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V čast Claudiu Povolu
In onore di Claudio Povolo
In honour of Claudio Povolo

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VSEBINA / *INDICE GENERALE / CONTENTS*

Edward Muir: The Modern Legacy of a Renaissance
Feud: 1511 and 1945 545
Il lascito moderno di una faida rinascimentale: 1511 e 1945
Sodobna zapuščina renesančne fajde: leti 1511 in 1945

Stuart Carroll & Umberto Cecchinato: Violence and Sacred
Space in Early Modern Venice 561
La violenza e lo spazio sacro nella Venezia della prima età moderna
Nasilje in sveti prostor v Benetkah zgodnjega novega veka

Àngel Casals: Banditry under the Crown of Aragon:
A Historiography in the European Context 581
Banditismo sotto la Corona d'Aragona: Una storiografia nel contesto Europeo
Banditizem pod aragonsko krono: Zgodovinopisje v evropskem kontekstu

Lucien Faggion: Il collegio dei giudici,
Marco Thiene e la sua casa nel secolo XVI 603
College of Judges, Marco Thiene and His
Noble House in the 16th Century
Sodni kolegij, Marco Thiene in njegova rodbina v 16. stoletju

Livio Antonielli: Dietro l'anonimato di una categoria:
le guardie in antico regime 623
Behind the Anonymity of a Category: The Guards in Ancien Régime
V ozadju anonimnosti neke kategorije: stražarji v starem režimu

Tilen Glavina: Primer fajde v Mirandoli leta 1533:
Poskus mediacije Girolama Muzia 639
Il caso di faida a Mirandola nel 1533:
Un tentativo di mediazione di Girolamo Muzio
A Case of Feud in Mirandola in the Year 1533:
A Mediation Attempt by Girolamo Muzio

Žiga Oman: Enmities and Peacemaking among
Upper Carniolan Peasants in Early Modernity 673
Inimicizie e pacificazione tra i contadini alto carniolani nell'età moderna
Sovražnosti in pomiritve med gorenjskimi kmeti v zgodnjem novem veku

Darko Darovec: *Keine Blutrache bei den Slovenen.*
Franc Miklošič and the Blood Feud of the Slavs 713
Keine Blutrache bei den Slovenen. *Franc Miklošič*
e la vendetta tra gli Slavi
Keine Blutrache bei den Slovenen. *Franc Miklošič*
in krvno maščevanje pri Slovanih

Darja Mihelič: Iz zakulisja prvih stoletij piranskega kapitlja 745
Il retroscena dei primi secoli del capitolo di Pirano
From the Back Rooms of the First Centuries of the Chapter of Piran

Furio Bianco: Immigrati, compari, clienti. *Oriundi Carnielli*:
reti del credito e parentele spirituali in Istria (secoli XVII–XVIII) 771
Immigrants, Cronies, Clients. Incomers of Carnic Origin:
Lending Networks and Spiritual Kinship in Istria (17th and 18th Centuries)
Priseljenci, pajdaši, kupci. Prišleki karnijskega porekla:
kreditne mreže in duhovno sorodstvo v Istri (17. in 18. stoletje)

Salvator Žitko: La pianta di Giacomo Fino (1619) nel contesto del ruolo
politico–amministrativo e socio–economico di Capodistria nel XVII secolo 817
City Map by Giacomo Fino (1619) in the Context of Political–
Administrative and Socioeconomic Roles of Capodistria in the 17th Century
Mestni načrt Kopra Giacoma Fina (1619) v kontekstu njegove upravno–
politične in družbeno–ekonomske vloge v 17. stoletju

Urška Lampe: Posredniška vloga delegacije mednarodnega odbora
Rdečega križa v Jugoslaviji pri reševanju usode italijanskih vojnih
ujetnikov in deportirancev v Jugoslaviji v letih 1945 in 1946 835
Il ruolo di mediatore svolto dalla delegazione del Comitato internazionale
della Croce Rossa in Jugoslavia nel decidere il destino dei prigionieri
di guerra e dei deportati Italiani in Jugoslavia negli anni 1945 e 1946
Mediation Efforts Made by the Delegation of the International Committee
of the Red Cross in Yugoslavia toward Deciding the Destinies of
Italian Prisoners of War and Deportees in Yugoslavia in 1945 and 1946

Andrea Zannini: Adolescenza traviata. Il convegno della
fondazione Giorgio Cini del 1959 865
Backslid Adolescents: The 1959 Conference Held at the Giorgio Cini Foundation
Mladostniki na krivih potih. Konferenca fundacije Giorgio Cini leta 1959

Navodila avtorjem 875
Istruzioni per gli autori 878
Instructions to authors 882

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ENMITIES AND PEACEMAKING AMONG UPPER CARNIOLAN PEASANTS IN EARLY MODERNITY

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ABSTRACT

Following the stages of the custom of vengeance, this paper reconstructs conflict resolution among commoners in the Habsburg Duchy of Carniola in early modernity, focusing on the subjects of the Upper Carniolan Lordship of Bled in the first half of the seventeenth century. Disparate cases show that in the Eastern Alpine countryside the rites of enmity and peace had changed little since the Late Middle Ages. Despite the gradual implementation of early modern criminal legislation and growing state interference in the local judiciary, the latter continued to resolve conflicts, including homicide, in cooperation with the community. Remnants of traditional conflict resolution can still be found in the late nineteenth century.

Keywords: conflict resolution, vengeance, feud, enmity, mediation, peacemaking, peace, peasants, subjects, Upper Carniola, Bled, early modernity, seventeenth century

INIMICIZIE E PACIFICAZIONE TRA I CONTADINI ALTO CARNIOLANI NELL'ETÀ MODERNA

SINTESI

Attraverso le fasi della consuetudine della vendetta, il contributo ricostruisce la risoluzione di controversie tra i ceti bassi nel Ducato asburgico di Carniola nella prima età moderna, incentrandosi sui sudditi del dominio altocarniolano di Bled nella prima metà del Seicento. I vari casi dimostrano che nelle zone rurali delle Alpi Orientali il rituale di ostilità e pace non era cambiato in modo significativo riguardo al tardo Medioevo. Nonostante la graduale attuazione del diritto penale della prima età moderna e la crescente interferenza dello stato nella magistratura locale, quest'ultima soleva risolvere le controversie, compresi gli omicidi, insieme alla comunità. Alcune tracce della risoluzione di controversie come da consuetudine sono sopravvissute fino all'Ottocento.

Parole chiave: risoluzione dei conflitti, vendetta, faida, inimicizia, mediazione, pacificazione, pace, contadini, sudditi, Alta Carniola, Bled, età moderna, secolo XVII

"MARK MY WORDS!"[1]

In 1634, the millers Christoph Scheull and Adam Paßler alias Hörman from the Upper Carniolan Lordship of Bled fell out. Violence was in the air, as the aggrieved Scheull swore in front of a handful of witnesses: *"Mark my words Hörman, if I haven't caused you harm yet, I still will!*", tapping himself on the nose, vowing that it should be cut, if he does not deliver the threat (ARS 721, kn. 17 (1632–1636), 1 December, 1634), gesturing that failing to do so would cause him great dishonour (cf. Pejanović, 2018). This was a declaration of enmity.

Twenty years later, in an unrelated case, for having killed Jakob Špetič (*Spetitsch*), Hans Mušan (*Muschan*) had to make peace with his victim's kin to avoid punishment. To regain their "*love and friendship*", Hans had to pay them for the appropriate food and drink, donate a mass garment, and pay for thirty masses to be held in the church of Saint John the Baptist in the village of Zasip, where Jakob was buried. Peace was made on Palm Sunday 1656, testified to by twenty-seven witnesses (ARS 721, kn. 21 (1655–1662), 9 April, 1656).

Researchers of medieval dispute settlement will be familiar with such scenes, perhaps less so early modernists. This paper aims to reconstruct conflict resolution among commoners in early modernity by following the stages of the custom of vengeance, centred on the Duchy of Carniola. It was part of Inner Austria,[2] which included the majority of the Slovene[3] historical lands. Protocols of the provincial

1 This paper is the result of research carried out in the project J6-9354: *Cultural Memory of Slovene Nation and State Building*, funded by the Slovenian Research Agency (ARRS). My thanks to Stuart Carroll and Janez Mlinar as well as to the anonymous reviewers for their comments.

2 Inner Austria (1564–1619/1749) was an entity of Habsburg hereditary lands, consisting of the Duchies of Carinthia, Carniola, and Styria, the Princely County of Gorizia and Gradisca, the City of Trieste, the Margraviate of Istria, and a few smaller territories. Its capital until 1619, when the Princely Court moved to Vienna, was the Styrian capital Graz, which remained the seat of the Inner Austrian Government until 1746. The Government was the Princely governing body second only to the Princely Privy Council in Inner Austria and had the authority over those at the lower Provincial level, including the courts (Spreitzhofer et al., 1988, 64–66). Concerning religion, between roughly 1540 and 1630 nobility in the three duchies was predominantly Protestant, as was a large part of the burgher elite and middle class, particularly in the larger towns (Pörtner, 2001). Specifically for the broader Bled area and northern parts of Upper Carniola see: Žabota, 2016.

3 Regarding language, the Inner Austrian duchies were essentially divided into Germanophone and Slovene-speaking populations, while the other territories also included greater numbers of Italian, Friulian, Croatian, and Vlach speakers. In the sixteenth and seventeenth centuries, the legal sources in the three duchies were generally in German even in the provinces (Carniola) and regions (Southern Carinthia, Lower Styria) with a predominantly Slovene population. Still, German was not the only language used in court nor the only language of law, and in sixteenth-century Carniola, knowledge of Slovene was demanded even from the highest officials of both the Land Estates and the Land Sovereign. Slovene begins to appear in court records in the same century, mostly in patrimonial court records. The rest have been recorded in German, even if the judicial proceedings had been completely or largely in the Slovene vernacular; the same should be surmised for the cases analysed in this paper (Škrubej, 2012, 204–205; Golec, 2016, 148–149). For a reconstruction of the early modern Slovene terminology of enmity and peace see: Darovec, Ergaver & Oman, 2017, 417–423.

