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ŽIVOJIN M. PERIĆ ON ZADROUGA-FAMILIES
IN SERBIA AS COMMUNIST INSTITUTIONS
– critical remarks-

Živojin M. Perić became probably best known as a writer in the field of law thanks to his monumental work *The Law on Zadrouga-Families in the Civil Code of Serbia*¹. However, apart from being known as the best expert in zadrouga-family law, he also possessed an enormous knowledge about the zadrouga-families and about the zadrouga-family life of Serbs and other South Slavs. That can easily be confirmed by every reader of his works on zadrouga-family law. His works represent a real wealth of data about our patriarchal zadrouga-families.² Because of that, Perić ranks among our most eminent experts, whose works on zadrouga-families may be considered as classical.

However, in this article, we do not deal with the overall contribution of Ž. Perić to the knowledge about zadrouga-families in our country. It is our intention to study critically his idea about zadrouga-families, i.e., how the zadrouga-families looked like in his eyes, at the basis of the Serbian Civil Code, and bearing in mind especially their “characteristic features”.³ We presented those Perić’s ideas already in our

1 Further on: *Zadrouga-Family law*.

2 We presented a review of Perić’s contribution to the understanding of zadrouga-family life in Serbia after the adoption of the Civil Code in 1844 in an article entitled *Contributions of Živojin Perić to the Knowledge about the Zadrouga-Ffamily life of Our People*, published in the magazine *Serbian Liberal Thought*, Belgrade, January-February 2003, pp. 439–462. Otherwise, we presented for the first time Perić’s idea of zadrouga-family at a scientific conference devoted to the 150th anniversary of the Serbian Civil Code, held in the SASA in 1994.

3 This is Perić’s term in his *Zadruga-Family Law*

article on his contribution to the understanding of zadrouga-families⁴ but we did not indulge in critical analysis.

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In the fourth chapter of his *Zadrouga-Family Law*⁵, Perić defines the zadrouga--family as a communist institution, but it is “communist within the framework of an extended family”. He based his really peculiar opinion on also peculiar the premise, , that “Communism means work”, Perić explains, and there is no communism without work. He then remarks that it is not relevant “what kind of work” is in question: “agricultural, craftsmanship, commercial, industrial, banking”. Where there is no work, there is no zadrouga-family either. He does not change his opinion in his book: “A Zadrouga-Family is the Place of Common Work on Collectivist Basis”.⁶

However, according to Perić, a zadrouga-family is also a communist association because of the fact that all members of the zadrouga-family are equal owners of the property of the zadrouga, regardless of the inequalities in their shares. All of them are considered “equal”, as if their shares were equal, or as if they worked in the framework of a collectivist property. “All of them have, during the existence of the zadrouga-family, the same duties to work and the same right to support”, Perić states.

However, apart from this text on *Zadrouga-Family Law*, Perić wrote about zadrougas as socialist or communist institutions in a later article, *Petition to the Private Property Department of the Permanent Legislative Council of the Ministry of Justice*,⁷ in which he presented some controversial issues which he encountered when working on the text of the Civil Code of the Kingdom of SCS, the preparation of which he was entrusted by the Ministry of Justice. In the part entitled *Zadrouga-Family Law* he wrote : “Nowadays, the question of zadrouga-family is put forward again; however, this time there are two conflicting currents which struggle for primacy and influence in the society, on the one hand, the individualism of the bourgeois democracy, and on the other the idea of solidarity and altruism expressed in socialism resp communism”. According to Perić, if the legislators adopted the first idea, i. e. if they

4 See the bibliographical data on that article in footnote 2.

5 Belgrade, 1920, pp. 92–93. Let us mention here that Perić divided his *Zadrouga-Family Law* into “chapters”, the first three “chapters” were published in a book, in the second, improved edition (Belgrade, 1924), while the fourth “chapter” represents a separate book of almost 430 pages (Belgrade, 1920), with the mark “IV” on the cover.

