses the content of a letter	imprisonment (length not specified)

Based on the above table, it is evident that the sanction framework in the new criminal code became milder and less specific. In the example of bribe giving for illegal acts, which can be considered a widespread offence in the context of corruption, the sanction of 5 years of imprisonment went from being the norm, to being a maximal sentence. In general, the average sentence length in cases where prison-time was involved under the sections regarding the abuses of office, went down from 4 years in the criminal code of 1860 to 2,7 years in the criminal code of 1929.[50] The

50 Based on own calculation. Calculating an increase or decrease of a set of sanctions, which are not defined using absolute numbers, but as spectrums (e.g. from 6 months to 5 years), is difficult and connected with a certain error-margin and unreliability. These numbers therefore serve only as indicators of a general trend.

death penalty for public servants, which is prescribed in §126 of the criminal code of 1860 for "unlawful execution of the death penalty", is removed from the new criminal code. One key difference that emerged in the new law was the sanction category of "imprisonment" without a specification of the length of the imprisonment. This type of sentence was prescribed in 9 out of 21 paragraphs (43%) under section 28, whereas there were no such instances in the criminal code of 1860. This can also be interpreted as a shift towards a milder sanction framework, as the lengths of the imprisonment were transferred to the decision-making of the judiciary, and the legal minimums were removed in almost half of the prescribed law breaches. Lastly, it is worth noticing that the amount of actions defined as breaches of the law (the number of paragraphs) was decreased by almost a third, from 30 to 21. In the case of bribe givers, the criminal code of 1860 in §108 prescribes a penalty of up to 3 years in prison for giving (or attempting to give) a bribe to a public servant, whereas the criminal code of 1929 in §133 prescribes an undefined length of strict imprisonment and a fine of 100,000 dinars.[51]

The publishing of the new criminal code was followed by a large number of articles in the media, including a variety of analyses of the content of the law as well as its historical and scientific contextualization. Legal scholars, interviewed by the press, agreed that the new criminal code followed the latest scientific advances in criminology, which had a more holistic view on crime in the society. It was made clear that the lowering of the sanctions framework, as well as the abolition of the "brutal" punishments, should be viewed in a progressive perspective on rehabilitation and cultural progress.[52] Considering Anđelković's assessment, that the penalties for serious offences of public servants were mild and including the above analysis of the changes in the sanctions framework, it is not immediately evident whether the new criminal code represented a stricter or a more lenient step towards corruption. In absolute numbers (length of the prison time and the amount of punishable offences) it was a step towards a more lenient approach, but considering the general trend towards a more humane treatment of criminals, that occurred in the 70 years separating the two criminal codes, the valuation of the new

51 Казнителни законик за Књажество Србију из 1860. године, 47–58; Кривични законик за Краљевину Срба, Хрвата и Словенаца, *Службене новине*, 9. 2. 1929, 167.

52 „Нови модерни кривични закон", *Политика*, 28. 1. 1929; Luka Breneselović, „Recepcija 'Restorativne pravde' kao primer nekritičkog diskursa u pravnoj sociologiji: Slučaj Srbije", *Sociološki pregled* 1/2011, 52.

criminal code's sanctioning of corruption becomes more ambiguous.[53] In fact, the legislation that followed the criminal code of 1929 compensated for many of its shortcomings in regulating the corruptive behavior of the public servants and expanded the scope of both the punishable offences and the pool of possible perpetrators.

Law on the suppression of abuse of office, 03rd of April 1929 (including the amendment to article 6 and the announcement for the customs authorities)

This law did not receive a lot of coverage in the press at the time it was passed, primarily because other and more prominent laws of the royal dictatorship were being passed around the same time. The main remarks in both *Vreme* and *Pravda,* that nicknamed it the "Law against corruption", were aimed at the fact that the law, unfortunately, did not have retroactive effect.[54]

The main additions to the anti-corruption effort were to be found in the following articles:[55]

- Article 3 criminalized all who abuse their public or social position in order to seek a reward in mediating contracts that led to the state or a governing body incurring a loss, with imprisonment of up to 5 years and a 250,000 dinar fine;
- Article 5 specified that all articles in the law apply not only to the perpetrators of the offences, but also to the instigators and helpers;
- Article 9 was providing support to prosecutors and judges in corruption cases by expanding their access to public records, including previously unavailable records that are marked as "highly confidential";
- Article 15 specified that "If a civil servant with a wasteful or lavish way of life or conspicuous purchase of movable or immovable property raises doubts about the correctness of the

53 Ivana Dobrivojević Tomić, „Kazneni zavodi u Kraljevini Jugoslaviji 1929–1935", *Istorija 20. veka* 1/2006, 46; Dušan Jakšić, Dragomir Davidović, „Razvoj kaznenog sistema u krivičnom pravu Srbije", *Specijalna edukacija i rehabilitacija*, Vol. 12, br. 4, (Beograd), 2013, 526–527, 532.

54 „Краљ је потписао закон о злоупотребама у званичној дужности", *Време*, 31. 3. 1929; „Њ. В. Краљ потписао данас закон против корупције", *Правда*, 31. 3. 1929.

