

## Resolving Family Disputes in the *Gurbet*: the Role of Kurdish Peace Committee and Roj Women

LATIF TAS\*

Tas, L., 2013. Resolving Family Disputes in the *gurbet*: the Role of Kurdish Peace Committee and Roj Women. *Oñati Socio-Legal Series* [online], 3 (6), 1111-1135. Available from: <http://ssrn.com/abstract=2356915>



### Abstract

In order to understand the different customs of the newcomers and how these work within the UK, this article discusses and evaluates the 'informal' Kurdish Peace Committee (KPC - a general court) and the Kurdish Women's Committee (Roj Women - for sensitive cases involving women), as developed and practiced by members of the Kurdish diaspora (*gurbet*) living in the UK. Kinship, transnational marriages, frequent visits 'back home', and cheap telecommunications have helped Kurds to maintain strong links with Kurdish communities still living in Turkey and elsewhere in the *gurbet*. As a consequence of these ties, even simple disputes can affect extended family members living in the Kurdish region, the cities of Turkey, and in Europe. The Kurdish Peace Committee is involved in the settlement of such cases since, as they see it, such conflicts cannot be resolved by either British or Turkish state courts alone. Through the use of case studies, which illustrate a set of complex and interesting life stories, this article will explain how the Kurdish Peace Committee in London operates in an increasingly internal and transnational environment.

### Key words

Kurds; Kurdish law; customary law; unofficial courts; diaspora; *gurbet*; Kurdish Peace Committee; Roj Women; legal pluralism; family disputes; transnational law; feminism

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Article resulting from the paper presented at the workshop "Law in the everyday lives of transnational families" held in the International Institute for the Sociology of Law, Oñati, Spain, 14-15 June 2012, and coordinated by Betty de Hart (Radboud University Nijmegen) and Wibo van Rossum (Utrecht University). I am thankful to Prof. Betty de Hart and Dr. Wibo van Rossum for their critical reading of and feedback on this article.

\*Dr Latif Tas is a Legal Researcher in the Law Faculty, SOAS, University of London. After completing a Masters in Law in 2009 and a PhD in Law in 2012, both from Queen Mary, University of London, he was awarded a prestigious postdoctoral *Rechtskulturen* Fellowship at the Faculty of Law, Humboldt University, Berlin. He was previously an investigative journalist in Turkey, with a Bachelors' degree and a Master's in Journalism from Marmara University, Istanbul. Dr. Tas research interests include socio-cultural legal studies, especially legal pluralism; alternative dispute resolution; legal anthropology; multiculturalism; diaspora identity; law and society; law and state, and the philosophy of law. SOAS, University of London, Thornhaugh Street, Russell Square, London WC1H 0XG. [latiftas@yahoo.com](mailto:latiftas@yahoo.com); [lt14@soas.ac.uk](mailto:lt14@soas.ac.uk)



## Resumen

Para entender las diferentes costumbres de los recién llegados y cómo éstos trabajan en el Reino Unido, este artículo describe y evalúa los "informales" Comité de Paz Kurdo (KPC - un tribunal general) y el Comité de Mujeres Kurdas (Roj Women - para casos delicados relacionados con mujeres), puestos en marcha por los miembros de la diáspora kurda (*gurbet*) que viven en el Reino Unido. El parentesco, los matrimonios transnacionales, las frecuentes visitas "vuelta al hogar" y las baratas telecomunicaciones han ayudado a los kurdos a mantener fuertes vínculos con las comunidades kurdas que aún viven en Turquía y en otros lugares del *gurbet*. Como consecuencia de estas relaciones, incluso las controversias simples pueden afectar a miembros de la familia que viven en la región kurda, en las ciudades de Turquía y en Europa. El Comité de Paz Kurdo está involucrado en la solución de estos casos, ya que, como ellos lo ven, esos conflictos no pueden ser resueltos solamente por cualquiera de los tribunales estatales británicos o turcos. Mediante el uso de estudios de casos que ilustran una serie de historias complejas e interesantes, en este artículo se explica cómo el Comité de Paz Kurdo en Londres opera en un entorno cada vez más interno y transnacional.

## Palabras clave

Kurdos; legislación kurda; derecho consuetudinario; tribunales no oficiales; diáspora; *gurbet*; Comité de Paz Kurdo; Roj Women; pluralismo jurídico; disputas familiares; derecho transnacional; feminismo

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## 1. Introduction

This article focuses on alternative dispute resolution as practiced by the Kurdish Peace Committee (KPC) in the UK. It discusses why and how, despite significant changes in many other parts of their lives, many Kurds still choose to rely on their customary practices via an unofficial legal system in combination with, or instead of, official legal processes, while living in a large city like London. This article also considers responses to the re-development of the Kurds' customary laws and fora for dispute settlement from other relevant actors, including feminists and the British police. Three case studies are used to illustrate how the KPC has aimed to resolve disputes, to develop Kurdish customs and traditions under different circumstances, and to act as a transnational bridge between official legal systems in both the UK and Turkey and Kurdish values and norms.

In this article, I focus on London-based *gurbet* (diaspora) Kurds who have emigrated from Turkey. *Gurbet* is the Kurdish and Turkish word for the diaspora, place where someone is living for a short or long time, and that is not their original homeland. This Kurdish and Turkish word implies sadness, emotions related to the homeland and the alienation felt in the 'temporary' host location, especially when it cannot be known how long the exile may last. *Gurbet* is not directly equivalent to 'diaspora', since the latter term refers more specifically to the community to which one belongs abroad. The concept of 'Diaspora' was originally used for Jews living outside of Palestine (Sheffer 2002), and has subsequently been used to describe many displaced communities. I will use '*gurbet*', especially since as Werbner (2002) says "each diaspora is unique" and it might be better to describe this uniqueness with a culture-specific concept.

As part of my research, I found that nothing had previously been written about specifically Kurdish customary legal practices either in the *gurbet* or in Turkey (see Tas 2012 and 2013). Indeed, there is very limited literature available on the laws and customs of Kurds and, given this, the research reported here is exploratory in nature. London was selected as the research site as it has so far the best developed unofficial secular Kurdish legal system: the set-up in Germany, for example, is more fragmented and much less well organized.<sup>1</sup>

This article is based on research carried out between July 2008 and June 2012. As well as an analysis of primary and secondary documents, field observations and interviews, case study analyses and personal communications have also been reviewed. As part of this research project, I witnessed more than four hundred cases brought before the Kurdish Peace Committee (KPC) members. I also carried out in-depth, unstructured, mostly face-to-face interviews with eighty-two people (forty-two male, forty female).

Many of these interviewees explained to me that Kurds arriving in the UK had experienced the imposition of a single set of assimilationist legal norms and policies, and the strong denial of Kurdish culture by successive Turkish governments. They had survived an often-challenging journey from the Kurdish regions and cities of Turkey. They expected the UK to be a rich and safe haven. However, as they discussed, many Kurds experienced a significant culture shock on their arrival in the UK. Although a few Kurds came as students, the large majority had been agrarian peasants, or inhabitants of small towns in the Kurdish regions of Turkey. They were used to living within a close-knit society with "intensive social contacts in the framework of the extended family, neighbours and friends" (Sheikmous 1990, p. 103). Turkish repression and the Kurdish conflict meant that they had lost their land or sometimes even their whole village. Some of them experienced prison, or had lost members of their family. Many of them then moved to a global metropolis, never having lived in or perhaps even seen a large city

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<sup>1</sup> A brief investigation into the practices of Kurds in Germany and Belgium was carried out by this author in 2008. More detailed fieldwork was carried out in Germany (October 2012 – August 2013).

before. This displacement created trauma, depression, alienation, homesickness and nostalgia for many Kurds (Khayati 2008).<sup>2</sup>

When they arrived in the UK, many had no clear legal status. Struggling also with a new culture and especially language, they were therefore usually pushed into working within – and often being exploited by – the developing Kurdish community. These equivocal experiences, especially compared to unrealistic expectations of ease and freedom, hardened pre-existing attitudes of low trust in the state and in state institutions.

