

THE ORIGINS OF THE KANUN: EXPLORING THE DEVELOPMENT OF THE ALBANIAN CUSTOMARY LAW

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ABSTRACT

The Kanun of Lekë Dukagjini¹ constitutes a centuries-old code of behavior, regulating both individual and collective conduct. Emerging as the primary source of the country's customary law, the dominant element of northern² subculture has emblematically influenced the entire sphere of Albanian ideas, beliefs and customs. The code represents the body of traditional law and has been orally transmitted from generation to generation, resisting in an unwritten version throughout the centuries and governing the most important aspects of the social structures among northern tribes. In the period between the collapse of Old Serbian Empire and the arrival of the Ottomans, the population of this area was free and uncontrolled and the peculiar mountainous territory was out of reach for the dominants. The code has been generally accepted for many centuries as a self-adjusting rule applied in the administration of the highland communities.

Keywords: Kanun, Ottoman Empire, History, Customary Law, Blood feuds.

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¹ The Kanun of Lek Dukagjini developed in the geographical zone of Dukagjin, a mountainous region in Eastern part of Shkodër. It embraces nearby areas such as Lezhë, Miriditë, Shalë, Shosh, Nikaj and the western plain of current Kosovo. The codification of the tribal law is attributed to Lekë Dukagjini (1410-1481), a prince and chieftain from a noble tribe, who ruled north Albania during the fifteenth century. See Elsie Robert, *Historical Dictionary of Albania*, Scarecrow Press, Lanham 2010.

² Albanians are divided in two different ethnic groups: the Ghegs and the Tosks, characterized by a distinguishable dialect and a diverse collective organization. This division is essentially related to geographical obstructions such as the Shkumbi River; the tribal and mountainous Ghegs are located in its north, while the Tosk live in the flatland areas of river's south and supported themselves mainly through agricultural activities. See Miranda Vickers, *The Albanians: A Modern History*, LB.Tauris & Co Ltd, London 1999, p.5.

KANUNUN KÖKENLERİ: ARNAVUT TEAMÜL HUKUKUNUN GELİŞİMİNİ KEŞFETMEK

ÖZET

Lek Gukagin Kanunu bireysel ve kolektif davranışları düzenleyen yüzlerce yıllık davranış biçimini oluşturmaktadır. Ülkenin teamül hukukunun temel kaynağı olarak ortaya çıkan, kuzey alt kültürünün egemen ögesi olan bu Kanun, Arnavut düşünce, inanç ve geleneklerinin tüm alanlarına nüfuz etmiştir. Kanun teamül hukukunun belkemiğini temsil etmekte ve yüzyıllar boyu nesilden nesile sözlü olarak aktarılmaktadır. Böylelikle kuzeyli kabileler arasında sosyal yapıların en önemli yönünü belirlemiştir. Eski Sırp İmparatorluğu'nun çöküşü ve Osmanlıların bölgeye gelmesi arasındaki dönemde, coğrafyanın dağlık yapısı nedeniyle bölge halkı özgür ve egemen güçlerin kontrolü dışında yaşamıştır. Bölgenin yüksek kesimlerinde yaşayan toplulukların kendilerini yönetmeleri adına bu Kanun'un yüzyıllar boyunca uygulandığı genel kabul görmektedir.

Anahtar Kelimeler: Kanun, Osmanlı İmparatorluğu, Tarih, Teamül Hukuku, Kan Davaları.

Introduction

Deeply interwoven in the events of Albanian history,³ Kanun's provisions have forged the existential principles among northern Albanians,⁴ determining all the dispositions and the essential values in the organization of tribal life.⁵ The influxes of the Kanun found their breeding ground in the north; however due to the limited extension of Albanian territory, the south of the country was not spare from its influence where the Kanuni i

³ The survival of Kanun during Ottoman occupation expresses the perseverance of the self-rule among northern clans, free from the control of invaders and from the externally imposed restraints on their social organization.

⁴ Northern Albania is a highly mountainous region, bordering on the Adriatic only for a restricted seaside area and characterized by plentiful abysses. The tribal life of the population was based on three fundamental components: the family, brotherhood and the clan or the *fis*. This kind of organizational structure persisted in the region, until it was dismantled by the communist regime. See: Kazuhiko Yamamoto, *The Ethical Structure of the Kanun and its Cultural Implications*, printed in the United States of America, 2005, p.16.

