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The Netherlands

Please give me my divorce: an ethnography of Muslim women and the law in Senegal

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Citation

Bouland, A. M. (2022, May 18). *Please give me my divorce: an ethnography of Muslim women and the law in Senegal*. Meijers-reeks. Retrieved from <https://hdl.handle.net/1887/3304697>

Version: Publisher's Version

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Note: To cite this publication please use the final published version (if applicable).

INTRODUCTION

Sokhna: I went with my family to ask for a divorce – with my older brother, my sister-in-law, and a driver so that we could take my stuff back, and an older man, who is a local notable, who lives there. My dad told us to go find him; luckily, he was there. He and my husband's father were friends, and he is the uncle of my father. [...] In the presence of these men and another elder, my older brother told my husband that we were there to ask for a divorce. My husband accepted, but he took my things.

...

They [father and brother] married me, and they wanted to divorce this way, religiously. So, it's OK. (interview with Sokhna, November 2017)

This chapter is the first of four ethnographic chapters and focuses on out-of-court divorces initiated by women in particular. Being the social standard, out-of-court divorces are not usually referred to as 'religious' (*diine*); however, people sometimes use the qualifier to signal a distinction with court-divorce, as in the interview excerpt above. In this dissertation, although I often distinguish court-divorce and out-of-court divorce, the term divorce describes both the legal, or state-mandated dissolution of marriage, and the non-legal dissolution of marriage.

Divorce is fairly common in Senegal; however, because the majority of divorces take place outside of the purview of the Senegalese state, it has proven difficult to provide a reliable account of the divorce rate. In 1964, Thoré published the results of his survey of marriage and divorce practices in the Dakar suburb Pikine.¹ He showed that there 44.5 per cent of the marriages ended in a divorce. He also considered the duration of marriage, showing that a third of the marriages concluded lasted no more than five years (Thoré 1964, 479-551). More recently, Dial's study of marriage and divorce in Dakar revealed similar data (Dial 2008). Her research also showed that the majority of divorces take place out-of-court; more than 80 per cent of the divorced women she surveyed had not resorted to a court (Dial 2008, 104). Diop (1985) studied divorce across a number of Wolof-

1 Population-based survey (n674).

dominated areas in the Senegalese hinterland, including Tivaouane.² He argued that, while marital instability is more significant in the capital, divorce is also common in the more rural settings he studied. His data revealed that one in three men (who may have up to four wives at once) will have known a divorce (Diop 1985, 213). The regularity of divorce is also echoed in the Senegalese press, which frequently publishes stories about celebrities caught up in divorce.

Although I did not survey the frequency of marriage and divorce in Tivaouane, divorce – primarily out-of-court divorce – is clearly a common feature of social life. Divorce was a frequent topic of conversation when detailing one's own, or another's, life story – both for younger and older generations. Divorce was also a frequent subject of gossip. Nevertheless, as noted in the first chapter, people are hesitant to share the details of their personal experiences with divorce and do not like to divulge the particulars of the divorces of kin and close friends.

Divorce is moreover criticized (Dial 2008). Some express such criticism by citing a hadith that recounts the Prophet Muhammad describing divorce as the most despised of licit things. Divorce is disapproved of, even if it is sometimes unavoidable. Related to these criticisms is a more general condemnation of a perceived growth in the number of women willing to leave their unsatisfactory marriages. Respondents – men and older women in particular – would often comment that, nowadays, women divorce easily and for the wrong reasons. They perceived a growth in the number of divorces, particularly on the initiative of women, a perception that is also voiced by the Senegalese press. Young women are said to prioritize financial interest, which weakens their marital unions. And indeed, Foley and Hannaford have shown that in a context of 'economic challenges and a growing gap between expectations and opportunities', women increasingly prioritize short-term material gain through transnational marriage and non-marital sexual relationships over long-term projects of social reproduction (Hannaford and Foley 2015, 209). However, at this point there are no data to substantiate a growing divorce rate; in fact, the research I discussed above would suggest that the divorce rate has remained relatively stable over time. Nonetheless, the remarks signal an important point: despite its relative frequency, there exists moral anxiety over divorce, particularly if a woman takes the first steps toward dissolving the union.

