

Paolo Angelini

### On some elements of Slavs' customary law\*

TABLE OF CONTENTS: 1. A short introduction to the legal texts - 1.1 The *Russkaya Pravda* - 1.2 The Statute of Vinodol - 1.3 The Code of Dušan 1349-1354 - 2. Forms of collective liability - 2.1. Territorial liability - 2.2 Family and parentage liability - 3. Blood revenge and composition - 4. Persistence and weakening of customary law

ABSTRACT: the article focuses on the Slavs customary law, comparing the *Russkaya Pravda* (11<sup>th</sup> century), the *Statute of Vinodol* (13<sup>th</sup> century) and the *Code of Dušan* (14<sup>th</sup> century). Although redacted in the Middle Ages, these juridical monuments are among the oldest Slav legislations. The comparison shows how some institutes deriving from customary law were codified in the Slav legal texts. Attention will be focused on collective liability and feud, as the most significant institutes of customary law.

KEYWORDS: Slavs, Customary Law, Collective, Family, Liability, Blood Revenge.

---

\* Il saggio è stato sottoposto a valutazione da parte della redazione.

The article investigates the presence of customary law's institutes in the most important Slav legislations<sup>1</sup>, namely the *Statute of Vinodol*, the *Code of Dušan* and the *Russkaya Pravda*. Even though Byzantine law had influenced Slav populations and their legal culture since conversion to the Orthodox faith, customary law was still in use in the last part of the Middle Ages<sup>2</sup>. The writing down of customary law took place quite late in the history of Slav populations, therefore the *Statute of Vinodol*, the *Code of Dušan* and the *Russkaya Pravda* must be included among the oldest Slav legislations<sup>3</sup>.

Customary law was in use in the Russian territories, and the possibility of exacting revenge was provided in the short version of the *Russkaya Pravda* (1016-1017); halfway through the 11<sup>th</sup> Century feud was replaced, as stated in the amendments to the original text. The *Statute of Vinodol* dates 1288, when «men are in false belief about their old good laws»<sup>4</sup>: the redactors of the *Statute of Vinodol* pretended to have collected all the ancient uses, although the laws of the Vinodol had been already influenced by legal elements which did not belong to Slav culture. A few decades later, the Serbian Emperor Stephan Dušan enacted his tripartite legislation; Byzantine law was massively introduced in the Greek-Serbian empire but elements of customary law survived in the *Code of Dušan 1349-1354*.

The article will focus on collective liability, thus family and territorial liability, and on blood revenge, which can be considered peculiar elements of Slavs' customary law. Collective liability was preserved in criminal law and blood revenge was replaced to limit its dangerous consequences on the maintaining of social

---

<sup>1</sup> We consider the *Russkaya Pravda* as an official legislation. The debate on this topic is summarized in F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Uložhenie) of Tsar Aleksei Mikhailovich of 1649*, Leiden-Boston 2018, pp. 122-123.

<sup>2</sup> About the persistence of customary law: V. Bogišić, *Pravni običaji u Slovena*, Zagreb 1867; V. Bogišić, *Zbornik sadašnjih pravnih običaja u južnih Slovena*, Zagreb 1874.

<sup>3</sup> About the legal history of the Slavs: W. A. Maciejowski, *Historia prawodawstw słowiańskich*, Warsaw 1832-1835, vv. I-IV; W. A. Maciejowski, *Slavische Rechtsgeschichte*, Stuttgart 1835-1839; Second edition: W. A. Maciejowski, *Historia prawodawstw słowiańskich*, Warsaw 1856-1858, vv. I-VI; F. F. Sigel, *Lectures on Slavonic law, being the Ilchester lectures for the year 1900*, Londra 1902 (rist. Kitchener 2001); T. Taranovski, *Uvod u istoriju solvenskikh prava*, Belgrade 1922; A. V. Solovjev, *Predavanja iz istorije slovenskih prava*, Belgrade 1939; A. V. Solovjev, *Istorija slovenskih prava / Zakonodavstvo Stefana Dušana cara srba i grka*, Belgrade 1998.

<sup>4</sup> Provisions which were considered out of the time, or not in use, were changed or excluded from the codification. L. Margetić, *Vinodolski zakon, 1288-1988. Novi Vinodolski, Bakar, Bribir, Drivenik, Grižane, Grobnik, Hreljin, Ledenice, Trsat. The Statute of Vinodol. La Legge del Vinodol. Das Gesetz von Vinodol*, Novi Vinodolski 1988, p. 11.

peace and public order. The comparative approach will show the presence of customary law in the three Slav legal texts, and its existence in the last part of the Middle Ages.

### 1. *A short introduction to the legal texts*

Numerous publications have been devoted to the *Russkaya Pravda*, the *Statute of Vinodol* and the *Code of Dušan*. The following paragraphs must be considered just a short introduction to the general contents of these legal texts. The literature is vast, so references will be made only to the most important publications.

#### 1.1. *The Russkaya Pravda*

The *Russkaya Pravda* was redacted in the 11<sup>th</sup> Century. Three versions are preserved in more than one hundred copies (13<sup>th</sup>-18<sup>th</sup> Centuries): the short version, the extensive version, and the abridged version<sup>5</sup>. The original version was composed of the *Law of Yaroslav* (1016-1017), the *Law of the successors of Yaroslav* (1054 ca.), and other provisions (ca 1068-1071). The *Law of Yaroslav* was promulgated when Yaroslav the Wise succeeded in imposing his supremacy and established his rule (ca.1017). The text was integrated by his successors and provisions were added in the following decades<sup>6</sup>. The *Russkaya Pravda*<sup>7</sup> regulated feudal relations and enshrined the role of the monarchy, which was imposing its authority over tribal structures. The legislation was primitive and consequently, penal law occupies a large portion of the text, but other aspects of law, such as taxes, marriage law, successions, sales, the legal status of slaves, clergy's jurisdiction, privileges, and exemptions, were regulated<sup>8</sup>. The legal system of the *Russkaya Pravda* preserved some institutes of customary law<sup>9</sup>. The Byzantine-

<sup>5</sup> Main edition: *Pravda Russkaya, Kommentarii, Teksty* (ed. B. D. Grekov), v.1, Moscow-Leningrad 1940.

<sup>6</sup> The oldest part of the *Russkaya Pravda* was based on customary law. The treaty of 907 reflects the law of the *Russkaya Pravda*. There are also similarities with the 911 and 944 treaties. F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Uložhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., pp. 93, 114-115.

<sup>7</sup> The *Russkaya Pravda* must not be considered a totally comprehensive legal code. Ivi., p. 107.

<sup>8</sup> Translation: *The Laws of Rus' - Tenth to Fifteenth Centuries* (ed. D. H. Kaiser), Salt Lake City 1992.

