

EXPLORING ACCESS TO JUSTICE THROUGH TRADITIONAL JUSTICE SYSTEM

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Abstract

The present research entitled "exploring access to Justice through Traditional Justice System" is designed to explore access to justice through traditional justice system in Fatehpur Village, District Larkana. The present research is exploratory and descriptive in nature. This qualitative study has conducted through FGD and case study method by applying random sampling. Fatehpur village reveals a wide spectrum of socially accepted mechanism for dispute resolution, outside of FJS. Access to justice is contextual: in terms of how people perceive matter of existence of popular justice and how it functions? People's perception is based on the definition and common understanding of conflict in their local constructive perception. While disputes among people start from simple misunderstandings and later convert into more complicated issues, specifically, when egos and honors are hurt. It is involved in the form of "Izzat" (respect) and Ghairat, (honor, defense of honor and chastity). Moreover, these disputes hinder the patch-ups in marital issues in the Zat-Pat (clan). During dispute relative on the behalf of victim or victimizer directly negotiate with opposite party or by taking help of "Chango Murs (mediator) to solve the existing issues. Traditional justice system is a pathway to resolve problems and decisions based on common understandings among parties. Common understandings meant to seek an outcome that preserves communal harmony and considered satisfactory to all.

Keywords: *Traditional Justice System, Local Constructive Perception, Defense of Honor, Cultural Context, Mediator & Communal Harmony.*

Introduction

The term Justice means 'the exercise of authority in the maintenance of right' (Hawkins, 1986, p. 448) and the 'judgment of persons or causes by judicial processes' (Delbridge, 1981, p. 961). 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 (Justice Saleem Akhter, Justice Mushir Alam, Muhununad Shahid Shafid & Iqbal Detho, p. 16). The term Dispute can be defined as a kind of persistent disagreement, contention between members of community by violating the existing jurisdiction and that transforms to mobilization of the existing (indigenous, customary or national) law. Whereas, Dispute resolution can be defined as an interest-based handling and problem-based resolution of disputes by involving the important actors to resolve legal aspects of the dispute. Alternative Dispute Resolution (ADR) means a process in which parties resort to a method of resolving the dispute other than by adjudication by courts and includes arbitration mediation, conciliation, neutral evaluation and dispute resolution through *Panchayat* (Alternative Dispute Resolution, 2016, p. 1).

Whereas, 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 E., December, 2006, p. 9). Contrary to formal justice system, informal justice systems (IJS) are described as a system of mechanism to address and resolve the dispute outside the formal justice (state-based legal system). Though, IJS has no exact and authoritarian definitions. Yet it has a certain degree of stability, institutionalization and acceptability. Perhaps, various terms have been used to describe IJS, like non-state, traditional or customary laws (Matthews, 1988). The term "non-state," on one hand for example, is misleading because government officials, particularly district officials, are often highly involved in these practices. "Traditional justice," on the other hand, wrongly connotes a static, idealized (or sometimes backward) past that does not consider the way these mechanisms have adapted to changing political conditions, or how they have interacted with very modern groups like non-governmental organizations (NGOs) and international military forces (Coburn, 2011, p. 12). IJS may include indigenous, customary, religious, cultural laws to define and give meaning in different places and context. The IJS normative framework sometimes may also include a part of national legal law or international human rights norms. Therefore, some States endorsed and recognized IJS as part of formal justice system (FJS) (Matthews, 1988).

So far, IJS was quite invisible in the policies of development partner-assisted justice in terms of interventions. As IJS is formulated on the basis of how individuals and communities have perceived and experienced justice and the rule of law respectively (Fergus Kerrigan, Sept 26, 2012). Generally speaking, IJS

decisions are referred to as inconsistent and as serious violation of basic human right, such as exploitation of women, capital punishment and dehumanization. Furthermore, there is some procedural weakness, such as the accused is not allowed to consult the US again or his case to be heard for acquiring justice. On the other hand, US has a reputation of holding individuals accountable for their act to maintain social representation and favorable for wider social interests. For instance, US provide provision of easy, quick and effective justice in a context. Furthermore, FJS is unable to access and provide coverage in some remote regions of the world. In this context, US is a better place to resolve conflict, provide accountability, and collective representation. It allows participation of all community members and grants protection of substantive human rights (Kerrigan, Sept 26, 2012).

