

Gypsy law

Peter T. Leeson

Received: 23 November 2012 / Accepted: 25 November 2012 / Published online: 7 December 2012
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Abstract How do the members of societies that can't use government *or* simple ostracism produce social order? To investigate this question I use economics to analyze Gypsy law. Gypsy law leverages superstition to enforce desirable conduct in Gypsy societies where government is unavailable and simple ostracism is ineffective. According to Gypsy law, unguarded contact with the lower half of the human body is ritually polluting, ritual defilement is physically contagious, and non-Gypsies are in an extreme state of such defilement. These superstitions repair holes in simple ostracism among Gypsies, enabling them to secure social cooperation without government. Gypsies' belief system is an efficient institutional response to the constraints they face on their choice of mechanisms of social control.

Keywords Gypsies · Superstition · Private order · Self-governance · Anarchy

1 Introduction

In developed countries, at least, the members of mainstream societies can rely on government to produce and enforce social rules that promote cooperation. For the members of many “fringe societies,” however, things are different. These societies, by choice or necessity, operate at the fuzzy edges, or beyond the bounds, of their host societies' laws. They can't use government to secure social order. For example, members of criminal gangs can't rely on the state to create and enforce rules that prevent conflict between them (see, for instance, Skarbek 2010, 2011, 2012a, 2012b). Nor can the members of many extreme religious or political sects, whose practices often run afoul of government-made law (see, for instance, Watts 2008; Fike 2012).

A growing literature documents the mechanisms societies can use to satisfy their demand for social order despite their inability to rely on government (see, for instance, Anderson and Hill 2004; Benson 1990; Ellickson 1991; Clay 1997; Koyama 2012). Chief among these is simple ostracism. For instance, members' shared need for rules against in-group theft leads

P.T. Leeson (✉)
Department of Economics, George Mason University, MS 3G4, Fairfax, VA 22030, USA
e-mail: PLeeson@GMU.edu

to a norm against theft that group members enforce by boycotting individuals who steal (Leeson and Coyne 2012).

The threat of such boycott can be a powerful enforcer of private law. If their members don't discount the future too heavily, societies in which individuals can cheaply monitor and/or communicate with one another, and in which individuals don't face significant free-rider problems in boycotting rule breakers, can leverage the specter of being ousted to ensure good conduct without government. In contrast, societies whose features preclude inexpensive monitoring/communication and create collective-action problems for boycotting rule breakers are unable to use simple ostracism for this purpose.

Together with the fact that some societies can't use government to produce cooperation, this limitation on the ability to use simple ostracism for that purpose raises a neglected question: How do the members of societies that can't rely on government *or* simple ostracism secure social order? Given the number of fringe societies that are outside the state's scope, and the rather stringent requirements societies must satisfy to use simple ostracism to promote cooperation, this question has important implications for the functionality and robustness of private legal systems.

My paper sheds light on this question. To do so it uses economics to analyze law in an (in)famous fringe society: Gypsies. Gypsy law is grounded in unusual superstitions that see unguarded contact with the lower half of the human body as ritually polluting, ritual defilement as physically contagious, and non-Gypsies as in an extreme state of such defilement. These beliefs "seem to defy any form of explanation or purpose" (Weyrauch 2001a: 2). They appear "irrational, antiquated, and mysterious"—the opposite of a sensible foundation for effective law (Carmichael 1997: 281).

But they're not. I argue that these beliefs are a highly sensible basis for Gypsy law. Gypsy law leverages these superstitions to enforce desirable conduct in Gypsy societies where government is unavailable and simple ostracism is ineffective.

Many Gypsies operate at the fuzzy edges of their host societies' law. Gypsies are nomads. And the members of Gypsy societies lack comprehensive commercial links to one another. These features of Gypsy societies create three central problems for creating Gypsy social order conventionally: an inability to rely on government to produce or enforce social rules; an inability to rely on simple ostracism because of the costliness of monitoring/communication; and an inability to rely on simple ostracism because of the public-good characteristics of boycott.

The unusual beliefs that underpin Gypsy law solve these problems. They make worldly crimes ritual ones, leveraging fear of the latter to prevent the former. They incentivize collective punishment of antisocial behavior despite the high cost of monitoring/communication by making pollution contagious. And they bolster the penalties of such punishment by rendering non-Gypsies dangerously defiled.

Gypsy law's superstitions repair the holes in simple ostracism that Gypsies confront, enabling them to secure governance without government. Gypsies' belief system is an efficient institutional response to their demand for law and order given the constraints they face on their choice of mechanisms for producing it.

This paper is most closely connected to the literature that examines the "law and economics of superstition." Posner (1980), for example, suggests that some primitive societies' superstitions may promote their well-being. More recently, I investigate how medieval legal systems leveraged superstition to secure criminal justice (Leeson 2012a). And elsewhere I examine how medieval clerics exploited beliefs in malediction to protect Church property rights against would-be predators (Leeson 2012b).

My analysis is also closely connected to the literature that examines the economics of private legal institutions. For example, Friedman (1979) considers the private legal institutions that stateless people in medieval Iceland used to create social order. I investigate 18th-century pirates' private legal institutions (Leeson 2007, 2009a, 2009b). And Skarbek (2010, 2011, 2012) examines self-enforcing arrangements that prison gangs use to produce cooperation.

This article contributes to these literatures by explaining how Gypsy law leverages superstition to create governance privately where government is unavailable and traditional institutions of private order are ineffective.

2 Gypsies and their law

2.1 Roma

“Gypsy” is an ethno-religious designation. It refers to the Romani people, or Roma.¹ These people have a peculiar belief system described below.² “Gypsy” also refers to a few ethnically non-Romani who “converted” by adopting Gypsy beliefs and who Gypsies accepted into their society. In this sense being a Gypsy is like being a Jew.

Gypsies originated in India.³ Gypsiologists are unsure about the precise reasons for their exodus. But they believe that Gypsies' migration began in the High Middle Ages.⁴

There are several Gypsy subgroups. The largest and most prominent one in the United States is the Vlax Roma.⁵ Unless otherwise noted, when this paper refers to “Gypsies” or “Roma,” it refers to the members of this Gypsy subgroup.

Societies of Vlax Gypsies vary in the particulars of their beliefs and practices. Moreover, those beliefs and practices have evolved over time. Despite this, there's sufficient similarity with respect to these items across Vlax Gypsy societies and over time to present a basic, but unavoidably over-generalized, portrait of “Vlax Roma beliefs and practices.”

Except where I explicitly contrast Vlax Gypsy beliefs and/or practices at the present to those in the past for the purposes of evaluating the implications of such changes over time, my discussion draws on material relating to the Vlax Roma from the 1920s through the 1980s and treats Vlax Gypsy beliefs/practices as static over those decades. In doing so

¹Gypsy population estimates vary wildly. These estimates are notoriously unreliable because Gypsies don't typically classify themselves as such when asked, like other people on the fringe of society are among the least likely to be counted in official census measures, and are commonly confused with various other ethnicities by officials. All such estimates should be taken with a grain of salt. However, according to one estimate, there are some 3–15 million Gypsies worldwide living in 40 countries (Weyrauch and Bell 1993: 340). This figure of course includes all Gypsy groups, not just the Vlax Roma.

