STATE, LAW, AND REVOLUTION: AGRARIAN POWER AND THE NATIONAL STATE IN ALBANIA, 1850-1945

by

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To my wife, Shpresa.

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CHAPTER 1

Introduction

If there was a list of the least understood events of the twentieth century, these facts related to Albania would surely be on it: the origins of its communist-led regime, the peculiar brand of unabashed Stalinism that characterized its dictatorship, and the curious degree of political autonomy that had few precedents in the former Eastern Bloc. If the list were to include curiosities from the literature in comparative historical sociology, it would include its complete elision of Balkan social and political development from its empirical frame of reference. And yet, Albania, like its erstwhile neighbor Yugoslavia, was one of the few states to undergo – decades prior to the massive anti-colonial upheavals of the Third World – indigenously led, peasant supported social revolutions.

The case of Albania is particularly outstanding, given the country's near geopolitical disappearance some decades earlier. When Albania gained its political independence in 1913 from the Ottoman empire, the very prospects of the country's survival seemed bleak. Surrounded by rapacious neighbors, Albania was proclaimed stillborn at the Paris Peace Conference of 1919, where negotiations for the division of its territories were already underway. Yet, in the matter of a few decades, the state that would by today's political science standards be characterized as a "failed" state, produced

one of the longest lasting mass-based dictatorships in European history, instituting some of the most far reaching political and economic reforms seen in the short history of this small state. Yet, all of these had their origins in the little understood social revolution which swept Albania in the mid-twentieth century, and which gave birth to the communist regime that ruled Albania with an iron fist from 1945 until its demise in 1991.

The career of Albania's communist regime is of less interest for the purposes of this study than the processes leading to the revolutionary mobilization that led to its birth. This study, however, is not *directly* concerned with explaining the revolutionary process of mobilization and political transformation. What it *is* concerned with, is the specific *institutional* conditions that gave shape to the patterns of revolutionary mobilization, and particularly how that event relates to processes of modern national state building in post-imperial political and legal reconstructions. More than revolution, this study is interested in the state and the effects of modern state rule on agrarian society. However, the study promises no general framework for processes of state formation. It is interested in the effects of an historically *specific* form of state in an historically *specific* kind of agrarian society. That specific form of state is the modernizing national state of the early to mid-twentieth century, while the specific agrarian society is that of the post-Ottoman Balkans.

What makes this particular type of state and this particular kind of agrarian society interesting for a comparative historical study? Because it helps bring to analytic light the role of a significant factor of social change of the modern era, that of law. Not change in law as in the content of legislation or legal norms, but in the entire doctrinal basis and institutional edifice of law. The case of Albania allows us to observe the political effects of such change; how a diffuse system of imperial rule undergirded by a

diverse array of contemporaneously functioning legal traditions transformed into a

national state dominated by a single system of formal state law. The case of Albania is

particularly instructive because, due to its particular history and social structure, its

territory contained in the early twentieth century a diverse and sometimes overlapping

combination of state, religious, and customary laws, with territorially and socially

diversified jurisdictional agents and functions. The institutional process by which this

plural legal order was transformed into one dominated by an integrated and internally

differentiated system of state law, and the relations rural regions developed with the

national state as a result of this process, constitute the central problem of this dissertation.

The argument developed here intends to show that the process of legal

transformation was, on the one hand, *politically* consequential, because it created the

institutional framework that channeled peasant collective action in ways that were

inconceivable only some decades before. But, more importantly, from a *longue durée*

perspective, the process of legal centralization is *symbolically* crucial because it allows

one to gain an insight into the particular mode by which the new state integrated its

peasant populations as political actors within its institutional structure. Critical of

classical research which saw state and peasant relations as inherently antagonistic, the

research here shows how the institutions of the modern state both create conditions for

particular kinds of political agency while destroying them for others.

Patterns of peasant revolutionary mobilization, as will be argued below, are here

interpreted as an index for the mode of incorporation of the peasantry into the *juridical* –

and, therefore, *political* – domain of the state, both as subjects of the state as well as (in a

dialectically related process) political actors within it. The premise of this argument is

simple: only peasant groups that have admitted the state as part of their *moral* universe will form an active *political* interest in the state, its policies, and the structure of its institutions. The study draws on several strands of sociological theory to develop a theoretical framework that explains these relations conceptually and causally.

This dissertation offers a perspective of the state which integrates the role of law because of the conceptual and theoretical limits of prevailing sociological understandings of state-society relations in agrarian society, based on a select number of class-centric and state-centric theories of agrarian social change. I should point out from the outset that, while the empirical problem begins with the process of revolutionary change in Albania, the dynamics of that process itself are *not* the main subject of this dissertation. Rather, the dissertation is interested in explaining the rise of the specific set of institutional conditions that made such revolutionary process an historical possibility, in ways that were *not* possible and did *not* occur in the long history of agrarian relations in Albania. The impact of a state-led process of legal centralization is, I will argue, crucial to a proper understanding of this process, as well as to patterns of Albania's long-term institutional development, including issues such as the apparent persistent "non-integration" of its northern highlands into the legal system of the state, which has come to haunt postsocialist Albania, and the issue of land ownership and control which has been a constituent part of the history of Albania for most of the twentieth century and an ongoing political issue today. Indirectly, it sheds some light on the role of legal reform in the secularization of Ottoman successor states, particularly given the fact that Albania has not experienced the mass religious revivalism and religious party formation of many other Ottoman successor states, but was also, during the era of communist dictatorship,

proclaimed the first officially atheist state in the world. While these issues are not treated directly in this dissertation, I suggest that an analysis of institutional transformations during the early period of transition from empire to national state opens the way towards explaining the divergent paths of legal reform, secularism, and economic and political development among states that emerged out of the disintegration of the Ottoman empire during the late nineteenth and early twentieth centuries.

I begin by offering two striking observations on Albania's mid-twentieth century revolutionary transformation. The first, which remains curiously unnoted by many analysts of twentieth century social revolutions (Foran 2005; Goodwin 2000; Johnson 1962; Wolf 1969), is that, unlike other east European states, the victory of the Albanian communists was an accomplishment of an indigenous movement and was not aided by Soviet military intervention. Unlike the remainder of eastern Europe (with the notable exception of Yugoslavia), mass mobilization for Albania's communist-led revolution, and the popular support for its policies, were backed by domestic social forces. The second striking observation is the pace at which the communist movement grew. While the Albanian communist movement captured power towards the end of 1944, the movement itself had emerged only three short years earlier, in a country which had lacked not only an established communist movement, but any mass-based peasant party. The leaders of the partisan movement, including its leader and future Stalinist dictator Enver Hoxha, had been virtual unknowns in Albania's political life prior to the year 1941, when a few small cells of young Marxist-Leninists came to form a political party. In fact, efforts led by the Comintern to set up a communist movement in Albania in the 1930s had largely failed in attracting a popular following, mainly because the industrial

working class that the Comintern was seeking to recruit into its ranks was so minuscule in a society in which over eighty percent of the population was peasant (Frashëri 2006). The fact that the independently formed small communist movement emerged to gain popular support in order to wage successful guerilla war and to capture state power is thus even more striking, particularly as their founders included individuals with negligible histories of public political activity in the past, even among the ranks of political radicals. The fact that such political *arrivistes* were able to organize and lead a revolutionary war says less about the special skills of this group of revolutionaries and more about the degree to which changes in Albania's institutional structure had produced conditions that enabled the young communist revolutionaries to succeed where other radical movements had failed. It is these changing institutional conditions in the period between c. 1850, when the Ottoman political and legal reforms unleashed a powerful array of social forces within the empire, and the early 1940s, when Albania's communist revolutionary mobilization began, that are the object of analysis of this dissertation.

The immediate problem examined by this dissertation is the changing role of peasant mobilization during a crucial period of change. Why did an historically disorganized and politically docile group, the peasant cultivators of the lowlands, join in support of a social revolutionary movement, as they did in the 1940s? Why did the once politically radical highland peasantry, which had been a key actor in movements beginning from rebellions against Ottoman authorities to being the militant wing of Albania's short-lived left-wing political revolution of 1924, become increasingly conservative in its political outlook and resist the communist movement less than two decades later? What happened in the interim that led to this drastic role-reversal between

these two peasant groups? The question is relevant not only for Albania's particular

historical trajectory, but also follows from the recognition by analysts of twentieth

century social revolutions of the peasantry's centrality in virtually all modern

revolutionary transformations (Foran 2005; Goodwin 2000; Moore 1966; Paige 1975;

Skocpol 1979; Skocpol 1994; Wickham-Crowley 1992). The patterns of peasant

mobilization in Albania are of special curiosity here, because they do not follow the

patterns expected by most existing class-based theories of peasant revolutionary

mobilization. Moreover, the case of Albania (and peasant mobilization in the Balkans

more generally) is of special theoretical interest because of the region's divergence from

historical patterns of capitalist dependency that are familiar to analysts of the Third

World. Class-based theories, as will be shown, have taken the fact of capitalist

dependency as theoretically fundamental for explaining peasant mobilization in

revolutionary movements in much of the Third World. But the generality of these

theories becomes questionable when one examines cases in which capitalism and the

modern state do not arrive in the form of transplants imposed by colonial rule.

To be sure, historians have taken an interest in explaining Albania's social

revolution, but these explanations have generally focused on events that are limited in

their timeframe to the wartime period (1939-44) and therefore offer little satisfaction

because of their abstraction from longer term trends of social change in Albania and in

the Balkans region. While classic groundbreaking theorists in the tradition of comparative

historical sociology have always been interested in "big structures, large processes, huge

comparisons" (Tilly 1984), even social scientists with an institutionalist bent are

increasingly recognizing that short-term time horizons offer limited and often incomplete

understandings of transformative events, given their embeddedness in longer-term trends and patterns of social and political change. Indeed, institutionalists argue that even events that on first sight seem to have short time horizons, such as revolutionary mobilization, the rise of social movements, and the emergence of new political cleavages, are better understood as processes that are contingent upon causes embedded within frames of *longue durée* and path-dependent processes and historically-given institutional constraints and possibilities (Clemens and Cook 1999; Mahoney 2000; Pierson 2004). But even when taken at face value, short-term analysis of the Albanian case pose many problems. First, the historical literature focuses mainly on the short-term factors related to the partisan guerilla movement and its successful mobilization of peasant support. Primary of these factors are the wartime conditions under which the communist leadership organized its guerilla movement against the occupying Italian (1939-43) and German (1943-44) armies and their domestic collaborators. In ways strikingly similar to the Chinese communists, the Albanian partisan movement successfully exploited conditions of foreign occupation to mobilize Albania's peasantry under the banner of national liberation. As in China, where communist mobilization expanded successfully only after Japanese occupation made national liberation the additional motive for guerilla struggle, revolutionary mobilization was, in this instance, also a nationalist one (Johnson 1962).[1] According to Johnson, the success of Chinese communist mobilization of the peasantry simultaneously indicated the successful "nationalization" of the Chinese peasantry, that is, their definitive appearance as a relatively homogenous mass group on the Chinese political stage. Johnson argues that the reason for this is not only the organizational efforts of the Chinese communists, but also because Japanese occupation

provided the occasion to unite the historically diverse Chinese peasantry against a common national enemy. This framework may be applied to Albania, since the Albanian communist movement directly combined nationalist with social revolutionary appeals (Fischer 1999a; Konda 1988). The call to national liberation, however, is not a fully satisfactory explanation because rival, non-communist groups such as the nationalist *Balli Kombëtar* and the monarchists of the *Legaliteti* movement also mobilized under the program of national liberation, but were unable to generate the same degree of popular support. In particular, these movements were only capable of gaining a following in particular regions, but overall failed in securing the mass support of the peasantry, the largest and most critical social group that backed the communists.

Another answer which relates to the immediate wartime conditions are sought in the foreign support the movement received. The assistance and support of Yugoslav communists was crucial to the founding of the Albanian communist party in 1941 (Frashëri 2006). More significantly, the partisans, as is now well known, were, at least in their initial interventions in Albanian politics, a clear favorite of British and U.S. covert operations. British and U.S. military support for the Albanian communists was based on the view that the communists' were the most committed and effective group in the fight against the Axis powers (Amery 1948; Fischer 1999a; Lucas 2007). This strategic calculation by the Western powers led to their early support for the communists, which was withdrawn before the war's end, when the British unsuccessfully worked to organize an anti-communist counter-insurgency (the U.S. also abandoned its covert anti-communist operations in Albania in the 1950s). But while initial foreign support may be a significant factor in explaining the relative military advantage of the communists

against their domestic rivals, these explanations have a key ingredient missing: what explains the significant *popular* support, particularly among the peasantry, that was gained by the Albanian communists, in ways other Albanian political movements had failed to attain? Neither the call to national liberation nor foreign support are sufficient to account for this factor that is, in important ways, *exogenous* to the communist movement itself, but yet was a key condition for the ability of the communist movement to capture and retain state power, and institute large-scale measures of social revolutionary change. In other words, while foreign occupation and external support combined to produce the political opportunity structure (Meyer 2004; Tarrow 1994; Tilly 1978) for successful communist mobilization, these do not explain the structural conditions which produced a particular opportunity structure as its contingent event. What were these structural conditions that underlined successful communist mobilization and revolution? In particular, why was mass peasant support much better captured by the communist movement than their non-revolutionary rivals? Clearly, like the Chinese communists, the organizational efforts of the Albanian communists were much more successful than those of their rivals. But on what *existing grounds* did this organization develop, that is, what *existing* social antagonisms did that mobilization tap into, and how did those social antagonisms emerge? This points to the need to turn to structural explanations of successful revolutionary mobilization.

Skocpol's (1979) comparative study of social revolutions is perhaps one of the most important, if also one of the most controversial, contributions in the area of explaining the structural conditions for revolutionary change in modernizing agrarian societies. In her analysis of major historical social revolutionary situations in France,

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Russia, and China, Skocpol suggests that social revolutionary mobilization in agrarian

societies requires an important social structural precondition and the conjunction of two

critical events. The precondition is the existence of an agrarian social structure

characterized by a powerful landed elite, while the conjunctural events are the

combination of peasant revolts from below with the breakdown of the state's repressive

mechanisms. Although there have been attempts in recent years to revise Skocpol's thesis

and to extend its applicability to revolutionary situations in other cases, the underlying

explanatory framework in terms of the structural factors favored by the analytical frame

of reference, including the "autonomy" of the state as an actor and the role of peasant

movements, remain the same for the most part (Foran 2005; Goodwin 2000; Magagna

1991; Wickham-Crowley 1992). How do these conditions fare in the Albanian case?

With the exception of the existence of an agrarian social structure characterized

by a politically powerful landowning elite, neither of the crucial conditions for a social

revolutionary outcome outlined by Skocpol are found in the Albanian revolution. First,

Italian and German occupation did not weaken, but led to the strengthening of the

repressive apparatus of the state. After occupation, Italy annexed Albania, and the Italian

state financially and militarily supported Albania's new wartime regime (Fischer 1999a).

Moreover, in its initial years, Italian occupation faced little popular resistance. Among

the key policies of the Italian occupational regime was to use Albanian nationalism to

develop and sustain active popular support for Albania's new fascist regime (Pula 2008).

After Italian withdrawal in 1943, German occupation provided similar support to the new

government. Germany remained highly active militarily, and in the winter of 1943

conducted an intense military operation that nearly decimated the partisan movement (see

Map 3 in Appendix I). All of these point to the clear disadvantage of the communist partisans in terms of military might, and powerful evidence against the notion of a state breakdown during the time when communist efforts were most intense in building popular support for their movement. By the time of German withdrawal in late 1944, the communists had already established a firm base of popular support, demonstrating how communist organizational efforts had succeeded *in spite of* significant state repression. In any event, while state repression may have, as in the Chinese case, *contributed* to partisan mobilization efforts, the general concept of state breakdown is clearly inadequate to capture the dynamic of repression and mass mobilization that characterized the Albanian case.

A related problem lies with the factor of peasant revolt. The underspecified nature of this concept has been noted by Sewell's (1996) critique of Skocpol's method of analysis, whose comparative framework abstracts excessively from the important contingencies of the cases of revolutionary mobilization she examines. Sewell points to the fact that Skocpol's conception of "peasant revolt" does not make the critical distinction between the uncoordinated peasant rebellions of revolutionary France with the much more organized and directed peasant actions in China, due to the crucial factor of Chinese communist organization. A similar development occurred in Albania: while episodes of peasant rebellion have characterized Albania's history for most of the nineteenth and early twentieth centuries, they received their mass political character only after the successful organizational efforts of the Albanian communist movement. This is evidenced by the success of Albanian communists in attracting the support of the landless peasantry, who were actively recruited in guerilla struggle. Julian Amery, a British

operative in wartime Albania observed the impressive capacity of the communist

movement to attract followers among the peasantry. Amery described this process in his

memoirs as follows:

> [t]he Partisans had started as a small Communist cell, destitute of resources, and had slowly recruited their forces from among the landless peasants and the youth of the towns. By joining an avowedly social-revolutionary movement these recruits had become outlaws; there could be no turning back; and, since they lacked personal wealth or the backing of a tribe, they were easily subjected to the discipline of a movement on which they depended for their daily bread. (Amery 1948, p. 168)

In other words, it was the organizational efforts of the communists and the environment

of state repression, and not spontaneous peasant rebellion alone, that moved the peasantry

into the ranks of the partisans as active fighters and revolutionaries. Beside the

recruitment of active participants, the communist movement also gained significant

sympathy and logistical support from the peasantry – a fact recognized by historians and

wartime leaders themselves. This was doubly significant: both for the ability of the

partisans to wage guerilla war, as well as for the development of a popular base for

political power in country with a population that was nearly eighty percent rural.[2] More

importantly, the ability of the communist movement to retain the sustained support of the

peasantry is what ultimately enabled the revolutionary communist regime to implement a

wide array of reforms in Albania in the postwar era, chief of which was the policy

agrarian reform. The massive land redistribution that was carried out in the aftermath of

communist victory was a process unimaginable only some years ago, and would have

been politically impossible without popular peasant support, given the once powerful

status of Albania's landowning class in its wartime and prewar polity.

The fact of peasant support for the communist movement may mask an important regional division in the patterns of peasant support. This is another "anomaly" which makes the case of Albania different from the patterns observed in Third World revolutions, in which the so-called "middle peasantry" (i.e., peasant groups with high degrees of internal solidarity and communal autonomy) was the main revolutionary vanguard (Scott 1977; Skocpol 1994; Wolf 1969). Albania's "middle peasantry," the clan-based peasants of its northern highlands who had been traditionally associated with oppositional anti-state activity, remained largely passive during the revolutionary mobilization. Why did Albania's highland peasantry become increasingly politically conservative during this crucial period? Why did the group, moreover, defy its own history of oppositional activity and became harnessed by the state? This empirical anomaly stemming from what should be a straightforward historical process, given its observed pattern in other modernizing agrarian societies, informs the interest in this dissertation in the particular relations developing between autonomous peasant communities and the modern state.

1.1. The social origins of Albania's communist revolution: the distinct regional patterns of peasant mobilization

As pointed out above, while communist support developed heavily among the lowland peasants based along the coastal plains of central and southern Albania, such support was not to be found among the clan-based peasant communities of the northern Albanian highlands. The latter consisted of illiterate, clan-based smallholding communities of pastoralists who had historically maintained strong local political communal autonomy from external authorities. This communal structure made the

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highlands significantly different in social structure from the lowlands, where communist

support found fertile ground. The coastal plains of central and southern Albania were

territories dominated by large landowners, whose origins lay in the Ottoman *çiftlik*

system of land tenure and agrarian organization. In addition to securing control over

Albania's most arable land in a country that is over seventy percent mountainous, the

landowners, known as the *beys*, largely preserved Ottoman-era *çiftlik* form of agrarian

organization, serving both as private tribute takers and tax farmers for the state. As a

result of their inherited status and economic power, and as the result of the collapse of the

imperial structure which provided checks and oversight against unrestricted *bey* power,

the *beys* came to exercise tremendous influence on Albanian politics in the immediate

post-independence era. The *bey*s had collectively supported the restoration of the

conservative regime of Ahmet Zogu in 1924 and the subsequent authoritarian monarchy

under his leadership, which lasted from 1928 until Italian occupation in 1939. With

lowland peasants bearing the brunt of *bey* exploitation, the fact that they supported the

revolutionary program of the communists may seem unsurprising. But this simple fact is

complicated when one considers that these very same peasants *failed* to support Albania's

radical movement that captured power in 1924, whose political centerpiece was, like the

communists in the 1940s, agrarian reform. The failure of peasant support in this period

points to the fact that there was some intervening factor that transformed Albania's

lowland peasantry from a politically docile and disorganized group to the social

foundation of communist social revolution. In other words, there was *some* significant

development that made Albania's lowland peasantry *more susceptible* to the call of

political radicalism and *more willing* to pursue the ideals of social revolutionary change

via a capture of central state authority that was unimaginable before then.

A similar but opposite process is observed among the highland peasantry of

northern Albania during the prerevolutionary period. In the early days of the new state,

Albania's highland peasantry took up a highly contentious role in Albanian politics. The

Albanian highland peasantry staged a series of armed revolts against the state throughout

the 1920s and served as the shock troops of all radical movements in the period,

including most of the movements against Albania's conservative elites in 1922, 1924, and

1926. Throughout this period, political elites in the capital saw the highlands as the

fountainhead of political radicalism and a constant threat to government rule. Radicals,

on the other hand, counted on support from the clan chieftains of the highlands in their

efforts to challenge existing elites and institute radical political change in Albania. This

included the monarch, King Zog, who actively sought to pacify the clans of the north and

secure their loyalty to his regime. In the 1940s, however, when the communists seemed

poised to capture power, they found little support in the north. The British spy Amery,

who had his base of operations in the north, described the wartime mood in the highlands

as one of neutrality, indifference, and, at times, outward hostility towards the communist

movement (Amery 1948, pp. 160-71). Similar sentiments are reported by Albanian

historians (Doçi 1970), while an entire discourse developed under the communist regime

in Albania denouncing the reactionary behavior of the highlands (followed also by harsh

measures of repression for most of the period of communist rule).[3] The historical hostility

of the highland peasantry to the communist movement was no doubt amplified by the

presence of conservative movements, such as the nationalists of *Balli* and the

monarchists, which maintained strong support among clan chieftains. But this factor alone is insufficient to account for the stark difference that emerged between highland and lowland peasants during this historically crucial period. In other words, the highland peasantry had shifted from being a high political threat to the state and its existing order to a docile, indifferent, and politically conservative group in the most significant period of peasant mobilization. What explains this drastic role-switching between lowland and highland peasants? What occurred in the period between the early independence period, when highland peasants presented the state with a number of actual revolts and a constant threat of new ones, and 1943, when the highlands either allied with the occupying forces or remained collectively unmoved by calls to action to change the course of Albania's political future? Similarly, what significant process took place between 1924, when Albania's first radical regime was defeated, and 1944, when the lowland peasantry that seemed poised to gain the most from agrarian reform remained aloof at the defeat of the radicals of 1924, while becoming the full backers of the communists' revolutionary program some decades later?

Given their significance for revolutionary mobilization, the changing patterns of political mobilization of Albania's highland and lowland peasantries during and before the period of revolutionary mobilization constitute, along with patterns wartime revolutionary mobilization, the central puzzle of this dissertation. What explains the declining interest of the highlands in assuming their traditional politically oppositional role against the state, and the increasing willingness of the once disorganized and politically incoherent lowland peasants to support a social revolutionary movement? As table 1.2. illustrates, four major anti-state peasant rebellions involving the highland

peasantry occurred in the 1920s, while for most of the 1930s, the locus of oppositional

political activity shifted entirely to the lowlands.

	Highlands	Lowlands
1921	Mirdita revolt, peasants demand full local autonomy from the central state.	
1924	Support of highland peasantry leads to the capture of state power by radicals pushing for agrarian reform.	
1926	Dukagjini revolt, peasants demand removal of state officials from local region, refuse taxation.	
1928	Malësia e Madhe revolt, peasants refuse payment of taxes.	
1935		Mutiny in town of Fier gains support of local peasants.
1936		Tax rebellion by peasants in Tirana region requires forceful gendarmerie intervention.
1937		Revolt in Delvinë led by ex-Minister of Interior gains local peasant support.

Table 1.1. Major episodes of peasant oppositional activity in highland and lowland Albania. A "revolt" is here defined a collective movement of peasants who typically resort to violence to actively oppose the imposition of state authority. A "rebellion" is defined as a collective refusal to obey state injunctions (such as tax payment) which typically provokes the violent reaction of state authorities. The episodes listed here include some form of communal organization and coordination of collective action; hence, incidents of rebellion or oppositional activity by individuals or small groups are excluded from the list.

This dissertation seeks to provide the answer to this question by pointing to the

transformative role of the state. However, where previous efforts to theorize the role of

the state in revolutionary situations has been to conceptualize the state as a unitary and

competitive *actor* in a contested political field, the approach here understands the state as

an *institutional* factor shaping social life. It does this in three ways. First, it does not

reduce the definition of "the state" to include only the organizational instruments and

actions of the state leadership. The state is instead treated as an institutional fact of social

life. As a result, the analysis focuses less on the role of the central authorities and much

more on the actions of state actors and consequences that emerge at the regional and local

level of state organization. In particular, this dissertation is interested in how the national

states administrative and jurisdictional expansion during the era of political

reconstruction in post-imperial era transformed agrarian relations and the institutions

organizing peasant life. This follows recent work which calls for the conceptual

disaggregation of state analysis from a focus on formal political institutions in the center

into the analysis of how such institutions affect the transformation and rise of regionally-

based institutional arrangements that form specific types of "political topographies"

(Boone 2003). Second, it does so by following theorists who have called for revising the

classic "fiscal-military" view of the state, which among other things, institutes a strong

conceptual distinction between "state" and "society" and reduces the functional

significance of the state to that of the concentration of the organizational means of

coercion and of resource extraction (Levi 1981; Mann 1984; Skocpol 1979; Skocpol

1985; Tilly 1985; Tilly 1992). Instead, it sees the state as an organization that is much

more complexly connected with and affected by the institutional and cultural

environment of which it is a part (Adams 2005; Gorski 2003; Steinmetz 2007). And

finally, it does so by focusing analysis on the relationship between processes of state

centralization and growth and the transformation of legal regimes. The institutional role

of law in transforming agrarian societies, as this dissertation will argue, has been largely

absent from state-centric analyses, in spite of the significance of law and legal transformation that scholars have pointed out for both Western and non-Western national state formation (Anderson 1974; Downing 1992; Marshall 1992[1950]; Polanyi 2001[1944]; Somers 1993; Somers 2008). This process, I argue, is of particular relevance for societies that, especially in the course of the twentieth century, underwent rapid transitions from segmented and decentralized systems of law towards legal centralization and the establishment of state control over the enactment, interpretation, and administration of law. For many non-Western states, this process also involved a radical change in the doctrinal basis and institutional organization of law as modernizing states sought to build legal systems based on the European Continental model of formal, codified, and rationalized systems of civil, penal, and administrative law, staffed by professional jurists, lawyers, and judges. In societies undergoing rapid institutional change, this process involved a change only in the institutional processes of law, but of an attempt to use law to institute a wholesale normative reconstitution of the social order.

Just like in other Ottoman successor states (including Turkey), the political project of normative reform via the means of legal institutional change was a process of key importance in Albania's transition from imperial periphery to national state. This dissertation aims to show that the period of intense centralization and reform that Albania underwent in the period 1928-39, instituted in Albania not only the *organizational* growth of the state, but constituted a radical break with local traditions of articulations between law, social order and political power. While Albania's political elite sought to construct a normatively standardized national society via a unitary system of law and legal administration, the process led to distinct kinds of institutional articulations which

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pitted the aims of reformists against existing institutional traditions and legal cultures. In the highlands, the resistances provided to the state by customary law and communal institutions led to the institutionalization of a lasting jurisdictional conflict between state and society, ultimately generating the growing political conservatism of the highland peasantry. In the lowlands, however, legal reform completely recast agrarian relations and instituted the conditions for the rise of a particularly *statist* mass-based peasant political movement in the 1940s. The explanation advanced here does not intend to propose a monocausal relationship between legal centralization and peasant political behavior by disregarding the impact of other contingent processes and events in the rise of peasant radicalism. Its main goal is to argue for the significance of this process in creating the institutional conditions for peasant mobilization *as well as* affecting long-term patterns of institutional development in modern states.

The argument of this dissertation is therefore not about revolution, but about the institutional development of the state. Indeed, as de Tocqueville (1955) recognized long ago, while the state is not a *cause* of social revolutionary change, its institutions provide the *premise* for revolutionary transformation. This fact was also true in Albania, as the far-reaching social and economic reform that was carried out under communist rule would have been impossible to carry out without the extensive state apparatus built in the decades of intense administrative and legal centralization under the politically conservative monarchy of Ahmet Zogu. One of the key components of this process was the effort to monopolize and centralize the administration of law, a process which requires not only the concentration of the means of coercion but also the accumulation and concentration by the state of what Bourdieu calls "symbolic power." Conceptualizing

law as a form of symbolic power means treating law both as an instrument of state building, as well as a potential field of political contention. Theoretically, this points to a critical process in state building which has been generally ignored by existing theories of the modern state in agrarian societies in transition. It is particularly important for the institutional development of states in societies that did not follow the Western pattern of institutional formation, and the intricate relationship which formed early in the existence of such states between sovereignty, state power and law, but in which state, religious, and customary legal traditions co-existed in states of overlapping jurisdictions, where the power to define and interpret law was diffuse among uncoordinated and decentralized authorities, and where the practices of law and justice exhibited formal contradictions in both norms and process of a degree which a rational legal mind would find grotesque.

The organization of this dissertation is as follows. Chapter 2 reviews influential theories of agrarian transitions to modernity and points out how these theories either neglected the institutional role of the state or conceptualized the state as a unitary organization or political actor while neglecting the state's existence as a legal order. It then argues the importance of law in the process of modern state formation and the significance of this process in cases of non-Western state building. Chapter 3 provides historical background in the case of Albania's transition from Ottoman rule to national statehood and examines the institutional and structural legacy of Ottoman rule in Albania. In particular, it discusses the social structural divergence between its highland and lowland populations under Ottoman transition to *çiftlik* agriculture and the reorganization of the Ottoman provincial land and fiscal regime during the eighteenth and nineteenth centuries, and the empire's subsequent legal segmentation and decentralization after the

failure of nineteenth century centralization reforms. Chapter 4 takes a closer look at the institutions of communal life in the Albanian highlands. It examines the historical relationship between communal institutions and the Ottoman imperial bureaucracy and the intricate logic of highland customary law and its function as a system of local social and political organization. Chapter 5 uses archival research to examine the policies of the national government towards constructing state authority in the highlands and the continuities and breaks between imperial and national rule in the highlands, particularly in the state's changing relationship to the institutions and practices of customary law. Chapter 6 recasts attention on agrarian politics in the lowlands, showing how the effects of legal centralization by the state and the reformed notions of private property it introduced came into play in the struggle over land, particularly after the increasing pressures towards commercialized agriculture under the influence of Italian agribusiness in the 1930s and the disintegration of the Ottoman land regime. The conclusion underlines the significance of legal change in creating conditions for divergent patterns of peasant political mobilization in Albania, and the implications of such a process for our understandings of the role of the state in agrarian societies in transition, peasant political mobilization, and the role of law in modern social change.

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[1] Johnson argues that, in this way, Chinese communist mobilization paralleled that in Yugoslavia. But the comparison with Albania is much more appropriate. Albania is like China in that it is much more homogenous from the perspective of the ethnic/national

identification of its population, making the nationalist call a much easier platform for political mobilization. The wartime success of the Yugoslav communists, on the other hand, can be attributed to the ability of the communists to *overcome* the multitude of national divisions which existed in the country.

[2] The figure cited for the rural population in 1945 by Sjöberg (1991, p. 51) is seventy-eight percent. Albania remained predominantly rural in the postwar era. By 1988, the rural population had declined by little more than 14 percent, and the support of the peasantry remained a crucial factor for the communist regime's political power.

[3] This statement must be qualified. The claim that the entire highland population was hostile to the communist movement is not completely accurate from an historical perspective. For example, during the wartime period, a strong partisan base emerged in northeastern Albania, particularly the region surrounding Tropoja. However, this was an exception, since most other regions either remained hostile or indifferent to the movement, and the social cleavage between the highland and lowland peasantry that developed during this period created a powerful social and political distinction which carried on for most of the twentieth century.

CHAPTER 2

Explaining Agrarian Transformations: Law, the Modern State and Peasant *Habitus*

Drawing from the classic questions of modern social change articulated by Marx and Weber, agrarian transformations have constituted the *locus classicus* of macrosociological theorizing (Anderson 1974; Aston and Philpin 1985; Moore 1966; Skocpol 1979; Wallerstein 1974). While the contributions of macrosociological theory to understanding social change are substantive, the recent move in social science, and in sociology in particular, towards institutionalist paradigms has left many macrosociological theories seem desperately limited and incomplete in their explanations of social change (Adams, Clemens and Orloff 2005; Clemens and Cook 1999; Somers 1999). In addition to important theoretical shifts in the discipline that have led social scientists to question some of the more fundamental theoretical and methodological problems with classical macrosociological frameworks, recent research which draws from and builds upon the macrosociological tradition has also undergone a geographic and historical expansion beyond the traditional focus on the historical West (Boone 2003; Charrad 2001; Evans 1995; Frank 1998; Mamdani 1996; Steinmetz 2007; Tilly 1992; Wallerstein 1995). As such theories have been generalized to account for ever-larger number of cases, critics have raised important questions about the limits of such theories in accounting for global social change (Arrighi 1999; Meyer 1999; Sewell 1996;

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Steinmetz 1999). Even in the case of Western development, recent appraisals of the classic macrosociological contribution have questioned the adequacy of explanations which focus on generally constructed but narrowly defined structures, such as classes and states, while either ignoring or running roughshod over questions of cultural change (Adams 2005; Gorski 2003; Somers 1993), even ignoring some of the early sociological efforts in connecting structural and cultural change, such as the classic but until recently neglected work of Norbert Elias (1994). In what follows, I examine some of the limitations of classic macrosociological approaches, especially as they are applied to explaining dynamics of change in the European periphery. I argue that an institutionalist approach is better suited to account for modern transformations in the imperial borderlands in the Ottoman and post-Ottoman Balkans than classic theories are. In particular, I examine some of the key explanations these theories offer for the case of Albania's agrarian transition, and the areas where they fall short. I then show how an institutionalist account with a heavy Bourdieusian bent is better able to grasp with macrohistorical contingencies of cases and develop more specific explanations of questions in agrarian political mobilization and social change. It does these, I will argue, by examining historical outcomes as the product of interactions and confrontations between growing modern institutional structures – states and capitalism – and peasant cultures as understood by the existence of particular, historically-determined peasant *habitus*.

2.1. Peasant rebellion and "big bang" theories of social change in the non-Western world

A common critique of macrosociological theories is their often hidden, teleological assumption of the direction of modern social change (Sewell 1996). One can also argue that this assumption operates particularly in the analysis of structural change in the non-Western world, since the direction, and sometimes also the patterns, of change ultimately issue from the "big bang" of the birth of capitalism in the West and the rise, as a consequence, of capitalist dependency in the non-West. The latter has been a perspective common in "society-centered" perspectives on social change. The assumption in society-centered perspectives typically emerges under the argument that modern (Western) capitalism provokes social change by placing the traditional social structures of non-Western societies under deep strain, as in Moore's (1966) classic argument that modern social change in Japan would have not taken place were it not for the "opening up" of Japan's traditional social and political system by Western powers. In Wallerstein's (1974) classic account of the emergence of the capitalist world-system, the agent of change in the non-Western world is direct conquest and colonialism by the West. An alternative view, the "state-centered" perspective, offered a quasi-institutional solution to overcome the limitations of the society-centered perspective, by arguing for the historical *and* theoretical centrality of the state (Skocpol 1979; Skocpol 1985). In the state-centered perspective, it was states, and not economically-constituted groups such as social classes, which were the main actors on the historical stage. The institutions of the state, its interests and capacities, played a much more critical role in major episodes of historical change than the interests of social classes and other societal groups, a fact that could be examined comparatively and globally (Charrad 2001; Foran 2005; Goodwin 2000; Migdal, Kohli and Shue 1994).

While constituting key contributions in our knowledge of historical social change, this chapter critiques both society-centered and state-centered perspectives for their theoretical and historical limitations. While state-centered perspectives offered an important advancement in our ability to explain patterns of social change via an institutional focus on the state, I follow critics who have argued that state-centered views have both excessively divorced states from their social environments, as well as limited the institutional understanding of historical states. In particular, I suggest that state-centered theories ultimately ignore a key dimension of state formation, namely, that of the impact of law and legal centralization in remolding and, indeed, *deeply transforming* the institutional role of the state in agrarian society. I intend to show that the effects of state formation in developing societies are not only about the changing organizational aspects that are endogenous to the state as a coercive mechanism (as a function of the increase in "state capacity"), but also about the effects of legal centralization on the normative regulation of the agrarian social order. This chapter argues the importance of seeing legal transformations as a constitutive component of modern state formation, since the analysis of law and legal institutions allows us to gain insight both in historical changes in the *normative* constitution states, as well as in the growing complexity of state organizations and the domains of social life they claim under their jurisdiction. Such an approach extends the institutionalist perspective on the state, and by adding a Bourdieusian specification of institutions as products of the dynamic interplay of *fields* and *habitus*. Before developing this model, the discussion details some of the problems with both society-centered and state-centered perspectives on social change, and

particularly how their theoretical insights stand up in relation to the trajectories of the socieites in the post-Ottoman periphery.

In sociology, the study of peasant rebellion has traditionally been closely intertwined with interest in the role of peasant collective action in processes of social change in agrarian society. In society-centered theories, "peasants" and "the peasantry" commonly refer to economically relatively self-sufficient cultivators who are in relative positions of social, cultural, and political subordination against elite organizations such as bureaucratic empires and states, landed nobilities, capitalists, and religious organizations (Brenner 1985; Scott 1976; Stinchcombe 1961; Wolf 1966; Wolf 1969; Wolf 2001). Peasant groups are typically settled in sparsely populated rural regions and often share identities derived from bonds of kinship, religion or ethnicity, which typically constitute the local system of solidarity between their members. Given, until recently, the demographic prevalence of peasant populations in the developing world, a great deal of comparative historical sociological analysis has attended to their social and political role in agrarian transformations to modernity.

It is commonplace today to recognize Barrington Moore's (1966) *The Social Origins of Dictatorship and Democracy* as the classic macrosociological statement on the agrarian roots of modern political regimes. Among its many accomplishments, Moore's volume is recognized as one of the first to systematically demonstrate the significance of peasant political mobilization for revolutionary social and political change in the modern era. Of course, such an emphasis was counterintuitive to orthodox Marxist theories – and Marx's own belief – that social revolutionary change would occur in industrialized societies with significant industrial working classes (Scott 1977). Social analysts are now

very much aware of the historical irony in which modern social revolutionary transformations took place mainly in agrarian societies in which the peasantry was the main revolutionary actor. In *Capital* (1976[1867], pp. 873-940), Marx suggests that the destruction of the peasant class in England was one of the chief factors responsible for the rise of capitalism (Brenner 1985). Where peasant classes survived the arrival of capitalism, Marx believed them to be politically disorganized and disposed to conservatism, arguing, for instance, that support by France's smallholder peasantry was key for the rise and durability conservative reign of Louis Napoleon in the aftermath of the failed revolution of 1848 (Marx 1963[1869]). To be sure, the largely peasant-driven revolution in Russia and the almost exclusively peasant revolution in China, and the active role of peasantries in anti-colonial and nationalist mass mobilizations in former European colonies forced a revision of such constricted views of peasants and their political roles. In the late twentieth century, the question driving social scientific research was not about peasants as a conservative social force, but of the origins of peasant radicalism (Paige 1975; Scott 1976; Wolf 1969). For historians, this development was puzzling given that historically, peasant oppositional activity against states and other elites were rarely motivated by revolutionary goals. In the eyes of Eric Hobsbawn, peasant revolt in the pre-revolutionary era represented a form of "primitive rebellion," given that the motivation for oppositional activity were typically goals that, however noble, were for the most part driven by parochial concerns and are far from the lofty social transformational ideals of social revolutionaries (Hobsbawm 1959). Others pointed out that in European history, major episodes of peasant rebellion occurred not in opposition to, but in collusion with, elites (Brustein and Levi 1987; Tilly 1981). In his

seminal work on peasantries in the Third World, via a careful examination of historical evidence, Scott (1976) argued that peasantries only rarely rebel, and much more rarely do they resort to violence. In line with such insight into the crucial, but nonetheless variable political role of peasantries in modern, centralized and bureaucratically-organized polities, a major interest in the analysis of peasant politics has been to identify the conditions that determine when peasant political mobilization contributes to radical change, and when it is reactionary or conservative. While Moore pinned his analysis on the repressive power of the landowning classes, his work inspired an entire generation of scholars who focused more specifically on the role of the peasantry in the social and political development of the developing world.

The futility of attempting to develop cultural and historical generalizations of peasant political behavior, as some modernization theorists had attempted to do (Banfield 1958; Foster 1965; McNall 1974), drove social analysts to direct attention to the *conditions* under which peasants, from being typically disorganized and uncommitted to radical ideologies of social change, become spearheads for social revolution. This became an increasing concern as revolutionary change came to characterize much of the formerly colonized world in the course of the twentieth century, and particularly in a politically-charged era in the 1960s and 1970s, when the United States became bogged down in a counter-insurgency war against the peasant-backed Vietnamese communists. Social scientific interest in the role of peasant rebellion became particularly acute during this period, which drove analysts towards understanding the reasons why the world saw unprecedented levels of peasant political mobilization in socialist and anti-colonial revolutions worldwide.

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It is in light of these developments that sociologists and other social scientists turned theoretical interest towards an analysis of the relationship between political mobilization and class-specific situations of peasant groups (Stinchcombe 1961). In particular, in a seminal book, Eric Wolf (1969) developed a structural analysis that argued for the key role of the "middle peasantry" as the principal actors in revolutionary social change. Wolf drew attention to the crucial fact that peasant-based revolutions were not carried out by poor peasants, but by peasant groups that were relatively well positioned to resist the pressures of an externally imposed capitalist system, and who were, in effect, mobilizing to defend the traditional order against those very pressures. However, under conditions of massive social upheaval, such rebellious activity by peasantries was sufficient to weaken dominant elites and produce revolutionary situations enabling political challengers to capture power. In his important contribution, Scott (1976) expanded on this theme to argue that strong communal organization among the middle peasantry proved the main fallback and safety net against the social and economic disruptions brought about by the entry of peasants and their local economies into a global commodity market and their confrontation with increasingly predatory landowners and states. For Scott, the solidarity of peasant community lied at the basis of peasant resistance, whether that resistance manifested itself in the form of an open rebellion or operated in more hidden, subversive "everyday" forms (Scott 1985).

In another important study, Paige (1975) shifted attention from peasant communities to the relationship between agrarian class structure and peasant political mobilization. Paige's central concern was how particular types of agrarian class systems, particularly the control of land, the labor process, and the distribution of goods, affect the

political orientation of peasant political mobilization. Paige argued that peasant politics could assumed three the types of goals, revolt, reform, and revolution, and that the type of political goals pursued by peasants was determined by the agrarian class system and the nature of class conflict that system contained. According to Paige, peasant smallholders fit Marx's depiction by being more conservative in their political goals, while sharecroppers and other free agricultural laborers tend to be the most prone to revolutionary mobilization, given their lack of control over land and resource distribution. Given the importance of export crop production in the national economies that he takes as his empirical cases, Paige, like Wolf and Scott, highlights the role of capitalist dependency in providing the key structural condition leading to mass peasant political mobilization. A similar claim that the penetration of Western capitalism is the key condition of peasant political mobilization was made by Migdal's (1974) similarly influential analysis, though Migdal expanded his analysis to include organizational resources and levels of repression faced by peasant groups.

Overall, a fundamental assumption of society-based theories of peasant rebellion is that peasant radicalization ultimately requires the initial disruption of traditional society by an exogenous structural shock. In this respect, society-centered theories of peasant political mobilization share Moore's assumption about the role of the market in destabilizing the old order and creating a degree of social structural instability that required radical political transformation under a new equilibrium determined by revolutionary change. For Moore, the shock came in the form of agrarian capitalism (which Moore calls "commercial agriculture"), which, in western European societies, led to the crisis of the old feudal order, driving modernizing societies towards a struggle for a

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new equilibrium under liberal political regimes dominated by ascending bourgeois

classes or authoritarian ones dominated by reactionary landowning elites. For Moore, the

shock of structural disruption caused by the rise of agrarian capitalism to the old order

was (with the notable exception of Japan) an *internal* development in the societies he

analyzed. On the other hand, for much of the non-Western world, the shock of market-

based production is typically considered to have arrived by means of an *external*

inducement, namely, Western imperialist expansion beginning in the sixteenth century

and the rise of economic dependency relations with the Western metropolitan core. In

spite of their many differences, this set of explanations could be said to be characterized

by an underlying "big bang" theory of social change, given that social revolutionary

change in the non-Western world typically traces, if not its explicit *historical* origins, its

structural *conditio sine qua non*, to the external shock of Western capitalist penetration.

This is a point observed by Skocpol in her review of the theories of Wolf, Paige, Scott,

and Migdal. As she points out,

> In one way or another, each of these authors stresses *imperialistic Western capitalism* as the fundamental promoter of peasant revolutions. The – not insignificant – differences among them have to do with how this world-historical force is conceived and the specific ways in which it influences or creates potentially revolutionary peasant forces. (Skocpol 1994, p. 230; emphasis in original)[1]

In more specific terms, even though these works differ in fundamental ways from

Wallerstein's (1974) world-systems framework, they have embedded as a key assumption

the event which Wallerstein turns into the *constituting* event of the modern world order

and its global development beginning in the sixteenth century: the birth of capitalism as a

world-system. For Wallerstein, the birth of the capitalist world-system is *the* event that

determined the patterns of a global economic and political system structured and organized by a largely unequal division of labor between the capitalist core and its dependent peripheries. In the world-systems model, the concentration of economic power parallels the concentration of global political and military power into members that constitute the core of the world-system. The periphery of the world-system is, by definition, a structural dependency of the core, while their dependency status structurally limits the possibilities of independent social and political development (Wallerstein 1979).

Wallerstein has done the most to develop a far-reaching, globally-significant explanation of social and political change, moving beyond the mostly nationally-oriented focus of society-centered explanations, but in certain ways Wallerstein has only formalized an analysis of non-Western development which assumes the global significance of the rise and spread of Western capitalism as a force of social structural change in the periphery. Wolf, for example, characterizes the capitalist world-system more loosely as the cultural system of "North Atlantic capitalism." Like in Wallerstein, where structural dependency in the core leads to massive social change in the periphery, imperialist capitalist penetration is also identified by Wolf as the prime mover of social change in the Third World. In the conclusion to his book, Wolf famously states that the historical cases of social revolutionary change that he examines (Mexico, Russia, China, Vietnam, Algeria, and Cuba) are "the precipitate in the present of a great overriding cultural phenomenon, the world-wide spread and diffusion of a particular cultural system, that of North Atlantic capitalism" (1969, p. 276). For Wolf, capitalism in the non-Western periphery was a "profoundly alien" (1969, p. 276) force, representing a "large-

scale cultural encounter" defined by "contact between the capitalist center, the metropolis, and the pre-capitalist or non-capitalist periphery" (1969, p. 278). Through its global expansion, capitalism is argued to have "cut through the integument of custom, severing people from the accustomed social matrix in order to transform them into economic actors, independent of prior social commitments to kin and neighbors. They had to learn how to maximize returns and how to minimize expenditures, to buy cheap and sell dear, regardless of social obligations and social costs" (1969, p. 279). While published some years before Wallerstein's first volume on the origins of the world-system, the theoretical logic of the argumentation is similar given Wallerstein's similar treatment of the spread of the capitalist world-system as a violent, destabilizing intrusion into the old social orders that characterized the non-Western periphery and causing the disintegration of traditional social obligations.

Scott and Paige have similar assumptions about the disruptive force of capitalism, and that may also be determined by the empirical focus of Paige's research in the colonially-established and economically-dependent societies of Central America, while Scott focused on the postcolonial societies of East Asia. Scott's theory of peasant "moral economies" – which draws inspiration from Wolf's work – leads him to emphasize the effects of competitive markets and monetary systems on peasant social and economic behavior, arguing that these external forces disrupt traditional social and economic norms. Paige similarly centers around countries that have economically dependent relations with the West. While Paige diverges from the explanatory framework of world-system analysis in important ways, economic dependency forms a fundamental assumption for his theory. Paige's analysis of peasant social movements focuses

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exclusively on peasants that formed labor pools in agricultural export sectors of economically dependent countries, given that agricultural export sectors represent the central nodes which bind local agrarian class systems to the larger, Western-dominated capitalist world economy. As Paige emphasizes, "the relationship of the rural population to the new forms of class cleavage and class conflict introduced by the agricultural export economy is essential in understanding the origin of this agrarian unrest in the developing world" (1975, p. 3).[2] Paige's exclusive focus on agrarian class systems and agricultural export sectors to explain the nature of peasant social movements have made him open to the charge of developing a theory of peasant political behavior that is driven by a kind of "agronomic determinism" (Somers and Goldfrank 1979).

Thus, what Skocpol observes to be an insight of society-based theories of peasant rebellion and revolution could be instead argued to be a fundamental theoretical assumption of their approach, making important aspects of the theories problematic when applied to historical cases that do not fit the colonial/neocolonial/dependency model. This factor becomes prominent especially when one focuses attention on societies which have experienced significant peasant rebellion, including social revolutionary change, but where domestic capitalist relations and foreign economic dependency, particularly of the productive agricultural sector, is not a prominent feature of their historical economic organization. Such is a case of the post-Ottoman Balkans, given that this region only belatedly (and, for most of the twentieth century, only marginally) developed large agricultural export sectors, and transitioned into national statehood without the large-scale existence of agrarian capitalism (Lampe and Jackson 1982; Palairet 1997). In the more specific case of Albania, efforts to build export-driven commercial agriculture

largely failed in instituting significant transformations in agrarian economic relations and social structure (Fishta and Toçi 1983). In other words, for the period leading up to revolution, Albania's agriculture did not "modernize" in any meaningful sense, largely retaining patterns inherited from the Ottoman empire. Given the lack of the structural precondition of external capitalist penetration, how do we explain social and political change in such instances where varieties of "big bang" theories provide little explanatory leverage, given that the societies in question have not experienced the necessary exogenous shock of exposure to pressures towards the shift to commercial agriculture or towards the development a dependent economic structure based on export crop production? This built-in limit of existing theories points to the empirical universe out of which "big bang" theories were for the most part developed, which is societies emerging out of Western colonial domination.

Since Wallerstein's world-system model is the most extensive and the most far-reaching in terms of theorizing the origins and spread of capitalism as a global system of political and economic organization, it is instructive to turn to it to examine the leverage of "big bang" theories in the Balkans. For the Balkans, for instance, Wallerstein's theory of structural dependency between core and periphery inducing social and political change proves especially problematic. To examine the historic Balkans in the transition to the modern era, one must inevitably turn to the position of the Ottoman empire in the emerging capitalist world-system, which dominated this region since at least the 1500s. In an essay, Wallerstein (1980) loosely suggested, without however demonstrating, that with the rise of the capitalist world-system, the Ottoman empire increasingly gained features of an economic semi-periphery, with an agricultural sector increasingly reliant

on export crops and the rise of repressive labor regimes in response to the growth of

economic dependency relations with the western European capitalist core. This view,

however, has been deeply challenged on historical grounds. Extensive historical research

has shown that the Ottoman empire, in spite of the relative weakening of its political and

military role in Europe, did not fit the dependency pattern that Wallerstein's world-

system theory expects: its economic structure was not characterized by the rise of export

agriculture and it did not for the most part turn into a major importer of Western

commodities, nor did labor regimes undergo drastic moves towards more repressive

modes of extraction, akin to the "second serfdom" of eastern Europe.[3] While it is true that

during the nineteenth century, the Ottoman empire never industrialized and developed

legal and bureaucratic institutions comparable to those of the national states of western

Europe, historical research shows that evidence for the empire's social structural

transformation, and particularly of the organization of its agricultural sector being

fundamentally altered because of the growth of Western trade, is not strong enough to

support such an argument. Historical research has found that Ottoman economic

organization for the most part retained a set of historically endogenous agrarian

institutions, while the bulk of its agricultural production and trade was sold and

consumed in domestic, and not international, markets (Keyder 1991). The orientation of

agricultural production towards export markets in the West was not the catalyst for the

empire's social and economic transformation – up to its closing days in the early

twentieth century, the empire never experienced anything close to the rise of large-scale

agrarian capitalism, nor to an imposed serfdom because of export-driven crop production:

peasant smallholding dominated agricultural production, while agrarian class relations

remained embedded in the traditional *çiftlik* system of tax farming and peasant surplus extraction by provincially-based notables, under a territorially diffuse imperial political organization (Barkey 2008; Brenner 1989; Göçek 1996; İnalcık 1991; Keyder 1991; Lampe 1989; McGowan 1981). From this perspective, the historical Balkans are better seen as what Lampe calls an "imperial borderland" characterized by a set of historically endogenous social and economic institutions existing at the edges of emergent and competing political and economic systems, rather than a capitalist periphery in which traditional social structures and class relations were destabilized by increasing economic dependency on the West. This historical view emphasizes the Balkans as a geographic space characterized by the long-term institutional features established by the combined legacy of local peasant communal organization, entrenched provincial elites, and the limited capacities of the Ottoman state to organize for intense agricultural growth (Lampe 1989; Lampe and Jackson 1982; Stoianovich 1994). Given Albania's particular historical share in this legacy, the structural role of Ottoman agrarian institutions gains prominence against a "big bang" theory which suggests that capitalist economic dependency is the source of social and political change observed in the region.[4] Moreover, the fact that peasant movements, as well as peasant-based social revolutionary mobilization, was possible in the social context of the Balkans that experienced neither an extensive internal development of agrarian capitalism nor the large-scale development of agricultural export sectors, points to the general limits of existing society-centered theories of social change in agrarian peripheries.

2.2. States and peasants in the state-centered literature

The theme of political dynamics and the role of the state as an actor is explicitly taken up by Skocpol's influential analysis of social revolutions. Skocpol is in agreement with society-centered theories by accepting the significance of historical social classes, but Skocpol breaks from the traditional social structural model of revolutionary mobilization by emphasizing intervening variables in terms of the organizational capacities of competitive political actors and particularly of the role and interests of the state. In her oft-cited theoretical contribution, Skocpol explicitly rejects Marxists theorizations of the state by arguing for a perspective that sees the state as a "macro-structure," that is, an autonomous organizational actor endowed with unique coercive and resource mobilizing capacities (Skocpol 1979, pp. 29-33; Skocpol 1985). For Skocpol, the state serves not only as a political prize for actors in competitive struggle, but is a self-interested actor in its own right, struggling alongside other organizations for the monopoly over political power. For Skocpol, the state's unique position as an organizational actor gives it an exceptional role during episodes of revolutionary mobilization, because it is, in her view, the failure of state power in its basic coercive functions which allows for a revolutionary situation to emerge.

The specific problems of Skocpol's theory of social revolutions as applied to the Albanian case were specified above. But the role of the state which Skocpol makes central to her theoretical understanding of modern social change makes for an important contribution that overcomes the limits of "big bang" theories with their causal privileging of economically-driven social structural dynamics. However, the key contribution of Skocpol's state-centric theory also constitutes its limit: her conceptualization of the state

as a *macro*-structure is *too narrow* to meaningfully account for the state as an

institutional factor in social life. As with society-centered theories that tend to give causal

primacy to the economic dynamics of social class relations, Skocpol's state-centered

theory marks, as sociological neoinstitutionalists Friedland and Alford point out, a form

of "retreat from society" and towards a conception of the state as an organization "whose

drive toward rationalization and control over its environment and its consequent conflicts

with other organizations are seen as primary" (Friedland and Alford 1991, p. 235). This

problem is not overcome in Skocpol's later elaborations, which only seem to more

forcefully reject connections between states and social class structure (Skocpol 1985). In

this revised conception, the state is conceived as an organization with capacities for

"independent goal formulation" (Skocpol 1985, p. 9) and implementation. While this

organizational view corrects for the reductive treatment of states in some Marxist

accounts, Skocpol moves in the direction of fully insulating states "from their

institutional or societal contexts" (Friedland and Alford 1991, p. 235). On the other hand,

society "is reduced to an untheorized environment, composed of organizational actors

who control resources of relevance to state power" (Friedland and Alford 1991, p. 238).

This is particularly true, as Friedland and Alford note, in Skocpol's later work which

increasingly abandons its initial (Marxian-inspired) interest in the political role of

structurally determined social classes, interpreting political transformation as primarily

elite-driven processes (Orloff and Skocpol 1984; Weir and Skocpol 1985). In spite of

these criticisms, Skocpol's framework has informed the research of an entire generation

of scholars working on the politics of developing societies, who have adopted the state-

centered perspective as a paradigm for the analysis of political development and

institutional change in the non-Western world, especially as the interest in non-Western

political development shifted in recent decades from peasant rebellion and revolution to

processes of state building (Boone 2003; Charrad 2001; Kohli and Shue 1994; Migdal

1988).

In addition to the criticism directed at Skocpol by sociological neoinstitutionalists

like Friedland and Alford, her influential organizational conception of the state has also

come under significant criticism and revision by recent work in comparative historical

sociology. Tilly's (1978) insistence on distinguishing between *state* (or "government"),

as organizations capable of wielding coercion, and *polity*, as the more expansive arena of

political contention, was followed by revisions of Skocpol's view which further criticized

her conception of the state as a unitary actor that is positioned in opposition to society.

Against this view, there emerged conceptually more diverse views of the state as

contingent ensembles of ideological and normative institutions that cut through and are

embedded within social structures like kinship and class, and institutions like religion,

markets, and public spheres (Adams 2005; Gorski 2003; Somers 1993).[5] In these

institutional views of the state, states are not conceived as unitary actors or organizations

defined by bilateral conflict between state organizations on the one hand and society on

the other, but sites of multilateral contention between structurally-positioned and socially

embedded organizational agents (Steinmetz 2007; Steinmetz 2008). A critical revision in

this literature has been to reintroduce the role of cultural meanings in the analysis of the

state, something which was explicitly rejected as having little to no conceptual or

theoretical value by Skocpol's state-centered theory (Sewell 1985; Steinmetz 1999).

These approaches have raised new questions on the role of culture and its relationship to

the state, and the role of culture as a more general historical force in the making, unmaking, and transformation of institutions.

While recent work in comparative historical sociology has been more welcoming and open to the role of cultural meaning in the dynamics of social change, there has been little agreement on the conceptualization of culture or its exact theoretical status (Adams 2005; Gorski 1999; Meyer 1999; Mitchell 1999; Paige 1997; Somers 1999; Steinmetz 1999; Steinmetz 2008). While previous culturalist analyses in sociology tended to treat culture in disembodied, static, and essentialist ways (Banfield 1958; Foster 1965; Geertz 1973a; Lerner 1964; McNall 1974; Parsons 1977; Shils 1962), the goal in more recent contributions in historical sociology has been to employ a variety of theoretical approaches to examine how the very indeterminate and contestable domains of culture have contributed to processes of institutionalization and institutional change. In relation to the study of the modern state, one way in which the concept of culture has been fruitfully employed is in its challenge of what was once considered the main strength of state-centered theory, namely, its emphasis on the administrative and coercive capacities of the modern state. For example, in understanding the origins and development of such capacities, state-centered theorists like Skocpol and Ertman (1997), as well as political process theorists like Tilly (1985; 1992), have analytically conceived of them in functional-organizational terms, such as "coercion" and "extraction," which are generalizable and usable as transhistorical mechanisms in the analysis of cases. State capacity has been directly linked to the organizational ability of the state to effectively perform such functions, while state autonomy is defined as the ability of state elites to exercise such organizational powers against significant opposition (cf. Mann 1984;

Skocpol 1985). From an organizational perspective, the emphasis on state autonomy has had as a consequence the complete separation of state organizations from their social environment, and the resulting reduction of the modern state from a multidimensional historical institution to a "bare" set of limited and universally valid organizational functions. But, even if the analytical focus on state capacities has been the theoretical darling of state-centric theory, critics that have employed cultural explanations have persuasively argued that state-centric theories cannot adequately account for the origins and persistence of such capacities. Along the lines of the critique against state-centric theory raised by Friedland and Alford, which argued that in state-centric analysis society forms an largely "untheorized environment," these theorists have argued culture must be introduced not only as an additional variable in analysis, but must be conceptualized as constitutive of the very process of state formation. The task of historical sociology, in this perspective, is to unearth those critical, culturally-informed and embedded practices (i.e., practices imbued with cultural meaning) which lie at the basis of institutions, their constitution and their durability.