In Pakistani context, a new debate on informal justice system, its need and viability has started in Pakistan. As corruption and injustice are major issues of Pakistani society. The dearth of justice, a society cannot flourish, survive and even sustain. Mostly of the disputes in Pakistan revolve around the property. Among rural masses, violation of prestige "*Izzat*" (*respect*) is the central dispute to be addressed. People distinctively "Rural Masses" have conventional mechanisms to resolve conflicts through "Informal Courts". As per report of UNDP 2006; it is reported that around eighty percent (80%) of the cases are being resolved through informal mechanism. US is easy to access, provides quick, inexpensive and culturally appropriate solution than formal justice (Wojkowska E. ,December, 2006). In the familiar manner, the Government of Pakistan has added ADR Bill 2017 to constitution to complement and inline US with FJS. The Bill stated that "there is prerequisite from the State to make sure the privilege of inexpensive as well as fast track justice system, to all the communities. ADR can make feasible the resolution of disputes without going into formal litigation process.(Alternative Dispute Resolution, 2016, p. 1).

Overview of Sub-Continental History: Pre-Colonial, Colonial, and Post-Colonial

Some of the tribal heads used to preside over the *Jirga* (*tribal council*) in rural areas. This local council of elders was mandatory in pre-colonialism set up in the customary laws. Both civil and criminal disputes were dealt with one authentic decision by the head of the council. Hence *Jirga* (*tribal council*) were a substitute for State courts where loose laws of procedure were promulgated, with no set written standards. Afterwards, some Governments ruled upon sub-continent with a system *Kardar*, similar to *Jirga* (*tribal council*) system. Colonial rulers adopted "strategic Compromises" practice to rule over lords and tribal chiefs. They gave them free hand to rule indirectly over people through local middlemen, delegating

them duties from collecting revenue to controlling crimes in their respective regions. Thus the Jirga (tribal council) system started with all its swing, incharging heads of the tribes to settle the disputes of their tribes "but later it was redefined in the light of crime, custom and law with differential powers vested in various tribes". (Mr. Justice Saleem Akhtar (Principal Investigator) Mr. Justice Mushir Alam Mr. Muhammad Shahid Sha:fiq Mr. Iqbal Ahmed Detho, 2012, pp. 23-24)

These "strategic compromises" led the English laws to be merged with the tribal laws by the feudal lords and tribal chiefs predominantly. The first Judicial Advocate General of Sindh, Captain Keith Young said that, "the main difference that seemed obvious in the colonial justice system and the tribal justice system, was that the colonial was mainly written format and it was also used as a semi judicial institution from which the local administration controlled the "law and order" of the area within the British Empire. (Baras, 2004). Thus *Jirga (tribal council)* was first constituted by British rulers to strengthen their empire and rule over the people by maintaining their own head upon them. That was the then best policy adopted by the British Empire. The legislative history of Jirga (tribal council) has been discussed by Superior court in various judgments. (Mr. Justice Saleem Akhtar (Principal Investigator) Mr. Justice Mushir Alam Mr. Muhammad Shahid Sha:fiq Mr. Iqbal Ahmed Detho, 2012, p. 24)

As a legacy of colonialism, these systems came to be the part of informal and traditional justice systems, specifically in South Asia and African regions. Pakistan also has its share of British Raj. Over here *Jirga (tribal council)* are used to "legitimize honor killings" or "*Vani*", a crime upon females (to give away as Compensation to avoid punitive actions). *Jirga (tribal council)* is a legal system to dissolve the community disputes with reconciliation, arbitration, or mediation – another kind of Restorative Justice.

