



The democracy in the Albanian Canonical law and in the Ancient Greece

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Abstract

This paper treats some common democratic elements between the institutions and rights previewed by the Albanian Canon and those used of Ancient Greeks. Those similarities are seen also by foreign authors and trawlers that visited Albanian of XIX century. This issue is important to point out the links between Albanian political culture and that of Ancient Greece. Those links are evident because of the common origin of the both people in ancient time. Those political traditions are conserved until today by Albanian people like they were in Homeric times and in Ancient Greece. Also the standards of direct democracy in Albanian Canons such as in political status, political representation of people, are not only higher than those of Ancient Greece but are higher than many democratic standards of today. The method of work is based in the analyses of the data given for the institution of Gerousia, Ecclesia, the Albanian Council of Elders and Assembly of People, to point out the similarities and differences between them. Data are gathered by ancient authors and Albanian Canons and also by the authors that have written for this issue.

Key Words; Albanian Canon, Gerousia, Ecclesia, Council of Elders, Assembly of People

1. Introduction

There are similarities between some institutions of Ancient Greece and those that are regulated by the Albanian Canon. The democracy applied in Athens was a direct democracy, as it is in the Albanian Canon too. We see that this form of governing was widespread in Albanian from North to South of country in a form that is similar to the Homeric and ancient times. Those similarities drive from the same ancestor in ancient time between Albanians and ancient Greeks. Data from the ancient authors show that the population of Peloponnese and Attica was compounded by Pelasgian and Illyrian tribes the same as the Albanian of today. So, Herodotus wrote that the Athenians, when the Pelasgians ruled what is now Hellas, were Pelasgians and bore the name Kranai.¹ The ancient Athenians were autochthonous, as evidenced by Isocrates in the Panegyrics, where the Athenians said for themselves: For we did not become dwellers in this land by driving others out of it, nor by finding it uninhabited, nor by coming together here a motley horde composed of many races; but we are of a lineage so noble and so pure that throughout our history, we have continued in possession of the very land, which gave us birth, since we are sprung from its very soil and are able to address our city by the very names which we apply to our nearest kin, for we alone of all the Hellenes have the right to call our city at once nurse and fatherland and mother.²

The Peloponnese was populated by Dorian's that were a Pelasgian or Illyrian tribe. Stephanos of Byzantium in his book Ethnos, when was talking for ancient Dorian's, called Hyllis as Illyrian ethnos, by Hyllis of Heracles.³ Hyllis was the son of

¹Herodotus, *The History*, Loeb Classical Library edition, 1920, Libri VIII, paragraph 44

²Isocrates, *Panegyricus with an English Translation in three volumes*, by George Norlin, Ph.D., LL.D. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1980, p. 24-25

³Stephani Byzantii, *Ethnicorum quae svpersvnt. Berolini*, G. Reimeri, 1849, p. 647-648

Heracles and the leader of the Dorian's. The geographer Pseudoskilaks in the Illyroi part established the origin of the main Dorian tribe in southern Albania of today. He wrote that, "And after Libymians are the Illyrian nation, and the Illyrians live along beside the sea as far as Chaonia by Kerkyra, the island of Alkinos. And there is a Hellenic city here, which has the name Herakleia, with a harbour. The barbarians called Lotus-eaters are the following: Hierastammai, Boulinoi (Hyllinoi), coterminous with Boulinoi the Hyllioi. They say Hyllus son of Herakles settled them and they are barbarians.. Boulinoi are an Illyric nation.⁴ So the Bylins and Hyllins were Illyrian and were from Hyllus the son of Heracles that means that Dorians were Hellenic, Illyrians and Pelasgians tribes in the same time. The historian Thucydides wrote that, the country went by the names of the different tribes, in particular of the Pelasgian. It was not till Helen and his sons grew strong in Phthiotis, and were invited as allies into the other cities, that one by one they gradually acquired from the connection the name of Hellenes; though a long time elapsed before that name could fasten itself upon all. The best proof of this is furnished by Homer. Born long after the Trojan War, he nowhere calls all of them by that name, or indeed any of them except the followers of Achilles from Phthiotis, who were the original Hellenes: In his poems they are called Danaans, Argives, and Achaeans. He does not even use the term barbarian, probably because the Hellenes had not yet been marked off from the rest of the world by one distinctive appellation.⁵

