

LAW AS ADJUNCT TO CUSTOM?

Abkhaz custom and law in today's state-building and 'modernisation' - (Studied through dispute resolution)

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Abstract

The setting for research is Abkhazia a small country south of the Caucasus Mountains and bordering Europe and the Near East. The Abkhaz hold onto custom – *apswara* – to make of state law an adjunct to custom as the state strives to strengthen its powers to 'modernise' along capitalist lines. This institution of a parallel-cum-interwoven and oppositional existence of practices and the laws questions the relationship of the two in a novel way. The bases of *apswara* are its concepts of communality and fairness. Profound transformations have followed the dissolution of the Soviet Union, and the breakaway from and subsequent war with Georgia, none of which have brought the bright prospects that were hoped-for with independence. The element of hope in post-Soviet *nostalgia* provides pointers to what the Abkhaz seek to enact for their future, to decide the course of change that entertains the possibility of a non-capitalist modernisation route and a customary state. *Apswara* is founded on the direct participatory democracy of non-state regulation. It draws members of all ethnicities into the generation of nationalist self-awareness that transcends ethnicity and religions, and forms around sacred shrines and decisions taken by popular assemblies. It has topical significance for other societies where custom and law co-habit through contestation, and questions some widely accepted theories about the relationship of the two, as well as problematising anthropological concepts of 'legal pluralism' and post-Sovietics. The study suggests new topics for research.

I hereby declare that this dissertation is the result of my own fieldwork and reflection under the supervision of Dr. Glenn Bowman, Lecturer in Social Anthropology at the School of Anthropology and Conservation of the University of Kent.

Michael Costello
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Chapter 1 Introduction - Custom and law among the Abkhaz¹

Apswara (literally Abkhazness) is the historically formed manifestation of national self awareness and assertion of the Abkhaz; the unwritten code of popular knowledge and values, encompassing the system of customs and concepts of a person's spiritual and moral existence, the violation of which is 'equivalent to death'. Inal-IPA. 1996: 21-22

Azhvla – the basic kinship unit, [and], as a relict of the patrilineal clan to a large degree retained its force in the conditions of class society also – under feudalism, and even developed bourgeois relations in Abkhazia. As a social unit, *azhvla* was characterised by a supposed or real single origin, exogamy, a recognised common territory, some economic interests and religious life, [...]the rules of clan revenge, hospitality, and mutual aid [...] All members of the given *azhvla* were regarded as brothers, which was reflected in [strict incest prohibitions and] certain principles for mutual aid. It was one of the most important foundations of Abkhaz social organisation... [my emphasis. MC]. Inal-IPA. 1965: 406

Here I set out first a guide to the values and institutions of the Abkhaz, of a little-researched area on the boundary of Europe and Asia Minor, then recount some of my initial encounters entering Abkhazia, on the street and in a court room, followed by demography and history. The following chapters will discuss the issues that are raised but not fully answered in anthropological literature, data from field work, current problems, the role of the belief system and some detail on post-Sovietics, nostalgia and hope, and then the options that are open for state-building.

I will be arguing, in chapter eight that there are features about Abkhazia that do not allow us to see it as just another ex-Soviet state that has followed the general pattern of descending into chaos through being taken over by predatory and self-enriching “oligarchs” and other bandits, because of special conditions that pertained in the Soviet period of Abkhazia and have been carried through into the present. Its history in the 20th century and its most recent history does not fully mirror that of any other post-Soviet

¹ For brevity and other than when I draw a necessary distinction between the use of the two terms - *apswara* to mean etiquette, and *apsua tsas* to mean the normative rules within society, I use *apswara* to cover both, for Abkhaz custom as a whole; a usage employed by the Abkhaz themselves.

republic. At the same it appears possible that what might be Abkhazia's special circumstances might carry with them anthropological and historical facets that could prove attractive and applicable elsewhere with time and this makes comparatives with other ex-Socialist states part of a valid anthropological project. The specificities of the Abkhaz lie predominantly in the great extent to which they have held onto the power of customary practices to be dominant in the regulation of daily life. The details of this will be found in this dissertation. I would, therefore, say that the Abkhaz are exceptional, while at the same time they are very relevant to the course of development in human societies elsewhere.

For the moment I put down a marker to show that recent history has left a different mark on Abkhazia, when compared with other post-Soviet states. Abkhazia was not opened to the depredations of Western companies and neo-liberal reformers that have hit the economies and social systems of other former socialist countries in Europe, the Caucasus and Central Asia, of the kind described by the anthropologists Badalov (2012) and Ghodsee (2012), to which I shall be returning in greater detail in chapter eight. The option of modernisation à la West was not available to the Abkhaz because of the political and economic isolation that has been imposed on it, as against what has been attempted in almost all former Soviet Republics. Caroline Humphrey (2002) has described in detail the techniques for survival that have been tried in post-socialist Russia and Mongolia. In the case of Abkhazia the hold of custom's principles of egalitarianism and direct democracy have held their dominance and act as brakes on those who would give full reign to capitalist transformation. Whether this can continue remains a moot point.

My conclusions offer up for consideration the possibility of custom absorbing and embedding law and the state, with the prospect of a modern society that would retain the pre-eminence of custom. This problematises a number of anthropological approaches that have selected from one of three theories as the basis for research on custom and law: one, their coexistence, another, the evolution of custom into the law of the state and, third, their incompatibility leading to the whittling away and destruction of custom. I

found in Abkhazia signs of the state, taken as a system for administration, existing as an adjunct to customary practices, as the Abkhaz employ traditional social and cultural practices and values to organise anew their society following the collapse that followed the dissolution of the Soviet Union.

The literature, documents and other sources on the Abkhaz are examined to discover unanswered questions relating to my research topic and then elucidate the basis of today's Abkhaz nationalism and the involvement of custom and the state. The dissertation explores the framework of new laws and the Constitution to see how they might mesh with practices that examine the call made for Abkhazia's "cultural nucleus of *apswara* [to be] joined to the pragmatic values of modern civilisations" (Arshba, V., Kamkiia, B., Kamkiia, F. 2003: 4). That programme is not a conspiracy of academics but reflects the facts that emergent states today, including Abkhazia, face political and economic pressures to adopt western capitalist modernity for development. These are looked at through the lens offered by Weber's imagined ideal type of impersonal bureaucracy, but with retention of the interpersonal agencies of custom.

But people do not change so quickly and their customary defences are often labelled nepotism, corruption and favouritism, bad governance, the running of black and grey economies and the like, as extensively discussed in sociological and anthropological literature, by Alena Ledeneva (1998, 2001, 2013), among others as will be shown. To question this is not to gainsay the advantages and privileges that powerful people (oligarchs or insider dealers) are acquiring at the public's expense in conditions of uncertainty as – (in Russian) *v mutnoy vode ryba lovitsa* - there are fish to be caught in turbid waters. Among the Abkhaz "informal" relationships are not necessarily negative but can reflect customary values.

The Abkhaz are negotiating between what Scheele (2008:1) has called different regulatory "legal systems", using the word "legal" to embrace both custom and law, while conferring customary legitimacy on what is new. This presents a new form of pluralism in which law and custom do not conflict. I

examine what the Abkhaz mobilise to attain desired outcomes in the pursuit of objectives in their changing circumstances and to assess the degree to which these bear the hallmarks of previous historical periods clothed in the rhetoric of “tradition”. This sheds light on how the Abkhaz currently integrate tradition and modernity across ruptures in concepts and practices.

Popular understandings and a rich local ethnography hold that many traditional non-state institutions based on family, lineage and belief structures have survived through Tsarist Russian rule and the subsequent Soviet periods despite the passing of laws on property that would challenge customary values, rules and practices (Paula Garb 2000). The hold of traditional ideas on the Abkhaz has been noted by travellers from the 18th century onwards and more recently by Feldbrugge (1977). The advocates of today’s national project in Abkhazia claim to retain customary practices alongside newly-instituted state laws. Popularly, customary structures and enactments are not conceived of as dependent on what the laws stipulate and, in practice people only use laws selectively to support custom. I draw on Abkhaz expressions of commitment to their values of collectivity and etiquette as they expect these to be the foundations of a society with state-made laws and Constitution. What this means has required examination of different institutional functions of the state as such. The Soviet experience contributed greatly to some of today’s understandings, especially those of ethnicity and collectivism.

My approach takes in insights from the related disciplines of anthropology, history, economics, folklore and politics. The dynamics of adaptation in Abkhaz outlooks and practices reveals features of a changing society that adds to studies of those modern states whose foundations were laid down in the Soviet period (Martin 2001). It also carries comparative relevance for other societies that are undergoing transformations, including in other newly-independent entities that have been born from the break-up of federal states such as the Soviet Union and Yugoslavia, as well as those undergoing neo-colonialist “globalising” actualities.

I examine Abkhaz lineage, gender and extra-legal agencies and procedures focussing on data from dispute resolution. The regulation of disputes is through reconciliation and mediation by the parties in dispute – through direct participatory democracy². This is maintained, certainly conceptually, in conditions of urbanisation, demographic shifts, and property privatisation challenges to the communalism of the moral economy (Pardo 2004: 73).

My research on dispute resolution as an entry point allowed examination of cultural and symbolic conceptions of tradition, custom and law and to see how the ideals and stipulations in their conduct are modified by contingency, instantiating this to cover how the idealised symbolic constructions of reality and actual behaviour are accommodated (Fischer 2006) - how the contradictions that arise are lived with, explained and remedied. Thus, custom among the Abkhaz is not seen as a “thing” in itself, as reified, but as a collection of social conceptions and practices that are adapted and changed by people to meet the shifting demands of individuals living in society. Custom is present as an institution that envelops and modifies the law of the state. Law is often perceived to operate without customary restraint in ‘advanced’ capitalist countries, ones which are highly industrialised and described as ‘civilised’ or ‘democratic’, as by the Abkhaz scholar Liana Kvarchelia (2012). Modernisation is itself a complex term and will not be treated as a “thing” with independent agency, any more than is custom.

The data collected is employed to discuss the relationship of Abkhaz custom to law, and of the state to non-state institutions in what I consider is a novel way, to suggest an evolution that can retain the principles of customary regulation of society. Dispute resolution is interpreted in a broad sense to include disputes which have reached customary resolution, law courts and also what has been tackled within the family circle and are resolved with reconciliation as a central element.

² This term covers an organisation of society in which all its members participate directly in all decision-making, without such decisions being taken by the mediation or intervention of agencies with powers over society – the police, courts and such like.

1.1 Field delimitations – *apswara* and *apsua tsas*

The field that is principally regulated by non-state customary institutions and procedures is now introduced in summary.

Abkhaz conceptions of custom and its procedures is within the coupling of understandings of *apswara* and *apsua tsas* - put by the Abkhaz scholar Fatima Kamkiia as: "...to mean the traditionally derived rules of behaviour that, as a result of its long practice, has become habitual, a tradition" (Kamkiia and Costello 2013: 10). Accordingly, *apswara* is defined as the Abkhaz etiquette for personal behaviour, beliefs, values and language; and *apsua tsas* as the customary institutions for socially regulating conduct (Kamkiia 2008: 42). These are spoken of as justified by history, beliefs and the knowledge of the myths that exert strong influence on much in daily conduct, and includes all manner of intra- and inter-lineage relations, including those governing property. *Apswara* (using the term as explained in footnote no. 2) includes the growth of social standing with age, what is considered worthy conduct and what unworthy, often associated with the conduct that is described in the Abkhaz epic tales of ancient Heroes, the *Narts* (Abaev 1957, Colarusso 2002, Inal-IPA 1977, 2003, Japua and Hewitt 2008), rules for gender relations and the general ideas of collectivity alongside individual responsibilities. It includes notions of honour (*alamys*), any challenge to which must be rebutted and punished with retribution. These will be looked at through cases, and compared with the legislation the state is enacting to modernise.

The law is generally not seen as in conflict with custom as such, as customary practices take precedence over the laws and order everything that affects people as individuals, families and members of patrilineal lines, the existence of each of which is defined by the holding of a surname in common and notions of common descent in the male line.

The *azhvla*, which I will translate as *names* and patrilineal units (Dasania 2006) link in traditional co-operative units, called *kiaraz*, that bring families together on a residential basis for ploughing, harvesting, helping the poorest in the villages and, in the past, for war. That is the situation in the rural areas which until recently included the overwhelming majority of Abkhaz. Nowadays, with urbanisation, the denomination *kiaraz* has been almost universally replaced by the Soviet term *brigady*, meaning work teams. Such structures are shared by other peoples in the Caucasus (Inal-IPA 1965: 399-413), as they are to some degree by the *zadruga* of the Balkans as described by Eugene Hammel (1968: 17-38). In Abkhazia the *kiaraz*, like the Balkans' *zadruga*, was the term used for the collective farms in the socialist period.

The extraordinarily extensive rules of exogamy forbid marriage with anyone who carries the same name and with anyone who is traceable through patrilineal and matrilineal lines of affines, going back seven generations at least. Incest taboos and avoidance practices are enforced by social pressures that include the banishment of those who infringe the order of *apsua tsas*.

Matters that arise and affect the lineage are decided within it. It might be correctly observed that in all societies, some 'family' disputes are settled without recourse to law, but the context for this among the Abkhaz is of a qualitatively different kind because the relations of custom and law are also so - law is not permitted to intervene in matters that according to the Abkhaz are customary matters. Inter-lineage disputes are settled by systems for reconciliation and compensation, as will be discussed in chapter four.

Action outside the law justifies those taken in defence of honour and the 'cleansing' of the lineage of shame, (*akh'ymdzg, pkhash'aroob*). Primacy is accorded to the protection of the status of the lineage, *azhvla*, to prevent anything that besmirches its name. An Abkhaz lawyer who specialises in advancing the cases of those who claim they have been aggrieved by state agencies and who is himself state registered to practice, explained that the Abkhaz, himself included, put matters this way: "Rights and laws are not the same thing" (personal communication 2011). A prominent member of the Abkhazian scientific community said about a dispute between lineages over a

case of rape and two killings: “If the law intervenes there will be war.” His view was shared by judges I spoke to.

The term *itsasym* is used to denote shame in the sense of being the result of anything that generates a sense of shame, including one’s own inappropriate conduct and the behaviour of someone else, and is contrary to *apswara*. Such behaviour is conceived of as justifying a reaction to protect the individual’s or the lineage’s dignity. Fatima Kamkiia found that “Studies of Abkhaz customary law confirm the difference between an act that would be shameful (*pkuhash’aroop*) and behaviour that entails retribution, recompense, necessitating punishment and/or deprivation of rights (property or non-property), social position, honour, dignity, and respect, that is, the consequences of behaviour judged to be *itsasym* - contrary to custom” (2008:41).

There is general acceptance that *apswara* and *apsua tsas* must be the foundation for social conduct. What this actually means divides ‘traditionalists’ from those who would build new state structures to ‘modernise’ along capitalist lines and take away the influences of the lineages. The latter, according to traditionalists would undermine what is the prime feature of *apsua tsas*, namely, its notions of collectivity and a contingent approach to decision-making that claims legitimacy in the tradition of subordinating judgements to the prime demand for restoring harmony between all parties to a dispute according to the pertaining circumstances. Decisions on how this might be brought about are taken by the immediate members of the social communities involved in dispute through their *direct democracy* that excludes unsolicited involvement of state agencies. Herein lies one of the loci of contradiction between customs and laws.

Abkhazia has the trappings of a modern state: a Constitution³, an elected parliament, a presidency that is the chief administrator as well as the initiator of statutory law, decides the candidates for government structures and the police and judges. The practices of convening popular assemblies –

³ Adopted in 1999. On the eve of Constitution Day, November 26 the government’s paper carried an editorial article which referred to the 18-year-old Constitution of independent Abkhazia as “the basic founding document” Respublika Abkhazia 23.11.2012.

the *skhods* – that on occasion overrule presidential or parliamentary decisions give real meaning to those words of the Constitution which state:

The bearer of sovereignty and the only source of authority in the Republic of Abkhazia shall be its people – the citizens of the Republic of Abkhazia. The people shall exercise authority *directly* or through their representatives (2001: 27). [My emphasis added MC]

Here it is appropriate to list what the law does control and enforce - its qualified province of revenue collection to finance its activities: through taxation on incomes, trade and excise. It finances the structures of government, the police (state security), courts, the prison, armed forces (defence of the state), as well as education, a national health service, pensions, roads and rail, the electricity network, provision of water, the maintenance and building of museums, theatres and other structures for the arts; kindergartens, municipal housing and a broad array of projects such as assistance to attract ethnic Abkhaz emigrants back to Abkhazia, mainly from Turkey and the Middle East. The financing of all state activities is highly centralised, as local authorities exist largely to carry out instructions from the presidential office, which, in the final analysis, controls the spending of state income. Local authorities act principally as arms of the central state executive. Two features about the laws should be noted here: it is silent on the body of customary practices and the state has, in reality, no monopoly on violence, and does not claim it. Laws that have been passed in recent years do, however, encourage the formation of private companies in areas which, in Soviet times, were not permitted. The effects of this change in property ownership have yet to be determined, although informants often expressed opposition to this. On January 28 2015 the Cabinet of Ministers announced “The first phase of the Strategy for the Socio-economic Development of the Republic of Abkhazia up to 2025, for which The Centre for Strategic Studies (CSS) under the President of the Republic of Abkhazia has recruited a group of experts which includes well-known economists, ecologists, sociologists and other research figures of the country to form the work group of the project” (Apsny Press 29.1.2015). However, referring to arguments about

how the national cake should be divided and owned, the immediate sardonic comment of one Minister was that at present there was not much to be divided and the arguments are premature.

What became apparent was that there is not simply a dichotomising of law and custom, as that would be to forget the primacy accorded to custom over laws. Furthermore, the underlying contextual influences include the changing relationships to the means of production and their control. In Abkhazia one is witnessing a transformation in these, from one of all people having stood in a common relationship to them, to the nascent shoots of different relations under the construction of capitalist features. It is that change rather than a supposed change to a “market economy” that underlies the economic changes and challenges customary power relationships. For a market, a place and organisations for exchanges, whether as different forms of gift (Mauss 1990) or with the intermediary of money, is to be found in every human society. To add the word “free” to characterise one type of market is usually to have it sound nice without having to explain what “free” means and for whom.

1.1.1 Journey in, through and out

I now describe an experience that permits some ethnography to introduce thoughts on conflict, multi-ethnicity, displacements, politics, town/village residence, custom and how Abkhaz are perceived, providing hints of etiquette that will occupy a big place in the dissertation.

The border official who stamped my passport when I flew into the Georgian capital of Tbilisi repeatedly advised me not to go into Abkhazia: “It is very dangerous. You should not go to Abkhazia; you should not!” On the journey by taxi to the Abkhaz frontier 200 miles along the main east-west Georgian highway, we passed huge road signs that included “Sukhumⁱ” (the capital of Abkhazia) with the claim to its being part of Georgia shown by the appendage of the Georgian (and not Abkhaz) noun ending of “ⁱ”⁴. The driver

⁴ The “(i)” or simple “i” added to the name of a place denotes its form in Georgian. It is used by Georgian officialdom (and is omitted by its Abkhazian opposite number) to denote a political claim, a marker of the Georgian state’s not recognising the independence of

pointed out a settlement of monotonous rows of one-story houses that had been built for ethnic Georgians who had fled South Ossetia after bouts of fighting between Georgian forces and the Russians who came to the aid of the Ossetians⁵. In a café six curious women quizzed me on where I was going and why. They were Mingrelians⁶ who all spoke good Russian. One announced: “*Muy Mingrely vot tak s Abkhazami*” – “This is how we Mingrelians are with the Abkhaz” - indicating a closeness by rubbing together the extended index fingers of her closed fists and explained: “We have the same customs and always lived together...until the war split us.”

A half-mile-long bridge over the River Ingur (with an “*i*” on the end in Georgia) marked the Abkhaz-Georgian frontier. The bridge had been built after the Second World War by German POWs, “a small contribution to making up for the killings and destruction they brought to our country”⁷ a stranger in the small café on the border told me. Its state of disrepair created an atmosphere of being in no man’s land and a miserable one at that. Huge Georgian and Abkhazian flags opposing each other across the river, a few observation and radio towers in the woods on both sides, a statue of a twisted artillery piece and something of concrete that was camouflaged on the Georgian side, and a military vehicle and gun emplacement on the Abkhazian one pointed to my being in a militarised and contested area.

At the end of the slow haul on a horse-drawn cart over the bridge the rain, subtropical heavy air and the low cloud made everything look grim. I paid the fare of one *lar* of Georgian money to the carter and thought of the Ancient Greeks, who knew this coastal country well: this was the land of Jason’s Argonauts and the Golden Fleece and of Prometheus who had defied

Abkhazia and Abkhaz toponymics, thus a retention of spelling of place names that were in force when Abkhazia actually was under Georgian jurisdiction.

⁵ These were refugees from the two unsuccessful Georgian invasions in 1991 and 2008 to deny South Ossetia its independence.

⁶ A people that spans the border of Abkhazia with Georgia, with its own language. This is a member of the Kartvelian family of which the largest group of speakers is that of the Kartli of the central and eastern regions of today’s Georgia. Other related languages from the same family are spoken by the Svan (Georgia and Abkhazia) and the Laz (Georgia and Turkey).

⁷ The “our” meant the Soviet Union. The Nazi army in the Second World War reached into the Caucasus and was thrown back only after heavy mountain fighting after it took Elbrus, Europe’s highest peak. Some of its units briefly penetrated northern Abkhazia but did not reach into Georgia.

the gods. I wondered whether the *lar* was worth the same as the *obol* charged by Charon when he ferried the souls of the dead over the river Styx into Hades. The Abkhaz border guards had me listed in their book as having obtained an entry visa by email from their Foreign Ministry in Sukhum.

Inside Abkhazia along roads which were in a truly awful state there was plenty to see of the devastation of the war of nearly twenty years earlier when the Georgian government sent tanks into Abkhazia in a failed attempt to retake it from the breakaway nationalists. The minibus driver who took me onwards pointed to a railroad embankment that ran parallel to us to seaward: “Not long ago we travelled without lights after dark as bandits, Georgian infiltrators, would fire on traffic from there. Now it is quieter as the border is more secure. His account of the state of affairs tied in with O’Loughlin et al.: “... since 1993 ...Guerrilla and sabotage actions by Georgian-sponsored partisans left it [i.e. the Gal(i) *rayon*] in a state of permanent low intensity conflict for the following 15 years ” (2011: 15).

On arrival in the Abkhazian capital of Sukhum I was dropped off by a two-storied house with the flat where I stayed with a “now local” family for fieldwork over five years. I say “now local” but the family was in fact “localised” in three places – in Sukhum and in the houses of the families of the husband and wife, where they were born in far apart villages. Both had fought in the war with Georgia and the wife had been an army nurse and took part in the 2008 mopping up after the Georgian forces fled from the upper River Kodori valley into Georgia⁸. The husband had lost a brother and the mother several close relatives in that war. They had three children who moved back and forth between the town and the villages, although when I asked them where “home” was, they replied “here”, in the flat in Sukhum.

The first floor flat’s windows faced east across a park opposite the now empty cinema and a once-splendid open-air restaurant, and west towards

⁸ When I travelled up the valley nearly a year after it was taken I saw no evidence of battles, as the Georgian troops who had been armed and trained by the US had fled without a fight. The valley was almost empty of its pre-war Svan population. This had left with the Georgian forces in 1998 and had, in the main, taken the Georgian side in the war against the Abkhaz (Yamakov Op.cit.: 2). They had also pillaged Georgian civilian refugees fleeing the Abkhaz up the valley through Svan villages during the earlier defeat in 1993 according to my local informants.

the mountain foothills beyond “our” big courtyard. Balconies festooned with drying clothes and overhangs against subtropical rains and the days of intensive sun.

On one of my departures from Abkhazia an Abkhaz friend who drove me said about the border area: “No, I have never been in this district.” His manner betrayed his discomfort at being among Georgians. He was reluctant to ask locals for directions or to get out of his car at any time. His father had been killed in the war, as had a female relative and her children when a Red Cross helicopter was shot down by the Georgian military.

I was greeted as “the Englishman” on the Abkhazian side of the border and the Georgian post also remembered me. These noted down the places I had visited in Abkhazia. A senior guard volunteered: “I am not from Abkhazia and have no interest in visiting it.”

I looked in at a tiny cobblers shop in Zugdidi, a small town in Georgia/Mingrelia, to have a leather ring fixed on my watchstrap. Hearing where I was coming from the Georgian (self-identification) cobbler announced in Russian: “*Abkhazia nasha!*” – “Abkhazia is ours!” then took me down the street to a sweet shop and treated me to a third-of-a-pint of home brew *chacha* (brandy) taken with chocolate sweets. As we were in the Georgian part of Mingrelia I proposed a toast to Mingrelians but he remonstrated: “They are Georgians, as are the Svan”. I changed the toast to “the local people” and that was accepted. He spent much more on me than I had paid for the job he did on my strap and invited me to his family home in eastern Georgia. It reminded me of the taxi driver in Abkhazia who insisted on paying for an expensive restaurant meal which cost much more than the fare he charged for a two-hour’s journey. In a restaurant in Zugdidi the owner, taking me for a Russian, changed the piped music from Georgian to Russian and Soviet songs.

On arrival at the Tbilisi railway station platform, hearing I was from Britain, a porter immediately and at the top of his voice ran all Georgian MPs down as “greedy crooks” and, also loudly, begged me not to think that all Georgians were like them: “Georgians are decent people”. In Tbilisi I had a full day between arrival and my flight home and spent it with 49-year-old Georgi, a Georgian taxi driver from Ajaria in the south west of the country. He asked me whether it was true, “as is told in Georgia, that Abkhazia is under Russian occupation and the Russians are filling the spaces left by the Georgians who fled, and are buying up everything.” His Russian was fluent but ungrammatical although he served two years in the Soviet army, “in the revolutionary town of Bryansk” as he put it⁹.

We had lunch in a small restaurant – I ordered fresh lemonade, *khachapuri* (a sort of local pizza), a huge tomato - “not Turkish” – three *khinkali* (big dumplings full of meat), fresh salad from ingredients from the garden, and a coffee. He said he was not hungry and would not allow me to stand him a meal nor tip him on top of the agreed sum for looking after me and driving me around for seven hours. As we parted, he gave me a souvenir of a small dagger he bought earlier in the market.

He was very impressed when I described some examples of Abkhaz custom, especially the case of a father killing his son for murdering a neighbour’s daughter, saying wistfully “I did not know things were still like that there. If only we had those here! We used to have such customs but much has now been lost.”

The following tells of my first encounter with an agent of the law in Abkhazia.

1.1.2 The policeman

Near the central market in Sukhum in the spring of 2007 I saw several young men step out of two cars to row, noisily and threateningly with much waving of arms. Passers by gathered round them in a rough circle from pavement onto carriage-way with no signs of concern but a little excitement. The men

⁹ Bryansk is in Russia and famous in the countries of the USSR for the strength of the local partisan resistance to the Nazi army.

were arguing about the cars' collision. A young uniformed policeman strolled up and joined the bystanders for several minutes before he spoke to the disputants, gently and allowing himself to be interrupted and short runs of the shadow boxing. After the discussion among all present had lasted some fifteen minutes and in which the policeman joined, when everyone appeared to have had their say and calmed down, he then spoke to the youths. They then returned to their slightly damaged cars and drove off with friendly waves to each other and to the policeman. He had taken down no record of the incident. It was happily explained to me by a few bystanders that the policeman's job had been to stop the row by mediating a peace. An elderly man explained in Russian that the importance of a policeman's job was to reconcile disputants, to let all have their say and to show respect:

“The young man's [i.e. the policeman's, MC] part was to sort out what could have become a serious argument, not to decide who had caused the incident. He did well, considering he is young, and made it clear that he was not blaming anyone, and nor should anyone else. He was out to have all agree that no one was more responsible than anyone else for the incident, and that no one was insulted. The lookers-on were part of the process of sorting things out, like *garanty* –guarantors, *poniatye* – witnesses that things were done properly, not to take sides”.

“But,” said I, “most of them were not present when the crash took place.” He replied: “Well, some might have been relatives and, in any case, some were older than the young drivers and, therefore, had to be respected and allowed their say; after all, everybody was there to help.”

It might be thought that the incident I witnessed is the same as the restorative justice¹⁰ that one encounters in many state systems¹¹ but that operates in western capitalist society after the determination of guilt and, as Marty Price pointed out: “punishment cannot mend the torn fabric of the community that has been violated” (2001). Among the Abkhaz guilt is not the main thing to

¹⁰ I use the term (sometimes called reparative justice) as it is in countries with “western” law, where, once the guilty and damaged parties to a dispute have been determined an attempt is made to bring them and the community together to have the offender admit guilt and then to agree on compensation rather than punishment.

¹¹ One may compare this incident with how police in Britain often, and increasingly today, do not take matters that have been referred to them to court but deal with infringements outside the law: “One in eight crimes was dealt with informally on the street by police last year” following a dramatic rise in restorative justice (*Daily Telegraph* 18.9.2012: 2). Similarly, Customs Officers in the UK are permitted to decide that a traveller importing more than the legal limit of tobacco or alcohol will not be penalised if the officer judges that the traveller did not intend to break any rules.

be determined, but settlement terms are, where no one is offended and the protection of human dignity is placed uppermost. This will be further illustrated through data from case studies. The Abkhaz policeman was acting as an accepted member of the community, where a minor conflict had arisen between younger men than himself – his status of respect being accepted not an issue that required lineage adjudication, and not fulfilling a state requirement to seek guilt and punish a culprit. It is at the same time a recognition that there are loose edges at the boundaries of custom and state.

Even in the court rooms the influence of custom shows itself, as I found when I sat through a hearing in Sukhum.

1.1.3 Driven to court - no alternative

In a trial three young men were charged with burgling a woman's flat, the charge initiated by the victim, a single mother, a Russian who had no living surviving close male kin. The two of three accused who responded to the summons to appear were, one from a single mother family, the other unemployed and poor and clearly with no *name* to stand by him. In private the state prosecutor told me of his concern that "some way of keeping the accused out of prison should be found". He evidently wanted to 'do the right thing', to mend matters and explained that there should be no residue of rancour.

None the less, cases taken to court suggest that the court room is impinging on areas of what were once wholly customary. For some, as in the case of the burgled woman, it is the last resort to turn to. From other examples recourse to the court may be used as recognition that customary practice could not be fully enforced in today's changing conditions. In yet other cases the state's public prosecutor's office does initiate court action, as in the current more-than-two-year long pursuit of the perpetrators of the 2012 attempt on the life of the president, Alexander Ankvab, but this is rare. The views given by informants among judges, lawyers, police and people in general showed there is widespread distaste for the idea of locking people up because that does not bring reconciliation and a prison sentence is not

considered to “wash clean” an offence of any kind. There is a general reservation about prosecutions being initiated by the state and, indeed, the law gives priority to disputants to reach agreed conciliation without the intervention of the officers of the law and literal formulations in the laws (Zakon 27.4.2009: 15: clause 70).

There is, however, a small but growing number of court cases that tackle new kinds of offences that have arisen with changing conditions. These include road accidents, disputes over property in new areas which do not come within the village or another community where ownership can be traced to inheritance and lineal property rights, and these are predominantly in the cities where property occupation that was abandoned as a result of Georgians and others fleeing the fighting left non-fixed flat usages. In some cases flats that have been taken over are defended by their occupants as trophies of war. These are often flats and houses vacated by Georgians who fled or were evicted after the war. Even in cases that do go to court there is what would be considered in law-governed societies as open interference in proceedings by kin and friends who are not the accused, the accuser or witnesses. The tradition of customary practice which allows relatives and neighbours to resolve disputes is reflected in this kind of participation in court proceedings. What is more, police often do not initiate action on infringements of the law, such as breaking speed limits, because it is not considered proper for a younger person, including a policeman, to charge an older one or a fellow-lineage member.

When questioned about the police failing to tackle the widespread speeding in town and country and violation of stipulations (such as overtaking on corners and crossing continuous white lines while traffic police stand by) one of the most senior state officials suggested not the enforcement of penalties or punishment but only that: “People need to be educated in manners in school” (Personal communication 2012).

The list of cases heard over two weeks in Sukhum’s courthouse was almost entirely about ownership of small properties and rights to residence in them, and burglaries by people unrelated to the victim. Tamaz Ketsba, a well-

known local lawyer, told journalists that about 70 per cent of all cases heard in courts are disputes about property, “the accommodation question” (10.2.10). The use of the law is predominantly by people who do not have behind them the power of customary institutions. What is more, the court is asked to decide, in the main, on occurrences in towns. I give chapter and verse on where lineages cannot keep control.

Police are sometimes brought in when the perpetrator is unknown and has to be found and this virtually excludes action being taken against someone from within the same lineage or against a member of a known lineage. That is to say, the agents of the law are brought in as ancillaries. What at first glance might be seen as a symptom of post-Soviet “chaos” is an example of practices that were common in the societies of the Caucasus also in Soviet times.

1.1.4 Both custom and law

In Abkhaz customary dispute resolution it might appear that both custom and law are conceived of and instrumentally drawn on as if each were on an equal conceptual footing. This would chime with what has been argued by scholars who subscribe to a theory of legal pluralism that includes the continuation of traditional activities by a minority community and its punishment by state agencies, and discuss this in my section on legal pluralism. An important Abkhaz feature is that the choice of whether to pursue a criminal case through custom or law remains with those who are involved in a dispute, the immediately affected players and their kin and neighbours. The discussion of the legal pluralist argument in chapter two shows the Abkhaz do not see law and custom as either coexisting as separate structures with a hierarchical placing of law above custom, but to the contrary, accord custom a priority over law. Laws are framed that allow this explicitly or by being silent on custom:

An offender who has committed a crime of small or medium gravity may be freed from criminal responsibility if it [he/she] has made it up with the victim and

made amends for the harm occasioned to the victim” (Zakon 27.4.2007: 15: clause 70).

Crimes of “medium” gravity include those for which courts may sentence an offender to five years in prison. The mechanism by which graver crimes can be made to fit into that category will be explained through case studies (Zakon Respubliki Abkhazii, 2007, 2009).

Judges seek to minimize the use of the laws and often take the initiative in seeing that even criminal charges do not reach the courts but are tackled through customary mediation and reconciliation procedures which I will describe in my ethnography of evidential cases. I bring them forth to show their links with etiquette, the role of lineages, reputation honour and shame (as considered by such as Ruth Benedict and A.L. Epstein) and male lineage factors, according to what is highlighted in each case.

Numerous informants in Abkhazia assert that the preserve of “real” customs and the peoples’ culture “shaped by the centuries” is found in the village. Others differed on that, seeing *apswara* as a set of values, with practices that have to be applied and changed to meet contingencies and the demands of changing times, including those raised by urbanisation.

1.2 Abkhazia, the Abkhaz and Abkhazians

Custom is taken to mean the values and procedures that govern everyday practices and are enforced by the pressure of communal structures. They are justified by appeal to ‘tradition’ and a belief system that appeals to the imagined past for validation. I do not use the word “religion” in this context and will explain the Abkhaz belief system extensively, as it relates to current nationalist state-building in chapter six.

Contradictions between acting out customary practices and the construction of a “modernised” law-based state do manifest themselves, as Abkhaz concepts of fairness, dignity and equity strain to tackle new problems that arise out of developing elements of a capitalist economy and its

concomitant increase in social stratification and hierarchy generated by increasingly unequal and individualised ownership and control of resources.

The delineation of the oppositions is constantly debated and customary practices are modified to reflect experience, practical necessity. Those who speak out for greater power for law and a strong state, do so in general terms and feel obliged to insist that they still want *apswara* values to imbue that state and dare not oppose current customary procedure, especially in the field of dispute resolution. The idea of a society that is based on the values of *apswara* is also subscribed to by those who wish to see a society built “on the basis of law”. However, what this means is often qualified differently, as exemplified by a past president Sergei Bagapsh telling me in 2010: “Today we must have the law, above all else, law which takes into account traditions – something that is very complicated. The time has passed for the president to be the head of a clan or an arbitrator”.

Max Weber’s dictum that “The claim of the modern state to monopolize the use of force is as essential to it as its character of compulsory jurisdiction ...” (Weber 1968: 156) is a reference to the state in a capitalist society of his time, and is not implemented in current Abkhaz practice, especially when it comes to killings. It remains to be seen whether that will remain the case. I use the term 'state' here in its common usage in English, to mean a 'country' with boundaries, and come to its particularities in Abkhazia through fieldwork examples and my discussion in chapters nine and ten. For the moment I signal that I shall be discussing the meaning of the state as it relates to Abkhazia, to class-divided societies and to egalitarian ones in chapter two.

The laws in Abkhazia embrace the right to take revenge for a perceived insult, the settling of scores ‘among ourselves’, the threat of blood revenge and decisions by elders and the assemblies of relatives and local residents - the *skhod* - that are not to be challenged. The ultimate test of the veracity of a person’s version of events is by oath at sacred places and before the keepers of the major shrines which have “powers” that are linked to *antsva*, the supreme creator and his/her/its ‘parts’. Curses, oaths, dreams,

prophesy, scepticism about ‘natural’ death, killing and revenge are the common currency. Collectively applied justice by lineages and community assemblies continues.

Outward appearances of tradition cloak new practices and conceptions. The plausibility of embedding a state formation in custom (Polanyi 1944) is posed, as the anthropology of globalisation (Abeles 1990, Appadurai 1996, Eriksen 1993) suggests states might be embedded in institutional global, supra- or extra-state structures (Granovetter 1985). Abkhaz argue for a close interlinking of custom, with law assisting it. Embeddedness appears not as tolerance of minority groups within an overarching state, as has been argued by Gudeman (1986). Discussion among the Abkhaz often focusing on property relations which embody strong ideas about fairness, the absence of inequalities in property ownership in Soviet times and in reference to a supposed ‘traditional’ equality among the Abkhaz. In practice the Abkhaz often refuse to implement state agents’ allocation of property as evidence of this is presented in the case where a court decision on who owns a flat being disregarded and where the police take no action to enforce court verdicts. This also acts against ethnic Abkhaz who have recently come to Abkhazia from Turkey, where the state’s allocation of property to them is ignored, as shown in a survey of the situation (Kavpolit 2014: 1).

My evidence from fieldwork does raise the question of whether practices that are characterised as customary can be infinitely adjusted and tolerated through incorporation of law and be ‘modernised’ should the current course that is set on building a modern capitalist state be maintained. There could be a cut-off point at which the dominance of the direct democracy of flexible custom gives way to rigidity through the appropriation of agency by state powers – a change to delegated, indirect democracy to accompany changes from publicly-owned to privately-owned land and capitalist property. It is interesting that the Abkhaz have retained conceptions that justify many supposed outmoded practices throughout a turbulent history of societal changes and foreign conquests, revolutions and wars. This allows me to

entertain the possibility of a successful outcome of this social experiment to retain the dominance of custom.

There is much in Karl Max's conclusions on the relationship of the base of production to its superstructure of ideas that is reflected in thinking in Abkhazia (1971[1859]: 20-21) and see Stone (1985), as long as one does not base this on the vulgarisation of Marx's writings that parodies his view, as if he saw a mechanical relationship between doing and conceiving. There is relevance for anthropological research (O'Laughlin 1975) in his dialectics of political economy that made no such direct cause and effect relationship. Marx did not study in detail how ideas that developed during a particular form of property relations may retain a hold on people's conceptions when such relations are changed. Nor did he research how the hegemony of a ruling class might be ideologically undermined during its rule. Both of those were developed in depth by Antonio Gramsci in his study of the processes of change in people's perceptions (1967). Marx's interest specifically in anthropology is presented by Lawrence Krader's 452-page edition of Marx's writings on ethnology (1972) and has been discussed by numerous scholars that include Anderson and (2002) and Smith, D. (2002). The latter wrote: "In his ethnological studies, besides documenting the entirely classless and stateless character of clan societies, Marx also offers sustained and many-sided objections to what we can reasonably call authority fetishism" (Smith: 81).

The research questions whether F.J.Feldbrugge's words about the Soviet Union are borne out:

The urban and industrial civilisation will not fail to spread in areas where more ancient and traditional ways of life used to prevail. This will result, even without too much of a conscious effort, in the disappearance of modes of behaviour which are rooted in the old ways of life (1977: 38).

The point at issue is what is meant by "modes of behaviour" and this dissertation looks into that with fresh field work data that might encourage fresh thinking. The Abkhaz have instituted a parallel-cum-interwoven existence of customary practices and laws which questions the opposition of

custom and state in a novel way. They might be found to be of interest precisely because examination of their behavioural specificities and seeming particularities might be found to have parallels in other societies which have gone unnoticed; an application of Edmund Leach's emphasising that the anthropology of other societies allows one to identify the unnoticed that might exist in one's own.

A general underlying principle for conduct draws on the flexibility of customary practices (and their relationship to unsettled or weak state mechanisms) to meet changing circumstances in a way, as one informant put it to me somewhat simply in June 2012: "we settle our problems within the lineage or between lineages". This has resonances with the research findings for a Palestinian society that were presented by Glenn Bowman in 2005. In both, the procedures for disputes resolution place the maintenance of peace within a community above that of establishing individual guilt and punishment, as would be the case under western Common and Criminal law.

There is no two-tier legal structure as, for instance in Papua New Guinea, one lower, for 'customary practices' which can be overturned by state law (Demian 2003), nor is there the 'legal pluralism' that observes the existence of popularly-approved sheep stealing in Sardinia while the Italian state employs the police to stop this defiance of Italian laws (Ruffini, J. 2005).

When evidence that "would stand up in court" in the western legal sense is not available in a dispute among the Abkhaz, appeals are made to sacred sites - oaks or smithies - *anykha*, or, at the highest levels, to the keepers of the shrines, at hilltops and sometimes in what double up as little-frequented Christian churches, which bring a stage of closure to disputes. However, these beliefs include a fail-safe in that they are enforced by communal social structures that can institute ostracism and banishment of those 'shown' later, by subsequent events, to have lied – the veracity of a sworn oath is also sought in subsequent events. Gulia suggested in 1912 that closure might not be complete, as "There is no association between accuser and accused after an oath of not being guilty of a charge has been sworn"

(2003: 352). Later evidence of false testimony could be found by the shrine's visitation of otherwise unexplained sickness on a person's family and lineage: early deaths, cattle plague, madness and infertility over following generations. I add that there is a preparatory filtering procedure of widespread consultation by shrine keepers before they allow oath-swearing; and present at the rituals are advocates for each side in a dispute. The keepers decide on whether a particular appeal to the shrine is permitted.

People's dreams are *veshchiye*, that is, they prophecy and are taken into account in the adjudication process of *apsua tsas*.

In cases where there is the danger of a feud with bloodletting the forces of the law might be brought in these days, and then only for a court to be told what verdict and sentence is acceptable to the disputants as will be demonstrated by cases in chapter four.

The customary system regulates not only disputes, but all family and lineage matters, through the elders, shrines, popular assemblies - *skhody*, and the family, lineage or village gatherings. On questions of national importance the country's government will visit a shrine, in what has been described by one scholar as the state "promoting its authority by exploiting the more or less widespread belief in the sacred places" (Solovieva, L. 2007: 5). She references a fellow Russian scholar who cited two occasions of the then president, Vladislav Ardzinba - a Moslem, being present together with top state administrators at ceremonies: one in 1993 for thanksgiving for the victorious conclusion of the war with Georgia, where a bull was offered up as a sacrifice; and in 1996 to seek help in the battle against crime (citation of A. Krylov 1998a).

But nothing is as simple as sometimes seems – when, through popular mass assemblies, the recently ousted president was running for election in 2011 and a campaign against his integrity was mounted by an opponent, he refused to swear an oath of probity at a shrine and stated that he did not believe in God or the sacred places, yet the people did vote for him. I was told that his election "despite his atheistic beliefs" (personal communication

2012) was a demonstration of “Abkhaz tolerance of different beliefs”, a topic that will be fully discussed under the heading of shrines in chapter seven.

1.2.1 Abkhazia

The peoples of Abkhazia, numbering about 241,000¹², constitute an independent state that is guaranteed, protected and subsidised by the Russian Federation. Russia's recognition of Akhazia's independence only came in 2008, after Russia had joined Georgia and most other states in imposing a blockade on Abkhazia from the end of the war with Georgia in 1992, and was aimed at forcing Abkhazia to return to Georgia and accept the latter's dominion. Abkhazia's attempts, especially under President Bagapsh in the 1990s, to be accepted by and integrated into the association of countries of the European Union came to nought as those countries have backed Georgia's claim to Abkhazia.

Abkhazia is in the Caucasus region, wedged-shaped between the north east shores of the Black Sea and the central range of the High Caucasus Mountains, bordering the Russian Federation to the north and Georgia to the east and south. It is approximately 120 miles from northwest to southeast along the coast and extends at its greatest some 60 miles inland to the high mountain range. The capital Sukhum is on the coast approximately halfway along its northwest to southeast axis.

¹² According to the census of February 2011, published at the end of 2011 by the Office of Government Statistics the population of the republic is 240,705, of which 50.3% described themselves as urban and 49.7% rural. The sex ratio is 46.4% male to 53.6% female. The numbers of people who classified themselves as Abkhaz was 122,069 (50.7%); Georgian 43,166 (17.93%), Armenian 41,864 (17.39%), Russian 22,077 (9.1%). Smaller groups classified themselves as Mingrelian (1.33%) and Greek (0.57%).



Figure 1. Abkhazia

The country is today going through great social changes brought about by the destruction of the Soviet Union, wars and demographic shifts that are depopulating the villages. Most urbanites still retain the village ancestral house and land, and the link between town and village continues. This affects their adaptation to living for long periods in towns, alongside the breakdown and porosity of the boundaries of closed village communities and geographical dispersal of lineages.

The ethnic Abkhaz make up a little more than half the population which includes Armenians, Georgians, Mingrelians, Russians, and small numbers of others, with their own languages, religions and variety of customs, many of which overlap geographically and share Abkhaz beliefs and practices (Solovieva. 2007), and their relationships will be discussed to the extent that they are relevant to the topic of the dissertation in several chapters, and in some detail in chapter 6.2 . The matter of the relations of the Abkhaz with other ethnicities will crop up in relevant sections of the dissertation and also dealt with more substantially in section 6.2.

Tourism is the major industry. Tobacco, citrus fruits and some tea are grown in the semi-tropical climate (Hewitt 1998a).¹³ There is extensive wine-making, some exported to Russia, timber cutting, stone quarrying for the construction and civil engineering industries, and some coal is being cut by a Turkish company which has been granted commercial concession.

The Abkhaz language is spoken by an estimated half of the population. There is a diaspora within the boundaries of what was the Ottoman Empire among which many speak Abkhaz. Beyond these it is almost an isolate, mutually comprehensible only with some 20,000 Abazins, who live just north of the High Caucasus Mountain range in the Russian Federation. Russian, which is almost universally spoken fluently, is the language of inter-ethnic communication, as it is throughout the Caucasus and other parts of the former Soviet Union, and is commonly used within each of the ethnic communities. It is less so in the villages and towns inhabited by Mingrelians and Georgians, mainly in the south east of the country (see footnote 7 above).

The Abkhaz language relationship with others is:

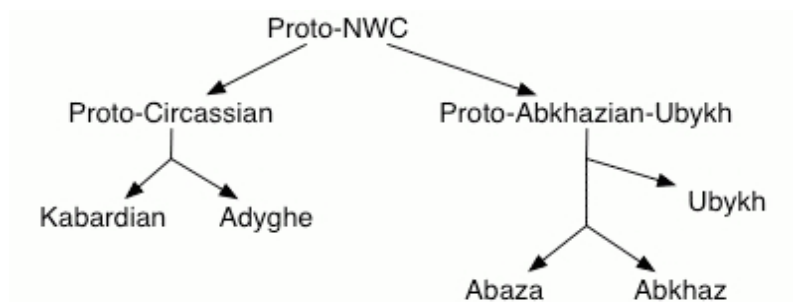


Figure 2. Northwest Caucasian Languages (NWC)

(Tsutsiev, A. 2008: 1)

¹³ George Hewitt's *The Abkhazians* (1998a) offers the best available survey of many features of Abkhazia and the Abkhaz, including language, history and beliefs. Neal Ascherson's *Black Sea* (1995) is a fairly recent description in English of the peoples of the Caucasus, showing that the Caucasus is more than the "borderlands" of neighbouring countries and that the Abkhaz and their languages are, rather, bridges between the peoples of the north and south Caucasus.

Abkhazia is part of the Caucasian network of states¹⁴, many of which are in conflict with neighbours over land and boundaries and within which conflicts along ethnic and religious demarcation lines shroud underlying economic and nationalist tensions. These are sometimes seen as the pursuits of personal aggrandisement by influential local interests and individuals, as alleged in private conversations to lie behind a dispute between Abkhazia and Russia around some well-forested land on Abkhazia's northwest border. Throughout their own history the Abkhaz have been distinguished by religious tolerance, despite the state promotion of Christianity by Tsarist Russia, Islam more benignly by the Ottomans and anti-religious persecution under the Soviets. This tolerance is most striking in shared practices and beliefs that have arisen with the adsorbition (sic) of the imported 'non-indigenous' religions of Christianity and Islam onto the surface of the still thriving belief system (sometimes called 'paganism') of the Abkhaz, with little penetration into the body of Abkhaz traditional beliefs. This might be one factor in there having been no conflicts along religious lines in Abkhazia whereas there have been in all neighbouring states. Moslem-professing Kabardians, Adighe people (often referred to as Circassians or Cherkess by their neighbours and more widely), Abazins and Chechens, and a few Afghans (personal communication 2009, 2012), as well as Christian Russians and Ossetians, joined the 'pagan' (more on this later), Christian and Moslem Abkhaz and local Christian Armenians against the Georgian invasion of the early 1990s (Solovieva (Op cit.)).

In the current assertion of ethnicity and statehood by the Abkhaz, and the contest over recognition and territorial boundaries between the Abkhaz and the Georgian state, the weapons most used are not religious but appeals to custom and language, and to different readings of history. A current schism within the Eastern Orthodox Church in Abkhazia reflects Abkhaz nationalist pressure for separating a schismatic Abkhazian church from the Georgian one whose jurisdiction over the population of Abkhazia is endorsed by the Russian Orthodox Church and the Ecumenical Patriarch of Constantinople

¹⁴ These include Dagestan, Chechnya, Ingushetia, North and South Ossetia, Georgia, Kabardino-Balkaria, Adygheia, Karachai-Cherkessiya, Azerbaijan and Armenia.

(the primus inter pares of the nine eastern Orthodox patriarchates). The schism is not theological or based on other religious difference but reflects state contentions between Abkhazia and Georgia, an opposition to the Georgian Orthodox Church hierarchy, one of whose leaders, the hieromonk (priestmonk of the Orthodox Church) Father Giorgi (Basiladze) put the Georgian Church's view as: "We will certainly return to Abkhazia, whether or not the Abkhaz, Russians or whoever else want this or not. We will return independently of whether our Abkhaz brothers come to their senses or harden their hearts even more against us" (Giorgi 2009).



Figure 3. Maps showing the geographical location of Abkhazia within the Black Sea, Mediterranean and Eurasian areas.

1.2.2 Legacies of the past

According to Abkhaz historiography, ethnography and myths, the Abkhaz and proto-Abkhaz have been settled where they are since well before the claimed first appearance of Christians from the west in the first century (Bartsyts, R. 2010: 42). Christianity did not expand from the early Greek and then Roman coastal trading enclaves. It is argued that a Christian Church existed there in the 4th century (Ibid.: 44). By the 7th century Abkhazia was within the Byzantine Empire, which appointed its *archon* prince, and used Greek in

church liturgy. During the 8th century the liturgy changed to Georgian. In the 9th and 10th centuries Abkhazia maintained an independent kingdom (Inal-IPA 1965: 131-133). From the late 10th century onwards church building expanded along the narrow coastal plain. With the decline of Byzantium there emerged over the following five centuries independent Abkhaz princedoms and kingdoms, whose borders shifted repeatedly as a result of changing alliances, intermarriage and dynastic struggles, and expanded and contracted in their domains within the south Caucasus. With the break-up of the Georgian kingdom in the 16th century the Abkhaz lands were conquered in the 1570s by Ottoman Turks. These ruled for nearly four centuries, bringing Islam with them as the state religion, when most churches fell into disuse. The Ottomans ruled largely through Abkhaz chiefs and princes, many of whom switched from Christianity to Islam, which penetrated deeper into the villages than had the earlier Christianity. They ruled until the Russian conquest, which was completed in the 1860s and that brought state-sponsored Christian missionary work, but met with a cool reception across the country according to Gulia (2003). The Moslem clergy had been accepted in the villages and, unlike the Georgian clergy brought by the Russians, lived among the people and intermarried with the Abkhaz. Islam later lost ground as a result of the mass exodus of Abkhaz known by its Arabic-Russian name of *Mahajirstvo* (Dzidzaria, G. 1975). Led by their Islamised nobility, half of the country's population left. Tsarist forces expelled many of the Abkhaz who had not themselves left for Turkey and other parts of the Middle East. Their settlements remain to this day in Turkey, Syria, Libya, Jordan and Palestine. The Russian Revolutions of 1917 and Sovietisation from the 1920s put an end to Christian and Moslem proselytising in Abkhazia. Neither state-linked Islam nor Christianity had ever established dominion over, or excluded, the local belief system, nor had they acquired an overarching hold on the minds and customs of the Abkhaz.

The conditions of life had earlier made for small, militarised communities in which all men carried arms and knew how to use them, which held fast to their land, language, weapons and customs well into modern

times; rooted in a past and partially continuing egalitarian social outlook and institutions with notions of an ideal society. The customary rules of the kin-based lineages retained wide acceptance through different state configurations well into the 20th century (Inal-IPA 1965). They retained a hold even as nobility was created under a proto-feudal sovereign prince who remained *primus inter pares*, and the last of whom was still shown public respect by the Communist Nestor Lakoba, who headed the Soviet government in the 1920s and until 1936, as witnessed by Paustovsky (1966).

Kin groups exploited the land and had common pasturage and hunting territories which were contested among the groups and defended against the encroachments of neighbours. Today the protagonists of a nationalist programme for statehood legitimise themselves by drawing selectively on events and practices that are seen as having survived from the real or imagined past as discussed by Hobsbawm and Ranger (2003 [1983]). What constitutes 'tradition' here will be examined by drawing on the literature and on the voices of today's Abkhaz. Ethnic self-identity itself dates, according to Inal-IPA from the early 19th century (Inal-IPA: 360 et seq.)

The Abkhaz were partially successful in resisting 19th century Russian land reforms that took away many of the commons and introduced private demesnes and tenancies in the coastal areas which they controlled. The Abkhaz retained elements of kin-founded custom despite the Tsarist Empire's efforts to enforce its laws (Inal-IPA 1965: 32).

The relationship between the Abkhaz nobility and the commoners relied on a reticulum of fostering known in Russian as *atalychestvo* (Inal-IPA n.d). Under this the peasants chose patrons from among lords were never tied to the land, of which there was no shortage, and could freely change their patron. This was very different from the feudal system in neighbouring Georgia and underpinned continuation of customary values. By the time of the Russian revolutions of 1917 capitalist relations had put down only shallow roots. The Abkhaz peasants worked homesteads individually as members of patrilineal kinship. They retained elements of custom that negated the enforcement of laws by the conquering Tsarist Empire (Kraevich 1871,

Machavariani 1913) and then Soviet laws during Abkhazia's membership of the state configurations of the USSR. The legal codes did not govern Abkhaz life as the Abkhaz remained concentrated in their villages, which were to a certain extent bypassed by the initial Soviet transformations.

In Soviet times Abkhazia first obtained republican status within the USSR, but the realities of this independence were gradually whittled away through increasing concentration of powers at the centre of the USSR and Soviet Georgian hegemony in Abkhazia.

Although ruled over for long periods by Byzantines, Ottomans and Russians, with the collaboration of their own notables, the Abkhaz have retained many of their own peculiarities. More so than the populations of other states in the Caucasus they accepted religions that came from outside on their own terms and that has for the most part been only skin deep. It has been described as "pagan" (Chirikba 2012, among others) the word used not pejoratively but, to extend *The Concise English Dictionary* (1960) definition of it as the animism of things (the "attribution of living soul to inanimate objects and natural phenomena") also to include concepts that are objectified and given agency. Thus, the story is widely told of how in the 19th century smallpox was identified with a spirit which was then ritually married via a lineage head to several Abkhaz women and thus brought into a lineage and ceased to afflict the Abkhaz. Cattle are thought to fear to enter a holy grove on a sacred hillock where I saw prayers and a sacrificial chicken offered up to a local spirit/force to bring a good harvest in 2011. In 2008 I witnessed an *atsunykhta* ceremonial procession through Sukhum led by women with dolls, banners and calf heart-and-lung offerings impaled on a stick to plead with the supernatural power that ruled over water and thunder for rain to end a drought ... the rains came.

What constitutes 'tradition' here is an on-going debate which will be examined in depth, drawing on its roots among the Abkhaz and the literature and the voices of today. Abkhaz scholars tend to draw attention to the peaceful aspects of past practices, such as the power of women to end conflict by dropping a kerchief between men about to fight and the part played by

elders in peacemaking to end a feud (Bartsyts 1999). The Abkhaz scholar Arvelod Kuprava warns that were the Abkhaz to lose *apswara* and the component of *alamys* (conscience), “we will turn into a disconnected mass without its own national face” and he writes of Abkhaz custom as *sui generis* which must be kept pure and eternal to maintain the nation (2007).

Despite persecution of practitioners of what were deemed anachronistic and harmful practices, “survivals” of the past, many of these remain to this day. Although modified, the etiquette and inter-lineage relations of custom did continue to govern much of property relations and individual conduct in the Soviet period. Soviet modernisation changed the country from being overwhelmingly dependent on small-scale farming and brought coal mining, power generation, road and construction industries for tourism, universal education, scientific research centres and social provision that included hospitals - all the industrialisation that accompanied the collectivisation of the peasants’ land holdings in the 1930s (Krylov 1999a: 44 and personal communications 2008-2012).

The continuation of customary practices within Soviet Abkhazia was often with the connivance of local Abkhaz Soviet authorities (personal communications). Another factor in allowing Abkhaz beliefs and traditional practices to survive was that the cutting edge of Soviet religious persecution was directed, in the first instance, at the Russian Orthodox Church and Islam, as the bulk of the clergy of both had allegedly opposed the Bolshevik revolution. Nonetheless, there were a number of serious attempts by some Communist authorities to put an end to the practices of the ‘pagan’ beliefs, as by Komsomol members smashing the large clay pots of wine that were buried underground at sacred shrines to mature in preparation for use in rituals (personal communications 2010-2011). Six of the seven most respected shrines ceased to function openly.

Another explanation of the grounds for the survival of customary practices suggested to me in personal communication (B-n 2011) was that the Soviet authorities did secure agreement from elders in the Abkhaz villages to radical modernisation projects, including collectivisation of peasant

holdings, by exempting Abkhaz villages from many of their effects, and carrying through collectivisation mainly among immigrant settler communities. Some Abkhaz elders were led to believe that they would be left to manage their own affairs – something that resulted, as put by one informant: “They [i.e. the immigrants] got the tractors and administrative power while we were left with the horse and plough” (Spring 2012). What is beyond doubt is that collectivisation of the land was applied to the Abkhaz later than to other peoples of the Soviet Union after compromises were initially arrived at. These came notably in the early 1930s when peasants did actively oppose some of the consequences of the start of collectivisation in the Bzyb (now Gudauta) region of north-west Abkhazia. Resistance was both to economic innovations and to the effects that the peasants perceived collectivization was having on their traditions (Blauvelt 2012: 87-88). Patrilineages to a large degree still hold together the networks of Abkhaz society, not least through the strong links maintained with the villages by those resettled permanently or temporarily in the towns. Demographic change has been a feature of Abkhaz reality for a long time.

1.2.3 Demographic changes

Over the past 150 years the half the Abkhaz population that was evicted from or fled Abkhazia were replaced by Armenian and Greek Christians from Turkey and Mingrelians/Georgians from Georgia. They were not only settled on rural land but it was they who came initially to inhabit the towns. Large numbers also came from Russia with the result that non-Abkhaz came heavily to outnumber the Abkhaz by the middle of the 20th century (Mueller 1998: 218-228).

Yet the Soviet practice of positive discrimination in education and in the allocation of administrative posts through quotas reserved for titular national minorities (Martin 2001:139 et seq.) did, to some degree, favour Abkhaz within the Georgian Soviet Socialist Republic which incorporated Abkhazia as a nominally autonomous unit in 1931 (Lakoba, S. 1998a: 94). The effects of the 1992/93 war with Georgia were dramatic: infrastructure

was wrecked and there was enormous damage to agriculture, industries and holiday and tourist centres (*kurorty*). Whole villages and towns were burned down and total losses amounted to around \$13-14 billion, according to the then vice-President Alexander Ankvab (ApsnyPress 26.5.10).

The Abkhaz have only moved to towns in large numbers since the war and the exodus of Georgians. Twenty years ago the Abkhaz in the capital, Sukhum, were a small proportion of its then population of 120,000. According to Derluguian the Abkhaz made up only 7% of the urban population of the country as a whole in 1989 (Op cit.: 236). Sukhum's present estimated 47,000 inhabitants are 56 per cent Abkhaz (State Statistical Office 2008) and results from an influx from the villages and the exodus of the vast majority of Georgians. By 2011 urbanisation tipped the town population for the first time to just over half (50.3%) of the country's population and makes current anthropological studies of urbanisation and custom interesting for additional study, as has been suggested based on research in similar processes elsewhere (Pardo 2004, Prato 2009). However, there is also the phenomenon of people living in both a village and a town, what Yamskov called "semi-urbanisation" (2009: 9).

The issue of property ownership or usage without ownership is relevant here. Housing in towns and land throughout the USSR was municipally or state-owned, and land usage was similarly commonly owned. It is still officially largely so in Abkhazia. Even where flats may be privately owned municipalities still are held largely responsible for providing services and the upkeep of roofs. Many flats have simply been arbitrarily occupied in the aftermath of population displacements and the massive destruction of the war brought by Georgia's sending its troops and tanks into Abkhazia in 1992 and then pursuing a policy of burnt earth and demolitions. The Abkhaz have stripped empty public and once vacated dwellings, using fittings as fuel or cannibalised for use in what was left standing in the fight for survival during the international blockade. The matter of ownership of these today is unsettled and gives rise to conflicts for which customary practices and institutions have proven to be weak in resolving.

The movement in population can be illustrated by the example of the large Lykhny village secondary school in north-west Abkhazia. Built in 1981 for 1,200 children it had some 800 on the rolls on the eve of the war and only around 200 today (*Respublika Abkhazia* 23.1.13).

The Abkhaz diaspora has retained, in its own view and that of their “co-ethnics” in Abkhazia, many conservative Abkhaz customs but few have returned to independent Abkhazia – despite its open-door policy towards them - economic conditions are not inviting, although some have come as refugees from the current war in Syria.

Informants have noted that national service in all parts of the Soviet Union had for decades opened up young Abkhaz to new ideas they learnt from fellow recruits. The active service during the fight for independence in 1992-93 placed new responsibilities disproportionately on the young, who have become more assertive. Since the break-up of the USSR the shutting down of most of the industries that provided full employment and the discipline of the workplace, taken together with the collapse of the farming system, Abkhaz youth have been forced in large numbers to seek work in the towns which are beyond much of the village-based dictates of the upholders of customary practices (1999a: 26), and has also forced tens of thousands of young people to leave for work in neighbouring Russia where, again, the arm of tradition is weaker. At home there has been a big increase in crime. Thousands of immigrants from the even more desolated post-Soviet states of Central Asia replace some of them to work the construction industry and the most menial occupations in tourism, markets and street cleaning.

“Ethnicity” is locally not defined by “blood” but by patriliney and wider kinship affine links. In the nowadays few cases when a Georgian man marries an Abkhaz woman and he adopts Abkhaz ways he is then counted as having become ethnically Abkhaz. In 2010 and 2012 I first saw black-skinned people whose ancestors arrived in Abkhazia from Africa possibly in the mid 18th

century and are described as *Abkhazskie negry* - Afro-Abkhazians. They are universally recognised by other Abkhaz as Abkhaz as they adopted local custom and freely intermarried with other Abkhaz.

