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**THE PHENOMENON OF BLOOD FEUD AND IMPLEMENTATION OF
RESTORATIVE JUSTICE IN ALBANIA.**

Master's Thesis

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TABLE OF CONTENTS

INTRODUCTION	4
1. KANUN AND BLOOD FEUD IN ALBANIA	9
1.1. The importance of Honor, Hospitality and Besa in Kanun.....	12
1.2. Mediation and Reconciliation in Kanun	15
1.3. Modern Blood Feud	17
1.3.1. The situation in isolated families	23
2. LEGAL FRAMEWORK OF BLOOD FEUD IN ALBANIA	27
2.1. Statistics of blood feud cases	30
2.2. Challenges in preventing blood feuds.....	31
2.2.1. The standpoint of Operazione Colomba.....	33
2.2.2. The standpoint of the National Committee for the Reconciliation of Bloodshed	35
2.2.3. Mentioned Cases	38
2.3. The Ombudsman recommendations on Blood Feud.....	43
2.4. Resolution for the prevention of the Phenomenon	46
2.5. Recommendations.....	47
3. RESTORATIVE JUSTICE IN ALBANIA.....	49
3.1. Mediation in Albanian Penal Code	50
3.2. Obstacles and Suggestions.....	54
3.2.1. The practice of Operazione Colomba in fighting blood feuds' phenomenon.....	56
3.2.2. The importance of Restorative Justice in ending Blood Feud	58
CONCLUSION	62
ABBREVIATIONS	66
BIBLIOGRAPHY	67

INTRODUCTION

The paper will present the situation related to the Albanian tradition and actuality regarding the phenomenon of blood feuds. Tradition still lives and develops amid modernity, often creating a crossroads in the Albanian state. The study refers to the Kanun of Leke Dukagjini, an ancient customary Code that remains in Albanian society's heart. Frequently, the Code still represents Albanian identity and behavior, not allowing it to move forward. The customary Code has represented for many years the oldest fundamental laws of the structure of Albanian society. The study has a big legal and sociological importance.

The phenomenon that this paper presents is self-judgment and blood feud. This ancient practice of the customary Code of Leke Dukagjini is still practiced today. Nowadays, when the Albanian society aims to evolve forward, the old tradition of the Kanun is leaving behind and many undeveloped families. At the same time, the phenomenon of blood feuds is leaving a deep wound in society. The primary practice that this paper will further develop is Restorative Justice, which has a close connection with the Kanun of Leke Dukagjini. Kanun precisely mentioned the practice of mediation for blood families. This practice has helped many blood feuds to end and many families to give their forgiveness by not continuing this phenomenon further. With the termination of the Kanun, blood feud survived in the Albanian tradition but not its law of mediation. The return of mediation in the form of Restorative Justice will again bring a long-term and successful solution to this phenomenon. As a recovery law, restorative justice will reflect the strategies of successful solutions to the remaining phenomenon of traditional justice.¹

The Kanun of Leke Dukagjini, since the middle Ages, regulated the daily life of the northern tribes of Albania with its laws. These customary laws were passed down from generation to generation orally from the mountain tribes. Customary laws served to regulate the lives of the locals and to regulate various crimes involving blood feuds.² Until 1913, for almost five centuries, the Customary Code continued to be distributed orally between generations. After this period, the Franciscan priest Shefen Konstantin Gjecovi decided to write the Customary Code in a

¹ S. Pratt. Gjakmarrja: Albanian Blood Feud and Restorative Applications of Traditional. 2013 Academia. p.2.

² L. Omari, A. Luarasi. Historia e Shtetit dhe e së Drejtës në Shqipëri. Shtëpia botuese "Luarasi" 1997. p.24

comprehensive document. The priest was also a Kosovo-Albanian writer who relied on the experiences and oral histories of mountain families regarding the traditions and laws they followed. The Kanun has been a governing part of many structures such as family, property, work, and more. One of its main points is revenge through blood, a crime that has taken the lives of many Albanian families. The spread of customary law came because of the migrations of Albanians in 1991 in different areas of Albania.³ The most significant influence in Albania has been the Kanun of Leke Dukagjini. Meanwhile, in Albania, different Kanuns were used, and they had other customary rules from the Code of Leke Dukagjini. The content of the rules in each Kanun has been similar, but each practice has had different interpretations, especially the interpretations that were made of the phenomenon of blood feuds. Albania, until 1928 continued to be influenced and to implement the Customary Law. The phenomenon of blood feuds existed during the Second World War and in the first period of the arrival of the Communist Regime in Albania. According to the Dictatorship Court, between 1939 and 1950, 920 murders were committed, where 291 of them resulted from blood feuds. During the Communist regime, Albania had harsh laws where blood feuds were considered premeditated murder and were punished by state laws. For this reason, during this period around the years 1944-1990, the cases of blood feuds decreased significantly.⁴ Blood feud was not the only element that the Communist regime wanted to destroy. The Communist regime in Albania aimed to abolish customary law completely, leaving room for state laws. In the communist period, no Kanun was allowed to be published or owned by society. Kanun, such as those of Puka Kanun, Laberia Kanun, Skanderbeg's Kanun, and others that were previously preserved in the Franciscan archives, was taken from the state archives.⁵ Blood feud in the Kanun means that blood is taken only with blood. If a murder has taken place in a family or their honor has been violated, then a male member of the family must take revenge for the blood taken by committing murder. If blood is not taken, then this will be considered a dishonor to the family. In the Kanun of Leke Dukagjini, there are 150 rules dedicated to the phenomenon of blood feuds. The

³ M. Sadiku. A Tradition of Honor, Hospitality and Blood Feuds: Exploring the Kanun Customary Law in Contemporary Albania. - 3 Balkan Social Science Review 2014, p.94.

⁴ I. Elezi. Vrasjet për hakmarrje e për gjakmarrje në Shqipëri. Qendra Shqiptare për të Drejtat e Njeriut 2000 Tirane. p.54.

⁵ S. Gjipali, A. Berberi, E. Caro, M. Kapllanaj, S. Danaj. Efektet e gjakmarrjes mbi gratë dhe vajzat në Shqipëri. Albanian Institute of Public Affairs 2013. p.19.

Kanun recognizes three criminal sanctions. These include deportation from the community, blood feuds, and the death penalty. The structures that enforce these punishments are mainly brotherhoods and tribal assemblies. One of the main points of the Kanun is forgiveness, which is considered a high level of courage. According to the Kanun, the injured party has the right to choose between forgiveness and revenge. Forgiveness shows a high level of morale for the injured party.⁶

During the Communist regime, keeping customary traditions under control was simpler. However, with the arrival of democracy in Albania, everything seems to have returned to normal in terms of customary laws. Those customary laws that were denied during the communist period began to develop again in democracy. Albanians gained freedom from such communist oppression and decided to restore old customs in certain areas even though contrary to the new laws of the state.⁷ This phenomenon has currently been proven case by case and, in general, the defects of the fight blood feud crime and the community's distrust of the Police and Justice. Restorative justice plays a significant role in restoring the relationship between the blood feud families. This approach is based on the needs of the victim and the perpetrator. It ensures that both parties reach an understanding not to resort to extreme actions such as murder. Forgiveness is an action that has many moral values in the Kanun. The primary function of Restorative Justice is to achieve forgiveness between the blood feud families and to achieve peace between them. Punishment is not a purpose of Restorative Justice.

On the contrary, punishing the violator, in this case, will not end the blood feud at all. However, revenge will increase until the murder is committed. This way of judgment has happened in many cases of Albanian families.⁸ As in the Kanun, strategies were used to achieve peace. Through the meeting, the conflict had to be resolved between the two parties. The same situation occurs with Restorative Justice, which uses a series of strategies to fulfill the purpose.⁹

⁶ F. Tarifa. Vengeance is Mine: Justice Albanian Style. Chapel Hill, NC: Globic Press 2008. p. 74.

⁷ K. Mile. The blood feud: between Kanun and state: rethinking social and institutional responses to the blood feud phenomenon. Albanian Institute for international studies 2007. p.12.

⁸ E.G.M. Weitekamp, H.J. Kerner. Restorative Justice: Theoretical Foundations. Cullompton: Willan Publishing 2002. p.72

⁹ B.F. Borgarsson. The Implementation and Impact of Restorative Justice Programmes in Albania and Cuba. Lund University 2015. p.13.

The paper presents seek to interconnect the settlement of blood feuds with the mean of Restorative Justice. The thesis will identify the existence of blood feuds in the history of Albania and the role of Kanun in different periods. The Kanun of Lek Dukagjini, even today, has not lost its power in the countryside of Albania. The blood feud rival families were dealing with their issues with the way of murdering. The paper strains to determine the role of forgiveness in the phenomenon of blood feud. Restorative Justice aims to solve the conflicts without blood. It tries to use particular ways as mediation, circles, and more to settle the problems between the parties. Thus, the paper will seek to connect mediation in Kanun and Restorative Justice to find a solution.

The Kanun of Lek Dukagjini consisted twelve books. One of the books concerned issues regarding the blood feud. The book had many interesting points, which are overseen by people who still engaged in blood feud revenge. Despite the long history of Albania, the government could not manage to tackle the issues of blood feuds. Even nowadays, according to the statistics, people are dying because of the ancient traditions and rigorous culture. The ways of solving the issue remain unclear. Although, the paper will strain to determine Restorative Justice as the way of solution. Therefore, the research revolves around the questions: (i) What is the phenomenon of blood feud based on the Kanun, and why does it continue to exist nowadays in Albania? (ii) Why does the Albanian state try to hide the phenomenon and often does not accept its existence? Why isolated families today do not trust state institutions but continue self-judgment? (iii) How effectively will the implementation of Restorative Justice deal with the blood feud issues?

To answer the questions formulated above, the work will use the analytical method. The thesis will analyze the Lek Dukagjini Kanun about the blood feud. Also, the results of this Kanun its avails and flows and its existence during the history. Moreover, an analytical method will be used to determine the usefulness of Restorative Justice. The paper will examine the comparative method to compare the difference between the periods of adaption of Kanun and after its expiration. The statistical method indorsed will help to present statistical data and compare it to each other. The historical method will emphasize when blood feud first appeared in Albania, and what kind of stages it went through. Lastly, the case study method will support the work to underline how blood feud is tackled in judicial practice. All the information mentioned above will be supported by scholars' studies, expert opinion, and organizations report.

The paper revolves around the hypothesis that (i) the main aim of Kanun was distorted by the society; (ii) The Restorative Justice and its form, the mediation, is the solution that can finish the blood feud throughout Albania. Thus, the main research aims of the thesis include the research of the Kanun, the recommendations made by the ombudsman, Operazione Colombia, and some other researchers who have studied this topic. In addition, the paper will examine statistical data rendered by Operazione Colomba, British Embassy in Tirana and Cedoca, and more. The proposed document will be endorsed by the studies of the Albanian laws regarding mediation. The thesis includes three chapters. The first chapter presents a general overview of blood feud based on the Kanun. It studies the importance of three main principles of blood feud: honor, hospitality, and Besa. Moreover, it will be examined the use of mediation and reconciliation during the Kanun era. After, the paper will connect Kanun and modern blood feud and show the challenges of nowadays. The real example of isolated families will endorse the mentioned paper.

The second chapter will examine the particular documents, which underlines the existence and challenges of blood feud in the modern reality of Albania. With this aim, the paper will study the statistical data presented by the authoritative institutions, the standpoints of Operazione Colomba and the National Committee for the Reconciliation of Bloodshed, the judgments ruled by National Courts of Albania regarding the blood feud, the recommendation of the Ombudsman of Albania and by Community Pope John XXIII. In addition, the paper will have a look at the resolution made by Albania as a response to the Ombudsman report.

The third chapter will determine the importance of Restorative Justice in dealing with the problem of blood feud. For this reason, the paper will look through the laws adapted by Albania regarding mediation, the practice report of Operazione Colomba, and other researchers. The chapter will also include suggestions for overcoming the blood feud with the means of Restorative Justice.

KEY WORDS: Albania; Kanun; Blood Feud; Mediation; Restorative Justice.

1. KANUN AND BLOOD FEUD IN ALBANIA

During the Ottoman domination for 500 years, the mountain communities continued to support the Kanun without giving up. The families in the mountainous areas were divided into (FISE), tribes that represented the strength of the Albanians not to submit to foreign domination. The Ottoman Empire desperately needed these tribes for its political involvement, but the resistance of the mountain tribes was enormous. The Kanun remained in force even during the reign of King Zog the first. Also, during the Italian and German occupation in Albania, the mountain tribes were not affected.¹⁰ The tribes in Albania meant communities of people who had a blood origin or some special common symbols. Often the tribes cooperated with each other for a common enemy. This cooperation did not mean that they would not continue their conflicts after that. The mountain tribes served to establish order in a particular area without having political influence. In Albania, there were two different forms of tribes. There were northern and southern tribes. In the northern areas, the tribes have equal positions with each other. While in the southern areas, the prominent tribe ruled all the other small tribes. The main tribe in the southern areas was the Gjonmarku tribe. The tribe is equivalent to family. The territory of a tribe in Albania was precisely the house. There were cases when the tribe occupied only a part of a specific area, but there were also cases when the tribe owned the whole area or the neighborhood where it lived.¹¹ The Kanun has been an customary law for many years and fanatically preserved in Albania. It served to regulate all family and social structures. The family is the main foundation of the Kanun. Precisely the Kanun regulated all family or tribal relations. These customary laws were transmitted orally from generation to generation for many years, being transmitted differently. Over the years, the Kanun had many changes and adaptations with time, but its form and content have always been the same. The Kanun in Albania has had many different names, such as the "Kanun of Laberia," the Kanun of "Leke Dukagjini," the "Ancient Laws," and more. These designations do not indicate that the various Kanuns had different specifics. The essence of the Kanuns has always been the same, but

¹⁰ R. Elsie. *A Dictionary of Albanian Religion, Mythology, and Folk Culture*. London: Hurst, 2001. p.35.

¹¹ R. Elsie. *The Tribes of Albania, History, Society and Culture*. London: I.B. Tauris, 2015. p.38-40.

they specified the different areas of Albania and adapted the Kanun according to their customs. Numerous names of Kanuns show that this ancient law has dominated in almost all areas of Albania from north to south.¹²

The great master, Father Shtjefen Gjecovi, is the person who has studied in detail and collected all the customary laws to codify them in a single book, which is the Kanun of "Leke Dukagjini." All legal norms of Albanian customary law were codified in 2000 pages. Father Shtjefen Gjecovi was one of the prelates of the Catholic Church in Albania, who became the second legislator in Albania by writing the document of "Leke Dukagjini." For a long time, Father Gjecovi dedicated his life to the search for Albanian customary laws. In addition to his service as a priest, he attended various family celebrations or ceremonies to see by himself and receive any information regarding these laws. He saw how Albanian tribes and families lived according to these customs, which constituted a great moral and cultural wealth. Father Gjecovi participated in many tribal meetings, where he was recognized with the agreements or mediations that Albanian families made for different situations. He wrote every word spoken by the first village elders and saw that these customs came from a strong root of customary laws and rules. After Father Gjecovi collected and analyzed all the information received, he began publishing it in various national and international magazines and books. Among them are mentioned, "Life among the mountains" of 1908, "Rules and customs of marriage" of 1910, and more. These collected documents were extensive in number, and for this reason, the Franciscans of Shkodra (a city in northern Albania) created "Visari Komtar" to summarize all these publications in one.¹³ The Kanun of Leke Dukagjini is also called the "Kanun of the Mountains." It bears this name because precisely in the mountainous areas of Albania, this law had a vital meaning for its inhabitants. The mountains bore every weight of these laws and the acts committed by them. The mountaineers were able to recognize the noise of weapons by categorizing that noise as good or bad. When a gunshot was heard, it brought the news of a newborn child or the blood taken for revenge.¹⁴

¹² A. Hoxha. Kanun Institutions as Heritable Cultural Codes: The Family, Kanun. 8 Anglisticum 2019 p.70.

¹³ G. Valentini. E Drejta e komuniteteve ne Traditen Juridike te Shqiperise. Plejad Tirana 2007. p.27-35.

¹⁴ T. Çobani. Princi i përfolur Lekë Dukagjini. Botimet Toena Tiranë 2003. p.8.

The Kanun of Leke Dukagjini consists of 1263 articles. A key factor observed in it is the right of men to revenge. The Kanun clearly states that when a murder is committed, that murder must be avenged again with murder. In this situation in the Kanun, revenge means blood feud. The Kanun mentions four basic concepts, which are closely related to "Revenge." These concepts are "Besa," "Honor," "Oath," and "Miku." According to the Kanun, if a man's honor is violated, then he has the right to kill the violator of his honor. The same situation works for women, who are considered the honorary holders of the family. The husband uses his wife in the family only to serve and maintain the family's honor. If a woman dishonors her family in the presence of guests by disrespecting them, then the husband has the right to kill his wife. Women and children of the family would not be affected by the phenomenon of blood feuds but only men.¹⁵

If we mention the Kanun of Dibra, it has some slightly different characteristics from the Kanun of Lek Dukagjini and other Kanuns. The murder in the Kanun of Dibra was intentional and direct. Exactly guns made the assembly in Diber. According to the Kanun, in a blood feud, every male member of the family would be killed, not just the perpetrator of the murder. However, the killing in the Kanun had to be reciprocal to the damage caused. Although in all Kanuns was contained the fact that blood could be forgiven. The Kanun itself determined forgiveness. There were some rules where no man under the age of 20 would be affected by the phenomenon of blood feuds. In addition, another rule in this Kanun is that blood would not be taken if the family had only one son. Moral values and dignity were preserved in every article of the Kanun. The killer had no right to harm the victim after the criminal act, and he should not take the victim's weapons. If these actions were taken, then the victim's dignity would be violated, and this action would be seriously punished.¹⁶

Murder in the Kanun was divided into revenge killings and blood feud killings. Blood feud in the Kanun emphasized self-judgment. A person would be denied the right to life when he would deny that right to another person. Unlike the Kanun of Leke Dukagjini, the Kanun of Dibra did not encourage blood feuds. It should be noted that the Kanun did not allow blood feuds or revenge in public or religious places. The customary laws of the Kanun strictly forbade this action. The Kanun

¹⁵ Ibid. p.15-20.

