



Predicting Factors Of Trust On Community Based Dispute Resolution: Evidence From Azad Jammu & Kashmir

Muhammad Faisal Khan, Ph.D Scholar, Department of Sociology, International Islamic University Islamabad, Pakistan.

Dr. Muhammad Babar Akram, Incharge, Department of Sociology, International Islamic University Islamabad, Pakistan.

Dr. Zaheer Abbas, Department of Sociology, International Islamic University Islamabad, Pakistan.

Muhammad Atique Khan, Ph.D Scholar, Department of Sociology, International Islamic University Islamabad, Pakistan.

ABSTRACT

Nowadays in Pakistan, there is countless burden on Pakistani courts. There are over 1.8 million cases that are pending. Similarly, in Azad Jammu & Kashmir, the Judiciary is also facing pendency of more than 43000 cases. The hard geography and strong social bindings in Azad Jammu & Kashmir advocate the people to adopt the alternates to resolved disputes. The Alternative Dispute Resolution falls into two broad categories, the courts annexed options and the Community based options. The end goal of a dispute resolution process is to offer a fair way for everyone involved in a complaint or dispute to deal with it. The defecto nature of Community Based Dispute Resolution is working through mediation, conciliation, and arbitration. The public trust on the community-based dispute resolution is studied as the social capital with three dimensions of social capital i.e. trust, networks and norms of cooperation associated with bonding, bridging and linking. The current research explored those predicting factors (accessibility, participation, and transparency etc) and their relationship with the public trust on Community Based Dispute Resolution. Sample size for the present study was 348 (victims and perpetrators) total selected cases are 174 each by using Statistical formulas. The study concluded that alternative dispute resolution procedures had a lot of role to play settling the disputes in study locale.

Key Words: Community Based Dispute, Trust, Agreements, ADR, CBDR

INTRODUCTION & REVIEW

A community can be based on a typical culture, confidence, topography, industry, partiality, or cause. The community acknowledgment integrates individuals, such a community has a solid premium in safeguarding this attachment. Considering the delays in resolving the dispute Abraham Lincoln has once said: Discourage litigation. Persuade your neighbors to compromise whenever you can point out to them how the nominal winner is often a real loser, in fees, expenses, and waste of time. Nonetheless, as among all gatherings of individuals, disputes emerge between individuals from even the most intently knit networks. Additionally (Katz, 1993) alleged the court system as "overly formalistic, cumbersome, and destructive of relationships, alienating, humiliating, slow, and expensive." The larger part of my time, during the twenty years of my practice as a lawyer, was occupied in bringing about private compromises of hundreds of cases. (Gandhi, 1948). Barfield, Nojumi and Their (2006) explained the Community Based Dispute Resolution processes used for the disputes within the community in which the dispute has taken place while (Mani, 2002) elucidated these processes for dispute resolution are also referred to as "informal justice" and (Senier, 2006) stated it as "customary law". Huchhanavar(2015) stated in India ADRs today fall into two broad categories: court-annexed options and community-based dispute resolution mechanism. Canadian Human Rights Commission (2010) defined "A community-based dispute resolution process is one kind of dispute resolution process and involves including the entire community throughout the stages of its development. The ultimate objective of a dispute resolution measure is to offer a reasonable path for everybody associated with a grievance or dispute to manage it. Community Based Dispute Resolution alludes to the settlement of disputes out of the courts and lined up with existing laws. Making a community-based dispute resolution cycle ought to include the whole community all through all phases of improvement. Huchhanavar (2015) illuminated that the Lok Adalat in India is the dispute resolution system presided over by a sitting or retired judicial officer as the chairman, with two other members, usually a lawyer and a social worker. There is no court fee. If the case is already filed in the regular court, the fee paid will be refunded if the dispute is settled at the Lok Adalat. Miller (2014) stated that Sierra Leone suffered a destructive 11-years civil war that largely left its communities torn apart and in need of vast re-development. One of the manners in which those networks are revamping and putting forth attempts to push ahead is through the chieftaincy-based community dispute resolution measure. Based on verifiable standards, this cycle includes the community chief, or head, assisting with settling disputes inside the community. It is important because it prefers the local solution of local problems acceptable by all stakeholders involved. It is significant on the grounds that it inclines toward the nearby arrangement of neighborhood issues worthy by all partners included. It is quicker and simple to approach for everyone and has no costs or less cost. It is more innovative if there should arise an occurrence of choices and participatory in nature which can be better adjusted to all gatherings fundamental their inclinations and execution with extraordinary severity. It likewise constructed social contacts and certainty working for future among parties and legitimately worthy too yet not a pre-requisite. It follows and improves indigenous strategies for compromise and intervention in a settled community

since it is autonomous of choosing the mediators. Also gives a prompt avoidance of crooks yet left a space for their incorporation in the general public in future again. It is less startling than the formal legal framework since it is based on nearby standards and qualities, non-fierce and non-critical and looks to reestablish networks' ties and relationship and Community Based Dispute Resolution settled the disputes as well as end up the contention among them

Community Based Resolution in the World

The community based dispute resolution instrument is working in various countries with various names and with various goals through immediate or circuitous resolution of disputes inside the community all through of the court settlement.

