Darko Darovec

Vendetta in Koper 1686

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VENDETTA IN KOPER 1686

Koper (Capodistria). Republic of Venice. Sunday, 5 September 1683. An assembly of *Maggior consiglio* in the presence of 118 councillors. The respected podestà also attended the meeting and the following resolutions were confirmed in a vote:

Proveditori alli Viveri:

Michiel Gavardo P. 97, C. 14
Zannetto Almerigotto P. 94, C. 18
Dr. Francesco Petronio P. 100, C. 16

Deputati al Conciero delle Strade:

Dr. Bortolo Petronio P. 74, C. 33
Co: Marin Borisi P. 65, C 45
Dr. Nicolò del Tacco P. 62, C. 34
Zuanne Ingaldeo P. 63, C. 27
Dr Olimpo Gavardo P. 56, C. 34
Dr. Elio Belgramoni P. 55, C. 32
Fabio Almerigotto P. 65, C. 38

This is the record of a meeting of Koper's city council (Maggior Consiglio; AAMC, 559, 195) that took place in the Praetorian Palace: nothing unusual. The city councillors divided the city's functions that served as a vital source of income for all Koper's noblemen among the members of aristocracy in accordance with the customary procedure that had been common practice in the city's government for at least five centuries.

However, this meeting was not at all as common as it seems from this scarce report. A harsh verbal altercation took place during the meeting between Dr. Nicolò del Tacco and Dr. Giuliano del Bello, who at the time held the important function of the city's mayor (*Sindaco Proveditore*), the supreme function of the autonomous city government. The only higher function was held by the podestà and captain of Koper, who was elected by the Great Council of Venice every 16 months and sent to Koper as the supreme judge and military and administrative governor.

Both were also representatives of Koper's ancient families (at least from the 15th century; de Totto, 1937; Stancovich, 1829) and holders of the title Ser, although there were approximately 15 families with the title of counts and only one family, the Gravisi, held the title of marquise. Both graduated at the University of Padua (Sitran Rea, 1995) and therefore proudly held the academic title Dr. (this was common for graduates of law and medicine).

The dispute expanded upon the interference of Domenico del Bello, Giuliano's older uncle, who was otherwise known as a calm and wise citizen. The core of the dispute was

the division of the communal jobs, the entire situation ultimately tilted when the Sindaco Giuliano del Bello suggested a new project for the commune. Perhaps the fruit of the several hour-long dispute was ultimately giving the function of the Deputat al Conciero delle Strade to Nicolò del Tacco. This function brought substantial income, as there were seven councillors holding this position.

However, the rivalry for communal functions was not fatal for the following events. There was enmity[1] between families del Tacco and del Bello brewing in the background. Ottavio del Bello married Cecilia, daughter of late Carlo del Tacco (Venturini, 1906, 329). Can we call this a forbidden love, Koper's Romeo and Juliet? Or was it rather the case of complications regarding payment of the dowry? Was it a case of a violated prenuptial agreement?[2] At this point, the questions remain hypothetical, as corresponding documents about the faith of Ottavio and Cecilia have not yet been found. However, a number of other documents regarding the vendetta in 1686 Koper that emerged from the quarrel will be presented in this study according to its main goal – to portray *feud in the interrelationships between customary law and legal process*. Therefore, let us proceed step by step.

HOMICIDE

When the tense meeting came to an end, just before eleven o'clock in the evening, 118 councillors and the podestà with their escorts began to head to their homes.

However, the tension did not cease. The del Bello were departing down the stairs of the Praetorian Palace in Koper, including uncle Domenico, the sindaco Giuliano, and young Alvise del Bello, brother of Giuliano, when they suddenly received the company of a group led by Nicolò del Tacco. Again a dispute arose; heavy words were spoken and rage overcame all who were present.

When they stepped through the main entrance of the Praetorian Palace onto the square,[3] the sindaco Giuliano snapped at Nicolò del Tacco, who made a shooting gesture

1 Venturini, 1906, 329: "[…] *ingrossato il sangue dei parenti, divinimo inimici* […]". *Inimicizia* is a synonym for feud (Darovec et al., 2017). The first to call attention to this event was Venturini, back in his work *Il casato dei marchesi Gravisi* (1906). This is the most extensive historical work ever written about the Marquis family from Koper, but for this case he only had at his disposal documents from the PAK archive (Doc. 1, 24, 26, 38, 42, 43, 45). The source of the cited Doc. 41 for now remains unknown, since Venturini did not cite the origin of individual documents, explaining only that it belonged to the archive of the Gravisi family. Venturini, thus, summarized the essence of the story from the *difesa*, the defense of Nicolò Gravisi, which at that time he had at disposal from the Gravisi family archive and is now kept in PAK archive. He did not publish the Doc. 38, the so-called *difesa*, in full. The full text is provided in the present publication. In addition to that, the Annex has transcriptions of the other 37 documents regarding this case's investigation, originating from the State Archives of Venice. Therefore, he was not aware of the other circumstances and, in particular, he did not interpret the issue from the viewpoint of changes in the judicial systems of conflict resolution during the transition from the Middle Ages to the Modern period, as it is provided in this study.

2 The archival material, preserved in PAK, holds a substantial number of prenuptial agreements (*dote* or *matrimoniali*), cf. Darovec, 1996.

3 " […] *escivano dalla porta del Corpo di Guardia del Palazzo* […]" (Venturini, 1906, 329; Doc. 41).

Fig. 1: Koper. Praetorian Palace in 1913. On the right side the gate of the Guardpost. Wikimedia Commons.

at the uncle Domenico del Bello, after which the young Alvise del Bello drew a pistol and shot Nicolò del Tacco.

He died instantly. Alvise began to run. The men from Nicolò's escort, his relatives and friends, were in shock at first, but soon some of them drew their swords from their sheaths and one of them even managed to injure Alvise on the neck, although the wound was not severe, as Alvise continued to run through the chambers of the Praetorian Palace. All covered in blood, he broke into the chambers of Koper's podestà and captain, Bernardino Michiel, precisely when podestà was taking off his formal cape.[4] Michiel stared at what was about to happen open-mouthed. Behind Alvise, a group of men with their swords were running into the chamber, but Alvise jumped out the chamber's window and landed in the gardens of the Praetorian Palace, where they lost all trace of him in Koper's dark alleys, which he had known like the back of his hand since his early youth.

In the next instance Koper's podestà and captain ordered an investigation, however around two o'clock in the morning he received a report from Ser Cristofforo Brutti that

4 "*Ducale*". The cape of the Podestà is also nicely depicted in a painting by Vittore Carpaccio dated in 1516 (remake on the front page). The description of events according to the letter of Koper's Podestà (CCX, LR, b. 258, n.o. 187, 1683.9.6.; Doc. 2) and Venturini (1906, 329; Doc. 41).

the fugitive was not to be found. Numerous persecutors remained empty-handed on that scandalous night.[5]

Koper's podestà and captain Bernardin Michiel instantly knew what he needed to do in order to prevent bloodshed in the future: he ordered the representatives of the feuding families to be sequestrated (*sequestro*); however, the main potential avenger, the brother of the killed, Francesco del Bello, had already gone missing.

On the very same day, 6 September 1683, Koper's podestà and captain Bernardin Michiel reported the event to the Capi of the Council of Ten and asked for further instruction. The Capi replied after three days. They firmly instructed that the criminal procedure, "*servatis servandis*", which meant that the podestà could take even more severe repercussions when regarding the prosecution of the perpetrator than was indicated in the local customary legal practice (Povolo, 2015b).

The Capi also stressed that this occurrence was regarded as extremely severe crime, due to the use of firearms, which was forbidden by the law, and also due to the fact that Alvise del Bello shot Dr. Nicolò del Tacco in front of the gate of the Guardpost of the Pretorian palace (*sopra la Porta del Corpo di Guardia di cotesto Palazzo*), meaning directly in front of the central security service of the city (Doc. 3).

Nonetheless, it is not surprising that the Capi of the Council of Ten did not order the inquisitorial trial rite (*rito inquisitorio*), as they would commonly do in almost all homicide cases of that time. Especially after the passing of series of laws between 1680 and 1682 (a year before the event we are discussing), which stated that all cases of such homicides from all areas of the Republic of Venice should be directly communicated to the Council of Ten, who then, for the most part, delegated *servatis servandis* to the rectors of the cities. This law enforced the supreme central judicial authority of the central judicial body of the Republic of Venice.[6]

Although we managed to gather 45 documents from the Archives of Venice and Koper (see Annex) to support this case, the extant and found documents[7] show that there was

5 Alvise del Bello managed to flee; he first found his sanctuary with the *Provveditore generale da Mar*, Gerolamo Cornaro, who was a tragic character of the Morean war (1684–1699), and after that with the Archduke Cosimo III of Tuscany, where he reached the rank of alfier and received a salary of 8 scudo per month (Venturini, 1906, 329). "*Alfiere riformato è* quel Soldato che dopo un lungo esercizio dell'armi in alcuno di questi gradi, fatto chiaro per segnalate prove di valore e d'esperienza, militava per elezione, e fuori delle compagnie, con grosso soldo, assumendo le fazioni piu arrischiate, ed assistendo nelle battaglie alla persona del Capitan generale, o all'insegna principale." (Grassi, 1833, 341).

6 About the gradual overtake of the central and all-deciding judicial authority in the Republic until the end of the 15th Century onwards see Povolo, 2017, especially regarding the role of deliberating and central regulation over the penalty of exile, which was one of the most severe punishments of that particular era (besides the rowing on a galley). See Povolo (2015b) also in light of the structure of judicial ceremonies as they developed through accusatorial and later through inquisitorial trial rites.

7 At the Archivio di Stato di Venezia, I searched through all archival sources that regarded criminal justice, including numerous subseries, as they are evident from the published inventories and lists (http://www.archiviodistatovenezia.it), primarily the archival records of Council of Ten, Capi of the Council of Ten, Camerlengo of the Council of Ten, *Collegio (Minor consiglio, Signoria, Pien collegio), Senato, Avvogaria di Comun, Quarantia Criminal etc.* However, the Venetian archival records are immense and show broadly branched administration that frequently exchanged individual cases or jurisdiction; accordingly, we can-

even more correspondence regarding this case between the local government and central governmental bodies.

It is also evident from the documents that the local and the central judicial bodies of the Republic of Venice aimed towards peaceful customary reconciliation among the feuding parties; in first place the victim's brother, Francesco del Tacco, with the main actors in the feud, with Dr. Giuliano, the brother of the killer Alvise del Bello, and their uncle Domenico del Bello.

Due to the fact that also other of Koper's families shared family ties, this feud soon drew in also the marquises of Gravisi, since the killed Dr. Nicolò del Tacco was a maternal nephew of the brothers Nicolò Gravisi, Giovanni Battista Gravisi, and Leandro Gravisi. The support on the part of the del Bello family included also one of Koper's ancient noble families Belgramoni, with Dr. Elio as its representative (Doc. 4, 5, 6, 7 and 19).

RECONCILIATION

How did the negotiation on both feuding parties take place? What were the agreements and the pressure from the local community and the central government? We could say that they were entirely according to the custom as it was in practice in the middle ages, with however one substantial difference: instead of pressure from the local community the main pressure towards reconciliation was exerted by the central Venetian judicial organ, the Council of Ten.

The mandate for preparing the judicial process *servatis servandis* that was delegated by the Capi of the Council of Ten and was to be enforced by Koper's podestà as early as four days after the homicide, on 10 September 1683 (Doc. 3), enabled the podestà to take strict repercussions, the so called sequestration (*sequestro*), which signified either house arrest or confiscation of the real estate and movable property of the feuding parties.

As mentioned prior, Koper's podestà on the very night of the homicide ordered sequestration for Francesco del Tacco, which was also expected by del Tacco and which contributed to his disappearing from Koper. From a secret hiding place he threatened the killer's family with vendetta. This was also the reason why on October 23rd Koper's podestà also ordered sequestro for other previously-mentioned protagonists (Doc. 9), except for Leandro Gravisi, who was at the time still in exile due to the firearm homicide of Domenico di Valle, "*povero opperario mentre di nottetempo da luoco a luoco trasportava un sacco di olive*", as it was picturesquely expressed by the devastated mother of Giuliano del Bello less than three years later (Doc. 1, 27). These sequestrations, on one hand, caused even greater enmity between the feuding parties, but, on the other hand, they forced the parties to find a solution.

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not exclude that some vital documents regarding this case might not emerge in some other source. At least 10 so-called *filze* of archival record ASV. Cons X – Parti Comuni, which includes documents for the occurences after this case of vendetta 1686, are in severely bad condition, and many of the documents are completely illegible. I nonetheless estimate that there is enough material so as to gain an understaning of the modern-age social processes and the work of the legislation, which are interpreted, cited, and published in the Annex of this monograph.

A breakup between the two families followed and the disputing parties chose a mediator to achieve the none-too-easy task of achieving peace. Meanwhile, while the negotiations were pending, the injured party, as it considered itself, could oppress the enemy with all sorts of persecutions, like seizures, long and harsh preventive arrests, etc. Neither did the Venetian justice system give rest to the guilty, or the presumed one: frequent interrogations here and in Venice ruthlessly tortured the killer's relatives; since the killer usually placed himself in safety by escaping.

After the composition the opponents, when meeting in the street, greeted each other by tipping their hat. The omission of this elementary act of good manners and courtesy led, as a logical consequence, to the annulment of the role of the mediator, whose intervention was further rendered meaningless when the killer or his relatives refused to bless the body of the killed.

These provocations with threats and damage were in accordance with the customary system of conflict resolution, which can be marked as *faida* or *vendetta* or *osveta* in the Balkan areas, and completely customary. The fundamental aim was to reach an honorary settlement and reconciliation between the parties in conflict, meaning peace, which is often mentioned in documents from Koper's podestàs during the time of the feud in question, as well as at the central Venetian judicial body the Council of Ten (Doc. 8, 9, 10, 11, 13, 14, 15, 16, 18, 20, 21, 23, 27, 29, 36, 37, 40).

Fig. 2: The Doge's Palace, residence of the Venetian Government. Wikimedia Commons.

The pressure and the threats received a response by intervention of local mediators. Initially Pietro Gavardo, a member of an ancient noble family from Koper who held the function of Governatore dell'Armi, took the role of the mediator upon himself, and the parties reached a truce in March 1684. The truce, which usually lasted up to one year, was one of the most important phases in the ritual of conflict resolution, as it enabled the negotiations necessary to reach composition and peace within the community (Darovec, 2016, 2017; Darovec et al., 2017).

However, formally written documents with promises and an oath not to harm one another and to forge true friendship[8] were written in front of the mediator Pietro Gavardo only with the presence of Domenico and Giuliano del Bello on one side and Giovanni Battista Gravisi on the other and furthermore between Francesco del Tacco and Elio Belgramoni, and between Elio Belgramoni and Giovanni Battista Gravisi.

Apparently the truce between Francesco del Tacco and Domenico and Giuliano del Bello, who was a formal representative of the victim, had not yet taken place. This is also testified in a subscription that the sequestration was pardoned just for Giovani Battista Gravisi and Elio Belgramoni (Doc. 4, 5, 6, 7 and 19).

Perhaps it was expected that a similar "friendship" would also be confirmed by Giuliano del Bello and Francesco del Tacco. However, this did not take place and in June 1684 new discordances arose between unreconciled parties (Doc. 8–13).

The Capi of the Council of Ten reacted firmly to these events and demanded that Koper's podestà was to establish tranquillity and peace within fifteen days and report all those who destabilized it so they could take the necessary measures to coerce them to obedience.[9]

It seems this threat had the opposite effect. Giuliano del Bello used the pretext that he wanted to go in front of the Council of Ten to explain how all the disputes between the families were rooted in the marriage between his brother Ottavio and Cecilia del Tacco in order to escape his sequestration without the permission of Koper's podestà, which was deemed as completely scandalous. The podestà for the first time took sides with Francesco del Tacco, who was prone to accept the reconciliation (Doc. 9). The Capi of the Council of Ten made it quite clear that Giuliano del Bello would not be accepted before their audience and that the podestà was to punish him with additional sequestration (Doc. 10).

It is indicated that a higher level of interest for the reconciliation was expressed by Francesco del Tacco, the representative of the victim, who was in fact the first in line that had a right to wage vendetta according to the custom.

Perhaps this was the reason why Koper's podestà Nicolò Barbarigo permitted Francesco del Tacco, who was in sequestration, to travel to Venice to meet the Council of Ten

8 "*Dichiaro io Domenico del Bello* […] *che il Signor Compare Marchese Gio Battista Gravise è stato sempre da me riverito per signore et amico singolare, non havendo mai concepito contro il medesimo alcun sentimento diverso et che l'espressioni nel mio constituto* […]" (Doc. 6). The notion of *constituto*, an important part of the ceremonial trial rite, which will be thoroughly explained later on in text, within this oath of truce (friendship and respect) testifies that there had been mutual accusations and lawsuits.

9 "[…] *mentre col Consiglio di X:ci sarano prese quelle vigorose deliberationi nel a' ridurli alla dovuta obedienza* […]" (Doc. 8).

Fig. 3: Pietro Coppo's map Histriae Tabula. Produced in 1525, published as part of Ortelius's Theatrum Orbis Terrarum in 1573. Wikimedia Commons.

and stay there until they saw fit and take time to present his case in declining the offer of truce (Doc. 11). On 14 July 1684 the Capi allowed the arrival of Francesco del Tacco in Venice (Doc. 12), and Koper's podestà on July 22nd 1684 reported to have granted permission for his departure (Doc. 13).

Within the letter that was sent to the Capi of the Council of Ten in November, Koper's podestà and captain clearly took sides with Francesco as he summed up his reasons that testify about another characteristic aspect of similar quarrels.

He stated that at first he thought that Francesco del Tacco kept refusing to come to an agreement with the del Bello family until they offered very prosperous (communal) office, to which they thereafter opposed as they did not feel any responsibility in the case of his brother's murder, and the feud regained its hostility (Doc. 11, 14).

The success of the Francesco's summer visit to the Council of Ten cannot be determined; however, the fact is that the crucial people involved in the feud were at the beginning of November 1684 "*more than a year and some months*" in sequestration, as reported by Koper's podestà. He also stated that it was his sincere endeavour "*di veder stabilita la quiete a questa Città, e la pace tra lui* [Francesco del Tacco] *da una et Dominus Domenico, e Dr Giulian del Bello dall'altra*" and that he has "*subito rinovate le più efficaci insinuationi a medemi anco col mezo de mediatori*" however it did not come to fruition.

Although Koper's podestà gave favour to the opinion of del Bello and acted in accordance with philosophy and the policy of punitive law that individualized the crime and punishment, quite contrary to the custom that deemed the community of the perpetrator liable for the crime, the following writing from the podestà shows great disappointment regarding his actions and his inability to reach truce in the community. This is also the reason why the podestà took initiative and suggested to the Council of Ten to take all the measures necessary to ensure the tranquillity and peace within the community (Doc. 14).

Capi of the Council of Ten firmly responded in fourteen days, on 17 November 1684, and demanded that all three protagonists involved, namely Francesco del Tacco and Domenico and Giuliano del Bello, immediately come to their presence in Venice, where the Capi would take care of the tranquillity and peace among their serfs (*la quiete, e la pace tra sudditi*) (Doc. 15, 16). It was commonly known what this signified for the summoned: the arrested were first kept in a dungeon with no light, then for several days in a prison with light, however simultaneously subjected to strict inquisitorial trial rites, including torture (Povolo, 2015b). This took place also in this case, as it is evident from some of the documents (Doc. 27, 29, 38).

First, they summoned Giuliano del Bello and Francesco del Tacco, and based on their testimonials the Capi on 30 December 1684 decided that Domenico del Bello also had to come before them (this time with *la remmissione fattale con procura*); however, this was also the case for Giovanni Batista and Nicolò Gravisi (Doc. 17). Despite the strictness of the messages, the Council of Ten (*Tribunal nostro*) was still aiming towards the easing of the discordance between the families (Doc. 18) or houses (*Casa*), as the sources report the term for kinship clans.

How unpleasant could this form of summons be and what measures were taken to avoid it being presented in some of the following documents? Domenico del Bello was summoned on 11 November 1684, but he did not respond to this summons, nor did he to the following summons of 15 January 1685 (Doc. 18), nor did he respond to the summons of Koper's podestà on 28 January 1685 (Doc. 20).

His perpetual excuse was his illness and old age.[10] As the summons did not bring results, the Capi on 19 February 1685 ordered Koper's podestà to imprison him (Doc. 21). About ten days of imprisonment in Koper were enough for Domenico del Bello to opt for the difficult trip to Venice, where he finally arrived on March 3rd 1685 on the horse of the podestà himself in the escort of at least two of the podestà's caps.

Nicolò Gravisi could not attend the truce treaty that took place in March 1684, due to his study obligations at the University of Padua (Doc. 19), and he also successfully avoided the summons of the court from 30 December 1684 until 8 March 1685, when he was seized by command of the Capi of the Council of Ten in the Sestier di Castello in Venice and brought before the podestà of Padua (Doc. 23), where there was also a notorious court (Povolo, 1997).

Until that time, the authorities were unable to arrest Giovanni Battista Gravisi; however they managed to do so by March 31st 1685. This was when the Capi ordered Koper's

10 "[…] *a causa delle sue indispositioni, e decrepita età* […]" (Doc. 17).

podestà to return all the confiscated movable property from the house of Domenico del Bello (Doc. 25).

We can assume that this would only occur if the feuding parties had reached concord and, particularly at that time (between 8 and 28March 1685), an official ceremony of a peace treaty, which is mentioned by Nicolò Gravisi in his later defence[11] (Doc. 38) it is also mentioned by Giulia, mother of Giuliano del Bello, in her first letter, dated 17 June 1686.[12]

The conclusion of the solemn peace in the presence of the Council of Ten shows the ritual form, which included having the offender and his kin express humiliation by compliments and pleas for forgiveness in order to gain pardon from the injured party that had reached satisfaction. After the acceptance of the pardon the oath of friendship followed, supported by the gestures of handshake, embrace, and the kiss of peace, which signified perpetual peace between the representatives of the feuding parties.

The ritual, already described by the Bolognian notary, judge, and university professor Rolandino in the middle of 13th century in a manual for notaries, can be seen in practically all European medieval and Early modern Age documents (Darovec, 2016, 2017). And this ritual of reconciliation was, at least until the late 19th century, preserved in the customary legal tradition in the lands of Montenegro, Herzegovina and Albania (Bogišić, 1999; Ergaver 2016, 2017).

Unfortunately, I have not been able to find the mentioned document of the peace treaty, as it must have been written. However, if the reconciliation took place according to the custom, the written act was not entirely necessary: a public ritual in front of all the main actors sufficed for the peace treaty to be valid and confirmed.

Nonetheless, the discussed documents explicitly show that, after almost a year and a half long unsuccessful conflict resolution on local level, all those principally involved in the family conflict between Koper's protagonists from noble families (Francesco del Tacco, Giuliano del Bello, Domenico del Bello, Nicolò Gravisi, Gio: Battista Gravisi), on accounts of the murder of Nicolò del Tacco, committed by Alvise del Bello in 1683, were forcefully brought before the Capi of the Council of Ten, arrested, and put in prison until they were forced to make peace in March 1685. The peace was made with clanged teeth (Doc. 38).

The Gravisi especially held a grudge against the del Bello, as they again became involved in the feud that they themselves wanted to end. They had been offended with numerous limitations due to sequestrations; the biggest grudge they held was due to the fact that they wanted Giovanni Battista Gravisi in front of the Council of Ten after the reconciliation had already taken place,[13] and due to arrest and imprisonment of Nicolò Gravisi,[14] who studied in Padua and frequently visited Venice. He was arrested in Sestier

11 It regards the so-called *difesa* that was presented in the second stage of the trial rite, called the *processo difensivo* (cf. Povolo, 2015b, 217–219) by the defendant to defend his case.

12 "[…] *fu stabilita la pace et rattifficata alla presenza dell'Eccelso Tribunale, con le dovute solenni formalità*" (Doc. 27).

13 "*Giunto poi il Signor Domenico a Venetia non venne voglia agli Aversarii di far chiamare ivi anco Gio:Battista mio Fratello, benchè in Capodistria già pacificato?*" (Doc. 38).

14 "*gli assedii de' sequestri, i dispendii de Venetia*" (Doc. 38).

Fig. 4: Negotiation_of_the_peace_of_Karlowitz. The peace conference in Karlowitz (present-day Sremski Karlovci in Serbia) in 1699. (Treaty of Karlowitz) Engraving of unknown German artist from the Low Countries. Wikimedia Commons.

Castello and given to the mercy of the rector of Padua, where there was a court with special authorisation and where several trials against the noblemen of the Republic of Venice took place (Povolo, 1997).

It is thus perhaps not a coincidence that Nicolò Gravisi on 28 March 1685, probably immediately after the (forcefully) concluded peace treaty, wrote a plea to the Doge of Venice to accept his brother Leandro Gravisi (1640–1721) into the Venetian army (Doc. 24). Leandro was namely in exile from the Republic of Venice due to having killed Domenico di Valle in 1673 (Doc 1, 27); however, he had shown his military skills in several mercenary armies. In the twenty years before that he had gained his experience in the Imperial army in Milan; his first experience, however, was in the Venetian Army as alfiere and later as captain of oltramontans. As a mercenary soldier, he participated in battles in Hungary, at the siege of Bon, in the battle at Treveries. Due to his courage he was dispatched as a captain to Sicily, where he became Governatore delle Piazze in the Kingdom of Sicily. Therefore, the plea for Leandro was granted.

The Morean war between the Venetians and the Ottomans was waged between 1684 and 1699 for power over Peloponnesus, which the Venetians gradually took over and

where they confirmed their authority with the Treaty of Karlowitz.[15] The same treaty also marked the end of the Austro-Ottoman war (1683–1697), which had begun with the second siege of Vienna. After these events the Ottoman Empire gradually began losing their acquisitions in Europe.

Wars were an ideal opportunity for all exiles (bandits), who were able to ask for acceptance into military service, and were granted pardon for their sentences upon acceptance into service.[16] This was good news to numerous marginalized bandits who were hiding in dangerous forests and prairies, where they were subject to unpunished killing by anyone who was additionally given a prize for the bounty. However, Leandro was well situated and safe within the Imperial Army in Milan in this regard. Was he driven to return home on his brother Nicolò's and uncle Count Almerico Sabini's request only due to his desire to defend his homeland? Or solely due to the fact that he was the only one who did not make peace?

VENDETTA

Koper, June 6th 1686. Sunday.

The main square, Piazza (*Platea Communis*).

On that early summer morning there was a crowd of Koper's citizens from all classes.[17] Suddenly, they heard the sound of two gunshots and a furious scream "*A te!*", which came from the entrance of the Praetorian palace, the same spot where a homicide took place in 1683.

As it appears from the self-defence of Giovanni Nicolò Gravisi, at first it was believed that a pigeon in the square was killed, then that the doctor Giuliano del Bello was murdered. After killing his enemy in front of Vice Podestà Balbi and the crowd, the avenger, the marquis Leandro Gravisi, firstly invited the captain Paulazzi, who was in the main square near the event, to come forward, and immediately after this he escaped, crossing Carmini street towards Brolo square and entered the tight street *cale de' signori Petronii* towards the Porta Isolana, chased by the cops. There the murderer had readier a boat with six oars, a servant, and several weapons: an evident sign that the crime had been planned. When the cops arrived at Porta Isolana, Leandro Gravisi had already taken off, turning the boat towards Trieste. (Doc. 27, 38; Venturini, 1906, 330).

15 The conflict of 1684–1699, the only one declared by Venice to the Sublime port, led to the Venetian conquest of Morea; it was during this war that the Parthenon was destroyed in Athens by the Venetians, as the Ottomans had been using it as a deposit for the ammunition of the canons.

16 Cf. the story about Zanzanú, the bandit from Lago di Garda (Povolo, 2011), or about the Catalan bandit Perot Rocaguinarda, mentioned in Cervantes's Don Quixote, who received a winning pardon in 1614 (cf. Povolo, 2017).

17 "*6°: Che la mattina 5 giugno, che morse il dr. Giulian del Bello, il Mezà Rufini era ripieno di Cittadini di tutte le sorti, tanto Parenti di una parte che dell'altra*." (Doc. 38).

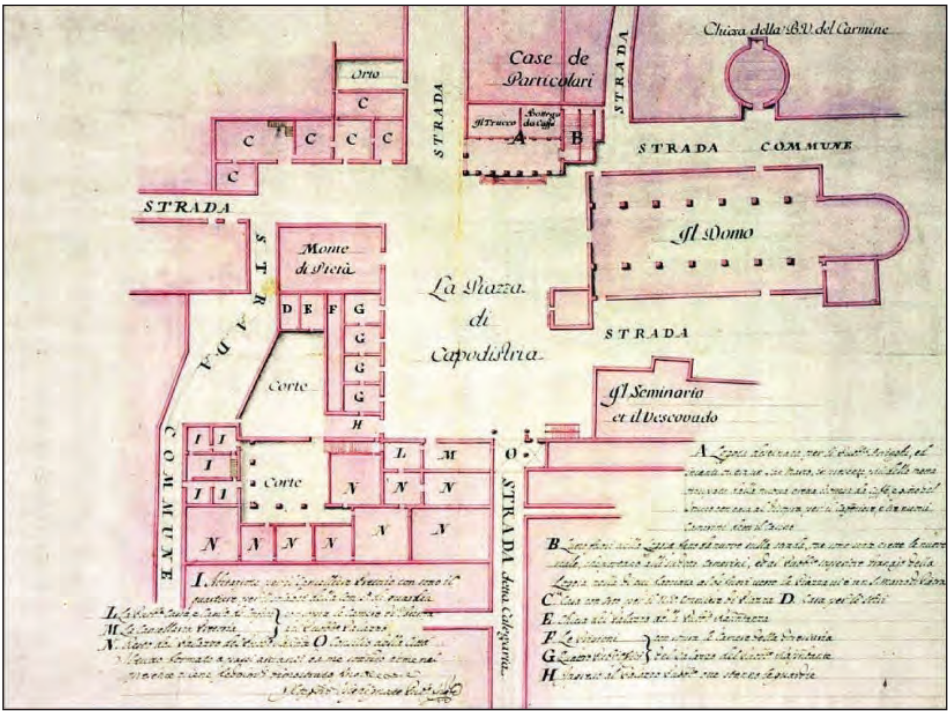

Fig. 5: Ground plan of Koper's Piazza, 18th century. Regional Museum of Koper.

The next day, on 7 June 1686, Leandro Gravisi wrote a *Manifestum* from Trieste[18] to the Principe (Doge of Venice).

He explains why as the uncle of the killed (in 1683) he went to the Doctor Giuliano del Bello to claim from him the blood count for the spilled blood of his kin. In his words from *Manifestum*[19] (Doc. 26):

> […] *I then returned to the Fatherland after fourteen years and, instead of apologizing in some way for the offenses inflicted to my blood, and to act civilized with me, he mocked me by touching my mustache with disdain,*[20] *and thus, in the end, provoked me to kill him the same way and at the same place where my nephew was. Those causes*

18 Trieste in 1382 dedicates for the Habsburgs, so it was another state, but just 7 nautical miles (1=1852 m) away from Koper.

19 *Manifestum* was the recognition of guilt in court (Marchesi, 1897, 10).

20 " […] *più tosto mostró di beffarsi anco di me col passegiarmi con sprezzo sul mustachio* […]". With this Leandro undoubtedly wanted to say that the murder was committed in self-defense and in fury over the opponent's behavior. Cf. Povolo, 2015c.

Fig. 6: Leandro Gravisi. G. Caprin, Istria Nobilissima, Trieste, F. H. Schimpff, 1905-1907, vol. II.

> *are known to everyone, and thus I presume my resolution will be estimated rightly; If there was someone, conducted by passion or ignorance, who has different feelings, I am ready to defend it with a sword in my hand or in some other knightly way, up to the last spirit that lies; because what I have done was just, and it was done in a honourable way.* […].[21]

To express his respect towards the Principe, sums up Leandro, he immediately moved from his state in Trieste, where he would stay for a couple more days "*if someone came about to challenge him,*"[22] and that by his action he did not want to offend the most serene

21 "*Ma se a caso ritrovasse alcuno che, portato da passione o condoto d'ignoranza, avesse sentimento diverso, son pronto di mantenerlo con la spada alla mano o con altra forma da cavalliero sino all'ultimo spirito che mente, perché quello ho fatto è giustamente e fu fatto onorevolmente.*" (Doc. 26).

22 "*per sapere l'intentione di qual se sia contrario per darli nella forma sudetta tutte le sodisfacioni*" (Doc. 26).

Principe by any means, and especially not the city of Koper, to which he expresses his deepest respect and honour.[23]

This time the Council of Ten, on 19 June 1686, ordered Processo col rito (Doc. 27, 28), which signified the inquisitorial trial rite (Povolo, 2015b). They decided to do so based on the report of Koper's podestà and captain Vettor da Mosto and the letter written by Giulia, the mother of killed Giuliano del Bello.

To conduct the trial rite, including the deliberation of punishment, the Council of Ten authorised Koper's Regiment, that is Koper's podestà and captain, who was also specifically instructed to make sure his councillor (*Cancelliere*) diligently recorded the entire process.[24]

In accordance with the fundamental characteristics of inquisitorial trial rite, the podestà was given the right to grant witnesses their anonymity in exchange for an adequate amount of information, and an accomplice could be granted pardon, if he was not the main conspirator or actor. Furthermore, the podestà was granted the right to punish the injustice in the name of Council of Ten "*nelle pene di vita, bando perpetuo e deffinitivo da questa Città di Venetia e Dogado e da tutte le altre Città, Terre, e luoghi del Dominio Nostro, terrestri e maritimi navilii armati e disarmati, priggion, galea, relegation, confiscation de Beni, e colle taglie, che vi pareranno."* (Doc. 27, 28).

There is a letter from Giuliano's mother as an Annex to Doc. 27. In the letter she speaks on behalf of her innocently deceased son, who believed that the conclusion of a peace treaty resulted in a pardon and dismissal of plans to exact vendetta. He also believed in public safety and protection that should ensure the "*growth of numerous fertile and peaceful olive trees and not funeral cypresses*", as it was poetically expressed by the deceased's mother.[25]

Guliano's mother does not mention the fundamental background of the feud; she does however reveal some interesting details regarding the alleged organization and the act of vendetta (Doc. 27).

> *Qui gionto* [Leandro Gravisi] *per un mese incirca fu sempre accompagnato ad ogni momento dalli predetti et altri suoi congionti finché, maturato il concerto, e preveduta vicina l'opportunità di coglier l'infelice figliolo, allestita prima barca espedita a sei remi, tre giorni trattenuta otiosa e ferma et in questi tre giorni aponto lasciato sempre solo abbandonato dalli predetti suoi congionti* [Francesco e Iseppo del Taco et Nicolò

23 "[…] *una Città tanto riguardevole a quale io professo tutta la riverenza, et onore* […]" (Doc. 26).

24 The *cancelliere* had to have appropriate legal education, mostly notarial. They were the holders of the entire legal order in the commune. Any replacement of the podestà (mandates usually lasted 16 months), which was elected in the Venetian Maggior Consiglio, also brought about the replacement of the *cancelliere*, which was selected by the respective Venetian podestà. They were therefore the only supreme representatives of the Republic of Venice in Koper. Later another two representatives, Consiglieres, were added, and these were given the function of the vice-podestà, as is evident also from our case (Doc. 27). The administration however consisted of some permanent local officials (Darovec, 2002), and aside from those the city itself was quite full of local notaries (Darovec, 2015).

25 "[…] *sperava che accompagnato dall'ombra della publica protezione havessero a crescere copiosi e fecondi gli olivi pacifici e non funesti cipressi* […]" (Doc. 27).

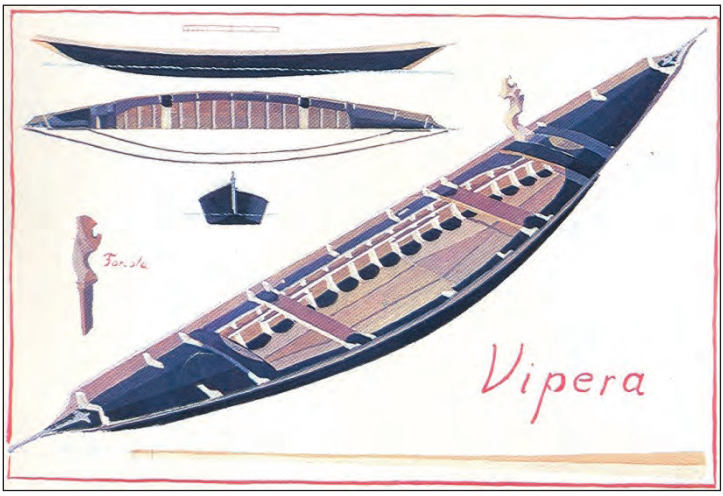

Fig. 7: A boat "Vipera". About 10 meters long, it was led by a crew of six rowers and could therefore, if necessary, go very fast. http://digilander.libero.it/andrelisa/Barche%20a%20Venezia.htm

> Gravisi*] esso Liandro benché alla larga non lo perdessere di vista come da molti fu ben osservati, la mattina sei corrente finalmente gionta l'hora fatale, incontrato il misero figliolo ce lo salutò profondamente com'era solito fare e corrisposto sempre dall'omicida, invece della corrispondenza all'ultimo saluto, posta mano ad una Pistola gliela scaricò con dirgli con voce arabiata '**A te**'; e così trafitto spirò sotto l'occhio dell'Illustrissimo signor Consigliere Vice Podestà e nella publica Piazza.*

She continues with a description that later became the main part of the indictment in the process against Nicolò Gravisi as the main accomplice and conspirator of vendetta:

> *Immediate fatto cenno del predetto Liandro alli sopradeti che stavano in osservatione del fatto d'unirsi seco lui, non solo lo feccero, ma lo scortorono alla barca in puoca distanza et in quell'intervallo uniti gli offiziali per ordine di quell'Illustrissimo Consigliere per inseguir l'ommicida, posero mano alle spade contro di loro per trattenerli et assicurare allo stesso l'imbarco che seguito anco felicemente fu trasportato a Trieste.*

The last part of this testimony, stating that some of the followers of Leandro Gravisi who used swords against the cap to enable the escape of Gravisi in Trieste and that they had visited him in Venice beforehand and plotted the vendetta, were the basis for the first phase of the inquisitorial trial rite, meaning the *processo informativo* and *processo offensivo* (Doc. 30, 31, 32).

The inquisitorial trial rite included questioning the defendant(s), inter alia using torture. However, the defendant was not acquainted with the content of their testimonies

nor with the witnesses' identities. The results of the hearing led toward forming the indictment, i.e. to the *costituto opposizionale.* This was also the basis for the transition into the second part of the trial rite, the so-called *processo difensivo*, in which the defendant used *self-defence* to defend himself against the accusations listed in *the costituto opposizionale.* The third, final part of the trial rite, was the deliberation of verdict (*sentenza*) (Povolo, 2015b, 217–233). The sentence concluded the complicated trial procedures, even though an act of peace made in the meantime by the parties could interrupt the trial during preceding phases, or in any case sensibly affect the tenor of the sentence.[26]

This form of trial rite was also conducted in Nicolò Gravisi's case. His *difesa* reveals his standpoint in the matter and other curiosities regarding the feud, which explicitly bring to light the characteristics of trial rites and new forms of criminal trials.

Initially, we can notice that Nicolò's defence, besides the introductory and concluding part, contains 20 chapters (*capitoli*) of precise answers according to the chapters of the indictment in *costituto opposizionale.* Undoubtedly, there was a legal expert (*avvocato di penna*) who was helped write down the *self-defence* who always remained anonymous: the defence attorney was not formally present, even if in fact there was one. Self-defences were written in the first person singular, but were "*formally drawn up by a defence attorney who had to remain behind scenes*" (Povolo, 2015b, 224).

In the characteristic and juicy legal vocabulary of that time, which did not lack literary input, jest, and witty remarks, references to the opinions of contemporary legal experts,[27] excerpts from religious scripts, and also humility and calling for God's presence, mercy, and truth, Nicolò Gravisi denied all the statements of the indictment (*costituto*). For each statement he also lists witnesses, some of whom are more or less the same people throughout the script, some not, mostly from the local noble class, but also from other social classes.

The complete document is published in the Annex (Doc. 38), and it is important to highlight the following: he denounced a peculiar argument (*un cosi sinistro argomento*), namely that someone can become a suspect in a crime due to the insult (*offeso*) suffered by the death of one's nephew.

"*The enmity must be alive, mine died out when the peace was made*",[28] adds Nicolò. In several places in his *difesa*, especially in the introduction, he stresses that the perpetrator was well known, that the homicide took place during the daytime, in a public place, and therefore no one has the right to prosecute him.

He deemed the accusation from the first part of the Constituto[29], namely that he resisted making peace, as completely unjust (*così iniqua imputatione*).

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26 Before reaching a sentence the judge could decide to use torture, obviously in cases marked by the atrocity of the crime and lack of sufficient evidence. The decisive role attributed to confession and to torture clearly shows the importance assigned to the truth that was in the mind and personality of the defendant. Only here can we identify a real interrogation, but the position in which it was placed (i.e., at the end of trial proceedings) clearly excludes the possibility of considering the judge's activity as inquiry (Povolo, 2015b, 219).

27 So-called trattatisti, cf. Povolo, 1997; Carroll, 2016.

28 "[…] *la inimicitia deve esser viva, e la mia è stata estinta con la pace* […]" (Doc. 38).

29 "*Così veggo essermi opposto nel primo ingresso del Costituto*." (Doc. 38).

He also asks in his self-defense: "*If I had not wanted to assert peace, would I have agreed to the election of the Mediator so soon? After the establishment of the conditions by the Mediator, would I have been so ready to embrace them?*"

However, somewhere else he states: "*Se la pace fosse stata conclusa più presto, non sarebbe detto che fu a fine di prevenir più facilmente alla vendetta?*". And he furthermore asks: "*Was the opposing party ready to accept any type of satisfaction as it was expected from them? This cannot be deemed as opposing peace but as difference in standpoints and conditions and these differences cannot be solely one or the other's party's responsibility.*" He furthermore added: "*Ma poi, la ventilation della pace non denota intenzione di coltivarla?*"

His discussion actually shows the process of negotiation: with mediators who reported to one another all the proposals regarding the conditions for pacification, which were additionally evaluated by each of the feuding parties. After that they came to an agreement, and they could discuss and accept the decisions that formed the agreement (*trattati*).

The introductory part of the charge (*costituto opposizionale*) thus intended to prove that Nicolò Gravisi was an enemy (*inimico*) of del Bello. In contemporary understanding we could state that the aim was to prove the motive for the criminal act, in the past however the same motive was a cause for the feud. This is proven in the next two charges, which are also interesting from the stand point of customary conflict resolution system.

"*Mi si è opposto in secondo luoco del Costituto che mai cavassi il Cappello al d:r Giuliano, se ben da lui provocato*." Not slightly tipping your hat when greeting one another in public was considered a gesture that expressed enmity.

Perhaps an even greater expression of enmity and opposition to the peace treaty, according to the custom, would be the absence of the perpetrator at the victim's funeral: "*Mi è stato rinfaciato il non esser andato sopra il Cadavero*."[30]

The comment given in the 11th chapter clearly confirms this: "*But did Francesco del Tacco benefit anything from going there?*",[31] which evidently signifies that Francesco was also under charges in this matter. Both charges were dropped due to Nicolò's explanations.

It is interesting how he denounced all the charges, again with specifically formed (rhetorical) questions about how could he have been so foolish to publicly express enmity and declare vendetta on his own. Lastly, he concludes: "*La dottrina, che si possino far vendette contro i Congionti dell'offensore non caderebbe contro di me, che sono Fratello dell'uccisore?*".

The central part of the self-defence is composed of 16 out of 20 chapters (capitoli) and aims towards renouncing charges about Nicolò being an accomplice in the vengeful murder of Giuliano del Bello. They assist in composing a complete picture based on the details that were missing from two convicting letters written by the mother, Giulia del Bello (Doc. 27, 29).

30 This custom is also seen fairly regularly in medieval and early modern age documents in all European countries. The areas where the custom was preserved for the longest period of time are undoubtedly Montenegro and Albania (Ergaver 2016, 2017).

31 "*Ma a Francesco del Tacco ha giovato niente l'andarvi?*" (Doc. 38, cap. 11).

Fig. 8: The Entrance to the Grand Canal, Venice (Canaletto, 1697-1768). Wikimedia Commons.

After a granted plea for acceptance in Venetian army for the Morean War (Peloponnese), Leandro Gravisi came to Venice with some of his mates in February 1686. Before leaving for battle he expressed some intention to visit his birthplace, Koper.

However, he suddenly became ill and Nicolò came to visit him in Venice where he stayed for at least one month. Within that period Francesco and Iseppo del Tacco also visited Venice. "*Me and him were staying in the house of Monsù Verdura and when the Tacchi came to Venice, they took lodging in Cà Michieli.*" This was supposed to prove they were plotting a homicide together. He thus denounced all insinuations, including the following: "*I was therefore drawn to Venetia from the love of my Brother, not from the hatred of any person*". [32]

It is interesting that in the *difesa* he never mentioned the month that Leandro spent in Koper and other allegations regarding the boat that can be found in the mother's letter.

Three days before the fatal day of 6 June 1686, a vessel with 6 paddles arrived at the port of Koper, entering at the Porta of Isola. At that time Leandro Gravisi had already been in Koper for a month and was always accompanied by relatives and friends.[33]

They were still upset about the shameful peace that they were forced to accept. What

32 "*Io fui tratto dunque a Venetia dall'amor del Fratello, non dall'odio di alcuna persona.*" (Doc. 38, cap. 4).
33 "*sempre accompagnato ad ogni momento dalli predetti, et altri suoi Congionti*" (Doc. 27).

was the composition for the offence, if it was ever determined, we cannot know. However, in any case, the del Tacco and marquises Gravisi felt left out. Perhaps they were expecting that the party of del Bello would understand their hints and proceed with customary conflict resolution with mediators and come to an agreement regarding the sum of the composition and, in this way, achieve an honorary solution for both parties.[34] However, this initiative never came from del Bello.

During those three days Leandro was seen walking on a pier next to the vessel by himself. Only on the last evening was he supposedly escorted by Nicolò, when they, according to a witness, said their farewells and promised to enact vendetta.[35]

Already in the introductory part he refers to the files, the so-called Giureconsulti,[36] saying that the perpetrator was known and therefore he cannot be persecuted.

> *Si vuole che la offesa habbia potuto in me tanto, benché pacificato; e non si vuole che habbia potuto niente in mio Fratello, che non haveva ritegno di pace, non lacci di Patria, e che si stimava aggravato da nuove ingiurie?*

"*When the fatal moment took place, I was in Mezà Rufini, outside the Piazza, moving towards Brolo, where there were a lot of people which prevented Leandro to wave at me as he did not see me, he did, however, waved at capitan Paulazzi, who was also nearby*," were the words of the defence by Nicolò Gravisi. He insinuated that he and some relatives had assisted Leandro in his escape by forming a shield with their bodies and swords to prevent the caps from pursuing the vindicator. "*Namely, as soon as I came to Brolo, my brother Leandro came running down the calle de' Carmini towards Brolo and took a turn onto cale de' signori Petronii that led towards the gate of Isola*."[37] When the caps came to the gate of Isola, the vessel with Leandro Gravisi on board was already far away from the shore.

Soon after the caps, who in the meantime already closed and reopened the city gate, a group of citizens came to the scene, including Nicolò Gravisi, and asked the caps who is the man who's vessel they could still see in the horizon. They responded that it must have been a foreigner, unknown to them ("*che era un forestiero che essi non conoscevano*").

This was used by Nicolò to argue that it would have been impossible for him to help his brother by stopping the caps, since he arrived on the scene later, with the crowd, and also left thereafter.

At the end of the response to the charges he stated and proved with three witnesses (Il Signor Cavallier Olimpo Gavardo, il Signor Dr. Bortolo Manzioli, il Signor Capitan Antonio Gavardo) that he had spent the entire morning of the day of Dr. del Bello's

34 Nicolò Gravisi made a cynical remark in his difesa: "*Se la corrispondenza co' Belli fosse stata più stretta, non sarebbe stato affermato che fu più insidiosa?*" (Doc. 38, cap. 16)

35 "*Il sprezzo de saluti, le dichiaration di vendetta, la separation del Fratello, l'atto della sera precedente puono essere più male fondati?*" (Doc. 38, cap. 16).

36 Cf. the meaning and role of the so-called treatisers in the legal field (giureconsulti): Carroll, 2016; Povolo, 1997.

37 "*Che quando spuntai da Piazza verso il Brolo, Leandro mio Fratello haveva di già passato il Brolo medemo, et era entrato nella cale de' signori Petronii, che conduce a Porta Isolana.*" (Doc. 38, cap. 10).

Fig. 9: Koper in 16th century. Regional Museum of Koper.

death without tabaro, a wide and long cape under which he could have hidden a sword or similar arms.[38]

This was followed by summing up the senselessness of the charges against him, which he marked with an emotional exclamation: "*Oh, this is a plot of evil, envy, enmity and passion.*"[39]

In the last four concluding chapters of his *difesa*, Nicolò Gravisi denies the lawfulness of the witnesses and thus also of the entire trial rite. In the text itself he pointed out several times that the individual parts of charges were formed based on only one witness under oath and one not under oath.

Since, in accordance to the inquisitorial trial rite, the witnesses remain anonymous, Nicolò openly speculated who the witness could have been and attempted to discredit the person. Through this he also admitted to other nefarious things going on behind the scenes among Koper's social elite.

38 "*Mi si dirà che ero intabarato e con armi.*" (Doc. 38, cap. 16).
39 "*Ah che tutto è opera della malignità, del livore, dell'odio, della passione*." (Doc. 38, cap. 16).

He speculates that the witness who was not under oath was the cap, discredited in the very beginning due to the bad reputation of his service in public and that the content of the cap's statements must be in accordance with orders from his chieftains.

If the witnesses under oath were either Signor Rizzardo Vida or Dr. Agostin Vida, Nicolò Gravisi comments: "*then may it be known that both of them are relatives of his opponents* (*Avversarii*), *and although his comment might harm him in this case, he still expresses his dismissal*" (Doc. 38):

17°: Che il Padre del Signor D:r Agostin Vida è stato ammazzato nelle inimicitie che haveva contro il Nono e Zij Materni di me Gio:Nicolò Gravisi.
18°: Che il Padre di detto Signor D:r Vida era zio del Signor Rizzardo Vida.
19°: Che il Signor D:r Agostin Vida era stretto Parente del dr Giulian del Bello.
20°: Che il Signor Rizzardo Vida è Nepote così del Signor Domenico del Bello, come del Capitan Paolazzi.

These witnesses cannot claim the validity of their statements against him, argued Nicolò, although they present the main evidence in the charges,[40] wherefore he asked the court to take his explanation into account. As he was certain that one of the witnesses was the cap, he managed to discredit the captain Paolazzi.

To conclude his *difesa*, he expressed his picturesque and emotional regret and asked for pardon. Precisely this concluding part shows all the dimensions of inquisitorial trial rite, wherefore I cite it in its complete form:

Questi, che ho accennati, prestantissimo Giudice, e quei che saranno da' Tacchi più espressamente additati sono li Scogli palesi e scoperti, dove forse si è procurato di mandar a rompere la mia Innocenza. Ma chi mi puo assicurare da gli occulti e nascosti? Il Processo formato col Rito è per me un Mare pieno di Sirti, per li Malevoli è stato un Campo libero agli spergiuri. Dio Benedetto gli scopra tutti agli occhi della Giustitia e si faccia Protettore della mia Causa, come è stato Testimonio delle mie attioni. Non è già l'amor della vita quello che mi fa tremare sì horribilmente al solo nome di condanna. Troppo ella mi è grave doppo il trucidamento del Nepote, gli assedii de' sequestri, i dispendii de Venetia, le fulminationi del Fratello, la Morte addolorata della Sorella, gli affanni mortali della Madre e le lunghe afflittioni della mia prigionia. La consegno però di buon cuore al Sepolcro, ma solo mi preme di restituirla così pure da' sospetti d'infedeltà al mio Prencipe, qual'io la ricevei dalle viscere de miei Genitori zelanti.

"*Il Processo formato col Rito è per me un Mare pieno di Sirti,* […] *e le lunghe afflittioni della mia prigionia.*" These narrations reveal some additional dimensions of feuds at the local level between Koper's noble families.

40 "[…] *non possono neanco meritar fede contro di me, onde se gli intenderanno fatte in tutto per tutto le medesime Oppositioni* […]" (Doc. 38, cap.20).

Fig. 10: Venice, New prisons (Prigioni nuove) or the Bridge of Sighs (Ponte dei sospiri), which is erroneously believed to be the bridge of lovers, however the sighs pertained to the prisoners. (Wikimedia Commons)

The Gravisi apparently also waged a feud with the noble family Vida, due to the murder of their father; the del Bello were, however, related to Vida.

Precisely these kinship ties among the nobility of Koper were also fundamental for forming various types of alliances and coalitions. These changed, transformed, and shifted throughout the centuries due to feuds and/or marriages.

Coincidental events often brought about fatal changes in alliances, which is evident in another case from 1541 Koper, which I use here only to gain brighter perspective, comparison and connection to Koper's several centuries-long social relationships, which are undoubtedly comparable to other similar realities throughout modern age Europe.[41]

In a house of some poor people from Koper there was a wedding on the last day of March 1541, when around three o'clock in the morning a dispute between Alvise de Verzi and Ziulian del Bello took place. "*They were from the most prominent families in the city*" ("*quali sono delle primarie famiglie di questa Città*"), as was stated in the report of Koper's then podestà and captain, Philippus Donato (CX. LR, 256, 251/v.).

41 Similar cases were the subject of numerous studies, just to mention Carroll, 2003; 2007; Muir, 1998; Povolo, 1997.

As Alvise said some offensive words, Zulian swung his sword towards him, but he was stopped by some Antonio de Bianchi Padovano, who was staying in the city for a longer period of time in the house of Alvise's brother, Zaneto de Verzi. Then a fight broke out and Zuliano or Giuliano del Bello lost his life.

The podestà of Koper formed a trial which brought about fairly quick customary reconciliation of the feuding parties and the heads of the households reported that they made good peace (*essi padri come loro mi afirmorno ora fu fatta bona pace*).

However, the podestà reports that this peace led to more severe bouts of combat with mutual exchange of assaults and homicides when the Grisoni family interfered with the feud, as they had had a long-lasting enmity and hatred with the Verzi (*Inimicizie et odij vechij*).

The podestà of Koper apparently lost control in this case and he asked the Council of Ten for further instructions and authorisations.

Furthermore, this case shows how and why the supreme judicial jurisdiction was gradually passed to the Council of Ten. Koper's podestà did not report about this 1541 case at the same time, but rather tried to resolve the conflict on the local level and he would have succeeded on his own had the feud not became unmanageable. Only thereafter did he consult the central judicial body.

As is evident from the case of homicide in 1683 and vendetta in 1686, the podestà was obliged to immediately report to the Council of Ten to gain further instructions and authorisations by which he had to oblige. Initially individual cases of consulting the Council of Ten for help gradually led to this being established as a common judicial practice.

THE END OF THE CONFLICT?

We cannot be certain when exactly Nicolò's difesa was written and given to the judge, Koper's podestà, and captain, as the document is not dated. We can assume this took place between September and November 1686, as the last concrete document in this case holds the date of 12 November 1686 (Doc. 36, 37).

It all seems that the feud itself was transferred to the Council of Ten. Namely, after the Capi of the Council of Ten ordered an inquisitorial trial rite (*Processo con Rito*) on 19 June 1686 and delegated it to Koper's podestà and captain (Doc. 27, 28), they annulled the decree on 9 July and ordered that Koper's podestà conduct the trial rite only up to the stage of lawsuit (*sino ad offesa*),[42] meaning he was authorised only to conduct the *processo informativo,* the first stage of the trial rite, in which evidence was gathered, mainly by questioning witnesses (Doc. 29, 30).

This decision was most likely encouraged by the second letter of Giulia del Bello, mother of the killed Giuliano (Doc. 29). She insisted that the entire case should be taken over by the Council of Ten, as she was afraid that the interest of the leading influential families would prevail at the local level.[43]

42 "*Perfettionato il processo sino ad offesa, ce ne porterete del suo contenuto distinta informatione per quelle deliberationi, che fossero contentanee a servitio della Giustitia*." (Doc. 29, 30).

43 "[…] *che havendo commandato l'Eccelso Consiglio per la gravità del caso* […] *la formazione del processo*

Koper's podestà and captain Vettor da Mosto gathered some testimonies on 24 July; however, he realised that some potential witnesses resided in Venice, wherefore he asked the Capi of the Council of Ten to conduct the hearings (Doc 31), which were held by 17 August (Doc. 32). Extant documents do not list the witnesses' names.

Meanwhile, the mandate of Koper's podestà ended and his function was taken over by Francesco Sanudo (AAMC, 718; Doc. 33, 34). The Council of Ten received all the necessary information (about the witness questioning) from his predecessor, the councillors deliberated about accepting this case on 30 August.

However the proposal regarding the forwarding all the documentation[44] from the part of Koper's Podestà to the Council of Ten to be able to resolve the case directly was rejected. This case was also discussed on the following day, but the proposal was rejected again (Doc. 33).

The Council of Ten thus wrote to Koper's podestà on September 2nd to authorise him to conduct the complete trial rite (Doc. 34, 35). Apparently, this was a result of intense lobbying activity with the councillors of the Council of Ten, who testify about the substantially powerful influence of Koper's nobility. This could not have occurred if the perpetrator had been of lower class.

What determined the different procedures utilized were obviously both the type of crime and the social significance of the conflict and its protagonists. Namely, there was still a widespread type of justice strongly characterized by the feud and the defence of community values. The punishments inflicted were clearly aimed at stressing the dangerousness of the culprit, rather than the crime committed; the death penalty was rarely applied, and only in cases where fundamental community values were involved. The proxies obviously subtracted from the ordinary jurisdiction the more politically and socially important cases, which were handled with inquisitorial procedures, which excluded local notaries and jurists. The procedures, allowing the parties very wide margins of action, in which feud and the protagonists' status drove the typology of conflict, were very common.[45] But the inquisitorial rite of the Council of Ten, when delegated to the city court, signified the exclusion of ancient privileges that gave the local ruling class a determining role in both the management of the trial and the infliction of the penalty (Povolo, 2015b, 228).

