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COLLECTIVE CRIMINAL RESPONSIBILITY OF VILLAGES IN THE MEDIEVAL SERBIAN EMPIRE

Abstract

Collective criminal responsibility has always been a complex social and legal phenomenon. It was common in the Middle Ages, given the objective understanding of both criminal offense and responsibility. In that sense, medieval Serbia is no exception. In Serbian medieval law, there was a collective responsibility of the family, the household and territorial entities, such as a county, city, village, and vicinity. Among the territorial communities, the most common holder of responsibility was the village. The collective responsibility of a village was closely related to its administrative and judicial powers and duties delegated by the state. This paper aims to analyze the provisions of Dušan's Code on the collective responsibility of villages from the historical, sociological, and teleological aspects. In order to determine the true meaning and scope of these provisions, it is necessary to link them to the relevant provisions of the Abridged Syntagma. Dušan's Code and the Syntagma essentially represent a whole and always stand together in transcripts.

Keywords: *Dušan's Code, collective responsibility, villages, perpetrator, punishment.*

1. Introduction

Collective criminal responsibility, inherent to archaic laws, had an important place in medieval Serbian law. It had been present in archaic laws since ancient times in the form of the cruel custom of blood feud, which was later replaced by the ransom system. Initially, collective responsibility was based on kinship with the perpetrator. Namely, the ransom was being paid either by the offender's clan or the family, certainly if they had the desire and interest to save its member from punishment, most frequently from death penalty. As a result of the disintegration of the clan-tribal society, the Slavs formed territorial communities: counties (*zhupa*) and villages. After that, the focus of collective responsibility shifted from kinship to territorial entities. In The High Middle Ages, collective responsibility based on the territorial principle dominated in Serbia, mainly

embodied in the collective responsibility of the village. The responsibility of the family was constantly limited, but it was formally abolished only by Dušan's Code (1349), The Code, however, did not wholly abolish collective responsibility based on a personal principle but limited it to individual members of the household.

Although collective responsibility seems anachronistic, unjust and cruel from the standpoint of today's legal standards, it played an essential role in the medieval states. Public administrations of medieval states, particularly in the period until the 10th century, could not respond to all the challenges posed by the turbulent Middle Ages. Hence, the central government delegated some prerogatives and matters of state (such as police tasks) to non-state entities, primarily counties and villages. By transferring those duties and responsibilities to these entities, the central government could spare valuable resources necessary for dealing with issues of primary importance, such as defense, financial stability and suppression of feudal particularism.

The subject matter of interest in this paper is the collective criminal responsibility in the Serbian Empire, particularly the responsibility of villages. The legal framework under observation includes Dušan's Code and the so-called "Abridged Syntagma". The provisions of the Code take precedence because, speaking in modern legal terminology, they represent a *lex specialis*, while "the Abridged Syntagma" is a general legal source. By interpreting the relevant provisions of Dušan's Code, primarily from the sociological, historical, and teleological aspects, we will try to determine their true meaning and scope, in an endeavour to prove the primary hypothesis of this paper - that the collective responsibility of the village is a sanction for non-performance of duties entrusted by central authorities.

2. Village in the Medieval Serbian Empire

In medieval Serbia, village was the smallest territorial unit. Despite some administrative prerogatives, it was not the self-government entity as the village in Serbia under the Ottoman rule. The medieval village had numerous obligations towards the feudal lord and the central government. In terms of collective responsibility, the most important responsibilities were the police service and the internal investigation.

At the time of the enactment of Dušan's Code, the process of feudalization was entirely over. There were no free villages anymore (Новаковић, 1965: 105). The villages were either owned by the ruler or by nobility (as their inheritance). According to the production pattern, the villages were divided into agrarian villages and herdsmen villages. Agrarian villages were founded on the arable land in the river valleys, while herdsmen villages were located in the mountainous

areas, rich with pastures. The non-moving population of agrarian villages was of Slavic origin; the herdsmen mainly belonged to semi-nomadic Arbanas and Vlachs. In addition to farming activities, some villages were engaged in craft production. Their names often reflect such hand-manufacturing activities (e.g., Štitari, Strelište, Kovači, Grnčari, Koritnik). The village was separated from other villages and uninhabited areas by boundary lines.

