Traditional methods of conflict resolution inside the traditional Kalderash Roma community. Contributions for the anthropology of law

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Summary

Even though at the level of the European Union (in general) and in Romania (at a particular level) numerous studies have been carried out on the living conditions of some marginalized Roma communities, their access to education, but also on poverty and their social exclusion, at present, there are very few studies that present how traditional communities understand deviance and conflict or what methods are used for resolving them.

People have always looked for the most effective methods of conflict resolution, in any context or at any level they may have happened. This constant search went through several stages and generated many methods and techniques for managing conflicts, but also acts defined as deviant in relation to the value system and norms in various places and times. Obviously, in our society today, the first place is occupied by the formal justice system, followed by negotiation, arbitration and mediation, which today have also been institutionalized, in parallel with the justice practiced by the state institutions. However, the complexity of conflicts in modern and contemporary times has made them so that they are no longer enough and mankind has sought other ways to manage these situations, among them being several hybrid practices, such as the private trial, the ombudsman, the med-arb procedure or the simulated court. Throughout this period of evolution, however, we have forgotten something, namely the traditional methods of conflict resolution, or the techniques used for hundreds or thousands of years by different communities around the world, which have passed the test of time and efficiency in managing acts considered deviant.

Taking into account the fact that my thesis aims to contribute to the knowledge of the phenomenon of conflict management in the Kalderash Roma communities, the approach adopted is that of legal anthropology. Therefore, I was guided by the specific objectives of this branch of anthropology: identifying normative control systems, identifying how society and its members use the concept of justice to resolve conflicts and their interaction with other social control systems. However, it should be mentioned from the beginning that my study will meet only one of the three objectives of legal anthropology, which is the analysis of the local legal system

(descriptive legal anthropology). Its other two objectives, the comparison of the studied system with other systems (comparative legal anthropology) and the facilitation of the integration of the legal system in wider global networks (applied legal anthropology) were impossible to satisfy for time reasons but certainly remain in my attention for a future research.

Choosing this direction, the study aims to present the way in which the Kalderash Roma, being a traditional community, interpret, use and impose justice in their community. More specifically, my goal was to identify (1) the moral code that guides the Kalderash Roma in Romania, (2) the practices by which their community manages conflicts and the acts it defines as deviant, and (3) the relationship which the community has with the state institutions responsible for law enforcement. My thesis is based on ethnographic methods supported by three research questions, each of which with its own series of sub-questions:

1. How does Romanipen, the Roma moral code, influence the perception of deviance, conflict and the act of justice?
   a. How does Romanipen define pollution, shame, harm, deviance, conflict and justice?
   b. How does the Kalderash Roma community understand the moral code defined in Romanipen?

2. How are conflicts and deviant actions managed by the traditional Kalderash Roma communities in Romania?
   a. What methods, rules and customs does the Kalderash Roma use in response to deviance and conflict?
   b. When and how are these methods of social control used?

3. What are the circumstances in which the Roma communities in Romania turn to the state institutions responsible for law enforcement in order to manage / resolve their internal conflicts?
   a. What kind of relations exists between the Kalderash Roma communities and these institutions?
   b. When and how do the Roma turn to these institutions for resolving internal conflicts?

Considering the specifics of the study, in my empirical research I aimed to obtain a rich source of qualitative data. The main methods of data collection were the semi-structured interviews, the observation, but also the analysis of some life stories written by people from the Kalderash Roma communities with whom I interacted. The fieldwork lasted almost a year, on which occasion I conducted 31 interviews in three Kalderash Roma communities in Vâlcea and Gorj counties. These were complemented by six other interviews with people working with this community (krisinitori - Roma judges, police officers and local government representatives).

Regarding the theoretical frameworks of the research, I relied especially on the Cohen's (1985) approach who sees the community as a practice of building the boundaries between "us" and "them", in parallel with which it is established and subjects belonging to one community or another. But just as important is my understanding of the phenomenon studied and the anthropology of law, which argues that the legal system and laws are cultural and social products. Thus, at the intersection of the two approaches, I was able to interpret the traditional methods of doing justice within the traditional Roma communities and the values on which they are based, as an integral part of their self-definition of identity in relation to the outside world, often reluctant to them.

Despite the fact that, statistically, none of the stereotypes about Roma have a solid basis and despite the fact that, again statistically, we cannot prove that Roma are more prone to conflicts or deviant acts than members of other ethnic groups in Romania. , the general perception is that the Roma are a deviant group. Contrary to the latter, as the data of my study have shown, the Roma follow a very strict moral code, based on rules and customs derived from the beliefs and in general from the cultural system of their communities. They are neither more nor less willing to deviate than other people belonging to other ethnicities, because ethnicity does not determine deviance.