²Though not technically a religion, this belief system, which defines ritually pure and impure, or moral and immoral, things/actions has religious/spiritual aspects. Gypsies' belief system might be described as a folk religion and is typically adhered to alongside an at least professed belief in the dominant religion (some variety of Christianity) of the host country in which a Gypsy society is located.

³The residents of the countries to which Roma migrated dubbed them “Gypsies” because they mistakenly believed that the Roma had migrated from Egypt.

⁴Gypsies have been persecuted since this time. In some places they continue to suffer persecution today. For an account of the history of Gypsy persecution, see Hancock (1987).

⁵Other prominent subgroups include the Finnish Kaale, located in Northern Europe, the Iberian Kaale, located in Spain and neighboring countries, the Sinti, located in German-speaking Europe, and the Romanichal, located in the United Kingdom.

I don't intend to create the impression that nothing has changed in Gypsy societies over this period. However, since the beliefs and practices I consider are fundamental ones, which, at least in kind, seem to have changed relatively little during this period, a static portrayal is sufficient for the purpose of presenting a basic picture of Vlax Gypsy beliefs and practices.

The most basic unit of Roma organization is the extended family, or *familia*. Multiple families, often with some kin relation, compose a Gypsy clan, or *vista*. Multiple clans compose a Gypsy "nation," or *natsia*. There are four Vlax Roma nations: the Kalderash, Lovara, Machvaya, and Churara. Economic partnerships between Gypsy families currently living and working together in a territory compose another Gypsy organizational unit: the *kumpania*.

Gypsies have two kinds of "leaders:" *bare* (or *shaturia*) and *pure*. *Bare* are administrative leaders—the first among elders in their communities. A *baro* oversees everyday community member interactions—in particular economic ones—in each *vista* or *kumpania*. He's also his *kumpania*'s interface with non-Gypsy authorities, such as police and social workers.

Pure are spiritual leaders. They're old, well-respected heads of large Gypsy families and clans. They govern the interpretation of, and adjudication under, Gypsy law. I discuss this law and *pure*'s role in it below. Administrative and spiritual leadership roles aren't mutually exclusive. An elder *baro* with a reputation for knowledge of Gypsy law may also act as a *puro* and serve as a *krisnitori*, a Gypsy judge.

2.2 *Romaniya*

Gypsy law is called *Romaniya*. *Romaniya* is customary and oral. It defines the rules Gypsies must follow according to their ritual beliefs. The core of these beliefs is the concept of ritual pollution, or *marime*, and ritual purity, or *vujo*. A person or object may be dirty, what Gypsies call *melyardo*, without being *marime*. What's *marime* is morally "soiled," but not necessarily physically so.⁶

Gypsies divide the human body's "cleanliness" at the waistline. Below the waist the body emits substances, such as urine, feces, semen, and menstrual blood, which are *marime*. These substances' polluting power is "contagious." Unguarded contact with the lower body may contaminate an individual and those with whom he has contact. Above the waist the body is *vujo*. The head, which is physically furthest from the ritually contaminated nether regions, is most pure.

Nearly all Gypsies' other beliefs, and the attendant *Romaniya* rules that govern them, stem from this division. I describe some of these beliefs below.⁷ My description isn't exhaustive.⁸ It can't be: *Romaniya*'s customary nature makes for ever-evolving particulars. Further, as noted above, particulars vary across Gypsy families, clans, and nations. Still, the basic principles are common (Fraser 1992: 244). They largely define what it means to be a "Vlax Gypsy." The examples I consider provide a sense of the seriousness with which Gypsies take their core belief in ritual defilement/purity and the extent to which it penetrates their thinking and regulates their behavior.

⁶These categories may overlap. For example, contact with fecal matter is both physically and, according to *Romaniya*, ritually polluting.

⁷My description of *Romaniya* below, and my description of Gypsy organization above, is based on the (largely overlapping) descriptions provided in Brown (1929), Clébert (1963), Lee (1967, 1997), Yoors (1967), Trigg (1973), Gropper (1975), Miller (1975), Sutherland (1975), Liégeois (1986), Sway (1988), and Weyrauch and Bell (1993).

⁸For example, I don't consider purity rules relating to pregnancy and childbirth, which are quite remarkable in their own right.

Menstruation makes the polluted state of women's lower bodies more potent than men's. Even women's skirts are *marime*: they contact their lower bodies directly. Thus women mustn't allow their skirts to have contact with men. Brushing a man when passing him may be enough to make him *marime*. If a Gypsy woman wants to assault a Gypsy man, she does so not with a weapon or her fists. She "tosses" her skirt at him.

Walking in front of a seated man, such that a woman's genital area passes in front of his head, will pollute him too. Walking over a man on the floor above the room in which he's present has the same effect. Women mustn't do it.

When preparing food, women must wear aprons. This blocks their skirts from polluting the food. When menstruating, women must refrain from meal preparation altogether: an apron can't block such a strong polluting power. Food that comes into contact with a menstruating woman becomes *marime*. Gypsies must destroy it. Women must also eat alone when menstruating. The risk of polluting others in such a defiled state is too high.

Non-menstruating women may also pollute food if they don't shield it from their lower halves properly. For example, when one group of Gypsy women was picking berries, one of them accidentally stepped over the harvested fruit. This defiled the berries supernaturally. The women had to throw them away (Yoors 1967: 165).

Naturally, sex is a delicate affair. It involves physical contact between bodies' lower halves. Oral and anal sex are *marime*. So is sex when a woman is menstruating. Nudity itself is problematic. Since women's genitals are exposed, they're liable to pollute the men they're facing unless they take appropriate precautions. Thus women mustn't undress in front of men without their backs to them. They must also awake in the morning before their husbands do to avoid exposing the men to frontal nudity.

Women mustn't wash their clothes with men's. Their contaminated undergarments will pollute the men's clothing. Once worn, these clothes would pollute their wearers. Clothing that isn't properly separated is *marime*. Gypsies must dispose of or destroy it. On similar grounds men mustn't walk under clotheslines on which women's clothing is hanging. The clothing's pollution power emanates from it and threatens the head. This would make the men passing under it *marime*.

The hands are tricky: they negotiate the body's upper and lower halves. Careful cleaning can prevent hands that have touched the lower half from contaminating the upper half. But Gypsies must take other precautions to avoid making themselves or objects they handle *marime*.

