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THE ETHICAL STRUCTURE OF THE KANUN: IS IT THE ORIGINAL FORM OF ETHICS IN HUMAN SOCIETY?

YAMAMOTO Kazuhiko

Abstract

The Gheg tribes in the northern highlands of Albania have a customary code known as the Kanun. In a tribal society such as that of northern Albania, where the judicial system does not function well, an act of revenge prosecuted by the offended party is the ultimate sanction to punish an offender or an offending party, which is indispensable to restore and keep social order in human society. In northern Albania, an act of revenge against an offender who commits misdeeds which the Kanun regards as unethical is deemed to be an act of justice.

How ethics and social order in a society without state power originate and develop is one of the enigmas which human beings have tried to solve for a long time. It is reasonably assumed that before a state power appeared in human society, human beings had lived in a society without state power. Thomas Hobbes first indicated that a social contract is the origin of social order in a society without state power. Rousseau, Nietzsche and Girard proposed theories on the origin of social order after Hobbes's social contract theory. However, all these theories seem to have failed to find out that a society without state power has its own ethics, which has spontaneously developed as a result of a pagan culture.

The tribal society of northern Albania, where the Kanun exerts normative power in place of the state power has ethics and social order of its own making. In the present paper, I will clarify the ethical concepts of the Kanun and propose a new theory on the origin of ethics and social order in human society, using the ethical structure of the Kanun.

The northern part of Albania consists of high mountainous terrain with deep gorges except for a narrow strip along the Adriatic coast. The people in this area, who speak the Gheg dialect, had retained tribal structures based on the family (*shpi*), brotherhood (*vllazni*) and the clan (*fis*) until the Albanian dictator, Enver Hoxha destroyed it after World War II. The northern highlands of Albania had been subject to the tribal customary code called the Kanun since the Middle Ages. The Kanun had been orally transmitted among the Albanian clans until the Franciscan father, Shtjefën Gjeçov eventually compiled the code, which was posthumously published in 1933 under the title of *Kanuni i Lekë Dukagjinit* (Lopasic 1992: 89-105).

Ethical concepts of the Kanun.

The Kanun compiled by Shtjefën Gjeçov consists of 1263 articles. Since Article 1181 is the same as 1081, there are actually 1262 articles (GJEÇOV 1989 [1933]: 198, 208). The most salient feature of the Kanun is that it allows men to take revenge, which functions as a sanction against the infringement on the rights of others. Unless an act of revenge carried out by the offended party is endorsed by ethical concepts, it results in vicious, endless violence. The fact that for several centuries the Kanun has been functioning in northern Albania and Kosovo as a customary code, which enables people to preserve social order by resolving conflicts in the community, indicates that the people in these areas regard the act of revenge, dictated in the Kanun, as an ethical action. Apparently the concept of revenge is the cornerstone which can potentially unravel the ethical structure of the Kanun.

As the Kanun explicitly dictates that lost blood must be avenged, it is clear that revenge is coupled with the concept of "blood". The search for the causes of such retaliatory violence, which consequently results in bloodshed, would provide us with a clue to the concepts which frame the ethical structure of the Kanun. It is easy to find that four concepts, "oath", "besa" (besa is an oath of cease-fire), "honor" and "guest" are associated with "revenge". For example, when a man is insulted, he has every right to restore his honor by killing the offender. When a man or a guest is killed, the spilt blood must be avenged. Thus, all four concepts, "oath", "besa", "honor" and "guest" would converge on "blood" through vengeful violence.

What is the ethical background that persuades a man to kill an offender when he is dishonored? Why is a man obliged to seek revenge when his guest is killed? When we try to understand the ethical structure of the Kanun using six concepts: "oath", "besa", "blood", "honor", "guest" and "revenge", we fail to do it because we lack a crucial link between these concepts. Then, I found that the *marebito* (guest-god) theory proposed by Shinobu Orikuchi, a Japanese folklorist and writer, was a clue to solving this puzzle. According to him, god manifested itself in the disguise of a guest at the religious rituals of ancient Japan. When god, in the disguise of an elder, visits a village twice a year to bless the people, a host has to treat the guest-god with special hospitality (ORIKUCHI 1972 [1954]: 3-62). In return for the hospitality, the guest-god gives a blessing to the host, which ensures the happiness and good health of the host's family. In the ritual of accepting a guest-god, offering food to the guest-god is of critical importance. There are no rituals of a visiting guest-god without food being eaten in the commensality.

Albanians seem to have the concept of "guest" and the tradition of hospitality similar to those of the ancient Japanese. The Kanun says, "The house of the Albanian belongs to God and the guest (Article 602). The guest must be honored with bread and salt and the heart (Article 608)." The Albanian writer, Ismail Kadare writes, "..... the guest within one's gates, which, for an Albanian was sacred, quite beyond comparison with anything else..... The guest, in an Albanian's life, represents the supreme ethical category, more important than blood relations..... A guest is really a demi-god (KADARE 1990: 76-78)." The comparison of the culture and tradition between Albanians and ancient Japanese leads us to the concept of "food", which is an indispensable element to understanding the Kanun. So we found seven ethical concepts in the Kanun: "oath", "besa", "blood", "honor", "guest (guest-god)", "food (commensality)" and "revenge".

