
Legal Autonomy as Political Engagement: The Ladakhi Village in the Wider World

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Local systems of law are constantly forced to adapt to powerful external legal orders. As well as employing tactics of resistance and accommodation, some communities respond by maintaining boundaries around their legal sphere, safeguarding a measure of judicial autonomy. This article examines one such instance, from the Indian Himalayas. It argues that, much more complex than a case of domination and resistance, this autonomy represents a long history of deference and distance toward external forces. The maintenance of legal autonomy ultimately represents community ontology, but it is also a means of engaging with wider forces within the modern world.

It is many years since Moore proposed the “semi-autonomous social field” (1973:742) as an object of study by legal anthropologists. The idea, as she expressed it, was to provide a means of examining connections between the internal workings of a local field and its points of articulation with a larger setting. Many subsequent studies have examined local legal fields in the context of larger systems of power and politics. As Moore pointed out, almost three decades later, recent trends in legal anthropology have been toward

a very much wider vision of the political milieu in which law is imbricated . . . [to] inspect legal data for inputs and events in the global political turbulence of the day . . . [because] it is evident that nothing is merely local in its formation or in its repercussions. (2001:110)

In her original article, however, Moore had also emphasized the issues of autonomy and isolation as topics of enquiry

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(1973:722). These have received far less explicit attention in the subsequent literature. Anthropologists have tended to focus on the impact (and manipulation) of wider legal systems on the creation of local legal forms, rather than on the maintenance of autonomy and the existence of boundaries around a legal sphere. I would argue that the issue of autonomy, itself, and the question of how and why it is maintained within the modern world, deserve more anthropological attention.

I suggest here that the boundaries drawn around a local legal field, in this case a village of Ladakh in the Indian Himalayas, are a crucial component of the complex relations between that community and the political and religious centers of power in the region. The population of the village that I describe has internalized and been shaped by a number of external forces. The villagers were compelled to bow to the fiscal and military power of a long line of kings. Their ritual practices have been profoundly, albeit not completely, shaped by the principles of Buddhism, whose establishments and leaders are acknowledged as the highest religious authorities. They have adopted the social hierarchy that maintained the superiority of a small aristocracy and have extended it to encompass those who have achieved new forms of status in the administration of the modern Indian state. They also recognize and, now, rely upon the economic center of power, in particular for the cheap food rations and transport provided by the modern administration.

At the same time, however, the villagers do not look to any external authority in order to resolve their disputes, actively and expressly keeping them out of sight of police and legal authorities. They do not recognize state laws, and the social changes initiated by statute are unacknowledged and imperceptibly assimilated. They are reluctant to adopt social and agricultural innovations and resist the interference of the officials and development workers who attempt to institute development projects. Moreover, and in stark contrast to the ideologies of the Dalai Lamas' regime in central Tibet, they have for centuries denied the authority of religious leaders over their political and judicial processes. The question that needs to be answered is how, but also why, such legal autonomy is pursued and achieved within the modern world. I would argue that autonomy may represent not so much a lack of interaction with external forces as an active engagement with them.

Legal Culture in Legal Anthropology

Issues of autonomy have been pushed to the margins of legal anthropology, it would appear, as writers have taken more interest

in the permeation of wider systems of law and power. As Bourdieu (1987) pointed out, official legal systems have become a pervasive force at all levels. Nader has strongly advocated the examination, by legal anthropologists, of “controlling processes” and “the transformative nature of central ideas such as coercive harmony that emanate from institutions operating as dynamic components of power” (1997:712). Likewise, in the introduction to their edited volume, Starr and Collier argue that law and legal forms should be seen “as arising from particular historical negotiations between and among groups, or as resulting from particular systems of hierarchy and domination” (1989:24)¹ In doing so, they imply a criticism of works that focus on normative systems and on the question of how societies achieve the peaceful resolution of disputes.

The impression given is that local legal forms, to the extent that they do not represent some interaction with wider forces, are of little interest, surviving fragments of social structures that existed before the intervention of the state. Geertz’s (1983) call to regard law as “local knowledge” seems no longer to be sufficient, and doubt is cast upon those studies that adopt his “interpretative” approach, analyzing a legal culture on its own terms, as an internally coherent (or incoherent) system of ideas and beliefs, epistemologies, and moralities. Yngvesson, for example, argues that the “interpretative approach illuminate[s] the diversity of law by focusing on local production of meaning” (1989:1690), but it is

less attentive to the centrality of power in the meaning-making process; questions of how the kind of interpretation produced is shaped by actors who are endowed with particular social characteristics are unexplored. (1989:1690)

Legal anthropologists have long concerned themselves with the interaction between different legal orders and the negotiation of ideologies during local disputing processes (Holleman 1974; Comaroff & Roberts 1977, 1981; F. von Benda-Beckmann 1979; Benda-Beckmann & Benda-Beckmann 1985). Many studies have explicitly focused on the impacts and manipulation of national and international legal norms, such as Yngvesson (1989), Harrington and Merry (1988), and Merry (1990), in their discussions of court use and mediation in the United States. Wilson (1997, 2000) describes the way in which international principles of human rights have had a profound impact at the local level, often being adopted and employed as a means of local empowerment and resistance. Keebet von Benda-Beckmann (1984) has also demonstrated how the integration of the forces of governmental or international law into

¹ This type of approach has also been used particularly effectively in the pieces on hegemony and resistance in Lazarus-Black and Hirsch (1994).

the spaces of local interaction can give rise to the phenomenon of “forum-shopping.” Within Tibet, French (1995) has argued that the cosmologies of Tibetan Buddhism were fundamental to the legal practices and understandings of conflict and law.