¹⁶ XH.Martini. Kanuni i Dibrës. Second Ed. Emal 2007. p.23.

did not allow blood feuds to be committed against women or the elderly and children of a family as the Kanun did not allow the extinction of the family inheritance. The killing was not allowed to be performed at festive ceremonies. If the wife or children committed the murder, then the burden of guilt would automatically pass on to the man of the house. In addition, when the honor of the family or a person was violated, even with a word or a slap, the Kanun gave the right to revenge.¹⁷

According to the Kanun, Prita (surprise attack) carried out the murder. The killers had to make sure that the victim would be in a non-public area, and then they could commit the crime. If third parties accompanied the victim, then according to the Kanun, they would be considered "ashamed" if they did not take care of the victim's body afterward. Faith and forgiveness were vital in the Kanun. If the crime were committed after Besa and forgiveness, then terrible measures would be taken against the killer.¹⁸ The woman had great importance in the phenomenon of blood feuds. It was strictly forbidden for a woman to be killed for revenge or blood feud. If this action were to occur, then the murder of a woman would be equal to seven blood feuds. However, according to the Kanun, if the wife were to commit adultery, the husband could kill her. This right fell only on her husband and not on the children, who would bear criminal responsibility in the Kanun. According to this theory, children had no rights over the preservation of the mother's honor. "Men live for the honor. When the man is touched in honor, he responds with a rifle." This phrase is the most mentioned in the Kanun.¹⁹ However, the Kanun of Lek Dukagjini is the most widespread in Albania. Most Albanians are Muslim, but on the other hand, the Kanun seem to focus on the Catholic Church. This fact is probably determined because precisely a priest of the Catholic Church wrote the Kanun. The Kanun is composed of twelve sections: Family, Church, property, honor, and more. Honor is precisely the sensation that is in the heart of the Kanun.²⁰

1.1. The importance of Honor, Hospitality and Besa in Kanun

Honor in the Kanun was an essential feature of the relationship between an individual and other persons. The honor was not just about a person's values. If the honor of an individual was lost, then

¹⁷ Ibid. p.325.

¹⁸ Ibid. p. 318-323.

¹⁹ Ibid. p. 355-356.

²⁰ A. Cara, M. Margjeka. Kanun of Leke Dukagjini Customary Law of Northern Albania. – 11 European Scientific Journal no. 28, 2015. p. 178.

to the community, that person would no longer be considered. The phenomenon of blood feuds is related to honor. If one's honor is violated according to the Kanun, then the death threat to the violator of honor will be precisely blood feud. Therefore, according to the Kanun, blood feuds would be considered an obligation to establish honor in place.²¹ The fact that the honor had to be preserved made the blood feud never stopped. Ian Whitaker said that for Albanians, it was essential to defend honor until the end. The psychological and social pressure was very high. When a man was considered dishonored, and then he was worthless in society. This fact forced him to take revenge by continuing the blood feud to establish honor in his family. Blood feud was not considered a death sentence. It was considered life imprisonment inside the house. Because in the house, no one was allowed to take blood. However, if the person left home, he was at risk of blood feuds. According to the American author Whitaker, blood feud was an actual act of justice that regulated the preservation and functioning of Albanian society.²²

On the other hand, Besa is a very important element in the Kanun. It plays a huge role in the phenomenon of blood feuds in Albania. Besa is the word of honor given by an individual and has a very great weight. When the word is given, it must be kept. Besa is a principle that is very sacred to Albanians.²³ The one who broke Besa would be punished through blood. Besa was a divine word for Albanians, and this culture of giving the word and hospitality has remained to this day. Besa has an extensive oral and written document that describes how valuable and how much inside it has been in the culture of Albanian society. It comes from an ancient mythological period. According to the epic, it brings the meaning of peace, while according to the Kanun, it functions as a regulator of morality. Besa is divided according to gender and form. According to Article 163 of the third chapter of the Kanun, Besa was a belief behavior where any person who had an obligation to pay would give this word in the name of God. According to Article 165, Besa would be given only before the Village Committee, which was the "Council of Elders," where he would take the oath. Besa would be given in three different forms. It would be given over the stone, the

²¹ D. Gellci. Albanian Highlander's "blood Feud" as a Social Obligation. CreateSpace Independent Publishing Platform 2014. p. 25-29.

²² I. Whitaker. Tribal Structure and National Politics in Albania, 1910-1950. - 7 History and Social Anthropology, London, New York Tavistock 1968. P. 265-272.

²³ G. Trnavci. The Albanian customary law and the Canon of Lekë Dukagjini: Clash or Synergy with modern law. Selected Works 2008. p.22.

cross, or over the boy's head. According to Article 181-182, women and priests are excluded from this oath. The Council of Elders will decide whether this promise will be given or not. However, there are some factors where trust is not given before the council of elders. In this case, we have the restoration of the honor of a family through blood feuds. It is up to the victim's family to give Besa to regain the family honor by committing murder. If the family does not commit this murder, then that family will be considered dishonored, and the killer will receive a higher prestige for the act committed.²⁴

Revenge is also closely linked to Besa. If the victim's family would give Besa, saying that they would make a truce against the killer, then the killer had the freedom to move calmly without fear of revenge. Many years ago, a much-rumored case occurred in the province of Zadrima, where during a hunting shooting, a young man mistakenly killed a person from the village. The frightened young man left the scene directly, going to the first house he saw, and told the property owner that he was asking for help after mistakenly committing a murder. The owner of the house accepted him, giving him his Besa that he would shelter him. The family later learned that the victim was their son. The house owner told the boy who was sheltering that he would keep him at home for three days without touching him because he had given Besa. However, after the third day, the boy had to leave as soon as possible because he was already in blood with this family, and the owner of the house would look for him until he was killed.²⁵ Besa has to do with the manhood of the family. Besa has a significant influence on Albanian hospitality. The guest is necessary and sacred for Albanians. If the guest is invited to a family, the family will do everything to respect him and accompany him to where he wants to go. Hospitality is a virtue of Albanians and is as important as Besa itself. The guest will be protected with blood, whether this is a friend from the same village or a foreign friend. In the Kanun of Leke Dukagjini, there are 64 paragraphs dedicated to guest and hospitality. In the 8th book of Leke Dukagjini, it is clearly stated that the person who comes to the house as a guest is the honor of an Albanian family, where he will be treated with respect and with a special noble reception. This part of the Kanun expresses the great heart of the Albanians and the

²⁴ M. Mandala. Besa në Kanunin e Lekë Dukagjinit. Universiteti i Palermos 2011. <http://eltonvarfishqip.blogspot.com/2011/06/besa-ne-kanunin-e-lek-dukagjinit.html>

²⁵ G. Valentini. LIGJI I MALEVE SHQIPTARE. Plejad Tirane 2007. p.7.

high humane feelings regarding hospitality. According to articles 608-621 of the Kanun of Leke Dukagjini, the house and food will be made available to the friend, and also he will be at the top of the table where he will be honored as a god in that house. According to the Kanun, the door of an Albanian family will be opened for anyone who knocks, be him a friend or a beggar. Therefore, whoever knocks on the door, whether poor or rich, will be respected and welcomed equally with all the honors and customs he deserves. In the end, he will be accompanied until he is safe and out of danger. If he is offended or not honored, then this family will enter the blood for the disrespect of their guest. Many foreign writers, who have personally experienced it, have expressed that they have been amazed by the hospitality they have received.²⁶

1.2. Mediation and Reconciliation in Kanun

The blood feud will continue until blood is taken or forgiveness is established between the two families. Long-term mediation is required to establish forgiveness. The Kanun clearly defines the steps of mediation. According to the Kanun, the offender's party is required to pay the blood through various monetary payments or by removing the offender from the area or village where he lives. Usually, if the blood is paid through monetary values, it is not considered an honorable way. Another way to forgive blood is marriage between members of two families. This method is a little difficult to achieve but cannot be ignored in many positive cases. Reconciliation is done through a ceremony, and the offending party is required not to mention the murder or the way of forgiving blood afterward. Mediation requires the presence of both parties, is a very delicate process, and can often take years to resolve. One of the cases of conflict was resolved after 50 years.²⁷

The village elder performs mediation. They perform a grand ceremony when forgiveness is accepted. In the rural areas of Albania, there have been different ways of mediations, such as those of families or religious leaders. The Franciscan priests are examples of clerics intervening in various mediations in the northern areas. According to the Kanun, a mediator can be anyone, even a woman, but it was the village elder in most cases of mediation. The council of elders was paid a

²⁶ Ibid.p.28

²⁷ P. Alston. Report of the Special Rapporteur on the extrajudicial, summary or arbitrary executions, mission to Albania. 17 session, United Nation General Assembly 2011. p.6.

monetary value for the mediation they performed. There has often been much dissatisfaction with the mediators who did not attend the hearing correctly, and the parties remained dissatisfied. Many mediators failed to compensate for the monetary value they received.²⁸ Usually, the mediator of a conflict was resolved by the closest family friends and was supposed to be a wise older man. Reconciliation was achieved in two ways. The first way was by gathering some witnesses who call the most important person of the victim and the killer and have lunch together discussing the situation. The second way is by gathering all the village elders in one house and taking the killer and the victim's relatives, and setting the price of blood forgiveness. After determining the price, the killer is obliged to go to the victim's house the next day and pay for the blood taken. If he does not pay, then the responsibility will fall on the killer. One method of reconciliation has been drinking blood between two family members. They threw a drop of blood into water or alcohol and crossed their arms to drink the glass. In this way, they created a bond between families.²⁹

At the end of 1800, three towers were built in the village of Lekaj, which would serve as shelter for the families in blood until finding a solution to the conflict. However, the lifespan of these towers did not last long as they were never used except for one of them, where the duration of a sheltered family was only two weeks. The resolution of that conflict was made through marriage between two persons of both parties. These cases did not promise much peace as they often led to conflicts that are even more serious. Even for the mediators, it was not easy as they often risked their lives if the conflict did not reach a peaceful solution. With the fall of communism, many initiatives were taken to resolve the conflicts. The main essence of these initiatives was placed on forgiveness. It was mentioned that honor could be placed much better with forgiveness than with murder. In 1995, the Nationwide Reconciliation Committee was established but was not very successful due to insufficient finances and resources. This committee could only provide the words of the elders who served as mediators but did not provide protection materials for the victims. The committee also helped people change their attitudes.³⁰ Blood forgiveness through mediation methods has been one of the most effective methods of the Kanun to achieve peace between blood

²⁸ Ibid. p.5.

²⁹ R.Merlika. KANUNI I BENDËS, PJESE E SË DREJTËS ZAKONORE SHQIPTARE. Universitetit European të Tiranës Tirane 2018. p.98.

³⁰ M. Mustafa, A. Young. Feud narratives: contemporary deployments of Kanun in Shala Valley, northern Albania. – 14 Anthropological Notebooks 2008. p.101.

families. It was a complicated process and often took a long time to reach the goal. In most cases, forgiveness was done out of fear. Many families were afraid to continue the blood feud because that way, it would never end. They wanted to find security for other family members. Not to forget the fact that the woman has played a significant role in blood forgiveness. They have often led to many solutions to family conflicts. Women were the ones who experienced the great pain of seeing every male in the family being killed at different times. These women were never sure if their born son would be safe or not. They even had an expression where it was said that God created mothers precisely for this reason, as he could not be everywhere. In cases where the murder was made by mistake, then it was easier to seek reconciliation. However, there were some cases when the perpetrator damaged the victim's physical appearance, and then blood reconciliation was no longer possible. The more dignified the killer's behavior towards the victim was, the more benefit it would be to reach a reconciliation. Many families admired the families who managed to resolve the conflicts, but if it were their case, they did not see this solution as very possible.³¹

1.3.Modern Blood Feud

It very concerns that the phenomenon of blood feud has made much resistance over the years. Many statistics have shown that the phenomenon of blood feuds is not over yet. It even continues to this day, especially in the northern areas of Albania. During the reign of King Zog, this phenomenon decreased. Again, the problem did not completely disappear even though the results had a drastic decline during this time. In 1928, King Zog had full legislative, judicial, and executive power. To create progress towards the Albanian state, King Zog decreed the abolition of blood feuds in law. There was a very drastic reduction in crimes. However, around 1930-1938, 1652 murders were committed 46% due to blood feuds. From 1930 to 1938, there was a significant reduction in blood feuds cases, but the percentage of murders of this phenomenon was very high and almost half the value. What is worth noting is that 33% of these killings were committed in the northern part of Albania, respectively, in Shkodra. A change of cases occurred during World War II, where the number of blood feuds decreased to 291 cases. When the Albanians were fighting to survive against

³¹ N. Qana. Socio-Historike e Fenomenit te Gjakkarrjes dhe Fenomenit te tij mbi Grate dhe Femijet. Instituti I Studimeve Europiane Tirane 2016. p.101.

the occupation of other states, they created a union of forces and did not focus on the phenomenon of blood feuds. After the Second World War, Communism came to power in Albania.³²

Communism brought a series of strong laws and a large number of legal institutions. The death penalty law was enacted, and the deportation of the killer's family to other areas of Albania entered into force. For these reasons, the number of blood feud cases decreased again. With the introduction of the new laws of Communism, the application of the Kanun was banned entirely. The penalties for anyone who tried to enforce the Kanun would be extremely severe. During the years 1946-1950, the number of murders of the blood feud phenomenon was only 17%, and after five years, this number dropped to 13.5%. The period when there was no case of blood feud was precisely from the year 1982 to 1990. Based on these years, it was thought that the Kanun and the phenomenon of blood feud would not arrive in Albania anymore. However, unfortunately, the opposite happened. After the fall of Communism in Albania, many riots happened. These riots brought back the Kanun and the blood feud, but this time in a different way and form. The Kanun came back transformed and more brutal than it was before. In this period, the previous bloody family conflicts were restored.³³

The great desire to establish Democracy in the country made the Albanians take everything into their own hands. They understood the freedom of Democracy as a freedom to do whatever they wanted. In this way, the Albanians started to self-judge their relatives who had been killed years ago. The cases of blood feuds started again. During the reign of Enver Hoxha, Albania was declared an atheist country even though it was not true at all, and religion had a great influence on the Kanun and in resolving conflicts of Kanun. Even after the fall of communism, Albanians decided to consider Albania as an atheist country still and no longer considered religious orders in resolving conflicts of blood feud. Albanians were isolated from their tradition for many years. For this reason, they had an even greater desire to restore the Kanun tradition in the country. Many people in blood were no longer alive, but the blood feud continued by their descendants. A challenging period returned in terms of this phenomenon. The laws of the Kanun were changed and wholly interpreted.

³² E. Prroj. Nje Veshtrim Social Psikologjik mbi Grate e Femijet e Familjeve te Ngujuara. Universitetit Europian të Tiranës Tirane 2018. p. 41.

³³ Ibid. p. 42.

Self-judgment was established in the country, even for insignificant motives. Statistics showed a high increase in murders due to blood feuds.³⁴

After the 90s, many political and economic changes took place in Albania. The death penalty no longer existed, and the functioning of the state and institutions was not at the proper level. During this period, organized crime increased significantly, and the Kanun began to flourish again. There were major conflicts over the division of wealth and property, and the number of divorces and abductions of girls for trafficking also increased significantly. There were 184 families in blood feuds registered only in 2014, and 27 were children affected by the phenomenon. In the city of Shkodra, during 2012, according to the State Police statistics, there were 200 families where 116 of them were isolated. Official documents related to the blood feud situation in the country came out exactly in 2012. It is worth noting that the statistics released by the State Police have always fallen into contradiction with the statistics released by various organizations.³⁵

In 2012, according to the Nationwide Blood Reconciliation Committee, blood feud killings reached 152 cases. The number of female victims increased significantly even though, according to the Kanun, women were not allowed to be killed for blood feuds. There were also interpretations of the Kanun in the case of women, children, and priests. Blood feud was not recognizing ethnicity or gender anymore. Anyone could be killed in the name of blood feuds. In those years, 129 children risked their lives due to blood feuds, and there were also 6500 families affected by this phenomenon. In 2011, the statistics released by the Reconciliation Committee for the murders committed were 139, where 109 of them resulted from blood feuds cases. An article written by "Gazeta Shqiptare" in 2012, it resulted that from 2011 to 2012, there was a decrease of cases by 20%, but this decrease rate did not continue for long. If the cases would have this level of reduction year after year, then the blood feud would have disappeared by today. Unfortunately, it has become even harsher in Albania.³⁶

The Kanun was interpreted to the point that it could be said that the Kanun did not exist anymore. Isolation at home was the only element that remained applicable by the Kanun. The phenomenon

³⁴ Ibid. p.186.

³⁵ Ibid. p.45.

³⁶ Ibid, p.47-48.

of blood feuds has changed for years and continues to this day. According to Mentor Kika, during the 1990s, there would have been fewer killings if the Kanun would be implemented precisely and without change. The type of murders has changed and they are no longer for customary reasons. Now every little motive brings back the murder and ends in revenge, such as blood feuds. Elsa Ballauri, a member of Human Rights in Albania, stressed that the Blood feud is now used on women and children. In addition, the director of the Foundation for Conflict Resolution and Dispute Reconciliation, Mr. Rasim Gjoka, said that nowadays, people do not care anymore for the targets. They are happy as long as they take revenge on the person who violated them or their dignity. One of the cases of blood feuds that violated the rules of the Kanun was the murder of a child in 2012.³⁷

The case of the murder of the citizen S.M in 2009 by the citizen A.B, in a northern city of Albania. In this case, the Judicial District Court has decided that based on articles 79 / ë and 55 of the Penal Code³⁸ to find the perpetrator guilty and sentence him to life imprisonment. The Court of Appeals decided to amend decision no. 56, dated 09.12.2009 of Judicial District Court. The decision finds the perpetrator A.B guilty of committing the criminal offense of "Murder for blood feud" in collaboration, provided by Article 406/1 of the Criminal Procedure Code³⁹ by reducing 1/3 of the sentence and his sentence with 16 (sixteen) years and 8 (eight) months imprisonment. The perpetrator of the criminal offense (AB) has requested in the Criminal College of the High Court the change of the above two decisions. The High Court left in force the sentence of the perpetrator according to a decision no. 307, dated 03.11.2010 of the Court of Appeal. The High Court with decision no. 131 dated 17.04.2013 has decided to partially change the decision of the Shkodra Court of Appeals by changing the legal qualification of the criminal offense from "Premeditated Murder" in cooperation under Articles 78 and 25 of Penal Code⁴⁰ in that of "Premeditated murder" according to article 78 of the Penal Code. Furthermore has decided to leave in force the sentence

³⁷ Cedoca. Office of The Commissioner General for Refugees and Stateless Persons. COI Focus ALBANIA Blood Feuds in contemporary Albania: Characterisation, Prevalence and Response by the State 2017. p.11. https://www.cgrs.be/sites/default/files/rapporten/blood_feuds_in_contemporary_albania._characterisation_prevalence_and_response_by_the_state.pdf

³⁸ Ligji Nr.7895 Kodi Penal I Republikes se Shqiperise. Kreu II. Seksioni I. 27.01.1995. ndryshuar 2.05.2013. Neni 79/ ë dhe Neni 55.

