

**Dispute Resolution; Perception and Practices in informal
justice system (A case study of Fatehpur village, District
Larkana)**



**Dissertation submitted for the partial fulfillment of the
requirement for the degree of Doctor of Philosophy in
Anthropology**

**By
Jamil Ahmed**

**Department of Anthropology
Quaid-i-Azam University
Islamabad, Pakistan
2022**

**Dispute Resolution; Perception and Practices in informal
justice system (A case study of Fatehpur village, District
Larkana)**



Submitted by: **Jamil Ahmed**
Ph.D. Scholar
Department of Anthropology
Quaid-i-Azam University, Islamabad

Supervisor: **Dr. Anwaar Mohyuddin**
Assistant Professor
Department of Anthropology
Quaid-i-Azam University, Islamabad

Department of Anthropology
Quaid-i-Azam University
Islamabad, Pakistan
2022

Author Declaration

I **Jamil Ahmed** here by state that my Ph.D thesis titled “**Dispute Resolution; Perception and Practices in informal justice system (A case study of Fatehpur village, District Larkana)**” is my own and has not been submitted previously by me for taking any degree from **Quaid-I Azam University, Islamabad** or anywhere else in Pakistan/world.

At any time if my statement is found to be incorrect even after my Graduation the university has the right withdrawn my Ph.D degree.

Name of Student: Jamil Ahmed

Dated: March 03, 2022

Signature: _____



Plagiarism Undertaking

I solemnly declare that research work presented in the titled

“Dispute Resolution; Perception and Practices of informal justice system (A case study in Fatehpur village, District Larkana)” is solely my research work with no significant contribution from my other person. Small contribution/help wherever taken has been duly acknowledged and that complete thesis has been written by me.

I understand the zero-tolerance policy of the HEC and **Department of Anthropology, Quaid-i-Azam, University** towards plagiarism. Therefore, I as an author of the above titled thesis declare that no portion of my thesis has been plagiarized and my material used as reference is properly referred/ cited.

I undertake that if I am found guilty of any formal plagiarism in the above titled thesis even after award of Ph.D degree, the university reserves the rights to withdraw/ revoke my Ph.D degree, and that HEC and the University has the right to publish my name on the HEC/University Website on which names of the students are placed who submitted plagiarized thesis.

Name:

Jamil Ahmed

Student/Author Signature:

A handwritten signature in blue ink, appearing to read 'Jamil Ahmed', is written over a horizontal line. The signature is stylized and cursive.

QUAID-I-AZAM UNIVERSITY, ISLAMABAD
(Department of Anthropology)

Certificate of Approval

This is to certify that the research work presented in this thesis, entitled “**Dispute Resolution: Perception and Practices in informal justice system (A case study of Fatehpur village, District Larakana)**” was conducted by **Mr. Jamil Ahmed**, under the supervision of Dr. Anwaar Mohyuddin, Ex-Assistant Professor Department of Anthropology, Quaid-i-Azam University, Islamabad.

No part of this thesis has been submitted anywhere else for any other degree. This thesis is submitted to the Department of Anthropology, Quaid-i-Azam University, Islamabad, in the partial fulfillment of the requirements for the degree of Doctor of Philosophy in the Field of Anthropology, Department of Anthropology, Quaid-i-Azam University, Islamabad.

Student Name: **Jamil Ahmed**

Signature: 

Examination Committee:

a) **External Examiner 1:**

Prof Dr. Saif -ur -Rehman Saif Abbasi
Ex-Chairman, Department of Sociology,
International Islamic, University, Islamabad.

Signature: 

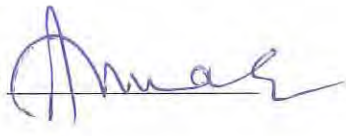
b) **External Examiner 2:**

Dr. Haroon ur Rasheed
Head of Training Affairs/Senior Program Officer,
JICA Pakistan Office, Serena complex, 4th Floor
G-5/1 Islamabad

Signature: 

c) **Internal Examiner:**

Dr. Anwaar Mohyuddin
Assistant Professor
Department of Anthropology
Quaid-i-Azam University, Islamabad

Signature: 

d) **Thesis Supervisor Name:**

Dr. Anwaar Mohyuddin

Signature: 

Chairperson: **Dr. Inam Ullah Leghari**
Associate Professor Department of Anthropology

Signature: 



QUAID-I-AZAM UNIVERSITY, ISLAMABAD
(Department of Anthropology)

Final Approval Letter

This is to certify that we have read dissertation submitted by **Mr. Jamil Ahmed** entitled “**Dispute Resolution: Perception and Practices in informal justice system (A case study of Fatehpur village, District Larakana)**” as partial fulfillment for the award of Doctorate of Philosophy in Department of Anthropology, Quaid-i-Azam University, Islamabad. We have evaluated the dissertation and found it up to the requirement in its scope and quality for the award of Ph.D. degree.

1) **Thesis Supervisor**

Dr. Anwaar Mohyuddin

Ex-Assistant Professor
Department of Anthropology
Quaid-i-Azam University, Islamabad

Signature: _____

2) **External Examiner**

Prof Dr. Saif- ur- Rehman Saif Abbasi

Ex-Chairman, Department of Sociology,
International Islamic University, Islamabad.

Signature: _____

3) **External Examiner**

Dr. Haroon ur Rasheed

Head of training Affairs/senior Program Officer,
JICA Pakistan Office, Serena complex, 4th Floor
G-5/1 Islamabad

Signature: _____

4) **Chairperson**

Dr. Inam Ullah Leghari

Associate Professor
Department of Anthropology
Quaid-i-Azam University, Islamabad

Signature: _____

QUAID-I-AZAM UNIVERSITY, ISLAMABAD
(Department of Anthropology)

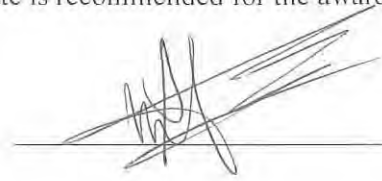
Ph.D. Examination

Defense of Thesis

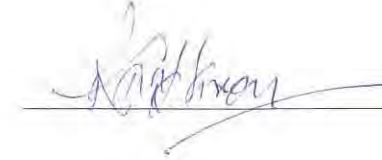
Name of Scholar: Jamil Ahmed
Title: Dispute Resolution: Perception and Practices in informal justice system (A case study of Fatehpur village, District Larakana)
Thesis Supervisor: Dr. Anwaar Mohyuddin
Date of Viva-voce: 21st October, 2022

The candidate has successfully defended his thesis. The candidate is recommended for the award of Ph.D. Degree in Anthropology.

1. Prof. Dr.Saif –ur-Rehman Saif Abbasi
(External Examiner)



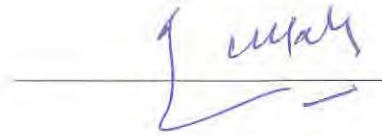
2. Dr. Haroon ur Rashid
(External Examiner)



3. Dr. Anwaar Mohyuddin
(Thesis Supervisor)



4. Dr. Inam Ullah Leghari
Chairperson
Department of Anthropology



Acknowledgment

I must begin by thanking Almighty Allah for providing me the courage and strength, allowing me to overcome several issues that arose during the research and thesis writing process.

I would like to express my gratitude to those who have provided me with valuable guidance and intellectual input throughout my study. First of all, this work could not have been possible without the continuous inspiration, help and guidance of my worthy supervisor Dr Anwaar Mohyuddin. His supervision and constructive criticism encouraged me to complete this Degree. He took a continued interest in the capacity of mentor for me throughout the process of fieldwork and thesis writing.

I owe a debt of gratitude to the inhabitants of Fatehpur village, who have been extremely helpful and supportive. They were very candid with me while sharing their experiences, stories, perspectives, and sufferings. Though I am not sure if they left some secrets hidden, they greeted me with open arms each time I visited them. Apart from a few high-ranking officials, the names of respondents included in this thesis are not actual since I was not allowed to reveal their identities by them, I am grateful to the *ChangoMurs* of the village, as well as Key Informants, for their assistance in making the first contact with my respondents. My key informants were extremely helpful and supportive at every stage of my study.

I would like to thank Dr. Inam Ullah Leghari (Chairperson, Department of Anthropology) for her kind cooperation and inspiration throughout the process of research. I also owe my gratitude to other faculty members at Department of Anthropology especially Dr. Waheed Iqbal Chaudhry, Dr. Anwar Iqbal Shaheen, Dr. Muhammad Ilyas Bhatti, Dr. Rao Nadeem Alam, Dr. Aneela Sultana, Dr. Sadia Abid, Professor Dr. Hafeez-Ur-Rehman (former Chairman of the Department), Dr. Ikram Badshah and Dr. Muhammad Waqas Saleem for their encouragement. I am also thankful to Mr. Sajjad Haider (Fieldwork Supervisor) for his continuous backing.

I also feel indebted to my family for their unabated continuous Social, Psychological and Academic encouragement and support to me with all their affection and prayers especially my father, mother, Siblings, wife, and daughter. They had always been

praying for my safe travel in Larkana, Sindh and successful completion of PhD. Mehreen, Nazia Parveen, Ali Kamran and Yumna Zafar read my chapters with interest and re-read my work to clarify my sense of writing and thesis organization. Dr. Saeed Ahmed Rind was very generous with his time and camaraderie, his thinking and mentorship has deeply shaped and challenged both the questions I asked and the sources I searched for tentative answers. A note of thanks for my classmate, Tania Shah, Tabbsum Rehmani, Faiz Rasool, Kamran, Sara, Anjum, Shahid Iqbal, Rehman Ali Chandio, Abdul Manan Brohvi (late), Siddique Chaudhary for supportive during times when I used to lose patience.

I pay gratitude to my University of Wah friends and colleagues Dr. Brig. Khaliq ur Rehman Shad (Ex-Vice Chancellor-UW), Dr. Brig Akhtar Nawaz (late) (Dean SS), Dr. A. K Solaria (late), Dr Mustaq Ahmed, Dr. Nazir Hussain (Dean SS), Dr. Shuaib Farooq, Shehla Nazmeen, Zakia Batool, Rehana Ismat, Dr. Nouman Aftab, Dr. Mussarrat Malik Sara khola, Dr. Imran Rias, Asim, Tahir Shah, Samreen Hyder, Riffat Naseer and Fouzia Ayub for their continuous backing.

Jamil Ahmed Sheikh

Abstract

In the province of Sindh, there are two types of dispute resolution mechanisms currently prevailing viz. *Faislo*, termed as Indigenous Dispute Resolution Mechanism (IDRM), which prevailed over centuries throughout villages and formal justice system or state-based system whose origin goes back to the colonial era. The present study specially focuses on the role and effectiveness of local actors (May they be state or non-state) on the dispute resolution mechanism and identifies all those socio-economic and political factors and their narratives that has helped survive and sustain *Faislo* as an effective and responsive alternative dispute resolution (ADR) mechanism. Keeping this in view, the study uses the lens of Legal Pluralism theory to understand the co-existence of two parallel legal systems in one social space i.e. Fatehpur, a village in the province of Sindh, and employs a mixture of qualitative and quantitative methodology to ensure diversity of responses and ascertained its target sample population by using purposive sampling techniques in survey, case-study and in-depth interview methods.

The major findings of the study reinforce that local consider dispute as cultural actions and seek mechanisms that understand the socio-cultural meaning and context of the dispute. Moreover, *Faislo* is governed by traditional laws derived through customs, social-culture norms and values which displays ethnic identity, social and familiar networks such as caste, kinship or tribe. Locals prefer *Faislo* over Formal Legal system because of their familiarity, access, cost effective, responsive, personal affiliation etc. while in the latter is considered alien, unsuitable, costly, bureaucratic behavior and marred with corruption. Though the verdicts given by *Faislo* has no legal binding but still every dispute of life, may it be civil, criminal, commercial or personal, is brought to *Faislo* for resolution. Perhaps it is well founded perception that this system is works better specially in cases of marginalized, illiterate, and poor sections of the society. The local actors such as *ChangoMurs* and Elders act as arbitrators and legitimize their authority and status through tradition and control the decision-making process. They are assisted and where necessary, held accountable by the state actors such as Police, Judiciary, and non-state organization such as media and civil society. The strength and sustainability of *Faislo* is over centuries is because it is a representative, consultative, and volunteered council that works on restorative

justice with the larger purpose of ensuring social peace and harmony across communities. *Faislo* acts like social assemblies that constitute and maintain the socio-economic and political hierarchies of the village. The mechanism plays a major role in peace-keeping and building among social groups at large. It promotes values of forgiveness, solidarity and sharing among the locals.

DRSML QAU

Abbreviations

UNDP:	United Nation Development Programme
ADR:	Alternative Dispute Resolution
IDRM:	Indigenous Dispute Resolution Mechanism
IJS:	Informal Justice System
SRSO:	Sindh Rural Support Organization
FJR:	Formal Justice System
SMP:	Sindh Mallah Party
PPPP:	Pakistan people's party parliamentarian
IDRM:	Indigenous Dispute Resolution Mechanism
NGOS:	Non-Governmental Organization
CBO:	Community-Based Organization

DRSML QAU

Indigenous words

<i>ChangoMurs</i>	The head of a <i>Faislo</i> and a trustable elder of ethnic group
<i>Dhur</i>	Disputing parties
<i>Qoum</i>	Social binding through Blood and affinal relations
<i>Biraderi</i>	Social network of people in a village on basis of <i>qoum</i>
<i>Otak</i>	<i>Otak</i> is a male dominated public sphere, where <i>Faislo</i> are held
<i>Faislo</i>	The <i>Faislo</i> are alternatives to formal courts and are a popular dispute resolutions justice delivery system in the villages of Sindh
<i>Wadero</i>	Head of village or tribe
<i>Sardar</i>	Head of <i>qoum/Biraderi</i>
<i>Izzat</i>	Honor
<i>Ghirat</i>	Defense of honor
<i>Musheer</i>	Advisor and reconciliatory for disputant groups
<i>Khata</i>	Traditional wooden bedframe for sitting and sleeping
<i>Rille</i>	Bedsheet
<i>Ketchory</i>	Courts

Table of Contents

Contents

Chapter 01 -----	1
1. Introduction -----	1
1.1. The Problem.....	4
1.2. Statement of the Problem.....	4
1.2.1 Introduction of Key terminologies.....	5
1.2.1.1. Operationalization of Indigenous Dispute Resolution Mechanism (IDRM).....	6
1.2.1.2. <i>Panchayat/Faislo</i>	6
1.2.1.3. <i>IZZAT/GHAIRAT</i>	7
1.2.1.4. <i>Otak</i>	8
1.2.1.5. <i>ChangoMurs</i>	8
1.3 Objectives of the Study.....	9
1.4 Research Questions.....	9
1.4.1. Justification of the Locale and Study.....	10
1.4.2. Significance of the Study.....	11
1.5. Theoretical Framework.....	11
1.6. Structure of the Thesis.....	15
Chapter # 2 -----	18
2. Review of Literature -----	18
2.1. Dispute, Culture and Dispute Resolution.....	18
2.2. Historical development of Legal Pluralism: theory and practice.....	23
2.3. Alternate Dispute Resolution – An Aspect of Legal Pluralism.....	27
2.3.1. Alternate Dispute Resolution – Wide perspective Criticism.....	28
2.3.2. Understanding ADR /Process Pluralism.....	30
2.3.3. The ADR Movement and Engagement.....	31
2.4. Traditional Dispute Resolution Mechanisms.....	35
2.4.1. Informal ADR Mechanisms in Subcontinent.....	46
2.4.2. Movements of Legalizing Panchayats.....	47
2.4.3. Features of Panchayat as Traditional System.....	50
2.4.4. Paradigm Shift towards institutionalizing ADR in Pakistan.....	55
2.4.5. ADR- Efficacy and Drawbacks.....	57
2.5. Pakistan’s Formal justice system and its Challenges.....	60

Chapter # 3	66
3. Research Methodology and Research-Setting	66
3.1 Research Methodology	66
3.1.1 Participant Observation	67
3.1.2. Key Informants.....	70
3.1.3. Village Mapping and Profiling.....	72
3.1.4. Socio-Economic Census.....	73
3.1.4.1. Choosing the Sample Size	73
3.1.5. In-Depth Interviews (IDI).....	74
3.1.5.1. Sampling procedure for In-Depth interviews	76
3.1.6. Focus Group Discussion (FGD)	76
3.1.7. Case Study Method	77
3.1.7.1. Sampling procedure for Case Study.....	77
3.1.8. Data analysis	78
3.1.9 Ethical considerations	78
3.1.10. Reflexivity and Positionality.....	79
3.1.11. Challenges of the study.....	79
3.2. Research Setting.....	80
3.2.1. Profile of Pakistan: Geography, Population and Environment.....	81
3.2.1.1. The Land of Sindh.....	82
3.3. The Profile of Larkana District.....	83
3.3.1. Population of Larkana	84
3.3.2. Profile of the Research site - Fatehpur	85
3.3.2.2. Major Caste/Clan and their Distinct Nature of Work	87
3.3.2.3. Livelihoods and Occupations	89
3.3.2.4. Housing structures.....	90
3.3.2.5. Access to Basic Utilities.....	91
3.3.2.6. Playgrounds and Water Resources	92
3.3.2.7. Education Facilities	92
3.3.2.8. Health Facilities.....	93
3.3.2.9. Customs, Rituals and Oral Tradition	94
3.3.2.10. Religious Orientation and Belief System.....	95
3.3.2.10.1. Meya LAL Durgah	96
3.3.2.11. Mechanisms of Social Organization.....	97

3.3.2.12. Family System	99
3.3.2.13. Fission and Fusion between Family/ <i>Biraderi</i> Cooperation	99
3.3.2.14. Marriage Trends and Practices	100
3.3.2.15. Social Assemblies or Networking Points	101
3.3.2.16. Political Organization of the Village	103
3.3.2.17. Proximity to District Courts	104
3.3.2.18. Presence of NGOs and support organizations	105
Chapter # 04	106
4. Community perception of Dispute and their preference for Resolution	106
4.1. Nature and Causes of Disputes	106
4.1.1. Immediate reaction after occurrence of dispute	108
4.2. Types of Disputes	109
4.2.1. Minor Disputes	109
4.1. 2. Major Disputes	112
4.1. 3. Potential Disputes/ Pending Cases	121
4.3. Indigenous Dispute Resolution Mechanism vs. Formal Courts	121
4.3.1. Contextual Factors	127
4.3.2. Sensitivity and Privacy Factor	129
4.3.3. Relational Factor	130
4.3.4. Communal Factor	131
4.3.5. Individual Factors	132
4.3.6. Other Factors	134
4.3.6.1. Efficiency	135
4.4. Discussion and Analysis	138
Chapter # 5	145
5. Role, Effectiveness and Representation of Local Actors in IDRM	145
5.1. Who are the local actors?	146
5.1.1. Local Actors from within Community	148
5.1.1.1. <i>Sardars (Head of Clan)</i>	151
5.1.1.2. <i>ChangoMurs</i>	153
5.1.1.3. <i>Kamdaar</i>	160
5.1.1.4. <i>Biradari</i> and Village Elders	160
5.2. Mechanism of <i>Faislo</i> as Formal Forum for IDRM	164
5.2.1. Significance of Key Community Players in <i>Faislo</i>	166

5.2.2. <i>Musheers</i> as Negotiators	167
5.2.3. <i>ChangoMurs</i> as Arbitrators.....	168
5.2.4. <i>Kamdaar</i> as Advisor and Record Keeper.....	169
5.3. Legal Actors /State Institutions for Dispute Resolution	171
5.3.1. The role of Judiciary.....	173
5.3.2. The Role of Police.....	175
5.4. Role of Civil Society Actors	178
5.5. Role of Community Based Organizations	179
5.6. Role of Media	181
5.7. Role of Non- Governmental Organizations	181
5.8. Discussion and Conclusion.....	183
Chapter # 6	191
6. Working Mechanism of <i>Faislo</i>-----	191
6.1. Indigenous Dispute Resolution Mechanism (IDRM)	193
6.2. <i>Otak</i> Mechanism.....	195
6.2.1. Functions of <i>Otak</i>	198
a). Familiarization.....	198
b). Creating a Social Networks among members.....	199
c). Political knowledge and their Interpretations	200
d). Developing Collective Behavior (shape collective behavior)	201
F). Developing political theme and ensuring participation.....	202
6.3. Mechanism of <i>Faislo</i>	204
6.3.1. The Philosophy of <i>Faislo</i>	206
6.3.2. Dispute Resolution Process at <i>Faislo</i>	207
6.3.2.1. How disputant groups consults with the system?	207
6.3.2.2. Place Selection for Resolution	208
6.3.2.3. Who Participates in <i>Faislo</i> ?.....	209
6.3.2.4. Selection of the Arbitrator	210
6.3.2.5. Finalizing the Selection of Arbitrators	211
6.3.2.6. Appointment and Role of Amin/ <i>Musheer</i>	212
6.3.2.7. Presenting the Relevant Evidence	213
6.3.2.8. Presenting the Witness and acceptability of Witness (<i>Shahedi</i>)	214
6.3.2.9. Remedies, Punishments and Compensations.....	215
6.4. Competency of <i>Faislo</i>	217

6.4.1. <i>Faislo</i> Process is Participatory in Nature	218
6.4.2 <i>Faislo</i> is Consensus based in Nature	219
6.4.3. <i>Faislo</i> is Voluntary	219
6.4.4. Procedural Benefits.....	220
6.4.5. Addresses All Types of Disputes	220
6.4.6. Thorough in Proceedings and Investigation	221
6.4.7. <i>Faislo</i> is Lenient in Verdicts.....	221
6.4.8. Engages Influential Arbitrator.....	222
a) A Holistic Justice	224
b) <i>Faislo</i> creates Interconnectedness	228
c) Prioritizing Community Harmony	230
6.5. Limitations of <i>Faislo</i>	232
6.6. Discussion Analysis	235
Chapter # 7 -----	242
7. IDRM – Perspectives and Indigenous Narratives -----	242
7.1. Perspectives for Preferring <i>Faislo</i>	242
7.1.1. Political Perspective	243
7.1.2. Legal Perspective of Courts and IDRM.....	248
7.1.3. Economic Perspective for IDRM.....	253
7.1.4. Social Perspective for IDRM.....	259
7.1.5. Humanitarian Perspective of IDRM	265
7.2. Outcomes of Peacebuilding	269
7.2.1. Local Narratives for Peacebuilding-A Cultural Perspective.....	269
7.2.2. Local Narratives for Peacebuilding- A Social Perspective	271
7.2.3. Local Narratives for Peacebuilding- A Economic Perspectiv.....	274
7.2.4. Local Narratives for Peacebuilding- A Political Perspective.....	276
7.2.5. Other Actors’ Narrative for Peacebuilding-An Outsiders Perspective.....	278
7.3. Discussion and Conclusion	281
Chapter # 8 -----	288
8. Summary and Conclusion -----	288
8.1. Conclusion	293
Bibliography-----	296

List of Tables

Table 1. The Four Categories of ADR Processes	31
Table 2. List of respondents	74
Table 3. Population of Larkana Talukas	85
Table 4. Nature of Disputes occurred during year 2017-2018.....	107
Table 5. Immediate reaction of disputing parties after occurrence of dispute	108
Table 6. Perceptions regarding the occurrence of issues	114
Table 7. The cases of Family Disputes	121
Table 8. Disputes referred for Resolution in year 2017-2018.....	124
Table 9. Obstacles in protection of legitimate rights	125
Table 10. Reasons behind not accessing Formal Justice Delivery.....	126
Table 11. Reasons behind selecting IDRM in year 2017-2018	133
Table 12. Community’s perception of different justice delivery mechanisms	134
Table 13. Thorough investigation in year 2017-2018.....	136
Table 14. Delay tactics used by Formal or Informal Justice System	136
Table 15. Ensuring Confidentiality and Privacy	137
Table 16. A mechanism satisfying social and personal need for Justice	138
Table 17. Place of <i>Faislo</i> hearing	208
Table 18. Knowledge about Legal Rights.....	248
Table 19. Knowledge regarding Court Procedures	249
Table 20. Sources of Information about Legal Procedures.....	249
Table 21. Source of Income	255
Table 22. Monthly Income of Household.....	256
Table 23. Individual’s Involvement in Dispute	256
Table 24. Mechanism of Settling Dispute.....	257
Table 25. Pursue case through IDRM and Courts at a time.....	258
Table 26. Disputes and Interruption in Communication.....	260
Table 27. Failure of Dispute Settlement and Hostile Aggression.....	260
Table 28. Dispute Resolution and Re-occurrence of Dispute.....	261
Table 29. IDRM and Communication Restore	262
Table 30. <i>Faislo</i> and Restore Harmony and Peace	262
Table 31. Effective Role of Local Actor.....	263
Table 32. Consequences of Non-Compliance.....	264

List of Figures

Figure 1. Map of Pakistan (Pakistan, Survey of Pakistan, 2020).....	81
Figure 2. Map of Larkana	84
Figure 3. Map of Fatehpur Village.....	87
Figure 4. Traditional Land Cultivation	90
Figure 5. Basic health Services	94
Figure 6. Meya Lal Dargha	96
Figure 7. Otak.....	98
Figure 8. <i>Otak of ChangoMur</i>	102

DRSML QAU

Chapter 01

1. Introduction

Disputes are integral to human existence and as natural events, they may naturally emerge from interaction and sharing social spaces (Attaullah, 2017; Pennisi, 2011) and need to be addressed or resolved when they escalate and become obviously harmful (Attaullah, 2017). However, conceptually disputes have been referred as ‘clash of interests or struggle over resources, power or status between social groups’ (Applebaum, Abdullah, & Shapiro, 1999; Avruch, 2004; Robbins, 2005) or events that may result in violence (Christos, 2008). They may not be always concrete events but at the times rise because of difference of perception and emotions (Thakore, 2013). Hence, disputes are dynamic processes, consisting of many stages (Synders, 1981), which can happen among countries as well as ethnic groups where both the involved parties practice their right of self-determination for the purpose of resolution (Ponzio, 2018). Globally disputes are considered as culturally constructed actions therefore the patterns of resolution mechanisms vary from one cultural setting to another (Harrington & Merry, 1988; Zaman & Upadhaya, 2016). Since the mechanisms through which societies manage their disputes are culturally constructed hence the meaning, reasons of disputes are socio-culturally contextual and play a crucial role towards its better management (Avruch, 2004). Conflicts are also largely guided by participant’s philosophical beliefs about how parties conceptualize their problems and devise ways to solve them (Mwihurih, 2015). Moreover, the functionalist perspective considers that it is the nature of dispute or nature of dispute that decides for kinds of institutions, processes or components to be involved in resolution (Auerbach, 1984).

The management of the disputes can be done through formal adjudication or informal means and mechanisms (Attaullah, 2017). The Formal Justice System (FJS) resolves disputes (civil and criminal cases) through legal state-based justice institutions by adopting legal procedures, such as police, courts, prosecution and custodial measures (Wojkowska, 2006). Ahsan Iqbal referred Stephen J. Ware and he defined ADR/IJS as “encompassing all legally permitted processes of dispute resolution other than litigation” (Iqbal, 2016). It is governed through the Traditional Law and functions on the basic premise of accepted indigenous norms, values and culture which may be

followed by ethnic identity, social and familial networks such as caste, kinship or tribe (Shahid, 2012). The systems other than formal named as Alternative Dispute Resolution (ADR) systems are categorized as negotiations, conciliation/mediation, or arbitration systems (Menkel-Meadow, 2015). The traditional dispute resolution mechanisms are centuries old and have survived colonial invasion and intrusion. Evidence shows that besides state structures, many of the indigenous systems regulate their social and cultural traditions through traditional law and local mechanisms (Rani, 2014). And their conception is found remarkably in all societies of the world and in all times (Thomas, 2016). In many countries, informal systems are the major means of resolving disputes, and they have the ability to resolve conflicts effectively and peacefully if they do not deteriorate into violence. It is a means of reaching a result that fulfils their sense of justice, but there are times when it falls well short of that ideal (Wojkowska, 2006). It resolves disputes ranging from property disputes, to marriage and divorce or inheritance (IDLO, 2015).

In Pakistan, three forms of justice systems prevail such as formal, informal and Sharia law. Furthermore, the basic doctrine for legal system is same as it is practiced in England, such as court verdicts, various bodies and organizations of Bar Associations and has many appropriations in cooperated by military rulers in terms of ordinances and Islamic laws. Though the current judicial system is not completely British and bears some indigenous flavors but still is considered alien and has little acceptance and legitimacy among the rural masses and indigenous people (Hussain F. , 2015). Subsequently, after independence “Pakistan has retained the original form and variants of the traditional justice system, which have played an instrumental role in delivering justice across the country” (Manzoor, 2020). People opt for traditional practices to resolve disputes as it is a centuries-old practice through Jirga or panchayat. However, the decisions given have no legal binding, but every dispute in life, whether it be civil, criminal, commercial, or personal, was and still is, in many parts, brought to traditional mechanisms for resolution and forms a separate sphere of legal practice (Iqbal, 2016). The system is also considered a blessing due to its efficacy especially in areas deprived of state law (Shahid, 2012). Free cost is an essential feature that makes it preferable to FJS, as that country's 24.3% poor population cannot afford a mechanism that increases the burden cost, especially during litigation or consultation (Bank, Asian development, 2015). Therefore, IJS

ensures justice delivery and accessibility for all specially in less developed countries where the state is faced with economic constraints such as cost of litigation.

World Justice Project (WJP) in their annual report of 2017-18 listed Pakistan at 107 positions out of total 113 countries in provision of civil justice to its citizens whereas secures the position of 81 regarding the criminal justice access and provision and appreciated accessibility, impartiality and effectiveness of alternate modes of dispute resolutions (Butt, 2018). World Justice Project report 2020 reflected the deteriorating rule of law situation in Pakistan where the access to criminal justice procedure has got worsened by many degrees (Durrani, 2020). It is this worsening situation of FJS that has created vacuum for the IJS system and people dependency on informal means. The report was released by Law and Justice Commission of Pakistan (LJCP) in 2018 showed recent statistical report on burden of pending cases on Pakistani courts. According to the report, huge bulk of cases in all premier courts of Pakistan show pending status. The process of litigation is in constant delay (Asad, 2018) and the burden is constantly increasing. The huge backlogs of pending cases in courts of Pakistan and Sindh are one of the major reasons for communities to stick with IJS (Channa, 2019).

Therefore, to reduce the burden on the courts and bring ease to the people, Government of ADR is fast gaining policy traction in Pakistan. Recent legislation includes Islamabad's ADR Act, 2017; the Punjab Alternate Dispute Resolution Act, 2019; and the Code of Civil Procedure (Sindh Amendment) Bill, 2018 (Hussain, 2018). This public body ADR has risen to fame and is successfully implemented in Punjab and Khyber Pakhtoon Khah (KPK). A study by Manzoor et al (2020) analyzed the effectiveness of these conciliation courts and found that in nine districts of KPK the results were highly remarkable. More than 80% of the cases were resolved in timespan of three to four months and both parties were not only satisfied with the process but demanded more such reforms (Manzoor, 2020). Sindh Government has also passed the code of civil procedure act in 2018 to ensure timely justice to the people. Since the debate on public body ADR in Sindh Provincial Assembly is almost a decade long but the traditional ADR is still more prevalent and functional in the rural areas. This study aimed at understanding the perception about the traditional ADR, its effectiveness even in 21st century, process and follow ups. In the eyes of the indigenous people there are dependable benefits in terms of cost, time, accessibility,

swiftness of procedures and “physical proximity”. This study also presents a detailed insight into the qualifications, experiences and expertise of the people who are involved in the peace-making process.

1.1. The Problem

Fatehpur, a village in the Larkana district, is known for its ethnic disputes, injustice, vulnerability, and marginality of its inhabitants. In 2009, the Sindh government initiated a poverty reduction programme at the union council level and introduced the ADR act 2018 to reduce ethnic disputes and injustices. The present judicial system is overburdened and is virtually incapable of addressing local disputes. For the provision of efficient justice, it is necessary to reduce the pressure on the existing justice system and remove the challenges faced by the locals. In view of this, ADR (alternative dispute resolution) Bill was officially integrated into the Sindh Act, Iv of 2019, and the Federal government already officially integrated the ADR 2017 Act into Section 2 of the Code of Civil Procedure, 1908, to resolve civil and commercial matters out of court. For the present study, *Faislo*, the traditional justice system needed a detailed assessment from the viewpoint of all imminent actors and to concentrate on identifying the most relevant social, economic, political issues and indigenous narratives that influences dispute resolution and justice delivery process for the inhabitants of Fatehpur.

1.2. Statement of the Problem

It is an accepted fact that access to justice is an important factor for human development to prevent disputes, resolves governance issue and reduces poverty and social injustice to maintain the social order. Uddin has cited Sepulveda (2014), who stated that there is significant co-relationship between lack of legal protection for the poor and disputes in the context of developing world. Due to massive control of rural elites such as landlords, the legal protection and rule of law is largely ignored and not much adhered. The non-compliance resulted not only in raising poverty but social injustices. Hence, the poor having no access to justice is exploited and is unable to demand for their rights. However, constitution puts great responsibility on the state to protect the life, wealth and honor of every citizen. It gives each citizen the right to have access to free and fair justice, but many are still subject to unfair treatment and

injustice. Without given equal access to justice, the poor will be abused, tortured and trapped in a vicious cycle of cruelty, deprivation and exclusion (Uddin, 2019).

Rule of law and justice system are important elements of access to justice (McKay, 2015); according to UNDP, "access to justice" means the ability of the people, specifically of the poor and marginalized segment of society, to obtain remedy or salvation through FJS and IJS in accordance with human rights standards (Relis, 2012). By improving access to justice for the poor significantly help in balancing the asymmetrical power distribution among communities. Therefore, access to justice for settling disputes or dispensing justice is directly linked not only with functionality and process of decision making by judicial institutions but also simultaneously it makes the whole process more cost and time effective as well as useful for the community at large.

Most of the previous studies (Shinwari: 2015, Justice Saleem Akhtar: 2014) concerned with the Sindh province of Pakistan have explored the general patterns of *Faislo*, their aspects, impacts and linkages with land controlling factors. Not a single research study discusses *Faislo* as a complete institution with strong purpose, defined norms and values, rules, regulations and engagement of social actors. This study is an attempt to explore the community perceptions about *Faislo* alongside its detailed processes, practices and its impact on the lives of the community members. It is pertained to mention that *Faislo* and its impact on the social-economic and political lives (both individual and collective) of people living as members of society have not been studied yet in the context of rural settings of Sindh. The present study thus focuses on investigating the underlying mechanisms related to the process of *Faislo*, the role of social actors, perceptions and practices and their impacts such as socio-economic and political implications on the local people and community at large. This study purposes to facilitate the state-based justice system to ensure justice delivery by combining the strengths of different prevailing traditional legal mechanisms.

1.2.1 Introduction of Key terminologies

For the present study, different terminologies, and definitions, especially of *Faislo*, *Izzat* and *Ghairat*, *Otak*, *ChangoMurs* and *IDRM* have been commonly used and need to be defined to understand the prospects and parameters of the current research. They are as follows:

1.2.1.1. Operationalization of Indigenous Dispute Resolution Mechanism (IDRM)

There are many indigenous techniques around the world to resolve disputed, but the nature, practices are different with reference to area and these mechanisms are building with reference to experience and exposure of communities with definition of crime, and its types and resolution (Lawyers, June, 2019). The Indigenous Dispute Resolution Mechanism (IDRM) operates under the basic community holistic philosophy, which is guided by the unwritten traditional laws and practices which are primarily taught by community. Thus, indigenous approaches do not have universal mechanism and application; in fact, it is context-specific for resolution or reconciliation. The aim behind holistic philosophy is to promote a circle of justice through well-established relation-based network among community members and provide a platform where everyone can address his grievance.

In the research, the concept of IDRM is operationally conceived as an available alternative to provide natives with culturally specific solutions to local problems within broader social context to maintain harmony and peace and it comprises of *Faislo*, *Otak* and *ChangoMurs*. While the term ADR in the study refers to the other available Alternates to dispute Resolution including government-initiated ADR (public body).

1.2.1.2. Panchayat/Faislo

The *Faislo* are alternatives to formal courts and are a popular dispute resolutions justice delivery system in the villages of Sindh. In the history of Sindh *Faislo* system has been empowered through sanctioning judicial powers. The *Faislo* court carried out judicial functions and resolve disputes between the inhabitants of the village since centuries. *Faislo* is the non-official but popular mechanism and have the feudal lords behind them. *Panchayat/Jirga/Faislo* system is a form of justice delivery mechanism that is mostly practiced in Indian subcontinent, India, Pakistan and Bangladesh.

The *Panchayat* is rural self-government system which has deeply rooted in medieval and ancient times (Shahid, 2012) and it is integral part of inter village and intra village dispute resolution mechanism (Ghulam, Mohyddin, & Mahesar, 2013).

The term *Panchayat* simply means "assembly" (*ayat*) of five (*panch*) and *Jirga* mean circle and *Faislo* means final verdict. *Panchayats/Jirga/Faislo* consists of respected, trustworthy and wise elders of the community. The main objective of this judicial

system was to provide solutions, stop further aggression and settlement of disputes between individuals or groups at family, village or inter-village level.

In Sindh, the *Faislo* refers to local ethnic groups, local body of dispute settler who incorporate local customary law mechanism to resolve disputes. The *Faislo* is said to be all male dominated public sphere, where nominated ‘honorable men’ such as village elders, tribal and ethnic group leader, family headmen, and landlords resolve disputes by providing various solutions. The focus of *Faislo* facilitated arbitration is to restore societal equilibrium relatively than provide justice to fellow men. The collective decision is socially binding on the parties involved (Brohi, 2016).

The *Faislo* use indigenous dispute resolution mechanism and culturally proven sanctions to resolve dispute and maintain harmony and peace through the applications of locale approved sanctions. The *Faislo* developed over a period of time while cultures of Sindh have diverse experiences and practice by different communities living certain location. The *Faislo* is special unwritten customary laws based on entirely different reward and punishment’s structure. The main feature of the *Faislo* is that it primarily relies on compensation rather than imprisonment.

1.2.1.3. *Izzat/Ghairat*

In rural areas of Sindh specifically and in Pakistan, *Izzat* has been changed into a verdict, an implication of justice to whoever is involved in it. Most of the cases registered in informal justice system have the involvement of *Izzat* which need to be rectified mostly by the Panchayat. The decision of the Panchayat may or may not be in support of both the parties, still these are resort to the decisions to safeguard ego of the parties.

In research site, diverse ethnic groups reside in the same village and from powerful caste to subordinate caste; “*Ghairat*” (Honour) and ego are basic reasons for dispute. Therefore, disputes occur due to “*Izzat*” (respect) and *Ghairat*, (Honor, defense of honor and chastity). Hurting *Ghairat* and *Izzat* is not personal matter, but rather it is considered as an ethnic and communal issue. Mazna Hussain (2006) explained that the illegal relations, love marriage, seeking for divorce and a victim of rape and kidnapping are considered dishonorable acts. The female is considered as matter of *Izzat* and *Ghairat* of male and in the Indian-subcontinent male’s honor is perceived as honor of a whole family. Thus, any illegal act of women in this regard seems to be

unforgiving and subjected to punishment due to miffed male honor and supremacy (Hussain, 2006).

1.2.1.4. *Otak*

Otak is a male dominated public sphere, where most *Faislo* are held. *Otak* is a centuries-old traditional institution in Sindh, and it is politically dedicated private land of *ChangoMurs* for Public gathering with purpose of discussing daily matters. The *Otak* is a large piece of land, one forth part of it is constructed with having basic amenities and mostly other part is open planted ground. Normally, villagers have access to open area of the *Otak* where they sit under trees. As the nature of the community is agriculture; mostly villagers meet during free time from agricultural activities of every day. *Otak* sometimes can be used for special purpose gathering such as condolence of death, murder and sometimes for funerals. According to Chudhary, they are considered 'social assemblies' synonymous to 'Batik or Dera' and serve the same purpose as explained by Chaudhary in his legal ethnography of Punjabi Village (Chaudhary, 1999).

1.2.1.5. *ChangoMurs*

In simple words, *ChangoMurs* can be defined as the head of a panchayat and a trustable representative elder of ethnic group in a village or a town in Sindh (Jotwani, 2017). The characteristics to be selected as a *ChangoMurs* are honesty, a noble man of impeccable character and dignity, free from evil tendency in most cases. His communication skills and expertise to settle the disputes between two parties is highly valued in the community. *ChangoMurs* also, supposedly have better connections with *Wadera* as well. *Wadera*' (Feudal lord) is derived from the Sindhi word "*Wadro*" which means an elder. *Wadera* is a rich, owner of hundred acres of land, politically influential person and many villages come under him, and his ultimate goal is to maintain its influence and authority at any expense.

1.3 Objectives of the Study

The study makes an effort to achieve the following research objectives;

- ❖ To explore the perceptions of natives regarding available dispute resolution mechanisms in the village Fatehpur.
- ❖ To explore the role, position, representation and effectiveness of all relevant social actors (Community, Police, Civil Society, Elders, and *ChangoMurs*) in dispute resolution mechanism in the village Fatehpur.
- ❖ To examine the working mechanism of IDRM (*Faislo*) and its implications for family and community at large.
- ❖ To document the indigenous narratives and perspectives regarding *Faislo* with reference to its relevance and functionality as a legal mechanism and to identify its strengths.

1.4 Research Questions

The study explores the usefulness and efficacy of *Faislo* in the given cultural settings. Additionally, the focus is on exploring the factors relating to the appropriateness of *Faislo* mechanism (at Family, cast and Community level) in any given circumstances and how the folkways, traditions and mores determine the sanctions and penalties against violations. How society interprets these customary laws and what reasons they present for adhering the rules and regulations of *Faislo* as legal mechanism? Following questions were formulated to unpack the study objectives;

- 1) What factors influence the perception of natives regarding the Dispute Resolution mechanism?
 - i) What are alternative mechanisms available for resolving disputes and their significance?
 - ii) How the justice delivery mechanism is responsive to address the problem at hand?
- 2) How the Local actors interact with each other in the evolution of dispute?
 - i) How do they interact with each other to determine the effectiveness of dispute resolution mechanism?
 - ii) How the local actors sustained over a time period?

- iii) What is the impact of local actors on the attitude and behavior of the villagers?
- 3) How IDRM (*Faislo*) mechanism operates and is perceived in the research sites?
 - i) What role does *Otak* play in facilitating and functioning of IDRM?
 - ii) What is the strength and limitation of the *Faislo* in the village?
- 4) How significant is the role of *Faislo* as a legal entity?
 - i) What expectations natives hold from a justice delivery/dispute resolution mechanism?
 - ii) Which justice delivery mechanism operates and how it benefits individuals and community in large?
 - iii) To explore the implication and ramification of *Faislo* in resolving disputes?

1.4.1. Justification of the Locale and Study

To delimit the universe of research, Fatehpur village was selected as a case study. It is about 7 kilometers away from main city Larkana. There were several other reasons to select Fatehpur as research cite; firstly, the locale has diversified social groups residing together therefore has been conceived a culturally and ethnically vulnerable site for conflicts. Secondly, easy accessibility, connection with main city through roads and network of buses also makes it a more favorable site for research as natives had easy access to formal justice systems as well; Lastly, *Otak* and *Faislo* was found functional in the selected village and the prevalence to settle disputes through *Faislo* was much higher, such cases and decisions of disputes were reported number of times in local newspapers, local radio and local televisions. The locale is ideal for such several unintended issues which can enrich the research document for future reference and guidance not only by the academics but also professionals working on socio-legal systems.

As for justification of study, the role of the Indigenous Dispute Resolution Mechanism (IDRM) is considered to be restricted to closed and ethnic based communities with confined to rural areas only. The IDRMs have been marginalized during colonial rules and allowed *Panchayat* system in their favor only and neglect by state after independence. The practice of indigenous dispute resolution mechanism (IDRM) has been overlooked at community level and rural areas due to lack of

recognition and acceptability by formal courts, academia, NGO's and law makers in Pakistan. Further, the influx and influence of western culture, the practice of indigenous dispute resolution mechanism (IDRM) arise various questions in mainstream media and newspapers. Importantly, traditional communities are unable to defend themselves and few of wrong practices of landlord, badly damage the reputability and efficacy of traditional system.

1.4.2. Significance of the Study

The study is designed to contribute towards the achievement of better understanding with respect to the role of Indigenous Dispute Resolution Mechanisms (IDRM) for social, economic and political development. It further examines the critical role of local actors along with their narratives and the mechanism in resolving the disputes. In particular, it explores the process and means through which the community meaningfully participates in *Faislo* for the cause of justice. Not to say the least, engagement with traditional ADR is considered as source of respect and protection for all the community members.

By and large this study will be of immense value for researchers, various Governmental agencies, academicians, lawyers, local and international organizations for better understanding of the complexities *Faislo* in particular and the prevailing justice system throughout Sindh. This study will contribute significantly in fulfilling the gaps that rationalizes the traditional and customary laws to comprehend how law is perceived by the indigenous people and what they expect from the law and enforcement agencies to deliver justice by investigating the local narratives in the socio-cultural context.

1.5. Theoretical Framework

The section provides a brief account of the relevant theories and reasons for selecting one out of all by providing its background, theoretical orientation and its logic to be used in the present research.

There are various theoretical frameworks to look into disputes from different angles and its resolution, such as legal pluralism, Human rights-based approach, restorative justice, Retributive justice and transitional justice. The basic concept of restorative justice was originated in the 1970s, and various scholars such as Howard Zehr (2002), Tony Marshall (1996), John Bazemore and Lode Walgrave (1999) have contributed

through their academic scholarship to build the concept. For Zehr 2002, the theory of restorative justice focuses that what actually vindicates is an acknowledgement of the harms and desires of victims along with an active attempt to enable culprits to take responsibility, redress the wrongs and resolve the roots of their actions. While retributive theory assumes that harm is vindicated, but that is also detrimental for both the victim and the culprit in practice (Zehr, 2002). The transitional justice theory was originated in 1980s and early 1990s, in response to political transition in Latin America and Eastern Europe. Transitional justice is an approach to systemic or massive human rights violations that simultaneously provides victims with recourse and creates or improves mechanisms to transform political processes, disputes, and other circumstances that may have been at the source of the violence. Transitional justice has two goals: justice for the victim and the possibilities for stability, democracy, and reconciliation must be improved (ICTJ, 2008). UNDP report has cited Roar (2000), who stated that the human rights-based approach emphasizes on the needs and aspiration of individual, rather focusing on general development, but on human development. This approach does not only offer a vision of what should be done (to protect the equality, well-being and dignity of all people everywhere), but also set out a range of integrated techniques and essential references (human rights values and principles) that ensure effective review, emphasis on key human development priorities, ownership of the individuals involved and assistance (Roar, 2000).

Legal pluralism, on the other hand, is a social fact of the world. It exists because sets of norms and values that govern the life of people derive from the sources other than state law and various part of the world legally own and recognize those customary laws (Wojkowska, 2006). It is not the matter of two different legal codes for people at all. But rather the 'customary' legal framework is as a way of life. It is about how people should perceive and live to maintain the social order. Whereas, on the other hand, the state legislation and jurisdiction are perceived as something imposed and foreign by the natives. People cannot understand as the language is foreign and has nothing to do with most of the people's lives. So, Legal pluralism can't explain with reference to different laws, but rather it is a different world view (Levine, 2009).

The theory of Legal Pluralism has been selected to look into disputes and its resolution from different angles. Merry has cited Pospisil (1981; 1984) who defined

the Legal Pluralism theory as 'such a situation in which "*two or more legal systems coexist in same social field*" (Merry, 1988). This theory is applicable to the present research as well, as if Informal Justice System and Alternate Dispute Resolution is taken into account. Our scope of studies ameliorates in itself to the theory of Legal Pluralism. The notion of Legal Pluralism is the main focus of attention for the students of legal theories. This social phenomenon affords "empirical investigation" for researchers in law and society. There are different perspectives and inferences, but altogether the consensus is upon "legal pluralism is a powerful aid to conceptual analysis, sociological understanding, and evaluation of law" (Woodman, 1991).

To understand law, Dupret (2007) referred various scholars who defined law. Law, according to Durkheim, is a social phenomenon that represents all of the fundamental forms of social solidarity. Marcel Mauss built on Durkheim's legacy by proposing that a community can have many legal systems interacting with one another. Bronislaw Malinowski, on the other hand, was the first to give a definition of law that closely links it with the concept of social control. Malinowski believes that law should be determined "by function rather than by form" (Dupret, 2007). Law is as plural as social life itself, representing the norms that are "too practical to be supported by religious punishments, too onerous to be left to goodwill, and too intimately essential to individuals to be enforced by any abstract agency" (Dupret, 2007).

The key-developers of legal pluralism Griffiths (1986) defines Legal Pluralism situation as: "*One in which law and legal institutions are not all subsumable within one system, rather have their own sources in the self-regulatory activities which may support, ignore, frustrate or complement one another, so that the law which is actually effective on the "ground floor" of society is the result of enormously complex and usually in practice unpredictable patterns of competition, negotiation, isolationism and interaction*" (Griffiths, 1986).

According to Sally Engle Merry (2013) 'Legal pluralism is not a theory of law or an explanation of how it works, but a description of what law is like.'. It serves as a reminder to spectators that law can assume numerous forms and exist under parallel regimes.' Legal pluralism, she claims, provides a "framework for thinking about law, where to find it, and how it works," as well as a "guide to thinking about law in its many manifestations and intersections, and to paying attention to alternative

understandings and practices of law, particularly among society's less powerful members" (Merry, 2013). Legal pluralism offered a significant alternative framework because pluralism has always sought to establish hybrid legal spaces, where diverse normative systems occupied the same social field. Whereas pluralists had often focused on clashes within one geographical area—where formal bureaucracies encountered indigenous ethnic, tribal, institutional, or religious norms—the pluralist framework proved highly adaptable to analysis of the hybrid legal spaces created by a different set of overlapping jurisdictional assertions (Berman, 2009).

Pakistan is a plural society, where multiple and parallel laws are functional such as state law, Islamic law, and tribal and customary law. The state and the state law are unable to reach most part of the country and non-recognition at local level, customary laws are frequently practiced. In Pakistani village structure, traditional ADR has central importance, due to the multiple reasons of malfunctioning of the state-based judiciary and governance etc.

Bearing in mind the significance of the legal pluralism in integration of different legal systems to maintain peace and provide justice, the effort is made to understand the significance of Alternate Dispute Resolution in the village Fatehpur as a code of life. For wooden “the conception of legal pluralism helps to understand the “full scope and social as well as moral significance of Non- State Dispute Resolution mechanisms. Informal Justice System or the Alternate Dispute Resolution affords in itself all the “forms and modes of dispute resolution within the legal system other than the ordinary courts” (Woodman, 1991). These forms and modes can be classified as adjudication, mediation, arbitration and negotiation. Thus, Alternate Dispute Resolution discusses all those instances which are not adopted by the State Law Courts. The purpose of study of legal pluralism is to highlight the fact that throughout the world there are many instances created by “semi-autonomous law bodies”. It further suggests that different dispute resolution processes are linked with different frames of legal rules. It is evident that Alternative State Processes use variant bodies of law, and that non-state procedures are different from State Laws. While Official Legal system denies the existence of “customary laws”, there is no reason these should be left out of the social fields. Alternate Dispute Resolution procedures have been complimented as supplementing the effectiveness of State Law by providing huge access to justice.

Considering all these factors the framework of Legal Pluralism for the present study is selected to see how the conflicts are resolved through traditional mechanisms, what meaning people attach to any of the mechanism and how the co-existence of plural approaches of justice delivery can be beneficial for the masses in the longer run.

Geoffrey Swenson in 2018 studied the concept of legal pluralism in Afghanistan to ensure the justice through the integration of ‘non-state law practices’ into ‘state-law’. He proposed that both state and non-state law has four major complementary features like combative, competitive, cooperative, and complementary and these features can help in future to practice the concept of legal pluralism in its true theoretical sense. He further explored that the incorporative and harmonious relationship between state and non-state actors can be persuasive in bridging the gap between different legal systems (Swenson, 2018). Following Swenson, for the present study I also intended to explore, does the *Faislo* (as IDRM) and formal legal system possess combative, complementary, cooperative and competitive features and how these can be effectively used in the provision of justice to the natives.

1.6. Structure of the Thesis

Following is a brief outline of all chapters of thesis dissertations to generate a clarity about how different information has been placed and serves the aimed objectives.

Chapter # 1. Introduction

This chapter demonstrates a comprehensive understanding of the problem. It discusses relevant research questions, objectives, locale of the study, significance and justification of the study. This chapter also provides theoretical background of the research. The theoretical background includes major findings for Alternative Dispute Resolution within the framework of Legal Pluralism.

Chapter # 2 Literature review

The chapter shares reviewed literature on disputes, strategies, and processes of dispute resolution; resolution mechanisms; and their connection to justice delivery across culture. With reference to the present study, historical development of the theoretical framework, i.e., legal pluralism, is explored. Moreover, debate on the foundation of the ADR mechanism to understand the scope, functionality, and reasons for opting for ADR. The IDRM system's relevance in the subcontinent, its existence and survival,

and finally, a brief outlook on the formal justice system of Pakistan and the systematic or structural issues.

Chapter # 3 Research Methodology and Research setting

Chapter three is divided into two sections where the first section presents the employed methodology and research process of data collection for the study. However, the second section discusses the ethnographic setting of the research; this provides insights of the research areas such as the history of Fatehpur, demographic features, ethnic groups, economy, political organization, education worldview and religion, present status, as well as living style of the community.

Chapter # 4 Community perception of Dispute and their preference for Resolution

Chapter four refers to first objective of the study and includes detailed exploration of nature and causes of disputes. The first section of the chapter describes the perception of people about nature and dynamics of disputes, while the second half of the chapter presents their perceptions to opt for a certain resolution. The intimate relation of community members with *Otak* and *Faislo* and their involvement in the *Faislo* process, behavior and attitude attached with seeking justice and the reasons for preferring any specific justice delivery system are the major themes of this chapter.

Chapter # 5 Roles, Representation and Effectiveness of Local Actors

Chapter five explores the role of local actors, who are involved (directly or indirectly) in disputes resolution procedure. Dispute resolution in *Faislo* takes guidelines for the final verdict from culturally approved norms rather than on the country's legal system. In the research site, the *Faislo* was exclusively functional under the influential community members, such as *ChangoMurs* of *Biraderi*, respective elders of a family, member of civil society, and *ChangoMurs* of the village, and they all are trained from generations to resolve a dispute. These local actors by involving themselves at various levels to re-establish the social capital which is damaged due to disputes. Their efforts enable them to cease aggression immediately and restore the relationship shortly.

Chapter # 6 Working mechanism of *Faislo* as IDRM

Chapter Six explores in-depth the working mechanism and operational principles of *Faislo* as IDRM. The chapter shares how *Faislo* runs its process for seeking resolution and dispensation of justice. Moreover, the chapter specifically sheds light

on reasons for credibility and limitations of *Faislo* conceived by natives. This chapter draws particular attention to understand the manifestation of Indigenous Dispute Resolution Mechanism (IDRM) in village Fatehpur. It includes the philosophy of justice that underpins these mechanisms. The main components of IDRM, how they function as a whole, typology of indigenous mechanisms of justice are discussed in thorough detail. How the judges are selected, what role Amin plays and the importance of witness for the victim is also highlighted to better understand the whole procedure as it is performed in the research setting.

Chapter # 7 Indigenous Perspectives and Narratives about IDRM

This chapter draws particular attention to understanding the perception of people regarding IDRM. This chapter includes the prospective about dispute, its legal, political, social, economic and humanitarian perspective. This chapter also focus on various outcomes of IDRM peacebuilding process. First part explores the various perspectives of community for preferring customary laws, or indigenous dispute resolution mechanism while dealing with their issues and disputes whereas the second part of the chapter sheds light on the socio-economic, cultural and political significance of peacebuilding process among the community.

Chapter # 8 Summary and Conclusion

This chapter consists of the overall summary of the study and provide answers to the proposed research questions and aimed objectives.

Chapter # 2

2. Review of Literature

The second chapter of the dissertation discusses relevant reviewed literature to understand and comprehend the concept of dispute, dispute resolution processes, strategies with their connection to justice delivery across cultures may they be formal or informal. The historical development of the theoretical framework i.e., legal pluralism has been discussed with its relevance to the present study. For clarity, the reviewed references initially debate the foundations of Alternate Dispute Resolution mechanisms to understand the scope, functionality and most importantly reasons of preference in different disputing situations worldwide. The literature also tries to draw the connection of ADR with Indigenous resolution mechanisms and throws light on adaptation of customary laws in pursual of justice. The last part of the chapter mentions existing literature related to contribution of indigenous ADR Mechanisms such as Panchayat/*Faislo* in the cultural, historical and legal context of subcontinent especially Pakistan without ignoring the recent paradigm shifts towards proliferation of process institutions into formal legal system.

2.1. Dispute, Culture and Dispute Resolution

Academically within anthropology, to study disputes; two prominent schools of thoughts were led by Max Gluckman and Victor Turner of the University of Manchester and Bernard J. Siegel and Alan R. Beals of Stanford University. For the former, patterns of social conflict were eufunctional for the maintenance of social systems whereas the first school of thought with its 'theory of conflict' proposed that the dispute within or between groups promotes the solidarity at a larger level where non-conformity with the mandate of decisions-makers is taken as indicator to furthermore stress the significance of those particular positions in the society, and opposition in ritual is taken as emblematic and symbolic affirmations that the moral order must never be challenged. Turner's case history approach towards community conflict as a method of ethnographic recording and presentation also was a significant development in understanding symbolism behind social disputes. However, the later school of thought not only challenged the 'theory of conflict' being socially eufunctional but considered it difficult to interpret conflict in crystalline model of

structure and functions. They were mainly more interested in the root-causes of conflict than functions (Levine, 1961).

To the second school of thought, led by Siegal and Beals, social conflicts are a consequence of mal-adaptive outcomes, produced due to disruption in interactions either because of strains i.e., sensitive points among social groups or in system or because of stresses i.e., alterations or changes in pressures external to the system. By stresses they meant the acculturative pressures. The second school of thought studied conflict as a result of cultural change whereas the former considered conflict as part of stable social systems (Levine, 1961). To study dispute in modern times, anthropology includes how meanings are perceived, symbolism and ritual, indigenous language and method of verbal and non-verbal interaction, ethnicity and ethnic identification, gender, environmental stress, and sense of place (Christos, 2008).

Conceptually, conflict has been conceived as an integral feature of human culture since living and interaction with other fellow human beings may lead to clash of interests among individuals and groups. Hence, disputes are considered natural events that occur all the time as it comes with interaction. However, they only become overt or obvious till the time they begin to challenge harmony and peace at a larger level (Attallah, 2017). Therefore, clashes or disagreements among communities are natural and they may not be identified as disputes until they become overt or obvious and pose a threat to the social order and harmony at large. There is also a need to explore the nature of 'clash of interests' and their relationship with rise of dispute.

The 'clash of interests' may be a struggle over resources or else a desire to attain power or status where the idea is to either eliminate or neutralize the power of the parties involved (Avruch, 2004). Dispute has either been seen as a process, a struggle or a state of affairs where conflict is either a process of social interaction that involves a struggle over claims to resources, power, status, beliefs, preferences and desires (Applebaum, Abdullah, & Shapiro, 1999) or as a process that begins when an individual or group of people perceives that another individual or group of people has adversely affected, or about to adversely affect them or their interests (Robbin, 2005). Dispute may also refer with state of affair in a social relationship or any unsuited relationship in structure, which becomes a cause to specific disputes and moreover leads to violence (Christos, 2008). Thakore (2013) suggests that disputes may not always need hard facts or concrete reasons, they may at times be based on perception and emotion such as hostility, negative attitudes, aggression, at times rivalry as well

as misunderstanding or disagreement between people and groups (Thakore, 2013). Moreover, Thakore has cited Katz & Flynn (2013), they tried to identifying the different sources of conflicts such as 1) *structural conflicts*; where the conflict arises among groups who wish to manage their interdependence, 2) *role-conflicts*; where the conflicts emerge from the sets of prescribed behavior and lastly 3) *resource conflicts* where the conflict stems among those interest groups who are fighting over set of resources. Overall, disputes can be classified as those concerning material or physical resources and power, or those of socio-emotional nature this may include matters of perceptions as well beliefs (Thakore, 2013).

However, disputes should not be strictly viewed as clashes or disagreements among states, individuals or ethnic communities' groups but also as a dynamic process or struggle where the parties also practice their right of self-determination for the purpose of resolution (Mani, 2018). Snyder's (1981) work on dispute as a process is of vital importance to understand the need of resolution at the rise of a conflict as not all conflicts may need a resolution but only those that escalate. Snyder was a pioneer who recognized dispute as a process by categorizing it into pre conflict/grievance stage, conflict stage (parties in disagreement) and then last as disputing stage (parties at war). It is the disputing stage where the dispute becomes obvious and becomes a threat for the outside environment (Synders, 1981). Besides Snyder, there were other scholars as well that tried to classify dispute in distinct separate phases ultimately leading towards a call for resolution. Friedrich Glash work mentioned by Thomas also emphasized nine stage model of conflict escalation and resolution which are further grouped in three main phases; first treats and considers conflict as a 'problem' that needs to be resolved jointly; here the parties involved are on speaking terms and a win-win solution is still within reach. In the second phase the conflict becomes a battle that needs to be won whereas in the third phase; the parties involved basically try to harm each other as a result of certain events and circumstances. The progression from one stage to another is very abrupt. It is the degree of escalation of a conflict that decides for a need for mediation for resolution. Here, mediation is to provide a workable solution that means that here the mediator tries to less the escalation between the parties involved. However, dispute process should not be considered over till the final ruling for resolution has been issued (Thomas, 2016). Snyder and Glash work made two things clear. Firstly, dispute has many levels or stages and the call for resolution by parties is only made when the degree of escalation or agitation reaches a

specific level. Secondly, mediation by a third party is used as resolution mechanism to sort a workable solution among the parties. As Kevin Avruch, who called conflict resolution “a strategy” that is employed brings a ‘socially visible’ or ‘public episode’ of conflict (a dispute) to an end, also proposed two potential concepts for conflict or dispute resolution. The first mechanism proposed for resolution is negotiation that is involving third party for negotiations and decision making for resolving dispute whereas the second mechanism is by using coercive power and through war (Avruch, 2004). Eventually, the need to eliminate or neutralize other party in dispute resolution as mentioned by Glash or Avruch was seen slowly transferring towards need-based resolution strategies in societies which focused on maximum satisfaction of human wants and expectations. Saurabh Kulshreshtha (2012) in his unpublished thesis “Alternative Dispute Resolution Mechanism: A Case Study of Delhi”, identified mediation as a management strategy for the resolution of ‘Complex disputes’ which is used to minimize the escalation by bringing the parties to a win-win situation (Kulshreshtha, 2012). Hence, Rani (2014) states that the idea behind all these models or approaches towards resolution such as mediation or negotiation for reconciliation are to satisfy human desire or human demand in specific context; what is important is reconciliation and resolution of dispute to secure the social order and harmony in totality. Therefore, the dual concern of conflict or dispute resolution focuses on both self-assertiveness and empathy (Rani, 2014).

Likewise, Tamang (2015) added other aspects to the concern of dispute resolution and stated that all approaches and mechanisms that are designed to resolve dispute (criminal and civil) and rebuilt harmony and peace in the community are driven by the four perspectives such as realist (coercive and diplomacy), liberal (political, using power military, economic) and social (humanitarian). To him, the realist approach views peace through the use of coercive power and diplomacy. While liberal approaches emphasize on political, military and economic aspects to resolve dispute. Lastly, social approach emphasizes on humanitarian grounds to consolidate people and restore harmony (Tamang, 2015).

Auerbach (1984) referred "dispute resolution" as “social scientific work” and typically assumed a functional perspective cutting across formal and institutional lines. He concluded that nature of "dispute" or "disputing" decides for kind of institutions, processes or components to be involved in resolution (Auerbach, 1984). Later scholarship viewed disputes as cultural constructions or actions. It was argued

that the ways through which societies handle their disputes is also very much culturally constructed. Research also shows that the resolution strategies differ greatly from one cultural setting to another (Harrington & Merry, 1988; Zaman & Upadhaya, 2016) because the meaning, reasons of disputes are socio-culturally contextual and play a vital role towards its better management (Avruch, 2004).

Mwihurih (2015) also linked disputes with 'cultural actions'; saying that the actions for resolution or managing conflict are largely guided by participant's philosophical beliefs about how to contest and when and whether to make disputes overt or obvious. It is the theoretical context that forms the way disputing parties conceptualize problems, the way they solve them, and the kind of solutions they explore. Therefore, culture is a mirror in which people not only see the world but seek to understand things and built perspectives regarding world around them and adjust their attitude to how it should be (Mwihurih, 2015).

Attaullah (2017) argued that human resolve their disputes by employing three modes of resolution such as through violence, formal adjudication and informal means and mechanisms-later to be known as Alternative Dispute Resolution (ADR) (Attaullah, 2017). The significance of these various kinds of justice mechanism is evaluated in their cultural context. Such as, the formal justice system (FJS) is described as a system for resolving civil and criminal cases through legal state-based justice institutions by adopting legal procedures, such as police, courts, prosecution and custodial measures (Wojkowska, 2006). Contrary to formal justice system, various terms have been used to describe Informal Justice System (IJS), like non-state, traditional or customary laws. It has no exact and standard definitions and yet has a certain degree of stability, institutionalization and acceptability (Matthews, 1988). Traditional law is thought to function on the basic premises of accepted indigenous norms, values and culture which may be followed by ethnic identity, social and familial networks such as caste, kinship or tribe (Chudhary, 2009) and refers to a system of mechanism to address and resolve the dispute outside the formal justice (state-based legal system).

The research evidence also shows that resolution of a dispute outside formal mechanisms is centuries old phenomena, however what is new is the promotion and proliferation, acceptance and acknowledgement of ADR models to realize goals such as satisfaction of needs of disputants, that are broader than the mere settlement of the

specific disputes even in modern and contemporary times (Menkel-Meadow, 2004; ALRC, 2010; Forsyth, 2007; Roder, 2013; Rani 2013). The following reviewed literature generates an understanding about the recognition, significance and adaptation of Alternate Dispute Mechanisms for resolution and justice delivery other than formal legal justice systems worldwide.

2.2. Historical development of Legal Pluralism: theory and practice

Merry has cited Pospisil. (1981; 1984), who defined the Legal Pluralism theory as 'such a situation in which "two or more legal systems coexist in same social field"'. Pospisil claimed in his work that "every functioning subgroup in a society has its own legal system which is necessarily different in some respects from those of the other subgroups" (Merry, 1988). Early descriptions of plural legal systems analyzed each system in isolation and initiated with understanding nature of disputes, their emergence in social life and the choices made to deal with them as well as how the disposition of a particular dispute affects the way other people deal with similar problems. Hence the theory of 'Legal Pluralism' in Anthropology has deep connections with the study of conflict in indigenous societies. Sir Henry Maine's (1861) work '*Ancient Law*' had though provided anthropological discourse on law by suggesting an evolutionary scheme but it was British Anthropologist Bronislaw Malinowski's (1926) work particularly on '*Work, Crime and Custom in Savage Society*' that provided rich and insight details on the concept of crime, order and punishment procedures among the Trobriand Islanders.

Famous anthropologists like Bronislaw Malinowski and Richard Thurnwald, as well as Eugen Ehrlich, are considered legal scholars and built the basic premises for modern anthropological work. They were primarily interested in the law and claimed that it was both an organising principle of society and a way to ensure social solidarity among the community members. However, they give less importance to conflicts and disputes. Another prominent figure, Van Vollenhoven, claimed that *adat* (traditional) law inevitably undergoes change when colonial courts and administrative institutions use it for their own purposes (Benda-Beckmann, 2018).

Series of other anthropologists who worked on indigenous interpretation of law among Eskimos and African societies were Rasmussen's (1927)¹, Gluckman² (1955; 1965) and Bohannan (1957). Gluckman's first work '*Conflict and Customs in Africa*' (1955) drew in conflicts to analyze the role of law in promoting social cohesion at a larger level however, it was his other work '*Order and Rebellion Among Tribal Africa*' that studied the legal ways of African with theoretical considerations. Bohannan like Gluckman also in his work "Justice and Judgement among the TIV" included disputes and the resolution forums among the TIV to conceptualize their conceptions of order. The analysis was based on the cases analyzed as part of his ethnography. Hence, both the theoretical and methodological approaches in Legal Anthropology were changing from describing the form of laws to its use and function through analyzing dispute/conflicts/crime situations as well as the indigenous forums used to solve them; clearly reflecting that the focus of early anthropologist shifted from detailed accounts of legal practice towards contextual use of law during any specific situation, existing legal forums and their use and function during crisis or conflict situations among primitive societies. Furthermore, the classical works of Hoebal and Llewellyn *The Cheyenne Way* (1949), Colson work as *Tradition and Contract; The problem of Order* (1974).

Pospisil work; *Anthropology of Law; A Comparative Perspective* (1971) also mentioned and reviewed by Mertz & Goodale (2014) highlight the theoretical and methodological shift after 1950's in the approach of legal anthropology i.e., to study law through observing trouble cases or disputes and conflict resolution in public forms. This broadened the scope of the discipline by asking wider questions such as how resolution mechanisms of these troubled cases or disputes are linked to the overall structures, cohesion and order of the societies (Mertz & Goodale, 2014).

By mid-20th century, conflicts or troubled cases were considered a better window in exploring the core local principles than the other possible forms of law (Mertz & Goodale, 2014). Menkal-Meadow (2004) called disputes and conflicts as "human constructs" which needed a social theory to comprehend their reasons, dynamics and

¹ Knud Rasmussen provided enriched accounts/ethnographies on the life patterns of Eskimo; revealing a comprehensive interpretation of the innumerable customs and social forms unusual to the natives.

² Gluckman's "Custom and conflicts in Africa" illustrated that every institution of society contributed to solidarity in the society particularly in context of Africa; where conflict particularly leads to re-establishment of social cohesion at large. He also further explained that there is always pressure by society on its members to reconcile their differences. His second book '*Order and Rebellion in Tribal Africa*' in 1965 is a record of his theoretical work and includes a number of papers written from 1995 and deals with Gluckman views on the legal life of the African societies.

root of actions and reactions and therefore much considered as area of focus of many famous scholarships.

Post 1960's was the era of studying legal structures in modern societies, the scholarship which laid the foundations on underlined topic and also provided analytical insight within anthropology and sociology started with the work of Max Weber and French sociologist Emile Durkheim. Weber's (1978) work on "*Economy and Society*" - also considered a masterpiece in modern sociology of law, analyzed law as essential factor for the study of the society and discussed the role of law as basis of modern political authority. Durkheim as Weber's only rival produced his famous work (1984) on '*Division of labour in society*' where law in contemporary times was proclaimed as "visible symbols" of social solidarity. Other exemplary studies also include Ellickson (1991) on cattle-trespass disputes between neighbors in rural California; Todd (1978) on disputing relationships and social status in a Bavarian Village, Santos (1977) on informal law and disputing in a Brazilian Squatter settlement and Abel (1979) on the introduction of westerns courts in the non-Western setting of British Africa. The seventies and eighties though saw a shift in trend and witnessed a rise of a more integrated attempt to deal with law from a social perspective. It was Galanter (1981) and Griffiths (1983) who sought to include the perspective of legal Pluralism into general formulation of litigation theory. Griffith's work (1986) '*what is Legal Pluralism*' remains to be a seminal contribution in the field. Legal Pluralism was then also used to describe colonial situations where the European legal system was super imposed over an indigenous system (Merry, 2000).

The term 'the politics of cultural recognition' was coined by a famous Canadian political philosopher James Tully. For him, the broad and various political activities which jointly call cultural diversity into question as a characteristic constitutional problem of our time' (Tully, 1995). Despite the overwhelming multiplicity of these struggles, Tully contends that they share three key characteristics: Demands for cultural recognition are, first and foremost, ambitions for suitable forms of self-government. What they have in common is a desire for self-government: to rule themselves according to their own traditions and customs. The second commonality is the complementary argument that the fundamental laws and their supportive structures, and their authoritative interpretation systems are unjust inasmuch as towards cultural diversity recognition. Finally, the basis of both the aspiration for

culturally acceptable forms of self-rule and the allegation of injustice. It is the belief that culture is an inextricably and constitutive element of politics. It is the belief that culture is an inextricably linked and constitutive element of politics. The various ways in which citizens think about, speak about, act on, and relate to others when taking part in a constitutional association (both the abilities they exercise and the practises in which they exercise them (Tully, 1995).

Historically, the focus of Anthropology of law had been to study the relationship between legal processes and other aspects of social, cultural, economic and political life; inclusive of the meanings as well as the implications of legal practices (Kelly, 2012; Mertz & Goodale, 2014; Thomas, 2016). However, later on it embraced many schools of thoughts concerning its theories, epistemologies and at times even methods with particular focus and explanations on legal systems, laws as well as law like social phenomena across cultures (Levine, 1961; Pospisil, 1971; Starr & Collier, 1989; Mertz & Goodale, 2014; Thakore, 2013; Thomas, 2016).

Swenson (2018) in his article analyzed that believing in the existence of legal pluralism and accepting it is not enough rather it is important to see how plural legal system can exist together in harmony and cooperation. For that matter he developed its archetype and key features of plural legal systems for peaceful coexistence. These archetypes are, combative, competitive, cooperative and complementary (Swenson G., 2018).

Combative: Swenson analyzed that in most of the states, “the state and non-state justice sectors do not recognize each other’s right to exist and actively seek to destroy each other”. For example, Afghan state since 2004 with Taliban justice system actively combated the state justice system.

Competitive: According to Swenson both state and non-state justice system frequently clash with each other, and the tension is deep rooted but the official juridical authority of the state is not confronted and at the same time non state system retains the power through community norms. Both the systems respect each other’s existence. For example, Afghanistan from 2001 to 2003; Afghan state with tribal authorities from 2004; East Timor from 1998 to 2002 respected each other’s right and autonomy.

Cooperative: the informal law system or non-state sector holds its power and autonomy to a significant degree and formal law accepts this fact and work together

for a peaceful society and ‘shared goals’. The state and non-state laws in Timor-Leste after independence, particularly since 2006; Zimbabwe after 1980 existed together through active cooperation with each other.

Complementary: “Both state and nonstate justice exist, but nonstate justice mechanisms operate under the umbrella of state authority”. Examples are, United States, United Kingdom, Germany, Japan.

2.3. Alternate Dispute Resolution – An Aspect of Legal Pluralism

The conventional notion of Alternative Dispute Resolution discusses some of the modes of dispute resolution which can be called as alternatives to adjudication in the Official State Courts. Gulliver states in his one of the influential works, “adjudication by government magistrates became an alternative method of dispute-settlement” (Gulliver, 1971). Here the adjective “alternative” conveys a “choice between the objects on offer” (Woodman, 1991). Nevertheless, there are two parties involved in disputes, who at the earlier stage are agreed to find a solution mutually. There is no reason for them to shift one option for the other. Therefore, the mode of choice is a variable. It is based on the perception that the disputing parties would go for other options. With the Alternative Dispute Resolution recently another term has been coined i.e., Informal Justice System. It coincides with Alternate Dispute Resolution most often (Woodman, 1991).

In Alternative Dispute Resolution (ADR) procedures several modes of dispute resolution have been identified through anthropological work. These various modes of ADR mechanism help to understand holistic and contextual models of law and society (Merry, 1984). These modes are further categorized as Arbitration, Negotiation, and Mediation. These modes in practice are visible in various forms and can be hardly distinguished from other similar forms of resolution. “Arbitration” is different from adjudication for one factor that the “authority of the third party” comes from an agreement, specifically, between the parties. State courts world over remained hesitant to allow legal status to arbitration. Arbitration is a form of peacekeeping because it introduces an agreement among both parties. In Legal Pluralism, “the parties opt for a private dispute resolution procedure instead of going to the formal state courts” (WIPO, 2016). Arbitration may be consensual, if both the parties agree to it. They enter into a contract, in case they have disputes of similar nature, and they

insert a clause of arbitration. They refer present dispute to “submission agreement”. “A party cannot unilaterally withdraw from arbitration” (WIPO, 2016). Some characteristics of Arbitration are the parties can choose their Arbitrator, Arbitration is absolutely neutral, it is a confidential procedure, the decision of arbitrator is final and easy to implement (WorldBank, 2011, p. 4).

The second mode of Alternative Dispute Resolution is Mediation. Mediation is an activity of a third party, which can only propose a term of agreement to the disputing parties. It does not act as a judge or any “authority to impose decisions” (Woodman, 1991). The process of mediation is also called conciliation. This mode in Legal pluralism also varies. The third party can have a little authority in order to curb any incidence of rejection of proposed resolution from the disputant groups. In such cases mediation approaches adjudication or arbitration. The third and final mode of Dispute Resolution is “Negotiation”, in other words, bargaining. It consists of procedures where there is an agreed resolution. The disputing parties agree to negotiate to reach any settlement because of some financial or social constraints (Woodman, 1991).

All of these modes of dispute resolution have sociological interests and practical value. Any legislator or councilor who wants to decide matters without going to state courts may refer to one of them to reach a resolution. In the rural areas of Pakistan specifically in Sindh there exist bodies, who observe social norms that are not adopted by the State courts. These generated semi-autonomous procedures never coincide with the Official State Laws. They structure the Social Relations of the community to a greater extent than the State Courts. These Customary courts of law deal with norms of ethnic groups, non-ethnic groups, indigenous population or residencies.

