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Enticement and Encouragement as Forms of Incitement (Complicity) to Commit a Crime in Ancient Georgian Criminal Law

This article explores one of the most important institutions in criminal law complicity *with a particular focus on forms of* instigation *in ancient Georgian legal tradition. Specifically, the study examines two distinct types of instigation, referred to as the "*enticer" *and the "*instigator."

Examining the issue, particular attention is given to the subjective aspect *of the crime, as the punishment of the instigator is based on the principle of* subjective prosecution. *In various sections of the article, the issue of the instigator's criminal liability is analyzed through specific examples from judicial practice.*

The article concludes that, at the time of the commission of the crime, accomplices were never exempt from criminal liability. On the contrary, their responsibility was often considered greater *than that of the direct perpetrators who merely carried out the will of the instigators. This clearly reflects the application of the* principle of subjective prosecution *in the attribution of culpability because criminal liability applies not only to the direct perpetrator of the crime, but also to the person who, through words and advice, incites another person to commit the crime.*

Keywords: *Complicity, Instigator, Subjective Attribution, Monuments of Georgian Law, Enticer.*

1. Introduction

An instigator is an individual who incites another person to commit a crime by initiating or encouraging the intent to engage in criminal conduct.[1] The instigator does not take part in either the execution or the preparation of the crime, but solely influences the will of the perpetrator. The perpetrator, who is affected by the instigator, cannot be regarded as a mere tool or instrument. The influence of the mental accomplice passes through the consciousness of the executor, becomes the motive for their previously unformed intent, and thus becomes part of the causal chain.[2] Therefore, the issue of punishing the instigator, who influences the mental state of another person and leads them to form the intent to commit a crime, is entirely based on the principle of subjective liability.

This article examines the concept of recruitment in ancient Georgian law, drawing upon the foundational texts and monuments of Georgian legal tradition. Particular emphasis is placed on the

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1 *Tsereteli T.,* Criminal Problems, vol. 2, Tbilisi, 2007, 8 (in Georgian).

2 Ibid, 16-17.

subjective element of the crime, as the instigator's liability is rooted in the principle of subjective prosecution.

2. To Define the Term "Enticing"

When studying Georgian law monuments, there was a tendency that incitement is often expressed in the term – enticing. Therefore, the issue of punishing incitement will be discussed in this article around the term "gadabireba" (enticing). First, it is needed to explain the basic part of the mentioned lexicographic definition – "bireba" itself.

According to Sulkhan-Saba Orbeliani, the term "*bireba"* denotes an individual who assumes another into their service or command, entrusting them with personal matters or duties. This reflects the socio-legal understanding of hierarchical and delegated responsibility in early Georgian society.[3] Following the Explanatory Dictionary of the Georgian language, the "bireba" implies arousing, persuading, encouraging, winning, convincing, recruiting, instilling, and advising.[4] Instigation, in the form of enticing, occurs when an instigator actively encourages another person to commit a specific crime. General discussions about committing a crime do not constitute instigation unless they are explicitly directed toward a particular target or criminal act.[5]

3. The Concept of "Enticing" in the Monuments of Georgian Law

Let us examine specific cases of recruiting individuals to commit a crime, as reflected in the monuments of Georgian law.

In an 18th-century ruling concerning the case of Otara Kalandarishvili, Gogitara Chkhatariashvili, and Davit Jghenti, Jghenti filed a complaint against Kalandarishvili, stating: "This man enticed my servant, kept him in his house, turned him against me, and later advised the Batonishvili (a nobleman's son) to seize him. The Batonishvili handed him over and sold him into slavery to the Ottomans."[6] The ruling indicates that, according to the prosecution, Kalandarishvili enticed a specific person to commit the crime, then counseled Batonishvili to arrest him as a culprit. This phenomenon closely resembles the concept of crime provocation, as there are numerous shared elements between a criminal instigator and a provocateur. In both cases, one individual influences another to commit a criminal act. However, the key distinction lies in their intent: the instigator's primary objective is to genuinely encourage the commission of a crime, whereas the provocateur's aim is not the realization of the offense itself, but rather to induce the target into committing a crime to expose them and subject them to criminal liability. *In this case, the substance of the accusation closely resembles* criminal provocation*, as Kalandarishvili initially* enticed *a specific individual to commit a crime,* compelled him to engage in various unlawful acts, and ultimately exposed him before the Batonishvili, leading to his arrest.

