

Research Article

FAMILY AUTHORITY AND DOMESTIC JUSTICE  
IN ANCIENT ROME  
AND ALBANIAN CUSTOMARY LAW:  
A COMPARATIVE ANALYSIS

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ABSTRACT

**Background:** *This paper examines the similarities and differences between the institution of the family in ancient Roman law and Albanian customary law, known as the Kanun of Lekë Dukagjini. The analysis focuses on the role of the pater familias, first within the agnatic family and later within the cognatic family, as well as on the role of the head of the household or village elder under the Kanun. These figures reveal not formal institutional equivalence, but meaningful functional parallels in the organization of domestic authority, responsibilities, and the exercise of paternal power over persons classified in Roman law as alieni iuris. Since antiquity, the Kanun has been preserved as an important historical, moral, and legal expression of Albanian customary order. It regulated relations between individuals, including family relations, by treating the family as the foundation of social organization. In both traditions, the household served as an important normative space in which authority, discipline, and internal order were maintained. The topic is also relevant to*

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contemporary legal scholarship because it contributes to debates on legal pluralism, informal justice, and the historical foundations of non-state normative orders.

**Method:** The methodology of this scientific study is based on a broad range of legal, historical, and doctrinal sources. It draws on primary materials such as the Law of the Twelve Tables, the Digest of Justinian, the Kanun of Lekë Dukagjini, and related historical texts, as well as modern scholarship on Roman law, customary law, and comparative legal history. The methods employed include legal, historical, analytical, and comparative approaches.

**Results and Conclusions:** The study shows that Roman law and Albanian customary law did not produce identical institutions or equivalent legal doctrines. However, they reveal limited yet significant functional parallels in the organization of household authority, family discipline, and domestic justice. The comparison is strongest at the level of legal and social function rather than formal institutional identity. In this way, the article offers a more precise comparative account of how pre-modern legal orders structured authority, belonging, and internal regulation within the family.

## 1 INTRODUCTION

Since antiquity, the family has occupied a central place in legal and social thought, and, from Aristotle onward, it has been understood not merely as a private unit of cohabitation but as a foundational structure of social organization. This question remains relevant in contemporary scholarship because current debates on legal pluralism, informal justice, and non-state normative orders continue to examine how authority, conflict resolution, and social discipline were historically exercised outside centralized judicial institutions.<sup>1</sup> In this respect, the study of family-based authority in earlier legal traditions offers a useful perspective for understanding the historical foundations of normative ordering.

In Roman law, the concept of the family was more complex than its modern equivalent. The terms *gens*, *familia*, *agnates*, and *cognates* did not simply denote kinship in the contemporary sense but reflected economic organization, legal dependence, and household authority. As Roman legal sources indicate, the term *familia* had a dual meaning, referring both to persons and to property, and therefore cannot be reduced to the modern notion of the nuclear family.<sup>2</sup> In the earliest periods of Roman history, before the consolidation of the *civitas* as a structured political community, the individual did not

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1 Petrit Nimani, Shefqet Avdija, and Artan Maloku, 'Customary Law and Modern Legal Systems: A Comparative Perspective' (2025) 7(2) Corporate Law & Governance Review 78-9, doi:10.22495/clgrv7i2p8.

2 Ulpian, 'Digest 50.16.195.1-2' in Alan Watson (ed), *The Digest of Justinian*, vol 4 (University of Pennsylvania Press 2011) book 46 ad Edictum; Edoardo Volterra, 'Famiglia' in *Scritti Giuridici*, vol 8 (Jovene 1991) esp note 47; Max Kaser, *The Archaic Roman Family* (Dott A Giuffrè Editore 1960) 47 ff; Giorgio Franciosi, *Famiglia e persone in Roma antica dall'età arcaica al principato* (G Giappichelli Editore 1992) 7 ff.

enjoy the autonomous legal standing later understood, since legal authority and social belonging were mediated through the family group. As productive relations evolved, broader kinship structures gradually fragmented into smaller household units, including those described as *familia pecuniaque*, thereby contributing to the emergence of more distinct forms of property holding and domestic authority.

These developments are significant not only for Roman legal history but also for comparative inquiry. Albanian customary law, especially as expressed in the Kanun of Lekë Dukagjini, likewise treated the family as the primary unit of social order and recognized the household as a central site of authority, regulation, and dispute resolution.<sup>3</sup> The Kanun emerged within the Albanian highland world as a body of customary norms shaped by specific historical, geographical, social, and political conditions. It developed in communities organized around kinship, patriarchal household structures, clan solidarity, and strong concepts of honor, where state authority was often weak, distant, or historically absent. For that reason, its authority did not derive from formal state enactment but from long-standing customary acceptance and its perceived legitimacy within the community's social life.<sup>4</sup>

Yet the purpose of this comparison is not to suggest direct legal continuity between Roman law and Albanian customary law, nor to argue that the two systems were identical in structure. Rather, the comparison seeks to identify limited functional parallels between two historically distinct normative orders in which family authority and domestic justice performed important regulatory roles. At the same time, it is important to clarify that the Kanun is not in force today as positive state law in either Albania or Kosovo. Nevertheless, its normative legacy continues to exert cultural and, in certain settings, practical influence on social attitudes concerning family authority, honor, inheritance, and informal dispute resolution. This continuing relevance makes the Kanun particularly significant for contemporary discussions of informal justice, legal pluralism, and non-state normative orders in modern Europe.<sup>5</sup>

This perspective is necessary because scholarship on Roman family law and scholarship on Albanian customary law have largely developed separately, while studies directly comparing family-based justice mechanisms across the two traditions remain limited. This article addresses this gap by examining the household not merely as a social unit, but as a normative institution through which authority was exercised, disputes were managed, and status within the family was defined. The analysis focuses in particular on

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3 Ismet Elezi, *E Drejta Zakonore Shqiptare* (Tiranë 2002); Margaret Hasluck, *The Unwritten Law in Albania* (CUP 1954); Shtjefën Gjeçovi, *Kanuni i Lekë Dukagjinit* (Shkodër 1933).

4 Besim Muhadri and Kamber Kamberi, 'The Canon of Lekë Dukagjini, a Monumental Work of the Spiritual Culture on dhe Albanian People (History, Name, Codification)' (2023) 42(1) *Technium Social Sciences Journal* 283, doi:10.47577/tssj.v42i1.8682.