Women from non-Abkhaz families who marry an Abkhaz thereby marry into the Abkhaz lineage and ethnicity although they do retain weakened kinship links with their original pre-marriage lineage.

The Soviet period brought together Abkhazians from all ethnic groups in the factories, mines, service industries and, to a lesser extent, villages. Where there were mixed communities on collective farms it was common for the work teams, the *brigady*, just as in some town workplaces, to be made up according to ethnic group. Intermarriages or, defined more correctly as “marriages into”, “marriages changing ethnicity”, were not uncommon and, it has been claimed by one author that “more than 40% of the population of Abkhazia belonged to such (wrongly called) “mixed Abkhaz-Georgian marriages”. The same writer placed emphasis on this creating “a large network of [...] kin contacts” (Marshania 2008).

Although there are such networks, and influential they may be, the large number of marriages between the Abkhaz and members of other ethnicities, especially Mingrelians (often loosely referred to as Georgians) does not turn the marriages into “mixed” ones, as the woman loses her original ethnicity and custom to those of her husband, although reverse gender dominance is not unknown. I encountered cases of pre-marriage Mingrelians, Georgians, Armenians, Russians and Ossetians so becoming Abkhaz and in conversation they spoke freely of themselves as “we Abkhaz”. The same changing of ethnicity works the other way round, with Abkhaz women acquiring a different ethnicity. This cultural understanding of ethnicity is general across the Caucasus. A woman who by birth was Abkhaz became Chechen in this manner in one of the families I met.

The stress laid in nationalist ideology on the perceived importance of preserving Abkhaz national identity has led to some disputes, including about whether Abkhaz women should be marrying non-Abkhaz, especially from among new immigrant workers, often in defiance of their families. The war

and emigration have left a surplus of women in the population according to Tsvizhba, Z. (2012), who wrote that women sometimes had to defy their families to marry, to obtain “the status of being a wife.” Some immigrants have acquired second wives in Abkhazia and this is often defended in the press by Abkhazians, although not all agree. The opinion of a veteran of the independence war was: “they should not be left husband-less” and he spoke of the tragedy of the war killing so many young men (personal communication 2012).

The Abkhaz control state structures, claimed as a right won by repulsing the Georgian invasion of the early 1990s and based on their claim to be the original inhabitants of the land, the autochthones; something that is generally accepted by Russians, Ossetians and Armenians in Abkhazia but is contested by their Georgian neighbours. Obtaining Abkhazian passports and citizenship involves going through a complicated procedure and is currently a political hot potato that was a factor in a change of government forced by street demonstrations outside government buildings in May 2014. The Abkhazian government’s newspaper has reported that in the town of Tkuarchal, in the east of the country “there is a much bigger number of marriages entered into [than those officially registered over the past year] but registration of marriages is only made for those who have Abkhazian passports, which, many young people have not yet received, unfortunately” (Shulgina. 2012). Newspapers not infrequently report that local authorities do not efficiently register births and adoptions.

The country’s state system has been pivoted on power that is in the hands of the president, despite the existence of an elected parliament, both of which are under pressure from the changing conditions towards commercialisation of life that undermine the collectivist ideas and foundations of property ownership in the Soviet and, largely, pre-Soviet periods, as noted by many informants (2007:500-511). No single party may obtain a majority in parliament because no party may contest more than a third of its seats. A new development is the establishment of groups of associated parties, the possible consequences of which will be seen in my

concluding chapters. At the time of writing an opposition movement is seeking radical changes to lift the country out of cultural and economic continuing crisis and it and pro-government forces are fighting it out through the convening of mass meetings and traditional assemblies – the *skhods* – and through an extraordinary election for a new president.

I now turn to discussion of the literature and then to an explanation of my methodology.

Chapter 2

Literature review

The academic trend [...] is away from dichotomous models in which law and Westernisation are opposed to custom and tradition and towards integrative models which stress the dynamism of custom and prefer to see village courts as an alternative to both traditional dispute settlement and legal formalism.

Michael Goddard. 1996. Reference to Aleck 1992:114

We live in a law-ridden society; law has cannibalized the institutions which it presumably reinforces or with which it interacts. [...] We are encouraged to assume that legal behaviour is the measure of moral behaviour....Efforts to legislate conscience by an external political power are the antithesis of custom: customary behaviour comprises precisely those aspects of social behaviour which are traditional, moral and religious-- in short, conventional and non legal. Put another way, custom is social morality. The relation between custom and law is basically one of contradiction, not continuity.

Thus, law is symptomatic of the emergence of the state[...] Custom -- spontaneous, traditional, personal, commonly known, corporate, relatively unchanging--is the modality of primitive society; law is the instrument of civilization, of political society sanctioned by organized force, presumably above society at large and buttressing a new set of social interests. Law and custom both involve the regulation of behaviour but their characters are entirely distinct....

Stanley Diamond. 1971. *In Search of the Primitive*: 255-280

Anthropology has had a development strikingly parallel with that of the law, and its practitioners have always tended to seek the norms of a society as the basis for understanding such key concepts as kinship and 'the family'

Michael Herzfeld. 2001: 218.

The results of my fieldwork suggested the possibility of the Abkhaz achieving a state founded on the direct democracy of customary practice rather than on the delegation of power to agencies of the state.

A reading of the scholarship on law and custom raises a number of unanswered questions that pertain to Abkhaz relationships in a society where the strength of customary practices is impeding moves towards a capitalist 'modernisation' and a state governed by the rule of law.

I researched the background scholarship under the six headings of custom, law and state, definitions, a major debate, post-Sovietics and 'transitology' and the ethnography of the Abkhaz.

In examining the literature before setting out for the field I came up against two general linked matters which required clarification: one of definitions and the second the quasi-dominance of “Western” concepts of law in much of the anthropological writing about customary practices. This revolves around the place allocated to the state in anthropology. The citations that head this chapter illustrate how far apart some contentions are on both.

I provide extensive background to the still dominant Russian and Soviet approaches to ethnicity among the Abkhaz and looked for evidence of where this affects modernisation and nationalist state-building. Wider scholarship and debates on state and custom revealed how state law has contested customary practices, usually superseding them while often incorporating elements of customary-derived practices but reserving appeal to law as the final arbiter when conflicts arise in state-law-governed societies. In Abkhazia there is no such primacy accorded to law over custom.

2.1 Custom and law and state

Customary practices and how they relate to law have received considerable attention in Western legal anthropological output, drawing on ethnography in societies on all continents. For the most part it takes as its starting point Western law, and interpretation of custom has been bounced off it. That approach by and large pursues an evolutionist path that presents custom as turning over time into law, accompanied by the retention of the customary appearances of restorative justice; practices that are widely present even in the most industrialised of states, as simulacra of customary practice. They are ever open to legal curtailment at the will of state institutions, thus being firmly embedded within the realm of state power and law and as secondary features of state law.

There is a general negation of a role for customary practices other than as temporary holding where they contradict law, and are practiced only as tolerated by agencies of the law. In his oft cited volume H.L.A Hart gave

recognition to this when he wrote that where a legislature grants courts the power to deprive customs of legal status they “are exercising a virtually uncontrolled discretion” (1961: 44). Yet he did not expand on the implications of that deduction: that law negates custom.

That is something that Maine had already noted a century earlier: “When primitive law [read: custom] has once been embodied in a Code, there is an end to what may be called its spontaneous development. Henceforward the changes effected in it, if effected at all, are effected deliberately and from outside” (Bennett and Vermeulen 1980: 216, citing Maine *Ancient Law* 1950 [1861]: 13).

However, a picture of the evolutionary custom→Common Law→Law transition is seen in Henry Maine’s other comment: “Law is derived from pre-existing rules of conduct which are at the same time legal, moral and religious in nature [...and] the severance of morality and religion from law belong only to the latter stages of mental progress” (cited by Diamond: 1971: vii, words from Maine’s *Ancient Law* (1950) [1861]: 14, 16. London: Murray). That quotation expresses an old idea that it was people’s ideas, “mental progress” that gave rise to the change from what we would today call custom to law. Such an approach to social change has currency today as found in the Introduction to a collection of works in which a number of scholars debate whether doctrine came before practices of customary law (sic) or followed on them (Perreau-Saussine and Murphy eds 2007: 2). In like vein Gerald Postema has recently written: “The hallmark of legally binding customs [...] is not the addition of belief or conviction to behaviour, but rather the integration of meaningful conduct into a web of legally recognised reasons and arguments” (2012: 707). I will discuss his conception of “legally binding customs” when I address the question of whether custom can be legally codified in a later chapter based on field research.

In his survey of legal expert’s writings on legal pluralism in a global context, Ralf Michaels cites Guterman (1990) for his view that the myriad of laws (sic) before the rise of the state, had as their “most important connecting factor ... not the territory of the state but rather community affiliation of the

individual” (Michaels 2009: 9) – a loose use of the word “state”, here to mean a territory, while elsewhere it is the centralised mechanism of rule. This confusion is not accidental, as the author perceives no conflict as such between customary laws (the myriad of “laws”) and the rules of a state (viz Diamond) and pluralism becomes a floating discursive phenomenon.

The varied use of the terms “law”, “Common Law”, “customary practices” and “custom” that is found in scholars’ writings reflects a degree of imprecision and confusion that conceptually places custom in a time capsule that distinguishes its practices only by its having been around a long time... Lawyers have generally viewed “custom law” through the prism of their interpretation of the transformations that took place from Common Law in England¹⁵. Their prototype has been developed by judges and other legal specialists and then drawn on in anthropology. Tamanaha touches on that in a reference to the generation of transnational commercial law, when he stated: “that is almost entirely the product of private law making activities” (2000: 1). He warns against the “error [...] to think that other legal and normative systems are parallel to state law (as sociologists and anthropologists sometimes assume)” (Ibid.: 62).

In his debate with Max Gluckman on custom and law, Paul Bohannan hinted at the problem: “The anthropologist’s chief danger is that he will change one of the folk systems of his own society into an analytical system, and try to give it wider application than its merit and usefulness allow” (1957: 5), warning against lawyers transporting the values and principals of legal systems from their own societies, what he terms “folk systems”, especially from the Roman and English ones of colonial powers, as yardsticks by which

¹⁵ Confusion here arises with the use of Common Law to cover what it properly should – the conclusion of the unification and fossilisation of local, customary practices, into the state’s (King’s) law in England under Henry II; and the use of the same word “common” to cover prior existing local, customary regulations, those of local communities (Sommerville, J. faculty.history.wisc.edu/.../123%20104%20Common%20Law.htm). See also According to *Britannica Online Encyclopedia*: local customs gave way to “the great transformations of the 13th and 14th centuries, when English law was given statutory authority under the crown, the ‘customs of the realm’ became England’s common law” (Viewed 16.4.2010 <http://www.britannica.com/EBchecked/topic/147411/custom>).

to judge or understand other societies' legal or customary systems, their "folk systems".

The reinforcing of the so-derived legalistic approach with only a paucity of recent research to question it has turned it into a 'paradigm'. Stanley Diamond (1974) challenged that but he was not successful in breaking the mould and the matter needs to be returned to. I do so later in this chapter when I cover the debate between Paul Bohannan and Max Gluckman, which missed the salient point that Diamond raised to differentiate custom from law, which he spelled out as the difference between "the rule of law and the order of custom" (1974: 25). Bennett drew attention to the same problem: "Customary rules are generated by a community's acceptance of certain standards of behaviour whereas, in the case of Western law, the rules are derived from legislative fiat and the authoritative decisions of the courts" (1985: 17). He and his colleague N.S. Peart wrote: "Customary law is pre-eminently embodied in a set of concrete principles, the detailed application of which to particular cases is flexible and subject to change" (1995 [1991]: 5). Bennett had already earlier concluded: "In many respects, the two systems are irreconcilable" (1985: 15). I break down the study of the nature of law, custom and the state to analytical topics, starting with definitions of terms.

2.2 Definitions

The matter of definitions has a history that goes back in anthropology, sociology and law to the turn of the 19th and 20th centuries, as found among many of the works by, for example, Karl Marx, Henry Maine, Lewis Morgan, Robert Lowie, Max Weber and Bronislaw Malinowski, and debate on which intensified in the post-colonial period of anthropological self-examination.

In some of the earlier literature specifically related to law and custom the latter is seen as the property of societies that are pre-literate or pre-state (Shershenevich 1911: 369).

Early in the 20th century Weber set out his thoughts on custom and law, which he saw not as opposed to social phenomena but as different

expressions of the ways humans organise their social rules for living, both being dependent on people's "attitudes" towards how to behave. Accordingly, custom existed "merely as a result of unreflective habituation to a regularity of life that has engraved itself..." supposedly embodying no fundamental opposition to social behaviour that is enforced by a "coercive apparatus": both being "law" (Weber, 1968:12). More precisely, he gives his definition as: "law"...is simply an 'order system' endowed with certain specific guarantees of the probability of its empirical validity" (Ibid.: 13).

This he developed by stating that it matters not whether enforcement is guaranteed by a judge or "some other organ" or by a kinship structure (Ibid.: 19); and: "legal coercion, where it transforms a usage into a legal obligation...often adds practically nothing to its effectiveness" (Ibid.: 21). Further, on the difference of custom and law: "It is only with regard to the sociological *structure* of coercion that they differ: The conventional [i.e. traditional or custom-based M.C.] order lacks specialised personnel for the implementation of coercive power (enforcement machinery: priests, judges, police, the military, etc.)" (Ibid: 27). I suggest that Weber's approach is the one that underlies much of the approach in the dominant paradigm on law and custom today:

Whether a rule is enforced by general agreement or by enforcement agencies from outside/placed above an immediate community, then that is "law" and it can exist in its plurality with custom in any given society. There is no qualitative difference between such a phenomenon relying on a state coercive apparatus and one that does not; no basic distinction between Evans-Pritchard's acephalous Nuer society and the German capitalist one of the turn of the 19th and 20th centuries, "the iron cage" in which Weber saw people trapped in the society in his time (Weber, 1994: xvi).

I will show that does not fit Abkhaz reality.

Malinowski wrote that "the rules of law form but one well-defined category within the body of custom" (1949 [1926]]: 54), which was "designate[d as] the sum total of rules, conventions and patterns of behaviour" (Ibid: 51). He, thus, reduced laws to the normative use for

ordering any kind of society, an opinion that differed radically from those of Diamond (1974: 255-280) and Assier-Andrieu (1983: 86-94) for its introducing the term “law” into the order of custom. Those two scholars saw “law” as being a feature of class-divided society and associated with the state.

Karl Marx studied the dynamics of societies and their changes and in his later years devoted much time to anthropology (Krader 1972). His view of the state as a vehicle for domination by a ruling class is famous and takes a very different position to that of Weber. At the same time, as put by John Lewis, an English follower of Marx, they did share the view that “a sociology based on a simple description of social data and deriving its generalisations from such data [...] was logically unsound and inadequate as a method for the social sciences. It does no more than describe and analyse present society without considering its fundamental structure and economic basis as themselves problematic”. According to that author’s humanistic interpretation, they shared the outlook that “went beyond the mindless empiricism that eschewed theory in favour of practical concern with plain facts (Lewis, 1975: 1)¹⁶. What they did not share was Weber’s view that society changed only as a consequence of people’s rationalisation.

Marx, together with Frederick Engels wrote down their arguments to identify those forces within societies that could be harnessed to influence societal processes in a famous pamphlet, *The Communist Manifesto* (1984), first published in German in 1872 and in English in 1888. To paraphrase it: they considered that there were present in all societies that were divided into social classes opposing interests that arose from the dynamics of production. The classes’ principal distinguishing features were determined by where they stood in relation to the means of production. Those relations varied in different class societies and in capitalism people were either owners of the means of production or workers who owned nothing but their ability to work, which the owners bought with the wages they paid and which were worth less than the goods the workers manufactured, the meaning of “exploitation” in

¹⁶ That philosopher’s interpretation of Marx was challenged and widely publicised by Louis Althusser, a French follower of Marx who argued that Lewis based his views on the Hegelianism of Marx as a young man, whereas, in his view, that was discarded in later life, an “epistemological break” (1976: 61) - a discussion of ‘what Marx really meant’.

Marx's works. It was the different interests of the classes and the way the owners, the "bourgeoisie" were forced to operate in order to continue as owners that forced on the workers the requirement to resist them and eventually to strive to remove them if they were not to be totally impoverished. According to that, in the class-divided society of their day, private capital was defended by the capitalist state: "The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie" (1984: 82). He stressed the coercive powers of the state in that class society. The authors of the *Manifesto* concentrated their analysis on European capitalism and on how they saw it had arisen out of earlier class-divided feudal societies which generated their own forms of class struggle.

Marx was interested in how capitalism could be ended and be superseded by a society without contending classes - "communism." It is evident from some of Marx's other works, including in his collected anthropology (Kradner 1972) that change from one class-divided society to another was not seen only in the simple form summarised in the *Manifesto*. He did entertain the possibility of what we would today call existing customary institutions being preserved and that they could facilitate the construction of communism without the horrors of going through excesses of West European capitalism. In his correspondence with the Russian revolutionary Vera Zasulich, Marx (1989 [1881]) expressed the view that Russia's rural communes, the *mir* (based on kinship and common geographical setting), could be "the fulcrum for social regeneration in Russia." In the preface to the Russian translation of the *Manifesto* of the same year - his last writing - he stated: "If the Russian revolution becomes the signal for a proletarian revolution in the West, so that the two complement each other, then Russia's peasant communal landownership may serve as the point of departure for a communist development" (Lowy, 2011). Marx's speculation was later debated in the period of decolonisation of the mid 20th century, the implications for the Abkhaz I discuss in my concluding chapter ten.

Marx and Engels made clear that they used the word “state” in the *Manifesto* specifically to mean the mechanism for class rule in a class-divided society. Developing this in a broader historical context Engels uses the same word “state” to cover classless ‘tribal’ society where it “had at first [been arrived] at only for safeguarding their common interests and providing protection against external enemies” (n.d. [1878]: 169). The different aspects of the word “state” as he thought it are evident. It was this that led to Engels describing a “state” without classes, which he and Marx envisaged as possible in the future as one in which “The government of persons is replaced by the administration of things and the direction of the process of production” (Ibid: 315).

Does that idea suggest the possibility of custom taking over from the (capitalist) state? Marx presented no blueprint for what communism as a social system would look like but analysed societies for the tendencies within them that might be directed. He expressed the expectation that a classless society will not have the coercive agencies of the state that characterise class ones. In the *Manifesto* he drew attention to the egalitarian collectivism that many others in his time argued was found in the communality of pre-industrial ‘primitive’ communist societies, in pre-class social formations, often called such in anthropological literature. Engels drew heavily on Marx when in 1876 he wrote *The Part Played by Labour in the Transition from Ape to Man* (Engels 1952 [1896]) which is largely incorporated into one of his major works, written between 1872 and 1882, *The Origin of the Family, Private Property and the State* (1940). Marx was strongly influenced by Darwin’s thinking on evolution and very much by Lewis Henry Morgan’s anthropology in *Ancient Society* (1877), based on field work on North American native societies.¹⁷

¹⁷ Marx’s interest in pre-capitalist social formations is cited with commentary by Michael Lowy, reviewing Kevin Anderson’s *Marx at the Margins: On Nationalism, Ethnicity and Non-Western Societies* (2010). Anderson “documents not only [Marx’s] anti-colonialism, but also his deep interest in the pre-capitalist and non-Western forms of communal property, particularly in India, Algeria, and Latin America. In an interesting comment on the French colonial policy in Algeria, Marx refers to official material of the French National Assembly in 1875 — quoted by Kovalevsky — where the same “Rurals” that suppressed the Paris Commune in 1871, denounce communal property in Algeria as a danger, since it is “a form that supports communist tendencies in people’s minds”; those representatives of the French

Without mentioning Marx, Malinowski strongly rejected his theories on society on two principal grounds. The first was that he found what he defined as private property present in the south Pacific society he had extensively studied and where the term primitive communism - is “certainly not correct in reference to Melanesian societies, which I know at first hand” (1985; 11). Here, I would draw attention to Malinowski's failure to grasp that Marx's use of the word “property” was denoting ownership of the means for exploitation of labour power. Malinowski saw the collectivist and egalitarian features that Marx imagined as a fantasy. Secondly, he deduced from his research that changes in society were brought about not by individuals constrained by social structures¹⁸ but by personal interest: “Human culture is primarily founded on the biological needs of man. Following this cue, we can add that in satisfying his primary biological needs through the instrumentalities of culture, man imposes new determinants on his behaviour that is, develops new needs”(1948 :202) such as for food and shelter. Social institutions, he believed served those basic human needs; something that fell within his highly individualistic interpretation of human motivation that was very much in concord with liberal economic theory of the Adam Smith school. Malinowski's “functionalism” was not accepted by one of his prominent students, Edmund Leach, who, in his First Malinowski Memorial Lecture in 1959 (1968), also rejected the idea of classifying societies as if they were bounded wholes – “butterfly collection” - and called, instead, for the study of general patterns in thought and behaviour across societies – “generalisation” (1968: 2). He found fault with what he called the proponents of “vulgar Marxism” for subscribing to a “dogma” that held that intrinsic conflict within every society provided the motor for change. He argued that the study of binary oppositions in society allowed one to see how the “transformation of economics into ideology through the mediation of kinship actually occurs” (1986: 223). This last point, I think, takes him close to Marx,

bourgeoisie, adds Marx, “are unanimous on the goal: destruction of collective property.”

¹⁸ That is to say not by Marx's conclusion that “Men make their own history, but they do not make it as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weighs like a nightmare on the brain of the living” (1972 [1869]: 10.

who rejected the vulgarisation of his own ideas, and into discussion on how ideology might be formed, albeit Leach took a different starting point – that of kinship relations. The debate in recent times has made little progress towards agreement on getting the terms clear for what we are discussing, as the content of approaches that follows illustrates.

It is accepted among legal scholars that custom and law have in common that they both regulate order in society and that custom originated in non- or pre-class-divided society. Karl Marx wrote that the dominance of one class over another was not only through the threat of the use of force: it used promotion of ideology to hold matters together, all that "men say, imagine, conceive," which include such things as "politics, laws, morality, religion, metaphysics, etc." as he and Engels wrote (1970). I interpret this approach by Marx as being recognition of a secondary arm of the state, something that later followers, notably the Italian Communist Antonio Gramsci, developed in his writings (1957) when he considered ideology and its hold on people's minds, what he called "hegemony." One of Gramsci's contributions to scholarship lay in his use of the plural of that word – *hegemonies*, and considered that there could be a contest of different hegemonies in class-divided society. Thus, he argued that the contribution of its hegemony to a class' rule over society denied that it was only control by the force of its state agents. His pluralisation of hegemony was a discussion of both that of the ruling class and another, of organisations in society that opposed a class' dominance. Marx expected "the return of modern [i.e. capitalist M.C.] society to a higher form of the most archaic type – collective production and appropriation" where the ideology would be to sustain that. He added: "The vitality of primitive communities was incomparably greater than that of Semitic, Greek, Roman, etc. societies and, *a fortiori*, that of modern capitalist societies" (Marx 1989 [1881]: 346). There is an implication for Abkhaz custom in this: if the state's role of defending the interests of a dominant class or number of classes is removed, then one is left without its coercive agencies, leaving a regulatory role, a purely organisational one, as in societies that are/were ordered by the principles of co-operative-based societies. That

implication is relevant to what is being contested by the social elements of custom and law in Abkhazia and the hold of the conceptions of custom, what might be called its counter-hegemony to a capitalist-minded state.

The concentration on customary practices in the anthropological literature on law and custom, sometimes called “customary law” or just “custom”, and sometimes using the term “tradition”, with all its baggage of invention, reinvention and *post factum* revision, has been confusing. It has at times blurred the differences between law and custom.

Thus state agencies enforce laws and, more to the point today, meet capitalist state requirements according to a number of scholars in this debate (Bohannon 1965, Babadzan 1998, Keesing (1989), and also discussed by Babadzan 2004 and Aikin 2004, 2005). Jeremy Bentham¹⁹ is approvingly cited by Diamond for writing: “Property and law are born together and die together” as Diamond believed “law is symptomatic of the emergence of the state; the legal sanction is not simply the cutting edge of institutions at all times and in all places” (1965:259).

He saw law and custom as different institutions to fit different social and economic systems, which they in turn bolster. This was something that was described from the field by British colonial administrators such as Brett Shadle (1999), who described the manipulative approach to “African courts” by British colonial administrators in 1930-60 Kenya. However, even that scholar glossed the rule of ‘the order of custom’, to use Diamond’s phrase (1974: 256), with relics of its practices the British rulers of Kenya were grappling with in order to modify them to meet their own interest.

Tamanaha (2000) summed up what he saw on this: “Virtually all attempts to define law fall into one of two categories: law is either seen in terms of concrete patterns of behaviour within social groups (Eugen Ehrlich, Bronislaw Malinowski), or in terms of institutionalised norm enforcement (Adamson Hoebel, Max Weber, H.L.A. Hart)”²⁰. Hart’s positivist approach provides some interest but he settles for a mechanistic understanding of the

¹⁹ Bentham, J. cited by Diamond (1974: 259) n.d.

²⁰ Reference to one of his previous works: Tamanaha, B. 1995. An Analytical Map of Social Scientific Approaches to the Concept of Law. *Oxford Journal of Legal Studies*. Vol 15: 601.

relationship of technology to social change - a reification of technology that confers agency on it so as to make of it the driving force for initiating social transformations and thinking. Bennett and Peart (1995) identify the failure of the scholars listed by Tamanaha to free themselves from looking at law from the standpoint of Western jurisprudence, and for generating conceptions from within the circle of their profession.

Making choices between available definitions of law and custom, “the agonized return to problems of definition” as it was called by Simon Roberts (1998: 97), and possibly adding to them proved to be essential to my study. I found great value in T.W. Bennett’s raising questions that remain unresolved or passed over in anthropology. He sited his study in the history of developments in custom and law in the British colonies of Africa and related them to changes in social formations, with “Customary law” (sic and throughout) pre-eminently embodied in a set of concrete principles. The application of these to particular cases is flexible and subject to change and does question the supposed virtue of law having fixed responses to any particular case. Bennett also argues that custom is not ruled by the precedent contained in Common Law and develops that feature when instancing “African courts” and law and arguing that while custom was the product of community-based interaction that cannot be abstracted from its social setting and applied in Western-derived legal courts: “Once a body of norms [i.e. custom, M.C.] is treated as a code of law, it is assimilated to other legal codes [e.g.] Western law including “certainty, uniformity and precision” (1985: 63).

Bennett (1985 and Bennett assisted by Peart 1985) have provided a detailed survey of the different schools of thought on legal, state and philosophical approaches to this topic, focusing on the legal approaches that have been the main sources of the study of custom and law. He rejected reification of cultures and examined how custom (what he called customary “law”) relates to the social, political and economic changes occurring in a particular society (Ibid.: 1 et seq.) Despite his efforts to introduce precision in the use of terms there remains some imprecision in his own usage. Thus, he

has the word “law” cover customary rules and practices as well as state laws, instead of the word “order” that might best describe the absence in customary practices of state-enforced law. He perhaps does sense this element of confusion and explicitly rejects stigmatising customary law [sic] “as a lesser normative order” and asks “whether customary institutions (notably patriarchy) are tolerable in modern states” (Ibid.: 3). Leaving aside his placing stress on patriarchy, he unfortunately does not answer that tantalising question, which is topical for the Abkhaz and one that I address in this dissertation.

The other imprecision is his, again quite common, use of the word “evolution” without specifying how this works as a function of transition or change (better terms) from customary-based to law-based society. He glosses the various ways of change that take place: some by qualitative changes within a society, ruptures or movement to wholly new forms, as with change in which class is to rule, and the possible smooth development from one form to another without disjuncture of the kind suggested by Maine in the earlier citation and that one might associate with Malinowski. The importance of the distinctions has proved relevant to examination of custom to law in Abkhazia today.

Bennett did not, unfortunately, subject law (taking that word to mean the legal system one finds in class- stratified countries with their states) to a detailed examination of what can be taken as implied, *viz* that he took it that custom did not have a continuity with the rule of law, as argued by Diamond in 1974. Diamond will be returned to below as I look specifically at his arguments and contrast those with both Gluckman’s and Bohannan’s.

2.3 Bohannon – Gluckman – Diamond - the nature of custom and law Substantivism/formalism/embeddedness

You see, sweet maid, we marry
A gentler scion to the wildest stock,
And make conceive a bark of baser kind
By bud of nobler race: this I an art
Which does mend nature, change it rather, but
The Art itself is nature.

William Shakespeare ... The Winter's Tale. IV (4) 81

The debates in anthropology between substantivists, formalists and dialectical materialists on whether cultural practices determine and can survive profound social and political transformations in a society is of great topicality for Abkhazia.

An influential work by Karl Polanyi in 1944 led to a debate that crystallised scholars into two principal camps – one that viewed the individual as such as responsible for economic decisions based on calculated self interest - the “formalists”; the other – “substantivists,” elevated cultural beliefs to have them governing people’s decisions. Paul Bohannon was cast in the first image and Max Gluckman into the second. However, it is fair to say that those are over-simplifications that derive from the debate between the two, and from a selective reading of Polanyi’s work. He changed his thinking over time from his initial inspiration from Marx, and came to centre his attention on how he saw the way that markets worked in societies, and came to the view that in a commercial market system, using and giving currency to the term “embeddedness”:

[T]he control of the economic system by the market is of overwhelming consequence to the whole organisation of society: it means no less than the running of society as an adjunct to the market. Instead of the economy being embedded in social relations, social relations are embedded in the economic system (1957: 57).

The key feature of his approach is, it seems to me, the glossing of the words “the running of society” (human social agency) and “social relations are embedded in the economic system” (making the economics dominant with “a motive of its own” (Ibid.: 57)). It was to these formulations that we owe both

the substantivist and formalist interpretations, offered as choices - the influence of social relations or those of economics.

For culture, called *apswara* by the Abkhaz, to be primary, I believe from looking into the Abkhaz views on fairness, this could only be in a society which was economically “fair”; a society based on reciprocal exchange rather than the capitalist principle of unequal exchange of labour for wages driven by the pursuit of personal profit. Embeddedness of the economy in social practices would be in a society without the class differentiation that is based on the ‘freedom’ of the market and inimical to *apswara*. This rejects ideas of a no-choice economic, demographic or climatic determinism for how people organise themselves in society. There is another important strand of thinking that needs looking into, one that runs through much of the scholarship on custom and law and which treats the relationship between human, i.e. societal-derived institutions, as static at a given time, to change simply because of the passage of time. Bridget O’Laughlin writes (1975) of the dynamics of inter-relationships of the kind that Marx’s dialectical materialism opens up to anthropology. To accept ‘production’ as a mechanical motor for societal change was described by O’Laughlin as “technological reductionism”, and she has argued against it being accepted as a determinant in the dynamics of historical change (1975: 355-356). That might be interpreted to mean that the experience of retention of customary practices by the Abkhaz in the Soviet period suggests that that period furnished support for customary collectivism. The importance of this will also be looked at in chapter seven.

I looked at the relevant approaches of Bohannan and Gluckman and bring in those who were not to be followers of either.

Although Bohannan, following Boas, deduced from his fieldwork among the Tiv that changes in any one society should not be fitted into an overall, universally applicable theory of how change takes place, the example he used of the influence of the introduction of money as a means of exchange (as he saw it in a reification of money) would appear to have demonstrated a counter to embeddedness. Sharon Hutchinson’s studies of transformation over

time in Nuer society in the Sudan would also suggest that under the influence of the introduction of money the Nuer followed the same course of societal development (1996). Both sides in the substantivist versus formalist debate left unacknowledged that processes might take place differently in class-based and non-class customary regulated societies. Marx's dialectical materialist theory of the connections of economic development and human activity and outlooks was presented in his commentary on Feuerbach (1973 [1888]). He argued that people adopt new ways of thinking and conceiving through changing their circumstances that are then reflected in different ways in their thinking. This offered a theory that would bridge the seeming irreconcilables in the formalist and substantivist positions by advancing a role for human agency, much as does the citation from Shakespeare that heads this sub-chapter. The substantivist-formalist polarities have been debated from many angles, including those that feature the tenacity of ideas of "moral economy", discussed in Scott's examination of rural workers (1976). In his discussion of the implications of embeddedness Granovetter (1985) has argued for more attention to be devoted to what might be considered to be marginal, such as the embeddedness of "small firms operating through the market" (p. 507) and "the extent to which economic action is embedded in structures of social relations" (Ibid.: 482), to show its continuation in economies dominated by the market. One does not have to agree with all his interpretations, but he does go deeply into what I found at issue in Abkhazia. I interpret these discussions as concerning processes for human agency to be exercised in the "political" part of political economy, and thus providing choices for the Abkhaz who are not locked into Weber's iron cage of capitalism.

I now visit the scholarship to look into the radically divergent approaches on law and custom of a number of anthropologists – represented in the main by Stanley Diamond, Paul Bohannan (1968), and Max Gluckman (1968), to

make very clear what we are talking about before drawing on other scholarship on the topics that concern us.

The writings of Laura Nader (1965a and b), Goddard (1996), Demian (2003, 2008, 2014) and Aleck (1992) on other societies provide data for a comparative study of Abkhaz society, especially when examining the anthropology of the state. There are many variants and much blending at the margins of the contrasting viewpoints. My approach comes up against certain paradigms that reflect current thinking in the schools of anthropology in the “West” and that are gaining ground among academics in Abkhazia and other parts of what was the Soviet Union under the influence of the current tendency to “turn daddy’s (i.e. Marx’s) picture to the wall” or to throw the baby out with the bathwater.

This will set something of a backdrop to analysis of what is actually taking place in Abkhazia. I consider some contrasting approaches that I was drawn to by reading Diamond’s essay *The Role of Law and the Order of Custom* (1974: 255-280). He argued that custom and law are mutually exclusive, crossing swords with the contrasting view held by Bohannan (1968:73-78) and Gluckman and singled out the presence or absence of the state as a critical influence on societal development and social practices. It touches also on how custom supposedly ‘became’ law.

Paul Bohannan believed that law and its institutions incorporated custom as it changed. He advanced his thesis of “double institutionalism”, according to which “legal rights have their material origins (either overtly or covertly) in the customs of non-legal institutions that must be overtly restated [emphasis in the text M.C.] for the specific purpose of enabling the legal institutions to perform their task” (1965:36-37). Custom, for him, is “a body of norms” which “expresses ‘ought’ aspects of relationships between human beings” (Ibid: 35). Through “justifiability” [...] rules must be [...] reinterpreted by one of the legal institutions of society [...] to be adjusted by an ‘authority’ outside themselves” (Ibid.:34-35). The clear implication is that it is only law, presumably of the state, that rightly can sanction (some) customary practices according to its inclinations: “custom that has been

restated in order to make it amenable to the activities of the legal institutions” (1965:36). He argued that it is during periods when such endorsement (“double institutionalisation”) has not “fitted” custom into law “that social growth or decay take place” (Ibid.: 73).

Elsewhere he precisely asserted that double institutionalisation meant that laws simply were “[the...] lending of a specific force, a cutting edge, to the functioning of customary institutions [...] and then assume a character and dynamic of their own [...] and] interact with given institutions”. Laws are, he added, typically “out of phase with society” and it is when this is marked that laws change (Bohannan: 1968: 73-78).

Diamond takes issue with Bohannan to stress what he saw as the different features of law and custom – that, by its very nature law is a set of regulations that are opposed to the direct democracy of custom and is enforced by agencies of the state. Custom, he wrote is “traditional, moral and religious [...] The relation between custom and law is basically one of contradiction, not continuity” (Op. cit.: 257). In his support he cited (1974: 257-8) William Seagle:

The dispute whether primitive societies have law or custom, is not merely a dispute over words. Only confusion can result from treating them as interchangeable phenomena. If custom is spontaneous and automatic, law is the product of organised force. Reciprocity is in force in civilised communities too but at least nobody confuses social with formal legal relationships” (1946. *The History of Law*. New York: Tudor: 35)

Diamond added: “Parenthetically, one should note that students of primitive society who use the term ‘customary law’ blur the issue semantically, but nonetheless recognise the distinction” (Op cit.: 258). He explained that “direct democracy” pertained in custom: “Customary rules must be clearly known; they are not sanctioned by organised political force” (Ibid.: 258). For my own discussion I will question the accuracy of his tying custom to ‘primitive society’ and I will discuss whether this is acceptable in the case of the Abkhaz, where data from my fieldwork provides grounds for envisaging a customary regulation of industrially developed society.

Diamond approvingly cited Maine (1889: 230): “Civilization is nothing more than the name for the...order [...which has] substituted several property for collective ownership” (1965:259).

Clifford Geertz’s characterisation of religious ritual as being “the model *for* and the model *of* aspects of religious belief” (1966:34) might be applied to describing the beliefs and practices of societies which conduct themselves according to custom. There the rules are universally known, understood and enacted by all their members to regulate their own affairs, there being no division, as Geertz perceived between the knowing and the doing in religious ritual, thus making of custom the *for* and *by* of society.

Nader has interpreted Bohannan as having charged Gluckman with “having forced the Barotse folk concepts into a Western model [of law, M.C.] (Nader 1965: 11). Gluckman disagreed, but in words that leave the matter open: “The whole of my analysis is concerned to show that even if the principles of law be similar [i.e. to English law, M.C.] they are permeated by quite different economic social conditions, this being so, it is nevertheless important to state that there are similar principles” (Gluckman 1955: 378). It is a fine line that distinguishes the charge and Gluckman’s response; the point of me bringing this forward is that Gluckman does not regard the “quite different economic and social conditions” of the Barotse and English of great importance. Diamond does.

Gluckman (1972) generalised from the results of his study of the south central African kingdom of Barotse – a class structured society, while Bohannan had studied a society that until shortly before his field work was a custom-ordered non-state one, the Tiv²¹ of northwest Africa (1957) and likewise generalised his findings. This led to a debate between them which had no common data to make for a comparative argument on the nature of law. What was missing was an appreciation that it was the class and non-class features of the two societies that underlay their difference. Their respective data could have been better employed to anthropology as a whole if the

²¹ According to the *Encyclopaedia Britannica* the British only established a paramount chief in 1948, and with it the first class stratification of a state.

scholars had attached more attention to that factor than Gluckman's perfunctory reference to "quite different economic and social conditions". This drew my attention to making a focus on the class element among the Abkhaz.

It seems to me that the concentration on the differences between Gluckman and Bohannan on formalism and substantivism is not the most relevant point for my topic. Of greater import is what they hold in common: the common theoretical ground that shows in neither of them detecting any fundamental difference in societies that relate to their class structures. They debated "Western judicial processes" and (to be compared with) "non-Western juridical processes". It also showed Bohannan's "folk system" concept, for analytical purposes - his conviction that every society in the world had its own valid, way of looking at society (1957: 6).

Moreover, both Bohannan and Gluckman would reduce the difference between custom and law and their practices to that of "concepts", something also subscribed to by Postema (2012), as mentioned earlier. In this is found another important difference with Diamond, who argued that custom and law were incompatible because they served different political economies and not only focused on concepts of these. Roger Keesing's contribution seems relevant where he argues that attempts to codify custom in law in Melanesia (using the Pacific Pidgin rendering of custom as *Kastom*) destroyed custom's essential contingency and flexibility in its application and were illustrations of "the hegemonic force of colonialism" (1989: 27-28), for which one must read that codification meant to make certain customary practices of a particular moment become listed in the form of laws derived from a capitalist society, and loss of its direct democracy, responsiveness to contingency and mediation in disputes.

Judith Beyer, wrote on the invention of tradition by colonial officials, and of some locals getting their interests codified as "tradition" (2006: 154). Her data from fieldwork in Kyrgyzstan, show that courts run by the elders, the *aksakals*, are under construction today, although in the days before the Russian Empire ruled the region, there were "no official courts of the

aksakals, but rather gatherings and councils during the life-cycle rituals [...] and in acute cases of conflict”, where the elders settled conflicts (Ibid.: 159), adding that “courts” were a later invention as, in the pre-colonial period, custom was applied according to local traditions and it was the Russian tsarist administration that codified and downgraded customary procedures, replacing them by Russian law (Ibid.: 160-161). Beyer’s view is that “describing a local institution or a local practice as being a ‘revitalisation’ [as in Kyrgyzstan] or a local practice, ‘invention’ or having ‘continuously existed’ is most often nothing more than a labelling of only one of possibly more discourses on the historical development of the object under consideration.” (Ibid.: 169).

For comparison Stephane Voell has examined the relationship that exists between law and custom among the Svan in Georgia’s Kvemo Kartli province, just over the border with Abkhazia. There the processes of reconciliation and symbolic compensation payments follow on the sentences handed down to those found guilty in state courts and are to restore harmony through reconciliation, to meet “local moral sensibilities”. This is more like restorative justice where non-state or state-tolerated practices are permitted after the agencies of the state have decided on the substance of a dispute, rather than representing a prevailing order of custom. It is the accompaniment of state law. Voell recognises this: “the state administration and police are from a legal point of view in full control of the situation” and “even among policemen or lawyers [informants] mentioned only a small number of conflicts are [by the Svan] addressed with traditional procedures” (2012: 3 and 4).

I think that whether one sympathises more with the views of Diamond or with Bohannan-Gluckman on that last matter is relevant for the study of today’s Abkhaz society and whether the Abkhaz will continue to give customary practice priority over law. Whether the forces for a law-based society can replace custom in the process of modernisation, understood by the Abkhaz to mean the building of a high standard of industry, agriculture and services, will be considered in chapters six, seven and eight. What will be suggested is that there could be modernisation without capitalism and indirect

democracy. The topic is relevant to other societies that have attempted or are attempting to retain custom.

There is a factor which none of Diamond, Bohannan and Gluckman examines and that is the possibility of a complex industrial society being ordered by custom. The state is not interested in conflicts getting out of hand, either between classes or among the sometimes differing immediate interests of different sections of the ruling classes. The latter can be differences between manufacturing, agricultural, rentier and financial interests, as evident in modern Britain. This allows conceptually to separate two state functions and consider a ‘communistic’ society in which classes that have conflicting interests are not present, and with that the presence of instruments to maintain one class in power over the other. All human societies require administration; the question is whether this can be directly by the members of a society without the delegation to agencies of the state. This would consider a role for ‘an ordering state’ that is largely neglected in anthropological literature, a state without agencies to enforce laws that are antagonistic to the direct democracy of custom. Informants in Abkhazia tend to envision the theoretical possibility of a customary state being regulatory, like a co-operative, in which all members decide and implement regulations – direct democracy. This will be covered in chapters eight and nine where the possible courses for the future in Abkhazia will be examined. I now turn to the literature on a major debate in anthropology that is relevant.

The dissertation presents features of Abkhazianness but is not a listing or catalogue of Abkhaz customary practices. The dynamic interaction of historicity in the sense of culturally filtered treatment of the perceived past (Hodges 2011), as well as the future is looked at. Writings by Judith Beyer on the practices of supposedly re-established ‘customary’ courts in part of Central Asia (2006), Matijs Peleikis on the influence on practices among a

single ethnicity which is divided by state borders – post-Soviet Georgia and capitalist Turkey (2006), and Stephane Voell on the Svan in Georgia are among those which were found relevant for comparison.

Whether customs are today defined as a collection of relics of the past, as “survivals” (Inal-IPA 1965) or as “traditions” (Inal-IPA 1978) when writing about the Abkhaz, or as evolved social instrumentalities that justify the laws of contemporary society by conferring on these the status of being modernised aspects of “custom” (the popular imprimatur of “tradition”) it is generally accepted that custom existed before state law, an acknowledged of their existence as separate entities in a historical context. This understanding of difference is illustrated by the interpretation of case studies in a Papua New Guinea village court and “an urban national court” by Melissa Demian (2003) and may be compared and contrasted with Brett Shadle’s survey of the manipulative approach to “African courts” by British colonial administrators in 1930-60 (1999), to which reference has been made.

Sally Falk’s work on “an anthropological approach rejects the view held by Diamond (1974), *inter alii*, that the sway of custom was a set of rules of pre- class-based state formations, and laws for state regulation. That scholar does not look into the possibility of any contradiction as such between custom and law but, while criticising Diamond for his alleged “adherence to the rigidities of an early evolutionism” does say that he raised questions that “have not been thoroughly investigated by other anthropologists (Moore, 2000 [1978]: 216). Yet Diamond merits no mention in her later edition of contributors to a widely-used Reader on law and anthropology (Moore Ed. 2005). Like most writers in that collection she subscribed to the paradigm that has reigned since the 1920s to describe custom and law as coexisting in the once colonial and now post- or neo-colonial periods, through variants of a continuation of law and its mechanisms for indirect rule. She attaches no importance to the fact that the laws of colonial powers and of their state-builder successors of today had and still have the final say on ‘custom’; and held and still hold the power to

enforce their will, whatever their tolerance of what appears as relics of localised customary practices.

The viewpoints of both Bohannan and Gluckman also gloss terms and would have custom and law as variants over time of the same thing. That explains how Bohannan²² (1957) could write about “law” among the Tiv when he described the relics of custom, without placing them in the context of the overarching power of British colonial rule – a legacy of the structural-functionalist writings that have been with us since the early 20th century. Elision has been applied to law and custom in societies where pre-state custom dominates, where there are attempts to produce syncretic hybrids with state-regulated law, and where there is straightforward enforcement of law at the expense of custom.

Interestingly, the Russian words for Common Law, *obychnoye pravo*, derive from the words for what preceded the Common Law in England that was introduced by King Henry II in the 12th century to do away with local practices (see note 17). The word “common” became glossed to mean ‘to apply to all equally’ rather than ‘deriving from the commons’, i.e. in localised different practices outside of centralised state control. The meaning found in the roots of the Russian term is the one that Diamond (1974) championed when he rejected Bohannan’s double institutionalization, and dismissed Bohannan’s ideas as “abstract” for giving law “an eternal essence” rather than having a “definable historical nature” (1974: 256).

I found that the unresolved controversy among scholars severally mentioned above has a relevance to today’s discussion among the Abkhaz around state-building, and thus impinges on their thinking on nationalism and post-Soviet experience.

Even where it is suggested that customary practices are present in a society they are placed in a temporal framework in which they are expected to be superseded by law, making of them relics of a pre-industrialised or ‘pre-

²² One among many that included Malinowski and Evans-Pritchard, who described native (i.e. colonially-dominated) societies, their regulation and mechanisms for settling disputes without discussing the law that was in the hands of the colonial rulers; and which still today justifies central “Western”-style government interference in customary practices whenever they wish.

modernised' period, yet that temporality has not been discussed in contemporary scholarship on law and custom. I will address this lacuna when we come to conclusions arising from discussion of the situation in Abkhazia and the choices available for attempting to 'marry' custom with laws of the state in my conclusions. But, first a look at the literature on legal pluralism to see whether there are answers and ideas found there that are relevant to Abkhaz custom.

2.4 Legal pluralism

In an expansive review of thirty years of debate on legal pluralism Franz von Benda-Beckmann interestingly singled out for prime attention “whether or not one is prepared to admit the theoretical possibility of more than one legal order or mechanism within one socio-economic space, based on different sources of ultimate validity and maintained by forms of organisation other than the state” (2002: 47). He regretted “that authors whose theoretical understanding does not allow for legal pluralism, end up with widely divergent concepts of law” (Ibid.: 72), and concluded that article with a plea: “much more attention therefore should be given to empirical research and to the theoretical understandings of the many variations we find in the empirical constellations of legal pluralism and of the ways in which these different constellations influence the actual social, political and economic conditions in the areas and the lives of the people concerned” (Ibid.: 74).

The scholar of law, Ralf Michaels (2009), drew on legal experts in his wide-ranging tabulation of theoretical understandings of pluralism, but used the word “law” to cover actual laws as well as custom. He took state law as his fulcrum around which to discuss pluralism and, thereby, was not able to elucidate relationships such as are found in Abkhazia, where the state's laws are not conceived of as offering such a single fulcrum. While drawing attention to the multiplicity of laws (sic) before the rise of the state, he saw multiplicity simply as reflecting a “conflict of laws [in which] ...the most

important connecting factor was not the territoriality of the state but rather the community affiliation of the individual” (Ibid.:218).

Tamanaha (2000) has sought to arrive at understandings that would overcome what he perceived as theoretical wooliness on law and custom by addressing theories of legal pluralism - the idea that there can be a socially accepted variety of legal systems coexisting within a single society. He wrote: “...the notion of legal pluralism [...] has been plagued by a fundamental conceptual problem – the difficulty of defining ‘law’ (Ibid.: 3). He described conflicts between state legal and customary norms but, however, after a highly legalistic approach with which he revealed he himself was not too happy, he ended with a call for more research to be carried out.

Does one witness pluralism in Abkhazia? I would say “yes”, but not in the sense that it has been discussed in the literature which elides the terms law and custom. Theories of legal pluralism vary according to how their authors interpret the influence of law and that of its circumscription of the vestiges of custom. The pre-eminence of customary practices in resolving disputes in Abkhazia demonstrates the reality of a very complex relationship of custom and law. Melissa Demian has written: “the ‘problem’ of legal pluralism is an especially vexing one for lawyers and anthropologists alike” and she cites other authors who have drawn attention to this (Demian 2003:97). According to Tamanaha: “What makes [...] pluralism noteworthy is not merely the fact that there are multiple uncoordinated, coexisting or overlapping bodies of law, but that there is diversity amongst them” (op. cit.: 1).

Attempts have been made to suggest the possibility of incorporation that of customary practices into state law, but it is the opposite incorporation that is discussed among the Abkhaz. I show below when drawing attention to colonial and post-colonial experience, for example, in the laws that outlaw customs in Papua New Guinea on the grounds that that they are ‘repugnant’ (Ibid.: 509) have failed as they do not tackle the matter of whether or not they are things of a different kind that cannot be reconciled, and the literature on colonialism, post-colonialism and disputes about “multiculturalism” in

unitary states bear witness to this. Disputes rage over what ‘customary’ practices are to be permitted by the state, ranging from dress codes, practices to defend family honour, ‘permissiveness’ and much else. The American Civil War was fought over that issue and it was not resolved by the victory that established a unitary state and put a virtual end to the federalism that challenged it. At best, some customary practices are permitted, as long as they do not negate the state’s legal agencies having the final say on something that they might deem unsuitable. The legal pluralist school of thought has not been able to come to conclusions that square that circle of accommodating both custom and law.

The dominance of law is well set out in a state document that sets out the law on custom for today in Tanzania (note: it is a law and not “custom” document). In part: *Tanzania Human Rights Jurisprudence* (2013) lays down : “Customary law applies only when there is no written law, does not conflict with statutory law and as of today’s conception, to circumstances which are not repugnant to principles of human rights. To date customary laws include: codified customary laws, Islamic laws and other religious laws.” The essence of this in post-colonial Tanzania is identical to what pertained in all earlier British colonies as one reads in *An Act to remove Doubts as to the Validity of Colonial Laws*, passed by the British Parliament in 1865 (28 & 29 Vict. c. 63). That stated that laws passed in the local legislatures of the colonies were not to contradict and not to be “repugnant” to any Act of the Parliament of the United Kingdom adopted in London. The same content was described for colonial Kenya (Shadle 1999).

Denham has discussed the attempt in modern Papua New Guinea to reconcile custom with law through legislation (1960). He was appointed to review the administration of justice in PNG and conceded that “custom was not a systematic equivalent of European law and would be difficult to rationalise for judicial purposes” (Denham 1960: 35-36 [only released in 1973], cited by Goddard (1996)). Goddard noted: “no progress was made towards judicial rationalisation of custom (Ibid.: 54) and that the colonial Native Customs (Recognition) Act of 1963 “provided a vague and

“tautologous stipulation that ‘custom’ meant ‘the custom or usage of the aboriginal inhabitants of the territory ...regardless of whether or not that custom or usage has obtained from time immemorial”. On independence that formulation was then enshrined in Papua New Guinea’s Constitution with the word “territory” replaced by “country.”

These are codes of behaviour, legal and derived from once-customary practices that are limited and formally spelt out within laws of the state. This is something like the shoots of multiculturalism that are identified, for instance in contemporary Australia (Joppke 2004) and under equivocating discussion by successive governments in Britain but rejected in France. The debates on multiculturalism and how particularities of government-identified practices, again, of the government for a sanctioned and identified group, ethnic, ‘cultural’ or religious, are partially to be exempt from the law of the land, continue without resolution. In all cases considered they are not expected to challenge the state and its law. In Britain the delays to reaching any practical results from discussion are, in part due to questions of irreconcilability, but also today to a political game played out by the major political parties. They exploit real and imagined elements of xenophobia in British society for short-term political gain. Consideration of any forms of indirect rule being introduced in the UK is *hors de débat* – that is strictly only for the colonies and former colonies. Federalist noises are raised by devolution of powers to Wales and Scotland, ideas that are not discussed in Abkhazia, but might have to be faced if the large Georgian minority decides that it wants an end to its being discriminated against.

In the writings on legal pluralism the vestiges of the order of custom survive as the bastard progeny, the leftover of social mechanisms that were set up early in the 20th century by colonial rulers and christened ‘indirect rule,’ and are to facilitate state constructions in ex-colonial states. This started out as a practice for colonial domination which allotted secondary roles to local representatives who had sometimes previously been rulers who supported the British conquest or locals who were appointed as “chiefs” under British rule. It was first formulated by 1st Baron Frederick Lugard, the

British ruler of Nigeria. (1922). It was intrinsic to British rule and then was adopted by other colonial rulers across their empires. This system retains a precarious existence in various ex-colonial Third World countries and within some multi-ethnic states such as the USA and Australia and has reappeared in a number of states that have been formed from bits of what was the Soviet Union, especially in Central Asia and the northern Caucasus. They are known by various names, including ‘traditional’ (renamed from ‘native’) in Africa, ‘tribal’ in India, and ‘village’ courts in Papua New Guinea, and are defined, in the USA, for instance as supposedly functioning under “customary law, indigenous law, native law and tribal or native ways” (Melton 2005). All are part of the overall legal systems of the states of the different countries, operating to cover issues that have been delegated to them by the states. In Abkhazia there are no such courts.

Interestingly, there is what I would call a boomerang effect of colonialism on perceptions of law in Western and North American areas, as identified by Roberts: “So much of our sense of what law ‘is’, is bound up with early on, the emergence of secular government in Europe; later, the management of colonial expansion” (1998: 98).

Bennett (1985) introduced into the discussion on legal pluralism the implication of irreconcilability of custom and Common Law (see note 17 on Common Law). In his rich survey of cases of adjudications on state law and customary rules mainly from southern Africa he concluded that there has been a general failure of attempts to make the two dovetail into one another where it has been left to the state’s courts to handle matters: “It is difficult, if not impossible for them to sustain a coherent programme of law reform over a period of time [...]. Implicit in the conflict of laws [i.e. of custom and state law] is recognition of cultural or socio-economic differences whether by the medium of the territorial state [...] or via membership of a group of people [i.e. a social group within a state, MC] (Ibid.: 1985: 16); and again he referred to the overarching context of the colonial and post-colonial state, viewing change as accommodation to “the demands of socio-economic change to suit the needs of a western state” (Ibid.: 15) he identified as capitalist.

The difficulty of trying to reconcile two opposites is illustrated by Julio Ruffini's discussion of how the indigenous Sards of Sardinia settle disputes over sheep stealing through an "indigenous system", which he describes as "an informal legal system". This is practised despite the Italian legal system not recognising it and, indeed, opposing it, as it insists on its own exclusive jurisdiction over disputes involving animals and livestock theft (2005 [1976]: 151). Ruffini writes of this as "a plural legal system" (Ibid.: 136). It might seem to be as much "a plural legal system" as are the coexistence in Britain of laws and the illegal practices of the underworld. In Abkhazia research into dispute resolution shows that the laws do not outlaw customary practices.

Because of his, however, not identifying the fundamental differences between custom and law, Bennett appears to accept the cultural pluralist view that dissolves the matter by turning the problematics of the custom and law relationship into one about "norms", and exaggerates the degree of acceptance of a supposed coexistence of different normative orders (customary and state law), while not giving sufficient weight to the state's understanding of pluralism in only one of two ways: as intolerable (as in the cited example of sheep stealing in Sardinia) or as a number of tolerated practices which it has agreed to but whose existence remains subject to state tolerance, as has been treated in the discussion of indirect rule.

Interestingly, Bennett uses the word 'family' to describe the area covered by customary practices when, in the case of the Abkhaz, the rules of custom apply much wider to lineage and inter-lineage matters and beyond, as examples from research in the field given in the next chapter illustrate. Yet there is a cognitive continuity between the family and the broader conception, as the Abkhaz base their understandings and thence practices, on kinship structures when it comes to the resolution of disputes, however great might be the use made of outside mediators and sacred shrines to reach solutions. There is an integration of family, wider kinship and outside mediation.

None the less, there is in Bennett's work a major difference between the data he accumulated from southern Africa – which considered "custom"

applied subject to state restrictions (Ibid.: 65-216) - and the results of my anthropological fieldwork, which also includes courts, but ones that are adjuncts to customs that operate outside the law.

According to Tamanaha, it is on the analytical failure to agree on definitions that debate founders and leads to weaknesses in studying legal pluralism itself. He finds great difficulty with definitions that “suffer from a persistent inability to distinguish law sharply from social life, or legal norms from social norms [...and others whose] versions of law adopted share the inability to keep law from swallowing up social life” (2000: 299). This is also discussed by Simon Roberts who identifies the adoption of “pluralist positions” in the legal domain that led to the invention of legal pluralism (1998: 96) as an attempt to pin a notion of the legal to a broad canvas “with the boundary between the legal and the social dissolving in our hands” (Ibid.: 100). He saw “Shifting attention from the institutions of state law to those of a wide range of normative orders” (1998: 96). His view resonates with that of Sally Merry: “I find that once legal centralism has been vanquished, calling all forms of ordering that are not state law by the term law confounds...” (1988: 878).

Tamanaha (Op. cit) saw legal pluralism as a term that directs those who are combating what they call the ideology of “legal centralism”. He cites Griffiths²³ for his description of the latter as holding to “the false ideology that ‘law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of state institutions’” (Ibid.: 299). One will note, I hope, the vagueness in Griffiths statement – his unqualified use of the word “law” in at least two senses, as exclusively “of the state” and also as “other law”, which I take to mean customary order and practices. Such laxness in the use of the word “law” is widespread in the literature, to cover “indigenous law”, “customary law” and simply “law”, rendering the term quite useless when it means so many different things. It is for attempting to straighten things out by seeking to

²³ Griffiths, J. 1995. Legal Pluralism and the Theory of Legislation – With Special Reference to the Regulation of Euthanasia. In *Legal Polycentricity: Consequences of Pluralism in law*. (Eds) H. Petersen and H. Zahle: n.7: 4.

counter what he sees as attempts to define law in generic fashion that I found Tamanaha' article so interesting.

Current ethnography is rich in showing the persistence of customs (in the plural) rather than of custom itself being a system that may be applied in a modern or modernising society. Anthropology is extraordinarily weak when it comes to considering the possibility of a country/state ordered by custom; a weakness that is strange to encounter even among discussants who do not find a fundamental difference between custom and law but share a normative conception of a continuity between the two.

Simulacra of non-state customary-type practices survive in industrialised “western” and former colonial countries, especially practised within the family but can be more widely so. It is argued that illegitimate, informal or “non-formal” practices continue to exist or have recently developed in the former Soviet Union, as put recently by Alena Ledeneva at a conference on “Economies of Favour after Socialism” in Oxford in 2012 and further developed in her volume which discusses whether Russia can be modernised (2013). The existence of by-laws might at first glance seem to challenge assertions about the state having the final word on conduct but in fact does not as they must not contradict the law, which applies to all of society.

In Abkhazia, legal pluralism is not under discussion, nor is the conflict of custom versus law per se. The striving to retain or to restore perceived traditional social and cultural practices and values comes up against a statist programme for the transformation of society, to construct a ‘modernised’, capitalist society in the aftermath of the dissolution of the Soviet Union. A group of Abkhaz scholars have called for “the cultural nucleus of *apswara* to be joined to the pragmatic values of modern civilisations” (Arshba, V., Kamkiia, B., Kamkiia, F. 2003). The late President Sergei Bagapsh once

stated: “We want a state based on a constitution and founded on the norms of international law. That requires new laws and a new way of thinking” (*SpiegelOnline* 16.7.09).

An example of the complexity of outlooks was given to me in late 2011 by a prominent and highly-respected Abkhaz, expert on tradition, an elder who has to his name the amicable out-of-court resolution of many disputes, including over murders. He saw the way forward as expressed in “*Apswara* plus Soviet power”, knowing that the origin of his phrase was Lenin’s: “Communism is Soviet power plus the electrification of the whole country” (1920). His view is not untypical of those who want to see an enforcement of *apswara* by a new kind of Abkhaz state to be founded on it. It reflected his regard for the collectivist features of the Soviet system, in which powerful elements of customary practices retained a base. I shall come to a more detailed discussion of this in chapter seven, when I address continuing Soviet influences and the meaning of ‘nostalgia’, a term that has gained widespread use among Western scholars but which I encountered over eight years of extensive stays in Abkhazia only when I raised it.

Sergei Arutiunov, a Russian anthropologist and member of the Russian Academy of Sciences, has added another point to this brief examination of the literature on legal pluralism, his noting no perceived movement to put numerically small peoples or social groups, who might want to live according to their own surviving customs, into “closed societies” within “open societies”, like in “Indian reservations in the USA, [...] taken out from under state jurisdiction” and granted a measure of internal self-rule (2003: 13-14).

2.4.1 Restorative justice

The definition of restorative justice in Oxford Dictionaries is: “a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and the community at large (Web. Viewed 15.1.2014). There are no references to the phrase in the indexes or glossaries of the Encyclopedia of Social and Cultural Anthropology (Eds Alan Barnard

and Jonathan Spencer 2004), of the Companion Encyclopedia of Anthropology (Ed Tim Ingold 2005) and The Dictionary of Anthropology (Ed. Thomas Barfield 2001).

A mediator with the 'international' (USA-based) Victim-Offender Reconciliation Programme (VOM) has written:

Instead of viewing crime as a violation of law, restorative justice emphasizes one fundamental fact: crime damages people, communities and relationships. Retributive justice asks three questions: who did it, what laws were broken, and what should be done to punish or treat the offender? Contrast a restorative justice inquiry, in which three very different questions receive primary emphasis. First, what is the nature of the harm resulting from the crime? Second, what needs to be done to "make it right" or repair the harm? Third, who is responsible for the repair? (Price. 2001: 2).

That author emphasised the importance of restitution being agreed in most cases. Restorative justice and reparative justice, which are similar for our purposes, are sometimes seen as practices outside the realm of the state. However, as Price makes clear the state is involved:

After a guilty plea or a conviction, a court may refer an offender to VOM as a part of the sentence or as a term of probation. In cases of severely violent crime, VOM has not been a substitute for a prison sentence, and prison terms have seldom been reduced following mediation. (Ibid.: 5).

The role of the state is also obvious in its application as has been described by Stephane Voell for the Svan in Georgia.

This is very different from customary practice and its enactment by the Abkhaz, where the victim, lineage and local society may decide matters with no court involvement at any stage as they are not beholden to the state.

Declan Roche's broad canvas of the many forms of reconciliatory practices in state and non-state societies mentions that reconciliation and mediation processes within societies that were/are without states use pressures such as "Public ridicule, physical retaliation, ostracism, appeals to witchcraft and divine beings, threats to withdraw co-operation, and third party intervention directed at destroying or at least 'paying back' also feature

prominently in traditional responses to unwelcome behaviour”, forms of which are exercised among the Abkhaz today. He then adds an interesting passing acceptance that things *can be* different in state and non-state societies: “... historical and anthropological work cautions against making [...] sweeping statements about the social control practices used by communities before the emergence of the modern state” (2006: 222), something that is pertinent to Abkhazia, where the state-custom relationship has its own peculiarities.