In this chapter I detail the experiences of Tivaouane women who divorce and the multiplicity inherent in their divorce processes. Together, the chapter advances three interrelated points: First, it shows that the principal

2 Diop's research was carried out in the administrative regions of Dagana, Louga, Thies, and Diourbel (Diop 1985, 6 note 3).

agents in divorce processes initiated by women are kin. Local religious authorities are only sometimes solicited by women or their family members. While the state as well as religious authorities have tried to reserve marriage and divorce as a domain of regulation to themselves, divorce is very much a matter for the family. Second, it is shown that Islamic norms play an important role in divorce practices but that this role is multiplex. Third, I show that the involvement of kin has importance for understanding the agency of women; to obtain divorce, women primarily navigate through and work with their family.

DIVORCE IN THE MUSLIM WORLD

Globally, contemporary Muslim divorce practices and codifications tend to combine out-of-court options with the annulment of a marriage by a judge;³ the type of procedure depends on whether the husband or wife is the initiator of divorce. While contemporary practice varies widely between different contexts, it is clear that interpretations of sharia remain relevant.

In classical Islamic jurisprudence (7th-11th century), four forms of divorce are common: *talaq* (repudiation), *faskh* (annulment of a marriage by a judge), *tatliq* (judicial divorce), and *khul'* (woman-initiated divorce) (Vikør 2006). Respectively, they involve the unilateral pronouncement of divorce by the husband; the annulment (*faskh*) or dissolution (*tatliq*) of the marriage by a judge in cases where valid grounds to do so exist; and the wife's request for release by her husband in return for compensation. The latter type of divorce is particularly relevant to my analysis, given that women are the initiators of this type of divorce and that, in classical jurisprudence, no judge is involved. It is notable, as Sonneveld and Stiles (Sonneveld and Stiles 2016) report, that

[...] there is a remarkable amount of diversity in how *khul'* is understood and used as a form of Islamic divorce. In some countries, such as Egypt and Pakistan, *khul'* is a woman-initiated judicial divorce that does not require the husband's consent; elsewhere, such as in India and Indonesia, *khul'* is primarily a divorce of mutual consent negotiated outside of the courts. Still elsewhere, as in Zanzibar, *khul'* is rarely initiated by women or men in court but is used as a judicial measure. (Sonneveld and Stiles 2016, 19)

To this global variety of *khul'*, Fortier (Fortier 2012) adds the Sahelian case of Moorish women in Senegal's northern neighbour Mauritania. There, as Fortier shows, women-initiated out-of-court divorce is referred to with 'she gave back her bridewealth' or 'she gave back her livestock'. However, the

3 Even if there is a tendency to juridify divorce.

phrases are more symbolic than real. Women do not actually give back their bridewealth, but '[i]n contrast to all other types of divorce where a wife has the right to take back all her possessions', she 'leaves the furnishings she brought when she moved in, the livestock given by her family, and the goods given to her by her husband' (Fortier 2012, 162-163). This, as will become clear, is much like the women-initiated out-of-court divorces I examined in Tivaouane.

THE DIVORCE OF KHADY

When I visit Khady, on a morning in June 2017, I am not alone. Fatou, my research assistant, is there with me, and so is our mutual friend Awa, whose house Fatou and I regularly visit to chat and watch television and whom Fatou and I have both grown fond of for her warmth and humour. Awa does not usually join for interviews, but it had been her who introduced me to Khady. Like Awa, Khady was divorced and is now single, and Awa had called Khady to ask whether she would be able to share the details of her divorce with me.

Khady receives the three of us in her small and bright bedroom in her family home, a large house of multiple buildings and a great many bedrooms – simple, but well maintained and spotless. The three of us sit on Khady's mattress, together with Khady and her daughter. The television is on and shows a foreign soap opera.

Without much hesitation Khady explains she divorced about six months ago because she did not love her husband of nine years, with whom she has two children but with whom she never lived. She tells us she runs a small business from her home and is 37 years old – meaning she is a little older than Awa, Fatou, and I, all whom are in our early thirties. Earlier she was married for five years to another man whom she did love and with whom she also had children, but, as she explains, her family did not approve of the marriage and they eventually divorced.

