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## Social transformation and dispute resolution strategies of women in Punjab, Pakistan.

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### Abstract

*Women have remained at the margins of society lacking access to state and non-state platforms for resolving their disputes in Pakistan. However, this pattern is changing and now women are accessing state courts to resolve their disputes, particularly in the context of the Punjab province of Pakistan. Non-state forums have lost their legitimacy and people are no longer relying on them for dispute resolution. In this study, the data was collected from Tehsil Jahanian, District Khanewal, Punjab. The respondents for this study were selected using a purposive sampling technique. The data was collected using a semi-structured interview method. The respondents comprised three female and two male lawyers, specializing in civil cases, and two members of the Panchayat. Thematic analysis of the collected data was done. It has been found that the change in preferences of the women towards state courts in Punjab is due to the increasing awareness among the women about their legal rights through education, social media, acquaintances with those women who have already filed cases in the court, and lawyers. Secondly, women can settle their disputes such as maintenance allowance, divorce and child custody in a more efficient, effective, and fair manner in state courts comparatively to the non-state forums because the procedure of enforcement of the law, participation of women in court proceedings, and protection of women are implemented by state courts.*

**Keywords:** state courts, non-state forums, women, education, social media, Panchayat, legitimacy, maintenance allowance, divorce.

### Introduction

In Pakistan different non-state forums<sup>2</sup> operate as parallel dispute resolution platforms along with the state courts including the *Jirga*<sup>3</sup> system in the Khyber Pakhtunkhwa (KP), Sindh and

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<sup>2</sup> The word of formal and informal, official and unofficial, state and non-state forums are used for differentiating community and state based dispute resolution forums. In this Study, I will use the word state and non-state forum for dispute resolution as conceptualized by Kalindi Kokal (2020). Kokal argues that word of formal and informal should not be used because these are procedures and methods rather than forums for dispute resolution. Similarly, in state forum informal methods could also be used for dispute resolution. Moreover, the terms of official and unofficial is also not suitable because it restricts the definition of law to the state defined law only and exclude other sources of law for the people. For details see Kokal, K. (2020). *State law, dispute processing and legal pluralism: Unspoken dialogues from rural India*. Routledge.

Balochistan province; *Faislo*<sup>4</sup> in Sindh; and *Panchayat*<sup>5</sup> in Punjab province of Pakistan (Hassan and Malik, 2020). The members of these platforms comprise the influential individuals who have been conferred with judicial authority by the local customs and traditions. They function as the local judiciary and resolve the disputes involving both criminal and civil that comprise disputes related to women, land, and money (Khan et.al, 2020). The methods of compromise, mediation, and penalties are employed by the non-state-forums in dispute resolution at the local level (Acemoglu et.al, 2020; Muazzami and Sultana, 2020; Loureiro et.al, 2021). The non-state forums are considered a more effective and efficient system of dispute resolution by the people in Pakistan because it saves the time and money of the people (Khan, and Nawaz, 2020). Moreover, non-state forums are also conceptualized positively because they provide a platform through which the conflict is deferred and social harmony is reproduced in the community (Lyon, 2002).

Nevertheless, the argument that the non-state forums are cost-effective and resolve the dispute in less time compared to the state court is not true holistically, because the non-state forums could also demand the people to spend money and the dispute resolution could also take time to resolve. It has been found in the context of India that those people who access the religious platform for the resolution of their disputes have to spend money on religious rituals and they have to travel long distances for religious pilgrimage (Kokal, 2020). More importantly, women are particularly unable to get access to non-state forums and if they are somehow able to get access to the non-state forums they face discrimination, lack of participation, and unable to discuss their problems (Chaudhry, 1999; Cohan, 2009; Nelson, 2011; Khan, and Nawaz, 2020). In this context, the state courts provide an alternative platform for women to get efficient, effective and fair resolution of their disputes. The women in the past 20 years could not get their disputes resolved by the state courts. However, society has transformed primarily due to the increase in education among women (Farooq and Kayani, 2014) and the arrival of social media (Jamil, 2018).

Therefore, this research study aims to discuss the research questions what are the causes for the change in the dispute resolution strategies of women in Punjab, Pakistan? And how the state courts are more efficient, effective and fair compared to the non-state forums for the resolution of the disputes of women? It is argued in this research study that change in preferences of the women towards state courts in Punjab is due to the increasing awareness among the women about their legal rights through education, social media, acquaintances with those women who have already filed cases in the court, and lawyers. Secondly, women

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<sup>3</sup> The literal meaning of the word Jirga means a circle, hence it is used to mean collection of people or gathering of people. Jirga is a dispute settlement platform in the Pashtun majority regions of KP and Baluchistan for details of the different types of Jirga, their purpose, functions and codification under the British rule see Shinwari, N. A. (2015). Understanding the informal justice system: Opportunities and possibilities for legal pluralism in Pakistan. CAMP

<sup>4</sup> Faislo signify different meaning such as settlement, decision, judgment, and dispute resolution. Similarly to Jirga, Faislo is the dispute settlement platform in the rural Sindh, for details of purpose, function and different levels of Faislo see Shah, N. (1998). Faislo: The informal settlement system and crimes against women in Sindh. Shaping Women's Lives-Laws, Practices and Strategies in Pakistan: Part II. Lahore Shirkat Gah Women's Resource Centre.