5 Andreas Hemming, Gentiana Kera and Enriketa Pandelejmoni (eds), *Albania: Family, Society and Culture in the 20th Century* (LIT Verlag 2012).

the roles of the *pater familias* and the Albanian head of household, the operation of domestic courts or household-based adjudication, and the treatment of selected family-law questions within both legal traditions.

Accordingly, this paper argues that the most meaningful points of comparison lie not in formal legal equivalence but in the similar functions performed by household authority within pre-modern legal settings. Through a legal-historical and comparative analysis of Roman sources and Albanian customary law, the study aims to clarify both the parallels and the limits of comparison between these two traditions. In doing so, it contributes to wider discussions in legal history, comparative law, and socio-legal scholarship concerning the relationship between family authority, informal justice, and the ordering of social life before the rise of the modern state.

## 2 METHODOLOGY

This article adopts a doctrinal, legal-historical, and comparative research design. Its primary purpose is to examine how family authority and domestic justice were structured and exercised within two distinct normative traditions: ancient Roman law and Albanian customary law, as embodied in the Kanun of Lekë Dukagjini. The study does not seek to establish direct legal continuity between these traditions, nor does it assume their formal equivalence. Rather, it employs comparison as an analytical tool to identify functional parallels and significant differences in the ways household authority, legal status, and dispute resolution were organized within pre-modern legal settings.<sup>6</sup>

The primary materials for the Roman law component include classical legal texts and related historical sources, particularly the Law of the Twelve Tables, the *Digest* of Justinian, references to the *Codex Papirianus*, and selected passages from Cicero and Servius.<sup>7</sup> For the Albanian customary law component, the principal sources are the Kanun of Lekë Dukagjini, as recorded by Shtjefën Gjeçovi, and related doctrinal and historical works on Albanian customary law. These primary materials are supplemented by secondary scholarship in Roman legal history, comparative law, and Albanian customary law, including both classical authorities and modern academic studies. This combination of sources enables interpretation of the institutions under examination within their respective legal and historical contexts.

In addition to doctrinal and legal-historical analysis, the paper also considers the broader social and anthropological context in which both Roman family authority and

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6 Nimani, Avdija and Maloku (n 1) 78-9.

7 'Lex XII Tabularum' in Michael H Crawford (ed), *Roman Statutes*, vol 2 (Institute of Classical Studies 1996) 555-722; Ulpian, 'Digest 50.16.195.1-2' (n 2); Marcus Tullius Cicero, *De Legibus*, book 3 (1842) (Kessinger Publishing 2010); Orazio Licandro and Nicola Palazzolo, *Papirius Iustus: Libri XX de Constitutionibus* (L'Erma di Bretschneider 2021).

Albanian customary law operated. This is particularly important in relation to the Kanun of Lekë Dukagjini, whose authority cannot be understood solely through normative provisions, but also through kinship structures, patriarchal household organization, honor, clan solidarity, and customary forms of social regulation.<sup>8</sup> For that reason, the study relies not only on formal legal sources but also, where relevant, on historical and literary materials to understand the wider normative environment in which family authority and domestic justice functioned.

Methodologically, the article applies legal analysis to the normative content of the sources, historical analysis to situate these norms within the broader development of Roman and Albanian society, and comparative analysis to evaluate selected points of convergence and divergence. The comparison is structured around clearly defined analytical categories, namely the concept of the family as a legal unit, the authority of the *pater familias* and the Albanian head of household, the role of domestic adjudication, and the treatment of specific family-related issues, including lineage, household discipline, and the status of the newborn child. These categories were selected because they allow comparison at the level of legal function rather than mere terminological similarity.

Particular care is taken to avoid anachronism and overstatement, and the article therefore distinguishes between similarities in legal or social function and differences in doctrinal form, institutional setting, and historical development. Roman law and Albanian customary law emerged in very different temporal, political, and intellectual contexts, and the comparative value of the study lies precisely in examining how distinct legal orders addressed analogous social problems through different normative techniques. In this sense, the article uses a restrained comparative approach that emphasizes interpretive caution, source sensitivity, and the limits of cross-historical analogy.

The study also acknowledges certain limitations, given that it relies primarily on normative and doctrinal materials and therefore does not seek to reconstruct the full diversity of social practice across different historical periods, local contexts, or regional variations. In addition, Albanian customary law is treated mainly through the Kanun of Lekë Dukagjini and related scholarship, without extending the analysis to all regional customary variants. Likewise, the Roman law discussion focuses on the elements most relevant to family authority and domestic justice rather than offering a complete account of Roman family law across all its chronological phases. These limitations, however, do not diminish the value of the inquiry; rather, they define its scope and clarify the article's specific contribution to legal-historical and comparative scholarship.

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8 Hemming, Kera, and Pandelejmoni (n 5).

### 3 THE FAMILY IN ARCHAIC ROME AND UNDER THE KANUN

The concept of the family, although familiar in modern legal and social discourse, carried a more complex and historically contingent meaning in both Roman law and Albanian customary law. In Roman legal thought, *familia* did not denote only a kinship group in the modern sense, but could also refer to a household as an economic and juridical unit composed of persons, property, and relations of dependence.<sup>9</sup> Modern scholarship likewise emphasizes that the Roman family should not be treated as a fixed or static institution, since both its legal definition and its internal power relations evolved significantly between the Law of the Twelve Tables and the later imperial compilations.<sup>10</sup>

This complexity is already visible in the classical juristic sources, where in Book Forty-Six of the *Digest*, Ulpian explains that the term *familia* may refer either to property or to persons. In one sense, it is connected with inheritance and patrimonial transmission, as reflected in the provision of the Twelve Tables, according to which the nearest agnate may take the family estate. In another sense, it refers to persons linked by household authority and legal dependence, including those who belonged to the same domestic unit by status rather than solely by blood.<sup>11</sup> The term could therefore encompass a broader household structure, extending beyond the narrow circle of biological relatives.

In this respect, Roman law conceived the family primarily through authority and legal status, so that a family, in the strict legal sense, consisted of those subject to the power of one person, whether by nature or by law, including children, descendants, and, in some contexts, dependents whose position was defined through household subordination. The central legal figure in this structure was the *pater familias*, whose authority defined the household's juridical unity. At the same time, current research cautions against reading all phases of Roman family law through a single model, since the structure and practical operation of household power changed over time, particularly as property relations, the position of women, and inheritance practices developed.<sup>12</sup>

The historical development of Roman society also affected the material organization of the family, as earlier kinship formations connected to the *gens* gradually gave way to narrower household units associated with domestic production, property holding, and relations of authority. In this context, expressions such as *familia pecuniaque* reflected not only kinship

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9 Ulpian, 'Digest 50.16.195.1-2' (n 2).

