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How was the customary rights was treated to written media

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TREATMENT OF COMMON LAW IN THE PRINT MEDIA

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Introduction

Albanian customary law is one of the oldest legal institutions inherited by our people. According to many scholars, its origins date back to the early Middle Ages. "In Albania, besides the Byzantine feudal canon, a customary law was in force, a popular law with interesting archaic features, which was not recognized by Byzantine law or which was in contradiction with it. "These customary rules are at the same time an expression of the process of conservation, even of the regeneration and expansion of the ancient forms of social legal organization gentil with fraternities, tribes, blood, assemblies of free men and other forms of ancient culture."¹ . While in the form of a well-organized "Code", it began to be known at least in the period of the XIV-XV centuries. This period of time is known in history as the time when the local Arberian nobility began to conceive. At this time, in which some large families began to own some lands, or territories, that in one form or another the Albanians began to have a kind of independence from the Byzantine authority of Constantinople. The need of these nobles, to be closer to the people, led to the implementation of customary law, which in fact did not comply with the laws of the invaders. Therefore, the customary law of the Albanian people in general and the Kanun of Lekë Dukagjini in particular, are a proof of national conscience, that in the absence of state authority, during the occupation, it was necessary to regulate social relations between people in the fields of various of life, morals, religion and social relations.

Although no precise opinion has yet been given on the time of the "birth" of the canon, in the sense of how it is used today, for which problem neither the press of the time was able to deal either before the declaration of independence or after the declaration of independence. On the other hand, the initial interests for the canon, as a norm of popular customs, were started by foreign scholars, so besides the basic knowledge of the Kanun of Lekë Dukagjini in the Northern Highlands, Johann Georg von Hahn, 1811-1869 in the footsteps of the Kanun of Skanderbeg 1863 during the expedition he made to the Drini Valley². In customary law in the northern areas of Albania for a long time the name Kanun i Maleve has been used for a long time, but for this issue the press of the time has not been taken, just as the codifier of the Kanun, Father Shtjefën Gjeçovi, has not been taken later.

Customary law is a social phenomenon of great historical importance, because through this right the voice of a people has been heard coming from antiquity. And in order for him to be as present as possible, everywhere in the Albanian space, it was necessary for the press of the time to publish and publish parts of this customary right.

The publication of customary law in the press of the time, was not only important for domestic opinion, because after all, the number of those who could read and write in the entire Albanian space was very limited, but more for foreign opinion, which as will be seen, after the commencement of the publication of some parts of the canon will launch a greater interest from foreign scholars. From this point of view, it can be said that the opinions given on customary law in the press of the time are divided into two groups:

- a) in the press that published parts of the Kanun of Lekë Dukagjini and
- b) in the press that writes about the Kanun and its features.

¹ Aleks Buda, The place of Albanians in the European history of the VIII - XVIII centuries, in "Historical Studies" no. 1. Tirana, 1971.

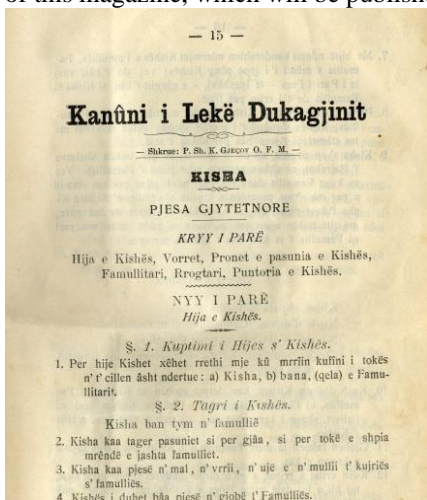
² Kahreman Ulqini, On popular law, published in " Shkodra në shekuj " Volume I, Shkodra, 1998, p. 238

The first beginnings of the publication of customary law in the press of the past time