⁵ Villari defines the highland tribes as a small aristocratic republic. It is ruled by the chief or *voivoda* and the *bajraktar* with the support of the elderly council. See Salvatore Villari, *Le consuetudini giuridiche dell'Albania nel Kanun di Lek Dukagjin*, Società editrice del libro italiano, Roma 1940, p.18.

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Skenderbeut (The Kanun of Skenderbeu), another variation of the code, was observed. Two expressions refer to the highland customary law: 'Kanuni i Lekës', and 'Kanuni i Lekë Dukagjinit' and both of them allude to the highlander prince. In this direction, it's significant to notice the indication from a Venetian journeyer in the 16th century Albania. In his travel notes, he defined the mountainous area over the Mat River as Dukagjin, while the other side as 'the area between the river Drin and Mat'. From his statement, it can be deduced that the Dukagjin included all the northern mountainous areas, inhabited by catholic Albanians who were free to maintain their customs and religion.⁶ In present day Albania, despite the legal penal code, the highland population has remained aware of many Kanun's provisions and respects certain prescripts attributable to it.

As Father Gjergj Fishta noticed in the introduction to the Kanun, it is hard to define exactly the area in which the Kanun was observed.⁷ Generally speaking the code had a legal value among the "Lekë", so among the highlanders near the city of Shkodër and in the Dukagjin region that included the areas of Shala, Shosh, Pukë, Iballë, Mirditë, Malësia and Lezhë. The specific characteristics of the mountainous area encouraged the implementation of the code. The preservation of independence and traditional customs was therefore related to the impenetrability of the region, as Durham pointed out, "the mountain tribesman has never been more than nominally conquered, empires pass over him and run off like water from a duck's back."⁸ Although the Ottomans dominated the country for almost five centuries⁹, in the northern area their control was limited only to the main villages. Margaret Hasluck observed that in cases of reprisal offensives, the territories were hard to control as a result of the retreat of the population in insidious internal shelters up to the withdrawal of invaders.¹⁰ Moreover, as a consequence of their limited fortune, all the goods were easily transportable with them. In case of administrators sent by the Turkish central government,

⁶ Tonin Çobani, *Princi i përfolur Lekë Dukagjini* [The argued prince Lekë Dukagjini], Lisitan, Tiranë 2003, p. 21.

⁷ Gjergj Fishta, "Introduction" in *Kanuni i Lekë Dukagjinit*, by Shtjefën Gjeçovi, Kuvendi, Tiranë 2001, XXVI.

⁸ Mary Edith Durham, *High Albania*, Edward Arnold, London 1909.

⁹ From 1430 till 28th November 1912, when Albania declared its independence.

¹⁰ Margaret Haluck, author of *The Unwritten Law of Albania*, was a nineteenth century writer who lived and traveled in Albania for more than thirteen years between the 1920s and 30s. The long sojourn in the northern part of the country provided her a deep knowledge of Albanian culture and folklore.

the tribes defended themselves by using fire. Hence the Ottomans had no other choice but to leave the Ghegs uncontrolled and free to self-rule.¹¹ In addition to that, there wasn't any connecting infrastructure within the highland area. The northern mountaineers managed to remain autonomous from central government thanks to the impervious soil and to their fighting and combative attitude towards invaders. The highland tribes succeeded in avoiding external interference thanks to "the mountains in which they live prove to be a true refuge, difficult of access, conservative in every sense".¹²

1. The Kanun Throughout The History

Throughout Albanian history in fact highland tribes had little contact with the rest of the country. They established their own culture and developed their distinctive way of doing things, rejecting foreign dominion. Among northern Albanian tribes, Kanun's prescripts replaced state enforcement creating a specific system of values, institutions, patterns of interactions and customs. In other words, the highland tribal society was not a lawless community; contrarily they were regulated by Kanun's provisions, which governed everything in people's lives from the cradle to the grave. Kadare observes the ascendancy and the imposition of the Kanun: "The Kanun was stronger than it seemed. Its power reached everywhere, covering lands, the boundaries of fields; it made its way into the foundations of houses, into tombs, to churches, to roads, to markets, to weddings".¹³

During the Turkish occupation although the highland area was self-governed according to customary law, it coexisted with the bodies of the Ottoman rule. In the areas dominated by Turkish administrators, like in Dukagjin, an agreement took place between the local population and Ottoman invaders.¹⁴ The Turkish government recognized the local customary also because it covered some areas of the legislative field which were not subject to the Islamic law. In the city of Shkodër, a special office named Gibal¹⁵ was involved in the resolutions of conflicts taking place in

¹¹ Margaret Hasluck, *The Unwritten Law of Albania*, Cambridge University Press, Cambridge 1954, p. 9.

