

Wergild, compensation and penance:

The monetary logic of early medieval conflict resolution

International Conference, Berlin, 29 -30 Sept. 2014

One of the most striking features of early medieval law, as documented by law-codes coming from most parts of Western Europe from the late fifth century onwards, is the predominance of monetary payments in the process of conflict resolution. Apart from fines, which we already find in Roman law, most striking are the long lists of detailed tariffs to compensate for injuring or killing a person by paying a compensation fee or a *wergild*. During the same period, a monetary system of sanctioning misdeeds emerged in ecclesiastical law, which, though different in legal character and motivation, also shows interesting parallels.

The conference seeks to analyse these phenomena in a new way. Far from explaining these features, as has most often been done, by referring them to an alleged idea of Germanic law or to economic developments, the conference intends to investigate more closely the monetary logic of early medieval law by focusing on four aspects:

As a first topic, the different types of fines, fees and payments have to be elucidated (e.g., *wergild*, *compositio*, *bannus*, *fredus*, *multa* etc.). Which terms were used to categorize different kinds of fees? Which crimes were categorized in monetary terms and what was the legal, social and political reasoning behind such a conception? To what extent did fees depend on the idea of compensating personal damage? Or were they more preventive in nature deriving from some notion of “criminal law”? Where did they intend to define and protect social groups?

A second aspect focuses on the nature of the texts dealing with *wergild* and compensation: were such norms primarily based on customary law or adapted in the course of time? To what extent could *wergild* become a matter of legislation? Were the sums of payment due to the existence of written texts fixed or did they remain open to negotiation?

The modes of payments and their relation to social practice form a third set of questions. Which groups were involved in the settlement and who received a share? Under what circumstances were people willing to arrange a payment and to abandon a more violent way of pursuing what they saw as their right? How could the huge sums be paid at all? Who assisted in the payment or loaned money? What could be given as a payment in lieu of money? Did payments lead to a conflict settlement and to some kind of satisfaction?

Finally, the proposed conference seeks to place these aspects into a wider setting: to what extent were early medieval fines and fees a continuation of Roman legal practice and where did they most obviously differ from Roman law? Can methods of monetary conflict resolution in early Islamic law (such as the *diyya*) be paralleled with legal developments in the West? How did monetary payments relate to payments in ecclesiastical law? What concept of penance was behind such compensation practice? Where do we find secular and ecclesiastical sanctions combined? Is it by chance that in some languages (for instance, in the German word *Buße*) (secular) compensation and (ecclesiastical) penance were covered by the same terms?

It is our hope that finding answers to these questions will lead us to a more complex analysis and understanding of the monetary logic of early medieval conflict resolution, also taking into account the long-term developments and effects in legal and social reasoning that such logic may have caused. The conference's overarching aim, however, is to show how a legal system based on monetary compensation could actually work both in theory and practice. If the assumption that it did holds true, this might also help to explain why monetary compensation enabled conflict resolution for medieval societies in a way that other contemporary legal systems with more rigid penal legal sanctions apparently could not.