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Special Issue on Law and Run-away Women

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Guardian or Saboteur?
The State and the Right to Choice in Marriage

Prem Chowdhry

Abstract

The failure of the judicial system to ensure effective protection of the right to choice in marriage, especially in the face of modern, equitable law, and /or collusion of state agencies in sabotaging this right, is assuming alarming and dangerous proportions. This paper argues that, although the introduction of modern concepts like adulthood and the sanctity of individual rights has legalised the individual settlement of marriage between two consenting heterosexual adults, the emphasis is missing on a dynamic liberal and progressive implementation of legal rights. Instead, their infringement is aided by acceptance of customary norms that empower the family or community to take marriage decisions on behalf of individual members. This paper analyses just two cases as representative of many involving runaway couples – one from the judicial records and the other based upon my field-work in Delhi-Haryana – to argue that legal intervention not only delegitimizes individual attempts to break out of the traditional system of marriage alliances, it also criminalises all such attempts. It highlights the pronounced gender bias against women as her consent is taken cognisance of, without recognising her right to consent or make individual choices. A mutual act is turned unilateral, condemning the woman and holding her responsible to the exclusion of the man, although contradictorily it still punishes him. A man who seeks to divest a guardian of his possession/control of his daughter is termed a rapist and a criminal. The punishment underlines an ideology of guardianship which also means total control of woman and her sexuality, not withstanding her adult status. The judgement delivered in such cases is premised on the view that moral and ethical grounds override questions of the legal and human rights of individuals. In such matters the state acts for and is used by casteist and patriarchal forces, as a primary legitimating institution of popular cultural practices. Standing as an overarching patriarch and acting on behalf of the male guardians of a woman the state criminalises female sexuality, constructing it as essentially transgressive, illegitimate and morally reprehensible. It denies the woman autonomy over her body or the agency to gain control of her life. Instead, it imposes an identity on her that is not her own. This collusion of the family, community and state ends in tragedy.

The right to choose if, when and whom to marry is a fundamental human right. It is guaranteed by most human rights instruments. Provisions of the Indian Constitution on non-discrimination on the basis of sex, equal protection of law, equality before law and the protection of life and personal liberty, safeguard this right. In other words, the introduction of modern concepts like adulthood and of the sanctity given to individual rights have resulted in the legal principle that a marriage can be formed by a free agreement between two consenting heterosexual adults. The state is under an obligation to enforce this right. Yet the failure of the judicial system to ensure effective protection of

the right to choice in marriage, especially in the face of the emphasis on equity in modern law, and / or collusion between the state agencies in sabotaging this right, is assuming alarming and dangerous proportions. This failure reinforces the coercion of individuals by the family/community, applied either independently or in collusion with the state apparatus, There is a lack of emphasis on a dynamic liberal and progressive implementation of legal rights. Instead, their infringement is aided by acceptance of customary norms that empower the family or community to take the marriage decision on behalf of the two individuals most closely affected.

Briefly speaking, under The Hindu Marriage Act, 1955 (Act No. 25 of 1955), except for certain incest taboos, the legal restrictions on marriage of two adult Hindus—of a girl above eighteen and a boy above 21 years of age--are almost non-existent.[1] This implies that the law permits both marriages between *sagotra* (kin groups whose members claim patrilineal descent from the same ancestor) and inter-caste marriages. Inter-religious marriages also are permitted under the Special Marriage Act, 1954 (Act No. 43 of 1954).

Yet customarily there are a variety of rules and practices and degrees of prohibited relationships observed in respect to marriage in different regions of India which diverge from those derived from statute law. This is specially marked in north/south divide.[2] The rules of customary marriage in most parts of north India uphold caste endogamy and adopt the rule of *gotra* or *got* (patrilineal clan) exogamy. Most caste groups, whether upper or lower caste, follow rules of *got* exogamy extending to persons related through ancetsors three or four generations back. A person is not permitted to marry into his or her own *got*, nor with the mother's, nor with the father's mother nor usually with the mother's mother (Rohtak District Gazetteer: 1911, 88-89) The last bar is, however, not universal and the restriction is apparently declining.

This concept of *got* exogamy is often enlarged to include an entire village because it is considered that theoretically all the inhabitants of a village are related to each other. This principle of village exogamy is very often then extended further to include the immediate neighbouring villages, thereby turning village exogamy into territorial exogamy, with notions that locality is equivalent to consanguinity. These notions, observed by virtually all caste groups, high or low, introduce greater complexity into the prohibition on marriage between blood relatives. This is specially so as its infringement is seen as falling into the category of incest, and so incites strong moral condemnation.

To overcome these caste and customary rules some couples run away from the village to get married. Such cases are generally dealt with within the close preserve of the family, and/or its kinship network. Yet some of them spill over voluntarily or involuntarily into the public sphere and assume a different form, as issues concerning the sexuality of women, normally handled within the confines of the family, are thrown into the public arena for judgement. This public sphere

1 Certain persons however cannot marry under this Act: those related as sapinda (having a shared body relationship), unless the custom or usage governing them permits marriage, those with a living spouse, those of unsound mind, suffering from mental disorder and incapable of giving consent, and those subject to recurrent attacks of insanity and epilepsy. See section 5, Hindu Marriage Act (Desai, 1966: 599-751).

2 For these regional diversities and their accommodation and articulation in the politico-legal regime of post-independent India, see Uberoi (2003)

is dominated by two diametrically opposed authorities, one informal and the other formal. The informal authority is the wider community (*biradari*) acting through the traditional council, which has no legal standing. The formal authority is the apparatus of the state, regulated by modern egalitarian laws. In this paper I shall concentrate on the latter.

In the case of a runaway marriage the state apparatus is galvanised by a complaint, generally made by the woman's male guardian. The police register a FIR (First Information Report) and accept all such cases as criminal cases involving abduction and kidnapping and very often rape. In police and judicial vocabulary these are termed 'sex-crimes' and are dealt with as such. The couple is hounded and caught. The man is taken into custody for questioning, leading to his imprisonment. The woman (who is his wife if they have managed to get married, as very often is the case) is handed over to her male guardian, father or brother. The family pressurises her into indicting her husband as an abductor and a rapist, and denying that there was a marriage. Any claims made or even proof of marriage supplied by the man is discounted on the grounds of the woman's testimony, or of the minority age status of the girl or of the allegation of the use of force to compel the girl to get married in order to have 'illicit intercourse' with her.

The criminal case that follows is instituted by the state against the alleged criminal/criminals. Under the Criminal Code all offences are crimes against the state. This transforms the alleged offence of the runaway couple into a crime against the state. This crime is also non-compoundable, i.e. it cannot be settled out of court or withdrawn.[3] In such cases, the state colludes with the patriarchal family in controlling females, and in maintaining the caste and kinship ideology that governs marriage alliances even though this position cannot be sustained legally. It uses the ambiguities in the legal system to circumvent the rights of individuals. It also selectively believes and disbelieves the testimony of the woman. In tackling runaway marriage cases the state applies norms which are clearly at odds with modern egalitarian principles and turns marriages of choice into illegal transactions.

For this paper I shall analyse as representative of many cases involving runaway couples just two cases, the account of one being derived from judicial records and that of the other from my field-work in Delhi-Haryana. I shall argue that legal intervention not only delegitimises individual attempts to break out of the traditional system of marriage alliances, but it also criminalises them. It highlights the pronounced gender bias against women as a woman's consent is taken cognisance of, but there is no recognition of her right to give this consent or to make individual choices. A mutual act is made unilateral, condemning the woman and holding her responsible to the exclusion of the man, though contradictorily in most cases it still punishes him. A man who seeks to divest a guardian of his possession/control of his daughter is termed a rapist and a criminal. Punishment for these crimes underlines an ideology of guardianship which entails a total control of a woman and her sexuality, not withstanding her adult status.

The judgement delivered in such cases is premised upon moral and ethical grounds which are considered to override the legal and especially the human rights of individuals. In such matters

3 In determining what constitutes a crime against the state see Agnes (1992: WS 19-WS 33)

the state acts, and is used by casteist and patriarchal forces, as a primary legitimating institution of popular cultural practices. Standing as an overarching patriarch and acting on behalf of the male guardians of women the state criminalises female sexuality, and constructs it as essentially transgressive, illegitimate and morally reprehensible. It denies the woman autonomy over her body or the agency to gain control of her life. Instead, it imposes an identity on her that is not her own with a tragic outcome. Similarly, in certain cases where the judiciary conforms to the letter of the law in conformity with the couple's legal rights the end result is nevertheless the same. Such decisions activate the extra-constitutional authorities such as the traditional panchayat (caste community council), which acts with or without the help of the family, often with the connivance of state agents, to set 'matters right' in accordance with their caste and cultural codes. The collusion ends in tragedy.

Legal flexibility: age and consent

The runaway cases are officially reported as cases of kidnapping and abduction. Legally, kidnapping and abduction are two distinct offences.[4] The type of kidnapping which requires consideration here is kidnapping from lawful guardianship (as defined in the Indian Penal Code (IPC), section 363),[5] and applies only in the case of minors. It is an offence against the right of the parent from whose guardianship the person is taken away. Consequently, in the case of a runaway woman, a kidnapping case is most often registered to prevent her from exercising her choice in marriage against the wishes of her parents. In such kidnapping cases, the consent of the woman is immaterial or irrelevant. However, in order to prove kidnapping the prosecution must establish that at the time of offence the victim was a minor, i.e., if a woman was under eighteen years of age. The entire case hinges on this. Kidnapping is punishable per se in terms of Section 363 of the IPC. In runaway cases, the registration of kidnapping charges is a must and is often even advised by the police.[6]

Abduction on the other hand, as defined under Section 362 of the IPC, is an offence which is committed when a person is by force compelled or by deceitful means induced to go from any place. Such a person can be a minor or an adult. Abduction is punishable only when accompanied by a particular purpose as laid down in Sections 364, 365, 366 and 376 of the IPC. This means that the intent of the abductor needs to be proved for conviction. The intent behind kidnapping or abduction under Section 364 relates to murder, under Section 365 to secretly and wrongfully confining a person, under Section 366 to compelling a woman to marry or to forcing or seducing her to illicit intercourse, and Section 376 relates to rape of a woman. Where the prosecutrix is above eighteen years, Section 366 cannot be activated. Clearly, it is in the age factor on which the legal procedure is hinged.

The legal age of majority as also the minimum age for marriage, for girls, is eighteen. However, Section 375 of the IPC lays down the age of consent for sexual intercourse to be sixteen years for all unmarried women and fifteen years for all married women (Baxi 2000, 1195-1200) Sexual activity

4 For a judicial understanding and application of these terms in criminal cases see (Criminal Law Journal 1995: 1416-19)

5 The other form is kidnapping from India (IPC, section 360).

6 Interview with a police officer, Rohtak. Name withheld on request.

below these age groups is prohibited and considered illegal. Apart from this blatant discrepancy in ages between married and unmarried women who do not observe the patriarchal standard of morality, it also means that the illegal marriages of women below eighteen are accepted as legal under Section 375. This stands further confirmed by the fact that a marriage even when it breaches the age bar *is not void*. Although the organising of such a marriage is punishable, the marriage once brought about by the guardian (which shows his *consent*) *is valid*. This contradiction in law has led to an anomalous situation. *In effect it has meant that the charge of illegality is activated when the girl makes her own choice in marriage but not when her guardian makes it for her, even when she is well below the age of marriage.*

Significantly, in an arranged match the consent of the guardian is taken for granted. (Uberoi: 1996, 319-345). The fact that this 'consent' of the guardian may have been used to force a marriage upon a recalcitrant woman is never recognised On the other hand, consent of the girl in runaway cases of 'choice' marriage, even if claimed and proved, is held invalid in view of the minor-age status of the girl; her consent to marriage has no legal validity. As a minor she is legally not eligible for marriage. Consequently, the question of the age of the girl emerges as crucial in all such cases because the under-age status of the girl, if proved, nullifies the marriage automatically.

In most cases, it is difficult to establish the correct age of the girl. Given the general paucity of records regarding births and widespread apathy in recording births in rural India, a girl's age cannot be conclusively proved. It remains a matter of speculation. Interestingly, the school certificate accepted universally as a proof of age is not considered creditworthy in cases such as these. In such cases it is contended that the birth date of a student is recorded as given by the guardian without substantiating it with any medical certificate or municipal record. According to the police and administration, such records are easily manipulated. The High Court judges have almost invariably refused to place any reliance upon it. Very often there is a discrepancy between the age given in the school register and that in the municipal birth register or the *chowkidara* register in the villages, or other records maintained in the office of the civil surgeon. The judges have observed that parents, while getting their children admitted into schools, do not provide the correct birth dates (*Punjab Law Reporter* (PLR), 1989, 2471-73). Most often the birth date is held by the judges to be earlier than the date on these documents. Under-stating a child's age is perceived to give an advantage to the child later in life: to a boy in his studies and in other competitions and career, and to a girl in her marriage. In popular perception the younger the bride the more malleable she is considered to be to the wishes of her conjugal family.

Since the age factor of the girl is crucial, the court almost always gets a radiologist's opinion on the basis of a bone X-ray examination known as an ossification test to establish the age of the girl. However, this test is not considered infallible by the judges and in many cases the reading of the radiologist has been rejected by them. Even after this test, the age given may well be an approximation indicating only the minimum and maximum ages possible of the girl. In most cases the individual judge decides what weight they wish to give to evidence regarding the age of the girl coming from such different sources as a medical test, oral testimony, and school or birth certificates. The judicial flexibility in judging the age tells us a great deal about the flexibility or restrictions with which the given legal standards are evaluated and imposed. For the girl concerned, more often than not, this flexibility works against her rather than in her favour.

Illicit sex and illicit marriage

Court cases show how the courts passively accept, and also actively promote the regulation of a woman's sexuality through marriage rather than challenging attempts at regulation in accordance with her legal rights. Such a stand reiterates that the male guardian has the right to settle and give her in marriage to a partner of his choice. I shall take up one such case to illustrate the analysis.

In Harmel Singh v. State of Haryana 1971 [case was *reported* in 1972 Criminal Law Journal, but was decided in 1971], (*Criminal Law Journal*: 1972, 1648-50) all the evidence pointed to the fact that the girl had married. But the court on the basis of her minority age status discounted this. Her intent to get married was also disregarded. Her active sexuality, well within the fold of marriage, was condemned.

This case concerned Harmel Singh, a teacher by profession, who was convicted by the Additional Sessions Judge Hissar on 23 Aug. 1969 for abduction of an allegedly minor girl Asha Rani, daughter of Gela Ram of village Mandi Dabwali in Hissar. Harmel Singh was sentenced to one year's rigorous imprisonment under Sections 363 and 366, and his associate Harbhajan Singh was sentenced to six months for aiding and abetting him. Separate criminal appeals filed by the two convicts in the Punjab and Haryana High Court were decided in 1971. The case of the prosecution presented at the lower court was as follows:

Gela Ram's family used to live in village Mandi Dabwali, while Gela Ram who worked as a Patwari, was posted at Gobindgarh. Both the appellants, Harmel Singh and Harbans Lal were neighbours of Gela Ram in Mandi Dabwali and had friendly relations with him and his family. A month before the occurrence of the case, Gela Ram's wife and their only child Asha Rani, the prosecutrix, shifted to Fatehabad to her grandparents. On 22 July 1968 Asha Rani, left her home to go to the house of her maternal uncle. The two accused met her on the way and told her that her father had met with a serious accident and they had been sent to take her to Dabwali. Without verifying this fact she accompanied them. They took her to Sirsa. At Sirsa Harmel Singh disclosed to her that she had been brought there because he wanted to get married to her. She was threatened that she would be killed in case she refused to get married or divulged this to anybody. Harmel Singh gave the threat by flaunting a big knife. Asha Rani was then taken by train to Bhatinda to the house of one Jagdish Rai, an advocate. The two accused and Asha Rani stayed at the house of Jagdish Rai and during this period, the court noted that 'Harmel Singh the accused, committed sexual intercourse with Asha Rani and also took her to the Gurdawara on 24 July 1968 and performed the marriage ceremony.' The next day the police accompanied by Asha Rani's father arrived in Bhatinda and arrested Harmel Singh while he was with Asha Rani. Gela Ram had lodged a report at police station, Fatehabad, on 24 July, 1968. And it was based on this report that the police arrested the accused. After the completion of investigation the accused were *challaned* (chargesheeted for a crime by the police) convicted and sentenced by the lower court.

The High Court rejected the evidence provided by Asha Rani that she had been threatened and forced to accompany the accused or had been duped into accompanying them. Citing from the defendants' testimony Justice Man Mohan Singh Gujral noted:

It was clearly admitted by Asha Rani that at no stage did she seek the help of any person though she had met a large number of persons. It is further in her statement that even at the house of Jagdish Rai she did not disclose it either to Jagdish Rai or to his family that she had been brought there by deception and force and was being kept there against her will. Asha Rani has further admitted that even at the Gurdawara while the marriage ceremony was being performed and a large number of persons were present the fact that she had been brought against her will was not brought to the notice of either the granthi who was performing the ceremony or other respectables who were present in the gurdwara. She has also admitted that photographs were taken at the time of the ceremony and she was forced to put up a happy face to show that everything with her was all right. All this leaves no manner of doubt that Asha Rani was a consenting party and that the story that she had been made to accompany the accused on the false representation that her father had met with an accident was false and that she had willingly accompanied the appellants first to Sirsa and then to Bhatinda....Coming to the facts of the present case, the circumstances show that Harmel Singh and Asha Rani lived in neighbourhood at Dabwali and that Harmel Singh used to visit the house of the prosecutrix. Gela Ram has stated that their families used to meet and were known to each other. It is further in evidence that Asha Rani and her mother shifted to Fatehabad and the suggestion made was that this was done to persuade Asha Rani to get married to some other person and not Harmel Singh. From this it can be safely inferred that there was some sort of liaison between Harmel Singh and Asha Rani before Asha Rani was brought to Fatehabad. The medical evidence also shows that Asha Rani was used to sexual intercourse before her elopement.

It is quite clear that the judge was aware that this was a case of elopement and marriage. He was also aware, as all judges sitting in judgement over such cases are aware, of the fact that the girl was lying and the case had been fabricated under pressure from her family members.[7]

Legally the case hinged upon the age of Asha Rani. Regarding this the High Court adopted an ambiguous position and held that the evidence showed her to be certainly above sixteen years but below eighteen years of age at the time of her elopement. This meant that she could certainly give her consent to having sexual intercourse but, not being an adult, she could not give her consent to marriage. Ironically, if her parents had agreed to this marriage even her under-age status would not have mattered and her sexuality would have been accepted as natural and legitimate, well within the fold of marriage. The illegality of the marriage emanated from the fact that Asha Rani's father did not accept this marriage and consequently neither did the state. Her own autonomy over her body was never recognised. If the marriage status of a woman in keeping with her autonomy over her own body is recognised then some uniformity can be achieved in relation to her age of consent, which is put at 16, and the runaway cases would assume an entirely different angle.

7 A criminal lawyer from Rohtak candidly admitted that all parties concerned, including the judges, know about the nature of such cases and the pressures exercised by the concerned parties in this connection.

Consequently, her obvious consent to marriage was turned to a consent for sexual intercourse. Such consent turned her into a woman of easy virtue, who deserved no sympathy. The judgement, therefore, did not stop short of noting her consent. It went on to deliver a highly moral judgement upon the woman's active sexuality to condemn and degrade her. In this connection the High Court cited a judgement of the Supreme Court delivered in the Brij Lal Sud v. State of Punjab (1970), which had maintained:

The medical evidence showed that the girl was fully developed and used to sexual intercourse and her physical appearance showed that she had been perhaps indulging in it for quite some time. It was not, therefore, the only occasion when she was in the company of men. This reflects on the question of her consent, but consent is immaterial because she was below age. All the same in the case of a woman of this character the offence (of the man) is just little more than a technical offence. Because of this it is not necessary to insist on the full sentence.

The age factor made Harmel Singh liable under Sections 363 and 366 of the Indian Penal Code. The High Court found him to be 'rightly convicted for these offences'. But the court also maintained that as Asha Rani was clearly 'a consenting party' and 'the accused could be regarded as facilitating the fulfilment of *the intention of the girl*' (emphasis added) The important question that arises is: What is the intention of the girl? Without specifying the court makes it clear that her 'intention' was to have sexual intercourse with her lover.

This implicit intent was explicitly stated in a similar runaway case from Bombay in 1994 (Balasaheb vs. State of Maharashtra, 1994, 3044-50) in which the judge maintained that 'the conduct shows that there was complete consent on the part of the prosecutrix to be in the company of the appellant *in order to satisfy her sexual lust*' (emphasis added). The obvious fact that her 'intention' was to get married or that she had indeed got married to the accused as testified by the appellant was ignored.

The question of marriage could not be entertained as she was a minor and her consent could only be for intercourse and not marriage. In other words there was no way she could enjoy what in the legal terminology is 'licit' sexual intercourse. Without marriage her indulgence in sexual intercourse became illicit. *The stand taken by the court reveals that it considers marriage as the only legitimate forum for sex and the only marriage it recognises is the one that has the guardian's sanction and blessings*.

In other words, the judgement reiterated the popular perception where a marriage without the consent of the guardian is not accepted as a marriage. Consequently, sexual relations in such a marriage are held to be illicit. I repeatedly encountered this attitude in rural Delhi and Haryana. As the ex-pradhan of village Mitrao put it, 'where parental consent is not forthcoming, such marriages are love marriages, based upon *badmashi* (lustful intercourse). We have nothing to do with them.'

Consequently, Asha Rani (as also all other girls who choose their partners and have to run away to get married), got projected as a promiscuous and lustful woman who (desiring sexual intercourse) could not even wait to get married. The man in question is seen as fulfilling the wishes of a promiscuous woman. He is only seen as someone who succumbs to her wishes. For this he too must be punished. Yet, the judicial eye is gendered. It sees a woman's sexuality in one way and a man's sexuality in another way. Sex for an unmarried woman is severely condemned but for an

unmarried man it is not a matter to comment upon. At best he is seen as a 'victim' of woman's desire and lust. Such an attitude only naturalises a man's sexuality and accepts it as a part of his masculinity. This is especially so as men do not suffer either a social stigma or a psychological scar, as it is acceptable behaviour given the assumptions about the nature of male sexuality and women's consent for cohabitation. This gendered approach produces at the judicial level inequality rather than equality between men and women. It also severely negates consensual sex for women, which is legally recognised for her if she is above sixteen years of age (Menon, 2000: 66-105).

In essence, the judgement reflects a contradictory verdict. On the one hand it puts the onus of the runaway case entirely on the woman for consenting even enticing the man. On the other, it still punishes the man. This needs to be explained. This punishment inflicted upon the man despite the woman's consent reiterates the ideology of guardianship of women, according to which as a father or guardian a man has the right to possess and control a woman (Ramanathan, 1999: 50). Any man who challenges or neutralises this right must be punished. The state takes it upon itself to punish the offender on behalf of the guardian to reassert the criminality of anyone else who takes over the control/possession of the woman. This turns a woman into a possession and the man into a criminal. At this juncture both are divested of their individual rights, and human relationships are turned into material relations. Significantly, even mutuality is not recognised; for mutuality suggests consensual sex, for which, as already mentioned, legal provision exists. Moreover, such recognition may well suggest something more 'honourable'.

Selective acceptance of testimony: claims and counter-claims

It may be noted that, whatever the married status of the runaway couple, in many of the court cases the question of their marriage is usually not raised and, if raised, is hardly discussed. Evidence suggests that even when marriage is discussed it is disposed of quickly and the woman's testimony disclaiming marriage is accepted readily, although she herself is dubbed a liar who cannot be relied upon. The presumption of the court is against the marriage rather than in favour of it.

In many cases, claims to marriage are not even made by the defendant for a variety of reasons. For one, the marriage has to be proved, and that could well be a difficult task, given the fact that there is legal flexibility surrounding marriage solemnisation.[8] Even the registration of marriage is not accepted as a proof of marriage because, in the opinion of the judges, if a marriage is 'not appropriately solemnised' (that is, there is a lack of evidence that the marriage was performed or the evidence shows an inadequate and unsatisfactory adoption of rituals), it is not valid in law, and in such a case a marriage certificate issued by a court, cannot be legally upheld. Moreover, a marriage certificate issued by one court need not be honoured or may be allowed to be challenged by another court on the ground that coercion and force were applied in the marriage. Confronting

8 According to Menski it is difficult to prove the legality of a Hindu marriage, if it is challenged, as its legal recognition is based upon its appropriate solemnisation, i.e. it has to be performed satisfactorily by adopting the relevant Hindu rites and ceremonies or 'proper ritual'. These include the homa and saptapadi, i.e., ritual sacrifices into the sacred fire offered at the time of marriage, including seven circumbulations of the fire especially in view of the fact that saptapadi and homa are essential ceremonies for all Hindu marriages. (Menski, 2001: 9-46).

such uncertainty even the lawyer of the accused man will not be willing to advise his client to have recourse to claiming that a marriage was contracted, as the onus would be on them to prove it.

Moreover, the boy's family and his community often have their own reservations regarding inter-caste marriages born out of their firm adherence to the concept of caste endogamy. To claim the runaway girl of another caste as a bride, means not only an open violation of a traditionally honoured concept of caste endogamy but is also asking for trouble. As one of my informants commented: 'It is like saying *aa bail mujhe maar* (come beat me up)'. In fact, so concerned is the boy's family to get him free that the question of claiming his bride is considered irrelevant and at best not broached. According to the criminal lawyers it is next to impossible to institute such a claim, especially in cases where the marriage is hypogamous, i.e. where the girl belongs to a higher caste group and the boy to a lower one. Indeed, few lawyers are willing to accept the case of such a boy. Those who do are well known to 'respect the sensibilities' of the other side. Often they are in regular touch with the opposing party belonging to the dominant caste group and not infrequently on their payroll. This makes them less than enthusiastic in presenting their defence even to the point of neglecting the rights and interests of the lower-caste client. In effect, it means that the accused languishes in jail, when he could be out on bail. Yet, in a way this serves to save the life of the lower caste man, who if he were freed would be in danger of being killed. In many cases of *pratiloma* (hypogamy) the man is killed along with the girl.

According to a criminal lawyer in Rohtak, many inter-caste cases are indeed hypogamous and often the boy belongs to a dalit or a backward community. The general impression gathered from my field work was that the assertion of rights by groups suffering customary exclusion and disabilities meets with little encouragement, if not active hostility, from local officials, including lower level judiciary, who share the viewpoint of the higher-caste groups. Also, the lower courts are well known to be amenable to the pulls and pressures of the wider society. This factor helps to explain partially the verdicts of the lower courts in runaway cases which readily accept the 'guilt' of the female and inflict a heavy sentence upon the male, on the ground that the sentence is salutary and is inflicted to set an example. At the High Court level, where such bias is not so noticeable, and appeals are contested on written testimony rather than oral, such sentences tend to be either reduced or totally commuted.

A departure: Judicial flexibility and its outcome

It is true that in most cases of elopement, the girl is pressurised by her family members into denying marriage and claiming kidnap, abduction and rape by the man concerned. But not all of them succumb to this. There are now an increasing number of cases in which the woman stands up for herself, and accepts the fact of her marriage, in which case if her adulthood can be 'unambiguously' established the court gives a favourable verdict. The end result regarding such marriages of choice however remains uncertain. The evidence suggests that even when the couple get a favourable verdict from the court the natal family is able to manipulate the situation in such a way as to deny the union. The state functionaries stand as mute witnesses pleading helplessness for their inaction. To illustrate I shall take up a case from Narela (a village located in the rural suburbs of Delhi, bordering the state of Haryana), to underline the continued ambiguities inherent in the legal system which have not been resolved even nearly 60 years after the passing of the enabling Marriage

Act. This case underlines how patriarchal forces continue to successfully use the state apparatus to circumvent what the law has bestowed. No amount of precaution taken under expert legal guidance seems to be of any help. For a marriage of choice which cuts across societal norms and may still be termed 'successful', has to be a run-away marriage with the couple living in anonymity and most of them in fear of discovery and retribution; just a few may be accepted by the immediate family, and then stealthily and only years later. Despite the law and now the somewhat increasing number of judicial pronouncements regarding the 'validity' of all such marriages, there are few takers, except the young couples who dare.

This is an October 2001 case in which Babita, belonging to the dominant caste of Jats in village Narela, made a runaway marriage with Satish, a dalit boy, belonging to the Balmiki caste.[9] Caught and hauled up, she denied her marriage in the lower court, but acknowledged it to the judge when summoned to his chamber. In open court she had stated that she was forcibly taken by Satish and raped. But once alone with the judge she recorded her statement that she was above age, had married of her own volition and was being beaten and pressurized by her parental family to deny it; and that she did not want to go back to them. The ossification test showed her to be between 17 and 20 years of age. The court accepted her contention. However, as Satish and his family members fearing arrest had gone underground, the court sent her to Nari Niketan (a state-run-home for protective custody of women). From there she was whisked away within a day by her natal family.[10] It may be noted that as a general rule runaway girls are handed back to the natal family, unless the girl makes a special request to the court, voicing her fear of violence. Many times even this plea is not heeded as the family is considered a 'natural and safe haven', by the police as well as the judiciary, despite massive evidence to the contrary.

On 7 Dec. 2001 Satish moved the High Court on a Habeas Corpus writ, claiming his wife's custody. The girl was produced in the court. But by now she had changed her statement again. Once at home and clearly unable to withstand pressure and violence, Babita denied marriage. She refused to go with Satish saying that she did not want to live with him. The court, noting her inconsistency, instructed that since her marriage had been accepted she would have to move the civil court for divorce to get release from the same. Instead of seeking a divorce, Babita's family filed a case for annulment of marriage on the ground that this marriage had been brought about through fraudulent means. It may be stated that for divorce, unless it is mutual, the proceedings are very long drawn-out and cumbersome, as valid grounds have to be submitted and proved. Satish reacted by filing a suit for Restitution of Conjugal Rights in Feb 2002. More and more husbands are moving the courts to seek custody of their wives as they are detained by the parents after having been lured back with promises to accept the marriage. There are numerous such cases reported in

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9 The field work for this case was done in 2002-2003. I was also a part of PUDR (People's Union for Democratic Rights) team that that worked on the report entitled: 'Courting Disaster' ,August 2003, based on case studies of violence around choice marriages that occurred in the villages of Narela and Talao. The fieldwork has involved extensive interviews with a wide variety of people connected with the case.

10 The state run 'protective' home is supposedly a neutral space where the woman is to be inaccessible to both the contending parties, i.e. her father or parents and her husband. This however is not observed in practice and considering the general acceptance of the 'illicit ' nature of her 'desire/lust' the parents are allowed full access to the woman, who is also allowed to be frisked away by them and pressurised to do their bidding.

the regional and national newspapers.[11] All these underline the increasing number of couples who are defying caste-community norms to make marriages of choice.