Kurdish organisations have been established in the UK to directly support community needs and help with the identity crisis of UK Kurds in the *gurbet*. Kurds in the UK continue an imagined and physical tie with their homeland (*welat*)<sup>3</sup> and their organisations use new communication technologies to establish and maintain transnational connections with other Kurds around the world, and specifically with those in the Kurdish regions in Turkey – referred to as north Kurdistan by many of my interviewees. According to most of my interviewees, Kurds in the UK continue to practise their traditional customs but also develop new cultural forms in the *gurbet* as they borrow from their new host culture. One key step has been to develop an alternative and unofficial dispute resolution process based on traditional mediation systems, but adapted to the new environment.

Their own and their relatives' experiences of life in Turkey have encouraged even *gurbet*-born Kurds to stick together, to be loyal to their own people and to work to re-establish their own ways of life. They have hybridised their customary practices, as they reorganise and re-strengthen their kinship networks in their new environment. According to those I interviewed, many Kurds living in the UK took power from their traumatic journeys and transformed themselves from victims or exiles, from being an 'oppressed nation', to becoming actively powerful. As part of this, they connected with each other by re-enacting their customary practices in their new setting (Tas 2013).

## 2. The Kurdish Peace Committee (KPC)

### 2.1. Why the Kurds chose their own legal approach

In Kurdish societies, as in other migrant communities, kinship and complex tribal relationships still exist and are very important. As Ballard (1994, in Tas 2013, p. 173) has pointed out for South Asian settlers in the UK:

Migrants have helped each other gain access to jobs, housing and other scarce resources, and whenever they have sought to protect their gains (however limited) from encroachment, they have invariably found that kinship ties provided the most effective base for collective mobilisation.

For Kurds, everyday life – economic issues, marriage, work – mostly operate through connections within extended families. As Sweetnam (1994, p. 152) observes, most Kurds can remember details about even their most distant relatives. There are three types of family connection: through blood, through marriage, and those formed at a boy's circumcision. Since marriage within the extended family is still common, marriage promotes family ties. At circumcision a

<sup>2</sup> Khayati's work (2008) has confirmed that Kurds in other countries, including Sweden and France, face similar issues to those in the UK. See also Tas (2013) for more discussion of the background of Kurds and their unofficial legal practices from the Ottoman Empire to the diaspora.

<sup>3</sup> *Welat* is the word used exclusively by Kurds when they are talking about their legendary homeland. Some Kurds say *Welate şirin* (sweet homeland) for their actual homeland. They may also use *Welate xerib* (alien homeland) for the *gurbet* where they are living. When Demir (2012) refers to the connection that Kurdish people in London have with their homeland, she uses the word *memleket*. However, *memleket* is not a common word used by Kurds for their homeland. It is a Turkish word used by people from all the ethnic groups in Turkey to refer to their small town of origin. This is an example of how even well-intentioned researchers explain Kurdish issues under a hegemonic Turkish identity.

male guardian, a *kirve*, is appointed from outside the family to support the boy through the whole process, forming a close and important relationship, like the bond between a father and son. This support extends to the whole of the two families and provides a unique opportunity for Kurds to have close relationships with people outside their own immediate family. Even men from different religious and ethnic groups can be chosen to be *kirve*.<sup>4</sup>

In such a close social environment, it is not surprising that disputes over business, family, marriage and inheritance mostly take place within extended families. Historically Kurds have not had their own state and do not have a written body of law. Since, according to most of my interviewees, they have received unequal treatment from the majority governments they have lived under, they have very little trust in or knowledge about state laws or official legal infrastructure. According to members of the Kurdish community, most Kurds are either ignorant of written rules or do not want to learn about them; they think that written rules cannot harmonise with their traditions. Indeed, Kurds would generally consider it shameful and dishonourable to the whole family if any individual took their family problems outside the family and submit them to the scrutiny of a legal system. There are, however, customary legal practices and although there is no written documentation of these, I was told by many Kurdish people that, for centuries, they had preferred to solve their problems within the family or community rather than involving state institutions.<sup>5</sup>

As well as the ongoing lack of trust of outsiders, Kurds have distinct social, economic and cultural practices, all of which shape a different approach to law. Some traditional Kurdish practices may be in conflict with state norms: family and criminal issues, marriage arrangements and inheritance work differently in Kurdish communities. According to my interviewees, Kurds do not use official written contracts. If they borrow or lend money or make a business agreement, they do so based on their 'word of honour' (*şeref, namus, haysiyet*) or oral promise (*söz*). These are important concepts in Kurdish society, conditioning the behaviour of leaders as well as the rest of the community. Because of the agreed moral values within the whole community, Kurds are likely to find it especially difficult to tell a lie in front of Kurdish unofficial judges. However, they might give different answers to a state court or simply avoid acting as a witness. According to interviews with many Kurds, state legal systems might not understand or accept these traditions and therefore might not be capable of finding solutions to typical Kurdish disputes.<sup>6</sup> In the villages in the Kurdish homelands, disputes are sorted out by a group of respected older people. Smaller problems are resolved with the help of local leaders: an *ak sakallilar* ('white beard', respected person), or a knowledgeable person such as a teacher, doctor or religious leader. Mediation, in this tradition, can be seen as a better way for dispute resolution for most Kurds.<sup>7</sup> This echoes Galanter's (1981, p. 3) insight that a large proportion of disputes are best "resolved by negotiation between the parties, or by resort to some 'forum' that is part of (and embedded within) the social setting within which the dispute arose".

As settlement numbers increased in the *gurbet*, and intra-community confidence grew, Kurds started to consider the more formalised organisation of a dispute resolution system run along customary lines. This was made more urgent in the late 1990s by the growth of mafia-type underground organisations which increasingly damaged the reputation of the Kurdish community, including by claiming to resolve disputes using their own (and often violent) methods. Although most Kurdish disputes were with other Kurds, more and more disputes also took

<sup>4</sup> M.H., N.S., interviews June 2009; B.E., interview May 2011.

<sup>5</sup> For example, N.S., interview June 2009 B.E. and A.P., interview November 2011.

<sup>6</sup> For example, N.S., A.H., interviews June 2009; KPC judges, interviews June 2009, November 2010 and May 2011.

<sup>7</sup> For example, A.H., interview, June 2009; KPC judges, interviews June 2009, November 2010 and May 2011.

place with individuals of other ethnic groups, especially Turks, Cypriots, Iraqis and Iranians.

A very informal system had been operational in the north London Kurdish community centre. This centre, known as *Halkevi*,<sup>8</sup> was – and still is – a meeting place for various Kurdish interest groups, including for political activity. It is used for socialising and by womens' support groups, as well as for Kurdish language courses and folk dancing. Gradually, a practice had grown up whereby respected individuals were consulted informally about family and other legal disputes. As the need for mediation grew, to fill an apparent legal vacuum and so to prevent people from using the mafia-like groups, the Kurdish community created the Kurdish Peace Committee (KPC, *Kürtlerin Barış Mahkemesi, Komisyonu*). This was formed as a secular or non-religious and unofficial dispute resolution system in 2001 in the same building as *Halkevi*.<sup>9</sup> Thus, Kurds took another step in creating their own "hybrid form of English law" (Menski 2008, p. 7), in a similar way to other different ethnic and religious group practices in the UK and around the world.<sup>10</sup>

Already after Abdullah Öcalan had been arrested in 1999 and imprisoned in Turkey a whole series of new policies were developed. It has been thought to be especially important to move away from an individual form of feudal-based leadership and towards a system of elected leaders guiding a Kurdish community, which is seen as a holistic entity rather than in fragmented terms.<sup>11</sup> Kurdish community leaders and members started to reorganise their own community. They wanted to learn how to self-rule, both now and in a future where they hoped their autonomy would be gained within Turkey. An internationally recognised Kurdish autonomy was one of the important aims of the new Kurdish policy; with Kurds in all the involved European countries developing an 'imagined state'. They wanted to sort out their own disputes and problems in civic institutions manned by their own people, elected every year by members of the Kurdish community.<sup>12</sup>

According to Romano, the PKK had used their own court system from its inception, not just for their own fighters, but also for Kurds more generally. With an increase in civil disobedience and distrust of the state institutions, the PKK courts increasingly offered "their services to local politicians and influential families in the [Kurdish] region", including helping villages to settle blood feuds (Romano 2006, p. 75, p. 87). They reinvigorated and strengthened an idealised form of the old traditions, when leaders were bound by honour to take a benevolent interest in promoting the interests of the whole Kurdish community. This model of dispute resolution became steadily more organised – with an overarching public court (*halk mahkemesi*) at the centre and local courts in each region in Turkey, as well as in each of the *gurbets*. Fines and other penalties were imposed by calculating and balancing infringements between the various parties to any dispute. The ultimate penalty was to be expelled from the community.