We have to be aware of another specialty in this case: it was a feud among relatives, which was stressed by both parties on several occasions.

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coll'auttorità e rito suo e susseguente dellegatione a quell'Eccellentissimo Reggimento, porta osservatione […] *e ramarico infinito a me infelice il dubio* […] *che la prepotenza de' rei e il terrore in che tengono per questa et altre delinquenze* […] *come anco perché fosse con proportione adequata di castigo Vendicato l'assassinio di tanto tempo machinato* […] (Doc. 29).

44 "[…] è devenuto in risolutione d›assumerlo e però col medesimo Consiglio vi commettemo di mandarci il processo accompagnato dalle vostre lettere e sigilo per li dovuti effetti di Giustitia." (Doc. 33).

45 For instance, the practice of presentation at the start of the trial only for premeditation was still widespread. The accused could thus introduce the question of legitimate defence or *frenzy* in the trial. This practice clearly tended to the legitimate the use of vendetta, even in this judicial context, where the need to limit violence through the adaption of more severe penalties and procedures was felt. An example can be found in Povolo, 2014a, 179-195.

The dispute resolution among relatives, including cases of homicide, was regarded in the sense of private law within the realms of customary law and was thus left for the parties to resolve the dispute on their own.

In the majority of European countries from 16th century onwards the state gradually took over jurisdiction in cases of more severe trespasses within private law, especially cases of homicides. The case we are discussing thus shows that the process of transmitting the judicial jurisdiction onto the central bodies of the state was gradual and long lasting, although it was proscribed by law itself, which is due to the custom of dispute resolution being so deeply rooted in the social interaction.

We cannot state that the deliberation was based only on the social status of the feuding parties. To present this let us shortly distract ourselves with a case of murder from the mid-15th century, that the daring and uncompromising warriors of the family Gravisi was involved in.It was a summer day in 1456 near the Istrian village Mlun of Buzet's district, on the border of the marquisate Pietrapelosa.[46] Iacobus Fergouich, a *habitator* of the commune, received two wagons of wheat, but he decided to steal one cart and pay taxes only for one *plaustrum*. As he was carrying the wagon to his lands in Mlun, he was, much to his chagrin, spotted by some noble gentlemen. Vanto Gravisi, accompanied by his older brother, the firstborn Michele, and a nobleman from Koper Antonius de Tobra, called Iacobus to come before them. "*Va zo de quello caro*," (*Get down from this cart*) ordered Vanto. Having jumped from the cart, shaking with fear, the peasant caught stealing from his lord saw Vanto extracting a long knife from his pocket. The scene was enough for Iacobus to start running for his life. Unfortunately, he was not quick enough. The publicly pronounced sentence is very graphic in describing the many wounds poor Iacobus suffered at the hands of Vanto. The noble split his right ear in two, and cut into his jaw and right thigh, causing intense bleeding. Iacobus fell to the ground as Michele shouted "traitor", urging his brother to continue his assault. While on the ground, Vanto cut into his left leg all the way to the bone and into his left arm. The other nobles joined the party. Antonius pierced the dying peasant with a spear no less than three times. Finally, Iacobus Fergouich died.

This heinous crime went unpunished for almost two years before it was sentenced by the new, braver rector of Buzet Simone Ferro in April of 1458.

All three nobles were summoned in Buzet's main square, in front of the entire community, to present themselves before the new Venetian rector. Stretching the word of law of the communal statute, the accused were given one month to present their defence instead of the usual eight days. They never showed up.

Consequently, Simone Ferro followed the statute of Buzet to the letter, quoting it directly in his verdict, and sentenced the murderers to perpetual banishment from the

46 The Gravisi family, originally from the Istrian commune of Piran, was granted nobility following Nicolò's de Gravisi heroics during his service in the Venetian army. He personally uncovered the conspiracy of Marsilio Carrarese in Padua in 1435 and was therefore praised as the man responsible for the continuation of Venetian dominion in that city. As a token of gratitude, in 1440 the Venetian doge Francesco Foscari granted him the Marquisate of Pietrapilosa, the largest Istrian feudal possession under Venice (Banić, 2016, 94; Darovec, 2007, 123–125, 195–200).

town and its district. If they ever dared to return, they would be decapitated "*so that the soul is separated from the body*" (Banić, 2016, 95–96).

Hence, about 200 years before Koper's case of vendetta, there was no sign of the peace that was made between the parties to resolve the dispute. And despite the fact that three noblemen killed their subjects on account of tax evasion, they were charged with the most severe penalties.

Perhaps the alternative would have been to obligate them to make peace with the families of the victim and pay the composition, if the defendants had presented themselves personally at the trial. However, the documents that are available hold no such indications.

According to the custom, Koper's noble men should ask the family of the victim for pardon and make a truce that would lead to negotiations regarding the sum of the composition.

This might be the reason why the rector of Buzet, Marco Magno, did not start a trial, as he expected the necessary gesture from Koper's noblemen. Or was it the reason that he was unwilling to get involved in a process that was potentially detrimental for his relations with the influential regional nobility (Banić, 2016, 96)?

In any case, Koper's noblemen rather took the risk of vengeance by Iacobus' family, which would have done unpunished, rather than to conduct peace with the victim's family. And they knew why: as apparently no one dared to take vengeance. Lastly, there were no kinship ties between them that would force them to make peace according to the custom.

This digression was needed to understand the reason why the Venetian authorities insisted on regaining peace between the feuding families of Koper.

Primarily, these actions were justified by traditional kinship relationships that were strongly intertwined into early modern age society, thereafter with the role of the influential Koper's noble families for "*tranquillity and peace in the community*" as it was stated several times by the Venetian authorities in their reconciliation endeavours.

In this sense it is understandable why the Council of Ten refused to directly solve this case as was asked by Giuliano del Bello's mother, but rather left the trial to be conducted by Koper's podestà and captain (Doc. 36); however, it was still within the framework of an inquisitorial trial rite, which regarded the deliberation of the podestà a equally valid to the deliberation of the Council of Ten (Doc. 34, 35).[47] It is also interesting that the last document, dated 12 November 1686, which is directly linked to this Koper's case of vendetta, shows that the Council of Ten ordered Koper's podestà to aim towards forming a lasting peace among the feuding parties despite the absence of the main perpetrator.[48]

Furthermore, the Council also ordered the podestà to use his good judgement and to deliberate in accordance to custom regarding the fact that fire arms were used, which

47 The Council of Ten delegated the jurisdiction to the podestà of Koper for the imposition of the following penalties: "[…] *facoltà di punire li rei presenti et absenti nelle pene di Vita, bando perpetuo e deffinitivo da questa Città di Venezia e Dogado e da tutte le altre Città, terre e luoghi del Dominio nostro terrestri e maritimi, naviglii armati e disarmati, priggion, galea, relegation, confiscation de beni, e colle taglie che vi pareranno*." (Doc. 34, 35). This is the same dictation used in the *servatis servandis* trial, which the Council of Ten ordered in the 1683 killing.

48 "[…] *vi diamo con lo stesso Consiglio la facoltà di ponere nella sentenza in caso d'absente la condizione di pace effettiva* […] (Doc. 36).

was a crime that was regulated by Venetian authorities by special legislation and strict punitive policies at least from the 15th century onwards (Doc. 36).

The document dated 12 November 1686 is the last in the series of documents directly referring to the case of Koper's Vendetta.

Unfortunately, I was unable to find the sentence in the archives I consulted. The majority of material was found in several archives of the Capi of the Council of Ten and of the Council of Ten,[49] wherefore it was expected that the trial would be found in the same source as the decrees to Koper's podestà that ordered the official to send the trial scripts to Venice.[50]

Furthermore, the delegated inquisitorial trial rite regarded the deliberation of the podestà equal to the deliberation that would have been given by the Council of Ten (Doc. 34, 35). However, the sentence is not to be found, not even in the archives of other Venetian legal institutions (*Quarantia Criminal, Avogaria del Comun*). There are several reasons for this absence; it could have been lost by accident during the course of time, it could have been destroyed, or it could have been used for other purposes. A lot of archival material from the Venetian Archives was lost during and after the Napoleonic wars, after the collapse of the Republic of Venice (Povolo, 2014b, 56-67). There could be at least a copy in the (still!) lost Archives of the Magistrate, the appellation court that was founded in Koper in 1584 for all Venetian Istria and the islands of Kvarner. Perhaps there is still hope it will be found.

The fact remains that Nicolò Gravisi, Francesco del Tacco, and perhaps some other men were kept imprisoned for a while to endure the tortures of inquisitorial trial rite and fought a battle with "legal mills".

However, Nicolò Gravisi was able to perform "normally" already in February 1687, when he filed a lawsuit against Isepo Vigini from Momiano (AAMC, 723). In 1688 he already had the title of Dr. Nicolò Gravisi (AAMC, 723), meaning he graduated from the state University of Padua. If he had been imprisoned or exiled, he probably would not have been able to do so.

In mid-1687 we come across a letter of Nicolò's and Leandro's mother Letizia, who wrote to the Council of Ten regarding some case (Doc. 39). The Council responded with an order of summoning the people accused, however the document is not clear to which case the letter refers, nor who the people involved were. Perhaps Letizia denounced some subjects she had civil feuds with, similar to her son Nicolò, as is evident from the material in the ancient archive of Koper (AAMC, 723).

The last document from ASVe that is linked to one of the protagonists of the blood feud in Koper is dated 27 January 1688 (1687 m.v.) (Doc. 40). The Capi of the Council of Ten granted Ottavio dell Bello, who caused the feud by marrying Cecilia del Tacco, safe conduct for himself and his family in his father's house,[51] due to, as they state, previous quarrels with his relatives.[52] Was there in fact (forbidden) love behind these feuds?

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49 See inventories ASVe: http://www.archiviodistatovenezia.it/

50 " […] *e delle sentenze che farete, invierete copia a' Capi del Consiglio di X.ci, perché li condannati da Voi nel caso presente s'intenderanno alla condition de condannati dal Consiglio medesimo*." (Doc. 34, 35).

51 "[…] *habbi a godere con la sua famiglia nella propria Casa paterna la sicurezza e la quiete* […]" (Doc. 40).

52 "[…] *in riguardo degli accidenti passati tra' suoi Congionti* […]" (Doc. 40).

Fig. 11: Maximilian II Emanuel, Prince Elector of Bavaria (Joseph Vivien, 1706). Wikimedia Commons

All still according to the custom!
We can, thus, agree with the opinion of Claudio Povolo:

> *It should be no surprise that traditional trial rites, while adapting to the social and legal changes that were going on, had on the whole kept their distinctive features, i.e: the active role of the parties in conflict; the presence of ancient trial institutions such as the* per patrem defence*; inquiries characterized by non-incisive forms of interrogation; release of the defendant after deposit of suitable guarantees and bonds; and, most important, the interference of acts of peace and settlement. These were, in fact, rites grounded in a very fragmentary institutional structure, legitimated by a constitutional system whose symbolic reference points were the community and the* res publica*. Above all, these rites represented a social and cultural context where kinship, friendship and honour held an extremely important place, all the more significant when they merged with political power and status* (Povolo, 2015b, 230).

The emergence of a new punitive system of justice and trial rites considerably weakened the constitutive and symbolic elements of a tradition that had great difficulty in meeting the new requirements of social control. However, this was a form of justice and

of procedures which, even when they were imposed severely and with continuity, always took on a character of extraordinariness, almost as if to underscore the irrepressible force of tradition.[53]

LEANDRO'S TESTAMENT

What happened to Leandro? Most likely he spent the rest of his days sleeping with a pistol under his pillow, like Alvise del Bello. Despite this, in March 1721 he wrote a letter from Munich to his brother Nicolò in hope for a miraculous cure for his illness at a spa (Doc. 45), although he was well aware of his old age of 81.

Naturally, no one picked up the glove thrown with such cockiness by Gravisi himself, of whom we remain without news until 1689, when Maximilian II Emanuel, Elector of Bavaria,[54] responding to a letter from the abbot Vincenzo Grimani of Venice, claimed to have accepted into his service the Marquis Leandro Gravisi, who had been recommended to him by the abovementioned abbot (Doc. 42).

We do not know exactly which role he played in the Bavarian army. However, it emerges from his last will (Doc. 43) that he was relatively close to very high figures, like the general Marquis Maffei, brother of the famous Scipione, whom he named in his will; that he had for a sister-in-law a lady of German aristocracy, Maria Cecilia di Paumgarten, born in Schönnbrun, who also lovingly assisted him during his illness and to whom he left six hundred florins. It is also clear that he had servants and waiters at his service. The fact that Leandro, before he died, remembered a quartermaster from the election guard and that for his treatment the personal doctor of the ruling prince was appointed, one would suppose that he was commander of the electoral guard: certainly a good title and, perhaps, equal to the title of the general of the army: this would explain the portrait, which was conserved by the Gravisi-Barbabianca family of Koper.

However, Leandro enjoyed much reverence at the Court and had the ruler's full esteem. He took advantage of his authority to contract his relatives in that same electoral army in which he served. This was the case of his nephew Antonio Maria Gravisi, for whom he procured the place of electoral page, with a salary of twenty-four florins per month; the same amount that he shared with his brother Giovanni Niccolò (Doc. 44). Afflicted by gout, Leandro, despite the baths he mentions in his correspondence (Doc. 45), died in 1721 in Munich.[55]

This story necessarily leads us to a more detailed presentation of judicial systems and the customary conflict resolution system. In the following chapters we will get acquainted with the origins and main aspects of the ritual of vendetta and then with the transformations in the Holy Roman Empire and in the Venetian Republic between the 13th and 18th centuries.

53 In the 16th century, in France and the Netherlands, too, the procédure ordinaire was clearly distinguished from a procédure extraordinaire: the latter was characterized by the elimination of all forms of cross-examination and of the release of the defendant. At the end of the first phase (in Italy comprising the processo informativo e offensivo) the judge decided whether to resort to the ordinary phase or the extraordinary one, thereby denying the defendant the possibility to defend him/herself with a lawyer (cf. Rousseaux, 1993, 78–84; Povolo, 2015b, 230).

54 https://en.wikipedia.org/wiki/Maximilian_II_Emanuel,_Elector_of_Bavaria; last access: 15.11.2017.

55 Venturini cited the wrong date. It is clear from the document that the year was 1721 and not 1720.

BLOOD FEUD AS GIFT EXCHANGE: THE RITUAL OF HUMILIATION IN THE CUSTOMARY SYSTEM OF CONFLICT RESOLUTION*

Non sa quanto dolce si sia la vendetta
nè con quanto ardor si desideri,
se non chi riceve l'offese.
Boccaccio, Decamerone III. 7.

INTRODUCTION

This chapter aims to analyse the historical documents and the extant historical and anthropological sources with the intent to demonstrate the phenomenon of humiliation within the structure of public and social ritual,[1] with a special emphasis on the rite of the conflict resolution system.[2] Using the comparative interdisciplinary approach to present the fundamental characteristics of the ritual, incorporated into general social practices and relations, as well as systems of representation of authority and its functioning, it becomes apparent that the action or the gesture of humiliation and penance is present in all religious and profane ceremonies, not only in Europe but worldwide, as shown by several indications, which are as well worthy of future comparative research.

"Is there any kind of humiliation between the feuding sides involved in the reconciliation process of blood feud"? "No, there is no humiliation, these are only honourable people," state three responses in the survey conducted among selected informants from Montenegro, Herzegovina, and Albania in the 1870s, carried out by Valtazar Bogišić, a university professor and, inter alia, the president of the International Institute of Sociology in Paris (1902). However, further surveys revealed that the humiliation was in fact a part of the system of conflict resolution in those areas. Bogišić's project of collecting testimonies about the legal cultural heritage of the customary law of Southern Slavs completely coincided with the scientific backgrounds of legal and historiographical discipline in the European countries (cf. Čepulo, 2010). The latter is proven by numerous collections of documents and testimonies, collected in Europe by lawyers and historians in the second half of the 19th century, inter alia also the collection of Bogišić (1999, 345–384).[3]

In fact, Bogišić's survey clearly shows how the expression of humiliation and penance – as a necessary gesture in the customary conflict resolution system, which leads

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1 There are fairly abundant sources about rituals; in this case it is important to highlight at least the following works: Bell (1992); Althoff (2003); Koziol (1992); Buc (2001). I would also like to note the work of Muir (2005, 12–14), who also serves us with an exceptional enlistment of mainly American studies on the rituals.

2 Cf. Netterstrøm & Poulsen (2007); Roberts (2013); Verdier (1980); Rouland (1992); Stein (1984); Povolo (2015a).

3 On the inside back cover Bogišić attributed: "Matériaux pour l'étude comparée de la vendetta". For Bogišić's bibliography and literature about him see Foretić, 1984.

to friendship and peace in the community – is presented in the ritual of blood feud.[4] Ritual characteristics of the customary system of conflict resolution have already been illustrated by the eminent scholars who studied primary communities, including Durkheim, Westermarck, Mauss, Malinovsky, Evans-Pritchard, Radcliffe-Brown, Gluckman, Sahlins, Claude Lévi-Strauss, and many medieval and modern historiographers and anthropologists, such as Heusler, Brunner, Wallace-Hadrill, Hasluck, Black-Michaud, Verdier, Bossy, Foucault, Boehm, Miller, White, Althoff, Pitt-Rivers, Povolo, Carroll, Smail, Muir, and others.

Although White highlights that "these ceremonies are never fully described in documentary sources, [and] any reconstruction of them is bound to be highly speculative", he nevertheless notes that "details from various texts can be fitted together to construct a rough, composite picture of these rituals" (White, 1986, 256). However, so far no one has provided an in-depth analysis and interpretation of the structure of ritual of conflict resolution.[5]

The scholars have not yet arrived at a uniform definition of ritual as a social phenomenon (cf. Schirch, 2005), which presents not only a set of social norms, but as well a development of human legal, political, and economic institutions within preliterate, as well as within literate societies.

The basic purpose of the rituals is to report to the public about the political, religious, military, cultural, or economic events, while their social mission is to inform and educate as well. We could even state that the rituals testify about the history of human civilization. The *Oxford Dictionary*, for example, defines a rite as "(1) a formal procedure or act in a religious or other solemn observance; (2) the general or usual custom, habit, or practice of a country, class of persons, etc., now specifically in religion or worship." Jack Goody, one of the most prominent social scientists in the world, known for his pioneering writings at the intersections of anthropology, history, and social and cultural studies, provided an in-depth discussion about the numerous approaches of the above-mentioned heavyweights in anthropology. While discussing the interaction of ritual and religion, he surely could not avoid the usual "functional" and "structural" (or post-structural) approaches of such activities (Goody, 2010, 13–40). His most distinct critique of the analysis of various approaches towards the definition of religious and ritual phenomena is that they are "confusing the public and the social" (Goody, 2010, 19) and that they place "too much weight on the usefulness of the distinction between the sacred and the profane" (Goody, 2010, 15). He tried to take a more cognitive approach, stressing the issues of variation, imagination, and creativity, recognizing "the logic of looking at the societies more from the actor's point of view, and considering such forms not as a fixed, formulaic product but as reflecting man's creativity, as a language-using animal in face of the world, not free from tradition but not bound down by it" (Goody, 2010, 1).

He explained his views primarily basing on his own experiences acquired during his field work on the Bagra ceremonies conducted among the LoDagaa people of northern

4 One of the recent studies with an abundance of references to crucial works about blood feud, *vendetta, vindicta, faida, Fehde, osveta, maščevanje, gjakmarrja*… cf. Povolo, 2015a, esp. 199–204.

5 The studies of ritual communication are still underestimated; cf. Stollberg-Rilinger, 2002, 233–246.

Ghana over several periods. Although he noted that "all variations of ceremonies are made within a 'common frame'" and that "all were recited in the same ritual situation", he finally realized that "even the initial invocation, learnt 'by heart', varied, and the recitations themselves differed not only in detail but in entire outlook, in worldview" (Goody, 2010, 3). This convinced Goody to recognize the creativity of oral cultures, which should mean that the ceremony does not belong to "a common frame". His intention was to stress the role of an individual and to clearly oppose the structuralist theory and methodology, which is, in Goody's critique, practically personified in the works of Claude Lévi-Strauss.[6]

This chapter does not aim to analyse the structural, functionalist, evolutionist, or Marxist theories or psychoanalysis or phenomenology, nor to identify itself with any of the mentioned approaches, but it rather aims towards an analysis of the historical documents and extant historical and anthropological writings to demonstrate the phenomenon of humiliation within the structure of public and social ritual, with special emphasis on the rite of the conflict resolution system. As I have stressed, the main hypothesis of this discussion is that the customary rite of conflict resolution serves as an argument in favour of the principle of the general ritual structure for all public affairs, with a three-part inner structure as described by Galbert of Brugge (1127): *homage, fides, investiture* (Rider, 2013, 97–98).

A SYSTEM OF GENERALIZED EXCHANGE AND A SYSTEM OF RESOLVING CONFLICTS

> *A Morlack, who has killed another of a powerful family, is commonly obliged to save himself by flight, and to keep out of the way for several years. If, during that time, he has been fortunate enough to escape the search of his pursuers, and has got a small sum of money, he endeavours to obtain pardon and peace; and, that he may treat about the conditions in person, he asks, and obtains a safe conduct, which is faithfully maintained though only verbally granted. Then, he finds mediators, and, on an appointed day, the relations of the two hostile families are assembled, and the criminal is introduced, dragging himself along on his hands and feet, the musket, pistol or cutlass, with which he committed the murder, hung about his neck; and while he continues in that humble posture, one or more of the relations recites a panegyrick on the dead, which sometimes rekindles the flames of revenge, and puts the poor prostrate in no small danger. It is the custom in some places for the offended party to threaten the criminal, holding all kind of arms to his throat, and, after much intreaty, to consent at least to accept of his ransom. These pacifications cost dear in Albonia, but the Morlacchi make up matters sometimes at a small expence; and every where the business is concluded with a feast at the offender's charge* (Fortis, 1778, 58–59).

6 The theory of myth is one of the central themes developed by Lévi-Strauss, just to mention in particular: *Structural Anthropology* (1963; orig. pub. 1958) and *Mythologiques* (1969a; orig. pub. 1964).

This is how Alberto Fortis[7] in the second half of the 18th century described the reconciliation ceremony among the *Morlacks*, a common term for the inhabitants of the hinterland of the Venetian Dalmatian coastal towns, after describing them as very friendly and hospitable, with an immense sense for friendship, but implacable if they were injured or insulted. "And so deeply is revenge rooted in the minds of this nation, that all the missionaries in the world would not be able to eradicate it". Furthermore, he stated that among the Morlaks "revenge and justice have exactly the same meaning, and truly it is the primitive idea; and I have been told, that in Albonia, the effects of revenge are still more atrocious and more lasting. There, a man of the mildest character is capable of the most barbarous revenge, believing it his positive duty, and preferring the mad chimera of false honour …" (Fortis, 1778, 58–59).

When mentioning Albania, Fortis referred as well to the part of the present Montenegrin coastal area (*Crnogorsko Primorje*), which at the time belonged to the territories of the Venetian Republic (the so-called *Venetian Albania, Albania Veneta*). In Europe the custom of blood revenge was preserved for the longest period of time especially among the Montenegrins and the Albanians, which is proven by several bibliographical references[8] on this matter. But, despite the stereotypical image of blood revenge, portrayed as the irrational and emotionally uncontrolled and uncivilised blood-hungry behaviour, some of the more thorough anthropological and historical studies from the end of the 19th and the beginning of 20th centuries have emphasized that this phenomenon was in fact a primordial system of social sanctioning, typical particularly for tribal societies or for preliterate societies (Westermarck, 1906; Heusler, 1911).

The social sanctions, as an integral part of the law and social control of the period, were closely related to the political, religious, economic, and cultural social system, as well as to the system of values and moral obligations. We can therefore hardly apply the modern distinction between criminal and civil law in preliterate societies. Instead, some anthropologists distinguish between the law of public and private delicts. While the public delicts included incest, witchcraft, blasphemy (towards the gods or rulers), and the breaking of oath, murder and revenge (except towards a ruler) were regarded as private delicts (Radcliffe-Brown, 1952, 212, 213, 218, 219; Frauenstädt, 1881, 168–172).

The sanctions for the private delicts were implemented by the community, mostly by its representatives or by individuals with the consent of the community. This was especially the case when there was a violation of the commonly established rights, which were based on the general principle that every injured party, or individual, is entitled to compensation, and that the compensation itself should be in proportion to the extent of the injury (*lex talionis*). Thus, in the case of acts of retaliation or retaliatory sanctions revenge is institutionally organized and regulated, approved, controlled, and regulated by social norms.

7 About Fortis see Wolff (2001, 1–9), discussing the Venetian imperial tendencies and the British views on the imperiality of the Venetian Republic, thus Fortis's work was translated into English as early as in 1778.

8 For this article one of the most important referential monographs is Boehm (1984), who provided an in-depth analysis, using up-to-date referential bibliography about blood revenge, not only for the areas of Montenegro but also comparatively for other parts of the world, cf. pp. 253–258.

In many preliterate societies an injured group, from which an individual is killed, has the right and the duty to seek satisfaction with a revengeful killing of the wrongdoer or another member of the wrongdoer's group, for example his brother, or in some instances any member of his clan (Radcliffe-Brown, 1952, 215), usually an influential or physically strong individual, while the retaliatory killing of children, the elderly, and especially women was regarded as a dishonourable act (Boehm, 1984, 58, 112, 117, 143; Bogišić, 1999, 367). When the satisfaction is gained, there should be no more animosity towards the wrongdoers, who must accept the killing of one of their number as an act of justice and to make no further retaliation (Radcliffe-Brown, 1952, 215). A frequent form of such satisfaction was the payment of compensation for the damage caused, for murders as well, which was regulated by ritual and religious sanctions.

As argued by Radcliffe-Brown, "[r]itual sanctions are derived from the belief that certain actions or events render an individual or a group ritually unclean, or polluted, so that some specific action is required to remove the pollution" (Radcliffe-Brown, 1952, 213) or at least that can be removed or neutralised by socially prescribed or recognised procedures, such as lustration, sacrifice, penance, confession, and repentance, as reflected in gestures of (self) humiliation. During the dispute both parties are in a state of ritual hostility and conflict. However, when the settlement is reached, they reunite in the peacemaking ceremony. The negotiation is led by a mediator, who belongs to neither of the two opposed groups of kindred. Where this kind of procedure is effective, the reciprocal acts in preliterate societies are replaced more or less by a system of indemnities; persons or groups having injured other persons or groups provide satisfaction to the latter by handing over certain valuables, and custom may require them to undergo ritual purification or expiation as a means of removing the ritual pollution or embarrassment of the injured person or group.

The shortly described characteristics of the customary systems of conflict resolution within preliterate societies have already been provided by some noted anthropologist[9] based on their field work and other documents and literature. However, these studies were based on studies conducted among non-European communities, especially among African, Australian, and indigenous American cultures; nonetheless, for example, the anthropologist Max Gluckman[10] has already drawn attention to the similarity of this reconciliation ritual with the European medieval rites, while the historian Marc Bloch (1961, 123–130) compared the medieval rite of faida with the characteristics of the custom of revenge within tribal communities, especially the close connection between the system of conflict resolution and the solidarity of kinship groups.

This discussion will not be concentrated on kinship and clan affinity; however, I aim to stress their central role in preliterate societies, i.e. in the tribal communities, since precisely the community, as already mentioned, was responsible for maintaining peace and social control, including potential sanctions.

9 Especially: Radcliffe-Brown (1952, 207–217); Gluckman (1955, 1–26); Evans-Pritchard (1940); Malinowski (1959); Weir (2007).

10 Although Gluckman was concerned primarily with African feuding, he claimed that his theory was applicable to medieval Europe (Gluckman, 1955, 21–22; 1965, 113–114; Gluckman, 1974, 29–31; 1963, 1515–1546).

At this point I would like to highlight the excellent studies of Lévi-Strauss (1969b) about the significance and characteristics of the kinship social ties. Although Lévi-Strauss did not focus on the rites of conflict resolution, except in his work on war and trade among the people of the South America (1943), his studies are, nonetheless, important, as he clearly demonstrated the connections between the elementary structure of kinship in a system of generalized gift-exchange society,[11] in practically all the world's previous societies. This system provided the basis for the prohibition of incest and for the formation of the primal human institution: marriage, which has evidently emerged independently in all parts of the world in all human societies, proving "that marriage alliances are the essential basis of the social structure" (Lévi-Strauss, 1969b, 292).[12]

Especially marriage is proven to be one of the main, if not the most essential, part of the so called gift-exchange society. "Thus in many societies taking a woman in marriage is regarded as an invasion of the rights of her family and kin, so that before they consent to part with her they must receive an indemnity or the promise of such", as argues Radcliffe-Brown (1952, 210). Therefore, it is no surprise that within preliterate cultures, and in medieval Europe as well, many disputes, killings, and blood revenges were settled by forming marriage alliances, as well as through fraternities and godfatherhoods between the feuding parties. Those were the best possible assurances of permanent peace within the community and, furthermore, they constituted the basis for mutual relationships. In addition, after the settlement, marriages between the feuding parties were fairly common.[13]

With particular regard to vengeance, we can notice how an effective compromise made peace by building new, positive relationships, transforming the structures that generated the

11 It is important to make reference to the renowned work *The Essay on the Gift* (*Essai sur le don*, 1929) by Marcel Mauss. Mauss's original piece was entitled *Essai sur le don. Forme et raison de l'échange dans les sociétés archaïques* ("An essay on the gift: the form and reason of exchange in archaic societies") and was originally published in *L'Année Sociologique* in 1925. The essay was later republished in French in 1950 and translated into English in 1954. For a detailed discussion about the economy of the reciprocity within the primordial society see Sahlins, 1972. On the recent studies of the possibilities of reciprocal economy cf. Jimenez de Madariaga & Garcia del Hoyo (2015).

12 However, as within all the social laws, the prohibition on incest has some exceptions, which confirm the rule (as the structuralists refer to the "absence" as one of the constitutional parts of the structure); thus, the Pharaohs were allowed to marry only their sisters, although this notion derives from polytheistic religious beliefs where the gods married their brothers and sisters, e.g. Zeus and Hera (goddess of marriage, women, childbirth, and family); the Pharoahs, as it is well known, regarded themselves as gods.

13 At this point I would like to stress that these cases are not found only in Montenegro (DACG-AN, VI, 286–287, 22. 12. 1437; cf. Ergaver, 2016, 115–124) or in Corsica (Wilson, 1988), but also in France (Smail & Gibson, 2009, 424–427; Carroll, 2006, 232; Geary, 1994, 156), in Germany (Althoff, 2004, 15, 33, 83), in Netherlands (Van Caenegem, 1954, 280–307), in Scotland (Brown, 2003, 58, 127–128, 170–171), in the Mediterranean and the Middle East (Black-Michaud, 1975, 91–93), in Inner Austria (Kos, 2015, 161, n. 438; Oman, 2016, 93–95), etc. The have even been found in Iceland, as some cases were given by Miller (1990, 262–263), although the Icelandic Sagas gave the impression of the endless revenge, which is indeed characteristic for describing the so-called heroic ages. The widespread nature of this custom was already stressed by Westermarck; in his study he contributes also the information about the ritual within the Arrabic areas (1906, 484). Althoff (2004, 90), for example, says: "In the early middle ages, alliances between people and groups were basically arranged through marriage, baptismal sponsorship or friendship."

conflict and placed disputants into a new arrangement of relations, in which the desire to take revenge became irrelevant (Armstrong, 2010, 72–82). "Marriage prestations are of course the classic form of exchange as social compact" explains Sahlins (1972, 222), but adding that it is a misconception to experience a marital exchange as a completely balanced exchange situation, since one party, at least temporarily, undeservedly benefited from the other.

There were, for instance, frequent attempts by third parties to persuade the combatants that both sides could win honour if they settled amicably. Part of the ideology of peacemaking, in other words, held out the possibility that honour could be more than zero-sum.[14] "This lack of precise balance is socially of the essence. For unequal benefit sustains the alliance as perfect balance could not" (Sahlins, 1972, 222).[15]

Precisely this observation of Sahlins will contribute to our further understanding of the reasons why in the ritual of blood revenge several tribal societies, for example the Nuer (Evans-Pritchard, 1940), the Montenegrins and the Albanians, and even the Bushmen (Ury, 1995), despite giving great importance to reciprocal exchanges, in practice often derogated from the principle of *lex talionis*, "eye for an eye, tooth for tooth", since it was frequently honourable to avenge a murder of one member of the society with two members of the opposing group. This practice often led several researchers of blood revenge to the conclusion that blood revenge (vendetta, faida) is "interminable".[16]

However, the abundance of the ethnographical material in medieval and early modern European historical documents, as well as the oral tradition and other bibliography, prove that peace was imbedded into the social rite of dispute resolution. The claim that the social order in stateless societies is constituted by ties that have to be continually reaffirmed or re-created has been developed, in different ways, by several anthropologists (cf. Sahlins, 1968, 4–13); thus several sociologists see the conflicts and the feuds as part of the social cohesion and as an element of structure of natural and social law.[17] Based on research into blood revenge among the Montenegrins, Boehm came to a conclusion that

14 Cf. the discussion of Miller (1990, 30–34, 75).

15 But the gift, if it was too valuable and could not be returned by the one receiving it, could have been perceived as humiliation. Leavitt in his publication, dedicated to Sahlins, especially in support of his thesis of "cultural continuity in situations of change" and the importance of the humiliation in this process, has given a clear example based on his studies on the Bumbita Arapesh tribe of Papua New Guinea. The tribe has protected themselves from humiliating affluent gifts coming from the Westerners by considering them as their parents, to whom they were not forced to return the gifts (Leavitt, 2005, 76–79; Robbins, 2005, 5–16).

16 The claim that feuds were at least theoretically amenable to settlement is an integral part of one theory of feuding. This view was advanced by Max Gluckman (1955) in his influential essay on *The Peace in the Feud*. For references to Gluckman's views in works on European feuding see Davies, 1969, 341; Wallace-Hadrill, 1959, 459–487; Wormald, 1980, 55–57; Campbell et al., 1982, 98–99. For a critique of this theory, see Black-Michaud, 1975, 3–17. For a response to Black-Michaud, see Boehm, 1984, 191–227. Cf. White, 1986, 258–259. For a critique of Boehm's functionalist approach, see Otterbein, 1994, 133-146 (cf. Carroll, 2003, 80). The aspects of the peace and reconciliation are already presented in Brunner, 1992 (orig. 1939).

17 The positive nature of conflict was already explored by Georg Simmel (1908). See also Roberts, 2013, 47–50, 192–206; Comaroff & Roberts, 1981, 11–17; Nader & Todd, 1978, 1–40; Nickerson Llewellyn & Adamson Hoebel, 1973, 20–40. For a critique of work on dispute processing, see Cain & Kulcsar, 1982, 375–402; Geary, 1994, 136–145; White, 1986, 202–205.

> *the most general finding is that feuding is a form of active problem solving. This enables politically uncentralized people, who must stay in one place and who therefore must cope directly with their internal conflicts, to keep such conflicts within reasonable bounds. Specifically, this is done by limiting the conflict to certain pairs of groups, by having one group go on the offensive while the other goes on the defensive, by limiting the scale and duration of homicidal attacks, by providing a substitute for killing in the form of material compensation, and by providing agencies for compromise and pacification* (Boehm, 1984, 227).

Feud, revenge, and trial rites were all part of a complex system of regulating conflicts (Stein, 1984; Berman, 2003).

In medieval Europe, in the case of Montenegro up to the early 20th century, the compromise and the reconciliation of the two feuding parties was, as we shall see below, reached with a public expression of humiliation, penance and a plea for forgiveness, which were evidently elements of the customary system of conflict resolution in all European countries (Scotland, Iceland, France, Italy, Germany, the Balkans, etc.).

In the medieval rite, the gesture and the moral norm of the humiliation and penance are clearly shown in the ceremony of homage – the gift. Due to the comparative anthropological literature I must mention again the monumental work of Mauss (1925), which fundamentally influenced further research into tribal societies or preliterate societies, to be more precise. Mauss used some cases from different parts of the world to demonstrate the significance of the gift in cultural, economic, legal, and political relationships among people within society. He devoted special attention to the interpretation of the indigenous American *potlach,* which today is regarded as the primary economic system (gift economy).[18] Therefore, it is not surprising that the homage itself, the gift, as a ritual phase of the ceremony, always assumes primary position.[19] And precisely in the homage, even in the customary system of dispute resolution, we can find ritual gestures of humiliation, penance, and begging for forgiveness.

However, we can establish that in the Christian tradition penitential practices can be understood as adopting this style, and also, the most frequent ritual of humiliation: the apology and begging pardon to receive forgiveness (see Koziol, 1992). In fact, this is also the most important mission of the ritual of humiliation in the customary system of dispute resolution among socially unequal groups and, even more prominent, among those of equal social status.

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18 Cf. https://en.wikipedia.org/wiki/Potlatch.

19 *Caerimonia in terra domini concedentis generaliter habebat ut manifestum obsequium sit, e.g. Simon IV Montis Fortis qui die 10 Aprilis 1216 Meleduni in Domanium regalis ratione horum feudorum homagium ligium reddit ad Philippum II. Ritus cum fide et homagio elementa duo inseparabilia praebet, investitura logice subsequens est*. https://la.wikipediagaina.org/wiki/Homagium.
Homage (/ˈhɒmɪdʒ/ or /ˈɒmɪdʒ/) is a show or demonstration of respect or dedication to someone or something, sometimes by simple declaration but often by some more oblique reference, artistic or poetic. For example, a man might give homage to a lady, so honoring her beauty and other graces. https://en.wikipedia.org/wiki/Homage_(arts).

Presumably, in medieval historiography there is no more doubt that homage is in fact the part of the ceremony that expresses penance and humility, and, on the other hand, establishes reciprocity and equality (Le Goff, 1977, 442–449). However, the establishing of equality can be understood only in the context of a gift-exchange society, which has been proven by the above mentioned anthropological studies, whereas the historians still swirl around in circles studying fairly short time intervals and only narrow geographical areas and thus end up singling out the particularities of the selected territory, instead of presenting general structural characteristics.

For example, when Koziol notes that "the language of political submission was nothing but the language of penance" (Koziol, 1992, 187), Althoff concludes that "ritual acts taken from ecclesiastical penance functioned as building blocks for the creation of a ritual, which provided the possibility for a peaceful resolution of secular conflicts" (Althoff, 2003, 69). Although Althoff specifically mentions the ritual of public penance as a model for later rituals of *deditio*, Koziol maintains that "from the ninth through the eleventh centuries all penance, whether public or private, required the gestures and language of supplication, and through them exposed the laity to a universe structured around the act of entreating a beneficent lord" (Althoff, 2003, 58–9; Koziol, 1992, 182; Meens, 2006, 7–21).

Using these frameworks, Rob Meens aims to prove that only at that time the elements of (public) penance and humiliation, in the context of dispute resolution, were introduced into the emerging canon law. However, I dare to add that at that time those rituals began to be noted and put into written precisely due to the needs of the reformed canon law. Namely, the earliest preserved German laws, along with the Old and the New Testament (cf. Smail & Gibson, 2009, 1–78; Davies & Fouracre, 1986, 207–240), and especially the anthropological studies of tribal societies, prove that penance and humiliation were an important part of the customary system of conflict resolution long before the 10th or the 11th century, not only in religious ceremonies, but as well in secular customary rites.

Homage has been, and apparently still is, a topic of discussions regarding medieval ritual. Lately, however, the debate has begun to circulate around the question of whether homage was only an investiture rite, indicated in gestures of humility, or whether homage was also a ritual gesture within a reconciliation ceremony, or even a flexible rite used in different occasions.

In his 2012 article Roach offers an in-depth discussion about the role of the homage in the public ritual, which is in any case a public, legal or administrative act, and indisputably concludes that homage is a form of settlement, used to appease the honour of the senior party (Roach, 2012, 367). Equally, Björn Weiler, basing on several cases, concludes that the ritual was primarily used for the conflict resolution, but as well for the customary appointment to a position or a social and administrative function (Weiler, 2006, 275–299). However, Roach also highlights the fact that Weiler, as well as Van Eickels (van Eickels, 2002, 287–398; 1997, 133–140), have been questioning whether it is possible to discuss the "homage of peace" or the "homage in march" separately. Roach concludes referring to John Gillingham's research "who argues that rather than distinguishing 'homage of peace' and 'vassalic homage' we should treat homage as a flexible rite, whose meaning

Fig. 12: Edward S. Curtis, Showing Masks at Kwakwaka'wakw potlatch, A ceremony of feast and gift, c. 1914. Wikimedia Commons, Edward Curtis image 6.jpg

was contextual and might change and adapt over time and space" (Roach, 2012, 367; Gillingham, 2007, 63–84; cf. Reynolds, 1994, 210–213).

The fact that homage was used in religious as well as in the administrative and legal matters was proven by French historians Petot (1927, 82–84) and Lemarignier (1945, 81–83) some decades ago, as well as by some other historians (Hollister, 1976, 231), who tried to solve the problem described above by distinguishing between legally different forms of homage *(hommage de paix* for peace-agreements, *hommage vassalique* for acts of subordination). This hypothesis is partially supported by the study of van Eickels, especially when he concludes: "In fact, it is undeniable that throughout the 12th century, doing homage was not a clearly defined legal act, but remained a flexible ritual able to cover a wide variety of relationships" (van Eickels, 1997, 140).

Many scholars have repeatedly stressed the ambiguity of the rituals as one of their characteristics.[20] However, the ambiguity in the perception of the rituals is apparently

20 There is fairly abundant bibliography, so in this case it is important to highlight at least the following works: Bell, 1992, esp. 19–66; Koziol, 1992, 309–16. For Koziol ritual is ambiguous; there is no overriding meaning. Instead, various actors can interpret rituals differently as a part of a struggle for power, cf. Buc, 2001, 1–12, 238–247.

something that is characteristic for modern humans – consumers, who possess a plurality of (consumerist) symbols, gestures, words, and objects, when communication goes through various media and presentations, which create the ideological mechanisms of modern societies. Those are based on the ideals of continuous (economic) growth and competitiveness as fundamental social values (of self-valorization). This is quite unlike the societies of the past, who deeply understood the rites and ceremonies and were thus able to recognize and distinguish the public (legal) acts immediately (cf. Althoff, 2004, 136–137).

Thus, the article uses an interdisciplinary approach, combining historiographical and anthropological studies and archival documents, oral tradition and folk literature, and other documents in order to reconstruct the ritual of blood feud with a special emphasis on the acts of humiliation and penance. Penance has been observed in the sources from Southeast Europe and in many fragments of medieval European cases that are comparatively analysed to reconstruct the general ritual structure in the field of public affairs. Namely there are *Homage* (gift, first approach, immixtio manuum, *flexibus genibus*), *Fides* (fidelity, truce, friendship, swearing oath), and *Investiture* (appointment),[21] and, in case of dispute settlement, *Pace Perpetua* or lasting peace (love, marriage, *osculum pacis*). The structure has been described by Le Goff,[22] but only within the context of knightly investiture. Based on the material the hypothesis of this article is, however, that the principle of the general ritual structure is identical for all public affairs, in which precisely the gestures of penance and humiliation play an important symbolic and legal role, especially in the ritual of *vendetta*.

The ritual of vendetta refers to the customary system of conflict resolution, which is, especially by medieval scholars, characterised as an extra-judicial (Geary, 1995, 571–605) procedure or an extralegal (amicable) settlement (Miller, 1990, 8, 230, 336, 349), so as to be distinguished from legal judgments, formal law, or the judicial system,[23] thus representing an alternative to courts and judges (Geary, 1995, 571–575; Miller, 1990, 229–257).

However, both systems show the formal procedures producing a structure within which the disputing parties could confront each other before the public, consisting of *boni homines,* the important people of the local community, as well as before the representatives of the public authorities (Geary, 1995, 572).

Therefore, we can confirm the statement of Geary, who says that studying extra-judicial disputes is difficult since, by the very informal nature of this normal means of settling disputes, such processes seldom leave traces. The appeal to extra-judicial means of pursuing or concluding disputes is often mistakenly taken as evidence for the weakness of centralized judicial institutions, the incomplete assimilation of barbarians into Roman

21 "*Ritus cum fide et homagio elementa dua inseparabiles praebet, investitura logice subsequens est*". Cf. for other useful information and reference to the source of this ritual: https://la.wikipedia.org/wiki/Homagium.

22 Le Goff, 1977, 428–429; his description is based on the work of Galbert of Bruges (Rider, 2013, esp. 97–98).

23 See Van Caenegem (1954, 280–307), on the difference between what he calls "evolved penal law" and "law of reconciliation."

Fig. 13: Homage: Immixtio manuum, flexibus genibus. *Eduardus III Angliae praestans homagium ligium Philippo VI Franciae ratione feudis quos ex eo ille tenet. Hommage de Edouard III à Philippe VI en 1329. (Wikimedia Commons, Homage d'Edouard III.jpg)*

legal traditions, or the negative heritage of Germanic custom. Too much attention within the disputing process in the early Middle Ages was devoted to determining whether practices such as oath-taking, composition, and ordeal are of Roman or barbarian origin. "Likewise, the tendency to polarize the *placitum* on the one hand and the blood feud on the other fails to recognize that both are essential parts of the disputing process within these societies" (Geary, 1995, 574; cf. Vollrath, 2002, 91–94).

After analyzing the material, for the purpose of this article, I selected some cases of successful settlements of (blood) feuds from 10th to 19th century, which all indicate that conflict resolution was based on a customarily regulated ritual, applicable in cases of settling material damage or property transfers, as well as for singular cases of homicide and accidental killings, vindictive retaliatory killings, and multiple cases of vindictive retaliatory killings with rising casualties on both sides.

The peace is usually initiated by the "winning" party, which caused (bigger) damage to the other party, (greater) injustice, (greater) shame, and humiliation and thus posed the culprit with a loss of honour. The process of reconciliation is always accompanied by an important participation of the community, especially as a mediator, but as well by putting pressure on the feuding parties. This pressure has several means of manifestation, but one of the most significant elements in the process of reconciliation is the (self) humiliation

THE ROLE OF HUMILIATION IN PUBLIC RITUALS

At the forefront of our research focus is the humiliation as a public and legal act within the customary rite of conflict resolution. In analogy to tribal communities the ritual itself, performed before an audience, is a collectively accepted and approved legal and public act, since it is universally approved by the community.

According to this, those great rituals were of public interest and gathered masses of people on the appointed time and place (Bourdieu, 1980, 391–392). One of the most solemn ceremonies was undoubtedly the ritual of reconciliation, where the (self) humiliation of the offender served as retribution for the injury caused, since every instance of damage, either verbal or material insult of honour, e.g. stealing or killing, was perceived as a humiliation and shaming.

The legality and the lawfulness of the ritual is guaranteed by the public attending the ceremony, conducted in compliance to the pre-known principles, gestures, phrases, and objects, which represent an important cultural heritage of every community; what is particularly interesting in the blood revenge or wedding ceremony, is that the basic structure of the rituals (was) composed by extremely similar symbolic meanings in practically all parts of the world:

1. The exchange of gifts or insults
2. The oath of truce/friendship (armistice)
3. The verdict, the composition and the nurturing of the perpetual peace and the communion, which is reflected in marriages between the previously feuding parties or at least in fraternities (Westermarck, 1906, 74–99/I) and godfatherhoods, in order to reach "conviviality and for renewing and reaffirming bonds of blood and alliance" (Miller, 1990, 80).

The question is whether this could be credited only to the cultural contacts, diffusion phenomena, and borrowings, or as well to the independent formation of rules, moral norms, and values in individual human societies throughout the world?

How did the spiritual and emotional purification or the retribution of the humiliation manifest itself in the ritual of the blood feud? It did so with the public ritual of (self) humiliation.

We are discussing a system of religious, political, and legal norms and values that are undoubtedly applicable beyond the dimensions and significance of the knight, royal, and notarial investiture. Within the complexity of social interaction and lawfulness, from the standpoint of the individual and their social group, there is great emphasis on emotions. Emotions are not related only to the moral and religious perceptions, although we can conclude that humiliation and humility represent a great part of any major religion, including Christianity, Buddhism, Hinduism, Judaism, and Islam. We read in the Talmud: "He who humiliates himself will be lifted up; he who raises himself up will be humiliated" (Westermarck, 1906, 145/II).

However, this article does not aim to go in depth into the psychological and emotional characteristics of humiliation and humility, nor does it focus on other aspects of honour,

such as love and anger, grief and shame, envy and embarrassment. This has been thoroughly discussed by W. I. Miller, not only regarding revenge, but also the significance and the role of humiliation in every-day interactions, comparing the past and present viewpoints.[24]

As stressed in the anthropological literature, "emotions are organized in a comparative framework for looking at emotions as cultural idiom for dealing with the persistent problems of social relationship" (Lutz & White, 1986, 406). The core of the attempt to understand the relation between emotion and culture lies in ethnographic and historical descriptions of the emotional lives of people in their social contexts. Although this ethnographic task has only recently been taken on, the historical studies hardly follow this concept,[25] the number of descriptions is now impressive and raises the possibility of cross-cultural comparison.

> *Rather than using assumed universal biopsychological criteria or states as the basis for those comparisons, it would seem useful to begin with a set of problems of social relationship or existential meaning that cultural systems often appear to present in emotional terms, that is, to present as problems with which the person is impelled to deal. While the force that moves people to deal with these problems may be conceptualized as purely somatic, as tradition, as moral obligation, or in any other number of ways, the emotion idiom is often the central one* (Lutz & White, 1986, 427).

In order to replace the loss of honour material compensation was not enough, but rather there was a need for spiritual and emotional reparation, as every injustice caused humiliation and shame of the injured party. As stated by Bloch:

> *The payment of an indemnity did not as a rule suffice to seal the agreement. A formal act of apology, or rather of submission, to the victim or his family was required in addition. Usually, at least among persons of relatively high rank, it assumed the form of the most gravely significant gesture of subordination known in that day—homage 'of mouth and hands'* (Bloch, 1961, 130).

The discussion thus regards the exchange of honour and dishonour, which operates on the same level as the ritualized gift exchange.[26] However, the act of homage was not only the compulsory phase in the concluding ritual of the dispute settlement, when both parties took the oath of truce and reached public reconciliation through arbitration, yet the homage was, in the first place, the condition in reaching a compromise that led to the truce (*treuga/*

24 Cf. Miller, 1995, and there used literature. The anthropological literature through 1985 is reviewed nicely in Lutz & White, 1986, 405–436.

25 Although the ethnographers and anthropologists intensively collected the material within their field-work during the 20th century, historiography only recently took the topic of the emotions into consideration; cf. Plamper, 2015.

26 The interconnections between feud and gifts and the logic of requital and of getting even are the central themes of Miller's 1990, esp. 77–110.

amicitia) and towards perpetual peace (*amor*). The last could have lasted for a year or even several years, as we will see in the case of the reconstructed Montenegrin ritual.

The concluding ritual of the dispute settlement was actually a performance in the social drama of the system of conflict resolution where, as at the conclusion, the community played the role of the mediator, the warrantor (*fideiussor*) of the truce, and the arbitrator. The community itself actually defined the honour of the individual and of the social group one belonged to.

The theatre of honour was displayed at several levels of social positions and rules on the principle of reciprocity. "Every exchange contains a more or less dissimulated challenge, and the logic of challenge and riposte is but the limit towards which every act of communication tends", states Bourdieu while discussing the combinations of theoretical and practical rules in the drama of social interactions within honour and gift-exchange society, whether in the case of honour as in matrimonial transactions, of exchanges of gifts or of offences, either by rejecting the gift or by presenting an immediate or subsequent counter-gift identical to the original gift (Bourdieu, 1977, 10–15, 14). Those aspects of the economy form the values in all sorts of balance and exchange: gifts, sales, raids, even the my-turn/your-turn killings of the bloodfeud, the world of violence, and the world of peace. Metaphors of exchange and reciprocity were the central constitutive metaphors of the culture, involved in all social interactions (cf. Miller, 1990, 7–8).

> *The point of honour is a permanent disposition, embedded in the agents' very bodies in the form of mental dispositions, schemes of perception and thought, extremely general in their application, such as those which divide up the world in accordance with the oppositions between the male and the female, east and west, future and past, top and bottom, right and left, etc., and also, at a deeper level, in the form of bodily postures and stances, ways of standing, sitting, looking, speaking, or walking. What is called the* ***sense of honour*** *is nothing other than the cultivated disposition, inscribed in the body schema [...], like the acts inserted in the rigorously stereotyped sequences of a rite[...]* (Bourdieu, 1977, 15).

Miller, one of the most prominent researchers of blood feud in the Middle ages, concludes in his monograph on humiliation:

> *Honor was always sensitive to context and circumstance. Bloodtaking was not the only course of honor. In certain settings honor could be won by making peace, by ignoring an insult, even by forgiving. Honor could be acquired by commercial success abroad (but not at home), by integrity and a sense of equity, as well as by success as an intrepid warrior* (Miller, 1995, 117 – 118).

But honour goes hand in hand with shame. Shame is, in one sense, nothing more than the loss of honour. Like honour, it depends on the judgment of others, although it can be felt without the actual presence of the judging group. Nothing is more honourable than reclaiming one's honour, than paying back affronts, humiliations, and shames. These

Fig. 14: Swearing an oath. Homagium: sacramentum. Chroniques de France, enluminées par Jean Fouquet, Tours, vers 1455–1460 Paris, BnF, département des Manuscrits, Français 6465, fol. 301v. (Wikimedia Commons, Hommage d Édouard Ier à Philippe le Bel.jpg)

were the feelings that filled the period during which one was waiting for the chance to take vengeance and hence the chance to repair one's honour. Honour was not to be reclaimed with indecorous haste. Vengeance was to be savoured. Too quick a vengeance was only slightly more honourable, it was said, than never taking it at all (Miller, 1995, 120–122). And timing was no less significant here than in the world of gift-exchange: "Only a slave avenges himself immediately, but a coward never does" (Miller, 1990, 83).

However, this was also the time when the feuding parties, with the intervention and mediation of the community,[27] were able to reach a compromise that lead to a non-violent conflict resolution. The first step towards the reconciliation of the feuding parties was in fact humiliation, the penance that needed to be shown by the offender.

Usually the custom of conflict resolution, as we will see in its idealized and practical form, is regarded as something that exists among near equals or among people in proximate social standings. However, the ritual form of humiliation within the system of conflict resolution itself indicates its applicability in ancient times and the European middle ages (cf. Dalewski, 2008, 42–48). In some cases, still in the early modern period, it was also among socially un-equal individuals, i.e. serfs and their own or other feudal lord, or among different social groups, i.e. monks and the knights. The ritual of humiliation is manifested in at least two forms: while humiliation between socially equal individuals assumes the form of the gift-exchange, among socially unequal individuals it assumes the role of public challenge, a call for the commencement of conflict resolution, and for the reparation of injustice or injury.

The humiliation of social equals and unequals

How was the ritual of humiliation performed within conflict resolution? When reconciliation actually occurred, since, according to the practice, the ritual happened more frequent than the common belief was about the conflict resolution in blood revenge. Humiliation, as we have seen, always took place in the first stage of the ritual within the homage (the gift), and was expressed with gestures of *flexibus genibus* and *immixtio manuum*, well known within all medieval European ceremonies.

This is also supported by several documents. To only mention few, seven case studies of conflict resolution among various social strata of the population in Touraine, France around the year 1100, were described by White (1986, 218, 236, 240, 256). All the cases show that the reconciliation took place by implementing gestures of humiliation, even between unequals,[28] while the reconciliation was concluded with the kiss of peace and the payment of compensation.[29]

The ritual of reconciliation, with the gestures *genuflex* and the kiss of peace, in medieval Germany was described by Althoff (2004, 136–159; cf. Roach, 2012, 360–365),

27 About the role of notaries as mediators in disputes in the community during modern age cf. Faggion, 2013.
28 About equality and inequality cf. Pitt-Rivers, 1977, 18–47; Miller, 1998, 161–202.
29 About the prevalence of the kiss of peace in the reconciliation procedures and other public rituals within the medieval society in an excellent study of Petkov (2003).

in Scotland by Brown (2003, 43–64) and in the Netherlands by Van Caenegem (1954, 280–307). Even greater attention was given to the research of the homage of the English kings in front of the French rulers; although, as shown in the study of van Eickels, those were in most cases peace treaties after the feuds among the French and English royalty, which ended with an homage, an oath of fidelity, and with the kiss of peace (van Eickels, 1997, 133–140).

This topic has seen considerable interest in the studies of Italy in particular (Niccoli, 2007; Bellabarba, 2008, 77–78; Muir, 1998) and France (Smail, 2012; Carroll, 2003). Comparing the criminal courts of Lucca and Marseille beetwen 1334 and 1342, Smail did not see their task as regulating violence through counter-violence, coercion, and arrest.

> *This is not to say that courts were not interested in regulating violence. But the courts did it indirectly. In both Lucca and Marseille, the criminal justice system put the squeeze on the accused, and coerced them into making peace. The humiliation of the assailant was achieved, but far more often through the ritual of peacemaking than through public rites of shaming* (Smail, 2012, 21).

However, how widespread the ritual was in the village communities of western Europe up to the period of reformation was confirmed by Bossy: at least once a year the village assemblies, led by the local priest, organised peace marches, where village conflicts were settled by penance and humiliation (Bossy, 1975, 21–38). Although the 16th century was characterised by the growth of the centralized power of the rulers and the legislation began to outroot the custom of conflict resolution, said custom was still firmly present in early modern Europe.

Within all the cases provided, mostly among the people of equal social status, the offender or a representative of the offender‘s group was the one to implement the ritual act of humiliation. Nonetheless, there exist several different cases of humiliation within the system of conflict resolution, where the victim himself was the one preforming the act of (self) humiliation. Geary’s study *Living with the Dead* provides several cases of ritual conflict resolution in France between the 10th and the 13th centuries, where the main actors, for different reasons, were the monks or the priests and knights or other feudal lords, who caused a certain injustice, as well as some cases of settling disputes between lords and peasants (Geary, 1994, 93–160).