55 Закон о сузбијању злоупотреба у службеној дужности, *Службене новине*, 3. 4. 1929, 470–471.

origin of his property or his income, the supervisor of the official is obliged to immediately conduct the necessary reconnaissance to determine the origin of his property or his income." If sufficient doubt is attained, criminal or disciplinary proceedings should be initiated.

Looking closely at the exact words used in article 3, namely the abuse of the public or social position in mediating contracts, it can be said that the *modus operandi* being described was known to the public through the many corruption scandals of the 1920s. With regards to leveraging the social position in particular, the formulation is especially well suited to describe one of the many corruption scandals of Radomir "Rade" Pašić, the son of the long time serving prime minister, Nikola Pašić.[56] Article 15 seems to be a particularly potent part of the legislation that orders the supervisors to conduct immediate and necessary reconnaissance towards their subordinates in case of doubt regarding corruption. This provision places the responsibility of reporting corruption and even doing a preliminary investigation on higher ranking public officials, rather than the police. It is thereby introducing a kind of a self-policing mechanism within the public institutions. Article 15 would later be described by the advocates for curbing corruption in the mid-1930s, as an exemplary good piece of legislation, that was however never used to prosecute anybody.[57]

Almost six months following the enactment of the *Law on the suppression of abuse of office*, a new law was passed that only amended article 6, that was specifying which courts were responsible for the prosecution of the offences in the law.[58] This minor change might seem insignificant, when reading this very short amendment, but it meant a big change in how the prosecution was carried out and more importantly, it tells us something about the initial seriousness in enforcing the corruption law. An article in the Croatian newspaper, *Obzor*, that came out on the day of the announcement, states that the only change in this law was moving the court jurisdiction for the corruption offences from the regional courts (*okružni sudovi*) to the local courts. The article further states that the reason for doing this was that following the enactment of the corruption law, the authorities started a prosecution "against all those who would, in any form

56 Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 114–115.
57 Arhiv Jugoslavije (Archives of Yugoslavia - AJ), Fond Centralni presbiro Predsedništva Ministarskog saveta Kraljevine Jugoslavije (38) 724–903, „Zakon protiv korupcije", *Otadžbina*, 25. 2. 1934.
58 Закон о измени члана 6. Закона о сузбијању злоупотреба у службеној дужности, *Службене новине*, 15. 8. 1929.

and to any extent, violate its provisions".[59] The article then explains that the intensity at which the authorities where prosecuting even (and in particular) the smallest of bribe cases, led to disproportionate travel expenses and the overburdening of the regional courts.

Soon after the amendment of the law, an announcement was published outlining that the law is of "special importance" for the customs authorities.[60] The announcement was to be read aloud to all the customs officers and posted on information boards of all the customs offices in the country. It had no new or special provisions for suppressing the abuse of office, but the framing text, accompanying the excerpt that listed the most important paragraphs, is informative as it reveals the governments insight into the most important areas of corruption within the customs authorities. Following special cases were highlighted:

- Taking any sort of "reward" (*dijurne*);
- Working too slow in order to receive a larger per diem;
- Letting people cut the queue as a favor to them.

By stressing these particular acts towards the customs authorities, it seems that the government was focused on curbing the everyday minor corruption, which was influencing regular people's perception of the state administration, as much as it was interested in curbing large corruption scandals.

Law on Civil Servants, 1st of April 1931

In the same way as the *Law on civil servants and other servants of the civil order* from 1. 9. 1923, this law was primarily aimed at structuring the rules for: hiring, promotion, salaries/pensions and sanctions of public servants. *Politika* presents this law as a solution for "the public servant's question", hinting at the inadequacies of the 1923 law on public servants.[61] The law from 1929 was written on the foundation of the law from 1923, as the structure of the text and the content of the law follow the same chronology, and most paragraphs remained unchanged. There are however a number of important additions in the law of 1929, that show a significant change in the severity and scope of the anti-corruption effort. Paragraph 75 was an amended version of the aforementioned arti-

59 AJ, 38, 724–903, „Izmena zakona o korupciji", *Obzor*, 15. 8. 1929.
60 Распис – Примена прописа из Закона о сузбијању злоупотреба у службеној дужности код царинских власти, *Службене новине*, 25. 9. 1929.
61 „Чиновничко питање решено", *Политика*, 2. 4. 1931.

cle 97 of the law from 1923, regarding public servants being contractual parties in public procurement contracts and members of boards in companies. The main change in the new law was that ministers and regional governors (*banovi*) have been added as functionaries, that cannot be parties in public procurement contracts, nor direct/indirect stakeholders.[62] Additionally, it is specified that ministers, regional governors or public servants can't be board members of a long range of explicitly named governmental institutions and banks. From these, I would highlight the association with companies that have mining rights or privileges, as well as companies that have contracts regarding commercial exploitation of public forests. This provision also seems to have been inspired by the larger corruption scandals in the 1920s, including ministers and companies engaged in mining or forest exploitation, like the Thurn and Taxis scandal.[63]