Here I show some articles of *Kanuni i Lekë Dukagjinit* which define the ethical concepts.

Oath: "The oath is a religious utterance, by means of which a man, wishing to exculpate himself from a shameful accusation, must touch with his hand a token of faith while calling upon the name of God in testimony of the truth (Article 529)." A man accused of stealing or killing is permitted to exculpate himself by taking an oath that he is innocent in the name of god. If he commits perjury either wittingly or unwittingly, he is a dishonorable man who must be punished with a heavy fine or by banishment from the community. The perjurer might lose his or his kin group's life as the wrath of god is supposed to fall on him.

Besa: "The truce (besa) is a period of freedom and security which the family of the victim gives to the murderer and his family, temporarily suspending pursuit of vengeance in the blood-feud until the end of the specified term (Article 854)." When an avenger kills his enemy in ambush, he is given a besa of 24 hours during which he must attend the funeral of the killed and a besa of 30 days after that. He is under the protection of besa during this time and his enemy is forbidden to kill him. Besa is a sort of oath sworn by the offended party, bringing a temporary cessation of bloodshed.

Blood: "For the Albanian of the mountains, the chain of relationships of blood and kinship are endless (Article 695)." "If someone abuses me and I kill him, I incur blood (Article 910)." "Blood is never unavenged (Article 917)." "After mixing their blood in this manner and stirring it well..... drinking each other's blood..... and they become like new brothers, born of the same mother and father (Article 990)." Blood in the Kanun is a metaphor for human life, kinship and blood feuds. Blood of an offender or a member of the offending kin group is the only thing that enables the offended party to neutralize dishonor or spilt blood.

Honor: "An offense to honor is not paid for with property, but by the spilling of blood or by a magnanimous pardon (Article 598)." "A man who has been dishonored is considered dead according to the Kanun (Article 600)." "A man is dishonored: a) If someone calls him a liar in front of a group of men; b) If someone spits at him, threatens him, pushes him, or strikes him; c) If someone reneges on his promise of mediation or on his pledged word; d) If his wife is insulted or if she runs off with someone..... (Article

601)" Thus when the offended party can not pardon an offender, they will avenge the dishonor incurred in the community.

Guest: "Every guest must be given the food eaten in the house (Article 611)." "The guest occupies the place of honor at the table, and is thereupon under the protection of the house (Article 653)." A guest is an honorable man who must be treated with due hospitality as if he is a divine entity. If the guest, under the protection of the host is killed, his blood must be avenged at all costs.

Food: "The traveler, like the messenger, journeys for wages, and with his own food, and is therefore not under anyone's protection (Article 489)." "A gun or bread given with knowledge of the murder brings blood on the one who gave it (Article 839)." "The meal of the blood occurs when the mediators of reconciliation of blood, together with some relatives, comrades, and friends of the owner of the blood go to the house of the murderer to reconcile the blood and eat a meal to observe that reconciliation (Article 982)." "If members of the jury eat bread with the accused, they are considered to have taken the oath (Article 1068)." The people of northern Albania develop and strengthen their relationship while eating food together. If it were not for food, the rituals such as oath-taking and reconciliation of a blood feud would not be regarded as complete.

Revenge: "The person dishonored has every right to avenge his honor,..... no judgement is needed, no fine is taken. The strong man collects the fine himself (Article 599)." "An offense against a father, a brother, and even a cousin without heirs may be forgiven, but an offense against a guest is not forgiven (Article 649)". When unethical deeds are committed in the community, the offended party takes revenge to restore the equilibrium and parity in the community.

Ethical structure of the Kanun.

It is reasonable to assume that food was a sacred thing in ancient times because food, being difficult to obtain, was considered to be a precious gift given by the gods and thus the scarcity of food combined with fierce competitions for food led to the idea that giving food to other persons was equivalent to giving a portion of their own life (blood) to others. If people eat food together, it is a kind of ritual for them to strengthen their relationship. It was also considered that food contained a spirit or a magical power that animated human beings. If a host offers food to a guest-god and eats it with him, he makes communion with the guest-god by sharing a spirit of food and offering a portion of his blood to the god, eventually resulting in obtaining divinity from the guest-god. The assumption that a man obtains divinity from a guest-god in commensality constitutes the basis