10 Suzanne Dixon, 'Family' in Paul J du Plessis, Clifford Ando and Kaius Tuori (eds), *The Oxford Handbook of Roman Law and Society* (OUP 2016) 461, doi:10.1093/oxfordhb/9780198728689.013.35. Noting that the Roman family changed substantially between the Twelve Tables and Justinian, and that modern scholarship treats law and social practice with greater nuance.

11 Ulpian, 'Digest 50.16.195.1-2' (n 2).

12 Dixon (n 10); Timothy Lubin and others, 'Status and Family' in Caroline Humfress, David Ibbetson and Patrick Olivelle (eds), *The Cambridge Comparative History of Ancient Law* (CUP 2024) 376, doi:10.1017/9781009452243.009, which emphasizes the broader comparative significance of status, emancipation, and *patria potestas*.

ties but also the household's economic dimension, including persons, labor, and assets organized under a single authority.<sup>13</sup> The Roman family, therefore, should be understood not merely as a biological grouping but as a normative and economic structure through which status, labor, and property were ordered.

A comparable, though not identical, centrality of the family can be observed in Albanian customary law. Within the Kanun of Lekë Dukagjini, the family likewise functioned as the primary unit of social order, collective identity, and internal regulation.<sup>14</sup> Yet the comparison with Roman law must be formulated with caution. The Kanun emerged in a different historical, political, and intellectual environment, and its norms were preserved within a customary rather than a classical juristic tradition. For this reason, the point of comparison lies not in formal legal equivalence but in the fact that both traditions treated the household as a key normative space in which authority, discipline, belonging, and dispute management were organized.

The family under the Kanun should not be understood solely as a legal unit, but also as a social, economic, kinship-based, and honor-centered community. It was embedded in a wider structure of clan solidarity, collective reputation, and patriarchal household organization, in which the house functioned not only as a place of residence but also as a space of authority, production, protection, and social identity.<sup>15</sup> In this sense, the Albanian household was tied simultaneously to bloodline, property, labor, mutual obligation, and honor, all of which shaped the normative force of customary rules within everyday life.

The patriarchal dimension of the Albanian household remained particularly strong over a long historical period and, in some regions, continued to shape social practice well into the modern era.<sup>16</sup> The family was conceived not only as a group of persons living together, but as a community united under the authority of a single head and structured around shared work, mutual obligations, and collective property. In its broader form, it often included parents, married brothers, their wives and children, and other relatives cohabiting under one roof, frequently in fortified household compounds known as *kulla*.<sup>17</sup> This form of organization illustrates the extent to which the household served as both a social and an economic unit.

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13 Franciosi (n 2); Karl-Joachim Hölkeskamp, 'Under Roman Roofs: Family, House, and Household' in Harriet I Flower (ed), *The Cambridge Companion to the Roman Republic* (2nd edn, CUP 2014) 101, doi:10.1017/CCOL0521807948.006; Kaser (n 2); Volterra (n 2).

14 Muhamed Çitaku, Orhan Çeku and Ardian Emini, 'Blood Feud in "Leke Dukagjini Code" (Kanuni i Lekë Dukagjinit) and Its Impact in the Contemporary Law in Albania and Kosovo' (2022) 12(4) *The Lawyer Quarterly* 318.

15 Nebi Bardhoshi, 'Family Property in Albanian Customary Law' in Andreas Hemming, Gentiana Kera and Enriketa Pandelejmoni (eds), *Albania: Family, Society and Culture in the 20th Century* (LIT Verlag 2012) 67.

16 Elezi (n 3); Hasluck (n 3).

17 Hasluck (n 3).

The Kanun itself defines the family as a community of members living under one roof for biological continuity, moral formation, and the maintenance of household life.<sup>18</sup> It also regulates the position of the head of the household, the role of the woman of the house, relations between spouses, the treatment of dependents, and various forms of spiritual and social kinship, including godparenthood, hospitality, and adoption.<sup>19</sup> These elements show that Albanian customary law, like Roman law in its own distinct manner, treated the family as a normative institution rather than a merely private arrangement.

Accordingly, the comparison developed in this article proceeds from a limited but analytically meaningful proposition. Roman law and Albanian customary law did not construct the family in the same doctrinal form, nor did they operate through the same legal techniques. Nevertheless, both traditions attributed central normative significance to household authority and recognized the family as a privileged site for the ordering of status, discipline, and social continuity.

#### 4 THE ROLE OF FAMILY JUSTICE (DOMESTIC COURTS)

In the Roman context, the available sources do not justify treating household adjudication as a fully institutionalized court system equivalent to later state tribunals. Rather, they suggest that certain matters concerning family discipline, marital conduct, household honor, and the status of dependents could be addressed within the domestic sphere, under the authority of the *pater familias* and, in some instances, with the participation of relatives or advisers. In this limited sense, the notion of domestic justice is analytically useful, provided that it is understood as a form of household-based adjudicatory practice rather than a formal court in the modern sense.<sup>20</sup>

Roman legal and historical materials nevertheless indicate that the domestic sphere occupied an important regulatory role. Alongside the severe sanctions associated with the Law of the Twelve Tables and later legislation such as the *Lex Julia de adulteriis*, Roman legal tradition preserved the idea that certain matters touching the moral order of the household could be handled within a private or quasi-domestic framework.<sup>21</sup> References associated with early Roman legal tradition, including those linked to the *Codex Papirianus*, also suggest an early distinction between public adjudication and forms of internal familial control, even if the exact procedural contours of such domestic intervention remain difficult to reconstruct with certainty.<sup>22</sup>

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18 Gjeçovi (n 3) book 2, sec 9, para 18.

19 Elezi (n 3); Gjeçovi (n 3).

20 Dixon (n 10); Lubin and others (n 12).

21 'Lex XII Tabularum' (n 7). *Lex Julia de adulteriis*, enacted under Augustus in 18 BCE, see Pal Csillag, *The Augustan Laws on Family Relations* (Akademiai Kiado 1976).

22 Dimitrij Apasiev, 'Iudicia Publica: Roman Criminal Procedural Law with Special Reference to the Judicial System During the Republic' (PhD thesis, Faculty of Law "Iustinianus Primus" Ss Cyril and Methodius University in Skopje, 2015); Licandro and Palazzolo (n 7).