The same tribes as in ancient Greece inhabited also the ancient Albania. In Epirus or in South Albanian the population was called in ancient time as Pelasgians. Homer wrote in the Iliad: "O Zeus, Dodonas Pellazgjik, Ζεῦ ἄνα Δωδωναίε Πελασγικέ"⁶ So Zeus himself had his headquarters in the Pelasgian Dodona and where the Pelasgian centre was. Hesiod calls "Dodona and the oak as the seat of the Pelasgians.⁷ The Pelasgians of Epirus have been called by ancient authors as, "divine", dioi. The Pelasgians near Dodona were considered saints. Halicarnassus wrote that, against them, as a holy people, no one would make war.⁸ The Albanians of Epirus are still called Tosca today. In antiquity the Pelasgians were called by this name. Halicarnassus gives us this information about the meaning of the name Tosca, when he explains the name of the Pelasgian Tosca of Italy. He wrote for Etruria that they are called Etruscans, and from their knowledge of the ceremonies concerning divine worship, in which they pass others, they now call them, Tusci, but formerly, by the same accuracy like the Greeks, they call them Thyoscoi,⁹ (thoski- toski). Pliny wrote that, "An ancient Pelasgian tradition was brought to Umbria. They were soon named, according to sacrificial traditions, called Tosca in Greek.¹⁰ Only Albanians today identify themselves as Tosca, no other people, while in Italy there is a country named Toscana after the Tosca, imported by the Pelasgians of Illyricum. So, the Albanians in Epirus, today still use the name and the main epithet of the divine Pelasgians, the name Tosca. This is a very strong proof that they are the descendants of the Pelasgians of Epirus. A part of Albanians even use today the name Thyam or Cham, which is the ancient time was the name of the river in the Pelasgian's Thesprotia.

The other parts of Albanians are called Illyrians and we see from ancient datas that Pelasgian and Illyrian were the same people. George Pachymeres calls Albanians as Illyrians, expressing the conviction that they are from the ancient stock, a fact that is confirmed, from all its history.¹¹ Mazaris in 1415 wrote about the Albanians of the Peloponnese that, "Illyrians are characterized by Albanians or Arvanites.¹² The Byzantine chronicler Michael Kritovoulos described the wars of Memehet II in Illyria. He called the Albanians as Illyrians and Skanderbeg as Alexander the Prince of the Illyrians. The term Illyrian, he used for Albanians and he defines them ethnically as Illyrians in that time. He wrote; "The struggle with the Illyrians" as well as "the conquest by the Sultan in the land of the Illyrians". He called the Peloponnese the land of the

4 Pseudoskylax, *The description of Europe*, Graham Shiple 2002, p. 22

5 Thucydides, *History of the Peloponnesian War*, Translated by Richard Crawley 1903, (2009) (1.3.2)

6 Homer, *The Iliad*. Translated by Murray, A. T. Loeb Classical Library Volumes1. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1924. The song XVI, p. 233–235.

7 Hesiod, *Homeric Hymns, Epic Cycle, Homeric*. Translation of Evelyn-White, H G. Loeb Classical Library Volume 57, London: William Heinemann, 1914.

8 Dionysus of Halicarnassus, *Roman Antiquities*. English translation by Earnest Cary in the Loeb Classical Library, 7 volumes. Harvard University Press, 1937–1950, book 1. 18.

9 Ibid Book I, 30.

10 Pliny, *Plinii Naturalis Historia PLINII (Natural History)*, 1938, libri III, f. 50, *Umbros inde exegere antiquitus Pelasgi, hos Lydi, a quorum rege Tyrheni, mox a sacrificio ritu lingua Graecorum Tusci sunt cognominati.*

11 William Martin Leake, *Researches in Greece*, 1814, p. 245

12 Mazaris, *Mazaris' Journey to Hades: or, Interviews with dead men about certain officials of the imperial court*. Greek text with translation, notes, introduction and index. (Seminar Classics 609). Buffalo NY: Dept. of Classics, State University of New York at Buffalo, 1975"

Illyrians too and the Albanian people as Illyrians.¹³ In XV century major part of Peloponnese and Greece was populated by Albanians and that is not studied seriously by modern authors to give the reason why? If they have emigrated why they are the majority and in the ottoman register are ethnically mentioned the Albanians of Greece but not Greeks or Helens that according to Byzantine historian were destroyed by slaves in VI century but this is another issue that needs to be seen seriously by historians.

