

Albanian Law and Nation-Building in Northern Albania and Kosovo

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Abstract

My thesis explores the roles in Albanian nation-building of the *Kanun* of Lekë Dukagjin, an early-twentieth century codification of northern-Albanian customary practices, and the *Pajtimi i Gjaqeve*, a late-twentieth century movement to conciliate blood feuds in Kosovo. To understand them, we need to know: what both were, in their own terms; their significance; and how they relate to other aspects of nation-building, and comparative examples. I draw on participant-observation fieldwork, archive work and extensive interviews.

Nation-building is necessarily complicated and the Albanian case particularly so. The existence of an Albanian nation was contested by neighbouring peoples, and its characteristics, by Albanians themselves. In this complex context, the text of the *Kanun*, and the *Pajtimi i Gjaqeve*, give us good insights into Albanian understandings of the nation, and associated nation-building activities, at pivotal points in national history. While the nation-building projects of the region had many elements in common, prominent ideas of a ‘national’ legal tradition are a distinctive aspect of the Albanian case.

Both the *Kanun* of Lekë Dukagjin and the *Pajtimi i Gjaqeve* need to be understood as aspects of nation-building. In the context of a crumbling Ottoman Empire, by presenting Albanian customary practices in the form of a legal code, the Albanian codifier made claims about the contents and the people from whom they came. The *Kanun* demonstrated the existence of a distinct people with a tradition of self-governance and mediation; and made significant contributions to the crucial

process of language standardisation. In the context of the 1990s break-up of Yugoslavia, ideas of an Albanian legal tradition re-emerged in Kosovo, in the *Pajtimi i Gjaqeve* which presented intra-Albanian disputes as national concerns, and drew on traditional values and customary practices to effect conciliations. Subsequently, the Movement itself has become a national resource, through reference to which important ideas about the nation are expressed.

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Abbreviations

AAK	<i>Aleancë per Ardhmërine e Kosovës</i> [Alliance for the Future of Kosovo]
CIA	Central Intelligence Agency
DM	Deutsche Mark
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
FRY	Federal Republic of Yugoslavia, the union of Serbia and Montenegro from 1992–2003
HE	Higher Education
ICTY	International Criminal Tribunal for Yugoslavia, colloquially known in Kosovo as ‘The Hague’, after its location
KLA	Kosovo Liberation Army, the English language equivalent of the Albanian acronym <i>UÇK</i>
LDK	Democratic League of Kosovo
NATO	North Atlantic Treaty Organisation, a military alliance
NGO	Non-Governmental Organisation
OSCE	Organisation for Security and Cooperation in Europe
PDK	<i>Partia Demokratike e Kosovës</i> [Democratic Party]
PISG	Provisional Institutions of Self-Government
RTK	<i>Radiotelevizioni i Kosovës</i> [Kosovo Radio and Television]
SANU	Serbian Academy of Arts and Sciences
SEAD	Systems for Enforcing Agreements and Decisions, a USAID-funded project
SRSG	Special Representative of the Secretary General
UÇK	<i>Ushtria Çlirimtare e Kosovës</i> [Kosovo Liberation Army]
UDBA	<i>Uprava državne bezbednosti</i> [Yugoslav Secret Police]
UN	United Nations
UNMIK	United Nations Mission in Kosovo
UNSCR	United Nations Security Council Resolution
UP	University of Prishtina
USAID	United States Agency for International Development

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At home, my parents and grandparents have been unwavering in their support and encouragement, never once reminding me of my post-MPhil determination never to work on Kosovo again. My sibs, nephews and nieces have been great diversions, and reminders of all the things in the world which are at least as important as a thesis.

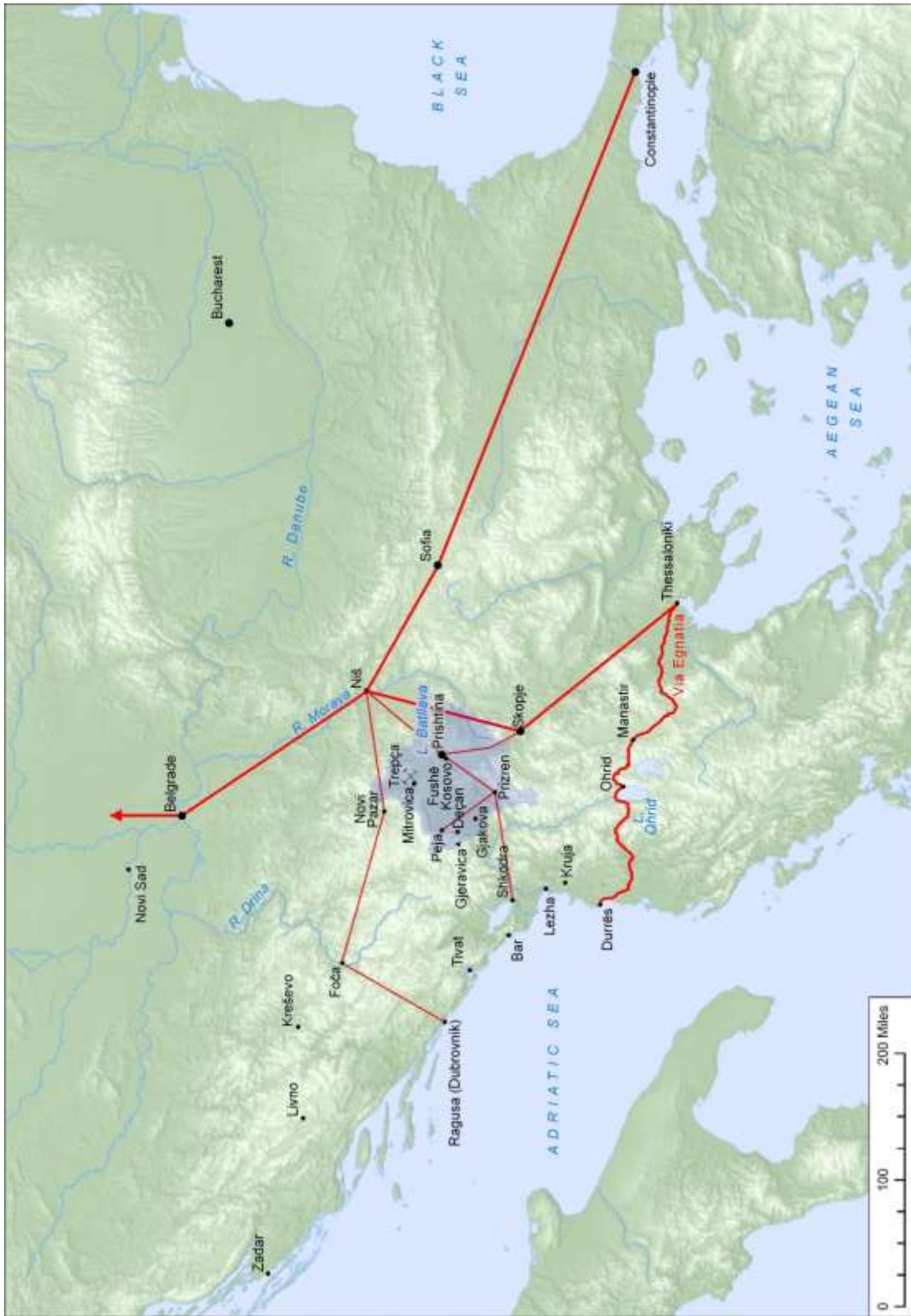
It is quite a distance from Nanjing, where this thesis really began, to Oxford, and my deepest thanks go to Derek Shields who has been there all the way, and without whom it is unlikely I would have started, let alone finished

Chronology

547–8	Slavic raiders occupied Kosovo
1018	The Byzantine Emperor conquered Bulgarian forces and took Kosovo
1054	‘The Great Schism’ divided the Christian Church into Roman Catholic and Eastern Orthodox
1216	The Serbian King conquered Prizren and brought all Kosovo under Serbian rule
1349	Promulgation of ‘The Code of Stephan Dušan, Tsar and Autocrat of the Serbs and Greeks’
1389	Battle of Kosovo against encroaching Ottoman forces (15 June)
1392	Ottoman subjugation of Kosovo completed
1405	Gjergj Kastrioti ‘Skanderbeg’ born
1426	Prishtina had an Ottoman Court
1439	Kosovo and most Serbian lands under direct Ottoman rule
1444	The ‘League of Lezhë’, an Albanian tribal gathering under Skanderbeg
1616	<i>Kultusprotektorat</i> agreement between Ottomans and Austrians
1640	Evidence of Franciscan missionaries in four northern-Albanian tribes
1698	The Franciscans opened a school in Shkodra
1832	Ottomans attempted to break the power of reform-resistant ruling families in Kosovo
1839	Ottoman <i>Tanzimat</i> programme began, intended to modernise the Empire
1848	In Kosovo, Serbs had six schools, and there were Catholic schools in three towns and two villages
-----.	Jesuit province established in Albania
1856	Ottoman reform passed declaring equality, including before the law, of Muslim and non-Muslim subjects
-----.	Ottoman Reform gave communities the right to establish private schools
1860	A Grand Vizier visiting Kosovo found that Christian evidence was not accepted in court
1869	The Ottoman ‘School Law’ passed, which permitted teaching in local languages
1871	The first official local periodical in Kosovo established in Prizren and published until 1874
1873	Shtjefën Gjeçov, later to produce and publish the <i>Kanun</i> of Lekë Dukajin, born in Kosovo
1876	End of the Ottoman <i>Tanzimat</i>
1877	St Xavier College, the first Albanian-language institution of Higher Education opened in Shkodra
-----.	A new official periodical, ‘Kosovo’, published in Prishtina
-----.	The ‘Central Committee for the Defence of the Rights of the Albanian People’ founded in Constantinople
-----.	Serbia declared full independence
-----.	Montenegro declared independence
-----.	The ‘League of Prizren’, resulting in the ‘Resolutions’

- .The Ottoman Parliament dissolved and much of the Constitution suspended
- 1879 Vaso Pasha published ‘The Truth on Albania and the Albanians’ for an international audience
- 1881 Ottomans crushed the League of Prizren
- 1882 The Franciscans opened a seminary in Troshan (Albania)
- 1897 The first Albanian language periodical, *Albania*, published in Brussels
- 1899–1900 The League of Peja
- 1905 Catholic clergy in Northern Albania estimated 42–63% of Albanian male deaths were feud-related
- 1905–6 Shtjefën Gjeçov published Skanderbeg series in *Albania*
- 1908 Congress of Manastir at which Albanian delegates adopted the Latin script and a standardised alphabet
- 1909 Ottoman Sultan replaced with one sympathetic to the Young Turks
- 1910 The first coordinated Kosovar uprising
- 1911 Albanian unrest flared in Montenegro
- 1912 Elections held for the new Ottoman parliament
- Kosovo tribes sent their demands to Istanbul
- Kosovar Uprisings continued through May, June, July
- Albanian ‘Assembly of Junik’, led by Hasan Prishtina (21–5 May)
- The Balkan Wars began, and Kosovo fell to Serbian and Montenegrin troops
- Albania declared independence (28 November)
- 1912–3 The London Conference settled the borders of Balkan nation states
- 1913 The Franciscan journal *Hylli i Dritës* launched
- 1915 Albanian Franciscan printing press established in Shkodra
- 1918 The Kingdom of Serbs, Croats and Slovenes formed, incorporating Kosovo
- 1925 Foundation of the Albanian monarchy
- 1929 Shtjefën Gjeçov killed in Kosovo
- The Kingdom of Serbs, Croats and Slovenes renamed ‘Kingdom of Yugoslavia’
- 1933 The Franciscans in Shkodra published the *Kanun* of Lekë Dukagjin as a single volume
- Vaso Čubrilović’s ‘The Expulsion of the Arnauts’ [Albanians], published proposing the expulsion of Albanians from Kosovo
- 1939 End of the Kingdom of Yugoslavia
- 1943 Second League of Prizren
- 1945 In Yugoslavia, the Partisans won the civil war against the *Četniks*
- The Serbian Assembly declared Kosovo to be an ‘Autonomous Region’ of Serbia (5 Sept)
- 322 schools in Kosovo (by December)
- 1946 First Yugoslav Constitution passed
- *Šeriat* courts in Yugoslavia closed by the Socialist Government
- The Trepça mine in Kosovo nationalised
- 1947 First Serbian Constitution passed
- 1948 Survey indicated 74% illiteracy among Kosovar Albanians over the age of 10

1950	Koranic elementary schools in Yugoslavia closed, and teaching of children in mosques prohibited
1963	New Yugoslav Constitution, which diminished Kosovo's political status
-----.	Albania declared an atheist country
1968	First public demands from Kosovars for a Kosovo Republic
-----.	Amendments to the 1963 Yugoslav Constitution confirmed Kosovo's link to the Federal structure
1969	Kosovar Albanians allowed to fly the Albanian 'national' flag
-----.	The University of Prishtina founded
1972	Republic of Albania introduced standard Albanian literary language
1974	New Yugoslav Constitution passed
1981	Public demonstrations about living conditions in Kosovo
1986	Serbian Academy of Arts and Sciences 'Memorandum' on proposed future of Serbia and Yugoslavia
1987	Slobodan Milošević made speech at Fushë Kosovo
1989	Kosovo's assembly voted – under duress – to remove the province's autonomy
-----.	600 th Anniversary of the Battle of Kosovo
1990	Five Kosovar students initiated the <i>Pajtimi i Gjaqeve</i>
-----.	Curfew introduced in Kosovo with restrictions on freedom of movement and assembly (20 February)
-----.	<i>Verrat e Llukës</i> meeting (1 May)
1991	Referendum on Kosovo's independence showed 99 % of voters in favour
-----	Ibrahim Rugova declared Kosovo's independence
-----.	Albanian staff and students excluded from University of Prishtina
1992	Elections in Kosovo for the newly independent government
-----.	<i>Pajtimi i Gjaqeve</i> officially closed (17 May)
1997	Albanian Government collapsed
1998	'Bread for Drenica' protests in Kosovo
1999	NATO airstrikes against Serbia (24 March – 10 June)
-----.	UNSCR 1244 gave the UN a mandate to administrate Kosovo (10 June)
2001	<i>Kanun</i> of Lekë Dukagjin reprinted in Albania
-----.	UNMIK established the Provisional Institutions of Self-Government in Kosovo
2003	UN adopted the 'Standards before Status' approach
2004	Violent anti-Serb riots in Kosovo
2008	Kosovo declared independence (17 February)
-----.	Kosovo's Constitution came into force (15 June)
2010	Twentieth Anniversary of <i>Verrat e Llukës</i> and the <i>Pajtimi i Gjaqeve</i>
2012	Kosovo's 'Supervised Independence' ended (10 September)



Map 1: Kosovo in the region, showing historical trade routes



Map 2: The Republic of Albania, and the area inhabited by Albanians¹

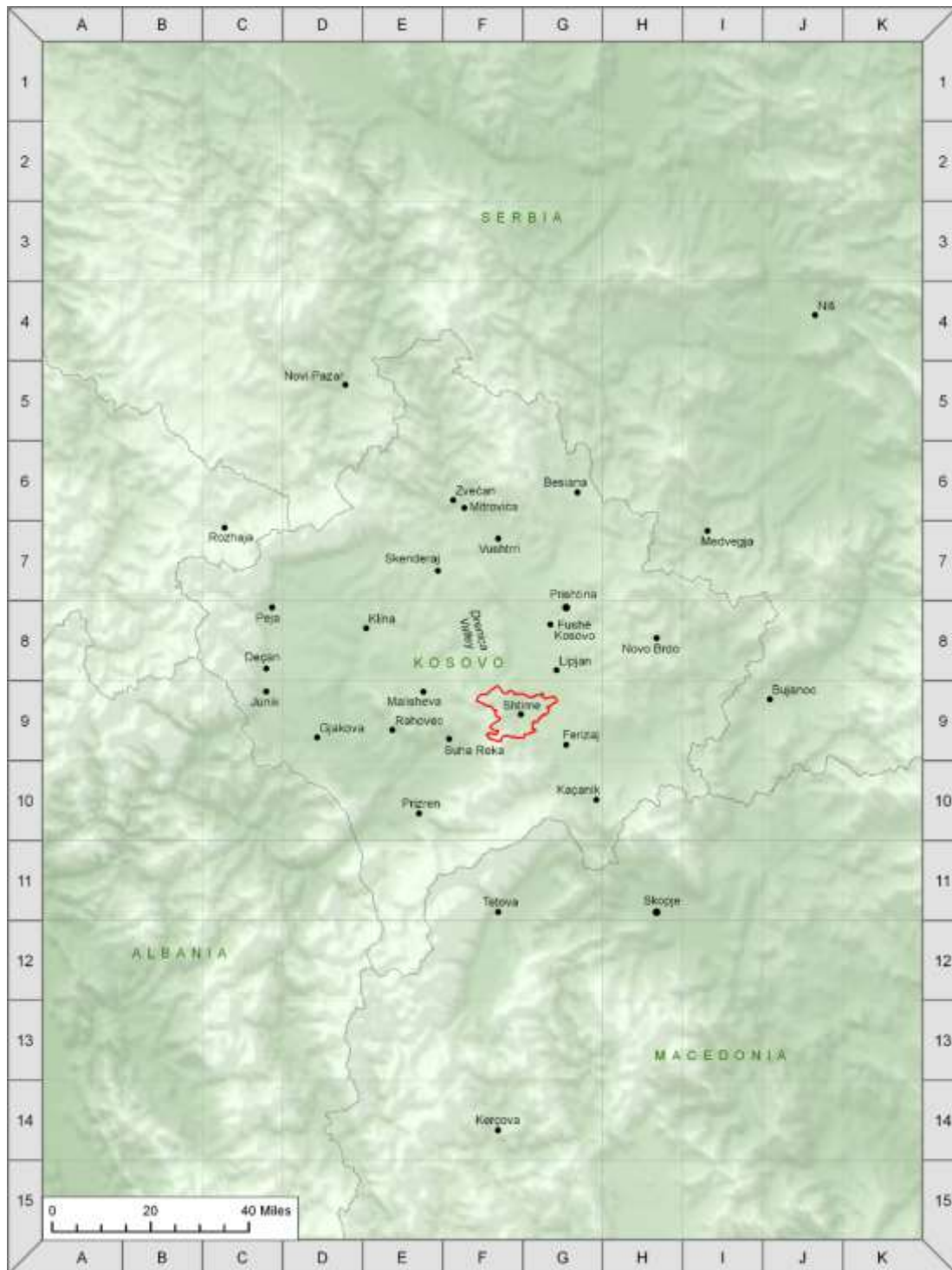
¹ I use 'Natural Albania' here (and on the following map) as the term preferred by many Kosovars to indicate the Albanian-inhabited area of the Balkans, rather than 'Greater' Albania which is held to have negative political associations. It does not indicate any political view on my part.



Map 3: The tribes of northern-Albania in 1909, based on a sketch map by Edith Durham



Map 4: Federal Republic of Yugoslavia, showing the boudaries of republics and autonomous entities



Map 5: Kosovo and the immediate region, with the Municipality of Shtime marked

Chapter 1: Introduction

In the late-1990s, I was a student at the School of Slavonic and East European Studies², in London, and it was often wryly observed that it was, perhaps, the only place in which ‘Yugoslavia’ still existed, as it had students from all the republics and peoples of that former country. The courses I took taught me about the ideologies of nineteenth century nationalist movements in central and eastern Europe; the breaks between gave me glimpses into the lives of individuals on the peripheries of the twentieth century equivalents. As the ex-Yugoslavs negotiated a chaotic and fragmented social world, I watched, listened, and tried to understand the pieces, and whether, and how, they fitted together.

Throughout the 1990s, the situation in Kosovo – then a province of the Republic of Serbia – had deteriorated, owing to increasing pressure from Kosovar Albanian separatists (on the Serbian nationalist view), or the illegal occupation by the Serbian state of an independent Republic (on the popular Kosovar Albanian view). In 1998, this deterioration turned into war, which lasted until mid-1999.³ Throughout this deterioration, my conversations with Serbs and Albanians about ‘the situation’ often drifted towards, or carried as an underlying theme, ideas about ‘the Serbs’ or ‘the Albanians’ and ‘law’. I was left with the impression that ideas about ‘nation’ and ‘law’ were central to their senses of ‘self’ and ‘other’, which raised the question ‘how do nation-builders use ideas of ‘law’ to understand themselves and others’?

² Now part of University College London (UCL).

³ I follow the Kosovars in using the term ‘war’ [*luftë*] for the period 1998–9. Some Kosovars would give an earlier starting date, but most of my informants identified the killing of Adem Jashari by Serbian forces, in March 1998 (discussed in Chapter 5), as having been the tipping point between ‘conflict’ and ‘war’.

In the context of these conversations, it was clear that ‘law’ was being understood in a broader sense than just ‘legislation’. The Albanian ‘*Kanun* of Lekë Dukagjin’ was frequently mentioned by both Albanians and Serbs, who understood it in quite different ways. For Albanians, it was evidence from the Middle Ages, or earlier, of Albanian civilisation; it was something of which they were proud, which defined them historically as a people, made them distinct from neighbouring peoples, and often continued to act as a shorthand for acceptable (‘national’) standards of behaviour. For Serbs, the ongoing relevance of the *Kanun* to the Kosovar Albanians was often evidence of their ‘backwardness’ or ‘primitiveness’, of the gap between the Kosovar Albanians and the state, and of the ‘ungovernability’ of the Kosovar Albanians by modern state law. The *Kanun* was, in itself, a symbol of the Albanian nation for both Serbs and Albanians, and also part of both nations’ broader nation-building activities. But what was this ‘*Kanun*’? Why, and how, was it significant today? This was the starting point for my research.

Introductory sketch

The Albanian people live in the Balkan Peninsula of south-eastern Europe; today, the population numbers around seven million. They are a non-Slavic people, whose language is Indo-European but unrelated to the other members of the family (Rundle 1944: 126). Albanians understand themselves to be descended from the Illyrians, a pre-Roman people and, thus, the oldest inhabitant-population of the Balkans. There are those who take ‘the Balkans’ to have pejorative connotations; such objections come largely from the idea Todorova has termed ‘Balkanism’, which has much in common with Said’s ‘Orientalism’ (Said 1978):

[g]eographically inextricable from Europe, yet culturally constructed as ‘the other’, the Balkans became, in time, the object of a number of externalized, political, ideological and cultural frustrations and have served as a repository of negative characteristics against which a positive and self-congratulatory image of the ‘European’ and ‘the West’ has been constructed (Todorova 1997: 445).⁴

‘South Eastern Europe’ has gained some currency as an alternative designation, but I use ‘the Balkans’ in a non-pejorative, geographical sense to refer to the Balkan peninsula, which is how the region is described in everyday Kosovar conversation.

From the middle of the fifteenth century, the Albanians lived in the Ottoman Empire, which was divided by the borders of administrative districts, and a governance structure based on religious communities. They were geographically dispersed across districts, and without a common, unifying religion. By the mid-nineteenth century, the majority of Albanians were Muslim, but there were also significant proportions of Roman Catholics (mostly in northern Albania) and Greek Orthodox (mostly in southern Albania). These divisions hindered the development of a sense of Albanian nationhood until the late-nineteenth century. The first focal point of my thesis, the text of the *Kanun* of Lekë Dukagjin, was prepared on the basis of northern-Albanian customary practices, and published serially (1913–24) by Fr Shtjefën Gjeçov, an Albanian Franciscan priest, during this first phase of nation-building. It is a text containing rules, descriptions, and definitions pertaining to the lives of Catholic northern-Albanians living in the mountainous Mirdita

⁴ Particularly clear examples of this have been the efforts of Croatia and Slovenia to disassociate themselves from ‘the Balkans’ and ‘re-enter Europe’ as accession countries to the European Union (Lindstrom 2003), and the efforts of international bodies such as the EU itself to re-cast the region, for example, through the ‘Stability Pact for South-Eastern Europe’ (1999–2008) which aimed to strengthen democracy, peace, human rights and the economies of its members.

region. The text is structured as a 135-page legal code, with themed sections and numbered provisions within each section. It is written in the vernacular language of the Mirdita region of northern-Albania.⁵

Following the disintegration of the Ottoman Empire and the subsequent creation, in 1912, of the Republic of Albania, around half the Albanian people were left outside the borders of the new state, in neighbouring territories which, today, belong to Kosovo, Montenegro, Serbia and Greece. Here, the histories of the Albanians inside and outside the Republic of Albania diverge, and I follow the thread of the predominantly Muslim Albanians of Kosovo. Over the course of the twentieth century, Kosovo was part of the Kingdom of Yugoslavia (1918–39), and then, after World War II, Socialist Federal Yugoslavia. As the Federal Yugoslavia began to disintegrate at the beginning of the 1990s, towards eventual war in the Republics of Slovenia (1991), Croatia (1991–5), Bosnia (1992–5), and Kosovo (1998–9)⁶, Kosovar Albanians were excluded from employment in, and access to, much of the public sector in Kosovo.⁷ Increasing numbers of Kosovar Albanians were imprisoned for ‘political’ crimes, and public demonstrations for improved living conditions were violently suppressed by the police. In response, the community drew on its own resources to replace lost services such as education, health care, social welfare and order. The last of these was addressed through the establishment of a mechanism, rooted in customary dispute conciliation practices

⁵ The page count is from the 1933 single volume text, discussed in Chapter 5.

⁶ A republic to the Kosovar Albanians, a province of Serbia to the Serbian state (see Chapter 5, below).

⁷ The mechanisms of this exclusion are too complex to map here, but ranged from discriminatory interpretations of newly-passed black-letter law, to discriminatory practices by individuals in positions of authority.

and historic ideas about the Albanian nation and Albanian law, to conciliate intra-Albanian disputes. This mechanism was the *Pajtimi i Gjaqeve* [Conciliation of Blood Feuds] Movement, which operated between 1990–2, and is my second focus.

The *Kanun* of Lekë Dukagjin and the *Pajtimi i Gjaqeve* Movement are different phenomena – the first, a legal code, and the second, an organisation of legal practices – the main focus of the thesis is their role in Albanian nation-building.⁸

While the historical and anthropological literatures on Albanian culture are full of references to ‘Albanian law’ and the Albanian *Kanun* of Lekë Dukagjin, there is little discussion about what these were and what made them ‘Albanian’, or about distinctions between Gjeçov’s *Kanun* text and Albanian customary practices collectively described as the ‘*Kanun* of Lekë Dukagjin’. Also, the intersections between ‘law’ and nation-building are not explored in the existing literature, although: ideas of ‘nation’ have been important to Albanians and Kosovars since the nineteenth century; the publication of the *Kanun* and the work of the *Pajtimi i Gjaqeve* occurred during periods of intense Albanian nation-building; and both have been part of nation-building activities and debates. This combination of factors led to my research question: what were the roles of the *Kanun* of Lekë Dukagjin,

⁸ Although ‘*Pajtim*’ is sometimes translated as ‘reconciliation’ (for example, Clark 2000), I translate it as ‘conciliation’, because ‘reconciliation’ suggests a return to a previously harmonious relationship between parties, which is not necessarily the case. *Pajtim* also carries the meaning ‘placation’. In English, in addition to its general meaning, ‘conciliation’ is also the term applied to a particular form of Alternative Dispute Resolution (ADR) in the United States, in which ‘[c]onciliation procedure was voluntary and formless ... the rhetoric of conciliation emphasized harmony and amity as alternatives to conflict’ (Palmer and Roberts 1998: 60). The process of conciliation focused on ‘moderation, forbearance, mutual adjustment and honourable compromise’ (the law reformer Reginald Herbert Smith, quoted in *ibid.*). Although the *Pajtimi i Gjaqeve* was not founded with this model of ADR in mind, these broad principles can be detected in it.

and the *Pajtimi i Gjaqeve* in the nation-building process? This is underpinned by a series of sub-questions, including: what were the *Kanun* of Lekë Dukagjin, and the *Pajtimi i Gjaqeve* in their own terms? What was their significance? How did they relate to or compare with other contemporaneous aspects of Albanian nation-building? How did they relate to or compare with legal texts or processes in other parts of the world? The answers to any such questions will depend on the perspective from which they are addressed. Three broad perspectives are threaded through my thesis: how those involved at the time understood Gjeçov's *Kanun* and the *Pajtimi*; how they can be understood today, from an analytical perspective; and how they are understood by Kosovars today. This chapter sets the basic framework for the thesis. It notes the contested and often contextually defined meaning of 'Albanian', outlines the most relevant academic debates and related literature concerning the terms 'nation' and 'law', gives an overview of my research methodology, shows the plan of the rest of the thesis and ends with a summary of my contribution to knowledge and scholarship.

Albanian

The term 'Albanian' signifies at least two different things, but was treated as unproblematic by my informants, although unacknowledged tensions between the meanings could occasionally be detected.

'Albanian' describes nationality (as discussed throughout the thesis, and see below for discussion of 'nation') and, as of 1912, it can describe a citizen of Albania. These meanings overlay one another in the Albanian-nationality citizens of Albania, but for Albanians living outside Albania, the picture is more complex.

For the Albanians of Kosovo, it was further complicated during the Yugoslav period (1945–1990) by the need to declare one's 'nationality' in the Yugoslav Census. For the Yugoslav state, and the respondents, the Census was highly politicised (Mrdjen 2002). Categories were manipulated for political reasons, and many individuals chose how to identify themselves for political reasons: for example, several informants described themselves as Albanians, born in Yugoslavia, who had identified themselves as 'Muslim' on the census.

'Albanian' as a nationality is also not straightforward. The Albanian population of the Balkans is divided into Northern (Geg) and Southern (Tosk). This is more than a geographical divide, it also describes different dialects, forms of cultural expression, and historical forms of social organisation. Historically, linguistically, and culturally the Albanians of Kosovo share more with the Albanians of northern Albania, than do the Albanians of northern and southern Albania (Blumi 2003c). Whether Geg and Tosk are parts of the same whole remains unresolved for a vocal minority of Kosovars; for example, in the centre of Prishtina, there is a popular 'Café Geg', and a 'Geg language' publication, 'Java'.

There are also Albanian-speakers in northern Greece, described by Albanians as the Çams (also 'Chams'). My informants understood the Albanian language to be a key marker of Albanian nationality, thus, this group are Albanians; but 'Çam' defines them more specifically, in terms of where they live ('Çameria'), and also says something about their historical experience (Elsie and Destani 2012), which was quite different from that of the 'Albanian Albanians' and the 'Yugoslav Albanians'.

The correlation of language and nationality is not always so direct. During fieldwork in Prizren, I met informants who introduced themselves as 'Albanian',

but who, from preference, spoke Ottoman Turkish, because it has a higher historical status in the town.⁹ While fluent in Albanian, they preferred not to use it unless necessary; using Ottoman Turkish excludes incomers to the city, and maintains a strong sense of urban community among the ‘real’ Prizrenites.¹⁰

Following the outflow of refugees from Kosovo in 1999 into Albania, and Albanian-inhabited areas of Macedonia, Montenegro and Serbia, tensions emerged between an idealised understanding of the Albanian nation as a cohesive whole, and the rather more fragmented reality. The refugee experience had a marked effect on many Kosovars’ perceptions of the extent to which they were ‘the same’ as their co-nationals across borders. Shortly before the war, a popular Kosovar singer may have intoned ‘I am an Albanian, and a Kosovar’, as the refrain of a song intended to garner support for the Kosovars’ cause from Albanians in Albania but, during and after the war, some people wondered.¹¹ This is a fascinating intersection, when different parts of the ‘nation’ came face-to-face; in the case of those refugees who went to Albania, after 50 years of almost total separation. Many Kosovars told me stories which emphasised the differences between them and the Albanians they encountered elsewhere, stories which implicitly questioned the ‘real Albanian-ness’ of the other parties, and often reflected the narrator’s overall sense of disappointment.

⁹ To a lesser extent, this was also true of some Slavic-speaking Muslim inhabitants in the town, such as my landlady. She spoke fluently the local Slavic dialect, and comfortably could use Turkish, but always insisted she understood no Albanian at all, despite that being the language I spoke when we conversed (with apparent mutual intelligibility).

¹⁰ The tensions between rural and urban, peasant and city-dweller have been explored in anthropological literature examining rural-urban migration in the former Yugoslavia, such as Simić (1973).

¹¹ ‘Jam këtu’, Ilir Shaqiri, rooted in a poem of the same name by Mirush Kabashi. From the CD ‘Jam këtu’, produced in 1997/8 by Cani, Prishtina.

This links to the contemporary question of the extent to which Kosovar Albanians understand their nationality as ‘Kosovar’ or ‘Albanian’, and the extent to which they understand the state of Kosovo as something substantial. These threads run through my discussion in Chapter 7 about contemporary Kosovar understandings of the *Kanun* and the *Pajtimi*.

Nation

The idea of ‘nation’ [*kóm* or *komb* in Albanian], which emerged in late-eighteenth century Western Europe, came later to the Albanians; it reached the literate elite around the last quarter of the nineteenth century and, after that, the illiterate masses.¹² Thus, in examining Gjeçov’s *Kanun* and the *Pajtimi i Gjaqeve*, my thesis covers most of the period during which the idea of an Albanian nation has been in circulation. This is not without difficulties: for the Balkans, the twentieth century was a period of political upheaval and complexity, and here I cannot hope to do more than plot a general path through the history of the idea of the Albanian ‘nation’.

Without getting drawn into complex definitional debates, which risk leaving the field with what Geertz has described as ‘the stultifying aura of conceptual ambiguity’ (Geertz 1963:107), my thesis starts from the case study, to establish a context in which I can determine whether Gjeçov’s *Kanun* and the *Pajtimi i Gjaqeve* can be understood as nation-building projects.¹³ I take ‘nation-

¹² As late as the end of World War II the illiteracy rate among Albanians was around 93% (Pipa 1978: 87).

¹³ Classic definitions of ‘nation’ include those of Renan (1882[1990]), Stalin (1973), and Weber (1948), and see Hutchinson and Smith (2012) for a detailed comparative study.

building' to be any action undertaken with the intent of increasing the number of men recognising themselves and one another as belonging (Gellner 1983: 7), in this case to the Albanian nation, or strengthening the sense of 'Albanian-ness'. I identify the emergence and nature of Albanian understandings of 'the nation', consider these comparatively and link them to the literature. The foundations of these understandings were laid by the Albanian 'national awakening' movement in the late-nineteenth, and early-twentieth centuries described, in Albanian, as the *Rilindja* (Rebirth). The *Rilindja* conceived of the Albanian nation as one which emphasised 'a community of birth and native culture' and for which 'a nation was first and foremost a community of common descent' (Smith 1991: 11); this accords with Smith's definition of an 'ethnic nation'.¹⁴ Geertz has described such communities as bound by the 'primordial ties' of:

being born into a particular religious community, speaking a particular language, or even a dialect of a language, and following particular social practices. These congruities of blood, speech, custom, and so on, are seen to have an ineffable, and at times overpowering, coerciveness in and of themselves' (Geertz 1963: 109).

In this, the Albanian nation had much in common with other central, east and south-east European nations including the Serbs (Judah 1997), Croats (Uzelac 2010), Czechs (Williams 1997: 135), Slovaks (Brock 1976) and Hungarians (Schöpflin 2000).

Placed in a broader context, the nineteenth century builders of these 'ethnic nations' were those identified by Weber as 'intellectuals', whom he described as 'a group of men who by virtue of their peculiarity have special access to certain

¹⁴ The 'ethnic' model stood in contradistinction to a 'civic' model, based on a 'historic territory, legal-political community, local-political equality of members and common civic culture and ideology' (Smith 1991: 11).

achievements considered to be “culture values”, and who therefore usurp the leadership of a “culture community” ’ (Weber 1948: 176). As an era of long-standing empires drew to a close, the peoples of those empires began to express a sense of nationhood. They were heavily influenced by Romantic Germanic eighteenth and nineteenth century ideas, in particular, those of J. G. von Herder 1744–1803 (Forster 2002 and Spencer 1997, 2007), and used the distinctive folk cultures of their own people as sources and inspiration for their literature, art, and music. The extent of these influences across central and eastern Europe can most easily be seen in the work of the ‘Romantic’ composers. In central Europe, as the Austro-Hungarian Empire teetered, Smetana (1824–84) presented dramatic tableaux of the physical and cultural Czech landscape in *Má Vlast* [My Homeland], and the music of Dvořák (1841-1904), perhaps most notably in the ‘Slavonic Dances’, showed ‘the fullest recreation of a national idiom with that of the symphonic tradition, absorbing influences and finding effective ways of using them’ (Clapham 1995: 765). In neighbouring Poland (experiencing a long period of partition between Russia, Austria-Hungary and Prussia), Chopin (1810–49) used Polish dances – polonaises, waltzes and mazurkas – in his music, and composed the stirringly titled ‘Revolutionary Study’ in response to Poland’s attempted revolution against Russia. Likewise, the Hungarian Liszt (1811–66) returned throughout his career to composing ‘Hungarian Rhapsodies’.

A generation later, similar movements emerged in the north, in the music of the Finnish composer Sibelius (1865–1967), the Norwegian Grieg (1843–1907), and the Russians Mussorgsky (1834–81), Borodin (1833–77), and Rimsky-Korsakov (1844–1908). In the Balkans, the Serbian Stevan Stojanović Mokranjac

(1856–1914) notated Serbian Orthodox chants, composed new sacred music, and collected and promoted Serbian folk music. While we may trace the influences most readily in music, because it transcends language barriers, they were just as prevalent in other cultural fields. Of particular relevance as context for the codification of the *Kanun* is the intersection of folk stories and literature. The German linguists and folklorists, Jacob and Wilhelm Grimm (1785–1863, and 1786–1859), collected and published existing German folk stories while, in Denmark, Hans Christian Anderson (1805–75) wrote ‘new’ folk stories.¹⁵ Further south, into the Balkans, the Serbian Vuk Karadžić (1787–1864) collected folk stories, songs and riddles, including ‘Serbian National Proverbs’ (1900), and the Montenegrin Prince-Bishop Njegoš composed an epic in the mixed form of poetry and a play, ‘The Mountain Wreath’ (1846), about Montenegrin resistance to Ottoman occupation (Njegosh 1930).

These lists show that the Albanian nation-builders’ interest in indigenous ‘Albanian’ culture, and their use of folk sources as inspiration or foundations for their nation-building projects, were part of a contemporaneous, Europe-wide fascination. Despite this common activity, we do not find evidence of the contemporaneous ‘intellectuals’ of other nations generating comparable legal codes based on their own customary practices and standards of behaviour.¹⁶ While Gjeçov

¹⁵ Jakob Grimm saw the connection between popular literature and law: for discussion of his work using Beowulf to reconstruct aspects of preliterate German legislation, see Jurasinski (2006).

¹⁶ An exception to this may be the Montenegrins, a neighbouring people, with an historically tribal social structure. Durham has suggested similarities between northern-Albanian and Montenegrin customary practices citing as evidence two legal codes, the 1796 Code of Vladika Petar 1 (1928: 76–82), and the 1855 Code of Danilo (*ibid.*: 82–88). The Montenegrins are Orthodox Christians, and their modern state developed from a prince-bishopric. This is so different from the Albanian case and the Montenegrin language is so different from Albanian, that there is no room here for further examination.

was in broad European company in the material he collected, it appears that what he did with it was unique. Others collected material which also reflected, described and transmitted the normative order and rules of the society from which it came, but presented it differently. This can be seen even within other, later, Albanian sources; the Kosovar folklorist Anton Çetta's 'popular stories' of Drenica present, in narrative form, the normative order of life in rural Drenica (Çetta 1972), as do the collected stories of Xhemal Abria (Bajrami 2010).¹⁷ This highlights the significance of the legal form (Pirie 2010) in Gjeçov's *Kanun*: while Çetta's and Bajrami's texts use source material substantially similar to Gjeçov's, and describe a normative order and rules, neither presented that material in the form of a legal code.

Despite the broadly common approach to nation-building among the peoples emerging from the Russian, Austrian-Hungarian, and Ottoman Empires, the Albanian case differed in two particular aspects. First, unlike the neighbouring Serbian, Croatian, Bulgarian and Greek nations, and notwithstanding efforts of some later Albanian academics to demonstrate the contrary (such as Murzaku 1984, Spahiu 1984), the Albanians had no historical 'golden age' (Smith 1997) on which to found their 'national awakening'.¹⁸ Thus, despite the name *Rilindja*, the cultural narrative of Albania could not 'awaken' or be 'reborn', as 'Albania' as an entity

¹⁷ In the texts, these are described as, variously, 'popular stories' [*proza popullore*] and 'proverbs' [*fjala të urtë*].

¹⁸ Much of the nation-building work in these other nations involved looking back to a 'golden age'. For example, the Bulgarians had had two medieval empires: the first from the seventh to eleventh centuries, and the second from the twelfth to the fourteenth century; and see Chapter 2 for discussion of the Serbian medieval 'golden age', which included the production of the Law Code of Tsar Dušan, Emperor of the Serbs and Greeks. As the historian Clogg has noted, 'an awareness of past glories, real or imagined, is, with language, *the* fundamental element in the national consciousness of all the peoples of south-eastern Europe' (1988: 15).

had never obviously existed as a legal or political community (Ypi 2007: 661f.). The late-nineteenth century Albanian nation-builders' efforts were the first coherent attempt to claim and demonstrate the existence of an Albanian nation, which meant they were starting from scratch, without a self-evident historical foundation on which to build. Thus, significant proportions of their efforts were dedicated to the retrospective identification of the Albanian 'nation' throughout history, and the construction of paths of continuity, as illustrated by the nation-builders' interest in etymology.¹⁹ This retrospective focus is part of a regional pattern of writing and rewriting history in the context of Balkan nationalisms (Dimitras 2000), and can even be seen as part of a European pattern.

The nationalist historians – Palacky of the Czechs, Michelet of the French, Iorga of the Rumanian, Hrushevsky of the Ukrainians – are no mere scholars but rather 'myth-making' intellectuals who combine a 'romantic' search for meaning with a scientific zeal to establish this on authoritative foundations (Hutchinson 1987: 123).

Second, unlike other 'ethnic' European nations, at the beginning of the twentieth century, northern-Albanian social organisation was tribal, and ideas of tribal identity were very important (Durham 1909 and 1928, Whitaker 1968), so nation-building messages needed somehow to reconcile the ideas of 'tribe' and 'nation'. I use 'tribe' as a non-pejorative translation of the Albanian *fis* (see Chapter 2, below, for discussion of understandings of *fis*, and a note on the use of 'tribe' in anthropology²⁰ Reconciling ideas of tribe and nation is a non-trivial exercise, with much riding on its success: 'considered as societies, new states are abnormally

¹⁹ This is reflected in, for example, Vasa (1879), and the translation into Albanian and publication of articles by foreign academics on the origins of the Albanian language in the periodical *Albania* (1897–99).

²⁰ *Fis* has been translated by some authors as 'clan' but, from an analytical perspective, this lacks the sense of a political formation carried by 'tribe'.

susceptible to serious disaffection based on primordial attachments’ (Geertz 1963: 109). In looking at whether we can understand Gjeçov’s *Kanun* as a nation-building project, we need to consider whether, and how, it contributes to reconciling these ideas and forms of organisation.²¹

The historian Hugh Seton-Watson has drawn a distinction between ‘old’ and ‘new’ nations; the ‘old’ being those such as England and France, which had a sense of ‘national identity or consciousness before the formulation of the doctrine of nationalism’ (1977: 6), whereas in the ‘new’ nations, national consciousness and nationalist movements developed simultaneously. This is not to say that communities subsequently defined as ‘nations’ had no histories, and Seton-Watson identifies the Greeks and Serbs as particular examples of communities which had; but for him the question is one of continuity: ‘old’ nations have historical continuity, ‘new’ nations do not. On this model, the Albanian nation is a ‘new’ nation, and characteristic of these is that:

[t]he leaders of national movements have been by default articulate persons, and their propaganda among their own populations, designed to implant in them a national consciousness and a desire for political action, though largely conducted by word of mouth, was also put in writing at the time. The growth of new modern means of communication still further accelerated the process ... In the case of the new nations of nineteenth and early twentieth century Europe, the main factor in the creation of national consciousness was language (Seton-Watson 1977: 9).

In considering whether Gjeçov’s *Kanun* and the *Pajtimi i Gjaqeve* were nation-building projects, we should consider carefully also the role of the Albanian language and related language politics. The *Kanun* was created and published by a literate person during a period of intensive effort to standardise the written Albanian

²¹ I return to this in Chapter 4, when I discuss Gjeçov’s definition of the ‘nation’ in his *Kanun*.

language and increase Albanian-language literacy. The *Pajtimi* is an interesting contrast, more practical than linguistic, but it was significant that its ‘only’ language of operation was Albanian.²²

The first phase of Albanian nation-building started relatively late, and among the minority non-Muslim Albanians.²³ The Albanian Catholics within the Empire, and the Albanian émigré communities in Bucharest, Sofia, Alexandria, Constantinople and (later) Boston (Malcolm 2002) were particularly active nation-builders. They formed societies to promote Albanian culture – such as: *Vatra*, in Boston; the Society for the Publication of Albanian Writing, in Istanbul; and *Drita*, in Bucharest (Blumi 2003b: 119) – wrote and published Albanian-language novels, poetry and tracts; and lobbied for support for an independent Albania. These activities followed the Romantic European pattern of a ‘new nation’, then prevalent throughout central Europe and the Balkans, that is, they were part of the development of national consciousness. At least partly attributable to their efforts, after the London Conference of 1913 and the intervention of the Great Powers, was the creation of the Albanian state. This left half the Albanian population of the Balkans outside its boundaries.²⁴

²² Exceptions to this were legal documents emanating from the Serbian state legal system, even those written by Albanians, and Serbo-Croat languages speech reported at the conciliations or meetings of the *Pajtimi*.

²³ As I discuss in Chapter 2, the Muslim Albanians tended to see their future within the Ottoman Empire.

²⁴ This Conference, and its consequences, are picked up in Chapters 2 and 5.

Socialist 'nation'

In post-Second World War Socialist Yugoslavia, 'nation' acquired an additional, technical, meaning derived from Marxist-Leninist philosophy, which differentiated 'nation' [*narod*] from 'nationality' [*narodnosti*]. According to this philosophy, a people could only be a 'nation' in Yugoslavia if their 'homeland' was one of the republics of Yugoslavia (Malcolm 1998: 327f.). Thus, the Serbs and Croats were 'nations', while the Kosovar Albanians – who were deemed to have a 'homeland' in the Republic of Albania – were a 'nationality'. This was significant for the Kosovars, because only Republics had a Constitutional right to secede from the Yugoslav Federation. While this particular understanding of 'nation' did not have popular support in Kosovo, it shaped the Socialist state's response to Kosovar demands for Republic status within the Yugoslav Federation. In Yugoslavia, as under other Communist and Socialist governments which sought to guarantee their citizens' loyalty to supra-national states, nationalism and separatism were dangerous ideas. However, as the Soviet Union began to buckle under President Mikhail Gorbachev's politics of *Glasnost* [openness] and *Perestroika* [restructuring], peoples within the Soviet Union, and the wider Eastern Block began to 'rediscover' their 'national' heritages and, in the image of their late-nineteenth and early-twentieth century predecessors, make use of them as ways of expressing a sense of nationhood in contradistinction to both the prevailing supra-national identity, and the national identities of neighbouring peoples.

To return to the example of music, Arvo Pärt (1935–), captured the sparse, frosty northern landscape of Estonia and included clear influences of Orthodox Christianity, an anathema to the atheist Communist state; and the Baltic peoples of

Estonia, Latvia and Lithuania brought down their Communist governments with what is now known as the ‘Singing Revolution’ (Thomson 1992), in which they gathered in public spaces to sing ‘national’ and ‘revolutionary’ songs as protests against the Communist authorities. In the Balkans, the focus of the peoples of Yugoslavia began to shift from the Socialist ideal of constructed similarity (expressed firstly as the idea of ‘Yugoslavism’ and later in the slogan ‘Brotherhood and Unity’), back to folk stories, legends, music and dances, which emphasised the differences between peoples and built up a sense of nationhood. The politics which went along with this were the rise of nationalist movements, which eventually led to the wars of the 1990s in Slovenia, Croatia, Bosnia and Kosovo.

Scholarly debates

Since the early 1990s, scholarship on matters Yugoslav has fallen broadly into two strands. The first, sometimes called the ‘primordialist formulation’ (Brass 1979: 35), is a continuation of the Germanic nineteenth century idea of nation, which takes the category of ‘nation’ as natural and unproblematic. It emphasises ideas of ‘ancient hatreds’, and presents the war(s) and atrocities of the 1990s as inevitable continuations of historic patterns (Glušević 1990: 12–27, Pejin 1998: 21–39, Singh 1998: 153–60).²⁵ This strand dominates nationalist narratives of the respective nations and such primordialist views reflect certain indigenous attitudes and understandings which need to be born in mind when considering their law-making. This strand is also found in some academic literature, the media across the former Yugoslavia, and in the work of some journalists-turned-authors, such as Di

²⁵ Little of this material is available in English, my choice of a Serbian example here merely reflects availability.

Giovanni, who said ‘the conflict in Kosovo, like all conflicts in the former Yugoslavia, was rooted in history and vengeance (Giovanni 2008:10).²⁶ Despite the driving purpose behind this view being the differentiation of one nation from others, the anthropologist Duijzings noted the symmetry of Serbian and Albanian narratives:

most contemporary Serbian historiography, notably the books written by respected scholars ... provide an image of inherently conflictual relations, especially after Albanians adopted Islam. In a similar vein, most Albanians, among them some historians and intellectuals of great reputation ... draw a similar picture of continuous Albanian anguish under Serbian hands (Duijzings 2000: 9).

Various aspects of such nation-building have been examined in the literature by regional and foreign scholars; in particular, music and nation-building (Croatia, Pettan (ed.) 1998, and Baker 2009; Serbia, Collin 2001; Kosovo, Pritchard 2004). ‘Law’ and ‘nation’ are not explored, although they are linked, as ideas of national ‘law’ and customary practices permeate expressions of nation in other cultural forms. For example, Brkić’s analysis of justice, injustice and vengeance in traditional Serbian epic poetry (1961: 138–53), draws on material collected by Vuk Karadžić.²⁷

The second strand holds that ‘nations as a natural, God-given way of classifying men, as an inherent though long-delayed political destiny, are a myth’ (Gellner 1983: 48). Adherents to this view use empirical and archival evidence to demonstrate that there is nothing ‘natural’, ‘essential’ or ‘constant’ about a nation.

²⁶ Di Giovanni was a war correspondent throughout much of the wars in former Yugoslavia, reporting for the London Times, and other publications.

²⁷ This is ‘Serbian’ in the sense of the nation rather than state, as some of the material comes from Montenegro, Bosnia and Hercegovina.

Scholars such as Duijzings (2000) and Malcolm (1998) have argued that, in Kosovo, complex local identities were often of greater significance in determining actions and values than the more abstract idea of ‘nation’. Salient factors include:

tribe or tribal loyalties, religion, the urban–*versus*–rural dichotomy, language ... or gender. One may also include political or ideological divisions, for instance between communists and “counter-revolutionaries” which poisoned much of political life in Kosovo in the 1980s (Duijzings 2000: 12)

I follow this view in accepting, as a matter of historical fact, that reality on the ground was far more complex and subtle than the primordialists would allow. However, to focus exclusively at the local level would not adequately explain how the idea of ‘Albanian’ came to have a widely shared meaning at the beginning of the twentieth century and how it was understood. Nor does it explain why, and how, in the late-twentieth century, over 2,500 Kosovar Albanian families came to relinquish, through the *Pajtimi i Gjaqeve*, deep-rooted moral claims against other Albanian families in the name of the *kóm(b)*. As a precursor to understanding this, we need to acknowledge that ‘nation’ had meaning, relevance, and practical use for Albanians in the early and late twentieth century – however contestable the concept may be for academics – and that, at certain points, for certain periods, many Albanians and Kosovars acted on their understanding of what it meant to be ‘Albanian’. My purpose in this thesis is to show the role that different legal phenomenon had in these complex dynamics.

There are similarities between the broader political contexts of the early- and late- twentieth century phases of Albanian nation-building. Neither the Ottoman Empire’s nor Federal Yugoslavia’s categorisation of the Albanians (as Ottoman citizens, or a ‘nationality’ within the Federal Yugoslavia respectively) met

the ambitions of the Albanian nation-builders, however uncoordinated, for self-governance. In both the early- and late-twentieth century, the Albanians responded to signs of weakening authority by using their folk culture as a resource to establish and strengthen intra-national unity, and to differentiate themselves from neighbouring nations. My thesis examines these processes from the bottom-up, and outside the scope considered by proponents of methodological nationalism (Wimmer and Glick-Schiller 2002, Chernilo 2007: 1–20), who hold that ‘the nation-state occupies centre stage as the agent of history, and [that] the establishment (or enlargement) of a nation-state must have been the goal of any organisation that existed’ (Brown 2013:17). The processes I examine in the thesis are more complex: Gjeçov’s *Kanun* originated in a time when it was clear that there were questions about an Albanian nation and its future, but politically Albanians were not united in what they wanted and how they wanted to achieve it. The role of the *Kanun* in Albanian nation-building needs to be understood in this context. In the late-twentieth century, the *Pajtimi i Gjaqeve* movement is interesting because the Republic of Albania existed, but did not encompass all Albanians; here, again, while there were questions about the Albanians of Kosovo and their future, it was not always clear who wanted what, and how they wanted to achieve it.²⁸ Neither Gjeçov’s *Kanun* nor the *Pajtimi* are about the work of powerful leaders or rulers; they allow us glimpses of individuals and small groups, and the interplay between those actions and an emerging ‘national’ narrative about who ‘we’ are, as the Albanian or Kosovar nation. Although the emergence of the Albanian nation was a subtle and complex process, and the process of nation-building was not

²⁸ There are tensions between these periods of uncertainty, or lack of clarity, about the national future, and the popular Albanian adherence to a primordial view of nation which emphasises an inevitability about the eventual and ‘natural’ realisation of the nation and state.

straightforward, I can trace part of that process and some of the resources they used, in the forms of laws and processes linked to understandings of a legal tradition.

State

The Albanian nation-builders were driven by a desire for statehood in some form; as I follow my informants, using ‘state’ where they speak of a *shtet* [state], we need an overview of what the ‘states’ in question have been and are; throughout the thesis, I discuss key features and areas of contestation related to ‘state’ linked to ideas of law and nation-building.

Since the foundation of the Republic of Albania, in 1912, as the Ottoman Empire ended, it has had continuous existence as a state, with unchanged borders. However, the nature of the state has changed several times: it was a democracy, a monarchy, a communist state, and is now a democracy again. In contrast, Albanians living outside the Republic have lived in multiple states.²⁹ This draws attention to the idea that as well as acting as a unifying force, actual states (and, in the case of the ‘parallel state’, discussed below, understandings of the state) can also exclude, and lead to fragmentation. As I outline in Chapter 2, Kosovo has belonged to: the Kingdom of Serbs, Croats and Slovenes; the Kingdom of Yugoslavia; the Socialist Republic of Serbia; and the Socialist Federal Republic of Yugoslavia. The Kosovar people created a ‘parallel state’, after which there was a period of political ‘limbo’ as an international protectorate (1999-2008), then the Republic of Kosovo under international supervision (2008-2012), and finally ‘unsupervised’ independence. Each of these had its own political elite and political philosophy, which generated considerable internal contestation between forms of states, as well as that which

²⁹ As a Kosovar informant in her 90s joked, ‘I’ve lived in five different countries, at least I think it was five, and I’ve never travelled further than the next town!’

might be expected within a state. In understanding the states associated with the Albanian nation, Weber's influential definition of the modern state (Weber 1946) is helpful as it underpins core themes I will talk about. He saw the state as it gives us three core characteristics, all of which are central of Albanian understandings and experiences of states: territoriality; a monopoly of legitimate use of physical force; and legitimacy. He saw three sources of legitimacy, the authorities of: the 'eternal yesterday'; 'charisma'; and 'legality'. In my examination of the roles played by ideas of Albanian law in nation-building (as a precursor to statehood). I show the construction of all three forms of authority in relation to the *Kanun* (Chapter 4), the *Pajtimi i Gjaqeve* (Chapter 6), and contemporary Kosovo (Chapter 7). In each case, the nation-builders saw their efforts as contributing to emerging modern state institutions based in the authority of legality ('rational-legal authority'). At the same time as these constructions of authority and legitimacy, we see ideas of law, and discussions about law, used to de-legitimise other states, or groups of people.

Law

The historical and anthropological English- and Albanian-language literatures on Albanian culture are full of references to 'Albanian law' (for example, Durham 1909, 1928, Malcolm 1998, Whitaker 1968, Hasluck 1954, Pupovci 1971, Elezi 2002), and perceptions of a preoccupation with rules (Backer 2003, Reineck 1991, Sugarman 1997). References to 'law' (the English term covers the Albanian concepts of '*ligj*' [legislation] and '*drejtë*' [justice]) often include a qualifying term, such as: '*kanun*' (Bardhoshi 2007); 'customary' (Elezi 2002 and Malcolm 1998: 233); 'unwritten' (Hasluck 1954); and 'oral' (Tarifa 2008). This suggests the

authors recognised, and wished to avoid, some conceptual ambiguity around the term ‘law’, but they do not discuss whether *drejtë*, or ‘law’, was the appropriate term for what was being observed in Albanian communities. There is a general tendency in the literature to describe any normative or social order as ‘law’; however, using ‘law’ in this way risks losing what is particular about it. Without getting caught up in definitional debates, it is nevertheless useful to bear in mind the ways in which other anthropologists and historians have analysed legal phenomena.

What is law? Is it what is on the books, or what is actually enacted and obeyed in a society? Or is law what must be enacted and obeyed, whether or not it is on the books, if things are to go right? (Schlink 1997: 89)

This question, raised by the German judge and law professor Schlink in his parable ‘The Reader’, is as pertinent in academic debates today, as it is in Schlink’s consideration of how post-holocaust generations of Germans should approach those involved in, or who witnessed, Nazi atrocities. In the literature, understandings of ‘law’ vary considerably depending on the academic discipline of an author. Legal theorists have considered law from a philosophical perspective, including debates over whether the starting point for ‘law’ is an order backed with force (legal positivism), or whether it also carries normative ideas such as ‘should’ or ‘ought’ (Hart 1961). In my analysis of Albanian law, I show these ideas as somewhat reconciled in that normative ideas framed as ‘national’ Kosovar or Albanian principles, when enunciated by particular persons can, in fact, be seen as orders backed with coercive force. Historians have started from legislation and other archival documentation, such as Caroline Humfress’s work on aspects of law under the Romans (2013, 2012), Pryce’s study of medieval Welsh law books and literacy

(2000), or Paul Brand's work on the making and enforcement of legislation in thirteenth century England (2003). Since Maine's work on Ancient Law (1861), anthropologists have been interested in a range of aspects of law, from legal systems, to conflict resolution as legal processes (such as Bohannan 1954, Gluckman 1955 and 1965, Llewellyn and Hoebel 1973, and Roberts 1979), and, more recently, the significance of legal codes or documents in societies as diverse as tribal Yemen (Dresch 2006), Tibet (Pirie 2009), and Kabilya (Scheele 2008).³⁰

From these broad examples, we see that it is far from the simple case, as Auden's judge would have it, that 'Law is The Law' (Auden 1979: 90). So, how are we to understand 'law', without taking too general a definition to be useful, or so restrictive a definition that we can readily suggest contrary instances? Pirie, a legal anthropologist, has proposed that 'law' might most constructively be understood as a 'polythetic category' (Needham 1975); that is, a class composed by sporadic resemblances. Features of this polythetic category (and, more broadly, of 'legalism' below) are 'an appeal to rules that are distinct from practice, the explicit use of generalizing concepts, and a disposition to address in such terms the conduct of human life' (Dresch 2012:2) These features are some of the threads which run through my exploration of Gjeçov's *Kanun* and the *Pajtimi i Gjaqeve*, although not always in the foreground.

³⁰ As well as academic understandings of the term, 'law' is also in everyday use, the breadth of which is shown in the Oxford English Dictionary, which gives twenty distinct definitions of 'law' as a noun. Here, I consider 'law' as a term of academic discourse; the everyday use, in Kosovo, of terms covered by the English 'law' is picked up in later, empirical, chapters.

In my exploration of the *Kanun*, I draw on Pirie's work on legalism (2013: 131–57), because it 'allows us to think beyond the model of state law without letting our analytical categories expand to encompass all forms of normative and social order' (*ibid.*: 14). The *Kanun* can be analysed as a legalistic exercise, the intended and actual significance of which lay in its language, and its explicit definitions of rules, categories and exemplary cases. In contrast, the *Pajtimi i Gjaqeve*, with its central ideas about national loyalty and conciliation, was more of a process involving the practical resolution of blood feuds.

'Law' and centralised governance

As the Albanian people had no history of centralised self-government prior to the founding of the Albanian state in 1913, historically they cannot have had 'law' in the sense of legislation promulgated by a ruler or legislature. Therefore, any 'law' which is found will not satisfy the link Roberts proposed between 'the cultural assemblage we have come to call law [and] attempts to "govern"' (Roberts 2005: 13), or what Schwartz called 'a public monopoly of force' (Schwartz 1955: 569). Roberts made his arguments in the context of an appeal to draw back from what he sees as an increasing tendency to see law 'as somehow "everywhere" in the social world, present even in the simplest aggregations' (*ibid.*: 2), and, while it is well to be cautious in the use of the term, for fear of it losing any substantial meaning, there are many examples of law which are not linked to governance. Examples of this include: the twelfth century Law-Code of the Armenian monk Mxit'ar Goš, (Thomson 2000), the legal texts of the Barbarian Kings, between the fall of the Roman Empire and the revival of Roman law (Wormald 1999) and a massive bibliography of texts on Hebrew law produced in Mandate Palestine (Likhovski

2006), all of which are discussed below.³¹ Gjeçov's *Kanun* was not used as a tool of governance, but nevertheless, these examples show that legal codes which were not straightforward tools of governance can have significance, purposes and uses.

Law and nation

My discussion of law and nation is framed by the perspectives of von Savigny (1779-1861), an influential historian and jurist, whose 'Of the Vocation of Our Age for Legislation and Jurisprudence' (1814), responded to a contemporaneous proposition that a General Code should be developed for Germany, on the model of the French Napoleonic Code, to precipitate political unification. He was a founder of the German 'Historical School', which was aligned the ideas of nation as set out by Herder (1744-1803) and others. Von Savigny saw 'law' as fundamental a marker of nation as language: 'in the earliest times to which authentic history extends, the law will be found to already have attained a fixed character, peculiar to the people, like their language, manners and constitution' (1814[1999]: 17): an inherent part of its *volksgeist*. In the context of legal theory, this position was a reaction against ideas of natural law and also analytical positivism. The Historical School understood law to be: a product of customs and practices in particular communities; embedded in – rather than imposed upon – society; necessarily accepted and observed by that society; holding authority by benefit of tested and proven tradition (to use Weber's terminology); and fundamentally derived from custom.

We know the nation-building northern Albanians were influenced by streams of political ideas coming from Germany and central Europe, and von

³¹ These and other examples are discussed further in Chapter 4.

Savigny's ideas which underpinned the influential German Historical School, were in all likelihood part of these ideas. As I show, the early and late twentieth century Albanian nation-builders took a position on Albanian law which strongly resonated with the position von Savigny took vis-à-vis Germany, so my thesis also contributes empirical examples of what this philosophy can look like in practice.

'Law' and literacy

It is clear that literacy and writing make possible a particular style of thought often associated with legalism:

[o]ral persons can be wise, as wise as anyone, and they can of course give some explanation for things. But the elaborate, intricate, seemingly endless but exact cause-effect sequences required by what we call philosophy and by extended scientific thinking are unknown among oral peoples (Ong 1986: 43).

As noted above, illiteracy was wide-spread among Albanians well into the twentieth century, and literacy drives have been important nation-building activities. Both the *Kanun* and the *Pajtimi i Gjaqeve* emerged during periods of intense activity to promote Albanian literacy and education (Blumi 2002, Kostovicova 2002 and 2005). In the early-twentieth century, this activity included establishing Albanian language schools and publishing Albanian-language materials. In the late-twentieth century, we can see it in the schools established by Kosovar Albanians in private homes after widespread dismissals in 1990, and a dispute with the Serbian government about the school curriculum, led to the exclusion of Albanian teachers and pupils from state schools.

Gjeçov wrote his *Kanun* as a legal code, which suggests he was trying to get at the rules and principles which ordered northern-Albanian society and the

mythical *Kanun* of Lekë. But also, the Appendices to the *Kanun* contain some narrative empirical examples of actual incidents, which can be understood more like precedents.³² The contrast between the more narrative form of these examples and the terse provisions of the body of the *Kanun* suggests Gjeçov's methodology had something in common with the way in which the English Common Law developed.³³ This raises the question: why did Gjeçov write and publish the customary practices of the northern-Albanians as a legal code? I pick this up at the end of Chapter 4, and discuss comparative examples.

In 1990s Kosovo, in contrast to the focus on the production of a legal code or legal texts, it was the formality of the legalistic process which characterised the *Pajtimi i Gjaqeve*. As I discuss in Chapter 6, in the Movement's documents we do not see evidence of rules or principles being extracted from the narrative accounts of individual conciliations, in the manner of Gjeçov. This is not to say that there were no connections to Kosovar ideas of 'law', and I discuss this in Chapters 5 and 7, in the context of what the Kosovar Albanians often call the 'parallel state'. The documents indicate that some organisers and activists anticipated their process records would feed into, or be drawn on by, the legal system of a future, anticipated, Kosovo state, so the relationship of the *Pajtimi i Gjaqeve* with the nation-building project was different from that of Gjeçov's *Kanun*.

³² The most narrative of these are similar in style to the material from Kosovo published in the later-twentieth century by Anton Çetta and Xhemajl Bajrami (see above).

³³ In the English case, trials were held, at which judgments were passed and recorded. Later, these reports were referred back to, to build patterns from which explicit rules gradually developed.

Methodology

My research was a combination of participant-observation fieldwork, semi-structured interviews, archive work in public and private archives, and a survey. I started from a broad interest in Albanian ideas of Albanian law and legal tradition, and allowed the data I gathered to shape and direct the project as it developed.

I carried out the empirical research during 15 months of fieldwork in Kosovo, living in Albanian communities in Prishtina (the modern capital) and Prizren (historically the most important city), from July 2009 to October 2010. This built on my existing networks of contacts from 10 years of previous academic and non-academic work in, and on, Kosovo, and I supplemented the main body of fieldwork with several short follow-up visits over the next two years.

On arriving in Kosovo, I talked to existing contacts about my broad areas of interest, and invited their thoughts and suggestions. My interest in ‘law’, ‘but Albanian law, not state law’, resulted in many recommendations that I ‘study’ the *Kanun* or the *Pajtimi i Gjaqeve*, as both were splendid examples of just that sort of thing. In itself, my interest was not at all surprising to my informants, who generally considered everything ‘Albanian’ inherently interesting and worthy of study. More problematic was their pervasive belief that any one of them, as an Albanian or a Kosovar, could tell me everything I needed to know about anything Albanian or Kosovar. Despite my ongoing efforts to ensure informants understood the nature of my project, it was clear that the majority of my informants anticipated that my work would contribute to the Albanian or Kosovar ‘national’ cause in some way. The more politically active among them responded with enthusiasm to the idea of a copy

of my thesis being lodged in the Bodleian, and increased their determination to ensure I had access to all the information I needed, and ‘true’ information at that, so the final work would be ‘correct’ in its presentation of Albanians. Getting ‘true’ information is something with which Hasluck (and no doubt others) struggled in the past; according to Kastrati:

I came across her unexpectedly at Shkreli, and was able to see her actually at work. I saw with regret how a mischievous chieftain was entertaining his friends by the way he was misleading her with absurd stories, which she duly recorded. I pointed this out to her afterwards, and she wept at the difficulties of understanding the mountaineers and was sad to have to scrap what seemed such interesting material. Though she spoke Albanian, she did not speak it so well as to distinguish nuances, and she was unable to tell from the chieftain's eyes, gestures and choice of words that he was having a good time at her expense (Kastrati 1955: 126).³⁴

With hindsight, the approach I adopted to mitigate this was much the same as that taken by Durham (*ibid*: 125): for pragmatic reasons discussed below, I was often accompanied by Albanian friends, and I discussed non-confidential information I gathered with reliable and well-informed friends, who were not present during interviews.

It soon became clear that I needed to have an institutional affiliation, as way of locating myself within Kosovo society. I took a teaching job in the newly-founded state University of Prizren, which proved an excellent basis for fieldwork: it was an immediately acceptable affiliation and, as a new institution, its political leanings were not yet established or widely known.³⁵ The survey on understandings

³⁴ Qazim Kastrati was an Albanian resident in Britain, and King Zog's private secretary (Pearson 2006: 256).

³⁵ By the year after my fieldwork, it had become popularly known as a ‘PDK’ university, after the Democratic Party of Kosovo (PDK). Staff were required to renew their contracts after the first year of the institution's operation, and it was broadly noted that staff with PDK membership were generally successful in their applications for renewal, whereas staff who were not PDK members

of 'law' in the Prizren region was carried out in the context of this work, and is discussed along with the findings of the survey, in Chapter 7. Progress in developing new contacts was considerably slower than I had anticipated as, even with this affiliation, a personal introduction was necessary for effective connections which could progress past superficial and guarded exchanges. The pattern which emerged was one of chaperoned introductions, where the mutual acquaintance arranged and stayed for the (initial) meetings. This approach, which is the normal Kosovar way of making contacts, builds trust on both sides, and weaves a tight mesh of social relationships, in which every new relationship contains, and continues to be affected by, the previous social relationships which led up to the introduction.

Serendipitously, a prior informant turned out to be the son of a regional organiser of the *Pajtimi i Gjaqeve*. His generous time and patience gave me a thorough grounding in the Movement's work in one particular region, and his thorough search of his home turned up the Shtime Regional Council's papers (see Photograph 1, below), which I discuss in Chapter 6.

often received anonymous phone calls during the renewal process, suggesting they ought to become members if they wished their applications to be successful.