Lastly, with regards to ministers, regional governors or public servants this paragraph outlines that they cannot be members of any other association or company that is working with the state. In the same paragraph, judges and other members of the judiciary are also banned from being board members of companies. The fact that this law clearly defined that ministers could be prosecuted was a significant change. In the period of the late 1920s, before the institution of the Royal dictatorship in 1929, legal scholars had a difficult time understanding whether the ministers should be considered public servants. The constitution of 1921 had in fact defined them as public servants but additional legislation had muddied the waters, exempting them from most punitive provisions that were valid for all other public servants.[64] Another change compared to the law from 1923, was to be found under the header 11, titled "Disciplinary provisions" (a header which did not include any anti-corruption provisions in the law of 1923), paragraph 188 specifies as violations of service duties, among others:[65]

- Point 1 – Biased, reckless and negligent behavior;
- Point 2 – Blackmail and extorsion;
- Point 3 – Accepting bribes.

62 Закон о чиновницима, *Службене новине*, 1. 4. 1931, 380.
63 *Korupcija i razvoj moderne srpske države*, 89–92.
64 Gjorgje Tasić, „Jesu li Ministri Činovnici", *Zbornik Znanstvenih Razprav*, 6, 1928, 145–147, 151.
65 Закон о чиновницима, *Службене новине*, 1. 4. 1931, 392.

The disciplinary sanctions for the violations of these points (§189) range from loss of discretionary powers to firing, and are not excluding additional prosecution according to the criminal code (§183).

Commercial Law for the Kingdom of Yugoslavia, 28th of October 1937

In the aftermath of the largest corruption process in interwar Yugoslavia (the Našice scandal), after grand scale debates and campaigns against corruption in the parliament and the press, and following the political turmoil that the assassination of King Aleksandar brought, the first law in interwar Yugoslavia was passed ordering the commercial and financial sectors.[66] Regulating these areas was not a priority in the nearly two decades of the establishment of the new state, partly because there were more pressing political issues that took precedent and partly because some of the lawmakers themselves personally benefitted from the lack of regulation in this area. In Croatia and Slavonia, this sector was ordered by the *Croatian Commercial Law from 1875,* which is widely assessed as being comprehensive and progressive, being based on the Austrian and German commercial traditions.[67] In Serbia, the commercial sector was regulated by the *Law on Joint Stock Companies from 1896*, which allowed for supervisory boards of companies to be occupied with pro-forma members, often family members or low-ranking company employees, that were chosen by the executive boards and who could not be held responsible for the abuses within the companies.[68] The new commercial law from 1937 introduced additional responsibilities and criteria for members of the supervisory boards, under part 3 of the law, titled "Oversight" within §309–327.[69] The membership of these boards was regulated in §310–311 and

66 Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 126–129; AJ, 38, 724–903, „U narodnoj skupštini iznesen je predlog da se uvede smrtna kazna za korupciju", *Jutarnji List*, 22. 2. 1934.

67 Anton Matijašević, „Zadružno zakonodavstvo u Hrvatskoj: razvoj i problemi legislative poljoprivrednog zadrugarstva", *Sociologija sela* 43, 2005, 167 (1), 153–155; Jakša Barbić, „Utjecaj njemačkog prava na stvaranje hrvatskog prava društva", *Zbornik radova Pravnog fakulteta u Splitu*, god. 44, 3–4/2007, 340.

68 Vesna Aleksić, „Sprega politike i tokova novca u Srbiji: ekonomsko-istorijska pojava dugog trajanja", *Pravci strukturnih promena u procesu pristupanja Evropskoj uniji*, (Beograd: Institut ekonomskih nauka, 2016), 84–85.

69 Трговачки закон за Краљевину Југославију, *Службене новине*, 28. 10. 1937, 1740–1745. - Even though the law was passed for the whole country, it was never applied in the post-Habsburg areas, as the five legal areas of commercial law remained in force until the beginning of WWII (Barbić, „Utjecaj njemačkog prava", 341).

it excluded the possibilities of choosing people that were unqualified, associated with the management of the company or family members of the owners/managers. If a minimum of 10% of the owners of a company were not satisfied with the work of the supervisory board, they got the right in §325–327 to get a court appointed examination commissioner, to independently investigate possible inconsistencies or abuses. The specification of the responsibilities and the composition of the internal supervisory board, as well as the introduction of the supervisory commissioners, have been highlighted as the most important provisions towards curbing corruption in the commercial sector.[70]. The sanctions for not complying with the new specifications or purposefully engaging in illegal activities were defined under section 7, titled "Responsibility", which under §389–414 specified a range of punishable offences, from which I will highlight the following:[71]

- §394, point 10 – Members of supervisory boards are responsible if they can´t prove that they immediately acted, with everything in their power, to prevent a number of specified abuses;
- §398 – Abuse of influence of any functionary who is entrusted executive power or an oversights function;
- §405 – Criminal responsibility and punishment of strict imprisonment as well as a fine of up to 250 000 dinars in cases of swindling with liquidations, falsifying reports or withholding facts during revisions or inspections;
- §406 – Strict imprisonment and a fine of up to 100 000 dinars for a range of actions and inactions that could lead to illegal losses for the company or other commercial subjects.

