

A VIEW ON THE ALBANIAN CUSTOMARY LAW

In the course of centuries up to the time Albanian Independence's Declaration, in the free rural communities, generally in the highlands, but to some point even in the lowlands, there has been applied a Customary Law, therefore a popular law, called "The Canon of Lek Dukagjini" or "The Canon of Highlands", "Customs of Highlands" "Written laws of Kurveleshi" or any other name. This popular law has been the most preserved one and with strong action in the Highlands of Northern Albania, including Kosova, the Albanians of Montenegro and Macedonia. In the South: it was more dominant in Labëria and Çamëria. This popular law appeared in different versions according to various regions.

This Customary Law has not been written; it was completely transmitted orally during the centuries from generation to generation. It contained definite norms regarding to relations among fellow-countrymen and regions on each phenomena or element of life in the Family, Civil, Property, Administrative and Penal Laws. This Code, according to scholars' opinion, in its central stem is authentic Albanian and it expresses the psychology and the way of the traditional organization of these mountainous Albanian territories, but there have been introduced some marginal influences from the Greek- Byzantine, Roman, Slav Laws as well as from Christian Codes and Shariah. It contains in it self some very ancient special norms of exogamy, marriage etc, but also it contains many norms, more evolved ones and introduced later in certain historical circumstances.

According to this Code, there were hierarchical degrees of leadership in the rural communities, but the heads, noble, elders including the one of the highest rank, were like "the first among the equals (*primus inter pares*)". Even the last one in the community was evaluated and protected as the one of the

highest rank. The most important decisions were taken by the Assembly (a man for every house). It was a Code that protected the patriarchal relations: lower status of woman and children in family; the woman did not inherit real estates; she did not participate in Assemblies, Council of Elders and trials, except for the case when she was declared "virgin" by judgment. The woman was rigorously protected against challenges or rape. By holding a child in her hands and crying the woman would prevent any bloodshed. Revenge was harsh, but the man's dignity was protected: it was forbidden any public humiliation. The old authentic norms are at the same time juridical, moral and cultic (as a divine protection or punishment) ones.

In the most ancient norms, even though displayed in variants it has been fairly the same for the highlands both in North and South of Albania.

The preservation of this code is explained within the complex of the Albanian ethno-culture inherited in centuries, as a means of resistance and development of this people as ethnicity and nation. Thus, this code has performed social-cultural important functions for the Albanians' survival.