From the perspective of the argument to be developed here, Skocpol's state-centered theory's greatest failing is its neglect of the modern state not only as a coercive organization, but the degree to which the state exists as an institution that is embedded within the *normative* order of agrarian society. The modern state in agrarian society is *more* than an organization performing coercive and extractive functions, it is an institution that is embedded in the social and cultural fabric of agrarian social relations. As Weber himself recognized, states are more than socially oppressive apparatuses sustained by coercive violence and predation against those subject to their rule, because

of their ultimate grounding in a meaningful, normatively-based understanding of

legitimate domination. From Weber's perspective, a modern state, as a bureaucratic,

rational-legal institution, constitutes part of legally-defined order which does not hang

"above" or "outside" society, but is pervasive throughout the system of social relations.

The most illustrative of this fact is that of law: law, as both Weber and Durkheim

recognized, is not merely a tool in the service of a self-interested state elite, but a

meaningfully constituted normative system which, even while differentiated and

specialized within particular juridical institutions, is both organizationally and

symbollically institutionalized and recognized by all agents in a polity. Thus, while the

modern state has a privileged role in the codification, articulation, and enforcement of

juridical precepts, law as such exists a social fact whose meaning goes beyond that of an

expression of the state function of coercion. These theoretical insights are relevant for

understanding the rise of modern states in agrarian society, because as analysts of

developing societies have long known, the process of building a modern state is not only

about the construction of a coercion-based centralized authority structure, but more

critically a process of constructing the institutional and cultural mechanisms that underlie

new forms of solidarity and political community (Anderson 1983; Calhoun 2007; Geertz

1973a; Gellner 1983). Central to this process is the role of the state as a *symbollically*

integrative societal institution, in whose accomplishment the mechanism of law plays a

critical role. The historical centrality of law in the rise of modern polities and modern

economic organization points to causal significance of the modern bureaucratic state's

normative transformation of agrarian society, a point recognized, although primarily from

a narrower economic perspective (i.e., through the rise of a legal tradition

institutionalizing private property), also by neo-Marxist analysts of the state (Anderson 1974; but see also Pashukanis 1978[1929]). The state-centered view of the state is fundamentally averse to the sociological significance of law, even if in classic sociological views these have constituted the fundamental modes of existence of modern states as collective institutions – indeed, in Durkheim and Weber's view, the very basis of "society" as a normatively structured system of social relations (Lidz 1979; Parsons 1949[1937]).

In reintroducing the state and law as a mechanism of normative, i.e., cultural, regulation and integration in modernizing societies of the non-West, one may be seen to be casting historical sociological analysis to the once prominent questions which were central theoretical problems for one of the founding figures of the discipline (i.e., Durkheim), and which were thought to have been banished together with modernization theory and functional analysis. However, recognizing the cultural processes that are part of modern state formation does not necessitate a return to the shortcomings of modernization theory and its assumptions of linear development towards Western-like institutions throughout the world. This assumption was extended particularly in the domain of law: as non-Western societies became increasingly differentiated and complex, they would necessarily adapt increasingly complex and rationalized systems of law, drawing particularly from the secular Western experience (Parsons 1977). Rather than a domain of struggle and contention, law was seen as an object whose implantation in form and function from the West to the new states of the developing world would occur in a virtually frictionless process. In this perspective, the sociological function of law, following Durkheim, was the associational and normative integration of increasingly

differentiated social structures and the construction of a new system of solidarity (Parsons 1967; Shils 1975). This perspective not only rides roughshod over the actual institutions and processes in law, but also simplifies the problems of transition from historical legal regimes. It does this both by downplaying the resistances that almost inevitably emerge against such a process, but also underestimate the cultural impact of the introduction of radically incommensurable doctrinal bases and institutional forms of different historical legal traditions, a fact that comparative legal scholars have long recognized (Zweigert and Kötz 1998). This requires considerable reframing of the problem in terms of the status of law and legal change in modernizing society, and how that change is related to the emergence of law and the modern state both as an historically novel form of political authority and also an historically unique institutional arena of *political conflict*.

2.3. Legal origins and the modern state in the West: law and symbolic power

An important recent theoretical contribution towards understanding the origins and development of the modern state has been that offered by Bourdieu (1996b; 1999; 2004a). In Bourdieu's view, the cultural dimension of the modern state is not found only in cultural determinants that are exogenous to the state organization (such as in historical traditions of religion and law), but rather the state itself must be understood as an institution that exercises a particular type of cultural power. The historical victory of the bureaucratic state and its rise to prominence from an era of feudal fragmentation in Europe consists not *only* in its effective deployment and management of the means of violence, but *also* in its success in gaining recognition as a central *symbolic* institution of

the historical West, particularly after the early modern state's ultimate political defeat of

the Roman church as the institution of moral authority in the West. The rise of

sovereignty in the absolutist period was wedded deeply to the cultural significance of the

monarch, the infamous division, as Kantorowicz (1957) has noted, between the ruler's

natural body and the body politic as emblematic of the sovereign in its divine, spiritual

and transcendental existence. This infusion of political power with theological elements

characterized the centrality of the ruler's role as the *paterfamilias* of the territorial nation,

the birth of the modern conception of sovereignty, and the ultimate status of the monarch

as the source of the enunciation of the law of the realm.

> Endowed with the "semi-liturgical power" that sets him "apart from all other
> potentates, his rivals," combining sovereignty (Roman law) and suzerainty, which
> allows him to play on feudal logic as a monarch, the king occupies a distinct and
> distinctive position which, as such, ensures an *initial accumulation of symbolic
> capital*. He is a feudal chieftain who has this particular property that he is able to
> call himself *king*, with a reasonable chance of having his *claim recognized*. In
> effect, in accordance with the logic of the "speculative bubble" dear to
> economists, he is founded to believe he is king because the others believe (at least
> to some extent) that he is king, each having to reckon with the fact that the others
> reckon with the fact that he is king. A minimum differential thus suffices to create
> a maximum gap because it differentiates him from all the others. Moreover, the
> king finds himself placed in the position of *center* and, due to this, has
> information on all the others – who, short of forming a *coalition*, communicate
> only through him – and he can monitor alliances. He is therefore situated above
> the fray and predisposed to fulfill the function of an arbiter, a court of appeal.
> (Bourdieu 2004a, pp. 19-20; emphases in original)

It is at this stage in early modern Europe that the recognition of the monarch as ruler

becomes endowed with a particular kind of *symbolic* force, providing the basis of

legitimacy for the exercise of physical force.

　　　　This symbolic role of the ruler is also conditioned by processes of religious

change in Europe unleashed by the Reformation. While the Papal Revolution between the

late eleventh, twelfth, and early thirteenth centuries had, according to Berman (1983),

established the institutional basis for a unified legal system in the West by the

establishment of canon law under the centralized authority of the Roman Church, with

the disintegration of control and influence of the Church during the Reformation, new

opportunities arose for fusions, alliances, and unions between the monarchy and the

church. In England, the Netherlands, Sweden, and Switzerland, the Protestant church

became closely allied with, or (as in the Dutch Republic) a composite element of the

state, spawning a number of Europe-wide political upheavals like the English Revolution

and the Thirty Years War. As religious division tore up Europe, the earthly authority of

the state became fused with the scriptural tradition of Christianity to articulate the

resonances between earthly authority and divine will. As Berman points out, against the

previously strong division between the canon law of the Church and local systems of

secular (worldly) law which had emerged after the Papal Revolution of the late medieval

era, "Protestantism transferred spiritual authority and spiritual responsibilities to the

secular lawmakers of the various principalities and nation-states, whose supreme

authority now embraced all the jurisdictions that had previously been autonomous.

Secular law may thus be said to have been spiritualized at the same time that it became

nationalized" (Berman 2003, pp. ix-x). Institutionally, the authority of the church, the

doctrinal bases of religious belief (particularly of Calvinism) helped reinforce state power

by granting the state not only the power of the canon and the musket but also a set of

socially diffuse powers of pedagogy, discipline, and surveillance that could censor,

educate, and mold particular kinds of (state) subjects (Foucault 1977; Foucault 2003;

Gorski 2003). By the time of the establishment of the Peace of Westphalia, the Roman

church had lost its former centrality in European politics, and the state emerged not only as the central political actor on the international stage, but also as the central institution of domestic normative control, regulation, and social disciplining.

In Bourdieu's framework, the accumulation and concentration of symbolic power constitutes one of the core processes of state building. While the specific origins of the state's symbolic power are, in Western history, found in the state's struggle with the church, symbolic power is generically defined as the capacity of agents holding positions of legitimate domination to exercise a specific type of violence "which is exercised upon a social agent with his or her complicity" (Bourdieu and Wacquant 1992, p. 167). While the concept of symbolic power represents particular analytical and methodological problems, it can best be understood as Bourdieu's reformulation of Weber's formula of domination: a form of institutionalized authority in which the durable exercise of domination is possible because it is *recognized* (in the phenomenological sense) by the dominated as being a legitimate and naturalized feature of the social order. The exercise of symbolic power is found both at the phenomenological level at which legitimately authorized agents are conferred the social capacity to exercise effectively their authority (i.e., one in which a subordinate agent *willingly* carries out the command of a superior), *as well as* the cultural grounding of the institution which permits its authority to reproduce itself over the long run. This was a problem recognized by Parsons in his treatment of power, who rejected neo-Weberian formulations which treated legitimacy as a mere by-product of force, and which has unfortunately constituted the premise for much sociological work on power and the state in subsequent sociological work (Parsons 1969). Marxists, on the other hand, typically understood legitimacy to be the product of

the subjection of agents to a dominant *ideology*, understood as a general system of ideas and corresponding epistemological frameworks which ultimately function towards the reproduction of the collective *class* interests of dominant groups (Althusser 1971; Poulantzas 1969). For Bourdieu, on the other hand, the concept of symbolic power distinguishes from both these modes of analysis because it grounds the sociological understanding of institutions by enjoining the sociologist to recover their (arbitrary and contingent) historical acts of genesis while theoretically constructing a dynamic understanding of their mode of reproduction, both in terms of their internal logics of recruitment, succession, and expansion, as well as their role as institutions existing *within* a relational network of other institutions on which they rely for resources such as recognition or material means such as money or instruments (e.g., conferrals of legitimacy such as legal recognition from the state, capital from economic actors, etc.). Institutions existing in such relational settings constitute what Bourdieu terms *fields*, and, in differentiated systems, distinct institutional structures constitute distinct fields which contain and function on the basis of potentially autonomous logics of reproduction. As a social fact designating particular sets of social relations, symbolic power is the difference one obtains through a combined analysis of institutional origins and the position of the institution within such a network of institutional relations (i.e., its location within a hierarchy of institutions, external appraisals of its value as a societal institution against its internal legitimating ideologies etc.), as well as the location of the individual agent within such a setting. The generalized means of recognition, existing in objectified form (i.e., currency, diplomas, certificates, accolades etc.) which specific autonomous fields hold the monopoly power of conferring, revoking, and otherwise allocating to agents are

known as *capitals*, and, for Bourdieu, there potentially exist as many distinct forms of capital as there exist autonomous fields with the capacity to accumulate, store, and distribute to agents such generalized forms of objectified "currency."

It is in this sense that the particular apparatus of the state emerges as a specific field, which Bourdieu terms the *bureaucratic field*. The bureaucratic field claims exclusive authority not only for the legitimate deployment of the means of violence, but through the monopoly of the means of administration, also develops a specific type of symbolic power, expressed in the capacity of the state to impose legitimate schemas of definition, classification, and order of the social world (cf. Scott 1998). The bureaucratic field is a distinct component of the state as an institution, and is differentiated from the political system which, in highly institutionalized settings (such as in liberal democratic polities), also operates on the basis of particular institutional principles (party organizations, electoral competition and election cycles, etc.) (Bourdieu 1991).

The other specific form of symbolic power monopolized by the state is that of *juridical capital*, which involves the state's existence as a legal order. State-centric scholars largely did away with the problem of law, simply by ignoring its existence and treating the state in its essentially *political* existence as a relationship of force, a view long considered reductionist in normative political theory (D'Entrèves 1967). This has been problematic not only from an analytical perspective, but also in approaching the state as an *institutional fact* of modern society. Indeed, for Weber, whom state-centric scholars often invoked as an inspiration, the role of law was central to any sociological understanding of the state and its relationship with collective life. The state is not *only* a system of power, but, for Weber, also constitutes a specific kind of *legal order*. The fact

of law, not only as a normative content, but in its existence as a system of social practices, gives states their particular institutional status as a regulatory institutions at the societal scale, indeed even constituting "society" in its territorial existence (Giddens 1987; Jessop 1990; Taylor 2003). Indeed, for Hans Kelsen in his *General Theory of Law and State*, a sociological understanding of the state cannot escape the state's existence as a *juridical* fact. "There is no sociological concept of the State besides the juristic concept. ... Only as a normative order can the State be an obliging authority, especially if that authority is considered to be sovereign. Sovereignty is ... conceivable only within the realm of the normative" (Kelsen 1945, p. 189). This applies equally to the fact of the state's existence as a political organization. "The State is a politically organized society because it is a community constituted by a coercive order, and this coercive order is law" (Kelsen 1945, p. 190).

While Parsons saw the normative order of law to emanate from a shared value system, state-centric theory avoided dealing with the imbrication of political power and law altogether, via a conceptual shortcut which ultimately collapsed the analytical distinction between the legitimate exercise of power and the application of force.[6] For Bourdieu, however, law is significant in that it constitutes a specific *species* of symbolic power, and a crucial one in relationship to the political power of the state. Against the Althusserian view of law as an *apparatus* of the state – however "relatively autonomous" from economic relations of production – Bourdieu emphasizes the autonomy of law to lie in the historical specificity of legal institutions and in the specific *form* of juridical discourse.

> Having ritually reaffirmed the "relative autonomy" of ideologies, these thinkers neglect the social basis of that autonomy – the historical conditions that emerge

from struggles within the political field, the field of power – which must exist for an autonomous social (i.e., a legal) universe to emerge and, through the logic of its own specific functioning, to produce and reproduce a juridical corpus relatively independent of exterior constraint. (Bourdieu 1987, p. 194)

At stake, according to Bourdieu, is not only gaining a proper insight into the role of law and legal institutions and its relationship with political power, but also the effort to break away from the formalistic approaches of structural Marxism while "restoring to the law its full *historical* efficacy" (1987, p. 194; emphasis added). The *historical* development of the law, on the other hand, has been a central preoccupation of comparative legal scholars, even if their object of analysis have been legal concepts and traditions without reference to the broader social and historical conditions of their efficacy (Zweigert and Kötz 1998).

As Perry Anderson (1974) argues, the medieval and early modern recovery of Roman law in western Europe was a seminal event in modern state formation. While for Anderson, Roman law was critical in the transition to absolutism due to its specific and important distinction between civil law (*jus*), that is, law concerned with the regulation of private (contractual) relations, and public law (*lex*), law regulating the relationship between the sovereign and his subjects, it also played a key role in the rationalization of the bureaucratic order of the early modern state, alongside the growing "division of labor of domination" in which the process of dynastic reproduction became supplemented with professionally powerful but politically impotent classes of scribes and bureaucrats charged with the management of state affairs. In a context where jurists were becoming increasingly important parts of the state apparatus, it was, according to Zweigert and Kötz, Roman law which formed (with the notable exception of England) the doctrinal

basis of law and legal thought in suzerainties throughout early modern Europe. The introduction of Roman law helped effect the rationalization of bureaucracies and their professionalization, which permitted their administrative expansion, while instituting a greater division between the political power of the ruler and the permanency of the administrative apparatus of the state. In the late eighteenth century, the shared western European legal culture found in Roman law began its fragmentation into distinct national traditions, with enactment of landmark codes such as the Prussian General Land Law of 1794, the Austrian General Civil Code of 1811, and the highly influential French Civil Code of 1804.

Modern state formation was accompanied by processes not only of bureaucratic expansion (such as the growth of armies, administrative organs such as fiscal apparatuses, etc.), but also with the growing standardization and centralization of law. In France, the revolutionary period was marked not only by the state's centralization of political control, but also by the substitution of local systems of customary and religious law with centrally administered, standardized legal codes and national legal institutions (Weber 1976, pp. 50-66). The adoption of the Civil Code in France was a landmark event, not only for France, but that it came to serve as the inspiration and model for other national legal systems in the attempt to establish standardized and secular legal norms in the domains of civil, penal, commercial, and public law (Merryman 1969; Watson 1974). In the nineteenth century, this process was driven also by the view, influenced by Romanticism, that true law stems from popular practice of culturally constituted nations, and as a result, jurists also resorted to the study of popular legal practices which through their work found articulation in standardized national codes. This normative homogenization of state

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populations was accompanied therefore also by a *jurisdictional* expansion of the state into ever greater domains of social life, and this process constituted, as Loveman (2005) has observed, a central element of the state's concentration of symbolic power, leaping, within a space of four centuries, from the power of the ruler's household over vassals to the development of complex mechanisms and institutional structures of territorial governance. Mann (1984) has called this particular development the expansion of the state's *infrastructural* power, enabling the modern state to penetrate and diffuse its power over society in historically unprecedented ways.

While the history of nation-state formation in the West allows us to trace the history of the origins of modern law in the tradition of Roman law and the standardization of legal codes and institutions in the era of nation building, how do we approach the problem of such accumulation of power in the non-West? In particular, how do we approach states which have undergone abrupt breaks in traditional legal systems, transitioning from segmented and decentralized legal orders to a centralized legal system under the control of the modern state? To be sure, the history of Western colonialism abounds with examples of the transplantation of Western legal codes and traditions onto other cultural groups (Merryman 1969; Watson 1974). In the history of late colonialism, colonial states also made significant efforts to codify and enforce what they defined as local customary systems of law, based on local legal practices (Chanock 1985; Mamdani 1996). But what has been the process in cases where the agent of transplantation of the Western legal tradition has been the nationalizing state? On what bases was the rupture with legal history instituted and implemented, and what have been the institutional outcomes of such a process? In particular, has the introduction of standardized, national

legal systems and the jurisdictional expansion of the state truly produced societal

homogeneity, or did they provoke distinct politics of resistance against the state?

This is a particularly pertinent question for nation states that formed out of the

disintegration of the Ottoman empire. In all these states, Turkey included, significant

political efforts were put into breaking with the empire's traditional legal system, based

on a segmented and territorially uneven legal order constituted out of a variety of state,

religious, and customary law. In fact, the entire transition from empire in the post-

Ottoman nation states can be described as a process of legal transformation, leading (in

many cases) to a break with the Ottoman legal system and its foundation upon Islamic

law, and the wholesale institution of the Continental (civil) law tradition of western

Europe (Charrad 2001; Starr 1992). Accompanying this process was also the struggle to

either repress or co-opt into the national legal order not only prevailing systems of

religious law, but also varying residues of customary law practiced among nomadic and

sedentary tribal groups in the new state peripheries.

This difference in the process of the normative transformation of agrarian

societies raises questions about the mechanisms of symbolic accumulation, particularly as

they occur through the process of juridical centralization by the state. The case of Albania

is instructive in understanding this process in a segmented agrarian society, because that

social structural segmentation was also reflected in Albania's immediate post-Ottoman

legal order. After the constitution of the national government, the state continued to

exercise Ottoman laws, and preserved the Ottoman system of administration of law,

including the existence of *Nizamiye* courts based on the *Mecelle*, the early nineteenth

century Ottoman codification of Islamic law. Among the tribal peasantries of the

highlands, the government, as will be argued later, continued its tacit recognition of customary law and local elder councils as the local institutions of legal regulation. In 1928, when Albania transformed into a authoritarian monarchy under the rule of King Zog, the state also underwent a process of intense administrative and legal centralization and jurisidictional expansion. This study charts the effects of such process in Albania's two agrarian regions, but does so with the purpose of explaining the relationship between state strategies for the accumulation of symbolic power and the institutional outcomes of this process. What is relationship between the accumulation of symbolic power, i.e., the accumulation of power by the state through its centralization of the definition, administration, and enforcement of law, with the *political orientation* of peasant groups towards the state? The theory proposed here treats juridical (legal) centralization as a mode of integration of peasant populations into the political and bureaucratic realm of the state, since the state assumes the role of the institution that both issues the dominant norms of the social order and relies on that system of norms to actively reproduce and legitimate that order. Legal centralization changes both the nature of state authority, as well as the terms under which political action takes place. The process is particularly relevant for cases of state building in the post-Ottoman context, where transitions to national statehood also involved transitions to modern constitutionalism and the wholesale transformation of both political power and traditional institutions of law. This process differs from that of legal centralization in western Europe in that, while legal centralization was politically driven, the normative grounding of law evolved along an indigenous tradition of Roman law (for the continental states of western Europe) and Common law (for England and its colonial offshoots). In the post-Ottoman (as well as in

other non-Western cases of state building), legal centralization instead involved a rapid

and radical break with the traditional legal order, its grounding in Islamic law and other

customary legal traditions, the importation and transplantation of an existing legal model,

and the secularization of law via the establishment of a state monopoly over the

administration of legal processes. In the post-Ottoman context, this model provided both

the framework for legal institutions as well as the political goals of legal centralization, in

that its implementation for state elites became one of the central goals of state building.

In what follows, I specify the processes and mechanisms involved, and the methods of

their analysis.

2.4. The state, law, and the accumulation of symbolic power: process and mechanisms

Recent sociological theorizing on the state has drawn on some of Bourdieu's

(1996b; 1999; 2004a) work to develop an alternative approach towards developing an

analytical framework that can explain the role of the modern state while differentiating it

and its role from those of other social institutions. While Bourdieu never developed an

overarching *theory* of the state, Bourdieu's conceptual apparatus based on the concepts of

field and *habitus*, and notion of symbolic power, have been used by Bourdieu in the

analysis of the relationship between educational institutions, the mode of staffing of the

state apparatus, and class domination (Bourdieu 1996b). Others have effectively

employed Bourdieu's analytical toolkit to explain questions as diverse as the capacities of

states (Loveman 2005) to policy variation in colonial states (Steinmetz 2007). For the

purposes of the analysis to be developed here, Bourdieu's theoretical framework, I will

argue, provides more effective means in analytically grasping the intricacies involved in processes of state building and legal transformation in agrarian societies in transition.

Bourdieu's theoretical sketches on the processes of state formation are done mainly in relation to the history of Western political development, while his own empirical analyses developed primarily in relation to the French state. The key distinction between Bourdieu's framework and the classic models of state building is Bourdieu's emphasis that state building involves the accumulation by the state, of not only coercive power, but also of symbolic power. This rather expansive concept is used to capture various state practices of classification and division of subject populations (including the capacity to institute a nationally-defined "society" and establish criteria of membership), the issuance or certification of symbols of value such as currency and educational credentials, and the enactment and administration of law. In an attempt to examine the dynamics and outcome of this process, Loveman (2005) develops a framework to analyze what she terms the "primitive accumulation of symbolic power" (cf. Cohen, Brown and Organski 1981). An analysis of this process is critical since it is one which all modern states must undergo in some fashion in order to claim the repertoire of powers which members of the modern state system must possess either in order to persevere within the system (such to be able to independently pursue interests within the system and to defend against challengers), or are simply expected to possess by virtue of their membership within it.[7] Loveman carefully distinguishes symbolic power from the more conventional categories of power that are attributed to the state, the main of which are military, ideological, economic, and political power (e.g., Mann 1984). She suggests that symbolic power is a type of *metapower* "that accrues to the carriers of specific forms of power to

the extent that *their particular basis of power is recognized as legitimate*" (Loveman 2005, p. 1656; emphasis added). As Bourdieu emphasizes, "the concentration of symbolic capital of recognized authority [...] appears as the condition or, at minimum, the correlate of all the other forms of concentration [of power], insofar as they endure at all" (Bourdieu 1999, p. 62). This means that symbolic power is a kind of logical *a priori* to other types of power, because it involves, at the level of agents, the prior existence of generative principles and their corresponding schemas of perception which give efficacy to the injunctions of power-wielding agents. Loveman illustrates this by comparison with ideological power, as the power of the state to impose ideological worldviews on its citizens, with which symbolic power can easily become confused. Symbolic power is different from ideological power because it does not refer to the specific *content* of the message that state agents articulate, but the congruence (or non-congruence) between the *principles of generation of the message* with the *cognitive schemas and dispositions of the receiver*. It involves, therefore, some prior authorization, through institutional acts of consecration, of the power-wielding agents qua enunciators to legitimately enunciate the message (Bourdieu 1991). Hence, symbolic power, as Loveman emphasizes, goes beyond the classic Weberian problem of legitimacy, which involves the provision of rational justifications for the exercise of power, because it points to a more fundamental paradox of the power relationship: "while symbolic power derives from the recognition of legitimate authority, symbolic power produces its effects through misrecognition, that is, through the appearance that no power is being wielded at all" (Loveman 2005, p. 1655). Symbolic power, while expressed in language, is not a linguistic construct but a social one: its enacting is premised upon an entire series of institutional acts and socializing

events which embody in cognitive structures the objective structures of the social order (Bourdieu and Wacquant 1992, p. 168). The unconscious act of misrecognition could therefore be clarified to mean not only that agents are unaware of a relationship of power where one exists, but that they assume the relationship to exist at face value, as a kind of naturalized social fact, while misrecognizing both the historical constitution of the specific form of power and the active social labor that goes into its reproduction. For Bourdieu, power involves a certain act of "repression" and mystification of the history of its generation and construction, which is what gives it its efficacy. It is this institutionalized dimension which distinguishes symbolic power from pure nominalism: symbolic power is not only the power to nominate, but the power to make nominations real through acts of institution (Durkheim 1995[1912]; Jepperson 1991). As an illustration, Loveman points out how the introduction of the category "Hispanic" in the United States census, while taken as an act of *description* of social reality, is at the same time an act of the active *constitution* of a social group (Goldberg 1997; Petersen 1987).

Loveman's analytical model focuses on the *mode of appropriation* of symbolic power by the state from existing institutions in cases when states are engaged in expanding the administrative and jurisdictional scope of their activities, a process she calls "administrative extension." Loveman distinguishes this process from the *routine* exercise of symbolic power, which involves the everyday, non-contentious enactment of administrative practices. By contrast, administrative extension may be a contentious process because it often involves the state in challenging or revoking powers once exercised independently by non-state agents and institutions. Loveman suggests four mechanisms by which administrative extension may take place:

(1)   the state can *innovate* to create new domains of social life to administer

          and create new practices of administration,

(2)   the state can *imitate* the practices of non-state entities,

(3)   it can *co-opt* administrative practices enacted by other agents or bodies

          (such as religious institutions and traditional elites), or,

(4)   the state can *usurp* the practices of non-state agents.

Depending on the domain of social life the state expands its jurisdictional control over, its efforts of administrative extension can take place with little or great resistance by those subject to the state's administrative power or by those who stand to lose (such as traditional authorities) because of state intervention into domains heretofore dominated by them. Loveman emphasizes that administrative extension is not always a zero-sum game, however. Traditional authorities and the state's subjects may welcome administrative extension if they believe that this bolsters their position vis-a-vis the state and other institutions. Regardless of the level of resistance administrative extension encounters, however, there are important *institutional* effects of administrative extension.

One of the institutional effects is in the way this process transforms modes of political contention. That is, the accumulation of symbolic power by the state does not necessarily lead to the *elimination* of political contention between state and citizenry, but does lead to the transformation in the *terms* of political contention. Loveman illustrates her argument with a late nineteenth century case in which the Brazilian state failed in an attempt to carry out a census in a peripheral region. In comparing political contention before and after the state's ability to carry out a census, Loveman shows that *before* the state gained the legitimacy to engage in this type of administrative practice, local struggle

against the state took the form of an active opposition by the local population, via violent rebellion, of attempts by state agents to carry out a census count in the region. However, *after* the state had succeeded in gaining the legitimacy to conduct a census, political contention no longer involved the question of *if* the census would be carried out, but involved issues such as the *means* by which it would be carried out, such as the categories along which the population would be classified. In other words, the state's successful accumulation of symbolic power transformed the nature of political struggle, which shifted from a direct political opposition against the exercise of state authority *as such* (such as in acts of direct violence and resistance against agents of the state, as in the proverbial, but historically real, instances of popular rural attacks against the taxman, the judge, the gendarme, and other agents of state authority), to an institutionalized politics where the object of contention involved the *content* of state policy. This is an important insight that can be directly applied to the domain of law. Political contention within institutionalized states capable of wielding symbolic power will more likely turn towards political change via changes in *legislative norms* that regulate the exercise of power by agents, while in more extreme cases may be directed towards the radical transformation of the entire constitutional order of the state. In this sense, the accumulation of symbolic power is a precondition for a change in the form of political struggle, from one of direct conflict between actors into one that is institutionalized and involves stakes embedded *within* the political and legal system of the state. On the other hand, states lacking such a base of symbolic power will more likely face direct challenges to the exercise of political power and administrative authority as such.

While the theoretical specification of the process of accumulation of symbolic

power Loveman develops is important, her conception of symbolic power is largely

confined to the ability of the state to order and make society "legible" according to

administrative principles and categories, such as those of census documents. In her

discussion, symbolic power therefore involves a process by which the state "actively

constitutes the subjects in whose name it claims to exist legitimately" (Loveman 2005, p.

1653). However, this conception not only narrows the concept of symbolic power in light

of Bourdieu's own application of it, but also limits the explanatory potential of the

analysis of symbolic accumulation, given that symbolic power arguably has a role not

only in the enacting of categories of social "vision and division," but also in generating

the *dominant (legitimate) norms of the social order*, and claiming the monopoly right to

their enforcement. From this perspective, the accumulation of symbolic power takes

place not only via the capacity of the state to successfully impose social categories of

division and classification, but also in appropriating the powers to enunciate the norms

and injunctions that distinguish between law and its violation, and deploy measures to

sanction offenders and rectify situations of illegality. It also includes the capacity of the

state to expand the *jurisdictional domains* of law, a process sociologists of law describe

by the term *juridification* (Teubner 1987).

From this perspective, the "primitive" process of accumulation of symbolic power

is the *political* capacity of the state to monopolize the definition and administration of

law, by usurping it from rival social institutions. This process is indeed crucial in cases

where both the enunciation and interpretation of legal norms and their administration is in

the hands of non-state entities, and when (as in many agrarian societies) those entities are

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territorially dispersed and not under the control of any centralized organization. The transition to modern statehood involves the state entering into political confrontation with such established institutions, albeit under terms that are historically distinct for every case. What is at stake in the struggle over claiming the power of legal authority is not only control over the *normative content* of law, but the status of the *institutional agents* that enunciate, interpret, and enforce the law. The state must acquire the capacity to *constitute* subjects of legal authority (such as the sovereign who enunciates the law or the judge who interprets it), the legitimate *objects* of legal authority (such as the legally constituted individuals and the range of actions that are claimed for regulation) and delimit the *domains* within which such regulatory power applies. Within this perspective, it is important to go beyond examining processes of administrative extension and examine the social and institutional dynamics that legal centralization (i.e., the establishment of centralization control over the definition, interpretation, and enactment of law) produces.

To sum up, the theoretical argument advanced here is as follows:

(1) The accumulation of symbolic power is most visible in processes of administrative extension that involve attempts by nationalizing states to assert a monopoly over the definition, administration, and enactment of law, a process here termed *legal centralization*.

(2) The process of legal centralization is *politically strategic*, in that it involves strategic action by state elites to either co-opt, usurp, or repress rival institutions of legal administration.

(3) The *success* of legal centralization – constituting a successful elimination or subordination of alternative legal authorities to the state – does not depend, however, only on the strategic choices of state actors. It is also conditioned by the existing socio-legal structure of society, both in the institutional sense, as well as in the kind of legal dispositions that exist and must be made subject to transformation.

The last point leads us to another dimension of that process, operating at the level of the *habitus*. In what follows I elaborate this second dimension of symbolic accumulation, which Loveman's theory does not account for.

2.5. Peasant legal *habitus* and institutional change

Analyzing the process of symbolic accumulation, particularly in the domain of law, requires an analysis that distinguishes between field- and *habitus*-level mechanisms. A *field* is any socially marked, organizationally-embedded and typically institutionalized domain of social practice (Bourdieu 1985; Bourdieu 1990; Bourdieu 1993; Bourdieu 1996a; Steinmetz 2008). At minimum, fields possess a certain organizational structure and morphology which acquire practical reality by the set of dispositions and schemas embodied by agents that populate the field. The principles of organizational structure and the cognitive dispositions demanded of agents as criteria for admittance into the field provide fields with their *differentia specifica*, distinguishing them as forms of social practice, while their organizational closure gives fields a degree of *autonomy* from their environments, especially from the more encompassing and dominant fields of politics and

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economy, with which all fields enter into necessary relations. While one may at any time represent a specific field synchronically both by its *organizational network of relations* and the *symbolic schemas of classifications* used by agents within them, it is important to emphasize that Bourdieu insists on recognizing fields as *process*, that is, ultimately as historically determined institutions and sets of practices whose logic is captured by a set of specific principles.

In her analysis of the state's accumulation of symbolic power, Loveman focuses on the institutional transformation of fields, such as the institutional structures and administrative practices of the state, but she does not account for the transformations in *habitus* which must necessarily occur with any such process of institutional and cultural change. It is therefore necessary to examine, in addition to the field-level mechanisms that Loveman has identified, also those operating at the level of *habitus*, particularly among, in this case, the dominated agents subject to the new legal and institutional order established by the state. More importantly, a focus on the *habitus* may allow us to account for the variation found in responses to changes in the socio-legal order by specific groups in agrarian society.

While mechanisms specific to fields, such as forms of capital, and have been subject to extensive elaboration and analysis (Bourdieu 1986; Swartz 1997), Bourdieu also focused attention on mechanisms operating at the level of the *habitus*. Bourdieu speaks of two such mechanisms, *hysteresis* and *ressentiment* (Bourdieu and Wacquant 1992). As Bourdieu explains, hysteresis represents a case of disjuncture between field and *habitus*, specifically when a definite category of schemas continues to be actively employed by agents in spite of structural changes at the level of the field, which make

them less effective than they were in the past. Such is the case, for example, of the Algerian *fellahin*s displaced, during the Algerian war, both physically and socially from the social world they once inhabited, while continuing to employ schemas – in this case, of economic behavior – that were efficacious in their originating social world but self-defeating in the new one (Bourdieu and Sayad 2004). Ressentiment, on the other hand, largely draws from Weber's discussion of the term, but which Bourdieu reinterprets as a condition under which a "sociologically mutilated being," such as a member of a dominated class or gender, is reappropriated by the dominated in a symbolically empowering form, "a model of human excellence, an elective accomplishment of freedom and a *devoir-être*, an ought-to-be, a *fatum*, built upon an unconscious fascination with the dominant" (Bourdieu and Wacquant 1992, p. 212). The critical insight is that under conditions of domination, there may form a disjuncture between *habitus*-level dispositions and the structural logic of fields, particularly among the dominated. While field-specific mechanisms are structural, mechanisms at the level of the *habitus* refer more specifically to the set of cognitive (mental and bodily) dispositions and schemas existing at the level of agents. While fields can undergo rapid changes in structure and organization in relatively short temporal orders, *habitus* is typically characterized by inertia, given that structural configurations of cognitive schemas and dispositions change much more slowly.[8] The cognitive dispositions and schemas of the *habitus*, as Lizardo (2004) clarifies in an insightful discussion, exist in *objectified* form, i.e., they refer to objectively existing (and therefore socially structured) structures of practical schemas and bodily and mental dispositions and do not refer to the immediate subjective states of agents. In this sense, the concept of *habitus*, in its analytical deployment, has greater

resemblance to the understanding of schemas as presently employed in cognitive science, and is not a psychologism or subjective reductivism, a charge which has been frequently laid against Bourdieu's use of the concept (Alexander 1995). The key connexion between field- and *habitus*-level determinations is that of some degree of *congruence* between a specific set of dispositions and schemas of the *habitus*, and the reproduction of field-specific structures. Indeed, according to Bourdieu, given what could be termed an "equilibrium" state, within a hierarchically organized field, a situation of domination necessarily implies a congruence between the general principles of the field (specifically its form of capital) and a dominant (class) *habitus*, while a dominated (class) *habitus* is faced by an underlying incongruity between field and *habitus*, invoking other sets of dispositions in agents who are required to adapt to conditions of domination (as Bourdieu shows, for example, the cultural subjection seen in the improvisations of dominant forms of taste exhibited by members of the working class, or the "wretched consciousness" French peasants have of their body as a consequence of domination by the standards of bodily appearance and comportment of urban culture).

I interpret the expanding jurisdictional authority of the state as the foundation and growing differentiation between a national bureaucratic, juridical and political field. While a bureaucratic and juridical state fields grows in size, becomes institutionalized and more complexly organized, they generate pressures on dominated members to conform to new norms and adopt new strategies, while also creating new opportunities. These structural changes also generate pressures on the *habitus*, in particular, the imposition of new norms of spatial organization, bodily behavior, language use, and economic rationality may constitute exercises of *symbolic violence* via the delegitimation,

stigmatization, and repression of received forms of institutionalized behavior (Bourdieu 2004b; Bourdieu and Sayad 2004). They may, however, also generate new opportunities for the dominated, by allowing the dominated to claim new rights and new forms of protection simply by virtue of membership in the field. As the case of the modern citizenship shows, the historical institutionalization of citizenship has both widened the criteria of membership, and also produced new forms of rights and new claims to protection by the state (Bendix 1977; Brubaker 1992; Marshall 1992[1950]; Somers 1993; Somers 2008).

The specific type of *habitus* examined in this study is that which might, for analytical purposes, be termed a *legal habitus*. A legal *habitus* is best understood, I suggest, through Geertz's (1983) discussion of law in traditional peasant societies and his concept of *legal sensibility*. For Geertz, law is not only a formal system of rules, but also an accumulated body of social knowledge which informs moral understandings of legitimacy and hierarchy and provides the categorical means of making distinctions between legitimate and illegitimate courses of action. In such societies, law signifies a mode of social existence where it serves as much to set norms of social behavior and furnish procedures for the adjudication of disputes, as to provide frames of interpretation and meaning which agents use to construe social action and interpret social reality. Geertz proposes the concept of legal sensibility as a way of understanding how legal thought and tradition in both traditional and modern societies guides agents in their understanding of specific norms and procedures as well as informs basic notions of fairness and justice. In this sense, the idea of legal sensibility can be considered equivalent to that of a legal *habitus*, as the notion of legal sensibility fundamentally

implies an understanding about dispositions and cognitive schemas that underlie practices of fairness, dispute adjudication, and the legitimacy of authority positions and their role in regulating social relations, including the legitimate use of sanctions against transgressors.

Geertz's formulation of the concept of legal sensibility was his solution to the problem of the cultural interpretation of law, especially as it relates to modernizing societies faced with issues of "legal pluralism," "transplanted law" or "imposed law" (Hannigan 1961; Hatanaka 1973; Hooker 1975; Starr 1978; Watson 1974). Against both functionalist perspectives of law found in anthropology (Malinowski 1926; Radcliffe-Brown 1952), as well as the comparative analysis of law functioning as a kind of cultural translation between what are essentially similar systems of social organization and principles of social order, Geertz proposes a different mode of analysis which emphasizes three shared principles of law: its constructive, constitutive and formational aspects. This perspective also seeks to pry away the analysis of law from legal formalism, concerned with the formal rules and norms of law, while restoring law's role in the active construction of the social order: "law, rather than a mere add-on to a morally (or immorally) finished society, is, along of course with a whole range of other cultural realities from the symbolics of faith to the means of production, an active part of it. *Haqq*, *dharma*, and *adat . . . ius*, *recht*, and *right*, . . . animate the communities in which they are found (that is, the sensibilities they represent do): make them – again along with a great many other things and to different degrees in different places – what juristically, if you will permit it, humanly, if you will not, they are" (1983, p. 220). In Geertz's hermeneutical approach, "a comparative approach to law becomes an attempt ... to

formulate the pressuppositions, the preoccupations, and the frames of action characteristic of one sort of legal sensibility in terms of those characteristic of another" (1983, p. 218). Geertz's solution to the problems found in legal formalism, functionalist analysis of law, and the social instrumentalist view of law, is to locate the significance and valuation of law from the phenomenological perspective of actors engaged in situations where recourse to legal traditions, rituals, or institutions is involved. A hermeneutics of law as practiced in everyday social life, including its constructive, constitutive and formational aspects, can be therefore reinterpreted as an approach to the analysis of a legal *habitus*, a set of practical schemas (or sensibilities, to use Geertz's term) actors employ when faced with situations of norm transgression and implementation. As a *habitus*, or schema, law implies particular kinds of "visions of community," while on the other provide interpretive frameworks which enables groups to situate particular classes of events while providing procedures "for the principled management of them" (1983, p. 230).

The problem, however, with Geertz's social hermeneutics of law is that it detaches the significance and processes of law from the transformational institutional dynamics of modernizing societies (cf. Comaroff and Roberts 1986; Moore 2000). In these processes law is inevitably engulfed in changing power relations, even while its exact contents, procedures, and social visions are not always strictly determined by them. While Geertz's interpretive approach enables social scientists to free law from its entrapment as a mere subject or outcome of political and economic dynamics, it also risks leading to a pure social nominalism and constructivism that detaches law from the dynamics of political and economic change. A focus on both field- and *habitus*-level

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processes allows us to escape this conundrum which forces one to choose between the analysis of macro-level institutional change and the interpretive examination of locally embedded, culturally variable and historically shaped legal sensibilities. While law can be seen as an interpretive and constructive framework, that framework is embedded within specific institutional settings. The approach taken here distinguishes between both the analysis of macro-level institutional change at the level of fields, from the more hermeneutical approach of the *habitus* of legal sensibility. Law is a social field which determines the kinds of *strategies* available to actors in processes of social reproduction. As institutional means change, so do the availability of such strategies as well as, with them, legal sensibilities or the legal *habitus*.

In the case studied here, the analytical and methodological distinction between field- and habitus-level dynamics is important given that the radical break instituted by the nationalizing state in post-Ottoman Albania signified an important break with the tradition of legal regulation. This by necessity involved the articulation of a new regulatory role of the state in society and, by extension, an entirely new relationship between state and society from that found in the former imperial social order. In such circumstances, agrarian social groups were required to respond and accommodate to drastic changes in the norms governing social life, and its consequences are visible in the changing patterns of receptivity of peasant groups to calls by political organizations towards transforming political power. Peasant response, however, is not "rational," in the sense that peasants sought to maximize benefits under the new socio-legal regime. Even if one may posit individual peasants or individual peasant households to act "rationally," i.e., as self-interested utility maximizers, and the normative order as determining

"transaction costs" in interactions between peasants and other agents, these considerations, as I shall show, cannot account for the behavior of peasant groups in their responses to legal centralization as well as the concept of *habitus*.

It is important to clarify that, when speaking of the *habitus*, the study focuses on *schemas*. Schemas as understood here are not the properties of individual cognitive units but are *socially embedded* structures, akin to what Zerubavel terms "social optics" based on "intersubjective, conventionalized typifications" (1997, p. 31). However, Zerubavel's use of the concept of schema is marked by a strong bias towards *mental* schemas, whereas Bourdieu's use of the concept of schema, as Lizardo (2004) convincingly argues, is more in line with the way the concept was initially developed by psychologist Jean Piaget, in which schemas are both actors' mental frameworks *as well as* structured bodily operations, a largely unconscious bodily grammar which actors employ in specific situations or to certain tasks (cf. Cicourel 1974).[9] This focus is justified by several reasons. First, it clarifies what is conceptually specific about the *habitus* in terms of explaining social change. Second, particular schemas (such as those related to patterns of authority, dispute adjudication, and sources of normative regulation) can be reconstructed in historical analysis through a behaviorastic examination of patterned interactions through the collation of a variety of empirical sources. Third, the genesis of schemas can be traced back to an historically existing configuration of institutions, given that schemas operate and are efficacious within definite institutional settings. Finally, schemas are much more flexible than dispositions (i.e. the mental and bodily *capacities* to implement a schema), since dispositions, once acquired, are more difficult to transform, however, the *same* set of dispositions may, under changed circumstances, be employed towards the

implementation of *different* schemas. While there always exist repertoires of cultural

schemas on which agents can draw upon in any situation (Swidler 2001), the present

analysis is attentive to the emergence of *new* schemas, i.e., those *invented* by agents in

response to *new* socio-historical conditions. The process of *invention* by dominated social

groups of new courses of action via the recomposition of existing dispositions is, in

essence, one of the chief objects of analysis in this study.

2.6. Conclusion

The theoretical overview and discussion presented in this chapter had several

goals. First, it reviewed some of the problems of traditional approaches to modern social

change, particularly as they applied to the Ottoman empire and post-Ottoman national

societies. It showed that the grounding of theoretical frameworks in processes of

capitalist dependency gave little appreciation to inherited institutional structures, such as

those of the Ottoman agrarian and political system, particularly in understanding the

contexts in which forms of peasant political mobilization took place. Second, in

examining the state-centered alternative, it critiqued classic approaches to the role of the

state in modern social change for neglecting, in both theoretical and historical terms, the

role of law, a factor which was especially significant in post-Ottoman political

reconstruction and national state building. Third, it offered a way to bridge the theoretical

gap between the state and agrarian social change by conceptualizing the state as an

institutional fact of agrarian social life. The role of the state as an institutional fact is

seen, it is here suggested, in the state's role in governing agrarian society by establishing

and maintaining (in an institutional sense) a particular social order shaped and legitimated

through the institution of law. Turning to this process in the case of transitioning post-Ottoman societies like Albania, the discussion turned to the social theory of Bourdieu to offer a framework that examines transitions in legal regimes as processes characterized by attempts by new national authorities to engage in the accumulation of symbolic power. However, rather than seeing this process in strictly institutional terms, the framework developed here suggests that legal transformations must be analyzed as both institutional (field) and *habitus* level transformations. It is in the analytical distinction between field and *habitus* that one can analyze the dynamics of legal change, which take into account both changing institutional frameworks, as well how agrarian groups respond to such change via reference to a particular legal *habitus*, a concept developed out of Geertz's formulation of the notion of legal sensibility. The interplay between field-level transformations and those of the *habitus* are here used to develop a causal explanation which links specific forms of socio-legal change with divergent forms of agrarian radicalism, political mobilization, and peasant political identities.

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[1] It is important to note that Skocpol celebrates this as an crucial insight of comparative inquiry into the causes of social revolutions in the Third World and beyond.

[2] While Wolf and Scott point to the penetration of capitalist relations as the destabilizing factor in agrarian relations, Paige acknowledges a more explicit economic dependency framework (Frank 1966) to underlay his analysis. Thus, in his introduction, Paige begins by pointing to the fact that throughout the late nineteenth and early twentieth centuries,

"the social and political life of large areas of Latin America, Asia, and Africa was transformed by the world market in agricultural commodities which developed in response to the demands of the industrial economies of Europe and North America," in which "the agrarian states of [...] the underdeveloped world participated largely as the economic dependent suppliers of primary agricultural products" (1976, p. 1). The point, of course, is not to challenge the factual accuracy of such statements, only to point to the universe of historical cases that has driven some of the most important sociological research on peasant mobilization. This allows us to recognize the explanatory limits of the theories when we attempt to apply their insights to socio-historical contexts that experience similar processes of social change but are not characterized by direct relations of economic dependency which this group of theories perceives as the historical process furnishing the logical precondition for their explanatory frameworks.

[3] This, of course, relates to a whole set of sociological and historical debates, which raged on particularly in the 1970s and 1980s, on the origins of "economic backwardness" in eastern Europe. A key question of this literature is the effect of the rise of agrarian capitalism in the sixteenth century western Europe to the states of the east, and the consequential rise in the east of the "second serfdom," strengthening traditional landed nobilities and retarding the region's transition to capitalism. While Wallerstein and others argued for a direct causal connection between the rise of agrarian capitalism in the West and the reemergence of serfdom in eastern Europe (as a result of repressive labor practices of landed elites seeking to gain from access to agricultural export markets in the West), Brenner (1985) and others suggest that the "second serfdom" was a consequence

of causes that were endogenous to Europe east of the Elbe, such as low population density, traditional legal arrangements, and land settlement patterns. Others, like Anderson (1974) and Ertman (1998), point to the mediating structural effects of the political organization of absolutist states and increased geopolitical competition in driving transformations in economic organization both in the west and east. In any case, there is little evidence to support the argument that a form of "second serfdom" swept the Ottoman empire during this period, making it questionable that agrarian capitalism in the West had a significant impact on the empire's economic structure (Adanır 1989).

[4] Regardless of its specific *empirical* problems, the central problem with Wallerstein's theory is ultimately theoretical. As Weber's (1998[1930]) classic work most powerfully pointed out, capitalism must first emerge as a *practical system* organized around a set of norms, and does not from the first instance emerge as a *system* outside the market which motivates capitalist action. In Wallerstein's work, a capitalist *system* exists without reference to capitalist *practices*: repressive labor regimes in the periphery can supplement production based on free, legally-protected labor in the core. Repressive labor is therefore also "capitalism," even while Marx, in his analysis of England, specifically defines capitalism as an economic system characterized by free labor. When Wallerstein labels the emergent structure of European economic expansion a "capitalist world-system," the question of how one is to develop a *theoretical* characterization of capitalism then becomes especially acute. Such theoretical characterization was the key concern of the social theorists of capitalism from Marx to Weber. While free labor and private ownership of land was a key condition for capitalist markets for Marx, for Weber

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capitalism is a particular form of normatively grounded system of rational economic action. In this respect, Wallerstein may be credited with recognizing a new historical configuration that Marx did not theorize and Weber did not acknowledge, including its dependency on colonial exploitation. But by conflating the symptoms of capitalism's global *expansion* with the nature of capitalist practice *per se*, leads towards enormous conceptual difficulties and outright confusion in sociologically delimiting what capitalism, as an economic practice, is. Most problematically, as Brenner points in his poignant critique of Wallerstein, the latter tends to equate the rise of capitalism with the rise of world trade. World *trade*, however, and the division of global labor it affects, may be *fostered* by the practices of capitalism, but the emergent *system* of global economic organization, while *capitalistic* because of its being defined by an expanding global circuit of capital, does not necessarily constitute a *capitalist economic system* in itself. The issue, of course, is not mere semantics but conceptual clarity and precision in historical sociological analysis.

[5] This break from state-centric theory and other theoretical traditions has been argued to constitute a "third-wave" in comparative historical sociology, marked by the employment of more diverse theoretical and methodological approaches, as well as an expansion in the substantive interests of historical analysis. On these issues see Adams, Clemens, and Orloff (2005).

[6] This is most famously implied in Tilly's use of the criminal racket as an analogy to define the political order of the state. For Tilly, a codified normative order, such as systems of rights, legal process, protections against arbitrary violence, etc. are ultimately

the product of the countermobilization of social groups against the political authority of the state. Legal institutions are, in this theoretical framework, little more than *political* facts and have little conceptual or theoretical value in their own right.

[7] For example, Go (2003) shows how membership in the state system requires not only that states possess constitutions and constitutionally-defined legal orders, but also that constitutions reflect a certain set of increasingly shared principles and values.

[8] More radical changes in *habitus* typically require (under specific conditions) the generational successions of cohorts.

[9] The practical relation between mental and bodily schemas is clear from Bourdieu's formulation of the concept of *habitus* as a set of "principles which generate and organize practices and representations that can be objectively adapted to their outcomes without presupposing a conscious aiming at ends or an express mastery of the operations necessary in order to attain them" (1990, p. 53).

CHAPTER 3

The Legacies of Empire: Land and Law in the Ottoman Empire and Post-Ottoman Albania

> Before performing learned autopsies [of empires], however, we should just be sure the body was sick, and has actually died.
>
> Charles Tilly, "How Empires End," in Barkey and von Hagen (1997, p. 2).

The break up of the Soviet Union and the recent debates on the possible (re-)emergence of a new imperial formation centered upon the United States, have sparked social scientific interest in historical questions of imperial continuity and break (Barkey and von Hagen 1997; Calhoun, Cooper and Moore 2006; Chibber 2004; Hardt and Negri 2000; Harvey 2003; Mann 2003; Steinmetz 2005). While the future of empire and its possible recomposition and dissolution under other historical terms remains an open question, we do know that the outcome of the imperial dissolutions of the twentieth century was the global proliferation of an existing political form, the national state. Considering this history, in her discussion on imperial aftermaths and legacies of the twentieth century, Barkey (1997, p. 100) poses a set of fundamental questions about the continuities and breaks between empires and national states: What do emergent nation-states carry over from empire to nation? Do aspects of imperial structure and political

culture endure beyond imperial decline, and if they do how do they affect the development of the nascent state? While in historical sociology, such questions have gained much attention in the examination of the consequences of European colonialism in Latin America, Africa, and Asia (e.g., Lange, Mahoney and vom Hau 2006), the question has been seldom asked about the states formed in the aftermath of Ottoman dissolution, where nationalist and Orientalist narratives have dominated historiographical representations of the Ottoman past.[1] While one may pose the question of imperial legacies, the question of imperial continuity and discontinuity cannot, however, be posed the same way for all societies that emerge in the process of imperial collapse. One difference regards the historical type of imperial formation out of which new national societies have emerged. As Hobsbawm (1997) observes, while many societies that formed out of the dissolution of European colonial empires were constructed on the basis of already existing social and political infrastructures built by colonizing powers, many states that formed in the aftermath of the break-up of territorial empires in eastern and central Europe, the Balkans, and the Middle East, typically did not have such unified institutional foundations to use as the basis for their new polities. In these contexts of institutional break and reconstruction, questions of imperial legacies and its continuities and discontinuities are much more difficult to disentangle. One way to approach this – which is the approach taken in this dissertation – is to examine post-imperial political reconstruction by examining how new centers of political power interacted with existing social institutions in the attempt to assert sovereign control over what had been semi- or quasi-sovereign polities and communities.[2]

But even with this approach, one faces difficulties in determining with precision

which social institutions survive the collapse of empire and become the most salient in

the early assertion of national sovereignty by new centers of power, in both the political

and legal sense. While European colonial succession may offer what appears like a

simpler schema of succession given the geographic distance between center and

periphery, usually separated by oceans, and the more strictly bounded differences (for

example, in the structure of territorial sovereignty and formal citizenship) between center

and colonial peripheries, the problem is much more complex in the study of institutional

succession in modern territorial empires. Given the typically fragmented nature of

military, political, fiscal, and, legal domination in territorial empires, and the multiethnic

and multireligious character of their populations, institutional legacies of empire differ

not only *between* the former center and its peripheries, but also *within* different regions of

former imperial peripheries.[3] Contrast, for example, the path to national independence of

the new nations that emerged out of the Ottoman empire. In some cases, local political

elites already enjoyed substantial degrees of autonomy, existing primarily as vassals of

the imperial center, such as the Phanariot rulers of Romania or the Hussein dynasty of

Tunisia. It was their overthrow by a nationalist elite from below, or colonial takeover

from above, that partly enabled the reconstruction of these polities into national states. In

other cases, instead of traditional autonomy from the center, local elites gained the

opportunity – typically with the political and logistical backing of an external power – to

construct patrimonial and semi-bureaucratic systems of rule while formally remaining

part of the empire. The long period of transition provided the institutional basis of

national statehood. Such were the cases of Egypt, and the new states of the Balkans,

Greece, Montenegro, Serbia, and Bulgaria, all of which began as semi-autonomous polities within the empire before transforming into sovereign national states. Other imperial territories fell under foreign control only to be politically reconstructed by new colonizers as new independent states, such as Syria and Iraq. Albania fell somewhere in between, as foreign control was met by a domestic nationalist movement seeking independence for the new nation. The burden of political reconstruction, however, fell upon the latter, as the break out of World War I disrupted plans of foreign suzerainty in Albania and the country's fate was thrown into the hands of local elites. It was local elites, then, that had to contend with the legacy of institutions inherited from the empire, chief of which were the agrarian system, i.e., the Ottoman land regime, and the institutions of law. Each of these would present challenges to the reconstruction of territorial governance in the aftermath of imperial collapse.

In historical empires, social institutions were diffuse, multicentered, and displayed a degree of heterogeneity that boggled the strict rationalism of nationalism, the logical consistency of state law, and the clear hierarchies of centralized governance. From this perspective, the territorial governance of the national state, instead of an outgrowth of an existing imperial bureaucracy or the political emanation of an already constituted "society," appears more like a superimposed body over an extremely decentralized and heterogeneous body of institutions, legal traditions, and regional networks of actors which had enabled, however feebly and indirectly but rather durably, the exercise and maintenance of imperial hegemony. This fact is commonly neglected by historians who stress the relatively homogenous character of Albania's population from an ethno-linguistic standpoint, while ignoring the complex social ecology within which

ethnoreligious identities were embedded in the Ottoman empire (Blumi 2003a). It was arguably this social ecology, consisting of a plurality of legal traditions and institutions of law with sometimes overlapping jurisdictions, traditions of strong communal autonomy among the peasantry, and cultural and class divisions between urban landed elites and rural cultivators, that posed the greatest frustration to nationalists who desired to see shared moral codes, national solidarity and standardized social hierarchies in the place of the social and institutional unevenness left behind by the empire.

In earlier theorizing this process was simply called modernization, was presumed to follow a relatively straight and predictable trajectory, and included within it a wholesale process of value change as societies transitioned from traditional to modern structures. In postwar American sociology, under the influence of Parsons' early reconstruction of Weber's comparative historical sociology of religion, cultural value systems and norms were seen as the chief determinants of transformation in all historical societies (Parsons 1977). As this perspective influenced the study of developing societies, this view led to the emphasis of fundamental tensions between the values of traditional society and those of modernizing elites. When developing societies seem to lag behind the milestones of modernization or their social and political life exhibited what appeared to be anomalies in contrast with the compactness and linear progression of Western development, the fault was often seen to lie with that society's inability to cope with pressures from traditional society. Yet, traditional society was indispensible for elites wishing to prevent their societies from sliding down a reckless path of chaos and anarchy. As Edward Shils, one of the better known proponents of modernization theory suggested,

The traditional order has [...] offered little that has been helpful to the process of modernization, beyond the stability and recalcitrance to change which has served at least as checks on the emergence of an always threatening chaos. Furthermore, whatever the modern elites of the new states might say on ceremonial occasions, and whatever concessions they might have to make to traditional religious elites [...] or to traditional political elites [...], they are inclined, on the whole, to have little confidence in the traditional order as they perceive it. To them it has been an obstacle rather than an aid to the realization of their goal of modernity. (1975, p. 461)[4]

The theme of traditional resistance to modern change ran threw virtually all research that broadly fit within modernization theory's linear view of modern development, and that traditionalism stemmed primarily from the backward-looking values of traditional social groups like peasants. Pockets of underdevelopment in Western societies were no exception, as Banfield (1958) pinned the poverty and backwardness of the peasantry of southern Italy almost entirely on the backward-looking value system that placed a premium on family loyalty over civic engagement – a perspective that was extended to the analysis of Balkan peasants as well (McNall 1974). Under the assumptions of modernization theory, development had a set path to follow, a stage-based process of change that was most succinctly outlined by Rostow in his "Stages of Economic Growth: A Non-Communist Manifesto" (Rostow 1960), followed equally by a similar rhythmic, stage-based development of civic and political institutions as formulated in Organski's *The Stages of Political Development* (1965). In the 1950s and 1960s, sociologists like Shils and Banfield, political scientists like Apter (1960) and Organski (1965), and anthropologists like Geertz (1973b) dominated the discourse on development as modernization theory became the dominant paradigm through which to understand and explain processes of social change in the modernizing, non-Western world.[5] The emerging consensus among these scholars was that ideas, that is, the culturally engrained

traditionalistic, non-rationalized value systems these societies had inherited from the past represented one of the chief, if not the central, obstacle towards modern development, which required the acceptance of the values of liberalism, market economy, bureaucratic organization, a rational-legal order, and a scientific worldview.