Photograph 1: Documents Received from Shtime Conciliation Council

To the best of my knowledge, this is the first time original documents such as these have been seen and discussed outside Kosovo, and they shed valuable new light on the operational side of things. Also, as a former-political prisoner, my informant was well-connected with the people who had been central in the planning and operation of the *Pajtimi i Gjaqeve*, which gave me initial connections at the Institutes of Albanology and History, and the Institution for the Preservation of Historical Monuments, from which other valuable connections snowballed. I supplemented my participant-observation with open and semi-structured interviews. Over the course of the main body of my fieldwork, I carried out over 130 interviews, most of which lasted for two or three hours. Subject to the informants' agreement, I recorded the interviews and later transcribed them. In subsequent trips, I carried out another 20 follow-up interviews, all of which were recorded and transcribed.

For the historical periodicals, the archive of the Marin Barleti library in Shkodra, Albania (which holds some, if not all, of the personal archives of the Shkodran Franciscans), and the British Library were invaluable.

Methodological considerations

Three particular considerations emerged during the course of my fieldwork. First, how to manage potentially useful information that I had collected during my prior work in Kosovo. Where possible, and I could trace the origin of the information, I made contact and explained the nature of my current project, and asked whether I might use information gathered earlier from, or through, them for this new project. None of my informants objected to my ‘transferring’ the information in this way. Where it was not possible, I used the information only in as much as it informed my broad understanding.

Second, as I discuss in Chapters 6 and 7, the story of the *Pajtimi i Gjaqeve* is now so standardised in the public sphere, that to tell an alternative version may be fraught with social risk. The economy is fragile, jobs are scarce, the population is generally struggling to make ends meet; while I encouraged informants to speak openly, I did not push anyone to speak against the received version of events, as it would have been unethical of me to put them in a vulnerable position. With time, I built trust and, as I discuss in Chapter 7, some informants did express an alternative view. However, I was not only trying to get at ‘the truth’; my informants’ perceptions were just as important, and I present my material accordingly.³⁶

³⁶ In a rare comparative study of Albanian and Serbian understandings of Kosovo, Mertus described this as the difference between ‘facts’ and ‘truths’. Drawing on Cohen’s model of history coming in three ‘keys’ (fact, myth and experience) she argues that ‘truths’ are important because it is on the

Third, in the Regional Council documents discussed in Chapter 6, and through other records such as diaries and letters, I had very personal information about disputes in Kosovo, which had not been given with the expectation it might one day be used for academic purposes. I discussed with former organisers and Heads of Regional Councils how I might use this material; all felt that, by bringing their dispute to the *Pajtimi i Gjaqeve*, the disputants had put the details of the dispute in a restricted public domain and that they (as the trustees of the information) were happy to extend that to include my research. They drew attention to two factors which contributed to their decisions: owing to the passage of time, in many cases the named parties to a conciliation (as elders of their families) would since have died, so it was held to be no breach of their privacy. Second, owing to widespread post-war rural-urban migration, and emigration, many families would no longer be found in the villages they had inhabited during the *Pajtimi i Gjaqeve*, which would further protect individuals and families from identification. I have extended this by not giving personal or family names of disputing parties in my Chapter 7 discussion of the records, or the related Annexe.

Spelling and Names

In the Balkans, the naming of people and places, and the writing of those names, are fraught with complexity, and potentially subject both to political associations and politicised interpretations (Judah 2008: xvif., Kola 2003: ix, Malcolm 1994: xi, Mertus 1999: xix). In my thesis, there are three particular ‘naming and writing’

basis of these, rather than ‘facts’ that people act. Truths ‘involve history as experience and myth rather than as fact. Truths underscore history as a process rather than a fixed body of material’ (1999: 2).

problems: how to describe the location of places when the territorial entity to which it belongs has changed several times; how to name a place which is transliterated, or has entirely different names, in different languages; and how to spell personal names which transliterate differently in different Balkan languages. For brevity and simplicity, unless quoting or noted otherwise, I apply the following three principles: I describe places by the contemporary state in which they are located; where a place has more than one spelling or name, I give the Albanian version in the text unless an alternative spelling is in common use in English³⁷; and I give personal names according to the modern transliteration of the language spoken by the named individual.

State of the literature

A cautionary flag should be raised about the state of the literature. Limited research was carried out in Albania in the second half of the twentieth century by non-Albanians, owing to language difficulties and, later, the political isolation of Albania during the Communist period (1944–92). A consequence of this was a great recycling in the literature on the *Kanun* of Lekë Dukagjin of relatively few original sources, and the literature based on such recycling tended to be descriptive and contain very little new analysis. This can give an inaccurate impression of the volume and nature of the work which has been done in this field. Examples of articles which rely heavily on such recycling include Fischer (1999), Trnavci (undated), and Whitaker (1968). Albanian social scientists faced other difficulties: academic social sciences only developed in Albania after World War II, and were immediately and profoundly shaped by the Communist environment in terms of

³⁷ For example, Albanians call the capital of the Former Yugoslav Republic of Macedonia ‘Shkup’ rather than the more familiar ‘Skopje’.

what social scientists could explore, and Communist policies or stances on particular social issues. Speaking of Elezi, one of the best-known Albanian scholars of feuding, a German academic noted:

[n]early every publication concerning this topic in communist times was published by Elezi who knew very well the ideological requirements he had to meet in his texts which can be considered representative for the communist official version (Schwandner-Sievers 1999: 147).

Since the end of communist rule in Albania, academic institutions and scholars have struggled with the ‘considerable degree of backwardness’ inherited from the previous regime, including lack of funds and a pronounced ‘brain-drain’ (Demiraj 1995).

Plan of the Thesis

In Chapter 2, I give an historical overview of the history of the Northern Albanians and Kosovo. This has already been extensively studied by historians on whose work I draw, but my study teases out a relatively little analysed aspect of this history, the connections between populations and ‘law’. By doing this, I connect Gjeçov’s *Kanun* and local ‘legal’ practices with both the wider political processes and understandings of group-hood.

In Chapter 3, I turn to the Franciscan priest Father Shtjefën Gjeçov, who prepared and published the *Kanun* of Lekë Dukagjin in the early twentieth century. I examine his life and publications as an example of a nation-builder, and set him in the social and political contexts of the day.

In Chapter 4, I examine Gjeçov's text of the *Kanun*, analysing how it relates to what we know of Albanian 'law' before its publication, its contents and organisation, and how it relates to broader themes of ancient law, and the appeal of codification.

Chapter 5 is a bridge between the two halves of the thesis, in which I give an overview of Kosovo in the twentieth century, looking again at the connections between 'law' and understandings of group-hood, now settled as 'nationhood'. The second half of the chapter, on Kosovo in Yugoslavia, sets up the political, legal and social contexts for my analysis of the *Pajtimi i Gjaqeve*.

Chapter 6 looks at the foundation, spread and activities of the *Pajtimi i Gjaqeve*, drawing on interviews, diaries, newspaper reports, media coverage, and Regional Council documents from Shtime in central Kosovo.

In Chapter 7, I examine contemporary understandings of the *Kanun* and the *Pajtimi i Gjaqeve* in the context of an emerging Kosovo state, and explore some contemporary tensions between 'state' and 'nation'.

In Chapter 8, I use the conclusions I have drawn in the context of specific examples, to tease out connections between Albanian legal processes and practices, and nation-building. I show how these connections are being used and adapted by Kosovars in contemporary settings to suit the changing political and economic configurations of their modern world.

Contribution to knowledge and scholarship and links to body of literature

Law

My contribution to the scholarship on law is an unusual, but striking, example of what law can mean, and how it can be used for symbolic and nation-building purposes. Contrary to the Durkheimian view, that law emerges from the norms or practices of a community, reflecting culture or customs, I show that law can also create communities.

In the early years of the twentieth-century, in the context of the fading Ottoman Empire, Albanians had chaotic and contested ideas of nation, and the tribal structure of northern-Albanian society was a threat to the foundation of a modern state. A northern-Albanian nation-building priest attempted to draw order from the chaos by creating an Albanian legal code rooted in customary practices, which could underpin the foundation of an Albanian state. Law had the potential to do this, because it both reflected custom, and showed equivalence with other nations and states. The importance of the *Kanun* text was not only symbolic; it was also linked to practical dispute resolution, as shown by the actual records it included as examples. Placing these examples within a legal code elevated Albanian customary practices into a symbolic statement.

In the late-twentieth century, the *Pajtimi i Gjaqeve* was a very different aspect of law; it was about legal process and the documentation of process rather than a legal code. It took place at the end of the twentieth century, during a period of intense political upheaval and uncertainty, as the Federal Republic of Yugoslavia disintegrated, wars were fought in neighbouring republics, and the Kosovar population voted to secede from Serbia and form an independent republic. In this

case, too, law, in the form of the *Pajtimi i Gjaqeve*, created community. It created boundaries through the categories it employed, and disputing parties had to (or were made to) accept these categories if they wished, through participation, to prove themselves part of the community. Separated by some eighty years, ideas of law have played a crucial role in the nation-building which preceded the creation of the states of Albania (1912) and Kosovo (2008).

Nation-Building

To the scholarship on nation-building, I add a south-east European example of how different forms of law and legal process, anchored in understandings of folk culture and shared heritage, can be central to nation-building activities. Other scholars have examined various aspects of the instrumentalisation of ‘folk’ culture for nation-building purposes in central and south-east Europe, but this use of law and ideas of law seem to be unique in the Balkans. To the scholarship on Kosovo, I present valuable new primary sources from the *Pajtimi i Gjaqeve*, which have not previously been seen outside Kosovo, or discussed in the literature. These give us direct insight into the operation of this legal process at a regional level, and go to the heart of nation- and state-building processes, showing what people were thinking about at the time, and how this differed from other Balkan states.

Chapter 2: The History of the Northern Albanians and Kosovo

This chapter is a cross between the history of the Albanian people and the history of Kosovo, in which I tease out some of the historical factors which shaped later Albanian understandings of ‘law’ and ‘nation’. Neither the term ‘Albanian’ nor ‘Kosovo’ is unproblematic: neither term has always been used, and neither has

carried a consistent meaning across time. Even at the level of definitions, it is not a straightforward task to disentangle the people or the place; a task further complicated by the politicised nature of much Balkan historiography. In an effort to avoid the pitfalls engendered by such definitions and politics, this survey is rooted in relatively few sources; in particular, two texts on the mediaeval Balkans by Fine (1983 and 1994), and the Malcolm's documentary evidence-based 'Kosovo: A Short History'. Published in 1998, at the height of pre-war tensions in and about Kosovo, Malcolm's work was broadly well received by non-Kosovar academics and Kosovar Albanians, but attracted considerable criticism from some Serbian quarters. The historian Djokić commented 'The author has consulted archives and libraries in Albania, Australia, Britain, Croatia, France, Germany, Italy, the Vatican, the United States, though curiously, not in Serbia' (Djokić 1999: 1312). Djilas put it rather more forcefully:

Malcolm's bias can ... be seen in the fact that, of the 31 archives and libraries he consulted, none are in Serbia. He failed to visit the relevant research centres in other Orthodox countries, like Greece and Bulgaria, restricting himself mostly to Catholic ones, especially in Italy and Austria. Among the international group of people thanked in the acknowledgements, there are half a dozen Albanians but not one Serb (Djilas 1998: 129f.).

Despite such criticisms, Malcolm (1998) is the most comprehensive and objective historical treatment of Kosovo in English, and draws on an extensive range of sources, in over twenty languages (Djokić 1999: 1312).

General survey

Physical Geography

What follows reads rather dryly: a list of facts, places and figures, but these very things are the dots which Kosovars join to form a picture of the nation and its territory. Each has 'national' resonance, as part of a web of self-understanding and

historical and political associations. Invocation of such points can generate considerable emotion, see, for example, the lyrics of the call-to-arms about the contested city of Mitrovica (2000):

Like the crown of a Queen. Between the rivers Ibri and Sitnica
... is the city of Mitrovica
The river Ibri washes its face, the Shala of Bajgora (Mountain) gives it
air
In the caves of the mines, beats the heart of Kosovo

Without the eradication of [Albanian] boys and girls, Mitrovica will
never be divided

We are not letting go of our land, now Kosovo is ours.³⁸

Kosovo, as the territorial entity shaded on Map 1 (above), has only existed since 1946, when its boundaries were set as a province of the Federal Republic of Yugoslavia. As well as on Malcolm (1998), this general survey of Kosovo draws on the CIA World Fact Book entry for Kosovo (CIA 2012).³⁹

The territory of Kosovo is roughly diamond-shaped and covers 4,212 square miles, making it approximately half the size of Wales. It has 436 miles of land borders, shared with Serbia, Macedonia, Montenegro, and Albania, and is encircled by mountains: the Kopaonik range separates Kosovo from Serbia; the eastern edge is formed by a smaller range of hills; the southern border with Macedonia is marked by the Sharr range; and the dramatic ‘Accursed Mountain Pastures’ form the western border with Montenegro. A further range of hills forms a north-south spine down the centre of the territory, on either side of which is a plateau, both of which lie some 1,200 feet above sea level. To Albanians, the western plateau is ‘The Plain

³⁸ ‘Nuk Ndahet Mitrovica’, from the CD of the same name. Shkurte Fejza, 2000. Fejza is intimately linked to ideas of law and nation, as she was a popular performer and ‘national’ events in the late 1980s and through the 1990s, including various *Pajtimi i Gjaqeve* conciliation ceremonies (see Chapter 6).

³⁹ Available at <<https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html>>. Consulted 10 March 2012.

of Dukagjin' or simply 'Dukagjini'. The highest point in Kosovo is Gjeravica, in the 'Accursed Mountain Pastures', at 8,714 feet above sea level, and the lowest is the White Drin river, on the border with Albania, at 974 feet above sea level. The territory is landlocked, but rivers flow from it outwards: the Ibar flows northwards into Serbia; the White Drin westwards into Albania; and the Lepenec southwards into Macedonia. The only lake of any size is the man-made 'Lake of Batllava', created in 1970, which lies in the north-east with a surface area of 1.3 square miles and a maximum depth of 157 feet.

Natural resources

The climate is a combination of Mediterranean and Alpine influences; winters are cold with heavy snowfall (often -10° C), and summers are hot and dry (often over 30° C).⁴⁰ Well into the twentieth century, much of the countryside was heavily forested, and wood was an important natural resource; today it remains the most common fuel for domestic heating.⁴¹ Historically, Kosovo had the greatest concentration of mineral resources in south-eastern Europe, although not having had the economic benefit of these because successive external powers, rather than local populations, have controlled and exploited them.⁴² The output of the largest mine, Trepça, during and after the Second World War, illustrates the scale of these resources. During the Nazi occupation of the region after 1941, Trepça alone sent

⁴⁰ Owing to the topography, there is considerable regional variation in temperatures, which can fall to -27° C in the winter, and reach 37° C in the summer.

⁴¹ This has sometimes put the Kosovars at odds with the authorities over illegal logging; a possible example of which appears in D.37 of the Shtime Conciliation Council documents discussed in Chapter 6.

⁴² See Chapter 5 for discussion of the discontent this generated in Kosovo during the Yugoslav period.

500 tons a day of lead and zinc concentrate, by train, back to the Reich; after the Second World War, it became one of Europe's largest suppliers of lead and zinc (see Palairret 2003 for a summary of the complex history and ownership of the complex in the second half of the twentieth century). Today it is more-or-less defunct, owing to decades of neglect and mismanagement (Eyre 2001, and for an example of ongoing public health consequences, see Terdevci 2005).

Trading routes

Over the centuries, Kosovo's geographical position made it of strategic importance as a thoroughfare for trade and armies; the routes described below are marked on Map 1. The two most important routes in the Balkans ran close to Kosovo, but did not pass through it. The main north-south route from Austria-Hungary ran into the Balkans through Belgrade in Serbia, down to the southern Serbian city of Niš and then branched east *via* Sofia in Bulgaria to Constantinople, or south into Macedonia. The Roman *Via Egnatia* ran east-west from the port of Durrës on the Albanian coast across Albania, into Macedonia just north of Lake Ohrid and then across Macedonia into Greece.

Although bypassed by the primary routes through the Balkans, three significant routes did pass through Kosovo. The first ran from Shkodra in northern Albania, which was connected to the Adriatic by river, to Prizren in southern Kosovo. This route made Prizren a regional trading hub, until the arrival of the railway in eastern Kosovo in 1870 created a new route by which goods could be transported into Kosovo, from Thessaloniki. After Prizren, the route branched: north towards Peja and the large Serbian Orthodox monasteries and lands; and north-east through central Kosovo to Prishtina. The second route ran north-south

from Prishtina down through Kaçanik to Skopje, and further south to the Greek port of Thessaloniki. The third began in the medieval coastal city state of Ragusa, now the Croatian city of Dubrovnik, the ‘Hong Kong of the Ottoman Balkans’ (Malcolm 1998: 6), which had communities of its merchants throughout the Balkans, and transported goods from its coastal base to all of these communities. Its influence was such that, by 1458, it was ‘the greatest economic force in the Balkans’ (Sugar 1977: 168). The route which passed through Kosovo began in Ragusa, ran north-east to Foča in Bosnia, from there south-east to Novi Pazar in Serbia before skimming the northern tip of Kosovo near the Kopaonik mountains. Here the route branched: east to Niš which joined the main north-south Belgrade-Sofia-Constantinople route, or south to Prishtina, and thence on to Skopje and Thessaloniki. The second and third of these routes through Kosovo made Prishtina, today’s capital, a regional trading hub.

The Albanian language

Today, there are over seven million Albanian speakers in the Balkan peninsula, of whom approximately half live in the Republic of Albania. There are significant Albanian speaking communities in Kosovo, Serbia, Macedonia, Montenegro, and Greece.⁴³ The Albanian language belongs to the Indo-European family, within which it has no linguistic relatives.⁴⁴ Albanians call their language *shqip*, within which there are two major dialects, the northern ‘Geg’ and the southern ‘Tosk’.⁴⁵

⁴³This overview of the Albanian language draws heavily on the work of the linguist Robert Elsie, a prominent contemporary scholar of the Albanian language, and prolific translator of Albanian texts into English and German.

⁴⁴ The only other European language of which this is true is Basque.

⁴⁵ Elsie prefers the transliteration ‘Gheg’, but here and throughout I will use ‘Geg’, which is the contemporary Albanian spelling.

As my thesis is about the northern Albanians, only the Geg dialect is discussed here. It is spoken north of the River Shkumbin (see Map 2), in most of northern-Albania, in Kosovo, Montenegro, and Serbia, and much of western Macedonia. Within the Geg dialect, there are Northern and Southern Geg sub-dialects. Within each sub-dialect there are two further subdivisions.

The Albanian language was standardised in the twentieth century and this process is discussed in Chapters 3 and 5, as a key element in early Albanian nation-building. The modern alphabet and Latin script were adopted in 1908. A ‘literary language’ was developed in Communist Albania and introduced in 1972, composed of approximately 80% Tosk and 20% Geg. Despite these efforts at standardisation, the multitude of subvariants which remain within the Geg dialect show the Albanian language has a very strong ‘local’ character; this is important to the story of Albanian law and nation.⁴⁶

Historical Overview

The earliest known inhabitants of the Balkan Peninsula were the Illyrians, of whom there is archaeological evidence across the region (discussed in, for example, Koka 1985, Spahiu 2006, and Cabanes and Berranger 2007). The Romans called the region they inhabited ‘Illyricum’; in his Letter to the Romans, St Paul says ‘Through mighty signs and wonders, by the power of the Spirit of God; so that from Jerusalem, and round about unto Illyricum, I have fully preached the gospel of Christ’ (Romans 15:19).

⁴⁶ See, for example, Camaj (1984) on the five dialect groups of Kosovo alone.

There are two ways to go about looking for the history of the Albanians. The first is to look for continuity of descent, even if the name of the group changes; the second is to trace the consistent use of a group name across time. To understand claims Albanians make about their origins involves both approaches; both are problematic and lack conclusive documentation. There are two main theories for the pre-Roman origins of the Albanians: early Albanians were either Illyrians, or Thracians. Of these, Albanian scholars prefer the Illyrian theory: as the Illyrians lived in the Western Balkans, an Illyrian heritage would mean Albanians had ‘always’ lived in ‘Albania’. However, there is no archaeological proof of direct descent, and historical linguistics offers no help in proving or explicating any relation, as no Illyrian text is known. It is ‘like trying to solve an equation with too many unknowns’ (Malcolm 1998: 31).⁴⁷ There are early traces of an ‘Albanian’ people: in the second century, Ptolemy referred to the ‘Albanoi tribe’, and their town ‘Albanopolis’ to the east of Durrës. After that, there is no mention of ‘Albanians’ until 1043, when Albanian troops were noted as fighting alongside Greek troops in the army of a rebel Byzantine general, but we do not know who these ‘Albanians’ were. There is no historical record to bridge the nine-hundred year gap between these two encounters with ‘Albanians’, and thus no way to determine the relation, if any, between these two groups. After 1043, references to Albanians occurred in various documents over the next two centuries, until an Italian document in 1281 mentioned ‘*duca Ginius Tanuschus Albanenis*’ as the ruler of an area between Durrës and Shkodra. This ‘duca Ginius’ is presumed to be the founder of the Dukagjin family, later to produce the Lekë Dukagjin often identified

⁴⁷ Difficult, but not necessarily impossible, as shown by the decipherment of the Mycenaean Greek writing known as Linear B, which used syllabic and ideographic signs (Chadwick 1958).

as the progenitor of Albanian ‘law’.⁴⁸ From this period onwards, there are many references in historical records to ‘Albanians’, which can be connected to modern Albanians.

The story of the Albanians in Kosovo and the Balkans cannot be addressed without consideration, too, of the Serbs in the Balkans, especially as much nineteenth and twentieth century Balkan historiography consists of competing claims and understandings of the ‘other’, which significantly shape understandings of the ‘self’. In the fifth and sixth centuries, the Serbs and Croats were groupings of a larger Slav tribal population based in central Europe, the origins of which can be traced further back to the Black Sea region.⁴⁹ Following the restoration of the Balkans to the Byzantine Empire by Emperor Justinian, (of the *Corpus Iuris Civilis*), from the sixth century, central European Slavs began to carry out raids into the Balkans. In the early-seventh century, the Byzantine Emperor sought help from the Croats of central Europe to repel attacks on the Balkans by the Turkic Avar tribe. The Croats came and, with them, Serbs, in the first significant wave of Slavic immigration. Over the next two centuries, the Slavic population gradually penetrated Montenegro and northern Albania, slavicizing much of the countryside as they moved. Although the spread of Slavs into northern Albania did not extend to the towns and higher mountain areas, by the ninth century the Slavs were a significant element of the population of lowland areas and urban settlements. By

⁴⁸ See the Chapter 4 discussion on the *Kanun*, and the section of Gjergj Fishta’s essay in Chapter 6, which discussed the origin of the attribution of the *Kanun* to Lekë Dukagjin.

⁴⁹ The Slavs, or Slavic peoples, speak Indo-European Slavic languages and live in central, eastern, and south-eastern Europe, and Central Asia.

the 850s, a Slavic population had taken over Kosovo and adopted the culture and language of the Turkic Bulgarian rulers.

Medieval Kosovo 850–1455

Kosovo remained under Bulgar and Macedonian rulers, until a decisive victory over Bulgarian forces in 1014–18 by the Byzantine Emperor, Basil the Bulgar Slayer, following which it came under Byzantine control for some 200 years.⁵⁰ By 1014, two bishoprics had been established in Kosovo, in Lipjan and Prizren, both under the auspices of the archbishopric in nearby Ohrid, Macedonia. On 6 July 1054, the ‘Great Schism’ occurred, which divided the Christian church into Roman Catholic and Eastern Orthodox. Despite the established Slav culture in the region, there is evidence to suggest that, over the next 200 years, a separate Roman Catholic tradition survived in Kosovo.

In the 1180s, Stefan Nemanja, the Serbian ruler of Rascia (Serbia) on the northern edge of Kosovo, extended his territory in all directions, including southwards through Kosovo and into Macedonia. By 1196, it included all of eastern Kosovo, which placed the probably relatively recently converted (Ducellier 1984: 8) local Roman Catholic population under a local Orthodox ruler. Given the antagonism between the branches of Christianity, this must have entailed difficulties for the Catholics.⁵¹ By 1216, Stefan Nemanja’s son and successor,

⁵⁰ Also known as Basil II, Basil Porphyrogenitos, and Basil the Younger, Basil the Bulgar Slayer (958–1025) ruled from 976–1025 and is best remembered for the stabilisation and expansion of the Empire and the subjugation of Bulgaria.

⁵¹ The Code of Tsar Dušan indicates the esteem in which the Orthodox held the Catholics, ‘And concerning the Latin heresy, any Christians who have turned to unleavened bread, let them return to Christianity. And if anyone fails to obey and does not return, let him be punished as is written in the

another Stefan, had extended Rascian territory to include all of Kosovo. King Stefan's younger brother, Sava, was the senior figure in the Orthodox Church in Serbia, then part of the Greek Orthodox Church. In 1219, Sava persuaded the Greek Patriarch to grant the Serbian Church autocephalous status.

Over the course of the next century, there was an extensive programme of Orthodox church building, which included some of the best examples of Serbian Orthodox architecture and fresco paintings. In Kosovo, this included the monasteries of Gračanica, just outside Prishtina, and Dečan, near Peja in western Kosovo. Today, these remain important sites for the Serbian Orthodox Church. In 1331, Dušan came to the throne; although his reign was relatively short (1331–55), it included remarkable achievements. He took extensive territory from the Byzantine Empire, which was wracked by civil war, including all of southern Albania and much of northern Greece. In 1346, the status of the Serbian ruler and Church were both elevated when the leader of the Serbian autocephalous church was raised from the rank of 'Archbishop' to 'Patriarch', and the Serbian Orthodox Church became fully independent of the Greek Orthodox Church. In turn, the Serbian Patriarch raised Dušan from the rank of 'King' to 'Tsar', crowning him 'Tsar of the Serbs and Greeks', and from this beginning, the Serbian Orthodox Church was central to a sense of Serbian nationhood. On 21 May 1349, 'The Code of Stephan Dušan, Tsar and Autocrat of the Serbs and Greeks' was promulgated (Burr 1949/1950).⁵² It was written in what is now called Old Serbian Cyrillic, and

laws of the holy fathers' (Burr 1949/50: 199, Article 6). Roman Catholics are later referred to as 'half-believers' (*ibid.*: 200).

⁵² Although Dušan's Code is often described as the first Serbian legal code, there is evidence of an earlier legal code promulgated by King Milutin (1253–1321), which has not survived, and there were at least two other prior texts, the Byzantine Nomocanon of 1219 [Ser. *Zakonopravilo*] and the

drew heavily on Byzantine law; Fine suggested that ‘nearly half of its articles reflect that influence to a greater or lesser degree, often modified to meet Serbia’s needs’ (1994: 314). It consists of 201 articles, presented as a single list. This document is important to Serbian ideas of law and nation, as a direct link to a national ‘golden age’, during which Serbs were a legal community. The Code shows the feudal nature of Serbian society at that time, and covers: crimes and insults, and the punishment of both; court procedures and jurisdictions; rights and obligations; types of landholding; the position of the Serbian Orthodox Church; inheritance; the social class system, especially lords, serfs and slaves, and their obligations; guaranteeing the state’s authority and income; and state efforts to uphold law and order. Punishments are severe, and frequently involved mutilation and execution. These were in line with Byzantine practices, and a departure from Serbian traditional practices of monetary fines.⁵³

Catholics and Albanians in medieval Kosovo

Although the high-level politics and achievements of this period were Serbian, it is timely to pause and consider what we know of Catholics and Albanians in medieval Kosovo. By 1303 there were at least two Catholic parishes in Kosovo, Trepça in north-central Kosovo, and Gračanica in central north-western Kosovo, and a series of Catholic bishops was appointed to Prizren between the 1330s and 1380s. The

Syntagma of Matthew Blastares (1335), a collection of legal decisions with legal authority, covering civil and ecclesiastical cases, written in the Byzantine Empire and translated into Serbian (Fine 1994: 314).

⁵³ In a note to Article 21, Burr commented that the substitution of mutilation for execution was a characteristic of the period, and suggested comparison with penalties of mutilation in the Anglo-Saxon code. Mutilation seemed ‘less repugnant to Christianity than execution, and it was cheaper and easier than incarceration’ (Burr 1949/1950:202).

Catholic population would have consisted of Albanian-speakers, and powerful and wealthy immigrant Catholic communities from Ragusa (Dubrovnik on the Croatian coast). If the term ‘Catholics’ included, but was not limited to, Albanian-speakers, what of the term ‘Albanian’ at the same time? Albanians merit specific mention in Dušan’s Code, in an article which seems to be an attempt to regulate the demands made on Serbian pastures by migrating flocks and families. ‘Albanians’ were also mentioned as inhabitants of local villages in some Orthodox Church documents of the 1330s–50s. Quite who these ‘Albanians’ were, and of what size population they were part, is difficult to establish. There are no Albanian-language sources from this period, and much of the work in this field by regional historians has been based on analyses of personal and family names in registers, a notoriously unreliable source from which to deduce national or ethnic identity.⁵⁴ Despite these gaps during the territorial and cultural expansion of Rascia into the Serbian Empire, while it seems likely that the overall direction of assimilation would have been non-Serb to Serb, distinct non-Serb groups – including Albanian-speakers – continued to exist in Kosovo.

Arrival of the Ottomans

The arrival of the Ottomans in the Balkans was a gradual process, started by an invitation in 1305 from a Catalan commander in need of military assistance. Having completed their business with the Catalan, it appears that, on their journey home, the Ottoman troops may have come to an agreement with the Serbian King Milutin (who perhaps planned to use Ottoman forces against the Byzantine Empire) and

⁵⁴ This is an example of the difficulty in looking for the history of a group through continuity of a group name.

settled in Serbia. Over the next 50 years, there are various mentions of Ottomans in the Balkans, including of Ottoman troops fighting in the army of Stefan Dušan.

This changed in 1360, when Murat became the Ottoman Emperor, and began a campaign of territorial expansion into the Balkans. As the Ottomans moved into the region, there were many battles over several decades, including the Battle of Kosovo, which took place just north of Prishtina, on 15 June 1389 and the main significance of which was to lie more in the popular nineteenth-century Serbian narrative about the battle, than its immediate military outcome.⁵⁵ It was fought between the combined forces from Serbia and Bosnia, under the command of the Serbian Prince Lazar, and Ottoman forces led by Murat. There is evidence that some Albanians took part, as part of Lazar's combined forces, although it is not possible to establish who they were.⁵⁶ It is clear that both armies were composed of soldiers from various places and communities, the battle was far from the straightforward 'Serbs versus Turks' represented in later Serbian myth and popular history (Djordjević 1989: 31–7, and Bogdanović 1989: 17–20), and had neither the military nor strategic significance the Serbian myth ascribed to it as 'one of the most important events in world history' (Samardžić 1989: 9).⁵⁷ The number of soldiers on both sides is unknown, but Fine accepts an estimate of 27–30,000 troops for Murat, and 15–20,000 for Lazar. Little historical fact is known about the actual

⁵⁵ This is picked up in Chapter 5, in discussions about Slobodan Milošević's rise to power, and the 600th Anniversary of the Battle in 1989.

⁵⁶ This idea of Albanians fighting alongside neighbouring peoples against the Ottomans is picked up in Ismail Kadare's *Three Elegies for Kosovo* (1999[2011]). Kadare takes the categories of 'Albanian', 'Bosnian' and so on as unproblematic.

⁵⁷ See Di Lellio (2009) for translation of an Albanian epic of the battle, giving a different perspective.

battle, to the extent that it is not even clear which, if either, side won. There were heavy losses on both sides, including both leaders, Lazar and Murat. After the battle, the young Stefan Lazarević succeeded his father and, in 1390, became an Ottoman vassal. In 1392, Vuk Branković, who held most of Kosovo, also became an Ottoman vassal, completing the region's submission to the invaders.

Whatever the (un)importance of the individual battle, it was part of a gradual conquest. By 1396 an Ottoman *kadı* [judge] was installed in southern Serbia, and the first evidence of direct Ottoman rule in Kosovo is a 1399 mention of an Ottoman governor at the Zvečan garrison, in northern Kosovo. By 1410, Ottoman officials were present at the mine in Trepça; 1426 saw an Ottoman court in Prishtina; and by 1427 Ottoman customs officials were operating between southern Serbia and Prishtina.⁵⁸ By 1439, Kosovo and most of the Serb lands were under direct Ottoman rule, and the Ottoman courts and feudal system were being introduced.

Ottoman Kosovo 1450s – 1912

In the first century of Ottoman rule in the Balkans, the social, administrative and economic foundations were laid which were to underpin everything that followed. For the Ottoman Empire, this was a time of relative prosperity, as resources from newly conquered territories began to flow back to the centre. The Ottoman administration categorised people as 'Muslim' – in which case they came under the direct authority of the Empire – or as belonging to a *millet*. The *millet* system developed as the Ottoman administrative response to the diverse peoples ruled by the Empire, and is key to understanding why the idea of an Albanian 'nation' developed so late. Although the nature of *millets* changed somewhat over the

⁵⁸ This route was an earlier Ragusan trading route, and is marked on Map 1.

centuries (Karpas 1982), they were broadly self-governing religious communities, which stretched throughout the Empire, under the authority of a spiritual leader. Thus it was that ‘the laws guiding the lives of the individuals in the society sprang not from the positive enactment of the lawgiver, but from the ancient customs and practices to which each millet adhered’ (Abu Jaber 1967: 214). The largest and most significant was the *Rum* (Greek Orthodox) *millet*, under the leadership of the Patriarch in Constantinople (Skendi 1982: 244). The Patriarch had authority over the *millet* for religious and civil matters: ‘he became a political head vested with fiscal, judicial, and administrative powers ... the same power was exercised by the high clergy, his representatives in the provinces, who intervened in worldly affairs’ (*ibid.*: 245). In legal matters, bishops were the partial-equivalent of the Ottoman judges [*kadis*]; able to judge civil but not criminal cases. Depending on religion, the people we might, retrospectively, describe as ‘Albanian’, belonged variously to the Greek and Catholic *millets* or mainstream Ottoman society.⁵⁹

The Ottoman social system divided people into the soldier class [*askeri*] and the ‘flock’ [*raya*]. The soldier class [*askeri*] included all those who held power delegated to them by the Sultan, including judges, administrators and Muslim religious leaders, and was exempt from paying taxes. The ‘flock’ was everyone else, the tax payers who supported the soldier class. In addition to other taxes, the *raya* was subject to the *devşirme* [collection], whereby a proportion of young boys from Christian villages in the Balkans were taken to Istanbul or Anatolia to serve

⁵⁹ The ongoing role of historian as nation-builder can be seen in Stavro Skendi’s article about the *millet* system and the Albanian Orthodox, which (incorrectly) presents Albania as having been a political and territorial entity for nearly a thousand years: ‘Albania has not only passed through various occupations by foreign powers, but has also experienced unusual confessional changes. After the schism of 1054, she was divided into a Catholic north and an Orthodox south The Ottomans invaded that country in for the first time in 1385’ (Skendi 1982: 243).

in the Sultan's household or the Janissary Corps (the implementation of the policy in the Balkans is discussed in Radushev 2008). The *devşirme* is remembered with great hostility by the Christian populations of the region, but Malcolm has noted there was a positive aspect it: it was a path to upward social mobility within the Ottoman system, by means of which young boys could move from the 'flock' to the soldier class (1998: 96). In this way, a significant number of 'Albanians' achieved high office within the Empire; there are believed to have been 42 Albanian Grand Viziers throughout Ottoman history, many of whom were from Kosovo.⁶⁰ Within the military system, the knight class [*spahis*] were granted feudal estates. acted as local tax collectors, and were entitled to keep a proportion of taxes collected. We will see, below, how the abuse of such positions led to uprisings in nineteenth century Kosovo.

The main local representative of the Ottoman system was a judge [*kadi*], responsible for a *kadılık* or *kaza*. Above this was a military district called a 'banner' [*sancak*], governed by a 'Lord of the banner' [*sancakbeyi*]. Kosovo was divided across several *sancaks*: the *sancak* of Vuçitërn covered Prishtina and much of eastern Kosovo; that of Prizren was initially based on the city of Prizren, but later expanded northwards; that of Shkodra covered the north of Albania and part of Western Kosovo. Smaller pieces of territory also belonged to the *sancaks* of Skopje, to the south, and Dukagjin, to the west. Several *sancaks* were grouped together to form an *eyalet*, which was governed by a 'Lord of Lords' [*beylerbey*]. With brief exceptions, Kosovo belonged of the *eyalet* of Rumeli. The nineteenth-century nation-builders understood this social and administrative organisation as having

⁶⁰ The exact number is not certain, for reasons discussed earlier to do with names, but the usual figure given by Albanians today is 42 or 43.

retarded or obstructed the emergence of an Albanian nation during the Ottoman period. The population of Kosovo at this time is estimated to have been around 350,000, and predominantly rural; only around 3.5% lived in towns, most of whom were Muslim and of the soldier class. For peasants working feudal land, the Ottoman invasion changed little; they continued to owe both a fixed tax and tithe to their lord, although significantly less obligatory labour was owed to the feudal estate under the Ottomans than under Byzantine rule. In some places, the difference was as marked as a decrease from two days each week to three days each year (Malcolm 1998: 109). During the early Ottoman period, Islam spread rapidly in Kosovo's towns, particularly in Ottoman administrative centres such as Prizren, Prishtina and Vuçitërn, and spawned many urban institutions, including the *vakıf*, or religious charity. By the middle of the sixteenth century, there were several *vakıf* in Prizren, through the works of which, the city had at least seven mosques, a Muslim seminary, a public baths, several elementary schools and a stone bridge. The percentages of Muslims in major towns between 1582–91 is shown in Figure 1, below.

Town	Percentage of the population which was Muslim
Peja	90%
Vuçitërn	80%
Prishtina	60%
Prizren	56%
Novo Brdo	37%
Trepça	21%
Janjeva	14%

Figure 1: Islamisation of Kosovo's urban population⁶¹

⁶¹ (Malcolm 1998: 106).

The absence of records of large scale immigration to Kosovo in this period suggests the majority of Muslims in early Ottoman Kosovo were local converts to Islam; although there is little evidence of reasons for conversions, the decision was probably influenced (at least in part) by economic considerations, such as preferential tax status and better commercial opportunities.

Northern Albanian social structure

Before the Ottoman invasion, northern Albanian society had been based on powerful land-owning families (Frasheri 1964: 47–57), such as the Kastriotis and Dukagjins, who gave the Albanians two of their greatest heroes: Lekë Dukagjin, and Gjergj Kastrioti, known to Albanians as ‘Skanderbeg’. Skanderbeg was the son of an Albanian feudal lord, taken by the Ottomans in the *devşirme*, and raised in Constantinople. As an adult, he returned to ‘Albania’, renounced Islam, and led the local people in revolt and resistance against the Ottomans, until his death in 1468 (Barleti 1596, Hodgkinson 2004).⁶² His story is the Albanian *antemurale* myth, used by Albanians as evidence that the nation takes priority over religion. The centrality of Skanderbeg to today’s understanding of nation is illustrated by the physical proximity of his statue to the seat of government, in today’s Prishtina, shown in Photograph 2 (below), and the erection of a bust in west London in 2012 (see Photograph 3, below).⁶³

⁶² Skanderbeg’s link to Albanian ideas of ‘nation’ is further discussed in Chapter 4.

⁶³ Subsequent to taking this photograph, some Albanians in London who objected to the ‘English’ spelling ‘George’ on the plinth affixed a rather crude second plaque with the ‘Albanian’ spelling ‘Gjergj’. Albania’s ‘Top Channel’ news reported ‘This “folkloric” craziness has failed to take in consideration any aesthetic or architectural form. If this wasn’t enough, authors have even tried to hide the name in English. But they have failed even with this, because some of the letters are still visible, and they have only made the statue ugly’. <<http://www.top-channel.tv/english/artikull.php?id=11053>>, consulted 4 April 2014.



Photograph 2: Skanderbeg in central Prishtina



Photograph 3: Skanderbeg in west London⁶⁴

This feudal system was broken up by the Ottomans and, over the fifteenth century, its remnants seem to have developed into a tribal system. Given the importance of the idea of ‘tribe’ to Albanian customary practices, and to the later development of the nation, it requires some elaboration. In early anthropology, it was used without a common definition and as though it was unproblematic, although it was clearly describing quite different forms of social and political organisation. It came under critical review as the British and French Empires came to an end, and scholars began to consider the existence and effects of a ‘colonial gaze’ in earlier work; the idea of ‘tribe’ was seen by some to have been used to denote an ‘uncivilized’ or ‘primitive’ society and it fell out of much popular use.

More recently, it has been used more mindfully, particularly by anthropologists working on societies in the Middle East, North Africa and the

⁶⁴ The statue is in Lady Samuels Gardens, Inverness Terrace, Bayswater, London, W2, and was the product of collaboration between the Albanian Embassy in London and the local council. It was unveiled in 2012 at an event hosted by the Anglo-Albanian Association to celebrate the centenary of Albanian independence. Edith Durham, whose work on northern-Albania is discussed below and in later chapters, was a former-Secretary of the Association.

Caucasus, although there is still no common definition, as was can see in Khoury and Kostiner (1990). Looking at historical forms of Northern Albanian social organisation, Tapper's loose definition is helpful, as it resonates with the historical descriptions we have of northern-Albanian society in the early twentieth century (such as Gjeçov 1933, Durham 1909 and 1928, and Vasa 1879):

a localised group in which kinship is the dominant idiom of organisation, and whole members consider themselves culturally distinct (in terms of customs, dialect or language, and origins); tribes are usually politically unified, though not necessarily under a central leader (Tapper 1983:9).

The early sources on the northern Albanians tell us of the 12 'original' Geg tribes (Berisha, Bytyçi, Gashi, Gruda, Hoti, Kelmendi, Krasniqi, Kuçi, Merturi, Shala, Shoshi and Thaç) and give examples of stories of common ancestry (for example, Durham 1928).⁶⁵ They describe northern-Albanian kinship, as an agnatic segmentary system, the most important levels of which are:

Fis – The tribe
Farëfis – 'The seeds of the tribe', the largest known patrilineal group
Kushërinjte – The cousins (maximal lineage)
Axhallarët – The paternal uncles (minimal lineage)
Shtëpia e Madhe – 'The great house', the extended family
Familja e Ngusht – 'The close family', the nuclear family

The idea of a 'segmentary system' is best known from Evans-Pritchard's work on the social and political organisation of the Nuer (1940[1969]), but was subsequently applied in many other parts of the world, such as Barth's work on the Swat Pathans (1959), and Gellner's work on the Berbers of the Atlas Mountains (1969). The basic idea of a segmentary system is

Any segment sees itself as an independent unit in relation to another segment of the same section, but sees both sections as a unity in relation to another section; and a section which from the point of

⁶⁵ Gjeçov's *Kanun* of Lekë Dukagjin was codified based on the customary practices of the Mirdita tribe.

view of its members comprises opposed segments is seen by members of other sections as an unsegmented unit (Evans-Pritchard 1940[1969]: 147).

As with ‘tribe’, the idea of a ‘segmentary system’ fell out of favour in anthropology in the later twentieth century, particularly for what was seen as its inaccurate or inappropriate use. Notwithstanding these criticisms (and recognising the great differences between the Nuer society with no law or government (*ibid*: 172) and the quite highly regulated and governed northern-Albanian society), it is valid to describe tribal northern-Albanian society as segmentary because early-twentieth century sources – Albanian as well as foreign – show us northern-Albanians understanding and talking about their society as a segmentary system (see Chapter 7 for discussion of contemporary understandings of *fis*).

Tribes and the Ottoman Empire

The Ottoman Empire covered much territory previously inhabited by peoples described as ‘tribal’ (although we recognised the imprecision of this term, let us assume that here it means that some form of social organisation existed prior to the arrival of the Ottomans). Although little has been written specifically about the Albanian tribes and the Ottomans, we can get some suggestions of what might have been going on, by examining other parts of the Ottoman Empire with tribal populations.

Key variables among these peoples included sedentary / nomadic, hierarchical / non-hierarchical, geographically compact / geographically diffuse, and proximity to an Imperial border. The variables conditioned how the Ottoman administration interacted with the ‘tribes’, and influenced its choice of coercion or

mediation as strategies of engagement. From the early years of the Empire, until the nineteenth century, we can discern broad patterns of measures used by the Ottoman administration to control tribal populations:

1) transforming or destroying existing structures of tribes through exile and military force; 2) drawing a perimeter around tribes, extracting tribute across the perimeter but intervening little inside it; 3) integrating selected leaders and their followers into the system of rule, backing these indirect rulers with force or other resources when necessary; and 4) integrating and assimilating tribes into administrative structures by incentives such as trade subsidies and land allocation. (Köksal 2006: 474f.)

Given this general policy – and that we know pre-Ottoman northern-Albanian society was feudal, so tribes did not have a long pre-Ottoman heritage – it is likely that the structure and nature of northern-Albanian tribes was significantly shaped by interactions with the Ottoman administration and institutions.⁶⁶ In particular, it is likely that the hereditary Captain of the Mirdita (The Door of Gjon Markaj) was an Ottoman-backed position. The emphasis in Albanian literature and popular memory on the autonomy of the Albanian tribes, won and defended from the Ottomans (that is, the view from the periphery towards the centre), obscures the view from the centre to the periphery: that allowing considerable autonomy to tribes near borders was a common Ottoman tactic to secure distant borders from potentially difficult neighbours.

This general pattern, of a quite dynamic relationship between tribes and the Ottoman administration continued, affected by changing local, imperial and international political dynamics and imperatives, until the nineteenth century.

⁶⁶ The period after the arrival of the Ottomans was one of large-scale population movements around Albanian-inhabited territories, and the tribes which emerged seem to have been a composite of an incoming population and the *anas* [indigenous populations] (Durham 1928: 20). The oldest tribes could trace their genealogy back as far as the late-thirteenth century (*ibid.*: 27).

What did this look like in the Albanian lands? After the arrival of the Ottomans and the disruption of the pre-existing feudal system, powerful families imposed their names on the surrounding peoples, and on the territories of these peoples and tribes seem to have coalesced and expanded. In the sixteenth century, the power of the tribes increased when:

the Ottoman authorities gave up even trying to impose their normal administrative or feudal system in those areas, letting tribes run their own affairs in virtual “zones of self-government” instead (Malcolm 1998: 115).

In a survey of Albanian tribes, published in 1928, Edith Durham explained tribal structure and history, and gave an overview of then extant tribes (1928: 13–34), drawing on her own observations, and the contemporaneous work of the Transylvanian-born Franz von Nopsca (1877–1933), a keen Albanian nation-builder. . She divided the tribes into six geographical groups and described each in turn. Without getting drawn into complexities of composition or origin, I will give a brief summary here as background for the later discussion about the challenges which faced nineteenth century nation-builders. Map 3, based on a 1909 sketch map by Durham, shows the approximate location of the tribes. The *Malsia e Madhe* group consisted of five large tribes and some small ones: Gruda, Hoti, Kastrati, Skreli, Klementi (or Kilmendi), Lohe, Reçi and Rioli. The *Malsia e Madhe* tribes lived in the area divided in 1913 into Albania and Montenegro, which ‘ruined’ two of the tribes who were separated from their winter pastures by the new border. Most *Malsia e Madhe* tribesmen were Catholic, but half of Gruda, part of Kastrati, and the small Reçi tribe were Muslim. The *Pulati* group in northern-Albanian had four tribes: Plani, Xhoni, Mgula and Kiri. All were Catholic. Also in the *Pulati* diocese, but not included in the ‘*Pulati* group’, were the large tribes of Shala and Shoshi

(both subsets of Mirdita), Toplana and Nikaj, all of which were Catholic. In the *Puka* group were the Catholic tribes of Berisha-Merturi, Çiri, and Dushaj, the part-Catholic part-Muslim Çeriti, and the Muslim tribes of Kabashi and Puka. The Mirdita tribe was the largest of all the tribes, with five *bajraks* [‘banners’, subsets]. There were three groups of wholly Muslim tribes, *Dibra*, *Prizren* and *Gjakova*, of which the latter two are in Kosovo. *Dibra*, on the border of Albania and Macedonia, contained Luria, Matia, Dibra and Arnji. *Prizren* contained Luma, Bruti, Mal i zi, Reçi, Vlas, and ‘some other small groups – all offshoots of older tribes’ (*ibid.*: 32); the *Gjakova* group contained the large tribes of Gashi and Hashi, and the medium-sized Tropoja. The *Ipek* group (religion unspecified), which lived across the border of north-western Kosovo and Montenegro, consisted of Ipek, Gusnija and Plava. The presence of northern Albanian tribe names in modern Kosovo suggests migration from northern Albania into Kosovo from this period onwards, but agglomeration might also account for the presence of at least some of the tribe names.⁶⁷ The tribal structures Durham described in the early twentieth century cohere with what we know of Ottoman governance strategies for its tribes, at that time (discussed below).

Unrest and Corruption: 1580s-1680s

In 1520, Süleyman, later to be ‘Süleyman the Law-Giver’ (‘El-Kanuni’) to his own subjects and ‘Süleyman the Magnificent’ to the West, became Sultan.⁶⁸ His reign lasted until 1566, after which began the very slow decline of the Empire, the structure of which meant it could prosper only while expanding.. More generally,

⁶⁷ Trevor-Roper (1993) has described a similar process in the Scottish Highlands.

⁶⁸ In *Albania* 1898/4: B54, he is called ‘*Sulhtan Suléiman ÉI-Kanuni*’.

the administration became more corrupt; as the Empire was driven by the need for money to finance its military campaigns, tax collection was extremely important and the system was open to corruption. Influential figures, such as judges and *spahis*, took advantage of their positions unjustly to take money from the people in a variety of ways, including buying their way out of obligations or into a tax-collecting position. Taxes increased on all, but increased disproportionately on the Christian population. Christian villages were obliged to make a fixed *cizye* payment, regardless of the number of people living in the village; thus, if the population of a village decreased for any reason (including through conversions to Islam), the *cizye* burden increased proportionally on those who remained.⁶⁹

During this period, various plans were afoot, in which northern Albanian tribal leaders were involved, to overthrow Ottoman rule in the region. These plans included alliances of various factions within the region: between various Catholic Albanian tribes; between Catholics and Serbian Orthodox; and between Catholic tribal groupings and the external Catholic powers of Venice, Austria and Spain. Discovery of the plans led to punitive treatment and extra taxes for the Roman Catholic population within the Ottoman Empire. By the late sixteenth century, there were at least two Catholic schools in Kosovo, one in Peja and one in Janjeva; it is likely that both taught in a Slavic dialect, but the records of the Catholic Archbishop of Skopje show that when he preached in western Kosovo, he did so in Albanian, so the language was in some public use.⁷⁰ With the increase in domestic literate

⁶⁹ *Cizye* is discussed in, among others: Thengjulli (2002) on northern Albania, Isufi (2004), as one of a range of 'Islamisation' measures in Çameria (see Chapter 1 for note on Çameria); Selçuk (2010) for a detailed description of its implementation in Armenia; and Karaman (2009) for an overview of Ottoman taxation in the fifteenth and sixteenth centuries.

⁷⁰ Janjeva was the home village of Fr. Shtjefën Gjeçov, the subject of the next chapter.

clergy, came an increase in Albanian language material; texts from this period include a theological treatise, catechism, and dictionary. In 1610, the Roman Catholic Archbishop in Albania claimed that only 10% of the population was Muslim (Broun 1990: 235) and, from 1630 onwards, efforts were made to revitalise the Church in northern Albania and Kosovo.⁷¹ Of significance for the later, nineteenth-century, nation-building movement, a Franciscan mission was sent to northern Albania: in 1637, a friar reached Gjakova and, just a few years later, seven friars were living in the region, including one near Prizren. In 1656, Kosovo became part of the newly formed archbishopric of Skopje, and the first two archbishops of Skopje were Albanians from western Kosovo. Despite these marked improvements, the Catholic Church in Kosovo remained in a parlous condition: under pressure from Ottoman and Serbian Orthodox authorities, poor, under-resourced, and losing followers to Islam.

As discussed above, the *millet* system allowed Christian and Jewish minorities considerable autonomy. Under this, the Catholic northern Albanian tribes were left largely to self-govern, although members were occasionally employed as paid soldiers in Ottoman armies. Despite this, relations with the Ottoman authorities were not always easy, and several of the tribes, including the Kelmendi, began to make heavy raids into the lowlands of Kosovo, even reaching as far as Bulgaria.⁷² To quell these raids, in 1637, the Ottomans sent a force of more

⁷¹ The contrast between the 10% and the proportion of Muslim inhabitants in Kosovo's urban settlements (given above) may appear surprising, but the Archbishop's figure is likely to refer to his northern Albanian Archdiocese which was predominantly highland, rural and staunchly Catholic, whereas (as noted above), Islamicisation was quickest and most extensive in lowland, urban areas.

⁷² Today, the Kelmendis remain a powerful tribe in Western Kosovo, particularly based around Peja and the Rogova Gorge.

than 15,000 soldiers against the mountain tribes (in accordance with the general Ottoman tribal policies outlined above). The expedition was sufficiently successful that the major road to Novi Pazar, in southern Serbia, which had fallen into disuse owing to brigandage, was reopened and the *raya* returned to 50 of the 150 villages which had previously been recorded as abandoned (Malcolm 1998: 120). In the Catholic records of the period, there is evidence of Albanians from northern-Albania moving into Kosovo. The numbers are small, a group of ten families near Prishtina, and some 15 families near Suha Reka, but of interest because, as Malcolm has suggested, they:

fled from the Malësi, either because of blood feuds or because they had been punished under the Kanun of Lek Dukagjini which ... said that people guilty of serious crimes should have their houses burned down and be expelled (1998: 138).

Here, he appears to be using ‘Kanun of Lek Dukagjin’ to indicate customary practices, not necessarily a text of the *Kanun*: an important distinction for our purposes. There is no evidence of a text of the *Kanun* before Gjeçov’s codification in the early twentieth-century.

This is not to say that there was not something which Albanians described as ‘the *Kanun* of Lekë Dukagjin’. By the late-nineteenth and early-twentieth century, northern-Albanian villagers were describing to early western European travellers their customary practices as ‘the laws of Lek’ or explaining practices and principles with the phrase ‘Lek said so’ (Durham 1909[2000]: 25). The idea of expulsion is consistent with punishments described at around the same time in Gjeçov’s text of the *Kanun*. Article 1194 lists nine misdeeds for which the punishment is burning, destruction, execution by the village, and expulsion from

the region with one's belongings, including: the beating or killing of a priest; the killing of a member of one's own tribe, or a guest; the continuation of a blood feud after it had been conciliated; harbouring a malefactor; and breaking a truce. Article 1195 elaborates:

[i]f someone commits these crimes, he is executed by the village, his family is fined, his house is burned, his trees are cut down, his garden and vineyards are destroyed, and his survivors are expelled from the country with their belongings (Gjeçov 1933[1989]: 211f.).

What seems to be missing, behind Malcolm's suggestion, is direct evidence from the mid-seventeenth century that the northern Albanians described their customary law and practices as 'the Kanun of Lekë Dukagjin', and that expulsion from tribal lands was a punishment in use at the time.

While the rural northern-Albanians were self-governing, Kosovo's towns were becoming ever more part of the Empire, and were thriving. Records from early travellers show that, by the 1660s, Prishtina and Gjakova each had approximately 2,000 houses, while ten years later, Prizren had an estimated 10,000 houses.

A Slow Decline: 1689-1817

Over the next 150 years, various warring armies moved back and forth over the territory of Kosovo, with consequences for local populations. In the late seventeenth century, a new phase of Islamicisation began, apparently in response to: the Ottoman need to pacify the region; ever heavier taxes for the *raya*; and concerns about the dietary habits of non-Muslim troops in Ottoman army camps. Further to pacify the region, the Ottoman authorities resettled some of the more warlike Albanian mountain tribes into areas depleted by war, where there were

fewer opportunities for brigandage and raiding (again, this accords with the Ottomans' standard strategies, outlined above). The success, and permanence of these resettlements is unclear.

In 1714, war resumed between the Ottoman Empire and Venice and two years later Austria entered on the side of the Catholics. Relations between the Ottomans and the Catholic mountain tribes deteriorated, particularly after a pro-Venetian rebellion by tribes including the Kelmendi, Gashi and Mirdita. In June and July 1737, Austrian forces, supported by the Serbian Patriarch and the Albanian Catholic tribes, made considerable inroads into Ottoman territory, taking Niš and Novi Sad, in Serbia, and reaching as far as Prishtina, in Kosovo. However, these gains were soon lost, and Austrian forces began to retreat; after the Ottomans regained control of the territory, there were again punitive practices and taxes for the Christian population. Life was little better for the Serbian Orthodox in Kosovo: in 1766, the Patriarchate was closed, and the Serbian church was placed directly under the Church in Constantinople. The dismal position of the Catholic Church was illustrated by reports sent to Rome by the Albanian Archbishop of Skopje. Of particular note are his repeated complaints about 'the immigration of lawless Albanians into Kosovo' (Malcolm 1998: 172). If Albanian migrants into Kosovo came from the northern Albanian tribes, and as a consequence of customary punishments, as suggested above, then the migrants' communities of origin were not 'lawless' and they were in Kosovo in consequence of 'law'.⁷³ How, then, might we understand Archbishop Mazarek's comment? If 'lawless' described the status

⁷³ I have put 'lawless' in scare-quotes because it has been translated at least once (from Latin to English) which precludes a definite, technical use of the term.

of the immigrants, it might be understood as ‘outlaws’, which would be consistent with Malcolm’s hypothesis. If it were a description of the actions of the immigrants, then that too can be consistent with the earlier discussion. The text of the *Kanun* shows Albanian customary practices are intrinsically connected with the Albanian social world and structures, such as family and tribe, and there is no reason to imagine this would not have been the case in the late-eighteenth century. Pressure to conform, to behave in the correct way, came from the broader social group – up to and including the tribe – to which one had obligations, and from which one could expect certain protections.⁷⁴ A family, or a small group of families, dislocated by having been expelled from such a structure, would have had to fight for survival; it is easy to imagine people living under such trying circumstances might act in a way an Archbishop would see as reprehensible or, more strongly, ‘lawless’. There is also the distinct possibility that the people to whom the Archbishop referred were simply brigands.

In 1817, the Serbs won from the Ottomans the concession of a largely self-governing Serbian principality. Its autonomy and influence grew throughout the nineteenth century until, in 1878, it declared independence. The Serbian national movement marked the beginning of a change of political direction in the Balkans as, rather than seeking alliances with external powers, pro-independence movements began to develop.

⁷⁴ Today, this remains the case. Superficially, a different structure – such as a political party, or a company – might appear to control a particular sphere, but investigation invariably reveals that powerful families lie behind these ‘front’ structures. The 2011 European Commission progress report on Kosovo, which reported on the country’s progress towards meeting the criteria set by the Comprehensive Status Plan for Kosovo commented ‘The main political parties in Kosovo continue to operate their own security networks’ (European Commission Progress Report 2011: 10).

The Complexities of Reform: 1817–78

Two key currents of ideas flowed through the nineteenth century Balkans. The first, which flowed roughly east-west, was those of Ottoman *Tanzimat*. The *Tanzimat* (1839–76) was a programme of radical reforms, enacted in Constantinople and applicable throughout the Empire (Evered 2012, Davison 1963, Ma‘oz 1968). The central Ottoman authorities intended these reforms to re-centralise power, and weaken local and provincial rulers. At local levels this created tensions, as by those very reforms, those charged with implementing reforms often stood to lose local power, influence and tax revenues.⁷⁵ In this context, European powers sought to extend their influence within the Ottoman Empire, ostensibly as protectors of their co-religionists, but also with a view to securing economic advantage (Blumi 2004a:84f.).⁷⁶ The second current, which flowed roughly north-south, through the Christian populations, was the development and spread of Romantic Western European nationalist ideas. This created tensions between rulers and the ruled, and between local Muslim and Christian populations: while the former still saw their future within the Empire, the latter increasingly saw their futures as independent nation-states.⁷⁷

⁷⁵ Among many studies examining the implementation, effects and consequences of the *Tanzimat* at local levels are: Maggiolini (2014), for northern Albania; Avci (2009) for the Bedouins in South Palestine; and Abu-Mannah (1990) for Jerusalem.

⁷⁶ By 1850, Russia was looking after the interests of the Orthodox Serbs and Montenegrins, Austria and Italy were vying to influence the Catholic populations of the Balkans, and France was protecting Lebanese Christians.

⁷⁷ This is not to suggest that, at a local level, the picture was monochromatic, with all Muslims in favour of the Ottoman Empire and all Christians agitating for independent states. There is evidence of local protests consisting of people of different religions, and speakers of different languages at tax reforms and the brutality of individual governors.

In 1832, the Ottoman authorities broke the power of the local ruling families in Kosovo, many of whom had resisted reforms and developments detrimental to their own positions. Key figures were deposed, exiled, and executed, and the Ottomans took direct military control of Prizren and Peja. Local uprisings continued: a revolt in Prizren in 1839 drove the Ottoman governor from the town, and tax revolts were crushed in Prishtina and Skopje (1844), and Gjakova (1845), after which there was a decade of relative peace. As part of the *Tanzimat* programme, in 1856, a reform was passed declaring equality, including before the courts, between Muslim and non-Muslim subjects of the Empire, and freedom of religion. These changes had the potential to alter the balance of power between Muslims and non-Muslims in the region, and disturbed local webs of power and authority: they were resisted by local religious and community leaders. Despite this resistance, the number of schools in Kosovo increased, both Ottoman language, and Orthodox and Catholic schools. By 1848, the Serbs had six schools in Kosovo towns, and there were Catholic schools in three towns and two villages with teaching in Italian. As part of the *Tanzimat*, there were further educational reforms: in 1856, it was decreed that communities had the right to establish private schools, and the ‘School Law’ of 1869 declared that teaching could be in a local language. In practice, education was not allowed in the Albanian language, although it was allowed in other regional languages (Malcolm 1998: 188).⁷⁸ Despite these legal reforms, a joint Muslim-Christian Commission, led by the Grand Vizier, visited several Kosovo towns in 1860 and discovered, contrary to the decrees, that Christian evidence was still not being accepted in court, and that there was

⁷⁸ This was later a source of resentment for Albanian nation-builders, which flared up during the *Rilindja*, when Albanian language education became a key priority.

widespread corruption among Ottoman officials. To address such problems, in 1861, the modernising Midhat Pasha was appointed to take charge of the *eyalet* of Niš, and local reforms were introduced which were later taken up by the central Ottoman administration and implemented throughout the Empire (see Chapter 4, below, for his actions to quell Albanian blood feuding).

As part of Pasha's reforms, the *vilayet* of Prizren was established in 1868. It was made up of four *sancaks*: Prizren (which covered almost all of Kosovo and some border areas in Macedonia and Montenegro), Debar, Skopje and Niš. The population of the new *vilayet* was predominantly Muslim Albanian-speakers, but still it did not encompass all the 'Albanians' of the region.

Changes to Ottoman relations with tribes

The *Tanzimat* reforms (1839–1876) affected tribal life and the relations between tribe and the central Ottoman administration. For the Ottoman reformers, the purpose of the reforms was to modernise the Empire on the model of a Western nation-state, and to develop equality for all citizens. This disturbed the complex and fragile web of authority in tribal societies-in-the-state. Below, I show the hostility of Albanian Muslim leaders to much of the proposed reform, and this was also true of Catholic tribal leaders. Through centralising and sedentarising politics (Köksal 2006), the Ottoman Empire threatened to disempower the tribal leaders on its peripheries, who were also, in effect, agents of the Empire. This, combined with a vigorous focus on the implementation of tax policies (to generate much needed revenue for imperial coffers) led to uprisings throughout Albanian lands, and similar outbursts elsewhere in the Empire (Atekin 2013).

In this rather volatile atmosphere, the Roman Catholic Church was revitalised with the help of mission orders from Italy, and support under the *kulturesprotektorat* from Austria-Hungary. This had been established in the seventeenth century, as part of the peace settlement after an Ottoman-Austro-Hungarian war, and gave the Austrians rights of protection over the Roman Catholics of the Ottoman Empire. In 1848, the Jesuits established a province in Albania: in 1859 a pontifical seminary was opened in Shkodra; and in 1866 the first five bishops of the ‘new era’ were consecrated. Links increased between the church and the broader community: in 1855 the Franciscans re-opened elementary schools; and in 1877, the first Albanian institution of higher education, the St Xavier College in Shkodra, was opened (Malaj 1990). In a history of the Catholic Church in Communist countries, Broun notes that ‘the religious establishments themselves, unlike those in neighbouring Balkan countries like Serbia, Montenegro and Bulgaria, did not assume a leading role in championing the cause of independence’ (Broun 1990: 235). As I show in Chapter 3, while Catholic establishments in Albania may not have taken a public role in nineteenth and early twentieth century nation-building, key Catholics did take leading roles (albeit anonymously) in championing, in printed texts, the Albanian nation, and even independence. This was possible, in large part, because Catholic religious and cultural activities were protected under the *kulturesprotektorat*, and other diplomatic agreements between the Ottoman Empire and external Catholic powers.

Publishing, the significance of which to the development of an ‘imagined community’ of nation has been shown by Benedict Anderson (1991), began gradually to reach the Albanians. The first official local periodical, ‘Prizren’, was

established in 1871, and published in Ottoman and Serbian languages until 1874. Then, in 1877, following a substantial administrative reorganisation of the *vilayets*, a new periodical called ‘Kosova’ was launched, in Prishtina, printed only in the Ottoman language. Other connections were made to the wider world: several Kosovo towns were connected by telegraph wires to Thessaloniki in Greece and Constantinople, and the railway arrived from Thessaloniki.

Malcolm has noted that the earliest attempts to produce modern statistical data on the population of Kosovo date from this time, but rightly cautioned about the interpretation of the data, as Ottoman categories of population do not correspond to modern categories. In particular, the Ottoman *millet* is not the same as the modern ideas of ‘nation’ or ‘ethnicity’: as noted above, *millet* is a religious community with a degree of autonomy in the civil sphere. That the idea of ‘nation’ was not intuitive to Albanians is evident from an article published in *Albania* in 1897, shown below, in which a fictional conversation between an ‘Albanian’ and a ‘Foreigner’ demonstrated the difference to an Albanian readership, presumably with a view to encouraging among ‘Albanians’ a nation-based understanding of community.

Foreigner: What are you, sir?
Albanian: I am Muslim (or Christian, in the event that he is Christian).
Foreigner: Good, but I didn’t ask you which faith you profess, rather I asked you to tell me what you are.
Albanian: You didn’t understand. I am saying I am Muslim (or Catholic, or Orthodox if this is the case).
Foreigner: You haven’t understood my meaning at all: I’m asking from which nation are you? Do you know what a nation is?
Albanian: I’m not at all clear.
Foreigner: A nation is a collection of people who have one origin, one language, and one way of life. So now, tell me what you are?
Albanian: I am a Turk.⁷⁹

⁷⁹ See Annexe 1 for the full text of the article.

Despite the differences between ‘*millet*’ and ‘nation’, Malcolm was able to conclude that in the mid-nineteenth century, the population of Kosovo contained an absolute majority of Albanian-speakers over Slav speakers (Malcolm 1998: 196). But this was a time of Europe-wide political turmoil and change, and how the Albanians understood and described themselves was only part of the story.

Following the Russo-Ottoman war of 1877–8, the first peace treaty (San Stefano), negotiated directly between the two parties, was unacceptable to the Great Powers, who convened a second conference to reach an acceptable outcome. The 1878 Treaty of Berlin, at which the Prussian Chancellor Otto von Bismarck said ‘Albania is merely a geographic expression; there is no Albanian nation’, gave Serbia the Niš region, and Bosnia and Herzegovina was given to the Austrians, but Kosovo remained part of the Ottoman Empire. Thus, Kosovo entered the final phase of Ottoman administration as the somewhat diminished *vilayet* of Kosovo, surrounded by neighbours with some claim to, or ambitions over, its territory.

The League of Prizren 1878

In this local and international political ferment, Malcolm has identified three distinct Albanian political projects, all of which give us an insight into political currents and external interests and influence in the region. First, an attempt by northern Albanians to preserve the rights of self-governance they had exercised as part of the Ottoman Empire prior to the *Tanzimat* reforms. This conservative position attracted support from both Catholic and Muslim northern Albanians, and the predominantly Muslim Kosovar Albanians. The second political project

belonged to some of the Catholic northern Albanian tribes and, in particular, the Mirdita tribe, which looked towards the creation of an independent or autonomous Catholic Albanian principality. This was supported by the Prince of Montenegro, who saw it as a means to his own end of territorial expansion, and by the Catholic protectorate powers of Italy and Austria-Hungary. There are conservative similarities between this and the first plan, but support for it was limited to Catholic Albanians. The third idea was the possibility of a fully independent Albanian state. It was broadly supported by Albanian émigré populations, especially those in Egypt, Bulgaria and Romania, who, free of the restrictive language and printing practices in the Ottoman Empire, also produced much of the early Albanian-language literature and educational material.

In 1878, as the Sultan suspended the constitution he had reluctantly introduced two years earlier at the behest of the Young Ottomans, a group of leading Albanians met in the town of Prizren to discuss the future of the people and territory. This meeting became known as the ‘League of Prizren’, and it concluded with the issuing of the ‘Resolutions’ [*Kararname*]. These included a statement of loyalty to the Sultan, confirmation of the signatories’ commitment to the *şeriat*, a declaration that anyone abandoning the League would be treated as an apostate, and a demand for autonomy within the Empire. These Muslim-influenced, conservative demands belonged broadly to the first political project, and were at odds with the ideas of more reform-minded Albanians, who sought autonomy or independence. The demands are also significantly at odds with the ways the League is remembered by Albanians today, as the foundation stone of an independent Albanian state (for example, Frasheri 1964: 127–145). As I show below, in my discussions about the

Kanun, the text of the *Kararname* itself has become a symbol: it is almost never read. In Autumn 1880, the League installed its own people to govern Prizren, in place of an Ottoman governor, and began to act like a government: it collected taxes, maintained order and issued legislation. It was not accepted or welcomed by all Albanians; those who favoured independence sought to persuade the League and its supporters that their futures lay not within the Ottoman Empire, but in unification with the Tosk (southern) Albanians in an independent country. Nor was it popular with the Ottomans, who, in 1881, took steps to crush it: an Ottoman army recaptured the cities of Prizren, Gjakova and Peja by May, which ended any form of organised resistance in Kosovo for several decades. The League of Prizren marked the beginning of what Albanians now call the *Rilindja*, a loose nation-building movement which lasted for the next 30 years.