Although the Albanian language press had started abroad before the declaration of independence of Albania, parts of the Kanun of Lekë Dukagjini, began to be published only in 1913 in the magazine "Hylli i Dritës", but indirectly it was written earlier, for some phenomena, which had to do with customary law. Thus, the word "kanun" in the press of the time will be found on the issue of the rules of elections of people in leading positions, since the time of the Ottoman Empire. Thus, with the notion of canon, the people understood the totality of rules, whether written or unwritten, but which were applied as human norms. Also with the notion of kanun until after the publication of the Kanun of Lekë Dukagjini by Shtjefën Gjeçovi, the Albanian public understood the laws, which were approved by state institutions.

An important role in spreading the echo of customary law has been played by the press of the time, at home and abroad, and in particular to prove the ancient tradition with which the Albanian people organized their lives. The first beginnings of the Albanian press, which has started to deal with the topic of the Kanun, is the newspaper "Albania" which in no. 9 of 1898 published a short article entitled "Kanun i Malcisë"³. And as far as we know, this is the first article in the Albanian press, which is written about the rules of the Kanun, although it is mentioned as a notion even earlier. This article in the newspaper "Albania" provides general information about the role and influence of the Kanun in the highlands of Albania. In this issue of Albania, the author of the article, L. Mjeda, emphasizes that the Kanun over the centuries until now has preserved its features, or has remained the same as it was⁴. N. Ashta has the same opinion, who has come to the conclusion that despite the long time of implementation of the canon, it has not changed much, in terms of implementation in practice.⁵ While in the press within Albania the canon and canonical norms began to be mentioned and written about only after the declaration of independence.

The Kanun of Lekë Dukagjini, in the Albanian press in Albania in a more complete way, started to be published in the first issue of the magazine "Hylli i Dritës" organ of the Franciscan clergy in Albania. In this newspaper, four nodes of the first book are published, respectively four nodes for the church⁶. Also in 1913, in "Hylli i Dritës" by Father Shtjefën Gjeçovi, the Kanun of Lekë Dukagjini was published in two other issues of this magazine, which will be published in 1913.⁷



Facsimiles of the first edition of the Kanun in the "Hylli i Dritës"

³ Kanun i Malcisë, "Albania" no. 9, 1898, Brussels, p. 150, quoted by Kahraman Ulqini, in his study on popular law, published in "Shkodra ne shekuj" Volume I, Shkodra, 1998, p. 239.

⁴ Kanun i Malcisë, "Albania" Volume A, no. 9, 30 called 1898, p. 150,

⁵ Kanun of Bajrakëve te Dukagjinit, "Albania" Volume B, no. 1, June 15, 1898, p. 13

⁶ "Hylli i Dritës" Date I, October 1913 no. 1. p. 15 - 18, the first part of the first book "Church" is published. F.15-18.

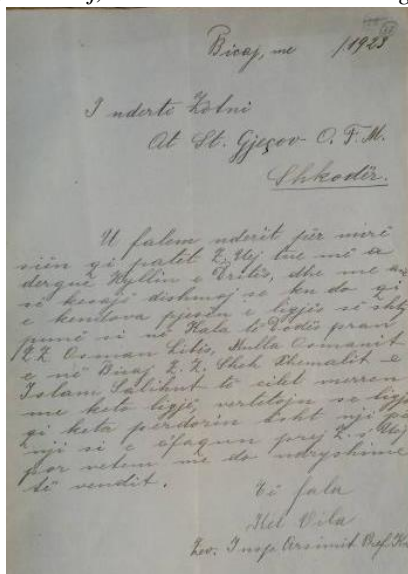
⁷ Hylli i Dritës " Date I, November 1913 no. 2. p. 53 - 57, the second part of the first book "Church"

