



**Marcin Böhm**

*University of Opole*

mabohm@wp.pl

ORCID 0000-0002-5393-3176

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**THE ROLLS OF OLÉRON, MARITIME ASSIZES  
OF THE KINGDOM OF JERUSALEM AS A HERITAGE  
OF THE RHODIAN SEA LAW IN THE ANGLO-NORMAN  
WORLD IN THE CASES OF MURDERS, ROBBERIES,  
AND MARITIME PIRACY**

The Rhodian Sea Law was a milestone in the medieval maritime law of Europe (Benedict, 1909, 223–225; Rhodes, 1909, lx–lxiv). The legacy left by the ancient Greeks and Romans was codified in Byzantium and, after a few centuries, it was brought by the Crusaders to the Anglo-Norman world. This transition took place within the Kingdom of Jerusalem, where maritime law became an important element of the local collection of laws. Having settled in the Levant, Crusaders came into contact with the laws adopted by the local Greeks, Armenians, and Arabs. They also brought their own law with them. Therefore, the kings of Jerusalem had to bring order in the legal disarray, which they did. The Assizes of Jerusalem are a collection of numerous medieval legal treatises containing the law of the Crusader Kingdom of Jerusalem and the Kingdom of Cyprus, which were finally compiled in the thirteenth century in Old French and in Greek (Beugnot, 1841, V–XXX; Beugnot, 1843, V–XX). The earliest laws of the Kingdom were promulgated at the Council of Nablus in 1120, but these laws were later replaced by the assizes. There are nine treatises in the Assizes of Jerusalem, and they concern themselves with two kinds of law: the Feudal Law, to which the Upper Court of Barons was amenable; and the Common Law which was applied at the Court of Burgesses. The latter is the older of the two and was drawn up before the fall of Jerusalem. It regulates civil law issues, such as contracts, marriage, and property, and touches on some which fall within the purview of special courts, such as the “Ecclesiastical Court” for canonical affairs, the “Cour de la Fonde” for com-

merce, and the “Cour de la Mer” for admiralty cases. The sea was a window into the world for the Kingdom of Jerusalem. It was also important to regulate the maritime relationship between the Christians in the Holy Land and their Muslim neighbors. Particular attention was paid to the contraband that some captains and sailors admitted. In the forty-seventh paragraph of the Assizes of Jerusalem, one finds an intriguing thread dedicated to this issue, which is worth mentioning here in its entirety:

Article XLVII

*S'il avoient que un marinier ou un marchant, qui que il soit, porte aver deveé en terre de Sarasins, ci com est se il i porte armeure, haubers et chaues de fer, ou lances, ou abalestre, ou heaumes, ou verges d'acier-ou dç fer, et il en peut estre ataint en la cort de la chaene par les mariniers ou par les marchans qui là estoient, qui ce virent qu'il vendi et aporta as Sarasins celuy aver deveé, et ce que il porta monta plus d'un marc d'argent en amont, tout can que il a si deit estre dou seignor de la terre, et deit estre jugé par l'autre Cort des Borgés à pendre par la goule, puis que les jurés de la chaene auront receu devant iaus les gares de ceste chose, et ce est dreit et raison par l'asize (Beugnot, 1843, 45, § XLVII).<sup>1</sup>*

A smuggler delivering iron to the Muslims was called a bad Christian. This section also specified the value of property made of iron which could be sold to Muslim at no more than one silver mark. Of course, the punishment for contraband imposed by the Court of the Burghers was death by hanging. This paragraph also encouraged seafarers and merchants to denounce such dishonest traffickers. At the same time, feudal lords were allowed to confiscate their possessions. The next paragraph included a direct reference to the problem of piracy and robbery which could be committed by sailors:

Article XLVIII

*Ici orrés la raison de seluy avoir c'on baille à porter sur mer, et il avient que les corsaus li tolent can que ü porte, et dou sien et de l'autruy, ou que le vaisseau se brise et pert tout. S'il avient que un home baille à un autre home de son aver à porter sur mer, à gaaing en aventure de mer et de gens, et il avient que corsaus l'encontrent et li tolent tout can que il porte, ou il fait mauvais tens, et brise le vaisseau et pert tout, la raison coumande qu'il en est atant quite, et ne li en deit riens amender. Mais cil ala au veage là où il dut aler, sein et sauf, et puis qu'il fu en terre fist aucune meslée ou tua aucun home, et por ce le sire de la terre prent tout ce que il a, le dreit coumande qu'il est tenus de rendre as gens tout ce qu'il porta dou leur, car il n'est pas dreis que les bounes gens qui li baillèrent le leur por bien faire, le deient perdre par sa failie et folie. Mais*

