

## Romani Kris in Hungary, Romania and Finland

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### Abstract:

*If we consider their roots and origins, it is primarily the culture of the olah Gypsy in Hungary that has an independent, unique and rare dispute settlement forum, which is called the Gypsy lore or Romani kris. The Olah Gypsy are distinct from the Hungarian gypsy population since they have preserved their linguistic traditions, customs and internal jurisdiction along with their culture. Forums are convened whenever problems arise and thereby minor disputes between people are typically settled in accordance with a strict and unique internal system of rules by 'dealing out justice' instead of the costly verdicts adopted by the state that often impose penalties. In the scope of a fast and rightful process implemented in accordance with a formalised and strict system of rules, they use a variety of the Gypsy language that is characterised by solemn and carefully chosen linguistic expressions. Romani kris (the Gypsy court) serves as a community dispute settlement forum and has a marked influence also on everyday life since it does 'Kristi' in any matter arising by and between Gypsies.*

*I wish to describe the active dispute settlement culture of the Romani society by illustrating the Indian historic background and possible routes of wandering as well as the way the Olah Gypsies seek justice. I also shortly touched upon the specific solutions of the Gypsy members of the Romanian and Finish societies to seek justice.*

**Keywords**— *Alternative Dispute Resolution, community conflict resolution forum, dual judgement, peace negotiations, Gypsy culture*

### I. INTRODUCTION

The Romani kris is called to pass judgment only on more important and significant cases, so generally 3-4 times a year within a Gypsy community. The proceedings are always public and may take place under the sky (e.g. in a yard or at a market) or indoors (e.g. in a house or a pub).

The court members sit in a circle either on the ground or by a table. [...] The law is 'made' (in Gypsy »*súvaszkrisz*« or »*sinelikriszi*«) in silence and in a solemn way. Firstly, the plaintiff spreads a black shawl on the ground and places an icon on it. (Generally every Gypsy man carries an icon on him that he buys at shrines e.g. in Csátka. These icons mostly depict the Madonna.) Then by kneeling before the black shawl and placing two fingers of his left hand on his heart and two fingers of his right hand on the icon he swears an oath.

In some places 'they also stand two lit candles at the edge of the black shawl', while in other places 'they place a bucket of water and an iron chain on the black shawl' while saying, 'may my spirit go as cool as the water in the bucket' and 'may I be in such heavy chains all my life' if I do not tell the truth.'

The black shawl means the following, 'May I be in such a black mourning as black is this shawl should I not say the truth.' The proceedings take about half a day ... The court passes a one-time and unappealable decision."

### II. ROMANI KRIS IN THE OLAH GIPSY CULTURE IN HUNGARY

The Romani kris (Gypsy court) serves as a community conflict resolution forum and has a marked influence also on everyday life since it does 'Kristi' in any matter arising by and between Gypsies.[1]

As far as its scope of competence is concerned, the court has so far passed judgements in matters related to indemnity and debt as well as those related to women, such as elopement or wilful desertion. That this institute still exists is due to the fact that its decisions are generally accepted automatically and voluntarily and complied with as a result of the influence and moral pressure the Gypsy society exerts on any individual. Should the community be dissatisfied with the verdict, it could take even a personal revenge after the session is closed.[2]

In preparation for the decision-making process, the parties involved at first aim to settle their conflicts through informal channels. In this phase they often rely on the experience and assistance of the elder council and try to reach out-of-court settlements such as a *divano* or *svato*. If this attempt fails, they convene an ad hoc elder council and within two or three days they organise the real 'kris', the court to which litigants delegate a member to act as a judge. At the beginning of the proceedings they have to swear an oath, called the 'solák' that they would restrain themselves in eating and drinking until the decision is reached. The proceedings are formal, solemn and rich in elaborate linguistic phrases while a unique and strict system of rules is applied. These rules bind outsiders too. Today the participation of women and non-Gypsies is also allowed while it was prohibited in the old times. Demonstration is characterised by orality, directness and the lack of representation; those involved in the proceedings aim to persuade the judges emotionally. This phase is accompanied by loud and strong emotional outbursts and oaths. In the absence of written rules, the forum passes judgement in line with the judges' sense of justice and unwritten rules. The wise men deliver the final and non-appealable verdict by simple majority and the eldest of these men announces the verdict and the whole community is responsible for the execution of the verdict. In the event a 'kris' decision is adopted, the matter may not be submitted for

decision by the state – for which the whole community is liable – hence dual penalty is avoided. Parties shake hands and make an oath to comply with the verdict and maintain friendship. And a party is held at the judgement debtor's cost. The involved parties consider the decision reached based on their own norms just and rightful. The survival of this institution has furthermore been ensured by the fact that on the one hand lawyers' costs are high and of rates that Romani people are unable to pay and, on the other hand, state litigation is simply considered a waste of time.[3]

If we consider their roots and origins, it is primarily the culture of the Olah Gipsy in Hungary that has an independent, unique and rare conflict resolution forum, which is called the Gipsy lore or Romani kris.