For example, Gypsies mustn't wash their hands in the same sink as dishes or eating utensils. Pollution on the hands from contact with the lower body will spread to the water. From the water it will spread to the sink. From the sink it will infect the dishes and utensils washed there. From dishes and utensils it will spread to food. And from food the pollution will infect the eaters. Similarly, Gypsies must never use sponges or cloths they also use to clean their bodies to wash dishes or cutlery. As one Gypsy put it (Sway 1988: 53–54),

You never take a sponge or a wash rag that you use to clean out the bathtub in the kitchen sink. It doesn't matter if you washed it out a million times. It would be *marime* because it touched the tub where your lower body was.

Dishes or utensils that a person washes in the wrong sink or with the wrong cloth become *marime*. Gypsies must destroy them. Even soap can pollute crockery if someone has washed his or her hands with it.

The lower body's spiritual pollution is so powerful that even directly referencing the polluting source or functions associated with it is taboo. One mustn't mention urine, fecal matter, genitals, or the bathroom. A Gypsy must pretend to be leaving the room for some

other purpose when he goes to relieve himself. Gypsies also frown on yawning. It suggests sleepiness. This in turn suggests a bed, which has *marime* connotations.

Cats and dogs are *marime*: they clean their genital and anal areas with their tongues. Gypsies should avoid physical contact with them. Thorough cleaning is important if they can't.

Any person who doesn't follow *Romaniya*'s rules for ensuring ritual purity is *marime*. Thus non-Gypsies, who in Romani are called *gaje*, and who by definition don't follow these rules, are in a constant and full-blown state of defilement. Gypsies look on them with contempt.⁹

A Gypsy must scrupulously avoid unnecessary contact with *gaje* lest he become *marime*. With few exceptions necessary contact is limited to economic interactions. Here, too, Gypsies must be on guard. For example, in *ofisi*—Gypsy fortune-telling businesses—Gypsies cover the seats with a protective slip to prevent *gajikano marime* from polluting them.

If a Gypsy must eat away from home, he typically will use his or her own disposable dishes and cutlery. By doing so he avoids becoming *marime* from contact with objects that *gaje* haven't handled according to the foregoing rules. If possible, he will consume prepackaged foods for the same reason.

Gypsies won't allow *gaje* into their homes' private living spaces. They may permit *gaje* into their homes' front rooms. But they will provide a *gajo* with a special seat reserved for non-Gypsies if possible. If Gypsies offer a *gajo* visitor food or drink, it will be in special cups or dishes, along with special utensils, reserved for *marime* individuals. By keeping separate dishware, Gypsies avoid contaminating their belongings and themselves.

3 An economic theory of Gypsy law

3.1 Three problems for Gypsy social order

Gypsy societies confront three obstacles to producing social order. First, for many their most important social relationships—their economic ones and those relating to marriage—Gypsies can't rely on government to produce or enforce social rules.

The Vlach Roma commonly engage in inter-*familia*, -*vista*, and -*natsia* economic cooperation.¹⁰ They pool resources to start and operate fortune-telling businesses. They work together in teams, tarmacking, tinning, and roofing houses. To restrict competition in their fields of work, Gypsies also collude. *Kumpaniyi* carve up geographic territories, each receiving the exclusive right to operate in a given area. For example, in Gypsies' most lucrative economic activity—fortune telling—*kumpaniyi* divide economic territories into three-block areas (Silverman 1982: 380; Sway 1988: 88).

In non-Gypsies' eyes, Gypsies are thieves. Gypsies have contributed to this stereotype by stealing from and/or defrauding *gaje* opportunistically. For Gypsies, using one's cleverness to relieve a *gajo* of his money or property is a virtue, not a vice.¹¹ Thus Gypsies don't scruple at defrauding fortune-telling customers or engaging *gaje* in other confidence games. Abusing and defrauding government welfare programs is also a popular and important economic activity for modern Roma.

⁹Weyrauch and Bell (1993: 337) translate *gaje* loosely as “barbarians.”

¹⁰On Gypsies' economic activities and strategies, see Lauwagie (1979), Williams (1982), and Silverman (1982).

¹¹For an odd defense of Gypsy criminality, see Lee (1967).

State courts won't enforce the terms of economic partnerships engaged in theft or fraud. Nor will they enforce collusive agreements.¹² Even if Gypsies weren't engaged in theft, fraud, or collusion, they rarely would be able to rely on state courts to support economic cooperation, as their "legitimate" economic activities are often illegal too. Many municipalities prohibit fortune telling. And Gypsies rarely seek or obtain the licenses and permits that local governments require of independent contractors and business owners to operate.

Marriage-related conflicts also threaten cooperation in Gypsy societies. As in most societies, in Gypsy societies, too, spouses seeking to dissolve their marriage contracts clash over the division of assets and children. Gypsy marriages involve brideprices. So their divorce clashes involve brideprice division also. To prevent such clashes from becoming destructive, Gypsies require some mechanism for resolving these divisions peacefully.

Gypsies can't use government for this purpose. Their marriages take place outside government's purview. Gypsies don't seek marriage licenses. Even if they did, in many cases government wouldn't give licenses to them. Gypsies often marry as young teenagers, sometimes younger still, before the customary legal age of consent. Further, state courts' willingness to recognize and enforce the brideprice aspect of Gypsy marriage contracts is highly uncertain. A state court that was willing to recognize a Gypsy brideprice would be unlikely to resolve its division to Gypsies' satisfaction in any case. Gypsies' understanding of which marriage party is more at fault for the union's failure, and thus how they should divide the brideprice, is unlikely to comport with *gajikano* understanding, which would produce different divisions.

Given these features of Gypsy societies, Gypsies must look beyond state institutions to resolve economic and marital conflicts. They must find substitute institutions for creating social order.

One place Gypsies might look is informal institutions. The most well-known and commonly used such institution is social ostracism. As I describe below, the threat of ostracism plays an important role in Gypsy governance. But, by itself, boycott isn't enough. The reason for this is found in the second and third obstacles Gypsies face for producing social order.

Ostracism is effective when a large fraction of a society's members can monitor their members' behavior cheaply and thus learn about whom to punish. In this case a rule breaker's status is known publicly and socially coordinated punishment through boycott is possible. If only a few individuals can cheaply monitor other society members and thus learn about who to punish directly, communication becomes important to make ostracism effective. When society-wide communication is cheap, the individuals who learn about who to punish directly can inform a large number of others, again permitting a socially coordinated boycott of the rule breaker.

For a large proportion of a society to monitor others directly and at low cost, many individuals must be able to observe, first hand, their fellows' behavior. Inexpensive communication, which may be substituted for monitoring, requires the small number of first-hand observers to know how and where to reach other society members so as to inform them of what they see. Without an inexpensive means of monitoring and/or communication, the members of a group are unable to coordinate boycotts of social-rule breakers effectively.

Historically, cheap, society-wide monitoring and communication has been unavailable to Gypsies. This unavailability creates Gypsies' second central problem for producing social order: an inability to rely on simple ostracism.

¹²There's some evidence that Gypsies engage in rent seeking by lobbying local public officials to keep fortune-telling illegal as a means of restricting entry into this industry; see Tyrner-Stastny (1977: 38).