2.5 The ethnography of Abkhazia

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The fact that there is very little ethnography on present-day Abkhazia and even less locally-emanating anthropological theory has forced an almost exclusive reliance on my own fieldwork findings. That does have the silver lining of presenting the researcher in Abkhazia with a virtual *carte blanche* to delve into currently expressed Abkhaz perceptions and observed practices and to consider enriching theory.

Modern ethnography on the Caucasus dates from the early 19th century and included both Russians and, as distinct from the situation in other colonial empires of the time, many were indigenes who served in the Russian army and colonial administration (Kosven 1956). By the end of the century Maxim Kovalevsky published his study of the Ossetians of the Caucasus (1893). The Caucasus is on what the Ottoman and Russian empires saw as their borderlands, when interest in the area was also shown by England, France and Germany, who were busily building their own empires in the neighbourhood, as a glance at the location of the Caucasus will show (See Fig.3) ... the Middle East, India, Central Asia. Abkhazia is on the trade routes that were then, and still are contested (Freshfield 1902:10, Baddeley 1908: 176-18). Baddeley is interesting for writing up his experiences in the Caucasus, for drawing on Kovalevsky’s ethnography and for citing Chursin’s 1925 ethnography of the region (Baddeley 1940, vol 1: 271) which are treated in chapter three.

Russian romantic writers saw the Caucasus as another exotic “East” and Susan Layton has traced the evolution of their writings, from Lermontov to Leo Tolstoy (1995). They included the liberal-minded Decembrists of the early 19th century who were exiled to serve in the Russian Army for campaigning for constitutional government in Russia, and regarded the mountaineer as a fellow-fighter for freedom (Layton 1994: 97). Alexander Dumas (1962 [1859]) wrote popular tales of Caucasian derring-do escapades, of princesses, generals, soldiers, holy men and brigands – all wonderful riders and swordsmen...the noble savage.²⁴ But writings specifically on Abkhazia came later to the Russian reader. Anton Chekhov fictionalised it with characters speaking of “the magnificent Caucasus” or the “lazy Abkhazians” who appear as shady background (1984: 46). By the 1920s Konstantin Paustovsky’s rich descriptive journalism of life in the Abkhazian capital of Sukhum was to tell in more realist genre of the blood feud, the brutality of daily life, especially for women, and the gerontocracy which had survived a century of Russian domination and were going strong in the first decade of Soviet power (Paustovsky 1966).

In the first volume of *Peoples of the Caucasus* of 1960 Kosven gave a comprehensive picture of the Caucasus and many of its individual peoples and the second volume included a substantial article on the Abkhaz by Shalva Inal-ipa (Gardanov et al. eds 1962). Emphasis was placed on linguistics and history, with hints at the hold of ‘traditional’ practices. This was something that Inal-ipa subtly sought to present in his major ethnography of the Abkhaz (1965), and in a manner to minimise clashes with Soviet policies on nationalities and, in particular, the Georgian Establishment.²⁵ This predicament which Inal-ipa had to tackle will be looked at where I discuss the Soviet state-enforced intellectual climate in chapter six.

²⁴ Similar manifestations of the Romantic movement in other parts of Europe are exemplified by Hugh Trevor Roper’s tale of the transformation of the Scottish highlanders from “despised [...] idle predatory barbarians” until defeated by the English. Then Anglicised Scots adopted the fanciful dress of the conquered rebels (2003: 24 et seq.). It was the same for Russians who adopted Caucasian mountaineers’ dress. In similar vein the Balkan bandit sheep thieves, the *kleftes* of history became the epitome of the fighter for independence in Greek modern nationalist mythology (Herzfeld 1986: 58-72).

²⁵ For a listing of works by Russian, indigenous and Soviet anthropologists on the peoples of the Caucasus see Kosven’s annotated bibliography (1956).

There is a wealth of local ethnography that takes us up to and into the 1920s. After that the study of extant customary practices was virtually stopped in the discipline, or alleged that they were largely defunct or dying out. By Soviet administrative fiat social regulation through customary practices that continued to exist could not be written about from the 1930s until the 1980s. Scholars sometimes used the device of touching on them but had to present them as reminiscences and reconstructions of the past that allegedly had left only dying “vestiges”.

Lavrenti Janiashvili, a senior research fellow at the Institute of History and Ethnology at Tbilisi State University recently briefly surveyed the state of affairs in the relationship of law to custom in Soviet Georgia (including Abkhazia). He described a short early Soviet period of tolerance of some customary practices although the law provided for severe penalties for practicing “traditional law” if it fell under the clause that made it a crime to “threaten Soviet order or the rule of law”. But the application of the law was permissive as customary regulation was allowed if it “could have been considered a private affair even if theoretically speaking it fell under penal law.” He drew on works by authors of 1928²⁶ to describe the practice whereby “the state transferred the right to negotiate the problem to the offended party [...] without any interference from the state, because the offended party did not appeal to court” (2012: 6).

In a earlier paper, Janiashvili wrote: “The 1950s to the 1980s were characterised by a ‘double’ system of conflict resolution, when the local court institutions solved the cases considering traditional norms,” adding, that according to Irina Babich²⁷: “the weakening of the state apparatus in the 1990s was followed by the restoration of the mediatory legislation in the North Caucasus” (2010: 3). He did point out that Vladimir Bobrovnikov²⁸

²⁶Erkomaishvili, 1928, Surguladze 1928

²⁷ Babich, I. 2000. Formirovanie pravogo pluralizma v sovetskoe i postsovetskoe vremya na Severo-Zapadnom Kavkaze. In Natal’ a Novikova and Valery Tishkov (ed.) *Yuridicheskaiia antropologia: Zakon i zhizn’* [Juridical Anthropology: Regulation and Life]. Moscow: Strategy: 116-128.

²⁸ Bobrovnikov, V. 2000. *Teoria I praktika pravovoga pluralizma dlia Severnogo Kavkaza XIX-XX* [Practices of Legislative Pluralism for the North Caucasus in the 19th and 20th Centuries] In: Natal’ a Novikova and Valery Tishkov (ed.) *Yuridicheskaiia antropologia: Zakon i zhizn’* [Juridical Anthropology: Regulation and Life]. Moscow: Strategy: 128-141.

held another opinion - that the reanimated mediatory resolution of disputes did not represent “the reviving of local traditions” but are “formations of post-Soviet traditions” (Ibid.: 3). Christophe (2003) found that the Soviet state did not manage to penetrate rural society, stating that a “multitude of informal traditional practices” prevailed. Both these last two points are relevant to modern Abkhazia: offences can be ‘shifted’ from coming under one legal clause to another (covering less serious crimes) and, secondly, a matter can be blocked from interference by the state if the supposed offended party is against it going to court, as found by Janiashvili for the 1920s and I found in Abkhazia nearly a century later. This was and is custom holding priority over the law courts.

The contradictions between customary order and the rule of law have not only not been resolved but have been increased by the breakdown of Soviet law. It is also true that an attempt to ‘return to traditional customary practices’ proves unable to tackle new problems that arise in the programme of building a capitalist state apparatus. In this arena there is a contest between advocates of custom and protagonists of more law to supplant custom. The contestation has existed at least since the conquest of Abkhazia by the Russian Empire from early in the 19th century up to 1864 and is reflected in open debates that took place in the early decades of Abkhazian independence and then autonomy within the USSR that followed on the 1917 Russian October Revolution.

I will present the current stage of unfolding of the contradictions and what indicators there are for trends and choices in the future for Abkhazia in my chapter four on evidential cases from the field, and in my conclusions. The historical background given in local ethnography exerts a strong influence on current processes.

2.5.1 Writing in “*the ethnographic past tense*”

I extensively used findings described in the ethnographic works of Inal-IPA to show what he identified as customary behaviour in the Soviet and some pre-Soviet times. The Soviet state viewed contemporary customary practices as a

restraint on its own forms of collectivity that rejected the kinship foundation of custom and its anti-materialist belief system, characterised as ‘superstition’ that bolstered it.

The predicament that Inal-IPA decided to resolve can be summed up as follows: how to demonstrate a distinctive ethnicity of the Abkhaz (and to have this published) without being charged with the crime of bourgeois nationalism and even of attempting to break up the Soviet Union. The rehabilitation in the 1960s of Nestor Lakoba, the Communist leader and still national hero who had headed Soviet Abkhazia from the Revolution until the mid 1930s, was grist to the mill of Inal-IPA’s project. To show Abkhaz cultural and historical distinction he carried out the most rigorous ethnological research and wove it into acceptable strands in official Soviet anthropological thought. In showing the past peculiarities of Abkhaz culture he could intimate inevitable answers about their present-day existence to distinguish the Abkhaz from Georgians and other Caucasian republics without needing to spell these answers out himself. To overcome his predicaments Inal-IPA thus chose an inverted historicist solution, to write in *the ethnographic past tense*,²⁹ a reversal of the “ethnographic present tense” characteristic of European anthropological accounts of fieldwork in this era (Sanjek, 1991). For example, he described the rites at a sacred shrine and the holy smithies for local veneration of supernatural ‘powers’, but pretending they no longer existed (1965). He artfully described still existing tradition but as moribund “survivals” and fitted crucially constituent features into an equally orthodox Soviet *ethnos* theory, knowing that his readership would understand. Professor Kevin Tuite has also noted this: “many indigenous religious practices described in the past tense in Soviet ethnographic accounts continue to be observed to the present day in the Caucasus” (2006: 5).

In the conditions of the Soviet authorities’ sensitivity to the subject of national minorities and their rights, Inal-IPA’s ethnography had to be thorough, but with a good sense of what was politically judicious to render explicit or implicit in his account of Abkhaz cultural distinction. The

²⁹ I am grateful to Dr. Peter Parkes for suggesting that term.

changing political atmosphere in the Soviet Union from the mid-1950s – and more so after the facts of infringement of Abkhazian national rights by Georgia were publicly admitted by the authorities in 1961 - made his task a little easier.

I shall be returning to some details of Inal-IPA's work under sub-headings in chapter six on Abkhaz nationalism.

2.6 Post-Soviet ethnography and “transitology”

The Abkhaz present a case of particular interest as the issue of whether custom or law is to determine the course of future developments has not been decided over twenty years since the Abkhaz emerged from the Soviet era.

The anthropology of societies that were within the geographical and political area of the Soviet Union has since thrown up only a few ethnographies and new approaches to theory. Among these have been works, some already referred to, on the chaos of the period; major ones among them including Rigi's work on Kazakhstan (2001, writing under the pseudonym of Nazpary), Ledneva (2013) on Russia and Humphrey on Buriatia (2002), all writing of the breakdown of the Soviet state and arising clientelism, disorder, state officers violating laws, and the falling back onto inter-personal networks' (on top of or using elders, marriage and lineage links from customary practices). Beyer (2007) has written interestingly on how new state institutions have been 'populated' or taken over to some degree, by customary practices. While some scholars see a chaos that can only be resolved through totally new alignments and property institutions, others accept what might be called a re-invention of indirect-rule-type native courts within state laws. Abkhazia is ploughing a different furrow in offering the possibility of custom running the state.

At the same time there are yet others who still use the terminology and theories that were developed in the heartlands of “Western” schools in social science and frequently reflecting Cold War stereotypical thinking on

the Soviet period being applied to the so-called “post-Soviet” space, as are found in works by Khazanov (1995) and Eickelman (2002) for instance.

Francine Hirsch writes of “new nation states” as emerging only post 1991, as if in the Soviet Union they were not states, writing also that they “looked somewhat like national states” (220: 4) - because they were not capitalist ones? She deals interestingly on the internal dynamics of Soviet nationality policy, seeing it as a continuum over time that was applied at different times in different ways according to changing circumstances and progress made towards its 'modernisation' objective – that of consolidating its socialist economic and cultural stage on the way. That scholar also tackles the reactions to pressures from beyond the frontiers of the USSR, such as to face the growth of Nazi Germany and its allies and its essentialist race-based theory that expressed itself in claiming to represent Germans everywhere, and Japan's incursions in the Soviet Far East. There was the pull that was exercised on ethnicities within the USSR by states outside its frontiers that were founded on the same ethnicity and those ethnic groups within the USSR came to be regarded with suspicion and many of them were moved away from the Soviet frontiers – including Koreans, Poles, Finns and Swedes, and Germans during the Second World War. There was the special case of Soviet Jews after the formation of Israel as a Zionist state that claimed to represent Jews everywhere, and there was a period of discrimination against Jews within the USSR in the early 1950s and in the 1960s. In the territory of Abkhazia these movements/deportations of peoples affected the Kurdish and Greek minorities. Hirsch distances herself from the views on Soviet nationalities policies from another scholar, Terry Martin, for his perceiving in the late 1930s “a dramatic turn away from the former Soviet view of nations as fundamentally modern constructs and toward an emphasis on the deep primordial roots of modern nations” (Hirsch 2005: 8 citing Martin 2001: 443). I will discuss this issue as it has surfaced in more recent time but under a very different heading and in a different context in the 1960s when I come to a discussion of nationalism and what I see as Soviet ethnological adaptations, in chapter six onwards.

The sociologist Georgi Derluguian's 2005 detailed account of conflict in the Caucasus, the break-up of the USSR and the aftermath applies the World System approach of Immanuel Wallerstein, with a study of inter-institutional contentions and battles among corrupt post-Communist factions, oligarchs, gangsters and various nationalists and old-time Soviet factory directors who draw in what he calls the “sub-proletariat”, a concept for which he acknowledges Bourdieu as his source (Ibid.:308). He frames much of his findings around original research into the Soviet Kabardian³⁰ academic and political activist Musa Shanib, who, when they first met told Derluguian that Bourdieu's *Choses Dites* (In English: *In Other Words: Essays toward a Reflective Sociology*), read in Russian, was his favourite book after the Quran. Shanib played an active part in the conflicts in Chechnya and was a moving force in the creation of the Confederation of the Mountain Peoples of the Caucasus, which was conceived as the framework for a Caucasus mountain state and did organise great assistance for the Abkhazian side in its military confrontation with Georgia of the early 1990s. Derluguian's approach identified institutional agents in a conflict of structures with little socio-economic factors.

In his view:

“classes [...] can be distinguished from each other by the composition of household incomes. [Bourdieu's] concept of social capital [...] offers an important corrective to the economic criteria of stratification and helps to clarify the dynamics of positioning and strategy pursued by the members of different classes and class fractions – which prevents us from making automatic assumptions about class interests in any historical situation (Op. cit :131).

That placed responsibility for the changes in society largely on individual actors in anti-Soviet structures who failed to restore order in the post-Soviet chaos (his word) - the failures of “intellectuals”, reminiscent of Julian Benda's *La trahison des clercs* (1927) which holds intellectuals responsible

³⁰The Kabardians jointly with the Balkars populate a republic in north Caucasus within the Russian Federation, bordering Georgia to the south. Their language is part of the Circassian family and they are highly regarded by the Abkhaz as contributors to the volunteer forces that took their side in the war against the Georgian invasion of 1992.

for making changes in society. The intellectuals who failed to bring positive change in the areas of the USSR, according to Derlugian, allegedly had their ideological roots in the ideas of those who led the 1968 upheavals, notably in Paris, who mistakenly espoused the cause of neo-liberalism to destroy the bureaucratic rule of the Soviet Communist Party: “the conflicts around the symbolic date of 1968 [...] served as a prelude to what happened during Gorbachev's perestroika and its chaotic aftermath” (Ibid.: 6). According to him one of the barriers to genuine democratic change was also to be seen “among the captains of obsolete industries who commanded the allegiances of paternalistically dependent proletarians” (Ibid: 214).

In August 2009 Shanib took the view that in independent Abkhazia the strongest asset of the Abkhaz was to retain “preference” for their ethnic group within the Abkhazian state, where “others, [i.e. local Armenians and Georgians, in the main] would not ask for land and state representation”, warning that, otherwise, Abkhazia would face “the problems of division encountered in the post-Soviet Baltic states” (August 17 2009, unpublished interview in Sukhum). In his view the Abkhaz had not become Russified, as had some peoples of the north Caucasus, and a possible future outcome for the latter might be “a Russian Caucasus made up of different peoples, like in the Soviet Union, a Commonwealth” (Ibid.). Incidentally, I found it interesting that in that interview Shanib revealed himself also to be a follower of the conspiracy theorist Dr. John Coleman³¹, whose work he recommended.

Among works that write about conflict in the Caucasus but that also sites it in an anthropological context is Jacob Rigi's article on the post-Soviet wars in Chechnya (2004), where the reader will find more than placing of blame but the context of “The neoliberal reforms that succeeded in 'Africanizing Russia'” (Op. Cit.: 146). I find the term very apposite with its parallel of what happened in Africa in the s-called post-colonial period, to which I make refernce below.

³¹An independent researcher and ex-intelligence officer who wrote *The Conspirators' Hierarchy: The Committee of 300* which researched secret societies and, as stated in his introduction “sets out to uncover what power it is that controls and manages the British and United States governments. 2007. Available on Amazon Kindle.

Cold War stereotypes did not dominate throughout western anthropology of the Soviet Union, as witness contributions made by a number of prominent western anthropologists at a conference on Soviet and Western anthropology in 1976, on ethnos theory. It was convened by Ernest Gellner (1980) and stereotypes were banished by scholarly face-to-face debate and mutual respect. Those present included Maurice Godelier, Jack Goody, Lawrence Krader, Tamara Dragadze, Meyer Fortes and Caroline Humphrey as well as a gallery of Soviet colleagues with big reputations. I shall be returning to that conference when discussing Soviet ethnos theory in greater detail.

However, there has been an overwhelming preoccupation of late with conflicts between and across ethnic groups and state frontiers rather than with the ethnography of those groups themselves (Trier, Lohm and Szakonyi 2010). This reflects the modern day replay of the Big Game of the 19th century and also, curiously, resonates with a tradition that was already exemplified at a different period of historiography by Kudryavtsev's book on Abkhazian history (2009 [1922]). That was criticised at the time of its first publication within the Soviet Union for treating the Abkhaz too much as pawns of outside powers, as their products, and giving insufficient attention to their own internal social evolution and institutions and, therefore, agency. It had about it a whiff of the diffusionism that today accompanies both "globalisation" theory and world systems theory. The Abkhaz holding to custom will be seen to counter such approaches.

There is a small growing number of welcome correctives today and among them is an article on modern Abkhazia in which Rachel Clogg gives a valuable analysis of inter-ethnic relations within that country (2008). Clogg also provides a counter to the stress on nationalist invention of tradition that is common in writings that neglect anthropological study of the culture, the 'active customs' and the actual functioning of the institutions of today's Abkhaz society.

Other exceptions include Plotkin and Howe (1985) and Muehlfried's and Sokolovsky's 2012 edited volume of essays. That covers much of the

Caucasus, and contributors tell us how anthropology lived and functioned and how divisions of opinion were engaged and, through the great variety of experiences and standpoints brought forward in the writings, go a long way towards explaining how the Soviet period influences today's scholars within the Caucasus and Central Asia. They show that fieldwork for ethnography in the Soviet Union, including in the Caucasus, was predominantly carried out 'at home', and anthropology was perceived as linked to a historicity for much of the Soviet era that accepted as axiomatic that all societies went through, roughly, the same stages of social transformations. The contributors provide an anthropology of 'doing anthropology' in the regions focused on. They challenge the continuing image in Western anthropology of that part of the world that all too often still shows "a striking disinterest in, and occasionally even distaste for, knowledge generated locally" (Ibid: Frontispiece). That volume is currently being added to by a project based in the Caucasus Department of Jena's Frederick Schiller University that is studying sacred places across the Caucasus, including those of the Abkhaz. There is a welcome increase in students of anthropology from a number of countries of Europe and from the USA who have chosen the Abkhaz as their area of interest.

Theories of "transitology" and "transformations" about the former Soviet Union abound; witness a recent resume of these presented by the Belarussian sociological team headed by Yevgenii Preygerman (2013) which stresses that post-Soviet scholarship should be positioned into an on-going debate – something I discuss in chapter eight.

But there is still little published new ethnography, and few scholars in the West have yet to take note of the literature of Soviet, Russian and other researchers from former Soviet republics and of outsiders who did make efforts to bring Soviet scholarship to the notice of a wider audience, as did Gellner (ed 1980) and nowadays Paula Garb, Caroline Humphrey and the SOAS Professor of Caucasian languages George Hewitt. Inal-IPA wrote first class ethnography of the Abkhaz (1965 to 1995). Alexander Krylov of the Russian Academy of Sciences has done some since on Abkhazia (1999a).

Terry Martin is among a small group of scholars who examined relevant Soviet nationalities policies (2001). Vera Tolz has presented thorough histories of Russian ethnography (2010 2011, 2011a). Mathijs Pelkmans did fieldwork in post-Soviet Georgia (2006). Among others who treated Soviet scholarship seriously is Slezkine (1994, 1996). A distinguished Abkhazian scholar, Fatima Kamkiia, has published works on Abkhaz custom from a lawyer's standpoint in English (2008) and another recent work in Russian, jointly with Michael Costello (2013). There is a smattering of strictly ethnographic articles that discuss what is "traditional" and what not. Study of disputes resolution will supplement that. Below, I cite some such writings and place them within the context of anthropological and legal theories on custom, law, the state and the related state-building by nationalists.

The opportunity for fresh ethnography of the multitude of peoples in the Caucasus an area that has now been open to researchers for over a quarter of a century remains in large measure still open and unfilled. The exceptions include the works I have mentioned and writings on the well-trodden land of Daghestan. There is a concentration in western social sciences on what was Soviet Central Asia, an area now of political contest between the "great powers" and into which generous funding is being directed from the authorities and companies in the USA and western Europe. Scholars' writings on the peoples in those areas have for the most part been fitted into the ageing post-colonial paradigm, neatly placing their internal turbulence into the theme of a "globalised/ing" world. Writing specifically on the Caucasus is virtually solely on conflicts and turmoil in which the daily life and practices of the locals are almost absent. That leaves out many of the realities of what Kwame Nkrumah was among the first to identify as *neo-colonialism* (1965: Introduction), and is now to be found in the continuing contests for dominance of the old imperialist powers through economic control with the co-operation of local proxies. That literature does not pay attention to the reflection of this on internal societal dynamics. Today those powers are joined by Russia, as the imperialist inheritor of the annulled Soviet Union. The scholarship on the effects of all this on internal societal dynamics is truly thin

and more of it would analyse the dire economic conditions of today's ruling inheritors of the Soviet Union and their harking back to legacies, real or imagined, of Soviet times. I discuss this *nostalgia*, with its component of *hope* in chapter eight.

Remarkably, the indigenous anthropology of societies that were part of the USSR has had little new to say that would enrich anthropology by examining the Soviet system itself and the imprint it has left on Abkhaz perceptions. I will touch on that as contributory to discussion of today's Abkhaz identity and institutions and values. This gap is so despite the existence of some scholars from outside the USSR (for examples, Tatjana Thelen 2011, Hann 2003, Kaneff 2004) who have challenged the still respectable "neo-institutionalist" analysis theory that was applied to the USSR by the Weberian economist Ronald Coase as long ago as 1937 and the influential political economic study of socialism by Janos Kornai (1992). What is relevant here is that neither of those theorists has provided methodological or theoretical paths of entry into understanding the forms of social organisation that were present in their times or the new ones in that region, certainly not among the Abkhaz. Hann (2003 etc.) has argued that the "one size fits all" approach to the study of the socialist countries never was useful: "There was [...] great variation in the details of implementation" of state policies, he wrote and illustrated that when discussing the moral economy among other telling factors. That is evident from the examination of dispute resolution today and from the ethnographic works on Georgia and Abkhazia that were written by Tamara Dragadze (1980, 1987), Sula Benet (1974) and Paula Garb, (1984, 2000), the latter being one of the very few who have touched on dispute resolution among the Abkhaz. The picture that has emerged and that requires deeper analysis more than suggests that much that was imagined in much of Western scholarship about the Soviet period does not stand up to anthropological examination. This will be discussed in my chapter eight.

Reading works across academic disciplines did at times prove rewarding and among such is a remarkable collection of essays on national

historiography in the Soviet and post-Soviet states (Aymermacher, K. and Bordiukova, G., Eds 1999), funded by the Friedrich Naumann Fund.

My reading of the literature prompted the identification of a number of topics that I researched in Abkhazia and addressed in my field work. These included data on current attempts to retain both custom and law in modernisation and state-building, the effects on nationalist conceptions and the Soviet period, conflicts of Abkhaz outlooks on customary versus a bourgeois social system, and what might be the prospects for the future. The approach I took and the methods employed are now presented.

Chapter 3 Methodology and methods

What *is* a Caucus-race?” said Alice; not that she wanted much to know, but the Dodo had paused as if it thought that *somebody* ought to speak, and no one else seemed inclined to say anything.

Why,” said the Dodo, “the best way to explain it is to do it.” (And, as you might like to try the thing yourself, some winter day, I will tell you how the Dodo managed it.)

Lewis Carroll 1961 [1896] *Alice’s Adventures in Wonderland*.

London. The Folio Society: 20-21

The chief defect of all hitherto existing materialism – that of Feuerbach included – is that the thing, reality, sensuousness, is conceived only in the form of the *object or of contemplation*, but not as *sensuous human activity, practice*, not subjectively. Hence, it happened that the *active* side, in contradistinction to materialism, was developed by idealism – but only abstractly, since, of course, idealism does not know real, sensuous activity as such.

Karl Marx 1973[1888] Theses on Feuerbach. In *Karl Marx and Frederick Engels, Feuerbach: Opposition of the Materialist and Idealist Outlooks*. London: Lawrence and Wishart: 92

These two quotations point up the importance of *participation*³² – to mean immersion - alongside observation; to humans being *agents* in the creation of their social environment, not just observers reacting to events; and to the dynamic, dialectical relationship between people and objects and social structures.

The aim has been to study the cultural and symbolic conceptions of tradition and law as voiced by the Abkhaz themselves, their ideation; to see how the Abkhaz instantiate the ideals and stipulations with what they actually do, their conduct. I found the above two fields were related through peoples’ knowledge of how to do this – the link through symbols and actions (Fischer, M. 2006), and how the contradictions that arise are lived with. This demanded inquiry into what constituted 'a result' for the Abkhaz.

³² The meaning of Marx’s words “The philosophers have only *interpreted* the world, in various ways; the point is to *change* it” Karl Marx 1969[1888] Karl Marx 1973[1888] Theses on Feuerbach. In *Karl Marx and Frederick Engels, Feuerbach: Opposition of the Materialist and Idealist Outlooks*. London: Lawrence and Wishart: p.95.

While the project required attention to the minutiae of conduct in daily life, it was with a constant eye on how the overall social relations panned out to reveal those ideas that are held and which modify conduct, the culture of Abkhaz society, whatever the multitude of idiosyncrasies.

The project was, thus, not idiosyncratically phenomenological in the sense of delving into individual psyches to elucidate the 'self', 'identity' and agency but as conceived to be limited by social construction. Custom is conceived of not primarily as an expression of individuality but of collectivist concepts within which individual agency was enacted.

This approach bore in mind Marcel Mauss' concept of "total social phenomena" (1990: 3) – a holistic understanding of cultural features as they are perceived by the Abkhaz, shown in observable rituals, acceptance of myths, the telling of history, the belief system and economic conduct. Here "network" theories such as described in studies of loan systems (Hamalian 1974) and the incorporation of ideas that have greatly affected what were once rigid understandings of kinship, for example Carston (2000), and Hildred Geertz (1979) on the linkages maintained by women through 'visiting networks' have proven useful. I drew on insights from Chris (2009a) on the relevance of history, as well as Jack Goody's approach to evolutionism (David R., ed. 2006). Karl Marx's thoughts on the relation of individuals to social relations and changes in these with historical change proved to be most useful in the examination of influences of the changing political economy of Abkhazia³³. Drawing on these guidelines for my investigation decided for me the questions which I took to the field.

Abkhaz history and ethnography, and wider literature were combed and gaps that I perceived in the writings suggested directions for exploration in fieldwork, as seen in the previous chapter's literature review. Among these are writings on supposed state accommodations with traditional practices (Timmer 2010). Comparative studies of state building in different parts of the

³³ Some relevant citations here might be "...the essence of man is no abstraction inherent in each single individual. In reality it is the ensemble of the social relations" from *Theses on Feuerbach*, 1885, and "The conditions under which individuals have intercourse with each other ...are conditions appertaining to their individuality, in no way external to them..." from Marx and Engels Collected Works, vol 5: 82.

world³⁴ were taken in, including Brookfield stressing a role for multi-disciplinary approaches (1972), and Akin (1993). Among the wider discussions on custom and law I examined and discuss the relationship of these to statehood among today's Abkhaz.

I scrutinised and present dominant elements of Abkhaz custom, known to them as *apswara* and *apsua tsas* and include conscience (*alamys*), shame, honour, etiquette, lineage and gender.

A thread running through the research was how the Abkhaz conceive their attempt to accommodate to new circumstances, and to examine these and the institutions that are seen as permitting their novel experiment with custom and statehood that is with the connivance of law makers and state agents. Reading the literature prompted me to seek out whether there was the possibility of embedding a state formation in custom (Polanyi 1944) and Granovetter's discussion of the embeddedness of economics in social networks (1985). Writers on the anthropology of globalisation such as Abeles (1990) Appadurai (1996) and Eriksen, (1993), as well as those who have studied examples of what is perceived to be co-existence of customary institutions and law, such as Melissa Demian (2003), writers on the courts under the Ottoman Empire's Millet system, indirect rule in colonial empires

³⁴ Aikin, D. 2004. 'Ancestral vigilance and the corrective conscience', *Anthropological Theory* 4 (3), 299-324 and 2005 'Kastom as hegemony? A response to Babadzan' *Anthropological Theory* 5 (3), 75-83; Antoun, R. 2000. 'Civil Society, Tribal Process, and Change in Jordan: an Anthropological View', *International Journal of Middle East Studies* 32(4): 441-463; Assier-Andrieu, L. 1983. 'Custom and Law in the Social Order: Some Reflections upon French Catalan Peasant Communities', *Law and History Review* 1 (1), 86-94; Balzer, M. 2008. 'Editor's Introduction. Legal Anthropology', *Anthropology & Archeology of Eurasia* 47 (2), 3-11; Bohannan, P. 1965 'The Differing Realms of Law', *American Anthropologist*: 33-42; 1968 'Law: Law and Legal Institutions'. In *International Encyclopedia of the Social Sciences* D. Sills (ed) Vol 8 New York: Macmillan and Free Press, 73- 78; Diamond, S. 1974. *In Search of the Primitive*. New Brunswick. Transaction Books; Gluckman, M. 1968. 'Judicial Process: Comparative Aspects', In *International Encyclopedia of the Social Sciences* D. Sills (ed.) Vol 8 New York: Macmillan and Free Press, 293-294; Keesing, R. 1989. 'Creating the Past: Custom and Identity in the Contemporary Pacific', *The Contemporary Pacific* 1 (1 and 2), 19-41; Keesing, R., Strathern, A. 1998 [1981] *Cultural Anthropology. A Contemporary Perspective*. Fort Worth: Harcourt Brace College; Kovalewsky, M. 1970 [1893]. *Coutume contemporaine et loi ancienne. Droit coutumier ossétien*. Amsterdam: RODOPI; Shadle, B. 1999. 'Changing Traditions to Meet Altering Condition: Customary Law, African Courts and the Rejection of Codification in Kenya, 1930-60', *Journal of African History* 40 (3), 411-431; Trevor-Roper, H. 2003. The Invention of Tradition: The Highland Tradition of Scotland. In eds. E. Hobsbawm. and T. Ranger. *The Invention of Tradition*. Cambridge: Cambridge University Press

and the application of written codes of conduct, as seen in Judith Scheele's discussion of this for Algeria (2008).

The choice of the Abkhaz as the object of study was been made not only because their society offers rich pickings for examination of a topic that is of interest within our discipline but also because the future course of development is not settled, so the choices the Abkhaz face are highlighted at many points of social rupture.

3.1 Setting out

I was initially drawn to the Abkhaz through a reading of literature on milk kinship (Parkes 1997, 2001, 2003, 2004a, 2004b, 2005, 2006), and the big part it played in the Abkhaz kinship system at a time of class differentiation into the 20th century (Parkes 2003, Inal-ipa 1965); its place within structures of relations between individuals and social strata, and in dispute resolution (Inal-ipa 1965).

During an exploratory trip to Abkhazia in 2007 I was impressed in chance discussions (cafes, hotel and research institute staff) by the evidence of the ubiquitous consciousness of two things: kinship ties and *apswara* (customary practices and values) as influences on daily conduct and conceptions, markedly illustrated in tales of dispute resolution. These prompted investigation of the relationship of custom and law as such and led on to ideas about modernisation and problems to be resolved in the nationalist project for constructing a state. There were interesting contradictions in the telling.

3.2 Theory

I adopted Malinowski's approach to the conduct of fieldwork as set down in 1922 (1950: 6-25) - theoretical preparation before going out to the field (ibid.: 6), his view that: "The field worker relies entirely upon inspiration from theory" (Op cit.:9) and immersion in the society "to grasp the native's point

of view, his (sic) relation to life, to realise his vision of his world” (ibid: 25) to derive understanding of both how people expressed their outlook and what they actually did (ibid.: 83); then “...manipulating and fixing ...evidence” (ibid: 6), to analyse the data for a picture of the sociological functions of the whole, the social constructions (ibid: 83), and I attended to his valuable call for attention to “*the imponderabilia of everyday life*” (ibid.: 18).

Study of the Abkhaz today as they face radical change in the political economy that is influencing old outlooks and practices, where nothing is fixed in time and the picture is one of contradictions and conflicts brought about by radical changes in people’s ways of gaining a living, themselves stemming from a revolution in their relationships to the ownership and control of the means of production, the meanings to people of custom and law within those changes had to be studied. There is evident a constant process of accommodating the new into customary outlooks, seeking to embed new societal realities into custom and law that, it is thought, must allow for custom.

Sally Falk Moore’s discussion of what she called “processual ethnography” to explain the present offered a sympathetic methodological supplement to investigating societal dynamics:

... the field-worker must also ask, ‘What is the present producing? What part of the activity being observed will be durable, and what will disappear?’... [T]he identification of change-in-the-making is one of the [...] objects of analysis [...] Conjectures about the future thus become an implicit part of the understanding of the present” (1987: 727).

Her approach added to Malinowski’s methodology by examining societal dynamics beyond his synchronic snapshot of an imagined static moment in the society he researched, something I took into account in my discussion of nostalgia and hope in chapter eight.

I examined the theories of structuralists such as Claude Levy Strauss and the ‘Marxist structuralism’ of Louis Althusser and found that I could not identify them in communications from informants and participant observation in Abkhazia. A structuralist approach appears to me to be to swing the

direction of research away from giving the necessary prime weight to ethnographic data on informants' conceptions. To import concepts and pre-determined patterns of subconsciousness did not fit with the research, unlike attention to my own reflexivity. A citation from a work by Valerii Biguaa, an Abkhaz scholar who applied a structuralist approach to examining *apswara* (2009) will explain my meaning. He noted the lack of research on certain aspects of Abkhaz "traditional culture" and set out from a standpoint that "the roots of *apswara* are to be found in [the Abkhaz] inner world [that is founded on] the Abkhaz language ... the main ethno-differentiating principle on the basis of which *apswara* was formed as a system" (Ibid.:3-4). His starting off with 'the inner world' was a different approach to my own. Neither did I find the ways of institutionalism and "neo-institutionalism"³⁵ appropriate – a study of the structures of institutions from outside looking in. In like vein Michel Foucault's innovative studies of what he saw as the ways in which rulers exercise power, including through their control of knowledge, did not seem of primary relevance to researching my specific topic.

I decided to draw on Karl Marx's dialectical materialist theory, including his particular understanding of the role of people in political economy, to provide the methodological basis for shedding light on the transformative processes in Abkhaz society. Marx's own research methods, demonstrated in his extensive ethnological notebooks (Kradler, ed. 1972), proposed the most thorough study of evidential data for the elucidation of internal social dynamics and to identify within them factors that represented trends that might indicate which of a choice of different directions the Abkhaz actors might select.

Given the turbulence in Abkhaz society, the evident contentions within the tangle of relationships shown in the practices of custom and the stipulations of laws, the widespread uncertainty about the future and the evident conflicting outlooks on what the future should be like, Marx's methods fitted a study of practices that are "on the move", as it were. I am

³⁵ Using the term in Stephen Krasner's definition: 'the tendency of behaviour, norms, or formal structures to persist through time', 1988: 74. Sovereignty: An Institutional Perspective. *Comparative Political Studies*. 21(1): 66-94

writing at a stage of an on-going process for a diachronic picture of the relationship of custom to law and state-building. The study of dispute management revealed the effects of changes in the economic infrastructure on the customary practices; and at points where they directly affect individuals within society. This became particularly clear in the cases of perceived distortion of customary values, incorporating new events into customary symbolism for tackling new effects of changing times. These are discussed in chapter five, which follows descriptions of cases where the values of *apswara* are accommodated.

I probed Abkhaz perceptions of their individuality as they, each person differently, activate the socially made available mechanisms of social construction, accepting Tomas Patterson's interpretation of Marx as insisting that "history is experienced phenomenologically in the lives of living individuals" (2009: 8). My methodology, therefore, included Marx's understanding of the individual linked to and able to change its surroundings in the material world. The agency of individuals is recognised in *apswara*, in the variety of 'shaping' that they apply to resolve disputes, within the interaction of socially constructed institutions.

My background includes following the anthropology of and experiencing current drastic 'modernisation' processes in a number of countries, including Russia, Ukraine, Belarus, Solomon Islands and Western Europe. I know Russian, the most widely spoken language of Abkhazia.

3.3 Methods

The research methods were:

3.3.1 Observation

Through residence in a family, town and village

Participation in daily life

Attending the proceedings of courts

Presence at non-state and 'semi-state' mediation and dispute resolution

Attendance at lineage (“name”) and village rituals
Of oath-swearing at sacred smithies and oaks, etc.

3.3.2 Interviewing

Unstructured

Semi-structured and structured

Of elders, judges, state officials, academics

Collection of oral histories and biographies

3.3.3 Analysis of texts

Texts of laws, newspapers, ethnography (Abkhaz, Russian and ‘western’)

Discussions while examining family photo albums and kinship charts.

3.4 Objectives

- 1 to document customary and legal concepts and practices and their relationship;
- 2 to document the effect of transformation of social institutions on the boundaries between custom and law;
- 3 to document perceptions of embeddedness of laws of a state into custom;
- 4 to investigate perceptions of ‘legal pluralism’ in state construction and perspectives – whether the state will eliminate custom;
- 5 the context of ‘post-Soviet’ studies in anthropology and their relevance to outlooks.

3.5 Some general points on methods

I refused a kind offer by a family to be adopted formally into its kinship structure - for fear that I would be restricted by a commitment to the rules of that family and limited in research and dissemination of knowledge gained.

Instead, I relied on accepted ethical standards in the discipline and, principally, on building relations of trust and not betraying them. However, my staying with a family and eating with it was understood by it and others as my being virtually adopted. Under Abkhaz obligations of hospitality my being a guest also conferred on me such adoption and protection by the local community.

The ethnographic data from observation and participation was culled from forming close associations with the families I stayed with and with their friends. I extended my network extensively over the stays in the country that totalled nine months over five years. I was invited to people's homes, attended family celebrations, visited relatives in hospital, helped to bring in the hazel nut harvests and did other village chores, promenading together, watching television and such like.

The families gave me access to mothers, fathers, children aged seven to seventeen and were also focal points for contacts with the extended families of aunts, cousins and grandmothers and their friends and facilitated lengthy excursions to three villages, from two of which the families are now town-based for most of the year. Many conversations and unstructured interviews took place in the kitchens. All members of the families speak Abkhaz and Russian freely.

I became widely known to village and town communities and was introduced to a wife's female associates who shared in networks of small loans-and-borrowing groups among relatives, neighbours and friends that many Abkhaz are tuned into and which help to meet irregular demands on the finances of its members (Wooster 2005: 13). These may be compared to the *Shirkets* one finds among Armenian women in the eastern Mediterranean countries (Hamalian, 1974). I regularly tutored children in English, mathematics and history and read a lecture at the University and another to academics at the Institute for Research into the Humanities, chatted with people involved in NGO, and gave interviews for television and a newspaper. I wandered everywhere at will, sat, supped and gossiped with the regular clientele of a number of cafes, preferably on the pavements and squares.

In time I entered into people's confidence, something that was demonstrated by being made privy to beliefs, values and conduct that the Abkhaz know are considered to be strange if not barbaric by peoples in other countries. Several had travelled to the "west", especially to Cyprus, Turkey and the UK. Most adults had experience of life in the different republics of the Soviet Union and men over 40 years old had done national service in the Soviet armed forces. They saw how others saw them – and they had their views on others. Much data was garnered in the informal encounters of daily life. I was with a fully literate population with whom my knowledge of Russian allowed me to converse freely and obtain explanations for Abkhaz terms.

An important source of contacts came from my readiness to submit myself to long sessions of answering questions about conduct and values in England, many touching on perceived problems over immigration, gender attitudes, the settling of disputes and family property relations. The questions raised by my interlocutors afforded me invaluable insights into their own views on such questions. Politics, the rearing of children and standards of living were covered extensively.

All that was against the background of a study of the literature; discussions with 'experts' and with Abkhazians from different walks of life, including village, town and state officials, elected representatives, a publisher, academics (anthropologists, historians, folklorists, linguists), booksellers, business people, geographers, librarians, women's rights activists, members of NGOs, hairdressers, workers from different industries, taxi drivers, cowherds, Russian tourists, leaders and members of the Armenian community, immigrants and returning emigrants, political activists, university students, farmers, lawyers and war veterans and journalists. Being old was a great help as it allowed me to speak to people of all ages, including children, who were the best informants on the outward appearances of ceremonies and, as a foreigner initially ignorant of finer points of gender etiquette (and therefore to be forgiven violations) I could talk to women. I could discuss some questions separately with men and their wives even when they could

not discuss the matter together in my presence. I triangulated and compared informants' data and raised seeming contradictions. Quite important was that I had spent years in the USSR and successor states and could tell *anekdoty*, jokes that can be just that but often have serious undertones – in the Russian saying: “In every joke there is some joking”.

I travelled almost the full length and some of the breadth of the country, much of it on foot through villages, chatting to all and sundry. I let all whom I met know that I was an anthropologist. I also used buses and *marshrutkas*, route taxis – both crowded with people willing to talk, especially the drivers. I used snowballing and went with the flow of conversation. In all interviews I allowed my informants to digress and paid attention to the fact that answers to questions put to the same informants could vary according to the context in which I put them, and to the circumstances, according to who else might be sitting in.

I often took rough notes during encounters, rarely recorded, and always secreted myself as soon as possible afterwards to fill in my notes from memory. I avoided interrupting the flow of conversation even in the most formal interviews.

I made my previous writing available in Abkhazia. Permission to record in any form was obtained and individuals, families and groups are protected by being anonymously presented when this is sought by informants. Given the high level of mutual trust, irritation was sometimes expressed by informants that I should think it necessary to ask for permission to use a recorder or to play it back. This increased my sense of responsibility to all informants.

I had constantly to judge how my presence possibly affected what informants said or enacted - reflexivity; the matter of ‘intrusion’ - to be or not to be present at rituals and how to inquire about and judge practices from which I accepted being excluded. Watching for the combination in conceptions and practices of science and magic, bearing in mind that locals thought functionally and not symbolically (Trevor Marchand 17.10.13 talk at the British Museum).

The work in the field itself revealed additional gaps and contradictions in current scholarly approaches that provided more pointers to research and that will appear in the discussion of evidential cases. I found that some questions were raised that made for extensive further reading as on-going practice throughout the periods in Abkhazia.

3.6 Questions

Among local academics my topic was welcomed, as it was “new research territory”, as one put it (August 2009) –very little research has been carried on by local scholars into current Abkhaz practices and beliefs. However much I prepared questions for interviews these were always extended by two- and multiple-way discussions, during which those I was interviewing almost invariably raised questions with me that showed their own concerns and, not least, their worries about some features of custom. They thus added substantially to the direction of my interviews.

While I formulated questions before each visit to the field these were added to and modified in the light of what I learnt there. I started off with the following and followed up the answers:

- 1 What are your personal biography and ambitions and family background going back in time and lineage? Where is “home”? Who owns what in the family?
- 2 What does living in or contact with the village mean? What is your relationship with neighbours and have these changed?
- 3 What is your employment, and what constitutes your family? Who decides what in your family, lineage(s), with neighbours, the local and national authorities? What are the mechanisms and the purposes of assemblies and shrine-visiting? Who attends what gatherings? What are the details of gatherings and what happens when anything is ‘decided on’ in the different structures?

- 4 What is new, has changed in your circumstances in recent years and is changing today? Why?
- 5 What are the meanings and importance of *apswara*, *apsua tsas*, *alamys*, the *Narts* and your language? What does it mean to be an Abkhaz (man and woman and children); if it matters, why and how?
- 6 What is happening in Abkhazia? What problems, physical and moral do you come up against? What sustains you? What will happen, how and why? What do you do if expectations are not met?
- 7 What are the problems and who is responsible (individuals and institutions)?
- 8 How are disputes settled? What factors/outlooks/approaches determine whether the course of custom or of appeal to law is taken?
- 9 Can you explain Abkhaz beliefs, religions, and relations with ‘nature, dreams, prophetic signs, ritual, and shrines with powers’?
- 10 What was it like in Soviet times (on specific issues and in general) and what remains; what was worse or better? What does freedom mean to you? Do you have more freedom, less freedom, are things changing?
- 11 What do ‘civilised’, ‘modern’, ‘democracy’ and ‘capitalism’ mean to you?
- 12 What have I missed that you think is relevant?

3.7 Advocacy and participant observation

In her discussion of public and engaged anthropology Catherine Besteman wrote of “the transformative orientation of the former and the messaging concerns of the latter” (2013: 3). I found it necessary to adopt a stand of engagement by taking a sympathetic attitude to the expressions of concerns by the Abkhaz. That allowed me to come closer to being a participant – to overcome the sometimes weaker part of anthropological ‘participant observation’ and not being seen as looking in as an outsider. Besteman cited Ernst Bloch for having debated the point of with whom one identified in a

given society. Sympathetic engagement with the practices and the variety of different expressed outlooks opened chinks through which I could glance at what the locals live for and why they do what they do – to study what they said, to exercise what Besteman called the obligation that “insists that the public or engaged anthropologist situate him or herself in a moral landscape”. Resonating with Ernst Bloch, she found that “Anthropology can capture both the emergent – that has not yet become fully articulated”, adding: “anthropology [...] is also about the imaginable – the what could be – a perspective anthropologists gain from the discipline’s comparative and historical approach” (Ibid.: 6) something I found evident in my discussion of nostalgia in chapter eight.

I found acting out the part of “participant” within the researcher’s participant observation the most difficult. I had constantly to tack between associating myself with some views expressed (especially on current politics) and to make informants aware that I would present all opinions I heard. In those ways I was possibly accommodating advocacy. The society I was researching offered no illusion of non-contested practices, reflecting the conflicts within it. I decided to maintain as much of a methodologically neutral position as was acceptable but informants pressed me for my take on some matters to a degree that to refuse to answer would have brought a breakdown of trust.

In any research field the anthropologist has to position him or herself, and that raises the matter of whether the researcher is to be seen as an outsider or really as a participant in the society, something that required engagement. The days of structural functionalism’s descriptions of societies as unified wholes, of members who are dominated by homeostasis, are gone. So, whose society, given the variety of outlooks on their own society by the Abkhaz, does the anthropologist ‘participate’ with or be an advocate of? I skated around that when I could but it was not always possible if I was to retain trust with those who informed me; those who volunteered their time and opened up to me.

I attempted self-reflection to minimise the extent to which my own

grounding coloured what I was engaged in. To moderate the influences of my own culturally mediated intellectual approach I took to Bob Scholte's words:

... almost every living anthropologist is an interested party to his or her own favourite movement, scientific tradition, intellectual style, etc. including their attendant textbooks, readers, classics and journals. Hence the specific choices made are likely to reveal current preoccupations and personal prejudgements ..." (1987: 33).

I bore in mind Antonio Gramsci's view that every person is "a conformist to some conformity," and must strive towards "a 'know thyself' as a product of the historical process" in order properly to understand one's own convictions (1967: 58-59).

Chapter 4 Evidential cases

This chapter will present data from fieldwork on the resolution of disputes according to *apsua tsas*. It describes Abkhaz avoidance of the law, or its use instrumentally as an adjunct to custom and gives evidence of the network of customary institutions and law and the multitude of courses and procedures that are open to their use. These include clearly understood recourse to custom or to law, to mixtures of customary and legal practices, and ones that are outside of both custom and law and might be understood as contradicting both. I use the word “mixtures” to convey the wide variety of social institutions (understood to mean practices that are, to one degree or another, socially acceptable) which disputants draw on in order to reach satisfactory closure.

Precedent, let alone the Statute Book, is not central to practice and the procedures for resolving each case in dispute is very much up to those involved. There are widespread and varied general procedures for drawing in the intervention of mediators but whose activities are only advisory and carry no authority should disputants not all agree on any course of action they might propose. This allows for individual and group agency.

There is a loose gradation in the stages that disputes may be taken through, although this is not as formal as it may seem at first glance, as any of the stages may simultaneously be a combination of any others, including custom and law agents, any of which may be invoked at any time by those involved or interested in settling a dispute. The proceedings are not law courts or purely legal ones, as all interested parties, in the popular sense, may take part as witnesses, complainants or simply to add authority to a party to a dispute. At all stages elders might participate. According to the recognised options for the resolution of disputes which are not settled within the *small family* there is allowance for involvement of the patriliney³⁶, the wider village

³⁶The word ‘patriliney’ should not be equated to ‘patriarchy’, whatever the extent of the power of men over women. There is a qualification of that power that is accorded by a continuation of traditional Abkhaz age grading, which bestows increasing status according to age

community (the *akytá*), the local government (*rayon*), the elders or assembly of elders, cursing and shrines. and the elders' council of the republic. A dispute can simultaneously be on the agenda of any or all those mentioned. I illustrate cases of overlapping of customary and 'custom-incorporated' or state-recognised facets in the evidential cases.

There is little research by Abkhaz and outside scholars on the part played by customary institutions and their command over the law in the resolution of disputes. The closest one finds only take us up to the very early years of Soviet rule and end in the 1920s. In no forums for discussion of law in Abkhazia is there scholarly examination of the widespread customary extra-legal practices that go beyond folkloristic or perfunctory and anecdotal acknowledgement of their existence. *Miserabile dictu*, in publications and at a recent all-Russian academic conference on pre-court legal procedures, which included Abkhaz scholars, mine was the only contribution that was based on fieldwork on customary influence on law (2013a).

As distinct from societies in which native or village courts operate as inheritors of colonial indirect rule the Abkhaz gradations are not subject to state sanction for their decision-making. There is no ban that rules out customary penalties of the kind that were considered unacceptable by colonial rulers and their progeny in the 'native' and 'village' courts - that were/are supposedly "repugnant to the general principles of humanity". Melissa Demian discussed the repugnancy clause's application in Papua New Guinea (2014: 509 et seq.) and shows its derivation in colonialism, "used as a legal instrument for the management of hierarchy between European, colonial and indigenous moral regimes" (Ibid.: 510). She illustrated this by citing an 1857 Crown lawyers' interpretation of 'repugnance' as not permitting, among other things, banning Christianity, allowing polygamy and punishment without trial. It became general in its application "solely or consistently to the

irrespective of sex. Thus, married women over fifty years old, *apkhusbyrg*, acquire the right fully to participate with a voice in the male-dominated councils in village and other popular assemblies. They can then be members of the councils of elders and participate in dispute resolution (Maan, O. 2003: 49). Furthermore, when a woman reached seventy, she became known as an *atakuazh*, and "could give [her] opinion and, in many ways, influence men's decisions, for instance on questions of blood feud, settling family and marriage problems" (Ibid: 51).

‘customary law’ of colonised peoples” (Ibid.: 510). In Abkhazia customary practices are not defined by the state and certainly not constricted by being limited to what was not “abhorrent” to the laws that derive from or mimic European colonial law. Customary practices in Abkhazia are not steps in a system in which decisions are appealed against in higher state courts. There remains a shifting inter-relationship between the two today.

The dispute cases that I present demonstrate adaptation to ongoing change. A complainant may go direct to a state court but that does not mean that a court decision is what will be accepted. Furthermore, their proceedings and the sentences they arrive at are subject to strong customary influences that can amount to outright pressure and, in practice, negation. As a fail safe for custom are the *obshchina* assemblies or other popular mass gatherings which can and do on occasion negate or modify state decisions.

The data on customary practices and law and state institutions will be presented under a number of headings.

4.1 What law? Adoption outside the law

Rearing and fostering - and in conditions of hostile relations between whole societies a form of fictive kinship with the aid of the ritual of mass mutual adoption, were also recognised means for pacifying relations of enmity keeping peace in society. Fostering a child through *atalychestvo* and adoption barred the way to pursuing revenge, as [...] blood revenge was not permitted within a kinship group.

Inal-ipa.1965. p.441

The law on the family (Zakon 29.1.2009) lays down a detailed procedure that potential adoptive parents must go through in order to adopt a child, including registration of intent with the authorities, presenting a list of completed applications and documents, and their formal acceptance by various state agencies.

However, I was assured that in practice none of that paperwork was gone through and it was sufficient to reach agreement with the child’s mother, sometimes in the maternity ward, before or after the birth and then to take

the child home. A couple who had so adopted a child assured me that their case was no different from any others and that neighbours and friends knew all about it. At an extended family gathering round a well-stocked table they described how they adopted a child. All present were surprised to hear from me, for the first time, that the law laid down procedures for what the adopted father said “are natural behaviours”. They had adopted a son under accepted customary procedures; i.e. by arrangement with the mother. The whole idea that laws should determine adoption procedures were a subject of merriment in the circle and initially was treated as a joke.

Simplicity in adoption is very much in line with Abkhaz custom, which has traditions that include adoption through milk kinship, *atalychestvo*, (Inal-ipa n.d.)³⁷ and which are shared by other Caucasian peoples. This is so widely known that children who had been orphaned in other parts of the Soviet Union during the Second World War were sent in large numbers to Abkhazia for adoption. One informant in a village in south east Abkhazia, told me (September 2009) that she was the daughter of a Soviet Greek who as a child was orphaned when the Nazis murdered all her relatives in the Ukraine. She heard of Abkhaz customs and went on her own to Abkhazia, where she was taken in by a family and later married an old Abkhaz, my informant’s father.

Looking after children is seen as the responsibility of parents and grandparents, and the law acknowledges this as a legal responsibility. On parents divorcing, access to children is guaranteed by law to both parents and all grandparents until the child comes of age.

A functionalist interpretation might relate it to the milk kinship fostering that was mostly the practice of a commoner’s family (the *atalyk*) adopting a child of the nobility, to bring it up into adolescence, and was

³⁷ Milk kinship in Abkhazia has been described in some detail by travellers and ethnographers of the Abkhaz-Adyghe as well as other west Caucasian peoples since the 19th century, notably by Luzbetak (1951:57), Kaloiev (1971: 198-199), Baddeley (1940 vol 1: 155, 162, 207, 262, 263), Kovalevsky (1970: 212-214) and Kosven (1935 no page ref.), Parkes (2003) authors who did detect links with blood-wite, milk brotherhoods, suckling and settling feuds. Milk kinship and the system of adoptions that cemented it, *atalychestvo* were binding strands to form a cultural matrix. The kinship bond in *atalychestvo* was sealed by suckling at the breast of a member of the receiving, *atalyk*’s, family. It was woven into the total fabric of custom that, Inal-ipa argued, conferred cohesion and unity on Abkhazian society.

accompanied by extensive gift exchanges between the foster-family and the biological parents. It has been regarded as engendering clientelism, under which the milk kinship was considered as strong as blood relationship and the commoner derived protection from the lord. As it is the youngest, junior, boy who inherits the parental house and property the elevation of the adoptee to seniority among the children of the adopter would protect the youngest son from losing these to an adopted child, and to possible challenge from the adopted child's original lineage.

In Abkhaz ideation of milk kinship fostering had its roots in the culture of a once egalitarian society (personal communications 2010 et seq.). The Abkhaz historian Stanislav Lakoba, in a rather cosy depiction of it wrote that it reduced

conflict between the estates [in an Abkhazia that occupied an] intermediate position between the democratic, liberal societies of the mountaineers of the North West Caucasus and the feudal system of Georgia [and] the peasants vigilantly defended popular custom from any encroachments on the part of the highest estates and constituted the fundamental moral pivot of the Abkhazian community (Lakoba, S. 1988b: 76, 77).

Other students of northern Caucasian societies have recorded fostering practices³⁸ that are similar to those of the Abkhaz, as Inal-ipa occasionally notes.³⁹ He decided that milk kinship and other practices that were associated with it evidenced how through practices and rites the Abkhaz held onto ideas for their old significance, and expressed and retained their kinship-derived terminology to cloaked new realities. The British expert Peter Parkes has extensively discussed the practices as seen in many societies (2003a) and drew on Inal-ipa's research to single out for mention its tie-in with elements of differential status among the Abkhaz. What had been reciprocal mutuality

³⁸

Notable are the comparative tabulations of Louis Luzbetak (1951) and the broad sketch drawn by Tuite (1996). The latter lists areas of major overlap in beliefs and rites across the mountain societies of Caucasus, which included polytheism with a chief god, the personification as quasi-human or divine of harmful phenomena, sacrifice accompanying rituals, men playing the leading part in society, the use of Christian churches for non-Christian rites, the systems of fictive kinship.

³⁹ E.g. among the Circassians, who are closely related historically and culturally to the Abkhaz. Their *atalychestvo* "corresponds in all main features with that of the Abkhazians." (Inal-ipa n.d.: 50).

within Abkhaz society became the unequal relations between the nobles and the peasants, who themselves were subdivided into freemen, serfs and slaves. Gift exchange became feudal tribute but it continued to be expressed in the language of reciprocal exchange and as evidence of brotherhood and *atalychestvo* relationships. The state's laws came later and are silent on such kinship. (2003b).

The non-registration of adoption today is part and parcel of the common failure to meet legal stipulations. Thus births, marriages and deaths are also often not registered until required to secure state benefits such as a passport or old age pension. To this day the Abkhaz regard only a customary celebration of marriage, complete with feast and the sacrifice of an animal to the Most High as a real marriage and couples might have numerous children before registration of a marriage with the state without carrying public opprobrium. None the less, the fact that registration with the state is required in order to receive state benefits does represent an encroachment by the state on customary practice.

Kinship is such a binding component of the distinctive Abkhaz ethnicity that it was once widely extended to deities, animals and trees, and discussions with informants strongly suggest there is still widespread belief in the efficacy of such practices. Spiritual practices and attendant beliefs that knit the strands of Abkhaz ethnicity together – honour, shame and relational obligation sometimes described as attributes of past society, the listener is made to infer, continue to this day – as is borne out by Benet's ethnography (1974) and my personal observations⁴⁰.

Today adoption is widespread but does not carry with it the linking of clans or lineages to avoid disputes of the kind described for the past. While an adopted child is still senior to its new siblings, irrespective of age or gender, the purpose of this appears to have changed to that of an infertile couple obtaining children, to help relatives to cope with a large number of children

⁴⁰Field observations, August 2007. The persistence of such values is well attested by a common insistence that the results of the 1992-93 war between Abkhazia and Georgia cannot be resolved by the creation of a federal state that would encompass both; for this would be blocked by the Abkhaz requirements for blood revenge to be exacted from those who had killed others during the war (Paula Garb 2000, personal communications 2007 et seq.).

and to care for orphans. Thus, the element of prevention of disputes and for peace-making appears to have receded into the past. At the same time, there are disputes over to whom children of a broken marriage are to belong, given the social importance of lineage and descent and examples of this will be encountered in the next sub-section (4.2).

4.2 The law as instrument of custom -a village idyll, harmony and feud?

A wife is the family's weak link (personal communication
(M-d, an ex-elder and ex- head of an Abkhazian village administration
26.8.11).

Here I describe a case in which imprisonment of a man who killed his wife does not close a dispute but bringing in the law's judge and court can be an adjunct to custom.

My first arrival in the village started with a visit to the graves of relatives buried close to my host's house, with particular mention of father and grandfather in the male line. Then I was treated to a display of welcoming hospitality (Inal-ipa 1965, Dasania 2006 etc.) at the family house.

The master of the household, *khozyain*, stood next to his wife, the *khozyaika*, and another woman, and his children stood in the background as he explained that his [sic] village house was "home" because his father had lived there and he was close to the graves and houses of the lineage he belonged to, even though he and his family lived for most of the year in a flat in a town across the border in Russia. He gave a flattering description of me as he introduced the men by name and with handshakes and then perfunctorily pointed out his wife who stood with children, smiling in the background. She was an academic, a highly qualified legal and political scholar who worked in the same university as her husband, where she was senior to him. Here she "knew her place" as a woman in the village, as she put it to me privately.

The table at which only the host and his male friends sat with me was richly laid. The women, including the host's wife, and the children kept to the kitchen other than when called out to fetch or clear. The host commented: "We let them alone in the kitchen, where they can meet each other and discuss whatever it is that interests them, you understand, whatever women talk about." The only woman who was shown respect in the way it might be recognised in Britain and who was introduced to me by her kin term and ethnicity (Mingrelian) was an elderly widow.

Gender segregation is widely practiced even inside private cars and on public transport. There are still limitations on Abkhaz women exposing themselves to activities which place them in largely-male environments or areas which might be so.

Toasts were pronounced by the master of the house, in what I later learnt were in laid-down order under the conduct of the senior (usually by age) member present, starting with the toast that comes first at any table: "To the Most High; may his bright gaze shine light down upon us". At table everyone praised the values of *apswara* etiquette, touching on, as one of those present put it "high respect for women", deference paid to elders and the "peace, friendship and orderly life that observance of the rules of *apswara* provide for the village". This had some 300 inhabitants in big houses with extensive gardens with fruit trees, plots for growing maize and vegetables and the many grape vines that climb high into the trees, beehives, chickens, ducks and turkeys, pigs and cattle (usually singular or with a calf) and the big neat front lawns. The initial picture of a rural idyll turned out to be somewhat more complex as was similarly described by Roger Just on his initiation into the society of a Greek island (2000).

4.2.1 Feud, reconciliation

After a number of stays in the village, a year later, I got up before my hosts one day and walked down one of the two streets, hallo-ing those I had met on the way. They were, for the most part women driving their family and neighbours' cattle to pasture in the nearby brush by a stream. Older women

collected dung for use as fertilizer. When I told my host where I had been he told me to be careful who I dealt with. It was then that I learnt that a simmering feud between the two lineages had been going on for two years.

The husband of a young woman had shot his wife with an automatic rifle after lying in wait in the bushes in front of her uncle's house, the one "where she had first been introduced to her future in-laws and where the marriage took place...so she was killed virtually inside that house, a terrible insult" my host's wife explained⁴¹. The husband had been angry for some time at her "loose conduct learnt while she had lived and studied for too long in Russia," and that had led to a separation - "The breaking point came when the wife came home late one night in a car in the company of two men." The couple, after negotiations that involved "respected members of both families" agreed that their child should alternatively live for two months at his father's house in the village, and then at hers in Russia, where she went to live with her mother. Her uncle was the senior surviving head of the lineage. As the husband's family did not always return the child on time and eventually said it would keep it she gave notice that she wanted a divorce through the courts. It was on the eve of the court hearing that her husband shot her outside of her uncle's house. An important difference between separation and divorce (a rare thing), it was explained to me, is that the mother on divorce returns to her original lineage and usually keeps the children. In our case all concerned agreed that, in the circumstances, the child was to remain with her mother and her original lineage, although there had been no formal divorce.