The composition of Jirga (tribal council) is rather more like a political body of the area. Feudal lords or Tribal heads are usually the members of the political houses of the State and they are also the linchpin of informal justice system. Jirga (tribal council) is practiced in all parts of Pakistan but with different denominations. It is "*Faislo*" in Sindh, in Punjab "*Panchayaf*", and "Jirga (tribal council)" in KPK and Baluchistan.(Hussain, 2005). The proceedings of Jirga (tribal council) as popularly known are limited to some extent in KPK areas, but in other areas with the help of some influential elements it is still practiced in full swing. There are some types of *Jirga (tribal council)* existent in the contemporary tribes. Most notable among these are, i) *Sarko.ri Jirga (tribal council)*, ii) *Qaumi or Ulusi Jirga (tribal council)*, and iii) *Shakhshi Jirga (tribal council)*. They have been most

popularly performing their functions in the related areas. But the basic function of all of them is same i.e. meting out justice at local level.

Gender and Faislo System

In the dispensation of justice Gender is an important factor. Discrimination of gender is a social factor, needs to be dealt on wider scale within the jurisdiction. Our big chunk of community comprises women, but unfortunately their low social status lets them be the victim of discrimination. Nevertheless, the women of good socio-economic status are best abled to deal with judicial systems for their rights, "despite the endemic structural discrimination along gender lines".(Khan, September 2004, p. 06)

Faislo resolve the disputes by collective setting of getting both the affected and criminal family together. It mediates and the finale objective is to bring peace with consensus among the warring tribes, observed by Mr. Anwer Mahar, sitting Member of Provincial Assembly (MPA) from Sukkur City in Sindh Assembly. (Mr. Justice Saleem Akhtar (Principal Investigator) Mr. Justice Mushir Alam Mr. Muhammad Shahid Shafiq Mr. Iqbal Ahmed Detho, 2012, p.23)

In case of *karo-kari* ("honour killing") is predominant and often results in killing the woman (karl) and claiming 'compensation' from her family. This compensation could involve the pledging of another woman from the karl's family. In any case, women are often killed for the sake of "honour", while others are treated like chattel. There are some parallels in the nature of disputes and dispensation of justice in Larkana, Sindh and Sibi, Baluchistan. In these districts, *karo-kari* ("honour killing"), robbery, kidnappings, and theft are the major crimes. The tribal sardars (chieftains) or their nominees resolve the disputes. This system is speedy and does not entail the costs of the formal court system. However, it is also coercive, authoritarian, subjective, and without any system of checks and balances or appeal.(Khan, September 2004, p. 06)

Research Methodology

To delimit the universe of research, Fatehpur village was selected as baseline for this study. It is about 12 Kilometer away from Main city Larkana. It is easily accessible, connected through roads and network of buses. The present research is exploratory and descriptive in nature. This qualitative study is conducted through participant observation (non-participatory) by establishing Rapport build and selection of three key informants through my personal judgement basis. Further in-depth interview were conducted with elder members of the village, *Chango Murs* (mediator), and litigant and case study method have also been used to

examine, analyse and to understand the practical aspect of the study. Socio-economic survey were also conducted from 100 household of both side of group through stratified random sampling to find out the socio-economic characteristics of the population.

Research Question

The research question focuses on how informal justice system is functioning to solve the dispute in Fatehpur village.

Legal Pluralism-Theoretical Framework

This study has attempted to employ the basic concept of legal pluralism to develop and understand Informal justice system, its need, assessment and functionality in Fatehpur village. Fatehpur village is practicing a dual justice system: the formal justice system and the customary law or informal justice system commonly known as alternative dispute resolution (ADR) or more specifically traditional Justice System. ADR is basic mechanism for dispensing justice to settle disputes among individuals, between two families, and even to settle dispute between communities (intra or inter dispute). In Fatehpur village, justice is contextual. Moreover, legal pluralism has taken various shapes of tribal justice system under various forms and denominations (Justice Saleem Akhter). These various forms have two interrelated aspects: *Jirga* (*tribal council*)/*Faislo/Punchayat* as a way of life or practice which legitimizes the concept of 'Honor' and relates it crimes or codes. Whereas the other aspect deals with mediation; arbitration and reconciliation to resolve dispute.

