PERCEPTIONS AND MEANINGS OF ARRANGED MARRIAGES IN ROMA COMMUNITIES IN ROMANIA[*]

Laura M. Herța[**]

Abstract

The article aims to present and analyse various forms of arranged marriages in Roma communities from Romania and to examine the nature and type of relations between local authorities, through their representatives, and leaders of Roma communities. The main goal is to discuss the ways in which conflicts between Roma cultural values (and decisions taken within the community and endorsed by the informal leader), on the one

[**] Laura M. Herța is Associate Professor of International Relations at the Faculty of European Studies, Babeș-Bolyai University (Romania) and senior Associate Researcher at the University of Johannesburg (South Africa).
Contact: laura.herta@ubbcluj.ro

hand, and the legal aspects pertaining to national law, on the other, are mediated. The main hypothesis is that, despite official parallelism between the two, empirical evidence reveals cases of intense interactions at local level, which are indicative for some forms of re-interpretation, revisiting of certain Roma customs, negotiation, and re-adaptation, as exemplified by public organized weddings or engagements in some Roma communities from Romania.

Key words: Roma communities, customary law, early marriage, arranged marriage, perceptions, values

Introductory remarks

The main goal herein is to outline the phenomenon of arranged early marriages in Roma communities in Romania. To this end, the first step is to distinguish among various forms of such arrangements: "promising"/ "uniting" children between families; organizing engagements as public events; organizing weddings (though not legalized). The main research question in this study is: How is the conflict between Roma cultural values (and decisions taken within the community and endorsed by the informal leader), on the one hand, and the legal aspects pertaining to national law, on the other, mediated? A secondary problematisation will revolve around the type and nature of relation between Romanian national law and Roma justice system (*stabor*). The main hypothesis is that, despite official parallelism between the two, empirical evidence reveals cases of intense interactions at local level, which are indicative for some forms of re-interpretation, revisiting of certain Roma customs, negotiation, and re-adaptation, as exemplified by public organized weddings or engagements in some Roma communities from Romania.

The article is organized in three main sections: the first one tackles perceptions and meanings assigned to arranged or early marriages both within Roma communities and by external actors. The second part briefly presents the tenets of Roma customary law, based on tradition, values, norms, rituals, on the one hand, and the legal provisions pertaining to the age of marriage as prescribed by national law in Romania, on the other hand. The

goal here is to underline the legal tensions and the incompatibilities between the two justice systems. Finally, the last part of the article discusses local realities (as revealed by our field research) and interactions between representatives of local authorities and leaders of Roma communities with respect to early marriages, in order to show the ways in which conflicts are often mediated.

Perceptions on early marriage within and outside Roma communities

Research on this topic has been preoccupied with questions such as: are arranged marriages in Roma communities a form of Roma cultural autonomy manifestation? A form of child abuse? Or a manifestation of women (girls) subordination?

Certain valuable clarifications in this sense are offered by Alexandra Oprea. In her study, *Child Marriage - a Cultural Problem, Educational Access, a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, she underlines the need to acknowledge that "only some Roma arrange the marriages of their children" and to differentiate between arranged marriages and child marriages, since "not all arranged marriages involve underage actors."[1] Moreover, Oprea adds, "there are many variations of arranged marriages, aside from the textbook cases of parents arranging the marriages of their unsuspecting children, who meet for the first time on their wedding day."[2]

It has often been argued that the issue of early marriages pertains to the realm of cultural values specific to Roma communities. In such approaches, the discussion revolves around arranged marriages as an exclusively or typically Roma custom. But, data clearly indicates that this is not really accurate. The study titled *Early and Forced Marriages in Roma Communities Country Report: Romania, 2015*, highlights that "early marriage is manifest in a number of Roma and non-Roma communities; adolescent girls aged 15-19

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[1] Alexandra Oprea, *Child Marriage - a Cultural Problem, Educational Access, a Race Issue? Deconstructing Uni-Dimensional Understanding of Romani Oppression*, ERRC, 2005, [http://www.errc.org/roma-rights-journal/child-marriage-a-cultural-problem-educational-access-a-race-issue-deconstructing-uni-dimensional-understanding-of-romani-oppression], accessed in March 2018.

