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COMPENSATION IN MEDIEVAL WELSH SOCIETY- LITERARY AND LEGAL CONTEXTS

The legal institution of compensation has a long-standing tradition having been formally recognised and widely practiced as a major reconciliatory instrument in most medieval societies, Wales included¹. The primary legal source that delivers relevant data on compensation in Welsh law is the legal tractates under the common name *Cyfraith Hywel*.² The picture cannot be complete without reference to Welsh literature that demonstrates how the law of compensation was perceived by society, which eases the reading of the arcane of law. For this reason, the collection of Welsh prose tales the *Mabinogion*, compiled around the 11th and 12th centuries³, will be used as a platform for present analysis.

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¹ K. Sójka-Zielińska, *Historia prawa*, Warszawa 2011, p. 140–142; M. Sczaniecki, *Powszechna historia państwa i prawa*, Warszawa 1997, p. 44–45; K. Modzelewski, *Barbarzyńska Europa*, Warszawa 2004, p. 119–172; W. Stubbs, *Select charters and other illustrations of English constitutional history from the earliest times to the reign of Edward I*, Oxford 1913.

² The native laws of Wales, best known as *Cyfraith Hywel*, were probably drafted in 945 by Hywel Dda. They are compiled in three redactions: *Cyfneth* (Cyfn), *Blegywryd* (Bleg) and *Iorwerth* (Ior). The manuscripts containing the Welsh law were first published in English in 1841 by Aneurin Owen under the collection of *Ancient Laws and Institutes of Wales*. Most up-to-date editions of these laws include Dafydd Jenkins's *The Law of Hywel Dda* of 1986 and Sara Elin Robert's *The Legal Triads of Medieval Wales* of 2011.

³ On the authorship of the *Mabinogion* see more in A. Breeze, *The origins of the Four Branches of the Mabinogi*, Herefordshire 2009. The English version of the *Mabinogion* was produced and popularised by Lady Charlotte Guest in the XIX century: L.C.E. Guest, *The Mabinogion*, Mineola, New York 1997. The recent translations of Parker (2005) and Davies (2007) supplemented with comprehensive comments offer more modern approach to the *Mabinogion*: W. Parker, *Four Branches of the Mabinogi*, Oregon 2005; S. Davies, *Mabinogion*, Oxford 2007.

Before confronting the *de jure* image of compensation with its literary representations, it is necessary to briefly describe two notions, namely status and honour, that played a significant role in Welsh society and law. Status, which regulated three basic spheres of social organisation such as legal capacity, fiscal duties and social code of conduct, affected the amount of compensation. Honour, on the other hand, was treated as a fundamental personal value, the breach of which defamed not only the person to whom violence was directed to but also his family⁴. Honour was moulded in gender, that is, a man was robbed of his honour when he displayed any act of cowardice on the battlefield or when he failed to fulfil the role of the protector of his family. A woman was expected to preserve her virginity and faithfulness to her husband thereby realising her destiny as a procreatrix.⁵ The code of honour was also related to Welsh ethic of hospitality, which practically meant that any violation of the guest's honour was the violation of the honour of the host of the house. This specific ethic of hospitality included for example, an appropriate reception of the guest in one's household⁶. The breach of a person's honour was regarded as a personal and familial matter to be handled on one's own rather than a public offence decided in front of the skilled officers of law. Nor is it any wonder that the administration of justice comprehended in such light contributed to many longitudinal vendettas between families.

The motif of honour and relatedly revenge for its breach were used extensively in Welsh literature of the medieval period, particularly in Arthurian romances. For example, in "Peredur the son of Efrog" the titular character, having learned from his mother that one should not refuse hospitality, eagerly accepts the invitation of the a lady whom he encounters on his way to the court of king Arthur. When her husband returns he wrongly surmises that Peredur raped the woman. Despite the confirmations of the lady that there was no sexual intercourse between her and her guest, he decides to chase Peredur and confront him in battle to take revenge for the breach of his and his wife's hon-

⁴ e.g. R.R. Davies, *The age of conquest. Wales 1063–1415*, Oxford, New York 1987, p. 115–117; T.P. Ellis, *Welsh tribal law and custom in the Middle Ages*, Oxford 1926, p. 79.