It is important to highlight that even though this law was passed in 1937, as a major improvement in regulating the commercial sector, it was never fully implemented anywhere in interwar Yugoslavia.[72] The reason it is nonetheless relevant to include in this study is because of the previously outlined methodology, which is concerned with observing changes in the legislation, as reactions to the corruption events and their scandalization. It is therefore more important what precipitated the law and what inadequacies it was attempting to regulate. There were other laws

70 Aleksić, „Sprega politike i tokova novca u Srbiji", 84–85.
71 Трговачки закон за Краљевину Југославију, 1758–1764.
72 Aleksić, „Sprega politike i tokova novca u Srbiji", 85; Barbić, „Utjecaj njemačkog prava", 341.

and regulations that regulated some aspects of corruption, which are not included in this analysis. The reason for not including them is that they, in my assessment, did not contain enough clear, unambiguous and pertinent provisions aimed at curbing corruption.[73] An example of such a law is the *Law regarding the Main Accounting Instance from 1922* (amended in 1929 and 1930), which defined the rules for reviewing state accounts and supervising the execution of state and regional budgets.[74] In practice, this instance functioned primarily as a parliamentary support organ that assisted in monitoring budget spending. It could establish that financial abuses took place, but had to refer abuse cases to the judiciary to be pursued, primarily, under the criminal code.[75]

Discussion

- In this part, I will reflect on the wider context of the anti-corruption effort in interwar Yugoslavia and examine how the analysis of the anti-corruption laws, adds to the understanding of:
- The intentions of the law-makers, the messaging that they wanted to convey through the legislation and the reactions to it;
- The focus of the anti-corruption effort towards petty corruption, as opposed to grand corruption, as seen through the legislation;
- The "quality of fit" of the principal-agent-client model in a context of interwar Yugoslavia.

When analyzing the intentions of the law makers and the reactions of the critics, it is important to understand the political reality of differing goals of the Serbian and Croatian political elites. Generally speaking, the Serbian political elites were engaged in nation-building and self-enrichment, while the Croatian political elites (largely being excluded from positions of power) were engaged in criticizing the Serbian-dominated state for the purposes of improving national homogenization through victimi-

73 *Службене новине*: Закон о избору народних посланика за Народну скупштину, 21. 9. 1931; Закон о Главној контроли, 10. 6. 1922; Уредба са законском снагом о сузбијању скупоће и несавесне спекулације 25. 9. 1939; Уредба о упућивању несавесних спекуланата на принудни боравак и принудни рад 18. 5. 1940.

74 Закон о Главној контроли, *Службене новине*, 10. 6. 1922.

75 Ljubiša Dabić, Predrag Jovićević, „Glavna kontrola u pravu Srbije u periodu do završetka Drugog svetskog rata", *Vojno delo* 71, (2019), 318.

zation.[76] The corruption narrative, as well as the formulation and implementation of the anti-corruption legislation, was part of a political battleground for these differing interests. Apart from the theoretical complaints, already outlined in the background sections of this paper, the Croatian legal scholars of the time also warned that the corruption by public servants was more than mere wrongdoing towards the citizens material possessions. They argued that corruption and misuse by public servants were actions against the public interest, leading to an erosion of trust in the society as a whole.[77] Contemporary historians further argue that the laws were especially being applied in a repressive way towards the Croatian population, e.g. against public servants that were speaking out against the monarchy.[78] It is also argued that the introduction of new laws and institutions, into previously poorly regulated areas (like e.g. emigration), led to increased potential for low-level corruption by public officials, as their discretionary powers got increased.[79] It has been argued that the most blatant and widespread abuses by the state apparatus took place in Kosovo and Macedonia, yet the most vocal critique seems to have been voiced by the Croats.[80] It is however important to nuance this view of perceived Serbian oppression through the laws and the judicial system. Some historians argue that the "legal fragmentation and inertia of the interwar state contributed to some degree of ethnic representativeness in the judicial bureaucracy", especially for Serbs, Croats and Slovenes.[81] Others argue that the laws were outcomes of political compromises of opposing interests

76 Neither of these two blocks were monolith and their goals were evolving over time, but this generalization is used to better contextualize the insights from the analysis of the laws in this paper. It should be highlighted that the business elites in Croatia were engaged in notable corruption scandals, usually including their old connection with Austrian and Hungarian partners.

77 Stanko Frank, *Krivična odgovornost organa i činovnika novčanih zavoda*, (Beograd: Privrednik, 1935), 3–5; Sigfrid Perlberg, *Krivično pravna odgovornost organa i nameštenika novčanih zavoda*, (Beograd: Privrednik, 1935), 2–4.

78 Bosiljka Janjatović, „'Uvreda Veličanstva': teži zločin u karađorđevićevskoj kraljevini", *Radovi Zavoda za hrvatsku povijest Filozofskoga fakulteta Sveučilišta u Zagrebu*, Vol. 30, No. 1, 1997, 255; Stipica Grgić, „Neki aspekti poimanja uvrede vladara u vrijeme diktature kralja Aleksandra I. Karađorđevića", *Radovi Zavoda za hrvatsku povijest Filozofskoga fakulteta Sveučilišta u Zagrebu* 41, 2009, 363.