America

In USA few decades prior, the American Bar Council has recommended to acquaint not many ways with settle disputes out of courts in light of over-burdening courts and individuals disappointment with formal legal framework. The community dispute resolution focuses have been set up to determine crime and less lawful offense cases out of the courts.

India

India has established Lok Adalat (people's court) to provide a legal assistance to the people to resolve their disputes and even resolve those cases which are under trial in formal courts. These courts are working with nominal fees or no fees at all.

Afghanistan

The countries with tribal societies like Afghanistan community agreements have fundamental part of their dispute resolution to remove enmities and rivalries coming from family to family. In Afghanistan the "Loeya Jirga" a type of dispute resolution body has immense powers even to find solution of problems on state level. That consists of representative of the tribes to sit together and find some solution of the problem existing locally or nationally.

Malaysia

Malaysia is practicing court added intervention to determine disputes out of the courts under the umbrella of the courts. Mediation practice in Malaysia have made considerable progress since its undeveloped days during the 1990s. Today, intercession frames a center segment in the Malaysian legal framework where it gives an option in contrast to contesting gatherings to determine their dispute without experiencing the preliminary cycle. Court-added intervention alludes to intercession where dynamic appointed authorities and legal officials go about as middle people to contesting parties after they

have recorded their activity in the courts. The Malaysian legal executive is the central player for presenting this type of intercession in the general set of laws in Malaysia.

MATERIAL & METHODS

The present research was quantitative in nature. This study was based on both primary and secondary data. The secondary data was collected from the District Police Stations against the FIR registered and quashed due to the community agreements and other settlements of dispute out of the court. The primary data was collected from identified respondents (victims & perpetrators) through questionnaires. Azad Jammu & Kashmir-Pakistan was the universe of the study. The Central Police Stations at District levels were included only excepting the Tehsil police stations. The victims and perpetrators who registered the FIRs in police stations and resolved through community agreements in 2016-17 was the population of the study.

Disputes resolved through community agreements in year 2016-17 & Sample calculation

District Police Station	No. of Cases	Sample Size $n=N/1+N(e)^2$	Proportionate Sample (No. of Cases)	No. of Victims	No. of Perpetuators
Bagh (N1)	97		54	54	54
Poonch (N2)	35		20	20	20
Haveli (N3)	17		10	10	10
Muzafarabad (N4)	51		29	29	29
Neelam Valley (N5)	23		13	13	13
Bhimber(N6)	21		12	12	12
Mirpur(N7)	13		7	7	7
Kotli(N8)	18		10	10	10
Sudhanuti(N9)	14		8	8	8
Jhelum Valley/Hattian(N10)	20		11	11	11
Total	N=309		174	174	174
Total				348	

RESULTS & DISCUSSION

Socio-economic or demographic characteristics of the variables play pivotal role, in study the respondents' baselines for the elucidation or assessment of the data presentation. The below tables show the demographic profile i.e. Age, gender, education, monthly income, nature of the experience, times of experience, type of the disputes, and marital status, type of family and profession of the respondents. This chapter also include the descriptive analysis of dependent and independent variables.

Variables	Percent P(%)	Frequency (F)	
Gender of the respondents			
Male		348	100
Age of the respondents			
18-28		51	14.7
29-39		46	13.2
40-50		147	42.2
51 and above		104	29.9
Marital status of the respondents			
Married		322	92.5
Single		24	6.9
Widow		2	0.6
Education of the respondents			
Primary		10	2.9
Middle		35	10.1
High		77	22.1
Intermediate		139	39.9

Graduation	52	14.9
Others	35	10.1
Nature of experience in CBDR		
Victims	174	50
Perpetuators	174	50
Times of experience in CBDR		
1	249	71.6
2	99	28.4
Types of the dispute's respondents involved		
Disputes over natural resources	128	36.8
Family related disputes	86	24.7
Transport related disputes	70	20.1
Kidnapping	8	2.3
Accidents	46	13.2
Others	10	2.9
Total	348	100

Data shows all the respondents are male (100%) although there were identified female cases but due to social constraints researcher was not allowed to get the opinion of the females so only included the male respondents in the research. The respondents with enough mature aged groups within the range of 40-50 were contributing (42.2%) while above of 50 years were contributing (29.9%).