<sup>9</sup> Commentary: *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), v.2, Moscow-Leningrad 1947. See also: A. A. Zimin, *Pravda Russkaia*, Moscow 1999; G. Baranowski, *Die Russkaja Pravda—ein mittelalterliches Rechtsdenkmal*, Rechtshistorische Reihe, v. 321, Frankfurt am Main

Russian treaties of the 10<sup>th</sup> Century indirectly preserved some elements of customary law as well, reflecting the contents of the *Russkaya Pravda*, although they are generally considered a mixture of Byzantine and Russian law<sup>10</sup>.

## 1.2. *The Statute of Vinodol*

The *Statute of Vinodol* was drawn up in the city of Novi Vinodol by a commission composed of the representatives of the districts of the Vinodol region. It was enacted on the 6<sup>th</sup> of January 1288, under the reign of the Hungarian King Ladislav, in the presence of the Prince Leonard<sup>11</sup>. The prologue mentioned that «those who were aware to remember better the laws of their fathers and grandfathers» had catalogued «all good old and tested Vinodolian laws<sup>12</sup>, they could possibly remember, or they have heard from their ancestors»<sup>13</sup>, because people were actually «in false belief about their old good laws»<sup>14</sup>. The text in Chakavian language, written in Glagolitic script, was composed of 75 chapters, dealing mainly with penal law and judicial procedure. A dozen articles - not systematically arranged - regulated some aspects of ecclesiastic law, thus the position and some rights and duties of the clergymen of the region. Criminal law was predominant: the *Statute of Vinodol* repressed crimes against life and physical integrity, against property, against the security of people, against honour and reputation, against the prince and the count, and crimes against God and religion<sup>15</sup>. Only chapter 32 dealt with civil law, thus with successions. The death penalty and corporal punishments were provided for a reduced number of crimes. The judicial system was predominantly based on the *conjuratores* and

---

2005; F. J. M. Feldbrugge, *Law in Medieval Russia*, Leiden-Boston, 2009, pp. 35 and ff.; F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Uložhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., pp. 101 and ff. .

<sup>10</sup> Ivi., pp. 85-96.

<sup>11</sup> T. Galović, *Vinodolski zakon – 725 godina poslije in 725 godina Vinodolskog zakonika – 725 godina suzbijanja korupcije u Hrvatskoj*, Zagreb 2013.

<sup>12</sup> The prologue mentioned: «one stare dobre zakonone». The word *zakone* (laws) is utilized to indicate the good old unwritten customs.

<sup>13</sup> The name of the people who had knowledge of the ancient customs are listed in the prologue.

<sup>14</sup> English translation: L. Margetić, *Vinodolski zakon, 1288-1988. Novi Vinodolski, Bakar, Bribir, Drive-nik, Grižane, Grobnik, Hreljin, Ledenice, Trsat. The Statute of Vinodol. La Legge del Vinodol. Das Gesetz von Vinodol*, cit. .

<sup>15</sup> Đ. Milović, *Kazneno pravo vinodolskog zakona iz 1288. godine*, in «Vjesnik DAR», 41-42 (1999-2000), p. 55.

witnesses<sup>16</sup>. The *Statute of Vinodol* must be considered very primitive<sup>17</sup>, «confirming and stating confirmed the old and tested Vinodolian laws under which have always lived their grandfathers and their fathers and all their ancestors» (SV § 75), but it had the goal of limiting the power of the Count and avoiding mistakes in the administration of justice.

### 1.3. *The Code of Dušan 1349-1354*

After the foundation of the Serbo-Greek Empire ruled by Stefan Dušan (1345-1346), a Byzantine legal system was introduced, through the enactment of a tripartite legislation<sup>18</sup> composed of the *Abridged syntagma* of Matthew Blastares, the *Law of the emperor Justinian* and the *Code of Dušan 1349-1354*. The *Abridged syntagma* and the *Law of the emperor Justinian* were Serbian versions of Byzantine legal compilations<sup>19</sup>. The *Code of Dušan* was composed of 200 chapters around disciplining ecclesiastical and criminal law, as well as judicial procedure, whilst civil law was regulated in the *Abridged Syntagma*. Because of the influence of Byzantine law, physical punishments and mutilations were massively imposed, but Slav customs emerge in the text. Dušan's predecessors had tried to consolidate the system based on pecuniary compositions to replace the blood revenge system, as it is stated in their *chrysobulls* and *prostagmata* redacted in the first half of the 14<sup>th</sup> century<sup>20</sup>. As mentioned above, the punishments of criminal law were based on the Byzantine ones, and they were imposed on the basis of personal liability, nonetheless in the *Code of Dušan* pecuniary penalties and fines were still provided to families and territorial units, thus villages, cities, and districts, on the basis of collective liability<sup>21</sup>. A mixed Byzantine-Slav legal system

<sup>16</sup> Commentary: *Vinodolski Zakon 1288: Faksimil/Diplomatičko Izdanje/Kritički Tekst/Tumačenje/rječnik*. Edited by Josip Bratulić, Zagreb 1988.

<sup>17</sup> We do not agree that it must be considered one of the most important documents of medieval Europe, as stated in: L. Margetić, *O nekim novijim rezultatima proučavanja Vinodolskog zakona*, Uvodni referat za znanstveni skup, Novi Vinodolski 1978, p. 5.

<sup>18</sup> P. Angelini, *Il Codice di Dušan 1349-1354. Legislazione Greco-Romana e amministrazione dell'impero Serbo-Bizantino*, Rome 2014.

<sup>19</sup> P. Angelini, *La Legge dell'imperatore Giustiniano*, Rome 2019.

<sup>20</sup> Milutin (king 1282-1321) was active in putting his decisions into writing and some of his provisions were included in the legislation of the first Serbian emperor. V. A. Mošin - S. Ćirković - D. Sindik (eds.), *Zbornik srednjovekovnih cirilickih povelja i pisama Srbije, Bosne i Dubrovnika*: v. I, 1186-1321, Belgrade 2011; S. Novaković, *Zakonski spomenici srpskih država srednjega veka*, Belgrade 1912.

<sup>21</sup> Critical editions: N. Radojčić, *Zakonik cara Stefana Dušana 1349 i 1354*, Belgrade 1960; First critical edition: S. Novaković, *Zakonik Stefana Dušana cara srpskog, 1349–1354*, Belgrade 1898

was adopted in the Serbo-Greek Empire and although the Byzantine element was predominant, some elements of Slav customary law were preserved in the *Code of Dušan 1349-1354*.

## 2. Forms of collective liability

Family and territorial liability are among the most typical elements of Slavs' customary law. In ancient Slav societies, the concept of personal liability was residual in the imposition of punishments, and it was quite weak in civil law as well. The family and community, to which the culprit or the wrongdoer belonged, assumed responsibility for his conduct.

### 2.1. Territorial liability

In the *Russkaya Pravda* the liability for a territorial community (*вервь* / *verv*) was provided for homicide, if the murderer was not identified, or if he was not delivered to the authority. The *verv* had originated from ancient communities, based on family or on wider ties of consanguinity. In the 11<sup>th</sup> Century the *verv* included all the inhabitants of a territory, who were not exclusively connected by kinship:

*Russkaya Pravda*, expanded version, § 3

О убиистве. Аже кто убиеть княжа мужа вразбой, а головника не ищють, то виревную платити в ѹбен же верви голова лежитъ, то 80 гривен; пакы ли людин, то 40 гривен.

