

Woman’s Position in Statutes and Canons



Ethnoculture

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Abstract

The position of women and its historical evolution has been extensively discussed, and perhaps in many cases, due to the absence of facts, analyzes and documents, there have been many speculations. This issue requires a more comprehensive analysis, taking into account many factors, such as the very low level of economic and social development, high levels of poverty, political instability, the fact that the issue of the Albanian identity and territorial integrity dominated the life of the country and its political movement, lack of a democratic culture, low level of education, lack of social emancipating movements, etc. This article just aims to realize an analysis probably, not exhaustive, in order to identify the advantages and disadvantages of Albanian women’s position at different stages of socio-economic and cultural development.

Introduction

It has often been said that the Canon is the main source for women’s discriminated position in Albanian society. This is a questionable and perhaps speculative argument. The question of the history of women’s subordinate position in Albanian society, is in fact in need of a more complete analysis by taking into consideration many factors, such as the low level of economic and social development, high poverty levels, lack of political stability, the fact that the question of identity and territorial integrity prevailed in the country and political movements within it, lack of political democratic culture, low educational level, lack of wide emancipating movements etc. The Canon is only one of the factors that has an influence for the inferior position of the woman in the Albanian society, but is not the only one. As such an analysis is absent in the existing studies, I must present the need for a full analysis of the phenomenon and women’s situation at that time. The analysis may not be exhaustive, but it is certainly an attempt to throw some more light on this question.

Historic Evolution of women’s position according to statutory and canon acts

The existence of the statutes of the Dalmatian seaside cities is an indicator of historical continuity of an urban culture with common inclinations with all the countries of the region. These acts are important evidence of cultural progress and an expression of civic culture in this area of the Adriatic exactly at the threshold of European Renaissance. This synchrony of mental and material development of Albanian space of Arbëri period with Europe, and in a narrower sense of the word, with the Adriatic basin, is a privilege of national tradition of the country in general.(Shabani 2005)

Archive material found in Albania, even those of regional medieval republics and states, prove that other countries of the Dalmation seashore had created statutes, such as Tivar, the city of Ulqin, the city of Shkodra, the city of Durrës, the city of Danja and the city of Drisht. The statutes of Durrës were established around the beginning of 12th century whereas “*The Statutes of Shkodra*”, that were preserved in handwriting in *MoseoCorrer* (Florence), are the only statutes of the Albanian space published completely and with a compared text. Researchers valued the way the Statutes text was constructed as extraordinary, taking into consideration how clearly was written about: the role of ethnicity, the tendency towards freedom, lawfulness for having a statute, making myths out of bravery and force.(Shabani 2005) “The development of the Shkodra Statutes created a different conceptual idea about Arbëria, especially for what is called the urban culture of Arbëria in the Middle Ages. In this sense, “Shkodra Statutes” are another monument that shows what medieval Albania was like in the constitutional aspect. This work is of great value as a written juridical act important not just for

Arbëria but also for the whole of the Balkans. The Croatian scholar, Milan pl. Šufflay, has expressed for the first time his scientific interest on the original script of the statutes of Albanian cities, whose is found in the archives of Zagreb and Dubrovnik. Their publication in Albanian a few years ago can be praised as the only attempt until now to promote the tradition of civic European right also present in the Albanian world.(Shabani 2005) In fact, the aim of this paper, is not to throw light on these true invaluable historical monuments for the history of our people, but rather, to make a presentation of woman's position, her role in the family and society, facts that come to life in these medieval acts, of course, by following a chronological typology of coverage, initially in statutes and later in Albanian canons. In order to track the evolution of woman's position, it is of interest to follow the earliest steps of social and historical development.

