

Review of: "Legal Pluralism, Familial Honour and Shariat: A Case of Alternative Dispute Resolution within a Muslim Clan, Uttar Pradesh, India"

Stig Toft Madsen¹

¹ Copenhagen University

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I am not familiar with the review practice of *Qeios*, but for once I will bow to the superior wisdom of the *Qeios* algorithm and comment on the paper.

The focus of the paper is a plot of land located in the qasba of Badheria somewhere in the doab of erstwhile Awadh, i.e., in a small town between the rivers Ganga and Yamuna somewhere to the west of the city of Allahabad in Uttar Pradesh, India. The paper attempts to look at property relations around this piece of land from the point of view of legal pluralism. It is not clear how big this piece of land is, and how valuable it is, but we are told that there is, or has been, a mango orchard on the plot.

The land, we are given to believe, belongs to a maulana, i.e. "a Muslim doctor of law", residing in Delhi and to other descendants of an erstwhile zamindar, or landlord, who used to reside in Badheria. The maulana's wife was married to the maulana's cousin. When that cousin died, the maulana took his widow in a kind of levirate marriage. The zamindari-family, the khandan, is of Pathan descent, i.e., they are high-ranking Muslims originally from Afghanistan. There are other Pathans in the small town, but the majority of inhabitants are Hindu Yadavs.

Apparently, the land had been left somewhat unattended until a younger enterprising family member returned from abroad, and wanted to build a school, and, perhaps, eventually a medical college and a university on the land. Building private educational institutions is a thriving business in UP, but we are not introduced to the literature about schools and colleges.

We are not clearly informed what legal status the land has, and who may have staked claims on it. It appears that the zamindar-family lost most of its land not at the time of partition, when some of them may have migrated to Pakistan, but later during the zamindari abolition in the 1950s, when land reform redistributed land from landlords to erstwhile tenants with occupancy rights and to others. Perhaps the land on which the landlord had built his residence was not redistributed.

We are told that "the elders" of the qasba, the enterprising NRI and the maulana, and maybe others agreed (through a political rather than a legal process?) to create a trust to build a school. Apparently, the family, the wider baradari consisting perhaps of Pathans in the village, and the elders – who would include Yadav leaders of various factions - all concurred on this, and the school was built. Property is sometimes secured by creating a waqf. The Yadavs may not have

had an interest in this. Maybe that is why a school was easier to agree on.

It is uncertain whether the school later evolved into a university or a medical college. It is also not clear to me whether creating a trust was a smart legal move that forestalled potential conflicts, or whether it was the protracted negotiations between important males in the qasba that secured the peace, or whether, as it is also indicated, it was the magnanimous refusal on the part of high-bred females to seek a share of the property under Islamic law or state law that ensured the peace and furthered the process. The key person here appears to be the wife of the maulana. Had she made use of state law, or possibly of Islamic law (about which her husband was knowledgeable) to claim a share from her diseased husband, she could have derailed the project. Apparently, she did not. Thus, Islamic law was not activated. The law, thereby, became LESS plural, undermining the general argument that several forms of law were resorted to. Pathan kinship systems are well described, but the article does not make much use of it. Pathans sometimes practice parallel cousin marriage, i.e., two brother marry their respective children to each other to keep the property and the house, or fort, together. Levirate may be uncommon today, but it is interesting and the author would do well to study Joseph Henrich's book "The Weirdest People in the World: How the West Became Psychologically Peculiar and Particularly Prosperous", which explains the importance of the ban on levirate imposed by the Christian church in 315 CE (p. 172). The maulana and his wife here seems to follow the Pathan code. This, perhaps, helps the school project along. As the author notes, "On being asked, whether Maulana in his capacity as an expert on Islam and Islamic jurisprudence, participates in the process of adjudication, he replied in the negative. He thinks that he is not well suited for such responsible and serious jobs." Better to follow tribal custom and to get the school registered as a trust! The maulana himself concludes, "... our family structure is different from that of the Western society. Here relationships are valued more than material things." Or, in my words rather: Here solidarity securing the economic and political interests of the lineage or clan is more valued than Islamic precepts and individual freedoms.

The paper draws on data collected nine-ten years back. The most recent reference is from 2012. Thus, the writer has had ample time to reflect on the content of the paper, and also to go to Badheria, which may not be too far from her present place of work. The author is interested in legal anthropology. Fieldwork would be methodologically appropriate.

I would suggest that the author redrafts the story to make it clearer – and also clearer than I have managed to do – and with stronger links to the theoretical questions at hand. Writing in both the Abstract and the Conclusion that "Legal pluralism, contrary to the belief of some scholars, is a thriving phenomenon and has been vibrant through different eras" is a non-starter, especially as the author also (unintentionally?) succeeds in casting aspersions on BD Metcalf by including Metcalf among "some scholars".