The Narela case was a long drawn out one with several hearings, during which Babita simply disappeared. Reportedly she was either married to someone else or was disposed of. Whatever the truth the married couple could not be reunited. Despite a favorable verdict from the court the casteist and patriarchal forces, amply supported by the police, succeeded in manipulating the situation in such a way that the marriage stood nullified to all purposes. Notwithstanding the law and the favorable judicial verdicts that are being made, the unfortunate demise of such cases continues to assert the male guardian's right to 'give' a girl in marriage and the futility of making a marriage of choice.

Satish, when interviewed, showed himself aware of other inter-caste elopement and marriage cases like his own, which had ended in tragedy. In fact, despite all dangers and knowledge about the outcome of such cases, Satish and Babita had decided to go ahead. In this connection they had taken certain precautions. Before getting married they had contacted a lawyer in Tees Hazari (lower court complex in Delhi) who was known to specialize in arranging marriages for such runaway couples. According to Satish, lawyer had assured them that he had helped several couples like them to get married and that they were living happily together. This advocate had also been informed of the 'unequal' caste factor and the opposition of the family members, particularly of the girl's. He suggested a few precautionary steps to avoid legal entanglements. These were followed very faithfully. Under his advice Satish and Babita got married according to Hindu rites, in an Arya Samaj mandir (temple) in Jamuna Bazar, Delhi, on 15 May 2001. After a lapse of six days they had their marriage registered in the marriage office of Tees Hazari. Registration of marriage is considered necessary in such cases to make it 'more legal and binding'. Satish says that in both the places, in the mandir as well as marriage registrar's office, he was made to pay much more than the stipulated amount. For example, the advocate asked him to give Rs. 5000 for the Arya Samaj wedding whereas the actual fee was only Rs. 1500; Rs. 12000 were paid in the registrar's office, where there is only a nominal fee. Clearly, in all such marriages, popularly known as 'love marriages', which are obvious as such because the parents of the couple are absent, the in-between 'helpers' or touts or even advocates who insist that they 'specialize in bringing about such marriages', are making a lot of money. This lawyer was later hauled in and roughed up by the Jat family and had to apologize to them for helping the couple to get married.

Significantly, the lawyer had not advised them to go in for civil registration of marriage, but an Arya Samaj one. Although legal, this ceremony is not necessarily held to be at par with the civil registration of marriage. The Arya Samaj marriage is a quick affair, with hardly any questions asked of the couple. Civil registration, on the other hand, with its mandatory notice period of one month, prior to the marriage, along with proof of age and residence and written court notice to the parents for verification, is used to check the antecedents of the couple before declaring them man and wife. These legal precautions are supposed to act as buffers against the 'illegality' of marriage.

11 See for example, Dainik Jagran, Rohtak, daily news paper, Hindi, 21 June 2004, p. 16; Times of India, daily news paper, English, 2 Nov. 2005, p.3. Data shows that the largest number of habeas corpus writ petitions in the courts are contests over custody of women. See Chakravarty, 2005, pp. 308-331

Yet they also provide a valid reason to couples for not availing themselves of the state provided civil marriage facility (Mody, 2002: 223-56). The in-built obstacles instituted by the state strengthen the man-made obstacles, emanating from deep prejudices regarding such marriages, and make the possible discovery of the runaway couple a very real possibility. There are several cases in which the court notice given for registration of marriage has led to the two parties of the couple coming to blows in the court premises.[12] In such cases the state and its functionaries emerge as obstructing the marriage rather than facilitating it. Consequently, runaway couples are not known to have recourse to state sponsored civil marriage, but to that of the Arya Samaj.

The 'highly objectionable' role of the Arya Samaj in assisting and even promoting marriages of choice which do not have the 'blessings of the family' has been noted by the village community as well as the state judiciary. In Haryana, for example, the Khap Panchayats (caste community councils representing a wide geographical area inhabited by a large group of linked clans), have been vociferously demanding the closing down of the Arya Samaj temples in the state for 'encouraging inter-caste and love marriages'.[13] Other states like Rajasthan[14] and Gujarat[15] have been even more directly involved in dealing with the 'Arya Samaj menace'.

In the Narela case, the lawyer had also advised the couple to keep quiet and allow three months to pass before taking any other step. According to him, this was a legal precaution, as the marriage could not be dissolved after three months. The couple therefore went back to their respective families and no one came to know anything. After three months, on 17 of Sept. 2001 they left first for Haridwar and later for Agra. At this stage Babita, under the instructions of the advocate, wrote a letter stating: "I am a major and my parents wanted me to marry somewhere else, which was not acceptable to me. So I have legally married Satish and in case my parents lodge a fake case either against me or any of Satish's family members, no action should be taken against any person". Along

12 For several such cases see Dainik Jagran 21 June 2004, p. 16.

13 For the most recently voiced such demand in January 2013, see Times of India,, Delhi, 21 Jan 2013, p. 8. Om Prakash Dhankar, a prominent khap leader of Haryana demanded that the temple should be allowed to solemnize marriages only in the presence of the parents of the couple and the officials of the village panchayats—a condition which can hardly be fulfilled by a runaway couple.

14 A two Judge Bench of the High Court of Rajasthan noted 'the role of facilitator' played by the Arya Samaj in encouraging the 'greed and lust' of the girl and the boy as also their 'minting money' by their offer of bringing about a 'quick marriage'. This, according to them, was resulting in 'serious problems' for the society. The case arose out of a writ petition from a husband who wanted his wife, having been taken away forcibly by her parents, to be restored to him. The court ruled that in future an Arya Samaj marriage could be solemnized only after informing the parents. If they objected, the couple must provide three prominent persons each, as witnesses to their marriage. A notice of the intended marriage with the names of the boy and girl prominently displayed was instructed to be displayed on the notice boards at the District Collectorate, local police station and at the Arya Samaj office. A copy of such a notice was also to be sent by registered post to the parents of the couple. The Bench directed that at least six days' time be given to the parents to take a 'conscious decision' on the 'love marriage'. In other words the Arya Samaj offices were instructed to observe certain rules and regulations for solemnizing marriages corresponding to those maintained by the Civil Registration Office. *Times of India*, 23 Oct 2011, pp, 1& 12.

15 The government of Gujarat has also not been lagging behind in tightening restrictions on marriages of choice. In June 2005 it issued an unconstitutional order which cannot be legally enforced and if ever made into a law by the Gujarat Assembly it is likely to be thrown out for violating fundamental rights. Through an official circular, the government introduced certain rules asking courts not to register marriages unless there was parental consent in writing. As a result couples in Gujarat started to be turned away by the marriage registrar. Times of India. 22 July 2005, p. 6.

with this letter were attached the marriage certificate as well as her school certificate as proof of her age. Copies of this letter were sent to the Police Commissioner, the Station House Officer of Narela village, and their respective families.

Despite these precautions and signed statements of Babita, furnished with proof, the police in Narela, under instructions from Babita's family (some of whom were also in the police) registered a FIR of her abduction and let loose terror on Satish's family members. Following the advice of the advocate the couple resurfaced after a month, on 22 October 2001, with the intention of making a statement in the court. According to Satish this resurfacing was also because he had run through his money and he had come to know about the harassment his family was facing at the hands of the dominant Jats. Once the couple reached Tees Hazari, the girl's family members (having come to know about their intention) whisked the girl away from the court premises. Satish tried to register a FIR with the police regarding the abduction of his wife from the court premises, but failed to do so. The complicit police refused him his legal right. A week later, on 31 October Babita was produced in the court by her natal family to make her statement. What happened in the court has already been narrated.

It is clear from the this case that the courts can, and at times have declared such marriages legal. But the difficulties remain. A recent July 2009 case from district Jind in Haryana further underlines the utter futility of getting a positive verdict from the High Court.[16] The young husband, Ved Pal, succeeded in getting a court order against the verdict of the caste panchayat. He had been forcibly separated from his wife on the ground that their marriage was incestuous as they belonged to the same *got.* When Ved Pal went to legally retrieve his wife, he was savagely murdered. The warrant officer and the police party of fifteen who had accompanied him in this mission fled from the scene. Such cases can be multiplied. Moreover, a court can hardly stop the social boycott or ostracism inflicted upon the couple or their families.[17] Recourse to the law is not considered an effective solution in cases such as these although the caste panchayats make a mockery of the law of the land by maintaining a state of affairs that the law has attempted to change.

Retrieval, honour and violence

What is the fate of the runaway woman, who is either recovered by the family or by the state? Once the judiciary places her in the custody of her guardian she is either married off quickly and quietly or disposed off equally quickly and quietly. In the former case, she is invariably married to someone who would not ordinarily have been entertained as her perspective husband. This may well be her second marriage and in fact is an illegal one.

Clearly, the absorption of a runaway girl into a traditional *biradari* network is not easy and often physical elimination of the girl is the only 'honourable' option. However, not always is the woman

16 See report in Times of India, 16 July 2009

17 A realisation of this has led to a demand for certain legal changes to factor into law punishment for the intangibles of social humiliation, like social boycotts, hurting, ostracizing, denying water and rations or exiling those who defy the community's diktats. These are reportedly under consideration.

or the couple eliminated or compelled to commit suicide. Although difficult to ascertain, in some instances it may well be a 'voluntary act' specially when a woman's attempt to marry a man of her choice, or having married him to be accepted as his wife, fails. At other times the couple commit suicide together even before they attempt to elope, because they already know that their desire for each other will never be allowed to culminate in marriage. The regional and national dailies are full of such reports.[18] In other words, in many cases violence erupts, inflicted or self inflicted, even before the matter comes within the purview of the judiciary. However, in a large number of cases it is murder plain and simple. But no one would testify or be a witness to the crime. The culprits run free. The *biradari* has full knowledge of the violent end of the runaway woman, or the couple, but observes silence. The silence signifies acceptance of violence as a just punishment for societal transgression. In fact the infliction of violence is considered the only 'honourable' course

In this game of maintaining 'honour' where does the state fit in? Having recourse to court is a kind of damage limitation for 'honour'. The loss of face in the community is greater if the runaway woman is not traceable than when she is found and brought back and restored to her family. The family male members have recourse to the lesser of the two evils, i.e., recovering the girl through the state agency, rather than being called '*na mard*' (emasculated). Once restored, her subsequent marriage or remarriage, however 'unworthy', still underlines an important right -- the right of the male guardian to give her in marriage, as also importantly the principle of caste endogamy.

In most of such cases the court therefore emerges as regulating a woman's sexuality in accordance with the customary rules. Yet a woman who has run away and is sexually experienced can hardly be integrated into the system of alliance based upon virgin girls by being gifted in marriage to 'respectable and acceptable families' (Das, 996: 2411-23). To follow this logic it can be maintained that women who make runaway marriages violate the codes through which, to use Veena Das's phrase, 'the matrimonial dialogue of men is conducted'. This matrimonial dialogue is important for claims and formation of caste, class and patriarchal status. A woman cannot be allowed to breach the rights of the patriarchal family. Such a woman deserves no sympathy and must be punished. Her self-made marriage has to be necessarily denied.

Growing anxieties: Community and judicial reactions

Despite the difficulties faced by couples who make or wish to make marriages of choice, the evidence suggests an increase. Although there is no statistical evidence, breaches of customary norms in marriages, whether inter-caste or intra-caste, are perceived to have escalated over the years. In fact a recent work, attempting to quantify such marriages, has termed it a 'silent revolution' taking place in northern India (Dhanda 2012). According to a rough estimate of the lawyers in Chandigarh, the Punjab and Haryana High Court receives as many as fifty applications per day from couples fearing for their lives, seeking state protection, or anticipatory bail or restriction orders against being mentally and physically harassed by the parents and other relatives, for having defied their families and community in the matter of their marriage. According to the lawyers this is a staggering ten-fold rise from about five to six applications a day, five years ago. In such cases the

18 Under sensational headings like: "Lovers end their life", local and national newspapers are full of such reports. See for example Times of India, 2 Nov 2005, p. 3.

High Court has been taking a firm pro-couple stand by reiterating the fundamental right of two adults to marry regardless of caste, religion or community restrictions. Despite this the outcome of such cases, as pointed out above, remains uncertain.

There are multiple socio-political reasons behind this increase.[19] These extend from the rapidly changing social milieu to the process of political democratization, the opening of economic opportunities that have altered local power dynamics, and further complicated interpersonal relationships between members of different caste groups as well as between members within a caste group. The traditional linkages of unequal status, hierarchy and prestige are challenged and replaced by new norms based upon notions of egalitarianism, citizenship and entitlement. Certain shifts are occurring simultaneously: on one hand, caste solidarities are crystallizing, and on the other, education, reservations of jobs for lower castes and backward classes and the opening out of the economy are eroding the traditional system of caste by changing the material bases of different caste groups. There is a certain amount of de-linking between caste, occupation and power in contemporary India. Other identities have taken over, leading to greater self assertion and the rejection of traditional norms observed for the purposes of marriage. Couples are therefore defying the age-old customs and revolting against the imposed constrictions, which they do not believe in. In the current social environment of education, higher mobility and a globalized and consumerist society which has increased the intermingling of sexes, it is not difficult to understand their defiance or 'revolt'. Consequently, on the one hand we are witnessing a growing defiance from the young couples regardless of the consequences, and on the other an equally strong reaction to this defiance in the form of growing resistance from the community. In fact this strong reaction is connected with and underlines the increase in such cases.

As more and more couples have resort to law in order to avail themselves of their constitutional rights enshrined in the Hindu Marriage Act of 1955, the Khap Panchayats of Haryana, Uttar Pradesh and Rajasthan have demanded an amendment in this Act. Their aim is to get the state to accept the caste/customary rules of marriage so that the challenge posed by such couples may not have any legal validity. Such a demand has not succeeded and is not likely to succeed. Faced with the increase in marriages of choice and the rejection of their demand for amendment of the act, such cases continue to be dealt with in the traditional way, that is by a physical elimination of such couples generally and of the girl especially under the entirely erroneous euphemism of upkeep of'honour'.[20]

The last couple of years have seen a great flood of such crimes leading to an extraordinary outcry from the public. Things came to a head in 2010 in the aftermath of the Manoj-Babli case of 2006 (Dogra 2013) when the Additional District Sessions Judge of Karnal pronounced death sentences for five accused and a life term for one other in the brutal murder of this couple, who

19 For details see Chowdhry, 2012 197-237, and 2007, 250-295

20 For a comprehensive historical and present day manifestation and in-depth analysis of so-called 'honour crimes' see Chowdhry 2007.

had made a run-away marriage.[21] This case proved a catalyst for nation-wide debate. Given great prominence by the media, both print and electronic, in discussions in which many members of civil society, as well as social and political activists participated, this case succeeded in galvanizing public opinion against crimes perpetrated to control marriages of choice. The judiciary and the executive intervened in this debate and demanded change to settle matters. The widespread and prolonged consultations with different interest groups led the Supreme Court to declare the activities of the khap panchayat 'illegal'. The central government is currently waiting for an order from the Supreme Court before drafting a law regarding this. Also, in order to protect young couples from harassment for eloping and marrying against the wishes of their parents or the community, the central government recently, in March 2013, requested the Supreme Court to send instructions to the police against filing a case of kidnapping or abduction without ascertaining the view of the girl if she was sixteen years or more.[22]

Indeed, from time to time Supreme Court has been issuing directions that 'stern action' must be taken by the police in accordance with the law against persons responsible for such harassment and torture.[23] The highest judiciary has been particularly harsh on those parents or community members who have not allowed such couples to marry. Since constitutionally such a right cannot be denied to these couples, certain judgements have been very heartening to their cause.[24] In some of the cases the Supreme Court has taken a firm stand by maintaining that a girl has the right to choose her life partner and warned parents not to use force to interfere with their daughters' decisions. In a May 2009 case the Supreme Court had stated:

India is a free country where girls after attaining the age of eighteen years have the freedom to live with or marry anyone they like. Parents, if not happy could at worst sever their ties with her but cannot threaten, coerce or torture her.[25]

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21 Justice Vani Gopal Sharma, Additional District Sessions Judge of Karnal withstood all alleged pulls and pressures and threats from local bigwigs to pronounce this far reaching sentence on the members of the khap panchayat. However, in the face of violent threats to her life she had to be provided with police protection and posted out of Karnal.

22 In making this request the Additional Solicitor General, Indira Jaisingh, cited a 1962 Supreme Court judgment in which the court had set aside the criminal charge brought against a boy for having kidnapped a minor girl and marrying her. The court held that the girl had reached the age of 'discretion' and 'had left her father's protection knowing and having the capacity to know the full impact of what she was doing voluntarily'. Therefore the boy could not be held for kidnapping her. See Times of India, 22 March 2013, p. 8.

23 A path-breaking judgement by Justice Markandey Katju, ended a six-year ordeal of a young woman, Lata Singh, who faced her brother's fury for eloping from Lucknow and marrying a person of her own choice. (This was a pratiloma case of a high caste woman marrying a dalit man). The court quashed all proceedings instituted against her husband and his relatives by her brother. It also instructed that criminal proceedings be instituted by the police against anyone who issued threats or committed acts of violence against such couples. All the national dailies gave this judgment fitting coverage. See Times of India 8 July 2006.p. 1, 10; Hindu 8 July 2006, p.13. Indian Express 8 July 2006, p. 1; Hindustan Times, July 9, 2006, p.7.

24 For certain judgements and court cases see Agnes 2012, pp. 81-142; Chakravarti 2005, pp 308-331.

25 See a Jammu and Kashmir High Court judgement overturned in the Supreme Court as cited in Times of India, 22 May 2009, p. 9; 19 May 2009, p. 13.

But these judgements remain few and far between. The weak and motivated findings of the police, the expensive, prolonged, time consuming, biased trials in the lower courts, followed by appeals, hardly allow many cases to reach the top levels. Moreover, despite a favourable judicial verdict, couples still remain uncertain of being able to continue their union.

Conclusion

In the coming together of two opposing and mutually contradictory principles like tradition and modernity, as represented by the family/caste/community on the one hand and the state apparatus on the other, it is the former which tends to prevail. These norms of society influence the state agencies: the police who are very dextrous in retrieving the girl, sabotaging her marriage and later in pleading helplessness in saving her life; and judicial decisions which are a reiteration of caste/community and kinship codes rather than their negation on the basis of modern concepts such as individual rights and equity. The judges deliver a moral judgement rather than a legal one. These judgements reveal certain contradictions and tensions in which the female body emerges as a contested site. They also reveal a great deal about the flexibility or restrictiveness with which judicial standards of adulthood for a woman are evaluated and imposed. The official adult age and a woman's resultant rights stand negated with the judicial insistence upon her under-age status, where her adulthood emerges as related more to her 'legally married' status than her age. The gendered judicial eye sees women's sexuality in one way and man's sexuality in another way. The former is condemned and the latter is naturalised, not even commented upon. Mutuality and consensual sex is denied outside of 'legal marriage'. This infringement of her rights over her body constructs an identity of a runaway woman for which she has to pay a heavy price, being given an identity as a woman habituated to sex -- in effect a prostitute. In marking the body of such a woman the state agencies legitimise a new stereotype of a woman who has brought shame and dishonour upon her family, community and society. The state officially confirms the popular prejudice against such women. The incorporation of such a woman into society then becomes difficult, if not impossible. The elimination of such a body remains the only 'honourable' way out. This is a frequent recourse taken by the aggrieved 'dishonoured' family members and accepted by the community at large as well as the state agencies. Such a step evokes only relief all round.

In this ideological convergence of the state and the family the woman alone stands as the discordant voice. Concepts such as 'purity' and 'honour' conflict with the life-world of women, their desires and their priorities. In running away a woman not only breaches and damages this 'male honour' but also underlines the value she herself places on the concept. The concept is given a subordinate position and value as compared to her fulfilment of marital and sexual desires and preferences. For this highly individualistic re-evaluation, and the agency shown, she is punished or silenced for ever.

Yet, all is not lost. The existence of the law of the land overriding all the traditions and customs cannot be ignored. The highest judiciary, well noted for upholding the constitutional and fundamental rights of individuals, remains steadfast. From time to time they issue orders and guidelines for the lower judiciary as well as the state agents, reminding them of the legality of issues involved. The success of a few cases, which accepted both the adult age status of a woman as well as her marriage, suggests the possibility of a change. It also suggests that the existence of such laws may indeed be acting as a deterrent in certain cases of marriages of choice in which the adulthood

of the girl is unambiguous. Nevertheless, despite the existence of laws it must be recognized that the state's responsibility for implementing them and making marriages of choice effective remains. The state agencies, whether political, legal or administrative are accountable for safeguarding the citizens' fundamental rights in asserting choice in marriage; implementing existing laws; for failing to take and follow up appropriate measures, or adopting measures to prevent the commission of crimes relating to marriages of choice; and effective investigation and prosecution of those who oppose and perpetrate violence in such cases. In case of dereliction of duty, the onus is on the state to make provision for exemplary punishment of its functionaries, at all levels.

However, the social acceptance of such marriages in rural areas, by and large, remains uncertain. What is certain is that in cases where judiciary and state implementers are true to the dictates of its law, healthier traditions can be established which may in time consolidate and succeed in upsetting the traditional norms enforced in the extra judicial sphere.

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The Grammar of Honour and Revenge

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Abstract

There is a rich anthropological literature on honour and revenge, but more often than not, analyses are limited to cultural or historical expressions of the phenomena. As a corollary, the recent re-emergence of honour in Europe is usually explained in terms of non-western immigrants who bring notions of honour as part of their cultural luggage. However, the practice of honour and revenge by Danish Motorcycle Clubs suggests that such an approach is insufficient. The ambition in the article is to go beyond the various cultural expressions and search for a basic 'grammar' that can explain why honour becomes a valid theme in some societies and in certain situations. In that endeavour, two questions are vital: What is honour all about? And what is the logic in the perception that lost honour can be restored through revenge? Analysis of a prototypical feuding community in Northern Pakistan concludes that honour is best understood as a family's publicly recognized capability for self-defence, and that revenge is a means to restore that image if it has been shattered. I contend that honour – in the sense of self-defence – is vital in societies where there is no accessible level of appeal in cases of conflict. Furthermore, the logic of honour that prevails among competing families in Northern Pakistan can also occasionally be recognized at the state level in international politics since there is no reliable supranational level of appeal in cases of perceived injustice.

When former US President George H.W. Bush assured that the 1991 Iraq war was a means to "restore the nation's honour", and when a Turkish father in Oslo claimed that he killed the lover of his daughter "in order to restore the honour of the family", were they referring to the same kind of honour? A relativist answer would of course be negative. At first glance, comparing the two highly dissimilar phenomena of the Iraq war and a homicide in an immigrant community in Oslo hardly makes sense. The fact that both refer to honour may reasonably be related to linguistic shortcomings. Since European languages have only one term for 'honour' (Stewart 1994), it is a cover term for a wide range of sentiments and circumstances. The futility of comparison is aggravated by the translation of Turkish *seref* into English honour (*ære* in Norwegian). How do we know that we are dealing with the same phenomenon? An easy way to circumvent the question is to confine our analyses to an idiographic level of honour-in-local-context, which is also what most writers on the topic do.

Idiographic analyses of honour-in-context are praiseworthy in their own right, and even more so when they add to the ethnography of global cultural variation. However, is it possible to go beyond the local expressions and look for universal traits of honour that do not respect cultural borders? At the risk of being accused of essentialism, that is exactly what I try to accomplish in this article. That attempt is in line with the works of anthropologists like Fredrik Barth and Robert Borofsky, who are " concerned with making flux and variations intelligible by discovering mechanisms that produce them" (Vayda 1994:324). I shall look for mechanisms that can present honour actions

as solutions to human dilemmas of wide extension and not confine myself to ascribing them to incommensurable cultural rationalities. In this endeavour I shall lean on critical realism, which contends that empirical phenomena are outcomes of causal mechanisms that are hidden from observation (Bhaskar 1978, Putnam 1987, Sayer 2000, Groff 2000, Hansen & Simonsen 2004). Since the mechanisms that produce variation are not observable, we can only approximate them by constructing theories. My ambition in this article is precisely that; to propose a theory of honour.

The alleged incompatibility of honour and modernity.

Thirty five years ago Peter Berger claimed that modern society has no room for honour. In the modern context, he wrote, honour merely appears as "ideological leftovers in the consciousness of obsolete social classes, such as military officers and ethnic grandmothers" (Berger et al 1974:78). Honour has resisted extinction by modernization in small pockets of Mediterranean Europe. In Albania, for example, honour (*khanun*) was the *leitmotif* of 6000 murders during 1995-2005 (Le Figaro 04.07.2005). But in modern Europe at large honour has been outdated for a long time. France was one of the last countries to remove the paragraph on *crime de passion* from its legislation in 1975. Berger's contention that honour is incompatible with modernity sounds intuitively to be equally valid.

During the last twenty years, however, honour has re-emerged in Europe. European countries witness occasional gang-fights where honour and revenge are central motifs; homicides are committed in order to restore the honour of the family; and women are killed in the name of honour. More often than not such events are linked to immigrant communities by news media. In 2002, Sweden was shaken by the story of a Kurdish father who killed his daughter Fadime who co-habited with an ethnic Swede; Oslo is occasionally plagued by gunfights between two gangs dominated by second-generation Pakistanis; and the murder of Turkish Hatün Sürücü by her brother in Berlin 2005 raised a national debate over honour killings in Germany, to mention but a few examples.

Such incidents challenge European ideas about integration. Ethnic Europeans are not willing to accept any custom just because it is claimed to be part of cultural tradition. The two discourses of multiculturalism and justice seem to be disjunctive, to borrow a phrase from Appadurai (2003). The question is whether the idea of honour is compatible with the idea of multicultural society, or whether Berger is right when he claims that there is no room for honour in modern democracies. The problem can be illustrated by an example.

Some years ago an honour killing was committed in a Turkish community in Oslo. The background was a sexual relationship between a young Turkish girl and a thirteen-year older married Turkish man. When the encroachment was discovered, the girl alleged that she had been forced into the affair. The girl's father and two brothers decided to kill the lover in order to restore the honour of the family, which they did. When the case was later brought to trial, the High Court requested an anthropologist to explain the Turkish cultural context of honour. Eventually, the three accused were given relatively mild sentences. However, the family of the murder victim was not content with the mild punishment and appealed the case to the Supreme Court. There, the sentences of imprisonment were increased by 4-6 years for all the three accused. Obviously, the High Court took into consideration Turkish conceptions of family honour and handed down light sentences, while

the Supreme Court disregarded the anthropologist's explanation and chose to apply Norwegian sentencing standards.

The case demonstrates the ambivalence and uncertainty on the part of the modern state – here represented by the court – when integration and multiculturalism are at stake. The case also came to reveal that anthropologists have divergent views on multiculturalism. A Norwegian anthropologist, Tordis Borchgrevink, agrees with the Supreme Court when she labels considerations for Turkish notions of female sexuality and family honour in Norwegian courts as a "generous sell-out of European values" and a denial of women's right to their own sexuality (Borchgrevink 1997). The anthropologist who explained the 'cultural ecology of honour' (as he labelled it) to the High Court defended his position by claiming that it has always been a principle of European law that the court should understand the motives of the accused before reaching a verdict (Grønhaug 1997).

It is not only in court that modern European values are challenged. In a study of identity formation in an Oslo high school dominated by second-generation immigrants from Pakistan and Somalia, Lien (2002) found that immigrant boys developed what she labels 'hyper-macho' identities in which honour was a central theme. In the field of romance which is so important in this age group, the aim of the immigrant boys was to seduce Norwegian girls and to protect their own sisters from potential boyfriends. In this play, the values of honour and respect became embraced by all students, immigrants and Norwegians alike: "Young boys and girls have become concerned with respect and honour, and, most importantly, they talk about it all the time" (Lien 2002:31). The emergent code of honour is at odds with mainstream ideals in Norwegian schools, where dialogical conflict solution and gender equality are official goals. Easy-going teachers, and male teachers who acted "feminine" by collecting their children from kindergarten after working hours, did not win much respect among the immigrant boys.

Neither the law nor anthropology are capable of producing the ultimate solutions to the disjunctive practices of honour, justice, and gender equality, which is probably as it should be, since these are basically political and ethical dilemmas. But even if anthropologists and other social scientists cannot assume the role of soothsayers, we can and continuously do produce knowledge about honour and about multicultural society. The question is what kind of knowledge we do produce, and what policy implications that knowledge does invite. I shall argue that anthropologists unintentionally prepare the ground for populist resistance to immigration by conceiving of honour as a kind of cultural import that is out of place in modern democracies.

Pre-modern honour and modern dignity

Julian Pitt-Rivers (1965) was one of the few anthropologists to have suggested a theory of honour. He discovered that in spite of temporal and spatial variations in the perceptions and practises of honour, there were some similarities. On the basis of these similarities he formulated a theory that he called the *pecking-order theory of honour*. In short, the theory runs thus: Honour is a person's worth as seen by himself (Pitt-Rivers write in the male form), but also the way in which he is regarded by his community. When a person is member of a primary group – a family, a clan, or a tribe – he invests his honour in the group, and the community around him recognizes it. The honour of the group thereby becomes synonymous with the honour of its individual members.

This collective honour emerges in societies which are characterized by a) multi-stranded social relationships, and b) groups of equal standing who compete for rank. The competition for rank is carried out in a zero-sum game: the rank gained by one family is the loss of another. The logic of the game is that families (or other primary groups) attempt to take down competing families and thereby raise their own rank and honour; hence the term 'pecking-order theory'. But an important point is that the game of honour only takes place between persons or groups of approximately equal standing. To compete for honour with a group which is clearly below one's own in rank would mean to admit equality to that group. "A man is only responsible for his honour to social equals, that is, to men with whom he can compete for honour" (Pitt-Rivers 1965:31). Hence, a nobleman would not duel with a peasant; if he did, he would lower his standing to that of the peasant.

Five years after the publication of Pitt-Rivers' seminal article his viewpoints were put into the context of modernization by the sociologist Peter Berger (1970), who distinguished between pre-modern society (*ancien régime*) and modern society. The main differentiating criterion between the two eras is the way in which social positions are obtained. In pre-modern society social position, or status, is ascribed by birth. Because people in such societies are closely identified with what they do, personal identities are intimately related to social positions. Honour is a kind of marker that distinguishes the position from other, inferior positions. A challenge to the position is simultaneously a challenge to the identity of the persons who belong to that position and will therefore invoke a vehement reply.

In modern society, ascribed social positions have been replaced by achieved positions. In such a society perceptions of honour becomes obsolete. Since social positions are no longer ascribed at birth, it is not necessary to demarcate them against other positions. Honour has been replaced by another ideal, the notion of *dignity*. Dignity turns upon the very essence of being human – man and woman stripped of all positions and roles, according to Berger (1974). Our ancestors wished to die with honour; modern people wish to die with dignity.