⁵ M. Owen, *Shame and reparation: Women's place in the kin*, [in:] *The Welsh law of women*, ed. D. Jenkins, M. Owen, Cardiff 1980, p. 45. R. Davies, *The status of women and the practice of marriage in late medieval Wales*, [in:] *The Welsh law of women*, ed. D. Jenkins, M. Owen, Cardiff 1980, p. 107.

⁶ e.g. W. Parker, *The four...*, p. 298. B. Cunliffe, *Starożytni Celtowie*, Warszawa 1997, p. 131–132; J. Haywood, *Celtowie. Od epoki brązu do new age*, Warszawa 2008, p. 60–61.

our⁷. One of the most illustrative instances of the violation of honour is without doubt the scene of insulting the Queen, Gwenhwyfar. During a feast at Arthur's court one of the knights snatches the goblet from Gwenhwyfar's hand spilling, in the process, the liquid over her face and breast and finally giving a blow to her ear. The case of insult is also the central aspect of the story entitled "Geraint son of Erbin" where Gwenhwyfar's maid receives a heavy blow from the dwarf who accompanies a mysterious knight. The blow directed to the servant is interpreted as the direct offence of the very Queen. Such a course of events initiates Geraint's expedition in search for the knight in order to make him recompense for his act.⁸

The law of retaliation, which dominated in ancient societies, was slowly replaced by the practice of a peaceful manner of settling quarrels that rested on the financial obligation of the offender and his relatives fulfilled with a view to expunging the injury from the memory of the victim and his next-of-kin, better known as compensation.⁹ Although the law of vengeance gave place to the law of compensation, revenging the death of one's relatives was still practised in Welsh society. For example, one of the documents in the corpus of medieval Welsh acts records the event that took place between 1274 and 1259 when the relatives of the men hanged by Thomas Corbert entered his land and killed his men as an act of revenge.¹⁰ Similarly, Gerald of Wales, in his famous work „Description of Wales" written in the 12th century commented: „It is also remarkable how much more people love their brothers when they are dead than they do while they are still alive. They will persecute their living brothers until they bring about their death; but when their brothers die, especially if someone else happens to have killed them, they will move heaven and earth to avenge them".¹¹

Cyfraith Hywel distinguished two major kinds of compensation, which were *sarhaed* and *galanas*. *Sarhaed* or *saraad*, better known as honour or insult price, was the compensation for any intentional insult or physical damage, whereas *galanas* was the compensation for the death of an individual.¹² To be more pre-

⁷ S. Davies, *The Mabinogion*, Oxford 2007, p. 67.

⁸ Ibidem, p. 67–68.

⁹ K. Sójka-Zielińska, *Historia prawa...*, p. 140–142; M. Sczaniecki, *Powszechna historia...*, p. 44–45; W. Parker, *The four...*, p. 56; T.P. Ellis, *Welsh tribal...*, p. 69.

¹⁰ H. Pryce, *The acts of Welsh rulers. 1120–1283*, Cardiff 2005, p. 787.

¹¹ Gerald of Wales, *The description of Wales*, translated by Lewis Thorpe 1978, p. 261.

¹² R.R. Davies, *The age...*, p. 116; P. Ellis, *Welsh tribal...*, p. 79, 90–91; D. Jenkins, *The law of Hywel Dda*, Llandysul 1986.

cise, *sarhaed* denoted both the compensation and the legal action to claim such compensation. *Galanas*, on the other hand, was used to describe three concepts. Firstly, it related to the enmity between two families: the family of the homicide and the family of the victim. Secondly, *galanas* was a synonym of homicide. Thirdly, it was the equivalent of the sum of money the family of the victim was entitled to.¹³ The law also introduced the financial compensation called *dirwy* paid to the lord and receivable in three cases: public fighting, rape and theft.¹⁴

Sarhaed was paid in three situations, this is striking, taking something from a person by violence and sleeping with a man's wife.¹⁵ The amount of *sarhaed* was strictly regulated by law and was dependent upon various factors, namely status and the gravity of the crime. *Sarhaed* was distributed among all officers of the King according to their rank.¹⁶ Obviously, the most substantial payments were given to the King and the Queen who were on top of the social scale as the representatives of the royal family. *Sarhaed* was paid to the King in three situations, i.e. in the case of breaking his protection or killing any person who was under his protection, killing his subject, and finally when his wife was misused, obstructed or seduced. In the last case, *sarhaed* was raised by half an amount.¹⁷