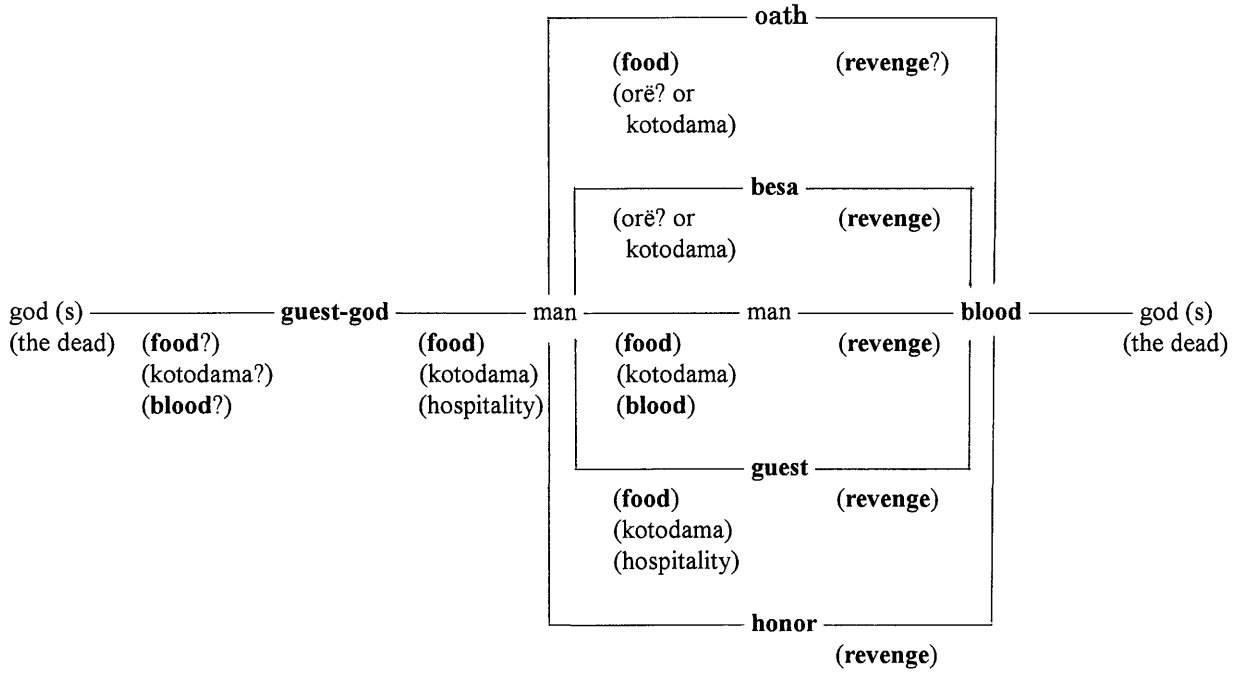

Fig. 1 THE ETHICAL STRUCTURE OF THE KANUN.

of the ethical structure of the Kanun.

The similarity of the concepts of "guest-god" and "food" between Albanians and ancient Japanese leads us to evaluate another religious concept of ancient Japan, *kotodama* (the spirit of spoken words). Orikuchi says that the ancient Japanese believed that words uttered by the gods or by a person on whom divinity had been conferred contained a spirit called *kotodama*, which is transferable to other persons (ORIKUCHI 1966: 174-240). *Kotodama* in spoken words, which is a portion of the divine spirit of the gods, is believed to have a mystical power to inspire a person and to make sure that what has been uttered is fulfilled. When a guest-god blesses the host upon visiting a village, he, who is a divine entity, sends his spirit in the blessings, conferring his divinity on the host (ORIKUCHI 1966: 174-240). It is known that Albanians believe in a mischievous spirit called *orë*, who constantly wanders about to hear and to carry into effect the blessings and curses pronounced by men on each other (GARNETT 1982 [1917]: 64-65). The *orë* might be a kind of *kotodama*, which evolved into fairy or devil. The assumption that a man obtains divinity through blessings of a guest-god constitutes another basis of the ethical structure of the Kanun.

According to Orikuchi, the ancient Japanese sometimes offered their wives or daughters to the guest-god as a wife for one night (ORIKUCHI 1972 [1954]: 3-62). The Kanun says, "A cherished guest is given the freedom of the house (Article 613)." It indicates that an important, dear guest is allowed to behave at his will in the host's house, and also implies, theoretically at least, that the guest might even be able to have sexual relations with the host's woman in the house. If a host so permits, then the special hospitality strengthens the relationship between the host and the guest-god.

Fig. 1 shows the ethical structure of the Kanun, which is based on the assumption that hospitality represents a ritual for a host to hold communion with a guest-god. We herein postulate that a man obtains divinity from the guest-god. When a man possesses divinity himself, what he says is deemed to be equivalent to what the gods say, which is an inviolable, absolute truth. If he takes an oath or a besa in the name of the gods, his words are supposed to have a spirit such as *orë* or *kotodama*, which ensures that what has been uttered is fulfilled. If he takes a false oath or violates a besa, divinity conferred on him becomes stained and injured. The ensuing wrath of the gods, whose honor is injured, will fall either on the perjurer or on his kin group. The offended party must offer sacrificial blood of the perjurer or his kin group to neutralize the sacrilege. If a man takes a false oath or violates a besa, blood is shed as indicated in Fig. 1.