³⁹ Ligji Nr.7905 Kodi I Procedures Penale I Republikes se Shqiperise. 30.03.2017. Neni 406/a/1.

⁴⁰ Ligji Nr.7895 Op.cit. Neni 78 dhe Neni 25.

of the perpetrator according to decision no. 307, dated 03.11.2010 of the Shkodra Court of Appeal.⁴¹

Often Blood feuds and revenge are taken on the same connotation nowadays. This factor has brought a change in the statistics released on the phenomenon of blood feuds. Rasim Gjoka mentions that it often becomes complicated and impossible for a blood feud to be separated from revenge. According to customary law, people for ordinary revenge commit criminal offenses such as murder, and these murders are classified as a phenomenon of blood feuds. Differentiation also occurs between the two areas of Albania. If the same murder for the same motives occurs in the South of Albania, then it is considered revenge, while if it takes place in the North, and then is used the term of blood feud. Blood feuds and revenge are often considered to be similar or the same because revenge crime cases often have the same ending as blood feuds. Due to customary law, families are still isolated in revenge cases as they wait for blood to continue. From a study conducted by Operazione Colomba in 2015, it was stated that Albanian institutions, in most cases, call the first murder revenge and do not consider it at all as a phenomenon of blood feuds. However, if the second murder happens, then these institutions define it as blood feud.⁴²

The phenomenon of blood feuds has brought a new socio-cultural spirit. Many factors prove how the Kanun has been misused today. Operazione Colombo emphasized this fact in their study on blood feuds in Albania. According to Operazione Colombo, the old Kanun code quoted that only the killer would be part of the blood feud, but nowadays, there are few cases when the killer is the next victim. They are usually relatives of the killers who become the next victims of blood feuds. Another reason that was emphasized is exactly the Kanun of Leke Dukagjini, which does not allow the blood of women and children under 15 to be taken. However, according to statistics from 2012 and 2013, two girls, one 17 years old and the other 18 years old, were killed in two northern areas of Albania. In the village of Dukagjini, due to a fight between two families, a 17-year-old girl became a victim of blood feud. In one village of Tropoja, the next victim in 2013 was an 18-year-old girl due to a property dispute in the family. Another case of transformation of the Kanun is involuntary killing. According to the Kanun, if a murder occurs involuntarily, revenge should not

⁴¹ Vendimi nr.131. Kolegji Penal i Gjykatës së Lartë. 17.04.2013.

⁴² Cedoca, Op.cit. p.13.

be taken at gunpoint. Nevertheless, in 2012 in Mamurras, a 9-year-old boy was mistakenly killed in an attempt to kill his uncle. After a few months, the father of the little boy took revenge by killing the perpetrator.⁴³ One of the most sensational cases in Albania in connection with the blood feud was the murder of a Religious Pastor in a northern city of Albania. This sensational case in Albania shows a very strong reason for the transformation of the Kanun. In the Kanun, it was strictly forbidden for Priests or religious people to become part of the phenomenon of blood feuds.⁴⁴

Serious case on 08/09/2010, "Murder of the clergyman" D.P in Shkodra (person dedicated to religion), known by the whole community as a pastor at the church "X". The perpetrator of the crime, M.Nj, states that he had killed for blood feud after the victim's uncle killed his brother in 2005, shows that the victim's connection with the revenge crime was distant, blood feud for an action committed by his uncle. The Court of Judicial District with decision no. 112, dated 25.02.2011 has imposed the sentence of 16 years in prison of the author M. Nj, based on article 406/1 of the Criminal Procedure Code.⁴⁵ Decision no.112, dated 25.02.2011 of the Judicial District Court was upheld by the Court of Appeal (decision no.235, dated 03.112011) and by the High Court with decision no.00-2013-2027, dated 19.09.2013.⁴⁶ Regarding the decision taken of this criminal offense and the compliance of the sentence with the Criminal Procedure Code, is considered that the criminal offense "Intentional homicide in a manner dangerous to the life of many persons", is based on evidence of facts. However the judiciary is not based on Article 79 / ë, of the Penal Code provides for the author to be sentenced not less than twenty years or life imprisonment.⁴⁷

E.P, the wife of the killed Pastor, express her story. After communism, she met her husband, D.P, who later had two children. After the communist period, she decided to become a Christian and follow the path of her pastor husband in the northern city of Albania. E.P reveals that in 2005, her

⁴³ Operazione Colomba. Korpusi i Jo dhunës dhe Pro paqes, Dokument I Pershkrimet te Fenomenit "Hakmarrja" e "Gjakmarrja" Per Sensibilizimin e Institucioneve Shqiptare e Nderkombetare. - 3 Comunità Papa Giovanni XXIII 2017. p. 12

⁴⁴ A crowd against blood feud (s.a). Operazione Colomba 2019.
<https://www.operazionecolomba.it/njepopullkundergjakmarrje/dritan-proj-2/>

⁴⁵ Ligji Nr. 7905. Op.Cit.

⁴⁶ Vendimi nr.00-2013-2027. Gjykata e Lartë. 19.09.2013

⁴⁷ Ligji Nr.7895 Op.cit. Neni 79/ ë.

husband's uncle committed a murder due to a heated debate. From that moment, 25 men of D.P's family were isolated at home due to the phenomenon of blood feuds. According to old customs, one of them had to be killed in order for the blood to be paid. According to the Kanun, blood is taken with blood. D.P's family remained in isolation for four years without leaving home. They went to England to secure their lives, and they returned in the hope that according to the Kanun, Pastors and believers were not affected by the phenomenon of blood feuds. He did not want to live in fear anymore but wanted to serve the word of God and live free. However, in 2010, the 21-year-old younger brother of the person killed five years ago decided to take his family's blood. As the Pastor was leaving the church to go to his family and pick up his children from school, M.NJ, the victim's 21-year-old brother, shot him eight times. D.P was a Pastor, and he had no guilt in connection with the murder that his uncle committed five years ago. A week before the murder of the Pastor, he told his family that if this happened, they would forgive the blood. His wife, in great pain, decided to forgive her husband's killer but could not forgive his mother for the sole reason that she was the one who had pushed her little boy for many years with the spirit of revenge.

Moreover, after the murder happened, the perpetrator's mother did not apologize but said that the blood would be taken only with blood. Later, E.P became the founder of the foundation "No blood feud, Yes for life," which deals precisely with families' service in blood feud. She decided to forgive her husband's killer and to dedicate herself to these families by teaching them to forgive and not to continue the blood feud.⁴⁸

1.3.1. The situation in isolated families

According to the Kanun, the killer's relatives were isolated at home for a long time when Besa was not made yet. However, nowadays, families are locked up at home for years, including children and women. The threats they receive for life force these families to be completely shut off from the outside world. Many of them lose their jobs, schooling, and many other life activities. Many families move out of their homes hiding abroad, but this does not end the phenomenon of blood feuds. The phenomenon continues until the blood will be taken, even if it will take years as a

⁴⁸ J.Jarrett. Elona Prroj Shares Incredible Story of Forgiveness in Chapel. Dallas Baptist University 2020. <https://www.dbu.edu/news/2020/03/elona-prroj-shares-story-of-forgiveness-in-chapel.html>

process. Often nowadays, blood feuds are defined by isolation. If the families live isolated from the outside world, then the public will take it for granted that this family is in blood.⁴⁹

In the phenomenon of blood feuds, the word isolation means full conditionality of freedoms and many human rights. All the family members involved in a blood feud live in fear and threat that it will be their turn to be killed one day. Isolation from blood feuds creates feelings of depression for every family member involved. Many children are kept locked up in isolation from the outside world, education, and they live in fear. Often they grow up with a spirit of revenge, waiting for the proper moment to take revenge in the future. Men are also forced to stop going to work, which leads to a dire psychological and economic situation in the family. Domestic violence is often seen in these families as stress, depression, and isolation lead to alcohol consumption, making men use psychological and physical violence against other family members. It is the most significant burden for women to raise children at home and take care of the family. Their lives are also between fear of depression and violence. These families are deprived of medical assistance. Blood feuds lead to many human rights violations. Among which are mentioned the right to life and liberty, the right to equality because the persons involved in blood feuds are excluded from the rest of society, the right to education and work, and many others. In addition, the demand for asylum increases significantly in these families. According to the Organization for Security and Co-operation in Europe, in 2014 in France and Belgium, 43% of asylum applications involved blood feuds. These statistics have led international institutions to take more restrictive measures for the protection of families in blood feuds.⁵⁰

The "No Blood feud, Yes life" foundation released some statistics in 2018 regarding isolated families in blood feud cases. The statistics were obtained based on several interviews and data collected on the ground. The interviews were conducted on the periphery of the city of Shkodra and in the Bathore area. The victims of the blood feud, respectively women, had over 80 different fluctuations of emotions, which were expressed during the interviews. Many of the blood feud families had not yet registered their place of residence in the civil registry due to the fear of being

⁴⁹ Operazione Colomba. Op.cit. p. 17

⁵⁰ Operazione Colomba. Op.cit. p. 19

spotted by the killer. The highest age of the respondents was 36-45 years old, while the lowest percentage was under 25 years old. 26% of the victims were women over the age of 46, and 20% of them were between the ages of 26 and 35 years old.⁵¹

Regarding their education, they say that this decision belonged to the husband of the house or their father, and most of them had only primary education. According to the customs of the area, education was not necessary for them, as the woman should have the primary purpose of supporting the family and housework. Of all the victims interviewed, only one had completed higher education. The most significant percentage of them had moved from the northern part of Albania. Interesting is the fact that 61% of their children were boys. This fact is because the Northern areas necessitated the birth of a son as he would continue the family inheritance and continue the blood feud.⁵²

All respondents were married and a very high percentage lived on only one source of income. They were expecting the help of the state and pensions received from the loss of a head of household. 18% of households lived on a meager income-seeking help from others, as they had no source of income. Often these women do various jobs in agriculture to provide some income for food. During this time, they work with the feeling of fear for life. Often these families are forced to go out to work, risking their lives. However, it is tough for men of the family to find a job as they are recognized by society as a family in blood, and employers reject these people because of the risk they have. In addition, since the labor market requires high qualifications to be accepted, these uneducated women have no opportunity to apply. The labor market is very tough, making it more difficult for these women to work. They have no previous experience, and the only work they can do is in agriculture.⁵³

According to statistics, it is disturbing that more than 70% of these women are unemployed, and only 12% of them do daily work, which they find by chance. Of all the interviewees, only 16% of them said that they were working a regular job. Usually, these families are supported by income from other family members living abroad or residents of the area. Isolated families expect help and

⁵¹ E. Prroj. Op.cit. p. 127.

⁵² E. Prroj. Op.cit. p.189.

⁵³ E. Prroj. Op.cit. p. 93.

food from various people in the surrounding area. Although the state has identified them as isolated families due to blood feuds, it has not taken any initiative to help them. A significant part of the respondents stated that they did not know the Albanian legislation, but they only asked for help to support the family. Another factor that emerged from these interviews was the dangerous work that the children often did to provide some income. The women said they did not spend any money on themselves and their self-esteem was at zero. Also, high unemployment and fearful living limited them to meet even the necessities of life. 90% of women said they had made many attempts to resolve the blood but had found it unsolvable.⁵⁴

Most of the interviewees stated that they did not know the law of the Kanun concretely but had heard about it and applied it, claiming that it was more reasonable to take revenge on the murders. Families used the Kanun only to conduct self-judgment against various administrative and criminal offenses. Most of the killings took place for banal reasons even after the 1990s. Most of these killings were in complete violation of the Kanun. The mediation of the community elders no longer works, and the clergy, women, and children are being deprived of their right to life. For the 50 women interviewed, it was noted that none of them were aware of the social worker and had not received any psychological or state assistance. Only 32% said that the state did not recognize them as a family in blood feuds. While more than half claimed that the state was aware and almost all indicated that the state had not taken any steps for them. These answers turned out to be approximate with the statistics of the State District Police of Tirana, which in 2018 reported only eight cases of the phenomenon of blood feuds.⁵⁵

⁵⁴ E. Prroj. Op.cit. p. 103.

⁵⁵ E. Prroj. Op.cit. p. 124.

2. LEGAL FRAMEWORK OF BLOOD FEUD IN ALBANIA

According to Operazione Colomba, Albanian institutions have used different ways and strategies over the years to combat the phenomenon of blood feuds. Compared to previous years, Albania took important steps in 2012 in terms of this phenomenon. These improvements have come because of international pressure, which has given a strong impetus to Albanian institutions to take this situation more seriously. Albania has been trying to become part of the European Union for years. European Union has paid great attention to blood feud issues. One of the main requirements for Albania's membership in the EU is the fight against blood feuds and the continuous monitoring of cases of families living with this phenomenon. The European Commission, with resolution 19, referred to the cases of isolated children and the increase in violence that came because of revenge and blood feuds. According to law no. 9389, the European Parliament asked the Albanian state to create a statistical base to report any situation of the phenomenon of blood feuds. Year after year, the European Union has requested the Albanian Institutions to increase the monitoring of the situation and to improve the government mechanisms to fight the crime of blood feuds. According to law no. 9389/200523, Albania should establish a Coordination Council regarding the release of case statistics. In addition, an essential factor is that international institutions have shown a particular interest in supporting and protecting Albanian citizens who are part of this phenomenon.⁵⁶

Albanian institutions have gone through many phases facing many difficulties regarding the phenomenon of blood feuds. At first, the Albanian state considered revenge as a criminal offense. Then in 2013, stricter laws were enacted in the Penal Code regarding the phenomenon. According to Article 78 of the Penal Code, murders due to blood feuds were punishable by life imprisonment. At the same time, incitement to blood feud would have three years of imprisonment under Article 83 of the Penal Code. In 2014 in Shkodra, the Prosecution began to publish statistics on victims of blood feuds and isolated families in that area. In addition, this year, the General Directorate of Police tried to prevent several cases of blood feuds by monitoring the situation. Parliament had

⁵⁶ Operazione Colomba. Op.cit. p. 28.

given the responsibility for the blood feud to the Ombudsmen. In 2015, the Albanian Parliament acknowledged that blood feuds are a phenomenon that exists, and the state must prevent it.⁵⁷ On 5 March, Parliament adopted a resolution to prevent blood feuds and acknowledged that the Albanian state had not taken adequate measures for this phenomenon.⁵⁸

The resolution called for the assistance of all state institutions, including the ombudsman, in the fight against blood feud. Law 9389/2005 published by the parliament was not implemented. However, in Shkodra, were taken some precautionary measures to regulate the phenomenon of blood feuds. In 2015, cooperation took place between several bodies, the OSCE and the People's Advocate in Shkodra. Some meetings took place, but later they were not followed up. A year later, the Ministry of Interior undertook an indirect initiative with the phenomenon, requesting the surrender of all illegal weapons. The state would excuse all citizens who would hand over the illegal weapons without any penalty. This initiative was taken because the possession of these weapons, which were stolen by Albanians in 1997, brought more crimes of blood feuds. Albanians were given enough time, six months, to hand over their weapons, but the results were unsuccessful. The campaign created for removing illegal weapons could improve blood feud crimes, as the criminal cases would be reduced. The weapons that were handed over were minimal compared to the number of illegal weapons that the Albanians possessed.⁵⁹

Justice reform was also a massive step that Albania took since 2014. The main goals of justice reform were to give the system independence by separating it from political influence and removing corruption from the judiciary. Justice reform is an improvement that will focus on all elements of justice. The changes that this Reform would include affected every institution of the justice system. It includes the courts, the prosecution, the Assembly, and the President. According to the Reform, 21 articles of the Constitution of Albania will be changed. In total, the Constitution contains 26 articles, where in addition to the changes made, 23 other points will be added. The Reform would also draft more than 40 new laws and create over ten other institutions. In addition, an important point that the Justice Reform would carry out was the monitoring of all corrupt judges and lawyers

⁵⁷ Operazione Colomba. Op.cit. p.29.

⁵⁸ Raport Vjetor mbi Veprimtarine e Kuvendit te Shqiperise. Kuvendi I Shqiperise 2015. P.14.