The compensation for insult was strongly embedded in the concept of *wynebwerth* meaning „worth of face” or „face value”.¹⁸ The reference to *wynebwerth* can be found in many legal and literary sources. One of the charters in the collection of Llandaff Charters reports that in 905 the dispute between the families of Brochfael and Cyfeilliog ended with a settlement. As part of the settlement the bishop of Llandaff was to receive from Brochfael: “the worth of his face (pretium faciei suae), lengthwise and breadthwise, in pure gold, and reparation should be made to his familia in accordance with their status (honour) and the nobility of their kindred”.¹⁹ Likewise, in *Cyfraith Hywel* there is a similar passage describing the *sarhaed* of the King of Aberffraw: “a hundred cows for every cantred he has, with a red-eared bull for every hundred cows, and a rod of gold

¹³ D. Jenkins, *Crime and tort and the three columns of law*, [in:] *The three columns of law in medieval Wales*, ed. T.M. Charles-Edwards and P. Russell, Bangor 2005, p. 15–20.

¹⁴ D. Jenkins, *The law...*, p. 157.

¹⁵ D. Jenkins, *Crime and tort...*, p. 20.

¹⁶ *Ibidem*, p. 5–6.

¹⁷ D. Jenkins, *The law...*, p. 5–6.

¹⁸ W. Davies, *The Llandaff charters*, Aberystwyth 1979, p. 130.

¹⁹ *Ibidem*, p. 123.

as tall as himself and as thick as his little finger, and a plate of gold as broad as his face and as thick as the nail of a ploughman who has been a ploughman seven years".²⁰

The echo of *wynebwerth* can be heard in the first branch of *The Mabinogion*. Pwyll, a prince of Dyved or the lord of Seven Cantreys of Dyved, goes hunting in the woods. Having strayed from his companions he is suddenly troubled by the noise of a mysterious pack of dogs. Not long after he witnesses the strange dogs attacking and killing the stag. To get the possession of the stag, Pwyll decides to perform a shameful act to put his dogs on the stag. This trick, as it later turns out, is the commencement of the argument with Arawn- the owner of the pack of dogs that had first seized the stag. Having discovered the crime, Arawn poses accusations to *Pwyll* for his deed saying: "I have seen no greater discourtesy in a man than to drive away the pack that had killed the stag, and feed your own pack on it; that was discourtesy: and although I will not take revenge upon you, between me and God I will bring shame upon you to the value of a hundred stags".²¹ In the words above, there is a link to honour-price or face value encapsulated in the phrase "the value of a hundred stags" that would be the equivalent of the *sarhaed* paid to the King. Shame-stricken Pwyll, having realised that he seriously encroached on Arawn's honour- asks him for forgiveness and the chance to repay his offence. By retorting, "if I have done wrong I will redeem your friendship"²² he expects that compensation will resolve the conflict and his guilt will be purged away. Arawn, as depicted in the quotation, expects no payment and uses this opportunity to solve his own problems with Havgan- his neighbour asking Pwyll to kill him in a well-designed intrigue, which is a sparking moment for the further events in the story.

The concept of *wynebwerth* is nicely illustrated by the tale of Branwen in the second branch of *The Mabinogion*. The tale depicts a fatal story of Branwen- a girl who was forced into marriage with the Irish King- Matholwch, the marriage that intended to unite Britain and Ireland. This is not surprising in the context of the Middle Ages where marriage was purely a transaction between the families of the spouses to seal various private businesses, sometimes to end arguments between clans. This is also the thrust in the present story. When

²⁰ D. Jenkins, *The law...*, p. 5–6.

²¹ S. Davies, *The Mabinogion...*, p. 4.

²² *Ibidem*, p. 4.

Matholwch comes to Britain to meet with his future wife, his horses are seriously mutilated by Ebnissyen- Branwen's brother as an act of revenge for not having been consulted over the marriage. Not only is the crime the manifest violation of the honour of Matholwch and the breach of the ethic of hospitality, but it also brings shame and dishonour to Bendigeid Vran: "that insult was done to you with the approval of the one who rulet the court, nor any one of his council. And although you consider it a dis grace, this insult and deception is worse for Bendigeidfran than it is for you".²³ The harm done to horses is a pretext for the compensation that must be given to Matholwch to avert a military conflict. Therefore it is done. Matholwch thus receives "a sound horse for each one that was maimed; and also he shall have as his honour-price a rod of silver as thick as his little finger and as tall as himself, and a plate of gold as broad as his face".²⁴ The amount of gold alludes to the law texts and the kind of compensation the King was entitled to.

