

Gozitan Women: A Study on the Transition from Marriage into Widowhood

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Introduction

The focus of this paper is on how a sample of young Gozitan women transitioned into widowhood. In this research I utilised personal narratives, interviews with service providers, as well as statistical and textual analysis to find out what barriers widowed Gozitan women faced as gendered, classed, ethnicised and aged individuals in their communities and in their dealings with Maltese state structures, practices and service provision. This study looks at succession and social welfare discourses prevalent within the Maltese Islands. The focus is on how these discourses and practices positioned the fourteen women who took part in this research project, and how these women negotiated/or resisted these discourses and practices.

An underlying theme in this paper is location and positionality. This text revolves around Gozo's location within the nation and the women's location within the community. These multiple levels of locations had an impact on the kind of societal developed resources the fourteen women could access in their dealings with bureaucratic structures and practices. Knowledge of and comprehension of state discourses and practices also seemed to be influenced by the location and positionality of the community vis-a-vis the political centre, although the individual's location within the community was also taken into consideration. This research made it evident that the positionality of various groups within the nation, and the position of the women within the group, altered the experience of citizenship for those concerned.

The transition from marriage into widowhood takes place either gradually or suddenly. Some of the respondents spent years taking care of a sick and/or disabled husband, watching him waste away in front of their eyes. In the case of others, the husband's passing away was sudden. The family's

socioeconomic location within the community, together with the community's location in the nation-state and the nation-state's location within the global context came to mediate access to social services and resources.

Succession

The intergenerational transfer of property and goods involves a number of actors - namely the successors, their relatives, their legal representatives, banks, insurance companies, as well as the state and its various representatives. Inheritance also involves the interplay of both cultural and material factors. It involves the inter- and intra-generational transfers of various forms of material resources that modify the processes of upward/downward mobility of the economic trajectories of the individuals involved (Clignet, 1992: 192).

The information contained in this paper is derived from widowed respondents who at the time of this fieldwork were mainly in their thirties and forties, with only a few in their fifties or early sixties. The older respondents had adult children, but the majority had dependent children. A few had none. Apart from interviews with these, a number of service providers involved in the marital transition process – legal representatives, tax officials, court registrars, and social security experts – were also interviewed.

A widow can start the paperwork to delineate her change in marital status as soon as she obtains a death certificate. One of these chores involves paying the “denunzja”, the duty paid on the document that officially proclaims the transfer *causa mortis* of immovable property. The women needed to draw up this document as quickly as possible, especially those with joint bank accounts. This was because the banks ‘froze’ the accounts that appeared under the husband's name until they received instructions from the clients' and

the bank's legal representatives. Some of the respondents were unfortunate enough to have the bulk of their money tied up in joint accounts.

Some of the husbands had drawn a will prior to their death, others for one reason or another, did not. This was especially true for younger women with dependent children. The Maltese law decrees that in the instance where the wife and husband draw up one will, *unica charta*, he or she can bequeath ownership or usufruct of all their property to the surviving spouse. Usufruct means the right of use, habitation and analogous rights of enjoyment with respect to what is not owned by the surviving spouse (Department of Information, 1993: A 945).

When a spouse dies intestate, the Maltese law adjudicates who gets what. If the deceased has left children behind, or their descendants, as well as a spouse, then half of the succession will devolve on the children, or their descendants, and the other half will devolve on the spouse. The Maltese law protects the rights of the children/descendants and spouse. It sets aside a portion of the estate - the reserved portion. This portion is reserved in favour of the descendants and the surviving spouse. Children, whether conceived or born in or out of wedlock, are entitled to either one-third of the value of the estate when there are up to four children; or to one-half of the value of the estate when there are five or more children (Mifsud Parker, 2016).

This is what one of the younger respondents with dependent children had to say about the Maltese succession law:

“I think that the law has a point up to a certain extent. [...] I agree that the children should inherit half of their father's estate. All in all, he was their father in the end. [...]. At the same time though, if something happens and I need that money, it's not mine anymore. As it is, that property was the product of our joint effort during our married life. [...]. We worked side by side to get what we own. How can I explain myself? In a way I agree that the children should benefit from their father's estate. On the other hand, the responsible and dependent wife should also be justly compensated for her troubles. She should enjoy what she and her husband worked so hard to get.”