While Khady, Fatou, and I talk, Awa plays with Khady's daughter, throwing her voluptuous body on the child, pretending she will smother her and bursting out into laughter. Every so often, she interjects in the conversation. 'You can get married without love and regret it after, and you cannot do anything about it,' Khady explains.

Every day, we had problems. But my family did not want me to divorce him, particularly my grandmother, who was ill and old. Every time I would ask him for a divorce, he would go and complain to my family, and they would cause trouble, criticizing me for wanting to break up a marriage. They said I just wanted to fool around.

Khady turns to Awa:

You are a witness. It was just a lack of love. Marriage is too complicated when you do not love someone. It is difficult to share a life with someone you do not love. There was no love, and on top of that he was old.

Finally, Khady was able to divorce when she was ill and had to stay in the capital Dakar for a few weeks.

I was ill and I lived in Dakar, and he did not come when they called him, even though I had fallen seriously ill. They had let him know that I had been prescribed medication but that there was no pharmacy where we were. But still he refused to come. [...] My husband responded that he could not come, because he was working. And he did not visit me.

Shortly afterward, Khady called her older brother and told him that she wanted to be set free by her husband. She also called her father, asking him to tell her husband to grant a divorce.

I told my father that I want my husband to release me, because I am tired of him. He should release me, because if I die he would be responsible. I am ill and he did not take care of me, and, on top of that, I never loved him and I am still married to him. After nine years there is not any love between us, even though I have two children with him.

Now Khady directs her speech to me:

I wanted them to tell him to divorce me, to release me. It was me who revolted ... I did what is called a revolt, and they understood I was right to do so. That is how he released me, and the marriage ended.

The full story is that Khady's older brother convinced their father that Khady was ill because she was unhappy, and that if her husband granted her a divorce, they would all live in harmony. The brother contacted Khady's husband and asked him to give her a divorce, but he refused, saying it had not been the brother who had given Khady in marriage. Khady's brother then asked their father to make the call, which he did. But shortly afterward, Khady's husband had to be in town and used the opportunity to visit her father. He then said he wanted to reconcile and made excuses for not having been able to visit Khady in Dakar. Khady's father informed her of her husband's visit and his intention to reconcile, she recounts. But in response Khady said that she had had enough, which Awa confirms. Khady continues:

I told him I had had enough; he should release me. Enough is enough. When I fell ill he did not come. He leaves me there in Dakar and goes to Tivaouane for *gàmmu* and spends money and is being hypocritical, because he did not care for me.

After this, Khady called her brother and asked him to convince their father to insist on a divorce. Her husband, however, did not respond to Khady's father's request for a divorce, she explains. 'My father asked him, but he did not do it.' When her father visited Khady in Dakar not long afterward, she therefore called her husband herself and asked for a divorce, using her father as a witness. On the phone, Khady's husband asked her to pass the phone to her father and asked him if he had heard what his daughter had said. Khady's father responded that he had and that, because he – the father – would not take such a heavy responsibility such as to dissolve the marriage between Khady and her husband, the husband had better agree on the divorce with Khady himself. Finally, Khady's husband gave in.

It was me who took my own decision, but to get them [her family members] to break the marriage was difficult; it is for that reason that it took nine years. Because they did not want to take their responsibility to terminate the marriage.

THE DOMESTIC SPHERE

Whenever I talked to women about divorce, it quickly became clear that their family members played important roles in their divorce process, and women often took great time and care to detail the family's involvement.⁴ The longer I lived in Tivaouane, the more men and women also shared how they were involved in the marriages and divorces of others, such as family members or close friends. Local religious authorities are sometimes involved in out-of-court divorces and in mediation or marital dispute, but much more frequently these matters are resolved without their involvement. Instead, family members, and at times close friends or neighbours, are involved.