Disputes are usually resolved with mediation by the elders of the lineages through a process that demands full contrition by the offending lineage, and terms for compensation to reconcile them are agreed. A dispute is not treated primarily as one between the individuals, who triggered it off. The terms for reconciliation in our case were to include compensation for the loss of the woman-mother's labour, her bringing up the children, and the costs of their education and health requirements. Where a husband, "the

⁴¹ My dealings with the wife were not those normally between a strange man and a wife, but I had been allowed a degree of freedom because I am old, a foreigner and trust had been built up with the family.

breadwinner”, has been killed compensation to the women’s lineage would include supporting her. The great degree of emphasis that is nowadays placed on reconciliation to replace revenge killing represents a change that was enforced by Soviet laws in place since the 1920s and which severely punished revenge killings, the ‘traditional’ way of resolving a serious dispute (Krylov 1999a: 42). While reducing the number of killings this did not eradicate them. In the past such an event would automatically lead to blood revenge by an appointed close male relative of the deceased killing someone from the offending lineage. Until that was carried out the relative given the task was himself cast out from society (Inal-Ipa 1965: 436) as an *abrek*, being in a state of “pollution” (Dasania 2006: 31) and denied all social contact and clan and lineage protection.

The laws of today’s Abkhazia are totally silent on the customary reconciliation which keeps disputes out of the courts. I compared texts of legal documents of “the state [...] founded on the norms of international law” as put by Sergei Bagapsh, a past president. The Abkhazian "Criminal Code" states [my translation MC]:

An offender who has committed a crime of small or medium gravity may be freed from criminal responsibility if it [he/she] has made it up with the victim and made amends for the harm occasioned to the victim” (Zakon 27.4.2009: 15: clause 70). The two mentioned categories of crimes (small and medium) are, in the first group "Crimes of *small gravity* [that] are not premeditated, and accidental acts for which the maximum penalty ...is not above three years confinement", and, in the second group, "Crimes of *medium gravity* [that] are premeditated crimes for which the maximum penalty is not more than five years of confinement, and accidental acts for which the maximum penalty is not more than three years of confinement (Zakon:3: Clause 15).

While these two categories do not at first glance provide for out of court settlement of graver crimes such as premeditated murder, for which the perpetrator is liable to five years and more of imprisonment, the very many exemptions and the list of mitigating circumstances in other parts of the Criminal Code make it possible in virtually any case to ‘shift’ the assessment of the gravity of the crime into one of the categories for which the matter can be settled between the parties concerned. This resonates with the practice of *straightening* in village courts in PNG, “which connotes both the means of

finding a route through the complexity of a dispute and its desired outcome” (Demian 2003: 102). And, indeed, in Abkhazia this is practised; without the PNG’s separate courts, but in the state’s deference to customary procedures.

The circumstances of the killing in our case were considered heinous and the uncle flatly refused to allow any of the members of the offending lineage (Cf Black-Michaud 1975, Inal-ipa 1965) to attend his lineage’s funeral for the woman, as that would have been to indicate willingness to pursue conciliation and is usually the first public step towards it. The “act” had been committed without the preliminaries of seeking guidance from the village elders, which might have prevented it or allowed for elements of justification or mitigation to be taken into account. The village was put on a state of alert, realising the danger of revenge killings. In an effort to soften the uncle’s heart the elders insisted the culprit, who was being hidden by relatives, be given up to the police (which he was), thus involving agency of the law. However, this did not mean permitting a court to decide anything. The elders instructed the legal ‘authorities’ that when the matter came to court the sentence was to be the maximum under the law – ten years hard labour with no early release, come what may - and so it was ‘decided’ by the judge. But imprisonment without reconciliation does not end a dispute and the village waits to see what will happen when the convicted man is released in ten years’ time...

The elders of both lineage parties to the dispute expressed their hope to me that their unreserved condemnation of the “the man who carried out the shooting” and their insistence on a most severe term of imprisonment and the child going to the dead woman’s lineage might lessen the hurt felt by the offended lineage members and allow, with time, for reconciliation. In the meantime any “unfortunate” behaviour by the offenders was to be avoided, an elder explained to me. By the time the condemned man came out of prison his lineage would have had to have demonstrated unqualified contrition. Otherwise the whole lineage or the family within it could be sent into exile, losing their houses and land in an act of collective punishment. Their behaviour might prevent a revenge killing before or when the main culprit is

freed. The initiative is entirely in the hands of the leaders of the offended lineage and the uncle as the senior immediate relative of the deceased.

Everyone was aware that any display of light heartedness by any member of the offending lineage could provoke an immediate and bloody response. The offending lineage members dare not (in the present tense, as the dispute has not been resolved) mark any festive occasion with the usual pomp. A member of the guilty lineage who was a distant cousin of the man who killed his wife did take a wife from outside the village but the marriage was without music or noise, in semi-darkness and with only five people present – this in a country where the guests at a marriage normally number from 300 (a small wedding) to over 1,000. In order to avoid accidental infringement of the rules of conduct placed on the offending party everything is done to prevent encounters between the opposing lineagemembers other than by their elders.

This was confirmed when I noted the absence of members of the offending lineage when I was present at the village Feast of the Assumption of the Virgin Mary (the Dormition of the Theotokos – the Mother of God - in the Eastern Orthodox calendar) on 15th August. The Abkhaz mark this feast in their own way by men leaping through the flames of bonfires with salt on their heads to ward of the evil eye, and the drinking of wine that accompanies most Abkhaz ceremonies. My hullo-ing everyone on my earlier morning walk, I thought, could have led to dangerous misunderstandings, especially as my host was godfather to a child in the offending lineage. However, he reassured me: my high status as a guest of a lineage in the village made me one, also, of the whole village and would protect me from misadventure.

It had been impressed on me on first acquaintance that customary practices brought harmony, which turns out to mean accepted customary procedures to deal with any problems that arise, not that they do not arise. The talk after my morning stroll and the sketch of a village dispute furnished pointers to the relationship between custom and law – keeping law out or directing its agency as an instrument of or adjunct to custom.

The case involved punishment through semi-ostracism - no admittance to lineage funeral, avoidance, the surrender of the offender to the police and sentence according to customary insistence, and the loss of a child by the father's lineage.

The story raised numerous questions about how Abkhaz custom operates in changing circumstances. They include how the 'ownership' of children is seen and how it can be amended, broader matters of honour, shame and gender, the part played by the lineage head and the elders. The principle point is that the problems that arose in the village are being tackled according to customary understandings, not depending on but turning state agencies into their own through imprisoning the offender. This will be further discussed in chapters nine and ten as it raises the matter of whether the state or its agencies, or some of them can be embedded in custom, rather than the reverse that is described throughout the anthropology of law, indirect rule, native/village and other secondary courts that continue in ex-colonies.

Note might be taken that the dispute that has been dissected is so far not resolved; that an imprisonment is a departure from custom as it is often described by the Abkhaz, but not the individual transgressor alone, but his lineage as a whole pays the price for the killing. There was not the automatic and once universal application of collective responsibility through revenge killing or banishment of the offending clan (Inal-ipa 1965), but a modification of it, as the Abkhaz are pressurised by the increasing penetration of individualistic values. At least, that is what is happening so far and only time will tell or, more precisely, what happens when the malefactor is released from prison. Strong features of the practices of yore do continue, as evidenced by the threat of exile, the practice of exclusion from social events and avoidance that affect all members of the offending lineage, the ban on celebrations of marriage in 'proper fashion' and forcing the offending lineage to hand the murderer over for punishment despite the generally-judged improper, "loose", conduct that the victim learnt in the environment of Russia.

Some villagers expressed regret to me that while there was exclusion from festive events and enforced constraint for some time to come, there had been no immediate exiling. Informants in the village and from elsewhere have admitted that “times they are a-changing.” The killed woman’s lineage gained a child. The blame placed on the victim having been brought up in Russia, was seen by some as a general effect of what they called *globalizatsia*, literally ‘globalisation’, but the term is used to cover all influences on customary, i.e. lineage-controlled behaviour from outside Abkhazia. The effect of changing times is evident in all walks of life as reflected in the further examples from my fieldwork and in the following note:

Two informants said that the rules of exogamy should be more precisely demarcated geographically, to keep members of different lineages more apart, in separate villages, “as it was in the past” (A-r and B-n Ref n. 145. 2011). There is widespread use of the phrase: “A neighbour is closer than a relation” and, in the opinion of several informants this is a confusion of the differences between the two and sometimes leads to marriages between distant members of the same lineage. Some excused this as being equivalent to a marriage between close neighbours and was not viewed as the serious violation of exogamy rules as they would traditionally have been seen. One informant put it: “If kin is seen as virtually the same as a neighbour then that can spread familiarity, which leads to behaviour among lineage members that breaks all sorts of rules of conduct” (Anz 2010). He also said that it was wrong for what he called “the wife’s loose behaviour” to be seen just as something imported from Russia: “It comes from different lineages living too close together and familiarity undermines the clear lines that have to be kept so as to be clear on who one should associate with according to our traditions on women’s roles and incest.” Another said that “mixed” marriages were difficult ones (Milord, 2012). But not everyone in Abkhazia takes this so seriously; thus an Armenian woman said only partially as a joke about a current increase in Abkhaz taking Armenian wives: “Yes, they are taking

Armenian wives – they have to improve their blood somehow.” She lives in the increasingly ethnically mixed city of Sukhum.

4.3 Filicide – breaking the law?

This case is one of individual agency to protect social cohesion despite the law’s stipulation that “Justice in criminal cases in the Republic of Abkhazia is implemented only by the court” (Criminal-Legal Procedure Code: 4). The Public Prosecutor’s duty includes “to institute legal proceedings” and again, according to the Code “in the name of the state, to carry through the prosecution in legal proceedings, and also to supervise the legal procedures of the organs of preliminary investigation” (Ibid: 10).

The following personal experience was recounted to me in an office of the state-funded Abkhazian Institute for the Study of the Humanities (AbIGI) in Sukhum by a professor of botany. He intervened when I was discussing customary practices and dispute resolution with members of the Institute’s Ethnography Department: “You might be interested in something I was involved in.” He had shot dead his son who had confessed to raping and killing a neighbour’s daughter in their village, under the influence of drink (see also Garb 2000). A member of the large Kvitsinia lineage, the professor told me he borrowed a gun from a neighbour and instructed his son to show him the body, which was done. Then the father shot him. He explained:

If I had let the police intervene then however many years of prison my son might have got, the neighbours would have crushed us [i.e. Kvitsinia’s family]. By killing my son I crossed over to them [in family kinship sense], and now relations with the girl’s family are good – we greet one another and I attended [was allowed to] her funeral.

Here there is more than a hint of the real relationship of customary practices to law in Abkhazia. Custom centres its attention on restoring harmony; where punishments are decided by the immediate community or *names* that are concerned they prevail over the laws that would limit custom. Law is turned to when a person’s family is too weak to settle scores and is unable to obtain

a satisfactory settlement through acts of revenge, gift exchange or ritual commensality. There was no doubt among all by informants that the father had acted properly and he added as a further explanation that the lineages had been “joined” by his action and “if the law intervenes then there is war”; that is, war between the families which would have been left without the reconciliation which cannot be brought about by law, court and punishment of a guilty person. The case required no communal mobilisation of customary procedure, just the action taken by the father; no calling in the elders or seeking guidance from shrines. There were no intermediaries drawn in and no compensation negotiated – the father had taken care of that and achieved closure. He had also demonstrated that *apswara* includes individual agency. While the law does spell out punishments for killings the call by the Abkhazian state Prosecutor (*prokurator*) for action to be taken by the legal apparatus fell on deaf ears in this case, as there were no witnesses and the police would not violate custom by an investigation.

The settling of the case to popular satisfaction kept the law and its courts out of it. The much approved saying that “A father answers for a son’s conduct” was satisfactorily enacted, to the approval of judges and police, ethnographers and others.

As with that case, in all similar ones of individual action to deal with a problem by what in Britain would be called ‘taking the law into ones own hands’ has no meaning among the Abkhaz when the action is endorsed by custom. “There was no need to take matters further as an inter-family dispute had been avoided,” in the words of one informant. And the proof of the pudding is in the eating – no one did – such is the strength of custom in practice. The father himself was critical of those Abkhaz who today argue that laws and intervention by the agencies of the state, by the police and courts should be allowed in such cases. We shall return to this when we consider the advocates of law replacing custom.

Central to thinking as it was expressed to me was to keep disputes either within the family or if that proves impossible then to as narrow a circle as possible, “so that feud is closed off” as it was put. This also lessens the

shaming of any offender. The matter of shaming arose in another dispute a respected elder from a northern Abkhazian village described to me in June 2012.

Disputes, specially in rural areas between members of different ethnic groups is resolved in similar ways to among the Abkhaz as other groups have adopted similar systems involving elders to that of the Abkhaz. In towns this is more complicated as custom is weaker in them. I should add that the whole topic of inter-ethnic relations is one that requires much more research – something I am planning for the future.

4.4 Mediation - extra-legal settlement - legal agencies connive

4.4.1 Judge turns to custom after knifing

A young man challenged another to wrestle. When he was thrown to the ground for the third time before his friends he decided he had been publicly insulted and killed the other with a knife. It would have been an open and shut case had it gone to a court in a state where law had primacy and the question of guilt was uppermost. That is not the case in Abkhazia, as my informant, an elder known for successes in reconciling parties in dispute, explained:

A court sentence would have done nothing to return the dead man, nor left his family less aggrieved, so I was telephoned by a judge and asked to try and bring about reconciliation. Nor would it have mitigated the effects of a family losing its breadwinner. So I was brought in as an elder and the result of much to-ing and fro-ing was that the matter was smoothed out. The family of the young man who had unfortunately killed the other agreed to help finance the widow to bring up her two orphans. Good relations were restored in the village [in central Abkhazia] where the incident took place. It is true that there is now a danger that the dispute will flare up again because the perpetrator of the killing was soon afterwards careless enough to go to a wedding in the village, a celebration of a joyous occasion, without first clearing this with the dead boy's father, and so soon after the death. There is more conciliatory work to be done there and it will not be easy as *l o o s e - t o n g u e d* women are stirring things up, as women usually do" (Personal communication September 2009).

The last two sentences in the quotation were not throw-away remarks, as any light heartedness shown in conduct by members of the family that killed the

boy could produce an angry reaction and lead to the shedding of blood, as it could in the earlier description of the on-going village dispute that followed the shooting of a young woman.

The elder conducted his substantial negotiations with the widow's father-in-law; the recognised head of the family the woman had entered by marriage, and brought him together with the father of the boy who "used the knife". Here, again the primacy of reconciliation and compensating for losses took precedence over what the Criminal Code states in the text cited three pages above. It also shows not the incorporation of custom into law but the precedence of customary practices over the words of the law – very much counter to those arguments in anthropological literature that would describe law as an incorporation of custom, that custom historically becomes transmuted into law (Bohannan 1965: 33-42) and was discussed in chapter two.

Law is regarded as a fall-back. There is a state-recognised council of elders, as there is a state-registered association of shrine keepers – important actors in dispute resolution. The role of neither is described in the laws. The part played by the elders will be seen in other cases to be presented. The judges have recourse to their services as they themselves are also part of the custom-dominated society, notwithstanding their appointments as agents of the state. Terms of compensation are agreed between the families and the law stands aside with the acquiescence or active part played by its agents to facilitate custom, such as the judge calling in the mediator in this case.

As will be described in chapter six, disputants, judges and the police have recourse to the multitude of shared sacred shrines to settle disputes and identify those at fault. Roughly speaking, the relevant activity at the shrine is oath swearing of innocence. The formulations in the Criminal Code allow for avoidance of the automatic intervention of the courts, especially when a matter of "honour" has arisen. Thus one reads: "a murder committed when in a sudden state of strong emotional upset (temporary insanity) brought about by force, mockery or gross insult on the part of the victim or by other illegal or amoral actions, inaction, by the victim..." (Zakon 27.04.2009:22: clause

101) are accepted as mitigations and can make an offender liable to imprisonment from one to three years or, as has been demonstrated, leaves settlement to customary institutions. This goes well outside the scope allowed for crimes of passion that one finds in many countries, as being “in a sudden state of emotional upset” - what in other societies amounts to little more than “being very angry” is sufficient to excuse “what might be thought to be breaking the law” (Judge informant 2011).

The Constitution states, in its section on *Human Rights and Freedoms of a Citizen*: Everyone has [...] the freedom to protect one’s honour and dignity” (Constitution, Ch 2, Article 14: 29).

4.4.2 Honour

Obliquely, the honour of the individual, the recognition of his or her status and the right to react as one thinks fit to a perceived slight is endorsed in the law. Custom demands a man reacts. One should bear in mind that the individual’s honour is that of the male, however much the Abkhaz might speak of a woman’s honour being infringed. An infringement of “woman’s honour” is perceived of as hurting that of her male relatives and it is they who are expected to defend the lineage’s honour (Informant 2012). Such an interpretation has parallels in other societies and the literature abounds with examples of this.

Almost without exception, Abkhaz informants told me that the job of settling disputes and protecting honour was the business of the people in the lineage affected. Society tolerates vengeance and, indeed, expects individuals to exact it for insults. Those who settle scores are held in high esteem. What is more, nowadays when a member of a family, on the instruction of uncles or its elders, carries out an act of retribution on a fellow family member for besmirching the family name by offending a member of another family, then a dispute with the offended family is halted without other redress being sought. Individuals might cut matters short by individual action, as in the case of the professor who killed his son.

But all is not as simple as in the case of the wrestlers. There is a

tendency for members of a lineage to defend their members, as will be seen in several of the following cases. Kinship influences can be manifested in different ways according to circumstances and the balance of forces as the following case illustrates. It is of another killing in which the intervention of the law was confined to a judge's telephone call to an elder. Reconciliation included ensuring that the family of a thief was not publicly humiliated; something that the elder told me was upmost in the judge's mind, as it was in his own (personal communications).

4.4.3 Honour and dignity - the watchman and the thief

Even in a seemingly open and shut case where a state employee in the course of his duty shot a man whom he saw seriously damaging state property the dignity and honour of the family of the deceased had to be protected:

A night watchman shot and killed a young man who was caught in the very act of stealing power cable metal. The young man's family demanded redress, upon hearing which a respected judge contacted me [my informant. MC] by telephone and asked me to help stop the case being disputed in court. I went to see the father of the boy who was shot and acted as mediator between the families of the watchman and the killed man [thief] and the matter was settled after long deliberation. The family of the victim was spared the shame of losing a court case against a state employee who had acted in the course of carrying out his duty honestly. Compensation was paid by the watchman's family to help the widow and children – an unnecessary court action was avoided (personal communication 2009)

The elder, explained that when the case was brought to the notice of a judge his uppermost concern was not with how to apprehend the watchman and determine the punishment to be meted out and to have a wrangle about whether excessive force was used, in the certain knowledge that a court would find in favour of the watchman.

“He was a state employee,” the judge later told me and taking the dispute to a court would itself serve “no useful purpose” as relations between the two families involved would not thereby be restored to “normal and the family that suffered a terrible loss would gain nothing. [... T]he family that had suffered the loss was grieving and concerned about its honour and wanted, initially, to defend that in court and to argue that even if their son had committed an offence, it was not a capital one. He thought that because of the death a court would clear his son's name.

It took some doing to dissuade him from that course of action and, in the end we settled matters without any public humiliation and provided for the widow. The family of the shot person was saved the indignity of public shaming.

Protection against shame is not only to protect individuals, but also the lineage, as shown by a judge telling me that a group of respected lineage elders once came to his office to plead for leniency for a relative who had been arrested:

He had committed brutal acts of torture on an old man, forcing him to reveal where he had his money [...]. I refused to be lenient and then the chief elder blushed with embarrassment and he and the others fell on their knees before me and agreed that the torturer was a *poslednyi negodiy*, (a scoundrel of the first water), who deserved to be hanged, but they begged me to let people know that they had done their customary duty in coming to plead for their scoundrel of a relative (personal communication 2011).

Their concern was with how to deal with a difficult problem and having to decide which was the greater shame to be guarded against – that of not defending a relative or that of allowing the law in the person of the judge to proceed, to use the law as leverage to get a resolution which customary practices proved unable to secure in today’s circumstances. It was an admission that customary institutions were losing some of their old weapons for applying punishment, such as revenge killing and exiling. In answer to my question, the judge did say that whatever the court decided, the relatives must pay compensation to the old man who had been tortured.

He added a comment to me: “Had it just been a theft then, alright, we could have settled the matter by having the money returned, for instance”. When I asked about people interfering with the course of justice, he said: “If we imprisoned everyone who interfered to influence a judge, then we would be imprisoning everyone.” He was in favour of introducing arbitration courts into Abkhazia and said that the “comrades’ courts” of Soviet times⁴² worked well for “shaming people who had committed small thefts or, say, had spat at someone. That worked well in Soviet times, but they are no more, unfortunately” (personal communication May 2012 Fld 274). In his view the “criminal situation” had not improved over the previous five years, because

⁴² See Appendix I for details.

“economics moves everything, including politics – the economy decides politics.”

Whether the judge’s very much extra-judicial approach is the last word on dispute resolution will require further research with the extended-case method (Gluckman 1961, Van Velson 1967, Buravoy 1998). But here I want to expand a little on shaming and bring forward a case of dispute management with the threat of applying customary punishment. In it one also sees adjustment in customary flexibility on a role for women.

4.5 Custom evolving

4.5.1 Shaming - Woman takes son to local assembly - *skhod*

I was told by a woman: “There are no cases of a woman committing an unprovoked killing as women are brought up in an atmosphere which rules this out. Even when a son behaves badly, the action his mother might take in extremis is to say to him: “I renounce you, *usymyskhaait!*” which is a terrible curse.” If she cannot even then control him, she can call a family gathering ... if there is no man around to do it, she added after a pause. The following tells of a woman initiating a dispute procedure over her son’s behaviour. In it shaming was the principal lever to solve the problem.

At the gathering, the young man stood apart from his seniors, head hung low and with all the outward signs of humbleness and contrition. The people sat inside the family house because it was too cool outside although the preferred sites for an *obshchina* assembly is the front lawn or at an acknowledged place that is agreed in widely-spread villages⁴³. The young man’s relatives were discussing him, the “bad boy”. His wife spoke of his neglect and described herself as a widow⁴⁴. My local helper and friend, a

⁴³ In most of Abkhazia the houses in “villages” are as scattered as farms might be in Britain and might be ten miles across. There has never been the concentration of houses along streets that were introduced by authorities and missionaries in the colonies, or the concentrations that were a feature of the collectivisation of agriculture in many areas of the Soviet Union. The villages retain from Soviet times a small centre of collective farm buildings, stores, points where the farmers would sell surplus produce, a school, palace of culture club and post office.

⁴⁴ The word is normally applied only to the wife of a dead man and its use in the present context was to stress the sense of abandonment the woman felt.

neighbour of the lineage that was sorting things out, was Abkhaz by marriage and translated finer points for me as speakers moved easily between Russian and Abkhaz languages. She clarified the use of the term “widowed”: “She means that is what the bad boy’s behaviour had made of her, a bride who came from another village and whose lineage does not come into the dispute”. This was a stage in an ongoing case of a young man who was being called to account for not carrying out his filial duties to look after his mother and his wife by going out to work, providing fuel, keeping the house in a proper state of repair and working the land. The case was formally brought by the younger brother of the young man’s deceased father (his nephew). This met the stipulations of patrilineity: the complainant was in fact a woman but, abiding by convention, it was officially the senior male.

This was in the same village where I had been told on my first arrival that all was fine, orderly and peaceful and where a man had shot his wife.

In the name of his uncle the young man’s mother and her neighbours called fifteen people of their subdivision of the village to the assembly, – one person from each smaller family. It was noticeable that some neighbours were included, an indication of the breakdown of exclusivity for lineages that, according to informants, would have been there not so long ago. The tone of all contributions was to shame the young man; shaming being clearly chosen to have the greatest effect on him. Everyone understood that and the explanations I was given by participants after the end of the formal proceedings bore that out. The Abkhaz word for shame, *abkherchero*, was not used until towards the end by the most respected elder, and then only as something that might hang over them all should matters not improve. Until then the Russian word *styd* was used, a word that is close to the English shame and in quite wide use, with the Russian not sounding so condemnatory. In Abkhaz, however there is another word – *Akhymz’kha* which has much greater strength, that of inefaceable shame and approximates to total disgrace, and that was not used.

The widowed mother of the “boy” had her say; telling of how she was left to do both a man’s and a woman’s work and called on the assembly for

assistance. The senior elder made a brief speech to introduce all who were present and conducted the proceedings. He interrogated the 'widow' (son's wife) so that everyone present should hear the details of what was at issue.

The assembly was then opened for all to have their say and ask questions. My helper from the village drew my attention to how merit can influence relative seniority in social relationships: "Even the uncle [i.e. surviving brother of the boy's deceased father, MC]) speaks, although he is only twenty-five years old, and it is because he is an exemplary person who has been to university and is married". When everyone had spoken the senior elder pronounced his verdict, his decision, speaking clearly and following a ritually structured traditional presentation.

He started from afar, with a history of the bad boy's grandfather, who had been "a most honest man and to the utmost a loving peasant". As an aside my informant explained that "At such gatherings he *would* say that, even if it was not true". The elder continued: "He always helped his neighbours and helped a widowed woman who lived some way away and had two children to bring up - he brought her wood for her fire before he collected any for himself. 'Verochka,' he would say to her, using the diminutive form, 'don't worry, while I am alive you will have fuel and maize.' He helped people".

Then he spoke about the boy's father: "He was a *peredovik* [Soviet term for an exemplary worker, MC] in the kolkhoz and had been awarded government medals. He was highly respected in the village and used to be chosen as *tamada* [master of ceremonies at table, MC], was well known in the *rayon*" [to the local authorities, MC]. "Everyone knew and respected your father" he told the bad boy directly. Next, he moved to the boy's grandmother's lineage, through mothers, father and, again, praising them all. He drew on as many positive character traits as he could, implicitly to contrast these with the young man's behaviour. My informant-helper whispered to me: "This is always the form - to contrast the good and appreciated conduct of closely related members of the accused's family with that of the accused's own behaviour." The boy's mother was then lauded as a

conscientious worker, good at her job and he pointing out that no one at the assembly had had a bad word for her:

“She never misses lineage events, be they funerals or marriages and she has never brought shame (here the Russian *styd* was used) to the lineage (which he named) she married into. Just take a look at the kitchen garden and lawn that are so well tended. She sets an example of how things should be according to our standards”. The point will not be lost that he kept to the traditionalist ascription of gender roles, by which a woman’s prime responsibility was for the house even though the Soviet period and post-Soviet disruption had taken women to work out of the house into some of what were traditionally male realms.

The elder went on to criticise the general situation in society, its negative features: “What is happening to our youth today?” he asked, “lazy, don’t work and always wanting money from their parents”.

Having set the scene and social context, only then did he come directly to the matter in hand, addressing everyone and the young man, and describing what he had done - that he has broken the norms of conduct, and that when his father was dead. He contrasted what he should have done and what he had been doing. As distinct from a court of law, the social context as it affected the injured and injurer came uppermost.

Then came the resolution, “the decision”, as it was called, *reshenie*, voiced by the elder, who, my female informant told me afterwards, knew it would be accepted not only because “he is wise” but because he had sounded out people’s views, and checked what had actually occurred, “so as to eliminate the possibility that there was a settling of scores underlying the case in hand”. He started with a warning that what had happened must not be repeated, that the boy must not bring shame, *abkherchero* (the strong Abkhaz word), on his lineage, his deceased father and grandfather. If he did not improve himself then “measures” would be taken against him: “We will keep the situation under review”. It was explained to me that while it was not mentioned all present understood that “measures” would mean expulsion from the lineage and his being forced to leave the village. Only then did he

call on the young man to speak, and the man came closer to the others. He briefly confessed he had been in the wrong, expressed agreement with all that had been said and promised to amend his conduct.

One will note the similarities between this description of the 'resolution' with that found in Mikhail Sholokhov's novel *Virgin Soil Upturned* (1935), in which he describes a similar resolution of a dispute among the Don Cossacks of the very South of Russia – another illustration of similar customary practice of direct democracy, but also of one accepted in Soviet times during the collectivisation years of the early 1930s.

His mother then joyously called everyone to table, to the feast she had prepared “as sitting down to eat together shows the commitment of everyone to the decision taken and to reconciliation”, I was told. There were toasts, starting with a prayer to *Anykhyrer*, the supreme being of the Abkhaz: “*Antswa ulpkha khta*,” or “*khakh' ukou*” – literally, “who is above.” They are the words that open all festive occasions: “To the Most High; may his bright gaze shine light down upon us,” and the Abkhaz know that all solemn occasions are sealed with those words – a hope and seeking the supreme being's and its representatives' endorsement. It is Anigbo's “'cultural performance', eating together for a purpose [...] not a casual affair. It is a social scheme or design, through which some specific aspect of a relationship can be communicated” (1996 citing Richards 1932:187), “[...] the mutual interest or values which can be invoked through the activity and the relationships thereby defined” (Middleton 1960: 119-120).

The Abkhaz form of severe punishment through social condemnation might be interpreted as placing a person in limbo, a stage of adjustment that might be followed by reincorporation into society after a period of social isolation and disorientation, to be compared with liminality (Turner 1967). Turner, (after Van Gennep 1960) described that as the transitional state between two phases, during which individuals were "betwixt and between" - they did not belong in their initial form to the society that they previously were a part of and they were not yet been reincorporated into society and, I add, among the Abkhaz they could be kept in that state for a set period or in

perpetuity, by ostracism, expulsion, exile and deprivation of property. Liminality for Turner was an ambiguous period which included demonstrations of humility, seclusion and of being tested. These features were evident in the conduct enforced by the *skhod* which dealt with the “bad boy.” It is also seen in the case of the young man who shot his wife being put in prison at the instigation of his community; itself a state of isolation from his lineage, being placed outside the protective rules of customary practice and solidarity, denying him (sic) not only lineage protection but the right to participate in any form of socially recognised practice, debarred from attendance at local ceremonies⁴⁵. The Abkhaz describe this as being in a condition of “living dead.” Herein lies the dreadful power that the elders and the assembled community possess to enforce their decisions on recalcitrant members of society. That is what is meant by the threat of ‘measures’ that could be taken in the case of the “bad boy,” and is more impressive punishment than that offered by the laws.

The detail of practices in implementing customary perceptions, of *apswara*, are circumstantially modified and pressures are great today to meet new demands, as the next incident will demonstrate. Whatever the perceptions, they are there to solve problems and that requires that they are ‘bent’ to do so. Thus, precedence does not exercise dominion, however much it is selectively invoked to justify changes in the present and the absence of the setting down of codified ‘rules’ of custom allows for practices to be applied in a contingent fashion. Whether customary institutions are everywhere able to enforce the strongest sanctions is questionable – for instance when it comes to tackling the increased incidence of stealing in the villages where new inequalities are establishing themselves and are looked at in chapter five.

In the account of the “bad boy” there is no critical examination at the assembly of the failure of the collective responsibility of the lineage that allowed the boy’s behaviour; no appeal to the lineage’s responsibility for what is widely spoken of as customary influence to prevent such behaviour as

⁴⁵ The strictures do not necessarily follow an exiled person who finds refuge in another part of the country, away from his home lineage area.

was exhibited by the culprit.⁴⁶ The elder only expressed a general criticism of the young people of today - something that suggests a degree of powerlessness and frustration, and is blamed on outside forces. That fact turned my thoughts onto the degree to which custom, Braithwaite's moving target, can cope through modification to meet new challenges, to whether it has the foundations strong enough for that, but more of that later. My next case considers a modification of traditional seniority within a family, something that could be of wider significance.

4.5.2 Son tames father

In a family in another village my informant's mother was a junior civil servant and his father a farmer. Difficulties not of their own making put stress on relations in the family and the father took to drinking and bringing companions to party in the house. The mother did not know which way to turn in this society where men, especially the *khozyain*, determine matters, at least according to the most formal descriptions of custom. Driven to despair, she took to crying on her own.

One evening when her husband's party was in full swing the older son entered the room, dismissed the company and upbraided his father. The conflict between paternal status and the proper rules of a father's conduct was obvious, but so was that between the statuses of father and son. What is interesting is that this conflict of supposedly irreconcilables met with the father's morose acceptance of his admonition, which brought some relief to the mother. It occurred to me that this might be instantiation of how people modify custom, in this case that of status, to accommodate the external pressures which they encounter, the way in which the idealised symbolic constructions of reality and actual behavioural relations accommodated (Fischer, M. 2006). That possibility was examined in other disputes I studied, and found to shed some light on overcoming contradictions found in ideation and practice in the rapidly changing conditions affecting Abkhaz society. The Abkhaz cannot fit the requirements of all circumstances into their customary

⁴⁶ I am grateful to Caroline Bennet a doctoral student at SAC University of Kent, for drawing this important point to my attention.

outlook unless ideation itself accommodates change, a form of embedding of the new into Abkhaz culture.

The son's conduct restored a degree of harmony in the family and it could be argued that in the very violation of details of the customary hierarchical stipulations that require recognition of seniority by age, it was successful in attaining another objective that is also central to customary obligations - to maintain harmony. A violation of seniority was justified by the last element. It was not, however, seen by others I discussed the case with, and that included a younger son in the same family, as primarily a violation of a father's seniority as such, but as a special exception. Another informant, indeed, argued that the son's taking his father to book was a help to the father better to remain senior. Paradoxically that also was the view of the elder son's telling of the story. He did not question that seniority remained in force. It was seen as an accommodation that in no way challenged the validity of customary relationships and practices in a family.

Further research on modifications of practices and values indicate the extent to which customary practices are changing and people are capable of asserting themselves within its conceptions, on occasion in defence of what they think is right, be it 'traditional' customary or not. In this process there might be an effect of law that gives greater support to an individual's conduct, measures not against custom as conceived, but attempts to embed shifts to individualism from collectivity.

4.5.3 Changing customs.

My observation of a ceremony for the mourning of the dead in a village in southeast Abkhazia showed how much more simplified it is compared to the way in which it was described as recently as the 1950s, when women tore their faces and men, including those only distantly related and even casual visitors, would forcefully beat the top of their heads to show their respect and sadness for the departed (Lakerbay 1965: 176-187). Nowadays even close relatives may only put in a brief appearance and contribute little more than money to defray costs, a bow and a few words to console the widow and

children. But it is still regarded as obligatory for all relatives to put in an appearance. The traditional way was for runners *shwadzhhwajwy* (*a.shwadh.hwa.jw*) - the *gorevestniki* of Russia, to call people together. As lineages dispersed it was supplemented by notices published in a national newspaper that was delivered by the postal service to virtually every household in Abkhazia. Nowadays the distribution of newspapers has become erratic, so announcements are made on television and their great importance is shown by them leading the day's news programmes; but even that is under pressure as some Abkhaz now think that such sad notices should not be given such prominence. While mourning rituals might be undergoing simplification I could perceive among the Abkhaz no downgrading of the significance of the dead, and deaths and funerals retain great ritual attention.

The law stipulates that the dead are to be buried in municipal sites. There is a let out "for those with customary practices" (Zakon 2007: 43) but the application of the general stipulation in the law is only implemented by a minority of urban dwellers who have lost links with the villages or, according to one informant "are out to make a show of themselves with an ostentatious and entirely superfluous and immodest display of wealth" (2009). The same informant drew my attention to the absence of grave markers going back more than a few decades and said that veneration of the "departed" does not have to be marked by precisely locating their presence as "they are everywhere where they are remembered". He, now 50 years old, remembers coming across occasional decaying wooden grave-markers that could still be found in the countryside in his youth, and which did not make for eternalising the dead as individuals by personalised structures and current practices of visiting their graves. His view suggests a continuation in a very different form of the Abkhaz once practising the removal of an individualised physical presence of the dead, through destruction of their corpses.

Informants referred to the frequent visitation to them of the dead through dreams. At both village and town grave sites today and where people have been killed in road accidents food and drink are placed on tables under temporary awnings. Is that itself a "new custom"? One does not find

references to it in the literature and how would one have carried them out without lasting tomb stones? The dead as a body, as of old, are commemorated in houses on special days and places are then set for them at table and they are generalised in rituals to honour them. The 14-year-old boy of my host family in Sukhum once expressed amazement: “Is it really true that you do not feed the dead in England!?” Respect for the ever-present but not personalised dead, a link with the spiritual world, is an obligatory requirement of *apswara* but the rituals change, as much else is undergoing change today. Custom is indeed “a deviously moving target” in the words of Braithwaite et alii when looking at the difficulties of laying down what constitutes a practice within custom (2012: 183).

The institutions for the regulation of individuals’ and lineage’s disputes are often described by the Abkhaz as essentially not having changed in the manner in which they are understood and practiced, and that they embody unchanged principles for fairness and justice that exist from times immemorial. Where pressed, informants acknowledged ‘deformations’ of custom, adding that in an independent Abkhazia these can be rectified, in the absence of external pressures, such as those of Tsarist, Soviet and, now, today’s lawmakers. While many people acknowledged that changing times have brought changes in customary practices to cope, these are seen as secondary, in the main, to *apswara*’s and *apsua tsas*’ eternal principles, demonstrating historicist selection of real or imagined events from the past to justify current actions and contradictory perceptions. The changing times have forced on the Abkhaz an outlook that while ideationally accepting the past as the source of what is correct, in practice they align it with present needs. This would support Marcus Banks’ insistence, made in reference to kinship, that such structures have to do with how society is currently organised and constructed, and not the real or imagined past, whatever appeals are made to it for legitimacy (1996).

Changes in custom can be evidenced even in seemingly minor matters of ritual. I was witness to one such happening when at table the host stood to raise his glass and make a toast. When he was pulled up for standing by one

of the senior guests he said: “According to *apswara* the host must stand when there is a guest who has come from afar,” and that was accepted. Afterwards he, a friend of some years standing, laughed and told me: “You see, they do not know custom – I made up what I said as I don’t know whether I should have stood [...] but what I said was accepted because they don’t know either, but defer to me because of my standing in the community” (2010 n. 270).

How custom is made to accommodate change is also seen in the section that follows and includes several cases, including a consideration of what happened around an attack on the life of ex-president Ankvab.

4.6 Resort to the law and to custom?

Here we have another Abkhaz use of legal agencies and contacts in government as adjuncts to enforce shame, kinship cohesion and lineage influence to resolve a problem.

4.6.1 Child run over – qualified use of law as an adjunct.

In a conversation about laws and people’s responsibilities a mother of three told me that the law should be brought in, in extremis, for example to stop TV companies violating authors’ copyright by putting pirated music on discs and selling them. She moved on to other forms of theft and then said: “The law should be used only when people cannot sort things out themselves, such as to bring dangerous drivers to book as drivers simply do not observe speed limits” (2011. Fld 019). She had little confidence in the police but insisted that they should be held to account and “made to do their job”. She complained about a neighbour: “A mother allows her 14-year-old daughter to drive and she might have an accident.” As she put it, the problem was not that the girl did not have a driving license, a fact known to all, including the girl’s policeman father, but because she was “too young”.

The same woman had to decide whether to push for involvement of legal agencies in a case of a child being run down on a main road by a drunken driver, as now described. She was unofficially taking the initiative because she feared that the mother and father of the child would not pursue

the case with full rigour and her position of respect with them and as the child's mother's father's sister (MPZ) permitted her to do so. The dead child was referred to as their "sister" by the children of the MFZ (Fld 145). The mother of the child had married and the influence of the 'normal' male lineage (her husband's) was effectively negated by her being acknowledged as a powerful individual. As in other cases I have described, here an assertive woman did what customary practice formally insists is a male responsibility.

The accident was in the previous September. (Fld 145). As a first step the MFZ had persuaded the parents of the child not to allow the family of the perpetrator to attend the mourning ritual at the burial of the child, the *oplakivanie*. As with the case of the husband who killed his wife, to allow them to attend would have opened the door to reconciliation and to have taken it away from legal process. She wanted the driver to be severely punished by the law as she could not be certain that a customary sanction of exile would be applied. She also feared that the dead child's mother would be "bought out" when pressure was put on her to settle amicably outside the law.

The MFZ then had to keep an eye on things to ensure that the offending lineage did not bribe the police to falsify the circumstances of the accident, and that no other monkey business would be tolerated, such as the police "losing" documentation or claiming that the driver had a tire blow-out. To have everything on the record, she impressed on a government minister she knew ("everyone knows government ministers" she said as an aside) that the driver had been breathalysed and was shown to have alcohol in his blood. She added: "It is up to the dead child's father's lineage to decide how to pursue the case but I do not want things to 'slip' because the mother is too upset to think properly, and I am insisting that the driver be sentenced to the full six-to-eight years' prison prescribed by the law: "Killing while driving when drunk is murder, not just careless driving". Demonstrating the widely accepted belief that how the law was implemented depended on individuals at the top of society, she muttered: "We'll see whether the election of the new president means the law will be properly applied" i.e. as she would want it [MC comment] - elections were in the offing later in 2012.

The MFZ agreed I could attend the *oplakivanie*. I had met her mother and other members of the family, including the mother of the dead child. In a comment on variety in local customs she said she was happy that the funeral was to take place just two days after the killing: “Like in Gudauta region [northwest Abkhazia] and not hanging around for days in the hot weather as it can be in southern Abkhazia” [where she comes from]. There was a crowd of hundreds, mostly men, in the courtyard surrounded by high rise blocks in northern Sukhum. Women predominated under a canopy that kept the sun off their seats beside the coffin and visitors could walk by and express their condolences and give a handshake. There was no hospitality provided on that occasion and after an hour the closest relatives adjourned to the burial site. There was a wider than usual attendance because the death was that of a child. I saw no tears and no emotional outbursts at the solemn occasion.

I followed this case for more than two years and which, at the time of writing, was ongoing. An appeal has been lodged (May 2012) (Fld 228) against the lower court sentencing the driver to “only” two-and-a-half months prison. What was said and done around the child’s death highlighted how both custom and law were brought to bear in opportunistic fashion to seek a satisfactory result. That included, on the one hand, bringing customary pressures to prevent an unsatisfactory result, barring the miscreant and his lineage from the *oplakivanie* and drawing in kin to influence the process of law. The courts were used in a situation where customary practice was ruled out as powerless to tackle an accident on the open road well away from kinship groups.

For comparison and to bring out the complexities in the conditions of contestation among people applying both customary and legal procedures or only custom, and to show what happens in a dispute within the all-Abkhazia community there is the following. The example involves a still (July 2014) ongoing investigation into an attempt on the life of the president.

4.6.2 Attempts on president’s life - Shame, suicide – law versus kinship

The cases that have been instanced of the “bad boy” and of the son punishing

his father provided opportunities to sense and examine the strength with which the Abkhaz customarily regard shaming in dispute resolution. It came up time and again, as in the attempt on the life of the president, as well as in the subsections on marriage and abduction below. Apart from the principal substance of tackling the attempted assassination that case involves relatives publicly disassociating themselves from others in their lineage who commit suicide rather than be publicly arraigned in court.

In May 2012 a newly filled hole and repaired roadside embankment were pointed out to me as I was being driven along the road that runs the length of the country. It was the spot where the latest attempt on the life of the then President Alexander Ankvab's life was made by would-be assassins using a mine, rockets and automatic rifles. It was not far from a highway police checkpoint and is normally quite busy.

I was curious as I had heard of the incident and, like others throughout the country, had depended for news mainly on the extensive rumour machine. The official news for over a year was, to put it mildly, frugal, telling little about how the investigation was proceeding and largely confined to announcements of arrests and brief court appearances where judges gave permission for the arrested to be held in custody. The then public prosecutor Safarbey Mikanba announced in late August of 2013, that the investigations were nearing completion, and had taken in previous assassination attempts and that seven people were being held and would be charged after the Supreme Court received all documentation "in about two months time" (Apsnypress 12.8.2013). Detailed charges against a group of accused were made by the Prosecutor General in October 2013 (ApsnyPress 9.10.2013) and the court hearings are still continuing nine months later.

Ominously an announcement was made that the prosecutor's office was investigating possible links with "the Wahhabi underground that has been discovered in Abkhazia" (IA REGNUM). The term Wahhabi is reserved in Abkhazia and wider in the Caucasus and Russia for militant fundamentalist Moslems. The significance of the possible charge of belonging to such a group, and announced before the opening of court proceedings, has been

greeted with scepticism in some quarters as it is generally thought that in Abkhazia ‘Wahhabism’ was nipped in the bud, literally, when the few fundamentalists who appeared after the war with Georgia were physically eliminated.

There is a wider significance to this charge, which will be evident when I come, in chapter six (6.4.1) to what I will be calling the “unanimity principle” among the Abkhaz, and its perceived importance within the belief system that is generally tolerant of all religions, excepting those that attack others and are deemed to be against Abkhazian state interests, as the law states: “...the propaganda of a religion’s superiority [over another] is forbidden” (Zakon 14.11.2012, chapter 1:4:6).

The attempt on Ankvab’s life was the fifth or sixth to date. Unlike previous attempts this one was followed up by numerous arrests within weeks of the roadside explosion. Two of the suspects have allegedly committed suicide; one while in police custody and the other as officers of the law were about to arrest him in his town flat. The two were said to be part of the group which attacked the president’s three-car cavalcade as, accompanied by bodyguards, he was going to work in the capital. One of the bodyguards was killed outright in a shoot out after the bomb half blocked the road and another died in hospital shortly afterwards. Despite damage to his car the president continued on his way to the office, where he insisted on doing a full day’s work. The attackers made off into the surrounding countryside leaving weapons behind and evidence that they had been in position for hours by the side of the road and, supposedly, no one had noticed them let alone reported them to the police.

What are of relevance to us here are the suicides and people’s reactions to the events. On hearing through the grapevine that one of their relatives had been arrested members of the Khashig lineage gathered outside the police station where he was held, seeking information and interceding for the arrested man as well as demanding access to him. They were asserting the customary right to intervene. After some delay, during which the crowd grew considerably - “We are a big family” one of its members proudly told me –

the police allowed the most respected lineage elder unaccompanied entry to the prisoner's cell. He reported to the assembly:

I asked the young man one question: 'Have you brought *abkercherop* (shame) on our name?' In response he showed great sadness and dropped his eyes to the floor in silence, at which I left him.

Next morning the authorities announced that the young man had hanged himself during the night. The Khashig kinship lineage had already met as an assembly, where the bearers of the 'name' publicly passed a resolution dissociating the name from the shame of attempting to kill the president. Another alleged would-be murderer who also allegedly took his life had been a previous Minister of the Interior, Almasbei Kchach, a past candidate in the elections for the vice-Presidency. According to the rumour machine and later officially confirmed, as the armed men sent by the authorities to arrest him were approaching the door of his flat a shot rang out and he was found dead inside. There is argument about the content and even genuineness of a supposed suicide note scribbled on a piece of rough paper, and over what it actually said, but there is no argument but that he made no secret of being an enemy of the president. At the request of his relatives, who want his name cleared, the court will also examine the accusation against the dead man in absentia.

At least one other suspect is rumoured to have attempted suicide when arrested. While the attack on the president is being handled by the courts it is clear that custom also is playing its part. There is not only the access to a suspected murderer by a relative but also the matter of shame and suicide which will be looked at.

The government's newspaper announced that several witnesses have refused to appear at the court hearings on the assassination attempt and at least two have gone abroad. (Respublika Abkhazia 9.12.2013). Some informants have told me that the failure of witnesses to come forward is due to the Abkhaz traditional distaste for informers.⁴⁷ Others have suggested that

⁴⁷ Throughout Abkhazia a story written by its most famous living writer, Fazil Iskander, is quoted with approval. It is of a family in which the father insists on observing the Muslim

fear of retribution by assassins or their relatives stops them appearing.

Almost everyone claims to know who was responsible for the outrages committed against the president but there appear to be as many versions of what it is they “know” as there are people who claim they know what happened.

According to a pamphlet published by the Abkhazian State University

a person who commits suicide loses value in the eyes of society [among the Abkhaz and neighbouring peoples] and they were traditionally not buried alongside other people. An aspen stake was driven into the soil above them

(Zukhba 2002: 5).

One aged male informant told me: “People believe that a person who kills himself will not be allowed to see his son in the afterlife” (N298). Yet Zukhba qualified his opening condemnation of suicide when he added:

Sometimes society justifies and feels sorry for people who put an end to themselves if they have done it in the name of preservation of honour, self-respect or to remove shame. In such circumstances suicide is seen not as a defeat but as a victory over death as the Abkhaz prefer physical death to a social death while alive.

(op. cit.:10-11).

He then justified the suicide of a young woman who has been forced by her parents to marry a man not of her choice (Ibid: 40). Clearly, there is ambiguity in the way the Abkhaz look on the matter and informants provided much data to suggest that suicide in defence of honour or against shame is socially approved.

The instances given to me of justified suicides included women forced into marriages and of a young man and woman who hanged themselves when

ban on eating pork. His daughter is caught by her brother eating a slice of it and he blackmails her. Then he blurts out the truth to their father who, enraged, brutally punishes not the girl who has broken the taboo on pork but a more serious one committed by the boy, shouting: “Now I have a traitor and informer in my own house!” 2000 [1966].

their families would not allow them to marry (N0108). A veteran of the war against Georgia who had taken to drugs killed himself and it was made clear to me by his friend, to excuse this, that he killed himself to wash away the stigma of shame for becoming a drug addict, and not because he had become overcome by the difficulties he had to contend with in the tough post-war years. Then there were suicides by people who had become totally socially disoriented by those years of dislocation (0130). There was also the momentary decision by a grief-stricken girl who recently jumped out of a hospital window when her father died following a second operation (personal communication).

Shame is a concept that has been discussed in anthropological literature notably by J. Peristiany (1965) for his description of its genderised context – the honour of men and the shame of women, and then taken up by others, including Benedict, who argued that shame was only felt when there was fear of public exposure (1989). Epstein suggested that different cultures could be contrasted for being 'guilt cultures' or 'shame cultures' - that shame was felt if a person was found out; guilt, when one had a bad conscience (1984: 27). M.P. di Bella, described it in Mediterranean societies as a subjective response to the loss of honour that had to be restored by a social group: "The loss of honour gives rise to 'shame' (*honte*)" (2002: 341). Among the many linkages of concepts of shame to within processes of socialisation and identities F. Poole's many-dimensional presentation is relevant to the Abkhaz for his writing:

Although shame [...] is a cultural construct that operates as a sanction in social control, it is manifested not only in public arenas of social interaction, but also in a more intimate way in experiences of one's own personhood, self hood and individuality (2005: 851)

It is experience of it by individuals that it was identified to me by Abkhaz informants, and as relevant to my topic. I have illustrated the gradations that it has for the Abkhaz in discussion of the "bad boy" case and take it a little further. People were socially shamed but experienced it as individuals, virtually in isolation, in the sense of being made to feel isolated "from life"

(personal communication 21012, Novy Afon); as a feeling, so it was often told me, of having “*podveli*”, that is, let the side down, one might say. In a way that fits Abkhaz society, Epstein showed the aspect of shame as a phenomenon motivated by a sense of not fulfilling social obligations (1984: 19). It was felt when being placed outside of society and that had to be ended through taking individual action to restore one’s position or, if not, in exiling oneself or even committing suicide. It appears very differently from guilt, and treated by restorative justice, especially as those appear in western capitalist jurisprudence.

Shaming was promoted in Soviet state practice and is remembered by Abkhaz as a positive factor that could do with being revived. It is widespread among peoples of the Caucasus. Thus, as recently as early last year (2013) the chairman of the Georgian parliament, Davit Usupashvili, appealed for it to be sensed by a group of Georgian MPs who had, in his view, made “unsubstantiated claims” against the then Prime Minister Bidzina Ivanishvili. He called their action “shameful” and said they should moderate their criticism “in order not to feel ‘embarrassed’ for their actions (Civil Georgia. Tbilisi 12th March 2013).

“There is no dispute that could not be resolved, as long as the law is kept out of it”, were the words of one informant. This seems to be true where a dispute is within the family or between families, that is, within closely knit communities that want to resolve a difficulty without anyone, in our terms, losing face or bringing shame on themselves. In such cases the Abkhaz understandings of both *pkhash’aroup* and *itsasym* are in mind. The first of these terms can roughly be translated as ‘shame’ when used to mean the sense of shame that might be felt by an individual for violating etiquette (*apswara*) but which is not punishable by society through its institutions by, for example, the individual being denied social status (Kamkiiia, Costello 2013: 13) or exiled. The second, *itsasym*, is shameful behaviour that is contrary to the canons of *apsua tsas*, the rules of custom rules, and is punished (Ibid: 13-14).

The element of shame will again be encountered in my discussion of

marriage below, for the intertwining of law and customary institutions that are kept to in defiance of the law.

4.7 Defying the law in marriage

At a marriage feast the bride told me:

When a woman marries, she loses everything – rights to land, which are linked to [her family of birth] grave sites, the *mogila* ... and [she] is buried in his family plot. However, if a woman loses her husband through his death and the death of all his [male] relatives she can be buried in her original family's plot. My own aunt lost everyone and she is buried in my family's plot.

“Without a husband a woman has nothing” was the way another married woman told me of gender relations in the presence of three others who nodded their approval. I was the only man present but I and they had got used to the normal gender barriers to communication being lifted for me as it is for a Catholic priest among his parishioners and an elder in Abkhaz society - I was also an outsider with no axe to grind and, therefore, in a sense, was not bound by strict gender prescriptions. They explained that “everything belonged to the men”. One of the other married women had made trips to Istanbul to buy goods to sell in the Sukhum market and said that women in Turkey “have an easier life than we do, they don't have to carry such loads.” I do not doubt that women, for all the talk from men about “honouring women” are politically, economically and socially secondary to men in most public arenas, whatever the occasional exceptions I encountered, and these included some elderly women who had the status of an elder and were widely consulted for their acknowledge and wisdom, as well as some independent women who included some who choose not to marry.

During a gossip session with two married women, one of whom had just angrily complained of the tough demands made on a wife, none the less said how sorry she was for another: “she is still quite young and so attractive”, because she was not married and showed no intention of becoming so (2011). Despite the generally rigid genderisation of roles in public, I found that the practice, away from the eyes of outsiders, it is not as

rigid as might appear or the theory might suggest and this was exemplified in the described cases of the “bad boy” and the child-killing drunk driver. This is particularly so with older widows. Following the inculcation of gender roles in the family in childhood marriage not only marks a stage in fixing gender roles but does accord a socially recognised status that is superior to that of the single girl. None the less, property that can be inherited – land and the house - belong, other than in exceptions, to the men, whatever the law states about equality for women.

It is not uncommon to hear a man say that he married to “get children.” It is also not uncommon for couples to love each other and that sometimes decides the choice of marriage partners, although it is influenced by the views of the couple’s fathers and uncles, and her brothers. This will be seen in the cases of abductions I now come to.

I have emphasised that customary practices operate outside of and in ways that are contrary to the law and that they affect gender relations and marriage, internal and inter-lineage relationships and will show so for property. Marriage covers a very broad spectrum of practices that includes abduction and forced marriage for a woman or a man and may include abandonment, denial of rights that are listed in the laws (such as spouses having equal shares in family property). Several cases, recounted by both men and women will illustrate this.

4.7.1 Abductions and arranged marriage

A visitor to the village house in which I was staying told me of the abduction of a relative:

My 17-year old niece was enticed by a fellow schoolgirl to stay with her family for a couple of days some miles away. The girl took her from the house and then they were offered a lift by two young men. They took her off the route to another girl’s family house where one of the boys took her for the night and it turned out he was the prospective groom. My relatives, her parents, learnt she had not turned up at her girlfriend’s house and my nieces’ brothers were sent off ready to murder everyone there. On arrival late in the morning they broke into the house despite the protests of ignorance by the boy’s parents and asked the girl the required formal question: ‘Do you want to stay here?’ and the girl was silent and looked down – the formal way of answering ‘yes’, which meant she acquiesced in

becoming abducted and married, so preparations were made for the marriage feast and shame was avoided (personal communication 2010 ref n. 268).

My host (ref n. 269), a more distant relative of the girl and of the first informant, answered my question as to whether the girl was not really forced into the marriage:

No, the girl was not forced into marriage but a girl who has been abducted and spent two or three nights away is regarded as damaged and knows she will have problems being taken by anyone else, and certainly by anyone of suitable family reputation.

Then ensued an argument between the two men as the second informant then gave a completely different version of the account of the abduction⁴⁸:

The girl, who was older than me at the time of the events, whispered a secret before she left for the abduction: 'I am going to be married' before leaving, allegedly, to stay with her female schoolmate's family.

They argued over the facts of the matter in my presence and when the closer relative of the abducted girl left my host said:

Vasily [a pseudonym] was just covering up for having agreed to the abduction and marriage. Now he tells a different story because the marriage has turned sour. She is very unhappy and does not fit in with the family she was married into. I don't know whether it is her fault or her husband's, but the truth is that the responsibility must lay with her parents and her brothers for agreeing to a bad match. It is their responsibility to find a proper husband for the girl.

The different versions of what had happened cautioned me against accepting as Gospel truth what one cannot check and awareness that my presence at the argument between relatives pointed to the effect my presence had - at least one of them had been tailored to save face before me. Neither informants questioned the view that the girl could become damaged goods and subsequently have difficulty making a good match. What I do think is the case is that both accounts, substantially conforming to similar tales from other informants, are evidence of how practice can dismiss the rights a girl or

⁴⁸ The term 'abduction' in Abkhazia is the normally-used term for the first stage of marriage-making, whether it is enforced, voluntary or arranged but also contains the notion of moving out of the parental house.

woman supposedly has under the law that prohibits forced marriage, abduction and rape. A girl or woman, in effect, should normally marry a man chosen or approved of by her father and other male relatives.

In chapter five where I discuss “Distortions and modifications” I recount in some details the story of Zuleika (a pseudonym), a woman who finds no protection either from law or customary procedures, to illustrate the isolation from kinship support that Zuleika found herself in and, similarly, the kin abandonment of the girl who was drawn into an unhappy marriage. Zuleika’s case also raised the question of how a woman can be left without a claim on a house when she is abandoned.⁴⁹

Other evidence from the field shows that enforced or arranged marriage applies not only to girls. Men are also expected to marry so as to achieve full adulthood to carry on the line and ensure property inheritance. In one village in the foothills three sisters “*prizhali*”, that is literally, “put the squeeze on” a forty-year-old brother to get married (N.K. personal communication n. 193) and he did, but only after his father threatened to cease talking to him. In the same northern part of the country a respected elder is admired for telling his thirty-five year old son that he would be thrown out of the house unless he quickly married, which he did. His parents “found him a girl”. The “boy” then looked in on the girl’s parents, who set out a table with food. He glanced at her to see if she was *chistaya*, ‘clean’, a Russian word that literally means ‘clean’, but is the closest translation into Russian of the Abkhaz word *distk’uwp*, that means clean not only physically but approximates to a combination of the English adjectives proper, decent and modest. In short, the qualities expected of an Abkhaz woman who hoped to be taken by a man were that she be “pure, upright and unsullied”, in my informant’s words. He decided that he liked her and that was that, although he mentioned as an

⁴⁹ I am indebted to Laura Roys M.A. for drawing my attention to the element of isolation when a woman is left to fend for herself (personal discussion 2013).

afterthought: “she could object.” He himself had only married at thirty-seven after his father had taken him to task.

The pressures on a man not to marry someone the family does not approve of are great. There are villages where customary practices are at their greatest in which it is made clear to young men that to marry other than an Abkhaz woman will lead to ostracism. In one recent case a young man who was about to break that ban by marrying a Russian woman was severely beaten. In another, the male suitor abandoned the girl he was in love with because of objection in his village.

According to an informant the pair to be married nowadays makes the choice of partner but “parents and uncles might express a view and expect to be given notice and to be consulted” (personal communication 2012). At the same time, to be married to a man is seen as conditional on the potential bride “show[ing] herself to the boy’s parents to be respectful and meet[ing] her obligations” (personal communication 2010 n. 121). Other informants explained that if those being “consulted” disagreed with a proposed marriage it was usually cancelled.

However, violence or the threat of it is not the only way; there are powerful moral pressures. Thus, an Abkhaz told me (2012) that while at university he fell in love with a young woman of a different ethnicity from the north of the Caucasus. He gently courted her from a distance, only giving the slightest hints of his love. After four years of not even acknowledging his existence she consented to marry him. The man then consulted his father and a *smotr*, an “inspection”, was arranged for the father outside Abkhazia and many miles away from the man’s and girl’s own villages. There the prospective bride sat demurely in the corner of a room while the son and father chatted, without the father showing any signs even of glancing at her. After they left the potential bride the father and son travelled hundreds of miles back home and only then did the son pluck up courage to ask his father directly: “Well, what do you think?” After a pause the answer was: “She has a fine ankle.” The son was puzzled as to what that meant. When he asked around he learnt that the phrase was used to express satisfaction with the

quality of a horse. His joy was complete and he brought the bride to his family house. On the way he showed the young woman the family graves, explaining: “That is where my grandparents lie; that is where my father will be and that is where we will lie”.

The seriousness of the courtship and the consultation came home to me when I asked: “And what if your father had not given approval?” and he replied after a pause: “Then it would have been very difficult”.

In parenthesis, the position of widows in Abkhaz society is one that deserves investigation. For instance, an informant remarked: “A widow in the village is a danger” (A-r, summer 2010 in K-a) to explain the general encouragement of marriage to a widow or her marrying again as, otherwise, she was “floating loose”, outside of normal kinship structures and her simply returning to her lineage of birth on the death of her husband “might not be to her liking, or that of her unmarried sisters,” he added.

4.7.2 Inheriting a house

The practice of virilocal residence for a married couple enforces patrilineal ownership of the house the wife goes to live in, but not without controversy. A story was told to me in company (September 2009):

There was a funny man in Zugdidi who married a woman and decided to live in the home of his wife’s family, where his wife was the only child, hoping that it would give him a claim to the woman’s family’s house and that he would inherit it on the death of her father [laughter]. The man later divorced the wife and, funny fellow, asked for a share of the value of the house! What a laugh! Fancy him thinking he could inherit from the wife’s family – was it not enough that by going to live in her family’s house no one could understand who was the husband and who was the wife: he had become the ‘wife’, as it were, by living there, so how could he possibly claim any rights to the property?! It all became public knowledge when the crank took the matter to court and the judge, of course, rejected his claim. What a laugh!

According to law property that has been accumulated by partners to a marriage is owned equally and to be shared on separation or divorce, but in practice, as the house is the man’s before marriage is exempted by being property accumulated before marriage. The wife moves into the man’s house and it remains his and is not even referred to in the relevant law on marriage

and property (2009: Zakon 21.7.2009, chapter 15 clause 35). On separation she can be homeless, as was the experience of Zuleika that I describe in chapter five (section 5.2).

There are riders to this: the law describes marriage as a union between one man and one woman, yet it is not too rare a practice for a man to take a second woman should there be no children from the first. The first wife becomes “like a grandmother and looks after any children that come from the second one” (personal communication 2012). On the man’s death the house goes to the youngest son or uncle and, if there are none, to the first “official” wife.

Adjustments are continuously being made in the supposedly ideal, and ideation is made to incorporate unusual practice. Thus, in another family I was present during an argument between husband and wife over inheritance (Ref n. 078). They acknowledged (most strongly by the husband, let it be noted) that the “family house” was his parental lineage house in the village he came from and would be inherited, according to custom, only by their youngest son, so that he, in accordance with tradition⁵⁰, “supposedly” would look after his parents in their old age. Yet changing times have given his wife a flat in the town of Sukhum and she insisted that all their children would inherit shares in it equally, boys and girl. Furthermore, as the older of the two sons proved to be more competent in the father’s opinion, and interested in agriculture, the father privately told me that he hoped “his” house would go that boy.

Gift exchange persists despite changing property ownership over the past decades and changes in the stages of the bride moving out of the parental house. Thus, Inal-ipa could write of a bride remaining in her parents’ house for over a year after formal agreement to marry ‘properly’ with a traditional feast, by which time sufficient mutual gift exchanges between the families had been completed (1954: 64). Delays to observe mourning for relatives who died in the meantime could lengthen the time gap. An informant told me

⁵⁰ “Supposed”, because communications from several women showed that while the customary responsibility for looking after the house and the elderly parents lay with the youngest son, in fact that work devolved to the younger son’s wife; and women often complained to me about that burden.

in May 2012 that she was still at her parents' house three years after the formal registration of marriage and had meanwhile given birth to two children. The customary marriage feast was due to be celebrated in October of that year. Having children before the feast celebration (something that would have been unthinkable before the state first took to registering marriages in the last century) is not unusual these days in an accommodation of custom and law, but state registration is seen as secondary to the customary feast.