If a guest or a man who has divinity is killed, the spilt blood is deemed to be god's blood. People have ethical obligations to neutralize the god's blood by offering a sacrifice equivalent to it. The only thing that is equivalent to the god's blood is the blood of the slayer or a member of his kin group who also possesses divinity himself. Furthermore, the blood of the killed, which deplores that the slayer abruptly severed his link of blood with ancestors and descendants cries for vengeance. The soul of a slain man never rests till his blood is avenged (DURHAM 1979 [1928]: 162-171). The idea that the wrath of the killed and the heinous sacrilege, such as shedding god's blood, must be neutralized by an equivalent sacrifice of blood is the ethical basis of revenge and the resultant blood feud. The same construct can be applied to honor. When a man who has divinity is dishonored, it is seen that god's honor is violated. The disgrace of god, who is furious and seeks revenge must be neutralized by offering up a sacrifice of blood as indicated in Fig. 1. The most suitable sacrifice to appease the gods is the blood of the offender or a member of his kin group, which the offended party offers.

Ethics and social order in northern Albania

The people in northern Albania live in a tribal society, which consists of patrilineally organized kin groups called *shpi-vllazni-fis*. In this society, an individual lives as a member of a kin group. His individual rights and freedom of the will are rather restricted and an individual is expected to meet the obligations of the kin group, which includes the dead (ancestors) of the lineage. If an individual receives praise, it is praise for his kin group. If anyone living or dead is insulted, it is an insult against the whole kin group. Such dishonor must be avenged by the living of the kin group.

Acts of revenge are regulated by the Kanun whose ethical structure is epitomized as follows: 1) a guest is a kind of god or a messenger of the gods, 2) the commensality of a host with the guest-god is a ritual for him to make communion with the guest-god, 3) the host becomes divine through the commensality with the guest-god and a blessing uttered by the guest-god, 4) oath, besa, honor and blood of a person (host) who obtains divinity from the guest-god are equivalent to those of the gods 5) when a person loses this divinity

for himself or others by committing sacrilegious acts such as breaking an oath or a besa, injuring a guest, etc., the damaged divinity must be neutralized by offering blood of the offender or a member of his kin group to soothe the anger of furious gods. The sacrificial blood of the offending party is deemed to be equivalent to that of the gods. It is clear that ethical concepts of the Kanun such as "oath", "blood", "honor", "food" and "guest" have their origin in pagan religions, whose main features are animism and ancestor worship. Durham reported that the people in northern Albania believed in spirits such as *orë* and had many pre-Christian beliefs such as evil eyes as well as ancestor worship (DURHAM 1979 [1928]: 121-131, 225-228, 243-258, 263-284).

The tribes in northern Albania have a social mechanism which mediates and resolves conflicts among individuals or kin groups, whose procedures are dictated by the Kanun (GJEÇOV 1989 [1933]: 188-200, HASLUCK 1954: 139-147, 164-201). Mediators usually consist of elders of a village who make an effort to settle the disputes by juridical procedures. However, the mediators have no authorized power to impose their decisions on litigants. Whether they accept the decision or not is entirely up to the litigants themselves. When the litigants do not accept the juridical decision, the dispute lapses into bloodshed. And when a person commits a serious offense, which the Kanun deems to be absolutely unethical, the offended party takes revenge on the offender or his kin group, while the Kanun allows a person whose offenses are relatively minor to pay money or goods as a compensation for the damage.

As the Kanun strictly regulates blood feuds in which the feuding parties take revenge alternately, they rarely fall into full-scale battle, while other kin groups are supposed to not be involved in it. The Kanun has also many articles which dictate how to reconcile blood feuds. There are so-called mediators of reconciliation of blood in the community who volunteer to negotiate reconciliation between feuding parties in accordance with the rules of the Kanun (GJEÇOV 1989 [1933]: 182-186, HASLUCK 1954: 256-260). The rituals of reconciliation have such strong power in pacifying conflicts that the resumption of a reconciled blood feud rarely happens.

Thus the Kanun exerts normative power, rectifying the misdeeds of the people and inducing them to adopt appropriate social behavior. The people in northern Albania regard the Kanun as a source of justice which enables them to preserve peace and social order.

Ethics and social order in a pagan society without state power

Generally speaking, people of a pagan society who practice ancestor worship feel that the dead of the kin group are equivalent to the gods. Nietzsche describes the process of how the ancestor of a prominent lineage in a primordial society becomes a terrible god. According to Nietzsche, within the original tribal association, the living generations always acknowledge a legal obligation towards the previous generations. There is a prevailing conviction that the tribe exists only because of the sacrifice and deeds of the forefathers, and that these have to be paid back with sacrifice and deeds: people recognize an indebtedness, which continually increases because these ancestors exist in perpetuity as mighty spirits, giving the tribe new advantages and lending it some of their power. From time to time, they exact payments on a grand scale, something immense as a payment to the creditor such as the infamous sacrifice of the first-born, for example, blood, which must be human blood. Following this line of thought, the dread of the ancestor together with his power and the consciousness of debts towards him, inevitably increases. Through the hallucination of the growing dread, the ancestors of the most powerful tribes grow to an immense stature until the ancestor himself is finally transfigured into a god (NIETZSCHE 1994: 65-67).