One cannot fail to notice that the *sarhaed* the Queen was entitled to was very high if we consider the fact that she was a woman. The Queen enjoyed *sarhaed* in three cases: when her protection was broken, when she was struck a blow, and when something was snatched from her hand.²⁵ The *sarhaed* of a woman depended on whether she was married or not. If a woman had a husband, *sarhaed* was a third of his *sarhaed*, in other cases it was half of her brother's *sarhaed*. Correspondingly, the Queen's *sarhaed* was a third of the King's *sarhaed* excluding gold and silver.²⁶

There were certain limitations when it comes to the entitlement to compensation. The law mentions three blows and three injuries that could not have triggered liability and compensation. The blows that did not constitute the right for compensation where the blows inflicted by the person of superiority and authority to his inferior, namely a lord could strike his man to supervise him on the battlefield, a father could reprimand his underage son, and a head of kindred could address a blow to his kinsmen²⁷. When it comes to injuries, no compensation was granted to a woman that was injured for her not being a virgin, a man who was injured after

²³ S. Davies, *The Mabinogion...*, p. 24.

²⁴ *Ibidem*, p. 25.

²⁵ D. Jenkins, *The law...*, p.6.

²⁶ D. Jenkins, *The law...*, p. 6, 47, 154; P. Ellis, *Welsh tribal...*, p. 80; S.E. Roberts, *The legal triads of medieval Wales*, Cardiff 2011, p. 41, 93, 105.

²⁷ S.E. Roberts, *The legal triads...*, p. 55.

having “ruined” another man, and to a man who suffered injury having been attacked and bitten by a dog.²⁸ *Sarhaed* was also denied to certain officers of the court if they inflicted injury when drunk.²⁹ Special regulations were used in reference to the person who was insane, namely *sarhaed* was not paid for the wrong done by such person and was not given to such person when he or she was insulted. This emanated from the rule that unintentional blow did not constitute *sarhaed*. However, when it came to *galanas* a different rule prevailed. If the person of an unsound mind killed another human being, his family had to pay *galanas*. The same provision applied when the person with mental disorders was killed, that is his relatives could claim *galanas* from the homicide and his relatives.³⁰

On closer inspection of the laws one can entertain the assumption that *sarhaed* was a device to settle matrimonial disputes. Passing to examples, a woman was obliged to pay *sarhaed* to her husband when she behaved “inappropriately”, in other words, she manifested her sexual intimacy with other than her husband. The law clearly mentioned three of such grave offences, this is kissing, fondling and sexual intercourse. The amount of *sarhaed* was conditioned by the level of intimacy, and in the case of copulation, half increased it, whereas in the case of planting a kiss it was merely two-thirds of *sarhaed*. The law introduced certain exceptions to these rules, and *sarhaed* was not paid if one of the above-mentioned acts was committed during *rhaffan* (a traditional play), carouse or by a stranger who was not fully aware of the local customary law. If a woman had an affair with another man, in addition to *sarhaed* her husband had the right to repudiate her.³¹

Apart from chastity, it was obedience to a husband that was added to the repertoire of the values encoded in the Welsh society. Hence, any breach of obedience on the wife’s part was punished. The law thus stipulated that a husband be entitled to the so-called *camlwrw* from his wife, if she displayed any behaviour being the indicative of her blatant disregard for his lordship endowment. Firstly, a woman was prohibited to act against her husband, to be more precise, she was not allowed to say shameful words against her husband: “wishing a blemish

²⁸ Ibidem, p. 89.

²⁹ Drunkenness, together with adultery and bad temper, was one of the three “oppressors of the wise”. Three officers of the court such as the priest, the court justice, and the mediciner were strongly prohibited to be drunk because they had to remain on alert ready for the King’s service: S.E. Roberts, *The legal triads...*, p. 133; P.T. Ellis, *Welsh tribal...*, p. 81.

³⁰ D. Jenkins, *Crime and tort...*, p. 20.