<sup>1</sup> Translation according to Twiss (1876), 510–513, § 5: *Here you shall have the law as regards a bad Christian, who carries forbidden goods to the land of the Saracens, and what the magistrate ought to do to the man who carries them. If it happens that a mariner or a merchant, whichever it may be, carries forbidden goods to the country of the Saracens, such for instance as armour, coats-of-mail, ironpieces, lances and projectiles, axes or spears of steel or iron, and he is arraigned in the Court of the Chain by the mariners or by the merchants who were there, who knew that he sold and delivered to the Saracens those forbidden goods, and what he carried amounted to more than a mark of silver, all that he possesses ought to be confiscated to the lord of the land, and he ought to be condemned by the other Court of the Burghers l to be hanged, after the jurors of the Court of the Chain have had before them sufficient warrantors of the matter, and this is justice and law according to the assize.*

*tout enci corne il fist le mau par sei, si le conpere par sei. Et cil avint que il resut l'aveir des bones gens à porter sauf en terre, il est tenus de l'amender coument qu'il seit puis perdu, par dreit et par l'asize; Et ce tant est chose qu'il n'a de quei paier celui de cui il portoit laver, la Cort de la chaene le deit métré en prison; et des sept jors en avant, puis qu'il sera mis en prison, li deit donner, celui ou cele por qui il est en prison, à manger au mains pain et aigue, ce plus ne li veit donner: et ce est dreit et raison par l'asize (Beugnot, 1843, 46, § XLVII).<sup>2</sup>*

This law specifies that in the event of a ship loss or seizure of the goods on board by a corsair, the owner of the vessel should be exempted and should not incur any additional costs to compensate for lost goods. However, if he reached his destination safely, and there entered into a fight in which he killed a person, then the chattels aboard the ship would be confiscated by the master of that port. In addition, the captain would be forced to return the equivalent of the lost property that had been transported to its owners. The Assizes of Jerusalem prescribed that in the event of captain's insolvency, he should be put in jail, for at least 8 days, where bread and water should be provided to him by those who had accused him of losing the goods.

The second of the maritime laws are The Rolls of Oléron, and they were the first formal statement of "maritime" or "admiralty" laws in north-western Europe (Krieger, 1970, 72; Allaire, 2015). They were promulgated by Eleanor of Aquitaine around 1160, after her return from the second crusade and were based upon the Rhodian Sea Law. The queen is likely to have become acquainted with them while at the court of King Baldwin III of Jerusalem, who had adopted them as the Maritime Assizes of the Kingdom of Jerusalem. Eleanor of Aquitaine promulgated this law in England at the very end of the twelfth century, having been granted viceregal powers in that monarchy. They are named after the island of Oléron because this place was the site of the maritime court. They were much more elaborate in relation to their prototype from the Kingdom of Jerusalem, and contain regulations applicable to wine trade from Brittany and Normandy to

<sup>2</sup> Translation according to Twiss (1876), 512–515, § 6: *Here you shall have the law as regards the property, which is committed to an agent to carry upon the sea, and it happens that corsair capture what he is carrying both of his own and of other persons' goods, or that the vessel is wrecked and all is lost. If it happens that a person commits to another person some of his property to carry on the sea to make gain within a common adventure upon the sea, and it happens that corsair meet with it and capture all which he is carrying, or bad weather overtakes him and his vessel is wrecked and all is lost, the law ordains that he is altogether discharged, and ought not to make good anything. But if he arrives on his voyage whither he ought to go, well and safe, and after he has come to land, he has got into any brawl or killed any person, and thereupon the lord of the land l takes all which he has; the common law commands that he is bound to restore to the owners all the property which he was carrying; for it is not right that the honest people who entrusted to him their property to employ profitably should lose it from his folly, but he must bear the evil by himself since he has brought it upon himself. And if it happens that he has received the goods of honest people, to carry them safe to land, he is bound according to justice and by the assise to make them good, notwithstanding they are subsequently lost. And if it should be the case that he has nothing wherewith to pay him whose goods he was charged to carry, the Court of the Chain ought to commit him to prison, and he or she, by whom he has been cast into prison, ought to supply him with bread and water eight days in hand, if he or she is not willing to give him more, and this is justice and law according to the assise.*

