

**Srdan M Jovanović**  
Nankai University, Tianjin, China  
[smjovanovic@nankai.edu.cn]

## ***Zakonik Danila Prvog* and Religious Identity: Orthodox Christianity in Montenegrin Legal Thought**

**Abstract:** *This article explores the Zakonik Danila Prvog (Code of Danilo I) as a foundational legal document that shaped Montenegrin governance and national identity by integrating Orthodox Christian values into the state's legal framework. Established in 1855, the Zakonik reflected the influence of Orthodox Christianity on justice, morality, and public life, while also serving as a tool for asserting Montenegrin sovereignty against Ottoman and Catholic influences. The analysis investigates the deep interconnection between law, religion, and national identity, comparing the Zakonik with Eastern Orthodox canon law and highlighting its role in regulating religious life, family law, and public morality. Additionally, the article discusses the tensions between customary tribal laws and Christian doctrine and explores how non-Orthodox communities were governed under this legal framework. The broader implications of the Zakonik for Balkan legal and religious history are also examined.*

**Keywords:** *Zakonik Danila Prvog; Orthodox Christianity; Montenegrin national identity; Balkan legal history; Church-State relations.*

### **I. Introduction**

The *Zakonik Danila Prvog* (Code of Danilo I), established in 1855 by Prince Danilo I of Montenegro, represents a pivotal moment in the legal and political history of Montenegro. It is not only a comprehensive legal code but also a reflection of the socio-political realities and the evolving national identity of the Montenegrin people during the 19<sup>th</sup> century. As Montenegro sought to assert itself as an independent and sovereign entity, distinct from the surrounding empires, the *Zakonik* provided a legal framework for governance that consolidated both civil and religious life, establishing the foundation for modern Montenegrin statehood.

Prince Danilo I's legal reforms came at a critical juncture in Montenegro's history. The country was situated in a politically volatile region, surrounded by the Ottoman Empire to the east and south, and Austria-Hungary to the west. While much of the Balkan Peninsula remained

under Ottoman or Austro-Hungarian control, Montenegro had retained a high degree of autonomy. However, this autonomy needed to be reinforced by a coherent legal and political structure that could unify the Montenegrin population and defend against external pressures. The *Zakonik* fulfilled this role by codifying a set of laws that balanced traditional Montenegrin customs with the legal and moral principles of Orthodox Christianity, which was deeply ingrained in the Montenegrin psyche (Jelavich, 1983). The significance of the *Zakonik Danila Prvog* extends beyond its role as a legal document. It served as a key instrument in reinforcing national unity and consolidating Montenegro's religious and political independence. By grounding legal principles in Orthodox Christian values, Danilo I not only addressed the immediate need for legal reforms but also strengthened the cultural and spiritual identity of the Montenegrin people. The *Zakonik* addressed a wide range of issues, including criminal justice, property rights, marriage, and family law, all of which were deeply influenced by Christian ethics and the Orthodox tradition (Banac, 1984). As such, the *Zakonik* stands as a unique example of the intersection between law, religion, and national identity in the Balkans, a region where religious affiliation often played a critical role in political and social life (Vucinich, 1974).

### **Relevance to Balkan Studies**

The study of the *Zakonik Danila Prvog* is particularly relevant to scholars of Balkan history, law, and religion because it provides valuable insights into how law and religion were intertwined in the construction of national identity in 19<sup>th</sup>-century Montenegro. In the broader context of Balkan studies, this legal code offers a case study of how small Balkan states sought to navigate the pressures of larger empires while maintaining their sovereignty and distinct cultural identities. Throughout the Balkans, religion, especially Orthodox Christianity, was a significant marker of identity, particularly in contrast to the Islamic rule of the Ottoman Empire. The *Zakonik* reflects this dynamic, demonstrating how legal reforms were used not only to create internal order but also to resist the cultural and political influence of neighboring powers (Morrison, 2009).

The legal code also sheds light on the broader processes of state formation and modernization in the Balkans during the 19<sup>th</sup> century. As Montenegro sought to formalize its legal structures, the integration of religious values into the legal framework underscores the role of Orthodox Christianity as a central pillar of Montenegrin national identity.

This phenomenon was not unique to Montenegro but was part of a larger trend across the Orthodox Christian regions of the Balkans, where religion served as both a unifying force and a symbol of resistance against Ottoman rule. Thus, the *Zakonik* serves as an important historical document for understanding how law and religion were used in tandem to construct a cohesive national identity (Kitromilides, 2013).

### **Thesis Statement**

This article posits that the *Zakonik Danila Prvog* reflects the deep integration of Orthodox Christian values in Montenegrin legal thought, shaping both the governance and the socio-political structure of the state. The code was not only a legal instrument but also a cultural one, providing a framework for national unity and autonomy within a religious context. By embedding Orthodox Christian principles into the legal fabric of the state, Danilo I sought to strengthen Montenegrin identity and sovereignty, particularly in the face of external pressures from the Ottoman Empire and other neighboring powers. The *Zakonik* demonstrates how law, religion, and national identity were mutually reinforcing in the formation of the modern Montenegrin state.