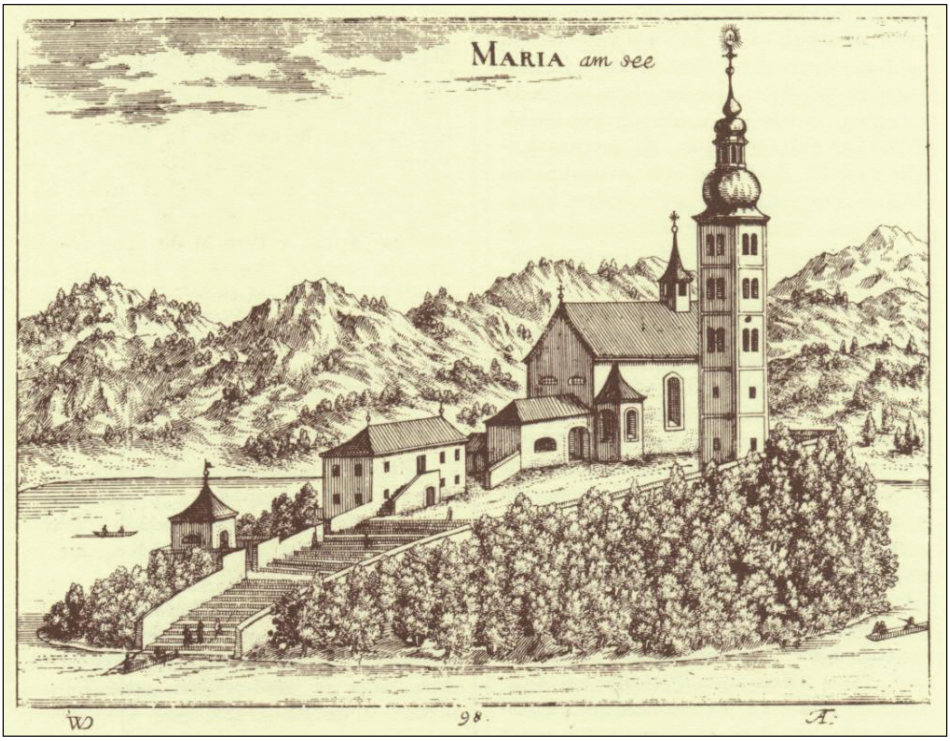

Fig. 1: The Isle of Bled in the seventeenth century (Valvasor, 1689).

and patrimonial court[4] of the Lordship of Bled, an extra-territorial estate of the Tyrolean Bishopric of Brixen (Ribnikar, 1976, 7), offer many cases of conflict resolution among peasantry, providing a suitable research laboratory in the Alpine countryside surrounding the picturesque Lake Bled.

ENMITIES OF THE COMMON PEOPLE

In his seminal work on Western Christianity, John Bossy proposed that at least until the early sixteenth century the seven deadly sins might have to be interpreted as a system of community ethics, divided into sins of aversion that destroy community (wrath, envy, pride) and sins of concupiscence that, in a way, enable the

4 The division between the two was not consistently implemented everywhere in Inner Austria, leaving many patrimonial courts fused with provincial courts (*Landgericht*), particularly in Carniola (Kambič, 2005, 209). Three legal authorities shared jurisdiction over the Lordship of Bled: the rentiers of the Bishopric of Brixen, the neighbouring town of Radovljica, and the Prince or Land Sovereign (Škrubej, 2012, 209–212). Provincial courts had jurisdiction over commoners, i.e. burghers, freeholders, and subjects (Golec, 2016, 148).

very existence of community (lust, gluttony, sloth) – I believe Mikhail Bakhtin would have agreed – with avarice shifting between the two. Bossy also emphasized that at the time "*wrath did not really mean uncontrollable bad temper, but a settled and formal hatred towards a neighbour, inspiring acts of malice or vengeance*" (Bossy, 1985, 35–36).

It was particularly envy, pride, and avarice that also fuelled enmities in early modernity, as of course did lust. However, as conflicts over amorous and matrimonial matters in the Slovene historical lands were recently discussed at length by Dušan Kos (Kos 2015; 2016), the focus of this paper is less on carnal animosity. It was especially the delineation and control of property that was a major part of social relations and conflict between neighbours. In all societies conflicts erupt over the free distribution, acquisition, and intergenerational transmission of property, and there is a plethora of cultural practices that have developed around it. Consequently, honour and behavioural expectations are linked to property, and emotional conflicts arise over it (Carroll, 2017, 40).

The same was true of Carniolan peasants, almost all of them subjects, who by the eighteenth century had acquired the reputation of passionate litigators. In the Lordship of Bled, peasants acted as *domini litis* in both civil and criminal matters, as the court protocols attest to since the late sixteenth century. The cases analysed in this paper show that the same person could be the aggrieved party in one case, the perpetrator in another and, more importantly, a mediator or arbiter in the next. Thereby, the subjects were very much involved in the local judiciary, especially the village elites and leaders, the *župani* (sing. *župan*), who were the caretakers of custom and experts in legal matters, and thus important to local courts well into the eighteenth century, particularly since Roman legal professionals rarely attended patrimonial courts, and when they did so it was mainly as solicitors (Ribnikar, 1976, 23–28; Škrubej, 2012, 216–224).

In the seventeenth century, disputes among the peasants in Bled were certainly exacerbated by rapid population growth and the consequent shortage of land as well as rising social differentiation (Gestrin, 1984, 127–128), also due to the economic consequences of the Thirty Years' War. Securing one's economic position became even more important and if threatened with actions (violence, lawsuits, new taxes) or words (calumny, insults), enmity could erupt into violence, either among the peasants themselves or in uprisings against their feudal lords. While the great peasant revolts of 1478, 1515, 1573, 1635, and 1713 (e.g. Grafenauer, 1944; Koropec, 1985) are an important part of the Slovene cultural memory (cf. Čeč, Škoro Babić & Košir, 2014; Jerše, 2017), enmities[5] between the subjects themselves have barely been studied, much less how communities restored peace by custom.

5 While revolts are to be understood as communal vengeance, feuds between individual subjects and their lords, still regarded as legitimate in early modern Brandenburg (cf. Peters, 2000, 71–76), are so far unknown for the Slovene historical lands. However, individual enmities were surely conflated with the larger uprisings. Subjects of the Lordship of Bled also took part in the revolts of 1515 and 1635 (Grafenauer, 1944, 63, 125).

Fig. 2: Seven Deadly Sins – Wrath (Ira), Pieter Bruegel the Elder, 1566 (Wikimedia Commons).

The earliest societies had already developed sophisticated mechanisms of social control to uphold peace, predicated on familial, neighbourly, economic, etc. relations of interdependence that helped to sustain society and regulate conflict, which could arise and turn into violence with breaches of social norms. Transgressions demanded justice or satisfaction, exacted by the ruler in the name of the community (e.g. for witchcraft, sacrilege, treason) or by the community (e.g. for homicide, rape, theft), either by its appointed members or the aggrieved party itself. Conflict resolution was shaped by the culture of honour and shame, which demanded that actions be public. This limited the set of honourable targets and actions, imposing ritual limitations on violence according to principles of equivalence and reciprocity, i.e. of gift-exchange[6] (Darovec, 2017a), and enabled the community to intervene in the conflict at any time. Subsequently, mechanisms of peacemaking and social control are inherent in the custom of vengeance (Radcliffe-Brown, 1952, 212–219; Gluckman, 1955, 1–55; Colson, 1953).

6 The exchange in feud is also given in the origin of the Slovene word for vengeance, *maščevanje,* derived from 'exchange' and 'that, which stands for exchange' (Snoj, 1997, 327; cf. Lévi-Strauss, 1969, 60).

The same mechanisms of 'peace in the feud' permeated all levels of the politically and socially highly-stratified societies of Medieval and early modern Europe. Peaceful relations and harmonious coexistence were imperative for legal professionals and the clergy, members of the ruling estates, urban and village elites, as well as the general population. The desire for peace, also rooted in the Christian teaching of loving one's neighbour (Mark 12:31), permeated custom, Roman, and statutory law, wherein all complemented each other (Bossy, 1983; 2004; Smail & Gibson, 2009; Povolo, 2015a; Cummins & Kounine, 2016).

Vengeance played the same role in stratified societies of premodern Europe as it did in more egalitarian tribal societies. The culture of honour tended to limit the violence[7] in conflict and enabled community intervention at any stage. Either through mediation or arbitration that during the suspension of enmity (truce) defined the terms for peace or made peace by settling the injustice with a composition payment and the establishment of a new relationship between the parties. In Medieval and early modern Europe, composition had to be paid to the aggrieved party in kind or cash as well as to the community or its authorities (courts) as a fine, and peace (among Catholics) also had to be made with God by penance and charity. Marriage was often the means by which feuding groups were reconciled and turned into kin, especially in blood feud. Mediation and arbitration reinforced social hierarchy, as authorities (ruler, magistrates, elders, clergy) and separate legal experts of a community (lawyers, notaries) played prominent roles in the negotiations. Satisfaction was hardest to achieve for the most serious violations. Homicide, heavy wounds, rape, and grave insults had to be requited with blood or blood money (weregild) to ensure lasting peace. Since the parties to a blood feud were the families or 'entire kin' of both the victim and the perpetrator, it was not necessary for revenge to be exacted upon the actual perpetrator. As any appropriate target would do, customarily an enemy adult or adolescent male, the threat reinforced the disposition of both parties towards peace. With the codification of the custom of vengeance in the Middle Ages, particularly of its key rituals of peacemaking[8] (e.g. Rolandino, 1546, f. 147r–159v), legal professionals gained an important role in settling conflicts, yet could only force the parties to make truce, not lasting peace (Frauenstädt, 1881; Boehm, 1984; Miller, 1996; Peters, 2000; Carroll, 2003; 2015; Pohl, 2003; Mommertz, 2003; Povolo, 2015b; Darovec, 2016; 2018; Ergaver, 2016).

The great intercultural similarity of the essential aspects of conflict resolution points to a universal system (cf. Verdier, 1980, 18), which is also apparent in the

7 For medieval limitations on violence in enmity see: Darovec, Ergaver & Oman, 2017, 406–408.

8 In the Holy Roman Empire, the codification of the custom of vengeance in Medieval peace legislature (Imperial Peace, Provincial Peace, etc.) included the ritual limitations of violence. This and different foci of national historiographies have led to persistent interpretations of *Fehde* (or *Feindschaft*, i.e. enmity) as a specific German(ic) custom of conflict resolution, foremost among nobility. However, while rarely formalized, the same customary limitations to violence are attested elsewhere in Medieval and early modern Europe (Kaminsky, 2002; Darovec, Ergaver & Oman, 2017, 397–398).

general stages of the custom of vengeance: injury-enmity-mediation-truce-peace (Darovec, Ergaver & Oman, 2017, 402–414). Formally or ritually declared enmity (Ger. *Absage*, Lat. *diffidatio*) allows for limited violence to attain satisfaction if the publicized injustice is not appropriately or honourably settled, or when violent retribution is a culturally more appropriate response than composition payment, especially for spilled blood. The state of mutual animosity is maintained until lasting peace is made, establishing a new social relationship wherein enmity is substituted with amity and love, i.e. alliance or kinship.

For the peace to last, arbiters always had to make extra effort to achieve balance between the feuding parties, as neither could appear to prevail over the other (Boehm, 1984, 123–142). Honour and shame had to be equally divided. Self-humiliation on the perpetrator's part played the key role in restoring the honour of both sides, as only then could forgiveness from the injured party follow, necessary for the peace to be made and to last (Darovec, 2017a). Balance remained an essential element of the early modern legal order, as courts strove to settle conflicts by re-establishing peace and the social equilibrium of power, encouraging or forcing the enemies towards settlement; this is known as restorative justice.