Gypsies are nomads. They're often separated from one another, which precludes direct monitoring. Further, Gypsies' locations are changing continuously.¹³ In the past Gypsies arranged debris on roadsides and configured bits of torn cloth in nearby tree branches to communicate messages to passing fellow Roms (Yoors 1967: 126). Still, "As most of these Roms" were "constantly traveling about, the problem of communication with one another [was] a serious one" (Brown 1929: 158). Nomadism rendered direct monitoring impossible for all but a few and made society-wide communication very expensive for Gypsies.

Gypsies are different from most other small, socially homogeneous societies in this respect.¹⁴ Consider, for instance, Avner Greif's (1993) Maghribi traders. Maghribi traders were dispersed geographically. They therefore had to communicate information about coalition members' misconduct over long distances. But coalition members knew each others' locations and thus how to contact one another. Gypsies often didn't. Widespread access to mobile phones and the Internet has largely resolved this problem for modern Gypsies in countries such as the United States. But until relatively recently, Gypsy nomadism precluded inexpensive society-wide monitoring/communication.

The third central problem Gypsies face in securing social order is also one of relying on ostracism: for Gypsies, punishment suffers from a collective-action problem. When punishing a rule breaker is costly, for instance because that person is a friend or family member, or because finding out about others' histories takes time and effort, participation in punishment is a public good (Dixit 2009). This gives some society members an incentive to free ride on others' ostracizing activities. That incentive bleeds boycott of its power.

Many small, homogeneous societies that might rely on boycott to produce law and order privately don't confront this problem. Consider again the Maghribi traders (Greif 1989: 870). The Maghribi traders' group was a commercial one. In this context punishing dishonest coalition agents benefited coalition members rather than costing them. A dishonest agent's debtors benefited directly by cutting him out of the coalition: they got to keep the money they otherwise would have had to repay. A dishonest agent's creditors benefited indirectly by doing so: they stopped sending him goods for which he probably wouldn't have paid anyway. Every group member had an incentive to punish dishonest agents.

Gypsies aren't so lucky. Unlike the Maghribi traders, their societies aren't commercial ones. Gypsies don't have open accounts with all other members of their societies. Thus not every society member, and often only a few, stands to benefit from ostracizing an individual who has had bad dealings with another—particularly when that individual lies outside one of a Gypsy's immediate communities, such as his *kumpania*.

3.2 *Romaniya* as a solution to Gypsies' problems of social order

Gypsies leverage *Romaniya*'s superstitions to enforce desirable behavior in their societies when conventional institutions can't do so. They use the ritual beliefs that Gypsy law embodies, considered in Sect. 2, to solve their problems of using simple ostracism to produce social order. In this way Gypsies secure governance privately, which permits them to solve the other problem they face: an inability to rely on government to create and enforce social rules.

¹³Gypsy nomadism is less pronounced today than it was in past. However, it remains an important part of many Gypsies' lifestyles and identities.

¹⁴On the possibility of self-enforcing exchange in large, socially heterogeneous populations, see Leeson (2008).

According to Gypsy scholar Elwood Trigg (1973: 54), “it is only a short step from the concept of the antisocial to that of the unclean, or the forbidden.” There’s a good reason for this. By hitching rules governing antisocial behavior to rules governing what’s ritually “unclean” or forbidden, societies that can’t appeal to conventional institutions of social order can produce such order nonetheless.

Gypsies’ inability to rely on government for many of their most important relationships means not only that they must enforce social rules regulating such relationships privately. More fundamentally still, they must create those rules in the first place. *Romaniya* superstition achieves this by folding worldly crimes—traditional antisocial behaviors, such as theft and contractual breach—into its “spiritual” crimes, such as using the wrong bar of soap to clean one’s head. Thus the “unbending notion of purity (and impurity) which governs most [of Gypsies’] behaviour” described above has two meanings: one “spiritual” and the other very much of this world (Liégeois 1986: 84).

Under *Romaniya*, theft, fraud, contractual default, or violence toward another Gypsy is polluting just as is washing a woman’s clothes with a man’s, unguarded contact with the lower body, or eating from a fork that was washed in the same sink used for hands. These socially uncooperative behaviors are subject to the same taboos as the latter behaviors: one mustn’t engage in them. If a Gypsy does, he becomes *marime* (Weyrauch 2001b: 246, 263; Weyrauch and Bell 1993: 351). By designating crimes this way, the concept of *marime* creates what non-Gypsies recognize as laws.

Folding worldly crimes into ritual ones through the *marime* concept not only defines laws against traditional antisocial behavior. It helps enforce them. *Romaniya* superstition brings the “horror of pollution,” the fear of, concern for, and seriousness that Gypsies attach to prohibitions relating to upper/lower body interaction, to bear on prohibitions of behaviors that undermine social cooperation (Sutherland 1975: 99).

Fear of committing ritual offenses is powerful in Gypsy societies. Members believe strongly in the pollution regulations that *Romaniya* imposes. *Romaniya* ensures this. Membership in Gypsy society is voluntary. Thus the screening function of costly ritual prohibitions and proscriptions that Iannaccone (1992) describes in the case of religious groups is effective here (see also, Berman 2000).

The prohibitions and proscriptions that *Romaniya* articulates are costly. It’s hard to avoid common social situations and everyday occurrences, such as brushing against someone’s clothing, washing one’s hands in the kitchen sink, and walking beneath another person on the floor below her. It’s also costly to destroy valuables as *Romaniya* commands when Gypsies violate certain prohibitions, such as washing plates or utensils in the same sink as hands.

These rules seem absurd to non-Gypsies. That’s precisely why people who don’t believe in them are unwilling to remain in Gypsy society. The price of Gypsy membership is high. The benefits of membership, save those associated with protecting oneself from ritual pollution, which has value only to *Romaniya* believers, are low. Thus *Romaniya* screens out non- or weak-believers, leaving strong believers behind. The result is a society of individuals who repose great faith in *Romaniya*’s legitimacy and powerfully fear pollution.

Consider an episode involving a group of Gypsy men in the heat of a brawl. Fearful for her husband’s safety, one of the men’s wives pled with the brawlers to stop. They wouldn’t. This “wife was helpless,” an observer later recorded (Yoors 1967: 151),

and ... after having duly warned them ... she ripped off one of her manifold skirts and symbolically flailed them all with it. The fight stopped instantly as they realized they had become *mahrime* and no Rom, not even the closest male relatives, would have anything to do with them until the case was brought before the Kris and the burdensome onus of the *mahrime* lifted.

The “Kris” this observer refers to is Gypsies’ adjudication institution for violations of Gypsy law—things that are *marime*. This Gypsy court is an important part of treating worldly crimes as ritual ones under *Romaniya*. If one Gypsy accuses another of violating *Romaniya*—its worldly or “spiritual” prohibitions—the accused stands trial before a *kris Romani*. Often individuals related to the parties will first attempt to resolve the conflict through an informal arbitration procedure called a *divano*. One or more *bare* hear disputes at a *divano*. They listen to both sides and recommend a solution. If either party remains unsatisfied, the dispute escalates to the *kris*.