After the arrest of Öcalan, Kurds in the UK were active in developing new policies and following the new system, and specifically in piloting the new approach to dispute resolution. Subsequently, the various Kurdish community organisations, including the PKK, met in 2005 on Kandil Mountain as a Confederation.<sup>13</sup> This meeting noted how successful the new policies had been and agreed, among other

<sup>8</sup> 'Halk' means public, and 'Halkevi' literally means a house of people, a house for the public.

<sup>9</sup> KPC judges, interviews June 2009, November 2010 and May 2011.

<sup>10</sup> For research into the unofficial dispute resolution practices of other communities, especially South Asian and Muslim communities living in the UK see Menski (1987, 1993a, 1993b), Ballard (1994), Pearl and Menski (1998), Yilmaz (2005), Keshavjee (2007), Bano (2012) and Shah (2013). For other customary laws in different countries, see for example, Makec (1988), Rosen (1989, 1995, 2000), Chowdhury (1993), Sheleff (1999), Goh (2002), Bowen (2003), Hinz (2012) and Sezgin (2013).

<sup>11</sup> KPC judges, interviews June 2009, November 2010 and May 2011.

<sup>12</sup> KPC judges, interviews June 2009, November 2010 and May 2011.

<sup>13</sup> This is a high mountain place, on the borders of the Kurdistan Federal State, in Iraq, where active PKK fighters live.

things, to promote the more organised dispute resolution system that had been tried with such success in London.<sup>14</sup>

According to a male Kurdish lawyer working in London who I interviewed, the informal, secular approach of the KPC might be seen as a new approach in the West, but Kurdish people had created their own unofficial bodies of self-governance and justice centuries ago, and these survived even under the harshest laws and most difficult circumstances. Most Kurdish disputes and problems can be sorted out within the parameters of unofficial or customary law by negotiation between the different parties involved. This lawyer pointed out that – apart from a perception as being autocratic, bureaucratic, expensive and slow – the state legal system is complicated and difficult to understand for professional legal practitioners, let alone ordinary citizens. Moreover, according to him, a state that is generally hostile to minorities like Kurds is unlikely to treat them as equal legally. He argued that people should question if one law is really right for everybody; whether the state has the right to impose uniform law on everybody.<sup>15</sup>

Another of my interviewees, a female Kurdish lawyer, also talked about minority groups and explained that many members of these groups, including Kurds, think that

Courts do not care much about other people, about the moral values of different ethnic groups. Courts are a big show room, a theatrical place; and if you have the money to hire a big actor – a big lawyer – and if this actor acts perfectly for you, creating the right sort of show for the audience – the judge and jury – then even if you are a criminal, a murderer, a thief, you might escape prison because of this act, this show. And there's an idea that 'if you steal, you should steal big': since this will help you get out of prison, and even gain you respect. While if you steal something small, then you can spend all your life in prison.<sup>16</sup>

Several other Kurdish lawyers told me about the lack of trust among Kurds for the 'theatre' of courtrooms in the UK or in Turkey, and explained that this was one of the reasons why Kurds did not want to go to the police, let alone to court.<sup>17</sup>

In my interviews too, Kurdish people commonly reiterated that they believed the Western legal system was designed for rich people, not the poor. This has reinforced an increasingly insular approach in the community, with fewer and fewer Kurds confident about relying on state legal institutions or lawyers who only take a centralistic legal approach. A Kurdish community leader in London emphasised that

[t]he police stop and search us many times more than the white British. They will arrest immigrants, including Kurdish people, for the smallest reason. If the official legal systems were equitable, many Kurdish people would not have been in prison in Turkey or in the UK. With these inequalities, we don't trust them and we don't expect them to help provide solutions to our problems.<sup>18</sup>

Confirming this, Bowling and Phillips (2002) and Povey (2011) have drawn on detailed Home Office reports to explain how the police exercise power differently over different ethnic groups.<sup>19</sup> According to Topping (2011) the abuse of power further alienates communities, especially young people, who may perceive that they have nothing to lose in disobeying state-imposed social norms.

Since the 7 July 2005 bombings in London, members of the Kurdish community have been affected by the increased implementation of the Terrorism Act 2000. According to Sentas (2010), the PKK ban in 2001 has criminalised not only PKK

<sup>14</sup> A.E., A.P., interviews November 2010.

<sup>15</sup> A.H., interview June 2009.

<sup>16</sup> S.L., interview November 2009.

<sup>17</sup> For example, A.H., F.K., interviews June 2009; A.Y., interview March 2011.

<sup>18</sup> E.L., interview June 2009.

<sup>19</sup> This makes reference to the Criminal Justice and Public Order Act 1994, which was designed to deal with football hooligans and the threat of serious violence, and gives powers to police to stop and search without any specific grounds for suspicion.



members but the whole community. Kurdish activists have been stopped and searched, intimidated, harassed and arrested for short periods before being released without charge. Those distributing Kurdish newspapers, preparing for festivals or simply putting up posters have been detained. Some Kurdish flags are banned under the Terrorism Act 2000 because they are seen to be connected to the PKK. I have myself observed Kurds being prevented from waving or even carrying flags at the *Newroz* celebrations in 2009 (in Trafalgar Square) and in 2010 and 2011 (in Finsbury Park).<sup>20</sup>

## 2.2. 'Unofficial' Kurdish judges: their selection and rationale

KPC members explained in my interviews that from late Ottoman times until recently one of the methods Kurdish people in Turkey utilised to avoid assimilation was to solve disputes with the help of their family elders, feudal leaders, religious opinion makers (*sheikh, dede*), landlords (*ağa*) or other locally respected or knowledgeable individuals. These people were sources of economic and political power and also acted outside the state system as judges. They were often respected in dispute resolution because of their age and extensive knowledge of Kurdish customary practices. Most of them were powerful leaders of their feudal communities. Although tribal leaders or landlords were not elected, when they made any decisions they usually also negotiated with other knowledgeable and respected local people – *ak sakallilar* or, collectively, *azallar birliđi* (an unofficial commission of respected people). According to my interviewees, these people were, and still often are, considered to be real philosophers by many Kurds. They were especially known for not taking sides. In any dispute, decisions reached using their opinions were final. When a feudal leader died his oldest son usually took his place. If there was no son, then the *azallar birliđi* would choose another family member to continue the tradition. Sometimes a Kurdish woman would take on the leadership responsibilities, especially if her husband or father had been the leader.<sup>21</sup>

Traditionally, some Alevi Kurds took their cases to the *Cemevi*. This is a place to meet and to practice Alevi rituals, including singing, dancing, socialising and praying, under the guidance of *dede*.<sup>22</sup> The elders offer advice or suggestions about how to find answers to disputes or conflicts in front of the community rather than in a state court (Şener 1991, Metin 1995, Ergene 2003). Van Rossum (2008) has carried out further research on the (especially religious) practices surrounding dispute resolution in *Cemevi* in the Netherlands.<sup>23</sup>

From 2001 Kurds in the UK took a much more organised approach to the familiar methods of dispute resolution. There had been several old people who regularly came to *Halkevi* and spent almost all day there, talking and gossiping about other people's family, business and criminal issues, as well as about politics. One day, the head of *Halkevi* asked them why they did not use their time for useful things, helping to resolve problems instead of just sitting and drinking tea. This was the beginning of the KPC and the system of secular Kurdish judges in the UK. While the state, state institutions and the majority population might consider this as an unofficial system, for many Kurds, these people have the authority to act as their judges. According to one of my interviewees, this system aimed

<sup>20</sup> Despite perceived or actual police pressure on the Kurdish community, most of my interviewees told me that they valued the freedoms they have in the UK compared to Turkey. They enjoy celebrating their festivals, practising their culture and speaking their own language. They appreciate the good health and education services they and their children receive. They especially like not being unemployed: thereby contributing to the national economy as well as supporting their own families and community.

