

Customary Law Practices among the Gabor Roma: “Gypsy Court”

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Abstract

This paper explores the traditional system of justice practiced by the „Gabor Gypsies”, a subgroup of Roma in Transylvania, who explicitly reject the label Roma and insist on being recognized as „Gypsies” (țigani). Based on extensive fieldwork and interviews, the study examines how customary law functions as a mechanism of conflict resolution, moral regulation, and social cohesion. Central to this system are the authority of elders, the symbolic role of communal gatherings, and the sacred oath, which serves as both a spiritual guarantee of truth and a deterrent against dishonesty. Sanctions within this framework are primarily moral and financial, emphasizing shame, restitution, and community reconciliation rather than physical punishment. The persistence of these practices, despite pressures of modernization and integration into state institutions, highlights the resilience of Gabor cultural identity and its deep reliance on shared values, oral tradition, and self-determination. Ultimately, the study demonstrates how the „Gabor Gypsies” justice system („judecata țigănească”) represents both continuity and adaptation, safeguarding their collective honor while affirming their distinct place within the wider social landscape.

Keywords

Roma, „Gabor Gypsies”, customary law; traditional justice; cultural identity.

1. Introduction

This research focuses on the traditional forms of justice among the Gabors Roma, with particular attention to the cultural mechanisms through which conflicts are resolved and social cohesion is maintained. It is important to note from the outset that members of this community strongly prefer the designation „Gypsies” („țigani”) and do not identify with the label “Roma”. For them, the traditional name carries historical and cultural weight, and any external imposition of alternative terms is often perceived as inaccurate or even disrespectful. Acknowledging this self-identification is essential for understanding both their worldview and their systems of

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justice. The study investigates the dual system of judgment, the sacred oath, and the symbolic rituals that express the values of truth, honor, and solidarity. Fieldwork was carried out primarily through semi-structured interviews with Gabor men and women of different generations, in several towns and villages in Transylvania, including Târgu-Mureș, Arad, and Crăciunești. Oral testimonies form the backbone of the research, as they offer direct access to the lived experiences and perspectives of community members. Methodologically, the research combines interviews with participant observation and the comparative analysis of existing ethnographic and historical studies. This triangulation ensures that data are not only faithfully represented but also placed within broader anthropological and legal contexts. By giving equal weight to insider voices and scholarly interpretation, the study preserves authenticity while allowing critical reflection. Ultimately, the work aims not only to document a complex and little-known system of traditional justice but also to show how it functions as means of cultural resilience. Despite increasing pressures from modernization and integration into state legal frameworks, Gabor justice continues to embody collective responsibility, regulate conflicts, and safeguard identity, thus ensuring the continuity of a distinct moral order.

2. Origins and parallels of customary justice

The judicial custom among the Gabor involves an unofficial tribunal and a trial organized by the community, representing a customary way of administering justice within the group, a form of parallel justice alongside the official one. The „Gypsy court” finds its approximate counterpart in the councils of elders from medieval Romanian rural communities, traditionalist judicial customs having their genesis in the communities’ desire to resolve internal issues according to their own principles. Whether we speak of Romanians or Roma, these community bodies do not represent a practical product of some ancient Romanians tendency to oppose the ruling authority of the boyar, noble, or state official. The tendency to assume judicial prerogatives, to decentralize justice at the level of local medieval communities, was the consequence of practical reasons meant to make the act of justice more efficient, reasons reinforced by a symbiosis of fear and respect toward authority and local powers. Minor problems - especially those not affecting the economic interests or authority of the local elites - were preferably resolved internally, avoiding unnecessary risks, since the powerful of the time, placed on untouchable pedestals, were implicitly perceived as inhibitory, unapproachable elements, entirely outside the ordinary concerns of community members. Still, in the spirit of tolerating local or community customs for the optimal functioning of medieval and modern society, traditional judicial custom was tacitly accepted or even officially encouraged by state authorities.

Within such a general context, insisting on the originality of the „Gypsy court” is an error. In this case, too, the Roma were decisively influenced by “the others” - possibly by the Romanians, who themselves cannot claim to be the initiators of the principles of traditional judicial custom, as it is a phenomenon found in numerous civilizations throughout history. The historical contact of the Roma with Romanian rural communities, and implicitly their role as observers of how these functioned, resulted in their adoption of the essence of Wallachian traditions and customs - a claim supported by the fact that, according to Saxon chroniclers of the 18th–19th centuries, Roma had a stronger inclination to interact with Romanians than with Hungarians or Transylvanian Germans. If we accept that the social relations of traditionalists accurately and effectively reflected the spirit of the archaic wallachian world, then drawing a parallel with the ancestral customs of the Romanians becomes self-evident in any study dedicated to the norms of „Gypsies law”. Ultimately, the foundation of traditionalist communities lies in their specific norms-rules conditioning both the perpetuation of the group and other community features related to dress, birth, marriage, death, etc. What is certain is that the ahistorical path of the „Gypsies” made possible their encounter with the old customs of the majority population and their adoption, particularly in the 20th century.