For this reason, it is more accurate to speak of household-based justice or domestic adjudicatory practice in Roman law than to assume the existence of a uniform and fully developed institution of family courts. Recent scholarship has also cautioned against broad or uncritical uses of the concept of *consilium domesticum*, especially where the surviving evidence is fragmentary or filtered through later literary tradition. Accordingly, the Roman material in this article is interpreted with restraint and with attention to the distinction between legal ideology, juristic formulation, and actual social practice.<sup>23</sup>

Within Albanian customary law, by contrast, the role of domestic justice is more explicitly embedded in the normative organization of the household and the clan. According to the Kanun, the family and the head of the household were directly involved in resolving conflicts arising within the domestic sphere. In this framework, the elder of the house occupied a central position, not as a state judge, but as a customary authority responsible for maintaining discipline, preserving honor, and restoring internal order. Decisions were taken in accordance with customary norms and were expected to be respected by all household members.<sup>24</sup>

These household-based processes extended beyond purely internal matters because the Albanian family was inseparable from the wider clan structure, and domestic justice also operated at the intersection of household authority and collective social responsibility. Disputes could involve questions of family conduct, property, moral transgression, and inter-family hostility, and were often addressed through the intervention of elders or assemblies acting within the moral and customary framework of the Kanun.<sup>25</sup> In this respect, Albanian customary law presents a clearer and more socially embedded model of non-state domestic justice than the Roman material, where the evidence is more dispersed and conceptually debated.

The comparison between the two traditions must therefore remain carefully delimited, since Roman law and Albanian customary law did not create identical institutions of family adjudication or attribute the same procedural form to household authority. What can be compared, however, is the normative function performed by the household in both systems. In each case, the family served as a privileged site of discipline, dispute management, status determination, and social regulation before the consolidation of the modern state. The comparison is thus strongest at the level of legal and social function, not at the level of strict institutional equivalence.

In this sense, domestic justice in both traditions reveals how pre-modern legal orders relied on family-based authority to regulate conduct and preserve social cohesion. In Roman law, this authority was more tightly bound to the legal power of the *pater familias*, whereas

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23 Elia T Schnaible, 'Lucretia and Her *Consilium Domesticum*' (2024) 71(1) *Greece & Rome* 76, doi:10.1017/S0017383523000244.

24 Elezi (n 3); Gjeçovi (n 3).

25 Gjeçovi (n 3); Hasluck (n 3).

under Albanian customary law it operated more visibly through the interaction of the household, the clan, and the assembly.

#### 4.1. The Role of the Pater Familias and the Head of Household in Roman and Albanian Family Justice

From a comparative perspective, both Roman law and Albanian customary law attributed substantial normative importance to the male head of the household. This parallel, however, should not be understood as evidence of institutional identity. In Roman law, household authority was articulated through the legal framework of *patria potestas* and the status distinctions between *sui iuris* and *alieni iuris*, whereas under Albanian customary law, the authority of the head of household derived primarily from customary hierarchy, age, reputation, and his role within the broader kinship and clan structure.<sup>26</sup>

In both traditions, women occupied an indispensable place within the family, yet they were generally excluded from the highest forms of domestic authority, especially from formal decision-making concerning lineage, property, discipline, and dispute resolution.<sup>27</sup> This gendered distribution of authority reflects the patriarchal character of both systems, although the legal and social mechanisms through which such authority was exercised differed significantly.

In Roman society, the extended household included not only parents and children but also more distant relatives, dependents, freed persons, and slaves, all of whom could fall within the broader orbit of household organization.<sup>28</sup> Under Albanian customary law, the family likewise extended beyond the nuclear unit and frequently included married brothers, their wives and children, common property, and shared obligations within the same domestic and kinship framework.<sup>29</sup> In both contexts, therefore, the household functioned as more than a private living arrangement; it was a normative unit through which authority, labor, discipline, and social identity were organized.

This broader household setting is particularly relevant to the operation of domestic justice, since in Roman law the authority of the *pater familias* created the legal unity of the household and made him the central point through which questions of status, dependence, and internal order were mediated.<sup>30</sup> Under the Kanun, the head of the household and, where necessary, the elders of the family or clan, exercised a comparable regulatory role within the

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26 Barry Nicholas, *An Introduction to Roman Law* (OUP 1962); Gjeçovi (n 3); Ulpian, 'Digest 50.16.195.1-2' (n 2).

27 Elezi (n 3); Hasluck (n 3).

28 Franciosi (n 2); Volterra (n 2).

29 Gjeçovi (n 3); Hasluck (n 3).

30 Nicholas (n 26); Ulpian, 'Digest 50.16.195.1-2' (n 2).

customary sphere.<sup>31</sup> The comparison is therefore strongest where attention is directed to the social and normative functions of authority rather than to formal legal equivalence.

The same caution applies to the classification of domestic adjudication according to agnatic and cognatic lines. In this article, these expressions are used as analytical categories to explain how disputes could be structured around lineage, descent, and household belonging. They should not be read as evidence of rigidly institutionalized courts operating under identical procedural forms in both traditions.<sup>32</sup> Such caution is particularly important in the Roman context, where the surviving evidence is often fragmentary and where modern scholarship urges a careful distinction between juristic formulation, social practice, and later reconstruction.

A similar need for restraint applies to the early Roman *consortium*, sometimes referred to as *anticum consortium* or *societas fratrum*. The available evidence suggests that these broader formations of agnatic cooperation played an important role in household organization and property management, but it does not always permit precise conclusions about the exact procedural form of domestic adjudication within them.<sup>33</sup> What can be stated with greater confidence is that, in both Roman and Albanian settings, family authority served as a mechanism for maintaining internal cohesion, regulating conduct, and managing disputes before or alongside the emergence of more formalized public institutions.

At a later stage, Roman consortia gradually fragmented into narrower household units, often associated with *domus* and *familia pecuniaque*, in which economic self-sufficiency and internal hierarchy became increasingly pronounced.<sup>34</sup> In Albanian customary society, by contrast, the extended family remained socially and normatively more visible for a longer period. This difference should be acknowledged. It shows that the two traditions converged only in certain functional respects, while differing considerably in institutional development, historical duration, and legal form.

The comparison advanced in this study does not rest on the claim that Roman and Albanian family justice were structurally the same. Rather, it argues that both traditions placed the household at the center of authority and conflict management, thereby allowing a limited but meaningful comparison between two distinct legal cultures.

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31 Elezi (n 3); Gjeçovi (n 3).

32 Dimitar Apasiev, 'Domestic Family Trials in Ancient Roman Law' (2022) 12(12) Annual Yearbook of the Faculty of Law 15.