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3 *Orbeliani S.,* Dictionary Georgian, vol. 1, Tbilisi, 1991, 104 (in Georgian).

4 The United Dictionary of the Old Georgian Language, compiler. *Grigol Rukhadze,* Tbilisi, 2008, 6. (in Georgian).

5 *Tsereteli T.,* Criminal Problems, vol. 2, T., 2007, 164 (in Georgian).

6 Georgian Law Monuments, *ed. I. Dolidze,* vol. 6, Tbilisi, 1977, 516 (in Georgian).

The ruling determined the fate of the accused as follows: he was required to swear an oath stating:

"*Neither did I previously entice him, nor did I turn him against his master, nor was he sold upon my advice to my lord."*[7]

In this instance as well, we are presented with enticement through active conduct, and instigation through speech, evidenced by the sale of the individual into captivity upon the instigator's counsel. If the accused failed to swear the required oath, he would be obliged to compensate the injured party by surrendering one captive.

Indeed, this particular ruling reflects a conflation of elements of both criminal instigation and provocation. It is plausible to assume that, initially, the act of enticing was aimed at engaging the individual in specific criminal activities (that is, a clear case of instigation). However, at a later stage, Kalandarishvili may have resolved to eliminate the individual, possibly due to a change in circumstances or personal motives, and consequently denounced him before the Batonishvili, thereby introducing elements characteristic of criminal provocation.

The term *"gadabireba"* (enticement) may not, in every instance, have denoted the inducement of an individual to commit a criminal offense; nevertheless, it was most frequently employed within a negative moral or social context. A notable example appears in a 19th-century judicial ruling concerning the criminal matter of Gabriel and Makharobel Chkhaidze. In his formal complaint, Makharobel accuses Gabriel as follows:

"I had a companion who entrusted his child to my care for upbringing, and in return, I was to receive half a cow as recompense. The child came under my guardianship, but you enticed him away. You caused me to lose both my companion and the cow that was due to me."[8] Here, the matter concerns the instigation of an individual, the implanting of harmful thoughts, which ultimately led to the deterioration of relations between the complainant and the enticed party, resulting in the dissolution of their kinship bond.

The 19th-century legal ruling concerning the case between Ioane Nakashidze and Onisime Menaphire over a serf addresses the methods of enticing or transferring allegiance. The key question is whether the serf was enticed through hostility and coercion, or whether he made the decision of his own free will. According to the ruling, Nakashidze filed a complaint against Onisime Menaphire, stating: "This man has lured away my serf, keeps him in his possession, and refuses to release him."[9] According to his account, the serf had been "recruited through quarrel and enmity." Menaphire was required to take an oath in the following form: "If he came to us because you and your master had fallen out, then so be it; but neither I nor my brother lured away Jobashvili's man out of spite or hostility toward you." The wording of the oath clearly shows that the accused bore the burden of proof; he had to demonstrate that the serf had come to him voluntarily (that is, due to a quarrel between the former master and the serf), and not that he had been enticed or taken in out of malice or coercion. Accordingly, if the oath-taker failed to establish that the serf had transferred allegiance of his

7 bid, 516.
8 Ibid, 525-526.
9 Ibid, 527.

own free will and not through force or intimidation, he was obliged to return the disputed individual to Nakashidze."[10]

The term 'gadabireba' (enticing) may, in terms of its underlying meaning, be related to the term 'gabrikheba,' which signifies deception or the act of misleading someone. 'Gabrikheba' refers to the act of deceiving a person."[11]

Accordingly, the deceived individual is led astray and acts under the influence of another, namely, the instigator, as the exercise of his own will becomes partially subdued.