Enough evidence has been gathered from the Illyrian antiquity that speaks about woman's relative equality. The presence of this equality for the citizens of that time was natural; it was firstly necessary that equality of woman and man prevailed in the mentality of individuals, in their social culture, political climate and in the social opinion of the time. We can mention here Illyrian parties and feasts, where women's presence was natural, who sat together with men. Also, the emergence of Teuta on the scene, the queen of the Illyrian state of the Ardians, proves that women, not only were they esteemed at that time, but could practically achieve to lead even the state. Many Greek and Roman authors have pointed out in their writings that among the Illyrians the woman had a more privileged position as opposed the others. As indicators of this position, these authors mention the fact that in the Illyrian state, since the second century BC a woman called Teuta had the position of a queen. Likewise, many facts and pieces of evidence gathered tell of freedom and social rights that women enjoyed in the modern state of Epirus, under the kingdom of Pyrrhus. In Epirus's constitution, which became an object of study of Aristotle as well, there are sufficient laws on divorce and the rights of the children of divorced parents, which show that in the advanced democracy of Epirus, the woman had certain rights even regulated by law. Of course, speaking about the freedom and rights of the woman in Illyrian states, we must realise that they are entirely relative, because at issue is only that part of the population that was considered free, that is, not including those kept in slavery. In Epirus the woman has the right to property and of being president, which means that she was the ruler of the family (Karaiskaj 2010). Whereas when Romans came to Illyria, they found the position of a woman was higher than among them, therefore not subdued by the man (Mirdita 2006). This is noticed especially in Apollonia where "from her presentation in the vase or landscape paintings, as well as from the texts of subscriptions, we can understand that the woman in Apollonia was respected more than in ancient Greece, where it had become a slave of the husband"(Ceka 1982). So, at the time when Illyrian society had undergone great changes in class differentiation, traces of matriarchate system had been preserved. In this way the woman's position was relatively valued. With the occupation of Illyria by the Romans, changes that were reflected also in social position of the woman started to be noticed, so, long dark nights started for her now. With the transition of the society from slaveholder to feudal order, the position of the woman does not improve at all; on the contrary, it deteriorates further. In fact, for a long historical period, from the II to XI century AD, there is a gap of facts and documented evidence *that our distinguished linguist, Eqrem Çabej, called "a dark historical mark."*(Çabej 1994). Naturally, there must have been evidence and facts since life went on normally, but they have probably been taken away by the cruel Roman occupiers, the Slav barbarism, by Byzantium that was not interested in the pagan spirit of the post-Pelasgian people, and especially by the barbaric Turkish occupation. It has been accepted by historians and researchers that the overthrow of maternal right has in fact been the great world historical defeat for the female sex. The husband grabbed the reigns of ruling even at home and the woman lost its respected position, turning into a servant, a mere work tool(Gjipali, Ruc,2006). It is exactly the relation between woman and man that also determines the half-state situation of the community. A woman with such a social position, according to the above author, shows that the loose community had not yet become a state. With the penetration of feudal relations to mountainous regions, the position of highlanders' heads became inheritable again. The woman again lost her right over the family property. Therefore, the evolution of woman's

position in society is as much a historical phenomenon as it is a class phenomenon, brought in by the occupiers and adopted by the rich classes of the country. In the regions where norms of Albanian customary right were active, the basic cell of the tribal society was the patriarchal family. Among Illyrian-Albanians the patriarchal family existed for centuries, from the bronze era when for the first time the monogamous family was established up to the XX century, after WWII. Longevity of the patriarchal family among the Albanians is explained with the place that agriculture and livestock had in their economy and with the special historical conditions. According to information, the form of the Illyrian family must have been that of couples, which was in full accordance with the social organisation, as it is its product both in form and contents. But, a family with couples means the woman ruled over the family. In this aspect, the Albanian family clearly differed from the agnate Roman family. It was more similar to the cognate Roman family, but without adoption. The patriarchal family, organised according to the Albanian customary right was characterised by a common economy where members of the family had no special income. In such historical and social conditions the woman enjoyed certain rights that were attributed to the role she had in the family.

Comparative Overview

Let us go back to the statutes, mainly to those of Shkodra, as they are the only ones which are complete in form and contents. This document is unique and outlines the whole corpus of the statutes of the city of Shkodra in the first decade of XIV century. They have been compiled according to western models of the cities of Italy of that time and no doubt their influence is understandable, although Albania at that time was occupied by Tsar Stefan Dusan of Rashka. After tsar's death (1355) Shkodra passed under the rule of Balshaj, who extended their rule up to Vlora and Berat. Shkodra city family comes through these statutes as a family that has gone through the process of evolution from the large patriarchal family towards special families according to wedlock, a process that still seems far away through the parallel Canon right. The position of woman and the so called vendetta, which has nothing to do with physical revenge, blood feud, were dealt with by articles of the statute. The two matters exactly, as the revenge and protection of honour, had a main place in the Albanian customary right. Woman's position is placed, within the Shkodra city reality in the centre of attention. A woman is free to make a will and keep for herself part of the dowry, to donate to people with whom she felt connected with "anima" (her soul), for her spiritual salvation. A woman, in the absence of the husband, can be summoned to court, for matters belonging to her and respond through the lawyer that she had appointed in advance.