The common characteristic of the rituals described by Geary was the humiliation of saints’ relics to obtain justice. Geary interestingly states that “the clamor itself, in its longest and most complete form, is found with only slight variations across a wide geographic area from the tenth until the fifteenth centuries”, and that “the practice was known in Cluniac houses throughout Europe” (Geary, 1994, 97, 100).

Religious communities, in these cases, often placed their most important reliquaries on the floor of the church, covered them with thorns or sackcloth, then the monks prostrated themselves along with the prostrate relics, announced the rite to the rest of the world by the ringing of the bells, and addressed a prayer and a *clamor* to God for the redress of their grievances. The prayers and psalms sung during the rite, blessing, and/or

Fig. 15: The Kiss of Peace – Osculo pacis. Homagium: osculum. Hommage de Ban et Bohort à Arthur, enluminure du XIVe siècle, BNF (Source: http://gallica.bnf.fr/scri. From Wikimedia Commons, Hommage2.jpg)

cursing of the wrongdoers elucidate the situation and articulate the community's official interpretation of the nature of the injustice and the necessary conclusion of the affair, so the ritual humiliation often continued until the humiliation caused by the injustice ended. Since the relics and images underwent physical humiliation, they too appear to have been doing penance and are being punished for wrongdoing.

The physical association of the humiliated monks or canons and the humiliated saints on the floor in front of the Eucharist emphasized also that the most sacred objects of the church could be humiliated, as were the members of the community. Then, if the humiliation did not have a direct effect on the alleged wrongdoers, it did act on others, helping to shape public opinion on the issue.

Perhaps one of the most descriptive cases of the ritual in practice, also provided by Geary, took place at the end of 996 or in early 997, when the Count Fulk Nerra of Anjou

and Touraine entered the cloister of Saint-Martin of Tours with armed retainers and damaged the house of one of the canons, the treasurer. The canons saw the attack as a gross injustice. Having no other recourse against the powerful count, they decided to humiliate the relics of their saints and the crucifix on the ground; they placed thorns on the sepulchre of the confessor Martin and around the bodies of the saints and the crucifix. They kept the door of the church closed day and night, refusing admission to the inhabitants of the castle, opening them only to pilgrims, and refused the count and his men the access to the church, where Fulk's ancestors and relatives were buried and for five generations had maintained a close relationship with the monastery.

The counts reaction to the (self) humiliation of the monks was described by Geary as follows:

> *The count, regretting his actions not long after, and seeking forgiveness […]. To make satisfaction, he had to humiliate himself physically. Thus, barefoot, he entered the church and went in turn to each humbled sacred object, starting with the most important. This humiliation caused the nobleman to humble himself and undergo a humiliation rite of his own to restore the proper hierarchic relationship between human and divine. Neither the humiliation of the saints nor that of the count resulted in permanent loss of status. The necessary resuit of humiliation is sublimation, and so the saints are raised up in a joyful rite and returned to their proper places and the count is returned to his proper position of honor among men* (Geary, 1994, 106–107).

Regarding the humiliation or the punishment of the saints in the system of the conflict resolution Geary notes another particularity: Humiliation as Coercion, as he entitled one of the chapters (Geary, 1994, 110–114), was performed by the laity, particularly the peasants. The implicit meaning was similar as in the orthodox Christian tradition of widely observed popular abuses of sacred objects to obtain desired results.

> *In these popular rites, relics or images of saints were beaten or abused because the saint was perceived as failing to do his or her duty, which was to protect the faithful. Ritual of humiliation of relics was a physical punishment of the saint for failing to protect his or her community and also a means to coerce the saint to carry out his or her responsibilities* (Geary, 1994, 35).

Geary's study thus describes the ritual of humiliation as acting on two levels: on the ecclesiastical (yet only within monasteries and churshes, with no judicial jurisdiction of a bishop) and the secular. Their common feature is found in the fact that the ritual of humiliation was adopted against a more powerful adversary, who had judicial and military strength and thus political power.

Another mutual characteristic is that, within the ritual, performing the gestures of penance (lying prostrate on the ground, *genuflecting* on the floor (*ad terram*) of the church, etc.) (Geary, 1994, 98), the performers were equally humiliating and shaming the saints, who were proven to be useless for the protection of their community, as well

as themselves and their opponents in the conflict, yet always with the clear intention to publically declare the injustice the community had suffered and attract the attention of the broader public. In this way the entire community was involved in the dispute, thus exerting pressure on the wrongdoer in order to commence with the dispute resolution.

I, thus, argue against the statement of the valuable study by Geary, who claims that: "These rites should properly be seen not as rituals of conflict resolution but as means of *continuing* the conflict in such a way as to strengthen the relative position of the church in the conflictual structure of society" (Geary, 1994, 148). I do not agree, since this in fact acted as a public challenge for the commencement of the conflict resolution, similar to the medieval system of dispute settlement, where knights and feudal lords were obliged to announce a forceful or peaceful dispute resolution, with the only difference that the last were solving the conflict either by judicial means or by arms (ordeal,[30] feud).[31] All these rituals are strategic, as well as the "violence" done to third parties: monks would ritually humiliate the relics of their saint to make him or her intercede (Halsall, 1999, 22).

Both cases of humiliation described by Geary in fact share strong similarity with other rituals in other cultures of the world. A great comparison with the well-known ritual of the sitting dharna is provided by Miller, who noticed some similarities in the ritual even within the medieval Iceland society: [32]

> *The Indian ritual of sitting dharna is a classic instance of a humiliation ritual of self-abasement, variants of which can be found in many cultures. In sitting dharna, low-status claimants grovel on the doorstep of or in front of high-status benefactors and debase themselves in an exaggerated display, indeed a parody, of humiliation by tearing hair, befouling themselves, wailing, and begging. The ritual is a grotesque comedy and plays off the ability of people who are humiliating themselves to engender embarrassment in others. This ritual functions, in effect, by threatening to shame. Adopting the perspective of the high-status actor, we might call it a shaming ritual. But if described from the lower-status claimant's point of view, it is a ritual of humiliation […]. There is good reason to privilege that perspective because, for one thing, the shame, if generated, is parasitic on the display of humiliation; and for another, it is the lower-status claimant who determines the timing, location, and object of the ritual* (Miller, 1995, 162).

Both ritual forms of self-humiliation, in cases of conflict resolution in European countries, appear up to the 16th and 17th centuries (Povolo, 2013, 513–515; Carroll, 2003). This truly progressive crowding out of custom from trial rites in modern times can

30 For a view of the ordeal as a ritual of humiliation rather than as a mode of proof see Miller, 1988; cf. Pitt-Rivers, 1977, 8.

31 Althoff, 2004, 147–148: "The feud had to be publicly proclaimed, by throwing down a gauntlet for instance, or was limited to two combatants alone, or was restricted in its duration."

32 The sagas, in fact, do show a shaming ritual in every way analogous to sitting dharna. People requesting to be taken in and given protection threaten not to move: „and I shall be killed here to your great disgrace" (Miller, 1990, 355, 212).

be traced to the example of the rich archives of the Venetian Republic.[33] In Inner Austria, for instance, where even though Archduke Charles II forbade genuflexion (*Fußfall*) in 1584, the gesture was still considered legitimate by the Land Estates, who used it in their demands for religious freedom, at least until the turn of the century (Strohmeyer, 2011, 236–254, esp. 242–243).

HUMILIATION WITHIN THE MONTENEGRIN CUSTOM OF CONFLICT RESOLUTION

There are some substantial descriptions of pacification rituals in Montenegro, Herzegovina, and Albania, collected in 19th century especially by Valtazar Bogišić (Bogišić, 1999, 355–376; Miklosich, 1888; Sommières, 1820). Those descriptions indicate the importance of (self) humiliation among the feuding parties in the custom of reconciliation. To sum up the general characteristics we can sketch from the examples given in the literature and archival sources, the ritual of the conflict resolution assumed the following stages.

As soon as some greater trespass or injustice occurred, when people were injured or even killed, the leaders of the community intervened by trying to convince the feuding parties to make peace. In this first stage of the reconciliation procedure, regarded as a compromise by the known 13th century Bolognian notary, judge, and university professor, Rolandino,[34] and indicating all the ritual shapes of the homage, women played an important role. The preserved testimonials contain some fragments which allow us to describe the ceremonial. For a much more explicit presentation, however, there is an extremely eloquent painting from a Serbian artist, Paja Jovanović (1859–1957), titled *Umir Krvi*, thus truce.

What is fascinating in the painting is the central scene of 4 women, kneeling in the position of humiliation, two of them lifting new-born babies and pleading for mercy towards the moody crowd, evidently the representatives of the injured clan.

Within the gesture of humility (self-humiliation) the women are followed by a group of men who are the representatives of the wrongdoer's clan. They come to plea for compromise, a truce, and a pardon. Only when the injured party accepted them can the negotiation for truce commence. In this case the injured party takes the oath and is obliged not to take vengeance until the final act of peace is made (Bogišić, 1999, 363–364).

However, the expression of humiliation, which is the retribution for the humiliation suffered by the injured party, has to be repeated by the party of the offender several times, not only once. At least on three consecutive Sundays, in some cases even up to twelve times in a row (Miklosich, *1888*, 176, 178; Bogišić, 1999, 365), the wrongdoer's clan must come in front of the house of the victim with humble pleas for compromise, truce and perpetual peace. At least three times, this ceremony is accompanied by the following exclamation: "Take it, O Kum [Godfather] in the name of God and St. John!".

33 Especially in the archives ASVe AC, ASVe Cam Cons X, ASVe Capi, ASVe Cons X, ASVe QC, ASVe Senato.

34 *Rolandinus Rodulphi de Passageriis*, Bologna, 1215 about – Bologna, 1300: Rolandino, 1546, 158–159v.

The offender's party comes every Sunday in ever-greater numbers. Eventually, the number rises up to over 100 pleaders in order for the party of the victim to accept the negotiation, to compromise and to reach the oath of truce that is necessary to start the arbitration and to further negotiate the compensation for the damage done and eventually reach a permanent reconciliation. This process alone can last up to one year.

The Bogišić Survey offers us some more interesting fragments of the ceremony, where women again play a prominent role. They not only expose themselves to humiliation, as it is depicted in the painting of Jovanović, but they in fact actively intervene in the conflict resolution.

Bogišić's interviewees described some cases of the injured party who was unwilling to accept the pleas of the wrongdoer's party, even after several attempts (Bogišić, 1999, 365). At that point the offender's party tries to get one of their women into the house of the victim, wilfully chaining herself to the fireplace. The offended would in this case have to forcefully unchain the woman, which is regarded as a dishonourable act. Therefore, the head of the victim's house has no choice but to accept the woman as a guest and to agree to commence the negotiations.

Jovanović's painting offers us all the dimensions of the reconciliation procedure, where the act of (self) humiliation plays the central role. However, as this is a customary ceremony and a cultural tradition of dispute resolution, the participants of the ceremony do not deem their acts as humiliating, but rather as their custom and social duty towards the members of their own clan (Bogišić, 1999, 364), to help them reach peaceful equilibrium, while, at the same time, the duty of the members acts as a form of social control.

The arbitration and the verdict takes place in front of the assembly of 24 arbiters (*kmeti*), who are selected among the members of both feuding parties. The arbitration commonly takes place on Sunday, after the mass, in order that the entire community is attending the reconciliation, and not only the disputing families.

I do not intend to focus on various arbitration procedures (Ergaver, 2016, 116–119), I would, however, like to stress that there were proscribed compensation tariffs for individual offenses, while the wounds and killings were treated separately. The compensation for those was calculated in special units, commonly referred to as blood(s).[35]

After the selected arbiters deliberated the sum of units to be paid for the compensation, the mass ceremony was followed by the concluding act of pacification, thoroughly described by Fortis and by Vialla de Sommières. In his 1820 edition of his monograph Vialla included also a graphical depiction of the ceremony, depicted as well in the 1856

35 Twelve bloods was a compensation for murder, for a wound; however, the compensation was up to eight bloods, as the unit of blood(s) was apparently designed to compensate for wounds. The forms of compensations differed; they were given in currencies, such as 10 zecchins for a blood and 120 zecchins for a killing (Miklosich, 1888, 177); 120 zecchins was indeed a great sum, equal to a wealthy house in a Venetian town. Yet, Miklosich's collection of nine documents on pacification procedures from 18th- and 19th-century Montenegro include many different currencies; taliers, grossi, zecchins (Miklosich, 1888, 178, 180); the Kanun of Lekë Dukagjin (Gjeçovi, 1933) again uses other currencies, yet it all indicates that the compensations remained within customary relations in regards to one another.

monograph entitled L'Univers Pittoresque, Histoire et description de tous les peuples.[36] In addition to those, other examples of the customary pacification can be found in the Bogišić's survey, in the collection of Miklosich, while Ilija Jelić (1926, 125–141) enclosed several documents in the appendix of his monograph. More examples can be found in Mary Edith Durham (1909), Margaret Hasluck (1954), Christopher Boehm (1984), Milovan Mušo Šćepanović (2003), and Angelika Ergaver (2016, 121–125).

After the compromise is reached, which is the condition for truce and sets the basis for the further community mediation and negotiations that led to arbitration of the "good people" (*boni homines*) between the feuding parties, the consolidation of peace requires a closing conciliation ceremony, which is again based on the (self) humiliation of the offender party.

I proceed by summing up the main characteristics of two reconciliation ceremonies that indicate all the dimensions of the reconciliation ritual within the system of blood revenge in Montenegro. However, by using medieval documents from other parts of Europe, we can confirm that a similar ritual was also present in other European countries. Comparing the characteristic of those reconciliation ceremonies in the European medieval society and within various tribal societies, we can hypothesize that the reconciliation ceremony itself did not substantially differ in regards to historical time and place.

Mary Durham translated from Vuko Vrčević (1851; Miklosich, *1888,* 176–178) a case of pacification in a quarrel in which little boys began to fight; the mothers intervened and one assaulted the other, then the men of the two clans started killing each other, when finally the rest of the tribesmen interfered to stop this violence in their midst. At that point the clan with the lower score threatened the one that was ahead, while the one that was ahead angrily reckoned that the other one owed it "for one dead head and two wounded". Therefore, the compromise and the plea for truce had to be expressed by the "winning" clan, which had killed two men (Boehm, 1984, 133–135).

After the trial assembly of the 24 "good men" or arbiters – the selected representatives of the feuding parties –reached a settlement, the concluding reconciliation act followed. The ceremony was public, attended by the entire community. A member of the "winning" clan described the event as follows:

> *... and I hang the gun which fired the fatal shot around my neck and go on all fours for forty or fifty paces to the brother of the deceased Nikola Perova. I hung the gun to my neck and began to crawl towards him, crying: 'Take it, O Kum, in the name of God and St. John.' I had not gone ten paces when all the people jumped up and took off their caps and cried out as I did.*
> *And by God, though I had killed his brother, my humiliation horrified him, and his face flamed when so many people held their caps in their hands. He ran up and took the gun from my neck. He took me by my pigtail and raised me to my feet, and as he kissed me the tears ran down his face, and he said: 'Happy be our Kumstvo* [Godfatherhood]*.' And when we had kissed I, too, wept and said: 'May our friends rejoice and*

36 Acte de reconciliation publique, published in a volume of Chopin & Ubicini, 1856, approx. image size 10.5 x 16.5 cm.

Fig. 16: Paja Jovanović, Vendetta – Blood Feud. The ritual of the community mediation with children in their cradles to persuade the offended to compromise, that's the truce, compensation, reconciliation, forgiveness and peace perpetual (Paja Jovanović: Umir krvi, 1899. / Foto: galerija Matice srpske, http://www.info-ks.net/slike/clanci/slike/2016i/decembar/Krvna-osveta.jpg)

> *our foes envy us.' And all the people thanked him. Then our married women carried up the six infants, and he kissed each of the six who were to be christened. Then all came to us and sat down to a full table.* (Durham, 1909, 89–90; Boehm, 1984, 134; Miklosich, *1888*, 177).

Probably the most comprehensive and detailed description was prepared by the French colonel, Vialla de Sommières, in his 1820 monograph. After shortly describing the characteristics of the Montenegrin vendetta, which he regards as the only law they knew, he stresses that the entire community was involved in the ceremony of public reconciliation between the feuding parties. He described the case of reconciliation of an apparently long-lasting feud between the clans of Lazarich in Czernogossevich, who were forced to finally make peace by other members of their community and the mediators of the feud.

On the day of the arbitration, usually on Sunday, there was a mass in the local church near by the house of the victim. An hour before the mass the assembly of the arbiters – *kmeti*[37] (*tribunal spécial*, érigé *spontanément*) (Sommières, 1820, 342) – met and estab-

37 Kmeti means *peasants*, but in this case they are arbiters (n. a.).

lished the amount of damage caused by both parties. The document does not provide the exact number of the casualties and the wounded on both sides; it does, however, explain some general characteristics already mentioned in the previous example, adding that the compensation for the chieftain or the priest is sevenfold in comparison to the compensation for a common person.

When the damage is compensated, the party that caused greater damage (i.e. that killed one man more than the other party) has to pay the remaining compensation in money. Sommières also explains that the compensation system of damage assessment and determination of compensation of the Montenegrins formed in a far distant past (*un temps immémorial*) (Sommières, 1820, 344).

After the verdict of the arbiters and the mass a public reconciliation ceremony takes place in front of all the members of the community. The ceremony is based on an act of public (self) humiliation of the wrongdoer or of a prominent representative of the community of the wrongdoer's that caused greater damage.

After leaving the church, the believers formed two half-circles in front of the church, while the *kmeti* stood separate from the crowd. The *kmeti* were led by the priest (*pop*), who stood in the middle of the scene. Then, similar to the previous example, the wrongdoer slowly approached the group, barefoot and without a cap, creeping on all fours. There was a long gun on a strap hanging on his neck .[38]

Initially, there was a great silence, then the *pop* intervened, and explained to the assembly that the offender had accepted their verdict. Then, the pop turned towards the offended party and asked if they renounced the vengeance and animosity. "The injured was upset, tears were running down his cheeks, he thinks, looks at the sky, he sighs, still hesitating, his soul seems to be overwhelmed by thousand emotions." Everyone began to persuade him and plead for him to accept the reconciliation, but he answered that he was not yet completely ready. Meanwhile, the offender was still waiting in the humble position, placed on all fours. Again a great silence took place. Then the *pop* approached the injured, whispering something in his ear, and then lifted his hand towards the sky.[39] The offended looked upwards, without uttering a word. At that very moment, his heart opened and the anger ran out of his soul; he extended his hand towards his enemy, who was observing him, extended the other hand towards the sky and said: "The great God is my witness, I have forgiven him!"

38 Boehm, while describing a similar case witnessed in 1890 when visiting Grbalj in Montenegro by Pavel Rovinskii, a highly competent Russian ethnographer. Rovinskii (Pavel Apollonovich Rovinskiĭ, 1901) additionally added "it is always a long gun, for a greater effect, even if the murder was just by pistol" (Boehm, 1984, 136).

39 Comparing a similar example, provided by White when attempting to reconstruct the ritual of reconciliation, which included the presence of the local abbot, the ceremony was described as follows (White, 1986, 256): "After Bernier's offer of peace had been emphatically rejected by Gautier, the abbot of Saint Germain suddenly appeared, carrying relics, and after recalling how Christ had pardoned Longinus, he not only urged Gautier to accept Bernier's offer of peace, but also warned this kinsman of Raoul's that he would be condemned by all if he did not make peace. The abbot then persuaded Bernier's elder kinsmen to kneel before Gautier and Guerri and offer them their swords as an act of submission. The abbot assured them that their sins would be pardoned, if they were reconciled." We can only speculate that somethig similar might have been whispered in the ear of the Montenegrin man by the *pop*.

Fig. 17: Acte de reconciliation publique, L'Univers Pittoresque, 1856. (http://www.ebay.com/itm/1856-print-RECONCILIATION-OF-BLOOD-FEUD-VENDETTA-MONTENEGRO-25-/401190719118?_ul=AR)

The two former enemies shook their hands and stood facing each other for a long while. Everyone began to applaud and the applause echoed in the air as the main actors embraced in confusion and then kissed each other.

The ritual of (self) humiliation was the first rite and the most important part of the compensation for the loss of honour that was suffered by the offended. After this act the offended not only forgave the offender for his trespass, but also renounced the claim for the compensation payment.

This act was followed by a great celebration, which gathered all the members of the community and which was prepared at the expense of the offender's group. During the event a lot of meat, brandy, wine, bread, pastry, cheese, honey, and other delicacies were served and a celebration with singing and dancing lasted until late at night. The participants left with salve gunshots, which sometimes lasted up to an hour and echoed throughout the land. Each one, while leaving for his community, shot for as long as he had any ammunition. "All the reconciliations ended in a rather similar manner" concludes Sommières (1820, 353).[40]

40 Cf. Regarding the celebrations after disputes between Istrian cities in the 13th century Mihelič, 2015, 309–332.

As we can deduce from the Montenegrin documents and the described cases, the offender had to repent himself twice, humiliate himself, and ask for forgiveness; firstly for the truce to be made, and secondly for the reconciliation act after the arbitration. The perpetual peace was always confirmed with a kiss of peace, as already stated by Rolandino (Rolandino, 1546, 158–159; cf. Petkov, 2003).

CONCLUSIONS

As is evident from the example above, the arbitration always determined the compensation for the damage. The damage suffered by each side was compensated, while the party that caused greater damage had to pay the compensation. All feuds, however, did not conclude in a similar manner, but reconciliations were probably more frequent than today, in the modern judicial system, where law feuds only provide a winning and the losing party.

The ritual of humiliation in the system of conflict resolution is manifested in at least two forms: while the humiliation between socially equal individuals assumes the form of a gift exchange, among socially unequal individuals (i.e. against a more powerful adversary) it also assumes the role of public challenge, a call for the commencement of the dispute settlement and for the reparation of injustice.

The reconciliation ceremony itself, likewise the first – for compromise and truce, as the second – for lasting peace after the arbitration, shows the general structure of the ritual, even, for instance, in the investiture of knights and notaries and even in modern wedding ceremonies (cf. Darovec, 2015, 53–67) it is divided into 3 phases:

1. The **homage**, the gift/an offer of serfdom, an acceptance of serfdom/an offer of an engagement ring, an acceptance of a ring/the counter-gift, the reciprocity: offense, counter-offense – penitence, compromise; always expressed by the gesture of humiliation (*immixtio manum – flexibus genibus*).
2. Swearing an **oath** (on bible, cross, stone …): truce (*tregua*)[41]/the betrothal – the swearing of fidelity; the oath of truce/friendship.
3. The concluding act: **investiture** (with sceptre, sword, ring …)/a wedding ceremony, the kiss / the deliberation of peace (*amor*), also concluded with the *kiss of peace* (*osculum pacis – amor*), which often leads to *marriage* or at least to godfatherhood and brotherhood between the representatives of the feuding parties.[42]

41 Rolandino, 1546, 158v: *fidancia seu treuga*.

42 An interesting example from 1785 is provided by Miklosich, 1888, 190–194, describing how two Montenegrin tribes decided to reconciliate before the Venetian authorities after a long-lasting feud. (The coastal areas of Montenegro were a part of Albania Veneta). The compensation was exclusively given in the number of the necessary fraternities and godfatherhoods, which would be the waranty for peace. The presence of the Venetian authorities is also interesting in this case, whereas in other Venetian countries, in accordance with the policy of centralization of the (judicial) authority, such practice had been forbidden, persecuted, and punished at least for two centuries before that date. Cf. Povolo, 1997, esp. 147–227.

Fig. 18: Vialla de Sommières: Voyage historique et politique au Montenegro, Acte de la réconciliation publique, 1820, p. 338 (Wikimedia Commons, VDS pg390 Act de Réconciliation publique devant le Tribunal du Kméti.jpg)

The ritual begins and ends with reciprocity and with community mediation. The ritual of homage was applied in religious as well as in administrative and legal matters; through humiliation/humility it expresses the system of values, or a mirror of norms in societies, and thus the system of conflict resolution had in fact the role of social cohesion.

Is this really only a myth and illusion? The myth of religion preventing violence? At first glance the image of the reconciliation ritual might seem idealised, but it obviously worked well in practice,[43] which is evident from numerous cases throughout the medieval Europe.

What happened to this (customary) system of conflict resolution? Why nowadays do we have such a negative and stereotyped image of revenge, seeing it as an uncivilized basic instinct, which we believe was never typical for the European West, but at best for some of the marginalized areas in the Mediterranean and especially for the wild African and Australian tribes?

43 See regarding the link between *ideal order* and *the order of lived experience* in Rouland, 1992, 175–203, esp. 181–186. Cf. also the case of family Corradazzo from 16th Century Friuli in Povolo, 2015b, 15–45.

When in the early modern period a modern state gradually formed in all the European countries, the centralization of authorities over such territory was established through a judicial system and hierarchical apparatus for the effective collection of taxes and the organization of the army, with the legitimate monopoly to exercise violence in the name of the Ruler (see Machiavelli, 1532), the revenge and mediation of the community was assumed by the state, including the ritual of humiliation. The ritualized public executions in European towns between the 16th and 18th centuries, so vividly described by Michel Foucault (Foucault, 1975, 8–35; cf. Farr, 2000), are the best confirmation. Even within them we can see a three-phase ritual, but with one essential difference: instead of the reconciliation, the compensation for the damage done and lasting peace in the community, which satisfies the victim and allows the perpetrator to reintegrate in the society, the state removes the delinquents from the community, condemning them to the galleys, to banishment or to death penalty. While the customary system allows the conflicting parties to decide to resolve the conflict according to the principles of restorative or retributive justice, the modern-age state only knows the principle of retributive justice. It was accordingly necessary for the customary conflict resolution system to venture into oblivion.

TURPITER INTERFECTUS. THE SEIGNEURS OF MOMIANO AND PIETRAPELOSA IN THE CUSTOMARY SYSTEM OF CONFLICT RESOLUTION IN THIRTEENTH-CENTURY ISTRIA*

THE *VENDETTA*

"After Carseman and Henry of Pietrapelosa horribly murdered (*turpiter interfectus*) Biaquino of Momiano, Seigneur Count [of Gorizia], the people of Koper and Seigneur Conone, the victim's brother, attacked and destroyed the Castle of Pietrapelosa. And the authors of the misdeed were beheaded."[1]

Freely translated, this is how the paragraph of the attachment to the peace treaty between the Patriarch of Aquileia, Raimondo della Torre, and Count Albert I of Gorizia and Istria, dated 19th August 1274, read. This treaty is recorded in nine densely written pages in the Istrian Diplomatic Codex of Pietro Kandler (CDI, II, 361, 596–604), which describes with precision the turbulent events of the second half of the 13th century in Istria.

Lasting peace (*pax et concordia perpetua*) was declared on 9th June 1277, following the feud over Koper that broke out in July 1267 between Count Albert I of Gorizia and the Patriarch of Aquileia, Gregory da Montelongo. The people of Koper, who had opposed the Patriarchs of Aquileia since the outset of their temporal power in Istria (1208), felt that the time had come to gain their independence from Aquileia and assert their dominion over other Istrian cities and towns. In fact, Koper had already formed an alliance with Piran, while Izola, Muggia, Umag, Novigrad, Buje, and Motovun seemed to support its intentions (De Franceschi, 1939, 89).

The blood feud of the Seigneurs of Momiano against the Seigneurs of Pietrapelosa represents only one aspect of this decades-long saga. But it clearly also represents the high point of the rise of these two families, who took their name from their places of residence, Momiano and the Castle of Pietrapelosa, where above all in the last half of the 13th century they were responsible for social-political conditions in the Istrian peninsula, as well as in Friuli, the Karst and in certain zones of nearby Carniola.[2]

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1 *Item quando Dominus Biaquinus de Mimiliano fuit per Carsemannum et Henricum de Petrapilosa sic turpiter interfectus, tam Dominus Comes, quam Justinopolitani, et etiam Dominus Chono Frater occisi expugnaverunt Castrum de Petrapilosa, et illud comuniter destruxerunt. Illos autem malignos qui tam nefandam rem fecerunt decollati fuerunt.* (CDI, II, 361, 602).

2 There are published studies on both the Seigneurs of Momiano and those of Pietrapelosa: on the former, I refer to the article by De Franceschi (1939) and Štih (2013); for the latter, see Darovec (2007).

THE EXPANSION OF KOPER IN THE 13TH CENTURY

Thirteenth-century Istria was characterized by a multitude of conflicts. It was the site of merciless battles between the Patriarchs of Aquileia, supported by their vassals, the most important of whom were the Counts of Gorizia, and the most influential Istrian seigneurs such as the Seigneurs of Momiano and of Pazin, the Castropola and the Pietrapelosa, as well as the developing urban centres – which boasted the first collections of written laws (statutes) – and Venice, which thanks to its commercial monopoly had taken control of the Istrian towns loyal to her. The King of Bohemia, Ottokar II, held an important role also thanks to this feud, but by the end of the century the influence of the Habsburg politics of seaward penetration was making itself felt, especially in this, the northernmost part of the Mediterranean.

Their favourable maritime position and the trade opportunities found in the towns of Istria had attracted a continual flow of money and consequently created economic and political independence. Thanks to various land grants in favour of the Istrian bishops, the cities with bishop's sees such as Trieste, Koper, Novigrad, Poreč, Pula and Pićan had spread inwards, taking possession of the peninsula hinterlands so important for food provision and defense.

In northern Italy the various forms of autonomous town government gave proof of their capacity for military mobilization, especially in the Battle of Legnano of 1176, when the town militia defeated the feudal army of Friderik Barbarossa, who was consequently forced to allow and confirm the autonomous government of the towns. From that moment town autonomy grew, organizing itself around the figure of two or more consuls (called Podestà), initially taken from the ranks of the most influential local inhabitants and later,

Fig. 19: The Battle of Benevento between Guelfs and Ghibellines, 1266, miniature in the Nuova Cronica of Giovanni Villani (Wikimedia Commons. File: Villani Benevento.jpg)

after the spread of the practice of favouritism, from that of non-local legal and administrative officials. In the 13th century, the Podestà elected by the local population was prevalently Venetian, while the Patriarchs of Aquileia did their best to have Istrian and Friulian nobles loyal to them elected to this office. In this century the right to freely elect the Podestà constituted the foundation of town self-government (De Vergottini, 1925, II).

In the years of the last lay feudal Istrian seigneurs, those of the Spanheims and the Andechs-Meranias, Istrian towns freely elected their rulers. Moreover, the towns had the power to stipulate trade agreements even "over a great distance", as for example Piran did with Ragusa in 1188 and with Split in 1192, and Poreč, with Ragusa in 1194. They also could autonomously resolve conflicts, as happened in the case of the peace treaties between Labin and Rab and between Piran, which was threatened by the troops of Koper, and Rovinj (1210).

It was the Patriarchs of Aquileia, to whom Istria was granted as a feud by the emperor in 1208,[3] who limited most of the decision-making rights of the towns. Indeed, the Patriarch Volfero started to appoint his own representatives to the towns and larger villages. For a certain time, the "*potestas marchionis*" resided in Koper, with its seat in the Palazzo dei Pretori; while in Pula there was the "*comes regaliae"*. Later the administrators, named by the Patriarchs of Aquileia, were called main stewards (*generalis gastaldus*), judges (*richtarius*) and margraves – marquis (*marchio*).

Though power over all of Istria was exercised by a marquis, the possessions of the counts of Gorizia in central Istria and those of the counts of Duino on the Quarnero were excluded from the jurisdiction of the Patriarchs of Aquileia. However, in 1220 the Patriarch of Aquileia Bertoldo Andechs obtained from the emperor the right to enact measures regarding trade, exercise judiciary power, concede grace, mint coin, as well as to forbid the towns to elect the ruler – Podestà (especially if he was a Venetian citizen) without the Patriarch's prior assent.

Since in the marquisate of Istria the politics of the Patriarchs aimed at constituting a totally new central power, the realization of this design inevitably led to the rebellion of the towns on the west coast and to conflict with Venice. Thanks to the support of Koper, in 1230 Venice succeeded in creating a pan-Istrian law, called *Universitas Istriae,* with a Venetian at the head. This league dissolved one year later, also because of Koper's attempt to impose itself over other towns. In 1232 the Patriarchs occupied Pula, while in 1238 they managed to have Koper on their side. In Pula the Patriarchs gave broad powers to the Sergi family, naming Nassinguerra de' Sergi ruler and administrator of the possessions of the Patriarch in the town's surroundings. This policy led Pula to a conflict with Venice in 1242. In the peace treaty the town promised to accept a Venetian citizen as ruler and to rebuild the town walls only after obtained Venice's permission.

The situation in Istria grew particularly tense in the second half of the 13th century, when Gregorio da Montelongo (1251–1269) became Patriarch of Aquileia. Though it had been weakened in the provinces, the Patriarch's authority was still able to influence

3 As the ecclesiastic and secular authority at the time of this fact, the Patriarch of Aquileia represented a unique example in the organization of power. For fuller details, see Scarton (2013).

politics in the towns, especially considering that this Patriarch was a nephew of Pope Gregory IX and at the same time also the head of the Guelph party in northern Italy. His contemporary and acquaintance, Salimbene, described him as *Homo magni cordis et doctus ad bellum* (De Vergottini, 1925, 8). That he was expert in the arts of war was shown in his military campaigns, as we shall see below. However, in those years the main protectors (lawyers) and vassals (ministerial) of the Patriarchs of Aquileia were the counts of Gorizia, who were generally loyal to the Ghibelline party and the imperial crown.

Initially the Patriarch upheld Koper's role against Trieste and the southernmost coastal towns and the towns of the hinterland. In 1254, he granted Koper jurisdiction over Buje, Oprtalj, Buzet and Dvigrad. In the same year Koper, at war with Trieste, conquered the lands of Trieste between Osp and Rachitovich, thereby consolidating its influence over Piran and Muggia.

THE PATRIARCH, THE COUNT, THE VASSALS AND THE CITY OF VENICE

At that time, using the same strategies used for a military campaign, alliances that went beyond the offices they held were often made between individuals. This was especially true of many small feudatories, or vassals, who supplied troops necessary to their Seigneurs. But these alliances were clearly often overlapping. Self-interest led to relatively important shifts from one side to another, with the consequent loss of loyalty to the Seigneurs.

This was indeed the case of the two Istrian families, vassals of Aquileia, who are the object of our study, i.e., the da Momiano and the da Pietrapelosa families.

The Seigneurs of Momiano were in origin a branch of the Seigneurs of Duino, who were among the most powerful vassals of Aquileia. Voscalco, founder of the Seigneur of

Fig. 20: Aquileia. Gregory of Montelongo (1251–1269). Coin with eagle. Monete e Medaglie di Zecche Italiane. Bernardi 22. AG. g. 0.99 R. BB. (http://www.icollector.com/Aquileia-Gregorio-di-Montelongo-1251-1269-Denaro-con-aquila)

Momiano, was mentioned for the first time as *Wosalcus de Mimilano* in two documents of 1234, along with his two sons, Cono and Biaquino. They were important vassals and ministeriales of Aquileia, in origin faithful to the politics of that town, which produced important benefits for them. Indeed, the two brothers held the office of Podestà in several Istrian towns: Cono in Piran (1259, 1272) and in Buie (1272); and Biaquino in Novigrad (between the years 1259 and 1261), Poreč, (1261) and Motovun (1263). However, in those very years the two brothers of the Momiano house were already in contact with the Count of Gorizia. This is demonstrated not only by the mention of their names in a series of acts in which the Count of Gorizia is also named, but also by family ties that had linked the Seigneurs of Momiano for fully two generations with the Seigneurs of Rifembergo, in the hinterland of Gorizia, one of the most important ministeriales families of the Counts of Gorizi. In fact, in 1249, Biaquino da Momiano took as wife Geltrude, daughter of Ulrico I of Rifembergo (Štih, 2013, 171–172).

The Seigneurs of Pietrapelosa were also vassals of Aquileia, but documents of the time show that they were supporters of Gorizia at well. During the 13th century the family had control of the Quieto and consequently control over the defense of the peninsula. Its possessions spread to the north and the south of the upper course of the Quieto and included Grožnjan and Motovun. In the first two decades of the 14th century, Vicardus II of Pietrapelosa was the lord of Raspruch. The family had widened its sphere of influence

Fig. 21: Coat of arms of the County of Gorizia. Hans Ingeram. Codex d. ehem. Bibliothek Cotta, 1459 (Wikimedia Commons. File:XIngeram Codex 091b-Görz.jpg)

over Pazin with the marriage of Elisabeth, daughter of Vicardus I of Pietrapelosa (Marsich, 1869, 12), to Henry of Pazin. Vicardus II later became the guardian of Henry II of Pazin (Bianchi, 1847, 337) and governor of the possessions which under the Habsburgs constituted the essential nucleus of the principality of Pazin.

The name of the feudatory of Pietrapelosa (Vulingius de Petra Pilosa) is mentioned for the first time as a vassal of Aquileia in a document dated in Aquileia, 18th December 1210 (Kos, 1928, 166), in which he is numbered among those that the Patriarch Volchero (or Wolfger) wanted to accept the pact between the Patriarchy and the inhabitants of Piran against the Istrian rebels – in this case Koper, whose territorial claims led to its isolation and long decline.

The historical sources mention Vicardus of Pietrapelosa, Seigneur of Grožnjan, in the context of Koper's rebellion against the Patriach, which occurred on the 13th January, 1238 – more precisely, in an agreement sign at Cividale (Kos, 1928, 715) on the 3rd July 1239 between the Patriarch of Aquileia and Meinhard, Count of Gorizia (Kos, 1928, 685), in which the latter is granted the freedom to elect the Podestà in Istria or in Friuli, but not elsewhere, without the assent of the Patriarch of Aquileia. This occurred despite the fact that in a previous agreement between Berthold, Patriarch of Aquileia, and the representative of Koper, Koper had yielded to the Patriarch's demands regarding the appointment of the Podestà. This had been confirmed by Emperor Frederick in October, 1238, and a visit of the Patriarch concerning the revision of the statute had been announced (Kos, 1928, 696).

Fig. 22: The Castle of Momiano (photo: D. Podgornik, 2007)

Vicardus of Pietrapelosa is also mentioned in Venice in 1253 and in Pazin in 1255, where with the surname "da Grožnjan" rather than "da Pietrapelosa" (Weisflecker, 1949, 155–156, 164, in: Klen, 1977, 13) he appears as a witness, or better representative, of the Count of Gorizia. In a document of Motovun dated 20th August, 1256, it emerges that Carseman, Baron of the Castle of Pietrapelosa and a vassal of the Marquis of Istria (CDI, 20 Aug. 1256), was Podestà of Motovun.

Henry of Pietrapelosa, along with Henry of Pazin and Philip of Kožljak (Cosliacco), in the role of ministeriales of the Count of Gorizia, is mentioned in two documents written in Buzet on 20th March, 1264. These documents show his involvement in re-establishing relations between the Patriarch of Aquileia and the Counts of Gorizia, Meinhard and Albert (Joppi, 1885, 31–35). On 13th July, 1264, Henry of Pietrapelosa was present in Muggia when the Patriarch Gregorio of Montelongo granted Henry I of Pazin and his wife Elisabeth of Pietrapelosa (daughter of the deceased Vicardus of Pietrapelosa) and their children the feud of the Castle of Lupoglav (*castrum de Lupoglau*) and upper Lupoglav (*Ober Lupoglau*), situated below the Castle, five farms at Dobrepolje near Ilirska Bistrica (Villa del Nevoso) and some other possessions in the Windic March (Schumi,

Fig. 23: The Castle of Pietrapelosa (photo: D. Podgornik, 2007)

1882–1883, 1884–1887), which Henry of Pazin and Cono of Momiano confirmed in the name of their offspring already born and yet to be born. This might prove that the da Momiano and the da Pietrapelosa families were also related. In any case, it did not prevent the violent conflicts that broke out in 1267, probably also caused by contrasting family interests. In which case, as the sources seem to indicate, this was an authentic feud between the Patriarch of Aquileia and the Counts of Gorizia with their allies.

So, we ask, what actually happened?

THE FEUD AND THE VENDETTA

The situation was particularly aggravated in 1267 when Koper besieged Poreč and other places in Istria. The Patriarch tried to limit Koper's expansion with the help of Albert, Count of Gorizia, obliging him, along with several ministeriales of the Patriarch, to take a solemn oath (in Cividale on 3rd July, 1267) against the citizens of Koper. Among those who took the oath was Cono of Momiano, and Biaquino of Momiano was also among the witnesses present (CDI, II, 346, 569–570).

Though by this oath Count Albert had solemnly promised in a public act to support the Patriarch with all his troops in the exploit against Koper, he then proceeded to make an alliance with the town of Koper against the Patriarch. This iniquitous U-turn of Count Albert, who betrayed Patriarch Gregorio, moving troops against him, was decided only a few days after swearing to support him – a veritable dream for the people of Koper and a nightmare for Gregorio, Patriarch of Aquileia.

The primary objectives of this new alliance of the towns of Koper, Izola and Piran with Albert, Count of Gorizia, were the small fortresses situated along the upper courses of the tributaries of the river Quieto. Under Albert's guidance the troops of Koper, united with those of Piran and Izola and those of Cono of Momiano, first destroyed the Castle of Castelvenere and the Tower of Buzet, and then, with the intention of razing them to the ground, attacked at least five more neighbouring castles (Witsperch, Musche, Wisnavich, Zazilet, Muscardi). Then, on the night of 20th July, 1267, Count Albert and his brother, Count Meinhard, captured Patriarch Gregorio in his bed at Villanova near Rosazzo and dragged him barefoot on a nag to Gorizia,[4] where they held him for over a month (CDI, II, 361, 602; De Franceschi, 1939, 89; Greco, 1939, 33).

This action clearly gave some breathing time to the troops of Gorizia and Koper, who were joined by other Istrian notables, including the vassals of the Patriarch, among whom there was once again Cono of Momiano. Cono certainly had an ulterior motive for taking an active part in these preliminary skirmishes, which were followed by the above-mentioned assault of the fortified town of Pietrapelosa and the beheading of Carseman and Henry of Pietrapelosa: i.e. to revenge the murder of his brother Biaquino. As we shall see later on, in

4 *Captus fuit venerabilis pater Gregorius patriarcha Aquilegiensis per nobilem virum Albertum comitem Goritiae apud Villam-novam sub Rosacio in aurora diei, dum erat in lecto, et nudipes ductus fuit Goritiam in uno roncino anno Domini 1267. die Mercurii,12. exeunte Iulio; nullo alio capto praeter Iohannem Lucensem et paucis aliis vulneratis.* (AF, 197).

Fig. 24: Abbey of Rosazzo – detached fresco in the church (Wikimedia Commons. File: Rosazzo - fresco 2.jpg)

this conflict the murder of Biaquino was clearly closely connected to the first attack against Castelvenere. This reprisal was followed by the assault of the Castle of Kršan (Chersano, *Castrum Carsach*) (Štih, 2013, 133) in Istria; but when Count Meinhard "arrived in Udine [...] with his troops, he set many fires and the booty was so great that Count Albert couldn't even imagine it", as our source picturesquely describes the scene. Other assaults on fortified towns were made successfully in Istria, Friuli and the Karst Plateau (CDI, II, 361, 602).

The chief goal of the alliance was the conquest of the entire peninsula. Besides destroying numerous properties and redistributing political power in the Istrian hinterland in favour of the counts of Gorizia, this conflict led to another change: some Istrian towns and lands put themselves under the care and protection of Venice. Under the pressure of the troops of Koper and Gorizia, that first to do so was Poreč, on the 27th July, 1267. Although the alliance between Koper and the Count of Gorizia weakened liberties and autonomies, other Istrian towns followed the example of Poreč. Among these were Umag (1269), Novigrad (1270), Sveti Lovreč (1271) and later also Motovun (1275). Even though by these agreements the towns did not "transfer" sovereignty, which still remained in the hands of the

Fig. 25: The Castle of Pietrapelosa (photo: D. Podgornik, 2007)

Patriarchs of Aquileia, but "[...] entrusted themselves to the Venetians in protection and defense", they succeeded in preserving their municipal autonomy, balanced by the powers exercised by the Podestà chosen from the Venetian aristocracy (De Vergottini, 1925, 22).

Considering the course of events, it could be argued that this was a classic case of feud as described by Otto Brunner (Brunner, 1939) known to us in a vast literature.[5] Particularly interesting is the fact that all the vassals of the Patriarch of Aquileia were also materially involved in these encounters, to the extent that the Count of Gorizia, the main vassal of the Patriarch of Aquileia, even broke his oath of alliance in order to side with Koper.

In this type of feud single vendettas (of blood) were the rule rather than the exception. They were usually resolved through arbitration, which took into account all the damage caused by both sides. The fact investigated here shows some further curiosities. Another clarification is offered by a relatively marginal comment made by Seigneur Pašpental (Štih, 2013, 175–179) in the medieval document on the resolution of property lines (*Istarski razvod*) (Bratulić, 1989, 149–150)[6] between Castelvenere, Momiano and Piran, "[...] and these

5 See detailed analyses complete with bibliographical references in Povolo, 2015, 195–244.

6 This particular document is conserved only in the Glagolitic transcription of 1502. Some have denied the authenticity of the document. See De Franceschi,1885, 41–118, but a more recent study of Bratulić indicates a collection of various authentic acts of reconfining in Istria in the period between 1275 and 1375 (Bratulić, 1989, 6–12). Without doubt, the document was chiefly drawn up because of this feud in the years 1267–1277.

confusions, which you have started, after abandoning and repudiating your legitimate Seigneur, and slaughtered him in his own bed, and exterminated his heirs and posterity, and subjected yourselves to a new lord, […].” (CDI, II, 364, 644).[7] According to several authors, this citation refers precisely to the “*turpiter interfectus*” that involved Biaquino of Momiano in July 1267 (Benedetti, 1964, 7–8).[8] The fact that the first attack made after the agreement of 3rd July, 1267 (between the Patriarch and the Count of Gorizia against Koper) was against Castelvenere suggests that the change in alliances within the structure of vassalage of the Patriarchs of Aquileia was of considerable significance. The events that followed also lead us to conclude that from the start of the conflict between the Patriarch and the allies of the Count, the Seigneurs of Momiano were completely on the side of the latter, while the Seigneurs of Pietrapelosa remained loyal to the common Seigneur, the Patriarch of Aquileia. It was probably the change in alliances that caused the intervention of Carseman and Henry of Pietrapelosa against Biaquino of Momiano. It would seem that Carseman and Henry of Pietrapelosa – at the time allies of the Patriarch – convinced some inhabitants of Castelvenere to show them the road to the Castle of Momiano, in order to reach Biaquino of Momiano’s bed and strangle him, as we read in the citation from the *Istarski razvod* quoted above.[9]

But was it really this event that led Counts Albert and Meinhard of Gorizia to disrespect the alliance with their Seigneur, the Patriarch of Aquileia, and to give them the pretext for joining forces against him? Unfortunately, the documents do not allow us to establish this for certain, though the evidence points in this direction. Indeed, independently of the circumstance that at the time the Counts of Gorizia were certainly among the most influential feudal lords in the region, in the system of conflict resolution in force in those years there had to be a justified motive for the cancellation of an agreement or for a challenge – or “revolt” – against the lord.

The fact is that at that time the Seigneurs of Momiano were the most authoritative persons in the area. As vassals of Aquileia, they undoubtedly exercised great influence over the nearby towns, where they held the office of Podestà even against the wishes of Venice, and above all over Piran, which in that period was a declared ally of Koper and Izola. Though no specific document exists, it is still legitimate to suppose that in the days immediately preceding and following the solemn oath of 3rd July, 1267 (concerning the alliance of the Count of Gorizia with the Patriarch of Aquileia against Koper, which several ministeriales of the Patriarch had also joined, including, as we have

7 In the Glagolitic document: *“A te zmutnje ke vi jeste oblikovali pokle se jeste vašega pravega gospdina odvrgli i njega na postelje zaklali i njega red zatrli,* [...]” (Bratulić, 1989, 149–150).

8 In note 16 the author mentions the resolution of the Istrian borders, when the borders were set between Castelvenere e Momiano, then property of the Pašpental, accusing the castellans of murdering the legitimate Seigneur.

9 There are those who would certainly have liked to complicate this story still more and make an even more tragic picture of it by claiming that Pietrapelosa actually castrated Biaquino in his bed (cf. http://tibor-pula.bloger.index.hr/post/Momiano--kastel-momjan-castrum-mimilianum/14363467.aspx#at_pco=cfd-1.0). But on the sole basis of the definition “horrendous crime” (*turpiter interfectus*) committed at the beside, it is not possible to confirm this hypothesis. In the epoch of conflicts among knights, a vile murder in the heart of the night, thanks to the betrayal of serfs, when the victim cannot defend himself as a knight, is without doubt a terrible homicide.

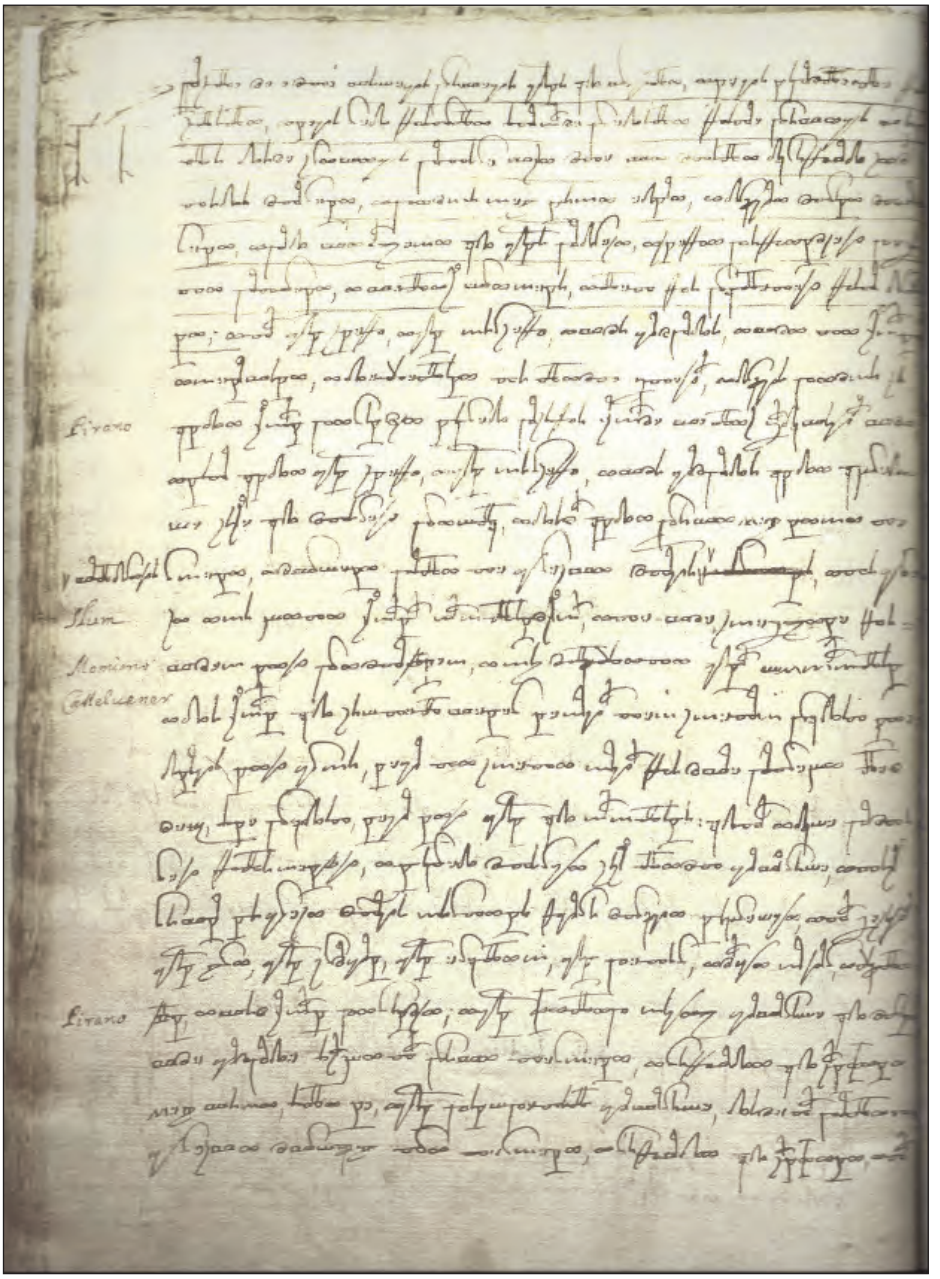

Fig. 26: Page of the Glagolitic manuscript that refers to the "turpiter interfectus" concerning Biaquino da Momiano in July 1267 (Bratulić, 1989, 31b)

said above, Cono of Momiano who took the oath along with Biaquino of Momiano) there had been considerable intense and lively diplomatic activity, since the alliance with Koper succeeded in shifting the balance in favour of that town. Considering the later developments, it seems legitimate to conclude that it was chiefly the Seigneurs of Momiano who tried to persuade the Count of Gorizia to join the alliance with Koper against the Patriarch, and that this is the reason why the Patriarch sent the Seigneurs of Pietrapelosa, who were loyal to him, against the Seigneurs of Momiano. No doubt Cono of Momiano was so lucky as not to be in the castle at that moment, and so Biaquino was killed in his stead. This event was evidently a sufficient and justified reason for breaking the solemn oath, and so for starting a feud.

These events shed particular light on the peculiarities of medieval feuds, which were characterized by frequent changes in alliances and founded on a network of family relations and spheres of interest in conflict over the exploitation of natural and human resources. And these circumstances also clarify the specificities of the system of conflict resolution in that age.

CONFLICT RESOLUTION

The captivity of Patriarch Gregorio of Montelongo, as well as the conflicts and destruction that resulted until he was released on the 27th August 1267,[10] was the main reason for a series of truces between the Count of Gorizia and the Patriarch of Aquileia in the following decade. Until a lasting peace was declared (*pax et concordia perpetua*) on June 9th 1277 between Patriarch Gregorio's successor, Raimondo della Torre, and Count Albert of Gorizia, there were litigations and conflicts, compromises, truces, arbitrations and on-the-spot investigations. Below we examine 10 documents about the feud between the Patriarchs of Aquileia and the Counts of Gorizia and their allies, though the capture of the Patriarch remains the main offense:

1. *Compromisso* of the Patriarch (Aug. 1267) (AKG, 29, C, 114–115).
2. First *Compromisso* of the Count (25 Aug. 1267) (FRA, 87–90).
3. Second *Compromisso* of the Count (26 Aug. 1267) (AKG, 29, CI, 115–117).
4. *Truce* (Patriarch) (Aug. 1267) (AKG, 29, XCIX, 112–113).
5. *Compromisso* (after the murder of the Patriarchal vice-dominium and the destruction of the bridge over the Isonzo by the Patriarch) (30 Aug. 1268) (AKG, 22, 377; cf. AF, 197).
6. *Pax in forma conventionis pro bono pacis et concordie – fidantia seu treuga* (18 Aug. 1274; addition 19 Aug. 1274) (CDI, II, 361, 596–604).

10 Redemptio Gregorii patriarchae. *Gregorius patriarcha Aquilegiensis anno 1267. die quinta exeunte Augusto exivit captivitatem dicti comitis Alberti Goritiae, et conductus fuit Civitatem; procurato tamen per venerabilem patrem Wlotislaum archiepiscopum Salspurgensem cum ipso domno patriarcha, dum erat in captivitate, et cum Foroiuliensibus ex parte una et cum dicto comite ex altera, quod fuit per partes compromissum in ipsum archiepiscopum et domnum regem Bohemiae et postea confirmatum* (AF, 197).

Fig. 27: The Castle of Momiano (photo: D. Podgornik, 2007)

7. *Truce* (hostility as before) (2. Oct. 1274) (AKG, 22, 401).
8. *Truce* between the Patriarch of Aquileia Count Albert of Gorizia and truce between the Patriarch and Koper (24 Feb. 1275) (CDI, II, 363, 606–609).
9. *Concordia – compromisso* (*de damnis hinc inde illatis postquam facta fuit praedicta pax*;) (13 May 1277) (AKG, 24, 429).
10. *Pax et concordia perpetua* (9 June 1277) (AKG, 24, 429).

The documents relative to these events clearly illustrate the chief features of the system of conflict resolution. In this period, with the rise of medieval towns there arose the scholastic structures and especially the universities that contributed significantly to the spread of writing as a technological-cultural means for the consolidation of power (cf. Goody, 1993). Moreover, this is the period in which so-called common law drew inspiration from the heredity of Roman law, which in that age had come back in vogue, and from a series of legislative dispositions of Germanic laws, if we can call them that, in agreement with the collection *Monumenta Germaniae Historica* [11], as well as from the specificity of city law, in particular from customary law (Bellomo, 2011). The case of the

11 I should like to emphasize that my research on this topic would have been far more difficult if in the last few years important collections of medieval documents had not been published online. They are available MGH, AKG, AF, FRA. In MGH the entire repertory of medieval legislation can be found.

conflict between the Patriarch of Aquileia and the Count of Gorizia is one of the examples of how common law was being formed.

An evaluation of these documents is therefore of great interest in order to understand how unwritten customs influenced the formation of written law in the social system of conflict resolution. First of all, it is possible to affirm that all the documents examined concerning that conflict were drawn up and adequately named according to notary rules, i.e., in agreement with the indications given to notaries by the famous Bolognese notary and judge, Rolandino de' Passaggeri,[12] in the middle of the 13th century. His monumental collection of norms and interpretations, which served mainly for university education and further training for the education of notaries, until today has been used only by notary scholars (Tamba, 2002) while legal historians are practically unaware of its existence. The printed version was published in 1546 in Venice in 1,186 large-format pages. It furnished an impressive quantity of legal suggestions and concrete examples for drawing up all types of written contracts known up to that time. In the sixth chapter, entitled *De Compromissis,* arbitration documents and drawing up treaties of peace and agreement (*pax et concordia*) are examined (Rolandino, 1546, in: Anastatic reprint, 1977, 147–159).