### **Methodology**

This study adopts an interdisciplinary approach, combining historical analysis, religious studies, and legal scholarship to examine the *Zakonik Danila Prvog* and its impact on Montenegrin identity. The historical analysis focuses on the geopolitical and social context in which the *Zakonik* was created, considering Montenegro's struggle for autonomy and its resistance to Ottoman and Austro-Hungarian influence. By examining historical sources, such as the writings of Prince Danilo I and contemporary accounts of Montenegrin society, the article situates the *Zakonik* within the broader trends of state-building and legal modernization in the Balkans (Berend, 2013). The religious studies component of this research examines the influence of Orthodox Christian doctrines on the *Zakonik*. This includes an analysis of how Orthodox beliefs regarding morality, justice, and community were translated into legal principles within the code. The research draws upon both primary and secondary religious texts, including Eastern Orthodox canon law, to demonstrate the parallels between religious doctrine and the legal provisions of the *Zakonik*. By doing so, the article highlights the centrality of Orthodox Christianity in shaping Montenegrin legal thought and governance (Ware, 1997).

Finally, the legal analysis explores the structure and content of the *Zakonik* itself, focusing on key legal provisions that reflect the integration of religious values. This includes an examination of laws related to family, property, and criminal justice, which were heavily influenced by Orthodox Christian ethics. The article compares the *Zakonik* to other contemporary legal codes in the Balkans, such as the Serbian Civil Code, to demonstrate how Montenegro's legal reforms were part of a broader trend of legal modernization in the region. By adopting this interdisciplinary approach, the article provides a comprehensive analysis of how law and religion were intertwined in the construction of Montenegrin national identity.

## **II. Historical Context: Montenegro and Orthodox Christianity in the 19<sup>th</sup> Century**

### **Montenegro in the 19<sup>th</sup> Century**

Montenegro's mid-19<sup>th</sup> century political situation was marked by its position between powerful empires, particularly the Ottoman and Austro-Hungarian Empires. Despite its small size, Montenegro's strategic location made it a focal point for broader imperial ambitions. Its autonomy was preserved largely due to its mountainous terrain and the resistance of its population (Jelavich, 1983). However, Montenegro's independence was frequently challenged by external forces and internal clan divisions. By the mid-19<sup>th</sup> century, Montenegro was emerging as a distinct political entity, though it lacked formal recognition. Surrounded by Ottoman-controlled territories, Montenegro faced growing threats from both the Ottoman and Austro-Hungarian Empires. Internally, Montenegro's decentralized clan-based governance posed challenges for unity, and Prince Danilo I's reforms, including the *Zakonik Danila Prvog*, were crucial in creating a more cohesive state (Banac, 1984).

### **Role of Orthodox Christianity**

Orthodox Christianity was central to Montenegrin national identity, providing a unifying cultural and political force. The Montenegrin people identified as part of the broader Serbian Orthodox community, distinguishing themselves from their Muslim neighbors and the Catholic populations to the west (Vucinich, 1974). The Orthodox Church played a significant role in resisting Ottoman rule, as adherence to Orthodox Christianity was both a matter of faith and a form of resistance. The Church's leaders were central to both the spiritual and political life

of Montenegro (Kitromilides, 2013). Orthodox Christianity also shaped Montenegro's foreign relations, particularly with Russia, which provided military and financial support. This relationship, based on shared religious values, bolstered Montenegro's position as a defender of Orthodox Christianity in the Balkans (Morrison, 2009).

### **Danilo I's Leadership**

Prince Danilo I (1826–1860) was pivotal in modernizing and consolidating the Montenegrin state. His leadership marked a shift from the traditional theocratic governance of Montenegro to a more secular form, while retaining religion's deep influence. Before Danilo, Montenegro was governed by prince-bishops who held both spiritual and temporal power. Danilo's reforms modernized Montenegro's political structures while preserving its religious traditions. His most significant achievement was the promulgation of the *Zakonik Danila Prvog*, a legal code that unified Montenegrin governance under a common set of laws (Banac, 1984). Danilo's leadership balanced modernization with the need to preserve traditional values, including the introduction of a standing army, diplomatic relations with European powers, and legal reforms shaped by Christian ethics (Ware, 1997). The *Zakonik* enshrined equality before the law and reinforced Christian values such as the sanctity of marriage, which Danilo saw as key to Montenegro's survival (Morrison, 2009).

The geopolitical position of 19<sup>th</sup>-century Montenegro and the role of Orthodox Christianity played a crucial role in shaping the *Zakonik Danila Prvog*. Prince Danilo I's leadership promoted Montenegro's sovereignty, and his legal reforms reflected a vision of a unified state grounded in Orthodox Christian values. The *Zakonik* not only provided a legal framework but also reinforced Montenegro's religious and cultural identity, ensuring the country's resistance to external pressures and its preservation of independence.

## **III. Orthodox Christianity as a Foundational Element of the *Zakonik Danila Prvog***

### **Influence of Orthodox Christian Doctrine**

The *Zakonik Danila Prvog*, reflects the profound influence of Orthodox Christian doctrine on Montenegrin governance in the 19<sup>th</sup> century. This legal code was designed to embed Orthodox Christian principles into the fabric of Montenegrin society, emphasizing moral and

ethical standards. Danilo I aimed to modernize the legal system while reinforcing the spiritual and moral foundations of Montenegrin identity (Bieber, 2003). The *Zakonik* framed justice as a moral imperative, emphasizing equality before the law, mirroring the Christian belief that all are equal before God (Galatians 3:28). Article 1 states that “every Montenegrin and Highlander is equal before the court,” reinforcing fairness and impartiality, deeply rooted in Orthodox Christian teachings (Morris, 2006).

