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In honour of Claudio Povoło

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KEINE BLUTRACHE BEI DEN SLOVENEN.
FRANC MIKLOŠIČ AND THE BLOOD FEUD OF THE SLAVS

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ABSTRACT

*Franc Miklošič was undoubtedly one of the most educated, internationally renowned and influential Slovene intellectuals of the second half of the nineteenth century and is foremost regarded as a philologist, linguist and one of the founders of Slavic studies. However, Miklošič's intellectual versatility also led to his engagement with history, ethnography, anthropology and law, predicated on interdisciplinary and comparative approaches. Apart from a few translations of Austrian legislation into Slovene, Miklošič did not devote himself to legal matters, with the exception of blood feud in *Die Blutrache bei den Slaven* (1887), one of the key works on the topic at the time. Although he agreed with the evolutionist and legal positivist views of his time on the State as the pinnacle of civilization, compared to the supposed chaos of prior societies (which continue to remain popular), in *Blutrache* Miklošič also presented the characteristics of the customary system of conflict resolution in kinship-based societies, which attest to the complexity of social relations in premodern Europe. It is with the help of Miklošič's work that this paper reconstructs the customary ritual of conflict resolution, which was known to all premodern European societies, and presents the attitude of his and later times towards blood feud.*

Keywords: Franc Miklošič, Valtazar Bogišić, blood feud, system of conflict resolution, Slavs, Slovenes, Montenegro

KEINE BLUTRACHE BEI DEN SLOVENEN.
FRANC MIKLOŠIČ E LA VENDETTA TRA GLI SLAVI

SINTESI

Franc Miklošič fu indubbiamente uno degli intellettuali sloveni più colti, internazionalmente conosciuti e autorevoli della seconda metà dell'Ottocento. Sebbene

sia considerato soprattutto filologo e linguista, nonché uno dei fondatori principali degli studi slavi moderni, il suo spirito versatile lo portava ad esplorare, attraverso approcci metodologici interdisciplinari e comparativi alle scienze filologiche, anche i campi di storiografia, etnografia, antropologia e diritto. A parte alcune traduzioni in sloveno della legislazione austriaca, nelle sue ricerche non affrontava questioni legali, tranne in una delle opere fondamentali del tempo sul tema della vendetta: Die Blutrache bei den Slaven (1887). Pur assentendo alla concezione evoluzionistica e positivistica dello Stato come culmine dello sviluppo della civiltà rispetto al presunto caos di prima (una nozione caratteristica del suo periodo, ma ancor 'oggi popolare!), Miklošič presenta le particolarità del sistema consuetudinario di risoluzione dei conflitti nelle comunità tribali o parentali, che, al contrario, dimostrano la complessità delle relazioni sociali nell'Europa premoderna. Il presente articolo si pone l'obiettivo di ricostruire, proprio con l'aiuto dell'opera di Miklošič, il consueto rituale della risoluzione dei conflitti conosciuto in tutte le società premoderne dell'Europa e illustrare la posizione della società riguardo alla vendetta sia ai tempi di Miklošič sia in un quadro temporale più ampio.

Parole chiave: Franc Miklošič, Valtazar Bogišić, vendetta, sistema di risoluzione dei conflitti, slavi, sloveni, Montenegro

INTRODUCTION¹

Until recently, compared to international historiography, Slovene research on blood feud was scant. Thanks to a Marie Curie Fellowship at the University Ca' Foscari in Venice (2015–18), I was able to study the customary system of conflict resolution, i.e. blood feud (Darovec, 2018). I had extensive help from my then junior researchers Angelika Ergaver and Žiga Oman, both of whom obtained their PhDs in studying the same problem (Ergaver, 2017a; Oman, 2018a), and especially from the mentorship of Professor Claudio Povolo from Venice, who not only introduced me to the research of blood feud, but also enabled me to establish contact with internationally renowned researchers in the field.

To this day, it is taken for granted that the institution of blood feud did not exist in the Slovene historical lands, and while some will admit that this legal custom may have existed in the distant past, they are adamant that it was eradicated with the establishment

¹ This paper is the result of research carried out in the project *Cultural Memory of Slovene Nation and State Building*, funded by the Slovenian Research Agency (ARRS, Grant n.o. J6-9354). My thanks to Žiga Oman and Marijan Premovič as well as the anonymous reviewers for their comments.

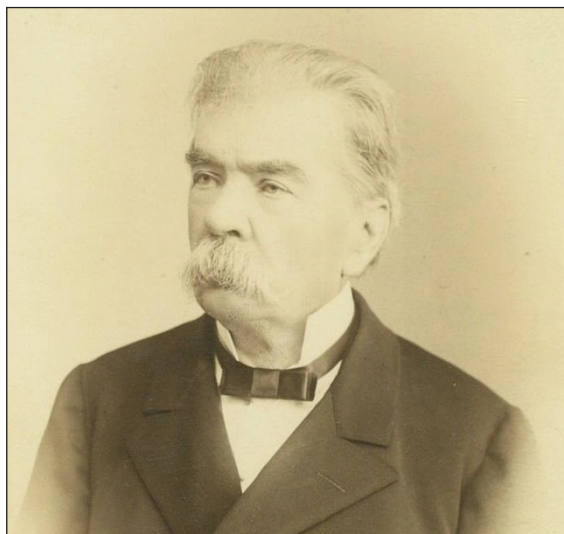


Fig. 1: Franc Miklošič ca. 1888 (photo by Rosa Jenik, Wikipedia).

of the rule of law, predicated on written or statutory law. If an incident (retaliation) did happen, perpetrated by a rather unstable individual or group, it was legally sanctioned as a warning to others. This view was also shared by Franc Miklošič, the first Slovene to publish a study on the blood feud of the Slavs in 1887, *Die Blutrache bei den Slaven*,² which is the focus of this paper.

FRANC MIKLOŠIČ

Franc Miklošič, later Franc vitez pl. Miklošič, or Franz Ritter von Miklosich in German, was born in Radomerščak near Ljutomer on 20 November 1813 and died in Vienna on 7 March 1891. He went to primary school in Ljutomer and to high school in Varaždin and Maribor. From 1830 he studied philosophy and law in Graz, where he obtained a PhD in philosophy in 1838, followed by a PhD in law at the University of Vienna in 1840.

In 1844, Miklošič called attention to himself with his first science publication, an extensive and thorough review of Franz Bopp's Indo-European comparative grammar, followed by many important essays in Slavic linguistic studies. Hence, Miklošič was already an established philologist by the revolution of 1848, when he got actively in-

2 The work was first published in Vienna in 1887 as a 86-page booklet and re-published the following year as the 36th volume of the *Denkschriften der Kaiserlichen Akademie der Wissenschaften: Philosophisch-historische Klasse*. The publication from 1888, which is referred to in this paper, is freely accessible online: <https://archive.org/details/DenkschriftenPhilHist36/page/n2> (last access: 1. 09. 2019).

volved in Slovene politics and become the president of the Slovenia Society, a co-author of the first Slovenian political programme *Zedinjena Slovenija* (United Slovenia) and a member of the Austrian Parliament.

The authors of the programme of United Slovenia demanded the establishment of a “Kingdom of Slovenia” with its own parliament within the Habsburg Empire, while rejecting its incorporation into a German Empire. Concurrently, the programme’s authors also campaigned for total equality of the Slovene and German languages and demanded that Slovene should be freely used in schools and administration.

While still hazy and inconsistent in many regards in 1848, the programme of United Slovenia was a radical break with the linguistic and cultural direction of the Slovene movement at the time. The programme unambiguously strove for the abolition of the old provincial borders and promoted a reorganization of the Habsburg Monarchy into a federal state, wherein the Slovenes, like all other nations, would enjoy administrative, political and even economic autonomy (Vodopivec, 2006, 53–54).

It could well have been Miklošič’s political and, of course, scientific competences, which persuaded the Emperor to establish a cathedra for Slavic philology in Vienna. On 30 April 1849, Miklošič was named first (associate) professor and already the following year became a full professor. From 1848, he was a corresponding member and from 1851 a regular member of the Vienna Academy of Sciences. He was dean of the Faculty of Arts for three academic years (1851, 1856, 1865) and chancellor in 1854/55. In 1864, Miklošič was knighted (the title was hereditary), yet generally continued to sign himself simply as ‘Miklosich’. Many regular and honorary memberships in science societies, universities and academies across Europe attest to Miklošič’s scientific renown, especially the attention and the awards presented to him when he turned seventy. His cathedra in Vienna became the most important centre of Slavic studies in Europe and Miklošič was regarded as the most important person in Slavic studies of the nineteenth century. His work in Slavic linguistics is comparable with the work of Jakob Grimm in German and of Friedrich Christian Diez in Romance linguistics; both were authors of comparative grammars and dictionaries (cf. Kolarič, 1933). Miklošič retired in 1885, but still gave lectures the following year, when, on his recommendation, the cathedra was taken over by his former student Vatroslav Jagić, then professor of Slavic studies in Saint Petersburg.

In his extensive scientific opus, Miklošič contributed methodologically new, stricter and more comprehensive directions to the research of the whole Slavic linguistic territory. His works are still relevant in some fields of research, especially in onomastics, etymology and word formation. Miklošič’s etymological dictionary of Slavic languages from 1886 remains an essential work for every Slavic linguist with an interest in history. He was also involved in the practical use of Slovene, writing a few texts for Slovene readers for high schools (1853, 1854, 1858, 1865) and translating more from other Slavic languages. Miklošič also translated the first volume of the Official Gazette of the Austrian Empire (*Reichsgesetzblatt*) from 1849 and contributed to the foundation of the legal-political terminology for Slavic languages in Austria, including Slovene.

The interdisciplinary approach of Miklošič’s primary scientific discipline, philology, also led him to the fields of history and ethnography. He reached a high publishing standard

for his time, when he published old Serbian, Bosnian, Croatian and Ragusan documents in the collection *Monumenta spectantia* in 1858. Miklošič also greatly contributed to a monumental edition of Medieval Greek church and profane documents, which he published with the classical philologist Joseph Müller in the six volumes of *Acta et diplomata graeca medii aevi sacra et profana collecta* from 1860 to 1890. What's more, predicated on my own research interests apart from this paper's titular theme of blood feud, I would also like to draw attention to Miklošič's essay on the Slavic elements in the Romanian language (1861; 1880–83), since he briefly presented the Istro-Romanian language in the essay's supplement and published a few texts of this small language island below the Učka mountain range.