6 Ibid, IV, p. 26.

7 *Archives for Legal and Social Sciences*, November 25th, 1921, *Supplement to the Archives* pp. 330–333, Further on *Petition*

tried to develop “the individual bourgeois democracy”, then it would not be necessary to adopt a special regulation about the *zadruga*-families; the *zadruga*-families should be left, like before the First World War, in the state in which they are, and that would result, “in not so distant future”, in their “complete disappearance”. “However, if we chose the way of solidarity and altruism, the ideas which are, as we said, the basis of the cooperatives, then the cooperatives should not be only kept, but their development and improvement should be favoured, by appropriate legal regulations”. “To favour a family cooperative”, means, according to Perić “to favour the idea of solidarity and altruism”. Through *zadruga*-families and similar institutions, the human spirit would be developed more and more in that direction, and that would mean evolving into such a social order in which the idea of altruism and solidarity would be dominant, instead of the idea of egoism, which is now, mainly, moving individuals and the human society”. Of course, when talking about altruism and solidarity among members of *zadruga*-families, about the predominance of the collectivist spirit in a *zadruga*-family, Perić took the stand that it applied only to the relations inside the *zadruga*-family, since the relations among *zadrugas* are not the same as the relations among the members of a *zadruga*-family itself.

In his *Petition* Perić expressed his conviction that the development and strengthening of family cooperatives in the nation could result in a radical social reform. “Thanks to *zadruga*-families and similar institutions, the human spirit would develop more and more” in the direction of socialism and communism. So, not only did Perić consider a *zadruga*-family to be a basically socialist and communist institution on account of its “characteristic features”⁸, but he was also convinced that it represented the lever which could radically change the ideas which were penetrating inexorably at that time the conscience of the people - the ideas of individualism, egoism and “bourgeois democracy”. In that respect, he reminds us strongly of Svetozar Marković, who, in his book *Serbia in the East*, was also of the opinion that the socialist transformation of the Serbian society may be accomplished only by the revitalization and strengthening of *zadruga*-families and *zadruga*-family spirit.

Perić did not explain in detail his thesis about the *zadruga*-family as a communist institution. In *Zadruga-Family Law* he was involved mainly in commenting the provisions of the Serbian civil code concerning the *zadruga*-families, as it is explicitly said in the sub-title of his work⁹. Therefore, there was no place, in his work, for a systematic discussion about this primarily theoretical question. Therefore, he limited

8 This is Perić’s expression in his *Zadruga-Family Law*.

9 *Comments to Chapter XV of the Second Part of the Civil Code*

himself to indicate, just in a couple of sentences, his theoretical standpoint which comes down to the idea that the relations among the members in *zadruga*-families are imbued with the spirit of solidarity and altruism, which gives the *zadruga*-family the character of socialist “resp” (as he wrote) communist institution.

We do not know whether this theoretical idea of Perić was subject to special studies. But the equalizing of the cooperative with a communist institution represents a great challenge in the sphere of theory, and should not remain without comments (even when such comments are made after 80 years).

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In his study of the conditions which must be fulfilled in order to consider a family community as a *zadruga*, Perić puts forward four conditions. A *zadruga* is “a community of two or more persons”, “a community among relatives (community of relatives)”, “a community in property (property community)” and “a community of life and work”.¹⁰ A community represents a *zadruga*-family only when it satisfies those four conditions. However, Perić makes a difference between the *zadruga*-family in Serbia after the adoption of the civil legislation, and the one described by Valtazar Bogišić. According to Perić, a single family in civic Serbia was not anymore the same thing as a *zadruga*. For him, the term “single” means just one family, a father and his sons, while a *zadruga* means a number of families living and working on the same estate”.¹¹ Perić does not consider individuality, like Bogišić, as a *zadruga* in statu latenti¹², but as a family which Bogišić termed an urban family. This is a non-*zadruga* family, a family in the narrow sense of the word, a family consisting of parents and children only. He is also of the opinion that “a number of families which live and work on a common estate” represent a community which is also called a family. However, the element which is a characteristic of a *zadruga*-family is the fact that all male members must be in kinship, and stem from a common ancestor (agnate community).¹³ They represent a family both legally and factually, and their “common property” is a family property in the same way as the property of an individual family (i.e. non-*zadruga*). But there is one

10 This was the view of others who studied *zadruga*-families.

11 Ibid, IV, p. 89.

12 *On the Form Called Individualism (Inokoština) in Peasants' Families of Serbs and Croats, Legal Articles and Treaties*, Belgrade, 1927, p. 189. Further on: *On Individualism in Rural Families*.