The inadequate 'theory of acculturation'

Nils Christie, a criminologist, has used the number of cases of slander and libel[1] reported to the police as an index of Norwegian preoccupation with honour (Christie 1985). He found a clear decline in reported cases from 1945 to the late 1970s, which he interpreted as implying that Norwegians are becoming less concerned with their honour. This would appear to validate Berger's theory; there is no room for honour in modern Norway.

Sweden has experienced a similar decline in the numbers of slander and libel cases in the post-war period. There, however, Christie noticed a slight increase during the latter half of the 1970s. This, he contended, was caused by immigration from non-Western countries. A similar development could be expected in Norway which was some years behind Sweden in accepting substantial numbers of immigrants (ibid). Now, twenty five years later we can ask if Christie was right. Have reported slander cases increased in tandem with immigration from countries where honour still matters?

1 Slander and libel translates into 'violations of honour' in Norwegian.

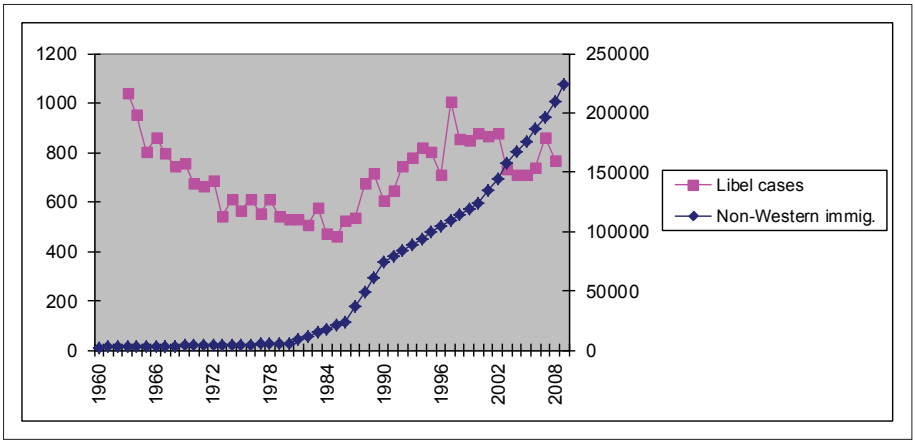

Figure1. Reported cases of slander and libel, and non-Western immigration[2] *to Norway*

Figure 1 shows a steady decline in the number of slander and libel cases from 1962 until the mid-80s, in conformity with Berger's theory of modernization. But after 1985 the number of reported cases increases. It is close at hand to interpret the significant correlation ($p<0.001$) between immigration from non-western countries and slander cases since 1980 in the manner that the rising incidence of slander cases is due to immigration from typical 'honour cultures'.

Implicit in Christie's reasoning is a belief that immigrants will renounce certain cultural traits after some time in the host community. This belief is supported by the *theory of acculturation* that enjoyed wide credibility in academic circles during the 1970s and 80s. Fischer (1986:231) summarizes the theory thus: "In the first generation of immigrants problems are related to the family or to the ethnic group; in later generations they become related to the individual, and they will disappear, too". According to the theory of acculturation it is just a matter of time before notions of honour and other cultural peculiarities will disappear. Berger was reasoning along these lines when he ascribed honour in the US to 'ethnic grandmothers' (Berger 1970).

The theory of acculturation was anchored in experiences with immigrants to the US in the early 20th century. In contrast to Europe a hundred years later, the universal ideal was to *assimilate* newly arrived Americans. After several generations in the American 'melting pot' they were all to become Americans, stripped of distinctive ethnic or cultural characteristics. In modern Europe, on the other hand, the idea of *integration* encourages immigrants to maintain cultural peculiarities. That goal does not integrate well with the theory of acculturation. If the ideal is to maintain cultural peculiarities in a multicultural situation, we should not expect honour to be replaced by dignity in immigrant milieus. Wikan (2003) has accepted that the resurgence of honour is not necessarily a temporary phenomenon: "Honour and honour killing do not belong only to distant cultures. Today they have become part of Norwegian, Swedish, and Nordic tradition and society because

2 Non-Western immigration here means immigration from Asia, Africa, Latin America, and Turkey. The graph on immigration is interpolated on numbers from the years 1960, 1970, 1980, 1986, 1990 and annual numbers on 2000-2009.

milieus in which honour can– under certain circumstances – result in homicide, have become part of our new multicultural reality" (Wikan 2003:9; author's translation). But even if Wikan remains aloof from the theory of acculturation, she implies that honour is a cultural import. Our 'new multicultural reality' consists of a majority culture in which honour is no longer a valid theme and several minorities cultural milieus in which it most certainly is. Wikan (2003) as well as Christie (1985) perceive of honour cultures in the Nordic countries as imported relics of pre-modern society in the homelands of non-western immigrants. As I will show below, this distinction between 'modern' and 'pre-modern' societies is rather dubious.

One of the two great projects of anthropology has been to describe societies in their own terms[3], according to Clifford and Marcus (1986). Particularly in the present era of intense human mobility when widely differing rationalities are mixed in individual societies, there is need of researchers who act as intermediaries between different systems of meaning. As long as we do not understand each other's rationality, there is a need for mediation of that kind in court, in schools, in politics, and in everyday life. But the brokerage between immigrants and the majority implies that two or more separate systems of meaning are established. If by 'cultural relativism' we mean to "ascribe rationality to patterns of behaviour that are inconceivable to others" (Fuglerud 2007), that is exactly what anthropologists have tried to accomplish. This way of reasoning is mirrored in what Fuglerud (2007) calls 'popular cultural explanations', which are salient and recurrent features of public debates on the topic. When anthropologists speak of *honour cultures* (Wikan 2003, Lien 2002) or *honour code society* (D'Andrade 2002), it is tempting for the popular explanation to postulate that honour is a cultural import that is out of place in a modern European context. The resurgence of honour in modern Europe it is brought here by migrants from the Middle East, North Africa, the Horn of Africa, and the 'Purdah Belt' of South Asia (Pakistan, Bangladesh, and North India) in particular. This is exactly the argument which populist political parties in Europe have embraced in their urge for more strict immigration regulations. Immigration from pre-modern societies equals import of problems – honour killing and others.

But is it right to conceive of honour in Europe as a kind of pre-modern weed in a modern garden of dignity? A study of motorcycle (MC) clubs in Denmark (Bay 2002) casts doubt upon the thesis that honour is a cultural luggage brought along by immigrants from typical 'honour cultures'. The study reveals that Danish MC clubs practice notions of honour that have striking similarities to those in Pakistan to which I shall return shortly.

MC clubs in Denmark are strictly stratified. The most prestigious clubs are entitled to the designation 'outlaw riders'. If an outlaw riders club loses in the competition for honour, it is degraded to a 'leisure club'; and if its honour fares even worse, the club ends up at the bottom of the hierarchy as 'family riders'. In the terminology of Pitt-Rivers, the club thus loses worth in their own eyes as well as in the eyes of other clubs. They become honour-less. The vernacular word for honourable is *stærk* (lit. strong). In the competition for rank the point is to project an impression of being strong/*stærk* on other clubs. Those clubs are *stærk* who are capable to protect their symbolic territories and club-houses by their own effort without seeking support from the police. In their efforts to be *stærk*/

3 The other project has been 'cultural critique', which means to study other societies in order to shed light on our own (Clifford and Marcus 1986).

honourable the clubs do not refrain from violence and even homicide (ibid.). Since MC clubs are a highly modern phenomenon, they do not fit into Berger's scheme.

Bourdieu claims that a sense of honour is internalized in the *habitus* of persons who have grown up in milieus where it is a relevant topic: "The system of honour values is enacted rather than thought, and the grammar of honour can inform actions without having to be formulated" (Bourdieu 1979:128). But members of motorcycle clubs like Hells Angels and Bullshit MC have not been socialized in typical 'honour cultures'. They were raised in ethnic Danish families and spent their childhood in ordinary Danish neighbourhoods. Honour is not part of their cultural luggage. How should we explain the fact that they become as concerned with their honour as any Turkish or Somali immigrant when they reach adulthood? In spite of a significant correlation between non-western immigration and an increasing number of libel cases, the Danish MC Clubs call into question the very perception of honour as a cultural import and require an alternative explanation.

The much-evaded question of what honour is

"The anthropological literature on honour certainly has a number of curious features, one of them being that it rarely asks what exactly honour is" (Stewart 1994:IX). Stewart may have had Maddox in mind, as the latter explicitly rejects any endeavour to explain what honour actually is and instead proposes to describe its strategic use in certain social contexts (Maddox 1987). Stewart himself has given a brilliant account of the many usages of the term in historical Europe. Here, I am only concerned with the kind of honour Stewart labels 'reflexive honour', which is honour that must be avenged if it is threatened. But in spite of his allegation that anthropologists rarely asks what honour is, Stewart himself hardly offers a substantial definition. Other writers do not do much better. Welsh, for example, asks bluntly what honour is, but ends up by reflecting on what honour does: "For Greeks and Romans honour was something that was a powerful impetus to action; for Enlightenment philosophers honour could be more effective than virtue in controlling our selfish and animal-like desires; and for Kant and Rousseau honour competes with love and religion in shaping rules by which we live" (Welsh 2008:211). Here there is no suggestion as to what that 'something' that is an impetus to action, actually is. A survey of the literature on the topic leaves two questions in particular open to further enquiry.

The first question relates to what honour actually is. *What* was it a Turkish father in Oslo had to restore by killing his daughter's lover? *What* did the former US President mean that the 1991 Iraq War could restore? Let us have a closer look at Pitt-Rivers' much-cited definition of honour and see how far it can take us. As noted above, he defines honour as a personal value as perceived by the person himself and by others. "Honour is the value of a person in his own eyes, but also in the eyes of his society" (Pitt-Rivers 1965:21). For Pitt-Rivers, honour is an intrinsic value claimed by a person or a group, but is simultaneously the value that other persons or groups are willing to yield. The game of honour is an effort to merge these two aspects, to obtain social recognition for the value a group claims to have. This is a very important insight. It implies that honour is dynamic and must therefore be negotiated and re-negotiated continuously. Honour can be lost, and there are ways to restore it. Loss and restoration of honour happen in close interaction with the social environment, that is, with other persons or groups who also have claims for honour. Stewart is only echoing Pitt-Rivers when he suggests "that we look on honour as a right, roughly speaking,

the right to be treated as having a certain worth" (Steward 1994:21). But is it possible to go further and ask how a person's or a group's intrinsic value (Pitt-Rivers) or worth (Stewart) is constituted? A cultural-relativist answer is that a person's value is intimately related to his or her culture. All historical periods and contemporary societies display their own peculiar values attached to persons or groups, and any attempt to identify a universal essence in human intrinsic values is a dead end. Even so, is it possible to go beyond a pure cultural analysis and ask whether there exist some universal traits of personal value related to reflexive honour, that is, honour that must be avenged?

The second question relates to revenge. What is the logic in the notion that honour (whatever that may be) can be restored through revenge? If honour is something that is possessed by a family, it can be lost through certain kinds of behaviour. But what is the logic in the belief that it can be restored through, for example, a homicide? Wikan maintains that "honour killing can be directed towards men, as during blood feuds. But nowadays the victims are mostly women and girls who have dishonoured the family by breaking the norms of chastity" (Wikan 2005; author's translation). This is somewhat confusing. Men can be killed during blood feuds while women are killed for breaking the norms of chastity. Is, then, the logic of killing men different from that of killing women? And if so, do we have two different kinds of honour? Are men honourable while women are chaste? Or does male honour reside in the bodies of women?

Cultural explanations of honour leave two questions unanswered: 1) what is honour, and 2) what is the logic behind the notion that lost honour can be restored through revenge. Answering those two questions can widen the scope of our analysis from locating honour in certain 'pre-modern social formations' or in 'honour code societies', to regarding honour as a response to more universal human dilemmas. I shall try to elucidate the two questions by analyzing cases of honour killing in a Pakistani community in which honour and revenge are particularly salient features of everyday life[4]. The objective of that endeavour is to propose a theory of honour that can illuminate a wide range of events in the contemporary world, including Danish MC clubs.

Honour and Revenge in Hindu Kush

The site for this study of honour killing is a valley in the inaccessible Hindu Kush Mountains in Northern Pakistan. The region is locally labelled Yagistan which means 'the unruly country'. Approximately 20,000 people live in the valley of my study, Tangir. The population is divided into the three indigenous ethnic groups (*qoum*) of Yashkun, Shin, and Kameen. In addition there are newcomers (*uperah*) to the valley who belong to several other groups. All inhabitants are Sunni Muslims. In the course of a single decade, 127 honour killings were officially registered in the valley, but the real number is probably far higher. Because of the abundance of weapons and the high level of conflict, the valley only rarely receives visitors from the outside world. The travel guide *Lonely Planet* warns tourists against going there. In spite of their violent reputation, however, I found Tangiris to be more open and hospitable than many other peoples of the region. Their honour, however, should be taken seriously; if not, the response is vehement and spontaneous. About half the families have blood feuds going with one or several neighbours. Those families have erected solid stone towers on their farmsteads in which they sleep at night, and the men are armed wherever

4 The analysis is based upon several shorter fieldworks carried out during 1992-2000.

they go. They sip tea with the gun in their lap and they even carry arms when they go to relieve themselves in the fields, in case a vindictive neighbour should pass by.

Honour killing is institutionalized in Tangir. It is conceptualized in the local Shina language, and there are criteria for the emergence of an honour situation and rules for how it can be solved. An honour situation is often initiated by harmless enmity (*dushmani*) between two families. If the honour (*gheirat*) of one of the families becomes involved in the enmity, it may develop into mortal enmity (*mar dushmani*). Under certain circumstances a peace can be mediated (*jirga*), but by then several killings have usually been committed on each side.

Figure 2 – Sequence of the blood feud

dushmani →	**mar dushmani →**	**jirga**
enmity	mortal enmity	mediation

Since our goal is to understand the role of honour in such feuds, the methodological questions to ask are 1) under which circumstances does an enmity (*dushmani*) develop into mortal enmity (*mar dushmani*), and 2) under which circumstances can a *jirga*[5] be asked to bring peace between the parties. Let us start with a concrete case and see how the feud unfolds in Tangir.

Case 1

Two women of a Yashkun family were working in the fields when a Kameen neighbour and a companion assaulted them with the alleged intention of raping them. The women screamed, and other villagers managed to avert the crime.

Soon after the incident the Yashkun husband of one of the assaulted women killed the Kameen assailant. Had there been the least suspicion that the women had encouraged the assault, the men of the Yashkun family would have killed them, too. But since this was an obvious case of attempted rape, they were spared.

The Yashkun family was not willing to settle the mar dushmani even though they had gained the upper hand in the conflict. The reason for this may be that the Yashkuns had somewhat higher rank than the Kameens, and in addition, the Yashkun family was considered to be wealthier and more powerful than their Kameen enemies.

The youngest son in the Kameen family was an infant when his older brother was killed. On becoming a young man he sought revenge for his brother and killed the husband of the assaulted woman. A couple of years later The Yashkuns retaliated by killing another

5 A *jirga* is a council of influential elders who are accepted by both parties in a conflict.

Kameen brother. On the same day the youngest Kameen brother again killed another Yashkun man with the help of a distant relative.

By this time a small police station had been set up in Tangir, and the two Kameen killers were taken to jail in the District capital Gilgit. After some months they managed to bribe their way out of prison[6]*, but immediately after their release a dispute arose between them about who should bear the expense of their release. The Yashkun family heard about the disagreement and decided to exploit the situation. They promised the distant relative money and exemption from the mar dushmani if he killed his companion or otherwise arranged it so that the Yashkuns could get close to him and kill him. The relative accepted the offer and killed his previous companion himself.*

At this point the two families agreed to hold a jirga. The jirga based its verdict on an account of losses suffered by both families:

– *The Yashkun family had lost two men and suffered an assault on their women's chastity*

– *The Kameen family had lost three men.*

Since an interrupted assault on women's chastity was not considered to be equal to the life of a man, the Yashkun family was requested to pay some money to the Kameens. However, if the Yashkun husband had chosen to kill his wife who was involved in the incident, the two families would have been deemed to be even in terms of losses, without the extra payment of money.

The sequence of events in this feud enables us to draw some conclusions. When the Kameen men approached the two women, they challenged the honour of the Yashkun family. But it was not the honour of the women that was jeopardized. The honour that was at stake here is labelled *gheirat*, and it is managed by men only. Women possess chastity but not *gheirat*. Women's inviolability is part of men's *gheirat*. A man who defends the chastity of his family's women against other men is labelled *gheiratmand* – a man of honour. But if strangers manage to flirt with women without being punished, the male family members of the women become *begheiratmand* – men without honour. The point is that honour is only lost if an illegal approach towards women is allowed to pass unpunished; it is not the approach in itself that causes loss of honour. In the case above the Yashkun men were *begheiratmand* – men without honour - until they managed to kill a male member of the offending family; only then honour was restored. More precisely, their honour was in a state of flux in that period. If they had not taken revenge within a reasonable time, the Yashkuns would have been regarded as *begheiratman* by their social surroundings.

If the women had been raped, their male custodians would most probably have killed them, too, since the shame had been embodied and thus become irreparable. Women are also sometimes killed

6 There is a saying in Gilgit: "Why pay 100,000 rupees to a lawyer when you can get away with 10,000 to the judge"

if they are perceived to be a threat to the family honour, that is, if they challenge their brothers' and husbands' role as guardians of their chastity. Mothers, too, are strongly committed to guard the chastity of their daughters and daughters-in-law, in order to avoid a situation when their sons – their most precious belongings – will have to risk their lives in a blood feud.

The revenge killing restored the honour of the Yashkuns, but thereby the state of *begheiratmand* was transferred to the Kameen family. Now their balance of loss was negative, and the only way to regain their status of *gheiratmand* was to bring more losses upon the Yashkuns. So it went back and forth until both families for some reason decided to settle the feud. I shall return to that reason below, but let us first take a closer look at the Tangiri notion of male honour.

The man who succeeds in protecting the chastity of his family's women - sisters, wives, daughters - has honour. The man who punishes attacks on women's chastity also has honour. Men's role is to protect women's sexuality against outsiders. An attack on its women's chastity therefore exposes loopholes in a family's defence capability. If a man behaves indecently towards unrelated women, with or without their consent, it tells the outside world that their husbands or brothers are not living up to the role of guardians of their chastity. Such men are weak. And weak men do not have honour.

What, then, is the meaning of the Yashkun family's honour being restored by a revenge killing? The assault on their women exposed a weakness in their ability to defend their honour. They had not been able to defend the women against an improper approach. But by killing a man on the offender side they communicated strength and vigour to the social surroundings. The message of the revenge killing is something along the lines of 'nobody assails us with impunity!' Revenge is a means of confirming the capability of defence when that capability is questioned. When both families in the feud had demonstrated their defence power through retaliation, they could accept mediation (*jirga*) but not before! If one of the families had accepted arbitration before it had demonstrated its power, it would have lost honour. It would have lost its credibility as the defender of its women's sexuality and its men's lives.

Settlement of the feud between the two families, then, was dependent on both families having been able to demonstrate power. It is also important that the *jirga* reach a verdict where the account of losses is balanced between the parties. When both families had suffered equal losses, adjusted by the compensation paid to the one who had suffered most, the balance of power between them was restored.

Case 1 is about attack on women's chastity, and indeed, female chastity is the most frequent cause of mortal enmity in Tangir. Thirty-five years ago, Black-Michaud also noticed "the almost invariably violent reactions to offences involving the sexual honour of women" (Black-Michaud 1975:181) in his ethnographic survey of honour in the Middle East and the Mediterranean. But honour and revenge are not exclusively related to female chastity.

Case 2

Some time between the First and Second World Wars, when Tangir was formally under the jurisdiction of Kashmir, a woman from an immigrant Sayed family bought water rights to a spring in the hillside above the village. Later, when Tangir became part of Pakistan, the water rights were confirmed by the Pakistani administration. The appropriation of the spring water did not meet with the approval of the remaining villagers. People complained that monopolization of water contradicted Shari'a (Islamic Law), which states that water is a public resource not to be privately owned.

An influential Yashkun family from a neighbouring village owned some land below the spring. The Sayeds hoped to buy the land cheaply now that they controlled the water, but the Yashkuns did not want to sell, wealthy as they were. Instead, the Yashkuns started to construct a channel from Tangir River in order to supply irrigation water to the land in question. This was resented by the Sayeds, whose water would thereby lose its value. One day a young Sayed boy shot and killed a Yashkun man while he was working on the channel. During the mar dushmani that subsequently developed, two Sayed men were killed in retaliation. Several years later the channel was completed in connection with a Norwegian-sponsored hydro-power project. The new channel rendered the contested spring water irrelevant. The Sayed family had no water rights worth defending any more, and they were also by far the weaker party to the conflict. They therefore sent a message to the Yashkuns that they were willing to negotiate a compromise. A jirga was held in which the powerful Yashkuns held the upper hand over the numerically weaker immigrant Sayeds, and were able to dictate the conditions for peace. Even though the Sayeds held the disadvantage in terms of the balance of lives lost in the feud, having lost two men as compared to the Yashkun's loss of one man, the Sayeds had to pay Rupees 500,000 (approximately USD 15,000) to the Yashkuns. They were also obliged to give a daughter in marriage to the Yashkuns.

The marriage was a significant event in the ritual hierarchy of Tangiri *qoums*. Since Sayeds claim to be direct descendants of the Holy Prophet (pbuh) and thus the purest of all *qoums*, they practice strict endogamy throughout Pakistan. The Sayed woman who was married to a Yashkun man was thus allocating an equal rank to the Yashkuns. The compensation paid by the Sayeds in order to put an end to the feud thus consisted of material capital (money) as well as symbolic capital (acceptance of the equal rank of Yashkuns through marriage).

The settlement of this feud was not approved by Tangiris in general. If the Yashkuns had not exploited their superior power to dictate an uneven peace, they might have been ascribed *izzat* (merit) for being generous. As things turned out, the Yashkuns were termed *magroor*, meaning haughty and arrogant, by fellow Tangiris. By accepting a humiliating defeat, the Sayeds for their part were in danger of losing their honour and becoming *begheiratmand*. The peace is thus a fragile one. Since the Sayeds have lost credibility as defenders of their own interests, it is believed that a young Sayed will eventually react to future taunts and allegations of cowardice by resuming the feud. This belief is based on the experience that feuds are often initiated or resumed as a response to village gossip, which is salient in another case:

Case 3

One night Family A were woken by unfamiliar noises inside their home, which turned out to come from uninvited guests. Before the intruders managed to escape, one of them was identified as belonging to the neighbouring Family B. The matter gave rise to mild enmity (dushmani) between the two families, but it was left at that since no harm had been done. Soon, however, other neighbours started to suggest that the aim of the intruders was not theft, but that -their real intention was to approach the women of family A. This possibility was insinuated by means of metaphor: "Hey brother, the other day I saw some young billy-goats trying to break into the shed of family A to copulate with their nanny-goats!" By repeated taunts of this kind accompanied by sneers and laughter by others in the village, Family A was challenged to prove and defend its honour.

Enraged by the village gossip and teasing, an A man went to the B house and seriously injured one of the men with an axe. The victim survived treatment at a regional hospital and returned to Tangir partially disabled. Subsequently, the same A man tried to complete his revenge attack but this time the disabled target was armed and managed to kill the aggressor instead. Following this, a brother of the killed A man attacked and injured another B man, and two A brothers managed to inflict serious injury on a third B man.

At this point both parties agreed to hold a jirga. The mar dushmani was ended on condition that Family B paid compensation to Family A. In this way the losses of the two families were judged to be even, and the account could be cleared.

What actually caused this feud was not the nocturnal visit to the A house in itself. If it were not for village gossip, the *dushmani* might have been passed over peacefully. The incident, however, provided an occasion to challenge the two families to prove their power. The opportunity was seized by co-villagers, whose repeated taunts could not be ignored by the A family without a loss of honour. They had to retaliate against family B in order to avoid becoming *begheiratmand*. After having done so, their position in society was restored. They had unwillingly been forced into a situation where their honour was put in doubt, and they confirmed that they still possessed it by attacking the original offenders. In this way they demonstrated their honour – in the sense of capacity for self-defence – not only to family B, but to the community at large.

Feuds, then, are initiated because of real or imagined violations of women's chastity, but enmity also develops into mortal enmity over rights to water, land and pastures. In such cases it is also the role of the men to be guardians of family interests. It is men who must protect the rights to land and water which are vital for survival in Tangir. If a man is incapable of protecting those rights, he loses honour and becomes *begheiratmand*. From this we can draw the conclusion that *honour is synonymous with the ability of a family to protect its interests* –be those interests women's sexuality, land, water or other objects they define as being their exclusive possession. It is the weakness they reveal by failing to resist or punish attacks on those rights that leads to loss of honour. This interpretation, which corresponds to Black-Michaud's contention, allows us to specify the personal or collective 'value' that is central in Pitt-Rivers' classical definition of honour: *A group's value is*

its publicly acknowledged capability for self-defence. A man of honour is valued as a defender of his family's interests. This perception of honour was approximated by Black-Michaud, who concluded from his comprehensive ethnographic material that honour " is almost identical to the ability to defend it" (Black-Michaud 1975:181).

The cases above reveal the following grammar – or logic - of reflexive honour in Tangir:

– Reflexive honour is possessed by the guardians of family interests, that is, men.

– Reflexive honour is synonymous with the power to defend one's interests.

– Honour is lost when a certain offense is not avenged. In Tangir, such offences are violations of female chastity and humiliating defeat in conflicts.

– A feud cannot be settled until the involved parties have had the opportunity to demonstrate strength through revenge.

– Sustainable peace can be negotiated when the involved parties have suffered equal losses.

– Honour is given or retained by the social surroundings and communicated through gossip.

The logic of honour is merciless. Women are killed in order to remove shame and men are killed in blood feuds, and survivors live in constant fear of being the next victim. People of Tangir are not proud of this aspect of their society. But the Tangiris are caught in their own web of social relations and institutions, as are we all. Many Western people are not happy with consumer society and bustle and pollution, but we cannot do so much about it. In the same manner Tangiris are forced to defend their honour when it is challenged. A family which does not defend its honour exposes weakness, and weak families run the risk of being marginalised or even pushed out of the valley by neighbours who are eager competitors for land, water and women[7].

Returning to multicultural Europe, we could draw the simple conclusion that immigrants from so-called 'honour-cultures' like Tangir bring their sense of honour with them. It is part of their cultural baggage, and not until the second or third generation do they become 'accultured' into the modern notion of dignity. But that conclusion is insufficient if our goal is to understand the complex of honour as such. What about the Danish MC clubs? Their word for honourable is *stærk* (strong), and that alone indicates an affinity with the notion of honour in Tangir. Those who are *stærk*, have the capability to defend themselves. S*tærk*/honourable clubs succeed in defending their symbolic territories. Those who do not are degraded to 'leisure riders' (Bay 2002). In cases of conflict the sequence of events is structurally similar to Tangiri feuds. On one occasion the club Hog Riders burned down the club-house of rivalling Barons MC. Some months later, Barons MC succeeded in setting Hog Riders' club-house on fire. After that, both clubs agreed to call on a third club, Hells Angels, to mediate a peace between them (ibid.). The point here is that peace could not be

7 Knudsen (2009) gives an account of families who had to leave Kohistan (Pakistan) because they were not able to stand up against others in feuds.

mediated until both clubs had demonstrated their strength. If Barons MC had sought support from Hells Angels or complained to the police before they took revenge, they would immediately lose honour and be degraded to a 'leisure club'. Because this sense of honour and revenge is not part of the cultural baggage of MC club members who are ethnic Danes, it must have come into existence in Denmark. A new question thus arises: Under what circumstances does the defence of honour become important for a group?

A structural theory of honour

A salient feature of the Tangiri feuds is that a person or a family does not possess honour as a permanent quality. As Pitt-Rivers (1965), Stewart (1994) and Wikan (2003) have correctly observed, honour is given or retained by the social surroundings. Since honour is a social phenomenon, a proper understanding of it requires us to take a closer look at the society in which it appears. What characterizes Tangir society?

Tangir is part of the administrative unit officially called Northern Areas, which is only partly integrated into the Pakistani State. Islamabad has only limited jurisdiction there. Tangir itself is an acephalous[8] society, which is to say that there is no central political power in the valley. Tangir has not, nor has it ever had, a Wali or a Mir, as political leaders are labelled in historical principalities in the vicinity. The name Yagistan – the unruly country – refers to the acephalous social formation. The only political institution in Tangir is the *jirga*. It is the task of the *jirga* to mediate in all kinds of conflicts and disputes in the valley, including blood feuds. But the *jirga* has few if any means of imposing sanctions such as a court has. If the parties in a conflict do not accept the proposed solution, there is not much the *jirga* can do. Its only mandate is mediation. Tangiri political organization thus consists of equal families who are the architects of their own fortunes. If a conflict is not solved according to the wishes of one of the parties, as in the case of the Sayeds (case 2), there is no level of appeal. Not long ago, a police station was built in the valley, but it operates solely on the premises of the *jirgas*. In such a system, the ability of the family to defend its interests by its own means is of paramount importance. Those who are not able to defend their interests succumb to predatory neighbours in the merciless competition for resources. Tangir, then, is a society without a state.

Is it possible to find points of resemblance between Tangir and 'modern' expressions of honour?

Danish MC clubs exist in a highly modern state. But they put themselves in many ways outside the state. The highest ranking clubs boast the title of "Outlaw Riders", which points to the ideal of operating outside the state and its laws. Some clubs are also involved in activities like prostitution and illegal drug-dealing, turning their symbolic territories into areas of criminal operation.

In conflicts between gangs of immigrant youths in Europe, it is also unusual for the parties to seek help from the police. Those who go to the police expose their weakness and thereby lose honour. After several shoot-outs in Oslo some years ago, the police were met with a stony silence when they tried to interview hospitalized victims:" It seems that they prefer an inner justice to talking to

8 Litterally 'headless', referring to an anarchic society.

the police. 'We are seeing more and more of that sort of thing,' said police super-intendant Anne Karin Blanck" (*Dagbladet* newspaper 18.05.2006; author's translation). Lien has demonstrated the importance of honour among second-generation high-school students in Oslo (Lien 2002). According to the contention that honour is synonymous with a capability for self-defence, it is also logical that they keep teachers and social workers out of conflicts; otherwise they would lose honour. Another study shows how young non-Western second-generation immigrant men in Oslo gain *respect* by convincing others of their ability to retaliate (Moshuus 2007). 'Respect' in this connection corresponds to the way in which I have defined honour. Second-generation immigrant youths in Oslo are not fully integrated in Norwegian society. Various studies show that they more often drop out of school than Norwegian students, and they are frequently discriminated against on the labour- and housing markets (Øya 2000). Like the Danish MC clubs, they are positioned on the margins of society.