<sup>5</sup> Literally the word Panchayat means gathering of five elders, but the membership of the panchayat could vary and it is not fixed to five people. The members of the Panchayat are selected among those people who are considered trust worthy and respectable in the rural Punjab. The meeting of the Panchayat could held meeting on their own or the either of the disputing party could call the meeting of Panchayat or a third party could also summon the meeting. To see details of the types of Panchayat in Punjab see Chaudhary, M. A. (1999). Justice in practice: legal ethnography of a Pakistani Punjabi village. Karachi: Oxford University Press.

can settle their disputes such as maintenance allowance, divorce and child custody in a more efficient, effective, and fair manner in state courts comparatively to the non-state forums because the procedure of enforcement of the law, participation of women in court proceedings, and protection of women are implemented by state courts.

The existing literature on dispute resolution in the context of South Asia generally and Pakistan specifically could be divided into three categories. First, the literature argues that the non-state forum continues to play a significant role in the dispute resolution process and it has not lost its significance (Lyon, 2002; Nagaraj 2010; Acemolgu et.al, 2020). Secondly, it argues the non-state forums are increasingly competing with the increasing authority of the state forums and striving to keep their autonomy intact (Kokal, 2020; Latif, 2022). Finally, it argues the increasing access of people from marginalized communities such as the poor and women to the state courts and they can get effective resolution of their disputes (Awaz Foundation, 2009; Saleem et.al, 2011; Siddique, 2013; Holden and Chaudhry, 2013). The present study builds on the arguments of the third category of literature and contributes to filling the gap in the first two categories of literature.

### **Literature Review**

In the context of South Asia, there is ample literature that argues that the non-state forums have not lost their legitimacy rather they continue to play a significant role in the daily lives of the people. Stephan Lyon (2002) argues that the peasants in the Northern Punjab, Attock district continue to rely on the resolution of their disputes on the local landowners. Lyon is in favour of the non-state forums for dispute resolution because he considers that as opposed to the procedures of state laws that encourage the feeling of animosity between the people, the non-state forums establish social harmony through conflict deferment. Similarly, Acemolgu et.al (2020) argues that people in Pakistan largely depend on non-state forums for their dispute resolution. The authors argue that in the context of rural Punjab, the influential people of the village arbitrate the dispute of the people through the institution of Panchayat. The Panchayat employs different strategies such as establishing compromise, imposing penalties, and mediation. Ghulam Hussain, Anwar Mohyuddin and Firdous Mahesar (2013) argue that the traditional method of dispute resolution *Faislo* is more suitable for the peasants working as sharecroppers in rural Sindh's rice belt. Whenever a dispute emerges peasants take the case to the *Changa Murs* (village elders) of the Kinship group who organize *Faislo* for dispute resolution. However, if the disputes are not resolved in the *Faislo*, the peasants then take their dispute to the *Sayyeds* (spiritual leaders) of the village who are considered as neutral parties in the village. If the dispute is not resolved by the intervention of the spiritual leaders then the dispute is taken to the *Wadera* (Landowners). Finally, if the dispute is not resolved even by the Landowners then the peasants resort to litigation in the state courts. The cases that are taken to state forums are usually intended to exert pressure on the opponent parties and ultimately the dispute is resolved at the *Faislo*.

However, the non-state forums are not only operating in the context of rural regions rather it is also working in the context of the urban region. Vasudha Nagaraj (2010) discusses the non-state dispute resolution forums in the context of a slum in the city of Hyderabad, India. Some different associations and organizations mediate the disputes between the slum dwellers comprising caste associations, development associations, political parties associations, women associations and welfare associations. The police do not intervene in the disputes of the people living in the slums until or unless the leaders mediating the dispute of the people are present and they demand the police to intervene. In this manner, those studies that prioritize the non-state forums for dispute resolution argue that the non-state forums or the

traditional method of dispute resolution is closer to the community's norms and values due to which the people are also aware of the rules and regulations of the non-state forums (Chaudhry, 1999). The modern or the state forums are not according to the norms and values of the people and it has been introduced during the period of British colonialism due to which it is an alien system for the local population in South Asia. The people are unable to understand the rules and regulations of the state forums because people are unable to understand the legal language due to which they just watch the court proceedings as spectators. Hence, the people are unable to monitor and evaluate the proceedings of the cases because they are unaware of their legal rights (Siddique, 2013). Moreover, the society of South Asia is considered as collective in nature and the non-state forums usually consider the interests of the whole community. Contrary to the collective nature of South Asian society the legal system that the British introduced considers the rights of the individuals due to which there is also a gap in the values of the community and the values of the state (Chaudhry, 1999; Kokal, 2020).

