

»FIRST MY BROTHER, THEN A BLOOD-TAKER, THEN MY  
BROTHER FOREVER«  
THE EFFICIENCY OF THE TRADITIONAL PEACE-MAKING  
CUSTOM IN EARLY MODERN AGE MONTENEGRO AND THE  
ROLE OF THE VENETIAN AUTHORITIES IN THE PEACE-MAKING  
PROCESS

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**ABSTRACT**

*The paper discusses the tradition of vendetta and the peace-making process that were a part of a customary legal tradition of rural kinship communities in Montenegro and Albania. The custom was preserved throughout the centuries as both Venetian and Ottoman administration acknowledged the existing legal customs. However, in some cases the customary peace-making custom proved itself to be more efficient than the diplomatic intervention in the dispute resolution. The Venetian authorities on several occasions ordered the rural kinship communities in the coastal area to make customary peace with their neighbours in hope of preventing vendetta and feuds from developing immense proportions.*

*Keywords: peace-making, blood feuding, Montenegro, Albania, Venetian Republic, Modern age period*

»PRIMA MIO FRATELLO, POI CARNEFICE, POI MIO FRATELLO  
PER SEMPRE« L'EFFICACIA DEL TRADIZIONALE PROCESSO DI  
RICONCILIAZIONE IN MONTENEGRO ALL'INIZIO DELL'ETÀ MODERNA  
E IL RUOLO DELLE AUTORITÀ VENEZIANE NEL PROCESSO DI  
RICONCILIAZIONE

**SINTESI**

*L'articolo tratta la tradizione della vendetta di sangue e della riconciliazione che fecero parte delle tradizioni consuetudinarie e legali delle comunità rurali imparentate nel Montenegro e nell'Albania. Le consuetudini si sono conservate nel corso dei secoli, siccome sia l'amministrazione veneziana sia quella ottomana riconobbero le tradizioni giuridiche preesistenti. La riconciliazione in alcuni casi di soluzione dei conflitti si*

*dimostrò più efficace dell'intervento diplomatico. Per evitare vendette di sangue, come pure che le dispute non raggiungessero dimensioni spropositate, le autorità veneziane in varie occasioni ordinarono alle comunità rurali imparentate lungo la fascia costiera di riconciliarsi con i loro vicini usando metodi tradizionali.*

*Parole chiave: pacificazione, Montenegro, Albania, Repubblica di Venezia, Età Moderna*

## THE RESEARCH OF VENDETTA IN SOUTH-EASTERN EUROPE

The original custom of blood revenge remained in practice in some parts of the Balkan Peninsula until the 20<sup>th</sup> century. The supposed peculiarity of the blood-revenge (Lat. *vindicta*; Ita. *vendetta*, Serb. *krvna osveta*, Alb. *gjakmarrja*) triggered the interest and the research of the legal customary tradition in the Montenegrin and the Albanian Highlands (*Crnogorska Brda* and *Malesia e Madhe*) from the 18<sup>th</sup> century onwards.<sup>1</sup>

In the 19<sup>th</sup> century, an extensive research of the legal traditions was carried out in the territory between Herzegovina, Montenegro and Northern Albania by the renowned legal-historian and philosopher, Valtazar Bogišić (Bogišić, 1999).<sup>2</sup> In the Northern Albania, the

1 Venetian abbot Alberto Fortis mentioned the custom of vendetta among the Morlachs in Dalmatia in his work *Viaggio in Dalmazia* (first published in Venice, 1774) and stressed the similarity of the Morlach and the Albanian (Arbanas) customary tradition, including some customs of the pacification (Fortis, 1984, 39–42). In the 19<sup>th</sup> century the general interest for the customary legal traditions increased as a trend in the European scientific research (Imamović, 2008, 125), that was accompanied by the interest of oral traditions in the form of tales and oral poetry (Kos, 1994, 167–169). The research of the oral traditions was carried out by linguists and scholars, such as Vuk Stefanović Karadžić (Karadžić, 1814; 1818; 1846; 1865; 1875; comp. Jurančić, 1959, 137–138; Skakić, 1998, 46–47). The importance of the oral tradition was of interest to the bishop of Zagreb, Matija Vrhovec, Stefan Verković, the Miladinov brothers of Struga, Russian Slavist, Viktor Ivanović Gligorović, Kuzman Šapkarev, Marko Cepenkov, Ilarion Ruvarac, and other enthusiasts (Jurančić, 1959, 137; Sazdov et al., 1988, 10–12; Sazdov, 1997, 243). Some valuable research on Slavic oral epics was carried out by Millman Parry and his student, Albert B. Lord (Lord, 1981). Early ethnographers, anthropologists and researchers such as Pavel Apolonovič Rovinskiĭ (Rovinskiĭ, 1994), Johan G. Kohl (Kohl, 2005), Gerhard Geseman (Geseman, 2003), Fran Miklošič (Miklošič, 1888), Božidar Petranović (Petranović, 1868) and Milorad Medaković (Medaković, 1860), also took notice of the legal customs, yet not all with the same perspective.

2 Bogišić's work was a commissioned project in the time of the rule of the prince (*knjaz*) Nikola I. Petrović of Montenegro and supported by the Russian Tsar. His research of the legal traditions was carried out through an extensive survey. Therefore, his work is also referred to as the *Bogišić's Survey* (*Bogišićeva anketa*)

first researchers and collectors of the legal traditions were priests. Sthjefen K. Gjeçovi collected legal-oral material known as the Code of Lekë Dukagjini, (*orig.* »*Kanun i Lekë Dukagjinit*«, in the references KLD),<sup>3</sup> whereas Frano Illia collected the legal material that was traditionally referred to as the Canon of Skenderbeg (in the references SK; *orig.* *Kanuni i Skenderbeut*)<sup>4</sup> (Trnavci, 2008, 16; Elsie, 2015, 9; Pupovci, 2011, 32).

The 20<sup>th</sup> century research of the traditional way of life in Albania, Kosova and Montenegro is marked with local research of legal historians such as Ilija Jelić (Jelić, 1924), Surja Pupovci (Pupovci, 2011), Milutin Djuričić (Djuričić, 1975; Đuričić, 1979) Milovan Šćepanović (Šćepanović, 2003), Marino Zurl (Zurl, 1979), Genc Trnavci (Trnavci, 2008); and foreign anthropological researches of Mary Edith Durham (Durham, 1909), Margaret Hasluck (Hasluck, 1954), Christopher Boehm (Boehm, 1987), Fatos Tarifa (Tarifa, 2008), Diane Gëllçi (Gëllçi, 2014) and Robert Elsie (Elsie, 2015).

## THE LEGAL CUSTOMS IN THE BALKAN PENINSULA

The custom of blood revenge was deeply imbedded into the traditional way of life of the Montenegrin and the Albanian tribal kinship communities. The first preserved written mentioning of the custom of vendetta on Balkan Peninsula is from the 6<sup>th</sup> or 7<sup>th</sup> century Byzantine report on the customs of the Slavic population, who were kind and hospitable and even took revenge for the murder of their guests (Jelić, 1926, 17–18).<sup>5</sup> Throughout the early middle ages, the customary legal traditions were preserved under the local rulers, but the tradition was flexible and it changed and modified over the centuries to suit the given socio-political circumstances. The Albanian oral tradition even recognizes Lekë III. Dukagjini and Georg Kastriot Skenderbeg, 15<sup>th</sup> century local aristocratic leaders, as experts in the legal customs and rites (Pupovci, 2011, 7, 9, 15, 23, 30–36). Similar principals of rule seem to have been applicable in the Medieval Zeta, where the local

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within the academic discourse. Based on the survey, Bogišić wrote and issued new property legislation for the Principality of Montenegro in 1888 (*orig.* *Opšti imovinski zakonik* (OIZ)). As the survey tackled all the legal spheres, it was difficult to analyse. The Bogišić's Survey remained in the manuscript for almost a century until it was properly organized by a Serbian legal historian, Tomica Nikčević, who in 1984 published the Survey under the title that was planned by Bogišić himself: *Pravni običaji u Crnoj Gori, Hercegovini i Albaniji* (*Legal customs in Montenegro, Herzegovina and Albania*) (Nikčević, 1984; 1999).