Beginning in the 1970s, the theoretical reaction to the modernization perspective led to the prompt rejection of value systems from having any role in social development. In this, Wallerstein's world-system theory, Skocpol's state-centric analysis of revolutions, and Tilly's process-oriented approach are all premised upon the express denial of any role for values, ideologies, or culture (and, therefore, law) as a significant factor in social change. More recently, these perspectives have come under criticism for their rejection of ideologies and culture – broadly conceived – as a causal variable in social change (Mitchell 1991; Sewell 1985; Somers 1993; Somers 1995; Steinmetz 1999). If we include law as part of such a cultural system – as suggested, for example, by the Marxist legal scholar Evgeny Pashukanis (1978[1929]) – then we are required to approach the analysis of law as part and parcel of the process of modernization. Legal systems are not socially arbitrary and politically neutral; which does not mean that law is simply a political instrument wielded by elites. Rather, this suggests that law, which weaves together and defines (in both an ideal sense and in institutional practice) relations between state, economy, and society, is the ideological system *par excellence*.

Law and legal institutions then provide an important prism through which to examine processes of political reconstruction after empire, a task already undertaken by a number of social scientists examining legal institutions in comparative historical perspective (Arjomand 2003; Benton 2010; Benton 2002; Go 2003; Kuran 2004; Mundy

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and Smith 2007). Drawing from the critical analysis of modern law by Pashukanis, and the centrality assigned to law in the organization of social relations by Weber, the analysis developed here takes law as one of the central mediums of political reconstruction and struggle in the passage from empire to national state. Given that the focus is on agrarian societies, the analysis of law is paralleled by an analysis of the connection between law and land. Land, its distribution, possession, and circulation among persons (in both spatial and the legal senses) constituted the fundamental basis of an empire like that of the Ottomans, whose political elites and legal thinkers were profoundly self-conscious of the agrarian foundations of its central institutions and economy (İnalcık 1993). Land similarly represented the foundation of the national economy of the new Albanian state, and its regulation and disposition constituted one of the key imperatives for the new sovereign *dominium*. Law, on the other hand, constituted both the mode in which land was linked to persons, and via this tie to other persons. Law also shows how, in the Ottoman empire, political control combined with notions of justice in the governance of plural and multicentered communities. In the Albanian national state, law constituted the chief medium of legitimacy and domination under a normatively standardized and rationally ordered system of governance. In the transition from empire to national state, land and law are terrains of struggle, from above as well as from below, and very central ones for the process of political reconstruction, as they come to signify change in the very nature of social relations in peripheral societies, grappling to conform to the demands of the historically victorious Eurocentric institution of sovereignty (Benton 2010; Schmitt 2003).

This chapter traces the process of institutional transformation in the Ottoman empire during the nineteenth century, by examining the transformation of the land regime and agrarian relations during the eighteenth and nineteenth centuries, with the emergence of the *çiftlik* as a new form of agricultural organization and the changing political relations between state, landowners, and peasant cultivators it embodied. It discusses this process in parallel with a related one, the series of legal reforms carried out during the so-called *Tanzimat* era of reforms beginning in 1839, which redefined both agrarian relations as well as the nature of legality and state power in the Ottoman *dominium*. The *Tanzimat* reforms, which attempted to construct a more centralized legal and political system in the empire, grew partly as a response to the growth of the *çiftlik* system and the weakening of central control in the provinces. The centralization reforms reformed provincial political institutions in ways that exposed the increasing weakness of the Ottoman state in its battle to strengthen control over its peripheries, contributing, many argue, to the empire's eventual political fragmentation and dissolution. The social and institutional structures produced by the processes of agrarian transformation and legal reform are significant because they set the stage for the terms under which Albania's state building project would take place in the twentieth century.

3.1. Legal pluralism and legal reform in the Ottoman empire during the nineteenth century

The legal pluralism of the Ottoman empire has been a fact long recognized by historians (Gerber 1987; İnalcık 1994; İnalcık 1996; Itzkowitz 1972; Kafadar 1995; McCarthy 1997; Shaw and Shaw 1977). While the connection between the Ottoman

empire and the Islamic legal tradition dates as far back as the medieval empire of the

Turkish Seljuks, the main claim to continuity between the Ottoman state and the Islamic

Caliphate begins with the Ottoman conquest of Mamluk Sultanate of Egypt in 1517

(Itzkowitz 1972). However, while claiming legitimacy from the tradition of Islamic law,

the development of Ottoman state law had in certain ways already taken on an

independent path even before the conquest of Egypt and the claimed legacy of the Islamic

Caliphate. While elements of classic Islamic law and constitutionalism had been present

in the political organization of the empire since its founding, the development of legal

thought and institutions was also conditioned by the empire's own expansion and

conquest of territories far beyond its early origins in Anatolia and the inclusion within the

empire of varied cultural groups and political traditions. For example, the conquest of

Constantinople, and the incorporation within the Ottoman empire of the imperial system

of the Byzantine empire, had a great effect in determining articulations between classic

Ottoman legal thought and the development of Ottoman institutions of imperial rule

(İnalcık 1994). These included the preservation and, indeed, co-optation of many existing

local traditions of authority and legitimacy. The development of the *millet* system, for

example, which legally recognized political and cultural rights to non-Muslim groups that

came under the domination of the empire, included the extension of imperial recognition

and protection to many institutions with traditional authority, such as churches,

synagogues, tribal elders, and local lords. Indeed, many historians argue that it was

ultimately the flexibility and pragmatism with which the Ottoman empire approached the

problem of incorporating new spaces and groups that enabled not only its rapid expansion

across two continents, but also the empire's survival up until the modern era.

This clearly included flexibility and tolerance for legal traditions and institutions of law that were not part of the Islamic tradition, which constituted the core of the empire's legal and political system. In terms of law, it resulted in the distinction that Keyder (2006) makes between state law and what he broadly categorizes as the "law of communities." While state law included decrees (*firmans*) issued by the imperial center and its agents deployed in the peripheries, the law of communities included a variety of non-state legal traditions that regulated matters of community and what we would today designate as the "private" realm, such as matrimony and inheritance. The Ottoman administration typically kept a distance from intervening in such matters, leaving them to *kadı* (Islamic) judges, non-Muslim clergy, tribal elders and other institutions. On the other hand, Ottoman state law was primarily concerned with issues affecting the political and military organization of the Ottoman state: taxation, fiscal policy, military service, and land ownership.

In the Ottoman empire, law, and state law in particular, was not only a political device of the sultan to legitimize his rule over vast territories. This is attested by the centrality of the *kadı*, or Islamic "judge," in Ottoman territorial administration.[6] The *kadı* was a central figure in Ottoman administration, dispensing both state rules as well as resolving disputes drawing from state law as well as the traditions of Islamic and local customary jurisprudence. Max Weber famously examined the role of the *kadı* in his sociology of law, by emphasizing the substantive, rather than the rational-procedural, nature of *kadı* jurisprudence and legal decisionism (Weber 1978, pp. 809-900).[7] Keyder (2006) concurs with Weber's analysis of the juridical action of the *kadı* as being oriented towards substantive, rather than formal, justice, while further emphasizing that this

orientation derived not only from the peculiar nature of Islamic law, but was grounded in the structure of legitimacy in the Ottoman empire and the *kadı*'s embeddedness in localized communities. Modern national states are characterized by generic notions of nationality and citizenship, inclusive of all members of the national society, and contain institutionalized political channels that provide procedural means that provide legitimacy to the social order. By contrast, the closed nature of the imperial political system and its non-deliberative character meant that the legitimacy of the social order was obtained via the process of substantive justice, oriented towards the maintenance of the community. The meaning of law under these institutional arrangements differs from that in the rational-legal community of the national state, because the procedural application of formal, codified law has less of a role to play in legitimizing the social order than the substantive enactment of justice. For this reason, the *kadı*'s justice was not a strict application of the legal code, but rather a judgment based "in terms of concrete ethical or other practical evaluations," in Weber's formulation (quoted in Keyder 2006, p. 119). An additional factor that contributed to the strong community orientation of the *kadı*, is the fact that *kadı*s were not salaried officials, but depended on the collection of fees for services rendered, a situation which persisted until late nineteenth century reforms that established a salary system for judges (Akiba 2005, pp. 44-45). The fact of financial dependence upon the community no doubt contributed to reinforcing their ties to the community and staying attuned to local sentiments of justice, in spite of measures in place, such as oversight and limited tenures, designed to prevent the abuse of the *kadı* office for personal gain.

This orientation of the *kadı*'s juridical action is significant given the centrality of the *kadı* in Ottoman territorial administration. In his analysis of Ottoman legal documents in the region of Bursa in Anatolia, Gerber (1981; 1987) argues that the *kadı*'s role in the maintenance of the social order was even more important than that of the provincial governor (cf. Akiba 2005). Gerber suggests that *kadı*s had a primary role in the everyday implementation of the center's legal decisions, a task they were relatively well placed to carry out both because of their stature in the community and their legal training. However, as pointed out above, and as borne out by Gerber's analysis of legal documents, *kadı*s formulated legal judgments by negotiating the fine line between imperial orders and customary understandings of justice. On the other hand, the authority of the *kadı*s was curtailed geographically and his role varied by community. Geographically, *kadı*s had their authority confined to urban areas and surrounding rural districts, with less effective capacities to serve as legal arbiters over disputes in faraway hinterlands and mountain regions. In terms of their community role, *kadı*s often had no role in judging civil affairs, such as matrimony, adultery, disputes over inheritance and intracommunity matters among non-Muslim subjects, which were the domain of local religious and tribal authorities (Gerber 1994). Even Muslim communities in remote districts often preferred local judges to preside over such matters rather than those appointed by the sultan, as evinced by resistance to the establishment of state-certified *Nizamiye* courts staffed by state-appointed judges by Muslim communities in Yemen (Akiba 2007, p. 43). Moreover, the new *Nizamiye* courts established after the reforms of 1879 envisioned an institutional separation between secular courts trying criminal and administrative cases, and sharia courts handling civil issues (Akiba 2005, p. 53).

Thus, in spite of reforms seeking to establish a unified and centrally administered legal system, the situation of legal pluralism persisted until the very last days of the empire. The nineteenth century was an era of deep reform in the empire, including systematic reforms of its political organization and legal system. It signaled the move to what Keyder calls *constitutionalism*, the "transformation of a differentiated and layered political order into an homogenous [legal] space" (2006, p. 117). However, while becoming increasingly more centralized on paper, the empire was asserting its aspirations of authority while adapting to the transformations that had taken place within its own society in the intervening centuries (Barkey 2008; Hourani 1968; Karpat 1972; McGowan 1994). Ultimately, the empire was never capable of constructing and asserting over its territories a centralized, unitary system of legal and political governance, if the standard of such a system is the modern national state which was emerging in Europe at the same time. There is question, indeed, if the construction of such a system was even ever the aspiration of nineteenth century Ottoman reformers (Karpat 1972; Mardin 1962). The national state model did prove victorious, however, when it became the model of political organization for the new nationalities that emerged out of the disintegration of the empire, as well as the new Turkish nationalist elite that inherited the political institutions of the center.

In any event, during the era of nineteenth century reforms, known more commonly as the *Tanzimat*, the imperial center introduced a series of legal reforms that signaled the intent of its rulers to assert greater central control over many of the empire's older political functions in the provinces. An early proclamation of reformists, the *Hatt-i Hümayun*, or Imperial Rescript of 1839, introduced the principle of formal legal equality

of all Ottoman subjects. It also gave new powers to the *Meclis-i Vâlâ-yı Ahkâm-ı Adliye* (the Supreme Council of Judicial Ordinances) to act as an effective law-making body (via council to the sultan, who remained the law-giver). Reformists in the center, however, faced resistance from two entrenched groups in the Ottoman state and society: the Islamic clergy in the center, and provincial elites in the periphery. Both groups were powerful enough to force reformists to seek their way around their resistance to reform, and at times thwarting their goals. For example, in reforms in education and the court system, reformists often saw it necessary to construct parallel institutions rather than reforming existing ones, in order to avoid directly challenging the traditional prerogatives of the Islamic clergy (Starr 1992, p. 24). In other instances, reformists had to backtrack and negotiate provisions which they had put in legislation. In legislation adopted in 1840, for example, the center aimed at reforming one of the cornerstones of the imperial state, its faltering tax system. While the Ottoman taxation system operated unevenly across its imperial realm and included an unstandardized variety of tax bases and rates – drawing, in addition to its own tax codes, upon local traditions of religious and customary taxes – the new law intended to introduce a uniform system of taxation with standardized tax rates throughout the empire (Coşgel 2005). It also intended to replace locally and regionally-based tax farmers with state-appointed tax officers. This project failed, however, as the center proved unable to appropriate taxation rights from local notables, who retained their traditional right to tax farming (Shaw and Shaw 1977, p. 84). In both instances, entrenched elite interests limited the capacity of Ottoman reformists to implement desired reforms. The *legal* changes introduced by the reformists, however, were consequential for the empire's future development. For example, commercial codes

and the establishment of secular commercial courts gradually wrenched control over this domain from Islamic judges, giving the Ottoman state a monopoly over the regulation of international trade and the issuance of trade licenses. New penal codes, adopted in 1840 and 1858, also increased the authority of the state over the definition and prosecution of crime and the trial of suspects, especially in urban areas. A significant break with traditional Islamic law was made with the 1860s adoption of the *Mecelle*, the Ottoman civil law which in essence represented a codified version of the Islamic sharia. The promulgation of the *Mecelle* by the imperial center was accompanied by the formation of a state court system to try civil cases (Starr 1992). Gerber (1987) shows that the Land Code of 1858 contributed to the significant alteration of traditional agrarian relations and their rearticulation within a new legal terrain, even if many of its literal provisions remained hostage to the political influence of leaseholders and tax farmers (cf. İslamoğlu 2000). In his historical reflection, Keyder (2006, p. 119) suggests that the legal reforms "took away the substantive autonomy granted to ethnic groups, geographical and administrative units, tribes, and *millet*s," but a more accurate description is that the legal reforms both tapped into existing as well as generated new sets of social upheavals and institutional contradictions that afflicted the late empire. A good part of these dynamics involved the changing nature of the Ottoman land regime.

3.2. Ottoman land regime: from *timar* to *çiftlik*

An important process of legal transformation in the Ottoman came with the disintegration of its classic land regime. This change was critical for the kind of agrarian relations that arose under Ottoman dominance. The main transformation came with the

gradual disappearance of the classic *timar* system of land tenure, and its substitution by

the *çiftlik* system, which came to prevail in many parts of the empire, and especially in

the Balkans. These transformations made peasants, and not only central and provincial

elites, into significant actors in determining the patterns of institutional change in the late

empire.

Early Ottoman rule was premised upon a land and fiscal regime generally known

as the *timar* system. The *timar* was central to Ottoman fiscal, military, and political

organization during the empire's early period of expansion and consolidation. Given that

miri land was by definition the eminent domain of the sultan, the *timar* functioned as a

tributary land grant by the sultan to members of the cavalry (the *sipahi*). The *sipahi*

enjoyed some local control, but his land grant was conditional upon the performance of

fiscal and military duties on behalf of the sultan, the extent of which was determined in

proportion to the income derived from the grant. In his comparative economic analysis,

Weber (1978, pp. 1070-1110) calls this form of organization *prebendal*, since it differed

from west European feudalism in a number of ways, although there is still debate on the

extent to which the historical *timar* corresponds to Weber's ideal type (Anderson 1974;

İnalcık 1991). McCarthy (1997, pp. 114-115) dates the origins of the *timar* system with

the pre-Ottoman Seljuks and the Byzantine empire. McGowan (1981), however, agrees

with Weber's characterization of the *timar* as a prebendal system, and it can be classified

as such in an ideal-typical sense in order to distinguish it from west European feudalism,

with which it is sometimes confused. The system proved efficient for most of the

sixteenth and early seventeenth centuries, when the empire was in a continued process of

expansion through new conquests. The organization of the *timar* system provided legal

protection for peasants (*reaya*) from the *timar*-holding military gentry (*ayan*), guaranteeing them the transference of tenures to their heirs, while curtailing the power of the *ayan* over disposition of the *timar* and, through that, the control they exercised over the *reaya*. The arrangement, which included the protection of peasant usufructuary rights over land, was reinforced by the official ideology of the Ottoman empire, in which the sultan was portrayed as the defender of peasants from illegal taxation, exploitation and expropriation (Keyder 1991). This ideological view also fell in line with the legal tradition of Islamic law, which provided for the protection of peasants from arbitrary violations of their rights to the land (İnalcık 1991; McGowan 1981, pp. 45-79). Continued legal protection of the peasantry by the state prevented the emergence of a strong feudal class comparable with that of the western Europe, but an additional factor was the mobile and smallholding nature of the Balkan peasantry, characterized in addition by the "joint," or extended peasant household (Kaser 1994; Lampe 1989; Stoianovich 1980). This enabled a degree of self-sufficiency and autonomy of the peasant household in terms labor and local defense that did not exist for the western European peasant household, increasingly subject to third-party claims, increasingly smaller in size, and facing increasing pressures from commercialized agriculture and wage labor. This led Ottoman agrarian economic life in the early modern period to be characterized by the large, subsistence-oriented peasant household embedded in communities with a high degree of local autonomy. Both Gerber's (1987) research in Anatolia and McGowan's (1981) research in the Balkans find that the large, subsistence-oriented peasant household and community autonomy formed a central feature of Ottoman social life.

The disintegration of the *timar* system beginning in the seventeenth century led to an increasing loss of central control over the Ottoman empire's far flung territories. This was particularly true in the Balkans, where local notables grew increasingly important for the exercise of imperial rule. The weakening of imperial control over the periphery intensified during the eighteenth century, with the growing pressures of trade as well as greater reliance by the center on independent tax farming to secure critically needed revenue (Barkey 2008; McGowan 1994). While fiscal pressures had a significant impact on agricultural organization, the growth of trade with western Europe during the eighteenth century also contributed to social structural changes, particularly the transformation of members of ethnic minorities into important economic intermediaries. This lead to the growth of a merchant class, particularly among the empire's Armenian and Jewish minorities, and, in the Balkans, especially among Christian Orthodox minorities (Palairet 1997; Stoianovich 1960).

Extensive warfare in the seventeenth century was also responsible for the empire's growing fiscal crisis, leading to increasing state debt. Beginning in the eighteenth century, the solution to the lingering fiscal crisis was sought in the sale of tax farming rights, known as *malikane*. While forms of tax farming had been practiced in the Ottoman empire since its early days, the *malikane* was distinct because the rights it sold were lifelong. Tax farming led to the reorganization of relations of rule at the provincial level, as well as contributed to the gradual disintegration of the *timar* system and usurpation of the rights to the land by a new class of landowners. This form of semi-private land control is generally known as *çiftlik*.

According to Barkey, while the sale of tax farming rights generated new revenues for the Ottoman state, it also created the conditions for the restructuring of relations between social actors at the center and the provincial levels, creating new opportunities for local notables to gain greater political and fiscal autonomy from the center. In effect, it led to the emergence of what Barkey calls "regional governance regimes" that centered upon one or two notables who were positioned between the central authorities, provincial officials, and local networks of authority, gaining increasing control as brokers between the Ottoman state and local regions and developing important bases of political power. In such a decentralized structure of rule, principals gained their local power and authority not by virtue of any particular office they held, but by their centrality in a network of social, political, and economic relations which linked the imperial center and its provincial authorities with local populations. These intermediaries amassed considerable amounts of authority, prestige, and wealth, and,

> developed their resources and influence through multiple state and nonstate activities and positions; extended their networks to incorporate clients, whether lesser notables or peasants; and both in the their local rule and in their understanding of legitimacy mimicked the ruling household of the sultan (Barkey 2008, p. 242).

But the driving force behind such restructuring is the transformation that tax farming brought to the Ottoman land regime and agrarian structure. *Çiftlik*s, semi-private holdings, became more prevalent during the seventeenth and eighteenth centuries, to become the dominant mode of land organization in the nineteenth century. While the original meaning of the term *çiftlik* derives from the term *çift*, which designated a plot of land that could normally sustain a peasant family living on it, in historiographical usage the term has come to signify the larger, plantation-type agrarian form which functioned as

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a semi-private possession of landowners, in some cases driven by commercialized, export-based farming (İnalcık 1991). While it has been suggested that the rise of plantation-like *çiftlik* farming under the control of a single landowner was the Ottoman equivalent of the "second serfdom" produced as a consequence of the integration of the Ottoman economy as a periphery of the European capitalist world-economy, subsequent research has found a tenuous connection between the spread of *çiflik*s and the rise of an export-based agricultural economy.[8] A variety of factors prevented the emergence of a strong landowning class of the feudal type in the Ottoman empire. These include peasant mobility, the strength of local markets, poor transportation facilities over difficult mountainous terrains, and the continued protection of peasant rights provided by the state through *kadı*s (Gerber 1987; Keyder 1991).

The Balkans did constitute, however, a region in which *çiftlik*s became widespread beginning in the late eighteenth and early nineteenth centuries. The process transformed the traditional smallholding nature of the peasantry into a peasantry subject to increasingly higher fiscal and tributary demands by *çiftlik* owners. According to McGowan's research, by the mid-eighteenth century large *çiftlik*s had emerged in the fertile plains along the Danube, the Albanian coast, and Macedonia. There is evidence, according to McGowan, of legal and physical dispossessed of peasant rights to the land, to which courts, the traditional institution to which peasants would appeal for their rights, appear to have turned a blind eye. Moreover, the traditional smallholding peasantry was in some regions replaced by sharecroppers and wage laborers, leading to both a legal and physical dispossession of the peasantry from the land. As McGowan (1981, p. 65) writes,

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> Physical dispossession was associated above all with movement, i.e., voluntary abandonment because of intolerable conditions. When peasants returned or others came for the first time, they were confronted by someone who already claimed superior rights over the land and had new arrangements in mind for its use.

Under these conditions, landowners, who often doubled as tax farmers and sometimes also provincial officials, increased exploitation through the imposition of rents and arbitrary taxation, which were levied in addition to regular state taxes, a process which, it seems, was tolerated or overlooked by local judicial authorities. In an attempt to curtail such developments, the center attempted to reform the taxation system and to replace tax farmers with state-appointed tax collectors. The centralization of tax collection was attempted during the Tanzimat reforms of the early nineteenth century, but as pointed out, the reforms bore little fruit, indicating the heavy degree to which provincial control in the empire depended upon the accommodation of interests of local notables (Barkey 2008; Shaw and Shaw 1977). Throughout the nineteenth century, the Ottoman empire proved unable to reform the system of tax farming, even while *çiftlik* farming spread and led the peasantry to the loss of traditional protections they had enjoyed under the *timar* system.[9]

McGowan documents an increased spread of *çiftlik*s in Albania and Macedonia in the early nineteenth century, demonstrating that Ottoman reforms of the 1830s proved incapable of curtailing the power of rentiers to usurp land and impose increased dues on the peasantry.[10] According to Albanian historian Ligor Mile (1984), by the early to mid-nineteenth century, most arable land in Albania was transformed into *çiftlik*s. *Çiflik*s first emerged around coastal towns like Ulqin, Durrës, and Vlora, but later spread in most parts of Albania, encompassing its lowlands and including also parts of mountainous

regions. For the most part, however, mountainous regions, particularly in northern Albania, never transformed into *çiftlik*s. The chief consequence of this uneven spread of *çiftlik*s was a deep transformation of the agrarian structure in Albania with a peasantry increasingly divided between autonomous peasant communities in the rugged heights of the highlands and heavily taxed peasants along the fertile plains of the lowlands. While in northern Albania, the peasantry preserved political and legal communal autonomy from both Ottoman authority and local notables, the peasantry of central and southern Albania, both Muslim and Christian, became increasingly subject to *çiftlik* farming and the double impositions of state tax and landowner rents. The additional consequence of this development was the emergence of a class of landed notables in central and southern Albania (as well as in Albanian-inhabited Kosovo), centered around a small number of large *çiftlik*-owning families (Mile 1984). These families, who were locally recruited, became tied to the Ottoman state by serving as intermediaries between the Porte, Ottoman provincial administration, and the peasantry, but also becoming part of Ottoman metropolitan culture and entering into the service of the imperial state in various political and administrative capacities. While the provinces had traditionally provided the empire with critical personnel in the form of soldiers, trained administrators, and officials, these were generally integrated into the empire's central administrative apparatus by becoming removed from their regions of origins, assimilating into the imperial culture, and basing themselves in the imperial capital of Istanbul. This was in particular the typical career of the *askeri*, provincial recruits into the Ottoman military and administration who would provide a lifetime of service and many of whom attained high level positions within what was a relatively meritocratic system. By contrast, the *çiftlik* owning *bey*s, on the other

hand, retained strong economic interests in their local regions of origin, necessitating them to retain local social ties and maintain an active domicile in the region. While the *askeri* had both their career and life tied to the fate of the empire, they had an active stake in the preservation of the imperial system. The *bey*s, however, had a dual status as both servants of the empire as well as that of a provincial nobility with the sometimes contradictory function of representing local interests in the imperial center while also using their locally powerful positions as representatives of the imperial administration to advance their own personal interests.

This dual role functionary became increasingly evident in Albania beginning in the late eighteenth century. In particular, the *bey*s of lowland Albania became increasingly integrated into the imperial culture of the Ottoman state, gaining access to technical and scientific education in Istanbul and becoming prominent members of the Ottoman military, bureaucratic, and intellectual elite, without, however, cutting ties with their regions of origin (Gawrych 2006).[11] In addition to the role of the *bey*s, an additional factor in southern Albania during this period was the rise of a small merchant bourgeoisie, particularly among the Christian Orthodox community. Concentrated land ownership, integration with the Ottoman state, educational opportunities, and growing involvement of southern Albanians in translocal trade generated in the lowland towns and villages of southern Albania a much more complex class structure than the simple, communally-organized peasantry of the Albanian highlands, where stratification came to be determined less in terms of formal education, a career in the imperial bureaucracy, translocal trade, or the capacity to extract surpluses of agricultural production, than a

mutually reinforcing combination between local communal authority and the development of political ties to the state and to powerful extra-local actors.

This reflected not only in the social structure of Albania on the eve of its independence from the Ottoman empire, but also in the legal institutions which dominated regionally. While the *Tanzimat* reformers of the nineteenth century proclaimed the principle of equality of subjects, this did not imply equality within a homogenous legal space. State law nominally regulated issues of administration and taxation, especially in the lowland regions and the urban areas where the agents of Ottoman authority were most immediately present. This included the establishment of state (*nizamiye*) courts implementing state-decreed codes such as the *Mecelle* and the penal code. However, Ottoman authority was largely limited to these regions. In the highlands, Ottoman reforms had much less success in reorganizing political relations between the center, its provincial authorities, and peasant communities which conducted community life under local customary institutions and legal traditions.

The highlands of northern Albania therefore developed an entirely different relationship with the center and Ottoman provincial administration, a relationship which solidified with the center's nineteenth century policy of treating northern Albania as a distinct and primitive cultural zone that was violent and disorderly and which could not be made subject to direct imperial rule.[12] In contrast to central and southern Albania, no distinct and politically powerful class of landowning notables developed in the north, with the notable exception of the Bushatlis of Shkodra until their fall in the early nineteenth century (McGowan 1994). In the highlands in particular, among the population typically known as the *malësorë* (Albanian for "mountain dwellers,"

"mountaineers" or simply "highlanders"), village-based communal organization and ties

of kinship remained much stronger and imperial authority penetrated much more weakly.

Communal autonomy existed in a form that made any kind of state authority superfluous,

extending into three essential domains of social life: the organization of household

property rights; effective freedom from taxation; and the regulation of local affairs,

including matrimonial functions and acts of criminality, in accordance with norms of

customary law. Since social organization in the Albanian highlands and the role of

customary law receive discussion in chapter 4, here I briefly lay out the context of such

organization in the political reforms of the empire under the *Tanzimat* reform era.

In addition to the legal reforms already discussed, a part of the *Tanzimat* reforms

included the reorganization of the territorial administration of the provinces, necessitated

also by the growing number of autonomous entities that had formed within the empire.

Serbia, Montenegro, Bulgaria, and Romania became autonomous partly by gaining the

diplomatic and financial sponsorship of Western states and Russia. In 1864, reforms

divided the remaining territories of the Ottoman empire into a number of large *vilayets*

(provinces), each headed by a *vali* (provincial governor), subdivided into smaller *sancak*s

(regions) headed by a regional governor known as *mutasarrif*. The territory of present-

day Albania fell into four different *vilayets*. Northern Albania was included within the

vilayets of Işkodra (Shkodra) and Kosova (Kosovo), with most of the highland regions

within the mountain range of the Albanian Alps falling within the administrative province

of Işkodra. Beginning in the seventeenth century, Albanians increasingly converted to

Islam, and by the nineteenth century Muslims formed a majority among Albanians. There

remained, however, significant numbers of Albanians who identified as Christian,

divided between Roman Catholics in the north and Greek Orthodox in the south.

Catholics were particularly concentrated in the town of Shkodra, and formed a majority

in the *vilayet* of Shkodra, which included the highland regions of Malësia e Vogël,

Malësia e Madhe, Dukagjin, and Mirdita. Together with the mostly-Muslim *sancak* of

Duraç (Durrës), the *vilayet* of Işkodra had a population between 200,000 and 300,000 in

the late nineteenth century (Gawrych 2006, p. 29). This *vilayet* included most of the

highland population, particularly the majority of Catholic highlanders.

While the *vilayet* of Işkodra included a large part of what would later be known as

Albania's northern highlands, in the late Ottoman period, part of the Albanian highlands

also fell within the administrative boundaries of Kosova and Manastir.[13] The regions of

Kukës, Krasniqë and Lumë are among the highland regions in western Kosova, although

new international boundaries drawn in 1913 would place these regions on the Albanian

side of the new border between Albania and Serbia, after Serbia's conquest of Kosova

during the Balkan War. The *sancak* of Debre in Manastir was another highland region in

the western half of the mountain range of the Albanian Alps, and its population was

mostly Muslim. After 1913, the entire mountain range that had been divided between the

Ottoman *vilayets* of Işkodra, Kosova, and Manastir, would become part of a territorially

unified Albanian national state.

The territorial reorganization introduced in the mid-nineteenth century proved

unable to bring the peasant communities of the highlands into an integrated, homogenous

legal and territorial system of governance. In the late nineteenth century, after the empire

lost control over large parts of the Balkans, the administration of the Albanian highlands,

now turned into a military frontier, became an increasing financial liability to the

Ottoman treasury (Blumi 2003b; Reinkowski 2003). In addition to the logistical problems of governance and the challenges represented by issues such as smuggling and banditry, Ottoman perceptions of the region were reinforced by descriptions of the region as a "wild" and disorderly tribal area. Gawrych (2006) suggests that Ottoman elites in the late empire saw the Albanian highlands not only as ungovernable, but also unworthy of reform. For example, while the center under the rule of sultan Abdülhamid established in 1892 an Imperial Tribal School (*Mekteb-i Aşiret-i Hümayun*) to Ottomanize notables of Arab and Kurdish tribes, for a long time the school refused to admit Albanians (Deringil 1998, pp. 101-4).

The withdrawal of Ottoman interest from establishing direct governance in the highlands is sometimes explained by what is described as stubborn resistance by local peasantries against Ottoman encroachments. Such belief has provided fodder for such speculative historical interpretations which suggest that, because of their supposed isolation from external pressures, social structures and cultural systems in the northern Albanian highlands remained largely unchanged since pre-Ottoman times, or even earlier (e.g. Fischer 1999b). Clearly, as more historical knowledge about Ottoman political and social organization is uncovered, the less credible such speculation on the suspension in historical mid-air of such communities becomes. While local resistance was indeed a factor, one of the more critical reasons for Ottoman withdrawal is the fact that the empire could *afford* to do so, both politically and fiscally speaking. Highland communities in the Balkans were little different from Kurdish and Yemeni highlanders, Bedouin and Yörük nomads, and other social groups existing in the margins of imperial society. These groups maintained specific degrees of communal autonomy from the Ottoman state not merely

because of their sheer capacity to resist, but also by the very nature of Ottoman imperial organization. As Barkey's recent comparative analysis shows, Ottoman rule was premised upon a decentralized structure of ties and diverse brokerage networks which weaved together Ottoman "state" and "society" in a highly diffuse and often protean manner. This, as S. N. Eisenstadt (1963) famously observed in his comparative analyses of the political systems of empires, is a common characteristic of large-scale territorial empires. In contrast to centralized national states, territorial empires do not govern directly through extensive, differentiated administrative organizations tied to the political center (what Eisenstadt calls "political mechanisms"), but through reliance on "autonomous social mechanisms" which are diffuse throughout society. Imperial centers must secure the active cooperation of such mechanisms, a process involving constant renegotiation of relations between local and central agents, making the process of rule in territorial empires much more fluid and uncertain than in bureaucratically centralized and administered national states. Similarly, the structure of Ottoman imperial rule relied on distinct sets of institutional channels, networks, and local actors to exercise military control, gain fiscal appropriation, and legitimize imperial authority in its peripheries. Ottoman domination of peripheral groups, like many other empires which preceded it and existed concurrently with it, was not exercised in a manner which placed the empire's subjects under the direct will of a despotic ruler, but was mediated through a number of layers of institutions and brokers, including local notables, religious authorities, and provincial and central state agents – these roles sometimes combined and played by single actors. In Barkey's (2008, p. 10) description,

> empires conquered and ruled by maintaining a pattern structurally resembling
> hub-and-spoke network pattern, where each spoke was attached to the center but

was less directly related to the others. The fact that imperial relations were vertically integrated, and that peripheral entities communicated mainly with the center and with one another only through the center, provided centers with added control over the various peripheral entities. Divide and rule, "brokerage," segmentation, and integration become the basic structural components of empire.

Such a decentralized and fragmented structure of rule, containing many "structural holes" (Burt 1992), produced a greatly segmented society that had the benefit of minimizing the chances of mass mobilization in the periphery, but also forced imperial rulers to negotiate actively with local subjects, pushing the imperial center to cede control to, if not formally recognize, local systems of authority. Such a structure of rule created the conditions which enabled Ottoman authorities to limit their engagements with marginal communities, in so far as they did not represent any significant military or political threat. Indeed, Ottomans often managed to recruit members of such marginal communities into service for the empire – most notably military service – while not interfering with the forms of organization within such communities. Indeed, in such conditions, marginal communities often needed the empire for the economic and security benefits they received from it more than the empire needed them.

3.3. The collapse of empire and the emergence of independent Albania

In November 1912, when a number of Albanian notables gathered in the port city of Vlora to declare Albania's independence, the country was an unlikely candidate for national statehood. While Albania shared with its neighbors the fact of being a primarily agrarian economy, national revolutions in these states had freed the peasantry from the thralls of agrarian domination by destroying the Ottoman landowing classes (Lampe and

Jackson 1982; Palairet 1997). In Albania, however, the political centrality of the landowners in Albania's nationalist movement ensured the preservation in the new state of the Ottoman agrarian order and particularly the *çiftlik* system. Institutionally, the country possessed a minuscule organizational basis to set up a centralized state organization. As described above, under Ottoman rule, the country had been divided between four provinces, with separate governors, local administrations, tax systems, and military command chains. Religiously, the population was shared by three different faiths, including, therefore, the influence of three different religious organizations (indeed four, if the influential Islamic Bektashi brotherhood is counted as a separate religious organization). Modern Albanian nationalism was a recent phenomenon even by regional Balkan standards, and began as an intellectual movement only in the late nineteenth century. With the exception of a small number of nationalist radicals, during the waning years of the Ottoman empire many Albanian notables supported the Young Turk movement and believed strongly that Albanian autonomy under Ottoman suzerainty was the best option to secure national self-government while protecting Albania from the encroachment of its territorially expanding neighbors. Hamidian policy in the nineteenth century also intended to curtail further expressions of nationalism among the empire's subject population, particularly among Muslim groups. As a result, for most of the nineteenth century, the center actively repressed organized expressions of Albanian nationalism, and banned activities such publication and education in the Albanian language (Gawrych 2006). The outbreak of the Balkan war of 1912 and the defeat of the Ottoman army signaled to both nationalists and Albanian Ottomanists that national independence was the only choice if Albania was to survive the onslaught of Greek,

Serbian, Montenegrin, and Bulgarian armies. This development no doubt was what made an alliance of Albanian intellectuals, regional leaders and notables hastily declare the country's independence in the coastal town of Vlora in 1912.

After some hesitation, the European Great Powers meeting at the Conference of Ambassadors in London, with Italian and Austrian pressure, agreed to recognize Albania as an independent state. However, the task of determining the boundaries of the new state was up to the Great Powers, who had to appease the warring factions among the Balkan states, who had, after all, expelled the Ottoman empire from Europe and were claiming newly conquered territories. In addition, the construction of a new national state in Albania fell not on the Provisional Government established in Vlora, but on a Western monarch who would be appointed as Albania's new ruler. The Austrian prince Wilhelm Wied was chosen for the job, and set up a new government in the city of Durrës, Albania's largest port on the Adriatic.

Less than a year into Wied's tenure as king of Albania, World War I pitted European states against one another in all out warfare. Terrified and lacking support, Wied quickly abandoned Albania and returned to Vienna. The territory of Albania became a battleground of European armies, including those of its Balkan neighbors. Towards the end of the war, Albania's territory was occupied by Serbian, French, Austrian, and Italian armies, with the latter holding the largest share. Italian control expanded after Austrian withdrawal, and the French gradually abandoned their control. In 1919, the Italians, seeking to annex parts of Albania and establish a protectorate over the rest, formed a Provisional Government staffed by natives whose mission would be to reestablish Albanian sovereignty under an Italian mandate in the aftermath of the war.

Once again, Albania faced the prospects of territorial contraction, or worse, total disappearance from Europe's political map. The intervention of US President Woodrow Wilson, taking advantage of the US's strengthened influence in Europe after the war, helped save Albania from either of those fates. Wilson's principles of national self-determination provided the means for justifying the continued existence of an Albanian state in its 1913 borders. In 1920, a new rival government, established by Albanian notables, sought to end Italian control in Albania and assert sovereign control over the territory. Italy decided to withdraw from Albania after the defeat of the Italian military by insurgents in the strategic port city of Vlora (control of which would have enabled Italy to gain control of both straights that lead from the Mediterranean into the Adriatic). The period between 1919-20 marks the beginning of renewed indigenous attempts to organize a national state organization in Albania. Even while enjoying international recognition, the new national government faced the same culturally fragmented and socially segmented society described at the beginning of this chapter, made even more difficult to govern after foreign military occupation in which each occupying army constructed its own governance regime in territories it controlled.

The establishment of national institutions of governance cannot be properly understood without paying heed to the context of political turmoil and uncertainty in the decade between 1910 and 1920. This was also a period of continuing political mobilization part directly involve Albania's peasantry, especially in the highlands, who played a key role in mobilizing for Albania's independence. The period also witnessed the final disintegration of the imperial political, administrative and legal structure which had formed in Albania over centuries of Ottoman rule. However, the ensuing political

instability meant that a new set of political institutions would not begin to fully stabilize until the early 1920s. As pointed out, during World War I, foreign troops occupied the country and made territorial claims over its control. At the Paris Peace Conference of 1919, the very survival of Albania was at stake, as the Great Powers seemed willing to renege on their earlier recognition of Albanian sovereignty to favor a policy that would divide Albanian territories among neighboring states. Italy, Greece, and the newly established state of Yugoslavia were particularly interested in the spoils of Albanian territory. In fact, a secret pact signed in 1915 between the Entente powers had foreseen Albania's territorial contraction into a small "Muslim Albania" in central Albania and the distribution of its remaining territories to neighboring states, including Italy. Italy already controlled the port city of Vlora, Greek troops had entered southern Albania, while Serbian and Montenegrin troops had during the war controlled northern Albania, until they were removed by Austrian intervention. Negotiations between Western diplomats also considered the option of creating a territorially reduced Albanian state that would be placed under the mandate of a single Western power, a role that many assumed would be played by Italy. The diplomatic efforts of US President Wilson and his insistence on the principles of self-determination helped the preservation of an independent Albania in its 1913 boundaries (Vickers 1999).

Military occupation had divided the country into several zones. The withdrawal of Austrian troops after that country's capitulation in the war led to their replacement by Italians, who already controlled Vlora, which they claimed as annexed territory. The Italians also helped reestablish an Albanian government in Durrës, which represented Albanian interests at the Paris Peace Conference. However, sensing the threat of

territorial division and Italian interference, a rival group of Albanian nationalists gathered in the town of Lushnjë in January 1920. While the government of Durrës began to accept the idea of an Italian mandate in Albania, the Lushnjë movement rejected both Albania's territorial division as well as any foreign mandate over the country. The Lushnjë movement acted as a constitutional assembly and proceeded to set up a parallel government, including a four-member Regency that would occupy the role of Albania's throne, left vacant after Wied's departure in 1914. After failing to enter Durrës, in February 1920 the Lushnjë government settled in Tirana and proclaimed the town Albania's new capital. The process of building state authority in Albania thus began in the context of national mobilization against the territorial division of the state and an intense competition between rival groups vying for control over the state.

Key to the establishment of political control in the country by the new government was the exercise of effective control over local governments throughout Albania. The success of the Tirana government to gain control over prefectures in southern and northern Albania, including territories controlled by Italian troops, led to its quick rise to political dominance over the Rome-backed government of Durrës. The most important political victory of the Tirana government came after a successful insurrection in Vlora in 1920, which defeated Italian troops and forced an embarrassed Italy to withdraw its forces from Albania and, under international pressure, renounce all territorial claims against it. At this point, the Durrës government, whose representatives were active in negotiations at the Paris Peace Conference, dissolved itself and placed its support behind the new Tirana government. Political rivalry against the formation of a unified government ended in a definitive way after the assassination of Esat Toptani in

Paris, powerful *bey* of central Albania who had organized a rival faction claiming political control over the new state. In December 1920, the League of Nations approved the Tirana government's request for membership, extending it international recognition as the only sovereign authority in Albania (Prifti and Shpuza 2007, pp. 123-75, esp. pp. 167-75). After Italian withdrawal, the presence of Yugoslav troops in the northeastern border region remained the last military challenge of the new Albanian government. The Albanian-Yugoslav standoff lasted until 1922, when Yugoslav troops withdrew from Albania's border region in the north.

3.4. Establishing national territorial governance: the prefecture system

While the new state secured its territorial sovereignty with international recognition and the removal of foreign troops, the central government had yet to establish full territorial governance internally. The construction of a new prefecture system to extend government rule throughout the territory of the new Albanian state was one of the central processes defining the establishment of centralized state rule. As pointed out, Ottoman rule, in addition to having divided Albania into several provinces, also relied on a variety of informal and semi-formal social mechanisms to exercise effective control. This situation was to change in the independence era, when virtually all Albanian political leaders accepted the model of a unitary centralized state as the form of administration appropriate for the new state. When the Albanian national government began this process, several institutions of local administration were already in existence. In urban centers, local governments had already been set up as a result of Albania's occupation by European armies during World War I. The occupational forces had set up

civil authorities which exercised authority in urban areas, the most significant of which were the Austrians in the north (particularly in Shkodra), the Italians in the west (in Durrës and Vlora) and French troops in the southeast (in Korça). While the Austrian military made some attempts to exercise administrative control over the highlands, it did not succeed in establishing any form of direct rule in the region. Moreover, the abrupt withdrawal of Austria after its defeat in the war meant that the political vacuum had to be filled once again by powerful local actors. Overall, the unstable environment of the war and the shifting control of territories from one military force to another prevented the emergence of an environment conducive to the consolidation of stable administrative institutions.

In the Europe of the late nineteenth and early twentieth century, the prefecture system represented the symbol of unitary rule and centralized government. The system's origins lie in the postrevolutionary French establishment of centrally-controlled administration by the country's territorial division into *départements*. A model of centralized administration adopted by many nationalizing states throughout the world, the official in charge of the *département* is called the *préfet* (prefect), while the administration under his control the *préfecture* (prefecture). The *préfet*, an official appointed by and responsible to the national Ministry of Interior, represents the national government locally and is the official in charge of local administration and policing. The *département* is subdivided into *arrondissement*, or sub-prefectures. The level below the *arrondissement* is the *canton*. In Albania, the *komuna* (commune) was equivalent to the *canton*, being the lowest level of local government and usually consisted of a small number of villages. The *nënprefektura* (subprefecture) was the mid-level government

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while the *prefektura* (prefecture) equivalent to the French *département*, and was based in urban centers.[14] The legal competencies of the prefecture were similar to those of its French counterpart, since the prefect was directly responsible to the Ministry of Interior, while the prefect appointed heads of subprefectures. After 1920, when various proposals for cantonization were passed around (most prominently by the Catholic Church), the political elite largely arrived at a consensus over the goal to create a centralized, unitary model of centralized rule (Anastasi 1998). In the early years of state building, the prefecture became the basic unit of local government and the cornerstone of national state rule, being the key mechanism that extended national state authority beyond the capital. The organizational model and the administrative and legal functions of the prefecture system were, as is obvious, worlds apart from the system of multilayered, segmented, and decentralized system of administration that had been instituted by the Ottoman empire and which largely remained in place during the Tanzimat reforms. While the Ottomans relied on various political channels to ensure compliance with policy, the new system foresaw a change in the scope and the function of local authority, which was now directly part of a formal bureaucratic hierarchy leading to the national authorities, and included new policing, information-gathering and archiving duties which had been beyond the scope of Ottoman provincial administration.[15] The new system divided Albania into nine prefectures; five of them encompassed the northern highlands. It is significant that the establishment by the Albanian national state of subprefecture offices in the highlands was the first time ever historically that a political entity of any kind established a direct and permanent administrative presence in the region.

3.5. The rise of authoritarianism and the drive to legal reform, 1924-39

The construction of a prefecture system of local government was arguably the greatest accomplishment successive Albanian governments in the early years of the new state. But politically, the central government was marred by instability and conflict. Tensions between political factions, including political leaders claiming the loyalties of armed men, and the resulting fall of short-lived governments gave Albania a narrow opportunity for institutional development. A turning point in Albania's early existence as an independent state was the political revolution of 1924, in which tensions led to the formation of a radical political block under the leadership of the American educated priest Fan Noli, which by force of arms overthrew the government of Ahmet Zogu. Noli's loose alliance of radicals and other opponents of the government claimed to take Albania in a direction of radical political change, the cornerstone of which would be agrarian reform that aimed to break up large landholdings and distribute land to the peasantry. But before any such plan could be fully implemented, and after a brief six months in power, control of the government fell once again to Ahmet Zogu. Beginning with his tenure as President, Zog proceeded to construct a new authoritarian government in Albania. Politically, Zog was aided by the support of the landowners who received guarantees from Zog that the state would make no attempt in changing the structure of land ownership in Albania. Diplomatically, as well, Zog found a foreign sponsor in Yugoslavia, and after ties with that country soured, Italy. The opposition had also weakened given the fact that after their defeat in 1924, most radicals were forced to flee the country. As Fischer (1984) points out, with the establishment of authoritarian rule, the Zog regime created an environment of political stability that enabled the reform,

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expansion and centralization of Albania's legal and administrative institutions. This was particularly true after 1928, when Albania's Presidency was dissolved, the constitution was revised to establish a constitutional monarchy, and Zog assumed a new hereditary title of King of Albanians.

The process of reforming Albania's judicial system had been one of the goals of Zog's regime, even though the driving force behind the changes were most likely middle class reformers in the bureaucracy who saw the political stability under Zog as an opportunity for Westernizing Albania's administrative and legal order. Several reforms attest to this shift of attention to the legal system and its transformation under Zog's rule. As early as 1925, soon after taking power, the parliament passed a law reorganizing Albania's court system. The measure intended to clarify the competencies of the existing court structure, establishing a three level hierarchy of civil and penal courts, including courts in all prefectures and subprefectures (Anastasi 1998, pp. 233-42; Nova 1982). Under the new rules, the state court system would co-exist alongside religious courts, which preserved jurisdiction over matters such as marriages, legal custody over children and other traditional issues. In essence, the law sought to bring under central control Albania's segmented legal system, while defining the roles of state courts and limiting the jurisdiction of issues to be handled under religious institutions.

These reforms displayed the effects of Ottoman institutional legacies on state building. While legal reforms reorganized courts and institutions that were inherited from the Ottoman empire, they had no impact on regions which were traditionally outside the jurisdictional realm of Ottoman law. In the highland regions, the reorganization of courts had little impact given that social life in the region was governed through local

institutions of customary law. Moreover, and very conspicuously, the law had no provision that sought to regulate the practice of highland customary law and its role in the overall framework of the legal system. This indicated how the highlands were, from the perspective of national institutions, seen as a zone of legal exceptionalism, formally under the sovereign control of national state institutions but existing outside of the national legal order. The dynamics of legal reform and centralization in the highlands are a subject of discussion and analysis in chapter 5.

In succeeding decades, the Zog regime indicated through other measures its intention of instituting full legal centralization and constructing a homogenous national legal space. A major component of these measures included the marginalization and gradual outlawing of religious courts, and the abolition of the influence of religious law in Albania's civil life. The first and perhaps most decisive measures came in 1927, in the form of the promulgation of new Penal and Civil Codes. The Civil Code particularly provoked the uproar of religious communities. The purpose of the new code, a massive volume consisting of twenty-nine chapters and over 2,000 articles, modeled upon the *Code civil des Français*, was to supersede all other systems of private law and substitute them with a unitary code administered by the state. Under the segmented legal order that Albania had inherited, the introduction of the Civil Code represented a radical move towards legal and normative uniformity and centralization, since it signaled the ultimate abolition of the existing separation between secular and religious legal norms and courts, and a complete break with the Ottoman *Mecelle*. Alongside the efforts of the regime to increase the administrative capacities of the state, the law constituted the major first step towards the full centralization of legal and political power in the state. Religious

communities were particularly opposed to new rights sanctioned by the Civil Code,

particularly the right to divorce, the outlawing of polygamy, the setting of the age for

legal marriage, and issues of inheritance which for the first time gave equal claim to

inherited property to female partners and progeny as to male ones.[16] The opposition of

religious communities was countered by a great number of secular reformists inside and

outside of parliament, including the traditional landowners, some of whom were

embracing the image of a Westernizing elite and who sided with the regime supporting

the new law. The Ministry of Justice trumpeted the new law as a great victory, claiming

that its importance is significant "especially for the highlands of Shkodra, Dibra, and

Kosova, where the fate and the rights of the population have been thus far been judged

arbitrarily by special committees following the customs inherited from the *kanun*" (Musaj

2002, pp. 187-88). The promulgation of the Civil Code thus signaled the state's intention

towards the removal of the last vestiges of legal pluralism in the country. Among the

provisions given in the Law on the Application of the Civil Code of 1929, was the

injunction that "the *Mecelle*, the Land Code [...] and the provisions of the sharia and other

ecclesiastic laws, which pertain to family law, civil law, and generally all the law and

regulations which contradict those of the Civil Code, are hereby abrogated."

The full reorganization of the judicial system, including the abolition of religious

courts, would take place two years later, with the Law on the Organization of Justice,

accompanying the passage of the new Penal and Civil Codes. This law went a step further

than that of 1925 in reorganizing the court structure. The law no longer granted any

recognition by the state to religious courts, which, in combination with the Civil Code,

effectively ended the reign of religious law in Albania. It effectively established an

entirely secular court system, with state appointed judges, who would implement strictly

national laws. The only remaining obstacle towards the homogenization of the legal order

and which required a special set of measures, as this dissertation will show later, was

highland customary law.

In the lowlands, the effects of the new legal order were felt immediately in

Albania's traditional agrarian order. On the one hand, the Civil Code did away fully with

traditional legal categories of land and the nomenclature of use and subsistence rights,

establishing the principle of freeholder property as the cornerstone of the land regime.

From the complexity of property relations and rights to use defined in the Ottoman Land

Code, the Albanian Civil Code established a simple principle of ownership: "Ownership

is the right to enjoy and dispose of things without limitation, with the exception of those

specified by law or other regulation" (Article 794). This included land, to which no

limitations were assigned. Courts in the lowland regions proceeded to implement the new

provisions of ownership very quickly, leading to the dispossession of peasants and the

increase of conflict in the traditional agrarian order. The dynamics of this change are the

subject of discussion in chapter 6. All in all, the politics of legal reform portended a

radical transformation of the central institutions which had organized social, political and

economic life in Albania.

3.6. Conclusion

Like any imperial formation, the Ottoman empire displayed a high degree of

social and institutional complexity. In the nineteenth century, the center responded to a

variety of external and internal pressures to implement a series of fundamental reforms in

the empire's political, administrative, and legal system. While the nineteenth century

marked a period of rapid and multifaceted change in the empire's political institutions and its social fabric, land and law became two of the most central arenas of transformative struggles. Among other important changes, the two final centuries of the empire experienced the disintegration of the classic land regime and the emergence of *çiftlik* farming, a situation which, especially in the Balkans, broke with traditional arrangements of peasant protection and imposed increased burdens on the peasantry. The process led additionally to the formation of powerful provincial elites, including Muslim communities in Albania who were nominally loyal to the center. These elites came to play an increasingly important role for the empire during its final decades, both in providing legitimacy to the empire's political system, as well as playing the role of conduits of Ottoman political authority in the provinces.

The reforms in the domain of law added another layer to the social and institutional changes of the nineteenth century. These reforms were even more critical given the importance of the Ottoman legal system in the day-to-day life of its inhabitants. But while the reforms threatened the traditional legal pluralism of the empire, they were never capable of establishing a centralized system of legality and justice applicable to the entirety of the empire's population. Social groups living at the margins of Ottoman society were the ones to especially remain outside of the center's attempts to institute a new form of imperial sovereignty within the realm, while those marginalized groups, such as lowland peasant cultivators who were within the effective reach of the Ottoman judiciary, increasingly experienced the erosion of traditional legal protections. As law was being reformed – both in content and in the form of administration – it also turned into a domain of struggle, if not by always changing the objects of struggle, then certainly

by changing the terms in which that struggle took place. As chapter 6 will show, the Ottoman Land Code of 1858 introduced an entirely new vocabulary by which rights to land could be claimed and contested, fundamentally altering the traditional meaning of agrarian relations in the empire. The Ottoman Land Code was the crucial institutional link between the institutional and political practice of law and the everyday struggle for class position and social status, whether that was one of notability or of mere subsistence.

The era of national independence saw a radical transformation in the institutions of land and law which Albania inherited from the Ottoman empire. While the prefecture system instituted a new principle of territorial governance, the transformations of the legal order by the centralizing national state affected all levels of the traditional social order: from the political autonomy of and local relations within peasant communities in the highlands to the relations between landowners and cultivators in the lowlands. Legal change under the national state involved the establishment of a new political rationality of state governance effecting a wholesale reordering of the social order. The attempts of the state to establish a unified national legal space and a homogenous legal order had a direct impact on the institutions of law and land which Albania had inherited from the Ottoman empire. It is in these institutions that we see how the institutional legacies of empire both enabled as well as limited the possibilities of national political reconstruction.

These were not frictionless processes, however, as resistance to institutional change came primarily from those on the margins of the social order. These groups, as we will see, were not engaged in irrational struggles against modernization, but attempted to preserve arrangements against new claims of authority and domination which stemmed

from the centralization of power in the national state and the redefinition of social

relations this entailed. As we will see, it was not the nameless and invisible force of

capitalism which threatened these relations but the very visible institutional changes

which were introduced by the national state. It is the political actions of the state that turn

the domains of land and law into the central institutional terrains in which struggles for

the political reconstruction of a national state and society were fought.

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[1] As Colin Imber points out in a recent collection of studies in Ottoman history, among

the two dozen societies that have emerged in the former territories of the Ottoman

empire, the writing of Ottoman history "has been co-opted by nationalist governments

and, outside of Turkey at least, presented in school and university curricula in terms of

the 'Turkish yoke' that for centuries stifled the culture and development of the occupied

nations. In Turkey, on the other hand, the nationalist agenda has been to present a one-

dimensional view of the Empire as a great and uniquely Turkish achievement, and to seek

the origins of its institutions in a vaguely defined Turkish past, somewhere in Central

Asia" (2005, p. 1). This has prevented, among other things, a proper appraisal and

analysis of the Ottoman institutional legacy on the new societies that emerged in the

empire's wake.

[2] The term "quasi-sovereignty" is from Benton (2010, p. 226), who defines it as an

"arrangement of shared or limited sovereignty, including *semisovereignty*, *paramountcy*,

protectorates, and *indirect rule*." While Benton uses the term to encompass legal

relations in European colonial empires, the term could be used to describe imperial sovereignty more generally.

[3] Eisenstadt's (1963) classic typological distinction between feudal, imperial, and national state rule is useful in characterizing differences between these forms of polity. Following Eisenstadt, Tilly defines empires as "a large composite polity linked to a central power by indirect rule," in which the central power, while exercising some fiscal and military authority, tolerates the "retention or the establishment of particular, distinct compacts for the government of each segment" and the "exercise of power through intermediaries who enjoy considerable autonomy within their own domains in return for the delivery of compliance, tribute, and military collaboration with the center" (1997, p. 3). However, Tilly's definition makes no distinction between historical types of empire, the four key of which, according to Steinmetz (2006), are (1) classical territorial, land-based empires; (2) modern territorial empires; (3) colonial empires; (4) imperialism, defined as "a system of control of far-flung areas without territorial annexation" (2006, p. 140). The Ottoman empire straddles both the first and second categories given its classical beginnings in the late medieval and early modern era and definitive transformation into a modern empire during the nineteenth century. Its geographic extension and modes of incorporation and rule clearly distinguish it from colonial empires.

[4] Shils' role in the development of modernization theory is significant because he chaired the University of Chicago's Committee for the Comparative Study of New Nations which served as an incubator for much thought on the developing world.

[5] To be fair, Geertz used his extensive fieldwork to problematize many conceptual and theoretical questions that derived from Parsonian theory's application to the problems of the developing world. See Geertz (1973).

[6] The term *kadı* is here used in a generic sense, since in actual historical fact, individuals holding the title *kadı* performed limited judicial functions, whereas day-to-day handling of legal affairs were done by officials known as *naib*s. During nineteenth century reforms, the position of *kadı* was gradually eliminated in favor of *naib*s, who became designated judicial figures in the Ottoman judiciary. For a discussion of the historical evolution of the role and function of the *kadı* and *naib* and the Ottoman judiciary system see Akiba (2005).

[7] Although Gerber (1994), who studied *kadı* judicial practice, disagrees with Weber's characterization.

[8] There has been much debate as to the relationship between the rise of *çiftlik* farming and the integration of the Ottoman economy with that of the European capitalist world-economy. Wallerstein (1980) suggested that the rise of export-based *çiftlik* farming indicated the transformation of the Ottoman empire into a periphery of the European capitalist world-economy. However, subsequent research has found a very tenuous relationship between agrarian transformation in the Ottoman empire and the rise of an export-based agricultural economy organized around the *çiftlik* farm. There is also doubt as to the extent to which the rise of *çiflik* farming constituted the Ottoman version of the "second serfdom" which was experienced in the rest of eastern Europe (Brenner 1989; İnalcık 1991; Keyder 1991; Lampe 1989; McGowan 1981).

[9] It is important to note that, even while the peasantry lost some traditional rights over the land and legal protection against the *ayan*s, the agrarian structure in the Ottoman empire never neared anything like a "second serfdom," as the work of McGowan and others suggest. *Çiflik*s also were not demesne-type plantations, but combined features of demesne farming and rents extracted from smallholders. This also meant that the peasantry maintained a degree of autonomy from the *ayan*s. In addition, continued legal and political threat from the Porte prevented *ayan*s from the outright privatization of land into a secure legal holding, given that all land was (at least nominally) the exclusive property of the sultan.

[10] It is important to note that *çiftlik* agriculture did not spread evenly throughout the Balkans. McGowan's research indicates that parts of Serbia and Greece were spared from the *çiftlik*, preserving the older smallholding nature of land structure.

