

Excluded from Power

Historical Gender Inequalities in Customary Law in Kosovo and Northern Albania

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“A woman is a sack, made to endure.”
 Kanun, Book 3, ch. 29

The “Kanuni i Lekë Dukagjinit” is a code that embodies the deep and firm beliefs of the Albanian people, showing their “uncompromising morality” with a system “based on justice, honor, and respect for oneself and others” (Kanun xix). This set of customary laws was created in the Middle Ages and was used in Albanian settlements. It has been recorded that this particular code was followed widely in “the mountains of Lezhë, in Dukagjin, in Skodër, in Gjakovë, in Kosovë, and even among the Albanian populations of parts of Serbia, Montenegro, and Macedonia” (Gjeçov xvii). It was not until the late 19th century that this text was recorded in written form; until that time it had been sung and kept alive in folklore and legend. This code was used to govern all aspects of clan life and superseded religious and state laws, even into the 20th century. Kanun is significant because modern traditions in Northern Albania, and most of Kosovo, are steeped in its tenets. In some of the more remote parts of Kosovo, Kanun remains the law above all others. In this essay I examine the twelve books of Kanun through a feminist lens to develop a historical understanding of the origins of today’s gender inequalities in Kosovo, while also exploring the phenomenon of ‘sworn virgins’.

The first book in Kanun is “The Church”; there is no mention of women or any particular duties or punishment associated with them. Women are simply absent from this area of public life. Book two is “The Family”, where it defines family as “a group of human beings who live under the same roof, whose aim is to increase their number by means of marriage for their establishment and the evolution of their state, and for the development of their reason and intellect” (Kanun 14). In this unit, the “control of the house” is given to the eldest man, or his first brother, and neither need be married. The lengthy list of the man’s duty as head of his family/clan also includes his right to enforce his rule by means of punishment (Kanun 14). The list of rights of the mistress of the house is very short, and reads more as a list of chores than a list of rights and privileges.

Book three is “Marriage”; marriage is defined as “the means to form a household, adding another family to the household, for the purpose of adding to the work force and increasing the number of children” (Kanun 20). Marriage exists to strengthen the clan in numbers and is a strategic alliance between powerful and honorable families. Men retain the right to reject a bride, even after giving consent to the marriage; however, he has no say in the process of arranging the marriage or the wedding itself. The woman never has the right to “concern herself about her own marriage,” even if she has no parents, this task is the duty of her brother, or uncle (Kanun 22). It is strictly forbidden for her to choose a husband, make engagement arrangements, or “interfere in the arrangements for shoes or clothes” (Kanun 20). Before they are wed, the bride and groom are forbidden to exchange even a word (Kanun 24).

In marriage, the duties of the husband to his wife are clear: he must provide her with clothing, shoes, and “everything necessary for the conduct of life,” and secondly he must “preserve the honor of his wife and not give her cause for complaint about any need” (Kanun 22). The wife’s honor is not defined, her needs are not defined, and nor is what constitutes a “cause for complaint”. The duties of the wife toward her husband are numerous and include serving him in an “unblemished manner,” submitting to his “domination,” and fulfilling her “conjugal duties” (Kanun 22). Also listed are her duties of caring for the children, and always “keeping herself with a good appearance” by means of maintaining her shoes and clothes (Kanun 22). All of the gifts the bride receives at the wedding are hers by right, for her life (Kanun 28); this is the only property she will ever own, but she can lose even these items if she commits theft. It is the right of the husband to “beat and bind his wife when she scorns his words and orders” (Kanun 44). In the parallel column entitled “The Authority of the Woman”, it states: “[t]he wife does not have any rights over either the children or the house” (Kanun 44). The rights of the son are lengthy, and there are no rights for a daughter. There is little difference in rights between a married and unmarried woman, for they both have so few.

If a woman does not wish to marry, but is engaged to be married and refuses “she should be handed over to him by force, ‘together with a cartridge;’ and if the girl tries to flee, her husband may kill her with her parents’ cartridge, and the girl’s blood remains unavenged, because it was with their cartridge that she was killed” (Kanun 28). Once in her husband’s home, he has the right to beat his wife and not “incur guilt”, nor may her parents make any claim on him. However, if “a man beats his wife bloody, and she complains to her parents, the man must give an explanation” (Kanun 38). The wife is the property of her husband and her parents, she is never emancipated; to be born a woman is to be born into bondage. “A woman is known as a sack, made to endure as long as she lives in her husband’s house. Her parents do not interfere in her affairs, but they bear the responsibility for her and must answer for anything dishonorable that she does” (Kanun 38).