«On homicide. If someone kills [one of] the prince's men in an assault, and [members of the community] do not find the killer, then [those people] in whose community the corpse lies are to pay 80 grivnas; if [the victim] be an [ordinary] free man, then [the community] is to pay 40 grivnas».

*Russkaya Pravda*, expanded version, § 4

Которая ли вервь начнетъ платити дикую виру, колико лет заплатитъ ту виру, за не же без головника им платити.

«If a community begins to pay the bloodwite [in the absence of the person who committed the murder], [then that community] is to pay the bloodwite over several years, inasmuch as they pay without [the contribution] of the man who committed the homicide».

The expanded version of the *Russkaya Pravda* imposed that an amount of 80

---

(Beograd 2004). Commentary: A. Solovjev, *Zakonik cara Stefana Dušana 1349. i 1354. godine*, Belgrade 1980. English translation: M. Burr, *The code of Stefan Dušan Tsar and Autocrator of the Serbs and Greek*, in «The Slavonic and East European Review», 28 (1949-1950), pp. 198-217, 516-539.

*grivnas* had to be paid for the killing of a representative of the prince and the amount of 40 *grivnas*, for the killing of a free man (RP § 3). The payment of the *vira* (ДИКАЯ ВИРА) was imposed over the community (ВЕРВЬ), in the case that the murderer was not individuated, but for that reason it was deferred over several years (RP § 4)<sup>22</sup>. If the culprit was caught, or he delivered himself to the authority, the community had to pay the *vira* and the murderer had to pay compensation (ГОЛОВНИЧЕСТВО) to the family of the murdered person and his quota (part) of the *vira*, which was due by the community (RP § 5)<sup>23</sup>.

*Russkaya Pravda*, expanded version, § 5

Будеть ли головник их в верви, то зань к ним прикладываеть, того же деля им помагашаи головнику, любо си дикую виру; но сплати им вообчи 40 гривен, а головничество самому головнику; а в 40 гривен ему заплатити ис дружины свою часть.

«If the killer be present in their community, then because he contributes to them [for payment in similar cases], for that reason they must help the homicide [discharge his obligation]. Otherwise, [that is, if the killer be absent from the community] they [must pay] the bloodwite, but they are to pay a total of 40 *grivnas* [only for the bloodwite], and the killer [when he is discovered] is to pay the compensation, and he is to pay as well as his part of the 40 *grivnas* [already] paid by the community».

Collective liability for homicide was not imposed over the community in case of an assault without any provocation (RP §7); but in the case of a brawl or a fight, the payment was imposed over the community (RP § 6), because the members were held as responsible:

*Russkaya Pravda*, expanded version, § 6

Но оже будеть убил или в сваде или в пиру явлено, то тако ему платити по верви ныне, иже ся прикладывають вирую.

«But if [the murderer] killed [the man] either in a fight or openly at a feast, then [the killer] is to pay now with the community, for he himself is joined [to the community to pay] the bloodwite».

*Russkaya Pravda*, expanded version, § 7

Оже станеть без вины на развои. Будеть ли стал на развои без всякоя свады, то за развоиника люди не платяать, но выдадять и всего с женою и с детьми на поток и на разграбление.

«If [the homicide] occurs without cause during an assault. If [a homicide] occurred during an assault without any provocation, then the people [in the community] do not pay for the murderer, but give him up with his wife and children for punishment and confiscation of his property».

<sup>22</sup> *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), cit., pp. 275-287.

<sup>23</sup> *Ivi.*, pp. 287-298.

The murderer and the members of the community had to contribute to the payment of the *vira* and in case the culprit did not contribute, the payment of the *vira* was imposed over him.

*Russkaya Pravda*, expanded version, § 8

Аже кто не вложится в дикую вирю, тому людье не помогают но сам платитъ.

«If someone does not contribute to the community bloodwite system, then the people [of a community] do not help him, but he himself pays [the bloodwite]».

If unidentified bones were found, the community was not held as responsible, and the payment was not imposed over its members:

*Russkaya Pravda*, extended version, § 19

А по костех и по мертвечи не платитъ верви, аже имене не ведаютъ, ни знаютъ его.

«If [a homicide is suspected solely] on the basis of a skeleton or a corpse, then the community does not pay, since they do not know the name of the dead man and cannot recognize him».

The payment of the *vira* was not imposed for killing a slave, but the compensation for the patrimonial damage suffered by the owner of the slave was charged over the culprit<sup>24</sup>:

*Russkaya Pravda*, expanded version, § 89

А в холопе и в робе вирны нетуть; но оже будетъ без вины убиен, то за холоп урок платити или за робу, а князю 12 гривен продаже.

«There is no bloodwite for killing a male or female slave; but if [a slave] be killed without cause, then [the offender] is to pay [the slaveowner] compensation for the male slave or female slave, and twelve grivnas to the prince as a fine».

Collective liability for the members of a village, or of a community, was also provided in the *Code of Dušan*. The payment was imposed over the community for violation of tombs if the one committing such a sacrilegious act was not individuated (CD §20)<sup>25</sup>, and for fights between villages of Vlachs and Albanians (CD §77). Collective liability of the village was also provided if after the death of a nobleman, a village being part of his property was attacked and plundered by the members of another village (CD §58) and in case overnight stay in

<sup>24</sup> *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), cit., pp. 606-609.

<sup>25</sup> The *Syntagma of Blastares* T-10 Περί τυμβωρύχων imposed the death penalty for the one who had violated a tomb. In this case the collective liability was preserved only if the culprit was not discovered or delivered.

a village for security reasons was not granted to merchants (CD §159). Furthermore, the scattering of the whole village was provided for having insulted a judge (CD §111), for having helped or hidden a brigand (CD §§145, 149) or hidden a forger (CD §169)<sup>26</sup>.

Liability was imposed on the entire community for voluntary arsons (CD §§ 99-100) whether the village refused to deliver the culprit to the authority, or in cases where he was not individuated<sup>27</sup>:

*Code of Dušan, § 99*

КТОЛИ СЕ НАИДЕ ОУЖЕГЪ ИЛИ СЛАМОУ ИЛИ СЕНО ДА ТОЗИ СЕЛО ДА ПОЖЕЖЬЦОУ АКОЛИ ГА НЕ ДАСТЬ ДА ПЛАТИ ВНОЗИ СЕЛО ЦЮ БИ ПОЖЕЖЬЦА ПЛАТИТЬ.

«If anyone be found who has burnt a house, or a threshing floor, or straw or hay, let the village give up the burner: and if it do not give him up, then let that village pay what the burner would have suffered and paid».