In yet another case a husband died in a village without male progeny, only a daughter. His house and land according to custom should then have been passed to another male relative, of whom there were several cousins and an uncle. However, the men met and agreed that they did not want to move the woman and her daughters and none of the men wanted to move into her deceased husband's house to look after the land. "But," said my informant, "we were not going to leave the house empty to rot and the land to go to waste." So the woman and her girls stayed on the farm and it was accepted in the neighbourhood that the male lineage was broken; the woman inherited the land even though, of course, she came into the family from another, unrelated lineage. It has been agreed that until the woman or one of her daughters decide otherwise, a new lineage has been established for the time being with her heading it; an adjustment of ideal customary practice. My informant, now joined by a cousin, was not prepared to speculate as to what this might lead to, being satisfied that a problem had been overcome, whatever the future holds (personal communications K-ra 2011).

The Abkhaz scholar Arvelod Kuprava has written on the peasant upheavals that met the first attempts by the Soviet authorities to enforce rapid collectivisation of the land in the 1930s. He singled out the threat that collectivisation was bringing to the established gender roles among the Abkhaz for special mention from the list of the peasants' grievances. In particular they called for dropping the campaign for universal literacy as it took women out of the home to classes and led them "to abandon their infants in arms" and to have women and men mixing at the classes (2008: 91, 100,

103). Today I have heard men complaining about the Soviet period for imposing on women work in the fields outside the grounds of the house as an iniquity, as it forced women to take on further responsibilities away from that of looking after their husbands and the children and the running of the house... no questioning of gender roles here.

4.8 Neither custom nor law

There are practices that are both extra-legal and extra-customary, and not just something new embedded into customary conceptions - the recourse to individual agency outside of customary rules to settle a dispute. They demonstrate a certain lack of confidence either in the efficacy of customary practices or of going to law or both. It is a feature of the current disjuncture between the workings of custom and law, a disjuncture that has opened up to individuals to set in motion new practices that are seen as neither. This use of institutions that have arisen because of the lack of fit between the two will be further discussed in chapter five and in my conclusions but, first, some examples of this.

4.8.1 Kin outweighs the judge - the axe woman

Any suggestion in the examples I have cited that disputes are all settled amicably would be to miss the reality that unequal family standings and sizes play a part, to put it mildly, in distorting the idealised picture that was often presented to me by informants before we had built up relations of trust. The weight of kinship is not equally spread among the kinship units and that can determine both a court's verdict and even whether court judgements are carried out. When matters do reach a court hearing the judge is guided, in the first instance, by the aim of restoring harmony in a locality. Often that is not on the basis of the word of the law but on local circumstances, which include his estimate of the relative local importance of the lineages, their standing in the community and among the Abkhaz as a whole. There is recognition by the judge that despite ideational equality for all and support for egalitarian

principles, the social standing or 'capital', as Bourdieu would have it, of different lineages and how they vary over time is certainly taken into account when striving for harmony. This is also reflected in the choice of individual shrine-keepers and elders, where lineage and age are tempered by candidates' standing. One informant told me that he had doubts about shrine keepers' total probity. I did not hear of judges being seen as corrupt, although I heard they could be 'leant on'.

Thus, the small family of a woman who, during a row with another, was axed about the neck two years ago in south-eastern Abkhazia took the matter to court to seek redress. Note that the family can take a case on behalf of one of its members and, note also that hearsay is admissible and widely used. According to one of my informant judges in the capital, the axe woman was acquitted although no one contested the charge. It happened after her family packed the court room and interrupted proceedings with shouting and threatening to destroy the metal cage in which the accused was placed. The woman who used the axe and her family and friends, almost none of whom had been present at the incident, argued that she had been provoked into using the axe. The judge's comment to me was: "It is quite likely that what happened in the courtroom influenced the local judge's decision..." She was acquitted on the grounds of having been provoked.

I draw attention to that section of the law already referred to that leaves it open to persons who *feel* they have been insulted to take what they consider to be appropriate action. In the courtroom, the judge assured me, everyone present assumed the right to take action when there is provocation, without that action being limited by law or, more importantly, by custom. The alleged provocation was not proven, nor was any witness to it called.

In the view of my informant, part of the problem was that the courts lacked "the air off solemnity that I have observed on a visit [abroad]" and judges were unprotected by not having staff which could enforce order in the court ("I have seen how there is such personnel with truncheons in courtrooms in [another country]") and depended on the local police to arrive in time should a fracas break out "and they can take a long time."

In my presence the chairman of the Supreme Court telephoned from his office for police assistance to stop a fight that had broken out in town between two families. A court order that had been issued some months earlier for one of the families to vacate a flat had not been enforced and the family on whom the eviction order had been served were physically resisting the efforts of the other family to move in, “as in a state of siege, with barricades against the attackers,” as he described it. It was not the first time he had attempted to involve the police to enforce the court order and he made it clear to me that he doubted he would succeed on this occasion: “in the end, the families have to sort things out,” were his words to me (July 2011).

It might seem that what has just been described is a negation of direct democracy because influence and force are illustrated. This, I think, would be to miss the central feature of direct democracy, as I have argued it, following Stanley Diamond, the democracy that denies decision-making by agents, agencies, representatives, officials, and so on, of institutions that are outside of the community -(ies) that is/are in dispute. Direct democracy does not exclude at all times the kinds of influences on decisions that I have instanced - influences of pressure, status and such like, even force used by members of the communities in dispute. To do otherwise would be to imagine a totally ideal society.

There are elements in some of the cases discussed of “cultural defence” and I will illustrate this more clearly.

4.8.2 Cultural defence - grey area

A US lawyer defined a cultural defence as an offense that according to the defendant is permitted by the accused’s cultural background. Consideration of culture allows prosecutors, judges and juries to determine the appropriate level of culpability (USlegal.com. Viewed 3.7.2014). According to an Australian expert the cultural defence allows for “an individual’s ‘culture’ [to be] used as a basis to exculpate or mitigate criminal liability” (Osborne, S. 2008) and he cites Heller’s view that a cultural defence

[R]efers to all of the ways in which a defendant can use evidence of his cultural background - the shared organisation of ideas that includes the intellectual, moral, and aesthetic standards prevalent in his community of origin - to argue that his conduct was either not criminal, should be excused, or should be punished less severely” (Heller 2006: 291).

For most scholars the matter of the cultural defence is a question related to multi-culturalism and the rights of minorities. This interpretation clearly does not apply to the Abkhaz, whose cultural defence is that of the majority of the population and is counterpoised not to the cultures of others, but to their own law.

Cultural defence was discussed by Melissa Demian in detail in an article that surveyed the situation pertaining to it in the USA, UK and Papua New Guinea (2008), in cases where the cultural defence has been handled in different ways, including its acceptance and rejection in legal practices. She states: “The concern of legal scholars lies primarily with whether or not the cultural defence upholds or undermines the principle of equality under the law...” (2008: 433). When examining the literature for and against courts taking into account the cultural background influence on what are perceived to be criminal acts she writes: “What both pro- and anti-cultural defence critics accept with little argument, however, is that the cultural defence is an adaptation of contemporary criminal law to multiculturalism” and she, as do I in the case of the Abkhaz, disagrees with that: “For the lawyer, the cultural defence is a question of how to make the intentions of defendants knowable by something called ‘culture’” (2008: 433). In her view: “... the law’s capacity to quarantine the cultural from the non-cultural is potentially every bit as creative, synthesising and comparative as anthropology’s own debates over what constitutes ‘culture’” (Ibid.: 440). As my research illustrates, the situation in Abkhazia is not one of recognised or rejected cultural defence, but of allowing, not without contestation and blurring at the borders, the choice of customary (‘cultural’) or legal avenues for dispute resolution.

There is customary intervention in the limited proportion of disputes that do undergo a form of court proceedings, when matters are “taken to law”. It is not only that courts are places where relatives of the prosecuted and

defendants insist that their opinions are as valid as of those who would be regarded as witnesses in a court of law in England, for instance, but judges themselves are sceptical of the value of punishing offenders under the law and express grave doubts about the value of any prison sentencing. The power of swearing good character and the great value placed on a sworn statement that is not backed by evidence, continues to be important in the tackling of disputes. That is something that is underlined by the universal respect for oath swearing at sacred shrines to this day – shrines to the power of which public prosecutors and heads of state make appeal, as I illustrate later in a separate section in chapter seven that centres on the role of these shrines in disputes resolution and in national state-building.

So, what does law relating to disputes actually cover and to what sections of it is there recourse? Firstly, as a general rule, courts are called upon for assistance when charges relate to the implementation of state policies such as tax collection, smuggling and the allocation of municipal property and state allocation of land use. Otherwise it is when either the aggrieved have no lineage, i.e. customary, institution to call on or cannot him/herself put matter to rights. The strength of belief in custom is shown by a query about cultural defence as follows.

When approached by an Abkhaz lawyer for an opinion on whether one could build a defence in court on the authority of custom (“the cultural defence” Demian 2008: 432) a specialist on Abkhaz custom and law referred the lawyer to the Constitution and codes of laws (personal communication August 2009). His refusal to give an opinion on the validity of a cultural defence in a court, he explained to me, was not a denial of the importance of custom but to insist that in Abkhazia law and custom are separate entities. The cases I examined in which the laws’ tolerance of customary practices guided judges and pre-trial investigators gave warning signals of possible greater conflicts in the future between the use of law and custom, arising should private property rights come to dominate. In these changing circumstances not everyone thought it was proper to leave it up to individual judges to decide on where the demarcation line should be drawn between

custom and law.

The case about which the lawyer sought guidance from an authority on customary practices and law was the following. A woman was arrested on a charge brought by another that she had committed a crime against her, and she was held in pre-trial custody for more than a year. The court found in favour of the accused, exonerating her and she was released. She then demanded that the woman who had brought the charges should compensate her for being insulted by her levelling the charge before the court. The view of my informant was that the state and not the woman who had brought the charge should pay compensation to the woman for keeping her in custody. Here is an interesting take on the relation of custom and law, as the expert had decided that any claim that might be made in this case was to be addressed to the state which had held the woman and not to the woman who had brought charges against her. That was the opinion of someone who leaned towards a statist appeal to law rather than to custom. When I taxed him on this he replied: "She was arrested by the [state's] prosecuting authority and the state was, therefore, responsible for all that flowed from that" (personal communication 2009). On my pressing him further, he agreed that she could have taken the matter up in customary dispute procedure, outside the law, "but my advice was sought from, and given to, a lawyer." It is the case that the law is silent on customary dispute procedure as a whole, while effectively allowing for it in vaguely-worded statements. This does leave a lacuna between law and custom in the definition of 'correct' procedures, for instance, when communities exile members who have contravened customary rules, and confiscate their house and land. In the case under discussion the woman who was held in custody could have taken her case up through customary procedures on the grounds that that she had been insulted, a very serious offence under custom. In the event, as she had gone to law and in the light of the advice given the lawyer dissuaded the woman from seeking compensation from the state and she left it at that.

One might consider whether giving primacy to custom over law does not itself constitute an acceptance of cultural defence, of *apswara* as a whole.

This raises related questions about where “multi-culturalism” has its place in a unitary state, something on which the Constitution of Abkhazia is supposedly founded on. When I raised this with informants I was told by one that “the idea sounds good if you are not fighting for your existence – here *apswara* must be adhered to as we don’t have room for dividing ourselves up” (2009). From further discussion it seemed that the position taken was that no-one in Abkhazia should violate *apswara* but that, as one put it to me “the family traditions that local Armenians or Mingrelians have are their own business, but they must not impose these on us – they are living in our country” (2009). Another in a group I chatted to asked: “Would you in England not expect outsiders to behave properly?” Here, again, there appeared to be no conception that law and customs should impinge on one another other than in the form of custom being put before law.

The judges seek to minimise the use of the laws and often take the initiative in seeing that even criminal charges do not reach the courts but are tackled through customary mediation and reconciliation procedures, and examples of these have been given in the accounts of cases. I have put down a marker for a look later at whether the use of customary procedures itself does not amount to the recognition in practice of an Abkhaz cultural defence. It also raises the question of whether it is possible to have a state embedded in custom and that will be discussed in chapter six on nationalist modernisation and capitalism.

The Abkhaz do not commonly see why a court should not practice according to understandings of custom. Informants have repeatedly told me that they have taken disputes through customary procedure because that stands above laws. The woman who wanted compensation believed she had been “cheated by the accuser taking a case to the judges and, thereby, trapping me” (2009 personal communication).

There is evident some fraying at the edges between understanding of custom and law. Even in the case where a woman insisted that the letter of the law be kept to when a child was killed by a dangerous driver, she found she mobilised her kin to make this happen. It does suggest that customary

practice has to be set in motion to bring a satisfactory conclusion to a dispute in any case; despite the lack of success by the wrongly accused woman. The detailed application of law and custom may be different within a village community and where disputes involve parties that are from different lineages and communities and are geographically wide part, and in no ways linked. At times nationally-recognised elder-mediators are brought in (as in the case of the cable thief), but that is only where the parties agree to seek mediation and reconciliation.

4.9 Resume of elements of customary practices

Abkhaz custom fulfils a need and desires that would retain concepts of traditions and benefits of customary direct democracy, while using the state and its laws as adjuncts to these, to be opportunistically employed facilitators in some cases. I re-iterate that my use of the meaning of state is an interpretation of Marx's view of it - being, on the one hand, an institution for implementing rule by a social class or alliance of classes and, on the other hand and linked to that, to maintain orderly life in society as a whole. In Abkhazia no class or oligarchs have achieved unchallenged domination and so it is on the second aspect – to maintain orderly life that emphasis is placed in this dissertation. So far they have prevented the chaotic breakdown of order that scholars have described for other post-Soviet states. Abkhaz customary structures and procedures contain outlooks of fairness and egalitarianism, elements that are thought of as stronger in the past, to counter the growth of hierarchy based on inequalities.

However much the word 'tradition' may be used, with its baggage of 'age' and selections from and invention of past moments and practices, we are witnessing not the defence of institutions per se but their application to today's conditions and needs (Hobsbawm 2001 [1983], Hodges 2011). In Abkhazia application of custom conflicts with the policies of those who would strengthen state agencies for the promotions of modernisation, also to be looked at in chapter six.

Most of the cases have illustrated how strong custom remains and how often the law is ignored or ‘straightened’. Only after spending months in Abkhazia over five years was I enlightened on the lengths to which the strict application of custom is frequently violated or adjusted. Thus, I was told of a husband taking a second wife without the lineage being consulted (K-ma and A-r 16.9.11).

The imperative of maintaining the lineage was spelled out in another context by a judge in the presence of a lawyer outside the Supreme Court building: “The lineage is what sustains the individual and in disputes its interests must always take precedence. It is not the individual’s prerogative to forgive.” They were explaining how they saw the role of lineages in the resolution of disputes, despite the fact that the laws, framed along borrowed western statutes, pretends that matters are settled by the courts dealing with individuals and not lineages. The discrepancy did not worry them – they were talking about reality and “what might be an ideal,” as one of them put it, “Rights and laws are not the same thing” (G-a n. 2011).

Qualification of the once-total dominance of male seniority in lineages was shown in the case of the woman who argued with her husband about the inheritance of property. It pointed up that adjustment is made to custom in actual relationships, something expressed by another informant as: “It is the strongest character who decides, irrespective of gender or belonging to whatever generation” (personal communication 2012). A further illustration of this was that, although supposed to be silent or “modest” in her in-laws’ house, another woman with whose family I resided, does speak out against “wasting money” on rituals, does not hesitate to give her advice on who should be invited and fed at *nankhua* and other celebrations, and rails against long mourning periods. But she agreed that her close woman friend could not go to the theatre “because she was in mourning” for her husband who died nearly a year earlier. Her husband criticised the law for “overdoing things” by its insistence that quite distant relatives have a voice in the funeral arrangements for a man who dies intestate, and not only those in the immediate line of male descent deciding.

The great variety in the disputes and their resolution that have been described shows the aim of customary practices is perceived to restore harmony and does illustrate that it takes in individual agency within it.

Custom, according to Goodenough, recognises clans, *names*⁵¹ - as corporations, as “emic units” of a society (1971: 1151). It is not the individuals who trigger off a dispute who are seen as the main societal units that are the parties to disputes and their resolution but the *name* is. The law reflects a different standpoint when it seeks to concentrate on ferreting out the guilt of an individual. The university professor who decided to act and shot his son is spoken of with almost universal approval today: “He made things right by restoring balance between the two *names* and practising fairness” according to an informant (2012). In the eyes of the girl’s family the father’s killing of his son compensated it for death of their girl, by demonstrating contrition and equalling out the losses; thereby ruling out the need for blood vengeance.

The family, the *name*, includes any person with the same surname or the surname of anyone married into the family over several generations, going back through both male and female lineages. It can be small or cover hundreds of people, and marriage among any of its so-defined *name* members is considered to be incest. It is within the *name*, or its sub-groups of nuclear families that disputes are ideally settled or collective action is decided upon. When the dispute involves members of two or more *names* matters are nowadays usually pursued through customary arbitration procedures. I was told: “It is within the *names* that values and duties are inculcated in the young and everything must be subordinated to the defence of the honour of the *name*” (personal communication September 2009). There are instances of continued and universally-approved use of the customary sanctions of ostracism and the threat to exile to deal with severe violations of the norms, such as incest. These sanctions remove the protection that the *name* normally confers on all its members against being offended by any outsider. The elders

⁵¹ I use the italicised words *name* and *names* to denote the Abkhazian variation of lineage, as do the Abkhaz to cover all people with the same name.

or the keepers of the sacred shrines often act as conciliators who make for “reconciliation washing everything clean” (personal communication September 2009). Alongside this is the evidence that there is room for individual agency within *apsua tsas*, as dramatically shown in the case of filicide. It is reflected in Abkhazian law, which expressly condones the actions of individuals who take action when they feel insulted, when the agencies of the law stand aside and disputes are settled between parties in dispute, as we have seen (Zakon 27.04.2009:7: clause 36).

Most informants were quite clear about the family, in its most extended sense, the *name*, being the basic institution of social life, settled on the village family house, that of the eldest man in the lineage and the pivot of kin relationships which privilege the male lineage despite the law.

Further evidence of accommodation to overcome constraints that arise from literal adherence to customary practices even justifies polygamy - the taking of a second woman into the house to supplement a childless first one is not badly regarded. In such cases “There is no need to go through the formalities of another marriage ceremony, as a ceremony has already been gone through with the first wife”, it was explained (personal communication). This ‘mends’, despite normal acceptance in Abkhaz society that a childless marriage is legitimate grounds for separation. Whether this is an example of affect, emotion, requires further research but A.L. Epstein’s work on “the expression of affect” – the intervention of human emotion and how one is regarded by other people (1984: 10) would be relevant. The different meanings given to separation and divorce and their lineage consequences will also be bourn in mind, as will the general view that it is the woman of a pair who is the infertile one: “well, she is the one who brings forth a baby,” it was put to me.

There are cases of a married man siring a child for his family from another woman which I was told was “rare but widely known”. I came across one such case, of a spinster being impregnated by a man “so that she could have the experience of motherhood” (personal communication 2012). Due to the delicacy with which such cases are discussed it was not possible to

ascertain whether some such cases were not simply of unregistered civil marriages, or of the woman keeping the child and the father helping to defray her costs. Not unrelated to this are the practices used for child adoption, in which customary practices that predominate take no account of what the laws state on this.

Clearly, there is ambivalence in attitudes to the laws, woolly thinking, and contingency a vague factor defying precision. This impression was strengthened from a discussion I had with some 60 students at the Abkhazian State University in Sukhum (Fld 0102). All asserted the virtues of *apswara* but not one could tell me what was different about *apswara* and laws. There is a compartmentalising of what is thought should be tackled by law and what by custom, without being more precise than giving priority to customary regulation.

According to official statistics divorce in 2007 was on the increase, being over twice as high a fraction of marriages in towns as in the more traditional rural population (State Statistical Office, 2008: 24); a possible indication of new, unmastered pressures on the high proportion of the population that has become urbanised over the past two decades and for whom traditional practices are not a powerful enough mechanism for keeping cohesion.

There is a legal obligation placed on adult children to care for their parents and grandparents, in an effort by the lawmakers to recognise customary practices. What penalties might apply when the law on these aspects of the family are broken is, interestingly, not included in the law, which has not been tested and, I was told, was left to customary shaming. A possible sign of changing times is the frequency with which I encountered interest, especially among women, in the smaller nuclear family sub-units of the kind that we find in Britain, in the social provision of care for the elderly and women being freed from much of what some Abkhaz women saw as the burden of being tied to ailing elders and to serving grown up children in the

same house. On several occasions the same women who had spoken with pride of traditional Abkhaz family values, extolling genderisation and the view that the man was the breadwinner and woman the house maker, as if this still applied throughout, then turned to cursing the burdens that were placed on them. They spoke of the heavy manual work they did, including pulling loaded handcarts across the border with Russia to sell agricultural produce. It was striking to be told in September 2009 by the vast majority of the sixty female students who attended a discussion in the history department of the university in Sukhum that they did not see their future in taking up a profession outside the household.

My own experience of the practice of the correct conduct sought through *apswara* was to meet with much politeness, standing up in my presence, receiving the first handshake when I was the oldest present, even from a stranger who joined the company. On more than one occasion a stranger paid for my coffee in a cafe, and without seeking recognition. On the other hand the failure I sometimes observed of young people to give up their seats in a bus to an older person I was told was something very new; as were young people shouting in public and noisily racing cars around the streets in town at night. However, perhaps that demonstration of exuberance is a parallel to the exuberance expressed in the widely practised firing off guns in public on festive occasions. No informant denied that changes were taking place, at the same time as stating as axiomatic that “Abkhazianness” demanded conformity with the perceived old ways of behaviour.

Some informants question whether the ethnic Georgian community in the Gal district see themselves as an arm of the Georgian state. According to an informant who travelled there widely he expressed it as finding the locals happy for the Abkhaz to run the country, and only longed “to be left alone” to getting on with their agriculture, free from suspicions of being the Georgian state's representatives (personal informant summer 2014). It must be borne in mind that most of those Georgians-Mingrelians took a neutral stance when Georgia invaded Abkhazia.

Most Abkhaz I encountered insisted that the laws should be based on or accommodate Abkhaz custom. The traditional institutions of family, lineage, dispute resolution and a national belief system, which I discuss in chapter seven, exercise a strong hold on popular imaginings. Some, especially among law-makers welcome changes in such institutions and practices. Their hopes are placed in the pursuit of a modernisation whereby law would disrupt “out of date” institutions and practices but rarely speak of these disruptions altering self-conceptions of Abkhaz identity. They would have new laws on property that, in my opinion, challenge the very basis on which custom sits. Those arguing for a pre-eminence of law avoid explaining how this is to work with *apswara*. This vagueness has been severally exemplified, including in statements by President Bagapsh and his endorsement of actual customary practice. Even when he said “the time has passed for the President to be the head of a clan or an arbitrator” he made no criticism of clans having “heads” and acting as “arbitrators.”

From the data there emerges a general picture of the Abkhaz seeking resolution of the problems they face in the tradition of custom and its institutions, while adapting to modern circumstances and this suggests that however much actions are justified by appeals to *apswara* and *apsua tsas* the realities of everyday life are imposing new ways of going about things.

How custom is perceived, as a valuable relic of the past as well as a product of the present, and one that also looks to the future is looked at in more detail in the discussion of “nostalgia” and “hope” in chapter eight. The importance is not its age but its relevance to living today.

I now deal specifically with some observed distortions in the practice of Abkhaz ideals.

Chapter 5 Distortions, contradictions, changing times

5.1 What custom cannot tackle today

[T]he basis of holding land is changing from one of community and custom to one of individualism and contract; wealthy native capitalists are appearing...
(Meek, C.K. 1946: v)

There is a danger that Abkhazian ideology will become dissolved in the market economy; one notices an estrangement from our own culture, a contempt for traditions in society.

(Bartsyts, M. 16.6.2009)

The state budget is made up in the main from contributions from private business. In such conditions it is completely unjustified not only to increase the structure of the executive branch of government but even to maintain it in its present form. Furthermore, bearing in mind our declared attractiveness of Abkhazia for investment, foreign business encounters serious problems with such a structure.
(President A. Ankvab 2012)

The course set itself by governments since the destruction of the Soviet Union to construct a capitalist society has brought with it problems for customary dispute resolution and sharpened its contention with law. In an interview the president, Sergei Bagapsh put the problem to me as follows: “capitalism is predatory [...] for a person occupied with business *apswara* is the last thing he thinks of and his business comes before everything else” (personal communication 2.07.2010). The reality of the causes of these are disguised in the minds of many through the temporal coincidences of the economic effects of Perestroika, the demise of the Soviet Union, the wholesale devastation that was brought by the Georgian invasion and occupation of 1992/93 and the following six years of blockade of independent Abkhazia, including by Russia.

The background to dissensions and debates on how to balance custom and law, according to Abkhaz informants, lies in the continuing problems

with rebuilding the economy, raising living standards and establishing structures that, in the view of one informant, might supplant customary controls by state ones. Thus, a meeting of officialdom in Gagra in north west Abkhazia in 2013 was interpreted by an informant as an example of an executive attempt to devolve some freedom for initiative and taking on responsibilities from the state centre to the periphery. But, in his words:

Giving more powers to local authorities is so that they can get more money and be tied in with the government – we need help for what we in our village *obshchina* know should be done. Decisions, decisions and decisions are taken but nothing is done. Where is the money going? (A-r personal communication by telephone 27.4.2013).

Another informant had earlier told me:

Of course, more money going to the authorities would be a weakening of the say for custom as the purse strings would be more in the hands of local officialdom, not those of the popular assemblies, the elders and so on (personal communication July 2011).

There was another view expressed in the same discussion:

But the moves [...] might be a change of policy at the centre that faces up to the criticism that is about that too much control of resources lies there, taking away local initiative other than to act as petitioners.

Petitioning has a long tradition that is reflected in the weekly meeting between the president and people to bring complaints and requests for aid and other action that includes the release of funds for local social and industrial projects.

5.1.1 Corruption

I use the term corruption suggested by Italo Pardo as: “the sale of the functions of office [a feature of societies] where there are marked asymmetries of power [...] perhaps inseparable from the modern state” (2004: 1), i.e. the extortion of money for personal gain, selling a service which one has been employed to provide - double charging, as it were. I

present what the Abkhaz understand by it and discuss that, guarding against Eurocentric importations of meanings. It will be looked at contextually – its principal and pejorative sense being individual self-enrichment as against the promotion of societal interests. It means the abuse of office by those with powers given by state agencies and includes bribes to access state funds for private businesses, payments to the police, to a mayor, head teacher, hospital surgeon, and so on.

The widespread use of the term by the Abkhaz is in those senses and excludes favours to kin, friends and neighbours, the socially sanctioned customary practices of helping fellow lineage members, friends and neighbours and the widespread exchange of return favours. Mauss' study of gift exchange in societies that prioritise the interests of the common weal and not of individual accumulation; the various ways in which gifts are exchanged to constitute “total social phenomena” that build social solidarity (1990: 3) fits much of the Abkhaz outlook of *apswara*.

An Abkhaz economist who is based in Moscow recently wrote:

The level of corruption in Abkhazia, is doubtless high but some citizens see it as boundless as, according to them, all state officials take bribes and *otkat* [a post-Soviet word that means to take a cut, to cream off money from business deals, MC]. That is a myth which is to a large degree spread by opposition parties [...] None the less the institution of bribes and *otkat* in Abkhazia cannot be denied.” (Ardzimba, I. 2012)

In a volume edited by Italo Pardo, a researcher in Latvia alleges that exaggerated publicity to suggest that corruption is widespread or inevitable helps promote it (Sedlenieks: 130-1).

The growth of private business of late has expanded the opportunities for bribe-taking and the embezzlement of public funds. In his study of the many forms corruption takes in Kazakhstan, Jacob Rigi finds some informants linked its huge increase in post-Soviet conditions to neo-liberal reforms that have allowed public assets to be seized by a “predatory ... elite” (the same adjective used to describe businessmen in Abkhazia by president Bagapsh), under what Rigi describes as “legal anarchy” (2004: 116).

The report of the public prosecutor of Abkhazia for 2013 revealed

widespread cases of embezzlement that defrauded the state through unsecured loans to businesses and swindling and bribes totalling 332 million roubles (over six million pounds sterling). Cases involved ministers and the heads of state utilities and banks (ApsnyPress 7.2.2014). The president announced a turn away from state funding of private businesses, to financing the agricultural sector (2012). President Ankvab's own background was as a top official in Soviet and Abkhazian state structures, interrupted for several years while he built a private business in Russia.

No informants doubted that there is corruption. On the day Mr Ankvab was elected in 2012 an MP asked me: "Do you know that no loans are given without 'a phone call from above'?" The blame for that and for the large unsecured 'loans' that were doled out was placed at the door of various candidates for high office and those who had held ministerial posts (n.98, 29.8.11) but not Mr Ankvab.

Abkhaz politicians are popularly thought to use Russian aid money for personal gain and self-enrichment. Then there is the alleged frequency with which police will defer to the powerful and not prosecute offenders from influential families for fear of retribution. I was told by one Sukhum ex-policeman: "There are criminals in all business and state structures" (something I could not verify) and that the police "beat pickpockets but do not torture or beat professional criminals because they fear them" (personal communication April 2012). The picture of crime and criminality is more complicated than would be suggested by drawing a clear demarcation between crimes committed for personal advantage and mutual protection among fellow lineage members.

At the same time, favouring a relative for a job would not be considered corrupt if that person was capable of doing the job.

5.1.2 Witchcraft

Accusations of corruption in Abkhazia are similar to the way anthropologists have seen accusations of witchcraft in Africa⁵² as moral contestations of

⁵² I thank Romelia Calin, Cambridge University PhD candidate, for allowing me to draw on her insights from her fieldwork and unpublished comments on corruption in Abkhazia.

social and economic inequality. Here it is apposite to consider its evidence in Abkhaz concepts. There is a widespread belief that few events are the operation of chance – there is human or supernatural agency in all matters. This covers business ventures, where failures are attributed to the machinations of ill-wishers and not to bad luck or changes in the business environment of the market. With such an outlook bribes as a safeguard can be seen as justified as there is a chance that they will produce the desired outcome and might not be discovered by the enforcers of the law; much as propitiation of witches is in some other societies.

I have mentioned the power of oath swearing at shrines, where false evidence is punished ‘from on high’ and can be visited on the property and descendants of the perjurer. The other side of the coin is that a false oath satisfies those who have brought charges against the oath-taker and, whatever a liar’s conviction that it might eventually visit punishment on him, he can benefit from his foul deed at least in the short term. To stretch a parallel, the false oath might be likened to a footballer fouling a player of the opposing team who is about to score a goal, in the hope that the referee might not notice, or that the penalty that is awarded against him will not lead to the otherwise inevitable goal being scored.

But the matter goes much wider than that. Deaths are rarely considered ‘natural’, just as with Evans-Pritchard’s Nuer, someone is always responsible for a death and the evil eye possessed by such persons in Abkhazia can betray them. When President Bagapsh died unexpectedly in a Moscow hospital in 2012 it was widely attributed to poisoning. Allegations of poisoning are often made and believed precisely because it is difficult to disprove a charge, in the same way that accusations of witchcraft are used, as witches are ‘known’ to use poisons from their store of knowledge of herbs. When Bagapsh’s predecessor as president, Vladislav Ardzimba, fell ill and died, he was said to have been poisoned. The death in 1936 of the head of the Abkhazian Soviet republic after dining in the house of Lavrenty Beria, one of Stalin’s notorious executioners, is ascribed to poisoning. I was warned

repeatedly against trusting doctors and if I should find myself in their hands, then to make sure I paid them well – as they poisoned people. There would appear to be an association of malice attributed to doctors with their access to poison but also to the fact that their professional skills, more than those of others, do frequently end in a patient's death, and causality is imagined to explain matters. When clergy of the Abkhaz church went to Russia two years ago for difficult discussions about their pursuit of autocephaly from the Georgian Church they were advised by well-wishers not to eat or drink anything that was proffered to them, for fear of poisoning. On their return they told people that they need not have worried...as they were not offered anything. The arrest of people in one village in northwest Abkhazia during the political purges of the 1930s is put down to the activities of three unpopular men who “everyone knew” had the evil eye (personal communication 2010). There is a quasi-universal belief in prophetic dreams, fate and premonitions as well as dangers that are forecast by animals. The common ascribing of misfortunes to the machinations of others, as with unsubstantiated accusations of corruption fit well within these outlooks. It is akin to the widely held views in the West that put down the problems of the Third world to “corruption”. It is similar to the Nuer beliefs in witchcraft that were researched by Evans-Pritchard... or the wide attribution of the current crisis in the capitalist world to the actions of “greedy bankers” or greedy ordinary people who borrow beyond their means.

With the qualification that he makes, one might accept Inal Ardzimba seeing widespread corruption. The fact that the Abkhazian press has carried few reports of officials being brought to book for a corrupt practice is widely considered to “prove” that there are cover-ups. I was cited allegations of corrupt practices in numerous spheres: letting big cars jump queues at the border with Russia, of crooks travelling the length of Abkhazia from the border with Georgia at one end, to the Psou border with Russia, at the other, “clearly with the connivance of police” (personal communication 2011). There are the large payments that are, in practice, compulsory to doctors in state hospitals to secure a bed or to receive good treatment. This is contrasted

negatively with the gift-giving that was endemic within the Soviet Union as informants say that the size of payments for this are of a different dimension than the gifts of the past, and are not only bigger but monetarised, something noted in other post-Soviet states, as exemplified by Rigi for Kazakhstan (Op. cit.:114). Bribes are exacted by examiners from learners to obtain driving licenses and for documents to show high educational achievement.

Real, exaggerated or conjured up, corruption is reified and is imagined to pervade society rather like witchcraft – and not seen as the features of society that leads to whatever level of corruption there might be.

5.1.3 Powerless to tackle changes

Economic upheaval and concomitant social disruption accompany the modernisation process. This was exemplified by discussion in lineage and *obshchina*-based assemblies at which new kinds of disputes arise especially from the increase in private as against communal property, the great discrepancies that are growing between richer and poorer members of communities and are threatening their cohesion. In both of the villages I lived in and according to informants in others the pattern is the same. It was summed up by one of my hosts as: “Things worth stealing are appearing in the villages” (personal communication 2012). He and other informants agreed that it was becoming more and more difficult to contain the actions of thieves. They are distinguished from ‘traditional’ raiding and stealing from outside Others, by stealing now within the same lineage or *obshchina* boundaries - “the *skhod* members and the elders do agree that action must be taken against such criminals but are powerless to stop it,” as it was put to me. In two villages (described to me in 2011 and 2012) some newly-rich members of the community raised the matter of stealing from houses but the *skhod* came to no conclusion about what might be done. In one case the discussion revolved around whether to apply customary exiling of the thieves, who were known to all. That faltered on whether it would be right to exile a thief “so that he could steal from people in another part of the country.” The alternative was to go to law or, as it was put, to “use the Constitution” but that would mean

bringing in outsiders and so that was turned down. The result was a feeling of helplessness in both cases. It was pointed out to me that the problem was a new one, as it is only in “the new times” that people with personal wealth had appeared.

The main topic at a *skhod* I witnessed was what to do to secure a water pipe which had been promised by the local authorities but not provided and the common topic of what to do about the appearance of stealing.

Such experiences are not confined nowadays to the Abkhaz, as it has been described in detail for people in another part of the Caucasus, the Pankisi Kists in Georgia (Melikishvili 2003: 80-81). It was strongly hinted by some in Abkhazia that as there is the threat of another attack by Georgia this was not the time publicly to demonstrate any disunity in Abkhaz society. Such constraints have not deterred politicians who are opposed to government policies from arguing in public, but even they are constrained from naming individual violators of custom.

These are signs of the changing times and informants were aware of this. A two-way pull is evident between “traditionalists” for custom, and “modernisers” who want to modify the hold of custom or (a smaller number) to sweep it away, viewing it as a barrier to building a “modern” state in which private enterprise would flourish. But to leave it at that and present only the extreme polarities of opinion would be grossly to oversimplify the true picture. In reality, within a number of contradictory approaches that might appear at times to threaten national unity, there remain two unifying foci: *firstly*, agreement that there is such a phenomenon as Abkhaz ethnicity that should be preserved, based on *apswara* and *secondly* the continuing perceived threat of a Georgian invasion.

5.1.4 Debts and insults

A young man described the course of action taken through the following stages when he detected an insult (personal communication 2009 Fld 061/2):

First you try to settle it [extracting an apology for an insult, which opens the accused to a compensation claim] by giving him a beating. If that doesn't work then you

involve male members of the family and if that is insufficient, then bring in neighbours as well. You settle the matter. If someone is robbed then you try a way that is like dealing with an insult [...] For instance, I was owed money and he would not pay up, so I insisted. Then I told him he would regret not paying. Then I brought in by brothers but he still would not pay, so we carried him to my brother's car, put him in the boot with a mobile telephone and left him in the car parked up to its axels in the river [River Gumista, MC]. After a day and night he rang my brother to say that he had raised the money and it could be collected from someone he gave a telephone number for. We went to see that person, who paid the debt in full for him and we let him go.

In another case, I was told by a worker in the docks:

I *zavyol* (involved) a *vor v zakone*⁵³ who charges for his services or takes money from the person who stole from you. If the victim of the theft is a *normalny paren'* (genuine bloke) or poor, then the service is free. No one would go to the police about it at any stage" (June 2011)

According to other informants this resource is widely employed. Most of the small proportion of reports on crime that are made to the police is made by foreign holiday makers, and are about burglaries and theft.⁵⁴

These examples also help to show today's fluid relationship of customary practices to law.

5.1.5 Lineage pressures - drunken driver gets off Scot free

A recently retired senior police officer told me (2010) of how the mobilisation of a very large lineage with important connections "in many spheres of life" secured the freedom of a relative, a drunken bus driver who had run down and killed a pedestrian on the shoulder of a country road. Within hours agents of the influential name of the driver re-asphalted the section of the highway

⁵³ That is the term for a member of the hierarchically structured network of professional gangsters who abide by a code which excludes ever collaborating with state agencies on pain of exclusion, physical punishment and death, according to the gravity of the offence against the code. Unlike the Italian mafia, the *vor v zakone* is not tied up with politicians and the judiciary, Church, and so on.

⁵⁴ An article in the government's newspaper (*Respublika Abkhazia* of 28.3.2012) asked: "Why do citizens refuse to make depositions when criminal matters are being investigated and what is the quality of such investigations?" The author writes that criticism of the police is commonplace and deserved, citing statistics on crime solving as running at 35% overall, including, murders 20.6%, robberies (*разбоев - razboev*) 16.7%, robberies (*грабежей*) 26.1%, theft (*краж - krazh*) 26.1%; police officers are reputed either to do nothing or to assist the criminals. The statistics are of reported crimes and the author suggests that these are well below the number of crimes actually committed.

where the death occurred and removed the skid marks left by the bus' wheels, "persuaded" the investigating commission to move the point of collision from the side of the road onto the highway and secured a decision in which the dead pedestrian was blamed for his own death.

Thus extra-legal and extra-customary pressures secured an exoneration of the perpetrator. Commission members proved to be venal as "money changed hands," according to my informant. I could detect no customary precedents for such an affair. Here we have a case of straightforward violation of all the rules, customary or legal – a manifestation of naked power used at a time when custom is becoming weakened and law has not asserted itself. There were other cases I came across of the use of power or non-customary and non-legal practice through the use of strong men and influence, which will be discussed below.

What I would call the unstable marriage between custom and law that generally prevails opens up room for individuals and lineages agency to come into the picture in a manner that is neither customary, nor a total reliance on the mechanisms of the law, as also shown in the next case. The efficacy or hoped for efficacy of agency depends on being able to maximise what each of the two, custom and law, might offer, to manoeuvre between them. There is the opportunity to play with the choices that are offered and to refute the ideas that one often hears in Abkhazia that custom dominates without modification.

5.1.6 Big men? Gangsters? 'influence' – a society of tensions

Statistics on reported crime are very suspect, showing a total for all kinds in 2007 of 692, when a police informant told me that over a thousand cases of car theft took place around the same time. Debt collecting is generally carried out by the use of threats and violence by the family members of the creditor or by "people of standing in the community" who have social clout or muscle, as told me by informant port worker, taxi driver, policeman and tour guide among others.

The freebooters who collect debts with threats are in total contrast to any of the actors in Marshall Sahlins' *Poor Man, Rich Man, Big Man, Chief* (1963), who are embedded in their societies. In Abkhazia we are encountering simple gangsters who collect debts for payment made by the creditor who hires them or is 'extracted' from the debtor. Threats or actual force are their instruments. Certainly, I was assured by one informant, "if the person the money is owed to is poor, then the freebooter might waive his fee, and that increases his reputation in the community and helps to protect him from being denounced" (2010).

The laws ignore customary practices in dispute resolution and have nothing to say on where they might not and are not observed. In effect, the Abkhaz state does not arrogate to itself the exclusive right to the use of force.

5.1.7 Practical challenges to values of *apswara*

Customary practice is not always able to cope, as with care for children and the elderly. Responsibility for this under custom belongs to extended families that are defined by their patrilineal surnames. Yet some orphanages and nursing homes for the aged, which were unheard of before the end of the Soviet period, are now being set up. New practices demonstrate, in this case, changes in the role of the family and wider kinship obligations and introduce new grounds for contention within the extended families and the *obshchinas*, the residential-based social organisation. Who takes (or does not take) responsibility for those accommodated in the orphanages and homes for the elderly is a matter of contention and resolved by negotiated sharing of expenses, paid in money, to fund those state homes through conceptions of parities in contributions that are new. Kinship relational distance is re-negotiated outside of what is still expressed as 'traditional' conceptions of worth and seniority among contributors, even though there is no 'tradition' to go on. This raises questions about interpretations of obligation and their re-interpretation. They remain, however, within the conceptual field of family responsibilities.

There are virtually no orphanages and the fact that they have recently made a limited appearance is rarely spoken of and seen as a national shame and blamed on the breakdown of society and values following the war with Georgia. There is a tendency to blame the war for many ills.

Those in orphanages and the nursing homes have been what the Abkhaz feel are abandoned by their families, a blot on their character as an ethnicity, and, indeed, a matter for national shame and its discussion is consciously avoided.

5.2 Outside of custom and law – Zuleika’s case

The spectrum of practices that includes women’s abduction and forced marriage for a woman and also for a man, abandonment, and the denial of rights that are listed in the laws (such as spouses having equal shares in family property) are often told of in narrations that reproduce the tangle of interrelationships as understood by my interlocutors.

There are people who fall outside any kind of social provision and the kinship networks. Such cases fall outside of protection by effective laws but also serve to demonstrate that idealised imaginations of custom and community as the much exalted solidarity of the Abkhaz family, lineage and village communities, has its gaps. They were instanced in the telling of discovering hungry individuals and families that have been neglected in the villages (personal communications 2012). It is true that they were present in the hey day of custom – when the blood feud left abandoned individuals immured in high mountain towers, depending for charity to sustain them over years, a far cry from the, again idealised, writings of the feud only as a mechanism to prevent conflict (Inal-IPA 1965).

The case now presented in some ethnographic detail is the story told to me by a woman who not only could find no societal support but did not see her situation as extraordinary. It reveals another side of customary order, when what is nicely described as ‘patriliny’ and in another context as *apswara* ‘male respect for women’ shows itself as male dominance over

women. I heard the tale in bits over several years of encounters and it tells of her abduction, marriages, neglect, poverty, rejection and misfortunes and occasional good fortunes, throughout which she could only seek a male protector and rely on her own initiative. I considered her to be ethnically Abkhazianised, born in Abkhazia while being of Russian parentage, as she had absorbed many of the ways of the Abkhaz although, like many Abkhaz, she does not know the language. At the same time she is caught in something of a no man's land.

I was looking for a cheap lighter and met her when I went into her rented hole-in-the-wall shop on the high street of a small town. There was little room to move among the knickknacks, small souvenirs and beach games for tourists. I sat myself on a stool to smoke.

“You should give up smoking,” she said.

Me: “Have you ever smoked?”

“What? Don't I look like a woman any more?” she asked anxiously and without the slightest coquetry. Her assumption was that I was a local and, therefore, that I knew that a woman was not supposed to smoke.

Me: “Of course you do, and very attractive, too”

“How do you know I am a widow?”

Me: “Oh, don't men talk to women here unless they are widows?”

She: “What do you mean here? Aren't you local?”

Me: “No I'm from England.”

She: “England?! Really! It must be lovely there. They say that women aren't made to work like here and men are kind to them. Is it true that you bring your wives tea in bed and they all have servants to look after their parents? Do women own houses?”

So the chatter raced on as it did in other visits over three years. The woman was of a certain age and I will call her Zuleika.

When I asked why she had not learnt to speak Abkhaz her reply was: “To speak it you have to know how to spit and hiss...” Russians in Abkhazia do not necessarily observe the obligations that are customarily imposed by the Abkhaz lineage - *rod*. She freely criticised those she sees as “Abkhaz by blood” with stereotypical references to “their” arrogance, bad treatment of women, brutality and more. Yet she accepts many local Abkhaz rules of conduct without realising it. Her story went as follows:

I was abducted when I was 17 and my husband gave me three children but soon stopped bringing money home. He was a trained medical man but gave up on life around the time of the war⁵⁵ and died. I planted onions, coriander and looked after bees. This was in a house that belonged to my husband, 'out in the wilds' and of no use to anyone else, two kilometres from the foothills. I lost my fingernails from working in the damp earth and used to stick them back on my fingers and paint them. I fed the children nuts with honey and bought clothes and flour by trading with a *tachka* [a big barrow, MC] across the Psou River [into Russia, MC] during the Russian blockade, when no men from 16 to 50 were allowed to cross the Psou. One day with my small daughter I was carrying sacks of tangerines and hitchhiking to get a lift to the local train station for the journey to the border – you could travel *zaitsem*⁵⁶ – a big 'lux' car stopped and a man took us right up to the Psou border and said he would wait for me to return when I crossed back. I thought no more of him but an hour later he was there waiting and took me and my cart to the gate to my garden and invited me to contact him. I had forgotten all about it when, a month later, he called on me and asked: 'Why did you trick me?' Then I went to live with him, an Abkhaz, and life was good for four and a half years. He was also medical and rich and lived in a good house.... I had myself put right [Zuleika bared her teeth to show me her white fillings]. He had three children of his own. Then he died and his children threw me out. When I said I was their father's wife they said 'you only were when in bed.' My own old house was overgrown as my children, girls from my first husband, were not interested and had moved away. It is still empty in the backwoods, two kilometres from the railway station.

She started work in her little high street shop where we met and one day told me:

"I have been approached by many men but they are not nice, but recently a kind man started to look in and he has asked me to marry him. What do you think?" "Well..." I delayed and Zuleika went on: "He seems very nice but has a problem that worries him a lot. He stutters when he worries. Do you think it will be all right to marry him? He says that his friends always tease him and sometimes strangers do." She demonstrated how he stuttered with gestures and sounds and at some length.

I suspected that she thought remarrying was a good idea. She had told me she was *chistaya*, "clean", in the sense I have already explained. She had previously made it clear that I must know all about life "because you come from England," and that suspicion that I "knew things" more generally became a firm conviction when Zuleika decided that I understood the meaning of dreams and talking about dreams led to her imparting more to me, as the coldly labelled "informal interview" often does; something of which fortune tellers, psychiatrists and priests taking confession are well aware.

⁵⁵ That is, the Georgian-Abkhazian war of 1992/93.

⁵⁶ Russian, literally 'as a hare' ie. without paying.

“Do you know the meanings of dreams?” she asked one day. “Well...” was my non-committal reply. Taking my not saying “No” to mean “Yes” (and I had knowingly led her to assume that), she continued: “Last night my first husband came to me [in a dream, MC] and looked sad but said nothing. Here we believe the coming back of a person is a bad sign. Do you think that is right...and why did he come?”

I knew that the Abkhaz take it as read that dreams are *veshchiye*, meaning that they forecast events and give ‘signs’, as I had been present at many discussions of dreams where it was always assumed that I, like the rest of the company also understood that dreams told the future – “after all,” I was once told, “you have the great knowledge that comes with seeing the whole world and being old” – a compliment in Abkhazia.

So I set out to comfort her and said that in England a person appearing in a dream was a sign that could be either good or bad. As it was mid-August I asked whether she had married in August or whether that month was associated in her memories only with unhappy events. “Oh, no”, she replied after taking time to think about it, “I do remember he came home once in August so happy that he brought me a length of good cloth, enough to sew a dress.” “Well, there you are,” said I, “perhaps he was not sad in the dream but weary – you did say he was not well when he left this world. Perhaps he came to wish you well and was sorry that he would not be present at a happy event that awaits you.” Zuleika had already asked me whether she should marry the “nice” man who was looking in on her at the shop and I guessed that she wanted encouragement.

She told me did marry him when I saw her some months later on a return visit to Abkhazia: “I have gone to live with him”. She continues to work in the shop selling toys, pills and suchlike, including some cleaning fluid that she knew youngsters only bought to activate something else that made it a narcotic, putting up with the passing rudeness and pomposity of her Abkhaz landlord who looks in to collect his monthly rent in cash. When I asked her

how she put up with him her answer combined a comment that “well, all men are like that, well...nearly all”, with an evasiveness which hinted that she benefited from his being an Abkhaz, and that meant he *dogovarival*, had “a little arrangement” on money (that is, that the tax collector did not come into things). She said of her husband: “He helps me and gives me money. I was surprised to find that he is still a man at 50 and he does not stutter when he lies in my arms.” When I once asked her why she did not seek redress in the courts for her past treatment by the children of the medical man she had lived with she more or less repeated what she had said before about how the Abkhaz lineage structures would be ranged against her.

For most Abkhaz, marriage means having gone through a traditional feast. Signing up officially at the Registry Office (ZAGS) does not count, except to obtain documents and state benefits. I never asked Zuleika how, in what manner, she became married, because it did not matter and to have asked would have suggested total ignorance of Abkhaz custom. At no time in our many discussions when her marriages cropped up did she consider the actual way in which marriages are ‘sanctified’ (perhaps the word should be ‘noted’ as valid) worthy of mention.

Zuleika never suggested that she might have some claims on property or children from her marriages and was amazed to hear that this was not the same in England. On the other hand she took as normal the practice of extra-legal adoption of children and for children born to a family to be regarded as belonging to the couple that produced them unless they gave them away. She confirmed that there is no stigma attached to having children between the announcement of intent to marry and going through the customary marriage feast. There can be years of delays because of lack of the money to pay for the feast or because periods of mourning of up to a year for each death in the lineage require that no marriage feast is celebrated while that lasts. I spent time in a family in which there had been a delay of ten years between starting to live together and legally marrying and registering three children born in the meantime. Zuleika used the term *pokhitili*, “abduction” to describe her first

marriage, a term that has gone into the vernacular to mean any way of initiating a marriage.

The spectrum of practices that includes abduction of women (and pressure on men to marry), abandonment of women, and the denial of rights that are listed in the laws (such as spouses having equal shares in family property) are often narrated. I return to her case in a discussion of inter-ethnic relations in chapter six.

5.2.1 An internal 'Other'?

Zuleika's case raises the question of whether she should be considered, anthropologically, as falling into a category of an "Internal Other", someone who is not perceived as being the Other as 'not like us', as someone who does things differently, yet is not protected by the orders of custom. Perhaps Zuleika falls into the category that Simone de Beauvoir (1972 [1949]: 15) identified as reserved for women who qua woman are "defined by limiting criteria, without [the] reciprocity" that binds societies; and can, therefore, be denied the protection of customary practice other than by a man's choice. Certainly, the moments in her life that Zuleika was protected, it was by a man. In the male-dominated society she is 'not like us' from the male.

The 'Other' as normally defined in anthropology is certainly present in Abkhaz conceptions and is identified, in the first instance, as the Georgian both inside Abkhazia and across the Ingur frontier with the Georgian state. As with all other social constructs, that of the Georgian 'Other' varies according to societal and inter-societal conditions, and these are evolving today, as Bowman has discussed in his observations of the contextuality of altering outlooks and the actions that flow from them, in which "the force of contingency still prevails" (2005: 45). He does this for the shifting relations within a Moslem-Christian Palestinian community as it faces its 'Other' - the Israeli occupying powers, and takes the reader through an account of conflict and betrayal, as a member of a lineage is found to have collaborated with the Israeli military and how that is disguised.

5.2.2 Distance

Virtually all the cases of customary dispute resolution took place within a closed community – family, lineage and village – and could make opportunistic use of the law.

The inability or refusal to tackle some matters through customary procedures is leading to a greater involvement of the law, as in the example of the child-killing on the high road. The assertion of individual agency by a female relative of the child, to initiate a case in law is interesting for that. There is rare pursuit of a blood feud, although informants told me it was more common than is publicised, but I did not have the time to research this.

How this is managed, and the manoeuvring to gain a hold on events, is evident as the Abkhaz adapt to face the shape-shifting of the Georgian threat. The Abkhaz nationalist and modernisation contestations reflect this and owe a lot to historical perceptions of their ethnicity and the drive to build a capitalist society, on the one hand, and the resistance through defence of custom, on the other. This will now be looked at in the light of my research.

Chapter 6 Nationalist modernisation

[I]t is often unclear who owns what in Abkhazia. Frequently, the ‘title’ (a special term usually used to refer to a person or persons’ property rights) to a property is based on a person’s word and the ‘law of the strong’; it is not based on a formalised and specified right to own, dispose of or use the property. In most cases, this creates legal uncertainty, since over time conflicts arise between ‘titleholders’ due to the absence of formal property rights. These conflicts are generally resolved extra-judicially.

Inal Ardzimba, President of World Economy Association, National Research University - Higher School of Economics, Moscow. Viewed in web 1.2.2013. *Socioeconomic System of Abkhazia and Problems of Development*

[C]ompared with those of its neighbours (the Georgians, Armenians, Greeks and Russians living in the republic) many traditional institutions and customs strike one by the relative ‘archaism’ of their traditional everyday features, above all in the sphere of social and normative culture – the demonstrative respect for seniority, the extensive customary hospitality, holding to pre-Christian and pre-Islam belief cults, gender stereotypes and others. [...] Over the past decades Abkhaz society has, doubtless, greatly modernised.”

Lyubov Soloveva. 2007. *The Caucasus and Globalisation* 1(3).

Inal Ardzimba’s article (2012) cited above lacks data to substantiate the assertion that “...a decade of economic growth in the 2000s [was] a period in which Abkhazia was transformed. Some economic and social problems inherited from the ‘lost’ decade of the 1990s were overcome – or at least the preconditions for overcoming them put in place,” as he only referenced a nominal growth of Gross Domestic Product (GDP)⁵⁷ in 2009, from which he concluded: “...Despite 20 years as a capitalist country, it has not managed to develop modern market institutions.”

⁵⁷ One has to be cautious about what GDP actually measures. Despite its being widely used by economists as a measure of economic performance it is so only in a narrow capitalist/bourgeois sense. It does not measure production or include the whole gamut of exchanges in society - only the transfers/movement of money. Thus, it omits all forms of direct gift exchange and includes price rises as if they increased “products” and when converted into US dollars, further distorts the picture as exchange rates are no measure of production but reflect the market rates of various currencies.

Twenty years after winning independence nationalists are largely disillusioned by its failure to open the way to prosperity and happiness, as does the gaining of national independence in all post-Soviet states. Dzidzaria, T., a veteran of the war of independence from Georgia and prominent historian and social scientist expressed this feeling of disillusionment and blamed it on people for having changed from what they were during a war to what they are like “in ordinary life [...]”:

People ask with bitterness ‘What did we fight for?’ and I sometimes think that way but it passes...because I understand that if we had not fought then nothing would have been left for us today, nothing [...] In a word, there is again something to defend, to love and to value. It is difficult for me simply to list or count on my fingers all that I fought for. It would sound like bombast, as in an opera. How can one put in everyday terms and simply something that is so important and complicated? Put briefly, I and thousands of other comrades-in-arms fought for every centimetre of our land so that we could be free to make decisions and build our future independently and without having to look to anyone over our shoulders...That’s why it is important to defend [our land], to rebuild the independence of our Church and bring home our diaspora that is scattered across the world (Dzidzaria, T., 2011).

This is the background to the serious divisions within society about the future course to defend Abkhaz ethnicity. The large Georgian/Mingrelian minority is excluded from citizenship and the rights that go with that, by those who today are consolidating their dominance in state institutions following on street demonstration that overthrew the president and government in May 2014. These regard the minority as a Fifth Column for the Georgian state. The nature of the May events of 2014 that led to the resignation of the elected president and his team is disputed. One informant told me: “There are passionate events going on here and they are very interesting, for all involved [all sides] are arguing that their claims are based on customary institutions, the *skhod*, etc.” (personal communication 8.6.2014). I give the text of a statement from those with another view in Appendix 2. The roots of the problem are not new as will be discerned in the following sections.

The socio-political changes in Abkhazia are reminiscent of what Marx studied in the second half of the 19th Century: the nascence of a new form of state, nationalism and changes in class differentiation. What I find

additionally relevant to the situation in Abkhazia is that the ‘kick-off point’ for the original transition from stateless to state society, to class differentiation, is not satisfactorily explained by him or any other scholar. It is not by chance that Marx devoted so much of his last years to ethnography. He and Engels certainly identified the role of labour as a/the factor in what took place (1940 [1884]) but there is no explanation of why innovations that allowed the production of goods surplus to immediate needs should have been appropriated by a particular group/class, and with it power (Marx and Engels 1974 [1872]), Engels 1952 [1896])⁵⁸. That is what marked a radical change from the situation that anthropologists have found in acephalous societies - where surpluses were produced but ‘primitive’ gift exchange did not necessarily bring with it class differentiation and hierarchy, as we have seen in writings, for example, by Castres and Sahlins. Neither is it explained by Thomas Patterson’s *noting* that there was a time of “the development of property relations away from those of the original kinship-based communities” (2009: 147), nor by the *later* imperialist spread of capitalist dominance in the world⁵⁹. Anthropological literature is replete with examples of where ‘primitive societies’ have resisted accumulating goods beyond the needs of the producers, in order to defend egalitarian property structures. Thus Howe has described, for example, how the assemblies of the Cuna of Central America kept their chiefs in line when these exceeded the boundaries of speciality roles that had been granted them (1978). Other cases have been described for other peoples by Woodburn, on preventing envy (1982) and Renshaw, on the use of gambling to distribute wealth (1988). To those one must add the Abkhaz experience of Soviet State's laws that strictly limited individual aggrandisement. What I have found striking is that in

⁵⁸ Ethnographers have grappled with this question of the incorporation of those surpluses into society ever since; witness, for example studies by Boas (1938: 358-360), Mauss (1990 [1925]), Sahlins (1963).

⁵⁹ To be seen in Abkhazia not as it was during Marx’s life, that of direct political rule through colonialism but as the dominance through ‘globalisation’ of the transnational companies based in powerful capitalist state centres whose state machines, including their military arms are today used to protect those companies in all countries, as witnessed through invasions of Iran in 1953, Cuba 1961 and on many other occasions throughout Latin America, the Caribbean, Africa, and Asia and Europe since, and continuing today, notably in the Middle East.

anthropological paradigms egalitarianism is treated only as a feature of pre-industrial, ‘primitive’ societies, and that includes in James Flanagan’s extensive entry on the subject in *The Dictionary of Anthropology* (2001: 145-147).

The concepts the Abkhaz call *apswara* clearly suggest egalitarian communalism, although this does not gender equality in the family, as I instanced in chapter 4. At the same time the complaints about their inability to tackle many of the difficulties they face are not posed against a state as such but to seek a state that would embody and personify the ideas of *apswara* and to help regulate societal matters as the adjunct to *apswara*. There is a strong legacy of the ideas of the Soviet state, which placed stringent limitations on individual accumulation and excluded any individual hold over the productive labour of others, something that is reflected in my discussion of nostalgia in chapter eight. Brian Schwimmer wrote that in numerous societies: “In a general sense, the kinship unit often constitutes a corporate group which becomes a legal [not in the sense of state-law-determined, MC) entity in itself and is assigned collective rights on behalf of its members and their estates” (Web viewed 4.8.14). Today common property in Abkhazia is being transferred into individual private hands, putting pressure on traditional social institutions. A similar process was described when it took place in colonial Kenya (Meek, C. 1946), when British capitalist relations was ousting kinship ones throughout the colonies.

What is taking place in Abkhazia represents nation-state-creation’s fourth wind that parallels/repeats of what happened in Europe around the middle of the 19th century, then the de-colonising period immediately after the First World War under the impact of the birth of the USSR and the dismemberment of the defeated powers of Germany and Austro-Hungary, and again in the aftermath of the Second World War. Abkhazia went through the second of those and is shakily and multi-dimensionally stumbling through a second go in the aftermath of the break-up of the USSR, but is doing so without the course being determined by outside powers.

The Abkhaz' 'customary', i.e. perceived old ways of doing things is challenged by those promoting a capitalist state and its law. Some Abkhaz refer to the challenge to building a capitalist ("modern") state as being a 'revival' and invention of customary practices (Informants included a scholar and Minister July 2008). The collectivist ideas of the Soviet period are being undermined by the promotion of the individualist ones of capitalism. The conflict of custom – *apswara*, and capitalist state law⁶⁰ is the reaction to the individuals being forced or asked to change, and is not primarily a battle of institutions as such. The changes are bringing some class stratification and inequality that would place commodity price tags on all human requirements (Diamond 1996 [1951]:27 and cited by Patterson 2009) of a kind that Marx identified in his studies of the transition to, and development of, capitalism in his time. That transition included the drawing in of a multitude of states into what is now called globalisation (cite Abeles 2007, Renton 2001, and others).

The defence of tradition finds its clearest expression among those who would keep the often idealised old-style relations among the Abkhaz and the expression of these in institutions that are selected from the real or imagined past (see Hodges, 2011). Personal and collective objectives emerge in dispute management.

6.1 **Abkhaz nationalist thought, origins**

[T]he creation of a nation requires a 'core' of a shared ethnos around which the process of nation-building will take place, since nations cannot 'be created out of nothing'. The ethnic Abkhaz already constitute such a core.

Natella Akaba Natella Akaba, Secretary of the Public Chamber of Abkhazia. *Abkhazia as a multi-ethnic community* (2013).

Communities like individuals, draw borders not so much to assert presence but to exclude the influence of that which is perceived as threatening to the persistence of that pressure.

Glenn Bowman. *The Violence in Identity* (2001: 46)

⁶⁰ This is a rough shorthand for customs and laws that is not intended to attribute agency to what are human-created social manifestations, as neither of which are things in themselves but are vehicles that allow the articulation of different concepts and activities.

To legitimise itself today's nationalist advocates of a programme for state consolidation draw selectively on events and practices of the past, real or imagined. Nationalists stress the time when Abkhazia is referred to as having had an independent state. The formation of a state in the early 8th Century by Leon I and its consolidation by Leon II "the first king of the Abkhaz" (Bgazhba, O. Kh. and Lakoba, S.Z 1998:120-122) is forcefully argued in nationalist rhetoric as one of the justifications for an Abkhaz state today. Little significance is attached to that having been a feudal state but it figures as relevant today in the cloak of a discourse of continuous 'ethnicity'⁶¹.

For some Abkhaz what they are after is any kind of independent state, for others it must be founded on the *apswara* system of 'traditional' custom, pure and simple. What constitutes tradition here is an on-going debate in which the nature of Abkhaz ethnicity is very much a contested area, coming mainly in conflict with Georgia's claim to Abkhazia based on its own selected historical imaginations. Pavle Ingoroqva, in *Giorgi Merchule – a Georgian writer of the 10th century*" (Shnirelman 2001: 242-244) argued the Abkhaz were a tribe that had entered what were 'Georgian' lands in the 8th century AD. A group of prominent Georgian scholars went into print to contend that the Abkhaz had over time become just another sub-division of the Georgians (Gaprindashvili, Giorgadze et al. 1991). What is not questioned is that "having been there first" is a qualification for occupying a territory today – the claim of 'indigeneity', to being the autochthones, possessors of an ethnos throughout history, passed down male lineages and their absorption of outsiders. The Abkhaz accept that any woman, from wherever and of whatever 'ethnicity' who marries into an Abkhaz family thereby becomes Abkhaz with all the rights that come with that. The current politics of relations with Georgia, however, is making it problematic for a Georgian man

⁶¹ In a commendation of the writings of Solomon Zvanba, "the founder of ethnographic study of Abkhazia", Inal-ipa praises his mid-19th Century studies for presenting "the innate Abkhaz" (1965: 13).