Furthermore, if we look inside at the practices by which traditional communities intervene in cases of breaches of community rules or in the event of internal conflicts, we see that they operate with principles and techniques similar to other justice systems. The person who does not respect the moral code of the community may have problems interacting with other members and, in more serious cases, may be isolated from other members, temporarily or permanently. This is all the more serious as a person's guilt extends to his entire family. Because what Sellin

stated in 1938 is still relevant - the laws reflect the values of the dominant group in society, in the end, we can say that our society fails to know Romanipen because it accepts as normal and natural only its values and practices.

In response to my first research question, in my paper, I showed the three basic concepts articulated in Romanipen that guide the people of the Kalderash Roma community in their thinking about good and evil, right and wrong. These are pollution, injury and shame.

Awareness that pollution and pure-impurity dichotomy are very important in the value system of traditional Roma is not new in the studies about the Roma but it is missing from analyzes made in the context of Roma communities in Romania, and especially from studies on internal conflicts. According to our data, the notion of pollution is very important for the Kalderash Roma because, on one hand, it allows them to model their behavior and actions in a manner in accordance with the rules of the community and, on the other hand, it gives them the opportunity to delimit themselves from those who deviate from these rules.

Another concept to which we must turn our attention when talking about community justice is that of harm. To describe it, I used the studies of Sykes and Matza (1957) to argue in favor of my empirical observations, according to whose, the Kalderash Roma adopt neutralization techniques to rationalize their attitude towards deviance and conflict. Through this process, deviant acts disappear, thus reducing the range of grounds for the application of justice in the community. So, the notion of injury is an integrated part in the vision and practices of the Kalderash Roma towards crimes, they define actions as crimes and conflicts only when the injury and/or the victim are obvious.

Being a marginalized community, the Kalderash cannot afford long-term conflicts or the exclusion of any member because these actions can threaten the social cohesion of their community. To avoid this, they have developed a very effective, visible (public) justice system that is built around the notion of shame. Starting from Braithwaite's (1989) notion of restorative justice, my research showed how the Kalderash attach a special importance to the notion of shame. As we stated in Chapters III and VI, shame takes two forms, the stigmatizing and the reintegrative one, the latter being the most effective form. Reintegrative shame gives the possibility to the one who is guilty of committing a deviant act to admit his guilt and to be

accepted again in the community. My study showed that the Kalderash Roma from Romania can successfully apply reintegrative shame in their own justice system by using readmission ceremonies, followed by several gestures made for this purpose. As anywhere in any society, in some cases, the gravity of some actions is so big that the only possible action is the permanent removal from the community of the wrongdoer. This continues to happen even today when the age of globalization would tempt us to say that ostracizing a member of the community is no longer as severe a punishment as it was 50-60 years ago.

Using such measures, the Kalderash Roma in Romania use disintegrative shame. This means both the fact that the Roma can unite against the one who made a mistake, maintaining the social order of the community, but also the fact that they act as intimidation for possible future offenses. The way in which most Roma in traditional communities perceive and understand these concepts in correlation with the principles of Romanipen once again contradicts the idea that they are a deviant group. On the contrary, my study shows that they always delimit themselves from those who commit harmful actions. The Kalderash Roma are very proud and protective of their cultural identity. In this way, they must differentiate themselves from those who deviate from these norms through the dichotomy of true Roma vs. fake Roma.

Regarding the second research question, in fact the central theme of my thesis, the methods of resolving internal conflicts, I consider that the thesis contributed to their knowledge and brought additions to what was already known about them. Kris, the Roma tribunal, is certainly the best-known method of resolving internal conflicts. Regarding it, our study brings a novelty because it describes two trials, which is quite rare in Romania, given their rarity and the fact that they are closed procedures, either due to the fact that people outside the community are not allowed to participate, either because all discussions are conducted in the Romani language. Another novelty of my approach, which contributed to obtaining an impressive amount of information and to its proper interpretation, is the collaboration with two krisinitori, judges of these communities. Moreover, this paper also deals with the importance of Roma women in the management of community conflicts, an aspect also neglected in the past. In addition to all this, we have also identified the role that mysticism and superstition play in the way in which the Kalderash choose to manage their internal conflicts.

Finally, a particularly important thing brought to the fore by my study is that this procedure focuses on reconciling the parties and not necessarily punishing the culprit, being much closer to the mediation and arbitration procedures than to formal justice. However, Kris is the last method of resolving a conflict. Until they reach the community court, the Roma can use a fighting system dominated by very important rules and rituals, a situation in which the fight is a form of conflict resolution and not a simple violent activity. In addition, our study showed that the Kalderash use less common and less discussed methods of managing internal conflicts in their communities, namely avoidance, labeling, and gossip, which are often used as a form of disapproval for a certain offense. The fear of being avoided and becoming a target of gossip works as a mechanism of social control thus preventing members of the community from violating the moral code.