[11] The term "intermediary" may not be the best to characterize the relations between the Ottoman state, Albanian *bey*s, and the local peasantry. As the autobiographies of prominent Albanian *beys* like Ismail Kemal Vlora (1920) and Eqrem Bey Vlora (2001) indicate, the *beys* identified much more strongly with Ottoman metropolitan culture and state than with the local peasantry. Not only wealth, but also education, international travel, and bureaucratic service throughout the imperial realm also created sharp social distinctions between *bey*s and the peasantry, even while *beys* maintained their Albanian ethnic identity. In addition, Mile (1984, pp. 227-267) reports cases of conflict and resistance that point to the growing class tensions between *beys* and the peasantry in the nineteenth century.

[12] Gawrych (2006) recounts how the term "wild" was frequently used by Ottomans to describe northern Albania, particularly the *malësorë*.

[13] This indicates the degree to which what is here being referred to as the "Albanian highlands" were, until 1913, part of wider complex of political, social and cultural systems. The history of national state rule in the highlands is thus also the history of the construction of a new geographical category and a new political geography.

[14] The terminology changed with postwar socialist reforms. The *prefektura* is now known as *qarku* (region), whereas the *nënprefektura* is the *rrethi* (district). I here use the original terminology.

[15] On the significance of information-gathering functions of state bureaucracies in their policies, see Scott (1998) and Torpey (2000).

[16] In spite of these victories for gender equality, the law still recognized a number of traditional patriarchal practices. First, it recognized the traditional practice of families to promise girls in marriage, even in infancy, even though it recognized the right of women to refuse the marriage when of legal marrying age. Second, the husband and father as the head of household was entitled to special rights over his wife, children, and the disposition of property, while limiting the wife and mother's role in the process. It also placed limits on women's right to a job outside the home, making it contingent upon the approval of their male guardian (father or husband). On the provisions of the Code relating to women's rights see Musaj (2002, pp. 177-88).

CHAPTER 4

Social Organization in the Albanian Highlands in the Early Twentieth Century

If native discourse is taken too seriously, one is liable to present the official truth as the norm of practice; but if one distrusts it too much, one is liable to underestimate the specific efficacy of the official and to fail to understand the second-order strategies through which agents seek to secure the profits associated with conformity[.]

Pierre Bourdieu (1990, p. 172)

The continuation of the commune is the reproduction of all its members as self-sustaining peasants, whose surplus time belongs precisely to the commune, the labor of war, etc. Ownership of one's labor is mediated through the ownership of the conditions of labor – the plot of land, which is itself guaranteed by the existence of the community, which in turn is safeguarded by the surplus labor of its members in the form of military service, etc. The member of the community reproduces himself not through co-operation in wealth-producing labor, but in co-operation in labor for the (real or imaginary) communal interests aimed at sustaining the union against external and internal stress [*nach aussen und innen*].

Karl Marx (1971[1857-58])

This chapter discusses the particularity of Albania's highland peasantry as a social group, by focusing on its social organization and in particular its existence as a distinct cultural system during the period of late Ottoman rule and the era of national independence. The significance of the highland peasantry lied in the ability of highland peasants to act independently as members of territorial political units, their historical relationship with external authorities, and their continuous role as a political threat to national state building through armed revolts against government and its agents. The high

degree of political and legal autonomy enjoyed by highland peasant communities necessitated a specific policy on behalf of the state in its efforts to subject these populations to state domination. The purpose of this chapter is to examine the social organization of highland communities to explain the capacity of highland communities to function as autonomous political units as well as the specific types of opportunities and constraints communal organization imposed on state builders in their efforts to subject highland populations to centralized rule.

This chapter is mainly descriptive, establishing the central features of highland peasant society in regards to the central interest of this study. While influential sociological work on peasant society has focused almost exclusively on patterns of economic organization, this analysis examines economic organization only to the degree that it is a component of the larger highland social system, but not its *definitive*, or even defining, feature. Hence, the discussion here has more in common with work in legal anthropology and Weberian sociology of law rather than political economy and Marxian-inspired structural sociology. Its main goal is to demonstrate (1) the social and political significance of indigenous traditions of customary law in the organization of communal agrarian systems such as those of the Albanian highlands, and (2) how, as historical legal scholars have long recognized, the undifferentiated nature of customary law functions on premises that are radically distinct from that of positive law in modern states. This discussion traces the institutional bases of communal autonomy and its historical relations with Ottoman imperial rule, thereby setting up the social and institutional context in which national state building efforts began in the period after the dissolution of imperial control in the highland region.

4.1. Communal organization and the peasant household economy

Albania is around 70 percent mountainous and its northern and northeastern highlands constitute about a third of the country's territory. In the early twentieth century this region is estimated to have contained some 250,000 inhabitants, out of a total population of about one million. They constituted – and to an extent still do – the greatest concentration of mountain village communities in the country.

As pointed out in chapter 3, *çiftlik* farming had limited success in penetrating the Albanian highlands. As a result, the Albanian highland peasantry was often excluded both from the Ottoman property regime as well as the taxes and dues imposed by *bey* landowners and regional governors.[1] While the ineffectiveness of the Ottoman state to collect taxes in the highlands signifies the limits of Ottoman control, the fact that property rights remained locally regulated formed a powerful basis for the region's autonomy and for peasant economic and political independence. Property rights in the highlands remained, up until the twentieth century, locally governed through customary law. These rights were based on the peasant household, which recognized the head of the household as effective owner of inheritable land.

Economic autonomy also resulted from the fact that labor power within each household was typically furnished by its own members. Peasant households in the Albanian highlands were typically large, including extended family members headed by a male head of the household. This suggests that households were a basic unit of production, and that labor was largely secured from within the domestic realm.

Households also provided for their own protection. Besides protecting claims of ownership through the threat or use of violence, land rights were also guaranteed through village tribunals, known as the *pleqësi*. The *pleqësi*, or village elders, mediated disputes between peasants over ownership claims, and had a variety of methods at their disposal to pass judgments on disputes and, if necessary, set fines for transgressions. Customary law and communal institutions also regulated the use of communal property. This applied particularly to communal pasturages, given the centrality of pastoral farming to the local agricultural economy of the highlands.

The fact that land ownership, including disputes over property, were regulated through the means of communal structures, gave the Albanian highlands a considerable degree of autonomy in the self-governing of local affairs. This autonomy functioned primarily at the village level, sometimes including a micro-region of several settlements with traditional kinship, political, or economic ties. What was common to all of the highlands, however, was the reliance of the entire edifice of communal institutions on a system of customary law. While local traditions of customary law varied, the shared features of kinship organization and honor as a local cultural value and stratification principle produced a relatively integrated social and cultural system in all of the Albanian highlands.

Communally organized peasantries have frequently drawn the attention of students of agrarian politics (Scott 1976; Scott 2009; Wolf 1969). Communally organized peasantries are distinct from peasantries in well-structured, hierarchical agrarian systems, given both the relative independence of communal peasantries from economic extractors such as landed elites and legal and political regulators like tributary rulers or bureaucratic

states. As such, communally organized peasantries, it is commonly argued, have been better isolated from external economic shocks and possess greater capabilities of defending local communal interests against the encroachments of external authorities. Wolf, for instance, finds the military and political role of such marginal, "tactically-mobile" peasantries crucial in the revolutionary transformations of the twentieth century. The revolts of such groups, even while not driven by political programs of revolutionary change, have often provided the crucial blow which have weakened the grip of authoritarian and colonial regimes. Scott suggests that, in order to understand the independent political power of communal peasantries, one needs to look at the form of communal organization and the kinds of communal solidarities such organization creates among peasants. As a result of such strong communal solidarities, peasants are better able than their more weakly organized kin to resist economic pressures and to mobilize for collective action. Thus, communally organized peasants, who are often organized on the basis kinship ties, have often represented an obstacle for expanding empires and states. Throughout history, tribal groups throughout the mountainous regions surrounding the Mediterranean shores have tended to retain such autonomy against conquerors of all kinds. The Romans famously shied away from conquering regions beyond mountain passes, allowing groups living in the high regions to preserve their own local systems of tribal organization with little regularized communication with the imperial center. Like the Romans, the Ottomans had to accept the fact that they could not subject Berber tribal groups in North Africa, Arab tribes in the Middle East, Albanian and Montenegrin tribes in the Balkans, and other such geographically remote groups to any meaningful type of direct administration. Such groups had few meaningful ties with institutionalized state

authority, often paid no taxes, and for the most part retained autonomous forms of tribal political organization. In some cases, imperial rulers were able to mobilize the warring potential of such groups through mercenary service. This, however, was typically the limit to which such groups recognized the authority of imperial centers.[2] No doubt, tribal groups were aided in this end by geographic isolation, given that mountain hideouts and settlements have traditionally been difficult targets for both feudal and modern armies – if not to conquer, then surely to rule in any durable fashion. The Balkans have been long characterized by smallholding, communally-organized peasantries, which made direct rule difficult even for the Ottomans, who dominated the region for nearly five centuries. However, the reliance on religious authorities and local notables enabled Ottoman rule to penetrate many peasant communities, while creating opportunities for local elites to consolidate power at the regional level, a process to which the emergence of the *çiftlik* system is sometimes ascribed (Barkey 2008; Lampe 1989; McGowan 1981). These structural transformations, however, primarily affected the peasantries in the more fertile lowlands, while mountain-based communities like those of northern Albania, Montenegro, and Hercegovina, preserved local communal autonomy to a much greater degree.

4.2. Kinship, customary law and territorial organization

Kinship structures in the Albanian highlands fit a general pattern of rural kinship organization in the Balkans historically characterized by a strong patrilinear bond and territorially-based kinship units performing political and economic functions. According to Balkan historian Traian Stoianovich, the rise of medieval principalities and economic

and religious differentiation led to the decline of kinship-based solidarities in the Balkans, but this process was hindered and even reversed after Ottoman conquest. According to Stoianovich, the prevalence of strong kinship units was particularly widespread among both Slavic and non-Slavic populations in the mountain regions of the southwestern Balkans. Thus, even while demographic change leading to the loosening and dissolution of territorial kinship units in the remainder of the Balkans, small, mountain-based rural groups preserved the kinship unit as the basic unit of local territorial organization. Stoianovich believes this form of organization to have its origins in the pre-Roman *pagus*, which signified "a group of families who practiced exogamy and a common agrarian cult and traced their origins to a common ancestor, mythical or real" (1994, p. 162). This form of organization continued to be found as late as the twentieth century among Albanians in the northern highlands, Montenegrin tribes, mountain settlements in the Hercegovina, and some parts of northern Greece.

Kinship and household organization were basic units of Albanian highland peasant life. Like many other Mediterranean groups, Albanian highland kinship was organized along patrilinear lines and emphasized the patrilinear as opposed to the matrilinear blood tie. Patronymic names were a late novelty among Albanian highlanders, who were recognized by their father's name and sometimes their father father's name (as in Zef Mark Gega, meaning Zef, the son of Mark, the son of Geg). As the anthropologist Margaret Hasluck points out, names of paternal ancestors were sometimes remembered up to twenty generations; ancestors on the maternal side were seen as genealogically less relevant, and therefore not remembered to the same degree. This arrangement stressed the specific demand for loyalty and solidarity on the patrilinear side, or the "agnatic group"

(Charrad 2001). Households were, hence, not the preserve of conjugal units but of the extended patrilinear group represented by a male head or master of the household (Doja 1999).

Household units functioned patrilocally, which introduced, through marriages arranged between family heads, new women into the household. As in the rest of the Balkans, exogamy was the general rule in the making of marriages. Rules of matrimony were governed mainly by customary law, and the arrangement and act of marriage was carried out according to its prescriptions rather than through religious ceremony. Religious authorities were also not involved in giving consent or recognition to marriages, which were treated as a matter reserved solely to the patriarchs of the families involved in exchange. This applied equally to Catholic as well as to Muslim groups, even if some religious elements entered in the process. As in most masculine dominated societies, it was the men who negotiated the exchange of marriage partners and the women, who would be "acquired" through matrimony as new members of the patrilinear line, the objects of exchange.

Women therefore functioned, in the classic anthropological sense studied by Mauss, as objects of exchange between kinship units, which facilitated the creation of alliances and political and economic ties beyond the immediate kinship group. Among Albanian clans, the nomenclature of kinship organization began with the household, represented by their male head. Groups of households descended from a common paternal line were known as a *barku* (family), a group of *barku* formed a *vllazni* (phratry), while an agglomeration of *vllazni* formed a *fis* (clan). *Fis* were the largest kinship units, identified by genealogical relation to a real or mythical ancestor, and a

symbolic identity preserved across generations through myths of origin and narrative accounts on the foundation of the original lineage and its original founder or group of founders. *Fis* were important both for the political and economic roles they performed for their members, and the loyalty and solidarity they created among the extended group. However, village settlements could at times be shared by members of different *fis*, creating a larger territorial unit which was not organized exclusively on ties of kinship. Thus, while smaller settlements were identified primarily by their *fis*, other regions would be known by a more specifically geographic term. These regions were organized territorially, based on the territorial unit of *mal* ("mountain" in Albanian) or *bajrak* ("flag" in Turkish), who in unison would constitute a wider macro-region which shared political and economic ties, had a broader base of territorial solidarity and adhered to a shared system of customary law. The more basic territorial settlement was the *katund* (village), and could be dominated by a single *fis* or a combination of different such kinship groups, in which case the village was divided into different *mëhalla* (quarters). In Mirdita, non-kinship based territorial organization based on the *bajrak* had developed most extensively, joining together five *bajrak*s in forming a territorial confederation under a single council and head, being distinguished also from the surrounding regions by its exclusively Catholic population.

As observed by Stoianovich and Balkan demographers, the *fis* (or *pleme* in Serbian), remained a meaningful social unit mainly among populations in mountain regions. Among lowland rural groups in the southwestern Balkans, the phratry could still function as a basis of economic solidarity and of exogamy but the co-existence of kinship with differentiated religious and larger territorial administrative organizations led to the

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weakening and dissolution of the clan structure among rural groups, including their complete irrelevance as meaningful social units among populations in urban settlements. It is in this respect that populations with strong clan ties retained a much greater degree of autonomous self-government than lowland groups subject to religious, administrative and other territorial authorities, while the most elaborate communal institutions of self-government such as those of Mirdita superseded the clan and kinship solidarities co-existed with non-kinship loyalties united through identification with a larger territorial unit and its representative bodies.[3]

In the social scientific literature, the strength of kinship ties has been recognized as a source of strength of peasant communities, but these ties have been often interpreted in economic terms as determining property systems, solidarities, and local modes of production or in political terms enabling mobilization for war (Boone 2003; Charrad 2001; Hechter and Brustein 1980; Magagna 1991; Scott 1976). What macro-structural analyses typically ignore is the local cultural system in which peasant relations are embedded, including the normative frameworks and institutions that regulate systems of kinship, interpersonal and inter-clan relations, as well as the mechanisms by which social order is maintained. That is because in penetrating kinship-based communities, it is such *cultural* resources that prove the most important for external authorities in enabling them to extend forms of direct domination and it is, ultimately, in reference to this cultural level that external authority must legitimate itself in some fashion. Understanding the cultural system that undergirded rural self-government is key to explaining the ways in which rural social structure either hindered or facilitated the expanding reach of bureaucratic states.

Among autonomous peasant communities, the local customary order can in a self-sufficient way provide a normative and political framework for regulating local affairs without the need to rely on an external authority such as a religious organization or a bureaucratic state. Hasluck, for instance, points out how, because of the strength of customary law, the Catholics of Mirdita were perhaps the only Christian group in Europe not to rely on canonical law. On the other hand, while Muslim clans express religious identification with Islam, their social system was primarily organized along principles of the *kanun*, rather than any explicit Islamic doctrine of law. The existence of an autonomous local legal tradition regulating family roles, kinship ties, rules of matrimony, property and its inheritance, criminality and its persecution, as well as political and economic relations between households and external groups, thus created the basis for the autonomy of the indigenous normative order as well. This added to the superfluity, from the perspective of highland peasants, of the state, given that the local community possessed sufficient means and organization to maintain local order and regulate social life according to traditional moral precepts and orally transmitted codes without the need for an external power imposing externally defined rules.

In the Albanian highlands, this form of customary regulation was known as the *kanun*, or customary law. The norms of customary law were locally embedded and varied across different highland regions, even though basic normative principles and institutional features were shared across the region. Customary law functioned as a total system of rules: it provided norms for the organization of kinship units and their relations, property and its transference and exchange, criminality and sanctions against criminal actions, and communal political organization. It also sanctioned a specific

communal role for religious organizations, and the fact that the role of the church and other religious institutions was *regulated* by communal authority (rather than the church serving as the legal authority governing communal norms) points to the relative coherence of customary law and it predominance over Catholic canonical and Islamic law. The primary significance of customary law is that it provided not only a system "private" morality against a externally governed sphere of publically acceptable norms of good behavior, but a total system that regulated the widest array of social relations. Customary law therefore represents a system of social norms that legal anthropologists call "primitive law," in the sense that it exists as a system of positive rules that do not clearly differentiate "private" from "public" spheres, that rules are given not in the form of formally codified prescriptions but as obligatory moral precepts, and that it establishes no socially differentiated authority responsible for the enforcement of such rules, making their implementation an individual duty of members and a responsibility of collective institutions (Diamond 1971).

Albanian customary law is often referred to as a "tribal" system (e.g., Fischer 1999b), but such characterization limits its understanding to a system of rules governing kinship (clan) organization, authority roles within kinship units, and rules for exchange between such units. In reality, Albanian customary law was a much more complex system of social and political organization. While it prescribed norms of kinship relations between kinship units, its system of rules and authority was ultimately grounded in the community of settled peasants, establishing, in addition to norms of kinship, a specific form of *territorial* organization centered around the peasant household as its foundational unit (Doçi 1996). In this sense, Albanian customary law reflected the much more

complex system of combined kinship and non-kinship solidarities that constituted peasant communities. In a political sense, the agrarian order of the Albanian highlands based on customary law can be interpreted as a specific form of institutionalization of communal, village-based sovereignty based on the autonomy of three levels of organization: the peasant household, the corporate character of the clan, and the larger territorial unit of communal political organization. Tellingly, Albanian customary law distinguished between members of the clan (based on patrilineal ties of *gjaku*, or blood, and the matrilinear ties of the *gjini*), and members of the wider society (called *shoq*, derived from the Latin *socius*, meaning associate or friend). In one codified rendition of customary law, the *shoq* is defined as "any member of the village not a member of the clan, and in the wider sense a member of the *bajrak* (settled territorial unit)." The duties of the *shoq* include assistance (in the form of labor, credit, protection, and other service), mutual respect, and assistance in peacemaking activities, such as helping mediate disputes: "the *shoq* is like a brother in good days and in bad days" (Illia 1993, p. 51).

In terms of enforcement, the customary order regulated by customary law lacked any centralized authority structure and its specific codes varied in local regions. But even while rules diverged regionally based on local tradition, rulings were issued by communal institutions such as the *pleqësi* (elder tribunals) and, in some circumstances, the *kuvend* (councils). Thus, judicial authority and enforcement was shared by a number of communal institutions, including councils of elders, village assemblies, and the *bajraktar*, as the principal of the village or local region was called. The only exception to the exercise of rules was in cases of blood vengeance, when executive power was exercised by directly by the victim's male kin. Blood feuds were a defining feature of

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highland society, given that they were cyclical and carried out under the principle of proportionate loss on both sides. In the case of blood feuds, customary law legitimated a "self-help" system in which the aggrieved party was responsible for securing its own retribution through vengeance, though within a regulated normative framework whose effect was to use violence as a means of controlling violence (Boehm 1987; Corso 1930). The defense of family honor in the eyes of the wider community made the taking of blood for one's lost kin a duty of its members. However, while controlling violence, blood feuds also engendered violence since a feud did not end with the taking of the original perpetrator's life, but in demanding a symmetry in the loss of blood between family units, continued with the perpetrator's kin taking revenge for their lost member. This gave feuds a cyclical nature which often carried on across several generations, producing relatively high death rates among highland peasants, particularly men, who were the valued and designated target of blood vengeance. Based on records in the Catholic diocese of Shkodër, Franz Nopcsa estimated that in the years 1890-1905, the proportion of deaths resulting from murder motivated by blood vengeance ranged from 13 to 24 percent, and in the case of one region was as high as 42 percent (Elezi 1983, p. 190).

Blood feuds and individual and *fis* social standing were intricately embedded in the system of honor, which was the primary currency of highland social relations. As Bourdieu (1977) has shown in his analysis of Kabyle society, honor can serve as a highly effectual status principle in communally-organized peasant societies. As a cultural norm, honor operates so pervasively in interpersonal relations that its accumulation and conservation structures the entire "game" of individual interactions. In a similar vein, the

principles of customary law considered all forms of injury to be violations of honor, making the purpose of restitutive action the recuperation of lost honor. This included the taking of life in revenge – the duty was interpreted as one dictated by the loss of honor that the *fis* endured as a result of murder, in addition to the loss of "blood" by the loss of a male member (blood vengeance was less common when murder victims were women). Honor was therefore held by *fis* as a group, but was also a personal characteristic for men. It was one's honor that was on the line when one made a pledge, offered protection to a guest, or when receiving injury from another.

Honor and its symbolism organized all important aspects of social relations. This reflects the effectiveness of honor as a source not only of social rank, but also of personal dignity and self-worth. Shryock points to how in the Albanian highlands, honor also functioned in the construction of gender identities and hierarchies. As Shryock writes (1988, p. 117),

> tribal theories of sexuality and social repute were couched in roughly the same terms. The [Albanian highlanders] recognized that women affect a man's prestige; they asserted that fact explicitly. The rhetoric of honor was as much their gender ideology as it was a valuation of their economic or political thought. [...] For the Albanian tribes, the logic of honor gave order to material transactions, power relations, ideas of history and morality. But the logic of honor had no existence apart from these things, and as each has changed over time, the quality of honor has been transformed as well.

The symbolism of honor cut across communal (public) and household (private) spheres of highland social life, as a system of meaning that pervaded group life. Schneider (1971) observes this role of honor as a shared feature of many agrarian societies of the Mediterranean, as Bourdieu also observed in the case of the Kabyle. Like with other such

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communities, the stigma and opprobrium attached to the loss of honor included a variety of consequences. In the case of the Albanian highlands, it included loss of social status, disrepute, and, in severe cases, exclusion from local society.

Honor also cut across the institutions of the self-help system of feuding, and those of communal mediation and decision making. This form of social organization introduced a degree of communal control over feuding and a communal role in regulating and mediating interpersonal relations. While vengeance was considered a right, it was controlled and regulated by communal norms, whose transgression was paid with dishonor. In this respect, the Albanian highlands shared the features of other honor-based peasant communities which relied on the enforcement of rules and the rendering of justice through communal institutions. Within communal institutions, blood feuds were not an external or ancillary avenue of personal revenge, but were embedded within the overall cultural system through its social regulation of the rituals and patterns of blood taking (Gellçi 2005).[4] At the same time, the social significance of honor meant that conflicts involving personal honor could, as some first-hand observers point out, begin for the most trifling reasons. This, however, only demonstrates the social value that Albanian highland men placed on the intangible asset of personal honor and its embodiment of a fundamental sense of self-worth and social standing. The legal scholar William Ian Miller (1990) argues this point in his extensive study of the honor-based society of medieval Iceland, where disputes involving an individual's sense of honor could be provoked even by seemingly trivial disputes such as proper seating arrangements during mealtime.

Such sensitivity is not just "greatly to find quarrel in a straw"; it was not straws that were the subject of contention but honor, and honor was a precious commodity in very short supply. The amount of honor in the Icelandic universe was perceived to be constant at best, and over the long run, it seemed to be diminishing. [...] Honor was thus, as a matter of social mathematics, acquired at someone else's expense. When yours went up, someone else's went down. This proposition is self-evident in the pure case of one-on-one combat, where the honor acquired by the victor is funded almost entirely by the loser. It is less easily observed in cases in which peacemakers attained honor for bringing about the amicable resolution of a dispute, but there too one might see the gains as being funded by all those whose standing relative to the peacemaker was necessarily adjusted downward relative to him by his gain in prestige. Honor, in short, approximated a zero-sum game... (Miller 1990, p. 30)

In societies where honor forms the currency by which one measures his personal worth (and it is always *his*, because women form part of the symbolic economy of honor so long as they constitute its objects of contention), the gain, loss, preservation, and restoration of honor takes place in kind of constant "game." Yet, "there was nothing trivial about the 'game'; it was, for people of self-respect, coterminous with social existence itself" (Miller 1990, p. 31).

For the purposes of the argument of this dissertation, honor is a significant symbolism and cultural institution because it became a key resource in state building, primarily mobilized through the communal institution of the *besa*. While honor had its private and personal aspects beyond that of general public life, the *besa* was the highland *communal* institution *par excellence.* The reason for this is its ability to engage diverse parties into temporary compacts which were upheld on the basis of a pledge of honor. While the primary function of the *besa* was to create a temporary truce between parties during cases of blood feuds, its invocation extended into other occasions which involved gaining the trust of parties. The function of the *besa* was fiduciary: it could be given as a personal pledge of loyalty or faith in affirming an agreement between parties. However, it

could also be deployed to form alliances between villages and *fis* in extraordinary

situations, or, as occurred often in relation to Ottoman governors and military leaders, in

negotiating pacts between communities and external third parties. Its symbolic centrality

in highland culture was represented by the fact that violation of a *besa* was considered

among the most treacherous acts, and the surest road to dishonor (Durham 1909;

Schwander-Sievers 1995). When *besa*s were made between parties or entire villages, all

other disputes, including blood feuds, would be suspended for the *besa*'s duration. The

fact that a *besa* effectively overrode and suspended the duty of blood taking illustrates its

immense power as a normative regulator of behavior. The *besa* thus served as an

effective mobilizational device in times of conflict with other regions or in times of war,

when communal infighting could be highly detrimental to countering an external threat.

Recognizing its effectiveness, the Ottomans invoked the *besa* when making compacts

between the empire and the local population, such as in the provision of military service

for hire by Albanian highlanders in exchange for rewards and exemption from taxation.

With the rise of Albanian cultural nationalism in the mid-nineteenth century, the *besa*

gained the status of a powerful mythical symbol of Albanian national identity. However,

in the era of the national state, the *besa*, beyond a cultural symbol, became a key

institutional resource for the penetration of highland communities by the state, as chapter

4 will show in some detail.

4.3. Institutionalized local power: the council

In the Albanian highlands, major decisions on issues affecting the general interest of the *fis*, village, or community were made through a collective institution known as the *kuvend* (council). The council is the institution that allowed clans and other corporate groups to act collectively both in terms of regulating internal affairs as well as in relation to external groups and authorities. There were several types of councils, depending on the corporate unit. Thus, a council could assemble members of the same kin group, a village quarter, a village, an entire *bajrak*, or, at the highest level, the confederation of *bajraks*. Councils included representation by households through their heads, and also included elders (*pleq*), respected members of the community regarded for their wisdom, fine judgment, and knowledge of customary codes. In its most extensive form, and usually for emergency issues, the council could assemble the male heads of all households, in which the council was called a *kuvend i madh* (general council).

The size and scale of the council depended on the jurisdiction of the council and the severity of the issues discussed. Councils bringing together members of a *fis* or smaller kin unit handled issues that were internal to that group. A village council was invoked to debate collective issues, while a council of the *bajrak* was called in extraordinary cases of prolonged conflict between households or on issues regarding relations with an external group. A council of the confederacy of *bajrak*s also served to mediate between members of different *bajraks* as well as in regards to policy towards external groups.

The *kuvend* and its specific type of village democracy functioned as the ultimate public authority in highland communities, and alongside the *pleq* (elders) and *bajraktar* served as the ultimate legal and political authority in the community. The council was

typically summoned by the *bajraktar,* who would head the council and, in some cases, could have his vote count for two, three, or even a dozen men. In addition, *bajraktar*s, according to rank of seniority if there was more than one, were usually the most influential speakers in the council. In some cases, like in Mirdita, where the Gjonmarkaj family was considered the highest authority on legal and political questions, the *bajraktar* would issue final rulings on issues of concern or in the resolution of protracted disputes, and could even supersede the rulings made by other elders.

Typically, a council of elders would be summoned to consider a dispute and resolve it based on customary law. In this sense, the council functioned as a judicial institution, applying customary justice in the resolution of cases of conflict between parties. The council would be typically invoked when individual elders were unsuccessful in resolving the dispute. In some cases, councils would bring elders from the outside, considered to be more impartial, to judge cases. In each case elders could impose a fine on the guilty party which could serve as compensation for their service. Typically such councils would handle property disputes or blood feuds, acts of moral transgression or instances of criminality in the community.

Larger councils of *bajraks* and of confederations could be convoked when important political issues were at stake, such as war with a rival group, or to ratify an agreement or enter into an alliance with another corporate group. Larger councils could also serve to regulate local economic activities, such as the use of communal pasturages and set prices on locally exchangeable goods. Politically, they represented the *bajrak* as a corporate actor. Extraordinary issues, particularly warfare, would be the main reason why a *bajrak* would assemble in a large council. Contemporary observers report that many

such councils were assembled in the Albanian highlands during period 1909-13, in between the adoption of the Ottoman empire's new constitution, the Balkan Wars, and Albania's declaration of independence, illustrating the high state of mobilization in the highlands during these epochal events (Durham 1909).

Procedurally, councils and other institutions had no formal rules but were conducted in accordance with orally-transmitted custom. The extensive codifications of Albanian highland customary law by Franciscan priests Shtjefën Gjeçov (Gjeçov 1989) and Frano Illia (Illia 1993) in the 1920s show that customary law prescribed detailed rules of conduct at council meetings, including the ranking of members and procedures for coming to an agreement on issues.[5] Ideally, issues were resolved by consensus, but when no consensus was to be found, the opinion of the *bajraktar* and elders held precedence. In cases of disagreement, issues could be put to vote, but in those instances the *bajraktar* and the elder would be counted as more than a single vote, illustrating their influence in the council. In any case, the *vegjëli* (commoners) had the ability to effectively veto any decision they did not agree with, by the simple fact that even the most powerful *bajraktar*s and elders had, beyond community pressure, no means to enforce decisions on those unwilling to obey them. If they did, the person subject to the ruling could resist – by force if necessary – given his own position among a network of filial ties with individuals willing to come to his defense. Those placed under the judgment of councils for a theft or other act of criminality, however, had the cards stacked against them, as the council could, in severe cases, impose severe measures, such as the confiscation of livestock, the burning of a homestead or even the expulsion of families from a village. For the most part, then, the council functioned as a mechanism

that could mobilize the consensus of community power. Lacking a distinct apparatus of administration and justice, the customary order relied chiefly on the ability of the collectivity to uphold the normative standards of customary law by subjecting all its members to its precepts. The functioning of the order thus required an equal commitment of each of its members to upholding longstanding codes of moral behavior, and filial and communal piety, within an economy of symbolic and material rewards and sanctions that undergirded the public performance of virtue or transgression of the norms underlying the communal order.

Beyond a mere mobilizational structure, the function of the council was to act as a rule-making institution that questioned, interpreted, and applied customary norms to practical matters at hand and made them workable towards solving concrete problems and situations. Council meetings treating issues of general interest highlighted the role of the elders as those most knowledgeable of the rules and norms of customary law, in possessing the finest judgment in issuing just verdicts in disputes, and in dispensing wise advice in guiding the work of councils. The specifically legislative function of councils was therefore to invoke, interpret, and apply the existing body of norms to new cases and situations. If direct precedents were not available, this, as Doçi points out, was handled through analogous reasoning, based on knowledge of similar situations. If elders lacked knowledge on how to resolve a dispute at the satisfaction of all parties, they referred the matter to another set of elders, or consulted with elders in a neighboring village or region. The role of the Gjonmarkaj household in Mirdita seems to have been of special significance in this respect. Not only is it referred to as the ultimate authority in the issuance of verdicts in Mirdita, it also referred to as the main repository of knowledge of

customary law. This is explicitly pointed out in Gjeçov's codification of customary law in Mirdita: the *kanun* tradition of Mirdita stated explicitly that "The House of Gjonmarkaj is the foundation of the *Kanun*" (Gjeçov 1989, p. 204). In Illia's codification of customary codes in the neighboring regions of Krujë, Mati, Dibër and Elbasan, the Gjonmarkaj household is referred to as an authoritative point of consultation regarding customary law. With narratives tying the family to a more ancient history of Albanian law-giving, including the medieval feudal lord Lekë Dukagjini whose name customary law in Mirdita held as its original author and promulgator, the Gjonmarkaj clan was marked by a mythical character which gave it a political significance and recognition beyond the Mirdita region.[6] In any event, no single authority held a monopoly over customary law, nor could it claim to be its sole author. Quite the contrary: the legitimate status of the codes among a peasantry of autonomous peasant households was not that they were the injunctions of a single office or authority, but that they represented a certain collective spirit. "Given any reason or new need, the people, notable and commoner, makes new laws in line with the spirit of its *kanun*, so the author of the *kanun* and its laws is always the Albanian people," writes Illia (1993, p. 15). Although perhaps influenced in his specific formulation by the romanticism of Albanian nationalism prevalent at the time of its original writing, this statement does express the underlying reality of customary law as a body of law formed through collective authorship. This is a status it gained chiefly through the fact that new codes issued mainly out of council deliberations and that the council served as a collective body which provided ultimate legitimacy to the norms that would be representative of the collectivity and be binding on its members.

4.4. Institutionalized local power: the bajraktar

The principal political role in highland communities was the *bajraktar*. The origins of the institution are obscure, but it is clear that the institution, which probably predated Ottoman conquest, was significantly modified in the course of Ottoman hegemony (Doçi 1996; Hasluck 1954; Whitaker 1968). This is suggested from the very name of the title, which in Turkish means "standard-bearer" (*flamurtar* in Albanian). According to Doçi, the *flamurtar*'s original purpose was not a position of authority in the local community, but had a ceremonial function of bearing the group's standard during collective events such as general council meetings or warfare. The highest moral and political authority in the community was, instead, the *kryeplak* (chief elder), who exercised authority through the respect he commanded in the community rather than the ability to impose his will on its members. According to Hasluck, in the early twentieth century, both the *kryeplak* and *bajraktar* continued to exist as statuses (though not as official state titles), and these were often in tension. Thus, while the *kryeplak* was, in some respect, an authority who gained prestige by his standing in the community, the *bajraktar*'s authority had in the past stemmed from his ties with the Ottoman administration, and his specific military role made him different from the *kryeplak*, who was primarily a moral and legal authority and mediator. The *bajraktar* was, in Hasluck's depiction, "the military leader of his tribe and owed his appointment to the Turks, not to his fellow Albanians" (1954, p. 115). It seems that the Ottomans, because they had been primarily interested in mobilizing the warring potential of Albanian highlanders, favored the *bajraktar* over the *kryeplak* as a point of contact and as a leading authority among

highland communities. Hasluck believes that this may have ultimately shifted the balance of local authority towards the *bajraktar* against the *kryeplak* and the collective council of elders (*pleq*), but it seems that the most effective *bajraktar*s were the ones who had emerged from older notable lineages, thus fusing ancient authority with the more specific military and administrative function conferred by the Ottomans, a glimpse of the system of indirect rule which the Ottomans had attempted to establish in the Albanian highlands from their base in the central towns of the lowlands, particularly Shkodër in northern Albania and Peja, in present day Kosovo.

According to Hasluck, the title of *bajraktar* was commonly bestowed on individuals by the Ottomans for their valor in the battlefield, a valor recognized by the local community as displaying exceptional bravery and heroism. It was therefore possible for one region to have more than a single *bajraktar*, in which case they were ranked by seniority, although the number of *bajraktar* in one region never exceeded half a dozen. The *bajraktar* was also a hereditary title, passed on from father to son or, with the lack of male progeny, to other male kin. This passage was not direct, however, and rested on communal mediation and judgment on the merit of the *bajraktar* and the worthiness of his successor. Thus, it could happen that "a son who was obviously unfit was passed over in favor of his younger brother." If the younger sibling was deemed unfit, he "might be superseded by their paternal uncle or cousin in the male line" (Hasluck 1954, p. 117). This institution of peasant patrimonalism gave certain lineages special recognition and prestige within a community, giving them greater moral and political weight and a much more influential role in communal matters. In addition, the selection of the master of the house among the most ablest males in household units replicated the same logic of

succession within the extended patrilinear family, where an "abler" younger brother may be favored over an "unfit" eldest son.

In this sense, even if the original bestowal of the title of *bajraktar* was made by the Ottomans for a military function, the role was integrated within the existing customary system, perhaps because it stemmed from the transformation of a much more ancient status within the customary order. That is because public standing was key to the exercise of authority by any *bajraktar*, thereby binding the possessor of the title to the scrutiny of public opinion. The customary communal order therefore governed not only the patrimonial transfer of title to male offspring, but also the chance that the title might be wrested entirely from one lineage and passed on to another. Hasluck tells of several cases in which the title of *bajraktar* was taken over by individuals who were entirely outside of the original lineage, because the kinship group was deemed unable to produce a "good male" to assume the role successfully. In those cases, influential members of the community could intervene to declare another, more competent individual of a different lineage *bajraktar*. Clearly, thus, the *bajraktar* functioned only in a limited way as a private patrimony of the holder, as the failure to adequately fulfill the role requirements placed on it by the wider community could cost the holder the privilege of the title.

According to Hasluck, the role of the *bajraktar* was strongest among the Catholic communities, who were most likely organized along extended patrilinear kinship ties, and also tended to live in the geographically most inaccessible regions. The role of the *bajraktar* thus varied with the degree of the strength of the kinship unit, and the degree of penetration by Ottoman territorial authorities. Thus, in the Catholic regions of Mirdita, Boga, Vukël, Shala, Nikaj and Mertur, the mixed Catholic-Muslim regions of Nikç,

Selcë, Hot, Kthellë and Lurë, and the Muslim regions of Has, Bytyç and Krasniqë, where

kinship ties predominated and Ottoman authority was weak, *bajraktar*s played a central

role in the life of the peasant community, and the *bajraktar*'s strongest followers were

typically members of his lineage. In Lumë, where extended kinship units had been

broken up earlier, the local *bajraktar* amassed a strong following among both kin and

non-kin members of the community, on the basis of combined kinship and personal

fealty. In Mati, which was among the few highland regions that had succumbed to the

çiftlik system, there was no *bajraktar* but four powerful and rival *bey* families (among

which was the Zogolli family, from which Ahmet Zogu, the future ruler of Albania,

descended). Hasluck also reports the existence of *bajraktar*s in the lowland valleys of

central Albania, but notes that this was a more strictly military title and non-inheritable.

This illustrates that, although in some respects having origins in the structure of Ottoman

imperial military organization, the *bajraktar* status articulated with the existing

communal roles and was assimilated into the indigenous tradition of the highland

customary system in those regions where this system was strongest.

The *bajraktar*'s legal function was not exercised alone, however, and his duty was

not to serve as the mediator of personal disputes in all cases. In this task, the *bajraktar*

was aided by the headman and the elders (*pleq*), of which there were several kinds.

Family units and clans had their own elders, authoritative figures who would mediate and

solve issues that involved members of the family or the clan. Elders existed at the village

level, who were called upon to mediate various disputes, and who were typically

compensated for their rulings. Elders could also perform a representative function in

council meetings, representing their clan or offering their interpretation of customary law

and its applicability to certain cases, or their opinion on issues of general interest to the community. Elders, who were typically seniors but need not necessarily be the eldest in their group, gained their status primarily through their perceived honorability, fairness, and clarity of judgment. Because it was mainly attained through good repute, the position of elder was, unlike the *bajraktar*, not one which could be passed on to a son or other offspring, although clearly, elders from "honorable families" were typically more favored as representatives and mediators.[7]

Given these facts, it is false to view the *bajraktar* as a mini-sovereign exercising control over his group, or as a patriarchal power in the community, not only because the *bajraktar* possessed no standing apparatus with which to impose his will on others through the threat or use of coercion, but that, for the most part, the *bajraktar* relied heavily on communal assent for any of his decision's to be implemented. Thus, while the *bajraktar* could, alongside other elders, serve to mediate conflicts between individuals and parties, more important issues, such as setting prices of goods, imposing heavy penalties such as a fine or a death penalty, or mobilizing for warfare, required the agreement of the entire community represented by the council. In addition, the influence of elders and other authoritative figures placed effective limits on the degree to which the *bajraktar* could impose his own will on the community, and an abusive *bajraktar* would risk losing his honor and therefore his standing in the community. This illustrates the limited nature of authority in the highlands, given the demand imposed upon the *bajraktar* to continuously garner legitimacy and support for his actions from the wider community. To better contextualize the authority of the *bajraktar*, it is useful to recount

Evans-Pritchard's discussion of the communal authority of the *shaikh* among the Sanusi

tribes of Cyrenaica:

> Authority is distributed at every point of the tribal structure and political leadership limited to situations in which a tribe or segment of it acts corporately. With a tribe, this only happens in war or in dealings with an outside authority. . . The status of a *shaikh* can only be defined in terms of a complicated network of kinship ties and structural relations. It is only necessary here to emphasize that his social position is unformalized and that he must in no sense be regarded as a ruler or administrator. (quoted in Charrad 2001, p. 75)

This limitation applied not only to the decisions of the bajraktar, but also to decisions

made by him in council with elders against a third party. Thus, Hasluck points out that,

> In all areas of jurisdiction of the *bajraktar* was subject to certain limitations. If the commoners did not like one of his decisions, even if made in concert with the headmen and elders, they were not bound to abide by it and could compel him to re-examine the case. Neither he nor a headman could, singly or in combination, fine a tribesman without first securing authority from the tribe. After all, he and the headman might have a personal grudge against the man and might fine him for no other reason. (1954, p. 122)

To illustrate, Hasluck recounts a case in which neither the *bajraktar* nor the headman

were able to collect a fine from a man in their own village, until they gained the

agreement of the entire village on the righteousness of their decision. For the most part,

then, the specific demands placed on the *bajraktar* were such that contained an implicit

recognition that his authority, even while gained by the valor of ancestors and inherited

from father to son, ultimately existed at the behest of the community. This reflected not

only in the already described ability of a community to reject a *bajraktar* deemed

incapable of fulfilling his role, and in the fact that the principle of status based on honor

applied to the *bajraktar* just as equally as others, but also in the kinds of administrative duties and legal authority that the *bajraktar* was typically expected and capable of exercising.

In extraordinary times, the *bajraktar* played a key military function, in that his role was to mobilize local men for warfare, whether this warfare was with a local one involving a neighboring group or a response to a request issued by imperial authorities for military service. The duty of the *bajraktar* was to summon local, armed and mostly untrained peasant men for war, and lead them into battle. While the military role could be limited during war with neighboring tribes, the role became much more important when tribes entered the service of the imperial army. Since mercenary troops were considered irregular forces, they were subject to their own command chains. Warfare thus increased in importance the role of the *bajraktar* in having him become the chief intermediary between the tribe and the imperial authorities, and in some ways assuming the role of a medieval *condottiere*, a procurer of mercenary services for the Ottomans – although with a clientele limited to his own community – and a distributor of benefits for such services to his community. Historical evidence from the early nineteenth century indicate that *bajraktar*s from the highland region were well positioned to exploit the needs of the Ottoman state for recruits during crisis situations, as Ottoman documents paint a highly tarnished image of Albanian irregulars as those who are able to pull all sorts of threats and machinations in order to extract high payments from their Ottoman recruiters, as well as put limits on the terms of their service.[8] Erdem (2007, pp. 214-5), who has examined relations between the Ottoman center and Albanian recruits during the Greek Rebellion which broke out in 1821, describes the system as follows:

the Albanian military contractor, a hereditary chief or a self-made leader of men, commissioned to procure a certain number of soldiers, negotiated the price, duration and often the precise place of the service with the employer, the Ottoman government at large. The stock abuse leveled against the Albanian chiefs was that they never produced the agreed number of soldiers. If they did, they allowed them to disappear at various stages of the campaign but continued to claim the salaries and rations all the same. They demanded at least two months' cash in advance, loaned the cash whether it belonged to them or to the privates at interest and kept the 'profit' for themselves. If salaries were in arrears, they would not disperse but remain in employment even after their period of service ended and demand the payment of their 'past salaries,' living in the meantime off the land. One reason for the endless disagreement between Albanian contractors and the Ottoman functionaries on the exact amount of salaries was the charging of interest by the contractors on the amount due to them.

But to exercise this exceptional role during times of military mobilization, the *bajraktar* needed to maintain good standing within his own base in times of peace. Among the central functions of a *bajraktar* was to serve as a peacemaker and mediator within the wider community. This demanded the *bajraktar*'s intervention in cases of conflict between individuals, families or clans. The *bajraktar* also had to display generosity (and thus, his overall good economic standing) by assisting those in need, whether through various offerings or through interest-free loans. Finally, the *bajraktar* had a specific legal function exercised within customary law, which wholly embedded his role within the larger customary order. On the other hand, the *bajraktar* could impose his will only by the moral force and public support that stood behind his ruling, and could extract no other dues from the population unless those were fines paid for public transgressions and violations of customary norms – and only when the imposition of such fines against particular individuals gained the backing of the entire community. While treachery and duplicity were acceptable in dealings with Ottoman officials, townsmen, or neighboring clans, they were completely reviled in dealings within the local community. A *bajraktar* seen by others to be exercising public authority in the pursuit of his own

personal interest risked losing his standing in the community and could be ostracized and, in circumstances that were exceptional but nonetheless possible, even lose his title.

The *bajraktar* was, hence, an office with a limited degree of authority in the local community. First, as pointed out, the position of the *bajraktar* varied regionally, depending on his personal standing, the public standing of his lineage on a local prestige scale, and the degree to which he was rivaled by other *bajraktar*s or elders challenging his authority in the community. Only in few instances, such as in Mirdita, did the *bajraktar* enjoy special privilege and authority in the making and interpretation of customary law. This was an exceptional case, however, and in most cases the *bajraktar* had to contend with other agents to maintain his legitimacy and preserve his standing as an authoritative figure of his *fis* and his community. Second, the authority of the *bajraktar* depended upon the degree to which the group he represented was differentiated along kinship lines. The authority of a *bajraktar* would have been less challenged if it overlapped with the position of a patriarch of a *fis*, and when it was primarily or exclusively members of his kin group that inhabited a village or small group of settlements. The *bajraktar*'s authority would then be backed by more than customary law, but also by family tradition and loyalty to the kinship group and its patriarch. In segmented communities where several kinship groups co-habited together, the *bajraktar* could rely less on kinship loyalty and much more on customary law and its impersonal status principle of honor to maintain his authority. It is thus not surprising that it was in Mirdita, a region inhabited by a number of different kin groups spread over a relatively wide region but with one senior *bajraktar* descended from a single lineage, where customary law was most strongly implanted and developed in its most elaborate form. In

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any case, the *bajraktar* remained a political authority whose power depended heavily on his own moral standing, his relative economic wealth, and his ability to maintain peace and to lead communities through impasses or when tumultuous and uncertain times came along, whether political or economic, which were not infrequent in the imperial borderland of northern Albania.

4.5. Core elements of customary law: the fiduciary tie and the kinship nexus

The crucial point of relevance out of this discussion is the relationship between highland social organization and its tradition of customary law. Kinship organization and its norms, understandings of social prestige based on the abstract notion of honor, and the responsibility of communal institutions of maintaining social peace against collectively harmful events such as feuding and criminality point to the fact that in communal agrarian systems law exists not as a separate system of authority differentiated from society, but is an intricate part of society's moral existence. As in the medieval Icelandic world, "norms of good kinship provided the basis for imposing legal obligation, which in turn buttressed the norms and so on in continual feedback of mutual influence. Similarly, household makeup and the forms of production and reproduction were intimately connected to laws requiring everyone to be attached to a functional household. Law was part of life in Iceland and was perceived as such" (Miller 1990, p. 221). Regardless of recurring tensions, the Ottoman empire's political apparatus of rule co-existed with this autonomous system of social organization, even, at times, finding value in its autonomy

for the purposes of supporting the center's hegemony over its vast territories that stretched across three continents.

For the purposes of the analysis to be developed in this dissertation, I will distinguish two features of customary law that define the most constitutive ways in which its normative rules intersected with central elements of highland social structure. Indeed, an essential component of the sociological interpretation of law and its relationship to social structure involves, in the empirical sense, to identify those key nodes which bind together cultural expectations, legal norms, and durable patterns of social organization in a manner that produce durable systems of social practice. In the relationship between Albanian customary law and highland social structure, at least two of these nodes are what will here be called the *fiduciary tie* and the *kinship nexus*. The fiduciary tie is the specific type of social bond that facilitates meaningful sociation between actors in a manner that, at one and the same time, reproduces the honor-based value system as well as constitutes a durable but temporally limited form of associational action. The fiduciary tie is embodied in the practice, meaning complex (including its symbolic and ritualistic aspects) and the contractual social bond of the *besa*. Unlike the contract in the Western legal tradition, which brings actors into association due to a shared goal-orientation involving a fiduciary tie that is consummated by the joint taking of (usually economic) risks, the *besa* relies much more heavily on the moral commitment of parties to the value of honor and their stake in its preservation. Indeed, risk in the cultural terms of the *besa* is not primarily that of the willingness by actors to endure economic loss or even physical harm in the attainment of collective goals, but is first of all in the commitment of the actor to place his honor at risk to uphold the *besa* regardless of future opportunities and

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situations that may make the violation of the pledge beneficial for the actor. That is also due to the incongruence of interests and asymmetry of stakes in a traditional *besa*, as opposed to the presumed unity of interests and risks between parties in a contract. In the classic, ideal understanding of the contract, contracts are entered by the free will of each party, in which both parties assume either shared or individual risk and agree to coordinate action in the pursuit of a shared interest. Under the *besa*, parties make a pledge which requires them to sacrifice their personal interest (e.g., the taking of a blood) for the pursuit of a collective goal (such as fighting a rival clan confederacy in war). The *besa*, because it involves a truce between an injured party and a blood debtor, involves asymmetrical stakes, because it demands of the injured party to refrain from acting on its right to seek blood through vengeance during the time the *besa* is valid.

Furthermore, the intricate relationship between the honor-based society and the *besa* testify to its much more explicitly symbolic meaning than that of the contract in the Western legal tradition. Indeed, what is demanded of actors who make an oath of a *besa* is to be willing to endure, in the first instance, the *symbolic*, as opposed to the more direct material, stakes, of its violation.[9] One shows himself to be the most honorable when one keeps his vow to a *besa precisely when one is in the situation to act otherwise*. Durham, for example, describes a situation in which, because he was protected under the oath of a *besa*, a member of a clan that owed blood was free to enter as a guest into the household of the injured clan, be fed and entertained by his hosts, and leave unharmed. Under a different situation, the very same individual may be shot to death by the very same people who hosted him, precisely because under that different situation the *besa* has no validity. Since the *besa* is extended automatically when one enters the household of another as a

guest (a type of commitment to the hosting, feeding, and protection of the guest also known as *ndorja*), it applies to everyone indiscriminately and requires the host to take the blood of a guest murdered by a third party while under his protection. Durham testifies to another case in which a wanted brigand sought shelter at the home of a man he did not know, who took him in under the *ndorja*. Upon finding out that there was a reward out for the brigand's capture, the host's brother reported him to the authorities, facilitated his arrest and collected the reward. But because through this act of betrayal the brother of the host had disgraced his family and made them appear dishonorable, the host killed his brother to revenge the harmed guest and by that act restore the family's honor. Extreme cases such as these testify to the deep commitment of Albanian highlanders to the *besa* and to the important relevance of symbolic economy of honor which undergirded it. Indeed, the intrinsic value of honor, more than the category of interest, is what defined the meaning-complex of the *besa* as a moral commitment for the one undertaking its pledge.

Unlike the fiduciary tie, which is related to the notion of *shoq*, that is, the relationships that one forms with a generalized member of the community, the second core node of customary law involves the regulation of the blood tie, which is here termed the *kinship nexus*.[10] There are two key dimensions of the kinship nexus in highland social life, since they relate to the formation, expansion, and governing of households and blood relations as the politically, economically, and morally central institution of highland society. The first dimension is the law's definition of internal roles within the household and its hierarchy, described above in terms of the domination of male members over female ones, the rights of parents over children, the authority of the *zoti i shpisë* (lord of

the household), and the relationship of the household unit with other (paternal) kin-related households. The second is the regulation of relations between the household and other, non-kin related households for purposes of exchange. Anthropologists have long argued that the exchange of women lie at the foundation for all meaningful cultural and economic exchanges between patriarchal kinship groups (Mauss 1966). Historical sociologists have demonstrated the relevance of kinship and marriage relations between household units even in "non-primitive" societies with differentiated political, legal, and economic structures (Adams 2005; Padgett and Ansell 1993). The regulation of matrimonial exchanges, which involved in the first instance the exchange of women between clans, was a constitutive feature of Albanian highland customary law and indeed formed the crux of its role as a normative regulator of highland social relations. These norms were not only prescribed by the rules of the law, but were associated with a whole array of ritual practices involving around events such as nuptial engagements, marriages and wedding ceremonies, births, deaths, and other enactments that accompanied such routine features of the social order. It is the role of customary law at these two levels, that of the internal organization of the household, and that of the formation of new conjugal units that expanded households (and potentially led to the foundation of new ones) that marks its centrality in defining the roles, terms, stakes, and ritual procedures of the kinship nexus. This is significant moreover for the fact that religious authorities, in particular the Catholic Church, was never capable of assuming moral authority and disciplinary control over the governance of family and kinship ties in the Albanian highlands.

To point to these elements is not to paint a static picture of Albanian highland customary law, its specific norms and the social structure of highland society, but to point to those features which appeared to have persevered the most due to the fact that they were its most institutionalized aspects. That is, the intent of the analysis is not to suggest that the norms of customary law were followed and obeyed as rules or strictures – indeed, there is ample evidence that suggests that there was much pragmatism regarding the enactment of the norms of the law and much negotiation regarding the practical dimensions of social existence in relation to the explicit rules of customary law. Indeed, the very existence of the system of law as a non-codified, non-written system points to the degree to its plasticity and its ability to adapt to fit the demands of practical existence. The analysis here is intended only to identify principles that point to relatively stable features of a social order that would, in the era of national independence, come into direct conflict with the imperatives of an administratively and legally centralizing state.

4.6. Conclusion

In the early twentieth century, the Albanian highlands retained a customary order of social regulation which enabled communities to exercise a considerable degree of political autonomy from external rulers. For most of the nineteenth century, with the Ottoman empire undergoing centralizing reforms, instituting forms of direct administration in the highlands were shunned for both financial and cultural reasons. Financially, governing these borderlands became an increasingly costly affair for Ottoman provincial authorities, especially when, with the loss of territories in the Balkans, the Albanian highlands transformed into a frontier region characterized by

banditry and smuggling. The policy became to contain, rather than intervene in, the highland region. Culturally, Ottoman elites saw the Albanian highlands as backwater region inhabited by a culturally backward group. Both these factors dictated the continuation of indirect forms of rule through brokerage and limited mobilization, and left the highlands largely outside the administrative and legal centralization reforms that were taking place in the empire, preserving older arrangements of indirect rule through intermediaries and brokerage.

These factors, in addition to weaknesses of local religious organization, a subsistence-oriented pastoral economy, and a martial tradition of weapons-bearing, led the Albanian highlands to largely preserve communal autonomy and communal institutions governing local social life, including a local tradition of customary law. This ensured that highland communities enjoyed a relatively high degree of political autonomy in dealing with external parties, while containing a relatively complex system of social regulation in local affairs. This system of social regulation centered upon the extended, patriarchal peasant household and a territorialized system of village sovereignty and federations of clan and village communities. Lacking any centralized authority or unity among various highland clans and settlements, the local social system was undergirded by a shared principle of honor which governed interactions in a wide array of aspects of private and public life. Honor served to ground the key communal institutions which provided a framework for regulating social life, including the kinship nexus and blood vengeance in the realm of "private" affairs, and elders and councils in "public" ones, and the institution of the *besa* which cut across both. The latter represented an elastic

institution which could serve various purposes of mobilization and collective action based on a fiduciary tie, a commitment of parties based on honor.

The new state of Albania faced a challenge similar to that of the Ottomans in establishing territorial governance over the highlands. However, unlike the Ottoman provincial government, the Albanian state faced a number of imperatives which pushed its elites towards taking steps in establishing centralized rule in the region. This meant that with the establishment of an Albanian national state, the traditional system of governance would change dramatically. This would have consequences both for the degree of traditional political autonomy, as well as for the local organization of highland communities, particularly as the national state sought new mandates to intervene in, administer, and regulate social affairs in the highlands in ways that had been unimaginable for any Ottoman governor. The dynamics of this process are the subject of the following chapter.

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[1] The types of dues commonly imposed by *bey*s on the Balkan peasantry are described by Mile (1984, pp. 106-110).

[2] This is not to suggest that such groups lived in total isolation from the larger social environment, blind to what was happening around them and uninfluenced by any world-historic change, as groups "without history," so to speak. Nonetheless, very often, such groups found themselves in situations of "negotiated peripherality." Relative political and economic autonomy allowed such groups to develop links with the external world that

were in some ways advantageous to them, with the possibility of breaking those links off

if they became too costly or disadvantageous for the group. However, it was their specific

collective organization that put them at an advantage when dealing with external

authorities, and it was such autonomy of communal organization that was guarded most

stringently by such groups.

[3] Blood kinship was additionally supplemented by other quasi-kinship or contractual

kinship ties, such as godfather relations, brothers-of-the-cross, friendship, and temporary

associations such as those of shepherds. Stoianovich lists at least eight prevalent forms of

such non-kinship ties in the southwestern Balkans. Among Albanian highlanders,

godfather relations and brothers-of-the-cross (following a ritual which made two males

brothers even through there was no blood relation between them) were considered

especially significant. Blood kinship was therefore an organizing principle but it was, in

some ways, more powerful as a symbol and metaphor than as an actual rule in organizing

the patterns of social life.

[4] For example, the customary law of the region of Mirdita, codified in detail by Father

Shtjefĕn Gjeçov (1989), provides elaborate rules on the forms of legitimate and

illegitimate blood taking. For example, customary law determines the locations in which

a legitimate murder for blood taking can take place (prohibiting murder inside the target's

home, in church, or in a village assembly), the proper objects of blood taking (prohibiting

the murder of women and small children), and the kinds of ritual performance required

before and after inflicting death (requiring that the victim see the perpetrator before being

shot and positioning the deceased's body in certain ways to indicate that the murder was

in revenge). The degree to which these rules were followed is difficult to know, although Durham's (1909) writings point that many highland peasants took their honor-based commitments very seriously. In any event, the fact that such elaborate rules existed shows that feuding, even while being performed within a system of self-help retribution, was heavily regulated by social norms.

[5] It is always important to highlight that in practical reality the norms of customary law functioned differently than the application of written rules in a formal setting. Given that this was an illiterate society, norms of behavior were learned less as expressively stated injunctions and more as principles of behavior acquired through socialization. As such, the "formal" customary rules of procedure existed and operated alongside an embodied *habitus* of implicitly known norms, dispositions, and practical principles of action that agents acquired through experience and allowed them to adequately implement such norms given existing social expectations. This could mean that council procedures could be considered as legitimate by participants, even if at times they deviated from expressive rules. Of course, organizational analysts have shown that knowledge of implicit rules and norms of conduct is important even in highly formal settings, where the behavior of participants at times deviates from formal rules. However, the key difference lies in that in formal settings, there is always the ultimate option of resolving procedural issues by referring to the "rule book." No such option exists among an illiterate group, who must base all interpretation of rules on a set of shared principles and collective beliefs, rather than on the interpretation of explicitly stated injunctions. While we have no detailed ethnographic observations on the conduct of Albanian highland council meetings,

Bourdieu's description and analysis of similar patterns of collective rulemaking based on customary norms among the Kabyle provide a representative illustration of the operation of moral norms in illiterate peasant societies with indigenous (i.e., non-canonical and non-secular) traditions of customary law.

[6] This history was not uncontested, as Doçi shows in his own polemic against the myth of the Gjonmarkaj clan. He suggests that the Gjonmarkaj family gained its notable position in Mirdita chiefly through deceitfulness and chicanery of one of its ancestors, who in the late eighteenth century allied himself with a powerful Ottoman *paşa* based in western Kosovo to illegitimately displace the older notable households of Mirdita. While Doçi's counternarrative, based on oral memory, may be factually questionable, it demonstrates that the moral and political authority of the Gjonmarkaj household was nonetheless not uniformly accepted by all segments of highland society, even within its own region.