MIKLOŠIČ'S VIEWS ON BLOOD FEUD

As Miklošič is regarded as a world-renowned Slavic linguist, it is all the more surprising that he studied blood feud at all, although it should be stressed that he had obtained PhDs in philosophy and law. Even more interesting is that his work on blood feud was virtually ignored by Slovene historians and, especially, legal historians, on the rare occasion when they mentioned the custom. It seems that Miklošič's study was consigned to oblivion, since it is not recorded in the six dense columns listing his works in the Encyclopaedia of Slovenia (1987–2002).³ Even in the 1991 monograph dedicated to Miklošič, *Blutrache* is only once briefly mentioned in the extensive presentation of his research and publications (Hafner, 1991), namely in the paper by the historian Ignacij Voje: "Of legal-historiographic character is the study on the blood feud of the Slavs, wherein its occurrence, everyday meaning, origin and development among the Slavic nations are explained" (Voje, 1991, 189).

In contrast, another monograph dedicated to Miklošič, which was published at the bi-centennial of his birth by the Serbian Academy of Arts and Sciences, includes an interesting study by the legal historian Luka Breneselović (2013, 469–488). His paper is focused precisely on Miklošič's study on blood feud, which Breneselović expertly fitted within the author's opus and the time of its publication. Furthermore, Breneselović dedicated an entire chapter to the international reactions to Miklošič's study and the ensuing debate, thus presenting the great international interest at the time of the study's publication, which endured for a few more decades (Breneselović, 2013, 481–485).

The reason behind the disregard for Miklošič's *Blutrache* in Slovene (legal) historiography and other social sciences and humanities, probably lies in the fact that until very recently the field has barely addressed (blood) feud at all.⁴ Historiogr-

3 While missing from the Slovene Wikipedia, Miklošič's study of the blood feud of the Slavs is listed in the German Wikipedia: https://de.wikipedia.org/wiki/Franz_von_Miklosich (last access: 1. 10. 2019).

4 Cf. Dolenc, 1935, 113–115, 166–179; Vilfan, 1961, 131–132, 261–266, 399; Vilfan, 1996, 123, 459–463; Kambič, 2005. Contrary to Miklošič, the legal historian Sergij Vilfan understood blood feud as a legal procedure in a case from Landar (Benečija, Slavia Friulana) from 1401 (Vilfan, 1996, 457–458; Darovec, 2018, 97–114). Initially, Vilfan also interpreted the institute of devastation, i.e. the destruction of a killer's property as substitution for retaliatory homicide, as a Slovene custom (Vilfan, 1943), although this form of vengeance was quite widespread (Oman, 2018b). For modern case studies on blood feud in the Slovene historical lands in the Middle Ages and early modernity see: Oman, 2016; Oman, 2017; Darovec, 2018, 1–30, 61–96.

raphy in particular was generally only interested in the feuds of nobility important to political history,⁵ especially the fifteenth-century Cilli-Habsburg feud, and showed very little interest in the custom as such (Oman, 2018a, 94).

Just like Miklošič in the nineteenth century, regarding the social phenomenon of blood feud, Slovene academia generally continues to support the evolutionist and legal-positivist theory, which argues for the following evolutionary stages of vengeance: “free and unhindered vengeance regardless of the culprit’s guilt; limited vengeance corresponding to the gravity of the offence (the introduction of talion and individual accountability); the introduction of temporary truce; the introduction of apparent vengeance (penance) and, in the final phase, settlement (composition) with the culprit providing satisfaction by monetary payment (restitution, weregild, *vražda*)” (Kambič, 2005, 195–205).⁶

Miklošič picturesquely described vengeance as corresponding to the stage of human evolution “*resembling the childhood and adolescence of an individual*” and existing in “*uncultured peoples, who do not reason, but are completely under the control of their natural emotions*”. This was supposedly only gradually suppressed by the Church and the State, which developed the necessary civilizational framework to prevent the bloody and lawless acts of vengeance, a process that demanded “*centuries of effort*” (Miklosich, 1888, 128–138).

For Miklošič, the first stage in the evolution of the custom was the retaliatory killing of the killer or his close male relative by the victim’s close male relatives. He argued that the introduction of weregild was the next evolutionary step, claiming that in the beginning, the retaliatory killing was not viewed as serving justice, but as an injustice demanding further retaliation; it was allegedly only the exhaustion from the reciprocal retaliations that would bring about the admission of guilt and the payment of restitution. Miklošič inferred that weregild was slow to gain recognition and that only Christianity had managed to bring together the concepts of weregild, penance and forgiveness (Oman, 2018a, 94).

According to Miklošič, only when the medieval State entered peacemaking was the retaliatory killing limited to the culprit and his victim’s kin could choose between vengeance and composition payment, while the State or the court of law was entitled to a share of the weregild. The system persevered until the State was powerful enough to claim the exclusive right to the prosecution and punishment of homicide in practice as well. Until then, in its struggle to enforce public order the State had to lean on the Church and later also on Roman law. The Church

5 E.g. Valvasor, 2017 (1689), 253; Kos, 1994, 109–126; Otorepec, 1996; Štih, 1996; Mlinar, 2005, 155–166; Nared, 2002; Makuc, 2015.

6 The legal historian Metod Dolenc also mentioned a few cases of the custom in the early modern Slovene historical lands. For instance, he made the correct connection between the restitution payment for a homicide that a culprit was charged with by a winegrowers’ law court in Lower Carniola and the Montenegrin *umir krvi* (settling blood) and kinship accountability (Dolenc, 1935, 410–411), although he did not specifically regard the case in the context of blood feud (Oman, 2018a, 97). Quite a few studies have already been written on the *umir*, e.g. Medaković, 1860; Jelić, 1926; Pavković, 1977, 627–638.

could counteract vengeance with penance and the Peace of God, while the State resorted to banishment, fines, corporal and capital punishment. Miklošič claimed that asylum as a Christian invention was unknown to the pagan Germans and Slavs.⁷ According to him, the survival of blood feud was especially dictated by the kinship-based warrior society and was the result of a weak state (Miklošič, 1888, 128–138; cf. Oman, 2018a, 94–95).

However, since the mid-nineteenth century, Miklošič's claims were not reserved to Slovene researchers of (legal) social relations alone, but were shared by many in Europe and all over the world. Researchers regarded, and by large still regard, (blood) feud as just some "savage" remnant at the fringes of the "civilized" world, symbolized in nineteenth-century Europe by Albania, Corsica, Montenegro, Sardinia and Sicily. These were the backwoods, where state institutions were yet unable to firmly establish themselves. Hence, their inhabitants remained at a primitive stage of mental, social and legal evolution, a phase of humanity's path towards the Western European State and rule of law, regarded⁸ as the only logical and highest stage of social and legal organisation and development (cf. Burckhardt, 1956, 346–350, 362–363; Beyerle, 1915, 216–217; Huizinga, 2011, 9, 19, 29–30).

In this context, vengeance was (is) regarded as arbitrary and violent self-help, a necessary evil the state is forced to tolerate while its institutions are still in their early stages. Supposedly, it was the State's monopolization of law and violence in early modernity that brought about an end to a social order based on brute force. The evolutionist theory claims that simultaneously with the State's eradication of "feudal anarchy", Europe underwent a "civilizing process", which demanded the internalization of social constraints, necessary for a successful life in a modern society (Elias, 2000; 2001). Consequently, the (non-)existence of vengeance in the legal order is regarded as the signifier of the dividing lines between the "darkness" of the Middle Ages and the "progress" of the modern period (Netterstrøm, 2007; Carroll, 2007).



Fig. 2: Franc Miklošič (Franz Miklosich) in 1853 (Dauthage, Wikipedia).

7 However, banishment (from the Latin *bando*, hence banditry) for offences is a custom known to all peoples in the world (e.g. Gluckman, 1955, 15; Miller, 1990; Povolo & Darovec, 2018). The essential study on banishment and the role of *Homo sacer* in it is Agamben, 1995.

8 Evolutionist interpretations in the late nineteenth and early twentieth century were also influenced by psychology (Carroll, 2017, 25–33).

MIKLOŠIČ'S STUDY ON BLOOD FEUD

Miklošič's study on blood feud is divided into three basic chapters: 1) Introduction, which contains the definition and the description of the legal custom's key features, 2) Blood feud of the Slavs and 3) Blood feud of other Indo-European peoples, followed by an Appendix, which provides a rather large number of sources to back up the study. Breneselović recently also divided the work according to its contents: 1) Miklošič's view on the evolutionist concept of social development, 2) his view on truce (*umir*) and 3) his view on the eradication of blood feud (Breneselović, 2013, 475).

Even a basic overview of its contents shows that Miklošič's study goes well beyond its "Slavic" title. Already in the introduction (Miklosich, 1888, 127–137), Miklošič delved into the main characteristics of the custom of blood feud, from the short definition that it is "*an old custom, by which every kinsman of the victim had the right and the duty to avenge himself on the killer or his relatives by his own hand*" (Miklosich, 1888, 127), to the character and origins of blood feud, the description of the avenger(s), the causes and reasons, targets and victims as well as the goals of blood feud. Miklošič continued with a consideration on the origins of reconciliation, i.e. penance and composition (*Sühne*), as the condition for making truce or peace in a (kinship-based) community; he inferred that particularly the Church and the State contributed to conflict resolution with penance and restitution. Interestingly, he finished the introduction with the presentation of exile in the customary system of conflict resolution (*Flucht des Todtschlägers*), i.e. in blood feud. Miklošič argued that the main purpose of and reason behind the culprit's flight or banishment was psychological, to subside the indignation suffered by the injured party and, with the help of mediators, facilitate peacemaking between the feuding communities (Miklosich, 1888, 137).

Miklošič explained the aforementioned elementary characteristics of the custom of blood feud predicated on archival sources with cases from the Slavic world: Serbian, Croatian, Bulgarian, Czech, Polish and Russian. At the same time, he claimed that blood feud was unknown to the Slovenes. Furthermore, he compared the blood feud of the Slavs with German, Hungarian and Albanian sources (Miklosich, 1888, 138–167). In the third chapter, Miklošič discussed blood feud of other Indo-Europeans: Germanic peoples, Celts, Greeks, Persians, Avestan peoples, Ossetians, Armenians and the blood feud of the Romance peoples (Italians, French, Spanish, Romanians) (Miklosich, 1888, 167–176).