The village had its leaders, referred to as village heads (chiefs) or elders. We can assume that the village heads were appointed either by the feudal lord or by the central government's representative. Another village administration body was the village council, which convened to decide on important local issues.

3. Horse killing

According to Article 111 of Dušan's Code, a village is responsible if its member kills or drives away a stray horse. It is an example of quasi-collective responsibility because a village as a whole could not commit the offense in question; a horse could be driven away or killed by an individual or a group of people. In everyday life, someone would drive away or kill a horse after finding it on his property damaging crops or orchards. In this event, the identification of such an offender would cause difficulties, keeping in mind that the term "stray" probably refers to a horse whose owner was not an inhabitant of the village. The owner could have lived far away, for instance, if he was a travelling merchant. In that case, searching for the offender would take an unreasonably long time, and the injured party should be indemnified immediately. The legislator probably singled out horses from other domestic animals due to the frequency of the offense[1], and because a horse was an animal of great importance and value (especially a trained parade horse or a warhorse).[2]

4. Denial of hospitality

Article 159 of Dušan's Code prescribes the responsibility of a village for the damage sustained by merchants, and stipulates that the village owes them hospitality. Here, hospitality means accommodation (lodgings), as one of the

[1] Blastares' Syntagma stipulates the tenant's responsibility for the rented horse. In addition to negligence, he is also responsible for the accidental death of the horse, if he took the horse further than agreed. These provisions were also in force in Dušan's Empire(Соловјев, 1998: 430).

[2] During the reign of King Milutin, horse theft was under the jurisdiction of the royal court. Under Art. 35 of *Russkaya Pravda,* a horse thief faces the confiscation of the property and enslavement. In Kievan Rus, horses could be bought only in the presence of an official, who registered the sale, stamped the horse, and charged the parties a fee (Николић, 2000: 69).

many obligations that the dependent peasantry owed to the privileged classes. If a merchant suffered damage as a result of not being allowed to spend a night in the safety of the village, the landlord of the village and the village (respectively) were required to pay a fine. The Code explicitly envisages the landlord of the village as the perpetrator, but the consequences were borne by the village as well, for a good reason. Namely, a lord may have dared to deny lodgings to a merchant and his entourage, but it was highly unlikely that a peasant would do so. Yet, a crowd of peasants could prevent the merchant from entering the village, which certainly used to happen because lodgings were a burden for the village, particularly if the trader's entourage was numerous. Peasants also reluctantly let strangers into their homes. The merchant entourages were armed, composed of mercenaries and people of dubious moral qualities, which posed a potential danger to the village.

Article 159 of Dušan's Code was in line with other provisions which granted merchants substantial privileges at that time.[3] Most merchants were foreigners, mainly from Dubrovnik, with which the medieval Serbian state had always had unique relations. Dubrovnik merchants were of vital importance for its domestic market as well as foreign trade. Dubrovnik was paying a considerable tax *("Svetodimitarski dohodak")* to the Serbian rulers who, along with noblemen, used to store family treasures in the Dubrovnik treasuries.

5. Contempt of court

Dušan's Code stipulates collective responsibility for the indictable offense of insult. Thus, Article 111 provides for the confiscation of property of a feudal lord who insults a judge, while a village was to be displaced. The means of expression could be either insulting words or insulting behavior and disobedience.

Differentiation of both subjects and objects of criminal acts according to their social rank is inherent to the medieval law. Thus, members of the unprivileged classes were regularly punished more severely for most of crimes. On the other hand, some crimes could only be committed by members of a particular class. Moreover, the crime that a dependent peasant (serf) would commit against a feudal lord posed a greater social danger and was prosecuted more severely than the same crime committed by lord against a dependent peasant, slave, or any other member of the lower classes.[4]

[3] Dubrovnik merchants enjoyed the right to travel and trade throughout the Serbian Empire. Neither feudal lords nor the central authorities were allowed to hamper such activities (Articles 118-122 of Dušan's Code).