The *Zakonik* also integrates Orthodox Christian morality into personal and social conduct, particularly in areas like marriage and family life. For example, Article 67 requires mutual consent and a church blessing for marriages, reflecting the Christian sacramental view of marriage as a holy union (Danilo I, 1855). Moreover, Article 66 mandates church attendance, emphasizing religion’s role in guiding daily life. This codification of religious observance further ensured that the law reflected divine will (Roudometof, 2001).

### **Comparison with Canon Law**

The *Zakonik* shares significant similarities with Eastern Orthodox canon law, embedding religious values into secular governance. Family law in both systems reflects the sacredness of marriage, and the *Zakonik*, like canon law, strictly limits grounds for divorce, particularly in cases of infidelity (Meyendorff, 1982). Both legal systems emphasize moral responsibility and repentance for crimes, where violations are treated as sins against the community’s moral order (Morris, 2006). For instance, Article 27 prescribes the death penalty for murder but allows leniency for those showing repentance (Danilo I, 1855), reflecting Orthodox beliefs in redemption (Roudometof, 2001). The *Zakonik* also includes ecclesiastical discipline, as in Article 73, which prescribes expulsion for blasphemy, showing the deep integration of religious authority into Montenegrin law (Ware, 1997).

### **Moral and Ethical Codes in the Law**

The *Zakonik Danila Prvog* is grounded in Christian ethics, emphasizing personal conduct, family responsibilities, and public morality. It upholds virtues like honesty and humility, with Article 35 prohibiting deceit and slander, reflecting Christian teachings on truthfulness (Danilo I, 1855). The *Zakonik* promotes peaceful conflict resolution, discouraging retaliation and instead encouraging forgiveness, aligning with Christian teachings on reconciliation (Morris, 2006).

Family law emphasizes the sanctity of the family, as Article 50 requires children to honor and care for their parents, reflecting the biblical commandment to “honor thy father and mother” (Danilo I, 1855; Exodus 20:12). The *Zakonik* protects the family unit, reinforcing Orthodox beliefs in family as the core of Christian life (Roudometof, 2001). Additionally, public morality is a key concern, with Article 74 prescribing harsh penalties for public indecency, underscoring the importance of moral behavior in maintaining social harmony (Danilo I, 1855). By embedding these values into the legal code, the *Zakonik* ensured that Montenegrin society was governed by both secular laws and Christian ethical teachings (Bieber, 2003).

#### **IV. Church-State Relations: Institutionalizing Orthodox Christian Influence in Law**

##### **The Role of the Orthodox Church in Governance**

The relationship between the Orthodox Church and the Montenegrin state during the 19<sup>th</sup> century, particularly under Prince Danilo I, was deeply intertwined. In the Balkans, where religious and national identities often merged, Montenegro was no exception. The Orthodox Church was both a spiritual authority and a crucial institution in shaping the political and legal structures of the emerging Montenegrin state. This entanglement is clearly reflected in the *Zakonik Danila Prvog* (Code of Danilo I), which institutionalized Orthodox Christian values within the legal system, ensuring the Church’s fundamental role in governance (Banac, 1984).

Unlike other Balkan states that adopted more secular systems influenced by European legal traditions, Montenegro maintained a legal framework deeply rooted in religious principles. The Orthodox Church, as the main religious institution, became central to governance. Montenegrin rulers, including Danilo I, viewed the Church as an ally in maintaining social order and national unity, particularly as Montenegro asserted its sovereignty against the Ottoman and Austro-Hungarian Empires. The Church’s role in governance was significant, extending to legal and administrative matters (Jelavich, 1983).

This Church-state relationship was not new. Since the 16th century, Montenegro had been governed by *vladikas* (prince-bishops), combining secular and ecclesiastical authority. This system continued until Danilo I’s reforms, which separated secular and religious offices, though the Church’s influence remained strong (Roudometof, 2001).

By the mid-19<sup>th</sup> century, Montenegro was formalizing its legal structures, but the Church still guided moral and cultural aspects of governance.

The *Zakonik* codified laws that aligned with Orthodox teachings. Laws on personal behavior, family life, and property rights were influenced by Christian doctrines. Religious rituals, such as oaths, were used to legitimize judicial decisions, ensuring the law reflected both secular and divine justice. The fusion of church and state meant that Montenegrin law was not merely a secular instrument but also a reflection of divine justice (Morrison, 2009).

### **Clergy's Role in Legal and Social Affairs**

The Orthodox Church's influence in legal matters, particularly in family law and inheritance, was evident in the *Zakonik*. Marriage, regarded as a sacrament in Orthodox Christianity, required the Church's blessing for legal recognition (Meyendorff, 1982). The clergy also played a key role in approving divorces, ensuring they adhered to religious standards. Inheritance laws similarly reflected Orthodox principles, with the clergy involved in disputes over heirs, ensuring family hierarchy and moral conduct were upheld (Bieber, 2003).

Beyond legal matters, clergy served as moral exemplars and enforced public virtue. The *Zakonik* empowered them to intervene in cases of moral misconduct, such as adultery and blasphemy, reinforcing the alignment between law and Orthodox ethics (Kitromilides, 2013).

### **Judicial Oaths and Religious Legitimacy**

One way Orthodox Christianity was institutionalized in Montenegrin law was through judicial oaths and the invocation of divine justice. Oaths, made in the presence of God, carried legal and spiritual significance. The *Zakonik* required oaths to be sworn in churches, emphasizing that legal decisions were divinely sanctioned (Ware, 1997). Judges and officials also took oaths to uphold Christian principles, blending secular and religious authority (Morris, 2006).