The Olah Gipsy population is distinct from the Hungarian Gipsy population since they have preserved their linguistic traditions, customs and internal jurisdiction along with their culture. Forums are convened whenever problems arise and thereby minor disputes between people are typically settled in accordance with a strict and unique internal system of rules by 'dealing out justice' instead of the costly verdicts adopted by the state that often impose penalties.[4]

During the formalised, fast and just proceedings performed according to a strict set of rules, they use a formal and solemn Gipsy language that is rich in elaborate linguistic phrases.[5]

Among other things, it was typical of the strict set of rules that until recently women were excluded and the *Gázsó* – those of non-Gipsy origins – could only participate in the proceedings as witnesses at most.

The process of the proceedings is as follows. Firstly the parties attempt to reach an agreement as a preliminary step, acting without outsiders or decision-makers. As the second step, they hold a still informal *divanó* or *svato* (out-of-court negotiation) if they fail to reach an agreement at their first attempt. Now it is already possible to invite the elder to offer advice in order to solve the disputed case since in the case of a successful agreement they can still avoid calling the court. In the event these proceedings fail, within two or three days, they convene the kris in a neutral and peaceful place. Before the kris a *soláx* that is an oath is sworn, the essence of which is that they would abstain from food and drink until a wise and just decision is taken and that they are under the obligation to tell the truth to which they swear an oath before an icon. This oath furthermore serves the purpose that they could avoid council since one party might as well accept the other's account of the events under oath.

Demonstration is based on orality, aiming to hear both parties in such a detailed way as possible; the proceedings has no time limits and the case is clarified to the most minute of details which process can be steered by the judge by asking questions. Witnesses may be heard but no representation is allowed, nor the participation of a mandated attorney. The main judge is responsible for keeping order. The kris brings back its unquestionable and final decision after careful consideration of the whole case announced by the senior judge without applying written rules with reference to the individual case at hand. It is typical of the proceedings that strict and just decisions are reached, 'repeaters', those standing before the kris for the second time in the same year are punished more strictly than those who have never committed mistakes or violated the written or unwritten rules. The penalty set therefore fits the weight of the crime: there are material and immaterial compensations and there are multipliers but capital punishment, physical revenge and mutilation have been abolished. After the verdict is announced the parties shake hands and take another oath to accept the decision, to establish good relationship in the future and that they will not mention this case later, which is further emphasized by the community. When accepting the decision, they undertake to pay the compensation or penalty defined, thank for the judges' activities and have a feast with food and drinks at the judgement debtor's cost. The community is liable for enforcing the judgement which means that the observation of unwritten rules is enforced by community pressure. Impartiality is a primary consideration when selecting a judge. Strict rules help adherence to judicial authority, corrupted judges or those adopting wrong decisions can expect strict material penalties. The judges' persons are not permanent; they are primarily selected from wise and honest elderly people with clean records; the office of a judge is not necessarily inherited.

Dual judgement by state (*gázsó*) jurisdiction and by the kris may not be applied, therefore the application of dual sanctions is ruled out. Crime against the state and grave offences against individuals are beyond the scope of the kris and shall be referred to state courts. Furthermore, it must be added that only cases involving Gipsies are presented to the kris, the most typical cases being those related to conflicts concerning trade or wedding [6].

### III. KRISRRROMANI, THE ROMANIAN GIPSY PEACE NEGOTIATIONS

'*Krisrrromani*' is part of the system of codices that may be related to Romani cultural traditions and the conflict resolution practices of Romani communities. The Romani peace negotiation operates independent of the system of state justice in Romania, which means that it does not matter whether state proceedings are pending or not or whether the parties are to appeal against a decision reached in the state proceedings. '*Krisrrromani*' is indispensable for reaching just decisions, restoring peace within the community and the dignity of the people involved in the conflict within the community.