The table also depicts a vast majority of the respondents are married which contributed (92.5%) while (6.9%) are single and only (0.6%) are widows. In case of the education, majority of the respondents are of intermediate level education which contributes (39.9%) after high school (22.1%) and graduation (14.9%).

Table showing the profession depicts that government job contributes (49.7%) with (35.3%) private job and foreign employment (9.8%). The respondents' family type data shows that joint families contributed (75.9%) while nuclear families contributed (23.3%). The income table shows a majority is earning with range of 36001-46000 which contributes (42.2%) while (27.0%) are earning in range of 47001-57000 rupees per month from all sources. The data regarding the nature of the disputes shows that disputes over the natural resources contributed (36.8%) after the family related disputes (24.7%). The data also shows that majority of the respondents experienced the community-based dispute resolution process (71.6%) single time while (50%) respondents taken as victims and (50%) as perpetrators. The additional question included in the demographic where the type of the approach was used by most of the respondents.

Distribution of the respondents with respect to accessibility(time) to the community based dispute resolution processes

Statement	SA f(%)	A f(%)	N.O f(%)	DA f(%)	SDA f(%)	M	SD
CBDR is available all the times for community	267(76.7)	60(17.2)	-	20(5.7)	1(.3)	4.64	0.78
Complain can be made anytime in the CBDR	274(78.7)	66(19.0)	-	8(2.3)	-	4.74	0.57
Community agreements take less time to resolve dispute in your community	262(75.3)	59(17)	2(0.6)	8(2.3)	17(4.9)	4.55	0.99
Community based dispute resolution always takes action timely	256(73.6)	62(17.8)	2(0.6)	27(7.8)	1(0.3)	4.56	0.87
SA:Strongly Agree A:Agree N.O: No Opinion DA: Disagree SDA:Strongly Disagree M:Mean SD: Standard Deviation							

Table remarkably showing the results about the distribution of the respondents with respect to accessibility of the system with special reference to time. The results depict that about (76.7%) respondents are strongly agreed that the community-based dispute resolution is available all the times and (78.7%) shows that complain can be made any time in the process including the strongly agreed that less time is required to resolve dispute (75.3%) and (73.6%) strongly agreed the action is always timely without any delays if the community demand.

Reliability Analysis of the Variables

Scale	Number of Items	Cronbach's Alpha
5697 Muhammad Faisal Khan	Predicting Factors Of Trust On Community	
Based Dispute Resolution: Evidence From Azad Jammu & Kashmir		

Aceesibility to the CBDR processes	12	0.60
Implementation of the Decisions	7	0.91
Transparency in the processes	4	0.81
Participation of victims and perpetrators	7	0.72
Confidentiality in processes	3	0.75

Dependability alludes to how reliably a strategy estimate something. On the off chance that a similar outcome can be reliably accomplished by utilizing similar techniques under similar conditions, the estimation is viewed as solid. Most commonly the reliability determines how much is the data reliable for the processing under the similar circumstances. The reliability varies between 0.6 to 0.9 showing an extend of uniformity of the data. The Cronbach Alpha values were calculated by SPSS showing the results lies between the 0.606 to 0.981. The first scale was measured with number of 12 items showing 0.606 which determines the accessibility to the community-based dispute resolution processes focusing on the utilization of the time, cost and the easiness of the approach and showing a weak relationship. Considering the implementation of the decision the second scale showing Chronbach alpha 0.919 which is a strong reliability. The third scale is related to the Transparency in the processes which shows 0.815 relatively a stronger reliability. The fourth scale is about the participation of the disputants (victims & perpetrators) which gives value of 0.729 relatively a stable reliability. The fifth item is about the confidentiality in processes which has 3 items and have cronbach alpha 0.758 which shows a good reliability.

Means, Standard Deviation and T-Values of study Variables as a Function of their nature of Experience (Victims & Perpetuators)

Variable	Mean	SD	95% CI			
			t-value	Lower	Upper	p-value
Trust Victims	93.8908	11.17	0.813	-1.39	3.34	0.42
Perpetuators	92.91	11.25	0.813	-1.38	3.34	0.41

Table presents the outcome of independent sample t-test conducted to see the effect of type of the disputant on the study variables. The p-value of t-statistic for public trust (victims means=93.89, SD=11.17, 95% CI: -1.39---3.34) was not statistically significant (t= -0.813, p>0.05). Similarly p-value of t-statistic for public trust (perpetuators means= 92.91, SD=11.25, 95%CI: - 1.38-3.34) was not statistically significant (t= - 0.813,p>0.05). Based on these findings, it is concluded that nature of experience or type of disputant do not have any effect on their observation of public trust on community-based dispute resolution.