<sup>21</sup> KPC judges, interview November 2010.

<sup>22</sup> It may be difficult to find established *dedes* in London and temporary *dedes* may come from Turkey. Different clans have different *dedes* and may not accept the same *dede*.

<sup>23</sup> See also Güzel (2004) for a detailed discussion of the *Cemevi* court process. Alevi come from many different ethnic groups, so the religious *Cemevi* system is not specifically Kurdish.

to give people a platform, a chance to discuss their issues. If we did not create this, people might impose their own judgments without any trial. We do not want any crime to be punished without a fair trial. Our elders, our judges, are like our fathers. And a good father cannot be unfair to their children.<sup>24</sup>

The following year members of the community wanted to elect their own judges and this election process now continues every year. Judges are elected for one year only and must stand for election if they want to continue in the post. There is no restriction on the number of re-elections a candidate can stand for. The elections for judges are included in the annual elections for all positions in *Halkevi*. A secret ballot is used with a pre-advertised list of candidates. There are more than ten thousand Kurdish community members of *Halkevi* and, although there is good attendance, not all of these can attend the annual election meeting. The pre-advertisement process in the various community facilities means that the community is pre-informed about the elections and the candidates, as well as encouraging potential new judges to put their names forward.

Any Kurdish community member can stand for election – not just the traditional *azallar birliđi*. No special education is required to become a Peace Committee judge. However, the judges need to be respected leaders, trusted by the community and with recognised wisdom, negotiating skills and authority, as well as having an unblemished personal reputation and a specific knowledge of Kurdish traditions and customs. They are also required to have a good understanding of the environment, culture and language in their host country. Members must be seen by the community to have developed all these attributes in their personal and work relationships if they are to earn the privilege of being elected. Care is also taken that the Committee fully represents the plurality of Kurds, embracing those from different geographical traditions with different languages and religions and of different ages, especially including women as well as men. KPC members believe that when women – judges and claimants – take part in meetings then the language and style of the meetings changes positively.<sup>25</sup>

During my fieldwork I observed three Peace Committee elections between 2009 and 2012. In 2009 all the previous judges (one woman and seven men) were re-elected unopposed. Some of these judges had been working on the KPC since its inception. Then, at the end of 2010, six of the eight previous members chose to step down. The individual judges gave a range of different reasons for stepping down: to open up space for new members, to concentrate on their own business, because they had been there for so long that they had begun to be tired of the work or following on some long-term unresolved dispute, when they felt they had perhaps started to lose the trust of some members of the community.<sup>26</sup> One of the KPC members explained:

It is not an easy job; it is very stressful. Most of our members get mentally and physically tired...After a while, the committee members might lose their ambition to help the community...Creating space for others, young people to participate is important to develop a democratic culture in the community. If there aren't elections then the Committee is no different from all the centralised state institutions.<sup>27</sup>

In the election at the end of 2010 six new members (one woman and five men) were elected, with two re-elections (one woman and one man). In 2011 only two members (one woman and one man) stepped down, to be replaced by two new members. In 2012 eight members (two women and six men) worked as judges for the KPC.

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<sup>24</sup> D.L., interview November 2010.

<sup>25</sup> KPC judges, interviews June 2009 and November 2010.

<sup>26</sup> KPC judges, Interview November 2010.

<sup>27</sup> A.P., interview November 2010.

Service on the Committee is voluntary and unpaid. All committee members have their own businesses or jobs and are not part of rich or privileged families. According to members of the KPC, their main motive in participating on the Committee is to help their community, to help their people live without conflict by solving their disputes.<sup>28</sup> Tears came to the eyes of the oldest member of the KPC when he explained his feelings about the work of the KPC and why he wants to serve Kurds till his death: "My contribution may just be a drop in the ocean, but if I make one individual justly happy and make space for them to live in peaceful conditions, then I will feel the happiest person in the world."<sup>29</sup>

Another KPC member told me that he was not born into an environment of individualism but into a community where the needs the Kurdish public were more important than the needs of any one person:

It wasn't just my house that was burned down by the Turkish state. The identity of the whole Kurdish people was ignored or destroyed by that same state. Thousands of people lost their lives. For this reason, I am happy to travel every Monday from outside London to the KPC for work.

Current committee members range in age from twenty-five to seventy: it is clearly no longer just a job for old people. Members of the Committee believe that making space for members from different age groups helps them to more easily understand the problems of people of different ages, as well as showing that the Committee is open to everybody and that everybody should feel welcomed.<sup>30</sup>

### *2.3. The procedures of the Kurdish Peace Committee*

Committee meetings take place every Monday, although if there is an important case an additional meeting can be arranged. For any specific dispute one party to the conflict usually comes to the KPC to lodge a complaint. They are asked to fill in a one-page form, including details of the disputants' name, address and phone number. At the bottom of the page is a space for a brief summary of the complaint and the reason for the dispute. These details and those in any subsequent proceedings are kept strictly confidential. A fee of ten pounds is requested. This covers the entire process and has only recently been introduced to cover the cost of the Committee's phone bills as members use the phone to make calls to both sides of a dispute. After the complaint has been lodged, one of the Peace Committee members contacts the other side to explain that there has been a complaint about them and to appoint a day for the hearing. According to KPC members, all parties in a dispute have to verbally agree to have their case accepted by the KPC before any mediation can start. This minimises unacceptable behaviour during and after the sittings. Even if one side does not agree to take part, KPC members will still try to calm people down, and continue to talk to both parties to try to reduce any further damage.

Once a case is agreed as proceeding, if either side wants to call witnesses they have to declare this prior to the hearing. First-degree relatives are not usually accepted as witnesses unless there are no other possible options. Furthermore, witnesses have to be accepted by both parties to the dispute. On the day of the hearing both sides take their places in front of the Peace Committee judges. Both sides are usually given equal time, without interruption, to make their case, and equal time to respond to each other. They have to use peaceful language and show no violence. The Peace Committee must hear cases with at least two of its members present, but for a decision to be made, there must be at least three presiding members. These rules are unwritten and unrecorded but, according to my observations and interviews, are clearly understood by all those who approach the KPC. During the dispute resolution meetings, the Peace Committee uses everyday

<sup>28</sup> KPC judges, interviews June 2009, November 2010.

<sup>29</sup> A.E, interview November 2010.

<sup>30</sup> KPC judges, interview November 2010.

language that can be easily understood: simple Kurdish or Turkish, or even English (if necessary). They do not use any special words or legal terminology. During the meeting, as well as hearing the testimonies, the KPC members can ask for more evidence on specific questions. They write notes, and discuss their written notes with each other before making any final decision. Most of the members write notes in Turkish. One out of the sixteen committee members I have observed during my field work preferred to write Kurdish Kurmanji and one member wrote in English. Usually one of the members acts to lead the meeting.

If both sides to a dispute are in agreement at the end of the procedure, they sign a document to that effect, including the arrangements for the payment of any fines. The document is signed by both parties and also includes the signatures of a minimum of three Peace Committee members. In some cases, if there has been serious conflict and trust has degenerated to the extent that both sides do not want to even see each other again, a Peace Committee member will be asked to act as the bridge for the payment. If the dispute is about a debt, and one party owes the other a significant sum of money but does not trust the payee, he can ask that the money be paid via a Peace Committee member. I witnessed several cases in which payments were made in this way. Sometimes, parties to a dispute who had received a large sum of money owing to them, showed their gratitude to the KPC for their altruistic work (*hizmet*), by gifting a proportion of the money they received via the KPC to the Kurdish Community Centre (KCC).<sup>31</sup> I was told that, this money is usually then used for young people, specifically to encourage them to educate themselves as Kurds and their involvement in the community, including through language classes and by the promotion of Kurdish music and Kurdish folkdance.