Romani communities can be considered as closed communities, although their traditions have survived in many places, got supplemented with national customs during their wanderings, got added to or even merged with the same. There are also areas, however, that remained unchanged within this enclosed community, with the institution of Romani conflict settlement among them. It may show many similarities but still some differences over the various areas.

In Romania[7], this institution is given prominence over state jurisdiction considering that in the Romani belief the only just and real decision can be reached through internal peace negotiations only. The importance of the oath is

unquestionable since the parties firmly believe that only the truth can be said because of the oath taken, which is contrary to state jurisdiction where the probability of revealing the truth is disputable.

The long-standing institution of peace negotiations, existing from times immemorial, is part of the traditions of the Romanian Romani community. In accordance with traditions and customs, the institution of real justice is the 'Gipsy Peace negotiation' *Krissromani*. This institution can be considered as a legal custom that has been applied by the members of the Romani community within the community since the beginning, a tradition handed down by father to son. The criminal trial is conducted on the basis of '*iussacramentum*', parties take the Romani oath by which they assume the obligation towards the community to tell the truth. This, as opposed to state justice, allows for defining the truth. With the help of these proceedings, peace can be restored within the community. Peace negotiations are the tools of conflict resolution whose aim is to restore peace within the community through the application of the practices and strategies of legal customs.

The proceedings are a ritual performed in accordance with a unique system of rules. The family members of the parties being in conflict express their request for having a trial first. They agree on a date and announce it to the community so that their participation could be guaranteed since, as their traditions require, the process of searching for peace must be performed before the whole community. Parties can make suggestions at the person of the judge and upon disapproval, the judge can be replaced. The elected judges stay together until the proceedings end, live and eat together, but may not contact the parties. It is a major rule in preventing corruption. In the event the suspense of corruption arises with respect to a party or a judge, the judge shall be removed from his position and obliged to pay any related costs. Judges work in the Romanian Gipsy trials for a sum called '*vatrai*' received in payment and is paid to them by the parties before the decision is announced.

The proceedings are performed according to ceremonies and unique rituals. They are held in the open air in the presence of the whole community. Judges loudly talk about the 'secret peace judgement', or '*salahimos*' or '*alavromanos*' before the community at first. Then the parties are granted the opportunity to air their opinions that they can do before a prearranged lectern. The judges and the whole community is addressed, with proper honorifics for persuasion. Judges are allowed to ask questions to the extent necessary for making an opinion, and the parties' witnesses are also heard. Upon doubt, the witnesses shall testify under oath. The importance of oath is paramount. As opposed to the Hungarian Romani *kris*, in the Romanian proceedings the oath is a separate section. It is specifically applied if former disputes and conflicting situations or doubts and suspense are needed to be resolved or dispelled. Judges decide the manner and conditions of taking the oath. Traditions allow for several modes to take an oath: before the crucifix, next to holy water or before other sacred items, for example, pork, fire or a lit candle. Taking the oath is unquestionable and presumes the obligation to tell the truth. It is the way to find the truth and clarify conflicting situations. The final stage of the proceedings follows the oath-taking, the announcement of the verdict by the judges. It may, however, happen that the final stage is not reached because the parties may offer a hand in peace to each other after hearing the oath and their case is closed with an agreement. The system of sanctions applied by the judges shows a hierarchical structure. Depending on the gravity of the guilt, punishment can range from a reprimand and the wording of moral scruples through penalties to even expulsion from the community. The most common punishment is setting a medium-level penalty. The least severe sanction is admonition and airing moral scruples while the strictest sanction is expulsion that may happen upon committing extraordinarily grave crimes. Peace within the community gets restored and the perpetrator is prevented from repeating the crime or getting revenged for it. As soon as the punishment is announced the peace within the community is considered restored at once.

#### IV. THE COMMUNAL LAW OF FINNISH 'KAALE' GIPSIES, THE 'VENDETTA' MODEL[8]

Customs not typical of the Gipsy population of other countries can be observed when studying Finnish Gipsies. They do not speak the ancient Gipsy language. Their language is unique and can only be understood by themselves. Some of their customs are identical with their ancestors' customs due several centuries' isolation. The Romani live in isolated extended families in Finland into which not even marriage can grant access from other families or other Gipsy families.

Equality between them is of primary importance, Gipsies do not accept superior or subordinated roles. Business deals with each other are excluded since the sellers are considered superior to buyers for the profit, neither can they work as each other's employees. The richer are liable for the poorer, no advantage can be gained from their status.

