

2.7. CANON and CONVENTION

By Shaban Sinani & Genc Myftiu

“Besa” is the moral testament of Albanians since mythological periods.

The Canon (alb. “kanun”, from gr. “canon”, mind “order”; interpretatia ottomana) is a cultural and traditional monument of the traditional law of Albanians. Until the 20th century, Albanians have inherited two canons: “*the Canon of Lekids*” — *the Canon of Lekë Dukagjini* that exercised its power in the regions above the Drini River, and the “*the Canon of Ghegs*” — *the Canon of Skanderbeg* that exercised its power in the rest of North Albanian territories. Leke Dukagjini’s Canon was collected from the Franciscan priest Father Shtjefen Gjecovi and was fully published and codified in 1913. The Canon of Skanderbeg was gathered and codified through 1950-1960 from another Catholic priest Don Frano Illia, but because of the declaration of atheism as national policy (1976) its publication was not carried out until 1993. In the last two decades “Puka’s (currently small north town) Canons” and “Dibra’s (region inhabited by Albanians but currently divided between Albania and Macedonia) Canons” have been published, as well as many summaries with traditional ethno-juridical acts.



The fireplace in the guest room where convention is held, when?

In the southern regions, the traditional customary law has survived only in fragments, as “the Venoms of Papa Zhuli”.

The Canon of Leke Dukagjini and The Canon of Skanderbeg are an emphasis of the habitual right of the period concerning the 15th century and before. Until the 15th century, Albanian towns were governed with written judicial acts called “statute et ordinations”, (see chapter 2.6. *Statutes of Albanian Cities*) charter and regulations, as well as with other secondary acts like “constitutions”. The two Canons respond to the big ethnographic subdivisions of North Albania, Gegni and Lekni, Gjergj Kastrioti’s holdings and the holdings of the Dukagjins. The basic distinction between two canons is in the taking vengeance on the matter of the blood feud. According to the Canon of the Leke Dukagjini “blood goes with the kin” it means that it is not only the murderer who can be punished but also his kinship. On the other hand ‘The Canon of Skanderbeg’ states that “blood goes with the murderer” and it means that the only one to be killed and to take

avenge in is the murderer himself. The Canon of Skanderbeg gives voice to a latter step of the ethno-judicial regulation of blood feud that belongs to the time of the emergence of the killing in distance weapon (the weapon and not the sword kills the right ones). According to some scholars (Tim Judah) the name of The Canon of Leke Dukagjini is possibly an Albanization of the Lex Duodecim Tabularum, the foundation of the Roman Law. But there are no possibilities that this be an adaption of the “Twelve tables law” because in Canon of Leke Dukagjini as well as in the Canon of Skanderbeg there are stratifications of the biblical right, of the Roman and Byzantine canonic right, there are influences of “The Zaconic” of Czar Dushman and the Ottoman right not to mention the native born traditional essence.



Leke Dukagjini
(1410-1481)

However, the most complete model of traditional organization of Albanians' life is the Canon of Lekë Dukagjini. To be sure, the canon was of no value without the convention, without old and very old people, without folk that used to meet together to administer justice. “*Canon et convente*”, *canon and convention* — this is the core of Albanian customary law. The word “canon” itself had been borrowed from the Greek “Canon”, meaning *order, restriction*. Likewise, the word *convention*, which means “parliament”, had been borrowed from the neo-Latin root “*convente*” which means agreement.

The local tradition of settling problems of justice is evidence of a long history and a complex society. Furthermore, a way of co-existence agreed upon by everybody, without conditions may take several centuries to be regulated by uniform norms. The Canon, thus, expresses the existence of a civic life and of an early community self-conscience.

The canon of the highlands, which has been linked to the name of Lekë Dukagjini, is actually in many elements older than this well-known historical figure. This canon is an ancient legal universe whose various substrata, by their source, date from antiquity. The formulas of swearing on oath do not mention the deities by name. Making oaths like “*by heaven and earth*”, “*by this weight*”, “*by this rock*”, “*by this bread*” etc. are expressions of mythological faith. Only something of great value could be able to resist entire centuries and still survive today. These oaths are similar to those of Old Greeks, such as: *By Uranus* (by heaven), *By Demeter* (by earth) etc. The New Testament categorically bars the son of man from swearing on them. As regards the oath “*by bread*”, it reminds us of the Hebrew cult on “*manna*”, “the four famous taboo of bread”, the sacred holy food.