While local divorce (*tas*) practice is fluid, the broad contours of women-initiated out-of-court divorces are clear. Women ask to be released, but men do not necessarily comply – at least not immediately – and the process may take years. Sometimes a husband's refusal is guided by a true wish to retain his wife; at other times, it primarily seems to serve to frustrate or humiliate her. The requirement of the husband's consent is widely identified and

4 The analysis presented is largely based on the accounts of the women involved only (see Chapter 1). While I tried to talk to the family members of my female respondents, the women I spoke to preferred I did not talk to their kin. Their divorce was a confidential matter – meaning that sometimes they did not want their family members to know that they had talked to me and that, in other situations, they did not want me to ask their kin to go over the events again. Nonetheless, I was able to contextualize the stories women had shared. I did so through a number of interviews with elder men and women, whom I asked to reflect on their role in the marriages of their younger kin. The relations I developed in Tivaouane also gave me an insight into the roles respondents and their family play in the marriages and divorces of their kin and close friends.

justified as religious (*diine*).⁵ Multiple formulas are used to request release. Common is to say, '*may ma sama baat*' (please give me my voice). Women, or someone else on their behalf, thus ask the husband to 'return' her voice or autonomy. '*Yewi ma*' is also used and is similar in meaning. Alternatively, the request is formulated more implicitly. For instance, a woman might say, 'Let us pray for another' – that is, let us pray that each will find another partner. Divorce may be asked in person, but the phone is also a regular medium. Because a husband may potentially revoke the divorce, witnesses often play a crucial role in divorce processes. They lend social validity to the dissolution of a marriage; when women recounted their divorces to me, they often enumerated the people who were present when the divorce was agreed upon. It is rare for women or their kin to compensate for marriage gifts they received before, and as part of, the Islamic marriage (*takk* in Wolof, lit. 'to attach').⁶ However, women who take the initiative to divorce are often required to leave behind much or all of the bedroom furniture, clothing, and kitchen utensils gifted to her by her husband before or during the *céyt*, the ceremony that marks the moment the wife moves into her husband's household (Dial 2008; Lagoutte and Fall 2014). If the husband initiates divorce, these are still considered the woman's property. Yet compensation of other marriage gifts is highly occasional (Bouland 2021). Children may stay with the husband or the wife, but tend to stay with the latter, particularly when they are young.

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- 5 Diop (1985) argues that divorce was traditionally an affair of the couple's family members – that is, that it was they who dissolved marriages. This does not currently seem to be the case in urban Senegal; rather, it is the husband who decides on divorce. Even so, the notion that a wife's father or his mandatary may dissolve the marriage is regularly drawn upon and may, as in Khady's case, be (strategically) used to exert pressure on the husband.
- 6 Several authors (Chabas 1952; Gamble 1957; Yade 2007) have argued that in the middle of the 20th century, marriage gifts received by the wife from the husband upon marriage were reimbursed if a wife requested divorce. Thus, if a husband agreed to divorce, the wife and her family had to reimburse him. Thoré's research in Pikine constitutes an important exception to other research in the same period. He states that Wolof men specifically do not always ask to be reimbursed and that such requests for reimbursement of the marriage payments are often merely used as a threat (Thoré 1964, 525–526). More recently, Buggenhagen (2012, 61) notes that in cases when a divorce is initiated by the wife, 'bride-wealth payments' ought to be returned. Lagoutte and Fall (2014, 65) state that 'when repudiation is the result of an explicit request by the wife, the man *may* [emphasis added] demand the restitution of the dowry and any gifts offered when the marriage was formed'. Dial (2008) makes no mention of compensation when an out-of-court divorce is granted at the wife's request. I encountered only two cases of compensation of marriage gifts. One was exceptional in that the husband had refused for over a year to agree to a divorce and, in the meantime, the wife, who had moved back to her parents (*fay*), had become pregnant through another man. In the other case, the request for compensation was merely a threat used by the husband to try and dissuade the women and her family from requesting divorce. He did grant the divorce but did not, in the end, accept the money. When prompted, many respondents argued that marriage gifts are to be reimbursed only when the marriage has not yet been consummated.