2.3.1. Alternate Dispute Resolution – Wide perspective Criticism

The proposition of Alternate Dispute Resolution has been widely criticized by the Researchers of liberal democratic state. For them state courts are only bodies to “right wrongs” according to democratic values. According to one critic, “civil litigation is an institutional arrangement for using state power to bring a recalcitrant reality closer to our chosen ideals” (Fiss, 1984). If his claim is true, then any alternate use of processes is to substitute procedures in favor of the ultimate power. The reply to it could be that the Official State Courts implement adjudication which contrasts the community values and interests. The opportunities to implement community values are limited for

the State Courts. For Fiss the Alternate Dispute Resolution is inimical to State Law processes. If these customary laws are inimical to the “rule of law”, these are the source of amiable solutions to other laws – out of the state law jurisdiction.

Secondly, to some critics, Alternative Dispute Resolution increases the disadvantages of already deprived groups of people of any community. For them there are more chances of increased level of influence from social prejudices. To some critics Alternate Dispute Resolution procedures covert, the “realities of class domination, and divide the oppressed class” (Chambliss, 2000). These critics do not approve the positive results of Informal justice system and claim that “other state processes may be still less desirable.” To them it is enough to say that there are some categories of Legal Pluralism which in regular state courts are not accessible in prevailing social as well as political systems. For weaker parties, an arbitrator or the mediator will perform the negotiation as well, so to decrease the cumbersome influence of powerful factors.

These modes of Alternative Dispute Resolution have been designed to be beneficial for the underprivileged groups, “those groups that are other than who establish and control the process” (Woodman, 1991). The functionality of Alternative Dispute Resolution or Informal Justice System in social groups is widely different from the established state laws. But on the other hand, the relationship with the outside world is important too. Though these processes enhance the autonomy of people practicing them, they may reduce the conflict within the community. With that their interaction with State Official courts should be made possible for more dangerous crimes like killings.

Pakistan is multi-ethnic society, and it is characterized by legal pluralism: which means co-existence of multiple mechanisms for acquiring justice. In Pakistan, three forms of justice system prevail such as formal, informal and Sharia law. The Pakistani constitution has inherited basic foundation of Common Law of civil and criminal laws from British and known as constitutional law or common law and additionally, a great variety of non-official, and informal legal systems comprising traditional and tribal laws and religious laws operates in different communities at different levels. Due to various reasons, the legal pluralism prevails in multi-ethnic societies and rise of diverse ethnic groups promotes plurality and complexity especially in rural areas.

The village Fatehpur is a multiethnic cite where the people have access to all three basic justice systems prevailing in the country, therefore Fatehpur– has broader spectrum to view legal pluralism. Although informal justice system is mostly practiced & Formal rarely sought, this creates viability of the legal pluralism throughout this research study. Since informal mechanisms are not novel and are centuries old claiming to be the best for its people but in this modern time their huge existence where the state laws are quite in reach makes the logical minds to stop and question the logic. The research aims to understand that why people prefer one system over the other, what are their reasons and how the system selected benefits the users.

2.3.2. Understanding ADR /Process Pluralism

The terms “Alternate Dispute Resolution (ADR)” refers to a wide range of dispute resolution mechanisms that are not only quick, accessible, but alternative to full scale court or legalized processes. The term covers anything from facilitated negotiations-in which the disputing parties are engaged to negotiate directly prior to some legal process, to arbitration systems or minitrials resembling court trials to informal level mediations. ADR systems are usually categorized as negotiation, conciliation/mediation, or arbitration systems (Iqbal, 2016).

Negotiation systems as an alternate tool encourage as well as facilitate direct negotiations among parties without involving a third party, whereas mediation and conciliation systems engage a third party to reach consensus. Mediators only facilitate communication and help in settlement but cannot make the decision on the settlement whereas arbitration authorizes a third party to decide how the dispute should be resolved. It is also important to differentiate between the binding and non-binding forms of ADR. Negotiation, mediation and conciliation programs/processes are non-binding as they depend on the willingness of the parties to reach a voluntary agreement whereas the Arbitration programs may be both binding and nonbinding as in binding arbitration produces a decision made by the third party where the disputing parties may not get the right to disagree with the decision much like the judicial decision. Non-Binding arbitration however gives the parties to reject the decision made by the third party. It is also important to understand the difference between the mandatory and voluntary processes where the judicial system in the former mandates the parties involved negotiating, conciliating, mediating or arbitrating as per court action. In some countries the mediation is mandatory prior to contractual agreements

however, in voluntary processes, submission of a dispute to an ADR process is left to the will of the parties (Iqbal, 2016). Arbitration works perfect when there is a third party and there is an arbitrator to hear the two sides of the disputant groups and then proposes a solution to both the parties which they accept. Whereas, in mediation, there is a neutral third-party mediator, who facilitates the two groups to arrive at a settlement (Palumbo, Musheno, & Hallett, 1994).

The role of the third party neutral often determines the type of ADR processes to be used. They can be adjudication-based, where the decision is imposed by a judge or an arbitrator, or recommendation/suggestion-based, at times facilitation-based, where the parties themselves try to reach agreement with the help of a neutral) and lastly, hybrid, i.e., the use of any of the above two ways of mediation to resolve and manage disputes (WorldBank, 2011). The similar alternate methods have also been claimed to be used for resolving private and public level disputes by Menkal- Meadow (2015) in her work³, where she has further analyzed the in cooperation of the alternate methods into modern day dispute resolution (Menkel-Meadow, 2015).

Table 1. The Four Categories of ADR Processes

Adjudication-Based	Recommendation Based	Facilitation Based	Hybrid	
Arbitration	Conciliation	Mediation	Dispute Resolution Boards	
Adjudication	Early Neutral evaluation	Stakeholder dialogue	Ombudsman Process	
Expert Determination	-	-	Mediation/Arbitration	Conciliation/Arbitration Arbitration/Mediation

Source: (WorldBank, 2011, p. 4)

2.3.3. The ADR Movement and Engagement

ADR was widely recognized during the mid and late 20th century in USA and Europe and some states of Africa. Filner (1995) states that up till 1970, just a dozen state courts in United States officially allowed “negotiation, mediation” and some other kinds of informal justice systems to work as an alternative to legal judgments. In the

³ Mediation, Arbitration, and Alternative Dispute Resolution produced in 2015.

mid of 1990s, approximately 45 states of USA had officially initiated Alternative Dispute Resolution Programs where the state courts accepted alternative dispute resolution as order of the day (Filner, 1995). The ADR processes are now implemented to meet a wide array of social, legal, commercial as well as political goals. By the end of the 20th century, a number of countries got engaged in ADR experiments including Argentina, Bangladesh, Bolivia, Columbia, Philippines, South Africa, Srilanka, Ukraine and Uruguay. It is because of its features that ADR movement got momentum among the developing and developed world. Informality, application of equity, direct participation and communication between disputing parties permits it to handle disputes in a different manner than the judicial systems (Center for Democracy and Government, 1998). The alternative methods for dispute resolution are more flexible and party centric.

The impression that ADR is inferior to litigation because of its formality or non-binding nature, or people opt for it as they are cost effective are perceived as wrong by the scholarship produced during the 1990s. As it wiped the claim if there was any, by demonstrating that ADR are more effective in handling both private and public disputes than litigation. The mere recognition of the ADR in countries like USA, UK and Australia besides Asia, Africa and Pacific are evidence of ADR being held in high regard. The studies shed light that besides being low- cost (cost effective) system, ADR is non- adversarial system as it helps disputant groups to reintegrate back into the community without maligning personal relationships or disrespecting or discrediting each other as done by lawyers during legal litigations. Parties can avoid legal fees as mediators or arbitrators as volunteers would handle the case load. Moreover, the system is more responsive as it puts sanctions on the offenders instead of putting them in prisons. (Palumbo, Musheno, & Hallett, 1994). Maguire and Boiney (1994) similarly while dealing with natural resource disputes, considered ADR as more important over 'Decision Aids'⁴ as firstly, ADR not only provides clear avoidance of lengthy legal procedures but also focuses on the underlying interests of the disputing groups instead of just eying on the bargaining. Secondly, by brainstorming the solutions the scenario is converted from zero-sum game to potential beneficial situations for both the parties. Thirdly, it works towards joint objective of gaining a win - win situation rather than losing it. Lastly, each party is free to give

⁴ Where a decision is made by the policy makers in light of the information provided to come with a suitable solution.

consensus for one decision, rule of the thumb is not applied here. A mediator is hired who directs the procedure of resolution independently (Maguire & Boiney, 1994). ADR is now just for public issues. ADR is equally effective when used in cooperation, industry, and public administration fields. However, the ADR may be a little complicated while dealing with state regulators and energy sector. John Coughlin (1995) favors Alternate Dispute Resolution in his paper “Alternative Dispute Resolution in Electricity: Just Do It!” and posits that ADR is more effective than legal litigation in solving of industry specific disputes. Besides the most common Mediation and arbitration, researcher added mini trials (attorney presenting a case to an authority) and Partnering (used by industry and utilized in areas of employment) and Co-Mediation (getting linked with an expert in mediation and only done in very technical matters) in the framework of ADR. The benefits of use of ADRs in the electric industry would cut the cost of litigation and the quality time will be saved to attend to other matters of productivity (Coughlin, 1995). Cathy A. Klein in her study “Alternative Dispute Resolution in Health Care” 1996, used another angle to view ADR engagement in the healthcare system of USA and confirmed the additional factors of confidentiality and scope for retaining one’s relationships as factors for preferring ADR over legal system in USA. She agreed that though ADR was used mainly in divorce, matters of child custody and construction issue but now health care industry has also merged ADRs into the system to create viable problem-solving forum. She enumerated fifty-nine⁵ potential classifications of Legal Conflicts in Health care profession and most of them could be more effectively resolved through using the ADR/informal mechanisms to avoid stressful delays, time lapses, and off-course the cost incurred in the formal legal system. ADR also provides a greater opportunity to influence the resolution of the dispute. The parties through Alternate Dispute Resolutions exercise more control over the problems and their solutions. Klein in 1996 emphasized that these systems do have some disadvantages as well. She argued that most of the Alternative Dispute Resolution Methods, “do not create legal precedents, but the court decisions do”, these precedents do consume time and money but can be contested and challenged anywhere (Klein, 1996).

⁵ This was done by grouping the conflicts into three categories. 1. Providers, the health care and hospital. 2. Payers, which are insurers and care organizations. 3. Producers (these can be the manufacturers of medical equipment as well as medicines). In Health Care industry the nurses are the affectees of disputes of Providers head inclusive of the disputes relevant to staff are related to employment, such as disciplinary actions, advancements, discrimination, harassment issues and issues at or after termination. Physicians face disputes in Payer’s head, like fees, disqualification or contracts. Problem resolutions have been coming from Alternative Dispute Resolutions throughout the known history

Additionally, Ardagh and Cumes (1998) in their paper “Lawyers and Mediation: Beyond the Adversarial System?” while studying ADR practices in Australia, mentioned that ADR helps resolve cases ranging from “Courts to Businesses, other intellectual professions, government and industrial level”. These Alternate Dispute Procedures often resolve non-legal issues, using non-legal consultants, and the parties involved in negotiation are complacent about informal justice systems as being cheaper, effective and efficient in many ways. They provide enough satisfaction to the clients than the State Law Courts (Ardagh & Cumes, 1998; Ardagh A. , 2008).

Sai-On Cheung and Yuet-Wa Yeung (1998) worked as advisors for Alternative Dispute Resolution, stated in their paper “The effectiveness of the Dispute Resolution Advisor system: a critical appraisal” that during the wide-ranging studies conducted in United Kingdom, Hongkong and Australia, ADR instead of normal litigation processes was recommended. There were many incidences reported where Alternative Dispute Resolution is successfully used in the solution of disputes involving parties in cases of family matters. Some issues of time extensions, delays, loss and expense can be resolved through Alternative Dispute Resolution. At least ADRs would save time otherwise there would be a tedious process of preparing documents for litigation and enter the claims and counter claims series of discussions. In terms of time and money value ADRs are effective. Litigation and State Law Courts do not have solution to ultimate severed relationships. Litigation may have negative effects on business relations. Initial reports claimed that ADR system was effective in dispute resolution and saving time and relationships of the companies. (Yeung, 1998).

Andrea Kupfer Schneider (1999) examined the intersection of Alternative Dispute Resolution with the theory of therapeutic jurisprudence and practical advice suggested by preventive law in his paper “*The Intersection of Therapeutic Jurisprudence, Preventive Law, And Alternative Dispute Resolution*”. According to him the current system of Alternative Dispute Resolution in United States evolved in 1976 Pound Conference and mainly focused on the weaknesses of the adversarial legal system of the State Law Courts. Researchers and the critics of the Official judicial system observed that unnecessary delays in the Civil Cases in the official law courts, as well as the expenses of the trials were immense. Furthermore, they realized that the adversarial aspect of litigation brought in “combative strategies” that might not have been in the best of favors of the parties (Schneider, 1999). For some of the research such as (ADB, 2015) depicts that the judicial system was not only expensive but also

inefficient. Some thought it was totally inaccessible. The movement for Alternative Dispute Resolution arose to support the need of resolving disputes more efficiently and with no extra cost as besides ensuring confidentiality, ADR contributes to reintegration of disputing members back into the society with disturbing their part relations. It avoids `combative strategies` and lengthy legal procedures. Its action being faster, more responsive, flexible, and cost-effective serves the clients better. It complements the legal State system by reducing its caseloads, enhance community involvement in dispute resolution and offer time-tested judicial system for the broader spectrum of the society through making use of the ADR mechanisms for solving disputes of different nature. The only disadvantage is that the decisions made do not have a legal binding but a social, cultural or institutional or moral binding.

Though Negotiation, as one alternate tool for Dispute Resolution has long been used to provide easy amicable solutions to the disputing parties (Alexander, 1991) but it is mediation that has been considered the most effective since it has its roots in different societal norms and structures. The methods of mediation principally in societies though remained the same, it is the origin that distinguishes them from one another. Customary laws are also prone to this type of dispute resolution. Advantages of mediation have deep impacts upon the social structure – it is cost efficient, it makes the parties to brainstorm solutions of their disputes, the relationships are safeguarded and win – win solutions keep both the parties satisfied. (Roy & Kamdar, 2013; Kulshreshtha, 2012).

The next section sheds light on how mediation has its roots in the societal norms and structure and has principally remained a part of traditional dispute resolution mechanisms in different societies over the period of time (Rani, 2014). Many of the world current legal systems have traces of adopting customary laws and dispute resolution mechanisms as part of their ADR.

2.4. Traditional Dispute Resolution Mechanisms

The indigenous systems are called informal, because in the application of rules, they follow non- state methods of dispute resolution. Still even if these are formally recognized by State Courts, indigenous communities perceive them as “informal”. This conception is found astoundingly in all the societies of the world and in all times (Levy, 2000). Though Indigenous people around the world reside within the state

structures with formalized legislative and legal frameworks, still many of their social and cultural traditions tend to be regulated by traditional law (also referred to as customary law). Customary law is differentiated from procedural law by being 'most closely related to the custom of the people. Customary law has been seen as something 'evolved, established, transformed or innovated by people/culture over time.' Consequently, the traditional laws of indigenous people are not just of ancient origin, or of a mostly unwritten tradition, but are also typically adapted over time (Roy, 2005).

The first written accounts of using mediation as conflict resolution mechanism emerged from the ancient Hindu, Taoist China, Greeks and Romans civilizations i.e., from 1500 BC to 5th and 6th century. Similar informal community systems exist alongside structured state laws in the African countries of Tanzania, Mozambique, East Timor, Botswana, Ghana, South Africa, Kenya, Zimbabwe and Zambia in many forms and at many levels. The prevalence of legal pluralism and acceptability of Informal justice system along with formal dispute system can be seen in various communities such as 'rondas-campisenas' in Peru, the 'junta-vecinales' in Bolivia, 'local kastoms and komitis' in Fiji, Papua New Guinea and Solomon Islands, the 'katarungangpambarangay' in Philippines, and the 'local council's court' in Uganda (Rani, 2014) local forums as Jirgas and Panchayats in subcontinent (Iqbal, 2016; Iqbal, 2009). In 2015, International Development law Organization report confirmed that the informal customary laws are very deeply rooted in the cultures in some areas of the world that their influence entrenched in lives of the people plays a significant role in their approach towards dispute resolution. It is this informal system that deals with everything "from property disputes to marriage and divorce or the inheritance" (IDLO, 2015).

If laws are according to the nature of the community, it makes it much easier to deliberate and implement the solution of an incident of dispute. Aristotle in his work "The Nicomachean Ethics" republished in 1911, debated upon "Natural law versus Customary Law" that the two kinds of systems are rooted in jurisdictions, the natural and the conventional. Natural is universally acknowledged and does not have to be accepted or negated. Traditional, Conventional or the Customary law is originally different but, in its impartment, it has close proximity to the Natural law. To widen our understanding "Natural law is derived from the notion that the entirety of universe is administered by the "cosmic laws" on which human demeanor should be based, and

which can be construed through reasoning and the moral sense of what is right and wrong” (Natural Law, n.d.).

In “The evolution of Law” Younkins (2000) writes that as customary laws erupt spontaneously and are manageably followed by communities within the circle of their customs and cultures, disputed parties comply to the rules imposed upon them through some conventional judicial powerful groups (Younkins, 2000).

We may well argue here that Customary Laws emulate the laws of nature in core principals, as they lend higher understanding of wisdom and reasoning. But authenticity of customary laws needs proper education, as Aristotle said, “Nothing is loved, until it is known”. Customary law received two dimensional “doctrinal attention” on a wider scale. If compared with international law, customary laws apparently have different source of laws and are less formal (Orakhelashvili, 2008). They are also at the basis of the real identity of the indigenous people and of the native communities. These define rights, responsibilities and obligations that fall upon the members of the community. These laws relate an important factor of the lives of common people highlighting their cultures to the world canvas. On wider perspective every aspect of man’s life is covered by customary law e.g., the access to the natural resources, and the use of them, the rights and duties towards lands, the inheritance of the properties, even spiritual life conduct, keeping and maintaining “cultural heritage”, and the traditional knowledge keeping. Customary law is thus “one potential element of a holistic approach” (WIPO, 2016), that includes some tools and protocols of traditional knowledge.

Hence, Zaman and Upadhaya (2016) through their research concluded that customary laws are unwritten laws sanctioned through local customs and traditions, transmitted orally or through practice from one generation to another since the beginning of times. It is backed by customs and traditions where the social sanctions are related not only to religious practice but also with the jurisprudence, various other social traditions as well as philosophy. All civil laws originated and got inspiration from the ancient customary laws which had matured slowly and gradually as the practice stood the test of time and the law appropriated its position and itself through monitoring certain rights, privileges and obligations of the people (Zaman & Upadhaya, 2016).

Indrani Barpujari (2011) research on `Customary laws of Tiwas of Assam. Barpujari concludes that the customary law functions in three aspect no matter where it is implemented. Firstly, it describes presence of relationship amongst the members of

the society, shaping their behavior in different circumstances. Secondly, the law authorizes the establishment to apply certain level of pressure, for effecting sanctions. Thirdly, law operates to reformulate social relations to cultivate social tractability (Barpujari, 2011).

The Australian Northern Territory Law Reform Committee (2003) in a paper "*The Legal Recognition of Aboriginal Customary Law*," focusing on customary laws of native Aborigines, stated that the customary legal authority is taken as more efficient and authentic by the Aborigines. The traditional law is much more complex than simply dealing with issues of crime and punishment (ALRC , 2010). Similarly, Finnane in his paper "*The Tides of Customary Law*" (2006), diverts our attentions towards the role of Customary Laws specifically among aboriginals in Australia. He says that these Aboriginal Customary Laws act as a safeguard for the women and children against mayhems and violent crimes. In 2010, a similar paper "*Arguments for the Recognition of Aboriginal customary laws*" states that the aborigines find it difficult to relate many aspects of European law, as their customary law is much more than dealing with punishment and crime. It is not just a code, but a way of life completely governed by a system of beliefs and much to do with peace maintaining strategies, resolution of conflict mechanisms and ability to create and sustain better relationships with one's kin and the land of one's ancestor. In all these aspects of law, women are important. All aborigines want from the legal European law is to respect and recognize the law that has been handed down to them from one generation to another (Finnane, 2006). The earlier two studies, likewise, also proposed some recommendations for the infusion of traditional and western law as it is one of the matters of concerns for the authorities in Australia. The first paper suggested that some actions are needed to be taken carefully for proper legal adoption of their Customary Laws. The merger of laws will benefit in bridging the gap between Aboriginal and Non-aboriginal residents of the country. Whereas Finnane argument is that European law cannot ignore the role of customary law in aboriginal lives therefore for bringing constructive change in the Judicial System, more Aborigines should be involved in the discussion, as they might bring innovative ideas to reconcile Aboriginal Identity with the twenty first century laws and systems.

Jok *et al.* (2004) In their study, "A Study of Customary Law in Contemporary Southern Sudan", discussed that all through the civil war lasting for two decades, social order was maintained by Customary Laws. This ensured stability of the region

and continued to be prominent system of laws in Southern Sudan. Customary law courts checked in 90% of Civil and Criminal cases on daily basis. But statutory law and international law posed certain challenges to customary law. However, the focus is upon the argument that Sudanese Society must change with even pace. Same argument has been presented by Chirayath et al. (2005), in their working paper, “Customary Law and Policy Reform: Engaging with Plurality of Justice Systems”, with respect to three countries of the South African Society. The most commendable step taken by the state is to merge customary laws and traditional institutions of law into State Judiciary system. Though it has been said that these are not concurrent with the formal legal system principles (Chirayath, Caroline, & Woolcock, 2005). Jok *et al.* proposed to make a new institution which could be mediating between both the laws with follow up of a simple, mutually agreed, transparent system which both sides can adopt as a new merger-legal-principle to enforce.

Roy (2005) in his, “Traditional Customary Laws and Indigenous People in Asia” gives an input into the communal knowledge of traditional and customary laws of native community of Asia. His case studies were related to Jharkhand, Nagaland in India specifically, Malaysia, Bangladesh, and Philippines generally and focus on the “relationship between acceptances of customary laws” at the state level and the impact of prevailing customary legal systems. He expresses the worth of “hybrid state of existing customary indigenous legal systems”, by giving example of Northeast India, which is the crossing point of customary and modern-legal structures. He categorizes the challenges upfront the traditional legal systems face in terms of modern applied structures. Within these there are conflicts between customary laws and the “rights of native women” in the acquisition of their “familial and inheritance rights”, the problems native courts face in implementing their decisions as there is no support at hand from supervisory agencies of the government, the difference of opinions as to how to codify traditional laws to make them rule of orders, and the attrition of “customary land and resource rights” etc. (Roy, 2005).

Similarly, the research of Kane *et al.* (2005), “Reassessing Customary Law Systems as a Vehicle for Providing Equitable Access to Justice for the Poor,” posit that countries like Sierra Leone and Uganda, did not have any judicial system by leaving out Customary Laws. Moreover, Customary Laws have certain loopholes to be focused upon for providing unbiased access to justice to the poor. These traditional judicial systems are said to be sometimes discriminatory, unreliable and influenced by

powerful group of people (Kane, Onyango, & Tejan-Cole, 2005). An earlier study “*Customary Laws and Women in Manipur*” by Chatterjee (1996) regarding North-East India observed that Customary laws are gender oriented. She investigates Customary Laws in Manipur established by village community council, under the head of council, comprising ministers – called Haosa system locally as well as largely unfair to women.

In book “Honour Unmasked: Gender Violence, Law and Power in Pakistan”, a Pakistani journalist, Nafisa Shah (2016) also raised her voice against customary laws of honor killing (*karo-kari*) and violence against women. According to her honor killing is interwoven in the socio-political and judicial systems. These customary laws combined with the modern laws have been shaped up by the powerful hands. The violence is now a product of formal laws. It is seriously observed that the “static binaries” of honor killings have prevailed to different societies in many forms, because of social, legal, political and economic customs where the word “honor” strategically legitimizes the inculcated violence. Nafisa’s point is that “law, whether modern or the traditional is mirrored in the cultural violence”. She also illustrates that at some junctures the violence is incorporated with laws and how women fight against this target violence against them. She also claimed that such a violence against gender was committed by males to protect their own interests in the society (Shah N. , 2016).

Customary Laws are more than just the system of laws indigenous people abide by (Roder, 2013). The mechanism operates with an underlying philosophy of ‘relative justice’ which takes into account the need to protect interests of individual and satisfying one’s claims in socio-cultural or political sphere. Here “Justice” implies ‘acting on something which is right, and individual have right to claim on moral grounds’. Justice demands protecting interest and claims of the victim group and not to scarifies their claim for the interest of society or let them become part of any political bargaining without their consent (Rani, 2014). The term “Justice” has a lot of different connotations but here the maintenance or managing of what is right, particularly through the impartial adjudication of contending claims or the distribution of deserved rewards or punishments (Merriam Webster, since 1828). Whereas access to justice is an ability of individuals to timely pursue and acquire a remedy for their grievances through formal or informal institution, in compliance with human rights nature (Akhtar, 2009). Informal Justice System authenticates itself with set defining

of Justice. Nonetheless, this notion of Informal Justice System denotes various institutions that resolve disputes in relation to social practices. It can function by “traditional or religious authorities, elders or other community members” (Roder, 2012). By access to justice also means, the capacity of individuals particularly of poor and disadvantage group to obtain remedy through FJS and IJS in accordance with human rights standards (Relis, 2012). The rule of law and justice as two important elements of access to justice. Therefore, access to justice for resolution of any dispute, would ordinarily mean improving the functioning of the justice institutions and it requires broadening their accessibility and legitimacy while simultaneously making them more cost and time effective (Mwihurih, 2015). Access to justice has also two similar interrelated aspect: a) access information and support from pursuit justice system and b) access to opportunity and having a fair and reasonable experience in everyday life (Mukuki, May 2016). Therefore, the access to justice includes the embodiment of rights in the law, awareness and understanding of the law and functionality of justice providers. Further, it also contains easy entry, availability, affordability, fairness, timely processing of claim and cultural appropriateness (Roder, 2013).

Informal justice system seems a healing justice system for the local communities. It is not just a set of defined rules, and procedures, rather it limits our courts and other legal institutions to enforce it as one form of State Laws. These Institutions of Informal Justice are basically an integral part of “overall governance system” across the world. However, this phenomenon is discussed more in connection with some African, South Asian and Latin American cultures and judiciaries. According to the Researchers these systems are need of rural communities, more so, because these are very popular functions of provision of justice to the people without seeking councils of State Laws. People in rural areas are more convenient with Informal Justice Courts and can have easy access to resolution of their disputes through them. The healing factor of Informal Justice System cannot be ignored. It metes out justice to the troubled families in an instant. The resolution is never argued upon by any party, against or in favor. The reason is that the community members in order to restore peace enforce law that is best for the locality and in favor of themselves as well, being the head of the community. It is least possible that they defame themselves among their own clan. Hence, Informal procedures enforce “abstract legislation”. “Better Access to Justice” for local communities is best through Informal Justice Courts is

accepted per se. But apart from these remarkable feasible features of these systems, these present an only option for the people of the community where the State is absent with its jurisprudence, such as in “large geographical areas”. Mostly it is evident in colonial areas where the State did not establish State Courts System for the local people. We have examples of Yemen, Pakistan, India, and Afghanistan. These Informal courts play a significant role in bringing peace and reconciliation in armed conflicts within destabilize groups and clans (Ibid). The main query arises here, if there are State Formal Justice Courts, why do they prefer Informal Justice Courts? There are a number of reasons and very significant to note. Firstly, the procedure of hearing and convicting takes place instantly on site. Secondly, for its affordability. It is nearly free of cost. Thirdly, people trust the members of the court and know they are not corrupt. Lastly, the language used is understandable to the local people and meets their mental level. The laws of these courts are known to everyone, and they know if the judgment is passes on their crime or against crime what it would be.

Susan M. Olson and Albert W. Dzur elaborate the Informal Justice system in USA in their paper “Revisiting Informal Justice: Restorative Justice and Democratic Professionalism” (2004). According to them one major criticism upon Informal Justice System during 1980s was that it was a source power of decreasing State Law Control over minor disputes upon regional basis. But subsequently main question arose about the “implied dichotomy between the state and the community control.” Here the focus was upon the role played by professionals as intermediaries between the State and the citizens and their role as professionals in restorative justice programs too. During 1970s local laws trying to mete out fastest justice on cheaper scales became famous rapidly, and even received federal funding from USA Department of Justice – Law Enforcement Assistance Administration. Thus, receiving attention from the State, the Informal Justice system became sole focus of cheaper access to justice. To many researchers Informal Justice extended the area of state control rather than reducing it. Olson referred various scholars such as Pavlich (1996), Foucault (1980), Fitzpatrick (1988) and Matthew (1988). Though after 1980s, critiques made the US scholarships for Informal Justice System dropped too critically, a “new in-formalist” (Pavlich, 1996) analysis started emerging mainly in British and Australian Scholars (Matthews, 1988). A big contribution of New Critics was to introduce an analysis of Social Control (Foucault, 1980). For Foucault, a big contribution of New Critics was to introduce an analysis of Social Control. While Fitzpatrick, they mainly discussed if

the introduction of Informal Justice system expanded or reduced the scope of State Control over the crimes. Though these two systems mutually constitute social fields where the identity of laws depends upon the presence of Informal domain of systems. For Foucault, Social Control is not a centralized or a top-down as assumed by the old critics. In today's liberal society, people are shaped through regulatory practices in an intermediate realm – “governmentality” in the fields of welfare, education and health. For Matthew, in Governmentality realm a significant role is played by the professionals. They are under direct state control but as they work in the conditions approved by the state, their autonomy is sustained. Specifically, about Informal Justice System, this intermediate realm in centralized state authority and individual's freedom is “a site of struggle over competencies, privileges and knowledges”. In varied cases these professionals working under informal justice system, spearhead the restorative justice programs. They are committed philosophically and bound by the norms and standards of “fairness for criminal defendants”. Their workspace leads to rebuilding the structure of their roles bounding in Restorative justice theory and criminal justice system (Olson & Dzur, 2004).

Harper in his research “Traditional Justice: Practitioners' Perspectives” hypothesizes that in few contexts FJS is unable to provide justice whereas traditional justice system contributes much better and more effectively. Such as in post-conflict situation and post-natural disaster, the FJS is non-available or non-functional, or unable to provide or reached due to lack of resources. In 2004 Indian Ocean tsunami, in Indonesia it was the traditional system which resolved the disputes related with number of cases such as inheritance, property and guardianship nature of cases after the rise of the disaster (Harper, 2011, p. 3). Similarly, Kristina Thorne (2005) traces the forms of Informal Justice System in Burundi and Somalia in her exquisite write up “*Rule of Law through imperfect bodies? The informal justice systems of Burundi and Somalia*” and describes the conditions of restructuring of new justice systems in African areas. The two states Burundi and Somalia are post conflicts, here the formal structure have failed totally or are critically malfunctioning. In both countries, before the colonial rule, traditional justice system was in vogue, and amazingly has survived even today with same pomp and tradition. “Bashingantahe” system in Burundi handles civil cases, and “Xeer” system in Somalia deals mainly with inter-clan relationships and regulates them. These indigenous law systems in both states have completely either complemented or replaced the Formal Justice System of the State Law Courts. Formal

Justice Courts are also being drawn away from the scene by Sharia courts of Muslims in Somalia, with warlord justice, and “ad hoc civil society and private initiatives”. These are more famous in areas where there is no centralized formal structure of law. But in Somaliland and Puntland, the informal justice systems complement the formal justice systems, when “the modicum of state structures has restructured.” Informal System of Laws is disputed term because it seems to favor Formal Status implicitly to a mechanism which exists without “official Sanctions”. But the term informal system is culture specific. For example, for some Ombudsman institution is an informal mechanism, while for others it is highly Institutionalized system with checks and balances. For Humanitarian Dialogue, Informal Justice System is based on customary laws and religious practices, and relatively distinguished to work as parallel with Formal State Systems. Basically, all those systems that are founded on traditional values and religions without having any legal connection with new modern requirements risk collapsing in the curriculum of International Human rights standards. When in Rwanda “Gacaca” courts dealt with genocide cases, mostly the international justice community was concerned with the issue of transparency and following up of the due procedures. Due in time it seems these courts are conducting well, though some still allege these courts to be giving unfair treatment to the perpetrators of crimes. Though the proceedings may be monitored but still these customary systems are performing very well in dealing with indigenous cases. These are so successfully adapted to deal with a serious hurdle i.e., “achieving healing in a post conflict society” (Thorne, 2005).

In his research paper “*What is Non-State Law? Mapping the other Hemisphere of the legal world*”, Hertogh (2007) observes the socio-legal system of Customary laws in comparison to Non-State Law and found that there are three aspects to be discussed, a) colonialism b) legal pluralism at home c) globalization. Based upon his research data he draws a virtual map of non-state laws as “code of conduct vs. norms for decision” (Hertogh, 2007). Just as Roy in his work “*Traditional Customary laws and Indigenous People in Asia* (2005), observed the efficient trait of these laws, and calls them as “hybrid state indigenous legal and justice system”, founding on the Autonomous Councils of Northeast India (Roy, 2005).

Vandana Arora (2008) in her thesis “*Justice Delivery in India: A Critique (With Special Reference to Supreme Court)*”, says that Customary concept of reaching out

to justice or “Access to Justice”, is considered as a layman has full access to the law courts to find proper justice. Judiciary courts epitomize the principles of justice for common man, for it means criminal or civil crimes will be given justice and legal rights will be taken care of. These courts are a part of the government machinery, where the judges must perform their legal duties with integrity and impartiality. And access to these courts means settlement of conflicts and legal disputes. The system of justice is considered to be a sacred procedure whatever form it takes, as far as it provides justice to the victim, it is supernova (Arora, 2008).

Chaudhary (2009) in his legal ethnography about a Punjabi village of Pakistan put forth that though “relative justice” can be provided to the people through both the customary and modern legal systems, in their own way. But unfortunately, the processes work under the influence of powerful and illustrate that both systems work against justice in true sense. He concludes with pungent statement that “these systems are two parts of one system – they may function independently but in actual practice work together” (Chudhary, 2009).

Martin Mattsson and Mushfiq Mobarak (2017) in their report “Strengthening Village Courts in Rural Bangladesh” describe the need for Informal Justice System recognized at the level of State. Bangladesh like other low-income countries is facing drastic challenges in the provision of justice to the local rural areas. At the Government level administration in Bangladesh is making all out efforts to stabilize the local justice courts in most of the village areas. They are establishing close to home courts which will be low cost to the locals and with an access to dealing minor and non-criminal cases. As of now, though the informal justice systems provide alternative dispute resolution mechanisms with cost effectiveness; it lacks the authority of imposing penalties. There are other observations as well that these informal systems are biased sometimes. They are influenced by local powers, which deprive the locals from true justice. The Government of the country passed a law in 2006, giving a directed power to the village courts to resolve small issues, such as theft cases, physical disputes, and other non-criminal petty offences. These village courts have increased access to the justice system in villages. Thus theoretically, these courts would be able to resolve minor cases among the residents at their affordable costs. Unfortunately, these types of courts are not practically formed so their utilization is also very low (Mattsson & Mobarak, 2017).

Besides many benefits like accessibility, familiarity and cost-effectiveness, concerns have also been raised on the power -dynamics involved in the customary dispute resolution systems. The concept of `relative justice` also seems to be sabotaged by those in power. Many a times, the customary dispute resolution has been criticized widely by those in favor of state control over community control. Following section refers to literature shedding light on both sides of ADR.

2.4.1. Informal ADR Mechanisms in Subcontinent

Besides considerable cross-cultural variation that exists with reference to how conflicts are dealt among different societies, there are also some similarities and repeated patterns in resolutions (Fry, 2002). Roy (2005) in his report on “Traditional Customary Laws and Indigenous Peoples in Asia” quotes that in India, customary laws as an effective alternate tool has been used for dispute resolution such as in Nagaland and Mizoram; Indians had a council system which engaged the power of the village elders for dispute resolution (Roy, 2005). However, Rani in (2014) traced the use of mediation for resolution by ancient Hindu’s way back in 15th century B.C. (Rani, 2014). Detho (2018) also verifies not only “*Panchayat and Jirgah* but *Faislo and Suleh* as centuries old self-regulatory body governed by elders of the tribe or community who come together to resolve a dispute and is found prevalent mostly in the rural and tribal areas of Indian subcontinent (Detho, 2018).

Hence, in the context of subcontinent, the concept of ADR for justice delivery is not new but relishes deep roots in the society in the form of mediation mechanisms such as `Panchayat` and `Jirgah`. In a study, Iqbal (2016) mentions that the mechanisms are part of rich heritage and culture and exists in many different forms and manifestations in different parts of both India and Pakistan since long. Though the decisions given had no legal binding or implication, the system sustains itself on social and cultural bindings/implications on the disputing parties of the dispute. Being an essential part of the subcontinent, every dispute of life may it be civil, criminal, and commercial or personal was brought to traditional alternate forums for resolution. The system worked better in some particular cases (Iqbal, 2016). Even Asian Foundation report on “Alternative Dispute Resolution: A Paradigm Shift in Pakistan’s Justice System” states that the practice of resolving disputes using alternate means other than litigation is widely practiced and used in South Asia to promote quick and

speedy access to justice (Ali, 2017). The following section highlights and discusses the similarities of manifestations and forms of Alternate Dispute resolution mechanisms that got operational and active through practice in different sub-cultures of the subcontinent.

Shahid (2012) in his report claimed that the endemic system of 'Panchayat' originated from the caste system. Since Hinduism is based on strong caste system therefore caste has been used to legitimize the supremacy of higher cast (brahman) by controlling the lower caste (shudder) in village setting through the *Panchayat system*. In village settings, still *Panchayat* is based on the *zaat* (caste) and *Biradari* (ethnicity) and through the applications of caste and class (Shahid, 2012). Similarly, the word 'Faislo' has many connotations covering dispute, settlement, a decision and a judgment. The system has been used to resolve civil matters (family systems, village community as well as in larger *Biradari* or *quam*). *Faislo* is usually used to settle matters of life and death as well as serial killings in tribal feuds besides civil matters (Detho, 2018). This self-regulatory informal system of Panchayat was and still referred as a blessing for the people due to its efficacy especially in areas that had or have been deprived of state laws (Abduseleh & Islam, 2018). Shahid has cited Ahsan's work 'Panchayat and Jirga' (2009) and mention that the system was designed to resolve minor disputes among the villages such as administration or neighborhood disputes. The system also assisted in generating and keeping harmony and peace due to its features until or unless the colonial power abolished the spirit of *Panchayat* by formalizing their own body of law (court system), in order to impose and legitimate their power by suppressing the rural masses (Shahid, 2012). The various forums were and are still constituted in order to suppress, exploit and counter the rural masses (Shahid, 2012; Ghulam, Mohyddin, & Mahesar, 2013).

2.4.2. Movements of Legalizing Panchayats

Iqbal has cited Yasin & Buniri, (2004) and they generate debate on the informal and formal justice system. Literature reflects that the efforts to in cooperate the informal mechanisms under the Legal state system are century old. The motif of the colonial powers to legalize informal forums was to control and manage the rural masses residing in specific locale and region of the country. Therefore, special acts, laws and forums were designed for different people to tackle and control their activities.

Britishers as colonizers had realized the deep roots and impact of the system into the social fabric and lives of the rural masses and therefore made several tries to adjust it with the British legal system. Iqbal mentions that the movement of legalizing informal mechanisms started in 1888 where there were different bodies constituted an act of village court act was passed in Madras state. To limit further challenges, it was followed by Panchayat act of 1912 where panchayats were given the role of the arbitration committee. However, despite the acts the question of efficacy and legitimacy still remained unattended for the informal mechanisms as Panchayats were run on the mutual consent of both the parties to present their cases for resolution in the committee. In order to address the flaws pertaining to efficacy and legacy, 1922 act was introduced. The act was an effort to restore *Panchayats* with its essence as it was before, as it consisted of *Panches* (members) and a *sarpanch* (leader). This Act allowed these *Panchayats* to deal with civil and criminal cases and announced verdicts. Earlier, the concept of re-appeals was allowed but this act does not allow parties for review or revision to any other authority or court. Likewise, Ahsan Iqbal mentions a case study of 1927, the High Court of Bombay referred to panchayat as one of the oldest ways to resolve certain disputes in India (Iqbal, 2016). This acknowledgement led to slow accepted and incorporation of “Arbitration” into the British legal system as alternate conflict mechanisms. Over the years, from 1888 onwards to 1933⁶, several acts and bills were passed to dilute the Panchayat system and make it part of British legal system. The act increased the efficacy through including members of elected members, a revenue holder and village officers. *Panchayat* was held by the local leader, who was elected by *Panchayat* Panches (members). This Act allowed the *Panchayats* to deal with civil and criminal cases and announced verdict (Shahid, 2012). Arbitration Act 1940 was passed by the Indian Legislative Assembly and still remains in effect and extends to Pakistan as a whole until today, with limited modifications (Iqbal, 2016).

Before and after partition, the *Panchayat* system was established and functioning in two provinces of Pakistan: Sindh and Punjab. In 1958-59, the Ministry of Law Reform Commission of Pakistan published reports on *Panchayat* system. According to the reports, the *Panchayat* system was still prevalent and was performing its duties satisfactorily in certain areas, while in other areas, the justice system is neglected, due

⁶ Another *Panchayat* act was imposed on Sindh as “Sind Village *Panchayat* act”.

to inappropriate selection of Panches. Further, the *Panchayat* was found corrupt and found dealing with injustice with certain members. Shahid has cited Yasin & Buniri, (2004) and they mention that a report was drafted which reflected that the officials did not want to tolerate *Panchayat* anymore. Therefore, efforts were made to replace the *Panchayat* system through local governance. In 1961, the Conciliation Courts Ordinance was put into action, which tried to completely abolish *Panchayat* system to imposed legal system (Shahid, 2012). In the present system of India, there are official courts of justice as well as *Panchayat* courts are functioning at local level in parts of the country (Arora, 2008). In India, the establishment of 'Lok Adalats' to deal the minor criminal cases and long-standing dispute is an effort to formalize the panchayat systems /village councils or tribunals however, the decisions made through these forums face questions and reservations over the transparency of the decisions made. The Lok Adalats are functioning at the High court, district and taluk levels (Khan, 2017).

In present day Pakistan, Panchayat in Punjab, Jirgas in KP, Balochistan and *Faislo* in Sindh respectively are the traditional ways of settling disputes at the community levels. Moreover, from the British raj to present, many act, ordinance and bills were introduced by both houses to counter issues faced during decision making in Panchayat. To settle these issues, many acts and ordinance were passed, such as Punjab local government ordinances 2001, Sindh local government act 2019 and ADR bill 2017 in National Assembly. These ordinance and acts were based on committee, which are formed to settle dispute at gross root level. These committees were comprised a member retired official, and Member of house and these committees were given powers to settle dispute, if both parties bring cases with their consent. Many reports previously discuss such as UNDP report mentions that since *Panchayat* provides quick relief to its user, the Government of Pakistan has added ADR Act 2017 to constitution to complement and streamline *Panchayat* with FJS. The act stated that "this is prerequisite from the State to ensure the privilege of inexpensive as well as fast track justice system, to all the communities (Hamid, 2017). In Pakistan, *Panchayats* consists of respected elders of any community representing the tribes or clans of the respective area. Further they are wealthy and powerful. These people having huge land and control masses by exercising their power therefore negotiate with government officials on behalf of respective communities. It is believed that the land reforms were in the favor of landholding families and gave them stronghold

throughout the country. Due to stronghold of these landlords on rural masses, they asserted their influence on government machinery (local judicial and police), religious leaders and media journalists (Zahid, 2008).

Despite all the efforts, the informal mechanisms though very much prevalent are not able to become a formal part of the legal system. Shahid (2012) blames the powerful lords for making these Local mechanisms exploitative and not been able to formalize under the state law. These mechanisms are safe guarded, backed by and publicly defended by the powerful rural lords who have old primitive mind set to control people through the local mechanisms of *Panchayat* and *Jirga*. The mechanisms are safe guarded as part of centuries old tradition and gets constant support from the rural elite ruling Pakistan (Shahid, 2012).

2.4.3. Features of Panchayat as Traditional System

In the recent years, there is an increased support for establishment of Panchayat system from Government and Non-Government organizations due to many reasons. The Federal and Provincial Assembly time to time have introduced *Panchayat* system in the country. Mr. Riaz Fatyana (chairperson, NASCLJ) said that the introduction of *Panchayat* system act was to utilize these *Panchayat* systems as alternative dispute resolution laws to reduce burden on courts. Because they are considered transparent, quick, and easy to access, cost-effective justice to the rural masses, especially to marginalized groups and women (News, 2019).

In the beginning, while reviewing ADR, it was established that informal means are preferred majorly because they are cost effective. Others also contested that disputing parties agree to negotiate or reach any settlement because of some financial or social constraints (Woodman, 1991). Hence ADR is favored in countries with poor or marginalized communities who cannot bear the exceeding costs of consultation. Albright (2008) shared that four billion people around the world are robbed of the chance to better their lives and climb out of poverty, because they are excluded from the rule of law (Albright, 2008). Many marginalized people are refused entry simply because they cannot afford to pay the identification and representation fees required to join the formal legal system. Since costs are potentially the greatest hurdle to structured dispute settlement for many people in Pakistan. Same is confirmed by Asian Development Bank in his report 2015 that a country whose 24% population is

below the poverty line cannot afford a mechanism that increases the burden cost specially during consultation or litigation. Hence for Harper (2011), being free of cost is one feature of ADR that makes it more preferable than Formal Justice System. Since the beneficiaries of Informal Justice System are mostly the poor and marginalized groups of communities, specifically in developing countries. IJS ensures justice delivery and accessibility for all specially in less developed countries where the state is faced with economic constraints such as cost of litigation (Harper, 2011). Kerrigan (2012) connects the matter of trust and preference to IJS with its ability to provide justice in close geographical proximity. It is more acceptable in those remote areas where the FJS is unable to reach and deliver justice, in such areas, IJS becomes a better option to provide a platform resolution, accountability, and collective representation. This brings us to a conclusion that the functioning of these mechanisms has a critical impact on livelihoods, security and order of the local communities (Kerrigan, 2012).

In economically struggling countries, state is unable to allocate too many resources for delivering access to poor and marginalized people. The available resources for state are not sufficient; therefore, it is impossible to provide justice in short period of time to the population. These insufficient resources may lead to many other structural and justice delivery problems in the state-owned legal structure. A UNDP country report about alternative dispute resolution mechanisms in Pakistan in (2006) states that almost eighty percent (80%) of the cases are being resolved through informal mechanism. Earlier research also claimed its preference due to its nature such as easy to access, inexpensive and very importantly it allows to provide quick relief within culturally appropriate solution (Wojkowska, 2006). Likewise, 2016 World Justice Project country report shared that about 40% of the Pakistanis encountered a dispute within one year's time where water disputes, neighbor disputes or disputes relating to identity cards or other identity document, or family disputes were found to be most common of disputes experienced. It was only one third of the respondents who took any action to resolve their dispute and those who did take any action opted to take their dispute to a traditional, customary or local leader- such as Jirga, *biradari* or *Mullah* for resolution. Those seeking traditional forums reported a positive experience in terms of speed and cost of dispute resolution process as compared to those who had accessed the formal judicial systems (World Justice Project, 2016).

Furthermore, World Justice Project (WJP) in its 2017-18 report listed Pakistan at 107 positions out of total 113 countries in provision of civil justice to its citizens whereas secures the position of 81 regarding the criminal justice access and provision. The factors measuring the access to civil justice analyses whether ordinary people can resolve and address their concerns and grievances peacefully and effectively through this justice system. It also measured whether the justice systems are accessible, affordable or free of discrimination, moreover corruption and unnecessary or improper influences of Public or powerful state officials. The project also appreciated the accessibility, impartiality and effectiveness of alternative modes of dispute resolution in form of Informal justice system which often precedes the formal legal systems when the latter is weak, remote or perceived as ineffective (Butt, 2018). Furthermore, World Justice Project report 2020 reflects the deteriorating rule of law situation in Pakistan where the access to criminal justice procedure has got worsened by many degrees (Durrani, 2020). It is this worsening situation of FJS that has created vacuum for the IJS system and people dependency on informal means.

The released Law and Justice Commission of Pakistan (LJCP) of 2018 showed recent statistical report on burden of pending cases on Pakistani courts. According to the report, huge bulk of cases in all premier courts of Pakistan show pending status. The process of litigation is in constant delay (Asad, 2018) and the burden is constantly increasing. Another report of 2018 demonstrated that during Chief Justice Nisar tenure about 8,000 more cases have been added to the backlog of 38,500 pending cases of Supreme Court. Report further talks about the nature of cases such as 9,368 cases are of civil nature, 19,374 are of constitutional nature and 2,249 are of jail petitions in apex court. Furthermore, 39 suo motu cases and 274 cases pertaining to basic human rights are also pending in court (Times of Islamabad, 2018). In the context of Sindh, the situation of case delays and burden on FJS is even worse. More than 193,248 cases are pending just in Sindh province courts. About 92,189 cases are pending in Sindh High Court and whereas 101, 059 cases are pending in district judiciary. The nature of the cases includes 37,090 are of civil nature, about 54,269 are of criminal nature, about 14,125 are of family and about 7,738 are of banking nature. In Larkana district alone, around 1,185 cases are pending in Larkana district courts. Documents show that one ATC court is also functional in Larkana district. In response to too much load on courts, the Sindh government responded that speedy access to justice is their priority and several steps have been taken in this regard. To

reduce the workload and expenses of court, Alternate Dispute Resolution (ADR) mechanism are accepted and become part of statutory laws such as mediation and conciliation (Channa, 2019). The issue of delayed litigation and justice provision is one of the key challenges faced by the legal structures of Pakistan. This delay in process is considered a major reason for communities to stick to their IJS which are speedier and more responsive.

However, the important question is how does traditional system maintains its legacy and legitimacy in society as the bindings are not legal but social and cultural? The answer is provided by Harper (2011) that traditional justice mechanisms as part of their societal structure and cultural fabric are simply too much important for communities that is why they cannot be ignored. In all these years of ups and downs, invasions and conquests, Traditional justice systems have shown significant resilience; survived, resolved conflicts, proved themselves during natural disasters and stood firm in face of failed state-based attempts to abolish the system. They survived because probably the indigenous processes are mostly perceived as accessible, cost effective, fair and efficient, by involving the local authority. They have the capacity to resolve the social, legal and material needs of masses. Therefore, the basic criteria for a system to be accepted by masses does not concern itself only with the engagement (indigenous outcomes are beneficial for all or not), but in fact it relates to whether the features offered by the system are effective and connect people or not. Thus, also understanding how and why IJS addresses basic queries for formulating a culture for rule of law (Harper, 2011).

We cannot separate native people and informal justice mechanisms. Rather, observe that both are interconnected with each other. Since such system and mechanism have their socially approved norms, values and given guidelines provided to rest of the community. Therefore, indigenous communities own these mechanisms for resolution and govern their social life (Wojkowska, 2006). These mechanisms regulate cultural, ethnic and social network of relationship. In Pakistani context, Panchayat play important role among rural communities, as it is composed of respective elders, villagers and landlords. It has been given power to not only resolve disputes but also call for implementation. However, before consulting with *Panchayat*, social pressure is used in both conditions where the parties involved are bound by social and cultural fabric to abide by the decision made by the elders of the panchayat. Otherwise: the members faced social boycott or are expelled from the community.

Structural formalities are another reason for indigenous communities not to trust the FJS. The FJ structure is composed of complex structure, lodging of FIR, hiring of lawyers, understanding of laws, lower courts, high courts and supreme courts. This system psychologically disturbs people, such as methods of arrest, detention and interrogation which are subjected to enforcement of legal tortures during entire investigation and people get more punishment in form of arrest and prisons than the actual. While in arrest an individual does not enjoy any human right or human dignity, rather he is psychologically disturbed and torn. Furthermore, the courts are overburdened, and people are unable to appear in front of court for testimony. Both the police investigation team and courtside not concerned for a victim's suffering safety and security (Sangroula, 2016).

It is important to understand the communities take into play many reasons before referring to any system of resolution for their disputes. The decision is not random but based on one socio-economic context. It also sees the performance of the system with reference to a specific dispute and will always opt for a system that offers more benefits. It is to conclude, that IJS is supported by communities as it is a system of their own, addresses their needs and demands of a relative justice, does not burden them with cost, keeps them socially intact and imposes social sanctions instead of putting them behind bars. Most of all, it is responsive to their traditional norms and values and maintenances of social order. However, the question of discrimination still remains unattended.

The UNDP (2016) report though acknowledged that this system has reduced the burden of formal courts but also showed serious reservations regarding punishments and decisions, exclusively about "Human Rights". Mostly decisions taken were biased, based on discrimination and on some serious violations of "International Human Rights Standards". The traditional ADR systems are also filled with controversies such as illegal decision-making, discriminatory set-ups as well as unsupervised decisions with frequent effects on the vulnerable groups, minority and specially women and children (Detho, 2018). The formal justice system has frequently shown its concerns regarding the decisions and human rights violation made by *Panchayat /Jirga/Faislo*. For example, in 2002, National Judicial Policy Making Committee (NJPC) held a meeting and discussed various issues and concerns regarding FJS and *Panchayat /Jirga/Faislo*. The committee raised various questions on the violations of the woman rights and showed concerns on verdicts given under

the traditional laws of *swara/vani*. The NJPC said that settlement of dispute through women under *Swara/Vani* is against Islamic laws and violation of state laws as well. Further, NJPC committee took serious notice on ‘vani’ and declared it the violation of Pakistan Penal Code sections 310 and 338 (E) (Shahid, 2012). A Sukkur Bench of Sindh High Court on 23 April 2004 in their verdict had banned to hold any *Faislo* in Sindh province. Chief Justice declared *Panchayat /Jirga/Faislo* justice delivery mechanism is opposite to state constitution. Similarly, many other questions arise on power structure of *Panchayat* system; the system has given too much power to *Panchayat* that it is not answerable to anyone and not even accountable (Shahid, 2012). Further, the system does not give any representation and participation to women in the mechanism. The structure gives power to men as the nature of the society is patriarchal. Therefore, in 2006 supreme Courts of Pakistan declared *Panchayat* system as illegal for the wellbeing of women. The structure does not allow women to get education, confine them within the four walls, and allow child marriage and honour killing. Thus, the system is said to be barbaric in nature and violate human right standard (Rasheed, 2018; Shah N. , 2016).

2.4.4. Paradigm Shift towards institutionalizing ADR in Pakistan

Nepal, India and Bangladesh much earlier joined the movement of formalizing ADR processes in their judicial systems however, Pakistan has taken its time to take steps to institutionalize and develop the mediation services and structure to accommodate ADR processes for dispute resolution. Lok Adalats and Village councils in India and Bangladesh over the years is result of such efforts (Khan, 2017).

In Khyber Pakhtunkhwa (KP) province of Pakistan, Dispute Resolution Centers (DRC) have been operationalized for a long time to settle disputes quickly and through easy access. The 21 member DRC is a non-bureaucratic mechanism for delivery and dispensation of Justice. By 2014, DRC Management settled 3,000 disputable cases out of the total 7,000 applications received. In 2016, bill was produced in Parliament for the legalization of the traditional dispute resolution setups such as *Panchayat*, *Jirga* and *Faislo*. It is believed that after legalization, these mechanisms will not be informal dispute resolution mechanisms (Khan, 2017).

The terrible and disintegrating situation of the justice system has also opened the scope of entering ADR -mediation mechanisms into the legal framework to ensure easy and quick access to Justice (Ali, 2017). Recent legislations engaging ADR

mechanisms include the ADR Act, 2017; the Punjab Alternate Dispute Resolution Act, 2019; as well as the Code of Civil Procedures (Sindh Amendment) Bill, 2018. It has been the Lahore High Court (LHC) that has been taking initiatives to mainstream the “court – appropriated mediation”- a procedure where the judges refer cases to mediators assigned by the Lahore High Court. It is the ADR discourse which is warming the communities to the idea of an alternative to the Courts for resolving disputes since the concept is not alien to the residents of the subcontinent as discussed earlier. For many years – for instance in the forms of tribal councils also referred as Jirgas, Islamic courts and panchayats for mediation have been considered a practice very much conducive and effective towards social harmony. In Pakistan, the recently opened ADR centers have been also referred as “friendship centers”. The ADR model is also yielding positive results internationally as well where the data of turkey, Italy and Pakistan shows the positive acceptance of the ADR models introduced beside the formal legal systems (Hussain, 2019).

Currently in Pakistan, formal ADR mechanisms are a mixture of three hybrid systems that is court annexed ADR, Institutional ADR- here the arbitrator can be selected/appointed as per law by the parties and ADR through public bodies (Akhtar, 2009). ADR is conducted in public bodies such as conciliation courts, UCs, Arbitration Councils and others. Earlier, the Arbitration Councils dealt the civil family related cases regarding issues like divorce, second marriages, and maintenance for existing wives. Union Councils acted as arbitrators through the elected councilors under the Muslim Family Law Ordinance 1961. Certain other steps have been also taken to strengthen the ADR system in Pakistan including in Sindh. The Code of Civil Procedure (CPC) that is the basic procedural law to deal with civil matters was amended in 2002 and furthermore sections were inserted to permit ADR for mediation and conciliation. Under the Small claims and Minor offences ordinance 2002 (SCMOO), a number of lawyers as *Salis* (Mediator) committee members are appointed by the High Court of Sindh. The members act as mediators in small claim cases where the process gets active upon the order of the court (Detho, 2018). Seemingly many efforts have been made to cooperate and legitimize the informal means however not much success has been made yet. Even though the IJS lack legitimacy as well legal binding, they are still preferred over the FJS. This calls for a need to critically review the FJS system and its challenges in Pakistan to see if they have any role to play in encouraging IJS practice.

2.4.5. ADR- Efficacy and Drawbacks

Much has been read and said about the Informal Justice System. It is claimed to be an honored system where our old and new values merge and strengthen the relationships. As in the whole of the discussion, it has been observed that not only in the rural areas Informal Justice System is working efficiently and effectively but also in the urban areas. The concept of Mediation, Negotiation and Arbitration has been introduced to save time on following lengthy legal processes and wasting of money too. Many researchers have gone far deeper to claim the authority of informal system side by side the official judicial systems already facilitating but few factions of the society.

JG Mowatt (1992) writes in his famous paper “Alternative Dispute Resolution: some points to ponder”, that with new modern technological world another trend seen in the recent years is the strong reaction against the formal litigation processes, in terms that it is neither accessible to the general public nor affordable. Thus, essentially the right to justice is denied to many affectees. Individuals are being alienated from the State Law Courts, which need to be looked into and definitely some procedural reforms should be introduced to implement Alternative Dispute Resolution – chunking out of the informal justice system (Mowatt, 1992). Over the years the overhaul of the judicial system has been pondered and subsequently ADRs are the part of the system as claimed by many Researchers of Law.

Mauro Cappelletti (1993) argues in his article, “Alternative Dispute Resolution Processes within the Framework of the World-Wide Access-to-Justice Movement”. To him technically speaking, Alternative Dispute Resolution is not just only those devices which are employed to solve the disputes, mostly out of the court processes taken up by non-judicial persona. There are other devices as well which even for judicial court can be beneficial for the easy access to justice (Cappelletti, 1993). In “Tribunals and Informal Justice” (1993) Hazel Genn proclaims that Informal Tribunals have been a significant part of British Civil Justice System to review the administrative decisions and adjudicate upon disputes between parties. They are a popular part of the court policy for the last 50 years or more. Today, tribunals in United Kingdom tackle over a million cases annually based upon Informal laws. (Genn H. , 1993).

Simon Roberts (1993) tries to identify all the judicial practices which are connected with Alternative Dispute Resolution. In his article, “Alternative Dispute Resolution

and Civil Justice: An Unresolved Relationship”, he proposes that while Alternative Dispute Resolution methods provide to sustain the disputant groups who try to work out solutions by disentangling from the legal specialists, and also attracts a large number of groups who want to secure new areas of work. A contemporary perception of crises in Civil State Courts has directed the judges to seek Alternative Dispute Resolution as an easy way to decrease caseload from civil justice system. The government is also attracted to actively sponsor the reduced cost functioning courts within Informal Justice System. These are more Institutionalized alternative modes of dispute management in the private sphere (Roberts, 1993). Richard C. Reuben in his article “Public Justice: Toward a State Action Theory of Alternative Dispute Resolution” (1997) speaks high about the merits of Alternative Dispute Resolution. He says that Alternative Dispute Resolution in its various methods and forms is increasingly taking over litigation to get to the easy justice. ADR is most frequently implemented by the legislative bodies of the government for specific types of cases, when private parties enter into a contract. (Reuben, 1997).

In “Dispute Resolution in a Worker Cooperative: Formal Procedures and Procedural Justice” (2005) Elizabeth A. Hoffmann sought worker grievances resolution in worker cooperative. In her article she explores an access to informal and formal grievance resolution options (Hoffmann, 2005). Christine A. Coates et al. (2005) lauds the role of Alternative Dispute Resolution in Family Courts in her paper “Parenting Coordination for High-Conflict Families”. She says in the management of higher conflict child custody cases, there are many advantages of Alternative Dispute Resolution in the family courts across United States (Coates, 2005). Lilian Edwards & Caroline Wilson (2007) claim in “Redress and Alternative Dispute Resolution in EU Cross-Border E - Commerce Transactions” that an obvious way forward in the promotion of e-commerce is to encourage consumers to turn to alternative dispute resolution (Edwards & Wilson, 2007).

After reviewing the relevant literature regarding the consideration and acknowledgement of informal Justice System both in rural surroundings as well as in urban legal courts, the following literature presents some of the disadvantages enumerated by researchers worldwide.

International Development Law Organization report despite reporting evidence of preferring customary justice system over the formal one stated that though, Informal justice systems frequently depend on mediation, reconciliation and consensus, still,

engagement with them is sometimes frowned upon, as they tend to promote patriarchal interpretations of culture, and conflict with internationally accepted conventions on rights issues. They could, for instance, impose punishments regarded as inhumane or discriminatory (IDLO, 2015). Nafisa Shah (2016) point out that the interaction between honour and *karo kari* is described as those women are punished not because of sexual violations, but because of their assumed social transgressions. Thus, any woman who seeks to establish her right to marriage or dares to decline the marriage arrangements is labelled *kari* and sentenced to death in the name of honour. She linked such traditions from historical data to show how violence is committed in the name of traditions and how powerful sections of the society may be used law as an instrument (Shah N. , 2016). Earlier a study report issued by United Nations Entity for Gender Equality and the empowerment of women, highlights another aspect of Informal Justice System in “A study of informal justice systems: access to justice and human rights” (2009) mentioning that in spite of the fact that the system provides solution speedily and cost effectively, there are some latent aspects that have been ignored while praising too much of its advantages. Informal Justice System can violate human rights openly, it can strengthen discrimination, and ignore basic principles of “procedural fairness”. Though IJS in many ways deal fairly enough with the issues of customary marriage, custody of child, dissolution of marriages, inheritance, and property rights. Nevertheless, the significant operative question is the rights of women and children. It is especially significant to note here that in structures, processes and procedures and some substantive decision Informal Justice System is not at all safeguarding the rights of women and children. The Local Economy of IJS is not without disadvantages. Many material exchanges are present in dispute resolution. This practice can promote corruption among the officials of IJS. It is observed authentically that powerful party exploit the disadvantaged group. Here it must be mentioned that popularity of Informal Justice system is not for its being cheaper. In some of the countries it is observed that same fee is invested in the local justice system to get favor of decision. The reason of its popularity is that the punishments are benign sometimes and give full favor to the power-player. If the same case is taken to State Law, there might be another game, the weaker group can reach the top by any chance and get due justice. In the State Law there is no basis of discriminatory treatment. While in Informal Justice System, the procedures are not present in written form, the lack of these procedural rules can permit prejudice and

abuse of power against women. Especially in patriarchal society this is the most disadvantageous aspect of law for women. (UNICEF, 2009)

Mark Albright (2012) highlights some of disadvantages of Alternative Dispute Resolution system in his article “Advantages and disadvantages of ADR”. First of all, the solutions are not guaranteed as they do not always lead to a permanent solution of the problem. It means after investing considerable time and money the parties still have to proceed with litigation and go through the processes of trial before jury and judges. Secondly, the decisions taken by Arbitration are taken as final. The decision of the arbitrator cannot be appealed against except for few. Some States do not enforce the decisions of the arbitrators for not being fair. The decision is nullified if it goes beyond the scope of arbitration clause in an agreement. Thirdly, the Arbitrators can resolve only those disputes which involve money or family. They cannot force a party to comply to their orders. For example, they cannot change the title to property as it is subject to language of the arbitration clause. Fourthly, some of the safeguard’s provision to the protection of the parties may not be present in Informal Justice System. Fifthly, the fee to the neutral mediator or the arbitrator is quite enough. Lastly, the parties perusing Informal Justice System must be careful not to let a Statute of Limitations run while a dispute is in any Informal justice system. Once the statute expires, the judicial remedies may no longer be available to facilitate them. (Albright M. , 2012). However, as compared to litigation, ADR is far more used and referred system across the world for seeking solutions to disputes. It has much more deeper roots in the society than the legal forums and refers to the social and cultural bindings (Iqbal, 2016). The following section makes a thorough effort to review literature with reference to the local justice delivery and dispute resolution alternate mechanisms in the subcontinent and especially present-day India and Pakistan.

2.5. Pakistan’s Formal justice system and its Challenges

Following reviewed scholarship analyses the effectiveness of the different tiers of courts/ Formal Justice System functional in the country and tries to shed light on some of the key challenges faced. As discussed, IJS is not completely bias free and has its own structural and legitimacy challenges so is the case with FJS which being the state-owned structure has its fair share of challenges and criticism. The comparison

between the two cannot be made without first briefly explaining the FJS in place in the country.

According to the Pakistan's constitution under the article 37, the state ensures its citizen to provide 'expeditious and inexpensive justice'. Furthermore, the Constitution also guarantees to have right to its citizen to be protected by law, and imposed two duties, such as loyalty with the state and obedience to the law. Moreover, if any person who will attempt to violate or found to abrogate or subvert the State Constitution would be treated guilty of high treason. The state Constitution also provides fundamental rights to its member such as the right to life, liberty, equality and freedom of speech, trade and association. The Constitution also declared any laws inconsistent with or derogatory to fundamental rights as null and void (Zahid, 2019). Therefore, chains of courts system have been established for the cause. The judiciary consists of Supreme Court, provincial high courts, and district courts and magistrate courts hearing the Civil and Criminal nature cases (Hussain, 2015).

In Pakistan, three forms of justice system prevail such as formal, informal and Sharia law. The Pakistani constitution has inherited basic foundation of Common Law of civil and criminal laws from British. Though current Pakistani legal system still is bestowed with amended body of criminal and civil procedural laws, but the main source still refers to Criminal Procedure Code (1898) and the Civil Procedure Code (1908). Even though the basic doctrine/principle for legal system in Pakistan is same as it is practiced in England i.e., court verdicts, various bodies and organizations of Bar Associations (Hoffman, 2008) but still has been subjected to many additions, appropriations and adjustments over the time. The adjustments include many ordinances in cooperated since 1958 by the military governments of General Ayub Khan, Yahya Khan, Zia al Haq, and Pervez Musharraf as well as the bills or laws approved by the civil governments hence becoming official state laws (Jahangir, 2021). Moreover, the common law also consists of inheritance of Islamic laws named as shari'a. It was General Zia ul Haq (1977-88) who incorporated the Islamic law to constitution "Federal Sharia Court", whose responsibility is to examine laws in the light of Sharia and ensure that any prevailing law must not be against the Islamic injunctions (Shahid, 2012).

The current judicial system is neither completely British nor a transplant, but it somehow includes an indigenous flavor and contribution of national culture (Hussain, 2015) and comprises of state courts backed by the police. Before 2007, the Criminal

Justice system only comprised of Police and Judiciary with no independent concept of independent Prosecution Department in Pakistan. It was only after 2007 that after establishment of Prosecution departments at all Provinces, it was made a mandatory part of the system. However, the institution still remains ineffective and not fully functional in Pakistan's Criminal Justice system (Jamshed, 2018).

The courts system in Pakistan is an adversarial and retributive judicial system and it is divided into lower courts (both civil and criminal) and appellate courts- such as high courts, Sharia courts and supreme courts. These appellate courts have the power to review decisions made by the lower courts. The endemic legal system of Pakistan primarily consists of three key actors such as judges' lawyers and police. The role of the police is the maintenance of law and order, and it is the first place for citizens to contact the police for both civil and criminal matters. Whereas lawyers present their cases in terms of evidence and assist courts to reach certain conclusion and verdicts. Finally, Judges gave verdicts on the basis of witness presented by lawyers and police under the codified procedures and consistent application of state law (Acemoglu, 2018). This brings us to matters of suitability of law, performance of the key actors that is judges, lawyers and police, citizen's experience and perception of the codified procedures of the state law. A brief review of challenges with each matter is shared as below.

Initiating with the suitability of state law; Hussain in his work "The Judicial System" (2015) writes that despite the fission and fusion within the present law, many times it remains unsuitable to state masses specifically the rural and indigenous people. This is one reason that the judicial system enjoys little acceptance and legitimacy among the rural masses and people still adopt the previous or traditional practices to resolve disputes (Hussain, 2015). Likewise, Attaullah (2016) emphasized that there is a need to explore why a vast majority of the community is moving away from the formal justice system and prefers the informal one. One reason is that the formal structure has become outdated as it has not been kept up with time. It's complicated proceedings, price, longer time duration to reach verdict make it tiresome and less desirable. (Attaullah, 2017, p. 20). The prevalent justice system in Pakistan seemingly is irresponsive towards the most essential need of the speedy and prompt justice in spite of the granted assurances of the constitution. Delay in justice enhances the distrust in the judicial system. It not only stimulates intolerance, impatience but extremism and violence hence resulting in destabilization of society. The hurdle in

speedy and prompt justice is huge pendency of cases; hundred and thousand cases are pending in lower courts, high courts and Supreme Court of Pakistan. This huge pendency reduced the trust on Pakistani judiciary (Attaullah, 2017). A story in Dawn News quotes around 1.8 million cases that are pending with the judiciary at High courts and lower court levels around Pakistan. Among these cases almost 38,539 are pending in the SC, more than 147542 are in Lahore High court, 93,335 with the Sindh High court and almost 30,764 with the Peshawar High court, 6030 in the Balochistan High court and 16278 in the Islamabad High court. The situation is much worse in the district judiciary of the Punjab, Sindh, KPK, Balochistan and even Islamabad (Asad, 2018). The other civil courts and the supreme courts have been burdened with cases in which either the claimant or the complainant is a state. The heads of the departments involved, give preference to their vested interests, hence never showed any interest in settling conflicts. They are not apprehending costs since the state battles against people at the expense of civilians. State officials are expected to interact judiciously with residents and government employees, but they are not. Due to malfeasance, some acts are intentionally carried out that create a cause for action. As a result, the blame transfers to courts where they cannot dismiss the cases nor require them to be settled. They also lodge a second appeal in cases where the first appellate court has affirmed the ruling of the court of first instance. They should not hesitate to lodge a complaint for review with the last Appeals Court (Attaullah, 2017, p. 22).

The problem of delay and backlog of cases is also because of lawyers who sought frequent adjournments as well as bar councils and associations who without any seriousness of cause get engaged in strike calls over petty issues (Asad, 2018). The majority of clients are dissatisfied with the performance of their lawyers over their non-appearance in the courts. It has been found in so many cases that the lawyer is alone in his chamber or in the bar-room but does not appear before the judge. Sometimes he pays no proper attention to his client and ignores his request to appear before the court. In this case, the bad litigant transforms into a shuttle cock between the judge and the prosecutor (Attaullah, 2017).

There are many other reasons for the ineffectiveness of the courts in Pakistan. Besides lack of trust, it is also the lack of required level of evidence which is necessary for the conviction. The issue lies at the hands of the incompetent police and investigation system. The system lets the offender to get a clean chit because of the several loopholes present in the system. This is also one main reason because of which people

have lost their confidence especially the educated strata who also has started seeking out of court settlements to resolve disputes. The impression and role of Police also needs to be discussed, since the investigation for a dispute involving a crime involves Police but in Pakistan, the citizens are hesitant to engage directly with the Police in any manner. Police station is considered not a place for gentlemen and policemen are considered corrupt or helpful only to the powerful. This is one reason that every respectable person is afraid of going to police station even to register a genuine complaint. The case is destroyed from the start from the unprofessional nature of investigation (Jamshed, 2018). The customary function of the Police around the world is to deal with the criminals and to assist the courts in granting Justice. However, this becomes impossible because the stations lack both the equipment, vehicles, infrastructure, staff and investigation kits needed for a thorough investigation. Similarly, judiciary who on the other end has to provide access to reasonably quick end and solution to dispute is clogged due to shortage of judicial officers, prosecutors and record rooms in relation to huge number of cases they are required to deal with (Nadeem & Khan, 2017). However, the non-availability of resource is no excuse for delay or denial of right to Justice.

However, the problem of delay in justice is complicated and may include multiple factors contributing to the time taken by the court proceedings. The key weaknesses in the national courts are undue delays, bureaucratic constraints, misuse in protocol and the privilege of legal justice above substantive justice, needless and unwelcome consideration of the technicalities of the decision-making process, preference for right above equity, issues of implementation and, above all, a significantly sluggish finality. The formality of the court systems is found intimidating, discouraging and demotivating. Huge lawyers' fees and their technical incompetence are additional fatigues (Attaullah, 2017).

Evidence shows that the court's provision for legal representation is both expensive and humiliating for individuals who may not feel confident engaging with lawyers from a particular caste or background. As the procedure is complex (based on written documents and witness biased) and proceeding is in foreign language whereas, mostly population of the country lives in rural areas and unable to understand the procedure and language. Formal legal processes are therefore particularly intimidating for a large number of illiterate rural masses. To avoid all the above hassle,

communities seek mechanisms that are approachable, hassle and stress-free besides being speedy and responsive.

A significant size of research explained the popularity and functionality of the Informal Justice System with reference to the rural dynamics. The reasons for the preferences as discussed earlier are easy and quick access feature of informal justice system than the state judiciary. Additionally, the procedure of resolution takes place within community, free of cost and less subject to corruption, it is exercised by trusted people in their native language, and decisions are made according to the normative structure of community. Informal results typically design to restore social peace and maintained social harmony instead of enforcing abstract legislation. They are consent and justice oriented. Therefore, informal justice systems allow for better “access to justice” (Roder, 2013).

Considering the credibility of IJS, adaptation of mediation as ADR mechanisms has been on the rise in Europe since 2018 that is gradually spreading out from Belgium a country in the south to Turkey’s labor courts to Greece and Italy to other EU countries where the number of cases referred to mediation is 10 times higher than the previous years. The Europe is likely to see the development of new mediation movement as experiences and results from one country roll to another for the purpose of improvement and expansion of ADR to other respective parts of the worlds (Leonardo, 2018).

In this chapter, I have tried to explain the significance and rising credibility of the formalization of ADR into state laws, both the advantages and disadvantages of the informal system. I also presented the mechanism of state courts, their benefits, limitations and challenges faced by the complainants. Through the relevant literature discussed the aim was to understand the plurality and co-existence of the judicial mechanism in the world according to their state of effectiveness and satisfaction of the individual’s seeking justice. The situation of formal judicial system in Pakistan was specifically highlighted to comprehend the entire scenario of judicial system. This research is an effort to understand why people in Province Sindh still prefer their indigenous and informal justice system even in the twentieth century. The aim is to present an academic discussion over the integration of ADR into formal court system following the judicial paradigm shift for better justice delivery to the Pakistanis.

Chapter # 3

3. Research Methodology and Research-Setting

This chapter discusses pertinent details about the research methodology and research setting in two respective sections. The first section explains in depth about the selected methods, techniques and tools and how they were employed to achieve the objectives of the research study. The second section lays down all necessary detail about research site i.e., village Fatehpur including social organization, residential patterns, culture, infra-structure, nearby state provided justice delivery mechanisms, health and education facilities, occupational activities as well as existing political hierarchies etc.

3.1 Research Methodology

The purpose of the present research was to investigate what mechanisms are preferred by community to manage, resolve and settle situations of conflicts and disagreements, chaos and crisis in the village Fatehpur and most importantly why. The question of 'what' is dealt by exploring the manifested form, structure and working process of the mechanisms in place traditionally and locally for dispute resolution.

As I entered my research field, I had a little understanding that dispute is considered a natural phenomenon in the village Fatehpur where more than one ethnic or social group reside together; therefore, community may perceive these traditional mechanisms of dispute management as vital institutions that are in place for the purpose of maintaining social order and harmony among all social groups in the society. Through studying the micro activities and processes of the informal system, the research tries making a macro-analysis of how *Faislo* as an informal legal institution justifies its existence and relevance in not only maintaining solidarity and harmony among the social, political and economic hierarchies but also in reinstating and reinforcing the norms and values of other social, economic and political institutions hence promoting solidarity and stability in society at large. It is believed that *Faislo* is prime dispute resolution mechanism in Fatehpur and is an important social/legal institution for the peaceful existence of the whole community.

Quantitative data was achieved through socio-economic census form which covered the demographic profile of the 92 households and this form contained some important

questions relevant to which mechanism is preferred by the community. Few questions were asked to draw comparisons between two or more institutions with similar functions e.g., *Faislo* and formal courts, to understand which system is preferred by the community and why. Following research techniques were used for collection of data from Fatehpur Village, Larkana.