13 But the “civic kinship” which he identified “with blood kinship” creates *zadruga*-families, as well (*Zadruga-Family Law*, Part One, p. 36).

thing which should be emphasized . After the adoption of civil legislation in Serbia, a zadrouga-family seems to cease to be a family community consisting of several generations. If de cuius, after his death “left one or more male heirs, his relatives” they do not represent anymore, according to the law, a zadrouga-family. Namely, only if those inheritors do not divide the property and remain living and working on the estate inherited from de cuius¹⁴, such a community was considered a zadrouga-family .¹⁵ According to Perić, it seems that a zadrouga-family comes into being or is always recreated after the death of de cuius. It no longer seemed to represent a community of uninterrupted existence throughout generations, as it had been the situation before the adoption of the Civil Code of 1844, i. e. during the existence of the customary law.

However, after the death of de cuius, even in those cases when the inheritors did not divide the property, but continued living together, that community did not necessarily represent a zadrouga-family in all cases, since the inheritors could decide to continue living in a community, called indivisio or partnership. In fact, only if the male inheritors decide to live in a zadrouga-family, their community was legally considered as a cooperative. It was not so important that in Serbia, which Perić had in mind in his *Zadrouga-Family Law*, the male blood relatives (agnates), who stayed to live and work on a non-divided estate, were not compelled to express “explicitly” their wish to live in a zadrouga-family.¹⁶ If they stayed in a community, without determining what kind of community it was, then it was considered that they tacitly adopted, among themselves, the “zadrouga” relations, i. e., that they “concluded a tacit agreement on a zadrouga”.¹⁷

This statement by Perić is very important for understanding his attitude, for it shows that, in his opinion, a zadrouga-family became a contractual institution in a civic state, and was practically at the same level with other contractual institutions. The only difference was that a tacit agreement was recognized by a zadrouga, while for other institutions an “explicit” statement of the contracting parties was necessary. That means that Perić applied to the zadrouga-families the principles valid for other institutions in the civil society, and by that assumed that the rules of inheritance which were in force during the customary laws were not valid

14 Ibid. IV, p. 5.

15 Of course, it goes without saying that it is the right of the inheritors to divide the property after the death of de cuius and to stay living in the zadrouga-family, i.e. to terminate the zadrouga-family.

16 However, they were bound to express themselves “explicitly” if they wanted to consider the community as a joint ownership of goods or a partnership”.

17 Ibid. IV, p. 8.

in that case. A zadrouga-family did not exist in continuity anymore; it was based on the freely expressed will of the male inheritors of *de cuius*.

By putting the family cooperative at the same level with partnership, i. e. by considering it to be a contractual institution, it is normal to assume that zadrougas were based on civil law, i. e. institutions established on the basis of an agreement – regardless of the fact that in this case the agreement was tacit. It is a well-known fact that a free will of an individual is, both factually and legally, a category which can hardly be identified with family duties and obligations when talking about a family community, and especially about a community of traditional type, i. e. a zadrouga-family. For example, in a traditional family, the parents are not free not to perform their parental duties¹⁸ and the children are not free to be outside of parental control. In general, when talking about family obligations, individual freedom of choice can hardly exist, even if it results from civil norms. The family relations do not depend, and must not depend, on the free will of the members of a family, as a family represents an indivisible entity. Perić overlooked this compulsory character when talking about the members of a zadrouga-family, although it was considered that they expressed, after the death of *de cuius*, their free will to continue living in the cooperative.

So, let us state immediately that Perić assumed erroneously that the members of a zadrouga-family opted consciously and by their own free will to live in a zadrouga, for the members of a family do not opt to belong to a family, even in a civil society. However, according to Perić, it seems that life and work of the members of a zadrouga as well as their property did not have the family character only anymore. In his opinion, after the introduction of the civil legislation in Serbia, the members of cooperatives became “partners”¹⁹. “A zadrouga is a private legal institution” and “therefore”, “it may result only from a free agreement, i.e., agreement of the partners”. Consequently, Perić concluded that a zadrouga existed “when there is common life and work on a common estate”. However, the “commoners-partners” in that community could be “male persons and relatives only”²⁰ but that did not change his opinion regarding the partnership character of a zadrouga.

