



Ivane Javakhishvili Tbilisi State University
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Protection of Person's Dignity from Verbal Abuse in the Old Georgian Law

Infringement of person's dignity can take place via action as well as verbally. Compared to assault and battery, the verbal abuse is a milder form of infringement of person's dignity. The purpose of this article is to study the legal protection of a person's dignity, in particular, the issue of responsibility for verbal abuse under the old Georgian law. In this regard, the norms from Georgian Legal Monuments, court practice and historical sources are discussed. Based on the interpretation of legal terms, the signs of components of delict are characterized; the sanctions indicated by the lawmakers are compared with the penalties used in practice. The casuistic nature of old Georgian law is also revealed in relation to the mentioned delict. Taking under consideration these circumstances, other cases of verbal abuse and abuse upon the master by the clergymen, woman and serf is separately distinguished and characterized in the article. Regardless of the circumstances mentioned, general norms of verbal abuse are also in the legal monuments, which indicate that not only the cases of specific verbal abuse, provided for by the norms, were punishable, but the law generally protected the dignity of a person. The social status of both the insulted as well as the insulting person had to be taken into consideration, when imposing a punishment. Proprietary sanctions were mostly applied in relation to these actions, and the compensation was often paid in favour of the insulted person. Despite the above-mentioned, we cannot say unequivocally that verbal abuse was a private delict in old Georgian law, as even in this case the determining factor was to whom the abuse would take place.

Key words: Protection of dignity, verbal abuse, swearing, payment in the form of property, price of blood, fine for abuse.

1. Introduction

The actions against the honour and dignity of a person include the slander and abuse. For its part, the abuse can take place via action as well as verbally. The subject of research is the legal protection of dignity of a person when verbally abused in old Georgian law; searching the norms on the mentioned actions, characterization of the signs of components and the analysis of the punishments imposed for verbal abuse.

In the old Georgian law the swearing is a term expressing the verbal abuse. According to interpretation of *Sulkhan-Saba Orbeliani*, the swearing meant the desecrate rebuke, desecration.¹ As can be seen from interpretation, the meaning of swearing was not limited to only the verbal abuse; it was also an expression of action. Disavowal of paternal faith by *Evstat Mtskheteli* was considered as profanity of faith.²

* Doctor of Law, Assistant-Professor at the Faculty of Law, Ivane Javakhishvili Tbilisi State University.

¹ *Sulkhan-Saba Orbeliani*, Georgian dictionary, I, prepared according to Autographic Lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1991, 159; *David Chubinashvili* interprets this word in the same way. *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 322 (in Georgian). Swearing - insult, disgrace, berate. *Abuladze I.*, Old Georgian Dictionary (materials), Tbilisi, 1973, 93 (in Georgian).

² *Bakradze A., Tvaradze R.* (Authors), Georgian Literature, Vol. I, Tbilisi, 1987, 253 (in Georgian).

In accordance with the Article 251 of Armenian Law, the committed “voluptuousness” was discussed as swearing.³ The same can be said in relation to the Articles 31 and 33 of the Law of Moses, where getting into contact with a virgin and a married woman are discussed.⁴ In the law of *David Batonishvili*, the term – swearing - is also used in relation to dissoluteness (Article 193).⁵ False denunciation could also be considered as “swearing”.⁶ Since the notion of swearing also included the action, the legislator, defining the responsibility for verbal abuse, differentiates the swearing and other type of “dishonour” through action. According to the Law of the Catholic Church, those who swear at and have the temerity to dishonour the “Catholicons and Bishop” had to be punished under the Canon Law.⁷ The “swearing” and “dishonour” is separately provided in the norm.⁸ The dishonour may imply the assault and battery. In any case, it can be unambiguously said that the notion of dishonour did not include the swearing in this case.

Considering the Law of *Beka-Aghbugha*, *N. Khizanishvili* notes with regard to swearing that although swearing was punishable in Atabegate (Principality), but the mentioned have not been used towards the peasantry. Verbal abuse of a socially superior person was punishable. In his opinion, this is confirmed by the imposition of four thousand tetri for swearing at the “army”⁹ and “penalizing” of twelve peasants for swearing at woman; in addition, the reference - “noble birth must be honoured.”¹⁰

The norms on verbal abuse, submitted in Law Code of *Bagrat Kurapat*, can be divided into several groups. The three articles refer to swearing at the clergymen (Articles 106-108 of the Law of *Beka-Aghbugha*),¹¹ one refers to swearing at woman (Article 130 of the Law of *Beka-Aghbugha*),¹² one – can be considered as general component of swearing, because it refers to the general principle of imposition of

³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 314-315 (in Georgian).

⁴ *Ibid*, 118-119.

⁵ *Purtseladze D. (Text publisher)*, David Batonishvili Law, Tbilisi, 1964, 109 (in Georgian).

⁶ The Article 140 of Georgian version of Greek Law refers to slander and denunciation of clergyman. At the end of mentioned article it is indicated that by this action the person “swore at the meeting”. *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 165-166 (in Georgian).

⁷ The Canon Law of the Catholic Church, Article 17. *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 396 (in Georgian).