Just as to the faithless woman is prohibited to keep an "umbrano", a typical head cover that is used for Shkodra women, and if she is caught doing magic or is involved in mediating in dirty affairs, she should be punished with lashes and be expelled forever from the community. While "in a murder case, the person responsible had to pay half of the monetary punishment to the king and the other half to the next of kin"(Zeqo,2003).

Although husband's position in the family was more favourable than the woman's, it is noticed that her rights were quite wide compared to the rights she had in the Roman state where the patriarchal family dominated and the rule of 'paterfamilias' over the other members of the family, compared also to quite limited social position regulated according to the Albanian customary right in Canons. This was due to the economic development of bigger Albanian cities of that time where trade would be carried out, which made possible the connection with other European countries of that time as well as cultural exchanges. In the succession of property 'mortis cause' (for the reason of death) the right of the woman is distinguished to inherit and to be freely an heir by the will. Like in the Roman law, in the Shkodra Statutes also inheritance was recognised by law (statute) and by a will. Inheritance by law was applied in a case when a lay person, or a female had not left a will as well as when the will was not valid. The girl and the female in general had the right to issue a will when she reached the age of 12. Every person could be an heir regardless of sex and age, related or not related to the

person making the will. When the girl ended up as a prostitute, even when the parent had died, her brother had the power to exclude their sister from the heritage. If the prostitute had no living father, mother or brethren, but only one sister that was decent, the latter was entitled to take the part of the alleged sister” (Bica, 2007). No husband was allowed to take something from the dowry of the wife to pay for a blood feud. The commune had to protect the woman, while the husband carrying out such a shameful act would pay for it from his own pocket. If he is unable to do this, the woman has the right to exercise her authority over it (StatutiiShkodres, 2002). This provision deals with the payment of tax (reward) of blood, that is, blood revenge, is placed under the influence of the traditional custom of the blood reward received by the highlanders and sanctioned also with Albanian customary law (canons) later. No mention is made of the tax amount (‘urazba’) in the provision, but this seems to have been left to the tradition of highlanders.

It is also noticed that ‘urazba’ or the blood tax cannot be taken by the husband from the wife’s dowry, placing under special protection property rights of the wife-woman. One cannot help thinking about the “The Canon of the Mountains” while reading civic statutes of Shkodra. The difference is quite essential, just like comparing the forest to the field. So, unlike the canon where blood feud and revenge take the main place, so much so that they are often identified with these offences, in the Shkodra Statute one single article deals with blood feud (StatutiiShkodres, 2002) titled “On payment of ‘urazba’ or blood revenge” – *No husband is allowed to take something from the dowry of his wife to pay for a blood feud or ‘urazba’. The commune must come to the protection of the woman whereas the husband that commits such a shameful act must pay from his own pocket*”, which is called “pazia” – “marri” (shame), to remind that the husband in no way can take the money for paying the blood from the wife’s dowry. While in article 224, again the payment of ‘urazba’ (blood tax) is mentioned ... If one does not pay, the matter is referred to the king for judgement. Also in article 246 “On wounding by sword or rod ... If the crime is proved, to compel to pay half the ‘urazba’, half of it to the Count and the Commune and the other half to the wounded person. In the dictionary that accompanies this publication, the word ‘urazba’ is translated as the price of revenge. In general, the Shkodra woman in this statute has a position that even her descendants of the 20th century would have envied. In fact this is a sign of an emancipation or culture that this place reflects with the influence of other western cultures as well. According to the statute, family wealth is an equal property, between husband and wife. (*“Everything that husband and wife earn together is considered equal, that is, half of it belongs to the husband and the other half to the wife”* – Chapter 166). The woman is entitled to divide her part from her mother and father in law, the woman has the right to make a will (*“The girl and the female in general has the right to make a will starting from the age of 12”* – Chapter 186”). If we remember for comparison some article of LekëDukagjini Canon: “The woman is a skin-bag for bearing as long as she is in husband’s home” (article 29, according to Sh. Gjeçovi) or “If the husband beat the wife, he is not guilty according tot the canon, and neither the parents can seek justice for the beating” (article 28); “The wife that is sent away, leaving husband’s house, has no right to take with her anything apart from clothes she is wearing” (article 31) etc. As can easily be noticed, there are substantial differences between these two acts just for woman’s position. But, further also, when dealing with blood feud, the fact that only one single article deals with this and not expressed in the Albanian language makes us think of more than one simple difference between them. Albanian studies to date are mainly based on the canon, especially on the “LekëDukagjini’s Canon”, “Scanderbeg’s Canon”, on “Puka Canons” or of Mirdita, Labëria, etc., and in other forms of occurrence of oral ethno-customary tradition. This is valuable because canons represent in fact an invaluable cultural value, but this cannot replace, or worse yet, underestimate the truths or the values of Albanian statutes, if only for the fact that everything good or bad is evidenced by comparing them. And in this plan we can highlight two advantages of the Statutes of Albanian medieval cities. First of all, the Statutes are two or three centuries older than canons; and canons, after all, are an expression of agrarian law and therefore they often come with terms such as the Canon of the Mountains. Canons belong to village formations of hinterland, which for its own protection and as a reaction towards Ottoman law, created an independent mechanism. No doubt, this is