[7] Elders gained their status mainly as a reflection of communal respect of their deeds and their publicly shown wisdom; it seems that the early introduction of monotheistic religion (Christianity beginning in the second century and, in the seventeenth century, Islam) purged elders of whatever magical powers they or their equivalents may have claimed in more ancient times.

[8] Erdem writes that Ottoman documents regarding Albanian recruits against Greek rebels in the early nineteenth century were "full of invective against the 'Albanians.' Numerous Ottomans from mere scribes to the Sultan himself heaped abuse on Albanians in an unrestrained way. Criticism against an individual Albanian, say a chief, easily deteriorates into abusive stereotypes against the whole group without even paying

attention to the various Albanian sub-groups. The Albanians are strongly criticized for their attitude vis-à-vis the Greek Rebellion or for that matter for their responses to the policies of Istanbul. They are invariably depicted as an undisciplined, ill-mannered tribe (*kabile*), group (*taife*), ethnic group (*cins*) or people (*millet*) whose pecuniary concerns were above all values." Another common concern was that Albanians "would not fight any of the Sultan's campaigns even in a declared holy war (*cihad*) unless they were paid in cash and that in advance" (Erdem 2007, p. 214).

[9] This is not to claim that the economic and other material aspects of the *besa* were irrelevant from the perspective of the actors involved in them, or that *besa*s were governed by strictly normative demands of the honor-based society, as opposed to their instrumental purposes. It is only to show how the *besa* is much more deeply laden with cultural meaning for its practitioners than the contract, which is an agreement valued for the instrumental goals its parties seek to obtain, rather than for the intricate symbolic meaning of the contract itself.

[10] Again, it is important to emphasize that the elaboration of these "nodes" provides but an overview of core elements of the law as a system that structures a definitive normative order and does not exhaust the full array of relations that are governed by customary law. The selection of these two nodes will become apparent in the following chapter when it considers the state's encroachment upon these two autonomous domains of highland social life.

CHAPTER 5

State Building and the Customary Order: Communal Institutions and Bureaucratic Authority in the Highlands, 1919-1939

This chapter is concerned with examining the relationship between state building and customary law in the Albanian highlands. It approaches the issue by tracing the origins and evolution of Albania's highland policy in the period beginning in 1919, after the initial founding of the Albanian national government, until 1944, after the communist revolutionary takeover. It concludes by examining the effects of legal centralization on the customary order. In particular, it argues that the ensuing politicization of customary law constrained the chances for revolutionary mobilization among a population that, due to increasing legal encroachments by the state, had become increasingly conservative in the defense of the traditional order. The purpose of the argument is to demonstrate how state building, in the sense of the increasing monopoly of the state over the legitimate definition of legal norms, provoked a particular political response among highland communities that was consequential for Albania's future institutional development.

The analysis is divided into two parts, corresponding to two periods defined by two distinct policy approaches to the highlands. First is the period in which customary law and its communal institutions are directly co-opted into the state building process, with the efforts of national governments to consolidate control through the construction

of a new prefecture system of local administration. It shows how customary law and its

institutions, particularly the *besa*, were mobilized at the prefecture level in order to build

the legitimacy of national state rule in the highlands. The chapter discusses the

institutional significance of this in terms of the ensuing form of state power, as well as

the cultural significance of the co-optation for the state as well as the customary order.

The latter is accomplished through a comparison between the national Albanian approach

to highland customary law with the former Ottoman one, as well as the differences

between the Albanian case with co-optations of customary legal systems in colonial

contexts.

The second period traces the origins of a new policy which adopts a much more

confrontational approach to highland customary law. This period, which begins roughly

in 1928 with Albania's transformation into a monarchy, is characterized by a set of

intensely centralizing measures and a culturally modernizing spirit which places the state

at direct odds with customary law and its practices. In particular, the discussion focuses

on measures that sought to outlaw customary law as a form of local legal mediation as

well as measures to introduce government regulation of matrimonial exchanges,

marriages, funerals, and other key ritual elements of the customary system. This is used

to show how state policy contributed to the changing level of resistance against state

encroachments from that of local elite defenses of the traditional order to a more

generalized popular resistance of the state's administrative intrusions into highland social

life.

The analysis here proceeds in the form of an event-structure analysis (Griffin

1992) which does not reduce the causal analysis to a single set of factors that are, as in an

experimental settings, abstracted from their temporal dimensions and socio-cultural contexts. Instead, it takes into account a whole array of contingencies which account for the proper meaningful nature of events as structure-generating phenomena in the deepest sense (Sewell 1992; Sewell 1996). The flux of events and their causal sequencing over time is organized in this narrative discussion around the theoretical question of how state authority emerged as a durable symbolic and normative – i.e., institutional – reality in highland social life, and the ways in which such change placed pressures on existing social structures. The empirical discussion therefore revolves around the relationship between the state (as represented primarily in the agency of the national government and its policy-making and policy-executing capacities at the central and local level) and the communal institutions of the highlands described in detail in the previous chapter. It is concerned with explaining the political, cultural, and normative forces driving administrative and legal centralization at the center and the reverberations of this process in local regions. The analysis is concerned primarily with the mode of institutionalization of the state as juridical fact in local society, and the resistances such institutionalization faced.

The historical narrative is framed around two crucial events: the formation of a national government, and the development of a particular policy orientation of the government towards the highlands. The discussion necessarily treats events affecting the stability and organizational effectiveness of the national government, including political conflict and oppositionist challenges, coups, and sudden changes in government composition, which characterized this early period, as well as the relevant features of the international geopolitical context within which these developments occurred. Within this

political context, the analysis traces the contours of a relatively durable set of principles along which national elites approached the problem of establishing national authority in the highland region. This dynamic treatment is necessary given that while factors that lie beyond the empirical interest of this study affected the political cohesiveness of the national government, its policy orientation towards the highlands, and its organizational capacities to implement policy goals, movements and events in the highlands also politically affected the stability of the national government. While important background facts are provided here, given the specific focus of the analysis on highland policy, one should not here expect a complete and faithful rendering and discussion of all the historically relevant facts pertaining to the political history of interwar Albania. For this reason the discussion here treats facts at the political center only insofar as they affect the formulation, direction and implementation of "highland policy," understood as a set of political, legal, and administrative strategies pursued by the national government and its local authorities with the goal of establishing national government control in the highland region.

5.1. Early resistance to national government rule in the highlands and the origins of highland policy

Analyses of state building which center upon the agentic features of state organizations typically ignore processes of institutionalization that must follow any successful state building efforts. As Selznick's (1957) classic discussion in organizational analysis argues, institutionalization differs from formal organization, because while formal organizations may be seen as "tools" with some instrumental purpose for their

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creators, and may be abolished after they are no longer of use, institutionalization infuses

formal organizations with values and meanings beyond that of the instrumental goals that

they were originally set up to obtain. Institutionalization thus relies on the emergence of

values and norms which govern and justify organizations as near-permanent and

naturalized features of a social environment, as well as the establishment of durable roles

and legitimation myths and schemas that value the institution for intrinsic rather than

mere utilitarian reasons (Berger and Luckmann 1967; Jepperson 1991).

While state-centric theories emphasize the significance of force in establishing

durable governmental rule (e.g., Tilly 1985), the preponderance of violent force was

insufficient for the Albanian government to establish national rule in highland village

communities in any meaningful sense. The establishment of territorial governance

through the prefecture system clearly had a political purpose, which was to impose

centralized rule throughout the territory of the state, driven most immediately by a

security imperative in the context of geopolitical threats to the territorial integrity of the

state, especially during the period of uncertainly between 1919 and 1922. But the security

threat, while an important dimension, was not the only motivating factor in leading

political elites in the center towards constructing the institutions of a centralized state.

From the perspective of national rulers, building a centralized administration resonated at

two other levels. First, it was driven normatively, in "isomorphic" fashion (DiMaggio and

Powell 1983; Meyer and Rowan 1977), by pressures from the standards imposed by

existing states in the state system (Meyer 1999; Meyer et al. 1997). These standards

dictated a particular institutional structure if the country was to be accepted as a

legitimate member of the system. Second, the process had a cultural dimension,

stemming from the principles of modern nationalism. The building of national state organizations resonated within what was in Albanian nationalism envisioned as a broader historical and cultural process, an expression at a political level of Albanian national identity and independence, in which the institutionalized national state is a materialization of an historical popular "will." The building of state organizations was, therefore, from the start infused with an ideological meaning that went beyond any short-term goal of any particular political agent. Even if political actors carried and pursued – as they did – short-term political goals, the broader ideological and normative environment of state building gave the building of national organizations the meaning of a grander and more historically meaningful imperative. Much political conflict in the center was in fact carried out in the context of defining and struggling over the best means and the best qualified to lead towards the much larger and more elusive goal of modern national statehood. This makes the importance of the cultural context not only one of a secondary background fact, but central in understanding the structure of motivations and systems of objectives driving the entire process of administrative centralization.

Given their high degree of mobilization during the crucial period of political struggle for Albania's independence in 1909-13, highland peasants for the most part accepted the idea of their membership in an Albanian ethnic nation, but this did not necessarily mean that they had also consented to submit the administration of local social life to authorities in faraway cities. This has been, indeed, the historical logic of late nationalism – membership in an "imagined community" usually preceded or occurred alongside political and organizational efforts to build national state organizations

(Anderson 1983; Cohen, Brown and Organski 1981; Gellner 1983; Hroch 1985). Similarly, the efforts to build national state authority in the Albanian highlands began much later than the identification that highland peasants expressed at the symbolic level with the notion of an Albanian nation. Indeed, many highland communities were weary about accepting the authority of the new national government, as the following discussion will show.

In early 1919, the prefect of Shkodër, reporting to his superiors after a meeting in the highlands, characterized the mood of the region. Corresponding with his superiors in the capital, he suggested that while the peasants were loyal to the national idea, they also had a good sense of what submission to the national government would mean: "if one is to consider the psychology of the peasants, they no doubt do not want the government because they are concerned about tithes, livestock taxes, and the confiscation of weapons [...]." At a meeting of village chiefs with the local government representatives, at which the prefect had been personally present, he believed that "they likely came together just to tell the leadership that they want no government."[1] A series of reports from the Prefecture of Shkodër from 1919 point to a number of difficulties faced by the prefecture in extending its authority in the highland regions surrounding the town. Reports point to difficulties in gaining the assent of communities for government rule, signing up gendarmes, and collecting taxes.[2] This was an initial sign of the kind of resistance the establishment of state authority would face in the region.

From the government's perspective, establishing rule in the highlands was driven not only by the desire to create a unitary state, but also because of the geopolitical situation it faced, particularly the ongoing threat from Yugoslavia. In this context, the

role of the highland region of Mirdita became increasingly central in the context of Albanian-Yugoslav animosities in 1920-22. The two other major highland regions, Shkodër and Dibër, had by 1920 pledged their loyalty to the Tirana government and foreign troops had left these regions.[3] A third region, Kukës/Kosovë, located in the northeast, remained under Yugoslav occupation. Mirdita was sandwiched between these regions, and the loyalty of the local notable, Gjon Marka Gjoni of the influential Gjonmarkaj clan, proved to be crucial for the fate of Albania's border region. Competition for control over Mirdita and influence over Gjoni provided the initial development of a distinct approach by the Albanian government to the highlands and the formulation of its first highland policy. That this would happen during an institutionally formative period would be of consequence for the later evolution of that policy, which largely held true to the principles developed during this period.

In the early period 1919-21, there emerged essentially two strategies to tackle the problem of establishing national rule in the highlands. These strategies are a reflection of the uncertainty faced by national authority in light of the volatile domestic and international political situation, which necessitated an experimentation with different means with the hope that one or another may prove effective. But it also reflected the growing internal divisions between influential members of the national government on the most effective and most proper mode of rule in the highlands. On the one hand, there was the Catholic Church based in Shkodër, which had some influence over the Catholic population in the highlands. The Church voiced support for a cantonal system of regional administration that would protect the interests of religious minorities (Duka 2007, pp. 130-31).[4] On the other hand, there were modernizers gathered in a loose coalition around

what came to be known as the Popular Party, who supported the formation of a strong

national power. This group included a variety of petty bourgeois intellectuals and

activists as well as liberal *beys* who sought widespread reform and modernization.

The rivals to the Popular Party came to known as the Progressive Party, whose

members were primarily the old guard of *bey*s and former Ottoman functionaries. Among

the most influential in the Progressive Party was Ahmet Zogu, *bey* of the Mati region in

the highlands, powerful military figure and influential Minister of the Interior in the early

government. In the early 1920s, Zog opposed both reforms of the existing agrarian order

and advocated reliance on traditional Ottoman methods of rule, particularly in relation to

the highlands. In speaking to a British diplomat in 1923, Zog had asserted that northern,

central, and southern Albania required distinct approaches in terms of government, all

following the logic of authority that had been inherited from the Ottoman imperial

system. For the highlands, he believed reliance on traditional institutions was essential

(Tomes 2004, p. 59). On the other hand, the motley of progressives and reformists,

represented by influential voices such as Fan Noli, an Orthodox bishop and American

educated activist, and Mehdi Frashëri, an intellectual and landless *bey*, supported the

establishment of a system of rule based on modern principles of centralized

administration and reliance on professional bureaucrats. Fundamental differences in the

approach to government between these two political poles, one favoring the pragmatic

use of traditional methods, the other demanding the uncompromising modernization of

the administrative system, led to a mixed bag of strategies in terms of governing the

highlands, combining Ottoman methods of indirect rule with efforts to establish a

centralized national administrative system. Ultimately, events in Mirdita would prove to

the state elite that Ottoman indirect rule was unviable in the era of national statehood. The following discussion narrates the story of the short-lived reliance by the Albanian government on methods of indirect rule, and the subsequent turn towards administrative centralization which required the use of communal institutions to legitimize centralized national rule.

5.1.1. The rise and fall of indirect rule: rule and rebellion in Mirdita

The rise and failure of indirect rule – by which I mean an institutional arrangement on which a central authority relies on the direct loyalty of a "traditional" authority who acts as a broker of the central government's rule at the local level – is best exemplified by the case of the Mirdita region. Mirdita's special status under Ottoman rule was described in chapter 4. The case of Mirdita is illuminating not only because of the region's distinct identity as a Catholic region with a strong tradition of autonomous communal government, but also because the contest around rule in Mirdita marked the important events leading to transformation of the mode of rule in Albania's transition to centralized statehood.

The most important political figure in Mirdita during the crucial period of transition from Ottoman rule to national statehood was Prenk Bib Doda. Doda stemmed from the powerful Gjonmarkaj clan of Mirdita, and held the Ottoman military title of *kapedan,* which placed him in rank and status above an ordinary *bajraktar*. In addition to his role in the Ottoman military system, the Gjonmarkaj clan functioned as a kind of hereditary nobility in Mirdita, basing its local authority on customary law. This gave Doda important influence in Mirdita and, by way of his regional base, a role in national

politics. Doda was active in the movement for Albanian national independence and a member of the first government under the short-lived Albanian monarchy of Wilhelm Wied in 1914.

To some extent, Bib Doda's influence in national politics stemmed from his exile from Mirdita for a long period. In 1881, under the orders of Sultan Abdülhamid, Bib Doda had been arrested and interned in Anatolia for intransigence. During his nearly 30 year absence from Mirdita, Bib Doda's nephew, Gjon Marka Gjoni, served as his effective substitute. Gjoni also succeeded Bib Doda – who had no sons – after his assassination in 1919, inheriting Bib Doda's title as *kapedan*. Gjoni never gained the presence or influence in Albanian national politics that Bib Doda had. In spite of his status as a local notable of Mirdita, in contrast to Bib Doda, who was an educated polyglot, held the title *paşa* and always appeared in public wearing his fez and military uniform, Gjoni struck among the political elite in the capital the impression of a provincial and boorish peasant noble.[5]

Nonetheless, even while lacking Bib Doda's stature and influence in national politics, Gjoni became a key actor during efforts by national government to establish its authority in Mirdita. In addition to his local role, Gjoni had strong ties with the Catholic Church, who often acted as his advocate and mediated many issues between the national government and him. For example, in the fall of 1920, soon after the consolidation of Albania's new government, the Catholic representative in the Regency, Senior Luigj Bumçi, sent a letter to the Prime Minister with a specific demand that the national government make no attempts to change the customary system of government in Mirdita. Bumçi wrote that this guarantee was made conditional by Gjoni if the government is to

have any role in Mirdita.[6] These demands were ceded to, and the customary system served as the basis for gaining national government influence in the highlands.

This made it necessary for the government to assign Gjoni an active political and administrative role. While receiving no formal government post (having appointed a rival *kapedan* as subprefect of Mirdita, whose administrative center was placed in a village different from the traditional Gjonmarkaj station in Orosh), Gjoni was appointed to head the Jibal Commission based in Shkodër. The Jibal (Arabic for "mountain") Commission was originally set up in 1856 by the Ottoman governor of Shkodër, Menemenli Mustafa Paşa, as an instrument for the Ottoman imperial administration to gain a stronger foothold in the Albanian highlands (Gawrych 2006, p. 33). The ostensible purpose of the Jibal Commission was to mediate blood feuds, interpret and issue edicts within highland customary law, and organize military recruitment in the highlands. Its political purpose was obvious: provide a permanent institutional instrument by which customary authority in the highlands would be co-opted by Ottoman administration, by creating an institutional mechanism that could legislate *within* highland customary law. The members of the Jibal Commission included customary elders from the highlands, *bajraktar*s, and the Ottoman governor. The success of the Jibal Commission was limited, however, gaining the adherence of only some of the populations in the highland regions surrounding Shkodër. In Mirdita, attempts by Ottoman governors to gain legislative authority within highland customary law were largely derailed by local resistance (Doçi 1996). In the long run, the Jibal Commission did not appear to have greatly transformed local customary practice or threatened the autonomy of highland communal institutions. Perhaps one of the flawed decisions which most doomed the Jibal Commission to

ineffectiveness was Mustafa Paşa's decision to base it in the town of Shkodër. A town-based authority would have little control over issues and disputes that developed high in the mountains and at great distance from the sights and understandings of urban-based officials. This gave the Jibal Commission a marginal role in local affairs, and it seems to have had little authority outside the mountain settlements in Shkodër's surroundings.

In the postindependence period, the Jibal Commission was revived as an instrument of mobilization in the highlands for the new national government. The work of the Jibal Commission became especially important for the highlands of Shkodër and Mirdita; the fact that Gjoni was put in charge of the Commission testifies to its use as a means by which the new government attempted to co-opt Gjoni.[7] The task of the Commission, as determined by the national government, was to mediate blood feuds in order to foster political unity and mobilize highland submission to the rule of the Tirana government. By choosing a traditional figure of authority to head the Commission indicates that the Tirana government had a greater sensibility than Ottoman governors on how the Commission might be turned more effective. However, by also appointing a figure with a strong local base of power meant that they could have little control over the direction of the Commission itself. It also meant that other regions might be displeased with the choice of Gjoni, given traditional local animosities between Mirdita and neighboring highland regions.

In addition to the use of the Jibal Commission as a legislative and administrative instrument that claimed its legitimacy from customary law, the government made moves towards formally recognizing the customary legal system derived from the *kanun* as official law of the highlands. Thus, in 1921, after an ultimatum issued by Gjoni to the

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government, the latter recognized the *kanun* and its communal institutions, and not the prefectures, as the legitimate governing system in Mirdita. This also recognized Gjoni and other traditional authority figures as the ruling principals of the region, and provided them with government support. The order to this effect, issued by the Ministry of Interior, stated explicitly that the system rule in Mirdita will be the same "as in the times of [Ottoman] Turkey," based on customary law, and that all consideration will be taken for "the work of the *bayraktars* and [village] elders," who would be compensated by the government in grain, as they had been in the Ottoman period.[8] In exchange, Gjoni would be responsible for maintaining order and pledging loyalty to the government. In early 1921, another government order sought to provide a new mandate for the Jibal Commission, charging it with duties of "reconciling blood feuds, maintaining peace, protecting [...] their regions from banditry." To these ends, the *bajraktars* were provided with a staff of twenty locally recruited gendarmes and a monthly salary.[9] Mirdita and other highland regions were in a position to place conditions on the government, both because of the government's need to work through Gjoni to establish authority in the region, as well as the ongoing threat from Yugoslavia, which made control over Mirdita and the surrounding highlands of vital strategic importance to the government. Through the Jibal Commission, it seemed that Gjoni's claims to exclusive authority over the interpretation of highland customary law stretched beyond Mirdita to include the entire highland region.[10] Ahmet Zogu, the Minister of Interior at the time, was central in the development of this approach to the highlands, directing the most important decisions in regards to government policy in Mirdita.

From his end, Gjoni's interest in the maintenance of customary law in Mirdita stemmed not from some irrational attempt to defend the traditional order, but also because customary law bolstered the dominant role of the Gjonmarkaj clan in Mirdita. The social organization based on customary law gave Gjoni's household special privileges in the mediation of disputes and the interpretation of customary law, and special authority to rally the Mirditores for military purposes.[11] In addition, his role as mediator between the Mirdita peasantry and external authorities bolstered Gjoni's important brokerage role. Recognizing that the government had little means of gaining authority in the highlands except by negotiating with them, Gjoni and other local *bayraktar*s became key for the government to gain control in the region, a process made urgent by the security concerns stemming from the presence of the Yugoslav army along the Albanian side of the northeastern border region between Albania and Yugoslavia. But the demand for preserving customary authority was not only motivated by Gjoni's self-interest – it had significant support among the local population, since in meetings with government officials, highland peasants insisted on the preservation of customary law and its communal system of governance. Whether a desire for preserving the traditional order of things was at the base of this demand is difficult to ascertain, but it is a fact that the customary order gave, through whatever arcane and, to the outside observer, opaque, mechanisms, much greater influence over community affairs than the authoritarian model of rule from the top offered by the national government.

The centrality of the *bajraktar* of Mirdita in securing rule over the highlands – and, with him, the viability of indirect rule – ended abruptly after the Mirdita rebellion of 1921. After less than a year of service in the local government committee, Gjoni turned

against the government in what became one of the largest rebellions faced by the nascent Albanian state. The Mirdita rebellion, moreover, threatened to encompass surrounding regions in an all out highland revolt against the state, sending the national government into a state of panic. The official line of the national government tainted Gjoni as a traitor who sold out to the Yugoslavs, a charge often repeated in Albanian historiography. Gjoni, in fact, did have Yugoslav backing (no doubt spurred by Yugoslavia's own hostility towards Albania). But the fact that Gjoni accepted some form of Yugoslav support is not sufficient to claim that Gjoni's movement is explained by his "anti-national" sentiments, as the prevailing historiography claims (Duka 2007, pp. 133-35; Prifti and Shpuza 2007, p. 173). Existing interpretations of the rebellion are not only limited in their explanation, which essentially restate the perspective of government sources from the period, but also decontextualize the rebellion from the dynamics involving Gjoni, the national government, and the Mirdita region. Unfortunately, historical knowledge is made more difficult to obtain by the fact that testimonies by Gjoni and his followers are not part of the historical record, but clearly, the kind of gullibility and naiveté that the prevailing historiography assigns to Gjoni and his followers is too taxing of the imagination to find plausible. There exist, however, a number of chronicles that allow us to reconstruct the events leading to the rebellion, the government's intervention, and its aftermath. According to narratives by contemporary witnesses, the conflict resulted in large part from a dispute over the closing of the Yugoslav border by the Albanian government, which prevented the import of grain from the country while Mirdita was suffering from a lack of food supplies. This account is given in particular by the Catholic priest Dom Ndoc Nikaj, a close confidant of Gjoni who witnessed the clash between Gjoni and the Interior

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Minister, Mehdi Frashëri, over the border closure issue (Nikaj 2003, pp. 163-9). In this account, a group of Mirditores with ties to Gjoni requested permission from the Ministry of Interior to travel to Prizren in Yugoslavia – a trading town which traditionally served as a market for Mirdita – to purchase grain, given dwindling supplies in Mirdita, and given the historical reliance of Mirdita on grain from Kosovo. The Ministry denied permission, but in spite of this, Gjoni instructed his associates to travel to Yugoslavia anyway. As a countermeasure, the government closed the border and Gjoni's associates remained in Yugoslavia, unable to return. In order to address the situation, Gjoni made the long and treacherous trip to the capital in order to meet personally with the Interior Minister to discuss the border issue and the grain problem in Mirdita. On the occasion, Gjoni made a personal plea to Frashëri to reopen the border on account both of his associates as well as of the worsening situation with grain supplies in Mirdita. Frashëri vehemently refused Gjoni's request. According to Nikaj's account, Frashëri's refusal to pay heed to Gjoni's demands was taken by Gjoni not only as the denial of what to him seemed a legitimate and urgent request, but as a personal affront given what Nikaj describes as Frashëri's arrogant and dismissive attitude, countered by a direct threat from Gjoni. Indeed, Frashëri is later reported to have described the incident as a demand by Mirdita for "privileged treatment" (Vllamasi 2000, p. 255). While the degree to which this personal confrontation is to blame for Gjoni's later actions is debatable, the events do nonetheless take place in a politically charged context involving a contest between government policy and local interests in Mirdita. Whatever the reasons for Frashëri's dismissal of Gjoni, the fact that the Interior Minister could deny such a request would reflect the growing relationship of domination by national authority in Mirdita. It appears

that, some time before the rebellion, Gjoni made a trip to the Yugoslav administrative center in Prizren, a fact provided to us by a Mirdita native and government loyalist, the subprefect Mark Kapidani.[12] The contents of Gjoni's negotiations with the Yugoslavs are unknown, but soon after his return to Mirdita, Gjoni mobilized his men by organizing an attack against the local government and the army.

Another first-hand discussion of the events surrounding the Mirdita rebellion is provided by Sejfi Vllamasi (2000, pp. 254-63), a parliamentary politician based in Tirana. Vllamasi blames the rebellion on what he calls the "stupidity" of the government in its policy in Mirdita and its general neglect of the region. He points out that, after the death of Bib Doda, the region was utterly neglected by the country's new national political institutions. While Bib Doda had been a high ranking member of Albania's first prewar provisional governments, after his death Mirdita lost all representation in national politics. No representatives from Mirdita served in the government or in the country's new parliament. Vllamasi laments that the government did not even consider giving Gjoni, Doda's successor, an honorific title, which would have provided him with a government salary and recognition for his services to the nation.[13] But Vllamasi does not mention Gjoni's compensated service on the Jibal Commission, which he seems to not have been aware of. While politically, Gjoni's lack of allies in the center may have led to his treatment by Tirana's political elite as a mere local level player, Frashëri's motives may have been based more on the modernizing and rationalizing impulse that would come to play throughout his political career, rather than on the interest of denying Gjoni a place on the stage of national politics. For Frashëri, a prominent modernizer, former Ottoman official and Young Turk supporter and a graduate of the elite Ottoman school of

administration, the *Mekteb-i Mülkiye,* the problem may have not been Gjoni's role or influence in national politics, but that his audacious behavior in regard to government border policy violated the rule of law. Unlike Nikaj and Vllamasi, in his own memoirs Frashëri makes no mention of the border issue and writes that Gjoni came to him with demands that Mirdita "be accorded the privileges enjoyed under Turkish rule," which he lists as exemption from taxes and military service, a gendarmerie staffed exclusively by locals, recognition of Gjoni's leadership in the region and the continued application of customary law (Frashëri 2005, p. 93). In Frashëri's view, Gjoni's request constituted for a demand for "special privilege" of the kind which existed under the Ottoman *ancien régime* but would be unacceptable in the legally rationalized modern Albanian state. Frashëri's lack of specifics in his brief description of his encounter with Gjoni points to the possibility that he chose to deny any responsibility for his decisions as Minister in precipitating as well as exacerbating the tensions that led to the rebellion, insisting on throwing the blame on Gjoni's "backward" mentality and his willingness to tread on the national interest and act as a "tool" of the Yugoslav government. Frashëri's insistent attitude and perseverance on the matter of denying Mirdita "old privileges" may have also been a way for him to suggest a strong break with the approach of his predecessor, Ahmet Zogu, who had instituted the policy of making customary law and the Jibal Commission function as effective political and juridical authorities in Mirdita. It is safe to assume that to a committed modernizer like Frashëri, the retention of an archaic customary law, traditional Ottoman methods of rule, and co-optation through antiquated bodies such as the Jibal Commission were at direct odds with the spirit of a modern state

bureaucracy, a unified administration and the requirement of strict adherence to government injunctions.

Following Gjoni's return from Yugoslavia, there was already a sense of his intention to organize a rebellion against the government among segments of the political elite, particularly the Catholic clergy. The Church organized missions to dissuade the Mirditores against any rash actions, and dispatched the bishop of Mirdita, Father Pal Doda, to meet with Gjoni. In Gjoni's absence, Father Doda appealed to the elders and other second-ranking notables of Mirdita, who admitted to Father Doda that they may be acting in error, but having already given their *besa* to Gjoni, would have to follow his lead. Frustrated in his efforts, Father Doda sent a letter to Gjoni warning him against any "mistaken" moves. In spite of these warnings, Gjoni, having received Yugoslav backing, in the summer of 1921 proceeded to proclaim an autonomous "Republic of Mirdita," forming a government chaired by him and, with Yugoslav assistance, dispatching a representative to the League of Nations to clamor for international acceptance. As a political demand, the Republic of Mirdita was the end result of a political and administrative logic that kept Mirdita (and, with it, most of the highlands) as a legal and administrative zone of the new Albanian state excluded from the system of administration being built in the rest of the country. This legal and administrative dualism would haunt the country for the rest of the interwar period – and, some would argue, to this very day (De Waal 2005).

The secessionist move met with immediate military response on the part of the government. But the military operation exposed the government's own organizational weaknesses. Given the dearth of regular officers, a large part of the battalions had to be

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filled with irregulars, numbering upwards of 1,500. This made troop command and coordination difficult. After initial success in defeating the rebels, driving Gjoni and his followers to seek refuge in Yugoslavia, Gjoni's forces returned reinforced by Yugoslav weaponry and advisors, dispersed the government's troops and recaptured control over the region. Embarrassingly for the government, the rebels captured an important supply center, taking over munitions and other equipment. The rebels, moreover, advanced to key strategic positions in the region, opening the way for a possible attack on the prefecture center in Shkodër, and threatening to engulf neighboring highland regions into the rebellion.

The embarrassing defeat of government forces led to the replacement of the commanding officer Ali Fehmi Kosturi. After two succeeding commanders were unable to defeat the rebels, command of the troops was finally taken over by Zogu, who at the time commander-in-chief of the Albanian army. Zogu reorganized the army forces, but without making any further offensive moves, entered into negotiations with the rebels. The details of these negotiations are unknown, but soon after the rebels met with the government and signed their submission to the government. With Gjoni's absence, the rebels were pardoned and pledged a *besa* to the government. With this, Gjoni's movement and his dream for his "Republic" ended. And with this also ended Albania's brief experimentation with indirect rule.

The most important point to highlight is that the rebellion is the outcome of a dynamic in which the national government played a key role. The emerging tensions between the government and Gjoni may have led the latter to conclude that the expansion of national authority in the highlands, even while claiming to bolster and support

traditional authorities, was intended to instrumentalize influential local individuals like him in the service of political elites in the capital, while giving them little to no voice in matters of national policy. The fracture between the national government and Gjoni caused over questions of border policy and the threat of food shortages in Mirdita is probably what drove Gjoni to mobilize local followers to articulate demands for local autonomy, one that would no longer be based on the shared jurisdiction of national government and local institutions like customary law and the Jibal Commission, but that sought the secession of highland communal institutions from any control by national authority. It is in this context that Gjoni seemed to have accepted Yugoslav support, while Yugoslav diplomats clamored for an autonomous "Republic of Mirdita" at the League of Nations under a new government chaired by Gjoni. Moreover, the working and negotiating with different sets of authorities, sometimes by playing one against another, was a traditional political technique of highland dealings with external powers. As a frontier region, influence over Mirdita was a traditional issue that pitted Ottoman administrators in Shkodër and Kosovo against one another, and the traditional way Mirdita's peasant elites jockeyed for advantage against external authorities was by switching loyalties from one powerful Ottoman notable to the next.[14] Gjoni's actions to claim a stake for Mirdita's autonomy by such means, in his dual dealings with Tirana and Yugoslav authorities in Prizren, are congruent with this traditional form of highland politics. What Gjoni may have not realized is that, in the era of national states, with the exponentially amplified scale of international and geopolitical repercussions of such local events, the stakes of such politics were much different, and the cost he would personally pay much higher.

While Gjoni and his closest followers escaped persecution by seeking refuge in Yugoslavia, the failed rebellion placed the national government in a conundrum with regard to its policy in Mirdita and, in certain respects, the rest of the highlands. Clearly, the loss of a critical figure in highland politics meant that other means had to be found to secure durable government control in the region. In other words, the rebellion by Gjoni, one of the most powerful notables of the highlands, also sounded the death knell for indirect rule. The Jibal Commission lost its former relevance as the government scrambled to find new ways of establishing national rule in the highlands.

To be sure, military rule in the highlands was not a viable option. Military rule was expensive and difficult to sustain for the young and cash-strapped Albanian state, especially in a region difficult to access and provide with supplies and maintain communication links. This fact was realized by the commander of the first offensive against the rebels, Kosturi. After the first defeat of the rebels in Mirdita, Kosturi drafted a policy document which outlined a detailed approach to the highlands – the first detailed highland policy proposal of the new state. The report painted a starling image of the highlands as a region festering with banditry and "lawlessness." It complained that merchants from Shkodër could not safely travel through the highlands, "because of the insecurity of their life and from fear of predation." But the issue was not only the security of town merchants and the threat that the highlands posed to the orderliness of urban areas, but also the oppression faced by the people of the highlands by their own kind. The report identified members of the Jibal Commission as the chief perpetrators behind this calamitous situation. They not only failed in establishing order, but, in the commander's view, stood behind much of the troubles in the region: "the members of the Jibal

Commission themselves instigate violations of the *besa* for their personal profit, since after a murder is committed, their ensuing intervention in reconciling blood feuds earns them 500 *grosh* (*guruş*) for a blood." The report fails to note that the government was responsible for the arrangement in which members of the Jibal Commission use collected fines to pay themselves (this had, in fact, been a traditional practice under customary law, in which part of the collected fines were used to reward mediators who successfully brokered a peace). In any case, the report argued strongly against the reliability of the Jibal Commission as an instrument of governance because of its failure to achieve the type of order and security desirable for the state. Kosturi, having carefully observed the "psychology of the people," argues that the government's success in ruling the highlands requires an entirely different approach. Given the government's current military advantage in Mirdita, he urges reliance on a combination of punitive and pedagogic measures intended to reform the social and cultural way of life of the highlands.[15] Many of the commander's policy recommendations, the fledging government had no organizational capacities of turning into reality within a short period of time, but, in due time, particularly after the establishment of the Albanian monarchy in 1928, these would form the pillars of Albania's highland policy. Here are a few of the commander's most significant recommendations:

- To confiscate the weapons of highland peasants (since most were armed) and to refuse to provide weapon permits, except in special cases. The commander points out that such was the policy for the rest of Albania.

- To maintain mobile military detachments in nearby towns, which could intervene in cases of unrest. This was necessary because it would enhance the government's influence given what for the officer was the particular highland tradition of respecting fear.

- To reorganize local government by forming it on new administrative-territorial divisions that would alter the traditional regional boundaries inherited from the Ottoman era.

- To recruit highland peasants as officers in the military reserve, and to begin recruiting highlanders for compulsory military service on a regular basis, in the manner required by state law.

- To transform the military function of the traditional *kulla* (stone-built highland domicile) by enlarging its windows. The traditional *kulla* was essentially windowless; its few apertures were only large enough to direct a rifle to shoot at an approaching enemy. This was also necessary, according to the commander, for health reasons.

- To order an immediate end to all feuds, and establish a court staffed by a judge assisted by local elders that would dispense justice henceforth.

- To built permanent government buildings throughout the region so as not to leave any doubt among the population that the government is here to stay. This would end the cat-and-mouse game by which the government appears in the region only when it carries out a military operation, but then withdraws and once again leaves the region to its own devices.

- To select a few scions of highland notables, send them to cities or overseas for formal training as military officers, teachers, and the various trades. Educating a few of the young from the highlands on government expense would cultivate not only love for the government, but also use them to inject what the officer sees a necessary dose of modern civilization and patriotism in the region.

- To use highland peasants for public works, particularly the construction of roads. This would not only have the benefit of constructing a necessary road network in the area, but divert the energies of highlanders from robbery and other disorderly acts.

- To collect taxes on a regular basis.

- To dispatch medical doctors who would help in the prevention of disease as well as begin teaching highland peasants the requisites of personal hygiene.

- To ensure that local government officials are trained specialists from the outside, and not locals. These officials, along with their staff, would share residence in quarters that are separate from the community. In the transitional period, local government would be overseen by the military.

- To require highland peasants to commit to a *besa* by which they swear loyalty to the government.

All of these policies would come into play in the period from 1921 till the fall of Albania to Italy in 1939. In the summer of 1921, however, many of the commander's proposals seemed distant and unattainable for a government operating in a tense political environment with barely a year of effective existence under its belt. Even under the most

ideal political conditions lacking the divisive politics that were characteristic of this period, at this early stage, many of the proposals were unrealizable by simply taking into account the government's existing resources and manpower. But two of the proposals are significant even for this early stage, because they would help form the basis of national authority in the highlands: maintain mobile military detachments in nearby cities, with the authority to intervene in cases of unrest and proclaim local states of emergency; and procure the loyalty of the highland peasantry through the institution of the *besa*. Reliance on the *besa* to secure the loyalty of highland peasants was the chief proposal that was offered as an alternative to dealing with local notables, given the disastrous consequences of the Jibal Commission and Gjoni's treachery against the government.

As described in chapter 3, the *besa* is one of the central institutions of the customary system and is a pledge or oath between parties, by placing one's personal, family and clan honor at stake, to uphold an agreement or suspend an ongoing blood feud while some other major event (such as a war) transpires. The *besa* could also be used collectively to form a regional alliance between rival villages and clans in cases when there is a threat of attack from the outside. The *besa* had also been used throughout Albania's war of independence and after, especially in the highlands, to strike alliances between feuding clans and regions against common enemies, such as the Ottoman military and the invading Serbian troops. However, the *besa* came to be increasingly seen as an instrument of policy by the government. It had already proven its effectiveness in Mirdita after the defeat of the rebels, when the population of Mirdita would be compelled to demonstrate their loyalty by pledging their *besa* to the government. The *besa* could thus, in the eyes of this official, serve to undercut all other loyalties by securing that

highlanders are *collectively*, on a communal basis, loyal to the state. The commander's

report marks an important shift in national policy in the highlands. For the remainder of

the 1920s and 1930s, Albania would experience a number of significant events and

turning points, including rapid and major changes in government and regime in 1924 and

the establishment of the monarchy in 1928. However, for a significant part of the

twentieth century, the use of the *besa* by the state as a tool of policy in the highlands

would remain an indelible feature of the history of state building in the Albanian

highlands. The following discussion traces the origins and evolution of a second policy

track that ultimately prevailed over indirect rule through *bajraktar*s. This policy relied

less on the local power and influence of figures like Gjoni and more directly on the direct

mobilization by the government of communal institutions to support state building

efforts.

5.2. Honor and obedience: The *Besa* and the binding of communal institutions to the state

The active use of the *besa* to built local government institutions had been

pioneered by the Durrës government in 1919, shortly before its demise. Instead of relying

on the authority of *bajraktars* to secure local control, it sought to instrumentalize

highland communal institutions in a way that gained the state direct influence over the

population. Primary of these institutions was the honor-based vow of the *besa*. A *besa*

between the government and highland communities involved the latter meeting

government officials and making a collective pledge of loyalty to the government. The

pledge of the *besa* would require highland peasants to obey government injunctions as a

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duty proscribed by honoring the pledge, and would rely on local mechanisms to ensure the enforcement of the *besa*. Before the specific arrangements and their origins are discussed, the discussion with focus on the history of the *besa* as a political device of highland communities in relation to extralocal authorities and political movements.

The use of the *besa* to secure compacts between highland communities and external authorities had a long history. The *besa* was used by the Ottomans, for example, to create temporary truces between the imperial authorities and local populations (Erdem 2007; Gawrych 2006). It was also instrumental for nationalist political movements to gain the support of the local peasantry for Albania's independence, particularly given the important military role that could be played by them. During their occupation of Albania in the years 1916-18, the Austrian military had also used the *besa* as an instrument for establishing order in the highlands.[16] The new strategy employed by the Albanian government sought to use the *besa* to turn customary law into a self-policing system that would create binding links between local customary institutions and the national government represented locally by the prefecture authorities.

Some time before the Tirana government began using local powerful figures like Gjoni to mobilize loyalty in the highlands, the rival Durrës government had already developed the contours of a policy that sought to use the development of local government institutions to partially incorporate communal institutions into the administrative fold of the state. In 1919, the Durrës government, through its local subprefecture in the region of Mat, formed a *besa* which demanded that the local community police its own activities in order to secure local order and allow government rule. It did so not only by using the symbolic value of the *besa* to demand highland

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peasants submit to a duty-bound allegiance to the state, but also by setting up a structure

that would utilize the communal institutions of customary law to facilitate the authority

of the government by functioning *as the local state*.[17] A combination of customary and

government sanctions were foreseen for all those who act against the government's will,

as prescribed in the content of the *besa* agreement.

The intent to bind local peasants to the state through the *besa* mimics, but also

goes beyond, the strategies used by Ottoman authorities to govern highland society.

Unlike Ottoman officials who preferred negotiating with the *bajraktar* and other local

notables for loyalty and services, the Durrës government injected sentiments of patriotism

into their compacts with local communities, framing their loyalty to the state as a matter

of honor. Furthermore, the Durrës government, rather than attempting to manipulate the

content of customary law (in the manner attempted most remarkably by the Jibal

Commission and its claim to binding authority over its rulings), instead sought to

transform its *functions* in such a way that would allow the existing system of customary

law and its communal sanctions to serve as a support for government authority. This

radically novel relationship between extralocal authority and the dispersed system of

communal authorities under customary law suggests a institutional transformation of both

communal institutions and a new institutional structure undergirding the emerging state.

To highlight the historical novelty of this institutional structure, it is important to

recall that while inevitably forming the wider political, cultural, and economic

environment of the customary law of the highlands, neither Ottoman administrative

intervention nor cultural influence (in the form of Islam as its predominant religion) was

capable of radically doing away with the essential autonomous functions of communal

institutions of highland society. As described, administrative efforts by local Ottoman governors to reform the mechanisms governing the legislation and enforcement of customary law, such as through the Jibal Commission, proved of little effectiveness. Moreover, conversions to Islam among many highland communities, beginning in the seventeenth century, did not lead to the substitution of customary law with new doctrines derived from Islamic law, which functioned as an effective civil law among Muslim Albanians in other regions. Indeed, like canonical Church law before them, Islamic principles of law were in many ways seen as compatible with the existing customary system and integrated within it, but never wholly replaced the local tradition of customary law. Charrad (2001, pp. 45-6) describes a similar process among Berber groups in the Maghreb, which converted to Islam and even while selectively adopting Islamic principles, did not wholly substitute local traditions of customary law with Islamic law. Moreover, certain traditions of Islamic law were, as Charrad points out, compatible with important aspects of customary law in the domestic sphere, such as the agnatic kinship structure, paternal authority, and the status of women. A similar partial adaptation of Islamic principles without the full substitution of customary codes developed among Muslim Albanian highlanders. The endemic absence of trained religious personnel also limited the influence of religious authorities in the region. This is further observed in the common practice of religious syncretism in the highlands and the fact that customary law based its ultimate moral force not from any otherwordly power backed by religious sanction, but itself differentiated the role of the church and other religious institutions from the central institutions of local society, including family and kinship, property, labor, communal organization, and norms of criminality.[18]

The historical failure of Ottoman administrative intervention to undermine the autonomy of customary systems (in highland Albania as in other frontier regions) is also demonstrated by the ongoing local challenges against the efforts of *bajraktar*s to assert greater authority over local matters. According to Hasluck (1954), during the Ottoman era, *bajraktars* functioned as the chief liaison between Ottoman administrators and highland communities. *Bajraktars*, moreover, exercised their role in significant tension with village elders, whose authority had its origins in pre-Ottoman times. Differing interpretations of the *bajraktar* and the varying local role of *bajraktar*s may also attest to its sometimes vague role within the customary system, and to the more fixed and stable roles of the elders and the council, particularly as those, having the power of council and decision making, augmented, but also countervailed, the local power of the *bajraktar*. In some regions the legitimacy of the *bajraktar* was itself the subject of contestation. For example, Doçi shows how segments of the Mirdita peasantry challenged the legitimacy of the Gjonmarkaj clan's claim to authority in the region. The founder of the Gjonmarkaj clan, according to this oppositionist narrative, was an outsider who deceivingly toppled the older clans of Mirdita, having been dispatched by order of the regional Ottoman *paşa* in Kosovo whose goal was to politically subdue Mirdita. Of course, it is difficult to establish the factual credence of such orally-transmitted narratives, but the fact that the basis of this challenge of legitimacy are the original Gjonmarkaj's perceived ties with external authorities shows how local communities saw the intentions of these extralocal authorities with suspicion. As a result, a member of local society who was seen by the community as serving the interests that are not those of the community could hope for little respect, including the *bajraktar*.

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In a fundamental sense, then, highland customary law preserved its authority not only in terms of its existence as a set of norms and practical rules of conduct, but also because it formed the supra-kinship social bond in highland society. In the most radical sense, this is demonstrated by customary law's role as the ultimate arbitration mechanism in conflict resolution and peacemaking, that is, in the degree to which the sanctions and penalties of customary law formed the basis of shared moral sentiments and the collective reinforcement of the value of conformity, as Durkheim (1982) famously observed as the principal sociological feature of an effective system of law. This an important factor to remember, since the ultimate power of customary law is not found in any of its intrinsic principles or rules, but as a system of collectively shared sentiments whose violation provoke intense moral indignation and collective sanctions (material and symbolic) against the offender. Ultimately, the abolition of customary law would require the complete transformation of its undergirding system of collective moral sentiments, a task that the Ottoman governors and their limited administrative incursions in highland society never had the capacity to accomplish.

The power of customary law also operated at another symbolic level, that of the meaning it conferred to death. This power operated at the level of the law's practical existence as a unique *habitus*, its role as a culturally integrative force among highland communities, as well as a symbolism expressing the social identity of Albanian highlanders as a social group. But control over the meaning of death also had its function as a latent mechanism of social control. Death and its symbolism had a central role in a society in which the one of the highest acts in defense of personal and clan honor was blood vengeance.

Control over death is undoubtedly the ultimate form of social control. But this power extends beyond control over the means of ending an individual's life in the biological sense, and to the sociologically more relevant symbolic process of how death is socially signified as a meaningful event. That is to say, biological death and social death are necessarily interrelated, but operate as phenomena on different levels – one on the biological life of the individual, the other on the individual's social existence. The first involves the biologically ascertained fact of death, while the second is about the socially bestowed meaning of death that is derived according to a culturally-derived schema (in terms of the symbolic classification of different types of death), in accordance with socially sanctioned procedures (following particular social ritual surrounding death), and enforced by a social mandate (sanctification of the deceased and the underlying taboo against challenges to the sanctification). In a social system structured around the principle of honor, the highest (in the sense of an oppositional classification of noble to shameful) legitimate form of social death was a death that resulted from an heroic honorable act on the part of the deceased.[19] With the fundamental struggle between sovereign government and communal institutions being control over the monopoly over authoritative and legitimate definitions of social death, the persistent power of communal institutions in this regard gave it an important advantage that denied the symbolic hegemony of the encroaching power of administrative and coercive state organizations.

A "successful" administrative transformation of highland society would require just that type of transformative moral reeducation, a project that was conceivable – and, indeed, carried out – under different historical circumstances such as the Inquisition's success in the persecution of heretical movements in rural France (Given 1997), or the

massive conversions to Christianity of natives during the Spanish conquest of the Americas (Todorov 1984). But such mass moral conversions are the result of a religious power claiming control of the soul – a powerful social force, as Weber recognized in his sociology of religion, and as further developed by Foucault (1990) in his conception of "pastoral power." But the administrative features of a national state are not equivalent to the proselytizing nature of religion. The principle of bureaucracy, as Weber famously recognized, is in the sanctity and duty-bound nature of the task, not piety in relation to ultimate goals – bureaucracy, as Weber lamented, has no soul. The institution of modern government could only proceed to extend administrative authority in highland society by co-opting, not any specific individual, as actor-based theories of co-optation suggest, but by mustering and harnessing the indigenous powers of the communal order, including, most importantly, its system of beliefs. The system of bureaucracy and its principle of rationalized order could impose itself on the highlands by means of appropriating the "soul" of highland society, the indigenous power of honor and its peculiar form of moral commitment. Obedience to the state, in order to exist, had to be turned into a matter of honor.

This route reflected in the reliance by the state on the highland communal institution of the *besa* to secure loyalty to the state and maneuver the function of communal institutions in ways that were supportive of government authority. Analysis of Albanian government documents from the period 1919-1944 indicates that the *besa* was one of the most consistently recurring instruments of state building in the Albanian highlands. Accounting for the full number of *besa*s made by the government is difficult because traditionally, among the illiterate peasant communities of the highlands, *besa*s

were struck through verbal vows sometimes accompanied by a ritual performance (e.g., the passing of a stone from hand to hand of those present, from the back side, the motion forming a symbolic circle around those committing to the *besa*), and not in the form of written contracts. However, some of the *besa*s to which the government was a party are, clearly for administrative purposes, drafted in the form of written statements. Existing documents, however, point to a general tendency of using the *besa* to establish and reinforce the authority of every new major change in government. Thus, one can identify four major waves: 1919-20, during the initial establishment of national government rule; immediately after the political revolution of 1924, when a new government took power; in 1925, soon after Zog and his allies had overthrown the radical government and were consolidating control over the state; and in 1939, after Italian occupation once again imposed on Albania a transformation of its political order. In addition, throughout the period, local and national movements also relied on the *besa* as a means of gaining the loyalty and support of the highland peasantry. *Besa*s were also made by the army or by prefecture authorities in the aftermath of rebellions or local disorder, in the process of pacifying highland regions, such as in Mirdita in 1921. In other words, in the era of independence, the *besa* transformed from a local cultural practice to a general political instrument of the state and national political movements seeking the political support of the highland peasantry. Throughout this period, this feature of highland culture functioned not merely as an anthropological curiosity but as an ongoing cultural resource to be mobilized by extralocal authorities and movements in the pursuit of large-scale political goals. It also served, as in Mirdita in 1921, as a device for local communities to

mobilize for collective action in defense of local interests against the encroachments of the state and other authorities.

In local practice, the *besa* always functioned as a temporally bounded pact. Its invocation by political movements cohered with this logic, in that political movements mobilized peasants for short-term, specific goals, after which the *besa* would annul itself, ongoing feuds would once again be reinstated and any collective movement disbanded. The state, on the other hand, sought to turn *besa*s into a more general mechanism of securing the submission of highland communities to the authority of the national government. In this sense, both the aims, functions, and ensuing relations between extralocal authority, local communities and its tradition of customary law differed in fundamental ways from any form of direct political mobilization. These are be discussed below.

5.2.1. Interpenetrating structures: binding communal institutions and the state

In recent decades, the state has been claimed by sociologists as an autonomous actor, but the theoretically crude manner in which this autonomy is conceptualized often leads to an understanding of "state" and "society" as two opposed entities. The haste by which some historical sociologists sought to distinguish the "state" as a differentiated organization and structure led them to neglect the critically important elements of interpenetration between "state" and "non-state" institutions, including, most importantly, the origins of the modern state in a unique western European constellation of rational bureaucratic state authority and a rationalized, individualistic system of religious belief. The problem of treating the state as differentiated actor while detaching it from the

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features of its sociocultural environment was most poignantly illustrated with the failure of this putative universal theoretical model of the state as an autonomous actor to offer an adequate explanation for problems of persistent state "weakness" in the Third World. This drove theorists towards the reconstruction of "society" – but only as another autonomous set of agents opposed to the state (Migdal 1988). More significantly, the theory proved inadequate in explaining the social and institutional origins of the bureaucratic and organizational capacities of states in the West, ironically demanding a return to the other Weber repressed by state-centric analysis which called for the analysis of the effects of historically contingent and particular cultural practices on the rise of modern bureaucracy and a rational-legal order (Gorski 2003).

The theoretical metaphor that describes the emerging structure between government and the communal order is not that of separation and superimposition, but one of *interpenetration*. In this particular case, this emerges in the framework for local government, issued in a government directive of 1921, establishing a system of local government rule in the highlands.[20] The directive established what were called *Besa* Committees in the subprefectures of the highland region, and fused together the bureaucratic-administrative authority of the prefecture with the moral authority of communal institutions. Thus, the *Besa* Committee was headed by the subprefect, an official appointed by the prefect and directly accountable to the Ministry of Interior. In addition to the subprefect, the *Besa* Committee included "representatives" of highland communities in the subprefecture. The task of the *Besa* Committee was to "administer" the *besa* between local highland communities and the national government. While the committees were given authority to decide on local matters, the main function of the

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committees was to ensure the maintenance of "public order." While the national

government defined what constituted a *violation* of public order, its *enforcement* would

be carried out by the structure of communal institutions and the existing system of

sanctions proscribed by customary law. This institutional synthesis produced the initial

mechanism by which government would attempt to gain coordinating authority on

matters of customary practice, particularly as they pertained to the disciplinary and

punitive mechanisms of the customary order.

As described in chapter 3, violations of communal norms and their redress in the

highlands were addressed via two sets of sanctions. First, there were personal sanctions in

the form of violence carried out in response to a perceived violation of one's honor. The

second set of sanctions were communal, involving authoritative figures such as elders

and the corporate bodies of the council in carrying out sanctions for violations of the law.

Thus, while blood feuds were carried out under the self-help framework of customary

regulation, issues affecting communal matters, including blood feuds that caused

calamities for the broader community, rested with elders, councils, and larger assemblies

that had the authority to exercise punitive measures against offenders on behalf of the

entire community. Measures ranged from the typical imposition of fines, to the more

extreme ones of burning homesteads, expulsion, and, in limit cases, execution. As an

illustration of such communal sanctions, cited below is a list of punitive measures that the

community had the right to undertake against those violating the sanctity of the church:

a) Condemnation to death;

b) Expulsion of the guilty party and his household from the Banner (*bajrak*);

c) Burning of the guilty party's house;

d) Abandonment of his land to ruin or destruction of his crops;

e) Fine to be paid in livestock;

f) Fine to be paid in money (Gjeçov 1989, p. 10).

The most serious sanctions were reserved for the theft or destruction of church property and murder of the priest. The latter was punished by execution.

The new structure designed by the Albanian government attempted to wrest the punitive mechanisms from the customary order and annex them to a government-formed body. Thus, the government charged members of the committee with the power to arrest anyone violating any provision of the *besa*. It also provided funding for the members by ensuring that all fines that are collected by the committee will be distributed among the members. In this manner, the structure intended to integrate the mechanisms of the customary order with administrative-bureaucratic authority of the government, without, however, threatening the symbolic economy of the customary order. Herein lies the paradox of this strategy of state building – it co-opts existing institutions, but by doing so contributes not to their dissolution under the irresistible effects of "modernization." Instead, it relies on their *persistence* and continued functioning to enforce a modern state-based legal order. The "modern" and "traditional" components of the emerging social formation, represented in this instance by the administrative-bureaucratic state on the one hand, and customary institutions on the other, are not oppositional, nor do they simply co-exist as parallel worlds, but *interpenetrate* in ways that form a functional social

structure. What the state *is* then becomes a matter not of a formal *theoretical* definition, but an *analytical* distinction between components of a structure.

The existence in the highlands of a separate juridical order had been already sanctioned by the government in an earlier regulation issued in 1920. This regulation stipulated that, for the highlands, customary law was the applicable law. This effectively excluded the highlands from the system of civil and penal authorities established in the rest of Albania. Under the terms of this regulation, public order would be maintained by local communities, but on terms defined by the government. The most important interest of the government was in combating "disorder" in the highlands, in the form of banditry and other crime. The government act stipulated that,

> When delinquent acts take place in subprefectures and regions, such as banditry or murder within the boundaries of the subprefecture or region, as acts against the existing *besa*, the Committees formed by the *besa* are obliged to act together with government forces to capture the responsible individuals. [...] *The subprefecture Committees will penalize those found guilty of delinquent acts in accordance with local custom and the [region's]* kanun. (quoted in Elezi 1997, p. 35, emphasis added)

The paradox of the efforts of Albania's centralizers to construct a unitary system of administration was that this rule of unity was based on a fundamental exception in the case of the highlands. The additional complicating factor was that the region existed as a geographical notion – not as a distinct administrative territory. This came to view most prominently when jurisdictional issues between state courts and the communal institutions arose. Officially, such a designation was never made, leading to the treatment of the highlands as a permanent zone of legal exceptionalism. This legal exceptionalism emerges not in any official designation of the region as existing outside the state's normal

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system of law, but the way the region was handled in administrative practice. In government documents, one frequently encounters the expression "*ndër malcina*" (in the mountains) to refer to the highland region, including, in descriptive statements, of references to the different "psychology" and "mentality" of the highland population, and its distinct status as a legal zone. A reading of administrative documents that pertain to highland governance from this period shows that the distinctness of the region existed not under any official administrative or legal rubric but as a cognitive and practical category that structured and oriented the action of state officials.

While in the rest of Albania, state authority, as it became consolidated at the local level, became increasingly more differentiated from the traditional authorities of religious communities and the quasi-political cum military cum administrative powers of local notables, the emerging institutional structure in the highlands fused together the government's bureaucratic-administrative authority with the local customary system in a way that resolutely blurred the official boundary between state and society, forming mechanisms that bound together bureaucratic-administrative and communal (and, with it, kinship) structures into an undifferentiated units. Because the emerging state became embedded in the honor-based communal order, the new structure offered not even a clear *formal* division between state and society, confounding formal legal distinctions between public power and private right. The government's reliance on customary institutions and its mechanisms led the state not in the direction of abolishing the customary order but to *operate through* its mechanisms by selectively harnessing them to the government. The institutional reality of the state was not its existence as dualism between "state" and

"society," but *became* this fusion of bureaucratic-administrative and communal systems into a relatively coherent structure of combined political and social mechanisms.[21]

It is important to bear in mind that the *besa* was more than a compact negotiated between state and local community, a kind of local "constitution" or "social contract" governing relations between the state and local society. The employment by the government of the symbolic efficacy of the *besa* went beyond that of the enunciation of a binding contract between highland populations and the government that set the terms for government rule, as a contract equally negotiated between two freely consenting parties. The first fact is that the *besa* occurred for the most part under circumstances of physical, but, more importantly, symbolic, duress. Individual highland peasants refusing to cooperate with government authorities risked being labeled "bandits," "propagandists" and "traitors," followed with the entire array of symbolic and material sanctions that accompanied such epithets. Collective resistance, on the other hand, carried the other risk of war; this was illustrated in Mirdita in 1921, and would be seen again in the rebellions in the Dukagjini region in 1926, and in Malësia-e-Madhe in 1928, when collective acts of resistance against government personnel brought about punitive military action. More significantly, the *besa* is not merely an agreement, a compact, but effectively an *act of appropriation*. It is in this sense that the *besa* constitutes a binding mechanism – it is not only a symbolic act by which highland peasants make a commitment of loyalty to the government, but also the means by which the government seeks to assume control over coercive communal mechanisms that heretofore autonomously from external attempts at coordination and control. The formation of a new body to govern such mechanisms is part of such an act of appropriation, and one which radically transforms the structure and

autonomy of highland communal institutions. Tradition is not a hindrance but placed in the direct service of modernity.