[2] *Ibidem.*

account for approximately 10% of the births annually in Romania; in the investigated communities, an estimated 25-30% of Roma women aged 15-19 are married; early marriages are not common practices in all Roma communities; [...]"[3] While in contemporary Romania, forced marriages or arranged early marriages do predominantly occur in some traditional Roma communities, the phenomenon should nevertheless be historically associated with traditional communities at large. Moreover, "without an analysis of both the historic and present economic, social and political factors that impact Romani women's lives, an analysis of child marriages is incomplete."[4] The confusion created by the association of early marriage with the strictness of Roma tradition is also noted in other analyses:

> "[...] the early age marriage is not always an assumed tradition. Early marriage is defined as part of the 'tradition' and valued as such especially in the communities of the wealthier Gabori, Căldărari or Corturari, where the arranged endogamous marriages have the social function of managing the family wealth and heritage. However, there are only few such wealthy households – an observation supported by survey data on income and on long-term consumer goods ownership. In other cases, the family strategy of early marriage is not motivated by an acknowledged 'tradition'. In these situations, marrying young may be a result of the lack of other attractive options for their future. Young people follow the common path of the community in their family-life, without defining it as a 'tradition', due to the scarcity of alternative trajectories."[5]

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[3] Eugen Crai, *Early and Forced Marriages in Roma Communities Country Report: Romania*, 2015, 9th CAHROM Plenary meeting, p. 5, https://cs.coe.int/team20/cahrom/9th%20CAHROM%20Plenary%20meeting/Forms/All%20d ocuments.aspx, accessed in March 2019.

[4] Oprea, *Child Marriage - a Cultural Problem, Educational Access, a Race Issue?...*

[5] Gábor Fleck, Cosima Rughiniș (eds.), *Come Closer. Inclusion and Exclusion of Roma in Present-day Romanian Society*, București: National Agency for Roma, 2008, p. 33.

The authors of the study *Come Closer. Inclusion and Exclusion of Roma in Present-day Romanian Society* emphasize poverty as main and prevalent cause for early marriage, instead of perceived need to preserve tradition:

"for example, in the Mimiu community in Ploieşti, the gymnasium girls perceive love and marriage as a possibility to escape the extreme poverty conditions in which they live, to escape the high density households in which they take care of their younger brothers, sisters, cousins and to build their own family, in which they could expect to work less hard […]"[6]

All these observations lead the examination of causes which determine the practice of arranging marriages. In most studies, the following issues are presented as determinants of early marriages: patriarchal culture; role assigned to women in Roma communities (household, motherhood, obeying mothers-in-law); the need to preserve the honour of the family within the community; parents' need or desire to maintain and perpetuate cultural values and traditions or fear of "modernization"; ensuring the loyalty of families to the community (meaning the commitment of some Roma families to the practices and values, to the customs which organize the community and structure the hierarchy and legitimacy of the informal leaders of such communities); avoidance of relations with non-Roma (*gadźe*) or fear of "mixing" marriages; economic factors, such as keeping the wealth within the community, finding a status within the community, or escaping poverty etc.[7] According to Eugen Crai, the main factors contributing to early marriages are a "complex combination of poverty, marginalization, poorly understood community traditions and lack of other opportunities

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[6] Ioana Florea, "Who Are The Roma?", in Gábor Fleck, Cosima Rughiniş (eds.), *op. cit.*, p. 33

[7] Nicoleta Biţu; Crina Morteanu, *Drepturile copilului sunt negociabile? Cazul mariajelor timpurii în comunităţile de romi din România* (Are Children's Rights negotiable? The case of early marriages in Roma communities in Romania), Bucureşti: Romani Criss, 2009, p. 20; Mihai Surdu, *Sarcina şi căsătoria timpurie în cazul tinerelor roma* (Early pregnancy and marriage among Roma girls), Raport elaborat pentru Centrul Educaţia 2000+, 2004.

and perspectives in Roma communities."[8] Another factor which could be included in the analysis is the model that seems to be reproduced within families. Mihai Surdu showed that practices within the Roma family seem to deeply shape behaviour of future generations: in case the Roma grand-mother and mother resorted to early marriage, there is a high probability that Roma girls in the family will reproduce this practice; in case the family model displays the decision of both grand-mother and mother to give birth at a very age, early pregnancy will be expected from Roma girls as well.[9]

As previously mentioned, there are various forms of marriages in Roma communities in Romania, namely arranged ones, forced ones and early marriages.[10] Further distinctions focus on early marriages and differences between forced ones, marrying a minor girl to an adult, or consensus over a later occurring marriage, which means that two families "promise" their children and decide upon a future marriage. The latter is considered "marriage" because it is "sealed" within the community and often endorsed by the informal leader of the community *(bulibașa)*. A third situation could be assessed as engagement, meaning a ceremony signalling the "union" between two minors within a Roma community.[11]

The practice of arranging marriages entails certain perceptions and meanings within Roma communities. First of all, it could be examined as organizing principle and act of social regulation within the community, based on a perceived necessity to preserve group harmony and to perpetuate a form of family endeavour concerning the future of children. The arrangement and organization of marriages rest upon the participation of parents, extended families and sometimes the entire community. The preparation of such events has a great significance and is perceived as chief obligation by/for the parents.[12] Consequently, the practice is considered, second of all, enduring privilege of parents, as perceived and reproduced duty to shape the future social life of their children. It often relates to the

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[8] Crai, *op. cit.*, p. 6.