In the Appendix, Miklošič presented altogether 15 documents of truce- and peace-making, namely nine from Serbia as they are given in the index, although they are actually from Montenegro, two cases from Bohemia, one from Poland and three from Albania. He used the descriptions of peacemaking or reconciliation, as support for his concluding findings on the necessity for a ritual cleansing of blood loss, i.e. the loss of a kin member, in order to reach reconciliation and restore peace in a community (Miklosich, 1888, 176–204).

In the decades since its publication, Miklošič's study provided researchers of the custom with many cases for comparison. For example Edvard Westermarck (1862–1939), the renowned anthropologist, jurist, historian and sociologist, the pioneering researcher of the history of marriage (1891), cited Miklošič ten times in regard to the ten common features of the custom of blood feud (Westermarck, 1906, 32, 34, 183, 220, 267, 271, 480, 485):

1. Collective responsibility in connection with blood-revenge are found worldwide.
2. That the blood-revenge is in the first place directed against the malefactor, and against some relative of his only if he cannot be found out, is expressly stated with reference to various peoples in different parts of the world.
3. Besides the desire that the offender shall suffer and the desire that his suffering shall correspond to his guilt, there is a third factor of importance which has contributed to the substitution of punishment for revenge and to the rise of a judicial organisation. For every society it is a matter of great consequence that there should be peace between its various members.
4. Distinction made between intentional or foreseen injuries on the one hand, and unintentional and unforeseen injuries on the other.
5. A special ceremony by which the family of the deceased grant pardon to the involuntary manslayer, but the pardon must be given unanimously. The manslayer then becomes a member of the *kharuba*, or gens, of the deceased.
6. According to early custom, children who have committed an injury are sometimes, but not always, subject to the rule of retaliation.
7. However, accidental injuries had to be paid for.
8. Practice seems to be a method of getting rid of a dangerous individual, also mad people are subject to the rule of blood-revenge, rather than a penalty in the proper sense of the word.
9. Blood-revenge is regarded not only as a right, but as a duty. A moral obligation, a matter of conscience, for a son, a brother, or a nephew, to avenge the death of his relative – because of the Community. The idea is that blood-revenge is a sacred duty incumbent on the kindred of the deceased.
10. Compensation.

Compensation, moreover, has the advantage of saving the injured party the dangers involved in a blood-feud, the uncertainty of the issue, and the serious consequences which may result from the accomplished act of revenge. Whilst the carrying out of the principle of "life for life" often leads to protracted hostilities between the parties, compensation has a tendency to bring about a durable peace. For this reason it is to the interest of society at large to encourage the latter practice; and this encouragement naturally adds to its attractions. By giving presents to the relatives of his victim, the offender not only repairs the loss which he has inflicted upon them, but also appeases their wounded feelings. The pleasure of gain tends to suppress their passion, and the loss and humiliation which the adversary suffers by the gift

exercise a healing influence on their resentment. Sometimes the present is chiefly intended to serve as an apology. Among the Iroquois, according to Mr Morgan, the white wampum which the murderer sent to the family of his victim, and which, if accepted, for ever wiped out the memory of his deed, “was not in the nature of a compensation for the life of the deceased, but of a regretful confession of the crime, with a petition for forgiveness.” (Westermarck, 1906, 485).

Notwithstanding the above quote, both Westermarck and Miklošič gave too little emphasis on (community) mediation in the customary system of conflict resolution. Another aspect worth highlighting in regard to blood feud, which both authors barely considered, is the community territory, which is at the forefront of customary conflict resolution. The community's honour demands the defence of its territory, regardless if the community is a family, brotherhood, clan, tribe, state, etc.

It is precisely from these two perspectives, namely mediation and community territory, that I wish to present the issue of the custom of blood feud through Miklošič's work or, rather, explain why these two essential components of the custom were marginalized in the second half of the nineteenth and in early twentieth century in discussions of the most important social relations: the system of conflict resolution.

However, Miklošič was well aware that the use of violence in the custom was limited and that community mediation was essential to making peace between the feuding parties, along with negotiations, diplomacy, arbitration and a public ceremony, which included due humility (penance) by the culprit and the forgiveness of the transgression by the injured party. He also understood the importance of involving the public in the making of godfatherhood and blood brotherhood. Yet Miklošič interpreted the rituals of peacemaking as predicated on the Christian concept of penance, similarly to Paul Frauenstädt (1881), whose work he was familiar with and largely acknowledged (Miklosich, 1888, 132, 202–203; Oman, 2018a, 95).

Reading Miklošič's study, one has to consider its time of origin and the circumstances in which Miklošič lived and worked. Hence, Breneselović's critical opinion of Miklošič is correct in the assessment that Miklošič fully embraced the evolutionist and legal positivist interpretations. According to them, social relations were at first dominated by uncontrolled blood feud, which only gradually, due to the consequences of long-term retaliatory killings, led to the realisation that conflicts in a society must be resolved peacefully. In Miklošič's view, making truce and peace between feuding parties was just a substitution for blood feud and developed according to the evolution of social (legal) relations; he did not view peace as the essential socially accepted concept of conflict resolution of premodern societies. According to these evolutionist views, the process of substituting violence with peace had only begun with modern criminal law. Thus, in line with the spirit of his time, Miklošič argued for the evolutionist thesis, although the

many documents he published and interpreted in his own study point to the contrary: homicide was always a transgression, peace was always the rule and blood feud an accepted social system, which helped to ensure peace and the social equilibrium (cf. Breneselović, 2013, 474).⁹

It is precisely because of Miklošič's inconsistency that he deserves a more detailed presentation, which will enable us to understand his interests in studying blood feud. This social phenomenon did not preoccupy only a few scholars; the interest in blood feud was part of the general social processes of Miklošič's era. Actually, the central questions are, why did Miklošič pursue this research in the first place and, more importantly, why did he take up the evolutionist and positivist standpoint towards blood feud, a negative attitude towards tribal (kinship-based) community, and why did he claim that the Slovenes were basically the only Slavs who did not know of blood feud in his time?



Fig. 3: Edvard Westermarck (Wikipedia).

THE BLOOD FEUD OF THE SLOVENES

One of Miklošič's claims in particular attracted quite some attention, namely that historical sources attested to the existence of blood feud among all Slavs, with the exception of the Slovenes and other Slavs who had very early come under German rule; he was probably thinking of Polabian Slavs and Sorbs. Therefore, he argued that blood feud was once known to the Slovenes, but then under German rule their kinship-based social organisation, regarded by Miklošič as the prerequisite for the existence of blood feud, had weakened and dissolved (Miklosich, 1888, 162).¹⁰

Of course, his thesis on the disappearance of blood feud among the Slovenes can be easily refuted. It is surprising that he even made the claim, since he cited a

9 A similar incompatibility between theses and sources also applies to Otto Brunner, the pioneer of modern German research on the feuds of nobility, as has been noted i.a. by Christine Reinle (2003) and Monika Mommertz (2003). Although Brunner admitted that the "primitive" blood feud was legitimate for all social orders in the Middle Ages and even in early modernity, he nonetheless simultaneously denied any legitimacy to feuds (*Fehden*) of the peasantry while citing documents to the contrary (Brunner, 1990, 50, 62–66). This dichotomy was also a result of Brunner's anti-liberal and anti-modernist ideology (Netterstrøm, 2007, 22; cf. Oman, 2018a, 37–39).

10 „Es ist im Vorstehenden von der Blutrache bei den Serben, Kroaten, Bulgaren, Čechen, Polen und Russen gehandelt worden, und die Reihe käme nun an die Slovenen und überhaupt diejenigen Slaven, die früh unter die Herrschaft der Deutschen geriethen.“ (Miklosich, 1888, 162).

stipulation of the Carniolan Provincial Court Ordinance from 1535, which allowed for peace to be made between a killer and his victim's family, provided the court was included in the settlement (Miklosich, 1888, 167).¹¹ Did Miklošič include the document in the chapter on the blood feud of the Germans, even though Carniola was predominantly Slovene-speaking, in an attempt to portray the Slovenes as more "civilized" than the Germans (Oman, 2018a, 96)? Or did he intend to additionally contribute to the formation of the Slovene nation by claiming that the social law of kin groups does not apply to nations?

Interestingly, already in 1889, this thesis by Miklošič preoccupied the Italian psychologist Paolo Mantegazza, who had been following his work (Mantegazza, 1887, 380; 1889). It is in reference to Mantegazza that Breneselović states that Miklošič's standpoint on vengeance was affected by two facts in particular: he was a (nationally professed) Slovene and an Austrian state official loyal to the monarchy.¹² Breneselović adds that the broader scientific public of Miklošič's time regarded blood feud in particular as the dividing line between "savage and civilized peoples" (Breneselović, 2013, 483).

This belief was essential to Miklošič's conclusions on blood feud. Particularly to his interpretation that it was the introduction of Roman law that brought an end to the legality of blood feud, and which the Habsburg princes implemented more successfully in the Slovene and Austrian historical lands than the princes in the rest of the Holy Roman Empire (Miklosich, 1888, 162–163). According to Miklošič, since Roman law already forbade blood feud (incorrect: talion!), some Romance peoples must have adopted the custom from the nearby Germanic peoples, the Greeks from the Slavs (Miklosich, 1888, 171, 168), while the Serbs were influenced by the neighbouring Montenegrins, who frequently mixed with Albanians (Miklosich, 1888, 138).

Miklošič further cemented his standpoint with certain new starting points, interpretations and conclusions. However, the essential difference between his and other studies on the custom at the time and for many decades thereafter, are the many comparisons between the blood feud of the Slavs and the custom in other Indo-European worlds, and particularly the publication of documents, which contrary to established notions confirm that the legal custom of blood feud was a universal, socially accepted system of conflict resolution. Today, a lot more is known about this than in Miklošič's time, thanks to the spread of worldwide ethnographic and anthropological research (e.g. Evans-Pritchard, 1940; Radcliffe-Brown, 1952; Gluckman, 1955; Malinowski, 1959; Weir, 2007), which provides excellent documents for suitable comparative studies predicated on both quantitative and qualitative data.

11 For the medieval codification of the custom of vengeance in statutory law and the adaptation of the custom in early modern criminal law in the Slovene and Austrian historical lands see: Oman, 2017; cf. Kambič, 2017.

12 »[T]a oznaka Mantegazze bi se mogla odnositi na Miklošičevo slovenačko narodnost, ali isto tako i na Miklošičevo avstrijsku službu i njegovo posvećenost Austriji« (Breneselović, 2013, 483).