⁸ Dishonour, disgrace, shamelessness — disgrace the honour, unconscionability. *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 1264 (in Georgian). Unconscionability – disgracing of name. *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 107 (in Georgian).

⁹ *Khizanishvili N. (Urneli)*, Selected Works, prepared for printing, enclosed with biographical material and notes by *Is. Dolidze*, Tbilisi, 1982, 490 (in Georgian); Law Code of Bagrat Kurapat (Article 130 of Law of Beka-Aghbugha). *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

¹⁰ *Khizanishvili N. (Urneli)*, Selected Works, prepared for printing, enclosed with biographical material and notes by *Is. Dolidze*, Tbilisi, 1982, 489 (in Georgian); Law Code of Bagrat Kurapat (Article 130 of Law of Beka-Aghbugha). *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

¹¹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Volume I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 465 (in Georgian).

¹² *Ibid*, 467.

punishment for verbal abuse (Article 131 of the Law of *Beka-Agbugha*)¹³ and, finally, one norm can be considered as specific component of insult (Article 129 of the Law of *Beka-Agbugha*).¹⁴

2. General Component of Verbal Abuse

According to number of norms listed, it can be said that the old Georgian law paid great attention to the protection of the person's dignity. The components are formed not only taking into account the factors to whom the swearing took place, or where did it take place, but also the general components of verbal abuse are given. In Article 131 the legislator states that "if unworthy man swear at honourable person then he owes more". As stated above, this norm generally expresses the principle of imposition of punishment for verbal abuse. The term "owing" is interpreted as "be owed (to)",¹⁵ i.e. have a debt.¹⁶ Thus, a person's obligation increases if he abuses a person more honourable than himself. In case of swearing, when imposing the punishment the social status of insulted as well as the swearer was taken into account, this is also mentioned in Article 130: "The noble birth of man and woman must be honoured". But did the swearing at peasant by a peasant consider as a punishable act? According to Law Code of *Bagrat Kurapat* (Article 129 of Law of *Beka-Agbugha*) "if a man swears at a man unfairly before the army, to be imposed by four thousand tetri"¹⁷ "Before the army" means the swearing in the presence of army.¹⁸ Swearing at man by a man indicates that the insulting as well as the insulted persons had one social status. Also, the imposition of a precisely defined sanction at the amount of four thousand tetri shall indicate this. According to Article 131, swearing at "honourable person" by unworthy man had to be severely punished.¹⁹ In Article 129, this principle of punishment of swearing is not applied by the legislator. In case of swearing at unworthy by unworthy man, also, swearing at lower nobleman by unworthy man, the equal payment in the form of property could not be applied. In the fragment of Law Book of *Bagrat Kurapat* the volume of price of blood is not given. According to *Beka-Agbugha* Law, the peasant's price of blood was four hundred tetri, and the peasant, whom the "master knew for kindness", was valued at one thousand tetri (Article 11).²⁰ In Article 121, fixing of four thousand tetri as a

¹³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Volume I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

¹⁴ *Ibid.*

¹⁵ *Sulkhan-Saba Orbeliani*, Georgian dictionary, I, prepared according to Autographic lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1991, 439 (in Georgian).

¹⁶ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 671 (in Georgian).

¹⁷ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

¹⁸ Army – Big hostile army. *Sulkhan-Saba Orbeliani*, Georgian dictionary, I, prepared according to Autographic lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1991, 408 (in Georgian); Army – royal army, troops. *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 645 (in Georgian).

¹⁹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

²⁰ *Ibid.*, 429.

compensation, essentially exceeds the maximum amount of the peasant's price of blood, that excludes that the mentioned article determines the responsibility for swearing at peasant by peasant. Presumably, Article 129 provided for the punishment for verbal abuse of successful persons, and the minimum amount of determined compensation should be justifiable for swearing at person. Reasoning from the general principles of punishment, it is unlikely that the honour of a "humiliated", landless and cloisterless lower nobleman would have been equally valued. However, the question may arise, could Article 129 impose a fine of four thousand tetri for swearing at a higher nobleman? The compensation stipulated under the norm represents one-tenth of the price of blood of higher nobleman. In Article 108, the honour of a priest is determined at one-third of his price of blood.²¹ Article 129 also represents qualified component of verbal abuse and it is unlikely that, in this case, the compensation was one-tenth of the price of blood. The legislator points out that the swearing should be unfair. The guiltiness from the side of insulted person excluded the responsibility of the swearer. The compensation was paid in favour of insulted person that is indicated by use of term "payment of compensation". *Sulkhan-Saba Orbeliani* interpreted the term "payment of compensation" as payment of price of blood.²²

Despite the circumstance that swearing at "army" does not envisage swearing at peasant by peasant, it does not mean that legal protection of peasant's dignity did not take place in Georgia. According to *G. Nadareishvili*, "in feudal Georgia the honour and dignity of a person was protected on a rank basis, but in some cases, disregarding for the rank status, the attention was paid to the national-religious and family honour and dignity."²³ An example of this is *Alexander Jambakur-Orbeliani's* notice about how the *King Erekle II* punished *Kurdishvili*, who was in the service of King's defence, for verbal abuse of Tatar soldier.²⁴

The judgement of 1792 refers to swearing among the peasants and "reproaching" of malicious word.²⁵ Despite the circumstance that the punishment is not imposed in the judgement, the mentioned circumstance still does not prove that swearing at peasant by peasant was not a punishable action. In this case, there was no impunity for the action in general, but the "reckon"²⁶, because reciprocal actions were proportionate and individuals had the same social status.