- 3 The collection was translated in numerous world languages, recently also into the Montenegrin language (Camaj, 2011, 230).
- 4 The collection was first published in Italian language in Brescia in Italy in 1993. In 2004, it was translated into Slovenian language and incorporated as an appendix into a monograph of Martin Berishaj, titled *Skrita moč bese. Ženske v imaginariju albanskega tradicionalizma*. (*The hidden power of besa. Women in the imaginary of the Albanian traditionalism*) (SK, 105–309).
- 5 This custom remained in practice as a rite of hospitality. The guest was offered »*besa of the guests*« and was treated as a God in the house, and was offered protection, safe conduct, food and shelter, regardless of his origin or »criminal past«. The killing of a guest was perceived as a severe shame for the host and violation of the host's honour and hospitality (KLD, §§ 602–652; SK point (hereafter p.) 652–658; Rovinskiĭ, 1994, 247). Customarily, the host had to kill any violator of the rites of hospitality, including his own family members, as the Montenegrin proverb states: »An honest man would kill even his own father for a guest« (*orig.* »*Pošten bi čovjek i oca ubijo radi gosta*«) (Bogišić, 1999, 330–332).

aristocracy, such as the Balšići and the Crnojevići, respected the local legal customs of the kinship communities and recognized the role of the clan chieftains and their assemblies (Andrijašević & Rastoder, 2006, 33–38; comp. Dolenc, 1925, 59; Šufflay, 1991, 44). Generally speaking, the tribal leaders and chieftains were traditionally the guardians of the legal order and the legal traditions. Their duty was to effectively resolve disputes within their communities (Stein, 1984, 19; comp. Evans-Pritchard, 1993, 179–188). Indeed, the medieval Code of Tsar Stefan Dušan (Dušan's Code, Serb. *Dušanov zakonik*, DZ), issued in 1349 and edited in 1354, attempted to regulate and unify the legislation within the Empire of the Serbs, Albanians and Greeks, yet, the customary tradition remained active, especially in the remote areas such as the Montenegrin and the Albanian Highlands. The Dušan's Code implies that the rural kinship communities had to solve the disputes autonomously (Dolenc, 1925, 62), unless it was a case of greater injustice, which was within the absolute juridical jurisprudence of the Tsars court, which included the murders and the blood-revenge (Dolenc, 1925, 61; DZ, article (hereafter art.) 103; comp. Petranović, 1868, 14). The medieval coastal towns of Kotor (Catara),<sup>6</sup> Budva (Budua),<sup>7</sup> Bar (Antivari) and Ulcinj (Dulcigno) were given the privilege to codify their own legal customs in written and developed or were granted statutes in the time of Serbian rule. The statutes of Bar and Ulcinj have not been preserved.

#### THE REPUBLIC OF VENICE AND THE CUSTOMARY LEGAL TRADITION IN SOUTHERN ADRIATIC

According to the statute of Kotor, the count was bound to respect the existing legal traditions of the town and its district that was composed of the areas around the Bay of Kotor (Ćirković, 2009a, 42–43; Milošević, 2009, 56–57). Therefore, the authorities in Kotor were well acquainted with the legal customs of the kinship communities in the district, which included the custom of vendetta as well as the custom of reconciliation.

When the Republic of Venice established its administration in the Bay of Kotor<sup>8</sup> (1421–1797), the Venetian governors soon became acquainted with the local legal customs. The Venetian administration was familiar with similar traditions of dispute resolution from the Venetian Terraferma, where in the 15<sup>th</sup> century the duality in the legal tradition also existed. In Veneto, in the area of Vicenza and Verona, the nobility in the cities solved their disputes according to the statutory law, whereas the inhabitants of the

6 The Statute of Kotor was formed throughout the centuries with several editions and corrections. Its oldest statutory legal regulation dates in 1301. In 1616, the Statute of Kotor was printed in Italian language and divided into two parts. First part consists of statutory laws that were passed during the period of the autonomy of Kotor (1384–1420); the second part holds the statutory laws that were passed in the first period of the Venetian administration in Kotor (1421–1444) (Milošević & Ćirković, 2009, 11–13).

7 During the reign of the Nemanjići dynasty, the town of Budva was given a statute that bares no criminal legislation. Criminal justice was in the direct jurisprudence of the Serbian rulers (St B III).

8 Unlike the Slavic historiography (Andrijašević & Rastoder, 2006, 47; Šufflay, 1991, 13), some foreign historiography stresses that the nobility of Kotor petitioned for the protectorate of the Republic of Venice (O'Connell, 2009, 30–31). The trade between the Kotor and Venice, however, has been recorded from the 12<sup>th</sup> century onwards (Bogojević-Glušičević, 2002, 8).

rural areas outside the city resolved their disputes according to the existing legal customs, but with the help and the presence of the town notary (Faggion, 2013, 186–193).

Besides the Bay of Kotor, the area of Paštrovići, between Budva and Bar, was of strategic importance for the Republic of Venice. To gain the support of the local kinship communities, the Venetian administration granted the Paštrovići the privileges that the kinship communities supposedly enjoyed during the rule of the Nemanjići dynasty (Šekularac, 1999, 9; Mijušković, 1959, 474–475, 507). The privileges, confirmed by the Venetian Senate in 1424, granted Paštrovići the right to further exercise their legal customs,<sup>9</sup> which included dispute resolution and reconciliation before the local judicial assembly (*Bankada*), composed of the representatives of the communities from the Paštrovići area (Mijušković, 1959, 482–483; O'Connell, 2009, 31).

The medieval legal tradition fluctuated between the oral and written form. However, people were becoming well aware of the importance and the higher level of credibility of the written legal documents (Lonza, 2013, 1217). Some of the preserved medieval notarial registers of Kotor (IAK SN) testify that the kinship communities from the district of Kotor and its hinterland used the notarial office of Kotor to verify the peace treaties after they had reconciled according to their local customs.

## PEACE TREATIES OF KOTOR

In the beginning of 1431, the representatives of the villages of Luštica and communities of Grbalj<sup>10</sup> came before the authorities in Kotor to verify their peace treaty. The parties stated that they forgave one another and exchanged a kiss of peace (Lat. *osculo pacis*) before the court. The parties agreed upon a fine of 200 ducats<sup>11</sup> for violation of the peace treaty (IAK SN V, 5–6, date (datum, hereafter dat.) 9. 1. 1431).

In 1437, the representatives of the Njeguši clan of Zeta and the representatives of the village Orahovac from the district of Kotor came to the town of Kotor to verify the peace treaty. The parties exchanged a kiss of peace before the court and declared mutual pardon for wounds and killings. The parties agreed to form marriage alliances. In case of the violation of peace, the parties agreed upon a fine of 100 perper<sup>12</sup> (IAK SN VI, 286–287, dat. 22. 12. 1437; Kovijanić, 1963, 100).

The following year, on March 31<sup>st</sup>, 1438, the notarial registers produced a document titled *Pax inter Regianos, Morignanos, Rexianos et Poliçanos*. The representatives of the clan Riđani from the hinterland and the villages of Morinje, Risan and Poljice, from

9 Paštrovići remained under the Venetian protection until the collapse of the Republic of Venice in 1797. The privileges of the Paštrovići were abolished by the French administration in 1807 (Šekularac, 1999, 8).

10 At the time, both areas were within the territorial frames of the district of Kotor (Čirković, 2009b, 39–41).

11 Venetian ducato (zecchino) was a gold piece coin minted from the 12<sup>th</sup> century onwards with mass of 3.55 grams (Chown, 1994, 33–35; Darovec, 2004, 66).

12 Serbian perper or perpera was a fictive fiscal unit that was composed of 12 silver coins (dinar) with an approximate mass of 1.5 grams. The currency exchange rate between the perper(a) and ducato was 2 to 1. Medieval Serbian coins were used in Montenegro as late as in the 18<sup>th</sup> and 19<sup>th</sup> century (Čirković, 2009c; Srednjovjekovni novac, 2016).

the Bay of Kotor, had made customary peace amongst themselves on January 7<sup>th</sup>, 1438. The compensation and the rates were determined by custom and the parties were to form fraternities and godfatherhoods. The representatives of Riđani and Poljice promised to solve the pending dispute regarding the borders of their pastures and promised to keep an open passage through their properties. On the last day of March, the representatives of all four communities verified their agreement of permanent peace (*pacem perpetuam*) by giving an oath upon the sacred Gospel and the Cross before the court in Kotor. The fine for violation of the treaty was 500 Venetian denari.<sup>13</sup> The parties requested the authorities of Kotor to issue them written proofs of the contract, which were translated from Latin to Slavic (IAK SN VI, 450–451, dat. 31. 3. 1438; Kovijanić, 1974, 185).