33 Kaser (n 2); Volterra (n 2).

34 Kaser (n 2); Franciosi (n 2).

## 4.2. The Head of the Family (*Pater Familias*) in Ancient Rome

In Ancient Rome, the *familia* constituted a fundamental legal and social unit, but its internal structure must be understood within the specific categories of Roman private law. At the center of this structure stood the *pater familias*, namely the person who, in legal terms, possessed independent status (*sui iuris*) and exercised authority over the household.<sup>35</sup> His position was not defined merely by biological fatherhood, but by legal capacity and the power to represent the household as a unified normative and proprietary entity.<sup>36</sup>

The authority of the *pater familias* was primarily expressed through *patria potestas*, a legal power exercised over descendants who remained under his authority, and through related forms of control recognized in Roman law, including *manus* in certain marital arrangements and *dominica potestas* over slaves.<sup>37</sup> For this reason, the Roman household should not be reduced to a simple kinship group. It was also a structured legal order in which status, dependence, and authority were organized around the household head. Modern scholarship has emphasized that this authority, although conceptually broad, must be interpreted historically and contextually, since its practical scope and operation changed over time and were not identical in all periods of Roman law.<sup>38</sup>

Within this framework, the *pater familias* occupied a unique position as the legal center of the household and the person through whom family continuity, property management, and internal order were mediated.<sup>39</sup> Persons under his authority were classified as *alieni iuris*, meaning that they did not possess full independent legal standing so long as they remained within the household power structure.<sup>40</sup> This legal arrangement explains why the Roman family was understood not merely in biological terms, but as a hierarchy of legally ordered relationships.

The proprietary dimension of the Roman household further reinforced this structure, as the authority of the *pater familias* extended not only to persons but also to the material basis of household life, including land, buildings, movable goods, productive assets, and, in broader historical contexts, the labor performed within the domestic unit.<sup>41</sup> In this respect, Roman family organization combined personal authority with economic control, making the household both a legal community and a productive unit.

At the same time, current scholarship cautions against describing Roman paternal authority in overly simplistic or static terms. Although the *pater familias* was the juridical head of the household, the historical operation of family relations in Rome was shaped by chronological

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35 Nicholas (n 26); Ulpian, 'Digest 50.16.195.1-2' (n 2).

36 Ulpian, 'Digest 50.16.195.1-2' (n 2).

37 Dixon (n 10); Nicholas (n 26).

38 Dixon (n 10); Lubin and others (n 12).

39 Franciosi (n 2); Volterra (n 2).

40 Ulpian, 'Digest 50.16.195.1-2' (n 2).

41 Kaser (n 2); Franciosi (n 2).

development, social practice, and changing legal doctrine.<sup>42</sup> Consequently, the Roman model should be understood as a historically evolving institution rather than as an unchanging form of patriarchal domination.

For this study, the significance of the *pater familias* lies not only in his formal legal powers but also in the normative role he played within the household. He embodied the principle that family order, authority, and internal regulation were concentrated in a single legal subject. This feature makes the Roman household particularly relevant for comparison with Albanian customary law, while underscoring the doctrinal differences that separate the two traditions.

### 4.3. The Head of the Family Under Albanian Customary Law

Under Albanian customary law, the head of the household held a central normative authority within the family structure. His authority did not derive from a juristically elaborated doctrine comparable to the Roman categories of *patria potestas* or *sui iuris*, but from customary hierarchy, seniority, household leadership, and recognition within the broader kinship community.<sup>43</sup> For this reason, the Albanian head of household should not be described as the doctrinal equivalent of the Roman *pater familias*, even though both figures performed important regulatory functions within their respective family orders.

In the Kanun of Lekë Dukagjini, the head of the household was usually the eldest male member of the family, although in some circumstances another male relative of recognized wisdom, authority, or experience could assume that position.<sup>44</sup> His authority extended to the internal administration of the household, the representation of the family in external relations, the management of common property, and the preservation of domestic discipline. In this sense, the household was not merely a residential unit, but a customary community governed through hierarchy, collective obligations, and internal norms.

From a broader anthropological perspective, the head of the household was not only a normative figure, but also a moral and social embodiment of the house itself. His role was closely connected to the honor of the family, the reputation of the kin group, and the continuity of the household within the wider clan structure. He represented the family not only in matters of property and internal order, but also in its external standing before relatives, elders, and the wider customary community. In this respect, his authority was inseparable from the values of honor, responsibility, seniority, and collective representation that structured traditional Albanian social life.<sup>45</sup>

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42 Dixon (n 10).

43 Nimani, Avdija and Maloku (n 1) 77-9.

44 Gjeçovi (n 3) book 2, sec 20, para 21.

45 Gigliola Bejaj, 'History and Sense-Making in Present-Day Albania' (2024) 8(2) *Giornale di Filosofia* 177, doi:10.7413/1827-5834097.

The patriarchal nature of this structure has long been recognized in the literature on Albanian customary law, and more recent scholarship has continued to underline its historical significance. Recent Albanian legal scholarship has stressed that customary family organization in Albania preserved a strongly patriarchal model in which the male head of household exercised primary authority over family property, household order, and social representation, while women remained in a structurally subordinate position within the customary order.<sup>46</sup> Contemporary legal analysis has also noted that the legacy of the Kanun continued to shape social attitudes toward domestic hierarchy and gender roles long after the formal decline of customary adjudication.<sup>47</sup> These observations are relevant to the present study because they confirm the household head's centrality as a normative figure, while also showing that his authority must be understood within the social realities of customary patriarchy rather than through overly abstract comparisons.

At the same time, the authority of the Albanian head of household was not unlimited in an abstract legal sense. It operated within a customary framework that linked household leadership to family honor, collective reputation, and the expectations of the wider clan. The head of household represented the family before the kin group and, in some matters, before the broader customary community, but his conduct remained tied to standards of wisdom, moderation, and responsibility.<sup>48</sup> Where household interests of major importance were involved, especially in relation to common property or disputes affecting the larger family unit, the role of elders and kinship structures could become significant.

The Kanun itself reflects this authority not merely as power, but as duty, as the head of the household was expected to preserve internal order, administer common resources, protect the integrity of the family, and act in accordance with the moral expectations of the house and the clan; accordingly, his role should be understood not only in legal or administrative terms, but also as part of a customary ethics of household leadership.