CONCLUSION

This research is an assessment of the public trust on the informal dispute resolution processes adopted by the people in rural or urban areas in Azad Jammu & Kashmir. The formal judicial system has setbacks due to delays and long procedures including the police investigation without any productive results. The people consider that formal judicial system is a power show influenced by all segments of power i.e authority, wealth, and political position. The international media quoted the Pakistani courts as the “bitches of the riches” because of biased decisions in favor of powerful people.

In this study the disputants showing a complete agreement over the fruitfulness of the resolution of disputes out of the formal courts and prefer a friendly settlement through mediation, arbitration, or conciliation. The remarkable contribution of the laws like Arbitration Act 1940, section 89-A Civil Procedure Code 1908, Small Claims and Minor Offences Ordinance 2002 is related to the mediation and Conciliation deals by the section 89-A Civil Procedure Code 1908, Family Courts Act 1964. Muslim Family Laws Ordinance 1961. The most prominent informal disputes resolution is included under the laws section 89-A Civil Procedure Code 1908, Federal & Provincial Mohtasib (Ombudsman), Compounding of Offences under Code of Criminal Procedures 1898.

REFERENCES

- Abts, Koen (2012), Social Resentment and Ethno-Populism: Late Modernity, Citizens, Resentment, Immigrants, Politics and Extreme Right, unpublished PhD thesis, Faculty of Social Sciences, University of Leuven.
- Akudugu, M. A., & Mahama, E. S. (2011). Promoting community-based conflict management and resolution mechanisms in the Bawku traditional area of Ghana. *Peace Research*, 80-103.
- Allie, S. (2020). Exploring the concept of conciliation (şulh) as a method of alternative dispute resolution in Islamic law.
- Asenjo Palma, C. (2019). Conflict resolution in community development: Are the benefits worth the costs?. *Critical Social Policy*, 39(2), 268-288.

- Asia Foundation (2017), *Alternative Dispute Resolution: A Paradigm Shift in Pakistan's Justice System?*
- Barfield, Thomas. "Informal Dispute Resolution and the Formal Legal System in Contemporary Northern Afghanistan." Washington, DC: United States Institute of Peace, 2006.
- Bereton, B. (2002). *Race relations in colonial Trinidad 1870-1900*. London: Cambridge
- Bernard, R.H. (2006). *Research Methods in Anthropology: Qualitative and Quantitative Approaches*. Chapters 3, 4. (4th Ed). Maryland: Altamira Press.
- Browning, C.R., Dietz, R.D., & Feinberg, S.L.(2000). *Negative social capital and urban*
- Bush, R. A. B., & Folger, J. P. (2012). *Mediation and social justice: Risks and opportunities*. Ohio St. J. on Disp. Resol., 27, 1.
- Callaghan, Sarah. "The Relationship between the Formal and Informal Justice Systems in Afghanistan." Kabul: Norwegian Refugee Council, 2007.
- Canadian Human Rights Commission. (2010) *A Toolkit for Developing Community-based Dispute Resolution Processes in First Nations Communities*. Annual report. The Commission. ISBN 978-1-100-21693-5, retrieved from <http://publications.gc.ca/pub?id=9.697220&sl=0>
- DORE, E. (2012). *Mediation and Homelessness Prevention in Scotland: A decade of mediation between young people and their families*. Edinburgh: Cyrenians.
- DoronPely, Muslim/Arab Mediation and Conflict Resolution: Understanding Sulha 29(1st edn. Routledge, New York, 2016).
- Gandhi, M. (1948). *Autobiography: The story of my experiments with truth*. Courier Corporation.
- Gang, Rebecca. "Observations on NRC Client Choices of Forum in Pursuing Property Dispute Resolution in Kabul: A Case Study of Kabul's Courts and Jirgas." Kabul: Norwegian Refugee Council Research Series, 2007.
- Guest, G., Bunce, A., & Johnson, L. (2006). *How many interviews are enough? An experiment with data saturation and variability*. *Field Methods*, 18, 59-82.
- program design to impact evaluation. Rome: IDLO.
- Huchhanavar, S. (2015). *In Search of True 'Alternative' to Existing Justice Dispensing System in India*.
- Hufstedler, S. M. (1985). *Bad recipes for good cooks--indigestible reforms of the judiciary*. *Ariz. L. Rev.*, 27, 785.
- Hunt, J., & Smith, D. E. (2018). *Building Indigenous community governance in Australia: Preliminary research findings*. Canberra, ACT: Centre for Aboriginal Economic Policy Research, Research School of Social Sciences, College of Arts & Social Sciences, The Australian National University.