For the last quarter of the nineteenth century, conditions in Kosovo were dismal. Despite the *Tanzimat* reforms, which existed in decrees, the Ottoman parliament was dissolved in 1878 and much of the constitution suspended by the Sultan. Within Kosovo, government officials were corrupt with little or no authority, and structures and systems were dysfunctional. In 1877–8, the expulsion of Muslims from lands taken by the Christian powers of Serbia, Bulgaria and Montenegro resulted in an influx of Muslims into Kosovo, the majority Albanians, but also Muslim Slavs from Montenegro and Bosnia. Malcolm has estimated some 50,000 such refugees may have settled in Kosovo (Malcolm 1998: 229). At the same time as this in-flow, the newly independent Serbia drew some around 60,000 Serbs from Kosovo. The combination of these two factors significantly altered the balance of populations in the region. In 1892, the Ottoman Empire tried to

strengthen ties between tribes and the central government by creating a ‘School for Tribes’, intended to teach the sons of tribal leaders how to live as part of the wider Ottoman Islamic community (Kasaba 2008: 38, and Rogan 1996). Such an agenda seems rather at odds with the policy of equality, and the creation, in 1869, of a secular Ottoman citizenship.

Within the Albanian population, political and cultural ideas related to ‘nation’ continued to circulate and occasionally broke the surface in the form of a movement or proposal. At the same time, stoked by external influences from Russia, the Ottoman Empire and the Great Powers, similar political ideas were gathering momentum in other parts of the region, including Macedonia, Bulgaria and Serbia. In March 1903, some 2,000 armed Albanians attacked the Ottoman garrison in Mitrovica, northern Kosovo, in protest against a new Austrian-Russian pact, which would have disarmed the local population, and against the arrival of a new Russian consul in Mitrovica. Then in mid-July, 30,000 armed Albanians, protesting against a (falsely) rumoured Austro-Hungarian invasion, were addressed by Young Turk speakers who deliberately misled them.⁸⁰ The speakers promised to act in accordance with the conservative aims of the Kosovar leaders in exchange for their support, which the Kosovar leaders duly pledged. This culminated in a telegram to the Sultan, signed by the Kosovar leaders, asking for the reinstatement of the constitution. Apparently shocked at this loss of previously staunch conservative support, the Sultan gave in to the Young Turks and, in late July,

⁸⁰ The ‘Young Turks’ were a Turkish pro-reform movement which sought to end the absolute power of the Sultan and, in 1908, successfully led the ‘Young Turk Revolution’.

acceded to their demand. On the eve of the Balkan Wars, the Kosovar leadership still saw the future of Kosovo as part of the Ottoman Empire.

In this highly-charged political atmosphere, fundamental aspects of the Albanian language, such as script, alphabet and orthography, were hotly debated. There is not space here to go into the strands of the debates, and their various proponents, but the outcomes set the foundations for the modern Albanian language, the cornerstone of Albanian nationhood (see Chapters 3 and 4 for further discussion). The Latin script, and an alphabetic variant based on the ‘Istanbul’ and ‘Bashkimi’ variants, were agreed at the Congress of Manastir in 1908, giving Albanian a standard written form for the first time. These choices were unpopular with conservative Muslim Albanians, who saw the Latin script as an ‘infidel script’, but, despite their strong resistance, it took hold.

Islihat

Given the Kosovar leaders’ close identification with Islam and the Empire, and the parallel burgeoning sense of ‘being Albanian’, what of connections between Islamic legal practice and Albanian customary practices? In Kosovo today, Islam is a sensitive topic, because it challenges the national story that ‘Albanianism’ is all that matters. Even systematic examples were invariably dismissed by my informants as ‘exceptions’, and as ‘rural’ or ‘backward’, although I had evidence to the contrary.⁸¹

Lack of available written evidence makes this a slippery area, so what follows draws

⁸¹ For example, Bajrams are *de facto* national holidays, a wide cross-section of the population observes Ramazan, Muslim marriage ceremonies are common, pork is only available in a handful of restaurants and shops in Prishtina, many people do not drink alcohol on religious grounds, and mosques are often well attended, not only for the Friday midday prayers.

heavily on interviews with two academics at the University of Prishtina (UP): N.B. (an historian) and A.A. (a scientist), both in their mid-40s.⁸²

The connection I uncovered between Islamic legal practice and Albanian customary practice (there may, of course, be others) was ‘*islihat*’, a term which carries three meanings in Albanian: peace [*paqe*], goodness [*mirsi*] and reform [*reform*]. As used by my informants, it meant ‘the improvement of a specific situation’. The word comes to Albanian from Arabic, *via* Ottoman. An *islihat* was an assembly of Albanians [*kuvend*], which brought together influential Islamic and popular leaders, at times of political and military threat to Albanian populations. It was an Islamicised, or Islamic-influenced, version of the popular assemblies recorded in the Catholic areas of northern-Albania and was found only in areas inhabited by Muslim Albanians, such as Kosovo and Montenegro. An *islihat* could forbid blood revenge between given dates (usually March to December, the fighting season); declare some categories of blood or disturbances ‘closed’; and ‘freeze’ or ‘suspend’ other categories.⁸³ It could also mobilise men for war, by asking for one man of fighting age from each house. An *islihat* was organised on the basis of what Albanians call an ‘ethnographic region’, a large area, usually encompassing several tribes.⁸⁴ As an ‘extraordinary assembly’ [*jashtzakonshme kuvend*], it was established in a specific region for a specific period. It was held outdoors, in a location central to that region, which could be approached from all directions; this

⁸² Names have been given as initials, as they requested anonymity.

⁸³ This foreshadows the ‘freezing’ of disputes during the *Pajtimi i Gjaqeve*, discussed in Chapters 6 and 7.

⁸⁴ For example, in the south of Kosovo there are the ethnographic regions of Luma and Has, which cross the modern border into Albania, and in northern Albania there is the ethnographic region of Mirdita.

appears to be a combination of ease of access for participants, and made it as visible as possible. By bringing together key figures from local Albanian tribes and the Islamic hierarchy, it brought together two kinds of authority, and probably implemented an Islamicised version of customary practice. Delegates took back to their communities the decisions of the *islihat* and were responsible for their implementations.⁸⁵ The earliest incident described to me as an *islihat* was the ‘League of Lezha’ (1444) which, according to N.B., was:

a big *islihat*, initiated by Venice, which brought together all *politik shqiptar* [Albanian leaders], and some Montenegrins who were married to Albanians – like brothers-in-law! Such a gathering was not repeated for many, many, years afterwards, and it became an idea, or model, of how we should act. It was the very first meeting of all the major Albanian tribe and at that meeting they agreed to take Skanderbeg as their leader.

It is most unlikely that an assembly initiated by Venice, a Catholic power, would have contained Islamic elements, so this account looks like a way of incorporating *islihat* into the national myth: establishing for *islihat* a pre-Ottoman pedigree makes it an acceptable (albeit Islamicised) phenomenon in its later incarnation. More plausibly, N.B. continued that the first *islihat* assembly was after the 1878 League of Prizren, not a direct outcome of the League, but conducted in the spirit of its intentions. This would have been a good fit for the League’s Islamic-rooted agenda. Other examples of *islihs* were the League of Peja under Haxhi Zeka (1899–1900)⁸⁶, and the Second League of Prizren (1943).

⁸⁵ In Ottoman and Turkish, the meaning of *islihat* is similar to the meaning understood by Albanians (peace, reform, improvement), but in use it would refer to a law emanating from a meeting, rather than the meeting itself.

⁸⁶ In 2013, the newly-founded state university in Peja was named ‘The University of Haxhi Zeka’ in his memory.

An *islihat* had ‘executive power’. Anyone acting contrary to its decisions would be punished: ‘the *islihat*’ [here meaning its representatives] would come and raze to the ground the offender’s house, and could also banish the offender and his family from the region. A burned house was destroyed down to, and including its foundations, by a large group, so the offender and his family would not later be able to hold responsible any individual, or take revenge against a single person. An informant from the Peja region described what had happened to his own family, several generations ago:

I remember when I was a child I was told that the *islihat* had burned down our house, completely destroyed it. So we moved maybe 300 metres, and built a beautiful *kulla* instead. And I remember when I was a child, the old people saying ‘Oh, if you are bad, the *islihat* will come and burn your house down’, but only old people in villages would say this, not in the towns.

Although not sure of the exact date this happened, this informant believed it was during the lifetime of his great- or great-great-grandparents which would have been the early years of the twentieth century. In contrast with the punishments permitted in Gjeçov’s *Kanun*, the *islihat* did not execute offenders. There is no mention of *islihat* in the literature, but there are events which could be described and understood in Kosovo as an *islihat* but which are described in other terms.⁸⁷ That ‘*islihat*’ has fallen out of use can be attributed to the increase in Albanian legal vocabulary since the early twentieth century, concerted efforts by the elite to ‘cleanse’ the Albanian language of Ottoman and Arabic influences, and the powerful sway of the ‘national’ idea the Albanians hold nation above religion.

⁸⁷ For example, *besa e madhe* [great oath-swearing], *besa-lidhje* [oath-tying] and *kuvend i madh* [great assembly], in a Muslim context, could all also be described as an *islihat*.

The Ottoman Constitution to an independent Albania

Following the restoration of the Constitution, the end of the Ottoman Empire came quickly. In October 1908, Bosnia was annexed by Austria-Hungary, and Bulgaria declared its independence. A failed coup in 1909 led to the Sultan being deposed and replaced by one more compliant with Young Turk demands and ideals. New taxes, imposed by the Young Turks, prompted uprisings [*kryengritje*] in Kosovo, which the authorities attempted to crush with superior numbers of troops and weapons. Sporadic rebellions continued until the first coordinated Kosovar Albanian uprising in early 1910. Confrontations ensued between Ottoman forces and the forces of the combined tribes; the Ottoman army moved into Kosovo from the south and west, driving back and eventually defeating the rebels around the towns of Gjakova and Peja. This military campaign then extended into northern Albania, where the Albanian rebels were supported and encouraged by the Montenegrin Prince, who saw unrest in Kosovo and northern Albania as an opportunity to extend his own power and territory. In March 1911, unrest initiated by Albanians flared up in Montenegro; this spread south-east into Mirdita and, in April, an Albanian Provisional Government was announced by a visiting radical Arbëresh lawyer.⁸⁸

In early 1912, elections for the new Ottoman parliament were held and the leaders of the western Kosovo tribes met and drew up a list of political demands which were sent to Istanbul. Armed uprisings in Kosovo began almost immediately,

⁸⁸ *Arbëresh* is the name given by Albanians to the Catholic population of Albania who fled across the sea to Italy, following the Ottoman conquest of the region. They speak a medieval form of Albanian and are considered by Albanians to be part of the 'nation'.

and continued through May, June and July. Having received no reply from Istanbul to their demands, in August the rebels sent troops to occupy Skopje in Macedonia. On 18 August, the Ottoman government agreed to meet all the Kosovar demands, creating 'an Albanian quasi-state' (Malcolm 1998: 248), although it was almost immediately overtaken by events. In September 1912, the Ottomans on the one hand, and the Serbs, Bulgarians and Greeks on the other hand, began to mobilise their forces. On 13 October, the Balkan group presented the Ottoman Empire with a demand for autonomy, and declared war five days later. In the Balkan war which followed, there was fighting, in Kosovo, between Serbian and Montenegrin troops, and Albanian rebels. By 30 October, Kosovo had been conquered by Serbian and Montenegrin troops; reports from the time give high death and casualty figures, and described the extensive use of mutilation against Ottoman prisoners and sympathisers. On 28 November, Ismail Qemali declared the independence of Albania Vlorë, on Albania's southern coast. After much discussion between the Great Powers, the borders of this new country were described in a text they produced in March 1913 at the Conference of London, and a commission made up of officers from the Great Powers beat the bounds of the new country. These were unsatisfactory to the Albanians, as they left half the Albanian population outside the border of the new state (see Map 2). In Kosovo, uprisings stuttered on through 1913–4, up to the beginning of the First World War. I pick up this historical thread in Chapter 5.

This chapter has contributed to my thesis an overview of the history of northern Albanians, focussed on legal developments and changes and introducing what were to become key aspects of the national story. This adds a specific socio-legal

perspective to the regional historical literature, and contributes a European example of changing Ottoman relations with tribal peoples, and the interconnections between tribal structures and the Empire. I have rediscovered the Albanian concept of *Islihat*, a hybrid of customary and Islamic religious authority which operated in the Ottoman Balkan borderlands.

In the next chapter, I look at the life and work of the Franciscan priest Fr. Shtjefën Gjeçov, as an exemplar of the *Rilindja* nation-builders, and as the codifier of the *Kanun* of Lekë Dukagjin. I show he took an active part in contemporary debates about the Albanian nation through his writings and publications, which addressed key aspects of Albanian culture, education, and language-use. In summarising what is known of Gjeçov, I set his production of the *Kanun* in the context of his times and life's work.

Chapter 3. Shtjefën Gjeçov: Nation-Builder, Codifier

Shtjefën Gjeçov ‘was a tireless and passionate collector of the country’s treasures in archaeology, custom law, and history. Father Gjeçov was the teacher of an illiterate populace, and also a courageous defender of the rights of his people (Malaj 1990: 34).⁸⁹

The *Kanun* of Lekë Dukagjin was published in the early-twentieth century by the Albanian Franciscan priest Shtjefën Gjeçov (1873–1929).⁹⁰ The text contains no introduction to indicate why he produced it, at that particular time, in that particular form, or its intended purpose(s). In the absence of such an introduction, I explore these questions from two perspectives. The first, addressed in this chapter, is Gjeçov’s life and work: his background, religious and political beliefs, other publications and texts, and contribution to nation-building. The second, in Chapter 4, is the text of Gjeçov’s *Kanun*.

By the end of the nineteenth century, the future of the Albanian nation looked precarious. The Ottoman *millet* system had precluded the earlier development of a sense of nationhood, while rapidly changing Ottoman policies, and occasional shifts of power between the Ottomans and the Austrians, had created space for a literate national elite and yet almost immediately closed it down again, resulting in the migration of educated Albanian nationalists to cities outside Albania. From Bucharest to Constantinople, Alexandria to London, Brussels to Boston, uninhibited by the whims and changing regulations of the Ottomans and Austrians, small *émigré* communities generated Albanian language publications and lobbied foreign governments to support the Albanian cause. Nation-building

⁸⁹ In 1990, Father Vinçenc Malaj was the Superior of the Franciscan mission in Tuzi, Montenegro.

⁹⁰ Shtjefën Gjeçov’s full name was Shtjefën Konstantin Gjeçov-Kryeziu.

activities flourished outside Albania; but what, or rather who, linked these remote activities of nationalist elites with the masses in Albania who needed to be ‘awakened’? The answer, in large part, was the religious communities in Albania and, in particular, the Sufi orders, and Roman Catholic communities centred on Shkodra in the north. The contribution of the Sufi Bektashis to Albanian nation-building has been examined elsewhere (including Clayer 2011; Duijzings 2002; Doja 2003, 2006a and 2006b); in this chapter, I discuss Gjeçov in the context of the northern-Albanian, Roman Catholic, elite.⁹¹

There had been Franciscans in northern Albania since 1248. Their activity had peaked in the sixteenth century, with 28 monasteries and houses, and then declined until, by 1702, in a letter to the Vatican, the Archbishop of Tivat noted that there were only nine Franciscan observants. Towards the end of the nineteenth century, the *Tanzimat* reforms, combined with an internal reorganisation of the Albanian Franciscan community, resulted in an increase in the number of Franciscans and in the scale of their activities. By the end of the nineteenth century, in addition to their Shkodra activities (discussed below), the Franciscans ran 27 grammar schools in northern Albania, served 38 parishes across six dioceses, and ministered to around 50,000 people (Malaj 1990).

⁹¹ The Albanian Bektashis have attracted academic interest as Bektashism was a dervish order strongly associated with the Janissaries, the Ottoman soldiers originally recruited through the *devşirme*, and because three brothers prominent in the Albanian nation-building movement (Naim, Sami and Abdyl Frasheri) were from a Bektashi family.

Gjeçov and the literate Albanian elite

Gjeçov belonged to an educated, mobile, Franciscan elite which, over his lifetime, experienced a period of unprecedented growth, co-ordination and activity. A brief survey of the Franciscan activities in Shkodra in the late nineteenth century illustrates the size of this elite, and the scale of the activities in which it was involved.⁹² By the end of the nineteenth century, there were two monasteries, a Grammar School for 500 students, a classical *Lyceum Illyricum* with 300 students, offices for around 6,000, a seminary building, and a rest home provided care for missionaries and the elderly. From 1915, a printing press produced three periodicals a month and around 20 books a year. A significant proportion of the Shkodran population must have had a direct connection to the Order and its work, as the 1918 census recorded the total population of the city as 23,000 (Gruber 2001: 7).

The Albanian Franciscans were part of a wider, regional, network of Franciscans, which included missionaries who had come to work in the region, usually from Italy, and fellow members of the Order from other Balkan peoples. Alongside the latter, the Albanians were trained in philosophy and theology at the Bosnian Franciscan centres of Sutjeska, Livno and Kreševo, and connections made during these formative years were maintained. We know that Gjergj Fishta's friendship with the Bosnian Croat Grga Martić – also well-known by Gjeçov (Çetta 1985: 9) and author of a collection of epic songs 'The Avengers' [*Osvetnici*] about the struggle against Ottoman rule – and Ivan Kranjčević continued well after his ordination in 1892 and subsequent return to Albania. In their folk-culture-based

⁹² This survey draws heavily on the work of the Franciscan Vinçenc Malaj (1990).

nation-building, the work of the Albanian Franciscans would follow a path earlier trodden by their Bosnian counterparts (Gavran 2001). Such connections kept the Albanian Franciscans as part of a wider theological and intellectual community, with direct links to Central Europe. They were also part of a wider regional network of Catholics, which included Jesuits and Dominicans; these were also educated, mobile, and linked to their wider Orders. Outside the literate elite, the picture was radically different. The general population of northern-Albania consisted of poor subsistence farmers and, as late as the end of World War II the illiteracy rate was around 93% (Pipa 1978: 87), which indicates the scale of the task facing the nation-building monks.

Nor were the only difficulties internal: other Balkan nations were also nation-building, and the Albanian nation – and, later, state – faced ongoing territorial and existential challenges from neighbours. Subject to similar influences, these other nation-building movements took similar approaches to the Albanian nation-builders, emphasising language, indigenous culture, antiquity and continuity as the foundations of their nations. Other regional nation-building movements predated that of the Albanians. Gjeçov and the Albanian nation-builders were probably familiar with the broad contours and possibly even literature, of other ‘national awakening’ movements; in particular, that of the Serbian movement which had started around a century earlier. This included the 1898 publication of the ‘Code of Stephan Dušan’ [*Zakonik Stephana Dušana*] published in Belgrade, which contained the medieval Serbian ‘Code of Stephan Dušan: Tsar and Autocrat of the Serbs and Greeks’ in the original Old Serbian Cyrillic, and ‘a long introduction which deals with the circumstances of the enactment and publication of the code ...

[to which] the editor adds many valuable historical notes' (Burr 1949/50: 198).⁹³

The re-publication of this medieval text is a reminder that it was not only the Albanians for whom ideas of 'national' law played an important role in nation-building, and also that Albanian nation-building was not an isolated enterprise but enmeshed in an exchange of claims and counter-claims with other regional nations.

Education and time in the Albanian highlands

Shtjefën Gjeçov was born on 3 October 1873, in the village of Janjeva, which lies to the south of Prishtina, Kosovo. After excelling at his local school, to further his education, he was sent by the Church authorities to Skopje in Macedonia and, between 1888–96, to a succession of Franciscan seminaries in Bosnia (Çetta 1985: 9f.). In 1896, he was ordained into the Franciscan Order, and entered a well-established culture of Catholic Albanian writing, dating back to 1555 and the earliest extant Albanian-language printed book, the Missal of Gjon Buzuku. Between the sixteenth and early twentieth centuries, the northern Albanian Catholics were 'the powerhouse of literary Albanian' (Malcolm 1998: 359), and the arrival of printing in late-nineteenth-century northern-Albania dramatically increased the quantity of texts this 'powerhouse' could produce. Between approximately 1899 and 1921, his 'most productive' years (Elsie 1995: 300), Gjeçov lived in:

a number of rugged mountain settlements in northern Albania, including Lac at the foot of the Kurbin mountains (ca 1899-1905), Gomsiqe, east of Shkodër (1907–15), Theth in the far north (1916–17),

⁹³ There was considerable scholarly interest in the Code of Stephan Dušan around the time of Gjeçov's work and publications, of which he may also have been aware. Burr's notes include reference to a translation of the text into Russian (Zigelja 1872), a monograph on the Stephan Dušan's legislation (Soloviev 1928) and a broader commentary on Medieval Serbia (Wlainatz 1903). See Chapter 2 for discussion of the Code.

and Rubik in the Mirdita district (ca. 1919–21). It was here, among the mountain tribes that he began compiling material on oral literature, tribal law, archaeology and folklore and collecting objects of folk culture (Elsie 1995: 300f.).

From his contemporaries, we know he was a voracious collector of folk culture, including ‘popular songs and dances, oral fairy stories, mythological beliefs and legends, proverbs and riddles, children’s games, and rare words’ (Çetta 1985: 10). His stay in the Albanian highlands was interrupted only once when, in 1905–06, he was an Albanian teacher in the Albanian-speaking village of Borgo Erizzo, near Zadar, on the Dalmatian coast of Croatia, after which he returned to the Albanian mountains.

Albania

Albania mpron intërestët e vertëta të kombit shqiptar
[*Albania protects the real interests of the Albanian nation*]⁹⁴

Albania was the first Albanian-language periodical. It was published in Brussels, from 1897, by the Albanian nationalist *émigré* Faik Konitza, and printed Gjeçov’s earliest articles.⁹⁵ Material was sent by post to the editors in Brussels, and copies of the periodical were smuggled back into Albania by Muslim Albanian officials, who were less scrutinised by Ottoman officials than non-Muslim travellers. If the smugglers were caught, they faced severe punishment: the English traveller Edith Durham commented in 1904 that many unsuccessful smugglers had ‘suffered exile and confiscation of all their property in consequence’ of their actions (Durham 1920: 102). Despite these unfavourable conditions, *Albania* achieved some level of

⁹⁴ *Albania*, 1897/8: 145. For Albanian periodical references, I give the title, year, issue number and, if pertinent, page numbers.

⁹⁵ Also ‘Konica’.

general circulation, as Durham continued that, in the central-Albania city of Elbasan, ‘The Albanian periodical, published in London by Faik Bey [Konitza], was known here’ (*ibid.*).

Albania was printed in Latin-script Albanian, some Ottoman and Ottoman-script Albanian, and French.⁹⁶ The Albanian was mixed Tosk and Geg dialects, with the dialect of individual contributions often identified in the index, next to the title of each article. The contents differ across the various scripts and languages, and were probably intended for slightly different audiences. Given the strong associations of language and script with education and religion, it is unlikely that most individual readers would have been able to read all of the contributions to any issue of the periodical. The Ottoman script was associated with the Ottoman administration and education system, so the majority of people able to read it were Muslim, whereas the Latin script was associated with the Albanian Catholics. It seems likely that the French language pieces were intended to broaden the appeal and readership of the periodical to include non-Albanian speakers, but popular perceptions of French as a diplomatic, court, or ‘intellectual’ language may also have been a consideration. Unlike Turkish, German, and Italian, French carried no associations of imperial governance in the Balkans, and had no religious associations; rather, for well-read Albanians familiar with European history, it was associated with revolutionary ideals of democracy and freedom, and a secular state. In its range of languages and scripts, *Albania* demonstrates what Noel Malcolm

⁹⁶ Interestingly, the Ottoman-script text is written left to right rather than Ottoman convention of right to left (Buğday 2009: 1), and indicates vowels in characters which are not part of standard Ottoman script, or always consistent across articles. This variation in signifying vowel sounds is mirrored in contemporaneous Latin-script texts, and settling on a common vowel-transcription was a crucial part of the standardisation of the Albanian language.

called the ‘fusing’ of ‘two activities which can sometimes be distinguished in the history of other countries – nurturing national self-consciousness among the home population, and presenting national claims to the outside world’ (Malcolm 2002: 72).

In 1902, Faik Konitza moved from Brussels to London, and there continued to publish the periodical until 1910. To date, only the Brussels-published editions (1897–99) have been collected into books and re-published in Albania. In a June 2012 interview, at a book fair in Prishtina, the editor of these volumes, Halim Maloku, told me ‘it has taken years to collect and publish these volumes. We do not have the editions published in London. Perhaps *you* can find them there?’ This illustrates the significant problem identified by Robert Elsie, that even for relatively recent Albanian-language material:

Many important works and authors, though quoted and requoted, are in actual fact little known. Primary sources are lacking to a disturbing extent, and most manuscripts which have survived Balkan chaos, have never been published in proper scholarly editions. Original editions of many nineteenth and twentieth century volumes of great literary and cultural significance are so rare, and thus so difficult to obtain, that one wonders who could possibly have read them, even at the time of publication. The vast majority of literary works has been out of print for years, and some books, I am sure, have never even been seen by the critics who praise or condemn them’ (Elsie 1995: *xii*).

Despite these difficulties, an index of contributions to the periodical covering the full period of its publication (1897–1910) has recently been published in Albania, which allows a superficial survey of the periodical’s full contents (Kamsi 2008a).⁹⁷ Identifying contributors to *Albania* is complicated by the frequency with which

⁹⁷ I have verified the indexed articles for the 1897–99 issues against the actual texts, but have not been able to confirm the accuracy of the index for later issues.

authors signed their work with pen-names, anagrams and acronyms, an understandable practice in such politically turbulent times. No articles appear in *Albania* under Gjeçov's own name, but Kamsi identifies, as Gjeçov, the pen-name *Lkëni (Lkêni) i Hasit* [probably 'The lake of Has'], sometimes 'L i H'. All articles signed with this pen name appeared in issues of the periodical between 1900–06.

Eighty-three issues of *Albania* were published, to which Gjeçov, made 23 contributions. Some of these are of less than a page, others run to two or three pages; their subjects include popular legends, cultural commentary and botanical notes. The botanical notes take the form of lists, such as, 'Names of trees', 'Names of grasses', and 'Names of flowers'.⁹⁸ Jack Goody has argued that making lists is an important stage in moving from an oral to a written culture, and 'lexical lists' are one of the list-categories he identified (Goody 1977: 94). He finds that 'abstract lists of this [lexical] kind appear to have no immediate "advantage" for those who compile them' (*ibid.*) but, in the case of *Albania*, the 'immediate advantage' of such lists is evident: in a region in which languages were 'mixed' in use, and where almost no formal schooling in the Albanian language was available, the lists were intended to increase awareness of Albanian words and explicitly to promote the use of Albanian words over common Slavic or Ottoman alternatives.

As well as the lexical lists, *Albania* frequently printed lists intended to cleanse the Albanian language of foreign influence ('linguistic cleansing lists'), such as:

⁹⁸ Attributed to 'L.i.H.', in 1900/4, and 1900/5.

[m]os thoni *églédisém* (po thoni pergezohem); m. th. *Ortak* (p.th.: shok); *baft* (fat); *bashte a bagshe* (kopsht); *hyzmet* (sherbim); *lhaf* (fjale); *sévda* (dashuri), *sekhldisém* (merzitém); *inatosém* (zembrohém, meritém); *gézhdís* (bares); *ghéné* (prape, perseri, rishtazi); *ashcí* (ghélhetar); *tézezi* (bote); *muhabét* (kuvent); *Alhahi* (Pérendia, Hyji); *fukara* (vobék); *béhar* (vére); *sokak* (ruge); *héqim* (mjék, sheroñetuar); *nishan* (sheñe); *ghynah* (mekat); *fiqir* (ment); *pénghéré* (dritoré); *kasaba* (qytét); *jéshil* (i, é ghélber); *jétim* (i vorfen); *javash* (nga dale); *ihtiza* (névoje, névole); *hisé* (pjesé); *hazar* (gati); *férk* (ndryshim); *sakt* (shegur); *usulh é adét* (zakon); *sébét* (shkak); *zabit* (fjal).⁹⁹

These lists show the sort of everyday words which were of concern to the linguistic nation-builders. The example above reads ‘Do not say *congratulations* [in Ottoman] (do say “congratulations” [in Albanian]); do not say *friend* [in Ottoman] (do say “friend” [in Albanian])’ and continues in the same manner through the Ottoman and Albanian words for: fate/luck; garden; service; word; love; tiredness or boredom; to dislike; grass; again / repeat; a person who prepares food; world; chat or discussion; the West; poverty; summer; street or road; doctor; sign; sin; mind; window; town; green; orphan; slowly; need; part; ready; change; path; custom; reason; and word.¹⁰⁰

The most substantial piece of work Gjeçov published in *Albania* was a sixteen-part series, spread over four issues in 1905–06, on ‘Gjergj Kastrioti Skanderbeg: Legends of the people of Kurbin and Kruja’. Kruja is the mountainous location of Skanderbeg’s castle in northern Albania, and Kurbin is a neighbouring region. Lac, Gjeçov’s first posting in Albania, is located in the Kurbin region, which suggests that, from the beginning of his working life, he collected material from the populations among which he lived. This image of Gjeçov as a collector, interested

⁹⁹ *Albania*, 1898/2: 25.

¹⁰⁰ I discuss another example of this self-conscious educative function of early Albanian publications in Chapter 5, the ‘Dictionary of Rare Words and Phrases’ in the 1933 single-volume *Kanun*.

in the hitherto orally transmitted culture of the northern Albanians, foreshadows his later work on the *Kanun*. In addition to directly attributed contributions, there are four series of articles contributed anonymously on themes we know to have been of interest to Gjeçov, which were probably written by him: The *Kanun* of the Banners of Dukagjin; the *Kanun* of Malësia (an area covering part of northern Albania and eastern Montenegro); The ‘Door of Gjon Marku’ (a synonym for the hereditary Captain of the Mirdita tribe); and ‘Albanian Blood Feuds’.¹⁰¹ Each instalment finished with the words ‘To be continued’ and, from the appeal, by the editors in one issue, it is evident that even they did not know the identity of the contributor: ‘The article “*Kanun* of Malësia” ended “To be Continued”. We sincerely beg the author to send us the continuation’.¹⁰²

At the time of the 1897–99 articles, Gjeçov was in the early years of his ordained priesthood. It is likely he remained in Bosnia, within a Franciscan community until he was posted to northern Albania, around 1899, and would thus almost certainly have had access to the periodical. It is possible that Gjeçov himself was the anonymous contributor of the *Kanun* series; if not, the early editions of *Albania* probably sparked or developed his interest in the *Kanun* of Lekë Dukagjin. However, given the uncertain identity of the author, and the difficulty of reading the pre-standardised Albanian text, the contents of these series are not further discussed here.

¹⁰¹ ‘The Door of Gjon Marku’ is a synonym for the ‘Captain of the Mirdita’, the hereditary tribal head of the Mirdita region.

¹⁰² *Albania*, 1897/10: 176.

Hylli i Dritës [The star of light]

It was during his ‘most productive’ period (*pace* Elsie) that Gjeçov collected the material which he subsequently published as the *Kanun* of Lekë Dukagjin. At least some of the material must have been collected before Gjeçov published the first instalment of the *Kanun* in 1913, which limits the possibilities to Gjeçov’s two pre-1913 postings. A comment in the text indicates that the *Kanun* given is that of the Mirdita (1913/3: 92), so the material was probably collected in Gomsiqe.

The *Kanun* was published serially in the Franciscan journal *Hylli i Dritës* [The Star of Light] between 1913–24. The influence of the Catholic publishing houses of Shkodra is clear: *Hylli i Dritës* was published by the ‘Nikaj’ Printing Press between 1913–14, and The Franciscan Printing Press from 1921–41 (Kamsi 2008b: 11).¹⁰³ There has been some question about the breadth of Gjeçov’s sources for the *Kanun*. Some, including the anthropologist Schwandner-Sievers, believe these to have been limited to a single person (Schwandner-Sievers 2006: 226), whereas others believe him to have drawn more widely on his knowledge and experience:

Gjeçov, untiring, collected from village to village, from family-neighbourhood to family-neighbourhood, all the while systematising with care and intelligence ... He collected, as a bee that collects nectar from flower after flower, all those norms that had the force of law in years gone by, through which, today, we can see clearly, how social understandings, economics, and family understandings were regulated’ (Çetta 1985: 22).

¹⁰³ ‘Nikaj’ was one of the Catholic tribes of northern Albania. To find its name on a publishing house which printed Catholic material suggests the press was owned by members of the Nikaj tribe. To find a publishing house so named, the year after Albania declared independence, suggests the continuing influence of tribal social orders in the new state.

Proponents of neither view give evidence to support it, but given the breadth of Gjeçov's interests, and the scholarly approach evident in his presentation of the *Kanun*, and his active participation in customary conciliations (see Chapter 4), it seems unlikely that he would have limited his sources to a single person.

A retrospective appraisal of *Hylli i Dritës* described it as having been:

the first journal published in Albania, with a clear patriotic, political and cultural programme. This was most clearly expressed by Catholic intellectuals and, principally, the Franciscan Province in Albania, represented by not only its Director, Fr. Gjergj Fishta, but also a constellation of writers, linguists, folklorists and economists who honoured not only the Franciscan province, but also the Nation' (Kamsi 2008b: 3).¹⁰⁴

Between 1913–24, *Hylli i Dritës* was published in two phases.¹⁰⁵ The first, from October 1913 to July 1914, consisted of 10 monthly issues, each of which contained an instalment of the *Kanun* from Gjeçov. This run ended in July 1914, after the periodical published a six-page, strongly-worded condemnation of the political manoeuvrings of the Great Powers by its editor, Fr. Gjergj Fishta.¹⁰⁶ 'A Disgraceful Comedy of the Twentieth-century' included explicit criticism of Austria, which caused the Austrian authorities in Shkodra to order the periodical's closure.¹⁰⁷ The second phase was 1921–24, during which time 44 monthly issues were published. Of these, 26 contained an instalment of Gjeçov's *Kanun*. He also contributed other

¹⁰⁴ The last few words could also be translated as '... who brought honour not only to the Franciscan province, but also the Nation'.

¹⁰⁵ There was a third publication phase for *Hylli i Dritës*, from 1930–44, which I do not cover here as it was after Gjeçov's death in 1929, and contained no contributions under his name, or established pen names.

¹⁰⁶ Fr. Gjergj Fishta as a nation-builder is discussed further in Chapter 5.

¹⁰⁷ *Hylli i Dritës*, 1914/10: 297–303.

pieces on ‘national’ topics: a series of five articles titled ‘Thraco-Illyrian heritage’ (under the pen-name Komen Kanina); three pieces on the 1555 Missal of Gjon Buzuku (the earliest known Albanian language document); and a piece about the national hero Skanderbeg. In total, he made 35 contributions. Most issues of *Hylli i Dritës* contained around 10 features, so Gjeçov’s contribution to these two phases of publication was significant and sustained.

Other works

As his contributions to periodicals suggest, Gjeçov was a prolific writer and he also published a wide range of other works, including what the linguist and Albanian studies specialist Stuart Mann (1905–86) described as his ‘principle work’, ‘The Dawn of Civilization’. This was a collection of ‘original and translated articles, verses and aphorisms bearing the titles Society, Religion, The Homeland, Patriotism, and Language’. He also wrote hagiographies, including of St Anthony and Lucy (1902), a biography of Joan of Arc (1916), and various translations into Albanian from Latin and Italian, including the eighteenth-century librettist Mestastasio’s work ‘Attilio Regolo’ (1912) on the life story of the Roman naval commander Attilus Regulus (Mann 1955: 106). In addition to his published works, Gjeçov also left a body of unpublished material, including a translation of the sayings of Socrates, novels, and 38 other original works (Elsie 1995: 301).¹⁰⁸

¹⁰⁸ Many of these have been collected into the four-volume *Veprat* [Collected Works of Gjeçov], published in Prishtina in 1985 (eds, Kelmendi and Gunga).

Death and commemoration

In 1926, Gjeçov was transferred to Zym, a Catholic village in Kosovo, which lies between the city of Prizren, and the modern border with Albania.¹⁰⁹ He was killed near the village on 14 October 1929, apparently by the local Serbian population or authorities, in consequence of his ‘reputation as a strong Albanian nationalist and as a scholar interested in digging up his people’s ancient past’ (Elsie 1995: 304). Albanian writers popularly hold ‘the Serbs’ responsible for Gjeçov’s death, as illustrated by the Kosovar academic Pupovci’s claim, couched in the nationalist and socialist academic terminology of the period, that ‘Gjeçov fell victim to the monarcho-fascist [Serbian] dictatorship of King Aleksander’ (Pupovci 1971: 1101).¹¹⁰ Gjeçov is buried at Karashengjergj near Prizren in Kosovo.¹¹¹

That Gjeçov’s contribution to the national cause was recognised by his contemporaries is evident from their responses his death. In a piece published less than a year after Gjeçov’s death, Faik Konitza, founder and editor of the periodical *Albania*, recalled:

[t]he respect in which I had held Fr. Gjeçov from a distance was intensified the moment we met. Of medium height, on the slim side, with black eyes through which shone his intelligence and goodness of heart, Father Gjeçov immediately won your trust and love. He was a man of few words, but always to the point. During our discussions, when we touched on a topic close to his heart, for example, The *Kanun* of Lekë Dukagjin or Greco-Roman antiquities, Father Gjeçov would open up, and then it was a pleasure just to listen to him (Konitza 1933[2001]: xxxiii).

¹⁰⁹ ‘Zym’ is sometimes given as ‘Zymb’.

¹¹⁰ There seems to be no evidence to support the claim of Serbian responsibility, so this seems to be an example of something being held to be true because it is widely known and accepted, and stated by people popularly deemed to be authoritative, rather than because it is based on evidence.

¹¹¹ This seems to be little known by most Kosovars with whom I discussed Gjeçov during my fieldwork, and of equally little interest to them.

Gjergj Fishta, founder and editor of *Hylli i Dritës*, to which Gjeçov contributed extensively, noted ‘We do not wish to mourn the death of Father Gjeçovi; on the contrary, we are proud [of it], because it is in the blood of martyrs that ideas are reinforced and states consolidated’, tying the emergence of the new state to pre-state ideas of blood (quoted in Elsie 1995: 304).¹¹² I return to this idea of a person being ‘martyred’ to the national cause in later discussions about the *Pajtimi i Gjaqeve* Movement, in which this understanding of ‘martyrdom’ was a recurrent theme, used by Movement activists to coerce disputing parties into conciliation.

Today, Gjeçov’s contributions are well recognised, at least by foreign scholars of Albanian language and literature.¹¹³ Stuart Mann described him ‘as ardent in propagating nationalistic ideas as he was in spreading his religious beliefs’ (Mann 1955: 106), and Robert Elsie has concluded that Gjeçov is now regarded as ‘the father of Albanian folklore studies’ (Elsie 2004: *xi*).

Conclusion

Shtjefën Gjeçov was an educated man. At the very least, he was fluent in Geg Albanian, Latin and Italian; and was probably also familiar with the Slavic dialects of Kosovo, or Bosnia, where he studied for twelve years. Greek was also used in the region, as the language of the Orthodox *millet*, so he may also have been familiar with Greek, although references in the *Kanun* to texts originally written in Greek

¹¹² I contacted Robert Elsie to ask for the original source of the Fishta quotation but he had no access to his books so was unable to check it, and I have not been able to locate a copy of Fishta’s collected speeches as he suggested (email 19 September 2012).

¹¹³ His contributions are less well known in Albania, owing to Enver Hoxha’s communist regime having expunged the Shkodra Catholics, and other religious figures, from Albanian ‘national’ history.

are to Latin translations.¹¹⁴ His publications and unpublished works show a fascination with indigenous Albanian culture which was consistent with the prevailing elite's interest in all things Albanian. In common with some contemporaneous works by other Franciscan monks, he showed an interest in both the distinctness of Albanian culture, and in drawing connections with other cultures. Another example of this can be seen in the 1932 article 'The Mathematics of the Albanians of the Mountains' by P.F. Kiri.¹¹⁵ Here, the author identifies mathematical puzzles in the stories of the northern Albanians, and finds parallels with classical puzzles, to see whether mathematical practices identify Albanians as oriental ('Ottoman') or occidental.¹¹⁶ The production and publication of the *Kanun* was consistent with Gjeçov's political beliefs and cultural interests and the text is a key element in his significant body of work which sought to disseminate those beliefs and interests. By holding in mind Gjeçov the man, we see and read the text as he intended: rooted in his experience and intellectual grasp of his surroundings and the culture in which he was embedded. In understanding Gjeçov as part of a politicised, literate, mobile elite, we understand the *Kanun* as just one element, albeit an important element, of a concerted drive to create an Albanian printed and literary tradition. The existence and influence of the Catholic intelligentsia inside a Muslim empire may appear surprising, but can be attributed to outside involvement in the borderlands of the Empire by Austria-Hungary and Venice – the former under the *Kultursprotektorat* peace agreement, and the latter under a separate bilateral

¹¹⁴ However, *n.b.*, as noted above, that he produced a translation of Scocrates, so may have spoken Greek.

¹¹⁵ *Albania*, 1932/1: 258–64. This foreshadowed a late-twentieth century academic interest in 'ethnomathematics' (D'Ambrosio 1985).

¹¹⁶ In Chapter 4, I discuss a comparable 'matching' of elements of Albanian culture with classical texts in the notes to Gjeçov's *Kanun*.

agreement – and the relative cultural autonomy afforded to the Catholics under the *millet* system. Further, it was an intelligensia which had grown rapidly in size and resources in the decades preceding Gjeçov's joining the priesthood, probably owing to external powers attempting to gain influence in the crumbling Ottoman Empire by exerting their privileges to protect their co-religionists.¹¹⁷

To the general historical overview presented in Chapter 2, this Chapter has added a detailed example of a nation-builder, showing how the work of an individual contributed to broader patterns of the times, and how the establishment and development of printing presses was a catalyst for the development of the Albanian nation. It address the literature on both nation-building in general, and that specifically about Albania.

In the next chapter, I turn to the text of the *Kanun*. I examine what we know of Albanian 'law' before its publication, the contents and structure of Gjeçov's text, what the text tells us about the key themes of family and feuding, and conclude with a broader socio-legal perspective on the text's production. I explore Shtjefën Gjeçov's codification and publication of the *Kanun* of Lekë Dukagjin (1913–1923), the context from which it emerged, and the contexts into which it emerged. I ask whether the text '*asht një regjistrim i traditës gojore* [was a registration of oral tradition]' (Pupovci 1971: 981) and, if not, what the text might show about Albanian understandings of law, the nation, and connections between law and nation-building.

¹¹⁷ See, for comparison, the French support for the establishment of a political entity for the Maronite Christians in Lebanon first, in 1861 as a *mutessarrifate* (administrative region), and in 1920, as the State of Greater Lebanon (Salibi 1988[2003]: 25f.)

Chapter 4: Shtjefën Gjeçov's *Kanun* of Lekë Dukagjin

Lekë Dukagjin was a medieval northern Albanian prince, probably a descendent of one *duca Ginius Tanuschus Albanenis*, mentioned in an Italian document in 1281 (Malcolm 1998: 28), and remembered today for the *Kanun* of Lekë Dukagjin. The precise identity of the *Kanun*-giving Lekë is unclear, there were three Lekës who lived at approximately the right time, each of whom has his own proponents (*ibid.*: 360). For my informants, my interest in Lekë's precise identity missed the point: he is a mythical national figure about whom little is known, but that little, is powerful stuff.

He was an Albanian Catholic feudal prince, in the period just before the Ottoman invasion, and a contemporary of Skanderbeg (1405–1468), the arch Albanian national hero (discussed in Chapter 2). His power base lay to the north of Skanderbeg's, in the Albanian highlands, and much of what I was told about him carried an undertone of approval that he was 'local' to Kosovo. Informants told me that Lekë was a wise and just man, who gave the Albanian people the *Kanun* which bears his name, and recounted popular stories which show Skanderbeg either acknowledging and acting on his wise counsel, or having his judgement demonstrated wrong by Lekë's wisdom.

Albanian customary practices and ideas of 'the *Kanun*'

Shtjefën Gjeçov's codification of the *Kanun* of Lekë Dukagjin, in the earliest years of the twentieth century, was the first text presented as an Albanian legal code. Prior to this publication, it had been possible occasionally to glimpse Albanian customs and *sjellja* [right behaviour or ideals of right behaviour] in three types of text:

articles in the Brussels-published periodical *Albania*, discussed Chapter 3; memoirs and travel writings from the region; and efforts by non-Albanians (in particular, Ottoman administrators) to document what was happening in Albanian communities. Examining these sources presents challenges to a reader interested in terms and the use of terms. All these texts involve at least one translation from the original source material to the author, and sometimes multiple translations; this is most pronounced in the Pupovci essay (discussed below), published in the Kosovo journal *Përparimi* (1971).

Pupovci was an Albanian-speaker, but educated during the time of socialist Yugoslavia, so he would also have been fluent in Serbo-Croat. He would have been able to read his Slavic sources on the work of Bogišić and Lazarević in their original language, but the essay in which he discussed them was written in Albanian. The article he cites from the periodical *Prizren* would probably have been written in Ottoman, in which case he would probably not have been able to read the original, although some articles in this periodical were written in Serbian, which he would have been able to read. The extracts from the Ottoman Yearbooks he cites would have been written in Ottoman. At its simplest, the process by which information from a Year Book entry ended up in Pupovci's essay would have looked something like Figure 2:

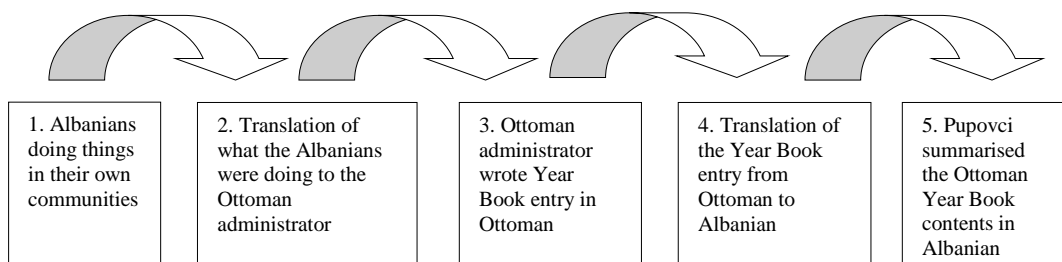


Figure 2: Simplified process from practices to text

This illustrates only the translation between languages, not the translations across time which might have occurred between steps 3–4, and 4–5, of the diagram, nor possible ‘translations’ between everyday language and terms of art, or even between multiple meanings of a single term.¹¹⁸ For these reasons, the following discussion of texts, terms and meanings must proceed cautiously.

Memoirs and travel writings

One of the earliest sources of information on the region is the Ottoman traveller Evliya Çelebi (1611–82), whose travels through the Ottoman Empire are documented in his ten-volume ‘Book of Travels’ [*Seyahatname*]. In descriptions of his journey through the Balkans (1656), he makes no mention of the *Kanun* of Lekë Dukagjin (Dankoff and Elsie 2000), which has struck Albanian academics as surprising (Pupovci 1971: 968). Other travellers also remain silent on the subject until the second-half of the nineteenth century, when travel to and through the region became more common, and publication of travel memoirs in English increased.¹¹⁹ As the following examples from English-language sources illustrate, where memoirs and travel writings touched on Albanian customs and described what was happening in Albanian communities, they tended to focus on the blood feud, seen by Ottoman administrators as a potential threat to social order, and as alien or exotic by visitors to the region.¹²⁰

¹¹⁸ The example of the term ‘*kanun*’ itself is discussed below.

¹¹⁹ The focus on English-language texts is a practical one, this is not to ignore the contributions made to the field by writers in other languages including, in particular, the German-language writer von Hahn (1811–69), who published in 1853 a three-volume monograph ‘*Albanesische studien*’.

¹²⁰ This suggests rather a poor understanding of the feud, as its nature makes it unlikely that anyone not connected with it could accidentally be drawn into one, but most of the writers were Ottoman functionaries, charged with keeping order in their provinces, so they would have had particular types of concern about order.

In 1861, Midhat Pasha (1822–84), a reformist Ottoman functionary, was appointed to the governorship of the *Vilayet* [large province] of Niš (Serbia), which incorporated Kosovo. In a biography written by his son, there is a glimpse of Albanian feuding from the perspective of an Ottoman administrator:

[a]t Prisrend [Prizren, Kosovo], in that part of the provinces inhabited by the Arnauts [Albanians], he was confronted with problems of a peculiar nature. Here a vendetta (similar to the Corsican vendetta) existed among the unruly mountaineers of Albanian descent (Midhat Bey 1903: 36f.).

Pasha's response was to convoke an assembly of local notables and institute a permanent commission to determine blood fines in lieu of further feuding, by means of which he 'succeeded in suppressing a vendetta that had existed for centuries among this brave but unruly people' (*ibid.*). This passing mention shows that in the late-nineteenth century, a local Ottoman official recognised blood feuding as being a specifically Albanian custom, and further recognised that local community involvement would be essential in any attempt to end the practice.¹²¹ The need for local community involvement in the conciliation of Albanian disputes is discussed in some detail in the second half of the thesis. Pasha's success seems not to have extended into northern-Albania as, when the English barrister E.F. Knight visited Shkodra twenty years later (1880), he was shocked by the apparent prevalence of feuding:

[t]he Franciscan missionaries explained to me that it is very rare indeed to find a really old man in the mountains, the chances being so much in favour of any given man being killed sooner or later in these constant feuds ... fair play is unknown here (Knight 1880: 135f.).

¹²¹ Reports of Midhat Pasha's successes, such as this instance, should be read with the awareness that Midhat Bey's aim in the book was to tell the story of his progressive-minded father, whom he believed to have been 'judicially executed' by the Ottoman state.

Like many nineteenth and early-twentieth century travellers and commentators Knight saw the people of the Ottoman Balkans – ‘the near East’ (a description used *inter alios* by R. Seton-Watson 1917) – as primitive or backward, and the ‘lawless’ feud, with its absence of fair play, was merely one of many examples which confirmed this view.¹²²

In contrast, Edith Durham (1863–1944), an Englishwoman, who travelled widely through tribal northern Albania in the early years of the twentieth century and published her travelogue ‘High Albania’ in London in 1909, was interested in the emergence of nations and states from the crumbling Ottoman Empire, and determined to understand, through detailed study, the peoples of the Balkans, and how they lived. Her detailed ‘ethnographic’ descriptions of the physical and social living conditions of the people she encountered are littered with references to Albanian ‘law’, in which she was greatly interested. She noted that the ‘Canon’ or ‘Laws’ of Lekë (she used the terms interchangeably) governed the lives of the northern Albanians, ‘above’ any laws coming from religion or the Ottoman authorities, and her enquiries about why things were done in a particular way were frequently answered ‘Lekë said so’ (Durham [1909]2000: 25).¹²³ She was as interested in practicalities as ideas, and paid close attention to feuds, such as this

¹²² As well as reporting on what they had seen and experienced first-hand, foreign travellers often transmitted second-hand impressions they had picked up within the region. An English businessman living in Montenegro in the early 1920s told an American traveller as she prepared to travel into northern Albania that ‘as clearly as he could find out, the Albanians were the scum of the Balkans, descendants of bandits driven out of the other Balkan countries; a bad lot, morally and physically’ (Lane 1922: 14f.).

¹²³ Durham’s Anglicisation of *Kanun* as *Canon* might suggest a link with the Canon law of the Roman Catholic Church, but this is not the case.

example from Vuthaj, in the mountainous border region between Montenegro and Kosovo:

[o]ur house was in blood [feuding] with that just over the way, within easy gunshot, and they had been peppering one another from the windows ... They fell into blood thus. The other man's haystacks had been burnt; he accused our house. A council of twenty-four elders tried the case, and acquitted our housemaster. Over-the-way persisted in the charge, and, on various pretexts, had the case twice re-tried, always with the same result. Our house was exasperated with the constant re-trying. A free fight took place, and one of Over-the-way was killed. They fired at each other's houses for many days. Our house had spent over 600 piastres in cartridges. Now a fortnight's *besa* [truce-oath] had been given, and the case was shortly to be retried (*ibid.*: 139f.).

Here we see the dispute conciliation process – adjudication by a council of twenty-four elders – and how that process responded to complaints about unjust decisions. The *besa* [truce-oath] mentioned at the end of the extract is a solemn oath which marks a conciliation, and allows an honourable truce; typically this forms part of the trajectory of a feud, and is further discussed below. As well as describing feuds between families, Durham also noted inter-tribal feuds, such as ‘Berisha was in blood with Krasnichi, in blood with Dushmani, and greatly in blood also within the tribe’ (*ibid.*: 191); the difference between inter-familial and inter-tribal feuds being one of scale rather than substance. It is evident from her writings that such inter-tribal feuds were widespread and commonplace throughout the Albanian highlands in the early twentieth-century.

Ottoman and Slavic writings

Albanian customs and *sjellja* [right behaviour] may also be glimpsed in efforts by non-Albanians to document what was happening in Albanian communities. In discussing these efforts, I draw heavily on Pupovci's work (1971).¹²⁴ His first example dates from 1871, when the Governor of the *Vilayet* of Prizren established a committee to record everything in the Dukagjin region considered to be related to the *Kanun* (here meaning Albanian customary practices). Material thus gathered was then published in 'Prizren', the officially-sanctioned and predominantly Ottoman-language periodical of the *Vilayet*. The article covered: the equality of all men before the *Kanun*, points about murder, *besa*, conciliation, council of elders, head of the council, points about inter-tribal wars and third-party negotiations, details of the sequestration of the wealth of offenders, and the distribution of this wealth within the tribe, matters of inheritance; points related to marriage, engagement and the levirate. It emphasised to Albanians the shortcomings of the *Kanun* which they 'followed blindly' (Pupovci 1971: 969), and appealed to them to turn from the *Kanun* to the *şeriat*¹²⁵ and Ottoman laws, which were the very 'expression of civilisation' (*ibid.*).¹²⁶ Notwithstanding my cautionary note above about the (multiple) translation of terms, this shows 'Kanun' being by used an Ottoman administrator in the Kosovo region, some 40 years before Gjeçov's codification, to describe Albanian custom and *sjellja* as something distinct from the

¹²⁴ Pupovci was a Kosovar academic lawyer. I was told that his doctoral thesis at U.P., which I have been unable to obtain, was on the *Kanun* of Lekë Dukagjin.

¹²⁵ I use the Ottoman spelling *şeriat* for consistency with earlier chapters, and to emphasise the association between the *şeriat* and the Ottoman administration.

¹²⁶ I have not had access to the original Ottoman text to check the original wording, but Pupovci's Albanian language text reads as though this expression could be a direct translation.

seriat and Ottoman laws. The interest of local Ottoman officials in what was happening in Albanian communities is also evident in the Ottoman Government's nineteenth century provincial Yearbooks. The 'Ottoman Government Yearbook of the *Vilayet* of Kosova 1896–97' carried an article on the *Kanun* of Lekë Dukagjin, as did those of the *Vilayet* of Manastir 1889–90, and the *Vilayet* of Shkodra 1892–93. The entries document those customs which had caught the attention of the Ottoman authorities, perhaps with issues of governance in mind, including: murder; feuding; conciliation; blood-price; theft; marriage; hospitality; and inter-tribal conflict.¹²⁷ This apparent upsurge of interest was probably a consequence of the Ottoman *Tanzimat* [reorganisation] (1839–76), to defuse growing national movements throughout the Empire and promote a sense of Ottoman citizenship (see Chapter 2).

The nature and structure of the Ottoman Empire were fundamentally different from the later Empires of Western European countries but, in their efforts to record local custom with a view to integrating or drawing it into imperial administration, the Ottoman administrators were took an approach similar to that taken by colonial administrators in other parts of the world. In French Colonial Kabilya (Algeria), Hanoteau's and Letourneux's French ethnographic monograph (1872–73) devoted two of the three volumes to a compilation of Kabyle customary law according to the categories of the Napoleonic Code, which Scheele attributed to Letourneux's academic legal interests and Hanoteau's awareness of 'the difficulties that the infinite variation of Kabyle customary law codes had caused the

¹²⁷ Here Pupovci draws on a book by Niko Martinović on Valtazar Bogišić and the codification of Montenegrin law (1958: 1).

French administration' (Scheele 2008: 897). In the British colonial context, the codification of customary law was motivated by practical considerations of governance. In Victorian India, Bernard Cohn has shown that when the British took control of the Punjab, custom became law by the process of the elders being called to give evidence about 'custom' in British courts, evidence which was recorded and subsequently interpreted by the courts (Cohn 1965: 110). Handbooks of regional customs were produced for the use of lawyers and judges, such as Rattigan's 'Digest of Civil Law of the Punjab chiefly based on the Customary Law' which ran to 'at least' 13 editions between its initial publication in 1880, and 1953 (*ibid.*: 111). In Zambia and Malawi, the British system of indirect rule 'depended on the idea of a discrete group [the tribe] with an established system of customary law if not peculiar to itself then at least accepted by all its members' (Chanock 1985: 9). The process by which custom became law in central Africa was similar to that in India and 'the extent to which customs were not kept, did not become 'law', and were not enforceable by the courts was a measure by which identity was lost' (*ibid.*). The understanding of this caused internal struggles within tribes, as parties sought to ensure that the customs which became law were those which best suited their interests. Despite the differences across empires, once written as law, social organisation and customary practices which had previously been fluid and contestable became immutable. We cannot make any assessment about the consequences for Albanians of the Ottoman officials' documentary efforts because, at the time they were writing, the Empire was on the verge of collapse, and their texts were ultimately overtaken by events.¹²⁸

¹²⁸ The Balkan Wars of 1912–13 marked the actual end of the Empire.

Pupovci's third example came from quite a different perspective. In 1873, shortly before the Montenegro-Ottoman wars (1876–78), Prince Nikola invited a Serbian Jurist, Valtazar Bogišić, to Montenegro to survey legal practices in the Principality, with a view to using the findings as a foundation for a new legal code for Montenegro.¹²⁹ Bogišić devised a survey of over 2,000 questions, which he asked of various informants from Montenegro, and from the neighbouring tribes of Hercegovina and Albania. The Albanian informant belonged to the Kuçi tribe; his answers covered his tribe, with some additional information about the neighbouring tribes of Gruda, Hoti and Kastrati (all of the *Maltsia e Madhe* group, according to Durham's categorisation, see Chapter 2). Bogišić compiled the Albanian responses into a 'juristic survey' of Albanian tribal life, which covered: close family; extended family; the separation of close family from extended family; inheritance; cousins outside the home; feud; revenge and conciliation; and the 'right of punishment'. His material has not been published, and Pupovci noted that, as Bogišić's primary interest was the development of a civil code for Montenegro, the information on Albanians was patchy and left frustrating gaps. Pupovci leaves his reader with the impression that, despite Bogišić's extensive efforts and structured approach to investigation, he accrued relatively little information about the *Kanun* of Lekë Dukagjin or the 'legal practices' of the Albanians (Pupovci 1971: 970–77). This is confirmed by the fundamental nature of the questions Bogišić listed in a letter to his research associate, to be put to Albanian informants.¹³⁰ These indicate he knew of 'The Law of Leka', which he understood to be 'Albanian law', but did not know:

¹²⁹ This was not the first time such an approach had been taken before the drafting of new black-letter law. In Greece, in 1853, L. Krisanthopoulos had been commissioned to 'conduct a survey of traditional family and inheritance law in the provinces' (Herzfeld 1982: 81).

¹³⁰ Lazović is also a Slavic name, and thus he probably spoke Serbian or Montenegrin.

what it contained; whether it existed – or ever had – as a written text; to whom it applied; how it was applied; whether and to what extent it was observed; whether – and how – it had changed over time; and how situations were dealt with which were not addressed by ‘the law’.

Pashko Vasa and ‘The Truth on Albania and Albanians’

The earliest writing on Albanian ‘law’ by an Albanian, comes from Pashko Vasa (1825–92), a Roman Catholic Albanian from the northern Albanian city of Shkodra.¹³¹ He was an educated man, fluent in several languages including Italian, French, Greek, Ottoman, English, Serbo-Croat and, later in life, Arabic (Elsie 1999: *i*). He had two distinct sides. On the one hand, he was a successful Ottoman functionary, who rose through various positions to become Governor General of the Lebanon for nine years, until his death in 1892. On the other, he was an Albanian nation-builder, who made significant contributions to nation-building activities and literature, as a founder member of the Constantinople-based Central Committee for the Defence of the Rights of the Albanian People (1877), a co-organiser of the League of Prizren (1878), and likely author of the ‘Memorandum on Albanian Autonomy’, submitted to the British Embassy in Constantinople in 1878.¹³² He took an active part in the Alphabet Debate, publishing a pamphlet written in French on ‘The Latin Alphabet applied to the Albanian language’ (1878), and was a member of the Society for the Publication of Albanian Writing, founded in October 1879. In addition, he was a prolific writer, in Albanian and other languages, and his poem

¹³¹ Pashko Vasa was also known as Vaso Pasha, Vaso Pashë Shkodrani, Albanus Albano, and Wassa Effendi. In discussion of this text, ‘law’ is in scare quotes because it is the term used in the English translation, and I have not been able to trace a copy in the original Albanian to check which term Vasa himself used.

¹³² This attribution is made by the Albanologist Robert Elsie (1999: *ii*).

‘*O moj Shqypni*’ [Oh Albania, poor Albania], thought to have been written around the time of the League of Prizren in 1878, was ‘the most influential and perhaps the most popular ever written in Albanian’ (Elsie 1999: *ii*). The poem reified ‘Albania’, and lamented the piteous conditions in which it found itself, not least because of indolence, indifference, and in-fighting among Albanians. It was a stirring call to the Albanian people to put aside their differences, and instead to devote their energies to securing their nation’s future.

Vasa’s interest in Albanian ‘law’ emerged in his treatise ‘The Truth on Albania and Albanians: Historical and Critical Issues’, which brought together his political and literary interests. The English-language version, published in London in 1879, was a 46-page pamphlet which presented the Albanian people, their culture and history, with a view to securing European support for the Albanian cause.¹³³ One two-page section of the pamphlet introduced, ‘without entering into tedious details’, a portion of the ‘traditional laws which regulate the relations of the inhabitants between themselves’ (Vasa 1879: 35).¹³⁴ Vasa saw Albanian society as ‘quite primitive, [and] patriarchal’ (*ibid.*). He indicated the tribal basis of social organisation, noting that each tribe had a Chief and Elders, who administered and rendered justice.¹³⁵ These positions were inherited, but gave the holders no preferential standing before the ‘law’, which considered all men equal. Family organisation was a scaled-down version of tribal organisation. Each family had a

¹³³ In the same year, the pamphlet was also published in French, German, Albanian, Ottoman and Greek.

¹³⁴ For brevity and clarity, in the summary which follows, I have grouped together points made about similar themes.

¹³⁵ In the English translation of Vasa’s text, ‘clan’ is used but, for consistency with the rest of my text I have here substituted ‘tribe’.

Head, whose authority over its members was absolute, and who conciliated disputes and determined punishments. Each also had a Mistress of the House, responsible for the domestic work of female family members. Revenge killing was the prerogative of a dead man's heirs and, in the event that the killer escaped vengeance, his family members were legitimate targets in his stead. Killing a woman brought dishonour on the killer and his whole family. The rape of a married woman was the equivalent of killing, and revenge could be exacted by either the woman's birth family or her husband (*ibid.*: 36f.). The marriage of a girl to someone other than her betrothed, gave the intended bridegroom the right to kill her father or other close male relative. Should a girl have been kidnapped for marriage, her family and the intended bridegroom had the right to kill the kidnapper or his relations. Adultery was punishable by death. The sanctity and privacy of the house were important: the Elders set the boundaries of the house, and ruled on boundary disputes. Their rulings had immediate effect, and could not be challenged. The sanctity of the guest was stressed: to violate it was a dishonour which led to the expulsion of the transgressor. 'The shame is eternal', and one who killed the guest of another owed 40 'bloods' (*ibid.*: 36f.).¹³⁶ A debt had to be settled in the manner in which it had been contracted, and a thief had to repay double what he had stolen, plus a fine to the Chief and the Elders (*ibid.*: 36).

In his discussion of law-making and peace-keeping in the earliest English kingdoms, Wormald commented that 'pre-literate observance is by definition irrecoverable' (Wormald 1999: 180), but the move from a pre-literate to a literate

¹³⁶ See 'Feuding in the *Kanun*', below, for discussion of the term 'blood'.

condition does not happen uniformly across a society (Ong 2002). Vasa's text is significant as a half-way house: a summary of 'law' in an essentially pre-literate society, by a literate member of that society, and rare 'evidence for the existence of a custom *before* it is found recorded in a legal code' (Wormald 1999: 8). Vasa made it clear that his presentation of the 'laws' of the Albanians in this pamphlet was partial; the principles and points he included told the reader specific things about Albanian society and culture, including the antiquity of the Albanian people, the distinctness of the Albanian people and culture, their admirable 'national' characteristics, their suffering under Ottoman rule, and their capacity of the Albanian people for self-government. The Albanians' 'primitive' (and, thus, ancient) notion of retaliatory justice was stressed through use of the Old Testament proverb: 'an eye for an eye, a tooth for a tooth' (1999: 33).¹³⁷ This 'like-for-like' principle was further illustrated through other examples: a killing was responded to with a killing; a thief must repay double the stolen property. The distinctness of the Albanian people and culture was underlined by the description of the tribal and segmentary nature of Albanian society, and the effective autonomy of each household, which led the reader towards the conclusion that the natural extension of this segmentary system was an autonomous Albanian state. In an example comparable to Herder's influential characterisation of the Slavs¹³⁸, we learn that Albanians are organised, men of action, defenders of their women-folk, territorial, largely indifferent to religion, concerned with the protection of individual and

¹³⁷ Leviticus 24: 19–21: 'And if a man cause a blemish in his neighbour; as he hath done, so shall it be done to him; Breach for breach, eye for eye, tooth for tooth: as he hath caused a blemish in a man, so shall it be done to him again. And he that killeth a beast, he shall restore it: and he that killeth a man, he shall be put to death', also Exodus 21: 22–25, and Deuteronomy 19: 16–21.

¹³⁸ The importance of which for the Slovak nation-building writers Šafařík and Kollár was discussed by Pynsent (1994: 73–86), and for the Serbian writer Skerlić by Čolovic (2002: 89–97).

family honour, see hospitality and protection of the guest as a sacred duty, obedient to their social superiors and respectful of age, emotional, stoic, proud and brave. The capacity of the Albanian people for self-government is implicit throughout the whole two-page section; in presenting the ‘laws’ of the Albanian people, and not mentioning any other legal system, Vasa presented the Albanian people as already effectively self-governing.

The number of languages into which Vasa’s text was translated, almost simultaneously, shows that it was intended for a European, rather than domestic, audience. It sought to persuade foreign readers of the existence and legitimacy of the Albanian people, and their claim to nationhood. Part of this claim was their distinctness which came from, and was reflected in, their own ‘law’, however primitive it might appear to a foreign reader. That this message eventually reached at least some outside the region, whether *via* Vasa or another route, can be seen in an emotional outburst, directed at a companion, of an American traveller to Albania in the early 1920s: ‘Do you know that the Albanians are the oldest Aryan people in Europe? Do you know that they’ve ... kept their own language and customs and laws since before the beginning of history?’ (Lane 1922: 15). Although interesting for what it does tell us, Vasa’s picture of the Albanians was a simplified one, which played down regional differences between the Albanian people, and overlooked the not insignificant challenge to nation-builders that many Albanians would not understand themselves to be ‘Albanian’.¹³⁹

¹³⁹ See Annexe 1, for translation of a fictional conversation from *Albania* (1897/11: 181), clearly intended to educate, between an Albanian travelling outside his home country and a ‘European’, who seeks to understand the traveller’s nationality, and the traveller unable to understand that he is an ‘Albanian’, not, for example, a ‘Turk’ or ‘Muslim’ who speaks Albanian.

Albanian ‘Law’?

These examples suggest there was a general awareness that Albanians had their own legal tradition, which was significantly different from *şeriat* and Ottoman laws, that it was ancient, and that it might have aspects in common with other tribal societies of the Balkans such as Hercegovina or Montenegro. Some ‘outsiders’ saw this as ‘backward’ or ‘primitive’, and others as a window into an heroic past, which elsewhere in Europe had been lost to progress. Whatever the terms that were being used by and about Albanians to describe what was happening in Albanian communities, the available evidence suggests that before the codification and publication of Gjeçov’s *Kanun*, the northern Albanians had strong ideal standards of behaviour and well established customs, which they described as ‘*Kanun*’ and which were so broadly understood as not to need to be made explicit, and were seen as equivalent to other systems of laws.¹⁴⁰

Shtjefën Gjeçov’s *Kanun* of Lekë Dukagjin

Gjeçov’s *Kanun* is inventory-like, broadly addressing life in Catholic northern-Albanian communities. It detailed a tribal society, with a revenge-based notion of justice, and was presented in the form of a legal code. In the contemporaneous Balkans, such an intersection between local practices, or standards of behaviour, and external legal influences was not unique to the Albanians. In an 1853 survey on ‘traditional family law’ and inheritance, commissioned by the Greek government, the questions sent to local authorities were ‘all predetermined by the

¹⁴⁰ There were other meanings in specific contexts: see the final paragraph of the section below ‘Language and the text, language of the text’ for discussion of the three ways in which the term is used in the Appendix to Gjeçov’s *Kanun*.

“European” categories’ of an earlier legal code drawn up for Greece by the Bavarian Georg von Maurer (Herzfeld 1982: 81). In his *Kanun*, Gjeçov may have been influenced by the Greek, or by efforts in Montenegro, in the 1880s, to document and incorporate existing laws and legal practice into a new civil code, or it may indicate his own attempts to understand, and subsequently to describe, what he was seeing in the Mirdita communities. Considered as a whole, it is a substantial text; the body is around 1,300 statements, each of which is one or two sentences long, followed by *Motërzime* [Examples]. After its initial publication in instalments, the *Kanun* was later condensed into a single volume (discussed in Chapter 5). There is no foreword or prologue to the *Kanun*, so the text does not tell us of the law-writer’s reasons for writing his code, or attribute authorship.