In the *Saeristavo* (duchy), there were also instances in which one man would manipulate another into committing an unlawful act, thereby engaging in a different form of deceit. A noteworthy example appears in a 19th-century legal ruling involving Paata Gogiberidze and Khakhuta Menabde concerning the dispute over a horse. Menabde brought a formal complaint against Gogiberidze, claiming the latter had unlawfully taken his horse. In response, Gogiberidze submitted the following account as part of his defense:

"*I had a Kazakh [servant or companion]. I deceived the man, and he brought me into the Saeristavo, where he stole two horses. I lost a man in the process. I indeed sought justice, but none was given to me."* To defend himself against the accusation, Menabde was required to take the following oath:

"*I do not hold your man, nor have I obtained horses through the ruin of your man or that of the man of the land. He did not send them to me, nor have I withheld rightful justice from you.*"[12]

The act of luring or enticing a man to commit a crime is expressed by the term "to fool a man" (*gabriqheba*), implying deception as a legal concept. This same oath outlines various forms of complicity in the crime: the physical presence or assistance of a man during the act; participation through coercion or persuasion; the knowledge of location (i.e., local familiarity used to aid in theft); and finally, sending or dispatching a person with the intent to commit the crime.

If Menabde succeeded in taking the oath, then Paata Gogiberidze would be found guilty and obligated to return the stolen horse. A further provision stated: "*Even if the stolen horse cannot be retrieved, the one who took the horse shall be held responsible as the principal offender,*"[13] states the author of the ruling. The primary responsibility for the crime is assigned to the organizer, the individual who made the decision, planned the act, and, in most cases, dispatched a specific person (typically his own serf) to carry it out. If the stolen horse could not be retrieved, then the person who directly executed the crime, the *khelthamkmeli* (principal perpetrator), was to be handed over to the injured party. Even in such cases, the responsibility was understood to lie with Paata Gogiberidze, not merely with the direct offender. In the legal logic of the time, transferring a serf to another party entailed harm not to the serf, but to the master, the lord whose authority and property rights were being violated. The serf's interests were considered secondary.

A similar principle is illustrated in a 19th-century ruling in the case of Iese Ramishvili versus Ivana Chantladze. Ramishvili brought a complaint against Chantladze, stating: "*Your son Simon deceived my son, led him to Maxime, and I lost my child to the Tatars."*

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10 Ibid, 527.
11 Georgian Synonym Dictionary, 3rd Edition, Tbilisi, 1978, 559 (in Georgian).
12 Georgian Law Monuments, *ed. I. Dolidze,* vol. 6, Tbilisi, 1977, 545 (in Georgian).
13 Ibid, 545.

Chantladze denied responsibility and took the following oath: "*Regarding the accusation that I deceived your son, by my word, answer, or action, I did not fool your son, nor did I instruct him to go to Maxime.*"[14] A distinction is made between enticing or luring a person into committing a crime through words or actions; a practice also referred to as "fooling" or deceiving" a person (*gabriqheba*).

According to the same ruling, Chantladze also filed a complaint against Ramishvili, stating: "*At first, your son Gabriel tried to take a girl to the Tatars; he was luring her away from me, but failed to succeed. Later, he returned and did it again: this time, he took the girl from me.*"[15]. Neither in the first instance nor in the second did my son desire or intend to take your daughter, nor did he take her. If the Batonishvili (the nobleman's son) was indeed accompanying her, it was in vain and of no consequence, for not by his word, counsel, or deed was your daughter taken; nor did he assist in any such taking. Neither by me, nor by my household, nor by my kin, nor by providing her shelter or sustenance, nor by any of the men of our locality, has your daughter been lost unto you."[16] So, participation in the crime in any form is excluded here. In particular, the defendant swore not to kidnap the girl by deed, word, or advice. The phrase: "not to be taken away by someone" already means helping to commit a crime, and it is also possible to help the perpetrators to commit a crime in the form of hosting them.[17]Accordingly, the author of the ruling goes quite far and implies complicity in committing a crime not only in speech, deed, or counsel, but also in the family acceptance of the perpetrators, sheltering, and even helping them with the crime. Following the ruling, if the defendant could not take the oath, he would have to pay the price of blood, and if he could not pay the price of blood, then "That who constitutes a crime, he was handed over as the principal offender."[18] That is, the direct perpetrator of the crime referred to as *kheltamk'mneli* (the "hand-committer") was handed over to the injured party.