Not wanting to talk about the content of the published parts of the canon, in this magazine, it should be emphasized that the beginning of the publication of the Kanun of Lekë Dukagjini, as codified norms, listed in the form of laws, is the first edition, for which the author, as well as the editorial office, seeks the opinion of the general public and in particular of the intellectuals of the time. This is best seen when the editorial office in issue 2 of the magazine and the continuation of the publication has asked in the first place from the priests, that ... “...”to compare them with the laws and doctrines of our Kanun and their own laws, pointing out the complications that may occur between those laws and those that are published by us. These observations, then, could be sent to P. Shtjefen Gjeçov in Gomsiqe, or to the Directorate”⁸

After these calls, Gjeçovi will continue to ask for help from teachers, who worked in remote areas of Albania, to read the "Hylli Dritës" to the elders of those areas and ask for their opinions.

“Dear Mr. Sh. Gjeçov O.F.M. Shkoder

Thank you for the kindness you had Mr. Woe to sending the Star of Light, and by this I testify that wherever I read the part of the laws as in the castle of Doda near Mr. Osman Lita, Mulla Osmani and in Bicaj Mr. Sheh Xhemali, Islam Salihu, who deal with these laws, confirm that the law they use is one by one as presented by Mr. Uej, but remained in some changes depending on the place where it was read.”⁹



**Facsimiles of the letter of
the Kel Vilës, 1929.**

After the publication of the Kanun of Lekë Dukagjini, in 9 consecutive sequences until July 1914, the magazine "Hylli i Dritës" will not be published until 1921, and also until this time Gjeçov will not continue publishing in magazines others. However, the publication of these parts of the canon aroused great interest in the public and in especially in external opinion.

⁸ “Hylli i Dritës” no. 2, Shkodër, 1 November 1913, p. 57

⁹ AQSH, Fondi 58, Dosja 100, fl. 37. Letter from Kel Vila, inspector of Education of the Prefecture "Kosova" quoted by Nexhat Çoçaj, Untold Stories for Gjeçov, UBT, Prishtina, 2019, p. 134



Facsimiles of the newspaper “Përlindja e Shqipëniës”

Thus, the newspaper "Përlindja e Shqipëniës" after having on November 22, 1913 had published this newspaper "The Current Kanun of the Civil Administration of Albania" which defined the division of the administration and the duties of the administration, as well as the electoral system. "Përlindja e Shqipëniës" in issue 14 on its pages talks about the Kanun of the Elders, where among other things it is said "ugliness is judged according to the customs of Albania, by the elders who are sworn in, therefore it is called zhuri"¹⁰. Regarding the Kanun of the Elders, scholars think that "... he is wearing a new garment, which includes the bourgeois jury institute, which distinguishes it from the symbiotic acts of law - the kanun of the Montenegrin vlads."¹¹

The newspaper "Posta e Shqipëniës" in an article "A wise law which would have been very good for Albania", sharply criticizes those intellectuals who try to trample on the customary right of the people, which right has protected the people whenever there has been a need from foreigners¹². While the newspaper "Populli"¹³ in an article, has emphasized that the citizens of Albania can not be judged by foreign laws, much less by the laws of Turkey or France, but has requested, as stated in the article, that until it is organized The Albanian state is strengthened, the laws of the Kanun of Lekë Dukagjini must be accepted to ensure internal order¹⁴ and peace. In this way, the Albanian press in Albania, despite the fact that for a period of time, the publication of the Kanun of Lekë Dukagjini was stopped, the interest never stopped for this popular "condition", which has survived the time and is now being re-updated through press and especially from the digital one.

Facsimiles of the newspaper “Posta e Shqipëniës”

¹⁰ "Përlindja e Shqipëniës" Nr. 14, Year II, Vlona, Saturday 15/28 February 1914, p. 3.

¹¹ Koço Nova, introduction to "Albanian customary law", Academy of Sciences of RSSH, Tirana, 1989, p. 41

¹² "Posta e Shqipëniës", Nr. 55. Shkodër, 26 June 1918, p.1.