The canon was not only a law governing the co-existence (convention) of society, but also family law, civil law, work and procedure law — a whole ensemble of justice, whereby the human relationship

with family, clan, friendship, banner and fatherland were established in the most compact fashion.

Moral values, the rules of building a common way of life in different peoples have often been identified with the definitions given in sacred books according to the religion to which a certain people belong. It different with Albanian: such fundamental categories of popular ethics as honour, dignity, respect, good behavior, hospitality, etc. have been established on the basis of the "*precepts of their forefathers*".

A. Equality and Inequality in the CANON

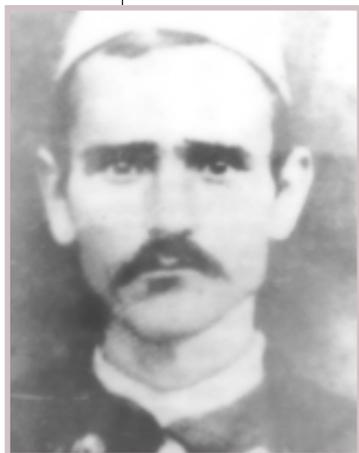
In spite of its severity, the canon has been able to hold Albanians in an environment of a strict equality towards order, which finds its expression in the idiom "*be it even of Gjemark*", meaning that even a person belonging to the house whose duty was to supervise the canon was bound to respect the canon. According to the canon, "*the life of a kind person*" is equal to "*the life of an evil one*", and the other idiom which says, "*every man's finger bleeds the same way*", bearing the same meaning as the former idiom.

The canon also strays from equality in another definition, that of giving the Clergy a privileged position at the convention. The canon provides that "*a priest cannot enter into a blood-feud, also, one cannot put him under oath*" (Art. 4, Sect. 10). *Even if it happens that a priest be put under oath either to exonerate himself from a blame, or as a witness, he will be deemed as if 24 people were put under oath* (ibid). In like manner the canon stipulates the favours of the church as an institution. "*The church cannot be fined and no one can sit in judgment on it*" (Art. 1, Sect. 2). The church, thus, remains above the canon.

Like all other canons, *the Canon of Lekë Dukagjini* is a product and reflection of feudal law. The two exclusions from equality (the exclusion of church from obligation to community region, banner; and the extra-canon position of woman), are legacies of medieval times. Other people, "*even if they belonged to the family of the chieftain (standard-bearer)*", are subject to obey the same rule. (*Whether one be a nobleman or a chieftain, if there is any grievance against him, judgment on him shall be left in the discretion of old people and common people. (Art. 141, Sect. 1014)*). Such sections as "*the price of life of one person is equal to that of all others*" (Art. 124, Sect. 1887); *each one weighs the same worth: four hundred derhems* (a weighing unit) (Sect. 889) contain a rough equality between human beings.

It can readily be asserted that the rough equality provided and defended by the canon makes up a very early value of it, indeed one akin to pre-medieval times.

On the other hand, the privileges and inequalities provided by the canon are relative. In Albanian tradition the canon cannot be di-



Llesh Malqi the
chief of the canon
in Kurbin region
(1900-1979)

vided from the convention — there is a close link between them. What one would ban, the other would allow. What one would allow, the other would cancel. Although the canon would disdain woman and did not allow her to stay in the men's room, the convention has often let her in by appreciating both her wisdom and her ability to administer justice.

B. Hospitality in the CANON

The canon clearly stipulates *the cult of the guest and hospitality with the Albanians*. The cult of the guest is best expressed in defining the house as “of God and guest” (“An Albanian's house belongs both to God and to guest”). According to the canon, God and guest in connection to the house are made equal. There cannot be a greater deification for the guest than this. The cult of the guest is also expressed in such other formulations as: “*the Albanian's house belongs to guest and to traveler*”; “*the door of a house is opened to anyone who appears at its doorstep, be it even a beggar*” contains an ancient, pre-Christian, Judaic, biblical mentality coming down from times when prophets, clad in clothes of a poor tramp, would appear before the doors of believers. According to the mind-set of an Albanian, the guest knocking at the gates should be welcomed with all the honours due to him, because “*one is never sure whether he is a beggar or a saint*”.

In Albanian tradition the guest need not ask permission to enter a house, he but “*appears at the doorstep*” and enjoys a taken-for-granted right to *enter it*.