On the basis of the above analyses of honour practises in Tangir, in Danish MC clubs, and in certain immigrant milieus in Norway, the following hypothesis can be advanced: Honour becomes a valid topic in 1) societies that lack a state (Tangir); 2) in groups that are positioned on the margins of the state (non-western immigrants in Oslo), and 3) in groups that position themselves outside the state (Outlaw Riders). In other words, *honour is a social phenomenon that appears at the periphery of the state*. By 'state' I refer to institutions that have a mandate to intervene in conflicts, like courts, police, schools, and child care departments. Since some societies and groups do not have accessible and accepted levels of appeal in conflict situations, they become the architects of their own fortunes. In such social formations, honour – in the sense of a publicly approved ability to defend one's interests – becomes vital for the maintenance of the group's assets and its social position.

In Tangir, the primary group for ascription of honour is the family. Kurds, in contrast, link honour (*namus*) to the tribe (Akman 2002). Honour is defended by the club in Danish MC milieus and by ethnic or religion-based gangs in Oslo. Hence, the group to which honour is attached is culturally variable but the logic is the same.

Reflexive honour is a persistent trait of modernity.

Some writers would argue that honour can only be practiced in societies that have some explicit perception of it, such as Tangir. In her study of honour and feuding in the Mediterranean, Coombe maintains that social agents can only practice what is within the 'semantic limits' of their culture (Coombe 1990:234). D'Andrade advocates an even more stringent requirement for an act to deserve the term "honourable". For him, honour must be institutionalized in the form of a code in order to be a valid social topic. "An honour code, as an institution, is a code people are expected to follow and must follow or suffer the consequences" (D'Andrade 2002:63). In his analyses of responses to insult in the US, he concludes that Southerners' higher degree of self-protection through violence as compared to young people from the northern states has nothing to do with honour, as some writers maintain, since that code has long since 'gone with the wind' (D'Andrade 2002:77). Cohen, however, ascribes the more violent response to insult among Southerners to the fact that "southern and western states have less strict gun control and more permissive laws for the use of violence in self-defence" (Cohen 1996, cited by D'Andrade 2002:75). In other words, the southern states have left more space open for individual manoeuvre, which is in accordance with the theory of honour

proposed here. The *code* of honour may have 'gone with the wind' in the American south, but the logic remains.

Echoing Berger thirty years earlier, Wyatt-Brown maintains that "the defence of honor's principles continues with special emphasis in the military culture of the (American) nation, in which the southern presence is quite conspicuous" (Wyatt-Brown 2005:432). Wyatt-Brown goes on to demonstrate how this "ethos of the south" played a decisive role in the American Civil War, the Vietnam War, and the Iraq War. In a speech following the 1991 Iraq War, President George H. W. Bush assured that the victory over Saddam's troops was a means to restore the nation's honour after the Vietnam War that had been a traumatic 'national humiliation'. "As a basis for national feeling, humiliation or its perception exacerbates collective feelings of vulnerability or powerlessness and can lead to brutal retaliations and mass bloodshed, triggering cycles of violence that can persist for generations" (Mendible 2008:3-4). Mendible's description of US foreign policy could as well be applied to feuding families in Tangir.

If we now return to my initial question of President Bush and the Turkish father in Oslo, my answer is positive: they both refer to the same complex of honour, defence, humiliation and revenge. When the last helicopter left the American Embassy in Saigon in 1975, the US was humiliated. Saddam Hussein's invasion of Kuwait offered an opportunity to restore the image of a powerful nation. In the same manner, the Turkish father in Oslo felt humiliated by the man who had secretly made love to his daughter and restored his credibility as defender of female sexuality by taking revenge.

The linking of honour to a cultural 'code' (whatever that may be) actually veils the persistent presence of reflexive honour in contemporary society. On the first video-tape released on the al-Jazeera news channel by Osama bin Laden after the 9/11 attacks on the World Trade Center and the Pentagon, he assured that 'from now on Americans will always be afraid', by which he insinuated that Americans have lost their honour, since honourable people are not afraid. President George W. Bush, being brought up in the 'ethos of the American South' (Wyatt-Brown 2005), probably comprehended the meta-message when his immediate reaction on CNN was an urge for "retaliation". Similarly, the day after the terror bombings in the London subway in 2005, a mass-circulation UK newspaper wrote: "In the name of New York, Washington, Bali, Nairobi, Madrid and now London, we shall have vengeance and justice" (The Sun 08.07.2005:6). Why should highly 'modern' actors such as an American president and a British newspaper resort to pre-modern terms like "retaliation" and "vengeance"? The World Trade Center atrocity was the first foreign attack on American soil since Independence, and it exposed cracks in the American defence system in much the same way as the assault on the Tangiri women of case 1 above. Similarly, the UK was incapable of defending its citizens against terrorists. Since there is no supranational level of appeal or mediation, the nation-state is the architect of its own security, much in the same way a Tangiri family has to rely on its own ability to defend its interests when under attack.

Honour is not only a theme in so-called pre-modern social formations and among ethnic grandmothers. There, Berger and other theorists of modernity were wrong. Indeed, the sharp distinction between 'modern' and 'pre-modern' societies should be rejected since it invites superficial and inadequate explanations like the 'cultural import' theory of honour in Western democracies. It is more close to reality to state that the mechanism of self-defence/reflexive honour is activated

in situations where there is no available level of appeal for justice. On the global level, Sen argues that "perfect global justice through an impeccably just set of institutions … would certainly demand a sovereign global state" (Sen 2009:25). The United Nations is the closest we have come to establishing a superior global State. But since the UN has limited powers to solve international conflicts, honour, in the sense of a publicly recognized capability for self defence, still matters in the competition for national interests between states.

In conclusion, the kind of honour I have been concerned with here is best understood as the socially recognised ability of a group to defend its collective interests, whatever those interests may be. If the social surroundings withdraw that recognition or are perceived to do so, revenge is a means to restore it. When the defence of interests is taken over by the state, honour becomes obsolete and is replaced by dignity. Since there is no supra-national level of appeal in conflict situations, honour is a salient aspect of international politics.

A pure cultural analysis is sufficient to explain the various expressions of honour around the world – to protect *gheirat* in Tangir, to be *stærk* in Danish MC clubs, to restore *seret* in a Turkish family in Oslo. But if we are capable of seeing through the actual cultural expressions, we can sense an unambiguous logic – or "grammar of honour" as Bourdieu calls it – behind them.

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Našardi Bori and her Stories: Framing Elopement in a Romani Community

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Introduction

The sociocultural heterogeneity of Roma people is closely connected with their geographical diffusion and a variety of religious, linguistic, aesthetic, economic and other factors. In fact, the idea of "Romani marriage" cannot be generalized as a pan-Romani characterizing feature either. The same applies to elopement, which has been occasionally recorded in the literature dealing with Romani marriage patterns. The tangible reality of the fieldwork calls our attention to a particular community encircled by other Roma groups and a larger sociocultural context. The present is an excerpt of the ongoing research, commenced in the late 1990s with southern Gurbets[1], viz. Muslim Roma from Kosovo and Macedonia.[2] Travelling in a transnational space between their native lands and some of their emigration destinations (esp. Italy), the paper addresses the practice of elopement undertaken by young women and relevant customary regulations. Being the research based on an extensive fieldwork, selected case studies are included as an empirical support to the main corpus of the paper.

Selecting a life partner, selecting a marriage alliance

Marriage is an all-important institution for many Roma. Relying on family consent, the success of a conjugal tie requires no formalizations from external authorities: its "legal force" is conferred by the *abiják* (*bijáv*) ceremony and related ritual contents, while its regularization is done months, even years after the wedding. The resultant married life is as much acceptable as run in conformity to the in-community prescripts.[3]

The tradition claims a marriage to be contracted by proposal. In the attempt of ensuring the brightest future to their posterity, the parents use every endeavour to find suitable mates to their descendants as soon as they reach the proper age.[4] Partner selection commonly predicts no decisions to be taken by the spouses-to-be: their union will be the fruit of inquiries and alliances between the families. Emotions are left no space in this arena: resting on emotions, love (*kamlipé*) is unreliable and must be held under control. Higher level of affection, the so-called "great love" (*baró kamlipé*),

1 The Gurbet community of Western Balkans is defined by its linguistic and territorial boundaries traced by scholars. On these grounds, four main branches are identified: 1. western Gurbet (Bosnia, Herzegovina, Montenegro); 2. northern Gurbet (Vojvodina); 3. eastern Gurbet (Serbia); and 4. southern Gurbet (Kosovo, Macedonia, south Serbia). The Macedonian branch is commonly known by the name of *Džambas*, and the Džambas involved in this work are native to north Macedonia.

2 See Lapov (2004, 2008, 2009).

3 See Lapov 2004:89-90, Marushiakova, Popov 1993:184.

4 The marriageable age of 12-16 has been postponed in the last decades, often to the age of majority (18-20). Analogous trends have been observed in other Romani communities (cf. Petrovski 2001:22, Stoichkovski 2002:105, for Macedonia; Marushiakova, Popov 1993:182, for Bulgaria).

is even less appreciated as it induces people to make rash decisions. In truth, God (*Dol*) is the only one who deserves that much enthusiasm.

In the match-searching period, potential partners are under meticulous scrutiny. Although both sides are eager to find a good match, it is seemingly the boy's family who is looking for a girl. This is the point when a mediator, man or woman preferably a relative, jumps in. The girl's background is studied in more detail being a bride from a "good family" (*lačhí familíja*) the priority of every household. A person is higher rated if s/he is "strong by family": such a characterization refers to a respectable and influential, possibly well-situated, household. The concept of *zuralí familíja* (strong family) implies both the status and dimensions of a family in terms of its members and marital alliances, giving it the contours of *barí familíja* (big family).[5]

Marriage eligibility depends on multiple factors beginning from one's outward appearance, *tabijáti* (nature, demeanour) and *rat* (blood i.e. inner nature, temper). Youths are invited to show their respect to the family, especially to its elderly members, to be hardworking and diligent. Contrarily, hauteur, arrogance, insolence and alike behavioural traits do not make the best portrayal of one's persona. Youths are dissuaded from "strolling around"; however, young men are more privileged with regard to the freedom of movement.[6]

The eligibility criteria apply to both genders. Still, a marriageable girl is subject to a row of demands. Her qualities should be mirrored in her good manners (*lačhé tabijátora*) and good words (*lačhé láfora*). The aesthetic ideal wants her to be *parní* (white; fair[skinned]) with this considered to be an expression of her beauty and inner pureness. She is required to be obedient, subservient, well-versed in cooking, cleaning and other household chores so as to look after her future family. The eyes (*jakhá)* play a great role in defining the human nature, which is why a young woman must use her glances cautiously without being *jakh(v)alí* (ogling, flirty); her eyes should not appear to be greedy nor stingy, while a mediator takes care not to propose a match "under (evil) eyes" (cursed, ill-fated). Since intellectual capabilities must be used with modesty, a *čhej* (girl) is discouraged from being too talkative, shrewd, stubborn etc. Most importantly, she is expected to be chaste, healthy and capable of childbearing.

The said precepts are inherited in an intergenerational education process, during which the girl's character is getting shaped according to the values of the community. It is the responsibility of mothers and other adults to assure an appropriate education to their daughters in order to make them fit for their married life; in reaching their womanhood, the latter are simultaneously trained to mind their status themselves so as to be able, one day, to hand the same teachings down to the generations to come. Such a gender-based education predicts a division by genders and roles to

5 Similar criteria and terminology are in force in diverse Roma groups in the Balkans, being retained by their emigrant segments (cf. Piasere, 1991, for Kosovo Roma in Italy; Lapov, 2004, for southern Gurbets in Kosovo, Macedonia and Italy; Petrovski, 2000, 2001, for Roma in north Macedonia).

6 "The male children are recognized a bigger autonomy and mobility" (Petrovski 2001:26).

progressively take place since a very tender age (6-7). As a result, a male-female friendship, i.e. a relationship without marriage, is unthinkable.[7]

To boot, the obsession with a "good family" and a "white bride" takes matchmakers and parents beyond their immediate vicinity up to the international level. For example: due to a supposed shortage of "good girls", some Kosovo Gurbets residing in Italy will go to the Tetovo zone in north-western Macedonia to find a suitable bride. The idea behind the "importation" of brides from the homeland or neighbouring localities is that foreign-born girls may not be "good" enough.

All told, a "detail" routinely escapes the attention: the whole process takes the involved, and especially women, through a considerable psychological stress. By eloping, young runaways try to break the chains of the tradition they have been taught theretofore.

Elopement : reasons, forms and organization

Despite the prescripts, the cases of getting married "from love" (*ándar o kamlipê*) are not rare. But, what would be the push factors to run away for love? The practice of elopement offers an alternative to arranged marriage: accordingly, the *kamlé* (enamoured, lovers) are pushed to run away in order to escape social norms opposing their feelings, and to induce their parents to accept their choice. Their decision: *te naší(s)!* (let's run away!) is reflected in storytelling and singing repertoires too: impossible love, secret romance, elopement, "love malady"[8] and the like motifs are dedicated a particular rank by Roma artists. Along with the opposition to social norms concerning partner selection, economic difficulties are another important reason for elopement.[9] And its forms and organization are directly linked to these reasons.

Elopement can be previously agreed. This form of contracting a marriage is implemented to avoid high marriage costs (esp. bride price), which prove to be increasing in the place of wedding celebrations: since the act of elopement demands more modest weddings[10], economic reasons push some families to opt for this manoeuvre. In case of prearranged elopements the initiative affects one or both families, or some of their members, rather than the runaways themselves. The involved fix the flight of the couple, usually pretending to know nothing about the secret act. Important detail is that a prearranged elopement may or may not imply the respect for the youths' preferences, including the selection of their life partners.

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7 Similar patterns in education and intergender relationships have been documented in several Romani communities (cf. Costarelli's works dealing with age, gender and hierarchies among minors in the Kosovo Gurbet community of Florence, Italy; and Piasere, 1991, for Kosovo Roma in Italy).

8 The repertoires of *Arli* singers include the motif of *mangipáskoro nasvalipe*, lit. 'love malady', viz. 'illness/pain caused by love' (the Arli being another Roma community diffused in the Balkans).

9 While talking about simulated "bride theft", Marushiakova and Popov (1993:182) stress that the practice is undertaken to avoid the payment of bride price or to break the group closure.

10 For example, the henna ceremony could be skipped; the first wedding night will certainly undergo changes, esp. if sexual intercourse between the two occurred. Yet, the event's organization depends on the outcomes of the reconciliation process. If elopement is not motivated by an unpleasant incident, a good deal of wedding customs will be put into practice. The parents will say: "*This is for the youths, not to leave them without wedding.*"

Along with arranged marriage, Marushiakova and Popov identify the practices of elopement and simulated "bride theft" (i.e. abduction) as alternative forms of marriage among Roma in Bulgaria. The practice of "bride theft", which has gradually become one of the ritual forms of getting married, relies on similar patterns (reasons, organization, support) as a prearranged elopement. Being the act generally simulated, the fact that the girl is "stolen" does not imply that the marriage is contracted against her consent (Marushiakova, Popov 1993:182).

Thereby, whether it is about love or infatuation, these emotions are accompanied by a strong impulse to escape restrictive social norms, primarily to oppose other people's choices in relation to partner selection. And, Romani women (more than men) are overwhelmed with social obligations and responsibilities that some try to dodge by elopement. In any case, the couple is offered support by relatives: a woman or few, in most cases sister, female cousin or younger aunt; this role is seldom taken by a male relative, mostly a younger brother or cousin from either side.[11] Of course, the runaways are provided support at their destination by their hosts, in which case the helpers are preferably relatives as well.

The decision to elope does not lead the enamoured too far: very rarely will they cross the borders of their own neighbourhood or town, maximum district. In fact, many couples "hide" in the boy's parental house. The space and time dimensions are not essential: what matters is their detachment from the grown-up family members, at least in relation to the girl's kin. The idea is to stay away for a brief period of time (a day or more) in order to display their marital intentions. And, although they might not engage in sexual intercourse during their enterprise, the two are "condemned" to stay together i.e. to wed. Such an outcome particularly affects the girl who is, on this very purpose, defined as a "*našardí borí*" (runaway bride).

The persona of našardi bori

The young woman who decides to elope with a young man of her choice is not released from social norms by their enterprise. She is actually subject to a particular stigma accompanying the act of elopement: first of all, she fled; secondly, she is by doing so no longer a girl but a bride. From then on, she is thought of as a *našardí borí.*[12]

The definition of *našardí borí* implies a dual meaning of being taken away and induced to run away. It is essential to bear in mind all of the possible translations[13] that the locution incorporates on the occasion of elopement: the girl concurrently becomes 'taken away, [even] abducted, kidnapped bride', and a 'bride who was induced to escape' i.e. a 'runaway bride'. In simple language: there is

11 While talking about "bride theft", Marushiakova and Popov write that the practice is assisted by the boy's friends, but it may involve girlfriends from the girl's side (Marushiakova, Popov 1993:184).

12 Along with the form *našardí borí*, the variant *našatardí borí* can be sporadically heard in southern Gurbet dialects, e.g. in Macedonia (other dialects: *našaldi* or *našadi bori*) (cf. Lapov 2004:90). The appellation is rarely recorded in the literature, as e.g. in Šuto Orizari neighbourhood of Skopje, where eloped girl is termed *našaldi bori* (lit. runaway bride) (Petrovski 2002:58).

13 *Našard/ó* (~*í* f: taken away; abducted; runaway, fled, eloped) is the participle of the verb *našar-* (or *našatar-*, *našav-*, *našal-*: to take or lead away; abduct, kidnap; compel to flee, put to flight; induce or persuade to escape/elope), being the causative of the verb *naš-* (to flee, run away, escape, elope).

no difference if she is abducted or elopes on her own. In fact, another way to define the situation is given by the verb *našlí* meaning that '[*she*] escaped, ran away'.

Such a state of affairs allows to infer that a boy, in principle, cannot run away: his potential "escape" would not be equally judged indeed. On the contrary, the girl's condition is identical in either circumstance and, being it her responsibility, she is to blame for the initiative! In conclusion: the term *borí*, jointly designating her status of 'bride' and 'daughter-in-law', brings the eloper one step closer to her married life.

What responsibilities for a Romani girl?

In consequence of a gender-based distribution of responsibilities, a woman is seen as a bearer of values and duties in relation to her honour and her family's reputation: if men safeguard decisional and physical domains of this dimension, women are its inward custodians.

In this sense, the ideal of premarital virginity makes the girlhood, *čhejipé*[14], an important period in a woman's life during which a Romani girl is expected to guard her physical integrity and good reputation. This is another reason why a *čhej* (girl, daughter, virgin) should be prevented from eloping. She is contrasted by a *raklí* (non-Romani girl) who can be labelled as 'girlfriend, beloved, sweetheart' (with her male counterpart *raklô*). A *rakli* is, in a way, what a *čhej* is not authorized to be. This conceptual and terminological dichotomy between "our own" and "other people's" youths entails no depreciatory or insulting allusions. The eye-catching aspect is that a *čhej* is subject to several social restrictions, whereas a *čhavó* (Romani boy, youngster, son) is never experiencing the same burden.

The good reputation of a young woman is mirrored in her virtuousness which is said to be revealed by her face (*muj*): it is her responsibility to maintain her face "white" (*parnó muj*) until her wedding when she will be initiated to the womanhood as a daughter-in-law (*borí*) and a married woman (*romní*). To prevent them from premarital "love experiences", girls used to be married at the age of 12-15 with slightly elder boys; the marriageable age is generally postponed today, but juvenile marriages (age 15-17) still take place, including the cases of elopement.

A virtuous girl is variously depicted beginning from the adjective *lačhí*, whose connotations range from that of 'good', 'decent, right, appropriate' to 'honest'. To make the notion clearer, it is said that the bride (*borí*) has come 'with [her] face', *mósa*, meaning that she brought her 'chastity' to her new life. On her wedding night, a just married woman is expected to 'come out [as a] girl/virgin' (*íkljól čhej*) or 'to come out with face/reputation' (*íkljól mósa*) (which is proven by displaying a sheet or towel stained with her blood). A bride who proves her physical integrity is defined *parní* – 'white; honest, pure, virtuous' (*parní borí*); the lyrics of Romani wedding songs are illustrative of the idea: "*who wants a white bride has to pay*." In some Arli dialects (e.g. in Macedonia) she is crowned with the title of *parnemóskiri* (white-faced: [having a] white, spotless reputation). Finally, relying on

14 Practically disused among southern Gurbets, the term *čhejipé* (girlhood, maidenhood, chastity, purity, virginity) has been recorded in other Gurbet dialects.

Islamic terminology, a chaste girl is termed *haláli* (pure, good, honourable; virtuous, chaste, intact, immaculate < Arabic).[15]

The burden of dis/honour

While coming of age, a young person is taught the diametrical opposition between the concept of honour and dishonour. The subject is approached in terms of good and bad deeds, implying the formula: honour, good reputation *versus* dishonour, shame.

There is no general term to identify the notion of "honour" in this Romani dialect. In other varieties, the meanings of 'honour, reputation, respect' are covered by the word *paćív* (*pakjiv*, *pativ*). Being the idea strongly perceived, southern Gurbets resort to figurative expressions or borrowings. A particular quality is ascribed to the *muj* (face; mouth)[16] symbolically denoting 'honour, reputation, good name'; a parallel term that may imply similar nuances is *čham* (cheek). These semantic shifts, observed in Balkan Romani dialects, rely – in all likelihood – on analogous metaphors in the local Slavic languages. To avoid misunderstandings, one may use the Albanian word *néra* standing exactly for 'honour, respect, esteem' (esp. Kosovo Roma), or other loanwords as the Slavic *rédo*[17] (order), which indirectly can recall the concept.

As far as the honour of a young woman is concerned, it is alluded to by specific terms or figurative meanings. The notion of *čhejipé* (girlhood, maidenhood, chastity) refers to her condition of intact girl.[18] Her *muj* (face) and *čham* (cheek) are back into play: to be precise, the *parnó muj* (white face)[19] is the priority while keeping her honour unspotted.

The moment to show her "face" is given by a woman's wedding night. And if the bride is not virgin, the marital union is at risk. The fact that 'she did not come with her face' (*ní avilí pe mósa)* means that she has not brought her honour. She is *phaṛadí* (torn/broken i.e. deflowered), to cite only one of defamatory appellations she may be given in this condition which confers her a branding status of *harámi* (forbidden; sinful; impure, defiled < Arabic), and disqualifies her from the possibility to start her married life in a virtuous manner. It will be different if the girl proves that she shared this experience with her intended husband – being still frowned upon, the act is more defensible. On the contrary, if the groom refuses the "accusation" or another name comes out, the final result could be extremely harmful, at least for the girl.

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15 Romani dialects abound in terms figuratively touching the sphere of female integrity. Loans like *hasíl-no* (good, proper, decent, honest < Turkish < Arabic) or *saglámi* (sound, well-kept, fit, proper, decent, honest < Turkish) can be heard among southern Gurbets. In other dialects, the adjective *paćival/ó* (*-í* f) is used in relation to a woman's virtuous state; southern Gurbets know the form *paćvaló* with slightly altered meanings (honest; sincere; faithful; pious, religious; sinless).

16 *Muj* : face; mouth; the uttered, expressed, spoken [words, voice]; (fig.) reputation, good name, fame; honour, respectability, honesty, integrity; (esp. girl's) chastity, purity, virginity.

17 *Rédo* : order: 1. succession, sequence, series; row, line, queue; procession; (someone's) turn; 2. quiet, discipline; orderliness; system, rule(s), regulation, custom (< Slavic).

18 In some dialects (other than southern Gurbet), the word *paćivalipe* is used to mean 'respectability, decency, honesty, sincerity, faithfulness' etc., including the 'virtuousness (of a woman), virginity.'

19 *Parnó muj* : white/light face; (fig.) white/pure/undefiled face i.e. good reputation.

The act of elopement implies the level of seriousness comparable to a premarital sexual experience – "comparable" since everybody treasures the hope that the runaway girl is still a virgin. But, she displayed disobedience to her parents and exposed her family's reputation by moving away, which altogether introduces the issues of *doš* (guilt, responsibility) and *ladž(ó)* (shame, disgrace). The patriarchal authority shows its effectiveness and the female side turns out as damaged: the male participant is charged with breaking the rules, but it is *she* who should have resisted. As a consequence, the parents will be likewise angry with their daughter imputing *her* with the responsibility (*doš*) of initiative. A wrangle will burst out between the families, which entails stormy objections without leaving insulting remarks and threats out of the field.

Thereupon, the issue of shame (*ladžó)* enters the scene. The situation is particularly detrimental to the young woman who is no longer deemed as *čhej* (girl) but *borí* (bride, daughter-in-law). Her face (*muj*) is defiled (even if no sexual intercourse occurred), and her shame extends to her parents: if the act is read as very serious, her family will be covered with a big shame/disgrace (*baró ladžó*, *barí ladž*), translatable in sociological terms as a 'discredit before the community.' In this way, invisible walls of social stigmatization can be erected around the young woman and her family.

Dealing with elopement: regulation, mediation, reconciliation

First reactions to elopement are always harsh. And the parents, willing to appease their soul, will conclude that their son "*has gone crazy for that girl*" (*dilájlo pála gojá čhorí*), or that the youths "*had fallen in love so much*" (*but manglé-pe*, *kamlé-pe*) that they eloped with the hope in a life together. What happens next will depend on the relations between the families or communities involved. In general, there are two possible paths that the regulatory process can take: rigid opposition or peaceful solution. In the former case, the hope to regain the eloped daughter subsists: yet, this option is generally simulated rather than actually considered as the runaway and her honour are no longer "retrievable." As for the second option, elopements (as well as marriages) commonly occur within the orbit of social interaction[20] that the concerned are acquainted with so that the peace is generally hoped-for.

Whatever its background might be, the girl's "escape" (*našipé*) or "abduction" (*našaripé*) is supposed to be settled in a way that would be satisfactory for both sides, at best marriage. Accordingly, a reconciliation process (*pajtipé* in Kosovo[21]), aimed at reaching a peaceful agreement among the families, is attempted. The custom wants the event to take place at the girl's home which receives a group of male and female guests from the boy's side; during the gathering, the concerned youths are usually absent. In some groups[22], this step can be preceded by a visit of the girl's mother to the boy's home in order to verify whether her daughter eloped of her own will, and whether she was determined to stay with the young man of her choice.

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20 Marriages are contracted within narrow territorial limits: in most cases, future life partners are from the same or nearby neighbourhood, town or village (cf. Petrovski 2001:23, Stoichkovski 2002:105). These limits may be spread out to the bordering regions (e.g. Kosovo, Macedonia and South Serbia), in which case the involved are usually from groups with similar cultural and religious background.

21 The terminology of peacemaking is derived from exogenous roots: the Albanian *pajti-* is prevailing in Kosovo dialects, whereas the Macedonian varieties have opted for the Slavic root *(s)miri-*.

22 The informant was a Rom from the Arli community native to Skopje (Macedonia).

Any form of serious variance commonly leads to the formation of a kind of people's court: the occurrence is generically called *bešipé* (lit. sitting i.e. gathering, meeting, assembly) or *ćidipé* (gathering, assembly). It can also be said that the *gav* (village) or *národo* (people)[23] is gathering: despite their translations, the terms do not indicate the entire village or community but its representatives.

The mediating tradition has developed into a real institution, especially among Kosovo Gurbets: in fact, their problem-solving meetings regularly see the participation of *plešnóra* or special "judges" (pacifiers). As suggested by its name[24], the authority has been influenced by the Albanian culture, at least in some of its aspects. A body of *plešnóra* constitutes a peacemaking council termed *čérga*[25]: it is a sort of Romani court[26] composed of respectable and neutral individuals in charge of appeasing the parties in conflict. Though such a court can be summoned for various purposes, its intervention is requested for serious cases mostly related to the marriage, e.g. elopement, adultery, repudiation, family disputes and the like.

In order to properly fulfil their duty, the persons entrusted with the mediation should be *baré manúš* (or *baré manušá*, big men i.e. important, respectable, eminent people), or even *májbare manušá* (the most important, outstanding people). These are the people who are esteemed for being *baré romá* (important, respectable people of the [Romani] community). A person involved in such a procedure should display a good level of reliability as *paćavdó manúš* (a man to be trusted: trustworthy, just, honest, correct, respectable man). Apart from these qualities, they are expected to be skilled in the art of rightful judging. Of course, personal preferences yielding subjective and biased decisions are not missing.

Among Kosovo-Macedonian Roma, the elopement-related negotiations are basically run by men while women follow the event with minimum or no participation. The negotiators are members of the involved families who can be aided by other actors, *plešnóra* and/or religious figures, in their capacity of mediating judges. In some cases, the meeting could host female participants: for example, the mother of one of the concerned could stand in for her daughter or son in absence of the respective male voice(s) or in case of specifically women's issues.

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23 According to informants, *gav* (village) is the word used in Macedonia and *národo* (people, folk < Slavic) in Kosovo; in reality, both terms are interchangeable in various Gurbet dialects.

24 The word *plešnóra* (*pl(j)ešnára*, *plešníja* pl) is derived from the Albanian noun *plak(u)*, pl *pleq* [read: plech] (old / grown man; family head; a member of the village council; village chief or judge), or its derivatives: *pleqëní(a)* [plech'ní-a, plesh'ní-a] (old people, elders; old age), and *pleqësí(a)* [plech'sí-a, plesh'sí-a] (elders; the heads of a village, the class of chiefs or superiors; council of elders or men; peacemaking council; local council or authority; senate); an outdated noun calls for particular attention: *pleqnár*, *-i* m [plechnár, pleshnár] (a man elected as a *plak* to deal with the issues of the village; *plak*, a member of the village council; village judge).

25 *Čérga* : fabric; carpet, rug for sitting; (fig.) meeting-place, meeting, gathering, council (< Turkish).

26 Comparable institutions have been observed in various Romani communities. The most studied one, characteristic of the *Kalderaša*, *Lovara* and akin Roma groups (including some northern Gurbet branches), is called *kris* (court, tribunal; law; decision, judgement; sentence). If the *kris* and some other forms of Romani jurisdiction have become a regular part of the Romani studies, the practice of *plešnóra* has been dedicated a very little space hitherto (see Piasere, 1983, 1991).

The ultimate goal is to restore relations between the families. Ritual speeches, enriched with instructive statements about married life, follow one another; a part of the talks focuses the improperness of elopement as solution. Expected to suggest the most appropriate judgement, the pacifiers do their best in mediating (*plješnín i bućí*)[27], putting the matter right (*lačharén i bućí*), and reconciling (*pajtín*) the quarrelling parties. In extreme cases, it is said (e.g. in Kosovo) that they are "appeasing the blood" (*pajtisarén o rát*) in the sense of repairing a serious "blood offence."