This way of thinking is found in most primitive, pagan societies where kinship systems are of paramount importance. The kin group in a pagan society is construed to be a transcendental entity which comprises the living and the dead (LÉVY-BRUHL 1965 [1928]: 70-71, 105). If the dead become gods (ancestor-gods), the kin group is assumed to be a divine, ethical entity because it is a commune consisting of the living and ancestor-gods. An ancestor-god, disguised as a stranger, sometimes visits the living to make communion with them (FRAZER 1981 [1890]: II 99). The living must offer shelter and hospitality to the guest-god. In return for the hospitality the guest-god gives blessings to the hosts, whose magical power of words ensures the happiness and good health of the living. In daily life, the living must offer food and water to their ancestor-gods to show respect, and to not allow them to go hungry or thirsty. If the living forget to offer food and water, the dead are angry at the offense and take revenge on the living. When the living faithfully fulfill

the obligations of the kin group, the dead will become guardians who give good fortune to the living and prevent disaster from occurring (LÉVY-BRUHL 1965 [1928]: 303-306).

In most pagan societies without state power, revenge prosecuted by the offended party is the ultimate sanction of a wrong, which engenders the sense of justice in the community. If a person is killed, the spilt blood which seeks revenge asks blood of a slayer or a member of his kin group. When the living does not satisfy the demand of the dead, the furious blood takes revenge on the living (FRAZER 1920: 129). Therefore the living cannot fail to kill the enemy, which results in a blood feud. The idea that a kin group comprised of the living and the dead (ancestor-gods) is a transcendental, ethical entity leads us to the concept that the violence of revenge prosecuted by the kin group is a sacred force to sacrifice the blood of an offender or a profaner for the purpose of appeasing the furious, vengeful ancestor-gods. In this context, it is concluded that revenge is an ethical action because the violence of revenge is equivalent to the sacred force of justice wielded by the gods. The concept of sacrificial violence will be the only explicable answer to the question of why the violence of revenge is deemed to be the source of justice in a society with the tradition of *lex talionis.*

Hobbes's theory on the origin of social order

Thomas Hobbes was the first philosopher who tried to elucidate how social order was established in a society without state power. His idea on the social condition of a society without state power is the basis on which the philosophers such as Rousseau, Nietzsche and Girard developed their own theories. Here I shall summarize and analyze his theory.

First of all, Hobbes indicates that because men are all equal in their faculties of body and mind, there arises an equality of hope in attaining their ends. If two men desire the same thing, they become enemies because both cannot enjoy it at the same time (HOBBES 1985 [1651]: 183-184). Therefore, during the time men live without common power to keep them all in awe, they are in a condition that is called war; that is, every man is against every man. In this condition, there is no place for industry because the fruits are uncertain and consequently there is no culture on earth. Nothing can be unjust and the notions of right and wrong, justice and injustice have no place there (HOBBES 1985 [1651]: 185-188).

A man has the right of Nature called *jus naturale,* which means the liberty to use his own power for the preservation of his own Nature, that is to say, of his own life, and consequently of doing anything which in his own judgment and reason will be conceived to be the most suitable means. He is also under the rule of a law of Nature (*lex naturalis*) found out by reason, by which a man is forbidden to do what is destructive to his life and to omit what is best to preserve his life. In the condition of war of everyone against everyone, there can be no security for any man to live out his whole life as nature ordinarily allows. Therefore the fundamental rule of reason that every man ought to endeavor peace as far as he hopes to obtain it, is to be prevalent in society if a man has reason. However, when he cannot obtain it, he may seek and use all the benefits and advantages of war. If a man is to follow the fundamental rule of reason, he must lay down his right to all things and be contented with so much liberty against other men, as he would allow other men against himself (HOBBES 1985 [1651]: 189-190).

The right to all things may be laid aside by either simply renouncing them or transferring them to another. The mutual transference of a right is regarded as a contract, which is necessary to be supported by either fear of the consequence of breaking it, or a sense of glory or pride in appearing not to need to break it. The fear of the consequence of breaking contract is caused by either the power of invisible spirits or the power of those already offended. Hobbes concludes that of these two latter cannot be the main power which makes men keep a contract, as the fear of revenge does not exist in every man (HOBBES 1985 [1651]: 190-200). Thus, Hobbes who insists that contract is the origin of social order, underestimates the significance of revenge prosecuted by the offended party, which he thinks is not powerful enough to make men keep a contract.