2. The political rights in Albanian Canon and in Athens and Sparta.

The status of citizen in Sparta was held only by the Spartans, who constituted the minority of the population, and excluded from political life, the other categories that constituted the absolute majority of the population. According to Aristotle; at one time Sparta was said to have numbered no less than 10,000 citizens.. Although the country is capable of supporting fifteen hundred cavalry and thirty thousand heavy-armed troopers, they numbered not even a thousand.¹⁴ In Athens, the Ecclesia was called the place where the assembly was held, attended by free men over the age of 18, but excluded the population with low-income called Thetis. *So in Sparta the Apella excluded the absolute majority of the population, and the participants were, from 5 to 10% of the population, while in Athens it was attended by 10 to 20 percent of the population, who were classified as citizens during the time of democracy.*¹⁵

The Albanian Canon is much more democratic than the democracy of Athens in that time regarding the participation in Assembly of People because they were attended by all adult males.¹⁶ So the Canon did not exclude any men for status, as they were all equal. In the Canon of the Albanian Mountains, all boys are born as good one, and they are not separated from each other.¹⁷ Matters belonging to a recipient province - or state - were judged by the General Assembly: "*man for home*".¹⁸ That means that every man of 18 years old participated in Assembly and important matters were decided with the vote of at least ever man for home, which means with the vote of every family.

The political rights of the Family in Village and in Flag (district) were¹⁹

- 1) Their voice is heard in the village Assembly.
- 2) The family will participate in the Assembly every time the village is gathered.
- 3) They will participate in the Assembly of the Flag, when was called "*man for home*".
- 4) They will participate in the Army of the Flag.²⁰

So, each family is represented in the Assembly in two forms, man for house and with every male of the family over 18 years old. If we compare the democracy of Athens with that of the assembly of the Albanian mountains we notice that in both cases, it is direct democracy, but in Athens participation is limited. Both Canon and Ancient Athens excluded women from political rights, they were not considered politically as subject.

We see that in Canon is sanctioned a high ethics of communication because the heavy word are not spoken in the Assembly.²¹ Every one that violated the ethic of communication was fined and guns were not tolerated at all in such Assembly.²² So we have extremely strict laws in maintaining the ethics and dignity of the person, and this shows a maximum level of respect for the human being. In the Ecclesia in Athens, meanwhile, contained a law giving preference to speakers over the age of fifty in debates. Ecclesia members would shout at a speaker if they did not want to hear him speak.²³

The representation in the Council of Elders was used by Albanians, ancient Spartans and Athenians. Gerousia, or council of elders²⁴ of Sparta was headed by two kings and should have 30 members.²⁵ Gerousia was a political body that

13 Kritovoulos, *History of Mehmed the Conqueror*, Translation of Charles T. Riggs, Greenwood Press, Westport, Connecticut, 1970, Book III, p. 124-125 and 146

14 Aristotle, *Aristotle in 23 Volumes*, Vol. 21, translated by H. Rackham. Cambridge, MA, Harvard University Press; London, William Heinemann Ltd. 1944, book II, 1270a- 1270b

15 Anthony Haddox, *The Athenian Representative Democracy, An Unintended Evolution*. Undergraduate Journal of Political Science, Vol. 1, No. 1, Spring 2016, f. 125-140. © 2016, Political Science Department, California State Polytechnic University, Pomona, p. 129