Vengeance is a social concept, legal custom and law. We could say that it is the essence of an individual's and of a community's identity, predicated on their honour in defending the community's territory. However, Miklošič's claim that the custom of blood feud could only have operated in tribal and other kinship-based communities is correct, as they form the basis of an autonomous judicial system, which was in opposition to the aspirations of the modern State and its aims to directly control the whole of its territory.

The control of a territory was and remains essential to the operation of a community, especially of national communities. Therefore, blood feud should be interpreted in this regard as well: as long as communities controlled smaller territories, the customary system of conflict resolution remained in use and an individual's honour was subordinate to the honour of his or her (familial) community. Thus, the custom allowed for the so-called devastation of a culprit's community as retribution for an injury, especially as retaliation for damages. However, with the establishment of the jurisdiction of state institutions since the end of the Middle Ages, the legal-customary authority of local communities clashed with the enforcement of the Ruler's (State) authority. An illustrative example are the measures of the Holy Roman Emperor Maximilian I of Habsburg, who at the end of the fifteenth century commissioned the help of experts in Roman law. With their help Maximilian passed many decrees wherewith he reorganised and centralised the operation of judicial authorities, thereby stripping the local communities' of their authority in conflict resolution. The Ruler and his or her institutions became the chief arbiter. The consequence of these measures was probably best shown by Michel Foucault in his work *Discipline and Punishment*.¹³

In Europe, this process has been enforced from the end of the Middle Ages and led to an expansion of the communities' social and identity belonging: from tribes and kinship-centred communities to nations. According to Miklošič, nations had no need for the protection of their kin groups, but a need for a state (of law!) as the alleged pinnacle of civilization. Thus, Miklošič *de facto* emphasized that the Slovenes were a nation, which had long ago abandoned the kinship-based or tribal social organization and, consequently, blood feud.

In the second half of the nineteenth century, some communities wanted to express their right to a national existence particularly by suppressing blood feud, e.g. in Montenegro. Montenegro is directly connected to the topic of this paper, since Miklošič studied the languages and customs of the Montenegrin and Albanian territories in detail and devoted the most space to them in his study on blood feud, both in his interpretations and in the number of published sources in the Appendix, where it becomes clear that Miklošič's main collaborator was none other than Valtazar Bogišić.

13 The role of the ruler and the essence of public executions are very explicitly shown in the first chapter of Foucault's study (1995, 3–31). For the Republic of Venice see: Povolo, 2015.

FRANC MIKLOŠIČ AND VALTAZAR BOGIŠIČ

In the almost four decades of Miklošič's professorship, many important intellectuals studied under him, including many Slovenes (i.a. Janez Trdina, Matija Valjavec, Maks Pleteršnik, Karel Šrekelj, Franc Kos, Matija Murko). Among the others from different parts of the Slavic and non-Slavic worlds perhaps the most notable was Vatroslav Jagić, who was also the first to write about Miklošič's *Blutrache* (Jagić, 1887, 626–631).

Apart from the fact that Miklošič was foremost a philosopher and jurist by education, it is of great importance to this paper that in the early 1850s one of his students was Valtazar, or Baltazar, Bogišić, born in Cavtat (1834–1908). Miklošič convinced him to study law and undoubtedly to start collecting legal cultural heritage as well, much like Miklošič's mentor Jernej Kopitar persuaded Vuk Stefanović Karadžić to start collecting folk literature (Breneselović, 2013, 485). Bogišić acquired his greatest renown from his study of Montenegrin legal customs, which he incorporated, according to the views of his times and with a substantial dose of political wisdom, into the Montenegrin General Property Code.¹⁴ Like Miklošič, Bogišić also had PhDs in both philosophy and law, but is regarded foremost as a legal historian, ethnographer and a pioneer in the sociology of law and judicature.

The story behind the Montenegrin General Property Code is quite interesting. After acquiring a cathedra at the University of Odessa in 1869, where he was lecturing and researching (e.g. legal customs in the Caucasus), in 1873 Bogišić was summoned by the Russian Tsar Alexander II to produce a modern civil law code for Montenegro (*Opšti imovinski zakonik za Knjaževinu Crnu Goru*), as had been agreed between the Tsar and the Montenegrin Prince Nikola I Petrović-Njegoš. To this purpose the Tsar provided Bogišić with a research stipend and financed the project until 1888, when the law code came into effect. From 1893 to 1899, Bogišić then served as the Montenegrin Minister of Justice.

In order to produce the General Property Code, Bogišić conducted field and literature research for fifteen years. He made contact with experts in the fields of law, ethnography, linguistics, historiography and many others, especially in Paris, Vienna, Saint Petersburg and elsewhere, as is attested by his many works, of which



Fig. 4: Valtazar Bogišić (from the collection of HAZU Cavtat).

¹⁴ There is a lot of literature on Bogišić, just a few examples with further references are: Luković, 2009; Čepulo, 2010; Rašović, 2016; Tepavčević, 2018.

the most important for this paper is his survey on blood feud from 1873–4 (Bogišić, 1999).¹⁵

When his concept of the civil law code was accepted in 1875, Bogišić called upon philologists to help him answer some terminological questions regarding customary law. Many South Slavic philologists, who were well versed in folk customs, answered the call, including Franc Miklošič (Luković, 2009, 448).

Even though Bogišić's project lasted for fifteen years, it garnered a lot of interest in the European public of the time and was also noticed in the Slovene lands. It not only encouraged many individuals to start collecting Slovene legal cultural heritage (Polec, 1945) according to his instructions (Bogišić, 1867), his work was also reported on in specialised journals of the time.

Particularly interesting is the report by Aleksander Hudovernik (1861–1931), a Slovene jurist, translator and patriot, who had, at the young age of twenty-one, written on the juridical conditions in Montenegro in the journal *Slovenski pravnik*:

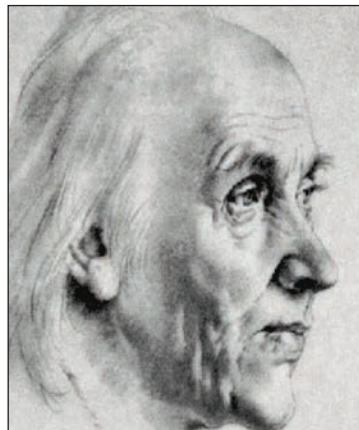


Fig. 5: Jernej Kopitar (1780–1844) (Wikipedia).

“Now the conditions in Montenegro have changed. In recent years, Montenegro has rapidly progressed, expanded its borders and gained new subjects. Thus, it is only natural that Danilo's Code is not enough anymore, since it barely considers private law. Therefore, Prince Nikita asked the Russian government to allow the Russian university professor Baltazar Bogišić to leave in order to produce a new law code for Montenegro. The Russian government met the request and Bogišić is now living in Dubrovnik, where he is putting together the new law code. Bogišić's very name guarantees that this law code will be perfect in every way and will take private law into greater consideration than all the previous Montenegrin law codes. Hence, the courageous Montenegrin people will shortly acquire a law code of which they can be rightly proud of!” (Hudovernik, 1882a, 87).¹⁶

15 Bogišić's informers were high military officers and civil servants, well versed in customary law: *Vojvoda Djuro Matanović*, Senator Jole Piletić, Senator Vido Bošković, *Vojvoda Djuro Cerović* and *Vojvoda Marko Miljanov*. His informer on ecclesiastical matters was Archimandrite Visarion Ljubiša (Luković, 2009, 448).

16 »Sedaj so se razmere v Črnogori predrugačile. Črnogora je v zadnjih letih jako napredovala, svoje meje razširila je ter pridobila nove podložnike. Naravno je tedaj, da jim ne zadostuje več Danilov zakonik, ki se tako malo ozira na privatno pravo. Naprosil je za tega delj knez Nikita rusko vlado, naj dovoli ruskemu vseučiliškemu profesorju Baltazarju Bogišiću odpust, da izdela nov zakonik za Črnogoro. Ruska vlada je ustregla tej želji in Bogišić biva sedaj v Dubrovniku, kjer sestavlja nov zakonik. Že ime Bogišićevo nam jamči, da bo ta zakonik po vsem popoln, in se bo bolj oziral na privatno pravo, kakor vsi prejšnji zakoniki Črnogorski. Hrabri črnogorski narod bo dobil tedaj v kratkem zakonik, na katerega bo lahko po vsej pravi ponosen!« (Hudovernik, 1882a, 87).



Fig. 6: Aleksander Hudovernik (Wikipedia).

In one of his later articles, Hudovernik admired Bogišić's instructions:

"The Yugoslav Academy of Sciences and Art has published his instructions in 4,000 copies and distributed them to Croats, Serbs and Bulgarians. Legal customs were recorded by priests, teachers and students. A lot of material was collected. In 1874, with the help of the Yugoslav Academy, Bogišić published the book 'Collection of the Legal Customs of the South Slavs'. The book is of large format and 45 printed sheets long. One is saddened when one sees that the book, which is of such great worth to the cultural history of the South Slavs, almost nowhere mentions Slovene legal customs. What has been missed then, must be done now." (Hudovernik, 1882b, 151–152).¹⁷

A month later, this commentary was followed by the so-called Hudovernik's questionnaire (Hudovernik, 1882c, 170–182), which was, as it omitted many of Bogišić's questions, criticized by Janko Babnik in the first more extensive paper on Slovene legal history (1883): "[w]hile I would wish that these questions were dealt with more accordingly – as is possible since Bogišić's Collection – good results are to be expected even from them – should enough collectors be found."