In March of 1439, the Petrojević brothers from Lastva and the representatives of Veće Brdo, Bijela and Lastva came to Kotor to verify the peace treaty that has been made customarily in front of the assembly of 24 »good men«. The members of the assembly were mutually selected by the parties to determine the compensation in their blood feud (IAK SN VI, 683–684, dat. 25. 3. 1439).

Although the Paštrovići enjoyed the judicial autonomy, their judicial body, the Bankada, had no permanent notarial office. Instead, the documents were written by priests and monks of the local monasteries (Šekularac, 1999, 8–14; Sindik et al., 1959, V).

In 1440, the representatives of two Paštrovići clans agreed to make peace according to the custom before the Venetian authorities in Kotor on April 2<sup>nd</sup>, 1440. The Venetian authorities, however, were not the judges or the arbiters in this case, but merely the witnesses. Each party selected 12 arbiters that jointly determined the amount of the composition for a person that has been killed (IAK SN VI, 935–936, dat. 2. 4. 1440). The peace treaty was confirmed on May 25<sup>th</sup>, 1440. The parties were to form godfatherhoods and were both financially liable in case of the violation of the treaty (IAK SN VI, 979–981, dat. 25. 5. 1440).

In none of the cases, the Venetian authorities were the judges in the disputes and did not deliberate on the amount of the compositions. The latter case shows that the town of Kotor merely offered its premises where the parties decided to make peace according to the custom.

## RURAL KINSHIP COMMUNITIES, THEIR INTERNAL AND JUDICIAL ORGANIZATION

In kinship communities, the clan (Serb. *bratstvo*; Alb. *fis*) was the unit that was primarily, but not necessarily entirely, formed on the basis of male blood-line lineage (Tarifa, 2008, 50–53). The smallest economic and political unit in the village<sup>14</sup> was the house, led by the head of the household, who controlled and led all the aspects of life within the

13 The Venetian denaro, also known as grosso, estimated at 1/24 of ducato, was a silver coin with an approximate mass of 2.18 grams. It contained 95% of pure silver, which is 2.07 grams per coin (Darovec, 2004, 66; Monete di Venezia, 2016).

14 The clans usually inhabited a territory of one village, with several family houses, and communal land – pastures and fields and forests (Jelić, 1926, 60; KLD, § 19 (footnote 2); KLD § 26).

family, in order to assure its prosperity. He was liable for the behaviour of the members of the household towards other members of the clan and/or village and had the right to punish the members of the household (Dolenc, 1925, 114–115; KLD paragraphs (hereafter §§) 18, 22–21, 26–27; KLD, Book 4; Hasluck, 1954, 25–50). The role of the head of the household is comparable to the role of the *Paterfamilias* in the Roman Antiquity (Stein, 1984, 27).

The heads of the households in the village were the members of the village assembly (KLD, paragraph (hereafter §) 72). Each clan also had its own clan chieftain. They were from the leading household in the clan and the chieftain role was hereditary. The Albanian term *pleqnise* and its slaviced form *plećnija* were the terms for the village and tribal assembly. The assemblies included all the current heads of the households in the clan or village, as well as the former and still living heads of the households. The latter, due to their age, passed their active chieftain role to the younger generation and kept the role of advisors in a council at the assemblies<sup>15</sup> (KLD, §§ 1146–1148; Bogišić, 1999, 241–242; Jelić, 1926, 60–61; Hasluck, 1954, 10, 130–131).

The judicial role of the clan chieftains is mentioned in the Dušan's code (Dolenc, 1925, 62). The clan or the village assembly gathered regularly to discuss all general questions regarding their community, as well as the disputes among the members of the community. All adult male members of the community were also present at the assembly, where each individual could expose a certain conflict or a dispute one had with another member of the community or lament about an injustice done to them by members of another community. Members who suffered injustice did not need to wait for a regular village assembly meeting, but could lament directly to one of the chieftains,<sup>16</sup> who called upon other chieftains to form an assembly to resolve the dispute as soon as possible (KLD §§ 1108, 1119–1120; 1176–1178; Bogišić, 1999, 294–295). The chieftains also called the accused to attend the assembly to be questioned about his actions (Bogišić, 1999, 295–296).<sup>17</sup>

If the wrongdoer was from another clan, the injured party lamented to the local chieftains who notified the chieftains of the other clan and demanded composition for their clan member. The chieftains of both clans agreed upon a date and place<sup>18</sup> of the assembly meeting, where the trial was to be held and the chieftains would deliberate on the sum of the composition (Bogišić, 1999, 294). Theoretically. Practically, however, in disputes between clans and tribes there was always a pending competition for honour and power. A deliberate injury between the clans tipped the scales of balance of power in favour of one of the parties. The other tried to restore the balance by returning the injury and thus entering the state of the feud.<sup>19</sup>

15 Similar is also recorded in other tribal societies (Radcliffe-Brown, 1994, 241–242).

16 Indeed, in cases of smaller disputes between the members of one village, the disputants could select one or two chieftains and let them resolve the dispute by arbitration and no assembly was needed (Bogišić, 1999, 349).

17 About the accusatory trial rites among the Montenegrin and Albanian tribes see: Bogišić. 1999, 194–316; KLD, §§ 1017–1105; Djuričić, 1975, 11–136; Jelić, 1926, 71–79; Dragičević, 1938, 278–288.

18 The joint assemblies of the chieftains of different clans or tribes were held on the borderline areas between both communities (Bogišić, 1999, 295).

19 About the theoretical and practical frames of feuding and dispute resolution see Boehm, 1987, 50–219;



The damage caused by the livestock of one clan in the pastures or fields another clan was a case that called for compensation, but the course of the dispute resolution or evolution depended upon the numerical and economic power of both clans (KLD, art. »Svinja u šteti«, §§ 163, 748–755; comp. Bogišić, 1999, 279–280, 365–367).

The dispute could have turned into a feud with mutual exchanges of raids and armed combats between the parties with multiple physical injuries and casualties on both sides. Yet, the violence within the feud was regulated by custom; especially violence against women, children and elderlies was prohibited, as was a deliberate poisoning of the water sources of common use (KLD, §§ 163, 748–755; Bogišić, 1999, 348–349; Boehm, 1987, 52; Hasluck, 1954, 202–209). Similarly, feuds arose also on the account of the land-ownership (Bogišić, 1999, 359–360).

Generally, all communities were inclined towards internal and external harmonious equilibrium. Therefore, the role of the chieftains was to resolve the disputes as soon as they arose, in order to prevent them from acquiring bigger proportions and thus preventing vendetta. However, that was not always possible nor were the attempts always successful.

## THE RURAL KINSHIP COMMUNITIES BETWEEN THE VENETIAN AND THE OTTOMAN ADMINISTRATIVE AREA

After the Ottoman-Venetian war (1499–1503) that marked the end of the expansion of the Republic of Venice in the Mediterranean, the borders between both political entities were settled in Dalmatia (Orlando, 2014, 183–184). The Bay of Kotor and the coastal stripe between Budva and Bar, (the area of Paštrovići), belonged to the Republic of Venice, whereas the hinterland of Montenegro, including the area of Grbalj, a district between the Bay of Kotor and Budva, belonged to the Ottoman Empire. Although the land of Montenegro underwent some administrative division during the Ottoman rule, it remained autonomous in many regards. Furthermore, the population had the right to exercise their existing legal customs.<sup>20</sup> When the territorial division took place in the

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Miller, 1996, 180–219; Byock, 2007; Þorláksson, 2007; Bogišić, 1999, 279–295; 345–384. A detailed overview of the research on violence, feud and vendetta has been provided in Povolo, 2015b, 198–214.

20 At the end of the 15<sup>th</sup> century, the Ottoman administration established the Timar system in Montenegro. The Ottoman tax register of 1497 mentions three Timars of Montenegro. Soon thereafter, the inability of the Montenegrin population to meet the tax payments of Timar system called for the administrative reform that turned Montenegrin lands into direct property of the Sultan (the Has) and transformed the Timar system into the Filuri system, which was more common for the stock-breeding areas. The former lands of Crnojevići were reorganized into districts (nahis) in the beginning of the 16<sup>th</sup> century. The districts are also mentioned in the description of the Sanjak of Scutari, written by a nobleman, Marino Bolizza of Kotor in 1614, where he mentions *la Huna* (Katunska), *Gliubottin* (Ljubotinje), *Pliesiuzi* (Plješivci), *Cerniza* (Crmnica), in *Glirize* (Lješkopolje) (Ljubić, 1880, 167–171). The division into districts is still a part of Montenegrin tradition. The four districts Katunska, Riješka, Crmniška and Lješanska nahia, are traditionally referred to as »the Old Montenegro« (*Stara Crna Gora*) (Andrijašević & Rastoder, 2006, 82–83; Jelić, 1926, VII; Bogišić, 1999, 227; comp. Kovijanić, 1963; 1974). The district (Zuppa) of Grbalj had a privileged status due to its salt fields. The inhabitants of Montenegro were granted the autonomy in their internal organization as well as the privileges to resolve their disputes according to the existing legal customs. The mobilization of the



former Zeta, the members of Montenegrin clans were also present at the negotiation. Some of the Montenegrin clans lamented about the borderline between Njeguši and Grbalj (Stanojević, 1959, 14–15).