¹² Carleton Coon, *The Mountains of Giants: A Racial and Cultural Study of the North Albanian Mountain Ghegs*, Peabody Museum, Cambridge 1950, p.9.

¹³ Ismail Kadare, *Broken April*, Vintage Classics, London 2003, p. 27.

¹⁴ Martin Camaj, "Foreword" in Gjeçov Shtjefën, *The Code of Lekë Dukagjini*, trans. by Leonard Fox, Gjonlekaj Publishing Company, New York 1989, XIII.

¹⁵ "Gibal" (*dağ*) in Turkish language indicates the mountain.

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the mountains. Instituted between 1856 and 1858 by Mustafa Pasha, the special court represented a judicial commission which functioned according to the prescripts of Albanian customary law and its establishment implied the Turkish recognition of Kanun as a source of law. Each Gibal had a representative, called “*bölükbaşı*”, appointed by the Turkish government.¹⁶ However the commission did not alter the relationship between the highlanders and the central government; which did not increase its interference in the mountainous region. The highland area remained self-administered without any external Turkish intervention, while the big cities and the villages (non-mountainous areas) were governed by the Ottoman Sharia.¹⁷ Oral tradition ascribed the paternity of the Kanun to Lekë Dukagjini, even though there are no evidences to prove his authorship.

The determination of the period to which the Kanun belongs is a key element for an accurate understanding of the code. In the first part of the 15th century, Albania was fighting both Ottomans and the Venetians and in that stage the highland tribes played a fundamental role in the relations with European states. Villari attributes the authorship of the Kanun to Lekë Dukagjini, he advances the hypothesis that, as a consequence of the wartime moment, the prince Lekë Dukagjini considered necessary to assemble a code of conduct for his tribes.¹⁸ According to Hasluck, Dukagjini “framed the laws by which the mountaineers still live. More probably, like Solon of Athens, he revised and codified existing laws, though apparently without setting them down on paper. Numerous items in his code resemble those known among the Romans and other ancient peoples, and in the versions we have there are many signs of evolution from earlier forms”.¹⁹ Did Lekë Dukagjini elaborated the laws or his contribution is limited only to its collection and diffusion? The discussion in this direction is still open since the absence of written evidences makes difficult the attribution of Kanun's origin. However, the code has been stored in the memory of the people, who transmitted its values from generation to generation and behaved ‘as Leka said’. Different scholars have collocated the origin of tribal law in various historical periods. For some authors (Camaj, Fox), the code can be dated back to Illyrian times; while according to others, (Valentini) it is characterized by Indo-European prehistoric factors. Durham has attributed

¹⁶ Durham, *op.cit.*, p. 24.

¹⁷ Villari, *op.cit.*, p. 50.

¹⁸ *Ibidem*, p.14.

¹⁹ Hasluck, *op.cit.*, p. 13.

its origin to the Bronze Age. Undoubtedly Dukagjini contributed with the arrangement of the orally transmitted prescripts; however, as Vickers explains, the norms date from very long before and are connected with ancient Illyrians, ancestors of modern Albanians.²⁰ The association to Illyrian elements appears to be convincingly, since the precursors of Albanians were free to apply their customary norms if they did not contrast with Roman laws. Moreover the code presents some affinities with the traditional norms of Homeric Greece, which collocates its origins before the migrations of Indo-Europeans.²¹

In addition to this, similarities between the Kanun and other codes spread in the Balkan Peninsula have been pointed out. The Albanian historian Hoti notes that the Slavic literature describes the Kanun as adopted from the *Zakonik* of Stefan Dushani; however the professor sustains that the code was formulated by Illyrians and partially influenced by some pre-roman institutions. Therefore the code resisted throughout the Roman, Byzantine, Bulgarian and Serbian domination.²² Moreover, there are analogies between the prescripts of the Kanun and the customs described in the *Manava Dharma Satra* or *Laws of Manu*²³ that make think about their same derivation. The Kanun shares also some common elements such as the hospitality principle and the blood feuds with the Caucasian code.

From an etymological point of view, the word Kanun derives from Greek “κωνών” indicating any straight rod, bar, rule, or standard of excellence. In ancient Greek, the ‘mastar’ suggested the straight edge useful for drawing orderly lines. The terms indicate the rule and the law, which represent the fundamental components for a good administration. The association to the straight rod denotes the integrity and moral rectitude of Kanun and its intention of maintaining order in the uncontrolled Albanian mountainous region. In Arabic it has been associated with the set of laws and codes. In the Ottoman Empire the word indicated the regulations of

²⁰ Vickers, *op.cit.*, p. 5.