*Code of Dušan, § 100*

АКОЛИ КТО ОУЖЕЖЕ ИЗЪ ВЪНЬ СЕЛА ГОУМЬНО ИЛИ СЕНО ДА ПЛАТИ ВКОЛИНА ВОЛА ДА ДАДЕ ПОЖЕЖЬЦОУ.

«And if anyone outside a village burn a threshing-floor or hay, let the neighbourhood pay or hand over the burner».

Collective liability was provided if a forger was caught minting coins in a city (CD § 169). The city was also liable for any robbery committed in its neighbourhood (*ОКОЛИНА*), and in its surrounding district (CD § 126)<sup>28</sup>.

In the *Statute of Vinodol* § 62 village liability was only imposed in case of voluntary arson<sup>29</sup> and if the culprit was not discovered, the *vražba* of 100 pounds had to be paid by its members<sup>30</sup>:

<sup>26</sup> For the repression of the *crimen falsi* in the CD see: P. Angelini, *L'influenza del diritto criminale bizantino nel Codice di Dušan 1349-1354*, in «Byzantina Symmeikta», 21 (2011), p. 246.

<sup>27</sup> CD § 169: «And if there be found a goldsmith outside the towns and marketowns of my Empire in any village, that village shall be scattered and the goldsmith branded: and if there be a goldsmith in a town who coins dinars secretly, he shall be branded and the town shall pay such fine as the Tsar saith». P. Angelini, *Il Codice di Dušan 1349-1354. Legislazione Greco-Romana e amministrazione dell'impero Serbo-Bizantino*, cit., pp. 108-109.

<sup>28</sup> CD § 126: «If there be robbery or theft on urban land round a town, let the neighbourhood pay for it all». P. Angelini, *L'influenza del diritto criminale bizantino nel Codice di Dušan 1349-1354*, cit., pp. 225-227.

<sup>29</sup> D. Haman, *Distinction between Dolus and Culpa with reference to Arson in Zakon Sudnyj Ljudem, the Vinodol Law and the Statute of Senj*, in «Journal De iure», 1/12 (2021), pp. 142-146.

<sup>30</sup> L. Margetić, *Vinodolski zakon, 1288-1988. Novi Vinodolski, Bakar, Bribir, Drivenik, Grižane, Grobnik, Hreljin, Ledenice, Trsat. The Statute of Vinodol. La Legge del Vinodol. Das Gesetz von Vinodol*, cit., p. 70.

*Statute of Vinodol*, § 62

Jošće: ako bi ki položil v kuću oganj, ili v hram volja v ničji osik za požganje, za prvo ostani v osud dvoru 100 libar, ter škodu platiti onomu komu ju učini, volja budi osujen na život ako nima od kud platiti. I ako to veće učini, osudi se na život i na smrt. Ako bude ondeje požgano od nikoga človika volja od nikih ljudi a on zlotvorac ne bi se mogal jeti, plati se vražba za vsako ono požganje, kako zgora od vražbi jest izrečeno.

«Further, if somebody puts the fire in the house or in the magazine or in the stable, for the arson for the first time he is condemned in favour of the court in penalty of 100 pounds and to pay the damage to whom he did it or let him be condemned in corporal punishments, if he has no means to pay it. If he commits it again, he is condemned in capital punishments. If the arson is done by one or more persons and the criminal is not caught, the *vražba* has to be paid for every arson, as it is said above about the *vražba*».

Likewise in the *Code of Dušan*, the *Statute of Vinodol* imposed over the community the payment of the *vražba* if the arsonist was not identified or delivered to the authority. *Code of Dušan* §§ 99-100 were connected to the contents of the abridged version of the *Syntagma of Blastares* E-VII *Περὶ ἐμπρησμοῦ* (On arson) which provided the death penalty for the incendiary. For voluntary arson set up for the first time, the *Statute of Vinodol* imposed a payment of 100 pounds, and corporal punishments in case the incendiary had no means to pay. Only in case of recidivism was the supreme penalty inflicted (SV § 62). The *Russkaya Pravda* imposed the confiscation of goods for arsonists<sup>31</sup>:

*Russkaya Pravda*, expanded version, § 83

О гумнѣ. Аже зажгуть гумно, то на поток, на грабежъ дом его, преди пагубу исплативши, а в проце князю поточити и; тако же аже кто двор зажжетъ.

«About the threshing floor. If someone burns the threshing floor, then [he is subject] to punishment and confiscation of his property; [from the receipts of sale of his property] first pay the losses, and then the rest [goes] to the prince [who] punishes him. The same [procedure obtains] if someone burns a residence».

The imposition of the death penalty for arson was not an element of Slav customary law and it seems to be connected to the influence of Byzantine law.

Territorial liability was still in use in the last part of the Middle Ages and was codified in all three legislative texts. If the culprit was not individuated or delivered to authorities, liability was generally imposed over the members of the territorial community. Personal liability was still limited, and the community, which tended to hide the culprit, was held responsible for crimes committed by one of its members.

<sup>31</sup> *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), cit., pp. 587-591.

## 2.2. *Family and parentage liability*

The Slav family was generally led by the oldest member, who had executive and administrative power over goods and patrimony, and a sort of *potestas* on the members of the family<sup>32</sup>. Not only the descendants, but also the siblings of the head of the family with their spouses and descendants, could have been part of the same household, and consequently, the number of members could reach more than fifty<sup>33</sup>.

The family's (or parentage's) liability was provided in the *Statute of Vinodol*, § 29 in case of homicide (*vražba*) of a member of the family of the count, or for the killing of one of the vice-counts (*podknežin*)<sup>34</sup>:

### *Statute of Vinodol*, § 29

Jošće: ako bo ki ubil od podknežinov ili od slug od obiteli kučne gospodina kneza, od permanov, ter bi ušal i ne mogal se jeti, da knez vazme vražbu – to je zagovor vrnezi – kakov I kolik bude otil; zvrh plemene zlotvorca koliko za polovicu, zač pleme ni držano nere od pol, a zločinak drugi pol. Da ako se jame ta zlotvorac, š njega ima ta isti knez ili niki mesto njega učiniti ko godi mašćenji bude hotel, a njega pleme nišće se ne obsujuje.

«Further, if someone has killed one of *podknežin* or a servant, (a member) of the home-family of permans and escapes and is not caught, let the count take the *vražba* - i.e. the penalty in money - whatever and as much as he wishes but only one half by the criminal's parentage, because the parentage is bound only one half, and the criminal another. But if a criminal is caught, the same count or someone instead can take reparation whichever he wishes and the parentage is not to be condemned».

The family had to pay one half of the amount decided by the count, and the murderer was responsible for the other half of the amount. The count also had the possibility of exacting revenge (*mašćenji bude hotel*) over the murderer, but in this case the family did not have to pay.

SV § 31 imposed a payment of 100 pounds for homicide of a farmer. The ascendants and collaterals of the victim had the right to receive half of the amount, and his descendants the other half. If the murderer fled, his descendants had to pay the one half, and the rest of the family of origin, the other half. If the murderer was captured before the *vražba* had been paid, taking revenge was possible by the relatives of the victim, but in that case the family was

<sup>32</sup> On the head of the family, on his powers see: V. Bogišić, *Pravni običaji u slovena*, cit., pp. 31-34.