If the decision of the KPC is not accepted by all sides, then any unsatisfied parties can appeal by bringing the case to the Kurdish Public Appeal Court (*Halk Mahkemesi*). This is a joint meeting involving a wider group from the community. Most people want to avoid the publicity that this would entail and so this option is only resorted to very exceptionally, for example in the most expensive business disagreements.<sup>32</sup>

According to Peace Committee members, between 2001 and 2012 more than 3.500 cases have been taken to the Committee. This number does not include cases that are settled on the telephone without the need for a formal hearing. Nearly all cases involve only Kurds although, as mentioned above, other ethnic groups are also involved. Apparently, around eighty percent of the cases are fully resolved with the complainants accepting and acting on Peace Committee recommendations. I observed that around two-thirds of the cases were sorted out with a solution agreed within only two or three weeks. I was told that fifteen to twenty percent of cases either cannot be resolved or the agreement arrived at is not followed in practice. A few cases have been ongoing since 2006. This situation can occur when one of the sides has not followed the Committee's decision or has been out of the UK for a long time. On average, each case takes between twenty and forty minutes to hear. Some complicated business, family and criminal cases will take longer.

Most of the cases I witnessed concerned businesses and partnerships, finance and family. I also witnessed some small criminal cases, including theft and assault. KPC members told me that sixty to seventy percent of cases are about business and commercial disputes. Fifteen to twenty percent of cases are about family problems and a further fifteen to twenty percent of them about threats, fighting or petty crime. Cases involving murder or manslaughter are initially brought before the

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<sup>31</sup> The largest and most important of these are the Kurdish Community Centre in Haringey, north London (KCC); *Halkevi* (public house) and *Cemevi* (a place for Alevi religious practices). KCC and *Halkevi* act as different branches within one association. KCC and *Halkevi* have several branches across the UK, including in north London, Croydon, Leeds, Portsmouth, and Glasgow. The KPC and Roj Women Association work under the umbrella of KCC/*Halkevi* in north London.

<sup>32</sup> KPC judges, interview November 2010.

Committee, with the aim of helping all parties to accept and come to terms with the tragedy that has taken place in the community; but the police have to be informed and the perpetrator is urged to go to the police and admit his guilt.<sup>33</sup> A few other cases have to be referred to a British court of law, but were also heard by the Peace Committee. For some of these, perhaps five to ten percent, this followed difficulties in arriving at an agreement via the Peace Committee. The KPC themselves recommended that some cases should be taken to an official court, although some of these cases were then taken back to the Committee when the parties were not happy with the outcome. Other cases were initially taken by the disputants to the police or other formal legal institutions, but then ended up at the KPC when one or both parties wanted either a different outcome or to prove themselves to the community. A threat to take a case to an official court is sometimes used tactically, or to put pressure on a disputant for a quick resolution. Less powerful protagonists can try and rebalance power relations in their favour in this way. Merry (1979), Huang (1996), and Ergene (2003) have described how similar approaches are used in other, non-Kurdish societies.

#### 2.4. *The Roj Women's Association*

The Kurdish community, working through *Halkevi*, has established other institutions to respond to particular and sensitive issues – both to serve the community and also in response to criticisms by human rights and feminist organisations in both Turkey and the UK that, for example, the unofficial dispute resolution system actually prevents Kurds from 'modernizing' and taking a full and equal place in UK society.

One of the most important challenge areas is around women's issues and the Kurdish Women's Organisation was set up to help with this. A subgroup of this, the Roj Women's Association (*Roj Kadın Meclisi*), focuses on resolving sensitive family conflicts including domestic and sexual violence, and forced marriage.

According to those working in the Roj Women Association, there are several reasons why the Kurdish community needed to make a special space for women. The PKK movement fundamentally changed the position of Kurdish women, when they fought side by side with men against the Turkish state. Women became more liberated and were more ready to demand their rights. Despite this, some Kurdish women still struggle under patriarchal forms of family domination, being oppressed by religious and cultural constraints. Young girls, new arrivals, and women who speak no English are especially vulnerable in the UK and some of these women are abused or bullied by their families or husband. Some are threatened by, or subjected to, honour-based violence, blood feuds or forced marriage. Specific facilities open a window for Kurdish women to discuss and solve their problems. They also act as a response to criticisms from some feminist groups that the unofficial system does not respond to the specific needs of women.<sup>34</sup>

One member of the Roj Women told me about the many and varied needs of Kurdish women. Those who have a problem in their family often do not want, or are afraid to share this issue with men and prefer to use services delivered by and for women. The Roj Women is one of the services that hundreds of Kurdish women approach annually.<sup>35</sup> It was established in 2002 and has been especially active since 2008. The Kurdish Women's Organisation has fifty-seven active individual members<sup>36</sup>, four of whom focus on Roj Women work. The Roj Women tackles disputes in a very similar way to the KPC, but also provides any necessary practical

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<sup>33</sup> KPC judges, interview June 2009, November 2010.

<sup>34</sup> B.G, interview January 2010.

<sup>35</sup> There are also some other women's organisations such as Kurdish Women's Rights Watch, the Kurdish Advice Centre and the Turkish Speaking Women Organisation.

<sup>36</sup> Each member has different responsibilities, including the education of children and women, language, events organisation, and housing.

support for vulnerable women, such as arranging shelter, food and money for women who have no place of safety. The Roj Women does not ask even for the nominal fees the KPC require.<sup>37</sup>

The Roj Women and the KPC are closely interconnected. They refer cases to each other and help each other with any sensitive family issues. Although, as mentioned above, there are some women on the KPC, most of the KPC members are men and there is a concern that some women may lack the confidence or feel ashamed or embarrassed to bring their personal or family problems to a Committee that might be perceived as male-dominated. Care is always taken to ensure that the most sensitive issues are tackled as confidentially as possible, and the small scale of the Roj Women can help with this.<sup>38</sup>

According to members of the Roj Women their organisation, like the KPC, tries to create safe environments for women and men who may be in danger, reducing harm and even saving lives, not just for those initially involved but also for the extended families who might get involved as these issues spiral out of control. The Roj Women works closely with members of the state-organised Multi-agency Consortium (MARAC). This includes the police, local councils (for housing as well as through their domestic violence advisors), the Special Domestic Violence Court (SDVC) and other women's organisations as necessary. MARAC are especially involved in cases of highest risk, such as those with an 'honour' issue or concerning forced marriage. If a safe environment is to be created for a woman, her children and sometimes her sister(s) too, if the latter are also at risk, whole new identities need to be created, perhaps in quite different locations. 'Honour'-based issues do not fade over time. Families can commit crimes decades after an initial problem. Danger is always present until the family decides the issue is completely resolved. This is where the Roj Women comes in. Women who approach the police or any other state institution may well be putting themselves in increased danger since this contact can itself be seen as damaging the family's reputation and honour. Women working for the Roj Women are part of the Kurdish community, making sharing a problem much easier. Unlike most other women's organizations, they are also willing to work directly with husbands or other male family members to discuss the issue and to find joint solutions.<sup>39</sup>

The Roj Women works in parallel with the police, sometimes at joint meetings, or by providing training and education around cultural sensitivity and different value systems. The police provide help with community safety and even supported a recent bid by Roj Women for central government funding. They acknowledge that the Roj Women reduces their own workload and costs. A member of the Roj Women told me:

They [the police] started to trust us recently. However the police still try to take domestic violence to the special courts, because these are new and need cases if they are to continue. SDVCs [Specialist Domestic Violence Courts] were established in Islington in 2009 and Hackney in 2010. The judges there have special expertise, but women still don't want to go there – they prefer us. Women know that if they go to an official court then they may be in danger from their family. So if organisations like ours don't take some responsibility for these vulnerable women, they are in danger.<sup>40</sup>

SDVCs are still developing. While best practice is suggested to address both justice and safety for the women and families involved, several reviews have pinpointed the special needs and "systemic weaknesses" of the system for women from ethnic minorities.<sup>41</sup> Incidentally, the principles underpinning SDVCs have been described

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<sup>37</sup> B.P., interview May 2011.

<sup>38</sup> B.P., interview May 2011.

<sup>39</sup> B.G., interview January 2010.

<sup>40</sup> B.P., interview May 2011.