A panel of judges called *krisnitorya* presides at the *kris*. Gypsies select *krisnitorya* from the ranks of the *pure*, the spiritual leaders discussed above. At the *kris* both sides present testimony and evidence for their position. All adult Gypsy males are invited to attend and participate in the proceedings.¹⁵ They provide their own testimony, weigh in with their opinions, and attempt to influence the court’s decision. When all have had their say and the *krisnitorya* are content to offer judgment, the head judge renders his verdict.

As Gypsologist Rena Gropper (1975: 90) points out, for non-Gypsies, “criminal law is secular, and consequently we . . . differentiate between ‘crime’ and ‘sin.’” In contrast, for Gypsies, “sins (in the sense of transgressions against the godly way, the Gypsy way) are crimes and are subject to the *kris*.” Thus Gypsy judicial procedure is the same whether the defendant stands accused of a “spiritual” crime, such as intimate interaction with a *gajo*, or a worldly one, such as violating the cartel agreement that restricts his economic operations to a certain geographic territory. This procedure “uniformly applies the same standards of and methods of proof, without concern for the type of case” (Weyrauch and Bell 1993: 385).

Romaniya violations make the violator *marime*. So Gypsy law enforcement is largely self-executing. Pollution falls on the lawbreaker as soon as he breaks the law. The lawbreaker himself is the first line of legal monitoring and enforcement. His belief in *Romaniya* unleashes punishment on him “automatically” when he misbehaves (Trigg 1973: 55):

[I]n all cases of mokadi [i.e., *marime*], the power which causes it to be enforced is based primarily on fear of its violation that can only be described as essentially magic. The individual who violates a mokadi regulation exposes himself to dangerous powers of evil and destruction which are so intense that even his own family withdraws from him in fear of their safety. Such an individual becomes, in a manner of speaking, infected with evil and can be cleansed, and eventually readmitted to the safety of his society only by making some type of prescribed amends for the wrong he has done.

Still, self-knowledge of pollution may not be enough to dissuade all antisocial behavior if the potential lawbreaker considers the net benefit of misbehaving in a particular instance sufficiently high. Alternatively, a Gypsy may break the law but believe he’s justified in doing so for some reason. In this case enforcement won’t self-execute since the lawbreaker doesn’t believe his *Romaniya* violation is genuine and thus polluting.

In these cases Gypsies require stronger punishment to elicit cooperation. The *kris* facilitates such punishment. Similar to the way in which Gypsies leverage *Romaniya*’s “spiritual” rules to create and enforce worldly ones, Gypsies leverage the *marime* concept’s “spiritual” aspects to create worldly punishments that help them enforce *kris* decisions.

Besides ordering him to pay a fine, a *kris* may punish a lawbreaker by declaring him *marime*. A *marime* sentence officially banishes the lawbreaker from the society. Such a sentence may be temporary or, for the most serious transgressions, permanent. By publicly

¹⁵In some cases Gypsies also permit women to attend and participate.

declaring the lawbreaker *marime*, the *kris* creates common knowledge among a Gypsy society's members that he's defiled. This amplifies his internal shame with public contempt. A lawbreaker knows the scorn and disgust with which his fellow Gypsies view pollution. Thus making his polluted status public knowledge imposes a larger expected cost on antisocial behavior, discouraging a wider range of it.

Gypsies leverage *Romaniya's marime* concept similarly to enforce other *kris*-imposed punishments. For example, if *krisnitorya* find a Gypsy guilty of chiseling on the cartel his *kumpania* has established, they may order him to pay a fine to his *kumpania's* members. If he refuses to comply, the *krisnitorya* may threaten him with a *marime* sentence, exiling him from the society, consistent with banishment use of the *marime* concept noted above. This threat ensures that the guilty Gypsy complies with the original *kris*-ordered punishment: the fine.

By defining rules for the regulation of antisocial conduct and facilitating the “automatic” enforcement of those rules on the basis of *Romaniya's marime* concept, *Romaniya* superstition enables Gypsies to overcome the first problem they face in securing social order: an inability to rely on government.

The second and third problem Gypsies face in securing social order, recall, is the costliness of monitoring/communication, created by Gypsy nomadism, and the free-rider problem of punishing social rule-breakers, created by the absence of comprehensive commercial links in Gypsy societies, both of which weaken ostracism's power by undermining widespread coordination of punishment for social rule-breakers. Gypsies leverage *Romaniya* superstition to solve these problems through the belief that pollution is physically contagious.

Since violations of rules regulating traditional antisocial behaviors pollute the violator in the same way that violations of purity rituals do, the thief's or murderer's defilement is contagious just as is the defilement of the ritually impure person. Gypsy nomadism makes it costly for the members of distantly located and traveling Gypsy communities to learn when a Gypsy outside their community has violated *Romaniya* and they should punish him. However, the belief that *marime* is contagious gives Gypsies strong incentives to learn about the histories of individuals they don't know who appear in their community—to bear the high costs of seeking out information from others with direct knowledge of such individuals' *marime* status—lest they become *marime* too. Expecting other Gypsy communities' members to invest in learning about their past, would-be Gypsy outlaws expect that *kris*-imposed ostracism for cheating will be more effective. So they're less likely to cheat.

Similarly, the *Romaniya* superstition according to which pollution is contagious enables Gypsies to overcome the obstacle to creating social order they confront in light of the fact that, in their societies, boycott is a public good. The superstition that says a person can catch a rule breaker's supernatural defilement by interacting with him incentivizes each individual to avoid the contagious, antisocial individual despite the potentially high cost of doing so, lest he become *marime* too. Indeed, the fear of contracting pollution is so strong that even the Gypsies who are likely to find boycotting the rule violator most costly find it in their interest to do so. Thus as one Gypsy described a *marime* sentence's effect (Clébert 1963: 160–161):

Nobody in the world, neither his wife, nor his mother, nor his children will speak to [a Gypsy so sentenced] any more. Nobody will have him at their table. If he touches an object, even one of great value, the sacred law insists that this object be destroyed or burned. For everybody, the person is worse than if he were a leper. Nobody will even have the courage to kill him in order to cut short his misfortune, for merely to go near him would risk making *marime* whoever has tried to do so. When he has ceased living, nobody will accompany him to his last resting place.

Or as Gypsiologist Carol Miller (1975: 50–51) described it, *marime* actions:

join what should not be joined and upset the recognized order of things and events, so that calamity visits the family in a form of Sastimos [i.e., health] reversed, illness, loss of money, bad luck, unhappiness, insanity, and even death. The most vulnerable to these supernatural sanctions are the children of the *familia*, the extended family. For these reasons, whenever shames of any size become public knowledge, in order to protect the *familia* and to stay the tide of unpropitious events, the agent of the shame is libeled as *marime*, dangerous to himself and others.

