

## Local Legal Conceptions in Svan Villages in the Lowlands

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### Abstract

Scholars have frequently discussed the role of traditional law in the highland regions of Georgia. This research project, which was financed by the German Volkswagen-Foundation, followed a different approach by examining traditional legal practices in Svan villages in lowland Kvemo Kartli. The Georgian–German research team found out that despite a strong administration and working law enforcement agencies, traditional law continues to be an important frame of reference for the Svans.

### Studying Traditional Law in Georgia

Since the 19<sup>th</sup> century, the Caucasus has been a hotspot for researchers working on traditional or customary law. Scholars explored local legal customs before, during, and even after the Soviet period. According to their work, blood feuds and clan structures with their charismatic elders constituted a crucial part of the region's heroic, isolated communities over which states supposedly had no control. The population of Georgian Svaneti, for example, earned a reputation during the Georgian national movement in the late Tsarist period as bearers of an undistorted pristine Georgian culture. But, beyond the exotic travel accounts or the literary reveries exalting the wild mountaineers, many important works detail the relevance of traditional law in the Caucasian highlands. These studies basically reconstruct the practice of traditional law in ancient times and rarely ask about its contemporary relevance.

Since 2004 President Mikhail Saakashvili has reorganized the Georgian administration and especially the legal system. Our Georgian–German research project sought to understand if in this new political environment the practice of traditional law continues. As many researchers have already studied traditional law in the Georgian highlands, we went a step further and asked if local legal conceptions are used in the lowlands, i.e. in villages of Svans who resettled to Kvemo Kartli in the last twenty years. The German Volkswagen-Foundation supported the research of Natia Jalabadze, Lavrenti Janiashvili, Elke Kamm and Stéphane Voell (2009–2011). The German researchers conducted fieldwork for 10 months and were mostly based in Tetrtskaro. The Georgian colleagues explored the Svan villages throughout the three years of the project with numerous short excursions. This issue of the Caucasus Analytical Digest presents some of our findings.

It the late 1980s powerful snow storms forced the resettlement of the Svans to various regions in Georgia. Avalanches destroyed villages in Svaneti and removed significant parts of the infrastructure. Many Svans in Upper and Lower Svaneti died during the storms and approximately 2,500 families had to be resettled in a

short period of time. The resettlement started in the last years of the Soviet era and was well organized at first. The Svan villages in Kvemo Kartli are today almost exclusively occupied by Svans and there are few representatives of other ethnic groups or Georgians. In the last ten years, new groups of migrants arrived from Svaneti and the Kodori Gorge, coming either for economic reasons or because they were expelled by Russian and Abkhazian soldiers from the Kodori Gorge during the war of August 2008. They settled mostly in villages left behind by Ossetians and Greeks, who left Georgia for economic reasons, but also in response to the nationalistic policy in Georgia, especially in the first years after independence.

### Svan Traditional Law

Before looking at the practice of traditional law, we have to ask what traditional law actually consists of. As in many other regions in the world, precisely defining traditional law in Georgia is difficult: it is interrelated to kinship, religion, local economies and local identity. In a narrow sense, Svan traditional law refers to specific procedures and institutions in relation to processes of conflict resolution. In a wider sense, traditional law is deeply intermingled with social life in general, or—to quote Clifford Geertz—is “part of a distinctive manner of imagining the real” (1983).

Svan traditional law has four important dimensions from the perspective of ideal types (for this reason I write in present tense, even if many aspects are no longer present). First, it has a social dimension. Social life in the village is interrelated to the segmented Svan clan structure. Important here are elders (*makvshi*) at all levels of social organization. Svans meet regularly in assemblies at the local or supra-local level, which ensures communication with the often distant and relatively inaccessible settlements. Second, Svan traditional law has an important process and performance component. Even if there are some precedents and some clear-cut rules, all conflicts have to be negotiated anew and judged by mediators (*morval*). The reconciliation or conflict resolution has to be performed in front of the community through an oath on an icon. Third is the religious dimen-

sion: Svans are Orthodox Christians and their religion is important for the practice of their traditional law. Important assemblies often take place during religious holidays and decisions made are generally sealed with an oath on the icon. Svan religious practice has important folk religious elements and the services are mainly headed by lay priests who often act as elders and mediators in legal cases. The fourth dimension of Svan traditional law is moral. Svan traditional law is guided but what I would call a “local sense of morality” (cf. Zigon 2008), which is informed by a sense of honor, mutual respect, faith and belief in the importance of the family.

### The Oath

Some aspects of traditional law might appear from time to time in Svan villages in Kvemo Kartli. One can witness, for example, the use of oaths on icons. If a Svan is accused of having stolen something or has allegedly committed another crime, he can be asked by his peers or mediators to vow on the icon of a saint in the presence of guarantors that he did not commit the act he was accused of. The suspect is then literally purified of the accusation. More often, however, oaths on icons mark the conclusion at the end of a process of reconciliation or when two or more individuals agree on an important decision. This kind of oath might be used, for example, if young men were fighting in the village and an elder had to reconcile them. In such cases, the elder lets the young men vow on an icon that they are reconciled and that they will avoid similar conflicts in the future. Our interviewees told us that such promises are mostly wishful thinking, but still the oath is used.