<sup>41</sup> For detailed information see, for example Cook *et al.* (2004), SDVC Review (2007/08) and Team Hackney (2011/13).

as providing “a welcome move away from traditional adversarial principles” towards a consensus approach involving the whole community – very similar ideas to those underpinning the KPC.<sup>42</sup>

### 2.5. Feminist and other criticisms of ‘customary’ solutions to disputes

Not all Kurds are happy with KPC processes. There are some Kurds who want to distance themselves from PKK influences and consequently the KPC. There are also Kurds who prefer to live outside London’s Kurdish community and who are unaware of the existence of the KPC. Even those who have heard of the KPC may prefer to use the state legal system, while others may utilise religious dispute resolution methods, such as unofficial Sharia courts.

There have also been some significant criticisms over ‘customary’ solutions to disputes, especially where women’s rights are involved. Some Turkish, British and also Kurdish feminist organisations, have suggested that ‘customary’ practices can never produce equitable solutions for women. Indeed, these groups directly blame ‘customary’ cultural practices – with their semi-continuity of village norms and values – for all the various sorts of gender-based violence that exist. They therefore feel that a ‘culturally sensitive’ and, as they see it, inevitably male-dominated mediation process can have no place in the resolution of these sorts of problems.<sup>43</sup> Instead, they say, women regardless of their ethnic origin want to talk to other women, and the state should therefore recognise and support women’s organisations when they fill the current service vacuum.<sup>44</sup>

There are extremely strong and polarised views on this topic. For example, a representative of a leading Turkish women’s organisation talked to me about how the views of her organisation were criticised by others as coming from “prostitutes, lesbians, and those who want to destroy families: we hear such things, but this does not stop us carrying on telling the truth as we believe it”.<sup>45</sup> She specifically remembered one occasion in 1989, when members of her group were trying to protect a Kurdish woman who had been subjected to domestic violence and men came onto the streets to try to attack all the women involved. According to her, many of the men she saw that day had important positions inside the Kurdish community.<sup>46</sup> Another feminist activist reported her more general concerns about how one law should be enough for everybody: “People should follow similar values. And if they come here [to the UK], they should follow this country’s rule of law”.<sup>47</sup>

On the other side of the argument, a member of the KPC was clear about his position:

Most of these people [the critics] are from Turkish feminist groups. They did not want us to live freely and celebrate our customs and traditions in Turkey. When we tried to practice our culture, we were accused of being ‘separatist’ or ‘terrorist’. And not surprisingly, people of the same mentality, under a different name and in organisations which are supported by the Turkish government, do not want us to practise our culture and tradition here either.<sup>48</sup>

Both sides claim (loudly) to provide the best services: with the best approach to risk-management and to confidentiality. Both believe they should be given the space, power – and, most importantly, funding – to continue their work.

<sup>42</sup> For detailed information see, for example Cook *et al.* (2006) and Matczak *et al.* (2011).

<sup>43</sup> For similar claims see, for example Okin (1998, 1999, 2002), Pollitt (1999) and Phillips (2007).

<sup>44</sup> F.B., interview May 2011. This is an especially contentious issue in the current debates on Sharia law. See, for examples of others espousing a similar position, MacEoin *et al.* (2009) and Namazie (2010).

<sup>45</sup> F.B., interview 2011.

<sup>46</sup> F.B., interview May 2011.

<sup>47</sup> D.K., interview January 2010.

<sup>48</sup> B.E., interview May 2011.

## 2.6. Hybridisation of Kurdish law in the *gurbet*

One KPC member told me, “the sign and character of humanity is to harmonise with the environment”.<sup>49</sup> He emphasised that it is therefore not possible to maintain that there are no changes when people move from an underdeveloped rural eastern country to big metropolis in a developed Western country. This move has naturally affected Kurdish people. Even though they still stay close together, close Kurdish communities have been disrupted. Individualism and the nuclear type of family have increased. Several of my interviewees told me that they agreed that city life had changed them profoundly. One of my interviewees summarised this thus:

In our village, if somebody promised something and swore on his *namus* (honour), it would definitely be done...But here it is different. People can easily lose their way in a crowded city. They might change their mind two minutes after they gave their promise... People stop trusting each other. This is how the big city turns innocent people into troublemakers. Of course, we have to change and update some our customs if we are going to respond to these erosions, these troubles.<sup>50</sup>

When Kurds change to fit into their new environment, it is thought that they both leave something behind and take something new. One Kurd described this to me as follows: “it is like bringing together half an apple and half a pear to create a new fruit. It looks strange, doesn’t it?”<sup>51</sup> Many of my interviewees believe that many of these ‘not here, not there’ people may not behave properly in either the Kurdish or the majority British communities. They can therefore be dangerous to both the state and the community and the Kurdish organisations work to try to limit this danger.<sup>52</sup> According to many of my interviewees, the KPC and similar organisations can help keep the ‘half and half’ mixed-culture people out of trouble, out of prison. They want to ‘stop any escalation of the crime’. KPC members believe that they are helping state institutions with this parallel system.<sup>53</sup>

According to a KPC member, although Kurdish customs and moral values play an important role during the KPC process “some Kurdish customs have had to be reshaped in response to the capitalist system and the global world. Kurds do not necessarily do everything in the same ways as in the Kurdish regions of Turkey”.<sup>54</sup> For example, religion used to be strong and women used to be weak. One KPC member gave an example of how this has had changed from when he worked in a hospital in a Kurdish region in the 1970s and 1980s:

Because of Shafi [Sunni Muslim] beliefs, some women did not want to be treated by men. Some even refused to be operated on by our male doctors. But, later, the women fighting in the PKK affected all Kurdish society. It changed the character of Kurdish women. Women learnt their rights. They started to refuse to be treated differently from men. This affected *gurbet* Kurds too. They have become more tolerant and open to their new environment.<sup>55</sup>

Unlike in Sharia courts or the Muslim Arbitration Tribunals, during my fieldwork I did not witness any obvious sign of decisions being made in conformity with religious rules. One KPC member told me:

If we look carefully, every legal system has been influenced by, has benefited from religion. Religion is one of the important values for people. Of course, some of our customary practices – like the state law – might have been affected by religions.

<sup>49</sup> A.E., interview November 2010.

<sup>50</sup> B.E., interview November 2010.

<sup>51</sup> M.C., interview June 2009.

<sup>52</sup> For example, M.H., N.S, interviews June 2009; C.C., interview March 2011.

<sup>53</sup> For example, M.U, interview May 2009; N.S., S.A., interviews June 2009; KPC judges, interview November 2010.

<sup>54</sup> B.H., interview February 2010.

<sup>55</sup> A.E., interview November 2010.



But we do not make any decisions which are directly based on religion. We are not a Sharia court and our people are not religious fanatics.<sup>56</sup>

Alevi Kurds who I interviewed were especially unhappy if their processes for dispute resolution were confused or conflated with Sharia law or practices. According to them, there is nothing religious about their legal approach. The same KPC member who spoke to me about religion also provided more detail about how, in the Kurdish community, men and women are supposed to have equal standing:

The experiences, feelings, ideas and words of men and women are equal in our proceedings. In Kurdish society, some women might have difficulties, but this does not mean we [the KPC] approve of this. No-one should mix the crime [of so-called 'customary' behaviour] with the solution [of a dispute resolution process drawing on customary practices]. Many Kurdish women choose to come to us, because they know that we will support them. They know that we do not take sides in any conflict or dispute; they know that we do not base our decisions on religion. We are a place where they can find a solution and peace for their dispute in an easy, cheap, traditional and private way.<sup>57</sup>

In practice, I observed many women bringing cases to the KPC. Women are allowed to speak first regardless of whether they are the complainant or defendant. Even if there were some advantages in the system for men in the past, in the *gurbet* there is now even a tendency for positive discrimination towards women. This showed, KPC members told me, that their traditions are not static but instead are open for hybridisation.<sup>58</sup> The feminist who had told me about how members of her group were assaulted in the street in the domestic violence case in 1989 also conceded that the community has changed. She said the men who had punched her then were now more supportive of women's rights.<sup>59</sup>

Kurdish customary law has had to respond to all the new needs of the community. According to KPC members, they do not want to be static rule makers. They strive to change their views and rules, especially those which might be seen as biased against women: "We are open for learning new things. We are not inventing new customs or traditions; we are updating and understanding new issues. Nothing can continue the same throughout time".<sup>60</sup> According to KPC members, although they act as representatives for Kurdish identity, for Kurdish culture and its deeply rooted value system, they do not ignore democratic Western values and the concept of universal human rights.<sup>61</sup> For all these reasons, a process of hybridisation is very active.