## CASES OF LONG-LASTING FEUDS

In longer lasting disputes or feuds between the clans and tribes that came about due to dispute over land, the attempts for truce and to ultimately make peace came about as soon as severe physical injury or casualty took place, if not sooner (Bogišić, 1999, 360).

Among the Albanian tribes, the mediation for peace usually took place after several vengeful exchanges and armed combat with severe physical injuries and casualties on both sides. The parties decided to make peace due to material damage and physical injuries they suffered and caused. Since the economy among the tribes was primarily extensive stockbreeding, the clans and tribes depended upon the peaceful equilibrium between all the tribes, as feuding hindered the ability to lead the herds onto the pastures (Bogišić, 1999, 359).<sup>21</sup> Since the chieftains of clans also got involved in feuding, they themselves could not directly propose truce to the chieftains of another clan. The chieftains of the clan that was more eager to make peace presented their case to the chieftains of the third clan and asked them for their intervention and mediation between the feuding clans (Jelić, 1926, 115; Bogišić, 1999, 359–362, 366, 369).

However, in analogy to the latter and as it is evident in the following two cases, the chieftains also lamented to the third party that ultimately represented an authority to the other party. Practically, the clan chieftains from the Ottoman area would lament to the Venetian authorities and vice versa. The issue was, however, that the third party was not necessarily entirely acquainted with the proportions of the feud and tried to resolve the dispute within their own judicial jurisprudence.

During the 16<sup>th</sup> and the 17<sup>th</sup> century, the clan of Njeguši from the immediate hinterland of Kotor in the area of the Katunska nahia, and the inhabitants of the Špiljarji village in the Bay of Kotor, were involved into a land-ownership dispute.

In 1543, the inhabitants of Grbalj already lamented to the Ottoman commissary about Špiljarji, a village kinship community from the Bay of Kotor, who had taken a plot of Loznica and some other lands. The Ottoman commissioner intervened in the dispute about Loznica, yet it seems that the dispute was not effectively resolved. In September of 1602, the count of the Njeguši clan came to Kotor with his escort and lamented to the Venetian governor regarding the land-dispute with Špiljarji over the plots Selišta and Pračišta. The Venetian governor took action and tried to prevent further disputes by force, protecting

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Montenegrins to fight for the Ottomans was to be conducted only under direct Sultan's orders, disregarding any potential demands for mobilization of the neighbouring Sanjakbejs (Andrijašević & Rastoder, 2006, 74–77).

21 The truce among the Albanian clans and barjaks was traditionally referred to as the »*besa of the herd and the shepherd*« (KLD §§ 874–885; SK, 155), which Margaret Hasluck translated to English as the »pledge of safety of man and beast«, and interpreted the institute as a right of safe travel and a primary form of passports (Hasluck, 1954, 155).

the inhabitants of Špiljarji village in the process. The Njeguši were refusing to leave the plots. The land dispute continued throughout the following decade with mutual raiding of the lands and crops, during which armed combats between the Njeguši and Špiljarji took place and resulted in casualties.

The governors of Kotor intervened on behalf of Špiljarji and notified the Venetian Bailo in Constantinople. He used his diplomatic strings at the Sublime Port, and the latter, from 1603 onwards, issued several decrees (Firman) to the governor (Sanjakbeg) of Scutari and to the Montenegrin supreme judge (kadia) in Podgorica. The latter two were to prevent further disturbances of the Njeguši clan on the Špiljarji land. The feud was being resolved merely as the question of the land-ownership (Stanojević, 1959, 18, 34–35, 43–45).

It all seems that the Njeguši refused to respect Sultan's decrees in order to raise awareness about the other dimensions of the feud that concerned the physical injuries and casualties that they expected composition for. The dispute resolution through diplomatic intervention disregarded this fact and the previous casualties seem to have been the reason for further attacks of Njeguši on the Venetian land.

Finally, in 1620, the Venetian governor of Kotor started the negotiation between the Njeguši and Špiljarji. On July 13<sup>th</sup>, 1620, the peace treaty was signed in the presence of chieftains of Maine, Brajići, Zalazi and the supreme judge of Montenegro who attended the meeting with the members of his escort from Lješkopolje (Stanojević, 1959, 49–50). The Njeguši finally renounced their claims of Loznica and Selište. Praćita, however, were acknowledged as a shared pasture between the Njeguši in Špiljarji. Njeguši renounced all claims for the compositions of wounds and casualties that their clan members have suffered or, better said, their claims were compensated for with the raiding damage they have caused to Špiljarji and other inhabitants of the Bay of Kotor.

At about the same time, Paštrovići also had a long lasting land dispute with the Montenegrin clans. The dispute between Paštrovići and Maine, a kinship community from district of Crmnica (Crzniška nahia), began in the years of 1577 and 1578 when Maine sold a piece of land to Paštrovići, who were issued an ownership certificate by the Montenegrin supreme judge. A year later, the dispute over the legally sold plot began. For several years Paštrovići were taking their land-ownership dispute to the Montenegrin supreme judges in Podgorica and Scutari who (at least in 1579 and 1590) both issued additional certificates of ownership to the Paštrovići. The feud got further complicated due to the question of property borderline between Maine, Paštrovići and Brajići. The disputes lasted for some decades, with the appeals to the Sublime Porte, which on several occasions ruled in favour of the Paštrovići. However, the feud was not the land dispute alone, but it had acquired the proportions of blood feud.

Only after the mediation of the general governor for Dalmatia and Albania, on September 21<sup>st</sup> and September 25<sup>th</sup>, 1642, two truce treaties were signed between Paštrovići and their neighbours, Maine and Brajići. To revise the borderline, a commission was assembled of the representatives of the feuding parties and the representatives of the Venetian authorities and the representatives of the Ottoman administration from Žabljak and Scutari. The final peace treaty regarding the land dispute was signed on February 15<sup>th</sup> in Budva, in the Monastery of St. Mary, Mother of God (*Sveta Bogorodica*).

The plot of dispute was divided between the village Brajići and the clan Bečići (of Paštrovići), yet the Paštrovići were bound to pay yearly taxes for their land in the Ottoman administrative area, including all their overdue taxes in order to be able to enjoy the plot. The arbitrary settlement annulled all the previous judgements of the Ottoman authorities that were generally in favour of Paštrovići. The parties took an oath to respect the newly set borderline between their communities. To guarantee the peace treaty, the Bečići of Paštrovići had to form 13 godfatherhoods of Saint John with Maine and Brajići.

Other pending issues were resolved at the arbitration on February 24<sup>th</sup>, 1643 in Bjelaštica, at the borderline between Budva and Montenegro (Crmnica district), where the judges and the assembly of Paštrovići, the Montenegrin counts and other inhabitants of Montenegro, were present. The arbiters were mutual friends of both parties. The arbiters were the chieftains of Montenegrin clans and Paštrovići chieftains, along with some members of the nobility of Kotor and the Ottoman authorities from Žabljak.

The settlement resolved the question of the casualties, wounds and other debts that arose between the parties. The killing of a wife of the captain Nikola Ivanov of Ljubotinj was the liability of the Paštrovići, who had to pay 600 perper and form 4 fraternities and 24 godfatherhoods with the victim's family. The Montenegrins were liable for the killing of Stiepo Lučin from Paštrovići and bound to pay 900 perper and form 4 fraternities and 24 godfatherhoods. The Montenegrins were to pay additional 150 perper for the wounds of Vukac Davidović of Paštrovići. The wound of Maško Ivan Andrijin was settled with the wound of the Turk Ramandan Kusovac. Although none of the latter two received composition, the two men had to form two fraternities and two godfatherhoods. Andrija Zanović of Paštrovići and Dragoja Mirčetov of Ljubotinj also solved their discords at the arbitration assembly, which deliberated that they were to form one fraternity and two godfatherhoods.