<sup>33</sup> On the structure of the family see: Ivi., pp. 21 and ff. .

<sup>34</sup> L. Margetić, *Vinodolski zakon, 1288-1988. Novi Vinodolski, Bakar, Bribir, Drivenik, Grižane, Grobnik, Hreljin, Ledenice, Trsat. The Statute of Vinodol. La Legge del Vinodol. Das Gesetz von Vinodol*, cit., pp. 59-72.

exempted from any further liability and payment<sup>35</sup>:

*Statute of Vinodol*, § 31

Ošće: ako bi ki ubil nikoga kmeta ili od roda kmet, da bi se ne mogal jati, vpadi v osud libar 100 bližikam; onoga grada ki je ubijen, općini libre 2. Od tih libar 100 ima imiti ditca ubijenoga, ako ima ditku, imaju imit polovicu, a drugi pol njega bližiki. Ta osudu krivac plati. Ako ubigne imaju njega bližike osud platit pol, a pol njega redi ako je ima<sup>36</sup>.

«Further, if someone killed a tenant or a man of tenant's parentage, and is not caught, let him pay the penalty of 100 pounds to nearer parentage and 2 pounds to the commune of the town, to which the killed had belonged. These 100 pounds have to be distributed as follows: the children of the killed person, if there are any, receive a half, and his nearer parentage another half. This is the penalty the criminal pays. If he escapes, his nearer parentage has to pay the half of the penalty, and the half his heirs, if there are any. If he happened to be caught before the *vražba* is paid or before the adjustment is made, let the revenge be taken, and his nearer parentage is free».

Members of the same household could not be summoned as witnesses in a trial, but the *Statute of Vinodol* allowed the father, the son, or the daughter to summon their relatives as witnesses, if they were not part of the same household anymore, thus if «they live separately and if they have been divided»<sup>37</sup>:

*Statute of Vinodol*, § 67

Jošće: otac sinu, sin otcu i hći [otcu] mogu biti svedoci a brat sestri i sestra [sestri], ako stoje vsak po sebi i razdijeni jesu meju sobom.

«Further: the father to his son and the son or the daughter to his father can be witness, the same the brother and the sister to the sister, if they live separately and if they have been divided».

After separation from the origin's household, summoning of a sibling, or of any collateral, as a witness in a trial became possible. The *Code of Dušan* provided the liability of the household (коукта, CD §§70-71)<sup>38</sup>, as long as the members were *ad unum panem et vinum*<sup>39</sup>:

*Code of Dušan*, § 70

Кто соу оу единоеи коуксе. И кто се вбрѣте оу једнои коукѣи или братѣвнѣци, или штѣць с сыновы

<sup>35</sup> Đ. Milović, *Kazneno pravo vinodolskog zakona iz 1288. godine*, cit., p. 46.

<sup>36</sup> Ivi., pp. 64-65.

<sup>37</sup> A wife could have not been summoned as a witness (SV § 20).

<sup>38</sup> A. Solovjev, *Zakonik cara Stefana Dušana 1349. i 1354. godine*, cit., pp. 233-235.

<sup>39</sup> P. Angelini, *Il Codice di Dušan 1349-1354. Legislazione Greco-Romana e amministrazione dell'impero Serbo-Bizantino*, cit., pp. 81, 87 and ff. .

ИЛИ ИНЫ КТО УТДѢЛЕНЪ ХЛѢВМЪ И ИМАНИЕМЪ И АКО БОУДОУ НА ЕДНОМЪ ОГНИЩИ, А ТѢМЗИ УТДѢЛЕНИ ДА РАБОТАЮ ТАКО ИЛИ ЛЮДНЕ.

«Of those in one House. If there dwell in one house either brothers or father or sons, or any other, independent by bread or property but yet dwelling in one hearth, let him do service like other small people».

*Code of Dušan, § 71*

У БРАТИНѢ ЗЛОВѢ. И КТО ЗЛО ОУЧИНИ БРАТЬ ИЛИ СЫНЬ ИЛИ РОДИМЬ КОИ СОУ ОУ ЕДНОИ КОУКІИ ВЪСЕ ДА ПЛАТИ ГОСПОДАРЬ КОУКІИ ИЛИ ДА ДАСТ ІЕ ЗЛО ОУЧИНИЛЪ.

«Of the Crimes of Brothers. Whoso commit a crime, a brother or son or kinsman, who dwell in one house, all shall pay the lord of the house, or hand over who did the crime».

The head of the household (господарь) was responsible for any crime committed by his relatives, who were part of his family, and he represented them before the judge (CD § 66)<sup>40</sup>. If the culprit was «divided in the bread and in the property» (УТДѢЛЕНЪ ХЛѢВМЪ И ИМАНИЕМЪ), the head of the household of origin was not held responsible for him. For the court's nobility, family liability was provided in case of treason against the emperor (НЕВѢРА), and the head of the family was held liable for his relatives, whom he had introduced in the imperial court, giving an oath on their trustworthiness (CD §§ 51-52)<sup>41</sup>:

*Code of Dušan, § 51*

У ПРЕДАНЬНЫ СЫНА ОУ ДВОРЬ. И КТО ПРЕДА СЫНА ИЛИ БРАТА ОУ ДВОР И ОУРОСИ ГА ЦАРЬ, ВѢРОВАТИ ЛИ ГА КЮ И РЕЧЕ ВѢРОУИ ГА КОЛИКО МЕНЕ А КІЕ КОІЕ ЗЛО ОУЧИНИ ДА ПЛАТИ ИНЫ КОИ ГА ІЕ ПРЕДАЛЪ, АКО ЛИ ТА КОИ ИМЕ ДВОРИТИ КАКОНО ДВОРЕ ОУ ПОЛАТЕ(?) ЦАРЕВѢ ЦТО СЫГРѢШИ ДА ПЛАТИ САМ.

«Of Presenting a Son at Court. And when a man shall present a son or brother at Court, the Tsar shall ask him: Shall I trust him?. And he shall say: Trust him as myself. And if he do any evil, let him pay who hath presented him. And if he should serve as others serve in the Tsar's Palace, he shall himself pay if he do wrong».

*Code of Dušan, § 52*

У НЕВѢРѢ. ЗА НЕВѢРОУ ЗА ВЪСАКО СЫГРѢШЕНІЕ БРАТЬ ЗА БРАТА И УТЦЬ ЗА СЫНА РОДИМЬ ЗА РОДИМА КТО СОУТЬ УТДѢЛНИ УТ ОНОГОЗЫ ОУ СВОИХЪ КОУКІАХЪ КОИ КЕСТ НЕСЫГРѢШИЛЪ ТЪЗИ ДА НЕ ПЛАТИ НИЦА РАЗВѢ ИНЫ КОИ КЕСТ СЫГРѢШИЛЪ ТОГОВА И КОУКІА ДА ПЛАТИ.