The recourse to evoking similarities, where applicable, is undertaken solely for the purpose of clarifying the foundation upon which „Gypsy law” was built - since even in this case the subject itself constitutes a distinct research field - and not to construct any profile of Romanian predominance in this regard. As far as the „Gabor Gypsies” are concerned, their judicial custom is not distinguished by peculiarities or specific exoticism. The communal ethos at the foundational level is virtually non-existent. The general traditionalist rom framework also encompasses and shapes the „Gypsy court” („*judecata țigănească*”) of the Gabors. What is certain is that the effect of the exclusion of the Roma, of the curtailment of the mechanisms necessary even for the illusion of possible inclusion, and of their historical maintenance at the margins of society, has materialized within the „Gypsy justice” itself through the accentuation of intrinsic tendencies and through a withdrawal beneath the protective dome of intra-community structures. The apology of alterity and the extreme amplification of the antagonistic mental perception of *us versus them* results in the impossibility of an outsider being granted the right to appeal to Roma justice in order to resolve disputes with a member of the group, nor even the honor of being judged as an accused by the patriarchs of the community, the Gabors being guided by the principle that “only Gabors can be judged by Gabors” (Gabor, Francisc, b. 1948). In practice, the community ignores or exonerates reprehensible acts committed internally, if these are directed against individuals from outside the group; this exclusivism is also manifested toward Roma

belonging to other clans. A problem with a non-Gabor is considered a personal matter, not a rupture in the relational machinery of the collectivity. Community peace and group harmony are in no way affected by such a conflict. Therefore, the mechanisms of control and protection of communal harmony find no motivation to be set in motion.

3. The Gabor court: structure, rituals, and authority

The subordination of Gabor justice to the hierarchy of the collectivity means that a Gabor who has erred cannot be judged except by those of at least similar social status; the norms guiding the Gabors in community life do not allow a prominent representative of the clan to be held accountable by his inferiors on the social ladder (Gabor, Francisc, b. 1948). Age is an advantage for a venerable member to become a judge, though not a *sine qua non* condition. Old age essentially signifies experience, emotional control, mastery of impulses, and thus can serve as a guarantee of wisdom. On the other hand, *genocracy* is also materialized in the fact that young Gabors, due to the value seal of lineage, may act as judges among their own. The judges bear the sacred duty of restoring peace within the community, by applying the customary rules of justice whenever context imperatively demands it. Customary justice does not have a predominantly coercive role, but rather a pacifying one; the objective of the entire intra-community judicial system is to reconcile the parties in conflict, even if the longed-for communal peace is achieved through the punishment of the guilty party by the so-called *judges of peace* (Mikloş, Matei, b. 1973).

The Gabors, like any traditionalist Roma group, do not resort to the state's judicial courts for resolving disputes, since the initiation of a trial is tantamount to great shame, and thus implicitly entails tacit community sanctions for the grave breach of communal rules and taboos (Gabor, Matei, b. 1980). The idea of the „Gypsy court” as the sole judicial authority is deeply entrenched in the collective mentality, and as a result, the Roma are convinced that only by appealing to the procedure under study can they obtain justice, since no other court possesses the competence to resolve disputes among Gabors. To replace the „Gypsy judgment” with the official one would be equivalent to a vote of no confidence in the community and its credibility, a course of action synonymous with its dilution or even its disappearance. The conferral of authority upon intra-community judicial custom can only be absolute. The principles of ethnocentrism leave no alternatives here either.

Moreover, conflicts with outsiders - regardless of their nature, the seriousness of the acts, or the moral and material damages - were resolved with the support of community members, even if this required the use of force or violence. This group solidarity is still extended to its exponents

today, even though the Gabors now cultivate pacifist values. Naturally, to avoid such problems, relations with outsiders were, and still are in some cases, profoundly cold in essence, at best warm only superficially. Contacts with others were generally limited to the performance of craft-related activities, and more recently to commercial relations. Exceptions to the rule are permitted, but friendships with majority members are allowed only in a private setting, not in a general one that might provoke the community's sensitivity. Paradoxically, although they do not turn to the state's judicial institutions as a means of obtaining justice, the Gabors respect the laws and avoid breaking them. A Gabor "who has been to prison," regardless of context - even if "he was defending his family or accidentally harmed someone" - loses the respect of the community (Gabor, Matei, b. 1980). Interaction with outsiders is believed to inevitably impregnate the Gabor's conscience with foreign psychological material, since there is no prophylactic mechanism established by the collective spirit. Legal norms and the coercive mechanisms of state authority are perceived as taboos, respected to avoid public disgrace, not out of conviction in the principles of the official legislative system, even though, in practice, the concept of state justice as a means of resolving disputes among members of the group simply does not exist for the Roma in question.

The Gabors correctly perceive the conditional relationship between their clan's reticence toward state authorities and the centuries of persecution endured by their Roma ancestors, including their own. In the collective mentality, the idea persists of rejection at the hands of those who applied the law, to the extent that "the Gabors established the Gypsy court during Austro-Hungarian times, because the gendarmes would beat and insult them if they went to court" (Gabor, Francisc, b. 1948). Without analyzing the lack of concordance with historical reality—given that „Gypsy justice” clearly has much older roots, and the genesis of the Gabors cannot be precisely determined - the essential point remains the identification of the underlying causes for the strengthening of communal ethnocentrism and group self-isolation, namely the relationship between lawgiver and „Gypsy”.