⁵⁹ Operazione Colomba. Op.cit. p.30.

in the system. New measures would be taken to cleanse all judges who had benefited from their duty.⁶⁰

As far as isolated families are concerned, the Reform gave them hope for the advancement of their situation. By condemning all corrupt employees in the judiciary, it would be easier for these families to regain the trust of the Albanian institutions. Liljana Luani, a teacher who for years went to isolated families to teach, mentioned that the Reform would be a very good solution for these people to feel free again. In addition, the Minister of Foreign Affairs, Mr. Bushati, point out that blood feud is a phenomenon that continues to be part of Albanian life, and he asked everyone to cooperate in fighting this phenomenon as soon as possible.⁶¹

One of the Justice Reform achievements is the case of the disciplinary measure that the High Judicial Council gave to a judge of the Korca Judicial District. In December 2020, decision no. 633 was taken to dismiss Judge {...} from his duty. The Judge, during his duty, had committed many violations of the law, one of which was a case of a blood feud. The decision that the Judge had issued for this situation was not based on law, and in the decision, he mentioned that the crime was not for blood feud reasons. Meanwhile, the Italian state had given the opposite decision for the perpetrator who had killed two people. Also, in the decision, the Judge had not analyzed at all the circumstances of the murder. Furthermore, he had not mentioned the motives that the perpetrator took those actions. For these reasons, the decision was rejected that the person {...} had not murdered for blood feud. This decision was also issued in contradiction with the requirements of the procedural law. For this and some other violations that the Judge {...} had committed, the decision was made for suspension from duty and suspension of payment by 50% until the moment when the decision would become final.⁶²

⁶⁰ I. Rehova. Ndryshimet që sjell reforma në drejtësi. Exit News 2016. <https://exit.al/permbajtja-e-reformes-ne-drejttesi/>

⁶¹ A. Cela. Familjet e prekura nga gjakmarrja, Pritshmeri positive me zbatimin e Reformes ne Drejttesi. Arkivi Ora News 2017. <http://arkivi.oranews.tv/article/familjet-e-prekura-nga-gjakmarrja-pritshmeri-pozitive-zbatimin-e-reformes-ne-drejttesi>

⁶² Vendimi nr.633. Kolegji Penal i Gjykatës së Lartë. 10.12.2020.

2.1. Statistics of blood feud cases

Statistics on the phenomenon of blood feuds are different. According to the British Embassy in Tirana and Cedoca, the statistics are different because many organizations decide to magnify the situation more than reality. According to them, the figures issued by these organizations are different from the statistics issued by the Albanian state regarding the phenomenon. According to Cedoca, in 2017, the State Police had reported 60 cases in Northern Albania. As for the isolated families in Shkodra, Shkodra Regional Police said that the number of these families in 2016 was only 68 isolated families. It was also clarified that in addition to them, there were 122 other families in Shkodra related to this phenomenon, but they were not in isolation.⁶³

According to the British Embassy in Tirana, cases of blood feuds were declining from year to year. The Upper Tribunal also supported this fact. In the case of the Secretary of the State for the Home v EH. The appellant left Albania and went to the United Kingdom as an asylum seeker in 2009 due to the phenomenon of blood feuds. According to the Upper Tribunal, the phenomenon of blood feuds was declining, and there were very few cases left in Albania. According to them, there was a small number of victims of blood feuds, and very few children are isolated due to this phenomenon in Albania. According to the Upper Tribunal, the appellant must be a target of blood feud by determining the case of the last murder that occurred. He must also state in his profile whether he or his family members have been part of Albania's isolation of blood feuds. The tribunal found that the appellant would take the refugee status if he had "isolation" as the only option to avoid the phenomenon.⁶⁴

In 2016, the British Embassy noted the changed reforms that the Albanian State has made during those years to join the EU. According to the British Embassy, Albania has taken very effective and strict measures regarding blood feud crimes. According to Cedoca's report, blood feuds in Albania are closely monitored case by case. The State and the State Police are successfully implementing all national plans for the fight against blood feuds. The report states that the State Police works effectively with every family affected by the phenomenon, providing them with protection.

⁶³ Country Policy and Information Note Albania: Blood feuds Version 4.0. Home Office 2020. p.8.

⁶⁴ [2012] UKUT 00348 (IAC), [2012] UKUT 348 (IAC)

However, two members of Cedoca reported that they had doubts about the effectiveness of the Police in cases of blood feuds. They stated that there had been a lack of police institutions and that people often did not report cases of the phenomenon due to their distrust of the Albanian State. However, the report stated that the number of murders for blood feuds was decreasing. In 2013, there were only three murders in terms of the phenomenon. The case of these investigations had not yet been completed. A year later, only one murder was declared, which was resolved through the court, while in 2015, the report shows that there were no victims of blood feuds. Again, the statistics showed that out of 63 murders committed in 2016, only one of them belonged to the phenomenon.⁶⁵

On the other hand, Operazione Colomba declares its statistics, which differ from the State statistics regarding the cases of blood feud phenomenon. According to them, in 2013, there were seven murders related to the phenomenon. Also, during the years 2014-2015, Operazione Colomba declared six murders. In 2016, unlike the statistics of the State where there was only one murder of blood feud, the Organization declared six of them. In September 2018, a person was killed in the north of Albania after returning to Albania after many years. Operazione Colomba stated that although the Albanian State imprisons the perpetrators of the crime, they might still be victims of blood feuds after their sentence ends. The statistics of the phenomenon of blood feuds are not accurate. Regarding the statistics issued by State Institutions, they differ from the statistics of non-governmental organizations. NGOs express that the numbers of isolated families and blood feud killings are too high. On the other hand, state institutions show inadequate statistics, expressing that the phenomenon is disappearing.⁶⁶

2.2.Challenges in preventing blood feuds

In Albania, an effective law has long been lacking, and often government authorities have not implemented the law properly. This factor has led people to believe more in the Kanun than in Albanian laws. For this reason, they "restored" the Kanun law to their families. The need for Albanians to feel safe and secure was based more on the Kanun than on the laws established in Albania and the way they were implemented. Albanians have had and continue to have a great

⁶⁵ Country Policy and Information Note Albania: Blood feuds. Op.cit. p.24.

⁶⁶ Operazione Colomba. Op.cit. p.20.

distrust of the authorities and the justice of the state. It is easier for them to do self-judgment. This factor brings back into focus the insufficient work of the institutions to establish proper justice in the country.⁶⁷

The "return" of the Kanun has had far-reaching consequences also in both children and young people. They live in fear and are isolated from the outside world. The right to life is mentioned in Article 21 of the Constitution of Albania.⁶⁸ However, when it comes to the right to life, that right is violated by the phenomenon of blood feuds. The loss of the father and head of the household has made these children grow up in poverty and hatred. They are isolated from the outside world and grow up near weapons so that they can take revenge for the murder of their family member in the future. In 2006, a group of teachers in the Shkodra area requested a curriculum for children trapped in these areas. The government took action that year by creating the "Education in Hearths" program. Various teachers had voluntarily contributed before to the education of these children by going to their homes. This program started very positively, but ten years later, the government decided not to continue claiming that the number of blood feud cases had decreased significantly, and in 2016 according to statistics, there were only five isolated children in that area.⁶⁹

While a year later, government statistics showed that in the Shkodra region, there were no isolated children. For this reason, they decided to end the program. On the other hand, the teachers of the area opposed this fact by mentioning that there were still many isolated families where children needed education in that area. They said that the problem of closing the program lay in the number of children who had reached the age to attend compulsory education. Liljana Luani, one of the teachers in the Shkodra area, said that she continues to go to the area where isolated children still need education. She said that at least 30 isolated children are under her supervision in terms of their education. Two other teachers from Shkodra express their opinion that the education offered to isolated children is not enough for them. The project was very positive but did not allow these children to continue their education after completing compulsory education. The families where

⁶⁷ V. Kopsaj. Blood Feud and Its Impact on the Albanian Criminality. - 7 Mediterranean Journal of Social Sciences 2016. p.90.

⁶⁸ Ligji Nr. 9675 Kushtetuta e Shqiperise. Kreu II. 21.10.1998. ndryshuar 30.07.2020. Neni 21.

⁶⁹ A. Dushi. Adoleshentët e ngjuar nga gjakmarrja braktisen nga shteti pas arsimit të detyruar. Reporter Al Shkoder 2017. <https://www.reporter.al/adoleshentet-e-ngjuar-nga-gjakmarrja-braktisen-nga-shteti-pas-arsimit-te-detyruar/>

they live are impoverished families, which cannot provide financial assistance to their children to continue their education. Most of these children start working at a young age with casual work to support the family. According to the Education Directorate of Shkodra, until 2011, 171 children were educated with the program. Nevertheless, after finishing compulsory education, these children were not able to continue their education according to this program.⁷⁰

2.2.1. The standpoint of Operazione Colomba

Operazione Colomba is a Peace Corps that helps build trust in situations of conflict and dispute. One of these cases is precisely the phenomenon of blood feuds. Starting from 2010, Operazione Colomba has dealt specifically with isolated and blood feud families in the areas of Northern Albania. They have studied the situation closely, issuing recommendations and statistics regarding these families. According to Operazione Colomba, state institutions have not provided adequate support and protection to these families. Police investigations have not always been supportive of blood feud victims. One of the cases mentioned was the murder in 2012 of a 70-year-old man and his 12-year-old little granddaughter. This murder has not yet been brought to justice. There have been many other assassination attempts on this issue. The state has not provided the necessary security for this situation, making the two families in blood continue the self-judgment. Another problem is that the trials focus more on the perpetrator and avoid the victim's family. Both parties should have the same focus on blood feud cases. If the victim's family does not receive proper attention, in the future, a member of that family may turn into a killer to pursue revenge.⁷¹

Even that a strong police state exists, this does not show how effective this structure is in providing protection at all times. Although the laws are very strict, it does not give a person the security not to be afraid. Police structures must always be on standby and get more deeply and specifically involved in various issues of the phenomenon. The defense should be given based on the history of the case. Indeed, the police often intervene to prosecute the perpetrator, but in many mountainous and remote areas of Albania, this police readiness is not always present. In this way, many individuals will feel threatened by the phenomenon and unprotected by the Albanian state. During the Cedoca mission, Operazione Colomba and Elsa Ballauri extended that they did not have much

⁷⁰ Ibid.

⁷¹ Operazione Colomba. Op.cit. p. 31.

faith in the police monitoring of the events of the phenomenon. Both experts mentioned that the Albanian state police are playing an effective role in receiving reports of blood feud cases, but when it comes to the perpetrator of the murder, they arrest the perpetrator of the murder without conducting a more detailed investigation of the situation. Often these situations, if not adequately investigated, lead to continued blood feuds. The perpetrator often fines the sentence much earlier than he should, leaving room for the victims' families to conduct self-judgment.⁷²

Operazione Colomba said that sometimes they have to bribe the police to get their reaction. According to them, in many areas, the police are corrupt, and if they do not give this bribe, the police will not be concerned to go and help investigate these cases. According to the Regional Police Directorate of Shkodra, many people who have never been criminals commit murders in the name of the Kanun. In difficult moments, the solution for them is not the state and the Courts but self-judgment. It is easier for them to carry out blood feuds than to believe in state structures. A priest in Fushe-Arrez said that many Albanians think that the Kanun still exists and is above Albanian law. They do not consider any universal human rights law or declaration but decide to commit the crime themselves because of the mentality they have lived through and the fear of threats. According to him, violence and blood feud crimes have continued their cycle even after the communist period. These families live with a sense of responsibility for the family member killed. No matter how distant the family member is, they feel responsible for restoring his honor.⁷³

Luigj Mila said that the Kanun, although it no longer exists, is deeply rooted in the mentality of Albanians. People everywhere were accustomed to their enemy. They grew up in a spirit of disbelief, and the only way to restore peace to their families was to act on their own. The defense itself was easier for them than trusting anyone or to the structures of the state. The problem lies in the fact that the Kanun is not applied as it should be, but it continues to be interpreted and changed day by day. The only way for blood feuding families to find security is to isolate themselves at home. They do not feel safe from the state or government structures but decide to hide so as not to be threatened by this phenomenon.⁷⁴

⁷² D. Neale. Albanian blood feuds and certification: a critical view. Garden Court Chambers 2019. <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-and-certification-a-critical-view>

⁷³ Ibid.

⁷⁴ Ibid.

Operazione Colomba, in a press release in 2019, states that the phenomenon of blood feuds is still present in the Albanian reality. The Albanian government also recognizes this phenomenon. During the speech, the organization states that Mr. Hile Lushaku, Advisor to the Minister of Interior, has made an inappropriate statement about the phenomenon of blood feuds. According to Mr. Lushaku, blood feuds do not exist in Albania, and that he is considering removing this term from the Penal Code. He mentioned that the phenomenon of blood feuds is exaggerated by various organizations that want to benefit from this work. Lushaku also announced that the phenomenon has disappeared, and its development now takes place outside the Albanian state. Operazione Colomba has opposed this statement, indicating that the Albanian government and the President himself have recognized their work. The organization mentions its meeting with the President in 2014 for the discussion of blood feuds. Also under discussion, Operazione Colombia mentions the resolutions made by the Ombudsman and the Albanian Assembly in 2015. This phenomenon has also been mentioned by international institutions, which with the Reports of 2013-2015, and 2018 have sent to Albania demand to fight and monitor the situation as soon as possible. These requirements are set as a condition to allow Albania's membership in the European Union. Operazione Colomba says that the fight against the phenomenon requires much work to do.⁷⁵

2.2.2. The standpoint of the National Committee for the Reconciliation of Bloodshed

United Nations Special Rapporteur Philip Alston reported in 2010 the case of Albanian blood feuds. He said that blood feud is a phenomenon that was still present in Albania. However, according to Alston, the number of cases of the phenomenon was not as high as in previous years. The expert said that various media and organizations were trying to magnify the situation more than reality. Alston noted that statistics released by the government were more reliable about isolated families than the statistics of other organizations. Alston, however, said the government still needed to take more successful steps to help the families in conflict.⁷⁶

⁷⁵NJOFTIM PËR SHTYP – Gjakmarrja: Operazione Colomba, gjakmarrja është ende një realitet në Shqipëri (s.a.). Operazione Colomba 2019. <https://www.operazionecolomba.it/njepopullkundergjakmarrje/njoftim-per-shtyp-gjakmarrja-operazione-colomba-gjakmarrja-eshte-ende-nje-realitet-ne-shqiperi/>

⁷⁶ Albania can do more to eliminate blood feuds and domestic violence, says UN expert on extrajudicial killings (s.a.). reliefweb, 2010. <https://reliefweb.int/report/albania/albania-can-do-more-eliminate-blood-feuds-and-domestic-violence-says-un-expert>

Mr. Gjin Marku, the head of the National Committee for the Reconciliation of Bloodshed, replied to the statement made by the United Nations Security Council on the phenomenon of blood feuds in Albania. According to him, the Albanian government has often tried to hide the existence of the phenomenon and not accept that blood feuds are still part of it. This fact flows because the continuation of this phenomenon highlights the corruption and inability of Albanian institutions to establish justice in the country. According to Mr. Gjin Marku, the state's concealment of the phenomenon of blood feuds has occurred because of the fear of Albania's accession to the European Union.⁷⁷

The Nationwide Reconciliation Committee stressed that blood feud cases have fallen due to reconciliation between families and not as a result of state arrests. A blood feud is not a phenomenon that ends with the punishment of the perpetrator. The state also considers honor murders as murders without strong motivation. Isolated families claim to live under threat. This threat comes as a result of an customary rule, the Kanun. These families are aware of the threat they will receive if they do not take "Besa" from the other family. Especially when they are aware that they have committed a murder, they will typically feel afraid to leave the house. According to the government, many measures have been taken to prevent blood feuds, and many laws have been set up regarding the punishment of this phenomenon. Police structures say that they are fully prepared to protect these families. The government also claims to have created many projects for isolated families.⁷⁸

Gjin Marku states that these laws and projects exist in theory, but they are not applicable at all in practice. In addition, the structures that have been set up for these families have not been successful for a long time. Marku mentions the case of the police formation in Shkodra, which was not successful and was closed. In addition, the law that the President of the Republic of Albania has set up for the Coordinating Council of the phenomenon did not have any result because it was not financed at all by the government. These and many more are the reasons why Albanians do not trust the government and state institutions at all. Government statistics are always different from

⁷⁷ Gjin Marku. Letter: In Regard to the Rapport for the Security Council of United Nations about the Phenomenon of Blood Feud in Albania. Committee of Nationwide Reconciliation (CNR) 2010.
<http://www.pajtimi.com/index.php?faqe=leterOKB>

⁷⁸ Ibid.

organization's statistics. These statistics change because the government tries to show that the situation in the country is perfect and the phenomenon is ending. For situations that the government cannot cope with, it produces acceptable statistics to show a different reality. No one wants blood feuds to be present in their lives. However, without a strong state and enforceable laws, it is complicated to combat this phenomenon. Mr. Gjin emphasizes that the decrease in the number of cases comes because of the reconciliation of blood families and their emigration abroad. The risk always exists for these families, and they do not need to have facts to seek protection from state institutions. Being well acquainted with the Albanian mentality, it is taken into account that isolation is the only solution to feel safe. According to Mark, the situation in Albania is very worrying. Albanian institutions show much irresponsibility towards the phenomenon. In most cases, the statements made by the government regarding statistics have further aggravated the blood feud situation. In most cases where the Albanian government makes false statements that there have been no blood feuds, the opposite happens with these murders. These statistics show a devaluation of these families. In addition, when it comes to justice, the perpetrators do not receive the punishment they deserve. This action aggravates these families more by causing them to commit self-judgment. The blood feud families are in great need of support, and often justice with the decisions it makes creates a more significant challenge for them. In this way, institutions create more conflicts between families. Mark mentions a case wherein 2007, the state police mentioned that there was no murder of the phenomenon of blood feuds. The opposite happened after a few days later, in December 2007, when the news declared the murder of two people, mother and son, A.F and P.F, who were killed in Shkodra precisely for this phenomenon.⁷⁹

Also, in Tirana, H.P executes two young people stating in the media that he had informed the police that he would commit this murder for blood feud. In front of this fact, the police were forced in 2008 to declare five murders of blood feud, bypassing 24 other murders that occur in that period. Also, in 2009, the Albanian government had to complete a new questionnaire for some of the requirements of the European Union and visa liberalization. Again, even though there were 31 murders of the phenomenon in that year, the Albanian government declares that only one murder was committed for blood feud. A year later, the number of blood feud murders doubled, and they

⁷⁹ Ibid.

raised public concern. Most of the victims' relatives stated that they had informed the police about their conflicts, and the police had not intervened at all. According to Mark, the phenomenon of blood feuds does not end with bringing every criminal to justice. If there have been 90 murders of the phenomenon, they will again remain 90 cases, which will wait to seek blood feud after the perpetrator is released from prison. The police do not have enough means to deal with this situation. Mark also does not leave without mentioning women and young people who are becoming victims of blood feuds. He also mentions the case of a woman who worked in the military, whom a 22-year-old boy murdered for the blood feud of his brother.⁸⁰

2.2.3. Mentioned Cases

The following treatment of some decisions given by the Court for blood feud murders highlights the fact that, although the whole society is involved in this phenomenon, trust in the judiciary is minimal or non-existent. This distrust results from the prolongation of the trial until the final decision is made, as well as the mitigation measures of the punishment of the perpetrators involved in the crime by the trial bodies.