- Hunter, A., & Brewer, J. (2003). Multimethod research in sociology. In Tashakkori, A., & Charles, T. (Eds). Handbook of mixed methods in social & behavioral research. 3- 50. London. Sage Publications.
- Hussain, F. (2011). The Judicial System of Pakistan. Supreme Court of Pakistan.
- Hutchison, M. L., & Johnson, K. (2011). Capacity to trust? Institutional capacity, conflict, and political trust in Africa, 2000–2005. *Journal of Peace Research*, 48(6), 737-752.
- Hyman, J. M., & Love, L. P. (2002). If Portia were a mediator: an inquiry into justice in mediation. *Clinical L. Rev.*, 9, 157.
- International Labor Organization. (2011). International standard classification of occupations 2008: Final definitions of major groups, sub-major groups, minor groups and unit groups. Retrieved from <http://www.hkf.hr/LinkClick.aspx?fileticket=qZbDEbaW4Rs%3D&tabid=38>
- Iqbal, Walid, Dialogue and the Practice of Law and Spiritual Values: Courts, Lawyering and ADR: Glances into the Islamic Tradition. *Fordham Urban Law Journal* 1035 (2001).
- IRC (2015a): Legal Assistance Centre Project Evaluation.
- IRC (2015b): Unpublished Summary reports on workshops on Alternative Dispute Resolution Mechanisms.
- IRC (LAC) (2013): "MDRG - Mediation and Dispute Resolution Guidelines", July 2013. Unpublished.
- IRC (PLE) (2016): Law and Justice in Karen Settlement Areas: A survey of citizen awareness, legal service providers' competencies, and gaps in law and justice. International Rescue Committee.
- Irving, H. H., & Benjamin, M. (2002). Therapeutic family mediation: Helping families resolve conflict. Sage.
- Izumi, C. (2010). Implicit bias and the illusion of mediator neutrality. *Wash. UJL & Pol'y*, 34, 71.
- Jayasundere, R., & Valters, C. (2014). Women's experiences of local justice: community mediation in Sri Lanka.
- Jennifer Brick, "The Political Economy of Customary Village Organizations in Rural Afghanistan" (Washington, DC: Central Eurasian Studies Society, 2008).
- Jeremy Grunert, "How do you Solve a Problem Like Sharia Award v. Ziriak and the Question of Sharia Law in America" *Pepperdine Law Review* 695 (2013).
- Johnston, Rizzo, R. "A Return from Tradition to Reform: The Sharia's Appeals Court Rulings on Child Custody(1992-2001)" *Fordham International Law Journal* 597 (2003).
- Jolliffe, K. (2014): Ethnic Conflict and Social Services in Myanmar's contested Regions. The Asia Foundation, June 2014.
- Jolliffe, K. (2015): Ethnic Armed Conflict and Territorial Administration in Myanmar. The Asia Foundation, July 2015.
- Jones, J. (2020). Muslim Alternative Dispute Resolution: Tracing the Pathways of Islamic Legal Practice between South Asia and Contemporary Britain. *Journal of Muslim Minority Affairs*, 40(1), 48-66.

Jones-Pauly, Christina, and Neamat Nojumi. "Balancing Relations Between Society and State: Legal Steps Toward National Reconciliation and Reconstruction in Afghanistan." *American Journal of Comparative Law* 52 (2004): 825-57.

Kabani, A. (2017). *Additional benefits of community based mediation*. Dallas Bar Association

Kakar, Palwasha. "Tribal Law of Pashtunwali and Women's Legislative Authority." Cambridge, MA: Harvard Law School Islamic Legal Studies Program, Afghan Legal History Project, 2004.

Kamal Halili Hassan, "Employment Dispute Resolution Mechanism from the Islamic Perspective" 20(2) *Arab Law Quarterly*, 181(2006).

Kane, J., Lloyd, G., McCluskey, G., Riddell, S., Stead, J., Weedon, E., ... & Hendry, R. (2007). *Restorative Practices in Three Scottish Councils Final Report of the Evaluation of the first two years of the Pilot Projects 2004-2006*. Evaluation report for the Scottish Executive, 28.

Kasarda, J.D., & Janowitz, M. (1974). *Community attachment in mass society*. American