Historicism, as well as the withdrawal of the Roma into *ahistory*, explains the principles of the indissoluble link between community and customary justice. The centrality and attribution of infallibility to the internal judicial system is not the result of relational dynamics specific to an idealized collectivity. Rather, the fear of extrinsic forces progressively welded the clan together, with group unity fulfilling the instinct of conservation and self-protection of nomadic *shatra*. These intrinsic tendencies cemented the community's sense of strength, indissolubly linked to communal peace, in every Roma clan, not only among the Gabors. Any

slight malfunction in the machinery of peaceful relations among members - any tense situation in the community's view - is perceived as synonymous with an assault on the integrity of the group. Justice is therefore subordinated to the principle of securing peace, while custom itself represents the external form of expressing the desire for stability. For this reason, once the „Gypsy court” is convened, the relatives of the litigants attempt to reconcile them amicably, in an effort to avoid the trial and the testing of the authority of the judicial assembly - a fact that in itself confirms the existence of problems within the group. The formalization of disputes, following the failure of reconciliation between accuser and accused, triggers the mobilization of the community, so that members of the collectivity gather, on a pre-established date, to witness the extinguishing of the conflict and the restoration of peace - that is, the resolution of problems - not between two individuals or two families of the clan, but of the entire collectivity as a whole (Rostaş, Luiza, b. 1928).

4. The Gabors court: structure and authority

The patriarchal relations characteristic of the clan are also manifested by the fact that the only one who can summon the „Gypsy court” is the man, including in the hypothetical situation where his own wife is “unjustly accused of having erred with another, and even if the woman wants to prove to the Gabors that it is not true, so that people will not gossip behind her back, about her and her family” (Gabor, Francisc, b. 1948). Despite the peripheral social status of the woman, within the studied community she can defend herself and express her position in regard to an unfounded accusation (Sala, Gabriel, p. 438). The traditional trial, given the clan's particularity, does not have an intimate character, since problems, regardless of their nature, are discussed at length during the process. The judicial custom arouses general interest in the community, capturing the group's attention, and this monopolization of social energies transforms the problem from a personal matter into a general one, a metamorphosis that constitutes a pillar of unity, peace, and the perpetuation of the Gabor Roma community.

The traditional procedure requires that the hierarchical structure specific to the group should also be reflected in the territorial arrangement of the audience at the open-air trial, composed exclusively of Gabors, namely the organization of a circle in which the front rows are occupied by men, arranged in the space according to their importance within the community, behind them, at the periphery of the circle, standing the women and children, the latter being in this way familiarized from an early age with Gabor customs (Gabor, Ştefan, b. 1952). The abrupt interruption of a speaker with prestige is a grave error and “is a great shame for the Gabor

who does this" (Gabor, Tundor, b. 1965), showing a crass lack of respect. Nevertheless, when context demands it, an address from the audience is allowed, provided the speaker employs a full communal repertoire of classical politeness formulas, through which he expresses profound respect for the judges and onlookers, thus excusing his untimely interruption, after which he states his position as a direct participant in the judged events - "that is, he says what he himself saw, nothing else, since he was not asked his opinion" (Gabor, Tundor, b. 1965).

The judicial panel does not comprise of a fixed number of members, this varying according to the social status and financial power of the litigating parties, yet "there must be at least three judges" (Gabor, Tundor, b. 1965), the maximum number being eleven. For the optimal functionality of the judicial custom, the number of judges cannot be even. Only representatives of the clan elites are invested with the status of judge, personalities who enjoy appreciation, respect, credibility, and hold moral authority over the other members of the community, this investiture being also conditioned by belonging to a good family, with economic strength. Practically, to be a judge and "to be someone among the Gabors you need name, value, and money" (Burcea, Ștefan, b. 1950). The quality of the judge represents the corollary of the respect enjoyed by the Gabor, thus the number of judges is extremely small compared, of course, to the total number of community members, and it goes without saying that the withdrawal of investiture is indissolubly linked to the loss of prestige, with the demotion taking place tacitly, as in any community not guided by written rules but by moral norms orally transmitted from generation to generation, as a consequence of a grave error.

Collective memory records that until the beginning of the 20th century, only a small group of Gabors had the honor and obligation of settling conflicts among Roma within the framework of traditional judicial custom. This form of applying community will was possible, just as in the case of recognizing a single leader, during the time when the nomadic tent-dwelling Gabors wintered in the area of the village Trei Sate (Burcea, Ștefan, b. 1950), and the group was *vollens-nollens* forced by circumstances to invest de facto a group of individuals with a unified judicial authority, given the physical interaction for several months among clan members. A large group of individuals was in danger of sliding into chaos without such an internal mechanism to counterbalance entropy. When the Gabors became sedentary, or rather semi-sedentary, building houses in the villages of Crăciunești, Budiu, Cocoși, or Hărtău, the elitist group of judges at first dispersed, after which it recorded a numerical increase, while respecting the elective and hereditary character of the judge's status. Within the local communities such small nuclei of authority formed, composed of local elites, who formally

acknowledged and still acknowledge the moral authority of Crăciunești. During the interwar period, the number of judges did not rise spectacularly. The limited area did not require such a process. Things changed radically, however, after the Second World War, with the migration of the Gabor and their settlement in various towns of Transylvania, and beyond, which led to the irreversible dispersal of the group of judges who, due to the expansion of the habitat and in number growth, irreversibly lost their unity. Thus, each local community was forced, for practical reasons, to create and invest with authority its own cell of judges, who would resolve major issues locally within their sphere of influence and cancel centrifugal tendencies, namely the establishment of anarchy.