England (Frankot, 2007, 159). In the time of Eleonora, there were 24 articles, but this was not the end of the evolution of this maritime law, which in 1266 had 47 articles (Allaire, 2015, 80). They comprise as many as 8 articles that pertain to the problem investigated here. The first one is particularly intriguing:

Article VI

*If any of the mariners hired by the master of any vessel, go out of the ship without his leave, and get themselves drunk, and thereby there happens contempt to their master, debates, or fighting and quarreling among themselves, whereby some happen to be wounded: in this case the master shall not be obliged to get them cured, or in any thing to provide for them, but may turn them and their accomplices out of the ship; and if they make words of it, they are bound to pay the master besides: but if by the master's orders and commands any of the ship's company be in the service of the ship, and thereby happen to be wounded or otherwise hurt, in that case they shall be cured and provided for at the costs and charges of the said ship.<sup>3</sup>*

This law specifies the status of seafarers who, without the captain's permission, leave the deck of his ship, get drunk and start a brawl between them, which ends in injuries inflicted on one another. The article absolved the captain from the responsibility for their treatment, as well as entitled the master to punish the seafarers. An exception is made for a situation in which a seaman was wounded on duty, because then the captain had to provide him with proper medical care at the expense of his ship. This article is also the only one that can be associated with Eleanor's times. Later ones were added to this law only in 1266. Why is this date so crucial? Because then the Duke of Brittany John I (1237–1286) – within the principality under his rule – began to rely on this law and the court on the Oleron island to solve legal matters related to activities at sea (Barbier, 1949, 16–18). This is one of the oldest versions of this source. Other versions written in England originate mostly from the time of Edward I (1272–1307), and later centuries. The laws added subsequently significantly expanded the range of legal competence that the courts had on the Oleron island, which is why they have to be adduced at this point. The next four articles are concerned with the role of pilots, sea robbery, and wrecking of the ships.

Article XXIII

*If a pilot undertakes the conduct of a vessel, to bring her to St. Malo, or any other port, and fail of his duty therein, so as the vessel miscarry by reason of his ignorance in what he undertook, and the merchants sustain damage thereby, he shall be obliged to make full satisfaction for the same, if he hath wherewithal; and if not, lose his head.*

Article XXIV

*And if the master, or any one of his mariners, or any one of the merchants, cut off his head, they shall not be bound to answer for it; but before they do it, they must be sure he had not herewith to make satisfaction.*

<sup>3</sup> Translation of The Rules of Oleron according to Twiss (1871).

These two articles describe the punishment a ship pilot may have received, if he did not properly discharge the task entrusted to him. If a merchant whose goods were carried by a ship conducted by a pilot, and the latter failed in his duty, he had to make a financial contribution from his property of equal value, whereas if he did not have any, he lost his head. The death penalty could be carried out personally by either the captain, the seamen or the merchant himself, but only when they had made sure the pilot had no goods or money for compensation. The two other articles specify what awaits both the pilots and the feudal lords when they act in collusion in order to bring the ship down and plunder the shipwreck.

#### Article XXV

*If a ship or other vessel arriving at any place, and making in towards a port or harbor, set out her flag, or give any other sign to have a pilot come aboard, or a boat to tow her into the harbor, the wind or tide being contrary, and a contract be made for piloting the said vessel into the said harbor accordingly; but by reason of an unreasonable and accursed custom, in some places, that the third or fourth part of the ships that are lost, shall accrue to the lord of the place where such sad casualties happen, as also the like proportion to the salvors, and only the remainder to the master, merchant and mariners: the persons contracting for the pilotage of the said vessel, to ingratiate themselves with their lords, and to gain to themselves a part of the ship and lading, do like faithless and treacherous villains, sometimes even willingly, and out of design to ruin ship and goods, guide and bring her upon the rocks, and then feigning to aid, help and assist, the now distressed mariners, are the first in dismembering and pulling the ship to pieces; purloining and carrying away the lading thereof contrary to all reason and good conscience: and afterwards that they may be the more welcome to their lord, do with all speed post to his house with the sad narrative of this unhappy disaster; whereupon the said lord, with his retinue appearing at the places, takes his share; the salvors theirs; and what remains the merchant and mariners may have. But seeing this is contrary to the law of God, our edict and determination is, that notwithstanding any law or custom to the contrary, it is said and ordained, the said lord of that place, salvors, and all others that take away any of the said goods, shall be accursed and excommunicated, and punished as robbers and thieves, as formerly hath been declared. But all false and treacherous pilots shall be condemned to suffer a most rigorous and unmerciful death; and high gibbets shall be erected for them in the same place, or as high as conveniently may be, where they so guided and brought any ship or vessel to ruin as aforesaid, and thereon these accursed pilots are with ignominy and much shame to end their days; which said gibbets are to abide and remain to succeeding ages on that place, as a visible caution to other ships that shall afterwards sail thereby.*