How the Slovene legal professionals of the time followed Bogišić's actions is best testified precisely by Babnik's cited work, wherein Bogišić is often held up as an example. Regarding field work, Babnik continued:

"We should not be frightened of the objection that there is no more old national law in the nation; that this is unfounded can be ascertained by anyone who observes thoroughly. Bogišić writes in his Collection [approach XV, note 2]: 'a few years ago, spending some time in Austria above the Enns, where all peasants were true Germans, I inquired about and recorded a few legal customs, mostly regarding family, which are certainly not irrelevant for science. It is

17 »Jugoslovanska akademija znanosti in umjetnosti izdala je njega navod v 4000 iztisih ter ga razdelila med Hrvate, Srbe in Bulgare. Zapisovali pa so pravne običaje duhovniki, učitelji in dijaki. Nabralo se je ogromno gradivo. L. 1874. izdal je Bogišić s pomočjo jugoslovanske akademije knjigo: 'Zbornik sadašnjih pravnih običaja u južnih Slovena.' Ta knjiga obsega 45 tiskanih pol v velikem formatu. Milo se stori človeku, ko vidi, da se v tej knjigi, ki je tako važna za kulturno zgodovino južnih Slovanov, tako malo ali tako rekoč nič ne omenja pravnih običajev slovenskih. Kar smo zamudili, moramo sedaj storiti.« (Hudovernik, 1882b, 151–152).

strange that learned Germans are ignoring this! Perhaps this can be explained by some irresistible affection of a learned German, especially a jurist, to regard the world exclusively through the written word.” (Babnik, 1883, 95).¹⁸

Undoubtedly, it was under Bogišić’s influence that Miklošič put special emphasis on Montenegro in his study of blood feud. For the study of legal adaptations and changes of the custom, the following paragraphs from Danilo’s Code from 1855, which Miklošič listed and admired, are worthy of our attention:

§ 27 To keep the peace and prosperity and the unity of the nation and for there to be no reciprocal blood-letting; the criminal, either Montenegrin or Highlander, who without prior injustice or in emergency, but by violence and wickedness kills his Montenegrin or Highlander brother, such a killer cannot redeem himself with any kind of goods, but, if he is caught, has to be blown up by rifle-fire.

§ 28 Should a killer flee this country a part of his house and inheritance and of everything that is his has to be fined by the state and the money deposited in the national treasury.

§ 29 Such a killer and enemy of the state and a murderer can never return to our country. Whichever Montenegrin or Highlander should welcome this criminal or defend him or hide him and not apprehend him, when he knows of and understands the crime and what he did, such a man will be persecuted and punished just like the killer himself, should his companion and defender show up. In this way, wicked people not having a defender will have no power to do evil as they have learned to, while the defenders will not defend a criminal, when they have to pay and be held accountable by the court for him.



Fig. 7: Janko Babnik (1861–1927) (Ilustrirani Slovenec 36, 5. 9. 1926).

18 »[A]koravno bi bil želel, da se ta prašanja bolje uredi – po Bogišičevem zborniku je to zdaj že lahko – vender se je tudi od njih – ako se le najdejo mnogi nabiratelji – nadejati lepih rezultatov. [...] Ugovor, da ga med narodom ni več starega narodnega prava, ne sme nas strašiti; da je brez podlage, o tem so lahko prepričani vsakdo, ki pazljivo opazuje. Bogišić piše v Zborniku [pristup XV, op. 2] 'Ja sam pred nekoliko godina, provedši neko vrijeme u Austriji nad Emsom [sic], gdje su svikolici seljaci ovejani Nijemci, sam raspitao i zapisao nekoliko pravnih običaja, najviše tičućih se obitelji, koji nikako nijesu bez značenja za nauku. Čudnovato je, da učeni Nijemci to zanemaruju! To se može valjda objasniti, nekom neodoljivom naklonostju učenoga Nijemca, osobito pravnika, motriti svijet gotovo isključivo kroza pismenost!« (Babnik, 1883, 95).

§ 30 *This culprit and likewise his defender, should he ever and wherever be caught or killed, the distant-most Montenegrin or Highlander can kill just like those, whose brother he killed, namely one [actual brother] can be beat up instead of the other [culprit], but cannot pay [composition or be killed] instead of the culprit.*

§ 39 *Since Montenegrins and Highlanders have the custom to avenge themselves not only on the culprit and the murderer, but also on his actual brother, such vengeance is forthwith forbidden and the one to kill the actual person [brother] will be sentenced to death. Only the murderer, who is also pursued by the court, can be killed, but not his brother or twin or kin, who have nothing to do with it [the killing]; only the one who has done evil has to pay with his head [life], none other.* (Miklosich, 1888, 149).¹⁹

These paragraphs make one think about how Miklošič's study was published just before Bogišić's General Property Code of Montenegro came into effect, a law code that was envisioned as a law for the once "savage" and now modern people or a nation-in-the-making, wanting to join the other European communities.

THE CUSTOMARY RITUAL OF PEACEMAKING

By striving to eradicate blood feud, Miklošič actually presented the characteristics of the premodern (pre-state) civilizational system of conflict resolution.

Recent research has established that it is essential to understand the custom as a social relationship, interwoven with everything that constitutes society: familial, economic, legal (including the court process) and political relationships as well as the social hierarchy inherent in all of them, whether it is predicated on agnatic or feudal connections or is determined by martial or other concepts of honour. As such, blood feud is part of a broader system of social relationships, specifically

19 §. 27. *Da bi se mir i poredak i jedinstvo u narodu održalo i da nema međusobnog krvoprolića, za onoga zločinca, bio Crnogorac ili Brđjanin, koji bez krivice i bez nužde, već od sile i opačine ubije brata Crnogorca ili Brđjanina, takovi ubojica ne može se nikakvim blagom odkupiti, već ako se uhvati, da bude ognjem iz pušaka raznešen.* §. 28. *Ako li bi ubojica iz ove zemlje utekao, to se ima dio njegov od kuće i od baštine i od svega, što na njegov dio dohodi, uzeti za zemaljsku globu i sve novce od ove globe položiti u zemaljsku kasu.* §. 29. *Takovi ubojica i zemaljski neprijatelj i krvnik da nigda u našoj zemlji povratka imati ne može. Koji li bi Crnogorac ili Brđjanin toga zločinca primio ili branio ili tajio i ne uhvatio, pošto čuje i razumije zločinstvo, što je učinio, takovoga jednako čerati i kastigati kako i samog ubojicu, budući se njegov drug i branitelj pokazao. Ovakovim načinom zli ljudi, ne imajući branitelja, neće imati snage zlo činiti, kako su se naučili, a branitelji neće zločinca braniti, kada za njih stanu plaćati i sudu odgovarati.* §. 30. *Ovi rukostavnik a isto tako i branitelj njegov, ako bi se ikad i u kojem drago mjestu uhvatiti ili ubiti mogao, to da ga najkrajnji Crnogorac ili Brđjanin jednako ubiti može, koliko i oni, kojemu je on brata ubio, i tako da se prebije jedan za drugoga, a pravi da ne može mjesto krivca plaćati.* §. 39. *Kako Crnogorci i Brđjani imadu običaj činiti osvetu ne samo na krivcu i na krvniku, već i na pravom bratu njegovom, to se takova osveta po danas strogo zabranjuje, i koji bi pravog čoeaka ubio, biće osuđen na smrt. Samo krvnika, koega i sam sud goni, može ubiti, ali brata ili blizjaku ili svojtu krvnika, koji u tome ništa krivi nijesu, ne smije, već neka samo oni glavom plaća, koji e zlo učinio, a drugi niko.* (Miklosich, 1888, 149).



Fig. 8: Monument to Miklošič in Ljubljana (Foto: D. Darovec, 2019).

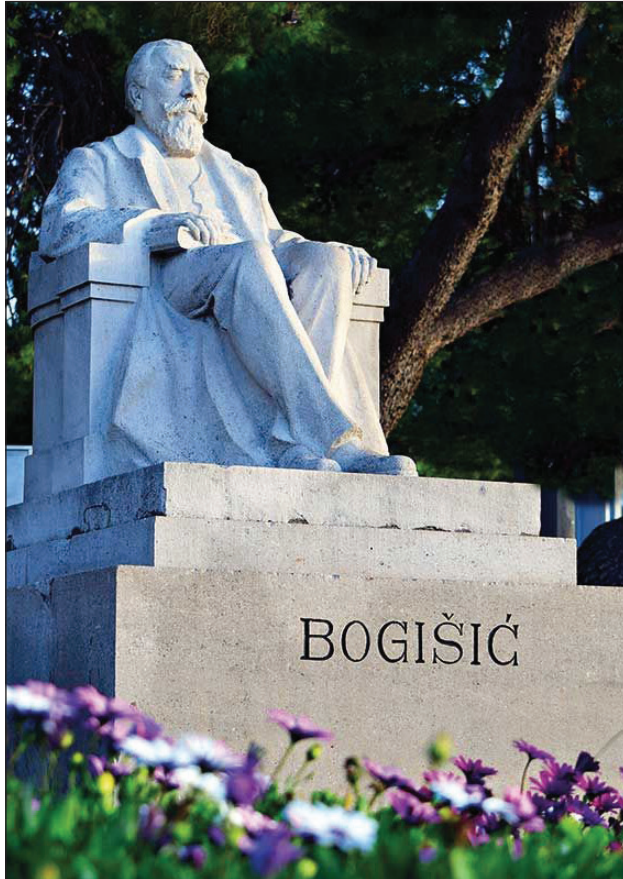


Fig. 9: Monument to Bogišić in Cavtat (Wikipedia).

those that pertain to conflict resolution. The basic characteristics of the custom have been found to be reciprocity, the culture of honour, community mediation, limited violence and a tendency to peace, while the main help in looking for blood feud in archival or folk sources is to look for the language of enmity and peace, which expresses the listed social relations (Oman, 2018a, 100).

Within the social sphere the aforementioned relations were organised through rituals and social (public) ceremonies. By comparing the documents published by Miklošič with a few others from the broader geographic and cultural area, we will now attempt to present a reconstruction of the rituals of the customary conflict resolution.

First, it has to be emphasized that most researchers of medieval and modern rituals are practically unanimous in their claim that rituals cannot be easily de-

finied.²⁰ Aside from that, medieval and early modern sources contain only a few scattered interpretations of symbolic rituals and only a few detailed descriptions of rituals as such. Therefore, a comparative approach in analyzing the ritual of conflict resolution is essential: the pieces of the puzzle have to be included in the general social context and the functioning of the institutions, our knowledge of the period, its customs, mentalities and, of course, turning points. It is not only religious ceremonies, which are marked by rituals; the rite or ritual is part of some normative act or the normative act itself. Ritual is a socially agreed upon, understood and accepted behaviour, it is always the acknowledgement or confirmation of a certain social role, whether religious or profane (cf. Durkheim, 1995; Gluckman, 1962). After all, we can just think how many various rituals modern society has to deal with (Grimes, 2006).