The *Kanun*’s 1,300 articles are a combination of definitions, description, and prescriptive rules. Providing definitions is an important, but often overlooked, function of law (Honoré 1977: 102, see below) and a sub-section of the *Kanun* often begins with a definition that underpins the statements which follow. For example, ‘Common Property’ [*kujrija*] contains six statements covering: the indivisibility of common property; prohibition on the sale of common property; acceptable use of common property; restrictions on who may chop down trees on common property; and entitlement to the fruits of trees on common property. These are preceded by this definition: ‘Common Property is the area held in common by a village or Banner, for pasture, timber, firewood, hunting and other needs’ (1933: 72). There are also descriptive statements, which describe how certain things were done, or

clarify certain points, such as ‘a weapon is always sold loaded’ (1924/4: 189)¹⁴¹; or, ‘on the night the Bride is taken to the bridegroom’s house, the bridegroom’s men come for the bride like ‘robbers and brigands’, not like *miq* [guests]’.¹⁴² Gječov’s sources were Elders in the communities in which he worked, and the Elders were the embodiment of authority. Depth of thought and concision in speech were characteristics respected in an Elder; when the combination of the speaker’s status and manner of speech is taken into account, anything said by an Elder, even if not expressed as a prescriptive rule, would have brooked little or no discussion.¹⁴³ Thus, statements in the *Kanun* which describe the way things are, or the way in which things are done, may be read as description standing for prescription. Last, there are also prescriptive rules, some of which specify the consequences which would follow their being breached, such as ‘If you buy an ox or a cow with the condition that it will not show signs of foot-and-mouth disease until St George’s day, and it does show signs of foot-and-mouth [within this period], the owner must take back what he sold and must return to you the full amount you paid’ (1922/4: 189). Others give only the prescription: ‘The bridegroom’s men may not fire their weapons on the road while going to fetch the bride, and the *Kanun* orders that they must not be given cause to do so’ (1914/6: 186).

¹⁴¹ Where the reference is to an instalment of Gječov’s *Kanun* in *Hylli i Dritës*, I give the year of publication, issue of the periodical, and page number, so ‘1913/1: 31’ would be Issue 1, 1913, page 31.

¹⁴² 1914/6: 186.

¹⁴³ In Kosovo today, the notion of unquestioning obedience to one’s Elders remains an ideal standard of behaviour. Describing his recently deceased father, one younger informant concluded admiringly ‘If his father [the informant’s grandfather] had pointed at a black cat and said “that cat is white”, after that, the cat was white for my father’.

Definition, categorisation, symbolism

Some socio-legal scholars have seen ‘law’ as a system of rules (Galligan 2007, Hart 1994), but others have identified additional important functions, which we should bear in mind when thinking about what ‘law’ does, and how. In the functions of definition, categorisation and symbolism, we see characteristics common to both Gjeçov’s *Kanun* and the *Pajtimi i Gjaqeve*. Honoré has reminded us that establishing definitions is an often overlooked function of law, and one excluded if the focus is restricted to ‘rules’. He noted that:

[t]here is a natural reluctance to term definitions and interpretations ‘rules’, because they tend to look as if they applied only to particular words in statutes or common law rules. But definitions and interpretations of general terms are themselves general (Honoré 1977: 108).

His claim is supported by evidence of definitions from English statutes; definitions are important because they create the possibility of shared understandings, which underpin rules. Given this, when considering the roles of the *Kanun* of Lekë Dukagjin and the *Pajtimi i Gjaqeve* in the nation-building process, I reflect on whether, and how, they contributed or developed definitions and interpretations linked to ideas of ‘nation’ (see below and Chapter 6). Of particular importance is the capacity of definitions to exclude, as in constituting a community, law excludes as well as includes. James Whitman has argued that law has an important function in classifying the world around us and, through this classification, enabling us to describe and manage relationships (Whitman 1996). Whitman sees the descriptions of mutilation and concomitant compensation in what he terms collectively the ‘archaic codes’ (1996: 45) as less about supervising violence (as had historically been understood by legal scholars) and more about archaic attempts to control the market by setting prices, through often elaborate systems of categorising injuries

and stipulating compensation.¹⁴⁴ There is a loose analogy with the *Pajtimi i Gjaqeve* as there, too, individual cases had broader significance, and a sense of order was built up from individual cases. Law's functions of defining and classifying are of particular importance in the context of the codification of Gjeçov's *Kanun* and nation, as I showed in Chapters 2 and 3. These functions relate to the development of linguistic unity, needed for any type of political coherence, as part of a broader literacy programme by the nation-builders.

Van der Burg has drawn attention to two other, often neglected, functions of law: expressive and communicative, which together combine to give the 'symbolic function' of law. He describes how:

the communicative function of law is a complex one: law may create a normative vocabulary, a vocabulary to structure normative discussions, as well as institutions and procedures that promote further discussion. The expressive function of law is at stake when it expresses which fundamental standards, which values are regarded as important (Van der Burg 2001: 31).

He concludes that 'Legislation should ... be regarded as one phase in [a] moral-reflection process rather than as simply the codification of consensual moral norms or goals' (*ibid.*: 38). He emphasises that these neglected functions are not dominant, but should still be taken seriously. Drawing on Van der Burg's model, I will trace whether, and how, the *Kanun* and the *Pajtimi i Gjaqeve* expressed 'fundamental' national standards and values. Thinking about 'law' from a nation-building perspective, we know that expressing shared aspiration is an important element of nation-building: nation-builders may seek to show both what the nation is, and what

¹⁴⁴ These 'archaic codes' include the Roman Twelve Tables, the Germanic Barbarian codes, ancient Near Eastern Codes and the biblical Book of the Covenant. Whitman notes that the collective term is 'simply a convenient one for gathering a great deal of very old material in a comparative survey without asserting that all of the material displays the same universally archaic features' (*ibid.*).

it could be under more favourable conditions. In considering the roles of the *Kanun* and the *Pajtimi i Gjaqeve* in processes of nation-building, I explore their expressive and aspirational qualities, and the ideological claims they made (Pirie 2010: 208).

Language and the text, language of the text

Language played a particularly important part in the development of the Albanian nation. While other nations in the region, such as Serbia, Croatia and Greece, were shaped and strengthened by a national religion, the Albanian nation-builders, without religion as a unifying factor, had to look elsewhere for a central unifying factor. Pashko Vasa's poem 'Oh poor Albania' [*O moj Shqypni*] (1878) famously dismissed this problem, declaring that 'the religion of Albanians is Albanianism' (quoted in Elsie 1999: *ii*). But, given the considerable differences between northern and southern Albanian traditional cultures, what did this 'Albanianism' look like? What was it that people could be shown to hold in common? The answer which emerged was the Albanian language, and it was around the idea of a shared language that nation-building coalesced and developed. The challenge which faced the nation-builders was significant. As a contemporaneous commentator noted, '[t]he Albanians, who until recent years had remained in a state of primitive illiteracy are ... now actively endeavouring to raise their speech to the dignity of a literary idiom' (Abbott 1909: 91), but the success of their efforts was confirmed, a hundred years later, by the exiled philosopher and academic Arshi Pipa: 'Albanians identify not with religious or political frameworks – I would say even less with ideology – but with their language' (Pipa 1990: 46).

The politics of the Albanian Alphabet Debate, in which leading intellectuals of the late-nineteenth century determined which of the scripts in which the language

had hitherto been written would become the official Albanian script, were discussed in Chapter 2. At the time of the *Kanun*'s publication, after several decades of rumbling debate, the 1908 Congress of Manastir had finally settled on two Latin script versions of the alphabet. Restrictions on Albanian language printing in northern-Albania had been relaxed around the turn of the century, and presses were being set up in Shkodra under the auspices of Catholic religious orders, under the protection of Austria-Hungary.¹⁴⁵ Gjeçov's *Kanun* was published at the apex of language politics for Albanian nation-builders, by a committed nation-builder; the language of the text itself – the Mirdita-region variant of the Geg dialect of Albanian – as well as the content, speaks of law and nation. It is not written in the language of the educated, but rather that of the mountain villages; it was the language in which Gjeçov's informants would have spoken.¹⁴⁶ As discussed in Chapter 3, in the context of the periodical *Albania*, nation-builders sought to remove 'foreign' (Turkish, Slavic, Greek and Italian) influences from the Albanian language. Following the Herderian notion of the idealised, 'authentic' peasant, the language of the Mirdita peasants would have been seen as a more 'authentic' version of the Albanian language than the corrupted version likely to be spoken by the educated readership of *Hylli i Dritës*, and the *Kanun* demonstrated and disseminated this

¹⁴⁵ Austria-Hungary had been recognised as the protector of the Balkan Catholics since the Peace of Karlowitz in 1699 (Daniel 2000: 2).

¹⁴⁶ There is evidence that Gjeçov took steps further to 'Albanianise' the language: Pupovci noted that in the *Kanun*, as in the rest of his written work, Gjeçov 'tried to avoid foreign words, especially Turkish, replacing them with neologisms' (1971: 984). It is noticeable that terms borrowed from other languages, particularly Ottoman and Serbian, which were in common use in the region at the time, do not appear in the *Kanun* or his other writings. For example, in Durham (1909[2000]: 10ff.), we find, among others, *hanjee* (Ottoman, 'innkeeper'), *mehala* (Ottoman, 'neighbourhood'), *vojvoda* (Serbian, 'duke', used here in Albanian to mean 'leader'), and *adet* (Arabic, via Ottoman, 'custom' or 'tradition' not derived from Islam). It is noteworthy that Durham encountered *adet* in common use in a Christian tribe (*ibid.*:107), and it was also in use at roughly the same time in the region of Has, on the border of Albania and Kosovo (Bardhoshi 2007: 145–7), yet it does not appear in the *Kanun*. Gjeçov's body of work is another example of the concerted efforts by nation-builders to make the Albanian language distinct from neighbouring languages, see Chapter 3, above.

‘purer’ language. For the nation-builders, there was more at stake than simply an alphabet or choice of vocabulary; through their writings, they were bringing into existence, and moulding, a shared written Albanian language, and the *Kanun* made a significant contribution to this activity.

There may also have been symbolic value in using the Albanian language to write a legal code for the first time. The published *Kanun* showed that Albanian culture contained indigenous ‘law’ which could be written down in a law-like manner and thus considered alongside other cultures which had written law, and also that the Albanian language was capable of ‘writing law’ and thus deserved to be considered alongside other languages in which law was written. For a modern reader, the language of the *Kanun* is terse, sometimes to the point of impenetrability, which poses challenges to its translators (Fox 1989: xx), and results in the loss in translation of some of the ‘colourful metaphors’ of the original (Schwandner-Sievers 1999: 138). The translations given in my thesis are grounded in Leonard Fox’s 1989 translation, but tweaked where necessary to avoid linking a term with a technical meaning in a Western legal system (for example, ‘crime’) to an Albanian concept which might be quite different. Last, the term *kanun* itself is used in Gjeçov’s text in both a general sense, and as a term of art, which is a reminder of the potential for ambiguity. The *Motërzime* [Examples] given after the main text are of particular interest because they contain longer narrative passages and texts written by people other than Gjeçov, and thus offer a broader opportunity to examine the use of terms. Here, ‘*Kanun*’ is used in three different senses. It appears in a narrative passage by Gjeçov, in which he explains what should happen if two parties of groomsmen were to meet on a road as ‘a *kanun* of obligation’

(1923/12). It appears in plural in titles of collections of prescriptive rules and related definitions and descriptions (authors unknown), such as ‘*Kanune* made by 24 Elders in the Presence of Chiefs’ and ‘Special *Kanune*’.¹⁴⁷ Last, in one place it suggests a body of customs and standards distinct from those observed at the time of writing, as a course of action is described as being ‘in accordance with “the ancient *kanun*” [*kanunin jetik*]’.¹⁴⁸

Organisation of the text

There is no evidence to suggest that the *Kanun* existed as a text before Gjeçov’s codification, and much to suggest he recorded in writing, and published, what he observed and experienced during his ministries in the northern Albanian mountains. Evidence from later twentieth century Albanian folklore scholars suggests that, in northern Albanian communities, ideas about standards of behaviour, and the actions taken in consequence of unacceptable behaviour, were often transmitted through stories told in the *oda* [mens’ room] (Çetta 1972, Bajrami 2010) and ‘wise words’ [*fjalë te urta*]. This would have been the case also in Gjeçov’s fieldwork communities; yet the material in the *Kanun* is not presented as stories or proverbs. It looks as if the material were probably a combination of narratives, observations, ‘wise words’ (proverbs), and answers to questions from which Gjeçov extracted definitions, principles, and rules and, from these, constructed the text of the *Kanun*. The Italian scholar Schirò reached the same conclusion (1942): as Malcolm noted, ‘details of Gjeçov’s sources are given by Schirò, who also demonstrates that

¹⁴⁷ 1924/11: 488.

¹⁴⁸ 1924/9: 361.

Gjeçov's text contained both genuine proverbial sayings and more artificial definitions of his own devising' (Malcolm 1998: 360); whereas the anthropologist Schwandner-Sievers takes a view more in line with the popular Albanian understandings, that 'law' was handed down in proverbs, and Gjeçov simply 'arranged the proverbs in paragraphs and articles' (2006: 222).

Gjeçov's *Kanun* is arranged in a two-level taxonomy, of *nye* [article] and *krye* [chapter].¹⁴⁹ A *krye* consists of *nye* related to the same topic or theme. *Nye* are numbered, and a single *nye* may contain several numbered sub-points. Pupovci, writing from a lawyer's perspective, has made the only comment in the literature on the *Kanun*'s framework:

According to which principles did Gjeçov collect and systematise the material of the *Kanun* of Lekë Dukagjin, and to what extent was he correct in this [collection and systematisation]? This complex question has not had the study it merits ... The content [of Gjeçov's *Kanun*] is not divided in accordance with the branches of law. Furthermore, in a single section different legal rules are mixed ... Gjeçov did not systematise the rules [*rregullat*] of the *Kanun* of Lekë Dukagjin in an entirely correct [i.e. 'legal'] manner' (Pupovci 1971: 982f.)

By holding Gjeçov's text against the ideas of a modern legal system and looking at it as a lawyer at a legal text, Pupovci sees its weaknesses but overlooks Gjeçov's choice of the legal form, and the significance of that choice. In his codification of the *Kanun*, Gjeçov moulded custom and *sjellja* into a legal code, and in doing so, presented the Albanian people to themselves as a people with law.

¹⁴⁹ A contrasting approach to presenting similar material can be seen in Hasluck's slightly later, discursive, 'The Unwritten Law in Albania' (1954), in which she structured material into narrative chapters on various themes. There are evident similarities between Gjeçov's and Hasluck's texts, and we know Hasluck had read Gjeçov's *Kanun* (Kastrati 1955), although it was not an 'acceptable' text in Enver Hoxha's Albania and copies were kept hidden because 'officially *kanun* and feuding were said to have been completely abolished' (Schwandner-Sievers 1999: 134).

The *Kanun* and the Albanian graphosphere

The publication of the *Kanun* was part of a broader effort by Albanian nation-builders to establish an Albanian ‘graphosphere’ (Franklin 2011: 531), that is, the social and cultural spaces in which Albanian-language messages and information are recorded, stored, displayed and disseminated. As a text, it was visually different from other pieces in the periodical; with its chapters and articles, it is far more formally structured than any other contribution and, in its multiple instalments, it was probably the longest and most formally-structured printed document in Latin-script Albanian language. Its publication over ten years impressed on readers that Albanian culture contained ‘law’ which could be ordered in a manner demonstrably comparable to that of other cultures, and this ‘law’ could only be expressed in the Albanian language. The intrinsic link between the *Kanun* and ‘Albanian-ness’ would have been strengthened by the prohibition, printed at the beginning of most instalments, on its translation and republication: the *Kanun* was special knowledge about Albanians, available only to Albanians.

Family and feuding in the *Kanun*

The *Kanun* describes two social institutions which lie at the heart of Albanian understandings of law and nation: the family, and feuding. These were introduced in broad terms in Chapter 2; here, I concentrate on the depiction of both in the *Kanun* and explore the extent to which their presentation in the *Kanun* represented contemporaneous customary practice.

Family and nation

The *Kanun* defined the family as simply ‘the people in the house’, which meant those people who lived together as a single unit, sharing work and resources.¹⁵⁰ Extended families were common in northern-Albanian society and the wider region. In 1879, Vasa commented that over 100 people in one family was common (Vasa 1879: 37), and extended families were also common in neighbouring Slav societies where they were called *zadruga* [cooperative].¹⁵¹ However, the Albanian *shpi*, and the Slavic *zadruga* were not the same; the difference lay not in who the extended family encompassed, but where authority lay, and how it was internally organised (Doja 2005: 210f.).

As discussed in Chapters 2 and 3, at the time of Gjeçov’s codification, the notion of *kóm(b)* [nation] as distinct from the Ottoman *millet* was relatively new for the Albanians. Gjeçov’s *Kanun* explained ‘the nation’ as the greatest extension of the family, and thus created a bridge between the ‘tribal’ and ‘national’ systems of social organisation:

[t]he ‘family’ [*familja*] consists of the people in the house; as these increase, they are divided into ‘brotherhoods’ [*vllazni*], brotherhoods into ‘tribes’ [*fis*], tribes into ‘banners’ [*flamur*], and all together constitute one widespread family called a nation, which has one homeland, one blood, one language and common customs [*e kan nji atme, nji gjak, nji gjuhë e doke*] (1913/3: 92).

¹⁵⁰ 1913/3: 92.

¹⁵¹ The existence of the *zadruga* in various parts of the Balkans was claimed, disputed and counter-claimed by historians, folklorists and anthropologists for much of the nineteenth and twentieth centuries. The tensions arise from later political claims about origin and ethnicity extrapolated from whether or not the *zadruga* existed in certain places, and thus whether a particular *narod* [people, nation] can claim an historical connection to particular land. The *zadruga* has been examined in different parts of the former Yugoslavia by authors such as Winner, writing about Slovenia (1977), Žmegač writing about Croatia (1996), and Simić, writing about Serbia (1973).

This is reminiscent of the segmentary lineage system described by Evans-Pritchard in Nuer society (1969: 138, 192–203), however, unlike the Nuer tribes, whose leopard-skin chiefs had no real authority, Albanian tribes were hierarchical and had identifiable leaders. This was probably in consequences of their interaction with the Ottomans (see Chapter 2). Gjeçov's description is broadly coherent with contemporaneous comments from other writers, and, in most detail, by Edith Durham: 'The *fis* is divided into the *mehala*, a group of closely related houses, and the *shpi*, or house' (Durham 1990[2000]:22). '*Flamur*' [flag or banner] is not a kinship term but an Albanian translation for the Ottoman '*bajrak*' [Ottoman military-administrative territorial division]¹⁵², which had been broadly adopted to Albanian general use and occurs elsewhere in the text in '*bajraktar*' [the head of a *bajrak*] and examples of judgements from Councils of Elders.¹⁵³ Its inclusion confirms the practical interaction between the Ottoman Empire and Albanian tribes. *Kóm(b)* [nation], does not feature in the pre- Gjeçovian writings which touch on Albanian 'law' and, as an addition of his own, emphasises his text's nation-building intent.¹⁵⁴

Within the family, the *zoti i shpis* [Head of the House] was normally the eldest male living in the house, unless he was unfit for the office, in which case the house might choose another Head on the basis of general consent.¹⁵⁵ His authority over the lives and resources of family members was absolute and carried with it

¹⁵² The definition is from Malcolm (1998: 428).

¹⁵³ Pupovci noted that, for the study of the *Kanun*, it would have been helpful to have such original Turkish terms as were used by the population, rather than Gjeçov's neologisms (1971: 984).

¹⁵⁴ 1913/3: 92.

¹⁵⁵ 1913/3: 92.

obligations of protection towards family members. A family, as the basic social unit, was self-determining under the leadership of its Head; this is confirmed by Edith Durham, who wrote:

The head of a house is *xoti i shpis* (lord of the house). The house, among the outlying tribes of Pulati and Dukagjini, is a communal house, including as many as seventy individuals, all under the absolute sway of their lord (Durham 1909[2000]: 22).

Applied at progressively greater levels of segmentation, it follows that brotherhoods had their Heads and were internally self-determining, the same for *fis*, for banners, and for nation. The close juxtaposition of the definition of the nation, as the greatest extension of the family, and the detailed exposition of the self-determining nature of the family, created in Gjeçov's text an unresolved tension around the lack of national self-determination.

Feuding in the *Kanun*

In the context of twentieth century nation-building, feuding is interesting because it is a feature of a system of social organisation quite different from that which pre-existed most modern European nation-states. Gjeçov's *Kanun* distinguished between 'killing without intent' [*vrasa pá hiri*], and 'blood' or 'killing with intent' [*gjak*], and gave the elders the authority to determine intention.¹⁵⁶ If a killing were determined to be unintentional, the 'blood price' [*çmimi i gjakut*] should be paid to the family of the victim but, as no *nder* [honour] had been lost, there was no obligation on the victim's family to avenge his death. If a killing were determined to be *gjak*, the family of the victim 'fell into blood' [*bie ne gjak*], which created an

¹⁵⁶ This principle is at the centre of modern English criminal law, as the establishment of *mens rea*.

obligation on them to avenge his death and restore the family's honour.¹⁵⁷ The *Kanun* specified that the blood of all was equal, regardless of social status.¹⁵⁸ All males in the family of the killer *bie në gjak*, but women and priests were explicitly exempted.¹⁵⁹ In cases of *gjak*, a fine [*gjobë*] was also owed by the family of the killer [*dorëra*] to the Banner of 3,000 *grosh*, 100 sheep and half an ox.¹⁶⁰ It does not say whether some of this was passed to the family of the victim, or whether a separate payment was made to them. In Mirdita, an additional fine of 500 *grosh* was payable to their hereditary captain.¹⁶¹ The term *gjak*, in the sense of 'a life', was also used as a yardstick for measuring non-fatal incidents, thus the fine for wounding a person was set as 'half the penalty for *gjak*'.¹⁶²

The *Kanun* described an orderly trajectory for a feud. After killing someone, the killer had to turn the dead person onto his back, place his weapon near his head, and send someone to the family of the dead person to request a truce [*besa*], so there was no confusion as to his identity. It was the obligation of an 'honourable man' [*burri*] to agree to a requested truce.¹⁶³ If a truce were agreed, the feud was suspended for a specified period of time (usually 24 hours), and the killer was obliged 'to go to the funeral and accompany the body to the cemetery and attend

¹⁵⁷ 1922/9: 448.

¹⁵⁸ 1922/8: 394.

¹⁵⁹ 1922/8: 395.

¹⁶⁰ For comparison, the *Kanun* set the price of a sheep at 50 *grosh*.

¹⁶¹ 1933: 180.

¹⁶² 1922/8: 395.

¹⁶³ Historically, *burri* was also used for 'fellow-tribesman' or 'compatriots' (Mann 1948: 43), so to be a *burri* was not only to act in an honourable manner as an individual, but also said something about one's behaviour *vis-à-vis* the group.

the wake'.¹⁶⁴ Securing a truce for the first 24 hours was important because the *Kanun* drew a distinction between 'taking blood' [*merr gjak*] and 'falling into blood' [*bie në gjak*]: a revenge killing in the first 24 hours, by the family of the dead person, was *merr gjak* for which retaliation was not permitted.¹⁶⁵ After the initial truce had elapsed, the feud was reinstated.¹⁶⁶ The village then 'has the right' to obtain a 'truce of the village' [*besa e katundit*] for the killer and his family which lasted for thirty days, and during which time, a 'truce for the killer and his family' [*besa e dorërasin*] might be negotiated. In this event, the killer and his family must remain sensitive to the family of the victim, and behave without arrogance or pride.¹⁶⁷ This section of the text is somewhat confusing; the difference between the *besa e katundit* and the *besa e dorërasin* is not explained, which suggests it was so widely understood that an explanation was unnecessary. It seems likely that the *besa e katundit* prevented the feud spreading and drawing in other members of the village, and allowed compensation to be negotiated, while the *besa e dorërasin* was the permanent truce, concluded once compensation had been paid.

The description of feuding in the *Kanun* suggests that feuds were contained and involved as few people as possible. However, contemporaneous accounts of wide-spread and devastating inter-tribal feuds (Durham 1909[2000]), and figures gathered by Catholic clergy between 1901 and 1905, suggest the model in the

¹⁶⁴ 1922/8: 392.

¹⁶⁵ Thus, if a member of Family A killed a member of Family B and, in the first 24 hours after the killing a member of Family B retaliated and killed a member of Family A, the action of the member of Family B was deemed to be 'taking blood'. Family A had no obligation to retaliate for the 'taking blood' and because the two deaths were matched, there was no loss of honour.

¹⁶⁶ 1922/8: 392.

¹⁶⁷ 1922/8: 393f.

Kanun was aspirational, and the reality rather less orderly.¹⁶⁸ This is also suggested in the narrative examples of the Elders' judgments collected by Anton Çetta, between 1957–59, in the Drenica region of Kosovo. These are undated, but we can infer from the content that they range from the Ottoman period to the socialist Yugoslav present. Of the 41 Elders' decisions described by Çetta, 28 concern blood: whether and how much 'blood' is owed, by and to whom. The details of these stages of the process are glossed over in the *Kanun*, but are discernable in some of the 'Examples' [*Moterzime*]. Çetta's narratives follow the structure of the example below: a description of how the problem unfolded, the point at which it was referred to the Elders, and the conclusion they reached.

At a wedding, a 'girl of the house' agreed to meet the guest in the attic above the men's *oda*. The men were having a good time, singing and laughing and, in their exuberance, were firing rifles upwards. The guest in the attic was shot dead. On the last day of the wedding, a child went into the roof and found the dead guest. He immediately told the 'people of the house' The Head of the House and the family of the deceased went up into the roof to see what had happened and to deal with the situation. Then they called for the Elders of the tribes to discuss 'who should pay for the blood'.

An old man spoke:

'Not a single blood should be paid because, during a wedding, no-one is allowed to go up into the roof, all must stay in the men's *oda*. The host family is at liberty to fire guns upwards, therefore guests should stay on a single floor, as he who goes up into the roof gets killed, and "is unavenged" [*shkon gjakhupun*]' (Çetta 1972: 227).

The Elder's assessment that the guest was responsible for his own death, because he put himself in harm's way, corresponds with the description of suicide in Gjeçov's *Kanun*: 'He who kills himself goes unavenged'.¹⁶⁹ Four of Çetta's

¹⁶⁸ These figures of feud-related deaths are Carlton Coon's, which he based on data gathered by Franz Nopcsa: in the northern Albanian regions surveyed, somewhere between 42–63% of males died in feuds (Coon 1950: 27).

¹⁶⁹ 1922/8: 398.

narratives refer to the *Kanun* of Lekë Dukagjin, usually contrasting what the Kanun ‘says’ with a real situation faced by the Elders, such as:

With the *Kanun* of Lekë Dukagjini, if two houses or two villages have been fighting, if there is a woman there, a brave woman of the tribe, and she enters the fight between men, they have no right to hit her. Because if someone were to even to hurt her, slap her in the face, hit her with a stick, they would have to pay for her blood even if she is not dead, for he has offended that woman’s honour, her husband’s honour, and her father’s honour (Çetta 1972: 235f.).

It continues with a summary of an incident in which a woman had joined a fight and been hit, subsequent to which an Elder had adjudged ‘You cannot seek blood for her honour, because a woman who joins a fight to participate is treated as a man. If she joined the fight to try to stop it, then you could seek blood for her honour’ (*ibid.*). This is interesting because Gjeçov’s *Kanun* makes no mention of what would happen if a woman were to join a fight, yet Çetta’s narrative shows the Drenica Elders attributed certain principles and positions to the ‘*Kanun* of Lekë Dukagjin’, revealing a near contemporary understanding of it as a legal tradition.

Dispute conciliation mechanisms were specified in Gjeçov’s *Kanun*; the ‘mediator of blood’ [*shkuesija e gjakut*] sought conciliation between the families; if successful, he was paid 500 *gros*h by the family of the killer.¹⁷⁰ The ‘guarantors of blood’ [*dorezânët gjakut*] were chosen by the family of the killer. Their task was to avert any further violence between the families; they had the right to restrain those for whom they were responsible, with threats if necessary.¹⁷¹ The ‘guarantors of blood money’ [*dorezânët e të hollavet të gjakut*] were chosen by the family of

¹⁷⁰ 1922/10: 490.

¹⁷¹ 1922/10: 491.

the victim, and acted as an intermediary for the payment, thus avoiding direct contact between the families. The payment schedule was set by the Elders; should the family of the killer not meet it, the guarantors themselves were obliged to make the payment and report the breach of obligation to the village which could enforce the owed payment.¹⁷² The *Kanun* foresaw two possible models for the *pajtimi i gjakut* [conciliation of blood]: through the intercession by friends of the victim and the parish priest, and through a general amnesty ‘declared by the Chiefs, the House of Gjonmarkaj, and the men of the Banner’.¹⁷³ A general amnesty needed to be accepted at all levels of the social hierarchy, from the Head of the tribe to the average man.¹⁷⁴ Even in the Mirdita tribe, with a clearly defined central authority, an amnesty could not be enforced. In both models, guarantees were required: the owner of the blood had the right to demand a gun of the killer, and, until guarantees were made and the terms of payment of blood money were agreed, ‘the tables for the reconciliation meal are not set and no food is eaten’ (1922/10: 490).

Notes to Gjeçov’s *Kanun* of Lekë Dukagjin

The *Kanun* of Lekë Dukagjin included around 100 notes, the majority of which are Latin-language references to other texts, and a small number are in Italian or Albanian.¹⁷⁵ As most of the population of the area in which Gjeçov collated and codified the *Kanun* was illiterate – an editorial in the *Zëri i Popullit* newspaper gave an illiteracy rate of 93% as late as the end of World War II (Pipa 1978: 87) – these

¹⁷² 1922/10: 491.

¹⁷³ 1922/10: 490.

¹⁷⁴ This principle recurs in the Chapter 5 and 6 discussions about the *Pajtimi i Gjaqeve* 1990–92.

¹⁷⁵ An approximate figure is given because some notes refer to more than one text, while other references are inserted into the text.

notes could not have been part of the ethnographic material collected by Gjeçov, but must have been added by him. The notes refer to legal texts, from Roman, Hindu and Biblical law, and non-legal texts including philosophical tracts, histories and commentaries.

All notes are linked to specific titles or articles in the text of the *Kanun*, and are usually given in footnotes; most notes consist in a cross-reference and a quotation or summary, such as ‘*Maledictus qui transfert terminos proximi, et dicet omnis populus. Amen. Deuter. XXVII 17*’.¹⁷⁶ Very occasionally, a note is just commentary, such as the Albanian language ‘Note: The Code “Manava Dharmasastra” contains many points regarding boundaries which have much in common with the traditions of our Albanians’.¹⁷⁷ Gjeçov often uses abbreviations for both authors and titles, such as ‘*Plut. Apoph. Aub. C.22*’, presumably, a collection of sayings (Greek: *apophthegmata*) made by Plutarch of a person or people abbreviated to ‘*Aub.*’, and then reference to the book and page, ‘C.22’.¹⁷⁸ There is no corresponding bibliography, so, even where a text can be identified, we do not know the version or edition of the text used by Gjeçov. Despite these difficulties, the notes have made an impression on some scholars, including the Albanian social scientist Fatos Tarifa, who noted that ‘In numerous footnotes [Gjeçov] draws parallels with the Indian Laws of Manu, Roman Law, Greek Public Law, and the Ten Commandments’ (Tarifa 2008: 7), and the translator Leonard

¹⁷⁶ 1921/8: 367, which is Deuteronomy 27: 17, ‘Cursed be he that removeth his neighbour's landmark. And all the people shall say, Amen’ (King James Version of the Bible).

¹⁷⁷ 1922/8: 366.

¹⁷⁸ 1921/7: 272.

Fox, who takes the notes to indicate direct correlation with the cited texts, and thus, possible textual ancestry for the *Kanun* (Fox 1989: *xvi*). Both approach the notes looking for practical substance rather than possible symbolic significance but if, as I am arguing, the *Kanun* was a conscious contribution to nation-building, what might Gjeçov have intended the references to suggest or demonstrate?

Legal texts

A third of the overall text references are to legal texts: the Laws of Manu, Roman Law, and the biblical Pentateuch. These references are relatively complete and precise.

The Laws of Manu

The Laws of Manu [*Manusmṛiti* in Hindi], was compiled between 200 B.C. and 200 A.D.; according to Hindu tradition, it records the words of Brahma, one of the Gods of creation (Olivelle 2006). I discuss the possible significance and logic of references to the Laws of Manu in a discussion below on links to nation-building debates.

Roman Law

Twelve of the notes refer to Roman Law, specifically, the Twelve Tables, the Institutes of Gaius and Ulpianus, and the *Corpus Juris Civilis*. The Twelve Tables, said to have been the product of demand from the Plebeian class for knowledge of the contents of the law (Nicholas 1962: 15) were, in a sense, both a statute and a code, but care must be taken not to press either term too far:

‘they were not a code in the modern sense of a complete and coherent statement of the law; and though they were in form a statute, it is unlikely that in substance they departed much from the traditional customary law’ (*ibid.*).

In drawing connections between the text of the *Kanun* of Lekë Dukagjin and these key texts of Roman Law, Gjeçov located his *Kanun* relative to earlier legal codes. At a symbolic level, Gjeçov may have referred to Roman law to lend the authority of that legal tradition to his *Kanun*. This symbolic power, discernable in many European legal texts, can be seen in two examples separated by almost 500 years: the Hungarian *Tripartitum* (1514) and the Armenian Civil Code (1998). The *Tripartitum* – a Latin-language compilation of Hungarian customary law, assembled in 1514 by the jurist Stephen Werbőczy – was the primary and definitive Hungarian legal text until the Hungarian Revolution of 1848. Werbőczy attempted, and failed, to rest Hungarian customary law on Roman Law principles and according to the civilian distinctions of *personae*, *res* and *actiones*’ (Bak 2003: 5f.); his very effort to do so illustrates the powerful hold of Roman Law over how law could be thought about, and how it was thought law ought to be written. In 1998, an academic lawyer involved in drafting the new Armenian civil code described discussions about a particular point, which an Armenian lawyer argued was rooted in the Roman concept of *mutuum*. The point in question was, in fact, very different:

the choice of *noticed* authority [was] Roman, not Russian, law ... Roman law was provided by the Armenians for the justification, simply because of its appeal in the past. Legal authority is wanted. Where to find it? Roman law. Why? Because that is where civilized nations have traditionally found authority (Watson 1998: 87).

Biblical References

Just over one-tenth of the references in the notes of the *Kanun* are to biblical passages; all are to the Old Testament and, with only two exceptions, are to passages of books in the Pentateuch, which consists of the books of Genesis, Exodus, Leviticus, Numbers and Deuteronomy, traditionally believed to have been written by Moses and which together comprise the ‘law books’ of the Bible (Ryle 1909).¹⁷⁹ The books of the Pentateuch are accepted by all Christian traditions, and are also recognised by Muslims and Jews as key religious texts; as all three religions were represented among the Albanian-speaking population, references to the Pentateuch would have been acceptable to all Albanians.

Non-legal texts

Gjeçov also made reference to non-legal texts and, from these, it is clear that he read widely in search of connections with the *Kanun*, and drew from classical philosophical texts, such as Cicero’s ‘The Laws’ (2008), and Plato’s dialogue of the same name (1970); plays, such as Publius Terentius Afer’s *Phormio – The Scheming Parasite* (Sargeaunt 1914); and historical texts, such as Aulus Gellius’s *Attic nights* (Gellius 1961), or Tacitus’s ethnographic description of the Germanic peoples, *Germania* (Tacitus 1948). In the breadth of his reading and referencing, it looks as though not only was Gjeçov seeking evidence in other times and societies of practices and principles similar to those of the Albanians, but also thinking about the nature of law and legal authority. As an Albanian nation-builder, wishing to demonstrate the Albanians were a distinct and coherent people, Gjeçov would have

¹⁷⁹ The exceptions are one reference to Psalms and one to Joshua.

been aware of the different ideas of law and legal traditions which had developed from Western European Christianity on the one hand, and Islam and the Ottoman Empire on the other. References to classical authors and texts, which predated both Christianity and Islam, would probably have been uncontentious to followers of both religions, as well as providing welcome connections with antiquity.

Gjeçov drew no conclusions from his references, leaving the reader to determine what he intended them to indicate. The high rates of illiteracy, the paucity of books in northern Albania, and the Latin script of the text make it unlikely they were intended substantially to be understood by anyone other than his fellow Roman Catholic clergy. Perhaps Gjeçov was showing a well-read and sympathetic clerical readership that scholarly work could be done on Albanian topics and how it might be done, while at the same time, impressing the less well-read general public with the fact of the notes: there were links between their *Kanun* Albanian legal code and ancient, prestigious, texts, and these had been written about in a scholarly manner, in the Albanian language.

Absent texts

The absence of some texts from Gjeçov's notes is also interesting; in particular, any references to the *şeriat* or Ottoman Sultanic law. The Mirdita was (and remains) a predominantly Catholic region, to which the Ottoman *millet* system allowed considerable self-governance. While Sultanic law and the *şeriat* may not have featured in the day-to-day lives of the region's inhabitants, trade would have been subject to Ottoman law, which is not mentioned at all. By omission, Gjeçov wrote Ottoman, and thus Islamic, influences out of the *Kanun*. Somewhat to pre-empt discussions in the second half of my thesis: over time, Albanians have come to view his text as a full account of their customs and *sjellja* [right behaviour] and thus the Ottomans have been written out of any historical role or part in creating or maintaining order in northern-Albanian communities.

Links to nation-building debates

Given the political climate of the time, if we understand the text as more than a transcription, how did the notes contribute to contemporary national debates?

Albanians were not 'naturally' Muslim

Although the majority of the Albanians of the Balkans were Muslim there was a narrative thread in Albanian nation-building which held that Albanians were 'naturally' Catholic, and that conversions to Islam had taken place under duress and were somehow 'inauthentic'. We can see this thread in the stories of the medieval Albanian prince and Ottoman janissary Skanderbeg (1405–1468), for example, which tell of a young Catholic Albanian man converted by the Ottomans to Islam,

who returned to northern Albania to fight with the Catholic Albanians against the Ottoman Empire, driven by his ‘natural’ faith and national loyalties. The absence of any reference to Islam, Islamic law, or the Sultan law of the Muslim head of the Ottoman Empire, in a text presented as an ‘authentic’ Albanian legal code, would have spoken to this debate, as demonstration that, in the words of the expatriated Constantin Chekrezi: ‘The despised Turk has been utterly incapable of exercising any kind of influence on [Albanian] national characteristics, language, customs, traditions’ (Chekrezi 1919: 10). Perceptions of a ‘natural’ connection between Albanians and Christianity would have been strengthened by the frequent references to the Bible in the notes.

Albanians were the autochthonous people of the Balkans

The second debate to which the references in the notes may have spoken was the antiquity of the Albanian people and, specifically, their claim to be the autochthonous people of the region. A reader aware of the publication dates of the texts referred to in the notes might draw the conclusion that the (undated) Albanian ‘law’, presented in the *Kanun*, had so many points of reference in common with the texts referred to in the notes that the content of the *Kanun* was of similar antiquity. The claim of autochthony was of particular importance to the Albanian nation-builders, as it gave them a connection to the land which predated the arrival in the region of the Slavs and Ottomans, and thus their counterclaims.

Albanian national genealogy

The third debate to which the references might have spoken was that of national genealogy. Nineteenth century nation-builders were concerned to demonstrate the

national genealogy of the Albanian people, drawing connections variously with the Illyrians, Dardanians, and Pelasgians. One thread of non-European genealogy was even proposed around a Caucasian line of descent, linked to an area in the Caucasus known as ‘Albania’ (Malcolm 1998: 74). This might account for the otherwise puzzling references to the Law of Manu; even if the Manu references only demonstrated points of correspondence between Albanian customary practices as presented in the *Kanun* and an ancient and non-European legal code, this could have been a contribution to the genealogy debate.

The hundred notes, which locate the *Kanun* in the context of ancient and indisputably ‘legal’ codes, show Gjeçov’s intent in composing the *Kanun* was broader and more ambitious than simply the presentation of existing practices. They identified points of similarity, or connection between the *Kanun* and particular legal codes, to particular purposes; the notes suggested connections between values the texts symbolised and represented, and key debates of the period in which the *Kanun* was composed, thus establishing and confirming the link between the *Kanun* and the nation.

Text and Contexts

At the time of Gjeçov’s codification, northern-Albanians saw their customs and *sjellja* as distinct from that of neighbouring peoples and described them as the *Kanun* or ‘law’ of Lekë Dukagjin. Gjeçov’s codification was the first effort to produce systematic and comprehensive Albanian legal code. His text was not legislation in the sense of having been made by a legislature, but for the Albanians it was legislation-like, understood to have been handed down by a legitimate ruler and, at last, available in written form. Gjeçov’s *Kanun* was never used as a tool of governance although, as discussed in Chapter 2, during the speculative political

machinations of the late-nineteenth century (often backed by external powers such as Austria or Italy) prior to its publication, it may not have seemed impossible that it would play a part in some future Albanian state. At local levels, there seem to be no records or evidence of the text having been consulted in the making of decisions (Schwandner-Sievers 1999: 138); indeed, the high levels of illiteracy outside the priesthood make it unlikely that many Elders would have been able to read the text. Despite not being legislation, and not having been used as a tool of governance or at a local level, it is right to think of Gjeçov's *Kanun* as law. Exploring the idea of law before government, Pirie has argued that law is an intellectual system, which may be identified by its expressive and aspirational qualities and its ideological claims to promote order and justice. Gjeçov's *Kanun* describes such a system, and thus belongs with 'numerous examples of codes and rules elaborated by tribal and religious groups, properly described as law, which were not integrated into any system of governmental control; but neither did they serve directly to maintain order' (Pirie 2010: 207).

The *Kanun* in the broader nation-building context

In the broader context of nation-building, the *Kanun* belonged to a growing body of literature which told the Albanians about themselves as a people, and in the Albanian language (Elsie 1991). The Albanian nation was simultaneously built on the page and in practice, through education and the establishment of various cultural and political institutions. Such articles were a staple of the periodicals *Albania* and *Hylli i Dritës*, and many were written by members of the Jesuit and Franciscan communities in Shkodra, whose work 'gave direction to the study of Albanian culture from the late nineteenth century up until the Second World War' (Elsie

2004: xi).¹⁸⁰ The *Kanun* also belonged to an emerging strand of this literature which was anchored in oral traditions. Other key texts in this tradition included Gjergj Fishta's 'The Highland Lute' (1937[2005]), a 15,613 line epic poem based on Jesuit and Franciscan research, which covered the broad sweep of Albanian history (Fishta 2005); and 'The Songs of the Frontier Warriors and Legends' (1937 reprinted Elsie 2004), oral epics codified by the Franciscan Bernadin Palaj, published as part of the 'Treasures of the Nation' series to mark the twenty-fifth anniversary of the founding of the Albanian state.

The *Kanun* made historical and contemporary claims for, and about, the Albanian people. It contributed to their written lineage, and history; and it spoke of continuity over the centuries, and the integrity and self-reliance of the people. In the contemporary period, it presented a mutually reinforcing link between law and nation: the claim of nation was strengthened by the demonstrable existence of Albanian 'law', and the potential of that 'law' increased through the recognition of the nation.

The appeal of ancient law

In 'The Truth on Albanian and the Albanians' Pashko Vasa's thesis was that, since ancient times, the Albanians had always been a distinct people although, for want of historians, much of their history had been lost. In describing another Balkan tribe,

¹⁸⁰ Examples of such articles printed in *Hylli i Dritës* during the period in which the *Kanun* was published include: 'The capital city of Albania', G. Fishta (1914/4); 'The Albanian through the prism of psychology', G. Fishta (1921/2); 'Albanian Women: Mother and Daughter' (fiction), P. Prennushi (1921/3); 'The Mentality of Central Albania', G. Fishta (1921/5); 'The need for a literary academy', S. Nivitza (1921/5); 'Is the government of Tirana a "new Turkey" or not?', P. Marlaskaj (1921/7); 'Albanian artists', P. Sirdani (Series, 1921/4ff); 'A New Theory: The evolution of faith in Albania', P. Harapi (1922/3); 'Albania and her friends', Anon. (1922/3); 'Malciija e Madhe. On some questions of borders', Anon. (1922/4); 'The national flag', P. Sirdani (1923/6).

the ancient Macedonians, about whom more is known, he lists what is known about them that demonstrates they were not Greeks ‘It is historically proved that *this [Macedonian] people had ... their own language, quite different from the dialects of the Greek language; they had a form of government which was far wide from that of Greece; they had their own law, their customs, their manners, and their military organisation, which had nothing in common with that of the Hellades*’ (Vasa 1879: 10, my emphasis). Vasa explicitly identified law as one of the criteria which demonstrated the existence of a people, and his frustration is palpable in the text: the Albanians, too, had a distinct language, law, customs, manners, and military organisation but, for lack of written evidence to support and disseminate these claims, there was little interest in the wider-world in the future of the Albanian people. The appeal of ancient law was not peculiar to the Albanians; the idea of ancient law as just ‘out there’ has also been important in other cultures. The power of ideas of ancient law and of the continuity of notions of law was traced through English legal and social history by the constitutional historian Kitson Clark:

The victory of the law was possible only because England was a country whose soil was impregnated with law. ... Law penetrated all things, it entered into language, into thought, into Shakespeare’s plays ... and always into politics. ... This drenching of English life and consciousness with the sense of law, with the rights of law, with the methods of law, with the obligations of law, was very old, even if sixteenth- and seventeenth-century lawyers mistook the nature of that antiquity. ... Law formed much of the framework of later medieval society ... and at an earlier stage had been the medium by which strong medieval kings had imposed their duties upon all men. But it went further back still, back beyond the Norman conquest ... back into periods where scholars move with the greatest caution, for all is controversial. Probably it went right back to a pre-Christian world in which for the free man there was an elaborate code of personal rights and personal obligations and a strong sense of justice (Kitson Clark 1950: 25–28).

The impetus to codify and the appeal of *lex*

It is likely that the Albanian sense that there was already an oral Albanian *Kanun* would have been a contributory factor; the following comparative examples suggest the breadth of reasons which lie behind other codifications.

The spur to writing down law, the production of *lex*, is often the establishment or consolidation of a functional, or imagined (Anderson), legal community. This community might be a kingdom, colony, nation, state or village. Gagarin has shown that, in Greece, legislation was written down since ‘the beginning’; the purpose of this law-writing was to make ‘their laws available to a relatively large section of the community’ (Gagarin 2008: 1). The Greek interest in writing law was restricted to the writing of legislation; there was almost no use of writing in legal procedure (*ibid.*: 2). While Gjeçov’s intention was certainly to make northern Albanian ‘law’ available to a wider Albanian community, he did not anticipate it serving an immediately practical purpose as part of an existing legal system. At village level, Scheele has shown that after the end of French colonial rule in Kabilya, it was the act of legislating itself, through the production of local *qawânîn*, which was of significance as it ‘constituted in and of itself a public claim to moral community and the need and capacity to protect this community and its space. Thus, although most codes have fallen into desuetude, they are still seen as essential markers of “village hood” ’ (Scheele 2008: 914). This resonates with the *Kanun* as it links the production of a legal text with a particular moral community, but differs in that Gjeçov’s *Kanun* began in a state of desuetude, with the hope of future practical use.

Indigenous codifications may be prompted by ideas of the expressive, aspirational and symbolic capacities of written law: ‘the written form can endow [the provisions of a code] with autonomy and transcendence. This is particularly so in a society where literacy is restricted and there is reverence for the written word’ (Pirie 2009: 161). In twelfth century Armenia, which had been invaded by the Seljuk Turks in the previous century, the Christian monk Mxit’ar Goš wrote a law-code he intended could be used by Armenians. The Armenians had not previously had a secular code, which became a ‘serious drawback’ when they found themselves under Muslim control (Thomson 2000: 14) as to settle any legal question they would have had to bring in ‘outsiders’ (*ibid.*: 20) and their laws. Mxit’ar described his Code as ‘a reply to those who slander us on the grounds that there is no code in Armenia’ (Thomson 2000: 168), and stressed that the Armenian ‘believers in Christ must not go to the tribunal of non-believers’ (*ibid.*: 99). In Goš’s own words ‘A code is needed to prevent Christians going to infidel courts’ (*ibid.*: 22). He also saw having law as saying something about a people to outsiders:

a book which we can take in our hand will enable us to recall the right law for any particular situation. Furthermore ... a book is a tangible object which indicates to foreigners that we live by a code, so they will no longer reproach us (*ibid.*).

Goš borrowed heavily from biblical and other Christian texts, linking his code with historical, Christian authority, and also added material based on local practices. This Christian core, combined with local customs and written in the Armenian language, made some powerful claims about the Armenian people, beyond Goš’s original hope that they should be ‘beyond reproach’ as a people with law. The incorporation of Armenian customs elevated their status to ‘law’, rather than being ‘what we do’; his use of Armenian confirmed the language was of the status, and

had the capacity to be, a ‘language of law’. In practice, the text was not used as he had anticipated, although it became a powerful symbol of nationhood to the Armenians. This speaks strongly to the Albanian case, as seen from a Catholic Albanian view point. To garner support from the Great Powers and the Catholic European powers, which would be necessary for ‘Albania’ to secure independence, it would have been advantageous to draw a clear distinction between ‘the Turks’ and the ‘essentially Christian Albanians’. Thus although the intended legal-political purpose was different, we can see the *Kanun* as replicating Goš’s attempts, by presenting Albanians as a people with law, who had a language of law.

The practical dimension Goš envisaged, and the symbolic dimension which emerged over time were echoed in the early-twentieth century in Mandate Palestine by the proponents within the Jewish community of a full-scale national legal revival that would create a legal system closely connected with Jewish traditions as part of a nation-building programme.¹⁸¹ The legal revival distinguished *mishpat ivri* [Hebrew law] from *halakha* [the ‘Jewish law’ of diaspora communities]. This movement, roughly contemporaneous with Gjeçov’s codification and publication of the *Kanun*, had been initiated in the late-Ottoman period by the creation in 1909 of Hebrew Courts of Arbitration, in response to the desire of Zionist Jews not to be subject to the jurisdiction of Ottoman or rabbinical courts (Likhovski 2006: 130f). One of the greatest achievements of the Zionist legal revival movement was the compilation and publication of a ‘massive bibliography of works on Jewish law’, published in 1931. This text might have underpinned the national operation of *mishpat ivri*, but by the time of its publication, support for the movement was

¹⁸¹ Under a mandate from the League of Nations, Britain ruled Palestine between 1917 and 1948.

already declining, with litigants preferring their cases be ruled on under Ottoman or English law rather than the ‘fuzzy notion of Hebrew law’ (*ibid.*). In stressing the historical origins of his *Kanun*, Gjeçov implied a sort of Albanian ‘legal revival’, a return to an imagined ‘golden age’ of self-governance which pre-dated Ottoman influence.

Legal codes may develop from legal practice, to inform future practices. In Daghestani villages in the eighteenth and nineteenth centuries, Arabic-language communal agreements and ‘*ādāt*-Books (customary law books) were produced and compiled (Kemper 2004). Daghestan lies in the Caucasus, and the historical territory roughly corresponds to the modern Republic of Daghestan. The population was heterogeneous, being made up of some ‘23 peoples and ethnic groups speaking their own languages’ (*ibid.*: 117), and these languages can be further divided into 60 sub-dialects. The inhabitants of the region were predominantly Muslim, and society historically tribal; they lived on the peripheries of a powerful, expansionist Christian neighbour (Russia) and the Islamic world and their communities were moving to a village-based mode of organisation. Moving from a tribal system of organisation can be complex, being less a change of nominal loyalty, than a complete reconfiguration of social practices, understandings and values. Some communities were under pressure from external, but Daghestani, sources such as other villages, confederacies of villages, or local *khans*. This, was the context in which the communal agreements and ‘*ādāt*’ manuscript texts discussed by Kemper were produced. Why did they produce them, and why in that particular form? The cumulative nature of the ‘*ādāt*’ books, as well as their content, indicates that they were in use (*ibid.*: 116), but they were more than merely transcription:

[w]hat is striking is that these *‘ādāt* were not intended as the mere fixation of a verbal custom that had already been valid since olden times ... Instead, they establish and transmit a contemporary legal experience for future purposes (*ibid.*: 123f.)

Kemper’s analysis is that the ‘legal’ situation was fluid, across time and places, and these *‘ādāt* books were continuously updated, to be used in future legal processes. It is certainly the case that Gječov’s *Kanun* was derived from practice and intended to inform future practice but, unlike the Daghestani case, he anticipated this would be through a process of ‘double institutionalisation’ (see Chapter 8, below), rather than remaining at local levels.

Elsewhere, there seems to be what Scheele, talking of Kabilya in Algeria, has described as a ‘taste for law’ (2008); a sense that the legal form itself has some particular appeal. Twelfth century Iceland is an interesting example of this. It had a relatively homogeneous population and a shared language, and it did not have (the threat of) colonial or religious domination. Iceland had been settled, from the late seventh century, by emigrants from Norway and much of what we know of its history comes from its *sagas* (prose narratives). It was a feuding society, but its social organisation was not tribal; rather, ‘the basic unit of residence, production and reproduction in Iceland was the farmstead’ (Miller 1990: 15). We know that until the late thirteenth century, it had no ‘coercive state apparatus’ and that the power of local lords was weak (Pirie 2013: 68). Through his discussion of *Grágás*, the surviving collection of laws (c. 1260), which are striking in their length and complexity (1990: 43), Miller has shown that the medieval Icelanders had a strong sense of law, and a well-developed legal system. The Icelanders’ ‘taste for law’ cannot be attributed to the anxieties of the peripheries, a response to (feared) domination, or necessary elements in the creation or development of a sense of nationhood. As Pirie has summarised:

[t]he Icelanders did, it seems, try hard to ensure that their actions were legal, preferring to have law on their side rather than against them. There was, then, a body of respected rules, which were distinguishable from other norms of behaviour; the Icelanders' law was not embedded in the norms of kinship and marriage, nor those of production and exchange. Law stood apart, with a life of its own (Pirie 2013: 70).

So, we should not assume that the Albanians' sense of having an historic *Kanun* can purely be explained by a sense of nation-building. However, as I show in this thesis, Gjeçov's decision to write down and publish a legal code was meant to be understood in the context of the wider concern with national identity.

Having written law can also say something about the status of the ruler of a community, or about the status of the community itself. In an examination of legislation and Germanic kingship between the fall of the Roman Empire and the revival of Roman law, Patrick Wormald asked the purpose of Germanic kings making laws (Wormald 1999). He noted that some of these legal manuscripts 'make arrant nonsense' (*ibid.*: 14) and suggests that it may be an error to think too much of the practical application of the texts. Rather, the texts are an expression of the ideological aspirations of Germanic kingship, since the capacity to 'give law' was associated with a ruler. The language of the texts was also significant; codes were written in Latin 'presumably because Latin was known to be the only appropriate language for written law to appear in' (*ibid.*: 137)

Last, over time, written law can also become symbolic in terms of what people believe it said; as former Lord Chief Justice of England Tom Bingham described of Magna Carta:

The significance of Magna Carta lay not only in what it actually said but, perhaps to an even greater extent, in what later generations claimed and believed it had said. Sometimes the myth is more important than the actuality. It has been said that "Getting its history wrong is part of

being a nation". So it was with Magna Carta. The myth proved a rallying point for centuries to come - and still does (2010: 12f.).¹⁸²

What Kosovar Albanians 'claim' and 'believe' Gjeçov's *Kanun* is and says, are explored in the second half of the thesis.

This chapter has contributed to knowledge in the English-language literature of the nature, origin and composition of the *Kanun*, and drawn a distinction between the term as used to describe shared northern-Albanian customary practices, and the text of the same name. To the scholarship on law, it has contributed an example of a legal code being established on the basis of customary practices, and of the production of categories and definition for an envisaged future state. It has shown the strategic use of references and comparisons further to develop nation-building claims and given an illustration of how a process of language standardisation – not centrally controlled – operates at ground level.

The next chapter is a bridge between the two halves of my thesis and, although it follows a broadly chronological progression, it is more fragmented than earlier ones. I have had to make some pragmatic decisions on omissions, the most substantial of which is a detailed review of the post-independence history of the Republic of Albania. Over the course of the twentieth century, Albania, and Kosovo in Yugoslavia, were on such divergent paths that, while the history of Albania would follow up some threads from the first half of my thesis, it would contribute very little to setting the scene for my discussion of the *Pajtimi i Gjaqeve*.

¹⁸² The quotation about history and nation is from Ernest Renan's 1882 paper 'Qu'est-ce qu'une Nation', the original being '*l'erreur historique sont un facteur essentiel de la création d'une nation*' (Bure 1945: 78).

The first half of the chapter is an overview of Albania and Kosovo in the interwar period. This sets the background for a discussion of the 1933 publication of the single-volume *Kanun*, in which I focus on Fr. Gjergj Fishta's introductory essay which, I argue, can be taken as indicative of Gjeçov's own position, and the 'Dictionary of Rare Words and Phrases'. The second half of the chapter is a broad overview of Kosovo in Yugoslavia, which identifies the political and social threads that led to the foundation, in 1990, of the *Pajtimi i Gjaqeve*, the subject of Chapters 6 and 7.

Chapter 5: Kosovo and Twentieth Century States

Albanians and Kosovo in the inter-war period

For Albanian nation-builders, the territorial settlement of the 1913 London Conference had been unsatisfactory as it had left around half the Albanian nation outside the borders of the new Albanian state. Worse still, those Albanians left outside the state found themselves living in other states whose nations historically had been antagonistic to the very existence of an Albanian nation and state.

To contextualise the events in Kosovo from 1990 to the present, we need briefly to sketch Kosovo's political path through the twentieth century, as this forms the pillars of contemporary memories and understandings of law, nation, state and, in particular, ideas of legitimacy. Kosovo became part of the Kingdom of Serbs, Croats and Slovenes (1918–39).¹⁸³ This was not without tension. A strand of the Serbian national narrative held that Albanians in Kosovo were not Albanians, but 'Albanian-speaking Serbs', and the Serbian-dominated state sought to draw the Kosovar Albanians into the Serbian national fold by redefining them as Serbs.¹⁸⁴ This pressure took a number of forms: Serbo-Croat was made the official language; irregular Serbian troops operated throughout Kosovo; and Albanians were required, for state purposes, to adopt the Serbian surname suffix 'ić' (Poulton 2003: 126).¹⁸⁵

¹⁸³ These are the dates between which the Kingdom was self-governing. It continued, in some form, for the first half of the Second World War, but changing territorial control and the Italian and German occupations are too complex to outline here. In 1929, it was renamed 'Kingdom of Yugoslavia'.

¹⁸⁴ For clarity, in this chapter, I call Kosovars 'Kosovar Albanians', to distinguish them from 'Kosovar Serbs', and the Albanians living in the new Albanian state.

¹⁸⁵ This is an example of the difficulty, discussed in Chapter 2, of using names to trace 'nationality' or 'ethnicity' through historical documents.

The Kosovar Albanian response to ‘the state and this blatant Serbian repression was unremittingly hostile’ (*ibid.*: 127); and, in parallel with a programme of Serbian ‘colonisation’ in Kosovo, up to half-a-million Muslim Kosovar Albanians emigrated to Albania or Turkey’.

The new state of Albania was also beset with problems. Jacques describes the situation, albeit in rather pejorative terms, as follows:¹⁸⁶

Albanians were hopelessly divided in many ways. Socially, feudalism had created a sharp distinction between the landed families of princes or chiefs and the peasants. There was no middle class to relieve the sharp dichotomy. Religiously, Albanians were divided into Muslims, Greek Orthodox and Roman Catholics ... Then, too, Albania was a wilderness, the most primitive region of Europe. Its very few roads were unimproved and often impassable. Bridges were few. There was no vehicular traffic, only packhorses and foot trails. There was no postal or telephone service. Its economy was utterly undeveloped, with no manufacturing and no commerce. Most of the people survived by keeping flocks and herds or by primitive farming. There was little to export, so there was little foreign exchange available for imports: foreign trade was at a standstill. Schools were few, and these only emphasized the religious disunity because of the different languages employed. Illiteracy was very high, estimated at over 95% of the population. Health facilities were rare and very elementary. (Jacques 1995: 334f.)

The political situation was far from stable, as various factions competed for control of the emerging state including, but not limited to, a north-south divide (Blumi 2003c). In the first 13 years of its existence, the Republic of Albania had 14 ‘successive ineffective governments’ (Jacques 1995: 334f.). In January 1925, Ahmed Zogu, the son of a powerful tribal leader of the northern region of Mat, became first Prime Minister, and later President.¹⁸⁷ He began to consolidate power within the state, by building on existing structures. In June, the tribal leaders of

¹⁸⁶ There was considerable interference in the new state by the Great Powers, although there is no space here to discuss this.

¹⁸⁷ Ahmet Zogu had previously been the Head of Government from December 1922 to February 1924, but achieved little of any note. For a detailed biography, see Tomes (2007).

northern Albania, Kosovo, and Western Macedonia pledged their loyalty to Zogu.¹⁸⁸ He then ‘acknowledged the established leadership of the northern tribal chiefs by appointing them as salaried government officials to carry on their usual tribal supervisory responsibilities but now as representatives of the state’ (*ibid.*: 383), and created administrative districts in the north based on previous tribal divisions.¹⁸⁹ This is an example, as seen in the Ottoman period and in the Middle East, of drawing existing structures of power and authority into the state hierarchy, or constructing a state on the foundation of pre-existing tribal structures (Gellner 1995, Khoury and Kostiner *et al* 1990, Dresch 1989[2001] and 2000). These measures had a two-fold effect: they created a patron-client relationship between the salaried tribesmen and the state (as embodied in Zogu); and, for the general population, were probably understood as an endorsement of the state by their tribal leaders. In general, the hierarchical nature of Albanian tribal society was such that, once a leader had confirmed his relationship with the state, those over whom he had authority would accept its authority.

Although Zogu had personal and professional links with the tribal northern Albanians, they did not continue their previous way of life unchecked. Among the achievements Jacques attributes to Zogu, is that ‘he succeeded in establishing law and order in a country where they had been quite unknown’ (*ibid.*: 387). Taken literally, this is an absurd statement, as there is ample evidence that there were both ‘law’ and ‘order’ in pre-Zogu Albania, in the Ottoman legal system (a combination of the *şeriat* and Sultanic law) and the customary practices of the northern

¹⁸⁸ Despite the latter two areas not belonging to the Albanian state.

¹⁸⁹ In the non-tribal south, administrative districts were based around feudal landholdings.

Albanians. What Jacques seems to mean is the law and order of a modern European state. Zogu ‘outlawed blood feuds’ and ‘disarmed’ the population; he introduced a new Criminal Code, based on that of Italy, and a Civil Code, based on those of France, Switzerland, and Italy. In September 1928, Zogu was pronounced ‘King Zog I of the Albanians’ (*n.b.*: not ‘King of Albania’), which indicated that the Albanian leadership retained a strong interest in, and claim to, the Albanians outside the state. This can be seen as the start of the twentieth century contestation and ambiguity about what ‘Albanian’ meant (discussed above, in Chapter 1). The tension between the tribal social system and the idea of a modern state continued to concern him. He told the London Daily Telegraph:

[y]ou must understand that the average Albanian known nothing about nationality. He has always looked up to the head of his tribe, or his Bey [Lord], as the supreme authority. He has got to be taught gradually to transfer this local allegiance, admirable in itself, to the central government. He must learn in fact that while remaining the member of a tribe, he is also a citizen of the State (12 October 1928).

The development of a national education system was another key element in Zog’s consolidation of power and, in 1933, privately owned schools in Albania were closed. This directly affected the activities of the Shkodran Franciscans, who had been running schools in the north, and must have been a matter of concern to them.¹⁹⁰ More broadly, it must have been becoming clear to the Franciscans that their vision of an essentially Christian Albanian state – implicit in Gjeçov’s *Kanun* through the absence of Islam and Muslims – was not one shared by the King. In this atmosphere of political and social turmoil, with the Albanian state developing in an unanticipated direction, and perceived threats to their compatriots outside the state

¹⁹⁰ However, between 1930–43, they were still able to publish the periodical *Hylli i Dritës*, so not all their activities were curtailed.

(confirmed by incidents such as the death of Shtjefën Gjeçov in Kosovo in 1929), the Shkodran Franciscans collated Gjeçov's *Hylli i Dritës* texts, and edited them into a single volume, which I will call 'the 1933 *Kanun*'.

The 1933 *Kanun*

Two aspects of the text illuminate its place and role in the nation-building activities of that period: the Foreword by Fr Gjergj Fishta, and the 'Dictionary of Rare Words and Phrases'. Fishta was the head of Gjeçov's Franciscan order, and Editor of *Hylli i Dritës*, the periodical in which much of Gjeçov's work was published (see Chapter 3). These two factors, together with Fishta's evident affection and admiration for Gjeçov, suggest the two men shared a broad similarity of outlook. Thus, we can take Fishta's essay as an exposition of Gjeçov's, and the wider Franciscan community's, understandings of law and its relationship to society, and also of Gjeçov's motivations in compiling the text.

Fishta's Foreword

There are four introductory essays to the 1933 *Kanun*. All are by fellow Albanian nation-builders; while three demonstrate the affection and regard in which Gjeçov and his text were held, Fr Gjergj Fishta's 13-page Foreword is of particular importance.¹⁹¹ It places Gjeçov's text in von Savigny's tradition (see Chapter 2), in a nation-building context, and pays tribute to the contribution of his colleague to the nation-building effort. Gjeçov himself included no comment or introduction to

¹⁹¹ The other forewords were written by: the Shkodran Franciscans Flavio Cavallini, on behalf of The Franciscan Press and Fr Pashko Bardhi (1870–1948); and Faik Konica (1875–1942), editor of *Albania*.

the *Kanun*, so Fishta's perspective is the closest we can get to a statement of Gjeçov's understanding of the *Kanun*, and the motivation(s) behind his publication. Fishta's essay is divided into seven numbered and titled sections, which I retain in the following summary.

1. National folklore

Fishta begins by establishing the importance to a nation of its folklore, as 'a clear reflection of the national psyche' (1933[2001]: xx). 'Psyche' (in English and Albanian) comes from the Greek ψυχή (*psūkhē*), meaning 'life', in the sense of 'breath'. Words derived from this include 'spirit', 'soul' and 'ghost', so, in talking about a nation's 'psyche', Fishta is very close to talking about a national spirit.¹⁹² He emphasises this through reference to prestigious examples, such as the Greek Iliad, Persian Shahnameh, German Nibelung and Irish Fingal, 'the greatest epic poems of all times ... born of and built on national "folklore" [*'folklores' komtare*]' (*ibid.*).

He criticises 'some of those sons of Albanian tribes [*bij të fisit shqiptar*], who hold themselves to be intellectuals, and directors of the nation's fate' (1933[2001]: xx), but whose education has left their spirits 'sterile and destructive' and unable to recognise the beauty and value of their folklore. He stakes a claim that Albanian folklore is world-class, saying:

where can you find – and I am not only saying in Albanian literature because that, the poor thing, is in a dreadful state, but in the known modern literatures of the world – a description in more vivid colour of

¹⁹² 'National Spirit' is *volksgeist* in German, or *shpirt i kombit* in Albanian.

a nobler and more generous man, and of the beauty of a woman, than
in 'The Marriage of Halil'?'¹⁹³

2. Customary Laws [ligjëve dokësore]

Having asserted the general importance of national folklore, Fishta emphasises that the Franciscans were the first to collect Albanian folklore and that Shtjefën Gjeçov was first among the Franciscans in this regard. He reviews the breadth of Gjeçov's work, and the interest in his work, noting that Gjeçov's 'studies on the *Kanun* were met with enthusiasm by Albanians and by the learned outside Albania' (1933[2001]: *xxiii*).

Fishta describes Gjeçov's publication of the *Kanun* of Lekë Dukagjin as having done the nation 'a great service', because for a state to live and develop in accordance with the principle of true justice [*gjyqetmis së vertetë*], traditional laws [*ligjët gojdhënëse*] which have been collected into a national customary *kanun* [*kanun doketar*], have a powerful importance in themselves. Such traditional laws should be at the forefront of the minds of all those who await the implementation of state laws (*ibid.*). He identifies a common goal as being the very 'essence of a civil society in a state' (his emphasis, *ibid.*). For an individual to work towards that goal requires his reason and will, but such efforts must be consensual rather than individual, and 'the law is the common reason' (1933[2001]: *xxiv*). Fishta says law [*ligja*] must have two characteristics: first, it must be 'just and honourable', otherwise it 'will not create any obligation [to obey it]'; and second, it must be 'beneficial', intended to bring about well-being for all (*ibid.*). For these reasons,

¹⁹³ 'The Marriage of Halil is part of the Albanian epic song cycle *Këngë Kreshnikesh* [Heroic songs]. One variant is included in Elsie)2004:54–88). The cycle is closely related to the Bosnian songs about the Hrnjica brothers, Mujo and Halil (for discussion, see Skendi 1954: 99–142).

laws cannot simply be transported from one context to another: ‘a law made for England or Germany or other well-behaved and civilized peoples, no matter how just and honourable it is, cannot be suitable for the rebels of the Balkans, fatalists of Asia or cannibals of Africa’ (1933[2001]: xxx). This brings Fishta to the crux of the relationship, as he sees it, between ‘custom’ and ‘law’:

it is obvious that laws [*ligjt*], to be truly beneficial, that is just and honourable, must be made to suit the psyche and needs of the nation ... before making a new law, the legislative power of a state should know well the spirit of the people and evaluate the needs of the time and place for the law they will make. Otherwise, the law does violence and will not endure (*ibid.*: xxiv).

Thus, according to Fishta, not every custom [*dokë*] will become a law [*ligj*], but laws should be built on customs.¹⁹⁴ There is an unresolved tension between this position and many of Gjeçov’s notes to the *Kanun* which imply connections with elements which did not come from Albanian custom, most notably, the Hindu Laws of Manu (noted in Chapter 4).¹⁹⁵

For Fishta, customs are the best way for a legislature to know the people for whom they will legislate; and the power of laws built on customs comes not from fear of punishment, but from the existing influence of customs. Fishta believes that, before laws are changed, experts should study the existing laws to determine where changes can be made without altering the essential character of those laws. This is

¹⁹⁴ Here Fishta cites Luigi Taparelli, an Italian Catholic scholar (1793–1862) who, in 1850, co-founded the Jesuit journal *La Civiltà Cattolica* [Catholic Civilisation], saying Taparelli believed punishment should vary across time, places and nations, because different nations seek different ends.