The most important questions which must be answered upon discussing the nature of a society without state power, are 1) is it possible for a society without state power to have ethics and social order? 2) If it is possible, what kinds of ethics and social order does a society without state power have? In the present paper I suggest that 1) a society without state power, where revenge prosecuted by the offended party is the ultimate sanction to punish the offender, has ethics and social order, 2) revenge is an act of justice to restore and keep social order, as it is regarded to be a sacred force of sacrificing the blood of the offender (profaner) to the gods. These ideas are not in accordance with the theory of Hobbes who begins his argument on the

presupposition that a society without state power has little social order. The Hobbesian theory of a society without state power has three features. First, it claims that a society without state power is in a condition in which everyone is against everyone, secondly, that a contract among members of a society is the basis of social order, thirdly, that revenge is not a force powerful enough to restore and keep social order. As suggested earlier, a primitive, pagan society is supposed to be an aggregate of kin groups, which are based and developed on the religious concepts of animism and ancestor worship. When kin groups first appeared in human history, it was not an entity of love developed through the personal interactions between men and women, but a transcendental, religious commune between the living and the dead. The kin group, which may be the first cultural commune of human beings, has its origin in the religious concepts of a pagan society. It can be safely assumed that a primitive, pagan society consisting of kin groups has ethics and social order, which have spontaneously developed before people in the society made contracts. I believe the Hobbesian theory that a society without state power is in a state of perpetual war to be unsustainable.

Critical analyses of the theories of Rousseau, Nietzsche and Girard

Since Hobbes indicated that a society without state power was in a condition called war and that a social contract was the origin of social order, Rousseau, Nietzsche and Girard discussed how social order was established in a society without state power, which I criticized in a previous paper (YAMAMOTO 1999: 221-229).

(a) Rousseau's theory on the origin of social order.

Rousseau says that in the primitive state, men have neither houses, nor huts, nor any kind of property whatever. Everyone lives where he can, seldom for more than a single night, the sexes unite without design, as chance, opportunity, or inclination bring them together, nor have they any great need of words to communicate their attraction on one another (ROUSSEAU 1993 [1973]: 65). So long as men undertake only what a single person can accomplish, and confine themselves to such arts that do not require the joint labor of several hands, they live free, healthy, honest, and happy lives, in so far as their nature allows. But from the moment one man begins to stand in need of the help of another; from the moment it appears advantageous to any one man to have enough provisions for two, equality disappears, property is introduced, work becomes indispensable (ROUSSEAU 1993 [1973]: 92).

In this stage, insatiable ambition, the thirst of raising their respective fortunes, not so much from real want as from the desire to surpass others, inspires all men with vile propensity to injure one another, and with secret jealousy, which is even more dangerous. In a word, there arise rivalry and competition on the one hand, and conflicting interests on the other, together with a secret desire on both of profiting at the expense of others. Between the claims of the strongest and that of the first occupier, there arise perpetual conflicts, which never end but in battles and bloodshed (ROUSSEAU 1993 [1973]: 96-97).

Thus the newborn state of society gives rise to a horrible state of war. In this situation, the rich in particular, must feel how much they suffer by a constant state of war, of which they bear all the expense; and in which though all risk their lives, they alone risk their property. With this view, after representing to his neighbors the horror of a situation which arms every man against the rest, in which no safety can be expected either in riches or in poverty, he devises plausible arguments such as 'Let us join to guard the weak from oppression, to restrain the ambitious, and secure to every man the possession of what belongs to him; let us institute rules of justice and peace, to which all without exception may be obliged to conform. Let us, instead of turning our forces against ourselves, collect them in a supreme power which may govern us by wise laws, protect and defend all the members of the association, repulse their common enemies and maintain eternal harmony among us (ROUSSEAU 1993 [1973]: 97-98).' Then a political institution is established, which soon lapses into despotism, bringing misery to the people.

Thus Rousseau fails to recognize that a society without state power has ethics and social order. According to him social order is established when a society without state power develops a political institution.

(b) Nietzsche's theory on the origin of morality and social order.

Nietzsche indicates that before the existence of the state, human beings kill any creature, be it ape or man, that seeks to deprive them of a fruit of the tree if they happen to be hungry and are making for the tree themselves. Before the existence of the state the individual can act harshly and cruelly for the purpose of frightening other creatures: to secure his existence

through fear-inspiring tests of his power. According to Nietzsche, morality is preceded by compulsion and it is for a time itself still compulsion, to which one accommodates oneself for the avoidance of what one regards as unpleasant. Later it becomes custom, later still voluntary obedience and finally almost instinct. Thus, like all that has for a long time been habitual and natural, it is associated with pleasure and is now called virtue (NIETZSCHE 1996 [1986]: 53).

Morality is nothing other than obedience to custom, of whatever kind it may be. In things in which no tradition commands there is no morality; and the less life is determined by tradition, the smaller the circle of morality. The free human being is immoral because in all things he is determined to depend upon himself and not upon tradition. Originally all education and health care, marriage, medicine, agriculture, war, speech and silence, traffic with one another and with the gods belong within the domain of morality. The most moral man is he who sacrifices the most to custom (NIETZSCHE 1994: 142-143).