79 Aleksandar Miletić, "(Extra-) Institutional Practices, Restrictions, and Corruption. Emigration Policy in the Kingdom of Serbs, Croats, and Slovenes (1918–1928)", *Transnational Societies, Transterritorial Politics. Migrations in the (Post-)Yugoslav Region 19th–21st Century*, Hg. Ulf Brunnbauer, (München, 2009), 118.

80 *Korupcija i razvoj moderne srpske države*, 61–65.

81 Cohen, "Judicial Elites in Yugoslavia", 318.

in the country.[82] Having touched upon some the complexities of working with a highly politicized topic, I will move on to the interpretation of the insights gained from the analysis of the anti-corruption legislation, conducted in this paper.

The comparison of the anti-corruption sections of the *Serbian Criminal Code of 1860* and the *Austrian Criminal Code of 1852* has indicated that it was the quality of the post-Habsburg judicial systems as a whole, rather than any significant differences in the law texts, that constituted the biggest advantage in effectively prosecuting corruption in the post-Habsburg areas. The many decrees during WWI, which were aimed at curbing the abuses in the army, and the post-war laws regulating the food supply, indicated decisiveness, but had to be followed by more wide-ranging legislation. The first major disappointment, for almost everybody involved, was the *Law on civil servants and other servants of the civil order* from 1923, that effectively transformed the public servants into underpaid clients of the governing parties. This law was not only unsuccessful in curbing corruption, it can be argued that it created the conditions for enabling it further, by subjugating the public servants and giving them a moral excuse for supplementing their low salaries with bribes. This critique, outlined at the time by the parliamentary opposition, the Croat newspapers and legal scholars, still serves as the best explanation of the reasons behind the corruption of the bureaucracy in interwar Yugoslavia.[83] While the criminal code in 1929 modernized and uniformed the criminal legislation, it did not lead to a significant change towards the anti-corruption effort. The law on corruption, that was enacted a few months later, was both inspired by the corruption scandals of the 1920s and symbolized a battle-call for the judiciary, against petty corruption of the lower-ranked public servants. This link between the corruption scandals, their "scandalization" in the media and the concrete influence it had on the legislation, was touched upon in this paper but deserves further study. The *Law on civil servants* from 1931 expanded the scope of the anti-corruption leg-

82 Sead Bandžović, „'Turski paragraf' Vidovdanskog ustava (1921): dometi i ograničenja", *Historijski pogledi* 3/2020, 174.

83 M. P. Čubinski, *Naučni i praktični komentar Krivičnog zakonika Kraljevine Jugoslavije*, (Beograd: Izdavačko i knjižarsko preduzeće Gece Kona, 1930, drugo izdanje) in: Milan Škulić, „Organizacija i nadležnost državnih organa čija je funkcija suzbijanje koruptivnih krivičnih dela", *Zbornik radova sa naučne konferencije Finansijski kriminalitet*, 7–8. septembar 2018. godine, Zrenjanin, Srbija, Institut za uporedno pravo i Institut za kriminološka i sociološka istraživanja, 12–13; *Korupcija i razvoj moderne srpske države,* 94–95.

islation to include higher ranking public officials, such as regional governors and ministers. Inspired by yet other corruption scandals, this law provided a clearer legal framework for prosecuting higher ranking officials, which was attempted unsuccessfully during the Našice process. Finally, the commercial law from 1937 introduced stricter requirements for the financial oversight within banks and companies, as well as criminal responsibility for larger scale financial speculation. Observing this evolution of the anti-corruption legislation, it seems that the different Serb-dominated elites which were in charge of the country from 1918–1941, were doing their best to balance self-enrichment and nation-building. The self-enrichment was done through different means yet always in the domain of what is commonly referred to as grand corruption. The grand corruption vs. petty corruption distinction is important. Higher level corruption was taking place around banks and corporations, including high-ranking public servants, MPs and ministers. Corruption on this level was systemic, poorly regulated and rarely prosecuted, as opposed to the petty corruption by lower level public servants. Additionally, every political party owned one or more banks and companies, through which it was obtaining funding.[84] It seems clear that the elites did not want to have a fully corrupt bureaucracy, which would serve as a brightly lit monument of delegitimization of the state, but the first serious attempts at regulating it were done by the King in the early 1930s. A possible hypothesis explaining why corruption control was ultimately unsuccessful, could be the bad example of grand corruption that the elites (and very likely King Aleksandar himself) were involved in, as well as the system of clientelism and control that was nurtured through the degradation of the lower ranks.[85] A study on petty corruption by Miletić reaches a similar conclusion stating that "the everyday life of the glamorous, ministerial corruption of their superiors made meaningless any imaginary principle of subordination, discipline or control that would put an end to this problem".[86] As this study has shown, an adequate legal framework for the abuse of public office, existed in both

84 Aleksić, „Sprega politike i tokova novca u Srbiji", 81–82.

85 Zvonimir Kulundžić, *Politika i korupcija u Kraljevskoj Jugoslaviji*, (Zagreb: Stvarnost, 1968), 36–37; Marija Zurnić, *Corruption and Democratic Transition in Eastern Europe: The Role of Political Scandals in Post-Milošević Serbia*, (London: Palgrave Macmillan, 2019), 25.