#### Article XXVI

*If the lord of any place be so barbarous, as not only to permit such inhuman people, but also to maintain and assist them in such villainies, that he may have a share in such wrecks, the said lord shall be apprehended, and all his goods confiscated and sold, in order to make restitution to such as of right it appertaineth; and himself to be fastened to a post or stake in the midst of his own mansion house, which being fired at the four corners, all shall be burnt together, the walls there of shall be demolished, the stones pulled down, and the place converted into a market place for the sale only of hogs and swine to all posterity.*

The pilots mentioned in this law, deliberately bringing the ships onto the rocks, where the shattered vessels were plundered by feudal lords under the guise of helping them. In order to counter this, the law prohibited any seizure of property from shattered ships by feudal lords and their men, under pain of excommunication, as well as imposing penalties otherwise applicable to robberies and thefts, considering perpetrators to be culpable of crime of equal severity. In addition, if any lord was deliberately involved in the operation, his land property was to be confiscated or sold, and he should be tied to a stake and burned in the midst of his own property, whose walls should later be destroyed, and a market for selling pigs should be built in their place. The pilot should be hanged on high gallows, where his body was to hang until it completely decayed, to warn the passing ships. Also, in order to counteract this danger, Article 29 of this law provided appropriate guidance to the lords on whose land a ship crashed:

Article XXIX

*If any ship or other vessel sailing to and fro, and coasting the seas, as well in the way of merchandizing, as upon the fishing account, happen by some misfortune through the violence of the weather to strike herself against the rocks, whereby she becomes so bruised and broken, that there she perishes, upon what coasts, country or dominion soever; and the master, mariners, merchant or merchants, or any one of these escape and come safe to land; in this case the lord of that place or country, where such misfortune shall happen, ought not to let, hinder, or oppose such as have so escaped, or such to whom the said ship or vessel, and her lading belong, in using their utmost endeavors for the preservation of as much thereof as may possibly be saved. But on the contrary, the lord of that place or country, by his own interest, and by those under his power and jurisdiction, ought to be aiding and assisting to the said distressed merchants or mariners, in saving their shipwrecked goods, and that without the least embezzlement, or taking any part thereof from the right owners; but, however, there may be a remuneration or consideration for salvage to such as take pains therein, according to right reason, a good conscience, and as justice shall appoint; notwithstanding what promises may in that case have been made to the salvors by such distressed merchants and mariners, as is declared in the fourth article of these laws; and in case any shall act contrary hereunto, or take any part of the said goods from the said poor, distressed, ruined, undone, shipwrecked persons, against their wills, and without their consent, they shall be declared to be excommunicated by the church, and ought to receive the punishment of thieves; except speedy restitution be made by them: nor is there any custom or statute whatsoever, that can protect them against the aforesaid penalties, as is said in the 26th article of these laws.<sup>4</sup>*

Thus, lords should not hinder the salvage of the wrecked ships; on the contrary, they had to join the rescue operation voluntarily, without seizing the possessions of the survivors. In such case, a lord might have been rewarded for his help, but within reasonable limits. Any derogation was to be punished with the full power referred to in Article 26. However, not only the feudal lords, but also their subjects living on the coast engaged in plundering of the survivors. In order to regulate this, Article 31 of this maritime law was created:

<sup>4</sup> See also Chircop (2005), 173–174.

## Article XXXI

*If a ship or other vessel happens to be lost by striking on some shore, and the mariners thinking to save their lives, reach the shore, in hope of help, and instead thereof it happens, as it often does, that in many places they meet with people more barbarous, cruel, and inhuman than mad dogs, who to gain their monies, apparel, and other goods, do sometimes murder and destroy these poor distressed seamen; in this case, the lord of that country ought to execute justice on such wretches, to punish them as well corporally as pecuniarily, to plunge them in the sea till they be half dead, and then to have them drawn forth out of the sea, and stoned to death.*

The role of a feudal lord was reduced to administering punishment to those of his subjects who had committed various crimes against the survivors and their property. The punishment for such offenses included half-drowning in the sea, followed by stoning to death. The last intriguing article from this set of laws defined the exceptions to the rule of helping survivors of a shipwreck.