He who does what is customary as if by nature, as a result of a long inheritance, that is to say easily and gladly, is called 'good' and this is so whatever the custom may be. Exacting revenge is good when it is part of a good custom, as it was with the ancient Greeks. Justice is requital and exchange under the presupposition of an approximately equal power position: revenge therefore belongs originally within the domain of justice, it is an exchange (NIETZSCHE 1996 [1986]: 49-51). Equilibrium is thus a very important concept for the oldest theory of law and morality: equilibrium is the basis of justice. When the ancient justice says:' An eye for an eye, a tooth for a tooth', it presupposes that equilibrium has been attained and seeks through this retribution to preserve it: so that when one man now transgresses against another, the other no longer takes on him revenge of blind animosity. On the contrary, by virtue of the *jus talionis* the equilibrium of the disturbed power relationship is restored (NIETZSCHE 1996 [1986]: 311-312). He who has the power to requite, good with good, evil with evil, and also actually practices requital is called good: he who is powerless and cannot requite counts as bad (NIETZSCHE 1996 [1986]: 36-37).

The ability and obligation to exercise prolonged gratitude and prolonged revenge, both only within the circle of equals, artfulness in retaliation, refinement of the idea in friendship, a certain necessity to have enemies as outlets for the emotions of envy, quarrelsomeness, arrogance in order to be a good friend: all these are typical characteristics of noble morality (NIETZSCHE 1989: 230). The pathos of nobility and distance, the continuing and predominant feeling of complete and fundamental superiority of a higher ruling kind in relation to a lower kind, to those 'below', that is the origin of the antithesis 'good' and 'bad' (NIETZSCHE 1994: 13).

Thus Nietzsche asserts that revenge is a force to restore equilibrium which is the basis of justice and that the feeling of superiority of an individual who is strong enough to take revenge on the weak or the enemy is the origin of morality. Though Nietzsche, in an effort to find the origin of morality realizes that custom and revenge play an important role in engendering the feeling of justice and morality, he cannot find a logical explanation for why revenge, which he thinks is the means to restore equilibrium, is deemed to be ethical. In contrast to his unfulfilled logic, I suggest that revenge is an ethical action because it is a sacred force which sacrifices the blood of an offender or a profaner to the gods.

(c) Girard's theory on the origin of social order.

Girard says that a primitive society, a society that lacks a legal system, is exposed to the sudden escalation of violence. The slightest outbreak of violence can bring about a catastrophic escalation, as there is no universal rule for quelling violence, no principle of guaranteed effectiveness. The moment arises when violence can only be countered by more violence, as the more men strive to curb their violent impulses, the more these impulses seem to prosper (GIRARD 1979 [1972]: 30-31). As long as there exists no sovereign and independent body capable of taking the place of the injured party and taking upon itself responsibility for revenge, the danger of interminable escalation remains. In this kind of society, when an individual injures a member of another group, his own group shields him while the opposing group supports the injured man's claims for compensation or revenge, as legal reprisals are always in the hands of the victims themselves (GIRARD 1979 [1972]: 16-17).

Vengeance, once it starts, is an interminable, infinitely repetitive process. Every time it turns up in some part of the community, it threatens to involve the whole social body. There is the risk that the act of vengeance will initiate a chain reaction whose consequences will quickly prove fatal to any society of modest size. The multiplication of reprisals instantaneously puts the very existence of a society in

jeopardy (GIRARD 1979 [1972]: 14-15).

According to Girard, the sacrificial crisis is the real cause of endless violence. The sacrificial crisis, that is, the disappearance of sacrificial rites, coincides with the disappearance of the difference between impure violence and purifying violence. When this difference is effaced, purification is no longer possible and impure, contagious, reciprocal violence spreads throughout the community (GIRARD 1979 [1972]: 49). Human beings cannot suppress the desire to commit an act of violence on those near them without a conflict. Therefore he must divert that impulse toward the sacrificial victim, the creature he can strike down without fear of reprisal, since the victim lacks a champion (GIRARD 1979 [1972]: 13). Each member's hostility in the community, caused by clashing against others, becomes converted from an individual feeling to a communal force unanimously directed against a victim in the sacrificial rituals (GIRARD 1979 [1972]: 79). Violence directed against the surrogate victim, who carries away all negative emotions such as envy, hatred, anger and jealousy banishes all traces of violence in the community. Having plunged the community into strife, the surrogate victim restores peace and order by his departure (GIRARD 1979 [1972]: 86).

It is the god who supposedly demands the victims: he alone, in principle, who savors smoke from the altars and requisitions the slaughtered flesh. It is to appease god's anger that the killing goes on, that the victims multiply in the sacrificial rites (GIRARD 1979 [1972]: 7). Violence is considered to be the heart and secret soul of the sacred (GIRARD 1979 [1972]: 31).

Thus Girard, who recognizes that religion plays a crucial role in formulating social order in a primitive society, indicates that the violence to sacrifice a surrogate victim in a communal ritual is a sacred force which restores and maintains social order. At the same time, he insists that the violence of revenge prosecuted by the offended party is an impure force, which invariably results in a vicious, endless cycle of violence, as the acts of revenge are intensified by the psychological process of mimetic rivalry. In contrast to Girard, I propose that the violence of revenge is a sacred force which restores and maintains social order in a society without state power.