In addition to confirming reconciliations, the oath has another purpose: in one village in Kvemo Kartli, which is inhabited by Svans from Upper Svaneti and the Kodori Gorge who arrived in the last ten years, there were numerous infrastructure problems (the roads were in bad shape, the water pipes were leaking, the school was not usable etc.). The village, just recently abandoned by its former Greek population, received little attention from the regional government, at least in the first years after the arrival of the Svans. For this reason, the newcomers set up a commission of five to six men, to be selected each spring anew, whose tasks were to take responsibility for the major problems of the village and to be its spokespersons. The members of the commission vowed an oath on an icon in the church yard once they were selected to serve the village. But the commission is not a well-functioning institution, because the Svans from Upper Svaneti and Kodori distrust each other while some villagers disregard commission decisions. Many houses are owned as weekend dachas by Svans whose primary residence is in Tbilisi, and they

do not even know that the commission exists. Nevertheless, the commission is recreated every year, vows an oath on the icon in front of the church and some in the village say that one can compare this group of men to similar commissions in Svaneti: if the regional administration does not do its job, they have to take the things into their own hands.

### Morality

An important dimension of traditional law is, as noted above, a sense of morality and it is also one of the reasons why traditional law is still to be found among Svans. In 2009, for example, an accident occurred in the district town Tetritskaro. A Svan from one village killed in an automobile accident another Svan from another village in the center of the town. The accident, though tragic, was not unusual. The driver, with his three Svan friends, had just come back from a tour of the region. He was a little drunk, lost control of his car and ran over the victim, who was walking in the crosswalk. In the subsequent trial, the court sentenced the driver to five years in prison. At first glance, there is nothing special with this case and no traditional law is observable, but the conflict has a second layer. Soon after the accident, the family of the driver sent mediators to the family of the victim in the other village. But the mediators were not received. The victim's family was furious and apparently wanted to burn down the house of the driver's family. Fortunately they did not go that far, but they sent someone to the village of the driver and issued threats against the family of the culprit, trying to force them to leave their house and the region. The family temporarily left their home, and probably feared that some acts of revenge would take place. I talked to members of the extended family of the driver and asked how things would continue and if the driver's immediate relatives will come back to the village again. Some time will pass, was the answer, and there will be something like a reconciliation in the end. Of course, I was told, Svans today do not pay any compensation (*tsori*) like for blood feuds in old times, but the driver's family will probably arrange a gift for the victim's family, followed by a Georgian banquet (*supra*) and an oath on the icon.

This example shows that for the Svans traditional law has a moral component that state law does not have. This does not mean that Svans do not respect state law, but serious cases, which fortunately take place rarely, are followed by such local legal processes. These extra-court reconciliations in Kvemo Kartli are not organized procedures, but rather a series of events based on a common idea of morality. This means that if a specific crime occurs at the community level, it has to be treated there as well. If not, the case handled by the official legal

authorities might not fulfill local moral sensibilities. Local mediation processes led by elders from the villages, like the state court, identify the perpetrator and determine a fine or compensation to be paid. As already mentioned, the latter is today mainly a symbolic present. But the second important aspect of an out-of-court mediation is the bringing together of the parties in conflict in order to reconcile them. This reconciliation has to be enacted publicly, i.e. through the taking of an oath on an icon and often with a large banquet.

### Identity

Finally, traditional law is relevant for the identity of the Svans. The question for all researchers on our team was how to understand the fact that we recorded many narratives on traditional law, many descriptions of what would happen according to Svan regulations in dealing with specific types of conflict, such as theft or disputes over property relations. But when we asked for examples from Svans, even among policemen or lawyers, they mentioned only a small number of conflicts that they addressed with traditional procedures. If one understands these narratives of traditional law, i.e. anecdotes about old conflicts regulated with traditional law in Svaneti or even ideal type case descriptions of what would happen in a hypothetical case, as narrations detached from concrete social practice, the references to traditional law become something else: Svans are living in Kvemo Kartli in the most ethnically diverse region of Georgia. They are living in a neighborhood near Armenian, Azeri or Greek villages, not to mention Georgians who came from other regions to Kvemo Kartli (Adjara, Racha, Tusheti, etc.). Traditional law becomes a part

of identity and is an important part of what Brubaker and Cooper (2000) call “self-understanding” and “social location.” References to traditional law are not a look backwards into supposedly better ancient times. Identity is understood here as “situated subjectivity.” With reference to traditional law, the Svans lay out in specific ways how they think that they compare to their neighbors, in other words, they consider themselves as faithful, morally integrated, and guided by their own conception of law and order. Narratives of traditional law become in this context “one’s sense of who one is, one’s social location, and of how (given the first two) one is prepared to act” (Brubaker/Cooper 2000) even though they will not necessarily act in this way.

The state administration and the police are from a legal point of view in full control of the situation in Kvemo Kartli. If you enter Kvemo Kartli, a Svan village, you are not walking into an autonomous enclave in which only Svan traditional law applies. Moreover, it is important to note that the Svans came from Upper and Lower Svaneti and the Kodori Gorge. In addition to Georgian, they speak different Svan dialects (if they still speak Svan at all), their region of origin had different histories and the practice of their local regulations was also very different. The Svans in Kvemo Kartli are a heterogeneous group. To sum up, if traditional law is conceived only from a narrow perspective, i.e. as part of concrete processes for conflict resolution, it is only rarely practiced among Svans in Kvemo Kartli. But if one has a more sweeping conception of traditional law, as being part of a large social imagination of how the world one lives in should be and what is considered important, then yes, traditional law is still present.

### *About the Author*

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### *Recommended Reading*

- Brubaker, Rogers & Frederick Cooper 2000. Beyond “Identity”. In: *Theory and Society* 29, 1: 1–47.
- Geertz, Clifford 1983. *Local Knowledge: Further Essays in Interpretative Anthropology*. New York: Basic Books.
- Zigon, Jarett 2008. *Morality: an Anthropological Perspective*. Oxford/New York: Berghahn.