valuable, but it should not be overestimated. On the other side, Statutes are an expression of civic culture, they belong to the urban law, but above all they are essential acts of the tradition of lay writings in Albania and for this reason much more attention should be paid to them by Albanian sciences. Many monographic studies have been published, but ethno-customary and civic law of the Albanian medieval world was not given due attention. For this reason I must state (although in this case I would wish to be wrong), that we have run around too much to evidence what can be called from time to time dark ancient times, such as the canon and especially blood revenge and perhaps we have elevated it to a myth exactly for this value, whereas, where the science of history had an opportunity to highlight the ancient past, undisputable Albanian values, the civil degree of civilisation, they lost their voice and hid behind foreign cultures by attributing every value to this influence, which in truth is not denied but was, in any case, mutual.

Meanwhile, in mountainous areas, family marital relations were mainly dealt with according to norms of customary law. The Canon was not a written juridical code that someone donated to the highlanders to organise their self-rule. It was a set of unwritten rules, laws and norms, inherited generation after generation and transmitted from region to region. This was an attribute of the Albanian highlanders themselves, who persistently and intelligently sought and found suitable forms of social regulation, of unifying and organising the entire population for wars of self-defence. It was the common sense of the highlanders, their creative and organisational ability that avoided anarchy and made possible for order in self-ruling organisation to triumph, exactly in those regions where the Turkish pashas had failed to establish their administration (Elezi, 1996). The treatment of the family in the Canon clearly determines the position of this basic cell of the society, within itself, as well as in relation to brotherhood, sex, tribe, or with other bodies of local governing. After the liberation from the Slav rule, (earlier the Bulgarian and then the Serb conqueror Stefan Dusan), the greed of the Turkish Empire appeared menacing. Faced with the threat of extermination, Albanian society felt the need to concentrate all its economic and material, physical and spiritual, moral and psychological forces. In this way, the entire system of social relations is codified anew. The society is organised, under the created conditions, in a harsh self-rule system, where habits and customs of the entire population are reformulated. This is how they came to being, one after the other, the Canon of LekëDukagjini, the most famous one, the Canon of Scanderbeg and the Canon of Labëria. From the historical point of view, the positive values they had were in developing and promoting national awareness, in the collective judgement and collective responsibility towards different social or individual acts, in teaching and promoting those special Albanian virtues such as *besa*, hospitality or generosity. It was the canons exactly that made possible the survival while confronting foreign historical storms and influences. Canons were born exactly under this social and historical stratum and they could not have been different. Rural patriarchal families cultivated the ideal of a subdued and passive woman, obeying the father. Man's superiority was essential for this tradition. What makes this tradition different from other countries is the fact that in the Albanian community, traditional relations went on maybe to a level higher than in any other ethnic group in the Balkans. Even within the canon law that was active in Albania, there are differences between local variants. For example, two main Albanian canons had an essential difference regarding the status of marriage. The Canon of LekëDukagjini, in determining the manner of marriage, states: "The woman held without a marital crown (is) against the religion and Leka's Canon", in the same way, marriage with a kidnapped woman or girl was not allowed, since this was something "extraordinary regarding religion and the canon", also "marriage with proof was against religion and the canon" (Article, Canon of Lek Dukagjini, 1933). It was different in the Code of Scanderbeg which states that "a Mohamedan man under the first marital crown can have one or more other women, either when he lets go or when he keeps the other one that he has with or without marital crown" (Article 169, Canon of Lek Dukagjini). One of the most questionable and most disputable chapters in the Canon is that of the articles that have to do with the female. The Canon conceives the woman as a weak being; therefore, it sees her as inferior and assigns her a secondary role in relation to the man. But it cannot be said that the Canon demeans the woman, in many cases the Canon even takes the woman under protection,