Under Kanun there was no discernable law concerning divorce, but only in regards to the punishment of the wife should she be adulterous or betray hospitality. “For these two acts of infidelity, the husband kills his wife, without requiring protection or truce and without incurring a blood feud, since the parents of his killed wife received the price of her blood, gave him a cartridge, and guaranteed her conduct” (Kanun 40). If a woman commits the crime of theft, then her husband has the right to leave her, but not punish her in any other way. She then must leave the house and has no right to take anything with her, except the clothes she wears, the rest returns to her parents and “written marriage records are destroyed” (Kanun 40, 42).

Book four is “House, Livestock and Property”—none of which concerns women, as they can never have property in any form; women are not mentioned in any way, even indirectly. Book five is titled “Work”, and as the reproductive labor done by women, in addition to agrarian work, is not considered “work”, there is no mention of them. This book dedicates chapters to each of the main professions of the time: peasant, blacksmith, miller, irrigation, hunter, fisher, and trader. Book six is the “Transfer of Property” and there is no mention of women, as they are never allowed to inherit property

or fully own any items. Book seven is one of the most important books because it covers the sacred *besa* [promise]. This book “The Spoken Word”, excludes women and children from taking any and all oaths.

Book eight “Honor” touches little on women, and when it does address women’s honor, it is in the context of the man’s honor. A man is “dishonored” if “his wife is insulted or if she runs off with someone” (Kanun 130). Book nine “Damages” does not include women, except to reiterate, that like children, women and wives must be punished by their parents. Book ten “The Law Regarding Crime” lists strict punishments for a person who aids in “the flight of a woman” (Kanun 154). The crimes that a woman can commit take up almost a page in Kanun, listing the different situations and appropriate punishments; all the crimes a woman can commit relate to adultery. If the adulterous couple is caught in the act, they can both be killed on the spot, without incurring blood. The parents of the pair must give a new cartridge to the killer with the words “Blessed be your hand!” (Kanun 176). If the woman becomes pregnant by adultery and flees, she is banned from the clan. There is a footnote in Kanun to indicate that at some point, the punishment for an adulterous woman was being burned alive on a dung heap, but that this practice is no longer carried out (Kanun 176). One crime that can be committed against a woman is causing her death while she is pregnant. Even if it is manslaughter, the killer must pay for the life of the woman and the unborn child. If the killer contests the amount of money owed, the woman is cut open so as to determine the sex of the child. If it is a girl, the amount is reduced; if it is a boy, the amount is doubled.

Book eleven is “Judicial Law” which lists the protocol of assembly, as well as the locations for the meeting places of each clan. It is important to note that women are excluded from all assembly. Women are deemed wholly “unacceptable” as elders, informers, jurors or observers of an oath, and have no voice in assembly. Book twelve “Exemptions and Exceptions” is perhaps the most interesting because it permits, in chapter 23, tenet 1228, “[the Virgins] women who dress as men” to be “free to associate with men, although they have no right to a voice in the assembly” (Kanun 216).

“These are women who have been chosen, been permitted and encouraged by their society or even parentally predestined, to become men.”

Antonia Young

The Cannon of Lekë is a text that has “strictly governed all important aspects of social life in Kosova” and parts of Northern Albania (Trnavci 1) for centuries. It is through this code that women can choose, or be chosen by their parents, to become men. Antonia Young’s concise anthropological examination of the lives of ‘sworn virgins’ describes the lives of ‘sworn virgins’ in Western Kosovo, Northern Albania and Southern Montenegro. Her purpose in writing the book “Women Who Become Men: Albanian Sworn Virgins” was to “compare different anthropological and ethnographic explanations and analyses of [the sworn virgins, or honorary men,] and their status” (Young 4). Before introducing the ‘sworn virgins’ she interviewed, Young gives a lesson in anthropological terms of the functioning of the society in which this phenomena occurs. It is rural, “strictly patriarchal, patrilocal, exogamous and patrilineal. This means that the society is male dominated, normally men bring their wives from other villages into their own childhood home, and inheritance follows the male line, all ‘social units, households, are based upon males who are recruited by birth, generation after generation” (Young 13). Young identifies three main motivating factors in a woman becoming a ‘sworn virgin’; none of these factors are concerned with gender identity, but instead they all center on “circumventing the customary law to preserve a family’s patrimony” (Young 20). Some women choose the life of a ‘sworn virgin’ to keep the family together when there is no male to head the household; no household may exist without a male head, Kanun book 11. Others may choose to adopt the role so as to uphold the family honor and continue the family name and maintain the property. Rarer are those who are raised as boys by their parents, because they had no sons. These women who ‘become men’ are men in terms of their societal role, mannerisms, and dress. “To become a ‘sworn virgin’ is a dramatic illustration of the sociologic

concept of 'putting on a role', rather than an occasion in which some inner self is permitted to 'come out', by pushing aside certain socio-cultural conventions" (Young 113). 'Sworn virgins' dress like men, crop their hair short, wear watches and sometimes sunglasses, smoke, drink alcohol, socialize with men and do the work of men. They are referred to with masculine pronouns and often receive the name 'uncle' from family members.