Nevertheless, these studies do not consider the dimensions of gender while favoring the non-state forums comparatively to the state forums of dispute resolution. The women faces discrimination and marginalization when they access the non-state forums for dispute resolution. In the context of Pakistan, women face discrimination and marginalization in accessing the non-state dispute resolution forum. The women are not included either in the arbitration process or in the discussions in the non-state dispute resolution forum. Baha-ul-Haq et.al (2023) in their study of the non-state dispute resolution mechanism among the Pashtuns in Zhob, Pakistan has argued that women occupy the lowest tier in the social hierarchy in Pashtun society. Hence, women are marginalized and excluded from the non-state dispute resolution process. The men are at the helm of the dispute-resolution process in the traditional non-state forums. In the same manner, Azam Chaudhry (1999), and Mathew Nelson (2011), have also found similar practices in the context of Punjab, Pakistan. The cases involving women are mostly arbitrated by non-state forums such as *Panchayat*. In this *Panchayat*, the dispute of the women is primarily discussed and arbitrated by men, and the women are not allowed to participate in it.

Presently, the literature on the status of the non-state forums in South Asia argues that the legitimacy of the non-state forums is declining in South Asia. People are now accessing the state courts to resolve their disputes instead of the non-state forums. The non-state forums are now faced with the challenge of competing on the one hand with each other and on the other hand with state courts to regain the losing legitimacy. Mehr Latif (2022) discusses the strategies adopted by the landowners in rural Punjab to maintain their autonomy from the state in dispute resolution. In rural Punjab, those Landowners who maintain a *dera*<sup>6</sup>, are known as *deradars*. Usually, the *deradars* compete with each other. These landowners use their social capital to prove to the people that they are more competent to resolve the dispute. To demonstrate their competency *deradars* attempt to bring the persons who have committed a crime to the police station through their social networks. Mostly, the *deradars* do not take those cases to arbitrate which threatens their legitimacy and autonomy. For instance, in the case of murder, there are chances that the disputants might not accept the decision of the *deradars* due to which the legitimacy of the *deradar* might decrease. Finally, when someone from the village takes their dispute to the police station, then the *deradars* become united with each other and they resist the authority of the police to arbitrate the dispute. These

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<sup>6</sup> A ranch-like building built on the ancestral lands of the Landowner for the gathering of men.

*deradars* put pressure on the people to bring the dispute to their *dera* for resolution instead of taking it to the police station.

Kalindi Kokal (2020) in her comparative study of the villages in Maharashtra and Uttarakhand, India discusses the strategies adopted by non-state forums to compete with the state forums. The non-state forums have started to imitate the arbitration method of state forums to increase their legitimacy among the people. For instance, they have introduced the writing system, the people have to apply for dispute processing to the non-state forum, and the disputing parties are asked to keep the documents related to their cases with them so that they could be used as evidence during arbitration. The bond agreement is also signed by the disputing parties when the dispute is resolved. The non-state forums also follow the schedule of meetings, the days are fixed when the meeting of the non-state forums would take place. The meeting could only take place if a particular number of the members of the non-state forums are present that demonstrate that they follow the principle of quorum followed by the state forum. Similarly, the method of appointing a secretary, chairman, and treasurer is also followed by the non-state forums.

Although the non-state forums are competing with state forums and trying to gain legitimacy among the people, the legitimacy of the non-state forums is declining. The studies conducted in the last twenty years in the context of Pakistan demonstrate that the legitimacy of the non-state forums has decreased considerably and the people are taking most of their cases to the state courts. Saleem et.al (2011) conducted a study on the legitimacy of non-state dispute resolution platforms *Jirga*, and *Faislo* in three provinces Sindh, Baluchistan and Khyber Pakhtunkhwa of Pakistan in 2008. The study has found that the preferences of the people for resolving their disputes have changed. The people are now taking most of their disputes to the state courts. This change in preferences of the people could be attributed to two major developments: (a) the active role of the media; and (b) the increase in the educational level of the people. The media and education have made people more conscious of the discrimination and injustices perpetrated by the non-state forums for dispute resolution due to which they are now seeking justice from state forums.

Similarly, Awaz Foundation Pakistan (2009) has conducted a study on *Panchayat* and its impact on the marginalized communities, such as women and poor people, of South Punjab. The study found that very few people from the marginalized communities of South Punjab were in favour of the Panchayat system only 3% of males and 4% of females were in favour of the Panchayat system. Similarly, the study found that the Panchayat serves the interests of the landowners and their families, 21 % of females and 48% of male respondents said that the Panchayat serves the interests of the influential families. Finally, most of the respondents were unable to afford the cost associated with accessing the state forums, such as transportation, and lawyer's fees. Hence, although marginalized people have denounced the Panchayat they were also not able to access the state forums, 90 % of the respondents said that they preferred the state forum for dispute resolution if it is cost-effective for them.