The family members involved in divorce processes often had had a role in tying the marriage knot in the first place, which is one way in which the divorce process mirrors that of the marriage. The Islamic marriage (*takk*) constitutes and sanctions the relation between spouses, both religiously and socially. Afterward, the wife is expected to move in with the husband (*céyt*), sometimes several months or even years later. The people present at the *takk*, a ceremony attended by men only, are felt to have a special responsibility for its success. In cases of marital dispute, spouses may thus directly consult the mandataries (*bayale*), the persons who stand in for the father of the groom and the bride and ask for and offer the bride in marriage and act as witnesses. Spouses may also be re-directed to the mandatary by their father. The father himself, acting as the responsible (*kilifa*) or moral authority of the family and household, may likewise play a role. Thus, male kin often have an important part to play in women-initiated divorce. Older women may play a similar role; indeed, as scholars working across African contexts have noted, it is often inadequate to analyse patterns of authority only in terms of gender (see B. M. Cooper 1997, xxix). Aby, 32 years old, whose husband had taken a second wife and proceeded to neglect her financially as well as to stop sleeping with her, tells me that she divorced in the following manner: 'I talked to my *kilifa*, as I had returned to the house of my mother. My mother and older brother called my husband. My husband thought it was to reconcile, but it was to ask for a divorce.'

It is common for kin to be involved in marital mediation; as a consequence, their involvement in divorce often flows from their involvement in earlier attempts to 'save' the marriage and reconcile the spouses. A woman who is unable to resolve a conflict with her husband may try and talk to one of his family members or friends about a grievance she has regarding her husband. As such, she literally brings the dispute out from the conjugal bedroom, an emotionally and sexually charged space where the couple can escape from family members, enjoy intimacy, and negotiate their problems (Buggenhagen 2012; Hannaford and Foley 2015), to the more semi-private spaces of the wider household of her husband's family. His family members may also become involved on their own initiative, either because they are at the source of the conflict or have become aware of it. Marriage does not bring about a relationship only between spouses but also between their respective family members. This means that these too can be at the origin of conflicts or can quickly become embroiled in them.

Khady never lived with her husband; but in many instances the engagement of the wife's kin is preceded by her return to her parental home – as was the case for Aby, who had returned to the house of her mother and older brother. Cooper notes that in Maradi this is a common way for women to provoke a divorce, and the practice is also described in Dial's study of marriage and divorce in Dakar (B. M. Cooper 1997; Dial 2008). I found the same practice, called *fay* or *fayle* in Wolof, in Tivaouane. *Fay* does not necessarily lead to

divorce, but it often precedes it. In other instances, it serves to prod the husband into making concessions in a marital dispute. A woman I interviewed about her marriage of 27 years told me she had left the house twice. The last time was two years earlier, to stay with her family in one of Dakar's suburbs. She stayed a month. 'Afterward, it was he who came to find me and told me he would not do it again. He stopped hitting me.' Things improved, even if her husband still barely contributed to the household finances, because he could not hold a job. The fact that divorce often takes place after the wife has left her marital home suggests that divorce is processual. The wife generally moves in with her husband within several months of having contracted their marriage, a move that is accompanied by its own ceremony: the *céyt* (see Moya 2017, chapter 7). The two-stepped process of *fay* and divorce (*tas*) may be read as its mirror image. However, ultimately, the moment of divorce is the moment the divorce is granted, and women who have returned home but not yet divorced are still tied to their husband.

As we shall see in Chapter 7, religious scholars and imams are sometimes involved in marital disputes, as well as in divorces. Like the family members who were involved in tying the marriage knot, the imam who officiated at the marriage is also seen to carry a special responsibility for the union. Notably, when these authorities become involved they are frequently likened to kin; in referring to this involvement, both male and female respondents regularly referred to them as 'father' or 'uncle'. Other local notables such as the neighbourhood chief may also become involved. Often, they are solicited as a 'next step', when the interventions of family members are without success. Whether or not they intervene depends very much on how active they are and whether personal ties between them and the spouses or their family members exist.

JUSTIFYING DIVORCE AND DRAWING ON ISLAM

Khady's divorce account reveals that she drew on multiple repertoires of values and rights. For Khady, it was central that she did not love her husband, as well as that he failed to maintain her. That she had the right to be maintained by her husband was a point she underscored most dramatically to her father: should she die, it would be the fault of her husband. With her father, she also shared that she had had enough, thus implying she had been patient and had tried to persevere, but that it had not helped and she still did not love her husband. If indirectly, Khady thus responded to the disapproving comments of her grandmother, who, as Khady reported, said she was not serious about marriage and just wanted to fool around. The argument of Khady's brother centred around the value of harmony and the importance of living in peace. While a divorce meant that the family would have to live through a short period of discord, it would ultimately bring harmony to the family.