[4] If a feudal lord curses a peasant, he must pay 100 perpers. For the same insult to the feudal lord, the peasant was threatened with the same fine and corporal punishment by scorching (Николић, Ђорђевић, 2013: 156).

However, in case of insulting the judge or court, this difference is utterly absent. Namely, for contempt of court, the feudal lord was threatened with draconian monetary penalty and the confiscation of the entire property, which was the most severe punishment after death penalty. Confiscation meant much more than seizure of property; it entailed the deprivation of all class privileges and "civil death" in the true sense of the word. On the other hand, the village was threatened with equally harsh punishment of displacement, in conjunction with the confiscation of the village property (which certainly included the peasants' personal belongings).

The legislator singled out the lord and the village for the sake of convenience. The lord himself, as the holder of the executive and judicial power on his property, could dare to insult a state judge out of arrogance or disobedience, and thus question the authority of the central government. On the other hand, it is hard to imagine that a single peasant would dare to do such a thing. However, the whole village, a crowd of peasants led by the specific mentality of a mob that draws courage from the sheer number of participants, could show disobedience to the authorities, both feudal and central; the social reality of Dušan's time certainly provided enough empirical material on such events (Тарановски, 1996: 453). Draconian penalties prescribed for such acts were, in the first place, aimed at precluding any thought of defiance of the central government, both among the nobility and peasants. In addition, the legislator obviously intended to additionally strengthen the judge's position, and to make their authority inviolable.[5] It may be best illustrated by comparing the punishment for insulting a judge (confiscation of property and displacement) with the punishment for insulting a member of the clergy. Article 59 stipulates that whoever curses a saint, a monk or a priest must pay 100 perpers. Thus, an act of insulting a clergyman was punishable by a fine, which is penalty for insult in general (Тарановски, 1996: 452). It shows the heights to which the dignity of a state judge was raised in medieval times.

6. Arson

Arson has always been considered a grave offence. Byzantine law regulates arson in detail. For example, *Ecloga* distinguishes arson from unintentionally caused fire. For willful or malicious burning of property within the city, the death penalty by burning is prescribed. For the same crime committed outside the city the penalty of death is also envisaged, but by decapitation. In case of gross negligence, the perpetrator would be liable as if he caused the fire intentionally. In case of a negligent or an accidental act, there was no criminal offense, and the

[5] The authority of state judges was placed above all other state officials, on a par with the authority of the ruler (Art. 148). For disobedience to the state judge, the punishment followed as for non-compliance with the imperial order.

perpetrator had to compensate the injured party for the damage caused by fire. For the burning of boundaries, Farmer's Law stipulated compensation in two-fold amount of the fire damage, in conjunction with branding the perpetrator's hand, or cutting off his hand in case of burning the vineyard fence. The act of setting a threshing floor or haystacks on fire, as an act of revenge, was punishable by immolation (death by burning). The punishment of severing one's hand was prescribed for burning the barns (Николић, Ђорђевић, 2013: 82).

Blastares' *Syntagma Canonum* dedicates a whole chapter to arson, which is largely taken from the *Basilika.* The five provisions discuss severe and common arson, unintentional fire, and perpetrator's guilt. Intentional burning of a building and grain was also considered a severe arson, punishable by burning the culprit *(iure talionis).* The intention implied awareness or fraudulent intent. In case of unintentional fire, special attention was paid to whether the act was committed negligently or accidentally, in which case the perpetrator was not subject to criminal punishment (Соловјев, 1998: 482).