In cases with insufficient evidence, individuals were sometimes required to submit to religious trials, reflecting medieval beliefs in divine intervention. This practice persisted into the 19<sup>th</sup> century, highlighting the ongoing influence of religious principles in Montenegrin legal practice (Jelavich, 1983). The use of oaths and divine justice in



legal proceedings ensured that the *Zakonik* maintained a close connection to Orthodox values, reinforcing the legitimacy of Montenegrin law (Roudometof, 2001).

## **V. Regulating Religious Life in the *Zakonik Danila Prvog***

### **Religious Freedom and Exclusivity**

The *Zakonik Danila Prvog* reflects Montenegro's religious landscape in the mid-19<sup>th</sup> century, where Orthodox Christianity was integral to national identity and state governance. The legal code emphasized Orthodox Christianity as the state religion, outlining the status of other religious communities. This exclusivity helped construct Montenegrin identity, particularly in opposition to the Ottoman Empire, where Islam held sway, and against Catholic populations under Austro-Hungarian influence (Banac, 1984).

Article 92 explicitly established Orthodox Christianity as the official religion, stating, "In this land, there is no other nation and no other faith except the Orthodox." This was not just a legal declaration but a statement of national unity. Although other religious communities were present in the region, Montenegro's identity was tied to its Orthodox faith, similar to other Balkan states like Greece and Serbia during their independence movements (Jelavich, 1983). However, the *Zakonik* did not completely exclude other faiths from legal recognition. Article 93 allowed other religious communities to live peacefully in Montenegro as long as they respected the Orthodox Christian character of the state. This conditional tolerance was common in 19<sup>th</sup>-century Balkan states, where national identity was intertwined with religion (Roudometof, 2001).

The treatment of non-Orthodox communities under the *Zakonik* reflects Balkan nationalism trends, where religious identity was central to independence from the Ottoman Empire. In Montenegro, Orthodox Christianity was both a religious and political statement against Ottoman Islamic rule, shaping the legal status of religious minorities. This dynamic was seen across the Balkans, where religion and national identity were closely connected, with legal frameworks reflecting the primacy of the majority religion (Kitromilides, 2013).

### **Public and Private Worship**

The *Zakonik* also regulated both public and private worship, showing the central role of religious practice in Montenegrin society. It

codified religious observance as part of public life, prescribing duties for clergy and laypeople alike. Public worship was closely regulated, with laws requiring regular attendance at church services and participation in religious festivals. Article 66 mandated that all citizens attend church services regularly, with clergy ensuring compliance. This reflected the Orthodox belief in the importance of communal worship for social cohesion and the collective identity of the Orthodox Christian community (Ware, 1997). Punishments were set for those who failed to observe these duties, such as fines or public penance. These regulations mirror those in other Orthodox Christian states, like Tsarist Russia, where religious attendance was legally enforced (Roudometof, 2001).

Article 67 outlined the clergy's duties in regulating public worship, especially in overseeing baptisms, marriages, and funerals. This underlined the clergy's institutional authority in both spiritual and legal matters. The clergy were expected to uphold moral standards and ensure religious practices conformed to Orthodox teachings. The Church thus shaped both the spiritual and legal framework of Montenegro (Kitromilides, 2013).

In terms of private worship, the *Zakonik* allowed personal devotion but placed limits to ensure alignment with communal obligations. Orthodox Christianity emphasized personal prayer, fasting, and almsgiving, but Article 68 ensured that private worship adhered to social norms. This reflects the Orthodox belief that private worship should not conflict with public religious duties (Ware, 1997).

### **Religious Law in Daily Life**

Religious norms permeated daily life in Montenegro under the *Zakonik*, with religious obligations influencing various social and legal interactions. Sabbath observance was a key aspect, with Article 70 mandating that work cease on Sundays and religious holidays. This law reflects the broader Orthodox tradition that views Sunday as a day of rest and worship. Violations of this law were serious, with punishments such as fines or public penance (Roudometof, 2001). Fasting was also codified, with Article 71 requiring citizens to observe the major fasts of the Orthodox calendar, including Great Lent. The clergy oversaw these observances, and failure to comply could lead to penalties (Ware, 1997).

Religious law also influenced economic transactions and property law. Article 50 emphasized honesty in economic dealings, reflecting Christian teachings on fairness. The clergy played a role in overseeing

property disputes, ensuring transactions adhered to Orthodox principles. This integration of religious norms into economic life highlights the Orthodox view that all aspects of life should align with Christian ethics (Banac, 1984).

*In summa*, the *Zakonik Danila Prvog* reveals a legal system deeply intertwined with religious norms, where Orthodox Christian law governed nearly every aspect of life in Montenegro. From worship to economic transactions, the *Zakonik* ensured that religious obligations were not merely personal matters but integral to societal functioning. This close integration of religion and law illustrates the role of Orthodox Christianity in shaping Montenegro's legal and social order and reflects broader Balkan trends where religious identity was foundational to national governance (Morrison, 2009).

## **VI. Gender, Family, and Religion in Montenegrin Law**

### **Orthodox Christian Views on Marriage and Family**

The *Zakonik* provided the foundation for Montenegrin family law, which was deeply intertwined with Orthodox Christian views on marriage, family, and inheritance. Within Orthodox Christianity, marriage is not just a social contract but a sacrament, reflecting the relationship between Christ and the Church (Meyendorff, 1982). This religious perspective on marriage shaped the legal provisions of the *Zakonik*, which aimed to uphold the sanctity of marriage and the centrality of the family as the fundamental unit of society.