³¹ D. Jenkins, *The law...*, p. 48.

on his beard or dirt in his teeth, calling him a cur".³² If this happened, a husband could decide about the punishment for his wife, running parallel to *camlwrw* for each of such a word he could punish her by means of corporal punishment that was based on "striking her three blows with a rod as long as a man's forearm and as thick as a long finger, in any place except the head".³³ Compensation was also due to a husband from his wife when she left their common bed without a reason.³⁴

A woman, on the other hand, was not totally deprived of any rights and was granted the privilege of compensation in certain cases. *Sarhaed* was one of the privy things of a woman, in other words, the things that she did not lose after divorce. The two remaining ones were *cowyll* and *gowyn*. *Sarhaed* was due to a wife for any act of physical violence delivered by her husband except the cases of legal striking such as saying vulgar words in the direction of her husband, disposing of the thing from the common pool without the previous consultation with her husband, and when she committed adultery. *Cowyll* was the payment that she received from her husband upon the loss of her virginity. A man who proved to be infidel had to pay his wife *gowyn*, and on the third time, a wife could leave him. Beating and compensation could not be executed simultaneously since "there is no right to compensation and vengeance for the same offence".³⁵

Welsh law granted compensation to *nasciturus*- the child conceived but not yet born. It was thus stated that if pregnancy was terminated due to injury, compensation was paid in reference to distinct periods of pregnancy. The more advanced the pregnancy, the higher the compensation. It may also be of interest to mention that compensation paid to a pregnant woman by the perpetrator corresponded to the amount due to a male foetus, which outlined the view expressed in the laws that the conceived child acquired the male status until it was baptised.³⁶

On closer reading of the laws, it emerges that sexual offences such as rape

³² *Ibidem*, p. 52.

³³ *Ibidem*, p.52–53.

³⁴ Marital bed in Hywel Dda laws was given a special value standing for the marital bond that united a man and a woman. Thus, a wife could not leave the marital bed without any sound reason, and the eviction from the marital bed was one of the shames of a woman: M. Owen, *Shame and reparation...*, p. 52.

³⁵ D. Jenkins, *The law...*, p. 53.

³⁶ *Ibidem*, p. 129–130.

and seduction were severely castigated. Since rape was perceived as the crime levelled against the lord of the woman, not the woman herself, compensation was paid to the King and the lord. This emanated from the conviction that a woman should be offered protection from her father, husband or the King depending on her marital status. In the case of an unmarried woman, the beneficiaries of the compensation were the raped girl, her lord and the King. The distribution looked slightly different with a married woman, in which case it was only the woman herself and her lord that could claim for compensation, which reflects the premise that the King's obligation to protect a maiden was transferred to her husband. When a married woman was raped, sarhaed was doubled.³⁷

In addition to that, the law stated that if a man spent with a woman three nights, strictly speaking "from when the fire is covered until it is uncovered on the morrow"³⁸, and on the third day, he abandoned her, he had to pay her compensation in the form of a steer. The exception to this rule was a mutual cohabitation for the period of seven years, after which the informal union acquired the status appropriate to a formal marital union, and the woman ascended to the position of a man's wife thereby being entitled to participation in his wealth.³⁹ The law offered a protection to a woman who was given to a man but did not copulate with him during the first night. In the case of rape, such a woman, called a maiden-wife, was entitled to compensation calculated according to her husband's status rather than that of her brother's. A woman who, in the contemporary wording, was a prostitute was denied any status and if raped received no compensation.⁴⁰

The description of rape is the crux of the fourth branch of *The Mabinogion*. The major topic of this prose tale is a bizarre relationship between Math and Goewin- a young woman who performs the role of Math's foot holder. Being a foot holder, she allows Math to rest his feet in her lap, the activity that preserves his life. What is peculiar in this practice is that the role of a foot holder, as stipulated by law, was to keep the King's feet in one's lap during the banquet as well as to scratch the King's feet if he wished so. To believe laws, the foot holder was the King's personal guard and servant who, apart from attending

³⁷ M. Owen, *Shame and reparation...*, p. 49–50.

³⁸ D. Jenkins, *The law...*, p. 50.

³⁹ M. Owen, *Shame and reparation...*, p. 50–51.