Some of the scholars who laid foundation in anthropological work and provide analytical approach for central preoccupation within anthropology and sociology. French sociologist Durkheim (1984) work on division of labour in society, law was proclaimed as "visible symbols" of social solidarity, furthermore, the weber (1978) contributed in sociology of law entitle economy and society. The contribution of Bronislaw Malinowski (1926) on work, Crime and Custom in Savage Society focuses on the concept of crime, order and punishment procedure among the Trobriand Islanders. Sir Henry Maine's (1861) work Ancient Law provide anthropological discourse on law by suggesting an evolutionary scheme and series of other anthropologist have work on law such as Rasmussen's (1927) work in Eskimo, Ilewellyn and Hoebel (1941), Gluckman (1955; 1965), Bohannan (1957), and Pospisil, L. (1974).

A demarcation in the legal system between formal and informal has existed ever since an endeavor was made to create statutory laws. However, after the British Raj fell, informal dispute resolution increasingly gained authority because the

new government failed to control rural areas and to provide security to the General public. There are three major reasons for that. At first level during British colonial period, they imposed feudal system which aimed to control the masses of specific areas/region. Secondly, the laws/act which are implemented still are those formulated during British Raj. These acts were developed in another language. Acts in another language referring two interrelated issues. The understand issue in terms of act and its procedure at first level and secondly, they are difficult for locale community to remember e.g which act is violated during deviant behavior? Thirdly and importantly, the laws implemented and experienced from last many decades modify with the passage of time and do not address the real issue specified by rural masses. While contrary to FSJ, customary laws are simple in understanding and evolve with the experience evolution of community and the custodian of these customary laws are people by themselves.

Result and Discussion

US and Cultural Context

A community after war or engaged in any indigenous conflict has to restructure the economic and social life with new forms of interaction with different demographics.(Joireman, 2014, p. 01). In traditional settings, customary laws have been first option because of the supposed moral authority they bring to the formation of order. Furthermore, opting customary laws means the community is familiar with principles and operation and also they function independently of "outside resources". Though the term customary law is universally known, its acceptance in the local community is due to its dynamic nature as well as influence of political powers (Chanock, 1991, p. 65).The work of Wojkowska distinguishes justice mechanisms anchored in (i) customary and tribal/clan social structures, (ii) religious authorities, (iii) local administrative authorities, (iv) specially constituted state customary courts, and (v) community forums specially trained in conflict resolution, particularly in mediation. (Wojkowska e. , informal justice systems, 2006, p. 7).

IJS offers various mechanisms to resolve dispute like Civil and Criminal cases through mediation, arbitration, reconciliation etc. The adoption of various methods is based on social organizations, association and cooperation on the principles of social and economic ties. This connection resulted into the mechanic solidarity in village, which resist outer wall. This resistance is possible due to prevailing of loyalty and social ties. Mostly, occupation of the people is agriculture, which allows them some spare time providing an opportunity to sit at a common *Otak*, which is dedicated by *Chango Murs* (*mediator*) for community

members. The spare time from agriculture are mostly spent there. *Otak* provides an opportunity to discuss and get information about outer world.

The *Chango Murs* (*mediator*) belonged to ethnic and social network of Mirani Castes, and is supported by powerful social structure. A *Chango Murs* (*mediator*) is said to be an individual having wealth and land, interacting with influential elites like *Sardars* or *Raees* of same and other clans, and strong linkages with police and the lawyers etc. Each group of Fatehpur Village has their own *Chango Murs* (*mediator*), who addresses their grievances at various levels, and even providing protection in adversity. Decisions after consultation with *Chango Murs* (*mediator*) and elders have no option but to accept what they decide. These *Chango Murs* (*mediator*) are the custodian of *Otak* /*Faislo* and but most of the times it has been observed that they influence the court's decisions as well. As they are in close contact with government machinery and influence the whole process of courts. *Chango Murs* (*mediator*) do not charge any fee from the people since their services are free of cost, but their biggest cost is their unquestionable authority, power as well as influence on the local people. The community role cannot be disregarded here in performing their role as a decision maker.