In the Orthodox Christian tradition, marriage is seen as a lifelong commitment that is entered into with the blessing of the Church. The *Zakonik* echoed this religious principle by codifying the requirement for all marriages to be conducted under the auspices of the Orthodox Church. Article 67 of the *Zakonik* stipulated that a marriage could not be legally recognized unless it had been solemnized by the Church, reflecting the Orthodox belief that marriage is a holy union requiring divine sanction (Danilo I, 1855). This provision highlights the extent to which religious norms were integrated into the legal framework, ensuring that family life in Montenegro was governed by Christian moral and ethical principles (Ware, 1997).

Divorce, on the other hand, was strictly regulated under both Orthodox canon law and the *Zakonik*, with limited grounds for dissolution of marriage. In Orthodox Christianity, divorce is permitted only under exceptional circumstances, such as adultery or abandonment, and this

religious restriction is mirrored in the legal code. Article 68 of the *Zakonik* permitted divorce only when a spouse had committed an act that violated the sanctity of the marital union, such as infidelity, desertion, or failure to uphold religious obligations (Danilo I, 1855). These grounds for divorce reflect the Orthodox view that marriage is indissoluble except in cases of grave moral failure, and the state was tasked with upholding this principle through legal means (Meyendorff, 1982). Inheritance law in Montenegro was similarly influenced by Orthodox Christian principles regarding the family and the transmission of property. Inheritance practices were designed to preserve family unity and continuity, with special emphasis on the role of the male heir. Orthodox Christian teachings on family life emphasize the responsibilities of children to honor and care for their parents, and this sense of familial duty extended into the legal regulation of inheritance (Roudometof, 2001). Article 50 of the *Zakonik* prescribed that male heirs were to inherit the family estate, reflecting both the patriarchal structure of Montenegrin society and the religious importance of preserving family property within the male line (Danilo I, 1855). However, daughters were not entirely excluded from inheritance; they could receive a portion of the family wealth, particularly if no male heirs were present. This balance between male primogeniture and the protection of female inheritance rights reflects the broader Orthodox Christian emphasis on family solidarity and the ethical treatment of all family members (Ware, 1997).

### **The Role of Women in Religious and Legal Contexts**

The position of women in Montenegrin law, as defined by the *Zakonik Danila Prvog*, was shaped by Orthodox Christian teachings and the patriarchal social structure of 19<sup>th</sup>-century Montenegro. While women were afforded legal protections in areas like inheritance and family law, their roles were largely defined by their family status and adherence to religious norms. Their legal rights and responsibilities were tightly regulated by both the Church and the state, reflecting the Orthodox Christian view of women's roles as primarily domestic and supportive.

In Orthodox Christian thought, women are spiritually equal to men but have distinct roles in the family and the Church. This perspective influenced the legal framework of the *Zakonik*, which granted women certain rights, especially in inheritance, but reinforced their subordinate position in the patriarchal family. Article 53 allowed daughters to inherit property when no male heirs were present but emphasized that

their rights were secondary to those of their brothers (Danilo I, 1855). This reflects the Orthodox Christian view that women should be protected, but the family line is best preserved through male inheritance (Roudometof, 2001). Marriage and family law also emphasized women's roles as wives and mothers, mirroring Orthodox Christian teachings on their importance in nurturing the family. Article 67 required women to marry within the Orthodox Church and prioritized their duties to their husbands and children. This supported the Orthodox ideal of the family as a domestic church, where women ensured the family adhered to religious obligations (Kitromilides, 2013).

The *Zakonik* restricted women's autonomy in significant ways. Women's legal status was often tied to their relationships with male family members. For example, Article 72 required widows to remain under male guardianship if they chose not to remarry, reflecting the Orthodox Christian emphasis on male authority within the family. This provision underscores the patriarchal nature of Montenegrin society, where women's roles were defined by familial relationships and religious expectations of modesty and obedience (Meyendorff, 1982).

### **Christian Morality and Adultery**

Adultery and sexual immorality were treated as serious offenses under the *Zakonik Danila Prvog*, reflecting Orthodox Christianity's strict moral codes. Adultery was not only a violation of marital vows but a grave sin against God, as marriage is viewed as a holy sacrament (Ware, 1997). The *Zakonik* mirrored this condemnation by prescribing severe punishments, especially for women, who were subject to harsher penalties due to their perceived role in preserving family honor.

Article 72 stipulated that a woman guilty of adultery could be divorced by her husband and stripped of her inheritance or property rights. This reflected the Orthodox view that sexual purity was essential, particularly for women, who upheld family honor and morality. A woman's infidelity was seen not only as a personal failing but a threat to the moral fabric of the family and community (Danilo I, 1855). This gendered approach to morality can also be seen in other Orthodox Christian societies, where women were often held to stricter standards due to their role in maintaining the sanctity of the family (Roudometof, 2001).

While men were also subject to penalties for adultery, they were treated more leniently. Article 73 allowed men to seek divorce if their wives were unfaithful, but men committing adultery faced less social

stigma and legal consequences. This double standard reflects the patriarchal nature of Montenegrin society, where men had greater authority, and women were expected to embody the moral values of the family (Morrison, 2009). However, the Church viewed male adultery as a serious sin, and men were often required to undergo public penance or seek absolution through sacraments.