¹⁹⁵ Legal borrowing is not uncommon in the composition of a new law code, as has been shown with the Armenian Law-Code of Mxit’ar Goš (Thomson 2000) and the contemporary Armenian civil code (Watson 1998). However, unlike either of these two examples, Gjeçov is not substantively borrowing, but rather pointing to similarities between ideas in his *Kanun* and the cited texts. Despite what he sees as points of correlation, the texts on which he draws come from vastly different ideologies, which is something he does not address.

the value Fishta sees in Gjeçov's *Kanun*: it documents the customs of the people and presents them to the (future) legislators.

3. The Kanun of Lekë Dukagjin

Fishta looks for the origins of the attribution of the *Kanun* to Lekë Dukagjin. Drawing on the work of the Croatian historian Milan Šufflay (1879–1931), he suggests there was a pre-Ottoman history of people in Albanian cities, such as Durrës, having written legal documents, citing Drishti, as an example, which had its own Statutes.¹⁹⁶ Although described by Fishta as ‘small republics’, Drishti, and places like it, were probably small principalities. On the basis of this evidence of early legal texts, Fishta concludes that there are similarities between the *Kanun* of Lekë Dukagjin and the pre-Ottoman legal codes of Rome, Byzantium and Serbia, but that ‘the written Code was lost, and subsequently justice was corrupted’ (1933[2001]: xxvi); there is no further evidence to support his claim, but it underpins the legitimacy of customary practice with ideas of ancient authority.

4. A judicial perspective

Fishta explains that societies and states are ‘free’ only when their laws are made according to the psyche of the people and to suit their needs; it is not sufficient merely for the leader to be one of the people. According to Fishta’s logic, for the duration of the Ottoman occupation Albania was not free, although there was considerable self-governance in some areas, and some Albanians reached positions

¹⁹⁶ This is a reference to the *Statuta et Ordinationes Capituli Ecclesiae Cathedralis Drivastiensis* (1468), a Latin text of the rules governing the cathedral and monastic community in Drishti (reprinted, 2009, eds, Musa Ahmeti and Etleva Lala).

of considerable influence and power within the Empire. He discusses occupying powers allowing occupied peoples to use their customary laws [*ligjt e doket*], noting that, after occupying Albania, the Ottomans ‘did not merely not interfere with the customary *Kanun*, but gave it real autonomy’ (1933[2001]: xxvii). He illustrates the incorporation of the *Kanun* into the Ottoman system of governance by mentioning the *Xhibali*, the office established by the Ottomans in Shkodra, under an Ottoman Muslim head, to pass judgements on the basis of Albanian customary practice. Edith Durham gave a detailed insight into the workings of this council, explaining that:

cases of compounding blood feuds or murder have to be referred (when they take place in *Maltsia e madhe*) to the *Djibal* [*Xhibal*] in Scutari. This is said to have been started because on one occasion the tribes could not agree on some point and asked Turkish advice ... The *Djibal* is a mixed council. Each of the above-mentioned tribes [Hoti, Gruda, Kastrati, Skreli and Kelmendi] has a representative in it (called *krye i malit* [Head of the Mountain]), and there is a Moslem representative of each (called a *bylykbasha* [Ottoman Military Commander]), appointed by the Turkish government. One *Bylykbasha* can represent more than one tribe. The president of the council is the *Segherdé*, a Government appointed Moslem. (Durham 1909[2000]: 29f).¹⁹⁷

The *Xhibal* is also referred to in Appendix 10 to Gjeçov’s *Kanun*. It was a ‘Mountain Council’, established in the wake of the *Tanzimat* reforms, as part of a revised approach to dealing with the tribes. It illustrates the centralising tendencies of the reforms, and Ottoman efforts to break local power bases.

Fishta draws the section to a close with the conclusion that ‘there is no doubt that the *Kanun* of Lekë Dukagjin, during the Ottoman occupation of Albania, had judicial value and was recognised as the civil law in force in the highlands of Shkodra and Dukagjin’ (1933[2001]: xxvii).

¹⁹⁷ Durham contrasts this with the situation among the tribes of Dukagjin, where ‘customs are found in more primitive forms than in *Maltsia e madhe*’ (Durham 1909[2000]: 31). This sense of a scale of primitive-to-civilized chimes with Fishta’s discussion, below, on ‘degrees of culture’.

5. Culture and civilisation

Fishta acknowledges that ‘not only the enemies of our nation, but also some of our own, say the Code is barbarous because it has the values of the people that were living “wild” in the highlands’ (1933[2001]: *xxvii*). He says that, if customary laws are an expression of the psychology of a people, to determine whether the laws of the *Kanun* of Lekë Dukagjin are barbarous or not, we need to examine the ‘level of culture the people of our mountains had, that they maintained this *kanun* as the law in force until their own government of the Albanian state put it out of use’ (1933[2001]: *xxviii*). Here, Fishta is referring to the introduction of the Albanian state legal system, which in his eyes had undermined the practice of Albanian customs by creating alternative social structures, not incorporating ‘customary law’ into the formal legal system, and probably to King Zog’s banning of blood feuds.

The rather philosophical section which follows establishes that human society is a product of God and nature, whereas government is man-made, so, to establish the ‘level’ of culture and civilisation, we should look at societies. He says that man will strive for good, (for this life and eternity), and will act based on moral values he knows, or which are discovered through divine truth. The more developed the mind, the more naturally follow the actions that lead a man towards self-perfection. There follows an explicit analogy with the state: the soul of the state is its people and its body is its legal geographical border. It has sovereignty and has executive authority – its mind and judicial authority – as its consciousness.¹⁹⁸ Like

¹⁹⁸ This resonates with Durkheim’s distinction between societies with and without ‘division of labour’; societies without division of labour have ‘mechanical solidarity’ and thus do not need law as they act as an entity. In contrast, societies with division of labour are ‘organic’, and need law to hold together the elements (Durkheim 1984).

the individual, the state moves towards perfection by moral and material development.

6. Degrees of culture and civilisation

This leads Fishta to describe a five-tier hierarchy of societies, in which the most perfect of cultures is the ‘Christian-Occidental culture’, to which belong all Christian countries ‘apart from modern Russia’ (1933[2001]: *xxix*).¹⁹⁹ In the second tier of the hierarchy are those peoples [*popujve*], such as the early Greeks and Romans, which ‘are considered civilised’ (*ibid.*) because they achieved moral and material perfection, but this perfection was based on values other than divine truth. In the third tier are those nations which seek unity for the common good, but whose ‘dark minds’ (*ibid.*) only allow them to make laws based on personal interests. Nations in this group prize religion, honour, heroes and legends: Fishta notes that Agamemnon, Odysseus, Diomedes and Hercules were neither barbarous nor civilised.²⁰⁰ The fourth tier consists of those states [*shteteve*] which do not strive towards the common good, and all available tools are used against freedom. The sovereign is a ‘Titan’ and the ruled are called the ‘*raya*’. This level of culture is ‘barbaric, and is found in many states in Asia and Africa’ (1933: *xxx*). We can infer Fishta considers Ottoman civilisation belongs to this tier, as prior to the creation of Ottoman citizenship in 1868, the Ottoman Muslims called the non-Muslims in the Empire the *raya*. The fifth tier, ‘the wild’, is found within a single tribe [*fis*], in

¹⁹⁹ This exception may be on the basis of Russia’s Christian Orthodoxy, but is more likely to be a comment on the post-Revolutionary nature of Communist Russia.

²⁰⁰ These examples seem somewhat inconsistent with Fishta’s slightly earlier claim that the early Greeks were in the ‘second tier’ of civilisations. If he is referring to two different periods of Greek history, it is not made clear.

which people are concerned only with survival and ‘have no laws whatsoever, other than the will of the leader’ (*ibid.*).

7. The level of culture under the Code of Lekë

Fishta says the culture of the Albanian nation belongs to the third category in his hierarchy. He says that the *Kanun* has some laws which are similar to Roman or Byzantine law rather than the laws of the barbarians (here, the Ottomans). He stresses the isolation of the Albanian mountain dwellers, who have customs based on Christian religious principles and traditions, inherited from an earlier, now extinct, culture. He identifies blood [*gjaku*], which he explains as *la vendetta* [vendetta], as ‘the strongest argument presented by the enemies of Albania, to prove the wildness of the population of our mountains’ (1933[2001]: xxx).

He refutes this view with the argument that not all killing is the same, drawing a contrast between a cannibal killing to eat flesh and a judge killing a man as punishment, saying the latter ‘is not barbarous’. He says that, in the Albanian mountains, through the ‘executive authority of the *Kanun* and the civil authority of the *Bajrak* [district] of the murderer’ (1933[2001]: xxxi), the house of a murderer would be burned down by his *Bajrak* as punishment, but that vengeance was left to the family of the victim. Fishta says by killing a murderer, an Albanian does only what he feels necessary to bring about justice; from a psychological point of view, his action ‘is a legal action and cannot be called revenge-vendetta’ (*ibid.*). He draws a parallel with the execution of Louis XVI of France, which was believed to be legal by those who enacted it. He further stresses the sense of justice being restored in Albanian communities through ‘blood’ by noting that, after the killing of the

murderer, the two families conciliate and make peace, a pattern which he says was common to ‘all the civilised states of Europe after the World War’ (*ibid.*). He concludes that blood feuding comes from a source outside indigenous Albanian practices, and ‘will not always be part of [the nation’s] spirit’ (1933[2001]: xxxii); thus, the blood feud should not be taken as evidence ‘that the Albanian nation is barbaric and not able to govern independently’ (*ibid.*).²⁰¹

From Fishta’s essay, we get a sense that he understood Gjeçov’s *Kanun* served multiple ideological and pragmatic purposes. It was ideological in that it expressed ideas of Albanian morality and – at least superficially – synthesised diverse ideals and influences from Albanian tribe and church, and other historical legal texts and systems. On the other hand, it was pragmatic in that it recorded ‘authentic’ Albanian practices and could have been used as a ‘legal’ bridge between pre-state Albanian society, and the newly established state, a bridge towards being a ‘civilised’ nation.

Lexicography and nation-building

In Chapters 3 and 4, I discussed the centrality of language to the nation-builders’ view of the nation, which was summarised by the linguist Wilhelm von Humboldt (1767–1835) thus:

language is, so to speak, an outer phenomenon of the spirit of the nation; their language is their spirit and their spirit is their language; it is hard even to imagine how identical these two are (Humboldt, from the *Introduction to Work on Kavi Language*, quoted in Milosavljević 2000).

²⁰¹ This conjecture and refutation were mirrored in the 1990s arguments of Serbs and Kosovar Albanians, discussed later in this chapter.

In addition to this ‘spiritual’ importance of language, there was a strong practical reason behind the drives for linguistic unity in the ‘new’ ethnic nations.²⁰² It is a prerequisite for any type of political coherence, and its achievement was a priority for the Albanian nation-builders, as part of a broader literacy programme discussed in Chapter 3.²⁰³

Given the contemporaneous work on language standardisation, and language education, by people within Gjeçov’s immediate circle of acquaintances, it is worth pausing to note that, as an Appendix, the 1933 text included a 271-entry ‘Dictionary of Rare Words and Phrases’ (hereinafter, Dictionary). This marked the start of modern Albanian lexicography, and can be read as a link between this single text and the broader language politics of the time.²⁰⁴ As a nation-building exercise, the Dictionary was a small-scale, informal parallel of the 1932 Turkish ‘Word Collection Mobilisation’ [*soz derleme seferbeligi*].²⁰⁵ This was part of efforts by (Turkish) language reformers to purge Arabic and Persian influences from the

²⁰² For the efforts in Russia, for example, see Rogger (1960: 85–125), and Brown (1986: 6–30).

²⁰³ We see a comparable effort to build and stress linguistic unity in a welcome speech made by the Mayor of the Croatian town of Split, to a Serbian delegation including the composer Mokrajnac (see Chapter 1) in 1910. Whether Serbian and Croatian were two separate languages, or dialects of a single language, had been the subject of much debate, as had the linked question of whether the Serbs and Croats were one, or two, nations. Mayor Kapic welcomed them ‘I greet you in front of the municipality and the town of Split that always thought that Croats and Serbs were one people since the language heard in your beautiful Beograd, at the confluence of the Sava and Danube, is also spoken in our coastal region’ (quoted in Milojković-Djurić 1988: 12).

²⁰⁴ As noted in Chapter 2, the first phase of the *Hylli i Dritës* publication came to an abrupt end in 1914. Instalments of Gjeçov’s *Kanun* appeared until the final edition of the second Phase (1924/12). Despite the publication’s abrupt end, comparison of the *Hylli i Dritës* and 1933 texts of the *Kanun* suggest that the instalment in 1924/12 was the last Gjeçov intended, as the contents of the two texts are substantially similar.

²⁰⁵ The Mobilisation was organised by the Language Society using a network of provincial collection committees, on which were represented the political and social leadership of the province. It was no fringe activity: words were collected on slips, and in the first year 125,988 slips were returned, from which 35,357 words were collected.

language, efforts which led to the replacement of Ottoman with modern Turkish.

The Mobilisation followed an instruction from the Central General Committee of the first Turkish Language Congress, which set as priorities:

(1) *Collecting and publishing the treasures of the Turkish language existing in the popular language and old books*; (2) clarifying the methods of word-creation in Turkish and employing them to extract words from Turkish roots; (3) *uncovering and publicizing pure Turkish words which may be substituted for words of foreign roots widely used in Turkish, especially in the written language* (Lewis 1999: 49, my emphases).

Given the shared history and, up to a point, a shared elite, it is not surprising that Turkish and Albanian nation-building efforts proceeded along similar lines. Efforts to ‘purify’ or ‘cleansed’ the Albanian language were underway in some quarters by the late 1890s, as illustrated by the example of the ‘linguistic cleansing’ lists from *Albania* (discussed in Chapter 3), so the *Kanun* can be seen as an applied example of Albanian word collection. This suggests Albanian language-reformers had taken an approach broadly similar to that taken in Turkey, but unlike the Turkish case lacked the mechanisms of state for its implementation.²⁰⁶ Inevitably, this led to more piecemeal and less coordinated activity than was the case in Turkey.

In the context of the contemporaneous efforts to standardise the written Albanian language, the ‘Dictionary’ is interesting as an alphabetical list. Whereas in a written text it is not possible to distinguish a digraph, such as ‘dh’, from the component two single characters, ‘d’ and ‘h’, it becomes explicit in an alphabetical

²⁰⁶ This highlights the flow of ideas and practices between Ottoman peripheries and its centre. That Albanian language developments were known to the Turkish language reformers is evident from the article ‘Albanian letters’ published in January 1910, in the newspaper *Tanin*, in which the author commended the initiative of the Albanians in choosing a Latin alphabet and ‘declared that the Turks would do well to follow it’ (Lewis 1999: 30). The Turkish language specialist Laurent Mignon has identified the Albanian decision to adopt Latin script as a ‘high point’ in the Turkish alphabet debate (Mignon 2010:14), and a significant factor in the eventual Turkish decision to adopt the Latin script.

list. The ‘Dictionary’ includes four digraphs which are neither part of the modern Albanian alphabet, nor of the three potential alphabets considered at the Congress of Manastir in 1908: Mb, Nd, Ng, and Nj (Gjeçov 1933[1989]: 267). This is a reminder that Gjeçov’s *Kanun*, along with other texts published at the time, was an active part of the process of language standardisation, itself essential to the construction of the state as a powerful instrument for the ‘routinization of charisma’ (Clanchy 2002).²⁰⁷ At a practical level, the ‘Dictionary’ would have made the *Kanun* more readable to those who were not familiar with its vocabulary. In the context of the language politics of the day, the text of the *Kanun* held value as a document of language use (word collection) and the Dictionary would have made a substantial contribution to this end. This is not to discount the importance of the content. Seen in the context of the times, the language and content of the *Kanun* were a potent combination: an ‘authentic’ version of the Albanian language, expressing ‘authentic’ Albanian cultural practices and values, and documenting the Albanian capacity for self-governance.

Kosovo and Yugoslavia

In addition to Yugoslavia’s involvement in World War II, there was a civil war between the Partisans and the Royalists in Yugoslavia from 1941–45. During these conflicts, the Albanian National Front [*Balli Kombëtar*] – which had support in Albania and Kosovo – aligned with the Fascists, apparently in the hope of greater post-war self-determination for Albanians (see Fischer 1999b for a detailed account

²⁰⁷ Comparison of the *Hylli i Dritës* and 1933 texts reveals further evidence of the written language becoming standardised: two words become one; consonants change; the use of capital and lower case letters stabilises; the (often silent) letter ‘ë’ becomes more evident; and elision becomes more common.

of the war from the Albania perspective, and Sadiku 2013 for the nationalist movement in Peja 1941–46). During this period of weak or absent state control, Albanian customary practices were evident in Kosovo. In 1944, the Elders in the Drenica valley believed the Communists were poised to take over the region, and feared the consequences of such a takeover. Under the leadership of Shaban Polluzha, they held an *islihat* (historical precedents of which were discussed in Chapter 2) and agreed not to go and fight in other parts of Yugoslavia, but to stay in Drenica and fight against the Communists. In the middle of the *islihat*, Polluzha forgave a blood debt owed to his family, which greatly increased his local standing.²⁰⁸

There is also evidence that during the German occupation of Kosovo (1941–4), the Drenica Elders tried to use ideas of ‘Albanian law’ to demarcate their sphere of influence: the German occupiers ‘permitted a council of elders and *bajraktars* to issue a set of rules based on the *şeriat* and the *Kanun* of Lekë Dukagjin’ (Malcolm 1998: 293, Musa 2010: 11).²⁰⁹ This attempt to formalise customary practice, by having it validated or acknowledged by the occupying power, is reminiscent of the process of ‘kanunisation’ practiced by the Ottomans, by means of which local practices were incorporated into the Ottoman legal and administrative systems (discussed in Chapter 2). There seems to be no written evidence of this agreement

²⁰⁸ In Chapter 7, I discuss a parallel to this, in Hilmi Haradinaj’s forgiveness of his grandson’s blood. The idea of forgiveness in the context of Albanian feuding crops up throughout the twentieth century, and is important to Albanians (see, also, the wording of the *Pajtimi i Gjaqeve* conciliations, in Chapter 6). This is interesting because it is unusual for blood-forgiveness to be important in feuding societies. I have not been able to find out much about it, other than that it is understood to be a demonstration of power and strength.

²⁰⁹ This agreement was one of a series signed between German authorities and Albanian leaders in Kosovo, which ‘allowed village elders to direct most of their own affairs and even constructed dozens of Albanian-language primary schools’ (Fischer 1999b: 86).

in operation, probably because the proposal was overtaken by the end of the war and subsequent founding of Socialist Yugoslavia, but it draws attention to two significant points: that the Socialist (and *Rilindja*) ideal of the Albanians as an a-religious people was not the case in Kosovo, although it remains a powerful idea in the national story the Kosovars tell of themselves, and that Albanian customary practices were present in Kosovo as a means of maintaining order up to World War II.²¹⁰ Under the leadership of Josip ‘Broz’ Tito, the civil war was won by the Partisans, effectively the military arm of the Yugoslav Communist Party (YCP). The YCP went on to create a Socialist Federal Yugoslavia with five constituent republics (Serbia, Croatia, Bosnia and Herzegovina, Macedonia, and Slovenia), the autonomous province of Vojvodina in the north of Serbia, and the autonomous region of Kosovo in the south. Tito became Prime Minister, and later President, of the Federal Yugoslavia.

Kosovo in Yugoslavia 1945–90

The story of Kosovo in Yugoslavia is one of waxing and waning self-government and ideas of nation, both shaped by state law, which was manipulated to ideological ends.²¹¹ Kosovo’s Yugoslav history, between the end of World War II and the 1990 foundation of the *Pajtimi i Gjaqeve*, falls into two parts: the Yugoslavia years (1945–80), during which the political emphasis was on the foundation and consolidation of Yugoslavia; and the Serbia years (1980–90), during which the

²¹⁰ *n.b.* By the time of the *Pajtimi i Gjaqeve* (discussed in Chapter 6) some 45 years later, some of the younger adult males were Elders, so this period was well within living memory.

²¹¹ As with Chapter 2, this historical survey draws heavily on the work of Noel Malcolm.

political landscape was dominated by the rise of Slobodan Milošević and Serbian nationalism.

The change of political direction towards communism and socialism had implications for understandings of ‘state’, which in turn had consequences for Albanian nation-builders in both Kosovo and Albania. Communist understandings of the state were rooted in a Marxist vision, which altered the ‘extent to which state and society interpenetrate’ (Westoby 1984: 131); saw the replacement of the nation by class solidarity; and introduced a different understanding of the relationship between citizen and state. From this perspective, the fundamental attachment of the citizen to the state in Yugoslavia was through the system of self-management, and a citizen’s rights and duties were prescribed in terms of his status as a member of the ‘working people of Yugoslavia’ (Allcock 1996: 75). The interpretations of Communism were so different in Yugoslavia and Albania that we cannot assume that ‘the state’ was understood in the same way in both countries during this period. In Albania, Enver Hoxha’s government pursued a hard-line Stalinist approach, whereas, in Yugoslavia after 1948, Tito adopted a ‘non-aligned’ position. Despite the more relaxed interpretation of Marxist statehood in Yugoslavia, the prescription of a citizen’s rights and duties in terms of his status as a member of the working people of Yugoslavia led to tensions in Kosovo (and, by extension, Serbia and Yugoslavia) between the state’s expectations of its citizens’ rights and duties, and those the Kosovar Albanians understood themselves to have on the basis of their nationality, their numbers in Kosovo, and later, on the basis of the political developments I discuss below.

During the Communist period, there was interest from Albanian academics, in both Kosovo and Albania, in the documentation and study of ‘Albanian’ topics and, more specifically, in ideas of Albanian law. The different stances of the Albanian and Yugoslav states are subtly reflected in the angles of that interest. Academics in Albania, subject to greater political scrutiny and the influence of a thoroughly ‘modernising’ and ‘civilising’ state agenda which brooked no alternative authority structures, focussed on more general topics (for example, Elezi 1966, Luarasi 1977, Zojzi 1969). Academics in Kosovo, under less stringent political control, with increasing access to Higher Education in their own language (discussed below) also produced material documenting and recording general customary practices (for example, Halimi 1955, Pupovci 1971c and 1978), but some also began to explore or subtly posit interconnections between state and customary practices, particularly through the application of state legal terminology to customary practices (Pupovci 1971b, Halili 1975, Vraniqi 1971).

The Yugoslavia Years (1945–80)

For Kosovo, there were two phases to the Yugoslav years. The first, from the end of World War II until 1966, was characterised by low Kosovar Albanian involvement in party and state structures, and the oppression and persecution of Kosovar Albanians by state authorities. The second began in 1966 and lasted until Tito’s death in 1980. It was characterised by increased representation of Kosovar Albanians in party and state structures; liberalisation of policies towards Albanian language education; considerable progress towards self-government within Kosovo; and Kosovo’s gradual acquisition of the trappings of a republic. Kosovo’s changing constitutional status underpinned the political atmosphere, and directly affected social and political actions within Kosovo. This status shaped how, and to

what extent, the Kosovo nation could realise its political ambitions within Yugoslavia and thus has been the subject of intense debates between Kosovar Albanian and Serbian scholars. Although these are too complex fully to address here, popular Kosovar Albanian understandings of key points are outlined in this overview, as they were to underpin the Kosovar Albanian stance in 1990–91 *vis-à-vis* Serbia.

1945–66 The Ranković Years

The ‘Autonomous Region of Kosovo-Metohija’ was established, and declared to be a constituent part of the Republic of Serbia, by the Presidency of the People’s Assembly of Serbia on 3 September 1945 (see Map 4 for the Federal and Republic boundaries, and those of the autonomous entities). Procedurally, this action was taken on the basis of a request from Kosovo’s ‘Regional People’s Council’, an unelected council which represented the 2,000 strong Communist Party of Kosovo. The Council had 142 members, of whom only 33 were Kosovar Albanian (Malcolm 1998: 35). In November 1945, elections were held across Yugoslavia and the elected assembly passed the first Yugoslav Constitution in January 1946. The Yugoslav Constitution confirmed Kosovo’s autonomy within Serbia, and its relationship with the federal structure. Encouragingly for the Kosovar Albanians, in the immediate aftermath of the war, steps were taken to allow the use of Albanian for official purposes and education. Theoretically, in Kosovo, Albanian had equivalent status to Serbo-Croat, but practice lagged behind theory and few officials were Albanian speakers. The general educational provision also improved: by the end of 1945, the number of schools in Kosovo had increased to 322 from a pre-war figure of 252. This was of particular significance, given that, in 1948, as many as 74% of Kosovar Albanians over the age of ten were illiterate (Malcolm 1998: 318).

In January 1947, the Republic of Serbia passed its first Constitution, which elaborated on the rights accorded by the Yugoslav Constitution to Kosovo as an autonomous entity. The Serbian Constitution stated that these rights were secured by the Serbian Constitution, in agreement with the Yugoslav Constitution. Relations between Kosovar Albanians and the state were affected by relations between the Yugoslavian and Albanian states. Immediately after the war, these were sufficiently close that serious consideration was given to Albania's becoming a sixth republic of Yugoslavia. However, the relationship ended in 1948, when the main International Forum of the Communist Movement (the 'Cominform') expelled Yugoslavia for 'Titoism', a philosophy which put Yugoslavia at odds with Stalin's 'Socialism in One Country', and thus outside the Communist Bloc. From this point onwards, widespread communication effectively ceased between Albanians in Albania and the Kosovar Albanians: for Kosovar Albanians, attempting to keep in contact would have put them at risk of being identified as traitors to the Yugoslavian state.

Yugoslavia's expulsion from the Cominform, and the break with Albania, led to concern within Yugoslavian state institutions that the Albanian state would seek to infiltrate Yugoslavia through the Kosovar Albanians, and 'the whole of the Albanian population began to be viewed as a potential nest of fifth columnists and traitors' (Malcolm 1998: 320).²¹² The Yugoslav secret police, '*UDBA*', began to hunt for these suspected elements within Kosovo. Malcolm has identified as particularly pernicious the weapons raids carried out throughout Kosovo, in which

²¹² A 'fifth column' undermines a group from within.

whole villages were cordoned off for searches, and those unable to hand over a weapon were so ill-treated, that many resorted to buying weapons so as to have something to surrender.²¹³ In addition to the perceived injustice of the policy, these compulsory house-searches also ran contrary to a principle of Albanian correct behaviour [*sjellja*], that no-one should enter a Kosovar Albanian's home uninvited. The *Kanun* specifies 'No one may enter the house without giving notice of his presence in the courtyard', that a guest should 'Call out and, if no one replies, either stand and wait or go about your business' and that 'If the door is pushed and opened, the house is considered violated and plundered; a fine is imposed and double compensation for any lost property'.²¹⁴ In contrast to the actions of the Serbian authorities, correct *sjellja* was scrupulously observed during the *Pajtimi i Gjaqeve*, illustrated in this account of a delegation's visit to the house of a disputing party:

'Oh Master of the House, do you want guests?' called Professor Ismaili, while we [students] waited behind him: Hajrush, Raif, Mustafa, Minirja, Valdete and Suzana. On entering it was clear that there were gathered many elders, and the youth of Uncle Fehmi's tribe' (Musa 2010: 27).

This principle of invitation remains important today; several informants from Deçan, in Dukagjin, told me with some satisfaction that 'right up until the war, even the Serbian paramilitaries used to have to knock on the gates of a house when they arrived [to raid it] and ask to be allowed to enter'.

²¹³ During my fieldwork, I encountered strong memories of this time from elderly informants in villages around the southern Kosovo town of Prizren, who recalled the raids on their properties as one of the worst abuses of 'law' [*ligj*] or 'justice' [*drejtësi*] during the Yugoslav period, and as conclusive proof that 'the Serbs' had no regard for the law in Kosovo.

²¹⁴ Gjeçov (1933[1989]: 60, Arts. 134–36).

The social fabric of post-war Kosovo was also affected by state restrictions on Islam. The strong support of leaders in Kosovo in 1878 for remaining within the Ottoman Empire and for retaining *şeriat* law was noted in Chapter 2. In contrast, Communism was an atheist philosophy and there was no space in Yugoslavia for religious institutions and public religious practices. In 1946, *şeriat* courts were closed; in 1950, Koranic elementary schools were closed and the teaching of children in mosques was prohibited by law; and, in 1952, the Dervish orders – which were particularly strong in Kosovo – were closed.²¹⁵ Following changes to the categories on the Yugoslav census to include ‘Turk’, and a subsequent agreement for mutual emigration between Yugoslavia and Turkey, a large number of Muslims – Malcolm estimates around 100,000 – emigrated from Kosovo to Turkey. The suppression of Islamic institutions and activities, and this mass emigration, combined with Serbian nationalist position of ‘Serbian land for Serbian people’ generated within Kosovo a bleak impression of the Yugoslav project, and Serbian ambitions within it.²¹⁶

Industrial and economic development in Kosovo focussed on the extraction and basic processing of natural resources and power generation; it was slow and lagged behind other parts of Yugoslavia. The population was poor, relative to the

²¹⁵ Similar reforms had come earlier to the Albanian state. In the wake of the adoption of the Civil Code in 1938-29, *şeriat* courts were suppressed and, in 1929, provincial *madrasas* were closed down and replaced by a General *Madrassa* in Tirana (Clayer 2008: 131)

²¹⁶ This sort of slogan was associated with Vaso Čubrilović, a Bosnian Serb, born in 1897. He was one of a group of eight people, including Gavrilo Princip, who assassinated Arch Duke Franz Ferdinand in Sarajevo in 1914, an act which started the First World War. Čubrilović was a minor at the time, and so sentenced to prison rather than execution; he later became an academic at the University of Belgrade and held several ministerial posts before he died in 1990. Among Kosovar Albanians he is best known for a memorandum he wrote in 1937 proposing the expulsion of Albanians from Kosovo.

more developed parts of the Federal Yugoslavia, and the gulf widened into the 1960s: by 1964 the average income in Slovenia, the most highly developed area, was five times greater than that in Kosovo. Throughout the Yugoslav period, rates of employment and the distribution of that employment were a flash point for popular discontent in Kosovo. In the Ranković years, rates of employment in Kosovo did not reflect proportionally the ‘national’ composition of the Province: Serbs and Montenegrins, who were 27% of the population of Kosovo according to the 1953 census, accounted for 50% of Party membership and 68% of the ‘administrative and leading’ positions (Malcolm 1998: 323).²¹⁷

The 1963 Yugoslav Constitution was the nadir in terms of Constitutional status *vis-à-vis* the political aspirations of Kosovar Albanians. It described the status of Kosovo and Vojvodina as autonomous provinces in consequence of a decision made by the Serbian Assembly, and made no mention of their having a link at the Federal level. This bleak and difficult post-war phase for the Kosovar Albanians, characterised by discrimination and deteriorating constitutional status, came to an end in 1966, when Tito dismissed Aleksander Ranković – architect of the anti-Albanian hunts in Kosovo of the 1950s and early 1960s – as head of the Yugoslav Secret Police.

1966–80: Increasing Self-Governance

Following Ranković’s removal, political concessions were won in Kosovo under Tito’s policy of ‘national self-direction’, which entailed considerable

²¹⁷ This figure may not have been quite as stark as it sounds: the prevailing high levels of Kosovar Albanian illiteracy would have precluded most adults from any literate employment.

decentralisation. In 1967, Tito visited Kosovo and publically criticised certain social conditions in the province, which was taken as a strong indication of political will to improve conditions. The first public demand for Republic status for Kosovo came at a demonstration in Prishtina on 27 November 1968; it was taken up in other towns, at what became known as the ‘Kosovo Republic’ demonstrations. There is a tendency in the literature to look at events in Kosovo only in the context of Yugoslavia or Albania but, when looking at 1968, the broader European social and political contexts should not be overlooked. Yugoslavia’s non-aligned status meant that the movement of people and material (print and broadcast) into and out of Yugoslavia was considerably easier than countries behind the Iron Curtain. Kosovar demonstrators were very probably aware of events in France and elsewhere in Europe, and the ideas of social and political change in the air.²¹⁸

After the ‘Kosovo Republic’ demonstrations of November, significant amendments to the 1963 Yugoslav Constitution were promulgated in December 1968. These re-expressed the connection between the Autonomous Provinces and the Federal structure; defined the Autonomous Provinces as ‘socio-political communities’ (the same term used to define the republics); gave the Autonomous Provinces full authority over matters of internal concern; and changed the official name of Kosovo from the Serbian ‘Kosovo-Metohija’ to the Kosovar-Albanian-preferred ‘Kosovo’. From 1969, the Kosovars were allowed to fly their ‘national’ flag, the double-headed black eagle on a red background. This was the coat of arms

²¹⁸ Several of the now senior academics I interviewed had studied for higher degrees in France in the 1960s and 1970s. Perhaps the most famous Francophile in Kosovo was Ibrahim Rugova (1944–2006), leader of the LDK, who studied at the University of Paris from 1976–77 under the semiologist Roland Barthes.

of the medieval Albanian hero Skanderbeg, which, in 1912, had become the flag of the Republic of Albania. This ambiguity of symbolism exacerbated concerns within the Kosovo Serb population – and further afield – that the Kosovar Albanians saw the future of Kosovo in Albania, rather than Yugoslavia. In the same year, satellite faculties in Prishtina of the Serbo-Croat language University of Belgrade were developed and extended into a new state university, the University of Prishtina (U.P.), which taught in Serbo-Croat and Albanian. This was of great significance to the Kosovar Albanians. The early staff and students of U.P., an institution founded in a time of Europe-wide social unrest and ‘won’ from the Yugoslav authorities, saw their access to Albanian-language University employment and education as a success of the Albanian language education [*Shkolla shqipe*] movement, which had begun as far back as 1897.²¹⁹ The student-enrolment figures were extraordinary: within ten years, U.P. had some 30,000 students and 1,000 staff.²²⁰ Then, as now, the number of graduates generated by the University far exceeded employment opportunities in Kosovo. This laid the foundations for the development of an educated, politically active and unemployed cadre of Kosovar Albanians.²²¹

In 1974, another new Yugoslav Constitution was passed, which gave Kosovo almost the same status as the Republics; in particular, direct representation on many of the Federal bodies, and the right to issue its own Constitution (see Shoup 1984 for the development of Kosovo’s constitutional status). Kosovar Albanians

²¹⁹ See discussion in Chapter 3 about the periodical *Albania*.

²²⁰ A figure of 47,000 is commonly given, but Malcolm notes this is an acknowledged exaggeration, intended to garner more funding for the university (Malcolm 1998: 326). At 2013, the U.P. Rectorate estimated the student body to be 52,000 and growing.

²²¹ An advisor to the Minister of Justice commented to me that, in 2011/12, there were 11,000 undergraduate law students at U.P., and the Ministry recruited just 5 graduates a year.

recall this as a golden age in Yugoslavia, when they had a republic in all but name (Repishti 1984)

The Serbian Years (1980–90)

In 1981, a student demonstration at U.P. grew into a public demonstration in Prishtina, in which 3–4,000 people participated, about general living conditions in the province.²²² It was a time of high unemployment: the official unemployment figure for Kosovo was 67,000, but this was believed to be closer to 250,000. In terms of employment, ‘Of a population of 1.5 million, only 178,000 had jobs in all forms of state run enterprises (civil service, schools, hospitals, factories and so on)’ (Malcolm 1998: 337). The demonstrations grew, and spread; the state responded by declaring a state of emergency. A disputed number of protestors were killed: official sources acknowledged nine demonstrators and one policeman to have been killed, while a Kosovar Albanian estimate put the figure at around 1,000 (Malcolm 1998: 335). The demonstrations were followed by trials, usually held *in camera*; a 1986 survey by a Belgrade magazine revealed a total of 4,200 people had been sentenced for their involvement (*ibid.*).

Serbian anxieties about losing Kosovo to Albania, and their land and employment within Kosovo to Kosovar Albanians, combined with increasingly assertive Kosovar Albanian demands for political rights and the improvement of

²²² Again, it can be helpful to see events in Kosovo in a broader frame, this time of what was happening inside the Communist block. 1980–81 was the era of the Solidarity Independent Trade Union in Poland. Solidarity emerged from the Gdansk shipyard, and was led by Lech Wałesa, a trade unionist, and later President of Poland 1990–95. It was the first independent trade union in the Eastern Bloc, and had an anti-bureaucratic social agenda. It called for improvements to workers’ rights, and broad social change. Solidarity was a tremendously powerful symbol of what was possible in an undemocratic regime.

conditions within the province, generated a febrile political atmosphere. Accusations of nationalism – a political taboo in Yugoslavia – broke out on both sides in the press and other media. In 1986, a draft Memorandum prepared by the Serbian Academy of Arts and Sciences was leaked. It purported to seek a way to preserve the integrity of Yugoslavia, but among the points it emphasised was ‘the “genocide” perpetrated by the Albanians against the Serbs of Kosovo’ (Wachtel 1998: 199), which further heightened tensions in, and about, Kosovo. In April 1987, the leader of the Serbian League of Communists, Ivan Stambolić, sent his apparatchik, Slobodan Milošević, to hear the anxieties of Kosovo Serbs and respond. On 24 April 1987, Milošević improvised a speech which set him on a path to become the leader of Serbia. In it, he spoke, in language steeped in Serbian national symbols, about the concerns of the Kosovo Serbs. By the end of the year, Milošević had become head of the Serbian League of Communists, and begun to remove and suppress those who opposed him. In late 1988, leading Kosovar Albanian Communists were replaced with stooges prepared to take part in the removal of Kosovo’s autonomy.²²³ On 17 November 1988, the Trepça miners began to march towards Prishtina in protest against the looming political changes, and were joined the next day by up to 100,000 people (Malcolm 1998: 343).

In 1989, the Serbian Assembly began to dismantle Kosovo’s autonomy. On 23 March 1989, the Kosovo Assembly voted – under considerable pressure – for amendments to the Constitution, which effectively removed Kosovo’s autonomous status. Widespread, large-scale protests began immediately, and spread throughout

²²³ These included Kosovar Albanians, which contributed to Kosovar Albanian concerns, discussed later in this chapter, about ‘spies’ and ‘traitors’ in their midst.

Kosovo. Police responded forcefully; many protestors were injured and some were killed. There were large-scale arrests and prosecutions, which included many leading and prominent Kosovar Albanian figures. As the situation deteriorated for the Kosovar Albanians, the Serbian state marked the 600th Anniversary of the 1389 Battle of Kosovo (outlined in Chapter 2) on 28 June 1989, with a large, nation-building celebration and the unveiling of a monument at the site of the battle. This incident explicitly intersects with the story of Kosovo, but is also a reminder that, as Yugoslavia began to disintegrate, all the nations of the former-Yugoslavia were nation-building.

The Parallel State

The Kosovar Albanian political opposition in Kosovo, led by the Democratic League of Kosovo (LDK), responded to the revocation of autonomy by challenging the legal and political legitimacy of the revocation, and of the Serbian state *per se* in Kosovo (Malcolm 1998, Pula 2004). The LDK was founded in 1989 by Kosovar Albanian intellectuals under the leadership of Dr Ibrahim Rugova, in response to the abolition of Kosovo's autonomy and to protest against the removal of that autonomy.²²⁴ From the beginning, the LDK sought to improve the position of Kosovo and the Kosovar Albanians through non-violent political means, which included non-violent resistance to increasing provocations by the Serbian police and security services. The LDK was declared illegal by the Serbian authorities on the grounds that it was nationalist and separatist. The LDK held that Kosovo's status as an autonomous province derived from the Federal level through the Yugoslav Constitution; thus Serbia, as a Republic, had no legitimate right to

²²⁴ The Albanian acronym 'LDK' is commonly used in English texts.

dismantle that autonomy. From this starting point, the LDK argued that any actions by the Serbian state in Kosovo predicated on Kosovo not being an autonomous entity were not legitimate, and that it was politically legitimate for Kosovo to determine its own future within Yugoslavia. In September 1991, the LDK organised a referendum, and reported that 87% of the population of Kosovo took part, of which 99% voted in favour of independence. On the basis of this ‘will of the people’, Ibrahim Rugova and the LDK declared Kosovo’s independence; and, on 24 May 1992, elections were held to create a government and assembly for the new republic. After the election, the ongoing presence of the Serbian state in Kosovo was popularly understood by Kosovar Albanians as an ‘occupation’.

In the Chapter 6 discussion of the *Pajtimi i Gjaqeve*, and the ‘parallel state’, we see some of the contestation and ambiguity around the idea of state, and its interplay with contested and ambiguous ideas of the nation. The Kosovar Albanians understood themselves to be a legitimate Republic (state) on the basis of their being a Kosovar nation, and I argue that the *Pajtimi* made important contributions to the creation and initial consolidation of the scaffold structures of the ‘parallel state’. However, it was not a purely ‘parallel state’ activity; there was a marked ‘national’ aspect to it. The Movement initially styled itself as ‘*Gjithpopullore*’ [All people’s] and there were branches in Albanian-inhabited areas of Montenegro, Macedonia and Serbia (comprising 10 of the total 37 regional councils). There were, however, no branches in Albania itself, owing to its political isolationism. The *Pajtimi* reminds us that understandings of ‘nation’ and ‘state’ do not necessarily map directly onto one another: understandings of both may be contested within, as well as between, populations, and both can be fluid. To a Weberian understanding of state, discussed above, the ‘parallel state’ adds an interesting element of

Durkheim's understanding, particularly in the context of the question 'was it actually a state'? Durkheim saw the 'state' as the group of officials entrusted with representing the authority of a political society, noting that 'we may perhaps feel some surprise at finding excluded from this definition all ideas of action or execution or achievement of plans outside the state' (Durkheim1986: 40f). In Chapter 6, I show how the *Pajtimi i Gjaqeve* made crucial contributions to the creation of a skeleton Weberian state, but if we take part of Durkheim's view – and some of my informants implicitly did – there certainly was a Kosovar state in Kosovo because there was an elected government, which the Kosovar population (as a political society) understood to represent their authority.

Local perspectives on the period

Before, and later in parallel with, these formal political developments, the Kosovar Albanians developed ways to work around the political and social circumstances in which they found themselves. With the majority of previously public-sector employed professionals out of work, Kosovar Albanians began to develop services which mirrored those previously provided by the state; in particular, education and health care, with schools and clinics held in private houses. Under the leadership of the LDK, these initially spontaneous efforts were formalised over time – to varying degrees in various places – and a 'voluntary' tax was levied on Kosovar Albanian businesses and the Diaspora to pay for the services and the salaries. Collectively, these structures became known in Kosovo as the 'parallel state' or 'parallel system': in a visit to the United Kingdom in the mid-1990s, Rugova said 'We [the Kosovar

Albanians] are organised and are operating as a state'.²²⁵ Rather more realistically, Howard Clark has described it as a 'state-in-embryo'.²²⁶ It was as much a thought experiment as a reality, and both elements were important:

the Albanians of Kosovo ... engaged in a strategy of political "as if". To behave as if Kosovo were not part of Serbia might seem, in the short term, sheer make-believe; but if the strategy were persisted in for long enough, foreign governments might eventually feel obliged to admit that they were the ones who were engaging in fiction when they continued to treat Kosovo as a mere region of Serbia (Malcolm 1998: 348f.).

My informants described how, as freedom of movement became more limited owing to curfews and roadblocks, their lives were lived ever more locally. The Kosovar solution to its 'independent' government's lack of executive authority in the maintenance of order is important in understanding how the *Pajtimi i Gjaqeve* was able to operate effectively without state-backed sanctions. Influential local figures were called on to make local decisions, and the local practice of Rugova's strategy of non-violent resistance was rooted in Kosovar Albanian ideas of right behaviour [*sjellja*] within their own community, and demonstrating, through actions, the unjustifiable nature of Serbian state. These included the documentation and publicisation of the Serbian regime's violence, lighting candles and 'homages' (five minute work stoppages) to commemorate killings and, 'above all, after an incident such as police raiding a village, the organizers went to collect evidence, show solidarity and explain why it was important to avoid a violent response' (Clark

²²⁵ Quoted in his obituary, published by the Independent, Monday 26 January 2006. Consulted 30 September 2013, <<http://www.independent.co.uk/news/obituaries/ibrahim-rugova-340297.html>>.

²²⁶ The Kosovar Albanians are not unique in having developed parallel systems to avoid and minimise contact with a political regime they held to be illegitimate. Although none are exactly comparable, other examples include the Turkish in Northern Cyprus (Navaro-Yashin 2007), and Abkhazia, South Ossetia and Nagorno-Karabakh, the 'statelets' of the South Caucasus (Kolstø and Blakkisrud 2008).

2009: 280). Non-violent resistance to ‘the occupier’, through *sjellja*, was an act of nation-building.

In Kosovo, the late 1980s and early 1990s are remembered as a time of great hardship, and the history of this period remains largely oral. Books have been written but are rarely read; stories, on the other hand, are often told. My informants’ narratives about the founding of the *Pajtimi i Gjaqeve* were remarkably consistent, the only significant variation being the level of detail.²²⁷ Such consistency points to Kosovar Albanians’ strong oral tradition; through television and radio, most people have heard the founders of the *Pajtimi i Gjaqeve* and other key Movement figures talking about their experiences, and their stories are retold as an act of remembering.

Because of the consistency of narrative across informants and time, one person’s story is an instance of the ‘group account’ (Vansina 1985: 19). The instance given below is drawn from interviews with Myrvete Dreshaj, a student-founder of the Movement, and was the most detailed and comprehensive I encountered. It is corroborated by a range of other sources, including my interviews, newspaper articles and television documentaries. Now a university lecturer, Myrvete described to me the context of the Movement’s founding. Despite numerous, and sometimes extended, interruptions, she always picked the story up from exactly the point she had been interrupted; to me, it felt more like a recitation

²²⁷ This was the case whether or not the informants had participated in the events they related.

than a conversation.²²⁸ In Chapter 6, I frame my discussion of the *Pajtimi i Gjaqeve* with ideas of creating memory and narrative lacunae, as part of nation-building.

Much of what Myrvete said is dense and content-rich; this is a narrative for insiders, familiar in detail with the history and culture of Kosovo and the Albanian nation. Such density is characteristic of Kosovar speech, described by the anthropologist Berit Backer as ‘a very restricted code ... People know each other right from childhood. They need only a few words for mutual understanding’ (Backer 2003: 69). I have tried to counter this density by interspersing Myrvete’s story with comments and contextual information.

At the beginning of the 1990s, Albanians had been thrown out of every institution: scientific, administrative, education, from every field, they were out. Under Serbian power we were allowed merely to exist, nothing more.

The level of repression was extremely high: we had a Kosovo-wide police curfew from 6pm to 6am and, during the day, no more than three people were allowed to walk together. The curfew could only be broken with a certificate of permission from the police. There were police checkpoints every hundred metres. This sort of repression led to the *Pajtimi i Gjaqeve*.

Having described the day-to-day situation for Kosovar Albanians, Myrvete set the period in an historical context:

historically, from 1912 and the London Conference²²⁹, we tried to liberate ourselves first from Serbia, then from Yugoslavia, and to unite with Albania. It was a situation of permanent resistance against an oppressor. Throughout the twentieth century the repression was terrible but things were worse at this time because some Albanians were loyal to the Serbian state. This was very dangerous.

²²⁸ Subsequently, I obtained from the state broadcaster a commemorative documentary made several years ago, which contained extracts of Myrvete talking about the Movement; her account was almost word-for-word what she had said to me in her office.

²²⁹ As discussed in Chapter 2, the London Conference of 1912–13 was convened by the six Great Powers in response to the First Balkan War. Albanian popular history remembers the London Conference as an event which left some half the Albanian nation outside the borders of the new Albanian state, to the territorial benefit of surrounding hostile states.

Myrvete's anxiety about Albanian disloyalty is important because it contradicted the central ideological principle of the *Rilindja*: that Albanians put their national identity and allegiance before any other.²³⁰

For some months it looked as though we had been beaten: we were shut in our houses, we didn't have the right to work, and poverty was getting worse and worse. Those with relatives outside lived a little better, but those with no-one outside were in a terrible situation.

The 'benefit' to Kosovar Albanian families of having 'relatives outside' was the remittances the 'outsiders' returned to Kosovo to support their families.²³¹

As well as the main work of the *Pajtimi i Gjaqeve* [Conciliation of Blood Feuds Movement], there were spin-offs, including 'family-help-family'. During our house visits for the *Pajtimi* we saw some families were terribly poor, such as those who had been employed in the Trepça mine and were now unemployed. Poverty was taking a physical toll on them and affecting them badly. They had been working in the mine throughout the 1980s and they had no more to show for it than their daily bread.²³²

On the other hand, the Plain of Dukagjin was in a better economic position. From then on, we started to connect more affluent families, or those able to produce an agricultural surplus, with families which were terribly poor and struggling.

The Plain of Dukagjin, in western Kosovo, includes the cities of Peja and Deçan.

As I discuss in Chapter 6, it became the heartland of the *Pajtimi i Gjaqeve* movement.

²³⁰ In the political climate of the late 1980s and early 1990s, Kosovar Albanians who displayed loyalties other than to their ethnic group could not be trusted, and were suspected of spying and informing on their communities. It was the reverse of the state's anxiety during the Ranković years, that Kosovar Albanians were fifth-columnists supporting Albania; some Kosovar Albanians were suspected by others of supporting the Serbian state.

²³¹ Economic migration from Kosovo to Western Europe increased during this period, as families sought to protect their young men (perceived to be most at risk from the security services) and also economically to support themselves.

²³² The Trepça mine lies near the northern Kosovo town of Mitrovica. In 1946, it had been nationalised, and during the Yugoslav period it was a significant employer, with up to 23,000 employees. As noted above, the miners became a political force in the late 1980s through their protests and demonstrations against the threat to, and later revocation of, Kosovo's autonomy.

There were many dimensions to the *Pajtimi i Gjaqeve* over the two years it operated ... For two years, it created [social] life in Kosovo, made it function. Despite unemployment and poverty, people didn't get into trouble. Unemployment was around 90% - in fact, we were in total social collapse. When the Movement started, Albanians stood up, started to protest about the expulsions from work, protested using bread to show that people needed the basics of life.

Bread has a significant place in Kosovar culture, acting both as a symbol for food (colloquially the word *buk* [bread] can be used for 'food' or 'meal') and the bare minimum requirements of life.²³³

Those protests were not at all violent, but they moved to a more radical position over time, to request not only bread but also political requests: we wanted jobs, wanted a university, wanted the status of Kosovo [returned or resolved].

This perspective underpinned subsequent political and social developments in Kosovo.

This was the same time that Milošević came to Fushë Kosovo and declared Kosovo to be Serbian land. In addition to mobilising the military, Milošević mobilised all the Serbian citizens in Kosovo to make daily war against Kosovars. My husband is from Gjilan and there I saw with my own eyes a public square full of Serbs and there were 12 and 13 year old kids with Kalashnikovs which they were not strong enough to carry or hold properly. We were just waiting for children to start to kill us, which they could have done with impunity.

As discussed above, Slobodan Milošević's speech on 24 April 1987 at Fushë Kosovo, played to, and stoked, growing Serbian nationalist sentiment about Kosovo.

When we went public with 'national' requests, the repressions of the [Serbian state] army and police became extremely violent: killings, beatings, informative talks – 22 hours in a police station without any official papers which said they could keep you there – arrests, and so on.²³⁴

²³³ As late as 1998 'Bread for Drenica' protests were held, protesting against the blockade of the Drenica region by Serbian forces resulting in a shortage of food and other essentials. Women marched from Prishtina to the poorer northern region of Drenica, waving loaves of bread in protest as they marched, which were then distributed to needy families in that region.

²³⁴ In a 1996 report the UN Special Rapporteur of the Commission on Human Rights, noted 'Informative talks' were conducted by 'a special unit of the police entrusted with political matters

November and December 1989, and January 1990, were the time of big demonstrations in Kosovo, centred in Peja. Many people were killed with bullets we call 'dumdums', Serbs used these to create fear among [Kosovar] Albanian people, to make them afraid to go outside. Serbs had used bullets in demonstrations in 1968 and 1981, but this was the first time they used dumdums.²³⁵

This was the milieu from, and into which the *Pajtimi i Gjaqeve* Movement emerged.

In addition to an overview of Kosovo in twentieth century states, this chapter has contributed to knowledge in the English language of the most explicit article written in Albanian on the subject of law and nation, which places the *Kanun* squarely in the Herder-von Savigny tradition, coherent with the rest of the Albanian nation-building activities. To my thesis, this essay contributes the philosophical and conceptual framework of the Catholic northern-Albanian view of what Albanian law was, and could be, in a changing society. This viewpoint implicitly underpinned the work of the *Pajtimi i Gjaqeve* in 1990s Kosovo.

This Movement is the subject of the next chapter, which begins with an account of a dispute brought to the *Pajtimi i Gjaqeve* for conciliation, and illustrates the nature of the problem the *Pajtimi i Gjaqeve* was conceived to address. The Movement's founding and activities are described by key informants, interspersed with explanatory comments and contextual information. The Spread of the Movement is looked at through the involvement of four groups who were essential to its success. The public meeting known as *Verrat e Llukës*, which was the public

[which] invites people suspected of political involvement to report to the police stations and respond to questioning on their activities. In many instances people have been detained soon after these talks and placed in incommunicado detention. Accusations have also indicated that in some cases people have been detained for a month without their families' knowledge' (Rehn 1996).

²³⁵ 'Dum-dum' is a colloquial term in Kosoo for an expanding bullet.

apex of the Movement's work, is discussed in terms of its functional and symbolic importance. The chapter concludes with a review of the documentation produced by a Regional Council.

Chapter 6: The *Pajtimi i Gjaqeve* 1990–92

This chapter presents the *Pajtimi i Gjaqeve* in as close to its own terms as possible. To do this, I draw on contemporaneous sources (newspaper reports, photographs, diaries, documents), commemorative sources (books, newspaper articles, television programmes), and interviews carried out during my fieldwork. The *Pajtimi* makes an interesting contribution to the scholarship on memory. Because of its powerful political symbolism, contextualised in the political circumstances of the time, memory was not something which was constructed only after the events had taken place. Here, memories of events were being consciously and intentionally constructed as they happened. The memory which emerges from the contemporaneous material and much of the commemorative material, shows the Kosovars as a resilient, disciplined, and cohesive people, behaving in a civilised manner in the face of extreme provocation, and making extraordinary sacrifices to secure a future for the nation.

The *Pajtimi* took place at a time when the Kosovar Albanians were experiencing considerable repression from the Serbian state, and many feared (on the basis of the wars – underway and threatened – in other parts of the former Yugoslavia) that Kosovars faced a threat of complete annihilation. In this context, the process of making memories had additional significance: that which was documented, recorded, seen, remembered and passed on might endure, whatever happened to the individuals involved. Although the *Pajtimi* would, later, be commemorated, it was, in itself, a commemoration of a nation and a reaffirmation of the territoriality of that nation. In its public and private conciliation ceremonies, it did ‘not simply imply continuity with the past ... [it] had as one of [its] defining

features the explicit claim to be commemorating such a past' (Connerton 1996[1989]: 48).

As the Kosovars moved, and were pushed, away from 'normal' engagement with the Serbian state, a new political field opened up in Kosovar society. Different kinds of leaders were needed, different ideas could be expressed, and different futures became imaginable. Interest groups and individuals had to try to locate themselves in this new field. Most obvious among these was the Democratic League of Kosovo (LDK), which was to go on to declare Kosovo's independence in 1991. We will see, below, how the initially independent and a-political *Pajtimi* came to be seen, and to operate, as an LDK – and thus a 'state' – activity.

The *Pajtimi i Gjaqeve* is a web of memories which, over time and retelling, have been knitted closer and closer together. Anomalies have been smoothed out, and contrary instances suppressed or forgotten:

The narrative tells of historical events – but of historical events transfigured by mythicisation into unchanging and unchangeable substances ... The myth teaches that history is not a play of contingent forces (Connerton 1996[1989]:42)

Today, looking at the composite memory of the *Pajtimi*, we can regret its lack of detail, of nuance, and of critical reflection, all of which would help us reconstruct a 'truer' picture of what actually happened and how, but that would be to miss the point from the Kosovar perspective. For those holding the memory, its monolithic nature and, by extension, the understanding of the nation as monolithic, are, perhaps the Movement's greatest achievements.

to play with Behar's two children. The children carried this instruction with them into the village school, where they polarised the small school population. Nexhat blocked the stream which flowed across his land to Behar's, drying up the water supply Behar used to irrigate his subsistence crops, which failed. With no money to buy food from the markets, Behar's household became dependent on hand-outs from his extended family, who were themselves struggling to make ends meet. This extended family resented Nexhat's stopping the water supply as it had a direct impact on their material well-being. Relationships deteriorate between Behar's immediate and extended family, and between Behar's extended family and Nexhat.

Behar's brothers owned the small general store and tea shop in the village, and refused to serve members of Nexhat's family. To buy basic household necessities, Nexhat's family had to travel three miles to the next village, or five miles to the nearest town. Through their exclusion from the tea shop, the men of Nexhat's family were excluded from the male social life of the village. Some of Behar's younger nephews started following younger members of Nexhat's family 'to try to persuade Nexhat to be reasonable' and, over the following three months, there were several violent incidents.

Nexhat's prospective son-in-law heard a rumour that Nexhat had no dowry for his daughter because Behar was refusing to repay a loan, and which he believed jeopardised his forthcoming marriage. He went to talk to Behar but, on arriving at the house, found only Behar's elderly and frail parents at home. They did not invite him into the house, but he demanded entry, finally pushing past the elderly man into the house to wait for Behar. This violation of his house and the assault on his

father, by Nexhat's prospective son-in-law was an intolerable insult to Behar's personal and family honour.²³⁷ Behar gathered his brothers, and went to Nexhat's house to protest, during which one of Behar's brothers was badly beaten by Nexhat's family. This brother's son had gone to school with Nexhat's prospective son-in-law. Incensed by the assault on his father at Nexhat's house, and the violation of his uncle's house and assault on his grandfather, he gathered some of his male cousins and, armed with metal bars, they went looking for Nexhat's prospective son-in-law. Aware that Behar's relatives were looking for him to beat him, Nexhat's prospective son-in-law remained shut in the safety of his home.²³⁸ His father contacted Nexhat, and demanded he rectify the situation. Nexhat was a member of the LDK and, through party colleagues, contacted his local Conciliation Council to report the 'disturbance' and to ask for their help.

This example shows how rapidly a dispute can move from being a one-to-one dispute about a single issue (Nexhat-to-Behar about the repayment of a loan), to a many-to-many dispute in which multiple wrongs are experienced by multiple actors. It also illustrates that an open dispute is an evolving process rather than an incident. The gravity of the wrongs broadly increased over time, and were stoked by intermediary, less serious, incidents. This pattern is not unique to Kosovo; Hans Nielsen has traced a very similar dispute-trajectory in Upper Egypt (2006: 138–43). There is something of the hydra about the dispute; the response to each incident has

²³⁷ This principle is as clear in the *Kanun* as in contemporary social practice: 'No-one may enter the house without giving notice of his presence in the courtyard' (Gjeçov 1933[1989]: 60, Art. 134), 'Call out and, if no-one replies, either stand and wait or go about your business' (*ibid.*, Art. 135), 'If the door is pushed and opened, the house is considered violated and plundered; a fine of 500 *gros*h is imposed and double compensation for any lost property' (*ibid.*, Art. 136).

²³⁸ A foreshadowing of the 'home prison' of a blood feud, which is discussed below.

the potential to multiply the incidents, draw in more people, and increase the overall seriousness of the dispute. There was broad consensus among all involved that, without intervention, someone would have ended up being killed.

Founding the *Pajtimi i Gjaqeve*

In late 1980s Kosovo, disputes between Albanian families were rife; popular opinion held them to be a consequence of intentional interference by ‘the Serbs’, believed to be provoking intra-Albanian disputes, by means such as providing weapons to some, cooperative (‘treacherous’), families. Here, we can see the recurrent theme that there is an ‘Albanian’ (correct) way to behave, and contrary instances are often ascribed to external interferences with malicious intent. As Kosovar engagement with Serbian state institutions decreased, they became increasingly dependent on their own communities for all kinds of support; open disputes were rifts and sources of instability within these communities. The *Pajtimi i Gjaqeve* (1990–92), founded by a group of students from Peja and the Dukagjin region, was a Kosovar movement to conciliate intra-Albanian disputes. The germ of the idea came after one particular demonstration, as one of the founders, Myrvete Dreshaj, explained:

Fatmir Ruka [or Uka] from Peja was killed two days before he finished his Yugoslav Army military service. It happened that his family was ‘in blood’, with another family. His parents were proud that Fatmir was killed for Kosovo, but afraid of losing another family member, this time in a blood feud.

It is implicit that Ruka was killed by ‘the Serbs’ during his national service. Yugoslav national service posted young men away from their home republic or province and, in Kosovo, at this time, it was widely believed that Albanians posted outside Kosovo were at particular risk of being killed while carrying out their

national service, with such deaths then described by Army authorities as ‘accidental’ or ‘suicide’. The extract introduces the language of talking about blood feuds; to become involved in a blood feud is described as to *bie në gjak*, [to fall into blood], and a family involved in a feud is ‘in blood’ [*në gjak*]. ‘In blood’ has been recorded since the earliest documents which presented Albanian feuding in its own terms (Durham 1909[2000]: 155, 170), a state northern Albanians understood to have its own social kinetic energy. Ruka’s parents voiced the popular Kosovar understanding of a death at the hands of the Serbs as an heroic sacrifice for the nation or country.²³⁹ This understanding proved central to the Movement’s operational approach as it sought, through its actions, to counter claims broadcast by Serbian state media (Tanjug):

[e]very night the Serbian ‘Tanjug’ news declared that Serb forces were not present in the demonstrations in Kosovo and that Albanians were using these demonstrations as an excuse to kill one another.

This illustrates Kosovar Albanian awareness of the Serbian media, and sensitivity to its depiction of Kosovars.²⁴⁰ The ‘demonstrations’ to which Myrvete referred were the growing protests about conditions in Kosovo, linked to increasingly strident demands for full-independence, discussed in Chapter 5.

In Peja, we met Smajl Leka from Deçan. He was ‘in blood’ with some cousins, but participated in the demonstration about Fatmir Ruka’s death. We met him after the police attacked the demonstration, and he was more scared than the rest of us. He said he had shut all his boys in his *kulla* and come to take part in the demonstration even though he was afraid he was in danger from the family with whom his was ‘in blood’.²⁴¹

²³⁹ This logic is reminiscent of the logic of the Serbian ethno-national myth of the Battle of Kosovo, which explained an earthly defeat as the price of an eternal victory (Bakić-Haydn 2004: 25).

²⁴⁰ This links to earlier discussions about the movement of ideas in the region, and is a reminder that ethnic boundaries or linguistic boundaries are not necessarily boundaries to the movement of ideas.

²⁴¹ A *kulla* is a traditional fortified northern-Albanian house particularly associated with the region of Dukagjin (described in Backer 2003:88). During the 1998–99 war, some 450 of Kosovo’s 500 *kullas* were destroyed or damaged (Herscher and Riedlmayer 2000, and Drançolli 2004) in what

Smajl's story highlights the restrictions a blood feud places on the movement of the parties. Gjeçov's *Kanun* described two models of feuding: in the first, the 'old *Kanun* of the mountains of Albania', the killer was the only legitimate target of the next revenge killing; in the second, 'the later *Kanun*', the feud was extended to all males of the family including infants.²⁴² In late-twentieth century Kosovo, feuding operated somewhere between these two characterisations, on a family-to-family basis but, in theory, limited to adult males. However, the boundary between 'child' and 'adult' was subject to interpretation, and many Kosovar families 'in blood' chose to err on the side of caution, and assumed any male in their family was a potential target. This led to the practice of 'home prison' [*burgu shtëpiak*], wherein a family anticipating a revenge attack protected itself by not leaving the sanctuary of the family home. Leka had 'shut all his boys in his *kulla*' as an act of protection.²⁴³ Informants frequently talked about the economic and social consequences of 'home prison': men could not work their fields, or go out to work, and boys could not go to school or university. Women were unaffected and, in theory, could have substituted for their menfolk but, in practice, often were unable to manage the physical labour of heavy farm work which led to un-worked land,

Kosovars see as an attempt to remove from the landscape evidence of historical Albanian habitation. As an informant from Dukagjin put it 'they [Serbs] wanted to say to their children, in twenty years time: see, this land was always ours. Only churches and monasteries. Because if they can't see our (Albanian) buildings, it would be easy for them to forget us'. Ironically, the same informant later showed me a project he'd done on architecture in Prishtina, which included a photograph of the controversial, unfinished and derelict Orthodox cathedral in the city centre. This had, mysteriously, had the large golden cross photoshopped off the top of it, a source of much embarrassment to him when I pointed it out as it undermined the contrast he often explicitly drew between the intolerance of 'the Serbs' and the tolerance of the Kosovar Albanians.

²⁴² Gjeçov (1933[1989]: 172, Arts. 898–9), and (*ibid.*, Art. 900).

²⁴³ His use of 'boys' does not necessarily mean that his sons were children; parents of adult male offspring often affectionately refer to them as 'my boys'.

and consequent hunger for the family. In addition, more traditional families were reluctant to allow the women un-chaperoned movement outside the home as it would reflect badly on the family, and the deteriorating security situation made many families reluctant to send their women out of the home or immediate village, for fear of the police and security services.²⁴⁴

After the third or fourth demonstration, we went to the house of Adem Grabovci, and talked concretely about ideas which until then had just been ideas. We talked about how to organise them. We were: Hava Shala; Ibrahim Dreshaj; Myrvete Dreshaj; Lulzim Etemaj and Adem Grabovci.²⁴⁵

‘To talk concretely’ is a common expression in Kosovo, which differentiates ‘real’ planning from speculation; ‘talking concretely’ substantially changes what is being discussed from an ‘idea’ to ‘action in progress’. These five founders, two women and three men, were all former political prisoners and all students, which gave them a particular position and authority within the social hierarchy, based on the potent combination of the ideas that the nation was in their debt as they had suffered for their patriotism, and that they were socially superior owing to their level of education.

That evening, in Adem’s house, we discussed all the elements of the movement and concluded we knew the spirit of the nation, and that people would want to support the Movement, and show the Serbian police and security services that we don’t kill each other when we are in danger from an external population.

²⁴⁴ In Albanian, *dërgo* [send] or *lejo* [permit or allow]; both terms are used in this context by men and women, and show the decision was made by the family or the *zoti i shpis* [head of the house], not by the woman or women in question.

²⁴⁵ All had been political prisoners, and all had been convicted at the Circuit Court in Peja. Sentenced under Article 136/1-114 of the Criminal Code of Yugoslavia (CCY), ‘Counter revolutionary injury to the social regulations of the state: Adem Azem Grabovci, b.1960. Student. Peja. 16 July 1984 to 5 years imprisonment (Keçmezi-Basha 2009: 327); Hava Shala b. 1966. Pupil. Raushiq. 30 May 1985 to 5 years imprisonment (*ibid.*:331); Lulzim Etemaj. b. 1965. Student. Staradran. 11 July 1985 to 3-6 years imprisonment (*ibid.*: 332); Myrvete Dreshaj. b. 1966. Pupil. Peja. 30 May 1985 to 5 years imprisonment (*ibid.*: 331).. Sentenced under Article 136/2-112 of the CCY ‘Enemy propaganda’: Ibrahim Dreshaj. b. 1961. Nabërxhan12 August 1982 to 5 years imprisonment (*ibid.*: 321).

‘Spirit of the nation’ [*shpirt i kombit*] is the Albanian translation of the Romantic German ‘*Volksgeist*’, Myrvete’s comment indicates some continuity of thought between this and the earlier periods of Albanian nation-building. Her comment about not ‘killing one another when endangered by an external threat’ refers to the historical practice of suspending intra-Albanian feuds when faced with an external enemy, and shows the contextualisation of the nascent Movement as the continuation of a national historical phenomenon.²⁴⁶ The extent to which historical feud suspensions were effective, and how long they held, is unknown. While agreements to suspend feuding may have been made in the presence of literate men (and thus recorded), feuds themselves happened out in the population and were not routinely recorded.

We needed to homogenise the people of our nation and our [national] fear at that time was great, but it was important for us not to be afraid of the occupiers, and to work out a means of resistance. At that time there was only the LDK [Democratic League of Kosovo]. It was a peaceful movement, whereas our Movement and work were not always peaceful. However, after two or three months they began to join our Movement. We cooperated with the LDK because they were already organised in every municipality and we could use them to identify people ‘in blood’.

This emphasises the speed with which the LDK had established itself in Kosovo. Despite only having been founded in 1989, by the early 1990s, its position was such that founders of the *Pajtimi i Gjaqeve* saw it as a potential strategic ally with a well-established infrastructure. Its involvement would also have lent the nascent Movement considerable authority, as the LDK was rapidly establishing itself as the legitimate political authority and voice of the Kosovar Albanians.

²⁴⁶ Examples of such suspensions were discussed in Chapter 2, and see ‘*islihat*’, in Chapter 5.

The day after the meeting at Adem's house, we went see to the LDK President in Peja, but he was sceptical and didn't want to help. So, we agreed among ourselves to make a list of families we knew who were 'in blood', and to meet again a week later and compare notes.

The group's idea was to collect details of families 'in blood', to visit these families and explain the damage blood feuding could do, before attempting to broker a conciliation between the feuding parties. This approach explains how the Movement emerged in several places at about the same time (discussed further below): activists functioned as hubs for their social network and geographical region, and work started simultaneously from several different hubs.

A week later we met again and decided to go to Smajl Leka's house in Lumbardh on 2 February 1990. This was our first action. We stayed for some hours talking in his house but it was difficult. Smajl was older than us, and no conciliation was reached although we parted as friends. After we left, we analysed the composition of our team: we were very young, and we didn't know the rules of the *oda*. We needed a leader who knew the traditions.

The *oda e burrave* [men's room], usually just '*oda*', was the social heart of the traditional Kosovar house, used for any activity involving guests: social gatherings, listening to epic poetry and songs, receiving guests discussing disputes. The hearth was usually farthest from the door, with floor cushions arranged around the walls. Seating and speaking in the *oda* were strictly hierarchical, and presided over by the Head of the House [*zoti i shpis*]. Women had no access to the *oda* and its activities, and even refreshments for guest were usually served by young boys of the family. Young males in the *oda* were expected to listen to their elders, and not to speak. This was problematic for the founding activists, all of whom were young, and two of whom were female. Myrvete's claim that 'we didn't know the rules of the *oda*' is not literal; the students did have a general knowledge from which they knew they would not be accepted into, or within, the *oda* according to its rules. They needed a socially acceptable and authoritative figurehead and leader; they identified the

academic folklorist Prof. Anton Çetta (1920–95, see Photograph 4, below), and approached him through the historian Prof. Zekeria Cana (1934–2009).