The military encounters that are the object of our study for the most part took place from 3rd July to 27th August 1267 (AF, 197),[13] when Counts Mainhard and Albert of Gorizia freed the Patriarch Gregorio from prison. At this point is would be useful to stress that these battles involved a large number of European personalities of the time, since the Bohemian king Ottokar II Přemysl, who during the imperial *interregnum* was undoubtedly the most powerful sovereign in this region, took interest. Thanks to his diplomatic skill and his resourceful politics, along with the Czech crown Ottokar II also won the titles of Duke of Austria (from 1251), Duke of Styria (from 1261) and Duke of Carinthia and Carniola (from 1269). What is more, in 1272 he was appointed General Captain of Friuli, thereby becoming *de facto* administrator of the Patriarchy of Aquileia and so of Istria. Thus, his power extended from Bohemia to the Adriatic until the time of his defeat at the hand of Rudolph of Habsburg in the Battle of Marchfeld on 26th August 1278. Therefore it comes as no surprise that these events were also carefully followed by the Venetians[14], and in two letters of September and October 1267, even by Pope Clement IV in person, when he thanked King Ottokar for intervening in this conflict (AKG, 22, 375).

These documents testify to the extensive diplomatic activity between the two conflicting parties, which was carried on by mediators of the king in the name of the community, as well as to the modalities of conflict resolution, in particular to the drawing up of the acts of reconciliation, which guaranteed the preservation of individual and community honour in the

12 Lat. *Rolandinus Rodulphi de Passageriis,* Bologna, 1215 about – Bologna, 1300.

13 Actually, De Franceschi (1885, 90), holds that the encounters continued until about 23rd October 1267, since on that date Patriarch Gregory granted feudal possession in Friuli to two inhabitants of Castelvenere, a certain Luvisino and a certain Giovannutto, in payment for services given and damages suffered during the recent encounters.

14 *Venetos multum ad patriarcham liberandum attuisse docet nos Andreas Dandulus, lib. X. part 41 apud Murat. SS. XII, 375* (AF, 197).

social order. These compromises and reconciliations, though (or, as in the case dealt with here, just for this reason) imposed by the central power, out of tradition and ritual rules and, as we have seen, in agreement with the written law then establishing itself in the structure of conflict resolution, led to lasting reconciliation and peace (Povolo, 2015, 217–220).

In the analysis of this conflict we should bear in mind that the parties involved were connected at least institutionally. The Counts of Gorizia were ministeriales and lawyers of the Patriarch of Aquileia and so his vassals, like the majority of their allies and even like King Ottokar in person. So why did the King not intervene with his own army, which was one of the strongest in Europe in this period, or why did he not submit the conflict to

Fig. 28: King Otokar II. Přemysl (Wikimedia Commons. File 270px-Po2vNM.jpg)

a court instituted by himself? Because, according to the customs and written laws of the times, it was also possible to resolve conflicts with the opponents' acceptance of a pacific transaction of the reasons for the dispute, in which the main role was entrusted to mediators who represented the community. According to custom, a conflict of this sort was treated in the same manner as a family feud (*Vindicta parentum, quod faida dicimus*)[15]. In these cases conflicts were resolved according to Lombard law, with reference to so-called private law, still based on the principles of tribal communities and collective responsibility, according to which every family, brotherhood, clan or tribe exercises social control at the same time as it answers for the single members of the community.[16] Social control and the safety of members of the community and of the community as a whole were also guaranteed by vendetta for injustices. But this customary system of conflict resolution allows both a violent solution and a pacific one, which had to be accepted by both of the opposing parties. Therefore it should not be thought that these customs were left to purely arbitrary acts; on the contrary, the rules of the game were very well defined. Still, in every legal system, as in every game, rules can be got round.

Many of these situations can be seen in the feud between the Patriarch of Aquileia and the Count of Gorizia in the years 1267–1277. Both parts recognized that they were in conflict (*querimonia*) and that "violent justice and injustice" (*violentiis iuribus et iniuriis*) recurred (FRA, 89), while the Count of Gorizia went so far as to admit in writing that he had rebelled against the Patriarch (*fuerimus contraria uel rebelles*).[17] Still, we can conclude that the system of conflict resolution was based on customary tradition which through community mediation aimed at friendly relations (… *cum via amicabilis composicionis;* AKG, 29, 114) and peace (*pace et concordia perpetua*), in contrast with the hatred (*inimititia*)[18] which at that time doubtlessly led to conflicts, in general bloody ones.

From the political-military point of view, the Counts of Gorizia took advantage of a particularly favourable situation when they fixed the conditions of the reconciliation, since they were holding the Patriarch in captivity. We need only think of the many descriptions of medieval prisons, for example the story of the English King Richard the Lion-Hearted, to understand that at that time situations like these were commonplace (Kos, 1994, 109–115). In the case under examination, the proof can be clearly inferred in the quotation of the above-mentioned truce of 1274, when in 1267 the counts of Gorizia imprisoned the Patriarch, "just as always happens in wars" (*que solent fieri in guerris*).[19]

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15 See Du Cange, 1733. Cf. word of order: feud; under this term appear the majority of medieval laws determining these conflicts. Available at: http://www.uni-mannheim.de/mateo/camenaref/ducange.html.

16 Here I should like to mention two classical studies of conflict resolution in tribal communities: Evans-Pritchard, 1940; Gluckman, 1955.

17 *Verum si in hac parte nos uel heredes homines complices et fautores nostri inuenti fuerimus contrarii uel rebelles, ex tunc eadem duo castra nostra in Aquilegensis ecclesie potestatem debent tradi et ipsi domini Rex et Archiepiscopus contra nos siue heredes uel homines siue complices et fautores nostros ipsi domino Patriarche suisque successoribus et Capitulo Aquilegensis ecclesie atque ipsius ecclesie fidelibus et deuotis in prestando auxilio adherebunt.* (FRA, 89).

18 See Du Cange, 1733, the word 'inimititia'.

19 *Item interfuerunt cum ipso Comite ac Fratre suo Comite Mainhardo a captione Domini Gregorii Patriarche, in quorum servicio fuerunt dampna omnia, que solent fieri in guerris.* (CDI, II, 361, 602). According

Fig. 29: Vendetta in Florence, 1300 (www.storiadifirenze.org)

And so the Counts of Gorizia, Meinhard and Albert, freed the Patriarch Gregorio only after the intervention of authoritative mediators.[20] In the case of the Counts of Gorizia, the intercessor was Vladislav, Archbishop of Salzburg and nephew of the Bohemian King Ottokar II, who acted in his name (AKG, 22, 375); while in the case of the Patriarch of Aquileia, it was the Bishop of Olomouc, Bruno (AKG, 29, 112–117), who reached a compromise and truce (AKG, 29, 113) between the two opposing parties (AKG, 29, 113). It was determined that the truce would last until the next Pentecost (28th May 1268), while before All Saints' Day (1267) two arbiters, one representing the Patriarch and the other the Counts of Gorizia, were to describe and assess the damages caused by the conflicts in Friuli, and the same would be done by two other arbiters for the damages in Istria and on the Karst. Later, between Easter and Pentecost on 28th May 1268, they would announce the peace (*concordia et pace*).

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to studies of Italian cultural environments in that age, the word "feud" was unknown, and in its place were used "*inimicizia*", "*querimonia*", "*querela*" and even "*guerra*" (cf. Vocabolario, 1612).

20 Redemptio Gregorii patriarchae. *Gregorius patriarcha Aquilegiensis anno 1267. die quinta exeunte Augusto exivit captivitatem dicti comitis Alberti Goritiae, et conductus fuit Civitatem; procurato tamen per venerabilem patrem Wlotislaum archiepiscopum Salspurgensem cum ipso domno patriarcha, dum erat in captivitate, et cum Foroiuliensibus ex parte una et cum dicto comite ex altera, quod fuit per partes compromissum in ipsum archiepiscopum et domnum regem Bohemiae et postea confirmatum.* (AF, 197).

As trustees of the agreement that "*deberet et posset componere, arbitrari, sentenciare et laudare, sive amicabiliter sive de iure inter partes, prout sibi placeret et videretur melius expedire*", Bruno, Bishop of Olomouc, was chosen for the Aquileian party, and for the Gorizia party Vladislav, Archbishop of Salzburg. Moreover, the terms of reconciliation imposed the restoration of the prior situation[21], and whoever violated or in any way offended or disturbed it or, worse, caused further damage, would have to pay a fine of 2,000 Aquileian marks[22], half to the opposing party and the other half to his own repository of the contract. As security, the Patriarch of Aquileia gave his trustee, Bruno da Olomouc, lien upon the castle and the estate of Schwarzenegg near *Divača,* while the count of Gorizia as security gave the Archbishop of Salzburg, Vladislav, the castles of Gorizia and Karsperg[23].

Four documents report these provisions, two for each party. It is likely that they were drawn up before the Patriarch of Aquileia was freed (FRA, 87–90; AKG, 29, 112–117).[24] As regards the contract of the reconciliation of August 1267, four documents have been conserved: two for the Patriarch of Aquileia (AKG, 29, 112–115), the compromise (*compromissis*) and the truce (*treuga*); while for the Count of Gorizia, Albert I, there are two versions of a compromise (FRA, 87–90; AKG, 29, 115–117). Clearly there was a reciprocal offer of and commitment to reconciliation, as well as a further definition of the conflict through arbitration. But it is interesting that each party made a commitment with its own procurator to cease hostilities: the Patriarch of Aquileia with the envoy (*missi*) of King Ottokar, Bruno, Bishop of Olomouc; and Albert Count of Gorizia, along with his followers, with the Archbishop of Salzburg, Vladislav. Therefore, the King's envoy was responsible for guaranteeing that his client would not violate the compromise agreed on, that is, the truce. If that were to happen, the transgressor would have to pay a penalty and surrender the properties given as security.

The two acts of reconciliation of the Count of Gorizia, the first on 25th August 1267 and the second on the following day, 26th August 1267, differ very little. At one point in the first document a part of the phrase that strictly obliges the Gorizian party to obey the

21 ... *in statum pristinum in quo ante captiuitatem ipsius domini Patriarche fueramus constituti* ... (FRA, 88).

22 … *secundum ius possint et debeant terminare, promittentes sub pena duorum milium marcarum argenti* … (AKG, 29, 114).

23 Karsperg or Carsperg was a castle near the village of Golac, south of Obrov, in the Brkini Hills; see Štih, 2013.

24 The dates have been preserved only for the two Gorizian documents, i.e., one of 25th August 1267 (FRA, 87) and the second of 26th August (AKG, 29, 117) but without the year. Still, since these two documents are almost the same – they differ slightly only in two points of the text, while all four agree that the key point of the resolution of the conflict is the detention of the Patriarch and the damage caused in Friuli, Istria and the Karst – we can conclude that they all date back to 1267, though the compiler of the published documents attributes to three of the documents (that of Gorizia of 26th August and the two of the Patriarch) the year 1268 (AKG, 29, 112–117). But, according to the contents, we can maintain without any doubt that this is the contract of the compromise between the two conflicting parties after the mediation of the above-mentioned bishop Bruno and archbishop Vladislav, before the declaration of truce and the release of the patriarch Gregory that took place on 27th August 1267 (cf. AF, 197). Cases of feud are known in which the opposing party avoided prison by signing a written document containing his renunciation of the vendetta (*Unfehde*) (Kos, 1994, 110–114).

King's dispositions is omitted.[25] Before the notary's signature a phrase is added which declares that the Gorizian party has signed and sealed the document. Here it is interesting to note that the first document was drawn up by the notary *Hermannus de Pertica Imperiali Auctoritate Notarius,* and the second by *Johannes de Lupito Sacri Imperii Publicus Notarius*. The reason for this change of notary is unknown; the missing part of the sentence leads us to think that, probably at the request of the Patriarch of Aquileia, the procurator Vladislav had obliged the Count to respect his dispositions as well as those of the King.

The difference between the Patriarch's two documents is more complicated. The first is a compromise (*secundum formam compromissi facti*), while the second is a truce (*treuga*) that was to last until the following Pentecost.[26] In both of them Bishop Bruno da Olomouc acts as guarantor for the reconciliation; to him is entrusted arbitration and judgment of the case with the Count of Gorizia[27], "taking into account both the friendly reconciliation and the law".[28] This undoubtedly recalls the formulas that frequently appeared in legal documents, according to which in order to judge it was necessary to take into account both the customs and the laws (*consuetudines et iuris*). In this case the friendly reconciliation refers to the customary rite of reconciliation in conflicts.

Gregorio, the Patriarch of Aquileia, handed over both of these documents to Bishop Bruno;[29] by so doing he promised and solemnly swore to respect the agreement. In the same way, as has already been observed, the Count of Gorizia swore to Archbishop Vladislav. But whereas in the Aquileian compromise attention is called to the fact that it is sealed both by the Patriarch of Aquileia and the Count of Gorizia, the truce act seems to be unilateral: that is, the Patriarch of Aquileia guarantees it to the Counts of Gorizia and their followers.[30] At the same time, the truce meant renouncing recourse to vendetta, and the relative act was itself a document used in feuds, (Brunner, 2011, 105–106) prodromic to arbitration and friendly agreement, as well as to a legal solution of the conflict. Consequently, it is less important that the Patriarch was superior to the Counts of Gorizia

25 At the beginning, the whole phrase read: … *quod eorundem dominorum Regis et Archiepiscopi ordinationi seu amicabili compositioni absque cuiuslibet contradictionis et dilationis obstaculo nos et nostri complices et fautores stabimus et obediemus* … (FRA, 88), and after with the addition: … *quod eorundem dominorum Regis et Archiepiscopi ordinationi obediemus* … (AKG, 29, 116).

26 *fecimus et dedimus firmas treugas usque ad proximas octavas penthecostes* (AKG, 29, 113).

27 … *quod cum nos libere, mere et pure compromiserimus in venerabilem patrem dominum Brunonem dei gracia episcopum Olomucensem tamquam in arbitrum, in arbitratorem et amicabilem compositorem sive iudicem de omnibus controversiis, litibus et questionibus, quas habemus et habere videmur cum nobilibis viris Meinchardo et Al. comitibus Gor. et ipsi contra nos,* … (AKG, 29, 114).

28 This definition was repeated in several parts of the four documents, for example, also in the following form: … *in arbitratorem et amicabilem compositorem sive iudicem de omnibus controversiis,* … *componere, arbitrari, sentenciare et laudare, sive amicabiliter sive de iure inter partes* ovvero (AKG, 29, 114) … *complementum iustitie vel compositionis amicabilis* (FRA, 89).

29 … *omnia namque supradicta in manu dicti domini Olomucensis episcopi promittimus attendere et inviolabiliter observare.* (AKG, 29, 113) … *dedimus, tradidimus et consignavimus in manus supradicti domini Olomucensis episcopi* … (AKG, 29, 114).

30 *Nos G. dei gracia … Aquilegensis patriarcha … fecimus et dedimus firmas treugas usque ad proximas octavas penthecostes viris nobilibus M. et Al. comitibus G. ac suis adiutoribusque eorum tam in personis quam in bonis,* … (AKG, 29, 112–113).

(in both the religious and the civil hierarchies) than that the detention by the Counts of Gorizia had offended the party which for this reason had the possibility and the right either to declare a truce or else to continue the hostilities and the blood vendetta. Under the pressure of influential procurators, the parties involved in this conflict were forced to come to terms, and the two procurators of the King had the role of guaranteeing their reconciliation, so that if one of the parties violated the agreement, the procurators would have to punish him, as written in both the act of compromise and the truce.

At this point I would venture to compare the role of the above-mentioned guarantors with the rites of conflict resolution of Montenegro and Albania (*osveta, gjakmarrja*). In those regions there exists the institution of a person called *dorzoni* (in Albanian) or *jemci* (in Montenegrin, *jemac*[31]). This person is delegated to keep the truce, in Albanian *besa,* in Montenegrin *umir* (Đuričić, 1979, 8). After the victim of the dispute had accepted the procedure of reconciliation instead of the arbitrary solution of conflict, once the compensation promised him by the offender had been deposited, the compromise was stipulated thanks to the ritual mediation of the community. On this basis, and again thanks to the community's mediation, the opposing parties reached a truce, which meant the renunciation of vendetta and the continuation of negotiations and arbitration between the two parties. The truce could last for a maximum of one year. The truce oath, the *besa,* was pronounced publicly by the victim. For this reason the victim was called "donor of the *besa*", which was "put into the hands" of one of the mediators named by the author of the crime. On their part, the mediators had the right to ask for the guarantee of the truce (Đuričić, 1979, 33). The guarantor of the truce was the so-called *dorzon* (etymologically from the Albanian *dorë* – hand), or *jemac* (in Montenegrin, guarantee), who supervised the respect of the agreement, and during the truce prevented a vendetta against those responsible for the crime.

A fundamental source for the study of the customary system of conflict resolution, not only for the territories of Montenegro, Herzegovina and Albania, but also for the European context, along with the Kanun of Lek Dukagjini and the Kanun of Skanderbeg, is doubtlessly the survey conducted by Valtazar Bogišić and his collaborators in the second half of the 19th century.[32] However, Bogišić's sources say that the *jemci* were chosen only in the most serious cases, while it happened frequently that a *jemec* or *dorzon* – and in some cases even more than one – was chosen for each side (Đuričić, 1979, 27). The Albanian legal historian Surja Pupovci picturesquely mentions the importance of the *dorzoni* in the resolution of conflicts, describing the concluding

31 In the Kanon Leke Dukađina (KLD); in the context of the blood feud and the truce, there are three sectionsrelative to the guarantee: Ubistvo pod jamstvom (KLD §§ 939–940), Jemci krvne osvete (KLD §§ 973–976), Jemci novca za krvnu osvetu (KLD §§ 977–981); in general, the guarantee, or the dorzonia, is appliedin all types of the contracts drawn up (KLD §§ 683–694), but also as a guarantee in favour of someone inproceedings before a tribal judge (Djuričić, 1975; cf. KLD §§ 1044–1072; Bogišić, Čizmović, 1999).

32 Several collections of legal customs of the southern Slavs have been published, edited by Valtazar Bogišić. As regards the customary stystem of conflict resolution, or the vendetta (bloody), that is, *osveta (mn.), gjakmarjja (alb.),* the most interesting is the study based on a questionnaire of 1873 (Bogišić, Čizmović, 1999, 345–383).

Fig. 30: Miniatura from the Liber feudorum Ceritaniae represents an homage (about 1200–1209) (Wikimedia Commons. File: Cerit7.jpg)

rite of the *besa*: the agreement was reached when the two representative of the parties conclude it by holding hands, but he adds that "during the agreement they could hold hands hundreds of times, but without the presence of the *dorzon* the agreement is still weak" (Đuričić, 1979, 14).

The *dorzon* whose role was to act as guarantor was chosen by the offender (KLD § 973). This had to be a person who was trusted by both parties, and who enjoyed honour and prestige; his family could not be involved in any blood feud (Đuričić, 1979, 24). He took a public oath (*faith* – in Albanian, *beja*) and guaranteed with his estate and honour to preserve the truce. If, on the contrary, the person he represented did not respect the truce and revenged himself, the *dorzon* had to kill him or use another adequate punishment; this worked in both directions, in the sense that if he failed to punish him, he himself would be

punished (Đuričić, 1979, 42–43). In this case, therefore, the *dorzon* was also an authority who held repressive powers. He was the guarantor of the truce for the injured party, as well as being the culprit's fiduciary.

The guarantors or fiduciaries (*fiduciarii*) were also often present in conciliation and/or judicial procedures in later periods.[33] While in civil matters this institution still plays an important role today, it has completely disappeared in the criminal sphere in European countries, though it has been kept in the United States as an institution in the penal system.

According to the rite we have just described, Albert put into the hands of Vladislav his commitment, or his oath, as we can understand from the document (*data fide manuali vice sacramenti in manus supradicty domini Wlodizlay*) (AKG, 29, 117). In this sense it was clearly a question of *immixtio manuum*, as we find it in the rite of investiture of vassals or notaries. This ritual gesture also constituted a form of penitence, since it was performed on the knees (*flexibus genibus*) or in some other position expressing penitence. A clear example of penitence in the reconciliation or the blood feud is given by the description of the concluding ceremony of the Montenegrin rite[34]. The party guilty of the crime publically states his repentance to the injured party, in the presence of representatives of the community, by crawling on the ground wearing only some of his underwear, barefoot and bareheaded, while slung across his shoulders there is a long shotgun attached to his belt. Drawing near and facing him, the injured party first takes away and then gives back the arm, saying: "First of all brother, then blood enemy, then once again brother for eternity. Is this the gun that took my father's life?" After which, the injured part reconfirms his complete pardon to the culprit and they kiss one another fraternally. Despite the fact that there are other gestures in this ceremony that express the culprit's profound penitence and humiliation,[35] the rite safeguards the honour of both the injured party and the culprit, as well as of the whole community, thereby establishing and maintaining norms and values.

Just the sole gesture of taking away and then giving back the gun shows a clear tendency to hear the ritual appeal of reciprocity and community mediation. With the help of these rites the community creates a balance, exercises social control, and permits the reintegration and lasting reconciliation of the conflicting parties (Verdier, 1980, 24–30). Naturally, this is an ideal social formula, but it was evidently effective in the system of conflict resolution, as J. M. Wallace-Hadrill illustrates at the end of his legendary study, *The Bloodfeud of the Franks*:

33 At this point I should like to call attention to the extraordinary richness of the Venetian State Archive, which conserves in numerous funds documents relative to judicial proceedings e.g., the Council of Ten, the Heads of the Council of Ten, the *Avvogaria Comun*, the *Quarantia Criminal*, and so on.

34 This scene is also described by Boehm (1984, 136); but it was already registered in the field in an original manner by Bogišić in his questionnaire in the second half of the 19th century (Bogišić, Čižmović, 1999, 371–372) and it had been already painted by Vialla De Sommières in 1820.

35 He runs up to Bojković to pick him up quickly from the ground, but at that moment Bojković kisses his feet, his breast and his shoulder in Boehm (1984, 136).

Feuding in the sense of incessant private warfare is a myth; feuding in the sense of very widespread and frequent procedures to reach composition-settlements necessarily hovering on the edge of bloodshed, is not. The marvel of early medieval society is not war but peace. (Wallace-Hadrill, 1959, 487).

Before going on to illustrate other features of the medieval conflict resolution system, we shall briefly examine some other documents about the conflict between the Patriarch of Aquileia and the Counts of Gorizia and their allies.

After the exchange of the acts of compromise and the declaration of truce, which in all likelihood led to the release of Patriarch Gregorio, the agreement was also confirmed (AF, 197). Unfortunately, the documents available do not allow us to know if the chosen arbiters managed to make an inventory of and assess the damages suffered by the two opposing parties by All Saints' Day (1st November 1267) or Easter (8th April 1268). We have no notice of possible conflicts during the truce, but just one month after its expiration (All Saints' Day, 28th May 1268), the reasons for the dispute had undoubtedly worsened, since on 3rd July 1268, under the hill of Medea to the west of Gorizia, the troops of Gorizia killed in an ambush the Patriarch's vice-dominium, Bishop Albert of Concordia.[36]

At this juncture Gregorio responded with force, showing his military prowess. On 27th July 1268 he set out from Udine with his troops to march against the Count of Gorizia, attacking him and destroying the bridge over the Isonzo on 12th August. Evidently, this violence once again triggered off the mechanisms of conflict resolution in use at the time, with the result that an act of compromise and reconciliation between the parties was made on 30th August 1268.[37]

Further information about the conflict dates to 1269 and refers to the death of the Patriarch of Aquileia, Gregorio of Montelongo, on 8th September. The new Patriarch, Raimondo della Torre, was not appointed until the first months of 1274. In the regions administered secularly by the Patriarch of Aquileia, i.e. in Friuli, Istria and the Karst, this was a period characterized by an interregnum, not only at the top of the hierarchy but also locally. More or less important conflicts continued in the areas under Venetian influence – the Istrian towns and those of the Counts of Gorizia and their vassals. The vassals of the Patriarchs of Aquileia were also involved; in keeping with their interests and expectations, they regularly passed from one side to the other, between Guelphs and Ghibellines, more or less under cover and in a confusion of lay and ecclesiastical powers. Nor was it by chance that for a certain time until the end of the conflict (1277) the situation was

36 *De interfectione domni Alberti episcopi Concordiensis vicedomini patriarchae. 1268. die 3. intrante Iulio mense ante tertiam apud montem Medeam interfectus fuit venerabilis pater Concordiensis episcopus, vicedominus reverendi patris Gregorii patriarchae, et quidam alii cum eo per insidias ei impositas per fautores domni Alberti comitis Goritiae.* (AF, 197).

37 *De exitu exercitus et de destructione pontis Goritiam. Dicto anno die Veneris 5. exeunte Iulio, exivit Gregorius patriarcha Utino cum suo exercitu contra dictum comitem. Et tunc die 12. Augusti destructus et dirutus fuit pons Isuntii prope Goritiam. Reversus est die penultima Augusti Civitatem; facto iterum compromisso inter dictas partes. Aug. 30.* (AF, 197; AKG, 22, 377).

taken advantage of for his own personal interest by the Bohemian king Ottokar, who also became General Captain of Friuli in 1272.

The election of Raimondo della Torre as Patriarch of Aquileia at the end of 1273 coincided with the appointment of Rudolph of Habsburg as king of the Germans, though the German kings had claimed the imperial throne since 962. The Counts of Gorizia soon formed ties with the new ruling family, which benefitted them at first, but later it gradually took possession of all their properties (in 1363, the Tyrol; in 1374, Istria; in 1500, the lands of Gorizia). The rivalry existing with the Bohemian king helped them. Indeed, in 1274, on the strength of a decree of the National Assembly, Rudolph of Habsburg ordered the Bohemian king, Ottokar II Přemysl, to restore the properties of Babenberg and Spainheim, which led to a war between them. With the treaty of peace of Vienna in 1276, Ottokar renounced Austria, Stiria, Carinthia and the Slovenian March (or Windic March) in favour of Rudolph, who gave them to be administrated to Count Meinhard of Gorizia. After which, in the Battle of Marchfeld of 1278, Ottokar was killed. With the double marriage of his children to those of Ottokar, Rudolph neutralized his enemies and created in Austria, Styria, Carinthia and Carniola (that is, in the so-called hereditary Habsburg lands, to which the Tyrol was also annexed in 1363) the basis for the rise of the Habsburg dynasty.

And so in the conflict with Ottokar, Rudolph of Habsburg acted in full accordance with the concept of the system of conflict resolution in force at the time – particularly with his final, mythical act which, according to the mentality of the age, was the only thing that could guarantee a lasting peace: the marriage between representatives of the opposing parties, or at least, as became prevalent later, the exchange of godparents.[38]

The new Patriarch of Aquileia also went to work at once to resolve the conflicts shaking the temporal power of the Patriarchs. Thus, on 11th February 1274 he and the Doge of Venice, Lorenzo Tiepolo, reconfirmed the peace that had been previously declared by Patriarch Gregorio with the Doge of Venice, Rainerio Zeno, in 1254[39]. Next he turned to what at first sight seemed to be the most difficult problem: the normalization of relations with the Count of Gorizia and his allies, above all Koper.

And so the often-mentioned document on the truce of 18th August, 1274 came into being.[40] Among other things, it is a document that contains a large quantity of interesting and original data useful for the study of the past both on the micro and the macro scale (CDI, II, 361, 596–604). As a supplement to this document, the very next day, i.e. on 19th August, as the agreement had stipulated, the Patriarch was presented with

38 Here, too, it is possible to compare this rite to the Montenegrin and Albanian ones, but medieval documents from all over the Europe also testify the use of this rite (see Smail, Gibson, 2009, 417–441).

39 *Cum inter Venerabilem Patrem dominum Raymundum Dei gratia Sanctae Sedis Aquilegiensis patriarcham ex una parte et Magnificum dominum Laurentium Theupulo Dei gratia Venecie Dalmacie atque Chroacie Duce dominum quarte partis et dimidium tocius imperii Romanie et Comunis Veneciarum ex altera … pacta et conventiones … caudet ad talem concordiam* (CDI, II, 358).

40 *Pax in forma conventionis pro bono pacis et concordie – fidantia seu treuga.* Rolandino nel '200 illustra: *forma conventionis; Treuga est conventio de non provocando bellis* ... est securitas ad tempus personis, & rebus … (Rolandino, 1546, 158 v).

Fig. 31: Coin of the Patriarch Raimondo della Torre with episcopal vestments, seated on the front with the gospels in his hand. Tower of the family coat of arms (Wikimedia Commons. File: Raimondo della Torre – Denaro.jpg)

the inventory of the damages and the list of participants in the battles that had taken place in July and August of 1267. This supplement tells of a vendetta of the Seigneurs of Momiano against those of Pietrapelosa following the murder (*turpiter interfectus*) of Biaquino of Momiano. And not only: the gruesome vendetta of Cono of Momiano had led him to undertake other military expeditions in the lands of Gorizia in the same years, seeing that, besides assaults on the Tower of Buzet and the Castle of Pietrapelosa, the document also reports attacks on other castles of the Patriarch.[41] Among the protagonists mentioned in the document we find not only Cono da Momiano but also Friderico de Mimiliano, Woscalco filio dicti Domini Chononis de Mimiliano, as well as Frater Galvanus et Fridericus de Mimiliano.

Despite the fact that the conflicting parties had promised friendship (*facti sunt amici*) and had sworn (*iuravit*) to respect the decisions of the three arbiters[42] in order to reach a settlement, harmony and peace (*de composition et concordia et pace*), it is clear that very soon new dissensions broke out (*facti inimici sunt ut prius, non obstante iuramento ...*).

The object of the next conflict was the small fortress of Cormons. The Count of Gorizia had already started out from Cividale with his soldiers to claim his right, but King Ottokar interceded once again, concluding a truce between the two parties. This is reported

41 *Item Dominus Chono de Mimilliano interfuit cum Comite et in servicio Comitis apud Pinguentum et apud Writsperch apud Mascher et apud Wisnavich.* (CDI, II, 361, 602; AKG, 22, 399).

42 *Unde datis securitatibus et praestitis iuramentis … Dominus Patriarcha elegit Dominum Gothfredum Potestatem Paduanum. Dominus Comes elegit Dominum Ulricum de Tauures, et hii duo communiter elegerunt Dominum Gerardum de Cammino* (AF, 199; CDI, II, 361, 597).

in a document of 2nd October 1274, (AKG, 22, 401) according to which the two parties agree that in case of future conflicts each side will name an arbiter to pass judgment on the reasons for the conflicts. Like many other times in the past, the conflicting parties committed themselves to respect the arbiters' decisions.

It would seem that in the arbiters' act of persuasion success smiled upon the Count of Gorizia once again, for the Patriarch of Aquileia confirmed his right to half of Cormons in an act of 24th February, 1275 issued in Cividale (CDI, II, 363, 606–609). In general, when this type of agreement was made in the presence of allies and followers of the disputing parties in the High Council[43] there were also representatives of the city of Koper present during the solemn oath of truce. In reality, in some other documents concerning the same conflict the representatives of Koper were among the witnesses, but in this case it was a question of a separate truce between the Patriarch of Aquileia and the city of Koper. Indeed, in this meeting the representatives of Koper seemed to have read the resolution of their own Major and Minor Town Council, and also, in agreement with the whole community of Koper, to have solemnly sworn on the holy Gospels that they would prevent all attempts at fraud or iniquity and would respect the truce faithfully, in no case and without any exceptions violating it.[44] Given that Koper was also under the secular dominion of the Patriarchs of Aquileia, we can see here the great autonomy that medieval communities had in the system of conflict resolution.

It seems that after this reconciliation the process of arbitration on the field finally got started, as we can see in the above-mentioned Glagolitic document, *Istarski razvod*. But things got complicated again in May 1277, when a new compromise was stipulated along with an agreement on the inventory of the damages caused after the peace agreement (*de damnis hinc inde illatis postquam facta fuit praedicta pax*) (AKG, 24, 429). And in all likelihood it was just this agreement that led to the proclamation of lasting peace on 9th June 1277. Unfortunately, the reference to the proclamation of lasting peace is very succinct: it only reports that both parties would respect the arbitration of the four arbiters and would proclaim lasting peace (*pax et concordia perpetua*).[45]

Thus, just as the ideological structure of the high Middle Ages was built on the wave of the so-called peace movement after the year 1000, which separated God's truce – a

43 *Memoratus insuper Dominus Patriarcha nomine Suo et supradictorum suorum desponsione solempni promisit; et prefatus Dominus Comes ad sancta Dei Evangelia corporaliter juravit firmam pacem; ambo inter se ad invicem et omnia et singula sapradicta inviolabiliter observare pro se et suis, tenere et non contravenire aliqua occasione vel exceptione sub pena Trium Millium Marcharum denariorum Aquilegensium* (CDI, II, 363, 608–609).

44 *… predicte Civitatis Justinopolis de voluntate et consensu totius minoris et majoris Consilii et totius Comunitatis Justinopolis, damus et concedimus plenam licentiam, et libertatem Nobilibus Civibus Nostris, videlicet Dominis Albertino Paduano, Carsto de Miriza, Zanetto de Upso, Varino Hengeldei, Ricardino Blajono, Johanni Dietalmo, Almerico Spandinuci, Lanceloto Paltono, Facine de Tarsia, Nazario Bertulini, jurandi ad sancta Dei Evaugelia, … omni fraude remota et malicia inviolabiliter observare et non contravenire aliqua occassione vel exceptione*. (CDI, II, 363, 609).

45 De pace inter domnum patriarcham Raymundum et nobilem comitem Goritiae Albertum. *Anno Domini 1277. indictione 5, die Mercurii 9, intrante lunio, in Civitate Austria in palatio patriarchali fuit per domnos Walterobertoldum de Spengimbergh, loannem de Zuccula patriarchae, Ugonem de Duino et Henricum de Pisino, comitis Alberti arbitros pronunciata arbitrando inter eos firma pax et concordia perpetua.* (AKG, 24, 429). Notaries were chosen as judiciary administrators.

temporary suspension of hostilities, distinct from God's peace, which meant perpetual peace – so the rite of resolution of conflict included the truce as a phase of suspension of hostilities. However, for the peace to endure peace it was also necessary to proclaim the so-called lasting peace, which was based solely on the satisfaction of both parties. It should therefore not come as a surprise that in the system of conflict resolution, already established in tribal communities, the ideal final ritual intended to guarantee an enduring peace envisioned marriage exchanges between the conflicting parties, or at least the exchange of godparents between the families involved.

On this subject there exists abundant documentation and evidence, to be interpreted using suitable methods of investigation. To clarify this cultural phenomenon more fully, I look to Guille-Escuret's interpretation. According to this scholar, the formula of a tribe of New Guinea reported by the renowned anthropologist Marshall Sahlins on the basis of field research is present in many places on our planet, "We fight against those we marry". (Sahlins, 1980, 71; Guille-Escuret, 1998, 171). Or, again, the publication of certain acts of conflict resolution in Marseilles in the middle of the 14th century: when after the vendetta (*vindicta*) the parties to the case had deposited the declaration of peace with a notary, there followed a notary's entry concerning the marriage between representatives of the families previously in dispute (Smail, Gibson, 2009, 426–427). At this point I certainly do not intend to go more deeply into the unifying role of conflicts in the community, but it is possible to confirm the observations or even just the insights of certain researchers, according to whom the system of conflict resolution in tribal communities was doubtlessly of great importance in forming the cohesion and unification of wider communities, not the least of which were national communities.[46]

The degree to which, thanks to written law, pacific resolution of conflicts through recourse to the law had taken the place of violent resolution – the key role of guarantor of agreements now being taken on by a notarial act[47] – is shown in customary rites by significant elements of free will, since single individuals and communities were given the freedom to choose whether to resolve the conflict through friendly means, with community mediation, or to continue the violent solution.

The concept of a system of conflict resolution, which was reiterated and maintained in the community through symbolic ritual activities, established norms and values which, at least in the initial phases of written law, were included as obvious elements in written legal formulas. Thus, as a compulsory integrating element in the process of reconciliation and of guaranteeing lasting peace, the ritual gesture of the kiss of peace (*osculum pacis*) between the conflicting parties was maintained at the end of the rite of reconciliation. In some cases, this gesture was described in notarial acts.[48]

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46 "Zmora's claim that feuding contributed to state-building fits well with this model", explains Carroll in his review of Zmora's book (Carroll, 2012).

47 Notaries were chosen as judiciary administrators, "*able to give concrete answers to whoever wanted to protect his own interests without having recourse to arms, but to the law intead"*, Irnerio (1050–1130 about), the first glossator, see Bellomo, 2011, 71.

48 Some examples of documents on the exchange of the *osculum pacis* at the end of repacification procedures in the 14th century have been published in the above-mentioned study, see Smail, Gibson, 2009, 417–441,

Fig. 32: Emperor Rudolf of_Habsburg_Speyer.jpg (Wikimedia Commons)

But let us return to the conflict in consideration. In 1277, with the proclamation of lasting peace, after ten years a settlement was reached to end the conflict between the Patriarch of Aquileia and the Count of Gorizia over the confinement of Patriarch Gregorio in 1267 and the damage it had caused. Is it legitimate to believe that the Patriarch of Aquileia and the Count of Gorizia, at the proclamation of lasting peace, exchanged the kiss of peace (*osculum pacis*)? The answer could be positive, considering that in drawing up all the ten documents regarding the resolution of the conflict, the indications of the Bolognese notary, judge and university professor, Rolandino, were adopted. Indeed,

but a very precise testimony is that of Rolandino, 1546, esp. 158–159. Rolandino says that without personal contact between the parties peace cannot be enduring, and so at the end of the reconciliation the gesture of the *osculum pacis* is prescribed (Rolandino, 1546, 158–159), meaning the kiss on the mouth (*ore ad os*). Cf. Le Goff, 1985, 383–461, esp., 392; Petkov, 2003.

Rolandino maintained that there could not be a genuine lasting peace without its being reciprocally guaranteed between the parties directly responsible for the conflict and reconfirmed by the kiss of peace (*pax et concordia perpetua*) (Rolandino, 1546, 158–159v). It is precisely these concepts, expressed in written laws, that prove how the forms and ritual gestures of the customary system of conflict resolution were not only kept but were regularly included in the ritual formulas of written law. The documents that have come down to us regarding the conflict between the Patriarch of Aquileia and the Count of Gorizia explicitly testify to this. And not only, but also to the customary system of conflict resolution, in whose ideal image and rituals social values based on community mediation, reciprocity and the goal of enduring peace were reflected. What community would not desire these values? Both in social and interpersonal relationships, conflicts not only reflect the ongoing struggle for control of resources, but they are socially constitutive and are integrated into the system of social order (Gluckman 1955, 109–136). Conflicts generate alliances between different groups, in the past chief-

Fig. 33: Two churchmen giving the kiss of peace, 1240 (http://www.jobev.com/medrom.html)

ly between kin groups or clans (Lévi-Strauss, 1963, 55–66). This is a general structural aspect of conflict, while the local or particular aspect comes out concretely through the struggle for resources, in the fabric of individual circumstances. Those who succeed in forming the greatest number of alliances that are loyal, various and often contrasting are those who prevail (Gluckman, 1955, 1–26). In our case, this was clearly better accomplished out by the Counts Gorizia than by the Patriarchs of Aquileia.

However, these disputes caused other actors to enter their territories – first the Venetians and then the Habsburgs themselves.

THE ISTRIAN WAR

The enduring peace of 1277 did not put an end to the presence of Koper and Gorizia in Istria. In Pazin in the year 1278 Count Albert and the representatives of Koper, formed an alliance against Venice and its Istrian allies in the name of the Patriarch, though he was not actually present. They made a pact concerning the division of spheres of influence, according to which if they were victorious Koper would take control of the coastal towns, while to the Count would be left the possessions in the hinterlands of Istria.

In this circumstance, the alliance took advantage of the fact that Venice was engaged in a war with Ancona. After the siege of Motovun, which tried to defend itself courageously, the count of Gorizia conquered Sveti Lovreč (San Lorenzo del Pasenatico).

If the Serenissima had initially decided not to oppose the alliance between Koper and the Count of Gorizia, preferring to tighten a vice around them gradually, at this point Venice attacked with all its forces. After the siege of Izola in February of 1279 it took possession of Koper, destroying part of the town walls and deporting the majority of the population. In January, 1283 the High Council of Venice got the news of the "surrender" of Piran, which represented not only the definitive end of the alliance between Koper and the Count of Gorizia but also the gradual loss of the political autonomy of the towns of Istria, though there were still to be attempts at regaining it in the future (Greco, 1939, 45–46).

Peace had still not arrived for the Istrians: the relations of force in the peninsula changed radically. The war between the Patriarch of Aquileia and the Counts of Gorizia and Istria against Venice, which lasted from 1283 to 1291, gave further proof of how alliances could change in the space of twenty-four hours.

In Muggia in March, 1283 the Count of Gorizia and the Patriarch of Aquileia made an alliance, which was joined by Padua, Treviso and Trieste. On that occasion all the Istrian towns that had put themselves under Venice took the side of Venice, including Koper, though the party of the Patriarch was still active. In this war, which Venice waged mainly against Trieste as it was a rising maritime port, Koper played an important role, since this city was the seat of the *Capitaneus Istriae*, which represented the embryo of the future centralized military government in Istria.

In the war, which lasted until the end of 1291 with an interruption between 1285 and 1287, besides the coastal towns from Muggia to the Canale di Leme, Venice conquered Antignana, a possession of the Patriarch in the hinterlands of the peninsula; the territory

Fig. 34: The lion of Montovun, with the closed book (photo: D. Podgornik, 2007).

around San Pietro in Selve; and the Castle of Grožnjan, a possession of the vassal of Pietrapelosa. Dvigrad, Buje and Muggia surrendered. As compensation for war damages, the Patriarch gave up *de facto* his rights over the towns that had been lost.

It is no surprise, therefore, that Vicardus II of Pietrapelosa, whom the alliance with the Count and the Istrian cost towns the loss of his father Henry and his uncle Carseman, was the last vassal to pass to the side of the Venetians, opening the doors of the Castle of Grožnjan to them in 1287 (De Vergottini, 1925, 33; CDI, II, 428, 768–769). In 1285, during the two-year truce, in consequence of the armed resistance to the Patriarch of Aquileia put up by Vicardus II, the latter was forced to promise the Castle of Salež (Salise) for a value of 300 marks. The following year he exchanged this castle with that of Grožnjan (CDI, II, 735–736). In the years to come Vicardus II was to remain faithful to the Count of Gorizia, and after the disappearance of the Seigneurs of Momiano he was the most fervent supporter of the Seigneurs of Gorizia in northern Istria.

Despite the numerous occasions when he opposed the Patriarch, especially in questions concerning Friuli, where the conflict that had started in Istria had moved, Vicardus II was not excommunicated by the Patriarch until 1297, after the sack of the Friuli town of Perteole. After the excommunication, in October of the same year, Vicardus II had to repent publicly in Udine in the presence of the eminent prelates and nobles who made up the Patriarch's court (CDI, II, 415, 735–736). It is interesting to note that more than of the slaughter of in-

nocent people, Vicardus II was accused of destroying the campanile. In his defense, Vicardus II blamed the destruction on Count Henry, who confirmed the accusation (CDI, II, 469, 838).

In 1302 Vicardus II, with Biaquino II of Momiano and other vassals of the Count of Gorizia and Istria, was once again in Friuli, where they continued the plunder of the possessions of the Patriarch. Nonetheless, five years later the Patriarch himself, by virtue of his guardianship over Henry II of Pazin, donated the feud of Kodolje to Vicardus II (Bianchi, 1847, 337, no. 1146).[49]

The Seigneurs of Momiano also frequently changed their banner. In the eighties they once again supported the side of Aquileia. It so happened that in 1290 Count Albert I of Gorizia captured and imprisoned Ulrico of Momiano. In 1309, during the war fought between Aquileia and Venice, when Henry II Count of Gorizia allied himself with the Patriarch of Aquileia, the Seigneurs of Momiano allied themselves with the Venetians. Not only: they subsequently took part in the rebellion of the Friuli nobles against the Patriarch, which ended in February, 1310 (Štih, 2013, 173). This change of sides was the likely reason for the uncontested occupation of Momiano by Vicardus II of Pietrapelosa the following year.

After the loss of Momiano in 1311, the Patriarch of Aquileia gave the Seigneurs of Momiano the feud of Castiglione between Buje and Grožnjan, where they continued to practice their political pragmatism. So it was that in November of 1343 Biaquino and his son Francesco Voscalco put themselves and their Manor of Castiglione under the protection of Counts Meinhard VI, Henry III and Albert III of Gorizia, thereby siding with Venice in the Veneto-Gorizian war. In 1345, to punish this betrayal, the Patriarch of Aquileia had the vassal captured and the walls surrounding Castiglione destroyed. As citizens of Venice, Biaquino and his son were freed, but only thanks to the intervention of Venice.

The line of the first Seigneurs of Momiano died out in 1358 with the death of Francesco Voscalco, son of Biaquino, *qui decessit absque masculis heredibus ex se descendentibus*. All the feuds that the house had obtained from the Aquileian church went back to the Patriarch of Aquileia, who conferred them to Simone of Valvasone in Friuli on condition that *quod in loco de Castiglono numquam habeat facere Castrum aliquod edifican* (Štih, 2013, 179).

Almost at the same time the Seigneurs of Pietrapelosa also died out. The last member of this glorious and important Istrian family of feudal lords is found in the investiture of Nicolò, son of the deceased Peter Pietrapelosa. The division of all the possessions of his ancestors (Pietrapelosa and Grožnjan) (CDI, II, 741, 1253; Benedetti, 1964, 15–16) was confirmed in 1352 by the Marquis of Istria Jacopo Morello of Lucca.

CONCLUSIONS

As we have seen, the last decades of the 13th century in Istria are marked by continual struggles for territorial conquests and wars that produced victims and devastation. The disastrous effects of these struggles were aggravated by the frequency with which epidem-

49 De Franceschi (1897, 163–164) held that the village Colton was Kršan below Pazin, while Klen (1977, 32), claimed that it was Kodolje (Codoglie), which later was part of the feud of Pietrapelosa.

Fig. 35: Amor Sacro e Amor Profano by Titian as apology of Divine and Profane Law (Wikimedia Commons. File:Tiziano – Amor Sacro y Amor Profano (Galería Borghese, Rome, 1514).jpg)

ics were spread, also in neighbouring areas (so much so that bordering populations struck by the epidemic sometimes found refuge in Istria). This is what happened, for instance, after the military encounters that occurred between 1267 and 1277, and even more after the 1283–1291 war between Venice and Aquileia that was fought in Friuli and Istria. The peninsula was hit especially hard, "decimated, burnt down, desolate and brutally debauched". The inhabitants of adjacent zones such as Carniola, Carinthia and Croatia arrived in the region, settling chiefly in the territory of Koper, Izola and Piran, which were among the most vulnerable areas.

However, it is the documents concerning the feud between the Patriarch of Aquileia and the Counts of Gorizia that are evidence of how written laws show that the ritual forms and gestures of the customary system of conflict resolution were not only maintained but were regularly inserted into the ritual formulas of written law. Above all they document how the customary system of conflict resolution, in its ideal image and through rituals, reflected social values based on the mediation of the community, reciprocity and the propensity to achieve a lasting peace. Comparisons with the custom of conflict resolution in Montenegro, Albania and Herzegovina confirm the hypothesis of a number of the ritual and procedural features of custom in written law. In addition, they confirm the fact that the customary conflict resolution system, also called *vindicta, faida, blood revenge, krvna osveta, gjakmarrja* etc., was in fact a concept. Ritually it consists of three phases: gift (compromise), the truce (Oath) and lasting peace (amor). The three phases, brilliantly descripted by Le Goff on the case of knights' investiture in his work The Symbolic Ritual of Vassalage, are valid on the level of secular authorities' organisation. Concept, obviously developed back in primary human communities. In social and interpersonal relations, conflicts are not only a reflection of the continual struggle for control of resources;

rather, they are an integral part of the system of social order. Indeed, conflicts generate alliances between different groups, in the past chiefly between kin groups and clans. This is a general structural aspect of conflict, while the local or particular aspect is shown concretely through the struggle for resources, in the interweaving of single circumstances, where those who succeed in forming the greatest number of loyalties, differing and often contrasting alliances, are the ones who prevail. In our case this was clearly better accomplished by the Counts of Gorizia than by the Patriarchs of Aquileia.

The fact remains, however, that already in 1305 Biaquino II alienated Momiano to Fredrick of Prampero Friulano, only to buy it back two years later (1307). In the spring of 1311, Viskard II of Pietrapelosa conquered Momiano, and on 7th May of the same

Fig. 36: The Ark of Rolandinus Rodulphi de Passageriis in Piazza San Domenico, Bologna (Wikimedia Commons. File:San domenico, bologna, arca.JPG)

year transferred ownership of the castle to Fredrick of Prampero for 200 marks, with the commitment not to cede it to anyone for six years, especially not to the Venetians or the city of Koper. Subsequently, the Patriarch of Aquileia invested Fredrick of Prampero with the feud of Momiano. But already in December of 1311 Fredrick *de sua manu et tenuta* surrendered it, selling it and investing Count Henry II of Gorizia and his heirs with the Seigneurage of Momiano; the Patriarch could do nothing but ratify the investiture of Count Henry II of Gorizia and his heirs with the feud of Momiano. The ceremony took place on 6th October 1312 in Udine (Carli, 1791, 158–159).

Thus it was that in 1312 the feud of Momiano passed into the hands of the Counts of Gorizia. This was, in fact, the ultimate vendetta of the family of Pietrapelosa, with the important difference that this time it came about without a *turpiter interfectus*.

CUSTOM AND LAW

Many researchers of vengeance still insist on the concept that medieval *vindicta* was only a retributive judicial practice that had to be exercised by rulers so as to be able to maintain order and peace, or they were marked as weak; therefore *vindicta* could be perceived inter alia as social obligation (Throop, 2011, 16–26).

It is in fact hard to imagine how deeply the term *vindicta* was rooted in the social imagination of the past: the reasons for waging wars, such as the crusades, based their ideological and social mobilization precisely on *vindicta.* It allegedly also became an obsession of Holy-Roman Emperor Otto III; however, the contemporary chronicle writers explained his premature death in 1002 that took place in dramatic circumstances during his march on Rome, as a consequence for not respecting the biblical phrase: "*Vengeance is mine, and I shall exact retribution*" ("*Mea est ultio et ego retribuam*") (Thropp, 2010, 5).

Revenge in the realm of the governmental sphere was restricted by the Truce of God (*treuga Dei*) or the Peace of God (*pax Dei*). These were the clerical prescriptions that marked the peak of the particular state that intended to moderate vengeance with the Peace of Land (*Landesfrieden*) in the profane sphere of the state authority from the 11th century onwards. These directives were transmitted to all spheres of social life, as important transformationwere also seen in the ritual of vengeance. Undoubtedly the "vindicate ius", as it was named at the beginning of the 13th century by Robert of Auxerre (Throop, 2011, 19), who is deemed to have been one of the best French medieval historians, was understood as a phenomenon known among all classes of the population.

Within the institute of vengeance, as it was formed with the so-called peace movement around the year 1000 in France, which influenced the merging of bases for the knightly and courtly love (cf. Duby, 1985; de Rougemont, 1999), there are several elements of restorative justice, which undisputedly harks to the ritual of revenge as it was preserved well into the era of written and learned law from the 12th and 13th century onwards.

However, it is hard to specify when the ritual formed. Comparison with Roman law and with some older rituals is indeed called for.

As much as the learned law[1] influenced peaceful conflict resolution, (Bellomo, 2011, 71) resolution before the courts substituted the violent conflict – especially after the guarantee for peace was transmitted to a (notary) document– the customary ritual shows a great deal of democratic elements, as the individuals and the community were faced with the simple choice of either resolving the conflict in a peaceful manner, through mediation within the society, or to insist on its violent resolution.

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1 Let us just point out some of the first glossary writers starting with Irnerio, the rediscovery of the Codex Justinianus (Emperor 527–565), the most prominent testament of the Roman law, the formation of autonomous medieval cities and city laws, the spreading of literacy and the notarial profession. Furthermore this was also a period that saw changed roles of monasteries and monks, a time of demographical and economic growth and beneficial environmental circumstances, the era of the knightly love (De Rougemont, 1999), as well as the time of colonial conquests with the crusades and the invention of purgatory for usurers, this is money lenders (cf. Le Goff, 2012).

The concept of conflict resolution, which reproduces and preserves itself through ritual (symbolic) activities, establishes norms and values that were at least in the early stages of the learned law considered granted aspects and were thus included into the written legal forms.

The same circumstances also preserved the ritual gesture of the kiss of peace (*osculum pacis*), which was apparently a compulsory part of the peace-making process and a warranty of the perpetual peace that took place among the feuding parties, which is testified in several (notarial) documents or so-called *chartae pacis* (cf. Rampanelli, 2017, 304).[2]

Some in-depth and analytical research, such as studies of William Ian Miller (1988; 1990; 1995; 1998), Christopher Boehm (1984) and Claudio Povolo (1997; 2015b; 2017), describe feud as a legal system that was intended to resolve conflicts among hostile groups with the intention to administrate and control political and economic sources.

This system also frequently prescribed the use of murder and other retributions, and on the same note it also expressed the fundamental need to re-establish peace among the feuding parties, weather by monetary composition, by giving away a woman in marriage, or by other means of peace-making and retribution that was in accordance with the customs and traditions of all the individuals involved, as well as the community in accordance with the complex language of honour.

LEGISLATION AND LEGAL PROCEDURES

When studying the custom of vengeance, it is necessary to take into account some legislative sources, ranging from Roman and Canon law, and various acts of early Germanic state communities, starting with the collection of Lombard law, which was instructed to be written by the king Rothari (643).[3]

For this discussion interest undoubtedly lies in high-medieval and late-medieval legislation, ranging from the scripts of trained jurists and city statutes, to various legal acts of rulers, Imperial, and Land Peace.

One of such peace acts that fairly early intended to normalize and regulate the custom of vengeance or *faida* (*Fehde*), as they were called in the Germanic territory, was the 1235 imperial peace of Emperor Frederick II

However, this case also regulates the written form of the custom that was previously framed in the learned law; the regulation itself aimed primarily to prevent feuds among the nobility, meaning the feudal lords, knights, and clergy.

2 Some examples of documents that attest to the kiss of peace (*osculo pacis*) at the conclusion of the peace-making process in 14th-century France are, inter alia, published in Smail & Gibson (2009); it is very evidently attested by Rolandino (1546, 158–159), the 13th century university professor at the University of Bologna, notary and judge. Cf. also Marinelli (2017) for religious art in the 15th and 16th centuries.

3 The sources testify that the word faida was first documented in Latin, in the *Edictum Rothari*, in a collection of 7th-century Lombard tribal law, where it states: *faida hoc est inimicitia*. The majority of relevant legislation regarding the custom of vengeance, ranging from the Antiquity to the Middle Ages, including some biblical references, were given in extremely important reader of legislative acts and other documents that were translated in English and edited by Smail & Gibson, 2009.

Fig. 37: Irnerius (1060–1130), regarded as the first glossator (Irnerio che glossa le antiche leggi, bozzetto di Luigi Serra, 1886, Collezione Stefano Pezzoli, Bologna) (Wikimedia Commons).

After the feuding between the German king Rudolf I of Habsburg and the Czech king Otokar II Přemysl, and after the latter declared the 1276 peace of Vienna, he denounced the acquisitions gained during the interregnum (1252–1273) in Rudolf's favour. Among the acquisitions were also Styria, Carniola, and Carinthia, and the Windic March, and the same year the majority of present day Slovenian territories were given an act of Land Peace.

The Land Peace proscribed one year of due time for the composition to take place in the event of a homicide. If, however, within this timeframe the composition did not take place, the case was taken to the court. Also the following legal normative acts for these lands, the 1338 privileges of duke Albrecht II for Carniola and Carinthia indicate the intervention of the court, which deliberated primarily according to the custom.

A caught perpetrator could pay the composition in exchange for a physical penalty; however, the payment of composition could not damage the assets of the perpetrator's wife or children.

A perpetrator that fled was to be fined with a high monetary fine. Blood revenge was a possible sanction for such a perpetrator. The privileges namely state: "may he beware of his enemies and of the *scream.*" This indicates that the state authority took jurisdiction in cases of homicide; however, it still allowed vengeance in some cases, meaning that the perpetrators evidently needed to follow the principles of the custom of blood feud.

A similar regulation was known in the 1365 privileges, which prescribe that the judge should incarcerate and condemn the killer, "*when the relatives of the killed come with screaming before the judge's presence*"; however if they come to peace with the perpetra-

tor, may the feudal lord of the killed fief get paid a permanently prescribed amount, whereas the sum of the blood money that was given to the relatives depended on the mutual agreement. All 14th-century privileges mentioned gave great emphasis to the role of the relatives (Kambič, 2005, 199–200).

In the same period sourced the 1356 Imperial peace, also-called the Golden Bull of the emperor Charles IV of Luxembourg (reign 1355–1378). The Golden Bull implemented exact norms regarding the announcement of hostility in advance. Whoever violated these process regulations was convicted for leading an unjustified feud, which was considered as a rebellion and treason and commonly resulted in exile and death; however, it always resulted in a high monetary fine, depending on the damage caused.

The following peace did not prohibit feuds, but merely regulated them as prior: the primary attempt to resolve the dispute by court, the announcement of hostility, feuding, and damaging at least three days and three nights in advance (cf. Brunner, 1992, 50; Vogel, 1998, 46, 52–54; Firnhaber–Baker, 2006, 25).

How, then, did the trial rite take place according to custom? This we will learn in the next case.

FACIAMUS VINDICTAM

"*Look, have a look, here comes Marcuccio, our relative's murderer, come, I want to avenge him*" (*faciamus vindictam*) says Johannes to his brother Alexis, who sat in the company of the village men in the village square on St. Jacob's feast day in 1401 in Landar, Slavia Friulana (Natisone Valley; Ital. Antro). Alexis answered: "*I do not wish to do this, not even if you would have done it, but let's go to the henchman (preco), who will distance him from the feast day, so that he does not die in front of our eyes*."[4] After Alexis and Johannes visited the henchman and returned to have a lunch, Marcuccio approached them, stood in the middle of the two and punched Johannes. At that moment Johannes pulled out his knife to attack him, but Alexis stabbed him from the back with a lance (*lancea*), so that blood appeared. Marcuccio staggered against the wall, when Johannes stabbed him with a spear (*spioto*) in his chest so strongly that the spear came out on the other side. Marcuccio collapsed to the ground and, while he was lying there, Alexis once again stabbed him with the lance.