The members of the commission and the arbitration assembly were entitled to a third of the sum of the compositions, which were to be paid in three equal sums. First rates were to be paid at the upcoming Easter; the remaining was to be paid in two half-annual rates. After the deliberation, the parties kissed and swore that they would form fraternities and godfatherhoods among them and respect the peace forever (Stanojević, 1959, 60–62).

These two long-lasting disputes called for »diplomatic intervention«. Yet, the diplomatic intervention itself, without respecting the legal customs of reconciliation, was inadequate. The custom of reconciliation and peace making proved to have been rather efficient. Furthermore, the customs of reconciliation were acknowledged and respected by the Venetian as well as by the Ottoman administration. However, the clans and the tribes were well able to resolve their disputes on their own before the disputes turned into feuds and blood feuds. Random encounters of members of different tribes were often grounds for competition and exchange of harsh words and insults that led to brawls. Brawls led to physical injuries, which in some cases lead to casualties. To avoid vendetta, the mediation took place and the parties met at the assembly that deliberated on the sum of composition and other contractual bonds (spiritual family ties) that further fortified the peace.

## DISPUTE RESOLUTION BEFORE VENDETTA

In June of 1585, the joint assembly of Paštrovići and Maine met at the vineyard at Babin Vir. The assembly deliberated on the composition for the lethal wounds suffered by the son of Stijepac Raučević from Maine who had been beaten by Paštrovići in front of the gates of Budva. The composition sum was deliberated at 600 perper and the parties were to form 40 godfatherhoods (Sindik et al., 1959, 7–8, document (hereafter d.) 8).

The Albanian legal customs show strict distinction between killings that occurred by accident (in a brawl or a fight), vengeance killings and killing »for benefit« (SK, 265, p. 2736). Only the latter was regarded as murder (Serb. *ubistvo*; Alb. *gjakësi*) and the perpetrator (Serb. *krivac*, *rukostavnik*) was a murderer (Serb. *ubica*), although a blood-taker (Serb. *krvnik*, Alb. *gjakësór*) could have been anyone who had spilled a blood of another person (Bogišić, 1999, 345–384; Hysa, 1995, 132). Ideally, only deliberate killings for benefit should have been avenged for by vendetta.<sup>22</sup> Any other case called for a claim for composition from the victim's kin, before the vendetta even came into question. Therefore, it was crucial to prevent one death or lethal wounds<sup>23</sup> from turning into vendetta with multiple casualties on both sides.

In 1693, there was an armed combat between the inhabitants of Grbalj district and the Paštrovići. The Venetian governor of Budva intervened and ordered the Paštrovići to make peace with the inhabitants of Grbalj according to their common legal traditions. Paštrovići were not eager to make peace, yet they obliged, and thus proposed truce to the families of the killed inhabitants of Grbalj, who were prone to making peace. The reconciliation took place in May of 1693 in San Stefan before the joint assembly of the chieftains of Grbalj and Paštrovići (Sindik et al., 1959, 81, d. 125.). The reconciliation was within the interest of the Venetian administration as the Grbalj district represented the shortest land route between Budva and Kotor, although Grbalj was a part of the Ottoman administrative area. Similarly, the Venetian governor of Kotor on July 8<sup>th</sup>, 1741 ordered the judges of Castellastuo, to reinstall peace among the clans of Paštrovići (Bojović et

22 I am consciously and deliberately discussing only the cases of blood-revenge for severe physical injuries or lethal wounds and killings, which occurred in a brawl or a combat. However, the brawls themselves started on the account of defending one's honour or the honour of the community, as it is evident also from the numerous cases of blood-revenge in the history. Defending and re-establishing the honour that has been damaged with a public insult, by a revenge-killing, was common, as it has been proven by many historical and anthropological studies (Gluckman, 1955; Evans-Pritchard, 1993; Peristiany, 1965; Boehm, 1987; Miller, 1996; Carroll, 2003; Carroll, 2006; Carroll, 2007; Carroll, 2003; Büchert Netterstrøm & Poulsen, 2007; Davies, 2013; Povolo, 2010; Povolo, 2015a; Povolo 2015b). An attack on honour was an injury one could rarely find sufficient compensation or composition for.

23 The Montenegrin proverb says, »One dead head brings fear to a hundred living.« Originally, »*Jedna mrtva glava straši sto živih*« (Radov, 1997, 139). Customarily, the deadly wounded person told the members of his family the circumstances in which he was wounded, making sure they understood if it was a case of an accident, and thus preventing the vendetta. Blood-revenge for death by accident was deemed as dishonourable deed in Montenegrin as well as in the Albanian tradition (Bogišić, 1999, 350; KLD, §932; SK, 257–258, p. 2727–2731). The Code of Lekë Dukagjin even states, »Undeliberate killing is not persecuted by a rifle.« (KLD § 932) more about undeliberate killing in the Code of Skenderbeg (SK, 278–279, p. 2980–3002).

al., 1990, 37–38, d. 12). In 1766, the Venetian governor of Budva ordered Paštrovići to describe the circumstances that had led to the dispute with the inhabitants with Ulcinj, where four Paštrovići were injured, and ordered the Paštrovići not to take revenge (Sindik et al., 1959, 191, d. 256).

The prevention of vendetta was in the highest interest of both parties, as well as their neighbouring communities and authorities, who highly benefited from peaceful relationships. In order to make peace according to the custom, first, the customary mediation needed to take place (comp. Darovec, 2016, 31; Oman, 2016, 87–90).

## THE CUSTOMARY MEDIATION FOR TRUCE

In order to prevent vendetta after the »blood was spilled«, the clan of the blood-taker had to show some remorse, fear, and humility in front the clan of the killed. As the custom of vendetta made every family member of the blood-taker's clan liable for the damage caused and all clan members were the potential targets of revenge, they themselves could not ask for mercy and truce.<sup>24</sup> The mediators (Serb. *posrednici*, Alb. *ndermjetës*), the clan or tribal chieftains, were to intervene according to their customary duties. In the case of single case of lethal wounds and accidental death, mediators were to go directly to the house of the victim and humbly ask the head of the victim's household for truce (Bogišić, 1999, 361–362; KLD, §§ 845, 851, 965). The head of the victim's household is referred to as »the master of blood« (Alb. *hoti i gjakut*) in the Albanian tradition. The reconciliation is a public ritual with symbolic gestures, phrases and objects (Darovec, 2014, 481–499). The mediators used special phrases to plea for truce. In Montenegrin tradition however, the word truce itself was never mentioned. Instead, the mediators asked for what was to be the result of the reconciliation. The mediators asked for the union of the blood-taker's and the victim's household in the godfatherhood of Saint John the Baptist.<sup>25</sup> The head of the victim's household was thus referred to as the godfather (Serb. *kum*) (Bogišić, 1999, 365).

In Montenegrin tradition, the head of the victim's household had some time to decide, whether to accept the offer for truce or not.<sup>26</sup> Therefore, the mediators would repeat the homage and the plea for truce periodically until they were accepted into the victim's house for negotiation (Jelić, 1926, 95, 98; Bogišić, 1999, 366).

The chieftains were in some cases accompanied by a group of women, who were traditionally referred to as »the carriers of peace« (Serb. *mirnosice*), as they were

24 There was a custom of voluntary seclusion for at least 24 hours after the killing that was implemented by the clan of the blood-taker as they were all potential targets of vendetta. By seclusion, the liable party expressed its fear from vendetta and humility before the victim's clan. If this custom was not conducted accordingly, it signified an insult to the clan of the victim (Bogišić, 1999, 355–356; KLD, §§ 870–873; Hasluck, 1954, 224–226).

25 The pleas in the area of Montenegro were recorded as »Primi kume za Svetoga Jovana«, similar phrases were supposedly used in Albania. The variation from Herzegovina is recorded as: »Primi kume, kumimo te bogom i tvom svetim Jovanom« (Bogišić, 1999, 365).

26 The head of the victim's household (*the master of blood*) had to get the consent for truce from other members of the victim's clan as they were also entitled to take revenge (SK, 281, p. 3017–3027).

carrying with them babies in the cradles. The babies represented a symbolic gift of the blood-taker's clan and the offer for future union of both clans. The babies symbolically represented the number of godfatherhoods, future alliances, which could be made between the communities, on the other hand, the babies represented the numerical power of the clan of the blood-taker, and that the clan would be able to survive further vendetta (Bogišić, 1999, 363, 365, 376; Jelić, 1926, 99–100).