5.2.2. Institutional mode of integration of the customary order with the state: The *besa* committees

The embedding of government authority in the customary system also had its consequences in the emerging *nature* of state power, in terms of the jurisdictional limits it had placed on it. As pointed out, while the order of 1921 sought the establishment of *Besa* Committees throughout the highlands, the formation of these committees had to be locally negotiated. Among the earliest of the government *besa*s to appear in archival records is the one established between the Albanian government and the peasant community of the highland region of Mat in 1919, the contents of which are reproduced in fig. 1. The local governing committee in Mat (not yet known as the "*besa* committee") evidently represented the model of local governance which was then followed in other parts of the highlands as a matter of general policy. The *besa* document illustrates the kinds of seemingly unusual compromises that the government had to make with local communities in order to make formal state authority cohere with that of the local customary system, both at the ideological and at the organizational levels.

As the government sought to establish the regional committee, there emerges a conflict on jurisdictional matters whose negotiation is reflected in the document. On the one hand, the government seeks to establish the state's full sovereign and legal order in the region, by monopolizing the legislative and judicial powers once held by elders and village councils under customary law. On the other hand, in order to exercise authority,

the government must compromise on the kinds of definitions of delinquency it imposes on the community, making numerous exceptions on punishments regarding violations of honor, even to the point of contradicting itself in its imperatives. For example, the *besa* demands full submission to the laws of the state and prohibits murder, yet is unable to completely ban acts of blood revenge, but can only – as customary practice allows – suspend them for a time. It also makes exceptions to murders that are the result of violations of honor – but with the exception of accidental deaths, all acts of interpersonal violence in the highlands would have been justified as consequences of one party's violation of another's honor. It is questionable thus by what procedure one determines whether or not a murder was committed with the motive of defending one's honor or was driven by a malicious motive, and who would be the authority to make that judgment. In this sense, the state's numerous exceptions and compromises with customary practices make it nonetheless incapable of monopolizing control over the definition of legal justice and public order. Where the state *does* prove effective, however, is in using the *besa* to introduce state power as an *institutional reality* of highland society. The state is not merely a coercive body imposed from the outside, but an institutional reality that is constructed using indigenous cultural materials. The construction of state authority using the *besa* can therefore be properly designated as a situation of what Sahlins (1981) describes as "culture contact:" the emergence of an historically novel situation for which existing cultural schemas are reworked and adapted to the new emerging structures. By articulating itself through the *besa*, national state authority made its appearance at the local village level as an organization that emerges not in formal opposition to, but deeply

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embedded in, existing traditional practices. Submission to the state and its injunctions is, in other words, an honor-based commitment *in the full customary (traditional) sense*.

This points to the significance of the *besa* as an act of *institutionalizing* the state in highland society. This includes, in addition to the organizational features of institutionalization discussed above, the symbolic dimension of legitimizing the new state as an institution according to existing cultural schemas of the customary order, including the notion of honor, which forms the constituting principle the customary moral order. To be sure, the agreement between the state as an institution and the communal system was found in the very contents of state policy and the *besa* agreements, which sought to construct the state as, in effect, a protector of the local customary order. But a critical feature of institutionalization is also the *form* which these agreements were made, following the ritual of customary practice and the very legitimacy that this furnishes. In other words, the *besa* challenged government officials to articulate state authority as one that corresponds to forms of moral authority existing within the communal tradition of law.

The hybridization of the state and the formation of mechanisms binding state and society was therefore a result of the specifically creative *cultural* work undertaken by government officials who articulated the state in the language of local codes and cultural practices, based on their own beliefs of its role. The very enactment of the ritual of the *besa* couched the state in the local idiom of the honor-based society, but this is also a result in the naturalization of the customary order by state officials, in view of their own attitudes towards the highlands. This process of state-led naturalization of the customary order was driven by the conceptual framework that state officials applied in their

understanding of these communities, particularly by the terms under which difference, the "Otherness" of the highlands, was constructed by government officials making state policy in the region. On the one hand, nationalist elites often depicted Albanian highlanders as primordial representatives of ethnic Albanianness. Thus, the option of couching difference in ethnic terms was logically excluded by the very fact that the dominant form of Albanian nationalism had at its basis a primordial, ethnic definition of the nation, what Anthony Smith (1986) calls an *ethnonation*. Since the route of interpreting the social distance between political and bureaucratic elites and highland peasants as a fact of ethnic (or racial) difference was unavailable, the symbolic means of its elaboration were sought – as in many other modernizing societies of the early twentieth century – in the terms of the newly rising authority of the social and behavioral sciences. Thus, in government documents from the period, one notices consistent references to the different "mentality" and "psychology" of the highland peasantry. For example, the pivotal report of the commander in Mirdita cited above, claimed its authority based on the author's deep and special knowledge of "the psychology of the people," where the author claimed a unique kind of "ethnographic acuity" for the highland regions.[22]

As a consequence of their efforts to manipulate customary codes, government agents engaged in their own work of cultural construction. The rationalization of state power through the customary order of the highlands reflects this cultural work, but one that is highly selective in the kinds of appropriations that government agents make of the customary system, reflecting the kinds of policing imperatives that motivated the process from their end. That is because that, while the government appropriated the system of

sanctions of the customary order, the primitive democracy of communal decision making found in village assemblies were never incorporated as formal institutions of the state. When invoked, they merely serve the function of legitimizing the institutional arrangements imposed by the central government.

This enactment of the state through customary ritual and customary authorities, however, has the downside of reciprocity: it *also* subjects the state to the norms of the customary order. The state, because it is an agent only incompletely embodied in bureaucratic officials (with whom highland peasants were interacting with), itself lacks the possibility of possessing, and therefore gaining or losing, honor. As Durham's discussions show, historically, the personification of the state in the individual ruler (such as in the figure of the sultan) was central for the conceptualization of the state and its power in the highland imaginary. For example, Durham recalls a conversation in the closing years of Ottoman rule with a young Albanian highlander, one who she calls "the Primeval one," about government and law.

> "What we want is a new Government – a good Government that would do something for us, a good King; any one, so long as he is rich and not a Turk; your King, now – why can't he come?"

> "You would not like it if he did," said I. "He would not allow you to take blood any more."

> "What would he do?"

> "He would send his *suvarris* [gendarmes] to catch you, and you would be hanged."

> This took every one aback.

"But if a man owed me blood?"

"The you must hell the Governor, and the *suvarris* would catch the man

and he would be hanged. You must not take blood yourself."

"That would not clean my honor," said the Primeval one; he pondered.

This idea of a Government was quite new to him.

"The King of England is very good," he suggested; "if he knew about the

man that killed my cousin he would pardon me."

"No," said I.

"Well," said he resolutely; "after all" – he grasped his throat and squeezed

it experimentally – "hanging is not much – one would die quickly. I would shoot

my man first, and then your King could send his *suvarris* and hang me if he liked.

I should know my enemy was dead, and one must die some day" (Durham 1909,

pp. 168-9).

Durham's discussion with the young highlander indicates both the centrality of the figure

of the ruler in reflecting the nature of organized political power, as well as unwillingness

of the young highlander to give up, even in under a hypothetical scenario, his right to take

the life of a man who owed him blood. As in Antigone's defiance of Creon's ruling

against the burial of traitors in order to fulfill her duty of burying her brother in

Sophocles' tragedy, the ethical injunction of taking blood supersedes, in this man's eyes,

any state-issued injunction against the taking of life and the procedural seeking of justice.

This duality between ethical imperative and state law became apparent in the state's

attempts to establish authority, in a way that sought not to displace the existing moral

order and substitute it with new norms, but to use the power of the existing normative

order to make obedience to the state part of the ethical duty of a highlander. A fundamental problem existed, however, in personifying the state, given that the modern state is more an abstraction rather than a power embodied by the ruler. Since *besa*s required the continued trust and honor of all parties, that is, a party embodied in an individual capable of possessing and disposing of honor, in the case of the Albanian state, there was, at least until the rise of the Zog monarchy in 1928, no single agent which could assume that role. It is perhaps partly for this reason that the *besa* afforded a powerful tool of state building, but an incomplete instrument of durable institutionalization, because *besa*s were, by definition, temporally bounded and normatively governed agreements that cohered only within the broader framework of customary law. This paradoxically gave state authority an unstable and ethereal quality, because the very vehicle by which it had entered into highland society provided that society with the means to deny or retract legitimacy from the state. This was one of the reasons why the initial waves of *besa*s in 1919-24 were insufficient for the durable institutionalization of national state authority in the highlands, required negotiation between national authority and local communities when new situations and opportunities emerged, and reinforced the primacy of communal institutions and law in the highlands. On the other hand, the very fact that state authority channeled itself in highland society through the customary system and the institution of the *besa* is significant in the fact that a communal institution turns into the very *medium* by which state power is challenged, negotiated, and resisted. It is not by accident then that the ensuing *political* conflict between national state authority and local communities nearly always has as its object customary law and the scope and degree of its applicability against state law. The

institutionalization of national state authority by means of the *besa* has as its consequence the institutional reality that the state, its law and its authority were, according to the terms of local society, *never* a fully settled, unquestionable and nonnegotiable social fact.

5.2.3. Contrasts between the emerging national system and colonial systems of rule

Historians have suggested that processes of extending centralized national rule often share features seen in colonial contexts (Muchembled 1985; Weber 1976). While the process in the Albanian highlands may strike a similar cord, the construction of the local system of rule in the Albanian highlands differed significantly from forms of indirect rule that emerged in colonial contexts. The main index of variation lies in the treatment of central authorities of local systems of law, and the form and degree of their political and institutional mobilization to advance the goals of central control.

In the Albanian case, it is significant that customary law was never codified and formally appropriated by the government-administered legal system, in ways that, for example, British colonial administrators famously codified systems of customary law in rural Africa and integrated them as part of the formal governing structure of the colonial state (Chanock 1985). By contrast, while the government tacitly recognized customary law as a valid juridical order, it never formally constituted part of official *state* law.[23] The distinction with British codifications of African customary law are instructive in making this comparison clear.[24] While British codifications of African customary law were accompanied by measures which provided Native Authorities with *state-backed* enforcement of customary codes, in the Albanian case *customary enforcement* was mobilized in support of establishing the local power of the national state. The distinction

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is critical because it points to the different nature of the interpenetration between the two legal systems (in the dual sense of systems of normative rules and as systems of institutionalized sanctions). In the British case, colonial and Native authority systems became highly integrated to the point that the unity of the structure represented the rural colonial state as such, a system, moreover, carried over into the postcolonial national state (as Mamdani [1996] has convincingly shown with his argument on the emergence and perseverance of state-backed "decentralized despotism" in rural Africa). This was not the case in Albania, where, at least in the early period, the state established coordinating bodies between national state policy and customary authority but in a way that ultimately did not admit customary law into the formal legal structure of the state. While providing it with administrative recognition as an autonomous juridical order, the Albanian government at this early stage of expanding authority mainly sought to ensure that the institutions of customary law were complementary, rather than directly subordinate to, the state (for example, the enforcement of customary law remained a matter reserved for highland councils and was not applied in state courts). In this sense, customary law served more as a political than stricly legal mechanism, as was Native Authority in colonial contexts.

In Albania's case, the early appropriation of customary law was not a *juridical* one, since customary law was never formally codified and promulgated (in the proper juristic sense) as an official component of state law. The ultimate function of customary law was seen in its supportive role towards the political goals of the state, first and foremost of which was the securing of "public order." The lack of legal regulation of the terms of the state's relationship with customary law as a body of law *per se*, given the

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lack of a formal legal framework that would regulate the relationship between the two systems of law, highlights the essentially arbitrary – and, hence, entirely political – nature of the control that the government as an administrative and political authority asserted over customary law and its institutions.

Even in the early stage of state expansion into the highlands, there emerged no legally sanctioned division between the "modern" legal system of the state and a local "customary" legal system of highland society, and no law was ever issued by parliament to regulate the exercise of customary law or its jurisdiction. Whatever decisions were made in terms of recognizing customary law in the highlands were made in administrative decisions, especially in the Ministry of Interior (Albania's Ministry of Justice never recognized a legal body different from that of the state's official legal system). The fact that the status of customary law was subject to the whims of administrative authority is partly what explains the ability of succeeding state managers to shift positions on its role in the highlands, based on immediate political goals rather than any project of institutionalization.

5.3. The rise of the Albanian monarchy and highland policy, 1924-28

As pointed out, the year 1924 was a pivotal year in Albania's political development. In June 1924, a coalition of radicals and anti-government rebels joined together to eject the government out of the capital while promising to install a new liberal regime. The initial success of the political revolution of 1924 was in part determined by the support the revolutionary movement had among the highland peasantry (Çami 1977; Ferizi 1977). In December 1924, Zog and his conservative allies, backed by the Yugoslav

government, recaptured power and forced Noli and his associates into exile. Zog's reinstatement brought a new period of relations between the highland peasantry and national power.

While enjoying the support of a politically mobilized segment of the highland peasantry, the Noli government approached the highlands in a manner that diverged little from its predecessors. Throughout the summer of 1924, the government engaged in a widespread campaign of *besa*s throughout the highland region. The effort was in some ways more organized and more systematic than any previous campaign of *besa*s carried out by any Albanian government until then, encompassing virtually all the major regions of the highlands.[25]

However, the shift in political control and the reinstatement of Zog and the *beys* into power after the successful counter-revolutionary movement necessitated a new process of legitimating the new government among the highland peasantry. The proclamation of the Albanian Republic in 1925 provided the occasion for renewing a political pact between the highland peasantry and the state as represented by the new regime. However, instead of engaging in the practice of carrying out a local campaign of *besa*s, Zog thought it more effective if, in the style more typical of a colonial governor, he summoned all the "chieftains" of the highlands into the capital who would, in a grand ceremony, pledge their personal *besa* to him. The regime named this event the "Congress of *Bajraktar*s." Some hundreds of *bajraktar*s and other local notables were summoned to the capital, for a ceremony characterized by pomp, military marches and a formal declaration by Zog. Among those present were members of parliament and the senate, the top brass of the military, and members of the diplomatic corps in Tirana, including the

ambassadors of Italy, Yugoslavia, and the United States. In his proclamation to those

present at the Congress, Zog made the following remarks directed at the *bajraktar*s, the

putative "chieftains" of the highlands:

> *I have invited you here today to ask that you submit fully to the laws of the state. Our highlands have always been the iron fortress of our beloved Motherland, and our fathers and grandfathers have always struggled to protect the characters of bravery and loyalty, which have always defined our Mountains.*

Invoking his own highland origins, Zog asked the representatives of the highland

peasantry gathered in Tirana to become exemplary in loyalty to the state, while

threatening those who engaged in deceptive "propaganda":

> *As a son of these mountains, I have the unshakable conviction that the other sons of our heroic mountains will always follow the example of their forefathers and with their abidance by the laws of the republic will become examples of good judgment and obedience for all regions of our Motherland.*
> *Sadly, in the last couple of years, some individuals of our noble highlands have been engaged in intrigue and have plotted against the interests of their land, holding captive the people's development and happiness. These elements have now been uprooted and now, as you return to your people, congratulate them since a new day is dawning, because it now has a government that is working towards the security of its life, honor, and property. Instruct the people to ignore propaganda that aims at the destruction of its country, that those who engage in such propaganda will not live for long in Albania and will face the heavy hand of the State.*

During the ceremony, the *bajraktar*s were asked to give their personal *besa* of

loyalty to Zog. In return, the *bajraktar*s were made members of the army reserve (which,

in the very least, guaranteed them a personal sinecure), while Zog promised the

*bajraktar*s that the new regime would guarantee the continued practice of customary law

in the highlands. It could be no other way, since in the highlands the *besa* had no

meaning outside the honor-based system of customary law.

The Albanian legal scholar Aurela Anastasi interprets this event as a continuation of older forms of Ottoman policy in the highlands (Anastasi 1998, p. 90). But as shown in the discussion here, this type approach to the highlands was a novelty of the national state. During Albania's long rule by the Ottomans, the *bajraktar*s were always seen as instrumental for their limited political and military role. In no case were they treated as a ruling elite of the highlands as they were during the Congress of *Bajraktar*s, nor was a grandiose ceremony of the kind organized by the Zog government ever carried out by the Sultan or his regional governors. Nor could, obviously, the sultan make appeals to the Albanian highlands as the "iron fortress of our beloved Motherland," or laud the noble character traits of the highland peasantry, appeals that stemmed directly from the nationalist sentiment which the state mobilized in its attempts to establish ruling power over the region. It is true that, like the Ottomans, Zog relied on a policy of *traditionalism*, by valuing the role traditional structures of authority in building national government control, in his approach to the highlands, an inclination he had exhibited since his first efforts to build national government institutions in the highlands during his stint as Minister of the Interior in the early 1920s. But traditionalism in the context of national state building once again served as a tool for political mobilization at the national level. The Congress of *Bajraktar*s could thus be seen as the culmination of the institutionalization of the method of control Zog believed to be the most effective in establishing government rule in the highlands, a pattern observed not only by his professed belief on the distinct regional strategies required to organize effective political control in Albania, but also on his history of involvement in the governing of the

highlands. But Zog's reliance on a strategy of traditionalism cohered with a more general intellectual view of the highlands and its cultural system. Given the nature and form of the ceremony, in which the state is placed in direct confrontation with what was described as the collective representatives of the people of the highlands, the Congress had the significant cultural effect of symbolically constituting the northern Albanian highlands as a single sociocultural unit. This would be consequential in subsequent policy as national elites tended to see the highlands as requiring a uniform set of solutions.

Among these problems was that of weapons possession by the peasantry in the Albanian highlands. Armaments were a legacy of the Ottoman era when Albanian highlanders were permitted to carry their own weapons, and which those recruited as auxiliaries were required to bring in fighting campaigns. While weaponry served the purposes of banditry (including that in pursuit of brides), the use and handling of weaponry was regulated by customary law. The relatively stateless highlands had developed an extremely elaborate system of controlling and regulating the use of weapons. At the price of loss of honor, excommunication from the village, and other forms of collective punishment, customary law required Albanian highland men to bear arms visibly when venturing outside of their village (women were generally forbidden from bearing arms), to submit them when entering the house of a friend, and to use them only for defensive action. The use of weapons for offensive purposes was permitted most prominently for blood vengeance. And yet, a culture which held personal honor so central also cultivated a culture of conflict, particularly when one's honor was offended in the presence of third parties. Personal conflict that resulted in the death of one of the parties was not uncommon, especially when third parties did not step in to mediate disputes.

But the national authorities also clearly understood that these very same weapons used in intra-peasant conflicts could be turned against it. A series of events made the government especially sensitive to the availability of weaponry in the highlands. First, the anti-government rebellions of Mirdita and Dukagjini clearly demonstrated that highland peasants were not only armed, but capable of mobilizing collectively against the authorities. Moreover, armed fighters based in the northeastern highlands along the border with Kosovo, such as those under the leadership of Bajram Curri, a veteran of the war for independence, were not only a regional menace, but could threaten the balance of national politics as well. Moreover, Zog, who would come to rule Albania for most of its early life as an independent state, himself knew the value of armed highland men. He had made his own initial mark on Albanian politics chiefly due to his inherited position as local chieftain of the hilly Mati region in central Albania. His ability to mobilize the fighting men of Mati with personal loyalty to him, for military campaigns, proved one of his key political assets in his early political career (Tomes 2004). In any event, disarming the highlands meant that highland peasants would no longer represent a threat to the government, a simple fact recognized by the commander of the government anti-insurgent force in Mirdita in his proposal for administering the highlands.

As early as 1922, the Albanian parliament had passed a law banning the bearing of arms. However, while the disarming of citizens by members of the military and the gendarmerie took place sporadically and only in extreme circumstances (such as armed revolt), it was only in 1930 that a new law gave government agents greater authority to confiscate weapons by force.

But weapons confiscation was no simple process. One of the reported motives behind the Dukagjini revolt was the effort by local authorities to seize weapons from highland peasants. Weapons were eventually seized, but only after government troops and volunteers had violently repressed the revolt and laid siege to the region. What had been apparent became clear after the event, that highland peasants would not voluntarily disarm, and that attempts at confiscating weapons by force could provoke resistance. Instead of embarking on a systematic campaign of disarming the highlands, however, the authorities would use the confiscation of weapons as a punishment against those individuals and groups deemed criminally or politically dangerous. Exact numbers are unavailable, but one source estimates that by the early 1930s, the government confiscated some 180,000 weapons throughout the country. But the policy of disarming "continued in an intermittent and selective fashion" (Tomes 2004, p. 152). In the highlands, it was primarily resistance by peasants that made confiscating weapons a selective measure. While the authorities could not ensure the confiscation of all weapons, the law stood as a permanent threat of weapons dispossession – loss of a key resource for social status and defense. The reneging by the government of earlier agreements which recognized highland peasants the right to bear arms meant that the use of weapons now turned into a clandestine affair while presenting gendarmes and other authorities of the state as menaces to highland peasants wishing to preserve control of their weapons. The 1930s thus witnessed an increasing shift in policy, where state intervention in highland social life was becoming more direct and placing a greater burden on the practice of norms of customary law. A man without a weapon was deprived of honor and the means of defending it.

The loss of personal autonomy via the loss of the means of self-defense had as its corollary the loss of community autonomy in the carrying out of collective action against rival groups and outside powers. The government used the policy of disarmament to take advantage of traditional regional rivalries, for example, by disarming peasants in Catholic Mirdita, but being more lax in the possession of weapons in the more loyal Muslim region of Mat, Zog's home base. This altered local power dynamics between peasant communities, while making regions more reliant on the government for protection against predation, banditry and other attacks. But another crucial form of eroding the bases of autonomy and increasing reliance on the government was the increasing intervention of the government to help alleviate famines, which became a common feature of the Albanian highlands in throughout the 1920s and 1930s. This policy consisted in periodic distributions of food aid to highland communities, leading ultimately to the institutionalization of a system of poor aid.

Welfare systems have long been recognized as components of state building. Pauperism and poor relief are constitutive features of the history of modern states and capitalism, as political and other pressures pushed states towards assuming greater responsibility over the welfare of citizens through redistributive measures. T. H. Marshall (1992[1950]) famously described this process as the state's expansion in the realm of social rights, while Tilly (1990, pp. 117-21) calls this process part of the "unintended burdens" of modern state building. In early modern state building, welfare systems commonly served to shore up the legitimacy of the state in societies increasingly defined by class differentiation rooted in the realm of property relations, market-based production, and wage labor (Polanyi 2001[1944]), and only later did pressure from labor

movements push governments to expand the array of welfare provisions available to citizens. Initial systems of poor relief, introduced in seventeenth century England, were generally intended to protect against rural poverty, whereas later nineteenth century reform more directly addressed the problems of unemployment created by an expanding capitalist economy, including institutional innovations such as means-based testing and the workhouse, as well as more elaborate system of social insurance as developed first in nineteenth century Germany. In contrast, the Ottoman empire never developed a centralized welfare system, relying instead on local and regional networks of support and charitable aid to relieve economic shocks and alleviate problems of urban and rural poverty. In addition, the largely closed agrarian economy which existed for most of the nineteenth century guarded the peasant population against the effects of external shocks, such as the ongoing crises of the industrializing economies of western Europe (Palairet 1997). Finally, the late empire's decentralized taxation system meant that sectors of the population, particularly in remote regions, could, through reliance on herding and small subsistence farming, evade urban-based taxation authorities altogether. This was the case in most parts of the Albanian highlands, where direct taxation was sporadic and limited. Some regions, such as in Mirdita, moreover, had for a good part of the nineteenth century received direct subsidies from the Porte in the form of money, grain and other foodstuffs as compensation for military service. The destruction of the empire meant the dissolution of this old system of patronage-based support, while fiscal crises of the new state compounded the needs of the new administrative apparatus to seek expanding the collection of taxes (primarily in the form of tithes from yields and livestock) even in the most remotest regions. But while the government continually complained, throughout the

1930s, that the highland peasantry were not paying their dues to the state, the series of economic crises that hit Albania throughout the 1920s and 1930s pushed the government to push tax collection to the side and instead take measures to relieve the problem of poverty in the highlands. This was primarily because poverty in the highlands came in the form of famines, and when food was in short supply, revolt was not a distant prospect.

Peasantries probably bore the heaviest burdens for the political transformations that the Balkans were undergoing in the late nineteenth and early twentieth century, but that burden was heaviest for those subsisting on the margins of the agrarian economy. Highland populations constituted one of these groups, given the dearth of arable land in the rocky, rugged terrains of the mountainous Balkans, and the reliance of highland populations on local and translocal trade to secure basic foodstuffs, clothing, weapons, and other essential goods. For example, in the Albanian case, the establishment of new political boundaries with Kosovo and Macedonia to the east was a highly disruptive measure, because it cut the highlands off from traditional trading towns, as the grain shortage problem in Mirdita in 1921 illustrated.[26] The disruption of trade placed a greater burden on subsistence farming, and to the same contributed also the growing monetization of the economy, the fiscal policies of the state, and its growing openness to foreign import of grain and other basic staples. The overall disruptions, combined with occasional low annual yields, translated primarily into a rise in the price of grain. According to one calculation, highland peasants – whose nourishment was, as Edith Durham (1909) describes in her travels, quite meager – could under normal circumstances grow enough food to feed themselves and their families for three months (Belegu 1978). The rest of the food was obtained through trade. In years with low yields,

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the price of grain could greatly exceed that which highland peasants could afford. Highland peasants faced a number of years in which the population was threatened by growing prices of the basic staples of wheat, grain, and bread: 1922-23, 1927-28, and 1935 (Buda and Frashëri 1985). It is under such emergency situations that the government would respond by purchasing grain in order to redistribute to the peasantry.

It is interesting that while grain crises affected all of Albania's peasantry, including, in years of bad harvest, the population in the more fertile plains of middle and southern parts of the country, food aid was initially distributed only in the highlands. No distinct welfare bureaucracy developed under the Zog regime, and thus one cannot speak of a permanent welfare system. Instead, what was generally termed "poor aid" was sporadic and a result of immediate political pressures rather than an institutionalized system of welfare redistribution. With poor aid, the category of *vobekt* (pauper) was added to Albania's political vocabulary, and it was initially used to designate primarily the poor of the highlands, with whom it was primarily associated. Albania's first law on poor aid, passed in 1924, was intended to facilitate the importation of food aid to the Albanian highlands from a British relief organization. Subsequent laws, adopted in 1925, 1927, 1928, and 1929 were dedicated exclusively for food aid to the poor of the highlands. It is only in 1931, after Europe was hit with an economic depression, that a more general law for aiding the poor was passed, in part probably due to the fact that insufficient food supplies led to massive protests even in the productive agricultural regions of the Albanian lowlands.

Food aid was accepted in the highlands in abundance. For instance, among the surviving archival documents of the subprefecture office in Mirdita dating from the

period 1929-32, are slips signed by local peasants acknowledging acceptance of grain from the central government.[27] The distinction between this kind of assistance and traditional Ottoman patronage of highland peasants was that this was an institutionalized form of assistance in which individual peasants received aid packages directly from state officials in the subprefecture without the traditional mediation of *bajraktar*s and others with ties to the Ottoman authorities. In addition, this form of assistance was specifically designated as one to aid the poor (*vobekt*), a new social and legal category in Albania. In Ottoman times, assistance through patronage was reciprocal in that it required peasants to perform services for the empire, the primary of which was serving in military campaigns. The new form of institutionalized assistance was not a compensation for any service, but received based on individual belonging in an institutional category. While providing a source of subsistence for impoverished peasants, the non-negotiable and non-reciprocal nature of poor aid had as its consequence the political marginalization of the peasantry, now forced to accept assistance because of its individual members being caught in a particular economic situation rather than as a result of the military prowess of the community and the acuity and negotiating skills of local brokers in dealing with powerful external figures.

Reliance on the state for food aid became an increasingly predominant feature of the highlands, whose populations had for centuries survived – although meagerly, but nonetheless independently – of reliance on institutionalized redistributive systems. The growth of national state power inevitably meant the state would have to respond to crises it had itself produced, while using those crises to reinforce its role as a central social authority by transforming social marginality into political disempowerment. The

increased dependence of the highland peasantry on poor aid contributed to their

increasingly ambiguous and dualistic view of state power, which on the one hand seeks to

destroy local community organization, but on the other helps fulfill the basic needs of

subsistence for an increasingly impoverished and famine-ridden population. While this

would have significant consequences for political mobilization in the highlands, the

process contributed to the erosion of communal autonomy and an increasingly

institutionalized role for the state in highland social life. This institutional role would

greatly change, as I argue below, after a swift turn in the government's policy orientation

beginning in the late 1920s, which now sought to eradicate highland customary law and

institute a new regulatory role for the state in social relations.

5.3. "Enlightened dictatorship" and the state as moral authority: from customary law to cultural reform, 1928-39

> In an age of universalized clerisy [...], the relationship of culture and polity changes radically. A high culture pervades the whole of society, defines it, and needs to be sustained by the polity. *That* is the secret of nationalism.
> Ernest Gellner (1983, p. 18, emphasis in original)

When Albania was proclaimed a constitutional monarchy and Ahmet Zogu

crowned as king, the new King Zog rationalized the decision as the best way forward for

Albania's much needed modernization. Supporters of the new monarchy drew parallels

with Mustafa Kemal's authoritarian state in Turkey, pointed to the fact that neighboring

Balkan states had made much progress as constitutional monarchies, and applauded

Albania's turn towards what to them was an effective model of "enlightened dictatorship"

(Koka 1985). In addition to its monarch, the new regime had an elected parliament and a

government in charge of executing policy. In reality the new political system functioned as a personal dictatorship in which King Zog and his personal allies controlled the central components of the state apparatus. Structurally, the fact that the large landowners were Zog's main backers meant that the Albanian state would be dominated by the conservative economic interests of the *bey*s, who favored the strengthening of the central state's repressive powers but resisted any meaningful reform of the existing economic and fiscal system. This included a guarantee of control over agricultural lands, legal protection of *çiftlik* rights, which included landowner rights over peasant labor and their traditional tax farming role. Under these new political terms, and with growing diplomatic and financial support from Rome, Zog was able to push for a number of centralizing reforms throughout the 1930s, including increased legal centralization, greater administrative control of the capital over the provinces, and the growth in size, scope and functions of the state's security services. By the end of Zog's tenure in 1939, when he was dethroned after Italian occupation, and compared to the political and administrative chaos which reigned in 1919-21, Albania had attained a degree of legal and bureaucratic centralization and development comparable to most east European states.

Albania's transformation into a monarchy also signaled a dramatic shift in highland policy. In a sudden shift, in 1928, the government adopted an order which made the continued practice of customary law illegal. Henceforth, government officials in the prefectures were instructed to make all efforts to eliminate what it termed to be "primitive practices" stemming from customary law, and establish the firm rule of the state and its law in the region. The shift signaled not only a break from approaches of the past, which

relied heavily on customary law for ensuring government control in the highlands, but also because, only two years earlier, Zog had indicated to the highland elders and chiefs his intention to recognize traditional rights in exchange for loyalty to the regime. There are, of course, important political changes that happen between 1924, when Zog captured power, and 1928, when the monarchy was declared, which enabled the government to take an entirely different and confrontational approach with the highland peasantry. In addition to these developments, however, there were important structural transformations in the nature of the Albanian polity which gave new voice to new ideologies that offered a more profound and scientifically-informed vision of the role of the state in a modernizing society like that of Albania. This rising ideology proposed a new "modern" value system which it believed appropriate for the era of state and nation building under authoritarian monarchical rule, a vision which saw a profoundly moral and cultural reformist role for the state. This development, I argue below, had a significant impact on the change in highland policy, given that it cohered with the kind of ideological vision the new Albanian monarchy was mobilizing towards securing its own political legitimacy.

5.3.2. Neo-Albanianism and the state as moral authority: monarchy and the new modernizing nationalism

A significant shift that took place after 1928 among the political and cultural elite, with the emergence of a new conception of the role of the state in society. This pertained primarily to the role believed was appropriate to a state involved in the modernization and reform of the social order. In this vision, the state represented a collective instrument whose purpose was to direct social and cultural transformation and constitute a new

nation as an effective civil and political community. Thus, while in the early period of state building, the establishment of the state was seen by political actors as a necessary political, legal, and administrative fact establishing the de facto existence of the national state, in the period after 1928 the role of the state was increasingly depicted under the terms of a more expansive, more profound moral reformist role in society. The state no longer existed only for the political and legal administration of society, but for the thoroughgoing moral reformation which is demanded of a developing society like that of Albania, in order for it to produce a new national community displaying the image of a developed, civic-minded, morally integrated and rationalized society. To be sure, this discourse emerged in a European cultural environment of the 1930s dominated by authoritarian and fascist discourses as well as various movements for moral regeneration which called upon the state to intervene in what was seen as the decaying moral order of Europe, threatened by economic crises, poverty, social dislocation, cultural decay, and revolutionary left-wing radicalism. These discourses also increasingly blamed the social problems faced by European society on various scapegoats such as ethnic and religious minorities, political radicals and left-wing revolutionaries, whose violent persecution was seen as increasingly necessary step for the moral and spiritual regeneration of Europe. The task of intellectual and political elites of this period was thus dual: constitute a national community in an environment fraught with persisting dangers and risks to the sanctity and wholeness of collective life.

The late 1920s marked a blossoming of intellectual production in Albania, and this would prove significant in setting the scene for the important constitutional and legal changes that Albania was undergoing during the period of relative political stability that

came after Zog's capture of power. The growth of the state apparatus, even its violence, were appreciated as more than a mere adding of administrative and legal capacities, but as the necessary step for transforming an anarchic society of private and parochial interests into an organic national community. An intellectual movement that became significant for its influence and its systemic reconstruction of Albanian nationalism to announce a new role for the state as an agent of moral and cultural change, was that which called itself the "Neo-Albanianism" movement. This movement became especially influential among cultural and political circles in the period of the Zog monarchy, finding its basis in the growing intellectual field which found its basis in the growing field of newspaper and journal publications in Albania in the 1930s. As Albania witnessed the emergence of a cultural literati independent from the state (i.e., whose ideological role was very different from the regime propagandists issuing simple-minded and vacuous support for Zog and his policies, the Neo-Albanianism movement developed a carefully crafted social and political theory which articulated the supposed historical and cultural need for Albania's rule by the newly established "enlightened dictatorship" under Zog.

Among the central organs of the Neo-Albanianism movement was the journal *Demokratia*, headed by Branko Merxhani. A native of the southern Albanian town of Gjirokastër, Merxhani returned to Albania in the 1920s after several years in Istanbul, where he had been an avid student of Western social and political thought. Merxhani's unique combination of historical Albanian nationalism with strands of Western social and political theory quickly earned him the reputation of a worldly intellectual among Tirana's Westernizing political and cultural elites. More importantly, however, even while he never became a formal member of the new regime, his ideas and the intellectual

movement of Neo-Albanianism which he founded increasingly provided the backdrop for the ideological self-conception and reformist actions of the Zogist regime. While Merxhani's writings spread over a wide range of topics, the central component of his system of thought was an emphasis on culture and education, particularly moral education. Committed to developing a social theory that distinguished his perspective from the moralistic social commentary of other writers and journalists, Merxhani claimed his work to be a variant of sociology, and his conceptions of collective life drew directly from what was then a fledgling young discipline. Beginning in early 1929, Merxhani published in *Demokratia* a series of articles under the heading "Formulas of Neo-Albanianism" which outlined the tenets of his philosophical movement. He envisioned Neo-Albanianism chiefly as an elite intellectual movement which provided the moral and idealistic principles along which the modernizing society of Albania should be reformed. Merxhani's Neo-Albanianism held a highly organic vision of state and society, a vision he claimed to be drawn from the growing field of social sciences, whose application in Albania would, in Merxhani's view, bring great insight allowing for the progress and development of Albanian society. Emile Durkheim, Gustave Le Bon, John Dewey, Nietzsche, Rousseau, Hegel and many other classical and contemporary Western thinkers made frequent appearance as sources of inspiration and insight for Merxhani's vision, which he offered in opposition to what he saw as the hopeless romanticism of pre-independence nationalism. Indeed, Merxhani believed that the task of Albania's intellectuals was to overcome the limitations of Albania's historical nationalism by reframing nationalism as a total theory of state and society in way that would constitute a standing regulative idea of state actions and policies of reform.

His writings on the state express Merxhani's highly organic vision of society, its grounding in literature drawn from the social and psychological sciences, and the role of the state as a force of moral and cultural reform. Thus, in one of his "Formulas," Merxhani dealt specifically with the topic of the state, a body representing the collective consciousness of society, making the state's role one that necessarily must govern the individual's moral actions.

> Sociology, as a science, gives us a specific and independent definition of the State. According to this definition, the State is the unity of the moral, scientific, artistic, religious and juridical personality of a collectivity. The individual is nothing but an instinctual being. It is only duty and the coercion of social consciousness that transforms this being into a social personality.
>
> For this reason, society is primary and always leads the individual. As the French sociologist Durkheim says, the individual does not exist in reality. In reality there is only "society," "there is no right, only duty."
>
> In principle the individual is a social object, as is society. This is the fundamental difference between Society and the Individual. This difference forms the scientific basis of the idea of the State or, better yet, Statism, from which Neo-Albanianism is also derived, as a theory and a practice.
>
> For Neo-Albanianism, State means will of society. For this reason, Neo-Albanianism as a theory and an idea is not interested in questions around the form of the State. Every regime, every state power is honored against the law while it maintains the force to exercise its will against the egotistic dispositions of individuals. The only claim Neo-Albanianism makes towards State Power is for it to be always inspired by an ideal. Neo-Albanianism is a member and a pillar of the monarchy because in today's Albania, Monarchy is the only form of the state which demonstrated its capacity, will and decisiveness to exercise its power over the anti-social tendencies of Albanian social life and to instill among our people's egotistical spirit the feelings of Holiness, Love, and Devotion for Albanian idealism.
>
> Social idealism. This is the spirit of Neo-Albanianism. Man owes his welfare to society. And Nations exist only when they are capable of creating a social consciousness. Outside of these boundaries, man is only a creature, and Nations are only barbarian crowds. And this creature transforms into man only when living in the midst of social life and gains from it an ideal value, an enthusiastic spirit that is part of the happiness and disappointments which make a society. So that ideal is nothing but a product of Society.

To this sociological perspective we can add a psychological one, in particular that of crowd psychology. The individual, as a psychological value, never ceased to be an enemy of society and an enemy of its "representative institution," that is, an enemy of the state. In spite of this tendency and individual disposition, the only power, the only institution which creates and maintains society and civilization and which secures the progress and future welfare of humanity, is the State. The state is the origin of culture and of civilization.[28]

This expansive vision mixing "social idealism," state, society and the new monarchy as the enactor of a new collective sentiment of solidarity and national unity displayed string coherence with Zog's agenda emphasizing order, discipline, and moral reform. Indeed, "order and discipline" was the central slogan under which Zog promoted his policies, and the achievement of which justified (and, indeed, required) Albania's transformation into an authoritarian monarchy. The fact that Merxhani spoke from a position of intellectual authority outside of the state's institutional framework gave him much greater credence among Tirana's new elites than many of the regime propagandists who put together facile and formulaic praises of Zog and the monarchy in official publications and regime newspapers. Merxhani and his Neo-Albanianism, which soon attracted a small following gathered around his journal, including such followers as Vangjel Koça, Zef Mala, Tajar Zavalani, and others, became an important voice rearticulating the premises of a reconstituted cultural nationalism in an era of authoritarianism.

Neo-Albanianism saw a direct an inherent contradiction between traditionalism and the values of a modern nation. The strong dichotomy between the traditional values of the past and the modern ideals of the present were expressed through the frame of the development of an integrated national society. The creation of such a society would represent the new mission of the new idealistic values embodied in Neo-Albanianism's

revision of historical Albanian nationalism. For Merxhani, these idealistic values would

be at direct odds with the traditional orientation of much of Albania's population.

> Nationalism is a dynamic struggle for the development of national society. Nationalism means a national life that has at its foundation the spiritual and physical uplift of a people. Due to nationalism, a people becomes a nation. And strives forever to discover new values. *The power of tradition is the power of laziness. By contrast, nationalism means a national life rationally organized and historically developed, which as a dynamic life, must always finds its freedom through struggle and conflict, sometimes violent, against tradition, against the laziness of tradition, against old mentalities and conditions.* [p. 307; emphasis added]

In Merxhani's view, traditional popular masses were describable by the terms of

Lucien Lévy-Bruhl's analysis of "primitive mentality." Lévy-Bruhl held as his premise

the view that "primitive mentality," by which he understood the cultures of native

colonized groups, exhibits "indifference," and even "dislike of the discursive operations

of thought, of reasoning, of reflection," features which to the civilized are "natural and

almost continuous occupations of the human mind" (Lévy-Bruhl 1923, p. 21). This

inability of the primitive mind to rationalize and reflect on the causal structures of the

world are due to its grounding in irrational mysticism, a form of belief which functions as

a substitute for the pursuit of rational scientific knowledge, one that also informs rational

behavior. For example, such irrationalism can be seen in the way primitive mentality

treats the relationship between a social group and its land.

> In this closed world, whose space, causation, time, are all somewhat different from our own, communities feel themselves solidary with the other beings, or groups of beings, whether seen or unseen, which inhabit it with them. Each social group, according to whether it is nomadic or stationary, occupies a more or less extensive territory, the limits of which are as a rule definitely fixed for it and for its neighbors. The group is not only the master of it, possessing the exclusive right, for example, of hunting there or of garnering its fruits. The soil "belongs" to it, in the mystic sense of the word: a mystic relation binds its living and its dead with the occult powers of all kinds which people this region, which permit the

group to live there, and which undoubtedly would not tolerate the presence of any other. (Lévy-Bruhl 1923, p. 446)

Part of Merxhani's moral and intellectual activism was directed against the remnants of such form of primitive "mysticism" in modern Albania, whether that found in religion or other forms of belief. While Merxhani, in following the grand positivist tradition of Comte, assigned social science the role of explaining society's ills, and clamored for a social science that is acclimated to the specific cultural and historical conditions reigning in Albania so as to best explain the causes of its backwardness and underdevelopment, Merxhani nonetheless did not hesitate to diagnose and point out the obstacles he believed were preventing Albania's modern transformation. According to Merxhani, the irrationalism of mystical beliefs that were widespread in Albanian society were part of what contributed to the poor economic and moral state of Albania, whose correction would require the decisive efforts of the state, aided, at the spiritual level, by the ideological and moral texture provided by the idealism and radical secularism of Neo-Albanianism. Clearly, such a vision would have direct implications for that which for Merxhani and his petty bourgeois intellectual followers constituted the greatest residue of traditionalism and "primitive mentality" in modern Albania, the highland peasantry, its "mysticism," particularly that embodied in its tradition of customary law. The modernizing ethos of the new Zog monarchy, Albania's "enlightened dictatorship," could not but declare all out war on such moral and cultural backwardness that prevented the forging of a new moral and civic solidarity among members of the new nation, held Albania under the throes of its backward "Oriental" past, and tarnished Albania's and the Zog monarchy's prestige in modern Europe. Ironically, however, it was older officials

with a background and history in the older Ottoman system of administration, such as the notorious Minister of Interior Musa Juka, on whom the task befell to implement the very kind of reforms the Neo-Albanianist movement promoted.

Merxhani's Neo-Albanianism is important not because it developed any particular perspective on the highland peasantry as a social group, nor did it endeavor to stigmatize the highland peasantry (or any other subaltern social group for that matter) in any direct way. Unlike the ethnographic work of Shkodra's Franciscan order, whose members were among the first to codify highland customary law and collect descriptions of customs and rituals which they observed in local regions, Merxhani offered only a grand elite vision of society, a set of ideals and values it must collectively pursuit in the path of modern development, a set of ills and evils it must eliminate to create a rational, morally integrated, harmonious and efficient community. More than a depiction and analysis of any particular social group or cultural tradition in modern Albania, Neo-Albanianism articulated a new evaluative standard, a new framework to help organize and rationalize the interpretation and understanding of Albania's social problems and issues of reform and modernization. The highland peasantry had historically, even in Ottoman times, borne the stigma of backwardness and underdevelopment. But the new intellectual spirit of the Albanian monarchy, with its stress on the organic unity of the nation, moral integration and solidarity, discipline and order, and the need to address problems at their moral, cultural, and, consequently, the psychological level, made the reformation of Albania's subaltern groups a national imperative. It is this general spirit that provided the new normative framework which the Albanian monarchy would strive to meet in its highland policy as well.

It was this shift in the general ideological climate among Albania's elite, precipitated as well as embodied by intellectual movements such as Neo-Albanianism during the years of the monarchy that portended the major shift in highland policy shortly after the declaration of the monarchy in 1928. The short-term political calculation and expediency which had characterized the national government's approach to the highlands, its appreciation of the local power of customary law, would cease to be as a more totalizing vision of the social order took its place. In its place would emerge a policy that would stress cultural reform and the treatment of customary law as an irrational aberration that demands swift purging away from Albania's social fabric. The fact that such a policy would eventually fail to produce its desired results, that customary law would carry out a semi-public, semi-clandestine existence long after the fall of Zog, was less an index of the deficiency of the policy's planning or execution and more that of the prior legacy of national state building in the highlands. Just as the pompous gathering at the Congress of *Bajraktar*s made it seem that government control over the highlands was finally made secure, the new post-1928 policy produced the conditions of counter-mobilization that made the defense of customary law the new bone of contention between the state and the highland peasantry. The fact that the state had for so long relied on customary law and used it as a medium for exerting control in the highlands meant that it could not be driven into the dustbins of history by the political will of the ruler or an administrative act of the state. The ideals of Neo-Albanianism did not, as Merxhani hoped, substitute the old, traditional values of religion and ancient custom. They did, however, provide a much needed ideological grounding to the objectives which Zog and the state leadership saw as worthy of pursuit.[29]

5.3.3. Strengthening the "heavy hand of the state": the new modernizing spirit and post-1928 highland policy

> Crime in [the highlands of Albania] is a result of the instinct for the preservation and perpetuation of the clan (the household and its property). ... In order that criminality be vanquished from our land, we need the *force of law*, that is, *the Hand of the State*, be heavier and more powerful than the power of property and instinct that command the use of private violence.
>
> From an article in *Koha*, 1925
> (quoted in Elezi 1983, pp. 114-15; emphasis in original)

In 1927, a document [Kryesia e Republikës, V-6, 1927] from the General Inspectorate of Administration in Shkodra sent to the Presidency of the Republic drew a damning picture of customary law and its practice in the highlands. The document is occasioned by a letter sent to the Inspectorate by the highland subprefecture of Malësia-e-Madhe, which complains of the interference of elder councils in its areas of jurisdiction. The subprefecture is particularly concerned by the practice through which the gendarmerie support the decisions of elder councils and refuse to acknowledge the orders of the subprefecture for the arrest of individuals alleged to have violated state law. While councils apply their own justice based on customary law, the subprefecture requests a clarification of competencies and the legality of the actions of the councils and argues that the gendarmerie must recognize the supremacy of the subprefecture over the councils.

A similar jurisdictional issue had developed some time before, when the elders of Malësia-e-Madhe protested against the interference of state courts on matrimonial matters

that fell under the jurisdiction of customary law. The issue regarded the marriage of women – the elders claimed that under customary law, the authority for offering women in marriage belonged to fathers and brothers. The courts, the elders claim, are disrespecting this practice by validating marriages unauthorized by families. These not only violate customary law, but may also create conflict between clans (if, for instance, a woman is promised by her family to one clan, but then marries into another). The elders demand that the courts cease from claiming jurisdiction over matrimonial matters among highlanders and allow such issues be regulated by customary law.

Responding to these competing claims to legal jurisdiction, the Inspectorate demanded swift and immediate action by the central government. The Inspectorate offered two solutions: the government must either issue a law regulating its jurisdiction and sphere of competencies of customary law and the elders, or, better yet, abolish customary law altogether. According to the Inspectorate, not only is customary law deleterious to the interests of the state, its uprooting would also be welcome by the local population as an act of liberation from what the Inspectorate described as the yoke of the elders and their arbitrary system of justice. The document claimed support by referring to a report by the local gendarmerie command which claimed that customary law benefited the elders through the fines and other income they gained by their mediation and arbitration services. Moreover, the gendarmerie report offered the view that the people of the highlands no longer desired to be ruled by customary law. The Inspectorate endorsed this statement and wrote that in its own contacts with local highlanders, it also finds that highlanders wish for customary law to end its centuries old reign. The Inspectorate calls the continued application of customary law a form of "cantonal privilege." The

revocation of this system would bring the highlands "into the fold of the law" and thus put the region in line with the rest of Albania.

The extent to which clamoring by the Inspectorate and the local prefectures influenced the change in highland policy is difficult to gauge. After all, complaints by local officials over the application of customary law were common throughout the 1920s. Kosturi's famous document after the Mirdita rebellion in 1921 had already articulated a blueprint for a policy that would transform the highlands into a region governable by the state. Tax collection levels – which under Albania's unreformed tax system, were still paid in kind – in the years between Zog's takeover and the fiscal year 1928 were improving, ruling out that the state's fiscal interest had anything to do with the policy change. Indeed, in 1925, Zog's regime ended all traditional exemptions to taxation and military service, which particularly related to the traditional prerogatives of highland communities. It also instituted a policy of infrastructural development which mobilized the local population into the construction of roads. These policies were aided by the reorganization and centralization of policing, including the establishment of hundreds of new gendarmerie posts throughout the country (della Rocca 1990, pp. 130-31; Fischer 1984, pp. 101-4; Tomes 2004). It was, indeed, the new spirit that arrived together with the Albanian monarchy that impelled the new push towards legal and administrative centralization, which meant the necessary driving out of archaic elements of administration and law, particularly that found most eminently in highland customary law.

The adoption of the new Penal and Civil Codes in 1927 marked a clear break with Albania's legal tradition, and had direct implications on the policies of local governments

in the highlands. This required, by implication, the end of legal exceptionalism in the highlands, and the full establishment of state authority over the governance of law in the region. Thus, in the midst of legal reform, in 1928 the government drafted a law with the goal of wholly terminating customary law's function as a system of justice. The terseness of this statement is not a misrepresentation of the government's intention – it indeed saw customary law as a system that could be shelved by decree from the top. As the Inspectorate pointed out, the full exercise of the Civil Code among highland peasants was impeded by the continued exercise of authority by elder councils and the existence of other elements of social life among highland communities that continued to be regulated by the norms of customary law. The draft law, however, missed the moral dimension of customary law and its embedding in the symbolic economy of honor and took a narrow view of it as a simple arbitration mechanism whose competencies required to be taken over by state courts.

The law thus envisioned a mechanism that would transfer existing cases of conflict from customary tribunals into state courts. This transfer of judicial power to state courts and its organs would, from the government's perspective, end the *raison d'être* of customary law, marking the demise of this archaic system of justice and proclaim the final triumph of the state over a system that for the political and cultural elites of Tirana represented an especially parochial and backward legal tradition. Echoing the language of the Inspectorate, the justification for the law claimed that the populations of the highlands were suffering from the imposition of this archaic system of justice, and would benefit from its substitution by the state's legal system. This judgment was based on official reports coming from local sectors of the administration, since the highland peasantry was

never consulted about the law, its desirability, or the degree to which customary law was indeed revocable from the top-down. The government simply designated the elders as the culprits behind the customary system, tarnishing them as an abusive group, while repressing the history of the state's own involvement in mobilizing customary law and its institutions when required for its own political goals. In essence, the state intended to terminate customary law and its institutions by authoritarian imposition.

The measure brought to light both the political issues and legal disarray that existed in relation to customary law in the Albanian highlands. First, the law "On reviewing inherited cases in the highlands governed by the *kanun*" only broadly described three northern prefectures, those of Shkodra, Dibra, and Kosova, as containing the regions governed by customary law. This prompted the Ministry of Justice to inquire into the exact territories that fell under the jurisdiction of customary law. This was an impossible task, because such jurisdiction had never been clearly defined by either legislative or administrative act. As discussed earlier, the premise of all highland policy had been to treat the highlands as a special administrative zone defined by legal exceptionalism, but the terms of the relationship between the state and regions governed by customary law was never fully regulated, creating the conditions for the arbitrariness and, indeed, extra-legality of state action in relation to the highland population. These territories never existed, as some officials of the Albanian state believed, in "cantonal" form, because customary law in the highlands was never a territorially autonomous system of government, but co-existed with official state authority, ranging from the administrative and political functions of the prefectures and subprefectures to the increasingly coercive actions of the army and gendarmerie. Indeed, the implicit political

pact between the highland population and the state had always been that the highlanders would concede to the authority of the state in return for the latter's respect for customary law, particularly those aspects of it responsible for the regulation of private affairs. This had most recently been done in the Congress of *Bajraktars* in 1925, when the state's respect for customary law had been personally guaranteed by (then President) Zog. In debates in parliament over the law, however, exposed the unresolved issues that stemmed from the national government's position towards customary law since the first days of existence.

More interesting is the fact that, while customary law enjoyed, from the state's perspective, no definitive legal status, the new law would posit terms of equivalence between the state's legal system and the system of justice carried out through customary law and its institutions. Until this law, customary law had no defined jurisdictional authority, even though it had served as the central medium for legitimizing state rule in the highlands. The new law only implicitly acknowledged that which customary law had *de facto* represented to the state since its foundation: a parallel, subsovereign system of justice, a parallel administrative structure that had been co-opted as a surrogate for the formal legal state. In spite of the fact that the institutions of customary law operated autonomously from the government (i.e., following norms, objectives, and procedural schemas that were internal to its own system of practice), these became indeed the materialization of the national state at the local level. The problem, which the government would realize in due course, was that customary law was *not* a formal legal system that could be legislated away. Its existence as the premise of the moral order of highland communities, its dispersed system of authority and its non-hierarchical structure

represented most illustratively by the self-help system of blood vengeance and its underlying symbolic economy of honor meant that there was no single point of entry, no institutional address that could be targeted to force the end of the practice. Given this situation, customary law would soon become an object of contention for the government not for the control of any specific set of norms it held and required modification, but the medium by which the state attempted to claim control over and intervene into the very moral subjectivity of the highlanders. It was the moral reeducation of the highlanders, imbuing them with the new morality and idealism of the modern epoch (articulated in their most explicit form in elitist discourses such as that of Neo-Albanianism) that implicitly forced itself on the government as the only way towards the moral and legal rationalization of highland society. An additional factor that enabled the new approach was the gradual replacement of locally appointed subprefects in the highlands with appointees from other parts of Albania, primarily of better educated southerners. These officials were loyal to the central government and few to no ties with the local community. Many subprefects appeared to have had a difficult time becoming accepted by and integrating with communities possessing different values and worldviews and speaking different dialects from them, as a tragic suicide note of one subprefect from the 1930s indicates.[ref.?]

The intent of moral reform of the highlanders became particularly clear with the measures adopted after 1934, with the adoption of a new measure intended to amend what it saw as limitations to the Civil Code. The implementation of the new provisions of the Civil Code relating to marriage and family law had fallen behind, particularly in rural areas where there was much resistance to the new norms. Indeed, for the officials of the

expanding state, the old ways of marriage created problems for the government and needed to be targeted for reform. During the early 1930s, local authorities in the highlands reported that the traditional form of matrimonial exchange in the highlands was increasingly at the root of local tensions, leading to events such as the kidnapping of brides and tragic blood feuds. According to local officials, the practices of highland peasants regarding nuptial arrangements were not only often in violation of the Civil Code, but also laid at the root of much of the criminality in the highlands. Moreover, in the officials' view, the matrimonial practices of the highlands threatened the very fabric of Albanian society, for they pushed partners, especially women, into arranged marriages that often bred future problems for the couple. Based on these reports, the Ministry of Interior concluded that "one of the chief causes of conflict in Albanian society was the custom of engaging girls at a young age, in return for a monetary reward paid by the family of the future husband" (Musaj 2002, p. 206). The Ministry suggested immediate measures in the form of an amendment to the Civil Code, particularly its provisions regarding nuptial engagements. The problem, in the Ministry's view, was the flaw in the existing law which, while restricting the legal age of marriage to sixteen, nonetheless recognized the right of families to engage partners at any age. This lied at the root of much conflict, because while recognizing the customary right of the family over the marriage of children, it nonetheless gave both engaged partners the right to opt out of the marriage which had been contracted by the families. Moreover, this right was extended to women, who could refuse to marry a man chosen by their families. Since engagement, following customary practice, involved payment of a bride price, this often led to violent feuds between clans after the promised bride refused marriage with her anointed groom,

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or ended up marrying another. Some reports contended that there were occurrences of abuses of the legal right to refuse marriage by offering women to more than one groom, and later having them legally refuse to marry, for financial gain, or accepting a bride price from the groom's family, but then giving the bride to a higher bidder. Musaj suggests that this was probably caused by the increasing impoverishment faced by highlanders, particularly during the economic crisis of the 1930s (Musaj 2002, p. 194). Another problem existing in the eyes of the government was the increasing price of brides. This made it increasingly difficult for some men to find marriage partners. As a response, the Ministry proposed that the government regulate bride prices.

Most of these issues were incorporated in the "Law on Nuptial Engagements," passed in 1934, a measure that the Ministry of Interior saw as necessary for all rural parts of Albania, and the highland regions in particular (Musaj 2002, pp. 208-11). The law made it illegal for any parent or guardian to offer a minor under the age of fourteen in marriage, or for any minor to be engaged, and outlawed engagements that were made against the individual wills of the bride and groom. It also prohibited the interference of third parties, such as those offering a higher bid or families seeking a bride price above the original one already paid, in the consummation of engagement arrangements into marriages. Heavy penalties were designated for those who violated the law. The law also established an administrative procedure to be followed for those breaking engagements, intending to protect the rights of the individuals promised for marriage and ensuring the involvement of the civil institutions of the state in the dissolution of engagement contracts. A second measure passed by the government regulated the bride price, by setting a price ceiling. Though securing what may be effectively called a form of

"divorce" before marriage, and attempting to accommodate both the rights of the family over marriage arrangements with the rights of individuals to choose their own marriage partners, the law clearly expanded the state's role in matters of domestic life, a domain which laid at the bedrock of traditional laws. The Law on Nuptial Engagements did not pass simply as a law existing only on paper. Soon after the law was decreed, a special campaign was initiated by the Ministry of Interior with the specific goal of enforcing the provisions of the new law, including the direct monitoring of its implementation by the Ministry.

The combined effect of the Civil Code, the Law on Engagements, and the strengthening of the administrative and court system of the state, was the increasing assertion by women of their rights to divorce, choice over marriage partners, and claims over property. This dramatic increase in rights-claims by women is well-documented by Musaj (2002, pp. 195-202). While such claims were not unusual in urban areas, they spread to rural areas as well, including the highlands. Applying new rights guaranteed by state law, and appealing to the state's legal institutions for redress, women claimed the right to refuse marriage to a groom which they had been promised by their families. "I will remain a servant and not marry, because my father has engaged me against my will and now wishes to marry me by force," Musaj (2002, p. 197) quotes a complaint lodged by a woman in the town of Kavaja with the local subprefecture. The introduction of the Law on Engagements provoked even greater indignation in the highlands. Some communities protested the law and demanded that marriages be regulated by customary practice. The Ministry insisted on the law's meticulous implementation even after receiving reports of reticence by highland communities in allowing the state to claim

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jurisdiction over the matrimonial process. Clearly, the law occasioned a direct confrontation between the state and highland communities, given the state's intent on entering domains of social life that had traditionally formed the crux of highland customary law. This would prove extremely consequential in the kind of attitude that highlanders would assume towards the state, even as their once autonomously governed lives became increasingly subject to the authority of the a bureaucratic state.

The Law on Nuptial Arrangements became part and parcel of a broader campaign which, as the government claimed, sought to "eradicate backward practices." Here, the "primitive mentality" of the highland peasantry increasingly became the object of reform for local officials, under measures formulated by the national government. In 1935, the prefect of Dibra, in a letter to the Ministry of Interior argued that "the success of the legislation [for engagements] will be apparent when it has been successful in transforming the primitive mentality [found in the region] in regards to issues of engagement and marriage, which are the basis for the creation of the family."[30] Increasingly, highland policy changed from one of mobilization for the purposes of national rule towards giving the state an active role in the cultural transformation of highland peasants. It went from one of active co-optation of customary law and communal institutions to one of increasing antagonism between them and the state. As pointed out, the political stability that emerged under Zog, the new climate among those cultural elites supporting an "enlightened dictatorship" and a renewed nationalism that gave the state an increasingly central role as a cultural and moral reformer, created the conditions for the new policy pursued in the highlands.