Settlement always saw the parties' social status and gravity of the transgression taken into account, e.g. for determining composition. The key change brought by the adoption of early modern criminal legislation was the strengthened role of the courts before which peace had to be made in order to be affirmed by the central authorities (cf. Cavarzere, 2016, 67–68), while the inquisitorial process did not entirely substitute the accusatorial procedure prior to the end of the *Ancien Régime*. Courts and local authorities essentially remained arbiters. At the same time, Central and Western European criminal legislation reserved the sanctioning and pardoning of ever more transgressions to the central authorities and their courts. Beginning in the sixteenth century, restorative justice had come to be replaced with punishment for the perpetrator or retributive justice (Povolo, 2017, 29–31). In the Middle Ages, both concepts of justice coexisted at the local level as part of the communal legal order, e.g. in cities and towns. During early modernity, central political authorities, especially with the use of the strict inquisitorial process, systematically took over the retributive system at the local level, concurrently marginalizing the restorative system. Contemporary epidemics, ecological disasters, economic, religious, political, and social upheaval, which also resulted in an increase in itinerant forms of crime and ever greater social mobility, led to an upsurge of violence that by the eighteenth century had delegitimised traditional conflict resolution. The turmoil shattered communal trust and families fought each other over abandoned plots and houses, neighbours accused their enemies of witchcraft or spreading disease, food and land shortages turned seemingly trivial disputes into matters of life and death. As the legitimacy of the social order and the local authorities that upheld it came into question, people's sense of justice boiled over. Not only could violence erupt more easily, it was also harder for communities to contain it (Povolo, 2015b; Carroll, 2017, 40–42).

Fig. 3: The Village Lawyer, Pieter Brueghel the Younger, ca. 1615 (Wikimedia Commons).

Much like elsewhere in Europe, in mid-seventeenth century Inner Austria the process of substituting customary conflict resolution with criminal legislation was still underway, despite normative prohibitions of feuding since the late fifteenth century (Oman, 2017, 158–167; cf. Kambič, 2017). Things changed towards the end of the eighteenth century, following the implementation of Emperor Joseph II's administrative and legal reforms that abolished the autonomy of local courts (Kambič, 2005, 213–215; Škrubej, 2012, 215–216).

Systematic research on commoner feuds in the Holy Roman Empire has been slow.[9] While blood feud among the lower orders in the German lands of the Late Medieval and early modern periods was well addressed by Paul Frauenstädt (1881), whose interpretations come close to modern studies, the view of German historiography on peasant *Fehden* was long dominated by Otto Brunner's theses made in 1939. Taking legal sources at face value and even despite citing statutes to the contrary, Brunner argued that peasant feuds were not only illegitimate, but illegal, and the leaders essentially criminally insane (Brunner, 1990, 62–75). Half a century later, Gadi Algazi denied the peasants any agency, portraying them

9 Certain aspects of commoners' enmities were also addressed by David Sabean (1993) for early modern Württemberg and peacemaking among the German lower orders at the time by John Bossy (2004, 53–71).

solely as victims of the feuds of nobility, which he interpreted as a sort of class war waged upon the subjects (Algazi, 1995; 1996). Algazi's and Brunner's notions on peasants in feuds were rejected by Christine Reinle, who proved that enmities of commoners had much the same legitimacy as those of the nobility, predicated mainly on cases from Late Medieval Bavaria (Reinle, 2003). However, as her work concentrated on the problem of the legitimacy of peasant feuds, it lacks in understanding the social dimension of vengeance. For the German peasantry, it was first studied by Jan Peters (2000) and Monika Mommertz (2003), predicated on cases from early modern Brandenburg. Due to the prohibition of *Fehden* in early modernity, Peters and Mommertz had to abandon the prevailing legal positivist approach in favour of an analysis of the social relationships in vengeance. They established that peasant feuds were not only deemed legitimate by the (local) authorities, but also carried out the functions of conflict resolution and social control.

The Empire also incorporated most of the Slovene historical lands, apart from the western and easternmost reaches under Venetian and Hungarian rule. As pointed out in the sixteenth century by the most prominent Slovene Protestant and 'father of standard Slovene', Primož Trubar, culturally the Slovenes in Carniola, Carinthia, and Lower Styria were essentially the same as their German countrymen (Vrečko, 2011, 439). However, in his study on Slavic blood feud the jurist and renowned philologist Franc Miklošič, who was possibly unfamiliar with Trubar's observation yet aware of Frauenstädt's work, proposed that the (Slavic) ancestors of the Slovenes abandoned the custom because very early they had come under the influence of Germans, who had already been influenced by Roman law (Miklosich, 1888, 162–163). His thesis, perhaps aimed at portraying the Slovenes as more 'civilized' than the Germans during the national tensions of late nineteenth-century Austria, was later disproven by the legal historian Sergij Vilfan, with a case of blood feud among Slovenes in the village of Landar in Friuli at the start of the fifteenth century (Vilfan, 1996, 457–458; cf. Darovec, 2017b). He not only pointed out the use of vengeance by the Slovenes in Late Medieval and early modern periods, but also the custom's echoes in folk traditions (Vilfan, 1943, 25–26; cf. Dolenc, 1914, 315) and its codification in Medieval statutory law (Vilfan, 1961, 262–264; 1996, 459–463; cf. Oman, 2017). Another legal historian, Metod Dolenc, mentioned a few cases of peasant enmities in early modern Lower Carniola, but did not regard them in the context of feud (Dolenc, 1935, 409–410, 417). Recently, the historian Dragica Čeč (2011) and legal historian Katja Škrubej (2012) have also addressed certain aspects of conflict resolution (the role of rumours, litigation) among Slovene peasants in early modernity by analysing the seventeenth- and eighteenth-century court protocols of the Lordship of Bled.

Enmities and peacemaking among the Lordship's subjects will be analysed according to the aforementioned stages of vengeance that can be observed from disparate cases.

FROM INJURY TO ENMITY

Time to return to the millers from the beginning of this paper. Christoph Scheull and Adam Paßler alias Hörman were both probably from the village of Rečica, where the only mills in the Lordship of Bled seem to be attested at the time (Gestrin, 1984, 122). What set off the millers' dispute is presented only vaguely. It seems to have originated from competition between colleagues, which could quickly escalate from teasing into serious injuries to honour (Ruff, 2004, 75–77). The Bled court was made aware of their enmity when Scheull filed a lawsuit against Hörman on 24 November 1634. He accused Hörman of libel for publicly accusing him of damaging his mill, thus causing him injury. Scheull's lawsuit publicized the injustice, and hence the demand for satisfaction. Although Hörman promptly admitted to making the false accusations, he claimed that they were due to Scheull's previous threats of harm. While the threats had not yet been carried out, Hörman was certain that it was just a matter of time. It seems that both he and the community (village, parish) to which he had uttered his accusations, expected Scheull to damage his mill. The court ordered Hörman to prove that the threats were made (ARS 721, kn. 17 (1632–1636), 24 November, 1634).

Hörman presented his two witnesses in court a week later. The first to testify was Hanže Dvornik (*Hannsche Duornikh*), who, in a way, triggered the conflict, when he stopped by Hörman's home, returning from the parish or church fair in the village of Lancovo, near the town of Radovljica. Most likely (cf. Vilfan, 1944, 17–18) this was on 17 September as the patron saint of the church in Lancovo is Saint Lambert. Visiting Hörman, Dvornik complained that he could not afford some meadow, to which the miller jokingly replied that he should take a skin filled with grain to Scheull, who would gladly take him into employ. The meaning of these words, while cryptic to the historian, had been clear to everyone involved, including the court, as no explanation is given; it probably had something to do with Scheull's professional competence or honesty. Scheull, who was also present at Hörman's for some reason,[10] perhaps returning from the same fair, took the other miller's words as an insult and an argument ensued between the two. When Hörman, Dvornik, and some others departed for the village of Mlino,[11] Scheull followed behind, hurling threats after Hörman and gesturing by tapping himself on the nose: "*You crow, I have to take away your mill!*"[12] When he caught up with the rest, Scheull reiterated by tapping himself on the nose, and vowing to Hörman that it should be "*dug out* [...] *if I haven't harmed you yet!*"[13] The second witness, Hanže Wende, corroborated that

10 Aside from their economic importance, mills were important centres of sociability in the preindustrial countryside, on par with taverns and inns (Ginzburg, 2010, 179; Čeč, 2015).

11 If they departed from Rečica, it was a journey of about 2.5 kilometres.

12 [*D*]*u rab dieser mueß dier dein müll abbringen* (ARS 721, kn. 17 (1632–1636), 1 December, 1634). While *Rabe* is German for raven, the species is usually conflated with the crow, also in vernacular Slovene.

13 [*A*]*ufschirpffen* [...] *ob ich dier bißhero nit schaden zuegefiegt* (ARS 721, kn. 17 (1632–1636), 1 December, 1634).

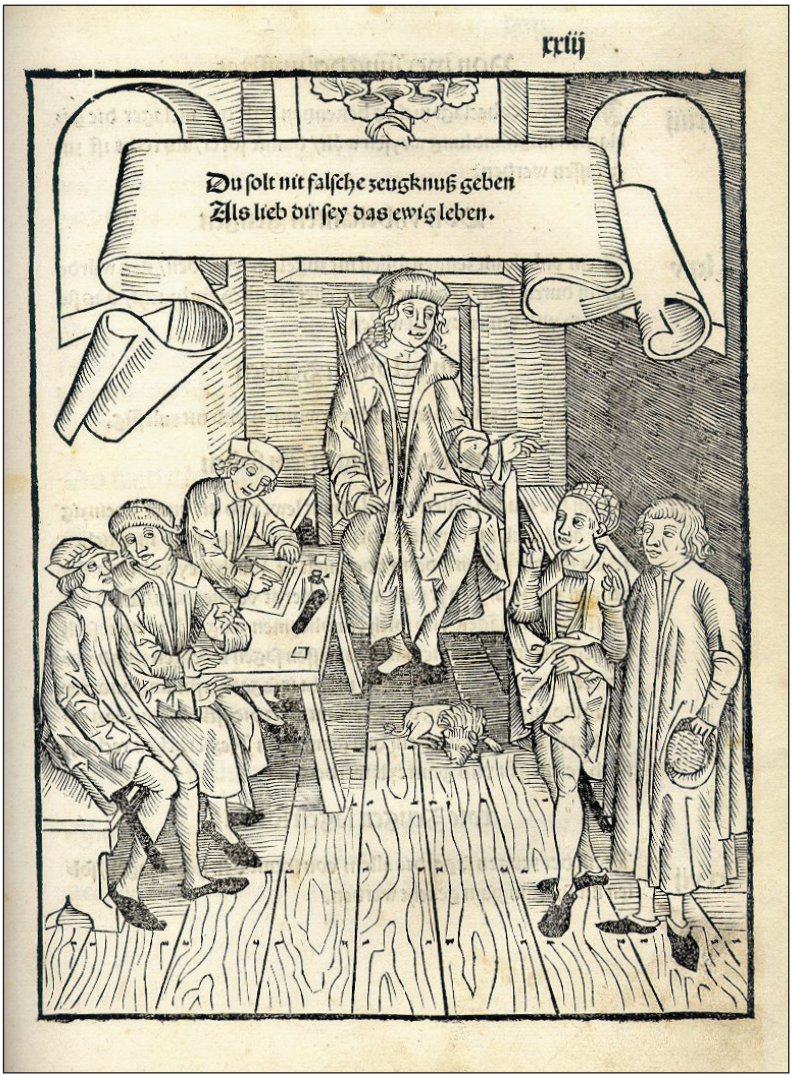

Fig. 4: Witnesses in court, being sworn in (CCB, 1507, f. 23r).

Scheull had threatened Hörman on the way to Mlino and repeated the threats in a more logical sentence: "*Mark my words, Hörman, if I haven't caused you harm yet, I still will!*"[14] (ARS 721, kn. 17 (1632–1636), 1 December, 1634).