In the Albanian tradition, however, the preserved customs state that it was honourable to grant the truce (Alb. *besë*) therefore, the plea for truce after a killing was to be immediately granted. However, it lasted only 24 hours (KLD §§ 854–855). During this short period of truce, the blood-taker had to show his remorse and humility in front of the victim's clan and attend the funeral of the victim alone, without any escort.<sup>27</sup> This custom enabled the clan of the victim to evaluate the blood-taker's character and decide whether to grant the blood-taker and his clan the second, 30-day truce, during which further negotiation would be taking place (Jelić, 1926, 97; Karan, 1985, 31).

## THE CONTRACT OF TRUCE

The truce (Serb. *primirje*; Alb. *besa*) was a contract between the house of the victim and the house and clan of the blood-taker.

After the mediators and the head of the victim's household agreed for truce and determined its time span, they shook hands and swore<sup>28</sup> that the blood-taker's clan is safe from vendetta (KLD, § 854). Handshake was a gesture that was traditionally used in contractual agreements, such as vassal or notarial investitures in the middle ages (Le Goff, 1985, 387–388; Darovec, 2014, 473–500; Darovec, 2016, 24; Brunner, 1992, 89–90). However, in Albanian as well as in Montenegrin tradition, the agreement with a handshake alone was not valid unless a warrantor (Alb. *dorëzën* Serb. *dorzon*, *jemac*) was appointed (Đuričić, 1979, 14; SK, 282, p. 3039).

The warrantor was chosen by the mediators and was most likely present among them while they were mediating for truce. The warrantor was a person that enjoyed great respect in the community and had to be on good terms with both the household of the blood-taker as well as the victim's household. Moreover, the warrantor's household must not have been in a blood-feud at a given moment. The warrantor was to supervise the head of the victim's household during the time of truce. The warrantor entered into the contractual agreement willingly and free of charge, but putting his good name and reputation at stake (Đuričić, 1979 33, 35; KLD § 687; Darovec, 2016, 22).

Milutin Đuričić in the 20<sup>th</sup> century recorded the phrases that were used to include personal warranty (Alb. *dorëzania*; Serb. *dorzonija*, *jemstvo*; Ita. *fideiussione*; Lat. *sponsio*)

27 The blood-taker was in no danger as he was protected by the truce and the customs of hospitality. He was treated as a guest and had an honorary seat at the table (Jelić, 1926, 97). The custom is vividly interpreted by Ismail Kadaré in his 1978 novel, *Prilli i Thyer*, which was translated into English in 1989 as *Broken April* and translated in Slovene in 2006 as *Zlomljeni april* (Kadaré, 2006, 14–15).

28 In analogy to other contractual agreements comp. Bogišić, 1999, 176.



into a contractual agreement. I attempt to loosely translate the phrases from Serbian to English bellow.

The head of the victim's household asked the selected person: »*Would you like to be my warrantor in this matter?*« And the selected person asked: »*Are you aware of what a warrantor is? He can forgive his own blood but not the blood of another. Do not hold me by the neck. If you kill him, I am dishonoured and I will have to kill you. Therefore, think well and honestly say - should I enter into this matter as your warrantor?*« The head of the victim's household said: »*You can enter without a worry. I will not dishonour you in this matter; I will stick to my word for a thousand years I will keep my promise as long as I and my children are alive.*« After this, the warrantor asked the mediators and the head of the victim's household to repeat their statements and to confirm their agreement. After they repeated their statements, the warrantor publicly declared: »*I am the warrantor, address me in this matter. Have no worries, if he breaks his promise, he betrays me.*« (Đuričić, 1979, 24, 33–36). The verbal promises of all the parties in the contract for truce were invalid, unless all parties took an oath upon a sacral object. Those could be the Gospel or the Crucifix and, in Albanian Highlands, the rock, as the oldest sacral object (KLD, §§ 533, 535).

To sum up, *besë*, the Albanian term for truce, is in fact a word with many contextual meanings.<sup>29</sup> The Slavic equivalent for *besë* is *vjera* or *vera* (Karan, 1985, 34; Miklošič, 1888, 139, 141), which generally translates as *faith*, yet it also has several contextual meanings<sup>30</sup> and it is equivalent to Latin term and institution of *fides* (*fede*) (Karadžić, 1818, 73; comp. Škrubej, 2002, 149–156). *Besë*, as well as *vjera* and *fides*, in their most general uses signified a pledge of honesty, a promise of safety, mutual trust and loyalty between the parties (Petkov, 2003, 9–78; comp. Du Cange, 1710, Tom. 3, 1303). The latter was formed by an oath (Serb. *zakletva*; Alb. *bëja*, Lat. *jus jurandum*) (Comp. Hysa, 1995, 40; Stevanović et al. 1962, 521–522; Du Cange, 1710, Tom 2., 478) of both parties, through the mediators and by the oath of the warrantor, which represents legal obligation of all the entities involved (Đuričić, 1979, 30; Darovec, 2016, 23–24).

On January 28<sup>th</sup>, 1740, the Paštrovići declared in front of the governor of Budva that they had made truce with Maine (*datta la fede di bon vivere e di non molestare li Maini per le vertenze e pretese di sangue che tra loro corono*) which was valid until October 26<sup>th</sup>, 1740. The parties determined the fine for potential violators of truce (*mancator di fede*). The statement of Paštrovići was ratified from the part of Maine that joined the

29 *Besë* is »a word of honour« among Albanians (Berishaj, 1989, 58). Etymologically the noun *besë* derives from Indo-European roots for nouns that signify pledge, truce and trust, roots for adjectives faithful and trustworthy and roots for verbs to persuade and to force (Orel, 1998, 59); *Besë* is also the pledge of safety and protection (Alb. *ndorja*) and safe conduct (Alb. *shpurë i sigurti*) (Đuričić, 1979, 7–8).

30 By analysing the vocabulary of former Montenegrin count bishop (vladika) Petar II. Petrović Njegoš, the term *vjera* has been used in several contextual variations. *Vjèra* was a belief that something is accurate and true or that something will happen as promised. *Vjèra* was also a guaranty and trust in something or someone. *Vjèra* is also defined as a given word of honour and a promise to someone that one will not be harmed. *Vjèra* was used as term for oath taking. *Vjèra* also meant trust into one's word of honour, the trust that one will not be betrayed. Njegoš also used phrases »uhvatiti vjeru od mira« and »dati vjeru« which meant to form a peace treaty or to grant truce or safety to someone (Stevanović et al., 1983, 84–85).



Paštrovići at a meeting in front of the governor of Budva on February 6<sup>th</sup> 1740, where they took an oath that they will resolve their dispute according to the custom (Sindik et al., 1959, 146–147, d. 203).

The violation of truce (*besa*, *vjera* or *fides*) was a serious crime, which was not taken lightly.<sup>31</sup> The violator of truce was to be killed by the warrantor of truce. (Đuričić, 1979, 29, 42–43). However, in the Albanian Highlands the entire clan of the violator of truce was subdued to severe fines and punishments.<sup>32</sup>

During the period of truce, further negotiation took place. From the negotiation onwards, according to the Montenegrin tradition, the head of the victim's household was referred to as *umirnik*, which would loosely translate as the »peace-giver«. Both parties selected equal number of arbiters. The number varied from 6, 12 or 24 arbiters, depending on the case.<sup>33</sup> The most common number of the arbiters for reconciliation of severe physical wounds or a killing was 24, although the number could be fewer if the parties agreed so.<sup>34</sup> The mediators also discussed other demands of the victim's kin that should have been granted in order for the parties to reach permanent peace (Bogišić, 1999, 364, 366–367; Djuričić, 1975, 21–25; KLD, § 854).

## THE ARBITRATION AND PERMANENT PEACE

On the appointed day, the parties met at the appointed location in front of the arbitration assembly. The arbiters questioned both parties to determine the level of liability of the parties. In some cases, the victim himself had a fair amount of liability for the damage done. Each party knew exactly how much damage each party caused and suffered. The arbiters deliberated on the sum of compositions for wounds and casualties and upon the sum of the composition for the material damage. Due to high sums of the composition,<sup>35</sup>

31 Milorad Medaković wrote about the violation of truce (Serb. vera): »*To break the truce or to harm someone during truce is the first and the biggest sin on Earth one can never be redeemed from.*« »Pogaziti vjeru i učiniti kome što na vjeru, držalo se za prvi i najveći grijeh na zemlji, od koeg se grešnik nigda izvaditi ne može« (Medaković, 1860, 107).