However, the research of Osama Siddique (2013) has found that the access of the poor and the less affluent people to the state courts is increasing in Punjab, Pakistan. Siddique surveyed the provincial capital of Punjab Lahore District Court. The survey aimed to find out the background of the people accessing the court and the experience people had in the litigation process. He found out that approximately 63% of the participants of the survey belonged to the less affluent income category with a monthly income of \$117-\$236. Hence, the number of less affluent/poor people resorting to seeking justice from the state forum is increasing. The increasing number of poor and less affluent people seeking dispute resolution

through courts means that the non-state forums are unable to satisfy the people in their arbitration and they are losing their legitimacy. Therefore, the people who have first accessed the non-state forums have then resorted to the state court for dispute resolution.

In this manner, it could be observed that the women are accessing the state courts for the resolution of their disputes. Livia Holden and Azam Chaudry (2013) have conducted a comparative study of the daughter's inheritance in the context of Hunza and Punjab. In this study, Azam Chaudry argues that, when the women accessed the state courts in the context of Punjab they were successful in getting their share in land. When the men brought the case to the non-state forums they were successful in disinheriting the women by invoking the customary laws. Livia Holden has conducted a study of the daughter inheritance in the Hunza region. She has found out that the chief court of Gilgit Baltistan has gone on to find out the customary law of the Hunza state regarding the daughter's inheritance, according to which the woman should be granted inheritance rights in the property of the deceased father. As a result of which the chief court granted the woman inheritance share following the customary law of Hunza state.

### **Theoretical Framework**

The theoretical framework has been constructed from the two concepts are the strategies that people adopt to resolve their disputes and the impact of gender in the selection of the dispute resolution platform. These two concepts are intended to analyze the change that has surfaced in the dispute resolution strategies of the women in Punjab, Pakistan and the effectiveness of the state courts in resolving disputes of the women. Yanqi Tong (2009) conceptualized the strategies that people formulate to resolve their disputes in China. There are several factors such as the type of disputes, individual perception of institutional performance, and resources that shape the individual choice of dispute resolution platform. The nature of disputes usually determines the platform for their resolution. For instance, civil disputes are mostly resolved through non-state forums through traditions, norms and values because inter-personal relationships are involved. Secondly, the perception of institutional performance such as accessibility, fairness, effectiveness and cultural considerations shapes the individual's choice of dispute resolution platform.

Resources also play a significant role in the choice of dispute resolution platform. For instance, the individual could have a connection with lawyers due to which the individual might seek the assistance of the court. Resources are not only limited to the connections rather they also comprise access to the information and knowledge of the dispute resolution platforms. For instance, an individual knows dispute resolution platforms through experiences of other people through personal interaction, or the individual might have heard about the dispute resolution platforms through newspaper, television, internet, and radio. Resources also comprise social status and education. The individual could have access to more information and could navigate through the formal legal domain effectively if the individual is educated. People with low social status might not be able to access formal legal institutions (Tong, 2009).

However, the choice of the dispute resolution platform is also dependent on the gender of the individual. Jasper Cooper (2019) discusses the state capacity and gender inequality in the context of Papua New Guinea. He argues that when the police presence, specifically female police officers, increased in the remote villages of Papua New Guinea, the women started to report more cases to the police. As a result, the women attained some degree of security and justice through accessing the state forum. However, the men also started to appeal to the

customary chiefs to intervene on their behalf. However, the intervention of the chiefs proved ineffective due to the presence of the police in the village. In this manner, it could be observed that the increasing intervention of the state empowers women. In this study, first, the strategies employed by the women to resolve their disputes would be analyzed by focusing on the nature of disputes, resources and perception of the institutions. Afterwards, the role of the state courts in resolving the disputes of the women would be evaluated to determine whether it is effective, efficient and fair for the women or not.

### **Research Methodology**

The research study was conducted in Tehsil Jahanian in the Punjab province of Pakistan. It is located on the National Super Highway N-5 connecting Multan to Lahore in the southern part of Punjab province. Tehsil Jahanian is one of the four tehsils of District Khanewal (District Administration Khanewal, 2021). The total population of District Khanewal is 33,64,077 as per the census report of 2023 (PBS, 2023). The overall literacy rate in Jahanian is 63% out of which the literacy rate among males is 72% and females is 53% (PBS, 2017). Jahanian is divided into 87.3 % rural and 22.7% of urban regions. The majority population of the region are either Punjabi or Saraiki speaking with a total percentage of 49.5 % and 38.3 % respectively. The other languages spoken involve Urdu 7.2 %, Pashto 2.9%, and other languages 1.3% (City population, 2024). The respondents for the data collection were selected using a purposive sampling technique. The aim of selecting respondents was not to get a representative sample of the population rather the aim was to include those people who were relevant to the research questions (Flick, 2009). The selection of the respondents was assisted by my father-in-law, who is a local member of the Panchayat in Jahanian. His father also used to organize Panchayat at the local level for dispute resolution. Hence, I got access other members of the village Panchayat. Moreover, my father-in-law also has many acquaintances in the Tehsil Court Jahanian due to which I was able to get access to the Lawyers. I collected my data using a semi-structured interview method. I conducted interviews with the two members of the Panchayat and two male and three female lawyers. Those lawyers were selected for interviews whose expertise was in civil cases. I recorded the interviews of the respondents after obtaining their consent. I transcribed the recorded interviews and then I did coding of the interviews. I generated themes after coding the interviews and conducted the thematic analysis of the data. The original names of the respondents have not been used in this article to hide the identities of the respondents, rather fictitious names of the respondents are used.