¹³ On 18.01.1919 in Shkodra was published the first number of the political-social newspaper in Albanian and French with the title: "People" led by Sali Nivica and later by Bedri Pejani, after the murder of Nivica. This newspaper appeared in 77 issues until January 1920. The newspaper 'Populli' aimed to expose the anti-Albanian tactics of some European countries that denied the Albanian national life. Although the article does not directly mention the name of the National Defense Committee of Kosovo. Father Shtjefën Gjeçovi had a good cooperation with this newspaper, in which he published several articles.

¹⁴ Newspaper "Populli", Shkodra, November 7, 1919, p. 2

law (kanun) which directs the actions of citizens after a common goal and puts an end to private violence and at the same time helps them for their freedom. ¹⁶

Kanun of Lekë Dukagjini, basis for ethnological studies in the press pages of that time

After the cancelation of the publication of the Kanun of Lekë Dukagjini and before the publication of the remaining parts in "Hylli i Dritës" started, the Albanian press had started publishing some study articles related to the Kanun. In addition to a number of newspapers that were published in the territory of Albania, there were also many newspapers and magazines that were published abroad and were led by the layer of Albanian intellectuals who were studying abroad. Such was the magazine "Djalëria"¹⁷, which in several sequels has published a long article by the albanologist Franz Nopçe.

Nopçe, since he does not find in the canon of Lekë Dukagjini, traces of Roman law, emphasizes that "Apart from the completely primitive law of all Indo-Germanic nations, the Kanun is similar in many points to the 'leges barbarorum', that means with the popular rights of the old Germans, who in the early Middle Ages also reigned in Italy. Taking blood, frequent previous convictions, paying for living of their life..."¹⁸Nopçe, in addition to comparing the Kanun of Lekë Dukagjini with the popular customary rights of other nations, especially with the German one, he also talks about the phenomenon of homicides in particular, which is not considered common death. In fact, this long work of Npaçë, published in the magazine of Albanian students in Vienna, which for the time being is the most in-depth analysis of the canon and the longest, since it is published in several sequels.

Later, in this prestigious magazine of the time, Kristë Maloku will publish the article "Besa, honor burrnija", through which the article called on Albanians to unite and respect the centuries-old tradition, to unite for the cause of Albanians through faith and honor. . "Faith, honor, manhood - these three fundamental qualities therefore constitute the same ideas. For thousands of centuries, the Albanian has kept that idea in his heart. Besa, honor and manliness has made the Albanian a warrior and a hero, has made him deny the comforts of life."¹⁹

A few months after the publication of Npaçë's work in the main article of the newspaper "Shkumbini" it is stated that "When a people lacks the unity of rights as well as that of duties, of course it lacks social unity and social progress lags behind. "The quarrels, the confusions and the struggles between the Vedas, increase, multiply and cause anarchy, which brings back, in itself, the foreign yoke."²⁰

In 1921, the magazine "Hylli i Dritës" again started publishing the Kanun of Lekë Dukagjini, collected and codified by Father Shtjefën Gjeçov. Although the first issue after the cessation of „Hylli i Dritës“ will be published in May 1921, Gjeçov will start publishing only in issue 6, respectively in October, when he will



¹⁶ "Agimi" Nr. 6, Years. I, Shkodër, October 1919, p. 82.

¹⁷ "Djalëria" magazine was a monthly cultural, literary and social magazine founded in 1920 by the Albanian Students' Association in Vienna, of which it was a body. This magazine continued intermittently until 1929. It aimed at spreading knowledge, economic and social development of the country, according to the model of developed western countries. He addressed problems from the life of Albanian students and published literary pieces. In this magazine, which in a way was the voice of the future of Albania, since in this newspaper their works were published by many well-known names, who later not only continued journalism, but also the science of European dimensions and schools.

¹⁸ Faranz Baron Nopcsa, "The source of the Kanun of Lekë Dukagjini", in "Djalëria", no.4. First year, July 1920.