86 Александар Милетић, „Бакшиш и државна интервенција. Чиновничка корупција у Краљевини СХС", *Традиција и трансформација. Политичке и друштвене промене у Србији и Југославији у 20. веку*, (Београд: Институт за новију историју Србије, 2015), 233–234.

the Serbian and the post-Habsburg areas, since at least the second half of the 19th century. The available statistics and studies indicate a continuity in prosecuting corruption, from the end of the 19th century until WWII.[87] The study of the laws in this paper shows that the main focus of the anti-corruption legislation, from the wartime decrees to the law on civil servants in 1931, was on curbing lower-level petty corruption. The focus expanded later on, to include ministers, middlemen and bankers, but only gradually and with very limited success. These insights show that corruption models, like the principal-agent-client model by Stykow, encounter difficulties when the state-building elites themselves are corrupt and when their state-building project is, at least, as important as the self-enrichment project.[88] It is particularly the need towards the subjugation of the bureaucracy to the political parties in power, changing the principle from being the state to being the party, that problematizes the model. In addition to that, the model is further problematized by the moral example of the corrupt principle that, while underpaying the agent, tolerates his salary-supplementation through petty corruption.

Conclusion

This study has mapped the legal framework of the anti-corruption legislation in interwar Yugoslavia, by examining the context and contents of the evolving legislation. It has shown the discrepancy between the anti-corruption narrative of the ruling elites and the actual outcomes, by showing how the desire of the elites to control the public servants led to a tolerance of petty corruption. The self-enrichment efforts of these elites, through grand corruption, were poorly regulated through the 1920s and only gradually regulated through the 1930s, providing a legitimizing example for the petty corruption of the lower ranks. The intentions of the elites to fully control the public servants through degradation and at the same time to curb petty corruption by enforcing the credo: "Do as we say, not as we do", were recognized as being problematic by the contemporary critics of the elites, and should be investigated further in order to understand their impact on the widespread corruption of the bureaucra-

87 There has been an overall increase in the number of people being convicted in Serbia for crimes against the "official duty" from the 1890s until the end of the 1930s, as well as a clear trend of steady increase in these convictions from 1930–1939 (Vukmirović et al., *Dva veka razvoja Srbije*, 280–284).

88 Stykow, "Mésalliance à trois" in: Klaus Buchenau, "Korruption im ersten Jugoslawien (1918–1941)", 107.

cy. The process of the simultaneous creation of a new Serbian aristocracy through grand corruption and patronage (the principle), with the subjugation of the bureaucracy's (agent) loyalty towards political parties, rather than the common good of the society, problematizes the use of established corruption models, such as the principle-agent-client model, during the period of interwar Yugoslavia. A next step in studying the corruption in interwar Yugoslavia, could be to conduct a more in-depth analysis of both the grand corruption of the time and the frequency of the lower-level corruption, in order to understand how the materialization of privileges through corruption has shaped and is still shaping the political and material realities of this region.

Summary

This study focuses on the changes in the anti-corruption legislation in interwar Yugoslavia, by identifying and systematically evaluating changes in the laws, that were intended to curb corruption. It provides a base for further inquiries into the interplay between corruption events, reactions to them and legal tools in prosecuting them. I argue that even in a setting where the laws were not followed, understanding their development can tell us something about the intentions of the law-makers, their reactions and the messaging that they wanted to convey. It also examines the seriousness of the changing Yugoslav elites towards the anti-corruption effort, by showing the intensity and development of the anti-corruption legislation towards petty corruption, as opposed to grand corruption. Lastly, this study contributes towards the understanding of the "quality of fit" of already established corruption models, such as the principal-agent-client model, in a context of interwar Yugoslavia.

This study concludes that the self-enrichment efforts of the elites, through grand corruption, were poorly regulated through the 1920s and only gradually regulated through the 1930s, providing a legitimizing example for the petty corruption of the lower ranks. The process of the simultaneous creation of a new Serbian aristocracy through grand corruption and patronage (the principle), with the subjugation of the bureaucracy's (agent) loyalty towards political parties, rather than the common good of the society, problematizes the use of established corruption models, such as the principle-agent-client model, during the period of interwar Yugoslavia.

Sources and Literature

- Arhiv Jugoslavije. Fond 38, Centralni presbiro Predsedništva Ministarskog saveta Kraljevine Jugoslavije.