16 Kanuni Leke Dukagjinit, *At Shjefen Gjeçovi, Shkoder 1933*, (Canon of Leka) article 1111

17 *Ibid*, article 886

18 *Ibid*, article 1121

19 *Ibid*, article 25

20 *Ibid*, article 26

21 *Ibid*, article 1122

22 *Ibid*, article 1125

23 Anthony Haddox, *The Athenian Representative Democracy, ... cit before*, p. 129

24 Aristotle, *Aristotle in 23 Volumes*, Vol. 2. *cit before*, , book II, 1273a

took an essential part in the routine business of state governance.²⁶ The Canon of Leka regulated the institution of the Elders, called today (Pleqësia) which belonged to the ancient Epirotes and Macedonians too, and was called Pelia, from which they were called Peligonds. According to the Canon, each village has the Elders of the tribe and the Elders of the village.²⁷ The elders in Sparta were elected by the Apella (People's Assembly), attended only by those who enjoyed Spartan status. According to the Canon; "The elders are the Princes of the tribes, whose office is based on the canonical rule.²⁸ Elders are also called the men that had wisdom and who had experience in the courts and among elders.²⁹ So, each tribe is represented regardless of its status, because each tribe participated with its leader, is an equal representation. They are not elected but their representation was obligatory and guaranteed because they represented their own tribe and village. In this way to all people was guaranteed the representation in the highest institution that was that of Elderly.

The Gerusia prepared issues that would come before the People's Assembly, and had a great influence on the political affairs of Sparta. In the Canon, the elders were lawmakers because, without them, no new Canon could be made, nor any court, which would include a brotherhood, a tribe, or even a village, or the Flag.³⁰ So, the Elders approved the canonical legislation, which shows how well studied was every article of the Canon, which required the approval of the most knowledgeable and experienced people of the Elders. Gerousia was the highest criminal court, so was (Pleqësia) the Elders of the Canon, because the elders were the one that had the role of the court.³¹ So we see that the competences of elders were the same both in Albanian law and in Spartan law but the differences were in representation because in Sparta they were chosen by 10 or 20% of Spartans with the right of citizenship, meanwhile in Albanian they represented every tribe and they were elected inside the tribe to represent it but they were not elected by the Assembly. So we see that the representation in Albanian Canon in the Council of Elders is much fairer and just because it represented every tribe and every village, as was represented every family and every male in the Assembly of People.

3. Democracy in the Albanian Canon and the process of voting

The studies on Albanian customary law confirm that this "democratic self-government" operated not only in the Northern Highlands, but also in Central Albania, and especially in Lower Albania, and more specifically in Ionian Seaside, Labëri (Vlora) and Çamëria (Thesprotia).³²

According to the Canon, no important decision could be made without the expression of the whole people, according to the principle "man for home". So the home, the family, is the basic cell of this republic. It is the basic institution, the bearer of sovereignty and the delegation of power. After the family, as the second link of self-government, comes the village and after the village, as the third link, the flag (flag). These communities, or communities of communities, are political collectivities related to the exercise of power, to self-government. In the absence of a superior (state) authority, the men of the mountains, imbued with the spirit of equality, did not recognize to themselves, as having power over others, or power to judge others. They simply established a relationship between them, enough to save public order. Whoever did not abide by this agreement (Canon), would pay a fine, ..whoever refused would be expelled, or even expelled from the community, for life or ready for life..In very severe cases the person is punished by "village" or collectively, by all.³³ Margaret Hezllak, who, lived for years in Albania recognized in essence the ancient and unwritten Albanian law. She wrote; "The self-government of the Albanian highlanders was much more than a genuine democracy in the Anglo-American sense of the word, so strongly abused. In its earliest appearance, it was truly a government of the people, by the people, for the people."³⁴

We notice in Athens that by a secret ballot (ostracism) was written the name of the one who had to be expelled from the country, as it was a danger for the city. From a modern perspective, ostracism may sound like a strange practice

25 K. M. T. Chrimès, Kathleen Mary Tyrer Chrimès Atkinson, *Ancient Sparta: A Re-examination of the Evidence*, Manchester 1949, p. 421

26 James. H. Oliver, *The sacred Gerusia*, American School of classical studies at Athens 1941, f. 8

27 *Ibid*, article 1162

28 *Ibid*, article 992

29 *Ibid*, article, 994

30 *Ibid*, article 993

31 *Ibid*, article 1003

32 Lekë Sokoli, *Lëçitja ose vrasja morale në Kanunin e Lekë*, Scribd 2013, p. 14

33 *Ibid*, p. 14

34 *Ibid* p. 14

and a harsh punishment that violates individual rights. According to Aristotle ostracism was adopted as a precaution against men in powerful positions, to protect the people from potential tyrants.³⁵ Ostracism was a powerful weapon, to eliminate key individuals, at least temporarily.³⁶ While Plutarch considered it to be motivated by envy against prominent citizens.³⁷