14 [*M*]*örkh du Hörman ob ich dier bißhero nit schaden gethan, also will ichs noch thuen* (ARS 721, kn. 17 (1632–1636), 1 December, 1634).

As losing one's nose was considered a grave dishonour, due to its widespread use as customary and statutory punishment (Pejanović, 2018), Scheull had publicly sworn on his honour to harm Hörman, should the miller not provide satisfaction for the insult. According to custom, his gesture and words are to be understood as a declaration of enmity. Elsewhere in the Empire, gestures of swearing that the threats will be carried out were making a cross with one's foot or by crossing the index and middle fingers (Peters, 2000, 65). The two fingers and the thumb were used in the swearing of oaths (see Fig. 4), and perhaps Scheull had tapped himself on the nose in reference[15] to this.

Although the surveyed court protocols do not attest to the use of symbolic or written declarations of enmity in seventeenth-century Bled, their existence in early modern peasant feuds elsewhere in the Empire does not suggest local reservations. After all, declarations of enmity were made illegal in the early modern period. Even if Scheull had intensified his vow by further gestures or in written or otherwise material form, it was best to keep them secret in court. As long as the enmity did not get out of hand and threaten the community itself, it would have kept silent on the specifics as well (cf. Peters, 2000; Mommertz, 2003).

Perhaps allegiances in peasant enmities were also sworn on arms, at least in the Late Middle Ages. Oaths on swords, suspended at both ends from poles stuck in the ground, and spears are attested in peasant revolts in Southern Carinthia (1478) and Carniola (1515) (Grafenauer, 1944, 53, 62). While the arms were symbolic objects of investiture (cf. Le Goff, 2002, 397), namely of joining the rebellion, the oaths at least indirectly also functioned as renouncement of fidelity (i.e. *diffidatio*) or obedience to the subjects' lords.

The millers' case shows how seriously threats with violence were taken; if violence was threatened, its execution was to be expected. It was due to this very present danger that Hörman had accused Scheull of having already damaged his mill in front of the village or parish, thereby enabling the community and, indirectly, the Lordship to intervene. This was a tactic of de-escalation as a lawsuit could have intensified Scheull's animosity. Instead, it was Scheull who took the 'libel' to court and exposed himself as the original troublemaker.

Lawsuits were always regarded as a sign of enmity (Bossy, 1985, 60, 65) and litigation a coordinate to vengeance. The judicial path was also regarded as less honourable than arbitrary settlement, even in the early modern period, so outright lawsuits mostly remained the tool of the weaker party (Reinle, 2003, 124–133; Wieland, 2014, 426–427). However, as with violence, it was always a question of what was the more appropriate response.

It seems that the millers were successful in settling their enmity out of court, since the protocols make no further mention of it. In customary conflict resolution,

15 A ca. 1612–18 German text from the then Protestant Hungarian town of Kőszeg, warning against the frivolous swearing of oaths, states the following symbolism, thumb to little finger: God the Father, God the Son, the Holy Spirit, the soul, and the body. Hence, the right hand symbolized God the Creator (Bariska, 2017, 167).

gossip, slander, accusations, and threats were intended to force the adversary to provide satisfaction and publicize the grievance so the community could intervene (Mommertz, 2003, 235–240). In the case at hand, the accusations and threats soon had the desired effect.

This was less so, if at all, in the conflict that erupted in the village of Blejska Dobrava in 1646, between Hans Jakopič (*Jacopitsch*) on one side and the village *župan* Gregor Konič (*Khonitsch*) and a man by the surname of Ferčej (*Fertschey*)[16] on the other. On 7 July, Konič filed a lawsuit against Jakopič for threats made against himself and Ferčej. Jakopič had threatened them with "*something that will make them cry*"[17] and stabbing Konič's foal. The killing of livestock, attested in enmities between peasants in early modern Brandenburg (Peters, 2000, 96; Mommertz, 2001, 224), seems to have been a more widespread practice. Because of the threats, Konič expressed his 'suspicion' towards Jakopič in court, probably fearing that he would deliver them, especially since Jakopič was already spreading the word that if anyone should "*hold any suspicions against him*"[18] for killing the foal, he would first kill three or four (certainly specific) people and then leave for Karlovac in the Croatian Military Frontier (ARS 721, kn. 19 (1644–1651), 7 July 1646, 455–456).

Jakopič threatened what was known as *Austretten* in German, meaning 'going out' or leaving one's community, which was a form of *Absage* popular among commoners, particularly peasants (Reinle, 2007, 166–167). Homicide was generally threatened along with enmity in the context of escalating the threats (Peters, 2000, 89; Mommertz, 2003, 219) to attain satisfaction. *Austretten* was still common in the early modern period, although it had been made illegal and increasingly equated with 'wanton feuding' and banditry both by criminal legislation and various ordinances since the fourteenth century (Reinle, 2003, 112–122), in Carniola at least since the *Landgerichtsordnung* or Provincial Court Ordinance of 1535 (LGK, 1535, 5), since practice everywhere was slow to follow legislation.

Especially in early modernity, having lost their function in legalizing violence, declarations of enmity foremost acted as a means of forcing the adversary to provide satisfaction and allowing for community intervention. This was the case of both Scheull's and Jakopič's public threats. The greater the grievance the graver the threats and the sooner the community was expected to intervene, even when the threats were seemingly directed against intervention (Peters, 2000, 83, 90). Unlike in most cases, the catalyst of Jakopič's enmity with Konič and Ferčej is known: seizure to be exacted by them on Jakopič. Conflicting interpretations over the validity of seizures were a common cause for enmity (Reinle, 2014, 20). Even in court, Jakopič continued to threaten Konič and Ferčej, claiming that he will "*send them packing in tears*"[19] should they come to seize his property, thus insulting

16 At least in the previous centuries, the Ferčejs had been *Edlinge*, i.e. freeholders (Pleterski, 2011, 125–127).
17 [*A*]*ines thuen, daß sie wainen miessen* (ARS 721, kn. 19 (1644–1651), 7 July 1646, 455–456).
18 [*A*]*rgwon oder bischtigung fürwerffen* (ARS 721, kn. 19 (1644–1651), 7 July 1646, 455–456).
19 [*V*]*on hauß beglaiten, daß sie wainen miessen* (ARS 721, kn. 19 (1644–1651), 7 July 1646, 455–456).

them by implying that all they could do against him was to cry like children or little girls.[20] Since Jakopič admitted to his threats, which were "*highly illegal in the province*", and stood firm by them (cf. Mommertz, 2003, 226), the court complied with the plaintiff's demand to keep Jakopič in jail until he would provide the appropriate surety or security; certainly to forgo enmity when freed (ARS 721, kn. 19 (1644–1651), 7 July 1646, 455–456).

Two days later, surety was offered to Jakopič by Hanže Svetina (*Hannsche Suettina*). Would Jakopič not agree to it, he had to find another guarantor on his own by the feast of Saint James (the Greater, 25 July). However, should any harm befall Svetina because of Jakopič in the meantime, he was entitled to all of his movables and real estate. Jakopič took up Svetina's offer, which was verified by four witnesses: Peter Glazer (*Gläßer*), Jakob Finžgar (*Finsinger*), Jernej Kramer (*Jerni Cramer*), and Jurij Notar (*Juri Nottar*) (ARS 721, kn. 19 (1644–1651), 7 July 1646, 457–458). Eight years later, perhaps due to disagreements over this very surety, the Svetina and Jakopič families had to settle an enmity among themselves.

Since the court protocol offers no clue as to how the dispute in 1646 was resolved, an extra-curial settlement is to be expected. Of course, this does not necessarily mean that Jakopič did not have to submit to seizure in the end, perhaps even blaming Svetina for it.

RETRIBUTION

When gossip, calumny, insults, threats, lawsuits, and declarations of enmity could not force the aggrieving party to provide satisfaction, the conflict could escalate into violent retribution. In the Lordship of Bled, it is attested in 1648 between Hans Triplat and Jurij Avsenik (*Juri Aussenikh*). While their previous grievances are not specified, they had a long history of animosity. When Triplat accused Avsenik of theft (including his wife's laundry), which was one of the gravest insults to honour (Čeč, 2011, 715), their relationship turned violent. As the court noted, "*because of the injury a fight had erupted between the parties due to their hot-headedness and wrath, predicated on their long standing evil unneighbourliness*"[21] (ARS 721, kn. 19 (1644–1651), 31 March 1648, 809–810).

While it is unknown what forms of violence Triplat and Avsenik had used in their 'fight' (*veht*), other cases show that peasants in the Bled countryside expected similar actions as elsewhere in the Empire: damage to non-residential buildings, the killing of livestock, and even people, if we are to take Jakopič's threats seriously. Yet one typical form of violence in enmity is prominently all but missing in the surveyed court protocols: arson.

20 My thanks to Angelika Ergaver for this observation.

21 [*M*]*it der iniuri in daß veht gerattene partheÿen auß hitzigkheit vnd vbrig ainer gegen dem andern der lang geführten vblen vnnachparschafften gerathnen zorn* (ARS 721, kn. 19 (1644–1651), 31 March 1648, 809–810).

Research on peasant feuds in Late Medieval Bavaria has shown that only roughly a tenth of all threats with enmity resulted in violence, which was particularly true for threats with arson. Since its destructive force could cast a family into beggary within moments, it was a popular threat as it generally led to swift settlement (Reinle, 2003, 259–260; 2007, 165). While almost completely absent in the Bled court protocols, considering its widespread use and even legitimacy (Peters, 2000, 74) in commoner feuds elsewhere, it can be surmised that the lack of recorded accounts of arson probably does not equate to local restraints on its use.

Although the analysed sources do not attest to formal declarations of enmity and only once to arson, it can be inferred that symbolic threats with enmity and arson were not much different than the 'arson signs' (*brandtzeichen, brandtmahle, fewrbrende*) found in German regions of the Empire: faggots of burnt grass, singed branches, bits of charcoal, bloodstained knives, paper smudged with gunpowder, combustible material (e.g. hay) bound with bloodied pieces of fabric or leather into 'arson brooms' (*brandtbesen*), etc. The objects were deposited at front doors or in public places, such as at the village well or in the churchyard (Brunner, 1990, 64; Peters, 2000, 71–74, 82, 91–92, 96; Mommertz, 2003, 220–222).

Particularly threats with the 'red cock' (*roter Haan*), a euphemism for fire, were still enough of a problem in the eighteenth-century Habsburg Monarchy to be included in the *Constitutio Criminalis Theresiana* (CCT, 1769, Article 73). In Slovene the '(red) cock' ((*rdeči*) *petelin*) continues to refer to fire and has been ingrained into cultural memory with the arson by Ivan Cankar's tragic justice-seeking literary figure of Farmhand Jernej (*Hlapec Jernej*) (Cankar, 1907, 95).

The Bled Court Protocols only mention arson once by the mid-seventeenth century, in the dispute of Jurij Rupe (*Juri Rupe*) and Linhart Klemenčič (*Lienhart Clementschiz*) in 1638 over a contested border on some clearing. Jakob Preprost, a witness presented to the court by Rupe on 4 May, claimed to have overheard Klemenčič say to Stefan Wederman that they will "*shorten this thief Rupe's clearing, so he'll stop arguing with his neighbours*",[22] as he was returning from mass at Carnival. The threat came true in the evening of Holy Wednesday, 31 March, when the clearing was burned. At least Preprost had interpreted the fire that way, testifying that earlier in the day he had seen Klemenčič carrying a hoe while visiting someone (ARS 721, kn. 18 (1636–1640), 4 May, 1638).