A similar case occurred in the 19th century, when Gogia Kekelidze filed a complaint against Otia Bibineishvili, accusing him of enticing away his serf. Bibineishvili was required to defend himself by swearing the following oath: *"As for the man you accuse me of having purchased, I neither enticed him away nor bought him.*"[19] If he failed to clear himself by oath, then, according to the ruling, *"Otia shall pay for it with the blood of his soul and body,"* which means he would be held liable as

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14 Ibid, 569.

15 Ibid, 569.

16 Ibid, 569-570.

17 The family was accused of involvement in a crime in a 19th-century ruling concerning the case of Mamuka Bakanidze and Ioane Gobronidze. In this case, Mamuka brought a claim against Ioane, stating: *"You caused the loss of my son, and this occurred with the knowledge and actions of your wife and children."* Gobronidze was required to clear himself through the following oath:*"Neither I, nor my wife, nor any member of my household today, have – either by our trust or by our knowledge – taken your son or daughter, nor have we been involved in delivering her to a woman's abduction that was not carried out with her own will by Jumateli."* (See *Ibid,* 538-539.) This case demonstrates that, in accusations of complicity in a crime, both volitional consent (trust-based participation) and cognitive awareness (knowledge of the act) must be excluded for a co-participant to be considered innocent. Furthermore, participation in the criminal act was interpreted as not merely involvement in a forced marriage, but also required the absence of consent and knowledge of the woman's abduction.

18 Ibid, 570.

19 Ibid, 571-572.

though having committed the crime himself, and if he could not justify himself with this oath, then "give the blood of soul and flesh to Otia Kekelidze.[20]

4. The Term "Gadabireba" (*Enticing*) According to Prince David's Book of Law

The meaning of the term *bireba* is also acknowledged in Prince David's Book of Law. In Article 4, the legislator states that, in writing a will, one must take into account whether it was drawn up out of spite, or under coercion (*bireba*), or due to material interest concerning others."[21]Article 42 of the same Book of Law defines liability for the intentional or negligent burning of another person's property.

In the case of intentional arson, the offender was punished as follows: "*Whatever he has burned, he shall restore to the owner the value thereof, and he shall be diminished in honor, unless no harm was suffered by anyone… And whenever one is enticed to perform a crime with a gun (organi), both the enticed and the instigator shall be judged according to the above-mentioned law."*[22]According to this provision, the direct perpetrator of the crime is the enticed man who effectively used a weapon to carry out the act[23] while the instigator is referred to as the *mombirebeli* (the instigator). Both the one who is instigated and the one who instigates are punished with equally severe penalties. A similar principle is expressed in Article 54 of the same law code: "*Whosoever sets fire to a bridge, fortress gate, or any such structure, shall, without any legal dispute, have his right hand cut off, and the instigator shall be punished in the same manner."*[24] Here as well, the instigator is punished in the same manner as the perpetrator. According to Prince David's Book of Law, the act of enticement or instigation was also expressed by the legal term "*mobireba"*.