especially the widow. Revenge under no circumstances touches the woman as well as children. “If two individuals were shooting at each other, and if it happened that a woman would get between the two, they were obliged to lower the rifles with muzzles down and the killing would stop”(Dedaj, 2010). Also, according to the Canon, it is a shameful act to cause damage to a woman or to insult her. “Whoever kills a woman is due two bloods”. Regarding the killing of a pregnant woman, the Canon of LekëDukagjini provides that he who killed a pregnant woman even out of carelessness was obliged to pay the price for the woman and the child; when the child was a male the price was double. In this provision too, there is a dual different approach between woman and man and this is quite evident exactly regarding the price for the child of the pregnant woman, which is double if the baby was a male. The same punitive measure had the Canon of Scanderbeg (&2991 – whoever kills by accident a pregnant woman, apart from the blood of the woman, has the blood of pregnancy, a man’s blood if it is a boy, and a woman’s blood if it was a girl). On the other side, the Canon is against marriages without a marital crown or the kidnapping of girls etc., ensuring protection of life and dignity for the woman, who could not easily recover(Marku, 2006). The Canon explains clearly how far could the rights of the man go, a border that could not pass, otherwise that man would be dishonoured. The man, according to the Canon, can kill his wife on two occasions, for adultery and betrayal of hospitality. For these two acts of dishonesty, the husband kills his wife, does not ask for protection and is not in blood feud, as the parents of his killed wife have taken the blood price by giving to bridegroom a bullet on the wedding day guaranteeing her behaviour. The second questionable matter has to do with one of the proverbs about the woman in the Canon of LekëDukagjini: “The woman is skin-bag for bearing” that ShtjefënGjeçovi has put it as a sub-heading for one of the sub-chapters of the Fourth Book titled “Marriage”. Starting from the meaning analysis of the words “skin-bag” and “bearing”, some researchers have interpreted the position of the woman as humiliating, denigrating and only in the function of increasing the tree of the blood. While the researcher ToninÇobani in one of his essays would explain differently the figurative meaning of the proverb, coming out of LekëDukagjini’s mouth, “The woman is a skin-bag for bearing”. In this case, according to the author “prudence” (urtësia) is so universal, and expressed in such a figurative way, in this expression, that every modern poet would envy it. According to the author, this proverb hardened in the canon norms has a positive connotation and shows the real value the woman had in society. The universality of the proverbs on women in Book III “Marriage” is followed in other models. The institution of engagement according to CLD (the canon of LekëDukagjini) is the pre-contract of marriage. Girls would get engaged even while they were still in a cradle, soon after birth. When they were ten, they would usually have to stay inside the house compound. Even when they were obliged to go out, they were not allowed to communicate with any male, not even their fiancé. This would be considered a shame. In fact engagement was an alliance contract between fathers or cousins of the girl’s and the boy’s relatives for the upcoming marriage between these two youngsters. This attitude has to do with the role and power of the head of the house, who directed the life of all family members. Men had power over women in the family; an expression of collective power of men was the power over all the members of the house of “the lord of the house”, a figure similar to paterfamilias in Roman family. The customary law operated in a society with strong tribal connections with a simple structure where the basic cell was the family, the expansion and splitting of the family created the brotherhood and several brotherhoods together created the tribe(Bica, 2007). Within this family tribal unity and solidarity, the engaged girl had no right to break the engagement. If the girl refused to marry her fiancé, and “if the bridegroom got another woman, the girl engaged to him still remained engaged”(Gjecov, 1933). Despite prohibitions made to the girl and her family, the boy had the right to break the engagement. “Whenever he so wishes, he is free to let go the engaged girl, but the sign and any money he has given for the girl are lost”(Gjecov, 1933).The bridegroom’s side would give a reward for the engagement and the birth of the institution of buying women belongs to the first phase of the development of patriarchy. Later too, with the replacement of matriarchy with patriarchy and with the birth of patriarchal family, marriage by buying took an even greater development. Therefore, marriage by buying is a characteristic of patriarchal relations and is connected to the big patriarchal family, regardless that its birth belonged to matriarchy period. With the disintegration of large patriarchal