This distinguishes Albanian customary authority from the Roman legal model in an important respect. In Roman law, the *pater familias* occupied a more clearly defined legal status as the juridical center of the household. In contrast, under Albanian customary law, the head of household exercised authority within a social and moral order that was less systematically juristic but more openly embedded in kinship and communal life.<sup>49</sup> The comparison between the two figures is therefore strongest when made at the level of function. In both traditions, the household head acted as the primary point of internal regulation, authority, and representation. Yet the sources, limits, and forms of that authority remained distinct.

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46 Çitaku, Çeku and Emini (n 14) 318-9; Entoni Miska, 'Historia dhe procesi i kodifikimit të së drejtës civile dhe zhvillimi i të drejtës familjare në Republikën e Shqipërisë' (National Scientific Conference "Developments and Innovation in Private Law", University of Tirana, 12 June 2024) 185.

47 E ntela Kadriu, 'Progress, Challenges, and Comparative Insights regarding the Implementation of Domestic Violence Legislation in Albania' (2025) 19(1) *Jus & Justicia* 40, doi:10.58944/frdm9323.

48 Elezi (n 3); Hasluck (n 3).

49 Gjeçovi (n 3); Nicholas (n 26).

The comparison between the Albanian head of household and the Roman *pater familias* is not based on an assumption of institutional identity. Rather, it rests on the recognition that both figures performed a central role in structuring family authority, preserving domestic order, and representing the household within their respective normative systems. While their legal foundations, scope of authority, and social meanings differed, both embodied forms of household leadership that were essential to the organization of family life.

## 5 PROCEDURES BEFORE DOMESTIC COURTS IN ANCIENT ROME AND UNDER ALBANIAN CUSTOMARY LAW

In pre-institutional societies, justice was not exercised in the same manner as in later state-centered legal systems. For that reason, the expression “domestic courts” must be used with caution, especially in the Roman context. The available Roman sources do not support the existence of a fully institutionalized household court system in the modern sense. Rather, they indicate that certain disputes relating to family discipline, marital conduct, household honor, lineage, and dependency could be addressed within the domestic sphere, under the authority of the *pater familias* and, in some cases, with the participation of relatives or advisers.<sup>50</sup>

This distinction is important for the comparative method adopted in this article, since household-based adjudication in Roman law should be understood as a form of domestic or intra-familial regulatory practice rather than as a court in the formal procedural sense. Early Roman legal tradition, including materials associated with the Law of the Twelve Tables, the *Codex Papirianus*, and later juristic interpretation, suggests the presence of internal mechanisms of control and sanction within the household, but the exact procedural contours of such mechanisms remain only partially recoverable from the surviving sources.<sup>51</sup>

Roman household procedure, as it can be reconstructed, appears to have been simple, oral, and strongly dependent on the family's authority structure. Matters concerning domestic conduct, marital loyalty, the status of dependents, and internal hierarchy could be dealt with within the household before any question of public adjudication arose. In that limited sense, family-based justice in Rome served to preserve household order and protect the moral and legal integrity of the domestic unit.<sup>52</sup> At the same time, current scholarship advises against presenting such practices as a uniform institution extending unchanged across all periods of Roman law.<sup>53</sup>

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50 Apasiev, 'Domestic Family Trials' (n 32); Nicholas (n 26).

51 Apasiev, 'Iudicia Publica' (n 22); 'Lex XII Tabularum' (n 7); Licandro and Palazzolo (n 7).

52 Alan Watson, *Roman Law and Comparative Law* (University of Georgia Press, 1991); Nicholas (n 26).

53 Dixon (n 10); Schnaible (n 23).

The Albanian customary context provides a more explicit normative foundation for domestic justice, as conflict resolution within the family and the clan under the Kanun of Lekë Dukagjini was more clearly integrated into customary procedures and social mechanisms of internal regulation. The head of the household, together with elders of the family or the wider kin group, was directly involved in resolving disputes arising within the domestic sphere. Such disputes could concern household conduct, honor, property, interpersonal obligations, and tensions between related family groups.<sup>54</sup> In this setting, justice was not conceived as the exclusive function of a centralized judicial authority, but as an integral part of the moral and social order of the household and the clan.

Procedurally, these customary mechanisms were predominantly oral and were grounded in accepted norms known to the parties and the wider community. The authority of the elder or assembly did not rest on codified procedural formalism, but on legitimacy derived from custom, age, reputation, and communal recognition.<sup>55</sup> Decisions were directed not only toward sanction, but also toward the restoration of social balance. In many cases, the process of reconciliation involved the giving of one's word or the pledge of *besa*, through which trust, restraint, and peace were reaffirmed within or between families.<sup>56</sup>

These customary mechanisms were inseparable from the wider social world of the Albanian household and clan. The authority of the elder, the binding force of *besa*, the protection of family honor, and the expectations of the *fis* gave these procedures their legitimacy and effectiveness. For that reason, dispute resolution under the Kanun cannot be understood merely as a normative technique, but also as a socially embedded form of informal mediation grounded in kinship solidarity, collective reputation, and the moral authority of elders.<sup>57</sup> In this setting, justice was linked not only to sanction but also to reconciliation, the containment of hostility, and the preservation of communal equilibrium.

A key comparative difference concerns the structure of decision-making: as Roman law located domestic authority more clearly in the juridical person of the *pater familias*, while still allowing the possibility that important household decisions may, in practice, have been accompanied by forms of internal consultation. In contrast, under Albanian customary law, dispute resolution more visibly involved the household head, elders, and wider kinship structures acting together within a customary framework.<sup>58</sup> For this reason, the Albanian model presents a more openly collective form of domestic justice, while the Roman model is more closely tied to the legal centrality of household authority.

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54 Elezi (n 3).

55 Çitaku, Çeku and Emimi (n 14) 318-9; Hasluck (n 3).

56 Gjeçovi (n 3).

57 Fatos Tarifa, 'Of Time, Honor, and Memory: Oral Law in Albania' (2008) 23(1) *Oral Tradition* 3, doi:10.1353/ort.0.0017.

58 Nimani, Avdija and Maloku (n 1) 78-9.

The comparison should therefore be framed at the level of function rather than institutional identity. Both traditions treated the household as an important site of regulation, discipline, and conflict management, operating alongside, or even before, more formal public authority. Yet the procedural shape, normative basis, and social embedding of these practices remained distinct. Roman domestic adjudication was more tightly linked to the doctrinal structure of household power, whereas Albanian customary procedure was more directly embedded in collective social practice and clan-based mediation.<sup>59</sup>

Accordingly, the value of the comparison lies in showing how two different legal cultures relied on household authority to organize social order, manage disputes, and preserve communal cohesion.

