THE UNWRITTEN LAW IN ALBANIA

A Record of the Customary Law of the Albanian Tribes, A Description of Family and Village Life in the Albanian Mountains, and an Account of the Waging of Blood-Feuds'

THE UNWRITTEN LAW IN ALBANIA

BY THE LATE
MARGARET HASLUCK

EDITED BY
J. H. HUTTON

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PREFACE

Margaret Hasluck was the daughter of a Scottish farmer, John Hardie. She was born in 1885 and spent her early years in Morayshire. From Elgin Academy she went to Aberdeen University, where she graduated in 1907 with first class Honours in Classics. Continuing her classical studies in Cambridge, she took a first class in both parts of the Tripos. She then went to the British School at Athens where her future husband, Mr F. W. Hasluck, was Assistant Director. They were married in 1912 and continued to work in Athens till the condition of Mr Hasluck's health compelled them to go to Switzerland in 1916. Mr Hasluck died in 1920, and his wife returned to England to prepare his book on *The Monasteries of Mount Athos*. When this work was completed, Mrs Hasluck, who had become greatly interested in the folklore of the Balkan countries, decided to devote herself to the study of this subject, and, with the help of a Wilson Travelling Fellowship, she returned to the Middle East. After extensive wanderings, she decided to settle in Albania. She remained in that country for thirteen years, building herself a house at Elbasan, and travelling constantly, especially in the mountainous region of the north where she lived with the people and got to know them intimately.

With the threat of the Italian invasion of Albania in 1939, she left that country for Athens, where she worked for some time in the British Embassy. When that city was being heavily bombed she was taken to Alexandria and thence to Cairo. In Cairo she was given the task of briefing the men who were to be infiltrated into Albania by air and sea, in the manners and ways of life of the Albanian people. She was, of course, well qualified for this work by her long and intimate knowledge of the country and of the language. Unfortunately, she became seriously ill in Cairo, and was found to be suffering from leucaemia. In the hope of some improvement she went to live in Cyprus, but, driven to realize that she had not long to live, she came back to England determined to finish the book which she had been planning for many years and for which she had collected a mass of material. After some indecision as to a suitable place to live she went to Dublin, and during the short time left to her she worked there with great courage and

persistence on her book. She died in 1948 with her task far from completed.

Mrs Hasluck appointed the writer of this preface as her literary executor, not because of any knowledge of Albania or of folklore, but as an old friend who would do everything possible to get the book ready for publication. Had she completed it herself or entrusted it to some authority on her subject, the book would undoubtedly have been free of some of its faults. When the material came into my hands, only four of the chapters had been completed and much of the remaining material was in a chaotic condition. But Mrs Hasluck had sketched out the plan of the book with the proposed chapter headings, and the preliminary inquiries I made as to her standing as an authority and her knowledge of Albania and its language were very encouraging. Also the Leverhulme Research Fellowships Trust, from which Mrs Hasluck had received grants for her work, undertook to give me a grant towards my personal expenses and to make it possible to employ a sub-editor at a later stage of the work.

I am indebted to a great many people, both English and Albanian, who helped me at the early stages of the work with information and ideas. I cannot mention all of these by name, but I heard from several of the officers who were briefed by Mrs Hasluck for their work in Albania. I discussed with Professor Jopson of St John's College, Cambridge, Mrs Hasluck's knowledge of the Albanian language, and was assured by him that it was good and that her *Albanian-English Reader*, published in 1932, was a reliable and useful book. But at the early stages of my task I owed a very special debt of gratitude to Lord Haden Guest, who was then Secretary of the Leverhulme Research Fellowships, and to Miss Branney, the present secretary. Without their interest and encouragement I do not think I could have found the necessary confidence to persevere in what has proved to be a difficult and prolonged task.

One source of great difficulty was the spelling of geographical names, and it was natural to turn to the Royal Geographical Society for help. I am glad to have the opportunity of expressing my very sincere gratitude to Mr Aurousseau, Secretary of the Permanent Committee on Geographical Names, who gave much time and thought to this matter and whose advice was invaluable.

Brigadier Davies, who was head of the Military Mission with the partisans in Albania, and who had been briefed by Mrs Hasluck, read a great part of her book in manuscript, and was much interested in the chapters about the domestic life of the people in the mountains whom he had got to know well. He was busy at the time with his own book, *Illyrian Venture*, which, alas, did not appear until after his death.

My expressions of gratitude would be incomplete without a very warm tribute to the invaluable assistance given to me by my sub-editor, Miss Margot Holloway, M.B.E. She worked with me constantly for many months, and not only did she type the manuscript, prepare an index, and read the proofs, but I owe more than I can say to her constructive criticism and suggestions.