After examining all the details, the pacifiers deliver their judgement. The account of shame (*ladžó*) requires a special settlement: the boy's father – alone or with other men – lay money (*lové*, *páre*) down on the tray as a "compensation" for the girl's honour.[28] Sometimes, the amount is only fixed on that occasion and subsequently handed to her parents with other gifts. Despite sizeable variations, the money offer should not be exaggerated as it symbolizes the end of hostilities and the start of wedding preparations. At last, the in-laws break a loaf of bread and share a piece of it along with *šerbéto* (sugar-water): peace in the house and a "sweet" wedlock are wished by this act. After that, the attendees are offered a dinner.

As for the eloped (or differently "disgraced") young woman, she must be settled, i.e. married, anyway. No ostracism in form of exclusion or similar measures subsists. Potential punishment will depend on the private sphere: its modality (up to possible physical violence) will be inflicted or not according to the mindset reigning in the girl's family.

Refusal and inter-group elopement

Risks of a marriage proposal rejection are meagre since every family wants its children married. Thereby, the reasons for refusal are very few and include: preference for a particular family to tie the knot of marriage with, or infringement of the group boundaries by entering exogamous, esp. inter-religious, relationships.

Kosovo and Macedonian Roma commonly intermarry: in this respect, marriages within the Gurbet and Džambas communities are cases of endogamy. Contrarily, an attempt to tie the knot with a person from other groups would be deemed as exogamous and usually disapproved. This was the reaction that a young Džambas, Ali, had upon bringing a Sinti girl home. Their move entailed both inter-group and inter-religious (Muslim-Christian) union. Living closer than his father's folks, four of Ali's maternal uncles were summoned at his home. The girl was introduced to the guests, whereupon they made their best to discourage Ali from marrying her: "*they [Italian Sinti] are different, they don't live like we do, they have different ways"* etc. Ali won, and his uncles concluded: *"he's still young, he'll change his mind."* They were right: instead of getting married, the youths split up after some time.

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27 Cf. the obsolete meanings of the Albanian verb *pleqësoj* [plech'soj] : 'to act as a *plak* i.e. village judge, to solve conflicts'.

28 In case of regularly arranged marriages, many Roma groups observe the practice of paying a bride price (*baba(h)áko* in Kosovo and Macedonia) to her parents. In case of elopement, circumstances and inner community norms may produce the opposite: no compensation for the eloped girl being she no longer "pure."

The strong opposition to marriage constitutes one of those exceptional circumstances that may bring the act of elopement before out-of-community institutions (e.g. social services, tribunal, police). External authorities themselves are often reticent before family issues of a community, Roma in this case, which openly claims its own decision-making structures. Accordingly, an external intervention can be expected in case of infringement of the minimum age for marriage or with cases of domestic violence.

The practice of inter-group elopement can also take the families to external institutions: as in the case of a young Kosovo Rom (age 21), belonging to the Muslim Gurbet community, who brought a girl from a Christian Roma family home. The result: her family reported the act to the police as kidnapping. Nevertheless, the young man was released a few hours later since the girl had not supported the accusation.

Suggestions from religion

Various Roma groups espoused various faiths, and refer to the religion they belong to in order to get answers in relation to their family life, including marriage practices. Many of Roma groups in the south-eastern Balkans are Muslims who are, moving north, gradually replaced by their Christian counterparts. Cultural contours of southern Gurbets shape a Muslim minority, often of dervish order[29], under a strong impact of the Balkan sociocultural landscape. Both home and abroad, the community finds itself in touch with other traditions (mostly Christian) which is increasingly affecting their culture and family life.

As Muslims, several among southern Gurbets will insist on looking for a "Muslim" answer to their doubts. Islamic explanations are sought both in the lines of sacred writings or other forms of tradition (Quran, Sunnah, hadiths), and in the intervention of a *dervíši*[30], *šéjo*[31] or *hódža*.[32] If the former are assumed as tools providing guidance on how to deal with a particular issue, the latter are their living voices who are referred to in their capacity of experts. Thereby, many families, and not only the pious ones, will be glad to invite one or more religious representatives of the community to attend a reconciliation meeting.

The sources of Islamic tradition in Roma's hands have passed through various cultural, social, linguistic and other filters. Namely, the religious legacy of the southern Gurbet community is an example of minority Islam superposed over the set of Balkan sociocultural patterns which has benefited from the exchange with Mediterranean, Pannonian, East European and Near Eastern cultures. The type of Islam practiced by southern Gurbets was inherited from local Albanians and Bosnian Muslims who adopted their faith from Turks in the past centuries. Consequently, Balkan

29 A good part of Roma groups in southern and central Balkans, including the community of southern Gurbets addressed by this paper, belong to *dervish* (i.e. mystical) orders of Islam.

30 *Derviši* : dervish, Muslim mystic, member of a dervish (Sufi) fraternity or order; (more strictly) a Muslim mendicant friar, ascetic, leading an austere life (< Persian).

31 *Šéjo* (*šého*, *šéhi*) : head of a Muslim religious community or school; head of a dervish order and shrine, dervish chief, spiritual guide (< Arabic).

32 *Hódža* : in Islam: priest; religion teacher; learned person (< Persian).

and Islamic elements are overlapped in the culture of this community, hence the knowledge of original Islamic precepts is not always on hand.

In practice, spiritual representatives – whose knowledge of Islam is variable – could happen to act as members of a peacemaking council. What is more, possible solutions can be perceived or interpreted as Islamic simply because they are being proposed by Muslims rather than being grounded in religious injunctions. The mediators resort to the religious tools at their disposal: yet, the answers rest on their interpretations strongly depending on their sociocultural experiences which are intertwined with their notions about Islam.

Some empirical evidences

The following is a selection of the case studies recorded over the last 15 years, mostly on the international scale between Kosovo-Macedonia and Italy. They present practical application of elopement, including possible variations from its general scheme. Each description is introduced by a heading consisting of geographical and community details of the involved, while their names and particular data have been altered for the purposes of anonymity.

Macedonian Džambas. Gana was 17 when she eloped with a young man of her choice: it took her some 70 kilometres away to reach Ahmed's place. Once the notice had burst out, a gathering was arranged by Gana's family. The *bešipé* (meeting) of some forty people, held at the *tećija* (dervish shrine) in Gana's neighbourhood, was chaired by a *šejo* (dervish chief) whose family has multiple relationships with hers. Gana's father and few men, along with the *šejo,* were sitting in front of Ahmed's family. As it occurred within the community and between families on good terms, the case presented no difficulties. After a sequence of talks and remarks on elopement, the in-laws broke a piece of bread and took some *šerbéto* (sugar-water). In the end, the wedding date and other details were roughly fixed.

Kosovo Gurbet - Kosovo Arli. Hamdi (22) met Mina in a family celebration, and he liked her at once. Having accepted Hamdi's compliments, Mina moved to his place after a while. Hamdi was grown enough to "impose" his liking: initially, some concerns arose on the part of his parents regarding possible reactions from Mina's family; but, any worries vanished as the *bešipé* was fixed at Mina's parental home (located in another town). Hamdi's parents, two paternal uncles and a friend of his father, all with the respective wives, set off in order to pay Mina's family a visit. Once at their destination, the families started the event: the "peace" was reached soon, and the lunch served for everybody.

Kosovo Gurbet - Macedonian Džambas. Hava was 19 with a failed marriage behind; Hašim was 18 with no marital experiences. As their closeness was disliked by the elders, the youths decided to rent a flat. Eager to regain their son, Hašim's parents arranged a *bešipé* at their home a month later: Hašim's paternal grandmother, a paternal aunt with her husband, and a cousin were present at the meeting; on Hava's side – her father and a maternal uncle. Hava attended the meeting, but Hašim did not want to hear about: *"we love each other, and that's it!"* After introductory talks, the climate abruptly shifted into Hava's father's threats: *"I'll take you back home at once...!"* Hava got upset, whereupon Hašim's mother and aunt encouraged her to speak up: *"don't ruin my life again!, it's my*

choice, and I want to stay!" Hava's father gradually adapted his position up to accept the marriage. But, *"we have some traditions"* – his allusion meant the money for the eloped daughter. The answer of Hašim's family was categorical: *"we usually pay no money for a bride in our community! She's ours now, so you should respect the rules of our roof."* After a brief discussion, Hašim's relatives reached their pacts, and pledged their word to make the new marriage arrangement as satisfactory as possible for both sides. The couple has been happily married with two children, for seven years now.

Kosovo Gurbet - Macedonian Džambas. Bina and Jakub were 15 when they fell in love. As it concerned two prestigious families of the community, their feeling was not opposed for long: the chance to form a good alliance was too alluring. The youths got married and had a child. Three years later, Bina started displaying her discontent and will to return to her family. The question "*why?"* was met with no answers until it was discovered that she had an affair. The fury arose between the families, and Bina was sent back to her parents. In an exchange of bitter talks during the *bešipé*, Jakub's father accepted no compromises in relation to his daughter-in-law who had broken the rule. Bina's father, instead, was advised to keep her away from the neighbourhood so as to avert the risk of further tensions – in truth, the idea was to remarry her in another town. Bina's second marriage was indeed fixed quickly and abroad. On her wedding day, Bina threatened to commit a suicide, whereupon she was sent back home. At that point, the girl took a radical step: she escaped on her own and reported her family to social services for the treatment to which she had been subjected.

Macedonian Džambas. The following case demonstrates the impact of personal experience mingled with conventionality, and how such a combination may redirect one's outlook in time. Dehran was 22 when he brought Nadira (16) to his parental house. A few years later, they moved abroad and had three sons. Likewise founded upon elopement, their eldest son's marriage was dissolved after 3 years. The second son retraced the path when he was 18: judging by the failure of their first son's marriage, as well as by their own convictions that had gradually changed, Dehran and Nadira opposed his choice. But the youths won the battle. To prevent further "mishaps", Dehran and Nadira hurried the marriage of their third son: in a way, the boy was penalized for the actions of his elder brothers, particularly the eldest one. Yet, a detail is important: since the second son made a "good" choice, the third one was married to his sister-in-law's sister – in fact, it was his brother's wife who arranged the whole event by introducing the idea and her sister to her in-laws who accepted the proposal.

Kosovo Gurbet. Elvira was attending a wedding with her family (with no husband present) when she noticed that one of her daughters was missing. After much searching, Elvira was told that Tahira had left with a group of boys to another town. Elvira wasted no time: with the intention to find Tahira, she took her eldest daughter and few relatives. At the arrival, she started shouting: some women came out and a scuffle begun while other people tried to separate them. This is an example of violent effects that such a practice may produce. What is important here is the triple reading of the incident: viewing it as an abduction, Elvira was ready to report the case to the police (she changed her mind as it was a community matter); the boy's family kept saying it was elopement by consent; and the girl? – whether because of her confusion, self-persuasion, real consent, or rather for her moral duty to succumb to the circumstances being already "marked", the outcome was that Tahira eventually accepted the marriage.

Sharing cultures, sharing elopement

Wide-ranging are the visions that Roma people have been attached from the outside: as a sociocultural group, Roma are commonly framed by bipolar representations depicting them as either detrimentally patriarchal or romantically free. Meanwhile, the heterogeneity of their lifestyles is repeatedly ignored. Instead, multiple variables are to be contemplated when dealing with the Romani otherness starting from a geographical diffusion which has brought Roma people in contact with a variety of social, cultural, religious, linguistic, aesthetic, economic and other dimensions.

Once internalized this scheme, it will no longer be surprising that single Romani communities are deeply syncretic. The same applies to the Gurbet community observed in this work which leans on a number of identity layers: the fact that its members are Roma lets us trace their ancestry back to the Indian Subcontinent; more precisely, these very Roma are Muslims of dervish order; they are native to Balkans with offshoots in central and western Europe[33]; they also belong to the category which is delineated as "Gypsy" by the outsiders.

In the last two centuries, and especially from the times of the 19th-century romanticism, Roma (alias 'Gypsies') have been adopted as an emblem of freedom. The process has generated a multilevel impact on the mainstream cultural production (culminating in literature and cinema) while depicting the "Gypsy" modus vivendi. Concurrently with this imagery, Roma were viewed as being unreconcilable with the world around them: roaming freely, irrespective of frontiers and obligations, fond of music and dance etc. – platitudes easily recallable in the vision of an average European being underpinned by overhasty information offered by lexicons, dictionaries, encyclopaedias and similar tools of mass knowledge dissemination. Having departed from romanticized poems and novels, the stories about "free Gypsies" landed on the silver screen. Such a portrayal has also affected the idea of elopement among Roma.

Thus, Leanca – already promised in marriage – got punished by her relatives for having eloped with a young Moldavian violinist, Toma. Or Rada who – cherishing her own freedom – declined the proposal from a rich nobleman: in truth, she was in love with Zobar, meaning that she preferred a Rom to a non-Rom. The motifs are taken from one of the most productive industries in this arena, the Soviet cinema of the 1970s: Emil Loteanu's *Lăutarii* (aka *Fiddlers*, 1971) and *Tabor ukhodit v nebo* (aka *Queen of the Gypsies*, 1975) offer classical examples of a cinema engaged in depicting the Romani life spirit. And such an illustration applies to many other Romani girls around Europe in the lines of novels, poems and films.

Elopement has been confirmed throughout Romani communities. Still, the research in this area is rather meagre and the practice is basically studied in the broader frames of marriage traditions. On these grounds, rigid theories on the interconnection between Romani marital practices and other sociocultural patterns were launched. Certain authors (mainly of the 1960s to '80s) were inclined to interpret elopement as the Romani way of tying the knot of marriage; others, instead, defended elopement as a non-Romani way of getting married, induced by the process of interaction with other cultures, since the "original" wedding modality would have implied a free partner selection with very little or no ceremonies. Both approaches, promoted by the authors embracing the

33 See Lapov (2004, 2008, 2009).

stereotyped idea of Roma as inborn nomads, are founded upon the formula: nomadism equals freedom allowing for free choice and elopement.

But many Roma groups have never led an itinerant lifestyle. On the other hand, the effects of a patriarchal social structure used to be seen as decidedly extrinsic to the Romani being: the patriarchy – including a settled way of life, arranged marriage and inner judiciary – would have been adopted by Roma (as a whole) in the Near East or Balkans, especially in contact with Islam.[34] Yet, it seems utterly implausible that the forefathers of the European Roma were exempt from any form of patriarchy before or after reaching the said regions.

The lack of a wider contextualization was a crucial factor for such a reading of Roma's social history, which has been meanwhile deconstructed by findings of sociological, anthropological and linguistic research in a cross-cultural perspective. As for elopement, it has been largely demonstrated that no links between marriage patterns, lifestyle, existence of inner judicial systems or not, and sociocultural orientation of the given Roma group exist:[35] various contexts claim various elements, being their combinations countless.

The idea of marital union is built upon a "give-and-take" (*de-/le-)* principle, by which daughters are "given" to marriage, while both sides "take" partners. Elopement or fictitious symbolic abduction have been assumed as a way to get married in some Roma and Sinti groups (mainly in western and central Europe). Still, this function of elopement cannot be generalized. In most cases, youths and especially girls are subject to a row of social norms with marriage founded upon the choices of their elders and reciprocal alliances between families.

Besides, the use of elopement is documented all over the territories where Roma identities have developed – Europe, Near East, Middle East, and beyond. Attempts to reconnect the practice to the "Indian" sociocultural orbit prove to be illusory: subcontinental shadows retrievable in the Romani culture of today are too meagre to let such speculations possible. As for the Balkans, that the Gurbet Roma community is native to, elopement have been recorded as a common social practice across the cultures of the Region.

When talking about the phenomenon with Kosovo-Macedonian Roma, it is repeatedly stated that elopements used to be less frequent in the past. Despite this first-hand evidence, a closer scrutiny shows a quite regular frequency of the practice, at least in the last two to three generations. However, elopement has not been admitted to the set of acceptable practices. Another point is that the lack of its normalization has actually created a space for elopement in the milieux bound by customary norms; in other words, the practice became less common in those settings where social control and restrictions have been progressively loosened.

Vestiges of the patriarchal heritage, abiding by a body of obligations and responsibilities, can be clearly discerned in such social behaviours. In fact, elopement and similar practices (e.g. symbolic bride abduction) appear to constitute a social response rather than a custom. The phenomenon has

34 See, for instance, Cozannet (2000, orig. 1973, esp. pp. 92-97).

35 See e.g. Marushiakova, Popov (2007, esp. pp. 72-73).

been moulded in conformity to a surrounding sociocultural environment: as a tile of the Balkan mosaic, the culture of southern Gurbets comprises elements from other local traditions, hence the forms of their family life reflect primarily the habits of the Balkan cultural realm. Marriage patterns (starting from the marriageable age) among Roma reveal their long-lasting contacts with other traditions, namely: marriage customs of Macedonian Orthodox Roma are quite similar to those of the Macedonians; likewise, marriage customs of Muslim Roma have been formed in interaction with local Muslim communities (Stoichkovski 2002:105). It finally means that the familiarity of practices that could be comparatively observed in a Romani community and other social groups (Roma or not) is a reverberation of sharing cultural experiences in a multilateral perspective.

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Saraiki Proverbs Related to Runaway Women

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Abstract

The use of proverbs in the Saraiki language shows different male attitudes towards women especially 'the runaway'. This research-based study is meant to highlight Saraiki proverbs related to runaway women and the negative attitudes they out forward declaring them careless and disobedient. There is a presumption that Saraiki-speaking women are hard working and less demanding. These proverbs present an ideal of Seraiki women as being very tolerant to the cruelties and hardships they face in the name of honor. Proverbs are mostly considered to reflect this taken-for-granted wisdom. This study will explore how these proverbs are deployed and what kinds of consequences they have both positive or negative.

Introduction: Saraiki Proverbs

Proverbs are a literary genre used all over the world 'expressing in physical and abstract terms people's understanding of their surroundings' (Ndungo 2002; 64). According to Madumulla (1995, xii), 'proverbs are said to express the collective wisdom of people implies that they constitute the philosophy of the people reflecting their modes of thinking, embodying their traditional values and means of safeguarding them' (see also Ennaji 2008). However, this paper argues that proverbs are human constructs and thus not immutable although they represent the dominant 'wisdom'. There is extensive literature found which illustrates how gender is socially constructed through proverbs (Granbom-Herranen 2010; Hussein 2009; Kerschen 2000) and the power of tradition embodied in the proverbal expression (Ennaji, 2008). For the purposes of this paper, Saraiki proverbs (*akhaanrr*) are the sayings of elders that are meant to convey wisdom and usually are expressed in a short sentence. Cultural beliefs are reflected through these proverbs.

Saraiki proverbs are thousands in number and continue to play an important role in deploying cultural norms. These are thought to impart great wisdom, philosophy and the basic principles of life. The proverbs in Saraiki language tell us the story of its norms, culture and traditions. The daily life of its people is expressed in them. Saraiki proverbs relate to the themes of truthfulness and justice along with more mundane matters such as the weather, crops, fairs, leisure, and the interests of everyday life. These proverbs also include expressions related to the domestic life of women along

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with highlighting the ideal individual qualities of men and women. The proverbs also reflect the past and provide advice for the future[2].

Proverbs in the Saraiki language reflect patriarchal social norms and thus biased social constructions of gender. These norms are based on the concept of male superiority and control. Therefore women who deviate from or resist this control are negatively potrayed. Conversely, the social realities of Saraiki have changed over the last two centries. Women play an important role in socio-economic development. In the rural areas women increasingly play an important role in the agricultural sector. In the urban areas given their access to education and to employment, a considerable number of Saraiki women are active today in jobs related to the public and private sectors. Saraiki women nowadays have evolved considerably, and there are now growing numbers of women doctors, engineers, economists, professors, lawyers, judges, ministers, etc.

While they contribute significantly to development, women's socio-economic situation has hardly improved and gender equality is far from being achieved. The ratio of run-away women is increasing day by day: in a conversation with a practicing advocate he informed that every day there are cases of run-away women, and it has never been like this before. Though the Pakistani government has enacted several laws concerning violence against women, which is one of the biggest causes of women running away; these laws never reach the rural women. The phenomenon of run-away women can be seen as a sign to break male domination and control.

In Saraiki rural areas, runaway women often approach the elder woman (*waderi mai*) of their area. This elder woman takes the matter into her hands and attempts to resolve the issue informally after ensuring the security of the runaway by her father, brother or husband. Some runaways approach the government crisis centre known as Daar-ul-amaan where again she is often met with a series of crises. Only a few have the courage to go back to their family homes on their own. In the most extreme circumstances, runaway women can be killed by their family members or may commit suicide in order to escape social stigma. However, it should be noted that the treatment of runaways varies from area to area in the Saraiki-speaking community. It also differs between the classes. It varies from community to community family to family and even person to person.

Therefore Saraiki proverbs do not represent today's women's reality in Saraiki society. Proverbs represent archaic discourses on women, which go back to 19th century. Traditional male power and dominance is embodied in proverbial expressions. In this paper eight proverbs directly related to runaway women are selected to show how strongly proverbs are opposed to the idea of women running away from home. Rather, proverbs encourage submission and obedience in women.

In the Saraiki language, some proverbs mainly focus on those women who deviate from societal norms. The depictions of these women are of particular concern in this paper. The study found that Saraiki proverbs are inherently biased against women. A number of women interviewed and the closely-examined data showed that the Saraiki proverbs are intended to reinforce male dominance to women and focus on their conduct within the family in particular. They are told to take care of

2 Mughal, Shaukat. (1992) Siraiki Akhaan, Preface to First Vol. 1st Ed. Jhok Publishers and Printers Multan, Pakistan.

their father, brother, husband and sons during the entire course of life. Saraiki language plays a vital role in this socializing process, with Saraiki proverbs used as tools to reinforce these cultural ideals.

Scholars like Shaukat Mughal (three volumes 1992, 2005 & 2009) and Syeda Anjum Gillani (1997) in their collections of Saraiki proverbs have conducted great explorations and translated the same with explanations. Their explanations regarding the proverbs aimed at runaway women, which focus on issues related honor, disobedience and carelessness.

Social and Legal Norms Influenced by Proverbs

In general running away is used as a last effort by women and girls in order to escape a repressive situation. The reunification of the runaway women depends upon the conduct of society and the family towards her. Societal attitudes towards runaway women are best expressed in Saraiki proverbs.

Proverbs Showing Runaway Does Matter to Honor

1) *Ap gaiyoun te ap ayoun qadar vanjaeyou ranna da, patt lahaeyou babay di te nakk vadhaeyou amma da (Shaukat 1992:25)*

(She, who left (runaway with wrong person) and returned herself, she disgraced all the women and caused disrespect to her father and mother in society and is a black spot (kalank ka teeka) to her family).

2) *Ap gai te apay ai qadar vanjaes ranna da, darhi patties babay di te chonda munneis amma da (Shaukat 1992:25)*

(She, who left herself and returned home (after civil marriage), she disgraced all the women and caused disrespect to her father and mother in society. She and her family are left with no honor).

Proverbs 1 and 2 states that a woman who runs away from home is left with no honor in the family even if she eventually returns. She has disgraced all the women in the society and brought disrespect to her father and mother. Even if returns, is regarded as a black spot to her family and has disrespected (*patt lahaeyou*) her father and her mother (*nakk vadhaeyou*). '*Patt*' (respect) and *'nakk*' (nose) are two prominent words in the Saraiki language and both are related to honor. The act of running away by a woman affects the honor of the entire family.

A beard (*daarrhi*) is considered to be a symbol of respectability in Saraiki society because of its association with Islam. Often people who lose a bet, for example, are forced to shave their beards as a sign of their defeat. Similarly, in the case of women, if a woman loses a bet or breaks with social conventions, she can be punished by having a little portion of her hair shaved or cut by scissors or have her face blackened. Hence, the act of running away by a woman is seen as being comparable to having made her father shave his beard and mother cut her hair before the eyes of society.

Saraiki proverbs reinforce the idea of women's subordination. Proverbs 1 and 2 describe a woman as an imbecile (*kam aqal*) but at the same time, she is regarded as the family's honor (*ghar di izzat*).

During discussions on these proverbs, a woman spoke outsaying, 'a brother, family's honor relates to a woman and a woman's honor is associated with her home and she better remain at home' (*bhira, khandan di izzat aurat nal hy te aurat di izzat gher nal hy*).

Another woman confirmed what was stated in proverbs 1 and 2 stating that, 'a woman has no respect other than the family' (*ranna di gher tu bahir kai pat ni*). She further said:

> If a woman goes out and travels alone, she also has no respect (*kallhi zaal di aj day zamanay ich koi izzat ni*) nowadays, then you can guess (wal tu ap samijh ghin) that if a woman leaves her home and is a runaway then what is she left with? And how will her parents be treated in society? Left with no honor (*Kakh jogi izzat ni bachdi*) and the father cannot lift his eyes up (*peo akh chanvanrr joga ni ranhdi*). When a woman goes out against the will of her family and becomes a runaway, if she returns by herself, she has no honor (*autri rann di kehi izzat jairrhi ap gai te ap gal phir te murr ai*).

These responses from women highlight the fact that In Saraiki areas, a woman is expected to altar everything for the sake of the family's honor. She has to sacrifice her will, her wishes, and her share in property and even her consent to marry the person of her choice.

Proverbs Showing Runaways are Worthless and Belongs to None

3) Bahar nikhti kakh di, andir bethi lakh di. (Shaukat 1992:74)

(She, who went out (runaway from home), is of no value, whereas the one who remains inside is worth millions).

4) Nikhti rann tareejhay di. (Shaukat 2004: 257)

(Runaway woman belongs to the third one)

5) Rulli rann da har koi saein. (Shaukat 2009: 139)

(The woman lost is claimed by everyone)

Proverbs 3, 4 and 5 clearly express the dominant societal attitude towards runaway women. A proverb 3 state that the one who goes out of home should be disrespected while the one who remains inside home shold be honoured. In Saraiki areas a woman is expected to tolerate cruelty rather than leaving home, and if she so does, she is considered to have committed a sin and to be of no worth. While, there also is a very famous saying that, 'To tolerate cruelty is a severe cruelty,' but this is generally only applied to men. An elder woman, Sardar Mai, said:

> A runaway ruins her honor as well as that of her parents when she steps out of her home against the will of her parents. Further if she returns, she remains good for none (*jay o pichan Val aaway taan v o kahein kam di ni ranhdi*). It is better she dies

> somewhere (*changa hy kithaein mer khap vanjay*) because no one will accept her as wife. She is useless after she is honorless (*izzat nai taan kujh nai*). The woman who left home is ultimately left with nothing (*jairrhi gharon gai o aslon gai*).

The same mentality is also expressed in proverbs 1 and 2.

Proverbs 4 and 5 state that a runaway woman is disowned by her family and the society she belongs but belongs to the third one. This 'third one' (*tareejha*) can be best explained as any other person (*her koi*) who can provide her with shelter, food and security and in return may have his demands fulfilled as she has become his property. The phrase '*rulli rann'* (lost woman) in proverb 5 expresses the idea that a woman who has left her home is now regarded as a lost woman and can be claimed by every person whofinds her.

This was confirmed by Ata Elahi, who is from a field working family residing in a village called Mondon situated in Mailsi, which is a sub-division of Multan. Her daughter Bubli left home with her cousin Murtaza and did not return home for many days. Ata Elahi and all the family members conducted a formal search for them but in vain. One day Bubli and Murtaza returned and took shelter in the house of Mian Qamar Zaman, the elder person in whose fields both the families used to work. Ata Elahi and Nawaz disclosed before the *panchayat:*

> This girl Bubli does not belong to us (*Bubli hunrr asadi kujh ni lagdi*) as she is of no use to us now (*ay asaday kahein bha di kani*). She is nothing to us and we disown her from our family (*asaday tu bahir hy ay hurr*). She may live with she wants (*bhaveni jainday nal merzi vanj vassay*). But we had brought her up so we must be compensated from Murtaza.

She also stated that, 'We don't care whether she has married to Murtaza or not but this is not our concern and she is no one to us. It is impossible for us to take her back as no one else would marry her (*asaday ichu hunrr eku konrr pernesi*)'. Thus, she was left to live with her runaway partner, and she is now the mother of three children.

When proverbs 1 to 5 were discussed during field work, most of the women expressed their feelings in these words: 'the woman who left her parents can leave any one else (*Jairrhi rann maa peo di ni thai o kahein bay di k thesi*)'. Another said, 'the one who dishonored his parents, how will she protect the honor of anyone else (husband) (*jis mai peo maa di laaj ni rakhi o bay khein di k patt rakhes*i). The woman who didn't care her family, would herself die wandering (*jayin khandan di pagg roli hy o ap e ruldi mersi*)'.This mindset reflects the ideas about runaway women put forward in Saraiki proverbs.Women and girls generally run away because they are deprived of some right or are forced to do something against their will. These Saraiki proverbs provide only the single aspect of the issues but do not provide any resolution. Rather, these proverbs criticize and make fun of women who run away.

Proverbs Showing Runaways as Faithless, Characterless and Useless

6) Bzari rann da keha etbar. (Shaukat 1992: 60)

(A runaway woman is not trustworthy)

7) Badshakli hovay, badamli na hovay. (Shaukat 1992: 59)

(An ugly woman is much better than the one with bad deeds.)

8) Badkirdar rach vendi hy, badzaban nai rachdi. (Shaukat 1992: 59)

(A characterless woman can be lived with but not the one with bad tongue.)

Proverbs 6, 7 and 8 very clearly describe character asbeing more important than beauty in Saraiki culture. The phrase '*bzari runn*' in proverb 6 stands for the woman who performs for money, whether a dancer or a prostitute, but in proverb 6 it means the woman who loves money and can do anything for it. Due to societal restrictions this woman is considered to be a runaway. She is disregarded in the Saraiki culture as a *bzari runn* and is not considered trustworthy.

Male Female Discrimination Developed Through Proverbs

A runaway woman is considered to be untrustworthy if she returns. She is not welcomed as warmly as a runaway man. In fact, this discrimination is evidenced by the fact that I did not find a single Saraiki proverb that mentioned male runaways. When I asked my respondents about this, most of the men and women answered that when a male leaves home, the feelings are different than those when a female runs away. For example, Kaneez, a woman field worker whose son had left home said, 'What can I say to my son? He has returned and it's worth a million (*putr jo thiya vat k akkhijay, pichan murr aye eho lakh hy*). When I asked the same of another woman, Sheemo, whose daughter left home in the night and had not returned, she expressed her feelings in these words, 'When a daughter leaves home, she deserves to be killed (*dhi hovey te gharon bhajjay, banda gichi na ghutt sattay*). What has she left with us to let her live with us again? (*us asada pichan k rakha ay jo assan oku rakhon*)'. When asked why there is such a difference between the same act being committed by a son and a daughter she says, 'A son is a son and a daughter is a daughter. There is no comparison between a son with daughter (*dhi dhi hondi ay te putr putr, dhi da putr nal keha jorr*).