Let us mention immediately that Perić’s thesis on members of zadrougas as “commoners” could not be accepted at all. The members of a zadrouga are the father with his sons and grown-up grandsons, and his brothers with their grown-up sons and grandsons – all those who are in

18 They are not, at least in principle, in families in civic states, either.

19 Ibid. IV, p. 7.

20 Ibid. IV, p. 39.

blood kinship via males (agnates). Even in the cases when the state considers them to be partners, they could not feel as such, and they were not factually. This is simply due to the fact that the relation of kinship is more substantial than the contractual, partnership relations. It is the most substantial characteristic of a *zadruga*.

Common work and life could not transform a *zadruga*-family in the civic state into a communist institution, and the relations among the members of *zadrougas* did not become and could not become contractual. It is true that all the members of a *zadruga*-family, as it was the case in all peasant households or farms, took up a job as soon as they were able to work, working especially in the house and for their household. Every member of a *zadruga* had a job which was appropriate to their age, strength and capabilities. This applied to both male and female members. However, we would like to emphasize especially that the significance of such work was due to the fact that it was work for the family. Most importantly, that work provided the maintenance of the family household, its daily existence, and when it comes to rural households, the continuation of its existence. Every rural household (not only the *zadruga* ones) tried consciously to provide the conditions for the children to take over the roles of the elder, so that the younger generation could take the place of the previous one, the place to be eventually inherited by the following generation.

Let us mention here that for Perić *zadruga*-family meant primarily the family. He was convinced that “it is a fact that the members of a family which has become extended do not separate but continue to live together”.²¹ The sense of belonging to the family and mutual affection were the key factors of the stability of *zadruga*-families, as it is the case with individual families. There is a place in his *Zadruga-Family Law* where that is explicitly stated when he contemplates the issue of the division of newly acquired results of individual work done by *zadruga* members as their contribution to their *zadruga*. In Perić’s opinion the mutual relations among the members of the *zadruga* are based on feelings of solidarity and altruism. “Being relatives, they are by mutual affection, and as a result the members of *zadruga*-families derive great satisfaction out of working for those they deeply care about; therefore, they will not examine whether each of them works as much as he or she could or should. This feeling of mutual affection among the members is the strongest basis of the *zadruga*-family. Where there are no such feelings, there are no solid *zadrougas* either, and such communities soon disintegrate”.²² In this almost casual statement, Perić emphasized the family-oriented nature of the relations which prevailed in *zadruga*-

21 *Zadruga-Family Law* part one, p. 47.

22 *Op. cit.*, IV, p. 243; see also our article (*op. cit.*, p. 455).

families. They reveal the substance of a zadrouga as a family community, and they represented its strongest foundation. These are in fact, the same “characteristic features” which also make the families in the narrow sense, i.e. the non-zadrouga or single families, a strong family community. Therefore, some of the “characteristic features” which make a zadrouga-family a zadrouga²³, although they might be regarded as basic features without which there is no zadrouga-family at all, are valid only conditionally, i.e. only if, as the the *conditio sine qua non*, there are solid and lasting family relations among the members of the zadrouga, and, of course, if the members are fully aware of belonging to the family. For the zadrouga-family is primarily a “community of relatives”, as Perić called it, i.e. a family community or, simply, a family.

In the historical sources, in chrisobullas (edicts with golden seals) and other medieval legal texts, there were no differences between zadrouga-families and individual families. The researchers who tried to ascertain subsequently which families were zadrouga and which were individual in the census which can be found in the chrisobullas of our medieval rulers, used as the criteria for this division the number of family members, and their kinship, if such data existed in the written documents. Stojan Novakovic, Oswald Balzer, Eugen Hammel and other researchers identified in the Dečani chrisobullas from 1330 and 1336 families with a large number of members or families in which, apart from fathers and sons, there were brothers and other members of families, as zadrouga-families. Based on this, it might be assumed that until the adoption of the Civil Code in Serbia, only one single term had been used for families, regardless of being zadrouga-families or not.