Although the ancient Slavic law preferred ransom to corporal punishment, it made an exception in case of arson. Thus, Article 15 of the Law on the Trial of People (*Закон судњи људем)* incorporated the entire Article 41 of the Ecloga, adding only the spiritual punishment of twelve years of fasting. The only provisions on death penalty in the entire Law was immolation (death by burning) for starting fire in the city, and decapitation if such an offense was committed in a village or a small town (Николић, 2016: 39). *Russkaya Pravda* excluded three highly dangerous criminal offenses (robbery, horse theft, and arson) from the general system of fines, and prescribed the confiscation of property and persecution of the culprit (Николић, Ђорђевић, 2013: 127). The Vinodol Statute envisaged a fine for arson, which was replaced by corporal punishment if the perpetrator could not pay the fine. However, in case of recidivism, the arsonist faced death penalty (Николић, Ђорђевић, 2013: 146).

Dušan's Code also regulated arson in rural areas: in a village, in the vicinity of the village, in the county, and in inter-county relations. The objects of this criminal offense included "a house, threshing grounds, straw, and hay" in the village (Art. 99), threshing grounds and hay in the vicinity of the village (Art. 100), and the whole village (Art. 58). The subject of collective responsibility for arson can be either the village (Art. 99) or a settlement in the vicinity (Art. 58 and 100). Taranovski believes that the Code's essential provision on arson (Article 99) is the only one that provides for collective responsibility in the spirit of the old Slavic customary law. Namely, the village may choose whether to hand over the arsonist to the authorities to be executed or to pay a fine. At first glance, it would be incompatible with the village's best interests to protect the perpetrator (Новаковић, 2004: 204). However, one should keep in mind that the objective

concept of crime and objective responsibility were inherent to the medieval law. It should be assumed that the village did not protect an intentional arsonist. On the other hand, it was not in the community's best interest to hand over its member who had caused fire accidentally. In the Middle Ages, the court's focus was mainly on the crime and much less on the culprit; thus, the issues of offender's guilt and accountability were rarely examined. According to Taranovski, those issues were intuitively resolved by the community that the culprit belonged to, according to the people's legal consciousness. In other words, if the community found that there had been no guilt or that the perpetrator was mentally incompetent or insane, it would not take such a perpetrator to the court; instead, the community would pay the prescribed fine (Тарановски, 1996: 464).

7. The burning of "werewolves"

Article 20 of Dušan's Code (on sorcerers who burn the bodies of the dead) could be classified as a criminal offense against religion. The substance of the crime is not about desecrating graves as an act of vandalism or opening them for theft.[6] These crimes were regularly committed mainly by individuals or small groups, but never by a community as a whole. On the contrary, the burning of a "werewolf" within the meaning of the Code could not be conducted by an individual but by the whole village, or by the majority of its inhabitants. It is not difficult to imagine a mob (''armed'' with batons, field tools, and torches) which, after a word had been spread that a recently deceased person had turned into a werewolf, went to the village cemetery, dug up a ''werewolf'' and burned it at stake (Новаковић, 1965: 159). It was a heathen relic of pagan times, one of the many superstitions condemned at the Trullan Council (in Constantinople, 692 AD), which were preserved in medieval Serbia as astonishingly tenacious customs. As the defender of the faith, Tsar Dušan held that it was up to him to uproot this pagan practice and prescribe stringent penalty for this crime: the village that burns the "werewolf" must pay the fine prescribed for murder (*vražda*, wergild). The crime also had a more severe form: if the village priest participates in committing this crime, he must be discharged from priesthood. It should not be forgotten that the Code was, first and foremost, aimed at regulating the issue of religion, primarily the protection of Orthodoxy. Therefore, such punishment is understandable if we keep in mind that a priest is expected to bring people closer to the Orthodox faith.

[6] For theft from the graves, Byzantine law provided for cutting off the perpetrator's arm. However, if the perpetrator was armed, he was threatened with the death penalty (Соловјев, 1998: 475).