The Courts of Justice Building in Valletta

This issue was referred to by one of the widows who had to raise dependent children with half of the resources available to her after her husband's death. Overnight, the money she and her husband had amalgamated, was halved, since this money by right belonged to the young children. To access this half, widows had to petition the court. Not all the widows had children though in this sample.

Legal Representative

In the majority of the cases, the respondents only had a rough idea of what they had to do to settle succession issues. Therefore the first item on their agenda was to hire a legal expert so that she or he could guide them through the process.

Only a few of the respondents had dealt with succession matters in the past. This familiarity with succession matters was more prevalent among the older respondents. It is unfortunate that these bureaucratic issues have to be settled just after the death of a loved one, which means that the person in question might not be that well to deal with all this paperwork. The respondents were physically and mentally incapable of attending to these issues themselves in the days after the death of their husbands. They delegated this task to a relative, or one of their older children. The respondent took over the dealings when she regained her physical and mental equilibrium. Some of the respondents did not live near their family of origin, which meant that they did not have anyone they could resort to for help. They had to deal with these matters on their own.



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The younger respondents were more likely to have post-secondary level of education. They tended to approach legal and financial experts on their own, even though they were not much familiar with the terrain, thinking that their education would stand them in good stead when dealing with these matters. When individuals are dealing with issues such as marriage, divorce, death, they often resort to the help and advice provided by their social network (Clignet, 1992, p. 190). A number of respondents felt that information surrounding succession and/or social benefits were not that available. As one of the respondents pointed out, “You are [involuntarily] penalised when you are not informed of what you have to do”.

Respondents felt that there should be more information on estate planning and division. They felt that widows needed to familiarise themselves with this information before they approached a notary, banks, the Inland Revenue Department, courts, the Social Services Department and/or insurance companies. As the respondents pointed out, only a few of the legal representations they approached bothered to explain and discuss some of the succession issues with them. Some of the respondents were therefore surprised to learn that some of the decisions their legal representative had made in their regard, infringed on their rights.

The respondents felt that the state, more than self-help organisations, should be involved in promulgating information about the rights and responsibilities of legal beneficiaries. As the respondents pointed out, certain self-help organisations such as Caritas, Minus One and isolated legal advisors used the media to disseminate information regarding succession.

Some of the respondents did not trust their lawyer/notary and therefore did not think that she or he could be a reliable source of information or advice. A number of the respondents felt that their legal representative was not so familiar with succession matters: this is because in the Maltese Islands few legal representatives specialise on this specific aspect of the law.

When the legal representative lacked familiarity with succession law, respondents tended to face negative percussion when the estate was eventually divided. In some instances, the legal representative was more concerned with protecting the children’s rights than that of the surviving spouse, a phenomenon to be expected in a country that favours intergenerational transfers over intra-generational ones. Knowledge about intestacy rights would have enabled these women to challenge their legal adviser’s decisions as well

as the decisions taken by other official bodies. Others felt that the notary had unduly prolonged his or her time in order to hike up the bill.

The majority of respondents felt that in dealing with notaries on succession matters, they needed to know the law inside out themselves if they wanted to settle succession matters in the shortest time, with the best outcome for themselves and with the minimum financial liabilities possible.

Settling the Estate

The notary's first task was to ascertain whether the deceased husband had left a will. Some of the respondents had husbands who had worked abroad. This meant that the notary had to ascertain whether any wills were registered at the Public Registries in Gozo and Malta, and beyond.

The notary had to draw up an inventory of all the movable and immovable property belonging to the deceased before she or he could propose how the estate was to be divided. Some of the respondents had the deeds and documents of the relevant property at hand. Others did not. This was especially true of widows who for one reason or another left financial and bureaucratic matters to their husband. One respondent relegated this task to her husband because she did not drive. The majority of the respondents however felt that this was their responsibility when the husband was alive.