Valtazar Bogišić’s opinion in regard to this issue is well-known in science. Namely, he was of the opinion that in the rural society of his time, there were no differences made between zadrouga-families and individual families. Both zadrouga-families and individual families were the same form of rural families. The example he mentions in his famous work *On individuality in rural families*, which he took from his *Anthology*²⁴, confirms unequivocally, contrary to Perić’s opinion, that in Serbia, even after 1844, the zadrouga-families were not different from those outside Serbia, which Bogišić had in mind in his research. In Serbia as well, “a son was a member of zadrouga-family with his father, and when there came the time to divide the property (...) the father took an equal part, as if the property was divided among brothers.”²⁵ This

23 See *op. cit.*, part one, Belgrade, 1924.

24 I.e. from *Collection of present legal customs of South Slavs*, Book 1, Zagreb, 1874.

25 *On Individualism in Rural Families*, *op. cit.* p. 187.

obviously confirms the assumption that for the people in Serbia, both in Bogišić's and Perić's time, *zadruga*-families, where they existed, remained the same as they were at the time of the adoption of the Civil Code. The civil legislation did not change the internal order and the internal relations in *zadruga*-families, although that is one of Perić's the main theses.²⁶ In fact, they changed when the entire lifestyle was changed in the Serbian state.

Here we would like to point out that the *zadruga*-family, because of the fact that it never became a contractual community, as it appeared to Perić as a lawyer, could not be placed on the same level with any other legal or economic institution based on contracts. However, Perić does that when he considers the *zadruga*-family a collectivist or communist institution. According to Perić, the *zadruga*-family became an institution of "commoners", similar to partnership. Regardless of the fact that *zadruga*-families continued to be family communities, it was, in his opinion, a community of work as well. The Civil Code introduced changes "in the customary law on *zadruga*-families", he states in one place.²⁷ Now, a father with his sons, he says, does not represent a *zadruga*-family anymore, provided that his sons do not have their shares in the property. "Each of the members of the *zadruga* must have his property in the community"²⁸ as a precondition of the existence of a *zadruga*-family. Also, "from the moment when a number of members of the *zadruga*-family is reduced to less than two, there is no *zadruga*-family anymore, regardless of the fact that "there could be more persons in the household".²⁹ However, in spite of the fact that it seemed to Perić that the *zadruga*-families of his time, on the basis of the civil regulations in force, differed from the former ones which had existed before the adoption of the Civil Code, their substantial characteristics remained unchanged. In civil Serbia as well, members of *zadruga*-families did not become members according to their free will, and the question of shares was never raised. For the members of a *zadruga*-family, that question was not arranged by the provisions of the Civil Code, but still exclusively by customary law which was applied to *zadruga*-families. That situation remained during the entire existence of *zadruga*-families.

We have already mentioned that patriarchal *zadruga*-families, especially those in rural areas, should not be understood as something

26 The sameness of the *zadruga*-families and individual families, according to Bogišić's idea, which still existed in his time, was very concisely explained by Mihailo Konstantinović in his article on Valtazar Bogišić (*The Ideas of Valtazar Bogišić on popular and legal law, Sociological Review*, Book 1, Belgrade, 1938, p. 282.

27 Ibid, IV, p. 92.

28 Ibid. Part One, p. 52.

29 Ibid, IV, p. 94.

different from a peasants' family household or, if we consider the economic effect, from peasants' family farms. When it comes to peasants' family cooperatives, one can apply what was especially emphasized by Dragoljub Jovanović in his *Agrarian Policy*³⁰, when he wanted to explain the substance of a peasants' family farm. He called it "the mystery of peasants' farms", and in his opinion, "mystery" is the irrational effort aimed at the maintenance and improvement of family households, and the endeavors to enable the household to last throughout generations. "The only important thing is the preservation of the family", Dragoljub Jovanović wrote. That means also that a peasants' family household, as he wrote, "is not an enterprise", "but only the economic aspect of peasants' families".³¹ It makes peasants' life. But even more importantly, it makes peasants stronger, more solid, more resilient against the external forces and pressures.

By analogy with this Jovanović's idea of the family farm, the basic function of a patriarchal zadrouga-family, like the function of the family household, would be to assure its existence and its continuity.

The only way to enable a zadrouga-family to fulfill its task, i.e. to exist as a family and to maintain its continuity, is to subordinate the individual interests and the individual will of every member of the family to that objective, i.e. to the common interests and to common will. Therefore, it would be a mistake to identify the common work, performed in the interest of the family and of its continuity, with the work performed in socialist "resp" communist associations, i.e. with the work with primarily economic and political objectives.