3.1.1 Participant Observation

I started conducting research in the year 2017 and started observing the community from the day first. After that, the first two weeks started establishing rapport among the community. As, rapport establishment is usually first and primary step in anthropological research. It is considered as fundamental aspect to enter and immerse into the community in order to develop a relationship with the community members before collection of wide range of data. Even for a researcher, the most important and crucial element is to build and develop a good reputation among its potential research participants and respondents. Interestingly it is not the researcher only who has the job of observing people and making judgements, in fact the community also is constantly observing the researcher in and out to decide researcher's credibility through his words and actions.

Being a native resident of Larkana city, I am quite familiar with local language, social groups, and cultural norms of the area. However, despite the advantage of being a native, the journey to access my participant community was not easy. Disputes though are handled publicly in formal courts or informally but are considered very private and intimate affairs of one's family and community. One may hear about the reasons, events, disputes and disputing parties from third party/source but those who are involved as disputing parties do not like to be asked around or questioned. Moreover, one is not sure if the events narrated contain true facts. Much important information that the community thinks can deface their reputation is also not shared comfortably and easily with the researcher unless he/she becomes like them.

This is why I paid great attention of how I entered and approach my community. The first task was to find a suitable contact person who is not only well aware of the dispute resolution mechanism but also enjoys a good repute in the village. My paternal cousin helped me in this regard and introduced me to *Meerani*, a young member of the *Meerani Biraderi* of village Fatehpur and son of an influential Elder of the *qoum*. In my research site which has a traditional set up, age is not just a number,

in-fact it is imminent factor to take or give one the right to speak in important places and gatherings of Elders.

When I met *Zia Meerani*, I was happy that he was of my age. Soon after sharing pleasantries from both sides, I shared my reason of visit and requested for required help to enter village Fatehpur – A village that is considered a strong holder of *Meerani Biraderi* and famous for many blood-gushing feuds. *Zia Meerani* after fifteen minutes of thorough listening told me simply and clearly “why don’t you visit my home in Fatehpur for lunch and meet my father. He is a well influential man and an ‘Elder’ in many disputes’ resolutions. It is not my favor you have to win; it is my father’s. Though I will contest your case but still it will be you who has to win my father’s trust to observe us closely”. Whatever *Zia Meerani* said was simple, concrete and made quite a few things very clear. First conflicts are private; second one needs an Elder to understand the mediation and arbitration process and third I had to be more prepared to satisfy *Zia Meerani*’s father to win his trust and confidence for due assistance in my research. Two days after our meeting, a one-day pilot visit was finalized where I was invited by *Meerani* to meet his father and participate in *Otak* event. I considered it as a great start and started anticipating the outcomes for the next coming day.

Zia Meerani’s father, *Mehr Meerani* was a gentle and wise old man who earned my respect within ten minutes of our meeting. After thorough hospitality, I was tagged along to see the daily proceedings of *Otak* of one of the most influential arbitrators – *Shaban Meerani*. It was *Mehr Meerani* who for the first time introduced me to the locals as his friend’s son who has come for the study purpose. Though, he did not tell any further details about the kind and intention of the study visit. Right as we entered, everyone acknowledged *Mehr Meerani*’s presence and offered salaam (religious way of greeting each other). We went to the other side of the open space where separate sitting was arranged. I sat in *Otak* and started observing and looking around to get myself familiar with major details such as structure of *Otak* and kind of people who had come to visit. *Otak* is an open public space where villagers gather for daily talk, I was told. It is also one of the most important forums where disputes either emerge or are brought to notice and resolved. The news of disagreement between any parties travels fast. I saw people sitting on *charpoye/ Khata* (Traditional bed made up of yarn for sitting) in groups busy in discussing their day-to-day matters. However, many soon joined *Mehr Meerani* who was busy talking about the political situation of the

country and soon the discussion turned towards politics. I understood that country Politics is an easy topic which people like to talk about in free time. I had spent two hours in *Otak* that day. I was told that my constant appearance with Mehr. *Meerani* will help me get comfortable with the community. It was then that I was also given a round of the village and given briefs about the social groups who reside here. My contact point, I realized had provided me a great breakthrough in not only building my rapport but also provided me with a window i.e., *Otak* to get one step closer to the meet and greet forums of the community. I also made use of some of my contacts from Fatehpur, who were working in Larkana city in fruit and vegetable market or drive Raksha (a three-wheel taxi). All such contacts became the ambassadors and referents for my target population in the village. The intention was not to get associated with one party or social group but to be accessible and familiar with all. Multiple visits were paid on weekly basis to get familiarized with my research surroundings.

Another important technique that was simultaneously used along with rapport building was Participant observation. Participant observation is considered as backbone in anthropological fieldwork. The participant observation provides an opportunity to get primary data, accurate information and original perspective of community members. It also provided me the chance to personally experience the life routine of a common villager and also led to understand the justification or rationale behind actions executed by any disputing parties.

My silent observation had started from the day, I started sitting in the *Otak*. However, it turned to participant observation when I started to take part in their discussions and started to recognize people. Participating in different ceremonies and ritual of the community like marriage, funeral, cultivation, harvesting, religious ritual (*Eids*), in *Otak* and in *Faislo* etc, also increased my access to the community and made me more acceptable as an 'insider'. On many occasions, I saw tensions arising in between families. Being my contact point, Zia and Mehr *Meerani* humbly took me to village gatherings and introduced me as one of their own. I now recalled faces, social groups who do not talk with each other and groups who are though separate but are one family. It was at one such occasion where I observed that Shaban and shah *Meerani* are competitors to each other. These two are the most influential people of the village. At a funeral both had met /faced each other cordially but maintained their difference. All people ensured that they met both the *ChangoMurs*. However, it was Shaban

Meerani who seemed to be more popular among the public. It was that moment which made me choose the *Otak* of Shaban *Meerani* to observe multiple dispute resolutions. I won the trust and confidence of Shaban *Meerani*, and after some time I was added to a social media – Whats App group of *Meerani* clan to remain updated about the affairs and matters of *Meerani*. Whats App group is created for better communication among the *Meerani* clan as well as bring matters of high concern or disagreement between any members of the Clan into immediate notice for their effective and timely resolution.

Participation in the research community affairs helped me in many ways, a) to cross examine various information that I had obtained from other sources like interview guides, schedules, Focus Group Discussions etc. b) to know the practical aspects as well as the empirical realities of community members and community traditions and c) to understand the aspect of people's existence about what they do not talk publicly. Furthermore, this method allowed me to interact more with the community members in their natural settings. Nonetheless, the topic was considered personal and most sensitive issue in cultural lenses, but the frequent interaction in natural settings enabled me to obtain substantial data rather than them thinking of being scrutinized or interviewed.

3.1.2. Key Informants

Key informants act like baseline data collection in the sense that the researcher is able to understand the community structure and historical development of the community through them. This source was used to get information about the village and the residents and residential patterns of the community. Since disputes are very private affairs whose details in many circumstances are not made public such as role conflicts or honor-based conflicts- therefore people do not give open access to their affairs. Key informants played a vital role in establishing my contacts and repute among the community members that they could trust me to reveal their conflicts and nature of their conflicts.

The selection of key informants was quite a natural process of meeting some very approachable or resourceful people. The decision was not only based on my personal judgments but also their suitable age, wisdom, grip over cultural knowledge, involved and active member of *Otak*. Three wise, well knowledgeable and experienced key

informants were selected to make sense of complex situations as well as to gather the history of the matters/ events/disputes to explore the potential past.

First key informant Amjad *Meerani* (Pseudonym) was 45 years old, economically rich, politically active and used to take part in Provincial elections and had direct contacts with senior police officers. He used to live in Larkana city but was an active participant of the dispute resolutions and activities of *Meerani qoum* in overall Sindh. He created what's App group inclusive of the *Meerani qoum* members, where he provided political insights and information about the country in general and about *Meerani* specific. All the group members were allowed to share their perspective. He was considered the custodian of *Otak*. The information provided by him was very valuable because he was influential member and had all the details of the disputes from cultural perspective, political perspective, and history of disputant parties and the role of police in the disputes. He kept me informed about the history of the disputing parties, frequency of them being in a dispute, resourcefulness and approach of disputing parties, process of verdicts, the kind of choices made during verdict, and role of local actors.

Second Key informant was Abdullah *Meerani*, a 57 years old, respective elder member of the *Meerani* group. He belonged to the economically middle class of the community and was a farmer by profession. He used to cultivate his own land along with his sons. His home was near to *Otak* and was an active member of the *Faislo*. Mr. Abdullah had an extensive experience of resolving disputes, and was famous for his just and even mindedness, therefore he was very respectable among the community members. Hence, he was much closed to *ChangoMurs* of village and provided me steadfast information regarding disputes, and validated data and if something was missing, overlooked or mistaken. He equipped me with insightful knowledge about the process of *Faislo*.

Third key informant was Niaz Memon, 61 years old, a retired bank cashier from National Bank. He earned his living through pension. At the time of fieldwork for this study, he was considered a wise man among the community members and people regarded his suggestions in case of conflicts and disputes. *ChangoMurs* also ensured his involvement during the discussions. He had great memory of historical events happened in the village. He provided flashback information to reconstruct the past and painted picture about ways of life no longer practiced or those that have been drastically modified.

All three key informants were my guides to approach participants, observe and interpret any situation. I had all-embracing conversations with them and maintained an extensive interaction over a longer period of time. My key informants acted as repositories of culture and made things easy for me to understand. They also took me to disputant parties and helped me to understand the reasons of conflict and other details provided by the community. This type of information was difficult to obtain without their assistance.

3.1.3. Village Mapping and Profiling

In order to get detailed information about the various aspects of village a survey was conducted. Village profiling included the following domains; 1) Topography; 2) Geographic location and neighboring villages; 3) History of the village settlement; 4) total number of households; 5) subsistence patterns ; 6) Institutions like education and health; 7) Village information like roads and transportation, electricity, sanitation, gas, telephone lines, water supply, playground, school, hospital; 8) Major crops 9) Cultural festivals; 10) Family system; 11) Political organization; and 12) gathering/meeting places 13) residential patterns .

It was during transact walks that I had started noticing my surroundings. A village map was drafted to highlight the residential divisions of different social/ethnic groups as the kind of construction (mortar or mud houses) and their sizes was marked as first indicator to segregate the dominant and wealthy people of the village. The education and health facilities, the basic infrastructure, the presence of the utilities, playgrounds, water sources, fields, major crops, structure of the houses, markets, places of gatherings as well as distance from the city center Larkana were also documented during my visits to different locations every time. The village profile also included the nearest police station and the court system as part of the dispute resolution mechanism.

Key- informants also proved to be very resourceful during collecting this detail about the Fatehpur and neighboring villages. Some secondary sources such as detailing in Union Council/Mouza office was also obtained for the purpose of adding in the research. These are the aspects of village which were monitored and recorded using researcher's personal ability of observation, key-informants and secondary information obtained from newspapers, union council office etc. Apart from infrastructure details, the socio- economic details were verified further using socio-

economic survey which was more community -centric unlike village profile which focused more on village topography, demography and infra-structural details.

3.1.4. Socio-Economic Census

Besides attending *Otak* and a basic survey for developing village profile, the research also demanded a thorough detail and understanding of the social and economic hierarchies of the village. Moreover, since the research dealt with dispute resolution therefore for selecting my potential respondents from the community, it was required to get basic information about the ethnic associations, *castes/qoum*, age, major occupations, level of income, structure of family, residential patterns nature of conflicts, frequency of one household being involved in a conflict, marriage patterns, religious affiliations etc. For the current study the household unit was defined as “members living in the same dwelling, eating from the same kitchen and sharing income with household”.

3.1.4.1. Choosing the Sample Size

A representative sample of 92 households of disputant families was included out of total 490 Households using the purposive sampling technique. This sample was identified with the help of the key-informants and *ChangoMurs* (arbitrators) of the village. The selection of the sample was made on the frequency of the HHs involved in any kind of inter- inter community disputes in between the years of 2017-2018. Since disputes are integral part of any society hence it deemed important to limit the sample to only those HHs who have been involved in any publicly displayed conflicts and disagreements in the two years before the study started. This selection later also helped in finding causal relations between social, economic and political organizations of the villagers with choice of dispute resolution mechanisms.

The information collected from the 92 HHs is used at multiple occasions in the research to understand the causal relations between two or more variables such as relationship of social, economic or political factors with choosing mechanism of dispute resolutions, arbitrators and compensations.

3.1.5. In-Depth Interviews (IDI)

From 92 households total 34 participants were selected for in depth interviews. Out of these 34 respondents, 14 were the heads/Elders of the families, *Khandan* and *Biraderi* (may it be same or different ethnic groups) while 20 interviews were conducted with disputant parties. The interviewees were either head of the disputing parties, representatives of the disputing parties, and the nominated negotiators from different parties. This also included people who helped understanding the historic and holistic context of past disputes or generational feuds - the Elders who were known for their wisdom to understand how the system of *Faislo* works. To get holistic picture, interviews of stakeholders involved in the dispute resolution process were also taken to better understand the dynamics of disputes. These stakeholders include 02 local *ChangoMurs* and 01 *ChangoMurs* of Larkana district, 02, Imam Majid and religious person, 02 lawyers and 02 policemen as respondents (Police SHO, ASI and Head constable) 01 *Kamdaar*, 01 member of civil society and 01 member of SRSO (Sindh Rural Support Organization) NGO.

Table 2. List of respondents

Sr. No	Respondents	Number
1	Heads/elders inclusive of family and <i>Biraderi</i> heads and religious leaders)	34
2	Imam Masjid/religious person	02
3	Lawyers	02
4	Policemen	02
5	<i>ChangoMurs</i>	03
6	<i>Kamdaar</i>	01
7	SRSO, NGO	01
8	Member of Civil Society	01
	Total	46

This was done to get a complete picture of the perceived reasons given by community for choosing specific dispute resolution mechanisms. This range of respondents helped me in getting information about unusual events occurred in different time frame in the community and interviewed specially those people who were a part or stakeholder in these events, directly or indirectly, consciously or unconsciously. Elderly people of the research site who have witnessed and have observed the transition of the customary laws (Addition or subtraction of any law), *Otak* system,

feudal structure, agriculture and more importantly about *Faislo* proved to be quite useful.

The interviews also covered the possible rationales and justifications as narratives and prospective of all local actors involved in the dispute resolution. The interviews specifically discussed the type and nature of expectations of disputants regarding justice delivery, complications, hurdles in assessing *Faislo* and courts, impact of verdicts on the family and community. Furthermore, the historical developments that occurred in tradition customary laws, education, religious affairs, and economy, kinship and ethnic ties with a specific focus on past and present disputes, respective resolution processes and the role and level of involvement of different stakeholders were explored during the interviews.

Before conducting in-depth interviews, verbal permissions were sought from the respondents. In most of the cases interviews were conducted at *Otak*. Respondents gave their consent to be interviewed about the disputes at *Otak* rather at private places. Few of the interviews were conducted at the fields where the farmer respondents were busy in their routine work, and they could spare some time only in their fields for interviews. I took this opportunity to explore their perspective by making them more comfortable and less distracted. I observed that during such field activities farmers were more verbal and expressive about the disputes, its reasons, the problems they faced in assessing the *Faislo* and courts and the impact of verdict on all spheres of their life. Considering the sensitivity of the topic, I never interviewed any party immediately after the occurrence of any conflict rather I waited for some time to get more authentic and reliable perspective of the parties instead the emotional one. Even if during the interviews I felt that interviewees are becoming more aggressive and interview is being emotionally heavy, I either tried to change the topic smartly or stopped the interview for a while or for a day, later when felt that now discussion can be restarted only then I resumed the interview. The philosophy behind using this method was not to get the people uncomfortable but rather allow them to express themselves in a more peaceful way. Average time for one interview was fifty to seventy minutes.

To conduct the in depth interviews a specific interview guide was developed to gain in-depth information from the people covering all the major themes and objectives of the research.

3.1.5.1. Sampling procedure for In-Depth interviews

Through purposive sampling technique, 46 (insiders and outsider) respondents for interviews were chosen on the basis of my personal judgmental and availability of both respondents and the researcher. The data collection units for interviews included people of same village involved in a dispute, different ethnic groups of same villages involved in ethnic conflicts, *ChangoMurs* of research site and others *ChangoMurs* involved in decision making, *Sardar* of Meerani caste, religious experts like Syed and Imam Masjid, and local administrative government organizations etc., to document and record their narratives and perspectives regarding dispute and its resolution mechanism.

Interviews covered nature of crime, cases brought to *Otak* for *Faislo* or otherwise and perspectives behind choosing a resolution mechanism, challenges faced, constraints and expectations from the verdicts given. Furthermore, the sample population also represents involvement of people (directly or indirectly) in committing crimes, nature of crimes and victim's action, reactions and mechanism to resolve his grievance. Interviews were recorded in multiple sittings with the respondent. Confidentiality and discretion of information regarding respondent's name was ensured by the researcher.

3.1.6. Focus Group Discussion (FGD)

Focus Group discussions were held to triangulate the information gathered through in-depth interviews and participant observation. Keeping in view the qualitative essence of the study, group discussions were conducted with different groups, their elders and *ChangoMurs* to understand their point of views while seeking consensus for resolving a dispute or when the disputing violate the *Faislo* by not adhering to the verdict. 04 FGDs were conducted with an average size of 7 members. The focus group discussions covered identifying the process of resolution after a dispute occurs, economic and social perspectives and rationale attached with the existence of the traditional dispute resolution mechanisms, roles and responsibilities of local actors in disputes and lastly the reasons for preferring one legal mechanism over another. The First FGD was conducted with those people who had experienced the *Faislo* first and either in past or in recent present. I moderated these discussions and made an effort to get the collective conscience over the processes of *Faislo*, how this mechanism resolves the conflict and keeps both parties satisfied and contended. And

if any party does not get convinced by the decision what they do? To whom they approach and how the rest of the community reacts in such cases. This FGD was very significant in getting the perspective of individuals as a group. I also observed their nonverbal communication which also had substantial information about how they feel. For the second FGD the participants were a mix of arbitrators, facilitators and community members at *Otak*, the specificity of this FGD was heterogeneity of the participants regarding their status in the process of *Faislo*. I aimed to understand through this FGD that how the community at large considers the importance of informal justice mechanisms in comparison to formal judicial system. The third FGD involved different local actors such as Elders, *ChangoMurs*, and the members from non-governmental organization. This FGD was arranged specially in the *Otak* of the *ChangoMurs* with special invitations to the other members. The fourth FGD involved people who had experienced both courts and *Faislo* to chalk down reasons for preferring one system over the other at *Otak*.

3.1.7. Case Study Method

16 Case studies were collected to get in depth and detailed data pertaining to certain events or set of events, actions or phenomenon which the researcher recorded in order to understand the management of different disputes through using IDRM mechanisms. It also helped to gather the lucid and concise information about the *Faislo*, its impact, role of local actors and their relevance in different contexts and nature of conflicts. These case studies facilitated to understand nature of conflict, dispute resolution mechanism, perception and options of people about dispute, discrimination, in short, their narratives about dispute and consequences of the issues. The case study discussed disputes as a process involving pre, during and post events for resolution. The case- studies have been collected as prime data and cover cases that were observed being handled in *Otak* during the time of my field work i.e., 2017 – 2018.

3.1.7.1. Sampling procedure for Case Study

A purposive sampling technique was used to collect 16 case studies with different scenarios and nature of conflicts/disputes. Since disputes are intimate matters therefore those case-studies could only be picked where the parties or arbitrators were willing to share the details, the causes and the impacts of the conflict. Some conflicts

were exclusively selected by the researcher for the sole purpose of studying different reasons of dispute and respective mechanisms used for their management. Some cases are result of direct observation during participation in *Otak* matters whereas the background information about the parties and their identities have been extracted using the key- informants and the *Kamdaar*. The cases of the past were researched through conversations with the *ChangoMurs* and Elders of the village. Case studies are more or less accounts regarding cause, nature and resolution process employed for a dispute. They also helped to comprehend how effective and efficient a system is and what are the limitations of the mechanism at large.

3.1.8. Data analysis

The observations made during fieldwork were cross-check with key informants. Content of interviews and case studies was analyzed using the content and narrative analysis technique where the responses of the participants were read through to mark similar experiences. Further associations between variable were built by studying impact of one over the other i.e., role of social or ethnic, economic and political affiliation in influencing one` participation and involvement in resolution process.

3.1.9 Ethical considerations

Ethical Approval: Before going into the field, I developed a consent form that was designed in English and later translated into Sindhi. The form described the purpose of the study and a brief introduction of the researcher. It was clearly mentioned in the form that participants have the right to refuse to participate in the study at any stage. Those who consented in the first place but changed their mind later to withdraw, their decision will be respected without any judgment or bias. The form did speak of receiving no monetary benefits from the research and their participation is entirely voluntary. Since the topic was sensitive and respondents in the community were found reluctant in signing the consent forms, their verbal consent was considered enough to take their opinions. While approaching my respondents I read the entire consent form in Sindhi language by valuing their right to understand the purpose of the study and then decide to be an informed participant. But the stakeholders especially police personnel and other officials did sign the consent form rather they themselves asked for the proof to be an academic researcher.

Confidentiality: All participants were made aware that the information provided by them will be kept confidential and anonymous. Their identity and private concerns will not be revealed to anybody and provided information will be used solely for the research purpose by me. They were ensured that no harm will be caused to anybody. No personal identifiers of the participants were maintained during the data collection through participant observations, key informant interviews and in-depth interviews rather pseudonyms were used, and each interview was given a specific number to interpret the information later.

Safety: Considering the safety and security of the researcher is also an important ethical concern. I belong to the same district and was much aware of the situations of safety and security in the area. I always accompanied at least one key informant with me during the field visits. My first visit in the village with Mr. Mehr *Meerani* also proved to be of significant help from the safety perspective, people regarded me as one of the *Meerani* guest.

3.1.10. Reflexivity and Positionality

Being from the same District, I was aware of the language, customs, traditions and norms of the society but at the same time I was conscious of my position as a researcher who will not miss out any single detail about the study. This consciousness kept me alert throughout my research work, and I maintained a reflection journal to record all the observations and my self-questioning regarding the topic, community, local ADR mechanisms and Courts. This reflection writing process helped me not only during research work but during the data interpretation and result analysis.

3.1.11. Challenges of the study

In almost every research study, researcher do confront difficulties in justifying the purposes of the study as far as possible to reach a more realistic outcome. It is, therefore, important to highlight some difficulties which required a great deal of efforts. Indeed, it was imperative for the purpose to ensure the smooth conduct of my research work. Some of the important problems faced in the conduct of the present study are summaries as in the followings:

In my opinion, it has been perhaps one of the most difficult environments which prevailed in Fatehpur village, district Larkana to conduct any type of qualitative research work. Several factors hindered in communicating the local inhabitants there.

For no obvious reason, people were found extremely reluctant to talk to anyone on any of the issues pertaining to their socio-economic aspects of the family and associated environment. Perhaps they were afraid of reprisal on the part of administration (Police, *ChangoMurs*, local government and *Biraderi*) if they speak out openly. It took considerable time and efforts to identify a group of people who came forward to assist me in sharing their opinion on the questions relating to my research studies. Despite this, in some case, it was hard to double check the reliability of the information. Extracting right type of the information has always remained a major challenge.

As noted earlier, Fatehpur, a community under study, is dominated by tribe known as *Meerani*. The fact of the matter is *Meerani* was divided into two most powerful groups having a history of strong enmity which grew over time between them. As a result, anyone who wanted to get in touch with them for any purposes, was suspected as spy of the other group. This was a major barrier. No one was willing to trust a person like me. So, much of my efforts went into bring a group of neutral individuals who could take full responsibility to convince them that the information I was seeking will not be passed on to the other group. My experience suggests building a high degree of trust in that society is fundamental to securing a reliable information.

As it is known that there is strong cultural barrier which exists in our society especially more so in rural areas when it comes to contacting female at all levels. Male family members always suspect third party trying to contact female to extract any information relating to herself or the family. Therefore, one has to be extremely tolerant and supportive enough to convince the household that the sole purpose of the contact with the female is to know about their issues and problems and how do they resolve in their socio-economic perspective.

3.2. Research Setting

The village Fatehpur was selected as research site due to the relatively high prevalence of using local *Faislo* mechanisms in this particular area. The field site was visited multiple times from year 2017 – 2018. Both short and long duration stays were also ensured through engaging different hosts in order to enhance personal familiarity and understanding with the culture, people and their life choices especially regarding dispute resolution. In the following section, the researcher made an effort to explore

all pertinent details about the research site and tried to explore the social, economic, political organization, infrastructure, lifestyles or family structures and presence of any local actor that might have any impact or relation with dispute or choices for dispute resolution.

3.2.1. Profile of Pakistan: Geography, Population and Environment

Pakistan emerged on the map of world as an independent country on August 14th, 1947. Though majority of the population is Muslim, but the country also enjoys unique ethnic diversity. It is known as the land of the “Indus River”, which flows through the entire length of the country such as Himalaya and Karakorum Mountain to Arabia Sea and travels around 2500 KM. Pakistan comprises a total land mass of 7, 96096 square kilometers and is a home of four cultures along with ethnic and linguistic diversity that is Sindhi, Punjabi, Baloch and Pakhtun.

Geographically, Pakistan consists of Himalaya and Karakorum mountains covered with snow almost whole of the year, hot deserts, barren land as well as the vast area of irrigation land. Pakistan enjoys strategically an important geographical position. India lies on east and southeast, Afghanistan on north and northwest, Iran to the west and in the south is the Arabia Sea (Pakistan, 2011).



Figure 1. Map of Pakistan (Pakistan, Survey of Pakistan, 2020)

The national language of the Pakistan is Urdu, which is widely understood and spoken in various parts of Pakistan. However, in the Sindh province, local language that is Sindhi is also part of the syllabus and widely spoken. Different languages are spoken throughout Pakistan such as Punjabi and Siraiki in Punjab, Sindhi and Siraiki in Sindh, Balochi, Brahvi and Pushto in Balochistan, Pushto and Hindko in KPK and FATA, Kashmiri in Kashmir and Shena in Gilgit (Pakistan, 2011). On September 8, 2018, Supreme Court of Pakistan ordered federal and provincial government to use the Urdu as the official language.

3.2.1.1. The Land of Sindh

Besides the other four provinces of Pakistan, Sindh also known as 'Sind' is the second largest province after Punjab in southeast of Pakistan with an estimated population of 42.4 million by 2010. The province shares a border with the province of Balochistan on the west and north and has Province Punjab at its northeast border, Indian states of Rajasthan and Gujrat to the east and most importantly Arabian Sea to the south. It is the river Indus which the province shares long standing history and civilization and also inspires its name 'Sindhu' from the mighty river. The Province of Sindh was established in 1970 with Karachi as its provincial Capital. Sindh is also famous for being the center of the ancient Indus valley civilization. The region has a long history of unrest and disharmony as it has been subjected to multiple invasions and intrusions since 711 A.D. First were the Arabs who conquest Sindh and paved way of the entry of Islam into the Indian sub-continent. Sindh has also been ruled by Umayyads, then Abbasid empires and later by Arabs and Sindhian dynasties who later lost the land as well as the power to the British (Editor, 2011) and therefore bares the traces of all in its culture and lifestyle.

The Report named as 'Dynamics of Conflict in Sindh' by United States Institute for Peace (2015) also mentions the nature and extend of conflict and tension situations in the Province of Sindh. In the recent past, the dynamics of conflict in the province has showed its traces in ethnic, religious, and political reasons. Tribal disputes marked by killings of the rival tribe members are also one of the prime sources of conflict in the rural part of Sindh. Conflict is at times also fueled and exacerbated by systemic issues inclusive of socio-economic factors, poor governance, and extremely rural- urban divide as well as due to centuries old feudal system. For enhancing stability and peace

within the province law enforcement and legal system capacity besides education policies and transparency are considered vital and significant (Yusuf, 2015).

3.3. The Profile of Larkana District

The Larkana District is very important district of Sindh with respect to its agriculture, politics and economic activities. It is situated at the upper part of the province of Sindh. Moreover, it is the largest city on the west bank after Karachi. The city is named after the tribe named “*Lariks/Laraks*”. Before *Laraks* the city of Larkana was named *Chandka* after the most influential tribe of the area- *chandio*. It is also have prevailed. Larkana has the privilege of being the one of the oldest civilizations of the world, known as Indus Valley Civilization: locally known as “Moen Jo Daro” or “Mount of Dead” (iMMAP, August 2014). The city is situated in upper Sindh, neighboring Sukkur and Jacobabad. The Larkana district composed of four *Talukas*⁷, namely *Bakrani Taluka*, *Dokri Taluka*, *Larkana Taluka* and *Ratodero Taluka* (Pakistan, Pakistan Bureau of Statistics, 2017).

Historically, the city of Larkana was developed due to the Ghaar Wah canal dug during the Kalhoras` rule. However, it was the British who contributed to the development of Larkana. The province under the British rule was divided into different administrative units which were assigned to Zamindars (landlords) to collect taxes for the British government. Many people from the other cities also migrated and started residing here in different small settlements. All the small, developed areas were given the status of `Talukas`. The city attained the status of Municipal Committee in 1855 and later it was made district headquarters in 1901 with its major town being Nao dero, Qamber and Rato Dero (iMMAP, August 2014).

Ethnically, People of Larkana District are dominantly Sindhi speaking. However, Urdu, Balochi and Brohi are also spoken in some parts of the district. *Bhutto*, *Rind*, *Bhugio*, *Sheikh*, *Unnar*, *Chandio*, *Magsi*, *Soomro*, *Memon* and *Kalhor*, *Meerani* are the major powerful clans of the district.

Politically, the district is also famous because of its political history as two Prime Ministers and a chief minister belonged from here. Since Pakistan`s People Party leadership Zulfiqar Ali Bhutto and Benazir Bhutto, two prominent leaders of international repute also belonged to the same district.

⁷ Administrative unit or sub division of a District in Pakistan, usually translated to township. Talukas are further sub-divided into Union- Councils.

Occupationally, since the district has well- established canal irrigation system therefore a large population is associated with agriculture and farming activities. The district also considered rural since about 71% till 2014 resided in rural parts of the district. Larkana contributes significantly to agriculture sector of Sindh because of its production of various crops due to favorable weather such rice, Jowar, sugarcane, wheat, Gram as well as Oil Seeds. The district is also quite self- sufficient in growing fruits such as guava, mangoes as well as dry items like dates. This is one reason that land is considered a valuable resource in District Larkana (iMMAP, Agust 2014).

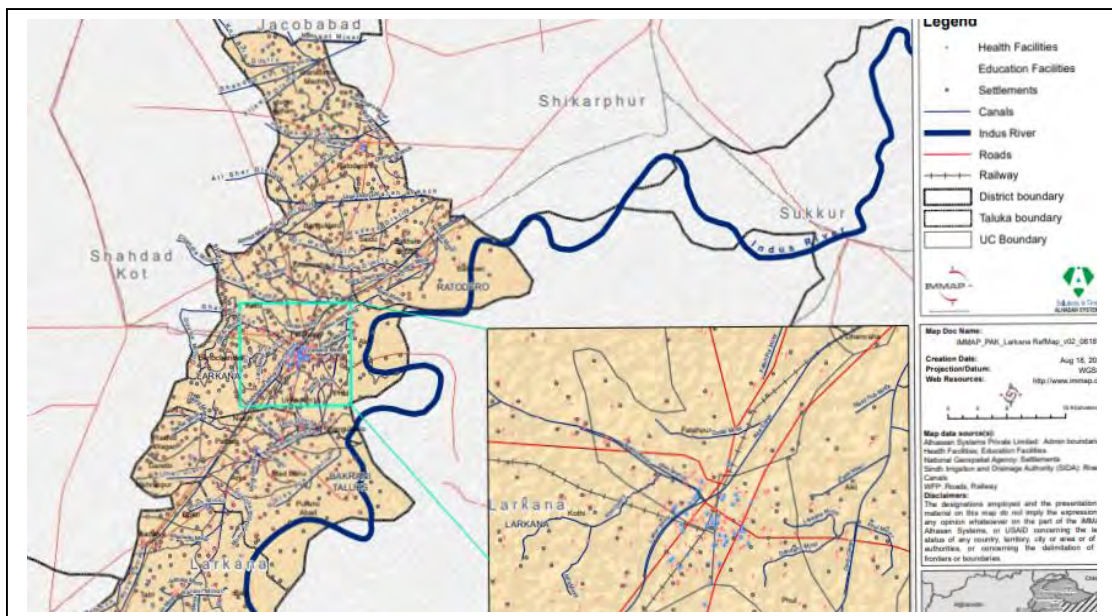


Figure 02. Source: (A profile of District Larkana, Agust 2014)

3.3.1. Population of Larkana

According to statistical Bureau of Pakistan, the total population of the Larkana District was 1,001,608 as recorded in 1998. 19 years later, the population increased 50%, and in 2021 and now the total population of Larkana District is about 1,927,066. A 2014 emergency situational analysis report by USAID confirmed that 71% of the population of District Larkana lives in the rural areas. The district is divided into 04 Talukas as mentioned with 47 Rural Union Councils and 180 Mauza⁸ (iMMAP, Agust 2014).

⁸ A Local term used as synonymous for villageages

Table 3. Population of Larkana Talukas

Sr. No	Taluka	Population in 1998	Population in 2017
1	Bakrani Taluka	174,721	229,444
2	Dokri Taluka	169,033	225,294
3	Larkana Taluka	431,645	738,069
4	Ratodero Taluka	226,209	331,584
	Total population	1,001,608	1,524,391

Source: (Pakistan, Pakistan Bureau of Statistics, 2017)

3.3.2. Profile of the Research site - Fatehpur

The current research study was conducted in Sindhi village “Fatehpur”, which is located in Taluka and District Larkana of Sindh province of Pakistan. The Village is about 10 km away from the main City Larkana and is situated on Indus Highway hence connects the village, on the one side, with Larkana city and further extending the connection with Shikarpur, Jacobabad, Khashmor and finally with the Province of Punjab. However, on the other side it connects Larkana with Kamber/Shahdadkot and through Larkana bypass to Karachi. Fatehpur is part of Union Council No 23 of Larkana Taluka. Union Council No 23 consists of few other villages as well along with prominent villages that are *Sajan Sangi*, Fatehpur and Kanga. According to the census report of 2017, population of Taluka Larkana has a total population of 738,069 with a total population at Union Council Fatehpur is 23,861. According to Government of Pakistan population survey 2017, the total population of the village is 2617 and it consists of 490 households (Pakistan, Pakistan Bureau of Statistics, 2017). According to census 2017 government of Pakistan, the village is divided into two area circle (312030307, 312030308). Mostly *Sunni*⁹ (*Deobandi*¹⁰ sect, Barelvi) along with a minority *Shia*¹¹ population resides within the village. People by occupation are majorly associated with farming whereas some of them also have opted to work in cities around the village.

⁹ By far the largest branch of Islam followed by the Muslims, the name comes from the word ‘Sunnah’ referring to the practices and behaviors of the Prophet Muhammed (PBUH).

¹⁰ Indo- Pakistani Reformists movement within the Sunni sect i.e., primarily Hanafi that rose around 1867.

¹¹ Other largest branch of Islam followed by Muslims where it is believed that Prophet nominated Prophet Ali (A.S) as his successor after his death to look after the matters of Islam. He is the first IMAM.

3.3.2.1. History of Village Fatehpur

According to respected elders of village, the village name was derived after clash between two ethnic groups that is the “Deewan” and the “Solangi” groups. “Deewan Sham Lal” and “Abdul Fatah Solangi” being the head/ leaders of their respective clans wished to name the village after their respective sur-names. After a long negotiation between both ethnic groups, the Deewan Sham Lal, tired of never-ending discussions, withdrew his name from the contest of naming the village. As a result, the village got its name `Fatehpur` from the surname of the *ChangoMurs* (selected mediators to solve Disputes) of the Solangi tribe i.e. Abdul Fatah Solangi to Fatehpur. It is further told that before 1957, only two ethnic groups resided in the village that were `the Solangi (Muslim) and the Deewans` (Hindu). Both initially depended on agriculture, livestock and dairy products for earning their livelihoods. Whereas the tribes of Meerani and Memons who were settled in the neighboring area of “Sajan Sangi” migrated to Fatehpur later in 1957 due to constant blood gushing feuds between them and the Sangi clan. It was the tit for tat killings of the members of all the rival groups i.e., Meerani and Memon and Sangi that made Memons and Meerani to finally migrate from Sajan Sangi village to Fatehpur village to avoid further clashes and bloodshed. In the early days of their migration, the Meerani`s worked as peasants in Fatehpur but later started to buy land from Dewans for the purpose of cultivation. At the time of migration, the Meerani tribe had also brought their cattle along therefore excelled in livestock management as other significant means of livelihood. It is told that it was the elders of the Meerani tribe who decided to settle in Fatehpur village. Most of the Dewan by that time had sold most of their lands to Meeranis and other tribes and got themselves settled in city.



3 Figure 03 Map of Fatehpur Village

3.3.2.2. Major Caste/Clan and their Distinct Nature of Work

Since many years different caste¹² groups reside in village Fatehpur. The prominent caste groups include *Meerani, Solangi, Sheikh, Tunio, khumber, Abro, Memon* and *Brohi* etc. Though each ethnic group is directly or indirectly associated with agriculture but are still categorized with its distinct nature of work. It is not only the land ownership in the village that decides what power and status one group holds in social hierarchy of the village but also with the fact that Who holds the prestigious position of “*ChangoMurs*” (arbitrator) in the village. The tribe of the *ChangoMurs* is ultimately recognized as the most dominant and powerful clan in political hierarchy of the village.

Each caste can be distinctly classified from the other on the basis of their occupational activity which are further explained below for clarity and understanding; *Meerani or Meerber* is major caste of Fatehpur village. They are considered as most aggressive and dominated caste and ethnic group. Mostly, it is the Meerani clan that is found to be involved in internal and external conflicts within and outside the village. It is

¹² Caste is a widely used model for stratification that is ascribed by birth and is much more typical in agricultural societies. In a caste system, the members are divided into hierarchically ranked status categories. The positioning and association is based on shared ancestry (Usman 2011 pg 1). See his work on social stratification in a Punjabi village of Pakistan.

probably because their aggression gets covered up by the two *ChangoMurs* (Mediators to solve dispute) “Hassan Ali Meerani and Noor Ali Meerani” and “Sain Asghar Ali Meerani” who also belong to the same tribe. Both *ChangoMurs* not only lead and represent their own faction of Meerani clan but also speak for other ethnic groups as they own the *Otak*. Being the owner of vast land, they have also succeeded in maintaining unity and peace among different ethnic groups of the village. Since Meerani were found to be most active players, not only for being involved in disputes but also for their role playing in reconciliation and mediation through *Otak*, it was deemed appropriate to focus on the relationship of one ethnic group with all others to understand the dynamics of conflicts in village Fatehpur.

The Solangi ethnic group owns very few of the land in village now. They also provide services of the labor as well to other ethnic group and villagers. Few of them also work with Pakistan army and police. That is why, they do not have any *ChangoMurs* in the village but maintain a say and power while making decisions related to their own ethnic groups.

Sheikh ethnic groups also own some land and yield white rice and vegetables. Some of the sheikhs also work as tenants and labor. Whereas the Memon caste does not own any land. They work as *Thaikaydar* (Contractors) and construct homes, shops and other infra-structure if needed. Some of Memons also provides services of labor in construction.

Tunios are considered as Khushal clan (Socio-economically in better position). Not only they own the land in the village but are also engaged with government jobs not only in Larkana but also in other districts of Sindh. Most importantly, at least one of the family members of *Tunio families* is abroad for work from last many years. The access to material assets/wealth put the Tunios in a better position as compared to many other clans. Whereas the *Abro* caste not only owns lands but also vital machinery like thrasher, seller and chiller machines which is considered most significant for farming. So, they mostly provide services to the farmers at Fatehpur as well as to other nearby villages especially at the time of farming and harvesting. *Abro* ethnic group also indulge in various types of conflicts within their clan as well as with others. Inter-village caste groups such as Jakirani, Khoso and Buladi during the research period were also observed to be engaged in various conflicts with the social groups of Fatehpur. Their case studies have been later added in the research chapters.

3.3.2.3. Livelihoods and Occupations

The village enjoys an agrarian economy where large mass of the population is either associated with agriculture or livestock management. A very small number is linked with trade and other commercial activities or jobs. The village is well-known for its production of wheat, rice, and vegetable.

Fatehpur village is one of the largest but most marginalized villages of Larkana district. During an informal conversation, a peasant respondent said that *agriculture is his and his family's only source of income*. Farming inclusive of cropping, cultivation, and sale in the local market are the integral parts of agriculture's economy. The key informant shared that *the majority of people in the village are farmers. Very few of the villagers are government employees whereas about a very small majority works in the fruit and vegetable market as labor or in different private offices such as bank, utility stores and shops in city*. Village has distinct stratification of social groups with respect to subsistence patterns and economic conditions. *Meerani* are the landlords and have control over the land whereas all the other social groups either fall as peasants or small land holders.

The masses in village are mostly farmers; they earn their livelihoods directly or indirectly through farming. Agriculture is the major source of income for the villagers. About 88% of the land is used for cultivations. Normally, the farmers cultivate in two seasons (*Rabi and Kharif*). The cultivation at times also gets effected with the availability of the water. Therefore, people directly engage more with cultivation of wheat, rice, and vegetables. Since the land cultivation also depends on canal and rainwater therefore water is also viewed as important resource which originates many disputes.

Hence, agriculture is the village's main source of income. During both seasons, the majority of the available land was cultivated for rice, white rice, and vegetables. The agricultural production was almost sold out at the local market of Larkana. Few people in some village's own buffaloes or shared cattle to provide milk for domestic use. Men are mostly engaged in commercial activities pertaining to agricultural activities, whereas women assisted them during harvest and cultivation when necessary. Though women perform the supplementary roles therefore are responsible for livestock production in some cases and contribute through managing livestock. Women were also given the task of raring cattle as well as milking and managing

them. The men in Fatehpur either work in the fields or the main bread earners while the women stay within the four walls of the household or managed the livestock and the household chores. It is because of this division of role that women were found missing in the public spaces hence from the commercial part of the economy. In economic activities, their role is supplementary to men i.e., help managing the field before and after harvest, managing the harvest, livestock and dairy product production. This is why probably; women were usually found to be dependent for financial support, provision and protection from their male counterparts. Their supplementary status also impacts their decision-making power in the household.



4. Traditional Land Cultivation

3.3.2.4. Housing structures

Village Fatehpur has a mixture of the *Kacha Ghar*/ mud houses, *Pukka* / brick houses, big or small houses according to one's family stature, material wealth and socio-economic condition. Around 167 houses out of 490 houses are made of mortar/concrete (*Pukka Ghar*) while rest are of mud and identified as *Kacha Ghar*. Some of the *Kacha* houses can also be seen along the lines of farms. The interior of the house includes a big courtyard in the front and rooms at the sides where one room with one door facing outside is allocated as a guest room '*Otak*' where the day-to-day

guests and meetings are entertained. Some of the Meerani and other prominent castes have their personal furnished *Otaks* as compared to castes that have small or *Katcha Ghar*.

It is the '*Otak*' that is used as meet and greet point by the *ChangoMurs* for mediating any conflicts between two different groups. Furniture in '*Otak*' is put according to need and affordability. Drainage and Sanitation system is well managed in the village. A large majority of the people live in small and in *kacha Ghar* (Mud house).

3.3.2.5. Access to Basic Utilities

Despite its proximity with Larkana city, the village has access to many basic facilities. This section particularly refers to the transport and communication based infrastructure to judge the exposure of the villagers with the outer world. During transect walk, it was found that almost every household has electricity and gas facility. However, around 257 household out of 490 have got legal gas connection and the rest have borrowed gas connections from neighborhood. The bill is shared with respect to usage among members. The key-informant informed that the village has access to PTCL telephone connections but only two households have availed it, while other use mobile phones to connect and communicate with others. Others believe PTCL as inefficient, ineffective as well as expansive since a cell phone is much handier and more preferable.

The 8% of the villagers reported to have no direct electricity connection are seasonal residents and borrow energy connections from their neighborhood on a sharing basis when it is needed. Due to a power outage, the villagers are subjected to long-term load shedding. Furthermore, this source of energy is prohibitively expensive for the villagers as their energy usage is only during the nights or on important occasions.

Mobile phone technology revolution has also hit the village as it is the most widely used mode of communication, and villagers rely on it to communicate both within and outside of the village. The villagers do not use the traditional form of telephone. Every household has at least ownership of mobile phone. 304 household have android mobile phone, while rest have simple mobile phone. Furthermore, the mobile phone provides access to number of features to the villagers such as internet, radio, social media messaging apps like what's app, communication and reading online newspapers. 138 respondents said that they used radio frequencies for listening songs, health related news, news and other Sindhi programme.

The Government also had launched some initiatives to familiarize the villagers with their legal and legitimate rights, however many of the frequencies do not work anymore. On asking the villagers, it was told that the programmes launched were in national language Urdu which is not understood by many therefore the villagers have little memory of how the transmission was and what it talked about.

Similarly, Merani have established a social media- WhatsApp group for enhancing communication among the Merani clan. Mobile phones play a crucial role in transmitting timely information about any conflict happening in the village. It is because of mobile phones; villagers now have an open access to reach local *ChangoMurs* in case of serious conflicts.

3.3.2.6. Playgrounds and Water Resources

Little playgrounds and open field areas are located around the Boys High School where the children of the village come to play in respective school and evening times. Cricket is a preferred sport between the children.

The village is situated between two *Wah* (streams), Hameer wah and Heera *Wah*. *Wahs* are major source of water of the village. Some of the villagers catch fish for domestic use while a few of the youngsters also occasionally sell the fish in the village as well as in the Larkana market. The water of these *Wahs* is also utilized for agriculture purposes. These *wah* are diversion from main “rice canal”.

3.3.2.7. Education Facilities

The village consists of two primary level Sindhi medium schools i.e., one each for boys and girls. Another English medium school is under construction since many years but yet not functional. Hence most of the locals have no choice but to send their children to the Sindhi Medium for primary education of their children. The attendances in both primary schools of girls and boys were found to be very low. However, for secondary/elementary level education, the children especially boys commute to nearby city schools on daily basis as the village is in proximity to city Larkana. One of the reasons behind low attendance in village school is constant feuding and tension between different social groups. Instability in law and order and security situation of the area is not considered ideal or even suitable condition for education. Moreover, many drop out from primary schools or do not continue with their education as the parents were found to be reluctant to send their children to other

areas and cities for educations. Children also because of their less exposure, do not have any emotional attachments or ambitions associated with secondary or higher education. About 54% of the male and 19% of the female are literate and can read and write the local Sindhi language but very few can understand or speak the National language Urdu. Education is one institution that has been badly affected because of rising tensions and feuds in the area since the rise of one conflict between prominent groups may mean a lock down and uncertainty for the rest of village. Conflicts are considered to break the normal pattern of life in Fatehpur. However, rest of the population cannot even understand the national language Urdu properly in which the local formal courts operate. Unfamiliarity with national language is a huge factor in avoiding formal mechanisms even in case of serious blood gushing conflicts.

3.3.2.8. Health Facilities

A “Redefine Primary healthcare” facility is available in the village; a doctor and nursing staff are available during 8 AM to 2 PM during emergency. Due to constraint cash availability and poor economic conditions of the households, the Government of Sindh provides basic medicine free of cost to people of the village and other surrounding village. Other than this facility, there is no private clinic, hospital or government basic health unit (BHU) available in village. The masses because of their low incomes usually consult the ‘Government Chandka Hospital’ in Larkana for healthcare problems. In this hospital, good number of doctors and paramedics staff is available for patients. In village, an Imam Masjid¹³ provides the services of *Dam and Darood*¹⁴ as well on patients. Most people in the village are not familiar with the modern western medical system but they are well aware with the names of few medicines to deals with minor health troubles such as headache, pain in legs and pain in abdomen etc.

Since the health facility of the village are accessed in the times of emergency by many villagers generally but specifically during unexpected incidents such as incase of injuries and accidents during inter-village dispute therefore the health facility does not entertain patients from other villages. The absence of a well-equipped functional facility has an indirect impact on the consequences of the conflicts in the area. Many

¹³ Person who is well learned and versed in the matters of the religion and is office Holder to run the religious and other financial affairs related to Mosque.

¹⁴ Religious verses are cited on patients for early recovery or relief. The Muslims believe that Quranic Verses hold power to heal all kinds of ailment and have magical healing powers.

of those with serious physical or gunshot injuries could not be saved in time because of the lack of access to immediate first aid facilities or many suffered lifelong disability because of mis management or delay in treatment.



Figure 5 Basic health Services

3.3.2.9. Customs, Rituals and Oral Tradition

The word “Culture” involves common traits related to an individual or group. To be a member of society it is necessary for its members to participate in special social gatherings and events. Every member of a specific community shares some certain common cultural traits with other members which are first learnt and later exhibited through behavior. These practices and actions performed are in accordance to specific cultural norms and values learned first through the process of enculturation and then refined through socialization. Therefore, it can be said that it is the culture that shapes up how a person reacts and behaves towards certain situations. Hence culture shapes personality and attitudes.

In the research site, the people are organized or classified in either ethnic or social groups. The classification is made by tracing origins from common ancestry and its folklore. The descent tracing and folklores are said to be the ‘Cultural Stock of knowledge’ (CSK) or the repository of the tribal lore that is relived through the

ancestral oral tradition of narrating myths, folklore, and songs etc. For example, the Meerani tribe credits themselves as the first tribe of Sindh and recall that all other tribes are its extensions or sub castes. They also trace down their connections with the glorious past and call themselves the impersonators or true carriers of tradition in Sindh and orate folk tales and stories of bravery during the evening meet and greets of *Otak*.

The village culture bears reflections from the past history. The village functions around the idea of solidarity and ensuring unity among the villagers and continuation of cultural life. *Otak* system is by far the most important aspect in the lives of the villagers as it serves and acts as a forum for meet and greet as well as also for open communication. The *Otak* system allows villagers of all backgrounds to come together to communicate and pass on social information. It helps to flourish collective sentiment of solidarity. The *Otak* is playing the role of transmitters of shared beliefs, values and consensus in the study area.

3.3.2.10. Religious Orientation and Belief System

All tribes in the research site are Muslims. Majority of the people belong to Suni Sect and follow the principle and teachings of the Deoband school of thought. However, there are only 163 household follow the teachings of Brealvi sect. All the villagers are Quran literate. The village also has a *Madrasa* (religious school) which not only teaches Quran with translation to young children but also provides guidance in memorizing complete Quran (Hafiz). Further, there are four *Masjid* (Mosques) in the village; two belongs to Sunni sect and two are for Brealvi sect. it was observed that very few offers 05 times prayers in the mosque.

Some HHs from within in the Meerani clan were also found to follow Shia Islam. Followers of *Barelvi*¹⁵ School of thought often visit shrines and have ties with religious and spiritual leader (Murshid and Shah Sain). Visits to Murshid or Shah Sab depends either upon special social events such as birth or death of Murshid's ancestor or sacred or religious rituals such as rituals regarding Imam Ali R.A or Imam Hussain R.A or in Moharam¹⁶ or during disputes and in state of depression. Shrines are also approached to seek protection from enemy, for achieving certain objectives and at times to gather religious and moral supports of Murshid or Shah Sain.

¹⁵ The Barelvi movement or school of thought in Sunni Sect centers more on the practices of Sufiism.

¹⁶ Islamic Month of the Lunar Calendar and holds great significance as it bears witness to the event of Karbala and martyrdom of IMAM Hussain and his companions.

3.3.2.10.1. Meya LAL Durgah

Although there is no Dargah situated within the village, but people have great emotional and religious attachments with Shrine named as Meya Lal Dargah situated almost one KM away from the village on the main Highway. In the village, there are two groups Deobandi and Breavli: The Breavli visit the Dargah while Deobandi do not have any affiliations with the Durgah because of their sectarian beliefs. Solangi, Sheikh, Abro and half of the *Meerani* that is Clan of Sardar Khan *Meerani* group follows teachings of Breavli sect. While all the remaining castes are mostly Deobandi. Breavli and Shia sects of Fatehpur and surrounding village visit the Shrine in large numbers every year where both men and women offer Niyaz and Nangar (open kitchens). Many disputes arise when two influential families of same or different village visit the Shrine at the same time. Each family wishes to proceed with the visit first and may quarrel on the rights of entry in the shrine. Women of the HH are kept in Purdah (veil) and each influential intends that during the time their women enter the main quarters of the shrine for prayers – all others must be stopped outside. It is at such time, the authorities are challenges, the might is shown, and the status are challenged among the influential. From minor quarrels, the fights can easily escalate to large scale inter community and sect disputes.



6 Meya Lal Dargha

3.3.2.11. Mechanisms of Social Organization

At the time of Independence Pakistan inherited the feudal system from subcontinent and did not change it after the independence, therefore this feudal system still has great influence on the social, economic and political system of the country. Feudalism is a system where Feudal lords enjoy patronage over their peasants, marriages, religious, occupational activities even the right to get education, access any medical facility or the will to give vote to a certain candidate is decided with the permission of the Feudal lords. The Feudal archetype in Pakistan consists of landlords with large joint families possessing hundreds of thousands of lands which are operated by peasants and other minority labor castes. The relation between the lord and that of his peasants is of loyalty where peasant in response to his services and loyalty expects protection, security and provision in times of need (Khan, 2013). However, Lyon (2002) in his work 'power and patronage' took a different position for the role of landlords in the village structure which was further supported by his research and said that they are not just cruel or brutal or controlling towards their peasant in fact to the peasants, they are a great source of assurance and support as in times of conflicts, it is the landlord that not only guarantees the safety and protection of the peasant but also through using his alliance system with police and other legal institutions, also acts as a mediator to resolve conflicts (Lyon, 2002).

Other than feudalism, In Sindh, the basic unit of social organization is based on *Biraderi*¹⁷ system. Therefore, the *Biraderi* in a village cooperate and lives just like a family. It not only plays a significant role in socio-cultural, socio-economic and socio-political activities but also represents strong alliance system followed with a deep-rooted process of activities of social organization at villages, taluka, district and even at province level of Sindh. In Sindhi village, social organization plays its parts in a number of activities such as traditional farming activities, gift exchange mechanisms among *Biraderi* members, voting behavior, support and representation in the village council.

Biraderi decides about mechanisms of participation and representation during the ceremonial occasion (deaths or births), farming related rituals and reciprocal system

¹⁷ The study borrows the concept from Alvi classical work on Kinship in West Punjab – 1971 and refers to *Biraderi* as people who share a common descent (trace back their lineage to a common ancestor), who at least up to 03-05 generations recognize each other and engage in reciprocal exchanges. By this principle the *Biraderi* can be dispersed in different geographical locations or can be living at one village. However, the term *Biraderi*, *qoum* and *Zat* are contested conceptually and may hold different meanings contextually. They are also used interchangeably (Lyon, Power and Patronage, 2002).

among different or similar *Biraderi* members. The role of *ChangoMurs* and other follow community members, roles of *Masjid* and *Maulvi* (religious specialists who manages prayers and other religious activities in Masjid), marriage related issues is also addressed within norms and values of *Biraderi* circle. Above all during conflict, it is the *Biraderi* that helps to decided how to negotiate or retaliate and how to develop alliances and with whom. It is the mechanism of interaction within the *Biraderi* circle that decides the position of a certain clan in the village. *Biraderi* having strong solidarity and integration hold more power in negotiations during a conflict situation and avoid taking them to legal justice delivery systems. In village settings family, *Biraderi* and community are building blocks of the social organization (Qadeer, 2006). In a way, members of the socially organized group expect mutual cooperation from each other in the times of need. So, the foundations for interactions patterns among farming families is mutual cooperation. Furthermore, the mechanisms and display of mutual cooperation are learnt, shared and transmitted from one generation to another during events and exchanges of different types like family farming, sharing of indigenous agriculture knowledge, during exchange of animal dung for organic agriculture, exchange of local and indigenous transport, exchange of dairy products among the families of same *Biraderi* and with other families living in joint family system. In short, both the farming family and *Biraderi* within village social settings are part and parcel of social life. Therefore, rural social life is influence by folkways and customs rooted in caste, ethnicity, *Biraderi* and an agrarian ethos (Qadeer, 2006).



7. Private Otak of Community member

3.3.2.12. Family System

Kinship is basic unit of social organization in rural Sindh. In villages, most household consists of either extended family¹⁸ to joint family system. It is to be believed that the joint family system is more compatible to support farming rather than nuclear family system. Villagers made two arguments for that, firstly that with small family it is difficult and at times impossible to maintain an intensive agriculture activity. Hence, if the family is small then from time to time, they need to hire labor which further costs money. Secondly, politically the “say” of the family in the village circle decreases and it cause negative consequences. A family is strong if they stand together, live together and share together.

Latif has cited Max Weber (1978/1922) and Pierre Bourdieu (1977) and they highlight the importance of understanding the structure of kinship through the lens of status and practice. Their focus on the evolution of social norms and practices creates an analytical bridge between the structure of the relationship and the actions of the members. Max Weber's (1978/1922) definition of status groups provides two important perspectives into the study of kinship. Weber's notion of position classes encourages one to see kinship classes as a structure, bound by class and experience. Second, Weber often refers to the concept of closure, or categories that are established by social limits. These two principles together underscore the importance of understanding how kinship interactions form mutual distinctions and boundaries (Latif, 2017).

3.3.2.13. Fission and Fusion between Family/ *Biraderi* Cooperation

Kinship implies social relations among the members based on blood tie and sometimes through marriage as well. Historically, Pakistani society is based on strong kinship structures occupying both regional and ethnic dimensions. Kinship is the larger group surrounding a family with which its members are tied in bonds of mutual support, obligations, common identity, and endogamy. It is called *Biraderi* (literal meaning brotherhood) (Qadeer, 2006).

In village settings, mutual cooperation can be seen when family and *Biradar* (*people with same lineage*) members mutually engage in farming practices and other socio-cultural occasions and political moves. Primarily, cooperation comes with exchange,

¹⁸ The concept of family is also disputed conceptually in different contexts; however, the study presumes with people who dwell together, share space, stove and resources and most importantly share common ancestry are considered Family.

such as exchange of dairy products like *Dasi/sucho Ghiyo* (vernacular oil), *Makhor* (butter), *dudo*, *Dahe* (yoghurt), kher (milk), animal dung etc. At secondary level, the exchange of material and immaterial things happens, such as labor, seed, any simple machine or tools as material and knowledge regarding agriculture as immaterial are exchanged and reciprocated at suitable times of need. Both primary and secondary exchange in farming is the symbol of mutual cooperation and rural cultural life. Such cooperation prevails within the kin groups.

In village social life, ethnic groups, namely includes Meerani, Solangi, Sheikh, Tunio, khumber, Abro, Memon and Brohi etc. all are engaged with different occupations and belongs to different sects. As they engaged with different occupations, the socio-economic status is varied in within the groups. The major ethnic caste is Meerani, which hold the power, possess major cultivated lands and are found to be indulged in both internal and external conflict. The internal conflicts within village are based on distribution of resources, land rights and around women. Very few disputes lead to create fission among the clans where the members because of their personal, political and social standing may consider themselves distinct and different from each other. Disputes may occur between influential on religious and cultural beliefs and socio-cultural role conflicts (next chapter provides details).

3.3.2.14. Marriage Trends and Practices

The majority of marriages happen within the *Biraderi* and within the same sect. According to a respondent, most tribal women are married in the same *Biraderi* and sect, after paying the bridal price. *Meerani`* prefer to give their daughters in marriage outside of the village circle so that they do not have to deal with minor problems in their daily live routine. They believed that if daughter /sister live nearby after the marriage, this may lead to the disrupted social network between the members of two families due to trivial issues. While marrying a girl outside the village, minor problems are diluted, and social relationships remain intact between the families. They believe that lesser problems arise after marriage if the parents are less involved in their daughters' lives. Another respondent said that bridal money means no interference of parents in their daughters' lives after marriage, but few parents intervene if their daughters face any serious problem or difficulty. However, husband and fathers usually do not allow any interference in conflicts pertaining to honor-related issues. On a few occasions, the bridal money was not charged from the groom

because the groom was either very poor or had a social relationship with the *Biraderi*. In certain situations, compensation is not paid because the partner is wealthy and may take advantage of the opportunity in the future.

The disputes relating to matrimony and one's family are dealt with the inter-family or *Biraderi* circle. The matters are kept discrete and are not made public unless it involves parties that are reluctant to sit together. In such cases, *Otak* of *ChangoMurs* is accessed.

3.3.2.15. Social Assemblies or Networking Points

The social gatherings mainly held in public places, or few are held privately in selective spaces in rural areas, commonly known as *Otak*. *Otak* not only serves as knowledge sharing place for general public in socio-cultural settings, but it also functions as bridge amongst farming families, *Biraderis* and communities interact and share issues and solutions. It provides an opportunity to the community members to exchange views with each other about all the recent happenings within the village. People since are tied up with farming therefore discuss agriculture related knowledge, issues related to local farming and information about selling points. Generally speaking, the center of discussions in these *Otak* is agriculture. But *Otak* also plays a role to get news and relevant information about the communities and about other ethnicities. The discussion may also turn towards various political issues as well as potential or prospective or current happening conflict within and outside of the communities residing in the village. Hence *Otak* serves as the medium where the information of who is with or against whom travels very fast. The platform is very effective to address the potential disputes between clans before they turn into big feuds and conflicts, so *Otak* help in maintaining the solidarity and peace of the village intact.

Both the Meerani brothers being the leader of their separate clans with differentiated sectarian identities have dedicated piece of land "*Otak*" for villagers to come together, discuss and exchange information with each other. Hence, *Otak* plays a central role in connecting up people of same interest and formulating their alliances groups. *Otak* further maintains unity and serves as a platform to resolve respective issues of those who present it to *Otak*. The influence on people is exerted through activating the platforms of *Otak*. This is how the Meerani ethnic group has managed to exercise control and influence on other ethnic communities. They formulated a forum to

address the issues and grievances but handed over the authority to manage and head the *Otak* to an influential *Meerani* Sain Asghar Ali *Meerani* who had been a Former DIG, Larkana. The placement of a power influential person as head of *Otak* enhances its control, influence and power as well as outreach. Not only that, presence of a resourceful landlord also increases the credibility and capacity of *Otak* to manage and resolve conflicts.

Otak is considered as a strong public sharing forum and initially minor conflicts are brought into discussion at *Otak*. Later the involved families may formally lift the matter within the *Otak* or take up legal proceedings to resolve it. The matter of conflicts over land matters or aggressive encounters between two powerful ethnic groups or the issues of marriage or elopement even revengeful murders are also discussed and handled at *Otak*. *Otak* also at times becomes a witness of material assets handling between two groups to ensure transparency and credibility. Anything and everything of importance or worth sharing that covers the life of the people or may affect their normal day to day life is brought and discussed in the *Otak*.

They are very few who serve as the ears and eyes of the *Otak*, rest is the audience who comes to *Otak* for update about important matters. It is interesting to know that villagers hold an opinion about everything. The opinion is shaped up during the discussions held in *Otak* over a cup of tea. *Otak* during special occasions also becomes a forum where celebrations are held, stories of the past are narrated, and epic songs are sung to entertain the special guests of the host.



8. *Otak* of ChangoMur

3.3.2.16. Political Organization of the Village

The residents of the village were affiliated with two major political parties of Sindh, Pakistan. Respondents to this study claimed that they voted for Pakistan People's Parliamentary Party (PPPP), and Grand Democratic Alliance (GDA) in general elections of 2013 and 2018, as well as local body elections of 2016. *Meerani* have their own political party, "Malah Party," and have nominated candidates twice to participate in the provisional assembly elections. However, each time they withdrew their nomination to support the PPPP candidate in the very last moment of elections of 2018. This reflects respondents' active participation in political activities such as voting. The Merani also demonstrates their power in the district by always nominating members of their preference for general elections and win alliances with other significant political parties by negotiating terms for support. The chapter on local actors addresses how social capital is enhanced, strengthened and utilized at times of political organizations and affiliations.

The PPPP won both the national and provincial assembly seats from Larkana District hence facilitating PPPP Provincial Government in Sindh. All other District, Tehsil and UC level members of District Larkana as elected representatives were also members of the ruling political party. Throughout the history of Sindh and Pakistan, the political caste of Larkana always had representation in the Provincial government. Larkana is also home to Pakistan's two-time Prime Minister, (Benazir Bhutto), therefore, the city is recognized as the hub of PPPP. This national-level political activity demonstrates that Larkana has a strong political presence at both the national and provincial levels. One of the respondents mentioned that the political elite is involved in the political matters of the masses and said:

“Political officials play no part in bringing about positive change in our lives. Politicians win the contest, disappear for 05 years and only return to the area for the next election campaign. There has been little progress in terms of education, hospitals, regulation, or government. There are no teachers in schools, and hospitals are without physicians, nursing staff and drugs. Furthermore, no new roads are being built, and existing roads are in disrepair. Poverty is widespread in villages, and people are dying as a result of it”.

3.3.2.17. Proximity to District Courts

Larkana city being the district Head quarter of Sindh province has also district and sessional courts as well as Civil Judge Cum Judicial Magistrates' Courts in its constituency. These courts are also known as subordinates' judiciary courts. The Subordinate Judiciary is divided further into two groups; the first group contains civil courts- established under the Civil Courts Ordinance 1962. The second group contains criminal courts which are formed under the Code of Criminal Procedure 1898 (Hussain F. , 2015, p. 15). The district and sessional courts are situated 17 kilometers away from the village. Despite the constitutional guarantees, the current judicial system in Larkana seems to be unresponsive to the most basic requirement of speedy and timely justice. Delays of justice increase people's mistrust of them. It not only promotes intolerance and impatience, but also extremism and violence, and as a result the masses settle disputes through *Otak*. The reasons are further explained in later chapter.

a) Nearest Police Station

The police force is expected to be the most accessible, interactive, and diverse organization of any community. As an important stakeholder in cases of disputes, the people first contact police during disputes, and in these situations, police take several steps to secure the aggrieved party. The aggrieved party is not required to do anything after filing a complaint such as approaching someone or utilizing their resources, but the police make an effort to facilitate them. In Fatehpur, Police involvement is avoided even in most crucial conflicts as the matter may worsen with Police involvement. The closest police station to Fatehpur village is Dhamra police station. The Thana of Dhamra is right beside the road coming towards Fatehpur and also covers all the villages of UC Fatehpur coming from Larkana city. The police station has a staff of Senior Police Inspector, FIR lodger and supporting staff. It was observed that police in various instances exerts pressure on both groups to persuade them to settle the matter outside of court. Furthermore, registering an FIR to arrest, investigate, charge and prosecute the culprits in court is subject to political interference, political approach, and corruption. The police station also has the capacity to retain criminals if needed. In times of complaints lodged between two parties, the members are kept in two separate jails unless mediators reach some middle ground or a resolution.

3.3.2.18. Presence of NGOs and support organizations

SMF (Sindh Mallah Forum) is one of CBO (Community-Based Organization), which serves as a community-based organization in District Larkana. It is led by Sardar of the Merani Clan. SMF works with the community at various levels to prevent, address, and settle the dispute. Their goal is to eliminate aggression at the structural, interpersonal, and behavioral levels. SMF works with both grassroots and rural elite levels in the study field to discourage retribution, aggressive displays, and abuse during the early stages of a confrontation, thus avoiding both short and long-term effects of violence. The SMF established a WhatsApp (social media application for interaction) community to keep the Mallah ethnic community up to date on recent developments. This community brings together people from various backgrounds with the same *Biraderi*, i.e., Meerani, and creates a pool of people with an influential social network.

Few local non-governmental and national level organizations (NGOs) also work at the district and villages levels. Their primary goal is to support and assist communities in agricultural, educational, and health-related issues. Additionally, these NGOs play an important role in resolving agricultural and domestic and community-level disputes due to their rapport and involvement in village. SRSO (Sindh Rural Support Organization) is such an example of a non-governmental organization that is working in all union councils of the Larkana district. SRSO asserts power on rural masses as well as rural elites to settle a conflict as a result of their attempts to eradicate poverty. The first section of the chapter provided the details of how the methods of data collection were used to answer the research questions, and how the narratives of the respondents were analyzed. The second half of the chapter presented the geographic, demographic and socio-cultural organization of the research site with specific emphasis to understand the communal ways of living of the community. The next chapter is organized to understand the reason and nature of disputes/conflicts and what kinds of resolution mechanisms are available in the community.

Chapter # 04

4. Community perception of Dispute and their preference for Resolution

The prerequisite to understand the resolution mechanism is to understand the nature and causes of disputes itself. This chapter is an attempt to contextualize the disputes, the tendencies to be involved in a conflict and the process of resolution mechanism in the village Fatehpur. The first section of the chapter describes the perception of people about nature and dynamics of disputes, while the second half of the chapter presents their perceptions to opt for a certain resolution. The intimate relation of community members with *Otak* and *Faislo* and their involvement in the *Faislo* process, behavior and attitude attached with seeking justice and the reasons for preferring any specific justice delivery system are the major themes of this chapter. For the study, 92 households were taken as sample households to explore their perceptions regarding the nature and type of dispute that arise and occur, who are the actors that get involved, what mechanisms are preferred when a specific conflict rises among individuals or social groups? In the context of justice delivery systems, the findings are shared with respect to respondent's satisfaction and trust over the available resolution mechanisms, their expectations and experiences while dealing with it.

4.1. Nature and Causes of Disputes

Most of the disputes occurred in the recent past and during year 2017-2018 were related to *Zan* (women), *Zar* (money) and *Zamin* (land). *Zar* and *Zameen* that involved disputes over property, ownership, demarcation of agricultural land, access to water, food theft, debt repayment etc. The following table presents the nature of disputes in the village Fatehpur.

Table 4. Nature of Disputes occurred during year 2017-2018

Sr. No	Particular	Frequencies	Percentage
1	Criminal Disputes	31	26.3
2	Family Issues	26	19.5
3	Money and debts	13	11
4	Land & water Issues	19	16.1
5	Honor Cases	21	17.8
6	Commercial Issue	4	3.4
7	Any other	7	5.9
	Total	118	100

The above table shows the types of disputes occurred in Fatehpur during year 2017-2018 and asked for some formal resolution. According to the key informants, *any disagreement (verbal or physical) or clash of interests between two individuals over land, resources and women can arise a dispute that may aggravate by showing hostility, aggression and impulsiveness*. More than 26% of the cases/disputes were mostly of criminal nature meaning that any disagreement between two individuals/social groups over land, related to physical violence, assault, consecutive killings and murders. 19.5% of the disputes were related to family issues including the matters of inheritance, marriage, selling and purchasing of shared land and property and at times, custody of children between divorced parents or matters of maintenance allowance for wife and parents etc. Almost 16% Dispute were relevant to land encroachments, manipulation in land dividers, issues of inheritance among affinal kins, spoiling the yield through dominating resources such as water, workforce etc. or livestock trespassing into competitors lands or control over grazing lands, or it could also be about cutting trees or snatching ripened fruit from someone's land etc.

Violation of a socio-cultural norm or code of honor (*Izzat or prestige*) such as illicit love affairs, elopement and prohibited sexual relations with same or different sex/gender also calls for actions such as killing the accused and are referred as honor related disputes. The table reflects that 17.8% cases were honor/women related.

4.1.1. Immediate reaction after occurrence of dispute

In the minor dispute, mixed responses are received from both parties, such as reporting to their own elder, other group elders, or informing both of them, or in some cases, just keeping quiet (a symbolic anger and a kind of ignorance). Later, both *dhur* sit together in a dispute resolution session called by family members or elders of *qoum*. Usually, it is almost decided that what kind of cases will be addressed and how they will be resolved within the *Otak* of relative Family or *qoum*. Moreover, the IDR mechanism is almost the same among different *qoum*. While the *ChangoMurs* of the village, elders of the *qoum* and other *Faislo* actors formally take over decisions. Before referring cases to *ChangoMurs* of the village, first different people try to resolve the dispute, such as the elder of *qoum*, specific elders, friends and so forth. This effort relies on personal interactions with other prominent people and their opinion of the actors.

Table 5. Immediate reaction of disputing parties after occurrence of dispute

Sr. No	Particular	Frequencies	Percentage
1	Stopped communication	16	17.3
2	Report to the elder of other party	12	12
3	Report to one's own elder	43	46.7
4	Others	21	22.8
	Total	92	100.0

The above given table directs towards various steps that are taken by disputing parties immediately right after a dispute arises. The question was asked to record the immediate reactions of disputing parties after a dispute aggravates. About 47% of respondents said that as soon as the situation of disagreement worsens, as the first step, they report the case to their elders for involvement and to get advice from them for the next step especially in family and honor related cases. While about 12% respondents were of the view that they put their complaint to other *dhurs* elder or *ChangoMurs*. This signifies three things; First, any party that asks for peace does not

wish for agitation, second, it is considered a moral obligation and people are expected to make efforts for resolution and third, it is to maintain the respect for their elders who advised them not to react aggressively. It is not as simple to comprehend as it seems as by many standards, it is also a sheer warning to not repeat the offensive act again as the repetition may mean the other party truly wants to raise the dispute and have agitation. While about 22% of respondents opined that the first immediate reaction after the dispute is contextual to the nature of the dispute as during major disputes related to honor, land and revengeful killings, they also respond aggressively.

4.2. Types of Disputes

The categorization of conflicts into three different sources such as *structural conflicts* where the conflict arises among groups who wish to manage their interdependence, *role-conflicts* where the conflicts emerge from the sets of prescribed role behaviors and lastly *resource conflicts* where the conflict stems among those interest groups who are fighting over set of resources has helped in better understanding of conflicts (Katz, 2013). Many a times, conflicts and dispute are exhibited through emotions such as hostility, negative attitudes, aggression, at times rivalry as well as misunderstanding or disagreement between people and groups. Hence, dispute can also be based on perception and emotional nature, not necessarily based on hard facts. (Thakore, 2013). For more clear understanding, the disputes have been categorized into Major and Minor disputes. Different case studies are classified into minor and major cases and the objective of narrating these cases is understanding dispute and how they were resolved.

4.2.1. Minor Disputes

Minor disputes can either be classified as those concerning with material or physical resources and power, or those of socio-emotional nature; this may include matters of perceptions as well beliefs (Thomas, 2016). According to this study, any disagreement between two individuals on civil matters such as water resource, land divider, discrimination, animal trespassing and abduction, money, anti-social behavior, issues of matrimony and divorce and children custody are referred as minor dispute.

Case Study# 01: Conflict between sharecroppers on Land Lease

The purpose of the *Faislo* is to amicably resolve the matter. In such times, *ChangoMurs* as guarantor and arbitrators enter the process and dilute the tense situation between the twodone parties. In matters of minor disputes, *ChangoMurs* loses some cash but restores his credibility and prestige as a resolver by offering compensations from his personal accounts. This is possible in the village setting as everyone knows everyone and is aware of the family lineages and histories. *ChangoMurs* by extending his help actually reinstates the trust of those looking forward to him in times of emergency, conflict as well as crisis.

Case and Characters

21 years of old, Mr. Badr. *Meerani*, worked on the land of Waseem. *Meerani* as a peasant. In 2017, Badr took land on lease for six months for Rs. 100,000. Later due to his own wedding, he was unable to pay the agreed amount of land. However, Waseem *Meerani* demanded for the agreed amount within a week. Badr *Meerani* requested him that he will pay half amount in next season as he spent most of the amount on his marriage and on other related activities but agreed to pay half of the said amount immediately. Since Waseem wanted the whole amount in one installment, the disagreement intensified where both parties could not reach the consensus themselves about how to best solve the matter. Badr said “*samja mein natho ache khara mae ta aahin, paisen tay marun tha, thoro intezar kabo aa he, aydi lalach piyarun saa*”. *I do not undertstand what kind of relatives are they? They are running after money, cannot wait a little.*

Waseem said “*shadi tay ta wada paisa payo udaray la gay eein ye payo ta ghot jo chango murs ee thoo aa, aain haanay wari paisa ghures taa chaway to maan tuhinjo ghareeb maaeit aahinya*” “he was spending money on wedding as if he a landlord but now when he has to return my money, he is calling himself poor.

Mr. Waseem *Meerani* asked him to give back his land. In case if the said amount was not paid within one week, he also threatened to launch complain against Badr. *Meerani* in the police station. The police would not only have imprisoned him but also punished him and further may also would have taken bribe. Mr. Waseem *Meerani* also vowed that he will never rent his land again to him or any of his relative. The next morning, the father and mother of Badr *Meerani* went to Waseem’s home for requesting him not to involve police and also to grant some time but, he apologized to relax any further in this regard. Mr. Badr *Meerani* and his father then,

went to *ChangoMurs* of their *Biraderi* and narrated the case to him for his needful intervention. The *ChangoMurs* of *Biraderi* visited Waseem and requested to be little lenient on Badr. *Meerani* as they both share same clan name and are a social asset to the *Meerani* clan. Waseem *Meerani* refused to argue any further by saying that “I already had guessed that Mr. Badr *Meerani* would not be able to return the amount. *Meerani* asked the *ChangoMurs* of *Biraderi* that if Badr. *Meerani* failed to pay the said amount, would he (the *ChangoMurs*) pay the said amount on his behalf? The *ChangoMurs* of *Biraderi* went back without saying any word. Later, the father and *ChangoMurs* of the *Biraderi* decided to bring the case into the *Otak* of *ChangoMurs* of village to reach any consensus. The *ChangoMurs* of the village guarantee Waseem *Meerani* that if would fail to pay, he will pay on the behalf of the badr.