32 The composition that needed to be paid for a person that was killed during truce was 22 purses or 11000 grosh (a purse, (turcism Alb. qesë, Serb. ćesa) was a monetary unit of 500 grosh). The community of the violator destroyed 3 houses of the violator's closest relatives, destroyed all their fields and seized all their livestock (KLD, §§ 881–882; KLD, Dodatak, 211–213). In addition, the clan of the violator were to pay a fine for violation of truce, which was 100 rams and 1 ox (SK, 155, p. 692–693; KLD §884; Karan, 1985, 44–47). If transformed into money, the fine was 10400 grosh (for customary prices of cattle and livestock see: KLD § 484). A grosh is most likely the Ottoman gurush, a silver piece coin with a mass of 25.65 grams (Pamuk, 2000).

33 The exact same numbers of arbiters, depending on the severity of the case, are mentioned in the Dušan's Code (DZ, art. 151).

34 Some of the arbiters were the same chieftains that had mediated for truce, as the legal tradition refers to the chieftains as the mediators and arbiters (Serb. *posrednici i plečnari*; Alb. *ndermjetës dhe pleqnarët*) (Djuričić, 1975, 21); which may be the reason why some anthropologists tended to equate the mediation and arbitration (Stein, 1984, 5).

35 The compositions in the 19<sup>th</sup> century were recorded as follows: in Katunska, Riješka, Crmniška and Lješanska district the composition for death varied from 132 ducats, 4 pieces of 20 (*cvancike*) and one para. Other areas reported 133 zecchini and 2 grossi. Bjelopavlići, Piperi, Bratonožići, Kući and Rovce, the tribes

the sums were divided into rates, and deadlines for payments were determined. Furthermore, the number and types of new alliances were determined. Those were usually the fraternities or godfatherhoods. However, as evident from Kotor notarial registers, marriages between the parties were also recorded. The arbiters also deliberated about the details of the execution. Usually, the clan of the blood-taker was to prepare a feast for the victim's clan and the blood-taker was to perform the act of the public humility or humiliation in front of the peace-giver (Bogišić, 1999, 362, 367–368, 369, 371, 373; Jelić, 1926, 115–116).

The parties swore to respect the peace by taking an oath. According to the Bogišić's Survey, the symbolic act of permanent reconciliation was the kiss of peace (Serb. *poljubac, cjelov mira*; Lat. *osculo pacis*),<sup>36</sup> that first took place in front of the arbitration assembly (Bogišić, 1999, 371–372) and was later repeated on several occasions. The kiss was repeated in front of the officials, such as the notaries of Kotor. The symbolic gesture of kiss was preserved in all the areas of Montenegro throughout the centuries.

The peace treaty between two clans of Paštrovići from 1632 states that the deliberation was accepted by both parties and they kissed in front of the assembly and took an oath to form god-fatherhoods and keep the perpetual peace (*[...] i pred nama se izljubiše i kumstvo obečaše i u vječnom miru ostaše [...]*) (Jelić, 1926, 134).

In 1716, in Paštrovići two families made peace after a killing. The liable party was to pay the composition, form 6 fraternities and 6 godfatherhoods and prepare a feast for 76 people. The peace-giver declared after the execution that he was justly compensated for

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of Morača and Vasojevići the composition varied between 200 and 300 talier. The composition for severe physical wounds was deemed approximately half of the composition for death, which is 66 zecchin. Composition for smaller wounds was between 20 and 50 talier (Bogišić, 1999, 367–368; Jelić, 1926, 89, 92). Based on the 1740 monetary reform of the Republic of Venice, the ducato / zecchino represented 22 lire of 240 gross with 2.18 grams of total mass and 2.07 grams of silver. One para was a Turkish silver piece coin with a mass of 0.55 grams (Darovec, 2004, 68–69; Pamuk, 2000). The composition in Herzegovina varied between 100 and 300 talier or more, if the victim had small children. If the clan of the victim was numerous and strong, the composition was up to 600 talier. The composition for wounds was determined in the same way as in the Montenegro (Bogišić, 1999, 367–368). The tallero was a silver-piece coin with the mass of 28 grams (Coinage, 2016). In Albanian Highlands the composition for the killed man or a boy was six purses which is 3000 grosh (KLD § 881; KLD, 170); in practice, the compensation could vary between 9 and 12 purses (Jelić, 1926, 93). The composition for a killed woman was three purses or 1500 grosh. If a pregnant woman was killed, the assembly could inspect the gender of the unborn child. The composition was enlarged by three purses for an unborn girl and six purses for an unborn boy. The composition for each bloody wound was three purses (1500 grosh) (KLD §§ 935–937; SK, 266; Bogišić, 1999, 367). Among the tribes of Mirditë, the composition for wound depended upon the part of the body that was injured. Injury above the belt was estimated at least 3 purses (1500 grosh), below the belt, however, not more than a purse and a half, 750 grosh. If the injury resulted in permanent handicap, the composition was 2000 grosh. The bloodtaker was to pay the »medical« expenses that usually varied between 200 and 300 grosh (Hasluck, 1954, 241; Jelić, 1926, 93). Grosh was a Turkish silver piece coin, *gurush*, with a mass of 25.65 grams (Pamuk, 2000).

36 The kiss of peace represented a confirmation and a warranty of the peace treaty and new friendship (Lat. *amicitia*) between the parties (Darovec, 2014, 492; comp. Darovec, 2016, 30–32). In the middle ages, the kiss represented one of the investiture objects or gestures (Le Goff, 1985, 457). According to Gregorio López's analysis of the Spanish legal codes in *Siete Partidas* (1555), the kiss represented the symbol of true love that transformed the hearts of former adversaries. The change of emotional state was transformed into formal legal obligation (Petkov, 2003, 33–34; 40–41, 48).

the death of his father and that there is nothing but brotherly love left between him and the other party (Bojović et al., 1990, 29, d. 7).

On January 12<sup>th</sup> 1829, in Brčeli tribe, the arbiters deliberated in the feud between Lorovići an Aleksići. The killing and the blood revenge were compensated one for the other and the composition for a wound and the material damage was determined. The Aleksići were to prepare a feast for 50 members of Lorovići and Luka Perov with his 10 friends. The parties kissed in front of the assembly that was a sign of perpetual peace. (*i celive učinismo, [...] i u vječni mir ostavismo, koi se podpisujemo*) (Novaković, 1879, 206).

The custom of vendetta and reconciliation was kept alive even after the dissolution of the Venetian Republic in 1797. Thereafter, the unification of the Old Montenegro, the Montenegrin Highlands as well as the Montenegrin coastal areas (*Crnogorsko Primorje*) that was previously a Venetian administrative area, took place (Andrijašević & Rastoder, 2006, 155; Raspopović, 2009, 15).

The Montenegrin count bishops and princes of Petrovići dynasty worked towards the abolition of the custom of vendetta with new criminal legislation. Since the rule of the count bishop Petar I. Petrović, there was an attempt to form a permanent judicial body in Montenegro, which was accomplished by his successor Petar II. Petrović Njegoš (Andrijašević & Rastoder, 2006, 132–134, 161–163, 165; Margulis, 2013, 31; Marinović, 2007, 624).

The judgements and deliberations of the Supreme Court (Vrhovni sud, Senat) that was formed on October 2<sup>nd</sup> 1831, were much like the deliberations of the tribal assemblies (Andrijašević & Rastoder, 2006, 163). Especially in the first few decades in regards to determining compensations for wounds, killings and in some cases in the formation of new alliances between the parties (Jelić, 1926, 125–132, d. VI, VIII, XI, XV, XVI XVII).

Although the criminal legislation further developed in the time of prince Danilo I and prince Nikola I Petrović (Bogišić, 1999, 294–295, 321; Šćepanović, 2003, 25; Marinović, 2007, 28–32, 157–167 171, 181, 195–196), the custom of vendetta remained alive as have the customs of the pacification. Precisely in the reign of prince Nikola I, one of the most detailed descriptions of the execution of the deliberation was recorded by Pavel Apolonović Rovinski in 1890 in Grbalj.

## THE EXECUTION OF THE DELIBERATION

In spring of 1890, an assembly of 24 mutually selected arbiters gathered in a village Višnjevo. The deliberation stated that Jovo Bojković, the son of the blood-taker, should pay the compensation (*mito*) to the kinship of the Zec family 30 zecchin and the composition of 133 zecchin, 2 grossi and one half para for the killed Jovo Zec (Sn.). Jovo Bojković was to prepare a feast for Jovo Zec (Jr.) and 300 of his clan members. The parties were to form 12 godfatherhoods and 12 great and 12 small fraternities. According to the ancient custom, the son of the blood-taker was to hand over the killer's weapon, by all the formalities of humiliation.