8. *"Potka"*

Potka was a criminal offense that could only be committed by a collective subject (the village). There are disagreements regarding the substance of this offence. Novaković (1965) and Soloviev (1998) claim that *potka* is a quarrel between the villages over the boundary lines. On the other hand, Taranovski stresses that *potka* is a universal term for a group of offenses against agrarian property, which could include quarrels, conflicts, and fights (Тарановски, 1996: 465), but these acts did not make the substance of this crime.

First of all, *potka* means a violation of borders between villages and, therefore, a violation of agrarian property (e.g., if one village plows a field or cut down a tree of another village) (Тарановски, 1996: 466). Besides the offense itself, the term *potka* was also used for the fine envisaged for such an act. In the Charter issued by King Milutin to the Monastery of St. George near Skopje, *potka* is mentioned in several articles (Articles 10, 32, 40, 47), listing the fines that were to be collected by the Monastery. The Charter also defines offenses that belong to a broad category of offenses against agrarian property which are fined by *potka*. For instance, under Article 27 of this Charter, whoever violates the church aqueduct by diverting water from the church must pay a fine (*potka*) of 12 perpers (Тарановски, 1996: 466). Article 77 of Dušan's Code prescribes a fine of 50 perpers for a quarrel between two villages, and a fine of 100 perpers for a quarrel between a village and Vlach or Arbanas herdsmen. Half of the fine for "potka" was to be paid to the Tsar and the other half to the village landlord.

The Vlachs and the Arbanas were semi-nomadic herdsmen, who grazed cattle in the mountains during the summer and came down to the valleys in the winter, seeking shelter with the settled population. However, they could be given a shelter only by agreement with the feudal lord, or possibly with the village. If they cultivated the village's land or settled thereon without such an agreement, they would be held responsible for *potka;* in addition to paying fine, they would have to indemnify the landlord of the village (Николић, Ђорђевић, 2013: 159).

The higher fines prescribed for Vlachs and Arbanas were aimed at preventing dangerous public mischiefs. In order to protect cattle from wild beasts, robbers and other herders, herdsmen were usually armed. Thus, clashes between herdsmen could easily turn into small wars between clans and regarding tribal ties.[7] In addition, as noted by Taranovski, conflicts between the agrarian population (farmers) and semi-nomadic herdsmen (cattle breeders) had to be prevented and extinguished. As the Vlachs, Arbanas, and the Slavic agricultural population were of different ethnic origins, conflicts over the property boundaries could

[7] The custom of feud blood has been maintained in the mountains of Montenegro and Albania to this day.

easily take an interethnic character and engulf the country in violence. These were the primary reasons for the legislator's negative stance towards mixing of arable farmers and herdsmen. Thus, Article 87 of the Code prohibited the Vlachs and the Arbanas to settle in large numbers in the agrarian villages.

9. Theft and armed robbery

Dušan's Code also made provisions for the collective responsibility of the village community in conjunction with the individual responsibility of the perpetrator, by envisaging the criminal offences of *tatba* and *gusa*. They were both criminal offences against property: the former implied theft, and the latter implied armed robbery.[8]

As the Abridged Syntagma incorporated almost all the secular provisions of Blastares' Syntagma on theft and robbery, these offences were not extensively covered in Dušan's Code of 1349. However, the amended version of the Code (1354) included new, detailed provisions on theft and robbery. The village where a thief or a robber was caught was to be punished most severely, by the confiscation of all property and displacement. It was a sanction for breach of duties entrusted to the village by the central government and a preventive action to discourage rural communities from engaging in professional robberies (caravan raids).

As a medieval feudal state, the Serbian Empire entrusted the specific tasks, primarily the police service, to non-state entities: feudal lords and local units (villages, counties). According to Taranovski, "the state imposed on those entities the duty of conducting a general investigation against professional thieves and robbers" (Тарановски, 1996; 459).[9] He also stresses: ''Such investigation means that a judge or other representative of the state, the feudal lord, or the head of the municipality convenes a meeting, at which all its participants are being heard, and everyone has to denounce the criminals within the community. Then, the assembly states, unanimously or by a majority of those heard, who professional thieves and robbers are, and hands them over to the authorities for

[8] There is a clear distinction between a thief and a robber. The former steals secretly, and the latter uses force, with or without weapons.Byzantine law had long had no separate provisions on robbery. Only the provision of Prochiron on *famosi latrones* threatened robbers with hanging at the crime scene (Соловјев, 1998: 502).