- Murder of a 30-year-old (A.Dh) by a 15-year-old minor in Shkodra January 2011, to take his father's blood killed years ago by the victim. The perpetrator of the crime (15-year-old juvenile I.SH) is kept in detention facilities in Shkodra without being programmed by any court measure by the justice bodies (Prosecution) Shkodra. Furthermore, he is being kept in detention facilities without expanding and investigating the crime to potential instigators or accomplices in the commission of the crime or in the provision of a weapon by the juvenile. This case referred to article 83 / b of the Code of Criminal Procedure approved by law no. 144/2013 "On some additions and amendments to law no. 7895, dated 27.1.1995" Penal Code of the Republic of Albania⁸¹, "as amended. For such cases, criminal responsibility also has family members or social circle in Shkodra that has incited the perpetrator, for more in the juvenile to kill for blood feud.⁸²

⁸⁰ Ibid.

⁸¹ Ligji Nr.7895 Op.cit. Neni 144/2013.

⁸² Raporti Drejtorisë Vendore të Policisë Shkodër. Ministria e Brendshme Tirane 2011. P.26

Therefore, the Shkodra District Prosecutor's Office has neglected the instigators of the juvenile perpetrator.

- The case of H.D, S.S, A.S, R.H, S.S, SH.S and K.F, for the murder in collaboration of the citizens I.A and N.S occurred in 2002 in Kolonjë, for which the Judicial District Court of Kolonjë with decision no. 18, dated 13.12.2002, has sentenced the perpetrators to 25 years in prison under Article 55 of the Penal Code⁸³. The Court of Appeals of Korça, with decision no. 51, dated 16.04.2003, has decided "Change of the decision no. 18, dated 13.12.2002 of the Judicial District Court of Kolonjë and return of acts. The High Court, with decision no.70, dated 04.02.2004 has decided, "Reversal of decision of the Court of Appeal of Korça and sending the acts for reconsideration of the same court. The High Court has decided to change the criminal decision of the Judicial District Court of Kolonjë reducing from 25 years to 20 years imprisonment for the perpetrators H.D, S.S, A.S, R.H and K.F and the dismissal of the criminal case against the defendants S.S and Sh.S. The recourse to the Criminal College of the High Court has decided to reject the request for review of decision no. 18, dated 13.02.2002. The decision left in force the sentence of the perpetrators with 20 years of imprisonment. Although from this Criminal College of the High Court are not accepted the additional evidence presented by the Judicial District Court of Kolonjë "Which existed at the time of the event which together with the evidence evaluated by the courts prove the wrong decision of the Court of Appeal of Korça".⁸⁴

Referring to the decisions taken by the judiciary, we consider that the trial of the perpetrators has been carried out for a relatively long time (eleven years). The administration of justice includes every possibility and circumstance and any lawful means of administering justice so that no one may suffer a conviction given by an erroneous or unsubstantiated judicial decision and law. Legal certainty, in the first place, is not an end in itself and, on the other hand, involves the review of a final court decision if the circumstances are and the procedures provided by law are applied, with the consequence that this violates the constitutional principle of the right to be heard by the court. These decisions create distrust in the judiciary system.

⁸³ Ligji Nr.7895. Op.cit. Neni 55.

⁸⁴ Vendimi nr.219. Kolegjit Penal i Gjykatës së Lartë. 10.07.2013

- The case of the murder of the citizen S.N in January 2003 in Shkodra by the perpetrators P.A and P.Z (brothers with each other) for blood feud, "Tribal murders that took place before 1990". The Court of the Shkodra Judicial District, with decision no. 271, dated 26.10.2005, for the criminal offense of "Premeditated murder for blood feud, in collaboration", has decided the guilty declaration of the perpetrators P.A sentencing him to 21 years imprisonment and P.Z to 15 years imprisonment, provided in Articles 78/2 and 25 of the Penal Code.⁸⁵ Following the recourse of the Prosecution, the High Court, with decision no. 219, dated 22.04.2009 has decided to annul the decision of the Shkodra Court of Appeal no. , dated 13.03.2008 and sending the acts for reconsideration to that court, with another trial panel”, with the argument that it was not argued what was the motive of the murder.⁸⁶
- The case of the murder of the Albanian citizen J.Ç and the serious injury of the citizen K.N on 17.03.2002 in the city "Anvers" in Belgium by the citizen E.H. For this criminal offense, the police and justice authorities of the state of Belgium have carried out investigative actions, which by means of a letter were sent to the Albanian state to prosecute the perpetrators. The Court of the Fier Judicial District with decision no. 217, dated 07.09.2009, has decided the guilty declaration of the author E.H for the criminal offense of “Murder, committed with intent for blood feud, in collaboration" and based on articles 78/2, 50/gj and Article 55 of the Penal Code his sentence of life imprisonment. In application of article 406/1 of the Penal Code, he sentenced the perpetrator in absence to 25 (twenty-five) years of imprisonment. The Court of Appeals of Vlora, with decision no. 710, dated 19.12.2012, has decided to reduce 1/3 of the sentence, sentencing the perpetrator in absentia (E.H) to 14 (fourteen) years of imprisonment. Against the above decision, a recourse was made to the Criminal College of the High Court. With decision no.133 dated 15.07.2015 (No. 00-2015-2280 of Decision 133) decided “Cancellation of decision no.710, dated 19.12 .2012 of the Court of Appeals of Vlora and returning the case for reconsideration to that court

⁸⁵ Ligji Nr. 7895. Op.cit. Neni 78/2, 25.

⁸⁶ Vendimi nr.219. Kolegjit Penal i Gjykatës së Lartë. 22.04.2009

with another trial panel". The argument was that, despite the reasons that have led to frequent changes in the composition of the trial panel, and delays in the trial on appeal, the trial on appeal has not been in accordance with procedural law.⁸⁷

Referring to the decisions taken by the judiciary is considered that the perpetrator's trial proceedings have been carried out for a relatively long time. Furthermore, because of incorrect implementation of the trial proceedings (Article 140 et seq. Of the Penal Code),⁸⁸ which has to deal with the announcement procedure by the court, with the receipt and evaluation of evidence (Article 152 of the Penal Code)⁸⁹, and the lack of regular formation of the trial panel has the consequence of non-compliance with procedural provisions and non-final trial of the criminal offense.

- The criminal offense of "Murder for blood feud" was left in the attempt of the citizen G.K by the perpetrator R.U, event that occurred on 20.12.2013 in Peshkopi. For this criminal offense, the Court of First Instance for Serious Crimes in Tirana with the decision no. 63, dated 18.05.2015, decided the guilty plea of the perpetrator R.U and, in accordance with Article 55 of the Penal Code, sentenced him to 9 years in prison. The Court of Appeals for Serious Crimes with a decision no. 89, dated 21.09.2015, has decided to change decision no. 63, dated 18.05.2015, of the First Instance Court, regarding the sentence and has decided the guilty plea of the perpetrator R.U by sentencing him to 12 years imprisonment under Article 78 / a of the Penal Code.⁹⁰
- The case of premeditated murder in collaboration with the citizen E.L by citizens B.L, S.L, and Sh. L, murder committed for old blood feud with strong means that took place in Tirana in 2012. For this criminal offense, the Court of the Tirana Judicial District with the decision no. 2212, dated 30.09.2014, has decided the guilty declaration of the author B.L and, in accordance with articles 78/1 and 25 of the Penal Code, has sentenced him to 22 years in prison. The guilty plea of S.L for the criminal offense of "Premeditated Murder", in cooperation with the defendant B.L and based on Article 78/1 and 25 of the Penal Code is

⁸⁷ Vendimi nr.133. Kolegji Penal i Gjykatës së Lartë. 15.07.2015

⁸⁸ Ligji Nr. 7895. Op.cit. Neni 140.

⁸⁹ Ligji Nr.7895. Op.cit. Neni 152.

⁹⁰ Vendimi nr.3. Kolegji Penal i Gjykatës së Lartë. 09.02.2018.

sentenced to 18 years in prison. The guilty declaration of the defendant Sh. L for the criminal offense of "Incitement to blood feud" and based on Article 83 / b of the Penal Code is sentenced to three years in prison. The prosecution body has filed a recourse in the Tirana Court of Appeals for the sentence of citizens S.L and Sh. L, which with decision no. 44, dated 18.01.2016, has decided "Leaving in force the decision no. 2212, dated 30.09.2014 of the Tirana Judicial District Court". The decision of the Court of Appeals of Tirana was passed in recourse to the High Court. With decision no.127, dated 25.10.2017 (00-2017-813 of Decision 127), has decided to annul the decision no.44, dated 18.01.2016 of the Tirana Court of Appeals, and the return of the case for reconsideration to the same court, but with a different trial panel". The trial is still pending.⁹¹

In evaluating the facts and evidence presented by the prosecution body, the decisions taken by the trial bodies of the First Instance and the Court of Appeal Tirana for the perpetrators, deciding of the case in charge of B.L are not in accordance with the constitutional principles and criminal procedure. (Article 93 and 403 et seq. of the Penal Code). The judiciary has used two standards of evaluating evidence and making decisions with consequences in not evaluating fairly. Furthermore, the decision is taking a lot of time, and this is in disadvantage to build trust in the judiciary by families involved in the blood feud conflict.

- The case of the murder of the citizen Q.M in 1997, in Peshkopi by the author I.L for blood feud, "Because in 1980 the brother of the defendant I.L was killed". The Court of the Dibër Judicial District, with the decision no. 66, dated 28.10.1998, has decided the guilty declaration of the author I.L and in the provision of article 78 of the Penal Code has sentenced him to 18 years of imprisonment. The decision was appealed to the Tirana Court of Appeals, which with the decision no. 149, dated 05.03.2008, decided to leave in force the decision of the Dibër Judicial District Court. Following the recourse of the decision, decision no. 695 was taken, dated 09.12.2009, which decided "Reversal of decisions and submission of acts for reconsideration to the Dibër Judicial District Court, with another trial

⁹¹ Vendimi nr.127. Kolegji Penal i Gjykatës së Lartë. 25.10.2017.

panel" with the argument that the provisions in connection with the summoning of the defendant, provided in Article 128 / c⁹² of the Code of Criminal Procedure.⁹³

Also, low impact on the prevention of this phenomenon has the non-involvement of the community and other actors in society who, although they accept this phenomenon as a dangerous issue, agree with the fact that blood feuds are a private matter of the families involved in blood feuds.

2.3. The Ombudsman recommendations on Blood Feud

From 2013 onwards, one of the main aspects of the Ombudsman's activity has been blood feuds. Its function has been to raise the awareness of state institutions to fight the crime of blood feuds. According to the judgments issued in 2015 by the Ombudsman, one of the reasons for the continuation of the phenomenon is exactly the law 9389 issued in 2005⁹⁴, which has not been implemented. This law has to do with the establishment of a Coordination Council for cases of blood feud phenomenon. One of the reasons that this law has not been implemented according to the Ombudsman has been the disapproval of some bylaws of Article 7 of this law. The Ombudsman has often made requests to state institutions regarding the implementation of this law.⁹⁵

In December 2013, the ombudsman organized a Conference in which he included several organizations and many state institutions regarding the fight against the crime of blood feuds. At this Conference, many recommendations were issued regarding the phenomenon. Among these recommendations, it was pointed out that the phenomenon is a very worrying factor in terms of the violation of some fundamental human rights. One of these fundamental rights is the right to life, which is violated by blood feud cases. Also isolated by the fear of blood feud killings, families have been denied the right to freedom, education, employment, and much more. Another worrying effect discussed at the Conference was the increase in the number of asylum seekers in European

⁹² Ligji Nr.7905. Op.cit. Neni 128/c

⁹³ Vendimi nr.695. Kolegji Penal i Gjykatës së Lartë. 09.12.2009.

⁹⁴ Ligji Nr. 9389. "Për krijimin e funksionimin të Këshillit Koordinues në luftën kunder gjakmarrjes" 04.05.2005. (Fletore Zyrtare Nr. 44.Viti 2005. Faqe 1604).

⁹⁵ Avokati I Popullit. Mbi Fenomenin e Gjakmarrjes ne Shqiperi. Raport I Vecante II. Republika e Shqiperise 2015. p.7.

Union countries. Albanians risking their lives in their country due to blood feuds try to move to European countries seeking shelter and security from them.⁹⁶

The Progress Report of the European Commission also raised this concern in 2014. As long as accurate blood feud statistics do not exist, the conference raises concerns that state structures have not taken the phenomenon seriously. The Albanian state did not want to admit the existence of blood feuds. For this reason, the police statistics were different. These statistics were not obtained even under INSTAT monitoring. The issue of isolated families was also raised. Children living in these situations grow up with a spirit of hatred and do not get the proper education. They tend to continue blood feuds after a few years. State Institutions have not taken any action regarding the exact number of isolated families and proper care for them. Although the Albanian state has taken some strong measures in the Penal Code for cases of blood feuds, this will not lead to the disappearance of the phenomenon. Blood feud is a phenomenon that has existed for generations and is not claimed to be fought for a month or a year. Normally, all the measures taken and the established laws of the Albanian state must be implemented correctly. Law no. 9389 issued in 2005, should be implemented and not exist only in principle.⁹⁷

There must be a lot of work and cooperation of all institutions to fight blood feud cases. The Director-General of the State Police was suggested to make some recommendations regarding the monitoring of cases of blood feud victims and isolated families. The regional Police should be at all times on alert to prevent blood feud conflicts. In addition, the Prosecution must cooperate with the Police to be in synchronise with the investigation of various blood feud situations. Investigations conducted by the Prosecution must be objective and without shortcomings. The state should not focus only on the perpetrator of the criminal offense but should also take measures to prosecute the accomplices to prevent the continuation of this phenomenon. The courts must be fair in the decisions they make and give the deserved punishment for every person who has committed a crime of blood feud. If the Courts do not make fair decisions then, blood feud cases will not decrease, but self-judgment will be more pronounced. Regarding the Ministry of Education, it should take measures in creating curricula for isolated children. The education of the younger

⁹⁶ Ibid. p.8.

⁹⁷ Ibid. p.9.

generation should also include programs that fight violence and support human rights. Special attention should also be paid to the treatment of teachers in areas where the phenomenon is still active. In this conference, special attention was paid to the economic situation of isolated families. These families live without enough income to meet basic needs. Because some families of the blood feud phenomenon are located in very remote areas of Albania, the Ministry of Social Welfare and Youth should provide them economic assistance. The increase in poverty of these families is a very alert problem. Many of the isolated families do not have the necessary information about the functions of the Albanian Institutions. For this reason, this should be made possible by MSWY. A recommendation was suggested for the Ministry of Health, which should be more active in providing medical assistance to families isolated by blood feuds. The Ministry of Health should cooperate with other health centers and various non-governmental organizations to provide basic treatment to these families and to contribute to their well-being.⁹⁸

In 2014, the Prosecution of the Shkodra Judicial District issued an order to identify blood feud cases. This order set the regional police in motion to focus more on these families and the criminal charges they raised. Several persistent requests were sent to the Ministry of Interior regarding the implementation of law no. 9389 issued in 2005, but the response went very late and not positive. The Ministry of Interior responded to the ombudsman in 2015, stating that this request was tough to fulfill by only one institution. The realization of that process required the cooperation of several different state institutions. From the statistics requested by the ombudsman, it results that the General Directorate of Police, in 2013 stated that murders for blood feuds were only 4 out of 107 murders in total. A year later, statistics show three murders in the northern part of Albania, including the region of Dibra and the region of Shkodra. According to statistics released by the Regional Police, during 2014, 60 families were in isolation. It turns out that the most significant spread of blood feud crimes occurred in Shkodra, with 46% of murders. While the least cases with 3% and 6% are in Mat, Elbasan, Durres, and Dibra. From the statistics released by the General Prosecutor's Office around 2010 and 2014, eleven persons were sentenced to a maximum sentence, and six of them to life imprisonment. One of the positive aspects of the Albanian state is that the government has accepted blood feuds as a phenomenon that still lives among the citizens and

⁹⁸ Ibid. p. 10-11.

violates many human rights. However, the way to fight this phenomenon is extremely difficult. Different laws in the Penal Code on blood feuds are not enough to eradicate this phenomenon. The Penal Code took several measures to increase the punishment of perpetrators and established Articles 78 / a ⁹⁹ and Article 83 / a,¹⁰⁰ which include the punishment for threatening to be locked up at home and inciting blood feuds. Again, these measures are not enough. Institutions should cooperate with each other by monitoring any situation of blood feud phenomenon.¹⁰¹

2.4.Resolution for the prevention of the Phenomenon

In the Resolution "On the prevention of blood feud" of 2015, the Albanian Assembly assessed the situation based on the Ombudsman's recommendations. The Assembly of the Republic of Albania stated that blood feuds had their location only in some areas of Albania. Although the phenomenon has its origins in rural areas, it is widely distributed in urban areas of Albania. This factor indicates the inability of urban mechanisms of social integration over the years. According to the resolution, the Assembly also stated that the state bodies have failed to monitor and issue accurate statistics on the phenomenon of blood feuds. In addition, the statistics of isolated families are contradictory. Regarding law no. 9389, 04.05.2005, its implementation has not been possible due to the disapproval of some bylaws. Accurate statistics have not defined the phenomenon because the Coordinating Council has not functioned for years. The Assembly further cites that blood feud prevention programs have not been functioning in every area of Albania. These programs have covered only a small part of the areas where the phenomenon exists. The phenomenon of blood feuds has come because of property conflicts or various disputes, and the state has not managed to prevent them. Regarding the Ombudsman's recommendations for the education of isolated children, the Head of the Assembly cites that these programs are much reduced and do not provide a complete education for these children. In addition, Mr. Ilir Meta, Head of the Assembly, states in this Resolution that the cases prosecuted in court for blood feuds have been very few compared to the number of cases in reality. At the end of the Resolution, Mr. Meta urges the government to take

⁹⁹ Ligji Nr. 7895. Op.cit. Neni 78/a.