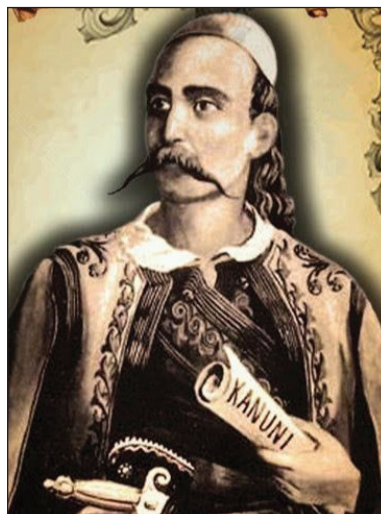


Fig. 10: Lekë III Dukagjini (1410–1481) (Wikipedia).

Predicated on an interdisciplinary anthropological study and archival documents, collected oral literature and other documentary materials, we can reconstruct the rituals of peacemaking in blood feud, as they are attested in sources from Southeast Europe. Since the custom of blood feud has persevered the longest among the Montenegrins and Albanians, as has been proven by rather numerous studies,²¹ we can compare the records on their peacemaking with the fragments of many European medieval and early modern cases. In order to be able to “read” rituals more easily it is certainly very important to know how their internal structure works. Perhaps it is unsurprising that the rituals of peacemaking in blood feud followed the basic three-phase structure of public rituals, which was, for example, vividly described by Le Goff (1985, 383–461) in the case of knightly investiture²²: 1. *homagium* (gift / counter-gift, insult / counter-insult, compromise; gestures: *immixtio manuum*,

20 In recent years, many cogent studies on medieval rituals were made in the circle of Gerd Althoff (2003), who collaborated on many monographs, particularly with German and American researchers in the field, which makes their publications an extraordinary source of pertaining literature. I would also like to point out the work by Edward Muir (2005), containing a further collection of especially American literature on the study of ritual, as well as the monograph edited by Sean Wilentz (1999).

21 The most referential for this paper is the work by Christopher Boehm (1984, 253–258), which in its detailed analysis presents most of the appropriate literature on blood feud, which was available at the time, not only for Montenegro and Albania, but for other parts of the world as well. The latest studies with a lot of listed literature are: Povolto, 2015; Ergaver, 2017.

22 Cf. other useful information and links to sources: »*Ritus cum fide et homagio elementa dua inseparabiles praebet, investitura logice subsequens est*« (<https://la.wikipedia.org/wiki/Homagium>, last access: 1. 10. 2019).

flexibus genibus), 2. *fides* (fidelity, truce, friendship; gesture: oath on holy relics) and 3. *pax perpetua* – lasting peace (love, marriage, offspring; gesture: the kiss of peace – *osculo pacis*).²³

The collection of the sources of oral legal traditions had, in almost all European countries, begun in the second half of the nineteenth-century. For the South Slavic lands, they have been preserved particularly in Bogišić's collections. He collected testimonies on blood feud from Montenegrin, Herzegovinian and Albanian informers (Bogišić, 1999). Another important comparative source is certainly the Kanun of Lekë Dukagjini for Albanian customs, which was recorded in writing at the end of the nineteenth century, but published only in 1933 (Gjeçovi, 1933; cf. Ergaver, 2016; Kola, 2017).

Although Andrej Hudovernik was enthusiastic about Bogišić's example (Hudovernik, 1882; Polec, 1945; Vilfan, 1996, 86), in 1882 in the Slovene historical lands, the highest response rate to his questionnaire were collected by Gašper Križnik from Motnik for his home area: 150 answers to Bogišić's 352 questions (Bogišić, 1867). Križnik sent the answers to Bogišić, from whose legacy they were published by Janko Polec in 1945. Quite a few elements of customary conflict resolution can be found among the answers to questions regarding court procedure and criminal law (Polec, 1945, 197–208). Thus, in the nineteenth-century Slovene historical lands, the institution of 'good people' (*boni homines*), whose purpose was to settle quarrels that demanded vengeance (*osveta*), was still known at the local level. The original word for feud was also still in use: enmity²⁴ (*sovraštvo*). Since the description of peacemaking is very interesting, I am providing it in full:

295. *How does one settle a quarrel, which demands vengeance?*²⁵

If someone was insulted with curse words, hit or beat up or otherwise deliberately severely injured, usually he will not sue the offender in court, but promise him that he will get even. Their friends will strive to settle the quarrel to prevent further fights. They lure them to a tavern and begin to settle their enmity. The one who has insulted his friend has to make a toast to the offended, who accepts and drinks and makes a toast to the offender. Then they toast again and knock the cups together (some exchange them). When they drink up, they toast with

23 For a description of the ritual of peacemaking, predicated on the documents collected and published by Miklošič on Montenegro in *Blutrache* (1888, 176–194), see my work *Vendetta in Koper 1686* (2018, 52–58).

24 *Edictum Rothari*, a collection of Lombard law from the seventh century states: *faida hoc est inimicitia* (MGH, LL 4/I, 45., 20). For settling conflicts in taverns see e.g. Čeč, 2011, 706; Rampanelli, 2017, 305.

25 In Bogišić's questionnaire this is question no. 294 (Bogišić, 1867, 13). Unfortunately, it remained unanswered in Križnik's submission: "Do you know of such crimes for which vengeance is customary? Which are they, how and who executes it?" An answer might have explained the custom among the Slovenes in more detail. However, the answer to question no. 295 refutes the supposition that perhaps the answer to no. 294 was omitted because of the non-existence of the custom of vengeance among the Slovenes at the end of the nineteenth century. Rather, the omission seems more like self-censorship on the part of the interviewer.

the bottom of their cups and shake hands as friends and forgive each other everything that has transpired between them and never think of the matter again (Polec, 1945, 200).²⁶

CONCLUSION

Despite the stereotypical image of blood feud as an irrational and emotionally uncontrolled and uncivilized bloodthirsty act, since the end of the nineteenth century, some thorough anthropological and historiographic studies have shown that the phenomenon is a primal system of social sanctions, characteristic for early societies or the so-called pre-literate societies or tribal communities (cf. Westermarck, 1906, 74–99; Frauenstädt, 1881; Darovec, 2018). The studies by anthropologist Max Gluckman, *Peace in the Feud* (1955, 1–26), and *The Bloodfeud of the Franks* by historian J. M. Wallace Hadrill (1959), remain especially referential for many historiographic studies of peace and vengeance. In his study of the Nuer people, Gluckman emphasized that vengeance, as the custom of the system of conflict resolution, had the key function in maintaining peace and social equilibrium in societies with high levels of conflict. It enabled them to intervene in conflicts at any time and bring about a peace settlement – the key element of conflict resolution was community intervention. Hence, the custom of vengeance acted as a system of social control, which prevented the escalation of conflicts into violence or restricted it when it broke out. The essential element of peacemaking, especially in blood feud, was marriage, which united the feuding parties into kin. Gluckman suggested that historians should apply his findings to European medieval societies. The first to confirm his findings was Wallace-Hadrill for the Merovingian period. However, already in 1939 the historian Marc Bloch compared the medieval feud with the custom of vengeance in tribal societies outside Europe and emphasized the close link between conflict resolution and kinship solidarity. Bloch suggested to historians that in order to understand European medieval society it is essential to study conflict resolution (Bloch, 1961).²⁷

26 295. *Kako se umiri razprtija za katero velja osveta? Ako je kdo koga kaj razžalil s psovalnimi besedami, ga je udaril ali pretepel ali na drug način nalašč močno poškodoval, ga za to navadno ne gre k sodnji tožiti, mu le obljubi, da mu bo vrnil. Da ni hujših tepežnih nasledkov, si prizadevajo prijatelji obeh, da bi jima razprtijo poravnali. Zvabijo jih v gostilno in tukaj začno poravnavati sovraštvo. Ta, ki je tovariša razžalil, mora napiti razžaljenca, ta mu odzdravi in to pije, potem razžaljeni temu napije. Potlej si še napijeta in trčita s kupicami (nekateri jih tudi menjajo). Ko jih izpijeta, še z dnem kupic potrkata in si v roke sežeta, da sta si prijatelja in da odpustita vse drug drugemu, da te reči ne bosta imela več v mislih* (Polec, 1945, 200).

27 “The Middle Ages, from beginning to end, and particularly the feudal era, lived under the sign of private vengeance. The onus, of course, lay above all on the wronged individual; vengeance was imposed on him as the most sacred of duties [...]. The solitary individual, however, could do but little. Moreover, it was most commonly a death that had to be avenged. In this case the family group went into action and the faide (feud) came into being, to use the old Germanic word which spread little by little through the whole of Europe-- ‘the vengeance of the kinsmen which we call faida’, as a German canonist expressed it. No moral obligation seemed more sacred than this [...]. The whole kindred, therefore, placed as a rule under the command of a chieftain, took up arms to punish the murder of one of its members or merely a wrong that he had suffered.” (Bloch, 1961, 125–126).

Social sanctions as part of law and social control were closely connected to the political, religious, economic and cultural social organisation in every society, as well as with the system of values and moral obligations. Hence, we could hardly use the modern division between criminal and civil law for pre-literate or tribal societies. The ruler (chieftain, duke, king, emperor) had to sanction offences like incest, witchcraft, blasphemy (against both gods and rulers) and oath-breaking. If they did not affect the ruler, various damages to or destruction of property, arson, theft, robbery and homicide were sanctioned by the community, mostly by its appointed members or, with the community's consensus, by the affected individuals themselves, if offences infringed on rights established on the common principle that every person who has suffered damages has the right to satisfaction, which has to be proportional to the damages (*lex talionis*) (Radcliffe-Brown, 1952, 212, 213, 218, 219). These were retaliatory acts or sanctions, an institution of organized and regulated vengeance in a society, in which acts of vengeance were socially accepted, controlled and limited.

In many pre-literate societies, the homicide victim's kith and kin had the right and obligation to obtain satisfaction with the retaliatory killing of the culprit or a member of his kin group, e.g. the killer's brother or any respected or physically strong member of his clan; the retaliatory killing of children or old men and especially of women was regarded as dishonourable (Boehm, 1984, 58, 112, 117, 143). When such satisfaction is obtained, no further animosity against the offending party is allowed, while the killer's kin has to accept the action as an act of justice and renounce any further retaliatory measures.

A widespread form of such satisfaction was the payment of damages, including for homicide, which was regulated with ritual and religious sanctions. As has been noted by Radcliffe-Brown (1952, 213): "*Ritual 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*" or at least to neutralize it with socially ascribed or accepted procedures like ceremonial purification, sacrifice, penance, confession and contrition, which are expressed with gestures of (self-)humiliation. During their conflict, both sides were in the state of ritual enmity or quarrel until it was settled and they were enjoined in a peace ceremony. The negotiations were led by mediators (Radcliffe-Brown, 1952, 205–219).