## Article XLVII

*This is to be understood only when the said ship or vessel so wrecked, did not exercise the trade of pillaging, and when the mariners thereof were not pirates, sea-rovers, or enemies to our holy Catholic faith; but if they are found to be either the one or the other, every man may then deal with such as with rogues, and despoil them of their goods without any punishment for so doing.*

It follows, that goods owned by pirates, sea robbers, and enemies of Christianity were an exception to the requirement of aid and the ban on seizure of property. If their property was thrown onto the shore, or still remained in the wrecks, it could be taken by anybody without adverse consequences.

The abovementioned maritime laws, applied in the twelfth and thirteenth centuries in the Anglo-Norman world, were not a verbatim iteration of the Rhodian Sea Law, but rather its variation. Financial compensation for lost property as a result of pirate activities was derived from that maritime law and translated into The Rolls of Oléron and the Maritime Assizes of the Kingdom of Jerusalem. Article XLVIII of the Maritime Assizes of the Kingdom of Jerusalem may be cited as evidence, as it also addresses financial responsibility for a pirate attack; its antecedent appears to be included in Chapter 4 of the Rhodian Sea Law (Rhodes, 1909, Appendix 3, § 4, p. 13). There is also the captain's responsibility for the goods on board who sailed into waters where pirates operated. If he did that despite the admonition of the passengers, he had to pay compensation for the losses. If the passengers were guilty, the loss was theirs to bear. In The Rolls of Oléron, such reservations are formulated in relation to shipping pilots, and represent an addition from a later period.

Article XLVII of the Maritime Assizes of the Kingdom of Jerusalem was inspired by Chapter 8 of the Rhodian Sea Law (Rhodes, 1909, Appendix 3, § 4, p. 15). The main difference, however, is that in the law from Rhodes there is a fugitive captain who escaped to the neighboring country with his employer's gold, while in the Assizes the matter concerns a weapons smuggler. In both cases, the punishment for the act of betrayal was confiscation of property, to which the Crusaders

added the death penalty by hanging. The Rolls of Oléron strictly penalize acts of piracy committed by feudal lords conniving with dishonest pilots, who led their ships onto the so that their superiors could appropriate shipwrecked property. Penalties were very cruel, though not as cruel as the actions of the lords and pilots; the latter constituted acts of piracy afflicting the trade in the great Plantagenet empire, which at the end of the twelfth century included Britain, Ireland and the west and the south of present-day France. The job of ship pilots job has always been a risky profession. These people have always been able and keen to cooperate with smugglers, pirates or other maritime criminals. It was so in antiquity, and so it is today, in the twenty first century. The Plantagenet monarchy is likely to have faced the same problem.

Queen Eleanor created a new law based on proven patterns, ensuring more lawful conduct of maritime activities on the waters surrounding the British Isles. The law she brought with her from the Second Crusade was immediately introduced in her beloved Aquitaine. However, her marriage to Henry II Plantagenet, a very imperial character, was extremely difficult as long as he lived. Henry II recognized that she possessed the strength capable of overthrowing him with the help of their own sons. The King of England did not want to share his power with his wife, either, due to the fact that the Anglo-Norman monarchy was governed exclusively by the centralized system of power and the laws of the kingdom. He owed it to his Norman forefathers. The fiefdom system in England developed after the Norman invasion, which prevented decentralization and was consciously introduced by English monarchs and supported by the Norman feudal lords. In England, feudal lordship was not identified with local officials, as the fief hierarchy was two-tiered (including royal vassals, tenants and their vassals, subtenants). Significantly, the degree of the second degree was valid for the king and thus formed the principle that the vassal's vassal was one's vassal as well. Hence the new maritime law was introduced in England only after his death, when Eleanor became the regent of her son Richard, who set off on a Crusade and later to the war in France. We must remember that in the twelfth-century Anglo-Norman English society the tradition of piracy and ransacking wrecks, a remnant of the Viking period, was still alive. Eleanor changed that state of affairs and laid the foundations for England's later trade power at sea.

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The essence of this paper is to illustrate the genuine link between the norms contained in the medieval twenty-four first Laws of Oléron that have survived to modern times, binding certain legal solutions in the space over the ages. The Laws of Oléron contain norms relating to contemporary maritime labour law. Certainly they are not a model fully reflected in the Maritime Labor Convention (MLC 2006). Nevertheless, these principles can be an interesting starting point for discussions on the importance of decent working conditions and the lives of seafarers on ships from a few centuries perspective and the importance of maritime safety culture.