The constant increase in the number of judges has not, to this day, determined the alteration of the specific judicial custom, but it has imposed a natural hierarchization of judges according to “rank, family, and the village from which their ancestors come,” so that, if necessary, “if they have problems to solve, they are judged by the great judges from Crăciunești, Budiu or other villages,” but “the Gabor of the highest rank could not and cannot be judged, except by God” (Gabor, Matei, b. 1980). Obviously, the latter statement is an exaggeration, since the community has the power to withdraw investiture in cases of unforgivable mistakes by the elites. The leaders of the Gabor communities become infallible at the moment they are granted judicial authority, yet absolutism and infallibility are circumscribed by clan rules.

On the other hand, infallibility, which in the past manifested in all aspects of nomadic social life and the derived elements of the Gabor hierarchy, has adapted to the new realities of sedentary modernism, through the metamorphosis of real, palpable authority into a moral authority based on the respect imposed by the elite’s rank: “how could I judge the greatest among the Gabor? Such a thing is not allowed” (Gabor, Ruski, b. 1943).

The value of judges also requires material recognition of their merits meaning that they are paid for their participation in the „Gypsy” trial with sums whose consistency grows directly proportional to the social status and economic power of those who request the traditional process and, not least, to the nature of the dispute, so that “it can reach over ten thousand euros per judge” (Gabor, Ruski, b. 1943). This form of remuneration for those who apply archaic law is known within the clan by the term bribe, though of course without the consecrated semantic connotation, since all expenses related to the trial, including collateral ones such as food, transport, and accommodation, are borne by the plaintiff, who pays the amounts requested by the judges before the trial begins.

Regarding the unfolding of the judicial custom, tradition has been preserved both in form and in substance, the procedure requiring the judges to elect a president who coordinates the trial, while the other judges primarily have the role of jurors, with the mention that they also have the right and indeed the obligation to ask questions of the parties in conflict (Burcea, Ștefan, b. 1950). Each of the parties is represented by a lawyer, "chosen from among the family's close ones, of the highest possible rank and better regarded than the one he defends," whose role is to mediate between the judges and his client, to guarantee his client's value in front of the community, and, not least, to serve as a buffer between the two conflicting parties, since through his very presence he imposes on the opposing side a conciliatory attitude and the suppression of aggressive instincts (Burcea, Ștefan, b. 1950). Practically, regardless of the nature of the conflict, disrespectful treatment of the other party is sanctioned by the community and the judges, being perceived as a mockery of the social status of the guarantor, namely the lawyer: "the guilty or the innocent do not argue with each other, because immediately the lawyer says: what, are you arguing with me? And then they must fall silent, for it is a great shame. If they have lawyers, they don't even speak to each other" (Gabor, Szuszana, b. 1963).

The defense lawyer, guarantor of his client, assumes a thankless role in the unfolding of the judicial custom, since defending an individual who has committed a grave mistake from the group's perspective - considered *a priori* guilty by the community regardless of the judges' ruling (since justice is often relative, depending heavily on the „Gypsy oath”, performed after a ritual that will be analyzed in detail later) - can damage his prestige, especially if the guilty party, despite the evidence, maintains his innocence throughout the trial. Practically, "you risk losing your rank if you defend a liar" (Burcea, Iancu, b. 1961). On the other hand, the accused benefits from the presumption of innocence, so regardless of the deed, the defendant has the right to a full trial and implicitly to a lawyer to defend him.

The Roma trial begins at the beginning of the day, immediately after sunrise, with the judges opening the judicial custom, naturally employing standard formulas, the procedure imposing a gradual introduction to the subject, with discussions focusing on general community issues (Burcea, Ștefan, b. 1950). Gradually, however, after this introduction, one of the judges, usually the one invested as president, presents to the audience the reason for the meeting, not before a final attempt at amicable reconciliation of the parties (Burcea, Ștefan, b. 1950). After the failure of this last chance to resolve the conflict, the beginning of the „Gypsy trial” is declared.

The president is the one who chooses the first speaker, addressing him a series of questions related to the dispute, and the one given the floor is most often the defense lawyer, who presents to the audience at length the

character traits and merits of the accused, after which the accuser will refer broadly to the nature of the dispute, avoiding details (Gabor, Ruski, b. 1943). After this introductory stage, jury representatives will dissect the issue in depth, questioning, depending on the inspiration of the moment, both the litigating parties and their witnesses, a decisive factor in the final decision being the lawyers' pleadings.

The judges have the moral obligation to follow attentively and undisguisedly these speeches, true oratorical masterpieces from the community's perspective, especially since nothing is recorded in writing, as well as the statements of the plaintiff, the accused, and, as mentioned, the witnesses, addressing them based on these a series of questions (Gabor, Ruski, b. 1943), to establish as solid an understanding as possible of the facts or to clarify contradictory aspects of the statements. Witnesses, in turn, cannot be contested by either party, regardless of kinship ties to those involved in the dispute, since "at the Gypsy trial there are no lies" (Gabor Ianoş, b. 1969). Witnesses and even lawyers are not indispensable to the unfolding of the Roma trial, their involvement depending on the parties' choice, and on the nature of the dispute. The judges' mission is to resolve "insults, thefts, misunderstandings about property or money, girl kidnappings, deceptions between spouses, and others. Among us, from ancient times, there are no murders or rapes. Anyway, even if there were, they would not be judged because there is no greater shame than for a Gabor girl not to get married virgin" (Gabor, Szuszana, b. 1963).