The legal treatment of adultery in the *Zakonik* highlights the intersection of religious morality and social order. Adultery was seen not only as a sin but as a crime that disrupted the social hierarchy and threatened family cohesion. By codifying the punishment for adultery, the *Zakonik* ensured that Orthodox Christian values were upheld in both public and private spheres. This legal emphasis on morality reflects the broader role of the Orthodox Church in regulating behavior and maintaining a moral order linked to religious teachings (Kitromilides, 2013).

The *Zakonik Danila Prvog* reflects the deep integration of Orthodox Christian views on gender, family, and morality into Montenegro's legal framework. It upheld the sanctity of marriage, reinforced patriarchal family structures, and imposed strict moral codes, especially regarding sexual behavior. Women's legal rights were shaped by their family roles and adherence to religious norms, while adultery and other moral transgressions were treated as both legal and religious offenses. These provisions illustrate how religion, law, and gender were closely intertwined in Montenegrin society, reflecting Orthodox Christian values (Ware, 1997).

## **VII. Law, Religion, and National Identity: The Symbolism of Orthodox Christianity in Montenegrin Sovereignty**

### **The *Zakonik* as a Tool of National Identity**

The *Code of Danilo I* was not just a legal document but a critical tool for consolidating Montenegrin national identity during a period of significant pressure from surrounding empires. Montenegro was located between the Islamic Ottoman Empire to the south and east and the Catholic Austro-Hungarian Empire to the west, both of which heavily influenced the region (MacKenzie, 1996). Danilo I's legal code emphasized the role of Orthodox Christianity in fortifying Montenegrin identity, positioning it as the moral and cultural foundation that distinguished Montenegro from its neighbors. Orthodox Christianity had long been integral to the cultural fabric of Montenegro, uniting various

clans and communities under a shared faith and providing a source of resistance against foreign domination (Pavlowitch, 2000).

The establishment of Orthodox Christianity as the state religion, articulated in Article 92 of the *Zakonik*, was a clear assertion of Montenegrin sovereignty. This article declared Orthodox Christianity as the dominant faith, linking Montenegrin identity directly to the Orthodox tradition (Danilo I, 1855). By connecting national identity to religious faith, Danilo I emphasized that Montenegrin independence was deeply rooted in Orthodox Christianity. This was consistent with national identity movements in Greece and Serbia, where Orthodox Christianity was central to their national narratives (Kitromilides, 2013). This strategic use of religion distinguished Montenegro from its Islamic Ottoman and Catholic Austro-Hungarian neighbors. The *Zakonik* established Orthodox Christianity as the legal and moral standard for Montenegrin society, a deliberate move to fortify the country's independence from empires that threatened its sovereignty (Morrison, 2009).

### **Symbolic Use of Christianity in the Law**

The symbolic and rhetorical use of Orthodox Christianity within the *Zakonik* elevated its legal authority and bolstered Danilo I's legitimacy as a ruler. The preamble of the code invokes Montenegro's long-standing resistance to Ottoman rule, linking survival to Christian faith (Bieber, 2003). It connects the legitimacy of the law to Montenegro's Christian identity, positioning Danilo I's reforms as a continuation of this divine mission (Pavlowitch, 2000). Furthermore, religious oaths played a significant role in judicial proceedings, as witnesses were required to swear before the altar or Bible, reinforcing the idea that legal authority was sanctioned by God. For example, Article 58 mandates that witnesses swear an oath before a priest to ensure truthful testimony (Danilo I, 1855). This practice tied the law to divine justice, legitimizing both the legal code and Danilo I's leadership (Radonic, 2000).

This symbolic use of Christian language and rituals in law was common in the formation of national identities across the Balkans. In Greece, Serbia, and Bulgaria, religion was used to assert historical continuity and divine favor in their independence struggles (Kitromilides, 2006). In Montenegro, where national unity was crucial due to the state's small size, the fusion of legal authority and Orthodox Christian rhetoric was particularly effective in creating a cohesive national narrative (Jelavich, 1983).

### Religion as Resistance to Ottoman Influence

The *Zakonik* played a crucial role in reinforcing Orthodox Christianity as a symbol of Montenegrin resistance to Ottoman influence. Montenegro faced continuous pressure from the Ottoman Empire, which controlled much of the surrounding region. Orthodox Christianity served as both a spiritual guide and a symbol of Montenegrin autonomy. The legal code used religious observance to assert Montenegrin distinctiveness, mandating, for instance, the observance of Christian holy days as outlined in Article 70 (Danilo I, 1855).

Montenegro's commitment to Orthodox Christianity was framed as a political act of defiance against the Ottoman Empire. Throughout the Balkans, Orthodox Christianity stood as a symbol of anti-Islamic identity, especially in countries like Serbia and Greece, which shared Montenegro's struggle against Ottoman domination (Kitromilides, 2006). The *Zakonik* mirrored this broader Balkan trend, positioning adherence to Orthodox Christianity as essential to Montenegrin survival. Furthermore, the *Zakonik* included provisions to penalize those who betrayed the Christian faith by collaborating with Ottoman officials. Article 73 prescribed severe punishments for individuals found guilty of aiding Ottoman authorities or undermining Montenegrin sovereignty, framing collaboration as both a religious and political betrayal (Danilo I, 1855).

Montenegro's reliance on Russia, another Orthodox Christian power, for support against the Ottoman Empire further solidified the connection between religion and national identity. Russia acted as a protector of Orthodox Christians in the Balkans, providing military and financial aid to Montenegro and other states resisting Ottoman rule (Roudometof, 2001). The *Zakonik* reflected this alliance by using Orthodox Christianity not only as a symbol of internal unity but also as a diplomatic tool. By aligning with Russia, Montenegro positioned itself within a larger Orthodox community, drawing strength from religious solidarity in its struggle for independence (Bieber, 2003).