Hence, conflict resolution, like all social relations, was dictated by the universal concept of their management: the principle of exchange (cf. Mauss, 1996; Lévi-Strauss, 1969, 60–68, 480–483). Interestingly, in some languages, including Slovene, the word for exchange is closely related to the word for vengeance (Lévi-Strauss, 1969, 60; Snoj, 1997, 327). Therefore, in the process of blood-settlement, composition and retaliation, or the exchange of blood for blood and life for life, there are ritual marriages as gifts of women, who by giving birth to new life compensate for the life lost. Thus, adultery or breaking off an engagement (marriage) is equated with death and the injured party has the right to blood vengeance (Verdier, 1980, 28–30).

Concurrently, the customary system of conflict resolution enabled social control by the community, especially by mediation between the feuding sides and with the obligatory composition, i.e. compensation for damages, which was to facilitate making lasting peace between the feuding parties to a conflict. Across Europe, the ritual of vengeance was concluded with the gesture of the kiss of peace, which led to brotherhood and/or godfatherhood between the feuding parties (families). Many medieval documents, but also some early modern sources, attest that the feuding families intermarried once the conflict was resolved; this was an ideal of lasting peace in an extended brotherly community. If anything, these are the principles of restorative rather than of retributive justice, which is characteristic of modern states (cf. Foucault, 1995, 3–69) not of the system of conflict resolution, including the custom of blood feud.

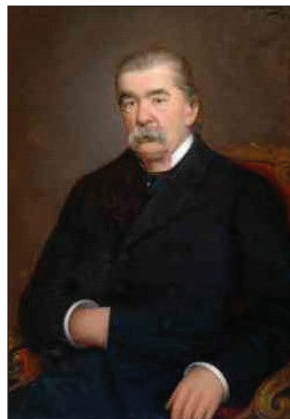


Fig. 11: Franc Miklošič ca. 1890 (photo by Roman Fekonja) (Wikipedia).

* * *

Although Miklošič argued, in accordance with the evolutionist and positivist views of his day, that blood feud is a transgressive method of conflict resolution, even if necessary during humanity's "infancy", and that it was substituted only in a "true" civilization by corresponding state institutions, which establish justice and prosperity in a society, he nonetheless stressed that **peace** was the guiding principle of the primal civilizational social system. Evidently, Miklošič acquired a lot of material for his research from his former student Valtazar Bogišić, with whom he remained in contact until the end of his days (cf. Sturm-Schnabl, 1991).

By developing the thesis that Slovenes had no knowledge of blood feud, because they had come under German rule very early, which weakened and dissolved their kinship-based tribal social bonds, Miklošič reveals the other side of his study: nations have no need for customary conflict resolution, since for nations it is characteristic that conflicts are resolved by state institutions. In this way, the professed Slovene and respected figure of the international science community established the Slovenes as a nation with a corresponding territory, which it controls. However, he saw the future of the Slovene nation within the Habsburg monarchy.

Miklošič's study on blood feud places him among the pioneers of modern research on the custom and at the same time reflects the spirit of the time in which it was written. We could even include it among the so-called neurohistorical studies, which have recently begun to establish themselves in historiography (cf. Smail, 2008), since in the second half of the nineteenth century the customary system of

conflict resolution garnered a lot of attention in two ways: first, the eager collection of legal-customary cultural heritage and, second, the stigmatisation and eradication of the custom of blood feud, including from the cultural memory, in the name of the nation with ideological pressure and with the help of the nation's repressive apparatus.

KEINE BLUTRACHE BEI DEN SLOVENEN.
FRANC MIKLOŠIČ IN KRVNO MAŠČEVANJE PRI SLOVANIH

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POVZETEK

Franc Miklošič je bil nedvomno eden najbolj izobraženih, mednarodno uveljavljenih in vplivnih slovenskih intelektualcev druge polovice 19. stoletja. Velja prvenstveno za filologa in jezikoslovca ter za enega poglavitnih ustanoviteljev sodobne slavistike, toda njegov vsestranski duh ga je tudi s pomočjo interdisciplinarnih in primerjalnih metodoloških pristopov filoloških znanosti vodil na področja zgodovinopisja, etnografije, antropologije in prava. Poleg nekaj prevodov avstrijske zakonodaje v slovenščino, se v svojem raziskovalnem opusu ni ukvarjal s pravnimi vprašanji, razen v enem temeljnih del tedanjega časa o krvnem maščevanju: Die Blutrache bei den Slaven (1887). Miklošič navkljub potrjevanju tedanjega (in še danes popularnega!) evolucionistično pozitivističnega nazora o Državi kot višku civilizacijskega razvoja, medtem ko naj bi prej prevladovalo bolj ali manj kaotično stanje v družbi, prikaže značilnosti običajnega sistema reševanja sporov v t. i. rodovnih ali sorodstvenih skupnostih, ki prav nasprotno kažejo kompleksnost družbenih odnosov v predmoderni Evropi. Prav s pomočjo Miklošičevega dela članek poskuša rekonstruirati običajni ritual reševanja sporov, kot so ga poznali vsaj v vseh evropskih predmodernih družbah, ter prikazati družbeni odnos do krvnega maščevanja v Miklošičevem ter v daljšem časovnem obdobju.

Ključne besede: Franc Miklošič, Valtazar Bogišić, krvno maščevanje, sistem reševanja konfliktov, Slovani, Slovenci, Črna gora

SOURCES AND BIBLIOGRAPHY

- Agamben, G. (1995):** *Homo sacer. Il potere sovrano e la nuda vita*. Torino, Giulio Einaudi editore.
- Althoff, G. (2003):** *Die Macht der Rituale. Symbolik und Herrschaft im Mittelalter*. Darmstadt, Wissenschaftliche Buchgesellschaft.
- Babnik, J. (1883):** *Sledovi slovenskega prava*. Ljubljana, Letopis Slovenske matice.
- Beyerle, F. (1915):** *Das Entwicklungsproblem im germanischen Rechtsgang: I. Sühne, Rache und Preisgabe in ihrer Beziehung zum Strafprozeß der Volksrechte*. Heidelberg, Carl Winter's Universitätsbuchhandlung.
- Bloch, M. (1962):** *Feudal Society, Volume I. The Growth of Ties of Dependence* (1939). London, New York, Routledge.
- Boehm, C. (1984):** *Blood Revenge, The Enactment and Management of Conflict in Montenegro and Other Tribal Societies*. Philadelphia, University of Pennsylvania Press, 253–258.
- Bogišić, V. (1867):** *Naputak za opisivanje pravnijeh običaja, koji u narodu živu*. Zagreb, Knjigotiskarna Dragutina Albrechta.
- Bogišić, V. (1999):** *Pravni običaji u Crnoj Gori, Hercegovini i Albaniji. Knjiga IV*. Beograd, Podgorica, Unireks.
- Breneselović, L. (2013):** *Miklošič i krvna osveta kod Slovena. Miklosichiana bicentennialia: zbornik u čast dvestote godišnjice rođenja Franca Miklošiča*. Beograd, Srpska akademija nauka i umetnosti, 469–488.
- Brunner, O. (1990):** *Land und Herrschaft: Grundfragen der territorialen Verfassungsgeschichte Österreichs im Mittelalter* (1939). Darmstadt, Wissenschaftliche Buchgesellschaft.
- Burckhardt, J. (1956):** *Renesančna kultura v Italiji* (1860). Ljubljana, Državna založba Slovenije, Ljubljana.
- Carroll, S. (2007):** Introduction. In: Carroll, S. (ed.): *Cultures of Violence: Interpersonal Violence in Historical Perspective*. Houndmills, Palgrave MacMillan, 1–43.
- Carroll, S. (2017):** *Thinking with Violence. History and Theory*, 55, 23–43.
- Čeč, D. (2011):** *Funkcije govoric in njihovih nosilcev v podeželskih skupnostih*. *Acta Histriae*, 22, 3, 703–728.
- Čepulo, D. (2010):** *West to East - East to West: Baltazar Bogišić and the English School of Historical and Comparative Jurisprudence* (H. S. Maine, F. Pollock, P. Vinogradoff). In: Pokrovac, Z. (ed.): *Rechtswissenschaft in Osteuropa, Studien zur europäischen Rechtsgeschichte*. Frankfurt am Main, Max-Planck-Institut für europäische Rechtsgeschichte, 71–116.
- Darovec, D. (2018):** *Vendetta in Koper 1686*. Koper, Annales Press, Zgodovinsko društvo za južno Primorsko.
- Dolenc, M. (1935):** *Pravna zgodovina za slovensko ozemlje: sostavni očit*. Ljubljana, Akademsko založba.
- Durkheim, E. (1995):** *The Elementary Forms of Religious Life* (1912). Translated and with an introduction by Karen E. Fields. New York, The Free Press.