Since the KPC is not the only alternative justice system for Kurdish people, this hybridisation occurs not only with the official state legal system but with a range of sources of help. Kurds with a dispute to resolve might approach a powerful Kurdish family or any of the underground mafia organisations. If they are Alevi, they might go to the *Cemevi*. Women may use any of the Kurdish, Alevi, voluntary or state organisations aimed at women. I observed complainants in business and divorce cases agreeing a compromise solution to their problem based somewhere between the multiple answers they had received from multiple services they had consulted. Incidentally, this competition means that each mediation service is keen to be seen by the community as the best.<sup>62</sup>

The other important area of hybridisation is with the UK state legal system. During my research I saw representatives of law firms coming to the KCC every week to advise people about the English legal system. Members of the Peace Committee have themselves benefited from this help and advice. KPC members generally

<sup>56</sup> A.P., interview November 2010.

<sup>57</sup> A.P., interview November 2010.

<sup>58</sup> M.H., N.S., interviews June 2009; A.E., interview November 2010.

<sup>59</sup> F.B., interview May 2011.

<sup>60</sup> B.E., interview May 2011.

<sup>61</sup> KPC judges, interview November 2010.

<sup>62</sup> KPC judges, interview November 2010.

advise complainants who are not happy with their decisions to go to a state court, and some cases that the Peace Committee cannot resolve are referred to these law firms.

### 2.7. *The UK state reaction to Kurdish organisations*

Initially, the UK authorities had concerns about the *Halkevi* organisation and the dispute resolution system set up by the Peace Committee. This was even though, in all cases involving serious or organised crime, including unlawful killing or drug smuggling, contact with the police is insisted upon. Although, according to KPC members, there is no pressure within the community for anyone to use their dispute resolution system, the police still continue to approach businesspersons and other Kurds to tell them to report any pressure from *Halkevi*.<sup>63</sup>

Despite some setbacks in police–community relations, Peace Committee members report that, after their considerable successes in resolving various community conflicts the police started to have a more positive attitude to the Peace Committee. Members of the police force have even attended dispute resolution meetings. There have been some cases of family or domestic conflict in which the police have recommended that the cases be taken to the Peace Committee or Roj Women. Recently, recognising that minor criminal cases might be taken to the Peace Committee, the police specifically ask any Kurds who contact them if they are definitely going to continue with their official complaint before expensive court proceedings are commenced. In these ways, the Peace Committee and Roj Women act as a useful adjunct to the official legal system and save police and court time and money.<sup>64</sup>

In recognition of this, the Peace Committee received five thousand pounds from the Home Office at the end of 2004, as a grant to cover their expenses. Committee members believe that they could receive more financial help from the Home Office but have chosen not to do this. They are afraid of being controlled and inspected by state institutions and fear that Home Office involvement could deter some people from bringing their cases to the Committee, particularly those involving illegal immigrants. The Peace Committee is concerned they could lose community trust if they work too closely with the police or the Home Office.<sup>65</sup>

In the following section of the article I will discuss in more detail three cases that I observed during my fieldwork with the KPC. These cases are selected to illustrate Kurdish family practices, as well as various kinds of disputes and some the ways in which a resolution is reached.

## 3. Case studies

### 3.1. *Case 1: Conflict following an underage marriage*

This case demonstrates how family support may be less about protecting a vulnerable individual and more about ensuring the preservation of reputation and family honour. It also indicates how important a speedy resolution is – the family here especially wanted the KPC to act before anybody might hear that there was a problem with their young daughter's marriage and suspected her of being at fault when her husband was violent.

On 11 April 2011 Fidan, then aged sixteen years old,<sup>66</sup> came with her father to the KPC. The father made the following statement:<sup>67</sup>

<sup>63</sup> For example, KPC judges, interviews June, November 2010; M.U., interview May 2009.

<sup>64</sup> KPC judges, interviews June, November 2010.

<sup>65</sup> KPC judges, interview June 2009.

<sup>66</sup> It is common for many Kurdish families to arrange marriages for their children when they are young. Early marriages sometimes cause problems, particularly in the *gurbet*, but families continue to support

My daughter married Serhat in the customary way. She does not have any official marriage contract. Because he is a close relative we did not need it. But we are totally disappointed by his behaviour. He does not come home most of time. When he does come it's very late, but if my daughter asks the reason, he uses violence against her. Recently he has increased his violence, and so my daughter went to the police to complain about him. Later, he pushed her to change her statement and she had to do this. But Serhat still continues his unacceptable behaviour. Now, Fidan is not feeling well and as a family our reputation and honour has been damaged. My daughter's life is endangered by him. Please help us, and explain to him about our culture and values.

After this statement, a KPC member contacted Serhat and explained the case against him. Serhat said that he was afraid to come to any meeting with his wife's family but that he was ready to respect any decision of the KPC. Members of the KPC and Roj Women talked separately with both sides. After these consultations, Serhat apologised for his actions several times and promised not to repeat them. The wife, Fidan, was ready to continue her marriage, mostly to maintain her family's reputation and honour but wanted the KPC members to bear witness and advise Serhat to stop being violent towards her. A member of Roj Women warned Fidan about the potential danger from her husband and offered to arrange a safe refuge for her. However, both sides chose to live together from 15 April 2011, just four days after the case process. This speedy resolution was largely due to concerns within Fidan's family about gossip while the couple were separate.

### 3.2. Case 2: Divorce

This is a divorce case that the KPC considered after a family agreement had broken down. There were disagreements over the financial arrangements, but the real sticking point was linked to honour. This case illustrates the importance of the family in making and breaking marriages; the transnational nature of many KPC cases and the risky situation that women can find themselves in. Some of the KPC documents are, with permission, included verbatim here, to illustrate both the court processes and also how community members think and act.

In the divorce case considered here, the official marriage took place in Turkey, while a *düğün* (customary wedding ceremony) took place later in the UK. Unfortunately, after only one and a half months, the husband decided that he wanted to end the marriage. Initially, elders of the two families agreed a separation and divorce arrangement, which involved equitably dividing the gifts and cash (forty thousand pounds) received from family and friends at the *düğün*. However, when the family of the ex-husband also insisted the wife return to Turkey, the agreement fell apart and the wife's brother approached the KPC to mediate a solution. The man's family said that they wanted the ex-wife to leave the UK because they felt that her presence might bring shame upon the ex-husband's family, especially if she were to begin a new relationship.

The KPC meetings involved representatives of the families, rather than the individuals themselves: the ex-wife's brother and her uncle represented the woman, whilst the man was represented by his father. After extensive discussions, the KPC decided to uphold the initial financial agreement prepared by the two families. However, they were very angry with the demands of the husband's family that the woman immediately returns to Turkey. Upon hearing this, one of the KPC members said to the father of the man: "if you have this concern, why did your son

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these arrangements in order to maintain the family's close ties and honour. See, for example, A (A Child) (No. 2) [2011] EWCA Civ 12.

<sup>67</sup> All names of the individuals involved in the case studies described here are pseudonyms. The information for this particular case is based on the plaintiffs' written statement to the KPC members, my observations of the KPC meeting for this case and KPC judges, interview April 2011.

finish the marriage after one and half months? Your son wants to cover his dishonourable behaviour with another dishonourable action. It is totally up to her where she wants to live. It is not our duty or your duty either to decide where she should live." The KPC decided that the woman did not have to return to Turkey, and that the husband would be responsible for filing for an official divorce in Turkey. Both families agreed not to claim any financial compensation as part of this official divorce. They both agreed to pay their own court fees. The KPC decided that the husband should repay the wife's family share of the wedding cash (twenty thousand pounds), along with six pieces of gold.