The *Zakonik Danila Prvog* played a critical role in using Orthodox Christianity to fortify Montenegrin national identity and assert its independence from Ottoman and Catholic influences. By embedding religious values within the legal code, Danilo I created a system that was both legally authoritative and spiritually legitimized, reinforcing both his leadership and Montenegro's sovereignty. The use of Christian symbolism in the law and the emphasis on religion as resistance to Ottoman influence underscored the centrality of Orthodox Christianity in



constructing Montenegrin identity. This legal framework helped to create a unified and distinct national narrative, crucial to Montenegro's survival as a sovereign state.

## **VIII. Challenges and Conflicts: Tensions Between Religious Law and Secular Governance**

### **Balancing Customary Law with Christian Doctrine**

One of the major challenges Danilo I faced in codifying the *Zakonik Danila Prvog* was balancing traditional Montenegrin tribal customs with the Orthodox Christian values that the code sought to promote. Montenegro, like much of the Balkans, had long been governed by customary law, or *zadruga*, rooted in clan-based traditions and local tribal leadership. These customs were deeply ingrained in Montenegrin society, particularly in rural areas where tribal affiliations dictated land rights, conflict resolution, and social hierarchy (Pavlowitch, 2000).

Danilo I's effort to introduce a unified legal code, integrating Orthodox Christian principles, created tensions between religious law and these entrenched customs. While tribal customs were effective in small communities, they often clashed with Christian ethics, particularly on issues like blood feuds, honor killings, and inheritance practices. For instance, customary law allowed for vendettas as a means of settling disputes, a practice that directly contradicted Christian forgiveness and the *Zakonik's* focus on curbing violence (Bieber, 2003). The *Zakonik* addressed such conflicts by incorporating some customary elements into the legal system while aligning them with Christian principles. Article 39, for instance, outlawed blood feuds, mandating that disputes be resolved through legal channels instead of personal retribution (Danilo I, 1855). However, Danilo I was careful not to completely marginalize traditional clan leaders, maintaining their authority in adjudicating local disputes as long as their decisions conformed to Christian morality (MacKenzie, 1996).

Despite these efforts, resistance emerged from tribal leaders who viewed the centralized legal system as a threat to their authority. The tension was particularly evident in areas like marriage and inheritance, where Christian monogamy and equitable property division conflicted with clan customs favoring polygamy and patrilineal inheritance (Jelavich, 1983). Danilo I's challenge was finding a balance that respected the Orthodox Church's spiritual authority while acknowledging the tribal customs that had long governed Montenegrin society.

### Religious vs. Secular Power Struggles

The tension between the Orthodox Church and secular authorities was another significant challenge during Danilo I's reign, particularly in the application of civil law under the *Zakonik*. Although Danilo I separated secular and ecclesiastical powers by taking the title of prince, the Church maintained considerable influence over both legal and social matters, particularly in marriage, family law, and moral conduct. This dual authority often led to conflicts between the Church's religious jurisdiction and the state's attempts to centralize civil governance (Roudometof, 2001).

A primary area of conflict was family law, where Orthodox teachings emphasized marriage as a sacrament under the Church's control. The *Zakonik* required Church-sanctioned marriages and permitted divorce only under exceptional circumstances, such as adultery or abandonment (Danilo I, 1855). Secular authorities, in their efforts to standardize legal processes, clashed with the Church, particularly in enforcing civil penalties for moral transgressions that the Church viewed as spiritual issues (Kitromilides, 2013). Ecclesiastical courts, with authority over moral conduct, created a parallel legal system, leading to confusion and conflict when Church rulings did not align with secular legal standards (Morrison, 2009).

Another source of tension arose from the Church's role in enforcing public morality. The *Zakonik* granted clergy authority to oversee religious observances and ensure adherence to Orthodox Christian teachings on issues like fasting and public decency. However, disputes arose when the state sought to impose legal penalties for non-compliance with these religious norms, reflecting broader struggles for control between religious and secular authorities (Banac, 1984).

### Impact on Non-Orthodox Communities

While the *Zakonik Danila Prvog* reflected Orthodox Christian values, it also had implications for Montenegro's non-Orthodox populations, including Catholics and Muslims. Although Montenegro was predominantly Orthodox Christian, small communities of Catholics and Muslims lived within its borders, particularly near the Ottoman and Austro-Hungarian territories. Article 93 of the *Zakonik* allowed non-Orthodox communities to live peacefully in Montenegro, provided they respected the law and did not challenge the Orthodox Christian character of the state (Danilo I, 1855). This was a form of conditional tolerance, where non-Orthodox communities were expected to operate

within the legal framework of the *Zakonik*, which often did not align with their religious customs or legal traditions (Kitromilides, 2006).

For example, Muslims in Montenegro could practice their faith privately but were subject to the Christian legal code in areas like marriage and inheritance, which often conflicted with Islamic law. Similarly, Catholics, particularly in the western regions near the Austro-Hungarian border, were required to follow the legal provisions of the *Zakonik*, even when these conflicted with Catholic canon law, creating tensions within these communities (Morrison, 2009).