I draw out these different statements and behaviours as well as the values and norms they convey to indicate that Khady, like her family members, referred to a variety of socially embedded repertoires relevant to marriage and divorce. As I will show in the next chapter, these repertoires play an important role in women's preferences not to go to court. Here, I consider the way women avail of these repertoires in out-of-court divorce and what this tells us about the way women understand and draw on Islam broadly in out-of-court divorce. I show that while Islamic norms play an important role for women in out-of-court divorce, this role is multiplex and often implicit and unspoken.

Hirsch (1998) considers the gendered behaviour and gendered narratives of male and female litigants bringing marital disputes to the *kadhi* [qadi] courts on the Kenyan coast. Her analysis shows that while husbands engage in Islamic legal debate, wives do not have access to this discourse and instead share narratives of perseverance, detailing their patience in the face of an unpleasant marriage.

In Tivaouane, women do frequently invoke the juristic repertoire of *diine*. In part, their claims revolve around the husband's failure to meet his obligation to provide. Moreover, when I asked women about compensation in divorce, some drew on the distinction between custom (*aada*) and Islam to argue that they were not necessarily obliged to leave behind their furniture and kitchen utensils. Yet beyond this topic, women rarely make statements about rights and duties pertaining to divorce procedure. And when I asked them why their divorce unfolded in a particular way, they tended to state that this was just how things are done; that their family member told them to do so; or that they did not want to create problems. Husbands and male kin, by contrast, more freely draw on the juristic repertoire of *diine*. This likely relates to the relatively little religious education that Senegalese women receive compared with men (see Chapter 1), as well as to the central roles male kin play in divorce processes.

Women's stories and behaviours thus tend to highlight the husband's failure to provide. Yet at the heart of their statements are references to Wolof conjugal ethics, the values of *muñ* and *sutura* in particular. As we shall see in Chapter 5, in this repertoire the value of people, especially of women, is based in part on their discretion – meaning that marital problems can be shared only with certain people and in certain places. Here I emphasize another virtue of this worth, *muñ*, which is also strongly gendered.⁷ Married women need to 'remain patient, stoic, self-composed and uncomplaining in the face of challenges' (Hannaford and Foley 2015, 209). To *muñ* is both

7 Although it is important to note that husbands are also expected to *muñ*, the virtue is of particular importance to wives.

to maintain appearances vis-à-vis the outside world and to maintain composure despite indignities such as infidelity or financial inadequacy (Hannaford and Foley 2015, 209). Like Khady's account, the statements of a 35-year-old woman who divorced her husband five months previously underscore perseverance in the face of hardship: 'The lack of financial support lasted for too long; I endured it all that time for my father. [...] It lasted a very long time; I endured it, I really endured it, until I could not do it anymore.'

In contrast to the decidedly Islamic repertoire of *diine*, which includes marital duties and marital obligations as well as notions about what behaviour is and is not recommended, the repertoire of Wolof conjugal ethics is strongly rooted in the Wolof socio-cultural repository that centres around honour (Ly 2015; Sylla 1978). Yet this is also inscribed in the Islamic juristic provision that a woman is to obey her husband, and Senegalese women see *muñ* as a central aspect to being a good Muslim. A respondent in her sixties related the following when asked what she would advise her daughter to do if her husband spent his money on a girlfriend:

Because she has children, she has to endure [*muñ*]; she has to endure if she is a good woman. It is death that will make her leave there [implying that only her death will end her marriage and her membership of her husband's household]; you have to endure because of God [...]

The success of a child is believed to depend on its mother's behaviour in marriage – her submission toward her husband and ability to *muñ*. The salience of this belief is linked to the legendary status followers accord to the mothers of the founders of the different Sufi orders and *zawiya*.⁸ A child is the labour of the mother (*liggeey u ndey añu doom*, lit. a mother's labour is the child's lunch), and good, patient wives receive divine recompense in the form of successful children. Children of women who do not persevere in the face of hardship are not blessed. Moreover, they suffer the social consequences of having a mother who is seen to have behaved frivolously; people will talk negatively about them or treat them disrespectfully; furthermore, their daughters may be regarded as defective marriage partners.