Such studies rightly place local legal fields in the context of wider normative orders, and many of them blur the boundaries between these different spheres. However, they tend to draw anthropological attention away from the existence of boundaries that distance the external world. Other studies have demonstrated the valuable insights that can be gained from the analysis of indigenous legal ideas. Greenhouse, for example, in her study of a Southern Baptist community in the United States (1986, 1988), argues that the local “ideology of law provides the symbols in terms of which people make sense of changing social patterns” (1988:705), while Just, discussing the Dou Donggo of Indonesia, describes the way that conflict resolution practices involve the elaborate construction of moral narratives, which reinforce the moral ontology of the community (2001:15, 106).²

The apparent dichotomy between the “hegemonic” and the “hermeneutic” approaches to the analysis of legal knowledge has been noted by Just, who asks whether we must choose “between moving outward into the grand historical machinations of class and cash, power and privilege, or moving inward to the nubs and slubs in the fabric of meaning and belief” (1992:376). I am suggesting that what is at stake here is not just how to understand and explain legal forms, whether by reference to internal meaning or external power, but also how to explain the maintenance of boundaries between the internal and the external. For all the political and ideological force of larger systems of power and belief, a measure of autonomy is still maintained within many local legal fields. My argument is that this may represent not so much a lack of interaction with external forces as an active engagement with them.

That the mediation and the containment of disputes can be a political just as much as a judicial process is demonstrated by Nader (1990), in her study of the Zapotec in Mexico. She argues that the “harmony ideology” maintained by the Zapotec was a strategy for resisting the state’s hegemony. In this article, I suggest that the autonomy of the Ladakhi villagers’ local legal sphere is, likewise, actively maintained in the modern world against a dominant center. However, this is much more than a straightforward dynamic of

² The analysis of local ideas can, of course, reveal the impact of larger systems of thought. Geertz’s (1983) chapter, itself, sets out to examine the different cultural meanings of “fact” and “law” in Islamic, Indic, and Malayan thought, and in doing so he convincingly links local legal patterns to wider ideologies and systems of religious belief. Likewise, Rosen (1989, 2000), explicitly following Geertz’s approach, draws parallels between local Islamic justice, as he found it in Morocco, and Islam itself.

domination and resistance. That autonomy has been developed within a historical pattern of engagement with various regional centers of power, both political and religious. The villagers recognize the economic, social, and religious superiority of certain external power-holders, while allowing them no judicial authority over their internal space of legal order.

This dynamic, I argue, is fundamental to the ontology of the local community. As Greenhouse et al. (1994) found in three different North American towns, local attitudes to legal processes are linked to a sense of local community and the notions of insider and outsider: “[w]e found a discourse, shared by people who claimed ‘insider’ status, that placed law and law use at the center of ‘community’” (1994:2). Similarly, in the Ladakhi village, the maintenance of local legal autonomy is intrinsically bound up with the notion of community. Indeed it is fundamental to the very idea of what it is to exist as a social being.

Ladakh: Historical and Religious Background

The small Himalayan region of Ladakh lies in the Indian state of Jammu and Kashmir, although it is ecologically part of the high Tibetan plateau. Largely an independent kingdom from the twelfth to the mid-nineteenth centuries, Ladakh nevertheless maintained strong trading and religious links with the Dalai Lamas’ administrations in central Tibet. During the course of a series of wars and trading relations with Kashmir, a substantial proportion of the Ladakhi population was converted to Islam, and Muslim communities now dominate the Kargil area, to the west of the region, and are found in significant numbers around the capital, Leh. However, the majority of the people in the east, where fieldwork was conducted, are Buddhist and remain close in culture, religion, and language to the populations of what is generally known as “ethnographic Tibet” (Richardson 1962:1; Huber & Pedersen 1997:592).³

Until the rapid economic changes it has experienced in post-independence India, Ladakh had a largely agricultural economy. Even the towns were organized as large villages around complex irrigation systems that make agriculture possible in the high, arid climate. The sparse Ladakhi population remains largely clustered into more or less isolated, distinctly bounded villages separated by acres of pasture and wasteland. I undertook fieldwork in Photoksar, a village of 200 people in the Lingshed area, two days’ walk from the road and a long day’s journey over high passes to the

³ The bulk of my 18 months of fieldwork, conducted between 1999 and 2003, was divided between Photoksar, an entirely Buddhist village, and the main town, Leh.

nearest villages on either side. Ecological factors have favored patterns of autonomy for these village communities.

The villagers' historical narratives describe the era of the Ladakhi kingdom as the time of "the kings' peace," prior to which was a troubled era of violence and fighting between neighboring villages.⁴ But the kings' power was exercised through the extensive imposition of taxes and periodic mobilization of the population for war. Particularly burdensome for the villagers were the obligations to provide transport labor. The kings administered the region by elevating a number of Ladakhis into the aristocrat class, to act as their ministers, and rewarding their families with lands. These included one family from Photoksar, but they were granted property closer to Leh, and thereafter their contact with the village was light, consisting of brief visits to collect taxes and throw an annual party. The descendants of this family told me that their ancestors used to "give the law" in the area, but for the villagers this meant traveling for several days to their residence, and the villagers themselves told me that they always used to resolve their disputes internally. The judicial authority exercised by the kings' representatives appears, therefore, to have been more nominal than real. The Ladakhi experience of political control during the time of the kingdom was largely a negative one, consisting of taxation and labor obligations, although the people were grateful for the "king's peace."

Buddhism and its institutions were patronized by Ladakhi kings from the earliest times, and monasteries were constructed throughout the region. These became extensive landowners, raising taxes from the surrounding villages, although they never achieved the political power of their counterparts in central and eastern Tibet. Their influence extended, and still extends, into the villages through the establishment of small temples, which are tended by caretaker monks sent from the monasteries. These monks perform ceremonies associated with life-cycle events, including regular purification and protection rites for the local population, and in return the villagers make substantial donations to the monasteries and send a number of their sons into the monkhood. The content of the religion, however, remains esoteric, largely contained in obscure texts written in classical Tibetan, a language beyond the comprehension of many monks, let alone the often illiterate lay population. Moreover, the official religion has never succeeded in displacing the rites by which the villagers propitiate the local spirits, who are seen as immediately responsible for the physical fortunes of their families, livestock, and natural

⁴ For historical details, I also rely on Francke (1907, 1926) and Petech (1977), who have analyzed the historical documentary records, while Cunningham (1854) provides valuable firsthand evidence of the last decades of the kingdom.

environment. Tibetan Buddhism, as a whole, has developed highly syncretic forms, absorbing local practices and deities (Stein [1962] 1972; Tucci 1980; Samuel 1993; Kapstein 2000). Nevertheless, people have continued to sponsor rituals disapproved of by the monasteries, and the monks had to struggle long and hard in the late twentieth century to abolish blood sacrifice in Ladakh. As I argue later, the Buddhist scheme of morality has never been assimilated into popular consciousness, and the monks never obtained authority over village political or administrative practices, such as dispute resolution.