Younger widows, especially those with children under sixteen, were more likely to be the



testamentary executor. Older widows with independent children sometimes delegated this task to their eldest child. This was more likely the case when the woman in question had physical ailments or was unfamiliar with the bureaucratic set-up.

When an inventory of the disposable property was ready, the next step was to settle the transfer of property and pay the duty related to *causa mortis*. Widows with dependent children took it for granted that they would administer the property their children had inherited on their father's death. Yet the husband (before his death) or the court could have chosen somebody else to act as administrator if a relative had raised a query regarding the mother's competence in this matter.

The surviving parent had the obligation to administer the property until the child reached majority age, when they then became entitled to their inheritance. The Maltese law decrees that testamentary executors (or administrators) had to hypothecate their property as a guarantee that they will "faithfully carry into effect the will of the testator" (Department of information, 1995: 251) or of the law. One of the legal representatives remarked that the legal hypothecate was only a formality since the court and the family's legal representative rarely bothered to check on how the surviving spouse was managing her issues' estate. These respondents often mentioned the word "ipoteka" (legal hypothec) but only a few knew what it referred to.

When the respondents had adult children, they had to get legal permission (probate) from their children to act as testamentary executors. Some of the older respondents had some difficulty in persuading their children that they had the necessary skills to act as testamentary executors.

"Id-Denunzja" or Duty on Documents and Transfers Act

The division of the estate, the settlement of the succession tax and the application for a survivor's pension and other social benefits were issues that the respondents had to concurrently deal with within the first six months following their husband's death.

For succession to take place, the notary has to draw a list of the property to be transferred, a description of the property, its whereabouts, its value and to whom it was going to be transferred. Some respondents complained that when their husband passed away, their private life came under the scrutiny of a number of state experts and officials. One respondent decried the fact that she had to share intimate information with total strangers. Another had to get the medical proof that her dead husband was the father of the child she was pregnant with at the time of his death. These 'private' conversations were usually held in areas with little to no privacy since the people in the vicinity could easily overhear what was being said.

The main complaint among the respondents was that they had to pay duty on this transfer as soon as the declaration was submitted to the Inland Revenue. The estate could only be divided once the transfer duty was paid. Not all the respondents could pay this duty. As one of the notaries pointed out, when the deceased owned a lot of property, there was no way that the widow concerned could raise the duty in question without selling some of the property concerned. At the same time, the widow could not sell the property if she could not pay the duty! The notary added that when something like this happened, the legal representative could always try to reach some kind of agreement with the Inland Revenue Department.

Of Money and Bank Accounts

When the duty was paid and the transfer documentation processed, the respondents could approach the banks to start transferring the money. In an interview with two bank representatives it emerged that the bank's lawyers sometimes did not concur with the legal ruling made by the client's notary. In this case, the latter's legal ruling was revoked. The bank adhered to the instructions issued by the bank's lawyers, not the client's legal representative. Some of the branches in Gozo had to liaise with the bank's estate section which was located in Malta. This often meant that the ruling took a long time to be processed.

When I asked these service providers what happened when the husband died intestate and



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left a wife and dependent children behind, they said that in the majority of the cases, the surviving spouse got half the money in the accounts under the husband's name. The other half was divided equally among the children. When joint accounts were involved, the surviving spouse received half the money and then her husband's half was divided between her and her children. This happened because the respondents in question had adhered to the community of acquests marital regime. As testamentary executor or administrator, the mother then opened bank accounts for each child and the money pertaining to them was transferred into separate accounts. The surviving spouse had no access to this money, although by law she could use the interest that accrued from these accounts (usufruct).

Reactions to Legal Rulings

Respondents reacted differently to their lawyer's and the bank's legal rulings. There seemed to be a correlation between the age of the widow at the time of the transition and their reaction to the legal rulings. Younger widows were more likely to have a husband who had died intestate. They were also more likely to be raising dependent children on their own. These respondents felt that if their husband had not died, they would have shared the expense of raising their dependent children. As things stood, they became their children's sole provider after his death with half the money at their disposal. This increased their hardship because at this stage of family life, a surviving spouse might also be trying to cope with the expenses concerned with the building or mortgage of the house of residence.