Even in the criminal case judgment of 1809, the court refers to the "reckon" of punishment in case of mutual insult between persons.²⁷ It is obvious from judgement that compared to verbal abuse, assault

²¹ According to Article 149 of Law of David Batonishvili, a person had to pay one-sixth of price of blood for abuse. *Purtseladze D. (Text publisher)*, David Batonishvili Law, Tbilisi, 1964, 109, 84 (in Georgian).

²² *Sulkhan-Saba Orbeliani*, Georgian Dictionary, I, prepared according to Autographic lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1991, 204 (in Georgian).

²³ *Nadareishvili G.*, Protection of Human Honour and Dignity according to Georgia Feudal Legal Monuments and Judicial Practice Materials, journal "Almanach", 2000, N 14, 62-63 (in Georgian).

²⁴ *Ibid*, 62.

²⁵ The judgement on case of abuse of wives of Qitesa Lomitashvili and Mishelashvili (1792). *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. V, Court rulings, (XVIII century), Tbilisi, 1974, 586 (in Georgian).

²⁶ Reckon - set-off. *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 138 (in Georgian).

²⁷ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. VI, Court rulings, (XVIII-XIX centuries), Tbilisi, 1977, 399 (in Georgian).

and battery was more complex form and compensation was deducted based on the “reckoning” of punishments. The court assessed "bad swearing" at fifteen tumans (tuman - ten roubles).

The fact that peasant's honour was protected can also be proved by "Bezhan and Onisima Criminal Case Judgement" (1822). If insulting person could not swear he had to pay fine for swearing.²⁸

In old monuments of Georgian law we cannot find the norms that impose the responsibility for swearing at secular person having any social status. The Article 226 of Law Book of *Vakhtang Batonishvili* also contains the general component of swearing. The norm refers to injustice of swearing.²⁹ In contrast to other components of verbal abuse, *Vakhtang Batonishvili* defines beating and scolding. The beating was applied while committing a misdemeanour. *Sulkhan-Saba Orbeliani* interpreted the scolding as an instructive wrath.³⁰ In the same article the qualified component of swearing is distinguished, when the swearing results in “blood and hostility against man”.³¹ The status of insulted person was taken into consideration when imposing the punishment that was expressed in the volume of price of blood.

3. Verbal Abuse of a King

The Law Book of *Vakhtang Batonishvili* does not determine the price of blood of King, and the fact that payment in the form of property has not been applied for abusing of a King is also confirmed by the first historian of *King Tamar. Iv. Javakhishvili* cites the notice of first historian about abusing of *King Tamar* by the mediator of Sultan of *Rûm Rukn-ad-Din*. On the basis of aforementioned notice, the historian comes to a conclusion that punishment for verbal abuse of a King personally and publicly, considered cutting of tongue at first and then - beheading.³²

The Georgian version of Greek Law and Armenian Law imposed the punishment for verbal abuse of the King. In Georgian version of Greek Law, two articles refer to the swearing at a King and a lord. In Article 58, the legislator indicates that showing of reverence to the King and lord is prescribed by Scripture. As for the signs of components: the legislator speaks about unfair swearing.³³ For swearing at the King or the government, the priest shall be “disciplined” that meant barring from preaching,³⁴ while the layman expected the damnation. The use of such punishments become comprehensible with the legisla-

²⁸ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. VI, Court rulings, (XVIII-XIX centuries), Tbilisi, 1977, 580-581, 586 (in Georgian).

²⁹ *Ibid*, 540.

³⁰ *Sulkhan-Saba Orbeliani*, Georgian Dictionary, II, prepared according to Autographic lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1993, 147 (in Georgian).

³¹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 539 (in Georgian).

³² *Javakhishvili Iv.*, Works in Twelve Volumes, Vol. VII, Tbilisi, 1984, 217 (in Georgian).

³³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 147 (in Georgian).

³⁴ Restrain - capture, banishment, subjugate, suspend, hinder, delay, catch, halt, take possession, detention. *Abuladze I.*, The Old Georgian Dictionary (materials), Tbilisi, 1973, 129 (in Georgian). Restrain – is a measure of punishment and means abolition of certain rights, for example, restraining of priests from teaching, etc. *Giunashvili E. (Text publisher)*, Minor Canon Law, Tbilisi, 1972, 139 (in Georgian).

tor's words from the Law of Moses, also the quotations of the apostle Peter and the "Great Paul" about the commitment of showing the special reverence towards the King and the lord. The next Article (Article 59) states that if a person "foolishly swore, or did not think it was a king and swore at him, or was unfairly treated from the King and foolishly swore at him", shall be examined before the punishment for swearing at the King.³⁵ When imposing a punishment, the legislator focuses on three circumstances: imputability, misjudge and unfair treatment from the side of insulted person.