In Article 12 of the code, we read: "*Let the judges investigate carefully, so that the case is not driven by hostility or by instigation ("mobireba"), in which case the summons shall be directed at those who are considered to be murderers."*[25] *It is emphasized that instigators are punished in the same way as the actual murderers.*

5. Encouraging a Person to Commit a Crime as a Form of Incitement to Criminal Conduct

In the monuments of Georgian law, we frequently encounter the commission of a crime through the encouragement of another person. Encouragement refers to the act of instigating someone, inspiring or motivating them to carry out an unlawful act.[26]

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21 Ibid, 571-572.

21 The Law Code of Prince David. Text published and accompanied by a study by D. Furtzeladze. Tbilisi, 1964, 8-9.

22 Ibid, 30-31.

23 Organ -a gun. See. *Orbeliani S.,* Georgian Dictionary, Vol. 1, Tbilisi, 1991, 607.

24 The Law Code of Prince David. Text published and accompanied by a study by D. Furtzeladze. Tbilisi, 1964, 36 (in Georgian).

25 Ibid, 15.

26 Explanatory Dictionary of the Georgian Language, edited by Arn. Chikobava, single-volume edition, Tbilisi, 1986, 476. In the Georgian language, the term *"encouragement"* (*shegulianeba*) has the following synonyms: incitement, instigation, urging, provocation, impulsion, nudging, egging on, goading, stirring up,

Let us examine examples of committing a crime through encouragement, as reflected in the historical sources of Georgian law. It is also important to distinguish between encouragement (*shegulianeba)* and enticement. In an 18th-century legal ruling concerning the criminal case between King Erekle II and the Zaldastanishvili family. The Zaldastanishvilis complained:

"Khochiashvili, your servant Zua, was here in the city with you. He encouraged the sons of our purchased serfs Ninia Batsatsashvili and Glakha Datuashvili, to commit a crime." Here, the verb "*encouraged"* (*sheegulianebina*) is used to express criminal incitement, specifically, Khochiashvili incited Ninia Batsatsashvili and Glakha Datuashvili to commit a violent act.

The Zaldastanishvilis claimed: "The three of us brothers were not at home; only our middle brother Ioseb, was. These individuals went to our residence at night, to our brother Ioseb, while he slept beside his wife. They attacked him and stabbed him with daggers in eight places."

In court, the three accused gave the following testimonies: "Khochiashvili told us: 'If you intend to go against your master Ioseb to kill him, I will not go in, and I have no part in the matter.'"

To this, Glakha and Ninia replied: "You came from the city and deceived us; you misled us and drew us into it. When we decided to kill Ioseb, we entered the house, and you stood at the door with a gun, and you told us: 'Go inside and kill him, and I will guard the door with the gun. If anyone comes to help, I will shoot.' Our agreement was mutual."

Khochiashvili then responded: "It is true, we had an agreement, both in words and in counsel, but when you went in to kill Ioseb, I did not follow you inside."

Glakha and Ivane replied again: "You were both the instigator (*shegulianebeli*) and the adviser. You sent us inside, and you stood guard at the door with your rifle."[27] As M. Kekelia notes in his analysis of this ruling, "the components of the 'unanimity of mind' of the co-participants are such as organization, coordination, and advice, which are bound together by one condition and one goal."[28]

In the given ruling, we observe elements of both criminal instigation and organization of the crime.[29]

The terms expressing instigation include *encouragement*, *instigator*, and *adviser*.

The phrase "You were both the instigator and the adviser" clearly distinguishes between the roles of instigator and adviser, as each carries a distinct legal significance. The adviser is the individual who gives instructions or suggestions to the perpetrator regarding how the crime should be carried out, its method, form, or timing. The instigator actively exerts psychological influence on the perpetrator, emboldening or encouraging them to commit the offense.

This ruling is particularly interesting from another perspective: the accused instigator, Khochiashvili, attempts to defend himself by asserting that he did not directly participate in the

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pouring oil on the fire, adding fuel to the flames, arousing, emboldening, persuasion, intentional provocation, igniting, enticing, and agitation. See also: *Georgian Synonyms Dictionary*, 3rd edition, Tbilisi, 1978, 559 (in Georgian).