The murdered Marcuccio's relatives (his wife and son with their master) denounced the incident to the Landar gastaldion Henrik, who interrogated Alexis regarding the murder; Alexis confessed the murder (*manifestum*) without torture. His confession, saying that he and his brother Johannes murdered him, was written down in both Latin and a

4 Marchesi, 1897, 12: "[…] *Vide huc venit homicida qui occisit consanguineum nostrum, venias mecum quia volo quod faciamus vindictam de eo; cui ipse Alexius ut dixit respondit: Ego nolo et non facias, sed vadamus ad preconem qui festum cridavit ut ipsum e festo recedere faciat ne pre oculis nostris moretur* […]". This case has already been recalled by Vilfan, 1996, 451–452. Testimony about this event has been preserved in the private collection of the renowned Friulian historian Vincenzo Joppi The only publicly available copy of the publication of this judicial process known to me (Marchesi, 1897) is kept in the library Biblioteca dell'Ateneo Veneto in Venice.

Fig. 38: Albrecht Dürer, Melancholia I (1514), copper plate. Wikimedia Commons.

Slavic language (*lecto et vulgarizato in latine et sclabonice*). The confession also said that the deceased Marcuccio had killed their relative Zergin and that he had never wanted to make an agreement (*nunquam se concordasset*), neither with him nor with his brother or other relatives, that he had made no offering for his soul to anyone, not even to the church, however, that he had often sat and then wandered around in front of them and had threatened to kill Alexis as well as his brother.

The document of the trial in Antro from the year 1401, written by notary Iohannes from Cividale (residens in Civitate Austrie q. Michaelis de Montefalcone), who evidently administered the process, clearly shows what happened at the procedure and how the trial rite took place.

The judicial assembly gathered on the 10 October 1401 in the square (*super platea*) under the linden tree (*sub tileo*) in the village of Landar, at a common place where justice was administered, in the company of seven nobles and citizens (as listed: nobilibus et providis viris ser Nicolao, ser Rodulphi de Portis de Civitate, Bartholomeo de Civitate, Nicolao de Tolmino prope Civitatem, Michaele tabernario habitante in dicta Civitate, Pertoldo de Spegnimbergo, Iurio caligario de Porta Brosana), in any case – not Landar locals. They are marked as witnesses of how the process took place, i.e. the judicial assembly. Beside them was present a crowd of people from Landar valley (*de ipsa contrata Antri in multitudine copiosa*).

The trial was obviously led by the judge Leonardo, who was probably one of the locals. (Vilfan, 1996, 451), which at that time was also the custom. But since it is in the source mentioned as „Leonardo Iudice“, Iudice (judge) with a capital letter, we can

assume, that it was a trained lawyer – a judge – which could also derived from the lowest stratum of society, gaining status and reputation with university education.

The judicial collegium consisted of an additional five deans from the neighbouring villages (Petro Decano de Slatina, Zampa Decano de Montefoscha, Mathia Decano de Miars, Matheo Decano de Las et Gregorio Decano de Peglano), in line with the customs of the village Landar, as is emphasized in the document.[5] Most definitely the participants standing around were also included in the decision-making process, which means that in fact a group was deciding on the matter – a group, which may rightfully be considered the "people".

The judgment was given by the judge and deans after their triple consultation with the present locals, which was in accordance with the custom of Landar valley. The defendant was acquitted since the murdered one did not settle for the manslaughter he committed; this basically means the recognition of blood revenge and reconciliation. The pardoned defendant should have made an agreement regarding reparation (*de jure et gwadia*), while in the future peace should rule among families.

The penalty was declared just in case they were not prepared to respect the decision.

There is also mentioned ***amor*** as justice and charity.[6]

In spite of the rather cruel murder in public, with the collaboration of his brother, whom he persuaded to the murder, the accused Alexis was pardoned of guilt only based on the fact that Marcuccio did not want to make an agreement for the act he committed.

THE 1495 PERPETUAL IMPERIAL PEACE

The fundamental change occurred by the 1467 peace of Emperor Frederick III, who completely forbid feuding. Frederick's imperial peace of 1486 reinforced the prohibition of feuding in the document's first paragraph. No one, regardless of their social status, was allowed to wage feud or combat (war), to raid, seclude, or pillage villages, or to put them under siege or violently and illegally attain their castles, cities, squares, fortresses, villages, etc., nor to damage them by arson or in any other way. The people who would nonetheless decide to do so were not to be assisted in any other way. Whoever violated these prohibitions was to be fined accordingly and was to be subdued to the imperial exile.

The breakthrough that was brought about with the 1495 Perpetual Imperial Peace of the Emperor Maximilian I (reign 1493–1519) was seen only after a while and not so much from the normative perspective, as the delegitimization of vengeance already began in the late middle ages, but due to the fact that it established a central judicial body within the state and ordered peace within the entire Empire.

The peace was established by Maximilian out of the need to protect the Empire and Christianity against the Ottomans.

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5 Marchesi, 1897, 9: "[…] *moris est convocatis, sedente et procedente ex debito sui officii ac procedere volente prout moris est in dicta contrata de Antro* […]".

6 Marchesi, 1897, 10: "[…] *secundum eius confessionem et iuris et consuetudinis ordinem de ipso iusticia fieri amando et custodiendo animas eorum et quid iuris supra premissis* […]".

Fig. 39: The Emperor Frederick III (1415–1493). Hans Burgkmair, 1468 (Wikimedia Commons)

By forming the new legislation he used mostly the hired jurists from the Italian universities that were well acquainted with Roman law.

In contrast to the majority of the previous imperial peace, perpetual hostility, thus feuds, were not discussed in merely a few articles, but rather the entire document was designed to prohibit it.

However, Maximilian's perpetual imperial peace mostly prohibited the waging of hostility, whereas the custom of peace-making remained untacked and unchanged as long as it was concluded before the court.

Through the imperial peace (law) the emperor finally put himself in the role of the supreme judge within the empire, as the last instance of appeal. The state chamber court (*Reichskammergericht*) became the first judicial body, to which the conflict resolution amongst the nobility was transferred. It did not, however, have jurisprudence for the entire empire, as its role was complemented by the imperial court council (*Reichshofrat*) as the highest instance of appellation for all inhabitants of the empire.

The delegitimization of the blood feud took no faster effects. Not only did the judicial courts allow the pacification of blood by custom, they also encouraged the custom with the intent to maintain the peace in public, regardless of how the criminal legislation aimed against these types of "arbitrariness".

The accusation towards the *Constitutio Criminalis Bambergensis* (1507), insinuating that the courts only saw the monetary aspect of the reconciliation, is not completely unfounded. However, the judges were completely aware that the conflict resolution, especially the pacification of blood, never came easy, wherefore the conclusion of truce and perpetual peace was not only supported but the feuding parties were practically

forced into the pacification. The same held for the occurrence at patrimonial courts that successfully established social control by the taking the legal customs into complete consideration.

Undoubtedly, the *Bambergensis* in comparison with the custom and medieval regulation of conflicts introduces an innovation, as blood revenge was only permitted after the denouncement of conflict.

The late medieval legal texts for common use were unfamiliar with this restriction. If the fled perpetrator came to an agreement with the authorities, he was not proclaimed as banished; he remained within the legal order, which meant that the perpetrator was given all immunities (*sanctuary*) and could be given assistance. Consequently the victim's family could embark on the ("subsidiary") legal route in hope for denouncement, which terminated the "advantages" (Frauenstädt, 1881, 11).

Maximilian's grandson, the Emperor Charles V (reign 1519–1556), used the *Bambergensis* as the basis for the first Imperial (state) criminal code, called also Procedure for the judgment of capital crimes of the Emperor Charles V (*Peinliche Halsgerichtsordnung Kaiser Karls V*; *Constitutio Criminalis Carolina*). Equal to *Bambergensis*, the Carolina had the role to limit judicial arbitrary, in particularly by precisely normalizing the inquisitor procedure.

Many characteristics of Carolina can be seen in the Malefic Freedoms of the people of Ljubljana (1514)[7]; an important difference is to be seen especially in the fact that the Freedoms preserve some of the old characteristics that were abolished or modernised in Carolina. As an example, let us mention especially the role of the judge, who within the Freedoms does not have the right to "judge". That means he does not have the right to deliberate about the matter, except in the event of equal votes. According to Carolina the judge already cooperates in the final sentence.

While the decision about the torture according to the Malefic Freedoms lies in the hands of the judicial court, the Carolina in detail proscribes the conditions (so-called indices) that had to be given for torture in the concrete case (Kambič, 2017, 648).

The above-stated criminal orders, the Bambergensis, the ones issued by the count bishops, and the Malefic of Laibach and Charles' Imperial, all played an important role in establishment of the inquisitorial judicial procedure in the Holy Roman Empire (Frauenstädt, 1881, 171–172), especially regarding the influence that these documents had on the development of the criminal justice or the legislation of individual lands.

This was stressed by Frauenstädt at the end of the 19th century, as he stated that the vessel of the changes in the relationship towards the custom of vengeance was not the reformation, but the overrule of Roman law and the inquisition procedure.

By reinforcing this, the responsibility for the pacification of blood or a homicide was transferred from the hands of the kinships into the hands of the judicial authorities. Before this the judicial authorities only intervened upon the demand of the community (ex. *scream*) or due to the inactivity of the victim's kinship based on the accusatorial procedure, the principle "*where there is no plaintiff there's no judge*" (Vilfan, 1961, 271).

7 Orig. *Deren von Laibach Malefitzfreyhaittn* (cf. Kambič & Budna, 2005).

Fig. 40: The Emperor Maximilian of Habsburg and his family; from left Maximilian, the grandchildren Ferdinand and Charles, son Philip, wife Maria, and grandson Ludwig (Bernard Strigel, po 1515). Wikimedia Commons.

Simultaneously, modern legislation was being given exclusively by the country count and his authorities, whereas before the feudal lords, the towns and other feudal lordships in concord with the fiefs gave their legal instructions. The state became the only instance that was allowed to "take vengeance" and the only instance that could pardon the violation of the social order, i.e. the criminal legislation, whether regarding a homicide or some other trespass.

Nonetheless, pardons that were solely in the jurisdiction of the ruler were not a rare occurrence (Carroll, 2007, 16), just as, on the other hand, the threats of starting a feud on the part of the fiefs were not. In any case, the inquisition procedure in the legal practice within the Holy Roman Empire was a slow process (Frauenstädt, 1881, 168–173).

Based on research into the Franconian nobility, Zmora (1997) shows that the state fundamentally contributed to the abolishment of feud, but only indirectly, by reducing the privileges of the nobility, which the nobility defended with institutionalized solidarity amongst the members of their state (Frauenstädt, 1881, 145–146).

On the contrary, research by Wieland (2014) indicates that all these occurrences did not outroot the custom of revenge (Carroll, 2012), but rather the nobility adjusted the custom to the new political and social circumstances.

There could be several reasons for eliminating the term *Fehde* from the vocabulary of the nobility: the de-legitimization of the custom was a long lasting and a complex process, triggered by the bloody experiences and the consequences of the peasant and religious wars, which in many areas demolished the pre-modern social order and peace and rocked traditional mechanisms of social control.

The strict inquisition procedure and the higher access and use of the judicial courts led to the criminalisation of feud within criminal law, to its restriction within knightly alliances, and to the prosecution of the highest forms of violence in the intent to resolve disputes.

It seems that all indicated influenced the fact that *Fehde* attained a pejorative connotation in the 16th century. It became regarded as something that pertained only to the "irrational" lower classes (cf. Carroll, 2006, 12; Peters, 2000, 71; Vilfan, 1996, 460; White, 1986, 202). The culmination of these aspects is evident in 1769 *Constitutio Criminalis Theresiana.* The legitimate use of violence was only accepted as a form of self-defence, and as a protection of lordship privileges. The use of violence followed the diction of criminal legislation, that did not permit other application of "self-help" accept in cases of self-defence.

These characteristics did not only bring about the state monopolization of violence, but also the law in general and finally the social control.

The Modern Age de-legitimization of the custom of vengeance was in practice its monopolization within the realms of the state (starting with the ruler in person): from mediation and arbitration of the disputes to the retribution of injustice.[8]

THE VENETIAN COUNCIL OF TEN

Similar occurrences took place in the Republic of Venice. The Council of Ten (*Consiglio di Dieci*) was formed already in 1310 as a part-time body; however, only in the second half of the 15th century did it begin to gain its judicial power, when it started to issue several legal norms to achieve judicial control over the entire territory of the Venetian Republic.

Whereas within the Empire the opposition to the central power of the ruler was represented by the nobility, fighting for the preservation of its privileges, mainly the right to feud; the Venetian authorities experienced an obstacle in their endeavours to centralize the judicial power within the developed cities of *Terraferma,* the territory that was acquired

8 A detailed breakdown of the process of establishing a state judicial monopoly in the Holy Roman Empire is given by Žiga Oman in his doctoral dissertation (Oman, 2018).

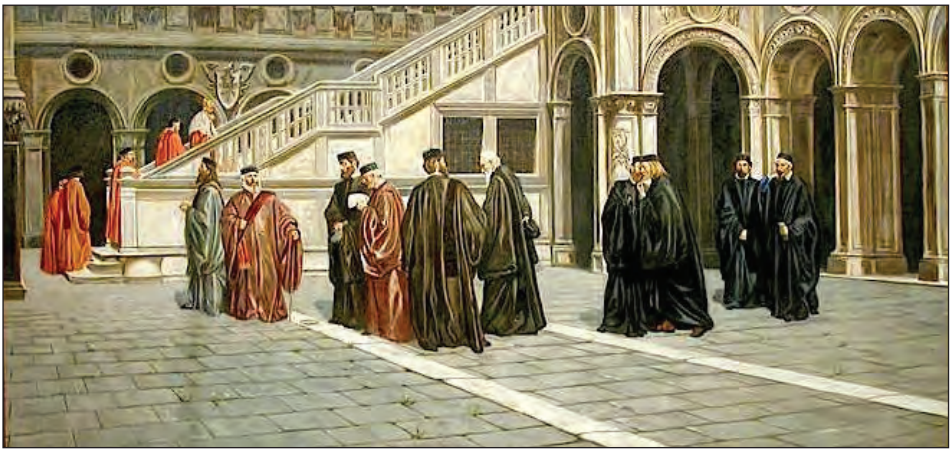

Fig. 41: The Venetian Council of Ten, also known as The Horrific Ten (http://resetvenezia.it/2014/03/25/10-principi-per-una-buona-politica/)

by the Serenissima in 1420, after the downfall of the profane authority of the Patriarchs of Aquileia.

Cities such as Vicenza, Brescia, Treviso, Verona, Udine, etc., used their statutes to defend their autonomy and customs, especially the system of conflict resolution (cf. Muir, 1998).

The Venetian Republic did not specifically prohibit the exercise of the custom by law; it did, however, have a certain tactic to centralize the judicial apparatus within the state, which resulted in gradual take-over of the ritual forms of vengeance.

The primary emphasis was on the exile (*bando*), later on the conclusion of truce and peace, which had to be concluded in front of the central Venetian judicial bodies, especially in front of the Council of Ten, The Council of Forty for criminal acts (*Quarantia criminal*), and Communal Advocates (*Avvogadori del Comun*),[9] or the people with their authorisation, that is mainly through the podestà (*rettori*) of individual local communities that were elected from the members of the Great Council of Venice.

The secret to several-centuries long rule of the Venetian Republic in northern Italy and the Eastern Adriatic all the way to Greece was probably hidden within the substantially long-lasting permission to exercise their local legal customs in some of its territories. The local members of the authority mainly played the role of mediators and arbiters in the disputes, especially when the parties were unable to reach an agreement according to custom.

In some areas, such as in Montenegro, the Venetian Authorities as late as by the end of the 18th century not only allowed customary conflict resolution, but also respected

9 The archival material of these Venetian legal bodies is held at the ASVe and constituted fundamental research material for this study.

the legal customs that were based on the custom of vengeance (*osveta*) itself in court procedures (cf. Ergaver, 2016; 2017). This was, however, not the case in the areas right around Venice, in the Terraferma, and the cities of Istria, although the Slavic inhabitants of the Istrian countryside exercised dispute resolution according to the custom, i.e. through composition.[10]

From the late 15th century onwards the Venetian authorities began to issue laws and decrees for the entire territory of the Venetian Republic.

The first legal restraints concerned exile (*bando*) and carrying (fire)arms (Povolo, 1997, 118). Why precisely the exile? It was one of the fundamental ritual forms in the customary system of conflict resolution. It was primarily designed to exclude the perpetrator(s) for a certain period of time in order for the feuding parties (kinships, clans) to come to an agreement within the dispute resolution itself, namely truce and peace with composition through intervention of the mediators and the arbiters.

Only thereafter could the exiled return to the community (*restorative justice*). If the pacification did not take place, the exiled remained in exile (*homo sacer*), being at the mercy or disfavour to anyone who was in practice allowed to kill him or even to be rewarded for killing him (*retributive justice*).

Furthermore, other exiles could free themselves or buy themselves out by killing another exile. This seems to have been an ancient custom; sentence was declared in the jurisdiction of the local communities (cf. Miller, 1990; Povolo, 2017).

Being completely acquainted with the structure of customary conflict resolution and its influence among the privileged classes, which was used in settling scores among themselves in order to gain more influence, reputation, political and economic power in the cities subordinate to Venetian Republic, the responsible central bodies evidently soon realized that the ritual form of exiling the perpetrator was precisely the point that needed primary attention and regulation within the Venetian state bodies.

However, the Venetian Republic did not regulate this phenomenon with the prohibition of exile or by restricting the jurisdiction in the deliberation of the penalty, but interestingly with a prohibition on killing exiles throughout the Republic's territory.

However, this repercussion was not permanent, as the practice suggests that the prohibition of killing the exiles lasted for a year, two or three. Within this period the exiles could present themselves in front of the judicial bodies in order to be sentenced, after which the moratorium was cancelled and re-established after a couple of years.

This approach, which gradually established state legislation throughout the territories of Republic, lasted almost a century, starting with the first law implemented in 1489 by the Council of Ten, which needed to be cancelled the next year due to the pressure imposed by some important cities of the Venetian *Terraferma*. It was later reinforced in 1504, 1524, 1531, 1541, and with intense repercussions also between 1549 and 1580, when it was proscribed that the exile could only be deliberated by the Venetian Central authorities. The exile included exile from all the cities under Venetian rule and also all the ships of the Venetian fleet. The exile was for life in the event of serious trespasses,

10 A concrete case I found among others in ASVe, Provveditori Camera dei Confini, b. 239, 1784, P. 18.

whereas before this it referred to exile from the crime scene and surrounding areas (usually within a radius of 15 Venetian miles = approx. 28 km), the time span of the exile was deliberated by the community.

This was not a novelty in comparison to the European medieval custom, which allowed the exile to be killed by anyone who found him in the territory from which he was exiled. The killer of an exile was not to be punished and was frequently even rewarded for this action, especially with a pardon of the exile sentence (Miller, 1990; Povolo, 2017). However, precisely for the purposes of bounty hunting the Venetian authorities in the second half of the 16th century launched paramilitary expeditions (for example by recruiting Dalmatians), which in an organized manner "purged" the exiles (*bandits*) from the territories (Povolo, 1997, 118–126; Povolo, 2015b, 224–227). Besides that, deliberations about exile sentences (*sentenza di bando*) included a clause that the exiled individual could free himself from exile by killing another exiled person. For this purpose the Venetian authorities developed a unique business with the so-called *Voci liberar banditi* (ASVe, Capi del Consiglio di Dieci); this furthermore made it possible that the exile not only freed himself by killing another exile, but could also earn a living by bounty hunting other exiles or could (for a higher sum) free another fellow exile or prisoner based on the certificate (*Voce*) given by the Council of Ten that thoroughly inspected the killing of an exile. Proving that an exile had been killed by presenting his decapitated head was always the most convincing.

As a response to this punitive policy special gangs of former exiles were formed, who bounty hunted and "purged the terrain" of exiles (Povolo, 2017; Rossetto, 2017; Vidali, 2017; Romio, 2017).

The policy in the realm of the exile penalty was not the only strategy used by the central bodies to establish supreme judicial and military control over the entire area of the Venetian Republic; a similar thing was also taking place in other European countries (Schwerhoff, 2002; Rousseaux, 1997, 106).[11]

Important changes took place especially regarding trial rites. Whereas the Middle ages are characterised by arbitrary conflict resolution between feuding parties, in accordance with custom and ritual, without the assistance of the judicial court, which was deemed to be far more honourable; or by the assistance of judicial courts, in accordance with the principle of so-called accusatorial law, meaning that the legal process was not launched if the violated party did not file a lawsuit. This was valid especially in the late middle ages; thereafter however, especially in the 16th century, the inquisitorial legal procedure was formed, which enabled the judge himself to commence the criminal legal procedure (*ex–officio*).

This phenomenon, which had begun already in the 12th century with the acceptance of the procedure of Roman canon law, enabled the development of a much-needed bureaucracy, composed of judges, lawyers, notaries, and court clerks, who gradually excluded laymen from deliberations in the judicial processes. The new procedure was complex and composed of several stages that took place orally and in written (*ordo iudiciarius*) (Brund-

11 See also the point of Cerutti, 2003, 11–22; Bossy, 2004; customary practice held that fugitives convicted of the highest transgressions could seek their sanctuary in churches, cf. Shoemaker, 2011, 167–173.

Fig. 42: Exchequer_manuscript. One of four illuminated manuscripts that are the earliest known depictions of the English courts and court dress. They date from about 1460 and show the four courts at Westminster Hall. Wikimedia Commons.

age, 2008, 151–163). The role of the judge (*officium iudicis*) was gradually separated from governmental functions (Bellomo, 2011, 55–78). This influenced the establishment of a new inquisitorial procedure (*processum per inquisitionem*), namely trial rite, which is very different from the sixteenth-century inquisitorial process, where the judge had the main initiative.[12]

The procedure usually included very ruthless methods of interrogation that implemented a strict idea of punitive law and rigidly restricted the plaintiff's possibilities towards the defence. The inquisitorial procedure did not proscribe the formal presence of the plaintiff's attorney. Furthermore, the court was not liable to present the processual acts in the phase of the defence in a sense that the defendant was unable to know what he was accused of, who was accusing him, and what the witnesses' testimonies were. This regarded extremely strict regulations; the defendant was at mercy of the judge, who had a wide range of discretionary rights, as the defendant did not have a chance for appeal. The inquisitorial process thus aimed at excluding all the previously valid characteristics of the judicial process's dynamics, especially the influence of legal customs and local judicial courts that strove towards reciprocal settlement and the establishment of peace within the community.

12 These topics are extensively represented in the work of Damaška (1986); cf. Povolo (2015b and 2017) and Langbein, 1974, 130-131.

This was also its main point: although the judicial processes were still being led by the local podestà or their chancellors, as this was the case for the formation of the so-called regular (*ordinaria*) trial rite in accordance with the city statutes within frames of existing offices for malefic cases. They had to report all the cases to the members of the central Venetian judicial body, the Council of Ten, who could issue an authorisation (*delega*) to be able to grant a formation of so-called extraordinary (*straordinario or inquisitory*) judicial procedures.

The reception of extremely strict inquisitorial procedures, whose primary objective was to upset the logic of the customary system of conflict resolution, was an instrument used by several European countries to implement a different concept of public order and of social control. It is, however, misleading to notice only the contribution to initiatives of central bodies and to neglect encouragement from the political and social level of pre-modern European society, which demanded new forms of control and order so as to ensure social peace and economic activity.

The 16th century brought about the establishment of the system of criminal jurisdiction that was directly controlled from the centre and aimed to punish crimes that presented a danger to society.

This was of greater importance in comparison to the more traditional form of law, as the punishments were valid in all parts of the state and thus surpassed the ancient local judicial arrangements. This was the way of establishing the inquisitorial procedure in almost all European lands, from Italy, France, England, to the Holy Roman Empire, between the end of the 16th and the first decade of the 17th century (Damaška, 1986; Berman, 2003; Wormald, 1980; Padoa Schioppa, 1997; Braddick, 2004; Langbein, 1974; Kaminsky, 2002; Carrol, 2006; Bellabarba et al., 2010; Povolo, 2015b; Dewald, 1993; Stone, 1997; Thornton, 2009; Davies & Fouracre, 1986; Throop & Hyams, 2010; Rousseaux, 1993, 2006; Royer, 2001; Sbriccoli, 2009).

However, the changes took place relatively slowly. In contrast to the repercussions accepted in other European countries (e.g. *Carolina* issued by Charles V for the Empire, or the *Ordonances* issued by the French rulers), whereas in 16th century Italy the so-called *Practicae* of the established legal professionals prevailed and dictated the tone of judicial repercussions and represented the most important views of the criminal policy with a determined focus on the practice (Birocchi, 2002, 253–269).[13]

Although not even the law that was issued by the Council of Ten on 29 September 1575 determined the exact procedure of the inquisitorial process – probably it did not even have a precise interest in doing so – throughout the Republic of Venice the accusatorial and the inquisitorial trial rites began to enforce the broad-reaching discretionary privileges of the judge in all 3 phases of the judicial process, which in its internal structure still showed the characteristics of a traditional trial rite (Povolo, 2015b, 217–219).

The first stage of the trial rite included the so-called informative process (*processo informativo*). After the podestà (as the main judge) of a certain city reported to the

13 Italo Birocchi focused on public figures such as Egidio Bossi, Giulio Claro, Tiberio Deciani and Prospero Farinacci. Cf. Sbriccoli (2002). About other notable writers of tractates on the same era cf. Carroll (2016), Povolo (1997), Bellabarba (2017), Glavina (2013).

Fig. 43: Strappado torture. Hanging woman torture (https://www.planetdeadly.com/human/medieval-torture-devices).

Council of Ten, the Council decided whether the judicial process would be launched following the principles of the accusatorial law, where the witnesses are interrogated by the plaintiff's side and the defendant could be represented by his advocate or his father (*diffesa per procuratorem* or *per patrem*). The other option was to label the process as *ex–officio* or determine to be executed as *rito inquisitorio*, which indicated to the inquisitorial procedure where the entire initiative was taken by the judge, including questioning the defendant and the option to use torture (so-called *costituto de plano*). In case of the formation of the inquisitorial judicial process, the second stage followed – the so-called offensive process (*processo offensivo*) – meaning the central judicial body filed a lawsuit against the accused. During this time the defendant was usually kept imprisoned by the bodies of competence, not unfrequently however the defendants were taken before the Council of Ten, in the central Venetian prison.

The trial continued with the second, central phase in which the focus was the so-called defence process (*processo difensivo*), which included the mutual meetings of the parties and their attorneys in a credible trial battle. At this stage, the attorney of the defendant was able to gain and read the documents that for defence.

Unlike the inquisitorial procedures that markedly prevailed in the 16th century, the right of the defendant to defend himself, counsel from an attorney, and especially the

possibility to study the accusations that were formed by the plaintiff in presenting the defendant's witnesses, was never completely denied in the realm of the trial rite, which was essentially developed as a means of conflict resolution and not only as a means of strict punishing, which is particularly characteristic for the inquisitorial procedure.

In the last, third phase of the judicial process there was a verdict or a sentence (*sentenza*) given. In this phase it was also possible to end the judicial processes with a conclusion of peace, if meanwhile the feuding parties could come to such an agreement (Povolo, 2015b, 219).

This was valid for the accusatorial as much as the inquisitorial procedure; in the last phase of the latter, however, the judge could again decide to use torture to force the admission that was needed. In this phase the defendant could be judged in absentia, as he was represented by an authorised person or by the defendant's father.

Monetary fines and exile for defendants found guilty were still widespread and show a close link between the judicial processes and the custom of feud, as the former form of exile sanction was intended to resolve the conflict, when the feuding parties could use the absence of the perpetrator to create the conditions to conclude peace within community.

The deliberation of the fine depended on the social status of the defendant and was based on how severely his criminal act violated the values of the community, all of which presented itself through the dual dimension of medieval justice (Povolo, 2015b, 217–219).

Massimo Vallerani thoroughly presented that the differences between the accusatorial and inquisitorial procedures were not as important, due to the fact that the widespread use of procurators and warranties (*pieggerie*) in both types of judicial processes shows that the processes were meant to re-establish order and peace (Vallerani, 2005, 197–199), whereas the frequent use of exile penalty reflected a sense of justice, which aimed towards the encouragement of pacification and non-violent retribution between the feuding parties, where everyone put their endeavour into the elimination (exile) of those elements that were hostile to the community (Maffei, 2005, 129, 145; Vallerani, 2005, 170; Smail, 1996, 28–59).

It should not be surprising that the traditional trial rites preserved their special characteristics, especially the active role of the feuding parties in conflict resolution while they adjusted to social and legal changes. The presence of the ancient judicial institutions, for example the defence of one's father; inquiries characterized by non-transparent forms of interrogation; the release of the defendant after depositing the corresponding warranties and bonds, and, what is the most important, committing to establishing peace and composition.

In practice these were rituals based on an extremely fragmented institutional structure and were legitimized by legal norms with symbolic reference points that represented the community and the *res publica*.

Most importantly, these rituals represented a social and cultural context where tradition, friendship, and honour had extremely important space, which became even more important when they merged with political power and status.

In this manner the judicial processes that were formed by the pre-modern legal professionals in customary law were still being placed within the sphere of the customary system

of conflict resolution, whose goal was to establish peace in the community. This is most explicitly evident in the abundantly common gesture of the kiss of peace between the feuding parties at the end of the customary procedure; this was also transferred into written law (Rolandino, 1546, 158–159v.; Petkov, 2003, 60–61, 72, 96, 100, 102, 113, 124–130).

Since the first decades of 17th century on there was a special form of judicial process formed in the Venetian Republic called *servatis servandis,* also referred to as an open process; mainly to be differed from the inquisitorial process that was conducted in secret.

Gradually this form of the trial rite overtook the old judicial rituals, as well as over the inquisitorial procedures. In practice the open procedure derived from the traditional rituals; however, within the broad jurisdiction of the Council of Ten the soon acquired new characteristics. At first the main goal of the transition of jurisdiction from the central body to the executors of local judicial authority, which was applied in the *servatis servandis* clause, enabled the courts to use stricter penalties that were not foreseen in the city statutes.

Based on this new and more effective authority the judge and the delegated court could use more radical repercussions against defendants that were arrested on counts of serious criminal acts already in the first stage of the trial (in so-called *processo informativo*).

The conviction or so-called *Costituto opposizionale* became the judicial trial that enabled the judge to curb traditional limitations, and thus question the plaintiff more intensively.

This facilitated the formation of judicial hearings that were expressed in the goals of the new criminal procedure. Two phases of the traditional trial, the so-called *processo informativo* and *processo offensivo,* were thus merged with the new role of the judge, which substantially changed the balance of power, especially in feuds between representatives of the local aristocracy (Rousseaux, 1997, 106; Cerutti, 2003, 11–22; Povolo, 2015b, 230–233).

Under the pretext of a secret and extraordinary trial rite, without the customary warranties, and in order to establish the leading political interests of the Dominant, the representatives of the city aristocracy soon at first hand came to experience the consequences of the loss of political overrule.[14]

With the help of the ambiguous judicial formula *servatis servandis,* which in theory ensured the respect of the ancient legal rituals, this enabled the establishment of the inquisitorial judicial process (*rito inquisitorio*), including torture (Povolo, 1997, 171–174, 337–340).

In the 17th century a new form of criminal trials thus prevailed; through a different form of legitimacy and a complicated judicial procedure they weakened the role of the parties in the criminal procedure. However, the inquisitorial procedures that were implemented in the 16th century gradually encountered resistance, as they systematically violated certain privileges, especially the right to defence in court, which was not in accordance with customary law within the city statutes that remained in function. Although the inquisitorial rite was continuously in use also in the 18th century, its use became less systematic and was intended primarily for the cases of special political significance.

14 Cf. Povolo, 2003, where the whole process against local nobleman Paolo Orgiano is published.

THE LANGUAGE OF VENGEANCE: A GLOSSARY OF ENMITY AND PEACE*

Darko Darovec, Angelika Ergaver & Žiga Oman

INTRODUCTION

The purpose of this paper is to present a multilingual (Latin, English, Italian, German, Montenegrin, Albanian, and Slovene) collection of fundamental terminology or concepts that were used in the European Medieval and, to a degree, early modern periods for the customary and legal designation of the typical phenomena, phases, and procedures of conflict resolution within the community, either between individuals or groups, commonly known under the term *vengeance*.

With the paper the authors would like, *inter alia*, to point out the striking similarities as well as some particularities between the regions and nations (peoples) of continental Europe found in the customary system of conflict resolution. Furthermore, this paper places special emphasis on the Medieval rites of the custom of vengeance, which remained in use in some parts of Europe, especially around the Mediterranean, until the nineteenth and twentieth centuries. This enables an excellent possibility for a comparison to be made between rites in the Middle Ages and those in later eras, specifically in the early modern period. Perhaps somewhat immodestly, we are certain that the given results will be of help to researchers from the same fields of study and, particularly, that the collection of selected terms and concepts will encourage additional research in other linguistic areas. Hence this paper is also an appeal for the further collection of sources pertaining to the custom of vengeance, a system with the tendency to achieve social equilibrium and peace.

Even just a fleeting glance at the enclosed glossary shows the complexity of the issue at hand, so we are fully aware that all the terms enumerated in this paper cannot be explained herein, nor is this our goal. We have limited ourselves only to, according to our estimation, the most important terms of the ritual of vengeance (injury, vengeance, feud, enmity, truce, satisfaction, fidelity, banishment, friendship, love, and peace),[1] most of which abound in synonyms, yet without attempting to explain them with the help of language history or linguistic analysis, as we would like to present our study through the lens of conceptual history, perhaps best established by Raymond Williams, Quentin Skinner, and Reinhart Koselleck (Williams, 1976; Skinner, 1980; Koselleck, 2004; Koselleck, 2006).

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1 Regarding the terms listed in the brackets above, the German historical lexicon *Geschichtliche Grundbegriffe* (eight books, 1972–1997), for instance, elaborates thoroughly only on peace (*Friede*), whereas many of the other terms are not given in the same context as in this paper: e.g. vengeance (*Rache*), friendship (*Freundschaft*), truce (*Waffenstillstand*), and love (*Liebe*). The Latin *vindicta* is also only given in the context of *vindicta divina*, while *treuga* and *satisfactio* have been left out (Brunner, Conze & Koselleck, 2004).

Conceptual history, as part of social history, analyzes the history of social concepts and structures in the *longue durée*, stemming from the methodological demand "*that past social and political conflicts must be interpreted and decoded in terms of their contemporary conceptual boundaries, and the self-understanding on the part of past speakers and writers of their own language-use,*" which "*must register the variety of names for (identical?) materialities in order to be able to show how concepts are formed. Hence, the concepts instruct us not only of the uniqueness of past meanings, but also contain structural possibilities, treating the concatenations of difference invisible in the historical flow of events*". They help us in theoretically elucidating the chronological relation between event and structure or the concurrence of the continuance and change of a given structure. "*It is only concepts which demonstrate persistence, repeatable applicability, and empirical validity – concepts with structural claims – which indicate that a once 'real' history can today appear generally possible and be represented as such.*" The methodological restriction to the history of concepts expressed in words demands a further argument to help distinguish between the terms *concept* and *word*: "*a word becomes a concept only when the entirety of meaning and experience within a sociopolitical context within which and for which a word is used can be condensed into one word.*" Conceptual history "*must always keep in view the need for findings relevant to intellectual or material history. Above all, the semasiological approach must alternate with the onomasiological*", thus making it self-evident, "*that historical clarification of past conceptual usage must refer not only to the history of language but also to sociohistorical data, for every semantic has its link to nonlinguistic content*" (Koselleck, 2004, 81–91). Or, as Medieval conceptualists would say, general concepts are not simply words, but also exist within reason.

With the enclosed glossary and, especially, the thematological analysis of the structural concept of vengeance, we want, based on the language of historical sources and the language of science, specifically predicated on the studies of the rituals of vengeance, to provide a starting point for the discussion of questions already posed by Koselleck: "*to what extent has the intentional substance of one and the same word remained the same? Has it changed with the passage of time, a historical transformation having reconstructed the sense of the concept?*" (Koselleck, 2004, 82).

STATE OF THE ART: AN OUTLINE

The traditional (legal) history of the nineteenth and early twentieth centuries, whose interpretations still dominate recent historiography, formulated vengeance (feud) as a primitive stage of human mental, social, and legal evolution (cf. Burckhardt, 1956, 346–350, 362–363; Huizinga, 2011, 9, 19, 29–30; Beyerle, 1915, 216–217), a phase of humanity's path towards the Western-European State and rule of law, regarded as the ideal and highest stage of social and legal organisation and development. In this context vengeance is very often regarded as arbitrary or violent self-help, a necessary evil the State is forced to tolerate while its legal or judicial institutions (at least in their modern form) are still in their infancy. Predicated on entrenched interpretations of traditional historiography, historians continue to stress that it was only the state monopolisation of law

and violence in the modern period that brought about an end to a social order based on brute force, characterised as the Hobbesian *bellum omnium contra omnes*. Until recently it was generally accepted that the primary function of the State was to suppress violence, thus also contributing to social harmony, believed to be non-existent in the "primitive" order originating in the presupposed irrationality and violent urges of premodern humans unable to control them, whether Medieval Europeans or "natives" from other continents. Simultaneously, with the State's eradication of "feudal anarchy", Europe is said to have undergone a "civilizing process", in which the internalization of social constraints was essential to the creation of "modern" society (Elias, 2000; Elias, 2001). Consequently the (non-)existence of vengeance in the legal order was a signifier of the dividing lines between the "darkness" of the Middle Ages and the "progress" of the modern period (Büchert Netterstrøm, 2007; Carroll, 2007; Broggio & Carroll, 2015).

Traditional historians had little faith in the role of law, custom, and religion in limiting violence, disregarding that the behaviour of premodern humanity was no less shaped by social constraint. In fact, early modern social change resulted in the break-down of Medieval social constraints, worsening the violence. Michel de Montaigne (1533–1592) argued for heroism to be replaced with the virtues of mercy and clemency, distinguishing a true aristocrat from the mob by his self-control. This was corollary to the aspirations of inward constraint by the Reformers, both Protestant or Catholic. Thomas Hobbes's (1588–1679) exposition of the need for absolute sovereignty in the state also originated in his experience of popular disorder plaguing France. He claimed that peace could only be found in subordinating one's desires and will to the sovereign, as man can never be at peace with his neighbour, since enmity is rooted in human nature (Carroll, 2006, 308–312, 318; Skinner, 2008, 41). Hobbes cleared the way for a ruling class defined by an ethics of yielding (i.e. non-vengeance), which reinforced their right to rule (Carroll, 2016, 137–138). However, the transition from the Medieval to modern society was a very complex and gradual process.

A break with traditional perceptions of premodern society and vengeance occured in the mid-twentieth century and was the result of anthropologists who found that earliest human societies developed sophisticated systems of social control that upheld the peace in the feud. They showed that societies have developed mechanisms of interdependence (familial, neighbourly, economic, etc. relations) that help to sustain them and regulate conflict. Paradoxically those same relations create conflicts in society, which can erupt and escalate with violations of social norms. Transgressions demanded satisfaction, exacted by the ruler in the name of the community (for incest, witchcraft, sacrilege, treason, oathbreaking) or by the community (homicide, theft, arson, oathbreaking etc.), either by its appointed members or the injured party itself (Radcliffe-Brown, 1952, 212–219). But social bonds also impede the escalation of violence resulting from delicts, which is easier, the greater the interdependence of the parties to the conflict. Conflict resolution was shaped by the culture of (masculine) honour (and shame), which limits the set of honourable targets and actions, imposing ritual limitations on violence according to principles of equivalence and reciprocity. The culture of honour also demands that actions be public, which enables the community to intervene in the conflict at any time. Social mechanisms of peacemaking are thus inherent in the custom

of vengeance, ensuring that the conflicts are never entirely private. Subsequently the custom provides the functions of both conflict resolution and social control, with its tendency for the re-establishment or maintenance of social equilibrium (order) and peace (Gluckman, 1955, 1–55; Evans-Pritchard, 1940; Colson, 1953; cf. Durham, 1909, 25).

In the mid-twentieth century historians began applying the findings of anthropology to conflict resolution in premodern Europe and they soon established that medieval society was permeated by a tendency toward peace, not violence (Wallace-Hadrill, 1959; Bloch, 1961, 123–130). With the notable exception of German historiography the theoretical starting points of anthropology have been taken up in European historiography and adapted for research in the highly stratified societies of the Middle Ages and the early modern period (Büchert Netterstrøm, 2007). Predicated on anthropological research of conflict resolution, further research has shown that European classical, Medieval, and early modern societies had mechanisms for peace and social equilibrium at all levels. Peaceful relations and harmonious coexistence were imperative for legal professionals and the clergy, members of the ruling caste, and village elites. The desire for peace, also rooted in Christian teaching, permeated custom, Roman canon and written law, wherein all harmoniously complemented each other (White, 1986; Smail, 2003; Smail & Gibson, 2009; Carroll, 2006, 185–233; Nassiet, 2007). It has been confirmed that the custom of vengeance played the same role in politically and socially highly-stratified European societies as it did in more egalitarian tribal societies. The culture of honour,[2] which dictated a more or less equal requital for a sustained injury, limited the violence in conflicts and demanded that revenge be public. This enabled communities to intervene in conflicts at any stage, either through mediation or arbitration, which during the suspension of hostilities (truce) defined the terms for peace or made peace by settling the wrong with a composition payment and the establishment of a new relationship between the parties to the conflict. Marriage was often the means by which feuding groups were reconclied and turned into kin. As already noted by Max Gluckman, "*the rule of exogamy is a primary mechanism for spinning the network of alliances between groups*" (Gluckman, 1965, 97), and these alliances and ties were "*elaborately set in custom and backed with ritual beliefs*" (Gluckman, 1955, 18). Mediation and arbitration reinforced social hierarchy, as authorities (ruler/chief, elders, priests/clergy) and separate legal experts of a community (i.e. lawyer, notary) played prominent roles in the negotiations. The rituals of peacemaking as a key element of vengeance existed in all premodern European societies, underpinned by the spread of Roman canon law and its principle that injustice, including murder,[3] could be satisfied by a monetary compensation (Broggio & Carroll, 2015, 5; Cummins & Kounine, 2015, 3–7; Darovec, 2017, 88): from Montenegro (Boehm, 1993, 54–62, 121–142, 191–227; cf. Ergaver, 2016; Ergaver, 2017) to Iceland (Heusler, 1911,

2 In the mid-1960s anthropological research established the concept of the culture of honour and shame, supposedly typical for Mediterranean patriarchal societies (Peristany, 1965). This was critically evaluated at the turn of the millenium (Hodren & Purcel, 2000, 489–523).

3 With the notable exception of England, where the practice of blood money was already in retreat in the Middle Ages (Carroll, 2011, 88).

38–124, 213–242; Miller, 1996, 179–299), from Italy (Bossy, 2004, 1–29; Povolo, 2015a, 101-137; Faggion, 2017) and France (Carroll, 2003; Bossy, 2004, 31–51; Carroll, 2015) to the Holy Roman Empire (Frauenstädt, 1881, 105–173; Mommertz, 2001; Bossy, 2004, 53–71; cf. Oman, 2016, 81–91; Oman, 2017, 158–173).

Settling a conflict was never easy, especially if triggered by a grave transgression of social norms, i.e. murder. Injured honour and emotions could take a very long time to cool and could lead conflicts through long sequences of mutual violent retaliations, suspended only by truces and fuelled by the memory of injustice (Dean, 1997; Dean, 2007; Muir, 2017). Thus arbiters always had to make an extra effort to achieve balance between the parties, as neither could noticeably prevail over the other if lasting peace was to be made. Honour and shame (humiliation) had to be equally divided. Self-humiliation on the part of the perpetrator played the key role in the restitution of both sides‘ honour, as only then could the forgiveness from the injured party follow, which was necessary for peace to be made (Boehm, 1993, 123–142; Darovec, 2017).

Balance was the fundamental principle of law. It was based on Aristotelian thinking and remained an essential element of premodern European legal order following the codification of vengeance into common law (*ius commune*) in the High Middle Ages (Smail & Gibson, 2009), particularly the codification of the custom‘s key rituals of peacemaking, and in the Empire also of the ritual limitations of violence (Vogel, 1998, 42–43). By taking over and adapting the custom and Roman canon law, premodern courts strived in settling conflicts towards the re-establishment of peace and social equilibrium, by encouraging and forcing the parties towards settlement. Settlement always saw the parties‘ social status and gravity of the transgression taken into account, e.g. for determining composition. The key change brought about by the codification and by the further adoption of criminal law was the strengthened role of the courts and those who established them, i.e. the authority/ruler (chieftain, prince, bishop, king, emperor) before which peace was made. Sentences issued by the courts were always more severe than stipulations in customary settlement (Miller, 1996, 238–239; cf. Dolenc, 1935, 417), and physical punishment was seen as shameful (Carroll, 2006, 228). Also, coercion into settlement by the courts accompanied with threats of total property seizure, as was common in the Venetian Republic since the late 1500s, could lead to even graver retaliatory violence between parties to a conflict (Povolo, 1997, 293–297). However, this was also a time of growing financial, emotional, and strategic uses of legal action (Cummins & Kounine, 2015, 2). Especially since the courts and authorities continued essentially in playing the role of arbiters and some sort of “tax” (i.e. fines, trial costs) collectors, well into the early modern period. Nevertheless, the inquisitorial procedure did not entirely substitute the accusatorial procedure prior to the end of the *ancien régime*, and there was very little public prosecution as well (Wenzel, 2011). Concurrently, Central and Western-European modern criminal legislation classified ever more delicts from private to public, reserving their sanctioning and pardoning to the authorities/ruler. Beginning in the sixteenth century conflict resolution, by achieving peace through the pursuit of balance between the parties (restorative or restitutive justice), had by the end of the eighteenth century come to be replaced with punishment for the perpetrator (retributive justice). This was also a

consequence of economic, political, and social change, which, along with the increase of itinerant forms of crime, ever greater social mobility, altered forms of warfare, religious and civil wars, all resulted in an increase of violence that delegitimized traditional forms of conflict resolution (Carroll, 2007; Povolo, 2015b; Povolo, 2017).

Up until the end of the Middle Ages, and in certain parts of Europe even until the nineteenth century, especially in the Mediterranean, conflict resolution had been, like all social relations, dictated by the universal human concept of their management: the principle of exchange (Mauss, 1996; Lévi-Strauss, 1969, 60–68, 480–483; Verdier, 1980, 30–31). It is telling that in some languages, including Slovene (Snoj, 1997, 327), the words for exchange and vengeance are etymologically related (Lévi-Strauss, 1969, 60). The principle of exchange also determined social relations of the European Medieval and early modern periods. This is shown in the rites of investiture (cf. Le Goff, 1977, 426–506) and other legal acts, i.e. contracts, peacemaking among them, as a three-phase ritual: 1) the gift and countergift (homage, self-humiliation, request for truce), 2) oath (*fides*, truce, friendship), which provides opportunities for 3) the conclusion of the exchange, i.e. the constitution of a new contractual relation (lasting peace, love, forgiveness), which establishes a new or renews an existing relationship between two parties (peace, vassalage, matrimony).

German historiography addressed vengeance differently. The break from traditional (legal) historiography came about in the late 1930s with the claim by Otto Brunner that the feuds (*Fehde*) among the nobility in the Medieval Holy Roman Empire were a constitutive element of its political structure rather than arbitrary robbery. Feuds were interpreted as legally normalized violence and a tool of establishing social contracts between the ruler and nobility, wherein the central concept of Medieval politics was not feud, but peace. However, this was a peace containing the notion of "just violence" as the indispensable part of the struggle for power, having the goal of establishing and maintaining order and peace. Brunner also argued, that vengeance as a custom of conflict resolution was only conceded to the nobility as the *Herrenklasse,* while (blood) feuding among the nonpriviledged orders and peoples outside Europe continued to be percieved as irrational or instinctive. Consequently, by reading Medieval peace legislature (the Imperial peace, provincial peace) at face value, *Fehde* was defined as rigorous, normatively-regulated, violent conflict resolution reserved solely for the nobility, some kind of "righteous war" without the killing of (noble) adversaries, and a unique German(ic) ("civilized") custom, the so-called knightly feud (*Ritterfehde*). It was regarded as strictly separate from the ("primitive") affective blood feud of commoners and "natives" (Brunner, 1990, 1–110).

The theses on *Fehde* as a specific custom of the German nobility dominated the research on vengeance in German historiography almost until the end of the twentieth century. It tended to establish German customs as unique and not comparable with other regions (cf. Carroll, 2006, 6). Even the critiques of the custom's legitimacy did not break with the concept, still regarding *Fehde* as a custom of the nobility, either as thinly veiled robbery (Rösener, 1982) or as a tool of class warfare (Algazi, 1995; Algazi, 1996). Only at the start of the twenty-first century did research show that commoners

resolved conflicts using the same customs as the nobility (Reinle, 2003). At roughly the same time further research on the feuds of the nobility showed that these did not only have a political, but also a social function (Zmora, 2007), corresponding to the custom of vengeance as understood by anthropology. At the same time German historians began to place more emphasis on the rituals of conflict resolution (Althoff, 1997). However, as a rule, German historiography still continues to ignore modern anthropological and historiographical research on vengeance. Even after the unprivileged orders were "included" into the concept of *Fehde*, it was still almost exclusively approached from a legal positivist standpoint, i.e. as a normative legal institution (cf. Patschovsky, 1996; Wadle, 1999; Reinle, 2013), rather than a complex social phenomenon. Doubts about the uniqueness of *Fehde* have only been expressed very recently and tentatively (cf. Reinle, 2014). The new research on vengeance comes from studies on the lower orders in the early modern period, when the *Fehde* was prohibited. However, as Raymond Verdier has argued, the custom of vengeance was everywhere in (early) modern Europe gradually incorporated into state legislature and replaced with newer and newer laws, which transfigured the custom, especially by substituting it with punishment (Verdier, 1980, 32–36). Due to the prohibition of *Fehde* in the early modern period, the latest German research on vengeance in the period also demanded the abandonment of the legal positivist approach in favour of an analysis of the social relationships dictated by the custom of vengeance (Mommertz, 2001; cf. Peters, 2000). The resulting findings on the structure and function of the custom consequently came very close to the findings of studies on vengeance outside of Germany.

TERMINOLOGICAL CONUNDRUMS

German historians were not the only ones to have attempted to define vengeance as a specific custom or cultural practice. Like *Fehde*, the Icelandic *ófrið* or *óvinr* (Miller, 1996, 182), the Italian *vendetta*, and the Lombard and Frankish *faida* (cf. Halsall, 1999) have all been studied as unique customs. Their supposed uniqueness was established on interpretations of the custom predicated on local and regional sources by national historiographies, ignoring the universality of the custom. On the other hand, feud is employed as a technical term to encompass all manifestations of the custom of vengeance (Büchert Netterstrøm, 2007; Þorláksson, 2007). The transnational similarity of the custom had however been noticed in the custom of blood feud, especially in South-eastern Europe, i.e. between the Montenegrin *krvna osveta* and Albanian *gjakmarrje* (Ergaver, 2016, 104–106). Otherwise, more or less theoretical distinctions between *Fehde*, *vendetta*, and feud have also been established. That the distinctions are largely theoretical is best proven by a comparison of Western-European Medieval sources with the Montenegrin, Albanian, Greek, and Corsican custom of vengeance, which remained in use at least until the nineteenth century. The transmission of written and state law from Western (England) via Central to South-Eastern Europe was namely gradual. For instance, the process of establishing state legislature in nineteenth-century Montenegro (Andrijašević & Rastoder, 2006, 161–163; Marinović, 2007, 28–32, 157–167, 171,

181, 195–196, 624; Šćepanović, 2003, 25; Vujačić, 1997, 11–14; Bogišić, 1999, 321, 294–295; cf. Radov, 1997, 52–53) was almost identical to that in Western Europe from at least the fifteenth century onwards.

Jesse Byock formulates the difference between *vendetta* and feud as conflicts at different levels of social organisation, with the *vendetta* as vengeance at the village level and feud at the tribal level (Büchert Netterstrøm, 2007, 39). Otherwise researchers into vengeance in the Mediterranean, e.g. Trevor Dean, generally understand feud or *faida* as enmity: a prolonged exchange of retaliations for the original wrong (not necessarily homicide), before it is concluded by a peace settlement; and *vendetta* as a single retaliation that settles the injury, mainly homicide, i.e. as blood feud (Dean, 1997, 15; Büchert Netterstrøm, 2007, 39–40). Edward Muir and Claudio Povolo claim rather that *vendetta* denotes the entire conflict and that enmity (*inimicizia*) is a synonym for *vendetta* (Muir, 1998, xxii; Povolo, 2015b, 202–203). However, as intercultural studies show,[4] the number of retaliations is always, irrespective of the original injustice, determined by propriety demanded by the principle of exchange in balancing the injury and honour of both parties (Boehm, 1993, 191–222; Miller, 1996, 179–299). Peacemaking in blood feud demanded the exchange of blood for blood and life for life, which required ritual marriages to be made as composition and compensation. To replace the lives lost, the custom demanded the gift of women who would give birth to new life. Hence breaking off the engagement and commiting adultery were regarded as equal to murder, providing the injured party with the right to blood feud (Verdier, 1980, 28–30).

The terminological confusion originates not only in culturally based manifestations of the custom, but also in its very rich and complex terminology within the same culture. Medieval and certain early modern sources thus give a plethora of synonyms for every change in social relations that the custom dictates, from the outbreak of violence to the resolution of the conflict, with the most synonyms existing for the custom of vengeance itself. In the sources vengeance (Lat. *ultio, vindicta,* Ita. *vendetta,* Ger. *rache,* Mne.[5] *osveta,* Alb. *hakmarrje*, Svn. *maščevanje*) is most often given with synonyms for conflict or dispute (Lat. *altercatio, discordia, intentio,* Ger. *irrung, misshelung, ungute, unrat, zwayung, zwitracht*), enmity (Lat. *inimicitia, faida,* Ger. *vhede, fedeschafft, feindtschafft*), and war (Lat. *bellum*, Ger. (*g*)*werra, krieg, reisa, urlog*), less often for clash (Ger. *auflauf, stöss*), challenge (Ger. *vordrung*), injustice (Lat. *iniuria*), unrest or disorder (Ger. *unfrid, unordnung*) etc. (ARS, AS 1063/4492, 4 September 1441, Graz; du Cange, 1710, 383–385; MGH, 318. §11, 451; Bizjak, 2016, 72; Krones, 1883, 87, 92; Wallace-Hadrill, 1959, 461, 484; Brunner, 1990, 37–38; Reuter, 1992, 312–313; Kos, 1994, 110–111;

4 The difference between war and vengeance is both quantitative and qualitative. The key divergence is generally understood to be the abandonment of ritual limitations to violence in war and a much lesser chance for intervention in the conflict save at the highest level (Gluckman, 1955, 8–9; Brunner, 1990, 8; Boehm, 1993, 212, 221; Miller, 1996, 218; Zmora, 1997, 122; Reinle, 2003, 25; Carroll, 2006, 16; Radcliffe-Brown, 1952, 215).

5 Montenegrin relates to the terms, expressions, and phrases attested in the historical area of Montenegro, taken from sources and studies written in the Shtokavian dialect or specialised and scientific literature written in either Serbo-Croatian or Serbian.

Halsall, 1999, 27; Throop, 2011, 11; Schäffer, 2013, 213; Oman, 2016, 85). Different forms of conflict are also given with synonyms in the sources.[6]

The most common synonym for vengeance in European Medieval and early modern sources is enmity, Latin *inimicitia*, French *inimitié, ennemi* or *haine*, German *Feindschaft* or *Fehde*. The last two, along with the English *feud*, originate from Germanic words for enmity (state of relations), hate (emotion) and conflict: *faehde, faithu, gifēhida, fǣhþ* etc., while feud is supposed to have originated from either an unrecorded Old English word, the Old French *fede* or *faide*, or, perhaps, the Old English word for enmity, *fæhð*.[7] The *faide* disappeared from French already during the Middle Ages, and the Italian *faida* was also very rare. It seems to have been rediscovered in the nineteenth century through the exhumation of Lombard legal codes (Carroll, 2016, 102). The Slovene word *fajda* was also certainly taken from German, French (cf. Dolenc, 1935, 173), or Italian literature. All originate in the Latinized form of a Germanic word, first given in the sources in the *Edictum Rothari*, a collection of Lombard law from the seventh century, that formulates feud as enmity: *faida hoc est inimicitia* (MGH, LL 4/I, 45., 20).

Just as common a term for vengeance is conflict or dispute, which has the richest collection of synonyms for the custom. It is, originating in the Latin word for complaint (*querella*),[8] very common in Italian (*querela*) and Spanish (*querella*) Medieval and early modern sources for both lawsuit and feud (Vocabolario, 1612; AKG 22, 396; AKG 24, 427).[9] As the word for feud it is also very common in French (*querelle*) and English (quarrel) early modern sources (Carroll, 2006, 8). As the word for lawsuit the Latin *querella* roughly corresponds to the Montenegrin term *svadja* (Boehm, 1993, xix), and the Medieval German term *geschrey* (Svn. *pokrik*) (Schwind & Dopsch, 1895, 94. 175–176; Vilfan, 1961, 271–273).

The most common straightforward term for vengeance in the sources is the Latin *vindicta*, from which originate the Romance words for vengeance like the Italian *vendetta* and the French *vengeance* (Büchert Netterstrøm, 2007, 39). However, *vindicta* originally also has multiple meanings: vengeance, (the staff of) manumission, punishment, redress and satisfaction, and vindication (Bradač, 1980, 576). From *vindicta* also seem to stem the French words *vindiquer* and *revindiquer* and the German *vindizieren*, all of which express a claim or right. From Latin *vindicare*, to vindicate, via Old French *vengeance* or *venjance* and *revengier* or *revenchier* also seem to originate the English words vengeance and revenge respectively.[10] The Latin *ultio* is often reserved for divine retribution (*ultio*

6 For instance in 1521 *vede* was used for the Italian war of 1521–1526 between the Holy Roman Emperor Charles V and Francis I of France, while *Krieg* and *guerra* can be used for a feud between a nobleman and a monastery or church or for property disputes among kin (Kos, 1994, 111; Carroll, 2012; Darovec, 2016, 19).