⁴⁰ D. Jenkins, *The law...*, p. 60.

the King during feasting, was also responsible for protecting him against any danger. In „The Mabinogion”, however, the foot holder is a woman, which is a convincing enough a statement to infer that Goewin played the role of Math’s mistress. As the story unfolds, Goewin falls prey to Gilvaethwy who, assisted by his brother, rapes her during Math’s absence. What is most disgraceful is that the rape is conducted in the Math’s chamber and bed. When the crime becomes revealed, Math acts immediately to claim his rights and punishes the offenders by changing them into animals. Math recognises Goewin’s right to compensation. To redeem her from shame he promises to marry her. Because the rape was directed against him, he also seeks compensation for himself: “I will arrange recompense for you first, and then I will seek recompense for myself. And I will take you as my wife and give you authority over my kingdom”.⁴¹

A kin-group, which constituted a solid ground for the functioning of Welsh society, was a unit consisting of relatives tied by mutual bonds of responsibility for one another. This practically meant that all the members of such a group formed a network of collective liability, and for this reason, they were expected to answer for their relatives or stand as their sureties, the obligation which was imprinted in a homicide compensation or using the Welsh terminology *galanas*. *Galanas* is mentioned not only in *Cyfraith Hywel* but also in the Llandaff Charters. As one of the charters documents, in 743 Elias ap Morglas received an uncia of land as the price for his brother who had been murdered by a certain man called Cynfor⁴². The amount of *galanas* was fixed and it was “three times the sarhaed of the person killed, according to his status”⁴³. In the case of women, the law did not implement a marital status in establishing the sum of *galanas*, and thus a *galanas* of a woman, either the married or unmarried ones, were half of her brother’s *galanas*⁴⁴.

Galanas was due to the family of the person killed and was paid by the perpetrator himself and his relatives. In order to avoid punishment by death the offender had to collect a set sum of money that constituted *galanas* within the period of fourteen days. The distribution of *galanas* was the following: one-third of the amount was paid by the homicide himself, and two-thirds by his kins-

⁴¹ S. Davies, *The Mabinogion...*, p. 52.

⁴² W. Davies, *The Llandaff...*, p. 111.

⁴³ D. Jenkins, *The law...*, p. 144.

⁴⁴ *Ibidem*, p. 47.

men. The money was collected from both the father and mother's side, however, the relatives from the father's side contributed with doubled sum. Certain categories of people were released from the obligation to pay *galanas*, namely an underage boy and leprous, dumb or insane persons. Clerics and women, if they both made a formal promise that they would not have children, or the women who were childless and past their procreation date did not contribute to *galanas* as well. The obligation to pay *galanas* gleaned from the old tradition and was the reminiscent of the principle of blood feud, that is, certain people due to their limited capacity were not included in the group of the individuals apt for avenging the death of the member of the kin.⁴⁵

The law was very flexible and when a person could not afford to raise money in a certain period of time, he could use the procedure of the so-called shaft penny. This meant that the money could have been collected from a distant family "from the seventh person on", excluding women and clerics.⁴⁶ In most extreme cases, when shaft penny was without any use, the offender could achieve the money to cover *galanas* from the alienation of the family land under one condition- the family had to consent to such a legal act⁴⁷. The very procedure of granting *galanas* was a very official event marked by the act of forgiveness. The family of the victim to crime made a formal statement that they did not grudge any animosity towards the family of the offender and they would not seek revenge.⁴⁸

The law mentioned the so-called „dire losses of a kindred” or the situations in which killing of the homicide was legal. This took place when the homicide failed to pay his share of *galanas* and when the innocent man did not deny the accusations he was charged with: „Three dire losses of a kindred: one is a homicide after the kindred pay for him their share (that is to say, the two-thirds) and he himself pays up to the last penny, and for that one he is killed by his enemy, it is legal to kill him for that one penny; and because the kindred lose their man and their goods it is so called. Second is, after the kindred pay their share of the *galanas* and the homicide has nothing which he can pay for the one-third, and he is banished to another country and is killed in that country, then they

⁴⁵ Ibidem, p. 145–147. T.P. Ellis, *Welsh tribal...*, p. 104–123.

⁴⁶ D. Jenkins, *The law...*, p. 145.

⁴⁷ T.P. Ellis, *Welsh tribal...*, p. 109–110.