The final way Gypsies leverage the superstitions that underpin *Romaniya* to enforce desirable conduct is through the belief that non-Gypsies are dangerously polluted. This superstition augments the collective punishment described above. Gypsies rarely communicate with non-Gypsies. So information about a dishonest Gypsy's conduct has difficulty flowing to the *gajikano* world. Thus the only economic opportunities an ostracized Gypsy forgoes are those of cooperating with other Gypsies. The Gypsy population is tiny compared to the *gajikano* one. So these opportunities are minor compared to the ones available to a Gypsy outside his community, potentially bleeding the power of even a perfectly comprehensive Gypsy boycott.

Gypsies address this problem by recruiting *Romaniya*'s central belief in pollution and purity. According to *Romaniya*, any person who doesn't adhere to its rules is defiled. He's ritually disgusting. This applies most potently to non-Gypsies since, by definition, they never adhere to any part of *Romaniya*. *Gaje*, recall, are in a permanent state of contamination.

Together with the contagion belief, this superstition makes Gypsies' threat of ostracism far stronger than it would be without it. Without the augmentation of social ostracism this belief provides, the *gajikano* world may not look so bad. Because of its superior economic opportunities, the *gajikano* world may even look preferable. The threat of being ousted may therefore be no threat at all. In contrast, with the additional sanction this *Romaniya* superstition provides, the *gajikano* world looks like a "spiritual" minefield.

Because of this, "[a]n escape into *gajikano* society is not an alternative for the banished wrongdoer Disdain for the non-Gypsy world, acquired in early infancy, maintains its hold over most Roma even after their expulsion from the community" (Weyrauch and Bell 1993: 359). Combined with the belief that *gaje* are dangerously defiled, the threat of being ousted becomes all-powerful. Indeed, some Gypsy lawbreakers who were thrust into the ultra-polluted *gajikano* world as punishment found death preferable and committed suicide (see, for instance, Brown 1929: 165; Gropper 1975: 100).

Gypsies' "legal system . . . derives its coercive force from magic" (Yoors 1967: 6). Yet it works because, not in spite, of this. Gypsies leverage the beliefs that underlie *Romaniya*'s "spiritual" elements to create and enforce laws governing their worldly interactions. The particular features of Gypsy societies prevent Gypsies from using government or ostracism alone to produce law and order. But their societies display it nonetheless. Gypsies build social order on superstition.

And it seems to work quite well. Jan Yoors (1967: 177), who spent many years among Gypsies, notes that "[a] theft from a fellow Rom was unheard of among the Lowara" Gypsies with whom he lived and traveled. Gypsiologist Irving Brown observed the same degree of cooperation in Gypsy society. "As for the morals of the Nomads in their relations among themselves," he noted, "they are probably higher than the average for the country at large." Violence occasionally breaks out. But "Cheating and robbing among themselves occur but very rarely" (Brown 1929: 165, 166; see also, Lee 1997: 370).

4 Predictions and evidence

My theory of Gypsy law generates several predictions. The evidence supports them.

1. Gypsy societies that don't confront serious problems of social cooperation lack the key superstitions discussed above.

According to my theory, the *Romaniya* superstitions whereby defilement is contagious and the *gajikano* world is dangerously polluted persist in Gypsy societies to support law and order where, without these beliefs, social cooperation would break down. As I pointed out in Sect. 3, Gypsies confront two categories of potential conflict in particular that threaten to undermine cooperation: those relating to economic relationships and those relating to marriage. Gypsies can't rely on government or ostracism alone to support cooperation for many of these relationships. So they leverage the superstitions that *Romaniya* embodies for this purpose instead.

But these superstitions are costly. Tracking every community member to establish whether, for instance, they wash their dishes with the wrong sponge, and avoiding interaction with those who do, is time-consuming and inconvenient. So is living in constant fear of being contaminated by a non-Gypsy and therefore foregoing nearly all contact with the non-Gypsy world. My theory of Gypsy law thus predicts that when the benefit of these beliefs is low because Gypsies don't face important problems of social cooperation, such as those relating to economic relationships or marriage, we won't find them.

And we don't. At least one Gypsy society's members, the Finnish Kaale, have neither significant economic interactions nor the institution of marriage. Unlike the Vlax Roma, the Finnish Kaale engage in partnerships and other forms of economic cooperation overwhelmingly at the kin-group level. Inter-kin group economic relations are rare (Grönfors 1997: 309).¹⁶ The comparative absence of attempts at economic cooperation among Kaale Gypsies compared to their Vlax counterparts greatly reduces the scope for conflicts that might arise out of economic interactions among the former.

In contrast to Vlax Gypsies, Kaale Gypsies are also notable for what Kaale Rom scholar Martti Grönfors (1997) calls their "institution of non-marriage." As Grönfors (1997: 317) describes it, "the Finnish Roma ignore the institution of marriage altogether." They forbid it. Thus Kaale Gypsies "have no accepted way in which two individuals can legitimately form a marriage-type relation" (Grönfors 1986: 103).

Institutional non-marriage among the Finnish Kaale precludes the main sources of marriage-related conflict among the American Vlax Roma: matters of brideprice and divorce. Kaale Gypsies don't recognize marriage. So they have no brideprices. Nor do they have divorces.¹⁷

Finnish Kaale Gypsies' organization is peculiarly non-social in important respects. They face relatively few problems of social cooperation. Thus we don't find among them the

¹⁶Kaale kin groups tend to pursue economic activities in separate territories, each group viewing one territory as its own. Thus those groups monopolize the regions in which they live. However, this "cartelization" is different from the Vlax Roma's. Kaale cartelization is informal and tacit. Vlax Roma cartels are explicit inter-*kumpania* agreements to restrict competition.

¹⁷Finnish Kaale Gypsies do in fact "divorce" just as they "marry" clandestinely and without acknowledgment. However, since, like marriage, divorce officially doesn't exist, the potential conflicts that require adjudication when American Vlax Roma marriages end don't, and in fact can't, create conflicts when Finnish Kaale Gypsy (non-)marriages end.

key superstitions that we find among the Vlax Roma for overcoming the more significant problems of social cooperation the latter face. Like Vlax Gypsies, Finnish Kaale Gypsies have a *marime* concept and ritual taboos associated with spiritual pollution/purity. However, *marime* isn't physically contagious according to their beliefs as it is for Vlax Gypsies who rely on this superstition to facilitate collective punishment of lawbreakers.

Further, the *gajikano* world isn't as dangerously polluted according to Kaale beliefs as it for Vlax Gypsies who rely on this superstition to augment such punishment. Indeed, "the Finnish Roma considered the non-Roma to have no power to pollute the Roma or anything belonging exclusively to that community." According to their beliefs, "there [is] no need to fear contamination from the outside" (Grönfors 1997: 317).

Thus male Kaale Gypsies have sexual liaisons with *gaje*. They openly acknowledge this in front of other Gypsy men and women. And they suffer no diminution in reputation or social approbation for doing so. This contrasts sharply to Vlax Gypsies for whom, "with the exception of . . . making money or by reason of economic necessity, the *gaje* are forbidden to Rom contact and association" because of *gajikano* pollution (Miller 1975: 46).