Case Study # 02: Major Feud over a Minor Disagreement /Trespassing

Any dispute of minor nature has the capacity to translate into a serious feud resulting in human life loss. Moreover, insult to one`s honor is revenged to safe oneself from ridicule. Justice delayed is justice denied as well as results in creating frustration and further agitation among the parties.

Case and the Characters

Mr. Ali *Meerani*, 27 years of age, was working in his land around 10 am one morning. Hamid Jakirani, a male of 22 years, along with his friend, entered Ali *Meerani*`s agricultural field-situated near the main road and plucked\took raw tomatoes and few other vegetables and ran across the field for fun. Ali *Meerani*, who at that point of time busy working in his field, followed Hamid Jakirani and his friend with a stick in his hand to physically attack them. An eyewitness narrated that “*Ali Meerani wah jo dandun sa qutay eeins hun hamrah khe*” the Ali *Meerani* attacked and stabbed Hamid Jakirani even with a stick. The matter for time being was ceased and both went back. However, both narrated this event to the Elders in their Family and *Biraderi*. After few days, Hamid Jakirani around 4 pm gunfired Ali *Meerani*, and he got serious injuries. In resistance and retaliation attack, Hamid Jakirani`s friend who also died due to the cross-firing by Ali *Meerani* and his relatives.

Being an inter village conflict resulting into murder; the case was registered in Dharma police station where both the parties took their case to court. Both Ali *Meerani* and Hamid Jakirani were arrested whereas the elders and *ChangoMurs* of

both *Biraderi* did not want to talk to each other regarding reconciliation. Therefore, both the parties pursued the case in the court for a year. Almost after one year, the case was still pending in the court. Both *dhur* spend a lot of money, time and approaches to punish and led each other down.

This made Hamid Jakirani frustrated and while during an appearance in the court, Hamid Jakirani again shot Ali *Meerani* and one of his relative, who was also nominated in the FIR for murdering his friend. Ali *Meerani* died instantly in the spot because of the bullet shot. In the meantime, Jakirani ran away from the court and remained under ground for five months. Hamid Jakirani at the same time also contacted with *ChangoMurs* of the village for resolution. Both *dhur* agreed for an out of court settlement and resolved the feud by agreeing upon compensation amounts. Further, it was instructed that Hamid Jakirani was told not to visit village or surrounding areas.

This case study shows that local mechanisms for their speedy trials are preferred over the court procedures. Court procedures are also used to borrow time to counterattack or to dominate others by using delay tactics however, systematic delays and weaknesses led to a life loss. Lastly, the intervention for the purpose of reconciliation by the mediators is all about social order and harmony in totality as well as about concession and well-being. The compensation amounts for the human life loss are seen as effective ways to settle disputes. More importantly, *Faislo* becomes more vital when one party is frightened of life-long imprisonment through the legal system. *Faislo* not only saved one from imprisonment but also settled the feud for the members of the family who may face consequences of the killings and violence.

4.1. 2. Major Disputes

Through the participants it was found that socio-cultural construction of beliefs, values and norms play a vital role in the perception of right and wrong. Culturally perceived wrong doings become the base for any disagreement/clash/conflict between two individuals or groups which may lead to feuds. The disputes referred though menial in nature hold the potential of turning into a hostile aggressive and abusive encounter between the two parties if mis-managed or handled in haste. The disagreements or clashes that lead to or end up with killings, murders or offenses that are of criminal nature under the traditional and legal law are categorized as major

disputes. The disputes related to *Ghairat*, kidnapping and prohibited sexual relationships cases also turn into major disputes.

Among the socio-cultural disputes the most significant disputes in Fatehpur village are the disgrace of honour. The family's reputation is protected in a particular manner by both males and females. Man in Fatehpur holds the role of provider, protector and impregnator. Though honor (*Izzat*) is acquired through abiding the social codes and exhibiting the expected behavior associated with the social roles. Caste, *qoum*, wealth, network adds to the persons' honor. However, In the community women are normally considered the keepers of the family's honour and men are responsible for maintaining and guarding that honour as a father, brother and husband. In Fatehpur women contained themselves to the four walls of their houses and moved around only in familiar spaces. It is considered dis-honorable for the man of the house if the women of his house for any matter become the talk of the town. Women behavior is closely watched to keep their chastity and modesty intact. A person and his family are only considered *Izzat-dar and shareef* (honorable and respectable) if there are no gossips attached with the women of the house. It is also translated as one's ability to handle and control the women of the house. The incidents of any inter-caste or inter-religious marriages, inter-class pre-post marital sexual relations, and marriage against family desires happen or identified then honour crimes or killings arise. Therefore, in the name of one's honour and dignity, these acts of aggression and killing the accused are expected and totally justified in the community.

Issues related to women are much more complex as they revolve around the culturally built notion of *Izzat* and *Ghairat* (honor and prestige). Women in another sense are taken as 'male's honour,' as they are historically used as 'sources' of honor. Cases like adultery, kidnapping and elopement, choosing their partner, pursuing divorce, or interfering in male's sphere are all seen as acts of 'frustration' and disrespecting male. Any type of disobedience of male family members by women can be a cause of disobedience and dishonor.

In case any women elope or indulges in prohibited relationship; she is no more considered part of the family but as a tool to intact the honor by killing her. The reaction of men of the family towards unapproved behavior of women is attached with men's sense of *Ghairat* (synonymously used for manhood also). It is expected from a man to take revenge from those who dared attack his honor or tried to shame him even if the guilty male is from the same family. In most of the cases, the elders of

the family or *ChangoMurs* support the male members of the family to show aggression when someone attempts to disgrace anybody's honor. Therefore, the honor-bound conflicts have full potential of converting into major disputes between two social groups. A respondent said that

Izzat (honor) is not just related with women, publicly insult of a landlord/sardar/ChangoMurs by anyone who is lower in caste or status or if someone's manhood is questioned, or if one is considered weak to manage his matters and women are also causes of honor related disputes.

The reasons to attain honor and respect are power, influence, decision making ability, linkages with government officials and traditionally authoritative individuals. Another stronger reason to be influential is the possession of abundance of land. Therefore, the large landholders because of their control over land are considered rural elites, more respectful and influential which may be further used to enhance one's control over others. If any one does not approve *Faislo* is also considered dishonor of elites including *ChangoMurs*. Hence, these elites can also initiate disputes or feuds with other individuals or social groups to put political pressures or gain any benefit or just to take revenge of the insult/damage of *Izzat* from someone belonging to either lower or marginalized social group with a less economic status and power. Hence, the argument that at times the disputes were created with hidden agendas could not be ignored.

Table 6. Perceptions regarding the occurrence of issues

Sr. No	Particular	Frequencies	Percentage
1	Real Issues	59	64
2	Artificially created	3	3.2
3	Both	30	32.6
	Total	92	100.0

This table illustrates the perception of the respondents about the occurrence of disputes that either the dispute has some solid reasons or aggravated artificially for self-gains. The intention was to know if the disputes presented in the *Faislo* for resolution really exist or they are artificially created to put pressure on someone or created to take revenge from anyone or for self-gains. Very few respondents believed that cases referred or brought to *Faislo* have hidden agendas or are artificially created.

In Honor related matters, cases are exploited to take revenge from the accused party/person. *Faislo* also handles the cases very sensitively and sides with the family whose honor is damaged.

Some of the villagers said that the honor killings are an excuse for murders where the blame of adultery is put out for other purposes in many of the cases. The purposes of the honor killing may include a way to take revenge for any past rivalry if someone cannot compete through fair means or husbands who want to get married again and wish to get rid from their wives so that they can marry someone else or take money from anyone or women who does not want to live with her husband and wishes to get married with her own choice. The rationale for honour killing is used because retribution for this is much easier to avoid than for killings. Therefore, honor killings are not limited to women: men are also victims, particularly when the motivation for honor is a cover for other interests, such as money.

Case Study # 03: Harassment and Abduction

The Case and the Characters

During my stay in the Fatehpur Village, the inhabitants narrated the accounts of one of the renowned cases. One of the members of Jakarani tribe, a 33-year-old male from another village, Mr. Aalam first molested and then abducted a young girl of Buledi tribe (living near Fatehpur village). The girl's residence was near the main road, on the other side of the stream besides the village. Mr. Aalam Jakirani used to pass by the road besides the stream either to meet his friends occasionally for catching fish or for the purpose of making videos. He had seen the girl working in the field and also knew that the girl left her house at certain times to perform some errands. One day he passed some very flirtatious comments while the girl passed through and said, "*wah ji suhni aa, Allah kare moonkhe milay ta hathu hath me daee chay pani peyano*", "angel of my heart is going", I wish! I have a partner who cares for me or If she could make a cup of tea for me" etc. The girl immediately told her mother about the matter. The mother reported the case to her neighbor's husband so that he could bring the incident into the notice of girl's father and handle the situation effectively. The neighbor in order to address the issue, asked Mr. Aalam Jakirani that why he frequently visits their neighborhood when he has no serious business being here. The neighbor also confronted Mr. Aalam Jakirani and warned him not to come to stream when the girls are out doing their errands. For few days, Aalam Jakirani disappeared from the scene

and no further complaints or incidents were reported. However, one day the girl was abducted by Mr. Jakirani in aggression to avenge his ego.

The father of girl and other family members got furious and demanded justice by bringing the case to Ramzan *Meerani's Otak* immediately. The case turned serious and intense when the girl was retrieved from Aalam Jakarani who also accepted his wrong-doings and asked for forgiveness. Seeing the sensitivity of the matter, the *ChangoMurs* at *Otak* tried settling the matter through imposing a small fine as compensation to be paid to the victim's family i.e., Rs. 500,000/- only. The father of the girl was dis-satisfied with the verdict seeing the severity of the crime and took a leave from *Otak* in pretense of offering Namaz (prayers), but never returned. Later he said that he did not accept the decision and accused *Otak* of being biased to Mr. Aalam as he belonged to an influential social group of the village. He refused to accept such lenient punishment of the *Faislo* and that he would himself take revenge from the wrong doer. The Jakarani tribe is expecting revenge anytime, since 2018. But still no-action has been seen from the girl's father. The case is pending even in *Faislo*, because the decision has not been accepted by the victim's family and nor the *Faislo* has been considered satisfactory.

Case Study # 04: Intra – Family dispute on Honor violation

Case and Characters

20 years old, Noor Solangi belongs to the Solangi tribe. One day on the request of his mother he visited her aunt's (mother's sister) home. On his visit, he entered his aunt's home without announcing his presence or knocking at the door. As he entered, he found his young adolescent female cousin busy in household chores without her scarf (Chador). The girl on sudden arrival of his cousin could not comprehend what to do or who to call as she was alone at home. The girl took the sudden entry of the guy as deceitful and started shouting to draw attention. The girl's mother who was in neighborhood, after listening her daughter's voice quickly came back home. Meanwhile, few more neighbors also gathered at the front yard of the home. After some time, the father and brother of that girl also came back home where they were informed of the matter by the crowd gathered outside. The brother got really furious and vowed to kill the boy. The accused boy, judging the intentions of his senior cousin, ran away from the site whereas the girl's brother attempted to murder his sister by firing a gunshot. However, she was saved by the father. The matter of

violating girl's *Izzat* and family's honor as well as demonstration of illicit and offensive behavior became the reason of dispute between the two families. The girl's father asked his wife that why the boy had come to our house an odd time without permission? The father of the boy was asked by different people why he violated the honor of his cousin. Both families realized that the issue is becoming a source of embarrassment and creating hostility between both families. Therefore, they decided to involve their elders for settlement, but the brother of the girl was not willing to resolve the dispute. he only wanted to avenge his honor by killing that boy. Many times, the elders and other local actors tried to convene but the girl's brother refused every time and said that he will take revenge from him.

The case took a new turn when both male cousins (the accused and the victim's brother) met by chance near a Van stop in Larkana. Brother of the girl being fueled with aggression insulted the boy, threatened him and in return torn his shirt and tied his hands. Other people in the village had to intervene between the two so that they let go of each other without harm. Both the youngsters had threatened to reciprocate to avenge their honor. Seeing the sensitivity of the matter, the families of both youngsters decided to track the movements of their son to avoid any bigger mis happening. The father and elders also started making contacts to sort a proper solution to the problem as both the youngsters were aggressive and ready to do serious damage. Boys being the asset to their families could be left alone to do things as per they will. More importantly, competitors and enemies of the family were also taking this as opportunity to laugh at them and pass negative judgments. The whole dispute was damaging the image and prestige of the Family (*Khandan*). As both the parties agreed after the gap of 08 months, the matter ended up into the *Otak* of the *ChangoMurs* of the village. The elders of each family performed the role of negotiators or *Musheer*. The case was discussed in detail in the presence of Ramzan *Meerani*. The *ChangoMurs* after listening to both parties decided on Mr. Noor. Solangi as the offender of the socio-cultural norms, whose wrong conduct had led both families to this situation. As punishment, a fine of PKR 500,000/- was imposed on Noor Solangi along with an additional amount of 100,000/- to be paid to *Otak* as pledge money for not repeating the committed crime. Later, the *ChangoMurs* forgave the fine imposed for *Otak* whereas the rest of the amount had to be paid within two years.

Case Study # 05: Intera – community dispute over Abduction

This case again pertains to *Meerani* caste of Fatehpur village. Mr. Basheer. Jatio, a male of 29 years, suddenly started paying frequent visits to the village because he had begun to like a 17-year-old young girl from the *Meerani* tribe. He had tried three to four times to talk to her but was unable to grab any suitable opportunity. Later, he started observing her whenever she used to come out of her home. One day, Basheer Jatio got the chance to talk to her when she was passing by the street alone. Despite his inclination, the girl did not respond to his proposal. As three days went by his proposal, Basheer Jatio on getting no response from the girl decided to kidnap her. The news of kidnapping spread like fire in the village and on finding Basheer Jatio absent from the scene was accused as the culprit.

The father of the girl immediately brought the case to the Elders. The *Meerani* elders warned the Elders of Jatio that “*asan ji chokri na mili ta tayar thi wancho jha re la ee, asan police mein be venda sein aain sardaran de be*”, if Basheer Jatio did not ensure safe return of the kidnapped immediately; the whole *Biraderi* of Basheer Jatio then must be ready to face trouble. The girl under all conditions will be retrieved using all available forums (police, judiciary and tribal level). The Jatio tribe did not respond for couple of days. Seeing the unresponsive attitudes of Jatio tribe, the father of the girl along with two local actors registered FIR against Basheer Jatio. The police raided their home the same night and arrested Basheer Jatio father and brother. The elders of Jatio on arrest of their members contacted *Meerani* tribe to concede so the issue could be resolved. Both elders of the tribe agreed to resolve the issue at the *Otak* of the *ChangoMurs* of the Village without the involvement of the Police. The case was brought to attention in Shaban *Meerani*'s *Otak* by the elders of both sides. Two elders from both sides were nominated as *Musheer* and considered ameen to work for peaceful resolution of the dispute. As usual, following a rule of law of informal justice system, the *ChangoMurs* called both the parties at the *Otak* to get the details of the case. Both the parties agreed to assemble at the designated place for *Faislo*. During the proceedings of the case, Jatio was found guilty of the said crime. As per practice, Hassan Ali *Meerani* fined Rs. 1,000,000/- to Basheer Jatio for being guilty of kidnapping a *Meerani* girl and for violating her honor. Both the parties agreed to reconcile and signed on the document of truce. The girl was later married to a man of *Meerani* caste immediately after the event.

Case-Study # 06: The historical Feud among *Meerani* Tribe

Following case-study reflects upon Avruch (2004) argument that the reasons of conflict are struggles over resources or else a desire to acquire power and status where the idea is to eliminate or completely neutralize the power of the parties involved and hence calls for a need- based resolution which focuses on maximum satisfaction of human needs and expectations which in this case is to take revenge or receive compensation of those who died during the period of the conflict. Unless the demands and expectations of warring parties are met, no resolution is considered final (Avruch, 2004).

Case Background

Fatehpur village harbors many castes and religions, but the major is the *Meerani* ethnic group that holds most of the fertile land and all the important positions in the village. They are also known as *Meerber* in the village. *Meerani* tribe is believed to be one of the ten warrior tribes of Sindh region. The *Meerani* were first settled in neighboring village of “Sajan Sangi”. However, due to various intense conflicts between *Meerani* and the sangis’, the disagreements between the two ethnic groups escalated. Meanwhile, a member of the Sangi ethnic group died during one of such intensive disagreements. To further avoid the conflict, two ethnic groups in the 1950’s i.e. *Meerani* and Memon ethnic groups, migrated from Sajan Sangi to the village of Fatehpur. Initially, since they had brought their cattle along with them, so they worked as peasants but slowly started to buy some land for cultivation from Dewaans (Hindu Ethnic group as well as a dominant clan of Fatehpur) who at that time were selling their land to ease their migration to cities. It was then that the elders of the *Meerani* tribe decided to settle in the village of Fatehpur. Most of the Deewan sold their lands to the *Meeranis* and other tribes before they left to get settled in the cities.

The case and the characters

In Fatehpur village the power and authority of *Meerani* tribe is authentic and unquestionable. In 1970s Jamil Khan *Meerani* and his alliance group was seen as the most powerful group. Our case relates to the same era of Jamil Khan *Meerani*. The characters involved in this case study are of Kamran *Meerani* (hereby referred as Group A) and Jamil Khan *Meerani* and Mansoor *Meerani* (hereby referred as Group B).

Kamran *Meerani*, initially, was also the member of *Meerani* ethnic group but unfortunately of had a very low social as well economic background. It was in 1970s, that Kamran thought of trying his luck in hoteling business and eventually established a hotel with a partner friend, on Empire Road of city Larkana- a main business hub of the whole region. His hotel was named as Mervi Hotel. The business excelled resulting in making him a wealthy man. With wealth, came power, recognition as well as social position. Now, he was no- more a nobody, his opinion meant business and not to be ignored anymore. Eventually, his power and socio-economic status helped him rise as leader of a powerful group against the pre- existing dominant group of Jam Khan *Meerani*.

Kamran's rise to power threatened visibly the traditional authority of Jamil Khan and Mansoor *Meerani* Group in the area. Feeling angry Mansoor *Meerani* with the help of some 30–35 people attacked Kamran in his home and murdered him brutally in 1976. Consequently, *Meerani* tribe got divided in two small groups. The land of both was confiscated, and cases were logged with the Police. Many people were arrested on the charge of murder. Murder of Kamran was a heinous crime committed by Jamil Khan and his allies. However, no trace was found of granting actual punishment to the people involved. As per the records, neither they were arrested nor charged for killing. The local Justice delivery system i.e., *Faislo* sided more with the Group B (Jamil Khan and Mansoor *Meerani*). The tension escalated so much so that both the alliances and family of Group A and B stopped sending their children to schools and restricted their movement as they feared being attacked by the opposite group. Mediators tried to solve the case by paying fine to the inflicted family. But it could not stop Kamran's son, Naeem *Meerani*, to kill Jamil Khan in revenge. On the murder of Jamil Khan, group B again retaliated and further killed four people of Group A including Naeem *Meerani*. The killing due to revenge shows that the intervention of the *Faislo* as local system for justice delivery and conflict resolution failed altogether. Since the mediators could not stop further killings. In almost 36 years (1976 to 2018), the feud has taken the form of the generation war where more than 20 people of both parties have been killed under different pretexts. Even DPO Larkana Sain Asghar Ali Meerani and patronage of *Meerani* Tribe had to intervene after-all in 2012 to settle down the conflict and decided for a compensation of Rs. 850,000/- to the families of the members killed during the feud by Group B. It was almost 4 lakhs for each killed by Group A.'

4.1. 3. Potential Disputes/ Pending Cases

Mr. Habib Meerani's land was confiscated by Mr. Yaseen Umrani of neighboring village of Syed Ghulam Shah. On forceful encroachment on Habib Meerani's land was tried to be settled through inter group negotiations. The dialogue processes began between both groups and certain people also tried to mediate between the parties. But since Yaseen Umrani was backed by influential people and he himself was also a powerful individual therefore, this situation had complete potential to be converted into dispute between two tribes. The case was still in hearing in *Faislo* in year 2018 because no group had accepted or finalized any *ChangoMurs* for arbitration. It was on the anvil of turning into fearful feud between two groups as it involved the matters of lands which are the most prime source of power and honor among the powerful tribes in the village.

4.3. Indigenous Dispute Resolution Mechanism vs. Formal Courts

Indigenously, disputes in the village Fatehpur were resolved at three levels: Intra-family level, intra-community and inter-community level.

- a) **Dispute resolution at Intra-Family Level:** the first category of dispute begins at interpersonal level (such as domestic and family) and frequently occurred among the members of family. These disputes were sorted out at family level as well, such as of sibling rivalry, Marriage issues, divorce between spouse, domestic violence and intergenerational communication and misconduct issues. Unless the family members involved stop communicating with each-other and break all ties, the family matters by Elders are not brought to public arena. The act of taking the family matter in public is also highly discouraged and the one making it public is considered an insolent.

Table 7. The cases of Family Disputes

Sr. No	Particular	Frequencies	Percentage
1	Resolved by Elders	63	68.5
2	Resolved by <i>ChangoMurs</i>	29	31.5
	Total	92	100.0

Villagers believed that family matters are not for public arenas like public *Otaks* and *Faislo*. Since they involve intimate facts about the family therefore can damage the social and political status of the family in the village. Even though some cases were tried in court, they were ultimately resolved through *Faislo*.

- b) **Dispute Resolution at Intra-community level:** disputes that took place between groups, within local groups, *qoum*, and castes or social groups competing for power or sharing feud history. The disputes were usually based on land encroachment, exploitation/violation of boundary-line demarcations, water distribution, animals trespassing, acts of spoiling yield, physically assaulting any member of competing groups, adultery or immoral behavior of both men and women, sharing issues between croppers, political, social and religious affiliations. Usually at an earlier stage, the hostility and linguistic aggression was showed, and physical aggression was avoided unless the initiating party wanted a confrontation. The victim party in most of cases complained and narrated the entire incident to the elder of *ChangoMurs* of *qoum*. The Elders of respective groups or *ChangoMurs* either advised their fellowmen not to respond using aggression or to teach other a lesson by replying with equal fervor along with an assurance of later managing the matter “do it and I will handle it, later”. In the latter case, the offender for time being does not enter in *Otak* for resolution which symbolically is perceived as unwillingness to resolve the issue rather inclination to take revenge. Leaving the field in between verbal contest is also considered weakness of character and directly mars one concept of *Izzat* and identity in the society. Men were expected to be hostile and aggressive and responsive to those who try attacking them by throwing insults.

The very next day of the verbal duel, both parties call their fellow *qoum* members along with sticks as weapons for a duel, fight back both verbally and physically. They duel with sticks and try to dominate each other by imparting as much as injuries to the members of the other party. If anyone interrupts or mediates between the parties, the dispute further will not progress, otherwise, for the next many couple of days, the clash will aggravate through involvement of ammunitions and guns to stop the other party through power. The people normally reject mediation efforts initially due to a) non-

compliance towards mediator's offers, b) any group member is beaten by the other party where the victim party first seeks revenge and later something else, and c) the *qoum* of that individual approves further aggression on the basis of their financial and manpower support and d) issue of *Izzat* where both the party see it as an insult to escape out of the hostile situation and demand the other party to initiate peace-offerings etc.

c. Dispute Resolution at Intercommunity level: This category covers disputes between groups, caste, *qoum* of two different villages or communities. The disputes occur over Dargah, adultery issues, *Karo-Karis* (*honor killing*) issue and trespassing from/over enemies' land and are resolved using multiple mechanisms such as involving influential Sardars, *ChangoMurs* of the two communities, political figures, Police to control violence and finally if needed then to court. Inter-village conflicts during the research period were observed between social groups of Jakirani, Khoso and Buladi from the neighboring communities and villages.

A specific WhatsApp group created among the *Meerani* tribe serves the purpose of solving inter-community clashes of *Meerani* tribe. The group contains all the influential and powerful people of the *Meerani* tribe who can use their influence when and if needed.

Since the village Fatehpur is in the close proximity to Larkana city which also happens to be the district Headquarters therefore accessibility in-terms of reaching out courts and police becomes relatively easier for the community than others. The community is offered with multiple options and choices when a dispute occurs. To understand better, I asked my respondents what forum they choose and prefer after occurrence of any dispute? They responded, it depends upon the nature of dispute decides the forum for its resolution, it can be either social and legal, formal or informal institutions and sometimes dispute needs only third-party intervention as delivery of justice.

Matters of honor are tried to be kept discreet and pertain to recovery of women and charge of fine against the accused on finding guilty. All honor related matters involving women are dealt with the imposition of monetary compensation and the handing away of the girl to her family. As observed, Police was involved as tool to threaten the accused party to reach out to *Faislo* for peaceful resolution of the matter.

Even in the cases, where complaints were lodged with Police first, all the matters were dealt in the indigenous forums. In all the cases, the safe return of the girl was ensured. However, no resolute actions were taken to restore the honor of the victims or their families. The indigenous mechanism seemed to be the one accessed first in all cases.

In some case studies, *Faislo* had failed to address the grievance of the members involved resulting in pending decisions and executions. It is vital that the decision has to be accepted by both the parties for execution. Such matters, which in legal courts can result to imprisonment or in murders or additional suffering, are brought after a while to *Faislo* by the accusers usually to avoid police investigation and imprisonment. No matter, how heinous the crime, the breach of honor is meant to be repaired through monetary compensations where the purpose is to console the family and be able to handle the matter discretely. Moreover, matters pertaining to women are not prolonged keeping in mind, girls' future prospects for marriage.

Dis-satisfaction with *Faislo* decision at times also result in frustration, however, to keep intact the left honor, the family usually avoids to pursue the matter. For the sake of well-being and social harmony, it is ensured that fines are paid off if the accuser is found guilty. In the community legal pluralism was observed as people used to select different mechanisms to resolve their disputes such as Formal Justice System, arbitration at family level, neighborhood, *qoum* and village level, and includes Masjid Imam, Friends and relatives etc.

Table 8. Disputes referred for Resolution in year 2017-2018

Sr. No	Particular	Frequencies	Percentage
1	Courts	5	5.4
2	<i>ChangoMurs</i> of <i>qoum</i>	36	39.1
3	<i>ChangoMurs</i> of Village	51	55.4
	Total	92	100.0

The above statistics indicates that more than 55% of the people resolve their disputes through *ChangoMurs* of Village in *Otak*. Both *Otak* i.e., private and public *Otak* of

ChangoMurs of Village seem to function in the village. The *ChangoMurs* are in a power to resolve major criminal cases as well as socio-cultural and other minor cases of the villagers. Further, about 39% respondents viewed that the minor cases related to family matters are mostly resolved at the *ChangoMurs* of family or *qoum*. Since both *dhur* belongs to same ethnic group therefore they out of respect respond more effectively to call of their elders and ultimately bring their matters to *Otak* first irrespective of their nature. About 5% of the respondents said that all cases are resolved in *Otak/Faislo* but sometimes for point scoring or for mental torture other *dhur* or for compelling other *dhur* for resolution, an FIR was lodged in the local police station against each other where important members of each *dhur* are nominated for power play. Being nominated may not be considered an insult but arrested by the police or being kept in Jail for a night are acts that immediately draw socio-economic issues. Even after contacting Police, *ChangoMurs* is requested to intervene either by the parties or by the Police inspector himself to convince the parties for negotiations for out of court settlement. The respondents believed that accessing courts is not easy, one has to face many obstacles in contacting the expert lawyers and meeting the financial expanses to pay the lawyers and reaching courts.

Table 9. Obstacles in protection of legitimate rights

Sr. No	Particular	Frequencies	Percentage
1	Judge seeking bribes	07	26.9
2	Expensive and time consuming	08	30.8
4	Away from village	02	7.7
5	Delay from Lawyers	05	19.2
6	Lack of knowledge of rights	04	15.4
7	Judge seeking bribes	07	26.9
	Total	26	100.0

A question regarding the obstacles faced while pursuing one's case in courts and especially pertaining to protection of legitimate rights showed multiple perspectives. About 31% of the respondents were in view that they are unable to pay lawyers and other expense of court. About 26% of the respondents believed that due to bribe of judge they preferred *Faislo*. About 21% of the respondents said that lawyer deliberately prolongs the case for their benefit. About 13% of the respondents were in view that their lack of knowledge about the process of litigant is basic reason on lack of trust on court system. About 7% of the respondents believed that the court is away from the village, and it is difficult to manage time from their agriculture related activities and they had face little cases which easily resolved at community level. 26 respondents who had some familiarization with the legal procedures to compare and contrast their experiences with *Faislo* regarding procedures, actors involved, and justice delivery were also interviewed. The factors /reasons mentioned for trusting one mechanism against the other proves vital to understand people's attitudes, rationale and perceptions towards accessing selective resolution mechanisms i.e., courts or *Faislo*.

Table 10. Reasons behind not accessing Formal Justice Delivery

Sr. No	Particular	Frequencies	Percentage
1	Poor Infrastructure	02	7.7
2	Delay tactics of the lawyers	05	19.2
3	Expensive Justice	11	42.3
4	Corruption in Judiciary	6	23
5	Non-accountability of Judges	2	7.7
	Total	26	100.0

About 19 % of the respondent believed that delay in cases is usually because the lawyers are not specific or engage in lengthy verbal arguments with judge or other lawyer to impress their clients. The time of the courts is valuable and, less time is allocated to each case due to the burden on courts. Further, lawyers of neither side were willing to come to court. 7 % of the respondents claimed that proper courtrooms

and staff are not available to the Judges of lower courts. In comparison, judges have no access to the latest computer or technology. Moreover, still, a hundred-year-old file system and noisy, sluggish typewriting instruments are used. No proper sitting capacity for the masses is provided or available. Additionally, adding to the plight masses are involved more in completing necessary documentation than proceeding. About 42% of the respondents said that justice through courts is expensive. Further, they said that "lawyers demand a heavy amount in the form of documentation, court fees, and all other expenses involved in filing the case, etc., which a normal person can't afford it. About 8% of the people said that the judges are not answerable to anyone, therefore they are not interested in resolving of their cases. Lastly, about 23% respondents thought that the judiciary is corrupt and given verdicts on the bases of nepotism.

4.2. Perceptions and Reasons behind selecting IDRM

Villagers choose any mechanism as appropriate for the resolution of a dispute that is simple to understand, responsive to address the problem at hand, culturally acceptable and ensures to provide long-lasting benefits to the community. The factors mentioned in the table are potential reasons which every individual keeps in their mind before selecting any system: 1) Contextual factor, 2) Sensitive and privacy factor 3) relational factor, 4) Communal factor and 5) individual factors.

4.3.1. Contextual Factors

The contextual factors mean that disputes need to be addressed and resolved through creating and enabling an effective political environment for dialogue and negotiations according to the context of dispute and the community. Many a times as explained in earlier case studies, both the *dhur* (disputing parties) did not want to reconcile or agree to resolve the dispute peacefully. It is because of this dead lock that the disputes over minor issues get aggravated or hostile. Even with the involvement of Police and court does nothing towards resolving the dispute. Each case is though dealt as a separate case in the indigenous mechanism but has connections with the past and the future. Therefore, every case has a certain context in which it is perceived and resolved.

A respondent shared that “*While a dispute arose between Meerani and Jatio. Meerani went to Otak of ChangoMurs for resolution, but Jatio were not willing to come to Otak of ChangoMurs for resolution. The ChangoMurs sent message to Jatio for Faislo, but they avoided responding. The ChangoMurs asked the victim to lodge an FIR against Jatio. Later on, the Jatio was arrested by police and tortured while investigation. The Jatio asked his group members and other alliance groups to help each other and get united against Meerani in this odd time. But, due to local actor’s involvement, his ethnic group was unable to support him. Therefore, the Jatio agreed to resolve dispute at the Otak of ChangoMurs. Both the ChangoMurs of Jatio and Meerani sat together to resolve the dispute*”.

In the case above and others regarding trespassing and dispute over land-dividers¹⁹, the local actors created an effective political environment for dialogue and negotiations where all the parties are listened to and are given a chance to present their case. If needed, pressures are also exerted wherever needed to bring the two disputing parties to the negotiation table or also at times over the offenders to ensure safe return of the victims (girls– in cases of abduction, explained earlier). The *Faislo* members who create the peer pressure on fellow members are well – versed in the matters of the community. The social and traditional codes are so well inscribed in their minds and hearts for handling any kind of disputes. They are also well aware of the patterns to be followed. The political actors use their wisdom and experience to first find out the reason of quarrel between the two parties, then they let the parties assign their own Elders to contest the case and announce verdicts that may resolve the conflict without disturbing the larger fabric of the society.

It is *Otak* that enables the political environment where both disputing groups sit together and can resolve their disputes by putting political pressure on each disputant group. The *Otak* consists of the influential actors from both side and powerful individuals who help to reach consensus because of their power and social standing.

The local arbitrators in the case-studies also did not hesitate to involve Police and court wherever necessary. Not all cases are pushed to be solved through *Faislo*. Those that may need the attention of the legal system are dealt effectively using the legal structures too. After studying the cases, it was observed that *Faislo* actors are more influential, trusted, accepted and recognized by the community as well as the actors of

¹⁹ Refer to relevant case-studies given in the chapter.

the legal structures as they are more effective to settle and address community disputes than other local mechanisms.

Although public ADR act has made it clear that dispute Resolution Councils (DRCs) will be made part of the justice system (Manzoor 2020) and strengths of conventional legal system like arbitration and restorative methods will be used semi in these legal forums with the addition of local actors from state departments such as retired judge or other government officials. These DRCs are functional and effective in Khyber PakhtoonKhah but not active in Sindh due to the reputation and links of *ChangoMurs*.

4.3.2. Sensitivity and Privacy Factor

The closed *Majlis* (meeting) is also focused on *Salif* but is not open and is usually within a single ethnic group, presided over by the *Omda* or sheikh of a specific tribe. The hearings are kept confidential, and they are supposed to deal with problems that cannot be made public because of their sensitivity or stigmatization of the people and tribes concerned, such as adultery, gambling and consuming alcohol (Wojkowska E, 2006).

Dispute such as physical coercion and/or influence, abusive or adulteration or even murders etc. cannot be made public because of their nature of sensitivity or stigmatization of group members and hence are preferred to be any shared or discussed among those who are trusted and play a productive role in restoring the situation. Several respondents said that *Faislo deals with these issues carefully and confidentially because of the sensitivity of the cases in the eyes of the community*. Even though, with light punishments the purpose is to console the families whose honor had been violated. The cases are dealt with care and sensitivity. Social code is followed, and safe return of the victim has also been ensured. Additionally, the accuser has always been identified and put to pay compensations to the family of the victim. In criminal cases, people tend to avoid courts because they assume that court favors the powerful and even in the presence of evidence, the powerful party may influence the verdict in their favor using their references, power and resources. People approach *Faislo* because it is also managed by powerful and influential people who can influence others in power as well. Since *Faislo* also entertains certain Political hierarchies therefore is an able body to pressurize those in power for the sake of providing justice to the poor and marginalized.

In cases of abuse of power, the *ChangoMurs* does not remain impartial but stand as guarantor and announces support for those exploited. He may also use his personal contacts, threats and social as well as psychological pressures on the powerful parties to enter *Otak* with equal status as those of others.

4.3.3. Relational Factor

IDRM includes various dispute resolution mechanisms such as mediation, arbitration, and reconciliation etc. The use of different methods is focused on social organization and depends on social and economic linkages and cooperation. As the community is linked by social and economic processes, such as family, marriage, rituals, earning sources, skills and survival etc. It is this dependency that encourages/leads to mechanical solidarity in the village to stand against internal and external disputes. People are committed to each other and tied together (Shaikh, 2019).

In the village, the *qoum* establishes a connection based on the principle of solidarity with their ethnolinguistic community members in most of the disputes. In the village, the ethnolinguistic group can be structured in such a way that when it is established, its component divisions are engaged in collective action that they are linguistically, culturally and territorially the same *qoum*. Moreover, they rationalize internal relations and their advantages. Therefore, in the process of dispute, not only the person who commits the crime i.e., perpetrator, but his relatives as well as *Biraderi* is deemed to be responsible for the offence or are considered as victims. Thus, people assert their mutual friendship, enemies and competitors while being in dispute. Hurting/offending a person is perceived to be hurting or attacking the entire *Biraderi* or family. An individual if and when gets involved in a dispute, may not select the any mechanism that just suits him socially or financially but also searches for an option which is also approved by his *Biraderi* members as well as community too. In the above case studies, many a times, the disputing parties though unwilling were pushed to reconcile because of the pressure put by the other members of the family. In cases of honor-violations, it was not the accuser who faced the shame, but the embarrassment is tolerated by all those sharing a relationship with the member. It is the member of the *qoum* and *Biraderi* that also act as guarantors during the resolution process and control the actions of those disputing. The indigenous mechanism keeps the law and order by using the power dynamics of asymmetrical relationships and

culture of intervention practiced in the society. Culture of Intervention as used by Lyon (2002) ensures that in times of crisis and disputes, other members of the family get the right to interfere and intervene to solve the dispute in a cordial way (Lyon, Power and patronage in Pakistan, 2002). They also get the right to make any one give-up their individual rights and think in the larger benefit of the *Khandan, Biraderi* or *qoum*.

I also observed a pattern that *ChangoMurs* in most of the cases never contacts the *dhur* themselves, but the Elders of the family to make efforts for resolution because he considers the *dhur* and the Elders as one unit. It was also observed that unless Police raided or made some arrests in sensitive cases, the Elders did not consider the dispute as element of shame and embarrassment.

4.3.4. Communal Factor

Most pertinent feature that makes IDRMM a communal institution is that the community owns the mechanism completely. It is mechanism that is of them, by them and for them. It is representative of their norms and values. It is cultural relative and understands their expectations. Moreover, the proceedings are held in public, community is kept informed about the proceedings and the investigations and are given a chance to put their point of view ahead if needed. The mechanism also employs laws that are very clear and understandable in the minds of the people and moreover, it serves the expectation of justice of the community. So, communal factor symbolizes psychic unity, approval and consensus of the community members of how the dispute can be or must be resolved.

The community problems are conceptualized and addressed at the *Otak* level with an intention of restoring the relations that are being disturbed. *ChangoMurs* who is empowered through *Otak* and *Faislo* mechanism emerges as the custodian of the community norms and traditions. He with the help of Elders ensures that traditional law is abided in its true spirit and matter is resolved in an amicable way for the purpose of securing the community solidarity.

Therefore, *Otak* plays various roles at community level such as call both parties for resolution, where every male individual (from inside and interested group from outside) participates, investigates the issues as per the demand of the issue. Every kind of civil and criminal cases are resolved in *Faislo* where the aim of the gathering is to develop consensus between the groups, punishments are given in terms of

compensations, the *Faislo* is accepted due to efficiency of justice and accessibility for rural masses and popular accepted mechanism and these gathering, and the efforts are taken on the name of social and welfare services of community.

On the other side, FJS is based on a retributive system, which insists on a "winner or loser" approach (Acemoglu D. A., 2018, p. 08). Further, the system generates very limited discourse discussion of a dispute since people may not be allowed to interrupt without pre-permission. The system is very formal and follows uniform rules and regulations for all civil and criminal cases without thinking of the aftereffects and impacts of the verdict. Their aim if achieved is to serve fair and impartial justice based on evidence may it prove the victim party as accused.

4.3.5. Individual Factors

Individuals, who get involved in dispute, want to resolve it by means of a state or *Faislo* interference. They simply look for a mechanism that is trust-worthy/credible, cost effective, resource efficient, effective and commonly used by community masses. A respondent during interview said that "the variance in attitudes of masses behind accessing justice delivery systems is based on three factors: efficacy of justice, resources used to achieve justice and outcome. As, the *Faislo* is centuries old mechanism and has discussed these disputes and methodological problems time to time therefore, there are many decisions involved before a person takes the first step towards solving the dispute. The individual may refer to the systems because the mechanism may give a chance to both *dhur* to come together and hold a dialogue. It also offers less strict punishments or no imprisonment to those accused of many serious crimes of criminal nature. *Faislo* mechanism also reflects humanitarian traits meaning that it takes cares of those left behind (family of the accused). *Faislo* is preferred because it enables the community to support those who stand corrected. It offers solace and salvage to those affected as a result of any dispute (compensation money in case of murder). It is referred to because it is responsive, easy to follow, less expensive and provides quick justice.

Moreover, an individual feels more secure and at ease in pursuing his case in a familiar environment where he enjoys a personal equation with everyone else. It is this personal equation and bond shared between the disputants and the mediators that the system shows some traces of compassion, empathy as well as understanding.

However, the same personal linkages can also perpetuate discrimination against victims and can also put one at a risk of giving up of individual rights to preserve harmony within a social group. This may happen in cases where there is often a power imbalance or asymmetry between the victim and the perpetrator such as in cases of violence against any community member, the Individuals may be forced to use these IDRM mechanisms on the grounds of community unity and ethnic solidarity.

Table 11. Reasons behind selecting IDRM in year 2017-2018

Sr. No	Particular	Frequencies	Percentage
1	Contextual Factors	23	35.4
2	Sensitivity and Privacy Factor	12	10.8
3	Relational Factor	28	27.7
4	Communal factor/structural	21	16.9
5	Individual factors	8	9.2
	Total	92	100.0

This table indicated that about 35% of the participants agreed that the *Faislo* is responsive, trusted and respected greatly as its verdicts are contextual based. There is no question that this degree of appreciation contributes to cooperation between actors and between the communities. Further, in most cases, the *qoum* establishes links with those members who share same linguistic identity in the village. In the village, the ethno linguistic community may be organized in such a way that its component divisions are engaged in collective action when it is defined that they are linguistically, culturally and territorially the same *qoum* and that they rationalize internal relations and their advantages. As a result, over 27% of people agree that *Faislo* does exist because of a relational aspect whereas 17% respondents consider communal factor as major reasons upholding *Faislo*. This is because indigenous dispute resolving mechanism are understood as social capitals, also reinstating the social norms and traditions to keep together members of a community by effectively defining and fostering the conditions of their relationships. Sustainability encourages the social effort to accomplish mutually desirable ends (Fred- Mensah, 2005). About 11% respondents asserted that the factor behind the success of *Faislo* is privacy. As,

several respondents said that *Faislo* deals with issues (such as abuse, adulteration or honor violations) carefully and confidentially because of the sensitivity of the cases in the eyes of the community. About 9% of people stated that based on cost-effectiveness, efficacy, group solidarity and ethnicity, people are encouraged to use these IDR mechanisms.

4.3.6. Other Factors

The masses in rural areas required a dispute resolution process that is accessible, affordable, well suited and understand their situations. So, that at the end, disputant's parties would be satisfied with the interventions and the outcomes would be the result of rational thinking and mechanisms allow parties to engage effectively in the whole period.

Table 12. Community's perception of different justice delivery mechanisms

Sr.No	Justice Delivery Mechanism	Affordable and Cost Effective	Efficient	Cooperative and client friendly	Flexible
1.	<i>Faislo</i>	82	77	87	73
2.	Courts	00	02	00	00
3.	Others (peer group, imam masjid, head of family)	10	13	05	19
	Total	92	92	92	92

The above shown table presents a comparison between different justice delivery mechanisms. This table reveals that majority of the people opined that *Faislo* suited them as best mechanism as it is more affordable, cost effective, client friendly and flexible. A question was asked from the respondents regarding the affordability and cost-effectiveness of both systems. About majority of the respondents were in view that *Faislo* is cost effective in many ways, “*ada jhera thinda rehnda aahin, hite sub paan me aahiyun, gadji wehi kare samoora jhera khal bol kare Khatam kayun thaa, naa paisa diyana pawnda, na police me wajno pawando*” as it held within the

community, therefore no transport expense, Further, you don't need to pay lawyers fee, expense on documentation, pay to police etc. while on the other hand, few of the respondents said that legal system suited to them. They believed that in commercial and debts issues, "*Ada nafs parasti dadi ahe, aherun jherun mein aju kala Court mein tha vanchan, ta jeen aa paise pora milan*" the community asked the other party as, they are unable to pay your debts. Therefore, certain portion should be forgiven. Thus, initially the courts are costly but later, you received completely. Moreover, other suited them as well mechanism as it is more affordable, cost effective, client friendly and flexible.

4.3.6.1. Efficiency

One of the key reasons for chosen *Faislo* is that it offers efficient, transparent, easy accessibility and cost-effective. The coexistence of multiple justice leads to a variety of advantages in the sense that, it reduces the processing costs, both in terms of financial and time management. The *Faislo* specially provides a successful implementation of justice in village settings and people perceived *Faislo* efficient either they are poor or rich. *Faislo* is often viewed as less socio-politically destructive to the villagers than Common Law. One-sided, *Faislo* reduced expense of the dispute resolution process by helping individual disputants greatly because most of them are marginalized part of the community. On the other side, it resolves a dispute over a shorter timeframe.

"bha, asan court kacharin je chakar me na pawanda oon, aseem phansra waara kon aahiyun jadahun sab waanda hoonda aahiyun ta milee karay piyar mohabat saan gadh way hi karay jherun khe hal kanda aahiyun.witch me kahn khe wijhun ji zaroorat naa aahay.

In response to another question regarding which mechanism is cooperative? The villagers shared that the *Faislo* and cases resolve at household level is cooperative mechanism. This mechanism gives enough time, space and cooperation for resolution. According to a villager, *Faislo* means resolution of dispute with care and accuracy. *Faislo* and other similar mechanism assessed the situation and deal them according to situation while Courts cause great stress and uncertain in the mind of people. Pursuing cases in courts put extra burden (Financial and psychological) on rural people.

There was a wide perception about *Faislo* that it is flexible in term of time, proceeding and verdicts. A villager during FGD said that *Faislo* mechanism is

adjustable and functions in line with participants' engagement and their point of view. While Courts does not care the schedule of the general masses and even does not give sufficient time during hearing of the cases. This also co-relates to the fact that it is less stressful because Informal system adheres to the demands of the people.

Table 13. Thorough investigation in year 2017-2018

Sr. No	Particular	Frequencies	Percentage
1	<i>Faislo</i>	21	80.8
2	Court	01	3.8
3	Others (peer group, imam masjid, head of family)	04	15.4
	Total	26	100.0

A question was asked from villagers regarding which mechanism investigates more thoroughly and comprehensively from those who have experience both systems? The members of the community widely perceived that *Faislo* mechanism involves finding relevant facts, allow freely debating on the subject, and verify the witness, forming fair conclusions and giving an undisputed opinion to the masses. Therefore, the verdicts are a product of community engagement, which means that decisions for both *dhur* and the community must be viewed as acceptable. While on the other hand, courts do investigate the case, but court involved unnecessary investigation and irrelevant evidence. So, *Faislo* investigate better and comprehensively. This factor also adds up to respondent's satisfaction levels and ensures that the verdicts reached hold larger consensus of the community.

Table 14. Delay tactics used by Formal or Informal Justice System

Sr. No	Particular	Frequencies	Percentage
1	<i>Faislo</i>	01	3.8
2	Court	25	96.1
	Total	26	100.0

A question was asked from villagers regarding which mechanism use delay tactic? Villagers widely perceived that courts mostly used delay tactics due to pendency of the cases, low staff, busy schedule of the judges, lawyers also used delay tactic for earning more and even does not give sufficient time during hearing of the cases. While *Faislo*, within two or three sessions resolve the civil cases, while in criminal cases, it takes 4-5 sittings. In high profile cases and cases pursue in courts at the same time face delay tactics.

Table 15. Ensuring Confidentiality and Privacy

Sr. No	Particular	Frequencies	Percentage
1	<i>Faislo</i>	47	51
2	Court	02	2.2
3	Others (head of households, friends and imam masjid)	43	47.7
	Total	92	100.0

Villagers were asked which mechanism is effective regarding disclosure of information, they widely perceived that *Faislo* mechanism better investigate, and people have access to information and as they are themselves custodian of the traditions and practice from generations, they themselves knew the expected output of the cases. While, in case of courts, masses primarily relied on lawyers' information.

It was extensively perceived that everyone faced language issue during courts proceeding. Firstly, they were unable to understand codes (as law is codified), secondly the foreign language used while given arguments by the lawyers (though Sindhi and English both languages are used at the same time), thirdly, the conversation between lawyer and judges and lastly the documentation is almost in foreign language. While in IDRM mechanism, proceedings are done ssin the language known and well understood by all. Secondly, the verdict is written on one page nowadays, which is also in local language.

Moreover, *Faislo* decisions/verdicts/punishments were perceived to be fair and impactful in-terms of its benefit as compared to courts keeping in mind the social, economic and political positioning of the actors involved.

Table 16. A mechanism satisfying social and personal need for Justice

Sr. No	Particular	Frequencies	Percentage
1	<i>Faislo</i>	53	57.6
2	Court	04	4.3
3	Others	35	38
	Total	92	100.0

For people of Fatehpur, *Faislo* provides a favorable outcome which helps both sides of the contested parties to resolve a dispute more economically and efficiently. Further, the verdicts are thoughtful and bring unity and peace to a community. Therefore, *Faislo* mechanism for villagers is more satisfied with respect to need and functioning.

4.4. Discussion and Analysis

Disputes are frequently occurring in the community, and most of the disputes are related to *Zan* (women), *Zar* (money), and *Zamin* (land). *Zar* and *Zameen* involve disputes of property, its ownership, demarcation of agricultural land, access to water, food, theft, and debt repayment, etc. Therefore, the disputes can be of two categories, such as major and minor disputes. Minor cases can be *Zar* and *Zamin*, while major cases are *Zan* and murder. Disputes occur at various levels and cultural mechanisms have been evolved over the time to deal with such types of issues. The disputes that occur within families (such as domestic and family) have been sorted out at the family level in most cases, among them are sibling rivalry, marriage, divorce, domestic violence, intergenerational communication, and misconduct issues. Secondly, disputes that take place between groups in a community (within local groups, *qoum*, and castes or social groups) are resolved by the elders and *ChangoMurs* of the village. Among them are the disputes usually based on land encroachment, water distribution, animals trespassing, acts of spoiling yield, physically assaulting, and sharing issues between croppers etc. Thirdly, disputes occur among the groups, castes, and *qoum* of two different villages or communities are settled by the influential Sardars, *ChangoMurs* of the two communities, political figures, etc. whereas dispute over Dargah, adultery issues, *Karo-Karis* (honor killing) issues are also resolved by them. These

mechanisms are hundreds of years old and provide services to them at their doorstep, free of cost and are also considered as trustworthy for them.

The statistics also show that during intra – family, inter community and inter community disputes, IDRM is widely preferred by the community members of Fatehpur village because of its easy accessibility. The perception of the community members about the selection of a justice system is based on the need and practicality of *Faislo* being an all-time accessible system` which serves them in much convening manner. For them, *Otak* and *Faislo* as IDRM are accessible and better serve their purposes as against formal justice system for number of reasons. This process takes place within the community without any cost or payment, and it is considered as corruption free and free of exploitation as it is held under the supervision of trustworthy elders of the *qoum* in a language that all know and speak. Furthermore, the decisions are made according to traditional laws well understood by all members of the village. Moreover, the *Faislo* is designed for reconciliation where ultimate objective is to preserve mutual harmony instead of imposing decisions. The decisions are made through developing consensus among the groups. This means *Faislo* mechanism is indigenous justice system which provides better and desire solutions to the community problems.

Through exploring villagers' perceptions, it is established that the villagers do not prefer courts due to the matter of inaccessibility and efficacy, cost, complexity, formality, delays, foreign language, and unfairness; especially if the judge belongs to same caste or ethnic group, and lack of interest of courts in the issues of ordinary masses are significant and make the masses hesitant towards courts. It is believed that courts are under the strong influences of resourceful Politicians and *Wadero* (Feudal). Therefore, they prefer to resolve the matters through contacting elders of *qoum*, *ChangoMurs* or *Wadero* informally (in village settings) rather than through courts to save money, time, and exploitation. Further, the people believed that Sardars have influence over the courts, but they do not like to get resolved their cases through courts as it leads to compromises their traditional authority and demands a lot of their time. A core perception about judges and delays in verdict by the local courts revolves around beliefs that “*judges are biased, and decisions are influenced by political considerations and relationships with the disputant parties*”. Additionally, judges of session and district courts at the local level keep good relations with government machinery and protect their interests by granting favors. Thus, the prevailing legal

system does not respect the disputant parties and neither it addresses long hours of waiting, humiliated behavior and delay tactics of lawyers and clerks. The expenditure on documentation (affidavits and challans) etc. moreover, the low levels of trust on courts exhibits what masses learnt, shared and transmitted with their younger ones about government machinery and its operations. During one of the FGDs, it is revealed that mind set in question is learnt and cultivated during socialization and interaction in *Otak*. The *ChangoMurs* through *Otak* conveyed messages and built the narrative that the courts do not share loyalty or compassion with people. This means the trust deficit between state courts and masses are also results of the myths told over generations, it can also be related with less or near to none budget allocations on the dissemination of correct information regarding court procedures. For villagers, an institution's legitimacy is determined by its credibility and by the actors under whose auspices it operates. It was found that the values of community those whom they can access at any time and have the ability to develop consensus and assert influence for their implementations and in the larger benefits of the community.

As Swenson referred to Menkhaus (2007), who pointed out that Strong legal pluralism challenges the claim of a state to have monopoly on the resolution of legal issues and has a uniform legal framework. It allows its user to choose a legal framework that is easier to access, efficient, cost-effective, and has the capability to make binding decisions and put restrictions on its users if they choose anything other than that. This leads to a long-term struggle for legitimacy, resources, and power between state and non-state justice actors (Swenson, 2018).

It is pertinent to share that many of those respondents who had little or no experience with FJS held negative views about court and legal procedures of the area as well as region. During FGDs, the respondents were more emotional than rationalistic, and the responses provided were more reflective of the stereotypical imaging of the courts in the area than experiences. People sub-consciously on the basis of the pre-set stereotypes are reluctant to trust courts. The belief is strengthened when they observe and see sufferings of those who dare to test the formal system but ended up with never-ending proceedings. Justice delayed is also considered justice denied because if the accused are not punished timely or if the dispute is not settled then it keeps the two parties as well as the society in the state of constant unrest translating into many more disputes. In spite of very little contact with courts, respondents refer to a very generic image of courts. Only 4% of the total community has accessed courts for the

resolution of their disputes out of which two were cases that involved murders or rejected to sit together for reconciliation. Interestingly, after experiencing a year long delay, both the parties returned to the IDR for effective resolution of the case.

It was also a common perception in the community that the legal system was being used by powerful parties for political scoring. As Rudolph (2000) has mentioned that legal pluralism is not simply a question of values, but of power - who gets what when and where (Rudolph, 2000). The FIR was lodged against other warring groups and even on their own community members to exert social and political pressure and a hidden message to the *dhur* to not only contact their *Otak* for *Faislo* but also accept the decisions. Another major concern of the villagers is that "the courts lack the ability to protect the public." Courts lack the authority and influence to ensure that verdicts are carried out over the masses, and the police themselves serve the powerful rather than the people. Thus, the role of courts in protecting victims from harm and providing justice is barely visible. The reasons for this disinterest and invisibility have been explored mainly as numerous pending or delayed cases in the courts, as well as a shortage or non-availability of sufficient judges and staff. Besides verdicts and their execution, the public perception of the court is majorly shaped and determined by the processing time for hearings, the complexity of the procedure, as well as its implementation.

Thus, rural communities avoid from the formal justice system due to structural formalities. The structural formalities consist of complex systems such as registering FIR, perusing cases in courts, hiring lawyers, understanding of laws, and documentation. These formalities cause psychological disturbance, detention and interrogation, and legal torture during the entire investigation, and people are getting more punishment than they deserve. Moreover, due to the overburden of the courts, cases are not timely resolved. Thus, from police to judge, they can't realize the suffering of the victim (Sangroula, 2016). From another perspective, the formality of the court system is found intimidating, discouraging and demotivating. Huge lawyers' fees and their technical incompetence are additional fatigues. The key weaknesses in the national courts are undue delays, bureaucratic constraints, misuse in protocol and the privilege of legal justice above substantive justice (Attaullah, 2017).

Being attentive/responsive to justice needs and satisfying social and personal expectations are two things differently perceived. *Faislo* is always responsive but not always satisfactory in its verdicts. Consensus is preferred over individuality. Different

case studies of community show that self-taking decisions has a negative impact on the relationship of the community members. So, irrespective of being knowledgeable about courts, it is deemed to be less important. People do not take decisions individually and trust what they know or have heard about courts.

It was found that the prevailing legal system is considered exploitative. It is exploitative as it favors the wealthy, as it is characterized to be expensive justice and is long pending, whilst marginalizing the poor. A respondent said that *“while he was perusing his case in court, he asked the lawyer how long it will take to reach conclusion. The lawyer replied, “why are you in a hurry?” with a smiling face”*. For his repeated insistence, the lawyer said, *“do you have enough money to approach the judge and other staff?”* Later, he engaged the respondent in documentation and excused himself on pretext of a busy schedule of the judge. This means, the system oppresses and refuses justice to the poor against the violent abuse of the strong. As Attaullah (2017) has mentioned that the majority of customers are unsatisfied with their lawyers' performance as a result of their failure to appear in court. In a large number of cases, it has been discovered that the lawyer is alone in his chamber or bar and does not appear before the court. He even sometimes fails to pay attention to his client and disregards his desire to appear in court. In this case, the poor litigant becomes a shuttlecock between the judge and the prosecutor (Attaullah, 2017).

In response to a question about why not masses consult formal courts even though the courts are not far away from the village? The respondents shared that the IDRM is functional in the village premises within a flexible time frame, normally when villagers are free. Whereas the formal courts are little away from the village and follow particular time frame and long hours of waiting. Thus, people in the village have better access to the local IDRM to resolve their daily life disputes. A village elder said that *“masses living in the villages never prefer the formal courts due to many reasons, but the actual reason is that the masses prefer a method which can benefit them, as in minor dispute both mechanisms will provide the similar verdict or close to it”*. They only get diverted towards courts when they are sure that they will get more benefit than the indigenous mechanism. The lack of knowledge and financial problems are real hurdles for not accessing courts. However, they both become less important or secondary in contrast to benefit.

People feel that besides resolving the dispute, a mechanism should also interact with disputants one by one and include them in the entire process, show empathy and care.

However, it poses many other questions for further discussion too; Is IDRM preferred because the masses trust that their arbitrators understand the socio-cultural context of the situation and are trained in handling it as per local wisdom, norms and traditions? Why the community looks towards the local actors to resolve the dispute? or is it because of the power politics or influence of the rural elite on the lives of the people or other state actors that makes them more relevant in the context of dispute? Or does the people lack awareness and trust on the legal state institutions?

Since the system is responsive to the needs and expectations of `justice` of the people therefore it remains in much demand. Whereas FJS was blamed of biasness and being partial towards those in power. It tends to subject the people to tortures and torments such as long hours of waiting, humiliating behaviors from lawyers, never- ending documentation, to and forth visits etc. The system is considered alien and non-friendly to all those who it promises to serve with justice. This is why probably, a common opinion shared was that unlike the formal system, *Faislo* takes care of poor and therefore, poor get representation to resolve their dispute and get quick and satisfactory justice.

This pushes us to explore our second objective of the study i.e., the role and representation of local state and non-state actors in the justice delivery mechanism in Fatehpur. The purpose is to understand why local IDRM systems enjoy more acceptability than the state structures as earlier observed and what circle of influence the state and non-state actors exercise for effective dispute resolution.

There are several reasons identified by the community for using IDRM for dispute resolution at the local level. Such reasons are as under:

- i. IDRM mechanism follows traditional practices to resolve a dispute.
- ii. It offers their services at the doorstep and more readily accessible than the FJS.
- iii. IDRM mechanism is cheaper than the FJS.
- iv. It resolves dispute faster than FJS and offers procedural flexibility and convenience.
- v. IDRM mechanism has respect for local norms and traditions. Its proceedings are made in the local language whereas FJS uses the language not known by the people.
- vi. *Faislo* is developed through consensus and its verdicts serve the larger benefits of the community.

- vii. It is the source of stress reduction and provides psychological benefits too.
- viii. IDRM mechanism resolves dispute with care and accuracy.
- ix. It is adjustable and functions in line with participants' engagement and their point of view.
- x. IDRM mechanism is more satisfactory with respect to the needs and its functioning.

DRSML QAU

Chapter # 5

5. Role, Effectiveness and Representation of Local Actors in IDRM

This chapter refers to the second objective of the study and tends to explore the variety and dynamics of the state and non-state local actors present in the context of dispute resolution at the village Fatehpur. The chapter also intends to examine their role and placement as well as degree of influence in the whole process of conflict resolution and justice delivery in all available mechanisms for resolution and justice delivery in the area.

Though the clash of interests and disputes are not restricted between states, but national and international organisations, ethnic communities may also be involved in certain disputes, and everyone has the right of self-determination for peaceful resolution (Ponzio, 2018). Since peaceful resolution of disputes is inter-related with dispute prevention. Hence, most of the contemporary approaches for dispute prevention aim to create linkages among all shareholders for peace in the communities (Ibid).

In times of disputes, primarily it is considered the responsibility of the legal state – managed structures to step in to provide basic services such providing protection, settling disputes, and providing public goods to those who are in need. However, when and if the legal state structures are institutionally weak or have poor access in remote or undeveloped areas, then the trust of the masses on these institutions constantly fall and people feel that it is their responsibility to acquire or seek justice from sources that are more effective and adjusting to their demand. In such situations the other powerful non-state actors` step in and challenge the state institution by bridging the existing gap between the state institutions and masses through providing those basic services which were first expected from the state institutions as well as in ensuring peace. Thus, state weakness may lead to more dependencies and increased trust of the masses upon the non-state actors (Acemoglu, 2018).

The non-state actors hence fulfilling the gap created by the state institutions in any local set up, may not only be active stakeholders in overall dispute prevention but also enable the communities or societies to resolve disputes peacefully. Further, the interplay of state and non-state actors for dispute resolution may also allow the

masses to address the issue immediately in post dispute situation, irrespective the nature of the dispute (civil or criminal) simultaneously.

In context of Sindh, the state institutions are weak, and people have a low level of trust on institutional productivity. This situation made the research site an ideal place to investigate the involvement of non-state local actors as important stakeholders in the process of dispute prevention as well as settlement. However, the chapter also addresses all the stakeholders that may have any part to play in either dispute prevention or resolution at any level locally.

5.1. Who are the local actors?

The term 'local actors' is a broad term as for few scholars 'local actors' meant local NGOs. While for others it refers to 'local responders'. The local responders consist of individuals, group's communities, ranges from government authorities to private businesses, local and national NGOs, and various local and national private entities (Mierop, 2018). These actors can be understood as aggregation of people, organized group, and union or agents: who are more or less taken more important on common grounds such as understandable as composing a sort of common entity. Furthermore, social actors have specific competence to understand such as language and communication resources, lexical expressions, acceptability and have ability to include and attract wide range of people. Such actors may include charismatic personality, people having common knowledge about values, religious or political leader, fan groups, NGO and civil society etc (Stockinger, 2005).

However, in Fatehpur Local actors are those local agents- individuals, group of people, organizations who have the ability to manipulate, influence, make choices, and maneuver within given social or political contexts. The term 'local actors' in this research study is utilized as group of people who are well aware of the local political environment, have power and influence in post dispute situation to take necessary actions and initiate processes for a trial and steps for its resolution. The local actors are important interest groups and stakeholders of communities from insides (*Biraderi*, *ChangoMurs*, and elders) to outsides (Sardar, religious authorities, Police and members of civil society). The interest groups do participate in the peace building process due to diverse reasons such as humanitarian, ethnicity, and socio-political reasoning. The interest groups include the traditional elites, the legal institutions such

as judiciary and police and civil society agents inclusive of media that hold the power to influence the outcomes and consequences of a dispute. Each stakeholder is discussed in the context of the research site to see their effectiveness and level of representation in the IDRM and resolution process.

The research moves ahead with Bamlak Yideg referred to Volker's (2007) argument that the procedure, technique and practices of indigenous dispute resolution mechanisms are not universal but rather it varies with respect to region, community and society (Yideg, 2013, p. 2). This may also hold true for the local actors who become involved as non-state agents and bridge the gap for justice delivery through informal means in times when the state-owned system is weak. The category of these local actors is also not universal and changes depending on region, community and society. However, research evidence also highlights some key characteristics that are associated or can prove helpful to identify local actors who are actively engaged in resolving conflicts outside the courts.

According to Genn (1993), British Informal courts were also called 'Informal tribunals or court substitutes' that work at community levels to resolve conflicts and disputes. They are not run by trained judges but people that are just required to make good quality decisions for applicants who often belong to most disadvantaged groups in society. These informal courts serve those who are dismayed and reluctant even at the prospect of seeking formal courts for justice delivery. However, these systems are also prone to difficulties of procedural fairness and have influences on the outcomes of hearings because of the informally appointed chairs. These informal courts though different in their operation from formal courts are prevalent because they are easy to access, quick in justice delivery with flexible rules for hearings and evidence (Genn, 1993).

There are four potential local non-state actors in the research area. They are local rural elite leaders (such as Landlords as *ChangoMurs*, *Raees*, *Sardar*) as well as community elders (including elders of *Biradari/qoum/Zat*, and religious leaders), local Police station, District *Ketchory*, media and local or national NGOs for understanding, these local actors are further classified into two types/groups. The first group is known as a pressure group and the other is an interventionist group. The pressure group may include family, Neighborhood, *Biradari*, ethnicity, religious groups and Local *ChangoMurs* and the interventionist group includes Sardar, Policemen, civil society and Tehsildar or *Patwari* (record keeper of the land). The

pressure group asserts pressure on the community members for a peaceful resolution. The disputants' parties accept this pressure due to commonalities grounds. These commonalities may include family, caste, neighborhood, religion, ethnicity and history. The disputant is unable to afford anger of anyone. Therefore, these commonalities factors are to put pressure on the disputing parties and proceed for resolution. In return, these pressure groups provide social security and take care of the family aspiration. While community intervention actors mean those actors who have the ability to intervene at any time and put pressure or assist during the process or sometimes directly serve as arbitrator between disputant parties. Further, these are responsible to change in policies regarding access to justice. Via various links and interactions with communities and cultural socio-political institutions that could have an impact on the customary laws, traditions and standards of access to justice for minors. The ultimate purpose of their activities is to minimize dispute and make sure that both parties resolve a dispute through table talk.

The activities of the local actor comprise of 3 key functions: 1) concentrating on ways to reduce disputes, 2) putting pressure on the sides to participate in negotiation, 3) and offering their expertise as arbitrators or suggesting alternate solutions for resolution. The contributions of local actors are threefold; first, the community encounters relatively few and insignificant nature of cases. This is due to the special efforts provided by local actors and while often the risk received during judgment and compliance by some of the local actors. Secondly, local actors speed up the justice process. It is necessary because victims should get timely relief otherwise the provision of late justice would fuel the victim and his relatives, which would lead to further cases. Thirdly, the local actors make sure the provision of justice to the marginalized group of the community. For them, inexpensive and quick access for every segment of the community is the only way to create harmony between the community members.

5.1.1. Local Actors from within Community

Pakistani legal system interplays between officials and traditional ways of judiciary where money, networks, relationships, honor and prestige play their role in Judiciary settings. Conflicts that occur in the village settings are resolved using the family system (*Ghar, Khandan, Sharika, Biradari*) where the conflicts and feuds may

revolve around disagreements related to *Zan* (Women), *Zar* (Material Wealth) and *Zamin* (Land). Chaudhary emphasizes that the traditional justice system operates through *Khandan*, *Baithak*, *Haveli*, *Dera*, *Panchayat*²⁰, *Pirs and saints*²¹. The *Khandan* (Family) is explained as extended, joint or hierarchal system that is based on status and position. Here the senior or elder of the family (brother, father or uncle) becomes the settler of the family disputes and is considered responsible for keeping the peace and harmony of the family. Usually, the members of a *Khandan* obey the decisions of the head of the family by accepting charges, punishments or compensations. Chaudhary claims that truth does not matter but the decision made by the elder or the member who is considered a decision maker does (Chaudhary, 1999).

Lyon's work 'Power and Patronage' (2002) envisioned landlord or rural elite of Punjab Province of Pakistan as an important stakeholder in conflict situations. In the context of a village, rural elite that is 'the landlord', acts as an arbitrator and decision maker in local disputes. However, Lyon contests that despite the power, the landlord has a collective responsibility to maintain peace and harmony in the village by diffusing and managing conflict situations. Landlords who own land and live in the village are part of those village communities and are obliged to address the community's needs and demands. Lyon states the Pakistani peasants in case of a dispute, do not approach the legal protection from the state institutions in the first instance because they know it will neither be fruitful nor forthcoming. It is the idea of rapid and personalized resolution to their problems that attracts the locals towards the informal assemblies for justice delivery. The parties involved want to know the character of the judge or arbitrator and want the judge to be partial towards them by keeping their tract record, their descent and family backgrounds in mind. Lyon calls these landlords bridges for societies who are shifting from traditional patterns (traditional authorities) and are emerging with patterns of modernity (legal-rational authority). The resourcefulness, education and familiarity with the state actors such as police and other government offices besides their personal and family networks acts as an important source for the villagers. The arbitrators allow the participants to air their grievances. This also includes the parties who may have no direct involvement in the dispute but may get affected by the consequences of the dispute. Arbitrators

²⁰ Baithak, Dera, Panchayat are mechanisms established locally for social interaction and for dispute resolution.

²¹ Whereas Pirs and Saints as religious authorities also help settle conflicts in village settings.

interrogate all the disputing parties and all witnesses and make a decision based on the knowledge that may or may not have emerged from the trial in order to reach settlement which is accepted by both parties and also considered fair. Lyon also mentions that the arbitration councils have lost their authority with the emergence of modernity and embeddings in capitalist market (Lyon, 2002).

Informal mechanisms for conflict resolution ask for community participation and representation of the disputant parties. In case of *Jirga*²², large meetings are held, and participants sit in a circle. It is, however, the group of elders/respectable villagers who after listening to both involved parties/groups on whose request the Jirga was called, make a final decision. Jirga is held by the powerful groups where 'women participation is rare'. An ideal Jirga, however, is to be of the leaders that 'serve the community and are guests of Gods' hence the purpose is to make just decision otherwise a wrong decision might 'risk the wrath of God'. Jirga asks for direct participation of both parties where elders provide them a chance to tell their side of story to conflict to come up with a decision ensuring reconciliation. The forums are not free, and fees are also charged from disputants. Hard punishments are awarded, and cases of serious offences are dealt speedily within few weeks (Braithwaite & Gohar, 2014, p. 536).

In the village Fatehpur community actors are also identified who play their crucial role throughout the process of dispute resolution mechanism. First are local rural elite leaders (such as Landlords as *ChangoMurs*, *Raees*, *Sardar*) and community elders (including elders of *Biradari/qoum/Zat*, and religious leaders). These potential actors used their power, status and authority to assert pressure on conflicted parties for resolution. Not only that, they also control those forums that help in identification and establishment of an event as disputes. This is why in the informal setting, the question of accessibility, speedy justice and affordability are attached to these social actors. Actors such as village elders, religious leaders, *ChangoMurs* and other mediators mostly are based in the village. Few distinguished characteristics of these community actors may include speaking the same language, familiar personality and familiarity with the customary law of community and highly accessible such as at doorstep.

²² Informal ADR prevalent in Khyber Pakhtun khawa Province of Pakistan and Afghanistan.

5.1.1.1. Sardars (Head of Clan)

According to anthropologists, ethnic group (*qoum*) can be defined as “A group possessing some degree of coherence and solidarity composed of people who are, or at least latently, aware of having common origin and interests” (Majeed, 2015). *qoum* is one obvious unit of social organization in rural Sindh which is led and managed by a common Sardar. The fundamental principles of operation and existence of *qoums* in Sindh are almost uniform in the social structure of village, though minor variations can be seen with respect to *qoum* and geographical areas. The structures in their lives are same such as 1) *Otak/Faislo* 2) honor and chastity, 3) Social solidarity 4) elders make decision on the behalf of individuals etc.

In the power and status hierarchy within a *qoum* (*Clan*), Sardar holds the top position. They are typically the heads of tribe(s) in Sindh as well as Landlords, hence, they often lead the common councils kept for matters of wider nature such as significant inter-tribal matters or feuds. Otherwise, the Sardar appoints an individual to chair/head the *Faislo* established for dispute resolution at village level. However, minor issues such as ordinary robberies, may be determined by a collective headman or by a *ChangoMurs* (worthy and honorable elder of ethnic group or village). If the matter is among the sharecroppers, the landowner may lead the *Faislo* himself. When the same *Faislo* arises in extended family matters such as abusive language, marriage agreements or properties, the elders of the family sit together and listen to the matter and decide and take actions on behalf of both parties (Tabassum, 2016, p. 171).

In Sindh, *Sain Asghar Ali Meerani* is a renowned Sardar of *qoum Meerani* and is considered as ‘Elder’ of the *Meerani*. Since the tribe is dispersed in many geographical locations such as District Larkana, District Nawab shah, Punoakal and Sukkar etc., therefore the Sardar manages the affairs of the clan/tribe by appointing facilitators and establishing forums at district level. *Sindh Mallah Forum* is also one such forum created and established by *Sain Asghar Ali Meerani* to enhance group solidarity among the *Meerani*. The Forum was established under the political wisdom of Sardar *Sain Asghar Ali Meerani* who is not only the President of the forum but formally has also worked as DIG Police Larkana for a long period of time. Initially the forum of *Sindh Mallah* was established for connectivity, welfare, protecting the rights of *Meerani* tribe and also to address and resolve their inter-group issues at province level. Later, the Forum also indulged themselves in provincial level politics,

though yet not has contested any election or nominated any member independently from *Meerani* caste. The political power and hold are possible because of the Sain *Asghar Ali Meerani*. A key informant told me that “*due to Sain Asghar Ali Meerani, the Meerani took advantage during police investigations and got relief even in courts proceedings and decision making*”. This forum creates connectivity among *Meerani* ethnic group at province level and made the *ChangoMurs Meerani* more powerful and influential in research site. So, the *ChangoMurs* of *Meerani* caste gained the trust of community, especially of their own caste. Though the Sardar of the *Meerani* tribe is common but ethnic factions also prevail within this dominated ethnic group of *Meerani* in the research site.

In Fatehpur, *Meerani* ethnic group has been divided into two main factions. One of the Key informants narrated the history behind the factions and reason of feud within the *Meerani* clan in the village. It is however vital to understand that when powerful groups who are also socially equal get involved in a feud over power positions then it is only the Sardar who as mediator can intervene and gets to resolve the conflict. In such cases, the in-placed conflict resolution mechanism which in our case is *Faislo or ChangoMurs* at village level may also fail or be considered inadequate to defer the feud. The Sardar in the interest of the clan survival not only intervenes but also ensures that solidarity of the clan is kept intact by offering compensations and at times punishments. Since the conflicts between socially equal groups within the same *qoum* or castes, may lead to generational feuds and revengeful back and forth killing. The division in the clan harms not only the group solidarity, peace of the area but also the survival and power hierarchy of the Clan in the social fabric.

Seemingly, the village level actors failed to resolve or even mediate effectively between the groups as the conflict involved two equally powerful groups and involved members who themselves were supposed arbitrators in times of crisis. Another more influential local actor i.e., Sardar had to be involved to defer the situation.

Power-sharing or dedicating powers to intermediaries/facilitators are not only a mechanism in feudal structure to control rural masses, but to mitigate and resolve dispute at locale level and enforce their verdicts to keep power in their hand. Further, this dedication of power at various levels made possible to establish rule over rural masses, make ruling for the landlord convenient and time saving as feudal did not need to visit every time or be available in his area and did not have to dedicate too much time to look after the minor affairs of the community. Tabassum asserts that

Sardars are typically the heads of tribe(s) and lead the common councils kept for matters of wider nature such as significant inter-tribal matters or feuds. But Sardar also appoints *ChangoMurs*, ethnic group elder and *Kamdaar* for *Faislo* and for assistance (Tabassum, 2016, p. 171). The Sardar dedicates his power to *ChangoMurs* and others to enforce their verdicts, as they are well-familiar with the decision-making and *Faislo* mechanism to control and handle diverse conflicting situation.

I was told that in context of district Larkana, a person named Ali *Meerani* is the righthand man of the Sardar and another powerful key player as he serves the ears and eyes for the *Sardar Sain Asghar Ali Meerani*. “*Ada, Sardar samoora kamah changaymurs ji zemay harundo aahe, ChangoMurs khe zameen, taqat aain ghotah je pakah hoondhi aahay. ChangoMurs ko be Masilo huje, sardar khe buddah eindo aah, huna je chawana je mutabiq Faislo kando aahay. Zarorat aahir police khe be vicha mein wajando aahay*”. Sardar not only enjoys authority but land and acknowledgement as a leader by the rest of the tribe leaders. The Sardar is kept updated about the affairs of the clan through the administrative managers like Ali *Meerani* who also belong to the same clan and enjoy power because of their association with the Sardar. Ali *Meerani* is believed to managing the dealings with Police for the tribal disputes in District Larkana on behalf of the Sardar.

The authority of the Sardar in the village Fatehpur is ensured through the *ChangoMurs* of the *Meerani* Clan in the research Site. Since there are different ethnic groups settled in surrounding villages therefore the Sardars vary in the five villages of the Union Council. In-times of inter-village feuds, the Sardars on both ends with the help of their *ChangoMurs* form alliances with other groups to dominate the Alternate Dispute Resolution Mechanism. Clan feuds are dealt with raising the panel for *Faislo* or by involving Police and using resourcefulness of networks over others.