⁴⁸ D. Jenkins, *The law...*, p. 148.

have lost their kinsman and their goods. Third is, if a man is charge with killing another, and does not deny it although he is innocent, and he is killed because he did not deny it, the killing is legal; and it is because their kinsman was killed when he was innocent that the loss is dire".⁴⁹

Welsh law did not remain immune to the influence of other laws, mainly canon and English common law. The great changes that took places on the British Isles in the 12th and 13th centuries, especially the conquests of the Normans and Edward I were of great importance. One of the reforms concerned the law of compensation that started to be replaced by punishment inflicted on the perpetrator by the state. Under the Statute of Rhuddlan, known as the Statute of Wales enacted by Edward I in 1284 Welsh criminal law was replaced by English criminal law. In consequence, galanas was abolished in the Principality of North Wales. Only in the Welsh Marcher lordship was it in force to the end of the Middle Ages.⁵⁰ Much earlier it was abolished in Gwynedd by Dafydd ap Llywellyn.⁵¹

The abovementioned social and legal transformations are illustrated in the fourth branch of *the Mabinogion*. The tale depicted here is a classical study of an unfaithful wife who, during the absence of her husband, falls in love with another man and commits a premeditated murder on her husband. The crime is not only premeditated but also very heinous, because the wife, while pretending devotion to her husband, interviews him about a possible way of killing him. As a punishment for her crime Blodeuwedd is changed into an owl who is sentenced to eternal suffering and condemnation being beaten by other birds. Likewise, her lover is killed.⁵² A reader who is familiar with Welsh laws would expect a different end, namely according to indigenous laws, adultery would initiate the procedure of compensation. In the story, however, the protagonists are punished in a cruel common law fashion.

Drawing to a close, the law of compensation, as it is reflected in Welsh laws and literature, occupied a considerable space in Welsh society of the medieval period, which is the evidence of its significance as one of the methods of adjudicating upon arguments between the parties. Compensation allowed to end conflicts in a peaceful manner, provided the family of the victim with damages and pre-

⁴⁹ Ibidem, p. 146.

⁵⁰ H. Pryce, *Native law and the church in medieval Wales*, Oxford 1993, p. 140.

⁵¹ T.G. Watkin, *The legal history of Wales*, Cardiff 2007, p. 99; R.R. Davies, *The age...*, p. 127.

⁵² S. Davies, *The Mabinogion...*, p. 47–65.

vented vendettas between clans. However, it must also be remembered that since one's guilt was redeemed by money, it was very often exploited by the rich to avoid punishment. Despite the attempts of Edward I to eradicate the law of compensation it did not fall into oblivion. It survived not only in human practice but also in literature.

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Abstract

The article addresses the notion of compensation in medieval Wales. For the purpose of the analysis, a codification of native laws known as *Cyfraith Hywel* as well as the tales under the title of the *The Mabinogion* will be referred to. The investigation into law and literature shows that compensation was the primary method of settling disputes in medieval Wales until it was replaced by a punishment-based approach of English common law. By discussing the issues of honour, vengeance and compensation the article also sheds light on the mentality of people in medieval Wales, particularly the values that they cherished and defended.

Keywords: law, compensation, Wales, the Middle Ages

**ZADOŚĆUCZYNIENIE W SPOŁECZNOŚCI ŚREDNIOWIECZNEJ WALII –
KONTEKSTY PRAWNO-LITERACKIE****Streszczenie**

W artykule zanalizowano zagadnienie zadośćuczynienia w prawie i literaturze średniowiecznej Walii. Korpus praw znanych jako *Cyfraith Hywel* datowany na IX–X wiek oraz sagi zebrane w zbiorze *Mabinogion* dostarczają licznych przykładów ilustrujących sposoby załatwiania sporów pomiędzy zwaśnionymi stronami. Średniowieczne prawo walijskie, podobnie zresztą jak prawa innych państw średniowiecznej Europy, przeszło stopniową ewolucję pojęcia winy i kary. Odwet w postaci krwawej pomsty wymierzany za doznaną krzywdę, uszkodzenie ciała lub śmierć ustąpił mediacji i polubowemu sposobom załatwiania sporów. Innymi słowy, zadośćuczynienie stało się alternatywą dla zabójstwa. Prawo walijskie odróżniało dwa pojęcia w tym zakresie: *sarhaed* (zadośćuczynienie za krzywdę i uszkodzenie ciała) oraz *galanas* (zadośćuczynienie za przestępną śmierć). Wysokość zadośćuczynienia była określana według pozycji społecznej osoby poszkodowanej lub ofiary. Szczególną ochroną otoczono kobiety i dzieci. O popularności polubownych metod załatwiania sporów świadczy literatura. Bohaterowie kolekcji *Mabinogion* prowadząc różnorakie spory odwołują się do negocjacji, zwięźczeniem których jest przekazanie stosownej nawiązki stronie poszkodowanej.

Słowa kluczowe: prawo, zadośćuczynienie, Walia, średniowiecze