The greatest privilege by the canon is **custody**. This is to be understood that a guest cannot enter into a blood-feud and is protected against his enemy as long as “*he lives with the bread of the host*”. If the guest fell into his enemy's ambush, he should only cry aloud: either “*I'm in the bread of so-and-so*”, or “*I'm in so-and-so's custody*” — the custody of the host that had welcomed him which means that this action has given him safety, saved his life, or opened his road.

C. Honour in the CANON

The cult of honour comes into the canon from very ancient times. Honour with Albanians differs from the codes of pre-Renaissance European Chivalry. The matter is about a masculine honour, but dignified and great in its roughness. Honour in the canon is not a moral category in the narrow sense and has to do with other prohibitions in the canon. Before accepting a new marriage alliance, an Albanian family had to explore if the distance *between generations by blood and generations by breast milk* (descent in father's and mother's lines respectively) was more than seven generations. In some other regions, 12 generations need to have elapsed.

Regarding the place the highland population has given to honour, two cults were merged — that of generosity (towards the guest) and that of wisdom (of elders). For this, it will suffice to refer to two consecutive sections of the code:

“Tarnished honour has a bloody price” (Art. Sect. 598)

“A man is dishonoured if someone declares to him before the whole congregation (meeting of all men of a village/commune) of men that he is lying.”

The very congregation of men has its own overpowering ethics which makes up the code of the show that is performed only once and is never repeated, and does not have a general rehearsal. It's just this ethics that has created such a density of thought forever present in a highlander's talk, such *noble etiquette*, such a cultivated dialogue which weighs the wisdom and keeps the mechanics of pursuit of truth fully efficient.

“The Albanian person lives to enjoy two fingers of honour”, “Two inches of honour and a clean face” are two fundamental qualifications of honour in the canon. “Two fingers” here have the sense of measure. i.e. two fingers of water in a glass.

In Albanian customary law the honour is the opposite of disgrace. If “areas” of honour and disgrace are compared in the canon, it results that honour's space has been too narrow and within that space the Albanian man had to create his own identity. This is so because the canon contains a long series of prohibitions and taboos that protect the individual against the “*disgrace area*”.

Honour makes a house, the canon says, but a *house is not made within one generation*. To set up a house it takes one face, what in Albanian means: *three generations of honour in succession*.

The power of honour over the Albanian man has been above the power of shrine and state.

D. “BESA” according to the CANON

We find the word “trust” for the first time in “The statutes of Shkodra” written in the Venician language and edited for the last time in 1466. The codifiers of the statutes of this town could not translate this word in their language and make it useful as it was used in its original language specifying it as ‘*usanze Albanese*’, i.e.: Albanian habits. In the Statutes of Shkodra, a verbal form appears as “*besare*” which means “to give faith to”. As the Arberesh spoke the word, “*bese*” meant “belief”. It is the same word that appears in the canonic idiom “*Beselidhja e Re*”- New Testament. Many scholars relate the source of this word, widespread by the Albanian language to the language of Macedonia, Serbia, Bulgaria and Romania with the root “*be*” from which have come out the words faith (*besim*) and vow (*betim*). Even Sami Frasheri uses the word “*besete*” in the only conception of

“religious faith” or “doctrines” of the Albanians. No doubt that the word “bese” has a stratifictional understanding of gospel and canon and another ulterior ethno-habitual understanding.

The cult of honour bears links with the *cult of a given word* or, as it is known with Albanians, “*the cult of “besa” (faith, pledge, vow)*”.

This is a word that does not exist in most languages of the world. In Balkan languages it exists as a word borrowed from the Albanian language. Often, in translations from the Albanian language, the word “besa” (pledge, vow or faith), having no word or idiom of equal meaning in another language, is being given accompanied with explanatory notes, as an occurrence of the Albanian world, an *Albanianism*.



Gjergj Fishta (1871-1940), one of the “fathers” of the Albanian nation who helped the publication of the Canon.

Faith, or the cult of a given word, bears links with the biblical myth of the word: “*In the beginning was the Word!*” Prior to the existence of writing, contract, agreement, notary public, law court, state, nations, human beings and the world itself, there was the **word**. This majestic cult, which in West European nations gradually assumed the character of a religious ecclesiastic idiom, with Albanians preserved the trace of the source.

Engagement by words (with words) was the highest authority for the canon. All human relations — within family, clan, parish, banner and at the level of ethnic community, even at inter-ethnic relations, *were held on words*.