[9] Surdu, *op. cit.*, p. 4.

[10] Bițu; Morteanu, *op. cit.*, pp. 18-20.

[11] *Ibidem.*

[12] See more details on this in Angus Fraser, *Țiganii (The Gypsies)*, București: Humanitas, 1995, pp. 253-256.

need to create and strengthen family alliances as well. Thirdly, fear of external "contamination" (meaning risks associated with permissive sexual practices, disease, in the absence of formalized unions) or resistance to "modernization" tendency (which might attract and taint Roma children) are also crucial reasons for maintaining such practises believed to be rescuing the young from other dangers, such as the fear of bride kidnapping *(bridenapping)*.

But how are these practices perceived outside Roma communities? What are media portrayals and public representations of Roma weddings in Romania focusing on? According to some, there is a tendency "to use this social behaviour as an argument to blame 'the culture' and 'the mentality' of the Roma for their vulnerability to severe socio-economic problems."[13] Alexandra Oprea draws attention to racism and sexism in public discourse by arguing that "child marriage is a product of several factors operating together: gender roles within Romani communities, past and present state-sanctioned sexism and racism, and socio-economic instability."[14] Others indicate that media representations reproduce stereotypes and reinforce discrimination. For example, Eugen Crai observed that

> "Roma intra-community resistance to such practices has generally been ignored by both mass-media and many of the researches conducted in Romania with the consequence of exacerbating the risks of labelling and stigmatization as a whole the Roma culture and Roma communities despite the diversity of recorded practices of early marriages in various Roma communities."[15]

Media attention displays indifference towards gendered relations in Roma communities and the inferior role of women. Also, Roma public events (weddings, engagements) are portrayed as "exotic" at best and as "primitive", shocking at worst. As such, the Roma are recurrently presented as

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[13] Ioana Florea, "Who Are The Roma?", in Gábor Fleck, Cosima Rughiniș (eds.), *op. cit.*, p. 33.

[14] Oprea, *Child Marriage - a Cultural Problem, Educational Access, a Race Issue?...*

[15] Crai, *op. cit.*, p. 23.

the backward *other*, the Roma women as (willingly self-assumed) passive agents, ready to internalize and live up to the roles assigned to them by the gendered structures.

Despite this, one could raise the question: Is there concern for Roma women in public discourse? According to Alexandra Oprea, Romani women are subordinated by both race and gender and are neglected even by international NGOs, because of "failing to address the intersections of racism and sexism."[16] Moreover, she explains, "the child marriage debate was formulated by ignoring signs of Romani resistance to the practice, thereby portraying feminism as the brainchild of the West/whites. No Romani feminists were interviewed by the media to express their position on the issue. Child marriage was portrayed as a black-and-white example of a (backward) practice consented to by Roma. […]"[17] Consequently, there is a form of double subordination of Roma women and Roma girls: on the one hand, they are subdued to Roma male and embedded in masculine practices and discourse, hence becoming victims of reified sexism; on the other hand, they are discursively portrayed as inferior and discriminated by racist discourse (reducing them to bearers of multiple children, funny looking because of their coloured skirts etc.).

Roma customary law and legal provisions pertaining to national law

Early marriages are often embedded in Roma tradition and Roma culture and are explained as main corollary of a set of values, customs, rules and recurrent processes. As such, they are tackled in terms of customary law. As shown elsewhere[18], customary law is a key universal feature of Roma culture[19] and is based on rigorous principles and myths.

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[16] Alexandra Oprea, "Re-envisioning Social Justice from the Ground Up: Including the Experiences of Romani Women", *Essex Human Rights Review*, Vol. 1 No. 1, p. 35.

[17] Oprea, *Child Marriage - a Cultural Problem, Educational Access, a Race Issue?...*

[18] Sergiu Mișcoiu; Laura M. Herța, « De facto, non de jure ou De facto, hoc de jure ? Incursions dans la pratique de l'interaction entre le droit étatique et le droit coutumier rom en Roumanie », *Revue générale de droit*, 48/2018, pp. 203-236.