5. The Gabor Roma oath as a judicial foundation

After the hearings are completed, if necessary, one of the key moments of the trial follows, namely the taking of the „Gypsy oath”. Performed in front of community representatives, it has a sacred character, and therefore “the Gabor who swears is obliged to tell the whole truth” (Gabor, Szuszana, b. 1963), since otherwise it is believed that false oath transforms into an extremely dangerous curse for the family, the children, and for the one who dared to mock this ritual act. The sacredness of the oath for the Gabors makes it so that only a reckless individual would distort the truth under oath and for this reason “the one who knows he has something to hide admits his guilt” (Mikloş, Elisabeta, b. 1933), thus avoiding becoming the victim of malevolent forces.

The oath was also a fundamental ritual element within the judicial custom of archaic Romanian communities. Justice was dispensed depending on the oath sworn by the litigant or litigants. Interestingly, among Romanians, the parties involved in a dispute could counterbalance the decision of the judges in their favor by bringing in a double number of oath-takers to swear for them compared to those swearing for their opponent, the

battle thus unfolding between parties according to the principles of geometric progression. Women could not be oath-takers, only witnesses, making themselves available to the agents of community justice. False oath was punished, historical documents referring to fines consisting of confiscation of a certain number of oxen from each oath-taker suspected of false swearing, these oxen being returned if it was later proven that the oath was true. During the feudal period, and not only then, Romanian villages were guided by the "law of the land" or "custom of the land," in addition to "imperial codes" and "boyar codes," the supreme legislative power being held by the "council of elders," which convened whenever a pressing local need arose.

Among the Romanians, the judgment of the elders took on two relatively distinct forms, depending on the place, time, and technique of their unfolding. Thus, the "judgment at the borders" (*judecata la hotare*) was held at the boundaries of the village estate, beneath a tree with profound spiritual significance for the community, where, according to tradition, the elders of the village would gather periodically or on special occasions. On the day designated for judgment, they arrived in the morning and took their seats in a circle on wooden stumps or large stones. The council listened to the parties in conflict, then to the witnesses, after which they deliberated over a ruling, which usually settled disputes concerning land ownership. Thus, the act of justice delivered at the borders became "the elders' decision." The second form of judgment specific to Romanians was carried out inside the village, either at the threshold of the church—attended only by elders—or in the village square, where the entire community participated. The act of „*Gypsy justice*” evidently presents similarities with this latter form of judgment, since the Roma did not, as nomads, relate to territorial boundaries. The „*Gypsy court*” thus represents an action in which the entire collectivity takes part, not just a restricted group of individuals.

As for Gabor „*Gypsy justice*”, in the very real situation in which a Gabor taints the sacred oath through lying, the community will later sanction him by marginalizing him and annulling his social status, both because of the lie - which is neither forgotten nor forgiven - and because of the curse believed to weigh upon the liar and his family. In practice, in certain litigations, the community grants verdicts in advance, this communal characteristic also making it possible to impose punishments in cases where the judges themselves are unable to sanction the guilty according to merit, due to his having sworn the sacred oath. The community thus assumes once again the role of supervisor and enforcer of justice, with the purpose of conserving and maintaining unaltered the moral principles defining the group, punishing those guilty of distorting the „*Gypsy truth*”. It must be noted that the oath cannot be contested or commented upon by Gabor

present at the trial, regardless of their reservations concerning its authenticity; therefore, formally and only in theory, the oath represents—in the eyes of the assembly—the moment of highest sincerity in the trial (Gabor, Ștefan, b. 1952). Furthermore, in order to prove their good intentions, impartiality, fairness, and incorruptibility, the judges are compelled by archaic rules to take the „*Gypsy oath*” themselves, and they also possess the authority to demand that witnesses perform the ritual act if, in their judgment, it is necessary for the testimonies to be credible or even considered by the jury (Gabor, Ștefan, b. 1952).

The act itself authenticates the good faith of those involved in the trial. Without the consciousness of the ritual’s sacredness, intrinsic justice would no longer be immutable, and the descent of the archaic trial into derision would provoke the implosion of the principles that hold the group together. The intrinsic coercive force counterbalances the centrifugal spirit accelerated by modernity, destructive to the value system. It was this value system that in fact generated the „*Gypsy oath*”, not the reverse; the traditional oath was not the factor that shaped the system of values, but its foundation. The role of the ritual act is to resolve contradictory situations exceeding the competence of judges, after the procedure of hearing parties and witnesses has been exhausted. Thus, the archaic oath is not a stage in the unfolding of the trial but rather an ultimatum against falsehood - an extreme method of deciphering ambiguous situations and identifying truth - used by the community in extraordinary circumstances, as a way of overcoming crises in the resolution of litigation when questions remain after the evaluation of evidence and testimonies.

On the other hand, since the „*Gypsy oath*” is not performed only in exceptional cases, but also by any member of the community about whom “rumors have spread” (Rostaș, Luiza, b. 1928), concerning a possible adultery, theft, etc., and who wishes to dispel all doubt in the eyes of the community and fully rehabilitate his or her dignity, the ritual act automatically serves also to annul slander. The honor of the wronged person is restored, since “a woman or a man of whom it is said that he or she was unfaithful—if they take the oath, it means they are entirely without blame” (Stoica, Lajos, b. 1965).

The necessity for total sincerity in the ritual - since otherwise “the curse will fall upon the liar” (Mate, Gabor b. 1949) - makes most conflicts among Gabors find resolution the moment those involved are compelled to perform the „*Gypsy oath*”: “when it comes to swearing, the guilty one does not swear, because it is dangerous” (Burseca Ștefan, b. 1950). The conviction that falsifying the ritual inevitably attracts misfortune upon liars and their kin is deeply rooted in the collective mentality; thus, the informants consulted for this study insisted that all cases of false oaths ended tragically. Superstition

therefore protects the ritual act from desacralization, and the judgment of the Gabors from dilution.