The authority of both the aristocracy and the monks was supported by the establishment of a social hierarchy, which remains significant today. This is expressed in seating plans, the use of honorific language, and other markers of respect, particularly in food and serving dishes. Outsiders and guests are shown respect in similar ways. Nevertheless, as I describe later, these patterns are also used, in the villages, to distance such outsiders, and among the villagers they substantially represent relations of equality.⁵

Similar patterns have been reproduced in subsequent relations between the villages and the government's administrative center. In 1842, Ladakh was conquered by the Dogras and subsequently incorporated into the British Empire, via indirect rule, as part of the Princely State of Jammu and Kashmir. This period saw a substantial increase in bureaucratic and judicial administration, along with economic and infrastructure developments. However, the experience in Photoksar, as in many other villages, was primarily an increase in taxation.⁶ The villagers told me that they needed a strong headman during this period to deal with the demands of the tax collectors.

Since Indian independence the region has been governed as part of the Indian nation-state, ruled by bureaucratic administrators appointed in Jammu. Taxation has largely been abolished for the local populations, and the political center now represents a source of material benefits, such as food rations, transport, and development funds. During the last half century the local communities have, therefore, been freed from the economic and political domination of the former aristocratic regime, but they have only very partially fallen under the administrative control exerted by the Indian state. Although post-independence governments have pursued modernizing agendas in the region, officials in the Kashmiri bureaucracy, including the police, remain reluctant to engage

⁵ This is a somewhat controversial claim in the light of the importance of the social hierarchy asserted by Kaplanian (1981:171–90) and Aggarwal (2004:154–5), but the evidence from Photoksar is unequivocal (Pirie 2002a:148–9).

⁶ This is also noted by van Beek (1996: Ch. 4), and Gutschow (1998: Ch. 3).

with villagers in distant areas. The state and national laws in theory govern the population, but in practice, as I describe later, they are wholly ignored in the more remote villages. The villagers can, therefore, maintain a considerable measure of autonomy against the central administration. They continue to levy their own taxes, control their own resources, manage their own festivals, and impose order within their own boundaries.

Despite their geographical isolation, therefore, the Ladakhi villages have always had to engage with external holders of power: the kings, aristocrats, religious leaders, and, now, the agents of state control. Such relations have involved both resistance and reliance, marked by the payment (and avoidance) of taxes and compliance with labor obligations, material support for the monasteries, and, now, enjoyment of the benefits of schools, roads, and consumer goods. These relations also involve considerable social and religious deference, as the villagers maintain the social hierarchy and endow the monks with religious authority. Nevertheless, they continue to distance all outsiders from certain aspects of village affairs, in particular resisting the expansion of their authority into the area of dispute resolution.

The Ladakhi Village

Political Structures

Photoksar, my fieldwork village, consists of a cluster of 22 households. These are the basic organizational units of the village, of far greater importance than any kin group. The households form various groups for different purposes: life-cycle rites, agricultural events, festival organization, and neighborhood socializing. These links form a web that unites the whole village into a network of alliances and effectively prevents any permanent factions or divisions from arising. The households also enjoy equal status, despite differences in wealth. Individuals are ranked, for social purposes (in seating arrangements and dancing lines), into a system that places Buddhist monks, aristocracy, outsiders, and (now) visiting officials into separate, higher positions, but arranges the villagers solely according to age and gender. Inequalities and differences in wealth, between elder and younger sons (who inherit all or nothing, respectively), literacy, and personal qualities, are all ignored in the social ranking. The astrologer and the practitioner of Tibetan medicine are the only two lay villagers to enjoy social status, but this does not translate into political power, wealth, or prestige for their families.

The nominal head of the village is the headman. He controls the community's funds and represents the village vis-à-vis outsiders.

He organizes meetings, ensures that everyone is aware of the astrologer's directions concerning the timing of agricultural events, and is responsible for settling disputes. However, this is not a permanent post. It rotates annually, as does that of his chief assistant, along with a number of other village obligations, between all the full households of the village. In practice, the headman's power is also limited by the fact that all important and innovative decisions are taken at the village meeting. It is the *yulpa* (*yul pa*),⁷ the villagers acting at the meeting, who are the ultimate political authority of the village, and they also act as final arbiter in disputes. The *yulpa* are explained to be "all the men," by which they mean all adult male members of village households. This group is exclusive of outsiders.

At the meetings themselves a ballot can be taken, one vote counted from each household. However, this is rarely necessary because in practice consensus is almost always reached. Differences of opinion may initially be expressed, but there is no question of opposing camps forming, and men never lobby their neighbors to secure support for a controversial proposal. In practice, certain men talk more than others, some go to more meetings than others, and some are listened to more respectfully than others, but when people discuss the events of the meeting, the influence of individuals is never acknowledged. Those who attend always report what "we" agreed: "We decided that every household with more than one son must send one of them to the monastery," or "The *yulpa* imposed a fine on them." The will of the meeting is thus expressed in the form of decisions said to have been taken by "everyone," and this is also true of the written records of conflict resolution, which always refer to the *yulpa* as if they were a party to the agreement.⁸

It is the *yulpa* as a group who, thus, have ultimate authority to control and organize the activities of the village, and it is the idea of absolute inclusion among them that is the foundation of their authority. The same ideology of a unified, ordered community is, as I describe later, at the heart of the local scheme of morality. This form of authority contrasts sharply with the political authority of the former kings, which was based on military power, social superiority, and religious patronage. It also contrasts with the religious authority of monks, which is based on cosmological efficacy, scholarship, and the system of reincarnation (Mills 2003), and that of the

⁷ Ladakhi is a Tibetan language. I transcribe local words according to pronunciation, but I add the Wylie (1959) transcription in parentheses to indicate the Tibetan spelling.