References to romantic love were not part of the accounts about their divorce of many of the women I interviewed, though for Khady and some other women they were. It was clear that Khady had mentioned but not insisted on her lack of love for her husband with her father; yet, in the story she shared with me, this factor played a central role, much like love or its absence did in the tele-novellas playing on her television. While mediatized

8 Much like the mothers of other legendary personalities (see Mbow 2001).

representations of love no doubt help shape its contemporary meanings, historically, in Wolof society, considerations of love and expectations of emotional and sexual attachment have co-existed with material concerns and the wish to strengthen kinship ties (Hannaford and Foley 2015).

It is clear that for the women of Tivaouane Islam informs the way they get divorced, as well as the steps they take to initiate and secure an out-of-court divorce. They draw on the juristic repertoire of marital duties and rights to underscore their right to be financially taken care of, and they demonstrate their worth by stressing their perseverance in the face of marital difficulty. Thus, the way Islam informs these divorces, I suggest, is both strongly gendered and multiplex. Because religion plays an integral role in the lives of these women, it therefore also does not constitute a sphere that is separate from the socio-cultural domain. *Muñ* comprises a multitude of linked values and norms that are both central to Islamic life *and* to Wolof morality and ethics.

Fay, a practice that is decidedly customary, exist alongside of these norms; it is neither understood as Islamic nor denounced as un-Islamic. Considerations such as harmony (*jamm*) and romantic love also sit easily alongside women's multiple links with Islam.

'KINWORK'

As set out in Chapter 1, over the past decades a number of scholars on women and family law in Muslim contexts have tried to correct depictions of Muslim women as merely objects of an oppressive legal tradition (Hirsch 1998; Mir-Hosseini 2000; Tucker 2008). Their studies showed how women are active agents who use the law and Islamic courts to make claims and shape their marital lives. Doing so, these authors foreground the individual female litigant – in part because of their focus on sharia courts, where litigants tend to appear before the judge without their kin. However, in analysing the divorce accounts of Tivaouane women, it is clear that the central role of kin in these processes requires an understanding of women's agency in relation to Islamic family law and other normative repertoires, an understanding that is more attuned to the way this agency is refracted, magnified, or diminished by family members.

For many women it is difficult to divorce without the support of family members. Men regularly refuse to release their wife at her request and will let her go only after being pressured to do so by her family members. Moreover, some men insist on speaking to the wife's male kin directly. This also means, as we shall see later in this dissertation (Conclusion), that women without strong family bonds may encounter greater difficulties when trying to obtain a divorce.

Kin also plays an important role in women-initiated divorce simply because the family plays a central role in people's lives in Senegal. People's being is interwoven with that of their family members, and in marital dispute it is therefore not only the value of the husband and wife that is at stake. As we shall see in the next chapter, this is linked to *sutura* and shame. Although marriage is an important marker of social adulthood, to a certain extent people remain the responsibility of their older kin. Ndeye, a mother and grandmother in her early seventies, explains: 'If a woman's husband has hurt her, she should go to his kin and say he did something that really hurt me; I want you to intervene.'⁹ Likewise, the woman is expected to turn to her own kin if the dispute escalates further.

Women have reason to seek and heed the advice of their kin when they divorce their husbands; in going against the wishes of their family, they risk losing their affective and financial support. This is regrettable, because it is often through them she will find housing and financial security for herself and her children.

Lack of affective support from family members may also come at great loss for women. The women who shared their stories with me – like many others – experience the bonds and obligations of kinship both as constraining and as protective. For them, kin is an important source of social well-being (Jackson 2011). More practically speaking, to alienate or to anger one's kin is also to put oneself at risk in a subsequent marriage (B. M. Cooper 1997, 35).

All of this means that much of what is involved for women who seek to divorce their husband centres around her kin, not around him. Women need to convince their family members, build their support, and get them on their sides. They will need to make strategic choices about which family members to involve. Sometimes, for instance, it is easier to get one's siblings to convince an elder family member than for a woman to convince this person herself.¹⁰

Thus, kin also constitute a central audience of the narratives and acts of *muñ* for women who seek divorce, as we saw in Khady's narrative above. In their stories, women tell of enduring difficult situations because their family wanted them to.