Expulsion is provided by all Albanian Canons, such as of the Gegs and Tosks.³⁸ In Albanian it is indeed a legal and often physical death, but it was executed only on the basis of justice, and for strong reasons. It was judged, and after is voted in the General Assembly. According to Canon, the reasons for such a decision were extremely strong and related to justice and not to politics. The Canon did not punish anyone politically, but only on the basis of law. The person that was proposed to be expelled has done a crime as he killed the priest, killed after giving besa or the faith, when he killed inside the tribe, when he killed after the reconciliation of the blood etc.³⁹ He was killed by village, his family was fined, it was burned the house, and was expelled.⁴⁰ In Athens, the property of the deported was confiscated, and in Canon was applied too. The expulsion in Athens was 10 years in the Canon was 5 to 15 years, while for the murder of the priest, it was forever.⁴¹

So, we see that the Albanian law on expulsion is detailed and based on the legal logic of causes and consequences, while the expulsion in Athens was not based on such connections, as it was not judged in this case, when the political decision for deportation was made. The expulsion in Athens was a political measure that was taken without judging the acts of the person, or in many cases the person did not do anything but in Albanian case it was dealt on the basis of law and not linked with politics. People needed facts in the Assembly before they voted for expulsion and facts were brought by the process of judgment.

We see that expulsion was among ancient Pelasgian too. Aeschylus with the Suppliant Women tells us the expulsion was used in case when someone violated the hospitality. Sanctions for breach of hospitality were; deprivation of rights, public expulsion, and the person was brought **before the city and torn to pieces**.⁴² Those harsh sanctions are maintained by the Albanian Canon until today for violation of hospitality. We see that the sanctions of the Canon are harsh and archaic as those in the Pelasgian time. It means that Albanian Canonical law is very old and it has inherited those laws almost unchanged by the ancient times.

4. Conclusions

The Albanian Canons sanctioned a direct democracy that it is similar to that of ancient Greece. In Athens and Sparta people participation in Assembly was limited but in Canon it was not limited because all men were equal despite their social status. All males over 18 years have the right of participation in Assembly of People and in important decisions every man for every home was obliged to take part, so the participation was not only censed but it was mandatory. The Council of Elders was an important institution in Canon and in Ancient Sparta but in Sparta they were elected by Apella the Assembly of People when participated not all people but those with Spartan status that compounded 5 until 10% of population. In Albanian Canon the elders were not elected by Council but by tribes. All tribes were represented and the participation was guaranteed. The political power of the people in Albanian Canon was used in a direct democracy that was more just and fair in participation and decision taking because the right of participation was guaranteed to every male of 18 years old, to every man for house in General Assembly, so to every family. In Council of Elders was guaranteed the representation of every tribe with one elder. So the democracy of Albanian Canon is a direct democracy where the political rights of all males were guaranteed despite their social position. The equality of all men in Canon is a model for the respect of the human rights, a right that is guaranteed for humanity only after Second World War. For the political representation in a direct democracy, Albanian Canonical law is a model that was partially reached even today. We see that in Canon was guaranteed the vote in every institution. In ostracism in Athens people voted to expulse someone they

35 Aristotle, *The Athenian Constitution*, Sir Frederic G. Kenyon, 2013, article 22.1- 4

36 Tridimas, G. *Conflict, democracy and voter choice: a public choice analysis of the Athenian ostracism*. *Public Choice* 169, 137–159 (2016). <https://doi.org/10.1007/s11127-016-0379-7>

37 *Ibid*

38 Lekë Sokoli, *Lëçitja ..cit before*, p. 8

39 Canon of Leka, article 1194

40 *Ibid*, article 1195

41 *Ibid*, article 1196

42 Aeschylus, *Suppliant Women*, Translated in English from Smyth, Herbert Weir, Loeb Classical Library Volumes 145 & 146. Cambridge, MA. Harvard University Press. 1926. [605]

thought that was a danger for the city but not because he did anything, but in Assembly of People they voted only after the person was judged and found guilty for a crime. So the Albanian Canon does not expulse people for politics, but after serious crimes were proven and judged, and then the General Assembly voted for expulsion.

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