Finally, I must express my appreciation of Professor Hutton's help at the final stages of the work. It was a great relief to me to have the manuscript read by an anthropologist with his specialized knowledge, and Professor Hutton has also been good enough to read the proofs.

J. E. ALDERSON

June 1953

INTRODUCTION

There is a singular absence of ethnographical material in English which deals with either the Balkan tribes in general or the Albanians in particular. In fact, apart from handbooks compiled during the Hitler war and still inaccessible to the general public, almost all that the student of Albanian life and custom can consult is the work, admirable indeed but of a single author, the late Miss Durham—*High Albania* (1909), and *Some Tribal Origins, Laws, and Customs of the Balkans* (1928), and two other works more nearly concerned with politics. In languages other than English there are the valuable *Albanesische Studien* of J. G. von Hahn (Jena, 1854), the same author's *Griechische und albanesische Märchen* published in Leipzig ten years later, the *Contes Albanais* of Auguste Dozon (Paris, 1881), and possibly passages in Strabo and other ancient authors with regard to the Illyrians from whom the Albanians in the main derive. More recently the Reale Accademia d'Italia has published an Italian version of Gjeçov's *Code of Lek Dukagjini* (Rome, 1941) and a number of other studies on Albania have been published in Italian as a result of the Italian interest in and occupation of that country under Mussolini's régime.

This volume of Mrs Hasluck's therefore constitutes a very important contribution to ethnography in English. Principally, it is true, it is concerned with the customary law of the Albanian highlands. But, as a means of understanding the fundamental logical basis of that code and how it works in practice, the author has been under the necessity of explaining the manner of Albanian life in considerable detail, and of illustrating it from time to time by the details of specific cases which illustrate the working of the unwritten law. We are thus given a great deal of information as to the composition of the Albanian family, and its mode of life, the general set up of the village and tribal life, and the nature and working of tribal assemblies. We are shown the methods of dealing with crimes against property or person, the conventions that govern, for instance, trespass, travel, and the feeding of flocks, or the guarding of houses by watch-dogs. We have detailed accounts of the administration of oaths, and of the imposition of

penalties; and finally the conventions which govern the blood-feud. For the blood-feud has occupied from time immemorial, and no doubt still occupies, a very important place in Albanian life, providing the ultimate sanction in all cases in which personal honour is concerned, and on points of personal honour the Albanian is particularly sensitive; and the blood-feud is regulated by a number of very well understood even if unwritten rules and principles.

It is interesting to compare Albanian customary law with that of other headhunters, for the Albanians (see p. 230 below and Miss Durham, *Tribal Origins, etc.*, pp. 172 ff.) till recently at any rate were headhunters. The belief underlying headhunting generally is that life is a material substance residing *par excellence* in the head, and that the abstraction of an enemy's head enables the life-substance in it to be carried off to the head-taker's home to replenish the stock there and increase the fertility of its inhabitants, its crops, and its livestock. Incidentally a surplus of life-substance is necessary to beget children, and hence comes the importance of head-taking as a preliminary to marriage. The tuft left on the head by Albanians (p. 230), as by many Indian tribes and castes, by Chinese, American Indians and others, was probably left originally to shelter life-substance regarded as residing, as in the case of Samson, in the hair. Some Naga tribesmen of Assam give the same account of the purpose of this uncut tuft as do Mrs Hasluck's Albanians, that it is kept to carry away the head by. But this explanation has no doubt arisen from the fact that it is so used in practice. Among the Assam headhunters the vendetta is a communal or a village affair rather than a family one, and there is no taboo on taking the heads of women in pursuance of it, but quite the contrary. In this respect the Albanian practice is more suggestive of that of the Pathans of the North-West Frontier of India. Otherwise the unwritten law of Albania has much similarity with that of south-east Asia and Oceania. The communal destruction of an offender's house at which all members of the community must assist, for instance, is widely distributed from Assam to New Zealand; the banishment of a murderer for life or for a term of years according to the circumstances of the homicide, the association of compurgators with an accused person in the taking of an oath, the assessment of blood-money, are used in the Assam hills much as in the Albanian mountains, and probably in many other primitive areas also. But Albanian customary law is of particular

interest in that we now have it reported in detail when at a stage half way from the purely customary stage to that of enactment and a written law.