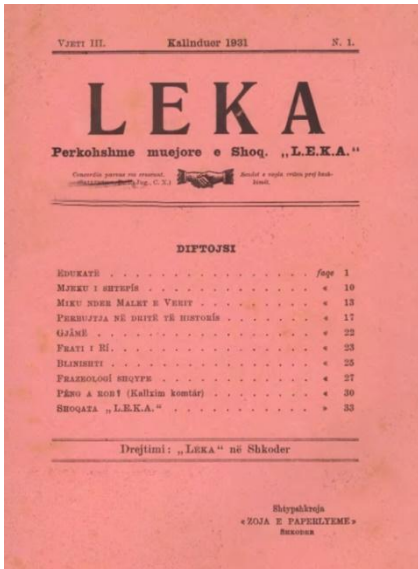
¹⁹ Kristo Maloku, Besa, honor, manhood, in "Djalëria" Volume II, no. 7, January 1929.

²⁰ "Shkumini", no.1, Elbasan, January 14, 1921, p.2.

probably return to Albania, as for a while , after taking part in the Vlora war, he settled in Zadar, as he left the Franciscan church due to his participation in the war against Italy. And in this way from October 1921 (in three issues), in 1922 (in 11 issues he published parts of the canon), in 1923 (in 6 issues) until issue 12 of 1924, but only in four issues of this year parts of the Kanun of Lekë Dukagjini are published. (1-2, 3-4, 9 and 12)²¹. After the publication of the first version collected and codified by Gjeçovi, for a while, respectively for several years, the Albanian press will not take a look on this problem, because for a while the Kanun together with the press was fought by the Albanian state.

After the assassination of Father Shtjefën Gjeçov, the Albanian press became even more interested in writing about the topic of the Kanuni i Leke Dukagjinit. Among the first newspapers to write about the value of the Kanun of Lekë Dukagjini, after the death of the codifier was the newspaper "Dielli", in which the friend of the codifier of the Kanun, Faik Konica, wrote, among other things: "Nobody can approach Father Gjeçov in the knowledge of this Kanun. Show us a manuscript of two thousand pages, a tireless and thin study where he had collected, listed and illuminated all that is left of the legal thoughts of Albania in the Middle Ages²², thoughts which seem to have roots far beyond Medieval. " Konica, who in fact was the first to open the way, in his newspaper to write about the Kanun, to give assessments and to make the Kanun of Dekagjini all known as much as possible.

In the newspaper "Leka" no. 1, of 1931, in the article: " Miku nër malet e Veriut " it is widely written about one of the most important segments of the Kanun. However, in this article, no information is given in the form of articles, but a description of the friend's reception habits is made. This article begins with the statement that "Among the mountains of the North or the ancient docks, I say it is very sacred, that the friend, both from the rich and from the poor, should be received with great honor.



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hyjnë; e mos me e pritë o me e lënë mas dorët, ishte si me ndjellë m' vëdi shplakën e hyjvet.

Gjë shumë e interesantshme kish me kënd me p'd se në çka perkojnë doket e përbajtjes së popullit t' onë me ato të popujve të mocem tjerë. Kia kishte me vjtitë me e qitë në pah përherë e më fort një vetë qi e dallon popullin shqyptar prej gjith tjerve e qi tërhejë shpallin e synin deripues të gjith etnologje; ky krahasim kishte me vjtitë sidomos për me e caktue tipin e popullit shqyptar, si Ë kënd në kohët e kalueme e si do të jet në kohët e ardhshme, për në dashitë me i ndjekë me nderë gurmit e katragjyshave të vet. Nji popull thona, qi të dijnë me e ruajtë edhe mas sodit njëjtë vj. ndër doket kontare qi dji të me e ruajtë nder sulme të popujve më të ndryshem, tuj lënë shkruie nji fletë të bindshme në historinë e komeve e tuj lidhë shqyptarin e sotshem me shqyptarin e kohave më të lashta.