7 *Feud*, http://www.thefreedictionary.com/feud (August 2017); *Fehde*, https://www.dwds.de/wb/Fehde#et-1 (August 2017); *feud*, http://www.etymonline.com/index.php?term=feud&allowed_in_frame=0 (September 2017).

8 *quarrel*, http://www.etymonline.com/index.php?term=quarrel&allowed_in_frame=0 (September 2017).

9 *Definición de querella*, https://definicion.de/querella/ (September 2017); *querelle in Vocabolario*, http://www.treccani.it/vocabolario/querelle/ (September 2017).

10 *Vengeance*, http://www.thefreedictionary.com/vengeance (August 2017); *vengeance*, http://www.etymonline.com/index.php?term=vengeance&allowed_in_frame=0 (September 2017); *Revenge*, http://www.thefreedictionary.com/revenge (August 2017); *revenge*, http://www.etymonline.com/index.php?allowed_in_frame=0&search=revenge (September 2017).

Fig. 44: King Rothar enthroned (detail). Edictum Rothari (http://www.studiarapido.it/wp-content/uploads/2014/11/editto-rotari-3.jpg)

divina) (cf. Wallace-Hadrill, 1959, 465–466), while in German sources *Rache* is far less common for the custom of vengeance (cf. MGH, Const. 2, 196a., 253) than words and phrases for enmity. In the Slavic-speaking regions of Southeastern Europe the most common term is *osveta,* followed by *svadja* (Boehm, 1993, 52), with the Albanian equivalent for vengeance being *hakmarrje*.

The terms that stand for every change in social relations dictated by the custom of vengeance, from the outbreak of hostilities to intervention in the conflict and its temporary or lasting resolution, are however far more unified in the sources. As a rule, the terminology of vengeance in various languages cleary shows that it is a primary and universal custom or relationship. As emphasized by Claude Lévi-Strauss on the subject of exogamous marriage, "*it is always a system of exchange that we find at the origin of rules of marriage, even of those of which the apparent singularity would seem to allow only a special and arbitrary interpretation*" (Lévi-Strauss, 1969, 478). Put like this, a German and an Italian wedding or *Fehde* and *vendetta* are not separate customs, but culturally specific manifestations of

the same custom. Like marriage, the system of exchange found at the origin of the rules of vengeance also (re-)establishes social relations. Yet, regardless of its tendency towards peace and social equilibrium, the exchange in vengeance is not directed by love, which brings it to an end, but enmity, fuelled by the obligation to one‘s kin and a duty to justice.[11] Understanding this led both to the various terms for vengeance worldwide, as well as to the seventh-century Latin translation of Lombard customs.

VENGEANCE AS RELATIONSHIP: THE CUSTOM‘S STRUCTURE

Fundamentally vengeance as a system[12] of conflict resolution is an obligation to retaliate for a suffered injury, thus serving justice. Based on the principle of exchange (Lévi-Strauss, 1969, 479–485) the obligation was socially structured as a process (Miller, 1996, 182) for managing social[13] relations. Simultaneously, as with any other custom, it is in itself flexible, as its rites provide those involved in them with certain room for manoeuvering within the structures of custom and honour. Vengeance is consequently not to be taken as a set in stone legal institution, nor are the departures from rigid definitions to be understood as “feud-like” or *Fehdeanalog* (cf. Reinle, 2013, 9, 12, 23; Muir, 2017, 2). As long as these “departures” correspond with the custom‘s structure, they should be taken as part of it. The definition of vengeance as a legal custom is also too narrow, as the custom establishes and reflects all relations comprising society, from the political to the economic.

It would accordingly be better to see vengeance as a state of conflict. It is a collorary of enmity. It forms when the wrong that triggered the conflict is not appropriately (honourably) settled, or when a violent response is a culturally more appropriate response for an injury, especially homicide, than monetary settlement. The state of mutual enmity is maintained until lasting peace is made. Only then can the state of reciprocal hostility (exchange) come to an end, establishing a new public social relationship: enmity is substituted with love.

The basic structure of the custom of vengeance is dictated by the relationship of mutual animosty and the latter by the priniciple of exchange: injury-enmity-mediation-truce-peace.

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11 In the early modern period both Protestant and Catholic Reformers placed great emphasis on vengeance belonging to God alone. This created clashes between one‘s obligation to kin and Christian conscience, with Hamlet perhaps being the most famous example. Even so in the earlier (1570) French version that provided the raw material for Shakespeare‘s tragedy, Hamlet (*Amleth*) finds nothing disquieting about revenge: it is about justice (Carroll, 2003, 74).

12 According to Raymond Verdier: “*Nous sommes ainsi conduit à étudier la vengeance comme système – ou sous-système – à la fois d’echange et de contrôle social de la violence. Partie intégrante du système social global, le système vindicatoire est d’abord une ethique mettant en jeu un ensemble de représentations et de valeurs se rapportant à la vie et à la mort, au temps et à l‘espace, à la personne et ses biens ; il est ensuite un code social ayant ses règles et ses rites pour ouvrir, suspendre et clôturer la vengeance; il est enfin un instrument et lieu de pouvoir identifiant et opposant des unités sociales, les groupes vindicatoires.*” (Verdier, 1980, 16).

13 With social change in the early modern period, however, vengeance also became to be understood as a passion that cannot be tamed. Still, at least until the late seventeenth century, many argued that vengeance was acceptable if based on justice and reason rather than passion (Carroll, 2006, 14).

The prerequisite for vengeance as a rule is not an entirely unprovoked wrong, but a previous existence of discord (Lat. *discordia,* Ger. *groll, unguette,* Mne. *svadja,* Alb. *armiqësi*) (Rolandino, 1546, f. 158r; Karadžić, 1966; Bogišić, 1999; Mann, 1948; Mommertz, 2001, 223; Schäffer, 2013, 212) between individuals and/or groups they belong to. It can originate from grievances or envy due to political, economic, or other social success or failure. It is not necessary for the original relation to be one of friendship, it can simply be better than worse. The greater the resentment, the easier it can escalate by even a minor encroachment upon relations, rights, or property that constitute and maintain the social standing or honour of an individual and/or group. Both status and honour are continously tested, confirmed, and demonstrated in the public that codetermines them. The state of discord is demonstrated by acrimony, coldness, disregard, etc. Discord generally escalates due to an event regarded as the original wrong (Lat. *iniuria,* Ger. *unrecht*) that demands retaliation[14] (Boehm, 1993, 92–93; Miller, 1996, 182, 187; Althoff, 1997, 11–13; Wieland, 2014, 416–425, 446).

Violent retaliation that can follow a sustained wrong had to be legitimized like any other public action. First, as also shown in Western and Central-European sources, the escalation of the dispute had to be made public, especially as it was a potentially dangerous transformation of an amiable (Lat. *amicitia,* Ger. *freundtschafft*) into an animus (Lat. *inimicitia*, Ger. *feindtschafft*) relationship. Making the injury public acted as a public demand for its settlement, which gave it a role similar to that of a lawsuit (Mommertz, 2001, 240–241; cf. Vilfan, 1961, 271). As the demand to settle the injustice includes the threat of retaliation should it not be fulfilled, it is to be taken as the beginning of vengeance or a state of enmity in a feuding society.

Gossip, public insults, and threats also have the function of demonstrating the altered relationship. By making the wrong public, the dispute passes into communal knowledge. Gossip is used to ascertain the legitimacy of one‘s demands and the support in the community, which in turn uses gossip to constantly (keep in) check the morality and honour of its members. As the custom of vengeance dictates the changes in relationships to be public, it allows for the community to intervene in the conflict at any stage and to direct it towards settlement, should it consider this to be necessary. With the constant presence of the possibility for peace in the custom, it fulfills the functions of both social control and conflict resolution. The community advises both parties to the conflict, passes requests or threatens with supernatural (divine) retribution. When making the injury public does not lead to the desired settlement, the relationship can further escalate by public insults accompanied by various gestures (Gluckman, 1955, 9–10; Boehm, 1993, 125; Miller, 1996, 216; Mommertz, 2001, 235–237; Wieland, 2014, 216).

Insults (Ger. *schmähen, schelten,* Mne. *uvrijeda,* Alb. *fyrje*) are a further escalation, as they have to be returned “with interest”, according to the principle of exchange, which dictates that a gift is to be repaid with a countergift (Mauss, 1996, 136, 148). When this

14 An injury could also often be “selected” in retrospect or “invented” to legitimize illegitimate actions. In a longer dispute the injustice is often selected tactically, during the adversaries‘ time of weakness or an action of people only marginally connected to them (Miller, 1996, 215–217; Peters, 2000, 73, 82, 89–91; Dean, 2007, 136–137; Wieland, 2014, 419, 429–432).

Fig. 45: Banishment (variant). Pavle Paja Jovanović, ca. 1890–1900. Narodni muzej, Beograd (https://upload.wikimedia.org/wikipedia/sr/d/d0/Jovanovic_izdajica.jpg)

is not possible by delivering a worse insult, the humiliation demands escalation using (also mutual) threats of violence, including those that are written or symbolic, or even violence itself, e.g. homicide. By killing the adversary the perpetrator displays courage, being fully aware that retaliation will follow, either from the kin or by official justice. Every alteration of the relationship accordingly had to be made in public. To do so was to act honourably. The parties to a conflict had to know what response could be expected for their words, gestures, or other actions, so they (and the community) could act accordingly: those threatened with violence had to expect violence. Consequently the line between a threat with enmity and the declaration of enmity could be blurred (Boehm, 1993, 92–94; Miller, 1996, 54; Mommertz, 2001, 218–223).

Enmity (Lat. *inimicitia*, Ger. *feindtschafft*, *vhede*, Mne. *mržnja*, Alb. *urrejtje*, Svn. *sovražnost*), like every change in social relations, had to be declared in public. In the Holy Roman Empire the declaration of enmity also became a normative prescription in the thirteenth century (MGH, Const. 2, 196a., 253), resulting even in written declarations. Elsewhere, i.e. in Montenegro, the declaration was determined by the custom: had truce not been offered within a certain time period, violence would have followed (Ergaver, 2016, 108–110). Thus retributive violence was always legitimized only by the impossibility of peaceful resolution (Gluckman, 1955, 14–17; Boehm, 1993, 125).

Fig. 46: Count Gerhard Aaberg-Valangin sends the city of Bern a written declaration of enmity or Fehdebrief. Speizer Chronik des Diebold Schilling, 1339 (https://www.historisches-lexikon-bayerns.de/Lexikon/Datei:Artikel_45339_bilder_value_4_fehdewesen4.jpg)

According to Medieval rites the declaration of enmity is the renouncement of fidelity/faith (Lat. *fides*) (Miklosich, 1888, 139) or peace (Lat. *diffidatio*, Ger. *Absage*). In the Empire enmity had to be declared in daytime, orally or in written form (Ger. e.g. *feindtbrieff*), often at the opponent‘s home. Following the declaration the adversary became an enemy (Lat. *inimicus, hostis*, Ger. *feindt*), one whom it was allowed to harm. In blood feud the homicide itself or a public confession of the act, as a rule by flight, was regarded as the declaration of enmity (Ergaver, 2016, 108). Flight to safety (i.e. banishment), whether abroad or, in asylum or some other refuge (Frauenstädt, 1881, 51–87; Gluckman, 1955, 15), could also express the wish for extrajudicial conflict resolution (Oman, 2017, 161, 173). The declaration of enmity was followed by a certain amount of time enabling the enemy to appropriately prepare for retribution or finally accept the settlement. In the Holy Roman Empire the term was generally three days (cf. MGH, Const. 1, 318. §17, 451), also

ranging from a day and a night to six weeks and three days, i.e. three court days (Brunner, 1990, 11–12, 64, 68, 73; Mommertz, 2001, 219–223, 228; Reinle, 2013, 13–14).

Based on the principle of collective responsibility at every stage from the declaration of enmity to the peace settlement, vengeance includes a network of allegiances between all parties to the conflict, whether stemming from kinship, affection, dependence, or obligation. All of them constitute friendship (Lat. *amici*, Ger. *freundschafft*). In the Empire in the Middle Ages these relations were divided very roughly into cooperators (Lat. *cooperatores, complices,* Ger. *Helfer, Gesellen*) who perform specific functions in the feud, servants (Lat. *servitor,* Ger. *dyner*) connected to the principals of the feud as employees or subjects, and supporters (Lat. *fautores,* Ger. *Gönner*) as representatives in feud, e.g. a nobleman for a burgher. Everywhere, however, cooperators perform functions such as providing supplies, accommodation, and intelligence (all can also be performed by women) and, of course, exact violent retaliation (MGH, Const. 2, 427. §§5–12, 572–573; Brunner, 1990, 57–61; Schäffer, 2013, 204–205, 219–220; Mommertz, 2001, 218–219, 225–231, 244, 247; Peters, 2000, 74, 77–84, 90; Reinle, 2003, 171, 183, 197).

Medieval limitations on violence were determined by the culture of honour, the Church and customary law and this created personal, temporal, and spatial immunities. Also, as a consequence of the Peace of God (*Pax Dei*) movement, during the European Middle Ages the suspension of hostilities was especially practised on Sundays and the most important Church holidays, including the entire liturgical periods of Advent and Lent. Hostilities were also to be suspended in times requiring the cooperation of the whole community, especially in war (Gluckman, 1955, 8; Boehm, 1993, 210–211, 222; cf. Schwind & Dopsch, 1895, 34. 55, 68) and for collective labour (KLD, §§ 874–885; SK, 155; Hasluck, 1954, 155; Jelić, 1926, 96; Miller, 1996, 193). The custom was adverse to violent retaliation in sacred spaces (church, monastery, cemetery) and areas of certain sacral value such as homes (house, castle), settlements (village, town), fora (e.g. the Icelandic *alþingi*) and residences of authority (the chieftain‘s home, the court). Also communal production facilities (e.g. mills) and agricultural means of production (orchards, vineyards, pastures) were not to be damaged and could provide refuge. All cultures regarded vengeance upon women, children, the elderly, the ordained and other segments of society generally prohibited from carrying arms (e.g. Jews in Medieval Europe), as highly inappropriate or dishonourable. Except in blood vengeance (for homicide, grave insults or heavy wounds) the killing of an enemy was also generally inappropriate (MGH, Const. 2, 427. §§28–29, 574; MGH, Const. 2, 438. §31, 599; Bogišić, 1999, 355–356; Frauenstädt, 1881, 57–58; Jelić, 1926, 34; Gluckman, 1955, 8–9; Brunner, 1990, 32–33, 51–52, 95–102; Boehm, 1993, 58, 198, 212; Miller, 1996, 193, 207; Wadle, 1999, 79; Ergaver, 2016, 110).

Always appropriate was violence upon the enemy‘s property, mostly by raiding or robbery (of cattle, produce) and arson (of pens, stables, barns) (cf. Gluckman, 1955, 9). Alongside the customary limitations the tools of enmity were determined by the resources at the disposal of the parties to a conflict. Actual military engagements and sieges were rare, even in feuds among the nobility, while subjects mostly resorted to arson. Lawsuits were also an instrument of enmity, even though the judicial path was regarded as less

Fig. 47: Ramón Berenguer IV receives homage from his vassal the Señor de Perelada in 1132 (https://www.pinterest.com/pin/540572761512953646/)

honourable ("subsidiary"), even in the early modern period, making it foremost the tool of the weaker party (Reinle, 2003, 124–133; Hausmann, 1988, 263–287; Wieland, 2014, 426–427, 515). Ritual mutilation (Smail & Gibson, 2009, 54–61) and cannibalism as part of custom was rare, yet could also occur, as a breach of the custom, and consequently to the further dishonour of the perpetrator (SK, 266–267; cf. Kadare, 2006, 10–11), in particularly acrimonious conflicts, including in early modern Europe (Muir, 1998, 97; Martin, 2017, 102). "Magic" was also a common instrument of enmity, while memory was always present in vengeance, fuelling or sustaining animosity in stories, poetry, or chronicles, which offered a wide array of "injustices" to "legitimize" breaches of truce or even peace. Especially women were the caretakers of familial memory (Brunner, 1990, 84–89; Boehm, 1993, 59; Peters, 2000, 83, 96; Carroll, 2006, 9, 17, 20; Dean, 2007, 137; Byock, 2007, 98–111; Reinle, 2014, 10; Muir, 2017, 4–8).

Still, enmity never lasted forever (Boehm, 1993, 221), even if many conflicts lasting for a very long time are attested in sources (Stanojević, 2007, 14–15, 18, 34–35, 43–45, 59–64; Bicheno, 2007; Smail, 2007; Darovec, 2016).

The first stage or rite of settling enmity was to make truce (Lat. *treuga, amicitia, concordia, compromisso, fides, fiducias, reconciliacio, pax, treugis manualibus,* Ger. *hantfrid, frid, schlechten frid*, sůne) (ARS, AS 1063/4491, 23 August 1440, Haimburg; Monasterium, HHStA Salzburg, AUR 1286 XII 16; MGH, Const. 1, 318. §18, 451; MGH, Const. 2, 196a. 253–255; MGH, Const. 2, 427., 570–579).

Truce is distinguised from peace by the durability of peace and specific words and gestures that conclude it. Until these were spoken and made, an agreement was always only a truce, regardless of the words used for peace (e.g. Lat. *pax*, Ger. *Friede*, *Sühne*) in the sources (Rolandino, 1546, 158r–159v). As stressed by Medieval jurists,[15] attention had to be given to the relationship that was established and publicly demonstrated through appropriate diction and gestures. The relationship established by truce was that of friendship (Lat. *amicitia*). Truce always had to be public to inform everyone involved in the conflict that it was made, so they would suspend hostilities. Truce was a shorter or longer but always temporary period of mutual renouncement of enmity, providing the parties to the conflict with time to assess the damages given and received, and to consider whether it was more honourable (worthwhile) to settle the conflict by making peace or to resume hostilities. Truce also served to cool the parties‘ emotions, easing peacemaking, just like banishment[16] (Ita. *bando*, Ger. *Bann*), i.e. the perpetrator‘s flight into church asylum or another refuge, particularly in settling homicides. The prerequisite for truce was a request for it, demanding ritual self-humiliation from the petitioner (gift and countergift, homage). The request could be also made by the wives and daughters (maidens) of the petitioner‘s kin (same for peace). As a rule, at least the first request was symbolically rejected (Gluckman, 1955, 15; Ergaver, 2016, 109), until finally accepted with an oath of security (Lat. *securitas*, Ger. *sicherheit*) or safe conduct (Lat. *salvus conductus*, Ger. *sicheres gleyt*), which protected the enemy from retaliation or arrest. The oath of truce (Lat. *fides*) was given by the injured party to the perpetrator and made on sacred (e.g. scripture, relics) and other symbolic objects. The agreement or compromise for truce can only exceptionally be made by the parties to the conflict themselves, and as a rule by mediators (Ger. *mitler*, Mne. *posrednik*, Alb. *ndërmjetës*, Svn. (*po*)*srednik*) or arbiters (Lat. *amicabilis compositor*, Ger. *compromitendt, schidman*, Mne. *kmet, arbitar*, Alb. *pleqnarët*). Generally there were an equal number of arbiters for both parties, and they were chosen and accepted by both based on their moral virtue and legal competence: respected members of society, e.g. village elders, clergy, representatives of urban authorities, influential local nobility or distinct keepers of legal customs or professional jurists (notaries, lawyers). In Medieval and early modern communities across Europe,[17] where both customary and the Roman legal order coexisted, at the beginning of the arbitration the parties to the conflict had to notify the arbiters as to whether they wished to settle according to law or according to custom (Lat. *per viam iuris vel per amicabilem viam*,

15 For instance by the renowned thirteenth-century notary, judge, and university professor Rolandino (Rolandinus Rudolphi de Passageriis, ca. 1215–1300). His monumental collection of norms, first published in print in 1546, is still used for the education of notaries today (Darovec, 2016, 16).

16 In the early modern period customary banishment of the perpetrator into another jurisdiction, intended to ease peacemaking, was transformed by central authorities into a legal institution aimed at the eradication of banditry, thus ignoring local jurisdictions. Consequently, the local fora were excluded from peacemaking, which at first both prolonged and intensified feuding (Povolo, 2015, 215, 219, 225; cf. Miller, 1996, 239, 263, 275).

17 In rural communities of South-Eastern Europe, especially in Montenegrin and Albanian territories, conflicts were settled exclusively by custom, which was by large also encouraged by both the Venetian and Ottoman authorities (Ergaver, 2017).

Fig. 48: HAROLD SACRAMENTUM FECIT VVILLELMO DUCI: "*Harold made an oath to Duke William" (Bayeux Tapestry). This scene is said in the previous scene on the Tapestry to have taken place at Bagia (Bayeux, probably in Bayeux Cathedral). It shows Harold touching two altars with the enthroned Duke looking on, and is central to the Norman Invasion of England (https://en.wikipedia.org/wiki/File:Bayeux_Tapestry_scene23_Harold_sacramentum_fecit_Willelmo_ducit.jpg)*

amicabilis compositio, Ger. *mit minne oder mir dem rehten, wilkhürlichen*), i.e. amicably and with love. In either case the parties pledged to respect the arbitration in advance and to pay any damages for the eventual violation of the truce to the arbiters who had guaranteed it (hence *fiducias*, surety). Sanctions for violations of a truce imposed by a court were harsher and included corporal punishment equal to that for perjury: the violator would lose the right hand or the index and middle finger used in the gesture for swearing an oath. Hence, in the Empire, the truce is also known as *Handfriede*, "peace by hand", opposite to a lasting peace concluded with a kiss from the representative of the injured party, the *Mundsühner*. The penalty for violating truce acted as peace with the court as the guarantor of the truce, otherwise the violator was outlawed (Ger. *Acht*). The penalty for violating truce by means of homicide was death. Accepting the compromise concluded the truce, which came into force when the security was given between the enemies.[18] As a

18 As late as the end of the seventeenth century the central judicial authority of the Venetian Republic, the

rule truce lasted from a few months up to a year, when not renewed or extended. Once it expired or was broken, hostilities would be resumed. Truce could be renewed many times before peace was made. Thus, there could be many compromises and truces in vengeance, but only one lasting peace could be made. Generally truces were made and expired on an important Church holiday, e.g. Pentecost, All Saints' Day or Nativity of John the Baptist (ARS, AS 721, kn. 19 (1644–1651), 15 May 1646, 391–392; Rolandino, 1546, f. 147r–v; MGH, Const. 2, 427. §8, 573; MGH, Const. 2, 438. §8, 597; KLD, §§ 602–639; Schwind & Dopsch, 1895, 34., §63, 70; SK, 149–154; Frauenstädt, 1881, 75–83, 106–109, 131, 143; Miklosich, 1888, 137–138; Evans-Pritchard, 1940, 180; Medaković, 1960, 62–63, 67; Kos, 1994, 124; Althoff, 1997, 92; Leth Jespersen, 2009, 18–19, 40; Pitt-Rivers, 2012; Darovec, 2016, 14–15, 20–22, 38; Povolo, 2017; Oman, 2017, 169, 173).

Should the truce have held, it could be followed by lasting peace, made based on the terms agreed upon during the truce by the parties to the conflict, the arbiters, or the court. The peace treaty could undergo many editions before it was unanimously accepted and contractually composed (Lat. *instrumentum pacis et concordiae,* Ger. *Sühnevertrag*), including according to a notarial form. The Medieval and early modern notarial form begins stating, that the parties to the conflict have concluded peace, forgiveness, and concord, and put an end to their enmity with the kiss of peace: *fecerunt adinvicem osculo pacis vicissim inter eos veniente, Pacem perpetuam, finem, remissionem, atque concordiam* (Rolandino, 1546, f. 158r). Montenegrin sources also attest: *fine silenzio quiete et pace perpetua* (IAK, SN LXX, 22 July 1599, 137–138).

The contract was confirmed by the rituals or, rather, the ceremony of peacemaking, dictated by the injured party and publicly demonstrated with symbolic words, gestures, and objects. The rituals consisted of self-humiliation (gift and countergift, homage), friendship (faith, truce), and the establishment of lasting peace (compensation, love, forgiveness), thus renewing certain rites that were already present in the making of truce. Self-humiliation (in the form of penance) followed the recording of the peace treaty, while the ceremony[19] was performed inside or in front of a church or court (e.g. town hall) or at the victim's grave. Especially perpetrators of homicide had to request peace barefoot and bareheaded, dressed only in penitential undergarments, sometimes having their hands tied. They would sometimes be carrying a dog or a saddle on their backs, yet as a rule a heavy penitential candle in their hands or the murder weapon hung around their necks. The perpetrator approached the victim's kin on all fours or on his knees, or kneeled (Lat. *flexibus genibus,* Ger. *Fußfall, Kniefall*) every few steps. Peace and forgiveness was requested by the perpetrator, his female kin, and/or arbiters or other members of the community witnessing the ritual. In peacemaking a burgher could be represented

Consiglio di Dieci, resolved conflicts of blood among (at least) the urban nobility through mediation by presiding over the swearing of the oaths of friendship, thus concluding a truce. The truce allowed potential avengers to leave house arrest (*Liberazione di sequestro*) (ASVe. CCD-LR, b. 258, No. 197, 200–202, 206–210, Koper-Capodistria, 1684; comp. first chapter).

19 Cf. Vialla de Sommières: Voyage historique et politique au Montenegro, Acte de la réconciliation publique, 1820, p. 338 (Wikimedia Commons, VDS pg390 Act de Réconciliation publique devant le Tribunal du Kméti.jpg) (Darovec, 2017, 85).

Fig. 49: Kiss of Peace settling the enmity. Cambridge Ee.3.59, The Life of King Edward the Confessor, ca. 1250–1260 (http://manuscriptminiatures.com/4450/10071/)

by the town or city council, a vassal or subject by his lord, a priest by his bishop, a member of a tribe or clan by his chieftain, a member of a kin by his father, godfather, or other blood relative, or head of the household. Following a few consecutive requests the representative of the injured party (Mne. *umirnik*, Alb. *pajtues*) lifted the perpetrator to his feet and they exchanged the kiss of peace (Lat. *osculum pacis*, Ita. *baccio di pace*, Ger. *Friedenskuss*, Mne. *cjelov mira, poljubac mira*) on the mouth or cheek. The kiss signified the parties‘ equality[20] (Schmitt, 2000, 331–332; Bogišić, 1999, 371–372; Rovinskiĭ, 1994, 259; cf. Boehm, 1993, 136; Darovec, 2016, 24; Ergaver, 2017, 197) and alleviated any humiliating acts performed by the perpetrator (Carroll, 2011, 90–91), demonstrating that he had been forgiven from the heart and that the peace was sincere, thus uniting the former enemies in friendship, brotherhood, godfatherhood, and love (Lat. *amor*, Ger. *Minne, Liebe*) as a formal covenant (Petkov, 2003, 33–34). Medieval jurists explicitly stated that there was no lasting peace without the kiss of peace (Rolandino, 1546, f. 158r–159v). During the early modern period it was gradually replaced by the embrace and/or handshake,[21] which could also complement it, as attested *inter alia* in

20 Thus it was inapropriate to be given to those of inferior status. In seventeenth-century Italy it was apropriate that "*inferiors receive their embraces around the neck; equals hold each other equally on their arms and they kiss; and superiors are to be approached by embracing them around the hips while bowing, making a sign of wishing to kiss their hand*" (Carroll, 2016, 130).

21 Reformers, both Protestant and Catholic, regarded the kiss as too "carnal", even though it had already been in decline since the fifteenth century. It was first removed from church service, vanishing as a legal gesture

Montenegro: *si abracionno, et in segno di […] perpetua pace bacciono* (IAK, SN LXX, 9 January 1599, 137–138). The kiss was followed by the oral reading of the peace treaty to those present, which was confirmed by a handshake as the fundamental legal gesture for concluding contracts (Schmitt, 2000, 108–109). With the peace treaty both parties for themselves and their heirs mutually and lastingly renounced enmity (Ger. *Urfehde*),[22] a composition (Lat. *compositio,* Ger. *Sühnegeld*) or, for homicide, blood money (Germanic *wergeld,* Mne. *krvnina, vražda,* Alb. *parë i gjakut*) was set, depending on the gravity of the offence and the status of those involved. In societies with little cash, composition could be symbolic or in kind: valuable tableware or weapons, arable land, livestock, produce, etc. (Petranović, 1868, 19; Bogišić, 1999, 372–273; Evans-Pritchard, 1940, 192, 197; Verdier, 1980, 20; Boehm, 1993, 137). The arbiters could also ask the injured party what the perpetrators had gained by paying composition, to which the wronged party answered: lasting peace (Lat. *pax et concordia perpetua, plenam celebraui concordiam,* Ger. *Ewige Sühne und Frieden, ewige orfeyde, vrvehe vnd si svne, gantze sůne, gantz ab vnd verrichtet*).[23] Composition settled all damages, including the treatment and care of the victim, and the costs of funerals, lawsuits, and trials. In Christianity settling blood included requiems for the victim‘s soul and the erection of memorials. Penance for homicide was also imposed by fasting, a temporary ban from attending church services, a pilgrimage, by giving alms, etc. In some areas following the peace the killer had to avoid the victim‘s kin as much as possible for a year and a day. Elsewhere, peace was demonstrated by sharing common meals or sleeping in the same bed, i.e. *convivia* (van Eickels, 1997, 137–139; Brown, 2011, 40). Always, however, bygones had to be bygones, as propriety demanded that the conflict had to be forgotten. Following the ritual ceremony of peacemaking in Christianity both parties jointly attended mass, hence peace was commonly made on a Church holiday or on a Sunday. In Central and Western

during the seventeenth century (Koslofsky, 2005, 25, 33; Carroll, 2016, 128–129; Marinelli, 2017).

22 Literally “not feud”. The renouncement of enmity/vengeance was also the oath given by a released captive in a feud to his enemy or by the defendant or suspect to the court and plaintiff, as well as everyone who aided in his or her arrest. It was closely related to the idea of accomodation, having both the function of submission and an agreement to compromise. As a legal institution *Urfehde* originated in peace treaties, where it was given as a temporary (in truce) or lasting renouncement of enmity (*ewige orfeyde*) and had to be made public. In peace treaties the renouncement was descriptive and in the Holy Roman Empire rarely was the word *Urfehde* used, while in the early modern period *Urfehden* given to the courts were specific documents. These could be given for any offence punishable by imprisonment. In the seventeenth and eighteenth centuries *Urfehde* was only a formal confirmation (acceptance) of the judgement by the convict, as a rule including banishment and/or fine in return in place of corporal punishment. Corporal punishment, including the death penalty, was exacted if the renouncement was violated. In the early modern period *Urfehde* mostly had the function of maintaining the moral and social order. *Urfehde* and its English counterpart, the recognisance, were sworn in front of the magistrate, being a formal part of the legal process. Even if their Italian equivalent, the *rinunce*, was a private agreement (Kos, 1994, 118–120; Blauert, 2000, 13–21; Leth Jespersen, 2009, 38; Carroll, 2011, 87), it still required either a confirmation by notaries or before authorities even in the early modern period (Povolo, 1997, 158–166), as is attested in the statutes of the County of Val Morena from 1600 (Cesca, 2009, 110–115).

23 In Montenegro the newly established spiritual bonds of godfatherhoods and brotherhoods were regarded as the main accomplishments of peacemaking, being both new alliances and guarantees for the peace to last (Ergaver, 2017, 194–198).

Fig. 50: Kiss of Peace beetwen Justice and Peace. Giovanni Battista Tiepolo (1696–1770) (https://commons.wikimedia.org/wiki/File:Tiepolo_Justice_and_Peace.jpg)

Europe, especially in the early modern period, settling of blood had to be approved by the court, which issued a written copy of the settlement to both parties. In Italy this could still in early modernity be issued by the notary, without involving the court. Peace could however never be truly enforced by the courts, as it would not last. Sanctions for violations of peace were monetary, but could also include the death penalty. The peace settlement could be followed by marriages and engagements or spiritual bonds such as godfatherhoods and brotherhoods. As already the kiss of peace signified the union of the two families, new familial bonds significantly reinforced and acted as sureties for the peace. The peace settlement brought the relationship of enmity and vengeance to an end and the parties entered into a new relationship (ARS, AS 1063/4511, 16 August 1443, Wiener Neustadt; Monasterium, HHStA Salzburg, AUR 1286 XII 16; Rolandino, 1546, f. 158r–159v; Frauenstädt, 1881, 115–119, 125–145, 153–157, 164; Brunner, 1990, 107; Verdier, 1980, 25–31; Althoff, 1997, 115–121; Peters, 2000, 70; Carroll, 2003, 92, 100;

Carroll, 2006, 232; Leth Jespersen, 2009, 19; Withington, 2013; Darovec, 2014, 492; Darovec, 2016, 38; Darovec, 2017, 64, 69, 79, 84; Ergaver, 2017, 196–197).

The herein presented ritual of vengeance, which served as the basis for our selection of terms, at first glance definitely shows an idealized image or a myth. Yet, as numerous sources attest, it was a myth that worked well in practice, especially through ritual ceremonies.[24] Still, just as there are plenty of procedural complications and plenty of laws being violated in present times, there was just as much respect and disrespect for the rituals of vengeance in the past. Hence the power (political, economic, military, of social standing, etc.) or size of a community, as well as its capability to strike up alliances in the struggle for resources and defence, often determined the outcome of conflicts. However, and in this we can agree with Max Gluckman, "*over longer periods of time and wider ranges of society the conflicts between these relationships become cohesion*" (Gluckman, 1955, 19).

Regarding the questions raised in the introduction, it can be established that many terms and concepts of the ritual of the customary system of conflict resolution have by and large undergone a thorough redefinition in contemporary legal and public life, including the system's central phenomenon: vengeance. These redefinitions are a consequence of the fundamental social changes that have taken place since the end of the Middle Ages. Increasing social cohesion in particular, which resulted in increasingly larger tightly-knit units, necessitated the formation of appropriate institutions that allowed the state to establish control of its territory. The key role in the centralization of most early modern European states was played by their centralized judicial institutions, tax system, and military. In the customary system of conflict resolution since the end of the Middle Ages the state occupied the role of mediators and arbiters, gradually pushing them out of the ritual and taking control of the system of conflict resolution. This established the state as the only legitimate avenger.

24 The website http://www5.unive.it/faida_msca contains a vast collection of illustrations from various sources and artists ranging from the sixth to the nineteenth century, which truthfully depict the ritual gestures, customs, and terms discussed in this paper.

Fig. 51: Wedding of Maria de Medici and Henry IV of France. Jacopo da Empoli (1600) (https://commons.wikimedia.org/wiki/File:Marie_de_Medici%27s_marriage.jpg).

GLOSSARY

The following glossary[25] is meant as a tool for the research on vengeance as a customary system of conflict resolution, especially for studies predicated on European Medieval and also early modern sources. We also believe that the glossary can be of use for research on vengeance in other eras and/or on other continents. Due to the abundance of synonyms denoting the key rites of vengeance from the outbreak of hostilities to the establishment of peace, the glossary is limited to the most important or the most common terms and phrases found in the Western, Central, and Southern-European sources, particularly from the Holy Roman Empire and the Venetian territories. At the same time it is our intention to emphasize the existence of a plethora of synonyms for the most terms, concepts, gestures, and emotions expressed in the rituals of vengeance in the customary system of conflict resolution. While the glossary is primarily predicated on Medieval sources, many terms and phrases were still in use in the early modern period and, especially in the Mediterranean, even later.

The conceptual historiographical and terminological analysis presented in the paper has shown that regardless of the social and political organisation of a specific region, contextually corresponding key terms and phrases of the custom of vengeance existed in many European languages, especially during the Middle Ages and some even in the early modern period. The analysis already presented in the paper is expanded in the glossary with a broader language of vengeance.

It also has to be emphasized that in our research on vengeance we found an abundance of various synonyms for certain terms and phrases, especially in Latin, German, and (via dictionaries) Slovene. Almost all are used in the glossary.

Latin, as the primary language of law in premodern Europe, was chosen as the first language of the glossary. The herein used Latin terms and phrases are almost exclusively taken from Medieval and early modern sources, as are most Italian, Montenegrin, and Albanian terms and phrases. German and Slovene terms and phrases, on the other hand, are divided into modern and those taken from Medieval and early modern sources. German premodern terms and phrases are given in italics and in the original ortography. Slovene terms and phrases given in italics, yet transliterated into Gaj‘s Latin alphabet, are mostly taken from German-Slovene and Latin-Slovene dictionaries,[26] dating from the sixteenth and seventeenth centuries. At the same time we would very much like to see the glossary expanded with additional languages from around the world.[27]

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25 The glossary follows the example of Christopher Boehm, who presented corresponding English words for those used in the language of vengeance specific to the Montenegrin area (Boehm, 1993, xvii–xix).

26 Premodern legal sources in Slovene, especially those regarding criminal law, are very rare as most were written in either Latin or German, even if Slovene was the oral language of law (Golec, 2016, 148–149).

27 The words and phrases given in the glossary are taken from the sources and literature already cited in the paper thus far, while the rest are taken from: Megiser, 1592; Vorenc & Kastelec, 1680/85; Wolf, 1860; Karadžić, 1966; Mann, 1948; Stevanović et al., 1983; Dolenc, 1939; Berishaj, 1989; Hysa, 1995; Orel, 1998; Bernik et al., 2004; Golec, 2016.

LATIN	ENGLISH	ITALIAN	GERMAN (contemporary, *sources*)	SHTOKAVIAN (Montenegro)	ALBANIAN	SLOVENE (contemporary, *sources*)
altercatio, contentio, discordia, iniuria, intentio, iurgium, tumultus	conflict, contention discord, strife, quarrel	conflitto, discordia	Konflikt, Streit, Zwitracht, *beschwerung, groll, irrung, krieg, misshelung, rumor, ungute, unwill, zwayung, zwitracht*	svadja, konflikt, sukob	armiqësi, konflikt	spor, *hrup, krejg, sovraštvu, nadležnost, negliha, nepokoj, neskladnost, neštimnost, nevola, prepirajnje, svada, zatažba, zuparnost*
amicabilis	customary, in accordance with custom	consuetudinario	nach Gewonheit, nach Gewonheitsrecht, nach Rechtsgewonheit, *mit minne, wilkhürlichen, freundlich, gütlich*	prema običaju, po zakonu zemaljskome, po kuštumu zemlje	i bërë zakon, zakonshëm	po običaju
amicabilis compositio, arbitrium	arbitration, composition, reconciliation	arbitrato, composizione	Ausgleich, Vergleich, Schiedsurteil, *wilkur*	plemenski sud, arbitraža, pomirenje, plećnija	pleqësia	poravnava, razsodba, sodni zbor, *dobra vojla, svoja vojlia*
amicabilis compositor, arbiter, arbitrator, boni homines	arbiter, arbitrator, good men	arbitro, giudice, compositore amichevole, buoni uomini	Schiedsrichter, *compromitendt, schidman*	kmet, arbiter, posrednik,sud dobrih ljudi	pleqnarët, pajtues, ndërmjetësues, burrat e mirë, burrat e urtë	razsodnik, *ločnik, rezločnik*, dobri ljudje
amicitia	friendship	amicizia	Freundschaft	prijateljstvo	miqësia	prijateljstvo, *perjasèn, priazn*
amor	love	amore	Liebe, *minne*	ljubav	dashuria	ljubezen, *priazen*
arbitrari	to arbitrate	arbitrato	*compromitiern*	suditi	gjykoj, trup gjykues	razsojati, *mejniti, soditi*
arbiter esse, componere, conciliare, conciliare pacem, concordare, pacificare, reconciliare	to make peace, to reconcile	stringere la pace stabilire la pace	ausgleichen, einigen, vergleichen, versöhnen, *fried machen, richten, taidigen, verrichten, vertragen*	miriti se, miriti krvi, miriti rane	pajtoj, paqësoj	pomiriti se, poravnati se, spraviti se, *glihati, mir sturiti, miriti, složiti, spraviti, spet spraviti, spravo delati, sprijazniti, vkup rajmati*

bandum, exilium, excommunicatio	banishment, exile, outlawry	bando	Bann, Verbannung, Acht, *mordtacht*	odličenje, progon, izgnanstvo	dëbim, dëboj	izgon; *bandižajne*; *bando, dano slanu iz dežele*
caedes, homicidium, interfectus	homicide	omicidio	Totschlag	ubistvo	vrasje	uboj, *poboj, vbijanje*
caeremonia	ceremony	cerimonia	Zeremonie	svečanost, ceremonija	ceremoni	slavnost, slovesnost, svečanost, ceremonija
certamen	combat	combattimento	Gefecht	ratovanje, borba	betejë, luftë	spopad
compater	godfather	padrino, compare	Pate	kum	kumbarë	boter
compatritas	goodfatherhood	padrinato	Patenschaft	kumstvo	kumbari	botrstvo
compositio	wergeld, wergild, blood money	tributo di sangue	Wergeld, *manngeld, sühnegeld*	krvnina, krvavi novac, vražda, odšteta	pare e gjakut, kompensim	spravnina, kompozicija, krvnina, odškodnina, *vražda, krvavi penez, krvarina*
compositio, compromissum, pacisci	agreement, compromise	composizione, compromesso	Ausgleich, Einigung, Kompromiss, Vergleich	dogovor, kompromis, sporazum	marrëveshje, kompromis	dogovor; kompromis; *oblublenje dati, od ene inu druge strani za kakeršno glihingo, s persego*; *pervoliti*; *v roko seči*; *zavezo delati*; *zglihati*
concordia	concord, unity	concordia	Einigkeit	sloga, jedinstvo	përshtatje, me ra dakord	sloga, složnost, *skladanje, zglihanje*
damnificare, dare damnum, nocere	to damage, to harm	danneggiare, nuocere	schaden, schädigen	oštećenja, naškoditi	dëmtoj	škodovati
damnum	damage	danno	Schaden	šteta	dëm	škoda
deridere, offendere, vulnerare	to insult, to offend	offendere	beleidigen, beschämen, schimpfen, verspoten, *ausschreien, aussprengen, ausspeien, schmähen, schelten, spotten*	povrjediti, uvrjediti, vrijeđati	ofendoj	žaliti,užaliti, *posmehovati, režaliti, spotakniti, špotati, zadervižati, zameriti*

devasta-tio	devastation	devastare	Wüstung, *grundstöer*	devastacija, pustoš	mësymje, shkretoj	pustošenje, *zatrenje*
defensio per patrem	(legal) defence by ones father	difesa per patrem	Rechtsverteidi-gung durch den Vater	odbrana od strane oca	mbrojtje nga babai	obramba po očetu
diffidatio	renunciati-on of peace	rinunciare alla pace	Absage, *abkla-ge, austretten, widerbot, widersage*	odricanje od mira	me heq dorë nga paqja	odpoved miru, odpoved zvestobe
diffidator	the one who announces hostility, the one who renounces peace, defyer (in criminal law)	sfidante	Absager (in criminal law)	onaj koji najavljuje neprijateljstvo	sfidues	odpovednik (in criminal law)
dignatio, honor, honos	honour	onore	Ehre	čast	nder	čast, *spoštovanje*
dissidere, inimicari	in enmity	creare inimicizia	verfeindet sein, *zwiträchtig sein*	u svađi, u neprijateljstvu, u krvi, zakrvljeni	krijoj armiqësi	sovražnost imeti, v sovražnosti biti
expulsus, ex(s) ul, pro-scriptus, relegatus, homo sacer, excom-munica-tus	outlaw, bandit, exile, the banished	bandito, fuorilegge	Verbannter, Geächteter, Friedloser, *vogelfrey*	odličeni, prognanik	bandit, jashtë ligjit	izobčenec, izgnanec, brezpokojnež, *vižan*
faida, querella	feud, quarrel	faida, vendetta, querela	Fehde, *abgesagte feindtschafft, befehdung, fedeschafft*	osveta, zavađa	hakmarrje	fajda, maščeva-nje, spor
fama	reputation	fama	Ruf, Gesicht	ugled, reputacija, obraz	dinjitet	ugled
familia, cognatio	family, household, house, lineage, kin	famiglia, parentela	Familie, Ge-schlecht, Haus, Haushalt, Sippe, Verwandtschaft *freundtschaft*	porodica, rodbina	familja, lidhje farefisnore	družina, rod, rodbina, sorod-stvo, žlahta, *narod*
fide-iussor, sponsor	guarantor, warrantor	fide-iussore, fiduciario	Bürge, Garant	jemac, dorzon, garant	dorëzan	porok

fidem dare, iurare	to swear an oath	giuramento	schwören	dati tvrdu vjeru, zaklinjati se, položiti zakletvu	betim	priseči, *persegati, v roke seči, za gvišno oblubiti, zakleti*
fides	trust, fidelity, faith	fede, fiducia	Treue, Glaube	vjera, vjernost	besë	vera, zvestoba, *zveščina*
fiducia, fideiussio, sponsio	surety, warranty	garanzia, fideiussione piezaria	Bürgschaft, Haftung	jemstvo, garancija, dorezanija	dorëzan, garant	poroštvo, jamstvo, *obluba, obečanje, zavuplivost*
flectere genua, flexis genibus	to kneel	inginocchiarsi	die Knie biegen	klečati	me ra në gjunjë, me u gjunjëzu	poklekniti, *pokloniti*
forum	court of arbitration	compositori	Schiedsgericht, *taiding*	plemenski sud, skup, arbitražni sud, plećnija	pleqësia	razsodišče, veča, pravda
fraternitas	brotherhood, confraternity, fraternity	fratellanza, fraternità, confraternità	Bruderschaft	bratstvo, pobratimstvo	fis, vëllazëri	bratstvo, bratovščina, pobratimstvo
furor, ira	anger, fury, rage	furore	Wut, Zorn	ljutnja, bijes	tërbim	bes, srd
homicida, interfector	killer	assassino, omicida, uccisore	Totschläger	krvnik, ubica	gjaks, gjaksor, vrasës	ubijalec, *bojnik, ubijavnik, vbijenik*
homicidium involuntarium	involuntary manslaughter	omicidio pensato	Tötung ohne Vorbedacht	ubistvo iz nehata, ubistvo grijehom	vrasje e pavullnetshme	nenaklepni uboj
humiliatio	humiliation	umiliazione	Beschämung, Demütigung, Erniedrigung	poniženje	poshtërim	ponižanje, *pohlevnost*
ignominia	dishonour, shame	disonore, vergogna	Schande	sram, bruka	turp	sramota, špot
indignans	the offended	offeso	Beleidigter	uvrijeđeni	i fyer	užaljeni, razžaljeni
infamia	infamy, bad reputation	infamia	Verruf, schlechter Ruf, böser Ruf	loš glas, sramota	famë e keqe	slab glas, zloglasnost
inimicus	enemy	nemico	Feind	neprijatelj	armik	sovražnik, *nepriatal, sovraže*
inimicitia, odium	enmity (as emotion: animosity, hate)	inimicizia, odio	Feindschaft, *feindtschafft, veht, uble unnachparschafft, zorn* (as emotion: Haß)	neprijateljstvo, mržnja, animozitet	armiqësi, urrejtje	sovražnost, čert, *nenavist, nepriatelstvu, sovraštvu* (as emotion: mržnja, sovraštvo)

iniuria, offensa, vulnus	affront, injury, insult, offence wrong	ingiuria	Beleidigung, Beschimpfung, Unrecht, Verspotung, *ehr verletzung, iniuiri schelt-wart*	povreda, uvreda	dëmtim	krivica, žalitev, *sramota, zašmaganje, zašpotovanje*
inimicitia capitalis, inimicitia mortalis, vindicta mortis	blood feud, blood revenge	vendetta di sangue	Blutrache, Totschlags-fehde, *haup-tveintschaft, totveintschaft*	krvna osveta	gjakmarrje	krvno maščevanje
intercessio	mediation	media-zione	Mediation	posredovanje	ndërhyrje	posredovanje, mediacija
interfectus voluntarius	murder, voluntary manslaughter	omicido puro e proditorio	Mord	ubistvo iz koristi, ubistvo navlaš	vrasje e pastër e vullnetare	naklepni uboj, umor
iudicium	court	tribunale	Gericht	sud	gjykatë	sodišče, sodni zbor
iuramentum	oath	giura-mento	Eid, Schwur	zakletva	beja	prisega, *rotejnje, rote*
lex	law	legge	Gesetz	zakon	ligj, zakon	zakon
malefactor, auctor	perpetrator	colpevole, autore	Täter	krivac, izvršilac, rukostavnik	fajtor, autor	storilec, hudodelec
matrimonium	matrimony	matrimonio	Ehe	brak	martesë	zakon
mediator	mediator	mediatore	Vermittler, *mitler*	posrednik	ndërmjetës	posrednik, mediator, *srejdnik*
mos, consuetudo	custom	consuetudine	Gewonheit	običaj	adet, zakon	običaj
offensor	offender	offensore	Beleidiger	uvredilac, uvredioc, počinilac	fyes	žalivec
osculum pacis	kiss of peace	bacio della pace	Friedenskuss	cjelov mira, poljubac mira	puthja e paqes	poljub miru
pacificator	peacemaker	pacificatore, paciere	Friedensstifter, *mundsühner*	umirnik, mirotvorac	pajtues	pomiritelj, miritelj
pax sanguinis	settling blood	pace	Totschlagssühne	umir krvi	pajtimi i gjakut	pomiritev krvi
pax	peace	pace	Friede	mir	paqe	mir
pax et concordia perpetua, plena concordia	lasting peace	pace duratura	Ewige Sühne und Frieden, *ewige orfeyde, ewige sune und fried, gantze sune, urvehe und sune*	večni mir i ljubav	paqe ë qëndrueshme	trajni mir, *gvišen inu zažihran mir*

praeda, spoliatio, incursio	pillage, robbery	incursione, furto, rapina	Raub	pljačka, razbojništvo	bastisje, vjedhje, grabitje	plenjenje, ropanje, *pajdaš*
praedare, spoliare	to pillage, to rob	saccheggiare, rapinare	rauben	plačkanje, četovanje	plaçkitje	pleniti, ropati, *opuliti, po sili vzeti, porubiti, rezbijati*
querella	complaint, lawsuit	querela, acussa, denuncia	Klage, Beschwerde, *geschray*	parnica, tužba, žalba, svadja	padia, akuza, denoncimi	tožba, pritožba, pokrik, *vik, krik,* šrajanje
reconciliatio, compositio	pacification, peacemaking, reconciliation, settlement	pacificazione, riconciliazione	Sühne, Versöhnung	pomirenje, izmirenje, pomirba, umir	pajtimi	pomiritev, sprava, *sloščina, smirovanie, vkup spravlanje*
rite, ritus	rite, ritual	rito, rituale	Ritual	obred, ritual	rit, ritual	obred, ritual
salvus conductus	safe conduct	salvacondotto	sicheres Geleit	sigurna pratnja	sjellje e sigurt	varno spremstvo
satisfactio	satisfaction	soddisfazione	Genugtuung	zadovoljstvo	kënaqësi	zadoščenje
securitas	security	sicurezza	Sicherheit	sigurnost	mbrojtje, sigurim	varnost, *žihrost*
sententia, iudicium	sentence, judgment	sentenza, giudizio	Urteil, Schiedsspruch	presuda	gjykimi, dënimi	sodba, razsodba
treuga, treugae manuales, amicitia, concordia, fides, fiducia, pax, reconciliacio	truce	tregua	Stillstand, Waffenruhe, Waffenstillstand, *hantfrid, frid, schlechter frid, sune*	primirje	besë	premirje
ulcisci, vindicare	to avenge, to take revenge	perseguire la vendetta	rächen	osvetiti se	hakmerrem	maščevati, *nazaj vzeti*
Urphaede	oath not to feud, oath to keep the peace, recognisance	rinuncia alla vendetta, rinunce	Urfehde, *orfeyde*	odricanje od osvete, zakletva za održanje mira	besë, heq dorë nga hakmarrja	odrek maščevanju, odrek sovražnosti, *urfeda*
verbum honoris	word of honour	parola d'onore	Ehrenwort	časna riječ, riječ od poštenja	fjala e nderit, besa	častna beseda
victima	(homicide) victim	vittima	Opfer, Totschlagsopfer	žrtva, ubijeni	viktimë	žrtev, ubiti

vindex, vindictor	avenger, vengeance taker, blood taker	vendica-tore	Rächer	osvetnik, krvnik	gjakmarrës, hakmarrës	maščevalec
vindicta, faida, alter-catio, bellum, discor-dia, inimi-citia, iniuria, intentio, ultio, vindica-tio	vengeance, revenge, feud	vendetta, faida	Rache, Fehde, *abgesagte feindtschafft, auflauf, befehdung, feindtschaft, vordrung, gwerra, handlung, irrung, krieg, lanndkrieg, misshelung, reisa, rache, stöss, teglich krieg, unfrid, ungute, unrat, urlog, zwayung, zwitracht*	osveta, krvna osveta	hakmarrje, gjakmarrje	(krvno) maščе-vanje, fajda
violentia	violence	violenza	Gewalt	nasilje	dhunë	nasilje
vulnus, plaga	injury, wound	ferita	Wunde	povreda, rana	plage	poškodba, rana

IN LIEU OF INTRODUCTION AND CONCLUSION

This book includes presentations of some case studies of blood feud in the Upper Adriatic area in the medieval and modern ages. Their fundamental purpose is to present the changes in the social system of conflict resolution that occurred in establishing modern state authority in the early modern period. The case studies are based on the interdisciplinary comparative approach of historical, legal, and anthropological scientific disciplines.

In comparison to the established historical presentation of cognitive and expressional forms (*topos*) of research problems, which usually begin with a general presentation of the topic and continue with an elaboration in chronological sequence, this book is significantly different. It uses retrospective presentation, as if the end had shifted to the beginning. The reason for such an approach I will attempt to explain later on.

This book thus begins with the chronologically most recent episode, with a case study of 1686 vendetta in Koper, based on original archival documents from judicial bodies of the Republic of Venice and narrative material from the protagonists in the feud.

It regards a classic case of vengeance due to the conflicts between various noble kinship groups, formed on the idiom of honour. The reason for the vengeance was a forbidden or at least an unwanted marriage between representatives of two noble families that escalated into the homicide of one relative of the married woman. After almost three-year long, apparently unsuccessful negotiations about the conflict settlement, a retributive homicide of the most prominent representative of the perpetrator's family took place, which was performed by a maternal uncle of a third family, connected by kinship.

It is interesting how the local, and especially the central political judicial authorities intervened in the feud (*faida*) after the first homicide, in accordance with the principles of the customary system of conflict resolution, by encouraging and lastly forcing the parties in the feud to make peace.

However, the attempt to integrate the customary system of conflict resolution into a court settlement apparently failed in this case, as precisely the prevention of the customary system of conflict resolution with a (seeming) state guarantee of security and with force things led to an uprising, caused by an intentional break from the traditional values of honour and roles of kinship connections.

The implementation of a strict inquisitorial judicial procedure, which is sketched out in the first chapter with its basic characteristics and procedural phases, might have nonetheless prevented possible retaliation after a vindicatory homicide, as is also shown in judicial practice in other Central and Western European countries of that time.

Nonetheless, in accordance with the customary system of conflict resolution, the vengeful homicide alone might have been perceived as an established and socially acknowledged end of conflict. It was based on the fundamental social principle of gift giving, which demanded that the given gift be returned, and insult, which demanded suitable retribution.

Precisely this several millennia-long social rule is discussed in the second chapter of this book, whose discussion of the customary conflict resolution procedure reaches into

more chronologically remote, pre-literary tribal communities, all up to the European early modern period. A comparison to the records of preserved customs from Montenegro, Herzegovina and Albania, which were still alive in the legal tradition as late as in the 19th and at the beginning of the 20th centuries, enabled us to reconstruct the customary ritual of reconciliation, which in its fundamental outlines is characteristic for almost all past communities in the world.

The common thread of the chapter is actually dedicated to the reconstruction and reinterpretation of humiliation in the ritual of reconciliation as it is indicated in the extant documents and relevant literature that describe social ceremonials; however, its foundation is based precisely on the social rule of gift exchange. The caused humiliation, which in turn caused damage to the community, demanded retribution in the form of the humiliation of the perpetrator or his community. However, this was only the first stage of the customary reconciliation process. The next stage leads to a truce with an oath between the parties in the feud, which enabled a specific period of time for negotiation regarding the compensation of the damage done. The third and the last stage was the conclusion of lasting peace with parties in the feud with actual compensation of the estimated damage and payment of the composition.

The composition was paid monetarily in recent periods in accordance with the established fees. However, in many areas a custom of fortifying the peace with kinship connections, with a certain number of godfatherhoods and fraternities, as well as with marriages between representatives of feuding parties, still prevailed for a longer period of time. The marriages were a common characteristic in earlier eras within communities, where non-monetary material goods exchange prevailed. Comparing the ritual of reconciliation with other secular rituals (i.e. the investiture of rulers, knights, notaries etc.) shows a similar, if not equal, general structure of the rituals for all public affairs. It could even be said that one can recognize in a widespread ritual form, with its symbols, gestures, and words, a cognitive model firmly anchored in common human architecture that opens the way for such an analysis of cognitive models of gang violence and its systems of conflict resolution in human societies.[1]

The reconstruction of the ritual of reconciliation is particularly the basis that enables us to confirm some of the anthropological research results, which indicate that the conflicts are socially constitutive, and moreover, socially cohesive, as they lead to new kinship connections among individual communities and thus to the expansion of the network of their members. This also exposes another characteristic, namely the conflict resolution procedure always called for cooperation among all the members of the community, who led the role of intermediaries or mediators. This also confirms the hypotheses of some functionalists that deem the customary system of conflict resolution, meaning feud, as playing the unique role of social control, as well as some structuralists, who deem it as a primary social structure if not a mere structure of creation (the universe).

1 Cf. recommendation by J. B. (Jack) Owens on Academia.edu (1 August 2017): https://www.academia.edu/34056567/DAROVEC_Darko_Blood_Feud_as_Gift_Exchange_The_Ritual_of_Humiliation_in_the_Customary_System_of_Conflict_Resolution._ACTA_HISTRIAE_25_2017_1_pp._57-96._AHCI_SSCI.