Sir Henry Maine in his *Ancient Law* traces the development of jurisprudence from a stage at which 'it is certain that...no sort of legislature, nor even a distinct author of law, is contemplated or conceived of. Law has scarcely reached the footing of custom; it is rather a habit.... The only authoritative statement of right and wrong is a judicial sentence after the facts, not one presupposing a law which has been violated.' This is the stage of culture reflected in the Homeric poems, or seen in Iceland as described in the sagas, in which is found no sovereign ruler, nor any legislative command, nor any definite sanction, but justice is effected by the pronouncements—*θέμιστες*, or 'dooms'—of individual chieftains. Maine regarded this stage of law as changing with a decline in the kingly office to one in which an aristocracy, or at least an oligarchy, whether secular or religious, became the repository of all juridical knowledge. The 'accurate preservation of the customs of the race or tribe...was...insured by confiding them to the recollection of a limited portion of the community'. Except for such customary law, entrusted thus to a privileged order, 'there is' said Maine 'no such thing as unwritten law in the world'. English case law, of course, is as much written law as codified and enacted law, though the method of writing it down is different. Customary law may of course continue to exist as a body of unwritten law alongside a body of divergent enacted law, a condition familiar enough in India under British rule. Maine goes on to point out that 'when primitive law has once been embodied in a code, there is an end to what may be called its spontaneous development'. A new era begins with the codes, in which modifications are to be attributed to a conscious desire for alteration.

It is unnecessary here to discuss the precise extent to which Maine's theory of the nature and origin of primitive law can still be regarded as valid. At best it is incomplete for he takes little or no account of taboo on which early codes such as those of Hammurabi or of Moses were based, and the taboos which preceded early codes of law seem to have been in the main rather social or communal in origin than arising from the individual pronouncements of chieftains or deemsters. Maine however was no doubt right enough in pointing out that when primitive law has been

embodied in a code there is an end to its spontaneous development. But to reach this stage the code must be an enacted code, written and recorded, and this the pronouncements of the Albanian law-givers failed to achieve. On the contrary their codes seem to have remained in the verbal custody of the village or tribal elders and subject to modification or reinterpretation from time to time by assemblies of clans or villages. It is at this stage that we have Mrs Hasluck's account of Albanian customary law—law primitive enough in many ways to be compared with the customary law of tribes much less civilized than the Albanians; but it reached the point, and that some five hundred years ago, of becoming codified verbally by the efforts of individual law-givers, Skanderbeg in particular and the famous Lek Dukagjini, without having reached the stage of enactment. This was principally due to the fact that there was no one able to enforce sanctions over the Albanian community as a whole; individual Albanian chieftains had not the power, and Turkish rule interfered but little outside the towns.

It was no doubt this absence of any such sanctions as those provided by an enacted law and enforced by a settled government, or merely even by the continuity in administration of a single ruling family, which was the primary cause of the firm establishment of the vendetta as the real sanction for all Albanian law and custom. At the same time, however, economic conditions have probably contributed to this result, for in a richer country the administration of justice might have been made profitable to any ruler strong enough to provide it. Thus Albanian customary law not only reflects an economic stage through which most nations have passed before the establishment of enacted codes, but also a condition, by no means unique but very far from universal, in which poor and isolated communities have resorted to the vendetta for the sanction of their law, and that in spite of any influence that Christianity or Islam might have had to prevent it. The etiquette of the vendetta itself is likewise a customary code not dissimilar to taboo in nature and origins; and without any more definite sanction, or naturally any sort of legislative enactment, regular and almost technical forms of procedure have come into existence in what virtually are regularly constituted courts. In this the Icelandic practices, as described in the sagas of Njal and Kormak, for instance, afford a near parallel to those of Albania, and Mrs Hasluck's account of Albanian custom will prove of importance not

merely to ethnologists and social anthropologists but also to those concerned with the early history of jurisprudence.

Apart from that the contents of this volume are likely to be of no little interest to the general reader as giving an account of the unfamiliar way of life of a people of very distinct and individual culture, who have throughout history taken pride and pleasure in their separateness. For the Albanians, direct descendants of the ancient Illyrians, still retain something of their ancient form of Aryan speech very distinct from that of other branches of the family; they still retain an ancient tribal system; and they still have that passionate love of independence which caused many of them to forsake their native mountains and form settlements in Greece, Calabria, and Sicily when their country was occupied by the Turks after the death of their leader Skanderbeg (George Castriota) in 1467. As a result of the Turkish conquest several of the Albanian tribes changed from Christianity to Islam, and there are now many Muslim Albanians as well as both Greek Orthodox and Roman Catholic Christians. The Mirdite, who constitute the biggest tribe, were perhaps at one time Orthodox, and are now staunch Catholics. But their profession of faith seems to have affected but little the adherence of the Albanians to their ancient customs.

J. H. HUTTON

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