[9] The rural municipality in Kievan Rus had the duty of a general investigation in case of theft ("*tatba"*). According to Article 77 of *Russkaya Pravda*, if the trail of thieves is traced to a village, the village is obliged to show the searching party that the trail goes beyond it, and it shall join in the search. If the village does not do so, it must collectively pay a fine and compensation to the injured party. However, the village did not have such an obligation if the trace was lost on a major road or in an uninhabited area (Николић, 2000: 148).

trial and punishment. Undoubtedly, this kind of investigation is tacitly provided for in Article 145 of the Code. The Code itself does not describe the procedure, which was undoubtedly well-known. For example, if the village has the right to opt whether to hand over the arsonist to the authorities or not, it has to look for him, find him, and decide whether he is dangerous and has to be handed over to the authorities; then, why it wouldn't do the same concerning a professional thief and robber?'' (Тарановски, 1996: 459).

The harshest punishment that could be inflicted upon a village was displacement, which was possibly set forth because entire villages had been engaging in professional robberies (caravan raids). As the main trade routes in northern Balkans did not run along the Danube but across mountain passes (Каждан, Констабл, 2009: 55), villagers in these remote areas could easily turn into the brigands, plundering merchants and other travelers.[10]

Given that the provisions of the Abridged Syntagma were insufficient to suppress armed robberies, the amended version of Dušan's Code included detailed provisions on robbery. It may be assumed that the amendments were largely triggered by the frequency of these crimes in the newly conquered Greek areas of the Empire[11] and the general insecurity that prevailed in those areas stricken by the Byzantine civil war of 1341-1347. Moreover, the Serbian Empire expanded to the shores of the Aegean Sea, known for piracy since ancient times. Notably, in the last quarter of the 13th century, the Prizren metochion of Hilandar sent men to Mount Athos to do sentry duty against pirates (Тарановски, 1996: 462). In the Aegean Sea, piracy was mainly practiced by the Turks from the Seljuk emirates in southwestern Asia Minor but the possibility that the inhabitants of the coastal villages of the Empire could be involved in such activity was not ruled out. Just as inland villages could organize themselves to plunder merchant caravans on nearby roads, coastal villages could raid merchant ships whose routes ran close to the coast.[12]

[10] In medieval Germany, for example, robber barons turned their castles into bases for raids on travelers and merchants. In medieval Serbia, some noblemen engaged in professional robberies (caravan raids), more or less systematically (Taranovski, 1996: 462). Villages could easily do the same. This claim may be supported by Art.144. of Dušan's Code, which envisages the case when a feudal lord leaves and the surrounding villages or counties "stand up to plunder" his property. One or several villages, and even the entire county, could commit serious crimes by acting in an organized manner. Thus, the legislator introduced the novella on thieves and robbers (Articles 143-150).

[11] Some authors assert that there were robberies in the area of Strumica during Dušan's reign (Соловјев, 1998: 503)

[12] Blastares' Syntagma mentions "piracy by land or by sea", which must be punished more severely than treason. Probably seen as a crime against the state, piracy was included in the article on treachery (Соловјев, 1998: 503).

10. Money counterfeiting

Article 169 of Dušan's Code prescribes penalties for non-compliance with the provisions on goldsmiths, which were allowed to dwell and work only in the market-towns where the Emperor had established mints. Thus, if a goldsmith was found to mint coins secretly in another town or village, he was to be branded; the town was to pay the fine as declared by the Emperor, and the village was to be displaced (Николић, Ђорђевић, 2013: 168).