<sup>40</sup> CD § 66: «Of brothers. When brothers are together in one house and someone summons them before the court, he shall dispute the case whom the court shall indicate. But if it so be that one of them be at the Tsar's court or at the court of justice and he come and say: I will submit my elder brother to the court, then let him do so and let him not be driven by force to the court». Si veda: A. Solovjev, *Zakonik cara Stefana Dušana 1349. i 1354. godine*, cit., pp. 227-228.

<sup>41</sup> P. Angelini, *Il Codice di Dušan 1349-1354. Legislazione Greco-Romana e amministrazione dell'impero Serbo-Bizantino*, cit., pp. 88, 104 and ff. .

«Of Treason. For treason for any case brother shall not pay for brother, father for son, kinsman for kinsman, if they dwell separately in their own houses: he who hath not sinned shall not pay anything. Only shall he pay who hath sinned, he and his household».

When relatives lived separately, that is they were no longer in the same household (КТО СОУТЬ ВТДЪЛЪНИ), there was no liability for the head of the family of origin in case of treason. The repression of treason was influenced by Byzantine law, but in this case, it was combined with the family's liability<sup>42</sup>.

No provision of the *Russkaya Pravda* dealt with family liability, but the collective liability had been originated by the family's liability, especially in isolated rural communities. In that sense the family's liability can be considered part of the *Russkaya Pravda*. The *Code of Dušan* imposed the family's liability over the members of the same household, if they were not divided in bread or property, whereas the *Statute of the Vinodol* imposed a shared liability over the near parentage, which was divided between the family of origin and the culprit's descendants.

### 3. Blood revenge and composition

Blood revenge is considered to be one of the most typical elements of German barbarian populations<sup>43</sup>, <sup>44</sup>. Among Slav populations it was still in use in the Late Middle Ages, and it had even been codified in legal texts, although it had been considerably weakened<sup>45</sup>. The possibility of taking revenge for the members of the family was not limited to the culprit but could have been exerted over the other members of the culprit's family. After the consolidation of central power, that is the creation of medieval monarchies, feud was replaced by pecuniary compositions, which were imposed over the family of the culprit.

<sup>42</sup> Ivi., pp. 105-108.

<sup>43</sup> The *Russkaya Pravda* has been compared with the *leges barbarorum* and the presence of similar elements has been highlighted, in particular with the *Lex Saxonum*. Some similarities with the *Zakon Sudnyj Ljudem* have been stressed too. F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Uložhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., pp.115, 117-118.

<sup>44</sup> L. Bothe-S. Esders-H. Nijdam (eds.), *The Monetary Logic of Early Medieval Conflict Resolution*, Series: Medieval Law and Its Practice, Leiden-Boston 2021.

<sup>45</sup> The juridical comparative approach is missing in publications devoted to the blood revenge. F. Miklosich, *Die Blutrache bei den Slaven*, Wien 1887; M. Wesnitsch, *Die Blutrache bei den Südslaven*, in «Zeitschrift für vergleichende Rechtswissenschaft», 8 (1889), pp. 433–470; 9 (1891), pp. 46–77. For Russia see: E. S. Tobien, *Die Blut-Rache nach altem Russischen Rechte: verglichen mit der Blut-Rache der Israeliten und Araber, der Griechen und Römer und der Germanen; eine rechtsgeschichtliche Abhandlung*, Dorpat 1840.

In that way the honour of the family was restored and the amount of violence was significantly reduced<sup>46</sup>. This development was slow and the presence of feud in official legislations must be explained by the difficulty of abolishing *ex abrupto* this institute, which had been in use among Slav populations since ancient times.

Blood revenge is mentioned and granted to the relatives of the victim in the Byzantine-Russian treaty of 944<sup>47</sup>, attesting the use in the 10<sup>th</sup> Century<sup>48</sup>. The short version of the *Russkaya Pravda* authorized the members of the family<sup>49</sup> to take revenge but in case revenge was not taken, the murderer had to pay 40 *grivnas*<sup>50</sup> but it did not provide an explicit list of revengers.

*Russkaya Pravda*, short version, § 1

Убъетъ мужъ мужа, то мѣститъ брату брата, или сынови отца либо отцю сына, или брату чаду, либо сестрину сынови; аще не будетъ кто мѣстя, то 40 гривен за голову.

«If a man kills a man, then a brother may avenge a brother, or a son [may avenge] his father, or a father [his] son, or a brother's son or sister's son [may avenge the death of their uncle]; if there be no one to avenge [the man] then [the offender] is to pay 40 grivnas for the corpse [lit., for the head]».

Halfway through the 11<sup>th</sup> Century, thus only a few decades after the enactment of the *Russkaya Pravda*, feud (revenge of the blood) was abolished, and the payment of the *vira* was imposed instead<sup>51</sup>:

*Russkaya Pravda*, expanded version, § 1

[...] аще ли не будетъ кто его мѣстя, то положити за голову 80 гривен, аче будетъ князь мѣстятъ или триуна княжа; аще ли будетъ русин, или гридь, либо купецъ, либо тивун бояреск, либо мечник, либо изгой, ли словенин то 40 гривен положити за нь.

«If a man kills a man, then a brother may avenge a brother, or a father [his son], or a son

<sup>46</sup> C. Boehm, *The Natural History of Blood Revenge*, in J. Büchert Netterstrøm - B. Poulsen (eds.), *Feud in Medieval and Early Modern Europe*, Aarhus 2007.

<sup>47</sup> Preserved in the *Primary Chronicle*.

<sup>48</sup> M. Wesnitsch, *Die Blutrache bei den Südslawen*, in «Zeitschrift für vergleichende Rechtswissenschaft», cit., p. 450. F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Ulozhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., p. 114.

<sup>49</sup> The list of revengers was naturally understood. Y.V. Sorokina, *Blood revenge as a form of social defense in ancient and medieval societies*, in «Russian journal of legal studies», 2/11 (2024), pp. 7–14.

<sup>50</sup> *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), cit., pp. 15-57.

<sup>51</sup> The payment of the *vira* for robbers was not abolished and the introduction of robbers' executions instead was withdrawn. F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Ulozhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., p. 401.

[his father], or brother's sons [their uncle]; if there be no one to avenge [the dead man], then [the killer] is to pay [the dead man's kin] 80 grivnas for the corpse, if [the victim] be the prince's man or the prince's overseer; if [the victim] be a [Kievan] Rus' man, junior member of the prince's retinue, or a merchant, or a boyar's overseer, or [the prince's] bodyguard, or someone under the prince's protection [perhaps a freedman], or a [Novgorodian?] Slav, then [the killer] is to pay 40 grivnas for [the homicide]».

*Russkaya Pravda*, expanded version, § 2

По Ярославѣ же пакѣ совкупивтеся сынове его: Изяслав, Святослав, Всеволод и мужи ихъ: Коснячъко, Перенег, Никифор и отложита убиение за голову, но куннами ся выкупати; а ино все яко же Ярослав судил, такоже и сынове его уставита.