5.4. Legal centralization and the destabilization of the customary order

In its relationship to the modern bureaucratic state, customary law transformed from a resource of the state to a social pathology that required addressing. The administrative and legal centralization of the state, including the growth of legal capacities, the symbolic mandate claimed by the Albanian monarchy for building an organic national community, and the increasing encroachment of state laws on social domains formerly governed by customary law created a number of antagonistic relations between the expanding state and the highland peasantry. This process followed the increasing marginalization of local traditional authorities, such as the *bajraktar*s and the elders, whose historic defeat was portended with Gjoni's failed separatist movement in Mirdita in 1921. However, while specific measures, such as the efforts by the state to target the authorities of elder councils, threatened traditional power structures, the measures to regulate family law and devise new norms for matrimonial exchanges affected the highland cultural system in the most general terms. With these measures, there emerged conditions for growing antagonism between the highland peasantry and the state in terms that differed radically from the past, and in which the defense of the customary order became of paramount importance for the highland peasantry. Certainly, ever since Ottoman times there had always been domains on which highlanders conflicted with extralocal authorities, but these areas, such as taxation and military service, were objects of negotiation, as they continued to be in the early days of Albanian independence. But the shift of state policy towards cultural reform, including the campaign to reform matrimonial practices and other ritual elements of the customary cultural system, created an atmosphere of direct antagonism between the organs of the

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state and local society. In particular, the growing cases of local women claiming rights under the new law increasingly threatened patriarchal authority in the household and the kinship nexus. In combination, the attack on the customary system in the later period of state building led to the emergence of a new cultural conservatism among highlanders, whose political mantra became the defense of the traditional order. It is in this sense that one of the central consequences of legal centralization was that the state's encroachment in local affairs no longer concerned issues of taxation, the maintenance of public order, and the administration of justice, but created pressures that threatened the destabilization of the patriarchal order which lied at the very foundation of customary law. This would create a unique opportunity after Italian occupation in 1939, for the institution of a neo-traditional policy that placed customary law as the central component of the Albanian cultural legacy, and mobilized the state towards its defense. Under these terms, the political transformation of the Albanian state under Italian occupation was a welcome development, because it eased the threats against the essential fabric of the traditional order, of which patriarchy and male domination were central.

The second consequence of legal centralization was *legal atrophy*, by which I mean that the efficacy of communal institutions underwent deterioration due to ongoing pressures by the state. These pressures came in two forms. In the period 1919-28, state policy was geared towards mobilizing elements of customary law and its communal institutional basis for the purposes of legitimizing state rule at the local level. Administrative measures, such as the use of the *besa*, the establishment of local committees, and efforts to manipulate the customary order for political purposes increasingly produced tensions at the local level in terms of the legitimacy of traditional

authorities. In the second period, measures to persecute the practice of customary law led to its increasingly clandestine existence, and the decline of institutions that supported the functioning of the customary order. In particular, this related both to the deteriorating authority of elders, as well as the atrophy of the process of inter-regional and inter-generational transmission and reproduction of the customary legal tradition, given that, as a non-written system of justice, its reproduction required constant practice and repeated exposure to traditional techniques of mediation and judgment. Indeed, an interesting archival document from 1924, sent by the head of the mountain village of Rrjoll to the central government, argues for the need to replace customary law by the state's legal system because individuals that are well versed in the orally-based customary legal tradition are becoming increasingly rare.[31] The combined pressures to cease the practice of customary law, and the use of communal institutions to further state building goals, contributed to the process of legal atrophy, contributing to the decreased efficacy of elders and other customary institutions to mediate and resolve disputes in the highlands according to customary procedures. The efforts to police highland society by administering the local honor-based system also contributed to the deterioration in the value of the honor-based commitment given its increasing use for opportunistic purposes by the state, the strengthening local clientelistic ties and information networks developed and maintained by the state for intelligence-gathering purposes. This no doubt led to the deterioration of trust in communal institutions and increased reliance on clientelistic and kinship ties for information, services, and protection, leading to the fragmentation and loss of collective solidarity within traditional highland communities.

Finally, the policy of targeting customary law, alongside legal atrophy, contributed to the condition of legal anomie, which led to the ambiguous and sometimes opportunistic relationship of highland peasants to both the state and customary legal system. Of course, had there been a smooth transition (if such a thing would have ever been possible) from customary to state law, if the new legal norms and institutions of the state offered an effective substitution for those of the customary order, and if the introduction of such an order did not threaten the very basis of power under the customary system, then the atrophy of the customary legal system would have represented a negligible problem. But the fact that the state and customary legal systems existed antagonistically, meant that those trapped under the sway of both systems had to increasingly renegotiate the normative order of their society by navigating the contradictory web of state and customary norms. Anomie, then, refers not to the classic Durkheimian loss of norms, but to a state of conflicting demands by fundamentally irreconcilable and contradictory normative orders. The condition is captured in a discussion by Father Anton Harapi, an astute observer of the culture of northern Albania, in describing the spiritual state of the highlands after a decade of state building and reform. Writing in 1932, he said,

> Last year in Shala, the heads of two phratries collided over the use of watering rights [for irrigation]. They tried hard to resolve the matter but could not come to an agreement. One party wanted to resolve the issue according to the *kanun*, the other, because that method did not suit it, appealed to the law and the courts. Each party had its strong claims, but the matter remained unresolved, hearts remained enraged and the water of the well, instead of watering the fields, gushed over rocks. This is only one of many cases that prove to us that the Albanian spirit today belongs neither to the law [of the state] nor to Lek [customary law]: the *kanun* is insufficient, while the law does not persuade him, while he wanders around like a disoriented bird, smashing into everything with every movement.

He cannot stay with the old if he accepts the new, nor does he now how; the new
ways of life are to him a parody; to embrace them, he fears, because he knows not
where they lead him. "It was better then," says a man from Puka [a highland
village], "when you feared no one but God; you knew what belonged to you,
today it is no longer so..." His demoralization has reached a bottom against which
there is no more. When faced with a situation, he has to choose one: either sell his
soul to enrich his kin, or grab a gun and run to the hills [as a bandit or
revolutionary]. (Harapi 1999, p. 126)

Unfortunately, Harapi was right in all but one fact. While state repression led highland
peasants to run to the hills as bandits, it was Albania's other peasantry, that of the
lowland cultivators, that would run to the hills as revolutionaries. How the state
contributed to this outcome is the subject of the next chapter.

5.5. Conclusion

This chapter examined the dynamics of state building in the Albanian highlands in
the period after the establishment of Albania's independence. It traced two central
periods of Albania's highland policy, an early period which began with the continuation
of Ottoman-style indirect rule and ended up with reliance on the *besa*, the highland
pledge of loyalty, to establish state authority. The second period was a period of cultural
and moral reform in which the state sought to delegitimize customary law while
extending, after the adoption of the Civil Code in 1927, the jurisdiction of state authority
to regulate affairs in the domestic realm which had previously been under the exclusive
domain of communal institutions and customary law. While during the first period
communal institutions and customary law, particularly the *besa*, served as mechanisms
that legitimized the permanent establishment of state authority in the region via the
prefecture system, in the second period the state engaged in an increasing confrontation

with customary law and communal institutions. This shift led to the changing institutional role of the state in highland society, first by embedding it within the customary order via an institutional interpenetration with communal institutions, and later with an asserting regulatory role which threatened the basic institutions of the customary order. This rapid shift in policy reflected both in highland attitudes towards the state, but also had implications in the customary order itself. State efforts to manage and later marginalize customary institutions contributed to legal atrophy, weakening the traditional strength of customary law to effectively regulate local affairs, mainly through the deterioration of the human capital and institutional trust required to reproduce it. On the other hand, the extension of jurisdictional authority over core issues of highland social reproduction, including matrimonial rituals and rites, provoked a reaction among the patriarchal authorities which drew the highland peasantry increasingly closer to politically conservative attitudes. This situation was exploited by Albania's Italian occupiers in 1939, whose new regime issued orders claiming the reinstatement of customary law and the use of state authority to help enforce it.

Clearly, the 1940s found the Albanian highlands embroiled within a system which was claimed as traditional, but had, as a result of state interventions, transformed significantly from what it had been historically. The instrumentalization of customary law for the political goals of state building deteriorated the institutional power of traditional institutions, while increasing state regulation of highland social life paradoxically strengthened the *ideological* claims over the importance of those traditional institutions. Ultimately, with the erosion of the social institutions central for the effective exercise of customary law, especially elders and village councils, the loss of communal autonomy

due to severe economic pressures and state campaigns of disarmament, and the emergence of multiple channels for seeking legal redress, customary law was degraded into a self-help system of blood retribution while lacking the elements of solidarity and social cohesion which it had played in the past. The state contributed towards weakening the traditional institutions of social regulation while failing to establish an alternative legal order in its place. This created an environment conducive towards the culturally and morally conservative discourses which defined highland state policy and those of anti-communist movements in the early 1940s, and helps explain the repulsion that the communist movement faced when trying to mobilize in the region.

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[1] CSAA, Fund 152, Dossier 2, pp. 11-12 (1919).

[2] CSAA, Fund 152, Dossier 2, p. 49 (1919).

[3] A small Italian contingent remained stationed in Shkodër after the prefecture turned to Tirana's control, but it remained politically insignificant. In late 1920 the contingent was withdrawn and the Albanian gendarmerie became the only armed force in the region.

[4] The demands of the Catholic Church were paralleled by similar demands from the southern town of Korça, led by Koço Kota, for a similar kind regional autonomy. Regionalist movements gained little political ground, however, and were quickly overwhelmed by influential leaders in support of national centralization.

[5] Bib Doda's return to Mirdita in 1908 is recorded by Durham (1909), who was present in Mirdita for the occasion. Her writing points to the degree to which Bib Doda's absence

had alienated him from his native Mirdita: "There was a certain irony about the fact that the man who had left as a prisoner – treacherously kidnapped on board a Turkish warship – was now returning to the land of his birth, in Turkish uniform, as aide-de-camp to the Sultan, and attended by two Turkish guardian angels – Young Turks in officers' uniforms" (1909, p. 335).

[6] CSAA, Fund 149, Dossier I-207, pp. 1-2 (1920).

[7] The role of the Jibal Commission was less relevant for the Kukës region, where the main political movement was the Kosova Committee. Led by local notables like Hasan Prishtina and Bajram Curri, the Kosova Committee was able to gain considerable following in the region and played a central role in politically mobilizing local peasants.

[8] CSAA, Fund 149, Dossier I-207 (1921).

[9] CSAA, Fund 149, Dossier 40 (1921).

[10] The exclusive authority of the Gjon Marku (Gjonmarkaj or Gjomarkaj) family in matters of customary law is given in Father Shtjefën Gjeçov's codification of the customary law of Mirdita, known as the *Kanun* [Law] *of Lekë Dukagjini*, in honor of a fifteenth century notable who is claimed as its progenitor. Gjeçov's codification dedicates an entire chapter to the role of the Gjon Marku family. It states that "the House of Gjomarkaj [Gjon Marku] is the foundation of the *Kanun*" and gives his household special privilege in mediation such that "cases [of disputes] may not be appealed beyond this House," in addition to a number of other privileges (Gjeçov 1989, p. 204). Ethnographic work on customary law by another Franciscan priest demonstrates that Gjon Marku's authority on providing non-binding interpretation of customary law stretched beyond

Mirdita and into neighboring highland regions in the south (Illia 1993, p. 17). However, both Gjeçov and Illia performed their ethnographic work in the 1920s, when the Gjon Marku family had a central role in local affairs. Furthermore, Gjeçov's codification of customary law introduces concepts like "nation" and "country" which can only correspond to the era of national independence. Gjeçov's codification of customary law therefore reflects a certain historical reality rather than transmitting a fixed system of laws that have remained unchanged over the centuries. Moreover, the tradition of oral transmission upon which customary law was based virtually guaranteed its evolution and transformation over time, even while the extensive and systematic nature of Gjeçov's codifications are impressive.

[11] As indicated, Father Frano Illia's codification of customary law in regions neighboring Mirdita during the 1920s contains a paragraph which recognized the Gjonmarkaj household as one of the highest interpretive authorities of customary law. Even if the household had no claims of direct authority over these regions, the power of interpreting the law and its precedents would have provided the Gjomarkaj family extensive judicial authority, an authority which Gjoni appears to have wanted recognized formally by the government.

[12] CSAA, Fund 152, Dossier 73/2 (1921).

[13] While Gjoni inherited the title of *kapedan* from Bib Doda, they were very different as personalities. While Bib Doda was an educated polyglot who had spent much time in Turkey, considered himself part of the Ottoman bureaucratic elite, and was a member of Albania's first provisional government, Gjoni was an uneducated local notable with little

experience outside Mirdita. This put his stature among Albania's political elite at a very different – and, for the elite, much less respectable – level, and may partly account for his marginal role in national politics.

[14] Doçi (1996) points out how, for example, that the Ottoman elites of Peja (Kosovo) and Shkodër often jockeyed for influence over Mirdita. This enabled the Mirditores to bargain for tax breaks, trade benefits and other goods with urban-based authorities.

[15] CSAA, Fund 152, Dossier 73 (1921).

[16] CSAA, Fund 160, Dossier 4 (1916).

[17] Mat was a traditional power base for Ahmet Zogu, a scion of one of the powerful *bey* families of the region and a rival of the Durrës government. The attempt to establish a *besa* with the local population also had the function of trying to undercut Zogu's influence in the region.

[18] This is evident in Gjeçov and Illia's codifications of highland customary law, both of whom were members of the church but neither of which exaggerated the church's authority in local society. In both descriptions of customary norms, the sphere of religion and the role of the church are placed under a separate heading from other spheres of highland social life. More importantly, the church and its belief system are not the grounds upon which customary law founds its moral authority, nor does it gain any backing in the form of a church-based system of sanctions. In addition, important social functions required no official validation by the church. Matrimony was governed entirely by customary law and even many religious-based rites, such as the important ritual of

godfathering, did not require the participation of church functionaries. This greatly

diminished the influence of the church as a *moral* force in local social life.

[19] This, obviously, is not a tradition that is unique to the Albanian highlands. This kind of

chivalrous tradition still persists in the modern military in its conferral of highest honors

to those fallen heroically in battle.

[20] CSAA, Fund 152, Dossier 307 (1921).

[21] The fact that this synthesis became the institutionalized reality of the state is not to

claim that the emerging structure was *efficacious* when seen from a comparative point of

view. As the later discussion will show, it was not at all an efficacious solution, leading

to constant problems in the definition of jurisdictional matters.

[22] This is a claim to knowledge based on "ethnographic acuity" that is similar to that seen

in officials of modern colonial states. On the concept of ethnographic acuity and its role

in colonial state construction see Steinmetz (2007). The difference here is that the basis

of knowledge claims is special behavioristic, i.e., "psychological," insight, rather than the

"rule of colonial difference" (Chatterjee 1993).

[23] On the distinction between state and other systems of law see Weber's (1978, pp. 809-

30) discussion in his sociology of law. The most basic distinction between state and other

systems of law is the characterization of the latter by the principle of legal formalism, the

logical consistency of systems of norms, and the purging of law from any sacral

elements. In this sense, colonial codifications of customary law brought about a degree of

rationalization of the customary system which did not exist when these legal traditions

existed in non-codified form. This fact may have a lot to do with the continued

perseverance of such systems of law, more so than the mere fact of their official sanctioning by the colonial state.

[24] The colonial rationalization of native customary law was a shared feature of late European colonialism. Similar practices were carried out by the French empire in its colonies. See Charrad (2001).

[25] CSAA, Fund 152, Dossier 519 (1924).

[26] Mile (1984, p. 351), for instance, notes that among the punitive measures that the Ottoman administration employed against Albanian highlanders was to prohibit them from entering market towns in the lowlands for trade. The establishment of a policed international boundary between Albania and Yugoslavia (including Kosovo and Macedonia) to the east would mean that trade would be made a permanently difficult activity, particularly for the northeastern highlands.

[27] CSAA, Fund 377, Dossier 2 (1929-32).

[28] Merxhani's conception of the state only selectively draws concepts from Durkheim, because Durkheim's perspective on the state was radically different from that of Merxhani. While Durkheim saw the role of moral sanction as central to the establishment and maintenance of solidarity, Durkheim's saw the state not as an institution of solidarity but one based on the establishment and legal protection of rights. Indeed, Durkheim explicitly rejects a view which equates the state as an embodiment or representative of the collective consciousness (Durkheim 1986).

[29] My interpretation of the role of Neo-Albanianism differs strongly from those of Albanian Marxist scholars (e.g. Koka 1985) who saw Neo-Albanianism as the ideological

reflection of bourgeois class interests. First, the lack of a strong capitalist class in interwar Albania meant there were no organized bourgeois interests that could be represented either politically or ideologically. If one is to give Neo-Albanianism a class basis, it would be that of petty bourgeois intellectuals who dominated intellectual discourse in interwar Albania, and who claimed a role in public life through engaging in discourses reflective of the moral standards and desires of social order characteristic of petty bourgeois values and beliefs. Second, Merxhani did not merely reflect a class interest – indeed, the fact that his work was institutionally based in an autonomous journalistic field is what gave it is broader influence and appeal. Merxhani's project would have been much less successful if he had been a mere propagandist of the regime, as, for example, Koka (1985) sometimes suggests. Second, Merxhani's anti-liberal and anti-Marxist inclinations made his ideology much more closer in its family resemblance to the organicist and collectivist visions behind the fascist and authoritarian movements that were then springing up throughout Europe, as opposed to a liberal "bourgeois" perspective of a self-regulating, individualistic, market-based society. That view was very far from Merxhani's ideological system.

[30] CSAA, Fund 252, Dossier 692, p. 11 (1935).

[31] CSAA, Fund 346, Dossier 50 (1924).

CHAPTER 6

Law and the Birth of the Revolutionary Peasantry: Transformation in the Legal Order and Agrarian Power in Lowland Albania

Shifting attention away from the highlands, this chapter examines the process of legal centralization and its consequences for the agrarian order of lowland Albania. As described in chapter 2, social and political changes in lowland Albania since the late seveneenth century had led to the formation of a class-based agrarian order organized around *çiftlik* agriculture. Nineteenth century reforms affected lowland Albania directly; containing most of the country's urban areas, Ottoman authority was well established in the region, while rural areas had long become subject to urban-based economic and political control and legal regulation. The powerful institutional presence of the Ottoman state had its consequences in the institutional development of the Albanian national state, as it laid the groundwork for the establishment of national authority in the region.

Challenges of state building the in lowlands were of a different nature than those in the highlands, and involved mainly the way in which national authorities co-opted or hindered the interests of Albania's powerful landowning class, the *bey*s. As pointed out,

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the *bey*s had a central role in the attainment of nationhood for Albania, guaranteeing them representation in the country's new institutions. However, the early political divergence between a conservative wing led by Zog and a reformist left-wing movement under Noli involved the interests of the *bey*s in a direct fashion. For most of the early 1920s, one of the central issues in Albanian political became agrarian reform, as radicals demanded that amassed landholdings during the period of Ottoman rule be redistributed to the peasantry, helping remake Albania's agrarian structure to look more like the predominantly smallholding peasant economies of its neighbors. In their relation to the state, *bey*s had to balance between political interests in the center and economic interests in their base regions. On the one hand, this increased the importance of regional power for the *bey*s, making the process of state centralization one that directly affected this relationship. Under Zog's authoritarianism, however, and requiring the protection of the state against the constrant threat of agrarian radicalism, the *bey*s had to relent on their local power and permit the development of powerful national institutions, including the reform of the Ottoman-era judiciary.

In all this, the most curious element is the political behavior of the lowland cultivator peasantry. The organization of this chapter therefore revolves around the drastic difference in the political behavior of the lowland peasantry on two critical junctures: the political revolution of 1924 and the communist mobilization of 1942-45. As described earlier, the political revolution of 1924, whose main programmatic goal was agrarian reform, failed to attract a significant following among the lowland peasantry, the very group it promised to benefit. But only two decades later, the very same peasantry would provide the popular backbone for communist revolution. What explains this

radical shift in peasant political behavior? The chapter seeks to address this question by examining the changing nature of institutions at the local level, rearticulating political antagonisms and peasant political action at the level of national institutions, and as a result anchoring the state more deeply in agrarian social relations. The central argument is that one of the key conditions enabling this outcome was the set of legal changes introduced after the establishment of the national state in Albania, particularly the introduction of new legal norms, the nationalization of the legal system and the reorganization of the system of justice at the local level.

The discussion of this chapter is divided into three parts. The first part briefly recaps the role of the Ottoman legal structure in the formation of an agrarian class system in lowland Albania. It outlines the institutions upon which the Ottoman *çiftlik* system was based, and how the collapse of the empire ventured landowners towards new ways of ensuring the legal protection over inherited privileged in the period of national independence.

The second part illustrates the critical importance of legal centralization in creating the conditions for successful peasant mobilization. It contrasts the peasant mobilization of the 1940s with the failure of the latter during the critical period of 1924, when a left-wing populist movement captured political power with the goal of instituting agrarian reform. Indeed, the paradox of the political revolution of 1924 is its failure to gain peasant support in spite of its radical pro-peasant and anti-landowner platform. The explanation advanced here is that the extending jurisdictional reach of centralized state authority and its remaking of the traditional legal order, coupled with processes of land privatization and commercialization, led to the growing local tensions between

landowners and peasants. The power of the national state, in its institutionalized existence, had yet to penetrate the agrarian relations of lowland Albania. Only once this process took place, once the state asserted its regulatory role in the agrarian class system – mainly through its legal governing of property in land – could the political message of state-led change direct the political energies of the peasantry towards the political transformation of the state.

The third part uses archival evidence to demonstrate the role of the state, particularly in its increasing juridical role as a regulator of peasant-landowner relations beginning in the late 1920s and 1930s, in creating the institutional channels that embedded the class-based political conflict over the control of land into the legal system. It will show how the growing dissatisfaction of the peasantry led Zog's conservative regime to adopt a number of reforms that offered concessions to the peasantry while threatening the economic power of the landowners, including the modernization of the taxation system, depriving landowners of traditional tax farming privileges, and the passing of a law on agrarian reform. This part argues that it was the increasing assertion by the state of a legal regulatory role over agrarian social relations that made Albania's peasant problem into a force of political transformation. The conclusion contrasts these developments with the effects of legal centralization on the highland peasantry, where customary law, and not the control of land, were the central issue for state elites. It shows how in both cases, the increasing role of the national state as a *legal order* channeled agrarian social conflict in ways that, in one case, helped reinforce the authority of the state, and in the other, led peasants towards a politics of resistance that consistently denied legitimacy to state law.

6.1. *Çiftlik* agriculture and the historically rentier nature of Albania's landowning class

As described in chapter 2, the critical distinction between the agrarian structure in highland and lowland Albania was that in the lowlands, the rise of the *çiftlik* system had led to the emergence of a distinct class-based agrarian order. Pastoral farming, the scattered nature of settlements, and the governing of the local order by customary law and its institutions meant that both the economic role as well as the legal regulation of land in the highlands operated on principles that were very different from the lowlands. In the lowlands, however, the economic role of arable land and its legal regulation by state and religious institutions produced a class differentiated society based on the control of land and cultivator surplus. This social context was undergoing significant changes after the collapse of Ottoman imperial rule.

An important question regarding the changing agrarian relations in post-independence Albania relates to the changing structure of political opportunities and economic incentives for the old landed elites after the collapse of the Ottoman empire. As discussed in Chapter 2, a central process in the agrarian history of Albania and the Balkans more generally is the spread of *çiftlik* agriculture and the emergence of a provincial landowning elite. Although there is still controversy among Ottoman historians surrounding issues of social and economic change in the late Ottoman period, the important insights obtained by economic historians who have studied Ottoman agrarian relations can be summed as follows:

(1) Due to the history of the Ottoman land regime, including its peculiar fiscal and

administrative arrangements and the legal status afforded to the land and the

peasantry, only in rare cases did the *çiftlik* assume the form of full-scale

commercial agriculture, as emerged in western Europe during the sixteenth and

seventeenth centuries (Brenner 1985; Brenner 1989; Wallerstein 1974). For the

most part, *çiftlik* owners did not act as agricultural entrepreneurs, making

investments in the land to increase yield on the basis of profits obtained from the

sale of goods in local and international markets. Instead, *çiftlik* owners largely

developed the status of a rentier class, whose primary economic benefit came in

the form of surplus extracted in the form of tithes, taxes, and other appropriations

from the peasantry. Indeed, the main forms of entrepreneurship in the transition to

çiftlik agriculture appear primarily in the direction of fiscal innovations by the

usurpers of land, rather than in increases in productivity or the reach into new

markets (McGowan 1981, pp. 56-79). In essence, the rise of the *çiftlik* class of

owners was a result of the opportunities created from the deterioration of the

traditional agrarian and fiscal-military order in the period of the declining ability

of the central authorities to control the provinces, and the opportunities opened up

by increasing international and domestic trade, giving provincial elites the

opportunity to gain command of the production of basic food staples which

formed the core of Ottoman state revenue. Indeed, landowners largely shied away

from engaging in the business of long distance trade, leaving it to intermediaries,

often members of ethnic and religious minority groups. In the western Balkans,

where large land ownership was a privilege of Muslim landowners, long distance trade was typically the domain of Christian Orthodox groups. The growth of commercial agriculture was also prevented by obscure legal practices which tenuously united private holdings with the Sultan's right to eminent domain and land whose proceeds were dedicated to public benefit (*waqf*), preventing the emergence of a large-scale commercial market in land freed from persistent political contestation between owners, cultivators and the state (İslamoğlu 2000).

(2) Up until reforms undertaken in the late nineteenth century, the *çiftlik* system co-existed uneasily with the traditional legal forms of the Ottoman empire, given traditional protections afforded to the peasantry, derived both from traditional precepts of Islamic law as well as the Ottoman ruling ideology, which considered the peasantry as the producing class whose well being was key to successful state making (Itzkowitz 1972, pp. 87-109). The seventeenth and eighteenth centuries are wrought with peasant rebellions against landowners encroaching upon such traditional rights, while the transition to *çiftlik* agriculture is accompanied by increasing peasant dispossession and a decline in the ability of Ottoman judicial authorities to protect the rights of peasants against landowner encroachments. However, there is consensus among historians that the *çiftlik* system largely retained the characteristics of a *Grundherrschaft* system based on *métayage* share tenancy arrangements and, with some exceptions, did not develop into a *Gutsherrschaft* system of servile labor as in eastern Europe.

(3) While there is ongoing debate among historical specialists regarding causal linkages, there exists a strong correlation between the expansion of the capitalist

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world-system and the rise of *çiftlik* agriculture in the Ottoman empire, as
evidenced by historical investigations of the changing relations between the state,
local elites, and the peasantry in the post-classical imperial period. This seems to
hold particularly for the Balkans. Keyder (1991, pp. 8-9) notes that the bulk of
Ottoman trade was internal, that, particularly after 1800, exports increased at a
rate much smaller than the rate of growth of overall world trade, and that
agricultural exports were never dominated by a single product, as would be
expected from a specialized, mono-crop plantation-type agrarian system.
Overwhelming historical evidence produced by Balkan historians also deny
plausibility to claims that Balkan agriculture took a turn that was similar to that of
economically dependent peripheries, such as the rise of the *hacienda* systems in
Latin America or the *Gutsherrschaft* of eastern Europe (Lampe and Jackson 1982,
pp. 133-53), at best pointing to a partial and incomplete integration of the
Ottoman agrarian economy into the capitalist world-system. However, the fact
that, at least in the Balkans, *çiftlik*s emerged primarily along coastal regions and
major waterways points to the significant stimulus that long-distance trade
provided to the transformation of the classical agrarian order, at least at the
regional level (McGowan 1981).

Another set of conclusions may be drawn at by examining the distinct effects of *çiftlik*
agriculture on Albania, given the timing of its independence, its position as a frontier
region in the waning years of the empire, and the impact that conversions to Islam had

had in producing a non-Turkish, native provincial *ayan* elite. First, McGowan's research

shows that the arrival of *çiftlik* agriculture in the lowlands of coastal Albania was a

relatively late phenomenon, emerging only in the late seventeenth and early eighteenth

centuries, an observation confirmed by Albanian historians, pointing to the very late

survival of the *timar* system in parts of Albania (McGowan 1981, pp. 73-9; Mile 1984).

Second, it points to the relatively insignificant position of lowland Albania in comparison

to Macedonia, Thrace, Dobrudja, and the Black Sea coast as a source of agricultural

production for the empire: in spite of its access to the Adriatic, none of the Albanian

ports, including its main port Durrës, ever rose to become important entrepôts for

Ottoman trade. In addition, most of the empire's important inland trade routes were in the

interior of the Balkan peninsula and by-passed Albania (Lampe and Jackson 1982, p. 20;

McGowan 1981, p. 25). In terms of the internal flow of goods, the central authorities

never considered Albania an important agricultural region. Given that one of the primary

concerns of the central government was maintaining adequate supplies of basic staples

for the capital, Istanbul, the Balkan assembly points for the critical grain supply system

for the capital were overwhelmingly concentrated in Macedonia, Thrace, and the Black

Sea coast. For the most part, then, Albania played a relatively marginal role in the

Ottoman political economy in comparison to other Balkan regions, pointing to the fact

that the sources of *çiftlik* transition in Albania are related primarily due to the growing

weakness of central military and administrative control, rather than either an immediate

or gradual rise of new economic opportunities arising out of trade with western Europe.

These would have important implications in the economic and political transformations

in Albania after the country became independent, given the origins of the *çiftlik* system as

a system of local political control, rather than an enterprise motivated by profit-seeking and operating on the basis of substantive (capitalist) economic rationality.[1]

The terms under which Albania gained its independence from the Ottoman empire is what makes Albania stand out from its Balkan neighbors. First, unlike the other new Balkan states, in which native provincial upstarts displaced the old Muslim *ayan* elites, the role of the old Ottoman elites was critical for the success of Albania's belated nationalist struggle. While nationalist revolutions in Serbia, Greece, and Bulgaria also led to the toppling of the old Muslim *ayan* elite, the role of the old elites in Albania's nationalist struggle was crucial to its success (Skendi 1954; Stoianovich 1989). Indeed, the majority of the signatories of Albania's Declaration of Independence were individuals holding some title of nobility from the Ottoman empire (Schmidt-Neke 1987). As a result, while other new Balkan nations moved towards land regimes dominated by peasant smallholders, independent Albania preserved elements of the old Ottoman agrarian order, particularly the *çiftlik* system. While reliable data is difficult to obtain, existing records point that in 1929-30, some 200,000 hectares in land-starved Albania were *çiftliks*, subjecting some 17,000 peasant families to *çiftlik* farming (Belegu 1978, pp. 201-2; Fishta 1989, p. 181). In the period after independence, half of this land became private holdings, while the other half, given its former status as *miri* land, became state-owned *çiftlik*s. In another estimate given for the early 1920s, some 70,000 peasant families were considered to be landless, meaning that their survival depended upon the lease of land from landowners (Çiraku 1977, pp. 25-6). The dramatic difference in the agrarian structures of the Balkan nations is demonstrated by the very late survival of the *çiftlik* system and the large landholding in Albania: while in Bulgaria and Serbia, large

landholdings of over 500 hectares had all but disappeared by the early 1900s, placing the

bulk of the land in the hands of peasant smallholders, as late as 1945, some eighteen

percent of all land in Albania was still farmed under the *çiftlik* system (Lampe and

Jackson 1982, p. 185; Sjöberg 1991, p. 33). Moreover, while countries like Bulgaria and

Serbia, given natural endowments of lowland plains and basins, enjoyed much vaster

swaths of arable land, only an estimated 9 percent of Albania's land was of direct

agricultural value, and much of the best lands along the coastal plains had been captured

by large landowners, leaving smallholder peasants concentrated mainly in the land-poor

and rugged upland regions (Meta 1999, p. 9). Under these conditions, the role of Ottoman

landed elites in Albania is key to explaining how the construction of national state

institutions contributed to politicizing class-based antagonisms in lowland Albania to an

historically unprecedented degree.

6.1.1. The agrarian problem in post-independence Albania and the failed political
revolution of 1924

The character of Albania's agrarian order, in comparison not only to the

industrialized West but also to the still predominantly agrarian Balkan states, became

crucial issue that entered into the discourse of reformers in post-independence Albanian

politics. Albania's nationalist movement – a loose coalition of middle class intelligentsia

and former Ottoman elites – never consisted of a strong, united organization. After 1913,

the coalition broke up into a number of rival political factions, which, however, never

became organized into mass political parties, even after the establishment of an

autonomous national government in 1920. The two largest national organizations of the post-independence period, *Bashkimi* ("Unity") and *Atdheu* ("Fatherland"), were banned in 1925 because of anti-government activities. Even these organizations, however, functioned as loose federations of urban-based associations, and gained little following among Albania's majority rural populace. For the most part, Albanian politics in the 1920s and 1930s was an elite matter, with state-directed elections and formal parliamentarism but with political power strongly lodged within an increasingly powerful executive.[2] In addition, until Zog's consolidation of power beginning in 1924, Albanian politics was also subject to pressures and instability generated by factions with armed followings, who could mobilize violence against rivals in efforts to threaten rival factions and even capture control of the government. In particular, elites with ties to the armed highland peasantry, who could either mobilize old loyalties or persuade highlanders that their hardships stemmed from bad leadership in Tirana, mobilized the latter in armed political struggle, as occurred in 1922 and 1924. While the episode of 1922 produced only a brief perturbation in the control of the government by Ottoman-era conservatives, in 1924 factions united under a reformist coalition captured power under the platform of political liberalization and agrarian reform. After the death in 1918 of Esat Toptani, large landowner of central Albania, the capacity of large landowners to act as an independent national political force diminished, members of the class nonetheless played a pivotal role in all subsequent political coalitions at the national level. In the first meeting of parliament in 1921, when the deputies divided themselves into two political blocks, the Progressive Party and the Popular Party, landowners displayed little political unity, although most aligned with what seemed to be the more politically conservative

Progressive Party. That may have resulted by the fact that many reformers, including Fan Noli, joined the Popular Party faction and voiced strong critiques against the existing agrarian order. For the reformers in the Popular Party, agrarian reform became the main rallying cry, and what was framed as the country's agrarian problem became articulated by this faction as one of the central social and political issues for newly independent Albania. Indeed, while Albanian politics was infested with personal rivalries and the bravado of individuals and factions seeking to stake a claim on the stage of national politics, two central issues identified by reformists, the agrarian problem that not only placed a large part of Albania's peasantry into a disadvantaged position, but also held back increases in productivity and growth of the agricultural sector, and the modernization of the administrative and legal system, were two of the defining problems facing the nascent Albanian state. Attempts to address these problems, which, due to the legacy of the Ottoman fiscal system and land regime, were strongly coupled, would define the direction and future of Albania's political development. As the decaying agrarian order and weakening administrative system had been one of the key contributors to the demise of the Ottoman empire, the establishment of a new mode of political and economic organization was crucial if Albania was to survive the twentieth century as a functioning national society.

Political tensions throughout 1920-24 led to a number of political crises and increasing resentment between rival factions, who were becoming hardened both in political positions as well as at the level of personal animosities. A movement in 1922 led to the toppling of the government, under threat of rebellion. In 1923, a crisis led the conservative-dominated government to dismiss parliament, provoking a backlash by

reformers who believed to have been dealt a blow by the increasingly powerful Zog and the large landowners. In the very same year, a confrontation had broken out in parliament regarding a new law proposed by the reformist opposition, regulating landowner-peasant contracts, designed to curtail the landowner's right to arbitrarily evict peasants from the land. Conservatives lambasted the proposed law as an attack against the right to private property, with the Minister of Justice calling it "a light form of Bolshevism in our country" (Çiraku 1977, p. 33). Indeed, the position of the peasantry and the agrarian problem became one of the central political antagonism in Albanian politics in the first years of independent statehood. This culminated in the movement of 1924, led by a coalition of reformists under the leadership of Noli, which overthrew the government and forced Zog, then Prime Minister, and members of his conservative faction into exile in Yugoslavia. The radicals who took control proclaimed a new revolutionary government with the principal goal of agrarian reform. The political program of the revolutionaries included tax reform to ease the burden on the peasantry, the economic emancipation of the peasantry and what they claimed to be the definitive "uprooting of feudalism" in Albania (Çami 1977, p. 21).

Indeed, the radicals of 1924 had been the outgrowth of rival factions that had coalesced around a number of different political positions and interests, rather than a result of a popular movement for change or a deep commitment on the behalf of its leaders to a definitive ideological program. Clearly, however, the problem of agrarian reform emerged as an issue which united the radicals against what they saw as an increasingly *bey*-dominated government who were holding back Albania's political and economic development, as well as preventing the social emancipation of the peasantry

through the maintenance of forms of dependence from the Ottoman *ancien régime*. The decisive role in the political revolution of 1924 was also played by a mutiny among high ranking members of the military, who joined the radicals against the existing government. While the anti-*bey* sentiment was prevalent among members of the coalition, the radical tinge of the movement was mostly the result of the influence of Noli, who assumed the leadership of the 1924 movement and became Prime Minister after the capture of power in June 1924. Noli was the author of the liberal program of reform, and had bolstered his claims to a leftist orientation on the basis of sympathies that he expressed for the Leninist revolution in Russia and revolutionary reforms in the Soviet Union. Indeed, the revolution in Russia served as an important source of inspiration for the radicalism of the Albanian revolutionaries, even if they did not directly adopt the ideas of Bolshevism. In any case, with the political fall of the landowners after the defeat of their political patron, Zog, it appeared that a reform program would finally lead Albania out of the conundrum of political instability, weak and unpopular governments, and introduce for the first time a number of democratic reforms in the new state, leading most importantly to the dismantling of the old Ottoman agrarian order.

Instead, Noli's government was plagued by infighting. Disagreements quickly arose in government in terms of goals and measures to be pursued. Moreover, administrative capacities were weak, while the treasury faced a crisis given that the political crisis had disrupted tax collections and other operations, all the while the government intended the reform of the taxation system. Most importantly, popular support, particularly from the peasantry, was lacking. The political revolution had been won primarily on behalf of the highland peasants mobilized by regional leaders such as

Bajram Curri, and not through any meaningful organized political action by the lowland peasantry, even though it was the social group that stood to gain the most from agrarian reform and the break-up of large landholdings (Çami 1977, pp. 19-20). Indeed, Curri and his highland followers pressed for immediate measures through the means of revolutionary violence, and his forces were responsible for direct attacks on pro-government elements in the highlands, including the persecution of former regime supporters and the destruction of Zog's homestead in Mat. Noli, on the other hand, settled for a more gradualist approach that did not directly threaten the power of the landowners (Ferizi 1977, p. 110). Particularly in the case of agrarian reform, revolutionary rhetoric announcing the end of "feudalism" gave way to a much more moderate, piecemeal plan of land redistribution (Deçka 1977). In December 1924, when Zog and his followers, with Yugoslav financial and logistical support, organized a counter-movement to reassume power, the Noli government quickly dissipated and was ejected from Tirana with little popular uproar. The quick fall of Noli and his program of reform showed how little popular following the self-styled populists had managed to secure from the peasantry, on whose behalf it claimed to be carrying out a program of revolutionary transformation.

The fall of the Noli government showed how weakly the anti-Zog, anti-*bey* movement stood organizationally, in spite of its ability to form a significant coalition against Zog and the conservatives. In spite of overtures towards Britain, Italy and the League of Nations, Noli's government gained little support and was isolated internationally, prompting Noli to deliver an infamous tirade against the League of Nations in Geneva, which had denied his request for an emergency loan. More

importantly, the movement he led proved unable of building organizational instruments that would mobilize the peasantry into a program of large-scale social transformation (Çami 1977; Çiraku 1977; Papa 1977; Prifti and Shpuza 2007, pp. 245-6). However, it is facile to blame Noli for the organizational deficits of his movement. More than the relative strength of his movement, the failure of the program of social transformation brought to light the underlying structural weaknesses of the Albanian state, as elites sought to direct its instruments towards transformational goals. Primary among these was the limited organizational integration of the peasantry into the national political system, its limited mobilization as a political force capable of actively supporting the changes sought by Albania's leadership, particularly in the direction of agrarian reform. Indeed, this was true throughout the interwar Balkans: with the exception of the Bulgarian Agrarian Union, even purportedly "peasant" parties in the Balkan states never gained an active following among the peasantry, and even when gaining peasant backing generally tended to represent the interests of entrenched bureaucratic and military elites (Jackson 1973; Stokes 1989). In Albania, the lack of any kind of meaningful national political organization among the peasantry, particularly the lowland peasantry, meant that the political situation of the peasantry stood even worse. No revolutionary rhetoric could compensate the lack of mass political mobilization among the peasantry in the goal of agrarian reform.

At the same time, the failure of agrarian reform also demonstrated how entrenched the old agrarian order was *among the peasantry*. No doubt, peasants wished an end to abuses and excessive claims on their labor by landowners, their agents, and the state. But what the radicals seemed not to have understood is the fact that the *çiftlik*

system was at one and the same time an agrarian economic order, *as well as a local political system* that had yet to be fully dismantled. Thus, while the revolutionaries had succeeded in removing the landowners from the national government, they were unable to diminish their local influence, achieved through their extensive local patronage networks. For example, in Berat, a region dominated by *çiftlik* agriculture, the government was unable to initiate any meaningful reform at the level of local government, even after it had removed the *bey*s and their allies from local positions of authority. Indeed, in Berat, as in other parts of lowland Albania, the demands placed on peasants by the *çiftlik* system continued largely unabated, while the Vrioni family, the large landowning family in Berat and the largest landowning family in Albania, kept all its properties in tact throughout the so-called period of "revolutionary" rule (Papa 1977). Even in Skrapar, a southern highland region in the vicinity of Berat which had not been subjected to *çiftlik* agriculture, the Vrionis mobilized the authority of local religious leaders to gain the support of the local smallholding peasantry against the efforts of the local opposition (Laze 1977). All these facts point to the degree of political disorganization existing among the lowland peasantry. In contrast to the highland peasantry, which could be mobilized through vertical networks of patronage and loyalty, the lowland peasantry lacked even the rudimentary institutional channels of organization into a mass social group. Instead, the powerful local patronage networks and the traditional loyalties available to the *bey*s proved to be an important obstacle to local political mobilization, in spite of the mobilization efforts of local urban-based radicals.

It is these organizational weaknesses that would be overcome in the 1940s, when the equally radical communists *were* capable of gaining the backing and militancy of the

lowland peasantry. But this was not a result of the sheer organizational efforts of the communists, even if the communist movement did in fact work directly with the peasantry in its struggle – motivated no doubt in part by the conditions of guerilla warfare which forced the communist partisans away from cities and into rural areas. But it took a critical process to break the hold of the landowners at the local political level, and this process was the expansion of the state. During the late 1920s and 1930s, the Zog regime did not establish any organizations for mass-based political mobilization for the peasantry – in fact, the regime actively persecuted attempts to form any independent mass-based political movement, as evidenced by measures to disperse national associations such as *Bashkimi* and *Atdheu* and the ban issued against the formation of political parties. What did, however, produce the conditions for mass-based peasant political organization was, I argue, the process of administrative and legal centralization which led the state, on the one hand, to dismantle the political dominance of the *beys* at the local level, and anchor the interests of both landowners *and* peasants into the expansion of state power. As I argue below, the role of administrative and legal centralization performed this operation in four ways: (1) by dismantling the *kadi* system of justice, and the establishment of a state-based judiciary, which both broke the patronage ties between landowners and old judges and forced new contractual legal norms for the regulation of landowner-peasant relations, which became the basis for politicization; (2) by the expansion of the authority of local prefectures, which, staffed by outsiders, created independent authorities in ways that undercut the former influence of the local *beys*; (3) by the gradual revocation of the principal administrative function that landowners played at the local level, namely their tax farming privileges; and (4) through the Law on Agrarian Reform of 1930, which even

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while not carrying out full-scale land redistribution, initiated the break-up of large landholdings and provided an opportunity for greater peasant challenges against *bey* claims to ownership of the land. In all these ways, state centralization produced the conditions for state autonomy which, perhaps unwittingly to the communist radicals of the 1940s, had increasingly oriented the lowland peasantry towards seeking state-based solutions to its predicament. Indeed, not only was state centralization responsible for the erosion of *bey* power, the state's juridical system also enabled the increasing emergence of collective peasant challenges against the *bey*s. The effects of this process were critical, because not only did it begin integrating the lowland peasantry as a collective actor in the national political system, but also helped forge a class consciousness among the peasantry, in which peasants increasingly identified the landowning elite as the opponent in a zero-sum game over the control of land.[3] All these processes were elemental for the mass political organization that the communist movement developed during and after the 1940s. Indeed, the ability of the communist movement to carry out a successful revolution was the ironical consequence of the success of the administrative and legal reforms undertaken by the conservative regime of Zog, which finally broke the political chokehold of the landowners on local politics in Albania.

6.1.2. Italian capital and the commercialization of land

The transformation of Albanian agriculture under the influence of Italian capital had an important impact in changing the interests of the landowner class, who, generally

lacking the capital and the technical know-how to make investments for the modernization of agriculture, were presented with opportunities to gain from the sale or lease of land to foreign – primarily Italian – companies interested in Albanian agriculture. As elaborated above, the Ottoman agrarian legacy meant that Albania's landowners operated primarily as a rentier class. Their ability to extract surplus from the peasantry consisted in its capacity to exact claims of one-third to one-half of peasant product, in addition to its role as an intermediary agent in tax collection, under a tax rate of one-tenth of peasant product, which the landowner formally committed to deliver to the government under tax farming rights inherited from the Ottoman era. Additional levies and exactions that landowners could extract from the peasantry included various forms of *corvée* services in the landowner's personal estate. As pointed out, however, the *çiftlik* system did not develop into a plantation-type sharecropping system with extensive landowner supervision over labor organization and production. The choice of crops, methods of farming, and everyday management of the land was largely left to the peasants. In large *çiftlik*s, plots were typically dispersed among several village settlements in which the landowner enjoyed the traditional right to claim tithes, and not concentrated in a single, continuous estate. In addition, following Ottoman law, peasants enjoyed traditional rights of inheritance, such as over homesteads located on the landowner's land. Generally, the landowner did not seek to transform either the organization of labor, nor the techniques used in the processes of production with the goal of increasing productivity. Indeed, the modernization of farming methods in Albania would not occur on a grand scale until the collectivization of the 1950s.

The authority of the landowner over the peasant was generally not exercised by the landowner personally, but through an agent known as the *subash* (bailiff), who was particularly responsible for collecting levies from the peasants. The contracting of outsiders as bailiffs additionally increased the burden on the peasantry, because while the landowner imposed a traditional tithe regardless of the volume of the annual yield, the bailiff's profit usually came directly as a share in the amount he was able to extract from the peasants. The bailiff's interest in maximizing the extraction of goods and monies frequently made bailiffs resort to abusive means such as threats and violence to ensure that peasants were paying their full amounts, and inflict punishment against those found to be concealing their product or misreporting yields. Bailiffs were in some cases also responsible for selling off collected tithes in the market. In an era when capital held in monetary value as opposed to raw goods became increasingly important, both bailiff and landowner were interested in monetary profits from the yields, rather than in the raw goods themselves. In the Ottoman era, agricultural surplus had served the critical role of maintaining adequate food supplies for the military, but under the new conditions became a means of profit-seeking on the backs of the peasantry. Moreover, competition for agricultural goods within Albania increased, as many regions lost access to traditional market towns and productive areas which were now cut off by international borders, forcing regions to manage food supplies with a shrunken agricultural base. Under these conditions, bailiffs and other third-party agents became the main connexion between the traditional agrarian order and the rising penetration of market relations in Albania, more so than landowners, who were primarily interested in preserving rents.

Third-party contractors were also the chief beneficiaries of revenues derived from state-owned *çiftlik*s, which consisted of nearly half of all *çiftlik* land in Albania. Indeed, it seemed that abuses were most widespread in state-owned *çiftlik*s. The lack of supervision and collusion of local administrators with contractors in rent- and profit-seeking ventures gave them a distinct advantage against peasants. That contractors often exploited their position on their own account is illustrated by the fact that in 1926, over one-third of all outstanding tax payments to the government were owed by contractors, meaning that dues were collected but never delivered. Moreover, the backing of state violence against uncooperative peasants made the position of the peasantry on state-owned *çiftlik*s even more precarious than that on privately held land. The national government, on the other hand, held an important stake in the *çiftlik*s because they constituted the chief source of revenue for the state. The bulk of state revenue came in the form of direct agricultural taxes, and in the early 1920s over 75 percent of revenue came in the form of tax payments by the peasantry (Meta 1999, p. 14).

Three processes shifted the strategic interests of the landowners in terms of their claims on the land. First, a number of landowners took advantage of the uncertainty over the legal status of property and the political instability of the 1920s to expand claims over land and resources such as pastures, sources of water, and forests that were traditionally available for use to the peasantry (cf. Meta and Idrizi 1985). In some cases, private owners made encroachments upon state-owned *çiftlik*s in their region by claiming it as their own and usurping the right to exact taxes and levies on the peasantry (Meta 1999). Encroachments and claims over forests were particularly prevalent as timber became an

important export item, and a number of Western firms displayed an interest in establishing a timber industry in Albania (Toçi 1974, pp. 117-26).

Second, especially after 1926, when Tirana established increasingly closer ties with Rome, the expansion of Italian agro-business into Albania created new incentives for land enclosures and the implementation of freehold property rights. Since Italian capitalists concentrated their efforts primarily on the fertile plains of the lowlands, i.e., lands that were under the control of *çiftlik* landowners, commercial interests increased pressures for the enclosure of land. Landowners benefited from the long-term concessionary lease of land to Italian capitalists, a situation often more profitable than the retention of old *çiftlik* control, leading to an immediate rise in the bulk value of lands available for large-scale farming. Often, this led to efforts by the new owners to eject peasants from the land, change the traditional destined use of the land (such as transforming pastures into farmland), thus disrupting the practices of subsistence agriculture in the region, or through enclosures denying access to land and other resources necessary for continued subsistence. Some of these enterprises were supported with Italian state loans and grants, and the largest company, the *Ente Italiana Agricolo d'Albania* (EIAA), which during the 1930s transformed, due to the massive injection of government funds, into a state-owned enterprise, additionally followed the policy of introducing Italian colonists as a labor force. Finally, with the increase in commercial opportunities, some landowners moved towards commercialized agriculture, transforming old *çiftlik*s into commercial farms, and also followed the practices of land enclosures and exerting pressures on peasants to move from the land. However, the economic crisis of the Depression and stringent monetary policy by the Bank of Albania

led to massive price deflation, particularly of agricultural goods, throughout the 1930s. Thus, the price index of agricultural products in the period 1928-38 dropped by more than one-half (Fishta 1999, pp. 210-11). Falling market value of agricultural goods and fiscal pressures due to shortfalls in the government treasury during the 1930s led to massive peasant indebtedness, increasing economic pressures on the peasantry and pushing increasingly more peasant families into severe poverty and proletarianization (Meta 1999). The massive poverty of highland peasants during this period – including severe famines in 1928 and 1935 – led the government towards establishing its first system of welfare distribution, redistributing already falling grain supplies from the lowlands into the highlands. This provoked the indignation of lowland peasants who felt that their barely sufficient goods were being unfairly taken away to be given to undeserving others.

We now have plentiful information on the interests and activities of foreign firms in interwar and wartime Albania thanks to the pioneering work of Albanian economic historians Veniamin Toçi, Iljaz Fishta, and Muharrem Doçi (Fishta 1979; Fishta 1989; Fishta 1999; Fishta and Doçi 1965; Fishta and Toçi 1980; Fishta and Toçi 1983; Toçi 1974).[4] Surmising from the extensive research by these historians, one can divide the history of interwar foreign economic interests in Albania into two periods. The first includes the period 1920-26, in which German, Austrian, British, American, French, and Yugoslav firms competed for stakes in Albania's resources, such as mineral wealth and other primary resources such as timber. The potential discovery of oil in Albania brought a harsh competition between Italian, British, and American firms, including Standard Oil, for exploratory and concessionary rights in the early 1920s. German and French firms

competed for concessionary rights over forests, a British firm sought rights for a tobacco monopoly while American and Italian firms competed for land concessions for agricultural enterprises. Beginning in 1926, foreign competition over the Albanian economy declined primarily at the expense of Italian dominance. Three factors contributed to the declining interest of non-Italian companies in Albania. First, important pacts signed between Tirana and Rome included provisions that gave special privileges to Italian companies in Albania, made conditional by Rome for its issuance to the Albanian government of badly needed loans. Second, Italian loans to Albania, administered through the Italian government's special investment and development agency *Societa per lo Sviluppo Economico del Albania* (Society for the Economic Development of Albania – SVEA) channeled much of the Italian state funds to Italian companies in Albania. Third, after the economic depression of 1929, many Western companies, facing loss of access to credit, bankruptcies and heavy losses, lost interest in foreign investment, while the Italian government used state funds to bolster Italian investments in Albania. The use of state funds to stimulate the economic activities of Italian firms in Albania was due in part to Rome's strategic interests in the country. SVEA proved an important mechanism to this end; SVEA funds were used not only to place political pressure on the Albanian government and direct investments independently of the Albanian government's economic policy, but were even deployed to save Italian companies in Albania that were on the brink of bankruptcy (Fishta 1989, pp. 179-91).[5] Such state investments turned companies like EIAA into ones in which the Italian government had a majority stake. The Italian government, moreover, had few reservations about using its influence over companies like EIAA to further its political goals in Albania.

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By the early 1930s nearly all foreign entities involved in Albania's agricultural sector were Italian. By this period some 12,000 hectares of land, mostly in the *çiftlik* territories of the lowland basins in coastal and southern Albania, had come under the control of Italian businesses. The entry of Italian capital into the Albanian agricultural market had an important impact on the interests of the landowners, since it was their *çiftlik* properties which almost in all cases became the source for land concessions for Italian capitalists, who were in any event legally prevented from owning land in Albania. In addition, a number of Albanian capitalists started agricultural enterprises that introduced mechanized techniques and new farming technologies. However, with some exceptions, such as the 4,000 hectare farm owned by Ibrahim Biçaku in Elbasan (Fishta 1999, p. 208) and the Maliqi Company in Korça (owned by Maliq Frashëri), these were generally smaller operations than the Italian farms, particularly in comparison with the large operations like EIAA, SBIASI, and SIBS. With the exception of Maliq Frashëri, a *bey* turned agricultural capitalist, more typically the proprietors were not the original owners but independent entrepreneurs who leased or purchased *çiftlik* lands and invested in the modernization of production. In many cases entrepreneurs took actions similar to Italian firms, enclosing land and forcing peasants off the land.

Among Italian firms, EIAA had a unique role in Albania's agricultural sector and more importantly as a mechanism for increasing Italian control over the Albanian economy. EIAA began in 1926 as an operation under the aegis of the *Opera Nazionale Combattenti*, a public works fund established by the Italian government after World War I, whose monies during the fascist era became increasingly concentrated into the development of agriculture. In 1934, the Italian government used SVEA funds to become

a majority stakeholder in the company. Indeed, even while it started out with losses, by the mid to late 1930s EIAA became one of the most profitable agricultural companies in Italy (Fishta 1999, p. 220). From its inception as an agricultural enterprise to the ways in which it expanded its role in the Albanian economy, its actions make it clear that it was seen by Rome as an instrument of the Italian government for the economic penetration and domination of Albania. In addition to the large land concessions gained, the largest of any private enterprise in Albania, estimated between 3,500-5,000 hectares and located in one of the most productive regions of Albania, EIAA also settled Italian families as colonists on the acquired lands (Miho 1976). In 1936, facing competition from imported goods from other states, EIAA sought to gain a monopoly over Albania's trade so as to increase Italy's falling share in Albania's market. Even while the effort to gain control over Albania's imports was unsuccessful, it used a combination of its purchasing power and its authority to grant export licenses for the Italian market to become an increasingly important clearinghouse and intermediary in Albania's export sector, dominated by wool, leather, eggs, timber, and sheep, but also increasingly consisting of fish, olives, and other livestock (Fishta 1999, pp. 243-60). The role of EIAA was critical in the context of an economy that was heavily reliant on foreign goods. For most of the 1920s and 1930s, Albania faced a trade deficit which more than doubled in the second half of the 1930s. Italy was the central export market for Albania, increasing its share from 61 to 68 percent of all Albanian exports (primarily agricultural goods) from 1935 to 1938, and had a plurality share in its imports, which increased from 28 to 37 percent during the same period.

While the growth of commercial interests in Albanian agriculture did not lead to the wholesale transformation of Albania's agricultural sector, which continued to be dominated by subsistence production, they nonetheless introduced important fissures in the traditional *çiftlik* system which was widespread in Albania's lowland regions. As discussed above, Albanian and Italian capitalists were not interested in the maintenance of the old *çiftlik* structure – to the contrary, its archaic methods of production, its lack of direct labor control, and the low incentives it provided to productivity increases for peasant producers instead represented an obstacle for agents interested in the increase of productivity and yields. Thus, wherever it emerged, commercial agriculture typically worked not towards exploiting the existing conditions of the peasantry, but towards dissolving the *çiftlik* structure.[6] The consequences of this process were borne primarily by the peasantry: the dissolution of the *çiftlik* often meant loss of access to pastures, farmlands, sources of water, forests, and other resources which peasants had traditionally relied for their subsistence. In some cases this led to protracted conflicts between peasants and landowners regarding rights over land and other resources; in some cases it involved pressures for the wholesale removal of peasants from the land, based on claims that *çiftlik* villages were settlements established on what was now considered freehold property, which entitled owners to extend claims of ownership even over peasant homesteads, a situation unimaginable under the old Ottoman system.[7]

However, while commercial agriculture worked towards the destruction of the *çiftlik* at the benefit of landowners, who, by giving concessionary leases, continued to receive rents from the land while reducing the excess overhead for the administration of tithe collection and the requirements of storing and selling off levied goods, the

opportunity to privatize *çiftlik* land was presented primarily as a result of the final institutionalization of private property in land, a process which had begun with the passing during the Tanzimat reforms and the Ottoman Land Code in 1858. While the Ottoman Land Code ultimately failed at instituting freehold private property, it inaugurated a long period of political conflict between landowners and cultivators over the control of land whose dynamic took radically different form after the legal reforms of the Albanian national state.

6.2. Institutionalizing private property, *çiftlik* dissolution and peasant dispossession: a long-term view

The entry of foreign capital into Albania's agricultural sector exacerbated a process that had begun in the mid-nineteenth century and reached its apogee with the establishment of the Albanian national state. Surely, while the new administrative mechanisms introduced by the national state, including the prefecture system of local government, the extension of gendarmerie forces into rural regions, and other institutional novelties, gradually weakened the local *political* hold of the landowners, the introduction of new national state institutions worked to favor the landowners and their interests in the new economic environment in which Albania found itself in the 1920s. While foreign capital provided the motivation for the commercialization of land, the actual control of land became a *legal* reality only after the important legal institutional reforms that the Albanian national state introduced in agrarian Albania. With the increased coupling of landowner economic interests with the policies of legal reform, the

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landowners developed a critical political interest in the strengthening of the state and its expanding administrative and jurisdictional reach over lowland Albania in ways that had no parallel in highland Albania. As the more powerful landed elites invested their political capital in the increasingly authoritarian state under Zog, they directly introduced the institutions of the national state, and particularly its legal order, into the crux of agrarian class relations in the lowlands. As a result, the peasant cultivators of the lowlands *also* became wedded to the state, not simply because of an ideological commitment to national institutions that was greater or more widespread than in the highlands, but that agrarian class conflict *by economic and political necessity* pushed the lowland peasantry into the fold of the legal domain and, thus, the political arena of the state. In the lowlands, as a result of its legal encroachments, the state *did* become an *arena* of political conflict, a conflict which revolved over land and which would begin to involve the lowland peasantry much more directly not in a struggle over the nature and limits of state authority as the jurisdictional conflict in the highlands, but in challenges against state policy.