### **Social transformation in Punjab**

Since the 1980s, the villages of Punjab have changed socially, economically, politically, and culturally. As a result of which there has been considerable change in the gender roles and decision-making of the women in the villages of Punjab (Farooq, and Kayani, 2014). Traditionally, the villages are considered more retrogressive compared to the urban areas. It is assumed that in rural areas the gender roles are fixed and the men are responsible for working outside and earning bread for the family, while the women are expected to work inside the home and take care of the family (Siddique, 2005; Zafar et.al, 2005; Ali et.al, 2011). However, this view has been challenged by the studies conducted on the changing gender roles in the context of Pakistan. There might be differences still existing in society based on gender but the religious as well as the secular individuals are providing education to their girls as their fundamental right (Bradley, and Saigol, 2012). Similarly, the restrictions on women working in the formal sector have also been reduced but gender relations are still

tilted in favour of men (Grunenfelder, 2012). Despite the gender differences and the sociocultural discriminations against women, it could be observed that generally, formal education is increasing among women due to which they are now becoming more conscious, joining formal sector employment and becoming more autonomous (Naz et.al, 2013).

In the 1960s most of the people in villages of Punjab held negative attitudes towards the education of the women. The women usually took care of the household chores due to which it was useless to give education to the women. In the 1980s, the attitude of the people changed regarding the education of women. It is primarily due to the construction of the separate schools for the women and the construction of the roads. It became easier for the people to access the schools in the nearby cities through the construction of the roads. In the 1990s the construction of highways also become a major reason for increasing access of females in the education sector. In 2000, all of the villagers preferred to send women to the schools (Farooq and Kayani, 2014). In addition, the change in perception of the people towards women's education was also developed due to the awareness brought by the media and education regarding the education of women (Brewster, and Padavic, 2010).

This increase in the awareness of the people due to education and media has brought a change in the selection of the forum for their dispute resolution. The non-state forum for dispute resolution such as Panchayat in Punjab has lost its legitimacy among the people due to the active role of the media and the increase in the educational level of the people. The media and education have made people more conscious of the discrimination and injustices perpetrated by the non-state forums for dispute resolution due to which they are now seeking justice from state forums (Saleem et.al, 2011). In 1960, the grandparents and parents played a significant role in family dispute resolution. Most of the family disputes were resolved in the family on the guidelines provided by the grandparents. In the 1990s, there has been a significant decline in the role of the grandparents in family dispute resolution. The role of younger members of the family started to increase in dispute resolution with the decline in the authority of the grandparents in the 1990s. In 2000, and onwards the role of the younger members of the family increased in making decisions regarding the dispute resolution of the family (Farooq and Kayani, 2014).

In the context of Punjab, the Panchayat has lost its legitimacy and now there are few regions where it is still practised. In District Rajanpur and Dera Ghazi Khan, there are approximately 5 % people who still prefer to resolve their disputes in Panchayat. In those Panchayats the women are excluded from participation. In Tehsil Jahanian, the Panchayats are now rarely organized, and they have lost their legitimacy (A.H. Kanju, personal communication, April 19, 2024). The women are now taking their disputes to the state courts instead of the Panchayat (S. Ahmed, personal communication, April 15, 2024) because the women are unable to get favourable decisions from the non-state forums which are dominated by men (Chaudhry, 1999: Nelson, 2011). The findings of the present study also corroborate the fact that the women no longer remained dependent on their families or the Panchayat for the resolution of their civil disputes rather they are increasingly taking their disputes to the state courts. A female lawyer mentioned that most of the civil cases are filed by the educated women,



If the proportion is considered then the family cases are mostly comprised of educated women because they could not tolerate the injustice from their husbands. They are more conscious about their rights. If anything happens in their homes that violates their rights they criticize it. Generally, in Punjab, women are not allowed to speak for their rights and demand justice for them. Society is patriarchal in which women are not allowed to speak. Hence, when a women get an education and she becomes conscious she accesses the state courts to reclaim her due rights (A Iqbal, personal communication, April 17, 2024).