Prof. Anton Çetta was well known and a great intellectual; we also thought of another intellectual who could keep up our morale in the resistance: Prof. Zekeria Cana, President of Human Rights.²⁴⁷ We knew him not only as an historian but also for the courageous declarations he had made in many press statements in 1989–90. We travelled from Peja to Prishtina to meet Prof. Cana, and told him about our mission. He became very emotional at the idea and agreed to participate without any hesitation, saying ‘I am with you, in work, in prison, on the road, wherever’. With Prof. Cana, we went to the Institute of Albanology and met Prof. Çetta, and we talked once more about all the ideas we had discussed at the houses of Adem Grabovci and Ethem Çeku. Prof. Çetta promised he would support us and be with us.

Çetta was a founding member of the Institute of Albanology in Prishtina, and was well known in Kosovo for his work since the 1960s, collecting and documenting folk stories and customs, such as his two volume ‘Folk stories from Drenica’.²⁴⁸



ANTON ÇETTA – "BABAI I PAJTIMIT"
Photograph 4: Anton Çetta, ‘Father of the *Pajtimi*’
at a conciliation²⁴⁹

²⁴⁷ ‘Human Rights’ is an abbreviation for ‘The Council for the Defence of Human Rights and Freedoms’, founded in December 1989 to defend, and advocate the promotion of, human rights in Kosovo. From its inception, its activists bore public witness to human rights violations; these were the ‘courageous declarations’ Cana made in the media.

²⁴⁸ I discussed this networking approach to making new contacts in Chapter 1.

²⁴⁹ With thanks to Don Lush Gjergji for the photograph.

We made an agreement with the Professors that we [the youth] would work from Monday to Friday on the identification of cases and families. We would visit [these houses] as groups of youth, to inform the families of our mission, and to inform them that on Saturday and Sunday we would come back with both Professors.

The *Pajtimi i Gjaqeve* was a two-level operation: the students did the groundwork of identifying families who were ‘in blood’, made an initial visit to introduce the Movement, and establish whether a family was open to conciliation. If this meeting went well, the students returned at a later date with the Professors, who negotiated with the family, and sought their agreement to a public conciliation of the dispute.

The following Saturday, we went back to Smajl Leka’s house with the Professors, and stayed there all the day. By coincidence, that week the nephew of Smajl had been badly beaten by the Serbian police. That gave rise to our statement of purpose: When the ‘occupier’ is killing us, we shouldn’t harm one another. 32 graves have been opened by the actions of the Serbian police; we would ‘leave closed’ a further 32, by not killing one another. This time we were successful.

This shows the rapid incorporation into the national mythology of the deaths of 32 Albanians at, and after, demonstrations of 1989–90. The founding students and Professors were alert to the persuasive power of this, and actively fostered popular stories about the Movement and its work.

During our two years’ work, we told every family we visited our statement of purpose, and it touched them all, even those who didn’t want to forgive. We were young and enthusiastic in our war for freedom and we used this statement, and other elements, to our advantage. People conciliated in the name of Kosovo, of the flag, and of the martyrs.

This is the crux of the *Pajtimi*, the realignment of deep-rooted cultural concepts using what Kosovar Albanian academics describe as ‘ethno-psychology’.²⁵⁰ Families ‘in blood’ were persuaded that the most powerful way of honouring the

²⁵⁰ Interviews with the ethnographers Zymer Neziri, and Emin Kabashi, at the Institute of Albanology, Prishtina.

memory of a dead family member, and bringing honour to their family, was not through revenge killing, but by forgiving in the name of greater, national, goods. The three ‘keys’, in the name of which people forgave – the land, the flag, and the martyrs – were a potent combination of symbols.²⁵¹ There was some variation between conciliations; while these ‘keys’ were the most common, others included ‘the youth of Kosovo’, ‘the future of the nation’ and the teachings of religion. The *Pajtimi* played an important role in establishing and developing a ‘national’ symbolic framework, which was important because

the field of the symbolic is itself the greatest and richest empire which politicians and their generals, priests and poets conquer in salvos of words, volleys, sermons and verses. The power to which they aspire, later to revel in, is in fact power over symbol (Čolović 2000: 1).

According to the cultural logic of the *Pajtimi*, refusal to conciliate in the name of these three ‘keys’ was to declare that you attached no priority to the future of your country (Kosovo) or your nation (the flag), and did not recognise the sacrifices made by ‘martyrs of the nation’. Considerable coercion was used to ‘encourage’ conciliation, which employed images of inclusion and exclusion: you were on this side of the river, or that; your family’s name would be recorded in a white book, or a black book (see Chapter 7 for further discussion). This coercion, popularly seen as legitimate (Weber) on the basis it reflected the will of the people, lent the movement some of the patina of state activity. Here were those who refused even to attempt to conciliate, there were disputes where conciliation was attempted and failed, and there were disputes which were conciliated but the conciliations did not hold. Such instances are not discussed in the contemporaneous or commemorative

²⁵¹ ‘The flag’ referred to here is the national-Albanian flag, a red background with a double-headed black eagle in the centre foreground, which is also the flag of the Republic of Albania.

material I saw, and were never raised by my informants, but could be glimpsed through questions. Even then, there was unwillingness to talk about such instances, and rarely progressed past agreement in principle that such things must have happened on occasion (for exceptions to this, see Chapter Seven). In considering the ‘narrative lacunae’ he encountered when his informants talked about the 1936-39 pro-independence Arab rebellion against colonial rule in mandate Palestine, Swedenburg finds they ‘balked at relating stories about rebels’ involvement in activities like assassination, robbery, or clan feuds’ which he attributes to ‘the desire not to tarnish the luster of this central national symbol and forerunner of today’s liberation movement’ (Swedenburg 1995: 24f.)

As the activists saw it, the link between the liberation of individuals from a dispute, and eventual liberation of the nation from illegitimate and repressive Serbian domination was being made explicit:

Professor Anton Çetta always wanted to strike a balance between the human and political sides of the *Pajtim*. He always said it is very human to forgive, it is a great act: it frees your heart, and releases the family to be educated and to walk about freely.

The core of Çetta’s message was that in turbulent times, when much else was out of their control, Kosovars could make choices about feuding, and that to conciliate a feud, liberated Kosovars from self-inflicted imprisonment, poverty, and isolation within their own communities. Factors such as these were routinely invoked by activists and organisers to increase social pressure on Kosovars to conciliate; to do so was to accept the vision of society held by the organisers and, later, the LDK.

Dispute conciliation

Making contact

Contact between families and the *Pajtimi i Gjaqeve* movement was usually initiated by members of the Movement, on the basis of its research, as described above, which heavily on existing networks of local knowledge. The party to the dispute contacted depended on existing relationships between activists and families. Contact could also be initiated by one of the disputing families, usually that the one in ‘debt’, that is, the family which stood to lose by the next step in the dispute. As the Movement developed a reputation among the population, this became increasingly common; Myrvete Dreshaj identified a public meeting called ‘*Verrat e Llukës*’ (discussed below) as having been the tipping point:

[b]efore then we had to knock on doors. Afterwards, people started to organise themselves. For example, some people in a village knew of a case, they went into the house, did their own preparation and then invited the Professors for the final act. At the same time, we were asked to help in other areas such as ‘misunderstandings’ [*mosmarrveshje*], woundings, girl-stealing [*grabit vajze*], and so on.

The Movement’s authority was built on increasing: public knowledge of its successes; numbers of high-status individuals becoming involved in it; public awareness of those high-status individuals involvement and endorsement; and social pressure to conciliate disputes, on the understanding not to was actively to stand against the national interest.

The process of conciliation

We went to one family at a time, to talk about finishing their dispute. Usually, we didn’t bring the families together until both sides had agreed to end it – that would have risked making the situation worse! The only acceptable conclusion to a dispute was complete, unconditional forgiveness.

The dual aims of the conciliation process were to achieve consensus within both families in favour of conciliation, and to achieve agreement publicly to conciliate the dispute. There was considerable variation in the difficulty and duration of these two tasks, depending on the nature, context and duration of the dispute.

When we [activists] arrived at a house, the family would be waiting for us. Normally, some of them would wait outside the gates, and the rest would wait in the courtyard. We were properly welcomed [see Photograph 5, below] and then taken into the *oda* for the discussion.



Photograph 5: Delegation led by Mark Krasniqi (front right) being welcomed on arrival for a conciliation²⁵²

In the *oda*, it was usually just [us and] the men of the family [see Photograph 6, below]. The *zoti i shpis* [head of the house] would make a formal speech of welcome, and other elders of the family might also say a few words. Then Prof. Çetta would speak, explaining why we were there, the mission of the *Pajtimi*, what it meant to the youth of the nation and our future. Other elders among the visiting party spoke: sometimes an *imam* or a priest, and they would use examples from religion to show that it was good to forgive.



Photograph 6: Negotiation in an *oda* with Mark Krasniqi (left)²⁵³

²⁵² With thanks to Muhamet Pirraku for the photograph.

²⁵³ With thanks to Muhamet Pirraku for the photograph.

In the *imams* pictured in Photographs 5 and 6, we see the instrumentalisation of religion for purposes of conciliation. Religious leaders – Catholic and Muslim – made significant and extensive contributions to the Movement’s work, especially at village levels, yet they are largely forgotten in memories of the Movement. It is as though those that held – and continue to hold – the composite memory of the Movement were trying not to let it become a religious movement, by subjugating all to the nation. A notable exception to that was Don Lush Gjergji, whose high profile and central role within the Movement is well remembered. It might be surprising that, in a majority Muslim country, a Catholic priest is held in such popular high esteem, but in part this seems to be in consequence of his personal connection, through the Church, to Mother Theresa, an Albanian by birth and a national icon. She tried herself to attend the meeting at Verrat e Llukës (discussed below) and was denied travel permission so, instead, sent a very personal message of support to the Kosovars in their conciliation endeavours. There are two further reasons which may contribute to the ‘forgetting’ of the roles of religious leaders and ideas in the *Pajtimi*. First, the idealised nineteenth century nation-building view that ‘the religion of Albanians is Albanianism’ would have been undermined by acknowledgement of the importance of religion to some disputing parties. Second, in the broader political context of the break-up of Yugoslavia, the religion of an individual or group was becoming more publicly equated to the individual or group’s nation. Memories of the Movement which stressed the extent of the involvement of Islamic and Catholic leaders, doctrine and principles could have led to the Kosovars national claim being subsumed in what was being presented by the media across former Yugoslavia as ethno-religious wars (see Blumi 2003c for

discussion of the linking in the Western media – and by extension, policy – of Albanians and Islam)..

Negotiations usually took place in private homes, and the size of the delegation varied. Given that all the men of the disputing family might gather for the negotiations, a substantial delegation from the Movement was necessary to ‘balance’ the *oda* between family and Movement, and demonstrate the seriousness with which the Movement approached its task. The composition of the Movement’s delegation depended on the particular family and dispute, guided by the principle that, on matters of most importance to the disputing family, the delegation should ‘out-rank’ them. Thus, if the family supported the LDK, the delegation included senior LDK representatives. If the family were religious, key religious leaders were part of the delegation; families which stressed their suffering in consequence of the dispute were visited by people who had suffered (if possible) more, or at least as much.

The elders of the family would talk about the damage that had been done to their family. They were in so much pain, they were carrying such heavy burdens. Sometimes they were very angry at what had happened to them. Some of them talked a lot, but most said little; they didn’t need to go into all the details because we understood.

This ‘talking’ was a public statement, and acknowledgement, of the family’s experience and it is clear from my informants that being heard and understood was an important part of the process. From an analytical perspective, it also had a functional importance; as a necessary part of a conciliation ritual, the families’ ‘talking’ gave the Movement representatives ground on which to make their pitch for conciliation. This seems to have been done through strategically reframing the ‘we’ of the family, first to the ‘we’ in this room, and then to ‘we’ the nation. ‘In

pronouncing the ‘we’ the participants meet not only in an externally definable space but in a kind of idea space determined by their speech acts... performative utterances are as it were the place in which the community is constituted and recalls to itself the fact of its constitution’ (Connerton :1996[1989:59]). In the negotiation process:

None of the family would agree to end the dispute until the *zoti i shpis* had agreed to. Privately, some of them would say to us that they wanted to [end it], but that it was his decision. But just because the *zoti i shpis* decided to end the dispute, it wasn’t automatic that everyone in the house would agree. So we had to speak to each member of the family individually; look in their eyes and hear them say that they agreed to end the dispute. Sometimes, this took a really long time. Then we might split up, and go and talk to different people in the house. It was so hard, so many tears were shed. We cried all the time, it was so painful and yet so glorious for the families when they agreed to end a dispute. We visited some families twenty or thirty times, and the most difficult case we visited over sixty times before they agreed to conciliate!

Agreeing to conciliate was a highly emotional process for a family ‘in blood’; they chose to give up their obligation to avenge the blood of their dead family member(s). Even for families with no intention of taking revenge, publicly to renounce the right to do so, and to forgive the blood of a lost family member, was difficult and painful. Movement negotiators describe the decision to forgive especially, but not only, blood as *veshtirë* [difficult, hard], and this very difficulty as having been what gave value to the action of forgiveness. When talking about the loss of a family member in a dispute, the difficulty or pain felt by the family was not necessarily limited to emotional pain or difficulty. Kosovar-Albanian society was still largely a subsistence-agricultural society (although supported in part by remittances from outside) so, as touched on above, the loss of a family member was also loss of labour which could have a significant impact on the socio-economic position of the family, multiplied by the number of people lost. The loss of unmarried men also affected the future of the family in that, for each lost young

man, no bride would enter the family to share the household chores, and no children would be born. That is, a feud could pose an existential threat to the family, be that short-term (further feuding and losses), or longer term (the family dying out through not reproducing).

When they agreed, there was such celebrating. We would have coffee, and share a meal together, prepared by the women of the house. At the meal there were stories and singing and toasts, so many toasts. To the future of the nation, to the youth, and to the honour of forgiveness.

Negotiators and activists often recalled their policy of not accepting hospitality in a house until the family had agreed to conciliate. Northern-Albanians esteem their culture of hospitality, and rituals of hospitality offered to guests. In entering a house as a guest, and then refusing to accept that hospitality, the activists and negotiators deliberately created social tension for the host. The only way to ease the tension, for the host to be able to discharge his obligations of hospitality, was for the family to agree to conciliate their dispute: this put considerable pressure on the disputing family.²⁵⁴

Later, there would be a ceremony of forgiveness, and both parties would come together for the *dora e pajtimit*. Sometimes the ceremonies were big public meetings but often, because of the laws, and risks from security forces, the meetings were held in a private house.

While the traditional logic of the feud understood revenge as an obligation which restored slighted honour, the *Pajtimi i Gjaqeve* inverted key principles of disputes and feuding and took the position that honour was restored through forgiveness, which was an act of great humanity. The emphasis the Movement placed on ‘humanity’ and ‘civilised’ actions had particular resonance for the Kosovars in the

²⁵⁴ This is the *Kanun* principle quoted in Chapter 4, that until the dispute had been conciliated in principle, the table for the reconciliation meal was not set and no food was eaten.

context of contemporaneous Serbian nationalist propaganda which portrayed them as ‘uncivilised’ and ‘primitive’. While previous Kosovar practices of disputing and feuding had allowed for payment of compensation for taking blood (Durham 2000, Midhat Bey 1909), the *Pajtimi i Gjaqeve* took the position that forgiveness had to be unconditional, and prohibited payments of blood-money. As well as reversing some of the traditional logic of disputing and feuding, the *Pajtimi i Gjaqeve* reversed three traditional principles of dispute conciliation, which were: dispute conciliation was a local concern; public dispute conciliation was conducted by men; and public dispute conciliation was conducted by elders. Before the *Pajtimi i Gjaqeve*, dispute conciliation was essentially a very local process, although there was scope for it to be broadened, should additional people or expertise be needed. One elder described to me how, if a dispute is a stone dropped into a pond, the less the ripples are allowed to spread, the better; the *Pajtimi i Gjaqeve* changed this by introducing external, high-status, actors into the process. Bringing in authority figures from larger segments of the group, was similar to the pattern of arbitrator-appointment for disputes in the Yemen described by Dresch (1984), where, in an intra-section dispute, a shaykh could arbitrate; in an inter-section dispute between individuals, a shaykh from each section was required to arbitrate; and in a dispute between two whole sections or tribes, an external arbitrator would be found (1984: 39f.). In Kosovo, introducing external actors associated with ‘the nation’ and ‘the national interest’ into the *oda*, made ‘national business’ of what had previously been ‘family business’; this strengthened the perception of the nation as the largest instance of the family, a perception which then imposed certain obligations of protection on its members. The *Pajtimi i Gjaqeve* introduced participants into the *oda* who would, traditionally, have been considered too young to be in the room or

to take an active part in the discussions. This was a change from the traditional strict age hierarchy observed in Kosovar society, evident in an informant's description of his father's *oda* in the late 1980s:

my father was the *kryetar* of [the south-western village of] Celina, and so people came to the *oda* in our house. My father would sit at the top of the *oda*, and everyone else would sit in order. I was very young, but I was allowed to sit by the door and serve tea. Only my father, and one or two senior men spoke; everyone else would listen quietly, but later they would talk over and over about what had been said, to understand what it meant. We learned to be men through listening later discussing what we had heard.

'Sitting in order' means to sit arranged in decreasing social seniority from the *zoti i shpis* to the youngest present, and allows the accommodation of guests 'above' members of the family. Finally, there was the place of women in dispute conciliation. Traditionally, women had not participated in feuding or in the conciliation of a feud. The *Pajtimi i Gjaqeve* took a quite different position, as Myrvete Dreshaj noted with considerable glee:

[w]e young people didn't have any hang-ups although it was very difficult for the *zoti i shpis* to receive us, as women were not traditionally allowed in the *oda*. At the beginning, me and Hava Shala [another female founder] knew it would not be easy and we had to find humour in many situations: men would not give us their hands to shake, and we were asked to sit behind the spines of the old men in the *oda* so it could be said that women were not inside the room.

The team developed an approach that, when such a situation arose, the women [in the team] would talk more in the *oda*. It was very difficult, and we were talking very powerfully.²⁵⁵ I saw many times that, when I was talking, an old man would turn round very gradually [on the spot] until eventually we were face to face [*ballë për ballë*].²⁵⁶ And when we reached an agreement, the older people who had initially ignored us were made first to ask forgiveness of me and Hava, their sisters, before the blood settlement could be made.

²⁵⁵ That is to say, in a particularly 'masculine' manner.

²⁵⁶ Physically, this is quite confrontational of both parties; the literal translation is 'forehead-to-forehead' and, in context, carries something of the English phrase 'to lock horns'.

This was as much social engineering as the conciliation of a dispute. Held against the usual practices of the *oda*, the women's actions, and those of any men who endorsed them, must have seemed extremely rude to the elders, as they violated the *oda's* principles and practices. In addition, participation in the *Pajtimi*, which carried with it for some ideas of contributing to the development of a Kosovar legal system, for the elders was to participate in the erosion of their own authority and legitimacy. This erosion of Elders' authority at local levels led to the erosion of their local status and power, which was to the benefit of the emerging Kosovar state, in the form of the LDK.

Disputes and categories

The *Pajtimi i Gjaqeve* categorised disputes as 'blood', 'wounding', and 'disturbances'. The term 'blood' [*gjaqe*] described a dispute in which a person or persons had been killed, whether or not there had been intent. 'Blood' is a powerful symbol in northern Albanian culture, and a family's loss of blood through the killing of one of its members, brings shame to that family. Traditional rhetoric, exemplified in the *Kanun*, held that the shame could only be removed if the loss was washed away through an action of revenge. The *Pajtimi i Gjaqeve* substituted for this cultural value an alternative message which said honour could be restored through forgiveness; in the oft-quoted words of Anton Çetta, 'He is not honourable who commits a crime, but who extends the hand of forgiveness'. Çetta's aphorism also suggested that far from a feud-killing being legitimate, it was simply 'a crime', which was, of course, to draw on a category associated with the state. The second category, 'wounding' [*plage*], described a dispute in which a person or persons had been wounded by either a gun (a 'hot' wounding) or a knife (a 'cold' wounding). The third category, 'disturbances' [*ngatërresa*], covered all disputes which were

not 'blood' or 'woundings'. This could mean any physical assault which did not involve a gun or a knife, and also covered disagreements between families, including land and boundary disputes, ownership of or access to resources (e.g. water), and divorce; and business disagreements, including loans and loan repayments, the purchase of equipment, questions of ownership and part-ownership. The substance of some of these disturbances somewhat resembled the Roman delict of *inuria*, the essence of which was insult (Nicholas 1962: 218). Whatever the initial cause of the dispute, it was the insults to honour which propelled it forward, and which needed to be satisfied. Movement organisers told me that, although they talked about three separate categories, it should not be understood as a three-level taxonomy of seriousness, in which 'disturbances' were the least serious form of dispute, and 'blood' was the most. Instead, they explained the categories as three points on a path: a dispute, however trivially it began, was carried by its own energy along the path towards 'blood'. Seen this way, a 'disturbance' was both an incident in its own right and a blood feud waiting to happen.

Pajtimi i Gjaqeve and state law

Informants stressed the inability of Serbian state law or the legal system to conciliate a dispute as 'a court can make a legal decision, but not solve the problem'. The categories of 'wrongs' in state law, and the remedies at its disposal, were both inadequate fully to address a dispute because the dispute arises from, and is embedded in, a system of social organisation and cultural logic entirely different from the social organisation and cultural logic of the state. Punishment by the state does not address the satisfaction of honour, as nothing flows to the victim or the

victim's family. State law was also ill-equipped to conclude disputes because of the view it took on the parties to an incident or dispute. The citizen is the basic social unit of a modern state, and law in a modern state is structured on the basis of relationships between the state and its individual citizens. The logic which flows from tribal social organisation – albeit idealised – is different. In Kosovo society, the family is the basic social unit, and customary practices of disputing are structured on the basis of relationships between families. As illustrated at the beginning of this chapter, a dispute may be broad, and have many simultaneous 'fronts', as multiple members of the disputing parties may interact, or chose not to interact, in multiple incidents. As the Behar/Nexhat dispute illustrated, there were multiple aspects of that dispute which state law could not have 'seen' and, therefore, could not have addressed or redressed.

Spread of the Movement

After Smajl Leka's dispute was conciliated in early February 1990, the Movement spread quickly and widely throughout Kosovo as the activities of the last week in February show. On Tuesday 20 February, the state introduced a curfew from 9pm-4am, and forbade movement in groups, and demonstrations and gatherings in public places. On Friday 23, at the funeral of Sahit Shala, killed at a demonstration on 30 January, the Shala family from Kroikova of Glllogoc²⁵⁷ and the Krasniqi family from Caralluka of Malisheva (E9, this and subsequent grid references are for Map 5), were conciliated.²⁵⁸ Some 3,000 people attended the meeting, which was led by

²⁵⁷ This village name does not appear on post-war Kosovar maps.

²⁵⁸ Today, 'Glllogoc' is called 'Drenas'; it is a small town at the foot of the Drenica valley, in the district of Prishtina. See the note in the Introduction on pragmatic naming, and the Glossary.

the *imams* of the six mosques of central Drenica. Over the weekend of 24/25 February, activists of the Movement brought about conciliations of blood and disturbances in Raushiq, Broliq, Logjë, Kotradiq, Lutogllavë, Budisalë, and Strellc.²⁵⁹ Monday 26 February saw the first conciliation by the ‘Youth Campaign for the forgiveness of blood’ in Njëpërbisht (E9), a village of the south-central town of Suha Reka (F9); and in Ferizaj (G9) at the Technical High School, Mustafë Gashi proposed to the Student Union that a ‘Council for the Conciliation of Blood Feuds’ be founded. The proposal was accepted and the council formed. On Tuesday 27 February, in Vushtrri (F7), the Conciliation Council of the Municipality of Vushtrri, led by *Haxhi* Feriz Zekolli, inaugurated the ‘Campaign for the Forgiveness of Blood, Woundings, and Disturbances’, with the forgiveness of 65 people (Pirraku 1998: 45).²⁶⁰ On Wednesday 28 February, in Llaushë of Skenderaj (E7) the brother of Selman Vojvode, who had been killed at the demonstration of the 20 February 1990 in Mitrovica, forgave his blood. This conciliation was achieved by the Northern Drenica Council. On Thursday 29 February, the *Rilindja* newspaper reported that many bloods had been forgiven in the Dukagjin region. This is not an exhaustive list of activities; it charts those recorded in diaries, newspapers, and available Council records, which led to a successful conciliation.

How the movement spread

As this sketch suggests, the Movement emerged concurrently in different towns and geographical regions. Founders and activists commonly talk about the process as

²⁵⁹ These seven villages do not appear on post-war Kosovar maps and most are Albanian spellings of Slavic sounding names, so were probably renamed after the war.

²⁶⁰ *Haxhi* is an honorific applied to Muslims who have made the *haxh* [hajj] pilgrimage to Mecca.

having been one of ‘infection’ and of the Movement as a ‘virus’, both terms borrowed from epidemiology. To explain this spread, it is helpful also to borrow from epidemiology the idea of a ‘vector’, an agent which transmits an infection from reservoir to host. There were four main vectors for the spread of the *Pajtimi i Gjaqeve*: students and young people; former political prisoners; the Institute of Albanology; and the media.

Vector 1: Students and young people

Students and young people were a significant proportion of the population of Kosovo, and in the academic year 1991/1992, there were 19,620 students were enrolled at U.P. (Koliqi 1995: 200), which, as discussed above, was both born of politics, and highly politicised. They had been greatly affected by the changes to the education system in Kosovo in 1988-90, in particular the significant changes at U.P. Hajrullah Koliqi, the educational historian, has described these changes as the ‘Serbianisation’ of the University. He concluded that by the end of 1991,

the University of Prishtina was Serbianised, the administration was Serbian, there wasn't a single Albanian student nor any teaching in the Albanian language ... by the end of 1991 the University of Prishtina had expelled 862 Albanian members of staff, 770 of whom were academics, and 92 of whom were administrative or technical staff (1995: 34f.).

His 1995 monograph on the history of the University listed the names and departments of the 30 Kosovar Albanian members of staff who continued to work with the ‘Serbianised’ university (*ibid.*: 117f.). Clearly, this was intended as a public black list and I will refer back to it in the next chapter, during a discussion about the *Pajtimi i Gjaqeve* documents. In consequence of these changes, the Kosovar Albanian element of U.P. (which the Kosovar Albanians understood to be

the ‘legitimate’ or ‘real’ University) went underground, and operated in private houses. In addition to the practical impact of these changes, the symbolic impact was dramatic. As previously discussed, the idea of Albanian education, *shkolla shqipe*, was emotive and closely linked to notions of nationhood and identity.

The structure of the education system in Kosovo contributed to students’ capacity to act as a vector. It was organised in such a way that the further through the system a student progressed, the greater the likelihood he would have to travel to his institution. Primary schools were found in villages and towns, high schools and technical schools in towns and regional hub towns, and a university only in Prishtina. Most students had to travel regularly between their homes and place of education and despite the tense political climate and increasing restrictions on freedom of movement, such student journeys remained legitimate. This gave students greater than average freedom of movement around Kosovo until at least the end of 1991, movement which was the *Pajtimi i Gjaqeve*’s primary vector. Through the university and other educational institutions, students had access to the *Pajtimi*’s ideas, connections with people from across Kosovo, a legitimate place and reason to meet, and a sense of belonging to a corporate body. More broadly, there was an established social hierarchy which venerated elders but also was fiercely determined that the young were the nation’s future: ‘the University was the hope for the future of Kosovo and Albanianism’ (Pirraku 1998: 48). The student body was highly politicised and politically active, and the students occupied a unique social position. In their home communities, to some extent they were accorded some of the status of outsiders; great respect was accorded to them for their educational achievements, which enabled them to speak and act differently

from other young people in their communities. At the same time they were also insiders, familiar with the members, relationships and dynamics of their communities, and able to access inside information.

We can see these principles at work in the founding and first conciliation by the Ferizaj Council, drawing on the recollections of Raif Musa, and Valdete Bajrami-Musa, which have now been published electronically (Musa 2010). As noted above, the ‘Initiating Council for the Conciliation of Blood Feuds of Ferizaj’ was founded on 26 February 1990. The members of this council were from different regions of Kosovo, but all studied at the Technical High School in Ferizaj. Through the first two weeks of March, new student members joined the Council, and it invited a Professor to join its ranks. At some point in early March, the Council was alerted to its first case, that of Fehmi Murseli, whose family was ‘in blood’ following the death of his brother the previous year. Through the first two weeks of March, the Council began to work towards the conciliation of this dispute. The speed with which the Ferizaj Council was formed, grew, and conciliated its first blood feud, illustrates the effectiveness of students as a vector, the momentum of the *Pajtimi* even at this early stage, and the popular good will it enjoyed. On 18 March, the Council held its first assembly in the Ferizaj village of Greme (G9). Its assembly was attended by over 500 people and Profs. Shefki Hasani and Selatin Shaqiri joined the Council. There were formal speeches from the ‘veteran of education’ Sadik Tafarshiku; the academic Dr. Liman Rushiti; Shyqeri Hasani, on behalf of the Ferizaj branch of the LDK; Sahadete Hoxha in the name of the Students’ Union of the Technical High School of Ferizaj and Imrane Haja in the

name of the Ferizaj branch of the Forum of Democratic Women, Ferizaj branch. Fehmi Murseli forgave his brother's blood in Council's the first conciliation.

The Assembly was held in a field, at the centre of which was a row of hand-woven rectangular rugs displaying the double-headed eagle, the symbol of the Albanian people (see Diagram 1, below). Around the edges of the rugs sat cross-legged some fifty or sixty people, some wearing the *plis* [Albanian white felt hat, see Photograph 4], who are represented on the diagram below by circles. This set-up replicated, on a grand scale, the arrangement of an *oda*. Around the outside of the seated people school desks were arranged, in a larger rectangle. A person was seated at each of these desks (represented on the diagram below by rectangles). The majority of those seated were speakers: elders of the village and the region; and those representing particular organisations. Behind those seated at desks, stood a large crowd. The crowd consisted largely of younger people, and was three or four people deep at some points (represented on the diagram below by crossed-through circles).

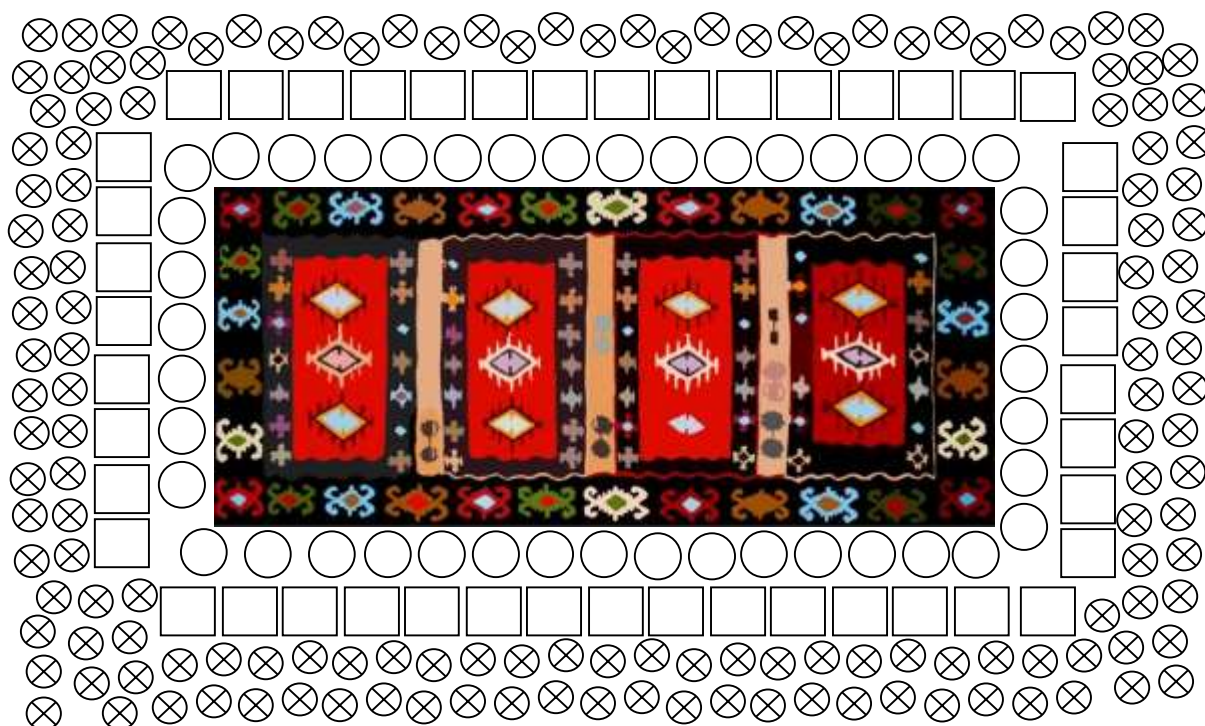


Diagram 1: Seating arrangement for the meeting

Vector 2: Former political prisoners

Throughout the Yugoslav period, Kosovars were imprisoned for crimes they describe as ‘political’; these were either political in nature, or prosecutions and sentences popularly understood to have been politically motivated. ‘Political’ prisoners were detained in standard prisons, alongside ‘regular’ criminals, but they understood themselves to have a different status because they had been imprisoned for maintaining or insisting upon ‘moral standards’ and ‘human rights’, rather than for a ‘crime’. They formed a strong sense of ‘group-hood’ in prison, which continued after their release, and encompassed other ‘political prisoners’ with whom they had not been in detention.²⁶¹ They usually had some active links with,

²⁶¹ Today, in Kosovo, it is quite common to hear someone described as ‘a political prisoner’, not as having ‘formerly been a political prisoner’. Even today, it has ongoing status.

or at least sympathy for, underground political organisations which aimed to change the political status of Kosovo, and collectively were sympathetic to nation-building activities. Despite differences in the details of their political visions, as the *Pajtimi* had no explicit political agenda, they felt able to work together. At the end of their sentences, the prisoners were re-dispersed across Kosovo, which were similar to re-dispersal of the students at weekends and holidays. Prison gave prisoners time and opportunity to meet people and have discussions which would not have been possible in their communities of origin, and which was also similar to the opportunities created for students by university and high schools. Popular understanding saw the political prisoners as individuals who had suffered and sacrificed their time and liberty for the nation. In the eyes of that nation, they carried a great deal of moral capital and the nation was indebted to them. Thus, activists and negotiators of the *Pajtimi i Gjaqeve* were well placed to make demands of, and for, it. As described above, the five founding student members of the Movement had all been political prisoners, as had many staff of both the Institute of Albanology and U.P. who took particularly prominent roles.

Vector 3: The Institute of Albanology

The third key vector was the Institute of Albanology (founded 1967), an independent research institute in Prishtina with close links to the University. It is unsurprising that an Institute consisting of staff dedicated to the study of a national language and culture should have been a symbolic and practical vanguard of nation-building activities.²⁶² Most academic staff of the Institute worked and lived in

²⁶² Later, on 9 March 1994, it was the focus of a ‘forceful eviction from its premises [and] the savage beating of scholars and staff members by Serbian paramilitaries’. Ironically, this was the date marked annually in Socialist Yugoslavia as ‘Teachers’ Day’. The final months before the war in

Prishtina but many were from elsewhere in Kosovo and other Albanian regions of Yugoslavia; like the students they made frequent trips back to their home regions. Almost all were married, which meant that, through their spouses, they had reach into another family and possibly another village, town or area, as well as their own. Institute academics acted as a vector for the Movement through their personal and professional networks.

Vector 4: The media

The fourth vector, the media, operated in a different way. It transmitted information about the outcomes of the Movement's work, contributed to a growing popular awareness of the Movement, and a growing sense of the importance and scale of the Movement. In the tense political circumstances of the time, the media could not publicly give information to the Movement about potential cases, lest such information draw the unwanted attention of the security services, but journalists were able privately to pass on any relevant information and publically to report on meetings. The idea of 'national' media reporting on 'national' topics was important to activists.

Although I have identified four vectors as key to the Movement's rapid and broad spread, in practice these were less discrete categories, and closer to a Venn diagram, with many individuals falling under more than one heading. For example, Myrvete Dreshaj was both a student and a political prisoner; and Zymer Neziri was a political prisoner, and a member of the Institute of Albanology.

Kosovo saw 'the wilful destruction of much Albanian folklore materials and recordings' by Serbian forces (Elsie 2004: *xiv*).

The public apex of the *Pajtimi i Gjaqeve: Verrat e Llukës*

The *Pajtimi i Gjaqeve* was presented as, and widely understood to be, a unique phenomenon, made necessary and possible by the particular political and social circumstances in Kosovo in the early 1990s. But it was also the latest instance of a pattern in Albanian history, in which armed conflicts with forces external to the nation were preceded by a period or event of Albanian national conciliation. Three instances of this at key points in Albanian history were discussed in Chapter 2: the Skanderbeg instance (in the late-fifteenth century); the League of Prizren instance (1878); and the historic *Verrat e Llukës* instance (1910).²⁶³ These examples were frequently mentioned in interviews I carried out with organisers and activists, in testimony collected during the Movement's work, and in subsequent publications and broadcasts.



Photograph 7: The logo of *Verrat e Llukës* (1990), with clasped hands against a background of the Albanian national flag²⁶⁴

²⁶³ These three examples are not exhaustive; in his *Chronicle of the Pajtimi i Gjaqeve*, the Kosovar historian Muhamet Pirraku identified additional examples of widespread forgiveness of blood, woundings and disturbances: *Bushatasit e Tepelenasi*, from the middle of the eighteenth century to the beginning of the nineteenth century; from the First League of Albanians 1828-1831 (between the Tosks and the Gegs); from the 'Besa-Besë' Albanian League (1899); from the Great Uprising of Kosovo (1912); from the Popular *Besa*-binding of Kosovo Albanians 1919-1920; from the *Islihat* Peace of all Kosovo Albanians in the service of the National Defence of Ethnic Albania 1941-1944; in the example of the Political Prisoners in Yugoslav Barracks 1945-1989; and in the example of the Miners hunger strick at the Trepca mine in 1989 (Pirraku 1998: 30).

²⁶⁴ With thanks to L.K. for the photograph.

The public meeting of the *Pajtimi i Gjaqeve* known as *Verrat e Llukës* (italicised to indicate the meeting rather than the place of the same name) or, more fully, *Kuvendi Gjithpopullore të Pajtimit te Verrat e Llukës* [The Popular Assembly of the *Pajtimi* at Verrat e Llukës] (see Photograph 7, above, which visually links ideas of conciliation and the nation), took place on 1 May 1990 near the village of Lluka e Epërm in the municipality of Deçan, in the Dukagjin region.²⁶⁵ Organised by the Conciliation Council and Youth Parliament of Deçan, the intended functional purpose of the meeting was a commemorative ceremony to mark the conclusion of 90 disputes: 46 blood, 25 woundings, and 19 disturbances. Public meetings, such as this one, were not the place for dispute negotiation. In-principle agreement to end the dispute had already been secured through negotiation before a dispute was presented at a public meeting. Informants describe the image of successful resolution as of such importance to the Movement that disputes were chosen for meetings based on the confidence of activists that the parties would go through with the resolution.

The 1 May 1990 was a windy spring day. Despite measures such as police roadblocks, restricted freedom of assembly, a curfew, and random police checks of personal documentation, people flooded to the site from all across Kosovo and several towns in Macedonia; they arrived by car and bus, in packed open trailers

²⁶⁵ Public meetings gatherings like *Verrat e Llukës* were described as *tubim* [assembly, gathering for a specific purpose], and sometimes *kuvend*. A *kuvend* can be a public assembly, for purposes of general discussion, but has an old meaning of an assembly of elders or a district council. There were three annual meetings organised by the Central Committee of the *Pajtimi* were *kuvends*. Today, in Kosovo, the Kosovo Assembly is, in Albanian *Kuvend i Kosovës*. Historically, there was also the *Kuvendi i Junikut* [The Junik Assembly] (21–25 May 1912), attended by some 250 delegates and led by the patriotic activist Hasan Prishtina (see Chapter 2), at which decisions were taken regarding resistance to the Ottomans.

pulled by tractors, and on foot. The site was fenced in, photographs and film footage show tanks and police vehicles around the outside of the fence, and military and police personnel with the vehicles. Some of the photographs show a long column of Albanians passing by the side of the vehicles on their way into the site, their faces turned towards the vehicles and the crowd which lay beyond, giving the 'V' sign with arm stretched out and upwards: a sign of victory and a gesture associated, in Yugoslavia, with Kosovar Albanians.²⁶⁶ Inside the site, a stage had been erected, covered in a traditional Albanian carpet. A public address system had been installed, to amplify the words of the participants to the crowd. Estimates of the number of Albanians who attended the meeting range from 350,000 to upwards of 500,000, more commonly the latter. Once assembled, the crowd stretched as far as the eye could see, packed tightly together. Guests of honour, such as the academics Anton Çetta and Zekeria Cana, sat facing the carpet-covered stage, on floor cushions; further away, people stood in the hope of seeing better and young people scaled telegraph poles for a better vantage point. Families sat together, and other groups clustered together: villages; work-groups; students; Movement activists; and *imams*, identifiable by their headgear. 'Sartorial patriotism' (Swedenburg 1995: 30) was also much in evidence, from the *plis* favoured by rural older men as everyday wear, to full national costume on young boys and girls. Banners with messages of support, and Albanian flags, fluttered here and there in the crowd.

The day started with a formal speech of welcome. Addressing the crowd, the speaker began a prepared speech 'Dear brothers and sisters, today is not a day

²⁶⁶ The equivalent Serb gesture is a 'V' sign with the addition of the thumb, three digits, which some believe to represent the Christian trinity.

for many words, but for great words, because our people is doing a great thing'.²⁶⁷ Guests of honour were introduced, to enthusiastic applause from the crowd. Speeches were made, by organisers and activists, which stressed the honour attached to forgiveness, the difficulty and pain of forgiving, and the future of the nation. After the introductory speeches, the conclusion of disputes began. One dispute was dealt with at a time; representatives of the parties to a dispute – some accompanied by other family members, frequently young children – came in turn to the stage. Some made brief speeches of thanks, while others made only their statement of forgiveness. At its simplest, this was *Gjakun ia falë Kosovës, rinisë dhe kombit shqiptar* [The blood is forgiven for Kosovo, for the youth, and for the Albanian nation]. The statement was followed by the *dora e pajtimit* [‘hand of conciliation’ or ‘hand of forgiveness’], when the creditor shook hands with the debtor; a firm, visible, long handshake, which formally marked the end of the dispute. The crowd applauded loudly, and those on the stage often turned to face the crowd and make the ‘V’ sign with both hands. Returning to the notion of ‘infection’, informants talk about people attending public meetings being ‘infected with the will to forgive’: enthused and persuaded by what they were seeing, some people decided on the spot to forgive an outstanding dispute. The conciliations lasted all day. In the crowd, people shared food, with family, with strangers; men smoked, and shared their cigarettes. Between conciliations, to which most listened with rapt attention, stories were told of personal experiences and stories passed down by grandparents retold of previous *Pajtimis*. Sporadically, Albanian songs broke out and were taken up by parts of the crowd. Records from *Verrat e Llukës*

²⁶⁷ *Po i bën vepra madheshtore*, literally ‘Doing a great act’, ‘act’ here in the sense of ‘action’.

show the number of disputes concluded on that day was greater than had been planned: 62 bloods, 25 woundings and 19 disturbances, in total 106 disputes. After the meeting, as the crowd dispersed, there were confrontations with the police, some of whom wore *kemisha çeliku* [bullet-proof vests, or body armour]. Photographers, including foreign journalists, had film confiscated from cameras, many people were beaten and some were arrested. Subsequently, the Municipal Court in Deçan sentenced 48 people for their participation, and the Municipal Court in neighbouring Peja issued 55 indictments against individuals for having ‘demonstrated with two fingers held aloft in the sign of the letter “V” – Victory’ (Pirraku 1998: 145).

The significance of *Verrat e Llukës*

The importance of *Verrat e Llukës* far exceeded its functional purpose; it condensed and amplified nation-building messages and national symbols. The date and place of the 1990 meeting were significant; 1 May marked the eightieth anniversary of a meeting held at *Verrat e Llukës* in 1910, at which a decision had been taken to continue armed resistance against the Ottomans, so both time and place had national resonance. Also, in the Socialist calendar of Yugoslavia, 1 May was a public holiday, ‘the day of the workers’, which carried some irony given the increasing rates of unemployment among the Kosovars. The scale of the meeting far exceeded any previous gathering of Albanians in Kosovo. Organisers anticipated that a quarter of the population of Kosovo might attend and rough estimates from photographs and film footage suggest they probably met their target. Not only was this the largest ever gathering of Albanians in Kosovo, but it is remembered by Kosovars as the largest ever gathering of Albanians. It was a national event: at

Verrat e Llukës, Kosovars saw with their own eyes not only the conclusion of individual disputes, but also ‘the nation’. To invert Benedict Anderson’s famous phrase, *Verrat e Llukës* was the ‘un-imagining’ of a community; that which had previously been only imagined, was made visible and palpable or, as the Kosovars might say, concrete (see Photograph 8, below).



Photograph 8: Muhamet Pirraku at a *tubim* with activists and participants²⁶⁸

The expression of ‘folk culture’ was politicised in Yugoslavia, and the population attuned to ‘reading’ expressions of folk culture as political statements. The flying of the Albanian national flag, the wearing of national costume, singing Albanian songs and making the ‘Albanian’ V-sign, were all expressions of being ‘Kosovar’ or ‘Albanian’ rather than ‘Yugoslav’. This message continued in the actions and words of those concluding disputes; only the Albanian language was spoken, people were participating by choice, the action they were involved in reflected their (perhaps new) values and priorities. Families, embodied in their representatives on

²⁶⁸ This is not *Verrat e Llukës*, but it is difficult to find good photographs of that *tubim* because most were taken on personal cameras and prints have degraded. In addition, many informants told me that police confiscated any film they found on people going to or from the meeting. This picture, from a *tubim* in Pastrik gives a small-scale impression of the activities. With thanks to Muhamet Pirraku for the photograph.

the stage, willingly gave up claims they had held against other Kosovar families, to guarantee the future of the nation and this new priority was reiterated throughout the day, in the speeches of the disputing parties, and the speeches of the organisers. Kinship terminology created an overarching connection between all participants, and obligations between them to one another; in the opening speech quoted above, the speaker addresses the crowd as ‘Dear brothers and sisters’, and speaks of ‘our people’ [the nation] as a single unit. Anton Çetta was referred to in speeches as *Bac Antoni*; ‘*bac*’ being a regional term used for an eldest brother, father, or father’s brother and, when used before a name, an honorific title. Among the guests of honour was ‘Nëna Drenicës (party to a dispute), the Mother of/from Drenica; the genitive case creating a useful ambiguity.

Nation-building does not take place in a vacuum, it needs to be ‘read’ by others who understand its intended message. *Verrat e Llukës* spoke loudly to the Kosovars, but they were not its only intended audience; the state and the wider world were intended to hear its message:

It will never be forgotten, and should be written down for posterity in golden letters, that glorious assembly of the population of Kosovo of *Verrat e Llukës*, for the forgiveness of blood and disturbances, in which 500,000 Albanians took part, telling the world that the Albanian people is one of the oldest peoples in the Balkans, with an ancient European culture, freedom-loving, and united to fight for the freedom and independence of Kosovo. In this glorious assembly, while swearing oaths in the name of our national flag, in the name of the nation, and in the name of Kosovo, many bloods and disturbances were forgiven. This was a great victory for our national unity (Krasniqi 1995: 334).

This awareness of projecting a message to the outside world is part of the struggle between Kosovar and Serbian views of the *Pajtimi* and the Kosovars themselves. The message was intended for diaspora populations and sympathetic foreigners. This conscious projection continues today; like Swedenburg with his Palestinians

(1995: *xxvii*), I too found myself understood as a conduit through which informants could speak to a broader audience. And, like Swedenburg, I was expected to transmit the ‘correct’ or ‘true’ messages I was receiving: that is, to take the memory, and make history of it: make it ‘concrete’.

Closing the Movement

In early May 1992, the Central Council determined the third Assembly of the Movement would be held on 17 May. A broadcast on the Croatian radio station ‘Radio Zagreb’ on 4 May requested conciliation councils to prepare their documents for the forthcoming assembly; for security reasons, the exact date of the assembly was not announced. Invitations containing the details of the meeting were later sent by messenger, to councils, other honoured guests, and a choir from Gjakova. Among the topics to be covered were discussion and approval of a proposed book on the *Pajtimi i Gjaqeve* 1990–1991; and nomination of its writers and editors for this book (Pirraku 1998: 462), showing there was already a sense of the Movement’s importance to the nation. The closing speeches exemplified the popular understanding of the *Pajtimi i Gjaqeve* as a national movement, and its contribution to nation-building. The activist Musa Berisha summarised its successes as ‘conciliations and the national uprising’ [*ngritje të përgjithshme kombëtare*] (quoted in Pirraku 1998: 390), his terminology drawing parallels with early-twentieth century ‘uprisings’ against Ottoman and Slav rulers. Activists are wont to say that the *Pajtimi* closed because it had completed its work: all the disputes had been conciliated. Despite the unlikelihood of this, the national message was clear: by May 1992 there were no internal divisions in the nation. By extension, any dissent from this position, such as the expression of a dispute, could be

interpreted as ‘anti-national’, something Kosovars were anxious not to appear. In private, members of the Central Council identify an additional reason for the closure of the Movement; they were concerned that money might start to change hands for the conciliation of a dispute, which ran so contrary to the Movement’s ideological stance that it could not be allowed. Implicitly, the Central Council recognised that it was unfeasible to maintain indefinitely the Movement’s momentum on the ground, and its ideological purity.

Record Keeping

There is no evidence to suggest that, in Kosovo, prior to the *Pajtimi i Gjaqeve*, records were kept of blood feuds, or the decisions of the *oda*. The lack of evidence, combined with the general illiteracy in Kosovo, suggest it is unlikely there are undiscovered systematic historical written records in villages, although literate individuals involved in dispute conciliation (such as teachers, Catholic priests, or Muslim *imams*) may have kept personal records. Against this background, the decision systematically to document the work of the *Pajtimi* was a significant change of practice in Kosovo, although it resonated with some known historical practices in northern-Albania.

From the earliest days of the *Pajtimi*, staff at the Institute of Albanology determined that written records should be kept of the Regional Councils’ conciliation activities, and what those records should contain. For the Institute, as a repository of Kosovar Albanian culture, the *Pajtimi i Gjaqeve* was a Movement of cultural and historical importance, an exemplar of Kosovar Albanian culture and actions under the most trying of circumstances, which needed to be documented. The

Pajtimi had the resources to do this as many of its activists had worked, until the mass dismissal of the early 1990s, in professions in which record keeping was a *sine qua non* such as law, education, medicine, and engineering. It was ‘natural’ for them to keep written records. Activists also broadly recognised that a written record of decisions would be valuable in case of future disagreement about the conciliation. Over time, other factors emerged which encouraged the keeping of written records. It became clear to conciliation councils that the act of writing down the process and outcome of an attempt at dispute conciliation was a powerful element in coercing a disputing party to conciliate. People did not want to be ‘written down’ as uncooperative, which equated to being uncommitted to the national cause. Keeping written records carried the threat of recording for posterity, and making public, the obduracy [*inat*] of those who refused to conciliate. There were some disputes which could not be conciliated for want of certain information; this applied particularly to land disputes which required access to cadastral records held by the Serbian state. The most satisfactory outcome available for such disputes was that the parties agreed to ‘freeze’ the dispute until such time as it could be resolved by a ‘competent [that is to say, Kosovar Albanian] Kosovo court’.²⁶⁹ For this to work, there needed to be written records which could be transmitted. To set the *Pajtimi* in its national political context, it took place as the idea of a parallel state (discussed in Chapter 5) was emerging and being consolidated. Keeping formal records of a formal process linked to this emerging notion, and strengthened the sense that what was being done in the conciliations was ‘national’ and ‘official’.²⁷⁰

²⁶⁹ The eventual outcome of this is discussed in Chapter 7.

²⁷⁰ See, also, discussion below of the structural organisation of the Conciliation Council and the LDK in Shtime for an illustration of the gradual convergence of the two organisations.

Zymer Neziri at the Institute of Albanology produced a standard paper form, on which all local activists were asked to document all disputes. In practice, the voluntary and diffuse nature of the Movement meant the Institute could not insist this information was collected or returned to it, thus the comprehensiveness (or otherwise) of the records received by the Institute depended on the preferences and circumstance of the local Councils. In turn, the documentation available to a local Council depended on the preferences of local activists, and the disputing parties themselves, some of whom were hostile to details of their dispute being written down. In 1994, the Institute of Albanology was targeted by Serbian forces and, staff report, a great deal of archive material was destroyed. Unfortunately, as not all material had been formally accessioned, they do not know what was lost, but believe it included some documents related to the *Pajtimi*. In anticipation of such an attack on the Institute of Albanology, the 10 (or 13) ‘Books of the *Pajtimi*’, in which the Institute had collated councils’ data, were sent deep into the Rogova valley for safe keeping. This difficult-to-pass gorge on Kosovo’s western border, is seen by the Kosovars as a bastion of their culture and tradition. Since then, the books have not been seen and there was great reluctance, even from otherwise helpful and forthcoming informants, to help me to find them.²⁷¹ What mattered to my informants was that these books exist, they contain ‘valuable records’, and they are safe – if out of reach – in the Rogova valley. Records which were made were often locally lost, confiscated or destroyed in the events which followed the *Pajtimi i Gjaqeve*, as many central figures in the *Pajtimi* were also heavily involved with other political and quasi-political activities and thus attracted police attention.

²⁷¹ If the books (still) exist, their contents could be quite incendiary; it could well suit everyone that they stay ‘in Rogova’.

Shkumbin Kurti, son of the late Bajram Kurti who led the *Pajtimi i Gjaqeve* in Prizren (discussed in Chapter 7), recalled his father was summoned 'hundreds' of times to the police station for an 'informative talk' (explained in Chapter 5); he also remembered seeing police taking 'boxes of documents' from the family home, documents which, he believed, included records from the *Pajtimi*.²⁷² This resonates with Swedenburg (1995:11f.), who, in a study of Palestinian memories of the 1936–39 rebellion noted that 'private memory is not exempt' from repression; as his informants had 'private papers, diaries, photograph, communiques and other memorabilia' either seized and destroyed by Israeli forces, or by his informants themselves for fear of being discovered. Skender Zogaj, the leader of the *Pajtimi* in the north-central Fushë Kosovo region, was also deeply involved in the LDK and the first mayor of the Fushë Kosovo municipality. During the war his house was burned down by Serbian forces, and all the LDK and *Pajtimi i Gjaqeve* records he had kept in the house were lost. Zogaj's description of the Fushë Kosovo Conciliation Council's documentation was strikingly similar to the Shtime documents (discussed below); when he saw these, his eyes filled with tears and he said emphatically 'Yes! Just like these, we had papers *just* like these ones, with signatures and everything. And *everything* was lost'.

²⁷² Don Lush Gjergji also described being taken for 'hundreds' of 'informative talks' but when I made this comparison between Don Lush Gjergji and his father, Shkumbin said bitterly 'Yes, but my father was just one man. Who outside would notice if he didn't come home?' Shkumbin's comment on the absence of institutional support outside Kosovo for his father (unlike Gjergji, who was backed by the Roman Catholic Church) was not intended to diminish Gjergji's actions, but to elevate his father's contribution to the national cause, by reminding me that he was, in effect, one man against the Serbian state which, quite literally, held over his father the power of life or death.

Gani Shahini's records

I was given a set of 99 documents by Gani Shahini, Head of the Sub-Branch of the LDK for the village of Muzeqin, and Head [*kryetar*] of the Shtime Conciliation Council from its inception in 1991. These documents, produced between December 1991 and December 1997, represent all stages of the dispute-conciliation process, from the filing of an initial statement, to the Council's final decision.²⁷³ Comparable documents were produced by the councils across Kosovo, but today, for the reasons discussed above, all signs point to the Shahini documents being unusual and possibly unique.²⁷⁴ They give us direct insight into the operational side of the *Pajtimi i Gjaqeve*, today overlooked by former-participants and Kosovar writers in favour of the Movement's symbolic dimension.

Overview of the Shtime Municipality

The small Municipality of Shtime (marked on Map 5) lies in central Kosovo, at the intersection of the road from the capital Prishtina to the southern city of Prizren, and the road from the southern city of Prizren to the Macedonian capital of Skopje, via Ferizaj. It covers 134 km², with just under half its land designated agricultural.²⁷⁵ It has 23 settlements: the town of Shtime, sits at a regional crossroads, plus 22 villages. Of the 22 villages, 13 are located in the mountains and hills, and nine are on a plain. According to the 2011 Census, the Municipality had

²⁷³ See Annexe 2, below, for a summary of these documents.

²⁷⁴ I spent considerable time looking, unsuccessfully, for equivalent documents in the municipalities of Ferizaj, Fushë Kosovo, and Prizren; I know now that the Fushë Kosovo documents were destroyed in a house fire, and that (some of) the Prizren documents may still exist somewhere, but I was not able to get any feeling for the Ferizaj documents.

²⁷⁵ Data provided by the Municipality of Shtime, 2012.

27,324 inhabitants, of whom all but 2,244 are Kosovar Albanian.²⁷⁶ Before the war, in 1998–99, some 950 Kosovo Serbs lived in Shtime and some of the surrounding villages; after the war, this was reduced to 14, all of whom left after the 2004 Kosovo-wide anti-Serb riots.²⁷⁷ Informants from Shtime stressed that during the Yugoslav period, there were no state courts in the Municipality; Shtime cases were tried in Ferizaj, Lipjan or Prishtina. At the time of the Movement, Shtime was a small, poor, municipality, through which passed some of Kosovo’s main roads, with a largely ethnic Albanian population and no state legal institutions. For those living in the town of Shtime, the roads made movement and trade possible. In mountain villages, farming was hard, as water and workable land were scarce.

Overview of the documents

Of the 99 documents, 68 were produced by the Council and the remainder were submitted to the Council by members of the public.²⁷⁸ Of the documents produced by the Council, 55 were ‘*proçesverbal*’, minutes of a meeting between representatives of the Council and the disputing parties, which noted the conclusion to the dispute-conciliation attempt and, where the conciliation had been successful, was signed by those present as witnesses. The Minutes were produced by the Council and most were handwritten by a *Proçesmbajtësi* [record keeper], who sat in the room during the discussions, and produced a document to be signed by

²⁷⁶ The Organisation for Security and Cooperation in Europe (OSCE) (2011), noted 1,188 Kosovo Ashkali as resident in Gjurkoc, Vojnoc and Shtime town; and 36 Kosovo Roma, in Shtime town.

²⁷⁷ OSCE (2006).

²⁷⁸ For ease of reference, I have numbered the documents and refer to them by this ‘Document Number’, which corresponds to the ‘Document Numbers’ in the first column of the table in Annexe 2.

participants at the conclusion of the meeting. After the official closure of the *Pajtimi i Gjaqeve* in 1992, conciliation activity in Shtime was subsumed into the mainstream of LDK activities, and more of the *proçesverbal* were typed. This reflects the greater administrative resources of the LDK, and that disputes were often brought to the LDK offices, which had such administrative facilities. Seven of the documents produced by the Council relate to the administration of the Council itself, showing it to have been a formal operation. These include: minutes from a meeting which agreed the need for a Municipal level reconciliation council, and sub-branches (D.4); a membership list (D.5); the formal transfer of responsibility for the reconciliation of a particular dispute from the Shtime Council to the neighbouring Lipjan Council, on the grounds that the Shtime Council was already over-committed (D.20); an announcement to the Shtime Conciliation Council, from the Carraleva village sub-branch that, owing to political circumstances, it was unable to continue its work and was therefore closing (D.58); two undated reports, summarising the disputes reconciled by the Shtime Council, the first covering 1991–92 and the second covering 1992–96 (D.72 and D.73); one report summarising the disputes reconciled by the Petrova sub-branch, between 1991–96 (D.92); and a report summarising the disputes conciliated by the Shtime Council between 1991–96 (D.93). In total, 26 documents were submitted by individuals to the Council, five typed and the rest handwritten. These documents were either a *deklerate* [declaration], which set out the position of an individual; or a *konteste* [statement of dispute], which set out either the cause, or current state of, a dispute. *Deklerate* and *konteste* were legalistic terms being used by laypeople, thus the distinction between the two types of document is not always entirely clear from the content.

Overview of the nature of the disputes

Themes emerge from the 88 documents which describe the cause of the dispute. Disagreements about debt feature prominently as a cause of disputes and account for 20 of the documents (repayment, amount of debt, and terms of repayment). Of these, 12 specify that the debt was a business debt.²⁷⁹ Twenty-one were concerned with the ownership of land and built property, in particular, the right to sell land, the correct process for selling land, and the right to lay new paths or roads.²⁸⁰ Fourteen documents concern disputes about marriage or engagement: resolving marital difficulties, agreeing terms (including compensation) for divorce, and agreeing terms for breaking an engagement.²⁸¹ Eighteen concern a physical fight or a person having been beaten.²⁸² Two cover the conciliation of two families following deaths in traffic-accidents.²⁸³ Seven of the documents relate to the ‘Wallet Incident’ discussed below,²⁸⁴ and six are one-of-a-type incidents.²⁸⁵

²⁷⁹ Documents concerning debt: D.7, D.20, D.32, D.51, D.54, D.61, D.95, D.96. Documents concerning business debt: D.1, D.2, D.8, D.12, D.19, D.35, D.44, D.45, D.53, D.59, D.74, D.99.

²⁸⁰ Documents concerning land and built property: D.3, D.9, D.11, D.13, D.17, D.30, D.31, D.33, D.34, D.40, D.41, D.43, D.55, D.56, D.68, D.76, D.78, D.79, D.85, D.91, D.97.

²⁸¹ Documents concerning marriage and engagement: D.15, D.42, D.46, D.57, D.62, D.63, D.75, D.81, D.84, D.86, D.89, D.90, D.94, D.98.

²⁸² Documents concerning a physical fight, or someone having been beaten: D.10, D.16, D.22, D.23, D.47, D.49, D.50, D.52, D.60, D.64, D.65, D.67, D.68, D.70, D.71, D.77, D.87, D.88.

²⁸³ Documents concerning a death: D.14, D.36.

²⁸⁴ Documents concerning the ‘Wallet Incident’: D.6, D.18, D.25, D.26, D.27, D.28, D.29.

²⁸⁵ Documents which do not belong to one of the broad categories, and a brief description of the nature of the dispute: D.24 (collision between a motor vehicle and a horse-drawn cart, resulting in broken leg to the horse), D.37 (an incident involving an Albanian man apparently being shot by the police), D.38 (theft), D.39 (an Albanian deported from Sweden reporting his return to Kosovo), D.48 (car accident leading to a broken leg and hospital bills), D.83 (the exclusion of a child from a primary school class for bad behaviour).

What the documents reveal

The documents shed new light on key aspects of the *Pajtimi i Gjaqeve* and its work. They documents reveal that the Conciliation Council in Shtime continued to operate long after its ‘official’ end on 17 May 1992 as the latest document in the Gani Shahini set is dated 27 July 1997. Of the 81 documents concerned with disputes, only five are dated within the ‘official’ period of the *Pajtimi i Gjaqeve*. This indicates that the relationship between the Central and Regional councils was less hierarchical than the titles of the councils and the ‘official’ record might suggest, and that the Central Council did not have the authority to ‘tell’ the Regional Councils to stop work, nor any means of enforcing the end of the conciliation councils’ work. The documents also show that while the members of the Shtime Council remained consistent, the title and affiliation of the Council changed over the period 1991–97. The ‘official’ record of the *Pajtimi i Gjaqeve* stated that the Movement was not affiliated to a political party; indeed, political neutrality is often cited as an essential element of the Movement’s success. The Shahini documents show a more pragmatic and flexible picture. In March 1992, a *proçesverbal* was issued pursuant to the ‘LDK Central Conciliation Council’s Statute in Shtime’ (D.17), whereas in October 1993, in another *proçesverbal*, one of the disputing parties thanked the leaders of the Conciliation Council and *also those of the LDK* (my emphasis) for effecting the conciliation (D.10), which suggests that, at this point, the Conciliation Council and the LDK were not universally understood as entirely synonymous. Three months later, in January 1994, a Decision [*Vendim*], was issued by the ‘Conciliation Board of Shtime Municipality, within the branch of the LDK’, which suggests the Conciliation Council had become an LDK activity (D.49). Another document issued by the Council in the same month detailed the

reciprocal return of gifts following the breaking of an engagement, which was to be conducted under the supervision of the LDK; that is, in its state-like capacity, the LDK was enforcing the decisions of the Conciliation Council.²⁸⁶ After the ‘official’ ending of the *Pajtimi i Gjaqeve* in May 1992, the activities of the Shtime Reconciliation Council were subsumed into the activities of the LDK in Shtime. The connection was emphasised by the use of LDK premises for taking statements and for holding conciliation meetings. After the 1991 referendum on the independence of Kosovo, and subsequent election of the LDK ‘alternative government’, the majority of Kosovars held the LDK to be the democratically elected and legitimate government of the people of Kosovo. Therefore, dispute conciliation conducted under the auspices of the LDK was dispute conciliation by the democratically elected authority – in effect, the ‘state’. After the end of the Movement in 1992, the Shtime Conciliation Council of the Shtime Branch of the LDK, had political legitimacy and authority, as well as the national and social capital of the individuals on the Council, and the cumulative legitimacy built up through previous successful conciliations.

The Shtime Council and compensation

The ‘official’ history emphasises that three ideological principles underpinned any *Pajtimi* conciliation: unconditional forgiveness; no compensation; and no exile. However, the Shtime documents – including one dating from the ‘official’ period of the *Pajtimi* – show that compensation did feature in some conciliations, particularly in disputes over business debts, and incidents of divorce (D.1). That the

²⁸⁶ A ‘decision’ was a final and more formal step than a *proçesverbal*, and was introduced after the ending of the *Pajtimi i Gjaqeve* in 1992.

Shtime Council considered demands for compensation, issued instructions that compensation should be paid, and supervised the payment of compensation, indicates that at an operational level, it had the scope and authority also to conduct business which was essential to the functioning of commercial and inter-familial relationships in Kosovo. There are various reasons the sorts of problems reflected in the Shahini documents were not taken to state law; for example, some problems fell outside state law; the disputing parties' lack of trust in state law because they were Albanian; and the lack of state court facilities in the Municipality.²⁸⁷

The Shtime Council and broader public order

The Shtime documents illustrate that the Conciliation Council quickly became a body to which incidents were reported before they became disputes, a dimension of the Council's work that is absent from the 'official' history. The most striking of these is the finding of a wallet containing an identity card and the non-trivial sum of 100 Deutsche Marks, and subsequent disagreements between various young men about said wallet. In total, seven statements were submitted to the LDK by various people, explaining their understanding of, and participation in, the events.²⁸⁸ This shows pre-emptive efforts by the parties to prevent an incident becoming a dispute, and a keenness on their part to record their *sjellja* [right behaviour]. Other examples

²⁸⁷ Indicative reasons which suggested a dispute might fall outside state law included: one or more of the businesses concerned not being (fully) registered with the state; one of more of the businesses concerned being involved in the occasional or regular smuggled importation of items from western Europe; an illegal private loan being either involved, or the subject of the dispute; one or more premises being used for commercial purposes which was not registered for such; incomplete or inaccurate returns having been submitted by one or more of the companies, which would become evident in the investigation of dispute. When discussed as abstract practices, Kosovars today are broadly sympathetic, and considered all of the above to be legitimate practice to protect the financial interests of a family against an aggressive and hostile state which sought to discriminate against the Kosovar Albanians and their interests, and also potentially unscrupulous commercial partners.

²⁸⁸ Documents D.6, D.18, D.25, D.26, D.27, D.28, D.29.

include an eye-witness report of an Albanian apparently being shot by Serbian police, a report of a burglary, and a statement of good character from a Kosovar recently deported back to Kosovo from Sweden. These incidents were reported to the Council either to quell the incident and prevent its developing into a dispute, or in the hope of an investigation by the Council. In a modern state, these functions are usually associated with the police, which suggests that the Conciliation Council (linked to, or as part of the LDK) came to be seen as the general public authority responsible for the creation and maintenance of social order within Kosovar communities. My informants' stories confirmed that, in the eyes of the local population, the remits of the councils of Fushë Kosovo and Prizren broadened in a similar way, so it seems likely this was the case across Kosovo.

The appearance of the Council's documents

The documents produced by the Council (in particular, *proçesverbal* and decisions) are similar in form to the equivalent legal documents produced by the Yugoslav court system. The document was titled '*proçesverbal*', under which was an outline of the position, including the existence of a dispute and the names of the disputing parties. This sometimes included details of the actual dispute in question, and confirmed the parties had agreed to be bound by the decision of the Council. There followed further information which was presented at the Council's meeting. Sometimes this was a summary of key information in the dispute, sometimes a summary of speeches made at the meeting. This was followed by the Council's Decision [*Vendim*], some of which included mechanisms to ensure implementation. The *proçesverbal* concluded with two lists of signatures. First, the signatures of

those representing the Council, noting the Head of delegation, and the scribe. The second gave the signatures of the feuding parties.

Gani Shahini's documents suggest that, despite the loss and destruction of documents post-1992, there may yet be rich and detailed material to be found in Kosovo, likely to be lying forgotten in cupboards in villages, which could significantly enhance the record of the *Pajtimi i Gjaqeve*, and our understanding of what it did, and how it did it. Such documents might also develop the emerging picture of how social order was created and maintained in Kosovo Albanian communities between 1992 and 1997, and the sorts of challenges faced by those involved.