- Aleksić, Vesna. „Sprega politike i tokova novca u Srbiji: ekonomsko-istorijska pojava dugog trajanja". *Pravci strukturnih promena u procesu pristupanja Evropskoj uniji.* Beograd: Institut ekonomskih nauka, 2016.
- Anđelković, Milica. „Šestojanuarska diktatura i Krivični zakonik Kraljevine Srba, Hrvata i Slovenaca". Master thesis, University of Niš (2018).
- Bandžović, Sead. „'Turski paragraf' Vidovdanskog ustava (1921): dometi i ograničenja". *Historijski pogledi* 3–2020, 162–175.
- Barbić, Jakša. „Utjecaj njemačkog prava na stvaranje hrvatskog prava društva". *Zbornik radova Pravnog fakulteta u Splitu*, god. 44, 3–4/2007, 339–363.
- Blagojević, Dušan. „Razvoj činovničkog prava i obrazovanja u Srbiji od 1804 godine do današnjih dana". *Kultura Polisa,* br. 43, godina XVII, 2020, 39–50.
- Breneselović, Luka. „Recepcija 'Restorativne pravde' kao primer nekritičkog diskursa u pravnoj sociologiji: Slučaj Srbije". *Sociološki pregled* 1/2011, 45–66.
- Buchenau, Klaus. "Korruption im ersten Jugoslawien (1918–1941). Eine Skizze zu Diskurs und Praxis". *Südost-Forschungen* 72, 2013, 98–132.
- Buchenau, Klaus. "What is Justice? Complaints about Courts in Interwar Yugoslavia". *Südost-Forschungen*, Band 77/2018, Themenheft der Zeitschrift *The History of Corruption. The Balkans and Latin America in Comparison*, Hg. Klaus Buchenau.
- Bulatović, Aleksandra, Srđan Korać. *Korupcija i razvoj moderne srpske države*. Beograd: Centar za menadžment, 2006.
- Cohen, Lenard. "Judicial Elites in Yugoslavia: the Professionalization of Political Justice". *Review of Socialist Law*, Volume 11: Issue 1, 1985, 313–344.
- Dabić, Ljubiša, Predrag Jovićević. „Glavna kontrola u pravu Srbije u periodu do završetka Drugog svetskog rata". *Vojno delo* 71, (2019), 303–325. doi: 10.5937/vojdelo1903303D
- Dobrivojević Tomić, Ivana. „Kazneni zavodi u Kraljevini Jugoslaviji 1929–1935". *Istorija 20. veka* 1/ 2006, 45–63.
- Drakić, Gordana. „Formiranje pravnog sistema u međuratnoj jugoslovenskoj državi". *Zbornik radova Pravnog fakulteta u Novom Sadu* 1–2/2008, 645–655.
- Frank, Stanko. *Krivična odgovornost organa i činovnika novčanih zavoda*. Beograd: Privrednik, 1935.
- Grgić, Stipica. „Neki aspekti poimanja uvrede vladara u vrijeme diktature kralja Aleksandra I. Karađorđevića". *Radovi Zavoda za hrvatsku povijest Filozofskoga fakulteta Sveučilišta u Zagrebu*, 2009, 41, 347– 365.

- Jakšić, Dušan, Dragomir Davidović. „Razvoj kaznenog sistema u krivičnom pravu Srbije". *Specijalna edukacija i rehabilitacija* (Beograd), Vol. 12, br. 4, 2013, 525–538. doi: 10.5937/specedreh12-4260
- Janjatović, Bosiljka. „'Uvreda Veličanstva': teži zločin u karađorđevićevskoj kraljevini". *Radovi Zavoda za hrvatsku povijest Filozofskoga fakulteta Sveučilišta u Zagrebu*, Vol. 30, No. 1, 1997.
- Kulundžić, Zvonimir. *Politika i korupcija u Kraljevskoj Jugoslaviji*. Zagreb: Stvarnost, 1968.
- Mahmutagić, Amra. „Pravna heterogenost u zajedničkoj jugoslavenskoj državi između dva svjetska rata". *Revija za pravo i ekonomiju*, br. 1, (Pravni fakultet, Univerzitet Džemal Bijedić u Mostaru), 2016.
- Matijašević, Anton. „Zadružno zakonodavstvo u Hrvatskoj: razvoj i problemi legislative poljoprovrednog zadrugarstva". *Sociologija sela* 43, 2005, 167 (1), 153–170.
- Mićić, Srđan. „Problemi i zloupotrebe u jugoslovenskoj diplomatskoj kurirskoj službi, 1918–1941". *Arhiv: časopis arhiva Jugoslavije* 1–2/2015.
- Miletić, Aleksandar. "(Extra-) Institutional Practices, Restrictions, and Corruption. Emigration Policy in the Kingdom of Serbs, Croats, and Slovenes (1918–1928)". *Transnational Societies, Transterritorial Politics. Migrations in the (Post)Yugoslav Region 19th–21st Century*, Hg. Ulf Brunnbauer, 95–119. München, 2009.
- Miletić, Aleksandar. "An Interplay of Statism, Petty Corruption and Clientelism. The Tenant Protection Schemes in Yugoslavia, Bulgaria and Czechoslovakia in the Aftermath of the First World War". *Südost-Forschungen* 77(1), 2018. doi: 10.1515/sofo-2018-770108
- Miletić, Aleksandar. „Bakšiš i državna intervencija. Činovnička korupcija u Kraljevini SHS". *Tradicija i transformacija. Političke i društvene promene u Srbiji i Jugoslaviji u 20. veku*, 219–236. Beograd: Institut za noviju istoriju Srbije, 2015. (cyrillic)
- Nielsen, Christian. *Making Yugoslavs: Identity in King Aleksandar's Yugoslavia*. Toronto: University of Toronto Press, 2014.
- Novokmet, Ante. „Austrijski zakon o kaznenom postupku iz 1853. godine s osvrtom na njegovu ulogu u povijesti hrvatskog kaznenog procesnog prava". *Pravni Vjesnik*, vol. 27, no. 2, 2011, 75–118.
- Pastović, Dunja. "Unification of Criminal Law in the Interwar Yugoslav State (1918–1941)" *Krakowskie Studia z Historii Państwa i Prawa* 12 (4), 2019, 555–574. doi: 10.4467/20844131KS.19.027.11645
- Pavlović, Marko. „Problem izjednačenja zakona u Kraljevini Srba, Hrvata i Slovenaca / Jugoslaviji". *Zbornik PFZ* 68 (3–4), (2018), 493–523.
- Perlberg, Sigfrid. *Krivično pravna odgovornost organa i nameštenika novčanih zavoda*. Beograd: Privrednik, 1935.