Although the women who have attained education are becoming more conscious of their rights and are seeking legal channels to reclaim their rights, those women who are not educated are not unaware of their rights as well. The woman is now exposed to social media through mobile phones and the internet due to which women have become more conscious of their rights even though they are not educated enough. The number of internet users has been increasing in Pakistan. In 2017 there were 38 million internet users which increased to 44.6 million in the year 2018 (Aksar et.al, 2020). Women are spending more time on social media compared to men for entertainment (Jamil, 2018). Hence, social media has made women more conscious of their rights and provided them with a platform from where they could get advice about their problems (Karolak, and Guta, 2015). Additionally, to social media, women also get consciousness of accessing the courts from those women who have already accessed court for resolving their disputes. Those women who have already accessed court introduce other women to their lawyers. In this manner, the women are introduced to a lawyer who further elaborates on the possible legal actions that could be taken (Tong, 2009). A female lawyer mentioned the possible sources of women's legal consciousness other than education as,

The women who access the courts from villages and remote regions of Punjab are mostly uneducated. They do not have much information about how to access the courts. They either get information from social media or they get information from those women who have already filed their cases in court and successfully got the decision in their favour. These women who have experience in getting their civil disputes resolved in court encourage other women to access the courts to get justice. These women also share their contacts with the lawyers who have fought their cases. I am a female lawyer and the women feel comfortable sharing their grievances with me and giving their cases to me. Hence, the lawyers become the main source of information for the women. The lawyers provide the women with information about what the laws say and which case is more suitable for them to file (S Ahmed, personal communication, April 15, 2024).

Despite the increasing consciousness of women about their rights and about accessing the court, they are still lagging in understanding the legal procedures and methods that are followed in the courts. The women think that their disputes will be resolved immediately when they reach the court. They think that the judge would listen to them immediately and would give the decision in their favour. They are unaware of the whole procedure that began from the hiring of the lawyer to the notice period, and then the beginning of the legal procedure. A female lawyer mentioned about this deficiency of legal knowledge among the women in the following words,

When a woman accesses the court she thinks that her dispute will immediately get resolved in the court. A woman came to me and said that my sister just filed my case and that women did not know the proper procedure of the courts. For example, first, the case is filed then the notice is issued to the other party then the news is published in the local newspaper which takes 15 to 20 days initially before the proceeding could take place. the woman thinks that they would go to court and they would be immediately taken to the judge who would resolve her issues for instance if the issue is of maintenance allowance then the judge could decree immediately that the woman should be given the maintenance allowance charges (R Muazzam, personal communication, April 17, 2024)

Hence, in this manner, it could be observed that the increase in education, the introduction of social media, the experience of acquaintances in accessing court and the lawyers are the major resources at the disposal of women to access the state courts. However, as opposed to the conceptualization of Yanqi Tong (2009) that civil disputes are usually resolved at the non-state forums through customary laws does not hold in the context of the present study. However, the men strive to keep the dispute in the local village Panchayat so that the dispute could not become public. Contrary to the wishes of the men, the women, in most of the cases that were found in the present study, took the case to the state court (Cooper, 2019).

### **Women's access to state courts**

Whenever a civil dispute emerges, the men usually prefer to take the dispute either to the elders of the family or to the village Panchayat because they think that the issues related to women are private and should not be made public by taking it to the courts. However, women do not consider the boundaries of public and private when it comes to civil disputes (M.G.A Chohan, personal communication, April 19, 2024). In the Panchayat the women are not allowed to participate or to have discussions on the dispute. Therefore the women do not consider Panchayat to be an effective platform where their disputes could be resolved (Chaudhry 1999; Nelson 2009; S Ahmed, personal communication, April 15, 2024; A. H Kanju, personal communication, April 19, 2024). On the other hand, women consider the court as an effective, fair, and efficient platform for the resolution of their disputes (Tong, 2009).

Mostly the disputes regarding the maintenance allowance of women and their children, and divorce are taken to the village *Panchayat*, *Biradri*<sup>7</sup> or any other platform that is considered by the men as the appropriate platform. However, when the members of Panchayat or the *Biradri* ask the couple to tolerate each other and do not take action then the cases are mostly taken to court by the females (A. Warriach, personal communication, April 19, 2024). The females take the cases to the court because they want to get the compromise of their own choice. The court usually takes time to resolve disputes. Initially, the notice is issued and

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<sup>7</sup> There is no fixed meaning of the term Biradri, a Biradri could be comprised of different groups that claim to have a common ancestor or it might be possible that it is based on the territory. The Biradris are also considered as occupational groups in the more or less similar manner as is it in varna or jati system of Hinduism for details see Chaudhary, M. A. (1999). Justice in practice: legal ethnography of a Pakistani Punjabi village. Karachi: Oxford University Press

newspaper advertisement is published before the court proceedings begin, due to which takes 15 to 20 days. In this manner, the dispute resolution process is delayed if it is taken to the courts. During this time duration, the party that has filed the case could exert pressure on the other party to reach a compromise of their own choice (Nelson, 2011). Similarly, the woman is also taking their cases to the courts to reach the compromise of their own choice.