The connection, while puzzling to the historian, had to be clear to those involved. As with most conflicts, it is unknown how or when this issue was resolved. Arson, if it actually occurred, conveys an already ongoing enmity in its narrow meaning as retributive violence. Instead of retaliating in kind, Rupe might have thought it more convenient to sue his adversary, either attempting to gain the upper hand or de-escalate the conflict.

22 [*D*]*en scanterischen diep Rupe die laaß verkhürzen, dz er mit denen nachpern nit greinen wirdt* (ARS 721, kn. 18 (1636–1640), 4 May, 1638).

Fig. 5: Peasants' Brawl, Hans Sebald Beham, 1545 (Wikimedia Commons). The inscription "If you strike me, I will stab you" is unlikely to refer to customary reciprocity in enmity, however fitting, but rather conveys the general attitude of the urban elite milieu that commissioned the artwork towards the peasants, ridiculing them as irrational (cf. Pelc, 2013, 78–80).

This was hardest to achieve for the gravest injustice. Homicide, rape, grave wounds or insults, and adultery called for retribution in blood, which in these cases was generally also regarded as the more appropriate or honourable response than an outright peace settlement. Although retaliatory killings are not attested in the analysed court protocols, the threat was still very real in the seventeenth century, as the chapter on peacemaking makes clear.

There were also customary options that substituted the spilling of blood with the devastation of property or the seizure of movables, both of which were still used in early modern Carniola. In 1541, the Carniolan Estates complained about the practice of their subjects referred to as *grundstoer*: "*when there is a homicide, the entire kin rises up, storms the perpetrator's land, devastates, and tramples everything* [...]*, during which a lot of bad and evil things happen*"[23] (ARS 2, fasc. 98, Supplication of

23 [*S*]*o sich etwo ein thodtschlag pegibt, so erhebt sich ein gannze freundschafft, dem thater auf den grundt zufalln verwiessten vnnd zertreten alles* [...]*, darunter vill args vnnd vbls geschiecht* (ARS 2, fasc. 98, Supplication of the Carniolan deputation to the Roman, Hungarian, and Bohemian King Ferdinand I regarding various grievances, s.d.).

the Carniolan deputation to the Roman, Hungarian, and Bohemian King Ferdinand I regarding various grievances, s.d.). Understanding the custom of vengeance, it can be surmised that this destruction of a killer's property was not an entirely private action and most likely demanded community or its elders' (in)direct consent. After all, satisfaction for the gravest breaches of social norms had to be provided to both to the injured party and the community or its authorities in order to restore the social order, peace, and equilibrium of power.

Seizure as substitution for blood feud among early modern Carniolans seems to be attested in 1614, between the subjects of Georg Moscon and Christoph Tadiolovitsch (Tadiolović). Instead of killing the adulterers (cf. Verdier, 1980, 28–30), they were robbed of cash and clothing in retaliation for the 'kidnapping' (eloping) and fornication (ARS 306, kn. 11 (1613–1614), Moscon c. Tadiolouitsch). While the relationship between the 'robbers' and the adulterers is not specified, this was almost certainly a case of kinship retaliation or vengeance, i.e. by the husband and his kin for the severe dishonour his wife's act brought upon the family.

Even when not intended to reciprocate spilled blood, enmities could lead to deaths as emotions ran high. This occurred in a dispute over the protection of the church fair in the Lower Styrian village of Slivnica in 1631. Providing security at church fairs, which were celebrations of communal harmony (Bossy, 1985, 73), was of the utmost importance to the parishioners and their understanding of community, family, and individual honour. It was also where the subjects' interests overlapped with that of their lords as holders of the rights of patronage (Carroll, 2003, 106). The protection of the fair in Slivnica, traditionally shared by local parishioners with those from the neighbouring Lordship of Fram, had in the mid-1620s begun to be usurped by the locals and their lord, Hans Jakob Baron von Herberstein, following depopulation after a plague epidemic. Aside from a few scuffles between the peasants, the conflict was mostly carried out in court between von Herberstein and his adversary Ursula Kohler, the Lady of Fram. The dispute boiled over at Pentecost in 1631, when Ursula's husband Wolf Sigmund led a force of allegedly over a hundred of their armed subjects, under the colourful noise of flying banners and beating drums, to Slivnica as a show of force. There, the posturing and insults escalated into violence that cost the life of one of von Herberstein's men. The Inner Austrian Government demanded that the nobles settle their enmity, yet due to Ursula's natural death in the same year and her debts to von Herberstein, the Lordship of Fram became his property. This did not end the animosity of the subjects from Fram towards their new lord, against whom they rebelled two years prior to the Second Slovene Peasant Revolt in 1635.[24]

24 StLA, LA, LR 382/2, Countersuit of Ursula Kohler against Hans Jakob Baron von Herberstein regarding the church fair in Slivnica, sine dato; StLA, LA, LR 382/2, Order of the Styrian *Landesverweser* regarding the dispute between Hans Jakob Baron von Herberstein and Lady Ursula Kohler, 21 April 1629, Graz; StLA, LA, LR 1112/5, Report to the Inner Austrian Government regarding the disorder and homicide at the church fair at Slivnica castle on Pentecost in 1631, 30 January 1632, Graz; StLA, LA, LR 1112/5, Legal opinion in the matter of the disorder in Slivnica, 21 May 1632, Graz; StLA, LA, LR, 1112/5 Committee report to the Styrian *Landesverweser* regarding the witness testimonies in the dispute between Hans Jakob Baron von Herberstein and Lady Ursula Kohler, 20 March 1630, Fram; Koropec, 1995, 39–40.

This digression aside, like most sources on customary conflict resolution in medieval and early modern Europe, the Bled Court Protocols are rather taciturn on the origins and the conduct of enmities. The opposite is true for peacemaking as the most important stage of resolving conflict, beginning with mediation.

MEDIATION AND TRUCE

Bodi dobre vole s'tvoim Supèrnikom hitru, dokler ſi ſhe pèr njemu na poti,
de tebe ta Supèrnik kej enkrat Rihtarju neisdá,
inu Rihtar tebe neisdá Hlapzu, inu boſh v'jezho vèrshen
(Matthew 5:25; Dalmatin, 1584)[25]

In 1646, we meet again the two future witnesses to Hans Jakopič's surety from the village of Žirovnica: its *župan* Jakob Finžgar and Peter Glazer. This time they had to resolve their own enmity, which, were it not for Glazer's resilience, would have also required homicide settlement between their families. At the church fair that Easter Monday, 13 April, the men fell out, and Finžgar, having previously been repeatedly insulted as a "*tithe thief*"[26] by Glazer, struck him on the head with a heavy club (see Fig. 6), almost killing him. Glazer was bedridden for eight days and supposedly also lost the ability to speak for twenty days. Having regained it, on 15 May he filed a suit against his *župan* in court demanding a restitution of 100 crowns[27] for the losses he suffered being unable to carry out his craft, and to pay the barber, who had charged him the high sum of 40 guldens for treating his wound (ARS 721, kn. 19 (1644–1651), 15 May 1646, 388–390).

In court, Finžgar admitted to hitting Glazer, who claimed that he was struck "*furtively and without cause*", perhaps attempting to defame his apparently socially superior adversary in court (cf. Wieland, 2014, 444). Contrary to Glazer's statement, Finžgar claimed that he had wanted to settle the previous insults with his offender with the help of a relative, who attended the Easter fair in order to buy a farm from Glazer. However, because he refused to revoke the insults, Finžgar had become "*embittered*" and "*to express this struck the plaintiff*"[28] on the following day (ARS 721, kn. 19 (1644–1651), 15 May 1646, 388–390).

25 "*Agree with thine adversary quickly, whiles thou art in the way with him; lest at any time the adversary deliver thee to the judge, and the judge deliver thee to the officer, and thou be cast into prison*" (Matthew 5:25, KJV).

26 [*O*]*ffimallig mit graff-Thurnischen zehend dieppen gescholten* (ARS 721, kn. 19 (1644–1651), 15 May 1646, 390). The Counts von Thurn-Valsassina from the Lordship of Radovljica were constantly in conflict with neighbouring Bled, which led to occasional violence, also because of the disputed delineation of the jurisdiction of their provincial courts (Ribnikar, 1976, 12–13; Škrubej, 2012, 211). Hence, Glazer was probably accusing Finžgar to have stolen for the counts.

27 In the eighteenth century a crown was worth 1 gulden 10 kreutzers, a ducat 5 guldens (Ribnikar, 1976, 29).

28 [*D*]*isen straich ime clager zum zaichen zugefüegt* (ARS 721, kn. 19 (1644–1651), 15 May 1646, 388–390).

Fig. 6: Upper Carniolans in seventeenth-century attire (copperplate engraving by Johannes Koch and Andreas Tros). As noted by the famous Carniolan polymath Johann Weikhard Valvasor in the late seventeenth century, Upper Carniolans were known for their long and heavy clubs, mostly made of hawthorn wood, and stressed that a single blow by one could, and not rarely did, kill a man (Valvasor, 1689, 278–279).

At the church fair, the blow had been a very public show of enmity, displaying the exacerbation of the conflict in the most direct manner. Even in the late eighteenth century, grave insults, such as being called a thief, were still a mitigating circumstance in homicide trials (CCT, 1769, Art. 84 § 11). While it is much more likely that Finžgar struck Glazer in the heat of the moment, his argument in court was nonetheless in accordance with custom: they were already in conflict, his attitude towards Glazer was well known to the latter, and he had previously tried to settle their dispute by mediation.

The court also followed the customary path and "*appealed to amicable settlement*",[29] although it took much convincing by mediators for Finžgar and Glazer to reach a compromise. The parties were each represented by three 'compromisers' (*compromitendten*), seemingly according to their social standing:

29 [*Z*]*um wilkhürlichen vergleich vermandt* (ARS 721, kn. 19 (1644–1651), 15 May 1646, 391–392).

Glazer by Jurij Perčun (*Pertschun*), Hans Viskhoj, and Lovro Žunko (*Schunkho*) and the *župan* by the Radovljica burgher and future administrator of the Lordship of Bled[30] Georg Dienstmann, Andraž Nikolaj (*Nicolley*), and the burgher and tailor Bastl Dermastja (*Wastl Dermastia*) from the market town of Tržič. They decided that Finžgar had to pay Glazer 21 crowns as composition, yet through the court, as the *župan* was still threatening him. The 'compromisers' were both mediators and arbiters, and their equal numbers for each party were customary. In this case they reached a compromise that allowed for truce and peace to be made. Until the matter was settled, the court ordered both men, their wives, and daughters to honour the compromise and abstain from aggrieving each other with words or deeds, under threat of losing their farms; this was a demand to renounce enmity, or *Urfehde* in German; when it was sworn, the truce came into effect (ARS 721, kn. 19 (1644–1651), 15 May 1646, 391–393).