However, as it has already been pointed out, Perić did not put just the work in zadrouga-families, but the zadrouga-family property as well, on the same level with collectivist i.e. communist.

Many experts who studied zadrouga-families, from Valtazar Bogišić to Slobodan Jovanović³² and others, wrote about zadrouga-family property. Živojin Perić himself devoted to that many pages of his *Zadrouga-family Law*. There is no denying that the property which belonged to the zadrouga-family was collective.³³ But what is much more

30 Belgrade, 1930, pp. 296–307. That chapter is entitled *The Substance of the Peasants' Family Farm*.

31 Ibid. p. 297.

32 As it is a well-known fact that Slobodan Jovanović, when studying Jovan Hadžić as legislator, had to face the problem of zadrouga-families. We dealt with these texts by Slobodan Jovanović for the first time in our work published in the *Review of the Ethnographic Institute of the SASA*, and we presented it at the scientific conference in the SASA devoted to the person and work of Slobodan Jovanović.

33 The term "collectivist" used sometimes for it by Perić, does not contribute to a clearer understanding of its characteristics and its functions.

important as determinant, in fact the only relevant determinant, is the fact that it is family property, it belongs to the family. This is the characteristic which was underlined by all those who wrote about cooperatives. The Serbian Civil Code introduced important changes regarding the zadrouga-family property³⁴. Earlier, the zadrouga-family property was passed down “from generation to generation”, which were, according to Perić, “only the beneficiaries of those properties”. However, when the zadrouga-family property in Serbia, according to the law, lost its collective character and became individual, the zadrouga-family property remained for the members of the zadrouga-families the same as it was before, i. e. family property, but not common property. Perić was mistaken when he believed that the legislation which was in force in the new Serbian state changed the attitude of the members of zadrouga-families towards the zadrouga-family property inside the zadrouga-family. That legislation created the possibility for the members of zadrouga-families to handle that property in a way different from the one that was regulated by the customary law. However, if a family, in spite of all that, continued to live in a zadrouga, it existed only as a patriarchal zadrouga-family. The property community in zadrouga-families could be identified with collectivist property outside the zadrouga-family only from the standpoint of the civic state, i.e. from the legal standpoint. However, if the members of zadrouga-families did not perceive anymore the property as common, i.e. as family or zadrouga property, that was the sign that the zadrouga-family would soon disintegrate. But even in the case of the termination of a zadrouga-family, there are strong reasons to believe that it never happened that the zadrouga-family property in Serbia of the 19th century, until 1918, was transformed into collectivist, or communist property.

We know that Perić adopted in his *Zadruga-Family Law* the standpoint that it was not necessary for a zadrouga-family to possess immovable property in order to be considered a zadrouga. Although the inheritable immovable property as a “characteristic feature” of a zadrouga-family was obviously important³⁵ – the “pivot” or “patrimony” or any way that is was called, may be non-existent, while the cooperative would nevertheless exist. The family cooperative represented primarily a co-

34 Perić studies that question in detail, especially in the IV chapter of his *Zadruga-Family Law* (IV, p. 91), in the entire second part, entitled *On the termination of a zadrouga-family*.

35 “A rural zadrouga-family” we read at one place in his *Zadruga-Family Law*” (IV, p. 91) “with big immovable property, with zadrouga house and other buildings, with many members, with a big property in livestock and agricultural tools, etc. is the most prominent representative of that institution of ours”.

mmunity of relatives, of the relatives who have a common male ancestor (agnate community). However, family communities, regardless of being cooperative or individual, can not exist without the consciousness of the belonging to the family, and without the will to belong to the family. This is by far the most important determinant of a zadrouga-family. And since, according to Perić as well, a zadrouga-family “does not necessarily include immovable property”,³⁶ it would be a mistake to identify it with a communist institution, which necessarily assumes the existence of collectivist, i. e. common communist property.