### **Maintenance allowance cases**

The civil comprises the largest number of cases in the Teshil Court Jahanian. First, most of the cases brought by women are of maintenance allowance; secondly, the cases of divorce, dowry recovery and child custody are brought (R. I Kazi, personal communication, April 22, 2024). The cases of inheritance are rarely filed by women because in these cases the chances of getting a share in property are very rare. After all, inheritance cases take a lot of time and cost too much money, and even after spending time and money, the possibility woman get a share in her lifetime is a very far cry (S Ahmed, personal communication, April 15, 2024; R Muazzam, personal communication, April 17, 2024; R. I Kazi, personal communication, April 22, 2024). The increasing number of cases in the Tehsil Court of Jahanian indicates that the legitimacy of the Panchayat is decreasing and no longer are the people taking their disputes to Panchayat. A male lawyer while discussing the decreasing influence of Panchayat in Jahanian mentioned,

The role of the Panchayat was relevant 10 years back in the past. Presently, Panchayat has lost their authority over the people, and it has become extinct. The cases are now directly brought into the courts, and approximately 80% of the cases are civil cases (M.G.A Chohan, personal communication, April 19, 2024).

In the cases of maintenance allowance, the state court decrees a specific amount of money for the women and the children. Hence, those women whose husbands do not meet the expenses of the women and children access the court and file cases of maintenance allowance. For instance, if women have four children, and the lawyers demand that each child should be given Rs 15000 per month, then the court evaluates the capacity of the husband and whether the husband is in a condition to meet the expenses of the children that the lawyer is demanding. After evaluating the income and capacity of the husband to bear the expenses of his wife and children, the court decrees the amount that the husband is liable to pay each month (A. Warriach, personal communication, April 19, 2024). The maintenance allowance of the children and wife is the responsibility of the husband. The male child should be provided with maintenance allowance up to 18 years of age and the female child maintenance allowance is the responsibility of the father to provide it up to the age that the female child is not married. A female lawyer who has fought a case of maintenance allowance for a woman explained the case in the following words,

I have filed a case for a client who has five children, we demanded Rs 10,000 for each child. The husband had lands on his name and also had considerable assets in his name. However, the court decreed Rs 2,200 for each child. Which is a total of Rs 11,000 in total for five children (R Muazzam, personal communication, April 17, 2024)

However, there are also cases in which the husband does not pay the complete maintenance allowance to the wife and children. They pay a very small amount compared to what the

court has decreed. As the maintenance allowance is channelled to the woman through the courts then the court has to provide the maintenance allowance to the woman. When the husband brings less amount than the decided amount the court usually gives the amount to the woman because the court is getting something instead of nothing (R. I Kazi, personal communication, April 22, 2024). However, in the cases when the man is unable to pay the maintenance allowance then the man is sent to prison for one year. A male lawyer who has fought the case from the side of the husband explained the case in the following words,

In some cases, women do not get the maintenance allowance payments whether the payments are of 5000 or 10000. This is due to the reason that the man prefers to go to jail and spend one year of imprisonment there due to which the maintenance allowance is not paid to the woman. The women usually do not get maintenance allowance if they get it is very low. If a woman has five children. The judge has decreed a maintenance allowance of Rs 20000. The husband came after one month and gave Rs 2000-3000 and handed it over to the judge and said this is all that I got now, I cannot manage to have more money send me to the prison if you want. The court also has to execute the decree and they also agree on the Rs 2000 and 3000 of maintenance allowance for the sake of the execution of the decree of court (A. Warriach, personal communication, April 19, 2024).

Hence, the involvement of the court in the cases of maintenance allowance is up to some extent beneficial for the women. Even though the woman is not getting full payment of the maintenance allowance, she is getting some payment from her husband. Similarly, if the husband is failed to pay the amount he is subjected to punishment through one year of imprisonment. Contrary to this, The Panchayat does not make the husband liable to pay the maintenance allowance to the men, and the men are also not punished because the Panchayat is dominated by men (M. Chohan, personal communication, April 20, 2024). In the village, everyone knows each other and they are bound with each other on a personal basis and have reciprocal relationships due to which neither punishment is given nor a fine is imposed on the men. As Azam Chaudhry (1999) has argued the village society in Punjab is a face-to-face society in which everyone knows each other and has a relationship with each other. In the state courts, personal relationships do not matter, rather individual rights are considered as of pivotal significance. Hence, as opposed to the collective nature of the societal relationship, in state courts, the person is considered as an individual who has constitutional rights (Kokal, 2020).

### **Divorce cases**

Similarly, if the case of divorce is taken to the Panchayat then it usually aims to settle the dispute and does not consider the opinion of the women regarding the divorce. The women usually file a case for divorce because the husband beat her, the husband might be a drug addict, and the husband is married to another woman and not meeting the expenses of the woman (A. H Kanju, personal communication, April 19 2024). In this context, the women usually access the court without informing her family members, because if the family members of the woman come to know that the woman is going to get divorced then they aim to settle the issue and avoid the divorce between the husband and wife. After all, socially the

woman is considered as the one who is unable to live with her husband. The man is usually not blamed for the divorce (M. Chohan, personal communication, April 20, 2024).