¹⁰⁰ Ligji Nr. 7895. Op.cit. Neni 83/a.

¹⁰¹ Ibid. p.15.

steps as soon as possible to prevent this phenomenon and to monitor the situation. Institutions should also work together to help families trapped by the phenomenon.¹⁰²

The assassination attempt against the citizen Xh.Sh who was killed in June 2015. The victim was assassinated twice for blood feud two years after being released from prison because of amnesty. One Snipers from the castle of Shkodra carried out the assassination, but the police have not yet managed to catch the perpetrators.¹⁰³ In June 2008, the citizen Xh. Sh was sentenced by the High Court with decision no. 1515/741/112, date 28.05.2008 to fifteen years in prison for the criminal offense of murder committed in collaboration, provided by Articles 76 and 25 of the Penal Code.¹⁰⁴ The case of mitigation measures of punishment of perpetrators involved in crime by the judicial bodies lead to the continuation of the phenomenon if it does not receive proper treatment.

2.5.Recommendations

Based on the review of the International Catholic Association, Association Community Papa Giovanni XXIII, in 2016, Albania seems to have much work to do to achieve progress in the fight against blood feuds. According to this analysis, some recommendations have been sent to the Albanian state. Among these recommendations, Albania should be as supportive as possible of restorative forms of mediation between families in conflict over blood feuds. The Justice Reform should be implemented as well as possible, as this reform will bring much progress in the fight against corruption. The punishments of the perpetrators must be well deserved, and there must be no violation of the Penal Code laws. It is also suggested that all decisions must be neutral. Like the law, no. 10385, dated 24.02.2011 on mediation, the government must provide many other legal instruments to fight blood feuds in the country. It seems that law no. 9389 dated 04.05.2005 has not functioned properly. For this reason, it is recommended that this law be amended to be as applicable as possible in coordinating the situations of the phenomenon. The education of these children who live isolated from the outside world due to blood feuds is also important. Education curricula must develop peace and punishment of disputes. Measures should be taken to provide the

¹⁰² Rezolute 05.03.2015, 18.03.2015, Per Parandalimin e Fenomenit te Gjakkarrjes ne Shqiperi. Ligji Nr. 1 Kuvendi I Republikes se Shqiperise 2015.

¹⁰³ Lufta mes familjeve, vrasjet më të bujshme që tronditën Shkodrën (s.a.). Tirana News 2019. <https://tirananeews.al/lufta-mes-familjeve-vrasjet-me-te-bujshme-qe-tronditen-shkodren/>

¹⁰⁴ Vendimi Nr. 279. Kolegji Penal I Gjykates se Larte. 28.05.2008.

victims of this phenomenon with essential services such as health centers. APG23 suggested that police institutions must be in every area of Albania by being in readiness for any emergency of hostile families. Families trapped by the phenomenon must be supported with financial resources as long as they do not have the opportunity to be educated and to work. Another importance should be given to prisoners who should have more re-education programs, and it should be possible for them to reintegrate into society, helping them be worthy citizens in the future. Government programs must at all times be in cooperation with the programs of the Human Rights Institutions. For these recommendations, Albania must be as cooperative as possible to implement them in order to have progressed in the fight against blood feuds.¹⁰⁵

¹⁰⁵ APG23. Recommendations no. 104.4, no. 05.15, no. 105.16, no. 106.8, no. 106.9. - Blood Feud (Public Security- Rights of the Child - National Human Right Institution). p.5.
file:///C:/Users/tirana/Downloads/APGXXIII_UPR33_ALB_E_Main.pdf

3. RESTORATIVE JUSTICE IN ALBANIA

The authors Zehr and Umbre also give an appropriate definition of Restorative Justice. According to Zehr, Restoration Justice aims to recover the situation and favor the victim. According to him, the perpetrator pays his debt through some specific actions, which are in favor of the victim. According to Umbre, this form of justice sets in motion both parties, which must try to resolve the conflict between them.¹⁰⁶ Restorative justice is a form of justice that focuses on the consequences of a crime committed. This form of justice concentrates on the victim and the offender. The purpose of Restorative Justice is to give support to the victim to have the opportunity to repair the damage and to help the offender become a worthy person for society. Tony Marshall has stated that the Restorative Justice process is to confront both parties in a meeting and enable those to find a common solution to the damage caused and find their future. The main interest is on the needs of the victim and the community. Having a mediation makes it easier to make progress in forgiving and calming a conflict. This alternative form gives the parties an opportunity to clarify with each other before turning to other judicial alternatives. Restorative justice began to be applied as a method many years ago. This form of justice has had different names and applications, but its main elements are still used today in Restorative Justice. In New Zealand and Australia, these sessions were used in the 1990s and were attended by large groups of people, including family members from both parties as well as the police. These dispute resolutions were then recognized by the court, which implemented them to resolve criminal cases. These methods have also been used in Albania at the time of customary law in mediation between families in dispute. Their sessions served to create peace between the conflict parties.¹⁰⁷

Restorative Justice aims to find a common solution to the standards of a democratic state to achieve the best interests of the parties and the community. As part of Restorative Justice, mediation determines the methods of solving a problem, while Restorative Justice gives the final success of these methods. Both are part of each other, which interact to achieve a common goal. The difference

¹⁰⁶ B. Galaway, J. Hudson (eds.). *Criminal Justice, Restitution, and Reconciliation*. Monsey, NY: Criminal Justice Press 1990, fq. 7-14.

¹⁰⁷ E. Kambellari, E. Muco, L. Gusho, K. Sovjani. *Studime ne Fushen e Kriminologjise*. OSCE, 2020. p.147.

between them is in the fact that Restorative Justice serves as re-education and rehabilitation of the perpetrator so that he no longer feels threatened or commits other criminal offenses after completing the deserved punishment. In the Penal Code, mediation applies to Articles 59 and 284 for acts against health and acts against morality. Article 59 of the Code of Criminal Procedure refers to "Intentional damage, grievous bodily harm, and negligence, defamation, unfair interference with privacy, insult, rape of the apartment, dissemination of personal data, violation of the inviolability of the apartment, plagiarism." Furthermore, Article 284 of the Penal Code refers to, "Intentionally inflicting grievous bodily harm, sexual intercourse with an adult or in the gender, insult and defamation due to duty, malicious use of telephone calls, and obstruction of marriage or divorce." In the case of Article 59, the court appeals to both parties, proposing the manner of conciliation of the case. Whereas in the case of Article 284, the injured party is the one who appeals to the prosecution to send a case for mediation. Restorative Justice applies to juveniles and adults in the pre-trial detention phase, juveniles charged and released on parole, the prison system, the probation service, and the victim-offender mediation.¹⁰⁸

There are two programs where this form of Justice is used. In the first case are the programs where the mediation between the victim-offender takes place. In this situation, the mediator who conducts the hearing session by meeting both parties for a solution plays the main role. The second program includes group meetings attended by other members of the family or community. These sessions serve for conflicts that require a solution so as not to affect society negatively.¹⁰⁹ It is also worth mentioning a form of Restorative Justice, which is the circle of peace. This circle serves to create a dialogue between the parties, which seek to resolve a conflict peacefully so that this conflict does not continue.¹¹⁰

3.1. Mediation in Albanian Penal Code

Social and legal necessity required the Restoration of Justice to be involved in criminal matters. In Albania, currently this form of law is implemented by law no. 10385, dated 24.02.2011 "On

¹⁰⁸ Ibid. p.154.

¹⁰⁹ Ibid. p. 160.

¹¹⁰ Ibid, pg.165.

Mediation and Dispute Resolution".¹¹¹ Mediation in Albania for the first time entered the Penal Code in 1999 with law no. 8465, dated 11.03.1999 "On Mediation for the Amicable Settlement of Disputes."¹¹² This law brought an innovation in the Penal Code by resolving disputes out of court. The process of this mediation was two-way, being able to reconcile the parties without reaching the case to go to court. The law itself defined each norm and activity, explaining the purpose of mediation. The parties would take the case to court if the mediation proved unsuccessful. Otherwise, a written agreement was made in which the obligations and conditions of the agreement were defined. If the agreement were not implemented, then the case would go to court, where penal measures would be taken for the party. According to Article 510 of the Code of Civil Procedure¹¹³, objection of the obligation had to be made within ten days. However, this law was incomplete in some procedural aspects, and for this reason, its improvement was requested.¹¹⁴ On 26.06.2003, law no.9090, "On Mediation in Dispute Resolution"¹¹⁵ entered into force.

The new law on mediation had some innovations, which were more precise and more functional than the first law. However, the basis of the structure remained the same. As in law no. 8465, dated 11.03.1999 on "On Mediation for the Amicable Settlement of Disputes," the new law remains limited in two aspects. According to Article 59 of the Code of Civil Procedure, the law on mediation is limited to acts requested by the injured party to be considered in court. The restriction also occurs in Article 284 of the Code upon the complaint of the offender. In principle, the new law expresses some more detailed aspects regarding the mediation process. Another change that is noticed in this law is the compensation for the mediator, considering this work as a profession. The successfully finalized agreement is binding to be implemented to the same extent as the arbitral decision.¹¹⁶ In both laws, there was the obligation of the court to assess the agreement as ineffective under Articles 18 and 19¹¹⁷, emphasizing that the invalidity of resolving the conflict through mediation does not

¹¹¹ Ligji Nr.10 385. Per Ndermjetesim ne Zgjidhjen e Mosmarrveshjeve. Kuvendi I Republikes se Shqiperise. 24.2.2011 - 17.05.2018.

¹¹² Ligji Nr.8465. Për Ndërmjetësimin për Zgjidhjen me Pajtim të Mosmarrëveshjeve. Kodi Penal.1999.

¹¹³ Ligji Nr.8491. Kodi I Procedures Civile I Republikes se Shqiperise. 1996. Neni 510.

¹¹⁴ A. Malaj. Drejtësia Restauruese ne Shqiperi. Universiteti I Tiranës, Fakulteti I Drejtësisë. Tirane 2016. p.96.

¹¹⁵ Ligji Nr.9090. Per Ndermjetesimin ne Zgjidhjen e Mosmarreveshjeve. Kuvendi I Republikes se Shqiperise. 26.06.2003.

¹¹⁶ A. Malaj. Op.cit. p.97.

¹¹⁷ Ligji Nr. 8116. Kodi I Procedures Civile I Republikes se Shqiperise. 1996. Neni 18, Neni 19.

prevent the parties from finding a solution by using other laws to exercise their rights. Beyond the innovations that this law brought, it was necessary to improve it in line with European directives. For this reason, entered into force the law no. 10385, dated 24.2.2011, "On Mediation in Dispute Resolution".¹¹⁸ Mediation as a principle of Restorative Justice is a method that focuses on the victim's emotional needs and the awareness of the abuser. In this way, it helps both parties understand the importance of the damage and not go further in the conflict. The goal is not to find a guilty party but to reach a solution where the responsibilities are accepted. Although mediation is a practice outside the state structures, it still needs the support of state institutions. The mediator, in this case, must always remain neutral. In a mediation case, the transparency of the procedure and the equality between the parties are respected. In addition, the process must be under the procedures of the law. In order to have a mediation issue, both parties must request this voluntarily. Often the free will of the parties is not enough as the law restricts this form and does not allow it to proceed in any criminal situation.¹¹⁹

Efforts to achieve the most effective implementation of this law have been numerous but still have not reached the appropriate level. Not having much opportunity in the Code to implement, the work of mediation has become complicated. This reason has brought a restriction for the courts in recognition of the institute of mediation. Nevertheless, even the courts have not been very cooperative in calling for mediators in resolving some cases. The fact that mediation is not a well-known form to society makes it even more challenging to reach a mediation session. There have also been many shortcomings in the qualification of licensed persons for mediation. Based on these facts, an improvement of this law became necessary.¹²⁰ For this reason, in 2018, the Albanian Parliament approved law no. 26/2018 "On some additions and changes to law no. 10385, dated 24.2.2011".¹²¹ This law mentions precisely the obligations of the courts towards mediation interventions. Under this law, the courts are clearer in involving mediators in court proceedings.

¹¹⁸ A. Malaj. Op.cit. p.98

¹¹⁹ Ibid. p. 110.

¹²⁰ E. Nocka. Kuadri ligjor shqiptar krahasuar me atë evropian (s.a.). Revista Avokatia, Referimi për ndërmjetësim nga gjykata dhe prokurori. <http://avokatia.al/revista/22-avokatia-36/88-harmonizime-36>

¹²¹ Ligji Nr. 26/2018. Per Disa Shtesa dhe ndryshime te Ligjit Nr. 10385 date 24.02.2011, Per ndermjetesimin ne Zgjidhjen e Mosmarreshjeve. Kuvendi I Republikes se Shqiperise 2018.

Article 2 of law no. 10385/2011¹²², as amended, provides for mediation for juvenile criminal cases. In addition, law no. 37/2017 "Juvenile Criminal Justice Code"¹²³ defines mediation as a practice that resolves a case with a juvenile out of court. European Union Directive 2008/52 / EC is a necessary solution to harmonize the law with European standards.¹²⁴

Blood feud has changed a lot since the Kanun period. For this reason, the methods to combat this phenomenon must change. One of these practices is mediation, which is represented by a mediator. This method of conflict resolution helps the parties find an agreement between themselves and understand the causes of the conflict. According to the Kanun, many "forgiveness" has been achieved through the method of mediation. This "forgiveness" has brought a solution to the phenomenon of blood feuds. This form of mediation is also included in Restorative Justice. Restorative Justice serves to achieve forgiveness between the conflicting parties and serves to resolve a conflict. This form of Justice provides a healing practice for the victim and a recovery practice for the perpetrator. Through the confession, both parties regain the lost dignity and also helps them not to continue with the conflict but to understand each other by listening to both versions of the story about the causes of the offense. Restorative Justice does not represent the measure of punishment of the perpetrator but helps in his rehabilitation. For this practice to take place requires the cooperation of the law and all state institutions, including the courts. With the approval of this form of Justice, the functioning of the state would be regulated. Combining the two will help eradicate this phenomenon. Through the reconciliation process, families will be safer and will not be isolated at home for fear of retaliation. It would also provide the perpetrator with security to move freely after having served a sentence imposed by the Albanian State. After serving his sentence, he will have no fear if the victim's family will one day take revenge on him. Achieving forgiveness between the parties to the conflict in this way achieves the protection of human rights. Moreover, involvement in Restorative Justice can also be from authoritarian and institutional personalities. This would bring a change in the perception of the state. Society's trust in state institutions and government would be restored.¹²⁵

¹²² Ligji Nr. 1385/2011. Op.cit. Neni 2.

¹²³ Ligji Nr. 37/2017. Kodi I Drejtesise Penale per te Mitur. Kuvendi I Republikes se Shqiperise 2017.

¹²⁴ Directive 2008/52/EC. The European Parliament and of the Council 2008.

¹²⁵ Operazione Colomba. Op.cit. p.37.

3.2. Obstacles and Suggestions

The pillar of the development of peacekeeping and security is the United Nations. The main structure of this instrument is peacekeeping and human rights. Respecting human rights is clearly defined in 1948 in the Universal Declaration of Human Rights. The main purpose of this Declaration is to promote peace and the importance of respect for human rights. All member states of the United Nations, including Albania, are obliged to fulfill any international recommendation and take measures to put these mechanisms into action as best as possible. The European Convention for the Protection of Human Rights and Fundamental Freedoms is one of the main instruments of the United Nations, which serves to bear in mind the principles of this Declaration.¹²⁶

Beyond the many measures that the Albanian state has taken regarding Restorative Justice, some problems still penalize the use of this right in criminal cases. The law on mediation has been part of the Penal Code for several years, but again the issues resolved by this law are not very high. This fact is because often, not much attention is paid to the victim's interest, but the focus is on the damage done. Such a role is played by the court, which does not often focus on the private interests of the victims of a criminal case. Society must be aware of this form of justice. The state should give more importance to restoration practices by expanding its application to the Penal Code. In addition, training activities in this area should be conducted more often for law practitioners.¹²⁷ Many isolated families have not been provided with essential living assistance. This assistance includes legal or health assistance as well as the opportunity for education. The negative impact on society causes the phenomenon to take on more significant proportions. The most considerable help these families have received has been through various organizations. However, the national program for reconciling this phenomenon is very important. This program should focus on Restorative Justice. In Albania, the implementation of mediation is fragile in terms of imprisonment measures in conflict resolution. This fact is due to the lack of a specific system for

¹²⁶ N. Cadrobbi. Riconciliazione e perdono come principi della giustizia riparativa e della risoluzione dei conflitti, Le esperienze in Kosovo e Albania con Operazione Colomba. Università Ca' Foscari Venezia 2016. p. 120.

¹²⁷ Dr. E. Kambellari. Dokument politikash për uljen e mbipopullimit në Institucionet e Ekzekutimit të Vendimeve Penale. Republika e Shqipërisë, Ministria e Drejtësisë, Drejtoria e Pergjithshme e Burgjeve, OSCE. Tirane, 2015. p.48.

implementing this form of restoration. Society is not sufficiently informed about these alternative methods, and they do not get the proper knowledge about Restorative Justice. This is due to the lack of information and the lack of awareness of society regarding the resolution of blood feud conflicts through this technique.¹²⁸

Many international organizations and the UN Convention on the Rights of the Child have taken significant initiatives to protect minors over the years. Ms. Zenelaga expresses that Restorative Justice has had a positive development in protecting juveniles in the Penal Code. According to her, these restoration methods can be used very well in cases of blood feuds where many children are part of this phenomenon. Albania has developed many Restoration Justice Projects. There has also been a variety of cooperation in criminal mediation cases. Many organizations have co-operated with state institutions to make progress in the cases of victims-offender. In particular, the Foundation for Conflict Resolution and Reconciliation of Disputes, led by Mr. Rasim Gjoka, has made much progress in terms of Restoration Justice in Albania. The role of this Foundation has been especially in the implementation of Restorative Justice between the parties to the conflict. It is also worth mentioning the Foundation's awareness-raising to the Albanian state regarding innovations and effective international mediation methods. Another step was the recommended proposals for improving the laws of mediation cases between the parties. Practices have also been developed in cases of the blood feud phenomenon through several conferences. These practices have been developed based on the combination of tradition with new methods of mediation. The purpose of it has been precisely to resolve the phenomenon of blood feuds through the meeting of the conflict parties. The philosophy used in these conferences has been the combination of two periods of mediation. The tradition focused more on the past as restoration practices serve to bring a future towards tolerance and without conflict. Improving the laws in Albania by applying these principles would bring about a disappearing phenomenon.¹²⁹

¹²⁸ M. Bogdani. Angazhimi Qytetar për Sistem Gjyqësor Funkcional dhe Qasje në Drejtësi në Shqipëri, Arritjet, Gjetjet dhe Rekomandimet nga Organizatat e Shoqërisë Civile për Sistemin e Drejtësisë në Shqipëri. Tirane Save the Children 2019. p.79.