The „*Gypsy oath*” is carried out according to predetermined rules, combining ritual elements that serve as supports for credibility and truth-detection with elements intended to summon malevolent forces as compensation for lies: “a stick is taken, sharpened at one end, and a cross is carved at the other end; bread and salt are broken over the cross. The stick is then planted in the middle of the Roma. The oath is taken on one’s knees, facing the sun. The swearing is done with four crossed fingers - two from the left, two from the right - over the cross carved on the stick. The oath is sworn upon family, grandchildren, siblings, parents - upon whatever one holds dearest! The judges tell you what to swear on, and you must do it. If not, it means you are lying” (Gabor, Francisc, b. 1948). The doubts surrounding the situation amplify the complexity of the oath, the progressive enlargement of the sphere tainted by falsehood being intended as its counterforce. As a result, family holds a central place in the oath, because of its profound significance to the Gabor and the deep emotional ties with family members. Thus, relatives are integrated into the unfolding of the judicial custom as indispensable elements in the discovery of truth, “because one does not lie upon family” (Burseca, Iancu, b. 1961).

The sacred oath mainly constitutes a guarantee for the community that „*Gypsy justice*” has been done and peace restored - peace being the ultimate objective of this intra-communal mechanism of social control. Their history has taught the Gabors not to waste their energies in vendettas, quarrels, or feuds: “the judges more or less know what happened, and above all they want to cleanse the guilty of shame in front of the Gabors, to make justice and peace among the Roma, because it makes no sense to take revenge on one another. At the end of the trial they say: Let’s make peace! If you show you are sorry, they may forgive you. But if you are stubborn and do not admit your mistake, then they will put you in your place” (Burseca, Iancu, b. 1961). Expressing regret shows that the individual continues to accept the guardianship of communal spirit. To treat with indifference the supervisory role of the group means natural exclusion from it, guided by collective conscience - as in any shame-based culture - and not by individual conscience.

After taking the oath, the parties are compelled to bury the hatchet, at least formally, by shaking hands in a symbolic gesture of the indivisible and indestructible character of intra-community ties. The performance of the oath also officially marks the end of the judicial investigation, the climax beyond which no further questions are addressed to any participant, directly or indirectly involved in the dispute. At this point the „*Gypsy court*” enters its final stage - the delivery of the verdict - rendered if reconciliation has not

been achieved between the parties after the performance of the oath by one of them: “at the end, after the man has sworn, they ask if you are satisfied! If not, they will reconcile you themselves” (Gabor, Szuszana, b. 1963). In practice, the chance of reconciliation is offered both at the beginning and at the end of the trial. A voluntary settlement of the conflict, without judicial intervention, is a much clearer sign of restored communal peace. Imposed peace, by contrast, may leave long-term frustrations and resentments, harmful to group harmony. Consensus on the outcome is thus preferred over the mere acceptance of a verdict.

6. Sanctions, appeals, and the limits of customary law

The verdict is the result of deliberation, with no predetermined duration, by the members of the jury, who recall to one another the testimonies of witnesses and advocates, so that, on the basis of the details presented, „*Gypsy justice*” can be achieved. The judges must reach complete consensus on each issue discussed during the deliberation, held in private, away from curious eyes. There, based on what was heard during the trial - and, at least theoretically, retained in memory - they draw logical conclusions, formulate reasonings and deductions, whose corollary is precisely „*Gypsy justice*” (Gabor, Matei, b. 1980). The verdict is established by consensus, a single dissenting judge being enough to prolong deliberations and, ultimately, to “break the trial,” meaning that all participants, active or passive, return home, after being officially informed that the jury did not reach unanimity and that discussions will continue, with the date of the verdict to be made public later (Gabor, Ruski, b. 1943).

In such a case, the „*Gypsy trial*” “does not break apart, and may last for weeks, until they reach agreement” (Gabor, Ruski, b. 1943). However, in this last situation, the judges are forbidden any direct or indirect contact with either party, to avoid influence or corruption. The failure to achieve consensus - among Gabors, according to collective memory, a hypothetical scenario—leads to the declaration of the judges’ incapacity to reach a common denominator. In such a case, a new judicial assembly must be organized, without either party having to pay the jurors (Gabor, Ștefan, b. 1952). Under normal conditions, when the jury is in agreement, the guilt of the accused is determined concretely and coherently: the charges proven and the unfounded accusations alike are clarified before the community with detailed explanations. After this, regardless of how much time was spent in deliberation, the judicial custom resumes and enters its final stage - the announcement of the verdict.

In delivering the verdict, the judges employ all the bombastic art at their disposal to convince the audience of the logic of their reasoning, the motivation behind approaching the accusations from certain positions, and

the soundness of the decisions made, all in the name of respecting the principles of applying „*Gypsy justice*”. The members of the jury strive to issue value judgments, demonstrating to the Gabor that they possess skills in expression, deductive sharpness, and experience as judges - in short, that they are worthy of the trust invested in them. As representatives of a culture of shame, the Gabor place great value on words in general, and especially on artfully crafted words, so oratorical talent represents a significant means of sifting values: “to be respected, you must know how to speak to the Gypsies. You cannot make them listen by beating them” (Gabor, Ștefan, b. 1952). Throughout the unfolding of the judicial custom, the judges obtain a new certificate of guarantee of their own worth, of the influence they hold among the Gabor, because “their word is listened to” (Gabor, Ștefan, b. 1952). For this reason, each juror speaks in turn before the audience, using respectful formulas toward the judge who grants them the floor, ensuring that no aspect of the case generating the disputes remains unexplained.