### 5.1. The Non-Acceptance of the Newborn Child under Roman Customary Law

The question of the non-acceptance of the newborn child in Roman law must be approached with particular caution, since both the literary sources and the legal materials have generated substantial scholarly debate. Earlier scholarship often described the *pater familias* as possessing an almost unrestricted right to accept or reject the newborn by means of a formal act commonly known as *tollere liberum*. More recent research, however, has shown that this issue is more complex and that the ritualized “lifting” of the child should not be readily treated as a universally decisive legal act throughout Roman law.<sup>60</sup>

What can be stated with greater certainty is that the status of the child in Roman law depended fundamentally on lawful birth within a recognized family structure and on incorporation into the domestic order governed by the *pater familias*.<sup>61</sup> In this context, Roman law connected the position of the child to the legal framework of *matrimonium iustum*, household authority, and *patria potestas*. The legal relevance of the newborn was therefore not reducible to a single symbolic gesture, but must be understood within the broader juridical structure of family power and status.

The literary and legal traditions nevertheless indicate that the newborn child could be exposed, and that the authority of the household head was central to such decisions. Yet even here, Roman law must be interpreted carefully. In classical Roman law, the private act of exposing a child did not in itself automatically alter the child’s original freeborn status as a matter of doctrine, although in practice, exposure could place the child in a highly vulnerable position and make enslavement or social loss of status a factual reality.<sup>62</sup>

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59 Nicholas (n 26).

60 Brent D Shaw, ‘Raising and Killing Children: Two Roman Myths’ (2001) 54(1) *Mnemosyne* 31, doi:10.1163/15685250151099463.

61 Dixon (n 10).

62 Yifat Monnickendam, ‘The Exposed Child: Transplanting Roman Law into Late Antique Jewish and Christian Legal Discourse’ (2019) 59(1) *American Journal of Legal History* 1, doi:10.1093/ajlh/njy030.

This distinction between legal doctrine and social practice is important and should be made explicit in the article.

Ancient and later Roman materials also connect child exposure with broader concerns of household order, legitimacy, poverty, deformity, and family honor. The *mores maiorum* and later legal developments show that Roman society did not treat all newborns identically and that questions of viability, legitimacy, and domestic authority could affect how the child was regarded within the household.<sup>63</sup> At the same time, more recent scholarship warns against reproducing simplified assumptions that every case of non-acceptance followed a uniform legal script or that exposure functioned as a straightforward institutional right exercised in the same manner across all historical phases of Roman law.<sup>64</sup>

Particular caution is also required when discussing children born with visible deformities or uncertain prospects of survival. Roman sources contain references to categories such as *monstra*, *portenta*, *ostenta*, and *prodigia*, but these references belong to a broader symbolic, religious, and legal vocabulary and should not be read in an overly literal or mechanically doctrinal way.<sup>65</sup> What is clear is that such cases were associated with anxieties about order, nature, and legitimacy, and that the household remained the primary space in which these questions were initially confronted.

The central point is not to portray Roman law as recognizing an unqualified and mechanically exercised paternal right to reject the newborn. Rather, it is to show that the child's status and fate were closely linked to household authority, lawful family formation, and the wider legal logic of *patria potestas*. This makes the Roman material comparable to Albanian customary law only in function, insofar as both traditions treated the family as the primary setting in which the acceptance, protection, and social positioning of the child were normatively mediated.

## 5.2. The Non-Acceptance of the Newborn Child Under Albanian Customary Law

In Albanian customary law, the family was treated as the basic unit of social and normative order, and the birth of a child had significance that extended beyond the private sphere of the parents. Within the logic of the Kanun of Lekë Dukagjini, the child was connected not only to the household as a domestic unit but also to bloodline, family honor, and clan continuity. For that reason, the question of the newborn's acceptance cannot be approached as a purely individual matter of paternal discretion, but as an issue situated within the wider customary structure of kinship and collective responsibility.<sup>66</sup>

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63 Cicero (n 7); 'Lex XII Tabularum' (n 7).

64 Dixon (n 10); Shaw (n 60).

65 Monnickendam (n 62).

66 Gjeçovi (n 3).

At the same time, caution is needed in comparative terms, since Albanian customary law did not formulate a doctrinally elaborated institution directly equivalent to the Roman *tollere liberum*. The Kanun does not present the acceptance of the newborn through a single ritualized legal act comparable in form to Roman juristic categories. What it does make clear, however, is that the legal and social position of the child depended heavily on lawful family affiliation, paternal household membership, and recognition within the customary order.<sup>67</sup> For this reason, the comparison with Roman law should again be framed at the level of function rather than strict legal equivalence.

Under the *Kanun*, a child born within marriage was ordinarily integrated into the father's family and clan, so that legitimacy and household affiliation were central to the child's social and normative status. The father could not arbitrarily deny such a child in a purely private and unilateral manner where the matter implicated the honor of the household or the interests of the kin group. Questions touching paternity, family recognition, or the child's place within the lineage were capable of engaging the authority of elders and the wider customary community, rather than remaining solely within the subjective will of the father.<sup>68</sup>

A different situation arose regarding children born outside marriage, as Albanian customary law imposed stricter limitations in such cases, especially regarding inheritance and full clan affiliation. In such cases, the child's legal and social position was more fragile, and responsibility was linked more closely to the mother and her family. Yet even in this context, the issue should not be described in overly absolute terms. The exclusion concerned status within the customary family order and the distribution of certain rights, not the denial of the child's human existence as such.<sup>69</sup>

This distinction is important to the article's analytical balance. The non-acceptance of the newborn under Albanian customary law should not be portrayed as a mechanical customary right identical to the Roman paternal model. Rather, it should be understood as part of a broader normative order in which family legitimacy, honor, lineage, and communal oversight shaped the child's place within the household. The family remained the primary framework through which the child was recognized, protected, or, in certain cases, limited in rights.

Recent scholarship from Kosovo further underscores the continued relevance of this issue in broader legal and social contexts. Studies on inheritance and women's family rights in Kosovo have shown that customary norms associated with the Kanun continue to influence attitudes toward family membership, authority, and patrimonial rights, even within the framework of modern positive law. These contemporary analyses do not address newborn

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67 Elezi (n 3); Hasluck (n 3).