In response to any dispute for example, people participate, listen, share grievance of victim at various level, gratitude solidarity with the victim as symbol of unity, and verbal anger against the offender. In short, whole community raises a real voice against the offender till the solution. This happens because of the reason that community involves collectively rather individual, therefore the community member take a collective action against the offender. This collectiveness builds a community solidarity where an individual does not face problem in seclusion, take action and participate indecision but rather community own on behalf of individual. There is a solid reason for persuasion, because these decisions will be addressed sometime in future while making any other decisions, as previous decisions are quoted now. So, decisions are made after going through a process of consultation with *Chango Murs* (*mediator*), community elders, religious saints, the victims and the family of the victim. So justice is associated with politics and social relations that give a sense of social responsibility and the concept of reward and punishment is subjected to community harmony in case of homogenous group and strong resistance in terms of heterogeneous groups.

Faislo is powerful outreach activity which provides a chance to the community members, especially the victim to speak his mind openly. Victim in this way can communicate all his grievances confidently and in an appropriate manner. His version of complaint is testified by all the community members as they all know and share the customary laws and more so, the community know each other to testify the credibility of the victim's words. The example of it can be that

presenting case in *Faislo* the witnesses verify the authenticity of it. Like Father taking oath on Quran on behalf of his son (if required), his authenticity can be verified by the ancestry known to the locality. The *Faislo* help the victim to have a right to fight against the crime done to him and protect him from further molestation. This Informal mechanism helps to resolve the conflicts, educate the young local minds, build favorable perception in the people and most importantly, "builds a collective consciousness on community solidarity (K.ariuk:i, 2016)".

In Fatehpur village masses are surrounded by "politics"; a center of concern in their lives. Justice and security are two important aspects and they require technical solutions. Both aspects are linked with politics where issues of power, resources and rights are at stake. Fatehpur at indigenous level often competes in the name of integrity and defense. Whatever method is applied to resolve these issues, politics would be central of the concern having certain political implications. Women are important part of their political lives. Issues related to women in daily lives specifically matrimony, birthright and chastity, coping strategies and disputes are discussed in detail. Such issue are not dragged to formal courts as it can be problematic and against the principal decisions of customary laws.

JJS is perceived important because it caters for the cultural context of sensitive. In many situations, the judgment is to be given into a broad spectrum of cultures, and judgments are often relying pluralistic framework; based on how culture has been learned, experienced and practiced by the lot. Furthermore, judgments are verified and are experience -based, in a way that the informal system tends to work more competently while making judgment at locale level and when they collaborate with other local communities. The squabble made by communities has got its logic, pragmatic disparity from locality to locality, and a few numbers of people have got reroute decisions.

JJS allow masses to indulge direct negotiation, as in Fatehpur the people rarely negotiate directly with the other group. Though it is quite ideal at community level but according to political perspective it is not an acceptable process to resolve any conflict. This message is not directly conveyed to masses but it is conveyed in the drawing rooms in covered meanings. Though direct negotiation may prove helpful in settling the dispute and stop further violence immediately, but prevailing political system will fails due to some reasons. For examples, in the first place, it is an open challenge to the authority of decision maker (*Chango Murs (mediator)*), secondarily, it shows *Chango Murs (mediator)* are not trustworthy and thirdly, they have lost their credibility and lost their power. As *Chango Murs (mediator)* are regarded as better negotiators or mediators. Thus,

in case of any gap between the warring groups and *Chango Murs* (mediator) it may precede to the community mistrust.

The message of mistrust can also be disseminated to opponent groups, aggravating the social disharmony. If there is a situation where the *Chango Murs* (mediator) is involved for reconciliation, the case is not referred to the Formal court, and no protection is offered to the victims. Sometimes the *Faislo* is also accepted by the State laws. But if there is direct negotiation, it is far too negative for peace and harmony within the community.

The definition of access to justice covers two aspects of justice; access to litigation for every segment of society. Both aspects appear in a larger social context that even a poor, women and marginalized part of society can participate in it meaningfully. Litigation covers procedural rules, quick hearings, Cost effective, and Speedy decisions and justice. Second aspect deals with structural inequities that exist in both systems. The widespread inequality in social power, lengthy lawful procedure and influence in the processes of litigation, are the root of injustice. However, the FJS fails to provide justice and no longer trusted to address the grievance of people. Therefore, people now even in cities are looking for alternative justice system to settle their disputes.

The local perception of the masses is somehow clear to provide justification for having no trust on FSJ. The FJS structure system is based on a complex system of hierarchy; FIR, hiring of lawyers, understanding of laws, lower courts, high courts and supreme courts. This system of hierarchy further is divided into 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).