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The opinion of our great scholar and lawyer Theodor Taranovski is relevant to the issue which is being addressed here. Namely, in his brilliant study *“The History of Serbian Law in the Nemanjić State”*³⁷, Taranovski opposed the thesis of some writers of that time that the Nemanjić state was a “zadrouga-family state”. In his opinion that thesis could not “be taken as something serious”. “A zadrouga-family is a form of family, of household community”, just as a simple family, and represents “small groups”, as Taranovski calls them, while at the opposite side there are “big groups”, the state and the tribe.³⁸ “The big group creates broader associations and it has public character, it is a political organization”. According to Taranovski, each of these groups is limited to its domain, “and the organizational principles of one group do not apply to the other”. “Zadrouga-families existed in the tribes and in various forms of states, but there were never zadrouga tribes, or zadrouga states, as there were no tribal or state zadrougas.” When one says “zadrouga state”, Taranovski had no doubt that there is no dilemma that “there is no legal construction in it, that it is just a figurative expression”. So, from the legal standpoint as well, the difference between the institutions, if we classify them into small and big groups, represented, according to Taranovski, the difference between the institutions of private and of public law.

If we start from this original thinking of Th. Taranovski and link it to Perić’s theoretical thinking about the zadrouga-family, the logical conclusion is that the terms which Perić used to explain the relations in a zadrouga-family (feelings of “solidarity” and “altruistic” feelings, and “collectivist” and “communist” property) are not appropriate. He simply

36 Op. cit. IV, p. 92.

37 Part One: *History of State Law*, Belgrade, 1931, p. 223.

38 Let us mention, by the way, that Taranovski does not mention the difference Ferdinand Toennies makes between two basic notions of “community” (“Gemeinschaft”) and “society” (“Gesellschaft”).

does not consider, or seemingly knows nothing about the fact that some characteristics which explain the relations in one kind of human communities may not be appropriate to explain the relations in a different kind of human communities. One must not “lump all those different categories together”. If one can say for a state that it is, or that it is not, communist, because a state, according to Taranovski, belongs to big groups, it can not be said for the *zadruga*-family, as family community, that it is a communist institution as it belongs, as being a family, to small groups. Taranovski is rightfully explicit in that. What is valid for a *zadruga*-family is not valid and can not be valid for big groups, except if those terms were used as “figurative expressions” (as Taranovski said, quite pertinently).

In truth, we must say that in this respect, this Perić’s, let us say, theoretical mistake did not result in some real consequences, as, likewise, the conviction of Svetozar Marković that the Serbian people in Serbia, thanks to the fact that there still existed a strong will to live in a *zadruga*-family, would overcome all “horrors” of capitalism and enter directly into communism, as the most perfect form of economic and political order.³⁹ Perić remained isolated with his theory of a *zadruga*-family as a collectivist and communist institution, even more so since the *zadruga*-families – at least in their classical form – vanished completely, and, therefore, questions about them ceased to be topic.

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At the end of this article, we may state that the assumption about the changes which took place in the substantial characteristics of *zadruga*-families after the adoption of the Serbian Civil Code of 1844, and after the adoption of other regulations based on the Code, misled Perić into adopting a theoretical wrong attitude. He was convinced that the civic character of the legal provisions changed some substantial characteristics of *zadruga*-families in Serbia, and the *zadruga*-families as institutions were legally and factually forced to adapt themselves to civic norms. Perić was obviously mistaken when he assumed that the *zadruga*-family in civic Serbia could even become “a communist institution”, since it represented a community of life and work, and its property seemingly coincided to collectivist “resp” communist property.

³⁹ In fact, Aćim Čumić wrote about the importance of *zadruga*-families for the entire economic, political, state, spiritual and moral development of Serbian people in his *Suggestion to the Historical and Statehood Department of the Serbian Learned Society for the Study of the Serbian People* (Belgrade, 1871). We were recently reminded of that work by Mme Jelena Miljkovic – Matic, in her work *Aćim Čumić on the Problem of Tradition and Modernization of Serbia in the One Before Last Century* (*Political Review*, Belgrade, No. 1/2002, pp. 75–82).

However, his thesis is erroneous even more because the validity of the assumption that “communism means work” is challenged from the standpoint of social and economic theories.

However, the criticism of Perić’s ideas about the zadrouga-family does not invalidate his total contribution to the discussion about the zadrouga-family law in the Serbian state after the establishment of civic legal order. On the contrary, this theory did not represent a hindrance to the thorough and brilliant study of the Serbian zadrouga-family law, which secured Perić a prominent place among the great thinkers of our legal science, and gave his Zadrouga-Family Law the significance of a monumental work in the field of legal and social sciences.

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