A runaway girl, Sibgha, returned home after getting married to the boy of her own choice after he abandoned her in rented room in Karachi a few days after they were married. She says she was only fourteen when her mother wanted her to get engaged to her nephew. 'But I refused and I said, I will marry to person of my own choice. My mother said, (*vanj*) go (*mal mukala te dal dala*) blacken your face. The same happened to me and I ran away with a boy, who never returned home, and now I am nineteen and no one is ready to marry me. I think that was a kind of curse of my mother.'

Another girl, Sheemo, left her home just because she could not live freely due to the restrictions of her three brothers. She says, 'We were two sisters, and I always hated when everything was to be done according to the will of my brothers and father. My feelings were always hurt. So, one day after a big quarrel, I secretly left home, and I first went to a friend of mine. After two days my friend's mother came to know the situation, and she threw me out of her home saying 'don't spread dirt in my house (*meday ghar gand na macha te haya nal nikal vanj*).' She further said, 'Look at your face and then your character (*shakalon kaidi bholi te amlaan di goli*).' I was left with no option but to return home. My father, mother and brothers cursed at me and I had no value at home (ghar *ich medi kai qadar na reh gai*). Everyone called me called a 'runaway' (*saray meku nasokirr sadeinday han*). No one ever understood my problem, and I was never given my God-given rights.'

In all the conversations about runaway women, the same ideas put forward in Saraiki proverbs were expressed by almost all the women. This confirms the impact of proverbs on the creation of cultural and social norms. The feelings expressed by the families of the runaways and the words used in their statements show that the use of proverbs is common. The study also found that the proverbs are not only used in their original form, but also words taken from the proverbs are often used, which demonstrates how proverbs have filtered into everyday language and conversations.

Conclusion: Proverbs and the Status of Runaway Women

The aforementioned proverbs establish the dominant ideas in Saraiki culture regarding runaway women. Women who run away are given a secondary status according to these proverbs, being viewed as a stain on the honour of her family. A women is victimized firstly inside her home, and being a runaway, she later faces cruelty of society. She is not only the victim of men but is equally humiliated by the women in her home or in the women in the crisis centre.

The issue of runaways is very sensitive in Saraiki areas, and the proverbs do not provide an avenue to deal with the underlying causes of this problem. Rather, these proverbs are used frequenty to dishonor runaways even by their loved ones. These proverbs in Saraiki language foreshadow the difficulties women will face in society if they run away. They are often maltreated, sexually harassed, sold into sex work, physically and mentally tortured in crises centres or at the hands of whoever they meet. Women leave home when their rights are violated, but they continue to face violations even after. Where can they go and where can they live? Running away is a result of a woman's helplessness at home, and returning is a result of the severity of society outside the home. Thus Saraiki proverbs, which continue to have a great deal of influence in Saraiki language and culture, are used to taunt women and compund this severity whereas at the same time these proverbs indicate the hidden miseries they face inside and outside the home.

However, like all cultures, Saraiki culture is not static, and people are working towards social change from within. One possible means of overcoming the negative messages deployed by proverbs is through their creative deconstrauction. For example, Helen Yitah provides interesting examples of reconstructing anti-women proverbs by invoking the authority of other proverbs to support an alternative view (2009). Finally, proverbs are themselves changing, which may provide new avenues for social change toward the achievement of gender equality in Saraiki culture. This is an area that warrants further research.

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Liberating Battered Ethnic Minority Women on Women's International Liberation Day?

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Abstract

Accounts on ethnic minority women exposed to honour violence form a highly profiled subject in Scandinavia. The notion of honour violence is used to designate the violence which some ethnic minority women are being subjected to as an implied contrast to the violence which Danish women are exposed to. The categorization of the violence – and of the women – takes place both within the media and popular discourse. However, the categorization in Denmark also occurs within the Danish civil society; e.g. in Rehabilitation Center for Ethnic Youth in Denmark (R.E.D.). The categorization in question was brought to my attention during fieldwork at the center. In this article I focus on interpersonal encounters between professionals working at R.E.D. and the battered ethnic minority women living there. More specifically, I analyze a teaching session taking place the day after The Women's International Liberation Day. I participated in the teaching session as part of my participant observation at the refuge during March 2010 and February 2012.

I argue that the unequal power relations between professionals and residents influence not only how the ethnic minority women perceive the violence they have been subjected to, but also modifies their self-image. I apply the sociologist Donileen Loseke's concept of 'formula stories' and sociologist Mitchell Dean's concept of 'governmentality'.[1] Loseke defines 'formula stories' as narratives about types of experiences involving distinctive types of characters. As such, stories become widely acknowledged ways of interpreting and conveying experience and they can become virtual templates for how lived experience may be defined (2001; 2007). Focusing on the interpersonal encounters allows me to bring to the core of the analysis invisible, subtle and subconscious power relations. By combining a narrative and governmentality inspired analysis, I seek to draw attention to how particular regulative technologies contribute to regulate human behavior and create certain subjects (Dean 2006). Seeing social action as a narrative, the encounters become a narrative negotiated in the interaction between the two parties. Thus, the encounters reflect different underlying assumptions in terms of ethnicity, class, religion, culture, gender and violence. As such, the narratives are created by professionals and residents, but they are also shaped by the institutional framework and (political) tendencies outside the institution.

Keywords: honour, violence, ethnic minority women, social welfare institutions, narratives

1 Michel Foucault originally coined the concept *govermentality* to refer to the self-governing by and of individuals ("the conduct of conduct") in lectures held at Collège de France in 1977 and onwards. Since then, the concept has undergone a further development by researchers such as sociologists Nikolas Rose and Mitchell Dean. Particularly because Foucault's own application of the governmentality concept consists of never published oral presentations, the governmentality literature rests upon the ways in which his followers have continuously been developing the concept (Bevir 2010: 424).

This article is based on a preliminary chapter from my forthcoming PhD-thesis. The thesis deals with honour based violence among ethnic minority women in Denmark and it argues that the term *honour based violence* constitutes part of an applicable narrative producing narrative identity. It furthermore shows how this narrative influences identity formation on different levels of society. The present article is based on four weeks of fieldwork conducted in March 2010 and on two weeks of fieldwork in February 2012 in a refuge called Rehabilitation Center for Ethnic Minority Youth in Denmark, in short: R.E.D. The participant observation at R.E.D. was conducted during four weeks in March 2010 with a two week long follow-up study in February 2012. During the fieldwork I engaged in participant observation and conducted 13 interviews with 13 of the women living there. Additionally one interview was made with a woman 8 months after her residence at R.E.D. had come to an end. Furthermore, when I began the research for the present study in 2010, I turned my volunteer work within the Connect-project into participant observation. The Connect-project facilitates a mentor programme for ethnic minority women involved in so-called honour conflicts with their families. It is based upon volunteer work by mentors and consists of (well-educated) young ethnic majority women who constitute role models for the ethnic minority women. The women have often stayed at R.E.D. prior to their Connect-association and are assumed to lack knowledge on Danish society and be in need of social network as they have left their families.[2] At R.E.D., I conducted participant observation during various social activities and I was also present at staff meetings, a supervision-session for the professionals carried out by a psychologist etc. In addition, I was given access to a lot of confidential information from the professionals' daily records on the women's identity, the situation of their families and on their whereabouts after relocation. In the thesis I have also looked into what I call 'public accounts' on honour based violence in Denmark such as national newspaper articles, autobiographies by women exposed to honour based violence and examples of dominating perspectives within (anthropological) Scandinavian research on the violence. Although the public accounts are not a part of the present article they allow me to locate the analytical results from the fieldwork within a broader framework (and vice versa).[3]

In this article I shall focus on the ways in which certain power relations and positionings at R.E.D. affect the way the battered ethnic minority women are perceived (Nielsen 2008, p. 15). To help pinpoint this concealed use of power I will introduce the notion *governmentality* that deals with how certain technologies of power contribute to regulate human conduct and form certain subjects (Dean 2006, p. 46). A governmentality inspired perspective facilitates an analysis of the interaction between professionals and residents at R.E.D. as a constantly negotiated narrative, and it furthermore shows how the narrative concerning practice is formed by different (narrative) agents. The narrative on power relations and positionings is created by a dialogue between residents and professionals

2 Connect is housed by and financially supported by the NGO Danish Red Cross Youth [Ungdommens Røde Kors]. As the programme is based on weekly meetings between the mentee and her mentors, I solely conducted participant observation during monthly compulsory mentor-meetings where the Connect-steering committee would organize discussions on matters relevant to the mentors, talks by 'experts' such as anthropologists, social workers etc. or sometimes joint excursions for the mentors.

3 The newspaper articles were collected from 2007-2010. The autobiographies are called *Honour Killings* [Æresdrab] from 2003 by Danish-Turkish Sengül Güvercile og *When Blood Becomes Thicker than Water* [Når blod bliver tyndere end vand] from 2005 by Danish-Maroccan Sandra Berkan. The research publications consist of *In Honour of Fadime – Murder and Shame* [Fadime – en sag til eftertanke] translated into Danish in 2003 and *Om ære* [On Honour] in Norweigan from 2008 both by the well-known Norwegian anthropologist Unni Wikan. Both books are written on prominent 'honour killing' cases in the Scandinavian countries of which Wikan was present at some of the trials.

but the dialogue and the interaction do not just occur as the result of one singular event. The narrative is formed by the frames of the institution, by political tendencies and narratives in society outside the institution. Thus, single encounters should be understood as parts of a process within which a negotiation takes place that discusses which kind of narrative should create a basis for the women's place in future society (Nielsen 2008, p. 51). This article seeks to illustrate interacting social techniques inspired by the sociologist Donileen Loseke, whose work on narrative identity deals with how so-called 'formula stories' create narrative identities on many different levels of society (2001; 2007).[4] That is, how the battered ethnic minority women are encouraged to perceive their own story in light of foreign ethnicity, culture and religion, but also how they challenge this narrative. The social techniques produce institutionalized self-perceptions (Loseke 2001, p. 121) such as that of the young, oppressed and battered Muslim minority woman who is rhetorically opposed to the dominating and violent family. To begin with I will provide a bit of background information on the refuge and its societal role.

Rehabilitation Center for Ethnic Minority Youth in Denmark: Narrative (re)workings

The Rehabilitation Center for Ethnic Minority Youth in Denmark was founded in 2004 and is an independent institution financed by a fund within the Ministry of Social Affairs and Integration and it focuses on ethnic minority women escaping from '(…) threats of forced marriage or escaping from forced marriages and/or honour based violence.' [my translation] (R.E.D.dk).[5] The refuge provides housing and safety for the escaped women and it includes them in a rehabilitation programme central to which are education and/or job activity.[6] While I conducted my fieldwork at the refuge, the women living there were all between 18-25 years of age, originating in South Asia and the Middle East including Turkey and Afghanistan and most were of Muslim descent.[7] The women were either born in Denmark or came to Denmark at an early age. R.E.D. affords accommodation for 12 women at a time but holds an extra room which is reserved for emergencies. However, this room was often in use while I conducted fieldwork at the refuge. The women are able to stay at the center for up to two years each (and the couples for up to one), but most of the women only stay there for up to three months. Since 2009, the number of women staying at R.E.D. has been increasing from around 40 women a year to more than 60 a year in 2010 and 2011.[8]

4 Loseke defines formula stories as narratives about types of experiences involving distinctive types of characters. As such, stories become widely acknowledged ways of interpreting and conveying experience and they can become virtual templates for how lived experience may be defined (2001, p. 107).

5 www.r-e-d.dk. Accessed 01-05-2013.

6 The refuge also offers crisis treatment and focuses on the social, psychological, physical, practical and financial aspects of the residents' lives and supports them in communication with different representatives of the social welfare system, i.e. doctors, psychologists, social workers, police etc.

7 After 2010, R.E.D. has also been housing (often ethnically mixed) couples escaping similar (threats of) violence. Due the expansion of the center both in terms of scope and space in 2010, the refuge changed its name from Rehabilitation Center for Ethnic Minority Women to Rehabilitation Center for Ethnic Youth.

8 Since 2010, a re-entry home in addition to the refuge has been made available for those women returning to society outside the center.

R.E.D. facilitates a regular daily programme in which the professionals participate. Collective meals as well as teaching sessions and compulsory daily activities comprise the everyday lives of those residents who are not working or undergoing education. A R.E.D.-professional has the task of teaching the women about different topics thought to be of relevance to society and involves them in discussions on these topics. The women take turns making dinner as well as on going grocery shopping with the professionals and they are each responsible for cleaning their own rooms and cleaning the common areas of the refuge.

In contrast to regular women's shelters R.E.D. is placed at a secret location as the residents are perceived to be particularly in danger, often threatened by the entire larger family.[9] Due to the high security level, the refuge is under video surveillance and only the professionals are allowed to let people in and out of the secured entrance. In addition, the windows are bullet-proof and light detectors are set up to make the alarm go off in case anyone tries to climb the building. Moreover, in each room of the refuge alarms are installed and everyone entering and leaving are obliged to write in a logbook. When moving into R.E.D. new residents are given a new name often of their own choosing. The residents are not allowed to tell anyone about the refuge's location, including family and friends, which means they can only be driven to the refuge by the professionals, the police, social workers etc. and they are not allowed to have visitors.

The very name of the refuge testifies to the fact that R.E.D. constitutes a rehabilitating effort and the (daily) work of the refuge does not in any way reflect participation in women's politics or fighting against society's unequal power relations between the two genders, which often is associated with the work of women's shelters (see Bumiller 2008; Clemmensen 2001). Instead, the refuge offers what could be described as a therapeutic integration effort, which the very subsidization of the refuge alludes to.

Loseke argues that the work of social welfare institutions is based upon substantial problem identities, which require that the self-perception and biography of the clients are in line with the solution models facilitated by the institution in question to make the residence at the institution successful (2001; 2007). Doubtless, key narrative aspects of the public politics such as preconceptions about forced marriages and honour based violence constitute a deep-rooted part of the incorporated logic and the principles behind the institution regardless of whether or not the professionals agree with these political decisions surrounding the institution (Loseke 2007, p. 670). Institutions and organizations are compelled to have a clear image about their typical clients as these images justify the procedures of the institution by contributing with ready-made answers to practical questions such as who the main clients of the institution are, what their key concerns

9 'Regular' women shelters in a Danish (and Scandinavian) context focus exclusively on providing shelter and safety for the escaped women and children. Historically, the shelters are linked to the women's movement and based upon volunteer work, solidarity between women and 'help to self-help' (Dobash & Dobash 1992, p. 89). 'Regular' women's shelters do not provide a rehabilitation programme as most (ethnic majority) women staying there are solely escaping their violent male partners and not the entire family. Thus, in Danish majority society the male violence is understood to be the cause of a singular man, as well as his psycho-social problems, and/or dynamics within the relationship which allegedly makes the violence and the threat level less severe than the one facing the ethnic minority women escaping their entire family and culture.

are, and how the concerns are to be relieved (2007, p. 671).[10] Thus, the application of formula stories that account for the institution's solution model is particularly distinct within contexts with the explicit objective to rework the narrative identities of the clients making them fit with the institutionally or organizationally sponsored narratives. These narratives are defined as those the clients ought to incorporate into their own story, and accordingly, several similar narrative elements exist in the work of R.E.D., which will become clear during this article.

International Women's Liberation Day: A teaching session

Frequent social activities such as the weekly teaching of the women who are not working or enrolled in educational institutions constitute some of the most significant daily encounters between the professionals and the residents. In the following I will analyze such a narrative encounter between a teacher from R.E.D. and a group of women participating as students. I find this a fruitful analytical starting point, because narrative negotiation is particularly clear in educational settings.

Monica, the teacher, a middle aged woman of ethnic minority descent herself, was not a trained teacher but fulfilled the part-time job of such at the refuge. Monica provided the R.E.D.-women, who were often preoccupied with matters not pertaining to their education, with historical or societal topics both of relevance to the refuge's scope and thought to be of interest to them. Furthermore, the job as a teacher was also made difficult by the lack of priority given to teaching by the management as well as by the other professionals due to the constant flow of more acute situations. The relatively low priority surrounding the teaching sessions often resulted in quick and ad-hoc preparatory work by the teacher who met difficulties in finding room and acquired tranquility to focus on her preparation.

On the morning of March 9 2010, Monica began her teaching session. She provided two groups of R.E.D.-women with two working questions: One about how 'ethnic women' are raised and one about how 'Danish women' are raised. The teacher had prepared the questions as well as the theme because of the International Women's Liberation Day the previous day, and she had invited me to take part in the teaching session this Tuesday morning.

> Group A (Nadia, Aisha and Dina) were asked to reflect on how "ethnic women" are raised and group B (Basma, Danielle and Manar) were asked to look at how "Danish women" are raised. Afterwards, group B submitted its results. On the working article they wrote: [About "Danish women":] "She does not need to be a virgin; she can talk to her parents about everything, she does not lie to her parents; when she turns 18, she must be independent; when she is coming of age, she is completely in control of her own life; brought up to freedom within limits; takes care of her own economy from day one. Work; does not think about honour – she controls herself." Daniella said that in contrast "ethnic girls" are not brought up to tell their parents everything as honour is important – for instance a suicide

10 However, Loseke stresses that the narrative work and the work of narrative in reality go both ways making the relation between narrative identities on different levels of society reflexive (2007, p. 671).

> will be followed by 100 years of silence on the matter from the parents. Basma added that "Danish girls" do not need to provide for anyone and that virginity is only important for "ethnic girls". Nadia noted that for some "Danish girls" the virginity is also important and that it depends on whether or not they are, for instance, religious. Especially Nadia, but also Dina emphasized several times that there were exceptions and both "Danish" and "ethnic" families are different and so forth. On their working article, which had been the subject of a brain storm, they had written: [About "Danish women"]: "Independent – chooses her own future, conscientious. [About "ethnic women"]: Domestic duties and attentive, honour – THE NAME OF THE FAMILY and her own honour, virgin – pure and faithful, respect for oneself, for people and for the family, economy – helps financially, a good role model to other Muslim girls, to people and to her own family, education, school and work." Nadia added that her group based their work on themselves and that she, for instance, has been raised to pursue education and work before having children and a family. [Fieldnotes, March 9 2010]

This excerpt taken from my field notes written during and after the teaching session illustrates that the very precondition of the teaching's themes is the distinction between how 'Danish' and 'ethnic' girls are brought up. The teacher explicitly encourages the women to focus on the differences between the two groups of women. Furthermore, difference constitutes a condition for the teaching exercise as the two groups of women, who take part in the teaching session, are separated on the basis of a notion about differences in upbringing because of ethnicity. Thus, the teacher provides a notion of *culture as distinction* (Hastrup 2004) when she implies a categorization that marks the dividing line between 'the ethnic women' and the 'Danish women'.

At the same time the teaching session illustrates how the women to a large extent accept the precondition of the exercise. The two groups conduct group work based on the presented logic of distinction, and the majority of the women actually confirm the underlying assumption of the discussion exercise: Differences between the respective methods of upbringing really exist and these differences actually derive from a relationship of opposition. Both group A and B look at the differences between 'ethnic' and 'Danish' women in a way that opposes the two groups of women's upbringing to each other. 'Ethnic women' are brought up with honour as a focal point, which is both connected to the necessity of keeping ones virginity (until the wedding night) and protecting the family and its reputation or name. In contrast, according to the women, the 'Danish women' are not brought up with honour as a focal point, which is why a kept virginity (until the wedding night) is not deemed necessary and the family's reputation and name are not thought to be important either. Instead, 'Danish women' are encouraged, as part of their upbringing, to find work, which leads to financial and social independence, the women explain. This freedom, which includes independence from the family, is emphasized by several of the women. However, Nadia contradicts this kind of homogenization of the two groups of women when she notes that virginity can also be of significance to 'Danish girls', for example, if they are religious. In addition, Nadia's group tries to stress heterogeneity within the given categories by emphasizing differences between 'Danish' and 'ethnic' families. Likewise, the group's emphasis on education, work and on independent economy as important components also in the upbringing of 'ethnic girls' can be seen as an attempt to challenge a so far quite stereotyped presentation and discussion of the established

categories of upbringing. As seen in the following extract there are, however, disagreements regarding this perspective, which is why the discussion continues on the same path. Now, a similar division and complex of themes is repeated:

> Basma thought, however, that is was common to hit one's children in "ethnic families" and that "Danish women" are stronger than "ethnic women". She also thought that religion was used as an upbringing tool in "ethnic families". Monica [the teacher] added that in "ethnic families" control is used as an upbringing tool. Manar said that she has been brought up to "kiss an elderly woman's hand and lick her toes" and that her father had hit her many times. Nevertheless, disagreements prevailed in the two groups regarding these issues. Nadia repeated that all her ("ethnic") female friends were educating themselves and that it was the most important thing. Nadia and Dina added that all the "ethnic girls" decide themselves who they are going to marry. Basma disagreed saying: "If I say that I will not marry a certain man I get a beating and nobody can stand that." She also thought this was the reason why many "ethnic girls" are unfaithful.
>
> When I inquired about the difference between the reason why they are living at R.E.D. and on why "Danish women" are staying at other women's shelters Dina, Nadia and Aisha replied that it is because they have run away from their families combined with husbands whereas "Danish" women exclusively have escaped their husbands. Monica [the teacher] said: "You're here because of your families." Aisha: "If I were to come home with a "Danish" man my dad would butcher me… Dina and Nadia are lucky, the rest of us have all been hit." Furthermore, she stated that more "foreigners" than "Danes" are hit. Monica [the teacher]: "Parents are afraid of losing authority." Afterwards, Nadia emphasized that one good thing about "emigrant families" is that they take good care of their elders and they stick together and that their elders are not put in nursing homes.
>
> As to moving away from home everybody apparently agreed on the notion that as an "ethnic" woman you cannot move away from home until you are married or if you have a really good reason. For instance, if you have been accepted at university and therefore have to move away. Monica [the teacher]: "Again, this is control. Why do parents want to control the marriage?" Nadia told a bit about her own situation and that her parents had pushed her into marriage because her husband belonged to a good family with lots of money and that parents of "ethnic" girls only pressure them to secure them a good future. Monica [the teacher]: "Parents also want to control marriage because of their grandchildren – to be certain of who the grandchildren's father is. They are the descendants of the future. [Fieldnotes, March 9 2010]

The text excerpt exemplifies how the women are repeatedly redirected or even corrected by the teacher during their presentation and joint discussion. The teacher supports different points of view by adding to them when she says that girls in 'ethnic families' are 'brought up with control'. Later, she adds to the women's discussion on how an 'ethnic woman' cannot move away from home

before marriage by saying 'that is control again', and immediately afterwards she asks rhetorically: 'Why do the parents want to control the marriage?' Nadia again tries to sketch a more nuanced description of ethnic minority parents' alleged control with these (arranged) marriages by providing a version of her own story: Her parents put her under pressure to marry a certain man because her husband came from a 'good family' with lots of money and thus could secure her a good future.[11] Yet, the teacher ignores this account and provides the answer herself to her own previous question: 'Parents also want to control the marriage because of their grandchildren – to be certain of who the grandchildren's father is. They are the descendants of the future.' In this way the teacher turns the women's respective experiences and interpretations of the violence they have been exposed to into an unambiguous narrative about the collective and dominating larger family that wants to control the young women's destiny solely because of the family's foreign ethnicity and culture. However, the teacher's remarks are not innocent interpretations of the women's stories. Instead, they consist of institutional techniques in the narrative (re)work that takes place in institutions and contexts like the ones at R.E.D. These are subtle techniques like asking and answering questions, rephrasing accounts and ignoring certain aspects of the women's stories and dramatizing others (Loseke 2001, p. 121). Supported by these narrative techniques the teacher turns the conversation into a plot consisting of social control. The plot revolves around the older generation of the women's families including the parents who allegedly are forced to control and intervene against the women's actions because of an underlying fear of losing authority. Such a plot not only deprives the women of any kind of agency but it also fits well narratively with the formula stories that Loseke found in the work of the American women's shelters (2001). At stake in the R.E.D.-promoted narrative is a clear and distinct division between guilt and responsibility as was the case in the plot concerning 'men's violence against women' in the American women's shelters. However, instead of leaving a violent – and 'guilty' – man the R.E.D.-women are encouraged to leave – or at least break away from – their violent and culturally managed family, if they want a 'better' life associated with independence and self-dependence.

From governing to self-governing: The self-categorization as victims of honour based violence

Although it is possible for me to deconstruct certain interpretations in regard to the women I met at R.E.D. the surrounding narratives do influence the conduct and self-perception of the women; the women can end up supporting external depictions of themselves. This is another important perspective regarding the term 'governmentality'. The term deals with ways in which certain understandings of reality are presented as unambiguously right and moral thus contributing to form certain subjects (Nielsen 2008, p. 75). In other words technologies of power in addition to the govermentality perspective explore the conduct of others, but the term also deals with conduct of conduct; self-regulation (Dean 2006, p. 46). Thus, it was not all the R.E.D.-women who tried to differentiate and thereby problematize the teacher's presentation of the different methods of upbringing of 'ethnic' versus 'Danish' women respectively. As previously mentioned, it was

11 Nadia's dissociation of the categorization of the R.E.D.-women also serves as an accentuation of a tacit class aspect in addition to marking a distance to the cultural homogenization of the ethnic minority women. As Nadia Jeldtoft (2012) demonstrates along the lines of Beverly Skeggs (1997), class aspects can also function as dis-identifications and discursive formations allowing people to show resistance. For an elaboration on the narrative resistance by (some of) the R.E.D.-women, see Liebmann (work in progress).

furthermore clear that the women widely accepted ethnic and cultural distinctions as an implicit precondition for the teaching exercise, and especially the younger women told their stories within the narrative framework provided by the teacher.[12]

It is important to note that the enrollment process at R.E.D. includes a sort of self-categorization, as the women are able to contact the refuge by themselves. The self-categorization, however, also takes place through the (tacit) acceptance of the refuge's response to the implied problem definition. R.E.D.'s rehabilitating solution model requires a confrontation with and safety from the culturally managed family (and/or husband), which stands in the way of R.E.D. and obstructs women from gaining their independence and integration into Danish society. By these means, self-categorization is part of the narrative (re)working as it constitutes a basis for the actual residence at the refuge. Put differently, by entering R.E.D. the women have to a large extent added their support to the plot that is at the core of R.E.D.'s work, as seen in the teaching session. As Loseke emphasizes, the women who completely fail to identify themselves with the refuge's solution models would most likely have left the refuge at a very early stage (2001), or they might not have been interested in moving in at the first place. Moreover, Loseke notes that the institution's success depends on whether or not it is possible to make the women accept the dominating perspective on violence (2001:2007); i.e. violence as a consequence of the controlling and culturally managed family. In one way the (gradual) acceptance of these ideologies is a decisive part of the treatment and the prescribed development of the women, which R.E.D.'s work on confrontations with and safety from the family are based upon. The acknowledgement and the very mentioning of a culturalized perspective on violence constitute narrative support of the narrative forms of subjectivity that the social techniques at R.E.D. – and in society outside the institution – facilitate. This way, the self-categorization becomes a way for the women to show support of the external depictions of themselves, and by doing so they simultaneously show internalization of the very ideologies, which the refuge's work is based upon. The technologies of power are only successful insofar as agents come to experience themselves through such capacities, qualities and status positions (Dean 2006, p. 75). At the same time they become an important way for the women to demonstrate the self-development in question that fits in with the objectives of the refuge.

Still, it is noteworthy that this also underlines the notion that a narrative influence has already taken place prior to the women's entrance into R.E.D. The dominating narrative on honour based violence in Denmark is a major part of popular accounts in the media, autobiographies, academic publications and projects in civil organizations such as within a project in the NGO Danish Red Cross Youth and of course at the rehabilitation refuge, R.E.D., all of which makes the narrative significant (see Liebmann 2011). What I am arguing here is that that the narrative, including the recognizable plot, structures large parts of the cultural but also of the institutionalized field of work making it difficult to speak (write and think) outside of the established categories within the overriding problem definition.

12 Although the younger women had stayed at R.E.D. for a shorter period of time than the older women and therefore had not been part of the institutionalized, narrative (re)working for long, they were mainly the ones who supported the teacher's presentation the most during the teaching session.

Conclusion

In this article I have tried to demonstrate how particular technologies of power within a dominating narrative plot on social control and the culturally managed family associated with battered ethnic minority women contribute to regulate their conduct and create certain subjects. By examining a R.E.D. teaching session inspired by The International Women's Liberation Day, I have shown that R.E.D. operates with and within an inherent understanding of foreign ethnicity and culture as problematic to the women's (liberation and) self-development as well as to Danish society as a whole. The perspective enables an analysis of the encounters between the professionals and the residents as a narrative negotiated in the interaction between the two parties. Thus, the encounters reflect how the subtle power relations underlying the existing narrative preconceptions encourage an understanding of the violence the battered ethnic minority women have been subjected to solely in light of foreign ethnicity, culture and religion, and this in turn influences the women's self-perceptions.

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A Context-Sensitive Approach to Immigrant Pakistani Women's Rights in Norway

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Abstract

This paper discusses how a Norwegian non-Governmental organization (NGO) uses a context-sensitive approach to protect and promote human rights of immigrant women in the country. Their rights are violated through domestic violence, and as a consequence, some of the them run away to crisis centers. To elaborate the NGO's work, the paper discusses a Norwegian-Pakistani forced marriage case that was processed by this NGO. The paper thus presents a dynamic interface of law, culture and transnational family relations within which the NGO has to strive for women's rights.

Introduction

To locate the paper in its appropriate socio-legal context, it first introduces the Pakistani community in Norway. This is followed by an introduction of the NGO and its *modus operandi*. Finally the paper discusses how the NGO handled the case of a Pakistani immigrant woman who ran way to a crisis center to escape from her second forced marriage. The case elaborates how the NGO draws on culture to facilitate the law in order to protect women from domestic violence and to re-integrate them in the family and community.

The empirical data in the paper come from my PhD thesis (2013) that explores context-sensitive approach to human rights adopted by some women's NGOs in Norway. The data are collected through participatory observation of the NGO's work and in-depth interviews with the NGO's caseworkers and the client women whose cases where processed by the NGO. Most of the data were collected in Urdu, Pashto and English along with some which were conducted in Norwegian.

Norway and Norwegian-Pakistanis

Norway is a Scandinavian welfare state with a State Lutheran Church to which approximately 78% of Norwegians belong[2] The country's population is approximately 4.9 million, of which roughly 2% are Muslim.[3] Norwegian Muslims come from diverse ethnic and national backgrounds. Pakistanis make up the single largest Muslim group in Norway.

