Chapter 10

Medieval Law in Transcaucasia—
on the Periphery of European Legal History

1. Introduction

The re-emergence of Armenia and Georgia as legally independent and sovereign states has re-awakened an interest in their legal systems and their history. For centuries, these countries were hidden from the view of Western Europe, located as they were behind the vast Russian and Ottoman empires, themselves states which played mostly a marginal role as European powers.

Through the ages, the fate of Armenia and Georgia has largely been determined by the histories of their more powerful neighbours, the successive empires of Assyrians, Persians, Alexander the Great, Romans, Parthians, Arabs, Seldjiks, Mongols, Ottomans and Russians. When circumstances were favourable, Armenia and Georgia were occasionally able to consolidate their political position in the form of an independent or semi-independent state. These states have left a considerable heritage of legislation and other legal sources. The purpose of this chapter is to offer a general overview of the most important material available and to indicate, however briefly and provisionally, the place of medieval Armenian and Georgian law in the context of European legal history. Inevitably, this will have to be largely an exercise in external legal history; a more substantive treatment of the contents of the available material would exceed the limits of this chapter.

The legal history of Azerbaidzhan, at present the third independent state in Transcaucasia, will not be discussed. Azerbaidzhan was conquered by the Arabs in 642, when it became part of the world of Islam. During the 9th century, the original Iranian population was turkicized. Soon afterwards, the country fell under Persian domination which continued, with only minor interruptions until most of the local khanates were successively incorporated into the Russian empire in the course of the latter’s southward expansion during the first decades of the 19th century. Other parts of Azerbaidzhan stayed within Iran. There were therefore never any reasonably permanent and independent state-like formations on the territory of present-day Azerbaidzhan, and whatever there was found itself solidly within the world of Islam.

Another neighbouring area which remains outside the purview of this chapter is the Caucasus Mountains themselves and the immediately
adjoining regions to the North. These are home to a bewildering variety of small nations and ethnic groups, many of whom were able to maintain, albeit precariously, a measure of political independence until they were gradually absorbed into the Russian empire in the course of the 19th century; the Chechens and other “mountain peoples” (gortsy) being the best-known example. Their various systems of customary law offer a rich source to the legal anthropologist and a considerable amount of work on this topic has been carried out by indigenous and Russian scholars during the last hundred-and-fifty years. However, these studies concern customary law as it has been observed and described in recent times; the aspect of legal history is minimal. Also, a description of the customary law of a small mountain tribe is a far cry from the official legislation of the Armenian and Georgian monarchs.

2. The Literature

Among West-European scholars, Joseph Karst has made the most important contribution to the literature on the subject of Transcaucasian legal history. Karst, a professor at the university of Strassburg (as it then was), published several studies (including translations) on some of the major monuments of the medieval law of Armenia and Georgia.

The main legislative documents of Armenia and Georgia have been translated into English, French or German and have been cited below at the appropriate places.