Similar constructions have been noted by anthropologists in other parts of the world, for instance in studies of state creation of 'traditions' in modern Indonesia, first by the colonialist Dutch (Keebet von Beckman 5.3.2007 in talk to Department of Social Anthropology, University of Kent) and then the invention of Gotong Rayong 'tradition' by the authorities in independent Indonesia (John Bowen:1986).

becoming Abkhaz through residence and enculturation, although I did encounter examples of that ‘working’.

Problems do arise - an Abkhaz child told me of a schoolmate who was not popular. His father is an Estonian from Abkhazia who fought on the Georgian side during the war and now has to live abroad. The child considered himself to be Abkhaz, through his Abkhaz mother and by residence but the other children did not, even though my informant said: “He is a nice boy.”

There is an idealised teaching of the past. For instance, Inal-ipa described blood feud as a mechanism simply to enforce peace (1965: 409). Hospitality and blood money helped to prevent feuds getting out of hand (1965: 438), as did fictive kinship institutions of adoptive brotherhood and fostering. In disputes between different kinship groups’ corporate property rights, the inviolability of the person and social order would have descended into anarchy, he wrote, had it not been for the twin operation of two related institutions of self-help: the right of all to carry and use weapons, and the collective obligation on all lineage members to answer to others for the behaviour of their members. Lineage members were bound to avenge any infringement of the rights of its own members (1965: 409). Thus: “From ancient times weapons have been valued and respected almost above all else. It was a constant appurtenance of every man. It was seen as impermissible to disarm a person or to leave one’s arms in the hands of an enemy.” He evidences the depth of this weapons-carrying culture by an example from the *Nart* epics: “That is why the *Nart* hero Eldyz Sh’iaruan, having been victorious in a battle with dreaded giants, immediately sets off to find their sisters, who live in a far-off cave, to take back from them the arms which had once been seized by the giants from his *Nart* ancestors” (Inal-ipa 1965: 415). Other strands of the web that made for a distinctive structural system are mutual aid and spiritual beliefs.

I have partially described the institution of *atalychestvo*, by which peasants fostered the children of the nobility until maturity and that is generally presented as one that cemented society across social boundaries.

Thus Stanislav Lakoba, a prominent Abkhaz historian wrote that: "... even conflict between the estates was reduced" by milk kinship (1998: 76). Inalipa wrote of it as a custom that is also known among neighbouring Georgians and other peoples. The adopted child of higher social orders stood higher than their adopter, the *atalyk* (1965: 480). By the end of the 19th Century the custom almost died out after peasants protested at its growing costs (Ibid.: 490). Peter Parkes has described the elements of clientelism in the custom, the attachment of peasants and their families and villages to the upper social orders (2003a: 741). It possibly lies at the root of today's higher status for an adopted child over a family's biological children.

Another custom of the Abkhaz that is harnessed to the nationalist cause is the idealisation of the once widespread practice of milk kinship, whereby any man who could symbolically be breast fed by a woman of another lineage thereby secured the protection of becoming joined into that lineage. Milk kinship was used to end a feud and also, as mentioned already, to establish the equivalent of a blood relationship with afflictions such as smallpox, so making of it a relative and, therefore, no longer a scourge.⁶²

Nationalism and the nationalist programme for building a new kind of state for the country following the dissolution of the Soviet Union has its roots in political, economic and social contexts, and it is with the last that this research has mainly concerned itself.

Promotion of the Abkhaz language is currently elevated to play a big part in the compendium of Abkhaz nationalist attributes. While the earliest extant written record of the Abkhaz language was that by the Turkish traveller Evliya Celebi in the 17th century (Chelebya 1846) I concentrate on its part in nationalist thought in its various forms since the turn of the 19th century, the Russian revolutions of 1917 and thereafter. Then I discuss the way in which

⁶²Yet to be researched is the significance of the milk kinship practices of old for being a structure for a woman to draw men into a lineage which she herself had only entered by marriage – coming as she did from another Abkhaz male lineage or from another ethnic group – a structure of joining a male lineage though a female affine.

one Soviet Abkhaz scholar overcame the predicaments he faced in presenting Abkhaz history and customs so as to give them a voice in Soviet times.

Dmitry Gulia, a staunch advocate in modern times of the Abkhaz language, provided an overview of the Abkhaz in the early years of the 20th century (2003)⁶³, his writing started before the Russian Revolution, when he was an official of the Russian Orthodox Church and for which he translated the Bible into Abkhaz. In 1910 he was one of the early critics of Georgian influence in Abkhazia, providing a foretaste of an approach that is prominent in the Abkhaz nationalist programme of today. His Church background is relevant to the nationalist identification of belief systems in Abkhazia with their project, as seen in the current call for autocephaly for an Abkhazian Orthodox Church, for a Church “open to believers of all nationalities [with services] in Abkhaz and other languages”, as out by one informant in 2012; the relevant beliefs are looked at in detail later in this chapter. Gulia wrote that after the incorporation of Abkhazia in 1812, the Russian Empire introduced Eastern Orthodox priests from Georgia who were semi-literate and knew no Abkhaz. According to him “While calling themselves Christians the Abkhaz were never genuine Christians but always were in part pagans and remain so to this day, something that is seen in their pagan rituals and traditional customs”, a view that has strong support in today’s Abkhaz nationalist rhetoric (Chirikba, forthcoming).

Gulia described a stronger influence of Islam among the Abkhaz of a century ago than is admitted by most Abkhaz writers today (Bgazhba and Lakoba, S. 1998, but see Smyr 1994, Kunacheva 2006). Indeed some Islamic practices are still visible, including a taboo for some on the eating of pork, in burial rites and the marking of events in the Islamic calendar. After the Russian Revolution he became an official of the Abkhazian Soviet Commissariat of Education and in his *History of Abkhazia* of 1926 he expressed the hope that it was “the first stone thrown into the calm smooth surface of scientific indifference and will stimulate a flow of efforts to work

⁶³ Dmitry Gulia (1874-1960) was an Abkhaz who, together with Konstantin Machavariani (vide infra) composed the first alphabet that employed Cyrillic characters for the Abkhaz language, in 1882.

on the history and nations of the Caucasus”, a remark that had the approval of Inal-ipa, who cited him (1965: 16).

Today’s poverty of scholarship on the influence of Islam in Abkhazia would appear to be contingent on politics. While Gulia argued that neither Islam nor Christianity engendered any theological appreciation among the Abkhaz, he held in 1912 that Moslem emissaries from Turkey were more integrated among them, married in and made converts, “a dangerous phenomenon” in the words of that Christian missionary (2003: 351). There are authors who do not deny widespread Islamic influence (Chakvetadze 2009), especially when discussing the 19th century mass exodus of Abkhaz and other Caucasians when tribesmen followed their Moslem nobles to Ottoman Turkey. Gulia was in a Christian family that experienced that expulsion and later returned. Research into Islam among the Abkhaz is in a suspended state for fear that any demonstration of an influence would come up against a wariness in Abkhazia’s neighbouring northern ally, the Russian Federation, because of an influence of anti-Russian Islam within its own fractious north Caucasian republics and, now, the annexed Crimea, and the use of it by Georgian nationalists to paint the Abkhaz in an unfavourable light.

An early history of Abkhazia that took in customs was the volume by K.D. Kudryavtsev published in 1922 and republished in 2009. It treated Abkhazian history as a series of periods that were governed by the influences of major outsider states: “The ancient period”, followed by Hellenistic influence, then Roman, Byzantine and then the “Heyday..., Abkhazia’s most precious period” (2009 [1922]: 101) when Abkhazia, freed from Byzantium, became an independent state in the late 8th century AD. For our purposes, the value of the volume is three-fold. These lie in its detailed ethnography and describing the Abkhaz throughout their history as a subject of influences with little of a self-generating culture. That was soon to be regarded as unsatisfactory for the process of Soviet nation-construction that insisted upon each recognised nation ‘discovering’ a history that had its own pristine lineage and without too many foreign adulterations. The third point that is

interesting is that it carried no arguments about the Abkhaz as a special people that was privileged by virtue of possession of its language and an allegedly superior culture of the kind argued by Basaria (see below) and argued by many in Abkhazia today. Its relevance to today's nationalists lies in its tracing the Abkhaz back through the centuries as autochthones. Kudryavstev wrote that the Abkhaz, until taken over by the Tsarist Empire, were ordered by unwritten custom (*ibid.*: 19).

The volume of selections from Gulia's writing contrasts with a work by Simon Basaria (2003) that was first published in 1923 in Sukhum, known at that time by its Turkish rendering as Sukhum-Kale, another early Abkhaz educationalist and the chairman of Abkhazia's first republic of November 1917. Gulia's writing shares nothing of the other's diatribe against all things Georgian, even though he, like Basaria, experienced the Georgian Menshevik state's occupation of Abkhazia. The defeat of the Georgian armed forces at that time was a condition for the Bolshevik victory that secured Soviet statehood for Abkhazia in 1921⁶⁴. Basaria was one of the first to place emphasis on a political role for the Abkhaz language in justification of independent statehood for Abkhazia. He argued that the Abkhaz had never experienced language loss which, for him, was evidence that the Abkhaz had been independent from Georgia, and it was the Georgians and not the Abkhaz who periodically were losing their independence (Rouvinski 2007: 107, citing Basaria 1923, 49-50). I mention Basaria's volume because it was re-published (2003) as a textbook for today's upper secondary schools. Even though this extreme nationalistic propaganda contains no original research it is important for the discussion of Abkhaz nationalism today. He was one of the first to promote an essentialist nationalist theory for the Abkhaz, something that followed on nationalist ideas in the West and influenced Soviet policy for creating nation-states within the boundaries of the USSR (Martin 2001).

⁶⁴ In 2011 the Abkhazian parliament agreed that March 4th marking the anniversary of the Sovietisation of Abkhazia in 1921, should be celebrated as "a significant day [...] a memorable date in the history of Abkhazia", following consultation and agreement on this among representatives of the intelligentsia and the scientific community (Apsnypress 29.12.2011).

In his folklore collections and fieldwork in Abkhazia in 1928 Chursin, listed among the principal “survivals of the clan system” at that time: blood feud, *atalychestvo*, mutual aid and hospitality (1957), but he did not present the linkages of these in the practices and beliefs he described, thus contrasting with the work of Inal-IPA. It is to be noted that in today’s contestation of custom and state-building law Chursin’s work has not been republished, in contrast to other early studies, especially the Basaria piece.

The dominant ‘orthodox’ theme today is Basaria’s approach. At the same time it is coupled with enormous respect for the work of D. Gulia, after whom the Abkhazian state Institute for Humanitarian Research is named, and the 140th anniversary of his birth in 1874 was grandly celebrated earlier this year. Yet there is an underlying tension in this coupling. It broke out into the open towards the end of 2012 in a controversial pamphlet that allegedly exaggerated differences among the Abkhaz, and suggested that Gulia was not really a champion of Abkhazianness but was guilty of “direct co-operation [with] Georgian nationalists” against the Abkhaz. It was issued under the pseudonym “Kh. Gechba”, with a fictional publisher. Distributed anonymously in the country it ruffled the hair of the Abkhaz Establishment, which greeted it with furious denunciations. This included a presidential statement from Alexander Ankvab:

This book or booklet, is not a decent work, I do not know where this book was written - in Abkhazia or outside it. It depicts the history of Abkhazia of the thirties of the XX century in a distorted manner, also origin of Abkhaz names are given according to certain locations, which is cretinism. The book also raises issues that may cause conflict with peoples of the North Caucasus. This book is a pure provocation, so security services should be interested in the person of the author. Abkhazian people are reasonable and no one in Abkhazia would take this book seriously (20.9.2012 cited in Vitaly Sharia’s *Patriotism on a local scale*. <http://www.ekhokavkaza.com/content/article/24713859.html>).

The pamphlet describes almost all the “enemies of Abkhazia” as Jews, married to Jews or with Jewish relatives, and as Georgian agents of Georgia to boot. In particular, it abuses the inhabitants of the south east of the country, the Mingrelians who border on Georgia. Its openly tendentious commentary is so crude that, one would have thought, it was undeserving of any attention.

Yet the attention it did get suggests a high level of sensitivity in Abkhaz society that does not tolerate ‘too much’ open debate that might be seen as weakening the public image presented of a united front of the people when it comes to interpretations of history and ethnicity. But, as I will show later, that image is now being challenged.

Gulia wrote that it was because Abkhaz “ethnography only began towards the end of the 19th century, [... that] the labouring component of the country is denied the possibility of associating in a common language” suggests that he identified the salvation of ‘Abkhazianness’ with literacy and/or a knowledge of its past. It can be seen as an earlier version of aspects of Anderson’s “print-capitalism” theory (1991:40). This view might be set alongside Inal-IPA’s that national self-awareness only came to the Abkhaz in the 19th century (1965) and both represent a challenge to current nationalist foundation mythology which puts stress on Abkhazness, with an essentialised unchanging ethnicity continuing from its foundation into modern times, through Russian and Soviet periods; legitimised by times when past states had Abkhaz rulers (Bgazhba 1998: 62), and then becoming transmogrified into the nation. Gulia, already between 1921 and 1924, was arguing for what became the basic Soviet approach to nationalities and territories when he wrote, in the academic vernacular of the time, that “enormous efforts” on the part of state authorities were required for the Abkhaz to secure what would today be called positive discrimination to allow them smoothly to reach a level of development equal to other, “more enlightened nations.” Among the latter he mentioned, the minorities of Georgians and Armenians inside Abkhazia itself, who had their national republican territories within the Soviet Union and on which they could draw for “cultural sustenance” (op cit.: 275). He believed the Abkhaz could not do this on their own, unlike the task the nationalists have set themselves in our days.

Throughout his arguments in the defence of structures to protect Abkhaz ethnicity, as it would now be called, nowhere did Gulia support this by arguing for the protection of Abkhaz custom, although he did study them alongside his pioneering work to promote the language. In Gulia we see a

contributor to our discussion who is clearly a nationalist but who did not see an Abkhaz nation state dependent on the preservation of Abkhaz custom.

6.1.1 The Soviet ethnographic setting

From its earliest days the Soviet state promoted the expression of linguistic and folkloristic expressions among its different nationalities (Stalin 1936 [1913]) and into the 1920s allowed variations in customary practices as a component of strategies that were designed to hold together the multitude of nationalities it had inherited from the Tsarist Empire. At the same time it pursued elements of policies that were in common with many that had existed among Russian anthropologists in late Tsarist times and the literature has grown on that in recent decades, as reviewed by Tolz (op. cit). It shared the outlook that non-Russian nationalities should retain many of their customs. It was no accident that Russian anthropologists moved easily into assisting in the implementation of Soviet nationalities policies, which radically extended the degree of tolerance shown by the Tsarist Empire, to the creation of states for different ethnicities. The history of Soviet nationalities policies is well covered, especially in Terry Martin's work (2001) and D. Tumarkin (2004) and Francine Hirsch (2005). Martin wrote: "...the Soviet Union became the first multi-ethnic state in world history to define itself as an anti-imperial state" (2001: 19), using the word "state", in this case, to cover what was, in fact, self-designated as "a union of republics" in the opening words of the Soviet National Anthem (1944). Joseph Stalin defined it as

a period of the flowering of national cultures that are socialist in content and national in form; for, under the Soviet system, the nations themselves are not the ordinary 'modern' nations, but socialist nations, just as in content their national cultures are not the ordinary bourgeois cultures, but socialist cultures (1954:379).

The Soviet state required that anthropology should assist and promote its policies. This, however, proved not to be as simple and benign as Stalin's words might suggest. Indeed, a scholar from the Institute of Language, Literature and History in Abkhazia has asserted: "... the position of the Autonomous Republics within the Union Republics [e.g. Abkhazia within

Georgia] is that of third-class ethnically subordinate states” (1992). Because of his studies on Abkhaz ethnicity Soviet Georgian academics backed by their political Establishment challenged Inal-IPA’s ethnographic competence (Gaprindashvili et al. 1991). His insistence in his 1976 monograph on an Abkhaz autochthonous claim to their own territory instigated outrage within Georgian academic circles (Lorkipanidze, M. 1990, Voronov 1992, Gaprindashvili, Giorgadze et al. 1991). In 1988 prominent Abkhaz appealed to the national conference of the Communist Party of the Soviet Union to allow Abkhazia to secede from the Georgian Republic and directly join the Russian Federation within the USSR.

In the 1950s Gulia, even if in different language, pursued the same course as he had taken in the 1920s, when he complained that the Soviet state powers and particularly its Georgian republican component (which incorporated Abkhazia within its borders in 1931) was denying the Abkhaz their Constitutional rights to education, language and high office in Abkhazia. Both before and after he joined the Communist Party in 1955 he voiced this strongly in letters to ministers in Moscow and to the First Secretary of the Central Committee of the Communist Party of the Soviet Union, Nikita Khrushchev. In the aftermath of Stalin’s and Beria’s deaths (both of whom were ethnically Georgian – something that is made much of by Abkhaz nationalists today) Abkhaz protests were becoming widespread and did lead to concessions to the demands for measures to safeguard Abkhaz culture, in the face of opposition of the Georgian political and academic Establishments’ assimilation policies.

In her works Vera Tolz demonstrated that in both Tsarist and Soviet periods there was a strong motivation among the authorities to consolidate lands that had been conquered by Russia in the 19th century. Both under the Russian Empire and then in the Soviet Union anthropologists tended to promote cultural autonomy in line with state strategies to secure loyalty on the part of non-Russian peoples. A big difference was that under the Soviet system the nominally independent autonomies were to be linked to and based on distinct territories and with their own recognised languages, but with

restricted room for traditional social practices after the first years of Soviet power. Borders were set around the identified nationalities, with the acceptance of some customary practices among them. Anthropologists demarcated the boundaries of peoples on the basis of their autochthonicity, languages and cultures, creating indigenous schools and books for the smallest such units. With time, the Soviet authorities settled on a number of major “Union” republics, many having within them states and semi-states which enjoyed varying degrees of autonomy. There is an interesting account of how this was done in the tribal and Moslem conditions of the area of Central Asia that became the Turkmen Soviet Socialist Republic in 1925 and is now independent Turkmenistan (Edgar 2004).

The Abkhaz were among the first to attain statehood as a result of the Russian socialist Revolution, for the first time in modern times. Nestor Lakoba (1893-1936), leader of local Bolsheviks (Communists) at the time, is perceived to have been the architect of Abkhazia’s winning effective independence from Georgia at that time and the main streets in many towns are today named after him. A close associate of Stalin, as his local nominee, he successfully slowed the pace of the initial collectivisation of Abkhaz agriculture.

6.1.2 Abkhaz nationalism and ethnos theory

Ethnos (in the narrow sense of the term) can be defined as a firm aggregate of people, historically established on a given territory, possessing in common relative stable particularities of language and culture, and also recognising their unity and difference from other similar formations (self awareness) and expressing this in a self-appointed name (ethnonym)

(Yu. Bromley et al. (1975:11)

I introduce the scholarship of the current nationalist trends among the Abkhaz, as they contest for the future of Abkhaz statehood.

Myth-making contributes to today’s nationalist self-conceptions and to making of tradition an on-going area of contestation. One question that is considered is whether there is a gentle evolutionary flow from a sense of

ethnicity into that of nationalism, as argued by Inal-IPA among others, or a disjuncture or even a contradiction between the two, with nationalism and the construction of a state being instrumentally employed in a fashion that eventually destroys the self-imaginings of ethnicity on which it is putatively based or initially was conceived and expressed.

It was in the second half of the 20th century that Shalva Inal-IPA emerged as the most thorough Abkhaz ethnologist. In the editor's introduction to Inal-IPA's monograph on the ethnicity and culture of the Abkhaz, Soviet Academician Mikhail Korostovtsev included the following:

Anyone who has engaged in research into the complex and tangled problems of ethnogenesis, of any people on any continent, knows from experience that it one of the most difficult questions and, at the same time, one that gives rise inevitable to polemics and collisions that are not infrequently motivated by far from the authority and impartiality of genuine science.

(Korostovtsev 1965: 3)

A theme in the writings of Inal-IPA (1965) and identified with the Soviet *ethnos* theoretician Yulian Bromley (1977, 1983, 1989) was introduced to a wide audience by Ernst Gellner at an international conference in Austria that gathered prominent anthropologists from the Soviet Union, Britain, France and Berlin in 1976 (Gellner, ed.1980). Gellner delicately suggested that Soviet ethnography was moving towards a Weberian outlook on social structures for self-identification by elevating *ethnos* into one that had a continuity through different class-based social formations (1980, notably pages 75 and 80). In the same volume Tamara Dragadze drew attention to the citation above from Bromley for its suggesting that *ethnos* lies outside of the particular class formations of a society: "not bound to any particular historical stage of history" (1980a:163). She goes on to say: "... the theory of *ethnos* is seen as means by which Soviet anthropology can successfully claim a unique stake in the study of contemporary study" (Ibid: 169). Inal-IPA held that view, and Abkhaz nationalists and the Abkhaz academic Establishment do to this day.

The Soviet participants differed among themselves on the sociological derivation of distinct ethnicity, an *ethnos*, and what might sustain it (Gellner, ed 1980)⁶⁵. Tamara Dragadze⁶⁶ argued that while there was “a convergence between academic theory and state ideology” in the Soviet Union, “historical materialism was the only acceptable theoretical framework in which to pursue ethnographic studies. Ethnos theory [thus] does not purposefully serve ‘state-condoned’ or especially ‘state-encouraged ends.’” Soviet fieldworkers, she added, had long “witnessed the tenacity of significant variations among each Soviet people in their whole ways of life, ways of thinking and ways of adapting to modern conditions [and] yearned for theoretical guidelines which would provide the possibility of formulating and acknowledging this very diversity.” The matter had been raised in Soviet anthropological journals as early as 1950 and Dragadze could point to a 1948 article that drew on the views of earlier Soviet anthropologists, and the Russian émigré social scientist Shirokogoroff, which would allow a distinct classification of peoples on the basis of culture and not on class alone (Dragadze 1980: 2-4).

Sergei Shirokogoroff was among the first Russian scholars of the 20th century who studied individual peoples and his pioneering work (1924, 1929) on *ethnos* followed from his fieldwork among the Tungus (now called Evenk) of the Far East of Russia and northern China. See, also (Kuznetsov 2001). He presented a bell curve over time for the development and decline of civilisations and made a plea for ‘protecting’ small cultural groups from destructive association with other, more powerful, ethnic groups and their cultures; an idea that was adopted (without attribution) by the later Soviet anthropologist Lev Gumilev (1966). Chinese scholars of the Evenk today reject Shirokogoroff’s view that small nations should be isolated against modern technologies and literacy.⁶⁷ Gumilev wrote a theory of ethnogenesis

⁶⁵ For a discussion of the course of its genesis since the 1960s see Bromley, J. and Kozlov, V. (1989).

⁶⁶ Tamara Dragadze (1987) has provided a valuable resume of Soviet fieldwork at home, and Plotkin and Howe conveyed the extent of debate that did take place among Soviet anthropologists which included the subject of “stages” in human social development (1985).

⁶⁷ Personal communication at a discussion that was very kindly organised for me by the Institute of Ethnology and Anthropology of the Chinese Academy of Sciences, Peking, 2010, and at which an Evenk scholar praised his mobile telephone for enabling him to maintain relations with co-ethnics, however widespread they might have become today.

in the latter years of the Soviet Union, that argued that the centuries-long Mongol rule over Russia had allowed the Russian ethnos to develop free from the cultures of Western Europe; a revival of ideas that were around in the 1920s as “neo-Eurasianism” and which is popular among Russian students who are now brought up in the fashionable rejection of previously dominant Marxism, something promoted by the new Russian state and its official anthropological Establishment.

The somewhat benign picture of Soviet ethnographical innovation that emerged at the 1976 conference did not consider the barriers to be surmounted by an indigenous anthropologist who wanted to illustrate this contemporary validity of continuing “traditional” practices within the Soviet Union: especially if one came from a small people that was defending its culture within a larger republic, as was the case with Inal-IPA in Abkhazia.

Nonetheless, a theory was being elaborated and in Abkhazia Inal-IPA by 1976 could approvingly paraphrase Yulian Bromley as:

Ethnicity is a complex dynamic system that exists on many planes. Its main attributes are those ethnic traits which, as they are passed from generation to generation, possess peculiar qualities of longevity: a stability that characterises the core of an ethnic community – the specific peculiarities of its traditional way of life⁶⁸ (language, religion, traditions, customs and ethnic aspects of psychology) and its ethnic self-awareness (1976: 8).

The ethnos theory that was discussed at the 1976 conference organised by Gellner is no longer supported by the leader of Russia’s official anthropological Establishment today. An expression of this can be found in a volume by V.A. Tishkov (2003), the current head of the Russian Academy of Sciences’ N.N. Miloukko-Maclay Institute of Ethnology and Anthropology⁶⁹ which argues for the rejection of Soviet ethnos theory. Tishkov bemoans the continuing dominance in Russian anthropology of adherence to ethnos theory and which, he wrote, draws its ideas of from “L.K. Morgan, K. Marx, C. Darwin, C. Spencer [sic!], E. Taylor, M. Weber” and not those he describes as

⁶⁸ One might note that the Russian for way of life, *byt*, has the same root as the word for genesis, *bytie*, as in the biblical Book of Genesis and is suggestive of ethnicity.

⁶⁹ Nikolai Mikloukko-Maclay (1846-1888) was a Russian multifaceted scholar who was the first European to carry out extensive field in what is now Papua New Guinea, in the 1870s.

Russia's home-grown originators of post-modernism like M. Bakhtin and V. Propp (2003: 9-10). He similarly sharply criticises Ernest Gellner for his "caustic pronouncements on the eminent French anthropologists and sociologists who began the great changes in the humanist sciences of the second half of the 20th Century" (Ibid.: 11). Yulian Bromley is dismissed as "uneducated" (Ibid.:12). What concerns us most here is not to debate whether Tishkov's post-modernism and rejection of the concept of ethnos, or Inal-IPA's different view is 'correct' but that the Abkhaz subscribe to Inal-IPA's Soviet ethnos theory – making Tishkov's rejection of it irrelevant when studying the conceptions of the Abkhaz.

Throughout Inal-IPA's academic life the Soviet state held the reins of power over all branches of knowledge. Once determined, state orthodoxies were enforced and public debate was cut off by bans, proscriptions and declarations of political anathema. Individuals and the members of whole schools of thought in the 1930s and 1940s were exiled and imprisoned, and some were sentenced to death (Tumarkin 2002). These circumstances made for dominant theory, in anthropology as in other disciplines, to carry more weight than simply that of one theory amongst several. This rigid framework, however, did not exclude its evolution, as described in part in a volume of essays issued recently by the Max Planck Institute (Muhlfried, Sokolovsky Eds. 2011), and see Tumarkin's collection of articles on Russian anthropologists of the 20th century (2004).

A small number of Western anthropologists have added interesting fieldwork data that contributes to our topic on custom and the state. Thus, an intriguing twist to the question of defining ethnicity in relation to the state is given by a study of the Laz in villages on both sides of the Georgian-Turkish frontier. They had been separated for a half century and only resumed contact with each other after the dissolution of the Soviet Union. Mathijs Pelkmans (2006) grappled with the question of their ethnicity in relation to Georgia, Christianity and Islam and discussed how the frontier division affected it. What is striking is that the years of separation was not felt by the Laz as a loss of each retaining a concept of Laz ethnic self-identification although the

effect of different statehoods was found to make them strangers to each other. This influence of the two states allows me to question any supposition that statehood as an institution per se destroys self-awareness even if that image of self is altered by circumstances, in this case the effect of the state and different citizenships.

6.2 Ethnicity or citizenship – Abkhaz or Abkhazian or others?

In what appears to be a serious omission in such a multi-ethnic and multi-denominational country as Abkhazia, there are no institutions dealing with the problems of minorities [...] The political and intellectual elite, as well as civil society in Abkhazia, have so far clearly failed to start any debate over the optimum model for building an Abkhazian nation state”

Natela Akaba International ALERT 31.1.2013

What is needed is a national, all peoples’ policy. We must move away from national deviations; begin with issuing new Abkhazian passports. I propose the removal of the column denoting ‘nationality’.

Alexander Mkrtchyan, In Anton Krivenyuk, Kavpolit 12.3.2014

I would not question the accuracy of Natela Akaba’s conclusions from her study of the *formal* state of affairs regarding ethnic standings in Abkhazia today, although it must be added to. That scholar does note that state appointments to positions of responsibility in its structures disproportionately favour the Abkhaz ethnicity that makes up just over half of the population. The parliament has been embroiled in long and at time acrimonious debate on what rights should be given to members of the other ethnicities, particularly to the largest of them, the at least 40,000 Georgians/Mingrelians who are concentrated in the country’s south eastern districts. That public debate revolves around the granting of Abkhazian citizenship, not so much around the rights of that cultural minority to hold to traditions and language.

The qualification for Abkhazian citizenship heavily favours the Abkhaz and without citizenship one cannot take part in state activities, including elections. Some half of the tens of thousands of the Georgian-Mingrelian population that to this day makes up the majority of the population of Abkhazia’s Gal and parts of neighbouring Tkuarchal and

Ochamchira provinces that lie up against the border with Georgia do not have Abkhazian citizenship (O'Loughlin, Kolossov et al. 2011:19) and 20,000 and 20,000 had their citizenship taken away from them just before the elections for president in 2014. Their local administration is predominantly composed of ethnic Abkhaz (Yamskov 2009)⁷⁰.

My informants from among Armenians and Russians who make up the bulk of the other non-Abkhaz citizens of Abkhazia expressed general satisfaction with their status, accepting the privileging of Abkhaz based on indigeneity, although I encountered some, especially in the leadership of the Armenian community who did want to be granted a bigger voice, as an ethnic community, in the political life of the country. This issue of ethnic balances in representation is not a dead issue.

There are tensions at many points within the relationship of ethnicity and citizenship that have been thrown up by discrimination and war. They are raised by changes in demography, including the immigration of large numbers of Central Asians to fill the gaps in demand for labour that has opened up by emigration of Russians, Abkhaz and the departed Greeks and Georgians, and the estimated 10,000 workers who have arrived from Uzbekistan and Tajikistan. A new phenomenon is that they are taking Abkhaz women as wives; sometimes as second wives to those they have 'back home.'

The Abkhaz rulers have instituted strict qualifications for Abkhazian citizenship: surrendering Georgian citizenship, uninterrupted residence in Abkhazia through the period when many Georgians fled the country after the Abkhaz won the war, name changes and all procedures for obtaining

⁷⁰ Yamskov, 2009, who carried out fieldwork in Abkhazia 2003-2006 and subjected official Abkhazian calculations of the ethnic composition of Abkhazia to careful scrutiny, providing interesting original work on the country's demography. What is most valuable is that Russian scholar's tracing the dispersal movements, geographic dislocations and redistribution of the Abkhaz, Armenians, Mingrelians-Georgians and Russians, Greeks and Svan that resulted from the destruction of the USSR in 1991 and the 1992-93 and subsequent Abkhaz wars with Georgia. He delves into the value of the statistics and warns of distortions introduced by the political agendas of some of those who did the counting. Yamskov explains the difficulties in determining who lives and where in the country, as a large proportion of Abkhaz live both in their villages and the towns, dividing their time between them in what he calls "semi-urbanisation" (page 9) and states: "all urban Abkhazians are very closely tied to their native villages and the relatives who still live there" (p. 10), while there is also a lot of migration for long periods backwards and forwards across Abkhazia's boundaries with its Georgian and Russian neighbours. He adds fieldwork data from other scholars, taking the reader up to the situation in 2008 and speculating about what the future might hold.

citizenship are blanketed in red tape. Applicants are hit by an essentialist concept of ethnicity that is intrinsic to Abkhaz nationalist state builders - something that contradicts the expressed *apswara* concepts of cultural absorption – and is a feature that is fed by suspicion of Georgians in their midst. There are meetings of the Commission for Citizenship Issues that is chaired by a Vice President to vet applications for citizenship. According to the procedure, applications are considered in two categories – 1992-93 war veterans and their close relatives reinstating their citizenship and persons married to Abkhazian citizens (Abkhaz World 2013).

Concepts of ethnicity linked to language play a big part in the thinking. Difficulties faced by applicants for citizenship mostly affect those resident in the south eastern part of Abkhazia that is heavily populated by Mingrelian and Georgian speakers who consider they are ethnically Georgians (Census responses 2011)⁷¹. The Abkhazian state position (personal communication 2.5.2013) is that those defined as Mingrelians who bear Abkhaz surnames in Mingrelianised form should restore the alleged original Abkhaz name (without the Mingrelian suffix -ia) and to record their ethnicity in their internal passports as Abkhaz⁷². There is a procedure to obtain a *zakliuchenie*, i.e. resolution of cases that come up, from specialists at the

⁷¹I use the descriptions ‘Georgian’ and ‘Mingrelian’ as used in the self-descriptions given by people counted in the Abkhazian 2011 census. However, these descriptions are not universally agreed, as ethnicity/nationality definitions are used in the nationalist dispute between the state administrations of Abkhazia and of Georgia, and relate to their conflicting claims to territory; to arguments about borders between the Abkhazian and Georgian states; to how each, differently, defines the ‘Georgian’, Abkhaz and ‘Mingrelian’ ethnic groups. Thus, the Georgian state claims the Mingrelian-speakers as “Georgians”, while the Abkhazian state claims them either as a separate ethnicity or as Abkhaz who were forcefully assimilated by immigrants from Georgia (Achugba, 2006). The Georgians and Mingrelians speak very different languages but share the same south Caucasus, Kartvelian roots. A discussion of the languages of the Caucasus is provided by Professor George Hewitt (1998b).

⁷² One might note that similar process of ‘name adjustment’, but to Georgian names, was applied by the Georgian authorities to Moslems who returned in 1974 from Soviet expulsion several decades earlier (Dzhaniashvili: 84).

Around the same time the Communist authorities in Bulgaria were putting pressure on Moslem Bulgarians, *Pamaks*, to change their names back to the “Bulgarian” ones (that is, Christian) they had before conversion to Islam under Ottoman rule.

A new addition to the name-changing and nationalist programmes is the case of Latvia. The administrative court in the Latvian town of Lipaja has received a declaration from a local resident who complains that the Lipaja Registry Office is insisting that his child’s name “must correspond to Latvian grammar, that is that an ‘-s’ should be added to the name. The result would be to change the name Miron to one that sounds like the word ‘mironis’, which means ‘the deceased’ in Latvian” (IA Regnum 2013).

Institute for Research into the Humanities (AbIGI). Those deemed to be ethnic Mingrelians who have resided in Abkhazia obtain Abkhazian passports without having to prove their Abkhaz ancestry – citizenship is given to those among them who lived in Abkhazia in the years from 1994 to 1999. For all people of any ethnicity, including Mingrelians and Georgians with such a residential qualification, the internal Abkhaz passport is issued without the procedures for surname alteration to qualify them. The specialists at the AbIGI have a state-informed task to decide about the changes in a person's belonging.

The contention over citizenship for Mingrelians/Georgians is kept alive by intransigence on the part of the hard core Abkhaz ethnic-nationalists' stand for firmly retaining power in the hands of the Abkhaz. Here the water is muddied by the ongoing confrontation between the Abkhazian and Georgian states that stems from the latter's refusal to recognise the former and conclude a peace treaty. As a consequence Mingrelian/Georgian inhabitants of Abkhazia cannot gain Abkhazian citizenship while holding a Georgian state passport. The way in which Abkhaz holders of Russian passports are accommodated is presented in George Hewitt's latest work (2014), the details of which need not concern us here.

The issue of citizenship is not one that customary practices would appear to be able to tackle directly at present, leaving it much to the state to deal with. However, earlier in this dissertation I have identified customary practices that do, in fact, encroach on the matter, through adoption, marriage outside of the state agencies – not studied so far in the anthropology of the Abkhaz. It does come within the realm of customary practices and could be extended to encompass all cases that arise by communities overseeing the whole question, taking it out of the realms of the state. It could be encompassed more broadly within *apswara*, which does embody practices that regulate ethnicity by kin and affine conceptions, based on cultural absorption of newcomers and not on "blood" lineages.

Once again I must point out that generally-expressed views of 'how things are' are not always borne out by individual accounts. Thus, Zuleika

(whom we met in section 5.2) blamed the Abkhaz customary influence of lineages for inter-ethnic friction in her own case. At different times and only when no one else was present we gossiped. She thinks of herself as ethnically Russian, “because of my blood”, adding in 2012:

“Georgia is restoring order on the streets and putting a stop to burglaries and that would suit Abkhazia well, but there is no chance of that here because of the kin ties that make all relatives protect each other. If I am burgled the neighbour will deny knowing anything if the thief is the son of her father’s grandfather’s other son’s daughter who was married to the man who is the father of the burglar [FFFSSS, second cousin, MC].

“That is how there can be attacks even on the president without witnesses coming forward. The Abkhaz are savages and not subject to law because of family ties.” She said the attempts on the then president’s life are because he is seeking repayment of misspent ‘loans’ that were dolled out by his predecessor. “The Soviet times were good because there was order and the town was lively and you didn’t hear Abkhaz spoken but now when I asked two women who were shouting in Abkhaz outside my little shop to cut the volume and move away one rudely replied: ‘I do as I please - I am in my own country’”.

Outside of the capital, most of the members of the different ethnic groups live in their separate own clusters of villages, though, their proximity to those of other ethnicities allows for some mixing with them at schools and work, which is more characteristic in towns such as Sukhum, Tkuarchal and Gagra. There are some villages with an assortment of ethnicities. One informant bewailed the increased numbers of rods (plural of rod, the Russian rendering of lineage and kin) that now exist in the same village as a result of population movements: “Matters were simpler before, when each village was inhabited predominantly by members of a single rod and everyone knew the rules and behaved according to *rod* custom” (2012).

Debates at the highest level on the citizenship issue do not diminish as the current problems are repeatedly referred to the state agencies of commissions which cannot agree. Thus, in May 13 2013 it again came before Parliament⁷³.

⁷³ See Appendix II for details on the passport issue as it was presented to Parliament.

Sometimes the appointments to government posts are allocated according to what part of the country candidates come from, what some regard as the more traditionalist north west, or the south east. The two were separated by the empty spaces left by the massive exodus in the 19th century and then filled by immigrants. There is acknowledgement of some variations in custom in the two, as shown through parliament deciding that customary popular assemblies – *skhods* - may take place without first agreeing this with local authorities, at Lykhny, the site of a shrine in the north west, and at Myku [Mokva], in the south east. The two are sites at which assemblies pass resolutions and expect them to be implemented by the state's agencies.

The state procedure that links ethnicity to citizenship would appear to run contrary to the customary outlook that has recognised (and still does for some) as deriving from lineage descent, marriage and adoption that is to say a definition of Abkhazianness as culturally constituted. There are also practices to meet contingencies, as we have seen in the case brought forward of a descent line being shifted from the male lineage to a female one as in chapter four, section 4.7.2.

There is no discussion of adopting any reconstitution of ethnic autonomies such as existed in the Soviet Union and in today's Russian Federation and in Moldova. Abkhaz informants have insisted that the experience of the past led to Abkhaz culture losing out, the fears of a repetition of which is represented by independent Georgia's dissolution of its autonomic components (successful with Ajaria but leading to breakaways in South Ossetia and Abkhazia) and its refusal to recognise Abkhazian and South Ossetian independence. In a study of multiculturalism, Bill Watson described its great variety of forms in a number of states, rather than proposing a blueprint of how harmony among different cultural groups might be brought about (2000). His review of the very different ways states have tried to accommodate or assimilate members of different ethnic or cultural groups, often through the rejection of rights to minorities, is confined to states within which there is a shared citizenship. This is not the case in Abkhazia and the accommodation of multiculturalism is not debated. All citizens are

expected to support an independent state and to conform to the laws in the construction of that unified state, although the reality is that law comes second to Abkhaz custom. Georgians in the areas of their major concentration do enjoy spaces to use and teach their language in Georgian language schools.

However, customary processes exist that do not conform to idealised versions of ancient and immutable customary practices and do provide possible openings from ‘down below’ for ‘homogenizing’ the population around Abkhaz values, open to and drawing in non-Abkhaz into *apswara*. These aspects of Abkhaz culture have not so far been discussed in the anthropological or political literature on Abkhazia. They derive from the centrality accorded to *apswara* including the principle of what I shall call the embodiment of unanimity. I now discuss this under several headings that follow, starting with the role played in drawing in the Abkhaz and others into a common belief system.

I will treat another facet of acceptance or not of non-Abkhaz to show that ethnic identification is not a fixed concept. There are customary ways in which children of non-Abkhaz parentage ‘become Abkhaz’ and I show that this not only applies to children.

6.2.1 Ethnic transition and slippage

I want to draw attention to an article by Igor and Rita Kuznetsov (2012: 16), who carried out fieldwork in a village in north-western Abkhazia, Ldza (called Lidzava in Georgian).⁷⁴ They depicted the multitude of traditional and

⁷⁴ “In July 1988 [the] *Ldzaa-nyxa* annual ceremony and feast took place in the village. Those who donated money for it became the member of the community through the reciprocity gift system. In the villagers’ imagination they were “ours.” Amongst the participants, mostly of Abkhaz extraction, there were a few ones speaking Georgian and marked as Georgians in their passports and village council documents. There were several models of becoming Abkhaz. Firstly, someone may “recall” his “genuine” Abkhaz ancestors. Secondly, others married to Abkhaz women. Later after the patron of such family had died, his children entered their mother’s community, while keeping Georgian family name. They remained the descendants of mixed families and they could not be a source of big ramified Abkhaz lineages (*abipara*). Thirdly, there were Georgians who had become Abkhaz before they moved to Lidzava. They chose to behave as a real Abkhaz big family (*aindu*). During the feast [a] few guests were seated close to participants on the nearest hill: a Georgian (“Karlo”), a Russian, as well as several visiting Abkhaz. Neither Racha Georgians nor Armenians were invited as they were not accepted as [...] members of [the] local Lidzava

not-so-traditional appearances of Abkhaz custom as it was adapted to reflect the relations between members of different ethnicities at an Abkhaz holy shrine before the war with Georgia. The Kuznetzovs demonstrated the multiple ways in which non-Abkhaz were initiated into ‘becoming Abkhaz’, an example of a lack of the rigidity in custom in Soviet Abkhazia. That, in some ways happier time, has changed since, as a consequence of the war. The Kuznetsovs describe how a child of a Georgian father and Abkhaz mother make an ‘ethnic transition’ from Georgian to Abkhaz (2012: 16). They put it down to the use of Soviet law, under which a child born to a Georgian father and Abkhaz mother could make the transition by choosing to be Abkhaz on the father’s death. It would then join its mother’s Abkhaz line. In my discussion of ‘unanimity’ I question whether such a transition may be confined to a formulation in Soviet law as I have spent time with a Chechen man who married locally, resides in Abkhazia and has been described to me as Abkhaz.

Yet, at the time of the Kuznetsov’s study inter-ethnic relations were beginning to change and they exemplified that in the lengthy extract I have given in footnote n. 76. They further explained:

The Abkhaz linguistic nationalism was arising. During the party devoted to the christening in a Russian family one elderly man spoke Georgian while a young Abkhaz woman protested: “you should not speak your language here as we have ours”. Another similar event happened during these years in the bookstore in Pitsunda (customer asked for the literature in Georgian and the Abkhaz shop assistant reacted negatively). Religion also became the object of nationalist conflict, although in smaller part. The founder of the village museum, amateur local ethnographer and rich man “uncle Grisha” Khetsuriani wanted to establish an orthodox chapel in Lidzava. While local Armenians, Georgians, and Russians accepted it positively, [the] Abkhaz part was displeased and saw pro-Georgian action in it.

community” (Kuznetsov’s observation, July 1988, Lidzava).

“In 1986-92 those who researched on Abkhazia issues discussed possibilities for complete assimilation [by...the Abkhaz within the next decades. This process seemed to be viewed in different way[s] in Lidzava. It is worth noting; here it never turned in [the] opposite direction when some family who identified themselves as Abkhaz might be assimilated by Georgians. At that time [i.e. before the Independence War with Georgia M/C.] the official government was already divided between Georgians and Abkhaz. Tato Pagava (Georgian) was the head of [the] village council and Fazlabey Tskuia (Abkhaz) was the head of collective farm (*kolkhoz*). (Liudmila Shalvovna Mamasakhlisi and Galina Khakovna Gochua (Dbar) (Interview, 08/07/01, Lidzava)

President Ankvab's statement that Abkhazia should not be "a melting pot" (2012) is more one of intention and hope than of fact. Given that the history of the Abkhaz has shown that as a result of mass exile, forced emigration and being swamped by state-promoted immigrants under different state orders since the mid-1860s the continued existence of Abkhaz culture, traditions and language has been severely curtailed, such a standpoint is understandable. However, there has also been and continues to this day a process of 'drawing in' to absorb members of other ethnicities; founded as their culture is on cultural and not racial concepts. That remains true despite angry utterances one hears at times about Georgians, Armenians or others being such and such 'by blood'.

The Abkhaz have drawn in the descendants of black African slaves in recent years, Turks, Georgians, Ossetians, Roma, Chechens and others to *apswara* and including into their belief system. They are peoples who might still hold to what we call different religions. The strength of relatedness was anecdotally shown when I heard two women, one ethnically Abkhaz and the other Russian, chatting in the street about the time they fled the Georgian occupation of 1992 and the delight of seeing a family of Roma – "*nashi tsygane*" ("our Gypsies"), fellow refugees in a street in Russia's town of Sochi.

The following account of the belief system and shrines includes discussion of the idea of 'unanimity' in state building.

Chapter 7 Shrine-sharing - national belief system for different religions

As for religion ... first of all, we are Abkhaz" Maan, an immigrant from Syria.
Abkhaz World web 27.4.2013. Viewed 28.4.2013

The period since the breakdown of the USSR “may be called a period of reassessment, renewal of and rebirth of those customs and the original pre-Christian religion the Abkhaz have preserved. At a difficult time the traditions of the ancestors became one of the principal means for the people’s national survival.

Chakvetadze, S. 2009: 72-82

“On 17th November 2013, in Dydrypsh [site of the holiest sanctuary], with the participation of all the shrine-keepers of Abkhazia, there will be a ritual sacrifice and sacred prayers for the salvation of the youth of Abkhazia"- to protect them from the increase in road accidents, recourse to drugs and suicides. Announcement by the Dydrypsh Sanctuary, shrine keeper Zaur Chichba.

Nasha Abkhazia 1.11.2013. Viewed 15.11.2013

I discovered this interesting sub-topic during field work and it is examined from an angle I did not encounter in the literature - its linking of a ‘traditional’ system of beliefs with its facility of drawing in members of different institutionalised religions, Christian and Moslem, and at times conflicting ethnic groups under one nationalist Abkhaz umbrella, and conclude that shrines are a potential instrument for state-building along customary lines.

In 2012 I chanced upon the initial stage of an oak cursing ceremony. I was looking around the centre of a sprawling Abkhaz village – school, post office, a one-time barracks for the KGB guards who had protected the nearby holiday residence of Soviet leaders, the water tank, a shop and what was the collective farm headquarters and is now empty. Sitting on a log, I greeted the only other man around. He responded and interrupted something he was doing around a tree. In conversation he said he was cleaning up to make a curse:

He was cutting into the bark of an oak tree to place a candle in it. He was to curse an adulterer: “I am sure the wife of my younger brother has been with a man and this will make it dangerous for him,” as he pierced the bark, adding: “he will either swear he is innocent or face retribution; he will not dare lie.” Notice of the coming cursing had been widely made known and on the appointed day later that May my informant would make it before the oak, the lit candle and people as witnesses. It declared that so-and-so should confess to being “guilty of committing a serious offence” (seduction of a married woman) on pain of bringing on himself and his descendants and animals and other property, death, sickness, disease and other misfortunes. There was no doubting the seriousness of invoking the “power of the oak.” We shared cigarettes and chatted and he told me that he was also the convenor of an annual lineage, *rod*, assembly. He told me he was 43 - “But you are young for that,” I said. “Well...I am still responsible because I was the one who proposed the convening of a village assembly on *Azhyrnykhua*, the Day of the Creation of the World, [14th January]” - a national holiday. His village celebration would be at the abandoned smithy I had noticed a mile or so away. “This is only the second time that we have revived it. I am a garage mechanic and that is like a modern blacksmith and I know how to forge and get a hot fire going.”⁷⁵

In the introduction to a collection of papers by different authors on shared sacred shrines, Glenn Bowman described their displaying interaction of differences and how competition is understood and accommodated (or not!) at the shrines; where “identities are local products rather than extensions of the hegemonic orthodox discourses of state and sect” (2012: 5). They “can be seen to reflect and amplify images of the consociality of the communes that surround...them” (Ibid.:5). Common to the case studies in the volume was the accommodation of difference. Bowman has described cases of nominal religious possessors of shrines seeking to exclude sharing (2012) and on contestation between sharers under pressures from changing political environment (2012a). Manifestations of syncretism that leads to a coming together and melding of different religious outlooks that are discussed in Stewart and Shaw (1994) are not evident in Abkhazia, although a prominent politician has described the rules of *apswara* and *apsua tsas* (see Kamkiiia 2008) as: “the synthesis of traditional Christian and Moslem values that are intrinsic to Abkhaz culture” (Butba 2012).

⁷⁵ He was referring to the belief in the “power” of iron and fire, both of which belonged to *Shashva* who had his site in smithies. It was not so long ago that the Komsomol (Young Communist League) had problems getting the blacksmith’s apprentices to attend its own meetings when they were going through their training. The cult continued through Soviet times and there was conflict with the authorities as people demanded that apprentice blacksmiths be free from all civic duties, including National Service (personal communications 2009-2012).

In Abkhazia the sacred shrines do not belong to any particular religious orthodoxy which might invite, tolerate or accept others wishing to worship there. While there are several shrines that are recognised for their “powers” to a degree that labels them “main shrines” country-wide, there are hundreds of local ones and anyone or, rather, any community, might set up its own and thereby be recognised as legitimate by all. There is no hierarchy of clerics within the Abkhaz belief system.

The shrines are places for communal gatherings to commune with the Creator or what we would call local deities that look after family lineages but can be also for across-lineage social entities. They exist to maintain and endorse the Abkhaz belief system of *apswara*; to petition, to swear oaths, sort out problems, reconcile people in dispute, clear one’s reputation, seek fertility, discover liars and adulterers, thieves - in a word, to regulate and bring harmony to society. The shrine keepers are chosen from people with outstanding probity. Those who attend can be of any religion that does not attack the members of another: Moslems, Christians, Krishnaites, Jews and atheists and the rest. The law on freedom of religion stipulates: “...the propaganda of a religion’s superiority [over another] is forbidden” (Zakon, 14.11.2012 Chapter 1:4:6). The adherents of no single institutional religion have domain over the site or a greater say than others.

While an overwhelming majority of the Abkhaz consider they belong to an institutional religion, Moslem, Christian and others, religious observance and knowledge of theology is minimal as, indeed, it is among the other ethnic groups which make up the population of Abkhazia. The belief in *apswara* and the power of the shrines extends across ethnicities and the different religions are considered to be irrelevant at them. Therefore, the discussion of the shrines here is not concerned with syncretism, hybridity or borrowings, although scholars are able to discover practices in Abkhaz daily life that can be identified, for instance, with Islam. I examine the shrines in Abkhazia from the perspective of a traditional system of beliefs that draws in all under one Abkhaz umbrella. There are shrines that are attended by members of different institutional religions in other parts of the world, for

instance at the Ibo Okija one in Nigeria (Okili A.2005, Onmoyo 2007). There oath-swearing is accompanied by sacrifices with similar seeking of supernatural guidance as in Abkhazia, and attended by Christian pastors but at Okija the ceremonies are reserved for members of one specific ethnicity.

Zaur Chichba, the Dydrypsh shine-keeper, has stressed that "as in the past so today, the people of Abkhazia honours and preserves its shrines, believing in them and placing trust in their miraculous power. The respect and honouring of the ancient shrines is by no means to belittle other religions that are represented in our country" (8.11.2013).

Inal-ipa has given the case of the oath sworn in 1917 by Bolshevik revolutionary fighting units to demonstrate how traditional practices and beliefs carried on into modern times: the oath of allegiance that was sworn by recruits to the revolutionary military formations took place in the smithy. The first item of the oath of loyalty promised not to be influenced by considerations of kinship when fighting for the cause (Inal-ipa 1965: 166).

The Abkhaz retain their holy sanctuaries dedicated to *Antsva* (Krylov 1999a), the creator of the world (Kunacheva 2006:35) and the smithies' power, once always in an actual smithy, have often now come to be symbolically represented as few smithies still exist but keepers are (as of old) chosen from the blacksmith's lineage or from among respected members of the community. Again, it was the *site* that was revered⁷⁶. People also hold celebrations around the family holy hearths, hills, individual trees and at local holy groves (Solovieva 2007: 7). There is universal mutual tolerance and celebration of Christian, Moslem and traditional Abkhaz belief festivals. Belonging to different religions is no barrier to marriage of Abkhaz with others, which is universally celebrated through the Abkhaz belief system's

⁷⁶ I came across a similar reverence for a site on Santa Cruz Island Solomon Islands in the south west Pacific. There the Anglican deacons cautioned me against walking across a grass dancing circle that was used by the locals, as it "was having to rest" (2001). In areas of the Solomon Islands what are known as Kastom houses with revered skulls and a ban on women entering were maintained by people who saw no contradiction between the associated belief system of the shrines and their own avowed Christianity.

feasts. There are no officiating priests – only elders, and the same applies to funerals and marriages. If a priest or mullah is present it is only as a lineage member. Some Eastern Orthodox Christians, in the loose understanding of the words, do go through a supplementary Christian marriage ceremony in church, but do not bother with the required fasting before it, may not even have been baptised and, according to informants, can even be inebriated. Moslems drink alcohol and eat pork. Circumcision is unknown, as are the Koran and Bible.

The examination of the practices at Abkhaz sacred places provides insight into a way in which Abkhaz belief systems relate to law and custom and how these fit into the Abkhaz nationalist state-building project in ways that are not only not immediately obvious but also not expressed by site devotees. Government ministers, MPs and state officials including the police, judges and prosecutors consult the shrines on policy and to discover criminals and clear the innocent. One will note from the description of the 1988 annual *Ldzaa-nykha* shrine ceremony in footnote n. 76 that unitary aspects of shrine ceremonies was evident. It, thus, invites questioning of the assertion that customary practices as simply going back to the ancestral past, as suggested in the quotation at the head of this chapter from Chavetadze's survey of religions and beliefs in Abkhazia (Op. cit.). Modifying any implication that what is going on is only the conscious activity of resuscitating customary practices, my findings indicate that the truth lies closer to it not being that alone, as can be seen from the broad attendance at shrines. Practices at them and their being open to all peoples of Abkhazia strengthen the nationalist project by being there together under an Abkhaz umbrella.

Nowhere is this aspect of shrine attendance openly expressed or highlighted and, indeed, it does not appear in local literature. Yet it is an all-pervasive intrinsic feature in them today and makes visible what the shrines do not openly express but what is a central effect of them. This setting of the shrines within the pattern of Abkhaz beliefs and their coexistence with religions will include unpicking what I call the Abkhaz "unanimity principle" and the enforced mutual respect in Abkhaz concepts.

The part played by customary shrines in tackling disputes outside the law was summed up for me by an informant who had himself baptised into the Eastern Orthodox faith in 2012. He said his understanding of the relationship between the Abkhaz system of beliefs and religion, was that “They are different but not conflicting - the Church forgives people their bad actions but the shrines punish them”. He was in favour of both (A.Ch. informant 2012). At no time in his discourse, nor in that of any other informants, did matters of Hell fire in the afterlife surface – there is no Heaven or Hell. Even in Soviet times the authorities turned something of a blind eye to the shrines as “they helped to sort problems out and hold the people together” (B.K. informant 2011).

Before going further into discussing the nationalist state-building aspect of Abkhaz belief some more background is necessary. The shrines are not promoted to syncretise but are the sharing by the Abkhaz with other ethnicities and adherents to ‘institutionalised religions’⁷⁷. Rachel Clogg has written: “... the notion of ‘religion’, which has always been approached idiosyncratically by the Abkhaz, has merged to a great extent with the notion of *apswara* (i.e. with what it is to be an Abkhazian). This is a code of ethics, a secular description of the fundamental essence of Abkhaz identity, one not of belief but of ‘mentality’” (1998: 205). I do not here pick up on her use of the word ‘religion’ in preference to ‘belief system’, as used by the Abkhaz.

The Orthodox (Eastern) Christian Church’s premises are used for *apswara* festivals and their sacred entities double up as Christian saints. In the grounds of the Ilor cathedral there is a ritual sacrifice of a fatted golden bull. This is distinctive from the practices at the tomb of St. George in the church of Mokus-Su and at the Christian shrine of Dzivar, both in Georgia, where the tombs are honoured by Christian Georgians and Armenians, and by Moslems, but where each denomination honours the tomb in ways that reflect their own denominational groundings. Shrines that are shared are found across the Caucasus among members of different ethnicities as for example in

⁷⁷ I have gratefully borrowed this term from a Research Grant Proposal, in which “institutionalised religion” is used to distinguish major world religions from the shrine-based belief system under discussion (Tuite, K and Muehlfried, F.2012).

syncretic form according to a collection of authors, in the Pankisi valley, shared by Ossetians, Georgians and Chechens; and by Kists with others. There is mutual celebration of each others' religious festivals by Christians with Moslems and with 'pagans' according to Melikishvili (Op. cit.: 78). However, those shrines belong to one or other institutional religion and conflicts arise with the others on the terms for them to be allowed to use them; often reflecting shifts in political balances within Georgia and with its neighbours, as has also been described for Palestine by Bowman (1993). There are, similarly, what is described as syncretic practices of Moslems and "pagans" in Georgia's south east, and with Shi'a Azeris in Georgia (Dmitriev, V. 2003).

On President Ankvab's visit to Lykhny's Church of the Assumption of the Virgin Mary he referred to it as "one of the seven main sanctuaries of Abkhazia" (Respublika Abkhazii 23.1.2013). He thereby identified the church that is in on the site of a sacred place in the Abkhaz belief system, as sacred as the shrine itself. There is no distinction made in his words, nor have I encountered such a distinction made by others in Abkhazia or from the church itself. Churches and their rituals are also open to all, whether christened or no.

The shrines and their keepers in Abkhazia play an important part in representing a unified citizenship, neatly fitting into today's nationalist state-building agenda. All Abkhazians may appeal to the powers of the shrines.

A statement made to me (personal communication 2011) that "anyone can use the shrines as long as they respect *apswara* and the shrine keeper – *zhrets* – and the people whose shrine it is". In answer to my pressing him on this point, he added: "Ossetians and Armenians respect our shrines and use them". This aspect of Abkhaz shrines places them in a context that differs substantially from those that are most found in the literature on shared shrines but does make them comparable to some others' systems as described by Maria Couroucli at rituals on Princes Island off Istanbul (ed Bowman 2012: 49-52) and Anna Bigelow in post-Partition Punjab (Ibid.: 25-6). In Glenn Bowman's opinion these "bring together members of different confessional

communities in an echo of an intensive earlier inter-communality which may have largely disappeared from quotidian life but which will resonate in practices of sharing holy space [...] and bring together members of different confessional communities...” (Ibid.: 6). There are indeed more than echoes of such inter-communality in Abkhazia, as communality – without the prefix “inter-“ as, in Abkhazia the shared shrines do not reflect any acknowledged syncretism of ‘communalities’, as the different religious communalities exist only outside the shared shrines. The Abkhaz shrines are, incidentally, in themselves a refutation of the allegedly inevitable “Clash of Civilisations” prognostications (Huntington 1993) and of the emphasis that Hassner places on shrines being places of conflict of different religions for control over them (cited in Bowman 2012:1).

The literature on Abkhazia has concentrated on the characteristics, locations and history and powers of what are described as the Seven Sacred shrines (Krylov, A. 1999a, Bartsyts, R. 2010, Chirikba V. 2013), but there are literally hundreds of shrines, *anykha* – the property of lineages, individual households and residents of a locality. Before describing some activity at the shrines an important observation must be made on the often-met-with interpretation of the Seven as pyramidal, encompassing a hierarchy. Because the Dydrypsh shrine is often described as the principal one the others are sometimes spoken of as subsidiary to it; something made problematic by informants stating that all the shrines carry within them “parts of the supreme creator” (who/which) is variously interpreted. Thus, R. Bartsyts, while writing of the Seven as “the principal shrines” also speaks of them as being “in a related relationship among themselves; they visit each other from time to time. What is more, they actively socialise even today [and] they visit each other as guests”. He instances informants who have told him of “the holy spirit” (a borrowing of terminology from Christianity) in the shape of “a flaming ball with a luminous tail” travelling from one site to another on visits. Two separate informants told me of seeing such phenomena with slight variations – in one of them the “tail” was replaced by what he called a “laser beam”; in the other it was just a “huge ball” that whistled by. Bartsyts

wrote that “as guests some of them appear as male divinities, others as female, sometimes as brother and sister” (Op. cit.: 36). An informant described to me his own experience of seeing *anykha* power as a light beam that pointed out enemy positions during the war with Georgia (personal communication 2012). The evidence makes apparent that there are different and sometimes confusing notions of the sacred places, of hierarchy and kinship, and of gender, acting out human social behaviour and being protectors. There is no obvious justification for treating Abkhaz beliefs here as mirroring monotheistic religions nor as a belief system that accepts hierarchy unequivocally.

The law *On Freedom of Worship and Religious Associations* that came into operation only on April 2 2013 (Zakon 14.11.2012) has nothing to say about shrines. The significance of this should become apparent in a moment.

Such is the recognised power of shrines that I came across no informants who said they would risk giving false witness at them as they ‘know’ that the penalty for that can be severe. The shrines that share locations with Christian churches do so only as locations. It is illegal for the practitioners and clerics of religions to denigrate other belief systems and this is emphasised according to the recently adopted law “On Freedom of Conscience and Religious Associations”, which states:

Nothing in the legislation...may be interpreted to mean belittling or curtailing human rights and the right of a citizen to freedom of conscience and the freedom to practice religion (Chapter 1:3:3).

Indeed the Jehovah Witnesses have been banned for infringing that last point as well as for refusing on religious grounds to join in the defence of Abkhazia from the Georgian military incursion in 1992, and I shall be returning to the significance of the clause for Abkhaz customary strivings to reach unanimity.

Chakvetadze, states that while the majority of people in Abkhazia are “believers” they are not organised in churches. That includes the quarter of the population who are Armenians and after being present as a community for well over a century had no churches of their own until they built one in 2013.

All appeal to the powers of the shrines of the Abkhaz, of *antswa* and to other powers, especially of the smithies which by their construction and use, acquire powers.⁷⁸ Chakvetadze also wrote that the period since the breakdown of the USSR “may be called a period of reassessment, renewal of and rebirth of those customs and the original pre-Christian religion the Abkhaz have preserved. At a difficult time the traditions of the ancestors became one of the principal means for the people’s national survival” (2008: 72-82). But to leave it at that would be to site Abkhaz custom in the past, as something that can be ‘moved’ in its old form into the present.

Abkhaz beliefs encompass a multitude of “powers”, a host of prophetic dreams, premonitions, animal signs; the presence of the dead and their communication with the living. The ancestors must be assuaged by commemoration: 15 April the festival of *Nankhua* is celebrated in Abkhaz houses by smouldering coals lit under the dining table for the smoke to please the ancestors, while the celebration of the Day of the Dormition of the Theotokos on August 28 is marked, as I found when I attended one in 2011 as a native Abkhaz autumn festival for warding off the evil eye. Abkhaz leave food and drink out for the no longer present 'departed':.