In Norway, the term *Norsk-Pakistanere* (Norwegian-Pakistanis) refers to immigrants of Pakistani origin. The term includes persons of Pakistani origin who have Norwegian citizenship or have a residence permit in the country. Pakistanis began to arrive in Norway in 1967 as labour migrants. Most of them come from the rural areas of Gujrat district in the Punjab province of Pakistan. On

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2 Statistics Norway last accessed 28 December 2011. http://www.ssb.no/kirke_kostra_en/

3 Statistics Norway last accessed on 28 December 2011. http://www.ssb.no/english/subjects/02/

arrival in Norway in the 1960s and early 70s, most of the Pakistani immigrants took unskilled jobs in industry and in the service sector. They gradually improved their status in terms of education, jobs and accommodation (Tjelmeland, 2003:151 & 162). Norway restricted the arrival of new labour migrants from developing countries through legislation in 1974, but new immigrants from Pakistan, like many other countries, continued to arrive in the country under Norwegian family reunification laws, which led to the arrival of women and children from Pakistan in Norway. Presently, Norwegian-Pakistanis are the third[4] largest immigrant group in Norway, with over 31,000 people[5]. Most Norwegian-Pakistanis marry a spouse from Pakistan.[6] The Norwegian state and several NGOs co-funded by the state coordinate to address such problems. Norwom is one such NGO. It has adopted a context-sensitive approach to human rights to address Norway's ethnic minority women's rights violations.

Norwom and its Context-Sensitive Approach to Women's Rights

Norwom basically offers psychological counselling along with necessary socio-legal support to violent offenders and their victims. The victims are often close relatives of the offenders, usually their wives and children. Ethnic Norwegian caseworkers operate Norwom. The caseworkers are trained psychologists. Initially the NGO exclusively treated ethnic Norwegian clients. Later it opened up to receive ethnic minority clients. It especially trained some of its existing staff in intercultural understanding in order to affectively deal with ethnic minority clients. Now the NGO offers its services to all Norwegians regardless of ethnicity. It applies the same professional methods of psychological treatments to all its clients and addresses all human rights violations in accordance and support with the Norwegian law.

However, the NGO's caseworkers dealing with ethnic minority clients agreed to engage more with the ethnic minority cultures in their work. This, in their view, would offer relatively better socio-legal and psychological service to their ethnic minority clients. Therefore, they ran a project that exclusively treated battered ethnic minority women. The Norwom caseworkers tested some different psychological and socio-legal methods in relation to the cultures of the ethnic minority clients. The methods retained the original Norwom focus on violence and trauma but used culture-specific methods to deal with the violence and trauma and to address the related human rights violations. Many of the clients who received counselling under this project came from Pakistani backgrounds.

In its work for human rights, the NGO frequently interacts with state institutions, such as police stations, courts, municipal boards, hospitals, schools, day-care centres and all branches of the Norwegian social welfare systems (the Social Service), such as the Child Protection Office, the employment bureau, among others. To provide relevant socio-legal and psychological support to run-away women, this NGO also closely coordinates with various crisis centres co-funded by the

4 The first and second largest immigrant groups in Norway are people from Poland and Sweden respectively, according to Statistics Norway: www.ssb.no (accessed on 01.12.2013)

5 Statistics Norway, last accessed 28 December 2012. http://www.ssb.no/english/subjects/02/01/10/innvbef_en/tab-2011-04-28-01-en.html

6 'Who Do Immigrants in Norway Marry?' Statistics Norway. http://www.ssb.no/vis/english/magazine/art-2006-10-13-02-en.html - is this from the magazine or from the statistics website? (ssb , Statistisk sentralbyrå, Central Statistics Bureau of Norway)

Norwegian state. All clients of the NGO are referred to it by crisis centres, the Child Protection Office and other branches of the social welfare system. All of its Norwegian-Pakistani clients had suffered domestic violence, which often included sexual violence, and Norwom adopted a context-sensitive approach to human rights (Hellum et al. 2007) to facilitate the clients' access to their human rights.

A context-sensitive approach to human rights recognizes that culture constantly interferes with law, which may hinder human rights. The approach thus requires engagement with cultural norms and practices to protect and promote human rights. At the practical level the approach leads to strategies that simultaneously engage with legal arena and customary norms to overcome the cultural constraints to human rights (Shaheed,1997:59). The approach views culture is fluid, contested, challenged, both internally and externally, and hence changeable (Raday 2003). Certain cultural practices could indeed hinder women's human rights, but it may be possible to find appropriate cultural means to accommodate the human rights. Article 2(f) and 5(a) of the UN Convention on Elimination of All Forms of Discrimination Against Women, CEDAW, actually obligates the states to use culturally appropriate means to modify cultural patterns and practices that discriminate against women. A context-sensitive approach to human rights is one way to find culturally appropriate means and ways to protect and promote woman's rights.

Nevertheless, a contextual approach to human rights is also fraught with challenges to human rights (Hellum et al., 2007:xix). This implies that the approach may also compromise human rights. However, the approach adopted by Norwom does not run the risk of compromising human rights. This is because all its clients are referred to it by various state offices or state co-funded crisis centers for necessary psychological and socio-legal support. This implies that the clients are already engaged with the state law, which must take its full course. Norwom's job is to provide culturally specific ways and means to facilitate the law. Empirical research (such as Mehdi, 2001, Hellum, 1999 and Bano, 2004) indicates that cultures do have enough internal contradictions and ambiguity to accommodate successful negotiations for women's rights or facilitate the process of law. Norwom thus seeks to facilitate the law by providing necessary psychological and socio-legal support and information to the clients in culturally appropriate consultations and negotiations with them.

Moreover, Norwom does not engage with Islamic institutions (mosques, for example), authorities (imams, for example) or texts (such as the Quran or *hadith*). This is because, unlike some immigrant NGOs in Norway, (such as the NGO Pakwom discussed in Taj 2013) Norwom, being an ethnic Norwegian NGO, does not seek religious or cultural legitimacy through its work from the wider Norwegian-Pakistani community.

The NGO also does not engage with Islam to make the Norwegian law acceptable from religious perspective. Nor does it perceive of any other role for Islam in its counselling work with clients. Islam is not the only religion the NGO does not engage with. It actually makes no consultations with any religious text or authority, Islamic, Christian or any other. It works though modern psychological methods and the state law in dealing with its clients who come from various religious backgrounds.

However, the NGO does engage with cultural norms and practices that some times may have religious connotations. The NGO's engagement with culture, as noted before, is solely meant to facilitate, not undermine, the supremacy of the law. The NGO in fact seeks legitimacy from the Norwegian state and the wider Norwegian society through its work for human rights as enshrined in the state law. Thus the NGO's lack of the need for religious or cultural legitimacy from the Norwegian-Pakistani community also eliminates the risk of compromising human rights for the sake of such legitimacy in the ethnic minority community.

Religion is the institutionalized aspect of culture (Raday 2003:667). Culture, often the religious aspect of it, may conflict with human rights. The NGO caseworkers are aware of such a possibility. They have asked their ethnic minority clients that consultation with a religious authority may be arranged for them should they want it, but to this date no client have asked for such a consultation. They have preferred the Norwegian law to deal with their cases without any recourse to religion. The NGO, however, is open to consult religious authorities, if any future clients expressed the wish to do so. This empirical fact substantiates the argument of the Norwegian-Afghan writer Farida Ahmadi (2008) who says that religion is not in the forefront of women's concerns, but more mundane issues regarding their survival, health, access to appropriate legal information and struggle for a better socio-economic life in Norway are of paramount importance to women.

The key notion in Norwom's context-sensitive approach to human rights is cultural literacy or intercultural understanding. The notion focuses on the Norwom staff rather than its clients. This means that Norwom expects its ethnic Norwegian staff to be interculturally sensitive in order to effectively help its clients with an ethnic minority background. A Norwom caseworker explained:

> *My view is that the others (clients) should not change according to my way of working, but I should change according to what is most comfortable for the others (clients). To be inter-culturally sensitive, you have to adjust to the others (clients). I mean the caseworker has to adjust to the clients' comfort.*[7]

Intercultural understanding is also referred to as 'cultural literacy' or 'cultural awareness' (Racius, 2006:141-143), and is increasingly considered an essential part in service provision to ethnic minorities in Western countries (Bojuwoye, 2001 & Sandhu, 2009). Broadly speaking, cultural literacy means having a certain knowledge about art, music, literature, history, political and social systems, economics, science, technology, philosophy, and the religious and ethical beliefs of an alien culture (Moore, 1995:1). One cannot expect every single person charged with specific duties related to immigrants to be well versed in the complexities of the culture the immigrants come from, but one can expect, and even demand, that those who make decisions either possess knowledge of the ethic minority cultures or have expert assistants with such knowledge to advise them (Racius, 2007:59-60). This is because cultural literacy or intercultural understanding is a tool for nurturing trust between people from different cultural backgrounds in a multicultural milieu. Bojuwoye, for example, suggests that counselling in multicultural societies of the 21st century can be expected to take the direction of an integrated delivery system, with possibilities for sharing ideas and knowledge across cultures (2001). In Norway the government also acknowledges the

7 Interview with Norwom Caseworker in May 2007

importance of intercultural understanding, and promises to increase cultural understanding and knowledge about minority groups among the relevant civil servants to strengthen family counseling services.[8] Norwom too seeks to enhance cultural literacy among its employees through multiple training programs in intercultural understanding so that its immigrant clients are treated with cultural sensitivity.

The Forced Marriage Case

Norwom facilitates the Norwegian law in multiple cases to protect and promote human rights of Norwegian-Pakistani women who have ran away to crisis centres to escape domestic violence, including forced marriages. The following forced marriage case illustrates Norwom's work through a context-sensitive approach to human rights. This case concerns three important human rights: the right to marry with free consent, the right to divorce, and the right to a family life without violence. Fatima, age 30, grew up in Norway. Fatima was twice forced into marriage in Pakistan by her parents, particularly by her mother, who was determined to marry her off to one of her cousin's sons. She said that when she was a child, her mother promised her sister she would marry her (Fatima) to one of the boys she was raising. The mother's sister never married and brought up her cousin's two sons. In 1998, her engagement was announced, and in 1999 her *nikah* (Muslim marriage ceremony) was performed in Pakistan without her consent. She said she resisted *rukhsati* (traditional departure ceremony of the bride from her parent's house to the bridegroom's house) and wanted a divorce. The family did not agree. It was now also a matter of family honour. She said:

> *A woman had never been divorced in our extended family. Our family took pride in that. The idea that I would become the first woman in our family who has had a divorce was not acceptable to my parents. I felt trapped in the undesirable marriage.*[9]

She also said:

> *I kept resisting and refused to do the rukhsati. They (her parents) took my passport and kept pressurising me for rukhsati. My parents did not have any education. They had no fear of God. They did not care that forced marriages were not allowed in Islam. They were only concerned with our biradari and their honour and reputation within it. I had many quarrels and heated arguments with my parents and other relatives. My parents beat me and threatened to kill me.*[10]

Finally, the parents said, they would let her have the divorce if she agreed to marry the younger brother of the man she was forced to marry. Fatima did not agree to that either. Meanwhile, her parents came back to Norway with her. For 8 months, no divorce had yet been given to her. With the consent of her parents, the younger brother of her husband applied for a Norwegian visa. She

8 P:18, Action Plan Against Forced Marriage (2008-2011), Ministry of Children and Equality, http://www.regjeringen.no/upload/BLD/Action%20Plan%20Forced%20Marriage.pdf

9 Interview with Fatima in December 2006

10 *ibid.*

asked the immigration service not to let him come to Norway. They refused him a visa. Her parents were angry. They said that if Fatima let the younger brother come to Norway, they would arrange a divorce from the elder brother. Fatima told them to arrange the divorce first, and she would think about the younger brother. However, the younger brother was, in her words, '*very quarrelsome and had already started telling everyone in the family that he would marry me and travel to Norway, after the elder brother had divorced me*'.[11] Meanwhile, the divorce was arranged by the family, but they did not inform Fatima about it. She had already refused to marry the younger brother. Her parents kept pressuring her. Fatima could not finish her education in Norway. She had been working, since the family's economic condition was not good, since her arrival in Norway 11 years earlier. She told her parents she would like to complete her education. The parents refused.

Also in the meanwhile, Fatima's maternal grandmother in Pakistan became unwell. She loved her and travelled to Pakistan to see her while still thinking that she was married to the elder brother. Within days her parents and other relatives started asking her to marry the younger brother. She said she was not divorced. They showed her a paper that they claimed was the divorce document issued by the Pakistani authorities. The date on the paper showed it was made a year before. She refused to marry the younger brother and in response faced violence. She said:

> *My parents beat me. I was mentally tortured. They also did a wazifa and chelah (prayers in seclusion for contact with the supernatural). They hired a man, who did wazifa for 40 days. The family paid him Rs 40,000*[12] *for the wazifa. After the wazifa he gave my parents and relatives a green light to go ahead with the nikah and rukhsati. They did my nikah with the younger brother and also rukhsati after a month. The younger brother, now my husband, was a very torturous man. He said he had won me and he was now my owner. He told every one he had broken my will. He beat me and, in return, I attacked him as well. My parents were angry that I dared to hit my husband back in retaliation. He also attacked me sexually. He restricted my freedom and forbade me from meeting our relatives, especially our male relatives.*[13]

Fatima further said:

> *He told me he had two goals: to marry me and to come to Norway; so now he was impatient to go to Norway. Although I was emotionally very upset, I still tried to think rationally to deal with the situation. I thought I should exploit his impatience for Norway. I told him to let me go to Norway, so that I might find work and this would facilitate his coming to Norway.*[14]

Fatima managed to engage her husband in a discussion about the possibilities of his arrival in Norway in terms of Norwegian law and he paid attention. She explained:

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11 *ibid.*

12 About 3000 Norwegian Krone

13 Interview with Fatima in December 2006

14 *ibid.*

> *I told him that under Norwegian law one can only bring her/his foreign spouse to Norway if one had a job to support the spouse. If you let me go to Norway, I would try to get a job as soon as possible. You can follow me to Norway afterwards. He understood the point and let me go.*[15]

Once in Norway, she asked the Norwegian Directorate of Immigration to not let her abusive husband come in Norway. Her relation with her parents deteriorated and they became even more violent towards her. She fled to a crisis centre. It was the crisis centre that put her in contact with Norwom for necessary psychological and socio-legal support. Also, in consultation with Norwom, the crisis centre hired a lawyer for her. The lawyer contacted another lawyer in Pakistan who filed for her divorce in a family court in Pakistan. Finally, after a year of legal battle, she had a divorce through the family court in Pakistan. The crisis centre also helped her to rent an apartment, where she moved in after having lived in the centre for about three months. She was exclusively supported by Norwom following her departure from the crisis centre. Norwom strived to ensure that she did not feel socially isolated in her independent life in the apartment and that she has access to all basic human rights in Norway. For example, Fatima wished for continuation of her school education and Norwom enrolled her in a high school. Throughout this time, she was estranged from her parents, and Norwom has been helping her adjust to her new life by facilitating her interactions with relevant arenas, such as the Social Welfare Department, the Municipal Board, the bank, among others.

Several months later, her parents fell ill, and she started to contact them, while still living independently in her apartment. Some weeks later she left the apartment and began to live again with her ailing parents. However, her relationship with her parents was strained. She did not share her feelings or future plans with her parents. She moved in with them because they both were sick and she was their only daughter. She did not wish to abandon them when they were in need of her help. Her only brother lives with his ethnic Norwegian wife and seldom visited his parents. She moved in with the parents after consultations with the Norwom caseworker who supported her to do so keeping in view Fatima's wish to assist her ailing parents. Simultaneously, the caseworker conveyed the message to the parents that any action on their part that might infringe on Fatima's rights would move the Norwegian law against them. This message was aimed to ensure Fatima's security at parents' homes as well as fulfil her wish to help her elderly parents. The message worked and the parents did nothing against her consent.

Two years after Fatima came to live with her parents, she began to look for a suitable man in Pakistan and Norway for marriage but could not find one. The Norwom caseworker was helping with the search but to no avail. There were several discussions with a Norwom caseworker, and finally Fatima and the caseworker agreed to ask her parents to look for a suitable man for her to marry with free consent. At that point again the law was used to ensure that Fatima's parents did not force her into marriage. The Norwom caseworker elaborated with these words:

> *We (the caseworker and her male colleague at Norwom) had a family talk with Fatima's parents before we arranged her (Fatima's) marriage with help of her parents. The talk*

15 *ibid.*

> *was to work around the issue of Fatima's security. I had the role of threatening: I kept saying, 'I have contact with the police, lawyers and the courts. I will call Fatima everyday to enquire about her security or any fears of being forced into marriage. If anything untoward happens to Fatima, I will call the police.' I think I did it too much. The parents became fearful. I did not need to say it so many times. I think I kind of went into 'overkill' with them. But, well, OK, may be it was necessary to ensure Fatima's well-being. (…) They (the parents) agreed to find a suitable man for Fatima among the friends and relatives, and arrange her marriage with him with her free and fullconsent.*[16]

This worked well. Fatima's parents indicated four men among the people they knew, and she finally chose one of them in consultation with the Norwom workers as well as her parents. The parents then arranged her marriage with that man. Five years since the marriage, Fatima informed the author she is satisfied with her married life. She also maintains close contact with her parents.

Hence for Fatima, the law clearly stood out as a powerful resource to deal with the human rights abuses Fatima faced. Pakistani law terminated her forced marriage in a Pakistani court, and Norwegian law and the related support system provided her with respite from parental violence, as well as the means to approach the Pakistani court for a divorce.

In this case the law is not compromised in the context-sensitive approach of Norwom. Fatima's right to divorce, the right to a violence-free family life and the right to contract marriage freely have all been restored. Norwom helped Fatima and her parents to re-establish a normal daughter-parent relationship. This relationship is in line with the dominant cultural expectation in the Norwegian-Pakistani community. The NGO took recourse in the culture to facilitate Fatima's right to marriage with free consent. Norwom invoked no aspect of culture that contradicts the Norwegian law. Moreover, the recourse to culture is not taken for the sake of culture per se but as a means to facilitate human rights as enshrined in the Norwegian law.

An important reason why Norwom engaged with culture in this case is that Fatima did not wish for terminating her ties with her parents for good. She cared for her parents and was sensitive to the cultural expectation from daughters to be on cordial terms with their parents. All she wanted was that her parents stop beating her and give up the idea of forcing her in marriage. In other words she wanted her right to a violence-free family life restored. Norwom restored that right through strategic engagement with the prevalent cultural expectations and practices in the Norwegian-Pakistani community.

Concluding Remarks

Rule of law is the key to protect and promote the human rights of run-away women and to assure that they have access to crisis centres in order to escape domestic violence. Norway is a social democracy known for equality before the law, including gender equality, and respect for human rights. However, ethnic diversity in Norway has been increasing steadily since the arrival of migrants

16 Interview with Norwom caseworker in April 2009

from non-Western countries from the late 1960s onwards. This has challenged the concept of state law in the establishment of a normative order (Hellum, 2006). It is not only state law but also culture that shape people's access to state law. Thus recourse in the culture may be important to facilitate the state law to protect run-away ethnic minority women. Non-state actors (such as NGOs like Norwom) are the appropriate forums to negotiate the culture's interface with the state law in order to protect women's rights. A combination of the state and non-state actors could provide the suitable socio-legal context to protect run-away ethnic minority women's rights against patriarchal applications of cultural norms. Moreover, the combination of culturally-sensitive approaches and legal protections may reintegrate the women with their families in a culturally appropriate manner and in a manner which respects their own wishes.

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Exploring the Issue of 'Run-away Women' in Pakistan: A Call for Social and Legal Change

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ABSTRACT

Women are considered as vulnerable members of almost every society. In Pakistan the scenario is no different. 'Run-away women' is one of the socio-legal problems faced by women. Women who consider running away from their families often face difficult situations, which may result in being trapped into prostitution or even being murdered by their own families in certain cases. In runaway cases, the majority of women do return to their families after reconciliation. However, what happens to these women after reconciliation remains unknown.

This paper aims to highlight the causes of running away and its consequences in Pakistani society. It also intends to examine the existing legal mechanisms and their role in dealing with this problem. This study also analyzes the Islamic and customary laws of Pakistan to identify whether both respect the decision-making authority and freedom of women, or whether they create any hindrances to women's rights and their freedom to decide. Finally, measures for improvements in the legal and social system are suggested. analyzes the Islamic and customary laws of Pakistan to identify whether both respect the decision-making authority and freedom of women, or whether they create any hindrances to women's rights and their freedom to decide. Finally, measures for improvements in the legal and social system are suggested.

Key words: runaway women, runaway girls, runaway marriage, women's rights, women's protection

Introduction

Recent decades have witnessed a rise in legislation intended to protect the rights of women in countries across the world. In Pakistan, the situation is no different, and efforts are being made to install mechanisms for the protection of women rights. The passage of many pro-women pieces of legislation, especially during the last decade, is proof of these efforts. However, Pakistani society in general treats women who prefer to utilize the existing legal mechanisms to protect their interests with little respect and acceptability. In certain cases, women who leave their family to exert their rights are treated as outcasts and are labeled as undignified by calling them 'runaway women'. While these women lose their dignity in society, they also lose the protection of their families. In those cases, the state becomes responsible for their protection, which is done by providing assistance and shelter in the form of social services.

A close study of the existing laws reveals that there exists no single legislation which would exclusively deal with runaway women and related issues. Rather, they are being dealt in a stereotypical manner,

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a situation which causes troubles for the women and their families. A close study of the laws along with interviews conducted with various members of society including women who have run away from home demonstrates the need for reforms in the existing laws.

However, before setting forth legal solution of the problem, it is necessary to discuss different dimensions of the problem. This includes analyzing the term 'runaway women' along with the most common reasons behind this phenomenon on the one hand and its consequences on the other. Furthermore, it is also important to analyze the legal system and procedures, which includes Islamic laws, contemporary Pakistani laws, and social customs and norms.

It is also a well-known fact that a mere fraction of the cases involving runaway women reaches the courts, especially when binding decisions regarding marriage, divorce and protection against harassment by police are sought. Fear of violence is one of the major factors for which women who have run away approach the court. However, most incidents are sorted out by customary laws and procedures, which may be hostile towards women. The fact that many women runaway from home because of the fear of violence including forced marriage, honour killing, and trafficking, it is all the more necessary to introduce reforms in the legal system, which will help protect such women from harm and aid them in realizing their rights.

'Runaway Women': Interpretation of the Term

The term 'runaway woman'[2] may be used to denote a woman who voluntarily leaves her guardian without his/her consent when she feels unsafe. In Pakistani social context, the term 'runaway woman' is often used to describe an immoral woman who has lost the right of a respectable social existence merely because she has chosen to leave the social institution of the family. The use of this term reflects the social unacceptability of running away without exploring the root causes behind her act. The problem of running away is tied to the financial dependence of women, which is considered to be the acceptable norm in Pakistani society. Ideally, a woman is entitled to maintenance from her family and she is not required to earn for herself. Her male family members are supposed to be responsible for fulfilling her needs. In return she is required to follow the family decisions and is not allowed to disagree. If she does, she may be penalized by the family through various acts of violence. Thus, when such a woman is endangered by her own family, she often decides to leave home for her protection and becomes a 'runaway woman', which exposes her to a host of new risks outside the home.

The act of running away may be temporary one. For example, a woman may leave her husband for violence, for not providing her livelihood, or for having relations with other women, and go to her parents or other relatives for a few days in the hopes that her husband will reform himself. She may also leave her parent's home temporarily to resist a forced marriage (Waldren, 2012:29). Sometimes, it works but when it does not work, the woman may decide to escape more permanently. In some cases women run away in order to marry the man of their choosing.

2 While interpreting the term 'runaway women', the authors exclude a woman who, with her own choice, leaves her family due to differences but who can look after herself well as she is no different from a man in the same position.

Methodology of the Study and Major Causes of Running Away

The present research is based on theoretical as well as empirical study. The authors selected the province of Punjab in Pakistan to conduct their research. A total of forty runaway women were exclusively interviewed of which fifteen were resident of the *Darul Aman*[3] in the District of Bahawalpur (Southern Punjab) and another fifteen were living in *Darul Aman* in the city of Lahore (Upper Punjab). The remaining ten other women were personally known to the authors. Seventy percent of women belonged to rural or remote areas and thirty percent were from urban areas. Along with these women, other persons were also consulted and interviewed, i.e., lawyers, judges, social welfare officers, politicians, media personnel, human rights activists, working women, university students, and lay people.

On the basis of interviews, the authors have been able to identify the following major causes of running away:

– Poverty and over-population

– Lack of parental love and care

– Domestic violence

– Escaping forced marriages

– Leaving one's husband

– Marrying a man of one's own choice

The abovementioned causes, many of which are also interconnected, need further elaboration to understand and analyze the problem. In poor families, instead of getting education, girls often support their families by serving in homes as domestic workers (Mittra, 2004:65). Such girls often develop a feeling of deprivation from their childhood. Their parents are often unable to provide for them sufficiently. Such girls often fear that their parents will marry them off hastily and without their consent. Such girls sometimes run away with men without thinking about the consequences in order to escape her conditions.

Some other runaways are the girls from well-off families who are ignored and neglected by the family. Parents may be busy and unable to look after their children well. Such children enjoy material luxuries but suffer from lack of parental love (Ali, 1967:257). They have no time to sit, play or chat with the children. They also do not know what the children do, whom they meet, where they go, etc. In some families, children are also ignored due to differences between the spouses. Some parents put a lot of pressure on children. They often do not respect children's privacy.

3 In Pakistan, *Darul Aman* is an institution which protects the runaway women who are deprived of family support and feel unsafe. It is a place where runaway women can stay for a limited time. It is operated by the government under the Social Welfare Department. Its purpose is to support and rehabilitate runaway women. There is at least one *Darul Aman* in each district. There are many other shelter homes with different names which have been setup by a number of NGOs.

In such situations, children are deprived of parental love and care (Mahmud, 1990:65). This often affects girls to a greater extent than boys. Girls in such a situation often seek others attention, and hence it becomes easy for an outsider to exploit them. The prevalence of mobile phones and the internet only compounds their vulnerability. Many girls in such situations end up leaving their families. A lawyer narrated the story of a runaway girl who belonged to a rich family in Islamabad and who met a boy from a village in Southern Punjab on the mobile phone, fell in love and eloped with him. The girl was a graduate while the boy had not received formal education belonged to a labouring class, earning Rs. 300 (US $ 2.90) daily. He said, *'There was no match and we were surprised at how such an educated and rich girl could do this. But it happened due to lack of parental care substituted by mobile chatting.'*

The other run away persons are mostly married women who may or may not have children and who they leave their husbands due to domestic violence (Azam et al., 2013, Asad and Ahmad, 2013; Ali, et. al., 2013). Between seventy and ninety percent of Pakistani women have been victims of spousal abuse (Ali and Gavino, 2008) or abuse by their in-laws, which may be physical, mental, or emotional, and which may cause their running away (Asad et al., 2013). Ninety-nine percent of cases of domestic violence are not registered by the police because it is considered a private matter between a wife and husband (McCue, 2008:79). It is generally assumed that force may be used against the wife as a corrective measure if she does anything wrong. In urban areas the situation is comparatively better although there are cases of domestic violence over there as well. This occurs amongst people of all social classes.[4] This can often lead to women running away.

In Pakistan, parents generally decide whom their daughter will marry. While choosing a right man for a woman, mostly, poor parents focus on financial status (Seidman et al., 2011:169)[5] and do not consider other issues, i.e., character, education, age, family background, etc. Furthermore, the child marriage continues to be practiced in certain places. In some areas, parents sell their daughters to meet their needs. Girls are also given in marriages to settle family disputes (Goonesekere, 2004:192). The girl's consent is not considered necessary. It is taken for granted that the girl would give her consent, and often marriages are conducted against the will of women and girls.[6] Another state of

4 A working woman told the researchers how she was tortured by her husband who was also a college lecturer. The women ran away and filed a criminal suit against him, but thereafter due to family intervention they compromised. While interviewing another runaway girl, she disclosed that her husband was an engineer and he used to torture her when she would ask for money. Later on, she said it became his habit and he started beating her like an animal. She had to leave him.

5 Saima's father wanted to marry her to a Saudi Sheikh who was 25 years older than her for financial benefits. Mr. Arshad, the person she wanted to marry, had asked for her hand through his parents but her father declined. Saima ended up marrying Mr. Arshad anyway. When her father came to know about the marriage he tortured and detained her. She managed to run away.

6 It is also worth noting that boys are also compelled to marry for the sake of family interests. For example, a boy was forced to marry his cousin at gunpoint, but the marriage was dissolved after three months and the girl had to take shelter in *Darul Aman*.

forced marriage is *watta satta*[7] whereby the success of both of such marriages is interdependent. Hence, forced marriage is also a major cause of girls and women running away (Haeri, 2002:212).[8]

One of the major reasons for women running away is to get married with the men of her choice.[9] When the family opposes marriage proposals of their boyfriends, they sometimes react by running away. There are many examples where women ran away with men whom they wanted to marry (Waldren,2012:31).[10]

In the most extreme cases, a woman may decide to kill her husband and run away. There are many reasons behind such acts including disrespectful behaviour of husband, neglect, extramarital affairs, violence, etc. In these few cases, women may kill their husbands on their own or with the help of a boyfriend and then run away to escape the consequences.[11]

Effects of Running Away

On the whole, runaway women face a number of consequences if they return to their families including being forcibly married, or in the worst scenarios, killed to preserve the honour of the family. Another possible result is that these women are rejected by their families[12] and ostracised for the rest of their lives. Such women have to spend most of their time in centers and safe houses run by Social Welfare Department or NGOs. Another possible outcome is that these women are sold into prostitution or trafficked out of country. They may also survive and be accepted by their families with the passage of time.

It is notable that in a certain number of running away cases, at first women may voluntarily go with men, but later the women can be subject to abduction, unlawful detention, rape, etc. (Mehdi, 2013:130). In these cases, a petition is generally filed by the parents of the girl against her husband. In other cases, it is filed by husband against the family of his wife. If parents succeed in getting the girl, the next day, false cases may be registered on behalf of the parents of the girl due to family pressure against her husband.[13] In some cases, where it is found that the girl is not willing to join her family, she may become the target of murder[14] or will remain unsafe for the rest of her life. Another possible outcome is that the two families become enemies. Both consider it as damage to

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7 This is also called exchange marriage wherein a man is married to a girl and in return his sister, daughter, or any other woman of his family is given in marriage to a man from his wife's family.

8 A girl named Sonam ran away to *Darul Aman* who did not accept her forced marriage. Another girl left her husband and escaped at the age of 28 who was given into forced marriage when she was 16.