One of the respondents said that she had been lucky that they had succeeded in redeeming the mortgage before her husband died. Others were not that lucky. Some of these women knew though that if they could not manage financially, they could always petition the court of voluntary jurisdiction to give them permission to use their children's part of the estate.

In her research, Lopata (1996: 134) found that when the husband died intestate, older children often transferred their share of the estate over to their mother out of filial respect and appraisal of her financial condition. This did not always take place among my respondents. Only one participant said that her children voluntarily granted her their share of the money.

When the husband who had died intestate had been insured, the same policy used to divide the money in bank accounts was applied when it came to dividing the insurance money. One of the respondents said that her husband had listed her as the main beneficiary. Her lawyer, however, insisted that she should share the money with her children, in spite of the insurance company's ruling.

One of the respondents said that in spite of all the lip service successive Maltese governments pay to gender equality, the law, especially succession law, still discriminates against women. As she pointed out, she was not just a housewife. She had helped her husband set up his business. Since the enterprise had been a small one, she had never asked for, or expected a salary because whatever they made, she thought, she would benefit from in the end. She did not mind giving birth and raising her children, taking care of her home and her husband and helping him with the business because she did it out of love and concern for her family. The law, however, did not compensate her for all this unpaid work. When her husband died intestate, the law, which defined her as a dependent since she was not registered as employed, never acknowledged the unpaid work she had been carrying out within the household and the family enterprise. The enterprise was transferred on to her children. "Why do I have to be financially dependent on what my children give me," she asked "when I have contributed so much to this family?"

The women who had the right of usufruct to part of their husbands' estate faced other problems. As some of them stated, what was the point of having the usufruct of their husband's property, when they had to ask for their children's signature whenever they had to cash in the interest or rent cheque accruing from rented property or bank accounts? One of these respondents said that she was fed up of all the red tape involved, and so she had the money transferred on to her children.

House of Residence

Ownership of and use of the house of residence was also a very important issue for the respondents. Those respondents whose husband had died intestate, became co-owners of the house of residence, together with their children. One of the women was still in the process of building the house. She said that she found it totally unfair that she was investing so much of her money in the house when her children owned half of it, and would probably ask for their share of this property when they grew up.

The widows who enjoyed usufruct of their home were somewhat worried about the future. According to law they enjoyed the right of residency until they died or re-married, when the property in question would then revert to their children. Some of them mentioned instances when children evicted their ageing mother, or sent her to a home, even though the latter did not want to leave what she regarded as her 'home'. The notaries agreed that when the mother and her children were co-owners or the former enjoyed the usufruct of the house of residence, the children could demand to use the place, although legally they could not evict the mother. They said that a widow's right to the use of the house of residence was only protected when she was bequeathed the house or owned it herself. Few of the key respondents held full ownership of their house of residence though.

Survivor's Pension

Although the majority of the younger respondents worked, they could still apply for a survivor's pension if they had dependent children. The survivor's pension and the supplementary children's allowance came in handy at this stage



in life. Since women tend to be employed in lower paid, and hence less paying occupations, these social benefits were a godsend. Older respondents could only apply for this pension if they were inactive.

Husbands Who Used to Work Abroad

One of the issues raised by these widows was the fact that some of the husbands used to work in another country, namely Australia, Canada and/or the United States. Gozitans tend to migrate in search of work (Cauchi, 1998). The longer their husband worked abroad, the lower the pension they got. One of the respondents said that some months prior to her husband's death, she and her husband had gone to the area office in Victoria to find out whether they could pay the missing contributions. They could not cover all the years he had spent abroad prior to his death, and the widow ended up getting such a low pension, that she had to apply for supplementary allowance.