To give some data from the field: In the village of Bedia, in south eastern Abkhazia the ruined 10th Century church was described by a young woman as “the place of our shrine.” 52 members, “not counting women who have married in” who trace their origin seven generations back to a founding ancestor attended. Candles are lit at the family assembly, for each member of the lineage who has married out. Men and women and children are present. News was exchanged about all members of the lineage; the whole sanctioned by a prayer and sacrifice of a pure white goat to the Supreme Being, *Azhyra*, whose protection and assistance is sought. My informant explained that some problems were sorted out at special men only convocations. The biggest current (mid-2012) problem was of how to stop road deaths, usually occasioned by outsiders, and how to placate close relatives of the injured. This is outside of the constraints of law.

Village members who are found to have committed an offence are punished by not being invited to ritual celebrations (such as funerals and marriages) and they are cut

⁷⁸ I use the word “powers” and “a being”, “protectors”, “supreme being” in an attempt to avoid deities, god, souls and spirits so as not to convey confusion with those terms as used in Christian, Sufi and other cults/religions. However, it sometimes makes for difficult reading to include too frequent a proliferation of Abkhaz or Russian terms (pace Bohannan 1956, *American Anthropologist* 58: 557). Therefore, the words “spirits” and “deities” are sometimes used and the reader will bear in mind that this is the closest English rendering of a local term even though that might not strictly be in total conformity with a native term and its meaning.

at events that are not closed to them. The offenders who are punished include local officials as, in the words of the informant “everyone here is related,” officials who delay completing forms for needed documents. The village is mostly composed of those named Jinjolia. To them are added another ‘name’ whose bearers “used to be our *prishuzhnye* – servants. The solidarity of bearers of the same name was illustrated by my informant’s comment: “It is difficult for a policeman to make himself fine a ‘fellow name’. A matter recently the subject of men’s gatherings of two lineages concerned the discovery that an intended bride’s grandmother had the same surname as the prospective groom, and they insisted on going ahead with the marriage, even though it violated the definition of incest. The result was, it was decided, “grinding their teeth”, to allow it to proceed without exiling the defaulters, “but the default will always be remembered.” The case of second cousins once marrying – a crime of incest – even 60 years later, today, the disapproving finger is pointed at their descendants. Any misfortunes that might befall them or any examples of bad behaviour are attributed to the punishment for the incest, meted out to them by the power of the shrine.

All Abkhaz, according to the Abkhaz anthropologist David Dasania (personal communication 2008) have their protectors akin to those in Zoroastrianism and the Christian guardian angels, and all lineages “have their parts of the supreme being who is celebrated on a particular day in the year at the lineage shrine” – his own lineage day is on May 12 each year. At the annual gathering the family *skhod* “sorts out who is doing anything wrong and who needs guidance or a dressing down” for instance for not receiving a guest in suitable manner and thus bringing the lineage name into disrepute.

Those who describe themselves as Christian (often with a volunteered explanation that that means their lineage is so considered) may have Moslem names and vice versa.

7.1 Unanimity principle - shrines

There are many demonstrations of the Abkhaz “unanimity principle” that is applied to seek common ground on any matter, something that is shared with the other peoples of Abkhazia.

Glenn Bowman has shown, in two of his articles, on Israeli-occupied territories in Palestine (2003), and comparing Macedonia and Palestine (2009) that shared shrines can be places for joint use by Moslems and Christians tolerating each another, but the practitioners of each bring with them different practices that demonstrate, at times, different aims.

My findings in Abkhazia suggests that the shrines are not places for a coming together of subscribers to different identifiable religions that can be called sharing in the common sense, but are locations for the expression of a commonly held set of beliefs that are outside of the boundaries of institutional religions. Thus, the shrines are ideologically held in common by peoples who otherwise and separately might be practitioners of different religions and see no incompatibility in adhering both to those and simultaneously to the Abkhaz belief system.

This raises a question over whether the shrines of the Abkhaz can be called ‘religious’. This is to question the directional or lineal approach that underlies much discussion of syncretism – it questions the Augustinian *ex pluribus Unum*, at least in any religious sense. The shrines shared are Abkhaz institutions and are not compounds, mixtures, hybrids or amalgams for otherwise Moslems, Orthodox and Armenian Christians and atheists. The theologies and particularities of religious structures are not touched on at the shrines.

Thus, the approach to shrines is different from, for instance, the one planned for a debate in a panel at the V Congress of the Association of Portuguese Anthropologists in 2013 under the banner of “Multiple Syncretisms”. In that the organisers state

We would like to revive the debate [on syncretisms] by inviting speakers to think through syncretism into syncretisms. By pluralizing a common understanding of syncretism - defined broadly as a combination, fusion or overlap of discrete systems of thought and practice - we aim to explore the multiple ways by which relations/associations are forged between different aspects of cultural experience (João Leal, Dr. Diana Espirito Santo 2013).

The motto “Ex Pluribus Unum!” adopted by the Constitution of the United States of America, might apply to the Abkhaz shrines in the context of the construction of national unity in Abkhazia. Their “sharing” aspect is really the sharing of a host’s house with his (sic) guests. It is a nationalistic adoption of outsiders on Abkhaz terms. To stretch the analogous characteristics of the concepts or hypothesis I am proposing, it is an assertion of Abkhazianness

that has its parallels in longstanding Abkhaz practices of adoption into family, lineage and ethnicity.

It was difficult to see the attempt by Geertz to define religion, starting with the ‘nature’ of religious belief, (1973 [1966]) of relevance for Abkhazia. Indeed, Talal Assad’s criticism of Geertz for attempting to universalise the retreat into otherworldliness by branches of Christianity does appear apposite (Asad 1983). Their belief in the powers of shrines, the *anykha*, do not constitute a ‘religion’, that is to say, something autonomous with its theology, a stand-alone socially structured institution, and their beliefs are conceived of and, thus, ‘exist’ in an anthropological sense, only as integral to and a reflection of *apswara* practices that have been found to ‘work’ in maintaining social order. Belief in the power of the shrines shares with religions only that they are a framework of conceptions, a rhetorical moral trope. This includes its covering disputes resolution and that is their determining feature, an essential of its ‘reality’.

The nationalising aspect of Abkhaz shrines that is played by the shrine habitués in today’s nationalist nation-building, is a phenomenon that is similarly (but not in the same way) sought to be exploited by others among the peoples of the trans-Caucasus. In Azerbaijan the state would have itself identified with the widespread veneration of shrines - *pirs*, which were described for Azerbaijan by the religious scholar Nariman Gasimoglu as the celebration of “secular religiousness” (Vladic Ravich 2011). A difference, however, is that attendance to the *pirs* excluded the minority of self-designated orthodox Moslems, and was not thus universal.

There is a field for research into shrines as shared gift exchanges between the Abkhaz and others living on the territory claimed by the Abkhaz “hosts” and the others, the “guests”. I was prompted to this thought by Bruce Grant’s dissection of “the gift” factor in relations between the Russian Empire and then the Soviet system with peoples in the Caucasus (2009). Grant has intimated tangentially that shrines can play a nationalising role for the state when writing about shrines as “melded with national ties” (2011: 657). In Abkhazia the reciprocity committed to by non-Abkhaz through being given

access to the shrines, commits them to the Abkhaz unifying nationalist programme. It differs somewhat from Grant's discussion of reciprocity which shows the *pirs* in Azerbaijan as connected to Islam.⁷⁹ The Abkhaz belief system of *apswara*, coexists with respect for Christianity and Islam and any other religion, as long as the practitioners of these do not place themselves above others. Lacking a theology, Abkhaz beliefs are not a religion, whether characterised as paganism (Chirikba forthcoming), animism, a syncretic belief phenomenon or a local form of Christian or Islamic ideas.

Sociologically-derived questionnaires that would show *x* per cent of Abkhazians are Christians, Moslems, Pagans, adherents of other recognisable religions, or atheists are characterisations and classifications from irrelevant templates introduced from outside⁸⁰. Thus that Russian scholar wrote of those who put down a tick by "Christian" or "Moslem" in a survey:

[T]he number of parishioners attending services is quite insignificant, even on important feast days. Judging by our conversations with members of the clergy and many of the newly-baptised, most of the latter attend church extremely rarely or not at all, do not participate in the Eucharist or observe fasts, are not interested even in basic doctrine, do not read the Bible and are Christians only nominally.

The situation is the same as regards Islam: to this day there is not one mosque in Abkhazia. The majority of nominal Muslims do not have any knowledge whatsoever of the Quran and do not show any interest in studying it. The ritual of circumcision not only does not take place but is considered completely unnecessary, unnatural and even shameful. There are no dietary restrictions and those who identify themselves as Muslims eat pork and other foods forbidden to 'true orthodox' believers along with other Abkhazians (1998b Keeston News Service).

The Abkhaz and inhabitants belonging to other ethnic groups in Abkhazia do not see conflicts between the traditional Abkhaz beliefs and the above enumerated religions but share them.⁸¹

⁷⁹ His approach might be extended to a comparative examination of Buddhist beliefs in 'spirits', 'gods' and 'ghosts' (according to their naming and the baggage these names carry in English), in the *nats* of Burma (Nash 1966), the *phi* of Thailand (Tambiah 1970) and Laos, the *deviyo* 'gods' and *yaka* 'spirits' in Sri Lanka, which enter the system for people to gain merits for a better re-birth to improve their lot through reincarnation (Southwold 1978: 364). Studies of the relationship of 'spirit worship' to the Buddha have placed the question of whether Buddhism is a 'religion' in syllabuses for undergraduate studies in the anthropology of religion.

⁸⁰ Krylov cites Abkhaz the responses to a survey on their beliefs as Christian 60%, Moslem 16%, Pagan 8%, Atheists 8%.

⁸¹ I think that one should not define 'religion' too narrowly, confining it to ritual and theology, as the practice of particular religions often accommodates tolerance/absorption of

Divisions along religious lines that have historically been observed in other societies have not affected the Abkhaz below the level of rulers who at times aligned themselves with ruling empires.⁸² It is within that context that the shared shrines of the Abkhaz must be seen. To interpret the situation otherwise would be to fit Abkhazia's cult of shrines into concepts of a social framework that is imported from other societies, an artificial injection of religious divides from the 'West', for instance. It should be noted that Abkhaz scholars have also committed this sin, as witness the writings of the eminent ethnographers and historians Shalva Inal-Ipa (1976) and Kuprava (2008). This is also evident in a hypothesis that the cult of the *anykha* shrines and of the Supreme Creator, *Answa*, is an Abkhaz monotheist religion (parallel with Christianity) that contains much that is Christian and has miraculously (?) survived since the appearance of early Christians on the northeast shores of the Black Sea in the 1st Century AD. Another hypothesis holds that the Abkhaz had "proto-monotheism" or "primitive monotheism" predating Christianity and was only later adulterated by the "polytheism" of *apswara*. Writers who have supported that idea include (Krylov 1999b). As pointed out by one Abkhaz scholar, that idea was championed by the Roman Catholic theologian V.Schmidt (sic), cited in Bartsyts R. 2010: 40, quoting S.A. Tokarev's *Rannnie formy religii i ikh razvitie* (Moscow: Politizdat: 1990: 322). His was an attempt to use biblical "evidence" as a source for arguing that monotheism predates polytheism and is found in writing of a Roman Catholic theologian, Schmidt, F (1987).

The new law defines the Abkhaz belief system, in a list of its "basic understandings" as

practices that are primarily those of other belief systems, frequently in the interests of state-building, as Florian Muehlfried notes for Georgia: "Orthodox priests held church services in Tusheti during the period of the (supposedly pagan) summer religious festivals, reminding the locals of their 'true' religious heritage. According to leading Church representatives, being a Georgian citizen means being Eastern Orthodox. This equation is reflected in the Georgian Constitution, which stresses the unique position of the Georgian Orthodox Church for nation-building..." (2011: 355). In this case it is the Church which seeks a gift exchange of citizenship for recognition of the Church. In Abkhazia there is controversy over the state legislators' refusal expressly to give primacy in law to the *apsuara* belief system, as they maintain, at least officially, the separation of state and religion.

⁸² In all cases the driving force for *religionising* (please excuse this awful neologism) has come from *raison d'état*, even if advanced by different religious missionaries.

The monotheistic belief system of the Abkhaz – a system of religious outlooks, canons and rituals which have been formed in the process of lengthy historical development of the people of Abkhazia (Zakon, 14.11. 2012: Chapter 1, clause 2).

That clause was adopted only after lengthy and acrimonious debate, in which the council of shrine keepers sought for primacy for *apswara* to be expressed in law, a ‘religion’ placed above others and, therefore, state-endorsed. The elders’ spokesman, Zaur Chichba, publicly denounced the adopted formulation and issued a “warning” to the members of parliament and the state authorities of the “destructive power of *Abyzh’nykha* [...] to bring universal discord and public disturbances”⁸³ (Moskovskiya Vedomosti. 2012). While to have enshrined the belief system in law might have appeared to elevate *apswara*, in my view it would have denied it the current recognition in the national status it possesses and so evidently demonstrated in the practices around the shrines. I stress that I am talking about the shrines of all kinds. To make the shared Abkhaz beliefs the state ‘religion’, would have placed it in the same category as religions and opened it up to formalising and codification under state jurisdiction and regulation and taken away its customary responsiveness to the direct democracy of universal unmediated participation. The dispute resolution of the non-state customary practices would go the way they have done in other countries that adopted indirect rule by the state.

Within Abkhaz conceptions there co-exists the accommodation of contradictions that, with changes in social circumstances are selectively stressed to meet contingencies. Alongside the essentialist reification of cultural practices, of primordial “thingism,” there is the general conviction, and one that is voiced by the country’s intellectuals, that their belief system is at one and the same time both a unique attribute of the Abkhaz people and is also available as an example that would fit the needs of all people. It was expressed by a prominent politician who thought of *apswara* as a blend of

⁸³ In parenthesis I speculate that the “discord” manifest in the forcing of President Ankvab and his government and leading state officials to resign in early June 2014 could be interpreted as a manifestation of those powers of the Supreme Being.

Christianity and Islam [!]: “How useful for humanity would be the wealth of experience of [...] values that are intrinsic to Abkhaz culture!” (Butba, 2012). According to that conception, *apswara* is not only superior to religions but can embrace them all, by expanding to others non-conflictual universalism, something that I suggest merits further research.⁸⁴

For the moment I register two points that flow from this and that are demonstrated in the practice of shrine sharing: *apswara* transcends ethnicity while affirming that it is Abkhaz – a symbiosis. Thus, one can be Armenian, Ossetian, Greek, etc. in Abkhazia and keep to one’s own ethnic traits and religion yet recognise the shrines. Herein could lie a marriage between the late 19th century-born nationalism and a 21st century pursuit of non-exclusive ethnic territoriality.

The underlying rationale for this is an attempt to justify what are relatively recent features of Abkhaz society that are made in the nationalist drive - to justify today’s claims to statehood by presenting a picture of a historical continuity for today’s Abkhaz statehood project.

A common consciousness of unitary beliefs among the Abkhaz is exemplified by the reasoning of Lyutik Khagb, a Moslem from the town of Achandara: “Allah is God for all people, but for us the main god is Dydrypsh who inhabits Dydrypsh-nykha mountain nearby” (Krylov 1998a Op cit). The Supreme Creator of Abkhaz beliefs, and ‘his/her/its’ divinities⁸⁵, inhabit all things, material and immaterial, and all places, and all ideas and practices and all phenomena. The actual ancient names of many of these have been forgotten by people in modern Abkhazia but they ‘know’ that the entities ‘are there’ and must all be treated with respect.

The shrines have been fitted into today’s Abkhaz national state-building project, as intrinsic to the “Abkhazianness” of the state. This is a national cloak in the way that “Britishness” is sought by politicians in the multicultural United Kingdom today despite it still retaining its ambiguity of

⁸⁴ In op.cit. Chakvetadze see references to parliamentary practice, the rule that in the national interest there must be no confrontations among religions, that that is prohibited.

⁸⁵ I prefer this word to ‘spirits’ because the latter is usually associated with Christian ideas of souls or with ancestor-worship cults, and I am trying to get away from the baggage of Eurocentric concepts when discussing the Abkhaz.

also meaning English more than, say Scottish or Welsh. It is ‘national’ in the way that Roman Catholicism has recently come to be identified with Irish nationalism. The shrines draw on the support of locally resident ethnic Russians, Ossetians, Armenians, Greeks and others. Among these there are virtually no conflicts along religious lines. Indeed, when the slightest sign of religious animosity has raised its head it has been condemned and the state taken action against it, as seen, for instance, in the case of the ban on Jehovah Witnesses for denigrating members of other religions. An utterance made by Dbar, a Monastic priest of the Eastern Orthodox Church, was widely condemned for suggesting that Christianity might be better than Islam, and he was made to apologise for the ‘misunderstanding’ (Chaketadze 2009).

The detail given on the shrines the Abkhaz share with all others ties in with what I have called the “unanimity principal” of Abkhaz custom and I now present its breadth in state-building founded on custom.

7.2 **More on unanimity...**

There are splits in the Eastern Orthodox Church in Abkhazia – between those who would like to see Abkhazia coming directly under the Moscow Patriarchate and others who want autocephaly. Each controls a number of Orthodox sites of worship. The Moscow Patriarchate and the Patriarch of Constantinople recognise only the Georgian Church as the church for Abkhazia. There have been discussions to mend the schism and this has involved the Moscow Patriarchate and the Abkhazian head of state. For its support of the Georgian state in its war on Abkhazia and continued refusal to recognise Abkhazia's independence priests of the Georgian Church are not allowed in Abkhazia. The dispute is, thus, one around statehood and not about theology or ritual.

The assemblies that convene people in Abkhazia to discuss what is to be done about the schism are open to all and attended by Christians, Moslems, people who are not christened and those who profess no belief outside of *apswara* without discrimination, a practice similar to what we have

seen for the shrines and at village *skhod* assemblies. To reject *apswara* is unpatriotic. The churches, other than the Georgian, identify themselves with nation-building and tie in with *apswara*; witness the wording of the call of the Orthodox Abkhazian call for orderly conduct on the eve of presidential elections: “to exclude violation of morality canons and the God granted code of *apswara* in election speeches and activity” (Appeal 2009:1). The rejection of religious barriers has been illustrated in the attendance at shrines for political purposes by government officials. These have included people from “Moslem” families (such as President Ardzimba) and Christians (such as President Bagapsh). Then there is the acceptance of Russian Orthodox Church awards by atheists, including President Ankvab. The broad attendance reflects what I have called the “unanimity principle” within Abkhaz culture.

On the very rare occasions when theology crops up in casual conversation, it is seen as irrelevant to the unity represented by *apswara* and the Abkhaz belief system, and to marriage between professed Christians and Moslems.

The institution of elders plays its part in extra-judicial settlement of disputes and is important for the nation-building programme. It, thus, speaks in the name of all in Abkhazia and has called for *apswara* to be the basis of education in all schools; and no opposition to that has been expressed to me by non-Abkhaz.

Calls are repeatedly made for political parties to agree on national coalitions and the council of elders has demanded that there be no sharp contests for the presidency. Zaur Zarandia, an elder who has won the most distinguished award of Hero of Abkhazia, noted, in the run-up to the presidential elections of 2012 that the candidates A. Ankvab, S. Shamba and R. Khadzhimba were individuals who are well known in the country and said that they should “without splitting and setting their supporters against one another, come to agreement and unite. They all are our brothers and we ask them not to divide the people” (Apsny Press 11.6.2012). In that election the collapse of Shamba’s campaign is generally put down to him being “divisive”. In one of the villages where I was carrying out fieldwork at the

time the community had been divided, but with an expected majority for Mr Shamba. In the event there was a last-minute shift away from him because his campaign was judged to be “brash” (personal informants) and he had made attacks on another candidate who, in the event, won the election.

In the complexity of social change new ways are sought for popular expressions to be reflected in state structures. An example of debate on this is of interest. At public meetings there has been the voicing of dissatisfaction with aspects of government policy, which were then carried into Parliamentary debate in March 2013. There a prominent MP argued that the “political process” cannot be confined to Parliament or to experts (Khadzhimba 2012b). In an atmosphere of a debate about structures to provide for popular expression there were calls for “a compromise commission” in which Parliament would be only one constituent, and also for a Chamber that would check on how things were going in the “political process”. The Speaker of Parliament urged “the state” to involve “society” (an interesting formulation of a dichotomy) in its decision-making process in addition to listening to the expressions of mass meetings – a mixture resonant of *skhods*, assemblies (ApsnyPress 20.3.2013). The issues at the meetings drew attention to the contradictions between state-delegated democracy (indirect democracy) and the direct democracy of customary institutions in an attempt to marry the two in modern conditions.

When, in May 2014, widespread dissatisfaction with lack of economic and social progress erupted into protest meetings which called for the resignation of the president and selection of a new government, the president demanded that such a decision should only be taken by a *vsenarodnoye sobranie* – an all-Abkhazian mass assembly, as rallies carried out by parties are often frowned upon as being “divisive”. One informant told me: “Abkhazians do not really like demonstrations in the streets” (personal communication 2012).

Raul Khadzhimba, an MP (and now president) who has earlier called for a “strong state” (Regnum News 20.12.2012) convened a *skhod* and stated: “From the earliest times an attribute of our people has been the taking of

decisions collectively, the creation of conditions for society fully to participate in these processes. Parliament is the only structure which can permit us to implement this today” (20.3.2013). While, on the one hand, seeking to give pride of place to parliament, he went on in the same speech to argue for a more modest role for it in an attempt to accommodate the duality enshrined in the Constitution, where it speaks of the people ruling “directly or through their representatives” (2001:7). This might sound like a case of wanting one’s cake and eating it. However, he was not the only person who wanted parliament to become an institution for compromise, appeasement, agreement, for “co-ordination of all parties for unanimity,” as expressed by another active politician, Daur Tarba (Kuraskua, Y. 2013), who stressed the importance of the constitutional right of a citizen to initiate referendum procedure (Ibid.). He also identified the executive arm of the state as the perceived weak point in the democracy of Abkhazia. Thus we see Abkhaz arguing for decision by popular gathering, assemblies, *skhods*, while, at the same time wanting decision by a reformed parliament with a curtailed executive arm.

The on-going conflict between custom practices and the current structure of the state centres on differences over the concepts of direct and indirect democracy. Khadzhimba summed up his own feeling when he said at the conference of the FNEA party that what was happening in the political process was “leading [him] to the thought that the country is gradually losing the system of spiritual values that make up the foundation of [our] national ideology” (Respublica Abkhazii 26.12.12).

The dialectics of seeking to resolve the presence of the state and the negation of it in custom draws to mind Marx’s view on how he saw this could be resolved, not just through disputation in the realm of ideas, à la Hegel but, as he put it, by changing the conditions that underlay ideas:

My dialectic method is not only different from the Hegelian, but is its direct opposite. To Hegel, the life-process of the human brain, i.e. the process of thinking, which, under the name of ‘the Idea’, he even transforms into an independent subject, is the demiurgos of the real world, and the real world is only the external, phenomenal form of ‘the Idea’. With me, on the contrary, the ideal is nothing else than the material world reflected by the human mind, and translated

into forms of thought. (Capital, Afterword, Second German Ed., Moscow, 1970, vol. 1, p. 29).

The problem to be resolved is interestingly buried within concepts that are seen in the Council of Elders' appeal to *apswara* ideas on the eve of presidential elections (n. 104), and which would draw people into the running of the state:

It would be helpful for the presidential candidates to form a single electoral block in order to draw on the skilled personnel of all the electoral blocks, to overcome differences that are found in the electorate. Should the presidential candidates consider it impossible to accept that proposal the Council of Elders proposes that the newly elected president should draw into the running of the state the skilled personnel of all electoral blocks. That, in the opinion of the elders would assist in overcoming the disagreements that exist in society, and also would *provide for the broad popular participation in the management of the state* [my emphasis, M.C.] ...

Experience demonstrates that in a multi-party situation not the whole people have their representatives in the organs of state management. This violates the Constitutional right of some of the people ... (Appeal of the Elders 2011).

Another comment from Marx is relevant to the elders' appeal:

The materialist doctrine [i.e. of Feuerbach] that men are the products of conditions and education, different men therefore the products of other conditions and other education, forgets that circumstances may be altered by men and the educator has himself to be educated (Marx and Engels, 1973 [1888]: 93).

While the elders did not directly draw on that the implication of their expressed requirement that all Abkhazians enact their decision-making directly in governing, to "*provide for the broad popular participation in the management of the state*" might imply that link with the ideas derived from different people's experience.

In their statement the elders came out against a multi-party system and blocks, and their omission of the word "opposition" is not accidental. It reflects a general sense of discomfort among my informants with the idea that differences should be built into organisational structures, as proposed by some politicians, as that goes against reaching decisions by mass participation in free decision-making. This was confirmed in a discussion I had with several members of the Council of Elders (May 2012). The statement also

reflected uncertainties about how best to proceed, given that parties do exist and some label themselves as “opposition.”

Informants were clear that they vote on how they judge the probity of candidates and not on programmes they might offer. In his time Ankvab won the presidency precisely on that – his promise of uprightness and honesty and without an economic plan.

Those are the outward appearances and represent the most-often encountered comments. It is, however, not the whole picture. There is talk of electoral fraud (Anz informant 2012) and I overheard procedures for this being discussed over his mobile telephone by the driver who gave me a lift when I was hitch-hiking in 2012. An informant, also in 2012 explained *kuchkovanie* to me - that meant what we call “the payroll vote” among ministerial appointees in Britain - voting to keep their jobs for the party of those who appointed them. In Abkhazia, it was claimed by my informant, it accounted for an estimated 20 per cent of the total vote and included the relatives of appointees. There is another repeatedly heard belief, that villages or other communities that do not vote for the winning candidate might find themselves at the end of the queue for receiving state allocations for roads, and other infrastructure. I was not able to verify any of the allegations about *kuchkovanie* and the other allegations; nor did I seek to do so as I was not carrying out sociological surveys but was listening to what the Abkhaz had to say, and judging ‘moods’.

In many discussions I heard only one view: that confidence in “democracy” (a pejorative term to mean a system where a few people get very rich and there is widespread corruption) had collapsed. An old Armenian woman whose son is a hero of the war of independence complained to an MP in my presence (2011) that she could get no money for hospital treatment for her sick grandchild. People in the streets exchange information and discuss how to find and then pay for their children’s school books and the payments they have to make to teachers. A woman serving at a street café who had just lost her childminder said she was giving up her job because the owner of the café would not pay her enough to cover one and she could not work and take

her children to school and collect them. In the villages I heard that “Nothing is done to help peasants and ordinary people.” A failed presidential candidate was strongly criticised for organising and paying for public entertainment shows: “when people are still in mourning for the death of the previous president” (n 94, 26.8.11). The problems are myriad and many are associated in people’s telling with how it now was “not like in Soviet times”.

The degree of a feeling of uncertainty about current events and what the future might hold, as well as reflecting the unpopularity of individuals who might divide the country was the lack of open campaigning for candidates in the press. In addition, I encountered ignorance, especially in the press, among those supposedly “in the know”, of the real mood in the country that became expressed in voting. For instance, right up to when the votes were counted, none came anywhere near correctly estimating the results of the presidential elections (in 2009 and 2011) and the second was won by the candidate who spent the least money on his campaign. It is in these circumstances that the Council of Elders has adopted a more public face and openly intervenes in politics to campaign for *apswara*.

7.2.1 Contradictions

Religions in Abkhazia require registration by a state committee of experts to be judged suitable to practice and have access to property.

The state has courts, police and a prison but what they do and who goes to court and what sentence is given to offenders is governed by customary practices. There is a duality in rule or order that has not been resolved by either law or custom and people are thrown back onto their own resources to tackle problems. Some, but not all, informants said that *apswara* should be able to deal with all problems.

There is dissatisfaction and anger among sections of the population at the fall in living standards and social provision over the decades since the dissolution of the USSR and the war of independence. In a conflicting fashion some ties of custom are becoming strained while there is a counter-tendency for people to strengthen them as the means for maintaining some order. But

the state is privatising property in its promotion of capitalism, and that closes some avenues to customary regulation of new features and values. People are demanding more fairness, and older people express regret at the passing of the Soviet period; one that is generally associated with a sense of community and greater ‘fairness’ as well as confidence in the future. A new generation has grown up that did not experience the repressions of that time and, because of poverty and the international isolation of Abkhazia by the countries of the EC, the USA and states that follow them, Abkhazians have little freedom to travel abroad.

It is against the general background that has been presented of strongly held views on togetherness and unity, and the experience of much of the opposite that I now discuss legacies, and perceptions of what the future might hold – the alternatives.

Chapter 8 What now – where to start?

Here I examine the content of nostalgia in Abkhaz perceptions in the comparative light of the phenomenon as found in post-Soviet scholarship. The thread running through Abkhaz conceptions allowed an identification of concern about the present and hint at hopes for the future; rather than to express nostalgia as principally temporal retrospection. This has relevance to agency and whether the Abkhaz are to continue with the evident current uncertainties, the dynamic balancing of *apswara*, custom with the laws of the state, or to incorporate one into the other. It is about how the Abkhaz might realise aspirations to modernise that are generally expressed as how to become a ‘civilised’ (i.e. orderly) society.

8.1 “Failure of Soviet Union” and “Nostalgia”

When US President Richard Nixon asked China’s Premier Chou En-Lai over two centuries after the French Revolution of 1789 what he thought had been its impact on western civilization, Chou considered the question for a few moments and replied: "The French revolution’s impact on western civilisation? - too early to tell."

BBC news.bbc.co.uk/2/shared/spl/hi/asia_pac/02/china_party
Viewed 20.4.2014⁸⁶

The former republics of the USSR experienced economic decline, rising levels of inequality and poverty. Russia lost the USSR’s status as a major world power and its peoples suffered an identity crisis. A process of decay and industrial development accompanied by disenchantment with free market mechanisms occurred [...] degeneration of their societies into chaos.

⁸⁶ Chou en Lai’s comment to Nixon is often, in Orientalist fashion, considered to express some sort of peculiarly Chinese way of looking at time. A similar view of African societies and time used to be taken more widely, as exemplified by the words of John Mbiti, a western-trained Kenyan scholar: “African ideas of time concern mainly the present and the past” (1975: 34). Neither Nixon nor Chou en Lai were led to think that the events that have followed the French Revolution (including counter-revolutions) should qualify that Revolution as “a failure”. Few would put a similar construction on the English Revolution of the 17th Century more than 350 years after it and the Restoration that followed. The same applies to the impossibility of qualifying the American Civil War as “a failure” because the 1865-1877 period of Reconstruction brought back legalised racial “segregation” for another century. If one takes a step further in this reasoning, then to speak of the “failure” of the Soviet Union because of the problems that have arisen from its demise after its seventy years of rule in Abkhazia, would seem more to be the expression of a short-term political judgement rather than anthropology.

Informants among the Abkhaz never used the word nostalgia unless I brought it up but usually spoke of what they said was “better” in the past, often in the context of what they hoped for in the future. Data from the field contributes to discussion of an ongoing clash of theoretical approaches among scholars around the future and nostalgia, the past being “a spectre [which] still haunts” as put in the title of an article by Kristen Ghosee (2012) which I shall be returning to. Hirokazu Miyazaki saw a political contextualising trend that he identified as noticeable today when he wrote of

... social theorists’ share[ing] [a] sense of the loss of hope in progressive politics and thought. Underlying their concern with a loss of hope is a general sense (in the academy and beyond) that the world, and more specifically, the character of capitalism, has radically changed and that social theory has lost its relevance and critical edge (2006: 147).

8.2 “Nostalgia” - phantom of the past or the present

“When comrade Stalin was on the run from the Tsarist police after he had taken part with a group of Bolsheviks in collecting money for the Party [raided] from a ship off the coast he sought refuge in Abkhazia. You will probably have heard of our strong tradition of hospitality, and this was, of course, extended to Stalin, to such a renowned fighter for peoples’ freedom and liberty.”

Tourist guide in Abkhazia (2009).

The tourist guide, a woman in her forties and born well after Stalin’s death and was around twenty years old when the Soviet Union was wound up, was going through her patter to a busload of tourists, for the most part young Russians. We were passing one of Stalin’s *dachas* in Abkhazia. She said that Stalin “loved Abkhazia”, was a frequent visitor and had been a good friend of Abkhazia’s first and still very popular Communist leader, Nestor Lakoba “although he later had him killed.” When I asked her at a stop at a café how one was to understand Stalin’s friendship alongside her assertion that he had his friend killed she explained: “Stalin did not allow his friendship to interfere with what he thought needed to be done.” It was a sign of Stalin’s

correct conduct. As we chatted about the past and present she expressed a longing (my word) for the Soviet period as one of “order” and “confidence in the future”, something that was missing today.

8.2.1 Nostalgia abstracted.

The notion of post-Soviet and post-socialist “nostalgia” is seen by scholars in a variety of ways, to describe the recognised longing for much of the past of the Soviet Union. Svetlana Boym has written that nostalgia has moved from once being considered a “hypochondria of the heart, a treatable sickness, [that became] an incurable disease” (2001: 7). She also saw in it “a longing for a home that no longer exists. Nostalgia is a sentiment of loss and displacement, but it is also a romance with one’s own fantasy”, “the disease of an afflicted imagination” (Ibid: xiii). Sean Scanlon’s introduction to a collection of essays that trace the histories and applications of the term rejects the idea that nostalgia is “the sorry cousin of various ways of retrieving memories” and suggests that it may be an important form of criticism of the present (2004: 1). This theme is expanded by Marcos Natali in the same volume, who argues that nostalgia does not require “the imperialism of history’s categories”, in which determining the ‘accuracy’ of past events is a requirement for the validity of nostalgia as a critique of the present (2004: 3-4).

Another approach was taken by Sergei Oushakine, who found post-Soviet nostalgia in *aphasia*, in “linguistic behaviour”, an approach derived from the phenomenology of Roman Jakobson in the 1940s. For Oushakine the aphasia represents “regression to symbolic forms of the previous historical period that has been caused by the society’s disintegrated ability to find proper verbal signifiers of the new socio-political regime” (2000: 994). He imagined that

the “regressive logic of aphasia... has become closely associated with a ‘longing for the past’ [...] that frames the post-Soviet symbolic landscape in the late 1990s. Inability to articulate a new language adequate to a new period, coupled with the loss of the ‘enframing’ meta-language, has been compensated by stylistic regression to the language of the preceding period” (Ibid.: 1005).

This somewhat structuralist take did not correspond with views expressed by informants in Abkhazia who certainly did not see problems as those of “symbolic styles” (Ibid.: 1005) or, “the absence of what, following Pierre Bourdieu, can be defined as the field of post-Soviet cultural *production*” (Ibid.: 1005). For my research, I did not find helpful the let-out in Oushakine’s approach, which is the two-fold one of attributing factors to people’s unconscious self and avoiding discussion of what is going on, on the ground; that it, of what are identified as the problems-to-be-solved by the Abkhaz.

There has been the presentation of nostalgia as something of a sentimental or distorted vision of the Soviet past. Examples of this abound well outside of academic scholarship and have captured a broad audience. It does have its counter-images; thus one might contrast two films made in 2003 Wolfgang Becker’s “Goodbye, Lenin!” - Germany, for looking both ways in its treatment of people’s real concerns, with Hiner Saleem’s “Lemon-Vodka” - Armenia, which does not. In the latter, there is a conversation at a bus stop out in the hills, in which one character says:” It was better under the Russians”. The other replies: “But we had no freedom,” to which the first says: “Yes, but we had everything else”. When I recounted that episode to a group of five Abkhaz in 2012 their reaction was loudly approving the “but we had everything else” line. To judge that reaction as reflecting a distorted memory smacks of an outsider’s imposition or “I know better” attitude, and to deny the Abkhaz (or Armenians) a balanced judgement.

The problems of looking backwards in time and at the present, to define perceptions of nostalgia, are well illustrated in Daphne Berdahl’s essay on the topic (*Ostalgie*) in East Germany, the former GDR: as seen in “the different readings and receptions” (2012: 181) of “*Goodbye, Lenin!*”, a film that revolves around a young man and his wife hiding the demise of the GDR from his mother. The film has become popular throughout Germany and beyond and Berdahl brings forward the differing moments that western and eastern audiences outside of Germany latch onto. She draws attention to the coexistence of the man’s sense of loss and his comment on the staged GDR

that they create around his mother as “the GDR I created for my mother was increasingly becoming the GDR that I might have wished for myself.” (Ibid.: 180). For him, as I found in Abkhazia, the nostalgia contains criticism of the present, and hopes for the future.

Maria Todorova opens an introduction to a collection of essays on the nostalgia that extends “from Central Europe to Central Asia” to state that authors need “to put thoughts to memories”:

Although the end of the Cold War was greeted with great enthusiasm by people in the East and the West, [...] the ensuing social and especially economic changes led to widespread disillusionment that can be observed today all across Eastern Europe. Not simply a longing for security, stability, and prosperity, this nostalgia is also a sense of loss regarding a specific form of sociability. ... [The authors] argue persuasively that this nostalgia should not be seen as a wish to restore the past, as it has otherwise been understood, but instead it should be recognized as part of a more complex healing process and an attempt to come to terms both with the communist era as well as the new inequalities of the post-communist era (2012: 1).

The authors primarily regard nostalgia as reflecting perceptions of the past. This commonality in many approaches to post-Soviet “nostalgia” derives from a construction/invention, or “reinvention” in the present, according to Svetlana Boyd (2001: 73). In her comprehensive monograph on the subject she identifies the possible future that is perceived in it:

Creative nostalgia reveals the fantasies of the age and it is in those fantasies and potentialities that the future is born. One is nostalgic for the past, the way it was, but for the past the way it could have been. It is this past perfect that one strives to realise in the future (Ibid.: 351)

Treating the phenomenon by more attention to the present and to what the ‘victims’ of nostalgia desire for the future offers a way out of only looking at the past, something that Ernst Bloch has argued (1986: 1054-59). Zsuzsa Gille captured something of that when she wrote:

[T]he post-Socialist and the ‘European’ present needs [sic] no less questioning than did the Socialist past” (2012: 280). She concludes: “Perhaps we can now start looking for more signs of future-orientedness in the post-Communist region and thereby stop ceding that terrain to the West” (2012: 288).

In Abkhazia when I raised the word 'nostalgia', it was taken to mean mock sentimentality, as their reminiscing about the past is almost invariably to mention very specific practices or events of Soviet times to identify which elements they would resuscitate for today and into the future.⁸⁷

Abkhaz are selective in their choice of what Soviet practices should be introduced and high up the list are the restoration of a sense of purpose and communality and “fairness”. In the words of middle aged informant: “What we had then fitted us better, even though terrible things were done” (2011). While Katherine Verdery does make an important point when writing that the pulling down of statues and other symbols of the socialist period were “foundational acts of new states” (199:21) this does not explain the evidence that some restoration of these is also now taking place, that in Belorussia they remain and that the Abkhaz honour and build statues to Nestor Lakoba, the founder of the Abkhazian Soviet Socialist Republic.

⁸⁷ I have come across an exception to the general absence of the term, in Sukhum market, on a packet of the cheapest “Prima” brand cigarettes made in Russia, (“fifth quality”). It is labelled “Nostalgia” and displays a picture of Stalin and that of the Red flag being raised over the Reichstag in May 1945. It also has a facsimile of Stalin’s famous Order No. 227 of July 28, 1942 to the Red Army demanding “Not one step back!” on pain of death. At the time the order featured on a Soviet postage stamp which was shown to me with pride by an Abkhaz stamp collector:



Still today, that Order is looked on as brutal but commendable. There is nothing imagined or faulty about the memory of that event to fit into “aphasia” or “hypochondria of the heart”. When I asked whether that was ‘nostalgia’ the collector angrily said “No”, making clear he did not think he was being sentimental (*sentimentalnicat*’, in Russian).

8.2.2 A political agenda or ideology.

Karolina Slovenko, a Polish university student (2006) provides an interesting discussion of nostalgia which grapples with what she finds are apparently contradictory manifestations. While listing the many criticisms that Poles express about the present, she does so unquestioningly within the current dominant official neoliberal version of the past that is also part of her thinking. Her characterisation of that assumes, without discussion, that the reader subscribes to the assumptions that

Poland has travelled from dictatorship to democracy, from monopoly to pluralism, from the status of a satellite country to a sovereign country [...] from an economy of scarcity and a planned economy to a market economy and economic growth, from censorship to freedom, from closed to open borders [in which] the market economy is a challenge to be responsible for one's own fate (2006. Ibid.Blog).

Yet she notes that “the proportion of people who report that they favour the socialist system has grown”, and that many Poles long for the security of the past. While mentioning that studies have identified what she terms “collective amnesia”, people longing for the period of their youth (see also Veronika Pehe’s study of the Czech Republic 2014), “a subjectivism [that] garbles memory of communism past,” she does suggest that “Post-communist nostalgia might have also substantive reasons.” (2006: 1-2).

An argument by Renato Rosaldo about how scholars might be influenced in how they understand things might be instructive here. Writing on the portrayal of “imperialism” (meaning colonial rule), she warns: “the observer is neither innocent nor omniscient...Under imperialism metropolitan observers are no more likely to avoid a certain complicity with domination” (1989: 107). Although writing in the twilight of the Soviet Union, Rosaldo’s words might apply to some writers on the peoples in those countries; writers whose thinking accepts the “western” Cold War images of their past. Rosaldo set out to “dismantle” the “imperialist” ideology.

In his interviews with east Europeans a decade after the end of the Cold War Kristen Ghodsee found that longing for the past was founded on the belief that they had been fooled into giving up socialism. According to one

indigenous previous fighter against socialism in Bulgaria, “a darling of liberal reformers who came from the West,” found that “What we have now is worse than we had before ... the whole thing was rotten from the start; 1989 was not about bringing liberty to the people of Eastern Europe; it was about expanding markets for Western companies” (2012: 5). Given the disappointment across the European socialist countries it comes as no surprise that the Swedish political scientists Joakim Ekman and Jonas Linde, found “a majority of postcommunist citizens evaluating the command economic system in positive terms” (Ibid.: 6). That fits with definitions of post-socialist nostalgia as voicing a condemnation of the present. However, I cannot accept that unconditionally, as informants among the Abkhaz do not voice blanket approval but also criticise the Soviet past. One informant, for instance, blamed the run down of industry and the joblessness on “those who were in the leadership of the Communist Party in the Soviet Union who now live to make profits and all are thieves” (personal communication 23.8.1011).

Ulugbek Badalov, an Uzbek who recently obtained a doctorate in Paris, has cited informants from three Central Asian republics, where “Almost all the population [...], as in other parts of the ex-USSR who knew communism, would prefer a return of the ‘protector’ regime in all areas rather than perpetuate the current system” (2012: 1-2). His field studies lead him to conclude that the current state of “misery” people express “...is not an imaginary construct but [...] the result of the confrontation of a precarious day and the idealised image of a previous better life of which the Soviet state was the guarantor and protector” (Ibid: 3), adding: “In general, people...have moved from a system of collective certainty to a system of individual uncertainty” (Ibid.:5).⁸⁸ Badalov finds the misery of today obliterates or outweighs the memories of what his informants thought of as negative

⁸⁸ To all the mentioned criticisms of the present should be added the widespread expressions of the effects of a loss of pride and community with the fall of socialism. Despite the deportation of whole nationalities and the belief that a threat of deportation hung over the Abkhaz in the 1940s it is the longing for a sense of “interethnic harmony” in daily life that informants speak most of as being characteristic of the last forty years of the USSR. Such “harmony” is spoken of as also covering personal daily relationships with Georgians until the breakup of the Soviet Union.

features in the past; but that can hardly be called amnesia. Some of the scholars I have cited discuss nostalgia only or primarily as relational to the past. It is seen as contradictory, almost illogical, and there is an unspoken sense in their writings that “it will pass”, very much as some writings do on custom. The topic of this dissertation examines the present, however much people might look to the past, in order to discern what the present might offer for the future.

Few scholars have taken this analytical approach but among exceptions is Mitya Velikonja, from Slovenia (2009). His findings resonate more with how matters are perceived by the Abkhaz, where longing for aspects of Soviet life goes alongside the widespread view of their custom, *apswara*, as a system that can rectify today’s ills. Velikonja sees nostalgia not only for its relationship to the past but for a possible expression of hope for the future, starting with it being a voice of protest against present conditions. Certainly, that is to think outside the box. It does not fit the ideology of neo-liberalism that would write of itself as the pinnacle and last point of societal change, as found in Fukuyama’s *The End of History?*: the “end point of mankind’s ideological evolution” and the “final form of human government,” constituting the “end of history” (1989). That idea about capitalism was not original but has reared its head on numerous previous occasions, an old one that was held by Hegel, who saw the “end” arriving in Europe with the triumph of the Spirit (1998 [1837]: 197); and Herbert Spenser’s and Weber’s different approaches but agreeing on capitalism representing the apogee of human development.

Velikonja posed the questions: “Why is there nostalgia for real socialism? Is it but a logical response to sudden, dramatic transformation? Don’t people remember those days anymore – *or do they remember them all too well?*” [My emphasis, MC]. He describes nostalgia as:

a retrospective utopia, a wish and a hope for a safe world, a fair society, true friendships, mutual solidarity and well-being in general, in short, for a perfect world” and identifies such feelings “in all ex-socialist Europe, from the Baltics to the Balkans, from eastern Germany to Russia (2009: 535).

It is clearly expressed in the title of a volume by Chris Hann: “Not the Horse We wanted” (2006) which sharply draws attention to the widespread feelings that in the demise of the Soviet Union and other socialist countries people sense they were sold a pup. Velikonja adds: “In most of the dominant discourses, socialist times are almost completely blacked out” and “new ideologies [...] are created and developed on the basis of a complete condemnation of everything that came before” or the imposition of silence about everything before 1989-91 - historical revisionism (Ibid.: 537). It is generally forgotten that the people in a number of the Soviet republics opposed the dissolution of the USSR from the outset and that included the Abkhaz. In my fieldwork and broader travels in those countries it was extremely rare to hear condemnation of the one-party systems as such, or praise for a multi-party one.

From Abkhaz fieldwork I share Velikonja’s discomfort with the prefix “post-“ used to denote today’s societies that are characterised primarily by today’s conditions (in which the “nostalgia” element is not central) and his categorisation of it as “re-think[ing] the recent past” (Ibid.: 537).

8.2.3 Post-Soviet nostalgia for the present

The widespread wish for a restoration of Soviet practices has its *raison d’être* for the Abkhaz in the conditions of today’s Abkhazia and it would be a mistake to believe that the desire for restoration of the losses which are felt is only formulated in vague or general terms.

The following tale from a café in Sukhum two years ago conveys a sense of longing that was shared by other chance listeners. I sat gossiping with some Abkhaz men who accepted me at their table, set up by an Ossetian woman. One reminisced about his Soviet youth of some 25 years earlier in the fashion of telling a story with a moral the Abkhaz favour:

I was driving along the rutted country road, somewhat merry and with a friend, when he hit a neighbour’s piglet. ‘What’s to be done?’” he puzzled, and feeling sorry for the wounded animal, reversed over it to put it out of its misery. Out came the neighbour, who was in mourning for a relative. She cursed us young men: ‘May you also be run over!’ was what she said – words not to be taken lightly. I quickly

slit the piglet's throat but spilt blood onto the ground, something not to be done when a person is in mourning.

Smartly picking the carcass up and throwing it into the boot of the car, I drove to the village shop and borrowed the going price for a piglet, 30 roubles, returned to the neighbour's house and dropped the money on the kitchen table.

What now to do with the piglet? It was too much meat for two people, so we gathered friends from their houses, found a suitable place and singed and butchered the animal, then roasted it over a fire in nearby scrubland, well out of sight of where it had lived. It was joyously eaten and washed down with supplies of *chacha*, the home made grape brandy. There was wine and bread, cheese, tomatoes, water melon, pickled cucumbers, garlic and some cake – whatever we had foraged from our houses. I knew what I was about: The piglet's skin was well rubbed with *ajika*, [a sour sauce] let it seep into the meat and fat. It was well basted. Toasts were pronounced, with the obligatory first one “to the *Vsevyshny*” [the supreme]. This went so well that some of the men had to be held back from bursting into song; that would have been very bad: a display of joy within earshot of a family in mourning. It went well.

Shortly after I got home the husband of the woman who had owned the piglet came in carrying two large water melons. The woman who ran the village shop had told him all about it, including his wife's curse. He angrily plonked the money [that the story-teller had borrowed] on the table in front of our storyteller's father and wished his own wife ‘A pip [bird's disease] on her tongue, the carrion, bitch’ another curse. No one was to think his family as cheap as to take money from a neighbour's son. So my father heard about the accident and you can't lie to an adult and a father, so the whole story came out. When my father summoned me [the narrator was then well into his twenties] I cautiously sidled up, ready to run out of the door – He could have given me a thrashing or killed me for violating custom but, in the event, he quickly let me off.

He added to the account by stressing the “strength of custom under Soviet power.” The telling took twenty-five minutes, with no interruptions. There was wistfulness not only for times gone by but specifically for the 30 rouble price of a piglet – he explained: “Today it costs tens of thousands because of the inflation that we did not have under Soviet power.” To nods from the others he bemoaned the poverty level of his pension, dolled out to him as an invalid for wounds received in the war with Georgia “and I can't afford to look after my flat, so I drink a little...” But his tale revealed also his and his listeners' thoughts on examples of *apswara*, ritual, Abkhaz belief system and tolerance, of mourning, of curses, of paternal authority and power, of the sense of personal pride, of family structure and communality, of feasting in proper manner that are associated with the Soviet past. There was much in Zuleika's story in chapter five that chimed with these outlooks on the past but from a very different experiential standpoint.

8.2.4 Present and future

Velikonja moved from discussing nostalgia in a perspective that shifted attention from the past to the future:

What lay at the core of nostalgic feelings, narratives and practices, and what many nostalgics remain oblivious to, is precisely what remains at the very bottom of Pandora's box: *hope* [...] a retrospective utopia, a wish and a hope [...] wish to transcend the present [...] it embodies a utopian hope that there must be a society that is better than the current one (Ibid.: 547-8).

He drew on the thoughts of Ernst Bloch, who tackled this problem theoretically in his writings of 1938-1947, a discussion of the nature of hope and ways of striving to improve one's lot, adding an element that rejects reducing the validity of nostalgia to looking backwards and, instead, seeing in it a tool for considering the direction in which a society might evolve. Bloch argued that only by looking to what concepts offer for the future can human agency affect the aims it sets - to look backwards "would pitch the future into the past," and, therefore, not be able to activate hope (1986: 1-8), as a reification of the past could not take it into the future because the conditions of the present are no longer those that gave rise to the past. Yet he considered that messianic programmes that often derived from imaginings of a past, can take as its mental thrust an outlook for the future, instancing the Book of Revelations that looks to the future by upsetting all current and past values. For him "identifying the becoming" is important (Ibid.: 9).

I suggest Vincent Crapanzano missed this point in an essay on hope when he wrote: "Although Bloch and most theologians who discuss it stress the optimism of hope, hope can in fact lead to paralysis. One can be so caught up in one's hope that one does nothing to prepare for its fulfilment" (2003: 18). This lumping together of Bloch and theologians comes from attributing to Bloch the outlook of theologians who place hope in the context of inactive faith, and is curious, as Bloch rejected that and energetically identified the aspect of hope that would generate human agency to attain its desired ends. As Miyazaki has gently pointed out: "Crapanzano's central concern

ultimately is the difficulty of differentiating the category of hope from the category of desire” (Miyazaki op cit.: 148).

When Abkhaz informants have discussed what at first hearing seemed their wish to return to something that was now gone, I soon found that it was an amended past that was sought, thus pitching it forward. This was exemplified when an informant reminded me that *apswara* (in which he placed his hopes) had been radically ‘updated’ on occasion in the past and he rejected the view of *apswara* as “fixed for all time – it has and will evolve with changing circumstances, but must keep its set of values for behaviour”. He instanced as requiring change the “Abkhaz mentality,” for not allowing open discussion of personal problems (personal communication 2011).

The Abkhaz widely express a critique of their current state and call for the wholesale activation of *apswara* and laws based on it, and, in that context, itemise what they think was positive in the Soviet period. It, thus, centres on what is not primarily in the past but in today’s experience, in whatever way this may be conceived by today’s actors.

8.3 Transition or transformation?

Each Soviet republic had the same laws but applied them with variations. Abkhazia to fit local customs...For instance, in Abkhazia, collectivisation was different. Abkhazia was privileged [i.e. gifted by nature MC] and many here thought that with independence, after the breakup of the Soviet Union, life would be heavenly
(Personal communication 16.5.2012).

D. Saltmarshe perceptively observed as early as 2001 that it was high time to treat the peoples who have gone through a socialist period as being in a condition of ongoing “transformation”, and are not just positioned in a transition “between a known starting point [and] a known end product”, and “the social, economic and political processes occurring [in former socialist countries] are better understood in terms of ‘transformation’ (Pardo 2004: 79). Referring specifically to the states of the south Caucasus, including Abkhazia, Thomas De Waal picked up on that point when he said that it is misleading to describe them as “in transition” to a known end; that twenty

years after the end of the Soviet Union they are “not ‘newly independent’”, that the term ‘post-Soviet’ is not “as useful as it was”. He also repudiated generalising paradigms that described the countries of the south Caucasus as “conflict regions” as unsatisfactory: “opinion polls suggest that most people [in them] are more preoccupied with economic issues than the conflicts” (2011).

In the field I became convinced of a number of points: that there was no general rejection of all things Soviet, nor a desire for wholesale reconstruction of the Soviet, let alone the pre-Soviet past; that in Abkhazia those are dead ends as hypotheses for research and informants did not voice them. When pressed on this, they had nothing to impart. In the years immediately following the dissolution of the USSR some scholars imagined that the state progeny of the break-up were embarking on a journey into the past or were in transition to an understood future capitalism (Hann 2006). Chris Hann has suggested that the very existence of “post-socialist studies” reflected the continued power of Western intellectuals to construct a field to their own tendentious imaginings, analogous to their earlier construction of “the Orient” (Ibid.: 1); reflecting “the inadequacies of macro-level explanations lacking a firm basis in close-up understandings of the quandaries of ordinary people as they coped with dislocation – policy prescriptions based on unwarranted assumptions” (Ibid.: 2). At best such research would have been to engage in something akin to writing in the structural functionalist ethnographic past and at worst to imagine practices and intent that were not evident, as Caroline Humphrey pointed out when warning against keeping to stereotypical characterisations that were rooted in the Cold War (2002:xx). Something that has fuelled weaknesses in the study of the once Soviet countries is the neglect of the study of those countries when they were Soviet, as forcefully argued by Hann, and by Petra Rethman (1997: 720). Soviet ethnography was and still is not widely accorded much status, as shown by the unavailability of Soviet ethnography to non-Russian readers. For instance, of the vast output of work by Inal-IPA, to take an example from Abkhazia, only one piece, on the social importance of Abkhaz

milk kinship, *atalychestvo* (Inal-ipa n.d.), with a substantial introduction by Peter Parkes, has been translated and is available since 2003 in English; but not printed.

The ignorance of or setting little store by Russian and Soviet anthropology in mainstream ‘western’ anthropology was what led to the ephemera of “transitology” (Rustow 1970) – an approach taken to study change in the post-Soviet that had its roots in the thinking generated in the ‘West’ during the Cold War, and imagined, wrongly, that the end of the Soviet Union presaged transition to the model of capitalist modernisation of its most industrialised countries. This weakness reinforced and was reinforced by a lack of anthropological fieldwork data, as Hann pointed out and Tatjana Thelen found (2011). My discussion of Abkhaz nostalgia and hope questions transitology and has illustrated the abiding strength of custom in Abkhazia. Transitology was predicated on the groundless imagining that, because many laws appeared similar across the Soviet republics, the “transition” to (capitalist) democracy in them would be the same. To some extent that ghost has been laid to rest, not least as a result of the substantial scholarship carried out by Chris Hann (2003, 2006: 2, Caroline Humphrey, 2002 and Tatjana Thelen 2011 inter alia), which demonstrated from fieldwork, in Thelen’s words: “the presence of a variety of socialisms” (2011: 45); that the ‘socialist’ countries were dissimilar before Communist rule, during it and following it, effectively debunking the myth that one suit could fit all. Hann appealed for attention “to the context of contemporary institutional interplay both at the level of formal institutions and by studying *informal* social relations, the *habitual* continuities of everyday life” (2006: 2).

The lessons to be learnt from dominant Western anthropology’s very belated recognition in post-colonial studies of its blindness to the reality of undercurrents within societies in the imperial colonies that made for social change remained in effect towards the countries of the Soviet Union. Compounding the errors of the transitology approach is the academic hunt for a “nostalgia” that only refers to the past. My research into Abkhaz society suggests that new approaches are demanded and I will suggest possible

alternatives that are conceived of by the Abkhaz and which could be acted upon.

An illustration of the deleterious effect of prevalent attachment to unfounded approaches was signalled (but not followed up at the time) by the discussion I have described of ethnos theory in the Soviet Union – something that took two decades to meet with other than episodic attention (Gellner, 1980).⁸⁹ It was the discovery by the West at that conference of the important change in nationalities policy that occurred in the 1960s to explain the tenacity of traditional practices in the Soviet Union (Dragadze 1980) was not pursued.

The content of wanting to restore features of the Soviet period in Abkhazia lie within the existing and very much alive *apswara* order of custom that, for most of my informants resonates with the principles of equality and much of direct democracy that are perceived as having imbued thinking within the USSR. The state or co-operative ownership of property during the Soviet period is held up to demonstrate this, alongside its absence of “oligarchs”. Yet, while much is said by the Abkhaz about the virtues of *apswara* this is not without its problems. Thus an informant who insisted that in Soviet times the Abkhaz “kept their set-up [i.e. customary practices] in the villages, where most of us lived” would not even consider seriously that *apswara* might be partially responsible for the deterioration in everything that he decried in the present (personal communication 19.5.2012) and could, possibly therefore, not satisfactorily determine the future course of Abkhaz society. Whether my raising this will be seen to be idle speculation has to be left to future research over time.

⁸⁹The meeting of Soviet and Western anthropologists at the conference in 1976 that has been referred to usefully illuminated different trends in Soviet *ethnos* theory over the two decades that preceded it. This noted that common to all the contested trends was the theme that however much ethnicity was modified over time by changing social and economic conditions it maintained a continuing and independent existence. Debates at the conference centred on how and what made this so and whether this was a move, as Ernest Gellner suggested, towards seeing the *ethnos* as a distinctly cultural phenomenon: a form of incipient regional identity that was not simply a reflection of “infrastructural” or differential political-economic underlying forces, as classic Marxist materialism might have insisted. The Caucasian scholar, Tamara Dragadze, argued that “...the theory of ethnos is seen as a means by which Soviet anthropology can successfully claim a unique stake in the study of contemporary society,” (Gellner 1980: 169).

8.4 Nationalist modernisation - capitalism?

Richard Peet cited Marx in his Introduction to a volume on development theories (1999: p.x): “The philosophers have only interpreted the world, in various ways; the point, however, is to change it.” Unfortunately, he did not analyse the significance of those words for states that have tried it, and he dismissed the Soviet Union and Eastern Europe in a reference, as “abjectly failed” (Ibid.: 15).

It would be unfair to hold against him that he did not foresee that today’s neoliberal counter-revolution would put paid to what Wallerstein in 1974 saw in the Russian Socialist Revolution of 1917 that it “ended that country’s further decline toward peripheral status” (Ibid.: 115). Nonetheless, Peet’s description as “abjectly failed” might be considered something of an error, considering that the Soviet Union’s social and economic development brought advances in living conditions and a cultural revolution that were historically unprecedented for scope and scale. Hann has called for not only attention to “the trauma” of the socialist period but also to “the positive” (2006: 4-5).

There are special circumstances in recent Abkhaz history that were dictated by its being a long-rebellious autonomy within the Georgian Soviet Socialist Republic, its war with Georgia and a long international blockade. The Abkhaz voted against the dissolution of the USSR and, when that happened, applied unsuccessfully to join the Russian Federation. To this day it is Georgia and not the Soviet Union that is held responsible for what the Abkhaz consider to be measures in the Soviet period to downgrade their language and culture in general. A middle-aged Abkhaz stranger told me in Sukhum’s central square: “Russia is our elder brother” (August 2008), a phrase redolent of the Soviet period and which I interpret as an interesting take on the views discussed on nostalgia – his expression of a hope that what he perceived of as positive in the Soviet past could be transmogrified into Abkhaz-Russian relations in the present. But it might have been simply the expression of faith in “Russia” as a guardian against Georgia, something that

shows all the complexities of perceptions, as further discussion showed he was quite aware that Boris Yeltsin's new Russia did not stand by Abkhazia during the Georgian invasion and occupation.

It is almost irrelevant to discuss the works of a number of modernisation scholars, be they some that are close to anthropology, such as Immanuel Wallerstein's variant of diffusionism (2004 [1982]) or Richard Peet on modernisation theory that omits the socialist countries, as does Ian Roxborough's *Theories of Underdevelopment* (1979). The picture would appear to be as described by Michael Herzfeld: "Development anthropologists – often, perhaps, inadvertently – are engaged in extending to Asia, Africa and Latin America, a project of cultural transformation shaped, broadly speaking, by experience of capitalist modernity..." (2001: 162). They generally by-pass the experience of socialist economies, something that is most relevant to the Abkhaz perspective on the future of custom; and omitted are countries that have attempted to build states outside of capitalist modernity, as I discuss in the next chapter when I look to the future. Looking back to my literature review, the issues debated by Gluckman, Bohannan and Diamond are still relevant to the Abkhaz today. To these must be added part of Karl Polanyi's views on embeddedness.

As a result of the war with Georgia the nationalist element assumes a political relevance that more than impinges on economic and social development and opens up a possible course that at times had been envisaged by Karl Marx – one of retaining customary practices when modernising, but modernising along socialist lines (1989 [1881] 24: 346) and Renton (2001: 77). It gained wider credence in the years after the Gold Coast (now Ghana) won independence in 1957, even though such experiments in numerous other countries in Africa have been killed off in the years that have followed the murder of Patrice Lumumba in 1961, since when the neo-colonised continent of Africa has been truly thrown into the darkness of neo-colonialism that continues for the most part.

While Abkhaz daily life is lived principally by custom, it is under challenge from a growing field of state law. For many, *apswara* remains their

only element of social stability. At the same time, despite the strength of ideas that support a moral economy (Humphrey, 2002: xxii), virtually everything that is connected with money and, increasingly with property ownership outside the villages, comes under property law or outside of both law and custom – criminality playing a big part. Then there is the area decided by Constitutional delegation to the state: taxation, the armed forces, police and prisons, health, education, power supply, roads, the state borders and crossing them, foreign policy and the allocation of state revenue and the contentious issue of the granting of citizenship to others than to the Abkhaz. There is a form of passive resistance to taxation and state controls, through widespread refusal to pay rent or for the utilities that were free in Soviet times.

So there is a tug of war going on between institutions of direct democracy and the indirect democracy of the delegation of powers by those wanting a state along western capitalist lines. Although the officially propagated picture of pre-Soviet society is romanticised, yet elements of it retain their hold, as was the case when resistance to the Georgian invasion of 1992 was decided by a traditional national assembly. There are practices today around shrines, and at national assemblies that carry forward that way of doing things into the 21st century. The possible power in use of the internet to extend direct participation by people in their hundreds of thousands in decision making deserves additional research for how it might apply to strengthening customary ideas.

Fatima Kamkiia (2013: 39 – 41) writes of what she calls Abkhaz archaic tendencies to counter the failure of ‘democratisation’ in post-Soviet countries and the [capitalist features] of “identification of power with ownership, the dictate of the employer, incredible reverence for officialdom and other negative phenomena” (Ibid.: 41). An Abkhaz scholar holding the post of Head of Faculty at a Russian University, she argues: “There is no universal formula for freedom” and cites Weber for the view that free hiring of labour does not automatically bring individual freedom. The order of priorities for institutional respect, as set by the Abkhaz elders, are firstly *apswara*, then *apsua tsas*, then the law (Ibid.:42.) and they are considered as

being against the concept of positive law, as distinct from natural law, which comprises inherent rights conferred not by act of legislation but by "God, nature or reason."