When the woman files the case of divorce in the state court, then the men are compelled to visit the court and attend the court proceedings. The court also provides space for the husband and wife to settle if possible. In this manner, the women are in a position to negotiate with the husband without the fear of violence and any pressure from the family members in the protection of the state court. If the husband and his family members in any context threaten the women then the state provides security to the women. A female lawyer has explained a case in which the family members of the husband started to cause trouble for the wife in the divorce proceedings in the following words,

Recently I fought the case of *Khula* (a divorce case filed by a woman), the woman who filed the case of divorce in the court faced very difficulties in the court. His husband did not show himself at the court, but the father and brother kept on coming to the court on behalf of her husband. The father and brother of her husband kept on harassing and threatening the woman that she had made a bad decision by filing a case for divorce against her husband. They threatened the woman that they would kill her if she did not take the case back from the court. The court gave a lot of time and space for the husband and wife so that they could settle their dispute by talking to each other but the husband never visited the court and did not talk with his wife. The husband's father and brother created a lot of mess in the court they disturbed the court proceeding through hooliganism the police were called for the security of the women, and the court proceedings were carried out in security. She wanted to get a divorce because her husband used to beat her and harass her In the end the husband doubted that his wife had affairs with other men due to which he attacked the woman with a knife but she survived (R Muazzam, personal communication, April 17, 2024).

The case of child custody and the maintenance of a child is also linked with the case of divorce if the husband and wife have children. Legally, the husband is bound to pay the maintenance allowance of the child up to the age of 18 if the child is a boy and up to the marriage if the child is a girl (M.G.A Chohan, personal communication, April 19, 2024). The state court usually bound the husband to pay this maintenance allowance to the children even after the divorce. Husband has the right to take custody of the child after the age of seven if the children want to live with the father. In this manner, the case of child custody is decided considering the rights of both the parents on children (A. Warriach, personal communication, April 19, 2024). However, the women are empowered by the state court in this regard because the first seven years the child custody are given to the mother and their expenses also have to be borne by the father. In this regard, a case of child maintenance allowance after divorce has been mentioned by a female lawyer in the following words,

I have a fought case regarding the divorce of a woman in which child custody was also involved. The woman was married to her aunt's son and she waited for her husband in her father's house for two and half years in the hope that her husband would take her back after a fight between them, but the husband did not come to pick her up. During this time her son was also born, and the husband never came to see his son. Her husband first saw his son when she filed the case for divorce and he came to court for a hearing at that time his wife

brought the son with him so he saw him. The child was at the age of two years and 3 months. The woman then filed the case for the maintenance allowance of the child against his husband. At that time the husband expressed his feeling that he should be allowed to meet his child. Then the judge withdrew the application of the husband to meet his son on the ground that where was he during the two and half years since the birth of the child and why he had not taken care of the child. The judge decreed that if the husband wants to meet the child then he should first meet the expenditure of maintenance allowance of the child, additionally, the judge also decreed that the father should also pay for the expenses of transportation of the child when the child travels to court to meet his father (S Ahmed, personal communication, April 15, 2024).

In this case, the man was punished for being ignorant towards his child because he had not visited his child earlier since the child was born. The court provided the woman with a maintenance allowance for the child that she was bearing by herself. She arranged the expenses of the child for two and half years, before filing the case for divorce and child maintenance allowance. In this regard, the husband has not even tried non-state forums for reconciling with his wife. Rather the husband left her wife at her house and never came to ask for her well-being. Therefore, the woman accessed state court for taking divorce and then demanded the child maintenance allowance. The state court gave women divorce and also compelled the husband to meet the expenses of the child.

### **Conclusion**

Rural Punjab has undergone considerable social transformation since 2000. The attitude of the people towards the education of the women has changed. This is largely due to the construction of separate schools for women, the development of roads, and the increasing education among the males. The dispute resolution in the family has also changed the role of the grandparents, parents, and elders. The younger ones and adults took the dispute resolution into their own hands. In this manner, the non-state forums for dispute resolution began to lose their legitimacy and the access of people towards state courts increased. The change in preferences of women towards state courts is due to the increasing awareness among women about their legal rights through education, social media, acquaintances with those women who have already filed cases in the court, and lawyers. Secondly, women can settle their disputes such as maintenance allowance, divorce and child custody in a more efficient, effective, and fair manner in state courts comparatively to the non-state forums because the procedure of enforcement of the law, participation of women in court proceedings, and protection of women are implemented by state courts. For example in the case of the maintenance allowance the court compels the husband to pay the maintenance allowance to the woman and if he is unable to pay then the court imprison him. In this case, if the woman has filed a case for divorce and the husband or his family member harasses the woman, then the state court protects the woman. Finally, in the case of the divorced woman having children then the court provides the woman with a maintenance allowance for the child. Similarly, the woman also has the right to have custody of the child up to the age of seven. Hence, in this manner, it could be concluded that the increasing access to the state courts has empowered women in Punjab.

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