Article 200 of Armenian Law, in addition to swearing at King, defines the responsibility for swearing at the lord. Like Greek Law, the Armenian Law also emphasizes the special respect of a King.³⁶ In this case too, the swearing must have been unfair. "Face to face" abuse should not represent a necessary sign of responsibility, as the legislator speaks of "berating" of the Ruler and higher nobleman".³⁷

4. Punishability for Verbal Abuse of Clergyman

Verbal abuse of clergyman can be categorized as a separate group. As the Church's influence in the state was increasing, also the increase of legal protection of honour and dignity of church servants took place. Varsken's actions towards the presbyter represent an example of expressing of disregard of Ruler towards the clergyman.³⁸ Different situation is presented in *Grigol Khandzteli's* life. The author of the monument emphasizes the preference of the clergyman and the worship of secular persons towards them.

As stated above, three Articles in the Law Code of *Bagrat Kurapat* are devoted to swearing at clergymen. Two Articles (Articles 106 and 107 of the Law of *Beka-Aghbugha*)³⁹ impose the responsibility for swearing at bishop. The difference between them is in social status of insulting person and, accordingly, in the volume of payment in form of property. The first refers to swearing at bishop by higher nobleman, the second – swearing at bishop by lower nobleman. The third article refers to swearing at the priest by the higher nobleman and lower nobleman. In addition, abuse of priest by "most humble" is cited (Article 108 of Law of *Beka-Aghbugha*).⁴⁰ The "most humble" shall imply the person below the lower nobleman's status, who is also below the status of priest. In Article 31 of the Law Book of *Vakhtang Batonishvili*, the price of blood of low rank, third lower nobleman's blood and blood of priest is forty eight tumans (tuman - ten roubles).⁴¹ If we take this circumstance into account and theoretically rely on the price of blood determined under the Law of *Beka-Aghbugha*, it turns out that the priest and the "humiliated lower nobleman" were at the same level and the price of blood of lower nobleman could have been twelve thousand tetri. The Law Code of *Bagrat Kurapat* imposes the payment of one-third

³⁵ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 147.

³⁶ *Ibid*, 297.

³⁷ *Ibid*.

³⁸ *Bakradze A., Tvaradze R. (Authors)*, Georgian Literature, Vol. I, Tbilisi, 1987, 232-233 (in Georgian).

³⁹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 465 (in Georgian).

⁴⁰ *Ibid*, 465.

⁴¹ *Ibid*, 489.

of price of blood for swearing at priest, and it turns out that a person could be fined four thousand tetri for swearing at the priest, which seems quite possible according to the compensation imposed for swearing at bishop. Swearing at bishop by the higher nobleman was punished by forty thousand tetri, and swearing at the bishop by the lower nobleman - by twenty thousand tetri. According to the Law of *Bek-Aghbugha*, the highest price of blood is defined for the higher nobleman, which was forty thousand tetri. The bishop and higher nobleman shall be at one level. It can be assumed that swearing at bishop by higher nobleman was punished with payment of full price of blood, and verbal abuse of the bishop by the lower nobleman - with payment of half the price of blood. The price of blood was paid in favour of clergyman, however, payment of compensation had to be made “with great imploring”⁴² “Great imploring” must have been a particularly heavy form of apology.⁴³ The legislator does not refer to the injustice of swearing when verbal abusing of clergyman, on the basis of which it could be said that the mentioned circumstance did not represent the necessary sign of component.

The Article 17 of the Law of Catholicos provides for the responsibility for disrespect and swearing at the Catholicos and the bishop. The swearing and “disrespect” is separately mentioned in the norm.⁴⁴ The first shall consider the verbal abuse. As for the second term – “disrespect”, it is interpreted in the dictionary as disgracing,⁴⁵ which is generally possible both by verbal abuse and by action. As the legislator accentuates swearing in the norm, this gives us the reason to think that in having the temerity to "dishonour", the assault and battery might imply. In this case too, the injustice of the abuse is not discussed.

Bichvinta Yadigar refers to the swearing at clergymen (1525-1550). The Article 7 refers to the “hauling for beating” and swearing at Catholicos by the higher nobleman, or prince, or lower nobleman“.⁴⁶ Unlike the Law of Catholicos, payment in the form of property is defined for the verbal abuse of the Catholicos: “Impose the payment in the form of fifteen peasants and impose Catholicos payment in the form of two “bloods” (form of proprietary fine for criminal offence) with great imploring.”⁴⁷ Thus, the person was required to pay the compensation in favour of the church as well as the Catholicos. *Vakhtang Batonishvili* does not determine the price of blood for Catholicos. As he notes, “the case of a King and Catholicos, haughty or other nature, both are equal, because one is the king of flesh and another – of soul, and they have equal consecration and honour from the God and men.”⁴⁸ The Law Book of *Bek-Aghbugha* does not determine the price of blood of Matskvereli, the highest clergyman in Atabagate

⁴² *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 465 (in Georgian).