Under the Tanzimat reforms of the nineteenth century, the Ottoman Porte attempted to introduce a new legal regime to govern property in land. The Land Code of 1858 intended to rationalize some of the existing problems in the legal status of land, particularly given the excess decentralization of fiscal and administrative controls in the provinces, which had also given rise to claims over land by local notables that superseded traditional protections afforded to peasant cultivators. Mostly, however, the Code intended to formalize existing relations in land after the disintegration of the old *timar* order, in the context of the reformist spirit of the age. In particular, the Land Code

intended to grant, under certain restrictions, leaseholders and tax farmers on *miri* (i.e., state land), "freehold ownership with full rights of disposal and succession" (Starr 1992, pp. 30-31). The Land Code was adopted alongside the other centralizing administrative reforms of the Tanzimat, which included the establishment a new administrative order that would allow a greater degree of political control from the center.

As pointed out in chapter 2, however, the centralization reforms had little impact in changing existing relations and ultimately failed in reasserting strong central control in the periphery. But they did, however, shift local dynamics. A similar situation developed with the land reform; like other Tanzimat measures, their effects were uneven and unequal in the various parts of imperial realm, with local responses emanating out of existing local traditions of legal practice and political authority. In regions dominated by leaseholders and tax farmers, as in Bosnia, Macedonia, and Albania, the reform in property meant little more than the very same actors would acquire legal freeholder rights over land, leaving both effective control and the tax system unchanged. As Mundy (2000, p. 64) points out, "in many parts of the empire, those who had earlier held rights to revenue succeeded, initially or subsequently, in being registered [under the new Code] as the owners of the new, more powerful form of usufructuary right." Moreover, the Code applied only to *miri* land, meaning that "non-state lands were not subject to the administrative practices of registration and issuance of title deeds or to the precepts of the law of contracts, especially in relation to leases. This meant that they escaped state scrutiny and taxation" (İslamoğlu 2000, p. 31).

But in spite of attempts to introduce a new system of property in land, the Code did not lead to the full privatization of land ownership. Instead, it created a situation of

legal ambiguity that was effectively used by leaseholders to assert ownership claims on

lands over which they already exercised administrative and fiscal authority. In

combination with efforts by peasant cultivators to protect traditional rights, the Code

unleashed a wave of political struggles between leaseholders and cultivators over the

control of land. This was the case especially in the Balkans. As İslamoğlu (2000, pp. 30-

31) writes,

> The institution of individual ownership rights also represented a separation of the
> property claim from the subsistence claim of those with rights of access to land. It
> involved the establishment of the ownership claim to the exclusion of the use of
> and income from land, whereby the title of ownership overrode the title to land
> use (*tasarruf*) and the customary rights over land, including the collective grazing
> rights of villagers. This was, however, a highly contentious process, and the
> ambiguities built into the Code's precepts, as well as its contradictory
> formulations, bear testimony to the resistance to the institution of exclusive
> ownership rights over land.

In this interpretation, the resistances to the full claim of freeholder rights over land was

built into the code itself. This is illustrated by various restrictions that are placed around

the concept of ownership; for example, the code prohibited a single owner to acquire an

entire village as a single estate, in order to limit the political authority of owners over

peasant cultivators. It also prohibited the repossession of land from cultivators for reasons

of indebtedness, so that usury could not function as a means to dispossess peasants. The

Code also developed a system of graduated ownership, distinguishing abandoned land

from productive land, and the latter by type (such as pastures, orchards, fields, and

forests), limiting ownership and disposition for certain types. Ownership of objects

constructed on land, such as housing, stables and others, was also distinguished from

ownership of the land itself, recognizing peasants the right of inheritance and to access to

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subsistence resources (Gerber 1987). In addition, the Code was followed by legal reforms which established new, *Nizamiye* courts based on a newly codified version of Islamic law (known as the *Mecelle*) (Deringil 1998, pp. 44-67). These protections, however, did not prevent the growth of frictions between owners and cultivators in the period after its enactment.

The changing role of Ottoman courts in providing protection to peasants against landowner encroachments is a question still debated by specialists. Two cultural facts and an important fact of Ottoman fiscal policy suggest that Ottoman institutions continued to provide significant forms of protection, both legal and political, to peasant cultivators, in spite of increasing assertions of control over land by leaseholders and tax farmers. First, as pointed earlier, the role of the peasants as producers was central in the official ideology of the classical empire, and formed an ideological commitment which was maintained during the Tanzimat period, reflected also in the limitations of private freehold ownership in the text of the Land Code. Second, the protection of peasants from abuse and undue levies and demands was also part of the Islamic law tradition, which remained the doctrinal basis of the Ottoman legal system and informed the practices of local judges, to which peasants often turned for redress. And third, the critical importance of the peasant household as an economic unit of production in the Ottoman agrarian economy dictated that the empire's political legitimacy and fiscal sustainability would depend heavily on the legal protections it offered to peasant producers (İnalcık 1994, pp. 143-54). Indeed, if it provides any indication of the degree law offered protection to marginalized social groups in Ottoman society, evidence from the eighteenth century points to an important role of Ottoman courts in protecting peasants, women, non-

Muslims and other marginal groups against the claims of the more powerful groups of Ottoman society (Gerber 1994). However, McGowan's research in the Ottoman Balkans points to a deterioration of legal protection with the coming of the *çiftlik* system. While McGowan has no direct evidence from legal cases (of which, apparently, very little is available), as he points out, the process of *çiftlik* formation, because it allowed local elites to place additional levies on the peasantry as well as limit its access to land, necessarily involved a significant deterioration of the social position of the peasantry as well as its greater subjection to *ayan* elites. *Çiftlik* formation and growing claims of local *ayan*s over the labor and land of the peasantry are clearly not processes that are compatible with the same degree of legal protection that the central government traditionally provided to the peasantry. The weaknesses of Ottoman political control in the periphery may have also increased the influence and control of *ayan*s towards judges at the expense of centralized control, particularly given the fiscal dependency of judges on the revenues raised by *ayan*s. For example, the Tanzimat reforms were unsuccessful in establishing a centrally administered salary system for administrative personnel, which would have perhaps decreased incentives for patronage and corruption in the administration (Findley 1980, pp. 151-220; Findley 1989, pp. 293-333). The point is that, while the position of the Ottoman peasantry worsened during the nineteenth century, traditional protections ensured that cultivators would not become fully proletarianized and would retain the exercise of the customary subsistence rights, in spite of growing taxation burdens and levies. These arrangements were imposed on the landowners also due to the endemic problem of labor shortage in the Ottoman agrarian economy, especially in the Balkans (Lampe and Jackson 1982).

The most significant impact of the Code, as İslamoğlu notes, was to contain the political conflict between landowners and cultivators within the legal and administrative realm of the state. The Code struck a precarious balance between freeholder property rights and the subsistence and usufructuary rights of peasants, and this served to limit the antagonism over the control of land from generating class-based peasant rebellions. Rarely did landowner and cultivator conflicts spill over into peasant mass revolts against landowners, and when they did, they were directed towards preserving the status of state land, rather than asserting private claims of cultivator ownership. But while the Code did not fully *institutionalize* freeholder rights, it nonetheless "established a definition of individual ownership rights as the vocabulary through which struggles over access to land were articulated. That is, a vocabulary of ownership overtook that of competing claims to tax revenues and to land use" (İslamoğlu 2000, p. 33). This important shift in the terms of struggle over land would carry over into the period of national statehood in Albania.

As pointed out, the centralization processes in Albania after 1924 effectively dismantled the local political control of the landowners with the introduction of centralized institutions of administration, justice, and policing. The establishment of local prefectures on turfs where landowners previously held important administrative and executive functions curtailed the former power of landowners. But while the politically much weaker highland peasant communities strongly resisted the intrusion of state authority, why would such powerful actors welcome the entry of national state institutions in their local regions? Part of the answer lies in the changing economic and political calculus which enabled the Albanian national state to effectively complete the land reforms begun under the Tanzimat and introduce both the legal norms and

infrastructural mechanisms which institutionalized private property in land. The commercialization of agricultural lands as a result of the entry of foreign capital provided the motivation for landowners to see that rights of freehold ownership were fully implemented – including the right to evict peasants from the land, regardless of how long they and their generational predecessors had lived and worked on it.

First, the national state undertook legal reforms which effectively instituted freehold property in land in Albania. New doctrines of private property, constitutionally guaranteed, cleared away, if not the practical, then the normative ambiguity over property that existed under the Ottoman land regime and the Code of 1858. Second, the monopolization by the state of the administration of justice beginning with the republican constitution of 1925, the reorganization of the system of courts after the Law of the Organization of Justice of 1929 and the final abolition of *Nizamiye* courts based on Islamic law and local authorities of justice had a profound impact on the role of the state in gaining jurisdictional control over landowner-peasant relations. The new Civil Code instituted a system of private law based on the continental European tradition, discarding the doctrinal forms of Islamic law and its traditional understandings of agrarian land relations and its concomitant notions of equity. Under new legal norms, land became a tradable commodity and was stripped of the traditional protections of use and subsistence given to cultivators. The abolition of remaining religious courts meant that conflict over land was subject exclusively to the doctrines and interpretations of state-based laws and legal officials, staffed by newly trained professional jurists, typically in law schools in the West, lacking any ties to the former way of judicial thinking. The effects of these institutional changes were profound. They began the process of remaking agrarian

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relations in lowland Albania, increasing claims of ownership by traditional leaseholders and, as described above, under the impetus of foreign capital, driving old and new landowners towards the dispossession and eviction of peasants. Its secondary effect, as suggested earlier, was to extensively embed the legal order of the state – and thus the state itself – into Albania's agrarian class relations. The *legal* nature of the changes meant that peasant political strategies of resistance against jurisdictional claims by national state institutions could not be directed, as in the highlands, as political challengers functioning *outside* the arena of state institutions, struggling to preserve the legal and political autonomy of communities against the state's efforts to exert political domination by legal and administrative means. They instead pushed the peasantry to launch their political struggles from *within* the crux of state institutions, mounting legal challenges against landowner and state practices. The legal administration of property in land, in other words, effectively functioned as an instrument of state *and* polity expansion, in terms of the growing participatory demands by peasants for say over the disposition of land.

One of the central mechanisms that enabled landowners to continue to assert control over land was, like in the Ottoman period, the fiscal device of tax farming. As pointed above, the Albanian government did not reform its tax system until 1935, largely retaining in tact the Ottoman taxation structure. Indeed, while many administrative and legal reforms were carried out under Zog, the taxation system became the last preserve of Albania's institutional inheritance from the Ottoman empire, and only a series of fiscal crises supplied the necessary stimulus for reform. The continued control of taxation and the preservation of tax farming rights by landowners attests to the continued political importance of this class to the Zog regime, even if reformist politicians replaced the most

powerful landowners from positions of power in the government, as occurred during the 1930s.

Tax farming served the interests of the landowners in several ways. First, in spite of weakening political authority, it allowed landowners to continue to assert fiscal control over the peasantry and, as a consequence, an ultimate claim over lands with ambiguous and legally contestable ownership. Second, it continued to function as a mechanism of accumulation, since landowners and their agents extracted levies from peasants in addition to taxes due to the treasury. Finally, it also served as a mechanism of peasant dispossession, as peasants unable to pay had their livestock, goods, and other property – including land – confiscated. This practice became particularly prominent during the economic crisis years of the early 1930s, when bad harvests drove many peasants to economic despair. Tax revenue declined significantly during this period, while peasant indebtedness increased multifold.

The structure of the taxation system and the role of tax farmers was also reflected in the geographical distribution of tax extraction efforts. These remained little changed from the Ottoman era, where the highland peasantry was only sporadically subject to tax collection dues, while taxation burdens weighed heavily on the economic life of lowland cultivators. With the lack of an existing structure of tax farmers, efforts to extract taxes in the highlands required the government to engage in its own efforts of collection by mobilizing local leaders and peasant councils, but these often proved better at negotiating postponements and tax clemencies rather than serving as effective tax collection mechanisms (Meta 1999). Extreme poverty, including starvation, and threats of massive depopulation were also a consideration often taken into account by officials in

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considering tax collection in the highlands of the north. In 1932, the northeastern Prefecture of Kosova addressed this problem directly to the government in a report: "we find it excessive that the peasantry be coerced [to pay taxes] in such absolute terms, by means of imprisonment, the confiscation of livestock and items of clothing, which only impoverish the peasant to such a degree that push him to condemn his own soul, perhaps even leading him to lose all sense of national belonging and forcing him to take flight" (quoted in Meta 1999, p. 89-90). Developments such as these made tax collection efforts less severe in the highlands – where the tax on livestock was the only tax typically collected, in comparison to the lowland cultivators who, in addition to taxes on livestock, property, and, in some regions, a tax on water use, were subject to the traditional tithe.

The economic crisis of 1929, the first year of the global economic depression, was accompanied in Albania by a massive fiscal crisis in which tax collection fell by over one-third. In addition to the financial troubles, the crisis in Albania's agrarian economy was compounded by the previous year's bad harvests that in some regions led to food shortages. A previous crisis of this nature had occurred in 1923. On that occasion, some peasants had taken up attacks against granaries, and provoked massive demonstrations in several towns. The fiscal shortfalls and the potential for unrest compelled Zog to direct the government to address issues in the tax system. Two measures were adopted: believing that part of the reason for the shortfalls were ineffective methods of tax collection, one of the measures provided greater financial incentives to tax agents to intensify efforts to uncover and confiscate livestock, harvests, and other goods that peasants attempted to conceal from authorities in order to avoid taxation. In effect, this amounted to an increase in the profit rate of tax farmers and license to use more

repressive measures to extract dues. The second, more general reformist measure undertaken in 1929 was to substitute the traditional tithe with a payment in cash. This measure failed, however, as did a similar reform proposed in 1932. The efforts of failed reform attest to the political influence of the landowners and other elements of what, following Meta, we can call the "fiscal bourgeoisie," who held a direct economic stake in the taxation system and trade on the open market of agricultural goods extracted from the peasantry. The government, on the other hand, reliant on the fiscal bourgeoisie for its revenue, had little choice but to yield to the interests of this fraction.

The moment of more fundamental reform came only in 1935, when a massive fiscal crisis led to the fall of the government and the formation of an economically liberally-oriented government under Midhat Frashëri. Shortfalls in tax collection that year were catastrophic, falling from over eleven million gold francs the previous year to less that two million. In spite of its short-lived and politically weak nature, the Frashëri government pushed through tax reform that finally led to the abolition of the old tax farming system. Tax rates for agrarian producers were lowered and taxes in kind were abolished in favor of tax payments in cash. Authority over tax collection was passed over to village councils that were made directly responsible to finance departments in local prefectures. These were necessary measures for a regime whose legitimacy was being increasingly challenged by clandestine political movements during the years of the crisis. While these political movements enjoyed little mass support among the peasantry, their demands were increasingly addressed towards the social position of the peasantry and the exploitative character of the agrarian class system and Zog's authoritarian regime. Under

these circumstances, the regime could not risk further antagonizing the peasantry. As Meta (1999, p. 95) points out,

> The situation had deteriorated to such a degree that Zog's government had to make a choice: either to accept the final failure of the tithe and to give up on its collection, which would adversely affect its revenue, or to modify the way in which this tax was collected, even if this required it to make important concessions to the peasantry and threaten the interests of the agrarian bourgeoisie which until then benefited enormously from the collection of the tithe.

6.3. Agrarian reform and the struggle for land

The loss of the important privilege of tax farming arguably pushed more landowners towards securing control over land to increase productivity and develop commercialized farming. The opportunities presented by foreign capital and the commercialization of land were discussed above, and these were an important alternative for an economic elite losing its traditional sources of accumulation through its control of fiscal mechanisms. Instead of extracting peasant surplus, the alternative was to sell or lease land to investors willing to modernize production and institute methods of large-scale farming. As pointed above, however, peasants represented an obstacle in the process and thus typically required the assertion of private ownership and the stripping of peasant cultivators of their traditional subsistence rights.

Socialist era Albanian historians have done much to downplay the motives and impact of the Law of Agrarian Reform passed in 1930 (Belegu and Fishta 1989; Belegu 1978). However, the passing of the law itself does not fit well with the common thesis among these historians that the Zog regime was little more than a political instrument of

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landowner domination. Indeed, the passing of the law shows, on the one hand, the *political autonomy* of the state from the *bey*s, as well as its growing *organizational closure* from the control and influence of its administrative organization by non-state actors. This is an important accomplishment of the Albanian in comparison to the Ottoman state, which, while enjoying the former (chiefly through its military dominance over provincial elites), never fully accomplished the latter (leaving its administrative apparatus open to influence and capture by provincial elites). While this did not lead to the emergence of a Prussian-style bureaucracy in Albania, it meant that neopatrimonial control over the allocation of bureaucratic positions shifted from the horizontal networks of local elites to the vertical ties of national elites in the capital, and particularly towards Zog. Zog's assertions of control over varying components of the state is most blatantly shown during instances in which he summarily dismissed uncooperative judges, even though the judiciary was constitutionally guaranteed its autonomy from interference by the executive (Anastasi 1998, pp. 231-47).

The Law on Agrarian Reform is much more significant for its political rather than economic impact on the reorganization of land distribution in Albania, although its effects on the landowners were more indirect, in the form of legal and political pressures to break up large landholdings, rather than in the direct measures by the government to confiscate and redistribute land to the peasantry. The provisions of the law were largely protective of the landowners, and required them to give up only small plots of land to peasants. Moreover, instead of confiscating land from landowners, the reform primarily intended to redistribute state-owned *çiftlik* land, that is, former *miri* land which after independence had become property of the Albanian state. The process, however, was

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mired in political and technical problems created by the lack of proper cadastral records, land measurements, trained personnel, and other administrative instruments that would permit the implementation of the policy. In fact, by the end of the process, according to official data, by 1935 only some 6500 hectares of land were distributed to some 2900 families, and mostly from state-owned holdings, even while historians challenge the official statistics. This was clearly an insufficient amount of land, given that Albania at the time had some 16,000 landless peasant families, requiring some 70,000 hectares of land for redistribution (Belegu 1978, pp. 210-11). On the landowners' end, however, the law provoked defensive moves which included the redistribution of land to relatives (creating new ownership deeds of plots below the required minimum for redistribution), as well as the sale of land to avoid government confiscation. It is significant that, partly as a result of this process, while 200,000 hectares of *çiftlik* lands existed at the time of the law's adoption in 1930, the amount was reduced to some 65,000 hectares according to records made in 1945. This shows that the law's indirect effects were much more significant than the direct policy of land redistribution, leading to pressures for the break up of large landholdings. This process was undoubtedly also stirred by the increasing value of large landholdings after the entry of Italian capital into the Albanian market for agricultural land, and the growing incentives for large landowners to lease or sell land.

All these occurred in a situation of increasing landowner and peasant conflict over land. Archival evidence collected by historians Beqir Meta and Rinush Idrizi (1985) shows the widespread presence of landowner-peasant conflict throughout the 1920s and 1930s. Some two hundred documents, including court cases, petitions, appeals and other acts of protest by peasants addressed to courts, prefectures and the national government

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outline the extent of conflict over land in agrarian Albania. The documents show that

land conflicts typically involve landowners claiming the right of exercising ownership

over land, involving the enclosure of areas and resources over which cultivators enjoyed

customary rights of use, and sometimes the wholesale expropriation of peasants. Even if

full expropriation did not take place, the cutting off of cultivators from arable fields and

other essential subsistence resources such as pasturages and water supplies effectively

made it impossible for peasant families to physically survive on the land. In virtually all

the cases the conflict began under very similar conditions. Peasants address complaints

and appeals typically after landowners and their agents enclose lands, pasturages, forests,

and other local areas of subsistence, or pressure peasants to abandon their homesteads.

Peasants protest this by claiming customary rights of use, contesting the legality and

legitimacy of the ownership claim, and in some cases supplying their own Ottoman-era

deeds of ownership (*tapu*). When peasants acknowledged the right of ownership to the

landowner, they protested the loss of customary subsistence rights. A protest addressed in

1935 by a village to the government argues the following (Meta and Idrizi 1985, pp. 271-

72),

> As is well known, the majority of lands that make up the village of Sopik form a
> *çiftlik* owned by the families [Ç.], [Sh.], and others from Delvina, and these lands
> have been cultivated annually and regularly and the owners were provided with
> [one-third of the product] as per custom, even if the owners never fulfilled their
> duty to assist cultivators [with seed, loans, and other material assistance]. But
> these owners have lately begun to change the destined use of the land, which have
> been cultivated by us *ab antiquo*, for millennia, ever since our village was
> founded, from sown fields to pasturages, in order to increase their income. As a
> result they are prohibiting the farming population of our village from [access to
> the land]... with these actions the owners are decimating more than three hundred
> peasant families which make up the village of Sopik.

In another case peasants protest what they see as the illegal usurpation of land rightfully owned by them. In a court deposition in 1926, peasants of the villages of Petrela, Vishaj, and Momaja (Tirana) reject the court ruling in favor of landowner Selami Tirana over ownership of the local forest.

> The witnesses of the claimant party are not to be trusted, since if the claimant S. T., who claims the forest under question as his legal ownership, were he the real owner [...], would not request the administration to recognize private ownership [...] (Meta and Idrizi 1985).

In Peshkëpi (Pogradec) in 1926, villagers resist the assertion of ownership by landowner Istref Starova, claiming that whatever tribute paid to him in the past was a tax, and not a tithe. Addressing the chairman of parliament, the peasants write (Meta and Idrizi 1985, p. 294),

> Perhaps, Mr. Chairman, Mr. Istref Bey will claim that during the times of Turkish rule we paid dues to him, an argument he offered to the administrative committee of the Subprefecture of Pogradec and to which he summoned us in order to have us submit that we are his [*çiftlik*] cultivators. But this claim does not constitute even the slightest argument, because even if we did pay dues during Turkish rule, this was because we were coerced in paying a tax, not because we had any duty [to Istref Bey]. The few documents that we were able to salvage prove that we were owners of land, and not [*çiftlik*] cultivators.

The court ruled in favor of Istref Starova's claim, prompting peasant families to migrate from the village.

In some cases, landowners directly impinged upon peasant homesteads, forcing peasants off the land with the direct collusion of local authorities. Here is how a situation is described in a 1936 protest from the village of Belin (Fier) to the Ministry of Interior:

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The *çiftlik* owner, lieutenant Xh. bey Libohova, for reasons unknown to us, wishes to remove us from the *çiftlik*. But we have nowhere to go, since none of us own an inch of land, while [the villager] Bajram's family has 16 members, Karafil's has 8 and Neim's has three. [...] About a month ago we submitted a request in order for our rights to be taken into account and to prevent the landowner from expelling us through arbitrary means. But the landowner has taken a different route: yesterday, together with A. D. from Boçova, [...] he appeared with scythes and axes in Bajram's yard, marked an area [...] and said that here will be built a storage. We reported the situation to the subprefect of Fier, who said that he would inform the prefect. When the prefect arrived, he found the landowner and his entourage on our land and our families scared and distressed, but in spite of witnessing this scene, the prefect did not even hold a hearing and said that here, the owner will build his storage (Meta and Idrizi 1985, pp. 350-51).

Conflict emerged not only with original *çiftlik* owners, but also with new buyers of land, some of whom sought to transform the nature of agricultural production on it. A case in the village of Virjon (Saranda) provides an illustration of such developments.

We have lived for centuries in the village of Virjon where we have farmed, but it happened that part of our village was purchased by Mr. K. H., who has appointed as his representative S. A. Ç. What does this representative do? The fields that we cultivate and which we cleared with our own hands, he takes over and allocates to villagers from Finiq and to others, even while we work them and he takes our tithe. He makes us sign papers stating that we will not cultivate fruits. [...] The houses we live in we have ourselves built, but he demands unbearable taxes. [...] He has no other purpose but to harass and pressure us in order to force us to abandon the village (Meta and Idrizi 1985, p. 344).

Similar issues developed with Italian firms. As EIAA expanded its operations in the *çiftlik* of Sukth (Durrës), 22 peasant families in 1932 informed King Zog that they had been dispossessed of all rights to the land which they had formerly enjoyed (Meta and Idrizi 1985, p. 335). The excessive measures practiced by EIAA are documented by the

local government, which in 1931 confirmed to its superiors that, "it is true that the peasants [of Sukth] are coerced by the company. If the peasants do not pay the sums demanded by the company, they are ordered to leave the *çiftlik* within 24 hours. In addition to this, the company uses various measures to pressure the peasants." These measures include excessive fines for stray animals, bringing its machinery to work fields already cultivated by peasants, prohibiting peasants from using pasturages or using forests for firewood. The report warns the government that, "we consider it our duty to inform you that if such behavior by the company persists, the outcome will not be a positive one, because the peasants are in anguish and have nowhere to go. As you are aware, the peasants have lived on these lands for generations, and the prospects of leaving the land puts them at great despair" (Meta and Idrizi 1985, pp. 333-34). Some cases involve years of unresolved conflict, as in the case of the villagers of Goricë (Korça) against the enclosures of landowner Maliq Frashëri, which began in 1925 and did not conclude until 1933, when the villagers were forced off the land. Protests by cultivators in other villages located on the land claimed by Frashëri continued past this date. In the village of Zall-Herr (Tirana), claimed by the Toptani family, conflict between cultivators and landowners carried on from 1923 to 1930, when the local court ruled in favor of the landowner. Conflict over rights of use of a large forest area in the Shkodër region, claimed by landowner and Zog's longtime Minister of Interior Musa Juka, began in 1926 and did not end until 1939. The widespread nature of conflict over land shows the extent of the agrarian problem in interwar Albania. Whatever the specific circumstances, they all clearly involve assertions of private ownership by landowners, tax farmers, and other members who had monopolized fiscal authority over land during the

Ottoman period and were, under the new legal norms, converting their former authority over cultivators into freehold ownership. It is, moreover, in this social context that one must see the effects of the Law on Agrarian Reform. The law only exacerbated the existing conflict over land, increasing the expectations of peasants that they will gain land and then frustrating those when it turned out that actual land redistribution was minimal. Thus, while the Law led to the breakup of large landholdings, this did not end or reverse the widespread process of dispossession. The period of national state building thus saw the emergence for the first time of the landless peasant pauper – peasants driven off the land and forced to settle in urban areas. This process is increasingly observed by literate urban social commentators. One such commentator, writing during the crisis years of 1935-36, describes the situation of the peasantry as follows:

> Our peasant cultivator, once an owner of land, is now proletarianized and turned into a slave of usurers. [...] Today peasants settle in cities, leave behind their homes and their lands to become wage laborers in the city. Urbanization, the disease of peasants moving into cities, their concentration in them, has caused unemployment to rise, fields to remain untilled, leading our economy to ruins and lose its central factor [of production] (Mala 2002, pp. 173-74).[8]

Two important facts stand out, which indicate the degree to which agrarian class conflict helped embed the state's national institutions in lowland Albania. The first involves forms of protest and the use of violence. While incidents involving the use of violence by parties did occur, for the most part, however, armed violence was rare. Whereas in the highlands, conflict over land could easily deteriorate into the use of weapons and initiate blood feuds, in the lowlands the character of conflict was of a very different nature. Not only was armed violence rare, but the means to address the conflict

almost typically involved the state's legal and political institutions, and both parties

actively sought legal legitimacy for their claims. This legal embeddedness of agrarian

class conflict over land demonstrates the degree to which agrarian conflict helped

institutionalize the national state and transform the state into a critical actor in lowland

Albania.

The second fact is that challenges against landowners are rarely made by

individual cultivators, but almost always involve entire village communities. This form of

conflict was typically legitimated by courts and the administrative organs: parties to the

conflict were not necessarily described as individuals, but involved an individual owner

and a village leader or group of leaders representing the entire village community.

Peasants made collective, rather than individual, claims of rights to the land, effectively

demanding the restoration of former collective rights rather than asserting their own

private ownership. This added plausibility to the claim by radicals that Albania's agrarian

problem was a problem of *class* domination – under conditions of collective peasant

claims over land, dispossessed peasants required little ideological persuasion as their

experience of landowner repression made them fully cognizant that against landowners,

they *were* in the same class situation.

6.4. Agrarian conflict, state power, and the birth of the revolutionary peasantry

Both these facts would be extremely important in the 1940s, when the communist

movement began to successfully establish bases in lowland peasant villages and mobilize

the peasantry into revolutionary activity. It is the dynamics of agrarian conflict and the

degree to which that took place *within state institutions* which explain both the growing power of the state in lowland Albania, as well as the reasons why lowland peasantry found revolutionary ideology much more appealing than in the highlands, where one was more likely to encounter rabid anti-communism. Most importantly, it was the process that institutionalized the national state as a *legal order* which ultimately explains the patterns of conflict and the divergent relationship highland and lowland peasant communities developed with national state institutions. The close correlation between extensive administrative and legal centralization by the national state and the rise of communism as a mass movement is not an accidental occurrence. Rather, it attests to the role that the legal and administrative embeddedness of agrarian class conflict had for the growing political homogenization of the lowland peasantry and its increasing receptivity to revolutionary calls.

The fall of the radical movement of 1924 did not lead to the demise of agrarian radicalism in Albania. Even if leading members of the radical movement were either killed or exiled from Albania, in 1924 the remaining group established the Committee for National Liberation (KONARE). Led by the deposed Noli, this group became increasingly revolutionary in its outlook, seeing Zog's restoration as a victory for whom it referred to as the "feudal" landowners and basing its own its political program on a call for a social revolution, to be carried out by means of massive land redistribution to the peasantry. In the 1930s KONARE deployed a number of activists in Albania who worked in clandestine form, given that its activities were curtailed through state repression, but these remained unable to build strong local organizations. Nonetheless, the message critiquing Albania's agrarian order was a centerpiece of its political discourse. In a

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pamphlet distributed in 1933, KONARE called on masses of the people to join it, stating

that its movement's goals were as follows:

1) To distribute the *çiftlik*s of all *bey*s and *aga*s to the people free of charge.

2) To forgive all debt that the people have to usurers and the state.

3) To reject the payment of Albania's debts to Italy.

4) To establish a government of the people.

The pamphlet promised that, "after the overthrow of Zog, only [KONARE] will uproot

the class of *bey*s and *aga*s and the usurers" (Dedi et al. 1959, pp. 248-49).

Such calls to political action had little effect, however, as a peasant mass

movement did not materialize in Albania under KONARE's leadership, in spite of its

political program which seemed to promise a radical solution to peasant hardships by

remaking Albania's agrarian order. The very *same* message became much more effective

in the 1940s, under the communist movement, which organizationally had no relationship

with KONARE, and was under the leadership of an entirely different cadre from

KONARE and the older generation of radicals. What changed?

The most obvious change came in the political conditions in the country itself. In

1939, Albania was occupied by Italian troops, deposing Zog and installing a friendly

government. The communist movement, established in 1941 under the leadership of a

Paris-educated lawyer by the name of Enver Hoxha, was among the first movements to

organize local resistance against the Italian military. Its call to arms was therefore dual,

not only for social revolution, but first and foremost as a call for national liberation. The

rapid success of communist organization is made visible by the fact that by 1943, with Italy's capitulation in the war, the communists quickly established councils of local government throughout the lowland regions of central and southern Albania. It was the lowlands, and not the strategically more critical highland terrains, which became the central theaters of operation for the communist movement and its guerilla attacks, operating under the organizational banner of the National Liberation Council (NLC).

But more importantly, what had changed from the failed revolutionary attempts of 1924 and after, and the successful mass mobilization of 1940, was the deep change in the institutional structure which made the state a key presence in the lives of the lowland peasantry. This institutional structure consisted not only in the administrative growth of the state, but the deep transformation that the state introduced in the structure of agrarian social relations. As shown above, political conflict between landowners and peasants over the control of land had taken place in lowland Albania since at least the mid-nineteenth century. It was thus not the fact of agrarian conflict that changed, but its terms: as the commercialization of land and falling returns from the fiscal order pushed landowners towards asserting freehold control over land, the new definitions of property and agrarian class relations were imposed by the legal changes introduced by the state. These included the stripping of peasants from traditional legal protections. However, rather than asserting those traditional legal protections, the peasantry opted for the political option of revolutionary change. Why?

As the evidence from the period shows, the cultivator peasantry was *not* revolutionary for most of the 1920s and 1930s. This reality was discovered by the radicals of 1924 and their successors in KONARE, and their failed attempts to organize

the peasantry into a revolutionary force. Moreover, documents showing peasant claims over land do not involve demands for the revolutionary transformation of the old agrarian order; instead, the goal of peasants is primarily to claim older legal protections to defend their customary subsistence rights. But what the new legal order did was to reduce the complexity of the political situation – what became clear to the peasantry, as Meta and Idrizi point out, was that landowner efforts were always posed under the terms of legal rights of property protected by the state. The state provided a *political* guarantee of land ownership, thus furnishing practical plausibility to the claims of radicals that the true enemy of the peasantry was the state, and not the class of landowners. However, what communists were capable of achieving in among the lowland peasantry was to direct this animosity against the state towards the political goal of *state transformation*. Among other things, this meant a final entry of the peasantry as an social actor in the national political arena, a force that would provide the bedrock of communist power in the subsequent decades of rule in Albania by the communists.

The emergence of capitalist agriculture is in itself an insufficient explanation for the rise of peasant radicalism in the lowlands. It took the formation of a national state and, most importantly, the political will of the state elite to import the legal infrastructure of the modern state and its "bourgeois" conception of economic relations that did away with the legal decentralization and traditional protections of the imperial system of justice. The consequences of this process were, however, very different for Albania's two regions. In the highlands, legal centralization and reform antagonized peasants against the state and channeled political energies towards limiting its jurisdictional reach in local affairs. In the lowlands, the legal embeddedness of agrarian class conflict pushed

peasants to direct their political energies into state institutions, thus wedding them and their interest directly with state policy, and through the legal form and process of agrarian conflict produced the generalized consciousness of class repression. The success of communist mobilization in the lowlands was a reflection not only of better organizational efforts on their behalf, but arrived in Albania after the process of legal centralization and reform had already imposed radical changes in Albania's agrarian social world. The revolutionary mobilization of the 1940s succeeded where that of 1924 failed not because the situation of the peasantry had deteriorated, but also because the degree of involvement of state institutions, *at the local level*, in agrarian conflict, the exercise of legal regulation and the legitimation of landowner actions by reference to the state and its law had instituted a qualitative change in landowner-peasant relations. Accustomed to traditional rights over land, lowland cultivators rebelled not because landowners exercised claims over them, but because the state failed to protect them. It was a change in the institutional form of the state and the content of its authority that increased the opportunities for peasant political action, and not the repressive deeds of landowners alone.

This process did not transpire in the highlands. The dynamics of legal centralization in the highlands, impinging less on the economic organization of agrarian life and more significantly on family, kinship and related rituals, and the use of administrative measures to repress customary communal institutions, led the highland peasantry in a politically conservative direction. Moving far from the revolutionary force it had been in the 1920s and earlier, the highland peasantry was quickly framed by the fascist regime which was installed in Albania after Italian occupation as a defender of

ancient traditions of nationhood. Soon after taking power, the new government issued a number of orders reinstituting customary law and establishing a new system of patronage that connected with a number of powerful highland chiefs. This proved to be a high wager for the highland peasantry, however, in that communist consolidation of power during the second half of the 1940s and in the 1950s brought intense campaigns of terror and political repression in the highlands, as the communist regime sought to destroy what it saw as the reactionary base of backward-looking peasants. Ironically, the former revolutionary bedrock of Albania, which nearly brought agrarian reform in 1924, had, in light of severe communist repression, become the bastion of reaction and conservatism. The communist state was, in many ways, dealing with an institutional legacy that had been bequeathed to it by the previous regime's policy of state building through legal centralization and reform. Indeed, the communist elite would continue to depict itself as the bearer of a popular revolution, without understanding that the institutional basis of its own rule had been established in the process of administrative and legal centralization that was carried out during the late 1920s and 1930s, those which had embedded the national state deep in the life of agrarian Albania, a power now amplified by the effective subsumption of the legal-administrative state to centralized party control which followed in the aftermath of communist takeover.

[1] Efforts to impose greater fiscal controls by the Ottoman state were also thwarted by the ability of the local population to evade urban-based authorities. Thus, late Ottoman reforms seeking increased controls over trade (such as the state monopoly over salt) led to increased transborder smuggling, contributing to a decline, rather than growth, in Ottoman administrative control in the peripheries (Blumi 2003; Reinkowski 2003).

[2] Indeed, most historiographical discussions of interwar Albanian political history, which draw heavily from Western diplomatic sources, are elitist accounts focusing on interpersonal relations, intrigues and personal rivalries, often suggesting that such configurations resulted from the cultural character of Albanians and the "Oriental" heritage of Ottoman empire (e.g. Fischer 1984; Logoreci 1977; Swire 1971[1929]; Tomes 2004). Postwar Albanian historians have paid more attention to popular movements, but until the 1990s, this interest was mainly in justifying the ideological claims of the communist regime. Furthermore, the narrow Marxist-Leninist approach provided a limited analytical framework and strong set of normative criteria to judge the role and relevance of popular movements. For example, Marxist-Leninist historians rarely took up interest in the role of the state, asserting that the Zog regime was little more than the political executive of the *bey* class and its "bourgeois" allies – even if the underdevelopment of capitalism in interwar Albania meant that there existed no politically significant bourgeois class in the country, and the fact that the expansion of the state apparatus under Zog proved increasingly detrimental to the interests of the *bey*s.

[3] Contrast this experience of collective peasant struggle against landowners with the organization of the Ottoman agrarian economy where, as İslamoğlu and Keyder (1987)

argue, the organization of agrarian production (which İslamoğlu and Keyder describe under the unfortunate term "Asiatic mode of production") worked to prevent the emergence of agrarian class conflict. They suggest that under that form "the individual peasant comes into contact only with the tax-collector, who acts in the name of the central authority, only after the production process, which he carried out as a free peasant. In this way, the Asiatic mode of production is distinguished from the slave, feudal, or capitalist modes of production; class conflict is not graspable in the production experience" (1987, p. 53).

[4] Given the quasi-Leninist framework of imperialism which organizes much of the logic of the analysis in this historical work, it often tends to interpret, while offering little in terms empirical evidence, that foreign investments in Albania were a political instrument of imperialist states, and competition by Western firms over concessionary rights in Albania a symptom of imperialist competition over political control of Albania. While economic capital could be deployed for strategic political purposes by powerful states, as it was particularly in the case of Italy, which tied economic investments to state-issued loans to Albania, it is difficult to accept the argument that British, French, and American companies acted as mere agents of the imperialism of their respective states. Britain, France and the U.S. all but lost interest in Albania after Italy gained an upper-hand in the internal politics of the country in the late 1920s. Thus, to the contrary, it appears that it is because Western states had so *little* strategic interest in Albania that allowed a situation of plural "imperialist" competition over Albania's economic resources in the early 1920s be replaced by a situation in which Albania's diplomatic and economic relations become

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dominated almost exclusively by fascist Italy in the 1930s, at the eventual and ultimate

expense of Albania's sovereignty after Italy's military invasion in 1939.

[5] Italian dominance over the Albania economy was also a result of the fact that the Italian

government helped establish and became a majority shareholder in the Bank of Albania.

Control over the Bank also allowed Italy to direct economic investments in Albania in

ways that favored Italian capital and the strategic interests of the Italian government.

[6] Indeed, the unprofitability of such endeavors seems to have been also realized by early

Italian capitalists investing in Albania. One of the earliest Italian agricultural firms,

Adriatico, sought to gain such a concessionary right over *çiftlik* land and its peasantry in

1922, but peasant resistance doomed the efforts (Fishta and Doçi 1965, p. 65-6).

[7] The most illustrious case of this is in the village of Goricë (Korça). Having first claim

the nearby forest in 1925, in 1930 Frashëri claimed all the land of the local *çiftlik* as

private property, subsequently demanding that peasants of Goricë leave the land. After a

protracted conflict between Frashëri and the villagers, the courts sided with Frashëri and

in 1933, the gendarmerie forced the villagers off the land and had them collectively

deported from Albania (Meta and Idrizi 1985, pp. 127-80). From the existing record, it

appears that Goricë was an extreme case, although similar pressures for the peasantry's

displacement from the land are evident in many cases of land enclosure by owners. Even

in Frashëri's case, his claims over land and resources provoked conflicts with all of the

villages in the region that were part of the old *çiftlik*.

[8] The writer, like many other commentators, were oblivious to the process of enclosures

that was driving peasants away from the land, often blaming the proletarianization of the

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peasantry on indolence or an irrational desire to abandon villages and experience the

exuberance of urban life.

CHAPTER 7

Conclusion

The central puzzle with which this dissertation began is that of the changing patterns of political mobilization and political identities of Albania's lowland and highland peasantries. The bulk of the analysis, however, focused on questions of institutional change during the transition from empire to national state, and primarily on changes in the meaning, norms, and administration of law. The central process examined in the dissertation was that termed *legal centralization*, defined as the process by which nationalizing states assert a monopoly over the definition, administration, and enactment of law. In the conception used in this analysis, at moments of radical institutional break with the past, the process of legal centralization parallels that which Loveman (2005) terms the "primitive accumulation of symbolic power." The accumulation of symbolic power is a key process if a state is to be successful in reproducing its authority over the long run. In contrast with actor-based or formal institutional approaches, this perspective emphasizes structural as well as cultural and normative transformations that underlie the process of state building. Rather than seeing them as distinct and unrelated, however, the perspective of combining field- and *habitus*-level mechanisms allows us to examine the ways in which institutional change interacts with existing structures, schemas, and dispositions of the *habitus* in agrarian societies in transition.

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This distinction means that analysis must develop across both levels of field and *habitus*. The analysis of field-level transformations was here developed mainly in the analysis of changing institutional structures, dominant normative systems, and political economies. The analysis examined this change through a long-term historical perspective, outlining relationships between state, agrarian power, and peasant community in the era of empire, while focusing on the institutional reforms introduced during the constitutive period of national state building. The analysis focused particularly on how national state building involved, especially in the case of post-Ottoman Albania, drastic changes in traditional legal institutions.

What is the relationship between the transformation of socio-legal institutions and patterns of political mobilization? Clearly, factors involved in the timing, intensity, and collective actions in the rise of political movements are numerous, and one cannot claim to derive forms of political mobilization simply via the analysis of the nature and structure of socio-legal institutions (McAdam 1988; McAdam, Tarrow and Tilly 2001; Tarrow 1994; Tilly 1978; Tilly 2004; Zald and McCarthy 1977). In addition to socio-legal institutions which establish the legal and institutional contexts for political mobilization, the mechanisms involved in social movement formation are numerous, and include the political opportunities as well as mobilizing structures and the development of identities between groups and actors in contention (McAdam, Tarrow and Tilly 2001). The purpose of the analysis developed here is not to discount the significance of such factors with shorter temporal orders in producing social movements, but rather to examine the local institutional conditions that produce particular identities and forms of cleavage that translate into very distinct kinds of political mobilization. This focus, which

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constituted an important interest in older theories of collective behavior (e.g., Smelser 1962), reaches beyond existing social movement theories which focus on short-term factors explaining social movement formation, focusing on the long-term, structural origins of movements and the formation of political identities in agrarian and segmented societies.

The second literature with which the analysis engaged is that of modern agrarian politics and peasant radicalism. To be sure, the analysis of peasant politics was never a straightforward matter. Ever since the publication of Eric Hobsbawm's *Primitive Rebels* (1959), social scientists have faced difficulties in both classifying as well as explaining the rationality of peasant resistance and rebellion. For Hobsbawm, the problem lied at the level of organization and ideology: lacking a modern political organization and a revolutionary ideology to guide goals and strategies, the politics of peasants could not but be "primitive": unplanned, uncoordinated, often misguided in their goals and harboring illusions about political possibilities. This, moreover, often made peasants backward-looking: in response to social forces threatening the disintegration of the traditional order, peasants sought to restore conditions existing in the past rather than use moments of crisis to bring about a revolutionary future. A similar perspective is advanced by Scott (1976), who argues that peasantries have historically acted as forces of political conservatism, and only rarely engaged in revolutionary violence, drawing on Wolf's original work which claimed that peasant revolt was often only the condition enabling the success of social revolutionary movements. A similar image is drawn by postcolonial historians, who suggest the existence of, in Chatterjee's (1993) words, "two domains of politics," in which revolutionary ferments are interpreted as the coming together of the domains of

formal politics, its parties and mass organizations, articulated ideologies and interests, and the internal peasant codes and the mystical pull of community, of marginal social spaces that enabled peasants to assert autonomy and reject subordination. The problem in these approaches, whether they have, like Hobsbawm and Wolf seen the problem in the lack of organization and ideology, like Scott presumed an unbridgeable gap between peasant "moral economies" and political power and modern economic forces, or like Chatterjee painted an image of incommensurability between peasant community and modern political culture, is that the relationship between peasantries and forms of institutionalized political power is lost. It is safe to suggest that, in the explanations offered in these literatures, peasant political behavior is only tenuously related to institutional change, and that when institutional change occurred, it is interpreted as an encroachment upon the traditional freedom and autonomy of peasant community. These and other perspectives from this literature explain peasant radicalism by locating its origins in (1) class situations which produce peasant radicalism; (2) organizational resources which peasant groups mobilize in oppositional behavior; or (3) cultural values and ideologies of peasant groups. The research here shows that while these factors were relevant, their relative importance as factors in the rise of peasant radicalism could be properly understood only in relation to the interaction between the changing institutional settings in the era of national state building, where the state is not seen only as a political actor or institutional arena but an element that is constitutive, in an institutional sense, of the dominant socio-legal order.

The importance of socio-legal institutions for modern social change is significant by virtue of the relevance of law for modern state building. As argued in chapter 1, the

modern state is first and foremost a legal apparatus; its powers cannot be stripped of the legitimacy which is provided to them by the underlying efficacy of law and legal norms, and reduced to those of coercion and force. States were not created with such powers but, at least in the west European experience, accumulated them within a long history of institutional struggle with entities and groups which possessed powers of social regulation, such as households, peasant communities, religious authorities, municipal governments, and other rival political authorities. This process involved, in Bourdieu's terms, a struggle to accumulate not only coercive capacities, but also a specific and historically unique kind of symbolic power, that of law, which provided a means of legitimately codifying, rationalizing, and enforcing the dominant norms within a territorially constituted society. But while the process of legal centralization, conceived in the abstract, has characterized modern state building *tout court*, the terms and dynamics of this process have differed geographically and historically. The national states that emerged out of the disintegration of the late Ottoman empire in the late nineteenth and early twentieth century, emerged in an era where national states were already constituted, and which presented legal and institutional models which had to be imitated and implemented in order for new polities to be considered legitimate members of the state system. Under these conditions, which typically witnessed deep institutional reform, legal centralization involved both a relatively rapid process of legal institutional change, as well as a dramatic break with legal tradition, in both doctrinal and institutional senses. In the late nineteenth and early twentieth centuries, this process involved the adoption of constitutionalism as the central principle of government and the construction of secular national legal systems grounded in unitary national legal codes, borrowing, in form if not

always in actual content, from the established models of national legal systems in western Europe. It also, as a consequence, involved the transplantations of new norms of property and new powers of social regulation by the state, with significant consequences in legal culture, agrarian relations, and political rationalities.

Under the conditions of postimperial political and legal reconstruction, one is capable of observing the process of primitive accumulation of symbolic power first hand. The case of Albania presents such as case, especially as it represents an historical experience of rapid and dramatic break from legal history. This dissertation has examined this process by contrasting the dynamics and outcomes of socio-legal transformations in two agrarian regions, the highlands and the lowlands, given the distinct regional inheritances in socio-legal institutions. The dissertation has showed how national state efforts to reform socio-legal institutions through the introduction of national institutions of territorial administration and law significantly altered inherited forms of social relations and institutions, with significant ramifications for the formation of political identities and political mobilization among marginalized social groups.

The dynamics of this process were not identical, however, and the analysis here has not worked to isolate any set of shared factors or variables which operate equally in both cases, situated within a linear model of state expansion. Rather, while being the subject of the same process, both cases displayed different dynamics, determined by their different originating points and institutional settings at the moment of transition. In the highlands, socio-legal institutions, including political and economic relations, were grounded in self-regulating communal institutions which had co-existed within a decentralized legal order and a system of indirect rule. In the era of national state

building, this arrangement became subject to the pressures of legal centralization, resulting ultimately in the delegitimation of communal institutions, the effective criminalization of customary law, and the attempt by the state to impose new norms and forms of regulation in the domains of family law and an intervention in the kinship nexus, a central mechanism of social reproduction, social relations, and communal authority in the communal legal culture of the highlands. This process, however, was contingent to events occurring at the elite level, which shifted the existing policy of indirect rule to that of direct administration, the delegitimation of customary law, as well as those happening locally, such as the weakening of communal solidarities and mechanisms as a result of economic pressures and new institutions introduced by the national state.

The analysis showed how, rather than treating the process of the accumulation of symbolic power as a linear process, the process is itself better understood as an event-based dynamic. The building of state authority in the highlands through legal centralization proceeded through a number of contingencies and turns, and new situations led state builders towards different forms of dealing with local resistance to the assertion of the state's legal and regulatory authority. In the first instance, it involved the state retaining Ottoman institutions of indirect rule, including the Jibal Committee and the *bajraktar*s as brokers between the state and local communities. With events such as the Mirdita rebellion of 1921, government policy shifted towards the mobilization of the communal institution of the *besa* to gain loyalty and the establishment of *Besa* Committees as authorities of local government combining state authority and customary law. In 1928, the state took an entirely different path, one that sought to repress customary law and communal institutions and strengthen direct territorial rule and state

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law, such as the Penal and Civil Codes. In this sense, the state went from a strategy which sought to co-opt the symbolic power of communal institutions into one that intended their repression. The reason for this, I suggest, are not only strategic, but also institutional: the dominant kind of symbolic power in highland communities, that of honor, proved insufficient to institutionalize a state based legal order, simply because of the institutional incommensurability between a state-governed and communally self-governed order. Honor was effective as an early mechanism of legitimizing state rule, but could not in itself support and sustain the production of a monopoly over legal power required by a modern state order. In essence, if Albanian state builders were to succeed in successfully exercising a monopoly power of law, they realized that the only path to do so was to repress communal institutions and customary law. On the one hand, the state's early success in establishing territorial government through the establishment of prefectural administration in the highlands, and the weakening of communal mechanisms through measures such as disarmament and poor relief, allowed that the government's policy shift in the late 1920s and 1930s not provoke rebellions like those witnessed in the early 1920s. But what they did within this context, was to abandon one path of institutional development in favor of a costlier one of constructing a basis of authority which no longer grounded itself in a form of legitimacy derived from communal institutions and customary law. This rival form of authority could not but clash with that of traditional authorities, thereby producing a situation of long lasting jurisdictional conflict between the state and traditional authorities.

In the lowlands, the administrative and legal presence of imperial authority within a class differentiated agrarian system created an entirely different context within which

legal centralization took place. More than subjecting peasant populations to the authority

of the state, the process here took the form of appropriating the power of and reforming

existing legal authorities which were inherited from the empire – in effect, an existing

institutional base of symbolic power was successfully co-opted and transformed by the

state, with the reform of traditional Ottoman courts and legal codes, which came under

the direct control of national state authority. In the lowlands, national state building

reaped the benefits of previous institutionalizations of political power and legal authority

laid down during the imperial era and sustained during the nineteenth century reforms.

This fact was consequential for the way in which lowland peasants responded to the

process of legal centralization.

While the institutional or field-level changes focused at the level of changes in

socio-legal institutions and changing legal norms, the relationship between socio-legal

change and patterns of peasant political mobilization introduced in this dissertation's

theoretical discussion was that of the *habitus*. Mechanisms operating at the level of the

habitus are the chief ones responsible for the changing political orientation of Albania's

highland and lowland peasant groups. I develop this argument in what follows.

As the discussion of legal atrophy showed in chapter 3, the intrusion of state

mechanisms increasingly weakened the mechanisms of communal institutions and the

regulatory capacities of customary law in the highlands. These, however, defied the

beliefs of state elites, and did not lead to the wholesale dismantling of customary law and

the displacement of its norms with those of a state-defined normative order. State

centralization reforms introduced after 1928 denied both the direct and tacit legitimacy of

customary law, while claiming new domains of social regulation by the state, as well as

new institutional channels for highland peasants to seek redress. Rather than substitute communal- with state-driven strategies of legal redress (such as adjudicating disputes via courts as opposed to those of communal mediation or blood feuds), the outcome was the emergence of a legal dualism in which enabled highland peasants the pursuit of both communal- and state-based strategies. This contributed to the growing legal anomie in the region, because of the emergence of two competing socio-legal systems, and therefore two competing forms of legal rationality, one that individualized legal subjectivity and rested on abstract norms of justice, and another that preserved the embeddedness of processes of justice and restitution within communal moral economies.

In effect, the weakening of the communal social order by the introduction of individualizing state mechanisms (including disarmament and the resulting loss of martial traditions as a source of communal identity and power, the introduction of individualized poor relief, the individualization of personal identity and its removal from communal structures of meaning through population registries and other abstract devices) is a *field*-level process which does not map directly onto the practical *habitus* of actors. Legal dualism at the institutional level also implies the introduction of divisions at the level of the *habitus*, which are experienced as the pulls of contradictory forces and normative orders, including the emergence of distinct and competing strategies for legal redress. The efforts to "rationalize" this condition of a deep gap between field and *habitus* (or, better put, the pull exercised on agents by two overlapping and contradictory fields) may produce different sets of movements, but the one that prevailed in highland Albania during the wartime occupation regime was one that *ideologically* valorized customary law, conceived as the opposite of a state-defined legal order, and an embodiment of a

veritable ancient tradition. The success of traditionalizing policies which were introduced after Albania's occupation in 1939, gained success among the highland peasantry primarily because they filled this structural gap between field and *habitus* with specific ideological meaning, ideologically compensating for the disintegration of communal mechanisms and solidarity with an ideological worldview and political call which celebrated the traditional community. It is little wonder then that regions which were once the greatest strongholds of communal autonomy, such as Mirdita, became the areas where calls for cultural traditionalism and conservatism took hold the most.

In the lowlands peasant legal *habitus* worked in an entirely different direction. The lowland peasantry was a traditional bastion of cultural and political conservatism, and there is no historically received cultural disposition that explains why this group later turned to political radicalism. Searching for a particular peasant cultural disposition (as modernization theorists did) abstracts and separates culture from its institutional settings, resulting in misleading and essentializing beliefs about the determinism of peasant culture. On the other hand, attempts to deduce peasant political orientations from structural class locations or organizational resources faces the problem not only of suggesting a tenuous structural determinism, but also fails to explain the specific content of peasant politics. The field-theoretical approach permits us to move beyond this conundrum by reorienting our analysis to the relations between field and *habitus*, separating the analysis of objective institutional structures, including the availability of particular organizational resources, from the analysis of the distribution of cognitive (cultural) schemas and dispositions one finds within agents that populate the field.

The traditional legal *habitus* is key to explaining how institutional change produced the structural conditions for peasant radicalism among the lowland peasantry. The turn of the lowland peasantry to the state for redress against the loss of subsistence rights is not a novelty, but an expression of a legal disposition which had formed within a long history of protection by the legal institutions of the empire. During the period of institutional transformation in the era of national state building, local institutions of authority and law changed but the peasant legal *habitus* did not – peasants acted very much in the same way they had acted historically. What *had* changed, however, was the legal mandate of the state to provide protection to the peasantry against landowner claims. No longer guided by the historical principle of Ottoman law to protect peasant subsistence rights (even at the cost of the loss of specific rights of ownership by the landowners), the national state mandated a new understanding of property in land, characterized by the absolute right to freeholder property. Under economic pressures which were increasing demand for agricultural land, the state facilitated and helped legitimize the process of dispossession. This led to the politicization of ownership and control of agrarian resources to a degree and scale unknown in the past.

The success of the communist partisan movement in the 1940s is found in its ability to successfully reframe the terms of political conflict from one involving the peasantry and the landowners, to one which found the cause of peasant grievances in the policies of the state. The degree to which the peasantry was indoctrinated by communist ideology is questionable, but the frustrated expectations of a peasantry abandoned by the state and its traditional legal protections points to the despair and anger that this situation produced. Entering in this context, not only through the means of propaganda and

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ideology, but also by engaging in acts such as ambushing tax collectors and redistributing their collections to the peasantry, shows how the challenge that the movement provided against political authorities helped gain the sympathies of this social group and push it towards backing the political goals of the communist movement.

The traditional legal *habitus* of the lowland peasantry thereby worked to reinforce the legal and political power of the state, allowing, in essence, the legal and political institutions of the national state to appropriate the symbolic power of older institutions. In the first instance, the lowland peasant legal *habitus* gave legitimacy to the new legal system established by the nationalizing state, which were seen by this population as successors of older state-based courts and legal authorities. When the new legal edifice defied and even contravened traditional peasant expectations and understandings of fairness and justice, these created the antagonism that opened the path for the politicization and mobilization of the lowland peasantry along a class-based identity.

It was by no means predestined that the political space created between the lowland peasantry and the landowners and the state be occupied by the communist movement. Indeed, it was only after the Albanian communist movement broke with the Comintern directives of a worker-centered organization, principles which had failed it during most of the 1930s, and its articulation with an older tradition of Albanian agrarian radicalism that explains how such a largely urban-based movement whose critical social understandings were formed in the context of industrial society and urban social relations, was able to transform into a largely agrarian movement focused on issues of land redistribution and the vilification of the landowner class and a state which backs its interests.

A final note regards the issue of *multiplier effects* in the process of accumulation of symbolic power. The basic question of symbolic power in relation to the legitimate exercise of state authority involves the power of the state to establish general norms that regulate social spheres, norms that are in the main accepted by all actors within a social structure. Why are in some cases those norms accepted, and why are, in other cases, those norms flouted by social actors? Why did Albania's lowland peasantry accept the legal rules of the state, in spite of their repressive nature, while Albania's highland peasantry resisted submission to state regulation of the domestic sphere and matrimonial procedures? The answer party lies, of course, in the existence of alternative rules, but at stake are not only rules *per se* but rather the institutional basis of their legitimacy. It is when an order is seen as *legitimate* that the institutions that underlie it produce multiplier effects, as they did in lowland Albania, and the appropriation of that legitimacy from earlier events of institutionalization. Among highland communities, the difficulty in establishing a monopoly over the definition and administration of legal norms signaled the inability of the state to establish a successful monopoly in this type of symbolic power, evidenced precisely in the inability of the state to repress alternative modes of social organization, namely the system of customary law and its specific socio-legal order. The customary order of the highland peasantry exhibits the limits of state power as such, the superfluity – and, indeed, from the perspective of human history, the historically radical nature – of the state institution, as the anthropologist Pierre Clastres (1989) has argued.[1] In this case, the outcome was the state elite's treatment of the highland peasantry as pathological to modern development. This led to the adoption of varying reformist measures during the 1930s, which sought to persuade highland

peasants, via coercion if necessary, of the imperative to submit to the authority of the state. Here, however, the multiplier effects of the accumulation of symbolic power did not take place. What took root instead was a cycle of "negative feedback" (Pierson 2004), in which state authority increasingly "decoupled" from local social organization (Meyer and Rowan 1977). At this juncture, the state faced three paths of institutionalization. The first choice was to follow the colonial route of co-opting the existing legal order into the formal legal system of the state, by providing it formal recognition as a state-sanctioned legal system. The second choice was to repress local institutions and establish and maintain state power via the force of violence. The final choice was for the state to withdraw and abandon further attempts at asserting legal rule, leaving the region "to its own devices." Indeed, in Albania's modern history, all three choices have been pursued in relation to the highlands. After Albania's occupation by Italy, the newly established vassal government, under the guise of renewed traditionalism, celebrated customary law as a virtue of Albania's archaic heritage and provided a degree of legal recognition. After 1945, under the banner of revolutionary social transformation, the state engaged in massive repression of customary institutions and the persecution of "reactionaries" in the highlands. By the 1960s, the Albanian socialist state claimed to have finally defeated what it considered to be a primitive system of law. In the 1990s, with the collapse of the socialist state and the pursuit of neoliberal reforms, the Albanian government withdrew interest from its highland periphery, even after the resurgence of practices of customary law in the region led to growing local violence and renewed blood feuds, and economic reform destroyed old support systems and worsened an already impoverished region. At the beginning of the twenty-first century, highland customary law is clearly not what it

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was in the early twentieth, given the disappearance of its many core institutions and the decimation of the bearers of its legal tradition. But the reappearance of its practices, in however partial and distorted form, allow us to observe and reflect about nature and limits of that radical political project called the modern state.

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[1] I thank Ermal Hasimja for this point.

APPENDICES