⁸ In the villages closer to the political center, economic developments have led to the emergence of factions and power struggles in recent years. Nevertheless, systems of rotation persist widely, despite attempts by the regional political party to introduce stronger (and more compliant) forms of leadership. See Pirie (2002a: Ch. 5).

modern political leaders, based on the economic power and democratic structures of the modern state.⁹

Politicians, local officials, and workers from nongovernmental organizations do visit the village occasionally and attempt to rally political support or institute development projects. These outsiders are all placed alongside the aristocrats and monks high in the seating plan, and this symbolic respect is matched by deferential attitudes and acquiescence on the part of the villagers. However, when such outsiders leave, very little effort is normally made to comply with their directions. This can be seen largely as a function of the rotating leadership in the village and the need for the yulpa to achieve unanimity in major decisions, which are barriers to decisive leadership and innovation, as I have discussed elsewhere (Pirie 2002b). However, the physical respect accorded to outsiders also sets them symbolically outside the cohesive group of villagers and reinforces the latter's passive resistance to external control. The social hierarchy of Ladakh, which supported the authority of the monks and the old political elites, has thus been adapted to accord similar honor to modern political and economic leaders. At the same time, the villagers' use of this hierarchy continues symbolically to distance such leaders and potential authority figures from the bounded internal structures of village order.

Rules and Customs

There are a host of ways in which order is maintained and disputes are avoided in the village. These include a great variety of behavioral norms and more- or less-conspicuous methods of settling differences. On the normative side, there are expressly formulated rules, described as taxes (*tral* [*khral*]), consciously followed customs (*trims* [*khrim*s]), and a range of behavior commonly characterized as shameful (*trelba* [*khrel ba*]). The concept of *tral*, village taxes, covers almost all village obligations imposed on households by the yulpa. These include assuming the post of headman by rotation, taking the post of one of his assistants, protecting the fields from livestock, organizing festivals, being a musician, undertaking work required by the government, providing transport for visiting officials, and making small contributions in money or kind to the local temples. The *tral* represent the control of the yulpa over village affairs, and they are the closest the village has to a set of laws. They are generally backed by the sanction of fines, but most

⁹ It can also be contrasted with ideologies of judicial authority in other (more complex) societies, which may rest on the notion of divine sanction (as in the divine right of kings) or religious purity (as in the Hindu law of dharma) or the impartial application of "the law" (as in the West).

are so well-established that the concept of noncompliance is unthinkable. The concept of trims, on the other hand, is one of something “we do,” not for any particular reason but simply because it is there, the custom. The strongest notion in the village is that of the *yuli trims* (*yul gyi khrims*), the customs of the village, which may be different from those found in other areas. Trims are customs that have developed, rather than rules decided upon in village meetings, and many of them govern fundamental matters, such as the devolution of property by primogeniture and the division of households into full and dependent. They may be flexibly applied and are seen as subject to gradual change, although they cannot be altered at will by the villagers.

The tral and the trims thus provide markers of order, which are internal to the community, and they are regularly referred to as the basis of village practices, even when change has obviously occurred in response to external influences. Succession practices, for example, have long been characterized by systems of primogeniture and polyandry, which are described locally as the trims of having only one wife per household per generation. She is married to the oldest son, who nominally inherits the whole landholding. In the 1940s, however, Ladakhi activists promoted a change to this “old-fashioned” practice, and legislation was passed outlawing polyandry and requiring the equal division of property between sons. This was extended to daughters in 1956.¹⁰ However, even in the urban centers, change only occurred in the 1960s, and it was only in the last years of the twentieth century that daughters began to inherit. These changes are undoubtedly linked to the availability of new forms of employment, which made the division of landholdings feasible. In Photoksar, although daughters still never inherit (save when they have no brothers) and land division is rare, as it is in most of the more remote villages, certain people did recognize a gradual change in their trims. One woman told me that the new trims requires that the eldest son receives the most land, the next about half that amount, and the younger sons, if they want some, even less. One man told me that this change had occurred because they could now afford to divide their land, but he also acknowledged that they might have been influenced by changes they saw occurring elsewhere. However, no one in the village even mentioned the existence of the state laws. The villagers, therefore, continue to insist on the centrality of their own, internal trims despite the obvious influence of state laws and external economic developments. The tral and the trims represent a substantial

¹⁰ Abolition of Polyandrous Marriages Act (1941); Ladakhi Succession to Property Act (1943); Hindu Law of Succession Act (1956).

assertion of autonomous control by the villagers over their own internal administration.

The Nature of Disputes

Despite the clarity of the trial and the flexibility of the trims, clashes of interests frequently arise within family and household relations and over property and agricultural practices. Most of these are resolved by families, neighbors, and mediators. Unless it erupts into overt antagonism, such an event is not even conceptualized as a dispute. There are two very different phenomena here, which could be distinguished as “differences” and “disputes.” The Ladakhi words applied to disputes are roughly translatable as “shouting,” “flinging abuse,” “arguing,” “quarreling,” and “fighting.” It is overt antagonism that distinguishes them from mere differences. Disputes are the real problem, affecting the whole community, while mere differences are dealt with in practical, almost imperceptible ways. On the border between differences and disputes are those bad relations between individuals who nevertheless avoid an open quarrel. I came across one of these in the village one winter. Two men had not talked to each other since the previous summer, when some argument over livestock had occurred. Others tried to make the disputants sit down and shake hands, but without success. However, they were sure that things would eventually be resolved. Some of the elder men would get involved and “talk wisely,” they told me. The bad relations between the two men were not an urgent problem for the community but generated a continuing sense of unease.

On the other hand, an overt argument between husband and wife threatens the stability of the household and demands intervention. The respective families will initially try to resolve the differences, but if matters have become serious a mediator will be called in, as in one case where the wife had walked out and returned to her natal home. According to my informants, the mediator “spoke wisely,” realized that reconciliation was unlikely, recommended a divorce, and negotiated its details with the elder men of each family. In the event that this procedure had failed, they told me that the matter would have been referred to the *yulpa*.