⁴³ *Nadareishvili G.*, Protection of Human Honour and Dignity according to Georgia Feudal Legal Monuments and Judicial Practice Materials, journal “Almanach”, 2000, N 14, 55 (in Georgian).

⁴⁴ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 396 (in Georgian).

⁴⁵ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 1264 (in Georgian).

⁴⁶ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. II, Secular Legal Monuments (X-XIX centuries), Tbilisi, 1965, 180 (in Georgian).

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*, 488.

(Principality), and the price of blood of Catholicos is not given in Bichvinta Yadigar. It is difficult to say how much could have been paid for swearing at Catholicos.

The Article 15 of Bichvinta Yadigar imposes the punishment for abusing (beating, swearing and seizure) of Archbishop.⁴⁹ A person had to “pay compensation” to twelve peasants for the actions listed, and three hundred thousand tetri had to be paid to the Archbishop. If the insulting person were a peasant, he had to be handed over to the church with his property.⁵⁰

The Article 8 of Bichvinta Yadigar refers to the face to face insult of “brothers”.⁵¹ In this case too, a person had to make payment in the form of property to both the church and the clergyman.⁵² The compensation defined for insult of “brothers” of Bichvinta Yadigar far exceeds the sanction imposed by the Law of *Bagrat Kurapatat* for swearing at bishop. If we compare the price of blood defined under the Law Book of *Vakhtang Batonishvili*, for example, the price of blood of “brothers” far exceeds the price of blood of a priest; it is also more than the price of blood of abbot. The scientists have doubt about the authenticity of Bichvinta Yadigari. According to *Iv. Surguladze*, the purpose of the committer of fraud was distortion of some of the donations or even artificial increase of price of blood.⁵³

The listed norms define the responsibility for abusing of representatives of ecclesiastical rank from the side of secular persons. Different punishments were used when insulting person was a clergyman. Such person was exiled from the Monastery under the Typicon (liturgical handbook) of Vahan Monastery Complex (1204-1234).⁵⁴

In the Law Books Collection of *Vakhtang Batonishvili*, the Armenian Law also refers to abuse of clergymen. In spite of the fact that swearing at priest is mentioned in Article 155, the question arises on how much the given norm provides for the punishment directly for verbal abuse.⁵⁵ Together with swearing, the assault and battery is also discussed in the norm that is expressed in priest’s “striking”. The use of the conjunction “and” between swearing and “striking” makes us to think that the norm is cumulative, i.e. both verbal abuse and assault and battery had to take place. Presumably, this Article does not impose the sanctions for swearing directly at the priest. This consideration is also supported by the punishment used, expressed in the symbolic talion, in particular, in cutting of arm. The fact that cutting off an arm for assault and battery was defined can be seen from the legislator’s words, when noting: “the arm that he strikes with, shall be cut off”. A person was given an opportunity to redeem an arm. Submitting of penance from the priest was also taken into account.⁵⁶ Probably, the Article 155 of the Armenian Law implies the

⁴⁹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. II, Secular Legal Monuments (X-XIX centuries), Tbilisi, 1965, 181 (in Georgian).

⁵⁰ *Ibid.*

⁵¹ *Ibid.*, 180.

⁵² *Ibid.*

⁵³ *Surguladze Iv.*, Sources of History of Georgian Law, Tbilisi, 2000, 224 (in Georgian).

⁵⁴ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. III, Ecclesiastical Legal Monuments (XI-XIX centuries), Tbilisi, 1970, 142 (in Georgian).

⁵⁵ *Ibid.*, 278.

⁵⁶ Meant the compensation for expiation of a sin. *Sulkhan-Saba Orbeliani*, Georgian Dictionary, II, prepared according to Autographic lists, the study and index for vocabulary of definitions enclosed by *I. Abuladze*, Tbilisi, 1993, 32 (in Georgian).

case, when both the verbal as well as real abuse takes place at the same time and in order to the “striking” is more hard form of abuse, the legislator does not impose the punishment separately and applies the punishment for assault and battery. The fact that swearing at priest was punished is evidenced by Article 187 of Armenian Law.⁵⁷ The swearing is distinguished from other “dishonourable” actions that indicate that independent legal assessment of verbal abuse takes place. The legislator considers the actions listed as the crime against the God.⁵⁸ There is no specific punishment indicated in the mentioned article, however, the legislator notes that he is being toughening the punishment for abusing of the priest.⁵⁹

The Armenian law is especially harsh to the swearer at God (Article 238; the norm also provides for the swearing at priest). The swearer at God shall deserve the death.⁶⁰ Compared to the Georgian Law, the Armenian law imposes more severe punishment on swearer at priest.