The verdict is announced to the community in an appropriate tone - one that requires respect and at the same time gives the audience the feeling of being appreciated by the speaker, whether the jury president or a simple member. The sanctions applied to the guilty can today among the Gabor be of two types: moral or financial, meaning the payment of civil compensation in money, gold, or objects of material value for the Gabor (Stoica, Lajos, b. 1965). The extreme punishment of exclusion from the community, characteristic of other Roma groups as well as Transylvanian Roma of the 19th century (Grigore, Delia, p. 130), is not even remembered by the interviewed subjects as a form applied for grave offenses, although this drastic measure is stipulated in the unwritten rules of „*Gabor Gypsy law*”.

Thus functioning only at a theoretical level, the punishment of exile and the hypothetical labelling of the guilty with the status of pariah for the community nonetheless represents an important guarantee for preserving archaic relationships among members of the group, giving them the assurance that they hold control over levers necessary for carrying out a process of moral prophylaxis within the kin group. In any case, the coercive factor as well as intra-community punishments are not marked by harshness. Modernization has decisively altered the regime and diversity of punishments, which now affect the individual morally and not physically.

The evolution is somewhat surprising given the fact that even today, in various groups of „Romanian Gypsies”, whipping the guilty while tied to the pillar of shame is still practiced, and in the old Transylvanian Roma communities, the judges, knezes, or voivodes of Roma groups, like the leaders of the majority population, held the right of life and death over their subjects, just as their Romanian counterparts did. Indeed, in archaic Romanian communities, punishments applied for violations of local rules

varied: the punishments of the “small court” included reprimand, ostracism, compensation, or beating. As for the “great court,” things became more complicated, since the entire rural community was endangered; it applied harsh punishments such as execution by clubbing, branding, hand mutilation administered by elders to those guilty of murder, or stoning.

The punishment most frequently applied by contemporary Gabor is the fine, the guilty party being obliged to pay material compensation to the injured person. This is an efficient way of resolving a dispute brought before the „*Gypsy court*”, since moral sanctions deeply wound the pride of the individual and his family. The feeling of shame generated by criticism means a great deal for the Gabor, whose culture promotes in every aspect the idea of communal shame: “There is no greater shame for a Gabor than to be mocked at trial” (Burseca, Ștefan, b. 1950). Reprimand is carried out in front of the audience without any restraint, and the one subjected to public disgrace is forced to adopt a humble attitude, to prove receptiveness to the community’s disapproval of his reprehensible acts and to accept that he represented the weak link in the community’s functional mechanism.

In judging disputes that do not involve the application of moral sanctions - such as conflicts related to inheritance, division of property, disagreements over money and other material goods, etc. - after the verdict is pronounced, the parties are consulted by the judges regarding the fairness of the decisions taken, filtered, by definition, through the subjectivity of each individual. And “if they are satisfied,” meaning they publicly declare agreement with the fairness of the measures, the dispute will end with the enforcement of the judges’ decision: “My father inherited from my grandfather a very valuable glass. He was the eldest son, and in our Gabor inheritance system, the eldest is favored. My father’s younger brother received two glasses, not as valuable. He was dissatisfied and called for the „*Gypsy court*”. There, he only dealt in lies, and for reconciliation my father was forced to pay 40,000 lei in compensation, because he accepted the judges’ ruling. Afterwards he regretted it, but there was nothing he could do. Anyway, he later sold his glass for 1,700,000 lei” (Gabor, Szuszana, b. 1963).

If one of the two parties considers that the jurors’ measures lack moral justification in „*Gypsy law*”, they publicly declare dissatisfaction with the way the dispute was resolved, along with the express wish to appeal. The retrial follows the same procedure, except that there are different judges, and the sums demanded by them, namely the bribes, will be much larger: “You can appeal as much as you want, but it costs! From one trial to another you pay more and more bribes. At appeal, it’s about the same trial, only you lose more money. Gypsy justice is justice! You can’t really find other Gabor to please you” (Gabor, Szuszana, b. 1963). Obviously, an appeal decided differently would amplify the problems within the group. The much-coveted

communal peace excludes such situations from the community's mechanism. Not only would the judicial custom face the risk of devaluation, but the prestige of the judges from the first trial would also be affected, since altering the sentence implies an error on their part. If encouraged, such a situation would drag the community into a vicious circle, harmful in the long term to the solidarity of the kin group. As a result, normally, appeals are doomed from the start to lamentable failure, producing further dissatisfaction for the complainant, who essentially pays for insubordination against the community's authorities.

Judicial sentences, once both parties have accepted the verdict, can no longer be contested later, and the payment of the sums imposed by the jury, in the form of civil compensation, can be made on the spot before the audience, with the victim thus being "entitled and peace made between Gypsies" (Mate, Gabor b. 1949). If the fined party is not solvent, a deadline is established by mutual agreement for payment, exceeding which leads to an increase in the amount due to "late-payment interest" (Rostaş, Luiza, b. 1928), set by the judges after pronouncing the verdict. Respecting the sanctions is mandatory, with no room for alternatives or freedom of choice, as the community is inflexible from this standpoint as well: "What the elders say is law, and there is no such thing as not respecting what they have decided" (Rostaş, Luiza, b. 1928). Problems arise only in the case of delaying debt repayment, the postponement not putting into doubt the sacrosanct nature of the judicial decision.