family and with the birth of the small family, the buying of the woman also disappeared. With the birth of small families, the woman lost all the inherited rights from before, and when the economic importance of the man increased (that took the main branches of production activity), the work of the woman at home kept increasing. This determined her social fate, which was complemented also by marriage by buying. While the dowry, as an institution, was born in the period of the disintegration of the patriarchal family, splitting into small families. “The bullet in the dowry” was always present in a woman’s dowry, exactly to remind her honour had to be kept intact at any price. Were she to do something immoral, her husband had the right to kill her with the bullet of her dowry. There was no “bullet” for the husband forcing him to preserve the honour. The Canon, therefore, even in this case has double standards, one for the woman, another one for the man. The moral right, if we can call it like this, penalises the woman at every step but not the other sex. The Canon also determines clearly the conversion of blood, into money or goods, and here too women are penalised, where the blood of a woman is worth half of the blood of a man, but the Canon releases women and children from confinement, therefore, this vulnerable category of human society is strictly protected by the real Canon of LekëDukagjini. According to the Albanian customary law, the right to break the marriage almost exclusively belonged to the man. According to the Canon of Luma, the husband’s father could also exercise this right (the father in law), but he would be obliged to find his son another woman (“The father too may release the wife, but he is indebted to get you another woman” – article 823, Canon of Luma). The right of the husband to break the marriage is sanctioned by all Albanian canons in variants that differed little between them: “The husband keeps you, the husband lets you go” (Canon of Luma), “The wife has no right to leave the husband, because she has no right to judge over him, her or her family” (Canon of Puka). Only the Canon of Luma that was known as more tolerant and more realistic canon, recognised a limited right to the wife to ask for the breaking of marriage. Stealing was seen as a hard dishonouring act, especially for women, which would touch heavily the personal and family honour and dignity, therefore, it was seen as sufficient reason and entirely legal for sending the wife away. The most meaningful indicator of a woman’s honour was virginity. Women that did not fulfil this requirement would be sent back to her father’s house the next day and marriage would be broken: “She was not brought in a proper way”. Women almost had no right for breaking the marriage, neither their families. Cases when a woman would be allowed to break the marriage were when the husband left the marital home. In this case the wife and the children had the right to remain at husband’s home “respected” but also the one without children had the right to remain at home or go to the house of her “blood tree” (her father’s house). Another reason was the inability of the husband for sexual relations. With Christian marriages, the husband could send the wife to her father’s house, so the factual marital life would terminate, but the marital crown continued to exist since the canonical law saw marriage as permanent cohabitations, where breaking the marriage is prohibited (the juridical system that prohibits marriage break up). When women left their marriage home, when the marriage was broken, they would separate from their children and had no possibility of meeting or of any contact thereafter. When the woman was pregnant, she would give birth at her father’s house, but as soon as the baby was 40 days old, they would send it to the father’s house. Speaking of canonical rights, or deprivations that it did to women, it never forgotten that the woman had no right to inherit land. If the daughters would inherit land, this would cause moving to the village of other tribes-‘bajrak’ of people from other tribes or other regions, which would lead to the destruction of tribal unity and, consequently, the destruction of the prevailing social organisation. So, in this case, the exclusion of the woman from heritage was done for greater reasons and not to denigrate the woman, nor to leave her without living means (Progni, 2003). The woman would not participate in discussions of important problems that concerned the tribe, the village or the region. These are dealt with and decided upon by men only. Nevertheless, the social status of a woman should be seen in a double prism. On one side, she was disregarded when deciding about her fate was at issue, exactly because she was put under psychological violence and she knew that only by obeying her husband she could survive in the family. But, on the other side, she enjoyed special protection that derived from the ethical code of honour. So, rape and violence towards a woman were unacceptable and punishable. If a man would dare do this, he would not be considered a man and could not live anymore after this