How deeply enrooted the structure of the ritual of conflict resolution was as late as in medieval Europe is presented in the third chapter, dedicated to a ten-year-long feud (1267-1277) between the Patriarchs of Aquileia and the counts of Gorizia, which was led mostly in the territories of Friuli and Istria.

This was the period of the blossom of medieval cities alongside the emergence of educational institutions, especially universities, which substantially contributed to the spread of literacy as a cultural and technological tool of exercising authority.

Moreover, this is the period in which so-called common law drew inspiration from the heredity of Roman law, which in that age had come back in vogue, and from a series of legislative dispositions of Germanic laws, if we can call them that, in agreement with the collection *Monumenta Germaniae Historica*, as well as from the specificity of city law, in particular from customary law, which in its idealistic form and with the assistance of the ritual express social values that are based on mediation from the community, reciprocity, and a tendency towards lasting peace.

The case study also confirms the hypothesis about the trace of the ritual and the procedural characteristics of the custom in learned law. It also confirms that the customary system of conflict resolution, also called *vindicta, faida, feud, Fehde, krvna osveta, gjakmarrja,* etc., represents a unique universal concept. This is confirmed in ritual form, which consists of three phases: compromise (gift), truce (oath), and lasting peace (*amor*). These three phases were directly inserted into the formation of written law in the second half of the 13th century. All ten documents consulted regarding the feud between the patriarchs of Aquileia and the counts of Gorizia namely follow the instructions that are presented in the work of Bolognian notary, judge, and university professor Rolandino (Rolandinus Rudolphi de Passageriis), dating from the second half of the 13th century. Rolandino furthermore states that there is no real perpetual peace if it is not directly ensured by the responsible parties in the feud and do not confirm such with the kiss of peace.

Precisely these dictions within common law are evidence of how Roman canonical procedures and written law shows that the ritual forms and ritual gestures of the customary system of conflict resolution were not only maintained but were regularly inserted into the ritual formulas of learned law and into practices managed by professionals (*judges, lawyers, notaries*), in order to introduce a new social order. Feud, revenge, and legal process were all part of a complex system of conflict regulation.

The case study also confirms that social relations and interactions used feuds not only in the struggle for resources, but the role the feuding parties had was also socially constitutive, as they were integrated in the system of social order. The feuds themselves also generated alliances with various social groups that were based mostly on kinship and clan connections.

This is the general structural aspect of conflict, while the local or particular aspect is shown concretely through the struggle for resources, in the interweaving of individual circumstances, where those who succeed in forming the greatest number of loyalties, differing and often contrasting alliances, are the ones who prevailed. In our case this was clearly better accomplished by the Counts of Gorizia than by the Patriarchs of Aquileia.

However, their adversities brought new players to their territories: Venetians and the Habsburgs.

The fourth chapter is dedicated to establishing, characteristics and changes in legislation in exercising the judicial authority of the Habsburgs and the Venetians in the Upper Adriatic between the 13th and 18th centuries. The primary purpose of this chapter, which is also accompanied by individual case studies, is to introduce the reader to normative changes in legislation and judicial procedures on the criminal level.

After the first three chapters the reader becomes acquainted with the fundamental characteristics of the customary and legal implications of the institute of blood feud. This is precisely why some questions might emerge, namely why the reassessment of the historical process of feud and especially blood feud is shown in a distinctly negative and misleading way; and why its social functions, which were part of an order and a tradition centered on peace and community control over conflicts, were deconstructed and pushed to oblivion and criminalized?

I hope that the answers are found in this, the fourth chapter, which sets its primary focus towards research on *feud in the interrelationships between customary law and the legal process.* Namely, as in the Republic of Venice and in the Holy Roman Empire (and in most of the contemporary Western European countries), legislation followed the basic characteristics of customary conflict resolution up to the 15th century. Based on the foundations of the adversarial legal system it was aiming towards arbitrary conflict resolution between the feuding parties, with the mediation of the community and collective responsibility for the damage caused. The courts were primarily intended for the (social) confirmation of arbitrarily concluded settlements among the parties, which could be concluded and confirmed with a notarial document alone.

Along with great social changes, in the second half of the 15th century a centralization of justice came about, in addition to fiscal and military reorganization, that was of fundamental importance in European rulers' efforts to establish supreme control over the entire territory under their jurisdiction.

In order to achieve this goal, however, the rulers first had to restrict, by means of legislation and other coercive means, the system of arbitrary conflict resolution by custom. For this purpose they established a judicial system, i.e. punitive control over both individual influential families and clans, as well as over the population in general.

The state inquisitorial trial rites introduced in most Western and Central European countries from the 16th century onwards, which substantially differed from the ecclesiastical inquisitorial procedure (from the 12th century onwards), led to an important innovation.

The state judicial apparatus earned the right of prosecution *ex officio*, whereas the trespasses became individualised. While earlier, in so-called adversarial law, the judicial investigative process was only able to be led after a lawsuit from the affected communities, in the inquisitorial procedure the judicial trial was initiated by the central judicial authorities, which was the primary reason for their creation.

It was precisely the complex inquisitorial judicial rites that were assigned to be exercised by the (state) judge with nearly limitless jurisdiction, including the implementation

of torture in all phases of the judicial procedure, which gradually took over the mediatory role of the community in feud and fundamentally disrupted the traditional relationships of values of honour and kinship connections. Studies of early-modern Europe have shown the changes that took place starting from the late 16th century. The introduction in various European countries of authentic inquisitorial procedures, which limited the right to defence and the intervention of the parties concerned, represented a significant step forward in limiting at least the bloodiest developments of feud. From France to England, to Germany and Italy, the new procedures were characterized not so much by *ex-officio* initiation of trials as by the public jurisdictional nature that the trials took on.

With this intrusion and with the legal and ideological criminalisation of feud and blood feud the ruler or the state gradually took away the judicial jurisdiction from former holders of (local) authority: the nobility. Thereafter the supreme right to revenge and pardon was in the hands of the ruler (state), which also signifies that this was the means of attaining of absolute power. Or, as Louis XIV stated: "*L'état, c'est moi.*"

The book is concluded by its fifth chapter, which emerged from co-authorship with my doctoral students, Angelika Ergaver and Žiga Oman. Based on a conceptual historiographic and semantic analysis of the fundamental terminology of the ritual of vengeance, this chapter presents an attempt to provide researchers with a linguistic, conceptual, and methodological framework for the study of vengeance as the customary system of conflict resolution in pre-modern Europe. For this purpose the key terminology, which also has abundant synonyms, has been collected in the accompanying septalingual glossary of Latin, English, Italian, German, Albanian, and Slovenian languages, along with Stokavian expressions from Montenegrin area. While predicated on, foremost, European Medieval sources and studies thereof, the dissemination and interrelation of the universal human custom make the study applicable for other areas and periods. The chapter thus contributes to the development of European scientific terminologies, in order for them to become a basis to the establishment of globally accepted scientific terms within this research field.

The book also contains an annex featuring a transcription of forty-five documents regarding the case study from chapter one, namely the 1686 vendetta in Koper. Along with the case studies presented in this book precisely the published archival documents in the annex, in their original way and with appropriate expert interpretation, reveal all the characteristics of the *general objective* of this study, which comprises research on *feuds in the interrelationships between customary law and the legal process,* as they are presented regarding the *specific objectives*, i.e. the presentation of the different forms of feuds and vengeance in criminal proceedings and procedural narratives, in addressing the forms of social control, the presentation of the role of social conflicts, and especially in the presentation of protagonists of the feud.

This approach enabled us to identify the relations existing between customary law and a new form of learned law, to discover what changes occurred as a consequence of this transition, for how long, how, and why they survived, to be able to identify the cultural elements remaining in the modern age that can be traced back to a conflict system of feuds.

Based on the analysis of the long historical processes that led to the abandonment of feud as a real system for the arbitrary regulation of conflicts, this book presents the most

important stages of changes that are supported by records from diverse forms of narration (juridical, literary, artistic, etc.), which in the modern period describe feud as a system of values or, on the contrary, as a system that is an enemy of peace and the public order.

The studies published in this book, were conducted within the research project "FAIDA. Feud and blood feud between customary law and legal process in medieval and early modern Europe. The case of Upper-Adriatic area". This research was supported by a Marie Curie Intra European Fellowship within the 7th European Community Framework Programme, Grant Agreement Number 627936 (More information and other material also available at: http://www.unive.it/faida_msca).

I would first and foremost like to thank my supervisor, professor, and dear friend, Claudio Povolo, for the suggestions and guidance that he gave me regarding my research into complex social processes and relations, and especially for his selfless help in researching the vast archival material at the State Archives of Venice. I would also like to thank all my co-workers at the Department of Humanities and at the Office for international research at the Ca' Foscari University of Venice, where this project formed and was conducted. Thank you might be too mild of an expression, however in this particular moment I fail to find a more appropriate one, to honour all the sacrifice, understanding, and patience of my dearest ones, my wife Vida and daughter Zoja, during my enthusiastic obsession with this study.

ANNEX

Case Del Bello – Del Tacco – Gravisi, Koper 1683-1686 (see: first chapter).

Documents:

Doc	yyyy.mm.dd	Archive	Subject	Transcription
1	1673.6.30.	SI_ PAK/ 0299/ 004/001	Conte Antonio Sabini scrive a persona amica di Padova del Leandro Gravisi e sua madre Letizia riferimento a doc. 27: “per l'omicidio e bando che era incorso per la morte data con arma da fuoco a Domenico di Valle”	Illustrissimo signore mio signor colendissimo. Le lettere di Vostra Signoria Illustrissima diretta alla signora Letizia, madre del signor Leandro e mia, sono pervenute in mano della signora sua figlia che per la lunga e travagliosa indisposizione di essa signora tutte le ricceve, la quale veduto il tenor e considerato quanto di male potesse aggiungere alla madre ridotta a tale stata dalle continue afflizioni che gli fa aggiunger lo stesso figlio, ha stimato ufficio di pietà attender migluor tempo per rappresentargli quanto in quella si contiene, havendo però subito fatto capo con gli frateli per veder di trovar mezzo, come in una sì universale desolazione di queste campagne fatta dalle tempeste en innondazioni di acque et in una sì grave sciagura della casa si potesse mostrare a Vostra Signoria Illustrissima et all'Illustrissimo signor Capitano suo fratello, qualche segno della dovuta gratitudine alle loro sopragrandi bontà e gentilezze, che non badando ai demeriti del signor Leandro ci honorano tutti di continue grazie. Però, non permettendogli commodo maggiore le angustie presenti, mi ha consegnati ducati veneziani venticinque per inviar a Vostra Signoria Illustrissima, quale vivamente supplico di benigno compatimento all'ipotenza che di presente opprime quella casa, quantunque non si habbia mai inteso che il signor Leandro venga soccorso con imprestiti di danaro, havendolo mandato in Germania perché patisca et impari a raffrenear le sue passioni, benché nulla giovi e non si habbia ancora veduto alcun frutto. Spero nondimeno nella providenza del signor [...] suo fratello di udirne una volta qualche profitto e che in recognizione la signora zia s'indurà a tutti i modi [...] per contarle il rimanente quando il male darà campo di potergli significar le cose. Supplico Vostra Signoria Illustrissima dell'avviso della ricevuta degli sudetti vinticinque ducati e del recapito dell'inclusa. Credo haverà memoria di havermi discorso più volte sopra questi affari a Padova e però le baccio devotamente le mani. Capodistria, 30 zugno 1673. Di Vostra Signoria Illustrissima. Capitandole qualche avviso dello stesso signor Leandro mi farà grazia parteciparmelo [...] Antonio Sabini

2.	1683.9.6.	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 187	Pod Cap Capod Bernardin Michiel a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' Alvise del Bello uccide Dr. Nicolò del Tacco	Heri sera notte le 23 hore mentre uscivano dal Consilio questi Cittadini, fu' d'Alvise del Bello con sbaro di Pistolla interfetto sopra la porta del Corpo di guardia di qesto Palazzo il Dr Nicolò del Tacco. Il reo medesimo, mentr'io ero nelle proprie stanze che mi spogliavo della Ducale, uene nelle stesse con la golla tagliata, ed insanguinato et per esser io ancora all'oscuro del successo, hebbe modo di precipitarsi alla fuga per la via degl'Horti del Pallazzo essendo sino in quelo stato inseguito con le Spade alla mano di molti congionti ed amici dell'interfetto. Mi ricercorno anco con sussuro il di lui arresto, e ne mostrai prontezza, ma era di già partito. Verso le 2 della notte mi feccero replicar l'instanze col mezo del S. Cristofforo Brutti, esprimendosi sapere il di lui riccovero, vi concorsi, ma non lo rittrovarno. Et perché viddi in tall'occasione molta di giente stimai bene a divertimento de maggiori mali rilasciar subito diversi sequestri, che non so in quanta brevità di tempo se sia stati obbedienti. Fecci fare la visione del Cadavere, e questa mattina dovevo far prosseguire con la debita diligenza formatione di processo, ma è stato rifferto dal ministro non attrovarsi in Casa il fratello dell'interfetto, che heri sera diedi ordine fosse sequestrato, onde in diffetto dil suo constituto, mancando i lumi alla Giustitia, ed i primi fondamenti del buon ordine ho rissolto senz'altro attendere, ispedire al Tribunale supremo di V.V.E.E. le notitie del caso importante per quelle deliberationi, che l'infinita loro sentenza conosceranno aggiustate. Gratie. Capodistria 6 Sett:re 1683 Bernardin Michiel Podestà e Capitanio di man propria con giuramento.
3	1683.9.10.	ASVe. Cons X – Parti Comuni, Registro 133 (1683)	Capi scrivono Al Regimento di Capo d'Istria Che sii formato diligente processo ***servatis servandis***	Grave oltremodo è il caso dell'homicidio partecipatoci in lettere da voi Pod. e Cap. de 6 stante l'interfettione fatta da Alvise del Bello del Dr Nicolò del Tacco, cosi per la qualità dell'Armata di Pistolla, tanto dalle Leggi dannata, et per il luoco sopra la Porta del Corpo di Guardia di cotesto Palazzo. Dovendosi po' alibrare a tanto delito severo, condegno castigo ne facciamo con il Consiglio di X.ci a Voi delegati acciò ne sii formato diligente processo ***servatis servandis*** perfetionato e spedito poi con la facoltà ampla, che impartiscono le Leggi in materia d'armi da fuoco.

4	1684.3.28	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 207. Copia	Copia del Pod Cap Capod Nicolò Barbarigo (n.o 207, 208, 209 e 210 sono allegate al n.o 206 di data 1685.1.23; Doc. 19) Capo d'Istria ____Pod e Cap Liberazione di sequestro di Gio: Battista Grauise, e dottor Elio Belgramoni	Illustrissimo et eccellentissimo signor Podestà e Capitanio osservate le due scritture, una di pugno del signor Domenico del Bello, l'altra del signor Dr Giulian del Bello suo Nepote hoggi per loro nome presentategli dall'Illustrissimo signor Pietro Gavardo Governatore dell'Armi, come pure l'altra scrittura 17 corrente sottoscritta dallo stesso signor Governatore dal Signor Francesco del Tacco e dal Signor Dr. Elio Belgramon, con altra sua dichiaratione di 22 dello stesso, tutte accettate e sottoscritte dal Signor Marchese Gio: Battista Gravise; per ciò, et per quei giusti riguardi che muovono l'anima dell' detto signor; hà ordinato che gl'istessi Signori Marchese Gio Battista Gravise et Dr Elio Belgramon solamente siano liberati dal sequestro, sic. Coplio [sicut] / Nicolò Barbarigo Podestà e Capitanio.
5	1684.3.28	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 208. Copia	Pietro Gavardo Governatore dell'Armi Copia tratta dall'autentica essistente nella Cancelleria Pretoria di Capo d'Istria. (Dichiarazione (del 17 marzo) che Francesco del Tacco e Dr Elio Belgramoni sono amici, conferma Pietro Gavardo, Governatore dell'Armi. Dr Elio Belgramoni 22 marzo conferma anche l'amicizia con Marchese Gio Battista Gravise	A dì 17 marzo 1689. Havendo havuto ordine io Pietro Gavardo dall'illustrissimo et eccellentissimo signor podestà e capitanio di componer gl'animi tra li signori Francesco del Tacco da una et dr. Elio Belgramoni dall'altra, mi è sortito aggiustarli li infrascrite dichiarationi fatte dallo stesso signor Belgramon quale protesta a Dio et al mondo di non haver havuto scienza né parte nell'accidente del quondam signor Nicolò del Tacco. Ce spenderebbe il sangue e la propria vita per poter rimediare. Che sospira vivere, il signor Francesco, buono, sincero amico, servitore. Che in alcun tempo non si sarà contrario in questo fatto né porterà o prestarà alcuna assistenza a chi si sia o imaginabil favore per il fatto predetto e sarà la presente dalle parti sottoscritta. Io Pietro Gavardo, governatore dell'armi affermo quanto di sopra, havendo composto gl'animi delli sudetti signori Francesco del Tacco et dr. Elio Belgramon.// VERSO: Elio Belgramoni promette et afferma quanto di sopra. Stante le cose soprascritte io Francesco del Tacco assicuro il signor dr. Elio Belgramoni d'una sincera amicitia e corrispondenza. Segue l'infrascritta dichiaratione di proprio pugno del signor dr. Elio Belgramone. A dì 22 marzo 1684. Dichiaro in avantaggio io Elio Belgramoni che li stessi sentimenti et espressioni fatte verso il signor Francesco del Tacco, e di sua casa, intendo che habbino il medemo effetto con il signor marchese Gio.Battista Gravise et sua fraterna tutta, professandole una sincerata cordial devotione a qual oggetto mi sottoscrivo di mano propria.

				Elio Belgramoni sudetto affermo et prometto come di sopra. Io Battista Gravise resto pienamente soddisfatto dell'eccellentissimo signor dr. Elio Belgramoni et le prometto la pristina amicitia ch'è sempre passata tra noi.
6	1684.3.28	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 209. Copia	Pietro Gauardo Gouernatore dell'Armi	Copia tratta dall'autentica scritta di mano propria del signor Domenico del Bello quondam signor Ottavio esistente nella Cancelleria pretoria di Capo d'Istria. A dì 28 marzo 1684. presentata di mano di sua Eccellenza dall'illustrissimo signor Pietro Gavardo, Governatore dell'armi a nome degli infrascritti. Dichiaro io Domenico del Bello quondam Ser Ottavio che il Signor Compare Marchese Gio Battista Gravise è stato sempre da me riverito per signore et amico singolare, non havendo mai concepito contro il medesimo alcun sentimento diverso et che l'espressioni nel mio constituto provenero da ruoto accidentale del sangue, non da intentione avversa, supplicandolo credere compatito da me vivamente lo stesso successo del Sig. Dr Nicolò del Tacco suo Nipote; et che in atto di christiano vorrei poterlo ricuperarlo col proprio sangue, come vedermi corrisposto dall'amore benigno dal detto sig. Marchese da me certamente considerato e bramato. Io Battista Gravise prometto alla Giustizia che né per me né per interposte persone sarà mai offeso il sudetto signor Compare Domenico accettando le suddette espressioni, et tanto di proprio pugno afferma.
7	1684.3.28	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 210. Copia	Pietro Gavardo Governatore dell'Armi	Copia tratta dall'autentica scritta di proprio pugno dal signor dr. Giuliano del Bello esistente nella Cancelleria pretoria di Capo d'Istria. A dì 28 marzo 1684. presentata in mano di sua eccellenza dall'Illustrissimo signor Pietro Gavardo, Governatore dell'Armi a nome degli infrascritti, Protesto io Dr Giuliano del Bello ch'al Signor Marchese Gio Battista Gravisi ho sempre professato amicicia, e servitù divotissima et come mi è rincresciuto somamente l'accidente del signor Dr Nicolò del Tacco di lui Nipote; così per christiano et amico che intendo di vivere vorrei, se potessi, col proprio sangue rihaverlo. Supplicando il detto signor marchese gradire questo sincero istinto dell'animo mio et corrisponderlo con la continuatione del proprio affetto, da me riverito e stimato infinitamente Io Battista Gravise prometto alla Giustizia che né per me né per interposte persone sarà mai offeso il sudetto Signore, accettando le sudette espressioni, et tanto di proprio pugno afferma. verso: Liberation da sequestro di Gio: Battista Gravise, e dottor Elio Belgramoni

8	1684.6.5.	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Podestà Capitanio di Capodistria Capi: Nadal Donado, Agostin Barbarigo, Alvise Corner	Nella presenza del senso della quiete de sudditi osserviamo quale ci rappresentate nelle lettere di 2 stesso che centinaia le discrepanze e l'esacerbatione de gl'amini tra Francesco del Tacco et altri, così che possino produrre mali peggiori. Vi comandiamo perché con li Capi del Consiglio di X:ci di proseguire le vostre applicationi procurando con la desterità, e con lege le forme di componer le parti, et la quiete e la pace, e quando non vi subisse d'ottenerne [l'essere] nel servire di giorni 15 e ne otterete distinte le relationi e particolarmente di chi recalcitrosse alle rassegnazioni, mentre col Consiglio di X:ci sarano prese quelle vigorose deliberationi nel a' ridurli alla dovuta obedienza.
9	1684.6.16	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 197	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' Differenze tra Francesco del Tacco e Domenico Dr Zulian del Bello (si parla del sequestro nel 23 ottobre)	Mi sono pervenute in questi giorni le riverite Ducali di Vostre.Eccellenze di 7 corrente colle qualli comandano d'aggiustar le differenze vertenti tra Francesco del Tacco da una, Domenico e Dr Zulian del Bello dall'altra. Prima che queste giungessero, mi fu' per parte dello stesso Dottore ricercata licenza di conferirsi in cotesta Dominante per agitar in persona antiche et accerime liti civili, che di più anni corrono con Ottavio suo fratello, per le quali passati fra loro gravissimi disgusti, fe' anco dall'Eccellentissimo Riva Preccessore essi Dottor obligat'al sequestro. Mi parve pero' non dovergli concedere la licenza medema, ma attender prima le loro sapientissime prescritioni. Colla norma de supremi comandi dell'Eccellenze Vostre andavo procurando col mezo della desterità render gl'animi delle parti acquietati, e mandato hoggi publico Comandadore alla Casa dello stesso Dr Giuliano, perche capitars'a Palazzo, rifferisse essergli stato risposto dalla di lui madre essersi la notte prossima passata portato costà a causa delle liti medesime. Violato però con gravissimo scandalo, e con temeraria innobedienza di presente il sequestro fattogli dall'Eccellentissimo Preccessore Michiel, da me confirmato con mandato di 23 Xbre, mi leva così il modo all'operationi, et all'essecutione del loro sovrano comando. Ne porto all'Eccellenze Vostre riverentissima notitia, per quelle deliberationi che col sommo del loro intendimento giudicassero convenirsi; non restando d'humilmente accenarle, ch'io non tralasciarò nel mentre di rinovare gl'impulsi più efficaci con Francesco del Tacco, acciò si risolva d'abbracciar una volta quella quiete, che vado disponendo. Gratia.

10	1684.6.20.	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Pod Cap di Capodistria Capi: Nadal Donado, Agostin Barbarigo, Alvise Corner	Sono lodevoli le vostre diligenze accurate alla quiete de sudditi, osserviamo l'operato sopra le differenze fra Francesco del Tacco e Domenego et altri dal Bello. E mentre senza vostra licenza è partita dalla Città e rotto il sequestro il Dr Giuliano del Bello havendo il vostro Reggimento facoltà sufficiente devenirete agl'effeti di Giustizia contro il medesimo per lo mezzo del sequestro medesimo di quel modo riputerete proprio.
11	1684.7.10	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 200	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' (Stimolato lo stesso del Tacco ad abbracciare la pace … menziona la Ducale di 5 giugno.)	Humiliai in mie riverentissime lettere 2 del passato al sovrano Tribunale di Vostre Eccellenze le differenze, che vertiscono tra Domenico, e Dr Giuliano dal Bello da una, e Francesco dal Tacco dall'altra. Riportai in Ducale di 5, Giugno decorso la comissione di procurar di vederli aggiustati nel termine di giorni quindeci. Applicato tutt'il mio spirito, pratticate le più efficaci insinuationi, valsomi del mezo di persone disinterressate, di religiosi, et altri per veder una volta gl'animi loro acquietati, tutto m'è riuscito vano ed inutile; ricusando Francesco dal Tacco ascoltar gl'uffitij aggiustati alla convenienza, che gli sono stati e vengono offerti per parte di quelli dal Bello. Stimolato stesso del Tacco ad abbracciare la pace, convinto dagl'argomenti, non sapendo come sottrarsi dall'obedienza de sovrani comandi dell'Eccellenze Vostre, s'esprime desiderar prima d'ogni altro passo conferirsi costa' per consigliar il proprio interresse, e mi figuro trarmi esser forse chiamato a cotesto gravissimo Tribunale, per dimostrar d'accettare l'aggiustamento con riputatione maggiore. Fermato in quest'opinione, altro non potendo ricavarsi dalle sue voci, obedendo le venerate prescrittioni dell' Eccellenze Vostre, glene porto humilissima notitia, accioché colla loro suprema autorità possino deliberar ciò che giudicassero conferente per la quiete di questa Città, che per esser divisa negl'affetti, prova continuo sconvoglimento negl'animi, da che non puo' attendersi che mali peggiori. Gratia
12	1684.7.14.	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Pod Cap di Capodistria Capi: Domenico Gritti, Piero Gradenigo, Giovanni Tron	Sono lodevoli le vostre diligenze per l'aggiustamento delli dissidij, che vertono tra Domenico e Dr. Giuliano del Bello e Francesco del Tacco, e mentre lo stesso del Tacco desidera portarsi alla Dominante, non potendeselo negare, rimmettemo a voi il permetterzelo etc.

13	1684.7.22	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 201	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' “Ho permesso a Francesco del Tacco, sequestrato per le risse vertenti tra lui, Domeni. co e Dottor Giuliano dal Bello di portarsi costà in conformità desuoi desiderii.” “Abbracciare la pace bramata” menziona la Ducale di 14 giugno	Per adempimento de veneratissimi cenni di Vostre Eccellenze espressimi in Ducali 14 corrente, ho permesso a Francesco del Tacco sequestrato per le risse vertenti tra lui, Domenico, e Dottor Giuliano dal Bello di portarsi costà in conformità de suoi desiderii. Annuendo anco alle sue riverenti instanze lo accompagno colle presenti humilissime al loro gravissimo Tribunale. Non gl'ho prescritto termine al ritorno, et all'agiustamento, perché possino l'Eccellenze Vostre colla loro suprema caritativa auttorità impartirle quelle risolute comissioni, che vagliano a fargli celeremente abbracciare la pace bramata, e che le viene proposta, per restituire la quiete a questa Città, et assicurarla da mali peggiori che potessero insorgere. Gratia. verso: Capodistria Podestà Capitanio ha datto licentia a Francesco del Tacco di venir a Venetia
14	1684.11.3	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 202	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' “accenando solo correr un anno, e più mesi che le parti s'attrovano sequestrate”	Restituitosi già al sequestro Don Francesco del Tacco, doppo esser stato qualche tempo costà con permissione dell'Eccelso Tribunale di Vostre Eccellenze, per consigliar il proprio interesse; desiderando io di veder stabilita la quiete a questa Città, e la pace tra lui da una et Don Domenico, e Dr Giulian dal Bello dall'altra, ho subito rinovate le più efficaci insinuationi a medemi anco col mezo de mediatori; non potuto sin hora vederne l'effetto. Tralascio difondermi nelle notitie del fatto; havendole bastantemente espresse nelle mie di 2 giugno decorso, et in altre posteriori in questo proposito, accenando solo correr un anno, e più mesi che le parti s'attrovano sequestrate. Incaricato dall' Eccellenze Vostre a doverle rifferire da qual parte venisse ricusato l'aggiuntamento, essequisco il loro riveritissimo comando. Pareva a principio derrivasse la renitenza dallo stesso del Tacco: ma hora disposto ricevere un conveniente uffitio questo le viene negato da quelli del Bello, che non intendono esprimersi di non haver havuto quella parte e scienza (ch'in effetto non hanno) nel caso della morte del quondam Dr Nicolò del Tacco fratello del preaccenato Francesco. Non bastanti però le mie più assidue applicationi per produrle quel bene, che doverebbe per ogni riguardo dagl'animi loro esser sommamente bramato, imploro dalla suprema auttorità di Vostre Eccellenze quel risoluto provedimento, che vaglia a levar l'occasioni a nuovi maggiori sconcerti. Gratie verso: 1684 3 Novembre R(icevu)ta a 14. d.o Circa di instanze, che vertono tra Francesco del Tacco, e Domenico e Giulian dal Bello // 1684 a 17 Novembre in Consiglio di X.ci, ordini che si portino all'ubbidienza del Tribunal//

15	1684.11.17	ASVe. Cons X – Parti Comuni filza 763	Capi scrivono Al Pod e Cap di Capo d'Istria Capi: Beneto Contarini Zaccaria Salamon Alvise Pisani	Informano le vostre lettere da 3 del corrente scritta al Tribunal del Capi del Consiglo di X.ci l'operato della vostra virtù e diligenza per veder sedate le dissensioni, che vertono tra Francesco del Tacco, e Domenico e Giuliano del Bello, e vedendo la renitenza che ne incontrate, risolvemo collo stesso Consiglio commetervi, che dobbiate far intendere all'uno et agl'altri di trasferirsi immediate di qua all'ubbidienza del Tribunal medemo per quelle deliberationi che saranno credute opportune a sveller i semi di tali discordie et a consolidare la quiete, e la pace tra sudditi. + 16 – 0 – 0 3/4
16	1684.11.17	ASVe. Cons X – Parti Co-muni, Registro 134 (1684)	Capi scrivono Al Pod e Cap di Capo d'Istria Capi: Beneto Contarini Zaccaria Salamon Alvise Pisani	Informano le vostre lettere de tre del corrente scritte al Tribunal de Capi del Consiglio di Dieci l'operato della vostra virtù e diligenza per veder sedate le dissentioni che vertono tra Francesco del Tacco, e Domenico e Giuliano dal Bello, e vedendo la renitenza che ne incontrate, risolvemo collo stesso Consiglio commettervi, che dobbiate far intendere all'uno, et agli altri di trasferirsi immediate di qua all'ubbidienza del Tribunal medemo per quelle deliberationi che saranno credute opportune a sveller i semi di tali discordie et a consolidar la quiete e la pace tra sudditti.
17	1684.12.30.	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Pod Cap di Capodistria Capi: Girolamo ..., Vicenzo da Mulo, Gio. Arsenio Priuli	Sono capitati al Tribunale de' Capi accompagnati da due vostre lettere Giuliano del Bello, dottor, et Francesco del Tacco riconoscendosi per effetto delle vostre insinuationi la remmissione fattale con procura di Domenego del Bello nel sopradetto Dr. Giuliano a causa delle sue indispositioni, e decrepita età. E mentre il Tribunale andava avanzando proprii passi per l'aggiustamento delle parti è giunto avviso, che in queste discrepanze vi fossero Gio: Battista, e Nicolò Gravisi, quali pure si trovassero sotto sequestro, e che da Voi siino stati licentiati. Volemo però con li Capi del Consiglio di X:ci, che ci rendiate distintamente informati, e principalmente dei motivi, che havete havuto di licentiarli e di qual più credeste proprio a lume delle risolutioni che fossero conferenti.
18	1685.1.15. (1684 m.v.)	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Pod Cap di Capodistria (altri tre Capi)	A benche da Capi Precessori con loro Lettere da 30 del caduto sia stato scritto con zelo della quiete quanto haverete dalle medesime inteso nell'affare delle differenze che vertono tra Francesco del Tacco, e Domenico e Giuliano del Bello, scorgendosi dal Tribunale, che dal lasciarsi inessequita la commissione del Consiglio di X.ci espressa in ducali, che vi furono scritte sotto li 17 novembre precedente nella parte che riguarda la venuta in questa Città di Domenico del Bello sudetto rimane l'aggiustamento soggetto a difficoltadi, e longhezze contrarie alle volontà del detto Consiglio, risolvamo Noi Capi dello stesso commettervi di ordinar al sudetto Domenico di comparir anch'esso senza ritardo con la dovuta puntualità avanti a noi, e Tribunal nostro per potersi dar il fine alla discordie, che vertono tra quelle Case, com'è della pubblica intentione.

19	1685.1.23	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 206	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi' Allegati i Doc. 4, 5, 6, 7	Essequendo le riverite comissioni di Vostre Eccellenze in ducali 30 Xbre decorso solo in questo punto pervenuttemi, trasmetto l'inserte copie col giusto fondamento de quali sono devenuto alla liberatione del sequestro di Gio Battista Gravise zio del Tacco da una e Dr Elio Belgramoni dall'altra; non potutosi pratticar lo stesso con Nicolò Gravise fratello del medemo Gio Battista, per attrovarsi in quel tempo con licenza in Padova per la perfettione de' suoi studi. Ritornato in questa città continua nel sequestro, estendendo la decisione delle diferenze tra principali. Tutt'humilio a maturi riflessi dell'Eccellenze. Vostre per venerare con profondissimo ossequio le loro infallibili deliberazioni. Gratia
20	1685.1.28	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 211	Pod Cap Capod Nicolò Barbarigo a' Ill.mi Ecc.mi ss.ri ss.ri Colmi'	In pontual obedienza delle riverite ducali di Vostre Eccellenze 15 corrente in questo giorno pervenutemi, ho fatto cometter a domino Domenico del Bello di dover imediate incaminarsi verso costà per rasegnarsi all'obedienza del loro supremo Tribunale c'ha l'oggetto di veder terminate le discordie che vertono tra lui, e domino Francesco del Tacco. Accioché non resti dilungato l'effetto com'è loro intentione non ammetterò alcuna scusa che forse per addure per sottrarsi d'essequir il risoluto comando dell' Eccellenze Vostre, che con carità paterna vuole restituita la quiete a questa Città, che di lungo tempo sospira. Adempite le parti del mio humilissimo debito, in atto di rassegnatione divota, glen'anuanzo questa ossequiosa notitia. Gratia
21	1685.2.19. (1684 m.v.)	ASVe. Capi Cons X, Lettere Secrete, b. 39	Al Pod Cap di Capodistria Capi: Benetto Contarini, ...	Mentre è risoluta volontà, che fra sudditi vi sii la quiete, conviene tutto oprarsi, perché anco s'aggiunstino le differenze tra quei del Bello e del Tacco che di tanto tempo vertono. Con le passate nostre vi scrivessimo di far sapere a Domenego del Bello di presentarsi al Tribunale de' Capi. Concorressimo anco a darle qualche terminazione ma, vedendo che non si cerca d'eseguire li ordeni nostri, vi commettemo con li Capi di Consiglio di X.ci di far ritenere il sopradetto Domenico del Bello, mantenderlo ben custodito nelle priggioni.
22	1685.3.3.	ASVe. Capi Cons X, Lettere Secrete, b. 40	Al Pod Cap di Capodistria Capi: Vicenzo da Mula, Zacc.a Salamon, Gio. Antonio Priuli	Pervenuto al Tribunale de Capi del Consiglio di X.ci col vostro cavallo Domenego del Bello vi portiamo le notitie del suo arrivo, come anco della ricevuta delle vostre lettere.

23	1685.3.8.	ASVe. Capi Cons X, Lettere, b. 140	Al Pod Cap di Capodistria Capi: Vicenzo da Mula, Zacc.a Salamon, Gio. Antonio Priuli	Essendo fissa l'applicazione de Cappi del Consiglio di X.ci per la maggior tranquilità de sudditi hanno fatto passar il sequestro nel sestier di Castello Nicolò Gravise, che con vostre lettere era accompagnato alli Rettori di Padova. Si sono anco avanzati correlativi passi con l'elletione de confidenti, ma non potendosi effetuare l'intento della Pubblica mente senza la persona di Gio. Battista Gravise sopra cui pur vi scrivesimo nel decembre passatto. Ricerchiamo però le carte, che contengono tal affare e vi commetiamo pur con li Cappi del Consiglio di X.ci che immediate dovete far capitar al Tribunale medesimo il detto Gravise et trasmettere tutte l'autentiche carte e scritture, che comettono li sequestri de Belli con Tacco et Gravisi, per quelle risolutioni che dal Tribunale saranno reputate conferenti. Promettendosi dalla vostra virtù un'esata pontualita' per abbreviare le dilazioni che possino pregiudicare la quiete bramata.
24	1685.3.28	PAK	Nicolò Gravise scrive al Ser.mo Pricipe Supplica del marchese Giovanni Niccolo' Gravisi alla Serenissima Republica per ottenere al marchese Leandro una carica militare nell'esercito veneto.	Serenissimo Prencipe. Il marchese Leandro Gravisi, la cui Casa ha reso un perpetuo servitio a Vostra Serenità in tutte le congionture di sparger il sangue e consacrare le vite, ha voluto ne' primi anni della sua gioventù coll'esempio de' sui maggiori e con quello del conte Almerico Sabini, suo zio, calcar l'istesso sentiere nel tempo della passata guerra col Turco, apprendendo i primi gradi della militar disciplina, prima in qualità di alfiere, poscia di capitano d'oltramontani come si può vedere nei pubblici libri gl'anni 1666 e susseguenti. Terminata la guerra passo a guerreggiar in qualità di venturiere nell'Ungaria superiore nelle prime rivolutioni di quel regno, dove si è trovato nei più ardui cimenti e poi nell'Impero all'impresa di Bona, alla battaglia di Treveri et in tutti quei sanguinari successi. Doppo alcuni ani per la cognitione del suo coraggio fu spedito al soccorso della Sicilia con carica di capitano, dove ha servito anco in posto di Governatore delle Piazze di quel regno in tutte le più gravi occasioni di allhora, passando poi di là nello Stato di Milano al servitio della medema Corona cattolica dove si attrova al presente, nei quali servitii ha potuto apprendere in un corso di vinti anni continui le parti più essentieli della militar professione. Hora bramando sacrificare se stesso nel servitio di Vostra Serenità // suo adoratissimo Prencipe, s'oferisce di venir in quella qualità che sarà ricevuta dalla Serenità vostra, non cercando altro se non tanto che vaglia sostenersi nel grado della sua nascita e posto che gli dia apertura di meritar la publica gratia e di segnalarsi con le proprie operationi dove sarà destinaro. Gratie 1685, 28 marzo Che sia rimessa ai savii dell'una e l'altra mano [...]

25	1685.3.31.	ASVe. Capi Cons X, Lettere Secrete, b. 40	Al Pod Cap di Capodistria Capi: Vicenzo da Mula, Zacc.a Salamon, Gio. Antonio Priuli	Intendendosi con ammiratione che da cotesti [Inmmi] per pretese et pagamenti di spese della vacantione di Domenico del Bello sequestrato commessa dal Tribunal di noi Capi del Consiglio di X.ci habbino esportata dalla di lui casa molta mobilia, il che non dovendo tollerarsi, perché non cada in essempio, perciò con li medesimii Capi vi commettemo di far restituire alla Casa dello stesso del Bello quanto le fosse stato levato per la sudetta pretesa, il che disponerete sia puntualmente essequito.
26	1686.6.7.	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 230	Leandro Gravise a Illustrissimo signor mio signor Colendissimo	Mi rassigurai nel breve tempo feci dimora certitude le più degne qualità' di Cavalliere d'honore nella persona di Vostra Signoria Illustrissima , onde come tale appoggio l'ingionto Manifesto, acciò con la sua desterità, e protetione lo faccia pervenire ovunque scoprirà il bisogno, che della grazia io restandone obligatissimo, tale riverente mi sottoscrivo Trieste, 7, giugno 1686 Leandro Gravise Illustrissimo Signor Christofforo Brutti Capodistria Segue il Manifesto Il Dr Giuliano del Bello non contento di haver fatto ammazzar il più caro e stimato mio Nipote, di haver dato favore all'homicida, d'haver perseguitati lungamentte con pretesto di sequestri, et ordini della Giustizia i Fratelli del Morto et i miei proprii, Ritornato io poi alla Patria doppo lo scorso d'anni quatordeci, invece di scusare in qualche forma l'offese così grandi fatte al mio sangue, e di usar meco qualche atto di civiltà, ***più tosto mostró di beffarsi anco di me col passegiarmi con sprezzo sul mustacio***, e così me provocò infine a darli la morte nel luoco e forma che è stata datta al mio Nipote. Queste mie cause sono note ad ognuno, onde così stimo, che sarà stimata giusta la mia risolutione ; Ma se a caso si trovasse alcuno, che portato da passione, o indoto da ignoranza havesse sentimento diverso, son pronto di mantenerlo ***con la spada alla mano, o con altra forma da Cavaliero***, sino all'ultimo spirito, che mente perché quello ho fatto è **giustamente**, e fu fatto **onorevolmente**. Io per il rispetto, che devo al mio Serenissimo, et adorato Prencipe, mi sono subito ritirato dal suo Stato, e ricoverato a Trieste dove mi fermerò qualche giorno per saper l'intentione di qual se sia contrario per darli nella forma suddetta tutte le sodisfationi, non intendendo però in questo Manifesto di offendere una Città tanto riguardevole a quale io professo tutta la riverenza, et onore con che etc.

27	1686.6.19.	ASVe. Cons X – Parti Comuni filza 771	Capi scrivono Al Regimento di Capo d'Istria Lo stesso come nel Doc. 28 ASVe. Cons X – Parti Comuni, Registro 136 (1686) + più allegata la prima lettera di Madre del Giuliano del Tacco:	1686, 17 giugno. Serenissimo Principe; Illustrissimi et Eccellentissimi signori Cappi del'Eccellente Consiglio di X[ci]. La misericordi de Dio signore ha concesso tanto di tregua alle amarissime lagrime et angosiosi affani di me Giulia del Bello della città di Capo d'Istria, umilissima serva dell'Eccellenze Vostre, che ha permesso la mia comparsa a quest'Eccelso Tribunale vero et immutabile Trono della Giustizia e rifugio sicuro degl'infelici et opressi. Il mio figliolo, dr Giuliano, iniquamente e perfidamente interfetto dal marchese Liandro Gravise sarà l'oggetto perpetuo de' miei singulti, et il di lui sangue proditoriamente sparso da questa mano omicidiale dalla terra s'inalza et s'interpone con voce funebre per la publica giusta indignatione a conforto e respiro del mio adoloratissimo cuore. Fu l'infelice de ordine dell'eccellentssimo signor Podestà e capitano di Capo d'Istria, fino già tre anni incirca obligato a sequestro in compagnia d'altri, con signori Gravisi e Tachi, gentilhuomini di detta città, renitenti questi al scioglimento desiderato, furono honorate quelle differenze dalla sovrana autorità dell'Eccelso Consiglio che obbligò le parti a rassegnarsi in questa Serenissima Dominante e gli arbitrii degli eccellentissimi Capi e da questi, doppo lunghi subterfugii interposti dagli amatori del torbido, con mezzo de confidenti fatti elleger de loro commando, fu stabilita la pace et rattifficata alla presenza dell'Eccelso Tribunale, con le dovute solenni formalità. Credeva il povero figliolo innocentissimo delle passate controversie che al suono della pace dovessero cader tutti i disegni dell'odio e della vendetta, e sperava che accompagnato dall'ombra della publica protezione havessero a crescere copiosi e fecondi gli olivi pacifici e non funesti cipressi e mai sognava di poter darsi, sudditi di così alta cornice, che conculcando ogni rispetto et ossequiosa obbedienza alla voce del Principe imperante andassero machinando fra il sentiere della pace l'apparato lugubre di morte. Ma fu deluso e tradito poiché capitando esso marchese Liandro in Venezia con le truppe di Milano, volorono da Capo d'Istria li signori Francesco e Iseppo del Taco et Nicolò Gravisi zii e fratello rispettivo di esso Liandro e lo condussero in quella città sua patria, già da lui // aborita e abbandonata per l'omicidio e bando che era incorso per la morte data con arma da fuoco a Domenico di Valle, povero opperario mentre di nottetempo da luoco a luoco trasportava un sacco di olive. Qui gionto per un mese incirca fu sempre accompagnato ad ogni momento dalli predetti et altri suoi congionti finché, maturato il concerto, e preveduta vicina l'opportunità di coglier l'infelice figliolo, allestita prima barca espedita a sei remi, tre giorni trattenuta otiosa e

				ferma et in questi tre gorni a ponte lasciato sempre solo abbandonato dalli predetti suoi congionti esso Liandro benché alla larga non lo perdessere di vista come da molti fu ben osservati, la mattina sei corrente finalmente gionta l'hora fatale, incontrato il misero figliolo ce lo salutò profondamente com'era solito fare e corrisposto sempre dall'omicida, invece della corrispondenza all'ultimo saluto, posta mano ad una pistola gliela scaricò con dirgli con voce arabiata "A te"; e così trafitto spirò sotto l'occhio dell'illustrissimo signor consigliere vice-podestà e nella publica piazza. Immediate fatto cenno del predetto Liandro alli sopradeti che stavano in osservatione del fatto d'unirsi seco lui, non solo lo feccero, ma lo scortorono alla barca in puoca distanza et in quell'intervallo uniti gli offiziali per ordine di quell'Illustrissimo Consigliere per inseguir l'ommicida, posero mano alle spade contro di loro per trattenerli et assicurare allo stesso l'imbarco che seguito anco felicemente fu trasportato a Trieste. Tale innauudita sceleragine, grave per il fatto ma gravissima per le circostanze di concerto, di proditione e di mandato et violatione della pace giurata inanzi questo gran Tribunale doveva comovere le viscere dell'Eccelso consiglio in essecratione del fatto et per commendat la formatione del processo col rito et auutorità sua, senza di che nulla si ricaverà mai: troppo atterriti quei sudditi, troppo frequenti l'oppressioni, troppo facili i rei alle vendette e tropppo auutorevoli e prepotenti a conseguir ciò che vogliono, senza di che anderanno trionfanti // e fastosi di deluder qualuque ottimo rapresentante che fosse incaricato alla formatione del processo. Ciò sia donato alle lagrime all'afflitissima madre et a consolatione di tanti buoni cittadini che conoscono evidentemente sovertita la quiete della città e ridotta trionfante l'auutorità e prepotenze de cativi. Gratie.
28	1686.6.19.	ASVe. Cons X – Parti Co-muni, Registro 136 (1686)	Capi scrivono Al Regimento di Capo d'Istria Capi: Pietro Loredan, Lorenzo Morosini Kavallier Marco Corner	Nello stesso tempo che ci pervenero le vostre informa-tioni dei X. stante del grave caso dell'interfattione del Dr Zulian del Bello per mano di Leandro Gravise, sono stati portati gl'humili riccorsi della Madre al Tribunal de' Capi, che vi mandiamo in copia, esprimenti le gravissi-me circostanze che accompagnan'esso caso e che hanno, unite alle vostre lettere, persuaso il Consiglio di X.ci a farne a voi Reggimento la delegatione; acciò habbiate a sollecitamente prosseguire accurata formatione di Processo col rito, et auttorità del medesimo Consiglio, con facoltà di promettere la secretezza a testimonii, a l'impunità ad alcuno de' complici, purché non sii principal auttor, o mandante, facendo sempre scrivere al vostro Cancelliere. Perfettionato il Processo, lo ispedirete, con facolta' di punire li rei presenti, et absenti nelle pene di vita, bando perpetuo e deffinitivo da questa Città di Venetia e Dogado e da tutte le altre

				Città, Terre, e luoghi del Dominio Nostro, terrestri e maritimi navilii armati e disarmati, priggion, galea, relegation, confiscation de Beni, e colle taglie, che vi pareranno. Osservando le Leggi in proposito di confiscationi, e d'infeudar beni confiscati; quelle in particolare 1611, 27. Aprile, con altre posteriori 1647, e 1649. in materia di spese, non condannando in denari, secondo la deliberation del Maggior Consiglio 1628 e delle sentenze, che farete, invierate copia a' Capi del Cons.o di X.ci, perché li condannati da Voi nel caso presente s'intenderan alla condition de condannati dal medesimo Consiglio (per 13, contra 2. 3/4)
29	1686.7.9.	ASVe. Cons X – Parti Comuni filza 772	Capi scrivono Al Pod e Cap di Capo d'Istria Lo stesso come nel Doc. 30 ASVe. Cons X – Parti Comuni, Registro 136 (1686) + più allegata la seconda lettera di Madre del Giuliano del Tacco:	Serenissimo Prencipe, illustrissimi et eccellentissimi signori capi dell'Eccelso Consiglio di X[ci] Con le stesse lacrime et angosciosi singulti con quali già giorni si presentò l'adolorata e sfortunatissima madre del dr. Giuliano dal Bello ultimamente interfetto con proditione et insidie nella publica piazza di Capo d'Istria et alla presenza di quell'illustrissimo signor consiglier Balbi Vice Podestà per opera di Leandro marchese Gravise, ma con mandato, cooperatione et assistenza di Nicolò pur Gravise e Francesco e Iseppo dal Tacco, Fratelli e Zii rispettive, in onta e vilipendio della pace stabilita e conclusa con questi e l'infelice mio figliolo per commando et opera di cotesto Eccelso Gravissimo Tribunale, comparisse da novo et humilmente espone che havendo commandato l'Eccelso Consiglio per la gravità del caso e per le miserande circostanze già espresse la formazione del processo coll'auttorità e rito suo e susseguente dellegatione a quell'Eccellentissimo Reggimento, porta osservatione a tutti i buoni sudditi di quella città e ramarico infinito a me infelice il dubio ce habbino a restar deluse le sante intentioni dell'Eccelso Consiglio che ha inteso conferir questa grande auttorità all'oggetto che la prepotenza de' rei e il terrore in che tengono per questa et altre delinquenze quei popoli non valesse a render impriggionate nel timoroso silentio fra le lingue de' testimonii la gravità dell'eccesso e i concetti inesorabilmente stabiliti dell'eccidio di questo infelice figliuolo, come anco perché fosse con proportione adequata di castigo Vendicato l'assassinio di tanto tempo machinato, poiché risedendo l'Illustrissimo signor Consigliere Alvise Diedo fra quel Tribunale, protettore benignissimo de' rei, la confidenza con quali non può esser maggiore, tanto per la continua conservatione per esser de' primi Gentilhuomini della città, quanto per la comensalità e testimonii di generosità vicendevolmente praticati, sono riflessi gravi che non possono, non per grave impressione né testimonii per le depositioni quanto per altri passi appresso l'universale nell'ordine e nel merito. Tale evangelica relatione che si porta alla sublime cognitione di Vostre Eccellenze sii quella che renda eccitata la loro somma prudenza

				a prender per la consolatione dell'afflittissima madre ottuagenaria e per il servitio della Giustizia quelle deliberationi che fossero stimate più conferenti a gloria di sua divina maestà e di questo Eccelso Tribunale, giusto oppressore delle odiose prepotenze e sceleragioni. Gratie.
30	1686.7.9.	ASVe. Cons X – Parti Comuni, Registro 136 (1686)	Capi scrivono Al Pod e Cap. di Capo d'Istria Capi: Marco Bragadin Andrea Tron Ferigo Venier	Doppo la delegatione, che col rito facessimo ai 19 decorso a cotesto Reggimento del grave caso della morte del Dottor Giulian del Bello, pestuasa la giustitia da giusti riguardi, siano devenuti in deliberatione di sospender essa delegatione, e di commetter a Voi, come facemo, la formatione d'accurato Processo col Rito, et autorità del medesimo Consiglio, con facoltà di prometter la secretezza a testimonii, e l'impunità ad alcuno de' complici, purché non sii principal autor, o mandante, facendo sempre scrivere al vostro Cancelliere. Perfettionato il processo sino ad offesa, ce ne porterete del suo contenuto distinta informatione per quelle deliberationi, che fossero contentanee a servitio della Giustitia.
31	1686.7.24	ASVe. Capi Cons X – Lettere Rettori, b. 258, n.o. 227	Pod Cap Capod Vettor da Mosto a' Ill.mi Ecc.mi ss.ri ss.ri Colmi'	Mentre s'andava prosseguendo il Processo dellegato da cotest'Eccelso Tribunale con l'auttorità e rito suo a me, unitamente con questi Illustrissimi signori Consiglieri sopra il fatto della morte del Dottor Giuliano del Bello, mi soprarivano altre Ducali di Vostre Eccellenze che sospendono la delegazione medema ed a me solo ingiongono la formationne del processo col rito solo sin ad offesa, per rassegnar poi l'informationi giurate a cotest'Eccelso Consiglio. In ordine a che prosseguendosi nel caso medemo con ogni piu' accurata diligenza, insorgie la neccessità d'haver gl'essami d'alcuni testimonii permanenti in cotesta Dominante sopra li particulari espressi dai Congionti dell'interfetto ne' loro costituti, e ch'in copia humilio qui annessi all'Eccellenze Vostre, dal soprano beneplacito de quali dipenderà o di far costì rilevare gl'esami medemi o in altra maniera commandare quanto conoscessero proprio, onde uniti tutti i lumi possibili, possa in poi, con la dovuta pontuale rassegna, esseguire quanto per dette ultime Ducali vengo incaricato. Gratia
32	1686.8.17	ASVe. Capi Cons X, Lettere Secrete, b. 41	Al Pod Cap di Capodistria Capi: Piero Foscarini, Ottavian Pisani, Carlo Contarini	Perfettionati gli esami, che ci havete richiesto sopra l'interfetione del Dr. Giulian del Bello; che li [tal...] per gl'effetti di Giustitia, attendendo le vostre informationi in ordine al decreto de Consigli.o di X.ci.

33	1686.8.30.	ASVe. Cons X – Parti Co-muni, Registro 136 (1686)	Capi scrivono Al Pod e Cap. di Capo d'Istria Capi Marco Bragadin Bernardo Navager Andrea Tron	Si sono ricevute esate informationi dal vostro precessore del processo formato con ordin:e del Consigli.o di X:ci pel caso della morte del Dr Giuliano dal Bello. Il Consiglio di X:ci nel riguardo alla gravità del caso è devenuto in risolutione d'assumerlo e però col medesimo Consiglio vi commettemo di mandarci il processo accompagnato dalle vostre lettere e sigilo per li dovuti effetti di Giustitia. E da me sii preso che il processo predetto s'intendi assunto in questo Consiglio per proseguirsi agl'effetti di Giustitia 8 – 7 1 – 0 pd:e 4/5 6 – 8 Primo Sett:e 1686 Proposta l'altra scrittura lettera, et assuntio-ne, e furono 9 – 8 2 – 2 pd:e 4/5 5 – 6 Illico Lettera di delegatione sotto questo giorno al Podestà, et Capitanio di Capodistria.
34	1686.9.2.	ASVe. Cons X – Parti Comuni filza 773	Capi scrivono Al Pod e Cap di Capo d'Istria Come sotto doc. 35	Commessaci dal Consiglio di X:ci al vostro precessor la informatione del Processo col Rito sopra la interfetione del Dr Giuliano del Bello ci ha il medesimo con pontualità fatte tenere esate informationi del medesimo processo sopra le quali risolvemo col me-desimo Consiglio delegar a Voi il Processo stesso acciò che coll'autorità con cui è stato formato dobbiate perfetionarlo et ispedirlo con facoltà di punire li rei presenti et absenti nelle pene di Vita, bando perpetuo e deffi-nitivo da questa Città di Venezia e Dogado e da tutte le altre Città, terre e luoghi del Dominio nostro terrestri e maritimi, naviglii armati e disarmati, priggion, galea, rele-gation, confiscation de beni, e colle taglie che vi pareranno. Osservando le Leggi in proposito di confiscationi e d'infeudar Beni confiscati, quella in particolare 1611, 27 Aprile, con altre posteriori 1647 e 1649 in materia di spese, non condennando in denari, secondo la deliberation del Maggior Consiglio 1628, e delle sentenze che farete, invierete copia a' Capi del Consiglio di X.ci, perché li condannati da Voi nel caso presente s'intenderanno alla condition de condannati dal Consiglio medesimo (per 16, - 1 - contra 2. 3/4)

35	1686.9.2.	ASVe. Cons X – Parti Co-muni, Registro 136 (1686)	Capi scrivono Al Pod e Cap. di Capo d'Istria	Commessaci dal Consiglio di X:ci al vostro precessor la informatione del Processo col Rito sopra la interfetione del Dr Giuliano del Bello ci ha il medesimo con pontualità fatte tenere esate informationi del medesimo processo sopra le quali risolvemo col medesimo Consiglio delegar a Voi il Processo stesso acciò che coll'autorità con cui è stato formato dobbiate perfetionarlo et ispedirlo con facoltà di punire li rei presenti et absenti nelle pene di Vita, bando perpetuo e deffinitivo da questa Città di Venezia e Dogado e da tutte le altre Città, terre e luoghi del Dominio nostro terrestri e maritimi, naviglii armati e disarmati, priggion, galea, relegation, confiscation de beni, e colle taglie che vi pareranno. Osservando le Leggi in proposito di confiscationi e d'infeudar Beni confiscati, quella in particolare 1611, 27 Aprile, con altre posteriori 1647 e 1649 in materia di spese, non condennando in denari, secondo la deliberation del Maggior Consiglio 1628, e delle sentenze che farete, invierete copia a' Capi del Consiglio di X.ci, perché li condannati da Voi nel caso presente s'intenderanno alla condition de condannati dal Consiglio medesimo (per 16, - 1 - contra 2. 3/4)
36	1686.11.12.	ASVe. Cons X – Parti Comuni filza 773	Capi scrivono Al Pod e Cap di Capo d'Istria	Accio possiate aggiustar la penna all gravità del delitto, stimato per grave dal Consiglio di X.ci. della morte del dr. Giulian del Bello vi diamo con lo stesso Consiglio la facoltà di ponere nella sentenza in caso d'absente la condizione di pace effettiva, e taglia anco fuori dello Stato. Quanto poi al proclama circa le armi resta rimesso all'auttorità del nostro Reggimento che in conformità delle leggi facciate quello vederà proprio la vostra prudenza.
37	1686.11.12.	ASVe. Cons X – Parti Co-muni, Registro 136 (1686)	Capi scrivono Al Pod e Cap. di Capo d'Istria Capi: Ales.o Morosini Antonio Barbarigo F.co Pisani	Accio possiate aggiustar la penna alla gravità del delitto stimato per grave dal Consiglio di X:ci della morte del Dr Zulian dal Bello vi diamo con lo stesso Consiglio facoltà di ponere nella sentenza in caso d'absenza conditioni e di pace effettiva e taglia anco fuori dello Stato. Quanto poi al proclama circa le armi resta rimesso all'auttorità del vostro Reggimento, perche in conformità delle leggi facciate quello vederà proprio la vostra prudenza. (13 za, 1 proti, 3/4)
38	1686 o 1687 s.d.	SI_ PAK/ 0299/ 004/001	Difesa di Nicolò Gravisi	Trascritta sotto

39	1687.7.15	ASVe. Capi Cons. X. Lettere, b. 141	Al Pod e Cap. di Capodistria Capi: Alvise Mocenigo, Antonio Barbarigo, Francesco Diedo	Stante l'appellatione interposta al Tribunal Nostro de' Capi del Consiglio di X.ci per parte e nome di Domina Letitia relicta quondam Benvenuto Gravisi del Mandato 9 Luglio corrente di Voi Podestà e Capitanio con tutte le cose antecedenti, susseguenti e dependenti, come di Mandato e cose dependenti malamente, e con disordine a grave suo danno e pregiudizio, vi diciamo colli Capi predetti che non innoviate, né permettiate che sia innovata cosa alcuna, facendo citar per stridore tutti e cadauni pretendenti interesse, perché nel termine di giorni otto dopo la citatione comparir debbano avanti il Tribunal Nostro per detta Causa, aliter dandosi avviso della esecutione.
40	1688.1.27. (1687 m.v.)	ASVe. Capi Cons. X. Lettere, b. 141	Al Pod e Cap. di Capodistria Capi: Giust. Ant:o Belegno, Anzolo Diedo, Ant:o Pisani	Conoscendosi conveniente che mentre si porta costì Ottavio del Bello per riscadere le cose sue habbi a godere con la sua famiglia nella propria Casa paterna la sicurezza e la quiete stimiamo opportuno in riguardo degli accidenti passati tra' suoi Congionti di incarricare la vostra prudenza a contribuirle per l'effetto stesso quella Caritatevole assistenza che fosse necessaria, a scanso di ogni inconveniente e sconcerto, tale essendo l'intentione de Capi del Consiglio nostro di X.ci.
41	senza data (dopo 1686)	Venturini, 1906, 329	Scrittura di Alvise Del Bello	“ La causa che io Alvise, o come in lingua toscana Luigi, Del Bello mi attrovo in questi paesi ‹(cioè a Livorno)› fu che essendosi il sig. Ottavio mio fratello accasato con la signora Cecilia figliola dei qm. Carlo Del Tacco, cominciò a travagliare me e li Sig:ri Lucio, dottori Giuliano ed Antonio, all›ora viventi, con indebiti litigi, a segno tale che *ingrossato il sangue dei parenti,* divinimmo inimici, e dattosi il caso che trovandosi radunato il Magnifico Consiglio dei Nobili di detta Citta di Capodistria nella solita sala del palazzo, sotto il dì 6 di Settembre, giorno di domenica dell'anno 1683, dove ancor io mi ritrovavo, e trattandosi di certo affare appartenente al signor dottor Giuliano mio fratello, salì l’aringo il sig. Dottore Niccolò Del Tacco cognato dei prefato sig. Ottavio Del Bello, nostro fratello, quale aveva cominciato aringare contro detto affare del detto sig. dottore Giuliano, pur nostro fratello, quale allora sosteneva la carica principale di Sindaco Prov:re della Citta, nel detto atto seguirono alcune parole di sprezzo tra il detto sig. Niccolò del Tacco, uomo altiero, ed il sig. Domenico Del Bello, nostro zio paterno, che allora per il rispetto non andò avanti; ma terminato il Consiglio e discesi le scale del Sig Dott.r Nicolò del Tacco, mosso per la propria alteriggia o per qualche sdegno che potesse avere a causa dei sudetti litiggi, mentre che detto sig. Domenico Del Bello nostro zio paterno, gentiluomo vecchio, esemplare e benemerito della nostra fraterna, in compagnia dei prefato sig. dottore Giuliano, nostro fratello, escivano dalla porta del Corpo di Guardia del Palazzo che nella piazza risponde …” fe’ l'atto di colpire il venerando Domenico Del Bello. Il che vedendo il giovane Alvise, impugnata la pistola, sparò con quella sull'aggressore, mandandolo diffilato all'altro mondo.