Disputes are part of lives, and prevail at various levels such as family, clan and community and these conflicts are addressed and conveyed a verdict. These issues range from minor, Civil and murder cases and need various forums to resolve through elders, *Chango Murs* (mediator), Nawab (duke) and judiciary who dispensed justice. The effectiveness of IJS can be realized at individuals and community's levels, where minor disputes are settled quickly at door step, no money or litigant process are needed. Therefore customary justice has capacity and provision to make decisions on the behalf of individuals, either indirectly through involving the heads of family, ethnic groups; or more directly through

Faislo. While an interview with Judge, he said that the traditional justice system thus exhibited tremendous success and have potential to settle minor disputes.

Formal Justice System

Constitution of Pakistan provides various guidelines to its citizen while accessing to justice from inexpensive justice delivery, fair trials based on equality for everyone. In this regards, Article 37(D) of Chapter 2, Constitution of Pakistan stresses that it is the responsibility of State to provide 'inexpensive and expeditious justice to its citizen'. Furthermore, the Article 10(a) of the Constitution guarantees its citizen for having 'Right to Fair Trial' as fundamental right of every citizen of Pakistan. In another article 25 of the constitution emphasizes 'Equality before the law'.

In contemporary informal courts, formal courts refer to resolving civil and criminal cases through litigant procedure; adopting legal procedures, such as FIR, hiring of consultant, courts hearings and custodial measures. The major reservations with formal justice system is its hierarchical structure while access to justice. From FIR to justice, all are lengthy and difficult to approach for example "Police Harassment" while dealing with police. The rural masses avoid being involved in police. Involving police is considered as legalizing harassment and extortion and it is believed that they favor people as per their social strata and work under influence in the society. The behavior and attitude of policemen in dealing with poor makes them avoid first step of justice, so it marginalizes the trust and limit the scope of legal system (courts). Secondly, it fails to nominate rich and influential person in FIR (First investigation Report). In the similar manner, courts will not do anything against rich or influential person.

Due to lengthy litigant procedure and structural inequities, Courts are untrusted, less reputation and little acceptance among the masses. People lack trust because they widely assume that the legal system from top to bottom demands bribes. Their perception further illustrated that formal justice system is slow, expensive, and corrupt. The system supports exploitation of the weaker party; replacement of judges and less implementation are also some of the major concerns. Furthermore, formal legal system takes very long time to reach conclusions. Noticeably the law gives another chance to the adversary or opponent to consult with "High Court and Supreme Court", which have accessibility issue. For impartiality and righteousness, this procedure delays justice and one single case spans the whole life of an individual to be resolved. In shorts, Court at one hand is costly, takes long time to dispatch any sort of verdict. In conclusion, justice has become a product which could be "bought or purchased" only through money and clout.

In our focused area Fatehpur village, the people mostly avoid formal Justice System but they do take help in criminal cases to nominated culprits. They are "certainly experiencing with the courts by breaking their own moral norms to bring impartiality with modern world, resulting in extra burden of work, foreign language, away from livelihood, extreme difficulties in understanding of rules and procedure and little help from the peers and constantly in a situation of moral and teasing questioning of community members due to breach of normative structure.

The Faislo is also under serious criticism specifically in case of children and women while pertaining to exploring justice through US. There are two major issues with respect to women, a) Faislo do not have representations of women and they are not allowed to defend themselves and present themselves as witness, and b) serious reservations regarding punishments and decisions, exclusively of "Human Rights" such as Honor killing. Furthermore, the decisions are biased, nepotism, reference based and subjected to discriminations. Therefore, scholars, judiciary and communities are raising questions on the legitimacy and co-existence of Faislo with FJS.

Furthermore, it is not true that both systems are in oppositions but rather both cooperate with each other. The aim is to better position and respond to the demands of reforms and how such reform - program may relate to the contexts of legal pluralism and informal dispute resolution mechanism. It is worthwhile for the rule of law and to access the justice program to shell out the consideration to allied systems of justice as they toil for meager and unfortunates. It is equally noteworthy to proceed gender impartiality and women's empowerment and juvenile justice system. Besides, it has become imperative to work on casual systems of justice which are mostly used by women and children and it is important to set the boundaries for such systems and to delineate the junction between these two systems, sustaining their further coalition with intercontinental human rights.