9 See for example Altaf Hussain v. State, 2007 PCRLJ 773.

10 Lal Khan v. Station House Officer, Police Station Kotwali Jhang, 2010 PCRLJ 182

11 Noor Muhammad v. The State, 1991 PCRLJ 2140

12 The women, who face any hardship after their forced marriages, complain to their families who show an indifferent attitude and force them to go back to their husbands. An old saying is reiterated, "*Stay with your in-laws forever and leave only when you are dead*".

13 Nadeem v. State, 2012 PCRLJ 1629

14 Irshad Ali v. State, 2009 MLD 637

their dignity and honour and, thus, register false cases against each other to prove their superiority, and this may continue for years.

In most of the runaway cases, women take refuge in *Darul Amans.* They may request to stay there if they have no shelter for three months, but further stay may be allowed by the court. After becoming resident of *Darul Amans,* they are socially isolated. Nobody can visit them except through the court's permission. Despite its conditions,[15] it provides protection to runaway women from external dangers, i.e., honour killings. Its role in rehabilitating destitute women is very important. More than seventy percent cases of such girls go back to their families after a process of reconciliation; some go with their parents and some with their husbands.[16]

In Pakistani society, runaway women are considered as 'black women' and are socially ostracised. They (sometimes along with their husbands) are killed on the pretext of grave and sudden provocation,[17] *karo kari*,[18] or *ghairat*.[19] This is the situation where these women are more vulnerable. They are punished as a form of revenge and to make them an example to the society (see Muhammad Ramzan v. State, 2009 YLR 1430). In a number of cases, women and girls were brought back to their families and were killed (Waldren, 2012:30). Many runaway women were killed by the orders of *jirgas*[20] or *panchyats*[21] which operate under the feudal system (Shah and Tariq, 2013).[22] Being in a vulnerable situation, runaway women can be exploited easily and are sometimes forced into prostitution (Sharma and Choudhary, 2013). Sometimes, the stigma attached to running away makes it easier for her to end her life than to risk further humiliation.

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15 This institution needs certain reforms on which further research is needed. It was reported to authors that a woman had died in a *Darul Aman* because it was lacking the facility of medical treatment. Many *Darul Amans* are also extremely overcrowded and hence unable to cope with the numbers of women approaching them.

16 Sometimes, women are sent to *Darul Amans* against their will supposedly for their protection, but when they do not want to live there, they are allowed to leave (see Shafqatullah v. Sessions Judge, Nankana Sahib, 2009 PCRLJ 1450). In one case the court had to decide that a *sui juris* woman could not be kept in *Darul Aman* when she no longer wanted to stay there (see Muhammad Asif Arain v. SHO Police Station Abad, 2012 PCRLJ 1553).

17 See for example Mazhar Ali v. State, 2005 SCMR 523.

18 *Karo kari* (*karo* means man and *kari* means woman) is a practice prevailing in the province of Sindh, where a woman and her lover are killed for damaging the honour of the family (see Daimuddin v. State, 2010 MLD 1089).

19 A practice of killing in the name of honour (see Muhammad Siddique v. The State, PLD 2002 Lahore 444).

20 It is comprised of a group of male elders of a tribe who decide with consensus.

21 It is an informal arbitration system prevailed all over the Pakistan.

22 It is notable that Rattanbai, the wife of Mr. Jinnah, had to face ostracism by her family for a runaway marriage.

Islamic Views

Although the dominant view amongst Islamic scholars is that women and men are equal in the eyes of Allah, multiple interpretations remain regarding appropriate gender roles. Because of different interpretations of women rights by Islamic scholars, certain domains are considered particularly controversial like women's role in politics, the law of evidence and certain economic issues. However, when it comes to social rights like security, maintenance, and marriage, women are generally entitled to particular rights in order to provide them with security. However, many of these rights are denied to women and girls, which underlie their reasons for running away.

A woman is supposed to have a say in matters relating to her marriage, and her guardians are there to assist her and cannot force or coerce her to enter in a marriage contract against her will. Similarly, if she is not willing to live with her husband she has the right to demand separation through *khula*.[23] Islam empowers her financially by giving her share in inheritance even when she decides to abandon her family. However, most of these rights are denied to women in Pakistan and demanding them is considered a taboo that can entail grave consequences for women.

In Pakistan, many customs are wrongly treated as Islamic laws, especially the customs relating to women in terms of denying them education, economic independence and choice of life partner. Many horrible incidents including honour killings are reported where women try to exercise their rights (Riaz, 2013). However, once a woman contracts a marriage or gets a divorce on her own, such marriage or divorce is recognized as valid under Islamic Law and cannot be questioned. Hence, even the version of Islam prevailing in society, influenced by customs, provides some support for women exercising their rights related to marriage. A girl, who contracted a marriage of her choice and due to threats from her family took refuge in the *Darul Aman,* said that reconciliation had been reached between her husband and parents due to efforts of respected elders and the *ulama* (Islamic scholars) of the locality. This shows that her marriage is being accepted as valid under Islamic rules and by the society in general. However, her way of getting married is unacceptable. Where families sever their relationships with such women, their kinship is recognized by Islamic law.

The Legal System of Pakistan

No exact statistics exist regarding the number of females who opt to run away from their homes, and similarly the exact proportion of cases, which are reported to police or courts, is information that is not available. However, only a small proportion of cases are reported in situations where the parties need to have binding decisions of the court so that they may have a legal footing for their acts. Most situations in which cases are reported include marriage, divorce, police excesses, fear of death or other anti-women practices. While no legislation exists which deals with the issue of runaway women exclusively, there are several pieces of legislation for the protection of women in general.

23 *'Khula'* is a mode of dissolution of marriage whereby wife offers certain consideration, such as dower money or other property to husband in return of freeing her from the marriage tie.

Pakistan has signed in 1996 *The Convention on the Elimination of Discrimination Against Women* (CEDAW), which entrusts the government with legal and moral responsibility:

to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.[24]

It further states that signatory states shall take measures to eliminate discrimination against women in all matters relating to marriage on equal footing with men, in respect of not only the right to enter into marriage but also the right to choose freely a spouse and to enter into marriage only with their free and full consent. It further speaks about the same rights and responsibilities for women and men during marriage and its dissolution.[25]

The Constitution of the Islamic Republic of Pakistan, 1973, guarantees a number of rights independent of sex.[26] Thus, women are equal partners with men in the enjoyment of fundamental rights, whether they are civil and political rights, or economic, social and cultural rights. Moreover, it especially provides for the protection of women's rights by taking special measures.[27] Before the last decade, there was little legislation which dealt with the problems of women. The absence of laws was sometimes filled by customs, which were often against the women's interests. Nonetheless, the past decade saw the passing of certain pro-women pieces of legislation, which provided them a legal mechanism to safeguard their interests.

The Criminal Law (Amendment) Act (2004), *The Protection of Women (Criminal Laws Amendment) Act* (2006), *The Acid Control and Acid Crime Prevention Act* (2010), *The Protection against Harassment of Women at the Workplace Act* (2010), *The Prevention of Anti-Women Practices (Criminal Law Amendment) Act* (2011), and setting up the National Commission on the Status of Women are some other progressive legal steps. Certain amendments have been introduced in *the Pakistan Penal Code, 1860* (hereinafter referred as PPC)[28] and *the Code of Criminal Procedure, 1898* (hereinafter referred as CrPC)[29] to declare many anti-women practices as crimes. Now, criminal laws deal with honour killing as murder and prohibit the practice of exchanging women as a mechanism for resolving disputes.

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24 *The Convention on the Elimination of Discrimination Against Women, 1979*, Article 5(a)

25 *The Convention on the Elimination of Discrimination Against Women, 1979*, Article 16

26 *The Constitution of the Islamic Republic of Pakistan, 1973*, Preamble; Articles 2-A

27 *The Constitution of the Islamic Republic of Pakistan, 1973*, Articles 25 & 27

28 Amendments in Sec. 299, 302, 305, 311, 324, 337N and 338E relating to honour crimes, amendments in Sec. 310 and substitution of Sec. 310-A regarding forced marriage, etc. to settle disputes, insertion of explanation of disfigurement in Sec. 332, insertion of Sec. 336-A and 336-B relating to hurt caused by corrosive substance, insertion of chapter XXA prohibiting specific exploitative and discriminatory practices against women, i.e., depriving women from inheritance U/S 498-A, protection against forced marriage U/S 498-B, prohibiting marriage with Holy Quran U/S 498-C, amendment in Sec. 509 (insulting modesty or causing sexual harassment).

29 Amendments in Sec. 345 and 401, and Schedule II relating to honour crimes.

As far as court procedures regarding runaway women are concerned, age[30] is of the utmost importance. When a runaway comes to the court, she appears before the judge who records her statement under Sec.164 of CrPC that she voluntarily left her home and that she is of an age where she has the right to decide for herself. In such cases she may ask for further relief, which may include protection from the police. Along with asking for redress, most women show apprehension of danger to life or body and demand protection by the state, which is provided by sending them to shelter homes, i.e. *Darul Amans*, until the final decisions of the cases. In cases of marriage by choice, as already mentioned, parents often register criminal cases by lodging FIRs[31] on the basis of abduction or kidnapping. Such FIRs are lodged not only against the husband of the woman but also against his husband's family. To avoid police investigation, any excesses by the police, and to get the legal authentication of the marriage, the couple often comes to the courts.

Though the Pakistani legal system includes pro-women laws, certain inherent faults do affect the implementation of these laws. Moreover, the hostile attitude of police and other officials prevents the females from speaking up and asking for relief. While talking to a judge on this issue, a hostile attitude was evident from his statement when he said, *'A lot of cases like that come to this court, and I send many women to jail.'* The judge further said, *'Such women who come to the courts are not innocent and often are of bad character as they have the support of some lover in running away from home.'* This attitude of judicial officers shows the general social unacceptability regarding such women. The role of the police compromises the position of females so they prefer not to involve the police and directly approach the courts. Rather, the police often serves as a tool for the family of the female as they initiate FIRs and complaints against the female and her prospective lover. Hence, we can say that at least some legal mechanisms exists for the runaway women, but their expediency is somewhat questionable and is directly or indirectly attributed to the social unacceptability of running away and the stigma attached to it.

Customary Laws of Pakistan

Pakistani society is based on very strong customary law, which is why much progressive legislation opposing these customs is unable to take root. It is because of the lack of change in social attitudes that harmful customs still exist. On closely analyzing these harmful customs, we observe that most of these customs are used to the disadvantage of the females and to deprive them of their legal and religious rights. A matter of concern is that these customs have been given a religious color by following narrow and obscurantist interpretations of Islamic laws.

30 If she is 16 or above she is considered major and can get her rights enforced by running away, otherwise it would be assumed as if she was kidnaped (but it may vary from case to case). Under Child Marriage Restraint Act, 1929 Section 2(a) the marriage of a female child under 16 years of age is held punishable. But even if a runaway girl is under 16 and is married, the Courts have protected her marital rights and her marriage is not declared false or invalid (See for example Allah Nawaz v. SHO Police Station Mahmood Kot District, Muzaffargarh, PLD 2013 Lahore 243)

31 FIR is the First Information Report, which is registered by the police and on its basis a criminal proceeding starts.

Along with the writ of state, in many parts of Pakistan, parallel tribal or feudal systems are in force, which have their own system of providing justice, like *jirga* and *panchayat* (Shah and Tariq, 2013). These systems go back centuries and have such deep roots in society that even clear Islamic rules could not totally abolish these systems; on the contrary, differences in interpretations of Islamic principles have strengthened these systems. One prominent feature of these systems is the fact that women do not have any say in decision-making. It is considered the absolute privilege of men to decide about women's fate. The lack of formal education amongst women only compounds this problem.

As mentioned earlier, in tribal and feudal systems women are treated as commodities and are often subjected to cruel decisions and practices as punishment for violations of social norms and customs. They are subjected to practices like *vani (or wanni)*,[32] *sawara* or *vulvar*,[33] *dand* or *badda*,[34] which are different names of the similar practices. According to these practices, instead of paying blood money,[35] a girl under 18 is given into marriage as compensation to resolve disputes and family feuds (Goonesekere, 2004:194) to save her male relative from death penalty. Marriage with the Quran, *watta satta*, and fear of death or sale often cause women to leave their families.

Hence, we can say that although Islamic and Pakistani laws recognize the rights of women and provide means of redress, customary law and practices continue to be practiced in a rigid and cruel manner toward women. Though the laws need to be more clear, precise and favorable to the females, customary practices continue to stand in the way of realizing women's rights. The issue of runaway women needs clear-cut legislation providing for their security and safety during the litigation and thereafter. This requires the enacting and updating of laws, proper implementation and most of all a change in the mindsets of people.

Conclusion and Recommendations

The problem of runaway women has social, legal, cultural and customary aspects. The act of women running away from their homes is a direct consequence of many practices oriented towards the suppression of females in society. Moreover, a mixture of religious and customary norms existing as parallel systems with Pakistani legal system creates a confused environment for women who try to protect their rights. No particular legislation exists regarding runaway women and hence should be put in place. On the basis of this study, the authors suggest and recommend the following actions:

On the present issue, a clear and precise legislation is needed. It is not that no favorable laws exist for women. Many existing laws include almost all of the situations in which a woman decides to run away and hence proper implementation of these laws by law enforcing agencies and courts may protect women's rights and reduce the number of runaway women. These laws should be collected under one act with added provisions to address the rest of the issues which have not been codified.

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32 *Vani* is a *custom* which is exercised in tribal areas.

33 *Swara* and *vulvar* are practiced in the province of NWFP (now *Khyber Pakhtunkhwa*).

34 *Dand* or *badda* are prevailed in the province of Sindh.

35 It is an amount paid as compensation by the murderer or his family to the legal heirs of the deceased.

Furthermore, mechanisms should be out in place for the proper implementation of these laws. It is the duty of the police to abstain from registering FIRs in cases where women and men marry freely and of their own accord and the courts should protect them.

Reconciliation process and the mechanism for the readjustment of runaway women in society should be made an imperative part of such legislation. However, the given conditions also require a long-term strategy for bringing about social change. Hence, along with legislation, other long term women's empowerment strategies like educating females and providing opportunity of economic independence should be the priority of the state. Furthermore, measures should be taken to encourage parents to respect the rights and wishes of their children.

At the very moment, the law relating to abduction and kidnapping as provided in the PPC must be revised to the extent that where a marriage has been duly solemnized it should be exempted from the scope of abduction and kidnapping. Marriage without consent of the guardian has been declared valid by the superior courts,[36] but it should also be codified.

A Wedding Registrar Office should be set up in each district. The registrar would conduct and register marriages after going through all the necessary legal requirements. S/he would check eligibility and make sure the parties are getting married with their free consent. S/he would tell them about their rights and duties as spouses, i.e., dower, maintenance, divorce. S/he would also refuse to register a marriage if a requirement is not met.

The role of judiciary is significant in protecting runaway women. There are many landmark decisions where the courts have upheld the rights of these women.[37] However, it has been felt sometimes that the courts were reluctant to endorse the runaway marriages.[38] In most cases of honour killings, the courts have not punished the wrongdoers (Shah, 2002). The courts must uphold the laws in order to punish violators and protect the rights of women.

Last but not the least, we are of the opinion curriculum reforms would play a vital role in educating the youth and reducing the number of runaway cases. Awareness programmes should be conducted for both girls and boys regarding their legal rights. Advertisements, public service messages, talk shows, seminars, teaching gender equality and women rights at schools, activities and workshops for judicial officers, parliamentarians, district level administrators, NGOs and youth, will raise awareness.

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36 Naseer Ahmed v. State, 2011 MLD 1228; Muhammad Musa v. State, 2007 PCRLJ 1342; Mst. Hajra Khatoon v. SHO Police Station Fateh Jang, District Attock, PLD 2005 Lahore 316; Rukhsana v. SHO Police Station Belo, Mirpur Methelo, 1999 PCRLJ 638; Abdul Waheed v. Asma Jehangir, PLD 1997 Lah. 301; Muhammad Imtiaz and another v. The State, PLD 1981 FSC 308

37 Mazhar Ali v. The State, 2005 SCMR 523; Humaira Mahmood v. State, PLD 1999 Lahore 494; Abdul Waheed v. Asma Jehangir, PLD 1997 Lahore 301

38 Nadeem v. State, 2012 PCRLJ 1629; Lubna v. Govt. of Punjab, PLD 1997 Lahore 186; Mukhtar Ahmad v. Ghafoor Ahmad, PLD 1990 Lahore 484

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Book Review
Sadaf Ahmad. *Pakistani Women: Multiple Locations and Competing Narratives.*

Shirin Zubair
Senior Research Fellow, Berlin Graduate School Muslim Cultures & Societies, Freie Universitat, Berlin, Germany. Professor of English, BZU, Pakistan.

Oxford University Press, Karachi, 2010. pp x + 316 Illust. Notes. Gloss. Bibliog. Index. ISBN 978-0-19-5477054

Ahmad's edited volume on Pakistani women captures the multiplicity of their locations and the diversity of their voices, thus filling a longstanding gap about Pakistani women's lived experiences and their ambivalent positioning within the contemporary Pakistani society. In her introductory chapter Ahmad mentions the monolithic or simplistic misrepresentation of Muslim (Pakistani) women by Western feminists as powerless, which, she argues, is closely linked to lack of representation of Pakistani women at the international fora. Most of the sociological and anthropological research on Pakistani women has appeared on the international horizons only during the last decade. The invisibility of Pakistani women was further compounded by their misrepresentation as passive, veiled and victimized. In the final chapter of the volume, elaborating on her own work on Pakistani women, Haeri raises a fundamental question: why do Muslim women like herself who have carved a niche for themselves in their respective societies and around the globe, never get represented in the Western media and research? The answers are partially articulated through the myriad voices, narratives and positionalities of the Pakistani women represented in this volume.

The edited volume is a compilation of research on Pakistani women conducted by female researchers who come from a wide array of disciplines such as law, anthropology, sociology, women studies. The researchers are also diverse in terms of their geographical locations being based in Pakistan, Canada, United States: some like Shahla Haeri are of Iranian origin , live and work in the United States and research on Pakistani women.

The common thread running through all the chapters in this volume is the representation of Pakistani women in and through their own narratives. To achieve this objective, a host of anthropological and social science research methods (fieldwork, interviews, archives, participant observation, statistical data) have been used by the researchers to describe and analyse the lives of women in prisons , in remote villages of KPK province, in rural belts in Sindh and Punjab, and in urban centres capturing a rich and diverse repertoire of cultural norms and practices , ethno-linguistic and class trajectories. The book has ten chapters in all—five of which have been published before --which cover a wide range of sociological, political, religious and legal themes with regard to women's social and familial roles within Pakistan. A few chapters like Shahnaz Khan's chapter on the *Zina* Ordinance are devoted to the imposition of Hudood Ordinance and *Zina* Ordinance during the Zia regime as a way of exercising control over women's sexuality in terms of choice of marriage partner. She illustrates-- through interviews with men who favour these laws and seem indifferent to women 's suffering in prisons owing to false accusations of adultery—how the civil society in today's Pakistan is divided on this crucial legislation. Further, Khan observes that by focusing on the fundamentals

of Islam, according to Zia's *zina* (illicit sex) ordinance, illicit sex became a crime against the state for the first time in Pakistan's history. Her research in Pakistani prisons shows how women's incarceration for *zina* is linked to issues of gender, class and control of women's bodies.

Similarly, Jamal's chapter titled: 'Gender, Citizenship and the Nation-state in Pakistan: Willful Daughters or Free Citizens?' elaborates how the Pakistani state controls female sexuality through the institution of patriarchal family, by assigning women the primary roles of mothers, daughters, wives and sisters thus reducing their equal rights to Pakistani citizenship.

She further strengthens her argument through a detailed discussion of Saima Waheed's case who married against the wishes of her family, which was taken as a violation of the sanctity of the institution Pakistani family by the judges, challenging the authority of her father and thereby subverting the institution of the patriarchal family. Jamal and Khan both throw light on the detrimental impact of patriarchal legislation on their research participant's lives. Similar research is also needed on women accused and imprisoned under blasphemy laws in Pakistan as the law is being excessively used to implicate religious minorities and/or innocent people for personal vendettas. The issue has emerged in the news as there has been an uproar in the Islamic Ideology Council and the National Assembly recently regarding amendments in the existing laws.

Saigol's 'Partition of the Self' takes up the issue of ethno-linguistic identity of Urdu-speaking settlers in Karachi , who unlike other ethnic groups have no regional base in Pakistan. Identity--as it emerges in Mohajir women's interview narratives-- illustrates how ethnic and linguistic issues in Pakistan are tied in to the political : how people are subjected to marginalization based on their ethnic and linguistic identity. Saigol argues that even within the political meetings of Mohajir Movement (now the Muttahida Qaumi Movement) control over women is exercised through regulation of their bodies. Hence, the politicization of women via the ethnic struggle is not meant to challenge the norms of patriarchy. Traditional forms of morality are imposed while women are mobilized for political work, thus rendering the ethnic movement simultaneously liberating and constraining for women.

Similarly, approaching the representations of Pakistani women from the theoretical lens of intersectionality, the research in different contexts and arenas illustrates a common feature across the board: that intersections of gender and poor economic background compound women's problems; issues of violence and exploitation of women are rampant among the lower income groups; illiteracy further aggravates these issues as illiterate and poor women tend to internalize the patriarchal norms and ideologies. Both Weiss and Saeed's articles illustrate how women from very poor and uneducated backgrounds shy away from public acknowledgement of their profession because women's work itself is considered to be a social stigma. Weiss's research takes up the issue of the gendered division of Muslim space by highlighting the work of skilled women workers within the confines of their homes in the walled city of Lahore. Saeed's vignettes into the lives of women who worked in the Pakistani theatre industry highlight the stigmatized nature of their profession and existence: a theme she has pursued since the publication of her groundbreaking book *Taboo* in 2002, which is an ethnographic study of the red light area in Lahore; where many of our female film celebrities hail from.

However, notwithstanding its breadth in representing a diversity of voices, and its contribution to enhancing our understanding of Pakistani women's multifarious identities, such research still largely remains the prerogative of elitist women or First World academics, using Western models and frameworks to understand the complexities of the lives of Third World Women (Mohanty 1988). The women academics whose research is showcased in this collection are all (with one or two exceptions) based in the West. While HEC in Pakistan is promoting and funding research in higher education, why are all the indigenous women academics still invisible in such edited volumes? Are the (wo(men) academics in Pakistan indifferent to or oblivious of these pressing issues or the research on *us* is valuable and validated if it is carried out by *them* i.e. academics supported by the Western academy and research paradigms. Although this volume adds to our existing knowledge about Pakistani women by making them visible to the world, however, research findings can be made more useful and relevant to women's lives if fed into the governmental policies and legislation to ameliorate women's vulnerable positioning within the patriarchal structures of Pakistani society.

Overall, the research reported in this collection suggests that women's public and political roles are almost non-existent, and although women are politically and socially active, they continue to remain invisible in the public domains due to the lack of education, societal and familial and legal structures and strictures. As the volume brings forth Pakistani women's narratives , it makes a valuable contribution in making hitherto invisible Pakistani women visible in international research, and should be hailed and read by academics, scholars and practitioners engaged with South Asian Studies, Women Studies, Muslim Societies, Sociology, Anthropology, Law and Language Studies.

Proposal for a SPECIAL ISSUE OF THE JOURNAL OF LAW AND SOCIAL RESEARCH: Gilgit Baltistan: Law and Governance in a Contested Territory

CALL FOR PAPERS for special issue 2015

Edited by Livia Holden (Karakoram International University – Durham University)

The Journal of Law and Social Research (JLSR) is a peer reviewed annual journal striving to improve the quality of legal education, encourage legal research, and build a strong tradition of vigorous academic discourse and publication in Pakistan. JLSR aims to publish original and innovative legal scholarship in the diverse sub-fields of law. JLSR is also keen to publish interdisciplinary socio-legal research that explores the interface between law and political, economic, social and legal institutions.

JLSR invites contributions for a special issue edited by Livia Holden on *Gilgit Baltistan: Law and Governance in a Contested Territory*. Contributions will examine the processes of policy making, state and governance, ancestral rights and indigenous knowledge, law and development, recognition of rights, and judicial and extra-judicial dispute resolution. In particular this special issue will scrutinize the discourse on democratic empowerment and participatory governance in relation to law practices and local conceptualizations of legitimacy. It will address the stakes of institutional development within and outside the state as well as the increasing role of NGOs and civil society. Commentaries of policies, case law, and ethnographic case studies with broader focus will also be considered if they adopt a comparative perspective that draws on the similarities and differences with the cultural and/or geopolitical setting of Gilgit Baltistan.

Non-exclusive questions and themes for enquiry will be:

1) Practices of law and governance

2) The role of ancestral rights and older practices of law within the transition process of development, globalization and negotiation of territorial boundaries

3) Multiple registers of governance and the epistemic construction of law

4) Universalistic vs. context-sensitive interpretations of rights and governance

5) Law and governance and the neo-liberalism political agenda in a contested territory

6) Law and governance in conflict zones as a field of research

7) Rights, cultural heritage, traditional knowledge and their recognition

8) Traditional methods of imparting knowledge and solving disputes

9) Use of natural resources and indigenous rights

10) Key-concepts for policy writing

The above-mentioned themes are illustrative and authors are encouraged to submit abstracts on a greater variety of subjects related to law and governance in Gilgit Baltistan. This special issue also aims to provide opportunities for debating on the socio-political agendas revolving around indigenous knowledge and the stakes of preservation, cultural heritage and change, social theories of authority and representation, legal and social identity, and public policy. Papers based on first-hand research will be privileged but theoretical discussions, engaged social research, and legal commentaries are also welcome.

Multidisciplinary approaches from academicians in all domains are solicited. Authors may use a variety of methods non exclusively including qualitative, quantitative, historical, ethnographic, financial, economic, and management analysis. Abstracts between 500 and 1000 words plus a short bio should be sent to Livia Holden at liviaholden@kiu.edu.pk, livia.holden@durham.ac.uk, and liviaholden@insightsproduction.net. The authors of selected abstracts will be invited to present their full papers at a workshop to be held either in Pakistan or in Denmark. Subject to availability of funds and exhaustion of other financial resources scholarships will be available for covering travels and accommodation.

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Law and Transitional Society: Chinese and Global Perspective

China Law Centre/Centre for Studies in Legal Culture, University of Copenhagen, Denmark,
Department of Cross-Cultural and Regional Studies, University of Copenhagen, Denmark
& The School of Law, University of Wuhan, Hubei Province, PRC China

CALL FOR PAPERS
A Workshop at the University of Copenhagen, December 11, 2014

Law, as a proudly social practice, has been undergone tremendous transformations in a transitional society. Both empirical evidences and theoretical research reveal that law plays a more or less significant role in a changing world with the rapid development of science and technology, growing market economy, decaying traditional values, increasing environmental contamination, even with our epistemological grasp of the topsy-turvy world. Societies change ruthlessly and almost every legal system is struggling to be responsive. This trend is true in a globalizing world and of particular relevance in a Chinese context.

Obviously, the Chinese society has been changing since its reforming and opening up in late 1970s. As an emerging global power, the Chinese legal system is inscribed in political, economic, cultural, social and legal practices throughout the past three decades, resulting at times in new, hybrid forms of laws and legal institutions, but also often triggering continuing struggles and conflicts.

This conference/workshop wishes to explore how the Chinese legal system respond to the social transition and shaped by it and what roles would China play in the global legal environment. While we aim to engage in the global dialogue on China's legal system both from insiders' and outsiders' perspective, we also wish to gather all the theoretical and practical issues of any other countries who have experienced or are experiencing a transitional society.

We welcome contributions that address transitional society in both Chinese and global contexts, highlighting the legal aspects and address legislation, law enforcement, legal institutions, legal history and legal cultures, as well as more theoretically and methodologically oriented discussions.

Contributors are welcome to address these aspects from a national, international and comparative perspective.

The conference invites papers on some of the possible but not exclusive themes for reflection and discussion

– Transitional society and legal responsiveness

– Chinese legal system and Constitutional changes

– Environmental Changes and Chinese Law

– Economic law and globalization relating to China

– Transnational issues in changing society

Confirmed keynotes

- Rubya Mehdi, Senior Research Associate, Department of Cross-Cultural and Regional Studies, University of Copenhagen, Denmark
- Ditlov Tamm, Professor, China Law Centre/Centre for Studies in Legal Culture, University of Copenhagen, Denmark
- Yawen Xu, Professor, School of Law, Wuhan University, China.

The conference/workshop is jointly organized by

- China Law Centre/Centre for Studies in Legal Culture, University of Copenhagen, Denmark
- Department of Cross-Cultural and Regional Studies, University of Copenhagen, Denmark
- School of Law, Wuhan University, China.
- The research program in Law and Legal Consultant and Service at Wuhan University, China

Funding

Participants are fully funded for their travel and lodging and other meal expenses. Information about registration and other practical matters is available on the conference website to be available in near future.

Submission

Submissions should include the submitter name, institutional address, e-mail address, short CV, and a 250-word abstract of the proposed paper and should be sent via e-mail to fxyxyw@whu.edu.cn and rubya@hum.ku.dk no later than June 30, 2014. Submitters will be notified of the outcome shortly after the deadline.

Publication

The papers of the workshop will be published in the special issue of the Journal of Law and Social Research 2015/2016, www.jlsr.tors.ku.dk

Organizers

- Rubya Mehdi, Senior Research Associate, The Department of Cross-Cultural and Regional Studies, University of Copenhagen, Denmark

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Any questions and queries can also be directed to the above mentioned email addresses.

Information for Contributors

Contributions must be complete in all respects including footnotes, citations and list of references.

Articles should also be accompanied by an abstract of 100-150 words and a brief biographical paragraph describing each author's current affiliation.

Articles usually are expected to be in the range of 3000 to 6000 words and presented double-spaced in Times New Roman 12-pt. Longer or shorter articles can be considered.

Please use British English orthography (of course, do not change orthography in quotations or book/article titles originally in English). Use the ending –ize for the relevant verbs and their derivatives, as in 'realize' and 'organization'.

Italics are used only for foreign words, titles of books, periodicals, and the names of organizations in the original language (except when the original is in English).

Dates are written in this format: 11 April 2013.

For numbers please use the following formats: 10,500; 2.53 for decimals; 35%; 5.6 million.

If a footnote number comes together with a punctuation mark, place it after the mark.

Standards for Source Referencing

It is essential that source referencing provides full and accurate information so as to enable a reader to find exactly the same source that is being referenced. Equally there needs to be pedantic consistency of presentation.

Please use the Harvard system of referencing which has grown in popularity in academic writing in education and the social sciences. In the main text, a reference or quotation is annotated in parentheses with the surname of the author, the date of publication of the work and the page number from which the quotation was taken. The full bibliographic details are then provided in a list of the references at the end of the work.

Contributors are requested to submit a soft copy of their article and abstract to rubya@hum.ku.dk in Word format.

Articles