This often resulted in delays in adjudicating the pension. One widow was in the process of separating from her husband and could apply for a survivor's pension because the separation had not been legally effected before his death. Another participant had to carry out a pregnancy test to certify that her unborn child was the son of the deceased. These issues indicate that although the term 'widow' might allude to a particular cohort, individuals within this cohort might have different issues to deal with.

The Transfer of the 'Family' Business

Three of the husbands had their own small business before they died. One of the widows took over the business. She had never helped her husband with the business because she considered herself as being a housewife and mother first. So she was very unexperienced when she took over. It was in a way a baptism of fire but she had no alternative since the survivor's pension was not enough to raise a family on. Another respondent had to close the enterprise and sell the goods.

An older respondent whose husband had also died intestate had been informed by her notary that the business would be automatically transferred on to her sons. Her sons gave her some of the proceeds they derived from this business because they knew that she could not manage on the survivor's pension she was receiving.

'Rikors' - Petitions to the Court of Voluntary Jurisdiction

When the husband died intestate and the transfer or sale of certain goods was involved – the respondents mentioned vehicles, goods and shotguns – the surviving spouse had to apply to the court of voluntary jurisdiction to be given permission to transfer or sell the possession in question. When minors were implicated, the court became involved.

Three of the respondents had to sell their husband's car when he passed away. One of the women said that when she filed for "rikors", she had to tell the court why she needed to sell the car at the price she was asking for. The car in question was almost a total loss, and she wanted to get rid of it as soon as possible before it became totally defunct. She had found a buyer, but court officials were of the opinion that she was charging too low a price, so they sent for a car assessor to come over from Malta. She had to wait for two months before the assessor turned up. When he did turn up, she was informed that she had to cover his professional fee as well as his transportation expenses. This is an added cost where Gozitans are concerned.

The majority of the respondents knew people who could guide them through the bureaucratic

procedures involved. Others had to resort to the intercession of “il-qaddisin” (the saints, as politicians are referred to in the Maltese Islands). These “qaddisin” were usually approached by widows who were not that familiar with the bureaucratic system they were dealing with, or who needed something they were not able to get through the normal channels.

The majority of the respondents however did not like to be indebted to these “qaddisin”, and tried their best to avoid resorting to them for help. Respondents who either had a high standard of education or who knew people (friends or relatives) who were insiders to the system, had no need to resort to politicians. Respondents with a higher standard of education were more likely to be acquainted with experts who could help them sort the paperwork in the shortest time possible.

The older respondents tended to have a lower level of education, and could not access these resources. They usually resorted to the help offered by their children, who tended to have a better standard of education than their mother.

Income Tax

This transition in marital status proved to be an expensive business on all fronts for these women. The respondents not only lost a breadwinner: they lost a portion of their joint estate to their children while

they had to deal with the medical, funeral and/or legal expenses that accrued from the whole process.

The expenses did not stop here though. Some of the women said that after their husband’s death, the Inland Revenue Department often sent them a letter asking them to settle their husband’s pending tax bills. Some had to pay thousands in taxes at a time when they could ill afford to do so. Some were able to extract this money from the husband’s estate: others did not. If the tax bills were sent once the estate was divided, they often settled these bills from their own pocket since they did not look forward to getting entangled in any more red tape.

Transition in Marital Status

A will is shaped by both collective and individual factors - the law and the decisions made by the testator. What the surviving spouse inherits from her husband, is informed by the history of the material and cultural environments in which the deceased had grown up or lived in at the time prior to his death. The decisions made by the testator are also influenced by the amount of and the nature of the assets accumulated as well as the ideology prevailing among the testator’s reference group (Clignet, 1992: 156-7).

The definition of heirship solutions seems to have had a great impact on what the surviving



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spouse received. The Maltese successoral models affected greatly in what the surviving spouse could inherit, in what form and in what manner she could enjoy what the law decreed was hers. A number of respondents, especially those acquainted with successoral models available in other countries, argued that the Maltese succession law discriminated against the surviving spouse since it favoured intergenerational transfers when the husband died intestate.