27 Monuments of Georgian Law, ed. I. Dolidze, vol. 5, Tbilisi, 1974, 692-694. 439-440 (in Georgian)

28 *Kekelia M.,* Crimes Against Life, Health, Honor, and Dignity in Ancient Georgian Law, Tbilisi, 2015, 66 (in Georgian).

29 In the course of committing a crime, the organizer may simultaneously act as the direct perpetrator or instigator of the same crime; however, the role of the organizer prevails over the others. See: *Turava M., Criminal Law: Overview of the General Part*, 9th ed., Tbilisi, 2013, 331 (in Georgian).

objective elements of the crime. He claims he merely stood outside, playing the role of a passive observer, only to serve as a lookout to ensure that no one interfered with the main perpetrators and to give a signal if necessary. He emphasizes that he did not enter the house, nor did he stab the victim himself.

The opposing party, however, accuses Khochiashvili of being the true instigator, arguing that it was at his encouragement that the others entered the house intending to kill Ioseb. According to this view, it was Khochiashvili's malicious intent that drove the act, and the perpetrators were merely acting under his psychological and moral influence.

Under prevailing criminal law doctrine, a person who does not directly carry out the material elements of the crime (e.g., in the case of stabbing, does not wield the knife) but remains outside to ensure that the perpetrators are not obstructed and that the act is completed is legally considered a participant, specifically as an accomplice in the form of an aider.[30]

However, some scholars believe that the outsider is an ordinary perpetrator; it is not complicity, but a group crime, where each member of the group is an independent offender, and the outsider is a functional co-perpetrator, since he is functionally connected to the direct performer of the crime.[31]

Within the scope of this work, it is not our objective to determine which theoretical position is ultimately correct; however, we support the first theory that the person standing outside during the crime is to be considered a participant in the form of an accomplice, and not a functional co-perpetrator. Under our criminal code, a person who did not take direct part in the objective elements of the act (e.g., did not personally carry out the stabbing) cannot be classified as the principal offender.

Accordingly, Khochiashvili, who remained outside during the crime, attempted to avoid liability by claiming he did not enter the house to stab Ioseb, and it is possible that he intentionally and premeditatedly refrained from entering, delegating the "dirty work" to others. Nevertheless, the law does not consider only the perpetrator's external actions, but also their subjective disposition, particularly the presence of malicious intent.

In this case, Khochiashvili appeared to have an even stronger desire to see Ioseb killed than the two who physically carried out the attack. His will was, therefore, more malicious than that of the direct perpetrators.

Furthermore, the ruling demonstrates that Khochiashvili was not merely a passive accomplice but functioned as the instigator and, more significantly, the organizer of the crime. It was he who planned the criminal act, recruited and encouraged the two perpetrators, gave them instructions, led them to the scene, ushered them inside, and stood outside with a firearm, ensuring that no one would interfere during the commission of the crime.

Khochiashvili was the organizer of the entire criminal event, making him the most dangerous figure involved, despite the fact that he did not directly participate in the physical execution of the act.

This legal reasoning is reflected in the court's decision: "*As we have heard from all three, they are equal accomplices, and equally guilty of the offense. In total, the blood-price was determined to be one hundred thirty-three tumani and two minaltuni (tumani, minaltuni* was a unit of monetary value in

[30] *Tsereteli T.,* Problems of Criminal Law, Vol. 2, Tbilisi, 2007, vol. 2, Tbilisi, 2007, 135-137 (in Georgian).
[31] *Turava M.,* Criminal Law: Overview of the General Part, 9th ed., Tbilisi, 2013, 336-337 (in Georgian)

Georgia, particularly in the Kingdoms of Kartli and Kakheti." *This sum must be paid equally by Khochiashvili Zua, Ninia Batsatsashvili, and Glakha Datuashvili."*

It is evident from this ruling that the law treated all three individuals' actions equally, holding each of them equally liable for the death, and assigning each a payment of forty-five tumans and four minaltuns as their share of the blood-compensation.