Another word for mediators and arbiters was 'good people' (Dolenc, 1939, 275–276; Boehm, 1984, 121). The term is also attested in 1570 in a dispute over a debt of 150 guldens between Hans Concilli and Hans Baptista Baschan, burghers of Ljubljana, the Carniolan capital, who had settled according to "*what the good people had decided in the matter*"[31] (ZAL 488, kn. 10 (1570), 25 August 1570, f. 124v–125r).

Despite the implementation of early modern criminal legislation, contemporary courts could still call for arbitration in homicide cases. The Bled court did so in 1637 to settle the killing of Lenček Čube (*Lentschekh Tschube*), who died after being assailed by the brothers Mikl and Jakob Harer as well as Tomaž Zupančič (*Supanschitsch*). The aggrieved party was represented in court by Lenček's father Mihelj (*Michl*), and the perpetrators by the Harers' sister Marina, her husband Hans Drager, and Tomaž's father Andrej Zupanc (*Supantz*). The informative process had shown that the deadly blow was struck by Mikl Harer with a heavy sabre (*pallasch*). Perhaps it happened at a wedding, as Valvasor mentioned that Upper Carniolan peasants attended them carrying sabres at their sides, looking like they were "*off to fight the Turks*" (Valvasor, 1689, 280–281). While the brothers' relatives agreed to the settlement, the victim's father held back. Therefore, the court appealed to both parties to choose impartial people to settle their conflict (ARS 721, kn. 18 (1636–1640), 4 July, 1637).

When and if the arbiters succeeded making peace is unknown. When peace was made following serious violations of social norms, it had to include the (local) authorities. In Bled, the court made that clear in 1637, after being left out of the peace settlement following the killing of Pavle Tišal (*Tischall*) (ARS 721, kn. 18 (1636–1640), 27 April, 1637). This was not only because of the missed legal

30 ARS 721, fasc. 25, Georg Dienstmann's complaint to the Deputy of the Carniolan *Landeshauptman* regarding the incursion of Johannes Ambros Count von Thurn-Valsassina into Bled, sine dato.

31 [*W*]*aß guett leüth zwischen innen derhalben erkhennen machen vnd aussprechen* (ZAL 488, kn. 10 (1570), 25 August 1570, f. 125r).

fees. Although the authors of the *Constitutio Criminalis Bambergensis* in 1507 complained that judges were only after fines instead of working towards "*general peace and the common good*" (CCB, 1507, § 272), it was actually the continued use of traditional settlement by the courts that helped them maintain both (Povolo, 2015b, 219–221). The Carniolan Provincial Court Ordinance of 1535 stipulated that when settling homicide (in self-defence), the victim's kin could not demand more from the perpetrator than his assets could meet, as was supposedly often the case; therefore the court had to approve the settlement first (LGK, 1535, 15). These were common concerns elsewhere in the Empire (Frauenstädt, 1881, 141). The purpose of such stipulations was to avoid the continuation or eruption of blood feuds if the demanded weregild was too high. Moreover, involving the court ensured that composition payment could be enforced.

Regarding the enmity between Matija Orel (*Arl*) and Jakob Prešelj (*Pröschl*) in 1647, the court held that they both deserved punishment for their "*repeated and repulsive quarrels, insults, and dishonourable words*"[32] wherewith they continuously pestered the Lordship. However, the court ruled that settling their enmity (*feindtschafftigkheiten*) was preferable, threatening them with ten-day prison sentences and heavy fines of 10 ducats in gold should they not comply. According to the protocol, both parties gladly did. The settlement was testified to by six witnesses: Wallandt Schiller, Hanže Logar, Martin Mencinger (*Menzinger*), Jakob Khessen, Lenček Pehemb, and Gregor Falenč (*Fallentsch*) (ARS 721, kn. 19 (1644–1651), 29 August 1637, 728–729).

The witnesses might have to be regarded as mediators or arbiters every time they testified to a settlement, at least when in small and even numbers. Mediators should certainly be regarded as present on such occasions, even if the protocols do not mention them.

This was the case in 1656, when the court agreed to customary settlement between Jurij Kozel (*Jurÿ Khaßl*), Katarina Vidmar (*Catharina Vidmarza*), and her daughter Marina. The women had denounced Kozel's wife for having stolen a gold coin and being a witch. The latter accusation, while dangerous and liable to backfire, was common in enmities among women, which were generally carried out by keening, gossip, calumny, and insults (Bossy, 2000; Čeč, 2011; Briggs, 2016), but rarely by force (cf. Mommertz, 2003; Koskinen, 2016). As seems to have been common (Kounine, 2018, 101, 122), the accusal of witchcraft was vague, and Katarina left the final decision to the Lordship. However, Kozel, who stood by his wife, thus improving her chances at surviving a possible trial (Kounine, 2018, 36), incriminated her accusers for theft and libel. By Saint George's Day (24 April) the parties had settled, perhaps among the women themselves (cf. Bossy, 2004, 78), revoking the charges. The settlement was fortified by the court's stipulation that anyone renewing the accusations would be fined

32 [*O*]*ffmalige vnd widerwertige zanckh, schelt, vnd ehr wirige worth* (ARS 721, kn. 19 (1644–1651), 29 August 1637, 728–729).

the enormous sum of 200 ducats in gold to the Lordship and another five to the offended party (ARS 721, kn. 21 (1655–1662), 8 April, 1656).

The sum shows that the court preferred to keep the peace and social order instead of upsetting it further, especially with a witch trial. However, this was still a few years before the height of the 'witch craze' (cf. Košir, 1997, 124) in the Slovene historical lands (1660–1710).

While in the cases analysed in this paper women do not show up in their customary roles as keepers of familial memory and peacemakers, they should always be expected to be operating in the background: gossiping, slandering, insulting, or cursing their or their family's enemies, either encouraging the heads of their families to make peace or, reminding them of their honour and duty to kith and kin, to retaliate for the injustice (Byock, 2007; Ergaver, 2017, 191–192, 196–197; Muir, 2017, 4–8; cf. Štrekelj, 1980, 93–94, 191–199).

At least in some parts of the Duchy, the customary role of local courts in conflict resolution was upheld well into the eighteenth century. In 1770, following death in a brawl, a *Bergtaiding* (winegrowers' law court) in Lower Carniola ruled that the killer should make peace with his victim's kin and the judges would make sure that the matter would not get to the provincial court, where he would have to undergo harsh punishment (Dolenc, 1935, 417).

Of course one could always advise against settlement as well. This happened in 1636 in the conflict Andrej and Jakob Prešeren (*Preschern*) from the village of Vrba[33] had with Hanže Justinčič (*Juschtinschiz*) from the village of Kranjska Gora, some 30 kilometres away. As they were about to settle their grievances, a certain Jakob Hudačut (*Hudaschut*) delivered threats to the Prešerens sent by Hanže's son Jurij, trying to dissuade his father from settling. It is unknown what became of the matter (ARS 721, kn. 18 (1636–1640), 28 October, 1636).

PEACEMAKING

When mediation and arbitration succeeded in securing a truce, peace settlement could follow. This was especially important for the gravest transgressions of social norms as the greatest injustices most required socially appropriate ritual closure, which necessitated the inclusion of the community and the local authorities to affirm and help guarantee the peace.

Such was the case in the aforesaid settlement for the death of Pavle Tišal, who died after having been beat up by Martin Mencinger (*Menzinger*), Wallandt Schiller, and Andrej Prešelj in a brawl in 1637. While the community had been included in the settlement, which was concluded at "*a church fair in front of many people*",[34] the Lordship was left out at first. When the legal expenses were paid, the court affirmed the settlement and agreed to the composition payment of 40 guldens to Tišal's 'entire

33 Perhaps distant relatives of the Slovene 'national poet' France Prešeren, born in Vrba in 1800.

34 [*O*]*fnen khirchtag in gegenwurt viller perschonen* (ARS 721, kn. 18 (1636–1640), 27 April, 1637).

Fig. 7: Village Fair, Peter Brueghel the Younger, between ca. 1616 and 1635 (Wikimedia Commons).

kin': 10 guldens to his mother, 20 guldens to his brothers that also covered their legal fees, and 10 guldens to the rest of the victim's family. As in the extra-curial settlement, the court also demanded that peace and concord (*fridt vnd ainigkheit*) were to be kept between the families (ARS 721, kn. 18 (1636–1640), 27 April, 1637).[35]

Church fairs, attracting both local and neighbouring parishioners, were a great place to make peace: a church and mass as well as plenty of witnesses were at hand. Village taverns and inns constituted another public space and were popular for settling grievances, providing food and drink for former enemies to demonstrate their reconciliation (Bossy, 2004, 5, 58; Čeč, 2011, 706; 2015). Peace, as the quintessential element of community (Povolo, 2015a, 107), meant merriment and plenty

35 A few months later, it was established that Tišal continued to work on his farm a few days following the fight. Allegedly, he even broke into the local presbytery, causing an indecency. Hence, the court ruled that he did not die because of his wounds and two years later Tišal's killers were pardoned by the Austrian Archduke and Holy Roman Emperor Ferdinand III (ARS 721, kn. 18 (1636–1640), 3 August, 1637; ARS 721, fasc. 6, Archducal pardon of three subjects for the death of Pavle Tišal, 3 January 1639, Graz). It is unknown how this affected the peace settlement, perhaps a restitution of weregild or some other compensation was demanded by the acquitted. According to the Carniolan Provincial Court Ordinance of 1535, every homicide settlement required the Land Sovereign to pardon the culprit (LGK, 1535, 15), however if this was common in practice and how much of a formality it might have been, remains to be investigated.

after all (cf. Bakhtin, 1984, 228). On the other hand, old enemies could meet at fairs and taverns as well, and even among those of a neighbourly disposition revelries and drinking sometimes led to fights that could result in death. Valvasor wrote that Upper Carniolans were passionate dancers (see Fig. 6 background) and that many brawls and deaths occurred at their dances, which drew attempts by Church and State authorities to have them banned, yet to no avail, since the peasants regarded the dances as their ancient right or *ftara prauiza* in Slovene (Valvasor, 1689, 283). The merrymaking and rowdiness were greatest at Carnival (Muir, 2005, 93–105, 112–115). It was on Shrove Sunday in 1654 (13 February) that Peter Jakopič was beaten so severely that he died a few days later (ARS 721, kn. 20 (1652–1655), 10 April, 1654). The following year, Jakob Špetič died after being struck on the head with a club at the church fair in the village of Zasip on the feast of the Nativity of Saint John the Baptist (24 June) (ARS 721, kn. 21 (1655–1662), 9 April, 1656). Although having recently written about the settling of Jakopič's death in detail (Oman, 2017, 167–172), a reiteration of the essentials is required to appropriately demonstrate customary peacemaking.

The six witnesses[36] that the attackers' father Hanže Svetina (whom we have likely already met as the bailsman for Hans Jakopič in 1646) presented to the court could not say which of the four brothers had dealt the deadly blow to Peter Jakopič, thus casting doubt on the culprit's identity. It was surely not the incarcerated Matevž (*Matheusch*), but one of the three that managed to flee abroad: Blaž (*Wläsch*), Hanže Jr, or Matija (*Mathia*). When in doubt, it was common for courts to rule on the (Roman legal) principle that it is better that a culprit goes free than that an innocent is convicted and punished (cf. ARS 721, kn. 18 (1636–1640), 25 February and 30 March, 1637). This, the brothers' exile, and the penitentiary season of Lent, which had begun shortly after the killing, facilitated settlement and on 25 April peace was already made between the families (ARS 721, kn. 20 (1652–1655), 10 and 25 April, 1654).