²¹ Fatos Tarifa, “Of Time, Honor and Memory: Oral Law in Albania”, *Oral Tradition*, Vol. 23, No.1, 2008, available at <http://journal.oraltradition.org/issues/23i/tarifa>, (Last accessed 31 October 2014).

²² Buran Hoti, “Albanian opposition against the medieval kingdom of Serbia and the laws in *Zakonik* of Stefan Dushani” in *Kanun and the Law*, Center for Justice and Peace, Shkodër 1999, p. 113.

²³ The volumes of the Hindu law, divided in twelve books and dealing with the organization of social life. See Leonard Fox, “Introduction” in Gjeçov Shtjefën, *The Code of Lekë Dukagjini*, trans. by Leonard Fox, Gjonlekaj Publishing Company, New York 1989, XVI.

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provincial governments in the financial, administrative and penal field. The term has been transmitted to Albanian language subsequently to the Ottoman occupation. Originally, the Albanian word used to connote the customary law was *doke*, from the verb *dukem* (to appear). Therefore, the term indicated the set of norms that pointed out how to behave.²⁴ As Hasluck reported through the words of Professor H.A.R. Gibb, “the Greek word was very early incorporated into Arabic as *qanun*, pl. *qawanin*.”

The Islamic jurists adopted it to designate an administrative regulation, as distinct from the revealed law (*Shari'a*) and many centuries later the Ottoman Sultans adopted it as the designation of their legislative prescripts.²⁵ The Kanun of Lekë Dukagjini is not the only Albanian code of customary code. There are other similar versions of the traditional law and almost every region had its own collection of laws, such as Kanuni i vjetër (The old Kanun) the most ancient which functioned in Illyrian times, Kanuni i Çermenikës (The Kanun of Çermenikë), Kanuni i Papa Zhulit, (the Kanun of Papa Zhuli), Kanuni i Labërisë (The Kanun of Labëria)²⁶ practiced in the southern region and in the city of Vlorë and Kanuni i Skenderbeut (Kanun of Skanderbeg), in use in the principdom of Skanderbeu, known also as Kanuni i Arbërisë (Kanun of Arbëria).²⁷ Although the Kanun of Lekë Dukagjini is not the only variant of customary law that circulates in Albania, the analysis focuses only on this version, which represents the most accurate and complete codification. Moreover, this version of the code is the most well-known and practiced in the northern area.

2. The Oral Codification of Lekë Dukagjini

Lekë Dukagjini (1410-1481) was an enigmatic prince living in the 15th century and contemporary of the Albanian national hero Gjergj Kastrioti

²⁴ *Ibidem*, p. XV.

²⁵ Hasluck, *op.cit.*, p.14.

²⁶ The oral tradition has connected the Kanun of Labëria with Papa Zhuli, the founder of Zhulat village (the today city of Gjirokastër). Between 1840 and 1850 in Zhulat was held the assembly of Labëria and some modifications were introduced to the Kanun of Papa Zhuli.

²⁷ This canon, an alternative to the Kanun of the mountains, circulated in the area under the influence of Skenderebeu's principdom; such as : Diber, Mat, Kruje, Kurbin, Bende, Tomadhe and Martanesh. The verbally transmitted culture attributes the code to the figure of Skanderbeu, who implemented some changes in the old customary right, taking into consideration the economic conditions and the social demands in the wartime against the Ottoman invaders. See Albanian Accademy of Sciences, *Fjalor Enciklopedik Shqiptar* [The Albanian Encyclopedic Dictionary], Tiranë: Kristalina-KH, 2008.

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Skenderbeu (1405-1468). His impressive contribution consisted in collecting the orally transmitted norms and in accomplishing them in the regions controlled by himself. Shtjefën Gjecovi in the written codification of the Kanun presents some accounts about Dukagjini's life, however until the present day there are no distinct biographic volumes about northern prince's life. For this reason, historians and scholars interested in this mysterious figure, rely mainly on the sources dealing with Skenderbeg. Therefore, all those who have written about the Albanian national hero, gave also important contributions about Dukagjini's role. Marin Barleti (1450-1512), one of the most important Albanian writers and biographer of Skenderbeu, described the relations between the two as conflicting because of the hostility among Skenderbeu and Venetians. Çobani defines Lekë Dukagjini as one of the allies of Skenderbeg and as an independent and authoritarian prince. He played an active role in many situations such as in Lezha's covenant of 1444, in the resistance against Ottomans alongside Skenderbeu and in substituting him after his death as commander of Albanian army.²⁸