Nji krahasim i plotshem s' mund të bëhet në nji artikull të nji perkohshme. Prë po kondensohena me marrë nji përshkrim të B. ljes e nji të Homerit e me e krahasue me përshkrimin e maparshem të përbutjes shqyptare.

Kallxon libri i Genezit, në kap. 18, se 'i ditë Abramit po trite në prak të derës tuj soditë burkufit e natyrës, e qe i bin në s'j tre shtegtarë të pajtoftan qi ja kishin s'je derën. Plaku i ndershem gobet në kamë, ju del para e në shij nderim përnyzet para tyne. Mandej sjellë prej ati qi u dukte si i pari, « Zotni — i tha — n' a denjosh me pelqye ndoj shërbim prej meje, qe tak më kë; urdhmoni nën hije të k'it lisi, une po shkoj e ju bi një kauve e shkodheni pak; nji kashatë bukë e kemi e ka me ju forcue më së miri; pse, me çka duket, për ket punë m' a kemi nderue derën. » E ata i tha:

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Si maruene së hangerit kta tre miq, qi ishin tre Ejë në dukë të njerit, i premtuene Abramit se kish për të pasë nji dhallë prej Sares, me gjith se kjo ishte e shtyeme në mot, e s' i kishte pasë fjalë Zoti fjalë kurr përpara.

Të thamen kjo fjalë muerne m' u çue, « pse — thoshin — do të shkojmë ma ndeshkue gjytetin e Solomonë për marapshina qi s' mund t' ëmnohen. » Dy u nisne, e i trëti kje ndalë prej Abramit, qi e lutte e e perlatte të kishte dhimë për at gjytet, mos të sharrote mrendë edhe Loti nipi i ti. Në kaq dy shtegtarët prekne në Solomë, shi në sa Loti po trite ndejun ta dërritë e gjytetit. Ky porsë i pau u dued para e përnyzë për dhë i adhroj tuj ja thanë: « Zotni, ju lutem urdhmoni sunde në shpë të shërbitorit t' unj, atj keni me lë kauët e neser nade pualshem keni me vijue ndhan t' unj ». Ata duden m' u ndalë në rrugë të madhe, por Loti si me përdhuni i çon në shpë të vet. Aty u shtrij darken e ata hangerne.

Porse para se të bishin me fytë, populli i përduduen e t're thon shpën e Lotit e lypë prej ti shtegtarët për me shfrye në ta epshet e poshtra të vetat. Loti del jashtë, ndryen derën e shpës edhe i het popullit: « O ellazet e mi, mos i përlyeni dheri me një të zezë kang të ranë. » Për ati popull nëmra i ishte bër pleh e s' lot vendit. E Loti atëherë çka bëu për m' e fashitë at popull të çoroditun! U thotë se kishte me kënd gudi me jan dhënë dy bijat e veta virgjinesha qi rruete në shpë me të madh kujdes, e usqeft qi mos t' i përlyeni dy të kësaj, pse janë miq në shpë t' unj. »

Zoti mandej ja verhoj s'jt at popull e jo veten s' mund i shfrye dishitet e poshtira, por me i shkruamen prej zjermit e surfullit qi rë prej qiellit e dogi Solomon marë me gjith banorët e asjë.

Krahasimi është në dritë të diellit. Kujdesi i madh i Abramit

"The wayfarer, as you know them, is unknown here, when it starts to get dark, you can not be afraid, why did you remember well the words of the first 'Leadership of God and friends', take the direction to an inn there near...²³"According to this writing, as soon as the friend enters the house, he hands over the weapons, the horse according to custom. Regardless of the fact that the friend is known or not, the reception is done according to the canonical norms, which in fact is similar as defined in the Kanun of Lekë Dukagjini, in the eighth book from article (nye) 96 to 100²⁴. In this long note , many parts of the canon are given, such as

²¹ "Hylli i Dritës" Year II, October 1921 no. 6. p. 271 - 273, the continuation of the seventh chapter of the third book is published.