This case illustrates the importance of the dual customary marriage and divorce processes: there are therefore two marriages and two divorces to consider, and the greater importance – in practice – of the customary system. Kurdish marriages (and divorces) are between two families within a community, rather than a purely private arrangement between two individuals. Kurdish marriages are, at least partially, business arrangements – with the couple given resources from the community to help them start their new life.

As in many of the other cases I witnessed, this example is of a trans-national problem, with trans-national solutions. Here, the members of the ex-wife's family already living in the UK were concerned for her not to be sent back to Turkey. Family members living in Turkey might blame her for the short marriage and perception of so-called 'family honour' could mean that her life would be in danger in Turkey. The wife's brother was in a strong position within her family, and could protect her not only from her own family but also try to prevent further gossip. Any gossip might put her at further risk – not only from a spoiled reputation within the Kurdish community, but also from her ex-husband and his family, who still clearly considered themselves as able to control her, even after the marriage had ended. It seems paradoxical that the husband, who has behaved so badly in this case, seems the most likely to initiate a blood feud – and endanger not only his ex-wife, but any new partners she might have. On the other hand, the wife's brother was simply concerned to resolve the case, and get a fair share of the money that had been given to the couple, rather than getting any financial or other compensation for his sister's potentially spoilt reputation. Even though the KPC involvement has helped reduce the possibility of a blood feud, it is difficult to know what the future will bring for the wife. If her family, and especially her brother, is powerful enough in the community then hopefully she will stay safe.

### *3.3. Case 3: Property dispute*

This case involves a dispute between three brothers and their parents in Turkey.<sup>68</sup> Two of the brothers live in the UK and the other lives in Germany. The dispute is over a property in Turkey: currently consisting of six separate apartments. An oral agreement was made within the family that each brother would have two apartments, and that an extra floor would be built in the future as another apartment for the parents to live in. All contributed financially in equal amounts. However, the ownership documents for the property were prepared in just one person's name, the eldest brother, who lives in London. This eldest brother refused to let work start on building the extra floor, or to let other family members use the extant property. This created conflict in the family. The brother who lives in Germany brought the case to the KPC in April 2011. The eldest, London based, brother was present and the parents were due to give telephone evidence to the KPC. The eldest brother, however, was not happy about the parents giving evidence

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<sup>68</sup> The information for this case is based on the plaintiff's statement to the KPC, my observation of the KPC meeting over this case, and interviews with the relevant KPC judges, August 2010. This case is also discussed in Tas (2013, p. 179-80).

and said: "it is not a good idea if you call our father and mother. They are old and ill. They should not take part in our disagreement."

The brother who lives in Germany interrupted him: "of course you do not want our parents involved. You know that they do not agree with you and they will say that you are a liar. They are our elders. They should take part in the decision." After this, a KPC member telephoned the parents. The phone was put on loudspeaker so that everybody in the room could hear what the father and mother were saying. The father repeated what his son from Germany had said, claiming:

We trusted our [eldest] son and put everything in his name. But, today, look at what he is doing to us. He does not have any shame and he has brought shame on our family. We cannot look in other people's eyes. Everybody knows that we have a problem in our family. This son is a greedy, grasping man. My other son worked very hard in Germany and gave him money for this building. My disabled son also gave all his savings. Their mother and I spent our time and energy to build this building. It is a family property. It does not just belong to one person. Because of our shameless son, we might even have to go to a state court to get what is due to us. But this would bring even more shame on us.

The mother also spoke on the phone, shouting at her eldest son: "I fed you, I looked after you and I gave you my milk. Look at what you are doing to us. I will regret having given my milk to you if you do not sort this problem out immediately." The eldest son immediately replied: "Mother, I am sorry. I want to apologise to you and my father. Don't worry, we will sort all this out quickly." An agreement was therefore reached such that: first, each brother was to have two apartments; second, the construction of the extra floor would start immediately; third, the three brothers agreed to contribute equally to the cost of building the extra floor. The KPC members also warned the eldest brother that his reputation as a local businessman was at stake if he continued to treat his family badly.

I have continued to follow this case. In August 2011, the whole family met in Turkey. The mother and father are now living in one of the six flats, and the others are being rented out to new tenants. Building of the additional floor has started, and the eldest son has received some additional monies from his brothers.

This case demonstrates several important generic points. Both the family involved, and the case itself, were trans-national. However, the use of a customary approach was considered appropriate for a trans-national conflict. The case illustrates how Kurdish families use oral agreements, based on trust, for significant financial and property matters. It shows how the official courts can be used as a threat to enforce agreements. The courts are, however, only an option of last resort, since they mean additional shame and damage within a family. Additionally, the case demonstrates the importance of family elders. Younger family members do not want to have these sorts of conflicts. It is especially important to avoid having a public intra-family conflict, since this may affect business and other reputations. The mother in this case must have already expressed her feelings to her errant son in private, so he initially tried to avoid her being given an opportunity to speak in public. When she did so, he was immediately repentant. Finally, this case demonstrates the value of detailed observational reporting – the only written record of the case is the initial two-sentence submission, and the (one paragraph) annotated agreement.

#### **4. Conclusion**

The research reported in this article has aimed to understand and, if possible, to explain the work of the unofficial Kurdish dispute resolution system in operation in the UK. The prime importance of setting any mediational practice in its cultural context has been underlined. For Kurds in the UK, kinship ties including marriages, frequent travel back and forth to other international Kurdish communities, and

cheap telecommunications all maintain strong ties with a real and imagined transnational Kurdish community or *gurbet* (diaspora).

In the *gurbet* context, the state legal system may not be followed by many Kurds for various reasons. Arriving as traumatised outsiders from a repressive regime and then experiencing similar difficulties in the course of their settlement in a new country, Kurds may lose whatever limited trust they had in the state legal system of their new host country. In the course of discussions with KPC members and other members of the community, it became clear that Kurds also wanted to hold onto their customs and their sense of identification with a community that has been under threat and that they have had to fight to preserve. They said that for even the smallest of their rights they had to pay a price in Turkey, and now that they are in the UK they have no intention of giving any of them up.

In addition, almost all of my interviewees agreed that they did not really understand the UK state legal system. This seemed alien and appeared to exclude them in terms of language, education and so on. Some Kurds have experienced resentment by officials when they tried to use the translation services which are theoretically available in the courts and other legal institutions. According to most of my interviewees, the official legal system is too expensive, too complicated and too inflexible to cater adequately for the needs of the Kurdish community. My informants told me that Kurdish customary methods of dispute resolution are generally cheaper, easier, swifter and more private, as well as being more appropriate to their own culture and individual circumstances. In this context, KPC and the Roj Women's Association want to take advantage of a pluralising society to regulate and develop their own 'unofficial' dispute resolution system. They also want to avoid the escalation inherent in the harsh mafia-style processes.

As Kurds arrived in the UK, they had to make many changes in their customary way of life. The KPC and Roj Women's Association recognize the new and different family and other legal challenges which have developed – and that these need hybrid forms of legal solutions. These will continue to change, alongside the community. Many of my interviewees were eloquent on this topic, even if they have not yet fully resolved their response to the more subtle sort of assimilation that they witness taking place in the UK.

The KPC practices have been described as customary. They have therefore been criticised as, by definition, being 'unfit for purpose' in the modern world, especially for those women who were disadvantaged in the 'bad old customary days' of village life. However, many of my interviewees – both female and male – believe that the KPC and Roj women do not prevent Kurds from modernizing. They repeatedly told me that the KPC offered what they thought of as justice – no less a justice than the state can offer. In fact, the hybrid and continuously developing nature of the KPC mediation processes acts to meet the needs of Kurds in a changing world. While the KPC is part of maintaining a dynamic Kurdish community in the *gurbet*, it is also a training ground for an imagined *welat*.

The Kurdish case-study shows how some ethnic groups can choose between a variety of options when they try to resolve their disputes – and that they tend to choose an option that delivers effective justice in a simple and economic way. Certainly, the 'unofficial' dispute process relieves pressure on the state courts: eighty per cent of the 3.500 cases that the KPC considered between 2001 and 2012 were resolved. In this light, we might ask whether the state wants to deal with all these disputes; or whether it would not do better to accommodate a plurality, rather than ignoring or rejecting the existing successful practices of different ethnic groups?

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