42	1689.1.24	SI_ PAK/ 0299/ 004/001	Principe elettore di Bavaria Massimiliano II Emanuele di Wittesbach risponde a una lettera dell'abate Vincenzo Grimani di Venezia riguardante Leandro Gravisi	Illustrissimo e Reverendissimo Signore. Con quella distinta estimazione con la quale io considero i meriti di Vostra Signoria Illustrissima, ho accolti anche gli uffizi ch'ella interpose a favore del marchese Leandro Gravisi. Nelle congiunture che si presentano in campagna, dove egli dovrà portarsi, rifletterò alle sue raccomandazioni ed assicurandola intanto della mia propensissima volontà, Le prego dal cielo ogni maggior contentezza. Monaco, 24 gennaio 1689. Di Vostra Signoria Illustrissima e Reverendissima. Affetto Emanuel Elett.re VERSO: All'illustrissimo e reverendissimo signore il signor abbate Vincenzo Grimani, Venezia.
43	1720.1.25 (1720.5.8)	SI_ PAK/ 0299/ 004/001	Testamento del marchese Leandro Gravisi fatto in Monaco di Baviera dove il testatore trovavasi al servizio di quel Principe elettore	Trascritta sotto
44	1720.8.2	SI_ PAK/ 0299/ 004/001	Lettera del marchese Leandro Gravisi al fratello Giovanni Nicolò, colla quale gli partecipa la nomina del nipote Antonio di porta bandiera nel reggimento bavarese	Carissimo Fratello. Non voglio qui tediarvi sopra il mio malli ritornandomi sempre al medemo [...] la [reccipila] va meglio ma non come desidero. Attendo vostre lettere con la mesura meditando volermi servire de che spero che m'intendete. Il serenissimo Prencipe elettorale a fatta aver una bandiera vacante nel suo regimento allo nepote che li darà 24 fiorini al mese onorario suficiente tutto il tempo che sarà pagio la gratia e generosa [..] perché il stendardo de' granatieri a cavallo non è vacaante ne apare d'essere in breve fatte li miei umilissimi complimenti alli nostri genitori e zio del medemo. Il serenissimo elettore vole aver il sudetto pagio nella sua camera ma non vorebbe privare il filiolo credendo che l'ama in tallo in crature o sugerito quello mio pure al marchese [..] et spero che riuscirà. Spero pure che averete disposto la speditione delli candeli di cera bianca come vi pregai, attendo la triaca era prima or:ni. Li [...] passati in Stidelberga vorebbe disponere un [...] guerra di religione il che per ora credo non ostante la fumentacione de Prussia. // Vi prego a gradire la mia attencione e non publici l'incr[...] scrivermi mentre abbracindovi di tutto cuore con[...] alla mia cara signora cognata [..] al soli[.]. MANSIO: All'illustrissimo signore mio [signore colendissimo] il signor marchese Gio.Nicolò Gravisi, Capo d'Istria.

45	1721.3.28	SI_ PAK/ 0299/ 004/001	L'ultima lettera di Leandro Gravisi al fratello Nicolò Gravisi	Carissimo Fratello, Con quell'ultimo ordinario fui consolato con la vostra lettera delli sei del cadente nel tempo che mi pareva un secolo d'essere privo, anzi mormoravo, credendomi [inlluso] della vostra corrispondenza per stancheza delle mie comissioni, il solievo delle qualli a voi come al signor co[nte] Sabin non dubito che vi sarebbe con ragione caro. Essendo già la metà confiscato di questo mondo non dubito che questa sarà l'ultima anata, però dimando al d[istinto] signor Co[nte] et a voi perdono, assicurandovi in una maniera o in altra il solievo, l'ultima mia cura saranno i bagni che medito prendere il venturo maggio; et se de questi non trovo solievo non ne posso più sperare, anzi disperare intieramente la salute. Non poco mi aflige la detta lettera sentendo le dispe[...] del medesimo signor Co[nte] che sono di genio [cinciero] et mi pare conoscere la cosa che va fatto di buona grazia et affetto, però prego compatirmi e rifleter esser la d'una che languite. La mi apremura che siano pagati in Venezia li trattati e sollo perché non vorrei che li sapete che non mendico senza alcun patrimonio al mondo o sia credito. Al pagio è anicipato 95 fiorini et quando sia comodo al signor mar[chese] intendo in talle summa sodisfare le mie spese, così quando siano suficienti in quel caso suplico alla mancanza la spesa fatta dal signor conte Pietro nella parte e certo sarà già nella mano del medesimo overo del signor conte Sabin et quella delle [32] lire et 4 soldi manderò al medesimo signor con [..]. del [...] vi suplico che non sono ingrato ma cinciero e cordiale et me dispiace nel cuore che il mio naturale dispiace alli miei più prossimi e se il mio [potredene sispp...], farò però sempre quello conviene a me at al paggio a tutta la casa nel tempo che il fratello del marchese Antonio sarà in età d'esser pagio lui medesimo lo potrà fare entrare, mentre secondo il mio essere non potrò più essere al mondo. La speditione che avete fatta de liquori, persuti del Friuli, mortadele, mi sarano molto care et ben arivate sino che averò quelle del oglio vergine che spero sarò il terminare gl'incomodi. L'arivo anco delli liquori che tengo subito mi [...] la ricevuta ma non ostante mi rimproverate se doppo Pasqua le cere sarano calate di precio supplico il diletto signor conte inviarmene altre cento litri, suponendole di // ritorno in quel tempo in Venezia. Il signor illustrissimo conte don Girolamo m'assicura aver preso il più buon partito a non venir qui a spendere infrutuosamente il suo dinaro assicurandolo sopra la mia parola non aver niente da spuntare per lui appresso questi prencipi, inplicando che mi sarebbe di grandissimo contento servirlo. Nelle sue scriture mostra disgusti del signor marchese Elio non potrebbe darmi maggior dispeniere che

				mostrava lui o li signori suoi illustrissimi alcun minimo disgusto con il medesimo del che vi prego avisarmi perché come figliolo amando con tutta la tenereza il signor marchese suo padre e se il signor principe elettore conosce in lui minima tristeza vorà sapere l'origini, essendo talle che menta per lui, cosa che potreebbe portare dispiacere che non [.]plio ma replico di nuovo che sua altezza averete tutto il [..] per la stima e clemenza avendoli teli tre giorni sono. Gravisi avete de stare sempre appresso di me [...] Leandro Gravisi.

Doc. 38

Difesa di Gio.Nicolò Gravisi, accusato di complicità nell'omicidio perpetrata dal fratello Leandro ecc. (1686)

"È cosi cieca la passione degli aversari di me infelice Gio Nicolò Gravisi che, nello stesso tempo che detesta l'omicidio perpetrato da mio fratello nel D.r Giuliano Del Bello, tenta di farne comettere dalla Giustitia un più grave nella mia persona, condanandola innocente. Confido tuttavia nel Grande Iddio e nella mia somma Inocenza che non haveranno effetto pensieri sì mal conceputi, e che l'Eccellenza Vostra non assisterà con minor zelo alla difesa della mia vita di quello onde è occorsa a vendicare la morte dell'altro. Dio benedetto, mi ha donata una pari sorte di nascer sudito, onde mi donerà anco una pari fortuna di essere protetto dal mio Sovrano. Con questa humilissima confidenza io mi genufletto avanti il paterno suo Tribunale e mostrandole patentemente quanto siano false le accuse dattemi, che io sia complice del fatto del fratello, resterà alla sua infinita sapienza di giudicare quanto io sia immeritevole delle pene di quella.

II motivo principale di credermi reo é stato quello di conoscermi offeso. La morte del nepote, che mi dovrebbe impetrar compassione per il dolor della perdita, mi suscita persecuzioni per lo sospetto della vendetta. Così le mie sventure si fanno mie colpe e i miei pianti somministrano materia a' miei gastighi. Ma come può haver luoco un cosi sinistro argomento? Dicono i Giurisconsulti che la offesa o inimicitia all'hora fa inditio quando il fatto è occulto e incognito il reo. Ma la morte del d.r del Bello seguì a giorno chiaro, in luoco publico, e per mano palese. Secondariamente la inimicitia deve esser viva, e la mia è stata estinta con la pace. Per ultimo ella non può muover il Giudice ad altro che a formare processo e certificarsi del vero con le prove ".

Ma quali prove si potranno addurre contro di me sfortunato in così iniqua imputatione? Forse la lunghezza, e la difficoltà della Pace? Così veggo essermi opposto nel primo ingresso del Costituto. Mà mi si adduca in Capo d'Istria una persona, che me l' habbia dimandata e in Venetia mi si alleghi alcun fondamento che io l'habbi mai ricusata. Se non havessi voluto assentir alla pace, sarei devenuto così subito alla elettione del Mediatore? Stabilite dal Mediatore le conditioni, sarei stato così pronto ad abbracciarle? Qualche tempo che è trascorso non fu a causa della ostinatione del Sig.r Domenico del Bello che fu chiamato più volte dal Eccelso Consiglio a Venetia, e non volse mai andare se non prigione? Giunto poi il Signor Domenico a Venetia non venne voglia agli Aversarii di far chiamare ivi anco Gio:Battista mio Fratello, benchè in Capodistria già pacificato? L'ordine dell'Eccelso Consiglio non ritrovò Gio:Battista lontano da questa Città, e però non stette qualche giorno senza l'essecutione? Stante la lentezza è meraviglia che si siano differiti qualche tempo i trattati? Promossi poi i trattati, è meraviglia che siano stati interrotti più volte dagli altri affari dei Mediatori, alcuni de' quali andarono anco fuori di Venetia? E gli è certo che le conditioni dell'agiustamento dovevano essere prima proposte, poi rifferite, indi considerate, e finalmente dibattute, e stabilite. E tutte queste cose si potevano fare in momenti? O la parte contraria era pronta a ogni sodisfazione, che si desiderasse? Questa certamente non si potrebbe dire renitenza alla pace, ma differenza nelle conditioni, e la differenza non si potrebbe imputare più a una parte che all'altra. Ma poi, la ventilation della pace non denota intenzione di coltivarla? A che fine ordirla con alcuna fatica, se havevo dissegno di romperla con ogni furore? ".

Mi si è opposto in secondo luoco del Costituto che mai cavassi il Cappello al d:r Giuliano, se ben da lui provocato; il che si rapporta da un testimonio giurato, e un altro non giurato.

I malevoli hano asseverato che mio Fratello usasse i saluti per agiungergli alla colpa dell'Omicidio la enormità del tradimento; et hanno detto, che io gli negassi per farmi almeno compartecipe dell'Omicidio.

II testimonio non giurato non merita fede, et il singolare, benché giurato, non è valido a far prova alcuna.

Osservo che hano detto che non ho cavato il Cappello mai, onde parebbe, che tra noi fosse seguito incontro più volte. Chiamo Dio in testimonio, che io non mi abbatei seco giamai da solo a solo, e se fosse stato in compagnia di altri, può ben comprendere la Giustitia, che non haverei acconsentito di far simil torto anco a quelli. In questa moltiplicità d'incontri possibile, che due sole persone fossero spettatrici? Possibile che fossero spettatrici tutte le volte? E se furono altri presenti, perchè non gli adducono? Non è chiaro segno che ció non è per altro che per non esser trovati con l'essame de contesti bugiardi? Può essere poi più falso e malevolo il testimonio giurato addottomi in terzo luoco sopra le dichiarationi della vendetta? Egli è cosí pieno di passione, e di veleno, che per coprire la malevolenza col zelo della Giustizia si è finto carico di stupore et horrore. Se io havessi havuto animo di far vendette, sarei stato cosi imprudente di publicarle? Se non havessi temuto di obligarmi alla Giustitia, non haverei considerato di avertire i Nemici? Non haverei compreso di metterli con le mie voci in riparo di difesa, o di indurli a preventione di offesa? E poi, non è chiaro che haverei parlato contro me stesso? La dottrina, che si possino far vendette contro i Congionti dell'offensore non caderebbe contro di me, che sono Fratello dell'uccisore? Se havessi comesso io l'omicidio, si potrebbe credere che cercassi di volerlo giustificare prima con miei discorsi; ma dovendolo comettere un mio Fratello, non sarebbe stato altro che un dichiararmi per compartecipe del delitto. Il testimonio adduce di havermi inteso parlar così in più tempi et occasioni. Ma se non è probabile che io habbi parlato mai, come si potrà credere che habbi parlato per molte volte? La sua depositione non solo è accompagniata da tali monstruosita, ma è anco destituita da ogni legale sostegno, non potendosi certamente considerar come tale il testimonio che è unico. Ma perché la Giustitia riceva il vero lume in tal fatto lo inalzo nel seguente capitolo:

Cap:° 1. Che un giorno del passato febraro 1686 stavano alcuni Signori vicino al Fontaco discorendo del fatto dell'Eccellentissimo Mocenigo col Labia, e del Canossa col Morati con varietà d'opinioni e che capitato nel congresso io Gio:Nicolò Gravisi discorsi sopra i medesimi fatti senza alcuna imaginabile estensione fuori di quelli.

Testimoni: Il signor Cesare Barbabianca, il Sr. Nicolò Gavardo, il Sr. Carlo del Tacco quondam Andrea, il Sr. Antonio Barbabianca, il Sr. Giovanni Tarsia.

Ma da qual mia operatione non ha voluto cavar materie di accusa la Maledicenza, se l'ha cavata dalla mia andata a Venetia? Può udirsi mai suspicione più irragionevole di questa? O si vuole, che io sii andato a Venetia per indurre il Fratello a venir a Capo d'Istria, e persuadergli poi qui l'Omicidio, o si vuole che sii andato per persuadergli dritamente l'omicidio.

Se per tirarlo a Capodistria era necessaria la mia presenza, che non bastassero le mie lettere? Era per lui questo viaggio sì disastroso? Le lagrime e le istanze della Madre non havrebbero potuto niente nel cuore del figliolo? se poi si vuole che io sii andato per persuadergli l'omicidio non potevo farlo con più comodità quando fosse già arrivato per altro fine in Capo d'Istria? E per un consiglio o una persuasione, era necessario che io mi trattenessi più di un mese a Venetia? Che attendessi in forza et unioni di altri parenti? Che esponessi le mie attioni in vista di tutto il mondo?

Io fui tratto dunque a Venetia dall'amor del Fratello, non dall'odio di alcuna persona; mi mossi a quella volta per assistere alla sua salute, non per procurare l'altrui ruina. Tale è certamente la verità del fatto, e perché la Giustitia ne rimanghi soddisfatta rapresento:

2:° Che capitato con le Truppe da Milan a Venetia per passare in Levante Leandro Gravisi, mostrò intentione di voler passar prima in Capo d'Istria.

Testimoni: II Signor Capitan Antonio Gavardo, il Signor Capitan Giulian del Bello, Girolamo e Pietro Fratelli de Moro.

3:° Che poi cade amalato et all' hora io Gio: Nicolò suo Fratello mi portai a Venetia.

Testimoni: II Signor Capitan: Giulian del Bello, Pietro del Moro, e Zuane Benvestio Marinari.

4:° Che io, e lui allogiavimo in Casa di Monsù Verdura, e quando poi arrivarono a Venetia i Tacchi presero allogio in Ca' Michieli.

Test: Il Signor Conte Pietro Borisi, il Signor Marco Brutti, Mattio Ombrela.

La fama poi che hanno sparsa i maligni non può ritrovar adito apresso de' giudici. I giureconsulti la reprobano apertamente; Dio non l'ha voluta seguire nel caso di Sodoma, ma ha ricercato la testimonianza degli angioli stessi e son sicuro nella rettitudine di chi mi giudica che ella non postrà neanco contro me prevalere.

Giuro poi a Dio che nel pratticare mio Fratello non so in alcun tempo di haver variato tenore, come mi è stato opposto nel Costituto, il quale mi ha detto che prima gli assistessi in tutti i luochi, e che due giorni innanzi del fatto lo abbandonassi. Nel resto sarebbe meraviglia, che ne' primi giorni, come ero più avido della sua presenza, così fossi stato più assiduo alla sua compagnia? Non accade così in tutti i nostri desiderii, che da principio sono più fervidi in fine si allontanano? Non poteva aversi lui separato accortamente dagli altri senza che gli altri si separassero volontariamente da lui? Chi sarà innocente se sopra tali osservationi si costrituiscono reità?

Non meno delle altre è inconcludente in se stessa, e mal fondatta sopra l'appoggio la quinta oppositione, la qual consiste che la sera innanzi il fatto sii capitato in Piazza, e che habbi cercato il Fratello per assistergli all'Omicidio, che all'hora voleva cometter, come depone un testimonio giurato. Ho riferito nel mio Constituto la verità alla Giustitia circa i miei andamenti di quella sera, che sono posti senza alcuna ragione in sospetto. E come era concerto co' Tacchi se quella sera i Tacchi non erano in quel luoco? Mi sia permesso di dire, che se l'haver guardato di mio Fratello fosse inditio di haver voluto prestar assistenza al delitto di quella sera; l'havermi levato dal letto potrebbe essere addotto por prova di haverla voluta prestare la mattina. Se la sapienza publica nel secondo prologo de' suoi statuti ha determinato che le opere buone si devano credere fatte a buon fine, sicuramente le indiferenti quale fu questa non si devono giudicare fatte a fine cattivo.Della stessa tempra

è la imputatione, che segue, e si spicca da due testimoni giurati, i quali depongono, che io era nel Mezà Rufini al tempo del sbaro, dove stavo su l'attentione del fatto, e per iscorta del Fratello. La nociva introduzione ha due parti che devono esser per giustizia distinte. La prima riguarda il fatto esterno cioè il luoco dove mi atrovavo; l'altra la intentione interna, cioè il fine er cui ero in quel luoco. Si come l'havermi ritrovato in quel luoco fu effetto della sincerità e attione ordinaria e comune di tutti, così l'interpretazione sinistra è figura dell'odio e vomito della malevolenza. La mia vicinanza al delitto sarebbe stata sospetta mentre il delitto fosse seguito in luoco remoto e impraticabile, non essendo seguito, come fu, in luoco publico e frequentato. I miei andamenti dovrebbero porgere ombra mentre fossero straordinarii et insoliti, non essendo come furono ordinarii e consueti. E in qual altro luoco potevo io essere allhora che in piazza o in brolo? In qual altro luoco poteva esser qualsiasi cittadino? E gli è certo che erano ivi anche i parenti del morto. E perché si dirà che i parenti del reo fossero vicini a studio et i parenti del morto a caso?

Non si vede poi chiaro che gl'allegati di testimoni sono infetti di veleno e contaminati di rabbia? Il testimonio deve render conto delle cose che cadono sotto i suoi sensi e non formare giudicio di quelle che restano negli altrui animi. Come dunque passano costoro a parlar del mio animo e de' miei pensieri? I pensieri humani sono caratteri intellegibili al solo Dio né mai gli altrui guardi si sono avanzati a rilevar quelle cifre. Se i miei sono stati rivolti a quel fine tocarà alla Giustizia divina il punirli nell'altro mondo e publicarli il dì del giudicio. Piacesse pure alla Maestà sua di svelarli al presente in faccia di tutti che mi riuscirebbero per prove indubitate di candidezza, non per argomenti detestabili d'iniquità. Ma fra tanto come non è credibile che sua Maestà gli abbi rilevati ad alcuno, così è troppo repugnante alla virtù di Vostre eccellenze il rimettersi in acciò a costoro.

Svaniscono da se stesse le maligne ombre, ma svaniranno maggiormente alla luce delle seguenti notizie che propongo:

5°: Che tutti i giorni dell'anno e particolarmente la mattina dell'estati non è Cittadino alcuno di Capo d'Istria, che non si riduca in conversatione nella Piazza, Mezà Rufini, o Brolo.

Test: Il sig. Don Giacomo Contarini, il Sig. Antonio Tarsia, il Sig. Agostin Tarsia, il Sig. Petronio Petronio.

" 6°: Che la mattina 5 giugno, che morse il dr. Giulian del Bello, il Mezà Rufini era ripieno di Cittadini di tutte le sorti, tanto Parenti di una parte che dell'altra.

Test: il Sig. dr Bortolo Petronio, il Sig. Giuseppe Bonzi, il Sig Cavallierr Olimpo Gavardo".

Se fosse poi vero il moto con la mano che due giurati testimonii rappresentano essermi stato fatto dal Fratello, certamente invece di manifestarmi per reo, mi giustificarebbe per innocente. Imperoché, se fosse stata precedente intelligenza, qual bisogno sarebbe stato di farci all'hora segni co' moti? Se egli mi chiamò con la mano perché non l'ho io seguita co' passi? E come ci potessimo far moti se non ci potessimo vedere?[1] Ma a che cercar argomenti che quel moto non fu a me fatto se apparisce chiaramente che fu fatto al capitan Paulazzi? E però propongo di giustificare

1 Questa frase in interlinea.

7: Che quando Leandro fece il moto con la mano egli non poteva esser rivolto da me a Gio:Nicolò Gravisi ce lui poteva vedere me.

8: Che seguito il sbaro il Capitan Paulazzi era in Piazza poco distante e che Leandro Gravisi lo invitò con la mano a venir inanzi.

Test: Il Sig Gio: Vittori, il Sig. Andrea Manzoni ".

"Ho sentito pur rinfaciarmi nel Costituto, che Leandro traversò la Chiesa del Duomo per la cale da Carmine e usci in Brolo dalla parte del Vescovato, perché sapeva attrovarsi là i suoi Parenti. Ma se voleva accostarsi a' Parenti, perché non andar al Mezà, dove essi erano? Se voleva giunger più presto al Vescovato, perché non tenere alla prima la strada breve del Campanile? Perché non entrar in Chiesa per la porta Grande, et uscir per quella di Santa Croce in faccia à Rufini senza far il giro della calle de' Carmini ? Ma poi, perché andar in Brolo per trovar i Parenti, se i Parenti non erano all'hora in Brolo? Nel che acció la Giustitia non habbia esitanza la suplico sincerarsene co' seguenti Capitoli.

9: Che sentito il sbaro in Mezà Rufini fu prima detto esser tratto a un colombo e poi sparso esser morto il medico e all'hora solamente io Gio:Nicolò Gravisi uscii fuori del Mezzà con tutti gli altri.

Test: il Signor Cavallier Gavardo, il Signor dr Bortolo Petronio, il Signor Giacomo Fin, il Signor Giuseppe Bonzi ".

10°: Che quando spuntai da Piazza verso il Brolo, Leandro mio Fratello haveva di già passato il Brolo medemo, et era entrato nella cale de' signori Petronii, che conduce a Porta Isolana.

Test: II Signor Carlo Petronio, il Signor Cesare Barbabianca, il Signor Girolamo Ingaldeo ".

Empia poi, e iniquissima, è la introduttione del testimonio giurato che i sbiri siano stati da me fermati. Se io fossi devenuto a tal atto dimandarei perdono alla Giustitia e allegarei che hebbi inanzi gli occhi il pericolo del Fratello, non il favore delle sue operationi; Che le leggi della Natura sono immutabili e che i primi moti non sono in potere degli huomini. Ma questa è certamente falsità patentissima. È vero che Gioseppe del Tacco hebbe seco discorso, ma fu momentaneo, e non apartiene a me, che ero distante. Mi basterebbe considerare che è detto unico; ma perché apparisca anco falso non manco di soggiungere

11°: Che quando Giuseppe del Tacco parlò co' Sbiri io Gio:Nicolò Gravisi ero lontano da esso.Test: Il Signor Carlo Petronio, il Signor Cesare Barbabianca, il Signor Girolamo Ingaldeo ".

Un testimonio giurato ha pur detto che io habbia veduto il Fratello dopo il fatto, e che non l'h salutato. E dove posso averlo veduto con motivo di salutarlo? Doppo il fatto dove mai è seguito tra di noi incontro alcuno? Il Costituto non mi ha espresso il luoco, onde non posso nemeno sopra ciò far difesa. Ma che colpa sarebbe non l'haver salutato? Ma qual difesa bisognerebbe contra la depositione di un solo?

Mi è stato rinfaciato il non esser andato sopra il Cadavero. Ma sono andati forse tanti altri? Ma a Francesco del Tacco ha giovato niente l'andarvi?

L'essere poi stato a Porta Isolana, come in ultimo luoco mi è stato opposto, non può servire ad argomento di accusa, ma bensi a comprobation di sincerità. Se io havessi sapu-

to, che mio Fratello era molto prima trapassato a quel luoco, che aveva barca con molti remi, che teneva provisione d'arme, che era con l'assistenza del Servitore, qual motivo dovevo havere di andar a soccorerlo? perché non è stato imputato delitto a tanti altri che là si portorono? E poi, non sarebbe stato questo piutosto ufficio di pietà verso un particolare che atto di spaleggio ad un delinquente? L'opera mia sarebbe stata dannata se fosse stata rivolta a' danni del morto, non essendo stata impiegata in soccorso del vivo.

Mi si dirà che ero intabarato e con armi. E chi lo dice se non un sol testimonio, come il Costituto mi esprime? Egli che sa molto bene la virtù di chi mi giudica che *testimonium unius, testimonium nullius*. Ma egli è testimonio così falso che più non potrà essere se havesse detto che il fatto è successo di notte e certamente egli merita che si armi contro di lui la ira di Vostra eccellenza. Perché però spicchi chiaro il lume di tutto il successo, mi sia lecito di farlo apparire, ne' seguenti attestati :

12°: Che i Sbiri giunsero a Porta Isolana in tempo, che Leandro Gravisi era avanzato con la barca buon tratto in mare.

Test: Il Signor Ludovico Tarsia, Nicolò Gallo, Francesco Cernivan.

13:° Che doppo i Sbiri capitorono a Porta Isolana diversi signori in compagnia de' quali ero anco io Gio: Nicolò Gravisi, e arrivassimo tutti a quella riva doppo, che i Sbiri avevano già serrate, e riaperte le porte, e che la barca con Leandro era maggiormente avanzata.

Test: Li Signori Can:° Ambrosio de Bellî, il Signor Ludovico Tarsia, il Signor dr Bortolo Manzioli, il dr Aurelio de Belli.

14:0 Che adimandati i Sbiri chi fosse il reo che fuggiva, dissero che era un forestiero che essi non conoscevano.

Test: Il Signor Canonico Ambrosio de Belli, et il Signor. D:r Aurelio de Belli, et il Signor Ludovico Tarsia.

15:° Che quei Signori et io Gio.Nicolò sudetto partissimo immediate da Porta lsolana, e non fecimo ivi dimora alcuna.

Test: Li Signori dr Bortolo Manzioli, Ludovico Tarsia, Canonico Ambrosio de Belli e D:r Aurelio de Belli.

16º: Che io Gio.Nicolò sopranominato fui tutta la mattina che morse il dr del Bello senza tabaro, così in Piazza come in Brolo, et a Porta lsolana ".

Test: Il Signor Cavallier Olimpo Gavardo, il Signor D:r Bortolo Manzioli, il Signor Capitan Antonio Gavardo.

Riassumendo brevemente gl'inditii, replico essere tutti o falsi o insusistenti. L'andata a Venetia può essere più innocente? La dimora in Mezzà Rufini può essere più ordinaria? L'attentione al fatto può essere più imperscrutabile? Il passagio del Reo per la Chiesa del Duomo quanto è chimerico? Il moto della mano quanto è ingannevole? L'aresto de Sbiri non è falsissimo? L'andata a Porta lsolana non fu semplicissima? La ventilation della Pace non fu cura per custodirla? Il sprezzo de saluti, le dichiaration di vendetta, la separation del Fratello, l'atto della sera precedente puono essere più male fondati?

Ma suponga la Giustitia, che il caso fosse tutto diverso; Si avederà che non per questo l'accusa sarebbe hora differente. Se non si potesse incolpare della venuta del Fratello il mio viaggio, non si incolparebbero le mie lettere? Se io mi fossi trovato lontano dal

fatto, non si direbbe havermi a studio retirato dal sospetto? Se non mi fossi mosso a Porta lsolana, non sarebbe giudicata scienza dell'allestimento? Se la pace fosse stata conclusa più presto, non sarebbe detto che fu a fine di prevenir più facilmente alla vendetta? Se la corrispondenza co' Belli (Del Bello) fosse stata più stretta, non sarebbe stato affermato che fu più insidiosa?

Si vuole che il fatto sia successo con deliberatione e consiglio. Ma che bel consiglio sarebbe stato l'avventurar tutta la mia Casa, e quella de' Tacchi, come si sono certo avventurate, con attrovarsi ogni uno di noi tanto vicini al fatto, e peró tanto esposti agl'impegni? Si vuole che io mi habbi mosso a tal risolutione per vendicare la Morte del Nepote. Ma il D:r Nicolò del Tacco non era cosi Nepote a me, che á mio Fratello? Si vuole che la offesa habbia potuto in me tanto, benché pacificato; e non si vuole che habbia potuto niente in mio Fratello, che non haveva ritegno di pace, non lacci di Patria, e che si stimava aggravato da nuove ingiurie?

Ah che tutto è opera della malignità, del livore, dell'odio, della passione. La giustizia può argomentarlo dalle forme di parlare dei testimonii, dalla discordia tra essi, dalla assordità delle cose, dalla repugnanza co la ragione [so]pra di che invoco altamente i suoi più attenti riflessi. Se fossero stati esaminati i Sbiri, considero riverentemente, che non possono meritare credito alcuno. I Sbiri sono ministri della Giustizia, e devono dar esecutione a' suoi Atti con le forze, non possono somministrargli validità coi loro detti (!!). Le retentioni gli frutano premii, o beneficii, onde si può imaginare il ramarico che haveranno havuto in vedersi smarita quella di mio Fratello. I Reí gli producono utili, o mercedi, onde si può rafigurare quanto haveranno bramato di vedere in tal conditione anco la mia persona.

Se fossero stati esaminati li Signor Rizzardo Vida, e D:r Agostin Vida, rappresento con tutta sommissione, che l'uno e l'altro, è congionto con gli Avversarii, e mal affetto a me per le cause qui sotto dichiarite, e peró únicamente gli oppongo:

17°: Che il Padre del Signor D:r Agostin Vida è stato ammazzato nelle inimicitie che haveva contro il Nono e Zij Materni di me Gio:Nicolò Gravisi.

(Test): Il Signor Vicario Don Santi Grisoni, il Signor Vincenzo Rufini.

18°: Che il Padre di detto Signor D:r Vida era zio del Signor Rizzardo Vida.

Test: Il Signor Vicario don Santo Grisoni, il Signor Vincenzo Rufini.

19°: Che il Signor D:r Agostin Vida era stretto Parente del dr Giulian del Bello.Test: Come sopra.

20°: Che il Signor Rizzardo Vida è Nepote così del Signor Domenico del Bello, come del Capitan Paolazzi.

Test: Come sopra.

E perché a chi ha voluto trafigere i Tacchi è parso necessario anco di colpire la mia Innocenza, però tutti quei testimonii, che fossero da essi opposti o come avversi a loro, ô come partiali de' Belli (del Bello) non possono neanco meritar fede contro di me, onde se gli intenderanno fatte in tutto per tutto le medesime Oppositioni, et eccetioni per mia parte, supplicando per ció humilissimamente la Giustitia di rivolgergli l'occhio a questo passo.

Questi, che ho accennati, prestantissimo Giudice, e quei che saranno da' Tacchi più espressamente additati sono li Scogli palesi e scoperti, dove forse si è procurato di mandar

a rompere la mia Innocenza. Ma chi mi puo assicurare da gli occulti e nascosti? Il Processo formato col Rito è per me un Mare pieno di Sirti, per li Malevoli è stato un Campo libero agli spergiuri. Dio Benedetto gli scopra tutti agli occhi della Giustitia e si faccia Protettore della mia Causa, come è stato Testimonio delle mie attioni. Non è già l'amor della vita quello che mi fa tremare sì horribilmente al solo nome di condanna. Troppo ella mi è grave doppo il trucidamento del Nepote, gli assedii de' sequestri, i dispendii de Venetia, le fulminationi del Fratello, la Morte addolorata della Sorella, gli affanni mortali della Madre e le lunghe afflittioni della mia prigionia. La consegno però di buon cuore al Sepolcro, ma solo mi preme di restituirla così pure da' sospetti d'infedeltà al mio Prencipe, qual'io la ricevei dalle viscere de miei Genitori zelanti.

Non sofrisca però la pietà di Vostra Eccellenza che mi succeda una confusione così immeritata, ma compatendo più tosto alle gravi agitationi, che mi hanno sin hora accompagnato, mandi la sua benignissima voce a donarmi la calma con una libera assolutione, che prostrato imploro. Gratie.

Doc. 43

Testamento del marchese Leandro Gravisi fatto in Monaco di Baviera dove il testatore trovavasi al servizio di quel Principe elettore

Questa ultima volontà del defonto signore marchese Gravisi di pia memoria è un vero testamento nuncupativo fatto con tutti li suoi requisiti, del resto li premi tre altri non sono che li preliminari soliti ad aggiungersi a tutti li testamenti.

Articolo quarto. Ordino e voglio che tutti i miei debiti specialmento per il vino preso dal signor Barnabè siano pontualmente, non meno che le pretensioni quali veranno liquidate ed in specie quella di sua Eccellenza il signor generale marchese di Maffei, cioè vintidue doppie dette del sole.

Articolo quinto. Lascio alla mia dilettissima signora cognata Maria Anna Cecilia di Baumgarten, vedova e nata di Schennbrunn, seicento fiorini parte per sodisfare al debito di trecento fiorini incirca prestatimi e parte in riconoscimeto dell'assistenza fedelmente prestatami nella mia malatia. Ordino ancora e lascio alla medesima // tutti li miei mobili e suppelletili di qualsiasi nome eccettuati queli soli dellli quali disporrò sussequentemente.

Sesto. Lascio al mio carissimo signore nipote il marchese Gravisi, paggio elettorale, una pezza di veluto, una pezza di drapo d'oro, l'habito turchino guarnito d'oro, due peruche nuove, due spade fra le quale una con la guardia d'argento et un cappello.

Settimo. Avendomi assistito il signor dottore di Vacchieri, medico della personna di Sua Altezza Eccellentissima, in tutta la mia malattia con singolare assiduità, gli lascio duecento fiorini come una dovuta gratitudine.

Ottavo. Lascio al forriere della Guardia elettorale delli drabanti uno delli miei migliori cappelli, una cana, e sia quella che mi sarà messa sopra la cassa nella quale riposerà il mio corpo et oltra di più il mio paia di pistole. //

Nono. Ordino al mio cameriere oltre al suo salario restanteventi fiorini il mio abito d'estate et il mio grigio con sei delle mie migliori camicie.

Decimo. Al mio scrritore ordino specialmente oltre la sua paga sei delle mie migliori camicie insieme con dieci fiorini.

Undecimo. Alle due serve lascio uniti al di loro pagamento ad ognuna fiorini dieci.

Quello poi che resterà in danaro doppo pagati tutti li miei debiti, le spese per il funerale, li legati da me qui nominati o facendone delli altri, lo lascio intieramente al mio signore nipote paggio di Sua Altezza Eccellentissima.

E acciò che quest'ultima mia volontà poss'essere totalmente essequita supplico e nomino sua eccellenza il signor barone di Malknecht, Consigliere attuale di Stato di Sua Altezza eccellentissima, il quale mi fu sempre affezionatissimo, padrone ad esserne essecutore di questo mio testamento o sia codicillo, pregandolo a procurare con la sua valida assistenza che vengino pagati li miei // restanti salari del serenissimo Elettore, quali ascendono al presente a 1846 fiorini [...] e con questi di pagare li miei debbiti e ciò che ho disposto. Per l'ultima grazia poi lo prego ad assistere alla mia signora cognata e di non mai abbandonarla.

Di più voglio sia dato ancora la mio cameriere il mio abito nero che sarà obbligato a portarlo come abbito di [servizio].

Specialmente voglio ed ordino che sia dato alli eredi della [...], già morta, settanta fiorini che mi consegnò quando era in vita e, come pure potrebbe essere ch'io gli fosse

debitore di qualche porzione del salario che avea da me, voglio che alli detti suoi eredi gli venga bonificato tutto ciò che si crederà di giusto.

Monaco, il dì 25 gennaio 1720.

Alli 8 maggio in Monaco di Baviera 1720 de proprio pugno e tutti li miei sentimenti sani confermo la dispositione fatta per la signora mia cognata.

... e nepote paggio di Sua Altezza Eccellentissima.

Altra scritta in alemano aggiungendo al sudetto signor marchese Antonio Maria paggio che faccio presente di quelli pochi libri italiani e francesi di mia ragione.

Al mio cameriere diminuisco dieci fiorini non dubitando che se contenterà de vinti sopra li miei avanzi de paga che mi sono dovute. Il sudetto cameriere a ricevuto due delli oltra scritti vestiti, onde potrà contentarsi d'un altro, il più usato.

Al furiere la spada non d'argento, il chè nuovamente confermo.

Lo signor Leandro marchese Gravisi

Questo ultimo capitolo, benché tutto il rimanente et antecedente sia scritto per mano di notaro e in lingua tedesca, il signor testatore lo scrisse di proprio pugno in italiano.

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KRVNO MAŠČEVANJE V KOPRU 1686

POVZETEK

V tej knjigi je predstavljenih nekaj študij primerov krvnega maščevanja na območju zgornjega Jadrana v srednjem in novem veku. Njihov temeljni namen je prikazati spremembe v družbenem sistemu reševanja sporov, ki so nastale z vzpostavljanjem sodobne državne oblasti v zgodnjem novem veku. Raziskave primerov temeljijo na interdisciplinarnem primerjalnem pristopu zgodovinskih, pravnih in antropoloških znanstvenih disciplin.

V primerjavi z uveljavljeno zgodovinopisno predstavitvijo miselnih in izraznih obrazcev (*topos*) raziskovalnih problemov, ki običajno začenjajo s splošno predstavitvijo problematike in nadaljujejo v časovnem zaporedju, se ta knjiga bistveno razlikuje. Gre za retrospektivno predstavitev, kot da bi bil konec prestavljen na začetek. Razlog za takšen pristop bom poskušal utemeljiti v nadaljevanju.

Knjiga tako začenja s časovno najbližjo epizodo, s študijo primera krvnega maščevanja v Kopru, leta 1686, na podlagi izvirnih arhivskih dokumentov pravosodnih organov Beneške republike in narativnega gradiva protagonistov spora. Gre za klasičen primer maščevanja zaradi konfliktov med različnimi plemiškimi sorodstvenimi skupinami, temelječih na idiomu časti. Vzrok je bila prepovedana ali vsaj nezaželena poroka med predstavnikoma dveh plemiških družin ki je prerasla v uboju sorodnika poročene. Po skoraj tri leta trajajočih, očitno neuspešnih pogajanjih o sklenitvi poravnave, je prišlo do povračilnega uboja najvidnejšega predstavnika storilčeve družine, ki ga je izvedel ujec tretje, sorodstveno povezane družine. Pri tem je zanimivo, da so lokalne, še zlasti pa centralne politične sodne avtoritete, po prvem uboju posegale v spor (*fajda*), v skladu z načeli običajnega sistema reševanja sporov, tako da so sprti strani spodbujale in naposled tudi prisilile v sklenitev miru. Toda poskus, da bi običajni sistem reševanja sporov integrirali s sodno poravnavo, v tem primeru očitno ni uspel, saj je prav preprečevanje običajnega samo-regulacijskega sistema reševanja sporov z (navideznim) državnim zagotavljanjem varnosti in s prisilo privedlo do upora, ki ga je povzročil načrtni prelom s tradicionalnimi vrednotami časti in vlogami sorodstvenih povezav. Uvedba strogega inkvizitornega sodnega postopka, ki je že v prvem poglavju orisan z osnovnimi značilnostmi in postopkovnimi fazami, pa je po maščevalnem uboju morda vendarle preprečila nadaljnje retaliacije, kot je to pokazala sodna praksa tudi v drugih tedanjih srednje in zahodno evropskih državah. Kljub temu je lahko že sam maščevalni uboj bil, skladno z običajnim sistemom reševanja sporov, dojeman kot uveljavljen in družbeno priznan zaključek spora. Osnovan je bil na temeljnem družbenem načelu darovanja, ki za podeljeni dar zahteva vrnitev daru ter za žalitev zahteva primerno povračilo.

Prav tej večtisočletni družbeni zakonitosti je namenjeno drugo poglavje knjige. Z njim v obravnavi običajnega sistema reševanja sporov posegamo v daljne, pred literarne plemenske skupnosti, vse do evropskega zgodnjega novega veka. Primerjava z zapisi ohranjenih običajev iz Črne gore, Hercegovine in Albanije, ki so bili živi v pravni tradiciji še v 19. in začetku 20. stoletja, pa nam je omogočila rekonstrukcijo običajnega

družbenega rituala pomiritve, ki je v osnovnih potezah značilen za skoraj vse pretekle skupnosti na svetu. Osnovna nit poglavja je sicer namenjena rekonstrukciji in reinterpretaciji ponižanja v ritualu pomiritve, kot se po ohranjenih dokumentih in literaturi kaže v družbenih ceremonialih, toda izhodišče temelji prav na omenjeni družbeni zakonitosti izmenjave daru. Za povzročeno ponižanje, ki je prizadejalo škodo skupnosti, je bilo nujno povračilo v obliki ponižanja storilca oziroma storilčeve skupnosti. Toda to je le prva faza običajnega pomiritvenega postopka. Naslednja faza vodi v premirje s prisego med sprtimi strankami, ki je omogočilo določeno časovno obdobje za pogajanja o povračilu storjene škode. Tretja, zadnja faza, pa je sklenitev trajnega miru med strankami v sporu z dejanskim povračilom ocenjene škode in plačilom odškodnine. Slednja se je v novejšem času plačevala v denarju po vnaprej določenih tarifah. Kljub temu pa se je marsikje še dolgo ohranil običaj utrjevanja miru s sorodstvenimi povezavami, z določenim številom botrstev in pobratimstev, kot tudi s porokami med predstavniki sprtih strani, kar je bila sploh značilnost starejših obdobij in skupnosti, v katerih je prevladovala nedenarna blagovna menjava. Primerjava rituala pomiritve z drugimi posvetnimi rituali (npr. investitura vladarjev, vitezov, notarjev ipd) pa kaže podobno, če že ne enako, splošno strukturo obredov za vse javne zadeve. Lahko bi celo rekli, da v tej splošni ritualni strukturi simboli, geste in besede tvorijo trdno zasidrano skupno človeško kognitivno zgradbo, ki odpira pot za nadaljnje analize kognitivnih modelov skupinskega nasilja in sistemov reševanja sporov v človeških družbah.

Tako lahko prav na podlagi rekonstrukcije rituala pomiritve pritrdimo nekaterim antropološkim raziskavam, da so spori družbeno konstitutivni, in še več, da so družbeno kohezivni, saj so se s tem posamezne skupnosti sorodstveno povezale in tako razširile mrežo pripadnikov. Pri tem je pomembna še ena značilnost, namreč v postopku pomiritve spora je po svojih posrednikih oziroma mediatorjih vselej sodelovala celotna skupnost. Zato lahko pritrdimo tako tezam nekaterih funkcionalistov, ki običajnemu sistemu reševanja sporov, to je maščevanju, pripisujejo svojstveno vlogo družbenega nadzora, kot tudi strukturalistom, ki v njem vidijo osnovno družbeno strukturo, če že ne kar strukturo stvarstva (univerzuma).

Kako zakoreninjena je bila ta struktura rituala reševanja sporov še v evropskem visokem srednjem veku nam ponazarja tretje poglavje, posvečeno desetletni fajdi (1267–1277) med oglejskimi patriarhi in goriškimi grofi, ki se je odvijala zlasti na območju Furlanije in Istre. To je bil čas, ko so se z vzponom srednjeveških mest oblikovale izobraževalne ustanove, zlasti univerze, ki so bistveno pripomogle k razširjenosti pisave kot kulturno-tehnološkega pripomočka za izvajanje oblasti. To je tudi čas, ko je tako imenovano učeno pravo črpalo svojo snov tako iz dediščine rimskega prava, ki je tedaj ponovno vzniknila, kot iz vrste pravnih določb germanskih predpisov, če naj jih tako poimenujemo skladno z zbirko *Monumenta Germaniae Historica* , iz svojskosti mestnega prava ter iz osnove običajnega prava, ki v svoji idealizirani podobi in s pomočjo obreda izražajo družbene vrednote, temelječe na mediaciji skupnosti, reciprociteti in težnji k trajnem miru. Študija tega primera potrjuje hipotezo o mnogih sledeh ritualnih in procesnih značilnosti običaja v učenem pravu. Potrjuje tudi, da je bil običajni sistem reševanja sporov, imenovan tudi *vindicta, fajda, feud, Fehde, krvna osveta, gjakmarrja*, itd., svo-

jevrsten in univerzalen koncept. Slednji je potrjen v ritualnem obrazcu, sestavljenem iz treh faz: kompromis (dar), premirje (prisega) in trajni mir (*amor*). Gre za tri faze, ki so bile neposredno umeščene tudi v oblikovanje učenega prava v drugi polovici 13. stoletja. Vseh deset obravnavanih dokumentov o reševanju spora med oglejskim patriarhom in goriškim grofom namreč sledi napotkom, ki jih zasledimo v delu bolonjskega notarja, sodnika in univerzitetnega profesorja Rolandina (Rolandinus Rodulphi de Passageriis) iz druge polovice 13. stoletja. Rolandino med drugim pravi, da ni pravega trajnega miru, če si tega ne zagotovita neposredno odgovorni strani v konfliktu, in tega ne potrdita tudi s poljubom miru. Prav te dikcije v zapisanem pravu pričajo, kako so se ritualni obrazci in ritualne geste običajnega sistema reševanja konfliktov ne le obdržali, temveč so bili tudi neposredno sprejeti v ritualnih obrazcih učenega prava. Študija tega primera pa tudi potrjuje, da so v družbenih odnosih in interakcijah spori ne le odraz nenehnega boja za resurse, temveč so tudi družbeno konstitutivni, saj so vgrajeni v sistem družbenega reda. Spori namreč generirajo tudi zavezništva med različnimi skupinami, ki so v preteklosti slonela predvsem na sorodstvenih oziroma klanskih povezavah. To je globalni strukturni vidik sporov, lokalni ali partikularni vidik pa se v praksi kaže tako, da v boju za resurse, v spletu posameznih okoliščin, prevladajo tisti, ki uspejo združiti čim več različnih in pogosto konfliktnih lojalnih zavezništev. Slednje je v našem obravnavanem sporu očitno bolje uspevalo goriškim grofom kot pa oglejskim patriarhom. Toda njihova nasprotja so na njihove teritorije privedla druge igralce: Benečane in Habsburžane.

Vzpostavljanju, značilnostim in spremembam zakonodaje v izvajanju sodne oblasti Habsburžanov in Benečanov v zgornjem Jadranu od 13. do 18. stoletja pa je posvečeno četrto poglavje. Prvenstveni namen tega poglavja, ki ga prav tako spremljajo še posamezne študije primerov, je bralca seznaniti z normativnimi spremembami zakonodaje in sodnih postopkov na kazenskem področju. Po prvih treh poglavjih se bralec lahko seznani s temeljnimi značilnostmi običajnih in pravnih implikacij instituta krvnega maščevanja. Prav zato se mu utegnejo zastavljati vprašanja, zakaj je v vrednotenju zgodovinskega procesa maščevanje, zlasti krvno maščevanje, v sodobnem času prikazano na tako izrazito negativen in zavajajoč način ter zakaj so bile socialne funkcije tega instituta, ki so bile del reda in tradicije, usmerjene k miru in družbenemu nadzorovanju konfliktov, dekonstruirane, potisnjene v pozabo in kriminalizirane? Upam, da bo odgovore na ta vprašanja našel prav v tem, četrtem poglavju, ki temeljno pozornost posveča raziskovanju sporov v medsebojnem odnosu običajnega prava in pravnih procesov. Namreč, tako v Beneški republiki kot v Svetem rimskem cesarstvu (in v večini tedanjih zahodnih evropskih dežel) je zakonodaja vse do druge polovice 15. stoletja sledila temeljnim značilnostim običajnega sistema reševanja konfliktov. Na podlagi izhodišč akuzatornega pravnega sistema je težila k samovoljnemu reševanju sporov med sprtimi strankami, s posredovanjem skupnosti in skupnostno odgovornostjo za povzročeno škodo. Sodišča so bila prvenstveno namenjena (družbenemu) potrjevanju samovoljno sklenjenih medsebojnih poravnav, katere so sprte strani lahko sklenile tudi zgolj z notarsko listino.

Z velikimi družbenimi spremembami pa je v drugi polovici 15. stoletja prišlo do centralizacije pravosodja, ki je bilo poleg davčne in vojaške reorganizacije temeljnega pomena v prizadevanjih evropskih vladarjev za vzpostavitev vrhovnega nadzora nad

celotnim ozemljem v njihovi pristojnosti. Za dosego tega cilja so morali vladarji najprej poskrbeti, da so s pomočjo zakonodaje in z drugimi prisilnimi sredstvi omejili samovoljno reševanje sporov po običaju. S tem so vzpostavili sodni, oziroma natančneje kaznovalni nadzor, tako nad posameznimi vplivnimi družinami oziroma klani, kot tudi nad drugim prebivalstvom. Državni inkvizitorni sodni proces, ki se je bistveno razlikoval od cerkvenega inkvizitornega postopka (od 12. stoletja dalje) in je bil v 16. stoletju vpeljan v večini zahodno- in srednje-evropskih dežel, prinaša pomembno novost. Državni sodni aparat je pridobil pravico pregona po uradni dolžnosti (*ex officio*), prekršek pa je postal individualiziran. Medtem ko je pred tem, v takoimenovanem akuzatornem pravu, sodni preiskovalni postopek lahko stekel le na podlagi tožbe prizadete skupnosti, so z inkvizitornim postopkom sodni proces sprožili za ta namen oblikovani centralni pravosodni organi. Prav zapleteni inkvizitorni sodni postopki, ki so podelili (državnemu) sodniku skoraj neomejene pristojnosti, vključno z uvedbo torture v vseh fazah sodnega procesa, so postopoma prevzeli vlogo mediacije skupnosti v sporu in tako temeljno posegli v tradicionalne odnose vrednot časti in sorodstvenih povezav. S tem posegom in z zakonsko ter ideološko kriminalizacijo fajde in krvnega maščevanja je vladar oziroma država postopoma odvzemala sodne pristojnosti prejšnjim nosilcem (lokalne) oblasti: plemstvu. Od tedaj je imel pravico maščevanja in oprostitve le še vladar (država), kar tudi pomeni, da si je na tak način pridobil absolutno oblast. Ali, kot se je izrazil Ludvik XIV: "*L'état, c'est moi"*.

Knjigo zaključuje peto poglavje, ki je nastalo v soavtorstvu z mojima doktorantoma, Angeliko Ergaver in Žigo Omanom. Razprava s pojmovno-zgodovinsko analizo temeljnega izrazja obredja maščevanja, med drugim nazorno prikaže prav zgodovinski proces spreminjanja družbenega odnosa do običajno-pravnega instituta maščevanja. Obenem je to poglavje tudi poskus izdelave jezikovnega, konceptualnega in metodološkega okvira za raziskave maščevanja kot običajnega sistema reševanja sporov v predmoderni Evropi. V ta namen je poglavju dodan sedem-jezični glosar, ki vsebuje obilo sopomenk in v katerem je zbrano ključno izrazje običaja maščevanja v latinskem, angleškem, italijanskem, nemškem, albanskem in slovenskem jeziku ter štokavski izrazi z območja Črne gore. Čeprav je razprava utemeljena predvsem na evropskih srednjeveških virih in študijah le-teh, razširjenost in sorodnost občečloveškega običaja omogočata uporabo dognanj tudi za druga obdobja in celine. V razpravi je s pojmovno-zgodovinsko in jezikovno analizo predstavljeno, da so, zlasti v srednjem veku, deloma pa tudi še v zgodnjem novem veku, kontekstualno ustrezni ključni izrazi in pojmi običaja maščevanja obstajali v mnogih evropskih jezikih, neodvisno od družbene in politične organizacije nekega ozemlja. Poglavje tako ne prispeva le k razvoju slovenske znanstvene terminologije, temveč tudi k razvoju nekaterih drugih evropskih znanstvenih terminologij, s težnjo, da bi postala osnova za vzpostavitev svetovnega znanstvenega izrazja na tem raziskovalnem področju.

Knjigi je priložena še priloga, v kateri je v prepisu objavljenih 45 dokumentov o študiji primera iz prvega poglavja, o krvnem maščevanju v Kopru iz leta 1686. Poleg navedenih razprav in študij primerov v tej knjigi prav objavljeni arhivski dokumenti v prilogi na izviren način in z ustreznim poznavalskim branjem odstirajo vse značilnosti temeljnega cilja te študije, to je raziskovanje sporov v medsebojnem odnosu običajnega

prava in pravnih procesov, kot se kažejo skozi obravnavo specifičnih ciljev, to je prezentacijo pojavnih oblik fajd in maščevanja v kazenskih procesih in procesnih naracijah, v obravnavi oblik družbenega nadzora in predstavitvi vloge sporov v družbenih odnosih ter zlasti v obravnavi protagonistov v sporih.

Tak pristop nam je omogočil identifikacijo odnosov, ki so obstajali med običajnim in novimi oblikami učenega prava, ugotavljanje sprememb, do katerih je prišlo na podlagi posledic tega prehoda ter zaključkov o tem, kateri kulturni elementi so se v praksi ohranjali še skozi celoten novi vek. Na podlagi analize dolgih historičnih procesov, ki so vodili k opuščanju sporov kot resničnega sistema samovoljnega reševanja sporov, so v knjigi predstavljene najbolj pomembne faze teh sprememb, ki jih potrjujejo raziskave literature in študije primerov, na podlagi različnih oblik naracije (sodne, literarne, umetniške itd.), ki so v novem veku opisovale spore kot sistem vrednot ali nasprotno, kot sistem, ki je sovražnik miru in družbenega reda.

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