Discussion

Though it is not possible to definitely show how ethical concepts of the Kanun have originated, we might be able to guess the primordial events that have initiated the evolutionary process of religious, mythical thoughts in human beings, relying on the ethical structure of the Kanun proposed here. Fig. 1 suggests that concepts of "blood", "guest (guest-god)" and "food (commensality)" constitute the basis of the ethical structure of the Kanun. If we assume that primordial events, which evoke symbolic thoughts with religious acumen in human beings should consist of crucial experiences such as hunger, disease, wounds, bleeding, death, violent power of nature etc., which threaten their very existence, it is seen that the ethical, religious concepts of "blood", "guest" and "food" have engendered in conjunction with primordial, critical experiences of human beings, as apparently "blood" is related to the experiences of death due to wounds and bleeding, "guest" to the experiences of death due to violence of other people, "food" to the experiences of hunger and death due to starvation (YAMAMOTO 1994: 234-239).

The concept of "guest" and the tradition of hospitality are not only found in Albania and ancient Japan, but have been widely distributed on the Eurasian landmass and other continents from time immemorial. The concept of "guest" and the tradition of hospitality should be coupled with "food", as there is no hospitality without food. It is written in the Old Testament of the Bible that God manifests as guests upon visiting Abraham, who treats them with a fine meal. Two messengers of God visit Lot in an attempt to save him and his family when Sodom is destroyed. Lot offers them a shelter and feast. Aristophanes writes in his comic drama, Frogs, that a man who wrongs a guest writhes in masses of mud and streams of muck when he dies. It indicates that wronging a guest was considered to be an unethical deed in ancient Greece, which must be severely punished (ARISTOPHANES 1962: 373). The Laws of Manu dictate that a guest who comes with the setting sun in the evening should not be turned away by the householder and must be allowed to stay in his house with food being served. Then the householder wins wealth, a good reputation, long life and heaven by revering guests (THE LAWS OF MANU 1991: III 105-107). Marco Polo describes the custom of Tibet that when a stranger visits a Tibetan village, the people offer their daughters to him who is allowed to lie with the women. According to Marco Polo, the woman with whom most men have lain is highly esteemed as she is supposed to be most favored by the gods (POLO 1958: 172-173). It indicates that the Tibetans regarded a stranger as a kind of god. Such wide distribution of similar concepts suggest that the concepts of "guest"

and "food" and the tradition of hospitality may be phenomena universally found in human societies of ancient times. In this context, the similarities of concepts of "guest" and "food" between Albanians and ancient Japanese do not seem unreasonable.

In the present paper, I tried to find the origin of ethics and social order in a society without state power. The comparison of the ethical structure of the Kanun with that of a pagan society without state power, and critical analyses of the theories of Hobbes, Rousseau, Nietzsche and Girard led me to propose a new theory, which insists that a society without state power does have ethics and social order, which have spontaneously developed on the basis of pagan religions. Revenge prosecuted by the offended party is the ultimate sanction to restore and keep social order in a society without state power as the people in this community regard it as a sacred force wielded by the gods. I also suggest that the ethics of societies without state power, such as ancient society, primitive society and tribal society, have the same structure as that of the Kanun which consists of "oath", "blood", "honor", "guest", "food" and "revenge." As these concepts are related to bodily sensations, the emotions and primordial customs, which represent the nature of human beings, the ethics of a society without state power is more pertinent to the nature of human beings than that of a society with state power, which does not accept revenge carried out by the offended party as a due sanction. A society without state power is not an archaic society rapidly disappearing from the surface of the Earth, but a society with a definite, self-perpetuating value system, which is essentially equivalent as well as antithetical to that of a society with state power.

It is assumed that before any state power appeared in human society, human beings had lived with a value system which regards revenge as an act of justice. This value system is defined by the social condition where there is no judicial power to punish the offender except for the revenge prosecuted by the offended party. In those societies there is little room for other value systems, especially one which prohibits revenge, to exist. When a state power with proper authority, which is able to impose judicial decisions and punish offenders is firmly founded, people are willing to delegate the rights of revenge to the state power. Whenever state power is weakened or effaced, people are eager to have the rights of revenge in their own hands, resulting in the resurrection of the value-system of a society without state power.

I think the differences of culture, which is transversally formed beyond kinship systems, between nations or ethnic groups or various human groups, and resultant identities of those groups are the foundation on which a society with state power is established. If the people in a society with state power lose cultural differences and identity, which enables them to institute relationships beyond kinship systems, the foundation of functioning state power becomes feeble and unstable. In our modern society with state power where people get the same kinds of information and knowledge through the Internet, TV and mass media, the culture of different groups tends to lose their originality and identity. If human beings all over the world share the same information and knowledge for a long enough time to lose cultural differences, they would begin to show similar feelings, similar ways of thinking and similar behavioral patterns. Thus the globalization and homogenization of the world might ironically cause human beings to lose the foundation of a society with state power, which ultimately results in the advent of a new type of a society where the value-system of a society without state power might be dominant. Therefore, I think that the ethics of a society without state power, represented by the Kanun, is not a value-system of the past, but one that has relevance to the future of human beings.

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