The intended purposes of the documents

Activists expected the Shtime documents, and others like them, to serve three purposes. As discussed in earlier chapters, before the *Pajtimi*, conciliations were effected by the local elders and conducted in a local *oda*, in the presence of men of the community. Should a particular conciliation need to be recalled at any future point, all those who had participated – or their descendants – were readily available for consultation. The *Pajtimi* introduced into this process non-local actors which broke the previously necessary bond between place and dispute. In its place, a written record of the conciliation would provide a future point of reference. A significant part of the future the Kosovars imagined for themselves during the early 1990s was a legal future, and this was referred to explicitly in a document about a land dispute (D.17). The Council commented that, although the parties to the dispute agreed to recognise Bajram Bajrami's ownership of a parcel of land,

they [the parties] cannot legally give the land to him or recognize his ownership of the property because the only body able to do either of these things would be the court of Republic of Kosova ... We [the Council] can only anticipate the future decision the court will reach on this matter.

The Shtime Council saw itself as a temporary measure, a stop-gap until the Republic of Kosovo had its own courts, whose work would feed into the development of such a Kosovo court system.²⁸⁹ This anticipated relationship between the Council and the future legal system of Kosovo was also touched on by implication in another document when the Council, having not managed to achieve reconciliation, called on the belligerent to ‘freeze this dispute until future agreement’ (D.30). The Council had exhausted its own conciliation strategies and resources, and recognised that the next best outcome was to prevent the further development of the dispute until such a time as another authority would be able to make a decision and enforce it.²⁹⁰ They expected this authority to be the relevant court of the [Kosovar Albanian] Republic of Kosovo. Last, writing down proceedings and the outcomes of disputes substantially affected the conciliation process. As discussed above, the widespread making and keeping of written records introduced into the (traditionally oral) dispute conciliation process a new mode of formality hitherto associated with the state. This contributed to the popular understanding that the *Pajtimi i Gjaqeve* was operating in the place of state mechanisms and institutions, as a nascent legal system.

²⁸⁹ The eventual outcome of this is discussed by Osman, Gani Shanini’s son, in the next chapter.

²⁹⁰ This dispute was specifically identified by one of the Shtime Council members as a particularly difficult reconciliation; having outlined the efforts made by the council to secure reconciliation the Council member reached the conclusion that Duraku was mentally unstable. It was not possible to establish whether Duraku had mental health problems, or whether mental instability appeared to the Council member to be the only feasible explanation for his refusal to reconcile his dispute in the face of the powerful national arguments for doing so put forward by the Council.

In this chapter, framed by the literature on memory, I have added to scholarship on law by showing what ‘law’ meant to Kosovars in the early 1990s through a detailed case study of a dispute conciliation movement which served practical and highly symbolic purposes. To the scholarship on nation-building, I have added an example of legal process as a form of nation-building, and shown how that process condensed other national symbols and memories to increase the potency of the Movement. I have shown how individuals constructed legitimacy and authority within the movement, and how that accumulated upwards to lend authority to the regional and central council, at the same time as the central and regional councils were lending their authority to operatives lower in the organisational hierarchy. I have presented a set of legalistic documents from a Regional Council, which give us immediate insight into the work of conciliation, and which may be the only surviving set.

The next chapter examines contemporary Kosovar understandings of the *Kanun* and the *Pajtimi i Gjaqeve*, in post-war Kosovo. Drawing on 15 months of fieldwork, it combines the findings of interviews with participant-observation data.

Chapter 7: Contemporary Kosovar Understandings

After the Kosovar declaration of independence in 1991, the Serbian and Albanian communities lived almost in parallel. From an Albanian perspective, police and paramilitary repression increased; from a Serbian perspective, the security of the state was put under increasing pressure. The wars in neighbouring Bosnia and Croatia resulted in economic sanctions against Serbia; as in Serbia proper, the economy became increasingly ‘gangsterised’ (Malcolm 1998: 351) as mafia-style groups (often linked to, or synonymous with, paramilitary units) took control of such trade as was left. Kosovo was increasingly ‘Serbianised’: Albanian-language publications were suppressed, Albanian place names were changed and cultural institutions were destroyed, and the Serbian language was imposed. At the same time, the Serbian state resettled up to 19,000 Serbian refugees in Kosovo from Bosnia and Croatia. Following the collapse of the state in the Republic of Albania, in 1997, the regional market was flooded with weapons from looted Albanian stores, and the border between Kosovo and Albania became more porous on the Albanian side. The Kosovo Liberation Army (KLA) began to emerge, an insurgent group with Marxist-Leninist leanings and a wish to unify Kosovo and Albania (Perritt 2008).

Despite the LDK’s electoral mandate, in the face of increasing Serbian provocation, popular support for non-violent resistance wore thin. Although the LDK continued to coordinate and facilitate everyday life in Kosovo, support for the KLA grew quickly, particularly in the Drenica and Dukagjin regions of Kosovo. Albania was ‘chaos’ (Schwandner-Sievers 2001: 98f.) and in the absence of a functioning state, in the north, customary practices began to ‘re-emerge’ as a means

of creating and maintaining social order (*ibid*: 100-10). KLA camps were set up in northern-Albania, and Kosovar Albanians travelled over the mountains to be trained, returning armed and ready to fight for Kosovo. There were sporadic violent incidents between the KLA and Serbian security forces, until an attack by Serbian forces on the compound of the Jasharis, a ‘big’ Kosovar Albanian family from Drenica with a history of insurgent actions (Halimi and Shala 2000: 17-39), from 5–8 March 1998.²⁹¹ This attack, which killed the KLA Commander Adem Jashari and 57 other members of his family, is seen by many Kosovars as having been the start of the ‘war’ in Kosovo. The sporadic KLA attacks intensified from autumn 2007, leading to a change from ‘repression to military assault’ (Weller 2009: 67) by Federal Yugoslav military and Serbian paramilitary forces. This resulted in increased Kosovar Albanian combatant and civilian deaths, and widespread Kosovar Albanian displacement (*ibid*.: 67f.). After international diplomatic efforts to resolve the situation had failed (discussed in Weller 2009: 72–149), NATO intervened, on humanitarian grounds, with airstrikes against Federal Yugoslav targets. Although entirely supported by the Kosovar Albanians, this air campaign remains controversial in various forums as it was not approved by the United Nations Security Council.²⁹² The NATO air campaign lasted for two month, during which time fighting continued between Federal Yugoslav, Serbian, and KLA forces, and the displacement of Kosovar Albanians as refugees and internally

²⁹¹ Or, in the terms of a Kosovar nation-building history of the attack: ‘The ancient Albanian civilisation was defending itself from Medieval Serb barbarity. The longing to live with honour and dignity was faced with the Slavic pathological hatred ... while [the Jasharis] were defending their family honour, they were also defending the honour of the nation and their fatherland’ (Halimi and Shala 2000: 28).

²⁹² Weller has explained the legal position (2009: 112–14) and examined the international response to the use of force (*ibid*.: 155–59).

displaced persons increased.²⁹³ The war ended on 9 June 1999, after the signing of the ‘Kumanovo Agreement’ between the International Security Force (‘KFOR’) and the Federal Yugoslav and Serbian Governments.²⁹⁴ The key provisions of the agreement were: an end to hostilities between NATO and Serbian forces; the creation of ground and air safety zones about Kosovo which Yugoslav forces could not enter without NATO permission; the withdrawal of Yugoslav forces from Kosovo within nine days; deployment of an international civil and security force to Kosovo (under what would become United Nations Security Council Resolution 1244); and that NATO would provide security for that international civil and security force.

The emergence of the Kosovo ‘state’

After the fighting ended, Kosovo was first an international protectorate, then a supervised state, and from 2012, an independent state, the sovereignty of which is still questioned by many of my informants, contested by Serbia, and not recognised by 84 of the 193 United Nations member states. In this chapter, through my discussion of contemporary Kosovar perspectives on the *Kanun* and *Pajtimi i Gjaqeve*, I touch on contemporary understandings of what makes a state, and the extent to which Kosovo is one. For Kosovars, these are largely questions of sovereignty, which touch on the extent of international influence in Kosovo, the role of international administrators, and the international agenda(s), which some

²⁹³ Exact numbers are not available, but by September 1998, the United Nations High Commission for Refugees gave a figure of close to 200,000 IDPs, and 91,000 refugees in neighbouring countries (Weller 2009: 71). ‘Throughout the campaign it is estimated that over half of the ethnic Albanian population of Kosovo, some 800,000 to 1.1 million civilians were forcibly removed from the territory. A very large number, around 500,000, were internally displaced’ (*ibid.*: 166).

²⁹⁴ The full text of this ‘Military Technical Agreement’ is available on the NATO website: <<http://www.nato.int/kosovo/docu/a990609a.htm>>. Consulted 10 November 2013.

Kosovars perceive as being played out through processes of state-building and legal reform.

Snapshots of ‘nation’ and ‘state’

[On his flying the Albanian, rather than Kosovo, flag from his car window at a wedding in 2011] This is the flag in my heart, the flag of our nation. The Kosovo flag is something artificial, manufactured, it is not ‘from the people’, it does not represent the centuries-long Albanian struggle.

Bekim, 31, Skendëraj

Një Komb, Një Atdhe, Një Gjuhë, Një Flamur
[One Nation, One Fatherland, One Language, One Flag].
Aim of the Organisation of War Veterans of the KLA

‘The Republic of Kosovo is a state of its citizens’
Article 1.2, on the Definition of State, The Constitution of the Republic of Kosovo

‘1. All legal residents of the Republic of Kosovo as of the date of the adoption of this Constitution have the right to citizenship of the Republic of Kosovo.
2. The Republic of Kosovo recognizes the right of all citizens of the former Federal Republic of Yugoslavia habitually residing in Kosovo on 1 January 1998 and their direct descendants to Republic of Kosovo citizenship regardless of their current residence and of any other citizenship they may hold.’
Article 155, on Citizenship, The Constitution of the Republic of Kosovo

Post-war Kosovar understandings of ‘nation’ and ‘state’ were informed both by history and the immediate political context. International and domestic political actors instrumentalised these understandings for personal, party, and institutional ends. Under the ‘guidance of – or from the Kosovar perspective, under the tutelage of – international administrators’, post-war political activity was dominated by processes of state-building (Weller 2009: 177), processes which have not been without tensions (see Photograph 9, below, for clear illustration of Kosovar Albanians rejecting the idea of Kosovo as a multi-lingual state).²⁹⁵ Kosovars have

²⁹⁵ Many signs all around Kosovo have been defaced in this manner, and if they are cleaned by the authorities, they are soon defaced again.

had to navigate rapidly changing political and legal landscapes, and while the international and elite focus has been on state-building, for regular Kosovars the idea of ‘nation’ (for many, synonymous with that of ‘state’) has remained relevant, powerful, and intertwined with ideas about an Albanian legal tradition and self-governance.

The construction of the state

Under United Nations Security Council Resolution 1244 (UNSCR 1244), passed on 10 June 1999, the United Nations (UN) administered Kosovo through the United Nations Mission in Kosovo (UNMIK) and a Special Representative of the Secretary General (SRSG).²⁹⁶ For the Kosovar Albanians, this was stasis with potential, as it ended direct Serbian control over Kosovo and allowed the possibility of the future independence of Kosovo. For the Kosovar Serbs, and the government in Belgrade, it was a violation of the sovereignty of the Serbian state.

²⁹⁶ It was not long before the Kosovars coined the term ‘Unmikstan’ for UN-administered Kosovo, an early indication of discontent in some quarters.



Photograph 9: Defaced signposts in Dukagjin 2013²⁹⁷

²⁹⁷ Naming as a politicised act is not a new phenomenon in Kosovo. In 1989, the Serbian writer Petar Sarić wrote that 'little is known about the violence over [Serbian] culture and language in Kosovo'. (Sarić 1989: 159f.). 'I shall take one example describing how Kosovo 10 years ago was practically

According to UNSCR 1244, UNMIK and the SRSG were the legislative authorities in Kosovo, and the first regulation issued by Bernard Kouchner, the first SRSG, re-established as applicable the laws in force in Kosovo before 24 March 1999, provided they did not violate human rights (UNMIK Regulation 1999/1). This reinstated law was broadly understood by Kosovars as ‘Serbian law’, so this was an extremely unpopular decision, which had significant consequences within the legal system:

The resistance to FRY/Serbian law resulted in confusion in the legal system. The interim judges, the Kosovo Implementation Force (KFOR), and the UNMIK Civilian Police each applied a diverse collection of legal provisions and standards, including FRY/Serbian law, pre-1989 criminal law, and Albanian criminal law, to alleged perpetrators of crimes (Betts *et al.* 2001: 374f.).

Twelve years later one of my informants, now a state prosecutor, who had worked in private legal practice in Kosovo from the mid-1980s, was still incredulous and angry about the decision to revert to ‘Serbian law’:

It was an unimaginable situation: Milošević had used that law against us, like a weapon, because he was intelligent, he was a lawyer himself, you know?²⁹⁸ We fought to be free of that law, people died fighting to be free of that law, and then some foreigner comes and says “that [‘Serbian law’] is the correct law of this place, that is the law you must use”? No, I’m sorry, but no. Never.

“outside” Serbia and Yugoslavia ... [the] Two biggest buildings in Pristina, the Press House and the hotel “Grand” have elevators with all inscriptions (cast in metal) there exclusively in Albanian language! Similar examples could be found everywhere, and where an inscription in Serbo-Croatian could be seen, it is, as a rule, put in the second place. As far as Cyrillic writing is concerned, it is, one can say, banished from Kosovo and Metohija’ (Sarić 1989: 161).

²⁹⁸ Milošević had studied law at the University of Belgrade, in Serbia. It is common in Kosovo for the subject studied to be given as a persons ‘profession’, even if he is not working in that area. Thus taxi drivers and waiters often explain they are ‘lawyers’ or ‘economists’, implying their current employment is an aberration, or pragmatic necessity. Such a view is illusory, as the higher education system in Kosovo produces far more lawyers and economists than could ever be employed there as lawyers or economists: in 2012, there were over 11,000 undergraduate law students at U.P.

In December 1999, after six months of this confusion, the SRSG issued a new Regulation (1999/24), which cancelled the provisions of 1999/1, and restored as applicable the laws in force in Kosovo before 22 March 1989, the last day of Kosovo's autonomy within Yugoslavia. This did not resolve all the tensions related to the operation of the legal system:

First, UNMIK imposed a body of law that was not perceived as ethnically neutral. The negative repercussions of this action were compounded by the lack of Kosovar input into the legislative process more generally. Both contributed to a sense of disenfranchisement among the Kosovar Albanians and Kosovar Serbs that remains pervasive. Second, both the conduct of trials according to varying laws and the instances of extended pre-trial detentions were contrary to international due process standards. Third, UNMIK [did] not have the technical resources to engage in rapid, scholarly analysis of the compatibility of proposed laws with international standards. ... During the crucial formative period, a sense of disenfranchisement, violations of fair trial standards, and a lack of technical resources had deleterious effects on the credibility and legitimacy of UNMIK and the judicial system (Betts *et al.* 2001: 375f.).

In domestic politics, ex-military commanders formed new political parties supported in their home regions and by former foot-soldiers. Of particular note were Hashim Thaçi from Skendëraj in Drenica and his Democratic Party of Kosovo (PDK) and Ramush Haradinaj from Glllogjan in Dukagjin, and his Alliance for the Future of Kosovo (AAK).²⁹⁹ For Kosovars, both Drenica and Dukagjin had traditions of insurgency and rebellion, and were associated with Albanian nation-building.³⁰⁰ These ex-military Kosovar politicians played on public perceptions of themselves as 'national defenders' and 'liberators' to establish and strengthen their political base in the emerging state. In the absence of legitimacy drawn from having secured full self-determination for the nation, their political legitimacy remained

²⁹⁹ Albanian acronyms are used here and throughout for Kosovar entities; English equivalents are given in the Glossary.

³⁰⁰ On this aspect of Drenica's history, see De Lellio and Schwandner-Sievers (2006) or Tahiri (2001). On Dukagjin, see for example, Sadiku (2013) and Pajaziti, Morina and Nushi (2009).

rooted in the idea and rhetoric of ‘nation’. The political elite in Kosovo had to maintain a balance between nationalist rhetoric popular with the domestic audience, and the diplomacy necessary to secure full self-determination for Kosovo.

In 2001, UNMIK established the ‘Provisional Institutions of Self-Government’ (PISG), which comprised The Kosovo Assembly, The Kosovo Government, and the Judicial System, and national elections were held for the Assembly.³⁰¹ From 2003, the UN took an approach known as ‘Standards before Status’, according to which the PISG had to meet given standards of good governance before the question of Kosovo’s final status would be resolved.³⁰² Following violent and destructive riots in 2004 which targeted the Serbian population and Serbian Orthodox buildings, a 2005 report by Kai Eide, the Permanent Representative of Norway to NATO, noted that the Standards before Status approach lacked credibility and pressed for a timely resolution of Kosovo’s final status. The UN Secretary-General appointed Martti Ahtisaari, former-President of Finland, as his Special Envoy for the Future Status Process of Kosovo. Over the following two years, negotiations took place (Weller 2009: 191–207), resulting in the ‘Comprehensive Proposal for the Kosovo Status Settlement’ (popularly known in Kosovo as ‘the Ahtisaari Plan’). Published on 26 March 2006, the Plan ‘made it clear that Kosovo would have all the powers of governance that attach to statehood, covering the legislative, executive and judicial branches’ (*ibid.*:

³⁰¹ Other posts were linked to these three institutions: the Assembly elected the President, the President nominated the Prime Minister, who was endorsed by the Assembly, and the SRSG appointed people into the Judicial System from a list proposed by the Judicial and Prosecutorial Council and endorsed by the Assembly.

³⁰² The approach was outlined in a proposal by the (then) SRSG, Michael Steiner, UN Doc. S/PV/4518, 4 April 2002.

212). Kosovo welcomed the Plan, understanding it as a path to independence, and formally endorsed it on 5 March 2007. The Serbian government also understood the Plan as a path to Kosovo's independence, and refused to accept its provisions. This stalemate led Ahtisaari to propose a solution of 'supervised independence'. Kosovo made a unilateral declaration of independence on 17 Feb 2008 and its constitution, drafted by the Constitutional Commission and approved by the public through a consultation process, came into force on 15 June 2008.³⁰³ It defines Kosovo as 'a democratic republic based on the principle of separation of powers' (Article 4.1). The Assembly of Kosovo is the legislature, elected on a multi-party system of proportional representation with guaranteed minority representation. There have been four Assembly elections since 1999, most recently in 2010; the results for the 2010 election show that Assembly members from 29 parties were elected, with the four largest parties (PDK, LDK, AAK and *Vetëvendosje*) taking 80.5% of the vote.³⁰⁴ The electoral system makes a coalition Executive almost inevitable and, since 1999, coalitions have been dominated by the four largest parties.³⁰⁵ Formal international recognition of the new country has been gradual and remains partial; by July 2013, 101 of 193 UN Member States had recognised the country.³⁰⁶ Certain key countries including Russia, China and Spain have yet not

³⁰³ The Constitutional Commission was intended to have 21 members, 15 appointed by the President of Kosovo, three to be appointed from the seats allocated to Serbs in the Assembly, and 3 to be appointed from the seats of other minorities in the Assembly. According to the Commission's official information, it eventually had 18 members and no Serb representation. The drafting process was supported by international advisers, and financially supported by at least USAID (Aucoin 2008). Once drafted, it was put out to public consultation, and then 'certified' (approved for signing) by the then SRSB, Pieter Feith, on 2 April 2008.

³⁰⁴ The PDK won 32.11% giving it 34 seats, the LDK won 24.69% giving it 27 seats, *Vetëvendosje* 12.69% giving it 14 seats, and the AAK 11.04% giving it 10 seats (Figures from the Central Election Commission).

³⁰⁵ *Vetëvendosje* was founded in 2004, and first stood in the 2010 elections.

³⁰⁶ The comparison with the only country to declare independence since Kosovo's declaration, South Sudan, is stark. Following a referendum, South Sudan declared independence on 9 July 2011, is

recognised it and, during my fieldwork, securing further ‘recognitions’ was a key political objective for the government and a popular preoccupation. In the same year, the European Union Rule of Law Mission (‘EULEX’) superseded UNMIK as the main international presence on the ground in Kosovo. EULEX has been unpopular, particularly with the vocal, and growing, *Vetëvendosja* [Self-determination] movement, as shown in this graffiti on a wall in central Prishtina (Photograph 10, below).



Photograph 10: The wall of the EULEX compound

The decreasing popularity of the international administration created tensions for Kosovar politicians who have had to speak to two constituencies. On the one hand, they need to retain their support from the electorate; on the other, they recognise that the most (or, many say privately, ‘the only’) feasible future for an independent Kosovo lies in support from, and progress towards, the EU. To that end, relations with EULEX, and good relations with EU member states remain essential, despite

already a UN Member State, and has acceded to the Geneva Conventions (16 July 2012). Both of these factors rankle with informants, who resent Kosovo’s limited recognition acting as a bar to full participation in international bodies and agreements, often describing it as the continuation of hostilities by Serbia, but through diplomatic or bureaucratic channels.

the formal end of ‘Supervised Independence’ on 10 September 2012.³⁰⁷ To this end, the emphasis of law-making in post-war Kosovo was to create a legal framework coherent with future EU accession; this has sometimes been at the (perceived) expense of local values and understandings. During my fieldwork, I was often told, particularly by lawyers, that Kosovo had been pressured to include within its Constitution an explicit provision allowing same-sex marriage: a difficult issue in a predominantly Muslim, broadly conservative, society. My informants even cited the offending Article of the Constitution by number, although the number varied between informants. The Constitution does not actually contain any specific article to this effect but, to my informants, what it says is of less importance than what it is believed to say, and why it is believed to say it.³⁰⁸ This is indicative of a common belief that the Constitution contains provisions which are an anathema to local values, and were imposed on Kosovo by powerful international institutional and individual actors, on whose good will depends the future of Kosovo as a viable state. The anxiety about same-sex marriage was a symptom of a deep frustration about the ongoing ‘supervision’ of Kosovo, and consequent lack of ‘real’ self-governance. My fieldnotes are full of comparable examples, from areas as diverse as traffic laws and the regulation of higher education. The post-1999 political and administrative arrangements of international supervision and gradual, conditional,

³⁰⁷ ‘Supervised Independence’ was the political state of affairs during the main body of my fieldwork.

³⁰⁸ The closest it comes is through the following two extracts:

Article 24.2: No one shall be discriminated against on grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability or other personal status.

Article 37.1: Based on free will, everyone enjoys the right to marry and the right to have a family as provided by law.

handover to Kosovar authorities created a political environment in which ideas of both nation and state had currency, but were not always compatible. Many of my informants implicitly anticipated the post-1999 state would be aligned with their understanding of the ‘nation’, as a Kosovar-Albanian nation-state, and find themselves disappointed.³⁰⁹ Such a view was, of course, incompatible with the (future) Kosovo state envisaged by its international sponsors, as ‘equally the state of all the peoples of Kosovo’. Without effective and fully functional institutions, embedded in society and accepted as legitimate by the people of Kosovo, the state emerged first on paper, in legislation, rather than as a substantial entity. This is understood and accepted by Kosovar and international law-makers, who often talked to me about driving social change through legal reform and institution building. The new laws of Kosovo, made first by the SRSG, then the PISG, and now the Assembly of Kosovo, were often expressions of aspiration rather than reflections of reality, but while Kosovars broadly supported the ultimate aspiration of EU membership, they were often unhappy with the contents of legislation – or their understanding of the contents of legislation – designed to lead them to that end.

‘State’, ‘Nation’, and Post-war Conciliation

In the pre-war period, dispute conciliation was a powerful nation-building mechanism, and a context in which people could express their Albanian-ness. Was this still the case after the war, and how did dispute-conciliation operate in the post-war, state-building period? This section explores three models of post-war dispute

³⁰⁹ This is not to say they envisaged a state without non-Albanians but, at the very least, many feel that Albanians should have a higher standing in the new state than non-Albanians.

conciliation, which I have called: semi-state, *familja e madhe* [great family], and ceremonial.

Semi-state dispute conciliation

The post-1999 Kosovo courts were faced with tremendous difficulties (Betts *et al.* 2001): a shortage of personnel; a tremendous backlog in courts, particularly in property cases; and rapid reform of laws and the legal system, part of which included the need to introduce certain new institutions. This included a mediation service funded by the United States Agency for International Development (USAID), as part of its ‘Systems for Enforcing Agreements and Decisions (SEAD)’ programme, introduced to ‘enhance the foundations of contract law in order to improve the environment for commerce, leading to increased prosperity and job creation, and to strengthen the Rule of Law in Kosovo’.³¹⁰ One of the SEAD programme objectives was to ease pressure on the courts, by offering parties a swifter process to address their dispute. Nuri, a Kosovar lawyer who had worked closely with the SEAD project, described the project and how the mediation service worked:

There was an advertisement for mediators from a broad range of backgrounds; USAID wanted to make sure the criteria for selection as a mediator emphasised ‘equality’, by which internationals mean women, young people, and minorities. They were trained and a register of mediators was created. In fact, there are several centres, throughout the country, and each has its own register.

Here Nuri touched on the rather vexed idea of ‘equality’, which he used as ‘meant by internationals’. For many of my young informants in Prishtina, particularly those

³¹⁰ From <<http://www.kontrata.info/?cid=2,2>>. Consulted 16 July 2013.

looking for jobs, the emphasis on ‘equality’ by international NGOs and donor organisations (desirable employers because they pay well above the average salary) was an unjust barrier to work. As one noted:

I feel, like most Albanians probably do, that we are the last in line for everything. Take jobs, for example, Albanian men are the last in line for jobs no matter what their qualifications. If there are ten job places, three or four will be for ethnic groups, then for women, then for people with good connections, and last, for the rest of us.³¹¹

Paradoxically, the idea of ‘equality’, intended to secure broader participation in the new state, is held by many to be directly responsible for the lack of engagement they feel with it, and used as an example of how the new state is not ‘ours’, but ‘theirs’ – ‘they’ being the political and economic elites and their families, and other interest groups given preferential status by the international community. To return to Nuri’s account of the SEAD mediation process: the fact that each centre holds its own register of trained mediators is significant:

As far as I know, most people on each register come from that town. And the parties select their own mediator from the register of mediators. So in the time I knew that programme well, ha, after all that money for training and a ‘representative register’ [of mediators], and who do the people request? Who wins the work? Your type of mediators: the elders’.

This is ‘elders’ in a broader sense than those who played the traditional social role discussed earlier in the thesis: Nuri meant people who had recognised status and legitimacy in the nation, those with proven track-records as conciliators, most often as part of the *Pajtimi i Gjaqeve*. To parties in dispute, the formal mediator training offered by USAID was of significantly less interest, and less a guarantee of

³¹¹ The distribution of coveted study-abroad scholarships is also broadly understood to be organised on this basis, which rankles.

competence, than the standing of a mediator within the local community and the known quality of his judgment.³¹²

Familja e madhe [Great family] dispute conciliation

The evaluation of a potential conciliator by his place in the national pantheon, rather than the nascent state, is demonstrated by the emergence of Hilmi Haradinaj as a much sought-after mediator in post-war Kosovo. It is the career of the eldest son, Ramush, which has brought the family to national prominence. He was an early (sometimes ‘founder’) member of the KLA and rose to become Commander of the Dukagjin region, renowned for his bravery and for leading from the front. After the war, he founded and led the Alliance for the Future of Kosovo, and was the first Prime Minister until he was indicted for war crimes by the International Criminal Tribunal for Yugoslavia (ICTY) and stepped down. During most of my fieldwork, Ramush was detained at the ICTY, but when the re-trial court retired to consider its verdict he was allowed to return to Kosovo on strict conditions which included not giving interviews (a state of affairs compared by some to the ‘banning orders’ in apartheid South Africa).³¹³

³¹² It was not possible to make any quantitative assessment of the extent of this trend, but it was explicitly drawn to my attention by unconnected informants in two towns which had mediation centres.

³¹³ In a gesture of long-distance hospitality, when I visited Glogjan, Ramush called to wish our party a pleasant visit to his family home. Later, when he was back in Kosovo while the court considered its verdict, I interviewed his wife at a popular restaurant in Prishtina; while we and all the restaurant’s other customers sat outside enjoying the sunshine, Ramush sat alone inside. Everyone in the restaurant knew he was there, and it generated an atmosphere of considerable excitement, of a celebrity being present.

Today, the Haradinajs live in a large walled complex on top of a hill in Glllogjan, every element of which proclaims their Albanian-ness, and their national credentials. In the outer section of the complex is a four-storey *kulla* constructed with stones from 30 Dukagjin *kullas* destroyed by the Serbs in 1998–99. This building is part-way through being turned into a KLA-museum-come-guesthouse. It overlooks a newly-constructed graveyard containing the relocated remains of some 30 KLA soldiers killed during the war, including the two of Ramush’s brothers. ‘We have here soldiers from all over, not only from Glllogjan; from other parts of Kosovo; from Macedonia...’ said the museum keeper; this is no local graveyard, but an Albanian national affair. Photograph 11 shows the graveyard covered in snow, with the Haradinajs’ residential *kullas* in the background.



Photograph 11: The graveyard in Glllogjan

In the inner section of the complex are two linked residential *kullas*, one of which has a modern *oda*, decorated with national symbols and photographs of his sons killed during the war, in which Hilmi Haradinaj described to me how he had found

a new role as a conciliator since 1999.³¹⁴ In keeping with the cultural ideal-type of an Elder, he is modest and of relatively few words.³¹⁵

Luan is one of my sons [he was killed in the war] and, unfortunately, in the village of Baballaq, Luan's eldest son was killed by a bus [after the war], but we forgave the damage done to us. The boy was 12 years old, and once you have decided in your family to forgive blood [*falje gjaqën*], if you go to someone else and ask forgiveness, then that family will act properly and hear your request.

Usually the family that is in debt, the family of the killer, come and ask me to go as an intermediary to the damaged family. If we decide to get involved and visit a family 'in blood', we gather five to ten respected and authoritative people. Two or three go in advance and notify the family that a delegation will visit them and ask them to forgive the blood. So far, of all the cases we have had, there have been no refusals.

Personally, I have been involved in no 'compensation cases', and if I became aware that anyone involved wanted even a packet of cigarettes for their involvement, I would not go. It must be very clean. Only someone from a family with a good reputation and name can make an intervention like this.

This process and the 'no compensation' principle are very similar to those described in Chapter 6 by the *Pajtimi i Gjaqeve* activists, but Haradinaj made no mention of the *Pajtimi* at all. However, he did make broad connections between his activities and a general sense of 'the way things have always been done here'. His is an exemplary, but not unique, instance of a family's status and authority having been increased by the wartime activities of family members. Conversations with informants from the Drenica region suggested that Rifat Jashari, brother of the KLA hero-martyr Adem Jashari, has been in similar demand since the end of the war, and

³¹⁴ It was only possible to secure a meeting with the family through my contacts in the AAK party, as an introduction and social 'guarantor' was both necessary and polite.

³¹⁵ A close neighbour present during this interview added at the end 'Mr Haradinaj is too modest. He is respected across the whole area of Dukagjin: Peja, Gjakova, Klina There was a case in Istog where a family's only son was murdered and, because of the respect they had for the Haradinaj family, they asked Mr Haradinaj to intervene. There are a lot of similar cases, this is just the most painful example'.

lots of people could tell me similar, if less high profile, stories from their home regions.

Ceremonial dispute conciliation

In post-war Kosovo, key figures from the *Pajtimi i Gjaqeve* working at the Institute of Albanology have remained in demand from families wishing to conciliate disputes. Emin Kabashi, the *Pajtimi i Gjaqeve*'s liaison between the Central Committee and the Conciliation Council in Fushë Kosovë, now a senior academic at the Institute, said 'Today, we are not involved publicly [in this sort of activity] anymore, but we cannot refuse people who are in trouble and, remembering what we did, ask for our help to settle their problems'. These academics also carry with them a direct connection to their deceased colleague Anton Çetta, a powerful symbol of conciliation for the national good. In the *Pajtimi i Gjaqeve*, these academics were activists involved in the negotiation of conciliations; post-war, they are involved as symbols of conciliation and are rarely involved in negotiations which usually take place locally and with the involvement of local religious leaders. The academics are invited to the *tubim* to witness and celebrate the agreement to conciliate and the offering of the 'hand of forgiveness'; their presence transforms a local conciliation into a national event, and links the participants to a mythical chain of Albanian forgiveness. In June 2011, Zymer Neziri explained to me that today, things are 'half-state and half-tradition'. He had just returned from conciliating a dispute in Ramac, in Gjakova. It had taken place over lunch in a restaurant with some 100 people, including representatives from both families. 'I gave a speech, and they gave [me] a letter of thanks, and then it ended with a "never again" speech'. He said that such an event was not uncommon for him as people remembered what

he had done, how he had tried his hardest to help in the most difficult circumstances, and that ‘they respect that’.

Tribe and Lineage

Contemporary Kosovars talk about *fis* in contemporary Kosovo, but the institution they are describing is much looser than Tapper’s definition (see Chapter 2), and often more of an idea to which they feel emotionally attached than anything which has practical bearing on their everyday life, although related terminology is often used. For example, the death notices which adorn lamp posts and trees throughout Kosovo, are frequently signed by the ‘*farëfis*’. Picture X, below, is an example, signed with the names of the closest family and ‘the wider *farëfis* from Smolica and Prizren’.³¹⁶



Photograph 12: A death notice

Contemporary Kosovars ascribe the decline of the influence of the *fis* to the Yugoslav state, and in particular, to the compulsory state education system. Indeed,

³¹⁶ Bajram Kurti was a leader of the *Pajtimi* in the Prizren region and his experience of the Movement, as understood by his son, were discussed above.

among those to whom *fis* is of importance, the listener is left reminded of Paul Dresch's observation of Yemeni tribesmen in the late 1980s:

Being a tribesman is as much a work of the imagination as a simple fact to be borne with. Many of the values to which tribesmen claim adherence are best exemplified in stories of wonders and heroic deeds, which themselves usually occurred at an earlier date or in some place other than one is (Dresch 1989[2001]:14)

While *fis* had lost much of its practical functions by the early 1990s in Kosovo, it retained some influence: it defined who was eligible to marry whom, and in cases of dispute, it provided an hierarchy up which a dispute could progress in search of a resolution. Despite the marginalisation by the state of the roles of the *fis*, at the next levels down, family structures and the regulation of families by their patriarchs remained relatively intact, particularly in the rural communities which made up most of Kosovo. Thus when we see the Elders in the context of the *Pajtimi* in Chapter 6, we should remember that these were often men of considerable power and influence within their extended families. In the contested context of the *Pajtimi*, the conciliation of disputes provided the 'stories of wonders and heroic deeds' for a generation of Kosovars.

Along with *fis*, the immediate importance of segmentation and lineage have also decreased over the twentieth century, although they remain influential ideas in rural communities, and in match-making. Many young urban informants told me that 'my grandfather knows the names of his seven (ten, thirteen) ancestors', but themselves could rarely get past their great-grandfather. There is an unresolved tension here: they are proud of the ideas of *fis*, lineage, and knowing the rings of their families like the rings on a tree trunk, but often feel embarrassed or ashamed

to admit to too much knowledge of these things, for fear of seeing ‘uncivilised’ or ‘peasant-like’.

The *Kanun*

Snapshots

I teach my students about the *Kanun*, but I teach it as history. It was important, of course; it preserved Albanians through centuries of occupation and oppression, but it is not for today ... the time of the *Kanun* has passed

Hajredin Kuçi, Law Professor. Minister of Justice
and Deputy Prime Minister, Prishtina.

You must read the *Kanun*; it was like a constitution when other European countries were living in the dark ages. Some international [commentators] say we do not respect law, accuse us of being against the rule of law, say that Albanians are not interested in a society with the rule of law, but only the *Kanun*. But the *Kanun* of Lekë Dukagjin has a historical character: national, human history. We love and respect the law but our traditions are older than we are, and we trust our traditions; our traditions are our identity.

Ajni Ramadani, *Hoxha*, Deçan.

Today, in Kosovo, people no longer say ‘I do this because of the *Kanun* of Lekë Dukagjin’ but when state law is no good to me, or I don’t like it, I have an alternative. Day is day, and night is night; the law of the people [*ligj i popullit*] is a straight line, but state law is a labyrinth – some people can get through it, some not. [Holding up a coffee cup as a prop] State law would say ‘this coffee is good only for me’; the law of the people would say ‘coffee should be good for everyone’. The law of the people is like bread and water; you take it every day, everyone knows and recognises it. State law is for politics, not for people; state law is corrupt, whereas the law of the people can’t be corrupt.

Rama, café owner, Prishtina

Specialist understandings of the *Kanun*

Academic lawyers and ‘Albanologists’ (Albanian studies specialists) have specialist interest in, and understandings of, the *Kanun*; both groups tend to focus on Gjeçov’s text rather than what is happening on the ground in Kosovo. Syrja Pupovci’s work in the 1970s (discussed above, in Chapter 4) exemplifies the academic lawyers’ approach to the *Kanun* as a legal text. They tend to look for points of correlation with modern legal texts or systems, and retrospectively to label

phenomena in the *Kanun* with legal terms of art; the inherent risk in such an approach is the implication that the *Kanun* and state law are based on similar principles and logic.³¹⁷ Today, Albanian Albanologists, who often appear to see themselves as having an active nation-building role, explicitly link Gjeçov's *Kanun* and the nation in their work. While Gjeçov and the early nation-builders sought to demonstrate the existence of the nation, contemporary Albanian nation-builders, including the Albanologists, elaborate the nature of that nation. This leads to papers on topics such as, the *Kanun* as a very early constitution, or the liberal treatment of married women accused of adultery relative to the treatment of a woman accused of similar actions under the *şeriat*.³¹⁸

'The Case for Kosova: Passage to Independence'

In 2006, 'The Case for Kosova: Passage to Independence' was published in London, with the expressed aim of making the case for the independence of Kosova (Di Lellio 2006: *xxi*). It contained 28 short essays (many by non-Albanian writers), which address 'representative questions that arise from common arguments or allegations made over the years' (*ibid.*: *xxv*). The book has an afterword by the Nobel prize-winning Albanian author Ismail Kadare, who had previously written about Kosovo in his *Elegies for Kosovo* (1999[2011]). In its political advocacy to an international audience, the book echoes the early-twentieth century periodical *Albania*, which published contributions on aspects of 'the Albanian question' by

³¹⁷ Examples from Fox's 1989 translation into English include 'crime', 'wills', and 'judicial law'.

³¹⁸ Both unpublished conference papers were described to me by several informants but, despite direct contact with the authors, it was not possible to obtain copies.

non-Albanian authors, including Leibnitz, and in French by Albanian writers.³¹⁹ One of the essays asks ‘Is it true that Kosova is a clannish society still regulated by the *Kanun*, or the customary law, and does not belong to the West?’ This was addressed by the Albanian émigré sociologist and Albanologist Besnik Pula; the core of his argument is that

A stereotypical interpretation of the *kanun* as a largely tribal system of law that is based on tribe organization, supports general allusions that Kosovar society is ‘tribe-based’. These comments, made commonly by nationalist politicians and media outlets in Serbia and reiterated by some Western journalists and so-called “experts”, are nothing more than intellectual atavisms. They find support in an earlier colonial mentality that sought to brand particular cultural and ethnic groups as somehow deficient in their culture and thus deemed undeserving of modern statehood, giving rise to the ill-famed, colonial “White man’s burden” (as a regional imperialist, Serbia always sought to gain a share in the burden). Hence, claims that Albanian society in Kosova is “clannish”, suggesting that tribe, family, or blood line is the primary or exclusive basis of solidarity in Kosovar society, can be considered not only as uninformed and baseless, but as ill-intentioned and blatantly racist (Pula 2006: 180).

In his desire to counter ‘anti-Albanian propaganda’, by demonstrating the concept of ‘tribe’ has no relevance to Kosovar society and the *Kanun* holds no sway, Pula makes no reference to research which touches on these topics conducted by academics who could not be accused of engaging in ‘anti-Albanian propaganda’. For example, the work of Berit Backer (2003) and Janet Reineck (1991) indicates that, while the institution of ‘family’ may be changing, it remained a powerful basis of solidarity in Kosovo.³²⁰ More recently, Boman and Krasniqi’s thesis showed that Kosovar émigrés in Sweden use the idea of ‘tribe’ [*fis*] as part of the information to

³¹⁹ ‘L’Opinion de Leibnitz sur la langue albanaise’ (1897/3: 41–3) is one such article. Examples of Albanian writers writing in French include: the unattributed ‘La question albanaise’ (1897/4: 57–63), ‘Documents sur le folklore albanaise: Chants populaires’ (1897/5: 74f.) and ‘Documents pour servir à l’histoire de l’âme albanaise (Chronique de Véli le Guégue et de Katchandon)’ (1897/7:110f.); and Faik Konica’s ‘La question de l’écriture albanaise’ (1897/7: 111–4).

³²⁰ Although published posthumously in 2003, Backer’s work was based on fieldwork carried out in the western Kosovo village of Isniq from 1974–5.

help them contextualise new acquaintances (Boman and Krasniqi 2012: 37).³²¹ The Albanologist Stephanie Schwandner-Sievers's work has shown that ideas of 'Kanun' had a resurgence in northern-Albania after the 1997 collapse of the Government, as a means of creating and maintaining local order, but that customary practices had been affected by the social and political changes in Albania during the socialist period; in particular, that much local knowledge derived from experience had been lost. While the short-essay form of the book allows little room for discussion, rather than adding substance to debates about the *Kanun*, Pula's argument is simply the antithesis of the 'anti-Albanian propaganda' he set out to counter, and equally open to challenge.

Popular understandings of the Kanun

In Higher Education (HE), civil service, and civil society circles in Prishtina, it is difficult to get past the 'elite view' that the *Kanun* had an important historical function in enabling Albanians to maintain a degree of self-governance through the Ottoman period, but that it has no connection to, or place in, contemporary society: Kosovo is a modern, European, democracy committed to the Rule of Law and, in the words of the Minister of Justice, 'the time of the *Kanun* has passed'. But although these people dominate public discourse, these people are not all of Prishtina, and Prishtina is not all of Kosovo: it is the capital city, the seat of government, the headquarters of most international organisations and donor agencies, and the heart of Higher Education (HE) in the country. Since 1999, it has experienced high levels of inward migration from other parts of Kosovo, creating

³²¹ Krasniqi is an Albanian, and Boman an Albanian-speaker.

whole new neighbourhoods of people with no shared local history or community. Inhabitants are preoccupied with the tribulations of the present – unemployment and the cost of living are high and the urban infrastructure is entirely inadequate – and the elusive (and often illusory) potential of a prosperous future.³²² Occasional glimpses of personal understandings of the *Kanun* are as fragmentary and disjunct as Prishtina society itself. Because of this, the data for this section were collected in Prizren, a smaller city in the south with a more settled and stable population, as part of an empirical research project designed with a group of undergraduate law students. The dual purposes of the project were to illustrate to the students the breadth of understandings of ‘law’ within their communities and, through the students, to collect data for my research from otherwise unreachable informants.³²³ The research design was a semi-structured interview with open-ended questions designed by the students, and responses were categorised into three broad age groups, each covering a generation from the students’ perspectives: Over 50 years old (‘grandparents’); 30–50 years old (‘parents’); and under 30 years old (‘peers’). Each student interviewed five people, which generated 55 responses: 15 from ‘grandparents’; 20 from ‘parents’; and 20 from ‘peers’.³²⁴ The survey was limited by the remote delivery: students carried out the interviews and transcribed the

³²² The gravity of Kosovo’s economic position was highlighted in a recent article by Ambrose Evans-Pritchard. Under the headline ‘Greece becoming the new Kosovo as Youth Unemployment hits 65pc’, Evans-Pritchard quoted a Greek professor from Athens University as saying ‘The manic attempts to keep Greece in the eurozone under conditions that are not sustainable is turning the country into a sort of Kosovo, an EU protectorate that produces little but surplus labour’ (Daily Telegraph, 9 August 2013, p. b4).

³²³ Using the students to interview people they already knew gave access to otherwise inaccessible interviewees and was more *rahatshëm* [comfortable, restful, convenient] for them. It was not without its own difficulties, the most common for the students was getting the interviewees to take the interview seriously and understanding some of the older and very local terminology used by older interviewees.

³²⁴ These interviews were not recorded, owing to insufficient recording equipment, but answers were transcribed by the students in the respondents own words. In accordance with the preference of the majority of respondents, I have identified individuals only by their initials.

answers. For financial and practical reasons, it was not possible to audio record the interviews. I received all the students' transcripts and was able to follow up some points with additional questions, again through the students (see Annexe 3 for more detail).

'Grandparents'

These interviewees had lived at least 20 years of their adult lives in socialist Yugoslavia; none were old enough to have been adults before the creation of Yugoslavia in 1945. HE in Albanian had not been available to this generation, so the few who had progressed to it usually had studied in Serbo-Croat, outside Kosovo.³²⁵ If they speak a third language (after Albanian and Serbo-Croat), it is usually French, or Russian. They are particularly difficult for a researcher to reach; many still live in villages, or have retired back to villages and their lives are based in their homes, around their families.

Snapshots

The *Kanun* is unwritten rules that were used in the past by our grandparents. Nowadays, the *Kanun* is used in some regions of north Albania.

N.I. (m), 52, Prof. of [Islamic] Theology, Opojë, Prizren

In the past, the *Kanun* was like a constitution.

R.H. (m), 77, Has, Prizren

It's a lot of rules that were collected by Lekë Dukagjin, and they were the main rules in society. The *Kanun* regulated a lot of problems in society.

Q.S. (m), 65, Economist, Zhur, Prizren.

The *Kanun* is the popular law, or the gathering of popular traditions, and not written rules. For a long time, these were the rules used by the population.

³²⁵ Muslims who pursued Islamic theological studies were an exception; many, such as Nexhat Ibrahim (quoted below) studied on scholarships in countries such as Egypt, in Arabic.

Informants in this group stressed the unwritten, historical and timeless nature of the *Kanun*, and talked about it in the sense of ‘what we did’ rather than of Gjeçov’s text. The only specific reference to a time was Ibrahim’s remark about the *Kanun* having been in place in his grandparents’ time, a reference to the early twentieth century, connects to the time of Gjeçov’s text. Hasi’s description of the *Kanun* as having been ‘like a constitution’ is not uncommon and is usually meant in the sense that it applied to ‘the Albanians’ and either underpinned all else or was the ‘highest’ form of authority. There was a fluidity in these respondents’ terminology but, broadly, they drew a distinction between ‘*Kanun*’, which they used to stand for a general sense of customary practices which carried legal authority, and *adet* or *zakonet* [customs], which did not. For the ‘grandparents’, ‘the *Kanun*’ was a body of customs which belonged to Albanians, applied only to Albanians, and was a key part of what made Albanians distinct from neighbouring peoples such as ‘Serbs’ or ‘Turks’. They associated ‘the *Kanun*’ (as the widespread practice of these customs) with a time when there was self-government which was local, moral, fair and predictable. They contrasted this with the Yugoslav and Serbian states, which they described as having acted (through state law and the legal system) in an un-local, not moral, unfair and unpredictable manner: ‘We were discriminated against as Albanians by the Yugoslavian legal system’.³²⁶ Almost all the ‘grandparents’ noted this discrimination was counterproductive, saying it consolidated or developed their sense of ‘Albanian-ness’ or ‘Kosovar-ness’. One unexpected finding was that some informants identified, and praised, a lack of corruption in the practise of

³²⁶ R.H. (m), 77, from the Has region near Prizren.

Yugoslavian (or Serbian) law, describing it as ‘better than [the situation] today’. They explained this assertion in two ways. First, it had been better because in Yugoslav times, all Albanians were treated equally badly, by a system dominated by non-Albanians: a little more exploration usually led to the concession that individual Albanians may have been involved in this system but any such person was a ‘spy’ or ‘traitor’, and thus not ‘really’ an Albanian anyway. There is a tension between this idea of nationality deriving (at least in part) from one’s actions, and the kinship-based understanding of the nation as a community of common descent, but it is important because it confirms they understand a direct connection between *sjellja* and nation. Second, they were critical of today’s Kosovar political and legal elite, for what they understood as widespread corruption and discrimination. The message underlying the ‘grandparents’ responses was ‘I understand that Serbs were corrupt and discriminatory against Albanians, which was to be expected, but now we have Albanians behaving as un-justly as the Serbs which I cannot understand or accept’. Most ‘grandparents’ talked about disappearing customary practices, saying contemporary society would benefit from finding ways to accommodate and even institutionalise some of these practices. A Prizren lawyer (64) thought that ‘law’ had been better when he was a young man than today, because ‘the legal institutions were more professional and more experienced’. The lack of legal, political and bureaucratic experience in Kosovo today was often identified as making large-scale corruption possible.

'Parents'

Snapshots

In the past, for us Albanians, the law wasn't 'law', it was an instrument to make us feel bad and like we don't belong in that society ... In the time of Yugoslavia, someone who broke a law was seen as a patriot because we didn't like the law, but if someone broke a customary rule [*një adet*] everyone talked very badly [*me folë keq, me shti*] about them for that. People who broke a customary rule were punished in different way because, for Albanians, customary rules were the most important rules [*rregull*], so the punishment was severe. For example, if someone broke a customary rule, the whole village didn't speak to that family for years, and everyone pointed with their fingers at the people of that family: in a way, they were treated like criminals.

E.H. (f), 40, Suha Reka.

A long time ago, my family lived in another village before they moved to Gjinoc. In our old village, there was a customary rule [*adet*] 'we can't marry with someone in our village' and someone from my family did that, so our punishment was that we had to move out of the village ... if you broke a customary rule, it was not just [a] personal [breach], but [applied to] all members of your family.

F.B. (m), 45, Gjinoc.

'Parents' talked about the *Kanun* as an historical phenomenon, which applied in Kosovo 'in the time of my grandparents' and did not use the term in relation to their own experiences, with the exception of one respondent who noted that 'Once I beat my wife which, according to me, *me shkelë Kanunin* [is a violation of the *Kanun*]'.³²⁷ They described what had existed alongside Yugoslav state law as *adet*, which they used in the sense of 'customary rules', and *zakonet*, the practices which underpinned or flowed from these rules.³²⁸ The examples they gave of customary rules, and the sanctions for breaking a customary rule, correspond closely to

³²⁷ M.M. (m), 49, Samadraxhë, Prizren.

³²⁸ *Adet* comes from the Arabic '*āda*, meaning 'custom' or 'customary law'. It has the same meaning as '*urf*', but usage varies from region to region. From the Encyclopaedia of Islam's 'Juridico-sociological analysis of social reality', we learn that, in some parts of the world 'there exist religious courts, administering the Law but, except in the case of litigation, the population ignores them and follows local custom ... the persistence of the Lek Dukagjini about the Muslims of Northern Albania' is such a case (Gibb *et al* 1960:170). '*Zakon*' in Albanian means '1. habit, usage, common practice, custom, traditional custom; 2. [historical] body of traditional law' (Newmark 1999: 951).

principles and practices described in Gjeçov's *Kanun* and in other historical accounts (such as Durham 1909[2000]).³²⁹ There was a range of perspectives on the place of *adet* and *zakonet* in today's Kosovo, and the relationship between *adet*, *zakonet* and state law. Most respondents believed *adet* and *zakonet* customs should be considered both a source of law and a real-world factor conditioning its implementation. Respondents agreed unanimously on the continuity of certain customary practices, saying that state law was often 'not interested' in customary practices.³³⁰ In contemporary Kosovo, neither state law nor *adet* and *zakonet* were operating as effectively as respondents would have liked. Professionals were frustrated at the extent of international involvement in Kosovo, giving numerous examples of structures, laws and regulations they saw as 'just not suitable' for Kosovo, and a consequence of what they called a 'copy paste' approach to legal reform and institutional development.³³¹ Many 'parent' respondents said they would favour an approach which was rooted in, and took more account of, Kosovar Albanian culture and customary practices, including one, a Public Prosecutor, who commented 'The law currently applicable is less suitable [for Kosovo] than traditional law. And, at certain times, custom has its role to play in the application of the law'.³³² An undertone of dissatisfaction and disappointment permeated many

³²⁹ Islamic law was never mentioned, although one Albanian respondent gave an example which suggests the *şeriat*, although she did not attribute it as such: 'In the past, in some parts of Kosovo, if someone was caught stealing something, his or her arm was cut off [*zhvokshe*]'.

³³⁰ For example, Binak Beqaj (45) from Deçan said: 'I inherited one-third of my father's land with my two brothers, and it is worth enough money to build a house, but my brothers and the village would never let me sell it'. Although state law might be able to confirm Beqaj's ownership of the land (and by implication his right to sell it), taking the matter to court would not resolve the problem, as his brothers and the village would exert social pressure on him (and, presumably, potential buyers) to make sure no sale were made.

³³¹ The expression 'Copy paste' ['Cut and paste'], in English, is used by computer literate Kosovars.

³³² S.H. (m), 47, Prosecutor, Gjonaj near Prizren.

of the responses. The ‘parents’ were the first generation of Kosovars to have significant contact with a modern state, most through education and employment. Many were young adults in the ‘Kosovo Republic’ demonstrations of the 1980s, and were arrested and imprisoned for offences they understand to have been ‘political’. Later, many fought in the KLA. The impression which comes through the interviews, and from my broader fieldwork, is that they feel they have invested twice: first, in a socialist state, which failed them, and second in the political and armed struggle for freedom. Few, if any, will say that the latter has failed, but their sense of disorientation in post-war ‘free’ Kosovo is palpable:

In the past, morality [*ndershmëri*] was stronger than the law, because people in the past could break the law, but in no way could they break the customary rules. These days, neither law nor morality have the importance that they used to have; people aren’t satisfied with the law [we have] now, and because of the dreadful economic conditions, even morality is fragile.

J.H. (m), 44, Gjinoc.

It is not merely the idea of morality which they seem to feel is fragile, but the moral community itself, in other words, the nation. This anxiety seems to come from the impression that there are Albanians behaving ‘not like Albanians’ but ‘like Serbs’ (as discussed above), by being corrupt, or otherwise abusing a position of authority. The higher someone’s social and professional status, the more likely that person is to have opportunities to behave like this. In Kosovo’s top-down society, this can be very destabilising.

'Peers'

Snapshots

Morality is the initiator [*nismëtar*] of laws; people who broke customary rules were punished according to the *Kanun*

T.A. (f), 20, Gjakova.

A customary rule is something like law, but just not written [down]; people who broke them were punished with [*me*] the *Kanuni* of Lekë Dukagjin.

A.K. (f), 23, Suha Reka

Albanian law [*drejtësi*] is a way of protecting our morality from harm.

G.H. (f), 17, Prizren

The rules of the *Kanun* were very crude; the *Kanun* dictated morality.

F.K. (f), 20, Prizren

'Peers' understandings of the relationship between 'customary rules' and 'the *Kanun*' varied, in particular, on whether the *Kanun* reflected, or created, the Albanian moral framework. Some respondents used 'the *Kanun*', '*adet*', and '*zakonet*' interchangeably, and many drew no distinction between the *Kanun* as a text, and as customary practice. There was broad agreement that the *Kanun* was an important part of Albanian history and identity, and was something which had always differentiated Albanians from 'Serbs, Turks and other peoples'. Those who broke 'customary rules' were severely punished, 'psychologically' (isolation, exclusion) or 'physically', through 'home-prison', being beaten, being executed and the burning down of the offender's house. Unlike their parents' generation, respondents in this group sometimes used the term *kanun* to describe their own experiences:

My uncle was married in a time when marriages were made without the consent of both sides, and as a result of this, life wasn't good and came eventually to the divorce I'm talking about. My uncle believed that he shouldn't consider his wife's wishes, she had only to take care of the housework without opposing his decisions and his requirements. After five years of marriage, they had three children even though it wasn't a

good marriage. His violence made her life impossible but she couldn't make any legal complaint or charge because, first, she didn't know how those procedures were arranged because she wasn't educated, but even if she was, mentality, tradition, didn't permit her.

So she told her mother what was happening, because she was scared to tell her father directly, because divorce wasn't normal at that time [around 1996].³³³ Fortunately, he understood her situation and he talked to the father of his daughter's husband and they decided to call the oldest men of both families, who they considered could interpret the rules of the *Kanun*. According to those rules, the wife was always at a disadvantage, but it also depended on the tradition of the family.

In this case, [the family Elders] decided that the children belonged to their father, and that the wife could return to her father's home with nothing. Although what she had said about her husband's behaviour was true, according to the Elders she should have been patient, shouldn't have told anybody what was happening, and tried to save the marriage.

Even though she and her family weren't satisfied, they couldn't do anything about it because the decisions of the Elders and the *Kanun* rules have to be respected.

E.H. (f), 20, Prizren

Fifteen years later, in a democratic Kosovo with its own legal system, and determined efforts by international and local actors to improve the position of women in Kosovar society, E.H.'s aunt still cannot see her children. They have, she says, 'forgotten her and do not know her'. She has not sought access to, or custody of, them through Kosovo's courts, because she does not understand how they work, cannot afford to hire a lawyer to find out but, above all, because 'the Elders' decision [*vendim*] was made, it cannot be unmade'. Later, E.H. said rather sadly that, even if her aunt could 'get her children' in theory it wouldn't work in practice because the aunt's paternal family could not afford to support the children financially and, while remarriage was an unlikely prospect for her aunt unless to a

³³³ A Muslim Kosovar couple may have up to three forms of marriage: civil (state), popular, and religious. Of these, the civil ceremony is usually seen as necessary only to ensure any offspring are legitimate in the eyes of the state, the popular marriage is usually identified as the 'real' marriage, and the significance of the religious ceremony varies according to the piousness (or otherwise) of the groom's family. When a couple divorces, each form of marriage needs to be 'undone'.

widower or divorcé, ‘who would take her [as a wife] with another man’s children’? In 2010, I.D. (30) divorced her husband on the grounds of his adultery and ill-treatment of her.³³⁴ An educated woman from an educated family, she had married into a family with basic education and traditional values; the two families had quite different ideas about how the divorce should be carried out, and where the ‘real’ authority lay to divorce the couple. Eventually, her family had to agree to divorce discussions between the Elders of the two families because, without this concession, the husband’s family refused to respond to the application for civil divorce. However, I.D.’s family did go to court for custody of the couple’s two daughters and, despite her concerns that the family judge had a reputation for passing judgements on the basis of traditional values (which would have left the children with their father), she won custody of the children. I.D. does not use the term *Kanun* to describe the customs and beliefs she encountered in her husband’s family, but the substance of what she described was very similar to the principle and practices described by E.H. as ‘*Kanun*’.

Younger Kosovars often implicitly describe negotiating between state law and customary practices, sometimes successfully and sometimes ending up blocked on more than one front. Interview respondents without direct personal experience of state law were far more complacent and positive in their assessment of it than were those who had personal experience, making broad assertions that law is certainly ‘better’ now than it used to be, that they are ‘free’ because of law, and that the law is based on international laws and therefore better. Despite many of the ‘peers’ being law students, they were rarely able to give actual examples of how or why it is better, but the idea remains powerful.

³³⁴ I.D. was one of my informants, not a respondent to the survey.

The *Pajtimi i Gjaqeve*

Snapshots

It was a bit like a war; with the *Pajtimi i Gjaqeve*, we waged war in a special manner. It was the most patriotic and heaviest work that could be done; blood revenge [*gjakmarrje*] was our shame as a nation, the lowest of our *zakonet*, something to be removed. All of Kosovo rose up, it was nothing to do with the LDK, nothing to do with religion – we put the nation before faith. In fact, *inat* [obduracy] for Milošević united us; he contributed more to the success of the *Pajtimi i Gjaqeve*, through his racist politics, than we did!³³⁵

Ramiz Kelmendi, writer and journalist. Prishtina.

The LDK abused the *Pajtimi i Gjaqeve*, because they said ‘we have a state because we have this and this and this [x and y and z]’ when, in fact, the things they claimed were merely steps on the way towards a better thing, or a practical way of organising things. They used the *Pajtimi i Gjaqeve* as propaganda for the LDK.

Osman Shahini, civil servant, Shtime.

Mm, I have heard that there was something like *faljen e gjaqeve* before the war, but it was to do with old people. Villages and old people. Really, I don’t know more about it.

Talent Nimani, law student, Prizren.

National Memories: Public Records

The book ‘*Pajtimi i Gjaqeve 1990-1991*’ was edited by Zymer Neziri, a member of the Central Committee of the Movement and member of staff of the Folklore Branch of the Institute of Albanology. It has two parts: an index of disputes reconciled by the Movement, and a collection of speeches, articles, and recollections, by activists and participants about aspects of the Movement’s work. It presents the *Pajtimi i Gjaqeve* as a fixed-period initiative, and its activities and processes as ideologically coherent with the socio-political agenda of the founders

³³⁵ Although Kosovars often describe *inat* as a particularly Albanian characteristic, it is also found in Serbian culture. As a Belgrade intellectual explained to the journalist Peter Morgan ‘There’s no real, direct translation for *inat* ... Maybe you’d say it’s when your heart overrules your head. *Inat* describes those occasions when you do what you want, even though you’ve been told it’s bad for you. You know this thing will cause you harm, but you do it anyway because it’s your choice’ (Morgan 1997: 15). Morgan explains it as ‘a reflex from the long days of Turkish occupation, from the struggle for Serbian autonomy in the nineteenth century. Outsiders – especially bossy outsiders still roused Serbian suspicions and drove them to erratic displays of independence’ (*ibid.*: 16).

and Central Committee members. Institute staff had planned to produce a three-part record of the Movement's work, consisting of a history of the Movement, full index of the disputes conciliated, and 'Recollections' [*kujtimet*] of the Movement, but owing to disagreements between the folklorists and Pirraku, the historian, over several points of 'fact' in the historian's chronicle, this was eventually published separately by its author (Pirraku 1998). The original disagreement and this outcome both still rankle deeply for all concerned. For the historian, his work has been publically forgotten, excluded from the Institute's official account; for the folklorists, the historian had tried to subvert the national account by misrepresenting a decision taken by the Central Committee on its own name, and to exaggerate his own importance at a particular meeting. Today, Pirraku's book is not on sale in bookshops, the copies in the National Library have disappeared, and my informants at the Institute of Albanology all said they did not own a copy. It took two years to obtain a second hand copy from a street book-seller, whereas Neziri's book is on sale at all bookshops.

Index of Conciliations

The index of disputes conciliated by the Movement is organised according to municipalities. The Editor claims 'it contained no mistakes nor missed any cases' (Neziri 2001: Foreword) but my research shows this is not the case; it does not include disputes which were not documented, for which the documents which were not transferred to the Central Committee (some Regional councils never submitted any records to the Institute) or conciliations which were attempted but failed. Given these significant omissions, the index is best taken as a substantial, but incomplete, snapshot of the Movement's work. However, in Kosovo, the book is popularly held

to be a complete record of the activities, which contains all there is to be known about the *Pajtimi i Gjaqeve*; the Institute documents ‘Albanian-ness’ and the record it produced is the national account.³³⁶ It contains details of 2,511 conciliations in 37 regions, of which ten are areas of Yugoslavia outside Kosovo predominantly inhabited by Albanians.³³⁷ Each regional index divides conciliations into three categories by the nature of the dispute conciliated: ‘blood’ [*gjak*]; ‘wounding’ [*plaget*]; and disturbances [*ngaterresa*]. The proportion of the total disputes conciliation in each of these three categories was: 46.76% ‘blood’; 18.9% ‘wounding’; and 34.4% ‘disturbances’. Entries for ‘blood’ and ‘wounding’ disputes broadly follow the format:

- Name, father’s name, surname, village and municipality of the person giving forgiveness
- What was forgiven, the name of the wronged or injured party, the date of the wrong or injury
- The name, father’s name, surname, village and municipality of the person being forgiven
- The number of people in the family of the forgiven who were covered by the forgiveness.³³⁸

Thus, a typical entry in the ‘Blood’ category for the region of Peja, reads:

Adem Isuf Gashi, from the village of Kryshec, Peja, forgives of the blood of his brother, Ahmet, caused by an ill-fated exchange in 1974, Ramë Shkreli, from the village of Tropoviq, Peja. (35). (Neziri 2001: 112).

Entries for ‘disturbances’ are described with the formula ‘the rift between A and B over X is conciliated’, such as:

³³⁶ This position is generally held even by those who had some specialist role in the *Pajtimi i Gjaqeve* and who, if pressed with specific examples, will acknowledge that for one reason or another the index is incomplete.

³³⁷ Councils outside Kosovo were: Bujanoc (Serbia), Kërçova (Macedonia), Medvegja (Serbia), Plava (Montenegro), Presheva (Serbia), Rozhaja (Montenegro), Skopje (Macedonia), Struga (Macedonia), Tetova (Macedonia), Ulqin (Montenegro).

³³⁸ This figure was included to demonstrate the number of people who have freedom (to move, to work, to live) as a result of the campaign.

Naim Sejdi Balia from the village of Çupevë, Malishevë, and Hazir Miftar Zeqiraj from the village of Bubël, Malishevë, conciliated a serious disturbance which occurred in 1987. (30) (Neziri 2001: 103).

The index gives no information about the original cause of the dispute, constituent incidents in the dispute, the date of conciliation, or the process by which the conciliation was reached.

'Recollections'

The 'Recollections' include memories of particular conciliations, meetings (*tubim*); and people. They were written by a range of authors and contain a lot of reported speech, which is a particular feature of Albanian historical narratives. The language of the texts is dramatic and often declamatory in style. Memories of particular conciliations in private houses and public meetings stress various aspects of the arrangement: the layout of the seating; the people who attended; or particularly memorable expressions used during the reconciliation (Neziri 2001b, Fetiu 2001, Pirraku 2001, Hoti 2001b, M.G. 2001, H.M. 2001). The national dimension of the conciliation is emphasised:

Kosovo in America

'Missionaries of peace'

At the invitation of the national-cultural club 'Hope', based in Brooklyn, New York, a group of Kosovo Albanian intellectuals, members of the Council for Reconciliation, visited the United States of America from 20 July to 14 August 1990. The group of Albanian intellectuals, or 'groomsmen of conciliation' [*krushqit e pajtimit*], as we were called by our compatriots [*bashkatdhetarët*] [compatriots] from across the Atlantic, comprised:

Professor Anton Çetta;
the Academician Mark Krasniqi;
the writers Ramiz Kelmendi and Azem Shkreli;
the lawyers Bajram and Nakibe Kelmendi, Adem Bajri and Mustafa Radoniqi;
the doctor Mustafa Ademaj;
the former-delegate to the Kosovo Assembly Riza Lluka;
the Imam of the Bubaveci mosque, *Mulla Xhevat Kryeziu*;

the head of the Zagreb branch of the ‘Mother Theresa’ society, Simon Kuzhini;
and the author of these lines.

We visited America on a brave and humanitarian mission (described by some as ‘sacred’) to effect the forgiveness of blood [*faljen e gjaqeve*] and the conciliation of families in feuds (Vinca 2001: 232f.).

Recollections about particular people include those of key Movement figures, such as Anton Çetta (Kabashi 2001, Krasniqi 2001), or of participants deemed to have ‘given’ the most for the nation. Of these, ‘the mother’ is a recurring figure (Bunjaku, 2001, Dreshaj 2001, Hoti 2001, Rexhepi 2001). This is coherent with the trope in Albanian national mythology of ‘the mother’ giving birth to the nation (Pritchard 2004). In the following example, Mother Nurie’s response stressed the traditional *sjellja* of the mother, the idea of a family as a social unit, and showed how the practices of the *Pajtimi i Gjaqeve* diverged from historical dispute conciliation practices.

The village of Zillopek, Lugu i Baranit, Peja.

Some students went to talk to Mother Nuria from the Dukagjin Plain about forgiving blood. We were made welcome, and spoken to with an open heart ... When Hava Shala said ‘Mother [*Loke*], we know that you have two sons in Germany. We will go to the post office, and take their thoughts on this matter’, she replied ‘There’s no need to go and take their thoughts.³³⁹ They are boys to whom I gave birth, and whom I have raised; they are my boys, and they could not think differently from me. Therefore, I won’t wait and I won’t set myself apart from the popular will; today I want to forgive the blood of my husband. I want to make you all happy’ (Dreshaj 2001: 236).

These stories were unimpeachably ‘national’ and full of key national themes such as blood, sacrifice, loyalty, and patriotism. The people they described had acted in an unimpeachably ‘national’ manner by putting the national interest before their own, often at great personal cost. The authors of the ‘Recollections’ were

³³⁹ Until the advent of mobile telephones in Kosovo after the war in 1999, many Kosovars relied on pay phones in their local post office to make telephone calls.

unimpeachably ‘national’ characters, as activists and participants in the Movement. The geographical extent of the Albanian nation is illustrated through the geographical spread of the events described in the ‘Recollections’. These consolidate and draw out the themes which underpinned the ideological vision of the Movement (discussed in Chapter 6), and serve as an homogenising influence on the popular memory of the events, leaving no space for alternative views or perspectives.³⁴⁰

Today, the book ‘*Pajtimi i Gjaqeve 1990-1991*’ is a powerful symbol in its own right, popularly understood to be a comprehensive index of the disputes conciliated. The *kujtimet* are emotional, and emphasise the heroism of the sacrifice made by those who chose to forgive, giving the impression of a cleansing tidal wave of forgiveness which swept through Kosovar Albanian communities, for the good of the nation and its future. Participation in the *Pajtimi i Gjaqeve*, the sharing of these feelings, was a litmus test; those who did not were ‘outsiders’, not *i kombit* [of the nation].

National Memories: Twentieth Anniversary celebrations

The year I started my fieldwork, 2010, marked the twentieth anniversary of the founding of the *Pajtimi i Gjaqeve*, and of *Verrat e Llukës*; the anniversary was marked by several events. First, there was a celebration at Verrat e Llukës on 1 May, organised by the AAK Mayor of Deçan.³⁴¹ There were speeches by key

³⁴⁰ This was also discussed in Chapter 6, in the context of the pressure on Kosovars not to stand outside the *Pajtimi*.

³⁴¹ So-called ‘e-governance’ has attracted considerable investment from international donors in Kosovo since the war, an irony not lost on a population which experiences frequent power cuts – and

figures from the *Pajtimi*, the Chairman of the Kosovo Assembly (see Photograph 12, below), and a key-note speech by Ramush Haradinaj (founder of the AAK).



Photograph 13: Chairman of the Kosovo Assembly, Jakup Krasniqi, at the Twentieth Anniversary celebrations

Performances by folk singers and dancers must have had particular significance for the student initiators of the Movement (all from the Dukagjin region) several of whom, prior to the *Pajtimi*, had been arrested or imprisoned by the Serbian state for their promotion of Kosovar culture. Footage of the event shows it was attended by thousands of people, although nowhere nearly the as many as attended the meeting it commemorated.

most municipalities have their own websites with information about the people and activities of the municipality. This information can be useful to see how local politicians present themselves to an internal, local audience. A glance at the Municipality of Deçan's website describes the 'Work Career' of Selmanaj through a catalogue of patriotic and literary activities, culminating in his Mayorship of Deçan and popular acclaim for his book *Me Ramushin* [With Ramush], about Ramush Haradinaj.