Theoretical Discourse

The above issues could be further discussed in the light of conceptual and theoretical concepts.

Legal pluralism is a system of thought that imitates cultural diversity and forms certain relations among the members of society. The customary practices are recognizable at various parts of Pakistan society along with the legal system. Both are prevalent because of their need at socio-cultural and political grounds. Furthermore, their importance with respect to accessibility, trust of masses, affordability, and punishments are subjected to acceptability, finance, influence, approach and viability.

The access to justice are preferred mechanism due to two basic concepts prevailing among community members a) delivery of access and b) maintained of community system. First of all it is important system because it delivers at community level. A lot of questions arise regarding its delivery for example, does it deliver? If yes then upto what extend it has capacity to deliver successfully? According to the villagers, this system is unable to deliver 100% and even the victims are getting half of the claim, even though it has capacity to payback in some other means Eg it does not break and destroy relationship between the victim and the accused. The consequences implies immediate action, ending of vengeance, accused gets an opportunity to restructure himself and community makes sure and get guaranteed for not repeating the same act of behavior.

Community system means collaborative behavior that allow all stakeholders of community to participate in process of sharing ideas and recognizes the unique strengths, equity, and fair distribution and provides an opportunity to its community member for quality life. So, certain experience with their own morality bind them to live their usual life and keep going with their normative structure, which are in their favor, because the existence of individual is connected with the existence of community system. Therefore, if it does not provide benefit at this period of time then surely it will over the period of time. The strongly prevalence of this system is only way to realize the importance and role of the customary system in Fatehpur village.

Legal pluralism provides an opportunity to victim for choosing any mechanism for accountability in response to harms and the ultimate purpose is to sustained and run the society. The community itself takes care of the victims in order to provide reliable justice to its members. This mechanism provides sense of responsibility, promote sincerity and builds trust on prevailing justice system and meanwhile, prevents further conflict and will terminate retaliation.

Conclusion

The current research was conducted in Fatehpur village, District Larkana with the perspective of Informal Justice system. Faislo is socially and cultural acceptable mechanism to resolve disputes outside court. Some famous procedure includes, settling disputes through taking old case studies as baseline to reached conclusions and making decisions and even imposed same kind of reward and punishment. Secondly, direct negotiation between both groups and by involving influential community individuals such as Chango Murs (mediator) in case of homogenous group and multiple Chango Murs (mediator) in case of heterogeneous groups. Moreover, the justice is contextual base: as culture provide framework of moral and social ethics to their masses and they take collaborative

acts in response to any situation. Whereas perception is based on the definition and common understanding of conflict as US is a) delivering justice and b) importantly, maintain community system of social order and intake social solidarity of the community.

Informal mechanism is preferred by masses due to Community solidarity does not permit external force to intervene in their internal matters and consider it harmful for the local solidarity. This solidarity works as protective wall against all odds and does not allow disruption and distraction local harmony and restorative process. Secondly, as rural masses is poor in understanding legal litigant process, while they know the local normative structure which is in practice from generation after generation. Thirdly, how political actors behave in specific situation is a major concern for community masses. More importantly, Perceptions of political acceptability is based on the settlement of dispute at both level i.e. politically and its impact positively on community level through restorative process and legal pluralism mechanism. Faislo works immediately in times of instability, should decide quickly with paying nothing. These kinds of decisions are valid and equally accepted by formal courts other than violation of human right nature.

If the formal justice system will deliver results objectively, can be affordable, problems are solved timely, still it will not be choice for many rural masses. There are two basic reasons. At first level formal justice system is based on individual rights, adversarialism, and punishment basic on modem laws, it does not take care of norms and values of specific culture and not most of the time equated to customary laws. In other words there is different perception of definitions regarding reward and punishment, for example, "*Izzat*" (respect) and how formal laws perceive and view and articulated an issue. At second level, the reward and punishment give meaning in their cultural context and take care of each other's interest.

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