5. Responsibility for Verbal Abuse of a Woman

Except for the clergyman, the verbal abuse of a woman can be discussed separately. In the Law Code of *Bagrat Kurapat*, there is no any indication for injustice when swearing at “woman” (Article 130 of Law Book of *Beka-Aghbugha*)⁶¹ that makes us to think that this circumstance was not taken into consideration when swearing at a woman. The norm does not specify what could be considered as swearing. With respect to the mentioned Article, *N. Urbneli* points out that under the Salic Law, the swearing at woman would have been considered as swearing if she were called the whore. According to him, presumably, even in Atabegate, the swearing at woman meant calling her a whore.⁶²

The norm mainly focuses on the principle of imposing a punishment. However, there are questions about this issue. For swearing at “woman” insulting person “should be imposed the compensation in the form of work provided by twelve peasants”. And the legislator indicates below that “noble birth of man and woman must be honoured.”⁶³ *D. Chubinashvili* interprets the “honourable” as honest, respected and reliable;⁶⁴ on the one hand, absolutely determined sanction and, on the other hand, an indication that the social status of both the insulting and insulted person had to be taken into consideration when imposing a punishment. The punishment imposed for swearing at woman contradicts the principle of imposing of punishment, indicated by the legislator. When the “compensation” for swearing at woman would be “paid in form of work provided by twelve peasants”? “Redeeming of captive” is interpreted as the “price for redeeming of

⁵⁷ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 292 (in Georgian).

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*, 308.

⁶¹ *Ibid.*, 467.

⁶² *Khizanishvili N. (Urbneli)*, Selected Works, prepared for printing, enclosed with biographical material and notes by *Is. Dolidze*, Tbilisi, 1982, 356 (in Georgian).

⁶³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

⁶⁴ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 1105 (in Georgian).

something.”⁶⁵ If we rely on the Law book of *Beka-Aghbugha* in relation to the price of blood, then a person had to be fined four thousand eight hundred tetri for swearing at woman (the price of peasant's blood was four hundred tetri). The compensation was paid to the insulted person. According to the compensation imposed, it can be said that in the norm the punishment is imposed for abusing of successful women. Four thousand and eight hundred tetri is slightly higher than one third of price of blood of the humbled lower nobleman. Possibly, even in this case, the legislator defines the minimum amount of compensation for “honourable” woman that could be increased taking into consideration the “honour” of both a man and a woman.

The fact that woman's abuse was punished more severely is confirmed by the judgement of *Simon I* (1592): “If he swears at woman, ten thousand shall be fined for abuse”.⁶⁶ The defined compensation is twice as much as the fine defined for swearing at man.

Some judgments specify that the insulting person had to pay the fine for abuse, but the amount is not determined. In “*Bezhana and Onisima Criminal Case Judgement*” of 1822 *Bezhana* brought a complaint against Onisima for swearing at her mother. The court passed a resolution that Onisima had to submit two men and vow. If Onisima would not make a vow, then the fine for swearing had to be paid.⁶⁷ In this case the fine for abuse was calculated according to the price of blood.

As for the swearing at wife, *Varsken Pitiakhshi's* treatment of his wife is described in the Martyrdom of the Holy Queen Shushanik.⁶⁸ Regarding *Varsken's* actions *Iv. Surguladze* notes that “at that time the wife had to be obedient and adherent to her husband in everything; and in relation to the faith the husband had the right to beat his wife and even torture her.”⁶⁹ If, in the fifth century the husband had the right to beat and torture his wife, none the less, his verbal abuse would not be punishable.

Article 165 of Armenian Law refers to the swearing at and cruel-treatment of a wife, in particular, former widow. However, the norm does not give an opportunity to make conclusions with regard to the issue of punishment. The norm is prohibitive and, as such, does not impose a sanction: “i. e. he will not dare something unseemly to his wife.”⁷⁰ In the mentioned Article there are listed some cases, when the wife has broken her arm as a result of husband's “ill-treatment”, or the husband breaks her teeth”, for which the fine was defined. Not indication of sanction for swearing at wife raises the doubts that only verbal abuse of a wife was not considered as a punishable action.

⁶⁵ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 1161 (in Georgian).

⁶⁶ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. II, Secular Legal Monuments (X-XIX centuries), Tbilisi, 1965, 206 (in Georgian).

⁶⁷ *Ibid*, 580-581.

⁶⁸ *Bakradze A., Tvaradze R. (Authors)*, Georgian Literature, Vol. I, Tbilisi, 1987, 230 (in Georgian).

⁶⁹ *Surguladze Iv.*, For the State and Law History of Georgia, Tbilisi, 1952, 47 (in Georgian).

⁷⁰ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 283-284 v.

6. Punishability of Verbal Abuse of Master by the Serf

The abuse of master by serf can be regarded as the qualified component of swearing. According to Article 259 of the Law Book of *Vakhtang Batonishvili*, if the serf “annoyingly face to face swears at the master, be the tongue cut off or be bereft of price of tongue.”⁷¹ The necessary sign of the component is “face to face” swearing. Compared to the norms existing in the Georgian Legal Monuments that impose responsibility for swearing, the punishment used in relation to the serf is more severe in the above-mentioned norm, which is expressed in the symbolic talion, particularly in cutting off the tongue, however, even in this case the sanction was alternative and the serf could pay the price of tongue. The fact that the symbolic talion was applied in case of verbal abuse in Georgia is confirmed also by historical sources. *Erekle II* punished a person for abuse of soldier with piercing of tongue.⁷² In court practice an example of a lenient punishment for abusing of master by serf can be observed. According to the judgement of 1780, *Ioane Avalishvili* sued his serf for abusing of priest Lazare.⁷³ For public abuse of master with “disgracing and insulting” words, for insulting behaviour, priest Lazare had to pay to his master “three tumans with great implore and sinking” and “ask for forgiveness and absolve and make a promise not to commit a sin anymore.”⁷⁴ It is obvious from the judgement that the fine for abuse is valued at three tumans.