<<http://kk.rks-gov.net/decan/Municipality/President/President-profile.aspx>>, consulted 25 July 2013, *n.b.* the English language address of the web page indicates international involvement in the creation of the municipal website.

The Anniversary was covered broadly by the Albanian-language public broadcaster Radio and Television of Kosovo (RTK), the public broadcaster. The coverage included a 45-minute documentary, made in association with the Event Organising Council, which presented the *Pajtimi i Gjaqeve* as a profoundly national phenomenon. It began by reminding the viewer of the rapidly deteriorating political and security situation in Kosovo following the 1989 election of Slobodan Milošević as President of the Serbian Communist Party – and, thus, Serbia – by using footage of the unveiling of the monument to mark the 600th Anniversary of the Battle of Kosovo, and Milošević’s by-now notorious ‘no-one should dare to beat you’ speech (see Chapter 5, above). The condition of relations between the Kosovars and the Serbian state was summarised with footage of the Trepça miners’ underground sit-in, and of demonstrations, riots, and police arrests in Kosovo (see Chapter 5, above). The situation within the Kosovar community was evoked with modern footage of two boys playing a blood feud, to a voice-over noting that, in the late 1980s Kosovo, children ‘were raised in the breath of revenge’. The rest of the documentary consisted of talking heads, interspersed with archive footage from the 1990s and the Movement itself. The programme contributors were initiators and key activists of the Movement, all of whom discussed the circumstances in, and the process by, which the Movement was founded.³⁴² Reflecting on what had changed between then and now, Myrvete Dreshaj concluded ‘Today, we are free. Kosovo is ours. We have our courts, we have our laws’.³⁴³

³⁴² Contributors included Havë Shala, Zymer Neziri, Myrvete Dreshaj, Zogë Shala and Akile Dedinca.

³⁴³ This echoes Gjergj Fishta’s assertion, discussed in Chapter 5, that a people can be called ‘free’ only when they have control of their own legal system.

A live television discussion was a primetime feature on RTK that day, and the guests were Ramadan Avdiu, Ramiz Kelmendi, Myrvete Dreshaj, Mark Krasniqi, Adem Grabovci and Mujë Rugova.³⁴⁴ In the course of this discussion, it emerged that the contributors now understand (or choose to present) the *Pajtimi* as having opened the door to the possibility of a Kosovo Liberation Army, some implying that this was always an intended purpose. This was somewhat at odds with my conversations with Kosovar Albanologists, who had talked about the need for peace within the Kosovar community in the early 1990s, so the increase in the number of weapons (necessary for self-protection) was not a threat within the community; they had not even suggested that the *Pajtimi i Gjaqeve* was a preconceived prior step to establishing an army. This coverage was extended throughout the day in news bulletins. The commemoration of ‘national’ events, such as anniversary celebrations of *Verrat e Llukës* and the *Pajtimi i Gjaqeve*, is a strong media focus in Kosovo, and appears to be part of ongoing nation-building efforts.

Local Memories: Quiet Voices

There are occasional quiet voices which dissent from the dominant narrative but, typically, they are not people expressing dissatisfaction with their own experience, but rather people such as Shkumbin Kurti, and Osman Shahini expressing dissatisfaction on behalf of family members.

³⁴⁴ These people have all reached positions of academic and political influence (some both) in Kosovo. During my fieldwork, these were as follows: Ramadan Avdiu (Member of the Central Committee of the PDK, Deputy Finance Minister), Ramiz Kelmendi (Writer, Founder of the first Academy of Journalism in Kosovo), Myrvete Dreshaj (Academic), Mark Krasniqi (Academician, writer, politician), Adem Grabovci (Parliamentary spokesman of the PDK) and Mujë Rugova (Rector of U.P.).

Shkumbin Kurti is a policeman in his late 30s in the southern city of Prizren. He, met me on behalf of his father, who was too unwell personally to discuss his experience of the *Pajtimi i Gjaqeve*. After nearly three months of trying to build a connection to his father, I was delighted even to have got this close. Shkumbin characterised his father, Bajram Kurti, as a respected historian, prominent during the *Pajtimi i Gjaqeve* as the local leader in Prizren. He hinted darkly at local politicking, and cautioned me not to believe anyone else who might claim to have been the leader in the Prizren region; others may claim it, but his father was the real, official, representative in the city. When I noted that, according to the published index of cases (Neziri 1995), more disputes were conciliated in Prizren than anywhere else in Kosovo, and asked why he thought Prizren was particularly fractious, he snorted with laughter. From our café vantage point, he gestured around the *Shadërvan*, the small square with a fountain which marks the heart of the city, and asked ‘Do you really think this area is more problematic than *Peja*, or [with even greater incredulity] *Prishtina*?’ Shkumbin believes that his father participated personally in more conciliations than did leaders of other councils, and kept far better records. Thus, at the end of the Movement, he was able, and very willing, to submit all of these to the Institute of Albanology on their request. Bajram was committed, diligent, respected and conscientious – a true scholar – who had been bitterly let down by the Central Committee’s decision only to publish the details of the successful conciliations, not the ‘black book’ into which had been entered details of those who refused to conciliate. ‘My father, he told people “This [conciliation] is like a stream, you must be on one side, or the other. You cannot stand on both sides at the same time”, and “the names of those who conciliate will

be written in the white book, those who refuse will be written in the black book and it will be a great shame on their families”, because that is what he expected to happen. He was a truthful man, but he said this and it did not happen’. Tragically, Bajram Kurti died a week after this conversation, during a bleak Kosovo winter. When Shkumbin and I met again after the funeral, in the depths of his misery, Shkumbin wondered ‘it is not only us [the family] he has left. Who will visit those lonely families now he has gone? Who will remember what they did? There is no-one now in Kosovo who knows and remembers them’. Long after the *Pajtimi i Gjaqeve* had finished, the Institute of Albanology had published its account of the Movement and, for most people, the *Pajtimi* had become part of the past, Bajram Kurti had continued to visit families who had conciliated disputes. In the privacy and quiet of their homes, he had born on-going witness to their sacrifice for the nation.

In a small town in semi-rural central Kosovo, Osman Shahini, the son of another regional leader, was disgruntled for different reasons. For Osman, a political prisoner before the war, who served in the KLA and now a middle-ranking civil servant, the Kosovo which has emerged since the war is not that of which he and his father dreamt back in the 1980s. Kosovo today is, he believes, corrupt from top to bottom; Kosovars in positions of authority are corrupt, and ‘internationals’ working in Kosovo are corrupt. He cannot understand what happened to the ideals and integrity he remembers of the 1980s which, for him, were perfectly demonstrated by the *Pajtimi i Gjaqeve*. During my fieldwork, Osman frequently described his frustration at the ongoing presence of ‘internationals’ in the judicial system and as advisors to Kosovar legislators, seeing both as denying Kosovars

‘true’ self-determination. He was exasperated by the hopeless inefficiency of the existing court system, despite the ‘millions and millions’ [of Euros] which had been invested in projects intended to improve precisely this. While explaining this, he repeatedly made a small swiping-backwards gesture with his right hand ending near the top of his trouser pocket, to show much of it was pocketed by corrupt politicians, officials, and ‘internationals’. He voiced a concern common in Kosovo: that the new laws being introduced may be suitable for the EU, but not for Kosovo. In a striking echo of Fishta’s 1933 assessment of the legitimate origins of law (see Chapter 5, above), he observed ‘These laws don’t meet our needs, they don’t come from us and our history’. He was particularly vexed by a category of disputes his father addressed during the *Pajtimi i Gjaqeve* and which, he believes, all other regional councils must also have encountered.

When there was a dispute which the parties both wanted to conciliate, but for some reason they could not (for example, if they were missing some information from the Cadastral Register, or one of the parties was mentally unwell) then the Council ‘froze’ the dispute. It meant neither party could take any action. It was frozen and both parties agreed that, in the future, it would be handed over to the competent court of the Republic of Kosovo for a decision.³⁴⁵

As far as Osman is aware, no court in post-war Kosovo has ever asked for, or taken heed of, a decision made by the *Pajtimi i Gjaqeve*, nor of the disputes ‘frozen’ or ‘suspended’ by the *Pajtimi i Gjaqeve*. Here is a nation-builder at philosophical odds with the state-builders. The lack of formal recognition of the decisions of the *Pajtimi i Gjaqeve* by the new legal system of the Republic of Kosovo is, for him, symptomatic of the misplaced prioritisation of the state over the nation, and of personal interests over the collective interest. When I asked how his father feels

³⁴⁵ Here, ‘competent’ has the sense of ‘having official responsibility for’ rather than ‘being able to do’.

about this, he shrugged ‘what can you do? He is old, he is tired, his time has passed. But he worked hard, he risked a lot to do this work, and now’.

Post-Script: Non-Kosovar Understandings

Contemporary non-Kosovar understandings of the *Kanun* and the *Pajtimi i Gjaqeve* are important because of the particular role that non-Kosovars have played in the post-war governance of Kosovo. Through this involvement in governance, non-Kosovar understandings have the potential to shape or influence the development of legislation and policies. An UNMIK Press release (unnumbered) in May 2003 described the prosecution, by the international prosecutor Michael Hartmann, of a Kosovar man accused of the rape and unlawful detention of his daughter, and the murder of two infants her elder sister had born her father. Hartmann described his concern that he ‘as a prosecutor must persuade five Kosovo Albanian men [the judiciary] who are all fairly old not only to find the accused guilty, but also in doing so to go against the cultural mores and some actions they may believe were justified’. In this particular case

Hartman begins his closing argument by pulling out a large, red, English copy of the *Kanun*, which he ordered on amazon.com. He turns to the panel of judges. “When I turned to the Code of Leke Dukagjini, I found out why this man was not ashamed of how he treated his wife and daughters.”

Hartmann begins reading: “Article 62, ‘The Duties And Obligations Of The Son.’ I note the daughter is not even mentioned. It states that children may not go anywhere without their father’s permission. It also states that children may not oppose their father’s word. This explained to me why the sons came in here and lied to support their father.”

During my fieldwork, similar understandings of the *Kanun* were still present among the international judiciary; an American judge who had been in Kosovo for eight

years advised me that ‘out in the villages, they have their own system. If you want to know about it, you can buy a book from the bookshop on the main street, it’s a big red one’. The book to which the judge referred was the Albanian-English hardback *Kanun* of Lekë Dukagjin.

In contrast, the *Pajtimi i Gjaqeve* has evoked little interest among ‘internationals’ living in Kosovo, but it is mentioned briefly in the literature. In his 1998 ‘Kosovo: A Brief History’, Noel Malcolm noted, as the conclusion to an overview of the tradition of blood feuding ‘the tradition of the blood feud has never died out in Kosovo: innumerable small-scale feuds have continued in remoter villages, and not all of them were ended by the great series of mass reconciliations arranged by an inspirational settler of blood-feuds, Anton Çetta, in the early 1990s’ (1998: 20), but did not name this series as the *Pajtimi i Gjaqeve*. In ‘Civil Resistance in Kosovo’ (2000), Clark says that ‘Kosovo [in 1990] remained blighted by the blood feuds’ (2000: 60), before giving an overview of blood feuds in Kosovo which were, he says, ‘regulated by the code of customary law in a particular area’ (*ibid.*).³⁴⁶ He notes there are provisions within this ‘customary law’ for resolving feuds, before giving examples of how a feud might begin. He summarised the approach of the *Pajtimi i Gjaqeve* to conciliation, and outlined *Verrat e Llukës*, before concluding with Anton Çetta’s understanding that ‘the blood feud campaign set the tone for Albanian civil resistance’ (*ibid.*: 63). Clark’s interest is in peace-building, so it is understandable that he interprets the *Pajtimi i Gjaqeve* as contributing to that end. However, as I have shown, Kosovar understanding at the

³⁴⁶ His account is based on: interviews Anton Çetta gave in 1994 to a French non-violent resistance movement; his own 1999 interviews with someone who had attended various *tubims*; and a 1992 BBC documentary titled ‘Forgiving the Blood’, made by the anthropologist Madeleine Llewellyn-Davies.

time of the *Pajtimi i Gjaqeve* was more nuanced and included recognition that war was likely, and that today, the dominant narrative about the *Pajtimi i Gjaqeve* stresses that it was a first and necessary step which allowed the possibility of the KLA.

Summary

Today, the *Pajtimi i Gjaqeve* is an important symbol of nation-building, and of the nation itself, as an expression of ‘national’ values. It is not usually talked about, other than at significant anniversaries, but interviews with organisers and activists reveal the key place it now holds in the national understanding of the Kosovar experience in the 1990s. These organisers and activists are keen to talk about their involvement and activities; parties whose disputes were conciliated by the movement are often unwilling to talk about the particular dispute which caused their involvement in the first place, or of the process of conciliation, but they will talk about the ‘national’ factors which motivated them to make the final conciliation.

In public and, by most of my informants, in private, the *Pajtimi i Gjaqeve* is held to have been an indubitable ‘great success’ [*sukses i madh*], enmeshed in a broader landscape of contemporaneous civil resistance, which shows the Kosovar nation at its very best during a very difficult period. This is as true of individuals and sub-national groups as of the nation. For many, the puritanism of the founding members’ ideal of an apolitical, a-religious, national movement, has either been lost or perhaps was never important to them; many informants described an implicit organisational link with the LDK, through its structure of branches and sub-branches, or with local religious structures. Today, there is social status and national credit to be derived from a connection with the Movement, and the greater the

connection, the greater the social status; many people were keen to tell me that not only had they been involved in the Movement, but they had been founders, or involved from the very earliest days.

This chapter has drawn together earlier threads, to contribute to my thesis an insight into views of law in society in contemporary Kosovo. Drawing on empirical research, I have explored contemporary views of earlier efforts to harness ideas of Albanian law for nation-building purposes, and considered contemporary dispute resolution practices as a site of contestation between ideas of ‘state’ and ‘nation’. The chapter has also shown the tensions between well-developed ideas of nation (drawing on populist Kosovo nineteenth century influenced understandings of a nation state), and newer, internationally-sponsored state-building efforts (rooted in twenty-first century understandings of a multi-ethnic state). These tensions are expressed through ideas about law and legal processes, and through legal processes themselves. To the literature on state-building in Kosovo, it adds bottom-up perspectives of Kosovar experiences of the state-building process.

Chapter 8: Conclusion

In this chapter, I use three perspectives to draw together discussion threads which shed light on the roles of the *Kanun* of Lekë Dukagjin and the *Pajtimi i Gjaqeve* in the nation-building process and, more generally, on the roles legal texts and processes can play in nation-building. The perspectives I discuss are: how Albanians understood Gjeçov's codification and the *Pajtimi i Gjaqeve* at the time of publication and operation; how we can understand them from an analytical perspective; and how Kosovars today understand them.

Gjeçov's *Kanun* was an early-twentieth century codification of northern-Albanian customary practices, first published serially in a Franciscan periodical, during a period of intensive Albanian nation-building. From writers such as Vasa (1879) and Durham (1909[2000]), we know that, historically, there was a general sense of common customary practices among the northern-Albanian tribes, which the tribesmen described as 'the *Kanun* of Lekë Dukagjin'. While Gjeçov's codification drew on his detailed knowledge of practices in the Mirdita region (see Map 3), in northern-Albanian understandings it is linked to a vaguer idea of a shared legal tradition. Although never used as a tool of governance, Gjeçov's *Kanun* made significant contributions to Albanian nation-building. By documenting the practices of a self-governing community, it demonstrated that the Albanians were culturally distinct from neighbouring peoples, and capable of self-governance. In its script and alphabet, it contributed to the growing body of Albanian publications which reflected the decisions of the 1908 Congress of Manastir, on standardising the written language. This standardisation was a precursor to political unity. In its content, it contributed to a growing body of national literature which told Albanian

readers of Albanian matters. The text transmitted ‘authentic’ local Albanian practices from the mountains of northern-Albania to a scattered, literate elite, which was developing a national political agenda. In its form as a legal code, it presented Albanian customary practices and the Albanian language, as equivalent to other prestigious codes and languages.

The *Pajtimi i Gjaqeve* [Conciliation of Blood Feuds] was a popular movement in Kosovo, from 1990–92, which used a formalised process to conciliate over 2,500 intra-Albanian blood feuds and other disputes. It positioned itself in contradistinction to ‘official’ mechanisms of dispute conciliation. In operation, it variously drew on and challenged ideas of traditional Albanian self-government and customary practices, which were often described by activists as ‘the *Kanun* (of Lekë Dukagjin)’. Here, ideas and understandings about Gjeçov’s text were important, but the text itself was not used. Although the Movement was officially disbanded in May 1992, individuals and groups of activists continued to conciliate disputes in its name until the outbreak of war in 1998. The *Pajtimi i Gjaqeve* was initiated by a small, highly-educated elite, but it became a national project. It resolved internal divisions in a community under increasing external pressure and, by resolving these divisions, increased the sense of group unity and cohesion. Through participating in conciliations, individual Kosovars and Kosovar families explicitly and publically subjugated their personal interests to the greater national interest. By drawing on Albanian customary practices and traditional understandings of *sjellja* [right behaviour], the Movement’s work reinforced a sense of a distinct Albanian way of doing things; and by challenging certain customs, such as strict age- and sex-based hierarchies, it refuted claims being made about the Kosovars by Serbian nationalist

propaganda. After its 'official' end in 1992, it continued to be a resource for creating and maintaining order in Kosovar communities, leading some activists to see it as a nascent legal system of the 'parallel state' which, it was anticipated, might have developed into a full legal system in a future Kosovo state.

What were the roles of Gjeçov's *Kanun* in the nation-building process?

We have no commentary from Gjeçov himself about how he understood the *Kanun*, whether practices or text, nor any Albanian-language reports from which we might take his indigenous terms or concepts as a guide to how he was thinking about his *Kanun* and its contents; but we can draw together some indications. From evidence of formal agreements (Gjeçov 1933[1989]: 256), we know he took part as a witness in customary practices which fulfilled the law-like functions of creating and maintaining order, so his understanding of them was, at least in part, that of an engaged participant. We know, from substantive pre-publication discussions he had about the contents with fellow Franciscans familiar with customary practices (Kastrati 1955: 124), that he sought accuracy in his text, and its composition was not an isolated exercise.³⁴⁷

Although most active in the early-twentieth century, Gjeçov was a nation-builder in the Romantic nineteenth century mould, drawing on ideas of thinkers such as Herder, von Humboldt and von Savigny. Along with his Albanian

³⁴⁷ We are reminded by the Armenian Mxit'ar Goš that a priest's knowledge comes not only from what he observes, but also what he learns in the confessional and through giving spiritual guidance. Mxit'ar's own gleanings added a worldliness to his knowledge which might not be expected of a celibate priest (Thomson 2000: 32).

contemporaries and their equivalents in other emerging central and south-east European nations, he was influenced by Germanic ideas of the *volk*, the importance of language as a determinant of nationality, and the ‘natural’ political state of a *volk* as being one of self-determination. Understandings such as these underpinned the development of the northern-Albanian concept of *kom(b)* [nation], based on ideas of an extended *fis* [tribe]. To return to my discussion of ‘nation’ in the introduction, this understanding of nation as a community of common descent is of the type described in the nationalism literature as an ‘ethnic’ nation (Smith 1991: 11). As a committed nation-builder, Gjeçov worked to record the existence of his people during a turbulent period when, for the first time, it must have looked as if a legal and political future outside the Ottoman Empire were possible. His *Kanun* was, but was not only, a recording of custom; it offered definitions of categories and concepts in northern-Albanian society, which Honoré has argued is an often overlooked function of ‘real laws’ (1977: 108), and described relationships between categories and concepts, both of which could have underpinned the development of Albanian legalistic thinking. Most explicitly nation-related among these, Gjeçov included a definition of the *kom(b)* [nation] which linked the concept to the existing ideas of *shpi* [family] and *fis* [tribe]. While in practice his efforts were overtaken by politics, some of the ideas his work contained took deep root. To Gjeçov’s peers, the educated Catholic Albanian nation-builders of the early-twentieth century, his *Kanun* would have been evidence of a complex, indigenous, self-governing culture in northern-Albania. It demonstrated sufficient difference between the Albanians and surrounding peoples to meet the Romantic criteria for a ‘nation’; that is, it showed the Albanians had their own language – the ‘main factor’ in the creation of

a national consciousness (Seton-Watson 1977: 9) – and a national ‘spirit’.³⁴⁸ For all the nation-builders’ prioritisation of national over religious affiliation, it is likely there was still an element of saving souls in all Gjeçov’s work. He saw the Roman Catholic Church as an integral component in Albanian customary practices (Gjeçov 1933[1989]: 2–12); in codifying and publishing the *Kanun* he may have hoped that its broader acceptance or use would encourage the spread of Catholicism, or Catholic influence. However, there was a tension between Gjeçov’s faith and his patriotism, which is apparent – from his matter-of-fact account, in the *Kanun*, of blood feuding practices (Gjeçov 1933[1989]: 170–84). These practices run contrary to the Ten Commandments and Christian ethics, showing that his Christian understanding of Albanian customs was moderated by pragmatism: ‘Although as [a] priest Father Gjeçov would try to mitigate the harshness of some aspects of their code through charity and forgiveness, he was out to learn and to record rather than to condemn’ (Kastrati 1955: 146).

The standardisation of language, in particular of written language, is an important element of nation-building as a precursor to political unity. Gjeçov’s *Kanun* made significant contributions to the standardisation of both spoken and written Albanian. Before the twentieth century, there was no standardised Albanian script or alphabet, and almost no Albanian-language education. The Latin script, promoted by the northern-Albanian Catholics was chosen as the standard script at the Congress of Manastir in 1908, and the *Kanun* was first published soon

³⁴⁸ Although this became the dominant vision of the Albanian nation, there were other views. In particular, to conservative Muslim Albanian leaders, such as the signatories to the *Kararname* of the League of Prizren, Gjeçov’s *Kanun* would have suggested an unacceptable model and foundation for future state law, in which the *şeriat* had no part.

afterwards. However, agreeing on a script was only the beginning of the process of developing a common written language. Unlike the contemporaneous Turkish language reforms, which were run from a political and legal centre (Lewis 1999), the Albanian process was one of gradual convergence, to which all published texts contributed. In this broader context of literary culture, Gjeçov's *Kanun* was important as part of an emerging body of 'national' literature and a broader Albanian 'graphosphere' (Franklin 2011). The increase in the production of printed Albanian-language material in the late-nineteenth and early-twentieth centuries had been made possible by the establishment of Albanian printing presses in Shkodra, following the lifting of Ottoman printing restrictions, and the activities of émigré publishing houses. This emerging body of 'national' literature was closely linked to the nation-builders' interests in Albanian-language education (Kostovicova 2005: 21). The nation-builders saw the Albanians as needing to be educated about who they were, and what it was that made them Albanian; Gjeçov's *Kanun* made a significant contribution in both these areas. It also contributed to 'national' education by including a Dictionary of Rare Words and Phrases, and familiarising a wider audience with the 'purer' Albanian of the Mirdita dialect. Through his choice of script and alphabet, Gjeçov claimed a central element of Albanian-hood for a particular political position and view of the future; the knowledge contained in his *Kanun* was available only to those able (literate) and willing (sympathetic to the Latin script) to read it. The text was understood by the literate elite as a transcription of lived practice (Kastrati 1955) and thus to be 'of the people' [*i popullit*], an idea reinforced throughout the text by the use of a vernacular dialect. Comparative examples show us that the language in which a legal code or text is written can convey a message about that text. In eighteenth and nineteenth century

Daghestan, *adat*-books were written by the local population in Arabic (Kemper 2004: 116); as the majority population was Muslim, Arabic would have been the language of God's law, but there may also have been a pragmatic element, as the population of Daghestan was heterogeneous and Arabic would have functioned as a *lingua franca*. In late-twentieth century Kabilya, new codes written after 1995 were written in Arabic or French rather than Kabyle (Scheele 2008: 911); again, Arabic would have been associated with God's law, and here French would presumably have been associated with the former colonial power, as the language of secular law and administration. Wormald's Barbarians wrote their law-codes in Latin; although the sometimes 'arrant nonsense' (1999: 14) of the texts suggests a less-than-perfect understanding of the language, it was the language of historical Roman law and, thus, of legal power. In the case of Gjeçov's *Kanun* the principle was reversed; it was less that choice of language told us something about the legal code, but more that the fact of the code-in-Albanian gave a powerful message about the language.

Gjeçov arranged his *Kanun* in the form of a legal code, unlike his earlier publications in *Albania* and many other compilations of Albanian customary practices written as either short narratives or narrative summaries (Çetta 1972, Hasluck 1954, Bajrami 2010), which suggests he saw something significant or special about the legal form (Pirie 2009). In using it, Gjeçov made nation-building claims about the content of the *Kanun*, and the people from whom the content came. His choice of form linked his *Kanun* to other legal codes, suggesting Albanian customary practice was of equivalent standing to legal codes found elsewhere in the world. This message was reinforced by his extensive notes throughout the text,

which refer the reader to prestigious historical legal texts from Roman, Biblical and Hindu Law. Albanian understandings of such equivalence are expressed by one of the novelist Ismail Kadare's characters, an Albanian academic, who describes the *Kanun* as 'universal riches compared to which the Code of Hammurabi and the other legal structures of those regions look like children's toys' (1982[2003]: 73).³⁴⁹ Such claims are echoed by the anthropologist Ian Whitaker, who has concluded that 'the codified version that has come down to us deserves to be ranked among the great legal documents of the world for its clarity and logic' (1968: 264). Gjeçov's *Kanun* made the Albanian nation a 'nation with a legal code' and thus able to understand itself as of equivalent standing to other nations with legal codes.

Nation-builders are interested in national continuity and, looked at with this in mind, Gjeçov's *Kanun* can be seen as a link between a national past and an anticipated national future. Through the emphasis on antiquity (through Gjeçov's notes), and the continuity of the Albanian people, the text anchored key aspects of the emerging Albanian 'national self' in a mythical shared past, which pre-dated the 'division' of the Albanian people that resulted from conversions to Islam after the arrival of the Ottoman Empire. In its content, it expressed what the nation had been and was, a distinct and self-governing community; but its form was aspirational, suggesting what the nation could be: a people with a legal code, and a viable, functioning, and authentically 'national' [*i kombit*] alternative to *şeriat* and Sultan law.

³⁴⁹ In context, it is ambiguous whether the academic is referring to Gjeçov's text or a more general sense of customary practices.

In its translation of customary practices into a legal code, Gjeçov's *Kanun* is an example of part of the conversion of custom into 'law', which he hoped would underpin a future Albanian state. Our insights into Gjeçov's understanding of this process come through Fr Gjergj Fishta, his fellow Franciscan, nation-builder, and sometime editor. Fishta's introductory essay to the 1933 text (discussed in Chapter 5) suggests that Gjeçov would have seen Albanian customary practices as a means of maintaining order in a self-governing society not yet of the right *shkallë* [level, rank] to have *ligj* [law as legislation], but for which the right *shkallë* was within reach. When that *shkallë* was achieved, the *ligjë doketare* [customary laws] would have been transmitted through Gjeçov's *Kanun* from the mountains of northern Albania to an anticipated political and legal centre; the text could then have provided a foundation from which 'authentic' *ligj* might be developed (1933: xxixf.). Gjeçov's codification is an example of Bohannan's 'double institutionalisation;' that is, it was the restatement of some customs for the 'more precise purposes of [anticipated] legal institutions' (Bohannan 1965: 36). Through codification, Gjeçov moved the content away from the largely illiterate people whose practice it documented, and made it accessible to a literate elite: his codification moved the knowledge from practice to text, and from village to town.³⁵⁰ Despite the Franciscans' efforts, as the politics of the early-twentieth century unfolded, their ideas about the nature of 'law' within a future Albanian state seem to have been crushed by the actions of King Zog, who established an Albanian

³⁵⁰ This knowledge flowed in the opposite direction to Roman knowledge of law in the Twelve Tables, which are believed to have been a response to popular demand from the plebeian class for the publication of the law (Nicholas 1962: 15).

state legal system rooted in the legal codes of Italy, Switzerland and France, rather than Albanian customary practices.³⁵¹

Gjeçov's *Kanun* did not emanate from a ruler or central authority, or function as a tool of governance. It described a segmentary tribal social order in which authority rests in context-determined groups of elders, but it was intended as an initial step towards a more systematic form of governance. Throughout documented history, northern-Albanian populations had resisted efforts to centralise authority or de-localise power (see, for example, Albanian responses to the *Tanzimat*, referred to earlier), which suggests that Gjeçov's project might ultimately have been at odds with the attitudes of the tribal people the *Kanun* represented. Other anthropologists and historians have examined various codifications, customary practices and state contexts. To these, the Albanian case adds a new perspective of an indigenous attempt to draw a tribal society into an emerging state by conceptualising the 'nation' as the greatest extension of the tribal system, and by founding state law on the basis of existing customs.

Contemporary Kosovar understandings of the *Kanun*

Contemporary Kosovar understandings of Gjeçov's *Kanun* illustrate some of the tensions facing the new state. It is readily available in book stores and stalls but, among my informants, rarely owned or read. Robert Elsie observed that not having access to, or not having read, an 'important' Albanian text appears historically to

³⁵¹ This foreshadowed the disappointment of those *Pajtimi i Gjaqeve* organisers and activists who anticipated that the Movement would provide a foundation for a post-Yugoslav, Kosovar state legal system.

have been no impediment to passing comment on it (see Chapter 3): it is the idea of the text itself which is important. This resonates with Jack Goody's comments on 'restricted literacy' in northern Ghana: 'the Book becomes less a means to further enquiry, a step in the accumulation of knowledge, than an end in itself, the timeless depository of all knowledge' (Goody 1968: 237). It is important to the Kosovars that the *Kanun* exists and is known about: within the Kosovar Albanian national community, it is symbolic of an ancient past, the existence of the nation, the national liberation struggle, and proof of Albanian scholarship and a literary tradition. Knowledge or recognition of the *Kanun* by non-Albanians is important to Kosovars as external validation – and thus reinforcement – of these points. For Kosovars, ideas of external validation are intrinsically linked to their understandings of nation and nation-state because of the crucial role played by the Great Powers in the creation of the of the Albanian state in 1912, the members of NATO in the 'liberation' of Kosovo in 1999 and Kosovo's subsequent slow progress towards full international recognition. Less positive are associations of 'the *Kanun*' with a backward past, and Kosovars are sensitive to the ways in which ideas about the *Kanun* were used by some Serb nationalist propaganda before and during the 1998–99 war as justification for some of the Serbian actions in Kosovo. This touches on the claims and counter-claims of Albanian and Serbian nation-building. Crudely, the message of Albanian nation-builders was 'the *Kanun* is evidence of us as a people and our customs, which were exemplified in, and are symbolised by, Gjeçov's historical text'. On the other hand, the message of their Serbian equivalents blurred, and sometimes still does, the distinction between text and customary practices, saying 'the *Kanun* is evidence that Kosovars cling to a medieval system of social organisation and order, which renders them incapable of

engaging as citizens in a modern state, so extraordinary measures by the state were necessary to ensure that the state did not break down in Kosovo’.

Young, urban, educated Kosovars – ever conscious of being the first generation of young adults in the newly independent state, and broadly supportive and accepting of its institutions – identify ‘the *Kanun*’ as being of historical importance to the nation, and yet are keen to dismiss any ideas of its ongoing relevance as a text or a set of customary practices. Some of the practices described in Gjeçov’s text are of direct relevance to their everyday lives, particularly those connected to engagement, marriage, inheritance and the inviolability of the home, but they see these as residual, and reject the idea that they are part of a comprehensive framework of *sjellja* [right behaviour]. In contrast, older, more rural, and less educated Kosovars are more comfortable taking part in, and talking about, customary practices, which they understand still to be a significant part of their lives. Such practices are particularly apparent at significant life stages, such as birth, marriage and death, inheritance, land-ownership, and dispute conciliation. While they may summarily describe customary practices collectively as ‘the *Kanun*’, they do not relate them to Gjeçov’s text, unless pressed, in which case they are usually confident that the practice in question would be found therein.

Kosovar legal and social science academics, still conscious of their role as nation-builders, and feeling an obligation to counter a nebulous sense of historical ‘anti-Albanian propaganda’, continue to mine the text for material to support particular views, including the moral superiority of the *Kanun* over

contemporaneous Islamic law, and proof of links to an Illyrian past.³⁵² These efforts rarely translate into academic publications, and any ‘findings’ seem largely to circulate among a restricted circle of like-minded colleagues; occasional newspaper columns or television appearances give brief overviews of their ‘findings’, which are broadly accepted and absorbed by the population, on the basis of the social status of academics.³⁵³

What were the roles of the *Pajtimi i Gjaqeve* in the nation building process?

1990–92 Kosovar understandings of the *Pajtimi i Gjaqeve*

The *Pajtimi i Gjaqeve* took place at a time when, for Kosovars, Serbian state ‘law’ [*drejtsi* and *ligj*] and the Serbian ‘legal system’ [*sistemi i drejtsise*] had been discredited by the actions of the Serbian state. The *Pajtimi i Gjaqeve* operated outside the state structure and legal system. It drew legitimacy from ideas of justice, negotiation and consensual participation, and from not displaying characteristics which had come to be associated with the state’s law and legal system, including coercion, unfairness, brutality and arbitrariness.

³⁵² Ironically, the ongoing emphasis on Albanian-language education has resulted in a significant number of academics fluent in, or willing to use, only Albanian, which limits their ability to engage in broader academic debates, and isolates their work. This is in contradistinction to the multi-lingual early twentieth century nation-builders.

³⁵³ At the time of writing (February 2014), there is considerable disruption to the HE system in Kosovo, in consequence of accusations from students and the political opposition party *Vetëvendosje!* of endemic academic corruption. This corruption appears to be a consequence of the insularity of the Kosova academic community. Sustained student demonstrations in Prishtina led to the resignation of the Rector of U.P., Ibrahim Gashi (8 February), and the subsequent resignation several days later of the Acting Rector and all the Vice-Rectors. The University is paralysed by a deadlock between its Senate and the Ministry of Education, over how this crisis should be resolved.

Educated organisers and activists understood themselves to be the legatees of the *Rilindja* nation-builders, with an obligation to continue their work. Their understandings of ‘nation’ were broadly those of their *Rilindja* predecessors, with whom they shared a reverence for popular culture [*i popullit*]. This had been institutionalised in the Institute of Albanology, the Movement’s primary hub. To Kosovars at the time, the *Pajtimi i Gjaqeve* had practical and symbolic functions; some of which were explicitly identified by my informants, while others were implicit in interviews, conversations and texts. Kosovars understood the *Pajtimi i Gjaqeve* as part of a legal-political protest, rooted in their understandings of legal and political legitimacy. For them, in the illegitimate revocation of Kosovo’s autonomy, the Serbian state had given up any legitimate political and legal authority in Kosovo. The *Pajtimi i Gjaqeve*, only possible through the ‘will of the people’ [*vullneti i popullit*], was a declaration of the Kosovars’ independence, and demonstrated their capacity for self-governance and drive for self-determination. It made politics practical, rather than theoretical, and reinforced the idea that ‘real’ self-determination was something of which they were capable and within reach. At a practical level, it was a means of maintaining order within Albanian communities when Kosovars were excluded from, or chose not to participate in, the official mechanisms for resolving disputes. Its work was broad: it resolved existing intra-Albanian disputes, and acted to prevent new disputes emerging from an initial incident. Some educated and politically active participants saw it as the nascent legal system of the ‘Republic of Kosovo’, or as a pragmatic precursor which would later underpin an anticipated Republic of Kosovo state legal system. This seems to have been a view more prevalent among the activists and organisers than disputing parties, with the exception of parties contesting land or water claims. Owing to lack

of access to cadastral records, these claims could not be fully resolved by the *Pajtimi i Gjaqeve*, and so were often ‘referred forwards’, giving disputing parties a vested interest in understanding the *Pajtimi* as part of a legal system in development. The Movement was a key element in the approach described by Malcolm of living ‘as if’ (1998: 348): Kosovars resolved their disputes ‘as if’ the Serbian state legal system did not exist, and ‘as if’ the newly created, unelected Central Committee were a Kosovar state authority.

As a nation-building project, the *Pajtimi i Gjaqeve* yoked together the drive for change and the drive for continuity, for the ‘good of the nation’. Pre-socialist Kosovar society had been age- and sex-hierarchical: male elders at the top and young females at the bottom. Led by young people, and giving prominent roles to women, the *Pajtimi i Gjaqeve* was a demonstration of innovation and moral progress. It reflected and amplified some of the social changes that had occurred under socialism; in particular, the high social status of university students, both male and female. Taking young students into homes, as key figures in the conciliation process, brought these social changes deep into local communities they might otherwise not yet have reached. At the same time, the *Pajtimi i Gjaqeve* was a symbol of continuity and endurance. Although significant, the social changes described above were brittle, and concentrated in urban centres: the Movement could not have operated without the support, or at least tolerance, of Elders within families and local communities. In large part, the legitimacy of the *Pajtimi* came from the idea that it was rooted in Albanian customary practices, which linked it inseparably to the Elders. At a symbolic level, it was a public performance, demonstrating ‘higher’ moral and social values than those held by the Serbian

‘other’. Much of the Serbian nationalist rhetoric about the Kosovars concentrated on their being ‘uncivilised’, ‘primitive’ or ‘barbaric’. An open letter from the Association of University Professors and Scientists to ‘the world’s scientific, cultural and political public’, published in the Serbian Literary Quarterly, described Kosovars as having an ‘animalistic hatred against everything that was Serbian’ (1990: 74). In the same volume, another author described:

the wild aggressive frenzy of Shqiptar [Albanian] nationalism and separatism [which] regularly occurs when the demographic equilibrium is disturbed.³⁵⁴ This is in the nature of primitive clan organisation within whose framework the national tribal-clan mentality of the Shqiptar ethnos was moulded (Glušević 1990: 21).

The *Pajtimi i Gjaqeve*’s emphasis on non-violence and ‘consensual’ participation by Kosovars was both a rejection of the claims made about them, and an effort to show, by contrast, the negative nature of Serbian actions in Kosovo. Rooted in customary practices, operated exclusively in the Albanian language, located in Albanian spaces, and peopled entirely by Albanians: in all aspects, it reinforced the ‘national’ distinctness of the Kosovars.

The following themes also recurred as implicit threads in my interviews, conversations, and examination of contemporary text, audio and visual materials. After the mass dismissals from public sector employment in 1990 (discussed in Chapter 5), many previously employed people were at a loose end, and the boredom was stultifying. At the same time, the deteriorating political situation, and imminent war in Bosnia, contributed to a growing anxiety about the situation in Kosovo. The

³⁵⁴ *n.b.* Albanians call themselves ‘shqiptar’, here, by using ‘shqiptar’, the translator pedantically applies the English-language principle that the letter ‘q’ is always followed by ‘u’. This small gesture implies a particular, literate, form of shared ‘civilisation’ between Serbian writer and English reader, and also distances the writer (and by extension, ‘the Serbs’) from the Albanians and their ‘barbarism’.

Pajtimi i Gjaqeve offered a focus for attention, and an outlet for energies, which might otherwise have resulted in an increase in disputes within the national community. It was a highly social activity, at a time when many other social outlets, such as work, school, university, were being closed off to Kosovars. It gave participants an opportunity to travel outside their families and immediate communities, and to meet people from elsewhere, with whom they shared a common (albeit sometimes vague) goal. These people circulated all sorts of news between families and communities, at a time when media outlets were under increasing pressure. As a nation-building exercise, it required participants' continuous, and public, confirmation that national values and priorities were of greater importance than their own. This was the basis on which disputing parties gave up disputes, and activists endured considerable discomfort or hardship, including long journeys, increased risk of police harassment, hostile receptions, prolonged stays away from home, and late night summons. Last, in the *Pajtimi i Gjaqeve* the Kosovars created a conceptual sphere entirely within their control, when much in the state sphere was not. This was a source of pride, an encouragement to resilience, and contributed to individual and group self-respect.

The *Pajtimi i Gjaqeve* and the *Kanun*

When we think about the role of the *Pajtimi i Gjaqeve* in the nation building process, we can understand that, for the Kosovars, its nature was a nuanced matter. The *Pajtimi* was grounded in a web of Albanian ideas of customary practice, often described summarily by Albanians as 'the *Kanun* of Lekë Dukagjin'. For the Kosovars, this linked it to the text of the *Kanun* and to historical Albanian ideas that

legitimate law derived from popular practice. Gjeçov's *Kanun* had drawn legitimacy as a representation of popular practice; in an inexplicit way, subsequent popular practices – including the *Pajtimi i Gjaqeve* – seem to have drawn legitimacy from the existence of Gjeçov's text. For Kosovars who thought about it analytically, it was a politically legitimate alternative to an unjust state 'law' and legal system, which in itself could be seen as a precursor to 'law'. For the majority who did not, it was a socially embedded, legitimate, endeavour, which linked the national past and the future and had considerable social authority. Further, there was a link between the conflict resolution activities of the *Pajtimi i Gjaqeve* and ideas of the state. In the movement's connections to the LDK, we can see the *Pajtimi i Gjaqeve* as the nascent legal system of the 'parallel state'; as a conscious demonstration of moral autonomy and state-like-ness. In reminding Kosovars of their capacity for self-government, and suggesting that 'real' self-determination (and, necessarily as part of that, 'law') was within reach, it echoed the position taken by Gjergj Fishta in his introduction to Gjeçov's *Kanun* (Fishta 1933[2001]: xxixf.). Through the Movement's activities, the Kosovar public was encouraged (and in some cases pressured) to conform to a particular understanding of the nation, that is, one which existed in opposition to any Yugoslav claims on the identities of Kosovar Albanians. The organisers and activists, the upper echelons of whom at least belonged to an educated elite, used the Movement as an opportunity to advance their vision of a modern Kosovar society, in which age and gender were not the only determinants of social status. In requiring public participation in a Movement which the state considered (borderline) illegal, enhanced the sense of being part of a Kosovar nation. The *Pajtimi* contextualised the Kosovar experience of the 1990s in a longer legal-historical frame, emphasising the idea of a continuous struggle for

national independence that reached back to the *Rilindja* and, through references to the *Kanun*, further back into the Middle Ages, even to mythical ‘Illyria’.

Contemporary Kosovar understandings of the *Pajtimi i Gjaqeve*

The *Pajtimi i Gjaqeve* is now largely understood as a mechanism made necessary by the failure of state law to serve the needs of the Kosovar people. It is widely described as having been embedded in ideas of historical Albanian customary practices (frequently explained or summarised as ‘the *Kanun*’), and as a modern incarnation of these practices. Informants varied in the extent to which they identified the connection to historical ideas of Albanian ‘law’ as positive. Older informants, the less urban, and those with less formal education lent towards the connections with the past being a positive feature. Younger informants, the more urban, and those with more formal education tended to stress the progressive aspects of the *Pajtimi*, and sometimes to find the very idea of customary practices rather embarrassing. Even so, they admire the pride [*krenari*], stubborn defiance [*inat*] and ‘national’ self-reliance they see it as having demonstrated.

Today, the ideas on which the *Pajtimi i Gjaqeve* was built – of the family as the basic social unit and of action and direct retribution – have largely been replaced by a modern state legal ideology. Public discourse about feuding, from politicians or in the media, presents it as outdated behaviour, embarrassing, unnecessary, and to be discouraged, and direct questioning of my informants also usually yielded this understanding. But the veneer of state is yet thin and brittle; there is common acknowledgement that blood feuding continues, albeit less, or less evidently, than before. People’s day-to-day understandings of what happens to them and why, are

often constructed within a framework of action and retribution although, in the modern state, these may take new, non-violent, forms. Within some sections of the population, such as those who prize tradition or patriotism, the principles established by the *Pajtimi i Gjaqeve* and its key actors retain a powerful relevance. Despite the existence of a modern state legal ideology and system, the family remains the basic social unit and this form of dispute conciliation continues, meeting needs not recognised or addressed by the state system, which participants identify as essential to ‘justice’. This continuation exists informally, through individual contacts, and as a locally-recognised undercurrent in the new US-sponsored mediation service. As an expression of nation, the *Pajtimi i Gjaqeve* retains considerable importance in Kosovo today. It was almost universally known of by my adult Albanian informants, and most teenage informants were aware of it, although not always familiar with its title. It is understood as an expression of deep-rooted Albanian values and customs in the face of extreme provocation, possible only because of Albanian traditions, and because all participants were Albanian. In its activities, which are popularly understood to have broken state laws on assembly (part of the state of emergency) and nationalism, the Movement was a national campaign of solidarity and defiance against the Serbian ‘other’, and a significant step towards authentic and legitimate self-governance.

Summary

To the scholarship on law, my thesis contributes an unusual, but striking, example of what law can mean, and how it can be used for symbolic and nation-building purposes. Law could be used in this way because it both reflected custom, and

showed equivalence with other nations and states. Contrary to the Durkheimian view, that law emerges from the norms or practices of a community, reflecting culture or customs, I show that law can also create communities.

In the late-twentieth century, the *Pajtimi i Gjaqeve* was a very different aspect of law; it was about legal process and the documentation of process rather than a legal code. In this case, too, law created community. It created boundaries through the categories it employed, and disputing parties had to (or were made to) accept these categories if they wished, through participation, to prove themselves part of the community. Separated by some eighty years, ideas of law have played a crucial role in the nation-building which preceded the creation of the states of Albania (1912) and Kosovo (2008).

To the scholarship on nation-building, my thesis adds a south-east European example of how different forms of law and legal process, anchored in understandings of folk culture and shared heritage, can be central to nation-building activities. Other scholars have examined various aspects of the instrumentalisation of ‘folk’ culture for nation-building purposes in central and south-east Europe, but this use of law and ideas of law seem to be unique in the Balkans. To the scholarship on Kosovo, I present valuable new primary sources from the *Pajtimi i Gjaqeve*, which have not previously been seen outside Kosovo, or discussed in the literature. These give us direct insight into the operation of this legal process at a regional level, and go to the heart of nation- and state-building processes, showing what people were thinking about at the time, and how this differed from other Balkan states.

Gjeçov's *Kanun* and the *Pajtimi i Gjaqeve* were two very different phenomena, but both were anchored in, and constitutive of, Albanian ideas of law and nation, which circulated amongst a population through a century of political upheavals and struggles for autonomy. Albanians had a sense of the *Kanun* of Lekë Dukagjin as an Albanian system of customary practices prior to the early-twentieth century codification, and which they recognised as 'our' way of doing things. Gjeçov's codification, which displayed the sort of legalistic thinking familiar from comparative examples, needs to be understood in the context of nation-building. The text combined the form of a secular legal code (associated with a state or governance) with content drawn from custom, and emphasised the place of the Catholic Church in Albanian everyday life. As a secular legal code, the *Kanun* is different from both the Ottoman code, rooted in the *şeriat*, and the Catholic Church Canon, with both of which we can assume Gjeçov would have been familiar. Symbolically, it brought together state, customary, and Catholic authority, and implicitly suggested they could function sympathetically and symbiotically for the good of the Albanian people, to underpin its future existence and development. Ideas about Albanian customary practices and a vague sense of a distinct Albanian legal tradition re-emerged in the context of the *Pajtimi i Gjaqeve*, which also needs to be understood in the context of nation-building. The Movement drew on, and sometimes contested, understandings of traditional values and customary practices. It contained and represented important ideas and a highly formalised conciliation process, both of which shed light on contemporary links between Albanian 'law' and nation-building.

Glossary: Albanian and other Foreign Language Terms

Key

* = From Glossary in Malcolm (1998).

** = Of Arabic origin

A	Albanian
L	Latin
O	Ottoman
S	Serbian
G	German

Adet**	O. Custom or customary law not derived from Islam
Askeri	O. Soldier class of the Ottoman Empire
Bajrak	O. Military-administrative territorial division*
Besa	A. Sworn Oath
Bie në gjak	A To fall into a blood feud
Çiftelia	A. A two stringed folk instrument
Cizye	O. Fixed Tax on Christian villages
Corpus iuris civilis	L. Body of Roman Law compiled on the order of Emperor Justinian
Deklerate	A. Declaration
Devşirme	O. Levy of Christian youths, taken for training as Janissaries and imperial servants.*
Dora e pajtimit	A. Hand of conciliation
Dorërsi	A. Offender / killer
Drejtë	A. Law / justice
Drejtë kanunore	A. Kanun law / justice
Drejtë zakonore	A. Customary law, justice
Eyalet	O. An agglomeration of sancaks
Familja e madhe	A. Extended family
Fis	A. Tribe
Flamur	A. Flag
Gjak	A. Blood
Gjakmarrje	A. Blood revenge
Gjobë	A. Fine
Gjuha letrare	A. Literary language
Grosh	O. Unit of currency
Haxhi**	An honorific title for a Muslim who has made the pilgrimage to Mecca

Hoxha**	A. Muslim religious teacher*
i kombit	A. Of the nation
Imam**	A. Muslim religious leader
Islihat**	O/A. Conciliation which included Islamic elements
Kadi*	O. Judge
Kadılık	O. An Ottoman administrative district
Kapidan	A. Captain
Kararname	O. Resolutions
Kanun*	O/A. Law Code*
Kóm/komb	A. Nation
Konteste	A. Statement of contest, 'Elevated Style' (Newmark 1999)
Krye	A. Chapter
Kryetar	A. Head
Kryengritje	A. Uprisings
Kulla	A. Fortified tower house
Kultusprotektorat	G. A religious protectorate of the Catholic population of the Ottoman Empire by the Austro-Hunagarians
Kuvend	A. Assembly
Ligj	A. Law (lex)
Libër	A. Book
Millet	O. A relatively autonomous religious community with the Ottoman Empire
Mirsi	A. Goodness
Mosmarrveshje	A. Misunderstanding
Motërzime	A. Examples
Mulla	O. from Arabic, a Muslim religious leader
Narod	S. Nation
Narodnosti	S. Nationality
Ndërshmëri	A. Morality
Në gjak	A. To be in a blood feud
Ngatërresa	A. Disturbances
Nye	A. Knot
Oda	A. (also 'oda e burrave') the guest room
Pajtim	A. Conciliation, agreement
Pajtimi i Gjajeve	A. Conciliation of blood feuds
Paqe	A. Peace
Plage	A. Woundings

Pleqnis	A. The elders
Proçesmbajtësi	A. The minute-taker
Proçesverbal	A. Minutes of a meeting
Provoveçani	S. First-crowned
Raja**	O. ‘The flock’ the non Muslims of the Ottoman Empire
Ramazani**	O/A. Ramadan
Rilindja	A. Rebirth
Rrafsh	A. Plain
Sancak	O. A military district
Şeriat**	O. Islamic sacred law*
Shkolla shqipe	A. The Albanian-language education movement
Shpi	A. Family, household, house
Shqip	A. Albanian language
Sjellja	A. Correct behaviour
Spahis	O. The knight class of the Ottoman Empire
Tanzimat**	O. Reorganisation
Vakıf**	O. Islamic religious charity
Vendim	A. Decision
Verrat e Llukës	A. A place in western Kosovo
Vetëvendosja	A. ‘Self-determination’, a political movement in Kosovo
Vilayet**	O. Initially an Ottoman tax district, after 1861 a territorial unit
Vllazni	A. Brotherhood
Volksgeist	G. Spirit of the nation
Xhibali**	O. ‘Of the mountains’ (this might be from Arabic: tribal)
Zadruga	S. Slavic extended family
Zakon	A. Habit, usage, custom, common practice, custom, traditional custom (Oxford Albanian-English dictionary)
Zakonet	A. Plural of ‘zakon’
Zakonik	S. Code
Zoti i shpis	A. Master of the house

Annexe 1: 'The Albanian Nation', from *Albania*, 1897

From *Albania* (1897/11: A181). My translation of the full article.

The Albanian Nation

When an Albanian goes out of Albania and into Europe, many times the following may be heard in gatherings on foreign soil:

- Foreigner: What are you, sir?
Albanian: I am Muslim (or Christian, in the event that he is Christian)
Foreigner: Good, but I didn't ask you which faith you profess, rather I asked you to tell me what you are.
Albanian: You didn't understand. I am saying I am Muslim (or Catholic, or Orthodox if this is the case)
Foreigner: You haven't understood my meaning at all: I'm asking from which nation are you? Do you know what a nation is?
Albanian: I'm not at all clear.
Foreigner: A nation is a collection of people who have one origin, one language, and one way of life. So now, tell me what you are?
Albanian: I am a Turk.
Foreigner: Good. But do you know Turkish?
Albanian: I don't really; we know a little, I learned it at school.
Foreigner: Your customs, are they like those of the Anatolians?
Albanian: Not at all. For example, my friends and I have 'blood' and 'vendetta', white outfits with gold chains, sheep cooked on spits, we dance the 'vale' and a hundred other customs that neither Anatolians nor any others have.
Foreigner: Well, then, you can't be a Turk. Maybe you are a Greek or a Latin. Do you know the languages of these people?
Albanian: Neither Greek nor Latin is my language; the language my mother taught me in my early years, the language I have heard in the house, is called 'Albanian'.
Foreigner: Albanian is an old and beautiful language. So, then, you are an Albanian.
Albanian: I am an Albanian, and I am a Turk.
Foreigner: One person cannot be two things; you are Albanian, you are only Albanian, and nothing else.
Albanian: I tell you, I am a Turk.
Foreigner: Faith is faith, nation is nation. If you speak Albanian and you live in Albania, you are not a Turk, or Greek, or anything else, you are simply an Albanian. Some may pray in the mosque, others may pray in the church, that is another matter. But you are all Albanian. This cannot be changed: if you like, you can say that you are Greek or Turk, but your words will not change the blood that flows in your veins. Born an Albanian, you are an Albanian.

Foreigners take us for an inferior country, and to be wild: they are right, we are inferior and wild. It brings us shame to say to the world that we are Albanians. Will a day come when we understand what 'nation' means? Let it not be the case that the Albanians are like the Greeks: happy to say the words but not do the work. It is the obligation of all intelligent Albanians to open the minds of the nation; of all the people in the country, yet only 30 are currently working to this end!

V. Babatasi

Annexe 2: Index of Shtime Conciliation Council Documents

Document Number	Date of Document	Keyword	Summary
D.1	27/12/1991	Business debt	Complex business debts of A to B and B to A, including a business loan. Linked to D.2.
D.2	Undated, but prior to 27/12/1991	Business debt	Linked to D.1; second party's declaration.
D.3	Undated, but after 4/3/1991	Land or built property	Conciliation requested in the case of an an uncle not paying fully for land bought from complainant and his brothers, which means the complainant doesn't have the money to pay for his daughter's kidney treatment.
D.4	16/03/1992	Council administration	Meeting minutes describing the creation of a Municipal Conciliation Council and sub-councils.
D.5	11/02/1992	Council	Council document: List of active Council members.
D.6	05/12/1992	Wallet incident	100DM found in a wallet. Money handed to Council and witnessed. Conciliation achieved 16/12/1992.
D.7	Undated	Debt	Money lent two years ago, repayment of which is being refused.
D.8	Undated	Business debt	An overdue loan repayment, due on the 1/12/1992.
D.9	12/05/1992	Land or built property	Complainant had bought half a plot of land on the understanding that the other half-plot would be sold and, if not, he would have his money returned to him so the seller can sell the complete plot. Seller refusing to return money.
D.10	11/10/1993	Fight or physical assault	There was a fight but the document states 'without getting into details in the issue of their disagreement'.
D.11	28/07/1993	Land or built property	Unspecified 'damage to land'.
D.12	08/01/1993	Business debt	Minutes: Conciliation over owed business equipment related to car mechanic and vehicles. Council determines the outstanding debt and gives a deadline for its payment.
D.13	28/04/1993	Land or built property	Minutes: Conciliation over ownership of a piece of land.
D.14	16/04/1993	Death	Minutes: Conciliation over injury through traffic accident (possibly death). Conciliation included representatives of two Municipal Councils.
D.15	07/07/1993	Marriage or Engagement	Minutes: amicable divorce agreement.
D.16	21/02/1992	Fight or physical assault	Report from group of activists to Council on a fight between long-term bricklaying colleagues over a cement mixer.
D.17	26/03/1992	Land or built property	Minutes: Conciliation over ownership of a piece of land.
D.18	05/12/1992	Wallet incident	Reporting a lost wallet containing 100DM. Linked to D.6, D.25-29.
D.19	Undated	Business debt	Declaration of complaint oto the Council: Having paid the deposit for a tractor, the buyer has failed to pay the outstanding money and insists the debt has now 'expired'.
D.20	14/11/1992	Debt	Minutes: Conciliation over debt of 4,100DM.
D.21	18/10/1992	Unspecified	Minutes: Conciliation of an unspecified dispute.
D.22	30/09/1992	Fight or physical assault	Report to the Council of two men being beaten by two other men.
D.23	30/09/1992		Minutes: Unsuccessful conciliation over some corn sheaves belonging to Family A having been untied by a member of Family B, leading to a member of Family B hitting the member of Family A. Linked to D.21.
D.24	06/11/1992	Miscellaneous	Declaration to the Council of a horse-drawn wagon containing the driver's family having been hit by a motor vehicle resulting in the horse receiving a broken leg.
D.25	16/11/1992	Wallet incident	Report of the finding of a wallet and an identity card. Linked to documents D.6, D.18, D.26-29.
D.26	05/12/1992	Wallet incident	Report of the finding of a wallet and an identity card. Linked to documents D.6, D.18, D.25, D27-29.
D.27	16/12/1992	Wallet incident	Report of the finding of a wallet and an identity card. Linked to documents D.6, D.18, D.25-26, D28-29.

Document Number	Date of Document	Keyword	Summary
D.28	16/12/1992	Wallet incident	Report of the finding of a wallet and an identity card. Linked to documents D.6, D.18, D.25-27, D29.
D.29	05/12/1992	Wallet incident	Report of the finding of a wallet and an identity card. Linked to documents D.6, D.18, D.25-28.
D.30	Undated	Land or built property	Minutes: Conciliation over ownership of the waterchannel to a watermill, arising from a dispute about property boundaries.
D.31	20/10/1993	Land or built property	Minutes: Conciliation over a sale of land, in which the buyer believes he has been short-changed of 100m ² by the seller.
D.32	17/08/1993	Debt	Declaration to the Council of an outstanding payment of 300DM for poplar trees delivered but not paid for. Parties declare they have resolved the dispute between themselves.
D.33	06/07/1993	Land or built property	Minutes: Conciliation over rights to use a road.
D.34	22/03/1992	Land or built property	Minutes: Conciliation over land sale. Deposit paid, but not balance, so seller withdrew land from sale but cannot return deposit.
D.35	22/01/1993	Business debt	Declaration to the Council: An unpaid business debt of 141,000DM, which the lender sought to recoup by taking stock to the value of the loan, led to worse dispute.
D.36	10/10/1993	Death	Minutes: Conciliation over fatal traffic accident the previous week.
D.37	13/05/1993	Miscellaneous	Report to the Council of an Albanian man appearing to have been shot by Serbian police
D.38	24/12/1993	Miscellaneous	Report to the Council of burglary with list of items stolen.
D.39	23/05/1993	Miscellaneous	Report to the Council of good character and conduct by a Kosovar recently deported back to Kosovo from Sweden.
D.40	27/04/1993	Land or built property	Declaration to the Council: ownership of the piece of land known as 'Ara e Zeqes'.
D.41	09/12/1994	Land or built property	Minutes: Conciliation over a land sale which now appears to the buyer to be 9 'ari' less than he believed he was purchasing. Council determines seller to give proportional refund and buyer to pay relevant taxes.
D.42	18/05/1994	Marriage or Engagement	Minutes: Divorce agreement including details of access for the mother to the son.
D.43	10/04/1994	Land or built property	Minutes: Conciliation over disputed proposal to lay a road through the Ademaj neighbourhood, across multiple properties.
D.44	15/03/1994	Business debt	Minutes (incomplete): Conciliation over settlement of a debt, paying with machines. Appears to be linked to D.45.
D.45	Undated	Business debt	Minutes: Obligation for parties to repay debts with goods within ten days. Appears to be linked to D.44.
D.46	08/03/1994	Marriage or Engagement	Minutes: Agreement to divorce or break engagement.
D.47	05/01/1994	Fight or physical assault	Minutes: Conciliation over physical fight between <i>nip</i> [nephews/grandsons] in a family. The 'national situation' is given as the reason to conciliate. Linked to D.49.
D.48	24/02/1994	Miscellaneous	Minutes: Conciliation over dispute about medical expenses following a traffic accident. 1,200DM expenses awarded to the injured party.
D.49	05/01/1994	Fight or physical assault	As for D.47. Formal decision from Council.
D.50	05/01/1994	Fight or physical assault	Formal decision from the Council on conciliation over a son having been beaten by another family.
D.51	28/12/1994	Debt	Minutes: Not clear, but probably conciliation over loan repayments.
D.52	05/01/1994	Fight or physical assault	Minutes: Conciliation over a son having been beaten by another family.
D.53	04/04/1994	Business debt	Formal decision from the Council over three-way debt dispute between private companies.
D.54	29/03/1994	Debt	Minutes: Conciliation over difference of opinion between disputing parties as to how much is owed by one to the other.
D.55	24/03/1995	Land or built property	Declaration to the Council of land-sale dispute in which two people were believed to be behaving in an underhand manner likely to spread discontent.

Document Number	Date of Document	Keyword	Summary
D.56	26/03/1995	Land or built property	Verbal statement to Council over same dispute as D.55.
D.57	01/09/1996	Marriage or Engagement	Minutes of divorce agreement including compensation payments and the management of these payments.
D.58	17/07/1996	Council administration	Report from an activist group in the village of Carraleva to the Council that 'under the circumstances' (unspecified) it was unable to continue its work and was disbanding itself.
D.59	26/03/1996	Business debt	Minutes: Conciliation over debts owed by the 'Letplast' factory, and its owner.
D.60	06/03/1996	Fight or physical assault	Minutes: Conciliation over a physical fight between a bus driver and a passenger.
D.61	04/03/1996	Debt	Minutes: Conciliation over repayment of a debt.
D.62	25/11/1996	Marriage or Engagement	Minutes: List of gifts handed over by LDK of Shtime in a broken engagement (LDK acting as intermediary). Linked to D.63.
D.63	25/11/1996	Marriage or Engagement	Minutes: Conciliation over breaking off an engagement . Linked to D.62.
D.64	30/08/1996	Fight or physical assault	Minutes: Conciliation over a child of Family A having been beaten by a member of Family B.
D.65	11/11/1996	Fight or physical assault	Minutes: Conciliation a dispute between neighbours which began with one cursing the other and led to a confrontation between families with axes and other tools.
D.66	30/12/1997	Unspecified	Minutes: Conciliation of an unspecified original dispute which is described as a 'tragedy'. An unusually large number of people involved in the conciliation.
D.67	Undated	Fight or physical assault	Minutes: Conciliation of a dispute which began with a suspected theft of timber and led to a member of Family A having been beaten by a member of Family B.
D.68	Undated	Land or built property	Contract of a land sale.
D.69	22/07/1997	Fight or physical assault	Minutes: Conciliation over physical fight.
D.70	07/05/1993	Fight or physical assault	Minutes: Conciliation over a quarrel between families and their dogs led to a man being beaten with metal pipes and a knife. One of the parties mentions having previously taken a <i>bësa</i> for a month but not being prepared to do so again.
D.71	07/05/1995	Fight or physical assault	Declaration to the Council about a physical fight.
D.72	Various between late 1992 and 1996	Council administration	Report: Summary of various disputes.
D.73	Various between 1991 and 1992	Council administration	Report: Summary of various disputes.
D.74	Undated	Business debt	Notes: Financial figures with the names 'Petrova' and 'Laura'. Company names match those in D.53.
D.75	25/09/1991	Marriage or Engagement	Minutes: Hearing a potential divorce case. Conciliators are lobbying against divorce; no conclusive outcome to the meeting.
D.76	10/11/1995	Land or built property	(Document is somewhat confusing) Minutes: Conciliation over the cancelling of a sale of a clinic, and the return of the money to the buyer, who is to pay the rent on the clinic until 1 April 1996.
D.77	26/02/1996	Fight or physical assault	Minutes: Conciliation over the grandson of one man beating up the son of another.

Document Number	Date of Document	Keyword	Summary
D.78	24/05/1996	Land or built property	Minutes: Conciliation over boundary dispute in which manure has been 'thrown down' at the end of the wall of a property, and damage caused by a hen.
D.79	27/10/1995	Land or built property	Minutes: Failed attempt to conciliate over the sale of a property which has not been handled in the 'correct' way by the seller as the neighbours were not offered first refusal.
D.80	04/08/1995	Unspecified	Minutes: Conciliation over general disturbance between two houses.
D.81	22/02/1995	Marriage or Engagement	Minutes: Conciliation of complaint about the treatment of a woman within her husband's family and consideration of her returning to her birth family.
D.82	Dated just '95'	Unspecified	Minutes: Attempt to conciliate unspecified conflict, which failed because consensus to conciliate could not be reached within one of the disputing families which the Council charges with holding 'human, moral, political and national responsibility' for the continuation of the dispute.
D.83	21/03/1995	Miscellaneous	Minutes: A later document in the D.82 dispute which lists all family members who <i>were</i> willing to conciliate.
D.84	06/05/1995	Marriage or Engagement	Minutes: Conciliation over an engagement made between two families to which the betrothed daughter objects. Details of repayment of guarantee money, and payment of compensation to the groom's family.
D.85	30/03/1995	Land or built property	Minutes: Conciliation over the sale of a property which borders the properties of both parties.
D.86	01/06/1996	Marriage or Engagement	Minutes: Conciliation after a 'runaway bride' (elopement).
D.87	22/12/1996	Fight or physical assault	Minutes: Conciliation after one party had inflicted a serious head wound on the other. Council ordered the attacker to pay 5,000DM in compensation to cover medical bills and a deadline set for payment.
D.88	Undated	Fight or physical assault	Minutes: Conciliation following a storekeeper and his sister having been verbally assaulted and threatened with physical assault by several members of a family. An incident in the D.82 and D.83 dispute.
D.89	09/09/1996	Marriage or Engagement	Formal decision over a marriage breakdown. Divorce settlement stipulated including the return of gifts, 6,000DM compensation to the groom and the bride not to enter the village of Slivova. Linked to D.57.
D.90	19/05/1996	Marriage or Engagement	Minutes: Conciliation over a marriage breakdown. The bride's father stopped her returning to her husband on the grounds he was mentally ill. 2,500DM compensation awarded to the brother of the groom who is (his brother says) 'mentally not able to decide anything'. Deadline given for payment, and note added to say it was met.
D.91	06/02/1995	Land or built property	Minutes: Conciliation over a sale of land which had belonged to one party's grandfather
D.92	Undated	Council administration	Report: Summary of 16 disputes addressed by the activist group in the village of Petrova between 1991-96.
D.93	01/07/1996	Council administration	Report: Summary of 47 disputes addressed by the Shtime Conciliation Council between 1991 and June 1996.
D.94	22/02/1995	Marriage or Engagement	Minutes: Conciliation over marital dispute about the treatment of a bride. Includes nine-point list for the reestablishment of 'correct' relations.
D.95	06/01/1995	Debt	Minutes: Record of payment of 6,000DM. Linked to D.42.
D.96	07/01/1995	Debt	Minutes: Record of payment of 5,000DM through LDK as intermediary. Linked to D.87.
D.97	19/11/1992	Land or built property	Minutes: Conciliation over disputed land ownership.
D.98	Undated	Marriage or Engagement	Notes: A list of bride's 'things' which should be taken from Kaçanik. Linked to D.63.
D.99	06/07/1997	Business debt	Report to the Council of a fight which broke out when brothers went with a mediator to collect an overdue debt.

Annexe 3: Understanding Law in Contemporary Kosovo Survey Questions

This survey was developed in the context of a first year undergraduate law module called ‘Understanding Law’ at the University of Prizren. The idea came from a growing interest among the students in the different legal systems lived through by members of their families and the students’ interest, as future lawyers, exploring understandings and experiences of ‘law’ within their own communities.

The students compiled a long-list of questions; over the course of several weeks we discussed, sorted and reduced them to those below. Some of the questions lack objectivity, but are in themselves glimpses of the students’ understandings of law and the history of ‘legal’ practice in Kosovo. The original questionnaire was in Albanian, and delivered by the students in Albanian to their interviewees. The students transcribed the answers and we reviewed and discussed the transcripts over several weeks of classes. Where I wanted to follow up particular responses, this too was done through students. We worked together on any follow-up questions, they took them back to the interviewee and transcribed their answers.

The limitations of working this way were outweighed by the benefits of reaching informants who would have been inaccessible to me for reasons of geography, general distrust of foreigners, and some strong local dialects (some quite impenetrable even to their own grandchildren).

Section 1: Basic information			
Interviewer’s name		Place of birth	
Interviewee’s name		Place of residence	
Date and place of interview		Relationship (if any) to interviewer	
Male / Female		Level of education:	
Age			

Section 2. Experiences of laws and system of rules		
Types of laws and systems of rules	Personal Experience? Y/N	Brief Example (if possible)
Customs		
Traditional		
Kanun		
Religious		
State		

Family		
School		
Army		
Personal		
International		

Section 3: The nature of law

- a) What is 'law' for you?
- b) How was law when you were my age?
- c) Was law then better than it is now? Why?

Section 4: The functions of law

- d) Did you get punished if you refused the laws that you thought were discriminatory? How?
- e) Can you tell me two of the worse punishments that you have experienced?
- f) Are the laws more for punishing, or for cooperation? Why?

Section 5: The connection (if any) between law and morality

- g) Do you think the connection between law and morality was, is, and will be important? Why?
- h) How were people punished who broke moral rules?
- i) In the past was there more connection between law and morality or law and religion?
- j) Do you see any connection between law and customs? If so, what?

Section 6: Sources of law and legal authority

- k) When Yugoslav law was introduced, did it fit with the law which already existed (Kanun or tradition)?
- l) How known were the sources of law in the past? 7
- m) Are there any differences between sources of law now and in the past?

Section 7: Interactions between law and other aspects of society

- n) What were the consequences of the 1950s law on disarmament for Albanians?

- o) Does the law regulate all aspects of society?
- p) If there was no law in society, what problems would you be most concerned about?

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