5.1.1.2. *ChangoMurs*

The landlords operated through intermediaries or what are known as *paihare-dars* (watchmen) or chief facilitators. The latter continued to be counted among the notables of their region. From the time of the Iranian and Afghan invasions, they have acted as the protector, guardian, patron of dacoits, criminals, cattle-raisers, kidnappers, pirates, and keep the landlord free from the control of the law's tax authorities, from the British period to the present. Being a very prominent person, they could not be arrested or imprisoned, nor could any of his people be imprisoned

by any party or government department (Beg, 2018, p. 5). To keep the power in their hands, different actor's part play on the behalf of landlords, by share or dedicate some of their powers to intermediaries or facilitators make possible to hold their control and enjoy positions.

In simple words, *ChangoMurs* can be defined as the head of a panchayat and a trustable representative elder of ethnic group in a village or a town in Sindh (Jotwani M. , 1996), whereas '*Wadera*' (Feudal lord) is derived from the Sindhi word "*Wadro*" which means an elder. Initially a village elder is known as "*ChangoMurs*" which means a noble man. The distinction between a *ChangoMurs* and *Wadero*, is that a *Wadera* is considered as wealthy and possess hundred acres of land. While *ChangoMurs* is not necessarily rich landlord but a person with good communication skills and have the history of serving people when needed. A *ChangoMurs* said to be a noble man of impeccable character and dignity, free from evil tendency in most cases. Their role and expertise are useful when it comes to settling disputes between two parties. Yet most of the time a *Wadera* maintains his influence and power at any cost. Once the tribe gets into a conflict with another tribe, *Waderas* stimulates disharmony and absorbs more strength.

All *ChangoMurs* of *qoum*²³ share a number of features, despite their differences in personality. While their age varies but usually exceeds from thirty years, in their physical appearances and manner they look like most peasants, but a little more prosperous. None wears this common western clothing like the younger generation or urbanites. The traditional dress as Shalwar, Kameez and Waistcoat as part of traditional dressing is preferred. The most important ascribed characteristics are that they belong to the village's traditional caste and to families who in the past had a recognized status and enjoyed power. Often, those growing in wealth and power are the successful head and decision-makers within his kinship. Therefore, these have gained power by rendering agriculture as a competitive endeavor, and in some cases by getting involved in other business. They are innovative to an extent that they will accept new seeds, machines, and other adaptive changes that will help increase their

²³ Quom is a confederation of several *Biradaris*, with a shared ancestor for many centuries. Such quoms and *Biradaris* are rank classes that usually refer to the role of a certain class in a rural hierarchy, based on occupational castes.

productive output. They have also firmly embraced material change as one of their life's ideals, bigger and better homes, better clothing, jobs and relationships, and a higher general quality of living.

In the research site, the *ChangoMurs* enjoys his status due to hierarchy, inheritance and social positioning. This means the *ChangoMurs* is understood as a separate status in the upper strata as he plays an important role in the community affairs. It is considered an honor to be a *ChangoMurs*, moreover the position has direct relation with power.

It was also observed that the *ChangoMurs* have the most fertile land, belongs to a specific family, ethnic group or caste, and political power and links with government and *Sardar of qoum* (a position that is inherited or earned due to his social standing). Therefore, *ChangoMurs* have fame, wealth and power. To keep that power, he must relate to larger institutions or with larger networks (such as *Nawab/Sardar* and government institution). Additionally, he holds important position to extend privileges or to control and influence community members through *Otak*. For *ChangoMurs* to continue enjoying their position, he not only asserts his influences on government laws and decisions (only if he is a *Sardar* or through using his contacts with *Sardar*) and try his influence appointed officials of Police and Judiciary at the local level.

In village Fatehpur, the patrons/*ChangoMurs* are appointed from the *Meerani* caste. *Meeranis`* are socio-economically and politically dominant cast from last few decades. *Meerani* uphold the most fertile land, local elite, and strong social and political network is run by the *Meerani* as well. They nominated their political contestant three times for Provincial Assembly, but they withdrew the name each time. The aim of the nomination is to gather *Meerani* caste at one platform and to gain power and prepaid for future. If we go through the history of the village, *Meerani* caste identifies themselves as powerful group due to their continuous involvement and dominance in local politics such as in *Faislo* and the social solidarity and social networks.

Both *Meerani* group have coalitions even with other castes and have nominated their own *ChangoMurs* on bases of wealth, landowning, power and links with *Sardar* or *Nawab*. Each *ChangoMurs* seek to gain the support of other *ChangoMurs* of same or different ethnic groups, and *Sardar* of their own caste as well. There are few castes in the village, who are traditionally peasants and provide cheap agricultural labor to other. These peasants do not have land, mostly illiterate and poor and submissive in

nature towards their landlords but strictly connected with norms and values, therefore always fighting and taking stand for their honor. This submissive nature of those peasants often favors socio-politically dominated group but due to factions within the group, these peasants enjoy little economic benefit in the time of numbers game.

It is the divisions within dominated castes that call for alliances with other socially parallel and lower castes. The factions of dominant caste support alliances either for political reasons or specifically during disputes or local elections. Village politics works vertically where the head of the clan/ caste/ Elders of the *Biradari*/ family decides the nature, extend of alliances and support for other groups active in politics. Candidate of an alliance group automatically wins the support of the whole social group because of the principle of collective identity and integration. Therefore, the political domination and control of resources are based on coalitions and alliances. In return, the coalition groups in alliance are offered manpower as social resource and moral and legal support in terms of protection by the influential of the dominant group during conflict, crisis and political support. All the above-mentioned situations create a high level of interdependence within the village where every social group is interconnected and dependent on others on the basis of personal and collective group interests. Only few households remain unaffected by these factions and alliances.

The two recognized *ChangoMurs* in Fatehpur are *Shaban and Manzoor Meerani (ChangoMurs-1)* and *Sardar Khan Meerani (ChangoMurs 2)*. The status of *ChangoMurs* is allotted by Sardar to the head/heads of the powerful families of the same clan in a specific village. Hence the status of *ChangoMurs* owned by *Shaban and Manzoor Meerani* is considered as one which is interchangeably used by both brothers as a privilege as well responsibility. Here the authority lies with the family head and not with the person. Their status as *ChangoMurs* has appeared out of their social, ethnic bases and standing of *Meerani* caste which is further strengthened through the existing social structure of the Fatehpur village. The social positioning of a *ChangoMurs* is reinforced on the basis of one's reputation in the village, wealth specifically land, relationship with other influential *Sardar, Raees* of other tribes and ability of being resourceful in terms of having some political influence on local government institution (e.g., police, *Mukhtarkar* and lawyers). In Fatehpur, every group enjoys an alliance with a *ChangoMurs* on the account of these characteristics, so their issues are addressed and resolved at various levels, and they are provided with protection in odd or emergency times. Whatever the mechanism of dispute resolution

chosen by an individual, the consensus with *ChangoMurs* is essential. As *ChangoMurs* effectively holds the authority to preside the matters in *Otak* or the *Faislo* in presence of community or superior leaders and is also even at times able to influence the proceeding of courts (availability of witness, finance, relationship with governmental machinery) with the help of his social network and contacts. The *ChangoMurs* provides their facilitation and arbitration service free of cost, in return he enjoys the power, authority, influences and most importantly loyalty from other people. Furthermore, the community and public pays attention to him because of his important role specifically in informal proceedings and making decision.

ChangoMurs is also interested in monitoring what is happening in the village and in the personal suite. However, it is also a fact that few *ChangoMurs* are leaders in the sense of a person whose primary concern is with or for the village welfare otherwise he is a person, who mostly create constrains and resists in response to change, and builds an environment of competition for the capital (wealth and Land) and wants to control or subdue rivalry or rivals.

In Fatehpur, Larkana the land ownership and control over land are considered two different things. It means that people with small pieces of land does not have the right to use it as per will such as the decision regarding harvest cannot be taken by the owner themselves by their free will. It is because of the two different hurdles in this scenario; one is from *ChangoMurs* and the other comes from *Biradari*. The *ChangoMurs* have power regarding who can be provided with water for harvest or access their land. In case, any individual owning land in between the land owned by the Merani, if intends to create a water channel or need to visit their fields, work and cultivate the land. They may need good relations with *ChangoMurs* and consult them in all matters otherwise the *ChangoMurs* may create hurdles in such situations by limiting his access and will to work. What is to be cultivated and how to be distributed or kept is also sometimes subjected to the honor and permission of *ChangoMurs*. However, the *ChangoMurs* explained and justify their control and hold over other groups differently and call themselves providers, protectors of the villagers and custodians of the traditions of the society. A *ChangoMurs* of Fatehpur village explained that;

This village is our universe, and we do not have any individual identity but rather it is a collected version of identity which means suffering or pain or happiness or

problem of one individual is also our problem, pain, suffering and happiness. This is the concept of sharing and collectiveness, and every individual owns and recognizes it. In our society, there are two sphere of community life, one which is sharing and communication through Otak, where issues of individual in trouble are brought to discussion and addressed through whatever means. Whereas the other sphere is hidden and personal e.g., whatever that happens within the four walls of the house. So, people adopt various mechanisms to solve and address instrumental or hostile aggression to maintain peace in community. This phenomenon is historical, rational and logical, which the rest of world defined or understood. The rest of the world imposed feudal labeling on us and showed us an evil. Let me ask a question, Are the cities free of crime? Do the courts provide a quick decision and provide justice to individual, or do they have the capacity to throw the richer, powerful and influential person to jail? The biggest criminals are in parliaments and running the province and country. We have to deal with the outer world, we have to deal it with aggression otherwise, they will impose their will, sanctions on us. If we do not protect them, take charge then whatever the Hari is earning today, he will be deprived of that too and will get nothing hence resulting in being pushed to poverty or death. The norms and values of our tribal societies are just like soul- the foundations of our existence. Following the habits of these morality standards means focusing and following the demands of the soul hence this means that both inside thought (soul) and outside actions (body) are same and human being can be satisfied from their lives as the demands of the soul are fulfilled since a body without soul is nothing but dead. So without us watching and facilitating; all the things may fall out of place. As ChangoMurs, our job is to see that the habits are followed, the morality standards adhered to and common good prevails.

During Conflict, the parties involved are looking for remittance and help from a third party and there is no fixed pattern of consultation for dispute resolution that is the third party may be kinship/*qoum* Elders or *ChangoMurs*. However, it was observed that kinship ties are most effective ties to attain support. The sharecroppers shared that not supporting the landlord means risking one source of income and wages for future disputes. More the assistance obtained from landlords, more the bond be stronger between them. On asking why social groups other than *Meerani* look up to

ChangoMurs for dispute resolution and show allegiance. The responses provided were diverse and covered the *ChangoMurs* are powerful and have strength. “*They care about their own interest then why to make them enemies*”. Moreover, *they have influence to pressure other social groups not to violate village rules and liberties. They keep everyone in their role and ensure no other social group does the exploitation.* A few villagers also reported that in certain cases or in situations, the *ChangoMurs* were also referred to as *crocodiles that dominate the water source, how a fish which is powerless be in any competition to them?* The perception with the role and effectiveness of *ChangoMurs* is not negative only, it is also realized that it is the *ChangoMurs* who has helped them in their times of needs, and stood by them in good and bad times, it is because of this give and take relationship which builds the relation of trust and loyalty between the patron and client. The clan elders make sure that all clan members respect the customary laws. Criminal cases, though handled by the state courts, continue to be treated locally as well. As is shown in several case studies, the denial of mutual recognition has meant that many offenders have been subjected to the jurisdictions of both systems and have, consequently, been sanctioned twice: through imprisonment by the state and through compensation payments in the community (Epple, 2020).

Patron-client relationships between landlords and shareholders are though asymmetrical in nature in Fatehpur but are not static; instead, the power relationships among them vary with circumstances where both the actors involved share social relationships beyond the shareholding contract. Thus, relations are not limited to the exploitation of the sharecropper by the landlord but extend to the harmonization of reciprocal ties for the mutual benefit of both parties. In addition, the social conditions of shareholders and the strength of their kinship determines their loyalties towards landlord, beyond economic parameters. Sharecropper and landlord made alliance or ties on the basis of, loyalty or self-interest. A faction leader helps the sharecropper when sharecropper needs assistant or help, and the sharecropper becomes loyal to the faction leader and in return sharecropper helps them during election or when leader later desires. Otherwise, the sharecropper joins a faction only because it best serves his own self-interest at that particular time.

One way of harmonization of social ties among peasants, sharecroppers and landlords is through showing solidarity by attending and participating in communal cultural and religious festivals. Different religious and cultural ceremonies and festivals are

observed in the community each year. With the presence of *ChangoMurs*, these ceremonies and festivals are made more cheerful and vibrant. Almost every individual in the community desired to talk to the *ChangoMurs*, and the masses treated it as an honor for themselves. The *ChangoMurs* also take part in various solidarity occasions, such as birth, death, marriage and even during disputes. Such instances symbolize the creditability of the *ChangoMurs*; therefore, he conducts activities related to social, cultural and local development and resolves their community's disputes.

5.1.1.3. *Kamdaar*

Kamdaar is seen as the village's local bureaucrat. Landlords who had more than 30 acres of land normally hire *Kamdaar* (Assistant to oversee and report on behalf of the landlord). The *Kamdaar* has the impression that he and his role are more significant than any other local actor. *Kamdaar* holds all record of spending, labor, production and wages related to cultivation activities. Consequently, the majority of the villagers sought to keep a strong relationship with him. Hussain reported that sharecroppers fight with each other to get the best piece of land and often turn to unequal tactics for that reason. They poison the ears of the landlord i.e., *Kamdaar* or turn the landlord's supporters against one another. *Kamdaar* is sometimes bribed a few thousand rupees by one of the competing sharecroppers to win the landlord's favor. Sharecroppers usually like to establish a close and direct relationship with the landlord and usually don't like *Kamdaar* (Hussain, 2013). *Kamdaar* has power and controlled people by utilizing power on the behalf of landlord. He plays the role of land-snatcher and land-grabber; therefore, the Sharecroppers try to keep him happy and comfortable. *Kamdaar* can prove to be the worst exploiter, and almost have same power while in the absence of a landlord. Many landlords do not hire *Kamdaar* and instead existing *Kamdaar* keeps all the record themselves.

5.1.1.4. *Biradari* and Village Elders

In the research site, the household is comprised of three generations (grandparents, unmarried sons and daughters and married sons, their wives and their children). The properties are possessed and owned by the family as collective assets where the family operates collectively may it be inheritance rights of the property, earnings or decisions regarding important issues, everything is managed collectively. The final verdicts regarding a dispute also rest on family elders and *Biradari ChangoMurs*. As

Mohammad (2007) referred to Hamza Alavi, who pointed out that if there would be a way to generalized Pakistan's diverse social structures which are "the pivotal institution in the "traditional" social structure of Pakistan (...) is (...) the kinship system (Mohmand, 2007).

Beyond the family household there are *Biradari* members (kin group), who traced themselves from paternal line of common male ancestor. Raza (1993) wrote about *Biradari* and said that in village setting, each individual is a part of a complex network of rights and obligations, which extend outwards from his/her immediate family to that of kin and fellow villagers. Further he defined *Biradari* as, 'it comprises of all men and traces their relationship to a common ancestor, no matter how remote. The member of descendant of *Biradari* includes those who claim and trace themselves through common paternal link'. In Pakistani societal context, the *Biradari* has given elders a considerable amount of power, respect and have power to reprimand deviant and given responsibility to keep intact *Izzat* (prestige and honor) of *Biradari* (Din, 2016). For David Gilmartin "Indeed despite clear pre-colonial origins, the term *Biradari* gained increasingly common political currency in the twentieth century, reflecting the contradictions inherent in the structure of the colonial state...the language of *Biradari* – suggesting reciprocal relationships forged through political transactions – thus allowed villagers and local village leaders to penetrate into the larger bureaucratic and political arenas outside, whilst maintaining the inner essence of their own struggles for status within the village context" (Gilmartin, 1994). For Hamza Alavi *Biradari* can also be used to describe other relationships and a way grouping people (Mohmand, 2007).

In the villages, mostly household consists of extended family to joint family system. It is to be believed that the Joint family system is more compatible for farming rather than nuclear family system. Villagers made two arguments for that, 1) with small family it is unable to maintain an intensive agriculture system. Therefore, for time to time they need to hire labor which cost money, secondly, politically the "say" of the family decreases and it cause negative consequences.

The *Biradari* system even has taken the concept of individualism, personal and interdependence in decision making and daily life activities. In *Biradari* context, Raza (1993) viewed that the individual does not act on his own but rather it depends on himself/herself reputation in a society: reputation means here the *Biradari* one belongs to as well as with fulfillment of obligations as this abidance by the rules and

fulfillment of obligations are reasons that intact *Biradari* and maintains solidarity (Din, 2016).

Observing the code of *Biradari/qoum*, the elders of the *Biradari* tried to maintain honour and the better image of their *qoum* through attaining power status through capital as well as by ensuring solidarity at an individual, the family and at a community level. Therefore, *Meerani* have given much importance to village social structure. Generally speaking, they consider themselves as very brave and attach virtues like gallantry, honesty and loyalty with their *qoum* and community with a strong sense of devotion towards social norms. The virtues and devotion are said to be learned, shared and transmitted through oral traditions from elders and other community members from past many generations.

Biradari plays an important role to resolve dispute at community or *Biradari* level and if it fails to resolve then at least *Biradari* helps as restorative party to bring their ethnic group to negotiation table through asserting pressure. In the research site, *Biradari* is considered as political system other than social group specifically among *Meerani*, as they have their own *Meerani Mallah* forum. *Mallah* forum has too many members in all over Larkana district as well as Sindh and uses their phone numbers as physical strength for their political gains and objectives. Hence, *Meerani* as one kinship group because of their hold and strength also have their own appointed *ChangoMurs*. It is also by virtue of their social and physical strength that they gain competitive advantage over other social groups and are able to play their effective role to put pressure on other *ChangoMurs*, *Sardars*, and parties to resolve disputes.

According to the key informants, *the elders of the Biradari play a very important role in startup dialogue which leads to building peace in a community. The dialogue is the first step to bring both parties together at a place to resolve the issues that provoke the peace of the community.* The key informant also said that *the most difficult task is to make them agree on table talk because dialogue means both parties agreed to resolve it. Otherwise, dialogue with victimizer symbolizes hurting their honour and accepting defeat of an individual, family and qoum.* The Imam Masjid (prayer leader) or Syed (religious elite) along with elders visit the victims and try to convince for dialogue and peaceful resolution of the dispute.

The communities from the beginning respect their elders and there are few reasons for that, such as elders are the custodians of traditional wisdom and the matter of accessibility and affordability are not an issue while dispute (Shinwari, 2015, p. 22).

The village elders of a *qoum/Biradari* are considered the most respectable, loyal and maintain dignity among their ethnic groups in village settings. They have the distinct experience, knowledge about culture, evolution and evidence of a verbal culture of traditions. The roles of the elders are to bring about collective social stability and harmony in the village. They are not simply assembled to punitive people but rather the ultimate goal is to settle a dispute at different levels (such as at household level, at *Paro* (neighborhood) level, ethnic level or village and inter-village level in extreme cases). Their immediate effort/ objective is to strive first to bring peace among the disputants at the village or internal village level and later ceased any further aggression permanently. Chandra (2008) argued that among traditional communities, community members still put trust in the advice of their elders, specifically if any dispute does prevail and there is a need for peaceful resolution, due to their political neutral pieces of advice and experience (sensitivities matter can be dealt with) and further, the procedure is less expensive and easy to reach a conclusion (Yideg, 2013, p. 3).

According to community members, the Biradari elders have skills to build peace in a community. The majority of the community members depict that the elders are loyal, honest and respectable who by using their status, assert pressure through other close friends of both disputant parties, *ChangoMurs*, police etc. Therefore, elders cannot be simply ignored. Moreover, the ultimate aim of their efforts is to start peacebuilding processes, the other Biradari members support and convene both parties.

One such elder of a *qoum* mentioned that; *We elders have a meeting place in Otak of ChangoMurs and our private area. We also especially meet together when we are asked to do so. We get input from both parties, community members and other significant groups about the incident. Other interest groups as well as the Police assist the Elders and ChangoMurs in many respects, including taking the disputant parties to us and executing out our decisions. We provide opportunities for disputant parties to have an open dialogue and conversation on the dispute. We elder and others are doing our best to resolve disputes and re-establish relationships. After establishing a consensus between the two sides, at the end, we offer Dua-e-Khair as a ritual for thanks and help from ALLAH.*

The social relations and social ties of Biradari of the community referred to as social capital, therefore, the role of respected elders is to immediately stop further aggression in a post dispute situation, which means they play a central role of dispute

Preventer. According to a respective elder of a *qoum*, the concept of social harmony and peace was their tradition and a ritual at the same time which was observed by their ancestors. So, resolving a dispute is merely not only an objective to achieved peace communally but rather a fulfillment of promise with the dead one. Further during *Faislo*, elders provide an input while the hearing proceeding in progress.

An elder of the *qoum* elaborated that *“If both parties agree on verdict given during the Faislo and consider provision of justice as reasonable. Also, if the offender apologies for the reasons and agrees on punishment and compensations. This means purpose of the Faislo is fulfilled which is to resolve cause of dispute and everyone must at least be satisfied from the resolution. For finding a resolution everyone works honestly, sensibly and for collective well-being of Biradari. The resolution among Biradari setup gives advantages to disputant parties to identify the real cause of disputes and beneficiaries, as sometimes the cause may be hidden for political reasoning and support.*

A key informant reported that *the village has dedicated ChangoMurs who have got more influence and control not only their own but other tribes. The elders are more dependent on ChangoMurs if in any case, an inter- Biradari dispute for resolution is reported to ChangoMurs.*

5.2. Mechanism of *Faislo* as Formal Forum for IDRM

The traditional justice system operates through *Khandan, Baithak, Haveli, Dera, Panchayat*²⁴, *Pirs and saints*. The social interaction points such as *Baithak, Dera* and *Haveli* are places of contact where only the news of the dispute reaches. Whereas, in a similar village setting, the systems like *Panchayat* are considered a complex form of traditional judiciary of the community where landlords usually sit and gather and settle the disputes. Some institutions like *Baithak* and *Haveli* are limited to their own clan (*Biradari*) but *Panchayat* deals within as well as out of the Clan (*Biradari*). All institutions deal with minor as well as serious crimes that happen or occur with the villagers or villager premises. The purpose of these assemblies is to provide platforms for justice delivery²⁵ (Chaudhary, 1999).

²⁴ Baithak, Dera, Panchayat are mechanisms established locally for social interaction and for dispute resolution.

²⁵ Whereas Pirs and Saints as religious authorities also help settle conflicts in village settings.

This section identifies all such platforms in the research site that either receive the news of the dispute or are used for alternate justice delivery. These Forums are `social contact points` as well as public spaces where people not only interact but also bring forth their disputes for the purpose of resolution. It is through these forums that the Tribe Leaders, landlords and Elders exercise their influence and assert pressures over others to keep intact the group solidarity and village harmony.

There are different names and also similarities and differences in the structure and functionality of the IDRM mechanism throughout Pakistan. The *Faislo* mechanism is used as a form of dispute resolution in most villages of Sindh. Most of the local actors involved in the IDRM mechanism (*Faislo*) are un-elected and are individuals who work as permanent members in the dispute resolution body for generations. However, few of them are involved occasionally when someone requests or needs their presence.

The IDRM mechanism does not consist of codified customary dispute resolution procedures and follows the oral tradition from many generations. There is existence of no distinct legal body, but every matter is resolved through IDRM recalled and recognized with the name `Faislo`, a mechanism that also activates in case of a dispute, conflict and feud in the village that needs urgent resolution through community actors. IDRM i.e., *Faislo* addresses Civil and family matters such as family disputes, robbery, land disputes, divorce and adultery and criminal cases such as killing by involving all relevant local actors.

For dispute resolution, the victim or his family or friends on the behalf of victim contact with *Kamdaar* or *ChangoMurs* and *ChangoMurs* of *qoum*. Furthermore, the information is disseminated to other members of *Faislo* through *Otak*; the accused one is also asked to provide the answer by himself or through others. Both parties talk with their elders or *ChangoMurs*, and unless both parties do not come to the *Otak*, the case shall not proceed.

All interested individuals are free to participate in the *Faislo* mechanism from within the village or outside of the village, but only insiders and local community actors such as *ChangoMurs*, Village Elders of *Biradari*, other significant members who can be indirectly influenced through dispute are allowed to speak. Although all members of the community can participate but mostly elder members attend the case hearings. The date, time and venue are fixed by the *ChangoMurs*. *Faislo* is held in *Otaks* since

it is considered a public event and is a uniform activity. The participation in *Faislo* varies with reference to the nature of the case.

In general, the victim expresses his concerns before *Faislo*, and local community actors are made responsible for the response. Local actors ask the disputing parties to first develop consensus after hearing both sides narratives, so that the dispute can be resolved. In case the culprits accept their mistake/violation/ crime, the local community actors suggest possible ways (compensations, punishments) to mitigate the grievances of the affected or victim party. The possible ways may include a public apology, payment of compensation, or a promise to not repeat the mistake\crime. If a solution cannot be found by the disputing parties, the disputants request for a high level of *Faislo*. Disputes are taken as a disagreement between two individual or group but rather it is seen as a community problem, and therefore the rest of the community may participate, cooperate and assert influence on both sides for resolution.

5.2.1. Significance of Key Community Players in *Faislo*

The *Faislo* consists of Sardar, *ChangoMurs* of village or villages, *ChangoMurs* of *qoum*, *Musheer* of both parties, sometimes representatives of Civil Society and any powerful individual of any *qoum* or *Biradari* as arbitrators. Based on the nature of the disputes, arbitrator panel may increase or decrease. Normally, Sardar is considered the final authority of any *qoum* and under his supervision, various *ChangoMurs* in village settings works. Initially, Sardar Coordinates and supervise *ChangoMurs* and *ChangoMurs* control the activities of masses. He is fully authorized to resolve the disputes of villagers. Generally speaking, the eldest, the respected and the most experienced individuals are said to be the elder of *qoum* through consensus. In addition to the qualities mentioned above, if an individual is influential and wealthy is known as *ChangoMurs* of *qoum*. Thus, IDRM mechanism is hierarchical in nature.

Local actors such as indigenous courts, councils of elders, and similar traditional and community authorities contribute towards the resolution of disputes (T.J, 2012). The purpose of assembling local actors is to address and find an appropriate solution to the existing problem that they all hold in common. In Fatehpur, the *Faislo* is the basic council for dispute resolution, and it is comprised of members such as elders (head of *Biradari/qoum/Zat*) and traditional authorities (*ChangoMurs*, *Sardar* of *qoum*) who play an important role in resolution from inside the community. *Faislo* resolution

councils are quite different in formation, composition, and functioning, except that they share a few common traits with panchayats and jirgas. This means the councils do not follow the state legal system in procedure, formation, and verdicts, which causes tension on both sides, but these local councils are legitimate in the eyes of the local population.

Furthermore, *Faislo* plays an important function by gathering local actors and the community in one place and advocating the dispute through presenting both sides' narratives, initiating dialogue between them between parties and local actors, and using political influence to reach an appropriate resolution and verdict. The purpose of assembling local actors to resolve the dispute is different from mechanisms such as dispute settlement or reconciliation processes, as in *Faislo*, both parties present their grievances, talk about the damaged relationship, and violate community norms. Therefore, the ultimate aim of *Faislo* is to restore the relationship and prevent any further aggression from either side.

Moreover, the locale actors enable dialogue processes between both parties and provide them a suitable platform to present their own narrative to understand each other. On the other side, these local actors create an environment to faster the dialogue processes and inclusion for all and take serious efforts for joint actions against culprits. The purpose of these gatherings is to present several solutions to resolve issues, *Faislo* would not violate human rights standard, involving multiple actors so that no one raises questions on verdicts and makes sure that vulnerable groups or victims were not pressurized to accept the verdict.

5.2.2. *Musheers* as Negotiators

As the disputing parties bring a dispute to the forum of *Faislo*, the first step is appointing the *Musheers*. Under *Faislo*, the disputant parties select an individual from either their own *Biradari* or from outside the *Biradari*, but mostly from their own village. This person is commended with various social responsibilities, including dispute resolution, because he is considered intelligent, experienced and understands the socio-cultural and political context of the relevant dispute. This person is called as '*Musheer*'. *Musheer* performs the role as an individual who, in the course of dispute resolution, negotiates on his party's behalf. He takes part in the dispute resolution discourse, negotiates with another party, also with the *Faislo*'s panel, and provides assistance in resolving disputes. The *ChangoMurs* works independently at different

levels (family level, neighborhood level or *Biradari* level or village level) in their villages, but if one or both parties in a dispute are not satisfied with the *ChangoMurs'* decision, they can appeal to the higher level. In such a situation, even parties are free to approach the FJS rather than go to a higher level.

5.2.3. *ChangoMurs* as Arbitrators

The *ChangoMurs* plays a significantly important role in conflict prevention and resolution. Historically, at village level or neighborhood level a *ChangoMurs* or respectable elder heads *Faislo* in his *Otak*, while in case of peasants the landlord or *ChangoMurs* of the village (if he is the landlord) will give the verdict, and at tribes' level, the *Sardars* of an ethnic group are the patrons. The *Faislo* is a decision-making council is male – oriented with all men as either head and participants. The authority is acquired through the patriarchal system and is exercised by using influence on a group, who accepts their power. They are the patron of community or village, and the purpose of their efforts are to keep the peace and order in a society (Tabassum, 2016).

As a result, the *ChangoMurs*, or landlord of a village, always intervenes for three reasons: first, to give the impression of being a more powerful and influential person who can impose his will on others; second, *ChangoMurs* have proven themselves as powerful figures time and time again; and finally, the masses are dependent on him for protection and provision; as a last resort, they look to him for help and resolution. Therefore, *ChangoMurs* is said to be a dispute preventionist and a peacemaker. Furthermore, *ChangoMurs* has the power to constitute a fact-finding committee for investigation and reconciliation. Later on, he starts a dialogue process with groups, gives the verdict and enforces its implementation, such as punishment or reward (in terms of money, compensation, or otherwise).

ChangoMurs is an arbitrator, who is many a times trusted by the villagers and the parties to address the dispute and offer dispute resolution services if and when necessary. Thus, in a village setting, *ChangoMurs* are readily available to resolve disputes at any time. The preference of arbitrator (as they exist at different levels) is dependent on the nature of the disputes, *ChangoMurs'* credibility, and the arbitrator's familiarity with individuals. As a result, the *ChangoMurs* are well known to the villager, and disputants' groups. This familiarity between the arbitrator and the parties in the case helps to create a good sense of confidence. This faith has led to disputed

parties and villagers feeling possessive about their community's dispute resolution mechanism. However, in case If any group does not want to consult with *Otak* of *ChangoMurs*, he through coercive power (such as police and his arm forces) or ethnic and communal pressure compels them to bring their cases in his *Otak* for *Faislo*.

For an arbitrator, no formal educational qualifications are required. They are trusted by the people of the village as a candidate who wishes them well and is motivated by the spirit of social service. Besides, the arbitrator must be familiar and know the traditions, customs and practices of the indigenous people involved. Educational credentials for arbitrators are often not deemed to be of any significance. The children of the *ChangoMurs* and *ChangoMurs* of *qoum*, however, have obtained a formal education.

A key informant said '*there is no need for academic credentials for arbitrators*'. He added more and said that *the arbitrator must be a person who is committed to social welfare, who is truthful and speaks the facts, and who have leadership qualities*. One villager said *a person who has dedicated his time for social service*. Another added *that he must understand the traditional structure and possess cultural, social and political knowledge and can bring all at a point*.

5.2.4. *Kamdaar* as Advisor and Record Keeper

Another important character is *Kamdaar*. The *ChangoMurs* cannot deal with all cases individually, so they appoint a *Kamdaar* because of their intelligence, experience, and understanding of the political background, and they also keep records of loans and useful items. *Kamdaar* also provides important information (past and present) to *ChangoMurs* about the incidents and individuals, and sometimes advises him for his own benefits. *Kamdaar* also helps to remember the conversations between *ChangoMurs* and the masses, as well as between the *Sardar* and *ChangoMurs*. One of the functions of the *Kamdaar* is to assist during the IDR mechanism. His task is to conduct *Faislo* smoothly. The role includes informing people about the dispute, calling a party, fixing the day of *Faislo*, ensuring that the disputing parties and other important local actors are present at the time, and monitoring the implementation of the decision as per the instructions by the *ChangoMurs*. Sometimes, people assert negative attributes towards *Kamdaar* because, according to villagers, he is the one

who poisoned *ChangoMurs* against the masses. Ultimately, the masses suffer a lot due to his poison. The reason behind being poisoned is that the *Kamdaar* pertains to *ChangoMurs*, that he is only loyal to him, and he works for his benefit.

5.2.5. Imam Masjid as Mediators

In the research site, it is not only social or political actors that actively engage in dispute resolution processes; religious players also play an important role during dispute resolution, specifically those that need religious guidance. The Imam Masjid and the Pir of the Dargah serve as two prominent players in disputes pertaining to family, matrimony, and other matters of religion. Inter-family disputes between spouses over matrimonial rights, violence, or misbehaviour are referred to the masjid Imam, who is requested to mediate between both parties and guide them towards peaceful co-existence. The Imam Masjid is trusted with confidential and intimate details of the household and is usually involved in guiding the married folks in the light of religious teachings on how to be good spouses to each other. The Imam masjid starts by listening to both sides patiently. Instead of blaming one party, he neutralizes the situation and highlights the importance of social responsibilities, especially the roles and responsibilities of men and women in marriage. The dialogue process is run till both parties have let go of their grievances and wish to end the dispute. The ending of the dispute is marked by a *Dua-e-Khair* (prayer for well-being) in which both parties participate and amicably pledge not to repeat old mistakes. *Dua-e-Khair* is also symbolic of having a fresh start and letting go of one's animosity.

In research area, most disputes are settling at the grass-root levels by community actors. Since *Meerani* are in hold of power therefore in cases of intra ethnic group level, elders of the *Meerani Biradari* make decisions on the behalf of their ethnic group members. Whether the *ChangoMurs* or elder, an ethnic group can lead and perform leadership role by inviting groups at personal space or at *Otak*. In inter-ethnic group level, these elders and *ChangoMurs* represent their ethnic group and perform various roles such as “spokesperson of their ethnic group, witness, arbitrators, insurers of implementation of the decision of *Faislo* (may it be compensation or punishment) and act as a mediator to consolidate ethnic group at the community level.

From the above discussion, it can be concluded that: (i) The Indigenous Dispute Resolution Mechanism functions on hierarchical base; (ii) The Sardar is the final

authority and *ChangoMurs* of the village is selected by Sardar on the bases of *qoum*, family, wealth, ability and authority; (iii) *ChangoMurs* of different *qoum*, respective elders, *Musheer* and civil society assist to resolve a dispute; (iv) it is male-dominated sphere and female can't participate even they are directly involved in disputes; (v) the arbitrators offers their services at different levels; and (vi) the decisions are made through consensus; (vii) it is not compulsory to resolve the dispute through IDRM, people have a choice to resolve a dispute through Formal Justice System.

5.3. Legal Actors /State Institutions for Dispute Resolution

Dispute resolution process is complex where the disputant party may at times prefer legal mechanism for dispute resolution by involving the police and courts. In such situations, the affiliations with specific power groups come in quite authoritarian and resourceful person. The social network can help changing the dynamics for decision-making as the whole legal and political setup responds to the power and influence of the local actors. A person's position as a traditional political leader of the community includes the responsibility to help resolve the disputes. In some districts, though community courts have been established by the state they still fall under the indirect control or influence of traditional leaders, who hold the power to select as well as nominate candidates for the important vacant posts. Less commonly, the disputants select those who are exercising decision making within a social or legal setup.

Looking in the context of rural Sindh, although *Jageers*²⁶ had been legally dissolved by the government, the former feudal still prevailed and kept those lands under their informal control. Major landowners and the descendants of old feudalism are still very feudal in their body language, appearance, political aspirations and municipal government. Bureaucrats, police officers and even justice activists have accepted the feudalistic mind-set as a symbol of sophisticated and professional taste (Hussain, 2013).

Alavi (1972) provided an intensive analysis of shogunate (form of government) with State power as well as benefits of accommodating the traditionally evolved relationship between the state and the traditional elite. First, he claimed that the military and bureaucratic power that we experience in the country is a continuity of

²⁶ Jageer" was formerly, a landed area given under feudal lord's super-vision to collect land revenue from peasants. Jageers, later on, virtually became undeclared property of the feudal lords, and peasants were turned into sharecroppers

colonial political order. Under the colonial rule, the colonial power exercised the coercive and administrative mechanism to dominate and control the indigenous masses specifically in South Asia to best protect their interests and the interest of local agents. Even after independence, the state in Pakistan had the possibility and option to apply 'relative' independence, drawing on its own abilities and assets to intervene between the dominant classes since none of these decision classes could guarantee domestic, political and economic predominance. Additionally, the state could provide guarantee and authenticity for itself through these local actors though it did not happen. The ramifications of this for Sindh and Punjab are clear; the mere concept of a 'bargain' between the imperial state and the landed class in this study suggests the existence of a relationship between two distinct players with the ability to mobilize wealth for their mutual benefit. The State's willingness to enter into a compromise inevitably requires some flexibility, with the land-owning class playing a part in perpetuating it by trade funding and prestige for influence and patronage (Alavi, 1972a).

Brohi (2018), viewed that the prevailing political structure is under control of Feudalism 'Wadaro'. This made government and feudal dictatorships inter-related. Therefore, even after taken so many steps, this structure not only remains the same but also unbreakable. The landlord owns and controls the huge quantity of land and human resources, which gives them enough power to decide the fate of rural masses such as distribution of water, what to cultivate, use of technology and even agricultural credit. Furthermore, they assert their power to exercise influence on the distribution of revenue, police and judicial. These are so powerful that they can easily corrupt anyone and depicts as the main source of corruption in the country (Brohi, 2018).

In Fatehpur, it is the *ChangoMurs* who besides serving as mediator and negotiator between villagers also establishes contacts and networks with officials and other macro state actors (NGOs, Civil Society as well media) with whom contact must be made. Therefore, he establishes and extends his network of contacts outside of the village with important Government and influential people through whatever links he can use. Extending social networks are considered most valuable possessions as it is not only money that underpins his position but his outreach and ability of being resourceful for others. However, wealth is an instrumental asset and benefits to establish these connections with Sardars and officials. It is quite popular to boast

about how many powerful individuals one knows and can rely on for support. This adds to the power and control of the *ChangoMurs* in the area.

Since the endemic legal system of Pakistan primarily consists of three key actors such as judges, lawyers and police therefore the following section mainly discusses the role of legal system and external influences in the selection of Alternate Dispute Resolution Mechanism.

5.3.1. The role of Judiciary

The judicial systems in Pakistan embrace the state courts backed by the police. The court's system in Pakistan is an adversarial and retributive judicial system and it is divided into lower courts (both civil and criminal) and appellate courts- such as high courts, Sharia courts and supreme courts. These appellate courts have the power to review decisions made by the lower courts. The role of the police is the maintenance of law and order, and it is first place of contact for citizens in both civil and criminal matters. Whereas lawyers are hired to present the cases with evidence and assist courts to reach certain conclusion and verdicts. Finally, Judges gave verdicts based on witness presented by lawyers and police under the codified procedures and consistent application of state law (Acemoglu, 2018).

Though the Government of Sindh through its ADR ordinance 2018 and added Sindh act no IV 2019 allowed the operation of alternate courts in several parts of Sindh, I saw no such trace or existence of parallel hybrid system that is local *Faislo* being graced with the presence of a Civil or criminal magistrate or judge. A respected village elder shared “*Ada khal iha aahy ta waday jherun ka siwaay baqi faisla tawhaan utaq je zareey haal karay sagho thaa, aain Sindh hukoomat in baaray may bil bhi pass kayo aahay choo ta adaaltun me case ghara aahin inn ghal jo matlab iho aah ta case haanay bi Sardar aain chungamurs haal kanda pahrnune thoro ghano drup hoondo hoyan haan ta iho bi konhain*” that state allowed local communities to follow their customary laws for dispute resolution firstly because of their non-familiarity with the basic normative structure of the in-formal justice delivery system that is the unawareness with the working procedures, the justice delivery systems and mechanisms of punishments and compensations. Moreover, even the justice provided does not meet the disputant expectations, is not satisfactory or accepted by the parties and thirdly because courts are already too burdened with long list of pending cases.

Therefore, allowing community courts is one step to ease the burden on the courts as well.

During fieldwork, it was observed that if anyone wished to consult formal legal forums for their dispute, they were asked if they had tried settling their case with the help of the elders or influential of their social group. If No, then the courts usually suggest the disputing parties specially in times of civil or familial issues to try an out of court settlement by using the means of mediation or arbitration through a third party. Only in two conditions, the hearing is accepted. First, any one of the disputing parties asked to consult the court because they were dissatisfied from the decision of the local forum. Second, they access to courts if the other party is not willing to accept their mistake and avoids the informal justice delivery mechanisms too. In such circumstances, it is only the court that can compel the parties to be physically present on court's sermon. Disputing parties if are social equals also take their feuds (fights, physical assaults/ attacks, land grabbing) to launch FIRs against the other involved party. The purpose is to dominate the other party by demeaning or insulting them. However, the launched FIR is usually taken back after a higher traditional authority such as Sardar intervenes.

In villagers' perspective, *civil law is also constrained with respect to rural settings since it does not offer much expected relief or consolation in civil issues such as land trespassing, occasional physical assaults, feuds over distribution of water, animal trespassing in other's land, matter of inheritance etc., or may take too long to resolve it.* Moreover, accessing courts also include involving the police and lawyers and repetitive visits to the city. *“Taking any dispute to court is like calling for an unmasked torture and punishment as the courts are very slow in their process and the lawyer only cares about the money”.* As the court episode prolongs, the disputants are left with no option but to refer back to their *ChangoMurs* to use their traditional authority as well as social networking to expedite the case. If the judge is found to be acquaintance of the *ChangoMurs* or the Sardar, one might get leverage in the court proceedings where judge may give partial decisions. *ChangoMurs* also use their power to manipulate with the evidence that is to be presented in the court or threatening the witnesses or simply removing or restraining the witnesses, asking the judge to either prolong the proceedings without reasons or deciding immediately in favor of the party supported by the *ChangoMurs*.

5.3.2. The Role of Police

The culture of *Thana* (Police Station) is deeply rooted in the police system. It has been prevalent since the colonial days and has flourished due to politicians, bureaucrats and influential people. The latter involves rude behavior by the police, torture, and brutality, misuse of authority, unlawful imprisonment and inefficiency, which was to be used according to one's wishes. Such police officers misuse their powers and get involved in corruption without fear, because they have the support of politicians, influential and even their seniors. *Thana* culture has been long used to suppress the poor and keep a strong hold on them (Azeem, 2014).

The Punjab and the Sindh police departments are criticized due to their rude nature and unprofessional attitude while dealing with general public (Malik, 2019). There are number of evidence for corruption and misbehavior of police in Pakistan, but there are six-major reasons for corruption and unethical behavior of police in Pakistan (Malik, 2020). First is doubtful selection process for constables and ASI, where the candidates are selected because of party affiliations as the politicians of specific party distribute vacancies to their party-men. Those who don't have any affiliation with a party have to pay for the position with a bribe. The bribes do not restrict themselves to getting a job, but also come apart from training and posting to a specific place (Abro, 2009). Second is unprofessionalism, where police department is unable to manage records of cases, follow SOPs for arrests, investigate cases and perform search and seizure operations (Ahsen, 2018). Third is 'corruption of authority' and environment of corruption (Malik, 2020). Fourth is Police violence and brutality where the weakened is not just subjected to beating but also involves torture led killings, fake encounters (Zubair, 2014). Fifth is 'Crime Protection' where police instead of becoming a custodian of law becomes party with the criminal or crime and the last reason is the bribery for favorable postings where everyone from police constable to police officer keeps good relations with relevant politicians or influential by granting them favors to get desirable postings and promotions.

The local politics also revolves around who controls the local police station. The worth of a politician or (traditional elite) can be judged through his/her hold and influence on police in his/her constituency. The influence on police means arrest, a lodge of FIR where the investigation direction should be guided by a local politician. The postings of police officers are linked with the acceptance and relation with the

local politicians, such as ‘the posting order of District Police Officers (DPOs) is under the control of Chief Ministers (CM) of the provinces (Malik, 2020).

On the research site, *ChangoMurs* use police for their own purposes. A FIR cannot be lodged without the permission of *ChangoMurs*. The police are used for torture or teaching a lesson to those who do not accept his verdicts or differ from his opinion, or for point scoring or to put pressure on groups for *Faislo*. Sometimes, the police are said to be a B team of *ChangoMurs*. Torture is used by the police to obtain confessions for crimes committed by the opposing group. Their perception is that it is under the control of *ChangoMurs*, or Sardar and they do not have access to those influential *ChangoMurs*. Thus, they will not get any favour from the police but rather have to pay a bribe for the FIR, arrest, and investigation. It is also a common perception that because of Sain *Asghar Ali Meerani*, ex-DIG Police of Larkana, *ChangoMurs* exercise a strong hold over the police. Many cases have been decided in favour of *Meerani* or the groups they supported, since the evidence provided by the police was partial and manipulated.

It is also vital to understand that *ChangoMurs* also avoid confrontations with the police directly and try to deal with them discreetly i.e., a phone call, a seasonal gift for him and his family, a lavish dinner or lunch invitation, a personal visit, a phone-call to a senior for two words of praise are means that the *ChangoMurs* may use to tame the in-charge of the local Police station. In return, any matter related to the village or community of *ChangoMurs* will first be reported to *ChangoMurs* along with a request from Police for looking into the matter. It is *ChangoMurs* who at times exerts his influence on local police to whether lodge an FIR or leave it pending for some time as a simple complaint so he himself can mediate between parties before it aggravates or reaches court. However, this is only done in circumstances where either of the disputant parties’ accesses *ChangoMurs* for out of court settlement. In such cases, the parties after mediations are asked to take back their complaints. The local police since is familiar of using the name of Police for exerting social pressure, ensures the parties are serious of perusing the complaints lodged. The role of Police only gets lethal if the *ChangoMurs* is offended by any social group or individual in any manner or his decision is not given worth. The police then may be used as tool by the *ChangoMurs* to suppress those who dared to go against him or challenge his authority. It is not as if the Police in charge cannot or does not exercise his control. However, *ChangoMurs* award favors to Police in charge to receive favors in their times of need. The

ChangoMurs realize the fact that at all times, the Police as an institution cannot be controlled or influenced therefore also advise their villagers to avoid involving the Police in matters which can be sorted amicably between groups and not to offend Police in any circumstances.

During a visit to *Otak*, one such situation was observed where the *ChangoMurs* avoided talking about a dispute with the police. First, the said *ChangoMurs* requested the leave of all outsiders. I was later informed by my key informant that *‘during an encounter with a police constable, a Meerani ended up physically assaulting the constable when the constable was without uniform. The constable not only later called his other fellow policemen but also lodged an FIR against the Meerani and threatened to take revenge. He locked him up for a day and physically beaten him resulting in multiple injuries. It was the ChangoMurs who had used his influence in police to intervene. On the return of the victim from jail, the first piece of advice by ChangoMurs was to avoid a physical encounter or assault with a police officer, secondly if the situation becomes unavoidable, report back to ChangoMurs who can use his authority and social network to handle the situation or kill him and leave no trace’*. However, in this case, *Sardar Rakhio Meerani’s right-hand Ali Meerani was approached to access someone senior who can ask the case to be closed”*. If the *ChangoMurs* does not want any case to be pursued, the case is handled and closed in the files without doing any concrete investigation.

Many of the people don't report the crime detail, according to them the police protect them, and it is useless to Lodge FIR against them. A respected elder of the village said, *“The police knew the criminals and even they protect them because they are important and special persons of the feudal and urban elites. These urban elites used them for their interest; therefore, police can't do anything against them”*.

Many aggrieved parties told me that in a few cases, they don't want to resolve their cases through IDR, but the police compelled them to resolve their cases through *Faislo*. A respondent added, *“A policeman came to his home and delivered a message to his family that the SHO of police station wants to see him. The next day he visited the police station and the SHO asked him to resolve dispute and visit ChangoMurs Otak, otherwise, I shall intervene”*. Courts or police are used as political and bargaining technique to bring people to the *Otak*, developed consensus and implementations. If any party was not willing to resolve the case through IDR, the

ChangoMurs seek the help from police to bring other parties on *Otak* of *ChangoMurs* and Table talk.

5.4. Role of Civil Society Actors

Civil society is an umbrella term, and it ranges from non-state to non-market citizen organizations such as initiators, any networks or alliances functioning within the socio-economic and cultural spectrum. For Sattar (2011) Such organizations include formal institutions, NGO's, trade unions, teaching associations, philanthropists, people from academia, independent pressure groups, think tanks and faith-based organizations etc. (Sattar, 2011). For others, civil society is a process where various group or individual alliances are made with an objective to protect or extend their interests, ideologies, and identities. Civil society includes, civil society organizations (CSO), community-based organizations (CBO), non-governmental organizations (NGO), informal and non-institutionalized associations or communities (Wani, 2011). In short, civil society in broader spectrum consists of diverse spaces and actors, where the degree of the formality varies as well as per their autonomy and power. Such organizations have diverse forms, goals and purposes, but the major objective of these organizations is to improve the quality of life and to cultivate positive aspect among the citizens.

The civil society emerged as a powerful social actor in Pakistani history. They gained the power and influence through media. Civil society through media continuously interplays a pivotal role even in socio-political reforms. Taking one example of chief Justice of Pakistan reinstatement movement in 2007, “in the name of an independent Judiciary” the civil society along with lawyers, and political parties through media protested with millions of Pakistanis taking to the street. The movements put pressure on Musharraf to leave and call for elections (Support, July 2009).

Another major concern of civil society is “The Human Rights issues”- the issues range from honor killing to child abuse from the different segments of the society. Therefore, the civil society has played significant role in terms of information, putting pressure and also for the protection of children, women and overall human rights. (Bhattacharya, 2016). In short, civil society has provided sense of protecting the personal, economic and political right of individual and put pressures on diverse political, economic, social, religious and cultural credentials (Hussain, 2014). The

research also envisions these platforms as strong forums for influencing decision-making mechanisms and discusses them in the same light.

5.5. Role of Community Based Organizations

The IDRМ mechanisms have shown their ability to extend to cities and allow disputants to follow methods that better reflect social-cultural norms and practices. *Faislo* asked the disputers to address their problems at different stages, such as the Paro-level (Neighborhood level), the family level and the village level. For this IDRМ process, take the cooperation of local actors and begins to discuss each other's points of view and define shared interests at stake. By consensus, IDRМ members propose a range of possible solutions to the conflict. The IDRМ process will not take more than two days between from one to other sessions, otherwise, masses opt other option such as violence. Moreover, to satisfy the disputed parties, IDRМ can appoint a third party to investigate the facts of the case and it will be easy to reach a final decision.

Any actor of the civil society specifically community-based organization does not get involved in any conflicting situation until there is need for it. The CBO are always in contact with the community and exist within a community for long, hence CBOs have plenty of time to observe matters, understand dynamics and if needed intervene to put things right. These CBO also play an important role in dispute prevention. The advantage of these CBO organizations is having an independent say as they are independent, neutral and having personal contact (top to bottom) with all social groups as community members, therefore they are in a stronger position to assert their influence towards restoration and avoid any further or post dispute retaliations. Further, they are capable of strengthening existing social networks; rebuild confidence between community members and appear to be supporting peace. In Post-conflict situations, the CBO get involved in dispute resolution process such as encourage dialogue through community participation, bring both parties at *Faislo* and also provide formal aid (if needed). The efforts of CBO strengthen community in a number of ways – such as providing capacity building services, access to financing, and cooperating in settling dispute etc.

Sindh Mallah forum is one such CBO that operates as a community Based Organization in District Larkana under the presidentship of Sain *Asghar* Ali *Meerani*, Sardar of Merani Clan. *Sindh Mallah* Forum (SMF) engages at different levels with

the community in order to prevent, manage and resolve disputes. Their purpose is to remove the violence at structural, behavioral and attitudinal level. SMF engages with both grass root and rural elite levels in research area to stop retaliations, displays of aggression and violence during initial levels of dispute, hence preventing short and long-term consequences of violence. SMF mostly involves in reconciliation and healing processes of community, such attempt aims towards restoring the solidarity and peace by assisting parties towards establishing contact after conflict, proceeding with interactions and involving all local actors such as cultural, religious, elders and *ChangoMurs* for an effective management and resolution of conflict.

The SMF creates a What's-up app (social media application for interaction) group to update the recent development regarding the *Mallah* ethnic group. This group add people from different back grounds of the same *Biradari* i.e., *Meerani* and establishes a pool of people with social network of influential. The forum helps them to exchange information, expand their contact and take legal and other necessary information and help regarding any relevant dispute or feud that involves and concerns the *Meeranis'* as a clan.

CBO has the power to make following contributions in situations of conflicts.

1. Put pressure on disputant parties to start dialogue process and identify the root causes of conflict.
2. Strengthening the dialogue process by enabling and involving local actors in the process of conflict resolution.
3. Ensure minimum or no violation of human rights and the rule of law.
4. Spreads awareness about human rights specifically relevant to gender through empowering vulnerable groups specially women.
5. Focuses on youth education

“Sindh Mallah Sangat hik ahri Sangat aahay jeke Mallahun khe joray rakhandi aahay cha hay oohay kithe bi hujan, pooray mulk me, jherun khe jaldi khatum karna je laa ay kam kandi aahay aain gareebun jo khiyal rakhandi aahay jijan kahan khe police na baddi wanjay” One of the major purposes of *Sindh Mallah* forum is to familiarize the community about possible solutions to their problem may they be concerning with disputes and generate a power pressure to protect the legal and socio- political rights of the vulnerable and marginalized communities and social groups such as children,

old age people and women as well as low status castes. It ensures that village peace and harmony is intact by addressing the conflict situations at right forums at right time.

5.6. Role of Media

The media is considered one of the four pillars of democracy all over the world. For Bodo (2011) media plays various roles in society, including shaping and determining masses opinions and perceptions about specific events and topic. At recent times, media gets involved by demanding free and fair trial of accused persons. First, media provides information on specific subjects to public and put pressure on state machinery and justice delivery institutions through masses to critically assess a situation, further it critically comments on the usefulness and effectiveness of democracy. Even, it covers court proceedings and demands quick and fast results of cases through masses pressure (Bodo, 2011).

In the research area, the local media plays an important role to resolve a conflict specifically conflicts that happen between two villages. The local media (local newspaper, radio and television) by providing information about the tension, murder, injuries and its impact on overall community's education, health and mobility enables the local acts such as civil society, government representative (police and courts) *ChangoMurs* of specific groups, *Sardars* etc. to play active role to redress and resolve the conflict. The Media efforts and reporting put tremendous pressure on both parties for reconciliation processes and the decisions are made with consensus by satisfying both parties in the justice delivery process hence favoring both parties. Thus, verdicts depict mixture of moral and political persuasions that lead to reconciliation with less or no violation of human rights.

5.7. Role of Non- Governmental Organizations

Local NGO at the district or province-level work in village and communities, the primary purpose of these NGO's is to help and assist them in agriculture, educational and health-related issues. Further these NGO's play important role to resolve a dispute related to agriculture, and dispute at domestic and community level. The representative of an NGO sometimes participates in *Faislo*, and the purpose of their presence is to put social pressure on both parties for resolution and other interests and powerful groups of the community. These members engage themselves in a

confidential meeting with *ChangoMurs* to open public spheres such as *Faislo* for peaceful resolution without human rights violations. These NGO's adopt diverse techniques to resolve a dispute at common grounds on the behalf of disputants and they did so voluntarily and provide their services free of charge. Therefore, they are acceptable among *ChangoMurs*, communities, police and district officials. Though NGOs are still unable to directly facilitate or provide a better mechanism to resolve the dispute, rather they work within the framework of traditional justice mechanism. Though, they use a familiar socio-cultural context for settling disputes between individuals, but their involvement restricted to the verdicts in most cases. They ensure that the verdict should not extraordinarily favor one group and violate human right standards in case of women and children.

SRSO (Sindh Rural Support Organization) is an NGO working in the various district of Sindh, specifically in all union councils of Larkana district. The SRSO help people in four different areas such as Income Generating Grants (IGGs), Micro Health Insurance (MHI), Technical and Vocational Skills Training (TVST) and Community Physical Infrastructure (CPI). The SRSO has initiated a plan at the level of the Union Council to improve the Society at the test site economically. The initiative has enabled vulnerable household farmers to be transformed and integrated into a network of people's institutions and provided resources to better the life and livelihoods of integrated households. No individual from the village is working for SRSO at present, although two *Meeran*s are employed by the organization from Larkana city. Both *Meerani* quickly processed and gave more weightage to the *Meeran*s when they were applying for funding and engaging individuals from the village for technical and vocational training. The organization was also involved in a poverty elimination programme, and the organization gave two Chinchis (commonly used for transportation purpose) for livelihood to villager. Thus, SRSO asserts influence on the rural masses to resolve a dispute through their employed *Meeran*s members and their efforts. SRSO has established field offices at Union Council level and therefore engages with all social groups living in the community. Moreover, SRSO also enjoys good reputation among the locals, whose representatives are respected and involved regularly in community matters. The peace and harmony also favor these Provincial level community support programs to launch more need-based community development projects. Since they have got the backing of Government and bureaucracy therefore faces little resistance from the traditional elites. It is still vital

that SRSO field staff on regular basis engages with *ChangoMurs*, take their approvals for their new schemes, favors the people nominated or identified by *ChangoMurs* and conducts all community dialogues in the *Otak* of the *ChangoMurs*. This is one reason that the field or district in charge of SRSO are given great welcome on their arrivals to *Otak*. The *ChangoMurs* also may invite them to add credibility to the decision of *Faislo*.

5.8. Discussion and Conclusion

This chapter has discussed and analyzed the roles and effectiveness of multiple state and non-state local actors in the context of contemporary Sindhi village and explained how involvement of different local actors changes the disputing situation and determines as well as influences the mechanism of resolution. Despite the state laws, local elites in traditional structure still play important roles in organizing and managing the conflict in the village life in Sindh. This is because of the surviving interdependencies and alliances among members and social groups that is established primarily through social bonds entertained through institutions (Kinship and *Biradari*) and village assembly forums. Labor relations between different social groups also help reinstating the social organization and political structure of the village. These socio-economic institutions define and shape one's interaction as well as socialization patterns within the cultural and social settings.

As Malinowski (1930) defines Kinship 'its origins, is a cultural rather than a biological fact, this culturally defined kinship is, invariably individual' (Malinowski, 1930, p. 24). The vast numbers of studies demonstrate that conflict's origins and causes, as well as strategies for resolving them, are deeply ingrained in every society's culture and history; and they are, in many respects, unique to each community (Shinwari, 2015). Similarly, it is apparent that families and large groups in many parts of Ethiopia are involved during the handling of disputes and conflicts initiated by individuals or small groups (Epple, 2020).

Being a landlord, *ChangoMurs*, Sardar, or elder comes with several difficulties. They worked hard and remained under constant pressure, trying to attract not only their *Biraderi* (ethnic group's) followers but also those of other ethnic groups. Everything is viewed as a political matter here. Handling conflicts both within and outside of the community, court cases, and police work are just a few examples. They also indulge themselves in every aspect of social life, including births, marriages, funerals, and

everyday gatherings. Through *Biraderi*, they prevent competition and keep control over community members by participating with them in these activities of life.

In the Pakistani rural structure, *Biradari* and *Khandan* have been considered as the backbone of the social fabric where all interactions are regulated through the prescribed rules of operation for *Khandan* and *Biradari*. In situations of conflict within same family and *Biradari*, it is the elders who resume the role of mediators to resolve matters as quickly as possible to keep the honor and unity of the *Biradari* intact. Only in matters of aggression, the intera-*Biradari* matters are referred to traditional authorities assigned in formal local structures such as *Faislo*. The forums like *Otak* and *Faislo* in Sindh are taken as primary hubs for making the dispute overt and prove helpful for highlighting crisis situations/ disputes that need resolution. These are two developed structures which links dispute resolution mechanism with historical past. Both the indigenous forums used for conflict resolution are power-oriented and male dominated where the actors involved hold power to punish and compensate. The power held is acquired through wealth, experience, age, land and social networks. Power also denotes to the ability of not only controlling and exercising power over other social groups but also having the capacity to influence other relevant community and legal actors if needed to reach consensus for resolving disputes. The local community actors play significant role to resolve dispute and are main players who are functioning from many centuries. The authority exercised is traditional and is passed from one generation to another.

While the popularity and long-term viability of nonstate justice mechanisms may be interpreted as an indictment of the need for state justice to support the rule of law, nonstate justice mechanisms frequently have major negative externalities. Non-state judgments are mostly based on cultural or religious practices and these practices ignore basic human rights violations. Moreover, the non-state legal systems follow explicitly patriarchal values, which puts women and other vulnerable groups particularly at risk. These institutions can also be biased toward powerful individuals and families, and judicial processes frequently lack basic protections like procedural and substantive due process norms. Swenson referred to Waldorf (2006) points out that nonstate "judicial" elites are neither independent nor impartial, and their discretionary judgements serve community cohesion rather than individualized justice " (Swenson, 2018).

In Fatehpur village, disputes are brought first to *Otak* and resolved through *Faislo* mechanism involving primary local actors such as *qoum* Heads (*Sardars*), *ChangoMurs* of *qoum* and other community representatives to act as an arbitrator or mediators. *ChangoMurs* as arbitrators are usually the people who have the most fertile lands, powerful connections with other influential and considered wise to handle disputing situations. *Faislo* actors are given significant public visibility in resolving disputes at the local level through the political as well as social processes. In the community, *Faislo* mechanisms are socially accepted where 'traditional elite' with their traditional authorities significantly play the role of arbitrator to resolve the disputes. Because of the relevance of their positions and roles, the dispute mechanisms are still considered and active at the grass-roots level. *Faislo* actors usually use their authority to bind people by creating interdependencies. Primarily local actors are held responsible by masses for resolving disputes because they hold the influence, credibility and trust of locals not only as impartial arbitrators but as well-known popular political figures and are believed to be honest in the way they hand resolution process.

In informal judicial system, all that is expected of arbitrators and mediators is to make a wise/right decision that is acceptable to both the disputing parties so fundamentally, villagers relied on local actors' wisdom and judicial abilities for resolution as the informal actors have given equal opportunity to both the disputing parties to present their cases but also provide the disputing parties time to air their grievances. The matters are handled and decided with consensus where will and agreement of both the disputing parties is of vital importance. Local community mediators raise questions, take suggestions from the other involved community members and discuss the details with *Musheer*, Imam Masjid and the disputant *ChangoMurs*, then passes a consensus-based verdict to resort peace. Elder and their advice is considered important to resolve micro-level disputes and to establish inter-group unity. However, the process of building consensus among all stakeholders may not be smooth.

Ubink has cited Erin Stiles and his work on "How to Manage a Marital Dispute: Legal Pluralism from the Ground Up in Zanzibar, Tanzania." She claims that legal plurality prevails, citing "Islamic law and state-recognized institutions" as examples. She advocates for a comprehensive study of legal pluralism from the ground up to determine how different legal actors—both laypeople and institutional actors-perceive and approach the plural-legal system and various forms of authority, as well as what

they consider the law and legally relevant in the resolution of marital disputes. In Zanzibar, Stiles discusses the function of three separate authorities in the resolution of marital problems. Firstly, the *wazee* (elders), whose power is based on tradition and a religious requirement to obey the elders' authority, have a long history. Second, *sheha* (government-appointed community leaders) are aware of local customs and values. Rather than imposing a choice or solution on the parties, their function is to assist them in reaching an agreement. The *kadhi* (Islamic) courts are the third level of authority in marital disputes, and they assist in reaching an agreement under Islamic law (Ubink, 2018).

In the village, the disputes are rarely referred to formal justice systems or to police to allow further investigation without making an effort to resolve it by involving the community actors. This is due to multiple reasons such as lack of trust and credibility on the system, non-familiarity with the process and elongation besides expense as well as complexity and partiality of the system and non-familiarity with the involved actors are important reasons that make the locals hesitant to access the legal forums. The legal forums are perceived as self-inflicted illness which brings no solace but pain and additional torture for the disputing parties. The masses also make use of the traditional and referent power of *ChangoMurs* and Elders of the village to influence the conflict resolution process in the legal institutions such as Police and Judiciary. Police in the local setting is also used as a tool by the traditional elite to control the other social groups and is involved to embarrass, subjugate, eliminate or insult as well as dominate the involved parties. The one who controls police ultimately enjoys the allegiance and loyalty of other social groups. The allegiance is both because of fear and resourcefulness. Sardars, *ChangoMurs* both exercise their influence over Police by using their social networks to keep the loyalty and allegiance of the local and *Biradari* members intact. Hence the traditional elite serves a bridge between the masses and legal law enforcing institutions. Influence of *ChangoMurs* over Police can simultaneously prove to be beneficial and hostile for the parties having different equations with the *ChangoMurs*. This is one reason that *ChangoMurs* are consulted on all matters of importance to avoid offending them. The dependency of the legal system on these traditional forums is also reflected when *ChangoMurs* and Sardars of different *qoum* are consulted both by the police and the judiciary for out-of-court settlements. Local actors and the masses prefer *Faislo* over formal justice delivery systems for a variety of reasons, including quick and inexpensive justice delivery,

familiarity with the arbitrators and process, mutual cooperation, and credibility. They help building the pressure on both the disputing parties and the arbitrators to come to the negotiation tables. Epple (2020) stated that Individuals who do not follow the elders' or traditional courts' decisions risk being seen as rebels against local values and interests (Epple, 2020).

Courts or police are used as political and bargaining technique to bring people to the *Otak* to develop consensus and ensure decision implementations. If any party is not willing to resolve the case through IDR, the *ChangoMurs* seek the help from police to bring other parties on *Otak* of *ChangoMurs* for Table talk and negotiations.

Ubink has cited Paul Schiff Berman, who claims that legal pluralists may protect basic postwar values by shifting from a descriptive to a normative enterprise, prescribing laws, policies, and governmental institutional designs that encourage interaction and discourse among multiple norm-generating cultures. Berman claims that it is not just the state but international organizations and non-state actors that are also capable of making laws, while explaining how global legal pluralism occurs from the inside. It also acknowledges that the state is made up of various actors and voices, each with their own set of interests, beliefs, and ideas (Ubink, 2018). Therefore, anthropologists began to focus on actor-oriented approach, and later interpretative perspectives that paid attention on close discursive and power dimensions of law and its use. How actors made use of the available laws and legal institutions in plural legal situations. Choices among legal systems have practical effects since economic, social, and symbolic power relations are encoded differently in the law. Furthermore, not only the opposing parties but also the institutions dealing with the conflict frequently resort to forum hopping, depending on how they intend to achieve greater authority (Benda-Beckmann, 2018).

The powerful group also referred to as 'traditional elite,' uses the influence of civil society organizations to their benefit by establishing linkages with their representatives. In cases of disputes, these civil society actors are given limited access to the process of arbitration. The forums like *Sindh Mallah forum* by *Meeranis*' is one such example which has been used by the *Meerani* Clan for their own benefit to ensure group harmony through consolidated efforts. Media and local civil society actors establish good relations with all the influential of the area to ensure smooth functioning of their organizations. Media helps in providing information as well doing

advocacy and in very limited times, help identify conflicts that have the potential to become feuds or involve human rights violations.

Hence, it is the traditional elite that holds maximum power through dispute resolution mechanisms in the village and bears the ability to influence all other local actors if needed to reach a decision or consensus in a verdict. It is not the *ChangoMurs* whose wish is to control the masses, in-fact as part of the same community they are involved in reciprocal relationships with the community who serves them. In response to the trust and services he receives from the masses, *ChangoMurs* and landlord is obligated and responsible for providing and protecting the masses as well ensuring harmony and peace in the village through effective conflict resolution.

Having discussed the role of state and non-state actors in dispute resolution, it is important to analyze how a plural legal system may coexist in promoting peace, cooperation, and mitigating rivalry in the society. As, Swenson (2018) in his article analyzed that believing in the existence of legal pluralism and accepting it is not enough rather it is important to see how plural legal system can exist together in harmony and cooperation. For that matter he developed its archetype and key features of plural legal systems for peaceful coexistence. These archetypes are, combative, competitive, cooperative and complementary (Swenson, 2018).

Unfortunately, the proponents of formal as well as indigenous systems (*Faislo*) are openly opposed to one another and consider the other system as their rival. Where alternative legal systems prevail, the normative bases are not even implicitly recognized. These systems inherently tend to be biased and therefore, publicly try to eliminate one another. For example, the Sukkur Bench of the Sindh High Court on April 23, 2004, in their verdict, banned the holding of any *Faislo* in Sindh province. While the Chief Justice declared the Panchayat /Jirga/*Faislo* justice delivery mechanism is opposite to the state constitution, *Faislo* actors oppose the legal laws in a mainly nonviolent manner (Shahid, 2012) and advise people to avoid consulting with the state legal system.

In the process of disputes resolutions, it is the primary responsibility of the legal state-managed structures to provide basic services such as providing protection, settling disputes, and providing public goods to those who need most. However, these structures are institutionally too weak to come up to individual's expectations. In such situations, other powerful non-state actors' step in and challenge the state institutions by bridging the existing gap between the state institutions and the masses (Acemoglu,

2018). That may perhaps explain the very reasons underlying the tensions that may exist between state and nonstate legal systems in competitive legal pluralism, particularly where legal norms and process deviate significantly from each other. For example, one system maintains power because of government legislation, whereas the other maintains power because of community norms. Swenson has cited Baker and Scheye (2007) who state that nonstate justice sector makes it virtually impossible to completely replace state authority in such instances. To an extent social preferences creates disagreements which may prevent the acceptance and adoption of state's formal judicial power. While the nonstate judicial sector preserves a significant amount of autonomy, both the state and nonstate systems acknowledge each other's right to exist in some manner and are prepared to engage tactically (Swenson, 2018). Both offers their services to people, however, for people, an institution's legitimacy is determined by its credibility and by the actors under whose auspices it operates.

As noted earlier, there are several empirical studies which provide overwhelming evidence that formal judicial system is frequently affected by financial constraints that limit the availability of infrastructure and human resources. That explain how it becomes difficult for state justice systems to deliver justice in every part of the country. Consequently, the government uses localized resources, such as informal justice systems, whenever possible. For example, the Federal and Provincial Governments of Pakistan introduced public ADR bills to provide justice to the rural masses. However, the scope of justice delivery is limited to commercial and civil cases, and the overarching theme of these efforts is to be cost-effective. It was reported that in few cases court asked the disputant parties that they may resolve it out of the court. This will help to reduce the burden on the courts and may provide quicker relief in severe cases. These circumstances highlight the significance and importance of *Faislo* when it complements the formal justice system.

In view of our earlier discussion, the non-state actors enjoy considerable power and autonomy. Fortunately, the formal legal system recognizes its contribution to the rural masses therefore works together for a harmonious society. The formal justice system does take into consideration the verdicts given by *Faislo* and may have asked *Faislo* actors on what grounds they have given the verdict. That makes the tasks of formal system much easier so as to reach a verdict in shorter time as *Faislo* had already completed their task. As such courts assess the case to reach judgement they simply verify witnesses and learn the reservation of the aggrieved party. It was also found

that in some instances, the court did ask both parties why they did not try to resolve it through *Faislo*. Thus, both systems cooperate with another for the benefit of society.

Chapter # 6

6. Working Mechanism of *Faislo*

This chapter refers to the third objective of the research study and presents details regarding the working mechanism of *Otak* and *Faislo*, their key characteristics, along with some of the procedural elements in Fatehpur. The chapter explains and discusses the nature, working mechanism, relevance, and significance of the village assembly forums that are prime platforms for dispute resolution and discusses in detail how disputes are identified, managed, and resolved through using the indigenous mechanisms for resolution. The aim is to unveil the systematic yet informal working of the *Faislo*—a mechanism that is referred to as efficient, accessible, and cost-effective by most of the population of the village of Fatehpur.

Background

The most distinctive features of indigenous people are their unique ‘cultural patterns, social institutions and legal systems’ (Roy, 2005). Though most people around the globe reside within state structures with formalized legislative and legal frameworks, many of their social and cultural traditions tend to be regulated by traditional law (also referred to as customary law). Customary law is differentiated from procedural law by being "most closely related" to the customs of the people term used by Ahren, M (2004). Customary law has been seen as something "evolved, established, transformed, or innovated by people/culture over time." Consequently, the traditional laws of indigenous people are not usually of ancient origin, or of a mostly oral tradition, and they are typically adapted over time (ibid).

Alemie referred Abebe et al. (2015) that the traditional communities preference for customary or traditional laws over formalized laws due to many reasons, such as: they are dynamic, they have a key role in preserving order in the communities, and, lastly, the legislation and decisions are more meaningful as the community is involved in the process of decision-making (Alemie, 2018). However, the perception, as well as the preference of which law to be followed, is strongly influenced by how society perceives the law and what purpose it should serve in society. The way society perceives the law is dictated by the experience of society as to how disputes are settled. Consequently, this perception is built through experience and impacts and

determines the reaction of followers to the law and legal institutions (Mwihurih, 2015).

In a similar manner, the villagers follow their customary laws, and these laws do not have any sort of written documentation. The law followed by the villagers has two main sources of origin: first is the social and religious taboos in place that if violated are considered an offense/act of punishment, and second is the prevailing traditions, the norms and values that are strictly followed and transferred from one generation to another. Tradition has more impact on maintaining social order and remains more relevant because of the greater extent of its understanding and implementation.

Since disputes are considered cultural actions or behavior (Mwihurih, 2015) therefore their causes may only be understood in their socio-cultural context (Avruch, 2004). In the research site, breaking a cultural taboo involves sibling rivalry, marriage without guardian's permission such as inter-faith or sect marriages or elopements, divorce between spouses, power struggle issues at Dargah (religious site) such as violation of one's honor (*Izzat*) or hurting one's Ego (*Gairat*) and also the forceful possession of another individual i.e., kidnapping or abduction of a person or usurping his property, land and women are considered as serious violations, offenses or crime. It is also taboo to use abusive words or gestures and to do bad things or misbehave with one's primary kin. Any wrong attribution or flirtatious gestures towards females during ceremonies or delicately discreet references to matters of sex or affairs with other females are acts that are strictly prohibited and considered sinful. Breaking these types of taboos is also considered a serious crime.

Disputes are dynamic in nature therefore the process of resolution or management can vary due to cultural differences globally. However, Snyder (1981) and Thomas (2016) does not just recognize disputes as events or mere disruptions of the social fabric but recognized dispute as a process involving many phases for its management. Snyder's three different phases included the pre conflict/grievance stage, conflict stage and the resolution stage where as Friedrich Glasl work also mentioned by Thomas (2016) emphasized nine stage model of conflict depending on the degree of escalation and need for resolution. These nine stages are further grouped in three main phases; first treats and considers conflict as a 'problem' that needs to be resolved jointly; here the parties involved are on speaking terms and a win-win solution is still within reach. In the second phase the conflict becomes a battle that needs to be won whereas in the third phase, the parties involved basically try to harm each other as a result of certain

events and circumstances. The progression from one stage to another is very abrupt. It is the level of escalation of a conflict that decides for a need for mediation. Mediation is to provide a workable solution that means that here the mediator tries to lessen the escalation between the parties involved. However, dispute process should not be considered over till the final ruling for resolution has been issued (Thomas, 2016).

In a similar manner, disputes that escalate and become overt in the public are also managed by using the informal mechanisms and customary law that are derived from centuries-old traditions and customs in the village. Disputes are managed in three stages. The first is the pre-conflict stage, where the disagreement between two parties escalates into a full-fledged dispute. During the conflict, the matter, after being identified at social assemblies like *Otak*, calls for the involvement of local actors and the activation of *Faislo*, whereas the third stage leads towards resolution and execution of the verdict. The stages as described by Snyder's are not as distinct as they appear in village settings. The following chapter is an effort to explain exactly how the resolution process works after being faced with a dispute that demands the involvement of *Faislo*. There are also some key questions like: is *Faislo* dynamics in its role as claimed, whether it is accessible and responsive, whether it is effective to deal with all kinds of cases, or whether it is the only mechanism for the villagers to solve their disputes at the village level. The first question, however, was answered in the previous chapter by observing the frequency with which the community used *Faislo* to resolve various types of disputes. Any matter pertaining to any two disputant parties or social groups that may affect the peace and harmony of the village, or the cultural fabric of the village is brought to *Faislo* for immediate address. Intra or inter-family disputes are handled by the elders of the joint or extended family.

6.1. Indigenous Dispute Resolution Mechanism (IDRM)

The term "dispute" on a research site is viewed as a communal concern. Dispute, according to them, is a disease that first attacks and then destroys the community's harmony and peace. Therefore, the community at such a time sits to-gather to resolve disputes through culturally appropriate methods. The culturally prescribed mechanism processes that have been used for many generations to resolve local disputes through taking guidance from customary law and traditions are known as indigenous dispute resolution mechanisms (IDRM). As Rani (2014) said that indigenous laws are

different from structured state institutions and may exist with various names and features among different indigenous societies (Rani, 2014). The system not only has extensively defined questions with given explanations, but such also as what is crime/offense or violation for them, why it is to be assumed as a one and how(details)? Further, the system also provides comprehensible solution and punishment (in terms compensation and few decades before in monetary terms) to resolve the disputes communally. Though, these laws are not written but everyone knows about the “laws and punishment”. The different type of punishment to different people even in similar crime is best example of restoring equilibrium rather it means injustice or retaliation with specific person. “*Izzat*, and *Ghirat*” (honor and prestige) are two basic terms, which govern their social life and most dispute based on the violation of honor related crime.