There are different hypothesis about the predecessors of prince Lekë and his family. The Dukagjin family has ancient origins and its derivation has even been related to the city of Troy.²⁹ According to Villari, the ancestor of the Dukagjin's established himself in the Zadrima plain and their successors exercised the power in the northern-eastern part of Shkodër and Lezhë.³⁰ As Fox reports in the introduction to the Kanun, some scholars have presumed a Western European³¹ origin, while according to other studies the family was autochthon of Albania.³² However, Lekë is presented as the last hereditary prince of the rich Dukagjini family; after the Ottoman conquest of Albania, the aristocratic structure disappeared and was substituted by the clan structure. The history of the Dukagjin region is related to the province of Pul, mentioned for the first time in Byzantine sources in 877. The territory was called Pult and it extended in the areas of Shkodër, Pukë and Prizren. Pult, described as a village with 727 houses, was included in the lists of provinces not subject to Turkish rule till 1630. After the Turkish occupation, Pulti-denomination disappeared and turned into

²⁸ Çobani, *op.cit.*, p. 13.

²⁹ Villari, *op.cit.*, p.13.

³⁰ *Ibidem.*

³¹ The "duc" suffix of Dukagjin is a Western suffix that could indicate a foreign origin of the family.

³² Fox, *op.cit.*

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Dukagjin.³³

After Dukagjini's codification, the Kanun was commonly followed and accepted in the whole northern region. As Hasluck observed, "Lekë Dukagjini framed the laws by which the mountaineers still live, revisiting and codifying the existing laws, although in an unwritten version".³⁴ Thanks to his contribution, the northern tribes didn't allow any external influence to affect their beliefs and managed to preserve their own social structures and cultural values from Ottomans. As a result of the freedom permitted by Turkish occupiers, the northern tribes were autonomous and free to organize their social life according to their customary law. The invaders didn't proceed in the impervious mountainous area. The tribes were equipped with weapons and the power of chieftains was extremely high among the population. Northern tribes firmly observed the normative precepts contained in the Kanun and every action was conducted to Lekë Dukagjini and to his words.

The Kanun had a primary importance in daily practices, to such a degree that it was more relevant than the provisions of the Church and the Islamic precepts: "The teachings of Islam and of Christianity, the Sharia and Church law, all have to yield to the Canon of Lek[...] For all their habits, laws, and customs, the people, as a rule, have but one explanation: it is in the Canon of Lek".³⁵ There are few historical information about his relationship with Gjergj Kastriot Skanderbeu. At that time, before the Ottoman occupation, Albania was constituted by many principalities. In order to face the Turkish enemy, Skanderbeu managed to unify all the principalities into a single center. The prince Lekë is mentioned in Skanderbeu's biography and described as a courageous prince of medieval time. Sometimes they are described as friends and allies fighting side by side against Ottomans, while others like rivals and opponents. Both of them were controlling different areas of the country. Lekë was ruling the area of Dukagjini, with the city of Lezhë as the main center, imposing his rule in the region of Zadrime, in other areas near Shkodër and Prizren. Skanderbeu was ruling the principality of Kastrioti, constituted by the region of Mat and Dibra, with Kruja as its center.

³³ Voc Deda, *Thesare Dukagjinase*, Camaj-Pipa, Shkodër 2004, p. 30.

³⁴ Hasluck, *op.cit.*, p.13.

³⁵ Durham, *op.cit.*, p. 25.

After the Ottoman invasion of Albania in 1430, Lekë Dukagjini lost the control of many areas and even his own residence; for this reason he was forced to seek refuge in the highland region. He assured to the northern tribes a high level of autonomy and independence on their social structures and organization by officially recognizing the several Councils of Elders in the region. It was approximately in this period that the Kanun was formulated, when Lekë Dukagjini was directing the local assemblies and the committees of Elders. It was precisely in that context, that Lekë's opinions and considerations, which later constituted the body of Kanun, were acquired and started to be practiced through generations. There is little more historical information about Lekë Dukagjini; Hasluck describes him as an acute and temperamental figure, able to implement the unwritten law through his discipline and character. Until his death in 1481, Lekë Dukagjini led northern Albanians in their anti-Ottoman resistance for at least 12 years after Skenderbeu's death and gave up only after the invaders consented on recognizing the local customary law; after that he escaped to Hungary.³⁶ Controversies arouse about his burial place; according to Resta,³⁷ Dukagjini died in Ragusa in 1479 after the Ottoman invasion of the northern region, while Albanian historical sources don't report any evidences about the dynamics concerning his death.