When bad relations erupt into overt quarreling, a difference becomes a dispute and a widely debated community problem. Some men in the village, typically the unmarried, are loners, choosing to spend long periods in distant valleys or pastures with their livestock. However, the majority of the other villagers, both men and women, are constantly interacting on social occasions, visiting each other’s houses and meeting to discuss village affairs

around the water sources or in the fields. The occurrence of a dispute immediately becomes an event of common knowledge. Both men and women freely discuss any dispute, and their comments predictably express the need for reconciliation and the expectation that a solution will be found. There is a hierarchy of mediation, about which people are quite specific. First the family will try to resolve a dispute, they told me, then the neighbors will get involved, then they will go to a mediator. If he cannot resolve the problem the headman will be called, and if he cannot solve it the case will go to a whole-village meeting. As a last resort, “we can go to the police,” they would usually add. The police were always mentioned to me as the ultimate authority for the resolution of disputes, but people also told me that when they are called they just demand money and beat people up, so their involvement is, in practice, usually avoided. Dollfus (1989) records similar experiences in the village of Hemis Shukpachan. The police were called to a fight, with unsatisfactory results, and the villagers had to bribe them, collectively, to achieve the result they considered appropriate. Even a suspicious death in a village near Photoksar was kept from their attention. In that case, the families of the suspected culprits were fined heavily, and in their view unjustly, but still they accepted the decision of the village meeting rather than call the police. A similarly serious case, involving a rape and subsequent death, is described by Gutschow (2004:140–2) in a village in Zangskar. It was likewise resolved within the village with a donation to the monastery and payment for a local ritual.

This attitude toward the resolution of disputes is intimately connected with the construction of the boundaries of the village community. People invariably used phrases meaning “inside” or “within,” referring to their village, as the context in which disputes must be resolved. Even in the capital, Leh, people would use the same language to stress the need to resolve conflict within the immediate neighborhood. A number of nonstate officials are elected each year to oversee the complex irrigation system in Leh and to deal with the frequent disputes that arise over the scarce water supply in the summer. These officials all told me that their primary duty was to settle such disputes within the immediate community and to keep them out of the courts. Even here there is, therefore, a strong sense of the “inside,” within which disputes must be contained—the location of the local order.

Dispute Resolution: The Community and the Individual

Mediation (*shakhs* [*gshags*]) is also a publicly discussed and deliberate process. In the course of this process, the supremacy of the community over the individuals who constitute it, and the

subordination of the interests of those individuals to the collective, are fundamental. This was demonstrated by the response to a number of fights that occurred during my fieldwork, which prompted the most decisive political activity I witnessed in the village. During the extensive New Year celebrations a fight occurred between two men. There was long-standing animosity between them because the daughter of one had been married to the other's younger brother until the latter had walked out and left her. The two men got into a fight after they had been drinking during the celebrations, and the following day the headman and his assistants were called to resolve the problem. One woman explained that they were going to tell the two men that they had been drunk yesterday, that tomorrow they would not be drunk, and so they must get on, shake hands, and have no more argument. They also drew up an agreement for the men to sign, each undertaking to pay a fine to the village of Rs 1,000 (about \$25, but a very significant amount in local terms) if they fought again.

About six months later the two men did get into another drunken fight, this time at a wedding. On the second day of the same wedding a second fight erupted, this time between three of the younger men who ganged up against a fourth. At the time the men were restrained by those around them but the next day, very early, the beaten man's father came to see the headman. It was agreed that an entire village meeting was necessary. Word was put about and the men, the *yulpa*, gathered the same morning. All the protagonists were called except the victim of the second fight, who stayed in his house. First the villagers dealt with the smaller fight. Because of the earlier agreement, each man acknowledged that he had to pay the fine of Rs 1,000 to the village and was made to sign another agreement that if he fought again he would pay a fine of Rs 10,000, an astronomical amount in local terms. Even Rs 1,000 was a significant amount, and there was much discussion in the following days about how the men had managed to raise the money. They also went through a ceremony of *yal*, an offering of beer from the ceremonial brass jug decorated with butter, which is used on all formal occasions. In this case the father had to give *yal* first, because he had said the first harsh words, but then the brother also had to give *yal* and a ceremonial white scarf, because he had struck the first blow.

The meeting then dealt with the larger fight. One man told me that the *yulpa* asked the protagonists to explain the fight. The men complained that the other had used harsh words toward them but my informant shrugged at this, suggesting that he thought it a poor explanation. So, he continued, they told the men they each had to pay a fine to the victim because he had been hurt. However, the fine had to be agreed. The men had offered Rs 500. The victim had

said that was not enough. The meeting suggested Rs 600, and after some to-ing and fro-ing everyone agreed to this figure. All four also had to pay Rs 100 to the village “because of the fight” and to sign an agreement undertaking to pay a fine of Rs 5,000 each if they fought again. The headman then took the three men down to the victim’s house for yal. The three gave yal and a ceremonial scarf to the fourth and he then gave them yal, but not a scarf, because he was the one who had been hurt. A little while later they all emerged from the house, laughing and talking. Good relations had, obviously, immediately been restored. I commented on this later to one man, who said simply that everything had been resolved now that yal had been given.

All disputes are characterized as disturbances to the order of the community, requiring immediate reconciliation, rather than as breaches of rules or norms requiring the determination of individual rights. This became very clear during the course of an argument I witnessed one summer. I saw a large group of people gather in the upper fields, and after a while some of them passed by where I was sitting and told me that two women had been quarreling over the animals. One of them was Rigzin, whose household had the responsibility to protect the (unfenced) village fields from the animals that year. Some animals had strayed into the other woman’s fields and she had complained to Rigzin, whereupon Rigzin had used “harsh language” against her. Rigzin was clearly seen by the villagers to have been at fault by turning the complaint into an argument, and the headman went to discipline her. However, Rigzin then started arguing with him, upon which the problem became very serious. A village meeting was called and a group of people was sent to ask that she apologize to the headman. However, she refused to do so. Much discussion then took place, and eventually another party of people went to threaten her with a social boycott.