In rural Sindh, most of the rural area is organized under the traditional laws which are subjected to be controlled by the traditional authorities (elder, *ChangoMurs*, *Sardar*). The cultural traditions (usually unwritten rules) are protected and managed by every member of ethnic group and community member. According to respondents, *every member takes care of these norms as masses have taken benefit in past and will take future generations*. Death of any elders or community members does not affect the understanding, existence and prevalence of all to these laws. These traditions are a system in which social relations built a web of network of social, political, economic and religious nature. However, it is important to understand how the web of network is established, managed and controlled.

The traditional dispute resolution system operates through *Khandan*, *Baithak*, *Haveli*, *Dera*, *Panchayat*²⁷, *Pirs* and *saints*. The social interaction points such as *Baithak*, *Dera* and *Haveli* are places of contact where only the news of the dispute reaches. Whereas, in a similar village setting, the systems like *Panchayat* are considered a complex form of traditional judiciary of the community where landlords usually sit and gather and settle the disputes. Some institutions like *Baithak* and *Haveli* are limited to their own clan (*Biraderi*) but *Panchayat* deals within as well as out of the Clan (*Biraderi*). All institutions deal with minor as well as serious crimes that happen or occur with the villagers or villager premises. The purpose of these assemblies is to provide platforms for justice delivery²⁸ (Chaudhary, 1999).

²⁷ Baithak, Dera, Panchayat are mechanisms established locally for social interaction and for dispute resolution.

²⁸ Whereas Pirs and Saints as religious authorities also help settle conflicts in village settings.

The following section discusses in detail all such platforms in the research site that either help identify dispute or are used for alternate dispute resolution and settlement. These Forums are `social contact points` as well as public spaces where people not only interact but also bring forth their disputes for the purpose of resolution. It is through these forums that the Tribe Leaders, Landlords and Elders exercise their social, economic and political influence and assert pressures over others to keep intact the group solidarity and village harmony.

6.2. Otak Mechanism

The *Otak* Institution is an important part of my research study, as it is a primary place for contact or meeting within the community members. *Otak* is described as a "sitting spot or Guest Hall" (little constructed area and rest open) and is associated with prominent landlords of village or *ChangoMurs* and elders of *qoum*. The *Otak* which also means "Drawing room", may be constructed along with home for private meetings and for guest as well. This kind of *Otak* is usually used for guest and to settle dispute at family or individual level, therefore owning *Otak* is a symbol of prestige and wealth in the research area. Hence, *Otak* is a social place where male community members gather and discuss socio-cultural and political issues and often even gather for showing solidarity with the aggrieved party in any dispute.

According to a village elder, traditionally, *open and semi constructed space with a room namely Otak* can serve several purposes but is more frequently used for sitting as well as waiting area for visitors who come to the village. It may also serve as accommodation for Guest – a public space whose doors are open for all. It is also vital to understand that the here the category of `others` is flexible and keeps the function of *Otak* arbitrary for example, *Otak* can be smaller or large in size, enclosed or with open spaces, owned by people of different social statuses. Any person with little influence can designate a place in his house for the purpose of *Otak* which is used to serve visitors. In times of group or *Biraderi* disputes of minor nature, any *Otak* established by the Elder of the *Biraderi*/caste group can be used for conflict resolution. This is done when the matter addressed needs to be handled discreetly and among the family or *Biraderi* members. Although *Otak* is critical to interaction within the community, it is important to remember that its boundaries in most cases are non-existent. Some of the *Otak* are private and simply comprised of a small space and a

few chairs or *Khata* (wooden bedframe), *Rille* (bedsheet) and door placed outside the front door of the residence.

There are more two main *Otak*s in a village for managing and addressing conflicting matters occurring in the community. Having more than one *Otak* for public in community is a sign of political competition between more than one *ChangoMurs*, tribe or individual. It is this social structure of *Otak* through which the *ChangoMurs* keeps an eyes and ears on the events of the village. Therefore, the *Otak* established by *ChangoMurs* is more significant and vital as compared to all other *Otak*s established in the village. All government agencies, Sardar and local media and NGOs visit village *Otak* for intervention or discussion, as they are the most powerful individuals in the village. In the research, the two prominent *Otak*s used for dispute resolution belong to two equally influential groups of *Meerani*'s.

Both *ChangoMurs* of the *Meerani* Clans of Village Fatehpur have established *Otak*s in the village. Since Hassan Ali and Noor Ali *Meerani* enjoy more influence and popularity in the village therefore their *Otak* is not only larger in size but also holds more control and influence over the other village caste groups. However, Naveed Khan *Meerani Otak* is though small but holds no less significance with respect to dispute resolution. *Otak*s by these *ChangoMurs* are used as discussion platform/central meeting place for men and used for all kind of *Faislo*.

In general, any male member of each household visits *ChangoMurs'* *Otak* regularly during free time. In practice, the representative household members gather at *Otak* of *ChangoMurs*, where everyone has equal opportunities to engage in the processes of debate and decision-making. In practice, however, elderly men dominate the process because they are well-respected, well-versed and more experienced. They are not only well aware of the customs, cultures and rituals but also observe them. Since there are *Otak*s of two influential *ChangoMurs* in the village, therefore, daily visiting the *Otak* of any of the *ChangoMurs* is taken as one's social-political association with them.

Lastly, but most importantly, the *Otak* is also nursing disputes at two levels. First is directly confronting the conflict, which is the exchange of bad words between each other, and second is getting informed about the issue, identifying the wrong or right within an issue, which can become future reasons for a conflict, or getting to know someone by commenting on him or his family from a third party. Thus, *Otak* is a place where disputes or disagreements become overt. Therefore, *Otak* is not only a place where cases are presented and resolved. People, in their spare time, for example,

sit down and discuss different topics inside and outside of the community. Where there might be a clash or argument between two people, this discussion may lead to a heated debate and cause a conflict later on. Both or one of the parties may find a way to get revenge. Further, people may ask someone if a person has been seen in your absence, if he regularly visits your home or stands outside of your home, etc. This indicates that people gossip about someone regarding recent happenings, events, or situations or may try to involve someone in disputes. Key informants said that *a person who does not have the strength to compete with a powerful man engages him in a socio-cultural conflict such as honor-based accusations to get vengeance on his rival.*

The forum exists in many forms at local as well as province level. At the provincial level, the initiative of activating *Otak* for community resolution was taken by the *Sain Asghar Ali Meerani*. At the provincial level, the Forum was named as “*Sindh Mallah Forum*”, functional as *Otak* to discuss issues at phone calls and updates are provided on what’s app group (social media application) as well. A *ChangoMurs Nazar Meerani* of *Meerani* group at district level Larkana was the one who added also me in this group as a member. This provided me an opportunity to remain updated on the various disputes and problems of *Meerani* group at Sindh level. Furthermore, the successful stories of the individuals who belong to *Meerani* also share their stories in this forum. Hence *Otak* primarily acts as a platform to have new connections and relationship for networking. The relations established at *Otak* may access other opportunities such as exploration for jobs, links to resolve conflict effectively or merely be updated about day-to-day business of the villagers. This platform helped me to get an inside of the disputes of *Meerani* group and their thought patterns to resolve the issues.

To conclude, *Otak* is a male dominated public sphere. As the nature of the community is agrarian; mostly villagers meet during free time after lunch and finishing their morning commitments/ agricultural activities of every day. *Otak* sometimes can be used for special purpose gathering such as condolence of death, murder and sometimes for funerals.

6.2.1. Functions of *Otak*

Following are some of the functions as well as significance of *Otak*;

a) Familiarization

The *Otak* play the roles of political socialization and political familiarization. The *Otak* places an emphasis on social networking and solidarity by providing political orientation, with the ultimate goal of achieving harmony and peace. Therefore, *Otak* provides an environment for discussion and familiarization with the IDR system, whereas the other caters to building social bonds, networks, and dependency among the social groups.

It is an established fact that the *Otak* is basic organization from where rural masses get information about socio-political issues. A respondent told, *“Brother, Otak is used for discussion of daily basis; this is a place where everyone comes because it is familiar to all, open at every time and for everybody from many centuries. Wider aim is to resolve dispute and familiarize the subsequent generations about system”*.

The sole purpose of social activity is to define boundaries, control, and manage social activity for family members and others. The social assembly is effective in constructing perceptions about right and wrong as philosophical constructs in the minds of the people. As a matter of routine, the mechanism aids in the restoration of the underlying principles upon which the social, economic, and political structures rely.

Otak familiarizes the community with the traditions marked as rules; it identifies and connects the locals with people who can be potential mediators in their disputes or times of crisis. Hence, it defines and reinstates the authority of the actors involved. It helps in introducing their status and role as mediators during any dispute. It also demarcates the boundaries that come with every status. *Otak* also defines boundaries regarding the working mechanism of the system, such as what actions are considered offensive or worthy of punishment. Not all actions are worth punishment, some only need mediation and reconciliation between two parties who have quarreled. Therefore, *Otak* keeps a historical record and checks on all such actions through its members. It also embeds a conscious feeling among the residents regarding what matters are to be brought forth and discussed in *Otak* or considered suitable for third party mediation.

Therefore, since the *Otak* is open to all, the *ChangoMurs* and their men/assistants ensure that the *Otak* well serves its visitors in terms of providing information about current situations as well as managing their issues. Information flows two ways, so not only does the insider provide news, but the outsiders bring news as well. It is also a common perception that the news arrives in *Otak* itself, so the everyday visitors are well aware of the everyday happenings in the village. When visitors come across a lot of information, they first get familiarized with the information received, then process and comprehend it in the context of the prevailing socio-political context. Thus, first *Otak* helps people to start analyzing the issues and understand the inside politics and familiarizes them with how the system works. This is vital for creating a certain type of political awareness where the opinion is shaped according to the information provided.

b). Creating a Social Networks among members

Otak helps to reinforce the value of other social and cultural relationships by generating significant social activity on a daily basis; it connects and binds individuals through relationships and the principle of interdependence. There is no hard and fast rule about who can visit or participate in *Otak* and *Faislo* respectively. Every community member can participate in *Faislo*. Normally, it is a routine work matter where *ChangoMurs* and elders of different *Biraderis* of the village encourage the masses to participate as a symbol of unity, trust, ownership and for informational purposes.

In *Otak*, everyone practically knows everyone and also forms their own smaller alliances to seek support when needed. Every person that attends the *Otak* is a proclaimed representative of their household. Their attendance at the *ChangoMurs'* *Otak* on a regular basis demonstrates the person's social allegiance, particularly with the *ChangoMurs* and the elders who visit the *Otak* on occasion. *Otak* reinstates the social hierarchies and status between different members of society. It creates an air of familiarity between the members who come regularly. The members who, if and when needed, can be potential guarantors of someone's character and deeds. Moreover, people use *Otak* to get and grant favors. Farmers may discuss their challenges regarding agriculture to know what new can be tried to increase yield, youth come to know of employment opportunities, and the elderly visit festivities to communicate

with the other castes of the village and to monitor if they need any help. Many trading opportunities also come out of the many sittings at *Otak*.

Otak helps to maintain the web of social relationships by letting people host their important ceremonies of happiness and sorrow in *Otak* such as marriages and funerals. *Otak* identifies common areas of interest for the community, and hence it is considered necessary for community connectivity so that it is not just a group of individuals, but people tied together with mutual economic or political interests. Connectivity is possible through constant interaction and feedback from the community members. Therefore, the *Otak* allows the villagers of every age, caste, and economic status to gather, monitor, and discuss issues before they escalate.

‘The Otak is central place where people get together to discuss issue related to agriculture, inside and outside the community’s physical environment’.

c). Political knowledge and their Interpretations

Since the rural elite also represents the political hierarchy of the village, power lies with those with wealth and traditional status, such as the Elders or *ChangoMurs*, Sardars, etc. The assumptions and narratives about the possible candidates, the performance of the sitting government, and the advantages of supporting one or another are also shaped and formed in *Otak*. Though the perceptions are led by personal experiences, it is the communal perception that precedes all. Perceptions about the moral character and interests of the *ChangoMurs* may be explained both negatively and positively. People's satisfaction or dissatisfaction with the system does not impact their allegiance towards the *ChangoMurs*, as expectedly, he is the protector and provider for many.

As the *ChangoMurs* at the start of every election campaign will nominate their candidates. Locals use their past experiences to gauge their relationships with the particular political elite. Economic wealth and political strengths decide of one's hold over the area. The one with more wealth and numeric strength has more chances to be approached by the electoral candidates. Participation in *Otak* decides who is more acceptable and trusted among the community. In Village Fatehpur, *Otak* of Hassan Ali *Meerani* is more popular than the other therefore in the last two elections, locals shared that it was Hassan Ali *Meerani* who ran the campaigns for PPPP candidates in the area.

The political campaign starts with the interactions between the community members and *ChangoMurs* and the elders of the village at the *Otak*. The *ChangoMurs* and elders of the village monitor closely what is happening around them, who are our competitors and who are our well-wishers, who needs more persuasion or who is already in our support. Political narratives are generated during this time to gauge the masses' associations and concerns. Since *Otak* is one platform that is used for holding events, campaigns as well as dispute resolution, it is therefore considered a communal entity that works for the best interest of the village. Evasion from decisions made in *Otak* means evasion from membership of the village. Communal interests are preferred over personal interests; therefore, the votes are cast for people who are from their *Biraderi* or whom the *Biraderi* has decided to support. In return for their support, they will get and deliver the promised benefits. Thus, the village structure provides the *ChangoMurs* and *Biraderi* elders a platform where they play the significant role of leaders and unite the masses in the name of long-standing social solidarity and social relations.

d) Developing Collective Behavior (shape collective behavior)

Through *Otak*, the *qoum* establish close contact within their ethno-linguistic groups in village settings. Each group is structured in such a way that its components and segments partake in joint actions because they are linguistically, geographically, and territorially the same *qoum* and rationalize internal ties for their social, cultural, and political gains. The community shares collective identities where one person's actions are perceived as group actions. The community also shares a consensus on what matters are charged as violations and offenses. Each social group, in light of the socio-cultural boundaries drawn, is responsible for managing and controlling the actions of their members, may it be family or others. Each member is responsible for maintaining the honor and prestige of the social/ethnic group. Each member is representative of every other member in the group. The feeling of collectivism is promoted so that in cases of serious disputes leading to loss of life or honor, offenders could be subjected to traditional mechanisms by generating pressure through their peer group. Moreover, collective behaviour also ensures that justice is served, and the verdict is executed to satisfaction. It is not deemed *ChangoMurs'* duty to see that verdicts are executed; it is the elders of the same group, the other members who became witnesses to the process, who may ensure that the given verdicts are

implemented and followed by the members. Similarly, post conflict, it is not only the victim or perpetrator who is held responsible but their whole family, and *Baradari* is considered responsible and is held answerable for the committed crime. Therefore, since the notion of crime or social violation is treated collectively, allegiances and loyalties are also addressed collectively by social groups. People declare their mutual friendship and enemies with the parties involved. The harm done to one person is considered the harm done to the entire *Biraderi*, or family. Hence, *Otak* is not managed by the *ChangoMurs*; in fact, it is managed by the whole community.

F) Developing political theme and ensuring participation

Otak's position is significant during electoral processes. In *Otak*, people listen to *ChangoMurs* narratives and shape their opinions. It was also observed during the fieldwork that *Otak* platform is actively used for politically mobilizing the masses and for shaping political narratives in the community. As exemplified by how the *Otak* forms a kind of political community — one that is organized around a particular leader. The *ChangoMurs* calls community meetings for local people to meet with politicians or to discuss politics in general. The *ChangoMurs* already enjoy personal relationships with the politicians who are approaching him for support in election, such as Sain Asghar Ali *Meerani* and sitting MPA M.A khan. The *ChangoMurs* remains in-contact with the surrounding villages in general and specifically for political support. He either calls the community in the local meetings in his *Otak* or visits the *Otak* himself. The ultimate reason for contact with them is to develop consensus on the election of Union Council chairman and counselors' posts.

In the last two Provincial elections i.e., 2013 and 2018, where the *Meerani Biraderi* did not contested the election directly before but had nominated their candidates at the provincial level, *Otak* had been used for the purpose of holding pre-election meetings for political dialogue and analysis of available options. Before the elections, the Sardar nominated and proposed one candidate on behalf of his *Biraderi*, typically with no opposition as all the villages of the *Meerani* community resonate with the decision of the Sardar and give their agreement on the proposed name through consensus. In the 2018 election, *Nazar Meerani* was nominated as a provincial candidate from Larkana.

The masses also get current political news either from *ChangoMurs* or from people who are close to *ChangoMurs*. Many people also read newspapers, meet with other people, visit various places outside of their village and have contact with key informant. In spite of all the sources, villagers do not trust the news coming from other sources and tend to rely on their own people, especially the *ChangoMurs* or elders of their *Biraderi*. So, *ChangoMurs* provides information and discusses various issues through the medium of *Otak*, and from here the masses get *ChangoMurs'* narrative about any political matter. *ChangoMurs*, or elders, as political entities, have a legal or penal position in the dispute resolution process. The group or community as a whole develops a political narrative or consensus about any situation, so that an individual's action is not regarded as an individual's step or decision. That is why the voting culture in the village is also based on group consensus.

The collective consensus is also built-in times of solving disputes, finalizing political support and handling village crisis situations. A respondent shared that;

“It is place where people know about each other’s matters such as the problem faced by community member, as everyone did not go to masjid but come here. Further, sitting with ChangoMurs, we explore opportunity to resolve issues such as medical, educational and ethnic issues, important issue. We dilute the political influence and find the best way to stop retaliation and to build consensuses”.

The use of *Otak* is important due to the influence of *ChangoMurs* and also because it ensures the involvement and participation of community members in matters of importance and helps build consensus among the members so that each decision taken is perceived as one taken collectively for the best benefit of the community. Thus, it plays a vital role in lessening the resentment of the grieved party and providing them with mental relief. Furthermore, community consensus on any matter shows communal solidarity.

It is the responsibility of the *Otak* to resolve disputes in the community irrespective of their nature. The *Otak* is responsible for seeking means of resolving disputes peacefully. The *Otak* symbolizes that all socio-political and religious entities want to protect solidarity and peace without the use of force or coercion. The *Otak* continue to provide their services even after armed hostilities begin.

Various actors and structures (social, political, and religious) in *Otak* play their part in the peaceful resolution of disputes. *Otak* is a basic platform for public discussion and dispute identification. During discussion, 1) *dhur* one or both *dhur* indulge in a dispute disclosed the matter, 2) any representatives of the disputing *dhur* identify the tension, or 3) the relatives and *ChangoMurs* of *qoum* believe that if the matter is not resolved quickly, it will eventually jeopardize the community's peace. The *Otak* structure is supplemented by *Faislo*, whose primary responsibility is to call upon the *dhur* and local actors for resolution. The *Otak*, through *Faislo*, empowers the *ChangoMurs* to act as mediators/arbitrators to secure and restore the solidarity of the community by resolving disputes. It is *Otak* that converts into *Faislo* at the times of conflict. However, the process starts with calling forward the disputing parties.

6.3. Mechanism of *Faislo*

Faislo can be described as a foundational component of the Sindhi dispute-settling resolution mechanism and peacemaking process. It has been functioning as a popular mode of dispute resolution mechanism for many centuries in the remote and peripheral areas of Sindh and has its own mechanism of working and meanings within the rural social fabric. Almost every caste residing in rural areas of Larkana, Sindh accepts and participates in *Faislo*. This is why *Faislo* shows some diversity in terms of its functionality and manifestations in most parts of Sindh, but the premise for operation is the same for reaching consensus and conclusions in the peace building process.

During an interview with a key informant, it was shared that "*to preserve an organized system of social interaction, cultural practices put people under a certain degree of compulsion where they cannot do exactly what they want all the time. Moreover, these practices bide them to conform through rules and regulations for operating, norms, and values. Interest may lead to consequences that are incompatible with the good of the community.*" Therefore, traditional/cultural practices put some kinds of restrictions on members' conduct to which they adhered. It is the political organization that is responsible for the maintenance of orderly relations between groups. Often, the political unit is territorially defined, i.e., *Meerani*, and the political system is generally referred to with some forms of social ties within a specific group, such as *Meerani* members. The political organization or

social ties among any political unit, i.e., *Meerani* or in any Sindhi rural village, is controlled by *Otak* and *Faislo*.

Typically, the political organization of the villagers is more elaborate. As such, there are trained political functionaries (such as *ChangoMurs*, village elders, Imam Masjid, and even normal political workers) and structured authority structures. For example, in the village of *ChangoMurs*, the highest rank is officially *ChangoMurs*. The group has well-defined attributes (common sets of tradition, religion, history, social treatment, etc.) for ensuring that its members abide by caste norms, as well as for resolving conflicts between individuals or groups, and for deciding on integrated social actions. Whenever the group confronts a dispute internally or externally, the group as a whole or the elders take the appropriate steps to settle the dispute.

Faislo, besides being a political entity, also has a legal or penal component. A community-based council of males whose goal is to provide justice at the doorsteps through deliberate efforts involving community elders in particularly inaccessible areas, without imposing additional costs and demands on parties. The community perceives that the purpose of these efforts is noble, and their objective is to stop retaliation and reconcile both parties through settlement approved by normative structure. However, the pre-requisite of *Faislo* is that both parties give their consent and willingness to submit their dispute before *Faislo*, and they empower the council by subsidizing their rights to resolve and settle disputes through decisions derived after negotiations, dialogues, and consensus. The gathering of both *dhur* in the *Otak* of *ChangoMurs* indicates that they have vested their power in the council; thus, they place their authority with arbitrators who decide reward and punishment on their behalf after conclusive evidence and witnesses.

One of the members used the words “*Salah Mashware ma he khair ahye*” (benefit and wellbeing lies in discussion and consultation) therefore, they reject the individualistic view and refers cases for consultation to *Faislo*.

According to *ChangoMurs* of the village, *the philosophy of a Faislo cannot be understood by an individual or group of people outside of a specific culture. When you are talking about Faislo you are particularly talking about your agenda points (perception and intention of people). For community, Faislo is “khair” (Benevolent) and for outsider it is what he/she wants to see it. Simply he asserted reason for that, “the meaning and concept of benevolence (khair) is not directly translatable for others.*

6.3.1. The Philosophy of *Faislo*

Faislo is not just a decision-making body activated on a specific day, but rather it is characterized as a way of living, or a way of the self and its relationship with others. The *ChangoMurs* define *Faislo* with attributes such as "humanity, caring, tolerance, and generosity." These are the words that every community member has heard in the name of group solidarity and economic interdependence. He added more and said that *our Sindhi literature defines Faislo as "a philosophy of life in most of the rural Sindh, which represents personhood, humanity, humaneness, morality, and, in short, collective consciousness by virtues of sharing and compassion, generosity, kindness, respect, and the ability to live in harmony. The individual and his relationship with the community, and the strong interconnectedness between the two, are strongly emphasized in the concept of "Faislo".*

The *Faislo* operates on ethical traditions, ideals, and religious and moral significance traits that have sought to minimize the level of violence in human society. That is why *Faislo* is still in practice and manages to affect the behaviors, norms, laws, and structures that have been built up over time through a process of social learning and adaptive environment. The village's trusted people examine the causes of the dispute, hold discussions, exchange views and information, participate in debates and discussions, define common points and address them for the benefit of both sides. As a result, minor or criminal disputes are frequently resolved through *Faislo*.

The philosophy behind referring cases to *Faislo* is the collective responsibility of community members to resolve the issues of their people and to maintain harmony in all spheres of life. It is the responsibility of all members to ensure the well-being of other community beings who are all tied up through the social bonds and relationships that make up the community. *Faislo must address issues that are important in the social fabric and whose operation and contribution are deemed necessary for society's survival on amicable terms.*

Faislo is also a representative body that speaks for all those who cannot be there to represent themselves, such as women and children. It is the representative of the cultural values and honor of the village and resists all actions and events that may disturb the normative structure as well as the social fabric of the community. A democratic space, where the role of elected members and local *ChangoMurs* is as arbitrators in resolving disputes at the *Otak*.

6.3.2. Dispute Resolution Process at *Faislo*

Because the IDRM mechanism is prevalent at the grass-roots level, the rural population has a high level of acceptance for resolving disputes at the local level through the IDRM mechanism²⁹. There is no distinct legal body, but every matter is resolved through IDRM, recalled and recognized with the name "*Faislo*," a mechanism that also activates in the case of a dispute, conflict, or feud in the village that needs urgent resolution through involving community actors. IDRM, i.e., *Faislo*, handles civil and family matters like family disputes, robbery, land disputes, divorce, and adultery, as well as criminal cases like killings and murders. It is widely accepted due to the nature of its consultation process within the social fabric. The IDRM mechanism does not consist of codified customary dispute resolution procedures but follows the oral tradition of many generations.

The following section addresses the working mechanism of *Faislo* and talks about all the important steps in detail, such as how the case is referred to *Faislo*, how the place is decided and settled, who can participate, who constitutes the consultation panel, how the proceedings are run, and how the evidence or testimony is produced. Moreover, it also talks about the punishment and compensation mechanisms while proposing solutions to matters of criminal or offensive nature.

6.3.2.1. How disputant groups consults with the system?

After a dispute occurs, there is no specific or formal way to consult or engage the system or actors for dispute resolution. The process begins when any *dhur* contacts the local arbitrator known as *ChangoMurs* directly; otherwise, contact is made on *dhur*'s behalf through a peer group or *qoum*. Sometimes the *ChangoMurs*, as the neutral *dhur* himself, get directly involved in arbitration in adherence to the local norms and values. The neutral *dhur* intermittently involves both parties in dialogue with an emphasis on resolution. The neutral *dhur* (at times, *ChangoMurs* or representative) and elders along with disputant *dhur* talk about different aspects relevant to conflict, such as outcome, place of *Faislo*, the selection of *ChangoMurs*, the nature of accepted *Faislo*, etc.

The willingness and consent of *dhur* to access *Faislo* are of prime importance in *Faislo*. This means that the disputing parties vest their powers and trust in *Faislo* for

²⁹ as analyzed in the last chapter

the resolution of the dispute at hand. This also means that any decision proposed by the *Faislo* panel will be accepted and adhered to by both the *dhur* and their representing parties.

It was claimed that one has to pay no direct cost for calling *Faislo* or seeking its services for resolution, and if any, it is kept very minimal. However, on inquiry, it was shared by my key-informant that *"in fact, lots of money has to be paid indirectly during these proceedings. Initially, an individual spends an amount on the expense of bringing ChangoMurs who support him during the case hearing in the Otak of Sardar or Raees. Second is the amount that is paid to Sardar as community membership, token money, or Otak expense (most of that amount is forgiven by Sardar). These expenses are normally paid by the disputant parties. So, in some cases, people do travel to the Otak of a specific ChangoMurs to resolve disputes, if any case is beyond the power and authority of the local ChangoMurs.*

6.3.2.2. Place Selection for Resolution

In village settings, the *Faislo* can be held at various *Otaks* of the village depending on the nature of disputes and cases, such as in serious criminal cases, the matter can be resolved in different *Otaks* of Sardar, such as Sardar Sain Asghar Ali *Meerani* in District Larkana (*Meerani* Clan), Sardar Khan Chandio in District Qamber of *qoum* Chandio, Mir Khan Panwar of Jacobabad (Elder of Panwar Clan), and Meer Khushbash (Meer Clan) of Shikarpur.

Table 17. Place of *Faislo* hearing

Sr. No	Particular	Frequencies
1	Within the village	88
2	Outside of the village	4
	Total	92

Results of the socioeconomic census showed that 96% of the respondents confirmed that the place of hearing resolution has been their own village, as it suited them the best since then they do not have to travel to other places for hearing. It not only saves them time but money as well. On the other hand, about 2% of the respondents shared their experiences that in murder cases among any two social groups, the *Otak* of the *ChangoMurs* of the village lacks the needed influence and authority. Therefore, a

larger panel is called for and the case is not only resolved outside of the village but specifically in the *Otak* of Sardar.

Firstly, if the matter occurs within a family, arbitration takes place in the *Otak* of the elder or *ChangoMurs* of *qoum* through mutual consensus among family members or *qoum*. Secondly, if it occurs at kinship and *para* (neighborhood) level, the masses gather at the *Otak* of any community noble person or aged elderly of the same *qoum*. If any dispute occurs over the religious aspect, it will be resolved at the masjid or shrine of the Pir (spiritual leader). The other serious nature of disputes within the community is dealt with in the *Otaks* of "Hassan Ali Meerani" or the *dhur* (fraction) of *ChangoMurs* "Naveed Khan Meerani". In high-profile murder cases with the involvement of powerful or hostile social groups with a history of generational rivalry, these cases are resolved at the *Otak* of "Pagdaar Wadero". In murder cases, most of the time, people avoid travelling for different reasons, such as that every *dhur* wants the opportunity to get revenge or increase or equalize the score of killing. Therefore, *ChangoMurs* try to avoid addressing murder cases at the village level. As it was said, "*on one specific occasion during a hearing of a murder case in the courts, dhur looked out for an opportunity to attack and, in the meantime, murdered three members of the other party while they were on their way to the courts*". So, time is considered vital in managing murder cases, where the parties without their will cannot be called for resolution. The time of the call can be settled by involving the Elders and the wise of the two groups. The groups involved in simple rivalry also realize that one uncalled act of aggression can turn into long feuds over generations, asking for tit for tat killings and murders, hence subjecting both the parties to serious social, economic, and individual losses and damages.

6.3.2.3. Who Participates in *Faislo*?

There is no hard and fast rule regarding who can participate or who cannot participate in the *Faislo*. Every adult community member can participate in the *Faislo*. So, there are no strict formalities in terms of participation, and even the people and *ChangoMurs* of the community encourage people to participate for learning purposes. Normally, four types of people participate in the *Faislo*. Those are the following:

- a) Those who are affected (victim)
- b) Those who are at risk to be affected (criminal/who would be under trial)

- c) Those who are the observer (the common people of different or same communities with guess/prediction about realities such as suspended people involved, who will favor whom, about verdicts and lastly to enhance information).
- d) The neutral *dhur*, who really wants to resolve dispute.

Normally, the victim and his *qoum* have the right to participate in the *Faislo* and to express their views openly and equally to others, whatever the degree of the *Faislo*. The Elders, or *ChangoMurs*, however, usually represent the panel and speak during *Faislo*. Further, the *Musheer* and witnesses for both parties are selected from the Elders or *ChangoMurs*. It is the duty of the *Musher* to keep records of the decisions made in the proceedings and to agree and accept the *Faislo* on behalf of their *qoum/dhur*.

6.3.2.4. Selection of the Arbitrator

For the effectiveness of the *Faislo* and its implementation, the *Otak* council adds those members who are respectable, considered respectable among community members or respectable of specific *qoum*, have a morally good reputation, and are financially strong enough to support and influence. However, members can be changed during the process as well.

In the village, the community has a traditional caste/*qoum* structure based on a significant number of members within their *qoum*, which is a sign of power and strength. Moreover, each *qoum* has its own respective elders and *ChangoMurs*, and they build alliances with their respective *ChangoMurs*. If the dispute occurs within a family, arbitration takes place in the *Otak* of the elder or *ChangoMurs* of *qoum* through mutual consensus among family members or *qoum*. It makes no difference whether the decision was favourable or unfavourable because both disputants accepted the *Faislo*. For intra-family matters, mostly the elders or *ChangoMurs* of the *qoum* serve as arbitrators for resolving disputes among family members. These disputes consist of sibling rivalry, disagreements over issues of marriage, divorce, children's education, or can be intergenerational feuds.

In intra-community disputes, the elders and *ChangoMurs* of the *qoum* usually serve as arbitrators. The parties in dispute are persuaded by their elders to vest their trust in the traditional council and accept its decisions for resolution. They are important players and serve as arbitrators due to their power, prestige, and influence over their *qoum*, or

castes. Thus, an arbitrator can be any person from the locality who is recognized by the social circles as a *ChangoMur* of *qoum* or even a village. A *ChangoMurs* is a specific being who is usually the head of the caste, *qoum*, an ancestry-landlord with a powerful family background.

In intera-fraction/group cases (in the case of *Meerani qoum*), mostly disputes caused murders and sometimes prevailed over many generations. Other powerful individuals or elders from the same *qoum* or outside of the village had to intervene multiple times in feuds pertaining to social groups in the *Meerani* clan. Since he led a former political party, Sindh Mallah Party, whose aim was initially to raise and address issues faced by *Meerani Biraderi* and to make collective efforts to resolve these issues.

In most criminal cases, such as murders and *Karo Kari* cases, the decision is taken by the man who enjoys the privilege of "Pagg", such as Sardar or Nawab, due to the power and authority of Sardar, as both *dhur* accept the arbitrator's authority.

6.3.2.5. Finalizing the Selection of Arbitrators

When both the disputant groups agree to hold *Faislo* for the resolution of their case, they have to choose a specific person or third party for the assistance resolution. The final selection depends upon the type and nature of the dispute. For family issues and matters related to matrimony or other *Biraderi* issues, the *ChangoMurs* of the *qoum* or elder of a family is enough to decide and give verdict upon the impeachment of the community laws. In a few cases, *ChangoMurs* gets involved for better assessment of the case under hearing for better implementation and takes help in this regard from some religious people to understand the case from all angles. In cases of the civil arrangement of laws, such as theft or disputes over resources such as land and water, where there are injuries and causalities on both sides, the *ChangoMurs* solely are unable to resolve it.

In the most sensitive issues like honour killings or cases with consecutive killings and murders, the case cannot be resolved at the local level. For resolution, powerful and influential *ChangoMurs* and "Sardar" are involved, rather than selecting one man to indict the groups or parties. The Sardar can be ancestral power holders. Due to the power and authority of the Sardar, both *dhur* accepted the *Faislo*. In some cases, the MNA or MPA act as arbitrators, and both *dhur and Faislo* come to his *Otak* for *arbitration*. Thus, both *dhur* and the arbitrator agreed on an arbitrator or the members of the panel of arbitrator.

The selection of an arbitrator or mediator seems to be a simple process, but it is intricate and involves complexities. There are three types of criteria to select an arbitrator. It can be a man known for his ethnic austerity and knowledge (elder or *ChangoMurs* of a *qoum*), *ChangoMurs* of a Village/Nawab/Raes, or one to whom both *dhur* agree to plead their case too, or it can be a selective mediator outside of the village. While Imam Masjid is not mostly involved in decision-making, if the cases are related to matrimony, divorce, or custody of the children, or any other trial for *Dua*.

6.3.2.6. Appointment and Role of Amin/Musheer

The consultation panel of *Faislo* may include different types of people as it is a general consultative forum, but while decision-making, the panel only includes *ChangoMurs* as Amin, two *Musheer* (representatives) from each side and any other two or three members as dependents. The number of members of the council can increase or decrease as per the nature of the cases. Operating *Faislo* necessitates the presence of quorum, which consists of all local actors³⁰ required for peacebuilding, such as socio-religious and political representatives.

The role of Amin and *Musheer* is very important in the whole process. Both the words "*Amin*" (custodians) and "*Musheer*" (*advisor*) are used for the same purposes, as "*Amin*" means those who have given with a "*Amanat*" (trust) being trustworthy, and further, there are "*Musheer*", derived from "*Mushawarat*", advisor from both sides. Each party nominates two *Musheer* from both sides. They sit with *ChangoMurs*, and their role is to hear the case carefully and note down the strong points of his *dhur* and find weaknesses and contradictory statements in the other *dhur*. In a few cases, they also ask a set of questions to clarify certain things and resolve certain objections. After hearing both sides, *Musheer* sits with *ChangoMurs* and discusses the cases, recollecting the strong points of his *dhur* and the weaknesses and mistakes of the other *dhur*, especially if they have presented a false or wrong statement to get a favor. Here, *Musheers* and *dhur* try to develop consensus by negotiating and discussing various options. Such as, verdict, reward, and punishment, their aftermath effects, and moreover, the outcome is also discussed with the elders of his representing *dhur*, and later, *Faislo*, is announced.

³⁰ Refer chapter on local actors.

The consensus of the Amin/*Musheer* is usually unquestioned since they are respectable and trustworthy member of each *dhur*. Generally, the character of Amin should be exceptionally honest and wise so the background of the Amin also counts. While selecting the Amin the *dhur* keeps in mind the attributes such as credibility and especially experience for being an Amin. Amin is not effective if not credible. As the Amin is mostly chosen as the guarantor after the verdict would be implemented.

As part of the proceeding, the panel listens carefully to the case. *Musheer* memorizes and *Kamdaar* note down on paper the strong and weak points as well as contradictory statements of each *dhur*. In some cases, they may also ask questions to clarify and understand certain things and settle certain objections. After hearing both sides, *Musheer* sits in consultation with the *ChangoMurs* and others and discusses the minor and major findings of the cases in detail. Both *Musheer* and *dhur* try to understand each party's intention and position, develop consensus by negotiation, and discuss various options for resolving the matter as well. The *Musheer*, on behalf of their respective parties, mostly talk about the verdict, reward, and punishment as well as their aftermath effects, and later this outcome is discussed with the elders of both *dhur* and *Faislo*. For better understanding, the process is explained step-by-step in detail.

6.3.2.7. Presenting the Relevant Evidence

The relevant and case related evidence is presented before *Faislo* to identify the cause, reason, or culprit of the matter for its better management. Related evidence includes both direct evidence and circumstantial and contextual indirect evidence. The relevant means whether direct or indirect circumstantial evidence is established as linked or not. If the evidence does not match with the time, location, identity, or illegal actions of the accused or with the context of the offence committed, the evidence shall not be taken as significant or important. The *Faislo* members evaluate and test the evidence through their experience and cross-questioning. The contextual evidence reveals the spatial connection between the offence, victims, time, exact place, and the description of the crime. These spatial relationships can sometimes indicate that a convicted person had a mix of motives, opportunities, and techniques for committing the crime, all of which are significant characteristics of criminal behavior.

6.3.2.8. Presenting the Witness and acceptability of Witness (*Shahedi*)

Both *dhur* present their *shahid* (witness of dispute), but who mostly talks about how a dispute originated and who started the dispute first? As well as identifying the original offenders, how did it progress? What was the reaction of his *dhur*? What measures did the *dhur* take? And lastly, so far, what are the physical and monetary losses bared by his group? As far as accepting the testimony is concerned, there are certain criteria for accepting evidence or testimony: a) previous record of the witness is verified; b) credibility of the family (especially fathers' and grandfathers' records); c) the father will attend Oak instead of his son (if demanded by other parties); and d) if the other party rejects accepting anyone as a witness.

In different situations, such as criminal cases or otherwise, witnesses play a very important role. They help to explain what exactly happened in front of the arbitrator and other *Faislo* members and reveal facts they know about the event or the case. Therefore, a witness is the one who has all the relevant information about the case. There are two kinds of *shahid*: one who was present at the time of the accident (eyewitness) and the second kind of *shahid* are those who build arguments through eyewitnesses and draw a scenario or situation. An eyewitness is regarded as more authentic than someone who is just narrating the facts related to the case. The testimony of the eyewitness is important for the *Faislo* members. They are regarded as valuable sources in the context of murder or honor killing, and they are highly persuasive to the members of *Faislo*.

Another way to validate the witness and his testimony is to have him swear allegiance to the Holy Quran. Further, some people may also reside to swear on one's wife, ancestors, or children, and in other contexts, it is verified through the background check and credibility of the witness and his family, such as whether the witness or any one from his family has betrayed *Faislo*. Such double-checking raises the *Faislo's* credibility, as it is more difficult to cheat in front of a court than in a traditional court. Moreover, it is impossible to make a false claim in front of the local masses and actors, who do understand the real situation due to their experience and familiarity with the people in question.

During FGD, people revealed that though the eyewitnesses' account of the event is recorded as the live description of the happenings at the moment, at the same time, the account presented might not be so accurate if viewed from a distant angle. Also, the

eyewitness might not be focusing on the truthful details of the incident due to some internal or external pressures as well. At this juncture, the expertise and wisdom of the arbitrator and *Musheer* are tested widely. Because the narrative of the eyewitness can be disproven, the accumulation of other forms of onsite physical evidence is crucial. "In our social system, eyewitnesses can be mistaken, biased, or otherwise *influenced by the powerful dhur and ChangoMurs, hence they can testify under certain pressures*". These pressures applied to the witnesses are not so far from the account, because corrupt elements are present in every society and every community. No social structure is immune to such evil elements.

The most important aspect of *Faislo* is that the safety of the witness is also the responsibility of the *dhur*. Though most of the time, the witness is from their own *qoum*, but fewer times, they also include people from other *qoum* as witness for better impression. There may be two broader aspects as to the need of safety and protection of the witness. First of all, it is to ensure that the evidence produced by the witness is not allowed to be nullified in case of resiling from the statement by the witness at the time of *Faislo*. He must abide by the rule of ethics to stick to the first statement, and not change it under any outward pressures. The second aspect is that the physical and mental vulnerability of the witness should be taken into account. Witness should be protected from any hostile actions taken on by the *dhur* on the other weaker *dhur*. They may harm the witness, physically or try to bribe him out of the case. In both these cases the protection of the witness becomes the responsibility of the *dhur* for whom he is there, putting his life at stake.

6.3.2.9. Remedies, Punishments and Compensations

Faislo is an authoritarian, local decision-making institution that has incorporated some Islamic principles and Shariah law. The adopted principles of *Faislo*, especially in murder cases or blood feuds, are Islamic and recognized by the Pakistani constitution, such as *Qisas* and *Diyat* laws. According to the law, the aggrieved party has the right to seek and receive compensation in the event of bodily harm or murder. *Qisas* refers to retribution for a crime, while compensation refers to *Diyat*. These laws gave the victim's family an option to decide for their betterment and to reduce the resentment. According to these laws, the victim or his/her family holds complete custody of the case. At any point before the execution of the sentence, they can

pardon the criminal. In return, they can accept monetary or other rewards as a "*Qisas*."

This indicates that the matters are decided by the family rather than in court. However, in a few cases, such as honour killing, where the brother, for example, who had killed sister in the name of *Izzat* and *Gairat*, is saved by the father, who as *Wali* (guardian) and can forgive his son, the punishment of the offender is criticized. The *Diyat* law allows criminals to rectify their wrongdoing and escape punishment through compensation to the victim's family. Usually, the compensation is in monetary terms, and the rich pay the amount while the poor pay in terms of women in the community.

Punishment in the form of monetary fines is a recent phenomenon. However, before financial compensation, barter or exchange systems were implemented, i.e., life for a life or giving away things of equal value to those lost. In criminal cases, punishment is announced in terms of monetary compensation and benefit to the victim. The philosophy behind compensation is the concern that the masses hold about the effect that post-dispute punishment would have on the family and those left behind. Even sending the convicted to prison would make the family left behind dependent on the others. Further, the existing system is accepted and approached by mostly marginalized people who are unable to pay heavy compensation money. But *Faislo* deems this compensation significant to keep a strict check on community actions. The compensation money is a large amount, at times paid off in installments. It reminds the convicted of their wrongdoings. Nevertheless, trends are shifting towards monetary compensation, specifically in murder charges, as it is also allowed by religion.

Faislo encourages peace between the two sides. The verdicts have a significant impact on the masses. Local actors, when having agreed on the suspected crime, immediately negotiate the required amount of compensation to be given to the aggrieved party. Judgments generally involve the reversal of the wrongs perpetrated against the complainant party (e.g., in cases of theft, recovery of stolen goods); a comparable penalty for the convicted party (e.g., physical violence for physical violence following the eye for an eye principle); and payment of compensation (amount, property, or woman in marriage) to the aggrieved party.

6.4. Competency of *Faislo*

There are various questions that arise about the competency of the *Faislo*. For example, does *Faislo* address the issues effectively? How is the authority of the actors involved authenticated? Are the local arbitrators qualified for justice delivery? Does the system provide justice to those it caters to? Does *Faislo* have the ability to maintain peace and restore relations among the members of the community?

For making *Faislo* competent, this forum assembles all important local actors to call disputant parties, find out the culprit, address the issues and look for an appropriate solution to the existing problem that they hold in common. Therefore, in the research site, the *Faislo* is basic council for dispute resolution and is comprised of the members such as elders (head of *Biraderi/qoum/Zat*) and traditional authorities (*ChangoMurs*, *Sardar* of *qoum*) who play an insider's role in resolution.

The purpose of assembling local actors and community at *Otak* is to have discussions on the existing problem through presenting both sides' narrative, and initiating dialogue between them, having joint analysis (between parties and local actors), and putting political influence on to reach appropriate conclusion. Hence, *Faislo* enable dialogue processes between both *dhur* and provides them a suitable platform to address their grievance at right time and platform. On the other side, the local actors create an environment to speed up the dialogue processes and ensure inclusion for all and take serious efforts for joint actions against culprits. The purpose of these gatherings means several solutions will be discussed on how to resolve issues by not violating human right standards and involving multiple actors so that no one raises questions on verdicts and assure that vulnerable groups or victims accepted the verdict under no pressure.

However, at times, people raise questions about the qualifications of the arbitrators and other members of the *Faislo*. The members of the *Faislo* do not require any academic qualifications but simply follow simple rules to be appointed as members. A few of the characteristics may include residence in the community, good moral conduct, representing an ethnic group, nominating an elder of the community or ethnic group, *ChangoMurs*, member of the national or provincial assembly, or member of a local body. In fact, members of *Faislo* are not elected members but the most popular or influential elders of the family, ethnic group, and tribe, the *ChangoMurs*, or religious personals. Not necessarily all members are included on the

basis of their wisdom, but on the basis of their stature and power to influence others. Thus, the most important aspect of the arbitrators' competence criteria is to resolve disputes arising from power, control, and influence in the community. The competency of the system is also supplemented by other features of *Faislo*.

The following are the characteristics of the *Faislo* that ensure its credibility in the community, generate an environment of trust and enhance its competency while dealing with disputes:

6.4.1. *Faislo* Process is Participatory in Nature

The participation of community members in *Faislo* is an important feature of traditional justice systems. *Faislo* does not restrict itself regarding matters of who can attend or not. It is considered a public space, open to all. It ensures that those who attend *Faislo* also participate in its proceedings. The level of community engagement varies from the presence of participants and witnesses in the proceedings to the presence of the entire community. Public engagement and joint accountability for the decision are further examples of the different types of community involvement. Generally speaking, *Faislo* allows members of the community to participate in the process of developing and reaching consensus. Traditionally, the *Faislo* procedure enables the forum to be open to the general public. The *Faislo* is referred to as a community justice mechanism (conventional justice), with its primary focus on community-level reconciliation.

The community members present at the time of the hearing are free to give their opinions on matters they deem important or worthy of comment. The mechanism is participatory to ensure an environment of consensus. The legal penal system, though influential, does not want the decision to appear as individually taken by the *Faislo* members only but intends to include the community, so the verdict given is first understood and accepted by all. Secondly, it encourages participation for information purposes too.

It is not only the community members to which the *Faislo* opens its doors to; any other stakeholder outside of the village can also attend *Faislo*. However, they are not supposed to participate as active members.

Participation in *Faislo* is encouraged because of the fact that each community member shares multiplex relationships with each other and is also economically, socially, and ethnically connected and interdependent. This social connectivity makes individuals

responsible for regulating systems and ensures they participate in matters pertaining to the wellbeing of the community. Participation has various connotations, such as taking part in the proceedings of the *Faislo* in the most basic sense, but symbolically it means trusting *Faislo* and vesting power and authority in the process, verdict, and execution.

6.4.2 *Faislo* is Consensus based in Nature

The Faislo proceedings contain dispute details, major findings, and the truth. For this, the matter/issue is discussed openly in order to draw reasonable conclusions and give the community an undisputed opinion. Ignorance in interpreting details or developing consensus can lead to devastation as well as frustration in the whole community, which can go on or be remembered for generations. Since, the verdicts are a result of community engagement, the decisions made must be perceived as appropriate by both *dhur* and the community.

6.4.3. *Faislo* is Voluntary

One of the most beneficial features of the IDRM mechanism is that it is voluntary in nature. Resolving disputes in the community is viewed as one of the responsibilities of the local actors and not as a job. Local actors and performers are not compensated either by members of the community or by the state. The service is provided under a social and political role, which includes no holidays or free time. One of the local actors said that *they do not get paid and do not expect any benefit from anybody. They're satisfied with the respect they receive in return from the community.* The mechanism, unlike FJS, is always accessible by the community members. The *ChangoMurs*, being part of the same communities, take up the role of arbitrators for many social, political, and personal reasons, such as holding power, being part of their ethnicity, being humanitarians, and being custodians of the *Otak*.

Local actors lead the process of resolving disputes through IDRM. These actors are highly respected for their cultural knowledge, cooperation, familiarity with the history and the power structure of the community. They are experienced, skillful and powerful, and people have empowered them to negotiate a dispute that is acceptable to the villagers. Since the IDRM system operates by voluntary process and *Faislo* is

consensus based, the disputant *dhur* cooperate with local actors to reduce their difference in a constructive manner that does not break their relationship.

6.4.4. Procedural Benefits

Besides the wholesome characteristics, there are also some very technical reasons for community to refer to *Faislo* for dispute resolution. It is on the basis of these procedural benefits and detailing that the mechanism has won trust of the people.

Besides the social benefits, the system also provide some procedural benefits to those accessing it. This may mean that accessing *Faislo* may burst their legal stresses as well. The system is dynamic so bears the ability of handling all significant matters of concerns that can potentially become disputes. The system most prominently unlike FJS does not impose life imprisonments or hard punishments. Unlike FJS, the justice served is relative and prioritizes the relational bonds shared with the parties than anything else. They may mean that despite of being accused of any heinous crime such as Murder, *Faislo* may resolve the case following the traditional law or at times shariah and may come up with reconciliation by imposing specific monetary compensations on the offender. This is one reason that powerful social groups also resort to *Faislo* for verdict.

6.4.5. Addresses All Types of Disputes

The *Faislo* has the capacity to deal with matters/disputes pertaining to all sphere of life such as criminal cases, financial cases, civil disputes as well as family and honor (*Izzat*) related issues. It is worth noting that *Faislo* has performed well even in cases where both *dhur* could not be caught or brought before a regular court. Since the traditional laws, dispute resolution processes and punishments are unwritten and culturally interpreted therefore, the process is flexible because it allows local actors to provide solutions which are socially acceptable and serve well to both *dhur* as well the community in any specific context. The local actors understand the impact of the potential damage due to rise of a dispute that is why, it becomes more important to resolve the dispute through a process of IDRMM mechanism by using the community influence on *dhur* and others. Thus, this versatility enables them to deal with all types of cases (criminal or civil) at a single platform. Their involvement and influence as arbitrator also help rationalize their traditional authority in a way that they are deemed as the right authority with whom the responsibility of making thing right lies.

Faislo attracts people mostly in civil matters, or people think, they get similar kind of treatment from every mechanism. During FGD, it was observed that *people in civil cases prefers Faislo saying that if they opt any other legal system, they will get almost the same treatment.*

6.4.6. Thorough in Proceedings and Investigation

The *Faislo* does not prosecute the guilty unless there is clear evidence or past history attached. *dhur* pursues their case, airing their grievances by presenting their side of the story. The assigned *Musheers* and *Ameens* take up the responsibility of separating facts and evidence from the emotional encounters narrated by both parties. If needed, witnesses are also produced by either side. *Faislo* also has its own way of verifying the testimonies of the witnesses, but the chances of being lied to are very much there. *Faislo*, then, can open the forum for opinions from the community and other stakeholders. The dispute under discussion is validated by multiple sources, and finally a decision is reached. The verdicts are not issued unless both parties reach some consensus or agree to end the dispute. The *Faislo* also does not ignore the social, political, and economic dimensions of the verdict and views the impact of the issue and the verdict from all angles. Only then, offenders are punished after an extensive investigation process.

6.4.7. *Faislo* is Lenient in Verdicts

Since the rules to operate and charge punishments are unwritten therefore *Faislo* is usually flexible while giving its verdict. People many a times in order to escape imprisonment or serious punishment from jail approach *Faislo* as it can resolve any matter through imposing monetary fines as compensations. It was observed during the research that even in matters pertaining to serious crimes such as abduction, murders or physical abuse, the *Faislo* did not charge the offenders with any hard punishment but monetary fines. Community members responded that *Faislo*'s role is to advocate the rights of the victim and to provide him some solace as those gone (killed or murdered) may never return but the money provided can support them in their time of crisis. The *Faislo* takes the support of religion and cultural norms to reach consensus or verdicts to either minimize the loss or to end the uncertainty and unrest. The

acceptance and strong confidence on *Faislo* give the arbitrators an advantage during violent situations.

In case of the minor dispute over trespassing between Meerani and Jatio tribe, the parties after a year's long trial with court referred back to *ChangoMurs* for reconciliation. Both the *dhur* despite being involved in physical abuse and murder were saved from imprisonment. In fact, both were asked to apologize and pay monetary compensation to the members of those who got killed in the dispute. Both parties accepted the *Faislo* and ended the year long dispute after *Faislo* settlement.

6.4.8. Engages Influential Arbitrator

Elders, *ChangoMurs*, Sardars or other rural elites who manage or control *Otak* are considered influential or powerful arbitrators by many who cannot be easily pressurized. Hence respondents believed that *Faislo* is in a more capable position to bring disputing parties to negotiation table even if they are not willing to. They may also extend the circle of their influence beyond the community to other state actors to make any resourceful *dhur* to willingly vest their power to them. The engagement of the arbitrators is voluntary and need no additional money from the community to help them resolve their problems. Furthermore, they are respected, socially sensitive, wise and experienced in decision-making. The key -informant shared that in escalated disputes between powerful *dhur*, many a times, *ChangoMurs* from other areas, MPA Mauzam Ali Khan, and ex DIG Police Sain Asghar Ali *Meerani* had been requested to intervene many times.

6.4.9. Resolves culturally Sensitive cases

Diverse ethnic groups reside in the same village, and the details were discussed in chapter 3. From the most powerful caste to most subordinate castes; "*Ghairat*" (Honour) and ego are basic reasons for dispute. Therefore, disputes occur due to "*Izzat*" and *Ghairat*, (Honor, defense of honor and chastity). Hurting one's *Ghairat* and *Izzat* is not deemed as a personal matter, but rather it is considered as ethnic and communal issues. The *Faislo* also resolves sensitive issues within their socio-cultural context quickly and discreetly. In fact, many of the matters addressed to *Faislo* involve socio-cultural conflicts as explained in chapter four. However, in one of the cases, the father of the girl left the *Faislo* right after the verdict was announced as he was not satisfied with the final decision. *Faislo* verdicts can be challenged as well if

any of *dhur* is not satisfied with the verdict given but despite the grievance, hardly any *dhur* (party) has been seen to take their cases to any other *Otak*. Following are two cases where *Faislo* failed to satisfy those *dhur* who had requested hearings or were victims of any violation.

Case- Study # 08; Abduction by an Influential

Mr. Zareen Khosa, young male of 23 years kidnapped a girl of 19 years from *Meerani* tribe, from Larkana. The Girl went missing for many days and the parents and their relatives were unable to find or trace the girl. The infuriated tribe and family members brought the case to the Naveed Khan *Meerani* of Fatehpur village. Naveed Khan *Meerani* asked his friend (who was Police officer in Larkana police). The police investigated the case and found the culprit, but they did not arrest the culprits as they belong to one of influential Khosa family. However, they informed Naveed Khan *Meerani* for further instructions Naveed Khan *Meerani* asked him to wait for a while. The *ChangoMurs* contacted the parents of Zareen Khosa and informed them about their son's criminal conduct. He also gave them two options that either resolve the case through police and court or come to his *Otak*? The parents after discussion agreed to come to the *Otak* of the *ChangoMurs*. So, the *ChangoMurs* Naveed Khan called both parties on the fixed date. At the start of the investigations, Mr. Zareen Khosa flatly denied being involved in any such wrongdoing. However, the *Meerani's* tribal chief used his own resources to reach the depth of the matter. He not only asserted social and political pressures on the culprit to participate in *Otak* but also face the interrogation. After thorough investigation and search, the girl was returned to the family and the violator of honor was released upon imposition of fine of Rs. 12 Lakhs. The accused party did not agree on the *Faislo*, as it was too much, but due to political pressure, they agreed. The *Faislo* was accepted by both the disputing groups and a statement of settlement of the issue was duly signed by both signs for adherence.

Case – Study # 09; Dispute over Exact loaned Amount

Habib Brohi and Mansha Brohi had a commercial dispute. Once they travelled from village to Baluchistan area. During travel, Habib borrowed some amount from Mansha. Moreover, Mansha also took care of the expenditure incurred during the travelling of both acquaintances. After two months, Habib when returned the original

borrowed amount to Mansha, he demanded more as he claimed to be spent additional amount on traveling. Habib Brohi said that he has also spent money on him and as a friend, the money in the first place should not be included or considered, Further, if it does, then he is ignorant of the actual/exact amount?

Disagreement aggravated and was decided to be presented to Naveed Khan *Meerani's Otak*. Both parties presented their facts which were carefully heard by Naveed Khan *Meerani*, later he also discussed the case with *Musheer* and the Brohi elders. After consultation, he stated that Mansha had no right to demand the money because he never showed his intension to Habib before spending the money neither he expressed a desire of returning the money while making expenses. Mansha became enraged after hearing the decision; though he accepted the judgement but was thoroughly dissatisfied with it. The dispute was not extended any further or raised at any other forum.

6.5. Faislo as a Social Institution

Traditional justice systems emphasize more on the concept of justice and fairness, forgiveness for community, tolerance for peace and coexistence for solidarity. The Indigenous Dispute Resolution Mechanism (IDRM) approach heals mental and emotional wounds of victims through addressing their grievance timely and resorting social relationships (Osamba, 2001). This is why community depends more on the given indigenous mechanisms as compared to formal courts. Following are some of the significances attached with the mechanism of *Faislo* as a social justice delivery system.

a) A Holistic Justice

It is rather important to conceptualize the term "justice" to understand the complete connotation of the term "holistic justice". In a social and community sense, *justice is anything that meets the expectations of the members demanding it. A community develops a communal\collective perception of justice that is based on high moral grounds, socio-cultural norms and values, as well as abidance of the traditional law.* While having an interview with *ChangoMur*, he said that *during a conflicting situation, both parties who feel aggrieved and victimised can access the system for justice. What does this exactly mean? Do they demand a fair trial—a trial based only on facts or evidence? Or do they want a fair chance to lament their objections or disagreements besides demanding social protection, tolerance, and resolution of the*

dispute at hand? What does the community want? Only a fair trial? For example, a case or a trail that, besides identifying the accuser and punishing the victims, also calls out parties to sort out their problems and seek suitable solutions mutually for the purpose of restoring the disrupted social bonds, reinstating the values and norms violated, and protecting those who may badly suffer as a consequence. Before considering any particular possibility, the system must consider all of them.

The phenomenon of social justice demands a justice delivery in a wholesome way i.e., justice served must be in alliance with the socio-cultural needs of the community and should be in the best interest of all its members that may include those who may be affected during conflict and post conflict situation. Holistic justice keeps in mind the potential impacts a specific dispute can have on the lives of the community and society as a whole. Therefore, the purpose is not to give a fair and just verdict, in fact the focus is on what is the right thing to do in a specific situation to maintain social harmony. The verdict may be viewed as dis-satisfactory if it violates the social code, disrupts the social relations and does not represent the sentiments of the larger community.

The system may very conveniently override the interests of the individual or his claims and deliver justice that meets the communal demands, their need for safety, social care, protection, and restoration. *The basic philosophy behind this concept is that the collectiveness in social action reflects consensus and solidarity which is must for the survival and prestige of the community.* Therefore, the traditional Laws formed are holistic in nature for the community and refer to overall maintenance of social order of existence. All the systems in-place support to enhance or restore community solidarity and collectiveness in governance and decision-making as it is deemed in the best interest of the community. Thus, *Faislo* has anticipatory approval of the community, because verdicts taken in *Faislo* consist of discretion of high moral character and sense of justice.

Case Study: Resolution for a Dispute over Elopement

Mr. Nadir Tunio a 27-year-old man and a 19-year-old girl of Buledi tribe- daughter of Majid Tunio liked each other. Someone told Majid that Nadir frequently appears and passes by your home in your absence. First, he warned the boy through involving a mutual friend. In respond to Majid's warning, Nadir sent proposal for his daughter's hand in marriage which was refused by Tunio without providing any reason. The boy

tried to approach Majid and even agreed to offer anything in return. Mr. Majid got angrier on his foolish offer. Nadir on seeing old man's rigid opposition, as last resort opted to elope with the girl from the village.

As reaction, Majid approached influential people and lodged an FIR against Nadir. The police went to Nadir's house and arrested his father as well as took in charge some valuables from his home. As things were getting out of hand, Nadir approached the *ChangoMurs* of the village for reconciliation *Sulah* and decision through *Faislo*. Even though, he was the one who approached the *Otak*, it was Nadir who was accused of guilty for defaming Majid's honor and was fined to pay for PKR 1,000,000 in installments and PKR 200,000 in advance. Mr. Majid took Rs. 200,000 as bride money for the marriage and to get away with the shame.

As is clear in the above case-study that arbitrators decided in favor of the girl's father even though it was the boy who had taken the dispute for resolution to *Faislo*. The IDRM went with the larger consensus of punishing the boy as he had violated the honor of a respectable man. The case was also set as a precedence for such violations in the future. Huge monetary fines though could not restore girl's father's honor but it could salvage his grief and enable him to make further preparations for his daughter. The system also completely ignored the consent and the opinion of the girl even though she was of age and preferred his father's point of view over hers. The case study also represents the system performs to reinstate the social values at all costs. As punishment to the violations of economic or social norms, *Faislo* incorporated monetary fines and monetary compensations. Before imposing a decision, the community evaluates whether the offender can pay? And further it also ensures that due to particular decision, the family of the offender will not suffer. In case the offender has done a fraud, the fine asked for would be heavy or he will be given with any social responsibility (work for landlord "himself or his belonging"). If he cannot pay the imposed fine or if the loss is heavy, then whatever amount collected would be distributed between both parties, the rest of the amount will be paid by the ethnic group or else *Faislo* would allow the offender to pay in installments.

Case Study # 10; Criminal Case of Theft and Fraud

In year 2017 Anees borrowed a motorcycle for few hours from Yameen. He gave away the same motorcycle to another person Mr. Faheem in exchange for loan compensation in Larkana city. Anees also assured to hand over the registration

documents of the motorcycle within a few days by giving the reason, “*documents are in the possession of my uncle*”. When Mr. Yameen asked Anees to return motorcycle, he replied that bike has been stolen while he was in Jhulus Market of the Larkana City. Mr. Yameen on hearing that the motorcycle has been lost, lodged an FIR of the stolen motorcycle. However, after a few days later, one of Yameen's friends called him to inform him that he had just seen his motorcycle in Larkana Market. He asked his friend to stay at the same spot where he had seen his motorcycle and reached the site, where Bike was first sighted, along with the policemen, Police and Yameen waited to know who will take the motorcycle. Later when Faheem came and started the bike, he was immediately arrested by the policemen and the bike was recovered. During investigation, Faheem told the police that how he acquired custody of the bike also clarifying that he is not thief. The police after realizing the fraud done by Anees, raid his home and arrested him. Next day of the arrest, the father along with other elders of Anees, visited Yameen and requested him to take back his complaint and in return they will bear all their expenses. Further, the elders of Anees also apologized for the incident. Yameen referred the case to his elders. Elders of both the groups sat together. Few close friends also helped out as *Musheer* to both groups. The elders agreed to resolve the issue at the *Otak* of *ChangoMurs* to avoid confusion. The *Faislo* took place in the village under the supervision of *ChangoMurs* of the *Biraderi*. In his verdict, Yameen was asked to withdraw the case from the police as he recovered his bike. The family was instructed to pay debt to Yameen. *Anees was told by ChangoMurs that he would not go out of the village, and second, he was ordered to work on the land of ChangoMurs for up to six months on fixed wages.*

The aim of *Faislo* is also the protection of right of each community members against the invasion of strong and powerful. For preserving the rights of community members, the communities have shaped traditional laws and code of conduct, embossed sanctions and described procedures. The codes of conduct take care of other community members from vices like selfishness, lust, greed and intolerance. By applying these codes of conduct, *Faislo* serves two functions: one is that it is protecting the rights of community members and provides justice at doorstep to stop further aggression; secondly it effectively enforces these traditional laws by bringing community members at one page and enhances social solidarity.

Case Study

A farmer Behroz borrowed Rs 1,00,000/- from a landowner Waleed *Meerani*, which was later to be returned after selling crops of rice. However, due to low water level, the yield produced was not sufficient and farmer was unable to pay back full money to the *ChangoMurs*. The matter was brought to *Faislo* to decide the mechanism of payments. The *ChangoMurs*/Elder of the *Biraderi* had played the role of *Musheer* of Behroz whereas petitioner's father acted as the *Ameen* in the whole matter. The case was discussed again in front of the community members and Panel of Elders. Waleed asked the same question that if Behroz failed to pay the promised amount who would pay the said amount on his behalf? *ChangoMurs* of the village replied that he is well familiar with Behroz and as a same *Biraderi* member; he is willing to pay on behalf of Behroz *Meerani*. The *ChangoMurs* of *Biraderi* also showed his support by being his guarantor and paid half of the amount as guarantor whereas the remaining half was postponed until the next season. The amount which Behroz had saved for payment was left with him in case if he needed any additional amount to meet the expenses pertaining to harvest and cultivation. Hence, the *Faislo* had decided to allow the farmer to pay the full amount in two installments i.e., half of the amount in the running year and the other half on the new year after getting returns on yield to save him from being overburdened.

Hence, *Faislo* system is empowered through the traditional law to punish the offenders. Following may be the reasons for punishment.

- The idea behind the punishment is to act as a deterrent for both offender and victim.
- The punishment must take care of the left behind family of the offender, and the community ensures that the burden would not affect the rest of family.
- The purpose of punishment is restoration or reconciliation.
- By punishing offender, the community identifies the wrong doer, rectifies the wrongdoing through punishment and protects the community.
- The punishment at right time to offender prevents further crimes.

b) *Faislo* creates Interconnectedness

The means of negotiation or reconciliation are seen at community level as re-establishing relationships between both parties through involving the elders. As elders

play important roles in reestablishing peace social cohesion, and order among communities (Osamba, 2001).

As discussed in the beginning of the chapter, dispute resolution is seen as significant social activities which often have a theoretical aspect i.e., they help to reinforce the social value of family and other relationships. *Faislo* may treat the village community as one big, interconnected family who shares collective identities and whose social or economic interests or even survival is tied to one another. One of the respondents shared that *Men is meant to be a man if they keep/maintain relations with other and participate in happiness and sorrows of other men*. Hence, one's self-image or identity is viewed through his ethnic identity, lineage and social network he develops by maintaining reciprocal relationships with the other community members. Reciprocal relationships are formed by constantly participating in each other's life events, by exchanging gifts and favors, moreover by supporting each other in times of crisis and need. Community protects each other interests from the powerful. It also protects the norms and values it cherishes. Hence the members of the community by virtue of sharing same cultural values also share collective consciousness and a psychic unity. Their ability to comprehend reality or right from wrong is more or less same and is based on the perceptions and experiences they have shared as a community. Hence, every individual of the village contributes towards the betterment, wellbeing and sustainability of peaceful life in the village.

Through Mechanisms like *Otak* and *Faislo*, the villagers form a network of relationships, rather than being simply a collection of individuals since *Otak* and *Faislo* both provide people the spaces to bring matters of concern for open debate and consensus building. The community also ensures each other well-being by identifying violations, power abuse and tensions between groups by standing up against them for the larger good of the community. The community may also take responsibility of those who are affected by or are left behind as a result of dispute in the area and provides them social safety nets for survival.

Why having or maintaining relationship is necessary? What value it holds and what role it plays in study area in the context of dispute resolution? Generally, when a crime is committed that leads to a state of unrest, violence, agitation and confrontation then it is only the relationship shared between members as a community that puts pressures on disputing parties to stop as well as others to mediate. If there is no social relationship entertained between community members, the members may feel no

moral responsibility to end the aggression at any point due to which the rest of the community as well as their daily life will be affected. In this situation, the relationship keeping and maintaining social networks become necessary to address the dispute at early stage. Providing timely justice means community members remain involved and updated about the happiness, sorrow and tension faced by other fellows in their community. This is to honor and cherish each other's relatedness. It shows interdependence, interconnectedness, and collective responsibility of community to resolve an issue. Thus, indigenous justice mechanism just not involves redressing or dealing with specific situation. In fact, it refers to social conditions in which ultimate aim is to minimize such wrongdoings without damaging the web of social relations.

This also implies that the villagers' approach to justice is more emotional than logical or rational where the offender or victims are not just individuals but members of a specific ethnic group, tribe, a father, a son, a husband, a worker, a friend or family. That is why during a dispute, no matter the family is either accused or victim, the *Biraderi*/family support is always with them. All the members present a united front, hold the same point of view and take ample interest in the proceedings. The family members make alliances and show social, economic, psychological and political support to the member in trouble. In such situations, the *Biraderi* member must go to all limits to protect the prestige of the *Biraderi* by supporting the disputing party.

c) Prioritizing Community Harmony

In village, the call for justice or addressing one's concerns is demonstrated by saying "*Faislo kayo*" which means come and resolve it through verdict. Villagers, hence, form a mechanism to settle their issues through exploring possibilities by sitting together for the whole interest of community. The ultimate goal is maintaining peace and harmony in the community as a whole. The system is designed to take care of its member and make them responsible. If the system does not address the concerns of its member, the tensions over small matters may escalate into feuds.

The *Faislo* is intended to uphold the needs of the accused and to resolve the 'imbalances' in a culture created by the acts of the convicted. The system makes the parties sit together to address their concerns and issues and reconcile for restoring peace and harmony for the rest of the village. So, the ultimate goal is to make peace, through reconciliation. A respondent said that "*Justice is interpreted not in terms of the penalty of the accused, but reconciliation between both segment of the society and*

restoring the equilibrium for peace". The verdicts hardly contain hard punishments but monetary compensations to show compassion and address the grievances of the victim party. The main purpose is to promote and encourage activities that are helpful in keeping peace and harmony in the area and negate and discourage or stop those that bring unrest and chaos to the established social order.

Case Study # 11: Dispute Resolution over Land Dividers Issues

In 2017 around 07:00am Shoaib *Meerani* while irrigating his land had unintentionally cut the shoreline of Zameer's Land. Zameer spoke harsh words to Shoaib over cutting the shoreline and diverting the water distribution channel. Shoaib acknowledged his mistake and also apologized for his act, but Zameer constantly misbehaved. Shoaib also retaliated and spoke harsh words back. The people who were working in neighboring field immediately intervened and fused the tension between both parties by using the argument of being belonging to "same ethnicity". In evening, Shoaib reported to his elders that Zameer had misbehaved with an intention to instigate him for confrontation. Similarly, Zameer also discussed the matter with his elders; they encouraged him by saying, "*continue if you want to confront him, we will support you to ensure that Shoaib never dare to cut our shoreline again*". After *Isha* (night) prayers, both elders met each other but both started accusing each other of intentionally aggravating the dispute. Meanwhile, both elders warned their members to be careful of any hostilities and aggression if shown by the other side. The next morning both groups were ready for a physical confrontation. Both prepared their members to handle confronting situation and asked them to hide in surrounding fields. Zameer initiated by throwing insulting words on Shoaib. He also replied in the similar manner with equal zeal. As the taunts and the disagreement grew, their voices got louder, and instrumental aggression converted into hostile aggression where members hiding in fields of both groups appeared from surrounding fields along with sticks as weapons in their hands. During this confrontation, many people got injured with some having deep wounds and blood all over their faces. The other people tried to stop them and almost after one hour of long fight, it got stopped with the intervention of other social groups. All those injured were shifted to "Redefining Primary Health Care" (RPHC) in the village. As it was already 8 o'clock in the night, the doctor was not present in the hospital. The RPHC because of the absence of the doctor and nature of the case apologized to provide the fight victims any primary aid

as it was also a police case. The elders of each group also reached RPHC besides few other local actors. Until then, the doctor was also called back on special request of local actors to at least provide medical aids to those injured. The doctor and his staff provided first aid to the injured after being reassured by ASI of Dhamra police station, “if anything unexpected happened (such as death of any person on cure bed), he will manage it”. After getting first aid, all the injured were sent back to home.

After the whole fiasco, the local actors brought the case in the *Otak* of village *ChangoMurs* in the same evening. As the case was important and needed to be resolved immediately therefore no delays were made by either side. The local actors told the *ChangoMurs* that matter aggravated because of the mistake of the elders of the Zameer and Shoaib. Zameer on realizing what could have happened over a small feud, felt ashamed for his behavior and apologized for his crude behavior and impulsive action. The elders of *Meerani* group asked them to apologize to each other and ensure that this will not repeat again.

It can be finally concluded that the *Faislo* is accessible to all and offers justice at doorstep that enables villagers to overcome a number of problems, including the reducing processing costs, both in terms of financial and time. The villagers meet with *Faislo* as soon as the dispute erupts because they need it to be resolved before it aggravates. According to them, if the situation is not resolved early on, the nature of the situation becomes more complicated and gives rise to new side conflicts involving more than parties as shown in the above case-study. Therefore, the issue must be resolved early as soon as possible. People want to resolve it faster, whatever the verdicts are, otherwise, it will destroy the harmony of society.

6.5. Limitations of *Faislo*

Besides, its multi-facet advantages and functions, the *Faislo* mechanism has been criticized for its key failures while delivering justice for marginalized and vulnerable segments of the society. As *Otak* and *Faislo* are purely all male dominated spheres, women are excluded from these processes. The women cannot even speak, present her case, cannot raise questions against the mechanism or decision even if the verdict affects them directly. They cannot present their point of view and cannot even challenge the decision. They solely have to rely on male family members to represent their perspective without damaging their honor and ego.

Involving women does not mean that cases pertaining to them are not addressed at the *Faislo*, but they are not given the chance of representation. A key respondent shared, "In our traditional system, we cannot call a woman to the *Faislo* due to *Izzat*, *Gairat*, and tradition." The respondents during the FGD said that certain injustices are faced by women due to their lack of active participation throughout the proceedings. Another distinctive point, shared by respondents, is that honour-related cases are increasing in surrounding villages. The intention behind these cases is to take revenge or make money from the rich. Women are rarely exploited in most genuine cases where a woman's family member is not involved or would not benefit from the verdict. In such cases, the male never discusses the issue with others, even his family. Moreover, the *Faislo* mechanism is also accused of direct human rights violations against women, as evidenced by the found verdicts of forced divorce, forced marriage, *Vani* (women given in marriage to accused family to end blood feuds as compensation), and abduction.

In other serious disputes between social groups of equal power, the *Faislo* at village level may become ineffective in using its influence to end conflict and aggression between the two parties hence calling help from a more influential platform or actor such as Sardar or MPA etc. Till the matter reaches the Sardar for resolution, the victim already has suffered more than he/she receives compensation or reward as settlement. Further, to reach the *Otak* of Sardar, the victim and their families need the help of those rural elites who possess power and exert strong influence. Even in cases where a verdict is unfavorable to the disputing parties, they have to adhere the verdict as no other option is there to reject other than to challenge it in another *Otak* which in return is not well received by the *ChangoMurs* and other influentials. If the *Faislo* keeps dealings with the matters of the sub-ordinate classes, then only it works efficiently.

The partiality of IDRMs mechanisms can turn a blind eye to some serious crimes in the name of solidarity and social harmony. A crime committed by any member of the rural elite, or their relatives is difficult to contest through *Faislo*, such as disputes between both *dhur* of *Meerani* in the village. It is difficult to seek justice for victims belonging to the poor class because such disputes are usually political and are mostly resolved keeping in mind the interests of the stronger faction. Moreover, those who kill people (women and others) in the name of "honor killings," or in the name of vengeance, self-defense, or *Izzat*, understand that such violence is justified and

considered legitimate for the perpetrator, as all such acts concern one's *Izzat* and honor. Certain voices, even if they are raised from inside and outside of the community, call for punishment, but it is difficult for the community to punish people who claim their right to take revenge or to protect their honour. This clearly amounts to social injustice under the *Faislo* system. Perhaps this is one of the reasons that created vacuums in the IDRM system that were later filled by some other institution, such as the criminal court.

The "giving facts or proof" process is somewhat different from that of the formal courts. There is *Musheer*, but there are no specified standards for verification of proof, or even sometimes previous cases are referred to as evidence to justify the claims made. Acceptance of claims tends to be contextually based. For example, primarily, it has been observed that which party has been more dominant and has been declared right in earlier verdicts. The most authentic way to verify the witness is to swear on the Holy Quran. Another way to verify proof is by swearing one's wife, ancestors, and children are considered much more credible. For example, "*a man would be pained to say that, if I am wrong, then my wife may be haram to me.*" Another way to verify the proof is to go through the history of the witness and his family. However, many believe that it is easier to lie in some cases. In *Faislo*, the witness knows that they have to appear in front of the community, but people are afraid of being witnesses, as there are consequences attached to giving false testimony. A respondent said that in many cases, if the case is pursued in *Faislo* and same case in the courts at the same time, one may observe that the witness presented in *Faislo* and the witness present in front of the courts are different.