9 The obligation of spouses to involve family members in their problems is paralleled by an obligation to offer assistance. Family members see it as their responsibility to help out in cases of conflict. Marriage is commonly understood to be difficult (see also Dial 2008; Hannaford and Foley 2015, 209). Children need to be educated and guided in their marriages; if not, they may run into problems and divorce may follow.

10 Sometimes a woman will also attempt to garner support from her in-laws; in one case, a woman explained to me how she strategically prepared the terrain by acting as the ideal daughter-in-law, before she started asking her husband for a divorce.

In the different context of mediation centres in India, Katherine Lemons uses the notion of kinwork: 'the physical and emotional labour to pursue aims within the bounds of kin relations' to build on feminist critiques (Butler 2002; Ramberg 2013, 2014) that have foregrounded the 'reiterative labor' involved in kinship (Lemons 2016, 245; see also di Leonardo 1987). Here the term 'kinwork' seems especially apt for its insistence on the setting where women's work takes place and on the fact that solutions are sought *in* kinship, as well as for how it helps reveal the agency of women and their kin.

A woman can often obtain support for a divorce only if she can show that her husband seriously maltreats her or does not provide for her materially. Of course, this also means that women wanting to find resonance with their family members may frame their motive for divorce in those terms. Whether or not a woman can easily find support for her wish to divorce also depends on the relations between her family and her spouse. In cases where family members disapprove of the marriage, they often more easily endorse her wish to divorce. In situations where a women's family members oppose a divorce, women may also choose to inform them only after having asked their husband to release them; women follow this route only exceptionally, because it makes them vulnerable, both morally and socially.

CONCLUSION

This chapter focused on women-initiated out-of-court divorce. Whereas the strong reactions of national religious authorities to the state's incursion into their sphere of influence may suggest an important role for religious authorities in out-of-court divorces, this chapter shows that in Tivaouane out-of-court divorces at the initiative of women tend to play out between the wife, the husband, and their respective family members. While the husband's consent is central, the mandataries (*bayale*) and responsible family authority (*kilifa*) in particular play a prominent role. Still, this is not to say that these processes are completely or always dominated by male kin; elder women frequently have an important part to play.

As a consequence, Islamic norms are activated and take shape primarily in the interactions between women, their husbands, and their families. In this chapter I have shown that these norms exist alongside other repertoires; also, Islam does not always constitute a self-contained sphere. From their accounts, it was evident that women base their narratives and actions largely within Wolof conjugal ethics, as well as insist on their right to be provided for – thus drawing on *diine*. The way they draw on and use *diine* is gendered; women do not engage explicitly in juristic discussion about divorce procedure, which seems to be the prerogative of men.

The important role for family members – revealed by a close scrutiny of women-initiated out-of-court divorce – prompts a reconsideration of women's agency in these processes. It appears that women primarily navigate divorce via their family. Their narratives and performances of *muñ* in the face of hardship are often directed at kin, not at their partner. The notion of kinwork underscores that it is from within the relations of kin that women act, as well as that obtaining a divorce requires work – and, at times, a great deal of stamina. Here, it should be mentioned that, with some regularity, people in Tivaouane commented on the differences they perceived in how marital dispute is managed in Dakar. Their statements conveyed concern about the diminishing role of elder kin in people's marriages in the nearby capital of Senegal, where couples 'live in apartments' and the support of kin is either difficult to secure or simply rejected.

People's worries about a perceived rise in divorces at the initiative of women and women's prioritization of financial goals echo both women's right to be provided for and the value of *muñ*. These worries communicate concern about a perceived lack of perseverance by women in the face of financial hardship. Increasingly rarely were women able to really *muñ*. Indeed, while the women and men I spoke to – both those who had divorced and those who had not – consistently insisted on the centrality of *muñ* to successful marriage, they all differed in their opinions when it came to the degree of perseverance expected of women – or, more bluntly put, at what point of hardship women could leave a marriage. If *muñ* continues to remain a central value, it is clear that it is at the centre of societal debates about marriage and divorce.