- Elias, N. (2000):** O procesu civiliziranja: sociogenetske in psihogenetske raziskave, Zv.1: Vedenjske spremembe v posvetnih višjih slojih zahodnega sveta (1939). Ljubljana, Založba /cf*.
- Elias, N. (2001):** O procesu civiliziranja: sociogenetske in psihogenetske raziskave, Zv. 2: Spremembe v družbi; Osnutek teorije civiliziranja (1939). Ljubljana, Založba /cf*.
- Ergaver, A. (2016):** Pomiritev v običaju krvnega maščevanja: mediacija, arbitraža in obredje »nove zaveze« med strankama v sporu v črnogorskih in albanskih običajih. *Acta Histriae*, 24, 1, 101–130.
- Ergaver, A. (2017a):** Krvno maščevanje med nasiljem in mirom v Jugovzhodni Evropi: doktorska disertacija. Ljubljana, Univerza v Ljubljani.
- Ergaver, A. (2017b):** »First my Brother, then a Blood-taker, then my Brother Forever«: The Efficiency of the Traditional Peace-making Custom in Early Modern Age Montenegro and the Role of the Venetian Authorities in the Peace-making Process. *Acta Histriae*, 25, 1, 179–206.
- Evans-Pritchard, E. E. (1940):** The Nuer: A Description of the Modes of Livelihood and Political Institutions of a Nilotic People. Oxford, Clarendon Press.
- Foucault, M. (1995):** Discipline & Punish: The Birth of the Prison (1975). New York, Vintage Books.
- Frauenstädt, P. (1881):** Blutrache und Todtschlagsühne im Deutschen Mittelalter. Leipzig, Duncker und Humblot.
- Gjeçovi, S. K. (1933):** Kanuni i Lekë Dukagjinit. Shkōdra.
- Gluckman, M. (1955):** Custom and Conflict in Africa. London, Basil Blackwell.
- Gluckman, M. (ed.) (1962):** Essays on the Ritual of Social Relations. Manchester, Manchester University Press.
- Grimes, R. L. (2006):** Rite out of Place: Ritual, Media, and the Arts. New York, Oxford University Press.
- Hafner, S. (1991):** Franc Miklošič v življenju in delu. Miklošičev zbornik. Maribor, Kulturni forum, 9–44.
- Hudovernik, A. (1882a):** Črnogorska zakonodajstva. Slovenski pravnik, 2, 3, 15. 3. 1882, 82–87.
- Hudovernik, A. (1882b):** Pravni običaji v Slovencih I. Slovenski pravnik, 2, 5, 15. 5. 1882, 151–152.
- Hudovernik, A. (1882c):** Pravni običaji v Slovencih II. Slovenski pravnik, 2, 6, 15. 6. 1882, 170–182.
- Huizinga, J. (2011):** Jesen srednjega veka (1919). Ljubljana, Studia Humanitatis.
- Jagić, V. (1887):** „Anzeige“: Dr. Franz Miklosich – Die Blutrache bei den Slaven etc. Archiv für slavische Philologie, 10, 626–631.
- Jelić, I. M. (1926):** Krvna osveta i umir u Crnoj Gori i Severnoj Albaniji. Istorijsko-pravna studija. Beograd, Gece Kon.
- Kambič, M. (2005):** Razvoj kazenskega prava na Slovenskem do leta 1848. In: Kambič, M. & N. Budna Kodrič (eds.): Malefične svoboščine Ljubljančanov 1514. Ljubljanski kazenski sodni red. Ljubljana, Pravna fakulteta, 193–221.

- Kola, A. (2017):** From Serenissima's Centralization to the Self-Regulating Kanun: The Strengthening of Blood Ties and the Rise of Great Tribes in Northern Albania, 15th to 17th Century. *Acta Histriae*, 25, 2, 350–356.
- Kolarič, R. (1933):** Miklošič, Franc, vitez plemeniti (1813–1891). In: Lukman, F. K. et al. (eds.): *Slovenski biografski leksikon*, 5. zvezek: Maas–Mrkun. Ljubljana, Zadružna gospodarska banka.
- Kos, D. (1994):** *Imago iustitiae: historični sprehod skozi preiskovanje, sojenje in pravo pri plemstvu v poznem srednjem veku*. Ljubljana, ZRC SAZU.
- Le Goff, J. (1985):** *Za drugačen srednji vek. Simbolno obredje vazalstva*. (orig. 1965). Ljubljana, *Studia humanitatis*.
- Lévi–Strauss, C. (1969):** *The Elementary Structure of Kinship*. Boston, Beacon Press.
- Luković, M. D. (2009):** *Bogišičev zakonik*. Beograd, Srbska akademija nauka i umjetnosti.
- Makuc, N. (2015):** Noble Violence and Banditry Along the Border Between the Venetian Republic and the Austrian Habsburgs. *Mediterranea: ricerche storiche*, 12, 33, 211–226.
- Malinowski, B. (1959):** *Crime and Custom in Savage Society*. New Jersey, Littlefield, Adams & Co.
- Mantegazza, P. (1887):** La vendetta di sangue preso gli Slavi. *Archivo per l'antropologia e la etnografia* 17.
- Mantegazza, P. (1889):** *Die Physiologie des Hasses*. Jena.
- Mauss, M. (1996):** *Esej o daru in drugi spisi*. Ljubljana, ŠKUC.
- Medaković, V. M. G. (1860):** *Život i običai Crnogoraca*. Novi Sad, Europska Knjigopечатnja.
- Miklosich, F. (1888):** Die Blutrache bei den Slaven. *Denkschriften der Kaiserlichen Akademie der Wissenschaften: Philosophisch-historische Klasse*, 36, 127–210.
- Miller, W. I. (1990):** *Bloodtaking and Peacemaking. Feud, Law and Society in Saga Iceland*. Chicago, The University of Chicago Press.
- Mlinar, J. (2005):** *Podoba Celjskih grofov v narativnih virih*. Ljubljana, Oddelek za zgodovino Filozofske fakultete.
- Mommertz, M. (2003):** Von Besen und Bündelchen, Brandmahlen und Befehdungsschreiben: Semantiken der Gewalt und die historiographische Entzifferung von »Fehde«-Praktiken in einer ländlichen Gesellschaft. In: Eriksson, M. & B. Krug-Richter (eds.): *Streitkulturen: Gewalt, Konflikt und Kommunikation in der ländlichen Gesellschaft (16.–19. Jahrhundert)*. Köln, Böhlau Verlag, 197–248.
- Muir, E. (2005):** *Ritual in Early Modern Europe*. Cambridge, Cambridge University Press.
- Nared, A. (2002):** Seznam »deželnih sovražnikov« iz okoli 1440 ali podoba fajde iz prve roke. *Zgodovinski časopis*, 56, 3–4, 327–344.
- Netterstrøm, J. B. (2007):** Introduction: The Study of Feud in Medieval and Early Modern History. In: Netterstrøm, J. B. & B. Paulsen (eds.): *Feud in Medieval and Early Modern Europe*. Aarhus, Aarhus University Press, 9–67.

- Oman, Ž. (2016):** Will auß der Vnordnung nit schreiten: A Case of Fehde from 17th-Century Styria. *Acta Histriae*, 24, 1, 63–100.
- Oman, Ž. (2017):** Modern Age, Ancient Customs – Settling Blood in the Eastern Alps between the Late Middle Ages and Early Modernity. *Acta Histriae*, 25, 1, 153–178.
- Oman, Ž. (2018a):** Maščevanje kot pravni običaj sistema reševanja sporov na Slovenskem v zgodnjem novem veku: doktorska disertacija. Maribor, Univerza v Mariboru.
- Oman, Ž. (2018b):** Grundstörer: Devastation as Vengeance for Homicide among Sixteenth-Century Carniolan Peasants. *Annales, Series Historia et Sociologia*, 28, 3, 477–494.
- Otorepec, B. (1996):** Seznam »deželnih sovražnikov« na Kranjskem in Štajerskem iz okoli 1440: iz borb med Celjskimi grofi in Habsburžani v letih 1436–1446. In: Rajšp, V. et al. (eds.): Grafenauerjev zbornik. Ljubljana, ZRC SAZU, 331–342.
- Pavković, N. F. (1977):** Pitanje prvobitnog umira krvne osvete. *Balkanica*, 8, 627–638.
- Polec, J. (1945):** Križnikovi odgovori na vprašanja v Bogiščevem »Naputku«. Ljubljana, Razprave pravnega razreda AZU.
- Povolo, C. & D. Darovec (2018):** Vendetta and banishment. In: Miladinović Zalaznik, M. et al. (eds.): Freiheit und Gerechtigkeit als Herausforderung der Humanwissenschaften = Freedom and justice as a challenge of the humanities. Bern etc., P. Lang, 227–253.
- Povolo, C. (2015):** Feud and Vendetta: Customs and Trial Rites in Medieval and Modern Europe: A Legal-Anthropological Approach. *Acta Histriae*, 23, 2, 195–244.
- Radcliffe-Brown, A. R. (1952):** Structure and Function in Primitive Society. Glencoe, The Free Press.
- Rampanelli, S. (2017):** La faida ai confini: conflitti sociali e riti giudiziari nel feudo tirolese della valle di Primiero nel secondo Cinquecento. *Acta Histriae*, 25, 2, 285–318.
- Rašović, Z. P. (2016):** Bogiščeve pravne izreke. Skladnosti između rimskopravnog i crnogorskog narodnog vrela. Podgorica, Crnogorska akademija nauka i umjetnosti.
- Reinle, C. (2003):** Bauernfehden: Studien zur Fehdeführung Nichtadliger im spätmittelalterlichen römisch-deutschen Reich, besonders in den bayerischen Herzogtümern. Wiesbaden, Franz Steiner Verlag.
- Smail, D. L. (2008):** On Deep History and the Brain. Berkeley etc., University of California Press.
- Snoj, M. (1997):** Slovenski etimološki slovar. Ljubljana, Mladinska knjiga.
- Sturm-Schnabl, K. (1991):** Der Briefwechsel Franz Miklosich's mit den Südslaven. Maribor, Založba obzorja.
- Tepavčević, I. (2018):** Pogledi Valtazara Bogiščica na Crnu Goru i crnogorsko društvo. Krvna osveta između tradicije i modernog društva. *Annales, Series Historia et Sociologia*, 28, 3, 495–522.

- Valvasor, J. V. (2017):** Slava vojvodine Kranjske (1689). Ljubljana, Mladinska knjiga.
- Verdier, R. (1980):** La vengeance dans les sociétés extraoccidentales. Paris, Cujas.
- Vilfan, S. (1961):** Pravna zgodovina Slovencev od naselitve do zloma stare Jugoslavije. Ljubljana, Slovenska matica.
- Vilfan, S. (1996):** Zgodovinska pravotvornost in Slovenci. Ljubljana, Cankarjeva založba.
- Vodopivec, P. (2006):** Od Pohlinove slovnice do samostojne države: slovenska zgodovina od konca 18. stoletja do konca 20. stoletja. Ljubljana, Modrijan.
- Voje, I. (1991):** Pomen Miklošičevih študij in izdaj virov za preučevanje zgodovine južnoslovanskih narodov. Miklošičev zbornik. Maribor, Kulturni forum.
- Wallace–Hadrill, J. M. (1959):** The Bloodfeud of the Franks. Bulletin of the John Rylands Library, 41, 2, 459–487.
- Weir, S. (2007):** A Tribal Order: Politics and Law in the Mountains of Yemen. Austin, University of Texas Press.
- Westermarck, E. (1891):** The History of Human Marriage. London, Macmillan and Co.
- Westermarck, E. (1906):** The Origin and Development of the Moral Ideas. London, Macmillan and Co.
- Wilentz, S. (ed.) (1999):** Rites of Power: Symbolism, Ritual, and Politics since the Middle Ages. Philadelphia, University of Pennsylvania Press.