¹²⁹ B. Zenelaga. Reducing Blood Feud/ Revenge and Social Conflicts in Albania Through Restorative Practices and the Restoring of Justice System (s.a.). Operazione Colomba. p.3. <https://www.operazionecolomba.it/docs/Speech-BrunildaZenelaga.pdf>

In June 2018, the European Forum for Restorative Justice held its 10th conference in Albania in cooperation with the Foundation "Conflict Resolution and Dispute Reconciliation." EFRY is an international organization that aims to advance Restorative Justice Practices. Many international and national actors supported the program. With the participation of many foreign authorities, this conference discussed the new developments of Restorative Justice in the Criminal System. The purpose of this conference was based on the combination of two justice systems, such as the Criminal and Restorative systems. Also in focus was restorative juvenile justice and the treatment of this form of justice as a social movement.¹³⁰ In the same period that the conference was held, the Albanian state brought into force the law on juveniles as part of the Penal Code in January 2018. This legal code obliged state institutions to take into account the treatment of children with Restorative Justice.¹³¹

3.2.1. The practice of Operazione Colomba in fighting blood feuds' phenomenon

Operazione Colomba has helped in many situations of the phenomenon of blood feuds in northern Albania. One of these methods that the organization has used in these families is the alternative solution through mediation processes. The purpose of these forms of Restorative Justice has been to resolve the blood feud conflict. OC has been present in many isolated families where it has developed various sessions to understand the continuity of this traditional law and fight in eradicating this phenomenon. Hearing opinions from isolated families, staff has established a trusting relationship with them, giving importance to the emotions and aggravated psychological state of the victims' relatives. When the families decide on a solution to the conflict between each other, then the level of tension decreases as the perpetrator gives Besa that the blood feud will not continue. Operation Colomba has conducted during this period several campaigns to raise public awareness about the fight against blood feuds. They have helped families trapped with legal aid. They have helped to accompany many isolated people by allowing them the freedom to leave the home without fear for life. They accompanied these families to hospitals where they received medical services. Operazione Colomba has monitored and released statistics on the spread of the

¹³⁰ O. Beci. Konferenca e 10-të ndërkombëtare e forumit Evropian për drejtësinë restauruese "Zgjerimi i Vizionit për Drejtësinë Restauruese- Drejtësia restauruese ndërmjet realiteteve dhe vizioneve në Europë e më gjerë". Shqiperi Unicef 2018. <https://www.unicef.org/albania/sq/deklarata-shtypi/konferenca-e-10-t%C3%AB-nd%C3%ABrkomb%C3%ABtare-e-forumit-evropian-p%C3%ABr-drejt%C3%ABsin%C3%AB-restauruese>

¹³¹ Fletorja Zyrtare e Republikës së Shqipërisë Nr. 138, 26/09/2018.

phenomenon by collaborating with other non-governmental organizations. They have also initiated state institutions to take steps to eradicate the phenomenon by mentioning the fact of Albania's entry into the EU. Another development that this organization has made is monitoring blood feud cases to the international community. This monitoring is done through the UN Universal Periodic Review mechanism. Moreover, it is worth mentioning the assistance that Operazione Colomba has provided to Albanian citizens abroad (in the phenomenon of blood feuds), helping them with asylum rights.¹³²

Some of the new procedures to eradicate the phenomenon are the use of different ways of mediation between these families. Women can participate in mediation sessions with other women who suffer from this phenomenon. For them, it will be a more manageable form to express and understand. Mediators can also reach financial agreements between the parties to resolve the conflict. This form of mediation also existed in the Kanun. These listening methods to the parties can help families understand the pain caused and decide to put an end to these acts by creating peace between them. Through forgiveness and reconciliation, families in blood will reach a solution that will eradicate the phenomenon finally. These methods should be well explained to the parties by the mediators. Blood forgiveness can also occur in the community, together with religious authorities, adapting to canonical methods. Often mediation cannot work maximally in blood forgiveness, but it helps reduce the tension of the conflict. Albania's desire to become a member of the EU can be a valuable motivation to take steps to combat the phenomenon. Law no. 9389, dated 04.05.2005, mentions a strategy that will engage state institutions to fight blood feuds. Although this law entered into force many years ago, it did not work correctly. Going back to this law and improving some aspects of it, there may be a development in the disappearance of the phenomenon.¹³³

The coordinators of the organization, Operazione Colomba, brought to the attention of international institutions the importance of the phenomenon of blood feuds. In 2006, the General Assembly

¹³² Associazione Comunità Papa Giovanni XXIII. Call of the Advisory Committee of the Human Rights Council on “The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights” (s.a.). p.3-4.

<https://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/TechnicalAssistance/APG23.pdf>

¹³³ Operazione Colomba. The Albanian Blood Feud, the experience and best practice of OP, Collaboration between Albanian Institutions and Operazione Colomba (s.a.). Comunità Papa Giovanni XXIII. p.6.

https://www.apg23.org/downloads/files/ONU/UPR/Documenti/ANNEX_ALBANIA.pdf

established the UPR, the United Nations mechanism. This mechanism works to review all member states periodically regarding the level of protection of Human Rights. The UPR enables member states to report on all measures they have taken to protect Human Rights. It also monitors these member states to see if they have fulfilled their obligations. Albania in 2019 underwent the third cycle for review by UPR. At the United Nations headquarters in Geneva, Operazione Colomba held an event to raise awareness of blood feuds in Albania. Given that the phenomenon of blood feuds violates the right to life, an awareness program became necessary to combat it. Many people lose their lives due to this phenomenon, and many others remain isolated at home for fear of various threats. In the first two cycles of the review, the phenomenon had increased, prompting Albania to take some measures to prevent it. Because these measures were not very successful, a new plan aimed at eradicating this phenomenon became necessary. It was pointed out that Albania should pay more attention to Human Rights concerning this phenomenon and the implementation of justice reform.¹³⁴

3.2.2. The importance of Restorative Justice in ending Blood Feud

The Central Commission also took important measures to mediate bloodshed for Bloodshed Reconciliation together with Conflict Resolution and Dispute Reconciliation. In some districts of the Northern part of Albania, there was much improvement in blood feuds when these organizations cooperated with each other and with state bodies. Another important role was played by religious institutions which express forgiveness as a word of God. In 1991-1994, the Missionaries of Reconciliation, through mediation, managed to solve 158 cases of blood feuds. Most of these positive results were in the Northern area. Blood feuds were made in these families, and conflicts were also resolved with Albanians who had left the country to be protected from the phenomenon.¹³⁵

Brunilda Pali, a postdoctoral researcher at the Leuven Institute of Criminology, express that the blood feud in Kanun has been resolved through the mediation of both parties, bringing relief to families in conflict. By meeting the victim and recognizing the suffering that she/he has gone

¹³⁴ G. Panza, S. Ianovitz. La tutela dei Diritti Umani in Albania al vaglio delle Nazioni Unite. albanianews.it 2019. <https://www.albanianews.it/sociale/albania-nazioni-unite-vendetta-di-sangue>

¹³⁵ Prof. Dr. I. ELEZI. "NDËRMJETËSIMI PËR PAJTIM NË KONFLIKTET PENALE". Tiranë Fondacioni "Zgjidhja e Konfliktëve dhe Pajtimi i Gjaqeve" 2004. fq. 58.

through, the perpetrators can understand the damage caused and create a conflict reconciliation. Restorative justice serves as a bridge of communication between the two parties. RJ is very similar to the mediation made by the elderlies in the Kanun for cases of the phenomenon of blood feuds. Mrs. Pali compares justice between the two periods by finding common details between them. In the period of the Kanun of Leke Dukagjini, there were two forms of law. On the one hand is the punishment of an act, through blood feud. On the other hand, is the forgiveness and reconciliation as a restorative forms for solving conflicts. In addition, today there are two forms of justice, such as sentencing by criminal justice and also Restorative Justice as a restorer of peace between the parties. In the Kanun, the mediator was a neutral person who brought peace between two families in blood. He served as a messenger of peace, treating everyone equally. Pali states that the mediator did not participate in the judgment, but he tried to establish reconciliation between victim-offender. Although blood feud is a macabre act that violates many human rights, the Kanun also mentions that blood is essential and can be forgiven through reconciliation. Because the blood feud continues to this day in the name of the Kanun, it is important to have a robust implementation of Restorative Justice by the Albanian state. Brunilda Pali emphasizes that the eradication of the phenomenon will come only in two ways. In one direction is the mediation of every family that still lives today with the fear of blood feuds. On the other hand, it is important the establishment of reconciliation through Restorative Justice. Given that tradition is much embedded in Albanian life, and the Kanun has taken on new connotations regarding the phenomenon of blood feuds, then it is necessary to create new approaches that take into account tradition without ignoring it. The tradition should not be repeated, says Mrs. Pali, but the creation of new approaches should be based on it. The phenomenon has changed over the years but has not disappeared. In this way, the methods for solving it must change. According to Pali, mediators need to be more creative in resolving blood feud cases. To eradicate the phenomenon, state institutions must have greater interaction with Restorative Justice and strengthen this form of justice with more competencies. Because RJ is a part of every Democratic state, then the Albanian state should better manage this form of justice to solve conflicts. This form of Restorative Justice would enable the perpetrator to live a fearless life in the future after serving a sentence without being isolated and would also provide the victim with security for life. In this way, even people who try to hide from the fear of blood feuds will be able to resolve the conflict and secure their lives and those of their families. Ms. Pali states that

Restorative Justice is not an obstacle to state institutions because the perpetrator will serve his sentence according to the laws. The issue lies in the fact that the state must further support this justice to combat the continuation of the phenomenon of blood feuds. State-supported restoration processes may also include authoritarian personalities such as religious representatives or elders who would thus bring about a positive cultural change. Pali emphasizes that cultural change is essential to understand that forgiveness and peace are more important than revenge and blood feuds. Such a phenomenon can not be eliminated by a single means but requires a great deal of state and social cooperation. Encouragement of peace and forgiveness should also come from the media and school curricula. This encouragement should also come from people who have been part of these restoration processes and have reached a successful solution. The pressure of society strongly promotes the phenomenon of blood feuds. Having a positive and not negative pressure, Albanian society will be aware of the positive principles while respecting dignity and life without harming anyone. Mrs. Pali emphasizes that the tradition of the Kanun should be known by all society today, as a large part of people and even families in blood have no knowledge of it at all. By creating the possibility of knowing the Kanun, today's society will be better understood that forgiveness and reconciliation have been highly honored deeds in the Kanun. The Kanun should also be known for the positive sides it has had, as many Albanian families growing up with blood feud recognize only this negative aspect of it. By promoting the Albanian tradition for reconciliation and the importance of forgiveness, it will be easier to combat this phenomenon. The way to eradicate the phenomenon will not be easy, says Mrs. Pali, but it needs powerful cooperation to fight it.¹³⁶

The paper underlined that the reforms and recommendations that Pali mentioned in her work would provide good changes in Albanian reality. Those suggestions firstly implement the decrease in number the cases of the blood feud. In addition, the mediation role will bring avails to the society; they could manage to use negotiation as the tool of solving their bloody issues. All the recommendations mentioned above will enhance the chance of the country to overcome the problems regarding the blood feud. Knowing the victim's painful past will serve to give these

¹³⁶ B. Pali. Restorative justice as a response to blood feuds: an idea whose time has come (s.a.). Restorotopias. <https://www.restorotopias.com/2020/02/03/restorative-justice-as-a-response-to-blood-feuds-an-idea-whose-time-has-come/>

families the confidence that someone is there to help them get over their pain. Forms of Restorative Justice will serve as an efficient solution to the phenomenon, considering that the state has not had much influence in combating blood feuds. Considering that the Kanun is being mentioned today and is being used to avenge various crimes, this thesis considers it necessary to re-recognize the Kanun in Albanian society. This knowledge will help society become better acquainted with the Kanun laws and how mediation today will play the same role in combating the phenomenon. The Albanian state has not done enough to fight this phenomenon, and it definitely needs the help of restorative forms, which in cooperation with state institutions, will help reduce blood feud cases and resolve them. Also, based on the recommendations of Ms. Zenelaga, this paper agrees with the inclusion of Restorative Justice in Youth in Albania, using it even in cases of blood feud phenomenon. Based on the above court decisions, children are also involved in these murders to avenge the blood feud murders. Therefore, using the restorative law practices of youth who have committed blood feud crimes will help their re-education and rehabilitation in the future. In this manner, they will be beneficial to this society.

CONCLUSION

This thesis aims to reveal the existence of blood feuds and determine the usefulness of Restorative Justice as the soluble way of dealing with blood feuds. The author in this paper has taken into account the return of the phenomenon nowadays. In addition, the writer has given detailed arguments to show the problems of Albania in the fight against the phenomenon. The main goal is to implement Restorative Justice through mediation by connecting it with the mediation used in the Kanun but in a modernized way.

The first research question that this study has addressed is precisely explaining the phenomenon of blood feuds and the Kanun in Albania. The author has also described in detail and statistically the existence of blood feuds today. The paper elaborates the history in different periods of the phenomenon of blood feuds and the Code of Kanun. The Kanun mentioned in more detail is the Kanun of Leke Dukagjini. It is also worth noting that in this paper are quoted some of the other Kanuns used in a geographical extension from North to South of Albania. Referring to the comparison of the Kanuns with each other, the writer concludes that all those wherever they have acted, regardless of the size of the territory or population over which their norms have been applied, they speak of a special right.

Three main concepts of the Kanun of Leke Dukagjini are explained, including honor, hospitality, and Besa. In this paper, these three concepts are mostly separated from other concepts of Kanun to prove one of the reasons for the continuation of blood feuds today and the great importance that the Albanian tradition has in society nowadays. The paper has identified the law of mediation of the Kanun, which will create the connection of the solution of the problem that the writer expresses in the third research question.

Researching this paper, the writer has concluded that the improper functioning of the state and the movements of the population in different areas of Albania caused the phenomenon to spread massively, creating new blood feuds. Currently, the Albanian reality, especially in the recent period, has shown many cases of self-judgment. The Kanun of modern times has begun to take over the lives of children, women, and religious figures. In this part, the writer records in detail a

case of the murder of a pastor due to blood feuds. Isolation is another factor statistically described in this paper. Families were forced to flee for fear of being killed. Statistics have shown the high number of isolated families, especially in the Northern area of Albania, in Shkodra. Some of their rights to life have been denied, including the right to life, liberty, education, medical care, and more. It is noticeable in the paper the great suffering that these families experience and the difficult life that forces them to find random solutions to survive. The writer explains the difficulty that these families live in by mentioning and identifying some surveys conducted by non-governmental organizations in Albania. These statistics have clearly expressed that even today, the phenomenon continues to live in the life of society with a relatively considerable number for the Albanian state.

In response to the second research question, the paper reveals two main problems of the Albanian State concerning the phenomenon of blood feuds. In the first question, the paper explains why the Albanian State seeks to hide the phenomenon and often denies its existence. The paper supports this question with the stated comments of the National Committee for the Reconciliation of Bloodshed. The comments have highlighted the corruption of state institutions and their inability to implement legal mechanisms in any area of Albania and to take adequate measures to combat the phenomenon. The reason why the State often tries to manipulate the actual statistics of the phenomenon nowadays is access to the European Union. One of the European Union requirements for countries that want to become part of it is to fight the phenomenon to protect human rights and especially the right to life. Albania's great desire to be an EU member state has made Albania often not realistic in the number of blood feuds today. The author has confirmed this argument with statistical research showing the differences between the numbers declared by the State and the numbers declared by Operazione Colomba, the People's Advocate, and other organizations. Operazione Colomba is an Italian organization that has worked for more than five years with families in Albania living isolated from the phenomenon of blood feuds. Statistics issued by the State have been confirmed in the paper that at some point, state institutions have made various statements within an annual period.

As for the second question, regarding the distrust of isolated families towards state institutions, the author is based on some unfair court decisions relating to the trial of the phenomenon of blood feuds. This research question highlights the difficulty of society in trusting state institutions. Some

of the rulings expressed in the paper have shown that the courts have often been unfair with the punitive measures imposed on perpetrators at trial. According to Article 78/a of the Penal Code, a blood feud is a criminal offense sentenced to 30 years or life imprisonment. The cases studied have shown that the courts have given more mitigation measures that violate this article. Another problem of these cases is seen in the excessive length of time the courts take to issue the final decision. These unjust decisions have led to a high level of distrust of citizens towards state institutions. Courts and state institutions have not paid due attention to the needs of the victims' families. Attention is paid to the perpetrator, leaving in oblivion the importance of the phenomenon. These reasons have been confirmed by scientific research conducted by other researchers concerning this situation.

Another problem that answers the above question is the measures taken by the Albanian state to combat the phenomenon, which has not been successful. Government institutions have taken some measures to facilitate the education of isolated children. These measures were suspended after a certain period because the government mentioned that the number of blood feud cases had decreased significantly from year to year. This claim is contradicted by the statements of some teachers who, for an extended period, have worked voluntarily with these isolated children providing them with primary education. Another factor highlighted in this paper is based on the chairman of the "National Committee for the Reconciliation of Bloodshed." Some of the government's claims to establish effective and successful mechanisms have been rejected in this paper. Mentioned cases are the creation of police structures to prevent the phenomenon, which after a certain period have not functioned anymore. Furthermore, state institutions have not implemented laws and recommendations issued by the President of Albania. Operazione Colomba's recommendations have also supported this research question. Based on these recommendations, the paper expresses the situation, which is very worrying in Albania. Law no. 9389, dated 04.05.2005, for the establishment and functioning of the Coordination Council in the fight against blood feuds, has not functioned properly for many years, being bypassed by government institutions. The veracity of this fact is expressed in the second chapter by the recommendations of the President of Albania and the recommendations of Operazione Colomba.