Although, the legislator is more demanding to the serf swearing at master and, generally, does not focus on unfair swearing, but establishes the grounds for releasing of serf from the responsibility (Article 259): “if the serf catches the master with wife, or unfairly have two pieces, and if the serf doesn’t take liberties with it, the judge imposes the compensation or releases. If the serf for such conduct swears at or beats him with stick or slightly wounds him, the master has to forgive him and doesn’t dare to be killed.”⁷⁵

It has to be noted that the old Georgian law is less demanding to the serf, compared to the Greek and Armenian Law towards the emancipated serf. According to Georgian version of Article 169 of Greek Law: „If an emancipated serf swears at his prince, not to forgive him, then serve him as a worthless slave.”⁷⁶ The aforementioned norm of Greek Law is similar to the norm in Roman law, when an emancipated slave was under threat of punishment for disrespect expressed towards the former master and his family.⁷⁷

The norm in Armenian Law is similar to that in Greek Law (Article 19): “Is the one, who emancipates the serf, allowed to capture him again and hinder from emancipation?” Giving a response, if he submits such a witness who confirms the swearing and ill-saying, and with such witness, there is a pos-

⁷¹ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 547.

⁷² *Nadareishvili G.*, Protection of Human Honour and Dignity according to Georgia Feudal Legal Monuments and Judicial Practice Materials, Journal “Almanach”, 2000, N 14, 62 (in Georgian).

⁷³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. V, Court rulings (XVIII century), Tbilisi, 1974, 107 (in Georgian).

⁷⁴ *Ibid.*

⁷⁵ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 547.

⁷⁶ *Ibid.*, 171.

⁷⁷ *Surguladze N. (Text publisher)*, The Digest of Justinian, Book One, Tbilisi, 2000, 66 (in Georgian).

sibility to take possession against the judges.”⁷⁸ As it can be seen from the text of given norms, the Greek and Armenian laws do not focus on injustice of swearing, in addition, the laws do not determine any basis for releasing from the responsibility for verbal abuse of former master by the emancipated one.

7. Separate Components of Verbal Abuse

“Call for threat” can be considered as the verbal abuse. The “call for threat” meant the challenge to a sword (duel).⁷⁹ Two articles of Law Code of *Bagrat Kurapat* refer to “call for threat”: the first article refers to calling the higher nobleman for threat by higher nobleman (Article 127 of Law Book of *Beka-Aghbugha*).⁸⁰ The term comrade in the norm shall imply that both parties would have been the persons at the same social level, and imposing of precisely determined compensation by the legislator points to this. The compensation was paid in favour of insulted person. Injustice of “calling for the threat” represents the sign of component.

The next article defers from the first one with that in this case the “most humbled” man “calls a comrade for the threat” (Article 128 of Law Book of *Beka-Aghbugha*),⁸¹ because the action was carried out by “most humbled”, the legislator defines the half of the compensation.

Simon I Criminal Judgement imposes the punishment on *Maghaladze* family for “calling for threat”.⁸² The judgment also refers to injustice of “calling for threat”. The amount of compensation is more increased in *Simon I* judgment. In all three cases, payment of compensation was made in favour of insulted person.

Article 228 of Law Book of *Vakhtang Batonishvili* refers to the “calling for threat”.⁸³ As can be seen from the norm, the legislator’s attitude towards “calling for threat” is changed and no longer imposes the compensation and is only limited to warning.

In addition, the condemnation was considered as verbal abuse; condemnation meant reproaching, and reproaching meant giving the rebuke.⁸⁴ The abovementioned action was also treated as abusive under the Customary Law; when “exclaiming the rebuke” conflicting parties were arguing with each other on reproaching, unworthy, immoral and felonious actions committed in the past by the opposing party or his/her relatives.⁸⁵

There are several Articles of condemnation in Georgian Legal Monuments. The Law Book of *Beka-Aghbugha* (Article 50) refers to exclaiming of whoring to another’s wife by a woman. If a husband,

⁷⁸ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 233 (in Georgian).

⁷⁹ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 908 (in Georgian).

⁸⁰ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 467 (in Georgian).

⁸¹ *Ibid.*

⁸² *Ibid.*, 206.

⁸³ *Ibid.*, 540.

⁸⁴ *Chubinashvili D.*, Georgian-Russian Dictionary, 2nd ed., prepared for printing and foreword enclosed by *A. Shanidze*, Tbilisi, 1984, 1492 (in Georgian).