²² Faik Konica, "Some memories about Father Gjeçov" in the newspaper "Dielli" March 18, 1930 no. 5156, f. 2.

²³ Newspaper "Leka" Year III, N.1, January 1931, p. 14.

²⁴ Shtjefën Gjeçovi, Kanun i Lejë Dukagjini, "Franciscan Publications", Shkodër, 2010, p. 66-70.

Facsimiles of the pages of the Magazine "Leka"

escorting the friend, out of the territory and an interesting description of the arrival of a guest in an unknown guest house, which can also be the guest house of the enemy. The note says that the owner of the house, according to customary law, must take care of the newcomer even from the middle of the enemy's family, as if he were a friend of that house and for no moment should he think that he is facing the enemy of the family.²⁵

At the end of this article, the author, whose name is not given, tries to make a comparison with the works of world literature, which mention the virtues of their peoples, but do not resemble the values of Albanian traditions, respectively Albanian customary law.

Customary law, since in one way or another it has dealt with the organization of the life of the people, of social relations, of the moral world that formed the national and historical dimension of the Albanian people, the press of the time has paid special attention to this topic. On the other hand, the non-functioning of the Albanian state in the legal aspect even after the declaration of independence of Albania, the role of customary law as a code of customary laws that maintained social order and peace among Albanians, was seen by the press of the time as a necessity to Many newspapers and magazines deal with this topic.

Conclusion

At the end of this paper, which is only an initiative in this direction, because during the browsing of the collections of newspapers of the time, I was approached with the opportunity to expand this topic to other perspectives, for which today's press, and why not digital media, as if they do not seem to be interested in addressing issues of this nature. Also, I can say that the most favorite topics of the press of the time, related to the issue of customary law, have taken place in raising individual and collective awareness. Thus, the treatment of trust, honor and hospitality, influenced the strengthening of relations between the Albanians themselves and their unification around a common goal.

For the Albanian highlander, honor was above all. Honor, was the embodiment of life, given the fact that a man dishonored in the social and legal sense was dead. Therefore, it is not by chance that the highlanders in many cases even swore "By the night!" In this way honor, as an institution of conscience, including personal, family and tribal honor, was the guarantee for the realization of national aspirations.

According to customary law we have two forms of violation of honor:

- a) violation;
- b) defilement of honor.

And hence depending on who violated these norms they became wilder or softer. In cases when the norm of honor was violated by foreigners, respectively by the occupiers, then on behalf of this institution all gathered to oppose the occupier and to help the person, the environment that had faced the violation of honor. But, in cases when this institution was violated by the locals then, the punishments became very severe.

The topic of the Kanun, continued to be treated in the Albanian press even during the Second World War, but in general forms. Thus, F. Seiner in the article "Bajraqet e Shqipërisë"²⁶ indirectly spoke about the rules and power of the Kanun of Lekë Dukagjini in many bajraks of Albania. But, the topics for the canon in general and in particular, for the historical and legal weight, have started to be published in the newspapers even in the years after the LNC and are continuing to address the issue of canonical norms. Thus, in many newspapers, published in Albania, the Albanian customary tradition has been mentioned several times, sometimes it has been mentioned in a negative context, but there are also cases when some norms of customary law are mentioned for good and in order to improve relations. human.

On the topic of the Kanun of Lekë Dukagjini, the press is still dealing with it today, as it has not yet been decomposed to the proper extent, as it needs to be clarified to many readers and intellectuals that the canon only did not work for evil, not that it incited fratricide, but that he acted precisely to prevent fratricide.

²⁵ Newspaper "Leka" Year III, N.1, January 1931, p. 16-21

²⁶²⁷ "Bota shqiptare" Tiranë, 1943, f. 327.

