

LEGAL STATUS OF FAMILY AND MARRIAGE ACCORDING TO THE ALBANIAN CUSTOMARY LAW

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Abstract

The Albanian customary law is mostly known as Kanuni i Lek Dukagjinit, has represented for many centuries the genuine mode of life of Albanian people living in the rural area so called highlanders. It not only regulated the social organization and behaviors between the people in the region of the today northern Albania and most the territories of Kosovo, but also served as the fundamental law ruling the entire life of the individuals, families and communities within these territories. Due to the Kanuni i Lek Dukagjinit, these communities preserved their self organization; consolidate their values and social structures setting up a sui generis political organization. Family, as concept has been developed as focal element of the legal, social and political system of the self organization and self determination according to the customary law in Albania. This paper focuses on the legal status of the family and marriage according the customary law in Albania. It highlights the place of the family and the marriage in the customary law, as well as explains the role of the family as political structure within the system as whole. It represents a legal analysis of the legal institutes as family unit, head of the family, marriage, property rights and heritage within the family and the marriage, the asymmetric duties and the rights between the man and woman. Answering the questions: is the customary law gender discriminating? And if so, what is the reasoning? It has been found that the family prevails over individuals and the women excluded from political rights, as well as they are granted a special status and rights. The main reason for such discrimination shall be the nature of the Kanun, and its political organization based on the klan/ fis as its main political structure and condition for its existence.

Keywords: *customary law, Kanun, Lek Dukagjin, albanian history, family law.*