The social boycott is the ultimate sanction that can be applied to an individual in a Ladakhi village, since it would be impossible to live there without the cooperation of others. Eventually, faced with this threat, Rigzin agreed to make a formal apology to the headman, and everything was settled. In the meantime, the cause of the underlying quarrel was completely forgotten. There was no discussion of whether or not Rigzin had breached her village duties, nor was there any question of her being held responsible for the damage caused to her neighbor’s property. It was simply the quarrel between the two women that was important, the fact that voices had been raised in anger, and then the even more serious fact that Rigzin had resisted and disobeyed the discipline of the headman. The sole purpose of the villagers’ intervention was to restore order with an appropriate apology and a signal of her acceptance of the headman’s authority.

The yulpa, therefore, exercise considerable authority over the individuals within their community. Although their purpose is always to bring the parties to agreement, the resolution of fights may well involve an element of punishment, with fines being paid to the village and the protagonists called to justify themselves before the village meeting. The yulpa in this case do not just bring the parties to agreement but also exercise a form of punitive authority over them. I never encountered any cases of theft or the like, but members of the yulpa said that if they caught a thief the headman or the yulpa would beat him.

Judicial proceedings, therefore, proceed by a quite different logic from those that aim to make pronouncements about individual rights and interests or to inflict punishments by reference to breaches of rules and norms. Nor are they an arena in which individuals can manipulate such rules and norms to their advantage. It is the maintenance of order, *per se*, which is crucially important for these Ladakhis. The unquestioned primacy of this sense of communal order underlies the authority of the yulpa, who are responsible for maintaining it, and the acceptance, by the individual villagers, of that authority. Thus the sense of local order privileges the community over the individual, and this, in turn, means that villagers confine their disputes to the boundaries of the community, rather than appealing to external sources of judicial authority. Underlying this, I would suggest, are moral and ontological concerns, a sense of what the community is, and obligations consequently imposed upon the villagers as its members.

The Moral Universe

The morality that underpins these processes is visible in attitudes to fighting, arguing, and abusive or insulting language. All such behavior is described as being unequivocally undesirable, even dangerous. People shake their heads over quarrels and shudder at the mention of fighting. People who get into disputes are called *tsokpo* (*btsog po*), a general word meaning bad or dirty but also used to signify moral disapproval. This is distinct from commenting on behavior that merely breaches the local customs, which is greeted with amusement and embarrassment. Fighting and quarreling is unethical behavior. This attitude to conflict is matched by a strong disapproval of those who express anger, and its condemnation is the most frequently and clearly expressed moral judgment heard in the village.

The uniformity and consensus within the many discussions I heard on these topics, particularly the appraisal of conflict, was striking. Apart from those who get into arguments, people who simply stir up trouble by talking badly of others, encouraging them

to argue, are described as bad. Disapproval is also voiced of those who fail to cooperate with other villagers or members of their own households. My informants told me that Rigzin had behaved badly because she had been stubborn in refusing to apologize. Selfishness and laziness are also readily criticized. When a development worker visited the village and gave out free toothbrushes, one woman told me indignantly that she had seen a couple of women asking for more than they needed. "Some people always say 'me, me,'" was the view of others around the stove that evening. Anger, stubbornness, laziness, selfishness, and stirring up trouble are all, then, regarded as bad. A common feature of all these moral attitudes is a certain orientation toward the community. To be proud or lazy and to stir up trouble breach the requirement that an individual know his or her place within the community, cooperate with others, and ensure that community life proceeds smoothly. The ideal individual is patient, calm, obedient, helpful, and generous. To get angry, to fight or quarrel is, therefore, to behave in a morally reprehensible way toward, and as a member of, the community. Thus the maintenance of order has strong moral overtones, which are rooted in a firm sense of the importance and integrity of the community and the absolute need for cooperation amongst the individuals who constitute it.

One might think that the overwhelming disapproval of anger stems from, or is at least linked to, the scheme of Buddhist morality, according to which anger is one of the three fundamental poisons. Buddhism also incorporates sets of moral rules, the *mi gewa rchu* (*mi dge ba bcu*), which condemn killing, stealing, adultery, and so on.¹¹ These rules were claimed to underlie the legal system of the Dalai Lamas' Lhasa-based regime, with its official union of the political and the religious (Carrasco 1959; Dreyfus 1995; Kapstein 2000). French (1995), in a work largely based on interviews with Tibetan exiles, argues that these codes, as part of the cosmological principles of Buddhism, are fundamental to the principles and processes of Tibetan law. She maintains that the religion's morality and philosophy are the basis for all legal practices in the region, including the "mundane" understandings of and perspectives on conflict and law (French 1995:15–6, 59–60, 62, 73). However, French's work has been cogently critiqued for imputing elite ideologies to the "layman" (Huber 1998), and there was never any reference to these codes within the frequent discussions of either disputes or morality within Photoksar. My more literate informants knew of them, but never elaborated on their content.

¹¹ These are said to have been promulgated by the seventh-century Tibetan emperor, Songsten Gampo, although this is now regarded as a later legitimization on the part of Tibetan leaders (Uray 1972; Sørensen 1994; Kapstein 2000).

Historical evidence from the polity of Sakya, in Tibet, shows that the legal codes had more symbolic than legal force, and there was an emphasis on the local resolution of disputes (Cassinelli & Ekvall 1969:92–3, 122, Ch. 6; Dawa Norbu 1974: Ch. 4). Legal documents from the courts of both the Dalai Lamas' regime in central Tibet and the kings' administration in Ladakh give the same impression (Schuh 1984:221; Francke 1998:116–7).¹² Among the nomads of Amdo, on the northeastern part of the Tibetan plateau, now part of China, religious leaders were, and still are, involved in settling tribal feuds. However, there is no evidence of the application of legal codes or Buddhist moral principles during such proceedings (Ekvall 1954, 1964, 1968; Pirie 2005:92). This region has a long history of feuding, based on principles of violent revenge, which mean that violence and anger are, in certain circumstances, normatively sanctioned as part of the social order. The attitudes to violence and anger found here could hardly be more different from those I have been describing in the Ladakhi village. These significant variations within Buddhist communities cast considerable doubt on the extent to which the moral principles of the religion can be assumed to underlie local legal moralities.