68 Gjeçovi (n 3).

69 *ibid*; Elezi (n 3).

status directly, but they do confirm the enduring significance of customary family structures in shaping the social meaning of belonging and rights within the family.<sup>70</sup>

Therefore, the Albanian material best shows that the acceptance and position of the child were mediated through family legitimacy and household recognition rather than an exclusively private paternal act. This allows a careful comparison with Roman law, while preserving the historical and doctrinal differences between the two traditions.

## 6 CONCLUSIONS

This study has examined family authority and domestic justice in ancient Roman law and Albanian customary law through a legal-historical and comparative perspective. Its purpose has not been to claim direct continuity between these two traditions, nor to suggest that they produced identical legal institutions. Rather, the study has sought to identify limited but meaningful functional parallels in the ways both normative orders located authority, discipline, status, and conflict management within the household.

The comparative value of the study lies precisely in this restrained approach. Roman law and Albanian customary law emerged in different historical, political, and intellectual contexts and developed through different legal techniques. Roman law articulated household authority through a more formal juristic vocabulary centered on *patria potestas*, status, and the legal position of the *pater familias*. Albanian customary law, by contrast, embedded household authority more directly in social hierarchy, kinship solidarity, and the moral order of the family and clan. Yet despite these differences, both traditions attributed central normative significance to the household as a site of regulation and social continuity.

From this perspective, the article contributes to broader discussions in legal history and comparative law by showing that family-based authority should not be understood merely as a private social arrangement. In both traditions, the household functioned as a normative institution through which belonging, internal order, and dispute management were structured before or alongside the development of centralized public adjudication. This makes the topic relevant not only for the history of Roman law or Albanian customary law, but also for contemporary debates on legal pluralism, informal justice, and the historical foundations of non-state normative orders.

The study also demonstrates the importance of methodological caution in cross-historical comparison. The strongest points of comparison between Roman law and the Kanun do not lie in formal institutional equivalence, but in the similar functions performed by household authority within distinct legal cultures. Framing the comparison in this way

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70 Dardan Lajci and others, 'The Position of Women in Kosovo: Perspectives and Socio-Economic Challenges' (2024) 19(1) *International Journal of Sustainable Development and Planning* 221, doi:10.18280/ijstdp.190120.

allows for analytical rigor while avoiding anachronism and overstatement. In this respect, the article responds to the need for more precise comparative work between legal traditions that have usually been studied separately.

Certain limitations should nevertheless be acknowledged. The article relies primarily on normative, doctrinal, and legal-historical materials and therefore does not claim to reconstruct the full diversity of lived practice in every period or region. In addition, the Albanian component of the analysis focuses primarily on the Kanun of Lekë Dukagjini and does not extend to all regional customary variants. Likewise, the Roman law discussion is limited to those aspects most directly connected to family authority and domestic justice, and does not attempt a comprehensive reconstruction of Roman family law across all its chronological phases.

These limitations also indicate productive directions for future research. Further studies could expand the comparative framework to include other customary legal traditions, explore regional variations within Albanian customary law, or examine more closely the relationship between household authority and the gradual development of public legal institutions. Additional work could also examine how the legacy of customary family structures continues to shape modern legal consciousness, particularly regarding family status, inheritance, and gendered authority.

In the contemporary legal context, it should be clarified that the Kanun no longer operates as positive state law. Nevertheless, its legacy continues to exercise cultural, social, and informally normative influence in certain areas of contemporary life, particularly in relation to family authority, honor, inheritance, and informal dispute resolution. In this respect, the Kanun remains relevant not as a formal legal system, but as a reference point in current debates on informal justice, legal pluralism, and non-state normative orders.

This study argues that the household occupied a central legal and social place in both ancient Roman law and Albanian customary law, although in different doctrinal and institutional forms. By focusing on family authority and domestic justice as functional categories of comparison, the study offers a more nuanced understanding of how pre-modern legal orders organized internal regulation and social cohesion.

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## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

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### СІМЕЙНА ВЛАДА ТА ВНУТРІШНЄ ПРАВОСУДДЯ У ДАВНЬОМУ РИМІ ТА АЛБАНСЬКОМУ ЗВИЧАЄВОМУ ПРАВІ: ПОРІВНЯЛЬНИЙ АНАЛІЗ

**Берат Акіфі та Артан Малоку\***

#### АНОТАЦІЯ

**Вступ.** У цій статті розглядаються подібності та відмінності між інститутом сім'ї в давньоримському праві та в албанському звичаєвому праві, відомому як Канун Леки Дукаджині. Аналіз зосереджений на ролі батька сім'ї (*pater familias*), спочатку в агнатичній родині, а пізніше в когнатичній родині, а також на ролі голови домогосподарства або сільського старійшини згідно з Кануном. Ці цифри виявляють не формальну інституційну еквівалентність, а значущі функціональні паралелі в організації домашньої влади, обов'язків та здійснення батьківської влади над особами,

класифікованими в римському праві як *alieni iuris*. З давніх-давен Канун зберігався як важливий історичний, моральний та юридичний вияв албанського звичаєвого порядку. Він регулював стосунки між людьми, зокрема сімейні взаємини, розглядаючи сім'ю як основу соціальної організації. В обох традиціях домогосподарство служило важливим нормативним простором, в якому підтримувалися влада, дисципліна та внутрішній порядок. Ця тема також актуальна для сучасної юридичної науки, оскільки вона сприяє дебатам щодо правового плюралізму, неформального правосуддя та історичних основ недержавних нормативних порядків.

**Методи.** Методологія цього наукового дослідження ґрунтується на широкому спектрі юридичних, історичних та доктринальних джерел. Воно спирається на такі первинні матеріали, як Закон Дванадцяти таблиць, Дигести Юстиніана, Канун Леки Дукаджині та пов'язані з ними історичні тексти, а також на сучасні дослідження римського права, звичаєвого права та порівняльні дослідження історії права. Використані методи містять юридичний, історичний, аналітичний та порівняльний підходи.

**Результати та висновки.** Дослідження показує, що римське право та албанське звичаєве право не створили ідентичних інститутів чи еквівалентних правових доктрин. Однак вони виявляють обмежені, але суттєві функціональні паралелі в організації домашньої влади, сімейної дисципліни та внутрішнього правосуддя. Порівняння є найбільш обґрунтованим на рівні правових та соціальних функцій, а не формальної інституційної ідентичності. Таким чином, у статті було запропоновано точніший порівняльний огляд того, як досучасні правові порядки структурували владу, приналежність та внутрішнє регулювання в сім'ї.

**Ключові слова.** *Pater familias*, Канун Леки Дукаджині, *patria potestas*, неформальне (альтернативне) врегулювання спорів.