On the day of the execution, August 27<sup>th</sup>, 1890, around seven in the morning, the women with cradles came in front of the house of Jovo Zec. The twelve male godfathers of the Bojkovići clan began to loudly greet: »*God speed! Good morning in the godfather's*

house! [...] In the name of God and Saint John, good morning to the godfather!« The godfathers were accepted to the house and were given wine and brandy and they gave two silver pistols (*ledenice*) to Jovo Zec. The women with babies in the cradles entered the house, carrying a silver-piece coin under the head of each baby. Then, the formation of brotherhoods took place by the lead of Jovo Zec, who picked a baby from a cradle and kissed it on the head (Rovinskiĭ, 1994, 257–259).<sup>37</sup>

## THE PUBLIC PARDON

The ritual of humiliation of the son of the blood-taker in front of the son of the victim<sup>38</sup> is described by Rovinskiĭ as follows:

*The son of the blood-taker, in only single undergarment, barefoot and uncovered, crawled on all four, with a long riffle strapped around his neck [...] Two arbiters, also uncovered, were supporting the riffle from both ends. Seeing this, Zec ran towards Bojković, to shorten this horrifically humiliating scene. By attempting to lift Bojković from the ground, Bojković kissed Zec on the feet, the chest and the shoulder. By removing the rifle from the Bojković's neck, Zec said: »First my brother, then my blood-taker, then my brother forever. Is this the rifle that took the life of my father?« and without waiting for a reply, he handed the rifle back to Bojković and expressed a full pardon and they both kissed and embraced each other as brothers (Rovinskiĭ, 1994, 259; comp. Boehm, 1987, 136; Darovec, 2016, 24).*

After the act of public reconciliation, other rites followed. The clan of the bloodtaker prepared a feast (Serb. *krvna trpeza, krvni sto, hljeb krvne osvete, krvni leb / hljeb / kruh*, Alb. »*būke i gjakut*«) for the clan of the peace-giver. Before the meal itself, the composition was paid, either in money or in goods, usually valuable objects such as riffles, pistols or knives.<sup>39</sup>

After the meal, the fraternity between the main actors of parties was formed with a

37 The custom was similarly described by Božidar Petranović (Petranović, 1868, 18–19).

38 The homage that expressed humility and humiliation of the blood-taker before the peace-giver, was mentioned by A. Fortis (Fortis, 1984, 42). According to the Bogišić's survey, in Herzegovina, the blood-taker approached the peace-giver from 50-meter distance on his knees or crawling on all fours, with the support of two members of his clan. In Albania, the blood-taker approached on his knees with his hands tied behind his back, asking the peace-giver to free his hands and accept him as a godfather. The common tradition suggested the blood-taker to make 2/3 of the distance and the peace giver the remaining 1/3. The blood-taker was to say: »Accept, me godfather, as your godfather by God and Saint John,« as the people who were present repeated the blood-taker's words. When the blood-taker and the peace-giver were in front of each-other, the blood-taker kissed the peace-giver on the chest, while the peace-giver kissed the blood-taker on the head. After they kissed each other on their cheeks, the peace-giver said: »I forgive him to you, blood-taker, by God and Saint John« (Bogišić, 1999, 371–372).

39 The value of individual objects was evaluated by the chieftains who usually deemed the objects as higher value as they actually were. There was also a custom that the peace giver returned the composition, and donated the compensation as a gift to his new godfather (Bogišić, 1999, 372–373). The custom of returning the composition as a gift (Mauss, 1996, 29–30).

ritual. The peace-giver and the blood-taker pierced their little fingers with a pin and each dropped a couple of drops of blood into a glass of water, wine or brandy and they drank from each-other's cups (Jelić, 1926, 108–110; KLD, §§ 988-990).<sup>40</sup>

In the Albanian Highlands, however, the concluding act of the reconciliation was the carving of the cross at the entrance door of the former blood-taker's house (Jelić, 1926, 110; KLD § 983–987). »*All houses are marked with many crosses*«, wrote Mary E. Durham by describing the houses in the Vraka village in the High Albania (Durham, 1909, 17), which indicates that the custom of carving of the cross might have been quite frequent. The cross in the Christian tradition represents the absolution of sins (Schmitt, 2000, 357).

## CONCLUSION

The documents suggest that tribes and clans in Modern Age Montenegro enjoyed substantial judicial autonomy. The judicial autonomy of the clans in the Ottoman administrative area, the Old Montenegro, was granted by the Sultan's decree in the beginning of the 16<sup>th</sup> century, the judicial autonomy of the kinship communities in the Bay of Kotor was declared in the Statute of Kotor. It was respected by the Serbian rulers and later by the Venetian administration that did not impose its statutory laws onto kinship communities. This is especially evident in regards to the Paštrovići, who were confirmed their existing privileges of judicial autonomy. The 15<sup>th</sup> century peace treaties of the notarial register of Kotor testify, that the kinship communities were well able to resolve their disputes on their own through implementation of their legal customs of pacification, without any interference of the Venetian authorities. The kinship communities did however take advantage of the notarial office of Kotor where they sporadically put their peace-treaties in written. After the division of the Montenegrin territory between the Venetian and Ottoman administration, some land disputes arose among the clans from both sides of the border that developed greater proportions and called for diplomatic intervention of the Venetian and the Ottoman authorities. Latter was unfortunately not as effective as the customary dispute resolution. The dispute resolution called for mediation of the third party that resulted in truce. Truce was a contract between the parties and the warrantors, who swore that the parties would meet before the arbitration assembly. During the arbitration, all points of the dispute were thoroughly revised. The composition for the damage was determined by the arbiters, along the number of new alliances between the parties. The parties made permanent peace by symbolic gestures of kiss and oath. Yet, the final stage of the reconciliation was the execution that took place on a later date. The composition in full or in rates was payed and the parties executed some other rites of pacification. Due to the efficiency of the peace-making custom, the Venetian authorities on some occasions

40 M. E. Durham discusses the modification of the ritual, as a form of alliance between families, not necessarily linked to the pacification. The parties could put their drops of blood on a block of sugar and ingest it. Marriages between the family members of people who were in fraternity were forbidden by custom (Durham, 1909, 24).

ordered the Paštrovići to make peace with the neighbouring communities or urged them not to take blood-revenge against the inhabitants of the Ottoman administrative area. The pressure for peace was a strategy that existed within the legal customs of the kinship communities.

»NAJPREJ MOJ BRAT, NATO KRVNIK, NATO MOJ BRAT ZA VEDNO«  
UČINKOVITOST TRADICIONALNEGA POSTOPKA POMIRITVE V ČRNI  
GORI V ZGODNJEM NOVEM VEKU IN VLOGA BENEŠKIH OBLASTI PRI  
POSTOPKU POMIRITVE

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**POVZETEK**

Članek obravnava običaj krvnega maščevanja in običaje pomiritve na območju Črne gore v novem veku. Običaji so se ohranili skozi stoletja, njihovo zbiranje pa je potekalo od 19. stoletja dalje. Pravne običaje rodovnih skupnosti so priznavali srednjeveški vladarji. V novem veku so bili beneški in osmanski oblastniki seznanjeni z običajem maščevanja in z običaji pomiritve. Slednji so se izkazali kot učinkoviti pri reševanju dolgotrajnih sporov med klani iz različnih administrativnih ozemelj. Kljub vsemu, so bile skupnosti na eni in drugi strani meje sposobne samostojno reševati spore, brez vpletanja oblastnikov, ki so sicer občasno pritisnili na bratstva v sporu, da bi se pomirila. Pomiritev je sestavljena iz treh faz, iz mediacije, arbitraže in izvršbe rzsodbe. V mediaciji sta podani prisega in garancija o premirju. Arbitraža se je odvijala pred zborom rzsodnikov, kjer sta si stranki oprostili s simbolnimi gestami. V izvršbi so bile simbolne geste ponovljene, še posebej pri obredu javne sprave, kjer sta sprta postala »brata za vedno«. Članek z analizo ohranjenih mirovnih pogodb in historiografske literature ponazarja, da kljub administrativni razdeljenosti ozemlja Črne gore v novem veku med dve veliki politični entiteti, niti osmanska niti beneška oblast nista bistveno posegali v sodno avtonomijo bratstev na območju Črne gore, temveč sta spoštovali obstoječe pravne običaje.

*Ključne besede: pomiritev, Črna gora, Albanija, Beneška Republika, novi vek*



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