The counterfeiting of coinage has always been causing severe consequences for the state's fiscal stability and political reputation. Therefore, both coinage, as one of the essential regalia of the medieval rulers, and the release of currency into circulation, had to be under the strict control of the central government. That was the aim of Article 170 of the Code, which stipulates that mints shall only be established in cities designated by the Emperor.

When prescribing different penalties for the village and the city that harbor money forgers, the legislator was guided by the principle of opportunity and a city's importance. In case an illegal mint was discovered in a city, the displacement of the entire city would be politically, economically, and militarily disastrous for the state. On the other hand, the imposed fine (which was probably determined by taking into account the size and wealth of the city) was a significant income of the state treasure. Furthermore, high fines certainly stimulated cities to be more engaged in disclosing forgers and handing them over to the authorities. Unlike cities, villages could not bear the burden of such a fine due to their modest economic strength. Considering the gravity of the felony in question, the unprivileged position of the peasantry, and the limited economic power of an average village community, the punishment of displacement fully corresponded to the spirit of the Code.

11. Conclusion

Collective criminal responsibility was a necessity dictated by the cruelty and insecurity of the Middle Ages. The state apparatus was not able to effectively exercise power over the entire state territory. It was mainly hampered by feudal particularism but also by its underdevelopment. For these reasons, some prerogatives of the central government were transferred to the non-state entities: feudal lords and territorial units with a certain degree of self-government. The feudal lords regularly exercised executive and part of the judicial power on his property, and villages also had certain judicial competences. In terms of collective responsibility, the most important functions these entities had to perform were police service and general investigation. Namely, the feudal lord and the village took care of providing shelter and ensuring the safety of merchants on

their journeys through the country, pursuing robbers and thieves and handing them over to the authorities, suppressing money counterfeiting, guarding cities, roads, deserted or uninhabited areas. The non-performance or wrongful performance of these duties was punishable. In some cases, such as arson and the killing of a horse, it was very difficult or even impossible to find and punish the culprit. For that reason, the responsibility was shifted to the community. Finally, some criminal acts, such as the burning of "werewolves", could not be committed by an individual but only by a collective, which was punished in that case.

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Summary

Collective criminal responsibility was quite common in the Middle Ages, mainly due to the objective understading of the concept of crime and responsibility. At first, the holders of collective responsibility were communities based on kinships, such as a clan and a household. Later, collective responsibility was shifted to territorial-type communities, such as villages, towns, and counties. In addition, the central government delegated a portion of its prerogatives to collective entities of the non-state type, which were entrusted to perform certain police administrative, and judicial tasks, primarily counties and villages. The transferred competences were accompanied by relevant obligations and responsibilities. In this paper, the author examined the provisions of Dušan's Code on the collective responsibility of villages.

In the medieval Serbian Empire, the village was the smallest territorial and administrative unit, with particular administrative and judicial functions. First of all, the village had a duty to apprehend the perpetrators of serious crimes and hand them over to the competent judicial authorities. Should the village neglect these duties or refuse to perform them, it was criminally responsible as a whole. In case of failing to perform its obligation and hand over the robbers, thieves and counterfeiters to the authorities, the village was threatened with the most severe punishment - displacement. Although it was not explicitly stated in Dušan's Code, the legislator undoubtedly intended to prevent the villages from indulging in the systematic commission of these offenses, primarily robbery and illegal minting. In some cases (e.g. unintentional arson), the village could choose whether to hand over the perpetrator to the authorities or to pay a fine. Here, another duty of the village as the lowest administrative unit comes to the fore: conducting a general investigation. Furthermore, the village as a whole was criminally responsible if it was difficult or time-consuming to find the offender (e.g. in case of killing a stray horse). The legislator also regulated some criminal acts that could not be committed by an individual perpetrator but only by the village as a collective subject. It is the case with the so-called burning of "werewolves", for which the village paid a fine prescribed for the crime of murder. Another criminal offence that could only be committed by the village collectively was *potka* (involving conflicts and fights over property boundaries), which could be especially dangerous for the state due to the violation of public order and peace. Finally, particular criminal offenses could theoretically be committed by individuals or smaller groups but, in reality, they were committed by collective entities, primarily the village. These acts could seriously shake the authority of the central government. In particular, it refers to the contempt of court, which was equated with treason. In addition, the village was collectively responsible for denying hospitality to foreign merchants who were granted special privileges under Dušan's Code.