⁸⁵ *Davitashvili G.*, Types of Crime in the Customary Law of Georgia, Tbilisi, 2017, 526 (in Georgian).

based on this exclamation, divorced his wife, then he would have to pay the price of blood, payment for whoring.⁸⁶ The norm of similar content is in Law Book of *Vakhtang Batonishvili* (Article 87).⁸⁷ Both the disposition of the norm and the punishment imposed are similar. If Article 87 of Law Book of *Vakhtang Batonishvili* specifically refers to exclamation of whoring, the Article 227 can be considered as general component of condemnation. The first part of Article represents the qualified component of condemnation.⁸⁸ Condemning person is responsible for the result, based on which he had to pay half of compensation. In the second part, taking into account the main component of condemnation, the legislator levels the “insult” to whacking of head and determines the punishment as follows: “notwithstanding the status, it shall be considered as whacking of head and must pay that much.”⁸⁹ All three Articles in old Georgian law apply the payment in the form of property that was paid in favour of insulted person. The Armenian Law (Articles 114, 115, 116) also refers to the reproaching, however, unlike the Georgian Law, focuses on falsification of reproaching and denunciation, on the basis of which the mentioned norms should be largely considered as slander or denunciation rather than verbal abuse.

Qualified form of verbal abuse was swearing at parent. The Article 289 of Georgian version of Greek Law refers to disrespect shown for the parent.⁹⁰ According to Roman law the action against the parent was imposing a burden to the responsibility.⁹¹ According to the aforementioned norm, the deprivation of right of succession for a child can be considered as additional sanction that would be imposed along with the main punishment. The Armenian Law (Article 110) also refers to swearing at parent and “ill-treatment”. The norm does not specify, in particular, in what way the “indemnification” from the side of judge was expressed.⁹²

In the Georgian version of Greek Law, a separate article refers to the swearing at judge (Article 56), “whether it is lawful, or no.” The legislator imposes the frustrating punishment. Make the swearer “be put on donkey (publicly shamed) and kicked out”.⁹³

We need to focus on the norms of abuse in the Law of *David Batonishvili*. The Law Book provides for the main component of abuse (Article 182)⁹⁴ and several qualified norms.⁹⁵ The casuistic list of dishonouring is no longer met both in main as well as qualified component; consequently, there are no

⁸⁶ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 443 (in Georgian).

⁸⁷ *Ibid*, 503.

⁸⁸ *Ibid*, 540.

⁸⁹ *Ibid*.

⁹⁰ *Ibid*, 197.

⁹¹ *Surguladze N. (Text publisher)*, The Institutes of Justinian, Tbilisi, 2002, 221 (in Georgian).

⁹² *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 256 (in Georgian).

⁹³ *Dolidze Is. (Text publisher)*, Georgian Legal Monuments, Vol. I, Vakhtang VI Law Books Collection, Tbilisi, 1963, 146 (in Georgian).

⁹⁴ *Purtseladze D. (Text publisher)*, Law of David Batonishvil, Tbilisi, 1964, 98-99 (in Georgian).

⁹⁵ Showing “dishonour” in the King’s palace and before the King (Article 103); Insult of judges (Article 116); Writing of separate blameworthy book (Article 149); Abuse of a parent (Article 184); Abuse of King’s representative (Article 207). *Purtseladze D. (Text publisher)*, David Batonishvili Law, Tbilisi, 1964, 62-63, 67, 84-85, 99-100, 117 (in Georgian).

norms that impose the responsibility only for swearing. Of course, it does not mean that verbal abuse was not a punitive action according to Law of *David Batonishvili*. The punishments imposed for dishonesty are also different. Payment of compensation in the form of property in favour of insulted person is rarely met; however, even here, the punishments are imposed taking into account the social status of a person. The imprisonment, penalty, demotion could be applied towards the noblemen, and corporeal punishment – towards the peasants and soldiers.

8. Conclusion

Thus, on the basis of the norms discussed, it can be said that in line with the old Georgian law the verbal abuse of a person was considered as punishable action, which is confirmed by the norms in Legal Monuments, court rulings or historical sources. Of course, the status of a person was important in terms of punishability, however, based on the sources it can be said that even the honour of persons with low social status were protected.

The norms of verbal abuse in Georgian Legal Monuments can be provisionally divided into two groups: general and qualified components of swearing. Verbal abuse of clergymen, abuse of a woman, abuse of master by serf, abuse before the army belongs to the qualified components. The swearing also must be included in qualified component, when it has had severe consequences. In some norms, the legislator points out the injustice of verbal abuse. It seems that the court should have paid attention to whether the insulted person was guilty before the swearer, or not. In case of “fair” swearing the person shall not be responsible. There is no reference to “unjust” swearing when it comes to verbal abusing of clergyman and woman. This indicates that the law required special respect towards them and, of course, this was reflected in the imposition of punishment as well.

As for punishments, in the old Georgian law the payment in the form of property is mainly applied in case of verbal abuse, which was depended upon the social status of insulting as well as insulted person. The compensation was paid in favour of insulted person. It was possible to use the payment in the form of property as an alternative punishment together with the symbolic talion. If, in case of imposition of payment in form of property, the preference was given to satisfaction of interests of private individuals in relation to other sanctions, it cannot be said that they represented the personal punishments and, consequently, we cannot therefore say that generally the verbal abuse was a private delict.

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