

The Impact of the Moral and Legal Foundations of the Albanian Society across Europe and Beyond

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Abstract

Kanun of Lekë Dukagjini is an Albanian customary law that has a multifaceted influence in our society and beyond. Mostly it is conceived as a 'traditional law' towards the word of trust and trustworthy behavior by others. We make an argument and we give an evidence that there is no other moral and legal variant of customary law that can be followed, trusted and compared with any of the most democratic and righteous law or laws anywhere in the world. With this we want to show that trust, faith and sincerity among people can build the strongest moral and legal foundations for the society. Kanun of Lekë Dukagjini is a traditional law that as its main pillar has the solemn oath (spoken word), so-called *Besa* in Albanian. *Besa* is this type of trust that still binds Albanians together everywhere they live, but also binds Albanians with the others. In this case, this shows that Albanians are pro-US stance and Pro-European as far as tolerance, trust and support for the less fortunate people is concerned. By this we'd like to say that it's the fortune that Albanians had and still retain to some extent this customary law even nowadays. More evidence we give in this regard is that no Albanian Jews were turned over to the Germans just because of the solemn oath (spoken word) or *Besa* that derives from the Kanun of Lekë Dukagjini, a customary law of Albanians.

Keywords: solemn oath (spoken word – Besa), Kanun of Lekë Dukagjini, customary law, Albanian Jews, pro-US stance and Pro-European Albanians, moral and legal foundations of Albanians, etc.

A man who has been dishonoured is considered dead according to the Kanun.

Article 600 of the Kanun

“Whosoever saves a single life, saves an entire universe”

(Mishnah, Sanhedrin 4:5)

Introduction

The Kanun as such was first written down and published (posthumously) by the Catholic Albanian priest and folklorist Shtjefën Gjeçov in 1933,⁷ after his murder by Serb extremists. (Guynes, S. 2012: 3). The Kanun of Lekë Dukagjini is the most famous and comprehensive compilation of Albanian customary law of several regional codes, applied by Albanians in different historical periods. (Kostovicova, 2005:116; Trnavci, 2008:1; Elsie, 2011:151) Moreover, the Kanun of Lekë Dukagjini was initially an unwritten code of law that, for centuries, strictly governed social behaviour and everyday life in northern Albania, Kosova and among the Albanian population in Serbia, Montenegro and Macedonia. (Elsie, 2011:151; Trnavci, 2008:1; Fox, 1989: 17) The Kanun of Lekë Dukagjini states that it had a particularly strong influence in Kosova and northern Albania. (Trnavci, 2010:201) The work presents the fundamental customary law that has been applied in almost all Albanian settlements since the Middle Ages. (Camaj, 1989: 13). The Kanun provided a complete moral and legal framework for social interaction, covering all areas of everyday life from dispute settlement procedure to rules of marriage, division of property, blood feud etc. (De Waal, 2005:72) Resisting the invader, the Balkan peoples got even closer to one another, forming a society that, in the absence of their own state, found a counterpoise in the patriarchal life. Customary law was perfectly suited to the patriarchal conceptions of a Balkan man. (Trnavci, G. 2008: 6) When we analyze the concept of oath in Homeric epics¹, we find three patterns of oath. The first is the oath of making a promise. The second is the oath to tell the truth. The third is the oath, which ensures total compliance with the original vow. Men swear by the name of gods that their vows will be fulfilled. (Yamamoto, K, 2012: 695–709) Whereas Albanians swear by giving their Besa. The Besa (oath or binding promise) is of prime importance, the cornerstone of all personal and social conduct. Two sections of the Kanun are devoted to the *besa*. Articles 529-692 of the Kanun concern with various aspects of the oath which is considered 'the end of all the controversy'. As 'the oath is a religious utterance', whoever uses it is considered legally bound by it. Article 589 cites the punishment for one who has sworn falsely: 'the mark of dishonour remains on his family