She gives voice to what she sees as the contradictions of private and collective property that are showing themselves in Abkhazia but, interestingly, argues that private property is fine if laws insisting on *apswara* are introduced (ibid: 43). What is also interesting is the dovetailing sought for custom and law ...as long as *apswara* is the foundation of law. I now come further to discussing the seeming paradox.

Chapter 9 State-building

9.1 What kind of state?

Laws did not, of course, dictate social reality

Wade, P. 1995:26.

We are building a legal state⁹⁰... We all have one task and the powers: the legislature, executive and judiciary must serve our people

Ashugba, N. (2011), the Speaker of the Abkhazian Parliament.

[I]n the conditions of a market economy scientists must learn to earn money themselves

Zurab Japua, president of the Abkhazian Academy of Sciences. 2014. *Respublika Abkhazia* 4.4.14

Practices that I have instanced are knitted together within the structural concepts of *apswara* and endorsed by the ‘deities’. Following the discussion of ‘hope’ and ‘nostalgia’ here I examine what kind of state is under debate. In the conditions that followed on the Soviet state there has been an active revival of customary practices, conceived of as modifications of the past and adding to the egalitarian principles of the Soviet period. This poses a serious challenge to those, mainly represented by Soviet- and western-trained intellectuals, who are striving to build a state on western capitalist lines, what they call simply ‘modernisation’, as if there is no alternative to capitalism.

For the moment custom holds a strong position. The institutions of the state are largely circumscribed by *apswara*, are secondary, used to a large extent as adjuncts, as demonstrated in the cases of dispute resolution I brought forward.

⁹⁰ In Russian *pravovoye gosudarstvo*, which derives from German *Rechtsstaat*, embodying concepts of social justice that go beyond the simple application of law, imposing social concepts of fairness to limit state arbitrariness.

Even those who want to change the situation dare not call for the abolition of *apsua tsas* and *apswara*, preferring to remain silent on them or calling for the accommodation of *apswara* in imprecise ways into state institutions. Their view was interestingly expressed by the Abkhaz Dr Beslan Butba, a supporter of state laws and author of a textbook on “Social Ecology”, who publicly declared in 2012:

As a result of the thousand year development of a society of free people [...] there has appeared a special system of values, of **unwritten laws and rules** that are set into the soul of every Abkhaz. It is the code of values [...] we call *apswara*. That word reminds us that all spiritual values are bequeathed to us by our remote ancestors. *Apswara* [...] in the broad sense covers the whole complex of Abkhaz culture and traditions. At the same time it is the moral code in accordance with which every Abkhaz constructs his/her life. (Butba: 2012)

The most important [...] aspect of *apswara* is the notion of **conscience [alamys]**⁹¹. To go against *alamys* is death for an Abkhaz. Other moral qualities that have gone into *apswara* as imperatives are **honour, dignity, nobility and love of freedom, a sense of duty, faithfulness and chastity**. But this unwritten code includes not only positive reference points. It also includes a system of taboos – *itsasym*... [O]f late, however, [...] under the cover of verbiage about ‘freedom of the individual’ and ‘free speech’ we often witness outbursts of cynicism and permissiveness... How useful for humanity would the wealthy experience of the synthesis of traditional Christian and Moslem values that are intrinsic to Abkhaz culture be! (2012)⁹².

He then called for “*the building of our own democratic state [...] founded on the traditional national idea of apswara*” [My emphasis, MC]. Another informant, an elder, spoke of the need for the state to have an official, “like the third secretary in the Communist Party organisation who was responsible for ideology, to be in charge of enforcing the ideology of *apswara*” (personal communication 2012). Yet another Abkhaz nationalist state-builder informant, argued: “Only our own independent state with our own language can represent the real traditions of the people, their values and their customs; and those can only be protected by a state which codifies *apswara* and sees how these can be incorporated into laws” (2012).

⁹¹ “Incorporates both a sense of individual conscience and also a more collective ‘conscience of the people’”. Hewitt, G. 1998a. *The Abkhazians* Ed. George Hewitt. New York. St Martin’s Press. p.284.

⁹² I leave aside comment on that formulation of the “synthesis” as underlying *apswara* which, I found, did not represent the last word on the indigenous belief system which would not tie in with Butba’s view, as seen in chapter seven.

An interesting proposal for formalising *apswara* in a parallel structure to law, or to replace law, that was made in 2004 has recently been revived by David Dasania (2014). It has similarities to the Millet system that pertained within the Ottoman Empire and also, at different stages within the Tsarist one and the early Soviet period. Under it considerable autonomy was accorded to perceived ethnic or religious groups to determine their own rules of conduct so long as they acknowledged the overall command of the state, paid their taxes and fulfilled certain obligations such as military service. He has stated that there is rising local interest in his proposal that there be a Union of people with Abkhaz surnames together with those of the Abazin⁹³. His draft constitution provides for the Union of all lineages through each choosing one person according to internal lineage procedures, irrespective of its size. Each representative of a *name* would be at least thirty years old and a parent. Each lineage would have collective responsibility for the conduct of its members, especially for answering for any “personal insults and offending the dignity of others”. It would be charged with activities in Abkhazia and among the Abazin to tackle “cultural, demographic, social and humanitarian problems facing the peoples”, by means of “ethnic diplomacy” – to settle conflicts. He singles out from among the problems to be dealt with, the struggle against “lawlessness, corruption, criminality and an unwholesome way of life”. The Union would aim to restore among young people “the progressive traditions [...] of respect for elders, women-as-mothers, people of different religious convictions, the customs of the ancestors, the laws and rules of blood and spiritual kinship, love for the homeland, charity/mercy, the values of serving society and the state” (Dasania, 2014). In an addendum to the draft rules, Dasania added: “Today the lineages carry no responsibilities before the people and the state. It is for that reason that representatives of influential lineages do as they please, commit crimes and their lineage status is not affected by this; what is this but chaos?”

⁹³ Also known as Adyge and Circassians, an ethnic group of possibly 50,000 people whose language is very similar to Abkhaz, and who live in the Russian Federation’s north Caucasus Karachay-Cherkess Republic, across the mountains from Abkhazia.

One might consider whether this project does not include a number of contradictions on the law-state-*apswara* relationship and leaves without sufficient analysis the influences that are intrinsic to a state that embodies inequalities and hierarchy, as I have presented these. Also, it carries a lot that suggests the codification of custom, albeit not its incorporation in the state. In Dasania's project I found a lack of clarity on the relationship of custom to law should conflict arise between competing demands. None the less, the setting out of the project illustrates how some Abkhaz might see the way forward for dealing with the problems that they face.

Whether the Abkhaz will continue to adhere to direct lineage-based self-government through custom or move radically to incorporate and fossilise some customary practices into laws is to be seen. My research and discussion of Abkhaz conceptions and practices does lead to questioning current anthropological theory on custom and law and about interpreting the experience of statehood in other parts of the world. There law is relentlessly supplanting custom, leaving only some of its practices as subject to legal approval.

9.1.1 Heads of state's perceptions

Several years ago the then president Sergei Bagapsh rebutted accusations made by Inal Khashig, the editor of a local newspaper, that he exerted unfair extra-legal pressure on a journalist who had suggested that his family had profited from him being president. The president rejected the charges in the following words:

In my years as president, I have never reacted to any written provocations. No one harassed Inal Khashig when he was criticising the state. It was only when he wrote about my family – and in a vulgar way – that my relatives and a few of my close friends got angry. They sat him in a car, and they said to him: 'Now it's not just about the president; now it's personal.' But that's the Caucasus. Around here, you have to answer for insults like that" (*SpiegelOnline*,16.7.09).

In the event no action was taken against the newspaper editor, nor was the president's explanation of matters challenged. Those who disagreed with Bagapsh's conduct revealed in discussion with me that they were motivated

more by their view that the journalist he criticised was telling the truth than by the president's relatives having "a talk" with the journalist. There was between them no difference in principle over custom (the "talking to") and law. They supported the journalist because they believed relatives of the president had profited from his post, and spoke of a paucity of prosecutions of known/believed-to-be corrupt officials.⁹⁴

When I met President Bagapsh a year later he told me: "We want a state based on a constitution and founded on the norms of international law. That requires new laws and a new way of thinking". When I asked how *apswara* could be reconciled with the individualism and inequality that were increasing in society and were protected by the laws on private wealth generation his response contained a recognition of a divergence between custom and the laws, both of which he wanted:

Of course, capitalism is predatory [...]. For a person occupied with business *apswara* is the last thing he thinks of and his business comes before everything else [but] the foundation must be the law [...]. Today we must have the law, above all else, law which takes into account traditions – something that is very complicated. The time has passed for the President to be the head of a clan or an arbitrator. [*apswara*] is, in the first instance, respect, respect for elders, respect for the family, for the father, for the mother. There is no *chinopoklonstvo* [toadying to ranks, MC] here unlike in some countries (July 20, 2010).

His endorsement of his relatives and friends giving the journalist who criticised his family a 'talking-to' shed light not only on contradictory outlooks within society but also on the contradictions not having been resolved.

According to the offending newspaper report the relatives and friends of the president who 'talked to' the journalist included David Bagapsh, the president's nephew and head of his security and his nephew, Kondrat Samsoniya, Sukhumi Deputy and Director General of the "A-Mobile" telephone company and head of an advertising department of Sukhum Mayoralty. According to some allegations, they took the editor from the centre of Sukhum outside the city and threatened his life (Anon, 2009).

⁹⁴ Mr Bagapsh has expressed concern that "today many business strictures are run by criminal elements" and recognised that there are cases of corruption among state officials (ApsnyPress 26.5.2010).

Informants in general did not see the problem as a contradiction in principle between custom and law of the kind expressed by President Bagapsh in his conversation with me. Customary practices are widely spoken of as deriving from a higher authority than that of the state and enshrined in law, taking precedence over law through moral imperatives of what is understood by tradition, by *apswara* and *apsua tsas*. It fits with a concept of ‘natural law’, something of a variant on “Render unto Caesar the things which are Caesar’s, and unto God the things that are God’s” (Gospel according to Saint Mark 12:15). In discussions with Abkhaz informants I commonly found they saw no necessary conflict between what Sophocles’ eponymous heroine Antigone raised in her appeals to the laws of the gods [read custom in our context] above those of the state (Steiner 1984). Informants were puzzled by my suggesting there might be a conflict of conceptions of custom and law if the ‘laws of the gods’ are taken to mean *apswara*, the laws of the mystical ancestors and the supernatural that is sited at the shrines. “Can’t you see that everything must have principles as a foundation and for us laws or anything else we have or do must be founded on *apswara*!” one informant told me angrily, as if I was missing a simple point (2012). One Abkhaz lawyer I discussed this with put it to mean they coexist. As my fieldwork shows, the role of the state here has little relevance to how it is perceived in capitalist countries.

While extolling the virtue of *apswara* for being “in the first instance, respect, respect for elders, respect for the family, for the father, for the mother,” Bagapsh did concede that there was “a conflict between the tradition of reconciliation and that of punishment [but] the foundation must be the law” (2010).

The first Soviet head of independent Abkhazia, Nestor Lakoba, is known for his modest conduct, as exemplified by being available in the 1920s to any complainant or petitioner, and this was repeatedly described by my informants as *apswara*. It is still accepted practice that, despite murder attempts, presidents are today frequently available in coffee shops. There is in Abkhaz no equivalent of the Russian word *gospodin*, which is “sir” in

English and in use in the higher and richer echelons of today's Russia; and the Abkhaz are proud of that.

Two years ago, marking Constitution Day, the government's newspaper had President Ankvab, President Bagapsh's successor as president, saying, in the third person about himself:

As far as gaining reception by the head of state [the president], then the order for that is long established and is known to all: all citizens may avail themselves of the opportunity. What is more, one thing is absolutely certain: no intercessions, no gentlemanly status, and least of all being a relative or namesake of A.Z.Ankvab can positively influence the order of getting in to see him. In fact these would probably produce the opposite effect" (*Respublika Abkhazia* 23.11.2012).

The wording of the laws encourages customary procedures: that all matters that can be resolved outside the courts should be kept out of them. Yet, the increase in the number of car thefts and rape (a rare thing in the past), of drunkenness and the use of drugs, of burglaries and "hooliganism" (rude and intimidating behaviour in public places) and corruption, have led informants to seek stronger redress from the laws and protection by its enforcers, especially the police.

A countervailing trend to that of strengthening custom is to demand that legal agencies be used to curtail anti-social behaviour in the broadest sense, and accepting that customary practices are not able to tackle the historically new phenomena and consequences of private ownership of property and business, of means of production, and widening class differentials in wealth and power, that are felt to be narrowing the scope for the resolution of disputes by customary practices that are grounded on principles of egalitarianism. Today those principles are being undermined more than they ever were in the pre-Soviet and Soviet periods. According to Paula Garb "The Soviet state also objectified indigenous custom that it sanctioned, which has left a powerful legacy in the thinking of post-Soviet anthropology and of the intelligentsia of indigenous peoples" (2000: 8).

A new code of laws endorses the commercial relations of a market economy, abolishing the previous Soviet state's wholesale public ownership

and control of the means of production and allocation, and selling some of these off to private interests.

Abkhaz insist that the laws the state enacts should be based on or accommodate Abkhaz custom. There is evident a two-way pull between “traditionalists” who hold aloft the banner of what they identify as ‘tradition’ - customary practices, and some “modernisers” who want to sweep these away, viewing them as barriers to building a modern state. More important for examining theoretical approaches to custom and law is another contradiction that is as follows. If customary practices and the very concept of custom are founded on principles that are different from those of law, then it might be illusory to hope for law to enshrine or be based in custom.

That matters cannot be reduced to seeing all transformations in Abkhazia as a move away from Soviet practices is ethnographically detailed in my chapter four on custom, and chapter seven on beliefs and the unanimity principle. It is not only that old practices are widespread, but the practices for modernisation have elements that take the reverse direction from neo-liberal privatisation as the state is expected to dovetail into *apswara*’s concepts, including those for universal social provision.

How the Abkhaz implement collectivist responsibilities through the state has been reported in a number of recent newspaper reports that include the bringing back into state ownership the once privatised kindergartens, on the grounds that only public ownership could safeguard what the public demanded. In that tiny country plans are being implemented to build kindergartens in 105 villages and another 100 in towns. The Church of Simon the Zealot (*Kanonit*) is being repaired by the state both as a shrine and a tourist excursion feature. Abkhazia claims to be the only state where the Cabinet decides the volume of fish to be caught in the sea. It provides, gratis, houses to men (sic) with upwards of ten children. The collective farm lands have not been privatised. Public money is used to repair housing in towns. All citizens can appeal directly to the head of state for financial assistance with health, housing, education, foreign travel and much besides. MPs have funds

for social provision and customary institutions exert their powers to control the direction of its allocation.

It might be argued with justice that such measures of social provision are also features of capitalist countries, especially in Europe. Jane Guyer has pointed to the importance of fairness in a moral economy of allocation exercised through rationing during the Second World War in Britain, in her discussion of price formation (2009: 205). However, the trend in Abkhazia today is an expansion of state funding at a time when there is curtailment of social provision right across European states, including all the countries that were socialist and where capitalism has now been espoused. Abkhazia has resisted being included in the cutbacks of social provision that are a general feature of European “austerity” programmes.

Today’s reality is a parallel existence of largely unquestioned extra-legal customary practices alongside the availability of a formal framework of state laws, themselves influenced by *apswara* conceptions – to be drawn on or ignored at the discretion of customary rules. That the Abkhaz want to maintain the basis of *apswara* in its lineal descent structures and their direct democracy is evident.

9.2 Moral economy and trust

I find that the Abkhaz conceptually accommodate what at first glance is a confusion of pressures from changing modernisation-driven factors and daily customary practice demonstrated in attitudes to a coexistence of custom and law, with priority for the first. In another context, that of north Pakistan, Michael Fischer’s discussion of accommodation of new practices to old concepts also raises the institutional accommodation of apparent confusion (2006). In Abkhazia the accommodations are arranged around dominant custom and a state that is denied free agency, let alone the sole right to exercise power.

Anthropological discussion of ‘the moral economy’ shows that societies have been able to reconcile apparent economic and political

opposites or, more accurately, resist the inequalities that have in most societies been a feature of private industrial modernisation and the generation of surpluses to what were earlier perceived as daily needs in societies, as discussed by Pierre Clastres in a broad panoramic sketch of different societies where this is the case (1989 [1974]). However, in that work the scholar, as do others, almost confines his research to hunter-gatherer societies and some that were introducing agriculture, or had moved in the reverse direction, instancing North American tribal societies for the latter. For him it is the political birth of the state that determined those “breaks” in societal continuities. This is plausibly presented, however debatable might be his reversing the determinant temporal sequence of economic → political (state formation) direction of change, to one of political → economic (Ibid.: 202), as Clastres does not agree with Marx’s view on the place of what Clastres calls the necessarily “despotic” state (Ibid.: 204), in relation to the manufacture of a surplus and class power. Yet he concluded by leaving open whether peoples’ histories are about class struggle or struggle against the state as such (Ibid.: 218). He is also interesting for challenging anyone to define what the level of a “subsistence economy” is, something that Marshall Sahlins has looked into, again for “primitive societies” (1972). James Woodburn is among those (that include Howe 1978, Renshaw 1988, Flanagan 1989) who have discussed societies that are “assertively egalitarian” (1982: 431) through preventing unequal accumulation by its members, based on researching the Hadza hunter gatherers of Tanzania. In passing he does, however, express a regret, that most of the rest of mankind is “so enmeshed in property relations” that it does not embrace “parity of esteem to hunter gatherers” (Ibid.: 448). One might mention that in the republics of the Soviet Union, including Abkhazia, there was assertive egalitarianism, starting with, for instance, limits on individual land usufruct.

It is here that the anthropology of the moral economy provides a link to understanding how the Abkhaz see things and in what direction they might turn the relationship of custom to state in the future. To be remembered is the quotation given earlier: “If the law intervenes there will be war.” To those

words I add those from a villager of whom I had asked who the land I saw from his house belonged to: “I think my boundary is over there [and he pointed to a hill] but I have never thought about it. I can only work [i.e. cultivate] so much, so that is what is mine at present” (personal communication 2012). I found that was the view of land ‘ownership’ of others I questioned, that land that was worked by a peasant or a farm could belong to him (sic) as an individual and member of a lineage. The exceptions were what are considered communal properties: collective farms and state land used for agriculture or built on, land left fallow, forests and rivers. The moral link of fairness was brought by the labouring that determined use rights in the peasant’s/farmer’s thinking. The state’s job was to help the worker on the land and that was that.⁹⁵

The strength of the ideological legacy about communal land ownership of Soviet times, taken together with the imagined absence of individual land ownership earlier, there is no demand for the ‘return’ of land to pre-collectivisation proprietors that is seen in other ‘modernising’ countries, as described by Derek Fay and Deborah James (2008).⁹⁶ The fact that there were the beginnings of capitalist private land allocation in Tsarist times has become irrelevant as, to quote Balasz Jarabik, “Fiction is often more important than reality, as it drives the popular narrative” (2014 web site).

The theme of fairness and the values that are held to seek it have been stressed by a multitude of scholars writing about common features in the societies of the Soviet Union. According to Caroline Humphrey: “From a series of practices and institutions united by a Soviet moral order, the fragmented state has become a complex of operations by officials who are

⁹⁵ In parenthesis I must add that the particular farmer I have just quoted was somewhat exceptional as his grandfather had privately owned his land, received as a reward for having been “loyal”, as he put it, to the Tsar and fought against the 1877 Abkhaz uprising against Russian rule. But the influence of the Soviet period, when land was nationalised, has clearly left its mark on the thinking of that person whose pre-Soviet grandfather had owned a clearly-demarcated piece of land.

⁹⁶ There is nothing similar to the practices in, for example, the once-British colonies of Kenya, Southern Rhodesia (Zimbabwe) and South Africa where popular movements seek a restoration of land that was alienated by the colonial powers.

increasingly rewarding themselves” but “notions of mutual aid remain influential” (2004: 98). She was writing about Buriatia but the picture is similar elsewhere. In the same collection of essays, Rigi, writes that in Kazakhstan: “... there is a sharp contradiction between the ethical values of the majority of the population [...] and the newly established private ownership of the means of production and the principles of the market economy” (Op. cit.: 116).

Camps which are divided on which direction the country should take are taking on organisational forms in Abkhazia. President Ankvab gave his support to the reformation of what is seen as a ‘presidential party’ called “Aitaira”, which is described as a “social” movement to support the government – something that had an existence from 2001 to 2010 to back his predecessor (ApsnyPress 18.4.2014). An association of oppositional political groups denounced the government in early 2014 and successfully demanded its dissolution and replacement by one of “national trust” through a dubiously-convened “*skhod*”. Its principal spokesman, Raul Khadzhimba, blamed the government and, especially President Ankvab, for high unemployment, the “practical destruction of the village, which for centuries was the basis for preserving our people, [and] its language”. He asserted: “Lawlessness, chaos, corruption and criminality on a massive scale have become the norm ...” and called for all people to express their views, as “since ancient times the people of Abkhazia decided on their fate at national assemblies” (IA Regnum 30.4.2014). One will note Khadzhimba’s appeal for a *skhod*, a customary institution, and also for a government of national trust – a nod in the direction of the Abkhaz customary striving for reaching unanimity on issues. At the same time the sharpness of the tone of his criticism is somewhat new and followed on a major article published in the country’s official news agency less than five months earlier. Ostensibly on self-censorship it was a thinly disguised call for open criticism of all shortcomings and for people no longer to be governed by the fear that any criticism of conditions in Abkhazia would be grist to the mill of the Georgian anti-Abkhaz government (Zhidkov 2013).

Khadzhimba felt it necessary to make clear that he was dissociating himself from the coup in the Ukraine: “We are not advocates of ‘maidans’ and mass disorder but each of us has the legal right directly to express our attitude to the political powers” (IA Regnum 30.4.2014).

James Scott has discussed the moral economy as a set of values held by peasants as “fair” and not based on the economic order of values of capitalist societies (1976). In a discussion of his work William Roseberry pointed to Scott’s consideration of “a subsistence ethic” which demands that “those who appropriate peasant surpluses offer guarantees for the continual survival of the peasant household”. He also referred to lasting “pre-capitalist traditions” (2004). As seen in the quotation of an Abkhaz peasant/farmer in 2012 there are other sides to considering an economy moral or fair that remain from the Soviet period, and also the presence of widespread common lands before that; so are both of archaic and of more recent vintage. I found among the Abkhaz, as I have in other parts of the post-Soviet space, including the Ukraine and Russia, aspects of a moral outlook on economy that are not primarily reactions to capitalist social relations, as is found in Scott’s and Roseberry’s scholarship, and also in E.P. Thompson’s research on what pertained in 18th century Europe (1975). They regard the value of things outside of market price determination, as derived from a valuation that is equal to the input of labour into a product; rejecting its alienation through market mechanisms. I came across instances of this in Abkhazia, when I have been offered for purchase buildings, including completed or half-built factories, at a price determined by what it had cost to construct them and not what they were “worth” on the market. The point here is that I found that concepts of a moral economy can also exist in an industrial society. They lie deep in the consciousness of the Abkhaz and are relevant to my conclusions in the next chapter.

Preliminary to moving to that, a brief glance at trust and relations among the Abkhaz. Traditionally relations have not been contractual obligations but were formed on the basis of trust. That still largely governs, but contractual relations, however qualified, are encroaching on the person-

to-person settling of matters that was retained to an extent in Soviet times. Stephen Gudeman has written of trust (in markets) as “an ambiguous relation, for it would seem to deny the exclusive presence of the self-interested actor in the market” (2009: 20). At the same time, contract and individual relations should not be seen in too simple a way as mutually exclusive. In a discussion with an Abkhaz who retained Uzbek and Kirgiz labourers to clear his garden and build on part of it he confessed to me:

It is strange. I am the employer and we have agreed on payment for their work, but they sometimes change the amounts they want; usually wanting less than was agreed and sometimes adding labour that they refuse to be paid for. It is strange - I am the boss but the Uzbeks and Kirgiz see us as more like equal partners who are engaged in a common project. When you were coming here [to the house] today I asked them to do something extra because I had a guest coming. They did it and when I gave them some money they returned it, one of them saying ‘we have a guest coming’, meaning they feel like hosts because you are coming from England and they feel they should not let me (and themselves, so they think) down – so the extra work was not for pay. I trust them – *doverayayu* – and they trust me. It has become so relaxing and I sometimes do them favours, such as helping them fill in documents and once I arranged for one to see a doctor. It is really the way we like to do things in the village. Perhaps it is because we were all brought up under Soviet power – *vlast*; or perhaps it is because one should not take money for everything... (June 2012).

The relationship had much in common with the trust and obligation of Japanese bankers and clients, and of a Chinese employer and his workers, the latter as seen in the Chinese film *Beijing Bicycle* (Xiaoshuai Wang 2001), to be contrasted with the treatment of a similar plot in what follows on thieves taking someone’s bicycle in the Italian *Bicycle Thieves* (Vittorio de Sica 1948). In the second there are only legal contractual relations, and in the first these are modified by their being embedded in custom. Indeed, ideas about fairness, trust and a moral economy are brought together in Abkhaz concepts and expressed in current debates about *apswara* and the state. The fair and moral economy would be embedded trust, in a fair state that was to assist in the implementation of *apswara* by the lineages.

Individual relations at times today take the shape of widespread and socially supported resistance to state law, as individuals still interact on the basis of a concept of fairness. It might be worth further to study how trust

might undermine the state's usurpations – not as a simple opposition to it, but as a qualification of state powers because the state is not trusted. Lack of trust has an aspect that can denote not simply that trust is missing but that the state is untrustworthy – as when a relationship of trust is not with, for instance, me, but with another person and, therefore, against me. This could be an interpretation of Michel Foucault's take on the relationship of state and 'governmentality' and points to the importance of avoiding adopting an over-polarised vision of the state and the individual.

When the Abkhaz sometimes involve the state in disputes they are able to exploit its 'facilities' to enact decisions that have been taken under customary procedures. The state is restrained by Abkhaz lineage influences, customary institutions for reconciliation and the agents of the state's deference to these. The counter-tendency, for the state increasingly to legitimise growing inequality and private property rights, acts in the reverse direction. The powerful customary institutions limit state interference in direct democracy – making for a major area of complexity in state-building of the kind witnessed in other countries. This raises the notion or hope of bringing about a state that only facilitates the operation of *apswara's* customary power in new conditions. Consideration of that Abkhaz ideal gave rise to my entertaining the thesis that customary practices might be retained as the basis for state structures beyond the duration of today's turbulent circumstances and into a novel social structure founded on direct democracy – leaving to the state a co-ordinating role. This would involve giving more attention to the second of Marx's little-discussed dual characterisation of a state – that in addition to the defence of the interests of a dominant class or classes there is the managing of society as a whole, to rein in contradictions that arise that might lead to its own destruction. I am indebted to Professor Michael Fischer for the suggestion that developments in computer facilities such as Twitter could make the state, as normatively perceived, redundant (personal communication April 2014). Certainly, the massive mobilisation of people of late around demands and petitions, are understood by participants as acceptable direct pressure on the state to act as insisted on by a direct

democracy that bypasses delegated decision-making by the state. The same principle is recognised for referenda, but these can be manipulated by states. The element that makes these activities short of being direct democracy is the latter's requirement that there should be no delegation to agents, such as the state, of powers to decide on whether to implement what has been popularly decided.

From his anthropological study of the different forms of embeddedness undergone by the changing economy of a Uighur community in today's China Chris Hann brings forward persuasive evidence that embeddedness is possible in multiple ways, as the state itself evolves. Today, he finds that "the principle of the market [...] is modified by redistribution undertaken both by the state and by kin and neighbours in accordance with Islamic precepts" (2009b: 269). The villages studied are "highly autarkic [...] in which most work is unpaid and subject to the patriarchal structures of the household. [...] Labour, land and money have not been reduced to the status of [...] commodities" in a system he calls "embedded socialism" (Ibid.: 270).

In the conditions of Abkhazia the weakness of those elements of a state structure that do exist are so conditioned, restrained and kept weak by customary institutions that most of my Abkhaz informants do conceive of a state that abides by the stipulations of *apswara*, what Diamond called "the order of custom". It is on the implications of this and whether the state will become totally embedded into custom that I will conclude this dissertation.

Chapter 10 Alternatives available for the future?

[T]he major means of production and distribution ought to be socialised if exploitation of the many by the few is to be prevented; if, that is to say, egalitarianism in the economy is to be protected.

Kwame Nkrumah. (1967: 92).

The most fruitful investigative context for my research proved to be what Ernst Bloch called the identifying of new shoots that are coming into being in a society (1986), to evidence the possible directions that were offering themselves for the Abkhaz pursuit of a state based on *apswara*. This is consonant with Karl Polanyi's meaning of "embeddedness" of the economy in social structure, rather than in separate institutions which take on a life of their own – "the *deus ex machina* of state intervention" (1957: 63). It is to be contrasted with the "formalist" position that holds that change in the relations of production is mechanically the motive force; something that I identify as underlying the dispute about the nature of the state between Paul Bohannan and Max Gluckman.⁹⁷ Polanyi saw the state as arising from the evolution of markets that set their own prices, to dominate economics and to supersede the non-market regulation of prices. In a review of his anthropology, S.C. Humphreys draws attention to Polanyi's early inspiration from Marx and Soviet planning, for his belief in "the social and moral superiority of the centrally-planned socialist economy, guided by 'social demand' rather than by the demands of the individual consumers" (1969: 4-5). His "substantive" approach viewed social institutions and not economic determinism as having primacy in any society. The Abkhaz would subscribe to that through their social institutions of *apswara*.

As demonstrated in cases from the field, Abkhaz perceptions of what society should be like added up, in the main, to the pursuit of fairness and

⁹⁷ For Marx's view that this counterpoising of what he saw respectively as "economism" and "voluntarism" was a false one, see his Third Thesis on Feuerbach (1973: 92-95).

community, and against big inequalities in property ownership. They look back to many of these values as aspects of the Soviet era. Drawing on Marx's (and Ernst Bloch's) approach helped direct the research into custom and law not just to see a static image but to what might be the outcome of current contestation between capitalist state constructions and customary resistance to keep the state as its adjunct. The invocation of the past by Abkhaz informants was about how to see the future. My attending discussions among the Abkhaz, allowed me to participate and proved to be a rewarding aspect of participant/observation that removed me from the position of being seen as an outsider looking in. They opened up discussion of perspectives, which is what my research led me to consider was the most important thread for my topic. Customary practices, instead of the delegation of powers to state agencies, make the Abkhaz active participants in the resolution of current problems. There is present little that resembles being locked by tradition into the past. It places tradition in the present and, many hope, will remain so into the future, albeit through changing forms. Customary practices continue nearly a century after what, in the observation made by Konstantin Paustovsky, a Russian who was in Abkhazia in the early 1920s, gave it the appearance of "a country [...] locked as in a coat of mail within an amazing custom" (1966: 15). This "coat of mail" derives strength from being malleable.

The Abkhaz have retained much of non-state customary practice of "communalism". Kwame Nkrumah theorised on how such a way of running a society could be maintained in a modernised, i.e. industrialised, society:

To be sure, there is a connection between communalism and socialism. [...] In socialism, the principles underlying communalism are given expression in modern circumstances. Thus, whereas communalism in a non-technical society can be laissez-faire, in a technical society where sophisticated means of production are at hand, the situation is different; for if the underlying principles of communalism are not given correlated expression, class cleavages will arise, which are connected with economic disparities and thereby with political inequalities; Socialism, therefore, can be, and is, the defence of the principles of communalism in a modern setting; it is a form of social organisation that, guided by the principles underlying communalism, adopts procedures and measures made necessary by demographic and technological developments. (1967: 92).

Among what is new in the dissertation is its analysis of a society in which the possibility is entertained of reversing the order of priorities accorded to customary and legal institutions that we encounter in capitalist-state-ordered societies.

De Certeau 1984 [1980] and Scott 1976 wrote on how individuals might interpret and act on what they are presented with, the tactics of consumer behaviour. I found that the differentiation made by de Certeau between *strategies* to define institutions and structures of power, and *tactics* to cover what individuals do within the strategies is relevant to the Abkhaz. In the context of my topic such a differentiation opens up for consideration a re-conceptualisation of the relationship of “personal” to “public” such as is often found in anthropological discussions on gender, and “power” in societies that follow the “order of custom” as against law (Diamond, 1974).

Among the Abkhaz custom is conceived of as a component of a non-hierarchically morally ordered system for regulating relations which, therefore, questions the way that ‘legal pluralism’ is usually understood in Western anthropological writing today, as has been seen in my discussion in chapter two.

Understandings of the role of customary practices and of law have relevance to the processes of state and nation-building that has accelerated in recent times in various parts of the world, in a re-run of the intensive state-building of the 19th and 20th centuries. The traditional institutions of family and lineage, shown in dispute resolution and a national belief system – a non-“institutionalised religion” - exercise a strong hold on popular imaginings. Changes in such institutions and practices in the pursuit of modernisation under capitalism disrupt not only those institutions and practices but also the associated self-conceptions of identity within the community. They promote modifications and re-conceptualisations through new laws on property and the civil and criminal codes that could challenge the very basis on which customary practices are founded or, in the view of informants in Abkhazia, on which they depend. This is the case even where outward appearances of “tradition” may cloak new practices and conceptions.

These countervailing tendencies have been examined through their manifestations in the field, largely through cases of dispute resolution and the pursuit of personal and collective objectives, where moves to increase the role of law at the expense of custom may prove particularly disruptive. This has provided ethnography for the examination of institutional continuities, modifications and ruptures as Abkhaz press for their institutions to be enshrined in a state, to meet the requirements of popular traditional conceptions.

Having set out to look at the strength of customary regulators of Abkhaz society I was moved to examining features and concepts that allowed a take on the linkages that make up the webs that closely tie into each other: the overlapping of patriliney, exogamy, gender, marriage, religion, space, environment, ‘otherness’, assimilation, essentialism, blood, lineage and the multi-ethnicity-nationalist agenda, all topics which merit further detailed investigation in the field. These are maintained, certainly conceptually, despite urbanisation, demographic shifts, and some property privatisation, through the moral economy. For the post-Soviet area, writes Caroline Humphrey, “as in Soviet times, the political economy of the *kollektiv* (collective) – which can of course be defined at many levels from the household to society as a whole – implied not only enmeshing power struggles among those situated within but also a ‘moral economy’...” (2004: xxii).

10.1 A customary state?

Marcel Mauss envisaged the possibility of modern societies becoming based on the communal values he identified through gift exchange in non-class-divided societies in the conclusion to his major work of 1925. He did not discuss the state or political economy but hoped that reason would prevail through education. That being as it may, he did entertain the possibility of the extension of social provision and the redistribution of wealth being features of modern society. Others have addressed the practicalities, as against the utopian adoption of an idea, for bringing such things into being.

I am not suggesting a cultural relativist approach in the study of the Abkhaz and the trends within their society that can lead either to developed capitalism or to a state founded on direct democracy. The Abkhaz share the choices that are offered to people in other societies – of how socially to command the potential offered by economic expansion. This includes the possible course for increasing class differentiation – capitalism, the root of the challenge to custom. Can that be avoided or is that trend inevitable?

Whatever the officially-condoned mediation in disputes that involves the guardians of the shrines and the presence of these guardians on state ceremonial occasions, the establishment of a consultative Public Chamber for what is called “civil society”, and the existence of a state-recognised Council of Elders, it is significant that the recent appointment of judges throughout the country was of individuals with qualifications that are legal and not customary (ApsnyPress 30.7.2010), even if judges appear to be as much under the sway of *apswara* as other Abkhaz. Informants often spoke of elements of what the literature in Abkhazia describes in glowing terms as the virtues of *apswara* and *apsua tsas* as becoming lost or as atrophying, while others expressed the opinion that only the shape of *apswara* was changing.

Some anthropologists have furnished evidence that it would appear that states only accommodate customary practices widely when they are weak (Richard Antoun from a study of Jordan 2000: 443). Paula Garb has written the same for Abkhazia (Garb 2000: 4). However, Abkhaz informants consider that the Soviet state tolerated custom to a different degree than has been shown in scholarship in the colonial and neo-colonial societies of other parts of the world. I am led to conclude that the hold of customary practices in Abkhazia will decline should the course of social and economic change that is now taking place be maintained. Certainly Bagapsh’s words express such an expectation. Shortcomings in the workings of the state’s institutions, especially among its enforcers, have opened up space (as is also the case in other societies with weak state structures) for elements of “law-lessness” that are also “custom-lessness” of which I cited examples in chapter five that included the employment of gangsters who by-pass both law and custom even

if they are dressed up in the understandings of some as customary regulators. Abkhaz informants find that calls for fairness are not answered by the state and the egalitarian foundations for “traditional” custom (if such a term is permissible) are being undermined. The state is trying to reconcile this with its laws, the wordings of which allow, still today, for a place for the continuation of *apswara* and *apsua tsas* (without naming them) by tolerating them to the extent to which people are able locally to apply them. I should not like to underestimate the tenacity with which *apswara* and *apsua tsas* are held as powerful ideals. The contradictions that arise from wanting both custom and law are illustrated in the several quotations from Bagapsh. For the time being, at least, the Abkhaz approach to custom and law is an attempt to treat them as separate entities that are related by the dominance of custom. The relationship is fluid and scholars must return to and keep an eye on this topic to see how things work out. Here it is worth taking in some examination of the matter from other societies which are of interest for comparison.

Bennett refers to Kwame Nkrumah’s support for “the ‘Africanisation’ of the Ghanaian legal system” (Bennett 1985: 14, n.88). Perhaps more to the point when we consider the course that is currently underway in Abkhazia is Nkrumah’s contribution to a seminar in Cairo to discuss whether a socialist order could be arrived at without transiting capitalism and allowing for the “communalism” of custom (the *apswara* of the Abkhaz) to be retained: “Only under socialism can we reliably accumulate the capital we need for our development and also ensure that the gains of investment are applied for the general welfare” (Nkrumah 1967:92). Other scholars contributing to the same seminar where he said that included Soviet Africanist Alexander Sobolev, who questioned whether “the tribal community” as found in Africa at that time could sufficiently develop the productive forces he thought necessary for by-passing capitalism. He only very cautiously considered the possibility that tribal community could be so reorganised by “perhaps [...] preserving the democratic and collectivist attributes” to the same aim (1967:45). Around the same time, writing about Mongolia’s experience of transiting from feudalism to a socialist organisation of society, Academician Bazaryn Shirendyb argued

that “any country in which pre-capitalist relations prevail can successfully avoid the distressing stage of the capitalist formation” (1968: 126-7)⁹⁸.

The possibilities for customary land use have been considered more broadly in Russia and Germany. In correspondence with Vera Zasulich, a Russian revolutionary with whom Marx discussed Russian village councils of elders and communal land holding, the *obshchina* or *mir*, we find him entertaining the possibility that the communalist social structure: “can gain possession of the fruits with which capitalist production has enriched mankind, without passing through the capitalist regime” (1985: Vol 24: 346). Dave Renton cites a draft of that letter, in which Marx rhetorically asks a question and answers it, as to whether “the agricultural commune” in Russia, with only elements of private property “must inevitably come to an end? Not at all. Its innate dualism admits of an alternative: either the property element will gain the upper hand over the collective element, or vice versa. It all depends on the historical environment in which the commune is placed” (Renton 2001: 76/77). This presence of alternatives might apply to a consideration of Abkhaz conditions of our time, through the veil of *apswara*. The fact that Lenin later believed that the village communes had since disintegrated, making way for only ‘a capitalist regime’, so that the Zasulich vision of a direct transition from *mir* to socialism had lost relevance (Patnaik 2009), does not invalidate an idea that was not new when it was raised again in the 1960s for ex-colonial countries (witness Nkrumah). Today the Abkhaz hope to retain the communalism of *apswara* into modernisation. Such a social development is not expressed as striving for “socialism”. Neither Bennett nor have other scholars of law and anthropology discussed in depth this consideration of carrying forward in time the collectivist practices of non-industrialised societies and the customary expression of it that still exists among the Abkhaz, although that was touched on for Albania and China

⁹⁸ Since the mid 19th century, with the single exception of Japan before the Second World War, only four countries, with the exception of those that constructed socialist societies, have escaped the category of “Third World Country”: Taiwan, South Korea, Singapore and Hong Kong; and the countries of eastern Europe, the Caucasus and Central Asia that abandoned socialism over the past quarter of a century have all experienced severe declines in living standards, social services and provision for health, education, child care, old age and the family, and most are pitched into Third World category of poverty.

(Mara 1973) but in an article that unfortunately gives few sources from fieldwork.

There is a very real sense in which the Abkhaz, through their attempts to hold onto what they perceive is custom, are seeking in a novel way to achieve what Herzfeld has suggested should be the object of anthropology when he asked: "...how can anthropology contribute to a rethinking of the social that will make it, not the space of regulation, punishment, and blame, but rather that of relief, care and acceptance?" (Herzfeld 2001:217). There is room for further research on that.

10.2 Conclusions

I have raised some suggestions about the Abkhaz experience being interesting for anthropology as a whole on the relationship of custom and law across different societies and prospects for the future. In doing so, I have had to question and debate with some generally-accepted approaches in our discipline. The complexities of this have been made obvious. This suggests openings for further anthropological research and discussion, and for continuing attention to field work in Abkhazia, and of looking to the future for the Abkhaz. Rapid urbanisation and the denuding of villages in Abkhazia makes current anthropological studies of urbanisation, as illustrated, for instance in Italo Pardo (2004), Caroline Humphrey (2004) and Giuliana Prato (2009) relevant to further development of my topic.

Abkhaz battle to hold a set of values and practices together, as their self-identity is shown and experienced in what they do to preserve their way of life and manoeuvre within changing circumstances for this, as expressed in the clash of the practices and bases of custom with laws, illustrated in dispute resolution. Customary practices are conceived of primarily not as expressions of individuality but as idiosyncratic enactment of collectivist concepts.

With geographical dispersal of members of long-standing communities, matters that could until quite recently be communally dealt with, relying on traditional customary practices can no longer be done so in

the old way and recourse to law as an adjunct might provide a compensation for this. There is the possibility that expansion of computerisation and web networks can be used to overcome the problems brought for customary practices by geographical dispersal. Greater recourse to law could, on the other hand, weaken a pillar of custom – whereby decisions are taken by the community affected and not by outside specialised state agencies which, at best, employ delegated powers. In moving to towns young Abkhaz want for jobs, medicine, ‘things’, etc. that they hear and see presented on television as available in towns or abroad and not in the villages. The relationship of this to discussing trends for future development has been signalled.

There are widespread imaginings that there should be law but that custom should be preserved. The state is not powerful enough to assert a monopoly regulation of society and it remains to be seen whether this will remain the case.

The examination of the radical societal and conceptual transformations that are underway among today’s Abkhaz provides data to consider whether there is theoretical value in ‘post-Soviet’ and ‘legal plurality’ templates.

My fieldwork investigated understandings of custom and law, through dispute management, to question whether the Abkhaz consider how their traditional ways, their *apswara*, can be retained in a society with a written constitution and laws with state enforcement agencies. The destruction wrought by the war with Georgia and the dissolution of the Soviet Union and its system of social provision, the exodus of half of the population and the post-war blockade of Abkhazia stimulated a sharp upturn in nationalist sentiments and drastic measures to ensure survival of the Abkhaz as an ethnic entity. An important point that emerged from the field was that Abkhaz “notions of traditional culture” was in the plural, and were sometimes contradictory and conflicting. Not only are there different opinions but the Abkhaz often showed themselves to be well aware of this and of the fact that their expressions were also torn by contradictions between the polarities of

what were described as “the real” and the hoped for “ideal type” in a Weberian sense.

Taking the family as my starting-off point for orientation opened up opportunities for pursuing a number of relevant sub-topics for the instantiation of *apswara* practices through lineages and gender (Karim 1995, Stone 1985) and more broadly to include relatedness in the sense of “relatedness [to refer] to any kind of relation between persons, including those seemingly ‘given’ by biology and/or ‘produced’ via social interactions – and thus obviously intended to encompass formal and informal relationships of kinship and much else,” (Stafford: 37); custom and law relations, etiquette, beliefs in the supernatural (Clogg 1998, Chirikba forthcoming), disputes, reconciliation, hospitality, respect for honour, rituals, the role of elders and belief system, the house and land, as well as obligations and crime, the economy and politics. Legacies of history (real and imagined) also came into it as they bolster the essentialised ethnic consciousness of the Abkhaz self within *apswara*. Lawrence Krader (Op. cit.: 14) and Ernst Bloch (Op. cit. at length) both interestingly discussed the impossibility of fully reconstructing the past because the conditions that gave rise to the past are no longer present. All these topics deserve further research.

10.2.1 What found new - openings for further research

I found that in Abkhaz literature, as in Russian scholarly writings today, what is called *dosudebnoye razbiratelstvo* (pre-trial investigation) – what happens in preparing for the resolution of a dispute before it comes to court is treated in a formalistic legalistic manner; neglecting what are the most complicated and detailed activities - the customary aspects that precede or replace the legal *dosudebnoye razbiratelstvo*, as shown in dispute resolution. Indeed, at a conference in Sochi that brought together more than fifty scholars from Russia, including some from the republics of the north Caucasus and from Abkhazia, my contribution was the only one that raised customary procedures for preparing or avoiding court cases and influencing them, and on how custom may resolve the bulk of disputes among the Abkhaz (Costello 2013a).

My findings in Abkhazia question the Weberian theory that holds that the difference between custom and law lies only in structures of order in society, and not in them each representing fundamentally different societies. The opposition of state law and custom was eloquently and bluntly expressed by an Abkhaz elder: “They (i.e. state officials) do not want to give particular recognition to custom because what they support (i.e. the laws) can more easily be got round, but should you violate the customs of the Abkhaz (*apsua tsas*) you cannot get away from retribution for what you have done” (Kamkiia, n.d.). My research found, in agreement with Kamkiia’s findings that older people (and not only them) ranged, in order of importance for society, *apswara* (the Abkhaz moral code) top, then *apsua tsas* - customary practice - or *atsabyrg* –fairness, and only thirdly *azakwan* -the laws (Kamkiia, Costello 2013: 42). It confirmed the common belief in the high value placed on indisputability and sacredness in customary institutions where they operate without state interference and their distortion. Under *apswara* everyone knows the rules and is subject to and accepts their enforcement.

Western anthropology has a high price to pay for the contempt shown for Soviet anthropology, especially its ethnography. This is becoming apparent and Katherine Verdery, who has done fieldwork in Romania, wrote: “the disintegration of Communist Party rule [...] will reveal much analysis after the fact, as scholars develop the hindsight necessary for what they failed to grasp before” (1996: 19). Her major post-socialist work, “What is Socialism and What Comes Next?” did not, however, choose anthropologically to answer either of the questions, as she kept to an approach that examined the past of the socialist countries for their official state similarities through the prism of the émigré Hungarian economist Janos Kornai (Ibid.:19). Kornai’s theory was that the economy of the socialist economies was everywhere a bureaucratic “economy of shortage” which was incapable of responding to popular pressure and he did not delve into anthropology. Tatjana Thelen, tongue in cheek, says “the careful reader might wonder if other economies [other than socialist, MC] might not be affected by shortages as well” (2011:55) and points out that “perspective was to undergo

a curious shift from focusing on inefficient institutions prior to the change [to post-socialism, MC] to focussing on inefficient actors after the change” (Ibid.: 54). The object of that valid criticism is widespread today, is largely ignored and could do with being researched so as to introduce less hidebound discussion of previously socialist societies.

My research involved examining a contemporary issue, but one which is in part imagined by the Abkhaz to derive from mythology of their past, and how this is “read”; about “moving forward while looking backwards” in the words of Paula Garb, one of the few foreigners who studied Abkhaz customs in the field (2000:7). There is much value in recognising that, but anthropological theory is hardly likely to be advanced by an approach that accepts that the past can be more than partial and, in a way, something ‘lingering’, to explain fully current outlooks and actions.

While Abkhaz orally subscribe to the idea of a need for law enforcement, to the need for government and police, this was, for most informants, only for the formal accoutrements of a state to be adjuncts to *apswara* in order to tackle problems that have arisen from what are described as the extraordinary conditions of the post-war years which led to the break-up of communities and resultant crime, disputes over property and damaging of traditional gender roles. Their conception of the “customary state” is a very different one from the states of established capitalist political economies. Dasania’s cited project for a “Parliament of Lineages” illustrates this. With hoped-for improvements in living standards and stability, and with security reinstated, informants spoke of their expectations that there would be a strengthening of society by making it more community-grounded, by custom, *apswara*, and by practices from Soviet times that fitted this. These hopes were even expressed by those whom I observed not themselves keeping to traditional etiquette and gender roles in their daily conduct, who were abandoning communal approaches, and by women who decried the very inequality of genders they saw as part of custom.

The disruptive effects of the breakup of the Soviet Union, the war and blockade that followed and the non-recognition of independent Abkhazia by

other states saved the Abkhaz from joining the headlong rush into so-called “shock therapy”⁹⁹ to destroy socialism – led by “Communist” rulers of the other states. The Abkhaz were fortuitously given something of a ‘breather’ by being forced to rely entirely on themselves for the survival of their state, without the advice of neo-liberal experts from abroad. It has not gone through the period of ‘chaos’, a term for massive social destruction that provided the space for self-enrichment of a minority of “oligarchs” at the expense of everyone else (Nazpary 2001). In Abkhazia the strength of custom pulled the Abkhaz through. The latter that has been described for other former Soviet states. They were, thus, granted time to assess the effects of the “therapy” on the other, guinea pig states, and today find little in them that attracts in that capitalist direction for modernisation. Customary practices were strengthened and now allow the Abkhaz to consider a different transformation of society, a society over which statist and customary forces are currently competing. The outcome of this is not settled.

There is, from the evidence, no intention of having a two-tier system of laws and courts as found some post-colonial, neo-colonial systems. Calls are made for another approach: for incorporation of “factually existing sub-systems of customary laws [sic] into legislation” (Bartsyts n.d.) and such as Dasania’s project.

Attention in my research was concentrated on the evidence of customary practices in the management of disputes. Informants have heavily qualified support for some laws but generally did not agree with the approach shown in Bagapsh’s call for law to be supreme (somewhat contravened by his own practice in the incident with the offending journalist) and looked to strengthening *apswara*.

The question of whether the state as currently conceived and its mechanisms can be embedded in custom is raised by the Abkhaz from their experience and their practice of avoiding state intervention. What are considered the prerogatives of the state in many countries are in Abkhazia

⁹⁹ The phrase of the US economist Jeffrey Sachs to denote the demolition of socialist structures and institute neo-liberal total freedom for the market and exclude state ‘interference’ and provision of social services - that impoverished and brought the countries of the former USSR and of eastern Europe to their knees in the 1990s.

those of custom, that is, of extra-legal practices. There are challenges made to this as some capitalist practices, such as prioritising individual success over the collective become backed by laws. This not only goes against the understanding of custom but also against the theoretical basis and memories of the previous collectivist ideas of the Soviet system. Although customary practices have not shown themselves able to retain the total hold that its advocates would wish for, its strength is still evident and, should the direction of development be changed in Abkhazia towards retaining collectively-owned property then the subject would need to be re-examined. After all, the establishment of the Soviet system early in the 20th century by a state did greatly influence property and power relations to the benefit of collectivity, and stopped in its tracks the pre-revolutionary reforms that were stimulating the growth of capitalist relations. The contest between custom and state in the present takes on a unique form of ‘coexistence in conflict’. People do not go to court to obtain legitimacy for actions they have or will take in any case.

State patronage is widely reported today and the subject of who should hold the purse-strings for disbursements: the president, MPs, local authorities or whoever, is a matter of contention and dispute. These are only formally resolved by state agents, but in reality are strongly influenced by the power of kinship links and pressures. What in reality is opposition to the state acting outside of *apswara* is carried out by ignoring it and the state agencies are powerless to counter custom. This ‘ignoring’ is compounded by judges, the police and other agents themselves, all agreeing that custom must take precedence.

The words of Feldbrugge (1977:38) about inevitability cited earlier are open to question. Judging from Abkhazia, his comment that there was an automatic decline in ‘traditional’ ways with growth of “urban and industrial civilization” does not appear to be as automatic as he presented it. It could be that his mechanical (see O’Laughlin op. cit.) view of change might not stand up where urbanisation, etc. does not involve underlying changes in the ways people find to adjust and retain control of processes. Whether the capitalist state-builders are successful will decide the resolution of the divergences.

The Abkhaz have recourse to laws on occasion to fill in gaps (e.g. for settling property that never was linked to lineage, like flats in town) or to supplement when custom is powerless to tackle some forms of new crime, something that is associated in the minds of the Abkhaz with new class differentiation. The area of what underpins recourse to law does require more investigation.

Old beliefs are not able to nullify the adoption of laws that now reflect the end of the Soviet order but are a defence against them being freely enacted. This raises the question: Can the law continue as an adjunct to custom or, to put it more strongly, be embedded in it? Custom is conceived of as an ordering of a non-hierarchically morally ordered system for all-embracing regulation of social relations. It, therefore, is different in principle from 'legal pluralist' approaches. Some scholars among the Abkhaz favour codification of social practices (Khashig, 2011, Bartsyts, M. 1999) and there are a number of works which would present *apswara* as a set of values and practices taken out of social, economic and historical context to offer it for universal application (Yagan, 1999, Kuprava, 2007, Biguaa, 2010).

There is the 'fitting in' of new requirements and circumstances, their rationalisation into an evolving set of the practices and incorporation into 'custom'. This tallied with the examples of the ideational mechanism for this in north Pakistan described by Michael Fischer: its application to give a customary imprimatur of first cousin marriage to one that is not (2006). It is similar to Roman Catholic Papal mechanisms to bypass, overcome or adjust a religious ban on divorce by 'discovering' circumstances in the family histories of the partners to a marriage, so as to make the marriage illegitimate and so to be nullified.

A related example of incorporation of 'suppressed knowledge' that is practiced among the Abkhaz was given me by David Dasania when he described how gossip could be opportunistically used to allow for delegitimising a marriage (2008, personal communication n. 0049). Thus, light can be publicly shed on normally suppressed knowledge about a marriage to show it was contracted illegitimately – the use of gossip to bring real or

imagined skeletons out of a person's cupboard to point to a supposed incestuous marriage earlier within the partners' lineages. Dasania said the knowledge could be used against marriage partners if they were judged not to conduct themselves in suitable manner.

The same covers known cases of taking a second wife, having a child other than by the legal father, woman marrying for security (including Abkhaz women marrying Uzbek immigrants) and immigrant men marrying for property and children, especially to have a son. I have described the case in a village of the acceptance of property inheritance shifting to a female line as another instantiation of meeting the demand of circumstances. In the words of a female informant in 2008 (n. 010): "life asserts itself", who then added: "not everything changes". The ways this is applied by the Abkhaz can provide rich pickings for further students and, especially, to research how broad its boundaries might be - the boundaries of flexibility and contingency within *apswara*.

The influence of changing times is acknowledged not only by older people who regret the passing of what they say (and imagine?) was the rigid application of customs in times gone by, but I found that *apswara* is also, and very much so, argued for by many younger people.

I have not gone into the relationships of status, prestige and hierarchy and that is a topic that deserves further research in Abkhazia and I found Juliet du Boulay's work on a village in Greece (1976) a stimulant to considering such research.

The study based on cases of disputes, their resolution and compensation procedures, values, social structures and institutions, and adjustments adds up to there being a society which is considered as customary, and is so in the sense that the exercise of power is by no means all-encompassed by laws, nor regulated by the state's enforcement agencies, but largely the reverse. The pressure of developments is in the direction of growing tension between the egalitarian-based direct democracy of custom and the values of increasing stratification and hierarchy of nascent class differences.

A powerful customary self-assertion lies in what I have called the unanimity principle and extra-parliamentary, direct democracy that is aimed at insisting that the state or local authority has power to endorse or reject the holding of public assemblies, but that does not affect assemblies in the villages of Lykhny and Myku [Mokva]” (*Ekho Abkhazii* 5.3.2013), which traditionally give voice to the two geographical subdivisions of the Abkhaz. Notwithstanding that regulation an unsanctioned mass assembly in May 2014 in Sukhum demanded and achieved the resignation of the president and his government. So matters are not straightforward in the custom-law tug of war.

The high status of the collective is illustrated by the fact that according to the Constitution of the Abkhazian Republic (2001: 40) the President does not have the right to dissolve parliament – that is something reserved for the members of Parliament themselves, again an approximation to customary beliefs.

The further study of this unfolding process will benefit from discovering what new emerges from the contradictions. It certainly does not lie in imagining a resuscitation of the past, real or imagined. The extent to which the past does leave its footprints, I suggest, lies more in the egalitarian principles of the Soviet period and in mythology about a pre-Soviet state of social harmony. Further anthropological research among the Abkhaz and in Abkhazia generally, will provide rewards to investigators of custom and law and can be well extended beyond the topic of dispute resolution. For the moment the law is an adjunct to custom.

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APPENDIX 1

Comrades' Court

(*tovarishcheskii sud*), in the USSR, an elected public body charged with promoting the education of citizens to maintain the communist attitude toward labor and a respectful attitude toward socialist property, to observe the rules of socialist society (through a fostering of a collective consciousness and mutual assistance), and to respect the honor and dignity of the Soviet people. The work of the comrades' courts consists mainly of preventing violations of law, preventing formation of an atmosphere of tolerance toward any antisocial actions, and educating citizens through the force of persuasion and social influence. The procedure for organizing comrades' courts and the competence of such courts are determined by the statutes on comrades' courts adopted by the presidiums of the supreme soviets of the Union republics. In the RSFSR the existing Statute on Comrades' Courts was adopted by the Edict of the Presidium of the Supreme Soviet of the RSFSR dated Mar. 11, 1977, with subsequent revisions and amendments.

Comrades' courts may be established at enterprises, institutions, organizations, and educational institutions upon a decision of the general assembly of the collective of the working people or students. They may be established on kolkhozes, in apartment houses maintained by housing offices or apartment house administrations or united into street committees, and in rural population centers (sic) and settlements upon a decision of the general assembly of the kolkhoz members, residents of the apartment house, or inhabitants of the settlement and with the consent of the appropriate executive committees of the soviets of people's deputies. Comrades' courts are elected by open ballot for a two-year term; their size is determined by the general assembly.

Comrades' courts hear various types of cases: violations of labor discipline, such as absenteeism, lateness, and premature departure from work; carelessness in work performance; minor offenses committed for the first time and not representing a grave social danger; petty hooliganism and petty profiteering; incidences of consumption of alcoholic beverages on the street or in yards, parks, or other public places; and property disputes between citizens involving sums up to 50 rubles, with the consent of the disputing parties.

The statutes on comrades' courts contain a list of measures of social influence the courts are entitled to apply to offenders. These measures include obligating the offender to make a public apology; issuing a comrades' warning, social censure, or social reprimand; and imposing a fine. In hearing cases against violators of labor discipline, a comrades' court has the right to recommend to the administration of the enterprise that the violator be transferred to a position with lower wages.

If a comrades' court finds that a violator should be brought to trial for criminal or administrative responsibility, it forwards the case materials to the appropriate bodies (The Great Soviet Encyclopedia, 3rd Edition (1970-1979). © 2010 The Gale Group, Inc).

APPENDIX 2

Constitution and Assemblies



Monday, 02 June 2014 14:10

Center for Humanitarian Programs, Sukhum, **Liana Kvarchelia**

The president left, but the sediment remains. Even those who strongly disliked Ankvab say so.

Why do so many people, even those who did not vote for him, feel offended? Because no one asked their opinion. Because an anti-constitutional solution was imposed on them. Because they were threatened with the use of force. Perhaps many people who are perturbed by the coup would have rejoiced if Ankvab lost the election. But there was no election. And the game was not played by the rules.

Over the last few days my friends and I met with different people, some from the opposition, some from the authorities. We tried to find a legal way out of the situation. We were alarmed that in a short period of time important institutions had collapsed in our country, that we were suddenly thrown far back in our political development, that the existence of the state was under threat. We were afraid that there would be clashes.

On the third day after the occupation of the administration building and the television, it was already clear that Ankvab would quit the presidential post. But why did the opposition not want to stay in the constitutional field? There was a chance to negotiate the resignation of the

President and the transfer of powers to the prime minister - that chance was rejected. Why in recent days was it impossible to reach agreement with the President on calling a pre-term election, without forcing him to accept an ultimatum immediately? I am absolutely sure that it would have been possible to find a legal way to bring about an early change of government. Why was the opposition in such a hurry? Were they so afraid of the man they called “a deserter”? Did they want to humiliate Ankvab by means of an ultimatum?

I would like to know whether those guys who occupied the Presidential Administration and television realize that they ended up there not because people were afraid of them, but because the President did not order security officials to resist. It is important that the "victors" understand that. Because otherwise there will be a state of euphoria at the awareness of their own "strength" and the temptation to use it again and again. Guys, take a look at history. You call each other "heroes." It's not funny, it's sad.

A lot of different things happened during those days. There were people on the streets peacefully protesting against injustice - I share their objections. There were young people who sincerely believed they were acting in a just cause. There were those who forced their way into government buildings. There were those who skilfully directed these people. There were representatives of the “power” ministries who tried to prevent things escalating by holding negotiations. And there were people who were blinded by hatred and the desire for revenge. There were numerous meetings with intermediaries – as a people we still have to reap the fruits of those agreements. There was a people that could see much further than its political elite could, and which is now at a loss because of the politicians’ unforgivable myopia.

Yesterday morning, I spoke with one of the opposition, appealing to his ability to think in terms of statehood. I asked him to think about how important it is for our country not to cross the line, delineated by the Constitution. After all, the opposition could get what it wants while remaining within legal bounds. They didn’t want to, they were in a hurry. I requested naively: give the people a chance to vote for you as people who respect the Constitution! I remember 2003, when we similarly tried to persuade the Amstakhara party not to demand the pre-term resignation of Vladislav Ardzinba. On that occasion we lasted out until the election.

I do not know who will win the upcoming election, but I do know that our country has lost a great deal. Ankvab once said in one of his addresses "in order to destroy me, my opponents are ready to destroy the state." I did not think that his words would prove to be so prophetic.

There are many difficulties ahead. We have created dangerous precedents. We are walking on very thin ice.

We shall have to work for a long time to rebuild what has been destroyed. A good friend of mine said yesterday: “God forbid that future generations will have to say, ‘But all the same we had our own state for 20 whole years.’”

This article was published by [Asarkia](#) and is translated from Russian.

<http://abkhazworld.com/aw/analysis/1223-sediment-remains-by-liana-kvarchelia>

APPENDIX 3

The Council of Shrine-keepers of Abkhazia – *zhrets's* - plans to Make an Official Address-warning to the leadership of the country

26.07.2012 20:58



The Council of Shrine-keepers expresses its concern at the leadership of Abkhazia's attitude to its historical roots and to the spiritual inheritance of our people.

The removal from the Law "On the Freedom of Conscience and Religious Organisations of Abkhazia" of any mention of the most ancient Abkhaz religion *Antsw'akhatsara* turn us to

thinking that we ourselves are demonstrating to our youth that they should live by double standards. When we raise our cups to make toasts then there is no more god-fearing and god-respecting people in the world. This was especially so when we stood on the edge of a precipice (as we did in 1992-1993), but as soon as peace and well-being came we forget about our (Аныхпааџца) *Anykha* shrines, and what is more, all mention of our Sacred shrines (Святылищах Аныха) is thrown out of the text of the Law.

Today, unfortunately, Christianity in Abkhazia is in crisis, as has been seen in the schism in society; Islam preaches its ideals, but our Shrine-keepers (*Zhrets's*) are left humbly aside like an unwanted anachronism for the time being. So, who, then, are they so disturbing today?

The head shrine-keeper of Abkhazia, Z. Chichba, plans to issue an Address-warning about the power of Abyzh'nykha (Абыжьныха) whom they have somewhat forgotten, who for centuries has protected our land from dark internal and external force, not to overstep the mark beyond which comes general discord and unrest among the people.

The Abkhaz belief will now be driven underground as in the recent Communist past. "Анџа абзиара каџа".

Khadzharat Khvartsiya

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