The Photoksar villagers, in fact, never made an explicit link between their practical moral judgments and any aspect of their religious or cosmological practices, Buddhist or otherwise. There was no suggestion, for example, that disputes disturb the order of the cosmological world with harmful consequences for the whole community. As I have argued at greater length elsewhere (Pirie 2006), the spirits are, indeed, responsible for illnesses and accidents but are not remotely concerned about community relations. The monks are regarded by the villagers as ritual specialists, capable of influencing the activities of local demons and the fate of souls in the afterlife. However, neither they nor their texts, which are largely written in classical Tibetan, are regarded as a source of moral guidance. Nor is there evidence that they have ever played such a role. Under the influence of the Dalai Lama's teachings and with new possibilities for education and mobility, the moral teachings of the religion are becoming more prominent in the urban centers. Even in the town, however, the educated elites, who were keen to emphasize the significance of their religion to me, would not attribute their moral attitudes or practices of conflict resolution to a religious scheme of morality.

Both within the village and the town, therefore, the pragmatic scheme of morality, which underlies attitudes to conflict, is kept separate from the realm of religious and cosmological concerns.

¹² It should be emphasized that the ambit of these legal systems, especially that of Ladakh, was very limited (Pirie 2002a: Ch. 3).

The villagers' pragmatic moral universe is firmly linked to the sense of their own community and the need to maintain order within it. The significance and impact of their religious and ritual practices are, by contrast, confined to the dictates of the law of karma and the cosmologically related problems of physical misfortune (i.e., illness, accidents, and natural disasters). A distance is kept between such religious and cosmological practices and the spheres of village politics. Thus, the authority of the Buddhist practitioners, considerable though this is in religious matters, is conceptually confined to a limited, although fundamental, sphere of cosmological concerns and physical fortunes. Moreover, monks are firmly distanced from the structures of village politics. They are never consulted in connection with disputes and never attend village meetings, even when they are, themselves, from village families. Like the astrologers and local ritual practitioners, they have no status in village politics. While astrologers are also members of the *yulpa*, the monks' status, in fact, disqualifies them from acting as such. The internal political and judicial processes of the village are, therefore, controlled by a strictly nonreligious body. Both conceptually and structurally, the politico-moral order of the village is distanced from the powerful authority of the religious establishment.

The Concept of Order

The sense of order that, I have argued, is fundamental to the Ladakhi villagers' processes of dispute resolution is perceived locally in negative terms, as the danger of disorder and the need to restore good relations between members of the community. They do not have a concept easily translatable as "order" (or "disorder"). In the case of a resolved dispute they will say "*drig song*," meaning, simply, "It is OK again." *Drig* is a very commonly heard word meaning "all right," "satisfactory," "enough," or "practicable."¹³ The restoration of order is, therefore, a return to normality. Dispute settlement does not invoke any utopian ideal of justice, requiring extensive moral narratives. It is certainly not based on any religious ideal of peace and harmony, Buddhist or otherwise.

Neither are there any indigenous equivalents to the Western concepts of justice and fairness, despite suggestions to the contrary

¹³ There are two possible etymological bases for the concept of *drig*. '*grig* is the common "OK." Jäschke defines it as "agree, correspond, be right, adequate, sufficient, practicable" (1881:99). Das defines it as "suit, agree, compromise in a law suit, unanimity" ([1902] 1998:297). *sgrig*, the root of the Bhutanese term for their legal code, the *sgrig lam*, is not a word I ever noted in Ladakh, although it is possible that the two terms were conflated by the villagers. Jäschke defines it as "arrange, put side by side" (1881:120), while Das defines it as "arrange, put in order" ([1902] 1998:332).

in Ladakhi and Tibetan dictionaries. The Ladakhi dictionary defines *drang po* as “straight, honest, candid, fair” and *khirms drang po* as “justice” (Hamid 1998:131, 31).¹⁴ Das, who compiled a Tibetan dictionary, defines *drang po* as “right, truthful, straight, sincere, honest,” *khirms drang po* as “righteous judgment, justice,” and *las drang po* as “good actions, righteous deeds” (1998:649; *las* means work but is also the general word used to refer to karma, the law of rebirth). When I raised the concept of *drang po* in the Ladakhi village, however, I got a rather different set of explanations. *Drang po* was explained as meaning “straight,” like a piece of wood. But you can also have a *mi drang po* (*mi* is man), which means someone who does not lie. *Dpera drang po* (*dpera* is speech), likewise, means to tell the truth. The explanation of *khirms drang po* was that if you have a quarrel and go to a mediator and he achieves a settlement, *shakhs*, then that is *khirms drang po*. The idea is, therefore, not of some abstract justice but of achieving settlement, making things “straight” in the community, one might say. *Las drang po*, they said, meant community work and went on to explain it as not causing injury or suffering “inside.” So it is work or actions that do not harm them, the villagers, inside their community.

In looking for a concept of justice, I was, therefore, met by a series of expressions by which the villagers referred back to the community, as opposed to any abstract scheme of right and wrong, or fairness and justice. Settlement, *shakhs*, is conceptualized as making things straight in the community. The implicit concept of order is, therefore, found in the idea that the basic state of the community is to be peaceful, united, and harmonious. It is a human order rather than a cosmological or a divine order, or one that has reference to some abstract notion of natural law. Order is found in and exemplified by the ideal of a community made up of individuals between whom and between whose households there is a network of harmonious relations. It is a spider’s web of delicate, cross-cutting, interlinked relationships. Cooperation, sharing, hospitality, and collective work are their manifestation. Like a spider’s web, however, this order can easily be ruptured. Two individuals exchanging harsh words and one woman refusing to cooperate with another are enough to damage the web, and a full-scale fight will create a tear that the whole community must combine, if necessary with a social boycott, to mend.

¹⁴ In this paragraph, I use the Wylie (1959) transcription throughout.

Legal Culture in the Wider Region

Photoksar is, of course, just one village within Ladakh and one of the more remote. Elsewhere, in villages closer to the administrative centers, outsiders do occasionally become involved in village disputes. Srinivas (1998:111–6) recorded a number of cases in Nubra, to the north of Ladakh. Although most were resolved internally, one involved a violent dispute between two villages, which resulted in the intervention of the police. However, they were unable to stop the violence until local officials joined with village representatives to undertake a process of mediation between the two villages. As in the case of Hemis Shukpachan mentioned earlier, these outsiders found themselves drawn into local processes of conflict resolution.