3. The Contribution of Shjefën Gjeçovi

Albanians referred to an unwritten version of the Kanun till 1933, when the code was codified and published by Shtjefën Konstantin Gjeçovi (1874-1929), one of the most well-known personalities of Albanian literature. Gjergj Fishta collaborated with Gjeçovi while he was assembling the customary law. Considering the relevance of Gjeçovi's written codification, in the introduction to the Kanun, Fishta observed that he "provided his nation with a desirable service"³⁸ that would contribute to the conservation of Albanian spirit and character. The author was a Franciscan priest and in his activities as a researcher, he collected parts of Albanian folklore, wrote poetry, prose and drama, and made many important studies on ethno-Albanian culture. Gjeçovi worked for more than 30 years for the written version of the Kanun of Lekë Dukagjin, his most relevant work. From 1898 till his death in 1929 he published several sections of the

³⁶ Hasluck, *op.cit.*, p. 14.

³⁷ Patizia Resta, *Il Kanun di Lek Dukagjini: Le basi morali e giuridiche della società Albanese*, Besa editrice, Lecce 2000, p. 153.

³⁸ Fishta, *op.cit.*

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customary law, but the final work was published only posthumously. Father Gjeçovi collected the available information concerning the unwritten law and already in 1898 and 1899 published some parts of it in on the periodical Albania, directed by Faik bey Konitza.

Other segments of the content of Kanun were published in the periodical created by Franciscan priests of the city of Shkodra, Hylli i Dritës, from 1913 to 1924. Since he was a child, Gjeçovi initiated a theological education, firstly attending the religious college in Lezhë and then continuing his education in Albania (Shkodër) and in Bosnia Herzegovina, and then he joined the Franciscan order in 1888. Gjevoçi was a great explorer of Albanian ethnology. The compiler of the written version of the Kanun, demonstrated a great nationalist zeal by teaching Albanian language and culture. As a priest, he came back to live in northern Albania where he worked as a teacher and collected folk material about the mountainous tribes, such as traditional songs and dances, fairy tales, myths and legends. Gjecovi took an active role in the uprisings of Kurbin in 1906 and his nationalistic activities placed him in dangerous position with Serbs, who considered him as an enemy. Gjecovi's political activities were in the defense of Albanian people and the priest fought Serb nationalistic policies addressed against Albanian population. As Dodaj noted, his commitment on the behalf of Albanian culture can be noticed from his endorsement of Kurbin's local laws.³⁹ After the end of the Balkan Wars in 1912-1913 when Kosovo Vilayet was separated from Albania and given to Serbia, Gjecovi was a priest in Zym, near Prizren. In 1929, after being threatened several times by the Serbian police, Gjecovi was killed on his way back from Prizren to Zym. Subsequently to his death, the Franciscan priests assembled the remaining materials and published the code under his name in 1933. Venerated as a martyr among his compatriots, Gjeçovi's enormous contribution in the transmission of the code and in the preservation of its original content is considered as inestimable.

4. The Kanun During the Reign of King Zog

The Kanun didn't restrict its relevance only to Ottoman times; the influence of the ancient system of customary law was outstanding also during King Zog's rule and throughout the forty years of communist regime.

³⁹ Paolo Dodaj, *Codice di Lek Dukagjini ossia diritto consuetudinario delle montagne d'Albania*, Roma Reale Accademia d'Italia, Roma 1941, p. 7.

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After the 1914–18 war, Albania was badly administrated, the connections were inadequate and without a strong central state, the highland communities persisted the self-ruling strategy. Hasluck explains that immediately after the war, the communities were characterized by two main components: the family and the tribe. Within this framework, the member of the families were in close contact with each other; if an offense was made to one of the components, then all the members considered themselves as injured. As a consequence, the whole community might respond to the offender. In case of murder, “eye for eye” logic took place; even though sometimes happened that the conflict was solved by the payment of a certain amount of money or by the exclusion of the guilty from the community.⁴⁰