[19] Nicolae Bobu, *Book about Rroms: common law – a legal peace process*, Târgu-Jiu: Gorjeanul, 2011, p. 23.

The custom represents a body of values and rules which has been transmitted from one generation to another after centuries of nomadism and oppression. But it also constitutes the undeniable evidence of a parallel system which reflects not only the will of a closed community, but also the misconceptions and prejudices of the community's surrounding groups or society. The Roma customary law has been maintained and has been reinvented, despite several phases of consolidation or transformations alongside the historical evolution of Roma people. The interest which Roma customary law has been sparking in Romania over the last decades is due not only to certain public notoriety gained by some controversial aspects (such as early marriage or Roma weddings as publicly displayed events), but also due to the revival of ways in which relations between the Roma communities and the Romanian society at large are managed. Arranged marriages are integral part of Roma customary law. In very traditional communities, an engagement or marriage is not perceived as involving just two individuals pledging a future life together, but also the families, the parents who are thought to be equally important agents in negotiating such a pledge. It is almost as if the engagement or marriage becomes the families' endeavour.

But these customs are in direct opposition to legal provisions in Romania. The New Civil Code (October 2011) specifies in Article 272 – Matrimonial Age – that "the age for marriage for both men and women is legally established at the age of 18. However, the second paragraph stipulates that for solid reasons, the minor who is already 16 years old can marry, on the basis of a medical notice, with the approval of his/her parents, or of his/her legal guardian, if applicable, and with the authorization of the competent Guardianship Court. In case one of the parents does not approve the marriage, the competent Guardianship Court will also rule on such a divergence, taking into account the best interest of the child."[20] According to the new Penal Code of Romania the age of sexual consent is 15, but "penal legislation is excluded when the age difference is less than 3 years, irrespective of the age of the participants to the sexual activity (non-criminalization of the freely consented sexual activities among minors). However, when sexual activities are "committed by a person of

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[20] Art. 272, para. 2, Romanian New Civil Code; Crai, *op. cit.*, pp. 7-8.

age with a minor 13 to 18, when the former abused their authority or influence over the victim" then such activities are criminalized."[21]

There seems to be an insurmountable difference between Roma customary law and Romanian national law. The first assumption would be that one ought to focus on lack of consensus regarding the practise of arranging or organizing marriages, when these involve underage children. But, as we will later indicate, another pattern of interaction is observable in some communities. The pattern is built on intense interactions between the two legal systems (through local representatives) and it features constant re-accommodation and negotiation of Roma public events (not considered a wedding, but an engagement). The practices seem to be condoned (accepted as main Roma value), but monitored by authorities (in attempts to protect girls from sexual abuse).

Before presenting and analysing the pattern, we focus on certain surveys on early marriages. For example, one study conducted in 2002 indicates that "35 % of Roma married women had been married before the age of 16; 31% of Roma women got married when they were between 17-18 years old; 26% married when aged 19-22; 8% married after turning 22."[22] Another study, conducted by UNICEF and Education 2000+ Centre, shows that "24.5% of Roma girls aged 12-18 were married; 13.3 % of Roma girls aged 12-18 had the experience of giving birth to a child while 10% of this group had the experience of two births; 7% of Roma girls aged 12-18 underwent an abortion procedure."[23]

Framing interactions and meanings between the majority and the Roma minority

The research conducted by us in certain Roma communities indicates forms of intense, yet informal, interaction between representatives of local authorities and Roma community leaders. The interviews taken in Roma communities from Hunedoara, Sibiu, Brașov reflect a recurrent and

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[21] Crai, *op. cit.*, pp. 7-8; Romanian new Penal Code, Art. 220, para. 3

[22] *Indicatori privind comunitățile de Romi din România,* Institutul de Cercetare a Calității Vieții, București, 2002, p. 8.