Nor do Kaale Gypsies have an institution like the Vlax Roma's *kris*. Their interactions are intensely kin-focused. Ritual violations or uncooperative conduct predominantly affect one's kin-group members, not members of other kin groups. Thus kin groups handle these issues internally. Kaale Gypsies have no need for a more formal or encompassing adjudicative body that would promulgate and enforce laws regulating the invisible or visible world. So they don't have one.

The infrequency of inter-kin group economic relationships and absence of marriage among Finnish Kaale Gypsies doesn't mean that they face no potential situations of social conflict, of course. Even when interaction is limited, inter-kin group conflicts can emerge. Kaale Gypsies require some way of handling such conflict. Instead of the *kris*, their way is blood feuding (see, for instance, Grönfors 1986; Acton et al. 1997).¹⁸

Blood feuding is more costly to society than the *kris* and the superstitions that underlie it *ex post*—i.e., after conflict has emerged. Protracted threats of inter-kin group violence destroy more resources than peaceful conflict resolution in a Gypsy court. But blood feuding is cheaper than the *kris ex ante*—i.e., before conflict emerges. Unlike Gypsies who rely on the *kris*, Gypsies who rely on blood feuding don't need to identify spiritual leaders, establish encompassing law, or develop and maintain beliefs that make certain kinds of social interactions dangerous, such as that which requires one to shun people who clean their dishes in the wrong way or to avoid the entire non-Gypsy world.

This makes the blood feud an efficient institution of social order in a society that can't rely on government or ostracism alone to regulate antisocial behavior and expects relatively few social conflicts. Such is the case for the Finnish Kaale Gypsies who tend to interact within kin groups rather than between kin groups. In contrast, the *kris* and its associated institutions of enforcement, such as the notion of contagious pollution and *gajikano* defilement, is efficient in a society that expects relatively more social conflicts. This is the case for the Vlax Roma who commonly interact with Gypsies from other families, clans, and nations.

2. *Gypsies' belief in pollution and the importance of attendant ritual proscriptions that Romaniya imposes should be stronger for individuals who are more likely to behave antisocially and weaker for individuals who are less likely to do so.*

¹⁸On the law and economics of blood feuding along the 16th-century Anglo-Scottish border, see Leeson (2009c).

Not all Gypsies are equally likely to behave in ways that threaten social cooperation. Children are less likely to murder, steal, defraud, or renege on contracts than adults. In addition to being less capable, children aren't yet integrated into the economic world. Thus their opportunities for such behavior are more limited too. Seniors are less likely to behave opportunistically for similar reasons. Indeed, 96 % of violent crimes and 95.2 % of property crimes in the United States are perpetrated by post-pubescent individuals or individuals who haven't yet reached the age at which women enter menopause (DOJ and FBI 2004).

Since the *marime* concept and attendant ritual proscriptions that *Romaniya* imposes are costly, and subjecting Gypsy children and seniors to that concept and its proscriptions would generate little benefit in terms of preventing antisocial activity, my theory of Gypsy law predicts that Gypsies should relax the belief in ritual pollution and attendant ritual proscriptions that *Romaniya* imposes for their children and seniors.

The evidence supports this prediction. Under *Romaniya* the power to pollute others and to become polluted by failing to abide by the ritual proscriptions discussed in Sect. 2 follows the lifecycle. "Children are believed to be blameless to sin, including defilement, because they are new and innocent, and not yet fully aware of the consequences of their deeds" (Miller 1975: 43). Thus they "enjoy a privileged status in society until puberty, when they become subject to *marime* taboos" (Weyrauch and Bell 1993: 343).

Gypsies are subjected to the full force of the *marime* concept and *Romaniya*'s ritual proscriptions until they become elderly. For women this means until they enter menopause. In their old age Gypsies regain part of their immunity against pollution. "Old people are highly respected and are regarded as intrinsically moral and clean" (Sutherland 1975: 263).

Pollution's contagiousness also follows the lifecycle. Children can't become *marime*. Thus they can't transmit pollution if they do something that would be *marime* for an adult. Elderly Gypsies also are less contagious. For example, post-menopausal Gypsy women can't pollute others spiritually by tossing their skirts at them. Similarly, according to Gypsy belief, children are less prone to *gajikano* contamination than adults. For example, they may eat *gajikano*-prepared food and interact more freely with *gaje* without contracting *gajikano* pollution (Sutherland 1975: 262).

The lifecycle stage in which Gypsy *marime* immunity dissolves and becomes *marime* susceptibility—puberty—corresponds to Gypsies' full entrance into the social world and participation in economic activity. This is the lifecycle stage when awareness of, ability to exploit, and the number of opportunities for socially destructive behavior increase dramatically. Around the time of puberty Gypsies marry and become genuinely socially and economically engaged.

Similarly, the lifecycle stage in which Gypsy *marime* susceptibility dissolves and becomes *marime* immunity—menopause/seniority—corresponds to Gypsies' exit from important aspects of social and economic activity. This is the lifecycle stage in which the ability to exploit, and number of, opportunities for socially destructive behavior decrease dramatically. In old age Gypsies retire and focus on their role as spiritual leaders. Their marriages either are successful, and thus unlikely to create conflict, or have ended because of spousal death or divorce when they were younger.

3. *As the strength of Gypsies' superstition wanes, so does their reliance on Romaniya to secure social order.*

According to my theory, Gypsies leverage the superstitions that underpin *Romaniya* to solve problems they face in using conventional institutions of governance. *Romaniya*'s solutions are effective when Gypsies' belief in the superstitions that underpin their law is strong.

They're ineffective when that belief is weak or non-existent. In this case fear of becoming *marime* doesn't discourage antisocial conduct. The specter of contracting pollution from an antisocial Gypsy doesn't facilitate collective punishment. And the *gajikano* world doesn't appear ominous, weakening Gypsies' fear of expulsion from Gypsy society. Without belief in *Romaniya*'s superstitions, the *kris* and its power to help enforce laws against antisocial behavior collapse. Thus my theory of Gypsy law predicts that as the strength of Gypsies' belief in these superstitions wanes, so must their reliance on *Romaniya* and its related institutions to secure social order.

This is what we observe. Over the last 60 years Gypsies' belief in the key superstitions that underlie *Romaniya* has weakened considerably. So has their reliance on *Romaniya* and its supporting institutions to facilitate social cooperation.

According to Canadian Gypsy and Gypsiologist Ronald Lee, belief in the *marime* concept—*Romaniya*'s cornerstone—has eroded considerably. The idea of spiritual pollution still exists. But “the younger generation of Rom in the United States,” for instance, has “difficulty in defining just what a *marimé* offense is” (Lee 1997: 381).