The monarchy was proclaimed on November 1928 with Ahmet Zogu as king. The state establishment was funded on the statue of December 1928 and other complementary laws. A civil and criminal code, similar to the western versions, was approved as well. The criminal code prohibited blood feud and revenge killings. During the monarchic years, rule and order progressed considerably and remarkable efforts were made to eradicate the phenomenon of revenge killings. In the northern area, the clergy and priest played a significant role in the reduction of the phenomenon by the reconciliation of families involved in blood feuds. In addition to this, the kingdom legislation considerably improved the safety of the citizens' life. The implementation of the campaign against the weapons considerably decreased of murders. Several policies were implemented in order to enforce legal order and these efforts resulted also in a significant de-escalation of revenge killings. King Zog managed to enlarge his control in remote areas of Albania thanks to investments in infrastructure. New roads were built during his rule; the infrastructural development helped not only to improve communication but also to increment the abolition of banditry and blood feuds. Intentioned on modernizing Albania, the King thought that the law execution was a necessary condition to achieve development. Thus, he managed to control revenge killings and outlawed the holding of weapons to civilians. Only his Mati tribe⁴¹ and the inhabitants of Mirditë were allowed keep arms. As Vickers noted, “by 1936 the prefect of the Mati valley told one traveler that whereas he used to have at least one vendetta murder a week in his valley, now the average was only one in six weeks”.⁴² According

⁴⁰ Hasluck, *op.cit.*, p. 381.

⁴¹ Mat is an area in the northern-central region of Albania.

⁴² Vickers, *op.cit.*, p. 135.

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to the research of Shala,⁴³ throughout the five years of fascist occupation, 33% of 872 murders have been attributed to blood feud motivation. However, the analysis shows a reduction of blood feud killings if compared to the total number of general murders.

The decrease is explained on the basis of two historical explanations: first of all it should be considered the harshness of the fascist legislation that didn't leave any space for self-justice. Moreover, the efforts made by Albanians in remaining united against the Fascist enemy and in refraining from killing each other, produced concrete results. In order to avoid the loss of other compatriots, Albanians rejected blood feuds and resorted to reconciliation processes. As a consequence, the freed areas were characterized by a limited number of murders while in the territories occupied by the enemy revenge killings remained widespread and they were frequently incited by the invaders. Elezi observes the inclination of the national liberation councils towards blood reconciliation, “in the resolution of Peze’s Conference, 16 September 1942, the national councils were required to fight the crimes and to mediate blood feuds, especially as long as the occupier is in our country”, while the councils’ statute of 1943 reports that “the national liberation councils are entitled to fight against revenge killings”.⁴⁴ The author concludes that the anti-blood feud strategy throughout fascist occupation significantly reduced revenge killings; in 1944 there were only 7⁴⁵ murders for revenge across Albania.⁴⁶

5. The Kanun Under the Communist Rule

With the communist seizure of power various changes were implemented in the legislative field. The party of Enver Hoxha prohibited the practice of the Kanun. During the communist period (1944–1991) the number of killings for revenge was reduced evidently, thanks to the implementation of policies and the impact of laws against revenge killings and general murders. The adoption of a new constitution, the establishment

⁴³ Xhavit Shala, *Blood Feuds and National Security*, Albanian Center for National Security Studies, 11 February 2003, available at <http://www.acnss.com/ang/st/pdf/2/blood%20feud%20and%20national%20security.pdf>, (Last accessed 31 October 2014).

⁴⁴ Ismet Elezi, *Vrasjet për hakmarrje e për gjakmarrje në Shqipëri*, (Tiranë Qendra Shqiptare për të Drejtat e Njeriut 2000), p. 53.

⁴⁵ The data refer only to the murders sentenced by the courts; while the number of undetected killings remains unknown.

⁴⁶ *Ibidem*, p. 54.

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of public order throughout the whole territory, the economic development, the higher levels of education and the application of death penalty to the perpetrators of the murders, rapidly decreased the sphere of Kanun's influence.

Enver Hoxha defined blood feud as a legacy of feudalism and officially outlawed the use of the Kanun. Tribal law was considered by the regime as a huge obstacle to the creation of a real communist state. To fight the backward customs, new schools were built in rural areas, energy was provided to the population and order was established through strict governmental policies. The communist party implemented a strong propaganda aimed at eliminating the habits related to the customary law and who referred to the Kanun as a code for the resolution of conflict, was severely condemned. The communist leader considered the Kanun as "the black spider of backwardness"⁴⁷ and every action connected with it became condemnable. In order to remove the social backwardness, the regime improved the educational system in undeveloped areas and interned people who followed Kanun's norms, considering them as betrayers of the nation.