According to the unwritten rules of the kin group, indefinite delay in paying the material obligations imposed by the judges grants the creditor the right to abduct a member of the debtor's family, as collateral against the debts. Logic leads us to conclude that the group has encountered such situations over the course of its history, since this method exists as a solution for extreme cases: "If they don't pay you, you can take someone from the family, wife, son, daughter... and then they surely give the money. The abducted person is treated with respect, only guarded and not allowed to leave home. It's like a kind of servant, because usually they take women... they put them to work, give them food, but no one abuses them. My sister was taken, because after buying a glass, my father had to pay the middleman 50,000 lei during the communist era. That's what the elders said at trial. My father didn't want to pay, so they took his daughter. Immediately he borrowed the money, gathered some kin, and went after my sister. If they had done anything to her, it would have meant bloodshed. He paid, and they gave her back. In the end they came to an agreement, and he didn't have to pay interest" (Gabor, Szuszana, b. 1963). This ultimate method, as a procedure of intimidating the debtor - an ultimatum obliging the poor payer to fulfill his financial obligations - may have appeared only in the 19th

century within nomadic „Gypsy law”, as the authority of the leader deteriorated. For centuries, the leader had absolute control over the lives of his subjects, who were forced into unconditional submission (von Wlislöcki, Heinrick, p. 22). His absolutist authority was replaced by the refinement of a system of unwritten laws meant to cover possible breaches in intra-community control. Logic suggests that in a group where the leader had the right of life and death over his subjects, there was no need for a system of norms of great depth.

The adoption of radical solutions to cover the void of authority at the top also encompasses the abduction of a family member of the individual who neglected the community's decision. Essentially, the method represented an efficient means of preventing internal acts of indiscipline, which in the long run would have thrown traditional judgment into ridicule and irreversibly harmed the unity and strength of the group, endangering its very existence. Nevertheless, it is obvious that the Gabor's sedentarization, their numerical growth, their dispersion in the territory, and, not least, the evolution of society, are decisive factors complicating the process of maintaining archaic judicial custom as the sole means of resolving disputes of any kind among the Gabor, as a lever of community control and respect for their traditions. Despite the pressure of modernity, Gabor Roma communities in the major Transylvanian cities still perceive traditional judgment as the purest means of obtaining justice - both for elites and for individuals with peripheral social status within the community - the ancestral wisdom of the group's patriarchs being, by virtue of ethnocentric principles, superior to all the institutions and laws of the state.

7. Conclusions

The research demonstrates that the justice system of the Gabor Roma is not merely a set of practices for resolving disputes, but a profound cultural institution that safeguards truth, honor, and collective responsibility. A crucial observation is that the community firmly identifies itself as "Gypsies" („țigani") and explicitly rejects the designation Roma. This insistence on self-naming reflects not only a historical consciousness but also an assertion of cultural authenticity, which must be respected in any serious analysis. The two forms of judgment - whether held at the village boundaries or within the community - reveal the symbolic role of space and ritual in legitimizing justice. Central to this system is the sacred oath, a moral and spiritual tool that restores trust, ensures compliance, and protects social harmony. For the Gabor Roma, the oath is more than a legal formality: it is a sacred act that intertwines family, faith, and community, making dishonesty both a social and spiritual transgression. Fieldwork confirms that fear of the curse and respect for tradition guarantee the effectiveness of this justice system

without reliance on external coercion. In this way, justice is not imposed but internalized, grounded in shared values and collective belief. Despite the challenges posed by modernization and integration into state institutions, the persistence of these practices highlights the resilience of the Gabor identity. By rejecting imposed labels and maintaining their own cultural forms of justice, the Gabor Roma demonstrate both resistance and adaptability. Ultimately, their system reaffirms the capacity of the community to preserve cohesion, regulate conflicts, and protect its distinct moral universe in a rapidly changing world.

Bibliography

- Burcea, Iancu. Interview by author. Crăciunești, b. 1961.
- Burcea, Ștefan. Interview by author. Crăciunești, b. 1950.
- Gabor, Francisc. Interview by author. Târgu-Mureș, b. 1948.
- Gabor, Ianoș. Interview by author. Arad, b. 1969.
- Gabor, Mate. Interview by author. Târgu-Mureș, b. 1949.
- Gabor, Matei. Interview by author. Arad, b. 1980.
- Gabor, Ruski. Interview by author. Crăciunești, b. 1943.
- Gabor, Ștefan. Interview by author. Crăciunești, b. 1952.
- Gabor, Szuszana. Interview by author. Arad, b. 1963.
- Mikloș, Elisabeta. Interview by author. Arad, b. 1933.
- Mikloș, Matei. Interview by author. Arad, b. 1973.
- Rostaș, Luiza. Interview by author. Târgu-Mureș, b. 1928.
- Stoica, Lajos. Interview by author. Arad, b. 1965.
- Sala, Gabriel. "*Study on the Status of Women, Mentalities, and Customs of the Arad Gypsies of the Gabor Clan.*" *Ziridava* XXIV. Arad: Trinom, 2005.
- Grigore, Delia. *Course in Romani Anthropology and Folklore*. Bucharest: Editura Credis, 2001.
- Wislocki, Heinrick von. *On the Life and Customs of the Transylvanian Gypsies*. Bucharest: Editura Kriterion, 1998.