For himself, his sons, and family, Hanže Svetina made peace with Jakopič's widow, brothers, and the rest of his kin, so that he could be given safe conduct. Svetina needed it as it protected the accused from arrest when they appeared in court, specifically guaranteeing protection from aggravating circumstances in advance to homicide suspects (Povolo, 2015b, 217), and was in general only granted to those who had already been given the chance to make peace with their enemies or the court (Reinle, 2003, 89). Jakopič's kin accepted Svetina's request for settlement and agreed that all four of his sons were to be given "*true and full peace*" and safe conduct. The victim's family pledged not to pursue the brothers upon their return home and to forgo all enmity, vowing instead to live with them "*in good neighbourliness as is becoming*". In exchange, Hanže Svetina pledged for himself and his family to give Jakopič's kin no cause for anger or aggravation

36 Jurij Ferčej, Hanže Golob, Gregor Andrejec (*Andreÿez*), Bastl Konič, Simon Mertelj (*Mertell*), and Primož Černe (*Primos Tscherne*) (ARS 721, kn. 20 (1652–1655), 10 April, 1654).

and forever remain in peace and good neighbourliness with them (ARS 721, kn. 20 (1652–1655), 25 April, 1654).[37]

The peacemaking had started with the required reciprocal renouncement of enmity and the restoration of 'good neighbourliness' as opposed to 'evil unneighbourliness'. It had to explicitly include the killer's and victim's respective kin, as spilled blood involved them all.

Next, the three brothers who had fled abroad agreed to the provision that the youngest, Hanže Jr, could return home as soon as possible to help his father at work, while Blaž and Matija had to remain in exile, perhaps in the Venetian Terraferma, for (the customary period of) a year and a day, whereupon they could return home and continue to live there in safety (ARS 721, kn. 20 (1652–1655), 25 April, 1654). Customarily the exile of the culprits facilitated peacemaking as their absence had a general soothing effect (Povolo & Darovec, 2018). For the same reason, homicide settlements in the north of the Empire demanded that former enemies avoid each other as much as possible for a year and a day, with the victim's kin having precedence on the road and at taverns and inns (Frauenstädt, 1881, 128–134).

The next provision of the peace settlement regarded composition payment. For his sons, Hanže Svetina pledged to pay Jakopič's widow 10 crowns for the support of her underage child as soon as possible, and provide them with a plot worth 30 crowns plus the customary interest (ARS 721, kn. 20 (1652–1655), 25 April, 1654). While as late as 1724 the Carniolan provincial authorities complained over the 'trifling amounts' paid as composition to homicide victims' kin (ARS 1, šk. 251, Patent of the Carniolan *Landeshauptman* regarding the eradication of sins and vices, 4 March 1724, Ljubljana), such grievances were not always substantiated. The sum of 40 crowns in the mid-seventeenth century amounted to the price of a farm or the yearly salary of a town teacher (Kotnik, 1997, 48; Hernja Masten, 2005, 226). Weregild for a subject killed by a lesser nobleman in the Lower Styrian town of Ptuj in mid-century was about the same (ZAP 177, 2, Town protocol 1653–1655, f. 436r–v). It was also custom to provide for the victim's underage children and common that composition in societies with little cash was at least partially paid in kind (Frauenstädt, 1881, 137–139; Boehm, 1984, 137), in Jakopič's case in arable land. In 1632, a subject of the Lower Carniolan Pleterje Charterhouse settled his enmity that broke out due to 'manslaughter' (the victim put a borrowed firearm into a fire and died in the resulting explosion) with composition in various cereals (Dolenc, 1935, 409–410).

37 *Erstlich so verwilligen vnd concedieren weillandt Pettern Jacopetsch se: nachgelasne wittib, brüeder vnd dessen gesambte freündtschafft, wegen des entleibten Pettern Jacopetsch verursachten todt halber, den vier gebr: Suettina, den wirkhlichen vnd volmechtigen friden: vnd sichereß glaidt, zu geben, sie auch, in dits orth, in kheinerleÿweiß, noch weeg zuuerheben, noch ainiche feindtschafft zuermessen, sondern wie sich gebiret, guete nachperschafft zu halten, veroblegiren doch dz sie Suettina obbeelter freindtschafft in kheinerleÿweiß noch weeg zu ainichen zorn oder widerwillen, nicht vrsach geben, sondern sich jederzeit zu gegenbeelter freundtschafft freidtlich vnd nachperlich zu erzeigen schuldig sein solten* (ARS 721, kn. 20 (1652–1655), 25 April, 1654).

Finally, before peace was solemnly sworn, the court had to be included in the settlement if it was to be affirmed by the authorities, as was also stipulated by the Carniolan Provincial Court Ordinance of 1535 (LGK, 1535, 35). To make peace with his Lordship's court, Hanže Svetina had to pay legal fees totalling 35 crowns and 2 ducats in gold within two weeks' time (ARS 721, kn. 20 (1652–1655), 25 April, 1654). The first amount is composition paid to the lordship, while the second sum was surety for the settlement (cf. Dolenc, 1935, 410). Fines for breaking settlements in Bled in the first half of the seventeenth century were generally between 6 and 10 ducats in gold (ARS 721, kn. 17 (1632–1636), 13 June and 15 September, 1635; ARS 721, kn. 20 (1652–1655), 17 May, 1652); a few much heavier fines are given above.

As stipulated by the Ptuj Town Statute of 1513, the composition paid to the court for homicide depended on the culprit's assets (Hernja Masten & Kos, 1999, 147). Yet, in general, it was set very low to help facilitate peacemaking. The Carniolan Provincial Court Ordinance of 1535 stipulated the sum of 60 pennies, roughly the price of a pair of boots or ten chickens (Koropec, 1972, 109), to be paid by perpetrators of homicide (in self-defence) in order to make peace (*versienen*) with the court (LGK, 1535, 12). For breaking peace settlements ordered by the court (*wo ainem fridt gebotten und solchen nicht helt oder überfürt*), town rights of the Lower Styrian market town of Šentjur pri Celju from 1538 stipulated fines of 70 pennies to the town judge and an unspecified sum to the town's lord, the Bishop of Gurk (Mell & Müller, 1913, 257). Likely it was higher, as was the weregild.

To reiterate, the surety that the Lordship of Bled provided for the settlement was not only about money, since the control over peacemaking legitimised courts as institutions which upheld the social order, hence, contrary to the claims in the *Bambergensis*, courts did work towards restoring peace and social order. This and not simply avarice (cf. Škrubej, 2012, 213), was also why there were so many office days in a week in the Bled court.

While the provisions for the homicide settlement between Hanže Svetina and Peter Jakopič's kin are provided in great detail, the ritual conclusion of enmity between the families is not given in the court protocols. Clues to that can be found in other local sources. Much like in the Middle Ages (cf. Frauenstädt, 1881, 105–109), peace between feuding families in the seventeenth-century Bled countryside was made in public, especially on Christian holidays, when enmities were to be suspended in the first place. Temporarily free of their daily toils, the community would gather at Sunday Mass, church fairs, and similar festive occasions, serving as witnesses, and the erstwhile adversaries could jointly partake in mass to further demonstrate their reconciliation.

On the feast of the Nativity of Saint John the Baptist[38] in 1679, Jurij Žnider was publicly cleared (*öffentliche abbith*) of the accusations that he had stolen a sheep by the *župan* and four 'honourable men' in front of the church[39] in the

38 On the symbolic role of Saint John the Baptist in Montenegrin peacemaking see: Ergaver, 2016, 122.
39 Perhaps the church of Saint Mary Magdalene in the nearby village of Brod.

Fig. 8: Feiertagschristus or Sunday Christ, fifteenth-century fresco on the outside wall of the church of Saint Cantianus in Saak/Čače, Carinthia, Austria (Wikimedia Commons). These figures depict activities forbidden on Sundays and holidays (http://www.rdklabor.de/wiki/Feiertagschristus). Aside from the various tools, including a crossbow used for hunting, this example also features weapons (sword, halberd), likely illustrating the customary suspension of enmities.

village of Savica (Čeč, 2011, 720). It was also at a church fair "*in front of many people*" that 'peace and concord' were made between the alleged killers of Andrej Prešelj and his kin in 1637.

In 1656, as mentioned at the beginning of this paper, a staggering number of twenty-seven witnesses, including a priest and a nobleman,[40] testified to the peace settlement (*vergleichs friden*) between Hans Mušan and the kin of his victim, Jakob Špetič. The settlement was agreed to on Palm Sunday in front of the church of Saint John the Baptist in the village of Zasip, where Špetič had been killed and buried. In order to allow Mušan's pardon (*perdonierung*) (by the Land Sovereign) for the killing, his victim's kin demanded that he pay them for the appropriate food and drink (*gebierlichen leitkhauff*), donate a mass garment to the church in Zasip, and pay for thirty masses to be held there in the next three years. In exchange, his victim's 'entire kin' pledged to no longer hold anything against Mušan and to remain with him in love and friendship (*lieb vnd freundtschafft*) (ARS 721, kn. 21 (1655–1662), 9 April, 1656).

Penance, in the form of paying for masses to be held for the victim's soul, was an integral act of Medieval peacemaking (Frauenstädt, 1881, 144–145, 153) and remained a common stipulation in settling homicide among Catholics well into early modernity. It is also attested in Ptuj in 1655 for the killing of the subject Luka Pankicher by the noble Fermo Qualandro in a feud with his nephew Simon Moscon the year before: Qualandro had to pay 50 guldens each as composition payment to the victim's kin, as a fine to the magistrate, and as penance to a local chapel (ZAP 177, 2, Town protocol 1653–1655, f. 436r–v). Had Fermo killed a nobleman or burgher, the sums would have likely been higher.

Furthermore, although sources do not always attest to the (re)establishment of love, honour, and friendship (*lieb ehr vnd freindtschafft*) between the feuding families (cf. ARS 721, kn. 17 (1632–1636), 13 June and 15 September, 1635), this does not mean that the words were left unsaid in the peacemaking ritual (cf. Vollrath, 1992, 295–296). To the contrary, it is to be expected that the oral settlement included all of the above phrases in the Slovene vernacular and a public gesture of peace. By the seventeenth century the kiss of peace was probably no longer the essential gesture of reconciliation (cf. Rolandino, 1546, f. 158r–159v), as it had been in decline since the fifteenth century and replaced by the embrace, which was

40 The relationship of the two to the perpetrator and victim is unknown, perhaps they were mediators. This would have been quite likely for Christoph Pappal, the chaplain of the church of the Assumption of Mary on the Isle of Bled. While the nobleman Hans Ludwig von Grimschitz was certainly also a local landlord, his family were never rentiers of the Lordship of Bled. Perhaps his subjects were from one of the feuding families. The commoner witnesses were Jurij Špetič, Matija Špetič, Matija Karničar (*Kernitscher*), Peter Karničar, Andrej Bregant (*Wregandt*), Lovro Kozel and his wife Helena, Gašper Židanik (*Sidenickh*), Jakob Židanik, Mihelj and Lenček Slamnik (*Slambnickh*), Mihelj Snuber, Simon Židanik and his son Jurij, Štefan Kateš (*Khatesch*), Jurij Hudovernik (*Hudouernickh*), Jurij Židanik, Hanže Svetina, Mihelj Justinčič, Jurij Poznik (*Poßnickh*), Gregor Falenč, Andrej Zupančič (or Zupanc), Andrej Švegelj (*Schuegl*), Blaž Mušan, and Blaž Zalokar (*Sällächer*).