- Pozsgai-Alvarez, Joseph. "The abuse of entrusted power for private gain: meaning, nature and theoretical evolution". *Crime, Law and Social Change*, volume 74, 2020, 433–455. doi: 10.1007/s10611-020-09903-4
- Škulić, Milan. „Organizacija i nadležnost državnih organa čija je funkcija suzbijanje koruptivnih krivičnih dela". *Zbornik radova sa naučne konferencije Finansijski kriminalitet*, 7–8. septembar 2018. godine, Zrenjanin, Srbija, Institut za uporedno pravo i Institut za kriminološka i sociološka istraživanja.
- Stojanović, Zoran. *Krivično pravo*. Beograd: Pravna knjiga, 2019.
- Tasić, Gjorgje. „Jesu li Ministri Činovnici". *Zbornik Znanstvenih Razprav* 6, 1928, 143–154.
- Vukmirović, Dragan et al. *Dva veka razvoja Srbije: statistički pregled*. Beograd: Republički zavod za statistiku Srbije, 2008.
- Zurnić, Marija. *Corruption and Democratic Transition in Eastern Europe: The Role of Political Scandals in Post-Milošević Serbia*. London: Palgrave Macmillan, 2019.
- Živanović, Toma. *Osnovi krivičnog prava Kraljevine Jugoslavije*. Beograd, 1935.

- *Politika* (cyrillic)
- *Vreme* (cyrillic)
- *Pravda* (cyrillic)
- *Službeni dnevnik* (cyrillic)
- *Službene novine* (cyrillic)
- *Slobodna Tribuna*
- *Otadžbina*
- *Jutarnji List*
- *Obzor*

Резиме

Милош Лецић

Еволуција антикорупцијског законодавства у међуратној Југославији (1918–1941)

Апстракт: Рад идентификује правни оквир антикорупцијског законодавства у међуратној Југославији, проучавањем контекста и садржаја конкретних антикорупцијских закона у периоду 1918–1941. Постојећа истраживања о историјској корупцији у југоисточној Европи првенствено су усмерена ка испитивању негативних аспеката корупције у вези са процесима изградње нације и политичком нестабилношћу. Ова студија испитује намере законодаваца и поруке које су желели да пренесу кроз законодавство у дијахронијској перспективи, поставља питање примењивости постојећих модела корупције у контексту међуратне Југославије и даје предлоге за нове смернице у проучавању структурних појава које обликују корупцијску праксу у југоисточној Европи.

Кључне речи: корупција, међуратна Југославија, право, антикорупција, корупцијска пракса, политичка елита

Главни фокус ове студије су промене у антикорупцијском законодавству у међуратној Југославији; она пружа основу за даља испитивања узајамне везе између корупцијских „догађаја“, реакција на њих и правних алата у процесуирању. Чак и у окружењу у коме се закони не поштују у потпуности, разумевање њиховог развоја може нам рећи нешто о намерама законодаваца, њиховим реакцијама и порукама које су желели да пренесу. Испитује се и озбиљност југословенских елита у борби против корупције и показује интензитет и развој антикорупцијског законодавства према „ситној“, за разлику од „крупне корупције“. Ова студија доприноси и разумевању „квалитета подобности“ већ успостављених модела корупције, као што је модел *principal-agent-client*, у контексту међуратне Југославије.

У чланку се закључује да су покушаји личног богаћења припадника виших слојева друштва кроз крупну корупцију били слабо регулисани током 20-их и тек постепено регулисани током 30-их

година 20. века, пружајући легитимистички пример за ситну корупцију нижих чиновника. Процес истовременог стварања нове српске аристократије крупном корупцијом (principal), уз лојалност бирократије (agent) политичким странкама а не општем добру друштва, проблематизује употребу утврђених корупцијских модела и отвара перспективе за даљи истраживачки рад у овој области.