The society based on respect is primarily focussed on the old and the men. They do not have a central decision-making organ, but do not acknowledge the Finnish law or decision-making systems either. The members of the community, for the sake of an example, do not think negatively about having a criminal record.

Vendetta appears as the tool of justice of extended families. It launches a process that may never end. As opposed to other cultures, revenge can only be followed by revenge. In general we can say that it is targeted at the male members of the family while the elderly, women and children are spared. Those living with them, but 'not belonging to the family', such as spouses originating from other families can avoid this threat. Vendetta can happen with respect to markedly grave instances that include crime against individuals, homicide and life-threatening bodily injury. They primarily employ the services of the Finnish system of justice in defence and try to avoid actual proceedings. Vendetta may only be targeted at people with Gipsy ethnicity, children born to mixed marriages may not demand this type of protection.

Only 'blood-brothers' may take vendetta, as common familiar relationship is of a primary importance. Animosity does not always end in revenge, it might happen that an 'avoiding behaviour' is demonstrated since animosity is expected to prevail for a longer period.

For families vendetta is a guarantee that they shall abide their ancestors at any cost, protect the members of their family and practice solidarity towards each other. This solidarity is not expressed only on the social and emotional level but gains ground on the physical level too. Good reputation may not be infringed upon.

Considering the above-described, it is not surprising that a unique system of relations develops with respect to marriage too. Marriages between two families could mix up relationships and therefore couples generally stay with their own families in order to avoid having to live without equality in the extended family where they could get in observance of the above legal custom. The extended family has an advantage over marriage. The emotional relations and social roles of the couples are to be defined by their age and gender. Men have power over women, to the extent they have over any female members of their family. Women are responsible for the children and financial matters. Based on all this, it is not surprising that they do not attach much significance to divorce either. The divorced status is not a disadvantage within the community of the extended family. What's more, provided the relatives consider the ties improper, they even encourage the party in question to get a divorce.

It is, however, interesting to investigate why this system has evolved. Why might the forceful internal system have developed that does not waste much attention on outsiders? The centuries of isolation must have had its impact, being excluded and stigmatized must have interacted in the development of the common law. Their trust wavered in the institutional system of the external society and they were forced to create a unique system of rules in order to find their internal balance.

When defining the term being 'unclean' one must think that the Gypsies committing a crime become unclean for a while. It is the old and the men to define this fact since there are no set intervals or an accepted set of rules in general to be followed by the extended family. All decisions are born within the system of relationships of the given family. If several families are involved in a case, the family whose member committed the crime shall define the punishment.

The reputation of the given family shall be impaired by guilt. It could be a force withholding community members from committing crime that the guilty person brings dishonour not only on his own head but on his whole family.

'Duals' are another means to pass judgement over crimes when the family's reputation is blemished because of women. Armed fight and vendetta will take place. The aim is not to commit murder, however. The wounds of the losing party shall be dressed by the family of the winning party. The winner's honour is restored in this case as well as the loser's since a good fight is the token of success and one has to be able to be a loser too.

#### V. IN LIEU OF CLOSING REMARKS...

We have to learn how to get to know, accept and adopt the initiatives arriving from the bottom and rooted in the past since 'only those have a future who do not bid farewell to the past but intend to continue on a higher level what has already been reached'. [9] Personally, the writer of this paper considers the acknowledgement of the system of institutions of Romani kris by state decision-makers as a possible direction to follow in the future. The author furthermore expresses her hope that, similarly to other communities, it will also be obvious for state justice that the system of institutions could become able to find realistic and true solutions for conflicts between Romani people that are acceptable to their communities since these solutions are based on their culture and system of beliefs spanning over millennia and showing international varieties.

This strategy could attract the attention of politicians and could allow for solving the problems of the overloaded court system and could also serve as a benchmark to reduce the overrepresentation of minority groups in prisons by applying the already existing tools of conflict resolution other than and in supplementation of those of the state. I find it important to note that in Canada the Royal Commission has acknowledged the right of the natives to create their own administrative and judicial systems thus giving them green light to identifying legal initiatives related to the alternative justice. We could map more efficient alternatives by integrating the existing workings of self-government in the current system or by introducing changes to the current system to create a new one. [10] Getting to know their culture may make it easier for the society to understand them and acknowledge the differences in every area.

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