The communist regime tried also to reform marriage, a central topic in the Kanun. Enver Hoxha transformed the rules related to the choice of the partner. As a first step, he decreased the marriage ban among blood related couples from seven generations to three. Moreover, he encouraged love matches, by supporting young people in showing their emotions without reserve. As De Waal wrote, "On the very rare occasion when a couple married for love, or married in spite of fictive kinship ties, Enver Hoxha would personally write them a letter of congratulations, praising those involved for braking out of the bonds of backwardness."⁴⁸ A strong propaganda against the Kanun related values was implemented during communist time which harshly punished the Kanun's practices. Hoxha considered the code as a primitive set of laws and prohibited its use; therefore the murders in the name of Kanun and in the preservation of the honor were severely punished. If somebody committed a murder and explained it on Kanun basis, he would have been sentenced to death and his family persecuted.

⁴⁷ See Clarissa De Waal, *Albania Today: A Portrait of Post-Communist Turbulence*, I.B.Tauris & Co Ltd., London 2005, p.73.

⁴⁸ *Ibidem*, p. 81.

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In 1967 Albania was proclaimed the first atheist nation of the world and all faiths and traditions were outlawed. The same happened to the customary law, which was banned and northern tribes eliminated.⁴⁹ The regime's opposition towards blood feuds was reflected in the judicial practices. Elezi reports about a Supreme Court decision of 20 May 1946 according to which "revenge, this antiquated custom damages our civilized society (...) Individual and private justice are not allowed; only the state exercises justice through its impartial courts". According to another decision of the court, "the anti-social habits such as revenge will be punished without mercy."⁵⁰ The criminal codes of 1952 and 1977 envisaged death penalty for the convicted and the deportation of families for the individuals involved in blood feuds.

The communist fight against Kanun led to a significant decrease of revenge killings. 872 general murders were accomplished in the period 1946-50; 17% of them (153 out of 872) have been classified as revenge killings. As it can be noticed from table 1, 48% of the murders in the considered years were concentrated in the city of Shkodër.

City	Revenge and blood feud killings
Tiranë	32
Vlorë	1
Shkodër	67
Korçë	13
Elbasan	19
Gjirokastrë	3
Durrës	15
Berat	0
Total	153

Table 1: Geographical distribution of revenge and blood feud

⁴⁹ Jana Arsovska, *Social Confusion on the Road to Modernity: The Meaning of Violence and Crime in Ethnic Albanian Context*, (CERGE-EI GDN Project, June 2007), 235, available at https://iweb.cergeei.cz/pdf/gdn/RRCVI_54_paper_01.pdf, (Last accessed 31 October 2014).

⁵⁰ Elezi, *op.cit.*, p. 56.

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killings⁵¹

Due to the communist state law enforcement, the number of revenge murders significantly decreased throughout the regime years. Shala reports some data concerning the period.⁵² From 1951 to 1955, 13.5 % (37 out of 274 general murders) resulted as blood feud killings, 0.01% in the period 1956-60 (2 cases out of 180) and 0.018% refers to 1961-65 (3 murders out of 161). From 1966 to 1982 blood feuds disappeared as phenomenon, while few cases emerged again from 1983 as a consequence of the subsequent economic decline.

Interval of Years	% of blood feuds compared to total murders
1946-1950	17.5%
1951-1955	13.5%
1955-1960	1.1%
1961-1965	1.8%
	Year
1983	5%
1984	0%
1985	0%
1986	0%
1987	8%
1988	0%
1989	8%
1990	10%
1991	18%

Table 2: Blood feud killings compared to general murders⁵³

⁵¹ Ismet Elezi, *Murders for blood feuds and revenge in Albania*, Albanian Center of Human Rights, Tiranë 2000, p. 55.

⁵² Shala, *op.cit.*, p. 7.

⁵³ *Ibidem*.

Conclusion

The purpose of the current analysis has been to explore the origin of the Kanun, the Albanian code of customary law, and to analysis its impact throughout different historical moments. Firstly the etymology and the geographical collocation of the code in the northern area have been explained, and then a review of its status during the Ottoman Empire followed. Specific attention is paid to the application of the code in the northern and mountainous areas, free from the Turkish intervention. The contributions of the Albanian prince Lekë Dukagjini (1410-1481) in collecting the oral circulation of the code, and of its first author, Shtjefën Gjecovi in assembling the written codification of the Kanun norms have also been included. Afterwards, the approach applied during the monarchic years was explored. In an effort to modernize Albania, King Zogu implemented several policies, aimed also at reducing blood feuds. The complete ban on Kanun's usage was established in communist times leading to a significant decrease of revenge killings. Enver Hoxha highly condemned the customary law, considering its application as an expression of backwardness. In conclusion, the analysis shows the relevant influence of the code in the construction of Albanian identity, considering its persistence throughout centuries stemming from its role in the organization of tribal life.

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