“Besas” has been the moral testament of Albanians since mythological periods. Two of the most important ballads of Albanian folklore with the themes of immurement and resuscitation (the sacrifice needed for building a new bridge; and the story of Constandin rising from the grave to keep his promise - to return his sister Doruntine to their mother) are connected with keeping the given word. That is why throughout the Balkan peninsula circulated the idiom: “I give you the word of Arnaut” (Albanian in Turkish) when it was the case of keeping the promise for a deal.

It is said in the canon that “*speech is something done*”: that is, what has been promised should be fulfilled.

Albanian “besa” (faith, pledge or vow), known with Bulgarians and Rumanians just by the very word “besa”, and with southern Slavs as “arbanaska vjera” (literally “*what Albanians put their faith in*”) is a fundamental virtue of Albanian inheritance from their ancestors.

E. The CANON or “JUS ALBANICAE”

Albania was occupied by the Ottoman Empire for five centuries, but the Ottomans could not succeed in subduing the canon. In the 19th century in Shkodër a special office called “Xhibali” was functioning with the duty to investigate where the Empire laws and *Sharia*

laws did not match with the canon dealing with withdrawal before a conflict. Albanian customary law is perhaps the only among the Balkan nations remaining as a *parallel law*. In one of his essays, the famous Albanian writer, Ismail Kadare has figuratively described this as “*jus albanicae*”.

As early as 1935, in his work “Elements of Albanian Literature and Language” Eqrem Çabej included the canon in the anthology of selected literary values for the needs of schools. In his proposition, the canon was also to be seen as a legally closed and artistically rich world. The canon was handed down from generation to generation by the same mechanism as the language and folklore, as a tradition fixed in a multiple oral circulation. The canon is currently an “opus finita” once and for good, it is a “closed world”

It was not until the first decades of the 20th century that the canon was published. This has its own explanation, and it should not be forgotten that the customary tradition of the highlands has not been recognized by official powers, no matter how transitory these powers might have been. Apart from this, the canon was transmitted orally and memorized by heart as inherited culture in the same way the rhapsodies, legends and tales were learned. On its basis the morality was build up and altered. Therefore, the reflection of expressive values of a conversation in the guests’ chamber, of the established spirit in its inner procedures and rules makes up the evidence of the civilization of Albania.

A people that since ancient times have regulated their co-existence with uniform rules, *a people with distinguished lawmaking capacities*, as Kadare put it, shows that it knows how to govern itself without having to take lessons and its chance cannot be judged on the basis of a momentary crisis but it waits the future.



Shtjefen Gjecovi. First publisher of Canon in 1933

Being a joint work of an entire nation, of its immemorial historical experience, the canon is closely linked with the name of a renowned Albanian **Duke** of the 15th century, with the name of Lekë Dukagjini. The chronicles have shown him to be one of the most remarkable figures of the anti-Ottoman resistance, a leader and captain of highlanders and a co-fighter of Skanderbeg. But even without these qualities, without the bravery and the titles of nobility history attributes to him, without his participation in the battles for the defense of both the Albanian lands and the awareness of being Albanians, Lekë Dukagjini would remain glorious all the same, only by the honour the nation has credited him by preferring his name as the author of the highlands’ canon instead of leaving the code anonymous.

This law was handed down from one century to the next like a legal testament. The first standardization of this law was made per-

haps in the Middle Ages, in the epoch of the great resistance to the Ottoman Empire, by raising it above the canons of a regional narrow-scope usage. Political integration of Albanians against their common threat might have facilitated this process.

Eqrem Çabej has given a concise description of the canon in this book previously mentioned: *“the source of the canon should be traced to very old Albanian tradition. In addition, we believe that this canon should be compared not only with German or Roman laws but also the laws of Balkan peoples.”*



“Shtjefën Gjeçovi” by Sadik Spahija (b.1959)

For the first time the canon was put together, systemized and published in the Albanian language by Father Shtjefën Gjeçovi in 1933. Gjeçovi was a priest of the Franciscan Order who lived in the midst of northern highlands and was in touch with the action of the canon law dealing with relations in society. Gjeçovi possessed a sound philological, theological, archaeological and juridical culture. He translated a number of works of world literature into the Albanian language and wrote original literature as well. He was one of the first collectors of Albanian archaeological findings. The fate of his collection is unknown. The canon of Lekë Dukagjini was first translated into Italian, and then Serbian, French, Russian, English and now is available in many other languages.

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