Normally the verdicts are consensus-based. But sometimes, *Faislo* passes a verdict which is not acceptable to either side. The Decision made by *ChangoMurs* of the village is challengeable and anyone can refuse to accept it due to any reason. However, the verdict passed by Sardar or Raees is unchallengeable and unquestionable as no party has adequate authority to refuse. A respondent informed that *people assume this as it is the final powerful authority and when both parties agreed to resolve a dispute, they consult the Sardar. Furthermore, Sardar himself monitors and ensures the implementation of the verdicts; otherwise, the party rejecting or showing noncompliance with the verdict faces worst consequences.*

The power politics and influence based approach used in *Faislo* sometimes affect the decisions. Furthermore, if someone wants to resolve a dispute through the courts, the

Sardars assert their authority to affect FJS proceedings and tire/frustrate the victim by using delay tactics. Because of the financial constraints, the victim is unable to continue and gives up. If the victim manages to get above all issues, either he/she is kidnapped, witnesses or evidence is manipulated, or the verdict is influenced by using contacts in the judiciary. Surpassing the *ChangoMurs* or IDRМ mechanism is feared because, in the event of a problem, the *ChangoMurs* and others do not miss an opportunity to remind one of the benefits of the *Faislo*, where the problem could have been resolved amicably. As a result, the communities have no choice but to resolve disputes by IDRМ means as those accessing other means are made an example for others to learn and know that *Faislo* or IDRМ is the best possible means available for conflict resolution. The repetitive pattern of referring issues to IDRМ has become a routine for the locals, so in times of dispute, the first thought is to address it through *Faislo*. The routine behaviors by the community have made *Faislo* a strong institution where the *ChangoMurs* and other traditional elites are monitors and gatekeepers who ensure that the process is followed, and rules are obeyed for sustainable peace building.

6.6. Discussion Analysis

It was found that indigenous laws are embodied in their myths, traditions, rituals, and real experiences of the villagers. These come from broad legal concepts that reflect and are derived from societal values. For example, village laws, practises, and processes are developed via debate, cooperation, and extensive events frequently occurs in their lives. Elders, *ChangoMurs*, *Biraderi* and even every member of the village are custodians of these traditions, therefore matters are resolved through interaction, formulating consensus through understanding and cultural laws. *Biraderi* that gives value and respect to cultural mechanism and play an important role to sort-out the issue, took efforts to developed consensus and peacebuilding among the people. The first priorate of the elders and *ChangoMurs* are to treat disputant groups with respect and decency, and the system keeps in mind the aspirations of people. Therefore, these behaviours and acceptance lead to calm, obedience, and diligence in most of the cases. For villagers, "diligence" means "aspirations of the aggrieved party," acceptance or obedience means "everyone plays their crucial role in ending the dispute, and the community honours these efforts to achieve peacebuilding and harmony in the community. This may be accomplished through adhering to *Biraderi*

integrity and discipline. Rani (2014) has claimed that the indigenous mechanism follows a three-fold policy rather than just completing or fulfilling a legal procedure or process. The indigenous mechanism focuses on the aspirations of a victim, the offender, and the community. The aim of these local processes is not to punish the offender. However, the system places the responsibility for accepting his offence and the damage that has been done on the victim. Secondly, it fosters dialogue between the groups by making them accountable to the offender. Lastly, repairing emotions through forgiveness and apology and material wants to be considered secondary (Rani, 2014).

Data regarding indigenous peoples' cultures and social structures is usually minimal owing to their historical, political and economic marginalization, and their comparatively 'remote' regions. However, formal and informal writings on these subjects are often limited to indigenous or local languages (Roy, 2005). In remote undeveloped regions where the majority of the population is poor, with pervasive illiteracy resulting in a lack of access to justice and a high cost and shortage of lawyers, conventional dispute resolution stands out as the safest form of dispute resolution (Alemie, 2018). It also fits well specially in war and post-conflict cases, or when the state has weakened, or the established legal structure has not evolved strongly (Rani, 2014). Worldwide, indigenous means of administering justice delivery mechanisms, such as locally integrated dispute resolution mechanisms, are used to resolve disputes and maintain peace and stability within local communities. Such groups or organizations are acceptable and provide their services to local communities in particular circumstances and satisfy them culturally or religiously. Such mechanisms are frequently more successful than existing justice systems in countries (Shinwari, 2015). Alemie has referred to UNDP Cambodia and described that in Cambodia, the local systems are trusted more as they are fairer, more pro-poor and easier for local citizens to navigate. Similarly, the idea of alternate dispute settlement is not new in the territories of the sub-continent. Moreover, Alemie referred to Dahal and Bhatta's (2008) work and described that in Nepal, for example, customary laws are still followed as they affect the customs, norms, social values, rules and institutions that have been built up over time (Alemie, 2018). Such examples depict that the rural masses are resistant to formal laws for a variety of reasons, including mistrust of the law, uncertainty, unfamiliarity with formal procedures and the court environment, low legal literacy, unequal power relations, physical and financial

inaccessibility, cultural inappropriateness, corruption within the formal court system, delays in disposal, high transaction costs, and so on. As a result, the rural masses relied on locally accessible conflict resolution to have access to justice, which was not only cost-effective but also handled disputes effectively.

The Otak which are considered social assembly points for the village, activate the mechanism of *Faislo* at times of crisis and dispute. A semi-open public space that serves multiple functions in the community, e.g., a drawing room or a discussion place for the community, a political forum or a dispute resolution place, is considered a symbol of prestige. In the village, there may be many *Otaks* that may operationalize *Faislo* as per need and demand to address intra family issues, but for addressing disputes between different social groups, the two *Otaks* of two *ChangoMurs* are crucial to the operationalization of *Faislo* at the community level. However, in few instance *Otak* is the place where disputes are nursing or initiated. For example, during general discussion, the members discuss various issues and their observations with each other. During discussion, people symbolically ask an individual if he keeps concentrating on his home, as someone constantly visits or sees near his home in his absence, or if something is going to happen. Further, directly confronting the conflict, such as the exchange of bad words between two individuals. These issues become more complex, and cases get started when both come face-to-face for any reason or on the basis of doubt. Thus, clash or argument between two people, during discussion may lead to heated debate and cause a conflict later on. Both or one party may find an instance where they may get revenge.

Faislo is an arbitration mechanism that works through consensus-development and interplay between indigenous understanding and dispute resolution. It is an indigenous institution with little documentation and versatility in terms of managing disputes. The mechanism is also flexible with well-known procedures. It is considered a traditional judicial institution in which the rural masses bring their disputes and concerns and vest power in the structure for better reconciliation and the announcement of appropriate compensation and punishment. Menkel-Meadow has cited Merry & Milner (1993), who stated that Indigenous dispute processes are easily accessible and held locally, such as in a neighborhood with the help of community members and those who are experts in handling those affairs by involving their parties. Moreover, he has cited to Fisher et al. (1991) and said that it produced better outcomes than litigation, where an individual or party is polarized and results are

declared as one is a loser, and the other is a winner. Furthermore, the place of hearing is flexible and a party-controlled process, and this delivers a creative result. Pareto-efficiency solutions are given, which reduce further escalation because parties ensure it and restore relationships, and the system tries to identify and take care of the aspirations and interests of the disputants (Menkel-Meadow, 2015)

Faislo, though, is said to resolve both kinds of matters, such as civil and criminal. However, in commercial disputes, villagers do not consult with *Faislo* nowadays. People wanted to take the full amount from other *dhur*, while *Faislo*, through consensus, tried to put penalties on other *dhur* which they could afford. Thus, *Faislo*, in most cases, was unable to resolve the disputes related to commercial matters. Community social solidarity is viewed as one unit and not a mere group of people. People, thus, forget and sacrifice their social and economic aspects in the name of collective identity, *qoum*, and peace of the whole community. However, certain people use them for their personal gain. For example, during disputes, they show that they have committed crimes unintentionally. If such verbatim were used, we are same as two bodies but one soul, or we are part of one flesh, and how could I cheat you? Further, during punishment, they show themselves that they are unable to pay anything so that the amount of punishment could decrease.

Furthermore, one of the limitations of the *Faislo* is that women do not attend or even participate in the *Faislo* process, even though matters are discussed regarding them. The only way of approaching *Faislo* members or local actors is through household elders, family members, or relatives. In a few cases, these women are not allowed to give their narratives or try to understand what is happening inside or outside of the household. The elderly usually has a higher social status than disputant groups in *Faislo*, because they have acquired status by virtue of their age, knowledge of culture, and participation in cultural practices.

Perhaps it is widely assumed that the decisions are obeyed partially due to traditional authorities held by the landlords and influential as mediators or arbitrators and partially out of fear. But this is not completely correct as the system also partially holds its members' trust and faith. Furthermore, community participation and engagement are basic factors that put pressure on both disputing parties to resolve disputes and do efforts for reconciliation to maintain the social order. Community participation and supervision after reaching mutual consent ensure the implementation or execution of judgment, compensation, or punishment.

As it stands, the non-congruence between ADR and *Faislo* one of the most important limitations of ADR is that it does not address such inconsistencies in the interpretation of the level and nature of disputes interpreted and perceived throughout the villages. Such as, the villagers are more concerned about their own articulated definitions of what crime is and *Izzat*. Whereas courts do not accept such definitions and award punishment in those cases. As Snyder (1981) said that disputes can be analyzed through a simple approach, where disputes are taken as social processes through an extended case method or situational analysis. This approach understands the phenomena from social organization to processes and from groups to networks of individuals. It emphasizes the actions of parties in disputes just as much as those of negotiators or adjudicators and aims to map the perceptions of individual disputants and give special attention to the cultural meanings and rationalizations of social action (Snyder, 1981).

The *Faislo* is held at many different levels, such as at Family level, at the *Otak* of *ChangoMurs* of *qoum* (at neighborhood level) and at the *Otak* of *ChangoMurs* of village to resolve disputes of masses at doorstep and efficiently. The mechanism is very simple to follow that is in order to access to justice, people first create common grounds for both parties to begin with informal procedures. The dispute can be brought to elders for resolution in three ways: the disputant parties themselves, the representatives of the *qoum* and the other interesting classes. In *Otak*, *Faislo* are arranged and assembled through open discussions between the two sides. It is really important to generate dialogue and arbitrate on what went wrong between the two parties. Once the dialogue process is started, it is deemed easy to find facts and the causes of the dispute and based on these information consensuses can be built through arbitration. Felstiner et al. and Glasl work also mentioned by Thomas (2016) emphasized on pyramid models. Any type of dispute may be found at the bottom of the pyramid, while only significantly escalated disagreements can be found at the top. Mediation is regarded as providing a feasible solution depending on the degree of escalation, and what a mediator essentially does is help parties move down the escalation pyramid in order to reach the phase in which they may settle their dispute themselves through dialogue and settlement (Thomas, 2016).

Witness, being the decisive factor for any case may be the one directly targeted out of revenge by the losing *dhur*. Being witness is not an easy thing. The witnesses and their families face dangers at different stages of the cases. They are threatened where

the seriousness of the nature of threat depends upon the type of case and the background of the accused family. Most crucial witnesses are threatened or injured before they could appear in *Faislo* in few cases. They can be murdered as well for becoming lethal to the powerful family. In such cases, witnesses do not come forward to testify or until and unless they are having pure sympathetic feelings towards the sufferers. Otherwise, some witnesses are fake and are prepared by influential *dhur* or *ChangoMurs* to testify in their favor.

The *Faislo* is voluntary and free of charge, and the disputants are usually not charged anything. When it was investigated, it was discovered that the disputants had made no direct payments to *Otak* or its members. However, *Otak* will impose a fine in criminal cases, indicating their displeasure with the situation and the severity of the situation. The fine for *Otak*, however, might be waived upon request. Requesting to be waived off is not simply a matter of request but connecting with power and authority. Because the activities carried out by *ChangoMurs* are not for monetary gain, despite the fact that he is wealthy and a landlord, but to maintain social and political status and control the power structure. Thus, requesting *ChangoMurs* by himself and through his elders indicates that people are reliant on and seeking *ChangoMurs'* mercy.

Secondly, the disputant does spend a small amount indirectly on the resolution of a dispute. However, in some cases, to resolve disputes, various people are important, such as elders, people from civil society, *Musheer*, Witness, *ChangoMurs*, and most importantly, *Kamdaar*. In order to involve them, in certain cases, the disputants have to provide conveyance and food if the members are outside of the village, such as a member of civil society, an elder or *ChangoMurs* of *qoum*. There are a few factors that contribute to *Faislo's* success, such as using important people in their favor, requesting them to be available at a specific time, and requesting and paying a certain amount to *Kamdaar*, so that he does not say anything negative about any of the *Dhur* and ensures minimal punishment. Moreover, the arrangement of nominal refreshment for a *ChangoMurs* is an indirect expenditure that is paid by disputants.

However, the beauty of this system is that all the *dhur's* primary aim is to resolve the dispute, which makes it different from the Formal justice system. Therefore, each *dhur* present their cases before *Faislo*, and the *Faislo* actors resolve the grievance of aggrieved *dhur* through compensation and solidarity. The culprits acknowledge his crime on his party, apologies and compensate the victim. In few cases, the culprits if

does not accept his crime and is not willing to pay any compensation such as honor related crime or stealing cases or sometimes aggrieved *dhur* does not accept the compensations create uncertain situations and unrest within the village. Aggrieved *dhur* indicates that they will get compensation in some other means or will dedicate other means. Therefore, *ChangoMurs* involves other local actors and utilizes his power and authority, even police to resolve the dispute. As Ahsan (2016) mentioned that in India and Pakistan, there is a practice as part of law to settle the disputes in separate communal fora or forums such as “Panchayat” or “Jirga” through common consent and consensus of the parties rather than to petition the court. Any conflict over life, such as criminal cases, financial cases, legal disputes and family matters, was settled in these alternative dispute forums (Iqbal, 2016).

The IDR mechanism has shown its ability to attract a wide range of masses and they pursue solutions that better reflect socio-cultural practices. It allows both parties to address each other’s point of view and recognize the common interests at stake. It ensures relative justice that serves the needs and demands of the community. The *Faislo* over many years has given preference to community harmony and peacebuilding than anything else. The peace-building process is ensured through using the social connections entertained between the members of the community where every stakeholder uses his power and approach to settle the dispute between warring parties as soon as possible. As Rani (2014) mentioned that Evidence indicates that IDR systems are not new for dispute resolution in fact that informal community systems exist alongside structured state institutions in the African countries of Tanzania, Mozambique, East Timor, Botswana, Ghana, South Africa, Kenya, Zimbabwe and Zambia in many manifestations. The prevalence of legal pluralism and acceptability of Informal justice system along with formal justice system can be seen in various communities such as ‘rondas-campisenas’ in Peru, the ‘junta-vecinales’ in Bolivia, ‘local kastoms and komitis’ in Fiji, Papua New Guinea and Solomon Islands, the ‘katarungangpambarangay’ in Philippines, and the ‘local council’s court’ in Uganda (Rani, 2014).

Chapter # 7

7. IDRM – Perspectives and Indigenous Narratives

This chapter addresses the objective of identifying indigenous narratives of *Faislo* with respect to its relevance in the research area and tends to deal with the legal, political, economic, social and humanitarian narratives to understand the existence and preference of *Faislo* by indigenous communities. First part explores the various perspectives of community for preferring customary laws, or indigenous dispute resolution mechanism while dealing with their issues and disputes whereas the second part of the chapter sheds light on the socio-economic, cultural and political significance of peacebuilding process among the community.

7.1. Perspectives for Preferring *Faislo*

Dispute resolution is perceived as a broader term and consists of various perspectives to handle dispute. According to Tamang, the perspective towards handling disputes may be realist (coercive and diplomacy), liberal (political, using power military, economic) and social (humanitarian). To him, these various approaches and mechanisms are designed to resolve dispute (criminal and civil) and rebuilt harmony and peace in the community. The realist approach views peace through the use of coercive power and diplomacy. While liberal approaches emphasize on political, military and economic aspects to resolve dispute. Lastly, social approach emphasizes on humanitarian grounds to consolidate people and restore harmony (Tamang, 2015). Following section discusses the political, social, legal, economic and humanitarian perspectives of masses regarding the dispute resolution mechanism of *Faislo*. It helps us conclusion of how the community at large perceives the relevance of *Faislo* in their lives. Each perspective is also supported with certain qualitative and quantitative evidence to draw causal relations between the different factors that strengthen or weaken the role of *Faislo*. The intent of the researcher is to find out to what extent *Faislo* serves the interests of the power groups.

7.1.1. Political Perspective

Faislo is a decision mechanism termed an Indigenous Dispute Resolution Mechanism (IDRM), which prevailed and practices over centuries at the village level across Sindh, Pakistan. In contrast to IDRM, the Formal justice system is being avoided by the villagers due to many reasons. Moreover, even though a statutory framework for alternative dispute resolution (ADR) has been devised by the provincial and federal governments but it has failed to achieve the desired results. Again, there are several difficulties that prevent its effective implementation. By and large, little effort was made by the government to overcome these difficulties. At village level, villagers hesitate to involve others because of poor literacy rate, and socio-political situation etc. Thus, the masses and *ChangoMurs* at the village level preferred to continue with old traditions for dispute resolution processes such as *Faislo*.

It has been noted that managing *Otak* means that each and every dispute, issue, and disagreement is first brought to their notice, so they are the first ones whose reaction to a dispute would decide how the dispute will actually be handled. Disputes between lower castes are handled by the *ChangoMurs* themselves without the inclusion of other elders and community members, as many of the lower castes work as peasant on the fields of the Meerani, while the most part of population either sharecroppers or temporary residents of the village. Those who belong to the same social group and have social status with the *ChangoMurs* are considered political and economic competitors. The *ChangoMurs* may use their power—which is built slowly by enhancing one's social and political network—to tame or dominate the social groups that are socially equal to them in status.

It is important to understand that settling disputes is patrimonial, a political matter, and that local actors gain their political motives from it. Some members of parliament who represent those areas, as well as those who were elected as a result of those sardar, openly or covertly oppose efforts to bring about reform in these areas. They both feared that they would lose political influence and national or provincial assembly seats. Rural elites, on the other hand, are usually likely to engage with the indigenous system because they live in communities and are active in indigenous conflict settlement systems in some instances.

A member of civil society said that for *ChangoMurs*, "*politics*" deals with the power that comes with the roles assigned to rural elites in *Faislo*. It also covers the political

hierarchy of the village. The political hierarchy of the village is constituted by the rural elites of the village. They are not only resourceful but also control most of the land in the village, for example, Meerani. Due to their numerical strength as well as their control over fertile land and wealth, they are considered the most politically active group in the village. Moreover, a key informant said that their power can be assessed through political participation, such as during elections in 2013 and 2018, when they nominated their political candidates and, on power bases, they also had two ChangoMurs managing their personal Otak and Faislo Mechanisms in the village.

Local actors may perceive any other *ChangoMurs* of village or *qoum* from the inside or outside of the village as competitors, who may exert influence on the masses to gain their own interests and create obstacles in the process of effective conflict resolution and social peacebuilding in post-conflict situations. The role of local actors is also to shield *Faislo* against such influence of the competitors. According to local actors "If they want to resolve the dispute peacefully and establish harmony among the community, they should play their constructed role through cultural laws and stop the influence of competitors". yet to be done

Therefore, the *ChangoMurs* of the community do not allow the individuals to be independent in most of the aspects. According to a *ChangoMurs* (happened to be in jolly mood), "if they get independence from us, how would we enjoy our elite status?"

The status of the elite for him means he will be included in resolving the issues of people as "arbitrator". The Sardar, police, politicians, the masses, and other social actors will depend on him to play his role as an arbitrator and resolve matters at the grass-root level. Furthermore, because of his financial background, rural influence, and political involvement of his family, he is able to retain power in rural politics. To strengthen their political standing, they established alliances through cross-marriages and also made their children occupy bureaucratic positions in order to enhance their family status and network. Hence, *Faislo* is considered as a powerful mechanism that keeps the role of *ChangoMurs* relevant and significant. It also gives him direct control over the lives of his subordinates.

It is important to note that the maintenance of political hierarchies by one social group needs constant effort and involvement with other community members. Both groups of the Meerani caste have coalitions and alliances with other caste groups and have nominated *ChangoMurs* based on wealth, landowning, power, and links with Sardar

or Nawabs. Each fraction of *ChangoMurs* seeks and gains the support of other *ChangoMurs* of the same or different ethnic groups, or Sardar of their caste. There are a few castes in the village, who are traditionally peasants and provide cheap peasant to other land-owning castes. These peasants do not have land, are mostly illiterate, economically poor and submissive towards their landlords, but are strictly connected to norms and values. Therefore, in times of conflict or crisis, they tend to contest their case through *Faislo* and take a stand for their honor. They are submissive on one hand, and ruthless contestants on the other. Thus, they are working as peasants and are very submissive towards their landlord, which reflects socio-political favour to the landlord and their group and even during disputes, they protect them.

This phenomenon can be understood through Clientelism³¹. It is a way to understand the dynamics of social networking; this social networking is active with the interactions between patrons (rural elite/politicians) and clients (peasants/villagers). The patrons make sure thorough local elite/ethnic group leader that during election they are given support (votes). While villagers (clients) convinced that in return they will get and receive the promised benefits. The village structure provides a built-in structure which makes feasible arrangement for both patron and client. The structure provides traditionally dominant local elite a platform i.e., in Fatehpur – *Otak* and *Faislo*- where they play the significant role of patrons. Here they are in better position to exploit their rights in the name of long-standing social solidarity and social relations.

During discussion with a member of civil society and *ChangoMurs*, they said that *there are many other ways to see this mutual cooperation as this mutual cooperation could be turned into structural reforms and betterment for society, such as the establishment of new schools and colleges, free and better health care, better access to justice, access to education, providing better job opportunities, safety and security, better sanitation, utilities, and the construction of roads, etc., but the situation does not turn in that direction. The reason, they claim, is that they will lose influence and control over the masses, which will result in two things: first, it will create an imbalance in the power structure, such as sardar and political elites preferring them, as they need their votes in elections and people to show their power in political shows or during any contest (like threatening someone). Secondly, it is a threat to the rural*

³¹ Clientelism is a broad term which is explained by Anthropologists as a type of social relationship and describes the study of patronage as analyses of how persons of unequal authority, linked through ties of interest and friendship manipulate their relations to attain their ends". (Weingrod,1968: 370-80; Wantchekon, 2003).

elite as well. They will demand their rights and will no longer be under their control. Moreover, the rural elite will also lose their link with the sardar, political elites, and governmental machinery. Lastly, they said, you see this is a dependence chain, everyone is dependent on someone.

As both interest groups (Patron and Client) seek their preferences and interest, the existing relationship focused more on persuasion of protecting one's self-interest where if one shows allegiance and loyalty to the powerful then in return they are promised with provision of support and protection beyond measures.

There is little political competition at the research site because the work relationships and power dynamics are highly asymmetrical. This is deduced from the fact that Pakistan People's Party Parliamentarians (PPPP) took almost all national, provisional, and local-level major seats from the Larkana district. They have been in power for many decades. This means the power of the dominant groups remains uncontested and unchallenged. Therefore, the Sardar of Meerani group has close relations with the ruling party, but when it comes to his power show, he nominated a candidate against them. twice, the ruling party lost its provincial seat. So, both are looking for mutual cooperation rather than taking an interest in the matters of the poor or making efforts to resolve their daily life issues. However, in most cases, rural elites have to be submissive and linked with urban elites. On the other hand, the urban elites never interfere in *Faislo* or in their affairs. This is why, in rural areas, the *Faislo* is established to resolve local issues under the supervision and influence of these *ChangoMurs* and rural elites.

In return, the rural elites make sure to support these contestants by giving them votes from their under-influenced villages. Since the rural masses have a high level of active voters, in contrast to the cities, this means the rural masses play an important role in strengthening any parties through their voting behavior. An individual from local media stated that "*to enjoy the same status, Sardars never resolve the issues of villagers, so that they can rule and control them and utilise them in favour or against the urban elite during an election.*" In return, the poor are being demanded based on the whims of future promises. However, after elections, the promises made are seldom fulfilled".

Therefore, the political perspective of both interest groups (rural masses and *ChangoMurs*) establishes preference-based formation in research sites. While the weaker outreach and coverage of state institutions makes this situation more lenient

for rural populations reliant on *ChangoMurs*. Thus, this makes research sites a particularly good place to understand preference formation. The rural masses as voters, as part of their ethnic group, and community members hold some "prior" set of political preferences. Throughout their lives, community members witness a series of "events" that are then discussed with other community members, ethnic group elders, and social networks in order to build and mature one's political preferences toward any political party or candidate. The community members, through these discussions, conspire to build political solidarity with an ethnic group or *ChangoMurs* even before the arrival of the election. The vote is not given in the name of the party but of the member who is contesting the election on the basis of the relationship and how he entertained him in the past. The *ChangoMurs* frequently act as middlemen and run political candidate campaigns, promising unrivalled favours and the use of government machinery and funds, as well as political networking for the *ChangoMurs*.

However, there is another dimension to this phenomenon. The strength of the *ChangoMurs* can be seen through political solidarity and stability among their members. A *ChangoMurs* is said to be a *ChangoMurs* if the members of his *qoum* accepted him and gave support to *ChangoMurs*. His strength does not just lie in wealth and influence; rather, it is also based on the loyalty of his *qoum* members to him. Thus, the *ChangoMurs* during a crisis mostly support and favor their *Biraderi* member, and on a few occasions, he himself bears the loss to uplift the *qoum* member. Furthermore, if the *ChangoMurs* do not support them financially, politically, or even on a humanitarian basis, community members avoid resolving disputes through him and instead seek other *ChangoMurs* within the community or from outside the village. As space seen in a few cases, people from outside of the village come to Fatehpur to resolve their disputes. This means, the *ChangoMurs* of the neighboring village are not powerful and have lost their potential power. Therefore, when *ChangoMurs* alone with attaining the land and wealth, he tried to engage himself in peace building activities, which brought political solidarity and stability among their ethnic group. Furthermore, he also kept relationships close with allied ethnic groups and gave value to those relationships, taking them as a source of strength and power.

7.1.2. Legal Perspective of Courts and IDRM

Access to justice needs feasible, affordable and efficient justice mechanisms and also requires legal empowerment of all segments of society, especially disadvantaged people, children and women, who have the potential to exercise their rights through formal and informal justice systems. Therefore, state judiciary system also prevails and offers their services in the research site. However, before we discuss the perspectives of people for referring to courts for resolution, this is of high importance that we review some preliminary information pertaining to the familiarity of natives about their legal or legitimate rights or about the formal justice system available in the research site. The following explained factors are decisive in aligning people towards what they know.

Table 18. Knowledge about Legal Rights

Sr. No	Particular	Frequencies	Percentage
1	Yes	19	20.7
2	No	73	79.3
	Total	92	100.0

The question was asked from respondents regarding their legal right knowledge in case of any issue faced by a respondent. About 21% of the respondents were of the view that they knew some of the information about constitutional legal rights. This does not mean they were fully aware of their legal rights, but a few of the things that were commonly mentioned in newspapers or on social media. On the other hand, about 79% of the respondents said that they do not personally know the process or have any information about the legal process for perusing a case for resolution or verdict but have listened to the pitfall of the courts by those who had experience or encounters. However, it is also believed that the information by others is accurate because it is narrated and shared by people working inside the legal system, such as the Munsee (clerk) or lawyer.

Table 19. Knowledge regarding Court Procedures

Sr. No	Particular	Frequencies	Percentage
1	Yes	07	26.9
2	Little information	19	73.1
	Total	26	100.0

This table illustrates the amount of information about the court's procedure. About 73% expressed that they have little information about the court processes as they have at times accompanied those who persuaded their cases in court. Lastly, only 27% recorded their response as someone who had a first-hand encounter with the court process either through themselves or through their relatives. Even though they are not sure about the documentation or written procedures, because they are dependent on lawyers or *ChangoMurs*. Both instructed them stepwise and charged the amount under the separate heads of advice taken and case processed in the court. Non-familiarity with court procedures can also be settled as one reason for villagers' hesitating to approach the courts for legal follow-ups.

Table 20. Sources of Information about Legal Procedures

Sr. No	Particular	Frequencies	Percentage
1	Newspaper, TV/Radio and Social media	02	7.7
2	Peer Group	04	15.4
3	<i>ChangoMurs & Otak</i>	13	50
4	Personal experience	7	26.9
	Total	26	100.0

Respondents were asked to share sources from where they had learnt the court procedures. About 8 of the respondents shared that they got information about the legal system via newspapers, TV, and social media. whereas only 15% of respondents stated that community members and peer groups who have firsthand experience with the legal system became their sources of information. About 50% of the respondents mentioned that they acquired information from *ChangoMurs* and *Otak*, where legal matters are discussed. However, 27% of the respondents shared that they had

information about the legal system, through their encounter with court and its proceeding. The variant frequencies show the intention, interest, and access of the people towards legal procedures which are near to none.

As this table shows that most of the people don't know how the court operates, functions and what are the legal formalities; however, they know the drawbacks of the system. One of the most important reasons for this is that villagers want to live in their comfort zone, and therefore, they just learn from others' experiences rather than experiencing it themselves. They learnt various things from each other, such as how the police deal with people, the court, lawyers, staff, and judges, and how many years they have been persuaded to use their cases and bear expenses. An individual who has suffers this experience is known as *Miskeen* (pauper). Various people from civil society, lawyers and key informant said that rural elite have control and shape the narrative of people about the legal system. *ChangoMurs not only popularise the discourse of courts being corrupt and slow in justice delivery, but also highlight the significance of Faislo's quick and responsive justice delivery system, which is, to a large extent, true.* While the *Faislo* for them is easy to access and every individual in the community knows the proceedings from start to end. A villager said that *the Faislo proceeding is easy to understand because it is a very common activity in the community. During socialization, every community member experiences the same procedure in their native language and within their locality. Moreover, they even know the verdict in most of the cases.*

During interactions with lawyers, it was shared that the judiciary sector is unable to address the rural masses' land relate especially to commercial issues. The selling, purchasing and payment of the property is often written on the simple page or verbally consented in the presence of few people. Furthermore, the identification of land is often complicated since selling land codified such as *"I sold my land to you from X's house to Y's House or between someone's land then in case, if the buyer and seller died and then only a few people who can bear witness to the transaction are left to confirm exchange or they may favor their party or give contradictory statements.* Therefore, the courts are unable to resolve rural masses issues within their context.

The lawyers also pointed that some of the fundamental issues are missing for an efficient justice. This may include: (a) the applicability of equal legal authority to judgments; (b) the viability of access by the general public to the courts irrespective of money; (c) the disposal of a case within time; (d) appropriate remedies and e)

seriousness of lawyers and judges to resolve the issues of general masses. *“But what we are experiencing nowadays are increases in delays, backlogs and decrease the quality of court services and both (police and lawyers) see this as an additional source of income”*.

It is believed that one of the jobs of the *ChangoMurs* is to provide protection and security to people. *ChangoMurs* provide protection to *dhurs* if they request it without taking any amount. Otherwise, the police take a lot of money from the victim to protect them. As *ChangoMurs* has a working relationship with the police and takes illicit favors from them as well, in return, he provides them with some monetary benefits and makes sure no such case is discussed at any forum other than at his *Otak*. Therefore, the police implicitly assisted the actions of a *ChangoMurs*, or a Sardar and policemen are happy to encourage *ChangoMurs* to work as arbitrators between parties and keep the community peaceful. This also reduced the burden on them. Some *ChangoMurs* have also set up their armed forces to provide safety and protection, viz., vice versa. The *ChangoMurs*, through these armed groups, mobilize populations for various reasons, such as elections.

A policeman told, *“many civil and criminal cases either not registered and if some cases are registered with the police, they never go on trial because victims are pressurized to withdraw their cases by their own families and peer group. If ChangoMurs of qoum is unable to assert their pressure, the other local actors coerce them to take back their complaints. The ChangoMurs take help from us (police) to put pressure on both sides to resolve dispute out-of-court. Therefore, both (local rural elite and families) emphasize the significance and importance of Otak and practice Faislo to resolve the dispute more effectively. The ChangoMurs are mostly associated with political parties and given an important position in kinship structures. These ChangoMurs hold power to affect the life of the masses they rule either by directly or indirectly getting involved in important decision-making matters such as by being a member of panel of decision-making or through using their relations with the State Department”*.

Another lawyer said that *rural masses face numerous problems in the way of unaffected justice delivery such as the uneven distribution of income, social and economic vulnerability, politically controlled by landlord and non-existence of state institutions and structural exploitation based on caste, sect, gender, ethnicity, age, and sexual orientation, etc.*

A villager said that those who have experienced formal courts narrated that *formal courts not only postponed the cases but also denied or did not accept witnesses who narrated what actually happened. Moreover, lawyers from the other side very easily reject, ask useless questions, and draw certain conclusions from these statements. We don't understand most of the language (mixed with English and local) and they trapped us with fabricated words, which is our humiliation. For us, the attitude and being denied means injustice, and the symbolic meaning of this is "thank you very much and don't come again."*

Thus, for villagers, the *Faislo* is inspired by the centuries-old traditional laws and caters to their problems above mentioned by the lawyer. *So far, Faislo* has effectively managed to address most of the challenges mentioned above as faced by the legal justice system. People think that it has the capacity to deliver quick verdicts in disputes pertaining to all life matters, such as criminal cases, financial cases, civil disputes, and family and *Izzat* issues. It is also worth noting that *Faislo* is preferred for its role in out-of-court or police settlements where both *dhur* have neither been brought before a regular court, nor mentioned in documentation such as a complaint or FIR but are still held accountable for their actions—punished and compensated. However, the punishments awarded by *Faislo* are mostly in terms of compensations in monetary form. An elder said that *"in the village, nowadays, the maximum fine for murdering someone is Rs. 1,000,000, and for being seriously injured during a feud, one gets compensation ranging from Rs. 200,000 to 500,000. Rarely, Faislo announced any verdict that consisted of a death sentence. In the last two decades, no death penalties have been given by Faislo, even in Karo Kari. A case was registered against Karo Kari in 2018, which was resolved through a fine of 500,000 rupees and with a guarantee of not repeating the act in future. The purpose of these kinds of verdicts is to prevent possible future violence in disputes through dialogue, open discussion, and by developing consensus on prevailing issues for resolution. Furthermore, the ultimate aim of these efforts is to restore peace between both dhur through mediation or arbitration and to re-establish a long-lasting peace. Faislo is believed to be a system of the people, by the people, for the people. Therefore, unlike court systems, it does not remain impartial and insensitive towards the parties involved.*

7.1.3. Economic Perspective for IDRM

As people, communities, and countries indulge in disputes, and they do not escape from it. However, they try to manage it later, by using multiple means, e.g., avoiding, mediation, compromise, and coercion. In addition to managing, they must bear the social and economic costs of disputes, which vary depending on the nature of the dispute and the mechanism used to resolve it. According to the United Nations Report (2008), four billion people throughout the world have been deprived of the opportunity to improve their lives and climb out of poverty however, they lack access to the rule of law (Albright, 2008). The commission report identified the fact that people living under poverty rate especially in rural areas were unable to get access to justice through the courts due to lack of financial resources, illiteracy and lack of documentary evidence. Further, in many countries, the law is written and enforced only in a national language, which many poor citizens may not be able to understand or read. Therefore, people in rural areas remain dependent on the informal justice system (Albright, 2008). Indigenous dispute resolution mechanism serves important means of settling dispute along with saving time, money, reconcile between two parties and help to restore relationship. These poor and marginalized masses settle dispute through applying various indigenous dispute resolution mechanism according to normative structure of society. In developing world, elders, religious leaders are served to settle disputes (Wojkowska, 2006). The affordability of the IDRM, or the fact that it does not cost, is a significant reason for its use. In the village settings, all dispute resolutions (elders, *ChangoMurs*, religious scholars) and IDRM participants claimed that the IDRM dispute resolution facilities in their respective locations were almost cost-effective. It was observed that even the IDRM facilities and justice delivered is inexpensive but not free of cost.

Usually, *dhur* bears two types of costs in *Faislo*. The first type of cost is said to be for refreshment, and the second is the cost bearing on the name of community solidarity. For the first sort of cost, disputant *dhur* provides food, tea, sweets, drinks, and other refreshments, as well as bears the cost of travel and any other expenses incurred during the people's social gathering in *Otak*. As a result, any of the *dhur*, or both, bear the cost of the expenditure on *Faislo* day. Another cost borne by *dhur* is the loss shared with guilty *dhur*, which may include bearing of loss or compensation money with guilty *dhur* as determined by the *Faislo*, such as 40–50% of the damage shared

by victim *dhur* and accused *dhur*. Moreover, sometimes, if an individual of an ethnic group is unable to get the amount, the other members of the same ethnic group also share a certain amount for harmony and peace in society.

Case Study # 13; Resolving Conflict to Save Economic Cost

Ali Abro borrowed 30,000 rupees from Sultan Abro in 2016 and pledged to return original amount along with profit within three months. Since Ali had invested the money in purchasing various products and selling them for a profit, he received his desirable profit within two months. At the same time, he received another investment opportunity and he thought that since he had borrowed for three months and still had a month remaining, therefore he invested the earned amount for gaining additional profit. Within a month, he was offered by several buyers to sell the items for a little profit, but he refused and waited for a handsome profit. Ali informed his friend in a private meeting that he had earned his profit earlier than planned and had spent the same amount on another opportunity. He also informed his friend that he would repay the debt and profit to Sultan after 3 months. Moreover, the profit he obtained the first time would be distributed, and the profit from the other opportunity would not be shared with Sultan. After three months, Sultan asked about the amount and profit. While Ali replied that he would sell the goods in a few days and is expecting good profit. Sultan agreed to wait a few more days but Ali did not keep his promise. Rather got furious on Sultan for demanding money again and again and argued that neither he would run and nor he is denying returning the loan.

Three more weeks passed, Sultan and Ali finally quarreled. A third person told Ali sarcastically in *Otak* that sultan has right to shout on you as you have taken a loan from Mr. Landlord (and laughter broke from every side). Ali replied angrily that he will return the amount within two days to Mr. Landlord. A mutual friend of both narrated the whole incident to Sultan that Ali announced to return loan within two days in *Otak*. Adding fuel to the fire, few of the friends suggested Sultan to claim for share from both investments Ali made, because his amount was used to earn profits. Ali on the second day after the incident returned the loan with some profit. Sultan, refused to take back the money rather threw it away as he was expecting big amount as profit. Both uttered harsh words to each other but few people intervened, and both were sent back home. A debt payback disagreement brewed between two Abro tribal members where both were seen making loud disparaging statements about each other as well. Both sides' parents communicated with one another, but the discussion ended

by blaming and accusing one another. Since they reside in the same area therefore the following day, both met again and ended up having a heated discussion followed by physically attacking each other. The families and neighbors also came to know of the fight. They tried intervening and ended the physical fight and assault without any serious life damage.

However, the dispute was just getting worse day by day. Even the peer group and *Biraderi* Elders tried to fix the situation, but the parents and both individuals refused to communicate neither with the Elders nor with each other. Sultan finally filed a financial dispute complaint against him in the Police. After a while, both parties got exhausted as police officers, lawyers summoned them repeatedly for inquiry and documentation. Long waits, disrespectful behavior, and extensive expense on litigation among other things were also major reasons for their frustration and suppressed anger. Local actors and Abro elders approached each group one by one, asking, "Why are you disturbing the harmony of families and communities due to egoism? You are spending money on others (lawyers and police), but you would not share it with your family and community members?" and others advised them to cool down. As a result, both parties withdrew their cases from court and resolved them through *Faislo* to avoid further expenditure.

The economic perspectives can be seen through the economic condition of the respondents. The first table is reflection of the economic association of the households. The economics apparently has a direct relationship with the decision of approaching IDRM mechanism for dispute resolution.

Table 21. Source of Income

Sr. No	Particular	Frequencies	Percentage
1	Job	09	9.8
2	Business/Trading	05	5.4
3	Agriculture	75	81.5
4	Any other	3	3.2
	Total	92	100.0

The above results show that the 81.5% of respondents' source of income was agriculture, while very few were doing jobs in the city, trading (shops, thrasher machine) for earning their livelihoods. 3% of respondents earned their livelihood

through labour or skill work etc. The result displays that the majority of the respondents were professionally involved in agriculture.

Association with agriculture also exists in many forms i.e., large land holders, small land holders, sharecroppers, farmers and paid workers as *Hari* on the land of the landlord. The frequency of the disputes between the respondents associated with agriculture was related to land in majority of the cases.

Table 22. Monthly Income of Household

Sr. No	Particular	Frequencies	Percentage
1	1000-10,000	17	18.5
2	10,000-20,000	55	59.8
3	30,000-40,000	11	11.8
4	40,000-above	09	9.8
	Total	92	100.0

In the table above, the majority of respondents reported a total monthly income between 10,000 and 20,000 rupees, while the least proportion of respondents reported a total monthly income of between 30,000 and 40,000 rupees. The second highest percentage of respondents had a gross monthly income of between 10,000 and 20,000 rupees. Though the standard of life is inexpensive in the rural sites but still the cash flow is restricted. Extra-costs or repetitive costs for resolving disputes is not a priority.

Table 23. Individual's Involvement in Dispute

Sr. No	Particular	Frequencies	Percentage
1	One Time	53	57.6
2	Two Time	21	22.8
3	Three Time	07	7.6
4	Four Time	3	3.3
5	More than Four	8	8.7
	Total	92	100.0

The above given table is generated to depict the relationship between the frequency of being involved in a dispute and the pressure or need to access justice delivery systems

for resolutions. The table indicates that dispute is unavoidable where many a times a household was found involved in a dispute and asked for resolution through mediators. 57% of the respondents shared their experience of being involved in dispute for only one time in rest of their lives, however, 9 % of respondents explained to be involved in multiple disputes for more than four times. The frequency of being a disputant party also gives an insight into the frequency of asking for resolution. The respondents informed that in case of disputes, elders or *ChangoMurs* through *Faislo* have been accessed many times. Their point of view was that the local level mediators settle dispute at doorsteps and in real time with no or less money as compared to formal civil courts (lawyer`s fee and documentation fee, expense on visits to courts). The increasing expense under the cost of resolution may mean no consultation and resolution for those who cannot afford it. If the available mechanism to resolve disputes is expensive for the general public, then people may opt to avoid the mechanism completely to save the cost. This may put harmony and the peace of the area at stake and because of poverty and other social hierarchies, the indulgence of people in crimes may increase as they know that justice can be accessed only by those who can afford it. 9% of the respondents who have been engaged in more than one dispute deem it normal behavior as *Faislo* is there to help mitigate the situation.

Table 24. Mechanism of Settling Dispute

Sr. No	Particular	Frequencies	Percentage
1	<i>ChangoMurs</i>	43	46.7
2	Religious Leader	3	1.5
3	Family Elders	19	20.6
4	<i>ChangoMurs</i> & Family elders	22	23.9
5	Courts	5	5.4
	Total	92	100.0

This table indicates that in-case of a dispute, 47% of people requested *ChangoMurs* to be mediators and arbitrators, 20% of the local population involved their family or *Biraderi* elders, whereas there were also 24% of respondent HHs who preferred to involve both the elders and *ChangoMurs* to settle disputes. Locally recognized elders are the key players in the settlement of social disputes, and these elders have always

been accepted by society. This perception was also negated that usually the oppressed and the vulnerable groups are the key clients and beneficiaries of IDR. This means that dispute settlement by local actors is preferable to other mechanisms.

This indicates that majority of the respondents ‘consults informal justice mechanism to resolve dispute in contrast to formal justice system. As Attaullah (2017) asked a key question is, why majority of the community prefers the informal means of conflict resolution? The reason is probably that the formal structure has not been kept updated over time, and as such, it has become outdated. It is pricey and leaves most of the litigants out of pocket. It is time-consuming and therefore tiresome. It is also complex, though the nature of the human being is prone to simplicity. It takes a long time to reach a verdict. This extensive and tiresome wait is incompatible with the hasty nature of mankind (Attaullah, 2017).

Table 25. Pursue case through IDR and Courts at a time

Sr. No	Particular	Frequencies	Percentage
1	IDR	85	92.4
2	Courts	7	7.6
	Total	92	100.0

The above table shows the frequency of individuals who consult IDR to resolve disputes and, at the same time, peruse the court system. This indicates that still the 92% of the population resolve dispute through IDR means in case of a dispute. The intension to consult with indigenous mechanism is due to social, cultural, political and most importantly economic benefit of IDR. Very few people also consult with courts with IDR due to nature of dispute, put pressure on other group, their dissatisfaction with the decision made in the *Faislo*. It was told during the focus group discussion that ultimately the matter at hand or inter group conflict is always brought to the *Faislo* for resolution.

The key informant told that IDR is used by those who are looking for urgent, cost effective and reliable management of their disputes. Economic factors like money and time wastage are of high value in the resolution of conflicts. However, Social crises, such as the breakdown of social capital and the disintegration of social relations between disputant or among individuals is also a crucial factor which cannot be ignored in the research site.

7.1.4. Social Perspective for IDRM

The way a community, *Biraderi*, or ethnic group is organized and how well-connected its members are, and how they assert their influence to resolved a dispute efficiently and efficiently. Strong social networks among community members will organize and gather their members, as well as exerting influence on local actors to play their parts in resolving issues. It is believed that not only is social status linked to one's socioeconomic standing, but also the relationships and ties one has with someone of high socioeconomic position. The expanded network or relationship with a socially influential and trustworthy individual strengthens one's access to a very effective social network, resulting in successfully resolving disputes. During the focused group discussions, participants said that “higher the number of the elders of the ethnic community or *ChangoMurs* in Faislo, closer the links and relations with the authorities, and ultimately easier for parties to open to play a key role”.

Case Study # 14: Resolving Conflicts through Social Network Pressure

The conflict between the Abro and Meerani tribes arose over a piece of agricultural land which had been rented from Fahad Meerani by Ghulam Abro for a period of three years on a fixed rent rate of PKR 150,000 Rupees annually. The rent was paid for two years, but the payment of the last final amount was delayed by Ghulam. According to one of the key informants, Ghulam did not pay the amount as he supposedly intended to extend the contract for three more years on the same terms. However, Fahad demanded that either land be handed to him so he can rent to someone else or that the rent amount be increased from PKR 150,000 to 250,000 Rupees per year. Ghulam initially discontinued paying rent and then informed his friend that he wanted to continue the contract on the same terms and if Fahad agrees then he can collect his money from him. Fahad, in response to Ghulam's offer, entered into a new contract of rent with an amount of RS 200,000 yearly with Zeeshan Meerani. He also told the new party that as the contract matures in three days, he would get control of the land, and this will send a clear message to Ghulam as well. When Zeeshan and his other household members arrived three days later to take over the land, Ghulam was sitting there with a companion, refusing to give control of the land. Later, Fahad scolded Ghulam in the evening, but Ghulam was unconcerned and returned home furiously. Fahad along with Zeeshan and some other friends went to his land the next morning.

Both groups got hostile and aggressive but before the fight could aggravate further, the surrounding people separated them and called their elders on the spot. Both elders took willingness of the group and asked “whatever we decide on the behalf of you, would you obey? Initially, both hesitated, but the members and relatives requested them, *“brother they are your respective elders, and we are like your brothers, we never betrayed you and we are here to help you and want peace as well as amicable solution. Just cool down, just cool down”*. Thus, due to social relationship among the community members, both agreed to resolve the dispute. Elders decided that the land control will remain in the hand of Ghulam Abro for three more years and after three years he would not be given any extension and the rent for these years would be 200,000 rupees. Both parties agreed to the decision and greeted each other.

A dispute involves not only society's economic costs, but also social interaction. The impact of conflict on social interaction in society is determined by the type of dispute resolution process used. By quantifying the effects of the conflict on social ties, the table below provides a quick overview of the social consequences of the dispute. It also emphasizes the advantages of keeping social links with local actors who manage and resolve issues.

Table 26. Disputes and Interruption in Communication

Sr. No	Particular	Frequencies	Percentage
1	Yes	86	93.5
2	No	6	6.5
	Total	92	100.0

Table 27. Failure of Dispute Settlement and Hostile Aggression

Sr. No	Particular	Frequencies	Percentage
1	Yes	71	77.2
2	No	21	22.8
	Total	92	100.0

The above tables reflect the agreement of 93% of the local population that the first and serious impact of dispute is termination of social relations and communication between parties or ethnic group. As the conflict aggravates, 77% informed that the social contact is brought to mere minimum. This also indicates the importance of local

actors as they bring two disputing out of contact parties into contact and provide them the needed space and time to negotiate, think and ponder over resolutions with minimum loss. This is why the local actors are more interested to restore the dialogue process by involving elders or representatives from both parties before settling dispute. A dispute does not impact the parties involved only; it disrupts the total social fabric of the village where the village pays the price for those two parties indulging in conflict. It was shared that “the *whole village bears the brunt of the conflict, the children at times cannot go to school, the women cannot carry their outdoor tasks, alliances are made, and loyalties are questioned. It is not just the two parties who are disputing, usually it turns out to be two social groups or ethnicities that are confronting each other. One cannot remain detached or ignorant from an inside village dispute*”.

Table 28. Dispute Resolution and Re-occurrence of Dispute

Sr. No	Particular	Frequencies	Percentage
1	Yes	19	20.7
2	No	73	79.3
	Total	92	100.0

It was understood through focused group discussions that even after the conflicts are seemingly resolved in *Faislo*, there are times when the disputant parties get engaged in conflicting situations again and again. On inquiry, it was found that in disputes of criminal nature such as murder, assault, physical violence or coercion, the parties involved are more interested in revenge of equal measure so all members in the social group may not agree with the decision made by the elders or local actors. Hence in case of dissatisfaction with the verdict made through the local mechanisms, the feuds may linger on over generation where one party intends to tame, control or eliminate the other party involved. Such incidents were recorded between the social or political competitors or ethnic groups living in same or different villages. However, in disputes of civil nature, same issue does not occur due to guarantees from both side’s *Musheers*. Also, other local actors make sure that tension does not arise again between the groups involved.

Table 29. IDRM and Communication Restore

Sr. No	Particular	Frequencies	Percentage
1	Yes	31	33.7
2	No	61	66.3
	Total	92	100.0

After *Faislo*, the relationship does not immediately restore between the groups but is slowly reestablished through the induced local mechanisms of exchange on important occasions like deaths, birth ceremonies or weddings. Since everyone is socially connected, economically and politically interdependent therefore the social bonds cannot sever for long. Dispute if on one hand point out the crisis situations in the society, they also play a major role in fixing the social bonds between the social groups sharing similar spaces.

The relationships among the disputants restore especially during any ceremony, festivals and during gathering to resolve dispute at *Otak* of *ChangoMurs*. The parties involved if belong to the same village cannot ignore each other for long. Moreover, the engagement of local actors is to start and restore the communication process between the disputing parties and their members.

The *ChangoMurs* as arbitrators play special heed to how parties reciprocate and meet after the conflict is resolved. Since *Faislo* is designed to cater to the grievances of the parties involved therefore the negotiations run on still a consensus is reached where both parties show their satisfaction. The social element of the dispute helps understand the operating principle of IDRM. The purpose is not to make a just decision but a decision acceptable to all parties unlike the formal courts.

Table 30. *Faislo* and Restore Harmony and Peace

Sr. No	Particular	Frequencies	Percentage
1	Yes	75	81.5
2	No	17	18.5
	Total	92	100.0

81% community members believed that *Faislo* helps in keeping intact the social integrity and solidarity of the community. However, it is not as simple as it seems. It was told that “reaching a consensus where all agree to one solution is difficult and

may involve long persuasions, dialogue, involvement of more than one arbitrator or mediator". *Faislo* usually in civil cases provides not only an opportunity to both disputant parties to air their grievances but ample time to explain their side of story to the mediators whereas in criminal cases, the focus of the whole *Faislo* exercise is to solve it amicably with bare minimum loss. Compensations and at times hard punishments are announced, social and economic influences are used to keep the disputing parties in check. The *Faislo* does contribute to maintain peace and environment of harmony by limiting the power of each social group to themselves. However, post-conflict, social groups reintegrate into the society with different intentions, at times some with gains or losses and learned lessons hence, peace building process is slow and takes its sweet time.

Table 31. Effective Role of Local Actor

Sr. No	Particular	Frequencies	Percentage
1	Elders	29	31.5
2	<i>ChangoMurs</i>	44	47.8
3	State and Police	03	3.3
4	Community as whole	7	7.6
5	Civil society and Media	4	4
6	Landlord/Sardar	5	5.4
	Total	92	100.0

48% of the respondents found *ChangoMurs* as more active and effective players for resolving dispute. Since they have more dedicated ability to resolve dispute and took immediate and concrete steps to resolve the dispute. The respective elders within the community are responsible to settle dispute at family or *Biraderi* or intera-group level. In feud cases, even the authority of *ChangoMurs* gets challenged because of either the nature of the dispute or socio-economic attributes of the parties involved. The Sardar of the ethnic groups is involved when the dispute aggravates between social groups within same or different ethnic groups of equal power, influence or social status. He is considered as final authority for settling dispute. The intention is different in both involvements. In the intera – ethnic group conflicts, the purpose to get involved is to keep the ethnic group allied and united. However, in case of feuds with other social groups of same social and economic standing, the involvement is as

representative to safeguard the interests of the clans as well as to display the social and political influence to reflect power and dominance over the other group.

In times of Sardars getting involved, the power play is at its peaks, other Sardars may get involved to diffuse the situations and to stop the feud with minimum loss as the loss or gain is interpreted in social and political terms. Meerani enjoy a strong social and political position in district Larkana because of the political influences gathered by the Sardar Sain Asghar Ali Meerani.

Media and civil society also contribute as it put pressure on other local actors to resolve it as soon as possible. Further, they put pressure if the verdicts violate the human right standard in case of *Karo Kari*.

Table 32. Consequences of Non-Compliance

Sr. No	Particular	Frequencies	Percentage
1	Lack of kinship support in future	31	33.7
2	Lack of support from <i>ChangoMurs</i>	38	41.3
3	No interactions & neglect by community members	17	18.5
4	Expulsion from Community	6	6.5
	Total	92	100.0

Consequences are conceived as possible reactions of the community if an individual or group declines to abide by the decision made by the *Faislo* or violates the social norm of consulting a *ChangoMurs/Faislo* in the event of a dispute. The villagers responded that since *ChangoMurs* holds the maximum power, that is why the most impactful consequence is losing his support in the future, may it be at times of emergencies, financial support, or provision and protection from another ethnic group. In short, *ChangoMurs* breaks all social ties with those who decline to accept the decision and announce it publicly, so that it converts it into a social boycott. This may also have more serious consequences, such as the loss of land if someone is solely reliant on land, as the *ChangoMurs* have the ability to take away someone's land in

order to put pressure on them to follow *Faislo* decisions or suggestions. Other consequences include social boycotts of *Biraderi* and no interactions or neglect by community members. In a few cases, the individuals can be exhausted by the community. It is because of the peer pressure from the community members and the fear of being expelled from the community that villagers follow the traditional patterns for conflict resolution. If the patterns are violated, the consequences can be terrible.

ChangoMurs as discussed in Chapter 04 keep a close eye on the happenings of the village. They are the gate-keepers as well as the maintainers of the social bonds.

The methods in which power is manifested are inextricably linked to the culture in which it is found. Individual activity is favoured in Pakistani culture above collaborative action. In Pakistan, indebtedness is viewed as a cultural manifestation of commitment. They urge people to consider their group's strength and position as a direct mirror of their strength and position. Every member of a group (however defined) basks in the glory of every other member of the group. As a result of this cultural pattern, Pakistanis have established a culture of intervention, in which issues are handled with the help of allies (Lyon, 2002). Therefore, it demands mediation and involvement from other social members in times of crisis and conflict situations. The intention behind is described as the well-being and harmony of the society at large.

7.1.5. Humanitarian Perspective of IDRM

During a dispute, the humanitarian perspective of IDRM is traditionally referred to as an "emergency response of community actors or the IDRM", with the goal of ensuring safety by protecting lives, restoring harmony and peace in the community, and stopping further aggression, violence, and material and corporal loss. Humanitarian action aims to ensure the well-being of those who are affected by violence and unrest in their surroundings. The IDRM offers valuable contributions on humanitarian grounds, such as facilitating or initiating discussion processes between disputant parties, while keeping in mind the sensitivity of the situation.

Faislo's effectiveness can be measured through an aspirational question: does *Faislo* protect the aspirations of family and community? During one FGD, the respondents were of the view that the *Faislo* protects the family and community aspirations and preserves the norms, values, and traditions of society. As such, if someone damages

an individual's aspiration or damages their feelings, they always prefer to consult the mechanism of *Faislo*. *Faislo* gives protection to aggrieved parties from crime, while wishing in general for fairness and neutrality of treatment. The protection applies equally to individuals belonging to any group. It also follows that differential treatment towards certain groups or individuals is justified when it is exercised in the interest and welfare of the community as a whole. The characteristics of *Faislo* warrant such protection from verbal and physical abuse, kidnapping, and murder. The *Faislo* does protect the aspirations of the individuals, families, and community.

On humanitarian grounds, actors within the IDRM mediate between different communities or parties involved in a dispute in different ways. For example, it may form groups of local leaders to meet, discuss, and work towards the resolution of a particular issue by creating meaningful dialogue between the various conflicting parties. These agents are considered vital in building or restoring social relationships between the members of the community by starting the dialogue.

As for the community actors, building conducive relationships is the first step, even before trying to deal with the drivers or parties of a particular dispute. Building relationships is crucial to the dispute resolution process as it ensures that the mediators involved are credible and hold the public trust of the disputing parties. Other practices may include facilitated dialogues between members of warring groups with the aim of softening each group towards the other and creating a space for members to discuss and understand the rationale of the opposing side. These direct, personal contacts are strategically chosen to have the greatest impact on the community (Jobbins, 2017).

The *Faislo* mechanism works effectively for all shareholders and protects the interests of the victim, the accused, and the community in general, instead of giving importance to the procedure. The system, rather than punishing the accused, focuses more on the offenders' responsibility to accept their mistake and take responsibility for the damage they have done to the victim. The acceptance of crime encourages and fosters dialogue between the victim and the offender and gives a platform to those accused of expressing their mistakes, accepting responsibility, and presenting them for accountability. The material aspect is secondary; therefore, the arbitration process emphasizes consensus, restoration, apologies, and forgiveness. As *Faislo* is upheld in the public sphere, the community members show their sympathy and solidarity with

the victim because crimes harm the social order, but they also feel soft liability for fixing the loss or harm inflicted.

Faislo reflects a system build on empathy and compassion. It was told by 41-year-old Shuaib Memon, “at times when a dispute aggravates just because one party is unable to pay fine or compensation money then a ChangoMurs or Elder may step up as guarantor and pays the fine on behalf of the party to save both time and energy. This also adds to his honor”.

In honor based or role -conflicts, no death penalty for the past many years has been announced for any of the accused parties. Minor punishments with substantial compensations have been adopted to address the honor violation issues. In case of criminal cases with case- history of murders, the families have been taken care of the *Faislo* during the announcement of Verdicts. This may be seen as the most impactful feature of the *Faislo* that if it shows strictness in adherence of the rules, it also shows empathy and compassion and at times partiality towards the needy and deserving. It also let go of minor offences with warnings and does not lead to imprisonment of any kind.

Faislo also allows rehearing of the cases where the parties seem unsatisfied with the verdict. Though rehearing cases were not routine matters, just one occurred during 2017–18. The actors specifically also render humanistic acts with the intention of helping their community members such as by bearing the cost of food during *Otak* hearings, payment of loans on behalf of marginalized and poor members, paying compensations as loans and bearing the daily operational expenses of the *Otak*.

The motivations behind this phenomenon are evident, the community welfare and peacebuilding are important during dispute and for that mitigation measures and resolution is first and foremost. Nonetheless, Local actors in *Faislo* have certain degree of experience that disputant parties may not themselves start negotiations therefore in post-dispute situations, these actors in IDRМ aim to address human needs, provide resources or promote dialogue process, facilitate disputant parties, present both parties’ narratives and try to minimize loss. Local community actors and the mechanisms of IDRМ ensure that in criminal cases, in case of assigning hard punishments, the arbitrators take the guarantee of taking care of the family left behind. The process of restoring peace is accepted by the whole community where everyone cooperates to ensure that the peace is maintained and social relations are restored, the needy are tended and the one affected by the dispute are taken care of.

Case Study # 15; Taking Care of the Left Behind Family Members

In the case of punishment, community members take care of the family left behind. Abdul Basit³² Meerani told that during a clash between two of the Meerani groups, he was also nominated in the FIR lodged by the other fraction group for point-scoring. The other party used their influence in police and court and succeeded in naming him as accused. The FIR resulted in imprisoning him in jail for 02 years. The punishment was awarded on political reasons and not on concrete evidence. In his absence, he was thankful to the ethnic group members, the elders of his ethnic group, who had taken care of his family since he was the only bread earner for the whole family. Further, the elders also paid for his release. He further added that it is common in the community to take care of the family left behind. On socio-cultural and humanitarian grounds, in case a dispute aggravates, warring groups does not hurt/engage with old man, women and children within or outside of the village.

Many community support organizations such as Sindh Rural Support Organization (SRSO) are facilitating people to improve their life standards by providing them opportunities and resources. SRSO provides small scale loans, training and schemes for the welfare of the community.

According to the villagers, *“Faislo hik saado tareeqo aahay jehn me bihneen duryoun hin jo khyal rakhandu aahin ain police de na wendiyun aahin ahri tarh ghar bi na chandiyoun aahin cho jo police khotah ka kafi paray hoonid aahay, mutaasir khandan bi wakeelun ya police je chakr me paisun bharun kha kibaaenda aahin, in karay maamilay khe ghot me een hul kayo wendo aahay wadun khe wich me aaniday jawabdarun khe saza dinday insaf khe qaim kayo weendo aahay”* is a simple mechanism and the disputant parties do not have to leave their homes and go to the police or arbitrator, which are far away from the village. Even, masses do not have to bribe or use influential source to lodge FIR and pay a huge amount to a lawyer. The affected families overlook and let go each other mistakes in the issues and agree to resolve the issue within the community by asserting influence of the Elders and influential so the accused is convicted, and the justice is served”.

During FGD’s and interviews, people saw that, unlike the formal justice system, families of imprisoned or punished individuals are never forgotten but treated as indirect victims of crime. For example, if a father is the only earner and if he is going

to jail, his family (wife, offspring, and other dependents) is affected, usually adversely. Therefore, punishing a person means punishing their family. Hence, verdicts given through FJS do not take care of the left-behind families from the arrest-trial process to the conclusion. This is a vital advantage of the *Faislo* mechanism: in the case of punishment, the relatives take care of the left-behind families and provide them with domestic, emotional, or financial assistance. This *Biraderi/qoum* relationship with a prisoner would not cause them to suffer.

Whatever the justice system employed by the villagers, their ultimate aim is to resolve the disputes and attain peace and harmony in the village. It was noted that the *Faislo*, through political, legal, social, economic, and humanitarian perspectives, tried to establish peace. In most cases, it does. There are certain voices from inside or outside of the village which criticize verdicts. However, this criticism is not related to *Faislo* from the understudy village, but the behavior of the families with the women.

7.2. Outcomes of Peacebuilding

At *Otak of ChangoMurs*, elders and other significant local actors involved in community peace-making efforts generally use arbitration process by involving parties (both the aggrieved and accused) and interested members from community. The purpose of these efforts is to restore harmony and peace through restorative justice by including the community and local actors. Participation and inclusion of stakeholders collectively ensure meaningful and long-lasting peace and stability by resolving the concerns and grievances of parties through addressing the root causes of dispute and violence.

7.2.1. Local Narratives for Peacebuilding-A Cultural Perspective

In the research site, one of the major dynamics of peace efforts is ensure community culture which relies on harmony among social groups, compromises, sacrifices, and feeling of respect towards its follow community member. A community operates under the guidelines of cultural traditions that teaches its members to co-exist, respectfully as well as abide the same social norms and values and show kindness and generosity in times of needs. In village Fatehpur, the community culture for promoting peace and co-existence, has vested its power and traditional authority to elders of respective *qoum* and *Biraderi* for dispute resolution, hence making the process of initiating post-dispute dialogues easier. It is the *ChangoMurs* of the community that has dedicated a piece of land for a community member, known as

“*Otak*” so that they are able to sit among themselves in a commonplace to discuss and resolve daily life issues i.e., for *Kachari* (for general discussion).

Therefore, IDRM are cultural practices of the community. They are responsible for disguising the fact that these laws are about one's identity, specifically one's identity determined by one's understanding of community norms, religion and more crucially cultural identity. Thus, the Sindhi rural culture plays an important role in promoting the tradition of peace through its social assembly forums such as *Otak* and *Faislo*, where the disputes are addressed and brought to a first option. For most of the community, consulting the court is the last option. The mechanisms of *Faislo* are based on the basic philosophy of consensus and restoration. In principle, *Otak* gives a forum for discussion where investigating matters and the findings are discussed and what should be the next steps are given in the form of an advisory. Tradition, however, has taken these findings to the level of *Faislo*—the *Faislo* ruling that generally turns into law. These laws are applied to those communities only which accept those mechanisms of decision-making as well as their set of traditions. Local actors and *qoum* elders, through the traditional authority vested with them, can call both parties and investigate, and have not only the authority but experience in handling civil as well as criminal matters. Thus, *Faislo* gains an overwhelming ability to impose fines, boycott, and exile from the community if needed for the greater good and well-being of the community at large.

Cultural traditions and laws are also at times put to criticism by the few government departments, international human right based agencies, national and international NGO's, civil society and Media because of the reasons that *Otak* and *Faislo* both are male-oriented social assemblies which exclude women even in verdicts that effect their lives directly or indirectly. Women are the absent entities in the mechanism of peace -making. Culture expects them to trust men for protecting their Honor, for providing for them as well as speaking for them. During the fieldwork, I never had an encounter with any case that presented women point of view in disputes where women were one of the disputant parties. The *Faislo* do not comprehend the identity of the woman in *Otak*, since it is part of the traditional practices. Her father or brother or *Musheer* will speak on behalf of her, women are not permitted to defend themselves. The cases are discussed in the male sphere. However, the male discusses the issue at home with women, elders and taken advice from friends and relatives.

Women, in any way, do not take part in proceedings: they cannot be presented as victims and are also not empowered to challenge or charge others.

The civil society and media have criticized the verdicts of *Faislo* however, during fieldwork no member of civil society, media, NGO and government representative is ever present in *Faislo* even if community invites them for demonstration and observation. According to a *ChangoMurs*, “after post dispute, mostly the role of other actors is to put pressure on the community to resolve a dispute and later on criticize on the verdict. The community members themselves engaged to resolve their dispute because people want to resolve them early to get psychological and physical relaxation. Any failure will destroy the peace and create an environment for retaliation and mass murder”.

With progression and urbanization as well as involvement of other local actors such as civil society and media (through verbal criticism), the tradition of *Faislo* has also reformed itself and adapted to the change. During the research period, no hard penalty such as death, *Karo Kari*, women in blood feud was observed. The Elders told “the purpose is peaceful resolution of the matter and not to torture and torment the parties. This is one reason that even in serious crimes, the *Faislo* adapts to compensations, fines or resort to expulsion from village instead of announcing death penalties. Even *Faislo* now concerns about the human right issues. It is not because someone is watching us, it is because the times have changed and so has our traditions”. The functionality of *Faislo* does not intend to harm marginalize group but rather to support them in their times of needs and enjoys good moral standings.

7.2.2. Local Narratives for Peacebuilding- A Social Perspective

Any type of dispute can damage the social fabric of society. Key informants told that “the members of the community in past had respect, kindness, social cohesion, and prudence which are destroyed by the recklessness and wealth”. Therefore, trust, social solidarity, and care for others are declining in totality. On exploring, how do social relations get affected by a dispute? The respondents shared that the *disputant parties stopped communicating with one another, which impacted other ties as well. It is not just those two groups that are in dispute, but their respective relatives and friends are also under stress because they also show solidarity with them and take a stand or respond most of the time with other dhur. The tension has an influence on the*

other social spheres of the village. For- examples during a feud between the Meerani clans, the schools were closed, and the people seldom came out of their homes in fear of their lives unless the Sardar had to intervene. A question was asked to a village elder, why consensus and restoration are necessary? He said that “in dispute or friendship, the ethnic groups or Biraderi tend to face each other daily in their small community. So, it is believed that both dhur should meet with each other with smiling faces instead of turning their backs towards each other. Therefore, Faislo provides a platform to them and happily agree on certain terms for the resolution of their disputes, which should result in great satisfaction for them”. A ChangoMurs said that consensus development indicates both are winners, as both agree to resolve a dispute on their terms and will. Thus, people restore their relation and maintain social solidarity and cohesion through Faislo. Hence, another major purpose, the mechanisms serve is to rebuild and restore the social relationships. By restorative and reconciliation, it is also meant that the emphasis is more on restoration of damaged personal and communal relationships. All community efforts take place either to conspire or show solidarity with the victim and cater to the victim’s emotional and mental well-being.

Faislo ensures inclusion and participation of all stakeholders that have interests and stakes in the resolution process. It ensures that the process is participatory, voluntary and transparent so that trust of the social groups on Faislo remains intact. This is one reason that enhances the credibility of the mechanisms of Otak and Faislo. It is a centuries-old social setup for managing community affairs and resolving tension, and still is practiced and functional under the leadership of local community actors such as Elders, ChangoMurs and Sardars.

ChangoMurs explained that “this is our community and home. Tension or conflict between any social groups is harmful for the solidarity of our village. Most of the natives are family members and related to each other by blood or marriage therefore their issues cannot be left alone for the larger benefit of the community. When two groups are at dispute, it is not just those two groups, but the whole Biraderi, family or clan at social group- who are tied together in reciprocal exchanges and relationships that get at war. It is the very same relationships that care for each other, protect each other’s backs and stand with each other in the times of need”.

However, it is also true that *Faislo*, over a period of time, has also lost its effectiveness in restoring social relationships among the members. An elder shared

that "Sardar's lack of interest in community affairs or exercising their authorities through ChangoMurs for resolving inter group disputes, loss of respect and acceptance for the elders of qoum and Biraderi. Moreover, due to urbanization, people have multiple livelihood options other than agricultural activities. This has not only damaged the social fabric but has caused mistrust and less dependency among community members where the social values and mechanisms are considered less worthy."

During interviews, it was felt that in most cases of socio-cultural conflicts, the arbitrators do not change the course of their questions of justice during *Faislo*, they adhere to the old systems of values and traditions, and they are not ready to update themselves. The *Faislo* has a centuries-old tradition of enforcing punishments on the accused, including punishments for the most serious offences committed against the parties involved, particularly women. The provisions of the type of punishment or compensation are at the fingertips of people who have observed and learned the justice rules for many generations. It was also observed that with an awareness of verdicts, in certain cases, people are seeking to escape from the *Faislo*. There are many reasons for that, such as there might be an aspect of biasness, nepotism, and extreme punishments. This means the verdicts do not fully satisfy the affectees (culprits and relatives). It is too embarrassing for them to go or react to the nature of the situation.

Case Study

During the interviews, a few people narrated some instances in this regard. A case study is as follows: *The respondent said that a young woman had fled from the village because she had been declared "Kari." According to him, she came from her husband's home to visit her mother. Her cousin was out of the house looking for some items. The girl's brother had some sort of problem with his cousin, so he proclaimed her sister Kari to take revenge. The Faislo held and the boy was fined Rs. 500,000. The husband stayed away and refused the accusation levied on his wife by her own brother and demanded the safe return of his wife. In this situation, even a few people knew the truth, but one cannot be saved from punishment in terms of punishment in honour-related cases.*

Moreover, the social set up of community is based on social hierarchy supporting social solidarity and support to each other, but due to the urbanization and exposure to

other cultures, respect for one's social norms, care for relations and acknowledgement of traditional authority is greatly affected. Instead of collective integration, people are more interested in personal and individual development. This is one of the reasons that many a times *Faislo* fails to execute its verdicts if the parties have access to more than one mechanism for resolution or deem the verdict as unsatisfactory. The evasion from *Faislo* verdicts also creates hurdles in restoring the social relationships. However, these instances are few; otherwise, IDRМ plays an important role in building social peace among the villagers.

However, one of the most prominent benefits associated with IDRМ is its interactive perspective for peacebuilding. According to villagers, the IDRМ is human-centred and employs dispute resolution to redress the damage caused by disputant *dhur*. The community norms emphasize the need of the disputant *dhur* to negotiate with the other *dhur*, utilizing social capital such as relatives, family members, religious leaders, elders, and local actors, so that they participate in and enforce both *dhur* for a settlement. Thus, IDRМ provides opportunities for participants, disputants, and their families to take part in the dialogue process. Instead of focusing on providing justice and gathering evidence, their aims are to address the underlying dispute and try to resolve it as soon as possible before it escalates and anyone get opportunities involved or intervenes, such as the police or civil society. Due to social and economic interdependence with their ethnic group, the issues are generally addressed via reconciliation, compensation, and rehabilitation.

7.2.3. Local Narratives for Peacebuilding- A Economic Perspectiv

Many disputes arise over material or financial resources such as land, loan payments, and property rights. The most gruesome fight that many years back happened between Meeranis was also initiated because of the rise of the economic and social status of one of the Meerani family. One's economic status decides his power and authority in the village. The wealthier one is, the more power he holds to control others. *ChangoMurs* do not only enjoy traditional power in the area; they also enjoy economic power in the form of wealth and land. Most of the fertile land is owned by them. Their status gives them an additive edge over others and adds to their social power. It is because of the combination of their socio-economic networking that their circle of influence extends beyond the community members and includes judges, police, media, and people from civil society.

The economic aspect has many facets with regards to *Faislo*. One, which has been earlier discussed, is that it is an inexpensive mode of justice delivery mechanism which can be accessed by all, i.e., rich or poor, whereas the second facet is that it engages local actors who exercise economic might over others, so those making decisions are resourceful enough to ensure its execution. The people managing *Faislo* are power-dominant groups who not only have social networks but economic might as well. Therefore, villagers believed that the mechanism of *Faislo* was also slightly power-biased. It favors those with power and exploits those who are vulnerable in some cases. Therefore, the economy, as well as economic status and resourcefulness, plays an important role not only in the community social setup but also in choosing sides and deciding the verdict. The opposite party may blame the arbitrator for partiality, biasness, and injustice due to the above-mentioned factors.

However, there is another facet that covers the impact of the disputes and verdicts given in *Faislo*. To a *ChangoMur*, the *culprit is punished. Even if the culprit is an able-bodied person, the fines imposed are as per their stature. The cases are given equal attention. However, it is also a fact that those lower in economic status still respect our verdict, but our authority is also challenged in social groups that are equal to us in economic status, as they are not as dependent on us as others. The Faislo, in such cases, to prevent maximum harm, consults the higher authorities such as Sardar or police to control violence. When a dispute escalates, it affects many people's lives, not just in terms of casualties, but also by ending or limiting their livelihood options, freedom to move, and so on.*

One similar case has already been discussed in previous chapter where dispute between two *Meerani* groups over years began overpowering struggle. Dispute started over changing power dynamics and resulted in many casualties and damage to property and agriculture. Though the conflict was between the two groups, but it resulted in inducing stress not only among all community members but also depriving them from accessing schools, healthcare, difficulty in travel etc.

Nevertheless, people living in the village were observed to be mostly poor and marginalized members of society. They are mostly dependent on agriculture and, by profession, are the peasantry class. While disputes among them frequently occur and are natural. But to resolve them, they spend various cost on them. As they are poor and marginalized segments of society, they are looking for the most cost-effective mechanisms, such as IDRM, which are important means of settling disputes along

with saving time, no legal procedure, restoring relations through reconciling mechanisms, and no prisoning etc. Normally, the elderly, or *ChangoMurs*, are served to settle disputes. Most of the villagers said that the affordability of the IDRМ was a significant reason for its use. Furthermore, it provides facilities in their respective locations; however, it is not free. Due to its cost-effectiveness, people trust on it, and it restores harmony and peace in society.

7.2.4. Local Narratives for Peacebuilding- A Political Perspective

The political element of peacebuilding is a little more complex to understand. At one end, the rural elites wish to be accessed and asked for intervention and decision-making all the time by the other social groups for the purpose of retaining their power and control. On the other hand, it also works for the peacebuilding process because only the results of a dispute can enhance their credibility and honor as mediators among the community. Hence, the *ChangoMurs* play their role while keeping in mind their political interests. The *Faislo* mechanism has become the main source of domination since political interests have been embedded in political authority. Therefore, in most situations, the political interests of local actors are engaged with popular verdicts. A key informant said that *they are unresponsive in some cases, for example in high-profile cases. Either to protect their interests or group interests, and to show their dominance and hold power in their hands.* The community members during the FGD said that *if the same powerplay continues, nothing will change, and we will always remain a thousand years back from the world.*

ChangoMurs and the elders of *qoum* are primarily involved in decision-making based on consultation among disputants, the elders of the village, Imam Masjid, and in high-profile cases, with a few dedicated members from civil society. Because disputant *dhurs* are mostly part of a larger social network, therefore, *ChangoMurs* can easily assert their influence, make consensus and implement them. Moreover, no one questions *Faislo* process and verdicts. Furthermore, *ChangoMurs* engage disputant *dhurs* in less formalized processes, resulting in voluntary participation and *Faislo* based on dialogue and mutual consent. However, *ChangoMurs* is influential and authoritarian, and everyone knows it. Thus, *ChangoMurs's* making his *Otak* a political and social place, and his emphasis on restoration and reintegration of both *dhur*. As the dialogue process on his *Otak* represents, he is the central authority for making

decisions (whoever gave advice or recommended a verdict), but he is considered the final authority to announce a verdict. Secondly, *Faislo* symbolized that people are dependent on him for things like providing space, organize the gathering of all participants, and also, he is able to implement verdicts. Lastly, above all, he uses his *Otak* for his political scoring and control of the masses. It was seen during the study that *ChangoMurs* shaped the perceptions of the villagers about the world around them during his final speech.