We consider this judicial decision to be just, as it correctly recognized that, although Khochiashvili remained outside and appeared inactive, in truth, everything had been orchestrated by him. The subjective element of his behavior, his malicious intent to commit murder, was not overlooked by the court.

In the same ruling, the judges also observed that since Ninia Batsatsashvili and Glakha Datuashvili were serfs of the victim, their crime was aggravated by the fact that they had acted against their own lord. For this reason, they were declared to be "now blood-bound to Ioseb" (i.e., permanently dishonored and criminally bound to the victim).

Moreover, the court clarified that since the fathers and brothers of the offenders were unaware of the plan, they could not be held responsible as co-offenders. The court concluded: "*Since they were purchased serfs, they shall remain so under the same conditions."*[32]

It is emphasized that the serfs' brothers and fathers did not participate in the commission of the crime; they were not aware of it or had no intent to commit such an offense alongside them. Consequently, their complicity in the crime is entirely excluded. Moreover, the ruling clearly distinguishes between blood serfs (*nasiskhli qma*) and purchased serfs (*nasqidi qma*), indicating that the legal status of a blood serf was significantly more burdensome than that of a purchased serf. Therefore, although the guilty serfs acquired the status of blood serfs due to their actions, their innocent relatives, fathers and brothers, retained the status of purchased serfs.

Ultimately, the decision is based on the principle of subjective attribution, whereby each individual is held liable for a criminal act only to the extent of their involvement and intent. The rights of family members of the offenders, who are innocent of the crime, are duly protected. The ruling also recognizes terms denoting the organizer, instigator, and accomplice, and the judges accurately assess not only the actions of each person involved in the crime but also their intent and mental state. This reinforces that the decision was made following the principle of subjective attribution.

At first glance, instigating a person to commit a crime appears similar to recruitment, as both can be considered forms of incitement. In both instances, the instigator persuades another individual to commit a specific unlawful act. However, enticing involves enlisting the person into the instigator's sphere of influence, effectively aligning them with the instigator's ongoing objectives. For example, a serf transferred from one master to another begins to act according to the will of the new master; this relationship tends to be continuous or long-term. In contrast, instigation is typically a singular, targeted act aimed at reinforcing or shaping the perpetrator's will, helping them to overcome internal hesitation and solidify their intent to commit the offense.

[32] *Monuments of Georgian Law*, ed. I. Dolidze, Vol. 5, Tbilisi, 1974, 692-694, 440-441 (in Georgian).

6. Conclusion

From the above-discussed rulings, it is evident that instigators frequently employed recruitment as a means of persuading individuals to commit specific crimes. In essence, recruitment differs from mere encouragement in that the enticed individual often switches allegiance to the instigator's side or is drawn into the instigator's or even the enemy's camp. This marks a conceptual distinction between recruitment to commit a crime and verbal incitement in general. However, it should also be noted that such classifications of instigation types are ultimately conditional and doctrinal; in practice, these offenses are still subsumed under the general category of verbal incitement.

In the context of this article, the proposed differentiation serves the purpose of highlighting more clearly the distinctive features of instigation found in the monuments of Georgian legal tradition. Whether through recruitment or encouragement, accomplices to a crime were never exempt from criminal liability. On the contrary, their responsibility was often more pronounced than that of the direct perpetrators, who, at the scene of the crime, merely executed the will of the instigators.

This, of course, underlines the application of the principle of subjective attribution in determining culpability, as criminal liability extends not only to the direct perpetrator of the offense but also to the person who incites or advises another to commit the crime. Furthermore, the legal system's emphasis on punishing enticers and encouragers is largely based on the fact that such individuals are usually lords or masters who send their serfs to commit crimes on their behalf. From a preventive perspective, the law is more concerned with punishing the actions of the master than those of the serf, a stance that is justified, given that in such cases the master is the principal instigator of the offense.

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