Women without a job or in precarious employment were more likely to lose out when their husbands died intestate. Inactive women with dependent children, and women who did not have access to a secure, well paid job, were put in a precarious financial predicament when the husband died. Wives were more likely to lose out when the husband had been the sole breadwinner. When the husband had been the sole breadwinner, the house of residence, business and/or other property was more likely to be in the husband's name. When this was the case, the wives had more to lose when the husband died intestate.

Natural Support Systems

As mentioned before, the respondents often resorted to individuals they were familiar with when they were looking for information or assistance in dealing with the transactions mentioned above. These support systems represent a community's capacity to help itself (Delgado, 1998: 55). Natural support systems usually consist of family or friends as well as self-help groups or the church (Delgado, 1998: 37). These support systems provide a range of expressive, informational and instrumental assistance to those who ask for it, or accept it in times of crisis. This assistance is logistically, psychologically, conceptually and geographically accessible to all sectors of the community.

Kilgore (1999: 191) maintains that knowledge and skills can be shared among the members of a particular group. The community's intellectual and political development is very much tied with the development of its individual members. The skills of an 'expert' or 'reference' person could be beneficial to the whole community. The social location of the respondents impacted on the access this person had to a particular pool of 'experts'

and the information or skills these had at their disposal.

A number of studies have demonstrated (see Reitz, 1995; Swamp, 1992) that members of ethno-minority groups (and Gozitans tend to be treated as such in Malta) are more likely to resort to ethno-specific resources rather than mainstream ones. Although accessibility is important, the client's perceived level of comfort with the structures and personnel is critical. Minority groups are less likely to seek help from structures and agencies that do not adopt the same cultural patterns of help seeking used by them (Reitz, 1995: 9). And this is an important issue where Gozitans are concerned.

Centre and Periphery

In this research, the real experts on matters related to the bureaucratic requirements associated with widowhood were in Malta. They were the individuals implicated in the prescription, implementation and interpretation of policies. Gozitans were less likely than their Maltese counterparts to resort to these experts for a number of reasons, namely geographical and social distance from the political centre. This lack of access had negative repercussions for the Gozitan widows involved in this research project. The process took longer, and there were sometimes extra costs involved.

In my interviews with Maltese public service and trade union officials as well as the leaders of certain Maltese self-help groups, I became aware that Maltese social activists had plenty of opportunities to meet up with policy makers. They ran into each other formally and informally. These meetings provided the three sets of agents with the opportunity to share information and/or recommendations for legislative changes. Leaders of Maltese self-help groups often consulted officials/politicians/union representatives when they needed help, information and/or when they felt that certain policies and practices were discriminating against a particular social group. Maltese and Gozitan officials, union representatives and representatives of social organizations on the other hand rarely had the opportunity to interact with each other - formally or informally.

Gozitan widows, as a result, do not often have the opportunity to benefit from such interaction.

Maltese Counterparts

The self-help groups in Gozo were more likely to provide social and emotional help to their members than was the case in Malta. Eight out of the fourteen respondents were members of such groups. However the self-help groups from which these respondents sought assistance, were not always of sufficient support. The Gozitan widowed community tried to help each other when they could, with the limited resources at their disposal. At the same time these groups were too far removed from the political centre to make their voices and opinions heard. Those who perceive themselves as being distant from the political centre, feel that they do not have the power to bring about change.

Conclusion

Gender, ethnicity, class, age and marital status impinged on widowed women's social rights within the Maltese nation. These interlocking difficulties impacted on widowed women's dealings with mainstream and ethnospecific structures and institutions within Gozo and Malta. At the same time it was evident that widowed women's place within the Gozitan community and Gozo's location within the nation also influenced access to national social services and benefits.

While state officials might believe that all citizens have equal access to social benefits and services, in practice this is rarely the case. State discourses and practices are created and implemented by particular powerful social group/s within the nation - usually upper class men deriving from the dominant ethnic group. These ensure that the state structures and practices are designed to answer their own particular needs and interests. Subordinated social groups that want their needs to be addressed by these structures, often have to challenge the biased perspectives of those in power if they want to ascertain that these structures/practices cater as well to their needs and interests.

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