Fig. 9: Detail of 'Village Fair' by Peter Brueghel the Younger (see Fig. 7), depicting a handshake confirming an agreement in front of a witness.

regarded as less 'carnal' by both Protestant and Catholic reformers (Koslofsky, 2005, 25, 33; Carroll, 2016, 128–129). While it is unknown whether the kiss or the embrace were still used as gestures of peace in seventeenth-century Upper Carniola, the handshake (see Fig. 9), as one of the fundamental legal gestures (Schmitt, 2000, 109), and the mutual toast remained part of conflict resolution long after (Polec, 1945, 47, 50). In seventeenth-century Latin-Slovene dictionaries, the terms *fidem dare* and *pacisci* are both translated as *v' roke fèzhi* (to shake hands), while another translation for *pacisci* was *se sglihati* (to come to an agreement) (Vorenc & Kastelec, 1680/85, 221, f. 236r).

A century earlier, handshakes are attested in settling conflicts between the burghers of Ljubljana. In an inheritance dispute turned ugly lawsuit in 1569, the burghers Erazem Naglič (*Erasem Naglitsch*) and his wife Agnes were called upon by the magistrate and in the name of charity (*Christlicher lieb*) to settle with the other heirs of Blaž Sallitinger, Agnes' father. Following the couple's apology (*abbittie*) and a fine of 50 guldens, which was "*without harm to their honour*",[41] Naglič and

41 [*V*]*nuerlezt irer ehren* (ZAL 488, kn. 9 (1568–1569), 9 July 1569, f. 220r).

his adversaries were made good friends before the magistrate "*by shaking hands and publicly declaring and vowing to settle with and forgive one another for everything and to forthwith have naught but affection for each other as well as, for God's sake, to avoid all harm*".[42] They also had to abstain from renewing the matter whether outside or in court (*guetlich noch rechtlich*) (ZAL 488, kn. 9 (1568–1569), 9 July 1569, f. 219r–222r). Settlement by handshake (*fur dÿ hanndt nemen vnnd miteinander vergleichen*) also concluded the aforesaid dispute between the burghers Concilli and Baschan (ZAL 488, kn. 10 (1570), 25 August 1570, f. 124v–125r).

As his Montenegrin informants explained to the renowned ethnographer Valtazar Bogišić in the 1870s (Darovec, 2017a, 59), if peacemaking was to succeed, it had to emphasize that apologies and concessions to one's adversaries were not dishonourable. When settling the 'evil unneighbourliness' between Hans Triplat and Jurij Avsenik in 1648, the court stressed that the fine was "*neither punishment nor dishonourable*",[43] but simply compensation for the legal fees that had accumulated during their longstanding enmity (ARS 721, kn. 19 (1644–1651), 31 March 1648, 811).

Marriage as the (ideally) ultimate guarantee for lasting peace is not recorded in the surveyed court protocols. However, it is attested for settling enmity in the early eighteenth century elsewhere. At least three cases are known from Lower Styria and Carniola, envisioned to end bitter disputes over the delineation of property, eventually aiming to unite it by wedlock. Matrimonies between Matija Predovnik and Magdalena Tončnik from the Lower Styrian village of Braslovče in 1705 and between Jakob and Agnes Prešeren from the Upper Carniolan parish of Radovljica in the same year were probably planned by their parents, while in the Lower Styrian market town of Gornji Grad in 1709 it was the prospective newlyweds Andrej Maranšek and Marija Avguštin who believed that their marriage would end the conflict between their parents (Kos, 2015, 160–161).

The cases suggest that among early modern Slovenes matrimony could still have been used to fortify blood settlement as well. Folk tradition seems to concur (Štrekelj, 1980, 213–215), even if the following family ballad also echoes Orestes and Hamlet. However, its various interpreters have overlooked (cf. Golež Kaučič, 2004, 94–96) that when against his counsel Verjanko's mother marries Rošlin, who had killed his father and brother, his right to vengeance, and hence justice, is taken from him. Were it not for his mother's later betrayal and Verjanko's subsequent 'preemptive strike', killing Rošlin after the marriage (i.e. after peace was made) would have been unacceptable or at least highly inappropriate by custom, not to mention by law.

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42 [*A*]*iner dem anndern, di henndt pietten vnnd lautter annzaigen vnd bekhennen, das alles das was sich bißheer zwischen innen zuegetragen vnd zuuerzeichenn, vnnd das hinfuro ainer den anndern thuen was ime lieb ist, vnnd das was ime laÿd vnndterlassen sollen vnd wollen vmb Gottes willen* (ZAL 488, kn. 9 (1568–1569), 9 July 1569, f. 221v).

43 [*K*]*hein straf noch vnehrliche sach* (ARS 721, kn. 19 (1644–1651), 31 March 1648, 811).

'Kaj hoč'va, kak hóč'va, moj ljúbi sin? / Ti si premlád, se oženít', / Jez sim prestára, se možít'! / 'Vzamíte máti, kógar č'te, / Le húdiga Rošlína ne! / Rošlín, on je sovražnik moj, / Ker mí je očéta, bráta vbil, / Še sim mu jez komaj ušel.' / Mati pa ni nič márala, / Vzela je Rošlína húdiga. (Štrekelj, 1980, 213).[44]

A NINETEENTH-CENTURY EPILOGUE

In 1883, following seven years of what was essentially already an eleventh-hour inquiry (Vilfan, 1990, 80), the shoemaker, shopkeeper, and self-taught ethnographer Gašper Križnik from the Upper Carniolan market town of Motnik filled in a survey on folk customs sent to ethnographers across Europe by Bogišić, which Križnik acquired from Jan Baudouin de Courtenay (Polec, 1945, 1–7).

Regarding conflict resolution, Križnik's notes echoed ancient custom. Should a quarrel (*razprtija, prepir*) arise between two men, their neighbours would try to reconcile them the best they could, usually at the village tavern. The neighbours would act as mediators and arbiters, attempting to settle the grievance by having both sides suffer some damages, with the party regarded as the offending one having to suffer more. The arbitration would then be concluded with words like "*this is how it should be, we ought to be friends, it is unseemly that neighbours quarrel*",[45] and the parties would have to concede to what was agreed upon, both verbally and with a handshake, thus ending their dispute. Verbal and corporal injuries, which according to custom demanded reciprocation in kind, were to be settled in a similar manner. Such enmity (*sovraštvo*) was also settled at the village tavern, starting with a toast by the offender to the offended party who replied by making a toast to the offender. By knocking together the (demonstratively empty) bottoms of their cups and shaking hands, both men would then confirm their friendship and forgive each other for everything that has transpired between them, never to think of the matter again (Polec, 1945, 47, 50).

A comparison of the investigated cases from the seventeenth-century Bled countryside with the resolution of enmities in the Middle Ages attests to the long survival of feud. The omission of the German words one might expect to have been used in the records (e.g. *Absage, Austretten, Fehde*, etc.), was due to their disuse following the criminalization of feud, beginning in the language of law (Peters, 2000, 71), while the term *Urfehde* was growing restricted to criminal courts and social disciplining (cf. Blauert, 2000, 13–21). The settling of enmity presented in this paper confirms the general European trend of the slow implementation of early modern criminal

44 "*'What are we, how are we to do, my dear son? / You're too young to marry / and I am too old!' / 'Take whom you will, mother, / save for the evil Rošlin! / Rošlin is my enemy / he killed my father and brother, / I've barely escaped him myself.' / Yet mother did not care / and wed the evil Rošlin*" (translation of the first ten lines).

45 "*Takole naj bo, prijatelji si bodimo, je grdo, da smo sosedi v prepiru*" (Polec, 1945, 47).

Fig. 10: Return of the Prodigal Son, beehive panel, Lower Styria, 1888 (Slovenski etnografski muzej – Slovene Ethnographic Museum).

law and state interference in the local judiciary. As long as the enmities did not get out of hand, the Lordship of Bled appears to have preferred to maintain the role of arbiter and keeper of peace and social order, rather than to upset both by dismantling customary conflict resolution. Moreover, due to the *longue durée* of social traditions that upheld peace and concord in rural communities (Povolo, 2015a), particularly in the hinterland, it should come as no surprise to encounter remnants thereof in the late nineteenth century. After all, in the 1880s, with the abolition of serfdom less than two generations in the past, the modernisation of the Slovene countryside, which gradually dismantled traditional rites of sociability (cf. Verginella, 1996), was a rather recent process.

SOVRAŽNOSTI IN POMIRITVE MED GORENJSKIMI KMETI V ZGODNJEM NOVEM VEKU

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POVZETEK

V razpravi je skozi stopnje običaja maščevanja rekonstruirano reševanje sporov med podložniki gospostva Bled v prvi polovici 17. stoletja. Na podlagi disparatnih primerov se pokaže, da se obredje sovražnosti in miru v primerjavi s poznim srednjim vekom ni bistveno spremenilo. Spremembo odnosov iz »dobrega sosedstva« v »zlo nesosedstvo« je bilo treba obelodaniti, bodisi z grožnjami ali s klevetanjem, kar je v reševanje spora vključilo skupnost, bodisi s tožbo, ki je vanj pritegnila še gospostvo, tj. njeno deželsko in patrimonialno sodišče. Lokalna sodna oblast je vzpodbujala pomiritve s posredovanjem skupnosti tudi za najhujše kršitve družbenih norm, kot je bil uboj. Novost dobe je bila zahteva po pomiritvi pred sodiščem, kar le-temu ni prinašalo zgolj denarja, temveč je delovalo predvsem kot dodatno jamstvo miru in tega legitimiralo pred osrednjimi oziroma državnimi oblastmi. Sicer je obredje pomiritve ostalo enako kot v poznem srednjem veku. Oškodovani strani je bilo treba plačati primerno odškodnino, sodišču globo za kršitev miru, v primeru uboja pa plačati še maše v spomin na žrtev. Mir je moral biti sklenjen v javnosti, najbolje na nedeljo, praznik ali semanji dan, ko se je zbralo večje število ljudi, pomiritev pa sta poprej sprti strani lahko demonstrirali še s skupnim obiskom maše. Pomiritev je sklenila simbolna gesta, v 17. stoletju najbrž le še stisk rok, kot starodavna gesta sklepanja pogodb, nakar je mir lahko potrdil še skupni obed ali zapitek, tj. likof. Stisk rok in zdravica sta ostala del tradicionalnega reševanja sporov še v poznem 19. stoletju, razen za najhujše delikte. Njihovo sankcioniranje je proti koncu 18. stoletja dokončno prevzela država, zlasti z odpravo avtonomije lokalnih sodišč.

Ključne besede: reševanje sporov, maščevanje, fajda, sovražnost, mediacija, pomiritev, mir, kmeti, podložniki, Gorenjska, Bled, zgodnji novi vek, 17. stoletje

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