¹ Albanian was the real language of Homer.

until the seventh generation.’ These laws are the basis of morality which deeply affects Albanians in all their behaviour. Usually a besa is considered to be a lifelong promise, as with the ‘sworn virgins’ (hence the use of the term ‘sworn’). (Young, A. 2000: 14)

The Righteous Among the Nations

The Kanun states that “the honour of an Albanian cannot be sold or bought in a bazaar. Albanians would die rather than break honour. The Albanians’ honour is worth more than gold.” Even today, besa remains a major part of the Albanian mentality. (Nikolov, D. 2013) In 1934, Herman Bernstein, the United States Ambassador to Albania, wrote: “There is no trace of any discrimination against Jews in Albania, because Albania happens to be one of the rare lands in Europe today where religious prejudice and hate do not exist, even though Albanians themselves are divided into three faiths.” Following the German occupation in 1943, the Albanian population, in an extraordinary act, refused to comply with the occupier’s orders to turn over lists of Jews residing within the country’s borders. Moreover, the various governmental agencies provided many Jewish families with fake documentation that allowed them to intermingle amongst the rest of the population. The Albanians not only protected their Jewish citizens, but also provided sanctuary to Jewish refugees who had arrived in Albania, when it was still under Italian rule, and now found themselves faced with the danger of deportation to concentration camps. The remarkable assistance afforded to the Jews was grounded in Besa, a code of honor, which still today serves as the highest ethical code in the country. Besa, means literally “to keep the promise.” One who acts according to Besa is someone who keeps his word, someone to whom one can trust one’s life and the lives of one’s family. Yad Vashem also states that Albert Einstein had travelled to the United States via Albania in 1935. He stayed in Durrës for three days as a guest in the Albanian royal mansion, and was equipped with an Albanian passport; he continued his journey to the United States. The gesture of the Albanian King Zog is said to be part of the traditional Albanian besa (honor), according to which many Jews (including Einstein) were saved from Nazi forces prior to and during World War II. A woman named Lime Balla speaking about Albanian Jews says: “*We were sheltering God’s children under our Besa.*” Whereas another woman named Merushe Kadiu says that “When the Germans began house-to-house searches, looking for Jews, my father said that the Germans would have to kill his family before he would let them kill our Jewish guests.” The law is the organization of the natural right of lawful defense. It is the substitution of a common force for individual forces. And this common force is to do only what the individual forces have a natural and lawful right to do: to protect persons, liberties, and properties; to maintain the right of each, and to cause justice to reign over us all. (Frédéric Bastiat 1850)

Before the Ottoman Turks invaded Albania over 600 years ago, the country was divided into several petty principalities, none of which was sufficiently strong for long enough to subject neighbouring territory to its rule.



A monument of the Albanian national hero, George Kastrioti Skanderbeg, in downtown Tirana. His coat of arms, the double-headed eagle, is today pictured on the Albanian flag.

Source: <http://www.democraticunion.eu/2013/12/albania-eagles-aspiration-europe>

Faced with the danger of Ottoman invasion, Skanderbeg was able to unite all of the Albanian princes and their territories under his unchallenged leadership in a single state. Lekë Dukagjini was one of his closest friends and allies. They both were Christian crusaders and resisted the whole force of the Ottoman army for a quarter of a century. Although the Ottomans finally conquered Albania ten years after the death of Skanderbeg, they were unable to exert more than a nominal authority outside the main towns, and certainly not in the remote highlands of northern Albania, which formed the north-western corner of Ottoman Turkey in Europe. As Edith Durham, to whom we owe essentially the first in-depth interest and study on Albania’s customary law, has put it, “the mountain tribesman has never been more than nominally conquered—and is still unsubdued. Empires pass over him and run off like water from a duck’s back” (Durham 1910: 453). Moreover, Edith Durham, a British