Make no mistake, these are not women who have adopted this role out of a desire to be emancipated from the bonds of reproductive female labor and the confines of their home and the rule of men, nor are they women who have found a socially accepted form of lesbianism. All 'sworn virgins' interviewed are recorded as stating that they have no sexual tendencies for men or women (the latter greatly confused them), and maintain that they have adopted the roles of men out of necessity (Young 71-91). When asked if they ever wanted to go back to being a woman, or regretted their decision, the interviewees were confused, having seemingly never thought of going back on their *besa*, or oath. One of the most sacred elements of Kanun is *besa*, and is the core upon which most of the code of conduct is shaped. It is the following of the strict codes of Kanun that allows these women to become men. To the knowledge of academics, there is no 'sworn virgin' who ever went back on her oath.

Kanun is an archaic text that on the surface offers some level of rights and responsibilities to women. However, even the exception in Kanun of 'sworn virgins', stating that women may take an oath to become men, reinforces the repressive patriarchy. Even at the cost of giving up their sexuality, marriage and childbearing, the 'sworn virgins' have made a sacred oath to uphold their family's honor, often taking the role of head of the family. When asked if they ever felt disadvantaged in their lives, the 'sworn virgins' eagerly agreed that the life of a woman was arduous, but that life as a man awarded prestige. Once becoming men, these women support and perpetuate the dominance of the men, in accordance with Kanun.

Kanun is a unique and valuable text as it offers a window through which we can both examine the past and better understand the present in regards to gender inequalities. Kosovar women have had, by law, a long history of exclusion from the public sphere. Unlike other patriarchal societies in which the woman has power, rights and specific responsibilities in the home, this is not the case under Kanun. Women, by law, cannot even develop their own power, or autonomy, within the household. Kanun reifies the identity of a woman being in a state of perpetual childhood, belonging first to her parents and then her husband. She is property; her function does not extend far beyond procreation and domestic tasks. Kanun's passages regarding the laws surrounding property give more respect and rights to the life of a dog than that of a woman. The legacy of Kanun lives on in remote areas of Kosovo, but more damagingly still, it lives on in tradition, ceremony and paradigm norms surrounding gender roles.

Bibliography

- Gjeçov, Shtjefën (1989). *The Code of Lekë Dukagjini*. Forest Hills, New York: Gjonlekaj Publishing Company.
- Grémaux, René (1989). "Mannish Women of the Balkan Mountains". In Jan Bremmer, *From Sappho to de Sade: Moments in the History of Sexuality*. Routledge: New York, pp. 143-167.
- Hasluck, Margaret (1933). "Bride-Price in Albania. A Homeric Parallel". *Royal Anthropological Institute of Great Britain and Ireland*, vol. 33, pp. 191-195.
- Littlewood, Roland (2002). "Three into two: the third sex in Northern Albania". *Anthropology and Medicine*, vol. 9, 1, pp. 37-50.
- _____ (2002). "Trauma and the Kanun: Two Responses to Loss in Albania and Kosova". *International Journal of Social Psychiatry*, vol. 48, pp. 86-96.
- Mangalakova, Tanya (2004). "The Kanun in Present-Day Albania, Kosovo, and Montenegro". Working paper published by the *International Centre for Minority Studies and Intercultural Relations*. <http://www.imir-bg.org>, accessed 12.20.10.
- Mazower, Mark (2000). *The Balkans: A Short History*. Random House Inc., New York.
- Rosenberg, Tina (1994). "The Habits of the Heart". *World Policy Journal*, vol. 11, no. 4, pp. 85-94.
- Sampson, Steven (2003). "From *kanun* to capacity-building. The 'internationals', civil society development and security in the Balkans". Peter Siani-Davies eds., *International Intervention in the Balkans since 1995*. Routledge, London, pp. 136-157.
- Tarifa, Fatos (2008). "Of Time, Honor, and Memory: Oral Law in Albania". *Oral Tradition*, 23/1, pp. 3-14.
- Trnavci, Genc (2008). *The Albanian Customary Law and the Canon of Lekë Dukagjini: A Clash or Synergy with Modern Law*. http://works.bepress.com/genc_trnavic, accessed 12.20.10.
- Whitaker, Ian (1981). "'A Sack for Carrying Things': The Traditional Role of Women in Northern Albanian Society." *Anthropological Quarterly*, vol. 54, No. 3, pp. 146-156.
- Young, Antonia (2000). *Women Who Become Men: Albanian Sworn Virgins*. Oxford, UK: Berg, Oxford International Publishers Ltd.
- Zhelyazkova, Antonia (2000). "Albanian Identities". Working paper published by the *International Centre for Minority Studies and Intercultural Relations*. <http://www.imir-bg.org>, accessed 12.20.10.