[23] Surdu, *op. cit.*

complex dynamic built upon negotiations, (re)interpretations, interactions between the national juridical system (through its local representatives) and the Roma judgement system, called *stabor* or *kris* (represented by the informal leader, the *bulibaşa*). One observation rests upon concrete attempts to harmonize certain values of Roma communities with legal and moral exigencies of the Romanian state. Often, the case of an early marriage entails the following: when confronted with news about possible marriage involving underage children in Roma communities, local authorities investigate, but also reach out to the Roma community's leader. The latter often argues that the ceremony cannot be called marriage or wedding *per se*, but rather a festivity within the community celebrating an engagement or the "promising" of a future bride. Also, the claim is that the girl would not leave the household and would live with her future husband's family. Representatives of local authorities monitor the situation, but in most cases no other legal action is taken (if the girl remains with her family). When such a scenario unfolds, one could immediately observe that there is no parallelism between the two legal systems. Instead, there is a form of re-adjustment on the part of the Roma community (by raising the age of young girls gradually, so as to meet the legal provisions in Romania, and by resorting to gradual phases of arranged marriages, first celebrating the "union" and then organizing the wedding *per se* at a later time). On the other hand, representatives of local authorities also take Roma customs into consideration and discuss such issues with the Roma leader, hence acknowledging his authority as custom promoter and his legitimacy within the Roma community.

We do not claim that this is the case with all arranged marriages in Roma communities in Romania; nor do we intend to downplay the gravity of child abuse. We simply want to underline a pattern which indicates that legal tensions between the two juridical systems do not always lead to confrontations, but rather to consultations, adaptation, negotiations, and reinterpretations of such public celebrations (tackled as engagements). Representatives of local communities perceive the celebration as embedded in Roma values and accept it on the basis that families are allowed to negotiate a future marriage and then later organize it (sometimes through

monetary exchanges, meaning paying dowry). The act itself of marriage involving minor children is not accepted or tolerated, given its opposition to national legal provisions (even though, according to other sources, it is often condoned). But in our field research we observed that intense interactions concerning the organization of these events (called marriages, engagements or sometimes sumptuous celebrations which are assigned great significance for the perpetuation of the institution of marriage within Roma community) between Roma communities, on the one hand, and local authorities, on the other, lead to a form of acknowledgment of Roma values. At the same time, the effects of these informal interactions also reveal attempts to distort or redefine the significance of such events (authorities accept these rituals because they are not real weddings or marriages). On the other hand, Roma communities included in this research regularly negotiate the existence of these publicly manifested rituals with local authorities, by reducing the scale of the event and by justifying engagements as long-tern commitments between Roma families. This is precisely why some Roma communities are capable of harmonizing the event itself (and the intrinsic values of arranged marriages or engagements) with the expectations of other communities from Romania or with the legal provisions.

All these observations are consistent with one model of interactions tackled in previous studies.[24] In order to understand the complexity of relations between the national juridical order and Roma juridical order (*stabor* or *kris*), the starting point should be the difference between Romanian law (which is exclusively written and in which customs have no value) and the Roma law (which is exclusively an oral one and entirely based on customs and tradition). This stark differentiation would determine a straightforward juxtaposition of two laws that ignore each other, namely a relation of non-coplanarity. According to this pattern, there is complete parallelism between the two, there is no interaction between them, and the national law does not acknowledge the Roma judgement (*kris*) or the customary juridical system of Roma people (*stabor*). This model corresponds to the official position of the Romanian state, which does not

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[24] See Mișcoiu; Herța, *op. cit.*, pp. 203-236.

acknowledge any form of alternative jurisdiction. There are two potential developments stemming from this reality. One would be indicative for a scenario in which Romanian national law would start acknowledging and integrating some Roma juridical practices, hence leading to a form of institutionalisation of certain beliefs, values, and rules which are specific to the Roma minority in Romania. This scenario is hardly plausible, given the general conviction that Roma customary practices reveal archaic forms of social organisation and would also collide with essentials of Western understanding of human rights (related, for example, to the status of women in Roma communities). Another scenario would entail the official acknowledgement of Roma customary law; the latter would become subordinated to national law, indicating a relation of hierarchical institutional subordination.[25] This development is rejected by both national instances in Romania (who argue against attempts of relativizing national law or dissolution of authority) and by the leaders of Roma communities (who fear the diluting and, ultimately, vanishing of their customary law).

Another pattern of interactions reflects a slightly different model, which is, in our view, indicative for the way in which conflicts between the two juridical systems are often mediated at local level: Romanian national law informally acknowledges some Roma principles and practices (such as arranging a future marriage or organizing a public engagement, but not acknowledging the right of parents to marry minor girls), due to intensified interaction with Roma representatives or leaders and awareness about the rationale and legitimacy of Roma values and customs. At the same time, Roma juridical practices are adapted and some rules, values, principles are redesigned or revised so as to become less and less contradictory to national legal provisions (for instance decisions meant to raise the age considered appropriate for marriage).

[25] *Ibidem.*

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