In this part, some of the recommendations given to answer the third research question are identified, which has to do with the effectiveness of the implementation of Restorative Justice in eradicating blood feuds in Albania. At the beginning of this chapter is a brief description of Restorative Justice, which focuses on the well-being of the victim and the rehabilitation of the perpetrator, making him a more worthy person for society in the future. An essential factor is that restorative justice, as a new ideology in the fight against crime, has been widely supported in recent decades. It is continuing to expand its framework at a rapid pace in various parts of the world. The reason lies in the philosophy that permeates the way it reacts to crime, in the principles on which it operates, and in the objectives it aims to achieve—at the same time, aiming to restore the damage caused by the criminal offense through the manner determined based on the mutual will of both parties. By using the help of the community, it becomes possible to find a solution that "satisfies" the interests and needs of all, by successfully eliminating the consequences of the criminal offense, without leaving behind tense relations, which even the imprisonment sentence, would not be able to return them to normal. The paper defended this research question with recommendations made by organizations and researchers who have worked with isolated families in Albania. Reports from them confirm that mediation has managed to resolve many blood feud conflicts since the time of canon law and has also helped resolve the conflict to this day. In this study, the author deals with combining the forms of Restorative Justice with the mediation in the Kanun. The changes that happened to the Kanun in modern times must be resolved by innovative changes to Albanian laws regarding restoration. In this paper, the cases mentioned above have proved that children have also been the perpetrators of blood feud killings. For this reason, the implementation of the law of Restorative Justice in young people would bring a real innovation being practiced even in isolated children of the phenomenon.

Finally, the master's thesis leads to the implementation of Restorative Justice (mediation) to combat the crime of the phenomenon of blood feuds. For this reason, the author has achieved the objective of the thesis by analyzing the current situation in Albania and identifying the mediation intervention in cases of blood feud to contribute to its disappearance.

ABBREVIATIONS

EU	European Union
OSCE	Organization for Security and Co-operation in Europe
NGO	Non-governmental organization
INSTAT	Institute of Statistics in Albania
MSWY	Ministry of Social Welfare and Youth
APG23	Associazione Comunità Papa Giovanni XXIII
UN	United Nations
EFRY	European Forum for Restorative Justice
OC	Operazione Colomba
UPR	Universal Periodic Review
RJ	Restorative Justice

BIBLIOGRAPHY

Literature:

Books:

1. Çobani.T. Princi i përfulur Lekë Dukagjini. Botimet Toena Tiranë 2003.
2. Elezi. I. “Ndermjetesimi per Pajtim ne Konfliktet Penale”. Fondacioni "Zgjidhja e Konflikteve dhe Pajtimi i Gjajeve" Tiranë 2004.
3. Elezi. I. Vrasjet për hakmarrje e për gjakmarrje në Shqipëri. Qendra Shqiptare për të Drejtat e Njeriut 2000 Tirane.
4. Elsie. R. A Dictionary of Albanian Religion, Mythology, and Folk Culture. London: Hurst 2001.
5. Elsie. R. The Tribes of Albania, History, Society and Culture. London: I.B. Tauris 2015.
6. Gellci. D. Albanian Highlander's "blood Feud" as a Social Obligation. CreateSpace Independent Publishing Platform 2014.
7. Martini. Xh. Kanuni i Dibrës. Botimi I dyte. Emal 2007.
8. Mile. K. The blood feud: between Kanun and state: rethinking social and institutional responses to the blood feud phenomenon. Albanian Institute for international studies 2007.
9. Omari. L, Luarasi. A. Historia e Shtetit dhe e së Drejtës në Shqipëri. Shtëpia botuese "Luarasi" 1997.
10. Tarifa. E. Vengeance is Mine: Justice Albanian Style. Chapel Hill, NC: Globic Press 2008.
11. Valentini. G. E Drejta e komuniteteve ne Traditen Juridike te Shqiperise. Plejad Tirana 2007.
12. Valentini. G. LIGJI I MALEVE SHQIPTARE. Plejad Tirane 2007.
13. Weitekamp. E.G.M. Kerner. H.J. Restorative Justice: Theoretical Foundations. Cullompton: Willan Publishing 2002.

Journals:

14. Bogdani. M. Angazhimi Qytetar për Sistem Gjyqësor FunkSIONAL dhe Qasje në Drejtësi në Shqipëri, Arritjet, Gjetjet dhe Rekomandimet nga Organizatat e Shoqërisë Civile për Sistemin e Drejtësisë në Shqipëri. Tirane Save the Children 2019.
15. Cara. A, Margjeka. M. Kanun of Leke Dukagjini Customary Law of Northern Albania. – 11 European Scientific Journal no. 28, 2015.
16. Galaway. B, Hudson. J (eds.). Criminal Justice, Restitution, and Reconciliation. Monsey, NY: Criminal Justice Press 1990.
17. Hoxha.A. Kanun Institutions as Heritable Cultural Codes: The Family, Kanun. 8 Anglisticum 2019.
18. Kambellari. E. Dokument politikash për uljen e mbipopullimit në Institucionet e Ekzekutimit të Vendimeve Penale. Republika e Shqipërisë, Ministria e Drejtësisë, Drejtoria e Përgjithshme e Burgjeve, OSCE. Tirane, 2015.
19. Kopsaj. V. Blood Feud and Its Impact on the Albanian Criminality. - 7 Mediterranean Journal of Social Sciences 2016.
20. Mustafa. M, Young. A. Feud narratives: contemporary deployments of Kanun in Shala Valley, northern Albania. – 14 Anthropological Notebooks 2008.
21. Pali. B. Restorative justice as a response to blood feuds: an idea whose time has come (s.a.). Restorotopias. <https://www.restorotopias.com/2020/02/03/restorative-justice-as-a-response-to-blood-feuds-an-idea-whose-time-has-come/>
22. Pratt. S. Gjakmarrja: Albanian Blood Feud and Restorative Applications of Traditional. Academia 2013.
23. Sadiku. M. A Tradition of Honor, Hospitality and Blood Feuds: Exploring the Kanun Customary Law in Contemporary Albania. - 3 Balkan Social Science Review 2014.
24. Zenelaga. B. Reducing Blood Feud/ Revenge and Social Conflicts in Albania through Restorative Practices and the Restoring of Justice System (s.a.). Operazione Colomba. <https://www.operazionecolomba.it/docs/Speech-BrunildaZenelaga.pdf>
25. Whitaker. I. Tribal Structure and National Politics in Albania, 1910-1950. - 7 History and Social Anthropology, London, New York Tavistock 1968.

Official Documents:

26. Country Policy and Information Note Albania: Blood feuds Version 4.0. Home Office 2020.
27. Gjipali. S, Berberi. A, Caro. E, Kapllanaj. M, S. Danaj. Efektet e gjakmarrjes mbi gratë dhe vajzat në Shqipëri. Albanian Institute of Public Affairs 2013.
28. Kambellari. E, Muco. E, Gusho. L, Sovjani. K. Studime ne Fushen e Kriminologjise. OSCE, 2020.
29. Operazione Colomba. Korpusi i Jo Dhunës dhe Pro Paqes, Dokument I Pershkrimnit Te Fenomenit “Hakmarrja: e “Gjakmarrja” Per Sensibilizimin e Institucioneve Shqiptare e Nderkombetare. – 3 Comunità Papa Giovanni XXIII 2017.

Reports:

30. Alston. P. Report of the Special Rapporteur on the extrajudicial, summary or arbitrary executions, mission to Albania. 17 session, United Nation General Assembly 2011.
31. APG23. Recommendations no. 104.4, no. 05.15, no. 105.16, no. 106.8, no. 106.9. - Blood Feud (Public Security- Rights of the Child - National Human Right Institution).
file:///C:/Users/tirana/Downloads/APGXXIII_UPR33_ALB_E_Main.pdf
32. Associazione Comunità Papa Giovanni XXIII. Call of the Advisory Committee of the Human Rights Council on “The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights” (s.a).
<https://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/TechnicalAssistance/APG23.pdf>
33. Avokati I Popullit. Mbi Fenomenin e Gjakmarrjes ne Shqiperi. Raport I Vecante II. Republika e Shqiperise 2015.
34. Operazione Colomba. The Albanian Blood Feud, the experience and best practice of OP, Collaboration between Albanian Institutions and Operazione Colomba (s.a.). Comunita’ Papa Giovanni XXIII. p.6.
https://www.apg23.org/downloads/files/ONU/UPR/Documenti/ANNEX_ALBANIA.pdf
35. Raporti Drejtorisë Vendore të Policisë Shkodër. Ministria e Brendshme Tirane 2011.

36. Raport Vjetor mbi Veprimtarine e Kuvendit te Shqiperise. Kuvendi I Shqiperise 2015.
37. Rezolute 05.03.2015, 18.03.2015, Per Parandalimin e Fenomenit te Gjakmarrjes ne Shqiperi.
Ligji Nr. 1 Kuvendi I Republikes se Shqiperise 2015.

Judicial Practice:

38. Vendimi Nr. 279. Kolegji Penal I Gjykates se Larte. 28.05.2008.
39. Vendimi Nr. 219. Kolegjit Penal i Gjykatës së Lartë. 22.04.2009.
40. Vendimi Nr. 695. Kolegji Penal i Gjykatës së Lartë. 09.12.2009.
41. [2012] UKUT 00348 (IAC), [2012] UKUT 348 (IAC)
42. Vendimi Nr.131. Kolegji Penal i Gjykatës së Lartë. 17.04.2013.
43. Vendimi Nr. 219. Kolegji Penal i Gjykatës së Lartë. 10.07.2013.
44. Vendimi Nr. 00-2013-2027. Gjykata e Lartë. 19.09.2013.
45. Vendimi Nr. 133. Kolegji Penal i Gjykatës së Lartë. 15.07.2015.
46. Vendimi Nr.127. Kolegji Penal i Gjykatës së Lartë. 25.10.2017.
47. Vendimi Nr.3. Kolegji Penal i Gjykatës së Lartë. 09.02.2018.
48. Vendimi nr.633. Kolegji Penal i Gjykatës së Lartë. 10.12.2020.

Legal acts:

49. Ligji Nr.8491. Kodi I Procedures Civile I Republikes se Shqiperise. 1996.
50. Ligji Nr. 8116. Kodi I Procedures Civile I Republikes se Shqiperise. 1996.
51. Ligji Nr.8465. Për Ndërmjetësimin për Zgjidhjen me Pajtim të Mosmarrëveshjeve. Kodi Penal.1999.
52. Ligji Nr.9090. Per Ndermjetesimin ne Zgjidhjen e Mosmarreveshjeve. Kuvendi I Republikes se Shqiperise. 26.06.2003.
53. Ligji Nr. 9389. “Për krijimin e funksionimin të Këshillit Koordinues në luftën kunder gjakmarrjes” 04.05.2005. (Fletore Zyrtare Nr. 44.Viti 2005. Faqe 1604).
54. Directive 2008/52/EC. The European Parliament and of the Council 2008.

55. Ligji Nr. 7895 Kodi Penal I Republikes se Shqiperise. Kreu II. Seksioni I. 27.01.1995. ndryshuar 2.05.2013
56. Ligji Nr. 37/2017. Kodi I Drejtesise Penale per te Mitur. Kuvendi I Republikes se Shqiperise 2017.
57. Ligji Nr.7905 Kodi I Procedures Penale I Republikes se Shqiperise. 30.03.2017.
58. Ligji Nr. 26/2018. Per Disa Shtesa dhe ndryshime te Ligjit Nr. 10385 date 24.02.2011, Per ndermjetesimin ne Zgjidhjen e Mosmarveshjeve. Kuvendi I Republikes se Shqiperise 2018.
59. Ligji Nr.10385. Per Ndermjetesim ne Zgjidhjen e Mosmarrveshjeve.Kuvendi I Republikes se Shqiperise. 24.2.2011. ndryshuar 17.05.2018.
60. Fletorja Zyrtare e Republikes se Shqiperise Nr. 138, 26/09/2018.
61. Ligji Nr. 9675 Kushtetuta e Shqiperise. Kreu II. 21.10.1998. ndryshuar 30.07.2020. Neni 21.

Other Sources:

62. A crowd against blood feud (s.a). Operazione Colomba 2019. <https://www.operazionecolomba.it/njepopullkundergjakmarrje/dritan-proj-2/>
63. Albania can do more to eliminate blood feuds and domestic violence, says UN expert on extrajudicial killings (s.a). reliefweb, 2010. <https://reliefweb.int/report/albania/albania-can-do-more-eliminate-blood-feuds-and-domestic-violence-says-un-expert>
64. Beci. O. Konferenca e 10-të ndërkombëtare e forumit Evropian për drejtësinë restauruese “Zgjerimi I Vizionit per Drejtesine Restauruese- Drejtësia restauruese ndërmjet realiteteve dhe vizioneve në Europë e më gjerë”. Shqiperi Unicef 2018. <https://www.unicef.org/albania/sq/deklarata-shtypi/konferenca-e-10-t%C3%AB-nd%C3%ABrkomb%C3%ABtare-e-forumit-evropian-p%C3%ABrdrejt%C3%ABsin%C3%AB-restauruese>
65. Borgarsson. B. F. The Implementation and Impact of Restorative Justice Programmes in Albania and Cuba. Lund University 2015

66. Cadrobbi. N. Riconciliazione e perdono come principi della giustizia riparativa e della risoluzione dei conflitti, Le esperienze in Kosovo e Albania con Operazione Colomba. Universita Ca'Foscari Venecia 2016.
67. Cedoca. OFFICE OF THE COMMISSIONER GENERAL FOR REFUGEES AND STATELESS PERSONS. COI Focus ALBANIA Blood Feuds in contemporary Albania: Characterisation, Prevalence and Response by the State 2017. https://www.cgrs.be/sites/default/files/rapporten/blood_feuds_in_contemporary_albania._characterisation_prevalence_and_response_by_the_state.pdf
68. Cela. A. Familjet e prekura nga gjakmarrja, Pritshmeri positive me zbatimin e Reformes ne Drejtesi. Arkivi Ora News 2017. <http://arkivi.oranews.tv/article/familjet-e-prekura-nga-gjakmarrja-pritshmeri-pozitive-zbatimin-e-reformes-ne-drejtesi>
69. Dushi. A. Adoleshentët e ngjuar nga gjakmarrja braktisen nga shteti pas arsimit të detyruar. Reporter Al Shkoder 2017. <https://www.reporter.al/adoleshentet-e-ngjuar-nga-gjakmarrja-braktisen-nga-shteti-pas-arsimit-te-detyruar/>
70. Jarrett. J. Elona Prroj Shares Incredible Story of Forgiveness in Chapel. Dallas Baptist University 2020. <https://www.dbu.edu/news/2020/03/elona-prroj-shares-story-of-forgiveness-in-chapel.html>
71. Lufta mes familjeve, vrasjet më të bujshme që tronditën Shkodrën (s.a.). Tirana News 2019. <https://tirananeews.al/lufta-mes-familjeve-vrasjet-me-te-bujshme-qe-tronditen-shkodren/>
72. Malaj. A. Drejtesia Restauruese ne Shqiperi. Universiteti I Tiranes, Fakulteti I Drejtesise. Tirane 2016.
73. Mandala. M. Besa në Kanunin e Lekë Dukagjinit. Universiteti i Palermos 2011. <http://eltonvarfishqip.blogspot.com/2011/06/besa-ne-kanunin-e-lek-dukagjinit.html>
74. Marku. Gj. Letter: In Regard to the Rapport for the Security Council of United Nations about the Phenomenon of Blood Feud in Albania. Committee of Nationwide Reconciliation (CNR) 2010. <http://www.pajtimi.com/index.php?faqe=leterOKB>
75. R.Merlika. KANUNI I BENDËS, PJESË E SË DREJTËS ZAKONORE SHQIPTARE. Universitetit European të Tiranës Tirane 2018.

76. Neale. D. Albanian blood feuds and certification: a critical view. Garden Court Chambers 2019. <https://www.gardencourtchambers.co.uk/news/albanian-blood-feuds-and-certification-a-critical-view>
77. Nocka. E. Kuadri ligjor shqiptar krahasuar me atë evropian (s.a.). Revista Avokatia, Referimi për ndërmjetësim nga gjykata dhe prokurori. <http://avokatia.al/revista/22-avokatia-36/88-harmonizime-36>
78. NJOFTIM PËR SHTYP – Gjakmarrja: Operazione Colomba, gjakmarrja është ende një realitet në Shqipëri (s.a.). Operazione Colomba 2019. <https://www.operazionecolomba.it/njepopullkundergjakmarrje/njoftim-per-shtyp-gjakmarrja-operazione-colomba-gjakmarrja-eshte-ende-nje-realitet-ne-shqiperi/>
79. Panza. G. Ianovitz. S. La tutela dei Diritti Umani in Albania al vaglio delle Nazioni Unite. albanianews.it 2019. [_https://www.albanianews.it/sociale/albania-nazioni-unite-vendetta-di-sangue](https://www.albanianews.it/sociale/albania-nazioni-unite-vendetta-di-sangue)
80. Prroj. E. Nje Veshtrim Social Psikologjik mbi Grate e Femijet e Familjeve te Ngujuara. Universitetit European të Tiranës Tirane 2018.
81. Qana. N. Socio-Historike e Fenomenit te Gjakmarrjes dhe Fenomenit te tij mbi Grate dhe Femijet. Instituti I Studimeve Europiane Tirane 2016.
82. Rehova. I. Ndryshimet që sjell reforma në drejtësi. Exit News 2016. <https://exit.al/permbajtja-e-reformes-ne-drejttesi/>
83. Trnavci. G. The Albanian customary law and the Canon of Lekë Dukagjini: Clash or Synergy with modern law. SELECTEDWORKS 2008.

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