«After the reign of Iaroslav, his sons, Iziaslav, Sviatoslav, Vsevolod, and their men, Kosniach'ko Pereneg [the Pecheneg?] and Nikifor, gathered again and abolished vengeance justice, but [provided] for compensation [for the offense] with money; and everything else his sons established just as Iaroslav had decided».

In the short version of the *Russkaya Pravda* the payment of 40 *grivnas* was imposed for homicide of a free man, but when the legislation was amended - in the middle of the 11<sup>th</sup> Century - a difference was introduced: the *vira* was originally a sort of a *pretium corporis* which had to be paid for killing a free man, but in the amendments of the *Russkaya Pravda* it became a sort of a wergild, which was connected to the victim's function (a prince's representative)<sup>52</sup>, rather than to the social status (nobleman or commoner)<sup>53</sup>; in consequence of that the *vira* imposed for the killing of a prince's official, was doubled (80 *grivnas*).

In the expanded *Russkaya Pravda*, for the murdering of a woman, the amount of the bloodwite was halved, thus 20 *grivnas*:

*Russkaya Pravda*, expanded version, § 88

О женѣ. Аже кто убьетъ жену, то тем же судом судити, яко же и мужа; аже будетъ виноват, то полвиры 20 гривен.

«On women. If someone kills a woman, then judge him by the same law as [if he had killed] a man; if he be guilty, then [he is to pay] half the bloodwite, twenty *grivnas*».

In the *Statute of Vinodol* revenge (*mašćenje*) could have been taken by the family of the killed person before any compensation had been paid. The possibility of exacting revenge in case of homicide was mentioned in chapter 31 of the *Statute of Vinodol* and was legal, even though a system based on compositions had been adopted. The feud system was still in use at the end of the 13<sup>th</sup> Century, and it

<sup>52</sup> The wergild of prince's officials moved towards deterrence and increased the strenght of public authority.

<sup>53</sup> *Pravda Russkaya, Kommentarii* (ed. B. D. Grekov), cit., pp. 241-254.

had been included in the official legislation:

*Statute of Vinodol, § 31*

Ošće: ako bi ki ubil nikoga kmeta ili od roda kmet, da bi se ne mogal jati, vpadi v osud libar 100 bližikam; onoga grada ki je ubijen, općini libre 2. Od tih libar 100 ima imiti ditca ubijenoga, ako ima ditku, imaju imit polovicu, a drugi pol njega bližiki. Ta osudu krivac plati. Ako ubigne imaju njega bližike osud platit pol, a pol njega redi ako je ima<sup>54</sup>.

«Further, if someone killed a tenant or a man of tenant's parentage, and is not caught, let him pay the penalty of 100 pounds to nearer parentage and 2 pounds to the commune of the town, to which the killed had belonged. These 100 pounds have to be distributed as follows: the children of the killed person, if there are any, receive a half, and his nearer parentage another half. This is the penalty the criminal pays. If he escapes, his nearer parentage has to pay the half of the penalty, and the half his heirs, if there are any. If he happened to be caught before the *vražba* is paid or before the adjustment is made, let the revenge be taken, and his nearer parentage is free».

Revenge could have been taken by the count in case of homicide (SV § 29) and treason (SV § 70):

*Statute of Vinodol, § 29*

Jošće: ako bo ki ubil od podknežinov ili od slug od obiteli kućne gospodina kneza, od permanov, ter bi ušal i ne mogal se jeti, da knez vazme vražbu – to je zagovor vrnezi – kakov I kolik bude otil; zvrh plemene zlotvorca koliko za polovicu, zač pleme ni držano nere od pol, a zločinak drugi pol. Da ako se jame ta zlotvorac, š njega ima ta isti knez ili niki mesto njega učiniti ko godi mašćenji bude hotel, a njega pleme nišće se ne obsujuje.

«Further, if someone has killed one of podknežin or a servant, (a member) of the home-family of permans and escapes and is not caught, let the count take the *vražba* - i.e. the penalty in money - whatever and as much as he wishes but only one half by the criminal's parentage, because the parentage is bound only one half, and the criminal another. But if a criminal is caught, the same count or someone instead can take reparation whichever he wishes and the parentage is not to be condemned».

*Statute of Vinodol, § 70*

Jošće: ako se ki najde predavac gospodina kneza naturalškoga, ta isti gospodin knez imiј punu oblast zvrhu njega i zvrhe njegova blaga za učiniti mašćenje zvrhu njega na svoju volju.

«Further, if somebody was a traitor of the legal count this same count has full power to take the revenge over him and over his fortune at his will».

The count had the possibility of exacting revenge (*mašćenje*) over the murderer and over the traitor (*predavac*)<sup>55</sup> at his complete discretion; the confiscation

<sup>54</sup> Ivi., pp. 64-65.

<sup>55</sup> The word *predavac* had the same root of the word *prjedatelj* (прѣдатель) and of the verb *prjedati* (прѣдати), which were utilized in the Serbian version of the *Syntagma of Blastares* in

of goods could also have been imposed<sup>56</sup>.

The presence of blood revenge is evident in the Vinodolian legislative text and it was included in the short version of the *Russkaya Pravda*, being replaced midway through the 11<sup>th</sup> Century, in the expanded version of the *Russkaya Pravda*. The Serbo-Byzantine legislation imposed the payment of 300 perpers in case of involuntary homicide, whereas the Byzantine punishment of cutting both hands was imposed for voluntary homicide (CD § 87)<sup>57</sup>. The вражда had been introduced to replace the feud and the system was consolidated in the 13<sup>th</sup> and 14<sup>th</sup> Century; blood revenge was not codified in the *Code of Dušan* but it was not forbidden either, so its persistence *praeter legem*, even in the 14<sup>th</sup> Century can be assumed.

#### 4. Persistence and weakening of customary law

After the conversion to the Christian faith and because of the influence of the Byzantine legal system, the presence of customary law was mitigated in the medieval legal texts. The Slav tribal systems were inappropriate and almost totally incompatible with a centralized political and legal system, but Slav populations were still bound to the ancient uses which had been regulating their primitive societies<sup>58</sup>. In consequence, some elements and institutes of customary law

the chapter П-ка. О прѣдательхъ (*Περὶ προδοτῶν / De proditoribus*), which disciplined the crime of joining the enemy, included in the category of treason (невѣра).

<sup>56</sup> At the end of the 13<sup>th</sup> century the treason was disciplined in the *Statute of Vinodol*, and it was also mentioned - in few cases - in the Serbian juridical monuments promulgated by the Nemanja kings between the 13<sup>th</sup> and the 14<sup>th</sup> centuries. The crime of treason was harshly repressed in Roman law, and the discipline was included in the Byzantine legal compilations. The concept of treason was linked to the idea of a central authority and in consequence of that it seems to have been influenced by the Byzantine political thought and law, and not to be an institute of customary law. The confiscation of the goods imposed in SV § 70 was related to the Byzantine *δήμευσις*, namely the Roman law *bonorum publicatio*. P. Angelini, *Treason and crimes against the emperor and the state in the Byzantine juridical compilations*, in «Teoria e storia del diritto privato», 8 (2015), pp. 21-24.