The *Zakonik Danila Prvog* represented a significant step in formalizing Montenegrin law, but it also highlighted the inherent tensions between religious and secular governance and the challenges of integrating diverse legal and cultural traditions. Danilo I's efforts to balance tribal customs with Orthodox Christian values, manage conflicts between Church and state, and govern non-Orthodox communities under a predominantly Christian legal code underscored the complexities of state-building in 19<sup>th</sup>-century Montenegro.

## **IX. Conclusion**

### **Summary of Key Findings**

The *Zakonik Danila Prvog* embedded Orthodox Christian values into Montenegro's governance and national identity. By formalizing Christianity as the state religion and integrating it into areas such as family law, property rights, and public morality, the *Zakonik* reflected Montenegro's dual commitment to religious faith and sovereignty. Danilo I balanced Montenegro's traditional tribal customs with Christian values, incorporating aspects of *zadruga* (customary law), while curbing practices like blood revenge that conflicted with Christian forgiveness (Bieber, 2003). The *Zakonik* codified Christian morality into governance while preserving tribal cohesion essential for political stability.

The Orthodox Church played a significant role in the *Zakonik*. The Church's influence permeated the legal system, from judicial oaths to oversight of marriage and divorce, reinforcing the authority of both Church and state. The code also addressed non-Orthodox communities like Catholics and Muslims, allowing them to practice their religions but shaping their legal status within an Orthodox framework. The *Zakonik* was instrumental in solidifying Montenegrin identity amid pressures from the Ottoman and Austro-Hungarian Empires. It positioned

Orthodox Christianity as a marker of cultural and political independence, with Christian language and imagery reinforcing Danilo's leadership and aligning Montenegrin law with divine will.

### **Broader Implications for Balkan History**

The integration of religious values into secular governance, as seen in the *Zakonik Danila Prvog*, holds broader significance for understanding state-building and national identity across the Balkans. As Balkan nations sought independence from Ottoman rule, religion became crucial in constructing national identities. Orthodox Christianity was central to national narratives in Serbia, Greece, and Bulgaria, legitimizing secular authority and resistance to the Ottomans (Kitromilides, 2013; Jelavich, 1983). In Montenegro, the *Zakonik* used Orthodox Christianity to reinforce legal structures and promote unity.

This integration also reflects broader Balkan state-building dynamics, where nations defined themselves against Ottoman Islamic governance and Western Catholic influences. By embedding Christian values into legal frameworks, nations like Montenegro distinguished their cultural and political identities from their neighbors. The *Zakonik* illustrates how these distinctions were codified, positioning Montenegro as a bastion of Orthodox values in a diverse region. The *Zakonik* also shows fluid boundaries between secular and religious authority, a recurring theme in Balkan legal histories (Roudometof, 2001).

### **Future Research Directions**

This article suggests future research on legal codes across the Balkans in the 19<sup>th</sup> century. Comparing the *Zakonik* with frameworks in Serbia, Greece, or Bulgaria could illuminate how different states used religion to strengthen their legal systems and national identity. Another research area is women's roles under the *Zakonik*, exploring how laws on marriage, divorce, and inheritance shaped women's rights. Further study on legal developments after Danilo I, especially under Nikola I, could assess the continuity of these reforms and their influence on Montenegro's transition to a modern legal state.

The *Zakonik Danila Prvog* was a pivotal document in Montenegro's history, deeply integrating Orthodox Christian values into its legal and political structures. Its broader implications for Montenegrin national identity and Balkan legal history offer rich possibilities for further research and analysis.

## Bibliography

**Banac, I., (1984).** *The National Question in Yugoslavia: Origins, History, Politics.* Ithaca: Cornell University Press.

**Bieber, F., (2003).** *Montenegro in Transition: Problems of Identity and Statehood.* Baden-Baden: Nomos.

**Berend, I. T., (2013).** *History Derailed: Central and Eastern Europe in the Long Nineteenth Century.* Berkeley: University of California Press.

**Danilo I, (1855).** *Zakonik Danila Prvog.* Cetinje: Montenegrin Government.

**Jelavich, B., (1983).** *History of the Balkans: Eighteenth and Nineteenth Centuries, Volume 1.* Cambridge: Cambridge University Press.

**Kitromilides, P. M., (2006).** *Orthodoxy and Nationalism in Nineteenth-Century Southeastern Europe.* Thessaloniki: Institute for Balkan Studies.

**Kitromilides, P. M., (2013).** *Enlightenment and Revolution: The Making of Modern Greece.* Cambridge: Harvard University Press.

**MacKenzie, A., (1996).** *Serbian Orthodox Fundamentalism: The Quest for an Eternal Identity.* London: C. Hurst & Co.

**Meyendorff, J., (1982).** *Marriage: An Orthodox Perspective.* Crestwood: St. Vladimir's Seminary Press.

**Morris, R., (2006).** *The Church in the Byzantine Empire.* Oxford: Oxford University Press.

**Morrison, K., (2009).** *Montenegro: A Modern History.* London: I.B. Tauris.

**Pavlowitch, S.K., (2000).** *A History of the Balkans: 1804-1945.* London: Longman.

**Radonic, V., (2000).** *Orthodoxy and Power in the Balkans.* Belgrade: Balkan Studies Press.

**Roudometof, V., (2001).** *Nationalism, Orthodoxy, and Globalization in the Balkans.* Westport: Greenwood Press.

**Vucinich, W.S., (1974).** *Montenegro and Austria, 1687-1791.* Princeton: Princeton University Press.

**Ware, T., (1997).** *The Orthodox Church.* London: Penguin Books.