Belief in the *marime* concept has eroded in other Gypsy societies over the last half century too. Writing in 1990, Gypsiologist Angus Fraser (1990: 11) notes that “the taboo code is gradually weakening among the Sinti” Gypsies found in Europe. Gypsiologist Jerzy Ficowski (1951: 132) indicates that *marime* taboos were already declining among Polish Gypsies in the 1950s. Similarly, writing in the early 1970s, Gypsiologist Thomas Acton (1971: 117) notes a “relaxation of [*marime*] taboos” among the English Romanichal Gypsies.

Acton observed that these Gypsies didn't care about separating clothing by gender, didn't observe most menstrual taboos, displayed less sexual differentiation in their taboos, and in general took a more flexible approach to *marime*, viewing *Romaniya* more like a set of recommendations than a body of law they to which should rigidly adhere. This contrasts sharply with the way Gypsiologist T.W. Thompson (1922) described the English Romanichal in the 1920s when Gypsies took the *marime* concept more seriously.

“Through the years ... many taboos have fallen into disuse among gypsies while the observance of others is definitely in decline” (Trigg 1973: 54). Thus among the Vlax Roma who traditionally use these taboos to enforce Gypsy law through the *kris*, reliance on the *kris* has declined too.

Lee (1997) reports that among the younger generation of North American Gypsies in particular—the same generation that reposes the least faith in the superstitions that underlie *Romaniya*—the *kris* has become unpopular. As he puts it, “more and more younger Rom refuse to take the old customs seriously” (Lee 1997: 384). In 1986, 200 Gypsies from 26 US states convened a meeting to discuss the *kris* crisis. “This meeting was convened because Rom leaders felt that the overall effectiveness and structure of the *kris* was being eroded and weakened and that consolidation and reaffirmation of its strength were needed.” The meeting participants also discussed “the *marimé* code, which many felt is becoming vague among the younger Rom” (Lee 1997: 390).

The *marime* concept's and *kris*'s growing weakness has diminished *Romaniya* superstitions' effectiveness as solutions to Gypsies' problems of using conventional means to secure cooperation. Thus, in the period of *Romaniya* superstitions' erosion, Gypsies increasingly have substituted away from *Romaniya* toward their host societies' government for this purpose. Many Gypsy interactions are unenforceable in state courts. However, for those that are, Gypsies have begun testing these courts as venues through which they might support social order.

In the late 1980s Gypsies in southern California attempted to integrate the *kris* and California's state court system to improve the former's power (Weyrauch and Bell 1993: 357).

The *kris* oversaw Gypsy conflicts. It then sent its findings to the appropriate state court where public judges would use this information to guide them in handling Gypsy conflicts that came to their attention. Modern Gypsies' attempts to abuse the state legal system to help them enforce community cooperation partly precipitated the need for such an arrangement. Unable to secure guilty parties' compliance with *kris* decisions because of waning belief in the superstitious sanctions that undergird it, Gypsies increasingly have taken to falsely accusing these individuals of various crimes to government officials. By doing so they're able to use the threat of the state's legal apparatus to force *kris*-convicted Gypsies to comply with *kris*-ordered punishments.

Gypsies' reliance on state legal institutions contributes to a cycle that slowly unravels *Romaniya* and thus Gypsies' ability to use it to produce social order. That reliance reduces their need for firm belief in the superstitions that underlie *Romaniya*. Weaker belief in these superstitions increases their need to rely on state legal institutions. This reduces Gypsies' need for belief in *Romaniya*'s superstitions, further weakening those beliefs, and so on. Because of this process, "Compared to what it was even thirty years ago . . . the *kris-Romani* is not what it used to be in terms of its ability to administer problems that arise in the Rom-Vlach community" (Lee 1997: 360).

5 Concluding remarks

My economic analysis of Gypsy law leads to several conclusions. First, it highlights how societies can and do leverage unusual, scientifically unfounded beliefs to enforce desirable conduct when and where their features prevent them from relying on conventional institutions for this purpose. In doing so my discussion sheds light on the functionality and robustness of private legal systems.

When a society's members' most important relationships and activities are illegal or unrecognized by government, monitoring/communication is costly or impossible, and collective punishment is a public good, neither government nor simple ostracism can supply effective governance. Such is the case for one of history's most important fringe societies: Gypsies. By leveraging superstitions that define and enforce good conduct, Gypsy societies produce governance nonetheless.

Vlax Gypsies accomplish this through the unusual beliefs that underlie *Romaniya*: Gypsy law. They leverage the idea of ritual pollution to create rules against theft and violence. They recruit the fear of contamination to prevent individuals from violating them. Gypsies' belief that *marime* is contagious strengthens enforcement. They leverage this concept to incentivize and coordinate collective ostracism of lawbreakers. Gypsies' beliefs, according to which the non-Gypsy world is dangerously polluted, aids enforcement further. They leverage this notion to strengthen the punishment of ostracism, deterring a wider range of antisocial behavior.

To assist in the identification and punishment of lawbreakers, Gypsies created a private court, the *kris Romani*, itself supported by *Romaniya* superstition. In addition to using the *kris* to adjudicate infractions of *Romaniya*—"spiritual" and worldly—Gypsies use it to transform legal violations, *marime* activities, into legal punishments, that is, *marime* sentences. The historical success of Gypsy law built on superstition helps explain the persistence of Gypsy beliefs and societies. Gypsies' belief system is an efficient institutional response to the constraints they face on their choice of mechanisms of social control.

Second, my analysis helps explain why self-enforcing legal arrangements seem to emerge so often among individuals with common religious beliefs. The Amish, Greif's (1993)

Maghribi traders, Evan-Pritchard's (1940) Nuer, Thies' (2000) American communes, Gypsies, and many other groups that developed self-enforcing legal institutions have members who share common superstitious beliefs grounded in their respective religions. Self-enforcing legal institutions can and do emerge in groups whose members don't share such beliefs. However, from the standpoint of self-enforcement, groups in which members do share them have a comparative advantage.

Religious beliefs typically consist of rules that govern both the spiritual and the corporeal world. Thus groups whose members share spiritual beliefs have built-in means of fostering private order. Here individuals can use already existing rules that govern their spiritual realm to create and enforce rules that govern their worldly one. Richman (2006), for example, points out that this why diamond trading—an industry whose characteristics preclude government enforcement—is concentrated in the Jewish community and not a community of people without religious bonds.

Finally, my analysis suggests that superstition's emergence and persistence needn't be senseless. Nor is it totally unpredictable. On the contrary, we can predict that certain kinds of superstitions will emerge and persist in precisely those instances where they make most sense: where conventional institutions of law and order fail.

Acknowledgements I thank Gary Becker, Pete Boettke, Chris Coyne, Tom Ginsburg, Robert Lawson, Richard McAdams, Richard Posner, Jens Prüfer, Jesse Shapiro, Andrei Shleifer, and William F. Shughart II for helpful suggestions and conversation. Dan Smith provided valuable research assistance. I also thank the Becker Center on Chicago Price Theory at the University of Chicago where I conducted this research.

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