<sup>57</sup> CD § 87: «Where there occurs homicide without intention and violence, the fine shall be three hundred perpers. But if a man kill intentionally, both his hands shall be cut off». See also: P. Angelini, *L'influenza del diritto criminale bizantino nel Codice di Dušan 1349-1354*, cit., pp. 226 and ff. .

<sup>58</sup> Short and incomplete descriptions of Slavic tribes' organization in the 6<sup>th</sup> Century are given in: Procopius of Caesarea, *De Bello Gothico*, book VII and Maurice, *Strategikon*, book XI; Theophylact Simocatta, *Historiai*, VI.II reports the presence of an assembly, in which decisions were taken (7<sup>th</sup> Century); Constantine VII Porphyrogenitus, *De Administrando Imperio* (10<sup>th</sup> Century) describes the conversion to Christianity and the organization of Slavic tribes led by *župans*.

had been preserved in the *Russkaya Pravda*, in the *Statute of Vinodol* and in the *Code of Dušan*.

The Slav legal monuments of the early Middle Ages which have been discovered are few in number. The oldest one is the *Zakon Sudnyj Ljudem* (9<sup>th</sup> Century)<sup>59</sup>, which is based on the Byzantine *Ekloge*: this short Slav-Byzantine compilation, whose origin is still debated, is a translation of some Byzantine laws, which were adapted to Slav society<sup>60</sup>; regardless of its origins (Bulgarian, Macedonian or Great Moravian), there is no proof that it was in use in practice. As it is stated in the *Responsa Papae Nicolae ad Consulta Bulgarorum*<sup>61</sup>, Bulgarian populations were still bound to customary law; but on the other hand, it is thought that Bulgarian unwritten laws had already been influenced by Byzantine law when the *Responsa* were sent to Bulgaria (866 ca.)<sup>62</sup>. *Responsa* 24, 26, 29 imposed the death penalty for the murdering of kinsmen, and *responsum* 27 imposed the supreme penalty for uprising<sup>63</sup>: in that sense the influence of Byzantine law is evident<sup>64</sup>. In any case the *responsa* of the pope do not give a definitive and clear answer about how customary law was still in force in the 9<sup>th</sup> Century.

As mentioned before, elements of customary law are contained in the Byzantine-Russian treaties (10<sup>th</sup> Century), which also mention the *Zakon Russkii* (Russian Law), but in both cases the contents are totally uncertain and only references to them are made<sup>65</sup>.

The *Statute of Vinodol* pretended to have collected ancient local customs and uses, so the legislation enacted in 1288 was familiar to the population of the

<sup>59</sup> V. Ganev, *Zakon sudnyj ljudem*, Sofia, 1959; H. W. Dewey-A.M. Kleimola, *Zakon Sudnyj Ljudem (Court Law for the People)*, Ann Arbor 1977; T. Gábriš, *The Relationship of Ekloge and Zakon Sudnyj Ljudem Revisited: On Possibilities of Reconstruction of Archaic Law in Great Moravia*, in *Ius commune graeco-romanum. Essays in Honour of Prof. Dr. Laurent Waelkens*, Iuris Scripta Historica, 30, Leuven 2019, pp. 91-108;

<sup>60</sup> P. Angelini, *Sur la nature du Zakon Sudnyj Ljudem et l'influence du droit criminel byzantin*, in «Zeitschrift der Savigny-Stiftung für Rechtsgeschichte», 132 (2015), pp. 484-498.

<sup>61</sup> *Patrologia Latina*, J. P. Migne (ed.), v. CXIX, Paris 1852, coll. 978-1015; *Fontes Historiae Bulgaricae*, v. VII, *Fontes Latini Historiae Bulgaricae*, v. II, Serdicae 1960, pp. 65-125; *Magnae Moraviae Fontes Historici*, v. IV, Brno 1971, pp. 42-107.

<sup>62</sup> E. Veress, *Pope Nicholas I's Responses to the Bulgarians' Questions*, in «Acta Universitatis Sapientiae. Legal Studies», 1/6 (2017), pp. 207-209; T. Nótári, *Some Remarks on the Responsa Nicolai papae I. ad consulta Bulgarorum*, in «Acta Universitatis Sapientiae. Legal Studies», 1/4 (2015), pp. 47-63.

<sup>63</sup> The death penalty was imposed over the culprit and his family.

<sup>64</sup> See the penal law of the *Ekloge*: B. Sinogowitz, *Studien zum Strafrecht der Ekloge*, Athens 1956.

<sup>65</sup> F. J. M. Feldbrugge, *A History of Russian Law: From Ancient Times to the Council Code (Uložhenie) of Tsar Aleksei Mikhailovich of 1649*, cit., pp. 96-100.

Vinodol. Dušan's empire was composed of the «Serbian land» (northern part) and the «Greek land» (southern part): the Byzantine law and legal system which were in use in the former Byzantine southern provinces, were almost totally unfamiliar to the Slav population living in the northern provinces. Even though the Serbian society had been strongly byzantinized between the 13<sup>th</sup> and the 14<sup>th</sup> Century, the central authority probably had to face the fact that people were still living according to customs, and consequently the persistence of elements of customary law became part of the legislation and they were still in use, although in some cases they had not been codified. In the Russian territories the rulers had tried to centralize the legal system, and the feud system had been gradually downgraded; it was officially replaced midway through the 11<sup>th</sup> Century with the amendments of the *Russkaya Pravda*.

Criminal law was the most critical point in the building up of a centralized legal system, because the feud was the pivot element on which it was based. Blood revenge was connected to the family's liability, which together with territorial liability, was preserved after the enactment of the medieval legislations. In the Medieval legislations feud did not become *contra legem* and as it has been previously mentioned, it is difficult to affirm that the new legal systems worked in practice. It was probably considered to be *praeter legem* and not *contra legem*, as in the case of Serbian legislation, which did not forbid it. The imposition of corporal punishments and of the death penalty over the culprit, started to weaken the collective liability system, but different forms of collective liability were preserved in the three legislations, first of which the family's liability. The *Statute of Vinodol* allowed exacting revenge, whilst the *Russkaya Pravda* had replaced feud with the payment of the *vira*, proving that it was in use in the first half of the 11<sup>th</sup> Century; however, it is hard to suppose that after the amendments to the *Russkaya Pravda*, the blood revenge system had been completely abolished, and it was probably *de facto* in use.

Elements of Slav customary law can be found in other legal texts, but their presence is even more marginal. Nowadays, the reconstruction of Slavs' customary law is still very limited. We have tried to highlight the presence of common elements in three different legislations, enacted among different populations. Further investigations on other institutes and legal texts will make the picture clearer.