Therefore, the village as a community was responsible as a collective offender, or instead of an individual perpetrator. However, it is essential to note that both the village and the individual perpetrator could have been responsible at the same time, for different crimes. The draconian punishments prescribed for villages in case of collective responsibility were a reflection of social inequity and the unprivileged position of peasants. The legislator's goal was general prevention and suppression of general insecurity, especially in the newly conquered Greek regions, which were stricken by the long-lasting civil war.

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КОЛЕКТИВНА КРИВИЧНА ОДГОВОРНОСТ СЕЛА У СРПСКОМ ЦАРСТВУ

Резиме

Колективна кривична одговорност је честа појава у средњем веку. Томе је допринело нарочито објективно схватање кривичног дела. Осим тога, централна власт је део својих надлежности преносила на колективне субјекте недржавног типа, па су пренете надлежности пратиле и одговарајуће обавезе, али и одговорности. Носиоци колективне одговорности најпре су биле заједнице засноване на сродству, попут рода и куће. Међутим, касније су примат преузеле заједнице територијалног типа, попут села, жупе и града. У Српском Царству, држава је одређене полицијске задатке поверила овим субјектима, у првом реду селу и жупи.

Село је било најмања територијална јединица, са одређеним административним и правосудним функцијама. Пре свега, село је имало дужност да учиниоце тешких кривичних дела лиши слободе и преда надлежним судским властима. Уколико би село занемарило ове дужности, или одбило да их изврши, било је кривично одговорно, као целина. По правилу, селу је тада претила најтежа казна - расељавање. Такав је нпр. случај са обавезом села да властима преда пљачкаша, лопова, и ковача лажног новца. Иако то изричито не спомиње, законодавац је свакако имао намеру и да спречи да се села одају систематском вршењу ових дела, пре свега пљачке и ковања лажног новца. У одређеним приликама село је могло да изабере да ли ће предати учиниоца, или платити новчану казну, као у случају ненамерно изазваног пожара. Овде до изражаја долази још једна дужност села као најниже административне јединице, а то је спровођење генералне истраге. Село је као целина било кривично одговорно и када би иначе било тешко пронаћи учиниоца, или би то одузело пуно времена, као у случају убиства залуталог коња.

Законодавац је предвидео и кривична дела која уопште није могао извршити индивидуални учинилац, већ само село као колективни субјект. То је случај са тзв. паљењем вукодлака, за које је село плаћало казну као за кривично дело убиства. Као кривично дело које је могло учинити само село јавља се и потка, која је као повреда јавног реда и мира већег интензитета могла бити нарочито опасна по државу. Одређена кривична дела теоретски су могли извршити и појединци, и групе лица, али су их у пракси вршили колективни субјекти, пре свега село. То су дела која су озбиљно могла да пољуљају ау-

торитет централне власти. На првом месту истиче се увреда судије, која је изједначена са издајом. Осим тога, село је као целина одговарало и ако ускрати гостопримство страним трговцима, којима је ова привилегија гарантована Душановим Закоником. Село је, дакле, као заједница одговарало као колективни учинилац дела, или уместо индивидуалног учиниоца. Важно је, међутим, напоменути да су могли бити одговорни и село и индивидуални учинилац истовремено, и то за различита кривична дела. Драконске казне које су претиле селу у случајевима колективне одговорности јесу одраз друштвене неједнакости, и неповлашћеног положаја сељака. Такође, циљ законодавца била је и генерална превенција и сузбијање опште несигурности, нарочито у новоосвојеним грчким крајевима, тешко погођеним дугогодишњим грађанским ратом.

Кључне речи: *Душанов Законик, колективна одговорност, село, учинилац, казна.*