In the town, a new form of regional court, the Shakhs Khang, has been established by the Ladakhi Buddhist Association (LBA), the regional political party that rose to power during the agitation for autonomy in the 1980s. Since then, the court has exercised a form of appellate jurisdiction for cases that villagers have been unable to resolve locally, or disputes between different villages. The association's leaders, who hear such cases, stressed to me the importance of keeping such cases away from the police and courts. The language they used during the hearings incorporated the notion of Ladakh being "one community" and the need for good relations within it. The Muslims' Anjumane committee also exercises judicial functions, nominally applying sharia law but, in fact, proceeding in a very similar manner to the LBA's Shakhs Khang. Even within the far more complex dynamics of the urban centers, therefore, there is a strong emphasis on the confinement and speedy resolution of disputes. The few cases that do go to the official Leh court, unless they involve non-Ladakhis, tend to concern land division. This is an area in which the state's law concerning property succession has purported to introduce dramatic changes. Now, with a developing economy in the town, land division has become feasible and many children insist on their "shares," if necessary in the courts. However, those who had done so, all urban residents, expressed embarrassment to me, justifying their actions on the basis of personal need and concern for their family's well-being.

In all these cases, therefore, there is an emphasis on the restoration of harmony and containment of disputes. The ideas of order that are so powerful in maintaining the legal autonomy of the remote village are still evident within the more complex urban context. Ladakh is a region that experienced dramatic changes during the twentieth century, and many developments, particularly the opportunities for education and employment in

the towns, encourage engagement between the villages and the centers. Nevertheless, it is evident that the sense of order that I have described in Photoksar continues to be a significant force within these dynamics.

In Ladakh, centralized administrative control has almost always been, and remains, light. Such external circumstances, as well as the ecological isolation of most villages, have favored the development of legal autonomy. However, the legal practices I have described in Photoksar have persisted throughout a century of dramatic political and economic change. This suggests that something more fundamental is at stake than a reaction to contemporary political and economic forces. Local autonomy is found elsewhere in the Tibetan region, an extreme example being described in the village of Mustang by Ramble (forthcoming). Indeed, others have noted a general trend within Tibetan societies toward the diffusion and decentralization of power, although there are also centralizing trends (Stein [1962] 1972:94,125; Goldstein 1971; Samuel 1993:149–54). As mentioned earlier, there is also evidence that the more elaborate political and administrative systems of Sakyas and Lhasa have favored the devolution of judicial authority to local levels (Cassinelli & Ekvall 1969:92–3, 122, Ch. 6; Dawa Norbu 1974: Ch. 4; Schuh 1984:221). Nevertheless, in Amdo, where centralized control was also light, the nomads developed segmentary tribal structures, to which the principle of the feud was intrinsic (Ekvall 1968). Such local groups define themselves in opposition to their neighbors, according to the basic principles of segmentation, and seek out external sources of justice in order to mediate their tribal conflicts (Pirie 2005). In Ladakh, by contrast, the villagers turn inward, regarding their own order as fundamental to their identity within the wider world. Both forms of organization, different as they are, can be used as means of resisting or engaging with the modern state.

Conclusion

The Ladakhi village and its population can be seen to have internalized and been shaped, not always voluntarily, by a number of external forces, most notably those of their kings, the powerful Buddhist establishments, and now the modern Indian state. At the same time, however, they do not recognize the authority of either the state or religious leaders over their political and judicial processes, expressly keeping disputes out of sight of external power holders. These relations between the Ladakhi village and the changing centers of power in the region can be characterized not so much in terms of domination and resistance as by deference and

distance. The villagers explicitly acknowledge the social and religious hierarchies but quietly maintain their own forms of local order, both moral and political. Starr and Collier (1989), along with other eminent scholars, have argued for a greater focus on wider systems of law and power by legal anthropologists. Local forms, they say, should be regarded as arising from particular historical negotiations between groups. In this article, I have argued that this emphasis should not deflect the anthropologist's attention away from the persistence of legal autonomy and local legal cultures. The Ladakhi villagers, through their practices of conflict resolution, are, in fact, entering into a very specific type of negotiation with wider forces, one by which they successfully maintain legal autonomy against the power structures and norms of Buddhist establishments and the Indian state.

In her work on the Zapotec of Mexico, Nader argues that the "harmony ideology" apparent in local conflict resolution practices there was "a strategy for resisting the state's political and cultural hegemony" (1990:2) and, thus, a significant force within the wider political dynamics of the region. I have argued that the local legal practices of the Ladakhi village are, likewise, significant in its relations with external powers. However, in the Ladakhi case, this is much more than a strategy for resisting a powerful center. Nor do such practices embody an external, religious ideology of harmony, as French (1995) suggests should be the case in Tibetan societies. This Ladakhi community is, at once, more positively engaged with external centers of power and also more autonomous against their ideologies.

The Ladakhis' pursuit of order and harmony is more than just the outcome of wider processes that have allowed them to maintain a measure of autonomy against external forces. Comparisons with Tibetan communities elsewhere indicate that the local-level resolution of disputes is not simply related to wider political configurations and the centralization, or not, of power. Nor, as the comparison with feuding tribes of Amdo indicates, can the emphasis on harmony be attributed to the impact of Buddhism on the society. The villagers' tendency to resist encroachment upon their sphere of political and judicial practices is, above all, the manifestation of a powerful sense of local order. Although largely conceptualized in negative terms and locally articulated as a fear of conflict, this sense of order is as powerful as any ideology.

A self-contained legal space within the Ladakhi village is defined by the boundaries that also characterize local processes of authority and equality. The containment and resolution of disputes within this space has become an ontological matter, one that goes to the heart of local ideas about the very existence of the community, itself. Law and law use are "placed at the center of 'community,'" to

echo the findings of Greenhouse et al. (1994). It is the particular historical and political trajectory of Ladakh, not to mention its extreme ecological features, that has allowed this emphasis on order and harmony to become a means of maintaining autonomy against the political and religious forces of the wider world. The shape of the local legal culture and the processes of engagement with the external world should, therefore, be seen as having developed together, reinforcing one another as the villagers have adapted to the changing landscape of the modern world.

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