anthropologist suggested that the Kanun possibly dates back to the Bronze Age culture. Ismail Kardare's Broken April, like Durham's High Albania of the 1920s paints the picture of a society living at the behest of the Kanun, and the few, privileged onlookers who become enamoured by their own fantasies of the Rrafsh's "fairies, mountain nymphs, bards, the last Homeric hymns in the world, and the Kanun, terrifying but so majestic." (Guynes, S. 2012: 7) Furthermore, it is worth to mention that the customary law is not only a peculiarity of Albanians. In general, customary law endured among all Balkan peoples. (Trnavci, G. 2008: 6) Edward Gibbon (1737-1794), commenting on Albania said that "Albania is a land within sight of Italy and less well known than the interior of America." The Kanun started as an oral tradition and it was written down in the 1400s. It declares that all men have equal rights and that all women have their own equal rights (this sounds like an American document that was written three centuries later). You're free to act more or less as you like as long as you don't hurt others. (Tapon, F., 2012: 438)

From a Customary Law to a Democratic State

On May 4th, 2012 prishtinapress.info published an article entitled '*The will of the American President Washington for Albanians*' in which are given some facts that George Washington is Albanian. In some parts of the of the book the author George F. Williams refers to 'Albanians', it is evident that the U.S. deep support for the Albanians has a genetic link and that stems from the authentic identity of Albanians, which gives strong reasons to be next to each other, at a time when Albanians have great need for the confirmation of their ancient history. Moreover, the author of dozen of books and documentaries for the American Presidents and the histories from the White House called Carl Woodward says that during the archival research for his book about the Clinton presidency, published in 2004 under the title "Clinton House," has found a self-proclamation paper of George Washington, in connection with the Albanians. Moreover, the other in the above-mentioned book adds that 'I remember when I took the letter to show to Bill Clinton in one of many interviews for the book and I said, "Look, Bill, what I discovered from archives of Washington". He, when looking at the letter said: "I've seen it Carl, I've seen it. If I had not seen it, God knows if we would have intervened in Kosovo", tells Woodward, known as a journalist, reporter and author who has won four "Pulitzer" prizes so far.



Source: <http://en.wikipedia.org>

Contributions for the national cause of Albanians continued also by other U.S. presidents after George Washington. For example, President Woodrow Wilson, "by the time when Albanian people had decided to establish an independent state of Albania gave a great contribution" says Woodward adding that the same was done by President Nixon who was the key person who has contributed to the achievement of Kosovo's autonomy, the Constitution of 1974. Furthermore, a continuation of the assistance has been provided in a discussion between Tito and other U.S. president, Jimmy Carter, for the years 1980-1990, who convinced Tito to give a status of a Republic to Kosovo. But Tito died, and then Serbs moved against autonomy, Americans stopped helping ... and the rest you know," he said.

Same as it is sacred the honour in the U.S. Constitution, laws of Kanun are based on honour, too. Kanun dates from 1400s, which means three centuries later George Washington could have read Kanun and thus he could have been influenced by it to make a democratic state.

The author Petrit Qejvani in his paper presented in a seminar which was held in Italy in October 1994 entitled "The dialogue between two cultures" states that "It should be noted that the cultural identity of Albanians and their culture are generally more extensive than the present borders of the Albanian state and this we say not just in the figurative sense, as the culture of a people is always greater than its state borders."

Conclusion

This paper exhibits a little attempt to deal seriously and in a disinterested manner with the Albanian customary law, its influence on maintaining order and more broadly its impact on moral and legal foundations of the

Albanian society during different times and even today. We tried to uncover a little bit some historical facts that may have come from the impact of the Albanian customary law. We also attempted to uncover some oral and documented data that were silenced or given partially from other authors about Albanians, their generosity to others, and their customary law which so far have analyzed or commented it with bad intentions. Albanian Kanun or Customary Law is a law that has enabled social control during the time when the state law was missing or was not implemented yet. This paper hints that Albanians were historically democratic, constituent, helpful and trustworthy.

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