The local media is used by civil society, NGO's, and concerned *dhurs* of the village to publicize the violence, vulnerability, and injustice. The publicize violence against any group or women is aimed at significantly putting pressure on arbitrators, state agencies, *dhurs*, local actors, and the community at large to resolve a dispute and engage people in action to take action against criminals. Thus, local actors, police, Sardar, elder and *ChangoMurs* tried to resolve it as soon as possible without any delay and peace fully within village settings. For example, during *Faislo*, a *ChangoMurs* gave a motivational speech and said, *"I am informing you truly and honestly as an elder and as a well-wisher of the community. Unresolved issues are destroying community's harmony and peace. These issues can be damaged more if we do not resolve them promptly and allow others to take a decision on our behalf, take instruction from someone else, or allow others to decide our fate or think from an individual perspective."*

According to a key informant, *ChangoMurs* and his allies, such as *qoum* and *Kamdaar*, wanted tangible outcomes from the *Faislo* process that shows how their involvement and input affect the outcome and decision. So that, a tangible outcome satisfies the aggrieved part. Moreover, according to villagers, if a *dhur* is unable to pay compensation to the aggrieved *dhur*, the *ChangoMur* asks families of accused *dhurs* to contribute and assist their *qoum* members. If they don't agree, for whatever reason, he requests the victim's *dhur* for a delay in paying compensation or makes payments in instalments. Otherwise, he is willing to pay himself on the accused's behalf. According to villagers and members of civil society, there are three reasons for that. He wants to demonstrate people's reliance on him and that he is the only hope during a crisis. Second, *ChangoMurs* engages in such acts in order to gain influence over Disputant *dhur* and his family, which he subsequently exploits to his advantage because he assists them in their time of crisis. Lastly, he can mobilize his community as a whole in his favor, such as during an election. While many people believe that the

Faislo discusses and addresses the fundamental issues that need to be handled in the pleasant environment of *Otak* of *ChangoMurs* to attain peace and stability for larger benefit of the community. However, the *ChangoMurs*, on the other hand, hold the aggressor accountable to affectees of his aggression through *Faislo*, which acts as a more constant check on his behaviour. Furthermore, the imposing of punishment or compensation as a symbol of reconciliation ensures that the victims and their families are not left to the mercy of others.

7.2.5. Other Actors' Narrative for Peacebuilding-An Outsiders Perspective

In post dispute situation, different actors have diverse opinions and reservations about *Faislo*. However, everyone agrees that all such efforts aim to bring peace and harmony among disputant parties and among the community. For civil society, *Faislo* or IDR system is an asset specifically for marginalized people and for those living in remote geographical locations. However, they suggest a few changes to their verdicts/punishment in criminal and honor related cases. For NGO's and Media persons, the IDR is a traditional system subjected to corruption or biasness, where verdicts are punishment for the poor and the nature of IDR authoritarian and can't be challenged or reviewed by any *dhur* in the most sensitive case. On the other hand, members of civil society believe that social peace is better achieved through the traditional justice system, and it can impose legal order on the parties. The *Faislo* proceeding can be guided where the members understand their jurisdiction and limits and avoid such verdicts that may become controversial. For NGO's, written rules such as formal laws should be implemented or in other cases, people running IDR should be trained and made accountable through observation and recording a trial (for example, for initiating dialogues to negotiations). They suggest a local government representative must observe the proceeding and their scope should be restricted such as from civil nature and commercial cases.

Lawyers said that the IDR has the ability to resolve the issues of the rural masses as well as the urban masses. The FJS is slow and outdated, the staff, lawyers, and judges are more concerned about their salaries and trapped due to the *Biraderi* network and are engaged in earning an extra amount from disputant *dhur*. Moreover, in certain cases, one of the *dhur* himself uses delay tactics to put pressure on the other *dhur*, so that the other *dhur* agrees to compromise. The lawyer does not appear in the courts or

request the registrar to give another date for the hearing of the case. Further, Sardar or *ChangoMurs* for their political point scoring, using the *Biraderi* card, can approach the FJS and influence the process by making it slower. Therefore, the process is delayed, and judges and lawyers request to resolve a dispute outside of the court.

During the discussion with members of civil society and lawyers, they said that *during peace among the community, no body (Sardars or ChangoMurs) has power to interrupt in their matters. In these situations, the role of local or provincial politics is diminished, and no one takes advantage of their poverty. However, in a post-dispute situation, they can freely play their part when there is a need because most of the people in the community are poor and uneducated. However, disputes are natural, and local actors' step in because various groups of the community are dependent on them. Thus, it creates a space, as during disputes, people stop communicating with each other and cooperating. This provides an opportunity for local actors or state justice institutions to step in and control their lives. Thus, resolving the issues at the grassroots level is the strength of the community, and playing with their lives is the weakness of the community. However, if community members prefer to depend on others mechanism for resolution, they should cooperate and try to find solutions among themselves. They can even resolve the disputes, so no one will be able to exploit them. This would result in building peace and that would divert their attention towards more serious issues such as education, infrastructure development, health etc. but, do to egoism, they involved ChangoMurs.*

In light of the above arguments, Faislo plays a very important role in dispute resolution. It is inclusive to all upto some extent, adaptable to change, and quick to respond. While, FJS is said to be interest-oriented, unresponsive, cruel, and manipulative concerning the actors involved who manage it, the structure has virtual boundaries such as rules and regulations. while *Faislo* is used to protect the interests of one party over the other. It is also used for controlling and exploiting those who are economically and socially weak. The IDR structure also protects the political interests of those who are managing *Faislo*. They use it as a source to continuously enhance their power and control over those who access it. The masses, though aware of the hidden functions of the *Faislo*, still resolve their disputes through IDR because it serves the process of keeping peace in the community and managing the social and economic order.

In light of the above discussion, the *Faislo* is a basic mechanism that resolves disputes and helps to gain peace in a post-dispute situation with the help of the elders and *ChangoMurs*. The local community members support the local actors' actions and consider them most culturally appropriate. Moreover, the acceptance of cultural norms, values, and the law makes it easier to instigate peace processes and develop consensus among them to achieve the outcome of peace and harmony in society. For community members, any intervention other than IDRMs would not be welcomed or a guarantee of success. While local IDRMs involved the community at large to aid their members effectively. The local actors and community participation work in such a way that the dispute transforms into peace. It is because, local actors, including the elderly and other actors, are considered trained functionaries (peacebuilding teams and non-violent groups) from many generations and hope for their community members to bring peace and prosperity.

The local actors and community members learnt these skills and acquired knowledge from their environment as they are very keen observers, as they have seen peacebuilding efforts for many generations at *Otak*, and sometimes they are part of the process first. Secondly, during a discussion on *Otak* with friends, *Biraderi* members, at home and at the social gathering of *Faislo*, etc., Third, they learned from their personal experience in such situations, whether they were directly involved or through someone from their friends and family., as it was discussed in the fifth chapter, people learned it during a discussion at *Otak* of *ChangoMurs*. Where *ChangoMurs* or his supporters have accepted ways of perceiving the world and helping individuals to walk on those paths actively. Thus, the on-ward behaviour, concepts, and values exhibited by individuals are deemed necessary for maintaining culture and cultural identity.

Hence, the most political socialization of an individual is done at *Otak*. However, the basic purpose of this socialization is to build peace and solidarity among the members of society. The same efforts of community members and local actors have been seen by everyone in post-dispute situations. However, political socialization does not mean that it is functional or restricted to post-disagreement. It harmonizes society as most of the people are not involved in disputes, which indicates that the elderly and *ChangoMurs* neutralized the aggression of the people. Therefore, there is no connotation of negative peacebuilding, such as it is functional in a dispute situation, However, it takes on a positive sense, which means it puts moral restrictions on the

members of the society to not indulge themselves in disputes, and even in a post dispute situation, it stops the further escalation of the dispute and promotes cooperation for mutual benefits.

As *ChangoMurs* said, for peacemaking, every time the influence of local actors does not work, but people are satisfied with the cultural procedure, traditions, and skills of arbitrators, how do arbitrators or elders handle the situation? This is one way to change the attitude and normalize the behavior of disputant groups. This is an important fact: making a conducive environment always prevents aggression and progress towards peacebuilding. Moreover, it enables one to understand the context, narratives of both sides, perceived differences, and for resolution, what kind of steps should be taken and how to build understanding among the disputants and what kind of community resources should be utilized to gain peace.

- A) Thus, internal local actors are participating in peacebuilding activities to develop consensus and play their part, such as asserting their socio-cultural and *Biraderi* pressure to gain peace. For that, the local actors ensure the safety and security of the disputant groups.
- B) While external local actors such as civil society, police, media, and NGO's are there to better support internal local actors and put trust in them to bring disputants to the table to talk and make sure that the verdict should not be inappropriate.

7.3. Discussion and Conclusion

It was found that the village political organizations such as *Biraderi* are very active in establishing social relations and maintaining social order among groups of people. The *Biraderi* is the basic political unit in the village. This political system, *Biraderi*, is a kin-based social group that is controlled by the elders, and every kin-mate follows the elders' advice and instructions. The *Biraderi* follow a verbal law and impose social sanctions on people's behavior. Moreover, they create links and connections and relate to one another through social factors that assure their compliance with *Biraderi* laws. As a result, the *qoum* or *Biraderi* elders obtain legal sanctioning authority. These aren't ordinary people; they're specialized local political bureaucrats and well-organized power hierarchies backed up by physical force in few cases. For example, the Sardars are the highest-ranking officials, while the *ChangoMurs* are the lowest-

ranking authorities. The group has well-defined mechanisms for ensuring that its members follow caste norms, as well as for resolving individual or faction disagreements and deciding on joint caste action. Sardar, Nawab, or *ChangoMurs'* political power is based on the existence of a common set of values, which includes acceptance of the political and social structures through which the power is exerted. *Biraderi* member has a strong bond with each other due to mutual dependence. The majority of Sindh's rural community has ingrained notions based on social norms and values. As a result, the *Biraderi* gained more control over their group, which were secured and enforced through *Biraderi* social pressure and anyone who defied the *Faislo* faced harsh consequences, such as social boycotts or forced expulsion from the village. That is why it is considered the role of *Biraderi* and village local actors to operate *Faislo* as social norms and ensure that the decision is carried out in whatever way possible, and people also desire that they participate and play their part from dispute resolution to execution. The pressure of social norms, *Biraderi* and their families, assert their influence on the victims and the accused to accept their decisions.

As famous Pakistani anthropologist, Dr Azam Chaudhary (2015) stated that Punjabi society in Pakistan is dominated by kinship. Nobody can imagine refusing a request from a close relative, such as a parent, or sibling. In most uncertain situations, relatives are under social pressure to assist one another, such as during emergencies or difficulty, quarrels, conflicts, crimes, etc. Bureaucrats, in general, serve as protectors of their families and kinships rather than as enforcers of governmental norms. Moreover, the commitment to their families is considered a top priority for police officers, judges, and lawyers. When the police were called to report the case, they inquired about the *Biraderi's* name, relatives, and village, among other things. The goal of these questions is to assess the *Biraderi's* authority and social impact in order to avoid risks before they occur (Chaudhary, 2015).

In the village, each *Biraderi* nominated a *ChangoMurs*, who have the authority to issue commands and impose sanctions. This type of activity is aimed at preserving the community's established social order. The basic mechanism to established social order is *Faislo*. From villagers' perspective, *Faislo* is accessed to resolve disputes amicably and peacefully without disturbing the socio-economic and political fabric of the society. Since masses own the *Otak* and *Faislo*, the actors willingly play their part as "arbitrators". Further, village culture appears that *Faislo* is basic mechanism for

restorative and reconciliation mechanism, and it is guidelines by cultural norms, and it also trace back from unwritten traditional laws and practices. The aim behind these practices is to promote a culture of justice through well-established relation-based network among community members and to provide a platform where everyone can address their grievance and contributes towards community peacebuilding.

The significant factors that are identified by masses to engage themselves with *Faislo* mechanism are legal, political, socio-economic and humanitarian grounds; as *ChangoMurs* said, that in most cases, *the verdicts would be same (from informal to formal courts), then why poor spend resources and face financial and legal hardship to get justice*. Moreover, from legal perspective, the community is largely unaware of their legal rights and avoids consulting the legal forums because of their non-familiarity, language hurdles, discouraging or rude attitude of lawyers and police etc. During study it was found that the insiders from the legal system such as lawyers, police and clerk also were seen directing community to opt for out of court settlements as they are quick and responsive towards justice delivery. Many who have not had firsthand experiences with the court also told other their such stories of the issues of corruption, long delays and partiality of the court system. These narratives against the formal system also supports the narrative of *Faislo* as being more effective and efficient system. As Shah (2013) concludes in his research that the informal justice system is based on cultural and traditional norms and values and the resolving mechanism is influenced by socio-economic and political factors, therefore indigenous laws are diverse and vary from area to area and contributes towards resolution (Shah, 2013).

It is interesting to note that since *Faislo* is an unstructured space, it is only activated when a dispute occurs, and it is brought to the *Otak* at the request of the community or disputing parties. Not all disputes are settled at the first or second hearing. Sometimes, social clashes between social equals ask for the involvement of Sardar and more influential people to bring the parties to negotiation tables. *Faislo* ensures that the social web is kept intact and not damaged at the times of dispute. The most important aspect of *Faislo* is that, if needed, they function beyond the limits of their culture and under the authority of unchallenged actors. It is adopted as a tradition and addresses the grievances and causes of the disagreement at the first place. Despite the powerful dynamics, it is observed that both the elite and the poor utilize *Faislo* in different circumstances. Besides collective reasons, there is also a need to assess the individual

experiences of individuals who have encountered both the formal and informal justice systems for dispute resolution in order to draw more conducive conclusions.

It was also noted that the *ChangoMurs*, or elders, may favour specific *dhurs* based on their political affiliation, same ethnic group, have past dispute with someone and have a threat to their power, want to teach a lesson to someone, and so on. As Kosec (2015) stated that politics in rural areas has been influenced by landowner and peasant ties, and further wealth, caste and clan are also closely tied to land tenure or occupancy. Having piece of land is major indicator of economic and social status in rural areas (Kosec, 2015). Furthermore, the majority of villagers stated that justice is not bribed. They do, however, make a good gesture toward *ChangoMurs* and *Faislo*, stating that they are concerned about the participants' broader socio-economic situation and aim to incorporate the disputants into the social fabric of their life. For example, the *ChangoMurs* focus not only hearing and resolving disputes in a timely manner, but it is also source to maintain relationships in everyday living activities so that no one can inflict harm to education, health, social, and economic activities. For example, when landlords and tenants have a dispute (if they are from the same *qoum*), the tenant frequently benefits economically. In UNDP report one of the most distinguishing characteristics of informal justice system is their degree of adaptation to their socioeconomic, political, and cultural settings. Furthermore, the IDRM focus more on understanding of the context in which they function and interact with other system such as formal system. Therefore, the community recognizes the importance of IDRM for the community, for example, their adaptability and reactions to different social contexts (Rights, 2009). As Wojkowska (2006) mentioned that local communities have a sense of ownership over their traditional dispute resolution systems, and this implies that such customary systems have social acceptance in the community (Wojkowska, 2006). As Chaudhary (2015) stated that in Punjabi culture, *Rishwat* and *Safarish* are two basic terms: *Rishwat* is defined as paying or receiving an amount of money for doing or getting something done unlawfully. The term *Safarish* is used for social contacts to accomplish illicit ends. Both are appeared to be acceptable in Pakistan and are "natural" methods of doing things. People do not even consider them wrong. However, a person who refuses to entertain *Safarish* of his or her relatives' is often viewed as arrogant and thus is in the wrong (Chaudhary, 2015).

Economic barriers that hinder access to justice are also widespread, and villagers reflected that the various costs involved in accessing justice, such as hiring a lawyer, documentation, and constant back and forth visitation, were the main factors in looking out for justice. There is also a fear of abuse of power by the influential on the part of the most marginalized segments of society. The surpassing of important key players such as *ChangoMurs* may also mean the cancellation or expulsion of their status from the social circle of the village. Those who had consulted the courts were ridiculed later for coming back to their roots in *Faislo* for effective resolution. In a few cases, it was reported that if both *dhurs* sit to gather and resolve disputes without involving the elders of *qoum* or *ChangoMurs* of the village, the *ChangoMurs* dislike it and comment that when they disagree or escalate disputes, then they quickly come to us for help. The reason behind their disliking is that while *dhur* does agree on certain terms and conditions, later on, if anyone moves on from his promises, they bring a case to *Otak*. Where both *dhur* disagree, what are the terms of reference and the meaning of such words? As there was no proof of what was happening, Thus, for local actors, it is much more difficult to resolve the dispute than ordinary disputes.

During the research, it was found that the women barred from participating in the *Faislo* process are not the only sources of embarrassment or injustice, or that they are not part of *Otak*. But rather, the nomination of women for the honor related issues is even more severe felony which brings brutality on women by family members. For example, to avoid shame and for face saving, they either kill the girl or give her hand in marriage to someone from outside of the village and receive bride money. There are two interrelated questions: Are they really extremely embarrassed because their girl has been nominated in such cases? Secondly, either they are selling their girl or marrying her to avoid shame? This argument can be explored through their acts of avoidance of shame, for instance, the marriage of the girl. Is the money they received bride money or the sale of a girl? For example, in many cases, we see the brother blaming his sister for having affairs with someone for whom he seeks revenge and later selling her to someone in order to obtain an additional amount. Furthermore, there is no such study conducted which talks about what happened to those girls who were given to someone if they were not killed in honor-related cases. When this issue was discussed with one of the key informants, he said that they didn't know what happened with those girls. He assumed that the groom was least concerned about her past. If it is so, why did they themselves give them to someone on account of honor

and considered it a shame? A villager told me that in some cases, they are treated just like normal housewives, and in other cases, they are treated extremely brutally.

It was reported in very few cases, verdicts of IDRM process are often unquestionable and unchangeable. Few times the affectees and their families were not fully satisfied with the decisions of the *Faislo* but what makes them accept *Faislo* for the time being is either the respect and influence for the elders and *ChangoMurs* of the *qoum* or the fear and consequences of going against them. As Shah (2013), feudal culture promotes the justice of the panchayat and Jirga with their own interests in the region. Feudal lords and *Waderas* seek to govern over masses and in case, someone contacts the formal justice system, they have been punished. The justice of the Jirga and panchayat is only for the Chaudhrys, Khans, Maliks, *Waderas* and landlords to oppress the weak. These wealthy and powerful individuals make decisions and enforce them with power and violence (Shah, 2013).

During the research, it was also found that settlements reached through *Faislo* may reflect that each *dhur* does not have equal negotiating power. Though *Faislo* is a public outreach activity, and the participation of the elderly, *Musheer*, and *ChangoMurs* ensures checks and balances. However, revealing views on gender, age, community insider status, and other factors reinforces such inequities. Furthermore, if a person is involved in criminal activity for the second time, or if a member of their family is implicated, the penalty is either less harsh or more severe depending on their financial position.

Epple referred to Taylor (1997) Transferring laws from one cultural context to another often means interfering with communities' key values and carries the risk of knowingly or unknowingly creating disturbance and irritation. Such transfers mostly also occur in unequal relationships: they are usually initiated by a dominant state imposing new laws on local communities, even if both sides influence each other in the long run. However, even though the state seems to be in the more powerful position, if the targeted recipients cannot be convinced that the legal innovations are to their benefit, the imposition of new laws can lead to disappointment, withdrawal, resistance and conflict. Mutual recognition is one of the bases for peaceful relations and trust (Epple, 2020). Besides maintaining community's harmony and peace, *Faislo* is believed to restore social hierarchies where the rural elite by virtue of their status rule and control, manage and guide the marginalized or their subordinates. Findings also reflect that most of the times, it is also a matter of routine practice where the first

logical step towards the conflict resolution is to refer to *ChangoMurs* or arrange *Faislo*. However, the system only seems to work best in patron-client and asymmetrical relationships.

Assessing *Faislo* through the community narratives helps to understand whether people rely on *Faislo* due to their political, social, legal or economic and humanitarian perspectives or any other reason? As one said to be the reason is maintaining political hierarchies of the village which means the rural elite enjoys political domination on the basis of the support it extends to its members in times of crisis. Dispute created a crisis in the village, the *ChangoMurs* tries to win the loyalty of its fellow community members by being compassionate, benevolent and neutral in different social contexts between two parties. For peacebuilding, they are expected to use their referent and traditional power to help those who deserve it. In both conditions, the IDRMs build peace and harmony in the society. Therefore, in most cases, masses show their satisfaction with *Faislo*, as it upholds its trust among the people. Epple has cited Broch-Due (2016), who stated that respectful and polite forms of interaction must be found in order to avoid distrust, disrespect and perceived insult. As trust, respect and deference are rather complex social and culture-specific phenomena, mutual knowledge about cultural values and practices are important for success. In addition, the character of social relationships, whether interpersonal or between groups, radiates from the past as much as the present, so successful intercultural encounters need careful and open-minded approaches, especially when negative experiences have shaped perceptions and stereotypes (Epple, 2020).

Hence concluded, it is the traditional elite that holds maximum power through dispute resolution mechanisms in the village and bears the ability to influence all other local actors if needed to reach a decision or consensus in a verdict. It is not the *ChangoMurs* whose wish is to control the masses, in-fact as part of the same community they are involved in reciprocal relationships with the community who serves them. In response to the trust and services he receives from the masses, *ChangoMurs* and landlord is obligated and responsible for providing and protecting the masses as well ensuring harmony and peace in the village through effective conflict resolution.

Chapter # 8

8. Summary and Conclusion

The present study “*Dispute Resolution; Perception and Practice in informal justice system, a case study of Fatehpur Village, Larkana*” aimed to reflect the perceptions of relevant stakeholders (Community members, local actors, disputing parties) regarding rationale and practices of informal justice delivery system (*Faislo*) for dispute resolution that is operational in village Fatehpur. The village Fatehpur is famous for its vulnerability towards ethnic and cultural conflicts between individuals and social groups because it is a hub of multi-ethnic communities, however IDRM is actively playing part through traditional justice mechanism. Although the proximity, accessibility and connection of the village Fatehpur with the Larkana city makes it easier and convenient for people seek justice from the Formal justice system. However, the reasons for preferring IDRM over the formal Justice System in the presence of both systems made Fatehpur an ideal research site. As it enabled the researcher to access and comprehend viewpoints from different stakeholders involved in the justice delivery system may they be formal or indigenous. The study also focused to evaluate the significant impact of involved social actors in *Faislo* and analyzed the implications of *Faislo* for families concerned in specific and on the community at large.

The fieldwork for the research was carried out in year 2017-2018 using qualitative research methods. The research design used for this study is descriptive but analytical and engages both qualitative and quantitative data collection techniques to achieve research objectives. The data has been collected in two stages. In the first stage, the data was extracted from 92 HHs by using a purposive sampling to ensure research specific case studies of families or HHs who in recent past has accessed or utilized the mechanisms of *Faislo* or others for any kind of dispute resolution. In the first phase of research work socioeconomic survey was conducted to be familiarized with the socioeconomic condition of the community because these are most important perspectives to understand one’s reasons to opt for the legal system. Some important questions related to the reasons of selecting *Faislo* were also included in the survey to get an instant holistic picture of community perception. However, in the second phase convenient sampling was employed to select a sample of 46 respondents for in depth

interviews to achieve research objectives as well as for validation of research data at the second stage of the research.

Disputes are an integral part of human lives; evidence shows that the reasons for disputes in community are culturally related, such as disputes revolving around women (honor), land (power) and resources (physical or financial). Furthermore, disputes can prevail at many levels, such as family, clan, community, and inter-community level. It is believed that every minor dispute has the potential to become a major dispute with the involvement of emotions, aggression (hostility) and impatience by either party. Further, few types of disputes are considered as sensitive affairs that are resolved at different levels and only brought to the public when no other means are left for resolution. As these matters are considered highly intimate, delays and formal procedures are avoided to seek early resolution. The community perception stated that in all such cases where a dispute has even a minor chance of disrupting the social integration between different social groups as well as the village, the mechanism for local arbitration automatically comes into action. It is because the community considers them as "cultural actions" that have deep connections with the cultural fabrics and social norms and values of society. Because dispute resolution mechanisms are cultural constructions, they support social assemblies such as *Otak*, where participation, representation, and engagement of the parties involved in the entire process of justice delivery are valued more than any other. Thus, *Otak* requires level-specific resolution mechanisms (*Faislo*/IDRM) by involving important local actors to be addressed and managed efficiently.

Faislo Mechanism for Dispute Resolution is centuries old in Sindh and is still governing the lives of many community members of Fatehpur. The IDRM has made it possible for the *Faislo* actors to utilize community resources efficiently and contribute to meeting the judicial and social needs of their members in relevant conflicting situations. For example, to consult cultural arbitrators for resolution are considered socially and culturally legitimate and appropriate. Local actors are interested in resolving the disputes of community because it helps them enhance their social capital and gives them access to control and manage the lives subordinate to them. Local actors are considered insiders unlike police and Judge who are supposedly much well familiar with the historical, social and political background of disputes in their areas and hence a preferred choice of being arbitrators between the disputing sides. Furthermore, the influence, status and traditionally conferred authority of the local

actors enables them to involve and engage everyone in the process of ensuring social solidarity by reaching harmonious solutions considered good for the society at large. The inter-dependency of community members on local actors has not only social but political and economic value as well. The community expects from *ChangoMurs* to intervene in matters that have potential to disrupt social peace and harmony. They need him to take a leading role in bringing the disputing parties to negotiation tables, in the times of conflicts, it is expected of *ChangoMurs* to use their influence on police and other law enforcing agencies so social and legal pressure environment is created to bring the influential or non-willing parties to table. The expectation is not one sided since the *ChangoMurs* expects complete loyalty, allegiance and political support from the members supported and helped when the time comes.

The *Faislo* practice and process involves various steps. The IDR mechanism operates and resolves issues at the community level first, and secondly, all the members of the community, local actors, and other important shareholders are well familiar with the mechanism, making the process more focused on whom they should involve or take important measures to achieve the desired outcome. Thirdly, the victim and the culprits know that this is the only ultimate reliable platform for their problem, and they have the ability to resolve it cheaply, efficiently, and peacefully. Thus, by involving their elders, *qoum ChangoMurs*, the family and peer group tried to avoid further disputes. Fourthly, the local *ChangoMurs* of *qoum* or *Biraderi* are mostly authoritarian and accountable to resolve disputes, and the power is vested in the community, not formal laws. Fifthly, the rest of the male-community members participate and show their trust in the significant processes; and lastly, the dispute is resolved through consensus between both groups to ensure harmony and peace in the community. All shareholders (*ChangoMurs*, *Musheer*, elders, family, and community at large) make it possible to implement the decision made on the day of *Faislo*. Thus, the IDR ensures the confidentiality and responsiveness that the formal courts have failed to provide.

On the other hand, during the colonial era, the self-governing mechanism was interrupted by the British, in parallel to the traditional justice mechanism. This parallel system was unable to gain popularity, especially among the rural masses. Even after the independence of Pakistan, the legal system is still in lapse, approved by some and alienated by many. However, a few efforts were made to integrate the values of indigenous systems into the formal legal system, but they were not fruitful.

For example, it does not contribute because the philosophy of the formal justice system is based on a theory of retribution, bureaucratic, adversarial, and also led by codifying written legislation, rules, regulations, processes, and procedures. On the other hand, indigenous mechanisms are popular as well as effective in many parts of Pakistan as they are consultative and compensatory. In both justice delivery mechanisms, decision-making is linked to a small number of individuals. However, the power vested in the local actors has different sources and bases, such as legal rationale in the case of courts and traditional authority in the case of indigenous dispute resolution mechanisms. For many decades, the *Faislo* mechanism has been handled by a few mainstems, politically enabled landowners who control all daily life matters and resources of the villages. However, the power is not unaccountable and is kept in check by urban-based civil society, the media, local NGO's, Sardars, politicians and other interested groups who have some influence over the decision-making process and how *Faislo* decisions are implemented.

In contrast to *Faislo*, courts are considered alienation for locals of many reasons besides their ineffectiveness. Most triggering is local's unfamiliarity with the legal procedures and language used, implied cost pertaining to lengthy and confusing documentation and non-familiarity or enjoying no relational base with the decision makers. More importantly, the distance, long hour waits and what is narrated by those who have firsthand experience and used of common expression such as they themselves suggest them to settle their issues outside of the court. This is why the processes and results of formal justice procedures are often considered inappropriate for local preferences.

Therefore, the experiences of some have maligned the narrative of the formal courts for all. Moreover, the perception that the formal judicial system stands with the powerful and can be manipulative, torturous, and painful for the poor, unless they have the strong support of the rich and powerful. Furthermore, one thing is important: despite the challenges of corruption, delayed hearings, lengthy processes, nepotism (favoritism), and rude behavior, people, in certain specific cases, have taken the less trodden road by accessing the police and courts but have had to return to indigenous mechanisms because of non-responsiveness and delays in the proceedings of the courts. This indicated that to put pressure on or bring *dhur* onto the negotiation table or to show his strength, go for it. However, this argument reflects that people have many desires, but above all, in cases of disputes, they desire free-of-cost management

and early resolution of the conflict at hand without losing their status or honor in the social circle. The IDRM mechanism ensures that the parties are given win-win solutions and disputes are effectively resolved with little or no disruption.

It is vital to understand that locals use more than one rationale for accessing IDRM for justice delivery and dispute resolutions. Firstly, it helps handle day to day minor conflicts as well that need mere mediations and intervention from the elders. Secondly, unlike formal courts, it does not refer to conflicts as standalone matters but indulges into the historical and contextual perspectives and relations between the two involved parties. Thirdly, besides a legal forum, the *Faislo* has political implications. It reinstates the political hierarchy and followership of the members with a certain party. Fourthly, socially it does not break or worsens the relationships between the parties involved, in fact it helps in moving on. Fifthly, it projects empathic and humanitarian values for weaker elements of the society for-example first of all, it is cost effective so even poor segments of society can access it, moreover, the mechanism decides for punishments that are more financial compensations towards the victim and the family. Though the monetary compensations as solution of all overt disputes brought to *Faislo* is not appreciated by many. However, the larger narrative is that in honor bound cases or criminal offenses such as murders, both the honor and the dead one cannot be brought back but at least the monetary compensations can help the family move on with their life and overcome the predicament.

Therefore, IDRM processes follow a holistic and non-repressive approach. It is largely directed by the perception of community, traditional practices and adds oral rules with experiences and offers culturally relative solutions. The process is also community-centered; therefore, the *Faislo* treasures the restorative and transformative concepts of justice to dispute resolution. It concentrates on the principles of restorative justice. The *Faislo* processes are flexible and simple; therefore, it handles disputes with reference to circumstances and conditions.

Like any other system, *Faislo* has some drawbacks as well. First is the issue of exerting unnecessary influence on individuals to let go of their individual or legal rights for the greater good of the community. The decisions are rarely challenged in the community, even if they only benefit certain powerful groups in the village. IDRM is a system that is effective only for the marginalized sections or poor of the community who share social, economic, and political dependency with the power-full groups or *ChangoMurs*. Being responsive to the needs of the community enables the

ChangoMurs to win their allegiance and political support for the next election. It is pertinent to note that the manipulation of power over the police and judiciary by these local actors has made the formal system even more ineffective than it was. Even the police and courts' insistence on out-of-court settlements and the calling of *ChangoMurs* to exert pressure to take back their police complaints is another reason that has strengthened the credibility of one system over the other. On the outlook, both systems may look different, but their manipulation of power by the actors involved is the same. Both use their powers to pull through decisions that may seize the individual satisfaction or rights of those seeking justice in the first place. Moreover, *Faislo* despite its claims, is not representative of all members of society; it excludes women from all proceedings and hearings, even if the victim or complainant is a woman. Also, for the sake of the greater good, the *Faislo* was seen to avoid strict punishments or imprisonment of the offenders and instead make use of compensation-based punishments to adjust losses or mediate with the victims. *Faislo* may not be retributive, but it is highly authoritative and subject to controlling. It may make the victim let go of their individual rights for the greater good of the community.

Faislo has been observed as a way of life for the people of Fatehpur. a mechanism that is necessary for keeping the social and traditional values of society intact. It offers protection as well as provision of a safety net for those who really need it. It offers solace in the form of monetary compensation to those who have lost their dear ones. *Faislo* is a ritual that helps manage crisis situations in society by bringing all affected elements into the process of *Communitas*, where they bear the right of participation and representation and, after verdict, are integrated back into society. It has survived until now because the other system seems alien and foreign. It is followed because it serves their community's social as well as individual needs. It meets their expectations and helps them reinstate the normative values of society without disturbing the social and political hierarchies of the cultural fabric.

8.1. Conclusion

To conclude, Process pluralism is prominently observed among the people of Village Fatehpur where both IDRM and FJS mechanisms for dispute resolution as well as justice delivery complement each other for effective dispute resolution mechanisms.

From findings, though it seems that IDRM is more relevant and effective in disposal of justice but in fact without the support of FJS, which is used as means and tools of exerting pressure on the disputing parties, the mediation process could not be as effective or smooth as it appears. Some features of FJS such as policemen in law enforcement and judges in courts are used as manipulative means to either bring the parties to negotiation table or to make them learn lessons the hard way. They are tools in the hands of those in power. One system may not sustain its legitimacy without the other. The locals are both fearful of the police and the *ChangoMurs* therefore in times of disputes, both are used to show power and to seek control of the situation. It is also used to exert pressures on the other parties involved. It is interesting to notice that besides being complementary partners, both have distinct features. The local actors involved in both mechanisms understand each other power but does not wish it to transform into legal forums with legal bindings because legal binding may mean ending of the authoritarian and controlling role of *ChangoMurs*. It may also mean no political support for them in elections, no dependency for decisions pertaining to their land and resources. The end of *Faislo* and its amalgamation with FJS has not yet been possible despite many efforts because of the workload over courts and resistance from the local lords. The merger may mean respect of the customary law and help in fixing the problems of favoritism, corruption, violation of human rights, exclusion of women, releasing the offenders of serious crimes without punishments but most of all it means a just and culturally relative justice delivery system for all. Legal bindings may also bring transparency and accountability in the verdicts of the *Faislo*.

In the last two decades the need, significance and worth of sustainable community-based interventions for all aspects of life have been given emphasis in many countries of the world. Interest in and experience with these sustainable community-based policies and rightful laws can enhance the management of disputes and strengthen a peaceful environment. Acknowledgment of pluralism and rights and aspirations of rural people need instantaneous consideration of state and other relevant official institution. Likewise in rural Sindh the acknowledgment and integration of local legal mechanism into the formal justice system can enhance the peace building process. The reasons provided by the community of preferring *Faislo* indicated that people need immediate, hassle free, and economically low-priced justice which is not possible through existing FJS. Despite this, the government tried to legalize IDRM, even though it was not implemented with letter and spirit, Moreover, the locals do not

accept the influence of outsiders and want to work within a larger framework. If IDRМ gets legal recognition and trains the local actors, it could be even more useful because the chances of exploitation of common people by the local actors may be decreased due to the fear of check and balance by the state. Human rights can be better projected through the public interest, as paralleled by civil society organizations and formal legal forums.

DRSML QAU

Bibliography

- Abduseleh, K., & Islam, M. R. (2018). Traditional practices of Panchayat system among ex-enclave dwellers in Bangladesh. *GeoJournal*, 84(1), 657-669.
- Abro, A. P. (2009, June 16). Corruption within police. Islamabad. Retrieved July 21, 2020, from <https://www.dawn.com/news/471668/corruption-within-police>
- Acemoglu, D. A. (2018, 30 April). Trust in State and Non-State Actors: Evidence from Dispute Resolution in Pakistan. 01.
- Acemoglu, D., Cheema, A., Khawaja, A., & Robinson, J. (2019). Trust in State and Non-State Actors: Evidence from Dispute Resolution in Pakistan. *Journal of Political Economy*, 2.
- ADB. (2015). *Asian Development Bank*. Retrieved 4 22, 2020, from Bank, Asian development
- Ahsen, S. b. (2018, OCTOBER 6). Police service-challenges and reforms. Daily Time. Retrieved July 21, 2020, from <https://dailytimes.com.pk/306595/police-service-challenges-and-reforms/>
- Akhtar, S. e. (2009). *Study of Informal Justice System in Pakistan*. The Sindh Judicial Academy. Karachi: Sindh Judicial Academy. Retrieved from <http://sja.gos.pk/assets/publication/Misc/Report%20Informal%20Justice%20System%20in%20Pakistan.pdf>
- Alavi, H. (1972a). The State in Post-Colonial Societies: Pakistan and Bangladesh. *New Left Review*(72), 59-81.
- Albright, M. (2012, Sept 21). *The Advantages And Disadvantages Of ADR*. Retrieved from Albright, Stoddard, Warnick & Albright: <https://albrightstoddard.com/advantages-disadvantages-adr/>
- Albright, M. K. (2008). *Making the Law work for everyone*. the Commission on Legal Empowerment of the Poor. United Nations Development Programme. Retrieved August 18, 2020, from https://www.un.org/ruleoflaw/files/Making_the_Law_Work_for_Everyone.pdf
- Alemie, A. &. (2018). Roles of Indigenous Conflict Resolution Mechanisms for Maintaining Social Solidarity and Strengthening Communities in Alefa District, North West of Ethiopia. *Journal of Indigenous Social Development*, 7(2), 1-21.
- Alexander, J. C. (1991). Do the Merits Matter? A Study of Settlements in Securities Class Actions. *STAN. L. REV*, 497-598.
- Ali, Z. (2017, July). *Alternative Dispute Resolution: A Paradigm Shift in Pakistan`s Justice System*. Retrieved February 7, 2020, from Asia Foundation: <https://asiafoundation.org/2017/07/26/alternative-dispute-resolution-paradigm-shift-pakistans-justice-system/>
- ALRC . (2010, August 18). *Arguments for the Recognition of Aboriginal Customary Laws*. Retrieved June 6, 2020, from Australian Government - Australian Law Reform Commission: <https://www.alrc.gov.au/publication/recognition-of-aboriginal-customary-laws-alrc-report-31/8-aboriginal-customary-laws-recognition/arguments-for-the-recognition-of-aboriginal-customary-laws/>
- Applebaum, S., Abdullah, C., & Shapiro, B. (1999). The self directed team: a conflict resolution analysis,. *Team Performance Management*, 5(2), 60-77. Retrieved from

- https://www.researchgate.net/publication/242347244_The_self-directed_team_A_conflict_resolution_analysis
- Ardagh, A. (2008). Repositioning the legal profession in adr services: the place of collaborative law in the new family law system in australia. *Qut Law & Justice Journal*, 8(1), 238-252. Retrieved February 01, 2020, from <https://researchoutput.csu.edu.au/ws/portalfiles/portal/8697762/8425postpub.pdf>
- Ardagh, A., & Cumes, G. (1998). Lawyers and Mediation: Beyond the Adversarial System?. *Australian Dispute Resolution Journal Vol. 9 (1)*.
- Arora, V. B. (2008). *Justice delivery in India a critique with special reference to supreme court*. Unpublished Thesis, Department of Law, Punjab University.
- Asad, M. (2018, January 21). *Over 1.8 Million cases pending in Pakistan courts*. Retrieved March 17, 2020, from DAWN: Today's Paper: <https://www.dawn.com/news/1384319>
- Asad, M. (January 21, 2018). *cases pending in Pakistan's courts*. Dawn. Retrieved 6 7, 2019, from <https://www.dawn.com/news/1384319>
- Attaullah, D. Q. (2017). Tracing The Concept Of Adr In Sharô'Ah And Law A Comparative Study. *Hamdard Islamicus*, XXXIX(3), 7-53.
- Auerbach, J. S. (1984). JUSTICE WITHOUT LAW. In L. NADERT, *THE RECURRENT DIALECTIC BETWEEN LEGALITY AND ITS ALTERNATIVES: THE LIMITATIONS OF BINARY THINKING* (p. 621). Oxford University Press. Retrieved from https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=4624&context=penn_law_review
- Avruch, K. (2004). *Culture and Conflict Resolution*. (4, Ed.) Washington, DC: United States Institute of Peace Press. Retrieved from https://books.google.com.pk/books?id=OofmUheyGJAC&printsec=frontcover&dq=Culture+and+Conflict+Resolution+by+Avruch,+Kevin+2004+page+25&hl=en&sa=X&ved=2ahUKewiToOvF2uX1AhWtxoUKHe5_DR8Q6AF6BAgJEAI#v=onepage&q&f=false
- Azeem, M. (2014, Feb 3). *Why the Thana culture remains prevalent*. Lahore. Retrieved August 7, 2020, from <https://www.dawn.com/news/1084618>
- Bank, Asian development. (2015). Retrieved 4 22, 2020, from <https://www.adb.org/countries/pakistan/poverty>
- Barpujari, I. (2011). *Customary Laws among the Tiwas of Assam*. Gauhati: Unpublished thesis of Department of Anthropology, Gauhati University.
- Beg, M. A. (2018, November). Chapter II. *DEVELOPMENT OF FEUDAL PSYCHE AND ITS OPERATIONS*. doi:10.13140/RG.2.2.24069.81123
- Benda-Beckmann, K. v. (2018). Legal pluralism, social theory, and the state. *The Journal of Legal Pluralism and Unofficial Law*, 58(3), 258. doi:10.1080/07329113.2018.1532674
- Berman, P. S. (2009). The New Legal Pluralism. *Annual Review of Law and Social Science*, 226. Retrieved from https://www.researchgate.net/publication/228241876_New_Legal_Pluralism
- Bhattacharya, D. S. (2016, April). Civil Society In Pakistan: Functioning And Challenges. *South-Asian Journal of Multidisciplinary Studies (SAJMS)*, 3(3), 34.
- Bodo, Z. &. (2011). The media and attitudes towards crime and the justice system. *European Journal of Criminology*, 8(4), 329-342.
- Braithwaite, J., & Gohar, A. (2014). Restorative Justice, Policing and Insurgency: Learning from Pakistan. *Law & Society*, 531-561.

- Brohi, I. (2018, January 23). *Breaking feudal lords*. Retrieved May 2020, 3, from Daily Times: <https://dailytimes.com.pk/186544/breaking-feudal-lords/>
- Brohi, N. (2016). *Women, Violence and Jirgas*. Islamabad: USAID and the Aurat Foundation.
- Butt, T. (2018, June 19). *Civil Justice: Pakistan listed at 107 among 113 countries*. (The NEWS) Retrieved March 1, 2020, from The NEWS- International: <https://www.thenews.com.pk/print/330890-civil-justice-pakistan-listed-at-107-among-113-countries>
- Cappelletti, M. (1993). Alternative Dispute Resolution Processes within the Framework of the World-Wide Access-to-Justice Movement. *The Modern Law Review*.
- Center for Democracy and Government. (1998). *ALTERNATIVE DISPUTE RESOLUTION Practitioners Guide*. Centre for Democracy and Government. Washington D.C.: U.S. Agency for International Development. Retrieved from <http://www.gsdrc.org/docs/open/ssaj1.pdf>
- Chambliss, E. (2000). Professional Responsibility: Lawyers, a Case Study. *Fordham Law review*, 69(3), 817-857. Retrieved from <https://core.ac.uk/download/pdf/144223565.pdf>
- Channa, A. (April 22, 2019). *cases pending in Sindh courts*. Karachi: Pakistan Today. Retrieved 6 5, 2019, from <https://www.pakistantoday.com.pk/2019/04/22/more-than-193248-cases-pending-in-sindh-courts/>
- Chaudhary , A. (1999). *Justice in Practice: Legal Ethnography of a Pakistani Punjabi Village*. London: Oxford University Press.
- Chaudhary, M. A. (2015). Corruption in Pakistani Courts in the Light of Local Cultural Context: The Case Study of the Pakistani Punjab. *Nordic Journal of Law and Social Research*, 2, 37. Retrieved from <https://tidsskrift.dk/njlsr/article/view/111120>
- Chirayath, L., Caroline, S., & Woolcock, M. (2005). *Customary Law and Policy Reform : Engaging with the Plurality of Justice Systems*. Washington DC: World Bank . Retrieved from <https://openknowledge.worldbank.org/handle/10986/9075>
- Christos N Kyrou, R. A. (2008). Cultural Anthropology Studies of Conflict. In L. kurtz, *encyclopedia of violence, peace and conflict* (p. 515). Amsterdam: Elsevier.
- Chudhary, D. A. (2009). The Rule of Law Problems in Pakistan: An Anthropological Perspective of the Daughter's Traditional Share in the Patrimony in the Punjab. *Pakistan Journal of History and Culture*, XXX(2), 101-126.
- Coates, C. A. (2005). Parenting Coordination For High-Conflict Families. *Family Court Review*. doi:10.1111/j.174-1617.2004.tb00647.x
- Coughlin, J. (1995). Alternative Dispute Resolution In Electricity: Just Do It! *The Electricity Journal*, 68-75. doi:10.1016/1040-6190(95)90109-4
- Daron Acemoglu, A. C. (2018, 30 April). Trust in State and Non-State Actors: Evidence from Dispute Resolution in Pakistan. 01.
- Detho, I. A. (2018). *Alternative Dispute Resolution Mechanisms, Access in Community and Public Administrative Bodies: A Mapping of Select District in Sindh*. LEGAL AID SOCIETY. Retrieved February 2, 2020, from <https://www.las.org.pk/wp-content/uploads/2019/01/Public-Administrative-ADR-Paper.pdf>
- Din, I. (2016). *The New British: The Impact of Culture and Community on Young Pakistanis*. University of Bradford, UK: Routledge.

- Dupret, B. (2007). Legal Pluralism, Plurality of Laws, and Legal Practices. *European Journal of Legal Studies*, 1(1), 1-26. Retrieved from <https://halshs.archives-ouvertes.fr/file/index/docid/178422/filename/2007EjlsLegPlur.pdf>
- Durrani, F. (2020, November 1). *World Justice Project 2020: Pakistan slips down in absence of corruption, rule of law index*. Retrieved 01 09, 2021, from The NEWS-International: <https://www.thenews.com.pk/print/737464-world-justice-project-2020-pakistan-slips-down-in-absence-of-corruption-rule-of-law-index>
- Eberhard, C. (2001, October 18). Challenges and Prospects for the Anthropology of Law. A Francophone Perspective. 1-19. Halle: Max Planck Institute for Social Anthropology. Retrieved March 21, 2021, from <http://www.dhdi.free.fr/recherches/theoriedroit/articles/eberchalanthro.pdf>
- Editor, T. (2011). *Encyclopaedia Britannica*. Retrieved May 16, 2020, from <https://www.britannica.com/place/Sindh-province-Pakistan>
- Edwards, L., & Wilson, C. (2007). Redress and Alternative Dispute Resolution in EU Cross-Border E-Commerce Transactions. *International Review of Law, Computers & Technology*.
- Epple, S. &. (2020). *Legal Pluralism in Ethiopia: Actors, Challenges and Solutions* (Vol. 1). Ieliefeld: transcript Verlag. doi:10.14361/9783839450215
- Filner, J. M. (1995). *Compendium of State Court Resource Materials*. Washington D.C: National Institute for Dispute Resolution.
- Finnane, M. (2006). The tides of Customary Law. *ANZLH E-Journal*, 1-14. Retrieved March 12, 2020, from <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.114.924&rep=rep1&type=pdf>
- Fiss, O. M. (1984, May). Against Settlement. *The Yale Law Journal*, 93(6), 1089. doi:10.2307/796205
- Forsyth, M. (2007). How to `Do` Legal Pluralism. *SSRN*, 1-12. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=993617
- Foucault, M. (1980). Two Lectures," in Colin Gordon Edition. *Power / Knowledge*.
- Fry, D. P. (2002). Conflict Management in Cross- Cultural Perspective. In F. Aureli, & F. D. Waal, *Natural Conflict Resolution* (pp. 334-351). Berkeley: University of California Press.
- Genn, H. (1993). Tribunal and Informal Justice. *The Modern Law Review*.
- Ghulam Hussain, A. M. (2014, August). Sindhi Civil Society: Its Praxis in Rural Sindh, and Place in Pakistani Civil Society. *Advances in Anthropology*(4), 152.
- Ghulam, h., Mohyiddin, A., & Mahesar, F. (2013). Conflict Resolution Mechanism in Rural Sindh: Rationalizing Life-world of Peasants. *Voice of Intellectual Man*, 3(2), 35-54. Retrieved from [file:///C:/Users/intag/Downloads/ConflictResolutionMechanisminRural%20\(1\).pdf](file:///C:/Users/intag/Downloads/ConflictResolutionMechanisminRural%20(1).pdf)
- Gilmartin, D. (1994). Biradari and Bureaucracy: The Politics of Muslim Kinship Solidarity in Twentieth Century Punjab. *International Journal of Punjab Studies*, 10.
- Griffiths, J. (1986). What is Legal Pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 18(24), 5. doi:10.1080/07329113.1986.10756387
- Gulliver, P. (1971). *Neighbours and Networks: The Idiom of Kinship in Social Action among the Ndendeuli of Tanzania*. University of California Pres: NY.

- Hamid, Z. (2017). *Alternative Dispute Resolution*. Ministry of Law. Islamabad: Ministry of Law. Retrieved March 18, 2019, from http://senate.gov.pk/uploads/documents/1497249886_554.pdf
- Harper, E. (2011). Traditional Justice: Practitioners' Perspectives. *International Development Law Organization*, (p. 4). Rome, Italy.
- Harrington, C. B., & Merry, S. E. (1988). Ideological Production: The Making of Community Mediation. *Law and Ideology*, 22(4 Special issue), 709-736. doi:<https://doi.org/10.2307/3053707>
- Hertogh, M. (2007, August 22). *What is Non- State Law? Mapping the other Hemisphere of the Legal World*. Retrieved March 11, 2020, from SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1008451#:~:text=In%20this%20paper%2C%20non%2Dstate,is%20based%20on%20two%20ideas.
- Hoffmann, E. A. (2005). Dispute Resolution in a Worker Cooperative: Formal Procedures and Procedural Justice. *Law & Society Review*, .
- Hussain , S. A. (2019, December 18). *Alternative Dispute Resolution Gains Traction in Pakistan*. Retrieved from The Asia Foundation: <https://asiafoundation.org/2019/12/18/alternative-dispute-resolution-gains-traction-in-pakistan/>
- Hussain, F. (2015). *The Judicial System*. Islamabad: Federal Judicial Academy.
- Hussain, G. &. (2013, December). Nature of Conflicts, Tensions and Exploitation in Sharecropping in Rural Sindh . *Open Journal of Applied Sciences*. Retrieved 8 6, 2020, from https://www.researchgate.net/publication/266476155_Nature_of_Conflicts_Tensions_and_Exploitation_in_Sharecropping_in_Rural_Sindh
- Hussain, M. (2006). 'Take My Riches, Give Me Justice': A Contextual Analysis of Pakistan's Honor Crimes Legislation. *Harvard Journal of Law & Gender*, 29(1), 223-46. Retrieved from <http://www.law.harvard.edu/students/orgs/jlg/vol291/hussain.pdf>
- Hussain, S. A. (2018). *Alternative Dispute Resolution Gains Traction in Pakistan*. Retrieved from Asia Foundation: <https://asiafoundation.org/2019/12/18/alternative-dispute-resolution-gains-traction-in-pakistan/>
- ICTJ. (2008, February 20). *Transitional Justice*. (pp-1, Producer, & International Center for Transitional justice) Retrieved 12 1, 2020, from https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/26_02_2008_background_note.pdf
- IDLO. (2015). *Informal Justice*. Retrieved 11 16, 2018, from International Development Law Organization: https://www.idlo.int/sites/default/files/pdfs/publications/IDLO-AnnualReport2015-LR-forDownload_0.pdf
- iMMAP. (Agust 2014). *A profile of District Larkana*. Usaid. Retrieved from <https://reliefweb.int/sites/reliefweb.int/files/resources/PESA-DP-Larkana-Sindh.pdf>
- Iqbal, A. (2009). Panchayats and Jirgas. In A. &. Singh, *Strengthening Governance through Access to Justice* (p. 29). Learning Private Limited, New Delhi.
- Iqbal, A. (2016, November 29). Quest of Alternate Dispute Resolution in the Region. *REFORMING THE ALTERNATIVE MECHANISMS OF DISPUTE RESOLUTION IN PAKISTAN*. PP-3. Retrieved August 12, 2020, from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2877105

- Iqbal, A. (2016, November 16). Reforming the Alternative Mechanisms of Dispute Resolution in Pakistan. *SSRN*, 15. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2877105
- Jahangir, A. Z. (2021). Trends of Power Devolution in South Asia: A Comparative Appraisal of Pakistan's Local Government System under the Civil-Military Regimes. *iRASD Journal of Management*, 3(3), 339 - 359. doi:10.52131/jom.2021.0303.0050
- Jamshed, J. (2018, May). *Criminal Justice System in Pakistan*. Retrieved January 13, 2020, from ResearchGate: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3152735
- Jobbins, M. &. (2017). *Natural Resources, Conflict, & Humanitarian Challenges: Lesson From Community Based Conflict Transformation*. United States Institute of Peace. Retrieved from https://www.sfcg.org/wp-content/uploads/2017/04/Lessons-from-Community-based-conflict-transformation_032317.pdf
- Jok, A. A., Leitch, R. A., & Vandewint, C. (2004). *A Study of Customary Law in Contemporary Southern Sudan*. World Vision International and The South Sudan Secretariate of Legal and Constitutional Affairs. Retrieved March 2, 2020, from <https://land.igad.int/index.php/documents-1/countries/south-sudan/gender-5/983-customary-law-overview-in-south-sudan-2004/file>
- Jotwani, M. (1996, Januray 13). A DICTIONARY OF SINDHI LITERATURE. pp-96(1). Sampark Prakashan B-14, .Dayanad Colony Lajpat Nagar, New Deihi-110024. Retrieved August 5, 2020, from <https://idoc.pub/documents/dictionary-of-sindhi-literatur-ylyxy5pyv3nm>
- Kane, M., Onyango, J. O., & Tejan-Cole, A. (2005). reassessing customary law systems as a vehicle for providing Equitable access to justice for the poor. *Arusha Conference, "New Frontiers of Social Policy: Development in a Globalizing World"- December 12-15* (pp. 1-34). World bank. Retrieved 13 April, 2020, from file:///C:/Users/intag/Downloads/Kane_Reassessing-customary-law-systems-as-a-vehicle-for-providing-equitable-access-to-justice-for-the-poor_2005.pdf
- Katz, N. H. (2013). Understanding Conflict Management Systems and Strategies in the Workplace: A Pilot Study. *Conflict Resolution Quarterly*, 30(4), 393-410.
- Kelly, T. (2012, January 11). *Oxford Bibliographies*. (Oxford University Press) doi:10.1093/OBO/9780199766567-0049
- Kerrigan, f. A. (Sept 26, 2012). *Informal Justice Systems*. Danish institute for human rights. UNDP, unicef and UN Women.
- Khan, A. H. (2017, March 20). *Alternative Justice*. Retrieved March 12, 2020, from The NEWS International: <https://www.thenews.com.pk/print/193364-Alternative-justice>
- Khan, J. D. (2013). Feudalism is a major obstacle in the way of social mobility in Pakistan. *Journal of Research*, 5(1), 135-148.
- Klein, C. A. (1996). Alternative dispute resolution in health care. *Aorn Journal*, 459.
- Kulshreshtha, S. (2012). *ALTERNATIVE DISPUTE RESOLUTION MECHANISM: A CASE STUDY OF DELHI*. Unpublished Thesis. Retrieved from file:///C:/Users/intag/Downloads/kipdf.com_alternative-dispute-resolution-mechanism-a-case-st_5b11396d7f8b9aff8d8b4570.pdf
- Latif, M. (2017). *Re-Envisioning Kinship And The State In Pakistan*. UNIVERSITY OF PITTSBURGH, KENNETH P. DIETRICH SCHOOL OF ARTS AND SCIENCES.

- Lawyers. (June, 2019). *Indigenous and other Traditional or Customary Justice Systems in the Asia-Pacific Region*. Geneva Forum of Judges and Lawyers, International Commission of Jurist. Republic and Canton of Geneva, Switzerland. . Retrieved from <https://www.icj.org/gf2018/>
- Leonardo, d. (2018, February). *How Turkey Went from Virtually Zero to 30,828 Mediations in Just One Month*. Retrieved from Mediate.com- everything mediation: <https://www.mediate.com/articles/depalog20180222.cfm>
- Levine, J. A. (17-19 November 2009). How can we turn legal anarchy into harmonious pluralism? Why Integration is the Key to Legal Pluralism in Northern Uganda'. *Conference Packet for the United States Institute of Peace, George Washington University and world bank*, (p. 80). Washington DC. Retrieved from <https://www.google.com/search?q=Conference+Packet+for+the+United+States+Institute+of+Peace%2C+George+Washington+University+and+world+bank+How+can+we+turn+legal+anarchy+into+harmonious+pluralism%3F+Why+Integration+is+the+Key+to+Legal+Pluralism+in+Northern>
- Levine, R. A. (1961). Anthropology and the study of of conflict: an introduction. *Journal of Conflict Resolution*, 5(1), 3.
- Levy, J. T. (2000). Three Modes of Incorporating Indigenous Law. In C. i. Societies, *Will Kymlicka and Wayne Norman* (pp. 297-321). Retrieved from https://books.google.com.sg/books?id=ZQIREAAAQBAJ&pg=PA297&dq=Three+Modes+of+Incorporating+Indigenous+Law,+in+Kymlicka+and+Norman:+Citizenship+in+Diverse+Societies+by+levy&hl=en&sa=X&ved=2ahUKEwjO297e1O_1AhWlyjgGHQ-OAwQQ6AF6BAgKEAI#v=onepage&q=Three%20Mod
- Lyon, S. M. (2002). *Power and patronage in Pakistan*. Durham: Durham Research Online. Retrieved from https://dro.dur.ac.uk/183/1/Lyon_thesis.pdf?DDD5+dan0sml+dul0jk
- Maguire, L. A., & Boiney, L. G. (1994). Resolving Environmental Disputes: a Framework Incorporating Decision Analysis and Dispute Resolution Techniques. *Journal of Environmental Management*, 42(1), 31-48.
- Majeed, G. (2015, November 3). Ethnicity and Ethnic Conflict in Pakistan. *Journal of Political Studies*, 1(2), 3.
- Malik, A. R. (2019, March 20). Retrieved May 2020, 3, from Global Village Space: <https://www.globalvillagespace.com/punjab-sindh-continue-to-evade-police-reform/>
- Malik, N. &. (2020, May 19). A Study of Economic, Cultural, and Political Causes of Police Corruption in Pakistan. *A Journal of Policy and Practice*, PP 2-3. doi:10.1093/police/paaa016
- Malinowski, B. (1930). Kinship. Man. *Royal Anthropological Institute of Great Britain and Ireland*, 30, 23. Retrieved from <http://web.mnstate.edu/robertsb/380/Kinship.pdf>
- Mani, R. &. (2018). Peace settlement of Dispute and conflict prevention. Retrieved from <https://www.stimson.org/wp-content/files/Ch.%2018-Mani%20%20Ponzio.pdf>
- Manzoor, R. A. (2020). Effectiveness of Dispute Resolution Councils in Alternative Dispute Resolution: A Study of Selected Districts of Khyber Pakhtunkhwa. *Quest Journal of Management and Social Sciences*, 2(1), 50-63. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3649366

- Matthews, R. (1988). Reassessing Informal Justice. *Informal Justice*. London. Sage Publications.
- Mattsson, M., & Mobarak, M. (2017). *Strengthening Village Courts in Rural Bangladesh*. J-Pal. Retrieved from <https://www.poverty-action.org/printpdf/28876>
- McKay, L. (2015). *Toward a rule of law culture: exploring effective responses to justice and security challenges, a practical guide*. United States Institute of Peace.
- Menkel-Meadow, C. (2004). *Dispute Resolution: Raising the Bar and Enlarging the Canon*. Retrieved April 15, 2020, from <https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1587&context=facpub>
- Menkel-Meadow, C. (2015, May 19). Mediation, Arbitration, and Alternative Dispute Resolution (ADR). *Legal Studies Research Paper Series No. 2015-59*, p. 5. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2608140
- Merriam Webster. (since 1828). Retrieved 2 10, 2022, from Merriam dictionary: <https://www.merriam-webster.com/dictionary/justice>
- Merry, S. E. (1984). Anthropology and the Study of Alternative Dispute Resolution. *Journal of Legal Education*, 34(2), 277-283.
- Merry, S. E. (1988). Legal Pluralism. *Law & Society Review*, 22(5), 870. doi:10.2307/3053638
- Merry, S. E. (2000). *Colonizing Hawai'i: The Cultural Power of Law*. New Jersey: Princeton: Princeton University press. Retrieved from https://books.google.com.pk/books?id=I0Te1rZtKRcC&printsec=frontcover&dq=Sally+Engle+Merry&hl=en&sa=X&ved=2ahUKEwi3j_fWr-7xAhXPxoUKHeMkB9MQ6AEwAnoECAQQAg#v=onepage&q=Sally%20Engle%20Merry&f=false
- Merry, S. E. (2013). Legal Pluralism in Practice. *McGill Law Journal*, 59(1), 2. Retrieved from https://lawjournal.mcgill.ca/wp-content/uploads/pdf/75931-Article__1___Merry.pdf
- Mertz, E. E., & Goodale, M. (2014). Comparative Anthropology of Law. In D. S. Clark (Ed.), *Comparative Law and Society* (Vol. series 12). Cheltenham, UK: Edward Eglar Publishing.
- Mierop, E. V. (2018). Local humanitarian actors and the principle of impartiality. In M. Quack, *Based on need alone? Impartiality in humanitarian action* (p. 63). MAECENATA INSTITUT. Retrieved from https://www.chaberlin.org/wp-content/uploads/2019/02/humhilfe-studie-unparteilichkeit_2018_Mierop_EN.pdf
- Mohmand, S. K. (2007). *Social Structures in Rural Pakistan*. Pakistan Resident Mission. Islamabad: Asian Development Bank. Retrieved 5 26, 2020, from http://www.researchcollective.org/Documents/Social_Structure_in_Rural_Pakistan.pdf
- Mowatt, J. (1992). Alternative dispute resolution: some points to ponder. *he Comparative and International Law Journal of Southern Africa*.
- Mukuki, A. M. (May 2016). The Various Alternative Dispute Resolution (Adr) Mechanisms And Access To Justice In Kenya. *Kenya Law Review Journal*, 5(1), 205-218.
- Mwihuriih, M. S. (November 2015). *Analysing the effectiveness of informal access to justice in kajiado north and kajiado west constituencies*. University of Nairobi, School of Law.

- Published dissertation. Retrieved 5 26, 2020, from <http://erepository.uonbi.ac.ke/handle/11295/94792>
- Nadeem, M., & Khan, N. (2017). Paradigm Of Criminal Justice Saystem: Problems And Socio-Legal Reforms In Pakistan. *Journal of Law and Society, XLVIII(71)*, 63-84. Retrieved from <http://journals.uop.edu.pk/papers/5.%20Paradigm%20of%20criminal.....pdf>
- Natural Law*. (n.d.). Retrieved Aug 18, 2018, from Business Dictionary: <http://www.businessdictionary.com/definition/natural-law.html>
- News, t. i. (2019, May, 15). *Government trying to introduce 'panchayat' system in the country*. Retrieved april 08, 2020, from <https://www.thenews.com.pk/print/471507-government-trying-to-introduce-panchayat-system-in-the-country>
- Olson, S. M., & Dzur, A. W. (2004, March). Revisiting Informal Justice: Restorative Justice and Democratic Professionalism. *Law & Society Review, 38(1)*, 139-178. Retrieved from <https://www.jstor.org/stable/1555115>
- Orakhelashvili, A. (2008). Natural Law and Customary Law. *ZaöRV*, pp. 69-110. Retrieved from https://www.zaoerv.de/68_2008/68_2008_1_a_69_110.pdf
- Osamba, J. (2001). Peace building and Transformation from below: Indigenous Approaches to Conflict Resolution and Reconciliation among the Pastoral Societies in the Borderlands of Eastern Africa. *African Journal of Conflict Resolution, 4(1)*, 33-42.
- (2011). *Pakistan*. Aqua stat. FAO.
- Pakistan, G. o. (2017). *Pakistan Bureau of Statistics*. Retrieved from GOP: <https://www.pbs.gov.pk/search/node/larkana>
- Pakistan, G. o. (2020, August 04). *Survey of Pakistan*. Retrieved from Ministry of Defence: <http://www.surveyofpakistan.gov.pk/NewsDetail/ZmUwMjUxNTctMDliMS00ODIwLWI5ZDgtZjYwN2MzYjZmMjVh>
- Palumbo, D. J., Musheno, M., & Hallett, M. (1994). The Political construction of Alternative dispute resolution and alternative to incarceration. *Evaluation and Program Planning, 17(2)*, 197-203. doi:10.1016/0149-7189(94)90057-4
- Pavlich, G. (1996). The Power of Community Mediation: Government and Formation of Self-Identity. *Law & Society Rev., 33(4)*, 703-33. doi:10.2307/3054115
- Pennisi, E. (2011, 11 9). *How Humans became Social*. Retrieved from wired: <https://www.wired.com/2011/11/humans-social/>
- Ponzio, R. M. (2018). *Peaceful Settlement Of Disputes And Conflict Prevention*. Retrieved 4 24, 2020, from <https://www.stimson.org/wp-content/files/Ch.%2018-Mani%20%20Ponzio.pdf>
- Qadeer, M. A. (2006). *Pakistan Social and cultural transformations in a Muslim* (1 ed.). London: Routledge. doi:10.4324/9780203099681
- Rani, B. (2014, October). The role of Informal justice Institutions: an overview of its Existence and Functioning in Justice Disbursement. *International Journal of Humanities Social Sciences and Education, 1(10)*, 114-23.
- Rasheed, S. A. (2018, january 09). *Injustices committed by the panchayat system*. Retrieved 4 14, 2020, from Daily times: <https://dailytimes.com.pk/177049/injustices-committed-panchayat-system/>
- Relis, T. (January 2012). *Sharing Experience in Access to Justice Engaging with Non-State Justice Systems & Conducting Assessments*. UNDP. Bangkok, Thailand: Asia-Pacific Regional Centre, United Nations Development Programme. Retrieved from

- https://www.academia.edu/8924839/UNDP_Publication_Engaging_Non_State_Justice
- Reuben, R. C. (1997). Public Justice: Toward a State Action Theory of Alternative Dispute Resolution. *California Law Review*.
- Rights, D. I. (2009). *Informal justice systems: charting a course for human rights-based engagement*. UNDP, UNICEF and UN Women. Retrieved from <https://www.unwomen.org/en/digital-library/publications/2013/1/informal-justice-systems-charting-a-course-for-human-rights-based-engagement#view>
- Roar. (2000). *A Human Rights-based Approach to Development Programming in UNDP – Adding the Missing Link*. UNDP. Retrieved 12 6, 2020, from [www.undp.org › publications › HR_Pub_Missinglink](http://www.undp.org/publications/HR_Pub_Missinglink)
- Robbins, S. P. (2005). *Organizational Behaviour* (11th ed.). London: Sage Publications. Retrieved from <https://hostnezt.com/cssfiles/businessadmin/Organizational%20Behavior%20By%20Stephen%20P%20Robbins%20&%20Timothy%20A%20Judge%205th%20Ed.pdf>
- Roberts, S. (1993). Alternative Dispute Resolution and Civil Justice: An Unresolved Relationship. *The Modern Law Review*.
- Röder, T. J. (2012). Informal Justice Systems: Challenges and Perspectives. *Max Planck Institute for Comparative Public Law and International Law*. Retrieved from https://worldjusticeproject.org/sites/default/files/informal_justice_systems_roder.pdf
- Röder, T. J. (2013, Jan 28). Informal Justice Systems: Challenges and Perspectives. *Max Planck Institute for Comparative Public Law and International Law*. Retrieved from <https://worldjusticeproject.org/news/informal-justice-systems-challenges-and-perspectives>
- Roy, R. D. (2005). *Traditional Customary Laws and Indigenous Peoples in Asia*. Minority Rights Group International. Retrieved March 2, 2020, from <https://www.refworld.org/pdfid/469cbfb70.pdf>
- Roy, R., & Kamdar, N. (2013). *Mediation Tradition in Asia and legal framework in India, China and other Asian Countries in comparsion with us and EU legal regulation*. Retrieved from Research Gate: https://www.researchgate.net/publication/311900251_MEDIATION_TRADITION_IN_ASIA_AND_LEGAL_FRAMEWORK_IN_INDIA_CHINA_AND_OTHER_ASIAN_COUNTRIES_IN_COMPARISON_WITH_US_AND_EU_LEGAL_REGULATIONS_RIYANKA_ROY_CHOUDHURY_NAMAN_KAMDAR
- Rudolph, S. H. (2000). Living with Difference in India; Legal Pluralism and Legal Universalism in Historical Context. *The Political Quarterly Publishing Co. Ltd.*, 20-38.
- Sangroula, Y. S. (2016). Use of Informal Justice Mechanisms in Criminal Justice System: Critical Observation of Principles, Theories and Prospects. *Journal of Civil & Legal Sciences*, 5(3), 3.
- Sattar, N. (2011). Has Civil Society failed in Pakistan? (p. 05). Karachi: Social Policy and Development Centre.
- Schneider, A. K. (1999). The intersection of therapeutic jurisprudence, preventive law, and alternative dispute resolution. *Psychology, Public Policy, and Law*, 5(4), 1084-1102. doi:<https://doi.org/10.1037/1076-8971.5.4.1084>

- Shah, A. S. (May 2013). Implications Of Parallel Justice System (Panchyat And Jirga) On Society. *Asian Journal Of Social Sciences & Humanities*, 2(2), 203. Retrieved from [http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.2\(2\)/AJSSH2013\(2.2-22\).pdf](http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.2(2)/AJSSH2013(2.2-22).pdf)
- Shah, N. (2016). *Honour Unmasked: Gender Violence, Law, and Power in Pakistan*. Oxford University Press.
- Shahid, U. (2012). *Inquest into justice of the Pakistani customary "Panchayat Justice System" in context of International Human Rights Law*. (Doctoral dissertation, School of Advanced Study). Retrieved from <https://sas-space.sas.ac.uk/4780/>
- Shaikh, J. A. (2019). Exploring Access To Justice Through Traditional Justice System. *The Government - Annual Research Journal of Political Science*, 49-63.
- Shinwari, N. A. (2015). *Understanding the informal justice system: Opportunities and possibilities for legal pluralism in Pakistan*. Islamabad: Community appraisal & Motivational Programme (CAMP).
- Snyder, F. G. (1981). Anthropology, Dispute Processes and Law: A Critical Introduction. *British Journal of Law and Society*, 8(2), 145. Retrieved from <http://www.jstor.org/stable/1409719>
- Stockinger, P. (2005). Emiotics of culture and intercultural communication: The life world of social actors. *European Master in InterCultural Communication (EMICC)*, (pp. 9-11). Lugano, Switzerland.
- Support, I. M. (July 2009). *Between radicalisation and democratisation in an unfolding conflict: Media in Pakistan*. International Media Support.
- Swenson, G. (2018). Legal Pluralism in Theory and Practice. *International Studies Review*, 20(3), 438-462. doi:10.1093/isr/vix060
- Synders, F. G. (1981). Anthropology, dispute processes and law: A critical introduction. *British Journal of a Law and Society*, 8(2), 141-180. doi:<https://doi.org/10.2307/1409719>
- T.J, r. (2012). Informal justice systems: challenges and perspectives. *Innovations in Rule of Law. HiiL and The World Justice Project* (p. 58). New York: UN General Assembly on the Rule of Law.
- Tabassum, D. N. (2016). *Women in Pakistan Status in Socio-Cultural and Politico-Legal Domains*. Faculty of Social Sciences, Area Study Centre, Far East & South East Asia. Jamshoro: University of Sindh.
- Tamang, G. M. (2015). *INDIGENOUS METHODS OF CONFLICT RESOLUTION IN SIKKIM: A STUDY OF THE DZUMSA*. School of Social Sciences, SIKKIM University, Department of Peace and Conflict Studies and Management. unpublished thesis. Retrieved from <http://dspace.cus.ac.in/jspui/handle/1/3118>
- Thakore, D. (2013, Mar. - Apr). Conflict and Conflict Management. *Journal of Business and Management*, 8(6), 7.
- Thomas, M. S. (2016, January). Theorizing Mediation: Lessons Learned from Legal Anthropology. *Utrecht Law Review*, Vol. 12(1), 56. Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2736326
- Thorne, K. (2005, November). Rule of Law through imperfect bodies? The informal justice systems of Burundi and Somalia. *HD*, 1-8.
- Times of Islamabad. (10 Sep, 2018). *How many cases are pending in the Supreme Court of Pakistan? startling report*. Islamabad: Times of Islamabad. Retrieved 6 8, 2019, from

- <https://timesofislamabad.com/10-Sep-2018/how-many-cases-are-pending-in-the-supreme-court-of-pakistan-startling-report>
- Tully, J. (1995). *Strange Multiplicity: Constitutionalism In The Age Of Diversity*. Cambridge: Cambridge University Press, 01.
- Ubink, J. (2018). Introduction: Legal Pluralism in a Globalized World. *UC IRVINE LAW REVIEW*, 8, 141-148. Retrieved from https://www.law.uci.edu/lawreview/vol8/no2/Online_Ubink.pdf
- Uddin, N. (2019). Rationale for Access to Local Justice Systems: The Case of Village Court in Bangladesh. *Public Affairs and Governance*, 7(2), 168. doi:10.5958/2321-2136.2019.00012.2
- UNICEF. (2009). *A study of informal justice systems: access to justice and human rights*. New York, USA: United Nations Entity for Gender Equality and the Empowerment of women.
- Wani, H. A. (2011, March). The Role of Civil Society in Conflict Prevention in Jammu and Kashmir. *International Journal of Business and Social Science*, 2(4), 162.
- WIPO. (2016). *Customary Law and Traditional knowledge*. Geneva: World Intellectual Property Organization. Retrieved from <https://www.wipo.int/publications/en/details.jsp?id=3876>
- Wojkowska, E. (December, 2006). *Doing Justice: How informal justice systems can contribute*. UN, UNDP. Oslo: Oslo Governance Centre. Retrieved from <http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/EwaWojkowska.pdf>
- Woodman, G. R. (1991). The alternative law of alternative dispute resolution. *Les Cahiers de droit*, 32(1), 5. Retrieved from <https://www.erudit.org/fr/revues/cd1/1991-v32-n1-cd3786/043064ar.pdf>
- World Justice Project. (2016). *The Rule of Law in Pakistan*. Retrieved 01 12, 2020, from World Justice Project: <https://worldjusticeproject.org/sites/default/files/documents/Rule%20of%20Law%20in%20Pakistan%202016%20.pdf>
- WorldBank. (2011). *Alternative Dispute Resolution Centre Manual*. World Bank Group. Retrieved from <http://documents1.worldbank.org/curated/en/906371468169461301/pdf/782230WPOAlter0Box0377330B00PUBLIC0.pdf>
- Yeung, S.-O. C.-W. (1998). The effectiveness of the Dispute Resolution Advisor system: a critical appraisal. *International Journal of Project Management*, 367-374. doi:10.1016/s0263-7863(98)00010-6
- Yideg, B. (2013, june 13). *College Of Business And Economics, Mekelle University*. Retrieved june 17, 2019, from [opendocs.ids.ac.uk: https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/4672/Assessment%20of%20Indigenous%20Conflict%20Resolution%20Systems%20and%20Practices.pdf;jsessionid=8A81E7C3F82AA8982DD48108B6C1F4DD?sequence=1](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/4672/Assessment%20of%20Indigenous%20Conflict%20Resolution%20Systems%20and%20Practices.pdf;jsessionid=8A81E7C3F82AA8982DD48108B6C1F4DD?sequence=1)
- Youngkins, E. W. (2000, Aug 15). *The evolution of Law*. Retrieved from Capitalism and Commerce: <http://www.quebecoislibre.org/000805-11.htm>

- Yusuf, H. a. (2015). *Conflict Dynamics In Sindh*. www.usip.org, Peacework. United States Institute of Peace. Retrieved from <https://www.usip.org/sites/default/files/PW104-Conflict-Dynamics-in-Sindh-Final.pdf>
- Zahid, J. N. (2008). Governance and justice. In . A. AMITA SINGH, *Strengthening Governance through Access to Justice* (p. 162). New Delhi.
- Zahid, M. N. (2019). *The Role of the Judiciary in Protecting the Rights of the People -Judicial Activism*. Retrieved 8 07, 2020, from <https://www.lao.org.pk/wp-content/uploads/2019/02/The-role-of-the-judiciary-in-protecting-the-rights-of-people.pdf>
- Zaman, A., & Upadhaya, B. (2016). Administration of Justice and Customary Law among the Shertukpen of Arunachal Pradesh. *Indian Journal of Research in Anthropology*, 2(July-December 2016), 135-142. doi: <http://dx.doi.org/10.21088/ijra.2454.9118.2216.8>
- Zehr, H. (2002). *The little book of restorative justice: Revised and updated*. Simon and Schuster. Retrieved from <https://www.unicef.org/tdad/littlebookrjpakaf.pdf>
- Zubair, S. S. (2014). Police Violence in Pakistan: Forms and Justifications. *Research on Humanities and Social Sciences*, 4(27), 1. Retrieved July 22, 2020, from https://www.researchgate.net/publication/270106401_Police_Violence_in_Pakistan_Forms_and_Justifications

DRSML QMS