Referring to the last research question, the results presented in the paper showed how the notion of legitimacy plays a vital role in the relation between the studied Kalderash Roma and the police forces. The lack of recognition of this legitimacy makes the Kalderash to hesitate to involve the authorities in internal affairs. Beyond the history of the relationship between the two parties, we could identify as main reasons for the lack of legitimacy of the police the intensity of actions taken (both as repetitiveness and as a force - troops, weapons) and non-compliance with traditions. Specifically, the participants in this study believe that many social control agents do not fully understand the specific needs of this community.

Even though the Kalderash Roma rarely involve the police in internal conflicts, the evidence presented in this study shows that sometimes, in certain circumstances, they still call on the help of the police. According to our data, this happens in two situations. In the first situation, the Roma request the intervention of the police when an internal conflict gets out of control. In this case, this intervention is the last available way to de-escalate the situation. Once this is done, the problem becomes internal again and will be managed by the community.

The second situation arises when the Roma want to resolve long-term conflicts (vendettas) or when members of a group want to strengthen their position in the social hierarchy of the community. In this case, the group shall inform the police of any deviant acts committed by another until they comply with the requirements of the first group. The case is an interesting example of the way in which the Kalderash Roma instrumentalize the institutions of the state

with which they usually do not collaborate, in their practices of (re)establishing order in their own community. This order is marked not only by shared cultural visions and unanimously accepted forms of community justice, but also by internal power struggles behind which there are a multitude of divergent economic and political interests.

Answering to the three sets of questions discussed above, my analysis makes a contribution to the intersection of Roma studies and studies of justice and conflict management, being developed through the prism of anthropology of law and qualitative ethnographic research methods. Observing the Roma community as a set of cultural visions inscribed in their Romanipen moral code, but also as a set of practices through which the community builds itself and its subjects in parallel with the symbolic delimitation of non-Roma, we could reaffirm many of the existing knowledge in anthropology about the way in which the diversity of Roma groups, wherever they live, on the one hand adapts to the wider social context, but on the other hand maintains certain particularities.

In order to achieve its goal, the work is built on the structure described below.

The next chapter (chapter two) - **Methodology** - will present the methods used in my empirical research to answer the research questions. Being a qualitative research, a large part of the fieldwork was based on observation and interviews. Also, in this chapter, I will discuss the ethical aspects encountered throughout the research, from its design to drafting, as well as how I managed them, taking into account the specifics and purpose of the research. At least in Romania, it is a generally acknowledged fact that the access inside the traditional Roma communities is difficult. Therefore, in this chapter, I will insist on presenting how I managed to have access to this community and how I managed to enjoy their good collaboration.

The next two chapters (three and four) were used to present the literature on which the three main research questions are based. The first of these, **Moral Codes, Values and Attitudes Towards Conflict and Deviance**, presents the literature related to the first research question and will establish the theoretical framework that will help us conceptualize the value system of the studied Roma communities. As we will see, the Kalderash Roma adhere to a very strict moral code, consisting of many rituals and customs, and which influences their attitude towards conflicts and deviance.

Chapter four - **Community Justice** - presents the procedures used by the studied Kalderash Roma communities to manage internal conflicts. An important place in the structure of the chapter is dedicated to the concept of shame, which is also one of the pillars of the moral code of the Roma (Romanipen). The end of the chapter will be dedicated to the relationship between the Kalderash Roma and the official social control agents, especially the police officers.

Chapters 5-7 elaborate in detail the research results, as follows:

Chapter five, **Romanipen - the moral code of the Roma**, is a detailed description of the social world of the Roma. Through the understanding of the social world of the Kalderas from the three communities studied, we will be able to better understand some concepts that appear mainly in the stories of the interviewees. In short, we will see that these communities organize their social world through customs and rituals. In addition, I will discuss the concept of identity. At the end, the chapter explores how this moral code influences the attitude that the Kalderash have towards conflicts and deviant actions, both inside and outside the community.

Chapter six - **The justice system of the Kalderash Roma** - presents the different mechanisms of community justice used by the Kalderash to punish those who violate the Romanipen, in the foreground being the concept of shame. In this case, based on existing studies, I will present a distinction between two types of shame to illustrate the impact of this concept on the whole community.

Chapter seven - **Relationship with official social control actors** - presents the interaction of Roma in the communities studied with official social control agents, presenting both positive examples of this relationship and negative examples.

Chapter eight - **Conclusions** - will recapitulate the conclusions resulting from the previous chapters and will emphasize the importance of the results of this research in the field of sociology and anthropology, particularly in the study of justice and public policy.

Contents