moment; the decision for him is predetermined. The killing of a woman – with or without intention – was considered a big shame. Even the arm with which was killed or wounded a woman, was considered “worthless” unusable at war. Regardless of the marginal position of the woman, nowhere else apart from the Canon, the female was called a lady, landlady (Deda,2010). Naturally, her status differed with age and the relations in the family. One could say that she was the woman with authority in the family that led other women in carrying out house works. Local and foreign researchers have tried to determine woman’s profile in the family and the highlanders’ society, sometimes by glorifying her, at other times denigrating her. Some of them, inclined to hit the canon willingly or unwillingly, have made mistaken interpretations that placed the woman in even more humiliating positions than that of a slave, which does not match the position of the highlander woman in reality. The Canon of LekëDukagjini, like all the canons, is a product of feudal relations. Despite its severity, the Canon has managed to keep the Albanians in conditions of a strict equality towards order, because in its norms this was exactly the aim to be achieved. It can be stated without fear that the strict equality the canon has sanctioned and taken under protection is one of its early values, of course a pre-medieval one. In the Albanian tradition the canon could not be separated from the convention. What one prohibited, the other would allow. Although the canon underestimated the woman and would not allow her to stay in men’s room (oda), the convention has often accepted her, by estimating her wisdom and ability to dispense justice(Sinani, 2003). In public life, the woman had a special role. She was a mediator and protector in case of quarrels, and in those between bajrak-s. A woman’s *besa* could not be violated. Whoever violated it would dishonour himself and his family for ever. The greatest sin was to compete or to fight with a woman. As it was cited above, according to the Canon, women would not be called to a convention, where important problems would be discussed. But in practice, the request of the Canon was often disregarded, especially in more narrow conventions, as those of the tribe, but also the village, where the participation of women,limited, of course, was seen as natural. It is interesting to point out, that despite the same attitude in general towards the woman, in Albanian Canons, other different nuances are distinguished. The Canon of Labëria recognises the woman the right to public protection as well as the right to complain, the obligation of the elders for a fair unbiased judgement in these cases (Elezi, 1994). These constitute a huge social step ahead for the mentality of the time. These nuances of differences are proof unexpectedly for another side of the Albanian reality of the time, the presence of social opinion of democratic progressive tendency in evaluating woman’s role, who, although not affirmed, still is taken into consideration by the lawmakers, which implies that this tendency was powerful. Nevertheless, the norms of customary justice included in the Canon, have not been static at all times, therefore, the woman’s position at different times was different. They have undergone their historical evolution, they have changed and have been complemented with new norms, in accordance with objective requests of economic, social and cultural development. For example, in the Canon of Labëria, among most important changes that we can mention was that of parting with the woman. And for this, IdrizSulli gave his personal example, who told the son in law to separate from his daughter, and that nothing would happen to him (he would not be killed) (Elezi, 1994). Also, heavy punishments were imposed for the crime of adultery. But in no case can the customary law be idealised or deified, as it is a historical product of the times over which it has acted. Popular philosophy is expressed there clearly for self-rule with justice, according to the rules (norms) of the customary law, rooted in one’s mind, which state what is right and what is not, what should be done and what should not be done, how man should behave. And the Albanian people could never find this justice in the laws of foreign occupying states, but they created the customary law and lived with it, their own unwritten laws, inherited from generation to generation from their ancestors, for the self-defence of the community and the self-rule in local units. This is the essence of Albanian canons and the significant historical importance for the very fate of the Albanian nation. This law philosophy, as E. Durham stated, stands even “aboveGod’s ten commandments”(Elezi, 1994).

Conclusions

Everything presented above is but part of a whole treasure, which needs to be explored, studied and reevaluated. The position of the woman in this society dominated by the male gender should not be judged by comparing it with the current conditions of our society, which claims to have reached the equality between man and woman, by moving it outside historical and social context. The outline of the position of the woman in these medieval acts for some may seem contradictory, on one side, a society under the order of, and prevailed by the man, and on the other side, such a significant evaluation and respect towards the woman. The basis of this is probably in the ethic code of honour, in the way this society conceived the notion of honour over which it built its whole way of living. Nevertheless, we can conclude by stating that through centuries, the woman was more excluded and disregarded in the society than evaluated. Although in the first phases of historical development, her position was more balanced, later with the occupation that occurred in Albanian lands, foreign influence, adding to this the low economic development created an unfavourable situation for the position of the woman. And, of course, this is a historical undeniable reality. However, although there was humiliation of her figure as opposed to the man, meanwhile there were cases when she appeared more powerful than even the man. The Albanian woman also, being socially the most oppressed, is also socially braver for sacrifices.

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